Exhibit B
October 16, 2020

Via Email

David McCraw
Senior Vice President & Deputy General Counsel,
The New York Times Company,
620 8th Ave,
New York, NY 10018
Email: mccrad@nytimes.com

Re: False Allegations regarding Project Veritas

Dear David:

I write in response to your October 12 letter.

We were very disappointed to hear that The New York Times is continuing to stand behind these false and defamatory articles, characterizing them as “a fairly plain-vanilla account of research.” While we do appreciate the time and effort you claim The Times is taking to consider the issues I previously raised, that characterization strikes us, frankly, as disingenuous. There is not a single sentence within these articles that even attempts to consider Project Veritas’ perspective—much less disclose to The Times’ readers that these “researchers” were engaging in rank “speculation” or that—as we conclusively demonstrate with The Times’ and Election Integrity Project’s websites own metadata—The New York Times and the Election Integrity Project were engaged in their very own “coordinated disinformation campaign.”

As an initial matter, you claim The Times’ description of the video as “deceptive” is appropriate because “the video was billed as proving that Rep. Ilhan Omar had engaged in illegal ‘vote harvesting’” and “[i]t did not in fact offer up such proof.” But this argument sets up a strawman to knock down. Project Veritas never marketed the video as showing Rep. Omar or her campaign engaging in illegal activities. Notably, your letter cites no example of Project Veritas marketing the video in the way you describe. Instead, Project Veritas clearly and plainly described the video as individuals connected with Rep. Omar engaging in this kind of illegal conduct.
When the video was released, both Project Veritas and James O’Keefe billed the video as revealing that Rep. Ilhan Omar was “connected” to a cash-for-balls scheme:¹

Project Veritas has continued to advertise the “#BallotHarvesting” video simply as an illegal ballot-harvesting scheme “connected” to Rep. Omar:²

¹ Project Veritas (Twitter) @Project_Veritas (Sept. 27, 2020, 9:15 PM), https://twitter.com/Project_Veritas/status/131038769935617793; James O’Keefe (Twitter) @JamesOKeefeIII (Sept. 27, 2020, 9:00 PM), https://twitter.com/JamesOKeefeIII/status/1310387503040219649.
Project Veritas promoted the second video on “#BallotHarvesting” using the “connected” language as well:\footnote{See, e.g., Project Veritas (Twitter) @Project_Veritas (Sept. 28, 2020 10:33 PM), \url{https://twitter.com/Project_Veritas/status/1310769627568898560}; James O’Keefe (Twitter) @JamesOKeefeIII (Sept. 28, 11:01 PM), \url{https://twitter.com/JamesOKeefeIII/status/1310776658056613889} (“FULL YOUTUBE VIDEO@IlhanMN Connected to Harvester SEEN exchanging $200 for General Election Ballot. “We don’t care illegal” RETWEET! #CashForBallots”).}
And the video did provide substantial evidence of that claim, including by showing video of illegal ballot harvesting by Mr. Osman, who three separate sources (including Omar Jamal, who is entirely on the record) say has worked directly for Rep. Omar’s campaign. And as we previously explained, Mr. Jamal also specifically connected Rep. Omar with the cash-for-ballots scheme when he alleged that her Deputy Director in Minneapolis—Ali Isse Gainey, who has done fieldwork for her in the past—“is part of people who are using cash to get votes.”

Notably, The Times itself clearly considers Mr. Jamal to be a credible and knowledgeable source with respect to issues concerning the Somali-American community in Minneapolis and Ms. Omar in particular. The Times has quoted and featured Mr. Jamal on the record in numerous stories, for example here:

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And here:7

“...said Omar Jamal, who has helped Ms. Sahal’s family and directs the Somali Justice Advocacy Center. “When a person dies, he leaves the world. But here, there is nothing we can do.”

Indeed, The Times even published an Op/Ed Mr. Jamal authored in 2013:8


In fact, The New York Times itself has quoted Mr. Jamal specifically on the subject of Congresswoman Omar. Of course, an on-the-record witness statement by a person with knowledge of this kind of illegal activity—whom The Times obviously believes is credible enough to repeatedly use as a source in its own reporting—is evidence that those connected with Rep. Omar engaged in illegal ballot harvesting—and it would be fully admissible in a court of law.

