

5. The relief provided herein is not contrary to the public's interest; and
6. Plaintiff has served Defendants with written notice of the Petition.

NOW, THEREFORE, it is ORDERED:

1. America PAC and Elon Musk and their directors, officers, agents, affiliates, employees, and all other persons or entities working directly or indirectly with them, are restrained and enjoined from promoting, maintaining or operating their lottery or any other program by which they are offering the chance to win a sum (\$1 million or otherwise) in exchange for a participant's consideration (personal identifying information or pledge of support).
2. Defendants and their directors, officers, agents, affiliates, employees, and all other persons or entities working directly or indirectly with them, are restrained and enjoined from violating Pennsylvania's Unfair Trade Practices and Consumer Protection Laws (the "UTPCPL"), 72 P.S. § 3761-101, *et seq.* (the "State Lottery Law"), and 18 Pa. C.S. § 5512.

This Order shall remain in effect pending further Order of the Court, and the Court retains jurisdiction to enforce the preliminary injunction.

BY THE COURT:

J.

IT IS FURTHER ORDERED that Plaintiff shall cause a copy of this Rule, along with the aforesaid Petition and accompanying papers, to be served upon Defendants.

BY THE COURT:

Dated:

_____ J.

HANGLEY ARONCHICK SEGAL PUDLIN
& SCHILLER

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**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION**

	:	OCTOBER TERM, 2024
COMMONWEALTH OF PENNSYLVANIA,	:	
acting by and through Philadelphia District Attorney Lawrence S. Krasner,	:	No. _____
<i>Plaintiff,</i>	:	NOT AN ARBITRATION CASE
v.	:	CIVIL ACTION
AMERICA PAC and ELON MUSK,	:	
<i>Defendants.</i>	:	
	:	

**PLAINTIFF’S EMERGENCY PETITION FOR
PRELIMINARY INJUNCTIVE RELIEF**

Pursuant to Pennsylvania Rule of Civil Procedure 1531, Plaintiff Commonwealth of Pennsylvania, acting by and through Philadelphia District Attorney Lawrence S. Krasner (“DA Krasner”), through the undersigned counsel, respectfully submits this Emergency Petition for Preliminary Injunctive Relief (“Petition”) against Defendants America PAC and Elon Musk (“Defendants”). In support thereof, DA Krasner fully incorporates his accompanying Memorandum of Law and alleges as follows:

I. INTRODUCTION

1. America PAC and Elon Musk are running an illegal lottery in Philadelphia (as well as throughout Pennsylvania).

2. At an October 19, 2024 rally, on Musk’s X platform and on America PAC’s website, America PAC and Musk launched their scheme. They announced that if a registered voter (1) turns over their personal identifying information (i.e., address, cell phone number and e-mail address) and makes a political pledge by signing a petition pledging support for “the Constitution, especially freedom of speech and the right to bear arms”; they (2) are eligible to be selected “randomly”; to (3) win \$1 million.

3. This announcement came after America PAC launched, on October 7, a “Petition in Favor of Free Speech and the Right to Bear Arms,” with an offer to pay individuals—including Pennsylvania registered voters—“\$47 for each registered voter you refer that signs this petition,” which was later raised to \$100 for Pennsylvania registered voters.

4. In other words, America PAC and Musk are lulling Philadelphia citizens – and others in the Commonwealth (and other swing states in the upcoming election) – to give up their personal identifying information and make a political pledge in exchange for the chance to win \$1 million.

5. Indisputably, that is a lottery. And it is an unlawful lottery because, under unambiguous Pennsylvania law, all lotteries in Pennsylvania must be regulated by the Commonwealth of Pennsylvania. *See* 72 P.S. § 3761-301, *et seq.* The Commonwealth’s lottery law establishes a lottery to be operated and administered by the state, for the benefit of those 65 years of age or older. 72 P.S. § 3761-101; 3761-303; 61 Pa. Code § 801.3. State regulations govern many aspects of the lottery, including the procedures

for claiming prizes, the use of lottery funds, and even require the disclosure of the odds of a participant's chances of winning. *See* 61 Pa. Code § 801.1, *et seq.* (regulations).

6. Yet America PAC's and Musk's lottery is plainly not a lawful lottery. Further, under unambiguous Pennsylvania law, the Pennsylvania General Assembly has declared that illegal lotteries are a public "nuisance" and empowers law enforcement officers such as DA Krasner to seek an injunction in court to stop them. 18 Pa. C.S. § 5512.

7. America PAC's and Musk's illegal lottery scheme also violates the Commonwealth's consumer protection laws. In connection with their scheme, they are deploying deceptive, vague or misleading statements that create a likelihood of confusion or misunderstanding. For example, they have not published a complete set of lottery rules or shown how they are protecting the privacy of participants' personal information. Also, though Musk says that a winner's selection is "random," that appears false because the winners that have been selected are individuals who have shown up at Trump rallies in Pennsylvania. The General Assembly's consumer protection laws empower DA Krasner to seek an injunction to stop that misconduct as well.

8. Running an illegal lottery and violating consumer protections is ample basis for an injunction and concluding that America PAC and Musk must be stopped, immediately, before the upcoming Presidential Election on November 5. That is because America PAC and Musk hatched their illegal lottery scheme to influence voters in that election. To be clear, this is not a case about whether Defendants have violated state or federal laws prohibiting vote-buying. Instead, this case is very simple because America PAC and Musk are indisputably violating Pennsylvania's statutory prohibitions against illegal lotteries and deceiving consumers.

9. DA Krasner therefore brings this action to immediately stop America PAC and Musk from these violations of Pennsylvania law. If not enjoined, their lottery scheme and unfair and deceptive conduct will irreparably harm Philadelphians (and others in Pennsylvania) as well as tarnish the public's right to a free and fair election.¹

II. FACTUAL AND PROCEDURAL BACKGROUND

10. Defendant America PAC is a political action committee “to support candidates who champion Secure Borders, Sensible Spending, Safe Cities, Fair Justice System, Free Speech and Self-Protection,” especially the candidacy of former President Donald Trump. *See* America PAC, <https://x.com/america> (last visited Oct. 24, 2024); America PAC, <https://theamericapac.org/> (last visited Oct. 24, 2024); Ex. A, Verified Complaint, ¶ 18.

11. America PAC filed a statement of organization with the Federal Election Commission (“FEC”) on May 22, 2024, as an “independent expenditure-only political committee” or “Super PAC,” listing a P.O. Box in Austin, Texas as its business address. *See* Exhibit 1, America PAC, Statement of Organization (May 22, 2024), *available at* <https://www.fec.gov/data/committee/CO0879510/?tab=filings>; Ex. A, Verified Complaint, ¶ 20.

12. As of September 30, 2024, America PAC reported having spent \$133,841,660 on independent expenditures to support or oppose 2024 federal candidates. *See* Exhibit 2, PAC Profile: America PAC (Texas), Opensecrets.org (last visited Oct. 24, 2024), <https://www.opensecrets.org/political-action-committees-pacs/america-pac-texas/CO0879510/summary/2024>; *see also* Exhibit 3, America PAC,

¹ A copy of DA Krasner's Verified Complaint is attached hereto as Exhibit A. All references to numbered exhibits refer to the Exhibits to the Complaint.

Committee Filings, FEC.gov (last visited Oct. 24, 2024), *available at* <https://www.fec.gov/data/committee/COO879510/?tab=filings>; Ex. A, Verified Complaint, ¶ 21.

13. In the daily reports filed since October 21, 2024, America PAC has disclosed millions of dollars in additional spending on political communications. Ex. A, Verified Complaint, ¶ 22.

14. Defendant Elon Musk is the founder of America PAC. Mr. Musk funded America PAC, is involved in America PAC's operations, made representations to Philadelphians on behalf of America PAC, and benefits from increased traffic generated by America PAC on the social media platform X, of which Mr. Musk is the majority owner. *Id.*, ¶ 19.

A. America PAC and Musk Target Pennsylvania to Influence Pennsylvania Voters

15. On October 24, 2024, the *New York Times* reported, “Mr. Musk, the leader of Space X, Tesla and X, has already poured \$75 million into a pro-Trump super PAC called America PAC,” and is accelerating his spending in this final stretch before Election Day. Exhibit 4, Theodore Schleifer, *Elon Musk Plots His Final Moves for Trump*, N.Y. Times (Oct. 24, 2024), <https://www.nytimes.com/2024/10/24/us/elections/elon-musk-trump-campaign.html>; Ex. A, Verified Complaint, ¶ 23.

16. According to this report, Mr. Musk is particularly focused on Pennsylvania, and a close political ally is quoted as saying, “Elon is literally campaigning every day in Pennsylvania.” *Id.*

17. Mr. Musk is also the majority owner of the social media company, X. Among its other expenditures, America PAC has spent tens of thousands of dollars advertising on X targeting swing state voters, alongside Mr. Musk’s own repeated endorsements of Mr. Trump on X. Exhibit 5, Vittoria Elliot, *Elon Musk’s PAC Is Buying Ads for Donald Trump on Elon Musk’s X*, Wired (Oct. 21, 2024), <https://www.wired.com/story/elon-musks-pac-is-buying-ads-for-donald-trump-on-elon-musks-x/>; Ex. A, Verified Complaint, ¶ 25.

18. America PAC relies heavily on X to communicate with the public, posting political communications throughout each day, and the @America and @ElonMusk X handles work together to re-share and boost each other’s content. Ex. A, Verified Complaint, ¶ 26. X makes money in two different ways—advertising and data licensing—both of which are correlated to overall traffic to the platform. *Id.*, ¶ 27. As the majority owner, Mr. Musk personally benefits from X’s revenue generation. *Id.*

19. Internet archives show that, on or about October 7, 2024, America PAC first launched a “Petition in Favor of Free Speech and the Right to Bear Arms,” with an offer to pay individuals—including Pennsylvania registered voters—“\$47 for each registered voter you refer that signs this petition.” That petition stated it was “exclusively open to registered voters in Pennsylvania, Georgia, Nevada, Arizona, Michigan, Wisconsin and North Carolina” and “[e]xpires October 21.” Exhibit 6, America PAC, Petition (archive from Oct. 7, 2024), *available at* <https://web.archive.org/web/20241007081443/https://petition.theamericapac.org/>; Ex. A, Verified Complaint, ¶ 28.

B. Musk Travels to Pennsylvania To Announce His (Illegal) Lottery

20. On Saturday, October 19, 2024, during an America PAC event in Harrisburg, Pennsylvania, Mr. Musk announced a “surprise” before a live crowd. *See* Exhibit 7, America PAC (@America), “ELON MUSK: ‘I have a surprise for you’” X (Oct 19, 2024, 11:06 P.M.), <https://x.com/america/status/1847851986495881434>; *see also* Exhibit 8, Mike Catalini, *Musk offers voters \$1 million a day to sign PAC petition backing the Constitution. Is that legal?*, Associated Press (updated Oct. 20, 2024 5:10 P.M.), <https://apnews.com/article/musk-1-million-giveaway-trump-voters-petition-b4e48acbfe04fde735e60b1911ad0197>; Ex. A, Verified Complaint, ¶ 29.

21. Mr. Musk specifically represented that this scheme would make the award of \$1 million based on chance. Specifically, Mr. Musk said, “we’re gonna be awarding a million dollars, *randomly*, every day from now until the election,” because “I figured, ‘How do we get people to know about it?’” Exhibit 7, America PAC (@America), “ELON MUSK: ‘I have a surprise for you’” X (emphasis added), <https://x.com/america/status/1847851986495881434> (video embedded in URL).

22. Mr. Musk further explained that this news would “really fly” and would help publicize America PAC’s petition and, in turn, the PAC’s efforts to elect Donald Trump. *Id.* Mr. Musk then said that he would announce the first winner that evening, and called the name “John Dreher.” *Id.*

23. Mr. Dreher was in the audience and mounted the stage in a red MAGA hat. “By the way,” Mr. Musk said, “John had no idea.” *Id.*

24. When Mr. Dreher came onto the stage to accept an oversized check, Mr. Musk asked that, in exchange for the money, “the only thing we ask” is for John to agree to be a spokesperson for America PAC. *Id.* *See* Ex. A, Verified Complaint, ¶¶ 31-34.

C. Musk Continues to Make Statements, including in Pennsylvania, Promoting Defendants’ (Illegal) Lottery That He Says Will Operate Until Election Day

25. Shortly after Mr. Musk’s live announcement of Mr. Dreher’s lottery win on October 19, America PAC posted on X: “Every day from now until Election Day, one registered swing state voter who signs the petition will be selected to earn \$1 MILLION,” and included a link to the petition on America PAC’s website. Exhibit 9, America PAC (@America), “John received \$1 MILLION” X (Oct 19, 2024, 11:58 P.M.), <https://x.com/america/status/1847864967816511758>.

26. Mr. Musk posted a similar message minutes before. Exhibit 10, Elon Musk (@ElonMusk), “Every day, from now through Nov 5” X (Oct 19, 2024, 11:25 P.M.), <https://x.com/elonmusk/status/1847856712914555061>; Ex. A, Verified Complaint, ¶¶ 35-36.

27. Then, the next day on October 20, 2024, during another America PAC event, this time in McKees Rocks, Pennsylvania, Mr. Musk conducted a second “random” drawing, selecting Kristine Fiskell as the winner, who was also in the audience that day. Exhibit 11, Adam Babetski, *Musk gives away \$1 million at McKees Rocks pro-Trump rally, raising legal questions*, Pittsburgh Post-Gazette (Oct. 20, 2024, 6:36 P.M.), <https://www.post-gazette.com/news/election-2024/2024/10/20/elon-musk-1-million-trump-legal-questions-pittsburgh/stories/202410200166>; Ex. A, Verified Complaint, ¶ 37.

D. The Supposed Rules of Defendants’ (Illegal) Lottery

28. America PAC’s website still includes a page with the petition and the rules of the lottery, albeit in different form than what it originally published in early October 2024. See Exhibit 12 (America PAC, *Petition in Favor of Free Speech and the Right to*

Bear Arms (last visited Oct. 24, 2024), <https://petition.theamericapac.org/>. The subject America PAC website now describes the rules of the lottery as follows:

Each day, one petition signer from either PA, GA, NV, AZ, MI, WI, or NC will earn \$1,000,000. . . . Our goal is to get 1 million registered voters in swing states to sign in support of the Constitution, especially freedom of speech and the right to bear arms. This program is exclusively open to registered voters in Pennsylvania, Georgia, Nevada, Arizona, Michigan, Wisconsin and North Carolina. Expires November 5.

Id. Ex. A, Verified Complaint, ¶¶ 38-39.

29. The description of the lottery does not say anything about agreeing to be a spokesperson for America PAC, despite what Mr. Musk told the first winner. As consideration to enter the lottery and “sign” the petition, a participant must provide several data points of personal information: first and last name, email address, mailing address, and cell phone number. Ex. 12; Ex. A, Verified Complaint, ¶¶ 40-41.

30. A participant must then click a button that says “Sign Petition,” with a space above asking for cell phone information that: “Will only be used to confirm you are the legitimate petition signer. No other purpose.” Ex. 12. In addition to entering the lottery, the website provides two additional offers of compensation to registered voters in exchange for signing the petition and providing personal information, with a “Special Offer for Pennsylvania Registered Voters.” *Id.*; Ex. A, Verified Complaint, ¶¶ 42-43.

31. First, the website claims that Pennsylvania registered voters will receive \$100 for providing their personal data and signing the petition, which is more money than what is offered to voters in other battleground states (*e.g.*, Georgia, Nevada, Arizona, Michigan, Wisconsin, or North Carolina). Ex. A, Verified Complaint, ¶ 44.

32. Second, the website claims that a Pennsylvania participant and petition signer who refers another Pennsylvania registered voter to provide personal data and sign the America PAC petition will receive \$100, which is also more money than that offered for referrals in other battleground states.

33. Specifically, the America PAC website states:

Offer valid from time of posting through 11:59 PM on 10/28. New signers only. \$100 replaces standard \$47 offer (not in addition to it)[.] To be eligible, both the referrer and the petition signer must be registered voters of Pennsylvania.

Ex. 12; Ex. A, Verified Complaint, ¶¶ 45-46.

34. The petition does not provide any information about how or when compensation will be paid.

35. In smaller print at the bottom of the petition, it states:

Each person may only sign this petition once. Eligible people may only list one eligible person as their referrer. Signing the petition on behalf of another person is not permitted. Before payment is made, America PAC will verify the accuracy of all information of the referrer and referee. Payments of \$600 or more will require the referrer to provide a signed IRS W-9 so an IRS 1099 can be issued. To be eligible, both the referrer and the petition signer must be registered voters of Arizona, Michigan, Georgia, Nevada, North Carolina, Pennsylvania, or Wisconsin.

Ex. 12; Ex. A, Verified Complaint, ¶¶ 47-48.

36. The America PAC petition places no limitations on America PAC's use of or sale of the personal data it collects, nor does it provide any additional information about the planned use of data. Ex. 12; Ex. A, Verified Complaint, ¶ 49.

37. Defendants' lottery is not authorized by state law.

38. Lotteries are highly regulated under Pennsylvania law. *See generally* 72 P.S. § 3761-101, *et seq.* The purpose of the State Lottery Law is “to establish a lottery to be operated by the state,” the proceeds of which benefit those 65 years of age or older.

72 P.S. § 3761-101. The State Lottery Law is also intended to “provide a means through which to curb illegal gambling operations in Pennsylvania.” *Id.*

39. The Commonwealth Secretary of Revenue and Bureau of State Lotteries are empowered to operate and administer the lottery, including, for example, the types of lawful lotteries, the manner in which winners are selected, and the licensure of sales agents. *Id.* § 3761-303; 61 Pa. Code § 801.3.

40. State regulations govern the powers and duties of the Secretary and the Director of the Bureau of State Lottery, the procedures for licensing, claiming prizes, the use of lottery funds, and further disclose the odds of a participant’s chances of winning, among other things. *See* 61 Pa. Code § 801.1, *et seq.* (regulations).

41. All lotteries not specifically authorized by law are unlawful. 18 P.S. § 5512(d). Defendants’ lottery is not authorized by law and is illegal. Ex. A, Verified Complaint, ¶ 50.

E. Defendants’ Announcements of Winners of the (Illegal) Lottery

42. Since launching on October 19, 2024, America PAC claims it awarded \$1,000,000 checks to nine individuals through its lottery, four of whom live in Pennsylvania. *Id.*

43. It made those awards on October 19, 20, 21, 22, 24, 25, 26 and 27, 2024. Ex. A, Verified Complaint, ¶ 51.

44. Each winner is featured on America PAC’s website and X handle, and has garnered significant public and press attention.

45. Indeed, the videos of the first and second lottery winners have garnered 27 million views and 10.9 million views, respectively, driving significant traffic to Mr. Musk’s X platform. *See* Exhibit 9, America PAC (@America), “John received \$1

MILLION” X (Oct. 19, 2024, 12:58AM),

<https://x.com/america/status/1847864967816511758?s=46>; Exhibit 13, America PAC

(@America), “Kristine was today’s recipient of the \$1 MILLION” X (Oct. 20, 2024,

8:49PM), <https://x.com/america/status/1848179817050517567?s=46>.

46. This \$1 million lottery has earned wall-to-wall media coverage of America PAC, Mr. Musk, and Mr. Trump since the lottery launched, including numerous stories in Philadelphia’s newspaper of record, *The Philadelphia Inquirer*. See also Ex. A, Verified Complaint, ¶¶ 52-54.

47. America PAC claims it has received over 1,000,000 petition signers to date, with over 280,000 petition signers who are registered voters in Pennsylvania entering for a chance to win the \$1 million prize. Exhibit 14, America PAC (@America), “Over 280,000 registered voters in Pennsylvania signed our petition” X (Oct. 23, 2024, 1:03 P.M.), <https://x.com/america/status/1849134584182485476>. Ex. A, Verified Complaint, ¶¶ 55.

48. Upon information and belief, among those 280,000 petition signers are residents of Philadelphia County, who have accepted America PAC’s offer to provide their personal data and made a pledge of support in exchange for (a) an opportunity to win the lottery and (b) for \$100 compensation.

49. Also upon information and belief, among those 280,000 petition signers are residents of Philadelphia County, who have accepted America PAC’s offer to pay them in exchange for referring the names of others for the purpose of procuring additional individuals who will provide personal data, sign the petition, or otherwise endorse America PAC. Ex. A, Verified Complaint, ¶¶ 56-58.

50. Upon information and belief, petition signers in Pennsylvania and Philadelphia have not been paid for their personal data, despite America PAC's claims. *Id.* ¶ 59.

51. Nor have petition signers been given any information for how or when payment will be tendered. *Id.*

52. Upon information and belief, petition signers in Pennsylvania and Philadelphia have not been paid for referring other petition signers, despite America PAC's claims. Nor have petition signers been given any information for how or when payment will be tendered. *Id.* ¶ 60.

53. Also on October 23, it was reported that the United States Department of Justice sent a letter notifying America PAC that the \$1 million lottery could violate the federal law against paying people to register to vote. *Id.* ¶ 61.

54. Notwithstanding, on October 24, 2024, America PAC announced additional winners of its \$1 million lottery. Exhibit 15, America PAC (@America), "Jason of Holland, Michigan received \$1M for signing our petition to support the Constitution" X (Oct. 24, 2024, 10:37 P.M.), <https://x.com/america/status/1849641342051418536>; Exhibit 16, America PAC (@America), X (Oct. 24, 2024 11:00 P.M.), <https://x.com/america/status/1849647294355825052>. Ex. A, Verified Complaint, ¶ 62.

F. Defendants' Deceptive Conduct and Statements In Connection with Their Lottery

55. As enumerated more fully below, Defendants have engaged in conduct and made statements that are deceptive and which create a likelihood of confusion or misunderstanding.

56. For example, Defendants have shrouded key aspects of the lottery in secrecy, including without limitation the following:

- a. Defendants have not provided a complete set of lottery or contest rules, including the odds of winning or how winners will be selected.
- b. Defendants have not provided information about when they will make payments to participants.
- c. Defendants have not provided what privacy policy, if any, will protect participants' personal information

Ex. A, Verified Complaint, ¶¶ 63-64.

57. Also by way of example, Defendants appear to be making false statements about the lottery, including without limitation the following:

- a. Defendants say that the winners are chosen at random; yet, on information and belief, winners are not actually chosen at random. For example, the October 19 and October 20 winners appear not to be chosen at random because both just happened to live near the locations of Musk's pro-Trump rallies and both were in attendance at those rallies.
- b. Defendants promise to pay \$100 to all participating registered voters who sign America PAC's petition yet, on information and belief, Defendants have not made those payments.

Id. ¶ 65.

58. Accordingly, Defendants are operating an illegal lottery in violation of Pennsylvania statutes. *Id.* ¶ 66.

59. To be clear, it would be no defense for America PAC and Musk to argue that it was not engaging in a lottery if their scheme actually did not involve a chance or

random selection of winners. In that event, (a) they would be admitting to acting deceptively and in violation of the Commonwealth’s consumer protection law; and (b) they would still be in violation of the Commonwealth’s prohibition against the operation of unlawful lotteries. *Id.* ¶ 67.

