

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

THE PEOPLE OF THE STATE OF NEW YORK,

- against -

DONALD J. TRUMP,

Defendant.

Ind. No. 71543-23

PRESIDENT DONALD J. TRUMP'S RECUSAL MOTION

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I. INTRODUCTION

President Trump respectfully submits this memorandum and accompanying Affirmation¹ in support of his motion for recusal based on due process under the state and federal constitutions, Judiciary Law § 14, as well as 22 NYCRR §§ 100.2 and 100.3.

Your Honor's daughter, Loren Merchan, has a direct financial interest in these proceedings by virtue of her ownership stake and leadership role at Authentic Campaigns, Inc. Based on public disbursements data, Authentic, which services exclusively Democrat clients, is the #21 ranked vendor in the country in connection with the 2024 election. In 2019, Ms. Merchan made public statements during a podcast regarding a conversation with Your Honor that reflect bias against President Trump from both speakers in that exchange. Consistent with that conversation, President Biden and Vice President Harris are long-term clients of Authentic and Ms. Merchan, along with many other politicians and entities who are actively campaigning and advocating against President Trump right now. At least six of Authentic's clients used fundraising solicitations that referenced this case around the time of the Indictment, President Trump's arraignment, or following the Court's denial of President Trump's recusal motion. Authentic's clients disbursed more than \$18 million to the company between the return of the Indictment and the present. It is industry practice that Authentic would receive percentages based on funds raised and recipient engagement, and Ms. Merchan has had an ownership stake and leadership role in the company while this case is pending.

In August 2023, the Court ruled that President Trump's recusal motion was based on "remote" and "speculative" arguments. We dispute that conclusion, and it is clear that this motion

¹ "Affirmation," or "Aff.," refers to the April 3, 2024 Affirmation of Todd Blanche submitted in connection with this motion. "Exhibit," or "Ex.," refers to Exhibits attached to the Affirmation.

cannot reasonably be dispensed of in that fashion. President Trump is now the presumptive Republican nominee and leading candidate in the 2024 presidential election. His success in the primaries, which followed the Court's ruling on the previous recusal motion, has cemented his status as a political target of Authentic, Ms. Merchan, and their clients. While that appears to be consistent with the company's political views, the more important consideration for purposes of this motion is that Authentic benefits reputationally and makes more money by targeting President Trump. For example, in February and March 2024, Authentic actively marketed its services using connections to President Biden and Vice President Harris, as well as graphics and other content that derided President Trump.

Additional recent developments support the timing and merit of this motion. Your Honor participated in an interview with the Associated Press and appears to have made statements, at a high-level, about this case and the Court's preparations for trial. Based on a separate recent statement by the Office of Court Administration, Ms. Merchan apparently "deleted" an X account that contained posts reflecting hostility toward President Trump "last April," the same month that Your Honor solicited an ethics opinion regarding recusal in a letter containing information that the Court declined to disclose to the defense or the public. The suspicious timing of the alleged decision by Ms. Merchan to "delete" the X account, as well as more recent developments relating to the account, further support this motion.

Your Honor also recently issued and expanded a gag order that improperly restricts President Trump's constitutionally protected campaign speech, which has the effect of shielding the Court and Ms. Merchan from legitimate public criticism based on the evidence discussed in this motion that is relevant to the 2024 election. The Court has also permitted the People to continue to refrain from publicly filing important submissions, evidence, and substantive email

communications in violation of President Trump’s constitutional rights to a public trial and to defend himself. Having been repeatedly assigned to cases relating to President Trump and his businesses since 2022, including two rounds of plea negotiations with Allen Weisselberg and the prosecution of Steve Bannon, the Court is now making extrajudicial statements about this case, permitting the People to proceed under the cover of darkness when it suits their political agenda of election interference, and threatening President Trump with contempt and worse if he points out the Court’s familial conflicts. The current situation is patently unjust.

The Court’s interest in these proceedings by virtue of the close relationship with an immediate relative, and Ms. Merchan’s ongoing receipt of commercial and reputational benefits based on the manner in which Your Honor has conducted these proceedings, requires recusal based on an actual conflict and an unacceptable appearance of impropriety. This is easily illustrated by the fact that it would be completely unacceptable to most New Yorkers if the judge presiding over these proceedings had an adult child who worked at WinRed or MAGA Inc. The logic of this conclusion is further demonstrated by the fact that Ms. Merchan is not simply a salaried employee of Authentic, she is an owner with equity in the enterprise. Personal political views may not be a basis for recusal. But profiting from the promotion of a political agenda that is hostile to President Trump, and has included fundraising solicitations based on this case, must be. Accordingly, President Trump respectfully requests that the Court recuse itself.

II. BACKGROUND

A. Loren Merchan

Beginning in at least 2018, Ms. Merchan worked at Authentic as a “director of digital advertising.” Aff. ¶ 2. In approximately February 2019, Ms. Merchan appears to have started working as the “Director of Digital Persuasion” for the Presidential campaign of Kamala Harris. *Id.* In approximately February 2019, Authentic made Ms. Merchan a Vice President. *Id.*

Authentic markets itself as a “full-service digital marketing agency for non-profits and campaigns that unleashes the power of the internet to create lasting and inclusive change.” *Id.* ¶ 53(a). In connection with the announcement, Authentic stated that Ms. Merchan would “continue to manage our kickass ads team and take on a larger role in managing and growing our company in the coming years.” *Id.* ¶ 3.

During a June 2019 podcast, Ms. Merchan attributed the following statement to Your Honor: “I hate that politicians use Twitter . . . It’s so unprofessional . . . That’s not how a politician should behave themselves.” *Aff.* ¶ 4. Ms. Merchan explained during the podcast that she responded to Your Honor: “Yeah, I think there are a lot of instances where it is not used in – like when our President tweets anything that he thinks, and like, that’s not what he should be using it for.” *Id.*

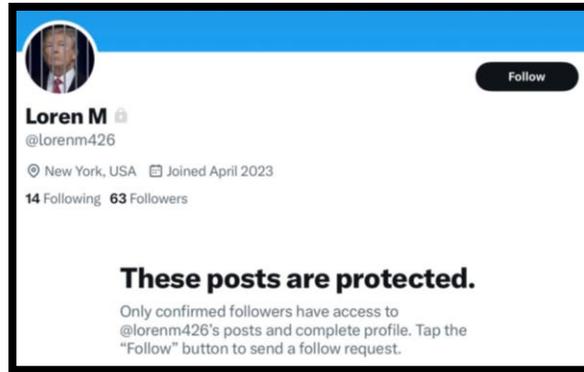
After the conclusion of Harris’ presidential campaign in approximately December 2019, Authentic made Ms. Merchan “a partner and part-owner.” *Aff.* ¶ 5. Following Ms. Merchan’s promotion by Authentic, in 2020, “Campaigns & Elections” named Ms. Merchan a “Rising Star” affiliated with the Democrat party. *Id.* ¶ 6. The write-up concerning the award credited Ms. Merchan with “setting new benchmarks and winning elections,” and “doing ground-breaking, historical work for clients like . . . Kamala Harris, Adam Schiff, and others.” *Id.* By August 2023, Ms. Merchan had become President of Authentic. *Ex.* 15.

On January 20, 2021, the X account with username LorenM426, which appears to have been used by Ms. Merchan, posted the following image of President Trump leaving the White House on January 20, 2021, with the caption “ByyyeEEEE”:



Aff. ¶ 55. Archived Internet data from around that time contains other X posts by Ms. Merchan that reflect hostility toward President Trump. *Id.* ¶ 56.

On or about March 27, 2024, the Director of Communications for New York’s Office of Court Administration issued a public statement indicating that Ms. Merchan “abandoned” and “deleted” her X account “approximately a year ago.” Aff. ¶ 58. Around the time of the announcement, the X account indicated that the user joined in “April 2023” and included a picture of President Trump behind bars:



Id. ¶ 60. Within days, the account was modified to include a photograph of Vice President Harris, but it still indicated that the user had “Joined April 2023”:



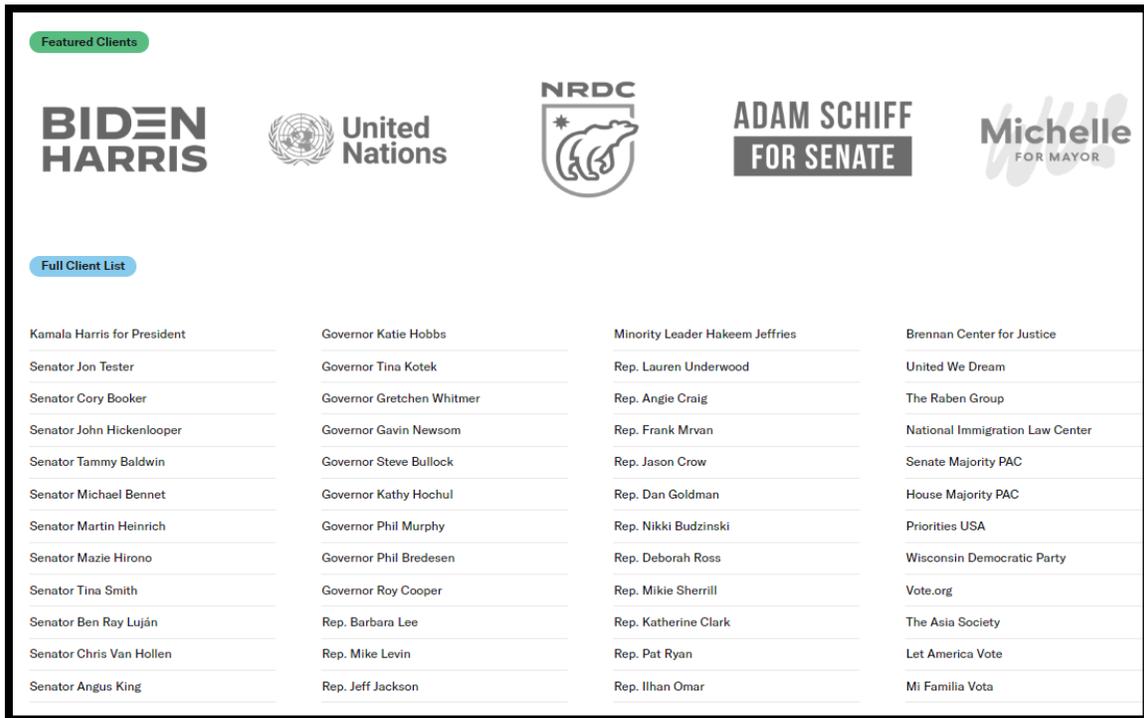
Id. ¶ 61. More recently, the photograph of Vice President Harris was removed, and the account now indicates that the user joined last month, in “March 2024”:



Id. ¶ 62.

B. Authentic’s Clients

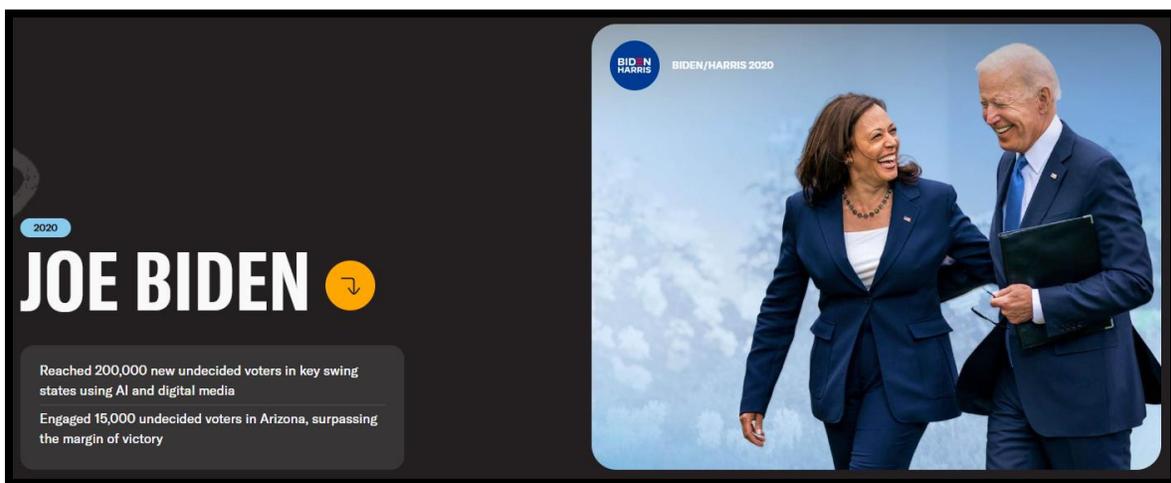
As of April 2, 2024, the list of “Featured Clients” on Authentic’s website included campaigns associated with the following Democrat politicians and entities: President Biden, Vice President Harris, New York Governor Kathy Hochul, Congressman Schiff, Congressman Jeffries, Congressman Goldman, Congresswoman Underwood, Congresswoman Lee, the Democrat-backed “Senate Majority PAC,” and the Democrat-backed “House Majority PAC”:



Aff. ¶ 53(b). Based on this work, Authentic was named to the “2023 Political Consultants Power 100” as some of “New York’s most effective campaign advisers,” including through work for Congressman Jeffries and Governor Hochul. *Id.* ¶¶ 36, 37. Currently, in connection with the 2024 election cycle, Authentic is the #21-ranked vendor based on disbursements it has received. *Id.* ¶ 65.

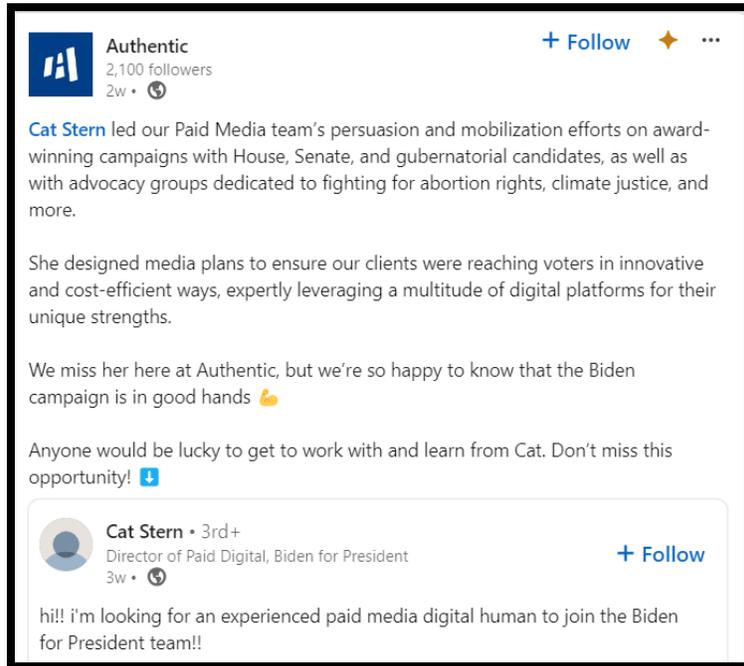
1. President Biden And Vice President Harris

In connection with the 2020 election, Vice President Harris’s presidential campaign paid Authentic \$4.86 million, which is far more than the campaign paid any other vendor. Aff. ¶ 65. Authentic’s subsequent work on the campaign of President Biden and Vice President Harris included use of “the strengths of Facebook’s expansive platform with the precision and adaptability of conversational AI” to generate “targeted Facebook ads about Joe Biden for president.” Aff. ¶ 53(c). Ms. Merchan described Authentic’s first-of-its-kind use of AI to engage with potential donors, volunteers and voters for both President Biden and Vice President Harris in the 2020 campaign cycle, *id.* ¶ 54, and Authentic summarized this work in a “case study” on its website:



Id. ¶ 53(c). More recently, in mid-March 2024, Authentic promoted its connection to “the Biden

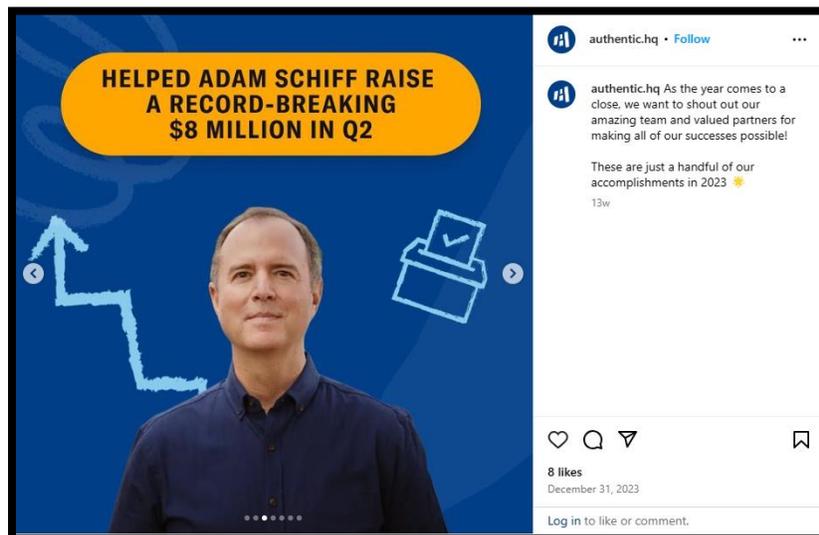
campaign” through a social media post relating to a former employee now acting as the “Director of Paid Digital” for President Biden:



Aff. ¶ 51.

2. Congressman Schiff

In 2023 and 2024, Authentic repeatedly promoted its work for Congressman Schiff on social media, including, for example, the following December 2023 post:



Aff. ¶ 44. Authentic has posted a testimonial from Congressman Schiff on its website, which includes that “[t]hey have helped me build a digital program that has exceeded all my expectations” *Id.* ¶ 53(g).

According to OpenSecrets.org, “Schiff for Congress” paid \$9.06 million in disbursements to Authentic during the 2022 election cycle, and has paid an additional \$4.88 million, to date, in connection with the 2024 election cycle. *See* Exs. 18 & 19. Based on data from the Federal Election Commission (“FEC”), “Schiff for Senate” disbursed \$10.27 million to Authentic between March 30, 2023, when the Indictment was filed, and the present. Ex. 20.

3. Congresswoman Underwood

Authentic’s website also includes a “case study” relating to the company’s work for Congresswoman Underwood in connection with the 2022 election. Aff. ¶ 53(f). The case study indicates that Authentic assisted Underwood with “tailored messaging” in “email and SMS [text message] campaigns” and includes the following graphic:



Id. ¶ 53(f).

According to OpenSecrets.org, “Lauren Underwood for Congress” paid \$1.08 million in disbursements to Authentic during the 2022 election cycle, and has paid an additional \$159,550, to date, in connection with the 2024 election cycle. *See* Exs. 18 & 19. Based on data from the FEC, “Lauren Underwood for Congress” disbursed \$115,050 to Authentic between March 30, 2023, when the Indictment was filed, and the present. Ex. 20.

4. “Senate Majority PAC” (SMP)

With respect to the Democrat-backed Senate Majority PAC, Authentic’s website indicates that it “inherited [the PAC’s] email program,” “worked with IP and spam-based blacklists to refresh [the PAC’s] sender reputation,” and “optimiz[ed] the email content and subject lines.” Aff. ¶ 53(d). The website states that Authentic helped the Senate Majority PAC raise \$42.6 million “online,” including “763k individual contributions” and a “357% return on ad spend.” *Id.*

According to OpenSecrets.org, the Senate Majority PAC paid \$6.04 million in disbursements to Authentic during the 2022 election cycle, and has paid an additional \$1.66 million, to date, in connection with the 2024 election cycle. *See* Exs. 18 & 19. Based on data from the FEC, the Senate Majority PAC disbursed \$998,045 to Authentic between March 30, 2023, when the Indictment was filed, and the present. Ex. 20.

5. “House Majority PAC”

Authentic advertises that it helped “create[] a best in class ads program” for the House Majority PAC in connection with the 2022 election through a partnership with Vocal Media, which Authentic reports resulted in “9M completed video views across influencers (Vocal) and ads (Authentic)” and “1.5M persuadable swing voters reached.” Aff. ¶ 53(e).

C. Fundraising Solicitations Based On The Indictment

The Indictment in this case was returned on March 30, 2023. Aff. ¶ 7. On the same day, clients of Authentic caused electronic fundraising solicitations to be disseminated that specifically

referenced this case:

- Congressman Schiff: “The Manhattan District Attorney’s office has indicted Donald Trump for criminal offenses — the first-ever indictment of a former American president.” Ex. 1.
- Senate Majority PAC: “BREAKING NEWS: Donald Trump indicted by Manhattan grand jury.” Ex. 2.
- House Majority PAC: “Trump Indicted.” Ex. 3.

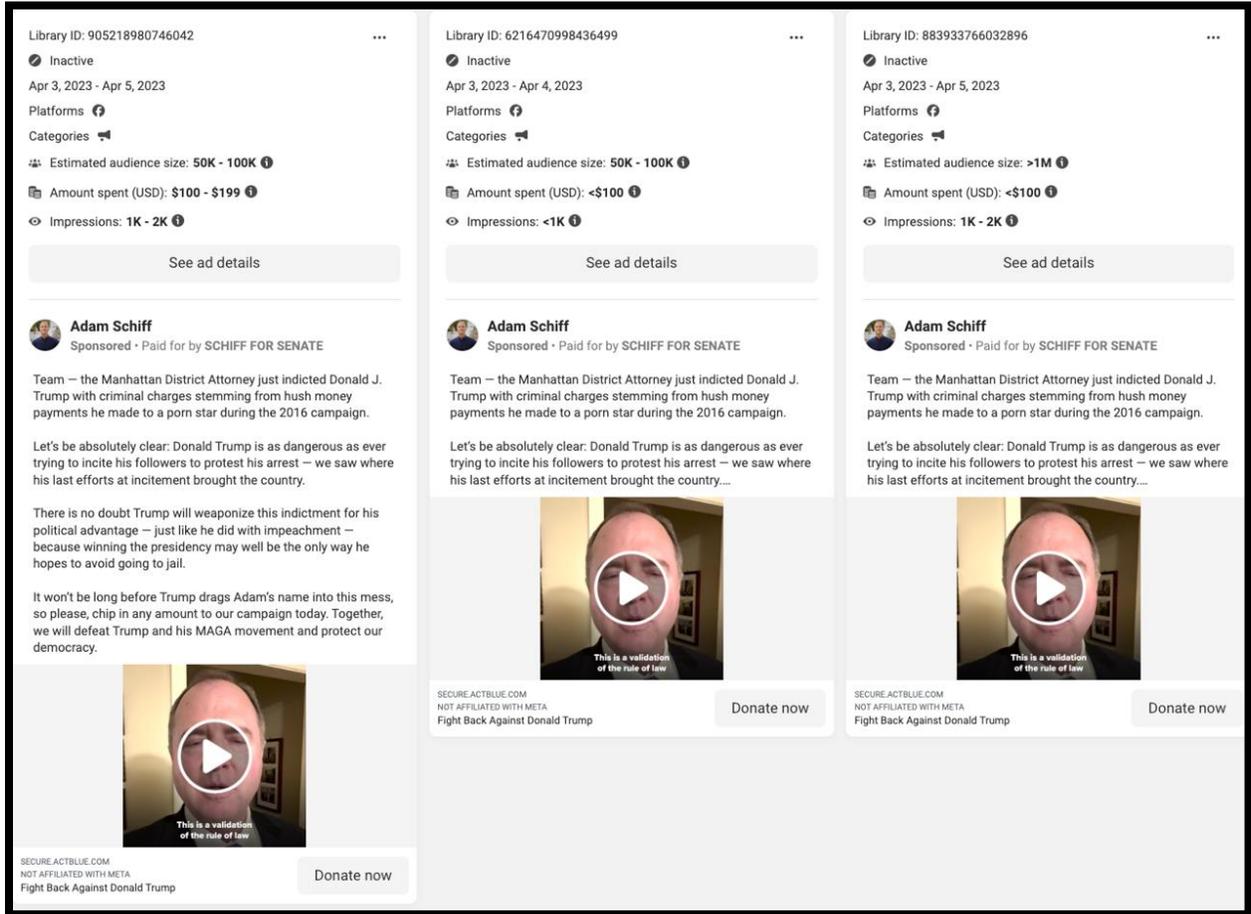
Also on March 30, 2023, Congressman Schiff caused a post to be made to his X account soliciting contributions based on the Indictment. Aff. ¶ 11.