We are surprised that The Times is ignoring the clear language that these individuals are “connected” to Rep. Omar—because it is precisely the same kind of language The Times regularly uses when it attempts to implicate a person in power with those engaged in illegal or unethical conduct.¹⁰

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Nor does *Buckley v. Littell* help *The Times'* position. *Littell*'s text and analysis is so fact-specific, it simply does not apply here. First, *Littell*'s pronouncement that the term “deceiver” was not actionable was entirely intertwined with its analysis of the question of whether Mr. Buckley was “acting as a deceiver in the purveying of fascist material,” and the Second Circuit had already determined earlier in the case that there was significant “ambiguity and looseness of the term[,] ‘fascist,’” *id. at 891,* and that in that particular context, “the statement from the disputed passage that a fellow traveler ‘functions as a deceiver’ is subject to the interpretation that the deception might be innocent and unintentional” because under the circumstances, “one can ‘function as a deceiver’ without doing so intentionally,” *id. at 892.* Second, calling someone a “deceiver” is much more akin to name-calling than making specific, factual claims that a journalist published a deceptive video because that video did not live up to the journalist's marketing efforts. And *The Times'* only two bases for claiming the video is deceptive have been fully debunked—namely that Project Veritas 1) relied only on unidentified sources (but see Omar Jamal’s on-the-record video statements); and 2) failed to prove Rep. Omar engaged in voter fraud (but see screen captures and paragraph above debunking this strawman argument).

Regarding your claim that “it is not really a fair reading of the piece” to say the story implied illegal coordination with the Trump campaign, your own letter demonstrates why that is precisely the way an objective reader would understand *The Times'* article. By selecting the quote from Stanford and the University of Washington that the research “raises questions of coordination” with the Trump campaign (your emphasis), *The Times'* articles use precisely the same legal term of art “coordination” that is prohibited in the context of “campaigns” under federal law—and suggest the campaign and Project Veritas need to answer those “questions” to explain why this “coordination” is not nefarious. *The Times'* may disagree with this reading, but ultimately it will be a question for a trier of fact.

*The Times'* defense of its article also claims that Stanford and the University of Washington were merely engaged in “speculation” and *The Times* properly “presented [it] as speculation.” Except nowhere in *The Times'* article do the words “speculation,” “conjecture,” “surmise,” “without proof,” or “without evidence” ever appear (except, of course, when *The Times*’ uses those last two when speaking about Project Veritas). If the researchers’ claims were so clearly “speculation,” why didn’t *The Times* label them as such? And more importantly, if *The Times* knew that Stanford and the University of Washington were engaging in such “speculation” as to clearly provable facts, why didn’t *The Times* call Project Veritas to see if that “speculation” was accurate? Here, “the press [did not

use its latitude to present competing points of view" at all—it purposefully avoided Project Veritas' point of view altogether. Regardless of what appears to be The Times' intentional, fundamental lapse of journalistic standards, as you well know, using magic words like “I believe,” or “probably,” before a false statement does not insulate a publisher from liability.11

As to the question of why The Times would publish as fact the groundless speculation of these “researchers” that Project Veritas engaged in a “coordinated disinformation campaign,” and also baselessly label Project Veritas’ reporting as “deceptive,” the answer is hidden in plain sight. Metadata from the websites of the “Election Integrity Project” and The New York Times (attached hereto as Exhibit A) show that this “research” was published only 62 minutes before The Times published Ms. Astor’s story about it:

![EIP Article](image1.png)

![NY Times Article](image2.png)

Obviously, in the span of only one hour, Ms. Astor did not discover, read and digest Stanford and the University of Washington’s 1,200 word post, interview its authors, write her own nearly one-thousand word story about it, call the Trump Campaign and Mike Lindell for comment, submit that story to her editors for review and approval, and see it published on The Times’ website. This