60. Plaintiff is the Commonwealth of Pennsylvania, acting by and through the Philadelphia District Attorney. DA Krasner has the right to bring a cause of action for public nuisance to enjoin “an unreasonable interference with a right common to the general public” on behalf of Philadelphia’s citizens. *See Atl. Richfield Co. v. Cnty. of Montgomery*, 294 A.3d 1274, 1283 (Pa. Cmwlth. 2023) (quoting Restatement (Second) of Torts § 821B (1979)). “All unlawful lotteries or numbers games are . . . common nuisances.” 18 Pa. C.S. § 5512(a).

61. DA Krasner is also expressly authorized to bring an action in the name of the Commonwealth under the UTPCPL whenever he has reason to believe that any person is using or is about to use any method, act, or practice declared by the UTPCPL to be unlawful, and that such proceedings would be in the public interest. 73 P.S. § 201-4.

62. This Court has jurisdiction pursuant to 42 Pa. C.S. § 931(a).

63. There is no federal jurisdiction over this dispute.

64. This is a Pennsylvania law matter, not a federal question. It is for this state court to interpret the Commonwealth’s laws.

65. Additionally, there is no diversity of citizenship between the parties, including because Plaintiff is District Attorney Krasner, acting in the name of the Commonwealth of Pennsylvania, which is not a “citizen” that can be diverse to other

citizens within the meaning of 28 U.S.C. § 1332. *Moor v. Cnty. of Alameda*, 411 U.S. 693, 717 (1973).²

III. ARGUMENT

A. Standard.

66. Pennsylvania Rule of Civil Procedure 1531 authorizes preliminary or special injunctive relief.

67. A party is entitled to a preliminary injunction by showing: (1) the injunction is necessary to prevent immediate and irreparable harm that cannot be compensated adequately by damages; (2) greater injury would result from refusing the injunction than from granting it, and, concomitantly, the issuance of an injunction will not substantially harm other interested parties in the proceedings; (3) the preliminary injunction will properly restore the parties to their status as it existed immediately prior to the alleged wrongful conduct; (4) the party seeking injunctive relief has a clear right to relief and is likely to prevail on the merits; (5) the injunction is reasonably suited to abate the offending activity; and, (6) the preliminary injunction will not adversely affect the public interest.” *SEIU Healthcare Pennsylvania v. Com.*, 104 A.3d 495, 501-02 (Pa. 2014) (reversing denial of preliminary injunction).

68. Only “reasonable grounds” need exist for a trial court to grant injunctive relief. *See Sovereign Bank v. Harper*, 674 A.2d 1085, 1091 (Pa. Super. Ct. 1996) (citing *William v. Children’s Hosp. of Pittsburgh*, 479 A.2d 452, 453 (Pa. Super. Ct. 1984)).

69. Preliminary injunctive relief is particularly appropriately where, as here, a plaintiff credibly asserts a violation of a statute. *See Com. ex rel. Corbett v. Snyder*, 977

² Accordingly, any effort to remove this matter to federal court would be frivolous and subject to remand.

A.2d 28, 41 (Pa. Cmwlth. 2009) (citing *Pub. Util. Comm'n v. Israel*, 52 A.2d 317 (Pa. 1947)).

70. Plaintiff's application amply satisfies each of these requirements, which Plaintiff addresses in descending order of relative importance.

B. Plaintiff Has Established a Clear Right to Relief.

71. A trial court is authorized to grant preliminary injunctions only if the court is satisfied that plaintiff's "right to relief is clear." *Santoro v. Morse*, 781 A.2d 1220, 1229 (Pa. Super. Ct. 2001).

72. "To establish a clear right to relief, the party seeking an injunction need not prove the merits of the underlying claim, but need only demonstrate that substantial legal questions must be resolved to determine the rights of the parties." *SEIU*, 104 A.3d at 506.

73. "Since a preliminary injunction is designed to preserve the status quo pending final resolution of the underlying issues, it is obvious that the 'clear right' requirement is not intended to mandate that one seeking a preliminary injunction establish his or her claim absolutely." *Fischer v. Dep't of Pub. Welfare*, 439 A.2d 1172, 1174 (Pa. 1982).

1. Plaintiff Is Likely to Prevail on His Underlying Claim for Public Nuisance (Count I).

74. All lotteries in Pennsylvania are regulated and conducted by the state for the benefit of public programs. *See* 72 P.S. § 3761-101, *et seq.* (the "State Lottery Law").

75. Any lottery not specifically authorized by law is unlawful and illegal. 18 Pa. C.S. § 5512.

76. Under Pennsylvania law, a scheme is an unlawful lottery if it satisfies three elements: (1) a prize to be won; (2) a winner to be determined by chance; and (3) the payment of a consideration by the player. *See Com. v. Lane*, 363 A.2d 1271, 1272 (Pa. Super. Ct. 1976) (citing *Commonwealth v. Logan*, 94 A.2d 99 (Pa. Super. Ct. 1953)).

77. The General Assembly has also expressly declared that unlawful lotteries are “common nuisances.” 18 Pa. C.S. § 5512(a).

78. Indisputably, America PAC and Musk are running a lottery: (1) the prize to be won is \$1 million offered by America PAC; (2) a winner is, according to Defendants, drawn at “random”; and (3) the players – citizens of Philadelphia, the Commonwealth or the other swing states Defendants have made eligible – provide at least two forms of consideration to participate and be eligible to receive the \$1 million: (a) they provide personal information (*i.e.*, first and last name, email address, mailing address, and cell phone number) inputted into America PAC’s electronic system; and (b) they bind their own future conduct through a pledge to support specified positions. *See Cobaugh v. Klick-Lewis, Inc.*, 385 Pa. Super. 587, 591–92 (Pa. 1989); *see also Dahar v. Grzandziel*, 599 A.2d 217, 218 (Pa. 1991); *Gottlieb v. Tropicana Hotel & Casino*, 109 F. Supp. 2d 324, 329 (E.D. Pa. 2000). *Cf. Commonwealth v. Lund*, 15 A.2d 839 (Pa. 1940).

79. Lotteries are highly regulated under Pennsylvania law. *See generally* 72 P.S. § 3761-101, *et seq.*

80. The purpose of the State Lottery Law is “to establish a lottery to be operated by the state,” the proceeds of which benefit those 65 years of age or older. 72 P.S. § 3761-101. The State Lottery Law is also intended to “provide a means through which to curb illegal gambling operations in Pennsylvania.” *Id.*

81. All lotteries not specifically authorized by law are unlawful. 18 P.S. § 5512(d).

82. Indisputably, Defendants' lottery is unlawful.

83. It is not authorized by Pennsylvania law and is not a state lottery under the State Lottery Law.

84. The General Assembly has further established that all unlawful lotteries such as Defendants' is "declared to be common nuisances." 18 Pa. C.S. § 5512(a).

85. Additionally, Defendants' lottery is harmful to residents of Philadelphia and the Commonwealth and interferes with their public rights for a host of reasons including the following:

- c. The lottery imposes a substantial danger to economic and general welfare, irreparably harms the integrity of Pennsylvania's legitimate State Lottery Law, and otherwise inflames gambling instincts and corrupts public morals among Pennsylvania citizens;
- d. The lottery is a menace to public welfare in Pennsylvania since illegal gambling has the strong potential to exploit vulnerable populations including children, the elderly, and those with limited means; and
- e. The lottery interferes with a public right to vote without undue influence and otherwise injects illegal activity into the integrity of the electoral process. Pennsylvania voters, including voters in Philadelphia, have the right to public peace, public comfort, and public convenience to engage in the electoral process without interference from outside third parties offering the chance of a reward in exchange for providing personal information.

86. Without doubt therefore, Defendants' illegal lottery causes a serious deterioration in public order, public safety, and further encourages pervasive misconduct by other parties seeking to undermine the integrity of Pennsylvania's electoral process. *See generally* Ex. A, Verified Compl., ¶¶ 74-92.

87. Accordingly, Defendants are liable for public nuisance because, among other things, their conduct (a) is illegal and proscribed by 18 Pa. C.S. § 5512. *See* Restatement Second, Torts § 821B(2)(b); *see also Machipongo Land & Coal Co. v. Com.*, 799 A.2d 751, 773 (Pa. 2002) (noting that Section 821B has been “repeatedly applied” in Pennsylvania courts); and (b) has caused an unreasonable and substantial interference with a right common to the general public. *See* Restatement (Second) of Torts § 821B.

2. Plaintiff Is Likely to Prevail on His Underlying Claim for Violation of the UTPCPL (Count II).

88. The UTPCPL prohibits [1] persons from employing [2] “unfair or deceptive acts or practices [3] in the conduct of any trade or commerce,” which includes [4] “[e]ngaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding.” 73 P.S. §§ 201-2(4)(xxi), 201-3(a).

89. The UTPCPL is to be “liberally construed” to effectuate its objective of protecting Pennsylvanians from unfair or deceptive practices. *See Commonwealth v. Chesapeake Energy Corp.*, 247 A.3d 934, 936 (Pa. 2021) (internal citation and quotations omitted).

90. Plaintiff well satisfies these elements. *See generally* Ex. A, Verified Compl., ¶¶ 93-115.

91. As to [1], America PAC and Musk are each a “person” under the UTPCPL. 73 P.S. § 201-2(2); *see also* Exhibit 1.

92. As to [3], Defendants are engaging in trade or commerce. Trade or commerce includes “the offering ... or thing of value wherever situate, and includes trade or commerce directly or indirectly affecting the people of this Commonwealth.” 73 P.S. § 201-2(3).

93. America PAC offers a thing of value to a lottery participant—\$100 and a chance to win \$1 million—while a participant confers a thing of value on America PAC—their personal information and data, which benefits America PAC’s marketing, political campaigning, and data analytics capabilities, as well as a pledge of political support. *See Com. by Preate v. Watson & Hughey Co.*, 563 A.2d 1276, 1282 (Pa. Cmwlth. 1989) (noting, “sweepstakes solicitations constitute the *advertising* of some *thing of value*” under the UTPCPL) (emphasis in original); *see also In re Soc. Media Adolescent Addiction/Pers. Inj. Prods. Liab. Litig.*, No. 4:23-CV-05448-YGR, 2024 WL 4532937, at *44 (N.D. Cal. Oct. 15, 2024) (providing personal information in exchange for social-media website/application use is “in the conduct of any trade or commerce” under UTPCPL and other states’ consumer protection laws) (citation omitted).

94. Defendants’ trade or commerce is directly or indirectly affecting Pennsylvania residents.

95. They offer an online lottery to Pennsylvanians, giving participants the daily chance to win \$1 million in exchange for the participant signing America PAC’s petition. *See Exhibit 13.*

96. They also offer \$100 to Pennsylvania registered-voter participants who sign the petition, and \$100 to petition signers referred by a participant, both amounts more than the \$47 offered to petition signers in other states (Georgia, Nevada, Arizona, Michigan, Wisconsin, and North Carolina). *Id.*

97. Registering for America PAC's lottery causes detriment to the participant, in that a participant loses control over their personal data, which could be sold to third parties.

98. A registrant also implicitly pledges that their name, likeness, and support to America PAC, which will be made public if the participant wins the lottery, thus forfeiting personal privacy.

99. As to [2] and [4], Defendants' lottery employs unfair or deceptive acts prohibited by the UTPCPL, including without limitation, the deceptive conduct that creates a likelihood of confusion or misunderstanding. Defendants engaged in unfair or deceptive acts or practices in violation of the UTPCPL by failing to:

- a. Provide a complete set of lottery or other contest rules to all participants, with such rules being set forth clearly and conspicuously at a place where participants may readily review;
- b. Clearly and conspicuously disclose to participants the range of payouts available and the method of winning and timing of delivery for those payouts;
- c. Clearly and conspicuously disclose the odds of winning;
- d. Clearly and conspicuously disclose how Defendants will store and/or use the personal data provided by the Participant during the sweepstake registration process. The website, for example, fails to disclose any limitations or restrictions on how Defendants may use a participant's collected personal data, including their name, email address, and mailing address (other than a caveat that a participant's cell phone number will only be used to confirm identity); and
- e. Clearly and conspicuously disclose the privacy policy applicable to the registrants.

100. In addition, the America PAC website makes various statements that have the capacity to deceive, or are likely to deceive or confuse, a substantial portion of the public.

101. The website makes unfair or deceptive statements concerning the supposed promise to pay \$100 to participating registered-voters who sign America PAC's petition (or refer a petitioner).

102. The website promoting the petition and lottery states:

especially freedom of speech and the right to bear arms. This program is exclusively open to registered voters in [Pennsylvania](#), [Georgia](#), [Nevada](#), [Arizona](#), [Michigan](#), [Wisconsin](#) and [North Carolina](#). Expires November 5.



Exhibit 13.

103. Yet, upon information and belief, Pennsylvania registered-voter participants who have signed America PAC's petition, or referred a petition signer, have not received \$100 from America PAC.

104. The foregoing conduct has the capacity to deceive, or was likely to deceive or confuse, a substantial portion of the public. *See Gregg v. Ameriprise Fin., Inc.*, 245 A.3d 637, 649 (Pa. 2021); *see also* 73 P.S. § 201-2(4).

105. The liability imposed under Section 201-2(3) is strict liability, as it does not depend on any particular *mens rea*. *Gregg*, 245 A.2d at 650.

106. As a direct result of the foregoing, Defendants have received, and will continue to receive, benefits that they would not have received if they had not engaged in violations of the UTPCPL as alleged herein.

107. Philadelphia citizens and those across the Commonwealth have thus suffered substantial injury.

108. Based on these violations, DA Krasner seeks an injunction requiring Defendants to cease engaging in any unfair or deceptive acts or practices in connection with their lottery. 73 P.S. § 201-4.

109. Unless restrained by this Court, Defendants will likely continue to engage in the methods, acts, or practices that have a likelihood to deceive, mislead, and confuse the public absent the grant of an injunction.

110. The ongoing and likely future violations by Defendants of the UTPCPL are contrary to the public interest, necessitating an injunction to restrain and prevent further misconduct by Defendants.

111. Plaintiff is therefore likely to succeed on the merits of his two claims.

C. Defendants' Scheme Irreparably Harms Pennsylvania Citizens.

112. It has been long settled that “a violation of an express provision of a statute is *per se* irreparable harm for purposes of a preliminary injunction.” *Crowe ex rel. Crowe v. Sch. Dist. of Pittsburgh*, 805 A.2d 691, 694-95 (Pa. Cmwlth. 2002); *see also SEIU*, 104 A.3d at 508-09 (irreparable harm shown where undisputed facts demonstrated a statutory violation); *Stilp v. Com.*, 910 A.2d 775, 787 (Pa. Cmwlth. 2006) (holding violations of the Pennsylvania Constitution and express statutory provisions constitutes *per se* irreparable harm), *aff'd*, 974 A.2d 491 (Pa. 2009); *Wyland v. West Shore Sch. Dist.*, 52 A.3d 572, 583 (Pa. Cmwlth. 2012); *Israel*, 52 A.2d 317; *Unified Sportsmen of Pa. v. Pa. Game Comm'n (PGC)*, 950 A.2d 1120 (Pa. Cmwlth. 2008); *Com. by Fisher v. Richard A. Cole, M.D., Inc.*, 709 A.2d 994 (Pa. Cmwlth. 1998).

113. Defendants have plainly violated Pennsylvania law.

114. As shown above, Defendants' lottery is an illegal lottery that is not authorized by statute and is a "common nuisance".

115. The lottery therefore violates, and continues to violate, 18 Pa. C.S. § 5512. That is ample enough basis for entering the requested injunction.

116. Defendants' violation of the UTPCPL — demonstrated, *supra* — provides a second ground. These statutory violations are ongoing and thus constitute irreparable harm *per se*.

D. The Denial of Injunctive Relief Will Result in Greater Harm Than By Granting Said Relief.

117. The Court need not consider the balance of harms because Defendants' conduct creates *per se* irreparable harm. *See Wolk v. Sch. Dist. of Lower Merion*, 228 A.3d 595, 611 (Pa. Commw. Ct. 2020) (citing *Israel*, 52 A.2d at 321).

118. In any event, the denial of injunctive relief would significantly harm consumers and voters across the Commonwealth due to Defendants' unlawful conduct and misrepresentations.

119. Defendants' unlawful lottery harms Pennsylvanians because it creates or has the potential to create hazards to public health, safety, and general welfare. Ex. A, Verified Compl., ¶ 85.

120. Defendants' deception has further harmed the public because they have shrouded key aspects of the lottery in secrecy, including because (a) Defendants have not provided a complete set of lottery or contest rules, including the odds of winning or how winners will be selected; (b) Defendants have not provided information about when they will make payments to participants; (c) Defendants have not provided what privacy policy, if any, will protect participants' personal information. *Id.* ¶¶ 64, 103.

121. Further, Defendants appear to be making false statements about the lottery, including: (d) Defendants say the that winners are chosen at random; yet, on information and belief, winners are not actually chosen at random; and (e) Defendants promise to pay \$100 to all participating registered voters who sign America PAC's petition yet, on information and belief, Defendants have not made those payments. *Id.* ¶ 65.

122. America PAC's violation of the UTPCPL causes a likelihood of confusion or of misunderstanding as to the \$1 million lottery prize, the compensation a participant receives for signing the petition and registering for a lottery, how and when compensation shall be paid, and the disclosures concerning the supposed payments.

123. These violations result in substantial injury to the public and the Commonwealth by undermining laws enacted by the General Assembly to (1) protect consumers and (2) regulate unlawful lottery schemes. *See also* 18 Pa. C.S. § 5512.

124. By contrast, the harm of an injunction to Defendants is minimal to nonexistent.

125. Defendants have already unlawfully acquired data from over 280,000 unsuspecting Pennsylvanians and will suffer no injury by being enjoined from further wrongdoing. Further, there can be no harm to Defendants by being enjoined to follow state statutes enacted for the benefit and protection of the public.

E. A Preliminary Injunction Would Restore the Status Quo

126. The purpose of a preliminary injunction is to prevent irreparable injury by preserving the status quo as it previously existed before the acts complained of occurred. *Duquesne Light Co. v. Longue Vue Club*, 63 A.3d 270, 278 (Pa. Super. Ct. 2013).

127. An injunction is appropriate where it “restore[s] the parties to their status quo as it existed before the alleged wrongful conduct.” *Braynman Constr. Corp. v. DOT*, 13 A.3d 925, 935 (Pa. 2011).

128. Here, there are no impediments to restoring the *status quo*.

129. The status quo existed prior to October 7, 2024, the date Defendants began offering cash prizes in exchange for voters’ personal data. *See* Ex. A, Verified Compl. ¶¶ 3, 28.

130. By restraining Defendants from further operating an unlawful lottery or engaging in deceptive conduct prohibited by the UTPCPL, the requested injunction would restore the status quo. *See Firearm Owners Against Crime v. Lower Merion Twp.*, 151 A.3d 1172, 1181 (Pa. Commw. Ct. 2016).

F. The Requested Injunction is Reasonably Suited to Abate the Offending Conduct.

131. A preliminary injunction must be “reasonably suited to abate the offending activity.” *See SEIU*, 104 A.3d at 509 (citation omitted).

132. Without an injunction, Defendants can continue to operate an illegal lottery and unlawfully acquire and use consumers’ personal data and engage in deceptive conduct in violation of the UTPCPL, the State Lottery Law, and 18 Pa. C.S. § 5512.

133. Because the injunction is narrowly tailored to enjoin Defendants’ wrongful conduct with respect to their illegal lottery, the requested relief is reasonably suited to abate the offending conduct. *See Dillon v. City of Erie*, 83 A.3d 467, 474 (Pa. Cmwlth. 2014) (*en banc*) (“[T]he injunction is reasonably suited to abate the offending activity by enjoining the [unlawful conduct].”).

G. A Preliminary Injunction Will Not Adversely Affect the Public Interest – Instead, It Will Advance the Public Interest.

134. “Harm to the public is an additional consideration in the issuance or denial of a preliminary injunction.” *Allegheny Anesthesiology Assocs., Inc. v. Allegheny Gen. Hosp.*, 826 A.2d 886, 893 (Pa. Super. Ct. 2003).

135. “This factor requires the court to look beyond the parties’ respective interests and to gauge the injunction’s potential effects on the community as a whole.” *McCahon v. Pennsylvania Tpk. Comm’n*, 491 F. Supp. 2d 522, 528 (M.D. Pa. 2007).

136. The injury to the public element is tied to the immediate and irreparable harm element a movant must show: “when the Legislature declares certain conduct to be unlawful, it is tantamount in law to calling it injurious to the public. For one to continue such unlawful conduct constitutes irreparable injury.” *Dillon*, 83 A.3d at 474 (quoting *Israel*, 52 A.2d at 317).

137. As set forth above, Defendants’ conduct is unlawful and contrary to public policy. It is ongoing and violates multiple state statutes. It is therefore in the public’s interest to enjoin Defendants’ misconduct.

WHEREFORE, for the foregoing reasons, DA Krasner respectfully requests that this Court grant this Emergency Petition for Preliminary Injunctive Relief and enjoin Defendants from operating illegal lotteries and violating the UTPCPL and the Crimes Code, 18 Pa C.S. § 5512, by entering an Order in the form attached hereto.

HANGLEY ARONCHICK SEGAL PUDLIN
& SCHILLER

Dated: October 28 , 2024

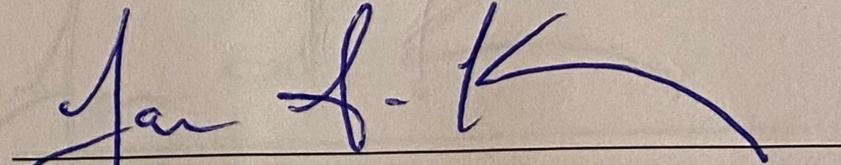
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Attorneys for Plaintiff

VERIFICATION

I hereby verify that the statements made in the foregoing Petition for Emergency Preliminary Injunctive Relief are true and correct based upon my personal knowledge or information and belief. I understand that false statements therein are subject to penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.

