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FEDERATION FOR AMERICAN IMMIGRATION REFORM

April 4, 2017

Mr. Steven Terner Mnuchin  
Secretary of the Treasury  
Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, D.C. 20220

**Tax-Exempt Organization Referral Letter Complaint**

**Re: Southern Poverty Law Center, Inc. (EIN 63-0598743)**

Dear Secretary Mnuchin:

The Federation for American Immigration Reform (“FAIR”) respectfully requests an urgent Internal Revenue Service (“IRS”) investigation into the unlawful political activities of the Southern Poverty Law Center, Inc. (“SPLC”).

FAIR’s investigative referral consists of this letter, a completed IRS Form 13909, and supporting documentation found on the SPLC’s website.

**BACKGROUND**

The SPLC is an exempt charitable organization organized under § 501(c)(3), and is known for its \$308 million exempt endowment.

Our findings focus primarily on two SPLC activities: (1) an advocacy program called “Hatewatch,” described as a program that “monitors and exposes the activities of the American radical right,”<sup>1</sup> and (2) a related activity called “Intelligence Report,” described by the SPLC as “the nation’s preeminent periodical monitoring the radical right in the U.S.”<sup>2</sup>

Throughout the 2016 presidential election cycle, the SPLC routinely and repeatedly violated 26 U.S.C. § 501(c)(3) by engaging in political campaigning, a prohibited activity for exempt charitable

<sup>1</sup> *Hatewatch*, Southern Poverty Law Center, <https://www.splcenter.org/hatewatch> (last visited Mar. 28, 2017).

<sup>2</sup> *Intelligence Report*, Southern Poverty Law Center, <https://www.splcenter.org/intelligence-report> (last visited Mar. 28, 2017).



*FAIR is a nonprofit public interest organization working to end illegal immigration and to set levels of legal immigration that are consistent with the national interest*

Mr. Steven Terner Mnuchin  
Secretary of the Treasury  
April 4, 2017

Page | 2

organizations. The SPLC used politically charged language in its publications and statements as well as linked publications in a blatant effort to stir opposition for prospective Republican presidential candidates and the eventual Republican nominee and influence the electoral decisions of voters nationwide. In particular, the SPLC continued through the primary and general presidential campaigns to print materials that opposed the candidacy of President Donald Trump, issuing overt smears that sought to tie President Trump to “white supremacists,” nationalists, and antigovernment conspiracists. Again the unmistakable explicit intent of these communications was to create opposition to and otherwise harm and oppose the election of a Republican to the office of President.<sup>3</sup>

Based upon the documentation identified below, FAIR urges that you immediately launch a full investigation into the SPLC’s deep, deliberate, and unlawful participation in the 2016 presidential election campaign.

### **APPLICABLE LEGAL STANDARD**

Tax-exempt organizations must operate exclusively for an exempted purpose and can “not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.”<sup>4</sup> While 501(c)(3) organizations may take positions on issues, issue advocacy cannot function as campaign intervention.<sup>5</sup> Even if a statement or communication does not tell the public to vote for or against a candidate, the communication can violate a 501(c)(3)’s prohibition against campaigning if there is any message favoring or opposing a candidate running for public office.<sup>6</sup>

For tax exemption purposes, only an action organization may engage in significant campaign intervention, and only using non-exempt (*i.e.*, taxable) funds. An organization that does not operate exclusively for an exempted purpose is an “action” organization.<sup>7</sup> An “action organization” is defined as participat[ing] or intervene[ing], directly or

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<sup>3</sup> Heidi Beirich is credited on the SPLC website as the SPLC senior staff member who directs the Intelligence Project, which produces the SPLC Intelligence Report and the SPLC Hatewatch blog. The Intelligence Report materials identified in this complaint are credited to SPLC staff members Stephen Piggott, Mark Potok, and Leah Nelson, although, as noted, some materials are not credited. The Hatewatch blog posts of concern are authored by Stephen Piggott, David Neiwert, or credited to “Hatewatch Staff.” It should be noted that the unlawful materials are exclusively partisan, and never attack or even mention a candidate for president from the opposing (Democratic) party, or any independent candidate, using derogatory and hostile language.

<sup>4</sup> 26 U.S.C. § 501(c)(3).