The case-related solicitations by Authentic’s, and therefore Ms. Merchan’s, clients continued on March 31, 2023. Congressman Schiff caused two more emails to be sent. One noted that he would be “talking about trump indictment on msnbc at 9:30 then cnn at 10” and asked voters to “chip in a few bucks.” Ex. 4. The other asserted that “[n]ever before has a President of the United States — current or former — been indicted. . . . Donald Trump will finally have his day in court.” Ex. 5. Also on March 31, Congresswoman Underwood caused a similar message to be distributed: “For the first time in our nation’s history, a previous sitting president is facing criminal charges and plans are underway coordinating his surrender to authorities in Manhattan next week.” Ex. 6. Congressman Jeffries caused a fundraising email to be sent that referenced President Trump through the overused trope that “no one is above the law.” Ex. 7.

On April 1, 2023, Congresswoman Lee caused a fundraising solicitation to be sent that stated: “Donald Trump may have been indicted by a Manhattan grand jury – but we know that isn’t his only crime.” Ex. 8.

D. Fundraising Solicitations Around The Time Of The Arraignment

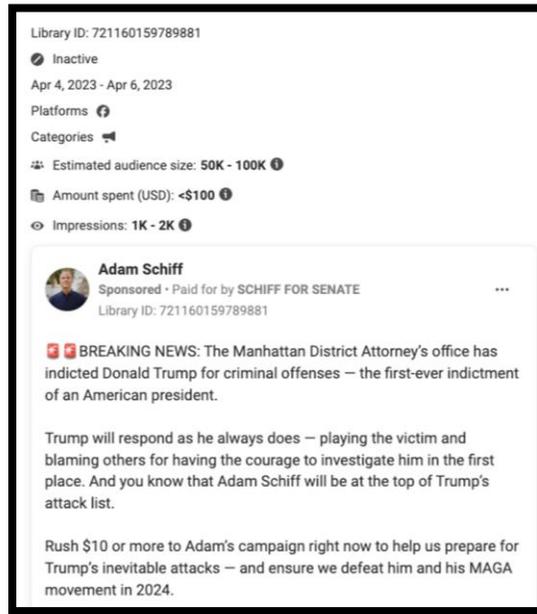
On April 3, 2023—the day before President Trump’s arraignment before Your Honor—Congressman Schiff released a barrage of solicitations on Facebook based on this case:



Aff. ¶ 17.

On April 4, 2023, Congressman Schiff caused a fundraising email to be sent that discussed President Trump’s arraignment: “It’s not a scene I would ever have imagined — a former U.S. president photographed, finger-printed and arraigned in court” Ex. 9.

Congressman Schiff also initiated a new solicitation via Facebook:



Aff. ¶ 20.

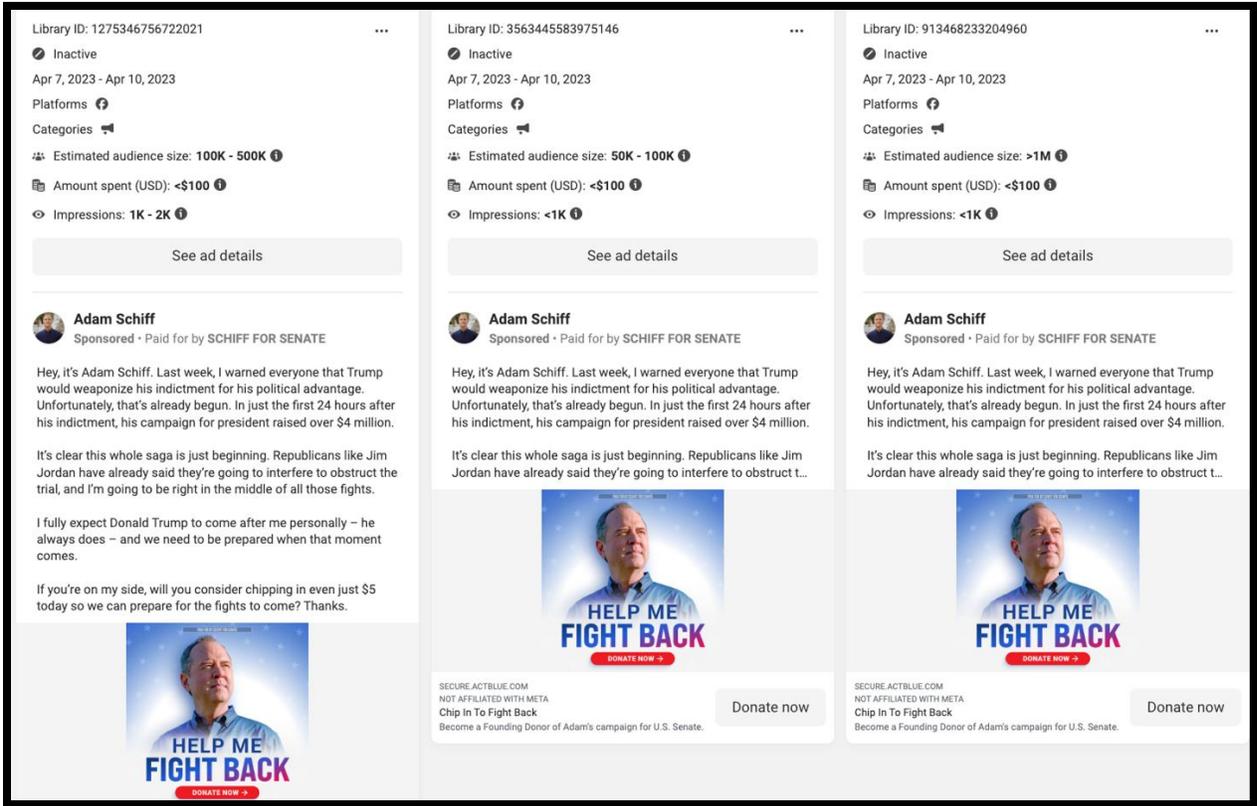
On April 5, 2023, Congressman Schiff caused two videos to be posted to his TikTok account in which he discussed this case:



Aff. ¶¶ 21, 22.

Beginning on April 7, 2023, Congressman Schiff caused the release of six additional case-related solicitations via Facebook:

<p>Library ID: 883613072706420 ...</p> <p>Inactive</p> <p>Apr 7, 2023 - Apr 10, 2023</p> <p>Platforms</p> <p>Categories</p> <p>Estimated audience size: 100K - 500K</p> <p>Amount spent (USD): <\$100</p> <p>Impressions: <1K</p> <p>See ad details</p> <p>Adam Schiff Sponsored · Paid for by SCHIFF FOR SENATE</p> <p>Donald Trump raised over \$4 million within 24 hours of getting indicted. He is weaponizing this for his own advantage. Will you help us fight back?</p>  <p>SECURE.ACTBLUE.COM NOT AFFILIATED WITH META Chip In To Fight Back Become a Founding Donor of Adam's campaign for U.S. Senate.</p> <p>Donate now</p>	<p>Library ID: 1063132191311023 ...</p> <p>Inactive</p> <p>Apr 7, 2023 - Apr 10, 2023</p> <p>Platforms</p> <p>Categories</p> <p>Estimated audience size: 50K - 100K</p> <p>Amount spent (USD): <\$100</p> <p>Impressions: <1K</p> <p>See ad details</p> <p>Adam Schiff Sponsored · Paid for by SCHIFF FOR SENATE</p> <p>Donald Trump raised over \$4 million within 24 hours of getting indicted. He is weaponizing this for his own advantage. Will you help us fight back?</p>  <p>SECURE.ACTBLUE.COM NOT AFFILIATED WITH META Chip In To Fight Back Become a Founding Donor of Adam's campaign for U.S. Senate.</p> <p>Donate now</p>	<p>Library ID: 996312088419614 ...</p> <p>Inactive</p> <p>Apr 8, 2023 - Apr 10, 2023</p> <p>Platforms</p> <p>Categories</p> <p>Estimated audience size: >1M</p> <p>Amount spent (USD): <\$100</p> <p>Impressions: 5K - 6K</p> <p>See ad details</p> <p>Adam Schiff Sponsored · Paid for by SCHIFF FOR SENATE</p> <p>Donald Trump raised over \$4 million within 24 hours of getting indicted. He is weaponizing this for his own advantage. Will you help us fight back?</p>  <p>SECURE.ACTBLUE.COM NOT AFFILIATED WITH META Chip In To Fight Back Become a Founding Donor of Adam's campaign for U.S. Senate.</p> <p>Donate now</p>
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Aff. ¶¶ 24, 25.

E. Post-Recusal Motion Fundraising Solicitations

On May 31, 2023, President Trump filed a motion for recusal based on, *inter alia*, Ms. Merchan’s role at Authentic, which the defense learned about from media reports rather than the Court. Aff. ¶ 27. The Court denied the motion on August 11, 2023. Aff. ¶ 30.

Following the ruling, on August 22, 2023, Congressman Schiff caused a post to be made on his TikTok account in which he made inaccurate factual claims regarding the People’s allegations: “[T]he man was sitting in the Oval Office writing hush money payment checks to a porn star . . . and that’s probably his least transgression” Aff. ¶ 31.

On August 31, 2023, the “Senate Majority PAC” sent an email that referenced the Indictment in this case as well as other unfounded charges against President Trump:

91 charges. That’s how many felonies Donald J. Trump is charged with. . . . No president has been charged with a crime before Donald Trump. Now, in the span of just a few months, Trump has racked up indictments in four different jurisdictions (and counting).

Ex. 16.

F. The Court’s Public Statements Regarding This Case

On March 17, 2024, the Associated Press published an article disclosing that the Court had participated in an interview with the media “last week.” Ex. 22. According to reports of the interview, Your Honor indicated that the Court “wouldn’t talk about the case,” but did so anyway. *Id.* Your Honor reportedly stated that (1) “getting ready for the historic trial is ‘intense’”; (2) the Court is “striving ‘to make sure that I’ve done everything I could to be prepared and to make sure that we dispense justice’”; and (3) “‘There’s no agenda here We want to follow the law. We want justice to be done. . . . That’s all we want.’” *Id.*

In addition, as noted above, the Office of Court Administration issued a statement concerning Ms. Merchan’s X account on or about March 27, 2024. Aff. ¶ 58.

III. APPLICABLE LAW

A. Constitutional Due Process And Judiciary Law

“The right of every person accused of crime to have a fair and impartial trial before an unbiased court and an unprejudiced jury is a fundamental principle of criminal jurisprudence.” *People v. De Jesus*, 42 N.Y.2d 519, 523 (1977) (quoting *People v. McLaughlin*, 150 N.Y. 365, 375 (1896)). “[T]he floor established by the Due Process Clause clearly requires a fair trial in a fair tribunal, before a judge with no actual bias against the defendant or interest in the outcome of his particular case.” *Bracy v. Gramley*, 520 U.S. 899, 904-05 (1997) (cleaned up); *see also People v. Novak*, 30 N.Y.3d 222, 225 (2017) (“The right to an impartial jurist is a ‘basic requirement of due process.’” (quoting *In re Murchison*, 349 U.S. 133, 136 (1955))).

The “root meaning” of impartiality “guarantees a party that the judge who hears his case

will apply the law to him in the same way he applies it to any other party.” *Republican Party of Minnesota v. White*, 536 U.S. 765, 775-76 (2002). “This is the traditional sense in which the term is used,” and it “assures equal application of the law.” *Id.* at 776. “Every procedure which would offer a possible temptation to the average man as a judge to forget the burden of proof required to convict the defendant, or which might lead him not to hold the balance nice, clear, and true between the state and the accused denies the latter due process of law.” *Tumey v. Ohio*, 273 U.S. 510, 532 (1927). “The alleged bias and prejudice to be disqualifying must stem from an extrajudicial source and result in an opinion on the merits on some basis other than what the judge learned from his participation in the case.” *United States v. Grinnell Corp.*, 384 U.S. 563, 583 (1966).

Similarly, pursuant to § 14 of the Judiciary Law, “[a] judge shall not sit as such in, or take any part in the decision of, an action . . . in which he is interested” To be disqualified, a judge must have an interest in “the subject matter of the suit.” *Matter of Est. of Sherburne*, 124 Misc.2d 708, 710 (Sur. Ct. Queens Cnty. 1984). “The interest need not be large, but it must be real.” *Id.*; see also *People v. Whitridge*, 144 A.D. 493, 498 (1st Dept. 1911).

B. Court Rules Governing Judicial Conduct

“Not only must judges actually be neutral, they must appear so as well.” *Novak*, 30 N.Y.3d at 226. Thus, “[a] judge shall avoid impropriety and the appearance of impropriety in all of the judge’s activities.” 22 NYCRR § 100.2. This includes an obligation to “act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.” *Id.* § 100.2(A). “Integrity denotes probity, fairness, honesty, uprightness and soundness of character.” *Id.* § 100.0(T). “Impartiality denotes absence of bias or prejudice in favor of, or against, particular parties or classes of parties, as well as maintaining an open mind in considering issues that may come before the judge.” *Id.* § 100.0(R). In this regard, a judge must not “allow family . . . or other relationships to influence the judge’s judicial conduct or judgment,” or “lend the prestige of

judicial office to advance the private interests of . . . others.” *Id.* § 100.2(B), (C).

A judge “shall disqualify himself” from “a proceeding in which the judge’s impartiality might reasonably be questioned.” 22 NYCRR § 100.3(E)(1). Circumstances where a judge’s impartiality might reasonably be questioned “include[e], but are not limited to instance where” the judge knows that a close relative “has an interest that could be substantially affected by the proceeding.” *Id.* § 100.3(E)(1)(d)(iii). “A judge’s conduct is under a sterner microscope than other members of the public, as there is no higher order of fiduciary responsibility than that assumed by a Judge.” *In re Feinberg*, 5 N.Y.3d 206, 215-16 (2005) (cleaned up); *see also Putorti v. New York State Comm'n on Jud. Conduct*, 40 N.Y.3d 359, 367 (2023) (“Judges must observe higher standards of conduct than members of the general public, so that the integrity of the judiciary will be preserved.”).

IV. DISCUSSION

In light of recent developments and new evidence, this recusal motion is timely filed and meritorious. Authentic has drawn on its deep connections to President Biden, Vice President Harris, Congressman Schiff, and others to develop business from clients who have solicited donations using electronic communications that specifically referenced this case. Authentic is paid by these clients, in part, based on the success of the communications using metrics such as contributions received and/or engagement with the advertising.

Authentic—and Ms. Merchan, as President, “partner,” and “part-owner”—will gain even more as the trial proceeds from both financial and reputational perspectives. This is demonstrated by, for example, Authentic’s efforts in February and March 2024 to market itself using social media posts that derided President Trump and promoted the company’s connections to President Biden and Vice President Harris. It is improper for the Court to preside over these proceedings

while Ms. Merchan benefits, financially and reputationally, from the manner in which this case is interfering with the campaign of the leading candidate in the 2024 presidential election and the chief political rival of Authentic's key clients. Under these circumstances, recusal is required and appropriate in order to maintain the integrity of these proceedings, as well as the public's trust in them.

A. The Motion Is Supported By New Evidence And Changed Circumstances

Several developments since the Court's denial of President Trump's first recusal motion require that this issue be revisited, including President Trump's status as the presumptive Republican nominee in the 2024 presidential election, recent events relating to the X account used by Ms. Merchan, and recent extrajudicial statements by the Court.

The extent to which these proceedings are interfering with the 2024 election is no longer, as the Court put it previously, "remote, speculative, 'possible or contingent.'" Ex. 13 at 2 (quoting *Kilmer v. Moseman*, 124 A.D.3d 1195 (3rd Dep't 2015)). In *Kilmer*, the Third Department rejected an argument that the plaintiff's attorney's wife worked for an official who "could . . . conceivably cause difficulties for Justice Dowd following his retirement if he sanctioned or otherwise ruled against" the attorney. 124 A.D.3d at 1198. In contrast, the current recusal issue does not arise from what "conceivably" could happen or a "possible or contingent" event.

Since the Court's recusal ruling, President Trump has become the presumptive Republican nominee and the leading candidate in the 2024 Presidential election. The trial that the Court has scheduled will impede President Trump's efforts to campaign against President Biden and Vice President Harris—whose status Authentic actively markets to generate new business—and to support the campaigns of other politicians who are direct opponents of Authentic's clients. As discussed in more detail below, Authentic's clients have already solicited donations based

specifically on this case, and have paid Authentic millions of dollars since the Indictment was filed.

In light of these considerations, the May 4, 2023 ethics opinion relating to the Court's recusal inquiry, which the Court declined to disclose to the defense, relied on a factually inaccurate premise. Specifically, the digest of Opinion 23-54 assumed that Ms. Merchan has "no interests that could be substantially affected by [this] proceeding." Ex. 13 at 9. The Opinion stated: "We see nothing in the inquiry to suggest that the outcome of the case could have any effect on the judge's relative, the relative's business, or any of their interests." *Id.* at 11. However, it is now quite clear that Authentic has made money by assisting clients who have solicited donations using communications that specifically reference this case. The Court's future rulings stand to further benefit those clients by harming President Trump, while Authentic and Ms. Merchan make money in the process.

Recent public developments relating to an X account used by Ms. Merchan raise additional, serious questions about appearances of impropriety that must be addressed. Archived Internet data demonstrates that Ms. Merchan used the "LorenM426" X account to post messages that reflect hostility toward President Trump. *See* Aff. ¶¶ 55-57. The defense is currently unable to access the full historical contents of the account, but the archived data includes telling examples. *See id.* Thus, even accepting that Ms. Merchan "deleted" the account in April 2023, *see* Aff. ¶ 58, one fair inference from that claim is that she took those steps to destroy public evidence of animus toward President Trump around the time that "this Court wrote to the Advisory Committee on Judicial Ethics to seek a formal opinion," "[o]n or about April 14, 2023," regarding recusal, *see id.* Ex. 13 at 1 n.2. That timing, and the appearance of impropriety that it creates, cannot be ignored.

The X account in question previously included a re-post of Authentic’s January 2020 announcement of Ms. Merchan’s promotion to “partner” and “part-owner.” Aff. ¶ 5. The post is no longer public. Around the time of the Court’s March 27, 2024 public statement regarding control of the account, *id.* ¶ 58, the photograph associated with the account was changed from a picture of President Trump (behind prison bars) to a picture of Vice President Harris (as a child), which raises further questions about appearances associated with the public statement and who was controlling the account, *see id.* ¶¶ 60, 61. The photograph of Vice President Harris was subsequently removed while public scrutiny of these issues increased, and the Court issued a public statement regarding the account. *Id.* ¶ 58. The public-facing version of the account now states that the user “Joined” in “March 2024.” *Id.* ¶ 62.

In addition to the Court’s public statement regarding Ms. Merchan’s X account, the Associated Press published an article on March 17, 2024, which disclosed that Your Honor had participated in an interview with the media “last week.” Ex. 22. Your Honor reportedly indicated that the Court “wouldn’t talk about the case,” but did so anyway. *Id.* Your Honor reportedly stated that (1) “getting ready for the historic trial is ‘intense’”; (2) the Court is “striving ‘to make sure that I’ve done everything I could to be prepared and to make sure that we dispense justice’”; and (3) “‘There’s no agenda here We want to follow the law. We want justice to be done. . . . That’s all we want.’” *Id.* Based on these reported remarks, the Court appears to have discussed its approach to preparing for the trial in this case, and to have tried to vouch for itself to the public—and disclaimed any bias—by describing plans to “dispense justice.” The statements attributed to Your Honor raise questions about compliance with 22 NYCRR § 100.3(B)(8), which requires that “[a] judge shall not make any public comment about a pending or impending proceeding”

There is not an exception to § 100.3(B)(8), as the People suggested in their pre-motion letter, for “acknowledging ‘intense’ preparation.” 4/2/24 Ltr. at 1.

The Court has also denied President Trump’s motion for discovery sanctions based on evidentiary submissions that are still not public, despite President Trump’s constitutional right to a public trial, and has permitted *ex parte* submissions by the People in connection with that motion practice without specifying the basis for that procedure. *See* 22 NYCRR § 100.3(B)(6) (restricting *ex parte* communications). Permitting the People to operate in a modern Star Chamber in order to suit their politically-motivated objectives is even more problematic when compared to the recent gag orders in this case. Specifically, on April 1, 2024, the Court expanded its recent gag order, which now operates as an unlawful prior restraint and prevents President Trump from criticizing the Court regarding these issues and addressing some of the topics that the Court has spoken about publicly.

Under these circumstances, where President Trump is seeking to defend himself in contested proceedings, the People are wrong that the Court’s reported extrajudicial statements were an expression of “broad commitment to impartiality.” 4/2/24 Ltr. at 1. The Court’s statements are relevant not only to appearances of impropriety, but also to President Trump’s now-pending adjournment motion, as the statements arguably included efforts by the Court to position itself favorably with potential jurors and augmented any concerns that potential jurors might have about whether jury service in this case will be “intense.”

For all of these reasons, constitutional due process, applicable rules, and ethical considerations require the Court to revisit the recusal issue and, as discussed below, to recuse itself.

B. Authentic’s Activities Create An Unacceptable Interest In These Proceedings

Ms. Merchan is a “partner,” “president,” and “part-owner” of Authentic. Aff. ¶¶ 5, 32. Authentic is the #21-ranked vendor in the country in connection with the 2024 election cycle, based on expenditures by candidates, parties, PACs and others reported to the FEC. *Id.* ¶ 65. Authentic provides consulting services to these clients, all Democrats and thus political opponents and rivals of President Trump, including in connection with solicitations that reference this case. Authentic has made millions of dollars from clients who are vocal opponents of President Trump, and will continue to make more money on that basis as the case proceeds. As a result, the Court has a prohibited interest in these proceedings in violation of President Trump’s due process rights, Judiciary Law § 14, and 22 NYCRR § 100.3(E)(1)(d)(iii).

Authentic’s website confirms that the company’s clients consist almost exclusively of politicians and entities associated with the Democrat party and opponents of President Trump, including “Biden Harris,” “Kamala Harris for President,” “Governor Kathy Hochul,” “Adam Schiff For Senate,” “Rep. Barbara Lee,” “Minority Leader Hakeem Jeffries,” “Rep. Lauren Underwood,” the “Senate Majority PAC,” and the “House Majority PAC.” Aff. ¶ 53(b); *see also* Ex. 13 at 10 (noting that Authentic “works exclusively with one political party’s candidates”).

Ms. Merchan has worked with President Biden since at least 2020, and Ms. Merchan’s work for Vice President Harris dates back to at least 2019. *See, e.g., id.* ¶¶ 2, 6. That work has continued during the pendency of this case. For example, between July 2023 and November 2023, Authentic has received \$211,035.00 from the “Fight Like Hell PAC,” which Michigan Governor Gretchen Whitmer has declared to be “focus the next two years on supporting President Biden and Vice President Harris’ re-election campaign.” *Id.* ¶ 68 & Ex. 20. In addition, the “client” list on Authentic’s website includes “Priorities USA.” Aff. ¶ 53(b). In April 2023, *i.e.*, the same month

as President Trump’s arraignment, Priorities USA announced that it would pledge “\$75 million towards digital mobilization and persuasion programming in six battleground states” in order to “support President Biden and Vice President Kamala Harris on their path to reelection in 2024 and bolster Democrats’ presence to diverse audiences of voters online.” *Id.* ¶ 73. Priorities USA has also stated that its “plan” is “to remind voters of President Biden’s impact and contrast his record with the agenda of dangerous MAGA Republicans” by “reaching voters where they are: online.” *Id.*

Between October 2021 and December 2023, “Friends for Kathy Hochul” paid Authentic \$689,974.35, which includes \$138,500 since the People filed the Indictment charging President Trump. Ex. 21. Between August 2023 and December 2023, Authentic also received \$27,000 from the “DAGA PAC,” which is associated with the Democratic Attorneys General Association, where New York Attorney General Leticia James—who has brought a separate unlawful and politically motivated case against President Trump—is a member. Aff. ¶ 69; Ex. 20. While Authentic provided consulting services to Governor Hochul and the DAGA PAC, Governor Hochul and James have used criticism of President Trump to advance their political agenda. During the fall 2023 trial relating to the biased and meritless claims brought by James, Governor Hochul attacked President Trump while he was testifying by referring to him as a “disgrace,” describing his testimony as “far from telling the truth” despite her lack of first-hand knowledge of the events at issue, and expressing “full confidence” that Justice Engoron would make President Trump “accountable” in those lawless proceedings, which is a sentiment that could only have been based on the Governor’s faith that Justice Engoron’s bias would blind him to the deficiencies of James’ case. Aff. ¶ 71.