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11 See, e.g., Milkovich v. Lorain Journal Co., 497 U.S. 1, 18-19 (1990) (holding that simply couching a defamatory statement—for instance, ‘Jones is a liar’—in terms of opinion—‘in my opinion Jones is a liar’—does not dispel the factual implications contained in the statement); Garrett v. Tandy Corp., 295 F.3d 94, 104 (1st Cir. 2002) (“We conclude, therefore, that a speaker’s use of a prefatory term such as ‘I suspect’ does not automatically inoculate [the speaker] against liability for defamation”); Enigma Software Grp USA LLC v. Bleeping Comp. LLC, 194 F. Supp. 3d 263, 286 (S.D.N.Y. 2016) (finding that qualifying statements such as “my personal recommendation” or ‘in my opinion’ . . . do not transform [the speaker’s posts] into nonactionable pure opinion”) (internal citations and quotations omitted); Davis v. Boeheim, 22 N.E.3d 999, 1007 (N.Y. 2014) (holding that plaintiff stated a defamation notwithstanding language couched in terms of “I believe”).
timeline makes it clear that EIP secretly gave The New York Times a draft copy of their "research" to write a story in advance of publication—precisely so that EIP's post could be followed up very shortly after with a New York Times stamp of approval that would greatly increase the attention and publicity that EIP's smearing of Project Veritas would receive. The Times never disclosed this coordination with EIP to its readers.

At bottom, it is clear that The New York Times and Stanford and the University of Washington were engaging in precisely the same nefarious conduct this "research" and these articles accused Project Veritas of. Their coordinated effort furthers both The Times' and the researchers' bias-driven desires to undermine journalism that reflected poorly on a prominent Democratic politician, as well as the Times' vindictiveness about the Project Veritas report upstaging The Times' story about Donald Trump's taxes. In short, and quite ironically, this Times story was itself the product of a "coordinated disinformation campaign"—a collaboration between The Times and left-leaning academics who shared the goal of discrediting Project Veritas and its groundbreaking report, as quickly and thoroughly as possible. That is textbook actual malice. And The Times' own failure to disclose this "coordination" to its readers, while simultaneously reporting on Project Veritas' purported "coordination" is plain and simple hypocrisy. Our only real question at this point—and we are confident discovery would reveal—whose idea this "research" was in the first place. Did it originate with The Times? The Times' readers deserve to know the answer to this question.

We reiterate our demand to retract these baseless, obviously coordinated, and defamatory articles. In the interest of aiding The Times so that it can reach its "only goal . . . to make sure [its] story is factually accurate for [its] readers," I am attaching hereto (Exhibit B) a redline of the September 29 online article with minimum changes necessary to provide a much more fair, balanced, and accurate account of EIP's report, the actual facts surrounding Project Veritas' decision to move up the release of the video, what the video actually showed, Project Veritas' response and reaction to these "researchers'" "thoroughly misguided" "speculation," and a meaningful disclosure of The Times' own involvement in coordinating with EIP to promote this defamation of Project Veritas. As you will see, the article as written simply cannot stand—and the corrections are too extensive to be made such that the original article's gist remains the same. To be clear, Project Veritas does not think that these corrections go far enough—this redline demonstrates how inaccurate The Times' article is and how meaningful changes to reflect the facts fully gut the original article. I would welcome the opportunity to speak with you about it, and go through it line by line, if it would be helpful.

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12 See Erano v. Rolling Stone, LLC, 209 F. Supp. 3d 862, 872 (W.D. Va. 2016) (bias, ill will, and intent to injure are evidence of actual malice).
Sincerely,

[Signature]

Elizabeth M. Locke, P.C.
EXHIBIT A
On the evening of Sunday Sept. 27, 2020, a right-wing activist group, Project Veritas, released a video alleging illegal ballot harvesting in Minnesota. The video made several falsifiable claims that have either been debunked by subsequent reporting or are without any factual support. As the video c...
Project Veritas Video Was a ‘Coordinated Disinformation Campaign,’ Researchers Say - The New York Times

The timing of the deceptive video, which accuses Ilhan Omar of voter fraud, indicates that several conservatives, including Donald Trump Jr., may have known about it in advance. /<meta data-rh="true" property="og:image" content="https://static01.nyt.com/images/2020/09/28/multimedia/28elections-briefings-veritas-facebookJumbo.jpg"/>

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EXHIBIT B
Project Veritas Debunks Researchers’ Claims Viral Video Was a ‘Coordinated Disinformation Campaign’

Researchers speculate the timing of the video, which shows ballot harvesting by individuals Project Veritas’ sources claim are connected to Ilhan Omar, indicates that several conservatives, including Donald Trump Jr., may have known about it in advance. But Project Veritas has demonstrated through its own analysis of The New York Times’ and the Election Integrity Partnership’s websites that the research and this New York Times article were part of a “coordinated disinformation campaign.”