<sup>5</sup> Rev. Rul. 2007-41, 2007-1 C.B. 1421.

<sup>6</sup> IRS News Release FS-2006-17 (Feb. 2006).

<sup>7</sup> 26 C.F.R. § 1.501(c)(3)-1; *see also United States v. Dykema*, 666 F.2d 1096, 1101 (7th Cir. 1981) (“[E]xemption is lost . . . by participation in any political campaign on behalf of any candidate for public office. It need not form a substantial part of the organization’s activities.”).

Mr. Steven Terner Mnuchin  
Secretary of the Treasury  
April 4, 2017

Page | 3

indirectly, in any political campaign on behalf or in opposition to any candidate for public office.<sup>8</sup>

While 501(c)(3) organizations may take positions on issues, issue advocacy cannot function as campaign intervention. Rev. Rul. 2007-41, 2007-1 C.B. 1421. Even if a statement or communication does not tell the public to vote for or against a candidate, the communication can violate a 501(c)(3)'s prohibition against campaigning if there is any message favoring or opposing a candidate running for public office.<sup>9</sup>

The following key factors determine whether a communication qualifies as campaign intervention:

- Whether the statement identifies one or more candidates.
- Whether the statement expresses approval or disapproval for the position.
- Whether the statement is expressed close to an election.
- Whether the statement references voting or an election.
- Whether the issue has been raised as an issue distinguishing candidates.
- Whether the communication is a part of an ongoing series of communications on the same issue that are made independent of any election.
- Whether the time of the communication and identification of the candidate are related to a non-electoral event such as a scheduled vote.<sup>10</sup>

An organization has control over whether it establishes a link to another site. When an organization establishes a link to another web site, the organization is responsible for the consequences of establishing and maintaining that link, even if the organization does not have control over the content of the linked site. The following key factors determine whether a communication qualifies as campaign intervention:

- The context for the link on the organization's website.
- Whether all candidates are represented.
- Any exempt purpose served by offering the link.
- The directness of the links between the organization's website and the web page that contains material favoring or opposing a candidate for public office.<sup>11</sup>

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<sup>8</sup> 26 C.F.R. § 1.501(c)(3)-1.

<sup>9</sup> IRS News Release, *supra* note 6.

<sup>10</sup> Rev. Ruling, *supra* note 5.

<sup>11</sup> *Id.*

Mr. Steven Terner Mnuchin  
Secretary of the Treasury  
April 4, 2017

Page | 4

“If an organization posts something on its web site that favors or opposes a candidate for public office, the organization will be treated the same as if it distributed printed material, oral statements or broadcasts that favored or opposed a candidate.”<sup>12</sup>

IRS regulation requires that an organization exempt from taxation described in section 501(c)(3) must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either test, it is not exempt.<sup>13</sup> In *Better Business Bureau v. United States*, the Supreme Court stated that the presence of a single nonexempt purpose, if substantial in nature, will preclude exemption under section 501(c)(3) of the Code, regardless of the number or importance of statutorily exempt purposes.<sup>14</sup> The operational test prohibiting a substantial non-exempt purpose is broad enough to include inurement, private benefit, and operations that further nonprofit goals outside the scope of section 501(c)(3).

#### **EXAMPLES OF UNLAWFUL SPLC ACTIVITY**

The following documents, sorted into four sets based on the specific SPLC “program” credited with their preparation and publication, more than demonstrate flagrant and intentional campaign intervention by the SPLC. The examples are by no means exhaustive and only cover 2015 through July of 2016. Each reference document is also submitted as a PDF file on the attached CD disk.

##### **Set I: “Hatewatch” project documents**

Document A: On May 11, 2016, a Hatewatch project article, titled, “Donald Trump’s Continuing White Nationalist Problem” by SPLC staff member Stephen Piggott, linked Donald Trump to what the SPLC styles “white nationalists.”<sup>15</sup> The term is not defined, but it was intended to discredit Mr. Trump as a presidential candidate.

The article contained three distinct unlawful and highly negative statements attacking then-Republican Party candidate and nominee Donald Trump and his campaign staff. The online version included a full-page graphic of the Republican Party nominee above the title caption.<sup>16</sup> Unlawful statements in Document A include:

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<sup>12</sup> *Id.*

<sup>13</sup> 26 C.F.R. § 1.501(c)(3)-1(a)(1).