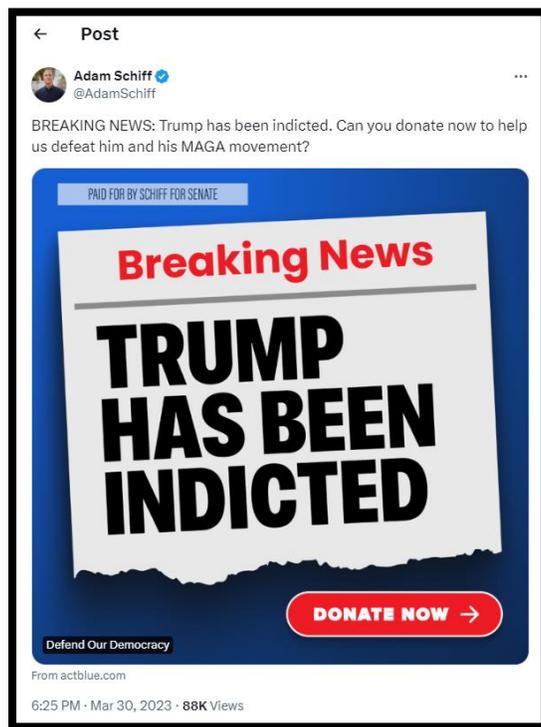
In late-February 2024, Governor Hochul falsely claimed—in terms that obviously

implicate this case as well as Justice Engoron’s flawed decisions—that she, personally, had “long known, as has everyone in the State of New York . . . that Donald Trump had unethical business practices.” Aff. ¶ 72. Around the same time, James used the official X account of the New York Attorney General in a highly unprofessional manner to taunt President Trump with purported interest calculations relating to Justice Engoron’s illegal judgment. *Id.* ¶ 70. These examples from Governor Hochul and James illustrate the type of political advocacy that Authentic’s consulting services yields. As accepted as this rhetoric has become in the political sphere, it has no place being driven by an immediate relative of the judge presiding over pending criminal charges against President Trump, who is obviously a political and commercial target of Ms. Merchan and Authentic.

As another example, Authentic and Ms. Merchan have worked for Congressman Schiff since at least 2020. *See* Aff. ¶¶ 6, 54. Congressman Schiff led unconstitutional and failed impeachment proceedings against President Trump in 2019, aided by Authentic client and now-Congressman Dan Goldman. Congressman Schiff rarely lets a week pass without reminding his constituents about that unjust impeachment effort. He is also one of at least six Authentic clients who have solicited donations using electronic communications that referenced this case, including communications around the time of the Indictment, the arraignment, and following the Court’s denial of President Trump’s recusal motion.

Between March 30 and April 1, 2023, Congressman Schiff, Congressman Jeffries, Congresswoman Underwood, Congresswoman Lee, the Senate Majority PAC, and the House Majority PAC sent electronic fundraising solicitations that referenced the Indictment in this case via email and X. *See* Exs. 1-8. For example, on March 30, 2023, in a post marked “PAID FOR BY SCHIFF FOR SENATE,” which is the entity listed as a client on Authentic’s website, the

following was posted to Congressman Schiff's X account:



Aff. ¶ 11.

Beginning on April 3, 2023, the day before the arraignment, Congressman Schiff disseminated a barrage of solicitations via Facebook, which referenced this case and were marked “Paid for by SCHIFF FOR SENATE,” *i.e.*, Authentic’s direct client. Aff. ¶ 17. On the day of President Trump’s arraignment, Congressman Schiff caused an email solicitation to be sent that described his opinion of the “scene” at the arraignment, Ex. 9, and Congressman Schiff initiated another case-specific solicitation via Facebook, Aff. ¶ 20. Congressman Schiff also caused videos to be posted to his TikTok account on April 5, 2023, and new solicitations to be disseminated via Facebook on April 7, all of which included discussion of this case. *Id.* ¶¶ 21-22, 24.

After the Court denied President Trump’s recusal motion, Congressman Schiff caused another TikTok video to be posted in which he mischaracterized the People’s allegations against President Trump. Aff. ¶ 31. On August 31, 2023, the Senate Majority PAC sent an email

solicitation that referenced “91 charges” and “indictments in four different jurisdictions,” including this case. *Id.* ¶ 33.

These Authentic clients used the same services that Authentic developed while working for President Biden and Vice President Harris, among others, and Authentic is actively marketing these services to others on its website. For example, Authentic touts its use of “Facebook’s expansive platform,” Aff. ¶ 53(c), and “best in class ads program,” *id.* ¶ 53(e), which the company has worked with Congressman Schiff and others to capitalize on. *See, e.g., id.* ¶ 17. Authentic also promotes its work on the Senate Majority PAC’s “email program,” including “optimizing the email content and subject lines” of communications, and the company’s “tailored messaging” on behalf of Congresswoman Underwood. *Id.* ¶¶ 53(d), 53(f). All six of the Authentic clients that transmitted case-specific email solicitations benefitted from this aspect of Authentic’s experience.

To state the obvious, these clients paid for Authentic’s services, and Ms. Merchan benefitted directly from those payments as one of the owners and the President of the company. According to publicly available data from OpenSecrets.org, Authentic received over \$29 million in disbursements from Democrat-affiliated and left-leaning political entities between 2021 and 2022, including the following:

Entity	Amount
Schiff for Congress	\$9.06 million
Senate Majority PAC (SMP)	\$6.04 million
Jeffries for Congress	\$1.2 million
Lauren Underwood for Congress	\$1.08 million
Barbara Lee for Congress	\$562,420
Total	\$29.66 million

Ex. 18. Additional data from OpenSecrets.org indicates that Authentic has received almost \$15 million in disbursements, to date, in connection with the 2024 cycle:

Entity	Amount
Schiff for Congress	\$4.88 million
Senate Majority PAC (SMP)	\$1.66 million
Lauren Underwood for Congress	\$159,550
Barbara Lee for Congress	\$19,661
Jeffries for Congress	\$35
Total	\$14.93 million

Ex. 19.

FEC data reflects a total of \$18.43 million in disbursements to Authentic between the filing of the Indictment on March 30, 2023 and the present, including:

Entity	Amount	Sample Description
Schiff for Congress	\$10.27 million	“Digital Advertising”
Senate Majority PAC (SMP)	\$998,045	“Digital Consulting Services”
Lauren Underwood for Congress	\$115,050	“Digital Consulting Services”
Barbara Lee for Congress	\$19,661	“Software”
Jeffries for Congress	\$35	“Website Expense”
Total	\$18.43 million	

Ex. 20.

In order “to prevent even the probability of unfairness,” “no man is permitted to try cases

where he has an interest in the outcome.” *In re Murchison*, 349 U.S. at 136. “That interest cannot be defined with precision. Circumstances and relationships must be considered.” *Id.*; *see also Novak*, 30 N.Y.3d at 225-26 (“Under federal constitutional jurisprudence, courts evaluate whether a “serious risk of actual bias, based on objective perceptions and considering all the circumstances alleged, rises to an unconstitutional level.”). Here, Authentic has clients who are opponents and rivals of President Trump, and those clients appear to have paid the company (and thus Ms. Merchan) for services used in connection with case-specific fundraising solicitations. The Court’s close relationship with Ms. Merchan as an immediate relative, as evidenced by the use of the Court’s facilities to address public scrutiny on Ms. Merchan’s X account, supports the conclusion that the Court “has an interest that could be substantially affected by the proceeding.” 22 NYCRR § 100.3(E)(1)(d)(iii). This is one of the situations where the Court “shall disqualify” itself. *Id.* § 100.3(E)(1). The commercial and reputational benefits to Ms. Merchan from the Court’s rulings, including requiring the case to proceed to trial during an election that President Trump is currently winning, are manifest. Those benefits inure to the Court, at the very least in a tangible reputational sense. Therefore, recusal is required as a matter of due process, Judiciary Law § 14, and § 100.3(E)(1).

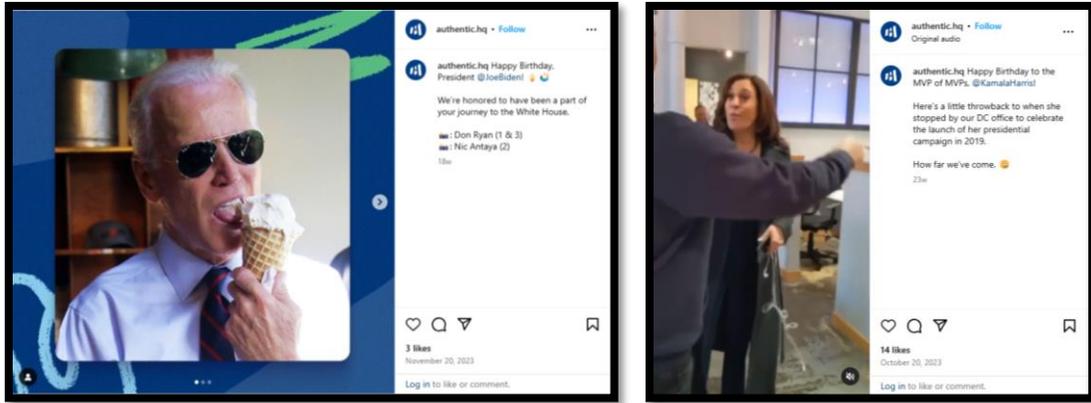
C. Authentic’s Activities Create An Unacceptable Appearance Of Impropriety

Even if the Court concludes that recusal is not required by the state and federal constitutions, Judiciary Law § 14, § 100.3(E)(1), as it should, recusal is appropriate under 22 NYCRR §§ 100.2 and 100.3 based on the appearances of impropriety arising from the foregoing facts and the additional reasons set forth below. While recusal may not be required based on political affiliations and opinions, Ms. Merchan has informed the public that the Court shares some of her bias against President Trump. *See* Aff. ¶ 4. In addition, recusal is necessary because Authentic and Ms. Merchan are marketing and monetizing those opinions through a strategy of

emphasizing connections with President Trump’s rivals and criticizing President Trump. *See* Aff. ¶ 53(a)-(h). This strategy has already been lucrative. It is based in part on communications that are specific to this case. And in this case Your Honor is currently wielding enormous power that the People hope the Court will use, unjustly and improperly, to incarcerate and incapacitate the chief political rival of several “featured clients” of Authentic, including President Biden. *Id.* ¶ 53(b).

While promoting her own work, Ms. Merchan has disclosed statements by the Court that reflect bias toward President Trump. Specifically, during a 2019 podcast, Ms. Merchan described a conversation with Your Honor that included discussion of President Trump. Aff. ¶ 4. Ms. Merchan recalled that Your Honor stated that the Court “hate[s] that politicians use Twitter” because the Court believes that it is “unprofessional” and “not how a politician should behave themselves.” *Id.* Ms. Merchan confirmed that she discussed with the Court that when President Trump “tweets anything that he thinks,” “that’s not what he should be using [Twitter] for.” President Trump was a part of the group of politicians the Court referenced, the People intend to offer evidence of President Trump’s social media posts at trial, and Ms. Merchan’s comments attribute a public, biased view of that evidence from the Court that will be called upon to determine whether it is relevant, unduly prejudicial, and otherwise admissible.

Authentic is also actively promoting its connections to President Trump’s opponents and rivals, including President Biden and Vice President Harris. For example, in separate posts during the fall of 2023, Authentic wished each of them “Happy Birthday”:



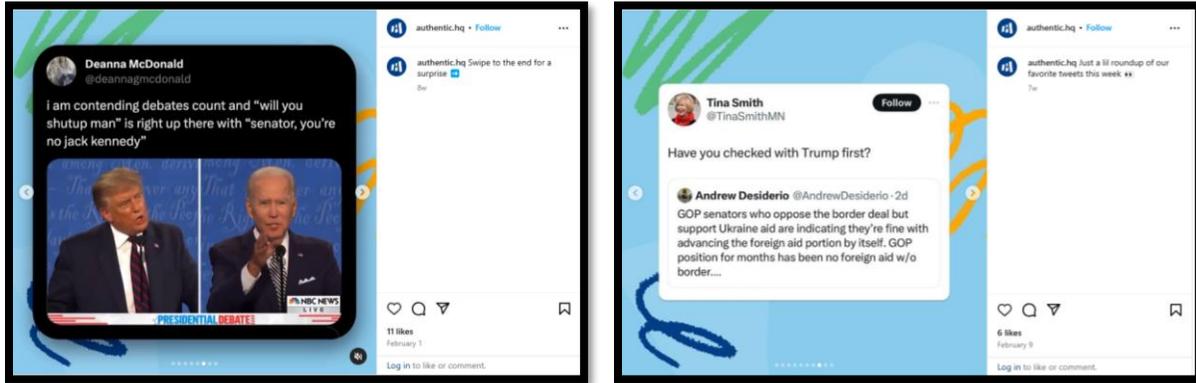
Aff. ¶¶ 38-39. Authentic called attention to the fact that the company had been “part of” President Biden’s “journey to the White House,” and sought to demonstrate its clout to like-minded potential clients by posting a video of Vice President Harris visiting the company’s “DC office to celebrate the launch of her presidential campaign in 2019,” which Ms. Merchan worked on as well. *Id.* ¶ 2; *see also id.* ¶ 54.

By December 2023, following repeated case-specific emails, Facebook advertisements, and TikTok posts, Authentic was actively promoting a communications strategy of “incorporate[ing] salient political players,” including those Authentic viewed as “negative,” in order to “gin up interest in our work.” Aff. ¶ 41. One of the graphics that Authentic used in the piece was telling of the company’s strategy of seeking to leverage bias against President Trump:

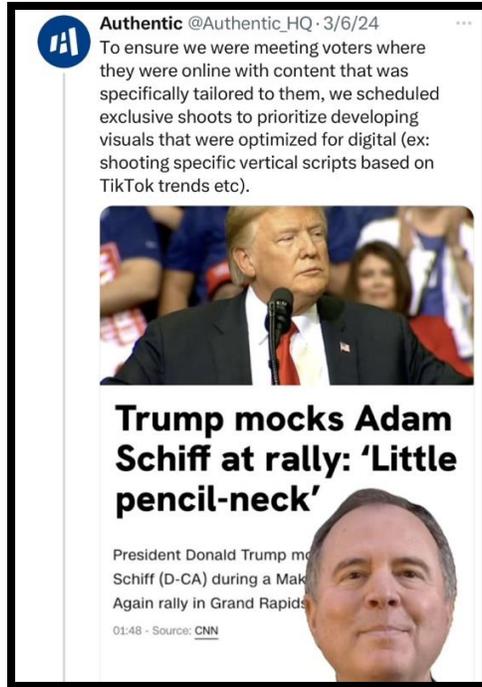


Id.

Within the last two months, Authentic has marketed itself through posts that were critical of President Trump. In February 2024, the company posted the following to its Instagram account:



Id. ¶¶ 45-46. In early March 2024, Authentic’s CEO mischaracterized President Trump as “an actor who fundamentally doesn’t care about our democracy & is just trying to sow civil unrest,” and wrongly argued that President Trump was more dangerous than a run-of-the-mill bad-faith actor.” *Id.* ¶ 47. Around the same time, Authentic called further attention to Congressman Schiff’s work on TikTok and efforts to raise money by criticizing President Trump:



Aff. ¶ 50.

The manner in which Authentic and Ms. Merchan are marketing the company, and making money, through expressions of animus toward President Trump has created a prohibited appearance of impropriety. 22 NYCRR § 100.2. This appearance is made worse by Ms. Merchan’s public statements regarding a conversation with the Court reflecting additional bias against President Trump. Authentic’s clients have sought to use the “prestige of judicial office” associated with this case to “advance [their] private interests.” *Id.* Finally, the evidence outlined above does not “promote[] public confidence in the integrity and impartiality of the judiciary.” *Id.* § 100.2(A). The appearance of impropriety is unacceptable under these circumstances. Therefore, recusal is appropriate.

V. CONCLUSION

For the reasons described above, President Trump respectfully submits that the Court must recuse itself as a matter of constitutional due process and Judiciary Law § 14, and that recusal is also appropriate in light of appearances of impropriety.

Dated: April 3, 2024
New York, New York

By: /s/ Todd Blanche / Emil Bove
Todd Blanche
Emil Bove
Blanche Law PLLC
99 Wall Street, Suite 4460
New York, NY 10005
212-716-1260
toddblanchelaw.com

Attorneys for President Donald J. Trump

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

THE PEOPLE OF THE STATE OF NEW YORK,

- against -

DONALD J. TRUMP,

Defendant.

Ind. No. 71543-23

**AFFIRMATION OF TODD
BLANCHE IN SUPPORT OF
PRESIDENT DONALD J.
TRUMP'S RECUSAL MOTION**

Todd Blanche, a partner at the law firm Blanche Law PLLC, duly admitted to practice in the courts of the State of New York, hereby affirms the following to be true under penalties of perjury:

1. I represent President Donald J. Trump in this matter and submit this affirmation in support of President Trump's April 3, 2024 recusal motion.

2. A website describing campaign efforts by Vice President Kamala Harris, <https://www.democracyinaction.us/2020/harris/harrisorg.html>, which was last updated on December 17, 2019, contains an entry with the following text: "Director of Digital Persuasion Loren Merchan[.] (Feb. 2019) Vice president (from Jan. 2019) and director of digital advertising (from April 2018) at Authentic Campaigns." The website contains a link, labeled "twitter," to an X account with username "lorenm426."

3. On January 11, 2019, Authentic Campaigns, Inc., posted the following message to its X account:



4. On or about June 16, 2019, a female identified as Loren Merchan stated the following on an episode of the “Social Media and Politics” podcast entitled, “Authentic Campaigns, Social Media, and Politics, with Loren Merchan and Jonathan Barnes”:

“So, I’ve actually had a couple conversations with my Dad recently where he’s kind of like, ‘I hate that politicians use Twitter,’ and like, ‘It’s so unprofessional,’ and, you know, ‘That’s not how a politician should behave themselves.’ And I explained that like, ‘Yeah, I think there are a lot of instances where it is not used in - like when our President tweets anything that he thinks, and like, that’s not what he should be using it for.’”¹

¹ Social Media & Politics, *Authentic Campaigns, Social Media, and Politics, with Loren Merchan and Jonathan Barnes*, APPLE PODCASTS, at 13:29 (June 16, 2019), <https://podcasts.apple.com/us/podcast/authentic-campaigns-social-media-and-politics-with/id1170179745?i=1000441661496>.

5. On January 9, 2020, Authentic posted the following announcement to its Instagram account:



6. In 2020, Loren Merchan was named a “Rising Star” by “Campaigns & Elections,” and the write-up regarding this recognition included the following:

Democrat

Loren Merchan
Authentic Campaigns, President and Partner

Throughout her career, Loren has fought hard to get results. Not just for her clients but for the industry as a whole and the people who work in it. Her work is setting new benchmarks and winning elections. In addition to doing ground-breaking, historical work for clients like Jon Tester, Kamala Harris, Adam Schiff, and others, Authentic Campaigns is setting new industry standards through its commitment to diversity, transparent compensation, employee benefits, and more. Loren is working to transform the industry by developing new best practices for the work we do for our clients as well as the work we do for our people.

7. The Indictment in this case was filed on March 30, 2023.

8. On March 30, 2023, Congressman Adam Schiff caused the dissemination of the email attached as Exhibit 1.

9. On March 30, 2023, the “Senate Majority PAC,” which is a political action committee that supports Senate campaigns for the Democrat party, caused the dissemination of the email attached as Exhibit 2.

10. On March 30, 2023, the “House Majority PAC,” which is a political action committee that supports House campaigns for the Democrat party, caused the dissemination of the email attached as Exhibit 3.

11. On March 30, 2023, Congressman Schiff caused the following post to be made to his X account:



12. On March 31, 2023, Congressman Schiff caused the dissemination of the email attached as Exhibit 4.

13. On March 31, 2023, Congressman Schiff caused the dissemination of the email attached as Exhibit 5.

14. On or about March 31, 2023, Congresswoman Lauren Underwood caused the dissemination of the email attached as Exhibit 6.

15. On March 31, 2023, Congressman Hakeem Jeffries caused the dissemination of the email attached as Exhibit 7.

16. On or about April 1, 2023, Congresswoman Barbara Lee caused the dissemination of the email attached as Exhibit 8.

17. Beginning on April 3, 2023, Congressman Schiff caused the following solicitations to be posted on Facebook:

The image displays three side-by-side screenshots of Facebook advertisements for Adam Schiff, sponsored by Schiff for Senate. Each ad features a video thumbnail of Schiff with a play button and the text "This is a validation of the rule of law". The ads include a "Donate now" button and a footer with "SECURE.ACTBLUE.COM NOT AFFILIATED WITH META Fight Back Against Donald Trump".

Ad 1 (Left): Library ID: 905218980746042. Inactive. Apr 3, 2023 - Apr 5, 2023. Estimated audience size: 50K - 100K. Amount spent (USD): \$100 - \$199. Impressions: 1K - 2K.

Ad 2 (Middle): Library ID: 6216470998436499. Inactive. Apr 3, 2023 - Apr 4, 2023. Estimated audience size: 50K - 100K. Amount spent (USD): <\$100. Impressions: <1K.

Ad 3 (Right): Library ID: 883933766032896. Inactive. Apr 3, 2023 - Apr 5, 2023. Estimated audience size: >1M. Amount spent (USD): <\$100. Impressions: 1K - 2K.

Text in Ads:

Adam Schiff
Sponsored · Paid for by SCHIFF FOR SENATE

Team — the Manhattan District Attorney just indicted Donald J. Trump with criminal charges stemming from hush money payments he made to a porn star during the 2016 campaign.

Let's be absolutely clear: Donald Trump is as dangerous as ever trying to incite his followers to protest his arrest — we saw where his last efforts at incitement brought the country.

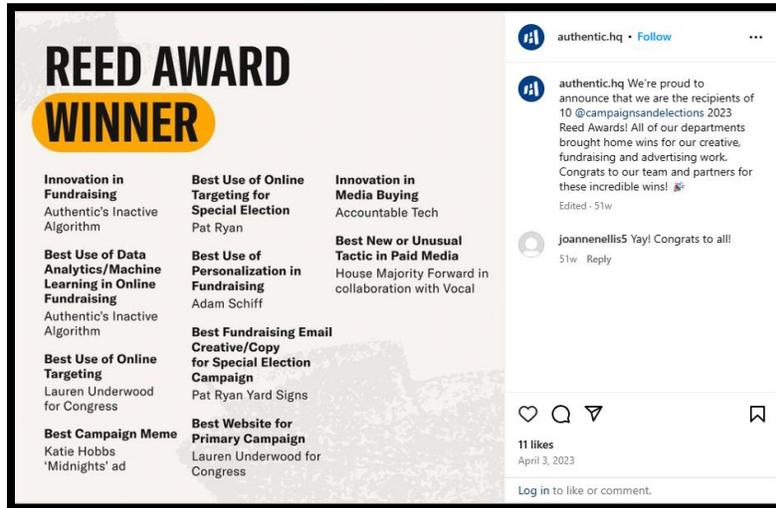
There is no doubt Trump will weaponize this indictment for his political advantage — just like he did with impeachment — because winning the presidency may well be the only way he hopes to avoid going to jail.

It won't be long before Trump drags Adam's name into this mess, so please, chip in any amount to our campaign today. Together, we will defeat Trump and his MAGA movement and protect our democracy.