Dated: October 27, 2024



Larry Krasner
District Attorney of Philadelphia

EXHIBIT A

HANGLEY ARONCHICK SEGAL
PUDLIN & SCHILLER

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Attorneys for Plaintiff

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION**

	:	OCTOBER TERM, 2024
COMMONWEALTH OF	:	
PENNSYLVANIA,	:	
acting by and through Philadelphia District	:	No. _____
Attorney Lawrence S. Krasner,	:	
3 S. Penn Square	:	NOT AN ARBITRATION CASE
Philadelphia, PA 19107,	:	
	:	CIVIL ACTION
Plaintiff,	:	
	:	
v.	:	
	:	
AMERICA PAC	:	
P.O. Box 341027	:	
Austin, TX 78734	:	
	:	
and	:	
	:	
ELON MUSK	:	
52448-54298 Boca Chica Blvd.	:	
Brownsville, TX 78521	:	
	:	
Defendants.	:	

NOTICE TO DEFEND – CIVIL

NOTICE You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you. **YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.**

PHILADELPHIA COUNTY BAR ASSOCIATION
LAWYER REFERRAL AND
INFORMATION SERVICE, 1101
MARKET STREET, 11th FLOOR
PHILADELPHIA, PENNSYLVANIA
19107 TELEPHONE: (215) 238-1701

AVISO Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de lan demanda y la notificacion. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademias, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiendandes u otros derechos importantes para usted. **LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIOI, VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.**

ASOCIACION DE LICENCIADOR DE PHILADELPHIA VICIO DE REFERENCIA DE INFORMACION LEGAL 1101 MARKET STREET, 11th FLOOR PHILADELPHIA, PENNSYLVANIA 19107 TELEFONO: (215) 238-1701

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Attorneys for Plaintiff

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION**

	:	OCTOBER TERM, 2024
COMMONWEALTH OF	:	
PENNSYLVANIA,	:	
acting by and through Philadelphia District	:	No. _____
Attorney Lawrence S. Krasner,	:	
3 S. Penn Square	:	NOT AN ARBITRATION CASE
Philadelphia, PA 19107,	:	
	:	CIVIL ACTION
Plaintiff,	:	
	:	
v.	:	
	:	
AMERICA PAC	:	
P.O. Box 341027	:	
Austin, TX 78734	:	
	:	
and	:	
	:	
ELON MUSK	:	
52448-54298 Boca Chica Blvd.	:	
Brownsville, TX 78521	:	
	:	
Defendants.	:	
	:	

VERIFIED COMPLAINT

Case ID: 241003509
Control No.: 24105617

Plaintiff Commonwealth of Pennsylvania, acting by and through Philadelphia District Attorney Lawrence S. Krasner (“Philadelphia District Attorney” or “DA Krasner”), brings this public enforcement action against the Defendants, America PAC and Elon Musk, pursuant to Pennsylvania nuisance law and the Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 P.S. §§ 201-1 *et seq.* (“UTPCPL”), and in support of this Verified Complaint, the Philadelphia District Attorney alleges as follows:

I. INTRODUCTION

1. America PAC and Elon Musk are running an illegal lottery in Philadelphia (as well as throughout Pennsylvania).

2. At an October 19, 2024 rally, on Musk’s X platform and on America PAC’s website, America PAC and Musk launched their scheme. They announced that if a registered voter (1) turns over their personal identifying information (i.e., address, cell phone number and e-mail address) and makes a political pledge by signing a petition pledging support for “the Constitution, especially freedom of speech and the right to bear arms”; they (2) are eligible to be selected “randomly”; to (3) win \$1 million.

3. This announcement came after America PAC launched, on October 7, a “Petition in Favor of Free Speech and the Right to Bear Arms,” with an offer to pay individuals—including Pennsylvania registered voters—“\$47 for each registered voter you refer that signs this petition,” which was later raised to \$100 for Pennsylvania registered voters.

4. In other words, America PAC and Musk are lulling Philadelphia citizens – and others in the Commonwealth (and other swing states in the upcoming election) – to give up their personal identifying information and make a political pledge in exchange for the chance to win \$1 million. That is a lottery.

5. And it is indisputably an unlawful lottery. Under unambiguous Pennsylvania law, all lotteries in Pennsylvania must be regulated by the Commonwealth of Pennsylvania. The Commonwealth's lottery law establishes a lottery to be operated and administered by the state, for the benefit of those 65 years of age or older. 72 P.S. § 3761-101; 3761-303; 61 Pa. Code § 801.3. State regulations govern many aspects of the lottery, including the procedures for claiming prizes, the use of lottery funds, and even require the disclosure of the odds of a participant's chances of winning. *See* 61 Pa. Code § 801.1, *et seq.* (regulations).

6. America PAC's and Musk's lottery is plainly not a lawful lottery. Under unambiguous Pennsylvania law, moreover, the Pennsylvania General Assembly has declared that illegal lotteries are a public "nuisance" and empowered law enforcement officers such as DA Krasner to seek an injunction in court to stop them.

7. America PAC's and Musk's illegal lottery scheme also violates the Commonwealth's consumer protection laws. In connection with their scheme, they are deploying deceptive, vague or misleading statements that create a likelihood of confusion or misunderstanding. For example, they have not published a complete set of lottery rules or shown how they are protecting the privacy of participants' personal information. Also, though Musk says that a winner's selection is "random," that appears false because multiple winners that have been selected are individuals who have shown up at Trump rallies in Pennsylvania. The General Assembly's consumer protection laws empower DA Krasner to seek an injunction to stop that misconduct as well.

8. Running an illegal lottery and violating consumer protections is ample basis for an injunction and concluding that America PAC and Musk must be stopped, immediately, before the upcoming Presidential Election on November 5. That is because

America PAC and Musk hatched their illegal lottery scheme to influence voters in that election.

9. To be clear, this is not a case about whether Defendants have violated state or federal laws prohibiting vote-buying. Instead, this case is very simple because America PAC and Musk are indisputably violating Pennsylvania’s statutory prohibitions against illegal lotteries and deceiving consumers.

10. DA Krasner therefore brings this action to immediately stop America PAC and Musk from these violations of Pennsylvania law. If not enjoined, their lottery scheme will irreparably harm Philadelphians – and others in Pennsylvanians – and tarnish the public’s right to a free and fair election.

II. JURISDICTION & VENUE

11. This Court has jurisdiction over this action pursuant to 42 Pa. C.S. § 931(a).

12. There is no federal jurisdiction over this dispute. This is a Pennsylvania law matter, not a federal question. It is for this state court to interpret the Commonwealth’s laws. Additionally, there is no diversity of citizenship between the parties because Plaintiff is District Attorney Krasner, acting in the name of the Commonwealth of Pennsylvania, which is not a “citizen” that can be diverse to other citizens within the meaning of 28 U.S.C. § 1332. *Moor v. Cnty. of Alameda*, 411 U.S. 693, 717 (1973).

13. Venue is proper in Philadelphia County. That is where the cause of action arose, Pa. R. Civ. P. 1006(a)(2), 2156(a)(2), where District Attorney Krasner has the authority to bring a cause of action (a) for public nuisance to enjoin “an unreasonable interference with a right common to the general public” in Philadelphia; and (b) to enjoin unlawful methods, acts or practices under the Unfair Trade Practices and Consumer Protection Law, 73 P.S. §§ 201-1 *et seq.* (“UTPCPL”) in the name of the Commonwealth.

14. America PAC claims it has received over 280,000 petition signers who are registered voters in Pennsylvania, and on information and belief, among those 280,000 petition signers are residents of Philadelphia County. As alleged herein, those signers have accepted America PAC's offer to: (a) provide their personal data in exchange for an opportunity to win the lottery; (b) provide their personal data in exchange for the \$100 compensation; or (c) pay them in exchange for referring the names of others for the purpose of procuring additional individuals who will provide personal data, sign the petition, or otherwise endorse America PAC.

III. PARTIES

15. Plaintiff is Philadelphia District Attorney Lawrence S. Krasner, acting in the name of the Commonwealth of Pennsylvania.

16. The District Attorney is empowered to bring a cause of action for public nuisance to enjoin "an unreasonable interference with a right common to the general public" on behalf of Philadelphia's citizens. *See Atl. Richfield Co. v. Cnty. of Montgomery*, 294 A.3d 1274, 1283 (Pa. Cmwlth. 2023) (quoting Restatement (Second) of Torts § 821B (1979)). "All unlawful lotteries or numbers games are . . . common nuisances." 18 Pa. C.S. § 5512(a).

17. The District Attorney is expressly authorized to bring an action in the name of the Commonwealth under the UTPCPL whenever the District Attorney has reason to believe that any person is using or is about to use any method, act, or practice declared by the UTPCPL to be unlawful, and that such proceedings would be in the public interest. 73 P.S. § 201-4.

18. Defendant America PAC is a political action committee "to support candidates who champion Secure Borders, Sensible Spending, Safe Cities, Fair Justice

System, Free Speech and Self-Protection,” especially the candidacy of former President Donald Trump. See America PAC, <https://x.com/america> (last visited Oct. 24, 2024); America PAC, <https://theamericapac.org/> (last visited Oct. 24, 2024). This Court has personal jurisdiction over America PAC because, among other things, it is operating an illegal lottery in Pennsylvania, it is spending money in Pennsylvania targeted to influence Pennsylvania voters, it has transacted business in the Commonwealth, and it has caused harm or tortious injury by its acts or omissions inside or outside the Commonwealth. 42 Pa. C.S § 5322(a).

19. Defendant Elon Musk is the founder of America PAC. Mr. Musk funded America PAC, is involved in America PAC’s operations, made representations to Philadelphians on behalf of America PAC, and benefits from increased traffic generated by America PAC on the social media platform X, of which Mr. Musk is the majority owner. This Court has personal jurisdiction over Mr. Musk because, among other things, he has funded an illegal lottery operating in Pennsylvania, he has traveled to Pennsylvania as part of the operation of his illegal lottery, he has directed that substantial sums be spent in Philadelphia to influence Pennsylvania voters, he has transacted business in the Commonwealth, and he has caused harm or tortious injury in Pennsylvania by his acts or omissions inside or outside the Commonwealth. 42 Pa. C.S § 5322(a).

IV. FACTUAL ALLEGATIONS

A. America PAC and Musk Target Pennsylvania to Influence Pennsylvania Voters

20. America PAC filed a statement of organization with the Federal Election Commission (“FEC”) on May 22, 2024, as an “independent expenditure-only political committee” or “Super PAC,” listing a P.O. Box in Austin, Texas as its business address.

See Exhibit 1, America PAC, Statement of Organization (May 22, 2024), available at <https://www.fec.gov/data/committee/COO879510/?tab=filings>.

21. As of September 30, 2024, America PAC reported having spent \$133,841,660 on independent expenditures to support or oppose 2024 federal candidates. See Exhibit 2, PAC Profile: America PAC (Texas), Opensecrets.org (last visited Oct. 24, 2024), <https://www.opensecrets.org/political-action-committees-pacs/america-pac-texas/COO879510/summary/2024>; see also Exhibit 3, America PAC, Committee Filings, FEC.gov (last visited Oct. 24, 2024), available at <https://www.fec.gov/data/committee/COO879510/?tab=filings>.

22. In the daily reports filed since October 21, 2024, America PAC has disclosed millions of dollars in additional spending on political communications.

23. On October 24, 2024, the *New York Times* reported, “Mr. Musk, the leader of Space X, Tesla and X, has already poured \$75 million into a pro-Trump super PAC called America PAC,” and is accelerating his spending in this final stretch before Election Day. Exhibit 4, Theodore Schleifer, *Elon Musk Plots His Final Moves for Trump*, N.Y. Times (Oct. 24, 2024), <https://www.nytimes.com/2024/10/24/us/elections/elon-musk-trump-campaign.html>.

24. According to this report, Mr. Musk is particularly focused on Pennsylvania, and a close political ally is quoted as saying, “Elon is literally campaigning every day in Pennsylvania.” *Id.*

25. Mr. Musk is also the majority owner of the social media company, X. Among its other expenditures, America PAC has spent tens of thousands of dollars advertising on X targeting swing state voters, alongside Mr. Musk’s own repeated endorsements of Mr. Trump on X. Exhibit 5, Vittoria Elliot, *Elon Musk’s PAC Is Buying*

Ads for Donald Trump on Elon Musk's X, Wired (Oct. 21, 2024), <https://www.wired.com/story/elon-musks-pac-is-buying-ads-for-donald-trump-on-elon-musks-x/>.

26. America PAC relies heavily on X to communicate with the public, posting political communications throughout each day, and the @America and @ElonMusk X handles work together to re-share and boost each other's content.

27. X makes money in two different ways—advertising and data licensing—both of which are correlated to overall traffic to the platform. As the majority owner, Mr. Musk personally benefits from X's revenue generation.

28. Internet archives show that, on or about October 7, 2024, America PAC first launched a “Petition in Favor of Free Speech and the Right to Bear Arms,” with an offer to pay individuals—including Pennsylvania registered voters—“\$47 for each registered voter you refer that signs this petition.” That petition stated it was “exclusively open to registered voters in Pennsylvania, Georgia, Nevada, Arizona, Michigan, Wisconsin and North Carolina” and “[e]xpires October 21.” Exhibit 6, America PAC, Petition (archive from Oct. 7, 2024), available at <https://web.archive.org/web/20241007081443/https://petition.theamericapac.org/>.

B. Musk Travels to Pennsylvania To Announce His (Illegal) Lottery

29. On Saturday, October 19, 2024, during an America PAC event in Harrisburg, Pennsylvania, Mr. Musk announced a “surprise” before a live crowd. See Exhibit 7, America PAC (@America), “ELON MUSK: ‘I have a surprise for you’” X (Oct 19, 2024, 11:06 P.M.), <https://x.com/america/status/1847851986495881434>; see also Exhibit 8, Mike Catalini, *Musk offers voters \$1 million a day to sign PAC petition backing the Constitution. Is that legal?*, Associated Press (updated Oct. 20, 2024 5:10

P.M.), <https://apnews.com/article/musk-1-million-giveaway-trump-voters-petition-b4e48acbfe04fde735e60b1911ado197>.

30. Mr. Musk said, “we’re gonna be awarding a million dollars, *randomly*, every day from now until the election,” because “I figured, ‘How do we get people to know about it?’” Exhibit 7, America PAC (@America), “ELON MUSK: ‘I have a surprise for you’” X (emphasis added), <https://x.com/america/status/1847851986495881434> (video embedded in URL).

31. He explained that this news would “really fly” and would help publicize America PAC’s petition and, in turn, the PAC’s efforts to elect Donald Trump. *Id.*

32. Mr. Musk then said that he would announce the first winner that evening, and called the name “John Dreher.” *Id.*

33. Mr. Dreher was in the audience and mounted the stage in a red MAGA hat. “By the way,” Mr. Musk said, “John had no idea.” *Id.*

34. When Mr. Dreher came onto the stage to accept an oversized check, Mr. Musk asked that, in exchange for the money, “the only thing we ask” is for John to agree to be a spokesperson for America PAC. *Id.*

C. Musk Continues to Make Statements, including in Pennsylvania, Promoting Defendants’ (Illegal) Lottery That He Says Will Operate Until Election Day

35. Shortly after Mr. Musk’s live announcement of Mr. Dreher’s lottery win on October 19, America PAC posted on X: “Every day from now until Election Day, one registered swing state voter who signs the petition will be selected to earn \$1 MILLION,” and included a link to the petition on America PAC’s website. Exhibit 9, America PAC (@America), “John received \$1 MILLION” X (Oct 19, 2024, 11:58 P.M.), <https://x.com/america/status/1847864967816511758>.

36. Mr. Musk posted a similar message minutes before. Exhibit 10, Elon Musk (@ElonMusk), “Every day, from now through Nov 5” X (Oct 19, 2024, 11:25 P.M.), <https://x.com/elonmusk/status/1847856712914555061>.

37. Then, the next day on October 20, 2024, during another America PAC event, this time in McKees Rocks, Pennsylvania, Mr. Musk conducted a second “random” drawing, selecting Kristine Fiskell as the winner, who was also in the audience that day. Exhibit 11, Adam Babetski, *Musk gives away \$1 million at McKees Rocks pro-Trump rally, raising legal questions*, Pittsburgh Post-Gazette (Oct. 20, 2024, 6:36 P.M.), <https://www.post-gazette.com/news/election-2024/2024/10/20/elon-musk-1-million-trump-legal-questions-pittsburgh/stories/202410200166>.

D. The Supposed Rules of Defendants’ (Illegal) Lottery

38. America PAC’s website still includes a page with the petition and the rules of the lottery, albeit in different form than what it originally published in early October 2024. See Exhibit 12 (America PAC, *Petition in Favor of Free Speech and the Right to Bear Arms* (last visited Oct. 27, 2024), <https://petition.theamericapac.org/>).

39. The subject America PAC website now describes the rules of the lottery as follows:

Each day, one petition signer from either PA, GA, NV, AZ, MI, WI, or NC will earn \$1,000,000. . . . Our goal is to get 1 million registered voters in swing states to sign in support of the Constitution, especially freedom of speech and the right to bear arms. This program is exclusively open to registered voters in Pennsylvania, Georgia, Nevada, Arizona, Michigan, Wisconsin and North Carolina. Expires November 5.

Id.

40. The description of the lottery does not say anything about agreeing to be a spokesperson for America PAC, despite what Mr. Musk told the first winner.

41. As consideration to enter the lottery and “sign” the petition, a participant must provide several data points of personal information: first and last name, email address, mailing address, and cell phone number. *Id.*

42. A participant must then click a button that says “Sign Petition,” with a space above asking for cell phone information that: “Will only be used to confirm you are the legitimate petition signer. No other purpose.” *Id.*

43. In addition to entering the lottery, the website provides two additional offers of compensation to registered voters in exchange for signing the petition and providing personal information, with a “Special Offer for Pennsylvania Registered Voters.” *Id.*

44. First, the website claims that Pennsylvania registered voters will receive \$100 for providing their personal data and signing the petition, which is more money than what is offered to voters in other battleground states (*e.g.*, Georgia, Nevada, Arizona, Michigan, Wisconsin, or North Carolina).

45. Second, the website claims that a Pennsylvania participant and petition signer who refers another Pennsylvania registered voter to provide personal data and sign the America PAC petition will receive \$100, which is also more money than that offered for referrals in other battleground states.

46. Specifically, the America PAC website states:

Offer valid from time of posting through 11:59 PM on 10/28. New signers only. \$100 replaces standard \$47 offer (not in addition to it)[.] To be eligible, both the referrer and the petition signer must be registered voters of Pennsylvania.

Id.

47. The petition does not provide any information about how or when compensation will be paid.

48. In smaller print at the bottom of the petition, it states:

Each person may only sign this petition once. Eligible people may only list one eligible person as their referrer. Signing the petition on behalf of another person is not permitted. Before payment is made, America PAC will verify the accuracy of all information of the referrer and referee. Payments of \$600 or more will require the referrer to provide a signed IRS W-9 so an IRS 1099 can be issued. To be eligible, both the referrer and the petition signer must be registered voters of Arizona, Michigan, Georgia, Nevada, North Carolina, Pennsylvania, or Wisconsin.

Id.

49. The America PAC petition places no limitations on America PAC's use of or sale of the personal data it collects, nor does it provide any additional information about the planned use of data. *Id.*

50. Defendants' lottery is not authorized by state law. Lotteries are highly regulated under Pennsylvania law. *See generally* 72 P.S. § 3761-101, *et seq.* The purpose of the State Lottery Law is "to establish a lottery to be operated by the state," the proceeds of which benefit those 65 years of age or older. 72 P.S. § 3761-101. The State Lottery Law is also intended to "provide a means through which to curb illegal gambling operations in Pennsylvania." *Id.* The Commonwealth Secretary of Revenue and Bureau of State Lotteries are empowered to operate and administer the lottery, including, for example, the types of lawful lotteries, the manner in which winners are selected, and the licensure of sales agents. *Id.* § 3761-303; 61 Pa. Code § 801.3. State regulations govern the powers and duties of the Secretary and the Director of the Bureau of State Lottery, the procedures for licensing, claiming prizes, the use of lottery funds, and further disclose the odds of a participant's chances of winning. *See* 61 Pa. Code § 801.1, *et seq.* (regulations). All

lotteries not specifically authorized by law are unlawful. 18 P.S. § 5512(d). Defendant's lottery is not authorized by law and is illegal.

E. Defendants' Announcements of Winners of the (Illegal) Lottery

51. Since launching on October 19, 2024, America PAC claims it awarded \$1,000,000 checks to nine individuals through its lottery, four of whom live in Pennsylvania. *Id.* It made those awards on October 19, 20, 21, 22, 24, 25, 26, and 27, 2024. No winner was announced on October 23.

52. Each winner is featured on America PAC's website and X handle, and has garnered significant public and press attention.

53. Indeed, the videos of the first and second lottery winners have garnered 27 million views and 10.9 million views, respectively, driving significant traffic to Mr. Musk's X platform. *See* Exhibit 9, America PAC (@America), "John received \$1 MILLION . . ." X (Oct. 20, 2024, 12:58 AM), <https://x.com/america/status/1847864967816511758?s=46>; Exhibit 13, America PAC (@America), "Kristine was today's recipient of the \$1 MILLION . . ." X (Oct. 20, 2024, 9:49PM), <https://x.com/america/status/1848179817050517567?s=46>.

54. This \$1 million lottery has earned wall-to-wall media coverage of America PAC, Mr. Musk, and Mr. Trump since the lottery launched, including numerous stories in Philadelphia's newspaper of record, *The Philadelphia Inquirer*.

55. America PAC claims it has received over 1,000,000 petition signers to date, with over 280,000 petition signers who are registered voters in Pennsylvania entering for a chance to win the \$1 million prize. Exhibit 14, America PAC (@America), "Over 280,000 registered voters in Pennsylvania signed our petition . . ." X (Oct. 23, 2024, 1:03 P.M.), <https://x.com/america/status/1849134584182485476>.

56. Upon information and belief, among those 280,000 petition signers are residents of Philadelphia County, who have accepted America PAC's offer to provide their personal data in exchange for an opportunity to win the lottery.

57. Upon information and belief, among those 280,000 petition signers are residents of Philadelphia County, who have accepted America PAC's offer to provide their personal data in exchange for the \$100 compensation.

58. Upon information and belief, among those 280,000 petition signers are residents of Philadelphia County, who have accepted America PAC's offer to pay them in exchange for referring the names of others for the purpose of procuring additional individuals who will provide personal data, sign the petition, or otherwise endorse America PAC.

59. Upon information and belief, petition signers in Pennsylvania and Philadelphia have not been paid for their personal data, despite America PAC's claims. Nor have petition signers been given any information for how or when payment will be tendered.

60. Upon information and belief, petition signers in Pennsylvania and Philadelphia have not been paid for referring other petition signers, despite America PAC's claims. Nor have petition signers been given any information for how or when payment will be tendered.

61. Also, on October 23, it was reported that the United States Department of Justice sent a letter notifying America PAC that the \$1 million lottery could violate the federal law against paying people to register to vote.

62. Notwithstanding, on October 24, 2024, America PAC announced two additional \$1 million lottery winners. Exhibit 15, America PAC (@America), “Jason of Holland, Michigan received \$1M for signing our petition to support the Constitution” X (Oct. 24, 2024, 10:37 P.M.), <https://x.com/america/status/1849641342051418536>; Exhibit 16, America PAC (@America), X (Oct. 24, 2024 11:00 P.M.), <https://x.com/america/status/1849647294355825052>.

F. Defendants’ Deceptive Conduct and Statements in Connection with Their Lottery

63. As enumerated more fully below, Defendants have engaged in conduct and made statements that are deceptive and which create a likelihood of confusion or misunderstanding.

64. For example, Defendants have shrouded key aspects of the lottery in secrecy, including without limitation the following:

- a. Defendants have not provided a complete set of lottery or contest rules, including the odds of winning or how winners will be selected.
- b. Defendants have not provided information about when they will make payments to participants.
- c. Defendants have not provided what privacy policy, if any, will protect participants’ personal information

65. Also by way of example, Defendants appear to be making false statements about the lottery, including without limitation the following:

- a. Defendants say that the winners are chosen at random; yet, on information and belief, winners are not actually chosen at random. For example, the October 19 and October 20 winners appear not to be chosen at random

because both just happened to live near the locations of Musk's pro-Trump rallies and both were in attendance at those rallies.

