

EXHIBIT N

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Special Counsel for Hate Crimes
28 Liberty Street
New York, NY 10005

Ms. Catherine Suvari, Esq.
Assistant Attorney General
General Charities Bureau
28 Liberty Street
New York, NY 10005

July 20, 2022 *Via Email*

Re: New York Attorney General Subpoena to Meta Platforms, Inc. dated May 13, 2022
 New York Attorney General Subpoena to Facebook Payments, Inc. dated June 14, 2022
 New York Attorney General Subpoena to VDARE Foundation, Inc. dated June 23, 2022

Dear Mr. Sawyer and Ms. Suvari:

This email is in follow up to the meet and confer held on Monday, July 18, 2022.

Upon further examination, your subpoenae are incredibly unlawful, such that their very service brings into question the good faith of the New York Attorney General.

Let us start with obvious facts: VDARE publishes speech which is highly critical of current governmental policy. This is speech at the very heart of our First Amendment, *e.g.* "Criticism of government is at the very center of the constitutionally protected area of free discussion. *Rosenblatt v. Baer*, 383 US 75, 85 [1966]; "A more invidious classification than that between persons who support government officials and their policies and those who are critical of them is difficult to imagine." *Glasson v. City of Louisville*, 518 F2d 899, 912 [6th Cir. 1975].

Furthermore, VDARE's speech is not only critical of governmental policy, but controversial in its own right.

Precisely because of its controversial character, many of VDARE's writers, readers, and donors prefer to remain anonymous. Their ability to do so is well settled law that you have blatantly disregarded with your subpoenae.

A writer's anonymity was recognized, among other places, in *Talley v California*, 362 US 60 [1960]: "There can be no doubt that such an identification requirement would tend to restrict freedom to distribute information and thereby freedom of expression...

"Anonymous pamphlets, leaflets, brochures and even books have played an important role in the progress of mankind. Persecuted groups and sects from time to time throughout history have been able to criticize oppressive practices and laws either anonymously or not at all... Even the Federalist Papers, written in favor of the adoption of our Constitution, were published under fictitious names. It is plain that anonymity has sometimes been assumed for the most constructive purposes." *Id.* at 64-65.

Turning to a reader's anonymity, it too, has been given constitutional recognition. Among other places, you are referred to the eloquent concurrence by Justice Douglas in *US v. Rumely*, 345 US 41 [1953]: "Once the government can demand of a publisher the names of the purchasers of his publications, the free press as we know it disappears. Then the spectre of a government agent will look over the shoulder of everyone who reads. The purchase of a book or pamphlet today **may result in a subpoena tomorrow.** Fear of criticism goes with every person into the bookstall. The subtle, imponderable pressures of the orthodox lay hold. Some will fear to read what is unpopular, what the powers-that-be dislike. When the light of publicity may reach any student, any teacher, inquiry will be discouraged. The books and pamphlets that are critical of the administration, that preach an unpopular policy in domestic or foreign affairs, that are in disrepute in the orthodox school of thought will be suspect and subject to investigation. The press and its readers will pay a heavy price in harassment. But that will be minor in comparison with the menace of the shadow which government will cast over literature that does not follow the dominant party line. If the lady from Toledo can be required to disclose what she read yesterday and what she will read tomorrow, fear will take the place of freedom in the libraries, book stores, and homes of the land. **Through the harassment of hearings, investigations, reports, and subpoenas government will hold a club over speech and over the press. Congress could not do this by law. The power of investigation is also limited.**" *Id.* at 57-58.

And just recently, the Supreme Court reiterated its commitment to protecting donor anonymity. *Ams for Prosperity Found v Bonta*, 141 S Ct. 2373, 2388 [2021]

Despite the law, and the Attorney General's office as an alleged upholder of law, you have managed to serve three subpoenae which not only disregard the First Amendment, but practically bludgeon it, repeatedly, often along all three protected categories above.

Regarding Mr. Sawyer's Meta Subpoena of May 14, 2022:

- Item 1 sweeps up any anonymous writers for VDARE. It is also incredibly overbroad

- insofar as it seeks any account even “linked” to VDARE or its writers.
- Item 2 again sweeps up any anonymous writers for VDARE and suffers from overbreadth.
 - Item 11 sweeps up anonymous donors, as well as any anonymous writers for VDARE; then too it suffers from incredible overbreadth.
 - Item 12 again sweeps up anonymous writers and suffers from incredible overbreadth.
 - Item 13 sweeps up anonymous writers and donors, and suffers from incredible overbreadth.
 - Item 14 again sweeps up anonymous writers and suffers from incredible overbreadth.
 - Item 15 again sweeps up anonymous writers and suffers from incredible overbreadth.
 - Item 16 violates publisher anonymity, sweeps up anonymous writers and suffers from incredible overbreadth.
 - Item 17 again sweeps up anonymous writers and suffers from incredible overbreadth.
 - Item 18 again sweeps up anonymous writers and suffers from incredible overbreadth, and could disclose anonymous readers, as well.
 - Item 19 again sweeps up anonymous writers and suffers from incredible overbreadth, and could disclose anonymous readers, as well.

Regarding Mr. Sawyer’s Facebook Subpoena of June 14, 2022:

- Item 1 sweeps up anonymous donors, as well as any anonymous writers for VDARE, as well as suffering from incredible overbreadth.
- Item 2 again sweeps up anonymous writers and suffers from incredible overbreadth.
- Item 3 sweeps up anonymous writers and donors, and suffers from incredible overbreadth.
- Item 4 again sweeps up anonymous writers and suffers from incredible overbreadth.
- Item 5 again sweeps up anonymous writers and suffers from incredible overbreadth.