<sup>14</sup> 326 U.S. 279, 283 (1945).

<sup>15</sup> Steven Piggott, *Donald Trump’s Continuing White Nationalist Problem*, Southern Poverty Law Center (May 11, 2016), <https://www.splcenter.org/hatewatch/2016/05/11/donald-trump%E2%80%99s-continuing-white-nationalist-problem>.

<sup>16</sup> *Id.*

Mr. Steven Terner Mnuchin  
Secretary of the Treasury  
April 4, 2017

Page | 5

1. “[T]his ugly episode of Trump having—then disavowing—racist support is not a surprise. In some instances, Trump refuses to distance himself from these individuals and groups until he absolutely must.”<sup>17</sup>
2. “Trump has called for bans on Muslim immigration, retweeted white nationalist tropes about black-on-white crime and demonized Mexicans as “rapists.”<sup>18</sup> He has cited a hate group as his justification for calling for a ban on Muslim immigration and later appointed a staffer to his national security team from that very same group.”<sup>19</sup>
3. “The Trump campaign’s hasty move to try to sweep this incident under the rug, as they’ve done on countless occasions during the 2016 election cycle, poses more questions than answers.”<sup>20</sup>

Document B: On May 6, 2016, after Donald Trump was proclaimed in national media to be the presumptive Republican nominee, the Hatewatch project published an article by SPLC contract writer David Neiwert, titled, “Ring-Wing Extremists Hail the Ascension of ‘Emperor Trump’ as GOP Nominee.”<sup>21</sup>

The article contains three distinct unlawful and highly negative statements attacking Donald Trump as a candidate and presumptive party nominee. The online version included a full-page graphic of the Republican Party nominee above the caption, “We’re gonna make America white again.”<sup>22</sup> The SPLC blog post devoted nine pages linking Donald Trump to individuals and ideas that he has not supported, only briefly and superficially stating, on page five, the candidate’s actual stance on the issues.<sup>23</sup> The SPLC concluded, “Evidently, this is the way the first major-party president nomination in modern memory to be embraced by right-wing extremists begins.”<sup>24</sup> Unlawful statements clearly in opposition to the candidate in Document B include:

1. “White supremacists, nationalists, and antigovernment conspiracists feverishly embrace the Republican candidate as their Great White Hope . . . .”<sup>25</sup>

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<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> David Neiwert, *Right Wing Extremists Hail the Ascension of “Emperor Trump” as GOP Nominee* (May 6, 2016), <https://www.splcenter.org/hatewatch/2016/05/06/right-wing-extremists-hail-ascension-%E2%80%98emperor-trump%E2%80%99-gop-nominee>.

<sup>22</sup> *Id.*

<sup>23</sup> *See id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

Mr. Steven Terner Mnuchin  
Secretary of the Treasury  
April 4, 2017

Page | 6

2. “The Internet was buzzing this week with the celebratory boasts of a broad range of right-wing extremists . . . all of them cheering on their new hero, Donald Trump, after he secured the Republican nomination for the 2016 election this week. Most of them made clear he was perhaps the first presidential candidate most of them could get behind unreservedly.”<sup>26</sup>

3. “Evidently this also is the way the first major-party presidential nomination in modern memory to be embraced by right-wing extremists begins.”<sup>27</sup>

Document C: On April 4, 2016, the SPLC Hatewatch project published an article vociferously in opposition to then-candidate Trump, titled, “Donald Trump Continues to Mainstream White Nationalist Memes,” which argued that the Donald Trump campaign’s social media and internet-based communications have “introduced countless numbers to hate speech and racist conspiracy theories.”<sup>28</sup> This composite description is clearly an *ad hominem* attack on Mr. Trump’s candidacy and fitness for high office.