- b. Defendants promise to pay \$100 to all participating registered voters who sign America PAC's petition yet, on information and belief, Defendants have not made those payments.

66. Accordingly, Defendants are operating an illegal lottery in violation of Pennsylvania statutes.

67. To be clear, it would be no defense for America PAC and Musk to argue that it was not engaging in a lottery if their scheme actually did not involve a chance or random selection of winners. In that event, (a) they would be admitting to acting deceptively and in violation of the Commonwealth's consumer protection law; and (b) they would still be in violation of the Commonwealth's prohibition against the operation of unlawful lotteries.

G. Plaintiff Is Entitled to Injunctive Relief

68. As alleged herein, Plaintiff has established a clear right to relief and is likely to succeed on the merits of his claims. *See* Plaintiff's Emergency Petition for Preliminary Injunctive Relief, at ¶¶ 71-111.

69. Plaintiff and the public will be irreparably harmed if the requested injunction is not entered, including because irreparable harm *per se* exists due to Defendants' ongoing statutory violations. *Id.* ¶¶ 112-16.

70. The denial of injunctive relief will result in greater harm than by granting injunctive relief. *Id.* ¶¶ 117-25.

71. The requested preliminary injunction will restore the status quo. *Id.* ¶¶ 126-30.

72. The requested injunction is reasonably suited to abate the offending conduct. *Id.* ¶¶ 131-33.

73. An injunction will not adversely affect the public interest; to the contrary, it will advance the public interest. *Id.* ¶¶ 134-37.

COUNT I
PUBLIC NUISANCE

74. DA Krasner incorporates herein the preceding paragraphs of this Complaint.

75. All lotteries in Pennsylvania are regulated and conducted by the state for the benefit of public programs. *See* 72 P.S. § 3761-101, *et seq.* (the “State Lottery Law”). Any lottery not specifically authorized by law is unlawful and illegal. 18 Pa. C.S. § 5512(d).

76. Under Pennsylvania law, a scheme is an unlawful lottery if it satisfies three elements: (1) a prize to be won; (2) a winner to be determined by chance; and (3) the payment of a consideration by the player. *Com. v. Lane*, 363 A.2d 1271, 1272 (Pa. Super. Ct. 1976).

77. The General Assembly has also expressly declared that unlawful lotteries are “common nuisances.” 18 Pa. C.S. § 5512(a).

78. America PAC and Musk’s lottery described above is an illegal lottery.

79. Specifically: (1) the prize to be won in the lottery is \$1 million offered by America PAC; (2) a winner is, according to Defendants, drawn at random; and (3) the players – citizens of Philadelphia and other citizens of the Commonwealth – provide at least two forms of consideration to participate and be eligible to receive the \$1 million: (a) they provide personal information (*i.e.*, first and last name, email address, mailing

address, and cell phone number) inputted into America PAC's electronic system; and
(b) they bind their own future conduct through a pledge to support specified positions.

80. Lotteries are highly regulated under Pennsylvania law. *See generally* 72 P.S. § 3761-101, *et seq.* The purpose of the State Lottery Law is “to establish a lottery to be operated by the state,” the proceeds of which benefit those 65 years of age or older. 72 P.S. § 3761-101. The State Lottery Law is also intended to “provide a means through which to curb illegal gambling operations in Pennsylvania.” *Id.* All lotteries not specifically authorized by law are unlawful. 18 P.S. § 5512(d).

81. Defendants' lottery is not authorized by Pennsylvania law and is unlawful.

82. Defendants' lottery and its creation, maintenance, promotion and operation is also a common nuisance. 18 Pa. C.S. § 5512(a).

83. Defendants have created, maintained, published, advertised, promoted and operated, or participated in the creation, maintenance, promotion and operation of the illegal lottery.

84. Defendants' creation, maintenance, promotion and operation of the lottery is harmful to residents of Philadelphia and the Commonwealth and interferes with their public rights.

85. Defendants' conduct alleged above creates or has the potential to create hazards to public health, safety, and general welfare.

86. Among other things:

- a. The lottery imposes a substantial danger to economic and general welfare, irreparably harms the integrity of Pennsylvania's legitimate State Lottery, and otherwise inflames gambling instincts and corrupts public morals among Pennsylvania citizens.

- b. The lottery is a menace to public welfare in Pennsylvania since illegal gambling has the strong potential to exploit vulnerable populations including children, the elderly, and those with limited means.
- c. The lottery interferes with a public right to vote without undue influence and otherwise injects illegal activity into the integrity of the electoral process. Pennsylvania voters, including voters in Philadelphia, have the right to public peace, public comfort, and public convenience to engage in the electoral process without interference from outside third parties offering the chance of a reward in exchange for providing personal information.

87. As a result, Defendants' illegal lottery causes a serious deterioration in public order, public safety, and further encourages pervasive misconduct by other parties seeking to undermine the integrity of Pennsylvania's electoral process.

88. Defendants are liable for public nuisance because their conduct has caused an unreasonable and substantial interference with a right common to the general public. *See* Restatement (Second) of Torts § 821B.

89. Defendants are also liable for public nuisance because their conduct is illegal and proscribed by 18 Pa. C.S. § 5512. *See* Restatement Second, Torts § 821B(2)(b).

90. The public nuisance created by Defendants' actions is substantial and unreasonable.

91. Defendants knew, or should have known, that their promotion and operation of an illegal lottery not authorized by state law would create a public nuisance by injecting instability into Pennsylvania's electoral process.

92. The Philadelphia District Attorney sues on behalf of the Commonwealth in his public capacity for all appropriate injunctive and mandatory relief to abate the ongoing public nuisance.

WHEREFORE, Plaintiff demands judgment against Defendants, for the following:

- a. Injunctive relief prohibiting Defendants America PAC and Musk from creating, maintaining, operating, or participating in the creation, maintenance, operation of their lottery;
- b. Abatement of the public nuisance; and
- c. Such other and further relief as the Court deems just and proper.

COUNT II
VIOLATION OF PENNSYLVANIA UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION LAW, 73 P.S. §§ 201-1 to 201-9.3 (“UTPCPL”)

93. DA Krasner incorporates herein all of the preceding paragraphs of this Complaint.

94. The UTPCPL prohibits [1] persons from employing [2] “unfair or deceptive acts or practices [3] in the conduct of any trade or commerce,” which includes [4] “[e]ngaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding.” 73 P.S. §§ 201-2(4)(xxi), 201-3(a).

95. Defendants’ conduct alleged in this Complaint constitutes trade or commerce under the UTPCPL. 73 P.S. § 201-2(3).

96. The UTPCPL is to be “liberally construed” to effectuate its objective of protecting Pennsylvanians from unfair or deceptive practices. *See Commonwealth v. Chesapeake Energy Corp.*, 247 A.3d 934, 936 (Pa. 2021) (internal citation and quotations omitted).

97. As to [1], America PAC and Musk are each a “person” under the UTPCPL. 73 P.S. § 201-2(2); *see also* Exhibit 1.

98. As to [3], Defendants are engaging in trade or commerce. Trade or commerce includes “the offering ... or thing of value wherever situate, and includes trade or commerce directly or indirectly affecting the people of this Commonwealth.” 73 P.S. § 201-2(3).

99. America PAC offers a thing of value to a lottery participant—\$100 and a chance to win \$1 million—while a participant confers a thing of value on America PAC—their personal information and data, which benefits America PAC’s marketing, political campaigning, and data analytics capabilities, as well as a pledge of political support. *See Com. by Preate v. Watson & Hughey Co.*, 563 A.2d 1276, 1282 (Pa. Cmwlth. 1989) (noting, “sweepstakes solicitations constitute the *advertising* of some *thing of value*” under the UTPCPL) (emphasis in original); *see also In re Soc. Media Adolescent Addiction/Pers. Inj. Prods. Liab. Litig.*, No. 4:23-CV-05448-YGR, 2024 WL 4532937, at *44 (N.D. Cal. Oct. 15, 2024) (providing personal information in exchange for social-media website/application use is “in the conduct of any trade or commerce” under UTPCPL and other states’ consumer protection laws) (citation omitted).

100. Defendants’ trade or commerce is directly or indirectly affecting Pennsylvania residents. They offer an online lottery to Pennsylvanians, giving participants the daily chance to win \$1 million in exchange for the participant signing America PAC’s petition. *See* Exhibit 12. They also offer \$100 to Pennsylvania registered-voter participants who sign the petition, and \$100 to petition signers referred by a participant, both amounts more than the \$47 offered to petition signers in other states (Georgia, Nevada, Arizona, Michigan, Wisconsin, and North Carolina). *Id.*

101. Registering for America PAC's lottery causes detriment to the participant, in that a participant loses control over their personal data, which could be sold to third parties. A registrant also implicitly pledges that their name, likeness, and support to America PAC, which will be made public if the participant wins the lottery, thus forfeiting personal privacy.

102. As to [2] and [4], Defendants' lottery employs unfair or deceptive acts prohibited by the UTPCPL, including without limitation, the deceptive conduct that creates a likelihood of confusion or misunderstanding. 73 P.S. §§ 201-2(4)(xxi), 201-3(a).

103. Defendants engaged in unfair or deceptive acts or practices in violation of the UTPCPL by failing to:

- a. Provide a complete set of lottery or other contest rules to all participants, with such rules being set forth clearly and conspicuously at a place where participants may readily review;
- b. Clearly and conspicuously disclose to participants the range of payouts available and the method of winning and timing of delivery for those payouts;
- c. Clearly and conspicuously disclose the odds of winning;
- d. Clearly and conspicuously disclose how Defendants will store and/or use the personal data provided by the Participant during the sweepstake registration process. The website, for example, fails to disclose any limitations or restrictions on how Defendants may use participants' collected personal data, including their name, email address, and mailing address (other than a caveat that a participant's cell phone number will only be used to confirm identity); and
- e. Clearly and conspicuously disclose the privacy policy applicable to the registrants.

104. In addition, the America PAC website makes various statements that have the capacity to deceive, or are likely to deceive or confuse, a substantial portion of the public.

105. The website makes unfair or deceptive statements concerning the supposed promise to pay \$100 to participating registered-voters who sign America PAC's petition (or refer a petitioner).

106. The website promoting the petition and lottery states:

especially freedom of speech and the right to bear arms. This program is exclusively open to registered voters in [Pennsylvania](#), [Georgia](#), [Nevada](#), [Arizona](#), [Michigan](#), [Wisconsin](#) and [North Carolina](#). Expires November 5.



Exhibit 12.

107. Yet, upon information and belief, Pennsylvania registered-voter participants who have signed America PAC's petition, or referred a petition signer, have not received \$100 from America PAC.

108. The foregoing conduct has the capacity to deceive, or was likely to deceive or confuse, a substantial portion of the public. *See Gregg v. Ameriprise Fin., Inc.*, 245 A.3d 637, 649 (Pa. 2021); *see also* 73 P.S. § 201-2(4).

109. The liability imposed under Section 201-2(3) is strict liability, as it does not depend on any particular *mens rea*. *Gregg*, 245 A.2d at 650.

110. As a direct result of the foregoing, Defendants have received, and will continue to receive, benefits that they would not have received if they had not engaged in violations of the UTPCPL as alleged herein.

111. As a direct result of the foregoing, Philadelphia citizens and those across the Commonwealth have suffered substantial injury.

112. The General Assembly authorizes District Attorneys such as DA Krasner to seek injunctive relief for violations of the UTPCPL. 73 P.S. § 201-4.

113. DA Krasner seeks an injunction requiring the Defendants cease in engaging in any unfair or deceptive acts or practices in connection with their lottery.

114. Unless restrained by this Court, Defendants will likely continue to engage in the methods, acts, or practices that have a likelihood to deceive, mislead, and confuse the public, absent the grant of an injunction.

115. The ongoing and likely future violations by Defendants of the UTPCPL are contrary to the public interest, necessitating an injunction to restrain and prevent further misconduct by Defendants.

WHEREFORE, Plaintiff demands judgment against Defendants, for the following:

- a. Injunctive relief prohibiting Defendants America PAC and Musk from engaging in any unfair or deceptive acts or practices in connection with their lottery; and
- b. Such other and further relief as the Court deems just and proper.

HANGLEY ARONCHICK SEGAL PUDLIN
& SCHILLER

Dated: October 28, 2024

By: /s/ John S. Summers

John S. Summers (Atty. I.D. No. 41854)

jsummers@hangle.com

Andrew M. Erdlen (Atty. I.D. No. 320260)

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(215) 568-6200

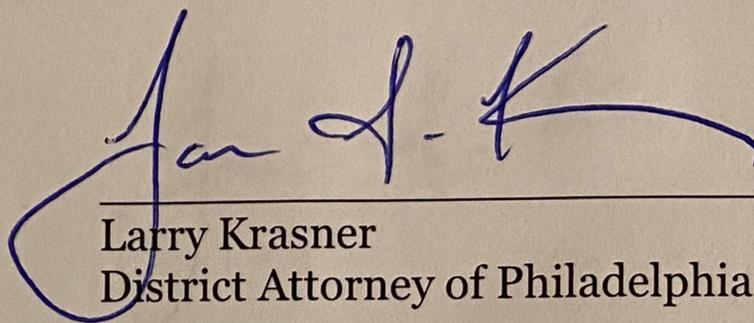
(215) 568-0300 (facsimile)

Attorneys for Plaintiff

VERIFICATION

I hereby verify that the statements made in the foregoing Complaint are true and correct based upon my personal knowledge or information and belief. I understand that false statements therein are subject to penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.

Dated: October 27, 2024



Larry Krasner
District Attorney of Philadelphia

EXHIBIT 1

FEC FORM 1

STATEMENT OF ORGANIZATION

Office Use Only

1. NAME OF COMMITTEE (in full) (Check if name is changed) Example: If typing, type over the lines. 12FE4M5

AMERICA PAC

ADDRESS (number and street) P.O. BOX 341027

(Check if address is changed)

AUSTIN TX 78734
CITY ▲ STATE ▲ ZIP CODE ▲

COMMITTEE'S E-MAIL ADDRESS

(Check if address is changed) compliance@rightsidecompliance.com

Optional Second E-Mail Address

COMMITTEE'S WEB PAGE ADDRESS (URL)

(Check if address is changed)

2. DATE 05 / 22 / 2024

3. FEC IDENTIFICATION NUMBER C C00879510

4. IS THIS STATEMENT NEW (N) OR AMENDED (A)

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer GOBER, CHRIS, , ,

Signature of Treasurer GOBER, CHRIS, , , Date 05 / 22 / 2024

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 52 U.S.C. §30109. ANY CHANGE IN INFORMATION SHOULD BE REPORTED WITHIN 10 DAYS.

Case ID: 241003509 Control No.: 24105617

5. TYPE OF COMMITTEE:

Candidate Committee:

- (a) This committee is a principal campaign committee. (Complete the candidate information below.)
- (b) This committee is an authorized committee, and is NOT a principal campaign committee. (Complete the candidate information below.)

Name of Candidate _____

Candidate Party Affiliation Office Sought: House Senate President State District

- (c) This committee supports/opposes only one candidate, and is NOT an authorized committee.

Name of Candidate _____

Party Committee:

- (d) This committee is a (National, State or subordinate) committee of the (Democratic, Republican, etc.) Party

Political Action Committee (PAC):

- (e) This committee is a separate segregated fund. (Identify connected organization on line 6.) Its connected organization is a:

Corporation Corporation w/o Capital Stock Labor Organization
 Membership Organization Trade Association Cooperative

In addition, this committee is a Lobbyist/Registrant PAC.

- (f) This committee supports/opposes more than one Federal candidate, and is NOT a separate segregated fund or party committee. (i.e., nonconnected committee)

In addition, this committee is a Lobbyist/Registrant PAC.

In addition, this committee is a Leadership PAC. (Identify sponsor on line 6.)

- (g) This committee is an independent expenditure-only political committee (Super PAC).

In addition, this committee is a Lobbyist/Registrant PAC.

- (h) This committee is a political committee with both contribution and non-contribution accounts (Hybrid PAC).

In addition, this committee is a Lobbyist/Registrant PAC.

Joint Fundraising Representative:

- (i) This committee collects contributions, pays fundraising expenses and disburses net proceeds for two or more political committees/organizations, at least one of which is an authorized committee of a federal candidate.
- (j) This committee collects contributions, pays fundraising expenses and disburses net proceeds for two or more political committees/organizations, none of which is an authorized committee of a federal candidate.

Committees Participating in Joint Fundraiser

1. _____

2. _____

C _____

C _____

Write or Type Committee Name

AMERICA PAC

6. Name of Any Connected Organization, Affiliated Committee, Joint Fundraising Representative, or Leadership PAC Sponsor

NONE

Mailing Address

CITY ▲

STATE ▲

ZIP CODE ▲

Relationship: Connected Organization Affiliated Organization Joint Fundraising Representative Leadership PAC Sponsor

7. Custodian of Records: Identify by name, address (phone number -- optional) and position of the person in possession of committee books and records.

Full Name GOBER, CHRIS, , ,

Mailing Address P.O. BOX 341027

AUSTIN

TX

78734

CITY ▲

STATE ▲

ZIP CODE ▲

Title or Position ▼

TRESURER

Telephone number

8. Treasurer: List the name and address (phone number -- optional) of the treasurer of the committee; and the name and address of any designated agent (e.g., assistant treasurer).

Full Name of Treasurer GOBER, CHRIS, , ,

Mailing Address P.O. BOX 341027

AUSTIN

TX

78734

CITY ▲

STATE ▲

ZIP CODE ▲

Title or Position ▼

TRESURER

Telephone number

Full Name of Designated Agent

[Grid for Full Name of Designated Agent]

Mailing Address

[Grid for Mailing Address Line 1]

[Grid for Mailing Address Line 2]

[Grid for Mailing Address Line 3]

CITY ▲

STATE ▲

ZIP CODE ▲

Title or Position ▼

[Grid for Title or Position]

Telephone number

[Grid for Telephone Number]

9. Banks or Other Depositories: List all banks or other depositories in which the committee deposits funds, holds accounts, rents safety deposit boxes or maintains funds.

Name of Bank, Depository, etc.

CHAIN BRIDGE BANK

[Grid for Name of Bank, Depository, etc.]

Mailing Address

1445A LAUGHLIN AVE

[Grid for Mailing Address Line 1]

[Grid for Mailing Address Line 2]

MCLEAN

[Grid for Mailing Address Line 3]

VA

[Grid for Mailing Address Line 3]

22101

[Grid for Mailing Address Line 3]

CITY ▲

STATE ▲

ZIP CODE ▲

Name of Bank, Depository, etc.

[Grid for Name of Bank, Depository, etc.]

Mailing Address

[Grid for Mailing Address Line 1]

[Grid for Mailing Address Line 2]

[Grid for Mailing Address Line 3]

[Grid for Mailing Address Line 3]

[Grid for Mailing Address Line 3]

CITY ▲

STATE ▲

ZIP CODE ▲

EXHIBIT 2



[Home](#) [PACs](#) [Summary](#)

PAC Profile: America PAC (Texas)

Summary

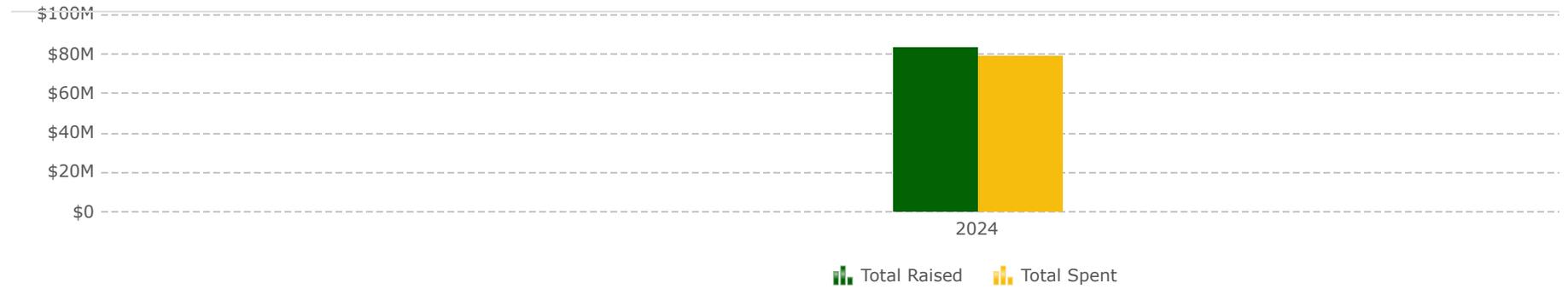
Search for a PAC


DONATE

NOTE: *This committee is a single-candidate super PAC in support of **Donald Trump (R)**.*

 [View its full profile in our Outside Spending section.](#)

Spending by Election Cycle



Select a cycle:

2024

DONATE

PAC Summary Data, 2023-2024

Total Raised	\$83,700,020
Total Spent	\$79,701,381
Begin Cash on Hand	\$0
End Cash on Hand Receipts	\$3,998,639
Debts	\$0

Case ID: 241003509
Control No.: 24105617

Independent Expenditures

\$137,706,490

Date of Last Report

September 30, 2024

PAC Contribution Data, 2023-2024

Contributions from this PAC to federal candidates

\$0

Contributions to this PAC from individual donors of \$200 or more

\$83,700,000

DONATE

PAC Registration Details

Official PAC Name: **AMERICA PAC**

Location: AUSTIN , TX 78734

Industry: Republican/Conservative; Republican/Conservative

Treasurer: GOBER, CHRIS

(Look up the documents filed at the FEC)

Case ID: 241003509
Control No.: 24105617

FEC Committee ID: C00879510

(Look up the documents filed at the FEC)

*Based on data released by the Federal Election Commission on October 26, 2024 except for independent expenditure and communication cost, contributions to federal candidates, and contributions from individual donor data, which were released by the Federal Election Commission on October 17, 2024.

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Case ID: 241003509
Control No.: 24105617

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Case ID: 241003509
Control No.: 24105617

EXHIBIT 3

Home › Campaign finance data › Committee profiles › AMERICA PAC

AMERICA PAC

ACTIVE - QUARTERLY

SUPER PAC (INDEPENDENT EXPENDITURE-ONLY) - UNAUTHORIZED

ID: C00879510

REGISTRATION DATE: MAY 22, 2024

Committee filings

TWO-YEAR PERIOD

2023-2024

Raw electronic filings

Filter this data

Filed on or after: 10/24/2024

Document	Coverage start date	Coverage end date	Date filed	Image number
<u>F24N</u> <input type="text" value=" "/>			10/26/2024, 8:00pm	202410269719660481
<u>F24N</u> <input type="text" value=" "/>			10/25/2024, 10:00pm	202410259719659250
<u>F24N</u> <input type="text" value=" "/>			10/24/2024, 10:00pm	202410249719229761
<u>PRE- GENERAL 2024</u> <input type="text" value=" "/>	10/01/2024	10/16/2024	10/24/2024, 10:00pm	202410249719229537

Results per page:

Showing 1 to 4 of 4 entries



This data has not yet been categorized and coded by the FEC. It's pulled directly from a filer's raw, electronic reports. It doesn't include paper filings.