SECURE.ACTBLUE.COM
NOT AFFILIATED WITH META
Fight Back Against Donald Trump

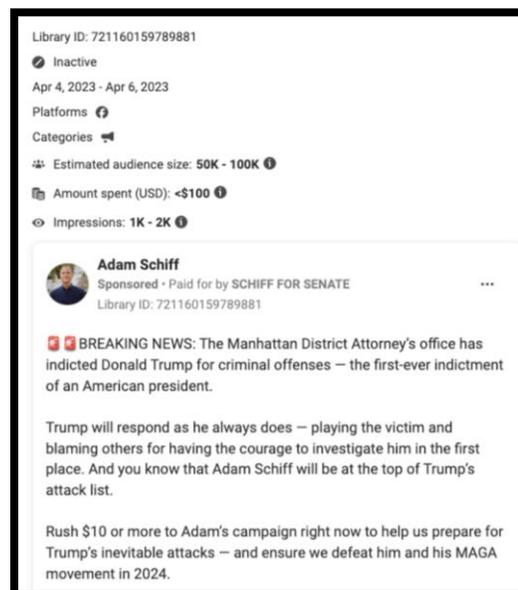
Donate now

18. On April 3, 2023, Authentic posted the following announcement to its Instagram account:



19. On April 4, 2023, Congressman Schiff caused the dissemination of the email attached as Exhibit 9.

20. Beginning on April 4, 2023, Congressman Schiff caused the following fundraising advertisement relating to the Indictment in this case to be posted on Facebook:



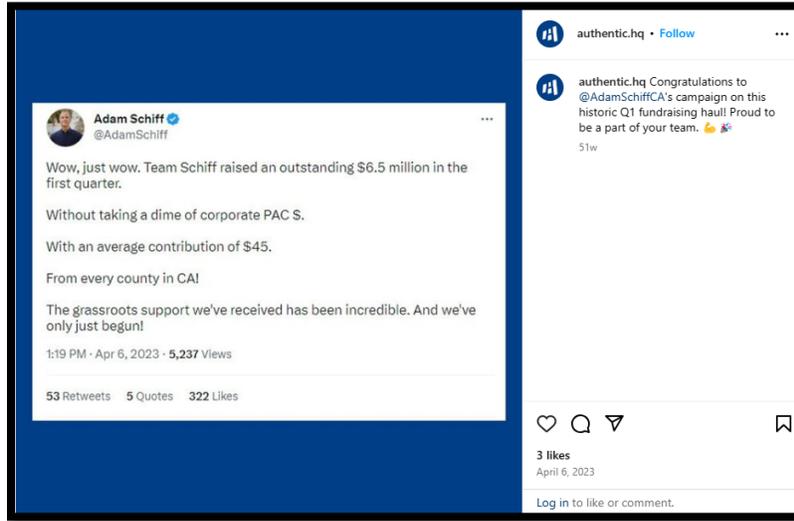
21. On April 5, 2023, Congressman Schiff caused a video of comments that he made to an audience to be posted to his TikTok account, attached as Exhibit 10. The video included the following image:



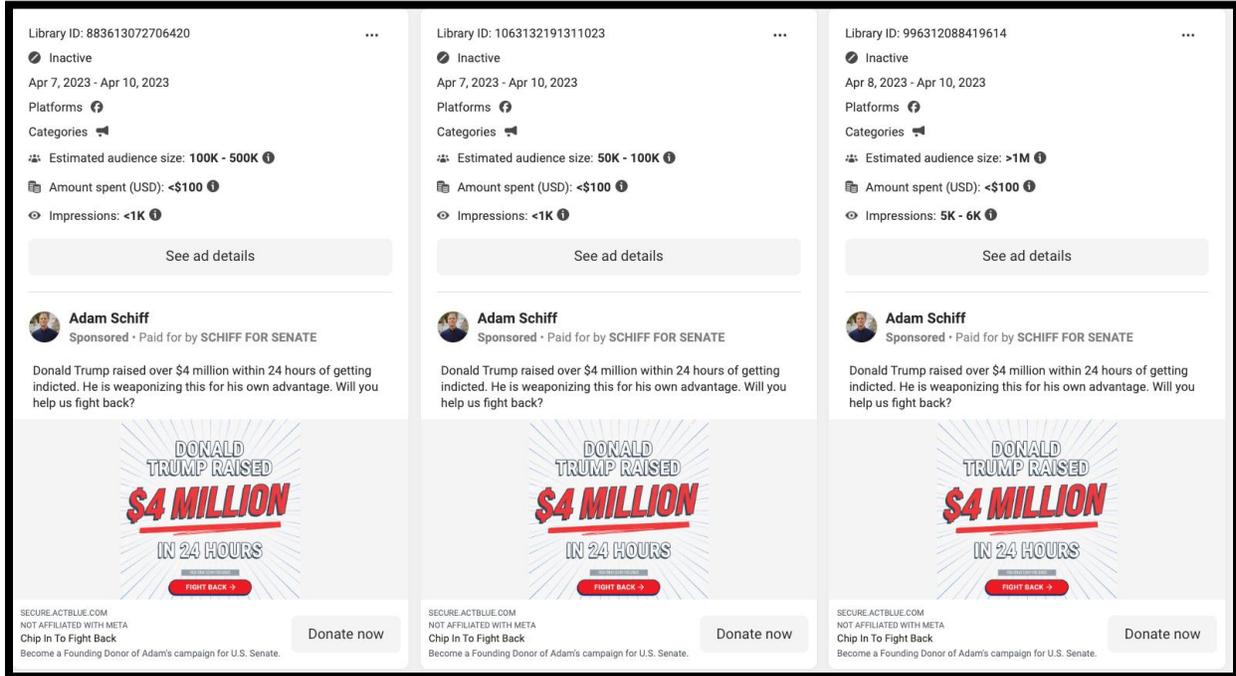
22. On April 5, 2023, Congressman Schiff caused a second video of comments that he made to an audience to be posted to his TikTok account, attached as Exhibit 11. The video included the following image:



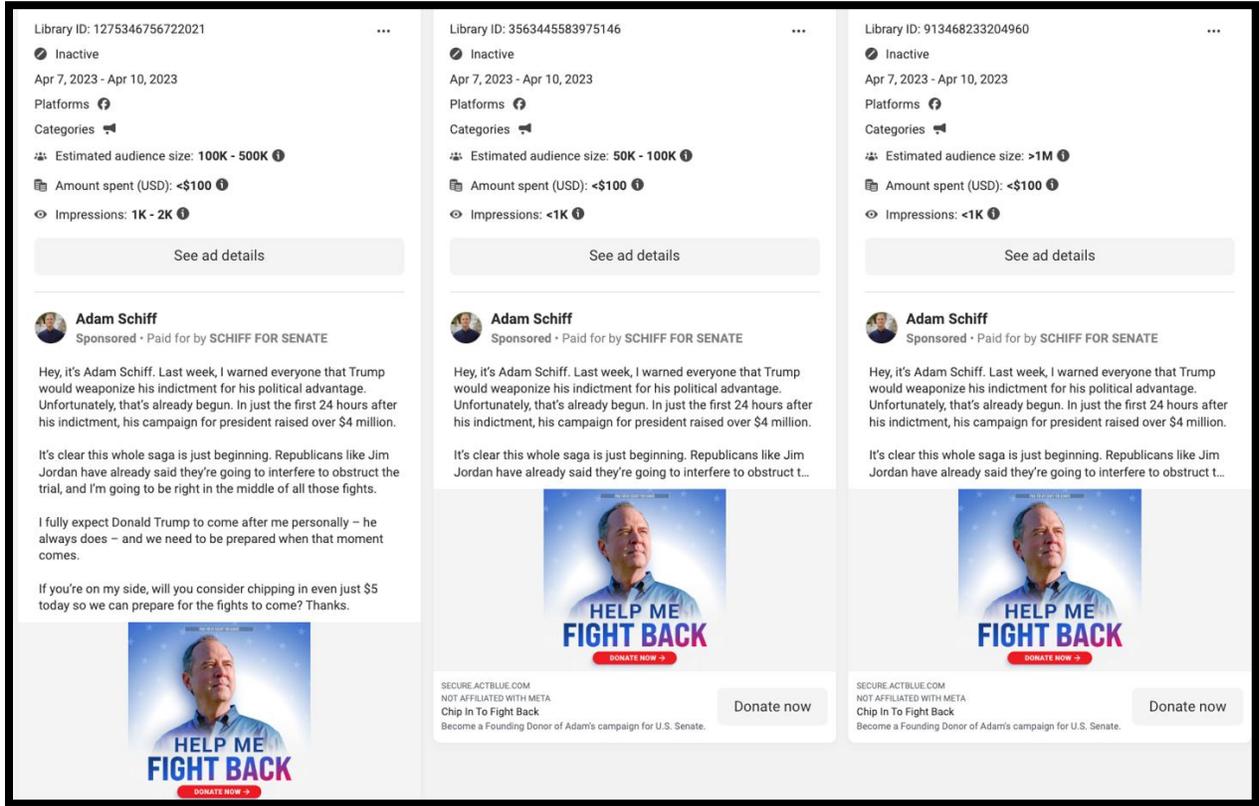
23. On April 6, 2023, Authentic posted the following on its X account:



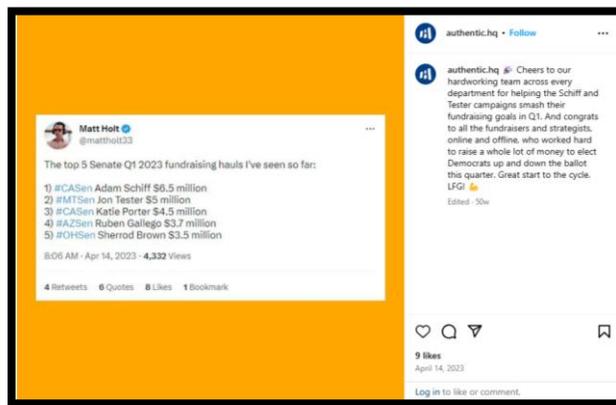
24. Beginning on April 7, 2023, Congressman Schiff caused the following solicitations to be posted on Facebook:



25. Beginning on April 7, 2023, Congressman Schiff caused the following solicitations to be posted on Facebook:



26. On April 14, 2023, Authentic posted the following to its Instagram account:



27. On May 31, 2023, President Trump filed a motion seeking Your Honor’s recusal. The recusal motion raised concerns regarding Ms. Merchan’s work at Authentic, which the defense learned about via media reports rather than disclosures by the Court.

28. On July 5, 2023, Authentic re-posted a message from Congressman Schiff to its X account:



29. On August 4, 2023, *Politico* published an article entitled “‘Whistling past the graveyard’: Dem fear grows over massive grassroots fundraising hit,” which is attached as Exhibit 12.

30. The Court denied the motion on August 11, 2023. The ruling, including the May 4, 2023 ethics opinion that Your Honor included as Exhibit A, is attached hereto as Exhibit 13.

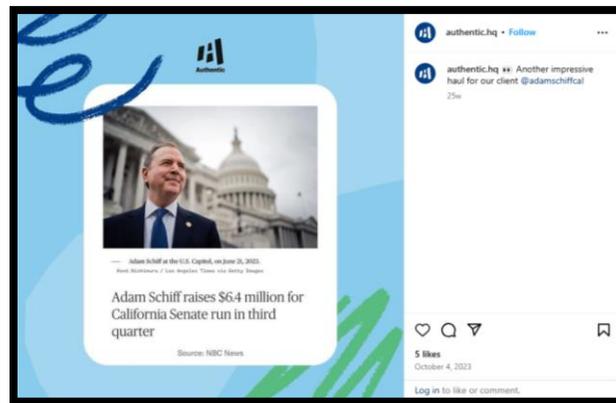
31. On August 22, 2023, Congressman Schiff caused a video of comments that he made to an audience to be posted to his TikTok account, which is attached as Exhibit 14.

32. On August 23, 2023, *Medium* published an interview with Mike Nellis, the Founder and CEO of Authentic, which is attached as Exhibit 15.

33. On August 31, 2023, the Senate Majority PAC sent an email, which is attached as Exhibit 16.

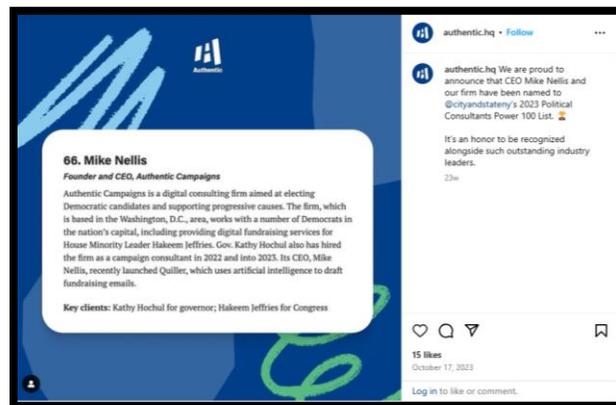
34. On September 20, 2023, Governor Hochul signed a bill that scheduled the New York State presidential primary for April 2, 2024. At the time that the bill was signed, the primary was scheduled to take place during the trial in this case.

35. On October 4, 2023, Authentic posted the following announcement to its Instagram account:



36. On October 10, 2023, Authentic and its CEO, Mike Nellis, were named to the “2023 Political Consultants Power 100” as some of “New York’s most effective campaign advisers.”

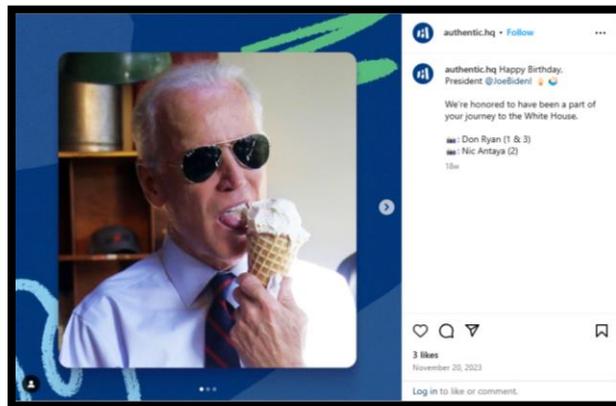
37. On October 17, 2023, Authentic posted the following to its Instagram account:



38. On October 20, 2023, Authentic posted the following to its Instagram account:



39. On November 20, 2023, Authentic posted the following announcement to its Instagram account:



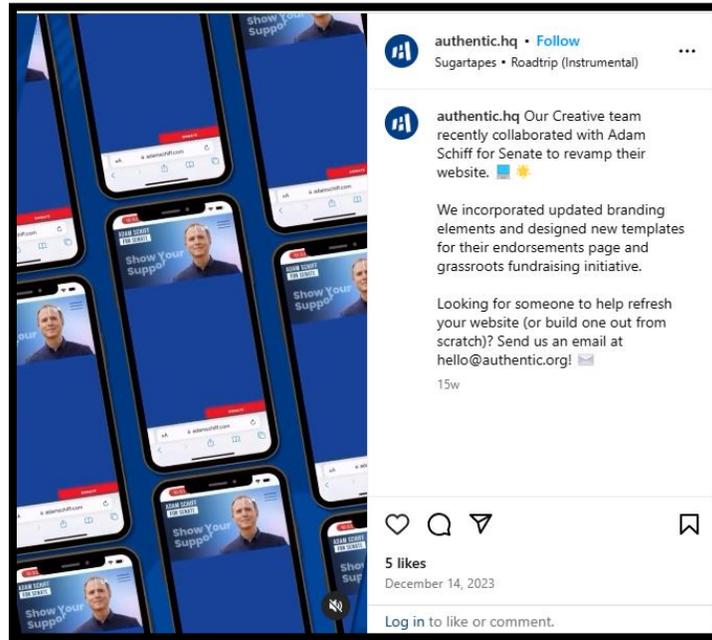
40. On December 4, 2023, “Campaigns & Elections” posted an article, which is attached as Exhibit 17.

41. On December 13, 2023, Authentic posted to its LinkedIn account an article by one of its “Managing Strategist[s]” entitled “Why You Should Incorporate Graphics Into Your Email Program.” The article described Authentic’s use of “Senate Majority PAC as a case study” to conclude that “regularly leveraging graphic elements into the email program boosted engagement and conversion rates — increasing the average amount of donations raised per email.” According to the article, as part of the “case study,” Authentic worked with the Senate Majority PAC to

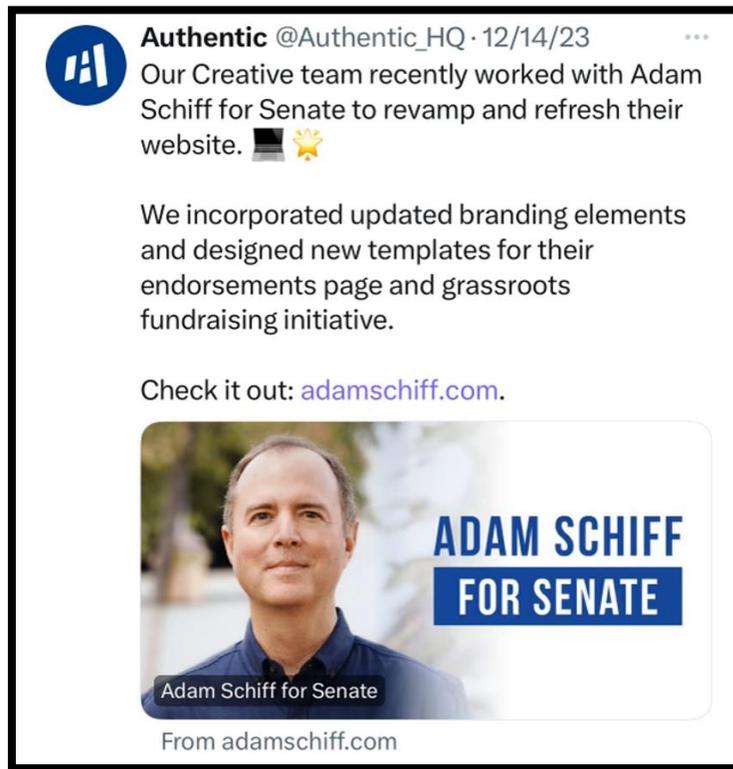
“incorporate[] salient political players — both positive and negative — to gin up interest in our work.” The article included the following example of a graphic used in the case study:



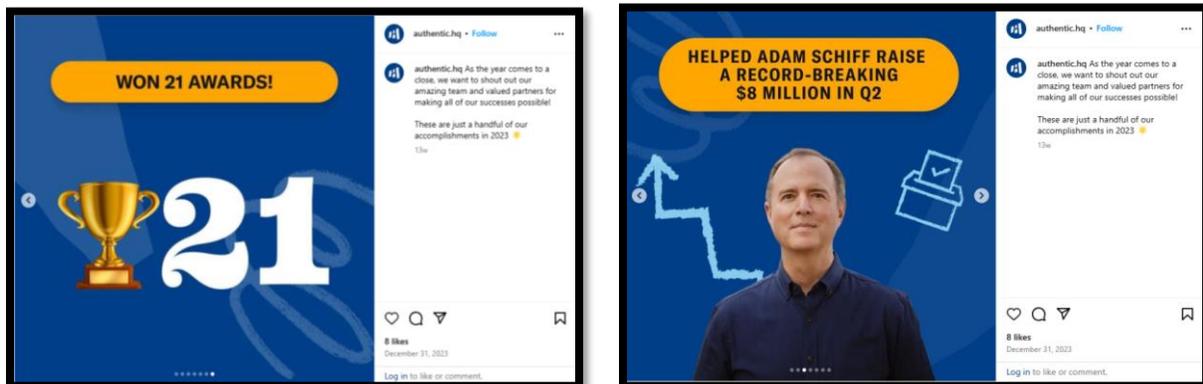
42. On December 14, 2023, Authentic posted the following to its Instagram account:



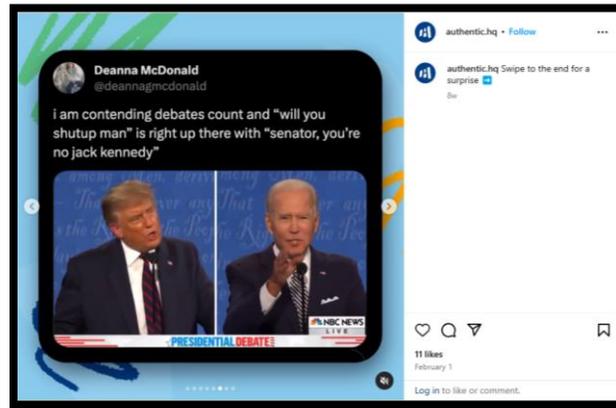
43. On December 14, 2023, Authentic posted the following to its X account:



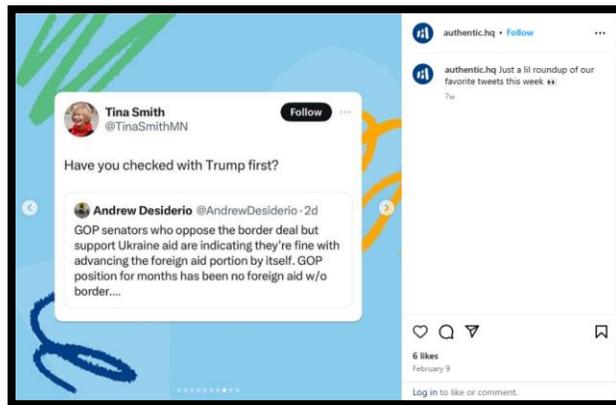
44. On December 31, 2023, Authentic posted the following announcement to its Instagram account:



45. On February 1, 2024, Authentic posted the following to its Instagram account:



46. On February 9, 2024, Authentic posted the following to its Instagram account:



47. In approximately early March 2024, Authentic re-posted on its LinkedIn account a post from Authentic CEO Mike Nellis, which included the following: “An actor who fundamentally doesn’t care about our democracy & is just trying to sow civil unrest (and yes, this includes Donald Trump & his closest allies) is more dangerous than a run-of-the-mill bad-faith actor.”

48. On March 6, 2024, Mr. Nellis posted the following to his Instagram account:



49. During roughly the same time period in early March 2024, Authentic posted to its LinkedIn account information regarding “a great time celebrating soon-to-be Senator Adam Schiff’s big primary win last night in LA!” The LinkedIn post described Authentic’s efforts to “contribute to raising over \$30 million and counting for the campaign, and wanted to share some highlights from the last 15 months.” The “highlights” included:

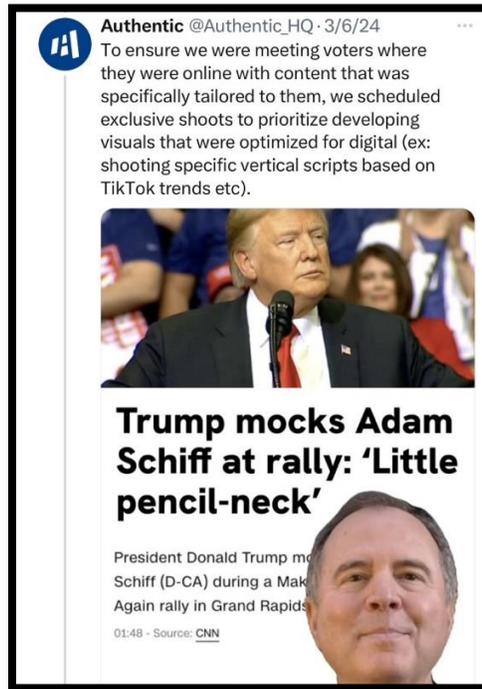
For starters, we worked with the campaign to ensure digital content was being prioritized and had buy-in from the very top. Our goal was to implement a variety of innovative tactics to make sure we were reaching voters who were most likely to vote in the primary and/or swing toward us.

[. . .]

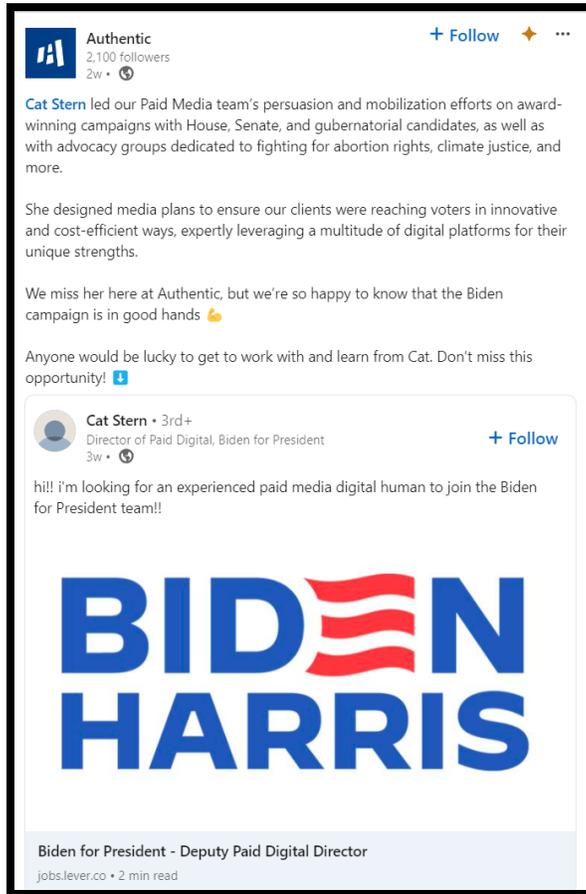
To ensure we were meeting voters where they were online with content that was specifically tailored to them, we scheduled exclusive shoots to prioritize developing visuals that were optimized for digital (ex: shooting specific vertical scripts based on TikTok trends etc).