The SPLC Hatewatch article includes six distinct unlawful and highly negative statements attacking then-Republican Party candidate and nominee Donald Trump. The online version included a full-page graphic of the Republican Party nominee above the title caption.<sup>29</sup> SPLC staff member Stephen Piggott wrote, “Influenced by the racist right, and willing to parrot the rhetoric, Donald Trump is helping drive mainstream interest to racist memes.”<sup>30</sup> Unlawful statements in Document C include:

1. “Influenced by the racist right, and willing to parrot the rhetoric, Donald Trump is helping drive mainstream interest to racist memes.”<sup>31</sup>

2. “Over the past 10 months, Donald Trump has turned the political landscape on its side and introduced countless numbers to hate speech and racist conspiracy theories.”<sup>32</sup>

3. “When Trump announced his candidacy in June of 2015, he made waves announcing an immigration plan that infamously called for the building of a wall along the southern U.S. border and he described Mexican immigrants as rapists.”<sup>33</sup>

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<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> Stephen Piggott, *Donald Trump Continues to Mainstream White Nationalist Memes*, Southern Poverty Law Center (Apr. 4, 2016), <https://www.splcenter.org/hatewatch/2016/04/04/donald-trump-continues-mainstream-white-nationalist-memes>.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

Mr. Steven Terner Mnuchin  
Secretary of the Treasury  
April 4, 2017

Page | 7

4. “Trump’s influence continued to play out in the numbers through last December, when he called for a ban on all Muslims entering the United States . . . [A]s happens whenever Trump embraces an extremist message, searches on Google . . . skyrocketed . . . .”<sup>34</sup>

5. “In 2016, the trend has continued. Trump retweeted posts from multiple racist Twitter accounts that used the term ‘white genocide’ . . . .”<sup>35</sup>

6. “White nationalists nationwide praised Trump and his campaign for both his call for a ban on Muslim immigration as well as his retweeting of racists accounts.”

Document D: On March 28, 2016, the SPLC Hatewatch project published the article, titled, “Meet the Anti-Muslim Leaders Advising Donald Trump and Ted Cruz,” by SPLC staff member Stephen Piggott.<sup>36</sup>

The SPLC attacked eight campaign “advisors” from the Cruz and Trump presidential campaigns, including then-sitting U.S. Senator Jeff Sessions (R-AL), whom it identified as “anti-Muslim advisors” and members of a “hate group.”<sup>37</sup>

Document E: On March 8, 2016, the Hatewatch project, credited to the SPLC “Hatewatch Staff,” published the article, titled, “Presidential Candidates Cruz and Rubio Continue to Court Anti-LGBT Groups.”<sup>38</sup>

The article charged that then-candidate for the Republican presidential nomination Ted Cruz’s “‘religious liberty’ advisory council,” and then-candidate Marco Rubio’s “‘marriage and family’ advisory board” were composed of persons with “extreme anti-LGBT” views and “who have been instrumental in spreading and propagating damaging falsehoods about LGBT people for years.”<sup>39</sup> The SPLC claimed that if either candidate were elected president, they would “instruct the Department of Justice, the IRS, and every other federal agency” to end “the persecution of religious liberty” and “appoint[] only conservative justices to the Supreme Court” who would reverse the 2015 decision over-turning state laws barring same-sex marriage.<sup>40</sup> “Religious liberty” according to the

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<sup>34</sup> *Id.*

<sup>35</sup> Piggott, *supra* note 28.

<sup>36</sup> Stephen Piggott, *Meet the Anti-Muslim Leaders Advising Donald Trump and Ted Cruz*, Southern Poverty Law Center (Mar. 28, 2016), <https://www.splcenter.org/hatewatch/2016/03/28/meet-anti-muslim-leaders-advising-donald-trump-and-ted-cruz>.

<sup>37</sup> *See id.*

<sup>38</sup> *Presidential Candidates Cruz and Rubio Continue to Court Anti-LGBT Groups*, Southern Poverty Law Center (Mar. 8, 2016), <https://www.splcenter.org/hatewatch/2016/03/08/presidential-candidates-cruz-and-rubio-continue-court-anti-lgbt-groups>.