Case ID: 241003509
Control No.: 24105617

Regularly filed reports

Filter this data

Report year: 2023-2024

Document	Version	Coverage start date	Coverage end date	Date filed	Pages
<u>PRE-GENERAL</u> 2024 Original	Current version FEC- 1841918	10/01/2024	10/16/2024	10/24/2024	224
<u>OCTOBER</u> <u>QUARTERLY</u> 2024 Original	Current version FEC- 1829340	07/01/2024	09/30/2024	10/15/2024	220
<u>JULY</u> <u>QUARTERLY</u> 2024 Amendment 1	Current version FEC- 1821798	04/01/2024	06/30/2024	10/09/2024	21
<u>RFAI: JULY</u> <u>QUARTERLY</u> 2024	Not applicable	04/01/2024	06/30/2024	10/08/2024	2
<u>JULY</u> <u>QUARTERLY</u> 2024 Original	Past version FEC- 1801554	04/01/2024	06/30/2024	07/15/2024	21

Results per page: 100

Showing 1 to 5 of 5 entries



24- and 48-hour reports

Filter this data

Report year: 2023-2024

Document	Version	Date filed	Image number	Pages
<p><u>24-HOUR</u> <u>REPORT OF</u> <u>INDEPENDENT</u> <u>EXPENDITURES</u> <u>2024 Original</u></p>	<p>Current version FEC-1842943</p>	10/25/2024	202410259719659250	18
<p><u>24-HOUR</u> <u>REPORT OF</u> <u>INDEPENDENT</u> <u>EXPENDITURES</u> <u>2024 Original</u></p>	<p>Current version FEC-1841919</p>	10/24/2024	202410249719229761	23
<p><u>24-HOUR</u> <u>REPORT OF</u> <u>INDEPENDENT</u> <u>EXPENDITURES</u> <u>2024 Original</u></p>	<p>Current version FEC-1837740</p>	10/23/2024	202410239710173750	18
<p><u>48-HOUR</u> <u>REPORT OF</u> <u>INDEPENDENT</u> <u>EXPENDITURES</u> <u>2024 </u> <u>Amendment 1</u></p>	<p>Current version FEC-1834997</p>	10/22/2024	202410229710074712	37
<p><u>24-HOUR</u> <u>REPORT OF</u> <u>INDEPENDENT</u> <u>EXPENDITURES</u> <u>2024 Original</u></p>	<p>Current version FEC-1836096</p>	10/22/2024	202410229710108747	16
<p><u>24-HOUR</u> <u>REPORT OF</u> <u>INDEPENDENT</u></p>	<p>Current version FEC-1834811</p>	10/21/2024	202410219710042981	3

Case ID: 241003509
Control No.: 24105617

Document	Version	Date filed	Image number	Pages
EXPENDITURES 2024 Original				
24-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Original	Current version FEC-1833870	10/20/2024	202410209709494297	2
24-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Original	Current version FEC-1832369	10/18/2024	202410189699218435	8
24-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Original	Current version FEC-1831043	10/17/2024	202410179698612620	8
48-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Original	Current version FEC-1830317	10/16/2024	202410169698580922	24
48-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Original	Current version FEC-1829344	10/15/2024	202410159698271500	39
48-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Original	Current version FEC-1823368	10/11/2024	202410119684893666	23
48-HOUR REPORT OF	Current version FEC-1822625	10/10/2024	202410109684864353	14

Document	Version	Date filed	Image number	Pages
INDEPENDENT EXPENDITURES 2024 Original				
48-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Original	Current version FEC-1822113	10/09/2024	202410099684850384	27
48-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Original	Current version FEC-1821581	10/08/2024	202410089684825962	2
48-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Amendment 1	Current version FEC-1820904	10/07/2024	202410079684802141	22
48-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Original	Current version FEC-1821149	10/07/2024	202410079684811278	6
48-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Original	Current version FEC-1820790	10/06/2024	202410069684800326	1
48-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Original	Past version FEC-1820534	10/04/2024	202410049684794501	37

Document	Version	Date filed	Image number	Pages
48-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Original	Current version FEC-1819531	10/01/2024	202410019684775202	26
48-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Original	Current version FEC-1818949	09/27/2024	202409279684754301	1
48-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Original	Current version FEC-1818789	09/26/2024	202409269684737411	6
48-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Original	Current version FEC-1818639	09/25/2024	202409259684727888	25
48-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Original	Current version FEC-1818353	09/23/2024	202409239684692838	13
48-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Original	Current version FEC-1818053	09/20/2024	202409209684600041	7

Document	Version	Date filed	Image number	Pages
48-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Original	Current version FEC-1816435	09/18/2024	202409189675526201	13
48-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Original	Current version FEC-1816114	09/17/2024	202409179675516707	11
48-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Original	Past version FEC-1815849	09/16/2024	202409169675489127	22
48-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Amendment 1	Current version FEC-1815847	09/16/2024	202409169675489116	7
48-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Original	Past version FEC-1815513	09/13/2024	202409139675461258	7
48-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Original	Current version FEC-1814801	09/10/2024	202409109675405075	2
48-HOUR REPORT OF INDEPENDENT	Current version FEC-1814349	09/06/2024	202409069675373752	12

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EXPENDITURES 2024 Original				
48-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Original	Current version FEC-1814182	09/05/2024	202409059675370809	4
48-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Original	Current version FEC-1813797	09/03/2024	202409039675343015	8
48-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Original	Current version FEC-1813296	08/28/2024	202408289675291561	3
48-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Original	Current version FEC-1813168	08/27/2024	202408279675289346	4
48-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Original	Current version FEC-1812893	08/23/2024	202408239675273892	2
48-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Original	Current version FEC-1812776	08/22/2024	202408229675254471	3
48-HOUR REPORT OF	Current version FEC-1812528	08/21/2024	202408219675243250	10

Document	Version	Date filed	Image number	Pages
INDEPENDENT EXPENDITURES 2024 Original				
48-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Original	<input type="checkbox"/> Current version FEC-1811119	08/19/2024	202408199666448430	5
48-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Original	<input type="checkbox"/> Current version FEC-1810030	08/14/2024	202408149666193026	14
48-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Original	<input type="checkbox"/> Current version FEC-1810029	08/14/2024	202408149666193025	1
48-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Original	<input type="checkbox"/> Current version FEC-1804670	07/19/2024	202407199661391715	2
48-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Original	<input type="checkbox"/> Current version FEC-1803268	07/17/2024	202407179661211851	2
48-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Original	<input type="checkbox"/> Current version FEC-1795660	07/10/2024	202407109652768795	1

Document	Version	Date filed	Image number	Pages
48-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Original	<input type="text" value=" "/> Current version FEC-1794047	07/05/2024	202407059652570702	4
48-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Original	<input type="text" value=" "/> Current version FEC-1792687	06/28/2024	202406289652545655	1
48-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Original	<input type="text" value=" "/> Current version FEC-1792466	06/26/2024	202406269652500284	2
48-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Original	<input type="text" value=" "/> Current version FEC-1790519	06/19/2024	202406199649250624	1
48-HOUR REPORT OF INDEPENDENT EXPENDITURES 2024 Original	<input type="text" value=" "/> Current version FEC-1788741	06/12/2024	202406129648936735	3

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Statements of organization

Filter this data

Report year: 2023-2024

Document	Version	Date filed	Image number	Pages
Statement of Organization 2024 Amendment	Current version FEC-1835649	10/22/2024	202410229710092564	4
Statement of Organization 2024 Amendment	Past version FEC-1806789	07/29/2024	202407299665755748	4
Statement of Organization 2024 Original	Past version FEC-1785640	05/22/2024	202405229648717756	4

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Other documents

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Report year: 2023-2024

Document	Version	Date filed	Image number	Pages
Miscellaneous Report to FEC 2024	Current version FEC-1821802	10/09/2024	202410099684835465	1

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Showing 1 to 1 of 1 entries



EXHIBIT 4

Elon Musk Plots His Final Moves for Trump

With less than two weeks until Election Day, the richest person in the world is throwing himself into the effort to elect the former president.



Listen to this article · 7:23 min [Learn more](#)



By Theodore Schleifer

Theodore Schleifer has been writing about Elon Musk and his super PAC since the summer.

Oct. 24, 2024

He dined with Rupert Murdoch and a handful of other billionaires, for Donald Trump.

He intends to appear at Madison Square Garden this weekend, for Donald Trump.

He is planning future speeches and possibly a campaign push in Wisconsin, for Donald Trump.

He is donating “substantial” amounts of money to a super PAC focused on Hispanic turnout, for Donald Trump.

With less than two weeks left before Election Day, Elon Musk, the world’s richest person, has grown only more frenzied in his efforts to help elect the former president. Mr. Musk has emerged as a central character of the campaign’s closing days, so much so that Gov. Tim Walz of Minnesota, Vice President Kamala Harris’s running mate, referred to him this week as Mr. Trump’s true “running mate.”

Case ID: 241003509
Control No.: 24105617

Mr. Musk, the leader of Space X, Tesla and X, has already poured \$75 million into a pro-Trump super PAC called America PAC. But his efforts in recent weeks have become more labor intensive — and more expensive.

Tony Gonzales, the Republican congressman from Texas whose allied super PAC he said he expected would receive the “substantial” gift, has grown close with Mr. Musk since bringing him to tour the southern border last year. He described Mr. Musk as especially hands-on.

“He’s going all in — and you see that with the amount of resources that he and his team and the group has provided,” said Mr. Gonzales, who said he didn’t know the size of Mr. Musk’s check to the super PAC. “But I would argue it’s, more importantly, time. There’s nothing more valuable than a person’s time. And Elon is literally campaigning every day in Pennsylvania.”

Mr. Musk, fresh off several town hall appearances in Pennsylvania in advance of Monday’s voter registration deadline in the state, is now plotting his next moves, according to a dozen Republicans with insight into his operations.

On Monday evening, Mr. Musk abandoned his political team’s makeshift war room in a Pittsburgh hotel to travel to New York City for a dinner with Mr. Murdoch, the conservative media mogul, and other business leaders to discuss the state of the race, according to two people with knowledge of the meal.

On Wednesday, he was back to performing the quotidian tasks of being a public company C.E.O. — speaking to Tesla shareholders and answering questions from Wall Street analysts on a quarterly earnings call.

“Peter was lamenting that the future doesn’t have flying cars,” he said at one point, referring to his fellow entrepreneur Peter Thiel. “Well, we’ll see.”

In some ways, what Mr. Musk has done for Tesla, the electric car company, is not terribly different from what he is doing now for Mr. Trump. Mr. Musk, not known for his humility, is throwing himself into a work project with the same exacting demands, penchant for cost-cutting and belief in himself that have defined his three decades as a Silicon Valley founder.

Rarely has a political megadonor made himself such a star of his own operation.

Mr. Musk, who considers himself the best marketer of his own companies, has leveraged his celebrity, enjoying a rush of media coverage for his PAC's efforts, thanks to a publicity gambit.

Earlier this month, Mr. Musk's leadership team held an open call within the super PAC to brainstorm creative ideas for using Mr. Musk's money, according to a person with knowledge of the matter. The idea that emerged was a proposal to pay \$47 apiece to people who found others to sign a petition — helping Mr. Musk identify likely Trump voters in the process.

Mr. Musk's petition eventually expanded to a random \$1 million daily prize, and it generated well over one million signatures.

It also generated legal attention. The Department of Justice sent a warning letter this week to America PAC, suggesting that prosecutors could be investigating this as a possible criminal activity. An interest group, Public Citizen, filed a complaint on Wednesday with the Federal Election Commission.

Even skeptics of America PAC, including those within the organization, say that the sheer amount of money it is spending is bound to produce some results despite some major hiccups. The group has spent \$134 million on the presidential campaign and 18 congressional races, 60 percent of which has been dedicated to voter canvassing operations. The super PAC is expected to disclose tens of millions of dollars in additional contributions from Mr. Musk in a federal filing on Thursday evening.

Mr. Musk has assembled a team that resembles the landing group that he used on a recent mission that he also considered critical: buying Twitter. Mr. Musk's cousin James Musk has helped the super PAC, reprising a role he played in the weeks following the Twitter purchase, as is a longtime executive from Mr. Musk's entourage.

Mr. Musk has also recruited veterans of the world of field organizing. The latest hire was Chris Carr, a well-respected Republican field operative who is an expert on the state of Nevada, according to two people with knowledge of the matter.

Mr. Musk has built a get-out-the-vote team that Mr. Trump is largely depending upon in these final weeks, and the Trump campaign is largely thankful for Mr. Musk's help, according to people close to Mr. Trump. Still, some of those same people cautioned that while Mr. Musk would surely be celebrated if Mr. Trump wins, the billionaire would, fairly or not, be denigrated if he loses.

America PAC, through its contractors and subcontractors, employs over 2,500 canvassers knocking on well over 100,000 doors a day, according to a person with knowledge of the group's activities. Some canvassers have been recently poached by other firms offering higher pay. The group has in recent days focused on targeting those voters who are least likely to participate in the election, especially in the suburbs, according to two people briefed on the activities. And the PAC has recently been circulating information on early-vote totals to interested parties, although that data has not gone to some of the PAC's own donors, who have long-simmering complaints that they feel that they are being kept in the dark.

Mr. Musk also appears to be playing a long game. He and his family-office chief, Jared Birchall, filed paperwork in Texas this month to incorporate two new entities with names that appear to carry political objectives: Group America L.L.C. and United States of America Inc. The entities were first reported by Forbes.

Their purpose is unclear, but the timing is revealing for a billionaire who may seek voter data for future political projects. One person close to the super PAC said the group had recently begun testing some techniques for targeting voters that could yield data for the future.

Mr. Trump, meanwhile, has made Mr. Musk part of his closing argument, promoting a fund-raising appeal to small-dollar donors that promises that Mr. Musk would match their contributions.

Mr. Musk is particularly popular among young men. But on Wednesday, a Democratic messaging firm, Blueprint, released a study it had conducted to determine which of 14 recent quotes by Mr. Trump on podcasts resonated with male, and particularly young male, voters.

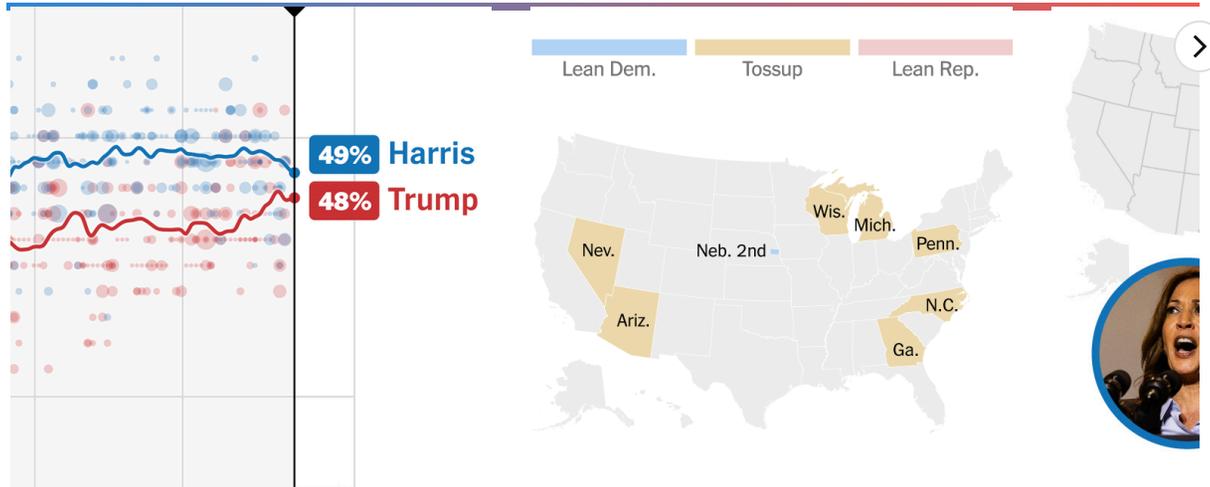
Mr. Trump's praise of Mr. Musk ranked the worst.

Theodore Schleifer is a Times reporter covering campaign finance and the influence of billionaires in American politics. More about Theodore Schleifer

2 0 2 4

Keep Up With the 2024 Election

The presidential election is **10 days away**. Here's our guide to the run-up to Election Day.



Tracking the Polls. The state of the race, according to the latest polling data.

Swing State Ratings. The presidential race is likely to be decided by these states.

On the Trai
Trump and campaigni

On Politics Newsletter. Get the latest news and analysis on the 2024 election sent to your inbox. [Sign up here.](#)

EXHIBIT 5



VITTORIA ELLIOTT POLITICS OCT 21, 2024 5:13 PM

Elon Musk's PAC Is Buying Ads for Donald Trump on Elon Musk's X

America PAC purchased ads yielding tens of millions of impressions on X between July 8 and October 1, according to the platform's ad disclosure data.



PHOTOGRAPH: CHESNOT/GETTY IMAGES



The Elon Musk–backed America PAC has spent thousands of dollars advertising on the Elon Musk–owned social media platform X to support former president Donald Trump’s campaign. According to X’s political ad disclosure data, between July 8 and October 1 the America PAC ran 59 ads, costing more than \$166,000 and yielding, per X’s metrics, 32,058,424 impressions. All of the ads targeted swing states: Georgia, Nevada, Pennsylvania, Michigan, Arizona, and Wisconsin.

Musk first endorsed Trump immediately following the attempted assassination against the former president in July in Butler, Pennsylvania. Since then, Musk has said he is “all in” on his support for Trump, and appeared at a second rally in Butler earlier this month. “This election is the most important election of our lifetime,” said Musk at the time. “This is no ordinary election.” It was one part of Musk’s—and the America PAC’s—efforts to turn out voters for Trump in swing states.

ADVERTISEMENT

Case ID: 241003509
Control No.: 24105617

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The America PAC has been a driving force behind voter mobilization for the Trump campaign, developing an app to help canvassers target likely voters. (The effectiveness of this strategy remains to be seen, with canvassers reportedly faking voter contacts at scale.) The PAC has offered \$47 to any swing state voters who would agree to sign a petition supporting the First and Second Amendments. Musk has also said he will give out \$1 million a day to voters who sign the petition, in a move election law expert Rick Hasen described as “clearly illegal.”

Federal Election Commission filings released last week revealed that Musk has funneled \$75 million into the PAC since July, dwarfing other Silicon Valley donors who back the former president. Musk has also donated to the Building America’s Future PAC, which has run anti–Kamala Harris ads aiming to dissuade Black and Muslim voters, particularly in swing states.

Musk has also used his ownership of X to further promote Trump. In August, Musk sat down with Trump for an interview hosted on X Spaces. He has also promoted and reshared conspiracy theories pedaled by the Trump campaign, including by alleging that the Democratic Party would allow undocumented immigrants to vote in order to win the election.

In one ad that ran between September 27 and October 1, the post read, “Georgia is filling up with illegal immigrants: In just 3 years, Kamala released more illegal immigrants into our country than almost 3x the population of Atlanta. End Kamala's Border Chaos and request your ballot for President Trump today.” The ad links to the website votesafe.org, which is paid for by the America PAC and where voters can look up their voter registration status and request ballots.

All of the PAC’s ads are linked to the [@theamericapac](https://twitter.com/theamericapac) X account, which links to the PAC’s website. Before his appearance at Trump’s October rally in Butler, Musk had appropriated the @america handle for the America PAC.

The America PAC has also invested heavily in ads on Meta’s platforms, Facebook and Instagram, running more than 250 ads in October alone.

A representative from X did not immediately respond to a request for comment.

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[Vittoria Elliott](#) is a reporter for WIRED, covering platforms and power. She was previously a reporter at Rest of World, where she covered disinformation and labor in markets outside the US and Western Europe. She has worked with The New Humanitarian, Al Jazeera, and ProPublica. She is a graduate of... [Read more](#)