Our team was built to mobilize quickly around news developments and rapid response moments.

50. On March 6, 2024, Authentic posted the following to its X account:



51. In approximately mid-March 2024, Authentic posted the following to its LinkedIn account:

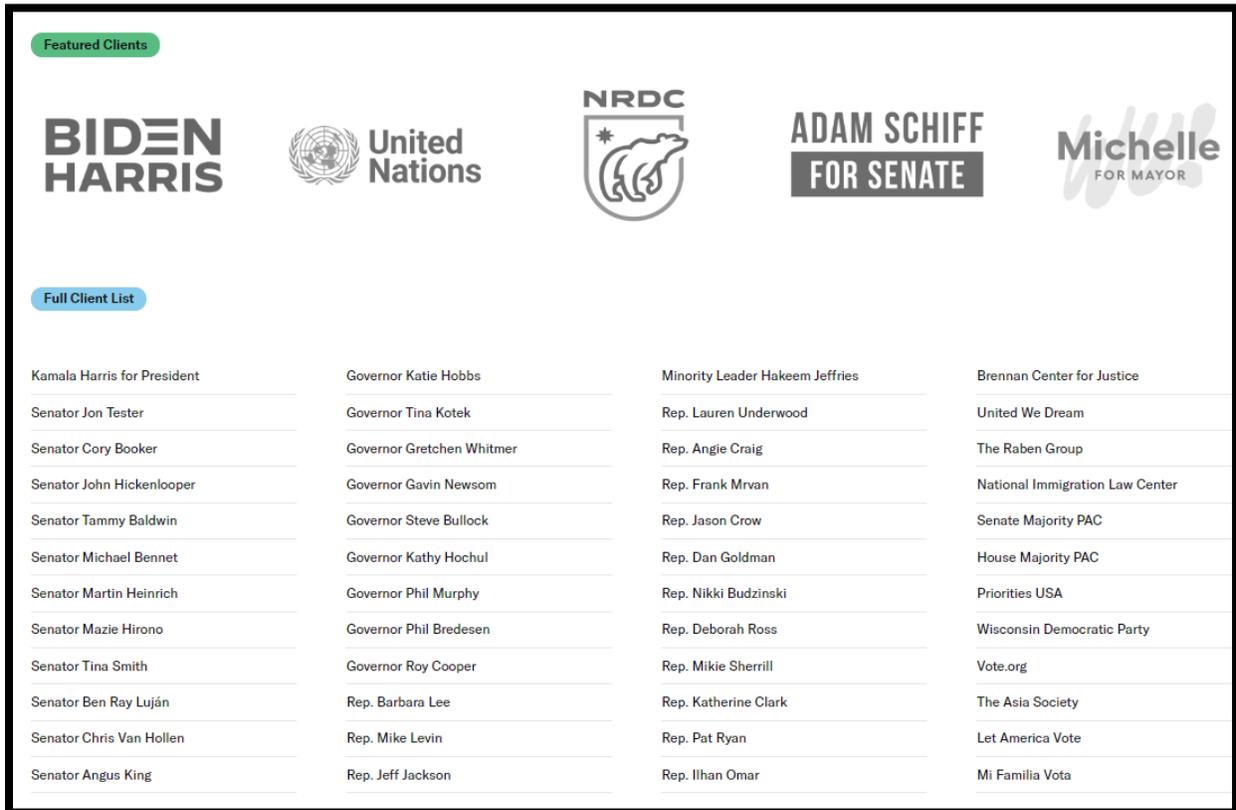


52. Beginning on or about March 28, 2024, Authentic’s X account, which was previously publicly available, stated: “These posts are protected. Only confirmed followers have access to @Authentic_HQ’s posts and complete profile. Tap the ‘Follow’ button to send a follow request.”

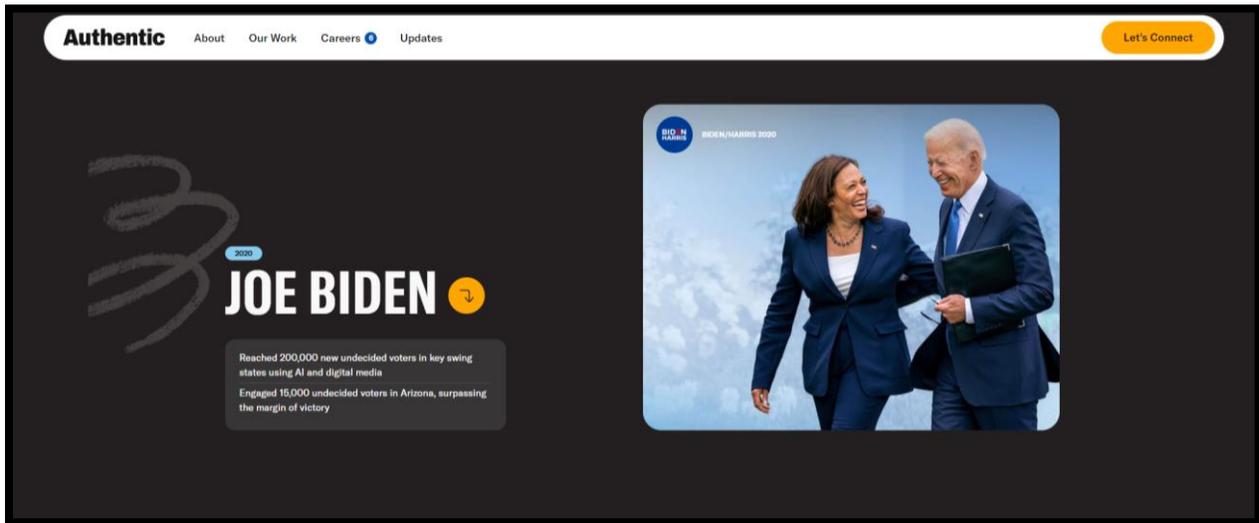
53. As of April 2, 2024, Authentic’s public website, authentic.org, contained the following webpages and information:

a. The website described Authentic as a “full-service digital marketing agency for non-profits and campaigns that unleashes the power of the internet to create lasting and inclusive change.”

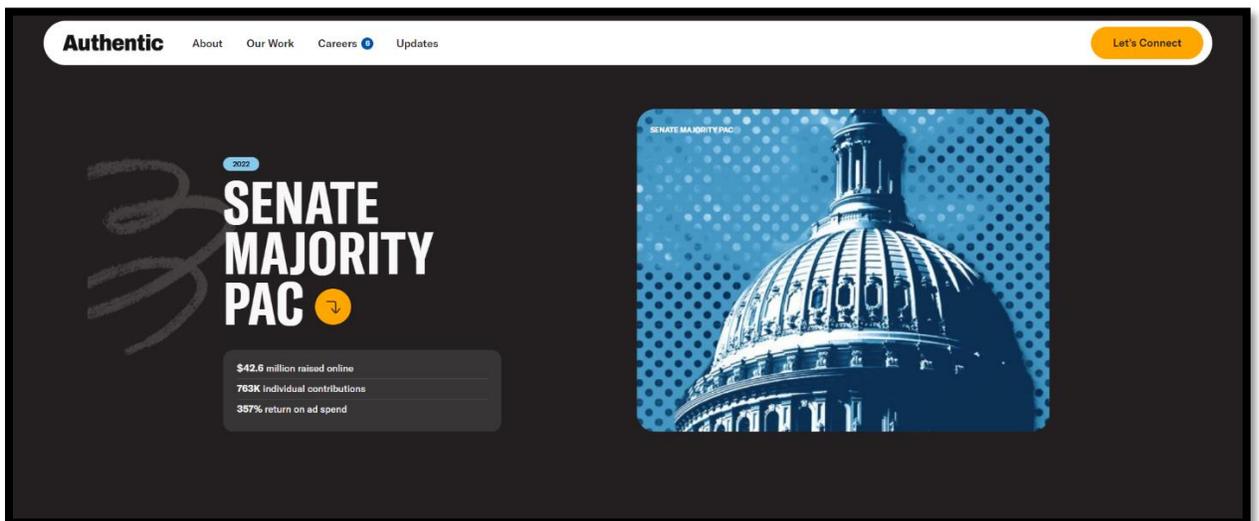
b. A page entitled “Our Clients,” which included:



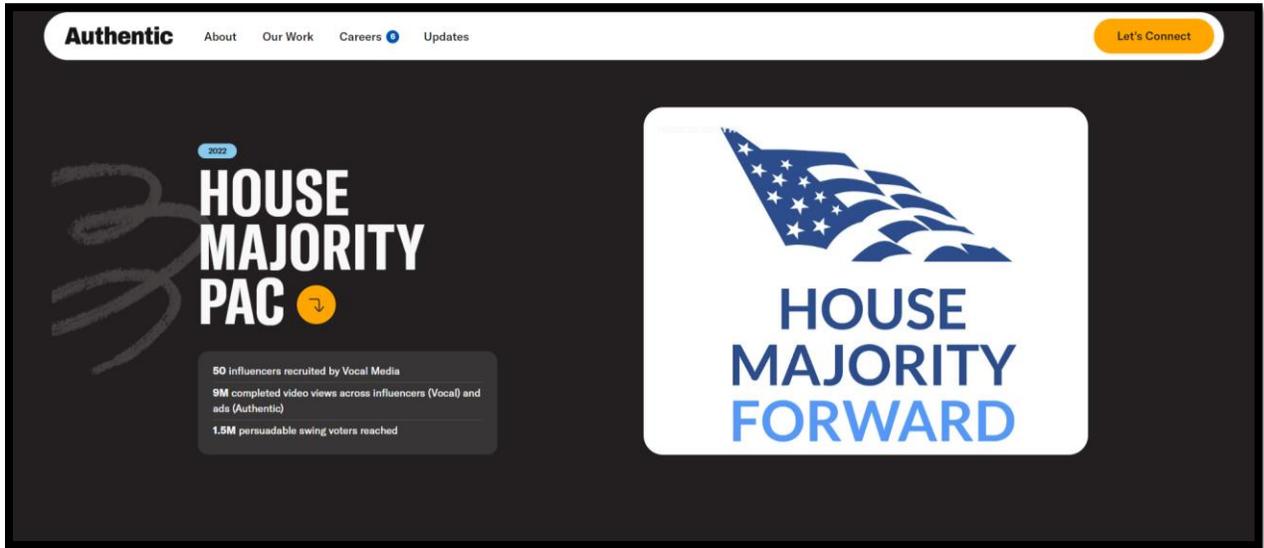
c. A “case study” regarding Authentic’s work for President Biden and Vice President Harris in connection with the 2020 election, which included use of “the strengths of Facebook’s expansive platform with the precision and adaptability of conversational AI” to generate “targeted Facebook ads about Joe Biden for president”:



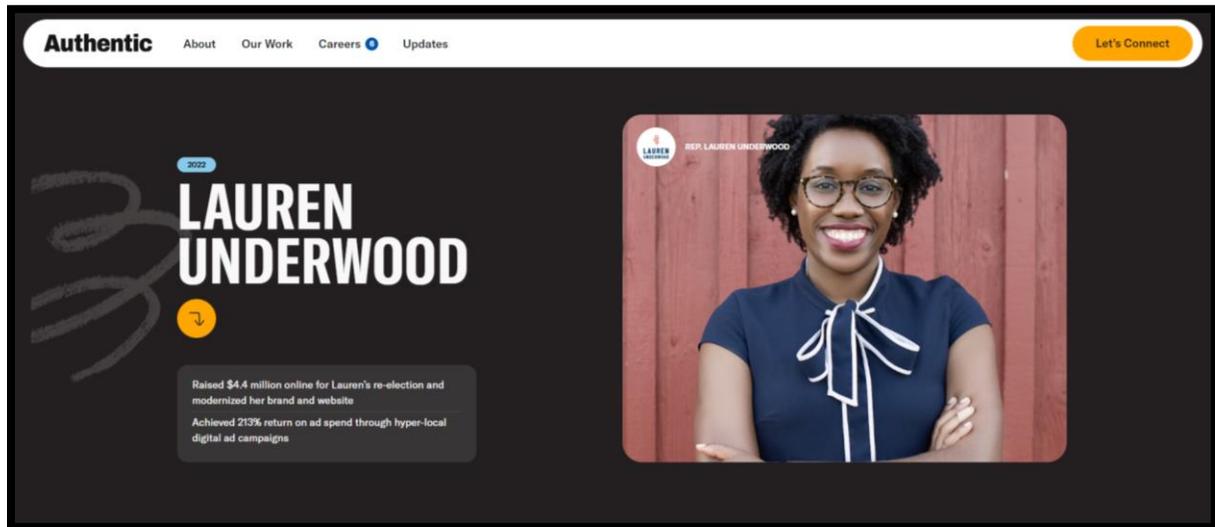
d. A “case study” regarding Authentic’s work for the “Senate Majority PAC,” which included “inherit[ing] the PAC’s email program,” “worked with IP and spam-based blacklists to refresh [the PAC’s] sender reputation,” and “optimizing the email content and subject lines”:



e. A “case study” regarding Authentic’s work for the “House Majority PAC,” which indicated that Authentic had “created a best in class ads program”:



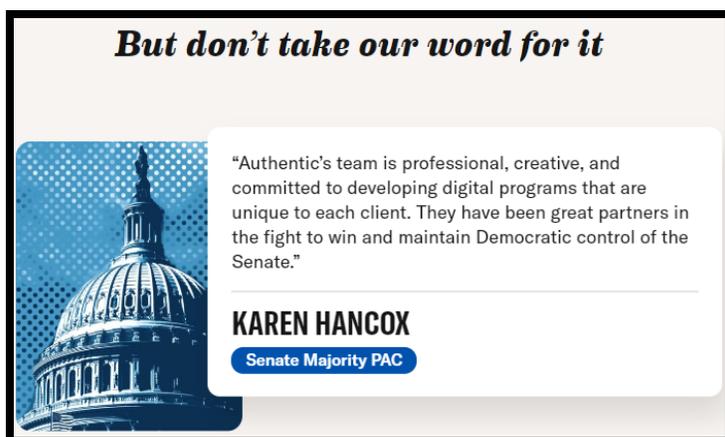
f. A “case study” regarding Authentic’s work for Congresswoman Underwood in connection with her campaign in the 2022 election, which included “tailored messaging in our email and SMS campaigns”:



- g. A testimonial from Congressman Schiff:



- h. A testimonial from a representative of the Senate Majority PAC:



54. On an episode of the “Digital Politics with Karen Jagoda” podcast entitled, “Strength of Online for Voter Persuasion with Loren Merchan Authentic,” which was available as of April 2, 2024, a female identified as Ms. Merchan described Authentic’s work to “persuade” voters to support Democratic candidates, including President Biden and Vice President Harris:

. . . So we decided we really wanted to build out our persuasion team so that we can offer this service to more candidates and causes that we care about We want to make sure that, um, you know, for us that progressives are winning.

. . . One of the things I love that we did in 2019 on the Harris campaign, our team was the first to use an artificial intelligence bot to start conversations with potential donors, volunteers, and voters via Facebook messenger. . . . And then in 2020 we had the opportunity to do that and take it to the next level with some other campaigns, including the Biden campaign. And we worked with their campaign’s organizing team to reach individuals that they were having trouble contacting. . . . So we were able to reach people that they couldn’t through traditional methods. . . .²

55. Based on the Internet archive known as the “Wayback Machine,” on January 20, 2021, the following post was made to the X account with username “LorenM426”, which is no longer publicly available on X:



² Digital Politics with Karen Jagoda, *Strength of Online for Voter Persuasion with Loren Merchan Authentic*, DIGITALPOLITICS RADIO.COM, at 2:20, 7:20 (Sept. 13, 2021), <https://digitalpoliticsradio.com/strength-of-online-for-voter-persuasion-with-loren-merchan-authentic>.

56. Based on the “Wayback Machine,” the following additional posts were made to the X account with username “LorenM426,” which are no longer publicly available on X:



57. As of on or about March 26, 2024, the public-facing portion of the X account with username @lorenm426 included the following text and images, including a public re-posted message from Authentic's X account on January 9, 2020:

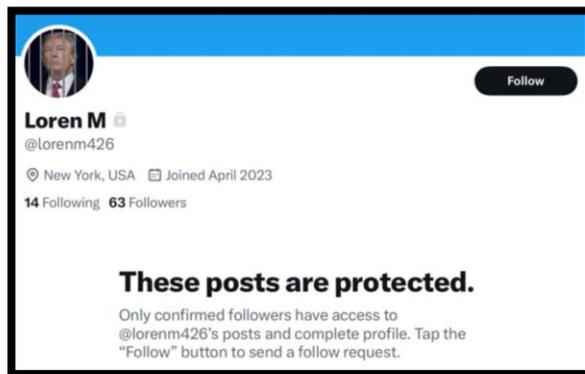


58. On or about March 27, 2024, the media reported a public statement by Al Baker, the Director of Communications for New York’s Office of Court Administration:

The X, formerly Twitter, account being attributed to Judge Merchan’s daughter no longer belongs to her since she deleted it approximately a year ago . . . It is not linked to her email address, nor has she posted under that screen name since she deleted the account. Rather, it represents the reconstitution, last April, and manipulation of an account she long ago abandoned.³

59. Beginning on or about March 28, 2024, Authentic’s X account, which was previously publicly available, stated: “These posts are protected. Only confirmed followers have access to @Authentic_HQ’s posts and complete profile. Tap the ‘Follow’ button to send a follow request.”

60. As of on or about March 28, 2024, the public-facing portion of the X account with username @lorenm426 included the following text and images:



³ Laura Italiano & Madison Hall, *Trump is using a loophole in his new gag order to rage against his hush-money judge’s progressive daughter*, BUSINESS INSIDER (Mar. 27, 2024, 3:59 p.m.), www.businessinsider.com/trump-uses-gag-loophole-rage-against-hush-money-judges-daughter-2024-3.

61. As of on or about March 29, 2024, the public-facing portion of the X account with username @lorenm426 included the following text and images:



62. As of on or about April 2, 2024, the public-facing portion of the X account with username @lorenm426 included the following text and images and reflected no posts, re-posts, or replies:



63. Attached as Exhibit 18 is a list of reported disbursements to Authentic during the 2022 election cycle, which was downloaded from OpenSecrets.org on April 3, 2024.

64. Attached as Exhibit 19 is a list of reported disbursements to Authentic during the 2024 election cycle, which was downloaded from OpenSecrets.org on April 3, 2024.

65. According to OpenSecrets.org, Authentic was the #1 vendor in the country for Kamala Harris's 2020 presidential campaign based on disbursements of \$4,855,594. Also according to OpenSecrets.org, Authentic is ranked as the #21 vendor in the country based on expenditures reported by candidates, parties, PACs and outside spending groups for the 2024 election cycle, based on Federal Election Commission data available electronically on February 2, 2024.

66. Attached as Exhibit 20 is a list of reported disbursements to Authentic, downloaded from the website of the Federal Election Commission on April 3, 2024, for the period from March 30, 2023 through the present.

67. Attached as Exhibit 21 is a list of reported disbursements to Authentic, downloaded from the website of the New York State Board of Elections on April 3, 2024.

68. According to the website of "Fight Like Hell PAC," <https://fightlikehellpac.org>, the PAC "is a nationwide movement led by Governor Gretchen Whitmer," which "will focus the next two years on supporting President Biden and Vice President Harris' re-election campaign, as well as helping Democrats flip the House and hold the Senate and ensuring our voice is heard in Washington."

69. According to the website of the Democratic Attorneys General Association, New York Attorney General Leticia James is a member of the Association.

70. The X account of the New York Attorney General contains the following public post:



71. On November 23, 2023, Governor Kathy Hochul released the following public statement:

Former President Donald Trump is testifying in an unprecedented civil trial brought by our own Attorney General, Tish James. So far from telling the truth as he’s required to do, he’s throwing temper tantrums from the witness stand and verbally attacking judges and courtroom staff. His conduct has been a disgrace and I have full confidence that Donald Trump will be held accountable for his actions.

72. During an interview on February 29, 2024, Governor Kathy Hochul stated:

I have long known, as has everyone in the State of New York, anyone following the news that Donald Trump had unethical business practices. You go to any businessperson who ever worked with him over the last 40 years, and they all have stories about how they were defrauded, and banks that were defrauded based on false information.

73. According to the website of “Priorities USA,” www.priorities.org, on April 26, 2023, Priorities USA announced “a targeted goal of \$75 million towards digital mobilization and persuasion programming in six battleground states,” which the super PAC planned to use to “support President Biden and Vice President Kamala Harris on their path to reelection in 2024 and bolster Democrats’ presence to diverse audiences of voters online.” A separate page on the Priorities USA website states that “Our plan is to remind voters of President Biden’s impact and contrast his record with the agenda of dangerous MAGA Republicans. . . . We’ll do both by reaching voters where they are: online.”

74. Attached as Exhibit 22 is a March 17, 2024 article entitled, “There’s no agenda here’: A look at the judge who is overseeing Trump’s hush money trial.”

75. I have read the factual representations contained in the accompanying memorandum of law in support of President Trump’s recusal motion, and those representations are true or I believe to be true.

76. This Affirmation is submitted upon my personal knowledge or upon information and belief, the source of which is my communications with the court, with prosecutors and with other counsel, my review of documents in the case file, and an independent investigation into the facts of this case.

WHEREFORE, for the reasons set forth in the accompanying memorandum of law, President Trump respectfully submits that the Court should grant the recusal motion, which we will file on the public docket.

Dated: April 3, 2024
New York, New York

By: /s/ Todd Blanche
Todd Blanche
Blanche Law PLLC
99 Wall Street, Suite 4460
New York, NY 10005
212-716-1250
toddblanchelaw.com

Attorney for President Donald J. Trump

EXHIBIT 1

★ ARCHIVE *of* POLITICAL EMAILS ★

≡ MENU

✉ EMAIL

The first-ever indictment of an American president

ADAM SCHIFF

From Adam Schiff <reply@e.adamschiff.com>

Subject The first-ever indictment of an American president

Date March 30, 2023 11:15 PM

HTML Plain Text Screenshot

ADAM SCHIFF FOR SENATE

BREAKING NEWS:

The Manhattan District Attorney's office has indicted Donald Trump for criminal offenses — **the first-ever indictment of a former American president.**

It is a somber moment, and unprecedented for a former president to be indicted, but his alleged offenses are also unprecedented. If the rule of law is to be applied equally — and it must — it must apply to the powerful as it applies to everyone else. To do otherwise is not a democracy.

Trump will respond as he always does — playing the victim and blaming others for having the temerity to investigate him in the first place. And you know that I will be one of the first people he will go after. He always does.

[Rush \\$10 to my campaign right now to help us prepare for Trump's inevitable attacks — and ensure we defend the rule of law.](#)

DONATE \$10

John — the Manhattan District Attorney just indicted Donald J. Trump with criminal charges stemming from hush money payments he made to a porn star during the 2016 campaign. It is the first of what may be several charges resulting from criminal investigations in New York, Georgia, and at the Justice Department.

The indictment of a former president is a very serious matter, but so is the sweep of Donald Trump's misconduct. And one thing that has always been clear about Trump, if he is not held accountable, he will go on to commit even worse offenses.

And let's be absolutely clear:

Donald Trump is as dangerous as ever, trying to incite his followers to protest his arrest — we saw where his last efforts at incitement brought the country. We must make sure that never happens again.

And this may be just the beginning of the fight to hold him accountable — with another grand jury investigation in Fulton County, Georgia, that is still pending, and a federal criminal investigation as well.