<sup>39</sup> *Id.*

<sup>40</sup> *See id.*

Mr. Steven Terner Mnuchin  
Secretary of the Treasury  
April 4, 2017

Page | 8

SPLC, is a dangerous “rallying cry for anti-LGBT groups” and a campaign electoral slogan that falsely “portrays Christians who object to homosexuality on biblical grounds as victims of religious persecution,” a view which the Hatewatch article argued that then-Republican presidential candidates Cruz, Rubio, and Huckabee support, notwithstanding campaign statements to the contrary.<sup>41</sup> In fact, the SPLC charged that the electoral platforms of these candidates for president were “driven by anti-LGBT groups attempting to legalize discrimination” and “would allow Christians, especially, to deny goods and services to LGBT people on the basis of their religious beliefs.”<sup>42</sup>

Document F: On October 2, 2015, the SPLC Hatewatch project published “How the Candidates, the Haters, and the Media Have Cooked Up a Perfect Storm of Islamophobia,” by SPLC contract writer David Neiwert.<sup>43</sup> According to the article, Trump had “demonstrated how the fires of bigotry . . . keep escalating.”<sup>44</sup> The SPLC accused Trump of being “a catalyst for some of the most overheated Muslim-bashing.”<sup>45</sup>

#### **Set II: SPLC “Intelligence Project” documents**

Document G: On July 6, 2016, the SPLC Intelligence Report featured a lengthy thirteen-page “report” by SPLC staff member Stephen Piggott, titled, “Hate in the Race,” and subtitled, “A remarkable level of vitriol has characterized the Republican contest for president.”<sup>46</sup> The article contained at least 29 distinct unlawful and highly negative statements attacking then-Republican Party candidate and nominee Donald Trump or his campaign staff and supporters, and fourteen similar distinct unlawful statements attacking former Republican Party candidate Ted Cruz. The indisputable intent of this communication is to promote a position hostile to these candidates in the public mind.

The online version of the report also had color images of Trump and Cruz, and three imbedded YouTube video links to campaign speeches, two to Cruz and one to Trump.<sup>47</sup> Unlawful statements in Document G include:

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<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> David Neiwert, *How the Candidates, the Haters, and the Media Have Cooked Up a Perfect Storm of Islamophobia*, Southern Poverty Law Center (Oct. 2, 2016), <https://www.splcenter.org/hatewatch/2015/10/02/how-candidates-haters-and-media-have-cooked-perfect-storm-islamophobia>.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> Stephen Piggott, *Hate in the Race*, Southern Poverty Law Center (Jul. 6, 2016), <https://www.splcenter.org/fighting-hate/intelligence-report/2016/hate-race>.

<sup>47</sup> *Id.*



1. “[S]ince Donald Trump opened his bid for the presidency with a mid-June 2015 speech attacking Mexican immigrants as rapists and drug dealers, the GOP primary season has been marked by often shocking levels of vitriol.”<sup>48</sup>
2. “Trump has seemed to encourage violence against those who disagree with him . . . .”<sup>49</sup>
3. “The hatred bubbling up in the presidential race has also been seen in the form of alliances the two men made over the course of the years with anti-LGBT and anti-Muslim bigots.”<sup>50</sup>
4. “The nation got its first taste of Donald Trump as a candidate when the New York billionaire real estate developer opened his campaign with a June 16 speech that horrified Latinos, immigrants, and millions of others.”<sup>51</sup>
5. “Members of the White Genocide Project, which promotes the myth that white people worldwide are being subjected to mass murder, started a petition to honor Trump for ‘opposing white genocide.’”<sup>52</sup>
6. “Trump introduced a six-page immigration plan that read like the playbook of the organized anti-immigration movement in America . . . . The plan was devised with the help of nativist lawyer Kris Kobach, . . . who also serves as an attorney for the legal arm [IRLI] of the Federation for American Immigration Reform, a far-right anti-immigration group.”<sup>53</sup>
7. “One echo of Trump’s rhetoric was seen when two brothers in Boston beat a homeless Latino man with a metal pipe and urinated on him.”<sup>54</sup>
8. “Trump told CNN that [Megyn] Kelly had ‘blood coming out of her wherever,’ a comment taken by millions to blame Kelly’s tough debate questions on her menstrual cycle. It was only the latest apparently misogynistic comment from Trump, who regularly slams women.”<sup>55</sup>
9. “Trump[‘s] . . . top advisor, Roger Stone, . . . remained close to the campaign . . . . Stone . . . is known for his political dirty tricks and for racist attacks using phrases like

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<sup>48</sup> Stephen Piggott, *Hate in the Race*, Southern Poverty Law Center (Jul. 6, 2016) (The SPLC continuously edits this document. The quoted statement is from the July, 2016 iteration of the document. A copy of the statement can be found on the CD in the Document G folder).