Regarding Miss Suvari’s VDARE Subpoena of June 23, 2022:

- Item 3 invades attorney-client privilege and is patently offensive.
- Item 4 violates the First Amendment rights of VDARE’s anonymous writers, suffers from incredible overbreadth, is harassing, and patently offensive.
- Item 5 suffers from overbreadth.
- Item 6 violates the First Amendment rights of VDARE’s anonymous writers, readers and donors, invades attorney-client privilege and is patently offensive.
- Item 7 violates the First Amendment rights of VDARE’s anonymous writers and suffers from overbreadth.
- Item 8 violates the First Amendment rights of VDARE’s anonymous writers, readers and donors.
- Item 9 violates the First Amendment rights of VDARE’s anonymous writers and suffers from overbreadth.
- Item 11 violates the First Amendment rights of VDARE’s anonymous writers.
- Item 12 suffers from overbreadth and is vague.
- Item 13 suffers from overbreadth and is vague.
- Item 14 violates the First Amendment rights of VDARE’s anonymous writers, readers

- and donors, invades attorney-client privilege and is patently offensive.
- Item 15 suffers from overbreadth and is vague, and invades attorney-client privilege.
- Item 16 violates the First Amendment rights of VDARE's anonymous writers, readers and donors.
- Item 17 violates the First Amendment rights of VDARE's anonymous writers, readers and donors.
- Item 21 violates the First Amendment rights of VDARE's anonymous writers, readers and donors, and suffers from incredible overbreadth.
- Item 22 violates the First Amendment rights of VDARE's anonymous writers and suffers from incredible overbreadth.
- Item 23 violates the First Amendment rights of VDARE's anonymous writers and suffers from incredible overbreadth.
- Item 24 violates the First Amendment rights of VDARE's anonymous writers, readers and donors, suffers from incredible overbreadth, and is patently offensive.
- Item 25 suffers from overbreadth and is vague.
- Item 26 violates the First Amendment rights of VDARE's anonymous writers, readers and donors, suffers from incredible overbreadth, is vague, and appears to violate attorney-client privilege, too.
- Item 27 violates the First Amendment rights of VDARE's anonymous writers and suffers from incredible overbreadth.
- Item 28 violates the First Amendment rights of VDARE's anonymous writers and suffers from incredible overbreadth.
- Item 29 violates the First Amendment rights of VDARE's anonymous writers and suffers from incredible overbreadth.
- Item 30 violates the First Amendment rights of VDARE's anonymous writers, readers and donors, suffers from incredible overbreadth, is vague, and appears to violate attorney-client privilege, too.
- Item 31 violates the First Amendment rights of VDARE's anonymous writers, readers and donors, suffers from incredible overbreadth, is vague, and appears to violate attorney-client privilege, too.
- Item 32 violates the First Amendment rights of VDARE's anonymous writers, readers and donors, suffers from incredible overbreadth, is vague, and appears to violate attorney-client privilege, too.
- Item 33 violates the First Amendment rights of VDARE's anonymous writers, readers and donors, suffers from incredible overbreadth, is vague, and appears to violate attorney-client privilege, too.
- Item 34 suffers from overbreadth and is vague, and appears to violate attorney-client privilege, too.
- Item 35 suffers from overbreadth and is vague, and appears to violate attorney-client privilege, too.
- Item 36 violates the First Amendment rights of VDARE's anonymous writers, readers and donors, suffers from incredible overbreadth, is vague, and appears to violate attorney-client privilege, too.
- Item 37 violates the First Amendment rights of VDARE's anonymous writers, readers and donors, suffers from incredible overbreadth, is vague, and appears to violate attorney-

- client privilege, too.
- Item 38 violates the First Amendment rights of VDARE's anonymous writers, readers and donors, suffers from incredible overbreadth, is vague, and appears to violate attorney-client privilege, too.
 - Item 40 violates the First Amendment rights of VDARE's anonymous writers, readers and donors, suffers from incredible overbreadth.
 - Item 41 violates the First Amendment rights of VDARE's anonymous writers, readers and donors, suffers from incredible overbreadth.
 - Item 42 violates the First Amendment rights of VDARE's anonymous writers, readers and donors, suffers from incredible overbreadth.
 - Item 43 violates the First Amendment rights of VDARE's anonymous writers and suffers from incredible overbreadth.
 - Item 44 violates the First Amendment rights of VDARE's anonymous writers and suffers from incredible overbreadth.

Looking over the demands of all three subpoenae, it appears that of 68 separate demands, fully 53 are improper, with most violations landing squarely on First Amendment grounds. That fail rate is not the record of a party proceeding in good faith. Whatever statutory presumption the Attorney General is accorded, it is rebutted by the above pattern.

This is an unlawful and oppressive fishing expedition, the very furthest thing from a narrowly tailored inquiry sensitive to the constitutional rights of the party subpoenaed. Under the circumstances, we must respectfully ask you to withdraw your subpoenae in their entirety.

Please advise on your stance at your earliest convenience.

I thank you for your time and attention herein, and remain

Very truly yours,

/s/

Frederick C. Kelly, Esq.

cc: Lydia Brimelow *Via Email*
Perkins Coie LLP *Via Email at CdelFierro@perkinscoie.com*