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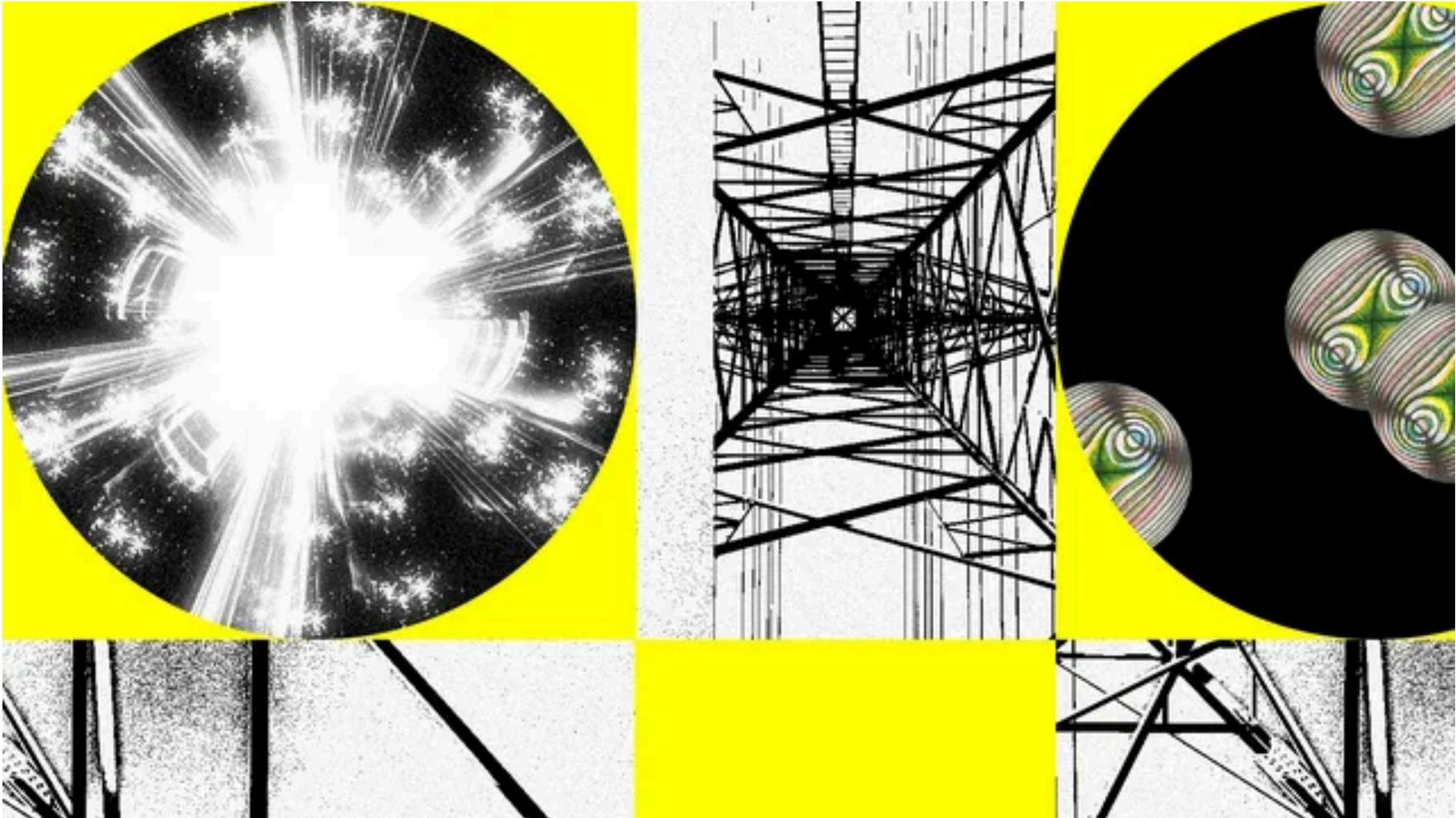
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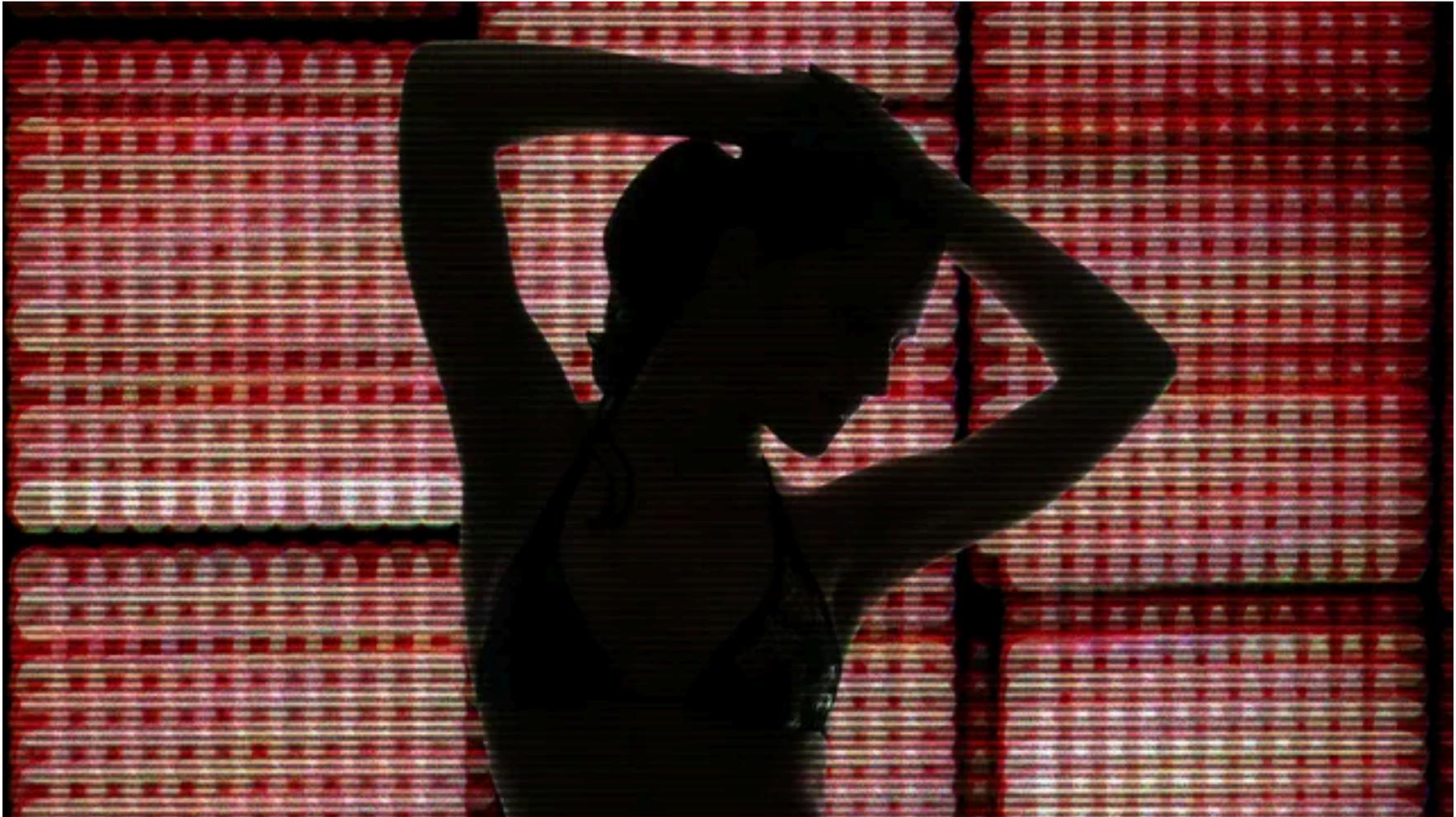


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New iPads are here. We break down Apple's current lineup to help you figure out which one of Apple's tablets is best for you.

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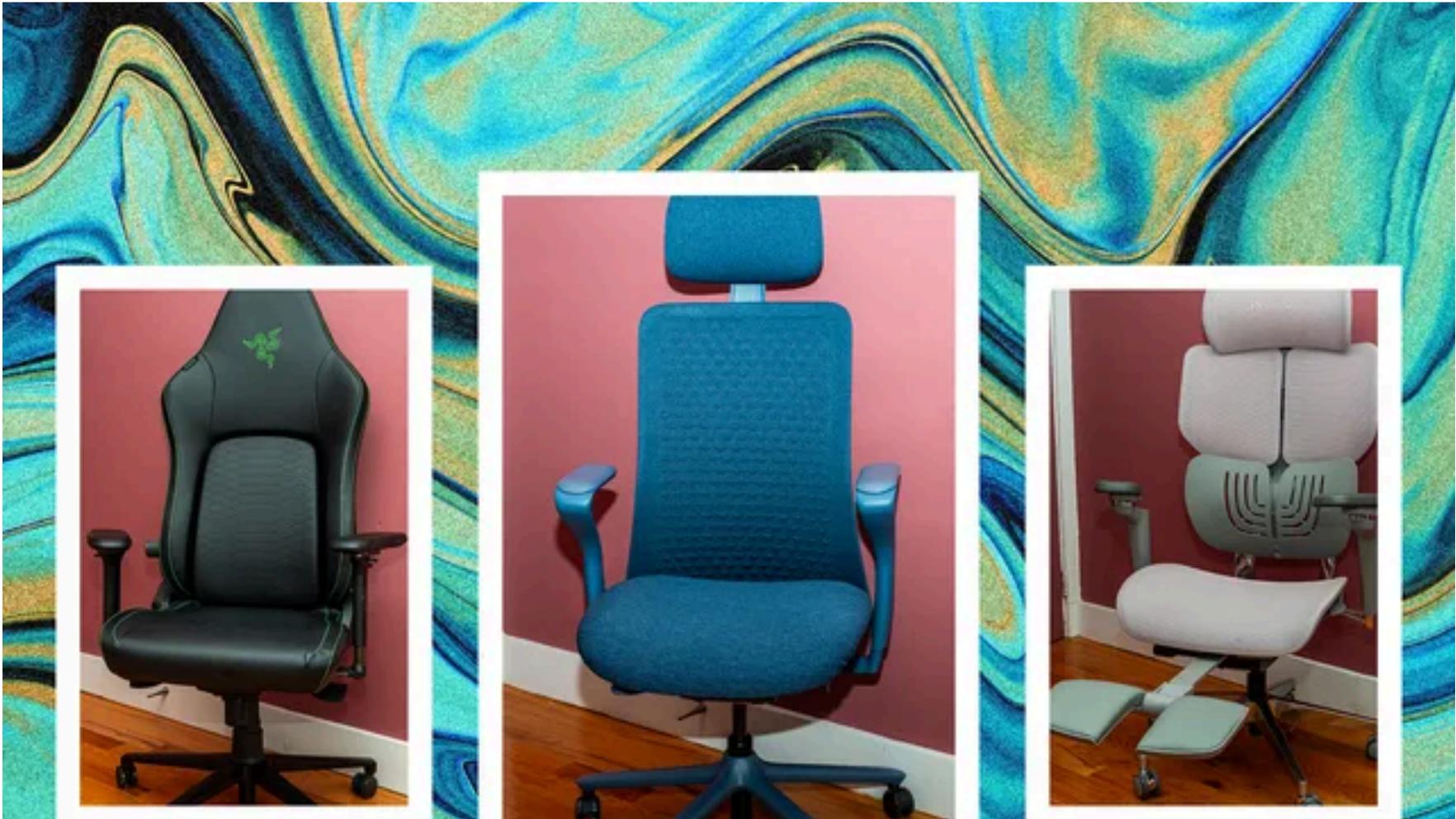
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EXHIBIT 6



The First and Second Amendments guarantee freedom of speech and the right to bear arms. By signing below, I am pledging my support for the First and Second Amendments.

In appreciation for your support, you will receive \$47 for each registered voter you refer that signs this petition.

Our goal is to get 1 million registered voters in swing states to sign in support of the Constitution, especially freedom of speech and the right to bear arms. This program is exclusively open to registered voters in [Pennsylvania](#), [Georgia](#), [Nevada](#), [Arizona](#), [Michigan](#), [Wisconsin](#) and [North Carolina](#). Expires October 21.

First Name *

Last Name *

Email Address *

Cell Phone Number *

Will only be used to confirm you are the legitimate petition signer. No other purpose.

Mailing Address *

[Use Manual Address](#)

Did someone refer you?

Email or Cell Phone Number

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Email or Cell Phone Number

SIGN PETITION



Each person may only sign this petition once. Eligible people may only list one eligible person as their referrer. Before payment is made, America PAC will verify the accuracy of all information of the referrer and referee.

EXHIBIT 7



Post

America 🇺🇸
@america

ELON MUSK: "I have a surprise for you. We are going to be awarding \$1 MILLION to people who have signed the petition every day, from now until the election."

SIGN America PAC's petition in support of Free Speech & The Right to Bear Arms: petition.theamericapac.org



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Musk offers voters \$1 million a day to sign PAC petition backing the Constitution. Is that legal?



BY [MIKE CATALINI](#)

Updated 6:10 PM EDT, October 20, 2024

[Elon Musk](#), the billionaire founder of Tesla and Space X and owner of X who's gone all-in on Republican [Donald Trump's](#) candidacy for the White House, has already committed at least [\\$70 million to help the former president](#). Now he's pledging to give away \$1 million a day to voters for signing his political action committee's petition backing the Constitution.

The giveaway is raising questions and alarms among some election experts who say it is a violation of the law to link a cash handout to signing a petition that also requires a person to be registered to vote.

► Follow [live updates on Election 2024](#) as Donald Trump and Kamala Harris campaign in strategic battleground states.

Democratic Gov. [Josh Shapiro](#) of Pennsylvania, the state's former attorney general, expressed concern about the plan on Sunday.

"I think there are real questions with how he is spending money in this race, how the dark money is flowing, not just into Pennsylvania, but apparently now into the pockets of Pennsylvanians. That is deeply concerning," he said on NBC's "Meet the Press."

A closer look at what's going on:

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What is Musk doing?

Musk promised on Saturday that he would give away \$1 million a day, until the Nov. 5 election, for people signing his PAC's petition supporting the [First Amendment](#), which protects freedom of speech, and the [Second Amendment](#), with its right "to keep and bear arms." He awarded a check during an event Saturday in Harrisburg, Pennsylvania, to a man identified as John Dreher. A message left with a number listed for Dreher was not returned Sunday. Musk gave out another check Sunday.

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An elections worker wanted to serve her country. A stew of conspiracy theories and vitriol awaited



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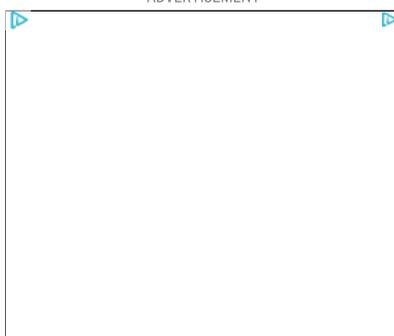
Trump again denigrates Detroit while appealing for votes in a suburb of Michigan's largest city

What's the broader context here?

Musk's America PAC has launched a tour of Pennsylvania, a critical election battleground. He's aiming to register voters in support of Trump, whom Musk has endorsed. The PAC is also pushing to persuade voters in other key states. It's not the first offer of cash the organization has made. Musk has posted on X, the platform he purchased as Twitter before renaming it, that he would offer people \$47 — and then \$100 — for referring others to register and signing the petition.

Trump, who was campaigning Sunday in Pennsylvania, was asked about Musk's giveaway, and said, "I haven't followed that." Trump said he "speaks to Elon a lot. He's a friend of mine" and called him great for the country.

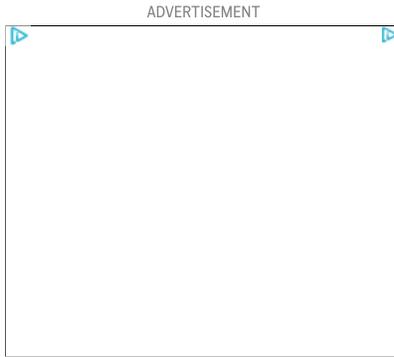
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What's the issue with that?

Some election law experts are raising red flags about the giveaway. Brendan Fischer, a campaign finance lawyer, said the latest iteration of Musk's giveaway approaches a legal boundary. That's because the PAC is requiring registration as a prerequisite to become eligible for the \$1 million check. "There would be few doubts about the legality if every Pennsylvania-based petition signer were eligible, but conditioning the payments on registration arguably violates the law," Fischer said in an email.

Rick Hasen, a UCLA Law School political science professor, went further. He [pointed to a law](#) that prohibits paying people for registering to vote or for voting. "If all he was doing was paying people to sign the petition, that might be a waste of money. But there's nothing illegal about it," Hasen said in a telephone interview. "The problem is that the only people eligible to participate in this giveaway are the people who are registered to vote. And that makes it illegal."



Michael Kang, an election law professor at Northwestern University's Pritzker School of Law, said the context of the giveaway so close to Election Day makes it harder to make the case that the effort is anything but a incentivizing people to register to vote.

What to know about the 2024 Election

- **Today's news:** [Follow live updates](#) from the campaign trail from the AP.
- **Ground Game:** [Sign up for AP's weekly politics newsletter](#) to get it in your inbox every Monday.
- **AP's Role:** The Associated Press is the most trusted source of information on election night, with a history of accuracy dating to 1848. [Learn more.](#)

"It's not quite the same as paying someone to vote, but you're getting close enough that we worry about its legality," Kang said.

A message seeking comment was left with the PAC on Sunday, as was a request for comment from the



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EXHIBIT 9



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America @america

John received \$1 MILLION for signing America PAC's petition to support Free Speech & Right to Bear Arms

Every day from now until Election Day, one registered swing state voter who signs the petition will be selected to earn \$1 MILLION

SIGN HERE: petition.theamericapac.org

**John just won \$1 million
for signing this petition:**

Petition.TheAmericaPAC.org

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EXHIBIT 10

X ← **Post**

 **Elon Musk**  
@elonmusk

Every day, from now through Nov 5, @America PAC will be giving away \$1M to someone in swing states who signed our petition to support free speech & the right to bear arms!

We want to make sure that everyone in swing states hears about this and I suspect this will ensure they do.

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EXHIBIT 11



Musk gives away \$1 million at McKees Rocks pro-Trump rally, raising legal questions

As billionaire stumps for Trump, his millions giveaway raises questions



ADAM BABETSKI ✓
Pittsburgh Post-Gazette
ababetski@post-gazette.com ✉

OCT 20, 2024

7:36 PM



Elon Musk rallied Allegheny County residents to vote for Donald Trump and answered dozens of wide-ranging questions about his political beliefs during a town hall event in McKees Rocks on Sunday.

The event, organized by Mr. Musk's recently established America PAC, took place in the Roxian Theater. It was the latest stop of Mr. Musk's statewide tour to stump for Trump, the Republican presidential candidate, ahead of the 2024 election.

Mr. Musk, SpaceX founder, Tesla CEO, and X owner, has recently promised to award one registered voter in a swing state per day a check of \$1 million if they signed a petition in support of the First and Second Amendments of the Constitution, which he has claimed Democrats are trying to destroy in an act of "open sedition."

Sunday's giveaway winner, Kristine Fishell, embraced Mr. Musk on stage and thanked him for using his wealth to "save speech."

Experts have raised concerns that Mr. Musk's giveaway is a violation of Federal Election Commission (FEC) laws, as well as his [stipulation that rallygoers can only attend if they sign his petition](#).



Kristine Fishnell receives a celebratory check for one million dollars from Elon Musk inside the Roxian Theatre as Mr. Musk hosts a town hall event on Sunday, Oct. 20, 2024, in McKees Rocks. (Benjamin B. Braun/Post-Gazette)

It was a hectic scene Sunday as Mr. Musk's and Trump's worlds collided.

Outside, hundreds of cars — many covered in pro-Trump messages — scrambled to find parking along McKees Rocks' narrow streets as bewildered locals asked passersby what the commotion was about.

Inside, supporters wearing SpaceX T-shirts sat down in folding chairs with the Steelers' Terrible Towels draped over them. Mr. Musk has previously said that he is a [fan of both the Steelers and the Philadelphia Eagles](#).

The venue quickly reached its capacity of 1,200 and became standing room only. More would-be attendees were outside to watch a livestream of the event that Mr. Musk's team set up on the fly.

Elon Musk hands out second \$1 million prize in voter regi...



An hour after he was scheduled to speak, Mr. Musk appeared on stage waving his own Terrible Towel high above his head and leaping into the air, much in the same way as he did when he spoke at Donald Trump's Butler rally on Oct. 5.

His opening speech was reminiscent of Trump's style: Wandering, obviously unscripted, and bolstered by shouted input from his enthusiastic audience.

He told the crowd that he hated politics and would much rather be building rockets at SpaceX, "but the stakes are so high, I've had no choice but to take a stand."

"This might be the very last election that's a real election," he said. "If there's any election where you should ever vote, it's this one."

As he stood between two digital boards that said "VOTE EARLY," Mr. Musk argued that voting should only occur on a single day using paper ballots and that voting machines should be abolished.

"I've been programming computers since I was 9 years old. ... I know how easy it is to get a line of software wrong or hack a computer," he said, speculating that this year's election and future elections would be tampered with using AI.

Mr. Musk said that he was just one of many newly minted high-profile Trump supporters, and that many of his colleagues were preparing to "come out of the closet" to back the Republican nominee.

He explained his sudden support for Trump was fueled in part by his realization that the political left is full of “intolerant” people, while right-wing voters generally regard the left as simply misguided instead of insulting them.

“They’re evil,” called out one woman.

“There’s definitely some evil stuff out there,” Mr. Musk said.



Elon Musk stands on the stage and waves a terrible towel inside the Roxian Theatre as he hosts a town hall event on Sunday, Oct. 20, 2024, in McKees Rocks.

(Benjamin B. Braun/Post-Gazette)

Mr. Musk spent the next two hours fielding unmoderated questions and appeals for money from a long line of attendees, many of which had little or nothing at all to do with his areas of expertise or the subject of the town hall.

“I don’t actually have the answer for everything,” he said at one point, responding to a question about gun safety in schools.

Mr. Musk humored several participants whose questions were conspiratorial in nature. When he was asked about how he would help Trump defeat an international “Global cabal dictatorship,” Mr. Musk answered vaguely about ending corruption in the government.

EXHIBIT 12



Petition in Favor of Free Speech and the Right to Bear Arms

 **EARN \$1,000,000!** 

John earned \$1,000,000 in Harrisburg, PA!

Kristine earned \$1,000,000 in Pittsburgh, PA!

Shannon earned \$1,000,000 in McKees Rocks, PA!

Andy earned \$1,000,000 in Holly Springs, NC!

Jason earned \$1,000,000 in Holland, MI!

Brian earned \$1,000,000 in Eau Claire, WI!

Marie earned \$1,000,000 in Pahrump, NV!

Judey earned \$1,000,000 in Lancaster, PA!

Oct 27 - Nov 5: Each day, one petition signer from either PA, GA, NV, AZ, MI, WI, or NC will earn \$1,000,000.

The First and Second Amendments guarantee freedom of speech and the right to bear arms. By signing below, I am pledging my support for the First and Second Amendments.

In appreciation for your support, you will receive \$47 for each registered voter you refer that signs this petition.

Our goal is to get 1 million registered voters in swing states to sign in support of the Constitution, especially freedom of speech and the right to bear arms. This program is exclusively open to registered voters in [Pennsylvania](#), [Georgia](#), [Nevada](#), [Arizona](#), [Michigan](#), [Wisconsin](#) and [North Carolina](#). Expires November 5.

 **SPECIAL OFFER FOR PENNSYLVANIA REGISTERED VOTERS** 

Sign this petition and get \$100. Refer a petition signer and get \$100.

Offer valid from time of posting through 11:59 PM on 10/28. New signers only. \$100 replaces standard \$47 offer (not in addition to it) To be eligible, both the referrer and the petition signer must be registered voters of Pennsylvania.

First Name ***Last Name *****Email Address *****Cell Phone Number ***

Will only be used to confirm you are the legitimate petition signer. No other purpose.

Mailing Address *

[Use Manual Address](#)

Did someone refer you?**Email or Cell Phone Number****SIGN PETITION**

Each person may only sign this petition once. Eligible people may only list one eligible person as their referrer. Signing the petition on behalf of another person is not permitted. Before payment is made, America PAC will verify the accuracy of all information of the referrer and referee. Payments of \$600 or more will require the referrer to provide a signed IRS W-9 so an IRS 1099 can be issued. To be eligible, both the referrer and the petition signer must be registered voters of Arizona, Michigan, Georgia, Nevada, North Carolina, Pennsylvania, or Wisconsin.

EXHIBIT 13



← Post



America @america

Kristine was today's recipient of the \$1 MILLION for signing our petition to support the Constitution

Every day until Election Day, a registered swing state voter who signs the petition will be selected to earn \$1M as a spokesperson for America PAC

SIGN: petition.theamericapac.org



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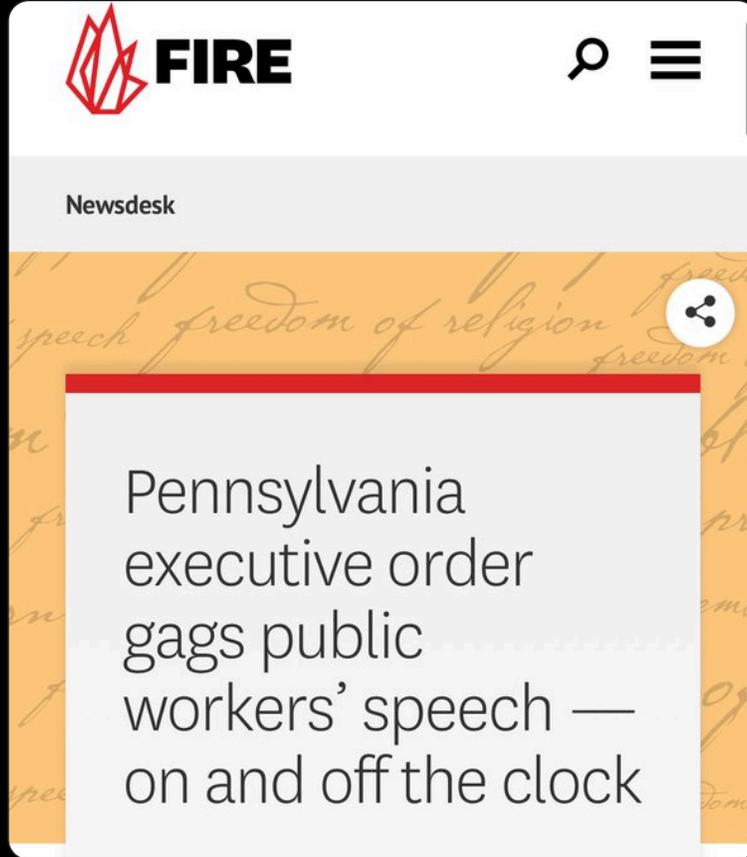
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Over 280,000 registered voters in Pennsylvania signed our petition in support of the Constitution, which was signed here 237 years ago

@JoshShapiroPA, this is a clear message that you must uphold, and not infringe upon, our Constitutional rights

Sign: petition.theamericapac.org



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EXHIBIT 15



← Post



Elon Musk @elonmusk



Congratulations, Jason of Michigan!