Trump has accused Manhattan District Attorney Alvin Bragg, who is Black, of being a politically motivated "racist."

He has called the grand jury inquiry a "witch hunt."

There is no doubt Trump will weaponize this indictment for his political advantage — just like he did with impeachment — because winning the presidency may well be the only way he hopes to avoid going to jail.

Trump has shown that he will tear down the entire system of American democracy to protect himself and return to power. And we must not let him. **John, rush any amount to our campaign right now.**

If you've saved your payment information with ActBlue Express, your donation will go through immediately.

[EXPRESS DONATE \\$10](#)[EXPRESS DONATE \\$25](#)[EXPRESS DONATE \\$50](#)[EXPRESS DONATE \\$100](#)[EXPRESS DONATE \\$250](#)[ANOTHER AMOUNT](#)

A democracy demands truth. It demands accountability. And it demands justice.

[Trump's indictment is an important affirmation of the rule of law. But he thinks this helps him politically. John, chip in any amount to our campaign today. Together, we will defeat Trump and his MAGA movement in 2024, and protect our democracy.](#)

Thank you,

Adam Schiff



**ADAM SCHIFF
FOR SENATE**

[DONATE MONTHLY](#)

150 E. Olive Ave., Suite 208 Burbank CA, 91502

WWW.ADAMSCHIFF.COM | CONTACT@ADAMSCHIFF.COM | [PRIVACY POLICY](#)

PAID FOR AND AUTHORIZED BY SCHIFF FOR SENATE

If you wish to no longer receive these messages, please unsubscribe.

MESSAGE ANALYSIS

- **Sender:** [Adam Schiff](#)
- **Political Party:** [Democratic](#)
- **Country:** [United States](#)
- **State/Locality:** [California](#)
- **Office:** [United States House of Representatives](#)
- **Email Providers:**
 - ActionKit

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EXHIBIT 2

★ ARCHIVE *of* POLITICAL EMAILS ★

≡ MENU

✉ EMAIL

BREAKING: Trump indicted

SENATE MAJORITY PAC

From Defend the Senate <information@democrats.senatemajority.com>

Subject BREAKING: Trump indicted

Date March 30, 2023 10:29 PM

HTML Plain Text Screenshot



BREAKING NEWS: Donald Trump indicted by Manhattan grand jury

[This is an important moment for our democracy, but our work isn't over. We must continue protecting our Senate majority from GOP extremists. Please, rush in \\$10 \(becomes \\$60\) to help Defend the Senate >>](#)

If you've saved your payment information with ActBlue Express, your donation will go through immediately:

DONATE \$10 (\$60 IMPACT!)	DONATE \$25 (\$150 IMPACT!)
DONATE \$50 (\$300 IMPACT!)	DONATE \$100 (\$600 IMPACT!)
DONATE \$250 (\$1500 IMPACT!)	ANOTHER AMOUNT

John,

The New York Times just reported that a Manhattan grand jury voted to indict Donald Trump. He was under investigation for his alleged role in paying hush money to a porn star.

We know this isn't going to stop Trump from attacking our democratic system — in fact, he's going to get even more dangerous from here. He'll continue to rally his supporters and work to tear down our democracy.

We need to continue our fight to protect our Democratic Senate majority and overcome Donald Trump's attacks — starting right now.

[A generous group of donors is 5X matching the first \\$50,000 in donations ahead of our end-of-quarter deadline. On the heels of this announcement, quickly rush in \\$10 \(becomes \\$60\) to help us defend our razor-thin Senate majority >>](#)

If you've saved your payment information with ActBlue Express, your donation will go through immediately:

DONATE \$10 (\$60 IMPACT!)	DONATE \$25 (\$150 IMPACT!)
DONATE \$50 (\$300 IMPACT!)	DONATE \$100 (\$600 IMPACT!)
DONATE \$250 (\$1500 IMPACT!)	ANOTHER AMOUNT

Thank you for your support

Thank you for your support,

— Defend the Senate

DONATE

PAID FOR BY SMP, WWW.SENATEMAJORITY.COM, AND
NOT AUTHORIZED BY ANY CANDIDATE OR
CANDIDATE'S COMMITTEE. CONTRIBUTIONS OR
GIFTS TO SMP ARE NOT TAX DEDUCTIBLE.

This email was sent to xxxxxx@gmail.com. If you wish to no longer receive these messages, please unsubscribe.

MESSAGE ANALYSIS

- **Sender:** [Senate Majority PAC](#)
- **Political Party:** [Democratic](#)
- **Country:** [United States](#)
- **State/Locality:** n/a
- **Office:** n/a

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EXHIBIT 3

★ ARCHIVE *of* POLITICAL EMAILS ★

≡ MENU

✉ EMAIL

TRUMP INDICTED

HOUSE MAJORITY PAC

From John xxxxxx, House Majority PAC <democrats@hmpac.com>

Subject TRUMP INDICTED

Date March 30, 2023 10:59 PM

[HTML](#) [Plain Text](#) [Screenshot](#)

NYT: Trump indicted by grand jury

John, we'll make this quick:

1. The New York Times reported that Trump was just INDICTED by a grand jury.
2. But experts say that this will help Trump fundraise MILLIONS to win back the Presidency and defeat our Democrats.

3. We're marshaling the Democratic response to ensure Trumpster Republicans NEVER set foot in the halls of power again. But that will take resources. Can you rush in \$15 right now? >>

John, Donald Trump spent years spreading lies, hate, and division.

He embarrassed our country and disgraced our Democracy.

Now, he's spending MILLIONS to win back the White House — and experts say he's about to raise MILLIONS more.

So we're uniting the Democratic response to ensure every single Trump-loving Republican LOSES at the ballot box. Please John, can you chip in \$15 or whatever you can to help us save our beloved Democracy from these right-wing extremists? We don't want to look back at this moment and wish we did more. Will you step up? >>

Chip in \$15 now >>

Chip in \$25 now >>

Chip in \$50 now >>

Chip in \$100 now >>

Chip in another amount now >>

Thank you,
House Majority PAC



Consistent with federal law, House Majority PAC makes its federal contributions from one account (the "Contribution Account") and engages in the rest of its political activity from the other account (the "Non-Contribution Account"). You may contribute up to \$5,000 per calendar year to House Majority PAC's Contribution Account. You may contribute an unlimited amount to House Majority PAC's Non-Contribution Account. By donating through this email, you agree that the first \$5,000 of your contribution will be deposited in House Majority PAC's Contribution Account and the remainder in House Majority PAC's Non-Contribution Account. You may also designate a different allocation formula below. You also agree that this allocation formula may change if following it would result in an excessive contribution to the Contribution Account.

Corporations/Labor Organizations: You may contribute an unlimited amount to House Majority PAC's Non-Contribution Account. You may not contribute to House Majority PAC's Contribution Account.

Contributions or gifts to House Majority PAC are not tax-deductible.

Paid for by House Majority PAC, <https://www.thehousemajoritypac.com/>. Not authorized by any candidate or candidate's committee.

Thank you for being a committed supporter of House Majority PAC. We're working every day to defeat extremist Republicans and take back our Democratic Majority.



[Donate \\$5 to Take Back Our House Majority >>](#)

We can't sit on the sidelines and let Republicans ruin our democracy.

That's why we send you so many emails. We rely on grassroots supporters like you to fuel our efforts to defeat radical Republicans. Our average online donation is \$18.09.

If you'd like to connect with us on Facebook, [click here](#). If you'd like to follow us on Twitter, [click here](#).

We don't want to lose you completely, so if you only want to receive our most important emails, please [click here](#).

We'd hate to see you go, but if you'd like to unsubscribe from our emails, you can [click here](#).

From everyone here at team House Majority PAC, we're so grateful for your support!

House Majority PAC
700 13th St. NW
Suite 800
Washington, DC xxxxxx
United States

WWW.HMPAC.COM | DEMOCRATS@HMPAC.COM

Paid for by House Majority PAC

MESSAGE ANALYSIS

- **Sender:** [House Majority PAC](#)
- **Political Party:** [Democratic](#)
- **Country:** [United States](#)
- **State/Locality:** n/a
- **Office:** n/a

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EXHIBIT 4

★ ARCHIVE *of* POLITICAL EMAILS ★

≡ MENU

✉ EMAIL

talking about trump indictment on msnbc at 9:30 then cnn at 10

ADAM SCHIFF

From Adam's iPhone <reply@e.adamschiff.com>

Subject talking about trump indictment on msnbc at 9:30 then cnn at 10

Date March 31, 2023 1:33 AM

[HTML](#)[Plain Text](#)[Screenshot](#)

Hey John. I'm on MSNBC and CNN defending the rule of law after Trump's indictment.

Can you chip in a few bucks? His people are going to attack me for doing so. They always do. Help us respond. Here's a link:
secure.actblue.com/donate/mar2023_abs_em

Thanks - talk soon.

— Adam

Sent from Adam's iPhone.

You can unsubscribe from this mailing list at any time.

MESSAGE ANALYSIS

- **Sender:** [Adam Schiff](#)
- **Political Party:** [Democratic](#)
- **Country:** [United States](#)
- **State/Locality:** [California](#)
- **Office:** [United States House of Representatives](#)
- **Email Providers:**
 - ActionKit

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EXHIBIT 5

★ ARCHIVE *of* POLITICAL EMAILS ★

≡ MENU

✉ EMAIL

those with wealth or power must be held to account for the rule of law to truly matter

ADAM SCHIFF

From Adam Schiff <reply@e.adamschiff.com>

Subject those with wealth or power must be held to account for the rule of law to truly matter

Date March 31, 2023 7:35 PM

HTML

Plain Text

Screenshot

ADAM SCHIFF FOR SENATE

John —

I wanted to share some thoughts with you after a really momentous day. Never before has a President of the United States — current or former — been indicted.

There will be some who celebrate this moment. But as much as I believe that Trump has been a serial lawbreaker, I won't be one of them.

It's a sober moment for our democracy. And the charges against the former president, although essential to equal enforcement of the law, will nonetheless introduce another trying chapter in our history.

All too often our criminal justice system hasn't worked fairly. All too often, those who can afford the best lawyers can put off any reckoning for their criminal conduct until justice delayed is justice denied, while others face a swift and formidable accounting. This has been all too clear in the case of Donald Trump.

Donald Trump has made a career of evading justice. He's worked tirelessly to tie the legal system into knots in not just this case, but the other serious investigations into his handling of classified materials, his inciting an insurrection, and his pressuring election officials to overturn the election.

Saving his own skin may be the driving motivation for the former president, but the success of his efforts to evade accountability have had systemic impacts. They have weakened our institutions and bred disrespect of the law.

Ultimately, this has been a big part of Trump's legacy — weakening our democracy, weakening the rule of law, and weakening our trust in our system.

He's used a playbook we've seen time and time again by other would-be despots around the world.

Ultimately, those with wealth and power must be held to account for the rule of law to truly matter. Especially if they can use that influence to tear down our faith in the justice system.

Donald Trump will finally have his day in court. And may have many more in the days and weeks to come.

And as he does, we must redouble our efforts to strengthen our democracy, rebuild trust in the rule of law, and ensure that those who hold office uphold their oath and defend the Constitution as they are sworn to do.

This is our challenge, and we must meet it.

Thanks for reading,

Adam



ADAM SCHIFF
FOR SENATE

DONATE

150 E. Olive Ave., Suite 208 Burbank CA, 91502

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- **Country:** [United States](#)
- **State/Locality:** [California](#)
- **Office:** [United States House of Representatives](#)
- **Email Providers:**
 - ActionKit

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EXHIBIT 6

★ ARCHIVE *of* POLITICAL EMAILS ★

≡ MENU

✉ EMAIL

A sobering and incredibly important point:

LAUREN UNDERWOOD

From Team Underwood <info@underwoodforcongress.com>

Subject A sobering and incredibly important point:

Date March 31, 2023 7:33 PM

HTML Plain Text Screenshot



John:

For the first time in our nation's history, a previous sitting president is facing criminal charges and plans are underway coordinating his surrender to authorities in Manhattan next week.

The weight of this moment cannot be overstated. For years, since President Biden's predecessor ran for president, this extreme, anti-democratic politician has flaunted his ability to evade our nation's legal system, even once claiming he could get away with shooting someone in the middle of the street in broad daylight without consequence.

This historical event represents a sobering and incredibly important point: No one, not even a former president, is above the law — and enforcing that is central to maintaining a healthy and functional democracy.

What's worrisome is that he's predictably on the offensive and rallying his base to interfere, protest and help pad his campaign war chest for president in 2024. Despite this news, he can continue to run.

That's why, at this moment, we must respond in a big way by showing that this team, alongside millions of Americans across the country, will continue to defend our democracy, no matter who tries to upend it.

John, if you agree that if a crime is committed, no matter who it is, the person responsible must be held fully responsible under the law, will you add a donation to help our team keep the critical work to protect and strengthen our democracy? Our first FEC public fundraising deadline is tonight and we need to demonstrate a show of force for the future of our country.

If you've saved your payment information with ActBlue Express, your donation will go through immediately.

CHIP IN \$5 NOW	CHIP IN \$10 NOW
CHIP IN \$25 NOW	CHIP IN \$50 NOW
CHIP IN \$100 NOW	ANOTHER AMOUNT

Thank you for your perseverance at this critical moment.

— Team Underwood

13400 S. Route 59
Suite 116 Box 248
Plainfield, IL 60585
United States

WWW.UNDERWOODFORCONGRESS.COM | INFO@UNDERWOODFORCONGRESS.COM

PAID FOR BY LAUREN UNDERWOOD FOR CONGRESS

This email was sent to xxxxxx@gmail.com. Check out our campaign's store by [clicking here](#). If you wish to no longer receive these messages, please unsubscribe.

MESSAGE ANALYSIS

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- **Political Party:** [Democratic](#)
- **Country:** [United States](#)
- **State/Locality:** [Illinois](#)
- **Office:** [United States House of Representatives](#)

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EXHIBIT 7

★ ARCHIVE *of* POLITICAL EMAILS ★

≡ MENU

✉ EMAIL

no one is above the law

HAKEEM JEFFRIES

From Hakeem Jeffries <info@hakeemjeffries.com>

Subject no one is above the law

Date March 31, 2023 6:03 PM

HTML Plain Text Screenshot

In moments like this, we need to rise up and show that we stand on the side of our democracy and the Constitution.

We need to demonstrate that we will never allow those who attack the rule of law to hold power in our government.

[That's why I'm asking 2,843 Democrats to step up with \\$15 to make this one of the biggest fundraising days in Democratic history. If we can pull this off, we'll have the resources to reclaim the House for Democrats and prove that we stand ready to defend our democracy. Can I count on your immediate \\$15 right now, John xxxxxx? Let's show these extreme MAGA Republicans what justice looks like >>](#)

DONATE NOW: \$15	DONATE NOW: \$25
DONATE NOW: \$50	DONATE NOW: \$100
DONATE NOW: \$250	OTHER AMOUNT

Keep the faith,
Hakeem



Hakeem Jeffries is the Democratic Leader of the U.S. House of Representatives. Like many of us, Hakeem was raised by a working-class family; His mom was a social worker and his dad was a substance abuse counselor.

Now, as the top Democrat in the House, he's fighting to stop MAGA extremism and reclaim the Majority for Democrats.

Hakeem is committed to electing a record number of Democrats in the next election and beyond. But he can't compete with Republicans' special interest cash without our support. Is there any way you could chip in to help?

[DONATE](#)

We know you're getting a lot of emails, but that's because Democrats have a clear path to winning back the House – and Hakeem isn't letting a single second go to waste.

We don't want to lose you completely, so if you only want to receive our most important emails, please [click here](#).

We hate to see you go, but if you want to unsubscribe, we understand. You can do so [here](#) and we will make sure to process your request.

Jeffries for Congress
PO BOX 65322
Washington, DC 20035
United States

WWW.HAKEEMJEFFRIES.COM | INFO@HAKEEMJEFFRIES.COM | [PRIVACY POLICY](#)

PAID FOR BY JEFFRIES FOR CONGRESS

MESSAGE ANALYSIS

- **Sender:** [Hakeem Jeffries](#)
- **Political Party:** [Democratic](#)
- **Country:** [United States](#)
- **State/Locality:** [New York](#)
- **Office:** [United States House of Representatives](#)

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EXHIBIT 8

★ ARCHIVE *of* POLITICAL EMAILS ★

≡ MENU

✉ EMAIL

Here's why I'm suing Donald Trump

BARBARA LEE

From Barbara Lee <info@barbaraleeforcongress.org>

Subject Here's why I'm suing Donald Trump

Date April 1, 2023 7:06 PM

HTML Plain Text Screenshot

John, Donald Trump may have been indicted by a Manhattan grand jury – but we know that isn't his only crime:

In fact, I am the lead plaintiff in a lawsuit against Donald Trump to hold him accountable for inciting the deadly Jan. 6 insurrection.

I still remember that day – being told that we had to hit the floor. We were lucky to have made it out safely when we did. This was a dangerous moment, not only for individual members of Congress and the personnel in the Capitol, but it was dangerous for our democracy.

I refuse to let up in this fight for justice and accountability, and I'm running for Senate to take on this GOP extremism and make sure that an attack on our democracy never happens again.

That's precisely why MAGA extremists and Fox News have already launched a smear campaign to defeat me, and I need your immediate grassroots support to fight back. But with time running out before our midnight deadline, we're falling short of our \$5,000 goal.

[So please, John, will you rush \\$5 or more right now to help me fight back against MAGA extremists, win in California and secure a progressive future for all of us?](#)

If you've saved payment information with ActBlue Express, your donation will go through immediately:

Donate \$5

Donate \$25

Donate \$50

Donate another amount

Thank you for fighting alongside me.

– Barbara Lee

Barbara Lee for U.S. Senate
PO Box 6787
Oakland, CA 94603

[BARBARALEEFORCA.COM](https://barbaraleeforca.com) | [PRIVACY POLICY](#)

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- **State/Locality:** [California](#)
- **Office:** [United States House of Representatives](#)

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EXHIBIT 9

★ ARCHIVE *of* POLITICAL EMAILS ★

≡ MENU

✉ EMAIL

I never thought I'd live to see the day

ADAM SCHIFF

From Adam Schiff <reply@e.adamschiff.com>

Subject I never thought I'd live to see the day

Date April 4, 2023 7:56 PM

HTML Plain Text Screenshot

ADAM SCHIFF FOR SENATE

John — today is a really somber day. And I wanted to share some thoughts with you as I watch some of this TV coverage.

It's not a scene I would ever have imagined — a former U.S. president photographed, finger-printed and arraigned in court. Some of his most fervent supporters on the street trying to stir up trouble.

It's a sobering reminder of how fragile our democracy really is, and how important it is for all of us to do our part to make sure it survives for another generation.

We don't know what the next days, weeks and months will bring. But already, Republicans in Congress are seeking to obstruct both this court proceeding, and other serious criminal investigations into Trump's misconduct stemming from January 6th and his mishandling of classified information.

Jim Jordan, the Chairman of the House Judiciary Committee, has threatened to subpoena the Manhattan District Attorney in an effort to disrupt the proceedings. I sit on the Judiciary Committee, and let me tell you, we will fight this — or any other — attempt to interfere with the administration of justice.

We can't — and won't — let Republicans succeed in preventing accountability. Not if the rule of law is to mean anything.

If we are to remain a nation of laws, we must hold the rich and powerful accountable, just as we would anyone else.

To do otherwise is not justice, and it is not democracy.

Thanks again for standing strong through all of this, and for your support.

Adam



ADAM SCHIFF
FOR SENATE

DONATE

150 E. Olive Ave., Suite 208 Burbank CA, 91502

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EXHIBIT 10

Provided in Native Format

EXHIBIT 11

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EXHIBIT 12



ELECTIONS

'Whistling past the graveyard': Dem fear grows over massive grassroots fundraising hit

The decline is a major warning sign as the presidential campaign heats up.



The lack of grassroots engagement is a warning sign for Joe Biden ahead of a tough election cycle, raising questions about whether the 80-year-old incumbent is exciting the Democratic base. | Brendan Smialowski/AFP/Getty Images

By **JESSICA PIPER**

08/04/2023 04:30 AM EDT

Updated: 08/04/2023 10:08 AM EDT



One of the best online fundraising days for Democrats this year was the day of Joe Biden's campaign launch — but even that day's haul was meager compared to his campaign kickoff four years ago.

That's among the findings of an analysis of fundraising for the first half of the year through ActBlue, the party's primary donation processor. Small-dollar giving at the federal level totaled \$312 million in the first half of 2023 — a drop-off of more than \$30 million compared to this point in the 2020 cycle. The platform also had 32 percent fewer donors [in the second quarter](#) this year compared to four years prior, although its total fundraising increased slightly

due to several factors, including more recurring donors and greater giving to non-federal groups.

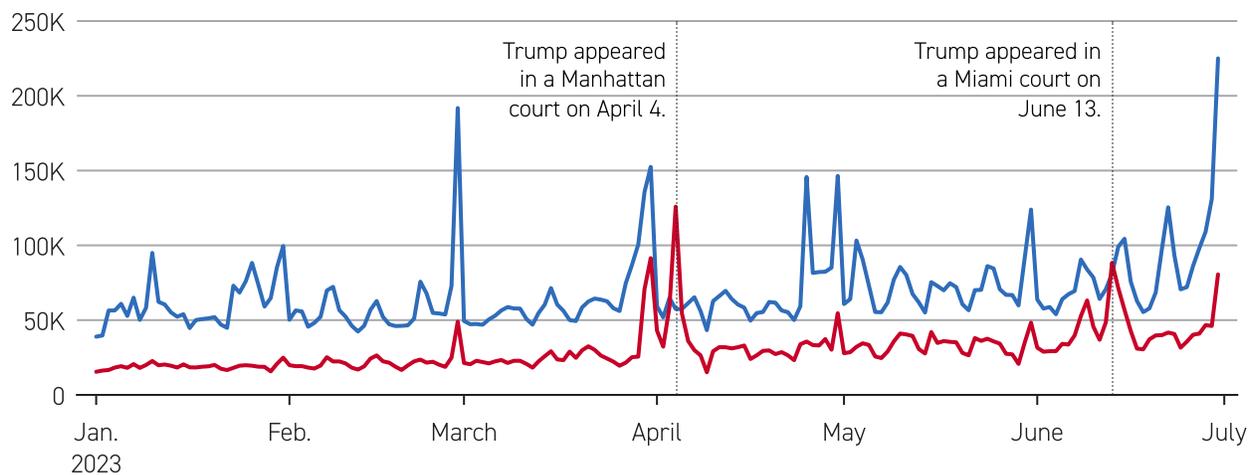
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The lack of grassroots engagement is a warning sign for Biden ahead of a tough election cycle, raising questions about whether the 80-year-old incumbent is exciting the Democratic base the way he will need to win a second term. The new data also suggests that the threat of Donald Trump, once a huge driver of Democratic fundraising, is not motivating donors like it used to.

Trump's court dates led to the only days in which Republicans beat Democrats in online fundraising

Number of daily federal donations on ActBlue and WinRed



Note: Includes donations only to federal campaigns and committees. Donors can make multiple donations.

Source: POLITICO analysis of ActBlue and WinRed data filed with the Federal Election Commission

Jessica Piper/POLITICO

Online fundraising has been critical for Democrats over the last few cycles, allowing the party to keep control of the Senate in 2022 while powering Biden's 2020 bid. The party still far outraised their Republican counterparts on the corresponding WinRed platform.

Still, a decline in activity among Democratic grassroots supporters will almost assuredly force candidates up and down the ballot to spend more time fundraising, lean more heavily on big donors or make do with less.

Some progressive groups have already been [laying off staff](#) this year amid the ongoing cash crunch. Donations are also down to party committees, such as the Democratic Congressional Campaign Committee and Democratic Senatorial Campaign Committee, which both saw more than one-third drops in their total cash raised from small-dollar donors in the first half of the year compared to last cycle.

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Democrats' best fundraising days so far this year were largely end-of-month or end-or-quarter deadlines, according to a POLITICO analysis of data from ActBlue. Those are the days when campaigns typically send extra fundraising appeals.

When Biden formally launched his campaign April 25, he received roughly 57,000 online donations across his official committee and Biden Victory Fund, a joint fundraising group, totaling nearly \$2.9 million.