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> Piggott, *supra* note 46.

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

‘stupid Negro,’ ‘House Negro,’ ‘Nigga,’ ‘Uncle Tom,’ ‘Arrogant Know-it-all-Negro’ and more.”<sup>56</sup>

10. “Trump retweeted an image of a black man dressed like a gangster that claimed, among other things, that blacks were responsible for 81% of whites murdered in the United States . . . . The website Little Green Footballs traced the original tweet to an admirer of Hitler. Trump never retracted or apologized for the tweet . . . .”<sup>57</sup>

11. “In the aftermath of the . . . . attacks in Paris . . . Trump called for a ‘total and complete shutdown’ of Muslims entering the United States.”<sup>58</sup>

12. “[T]he national membership coordinator of the . . . Knights of the Klu Klux Klan . . . told the Washington Post that the Trump campaign was helping outreach.”<sup>59</sup>

13. “Trump retweeted a message mocking Jeb Bush from the account @WhiteGenocideTM, which earlier sent messages claiming ‘Hitler SAVED Europe’ and ‘Jews/Israel did 9/11’ . . . Trump also retweeted a message from a Southern secessionist during the same month.”<sup>60</sup>

14. “Trump boasted of an endorsement from Carl Gallups, a Florida pastor who is also a Sandy Hook ‘truther’ who believes that the 2012 massacre of children in Newtown . . . was set up by the government as an excuse to seize Americans’ guns.”<sup>61</sup>

15. “Trump, Cruz and six other Republican presidential candidates recorded speeches for a . . . broadcast organized by the anti-LGBT Family Research Council. The group’s leader has claimed that pedophilia is a ‘homosexual problem . . . .’”<sup>62</sup>

16. “[T]he Cruz campaign lauded the endorsement of pastor Mike Bickle, who said . . . in a recent sermon attacking same-sex marriage: ‘The young boy with the old man, the pedophiles, all this will end up being presented as . . . acceptable . . . sexual patterns in the school systems . . . .’”<sup>63</sup>

17. “[I]n Cedar Rapids . . . Trump told his audience that he would pay the legal fees of followers who beat up protesters at his rallies.”<sup>64</sup>

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<sup>56</sup> *Id.*

<sup>57</sup> Piggott, *supra* note 46.

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> Piggott, *supra* note 46.

<sup>64</sup> *Id.*

Mr. Steven Terner Mnuchin  
Secretary of the Treasury  
April 4, 2017

Page | 11

18. “[T]he Trump campaign gave press credentials to James Edwards... host of ‘The Political Cesspool,’ a racist radio show that featured a Who’s Who of radical-right guests.”<sup>65</sup>

19. “Trump chose Joseph Schmitz, a fellow at the anti-immigration Center for Immigration Studies, and Walid Phares, an American of Lebanese Christian extraction who . . . ‘was a high ranking political official in a . . . militia responsible for massacres during Lebanon’s . . . civil war.’”<sup>66</sup>

20. “The Cruz campaign released a list of 50 religious leaders backing their candidate. It included . . . Gordon Klingenschmitt, who Right Wing Watch reported has said gay people are demonic . . . .”<sup>67</sup>

21. “Tim Clark and Ron Nehring, who were running the California campaigns for Trump and Cruz, respectively, were once paid advisers to a Guatemalan presidential candidate who called for public executions.”<sup>68</sup>

22. “Trump appointed Frank Amedia as his ‘liaison for Christian policy’ . . . [who] has said that people get AIDS ‘because of unnatural sex’. . . and . . . once tried to bribe a prosecutor . . . .”<sup>69</sup>

23. “John Martin Roos, another Trump supporter, was arrested in Oregon after allegedly threatening to kill President Obama repeatedly . . . .”<sup>70</sup>

24. “One Trump delegate in Maryland was indicted on weapons and child pornography charges.”<sup>71</sup>

25. “Trump attacked U.S. District Judge Gonzalo Curiel . . . .”<sup>72</sup>

26. “In the aftermath of the . . . massacre . . . at a gay nightclub in Orlando, Fla., Trump suggested repeatedly that ‘the Muslim community’ must have been complicit in the attack . . . .”<sup>73</sup>

27. “Trump also suggested that Obama might have been on the side of the Orlando mass murderer.”<sup>74</sup>

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<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> Piggott, *supra* note 46.