America @america · Oct 24

Jason of Holland, Michigan received \$1M for signing our petition to support the Constitution.

Every day until Election Day, a person who signs will be selected to earn \$1M as a spokesperson for America PAC...

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Brian from Eau Claire, Wisconsin received \$1M for signing our petition to support the Constitution.

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SIGN: petition.theamericapac.org



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HANGLEY ARONCHICK SEGAL PUDLIN
& SCHILLER

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Attorneys for Plaintiff

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FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION**

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COMMONWEALTH OF	:	
PENNSYLVANIA,	:	
acting by and through Philadelphia District	:	No. _____
Attorney Lawrence S. Krasner,	:	
	:	NOT AN ARBITRATION CASE
<i>Plaintiff,</i>	:	
	:	CIVIL ACTION
v.	:	
	:	
AMERICA PAC and ELON MUSK,	:	
	:	
<i>Defendants.</i>	:	
_____	:	

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S
EMERGENCY PETITION FOR PRELIMINARY INJUNCTIVE RELIEF**

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Plaintiff Commonwealth of Pennsylvania, acting by and through Philadelphia District Attorney Lawrence S. Krasner (“DA Krasner”), through its undersigned counsel, respectfully submits this Memorandum of Law in Support of Emergency Petition for Preliminary Injunctive Relief (“Petition”) against Defendants America PAC and Elon Musk (“Defendants”).

The Petition seeks the entry of an Order preliminarily enjoining Defendants from continuing to operate an illegal lottery and engaging in deceptive conduct that violates 72 P.S. § 3761-101, *et seq.* (the “State Lottery Law”), 18 Pa. C.S. § 5512, and Pennsylvania’s Unfair Trade Practices and Consumer Protection Law (the “UTPCPL”), 73 P.S. § 201-1, *et seq.*

I. INTRODUCTION

America PAC and Elon Musk are running an illegal lottery in Philadelphia (as well as throughout Pennsylvania).

At an October 19, 2024 rally, on Musk’s X platform and on America PAC’s website, America PAC and Musk launched their scheme. They announced that if a registered voter (1) turns over their personal identifying information (i.e., address, cell phone number and e-mail address) and makes a political pledge by signing a petition pledging support for “the Constitution, especially freedom of speech and the right to bear arms”; they (2) are eligible to be selected “randomly”; to (3) win \$1 million.

This announcement came after America PAC launched, on October 7, a “Petition in Favor of Free Speech and the Right to Bear Arms,” with an offer to pay individuals—including Pennsylvania registered voters—“\$47 for each registered voter you refer that signs this petition,” which was later raised to \$100 for Pennsylvania registered voters.

In other words, America PAC and Musk are lulling Philadelphia citizens – and others in the Commonwealth (and other swing states in the upcoming election) – to give up their personal identifying information and make a political pledge in exchange for the chance to win \$1 million.

Indisputably, that is a lottery. And it is an unlawful lottery because, under unambiguous Pennsylvania law, all lotteries in Pennsylvania must be regulated by the Commonwealth of Pennsylvania. *See* 72 P.S. § 3761-301, *et seq.* The Commonwealth’s lottery law establishes a lottery to be operated and administered by the state, for the benefit of those 65 years of age or older. 72 P.S. § 3761-101; 3761-303; 61 Pa. Code § 801.3. State regulations govern many aspects of the lottery, including the procedures for claiming prizes, the use of lottery funds, and even require the disclosure of the odds of a participant’s chances of winning. *See* 61 Pa. Code § 801.1, *et seq.* (regulations).

Yet America PAC’s and Musk’s lottery is plainly not a lawful lottery. Further, under unambiguous Pennsylvania law, the Pennsylvania General Assembly has declared that illegal lotteries are a public “nuisance” and empowers law enforcement officers such as DA Krasner to seek an injunction in court to stop them. 18 Pa. C.S. § 5512.

America PAC’s and Musk’s illegal lottery scheme also violates the Commonwealth’s consumer protection laws. In connection with their scheme, they are deploying deceptive, vague or misleading statements that create a likelihood of confusion or misunderstanding. For example, they have not published a complete set of lottery rules or shown how they are protecting the privacy of participants’ personal information. Also, though Musk says that a winner’s selection is “random,” that appears false because the winners that have been selected are individuals who have shown up at

Trump rallies in Pennsylvania. The General Assembly's consumer protection laws empower DA Krasner to seek an injunction to stop that misconduct as well.

Running an illegal lottery and violating consumer protections is ample basis for an injunction and concluding that America PAC and Musk must be stopped, immediately, before the upcoming Presidential Election on November 5. That is because America PAC and Musk hatched their illegal lottery scheme to influence voters in that election. To be clear, this is not a case about whether Defendants have violated state or federal laws prohibiting vote-buying. Instead, this case is very simple because America PAC and Musk are indisputably violating Pennsylvania's statutory prohibitions against illegal lotteries and deceiving consumers.

DA Krasner therefore brings this action to immediately stop America PAC and Musk from these violations of Pennsylvania law. If not enjoined, their lottery scheme and unfair and deceptive conduct will irreparably harm Philadelphians (and others in Pennsylvania) as well as tarnish the public's right to a free and fair election.¹

II. MATTER BEFORE THE COURT

Before the Court is Plaintiff's Emergency Petition for Preliminary Injunctive Relief. Plaintiff seeks an Order preliminarily enjoining Defendants from continuing to operate an illegal lottery and engaging in deceptive conduct that violates the Crimes Code, 18 Pa. C.S. § 5512, and the UTPCPL, 73 P.S. § 201-1, *et seq.*

¹ A copy of DA Krasner's Verified Complaint is attached to the Emergency Petition for Preliminary Injunctive Relief as Exhibit A. All references to numbered exhibits refer to the Exhibits to the Complaint.

III. STATEMENT OF QUESTIONS INVOLVED

Should this Court preliminarily enjoin Defendants from violating the Crimes Code, 18 Pa. C.S. § 5512 and the UTPCPL, as Plaintiff is likely to succeed on the merits of his claims for injunctive relief because Defendants are operating an unlawful lottery and deceiving the public?

Suggested answer: Yes.

Should this Court preliminarily enjoin Defendants because their conduct is causing and will continue to cause irreparable harm to Plaintiff and the public because such ongoing conduct violates Commonwealth statutes that prohibit illegal lotteries and deceptive conduct?

Suggested Answer: Yes.

Should this Court enter a preliminary injunction, as it is in the public's interest not to be deceived by misleading conduct or to allow the operation of illegal lotteries?

Suggested Answer: Yes.

Do the balance of harms weigh in favor of Plaintiff and the public, who will be irreparably harmed by Defendants' conduct, as compared to Defendants, who will suffer no harm if they are preliminarily enjoined?

Suggested Answer: Yes.

IV. BACKGROUND

A. Factual Allegations

Defendant America PAC is a political action committee “to support candidates who champion Secure Borders, Sensible Spending, Safe Cities, Fair Justice System, Free Speech and Self-Protection,” especially the candidacy of former President Donald Trump. See America PAC, <https://x.com/america> (last visited Oct. 24, 2024); America

PAC, <https://theamericapac.org/> (last visited Oct. 24, 2024); Ex. A, Verified Complaint, ¶ 18. America PAC filed a statement of organization with the Federal Election Commission (“FEC”) on May 22, 2024, as an “independent expenditure-only political committee” or “Super PAC,” listing a P.O. Box in Austin, Texas as its business address. See Exhibit 1, America PAC, Statement of Organization (May 22, 2024), available at <https://www.fec.gov/data/committee/CO0879510/?tab=filings>; Ex. A, Verified Complaint, ¶ 20. As of September 30, 2024, America PAC reported having spent \$133,841,660 on independent expenditures to support or oppose 2024 federal candidates. See Exhibit 2, PAC Profile: America PAC (Texas), Opensecrets.org (last visited Oct. 24, 2024), <https://www.opensecrets.org/political-action-committees-pacs/america-pac-texas/CO0879510/summary/2024>; see also Exhibit 3, America PAC, Committee Filings, FEC.gov (last visited Oct. 24, 2024), available at <https://www.fec.gov/data/committee/CO0879510/?tab=filings>; Ex. A, Verified Complaint, ¶ 21. In the daily reports filed since October 21, 2024, America PAC has disclosed millions of dollars in additional spending on political communications. Ex. A, Verified Complaint, ¶ 22.

Defendant Elon Musk is the founder of America PAC. Mr. Musk funded America PAC, is involved in America PAC’s operations, made representations to Philadelphians on behalf of America PAC, and benefits from increased traffic generated by America PAC on the social media platform X, of which Mr. Musk is the majority owner. *Id.*, ¶ 19.

1. America PAC and Musk Target Pennsylvania to Influence Pennsylvania Voters

On October 24, 2024, the *New York Times* reported, “Mr. Musk, the leader of Space X, Tesla and X, has already poured \$75 million into a pro-Trump super PAC

called America PAC,” and is accelerating his spending in this final stretch before Election Day. Exhibit 4, Theodore Schleifer, *Elon Musk Plots His Final Moves for Trump*, N.Y. Times (Oct. 24, 2024), <https://www.nytimes.com/2024/10/24/us/elections/elon-musk-trump-campaign.html>; Ex. A, Verified Complaint, ¶ 23.

According to this report, Mr. Musk is particularly focused on Pennsylvania, and a close political ally is quoted as saying, “Elon is literally campaigning every day in Pennsylvania.” *Id.*

Mr. Musk is also the majority owner of the social media company, X. Among its other expenditures, America PAC has spent tens of thousands of dollars advertising on X targeting swing state voters, alongside Mr. Musk’s own repeated endorsements of Mr. Trump on X. Exhibit 5, Vittoria Elliot, *Elon Musk’s PAC Is Buying Ads for Donald Trump on Elon Musk’s X*, Wired (Oct. 21, 2024), <https://www.wired.com/story/elon-musks-pac-is-buying-ads-for-donald-trump-on-elon-musks-x/>; Ex. A, Verified Complaint, ¶ 25.

America PAC relies heavily on X to communicate with the public, posting political communications throughout each day, and the @America and @ElonMusk X handles work together to re-share and boost each other’s content. Ex. A, Verified Complaint, ¶ 26. X makes money in two different ways—advertising and data licensing—both of which are correlated to overall traffic to the platform. *Id.*, ¶ 27. As the majority owner, Mr. Musk personally benefits from X’s revenue generation. *Id.*

Internet archives show that, on or about October 7, 2024, America PAC first launched a “Petition in Favor of Free Speech and the Right to Bear Arms,” with an offer to pay individuals—including Pennsylvania registered voters—“\$47 for each registered voter you refer that signs this petition.” That petition stated it was “exclusively open to

registered voters in Pennsylvania, Georgia, Nevada, Arizona, Michigan, Wisconsin and North Carolina” and “[e]xpires October 21.” Exhibit 6, America PAC, Petition (archive from Oct. 7, 2024), available at <https://web.archive.org/web/20241007081443/https://petition.theamericapac.org/>; Ex. A, Verified Complaint, ¶ 28.

2. Musk Travels to Pennsylvania To Announce His (Illegal) Lottery

On Saturday, October 19, 2024, during an America PAC event in Harrisburg, Pennsylvania, Mr. Musk announced a “surprise” before a live crowd. See Exhibit 7, America PAC (@America), “ELON MUSK: ‘I have a surprise for you’” X (Oct 19, 2024, 11:06 P.M.), <https://x.com/america/status/1847851986495881434>; see also Exhibit 8, Mike Catalini, *Musk offers voters \$1 million a day to sign PAC petition backing the Constitution. Is that legal?*, Associated Press (updated Oct. 20, 2024 5:10 P.M.), <https://apnews.com/article/musk-1-million-giveaway-trump-voters-petition-b4e48acbfe04fde735e60b1911ado197>; Ex. A, Verified Complaint, ¶ 29.

Mr. Musk specifically represented that this scheme would make the award of \$1 million based on chance. Specifically, Mr. Musk said, “we’re gonna be awarding a million dollars, *randomly*, every day from now until the election,” because “I figured, ‘How do we get people to know about it?’” Exhibit 7, America PAC (@America), “ELON MUSK: ‘I have a surprise for you’” X (emphasis added), <https://x.com/america/status/1847851986495881434> (video embedded in URL).

Mr. Musk further explained that this news would “really fly” and would help publicize America PAC’s petition and, in turn, the PAC’s efforts to elect Donald Trump. *Id.* Mr. Musk then said that he would announce the first winner that evening, and called the name “John Dreher.” *Id.* Mr. Dreher was in the audience and mounted the

stage in a red MAGA hat. “By the way,” Mr. Musk said, “John had no idea.” *Id.* When Mr. Dreher came onto the stage to accept an oversized check, Mr. Musk asked that, in exchange for the money, “the only thing we ask” is for John to agree to be a spokesperson for America PAC. *Id.* See Ex. A, Verified Complaint, ¶¶ 31-34.

3. Musk Continues to Make Statements, including in Pennsylvania, Promoting Defendants’ (Illegal) Lottery That He Says Will Operate Until Election Day

Shortly after Mr. Musk’s live announcement of Mr. Dreher’s lottery win on October 19, America PAC posted on X: “Every day from now until Election Day, one registered swing state voter who signs the petition will be selected to earn \$1 MILLION,” and included a link to the petition on America PAC’s website. Exhibit 9, America PAC (@America), “John received \$1 MILLION” X (Oct 19, 2024, 11:58 P.M.), <https://x.com/america/status/1847864967816511758>. Mr. Musk posted a similar message minutes before. Exhibit 10, Elon Musk (@ElonMusk), “Every day, from now through Nov 5” X (Oct 19, 2024, 11:25 P.M.), <https://x.com/elonmusk/status/1847856712914555061>; Ex. A, Verified Complaint, ¶¶ 35-36.

Then, the next day on October 20, 2024, during another America PAC event, this time in McKees Rocks, Pennsylvania, Mr. Musk conducted a second “random” drawing, selecting Kristine Fiskell as the winner, who was also in the audience that day. Exhibit 11, Adam Babetski, *Musk gives away \$1 million at McKees Rocks pro-Trump rally, raising legal questions*, Pittsburgh Post-Gazette (Oct. 20, 2024, 6:36 P.M.), <https://www.post-gazette.com/news/election-2024/2024/10/20/elon-musk-1-million-trump-legal-questions-pittsburgh/stories/202410200166>; Ex. A, Verified Complaint, ¶ 37.

4. The Supposed Rules of Defendants' (Illegal) Lottery

America PAC's website still includes a page with the petition and the rules of the lottery, albeit in different form than what it originally published in early October 2024. See Exhibit 12 (America PAC, *Petition in Favor of Free Speech and the Right to Bear Arms* (last visited Oct. 24, 2024), <https://petition.theamericapac.org/>). The subject America PAC website now describes the rules of the lottery as follows:

Each day, one petition signer from either PA, GA, NV, AZ, MI, WI, or NC will earn \$1,000,000. . . . Our goal is to get 1 million registered voters in swing states to sign in support of the Constitution, especially freedom of speech and the right to bear arms. This program is exclusively open to registered voters in Pennsylvania, Georgia, Nevada, Arizona, Michigan, Wisconsin and North Carolina. Expires November 5.

Id. Ex. A, Verified Complaint, ¶¶ 38-39.

The description of the lottery does not say anything about agreeing to be a spokesperson for America PAC, despite what Mr. Musk told the first winner. As consideration to enter the lottery and “sign” the petition, a participant must provide several data points of personal information: first and last name, email address, mailing address, and cell phone number. Ex. 12; Ex. A, Verified Complaint, ¶¶ 40-41.

A participant must then click a button that says “Sign Petition,” with a space above asking for cell phone information that: “Will only be used to confirm you are the legitimate petition signer. No other purpose.” Ex. 12. In addition to entering the lottery, the website provides two additional offers of compensation to registered voters in exchange for signing the petition and providing personal information, with a “Special Offer for Pennsylvania Registered Voters.” *Id.*; Ex. A, Verified Complaint, ¶¶ 42-43.

First, the website claims that Pennsylvania registered voters will receive \$100 for providing their personal data and signing the petition, which is more money than what

is offered to voters in other battleground states (*e.g.*, Georgia, Nevada, Arizona, Michigan, Wisconsin, or North Carolina). Ex. A, Verified Complaint, ¶ 44.

Second, the website claims that a Pennsylvania participant and petition signer who refers another Pennsylvania registered voter to provide personal data and sign the America PAC petition will receive \$100, which is also more money than that offered for referrals in other battleground states. Specifically, the America PAC website states:

Offer valid from time of posting through 11:59 PM on 10/28. New signers only. \$100 replaces standard \$47 offer (not in addition to it)[.] To be eligible, both the referrer and the petition signer must be registered voters of Pennsylvania.

Ex. 12; Ex. A, Verified Complaint, ¶¶ 45-46.

The petition does not provide any information about how or when compensation will be paid. In smaller print at the bottom of the petition, it states:

Each person may only sign this petition once. Eligible people may only list one eligible person as their referrer. Signing the petition on behalf of another person is not permitted. Before payment is made, America PAC will verify the accuracy of all information of the referrer and referee. Payments of \$600 or more will require the referrer to provide a signed IRS W-9 so an IRS 1099 can be issued. To be eligible, both the referrer and the petition signer must be registered voters of Arizona, Michigan, Georgia, Nevada, North Carolina, Pennsylvania, or Wisconsin.

Ex. 12; Ex. A, Verified Complaint, ¶¶ 47-48.

The America PAC petition places no limitations on America PAC's use of or sale of the personal data it collects, nor does it provide any additional information about the planned use of data. Ex. 12; Ex. A, Verified Complaint, ¶ 49.

Defendants' lottery is not authorized by state law. Lotteries are highly regulated under Pennsylvania law. *See generally* 72 P.S. § 3761-101, *et seq.* The purpose of the State Lottery Law is "to establish a lottery to be operated by the state," the proceeds of which benefit those 65 years of age or older. 72 P.S. § 3761-101. The State Lottery Law

is also intended to “provide a means through which to curb illegal gambling operations in Pennsylvania.” *Id.* The Commonwealth Secretary of Revenue and Bureau of State Lotteries are empowered to operate and administer the lottery, including, for example, the types of lawful lotteries, the manner in which winners are selected, and the licensure of sales agents. *Id.* § 3761-303; 61 Pa. Code § 801.3. State regulations govern the powers and duties of the Secretary and the Director of the Bureau of State Lottery, the procedures for licensing, claiming prizes, the use of lottery funds, and further disclose the odds of a participant’s chances of winning, among other things. *See* 61 Pa. Code § 801.1, *et seq.* (regulations). All lotteries not specifically authorized by law are unlawful. 18 P.S. § 5512(d). Defendants’ lottery is not authorized by law and is illegal. Ex. A, Verified Complaint, ¶ 50.

5. Defendants’ Announcements of Winners of the (Illegal) Lottery

Since launching on October 19, 2024, America PAC claims it awarded \$1,000,000 checks to nine individuals through its lottery, four of whom live in Pennsylvania. *Id.* It made those awards on October 19, 20, 21, 22, 24, 25, 26 and 27, 2024. Ex. A, Verified Complaint, ¶ 51.

Each winner is featured on America PAC’s website and X handle, and has garnered significant public and press attention. Indeed, the videos of the first and second lottery winners have garnered 27 million views and 10.9 million views, respectively, driving significant traffic to Mr. Musk’s X platform. *See* Exhibit 9, America PAC (@America), “John received \$1 MILLION . . .” X (Oct. 19, 2024, 12:58AM), <https://x.com/america/status/1847864967816511758?s=46>; Exhibit 13, America PAC (@America), “Kristine was today’s recipient of the \$1 MILLION . . .” X (Oct. 20, 2024,

9:49PM), <https://x.com/america/status/1848179817050517567?s=46>. This \$1 million lottery has earned wall-to-wall media coverage of America PAC, Mr. Musk, and Mr. Trump since the lottery launched, including numerous stories in Philadelphia’s newspaper of record, *The Philadelphia Inquirer*. See also Ex. A, Verified Complaint, ¶¶ 52-54.

America PAC claims it has received over 1,000,000 petition signers to date, with over 280,000 petition signers who are registered voters in Pennsylvania entering for a chance to win the \$1 million prize. Exhibit 14, America PAC (@America), “Over 280,000 registered voters in Pennsylvania signed our petition” X (Oct. 23, 2024, 1:03 P.M.), <https://x.com/america/status/1849134584182485476>. Ex. A, Verified Complaint, ¶¶ 55.

Upon information and belief, among those 280,000 petition signers are residents of Philadelphia County, who have accepted America PAC’s offer to provide their personal data and made a pledge of support in exchange for (a) an opportunity to win the lottery and (b) for \$100 compensation. Also upon information and belief, among those 280,000 petition signers are residents of Philadelphia County, who have accepted America PAC’s offer to pay them in exchange for referring the names of others for the purpose of procuring additional individuals who will provide personal data, sign the petition, or otherwise endorse America PAC. Ex. A, Verified Complaint, ¶¶ 56-58.

Upon information and belief, petition signers in Pennsylvania and Philadelphia have not been paid for their personal data, despite America PAC’s claims. *Id.* ¶ 59. Nor have petition signers been given any information for how or when payment will be tendered. *Id.* Upon information and belief, petition signers in Pennsylvania and Philadelphia have not been paid for referring other petition signers, despite America

PAC's claims. Nor have petition signers been given any information for how or when payment will be tendered. *Id.* ¶ 60.

Also on October 23, it was reported that the United States Department of Justice sent a letter notifying America PAC that the \$1 million lottery could violate the federal law against paying people to register to vote. *Id.* ¶ 61. Notwithstanding, on October 24, 2024, America PAC announced additional winners of its \$1 million lottery. Exhibit 15, America PAC (@America), "Jason of Holland, Michigan received \$1M for signing our petition to support the Constitution . . ." X (Oct. 24, 2024, 10:37 P.M.), <https://x.com/america/status/1849641342051418536>; Exhibit 16, America PAC (@America), X (Oct. 24, 2024 11:00 P.M.), <https://x.com/america/status/1849647294355825052>. Ex. A, Verified Complaint, ¶ 62.

6. Defendants' Deceptive Conduct and Statements In Connection with Their Lottery

As enumerated more fully below, Defendants have engaged in conduct and made statements that are deceptive and which create a likelihood of confusion or misunderstanding. For example, Defendants have shrouded key aspects of the lottery in secrecy, including without limitation the following:

- a. Defendants have not provided a complete set of lottery or contest rules, including the odds of winning or how winners will be selected.
- b. Defendants have not provided information about when they will make payments to participants.
- c. Defendants have not provided what privacy policy, if any, will protect participants' personal information

Ex. A, Verified Complaint, ¶¶ 63-64.