UPDATE: This article has been updated to reflect statements from Project Veritas. The Times regrets its decision not to call Project Veritas before publication, and we regret our decision not to disclose to our readers that The Times coordinated with the Election Integrity Partnership to publish this article based on, and to promote, the Election Integrity Partnership’s research about Project Veritas before it was publicly available—the same conduct we have claimed in this article Project Veritas has engaged in.

A viral video released on Sunday by guerilla journalist James O'Keefe, which claimed through both on-the-record and confidential sources that individuals connected with Representative Ilhan Omar’s campaign had collected ballots illegally, was probably part of a coordinated effort to promote the video among conservative social media influencers, according to researchers at Stanford University and the University of Washington.

According to the researchers, Mr. O'Keefe and his group, Project Veritas, appear to have made an abrupt decision to release the video sooner than planned after The New York Times published a sweeping investigation of President Trump’s taxes. But documents reviewed by The New York Times show that Project Veritas made the decision to move up its release early Sunday morning, well before The Times’ story about the President’s taxes was released on Sunday afternoon.

The researchers also speculated that the timing and metadata of a Twitter post in which Mr. Trump’s son shared the video suggested that he might have known about it in advance.
Project Veritas had hyped the video on social media for several days before publishing it. In posts amplified by other prominent conservative accounts, Mr. O’Keefe teased what he said was evidence of voter fraud, and urged people to sign up at “ballot-harvesting.com” to receive the supposed evidence when it came out. While critics claim none of the material in the video definitively proved voter fraud, the video did feature clear evidence of ballot-harvesting—a practice of collecting multiple ballots in an election, which is illegal under Minnesota law—by Liban Mohamed. Project Veritas also released a Part 2 to its ballot-harvesting exposé on September 29 that appears to show a ballot harvester instructing a voter how to fill out a ballot and then paying the voter $200 cash, which is a felony under state and federal law. Project Veritas’ on-the-record source, Omar Jamal, an individual whom The Times has featured in its own reporting (including on issues related to Rep. Omar), claimed that Mr. Mohamed has worked for Rep. Omar’s campaign. Two other confidential sources heard on the video confirmed Mr. Jamal’s account.

Mr. O’Keefe’s promotional posts had said the video would be released on Monday, but Project Veritas released it on Sunday instead, a few hours after the publication of The Times’s investigation. The researchers concluded, without any verifiable evidence, that this timing was unlikely to be a coincidence “given the huge marketing about a 9/28 release date,” they wrote in an analysis that Alex Stamos, who led the research team at the Stanford Internet Observatory, shared with The Times.

“Project Veritas’ decision to advance the release by 12 hours was entirely the result of internal decision making out of a recognition that our viewers were more likely to view the video on a Sunday night than early Monday morning; nothing more,” said Jerod T. Ede, Project Veritas’ Chief Legal Officer. The Times reviewed internal emails from Mr. O’Keefe to his staff from the early hours Sunday morning, before The Times released its reporting on President Trump’s taxes, communicating the decision. Project Veritas also says that Stanford Internet Observatory never called for comment, and had it done so, Project Veritas could have debunked their claims sooner.

“It’s a great example of what a coordinated disinformation campaign looks like: pre-seeding the ground and then simultaneously hitting from a bunch of different accounts at once,” Mr. Stamos said.

“Mr. Stamos and his crew of sophomores and senior undergraduate students make many wild guesses with little evidence,” countered Mr. Ede. “Every social media platform rejected these sophomoric claims of ‘disinformation,’ and we are proud that our efforts to shed light on this illegal conduct has led the Minneapolis police department to initiate a criminal investigation.”

Ede was particularly critical of The Times’ own effort to coordinate this story with the University researchers, which he called “a disinformation campaign.”
“Metadata from The Times’ and the Election Integrity Partnership’s own websites show that the research was released only one hour before The Times published this article. There is simply no way in a single hour Ms. Astor was able to discover, read and digest this 1,200 word ‘research’ article, interview its authors, write her own nearly one-thousand word story about it, call the Trump Campaign and Mike Lindell for comment, submit that story to her editors for review and approval, and see it published on The Times’ website.”