That was less than in 2019, when Biden [took in more than \\$4 million dollars](#) from online donations on the day of his campaign launch. And yet, it was enough to make April 25 among the best federal fundraising days on ActBlue this year, with only the end-of-quarter deadlines in March and June seeing more money raised across the platform.

A Biden campaign official noted the now-president's campaign had different day one goals compared to 2019, when getting a large number of day-one donors was a way to stand out in a crowded primary field. The campaign has touted that around 30 percent of its donors did not give to Biden in 2020. And the president's small-dollar operation has also shown other positive signs, including less drop-off following the campaign launch.

In 2019, 60 percent of Biden's first quarter online fundraising came in his first week. But this time, first-week fundraising accounted for only 38 percent of his ActBlue fundraising through the end of June.

But the relative dearth of strong fundraising days outside of quarterly deadlines suggests that Democratic donors are less driven by political events now than they were in 2019, when Trump was still in office and a competitive Democratic primary led to frequent national spotlights for the party's candidates.

In fact, the major Trump-related events this cycle — like his court appearances in April and June — have been dates where Republicans have won the fundraising game. WinRed, the primary GOP fundraising platform, saw more donations those days than ActBlue. That was primarily driven by Trump

fundraising through that platform in those moments. But other Republican groups [have harnessed the former president's indictment](#) in fundraising
Advertisement

“Villains raise money. And you have the ultimate villain in Donald Trump,” said Rabin-Havt. “But it’s the third act of that villain at this point. That makes it harder. We are approaching nine years of him being the principal villain.”

Four years ago, Democratic presidential candidates [raked in millions of dollars online](#) after strong debate showings, with fundraising also driven by other campaign events and candidates’ calls for Trump’s first impeachment. In 2021, concern about the events of Jan. 6 and Trump’s second impeachment drove up Democratic donations early in the cycle. And just last year, the Supreme Court’s *Dobbs* decision on abortion sparked major online giving.

Some operatives in the digital fundraising space said they were not yet ready to hit the panic button, noting that summer months often are slower and that the Republican primary remains unsettled. But even their optimism was colored with concern.

“We get to this point in the cycle, every two years and people act like the summer slump is something they just discovered. People don’t like donating in the summer because they’re with their families and on vacation,” said Mike Nellis, founder and CEO of Authentic, one of the party’s top digital fundraising agencies. “That said, this is a particularly bad summer slump. If you’re not running with a particularly compelling headwind, it is hard to fundraise right

now. If you're not Adam Schiff and Jon Tester, who are two of my clients doing well right now, you're sort of in a bind."

Nellis attributed some of the decline to tactical matters. The major email providers have cracked down on political spam and social media companies have made it harder for campaigns to target donors, forcing a greater reliance on bulk buy email vendors. The current attempts to cull together an effective email list were akin, he said, to "sticking dynamite into a lake, hoping some fish will rise to the surface."



LIVE | EXCLUSIVE

Biden beefs up his finance team with 3 senior hires

BY HOLLY OTTERBEIN | AUGUST 03, 2023 05:00 AM

Biden has [run a lean campaign](#), and the many legal challenges facing Trump, while good for the ex-president in terms of fundraising, also mean that [Trump is spending a lot](#).

Even with the Trump indictment boost, Republican groups have not escaped the lower small-dollar totals compared to the past few cycles, although WinRed's shorter history makes it harder to do one-to-one comparisons.

And though there are far fewer events that seem to inspire big influxes, a few things have helped out some Democratic candidates. Schiff, one of several Democrats running for Senate in California next year, received more than 56,000 donations via ActBlue over two days in June when [he was censured by House Republicans](#) over his role in investigating Trump.

Some groups have also seen event-driven jumps, albeit at a smaller scale. The Tennessee Democratic Party's federal account received more than 3,500 donations April 7, the day after two Black state lawmakers who had protested in favor of gun law reforms on the House floor were expelled from the legislature.

Prior to that, the state party had averaged seven donations per day.

Sam Stein contributed to this report.

FILED UNDER: JOE BIDEN, JOE BIDEN 2024, DONALD TRUMP, DONALD TRUMP 2024, 

Playbook

The unofficial guide to official Washington, every morning and weekday afternoons.



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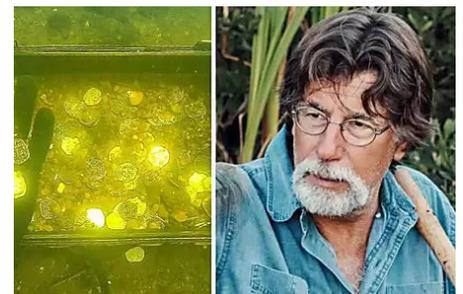


EXHIBIT 13

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 59

THE PEOPLE OF THE STATE OF NEW YORK

- against -

DONALD J. TRUMP

Defendant.

DECISION ON DEFENDANT'S
MOTION FOR RECUSAL

Ind. No. 71543-23

HON. JUAN M. MERCHAN J.S.C.:

On May 31, 2023, Defendant filed a notice of motion seeking this Court's Recusal. The notice was accompanied by a memorandum of law, the affirmation of Susan R. Necheles, Counsel for Mr. Trump and two exhibits, identified as Exhibit A and Exhibit B.¹ On June 14, 2023, the People filed a memorandum of law with an accompanying affirmation and exhibits in opposition to Defendant's motion for recusal. On June 20, 2023, Susan Necheles wrote to the Court seeking leave to file a reply memorandum of law. Ms. Necheles also asked the Court to provide the defense a copy of the letter this Court had previously submitted to the Advisory Committee on Judicial Ethics "so that the defense can properly evaluate whether the Advisory Committee was fully informed about the possible conflict of interest."² Necheles Letter at 2.

Defendant puts forth three principal arguments in support of his motion: First, he claims that "the political and financial interest" of this Court's daughter "creates an actual or perceived conflict of interest because rulings and decisions" made by this Court "may result in a financial benefit to Your Honor's daughter." Defendant's Memorandum at 1. Next, he alleges that this

¹ Exhibit A of the May 31, 2023, motion for recusal, is a copy of the memorandum of law in support of Defendants, the Trump Corporation and Trump Payroll Corp.'s recusal motion filed by Susan Necheles on or about September 8, 2022, in connection with the *Matter of The People of the State of New York v. The Trump Corporation d/b/a The Trump Organization; Trump Payroll Corp. d/b/a The Trump Organization*, Indictment No. 1473/2021. A copy of the affirmation of Susan R. Necheles, which accompanies the motion, was also attached as part of Exhibit A. Exhibit B of Defendant's May 31, 2023, motion, is a copy of the affirmation of Susan Hoffinger, filed in opposition to Defendants' September 8, 2022, motion to recuse.

² On or about April 14, 2023, shortly after Defendant was arraigned and approximately six weeks before he filed the instant motion for recusal, this Court wrote to the Advisory Committee on Judicial Ethics to seek a formal opinion regarding several matters now addressed in this Decision.

Court's "role in a prior case encouraging Allen Weisselberg to cooperate against President Trump and his interests shows a preconceived bias against President Trump." Defendant's Memorandum at 1. Last, it is Defendant's contention that campaign contributions made by this Court in 2020, "raise if true, at the very least, an appearance of impartiality [sic]." Defendant's Memorandum at 7.

The People oppose Defendant's motion on the grounds that "Defendant presents no arguments that fairly raise any actual or perceived conflict of interest or preconceived bias." People's Opposition at 1.

DECISION

"The right to an impartial jurist is a basic requirement of due process." *People v. Novak*, 30 N.Y.3d 222, 225 (2017). However, "[a] judge is as obliged not to recuse himself when it is not called for as he is obliged to when it is." *In re Drexel Burnham Lambert Inc.*, 861 F.2d 1307, 1312 (2d Cir. 1988). "Absent a legal disqualification under Judiciary Law § 14," which Defendant does not allege here, "a Trial Judge is the sole arbiter of recusal." *People v. Moreno*, 70 N.Y.2d 403, 405 (1987). A trial judge's "decision in that regard will not be lightly overturned." *Khan v. Dolly*, 39 A.D.3d 649, 650 (2nd Dep't 2007).

- I. Defendant's claim that this Court's daughter's employment creates an actual or perceived conflict of interest requiring recusal.

This Court's daughter is the President and Chief Operating Officer of Authentic Campaigns, Inc., a digital marketing agency that works with Democratic Party candidates as well as non-profit organizations. Defendant posits that because of her position with Authentic Campaigns, she "stands to financially benefit from decisions this Court makes in this case." Defendant's Memorandum at 4. Because "it is likely that many of President Trump's opponents ... will attempt to use this case – and any rulings by the Court – to attack" Defendant and that "her work at, and financial interests in [Authentic Campaigns] ... raises real and legitimate concerns about this Court's impartiality." Defendant's Memorandum at 8. The People argue that Defendant's claims are so "remote, speculative, 'possible or contingent,'" (*Kilmer v. Moseman*, 124 A.D.3d 1195, 1198 (3rd Dep't 2015)), that recusal would simply not be warranted here. People's Opposition at 2. And that "[r]ecusal is required 'only where there exists a direct, personal, substantial or pecuniary interest in reaching a particular conclusion.'" People's Memorandum at 2, quoting, *People v. Alomar*, 93 N.Y.2d 239, 246 (1999).

Defendant endeavors to advance this claim by relying upon several opinions of the New York State Advisory Committee on Judicial Ethics, despite necessarily conceding that none of the opinions is on point.³ Defendant's Memorandum at 11-12. Defendant's attempts to analogize those opinions with the facts herein, fail. However, on May 4, 2023, the Advisory Committee issued an opinion in direct response to this Court's earlier inquiry.⁴ On the specific issue of the employment of this Court's daughter, the Committee wrote "the matter currently before the judge does not involve either the judge's relative or the relative's business, whether directly or indirectly. They are not parties or likely witnesses in the matter, and none of the parties or counsel before the judge are clients in the business. We see nothing in the inquiry to suggest that the outcome of the case could have any effect on the judge's relative, the relative's business, or any of their interests."⁵

Defendant has failed to demonstrate that there exists concrete, or even realistic reasons for recusal to be appropriate, much less required on these grounds. The speculative and hypothetical scenarios offered by Defendant fall well short of the legal standard.

Defendant's motion for recusal on these grounds is therefore Denied.

II. Defendant's claim that this Court must recuse because it allegedly engaged in inappropriate conduct in the case of the *People of the State of New York v. The Trump Corporation, et al.*, Ind. No 1473/2021

The matter of the *People v. The Trump Corporation, et al.*, involved two corporate entities, legally distinct from Defendant, which were tried and convicted last year on 17 felony counts of tax fraud, falsifying business records, scheme to defraud and conspiracy. This Court presided over that trial. During the pendency of that case, the corporate defendants sought this Court's recusal. In that instance, the Defendants accused this court of engaging in inappropriate conduct in the plea negotiations of a third co-defendant, Allen Weisselberg, who pled guilty prior to the trial of the corporate entities. This Court denied that motion for recusal. Defendant now moves for this Court's recusal on the very same grounds that were previously rejected in *People v. The Trump Corporation*. That the identical grounds are now raised on behalf of a different defendant, on an entirely different indictment, only serve to weaken the plausibility of the claim.

³ Advisory Committee on Judicial Ethics Opinions 13-24, 02-36 and 92-46.

⁴ Opinion 23-54 was e-mailed to this Court on June 1, 2023, and is attached hereto as Exhibit A.

⁵ Pursuant to Section 212(2)(1)(iv) of the Judiciary Law, the actions of a judge that adhere to an Opinion of the Advisory Committee on Judicial Ethics are presumed proper for the purposes of a subsequent investigation by the New York State Commission on Judicial Conduct.

As indicated *supra*, Defendant attaches to the instant motion as Exhibit A, the same memorandum of law and affirmation of Susan Necheles, filed in support of the Trump Corporation's motion for recusal in 2022. The affirmation of Susan Hoffinger in opposition to the motion is attached as Exhibit B.

Ms. Necheles' affirmation, Exhibit A, which is signed under penalty of perjury, consists of four pages and five exhibits and claims to be based "upon personal knowledge or upon information and belief, the source of my knowledge being my review of court and other documents, statements by counsel for the People and Allen Weisselberg, and an independent investigation into the facts." Necheles Affirmation at 1. Despite this assurance, the affirmation is almost entirely devoid of direct, personal knowledge and is instead premised upon second-hand information, the source of which Ms. Necheles does not identify with any degree of specificity. For example, in Paragraph 3, Ms. Necheles represents that the nine sub-paragraphs that are to follow, are based upon her conversations with counsel for Mr. Weisselberg. However, she does not identify which statements are attributable to which of Mr. Weisselberg's attorneys. Indeed, with few exceptions, the affirmation is bereft of any actual quotes directly attributable to any specific person. Nor do any of the five exhibits consist of affirmations or affidavits from anyone who presumably provided the basis of Ms. Necheles' information and belief. This Court finds the allegations in the affirmation inaccurate and the conclusions drawn therefrom misleading.

In contrast, the affirmation of Susan Hoffinger, attached as Defense Exhibit B, is founded in large part, upon first-hand knowledge. The original⁶ 14 page, 40 paragraph affirmation, contains nine exhibits, including copies of e-mails exchanged between the parties and a letter from Mary Mulligan, one of the attorneys for Mr. Weisselberg. The document, which is also signed under the penalty of perjury, refutes the Necheles affirmation with a factual, detailed and chronological account of the events leading up to Mr. Weisselberg's plea.

Defendant's motion for recusal on these grounds is denied for the same reasons it was denied the first time, *a fortiori*, now that the claim is brought by a different defendant in a different action.

⁶ Defense Exhibits A and B, the affirmations of Susan Necheles and Susan Hoffinger, were filed without their original exhibits.

III. Defendant's motion for an explanation to clarify on the record, campaign contributions made to a political candidate, other than Donald J. Trump and to other causes.

Defendant argues that political contributions to a candidate other than Donald J. Trump, and to other political causes, require an on-the-record explanation. Defendant's Memorandum at 14. Defendant further asserts that "[t]he Court should therefore clarify the record concerning these contributions – and give the defense a chance to further address the implication of that explanation – or otherwise recuse itself from this case." Defendant's Memorandum at 17. The People note that Defendant does not directly move for recusal on the basis of the contributions and ask the Court to "decline to recuse if it considers [the] question *sua sponte*." People's Memorandum at 12. The People present three distinct arguments. First, the reported political contributions are a *de minimus* donation, not warranting recusal. *Anderson v. Belke*, 80 A.D.3d 483, 483 (1st Dep't 2011)(even a greater than normal contribution by defense counsel to a judge's re-election campaign did not establish a risk of bias because "it was only a small percentage of the total contributions to the campaign"); *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 882-884 (2009) (recusal was warranted where a litigant contributed \$3 million to a justice's campaign, the sum surpassed the total donations of all supporters by 300% and was "pivotal" in the election results.) Second, the People submit that the reported political contributions do not raise a plausible concern regarding the appearance of impartiality because "a judge's identification with a political party is not an indication that a judge is incapable of acting impartially." *MacDraw, Inc. v. CIT Grp. Equip. Fin., Inc.*, 138 F.3d 33, 38 (2d Cir. 1998). People's Memorandum at 14. Finally, the People argue that Defendant's concern regarding this Court's compliance with the New York Rules Governing Judicial Conduct is properly raised in a different forum.

The donations at issue are self-evident and require no further clarification. Moreover, the Advisory Committee has opined that this Court "is not ethically required to disclose [the contributions]." Advisory Opinion at 2. There is therefore no need or requirement for an on-the-record explanation. Defendant's request for a clarification "so that the defense can assess whether these donations separately warrant Your Honor's recusal," is Denied. Defense Motion at 17.

Regarding the possibility of recusal, this Court declines to consider the matter *sua sponte*. In the alternative, had the motion for recusal been made on these grounds, it would be denied. Advisory Opinion 23-54 addressed this question: "[o]n the facts before us, it is sufficient to say that these modest political contributions made more than two years ago cannot reasonably create an

impression of bias or favoritism in the case before the judge. Accordingly, we conclude the judge's impartiality cannot reasonably be questioned on this basis[.]” Advisory Opinion at 2.

CONCLUSION

“The judge presiding over a case is in the best position to appreciate the implications of those matters alleged in a recusal motion. In deciding whether to recuse himself, the trial judge must carefully weigh the policy of promoting public confidence in the judiciary against the possibility that those questioning his impartiality might be seeking to avoid the adverse consequences of his presiding over their case.” *In re Drexel Burnham Lambert Inc.*, 861 F.2d 1307, 1312 (2d Cir. 1988). This Court has carefully weighed the competing interests outlined in *Drexel Burnham Lambert* and finds that recusal would not be in the public interest. Further, this Court has examined its conscience and is certain in its ability to be fair and impartial.

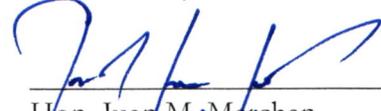
Defendant's motion for recusal and for an explanation is Denied on all grounds.

The above constitutes the Decision of this Court.

Dated: August 11, 2023
New York, NY

AUG 11 2023

ENTERED,



Hon. Juan M. Merchan
Acting Justice of the Supreme Court
Judge of the Court of Claims

HON. J. MERCHAN

Exhibit A

Hon. Juan M. Merchan

From: [REDACTED]
Sent: Thursday, June 1, 2023 2:17 PM
To: Hon. Juan M. Merchan
Subject: 23-54
Attachments: 23-54.pdf

Dear Judge Merchan,

As requested, here is Opinion 23-54. A hard copy will follow in due course by regular mail.

[REDACTED] Esq.
Chief Counsel
New York State Advisory Committee on Judicial Ethics
25 Beaver Street, 8th floor
New York, NY 10004
Toll Free: 1-866-795-8343
Office Telephone: [REDACTED]
Website: <https://ww2.nycourts.gov/ip/acje>

Please be CAREFUL when clicking links or opening attachments.

ADVISORY COMMITTEE ON JUDICIAL ETHICS
c/o OFFICE OF COURT ADMINISTRATION
25 BEAVER STREET, 8TH FLOOR
NEW YORK, NEW YORK 10004

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LAURA L. SMITH
212-428-2504

STAFF COUNSEL
ROSEMARY GARLAND-SCOTT
ADINA C. GILBERT
GINA M. PATTERSON
LISA E. RUBENSTEIN

TOLL FREE 1-866-795-8343

Opinion 23-54

May 4, 2023

Digest: (1) A judge's impartiality cannot reasonably be questioned based on (a) de minimis political contributions made more than two years ago or (b) the business and/or political activities of the judge's first-degree relative, where the relative has no direct or indirect involvement in the proceeding and no interests that could be substantially affected by the proceeding.
(2) As a result, the judge is not ethically required to disclose such facts or circumstances *sua sponte* in the proceeding, regardless of any surrounding publicity or lack thereof. The judge may continue to preside in the matter provided the judge believes he/she can be fair and impartial.

Rules: Judiciary Law § 14; 22 NYCRR 100.2; 100.2(A); 100.2(B); 100.3(B)(1); 100.3(E)(1); 100.3(E)(1)(a)-(f); 100.3(E)(1)(d)(iii); 100.3(E)(1)(e); Opinions 22-183; 22-172; 22-138; 17-126; 15-212; 15-62; 98-22; *People v Moreno*, 70 NY2d 403 (1987).

Opinion:

The inquiring judge is presiding in a criminal case involving a defendant who is a former public official. Although the judge has searched his/her conscience and is confident in his/her own ability to be fair and impartial, the judge nonetheless asks if disclosure and/or disqualification is ethically mandated on one of several grounds.

A judge must always avoid even the appearance of impropriety (see 22 NYCRR 100.2) and must always act to promote public confidence in the judiciary's integrity and impartiality (see 22 NYCRR 100.2[A]). A judge must not allow "family, social, political or other relationships to influence the judge's judicial conduct or judgment" (22 NYCRR 100.2[B]) and must "not be swayed by partisan interests, public clamor or fear of criticism" (22 NYCRR 100.3[B][1]). A judge must disqualify where required by rule or statute (see 22 NYCRR 100.3[E][1][a]-[f]; Judiciary Law § 14) and in any other proceeding where the judge's impartiality "might reasonably be questioned" (22 NYCRR 100.3[E][1]). For example, a

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DAVID J. ROMAN

judge must disqualify when a relative within the fourth degree of relationship “is likely to be a material witness in the proceeding” (22 NYCRR 100.3[E][1][e]) or “has an interest that could be substantially affected by the proceeding” (22 NYCRR 100.3[E][1][d][iii]). However, where disqualification is not mandatory, a trial judge is the sole arbiter of recusal (*see People v Moreno*, 70 NY2d 403 [1987]).

First, the judge asks if he/she should confirm or deny, as the case may be, matters that have been reported in the media. Whether or not something has been reported in the media is immaterial to the ethical analysis. The judge remains free, of course, to make any disclosures the judge deems appropriate but he/she is not by virtue of such reporting mandated to do so.

The judge also asks if it is mandatory to disclose certain prior political contributions that were made more than two years ago. The total amount contributed, in the aggregate, was less than \$50. One contribution was made to the person who opposed the defendant in an election; none was made to the defendant or the prosecutor or anyone else involved in the case before the judge.

We seldom require disqualification or disclosure for more than two years (*see e.g.* Opinion 22-138 [“A set period will be simpler for judges to remember and apply, and two years is a standard we have used regularly since the Committee’s inception.”]). Indeed, we recently adopted a bright-line two-year rule in an area where we had previously required disclosure indefinitely (*see* Opinion 22-183 [judge’s former counsel]).

On the facts before us, it is sufficient to say that these modest political contributions made more than two years ago cannot reasonably create an impression of bias or favoritism in the case before the judge. Accordingly, we conclude the judge’s impartiality cannot “reasonably be questioned” on this basis and the judge is not ethically required to disclose them.

The inquiring judge further asks us whether he/she must disclose that his/her relative’s agency recently declined to work for the prosecutor now appearing before the judge. A first-degree relative of the judge¹ is a high-ranking officer in a business that works exclusively with one political party’s candidates, and that party is different from that of the former elected official now appearing as a defendant in the judge’s court. The judge’s

¹ A judge’s first-degree relatives include a parent or child of the judge or the judge’s spouse, or the spouse of such person. Here, the judge’s relative lives and works in another state, but apparently does business with campaigns nationwide.

relative was asked to work for the prosecutor in a political matter but the relative declined the work.

We previously considered a circumstance where a judge's first-degree relative was "employed by a non-party real estate company that does business with one party in the litigation" (Opinion 22-172). We concluded that fact "does not require disqualification, where neither the judge's relative nor the relative's employer has any interests that could be substantially affected by the proceeding" (*id.*).

Here, too, the matter currently before the judge does not involve either the judge's relative or the relative's business, whether directly or indirectly. They are not parties or likely witnesses in the matter, and none of the parties or counsel before the judge are clients of the business. We see nothing in the inquiry to suggest that the outcome of the case could have any effect on the judge's relative, the relative's business, or any of their interests.

We also note that, notwithstanding the strict limits on a judge's own political activities, a judge's relatives remain free to engage in their own bona fide independent political activities (*see e.g.* Opinions 15-62; 98-22). A relative's independent political activities do not provide a *reasonable* basis to question the judge's impartiality (*see e.g.* Opinions 17-126 [judge may continue to preside in a declaratory judgment action, even after learning that the spouse's employer made political contributions to a named respondent, provided the judge believes he/she can be fair and impartial]; 15-212 [judge need not disqualify from cases involving lawyers who sought to contribute to the judge's spouse's recent political campaign, provided the judge believes he/she can be fair and impartial]).

On the facts before us, we conclude the judge's impartiality cannot reasonably be questioned based on the judge's relative's business and/or political activities, and the judge is not ethically required to disclose them.

EXHIBIT 14

Provided in Native Format

EXHIBIT 15

Mike Nellis of Quiller: 5 Things I Wish Someone Told Me Before I Became A Founder

An Interview With Doug Noll



Doug Noll · [Follow](#)

Published in [Authority Magazine](#) · 12 min read · Aug 23, 2023



Never stop learning. Having a growth mindset is so critical for success. I was never a good student, but I loved learning and cannot get enough. I listen to an audiobook a week in addition to any number of podcasts (big shout out to Smartless, which is a great podcast that I recommend) and YouTube tutorials (I am currently learning how to build a better Notion structure for my second brain). Heck, the only reason I was able to launch a new AI startup was because I dove in head first to learn! I took a course at Northwestern early this year, read a bunch of books, went to a conference, and more. It was energizing for me and I think it made me a better leader.