Also by way of example, Defendants appear to be making false statements about the lottery, including without limitation the following:

- a. Defendants say that the winners are chosen at random; yet, on information and belief, winners are not actually chosen at random. For example, the October 19 and October 20 winners appear not to be chosen at random because both just happened to live near the locations of Musk's pro-Trump rallies and both were in attendance at those rallies.
- b. Defendants promise to pay \$100 to all participating registered voters who sign America PAC's petition yet, on information and belief, Defendants have not made those payments.

Id. ¶ 65.

Accordingly, Defendants are operating an illegal lottery in violation of Pennsylvania statutes. *Id.* ¶ 66.

To be clear, it would be no defense for America PAC and Musk to argue that it was not engaging in a lottery if their scheme actually did not involve a chance or random selection of winners. In that event, (a) they would be admitting to acting deceptively and in violation of the Commonwealth's consumer protection law; and (b) they would still be in violation of the Commonwealth's prohibition against the operation of unlawful lotteries. *Id.* ¶ 67. Plaintiff is the Commonwealth of Pennsylvania, acting by and through the Philadelphia District Attorney. DA Krasner has the right to bring a cause of action for public nuisance to enjoin "an unreasonable interference with a right common to the general public" on behalf of Philadelphia's citizens. *See Atl. Richfield Co. v. Cnty. of Montgomery*, 294 A.3d 1274, 1283 (Pa. Cmwlth. 2023) (quoting Restatement (Second) of Torts § 821B (1979)). "All unlawful lotteries or numbers games are . . . common

nuisances.” 18 Pa. C.S. § 5512(a). DA Krasner is also expressly authorized to bring an action in the name of the Commonwealth under the UTPCPL whenever he has reason to believe that any person is using or is about to use any method, act, or practice declared by the UTPCPL to be unlawful, and that such proceedings would be in the public interest. 73 P.S. § 201-4.

This Court has jurisdiction pursuant to 42 Pa. C.S. § 931(a).

There is no federal jurisdiction over this dispute. This is a Pennsylvania law matter, not a federal question. It is for this state court to interpret the Commonwealth’s laws. Additionally, there is no diversity of citizenship between the parties, including because Plaintiff is District Attorney Krasner, acting in the name of the Commonwealth of Pennsylvania, which is not a “citizen” that can be diverse to other citizens within the meaning of 28 U.S.C. § 1332. *Moor v. Cnty. of Alameda*, 411 U.S. 693, 717 (1973).²

V. ARGUMENT

A. Standard

Pennsylvania Rule of Civil Procedure 1531 authorizes preliminary or special injunctive relief. A party is entitled to a preliminary injunction by showing: (1) the injunction is necessary to prevent immediate and irreparable harm that cannot be compensated adequately by damages; (2) greater injury would result from refusing the injunction than from granting it, and, concomitantly, the issuance of an injunction will not substantially harm other interested parties in the proceedings; (3) the preliminary injunction will properly restore the parties to their status as it existed immediately prior

² Accordingly, any effort to remove this matter to federal court would be frivolous and subject to remand.

to the alleged wrongful conduct; (4) the party seeking injunctive relief has a clear right to relief and is likely to prevail on the merits; (5) the injunction is reasonably suited to abate the offending activity; and, (6) the preliminary injunction will not adversely affect the public interest.” *SEIU Healthcare Pennsylvania v. Com.*, 104 A.3d 495, 501-02 (Pa. 2014) (reversing denial of preliminary injunction).

Only “reasonable grounds” need exist for a trial court to grant injunctive relief. *See Sovereign Bank v. Harper*, 674 A.2d 1085, 1091 (Pa. Super. Ct. 1996) (citing *William v. Children’s Hosp. of Pittsburgh*, 479 A.2d 452, 453 (Pa. Super. Ct. 1984)). Preliminary injunctive relief is particularly appropriate where, as here, a plaintiff credibly asserts a violation of a statute. *See Com. ex rel. Corbett v. Snyder*, 977 A.2d 28, 41 (Pa. Cmwlth. 2009) (citing *Pub. Util. Comm’n v. Israel*, 52 A.2d 317 (Pa. 1947)).

Plaintiff’s application amply satisfies each of these requirements, which Plaintiff addresses in descending order of relative importance.

B. Plaintiff Has Established a Clear Right to Relief.

A trial court is authorized to grant preliminary injunctions only if the court is satisfied that plaintiff’s “right to relief is clear.” *Santoro v. Morse*, 781 A.2d 1220, 1229 (Pa. Super. Ct. 2001). “To establish a clear right to relief, the party seeking an injunction need not prove the merits of the underlying claim, but need only demonstrate that substantial legal questions must be resolved to determine the rights of the parties.” *SEIU*, 104 A.3d at 506. “Since a preliminary injunction is designed to preserve the status quo pending final resolution of the underlying issues, it is obvious that the ‘clear right’ requirement is not intended to mandate that one seeking a preliminary injunction establish his or her claim absolutely.” *Fischer v. Dep’t of Pub. Welfare*, 439 A.2d 1172, 1174 (Pa. 1982).

1. Plaintiff Is Likely to Prevail on His Underlying Claim for Public Nuisance (Count I).

All lotteries in Pennsylvania are regulated and conducted by the state for the benefit of public programs. *See* 72 P.S. § 3761-101, *et seq.* (the “State Lottery Law”). Any lottery not specifically authorized by law is unlawful and illegal. 18 Pa. C.S. § 5512. Under Pennsylvania law, a scheme is an unlawful lottery if it satisfies three elements: (1) a prize to be won; (2) a winner to be determined by chance; and (3) the payment of a consideration by the player. *See Com. v. Lane*, 363 A.2d 1271, 1272 (Pa. Super. Ct. 1976) (citing *Commonwealth v. Logan*, 94 A.2d 99 (Pa. Super. Ct. 1953)). The General Assembly has also expressly declared that unlawful lotteries are “common nuisances.” 18 Pa. C.S. § 5512(a).

Indisputably, America PAC and Musk are running a lottery: (1) the prize to be won is \$1 million offered by America PAC; (2) a winner is, according to Defendants, drawn at “random”; and (3) the players – citizens of Philadelphia, the Commonwealth or the other swing states Defendants have made eligible – provide at least two forms of consideration to participate and be eligible to receive the \$1 million: (a) they provide personal information (*i.e.*, first and last name, email address, mailing address, and cell phone number) inputted into America PAC’s electronic system; and (b) they bind their own future conduct through a pledge to support specified positions. *See Cobaugh v. Klick-Lewis, Inc.*, 385 Pa. Super. 587, 591–92 (Pa. 1989); *see also Dahar v. Grzandziel*, 599 A.2d 217, 218 (Pa. 1991) (cooperation with an attorney during an investigation constituted consideration); *Gottlieb v. Tropicana Hotel & Casino*, 109 F. Supp. 2d 324, 329 (E.D. Pa. 2000) (“The laws of New Jersey and Pennsylvania similarly hold that the minimal detriment to a participant in a promotional contest is sufficient consideration

for a valid contract.”). *Cf. Commonwealth v. Lund*, 15 A.2d 839 (Pa. 1940) (theater promotion constituted lottery because it increased attendance and revenue).

Lotteries are highly regulated under Pennsylvania law. *See generally* 72 P.S. § 3761-101, *et seq.* The purpose of the State Lottery Law is “to establish a lottery to be operated by the state,” the proceeds of which benefit those 65 years of age or older. 72 P.S. § 3761-101. The State Lottery Law is also intended to “provide a means through which to curb illegal gambling operations in Pennsylvania.” *Id.* All lotteries not specifically authorized by law are unlawful. 18 P.S. § 5512(d).

Indisputably, Defendants’ lottery is unlawful. It is not authorized by Pennsylvania law and is not a state lottery under the State Lottery Law. The General Assembly has further established that all unlawful lotteries such as Defendants’ is “declared to be common nuisances.” 18 Pa. C.S. § 5512(a).

Additionally, Defendants’ lottery is harmful to residents of Philadelphia and the Commonwealth and interferes with their public rights for a host of reasons including the following:

- a. The lottery imposes a substantial danger to economic and general welfare, irreparably harms the integrity of Pennsylvania’s legitimate State Lottery Law, and otherwise inflames gambling instincts and corrupts public morals among Pennsylvania citizens;
- b. The lottery is a menace to public welfare in Pennsylvania since illegal gambling has the strong potential to exploit vulnerable populations including children, the elderly, and those with limited means; and
- c. The lottery interferes with a public right to vote without undue influence and otherwise injects illegal activity into the integrity of the electoral

process. Pennsylvania voters, including voters in Philadelphia, have the right to public peace, public comfort, and public convenience to engage in the electoral process without interference from outside third parties offering the chance of a reward in exchange for providing personal information.

Without doubt therefore, Defendants' illegal lottery causes a serious deterioration in public order, public safety, and further encourages pervasive misconduct by other parties seeking to undermine the integrity of Pennsylvania's electoral process. *See generally* Ex. A, Verified Compl., ¶¶ 74-92.

Accordingly, Defendants are liable for public nuisance because, among other things, their conduct (a) is illegal and proscribed by 18 Pa. C.S. § 5512. *See* Restatement Second, Torts § 821B(2)(b); *see also Machipongo Land & Coal Co. v. Com.*, 799 A.2d 751, 773 (Pa. 2002) (noting that Section 821B has been “repeatedly applied” in Pennsylvania courts); and (b) has caused an unreasonable and substantial interference with a right common to the general public. *See* Restatement (Second) of Torts § 821B.

2. Plaintiff Is Likely to Prevail on His Underlying Claim for Violation of the UTPCPL (Count II).

The UTPCPL prohibits [1] persons from employing [2] “unfair or deceptive acts or practices [3] in the conduct of any trade or commerce,” which includes [4] “[e]ngaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding.” 73 P.S. §§ 201-2(4)(xxi), 201-3(a). The UTPCPL is to be “liberally construed” to effectuate its objective of protecting Pennsylvanians from unfair or deceptive practices. *See Commonwealth v. Chesapeake Energy Corp.*,

247 A.3d 934, 936 (Pa. 2021) (internal citation and quotations omitted). Plaintiff well satisfies these elements. *See generally* Ex. A, Verified Compl., ¶¶ 93-115.

As to [1], America PAC and Musk are each a “person” under the UTPCPL. 73 P.S. § 201-2(2); *see also* Exhibit 1.

As to [3], Defendants are engaging in trade or commerce. Trade or commerce includes “the offering ... or thing of value wherever situate, and includes trade or commerce directly or indirectly affecting the people of this Commonwealth.” 73 P.S. § 201-2(3).

America PAC offers a thing of value to a lottery participant—\$100 and a chance to win \$1 million—while a participant confers a thing of value on America PAC—their personal information and data, which benefits America PAC’s marketing, political campaigning, and data analytics capabilities, as well as a pledge of political support. *See Com. by Preate v. Watson & Hughey Co.*, 563 A.2d 1276, 1282 (Pa. Cmwlth. 1989) (noting, “sweepstakes solicitations constitute the *advertising* of some *thing of value*” under the UTPCPL) (emphasis in original); *see also In re Soc. Media Adolescent Addiction/Pers. Inj. Prods. Liab. Litig.*, No. 4:23-CV-05448-YGR, 2024 WL 4532937, at *44 (N.D. Cal. Oct. 15, 2024) (providing personal information in exchange for social-media website/application use is “in the conduct of any trade or commerce” under UTPCPL and other states’ consumer protection laws) (citation omitted).

Defendants’ trade or commerce is directly or indirectly affecting Pennsylvania residents. They offer an online lottery to Pennsylvanians, giving participants the daily chance to win \$1 million in exchange for the participant signing America PAC’s petition. *See* Exhibit 13. They also offer \$100 to Pennsylvania registered-voter participants who sign the petition, and \$100 to petition signers referred by a participant, both amounts

more than the \$47 offered to petition signers in other states (Georgia, Nevada, Arizona, Michigan, Wisconsin, and North Carolina). *Id.*

Registering for America PAC's lottery causes detriment to the participant, in that a participant loses control over their personal data, which could be sold to third parties. A registrant also implicitly pledges that their name, likeness, and support to America PAC, which will be made public if the participant wins the lottery, thus forfeiting personal privacy.

As to [2] and [4], Defendants' lottery employs unfair or deceptive acts prohibited by the UTPCPL, including without limitation, the deceptive conduct that creates a likelihood of confusion or misunderstanding. Defendants engaged in unfair or deceptive acts or practices in violation of the UTPCPL by failing to:

- a. Provide a complete set of lottery or other contest rules to all participants, with such rules being set forth clearly and conspicuously at a place where participants may readily review;
- b. Clearly and conspicuously disclose to participants the range of payouts available and the method of winning and timing of delivery for those payouts;
- c. Clearly and conspicuously disclose the odds of winning;
- d. Clearly and conspicuously disclose how Defendants will store and/or use the personal data provided by the Participant during the sweepstake registration process. The website, for example, fails to disclose any limitations or restrictions on how Defendants may use a participant's collected personal data, including their name, email address, and mailing address (other than a caveat that a participant's cell phone number will only be used to confirm identity); and
- e. Clearly and conspicuously disclose the privacy policy applicable to the registrants.

In addition, the America PAC website makes various statements that have the capacity to deceive, or are likely to deceive or confuse, a substantial portion of the public.

The website makes unfair or deceptive statements concerning the supposed promise to pay \$100 to participating registered-voters who sign America PAC's petition (or refer a petitioner). The website promoting the petition and lottery states:

especially freedom of speech and the right to bear arms. This program is exclusively open to registered voters in [Pennsylvania](#), [Georgia](#), [Nevada](#), [Arizona](#), [Michigan](#), [Wisconsin](#) and [North Carolina](#). Expires November 5.

🚨 SPECIAL OFFER FOR PENNSYLVANIA REGISTERED VOTERS 🚨

Sign this petition and get \$100. Refer a petition signer and get \$100.

Offer valid from time of posting through 11:59 PM on 10/28. New signers only. \$100 replaces standard \$47 offer (not in addition to it) To be eligible, both the referrer and the petition signer must be registered voters of Pennsylvania.

Exhibit 13. Yet, upon information and belief, Pennsylvania registered-voter participants who have signed America PAC's petition, or referred a petition signer, have not received \$100 from America PAC.

The foregoing conduct has the capacity to deceive, or was likely to deceive or confuse, a substantial portion of the public. *See Gregg v. Ameriprise Fin., Inc.*, 245 A.3d 637, 649 (Pa. 2021); *see also* 73 P.S. § 201-2(4). The liability imposed under Section 201-2(3) is strict liability, as it does not depend on any particular *mens rea*. *Gregg*, 245 A.2d at 650. As a direct result of the foregoing, Defendants have received, and will continue to receive, benefits that they would not have received if they had not engaged in violations of the UTPCPL as alleged herein. Philadelphia citizens and those across the Commonwealth have thus suffered substantial injury.

Based on these violations, DA Krasner seeks an injunction requiring Defendants to cease engaging in any unfair or deceptive acts or practices in connection with their lottery. 73 P.S. § 201-4. Unless restrained by this Court, Defendants will likely continue

to engage in the methods, acts, or practices that have a likelihood to deceive, mislead, and confuse the public absent the grant of an injunction. The ongoing and likely future violations by Defendants of the UTPCPL are contrary to the public interest, necessitating an injunction to restrain and prevent further misconduct by Defendants.

Plaintiff is therefore likely to succeed on the merits of his two claims.

C. Defendants' Scheme Irreparably Harms Pennsylvania Citizens.

It has been long settled that “a violation of an express provision of a statute is *per se* irreparable harm for purposes of a preliminary injunction.” *Crowe ex rel. Crowe v. Sch. Dist. of Pittsburgh*, 805 A.2d 691, 694-95 (Pa. Cmwlth. 2002); *see also SEIU*, 104 A.3d at 508-09 (irreparable harm shown where undisputed facts demonstrated a statutory violation); *Stilp v. Com.*, 910 A.2d 775, 787 (Pa. Cmwlth. 2006) (holding violations of the Pennsylvania Constitution and express statutory provisions constitutes *per se* irreparable harm), *aff'd*, 974 A.2d 491 (Pa. 2009); *Wyland v. West Shore Sch. Dist.*, 52 A.3d 572, 583 (Pa. Cmwlth. 2012) (“Deprivation of a statutory right constitutes irreparable harm. Failure to comply with a statute is sufficiently injurious to constitute irreparable harm.”) (citations omitted); *Israel*, 52 A.2d 317; *Unified Sportsmen of Pa. v. Pa. Game Comm’n (PGC)*, 950 A.2d 1120 (Pa. Cmwlth. 2008); *Com. by Fisher v. Richard A. Cole, M.D., Inc.*, 709 A.2d 994 (Pa. Cmwlth. 1998).

Defendants have plainly violated Pennsylvania law. As shown above, Defendants’ lottery is an illegal lottery that is not authorized by statute and is a “common nuisance”. The lottery therefore violates, and continues to violate, 18 Pa. C.S. § 5512. *See supra* pp. 17-19. That is ample enough basis for entering the requested injunction.

Defendants’ violation of the UTPCPL — demonstrated, *supra* — provides a second

ground. These statutory violations are ongoing and thus constitute irreparable harm *per se*.

D. The Denial of Injunctive Relief Will Result in Greater Harm Than By Granting Said Relief.

The Court need not consider the balance of harms because Defendants' conduct creates *per se* irreparable harm. *See Wolk v. Sch. Dist. of Lower Merion*, 228 A.3d 595, 611 (Pa. Commw. Ct. 2020) (citing *Israel*, 52 A.2d at 321).

In any event, the denial of injunctive relief would significantly harm consumers and voters across the Commonwealth due to Defendants' unlawful conduct and misrepresentations. Defendants' unlawful lottery harms Pennsylvanians because it creates or has the potential to create hazards to public health, safety, and general welfare. Ex. A, Verified Compl., ¶ 85.

Defendants' deception has further harmed the public because they have shrouded key aspects of the lottery in secrecy, including because (a) Defendants have not provided a complete set of lottery or contest rules, including the odds of winning or how winners will be selected; (b) Defendants have not provided information about when they will make payments to participants; (c) Defendants have not provided what privacy policy, if any, will protect participants' personal information. *Id.* ¶¶ 64, 103. Further, Defendants appear to be making false statements about the lottery, including: (d) Defendants say the that winners are chosen at random; yet, on information and belief, winners are not actually chosen at random; and (e) Defendants promise to pay \$100 to all participating registered voters who sign America PAC's petition yet, on information and belief, Defendants have not made those payments. *Id.* ¶ 65. America PAC's violation of the UTPCPL causes a likelihood of confusion or of misunderstanding as to

the \$1 million lottery prize, the compensation a participant receives for signing the petition and registering for a lottery, how and when compensation shall be paid, and the disclosures concerning the supposed payments.

These violations result in substantial injury to the public and the Commonwealth by undermining laws enacted by the General Assembly to (1) protect consumers and (2) regulate unlawful lottery schemes. *See also* 18 Pa. C.S. § 5512. By contrast, the harm of an injunction to Defendants is minimal to nonexistent. Defendants have already unlawfully acquired data from over 280,000 unsuspecting Pennsylvanians and will suffer no injury by being enjoined from further wrongdoing. Further, there can be no harm to Defendants by being enjoined to follow state statutes enacted for the benefit and protection of the public.

E. A Preliminary Injunction Would Restore the Status Quo

The purpose of a preliminary injunction is to prevent irreparable injury by preserving the status quo as it previously existed before the acts complained of occurred. *Duquesne Light Co. v. Longue Vue Club*, 63 A.3d 270, 278 (Pa. Super. Ct. 2013). An injunction is appropriate where it “restore[s] the parties to their status quo as it existed before the alleged wrongful conduct.” *Braynman Constr. Corp. v. DOT*, 13 A.3d 925, 935 (Pa. 2011).

Here, there are no impediments to restoring the *status quo*. The status quo existed prior to October 7, 2024, the date Defendants began offering cash prizes in exchange for voters’ personal data. *See* Ex. A, Verified Compl. ¶¶ 3, 28. By restraining Defendants from further operating an unlawful lottery or engaging in deceptive conduct prohibited by the UTPCPL, the requested injunction would restore the status quo. *See Firearm Owners Against Crime v. Lower Merion Twp.*, 151 A.3d 1172, 1181 (Pa.

Commw. Ct. 2016) (“The *status quo ante* to be preserved by a preliminary injunction is the last actual, peaceable, lawful, noncontested status which preceded the pending controversy.”).

F. The Requested Injunction is Reasonably Suited to Abate the Offending Conduct.

A preliminary injunction must be “reasonably suited to abate the offending activity.” *See SEIU*, 104 A.3d at 509 (citation omitted). Without an injunction, Defendants can continue to operate an illegal lottery and unlawfully acquire and use consumers’ personal data and engage in deceptive conduct in violation of the UTPCPL, the State Lottery Law, and 18 Pa. C.S. § 5512. Because the injunction is narrowly tailored to enjoin Defendants’ wrongful conduct with respect to their illegal lottery, the requested relief is reasonably suited to abate the offending conduct. *See Dillon v. City of Erie*, 83 A.3d 467, 474 (Pa. Cmwlth. 2014) (*en banc*) (“[T]he injunction is reasonably suited to abate the offending activity by enjoining the [unlawful conduct].”).

G. A Preliminary Injunction Will Not Adversely Affect the Public Interest – Instead, It Will Advance the Public Interest.

“Harm to the public is an additional consideration in the issuance or denial of a preliminary injunction.” *Allegheny Anesthesiology Assocs., Inc. v. Allegheny Gen. Hosp.*, 826 A.2d 886, 893 (Pa. Super. Ct. 2003). “This factor requires the court to look beyond the parties’ respective interests and to gauge the injunction’s potential effects on the community as a whole.” *McCahon v. Pennsylvania Tpk. Comm’n*, 491 F. Supp. 2d 522, 528 (M.D. Pa. 2007). The injury to the public element is tied to the immediate and irreparable harm element a movant must show: “when the Legislature declares certain conduct to be unlawful, it is tantamount in law to calling it injurious to the public. For

one to continue such unlawful conduct constitutes irreparable injury.” *Dillon*, 83 A.3d at 474 (*quoting Israel*, 52 A.2d at 317). As set forth above, Defendants’ conduct is unlawful and contrary to public policy. It is ongoing and violates multiple state statutes. It is therefore in the public’s interest to enjoin Defendants’ misconduct.

VI. RELIEF

For the foregoing reasons, DA Krasner respectfully requests that this Court enter an Order in the form attached hereto enjoining Defendants from operating an illegal lottery and engaging in deceptive conduct.

Respectfully submitted,

HANGLEY ARONCHICK SEGAL PUDLIN
& SCHILLER

Dated: October 28, 2024

By: /s/ John S. Summers

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CERTIFICATE OF SERVICE

I, John S. Summers, hereby certify that I caused a true and correct copy of the foregoing Plaintiff's Emergency Petition for Preliminary Injunctive Relief to be served by first class mail upon the following:

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Brownsville, TX 78521

Defendants

HANGLEY ARONCHICK SEGAL PUDLIN
& SCHILLER

Dated: October 28 , 2024

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