Regarding the ballot harvesting video, Mr. Ede readily acknowledged that Project Veritas made efforts to promote the video’s release, including sharing an embargoed copy with many in the mainstream media and social media influencers.

Many of the same accounts that had shared promotional tweets also shared the video as soon as it was released, moving it quickly into Twitter’s trending topics alongside The Times’s tax investigation.

Roughly an hour after The Times published its article, Mike Lindell, chief executive of MyPillow and honorary chairman of Mr. Trump’s Minnesota campaign, tweeted a video of himself saying that Project Veritas’s exposé would be released that night at 9 p.m. Eastern time.

“I just met James O’Keefe of Project Veritas, and James showed me footage of systematic voter fraud,” Mr. Lindell said. He did not respond to a request for comment on Tuesday.

Mr. O’Keefe posted the video on Twitter at 9 p.m. on the dot, and the president’s son Donald Trump Jr.tweeted it just seven minutes later. Two minutes after that, the president’s “war room” account retweeted him, and the president himself soon began commenting.

Notably, the video that the younger Mr. Trump posted did not have the “from James O’Keefe” label that appeared when other Twitter users shared the video uploaded by Mr. O’Keefe.

“This detail, along with video metadata demonstrating that the Donald Trump Jr. version of the video was separately uploaded and re-encoded by Twitter, indicates that the Trump campaign possibly had access to the video before the general public and raises questions of coordination,” the Stanford and University of Washington researchers wrote, noting also that Mr. Trump posted the video on Facebook 10 minutes before Mr. O’Keefe posted it there.

Ede says that “Project Veritas has confirmed that it provided many individuals—including journalists in the mainstream media—with a separate copy of the video, which explains the difference in the metadata between the versions we and Donald Trump Jr. posted.”
Asked for comment, the Trump campaign said that Donald Trump Jr. had received a downloadable link to the video after it was publicly released. It did not comment on Mr. Lindell’s post or on the timing of the video’s release, and a spokesman for the younger Mr. Trump did not respond to a request for comment.

The video contains footage of Liban Mohamed showing off dozens of ballots he says he has collected for his brother, recently elected Minneapolis City Council member Jamal Osman—which is a violation of Minnesota’s ban on third parties collecting more than three ballots in any given election. “Just today we got 300 for Jamal Osman... I have 300 ballots in my car right now,” Liban Mohamed says in Somali.

Some have questioned the illegality of the practice, depending on when the video was filmed. In late July, a Ramsey County District Judge issued a preliminary order temporarily enjoining Minnesota’s Secretary of State from enforcing Minnesota laws limiting voter assistance to no more than three persons, which the Minnesota Supreme Court reversed on September 4. Preliminarily suspending enforcement of the practice does not render the practice legal, but simply prevents prosecution of the crime while the judge determines whether the law is viable. Regardless, Project Veritas claims Mohamed posted his videos and Project Veritas obtained them before the district court order. One of the videos bears a July 1 timestamp. Mr. Mohamed did not claim he was working for Ms. Omar at the time of the video, although Project Veritas’ sources, including Mr. Jamal, who The Times has also used as a source for information regarding the Somali community in Minnesota, claim that he has also worked with her campaign.

The video then claims that Democratic operatives connected to Ms. Omar’s campaign paid voters to hand over blank mail-in ballots and filled them out. This would be illegal, and the allegations come from both identifiable and unnamed people in the video.

On Monday, the Minneapolis Police Department said it was “looking into the validity” of the claims in the video, which a spokesman for Ms. Omar described as “a coordinated right wing effort to delegitimize a free and fair election.” Mr. O’Keefe and Project Veritas have a long history of releasing footage purporting to show illegal conduct by Democrats and liberal groups, and some Republicans as well.

The researchers reported the video to multiple social media platforms. None of the social media platforms Project Veritas used said they found a basis to support the researchers’ conclusion that the video constituted “disinformation.” While Facebook added a link to its “voting information center” to one upload of the video, it placed no notice on the original upload. Twitter, YouTube and Reddit took no action. TikTok was the only platform that removed all uploads of the video, although Project Veritas never uploaded its own version of the video on TikTok.