As part of our interview series called “[5 Things I Wish Someone Told Me Before I Became A Founder](#)”, I had the pleasure of interviewing Mike Nellis.

Mike Nellis is a purpose-driven entrepreneur and the Founder and Chief Executive Officer of Authentic, a Chicago-based digital-first fundraising and advertising agency. In just five years, Authentic has raised more than \$500 million in grassroots donations for Democratic politicians like Adam Schiff and non-profit organizations like the National Immigration Law Center, focusing on personalized storytelling and narrative-driven digital campaigns. Mike is also the Founder and Executive Chairman of Quiller.ai, a new tech startup that is revolutionizing online fundraising with AI-enabled content generation. Quiller recently closed a \$1.2 million pre-seed round, and was a featured product at the New Tools Showcase at Netroots Nation.

Thank you so much for joining us in this interview series! Can you tell us a story about what brought you to this specific career path?

I got my start in politics and digital marketing working for this little-known Illinois Senator named Barack Obama. It was 2007, I lived in Omaha, NE and Senator Obama was running in the Iowa caucus for president. I ended up skipping most of my college classes to go knock on doors and do data entry for his campaign. Eventually I parlayed that work into my first “real” job on a Senate campaign back home in Nebraska in 2008 for a guy named Scott Kleeb. Online fundraising was largely a new concept and as the youngest person in the room, I was told to go “figure out how to get money online.” And I did. We raised a good chunk of cash and then I jumped into consulting with a focus on online fundraising and digital-first marketing for other campaigns and non-profit organizations. And I have never looked back. Throughout my career, I’ve had opportunities to work with some really great partners, like Kamala Harris, Cory Booker, the United Nations Population Fund, the ACLU, and many others.

Can you tell us a story about the hard times that you faced when you first started your journey?

Sure, when I started Authentic in 2018, I really had no idea what I was doing. How do you set-up payroll? How do you send out an invoice? I had always had operational support for those things at the companies I worked at previously. I also had no real cash reserves to start the business. I quit my job and I used personal savings. But I was drawing down what my wife and I had been saving together while, at the same time, trying to have a baby. It was incredibly stressful. Meanwhile I'm bringing on clients, trying to hire staff and build a model for this new business of mine. It was tough. I remember early on our accountant ended up making a mistake and we missed the payroll deadline. My team was pretty small back then (around 5 people) but there was a young person on my team who was worried about paying her rent. I had to end up cutting her a check to make sure she didn't get evicted. I take that responsibility as a business owner really seriously, and that's always stuck with me. There's this perception that being a business owner is super glamorous, but honestly, it's incredibly stressful a lot of the time.

Where did you get the drive to continue even though things were so hard?

I am lucky to have such a purpose-driven business and career. I don't think I could ever go to work and sell widgets or insurance or something like that. I want to make people's lives better. Politics is a really difficult industry to work in and when we started Authentic it was at the height of Trump's time in office. The work felt important — especially at a time when vulnerable communities were being attacked. The guy in the White House was trying to destroy all the progress we made under the Obama Administration. So I stayed in the fight because we needed to if we were going to save our democracy. I really believe in the power of the internet to bring people together and make the world a better place.

So, how are things going today? How did grit and resilience lead to your eventual success?

Things are going well! Authentic has about 50 employees now and we've worked with nearly 300 campaigns and organizations. We've raised \$500 million for our clients running ethical fundraising programs, and we've notched up some big wins over the years: Jon Tester's re-election in 2018, Joe Biden in 2020, Boston Mayor Michelle Wu in 2021, and Katie Hobbs for Arizona Governor in 2022.

Can you share a story about the funniest mistake you made when you were first starting? Can you tell us what lesson you learned from that?

I was once so exhausted while coding a fundraising email that I accidentally emailed 400,000 people in North Carolina an email that said "Dear Mike" instead of the recipient's first name. Oddly enough it performed really well.

The primary lesson I learned from that was to make sure you have clear standard operating procedures to get things done quickly and correctly. I hate making mistakes and early on when starting the company, I didn't do a great job of documenting things. I feel like once we started to do that, and all credit in the world goes to my business partner Loren Merchan and our leadership team — our company really started to thrive.

What do you think makes your company stand out? Can you share a story?

The number one thing is that Authentic is dedicated to creating lasting and inclusive change. We work with Democratic campaigns, progressive advocacy

organizations, and purpose-driven nonprofits — creating programs that can raise money from grassroots donors, move public opinion, win elections, and create tangible impact. Our commitment to driving meaningful change sets us apart from a lot of businesses and marketing agencies.

Second, we have a really diverse and special team of storytellers. That diversity fuels our creativity and strengthens our ability to connect with our target audiences.

We're also on the cutting edge of new technology. We used artificial intelligence to do some really fun and interesting voter engagement campaigns for the Biden team in 2020. That is sort of what also drove me to launch Quiller, which is revolutionizing online fundraising with AI-enabled content.

Which tips would you recommend to your colleagues in your industry to help them to thrive and not “burn out”?

You cannot let your work define your identity. You have to live a full life outside of your career if you're going to bring your best self to your job. For me, that's spending time with my son, swimming, playing chess, and going to concerts. When I do a good job of creating harmony in my life, I am more productive at work, I think better, and I'm a better leader for my companies. There's no honor in overworking yourself, and you're not going to do your best work that way. Balance is key.

Truthfully, I struggle with suicidal ideation in my life. When I'm burned out especially my thoughts can betray me and make me feel worthless and unworthy of what I have in my life. My advice to anybody going through anxiety, depression, burnout, or suicidal ideation would be to take that next step and acknowledge that something is wrong, find the courage to articulate that you need help, and then accepting that help are three of the hardest, bravest things that anybody can do.

None of us are able to achieve success without some help along the way. Is there a particular person who you are grateful towards who helped get you to where you are? Can you share a story?

Without question that person is my wife, Kristen. I would be nothing without her. The day after I quit my job to launch Authentic, I had one of the worst anxiety attacks of my life. I couldn't even leave the house because I was in such a troubled state — and even worse it was on her birthday. But she helped me get through it, just as she has with so many things I've faced in my life. Everybody needs a rock to be with you when the times are tough. I am very lucky I have her.

How have you used your success to bring goodness to the world?

For me, it's been creating companies that people love working at. We've won numerous awards for our workplace culture that recognizes our commitment to creating a positive and inclusive environment. We actively try to lift people up and value their unique perspectives, giving people the space to bring their whole selves to the workplace. By fostering a supportive company, we empower our employees to thrive and contribute their best to our clients and the causes we champion.

One of my favorite things is to see Authentic alumni go out and make a difference in the world. We have folks working on campaigns and at nonprofits who were able to learn valuable skills here and go on to do bigger

and better things. I take a lot of pride and joy watching them thrive and create goodness in the world.



What are your “5 things I wish someone told me before I started leading my company” and why. Please share a story or example for each.

1 . You can't do it alone. You need a team of people who are different from you. Different skills, different backgrounds, different worldviews, different lived experiences. When I started Authentic my first hire was Loren Merchan, who is now my business partner and is the President of Authentic. She is one of the smartest people I know and she has a completely different perspective and approach than me, but that differentiation creates magic.

2 . It's lonely at the top. I know that's such a cliché and I am not looking for sympathy, but being a Founder is hard! Not many know the feeling of staying up at night worrying about how to make payroll. It's an awesome responsibility and one that needs to be taken seriously. That's why you need a network of peers you can talk to. I joined [Entrepreneurs Organization](#) a few years ago because they offer a monthly forum for Founders to connect with one another. It's by far one of the best investments I've ever made in myself and it's sort of like I have my own personal Board of Directors to help me navigate tough business and personal challenges.

3 . Process matters. I like to joke that I am an ideas man and I come up with 100 new business ideas every single day, but I struggle with process. That struggle creates chaos in my life and in my businesses. I can follow one in short bursts, but it's hard for me to get on board and even harder for me to develop or articulate the process. The more I've learned to let go and just document what I am doing, so that someone else can execute — the more I've been able to get out of the day-to-day and work on the business overall.

4. Take breaks. Again, another cliché, but it's so important. If I don't take time to go on a walk, grab lunch, be with my family, or do something fun (live music!) — then I'm rarely firing on all cylinders. The truth is that I really like going to work every day. I love solving the challenges of founding a business and because sometimes I get so wrapped up into it that I forget to be a human. Today, I try to have a framework that allows me to do something for my mind, my body, and my spirit each day. If I do that consistently, I can avoid burnout while also dedicating myself to my companies and my other projects.

5. Never stop learning. Having a growth mindset is so critical for success. I was never a good student, but I loved learning and cannot get enough. I listen to an audiobook a week in addition to any number of podcasts (big shout out to Smartless, which is a great podcast that I recommend) and YouTube tutorials (I am currently learning how to build a better Notion structure for my second brain). Heck, the only reason I was able to launch a new AI startup was because I dove in head first to learn! I took a course at Northwestern early this year, read a bunch of books, went to a conference, and more. It was energizing for me and I think it made me a better leader.

Can you share a few ideas or stories from your experience about how to successfully ride the emotional highs & lows of being a founder”?

I always remind myself that I am never as good as I feel when everything is clicking and I am never as bad as I feel when it isn't. I tend to feel things really deeply. For example, we recently launched Quiller at Netroots Nation in Chicago and everybody was abuzz about the tool. It felt really good and it would be so easy to let that dominate my thoughts. But instead I've been reminding myself that there's still so much more to be done to make it the tool I believe it can be.

I really like Mark Manson's quote on this: “The desire for a more positive experience is itself a negative experience. And, paradoxically, the acceptance of one's negative experience is itself a positive experience.”

That line lives rent free in my brain and helps me to keep a level head.

You are a person of great influence. If you could start a movement that would bring the most amount of good to the most amount of people, what would that be? You never know what your idea can trigger. :-)

It may sound simple but I want people to be nicer to themselves. I struggle with negative self-talk, imposter syndrome, and suicidal ideation. I have to walk back some of my inner dialogues sometimes. It's hard and if somebody has a solution out there that can help the billions of people who are probably facing a similar struggle — I would be so grateful. Because truth be told, people are amazing and smart and so creative and kind and we forget that because of social media and the nightly news. We're better than the way society boxes people in and we cannot forget that.

How can our readers further follow your work online?

I would encourage people to connect with me on [LinkedIn](#). I try to be active and stay engaged in learning and sharing the work I am doing, especially with Quiller.

If you're interested in hiring Authentic, you can go here: authentic.org

If you want to schedule a Quiller demo, you can go here: quiller.ai

This was very inspiring. Thank you so much for joining us!

A *bout the Interviewer: Douglas E. Noll, JD, MA was born nearly blind, crippled with club feet, partially deaf, and left-handed. He overcame all of these obstacles to become a successful civil trial lawyer. In 2000, he abandoned his law practice to become a peacemaker. His calling is to serve humanity, and he executes his calling at many levels. He is an award-winning author, teacher, and trainer. He is a highly experienced mediator. Doug's work carries him from international work to helping people resolve deep interpersonal and ideological conflicts. Doug teaches his innovative de-escalation skill that calms any angry person in 90 seconds or less. With Laurel Kaufer, Doug founded Prison of Peace in 2009. The Prison of Peace project trains life and long terms incarcerated people to be powerful peacemakers and mediators. He has been deeply moved by inmates who have learned and applied deep, empathic listening skills, leadership skills, and problem-solving skills to reduce violence in their prison communities. Their dedication to learning, improving, and serving their communities motivates him to expand the principles of Prison of Peace so that every human wanting to learn the skills of peace may do so. Doug's awards include California Lawyer Magazine Lawyer of the Year, Best Lawyers in America Lawyer of the Year, Purpose Prize Fellow, International Academy of Mediators Syd Leezak Award of Excellence, National Academy of Distinguished Neutrals Neutral of the Year. His four books have won a number of awards and commendations. Doug's podcast, Listen With Leaders, is now accepting guests. Click on [this link](#) to learn more and apply.*

EXHIBIT 16

★ ARCHIVE *of* POLITICAL EMAILS ★

≡ MENU

✉ EMAIL

This is a longer message, but we hope you'll take a moment to read through it.

SENATE MAJORITY PAC

From Defend the Senate <information@democrats.senatemajority.com>

Subject This is a longer message, but we hope you'll take a moment to read through it.

Date August 31, 2023 6:04 PM

HTML Plain Text Screenshot



John, this email is longer than ones we usually send during our end-of-month push, but we hope you'll read it through because it's important.

91 charges. That's how many felonies Donald J. Trump is charged with.

No president has been charged with a crime before Donald Trump. Now, in the span of just a few months, Trump has racked up indictments in four different jurisdictions (and counting).

This isn't normal. We deserve better.

Yet knowing all of this, Trump is still the frontrunner for Republicans. He's leading in all of the primary polls. GOP Senators are throwing their support to him. And he's raising millions to try and defeat Joe Biden and take back the White House.

We don't want to wake up next year in a country where Donald Trump is reelected and Mitch McConnell takes back the Senate — because the consequences could be too dangerous to fathom.

That's why we're on the front lines to defeat all of their right-wing allies and keep the Senate blue. To defend our democracy. To protect reproductive rights. And to be a brick wall to any right-wing extremism.

It'll take a lot of resources to win in Trump-won states like Ohio and Montana, reelect vulnerable Senators like Sherrod Brown and Jon Tester, and keep the Senate blue. We're ready to do that hard work. **Can we count you in, John?**

To help us protect our Senate majority, a generous group of donors is 3X-matching the first \$25,000 in donations until 11:59 P.M. tonight. Will you rush in \$10 (becomes \$40) to help us overcome all the attacks Donald Trump and Mitch McConnell are going to throw our way to Defend the Senate?

If you've saved your payment information with ActBlue Express, your donation will go through immediately:

DONATE \$10 (\$40 IMPACT!)	DONATE \$25 (\$100 IMPACT!)
DONATE \$50 (\$200 IMPACT!)	DONATE \$100 (\$400 IMPACT!)
DONATE \$250 (\$1000 IMPACT!)	ANOTHER AMOUNT

Thank you,

— Defend the Senate

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The Archive of Political Emails is a project of Defending Democracy Together Institute. Please email herbert@ddtinstitute.org with any questions.

EXHIBIT 17

Political Fundraising Firm Pilots a 4-Day Work Week

ARTICLES RESOURCES EVENTS AWARDS BECOME A MEMBER



A Democratic fundraising shop founded with the goal of addressing toxic workplace culture in the campaign industry is moving to a four-day work week.

Authentic announced the move last week together with the Campaign Workers Guild, which represents staffers at the digital fundraiser. Compensation won't change as a result of the new schedule. The company's management proactively proposed the shift prior to its latest collective bargaining with unionized employees, and then negotiated on the details with the union. It's a process that started last summer.

"What we did do [last] summer was we'd tested a summer Friday [half-day schedule], and that was at the request of the union," Loren Merchan, a partner and president, COO at Authentic, told C&E.

"We tested it out and it largely went pretty well. And so we had some discussions as a leadership team about if we thought we could do something bigger, something longer term, what that would take."

Merchan said that the schedule is still flexible enough to allow for some staff to work during breaking-news events, such as the vote to expel now-ex-Congressman George Santos (R-N.Y.) on Friday Dec. 1, or to help clients handle primary votes next year.

"There's always understanding that if rapid response things happen, whether that's on Friday or Saturday or Sunday, that we will respond," Merchan said.

Clients have been generally responsive to the idea, which is taking hold in [other industries as well](#).

"What we've told clients is that if it's not urgent, then it will wait until Monday, and we want to work with them to make sure they're getting their drafts far enough in advance to approve it so that way we can get that all set up for the weekend in advance. We're trying to do more advanced planning with them," she said. "And then kind of identifying what things are urgent and need that urgent response on a Friday, Saturday, Sunday, and what things can wait until Monday."

That said, Merchan noted that managing workflow will be an evolving process. Moreover, as the schedule gets more hectic closer to Election Day 2024, the staff's schedule will get back to five days.

"That time between Labor Day and after the election, we will switch back to a five-day work week during that period," she said. "But otherwise we'll likely be maintaining the four-day work week."

For now, it's a pilot program that the company will reevaluate in the spring. But Merchan believes the program will become permanent, and it'll help Authentic with staff retention, which is an ongoing issue for many industry employers.

"We definitely think it will help with talent retention and, hopefully, recruitment," she added. "This is a high turnover industry. [Diversity, equity and inclusion] is really important to us and that's something that we struggle with in this industry, and sometimes we need to try to draw candidates in from outside of our industry."

"So we are looking at ways to help with our recruitment as well as our retention here because we spend a lot of time investing in our employees and training them and managing them."

Taylor Billings, organizing director with CWG, said the Guild hopes this starts an industry-wide trend.

"We hope not only that Authentic workers feel the benefits of a 4-day workweek, but also that other firms and organizations across the industry will follow their lead," said Billings.

EXHIBIT 18

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EXHIBIT 19

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EXHIBIT 20

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EXHIBIT 21

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EXHIBIT 22



Donald Trump's New York hush-money criminal trial was delayed Friday until at least mid-April as the judge seeks answers about a last-minute evidence dump that the former president's lawyers said has hampered their ability to prepare their defense. (AP production by Javier Arciga)

Photos ²

BY JENNIFER PELTZ

Updated 10:21 AM EDT, March 17, 2024

NEW YORK (AP) — Judge Juan M. Merchan looked across his high-ceilinged courtroom, facing the defendant in a complicated case.

Not the one everyone knows about.

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Yes, Merchan could become the first judge ever to oversee a former U.S. president's criminal trial: Donald Trump's hush money case. But on a recent morning, the judge was attending to much less conspicuous cases in Manhattan's once-weekly Mental Health Court, where selected mentally ill offenders agree to closely monitored treatment in hopes of getting charges dismissed and their lives on track.

As Merchan talked with defendants about their progress, stumbles, jobs, families and even workouts, it was a far cry from the upcoming trial in which Trump will be at the defense table, but the judge also will be in a hot seat.

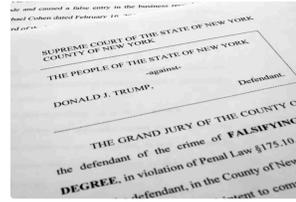
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At a glance: The three hush money cases in Trump indictment

The ex-president and presumptive Republican nominee has called Merchan a “Trump-hating” judge, and defense lawyers unsuccessfully asked him to exit the case. Merchan received dozens of death threats after Trump slammed him on social media last year.

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Ten days before jury selection was to start, Merchan on Friday postponed the trial until at least mid-April because of a last-minute evidence dump. He scheduled a March 25 hearing on next steps.

Merchan wouldn't talk about the case last week, but allowed that getting ready for the historic trial is “intense.”

He is striving “to make sure that I've done everything I could to be prepared and to make sure that we dispense justice,” he said in an interview, emphasizing his confidence in court staffers.

“There's no agenda here,” he said. “We want to follow the law. We want justice to be done.”

“That's all we want,” he said.

THE PATH TO TRUMP'S CASE

Born in Colombia, Merchan emigrated as a 6-year-old and grew up in New York. He worked his way through college, graduated from Hofstra University's law school, and was a state lawyer and Manhattan prosecutor before being appointed a family court judge in 2006. Three years later, he was assigned to a felony trial court, which New York calls a state Supreme Court.

Now 61, he has presided over cases alleging murder, rape and many other crimes: a multimillion-dollar investment fraud, a clubland stabbing, stolen laptops, harassment.

He oversaw trials of three men who parachuted off the rebuilt World Trade Center's tallest skyscraper and of at least one defendant in a sprawling Social Security disability fraud case against police officers, firefighters and others accused of faking psychological problems to get benefits.

Merchan is still dealing with the aftermath of the 2012 case of Anna Gristina, the “soccer mom madam” whose alleged exploits spurred a 2021 Lifetime movie. She now wants to rescind her guilty plea and is suing the judge to try to get some case transcripts unsealed. Lawyers for Merchan have said the sealing was justified.

The spotlight on Merchan grew white-hot in the last three years as he took on cases involving Trump's company, its former longtime finance chief Allen Weisselberg and, eventually, Trump himself.

Trump has pleaded not guilty to doctoring business records to veil a 2016 effort to squelch claims of extramarital affairs, which he denies. Prosecutors say he was trying to protect his first campaign; he has said he is fighting a “fake case” brought to impede his current run.

Trump wasn't charged in the tax fraud case against his company, the Trump Organization. A jury voted to convict. Merchan imposed a \$1.6 million fine, the legal maximum. The company denied wrongdoing and is appealing.

If some might see Merchan's familiarity with the Trump Organization case as preparation for the hush money trial, the ex-president and his lawyers see a problem.

They have asserted Merchan has “preconceived bias” against Trump, saying the judge strong-armed Weisselberg behind the scenes into taking a plea deal, agreeing to testify in the tax fraud

case and serve a five-month jail sentence.

Merchan and prosecutors have disputed the claims. The judge wrote that defense lawyers drew "misleading" conclusions from an "inaccurate" portrayal of his involvement in Weisselberg's plea negotiations.

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Trump's lawyers also have pointed out that Merchan's daughter is a political consultant whose firm has worked for Democrats and the judge donated \$35 in 2020 to Democratic causes, including \$15 to now-President Joe Biden. A state court ethics panel opined that Merchan could continue on the case. The judge has vouched he can be fair and impartial.

Trump has a history of assailing judges in cases involving his business or administration. He tangled with jurists in person during his recent civil trials over New York state's claims of business fraud and writer E. Jean Carroll's sexual assault and defamation allegations. Trump denied all the accusations.

Federal Judge Lewis A. Kaplan presided with stern authority over two jury trials on Carroll's claims. In the non-jury business fraud trial, state Judge Arthur Engoron at times gave latitude, such as letting lawyers revisit issues he had decided, but at other points pounded his desk in frustration.

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Merchan has conducted the criminal court dates so far with a mannerly but firm formality. When one of Trump's lawyers complained last month that the trial would burden the candidate as he campaigned, Merchan responded: "That's not a legal argument. Anything else?"

Roger Stavis, a lawyer who testified before Merchan during a jury trial years ago, recalls the judge as self-confident but "not overbearing."

"He's in command of his courtroom," Stavis said. "He won't be baited, and he won't be pushed around."

As for Merchan himself, he says that in his courtroom, “everybody gets treated respectfully, professionally.”

‘A DIFFERENT LENS’

During long trials, Manhattan judges often reserve a day each week for other cases. Merchan is keeping Wednesdays for mental health court, which he has overseen since its 2011 start, and a similar veterans’ docket he took on in 2019.

The mental health court currently handles nearly 70 cases while budgeted for 50 a year, coordinator Amber Pettit-Cifarelli said. About 100 participants successfully finished between 2014 and 2021, while 190 were accepted, according to a report from Manhattan prosecutors.

“We help a lot of people, but it’s hard work. ... You get really invested in people’s lives,” Merchan said, adding that it lets him “see people through a different lens” than he did when presiding only over criminal cases.

Last week, Merchan offered encouragement to a newcomer who teared up while describing how mental illness ended his full-scholarship college studies. He urged one assault defendant not to lose patience with residential treatment rules and congratulated another on passing her real estate class final. He handed progress certificates to some, including a residential treatment patient approved for an apartment.

It wasn’t all good news. Merchan issued a warrant for someone who didn’t return to a residential program after a medical visit. A robbery defendant apologized for having smoked K2, his first misstep in a year of court-supervised treatment.

When Merchan asked what happened, the man said he had been depressed because his mom and siblings were far away, but he later talked with his counselor about handling such feelings.

“So we’re not going to harp on that situation that happened. Because you’ve earned good faith,” Merchan decided, noting the man’s honesty. He remains on course for a progress certificate if he avoids further slips.

Another man was making headway toward quitting marijuana, avoiding old hangouts and getting a library card to make reading a new pastime.

“You’ve got this one issue, and you’re working through it,” Merchan told him. “I’m very proud of you.”

Associated Press writer Michael R. Sisak contributed.