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

Mr. Steven Terner Mnuchin  
Secretary of the Treasury  
April 4, 2017

Page | 12

28. “On June 21, Trump met . . . with around 400 anti-LGBT evangelicals . . . including members or some of the most notorious anti-LGBT groups in the U.S. . . .”<sup>75</sup>

29. “On July 2, Trump’s Twitter account tweeted out an image of Hillary Clinton with a headline reading ‘Most Corrupt candidate Ever!’ in a red Star of David on a background of \$100 bills.”<sup>76</sup>

Document H: On February 28, 2016, the SPLC Intelligence Project Director Heidi Beirich published a press statement on the SPLC website, titled, “Donald Trump has a hate group problem.”<sup>77</sup> The web page included a full-page color image of the candidate.<sup>78</sup>

The online statement, distributed to the media, contained three unlawful and negative partisan statements attacking then-Republican Party candidate and nominee Donald Trump or his campaign staff and supporters:

1. “This morning during an interview on CNN’s ‘State of the Union,’ businessman Donald Trump repeatedly dodged questions about the Ku Klux Klan and notorious white nationalist David Duke, who announced recently his support for Trump’s campaign.”<sup>79</sup>
2. “Donald Trump has a hate group problem.”
3. “Donald Trump’s statements this morning are just the latest in a string of incidents where he has used his massive media presence, especially his Twitter account . . . to elevate extremist ideas and individuals.”<sup>80</sup>

The press release stated that “the SPLC has sent each campaign a recently updated list of hate groups currently active in the United States . . . .”<sup>81</sup> The referenced list is the SPLC Hate Map, which purports to identify “892 hate groups” currently operating in the United States.<sup>82</sup>

Inclusion on the “Hate Map” is a purely political decision by SPLC executives. The Hate Map web page states that the SPLC chooses organizations that “have beliefs or practices that attack or malign an entire class of people, typically for their immutable

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<sup>75</sup> Piggott, *supra* note 46.

<sup>76</sup> *Id.*

<sup>77</sup> *Donald Trump has a hate group problem*, Southern Poverty Law Center (Feb. 28, 2016), <https://www.splcenter.org/news/2016/02/28/donald-trump-has-hate-group-problem>.

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> *Id.*

<sup>81</sup> *Id.*

<sup>82</sup> *Hate Map*, Southern Poverty Law Center, <https://www.splcenter.org/hate-map> (last visited Apr. 03, 2017).

characteristics.”<sup>83</sup> The Hate Map web page states, “This list was compiled using hate group publications and websites, citizen and law enforcement reports, field sources and news reports.” It also states that the activities it identifies from these sources “can include criminal acts, marches, rallies, speeches, meetings, leafleting or publishing.”<sup>84</sup> The SPLC does not provide any further listing of the sources, standards or activities that it uses as documentation of “hate group” status. It makes no distinction between groups it alleges to have committed criminal acts, groups that engage in protected First Amendment activities, and charitable organizations approved by the IRS. There are no academic, government, scientific or other professional specialists who provide expert validation or professional peer review of the Hate Map or hate group designations.

Document I: An SPLC Intelligence Report article published on February 17, 2016, titled, “The Year in Hate and Extremism,” contained seven distinct unlawful and negative partisan statements attacking then-Republican Party candidate and nominee Donald Trump or his campaign staff and supporters, as well as a similar but more limited attack on then-Republican Party candidate Ted Cruz.<sup>85</sup> The Report characterized the Trump campaign as providing leadership for and obtaining endorsements from “white nationalists”—whom the Report asserted are similar to but “more genteel” than KKK members, neo-Nazis, and domestic terrorists.”<sup>86</sup> The report also stated, “From state to finish, the year 2015 was remarkable for its terrorist violence, the penetration of the radical right and its conspiracy theories into mainstream politics, and the boost far-right ideas and groups receive from pandering politicians like Donald Trump.”<sup>87</sup> The Report author is SPLC Senior Fellow Mark Potok; “contributors” credited in the Report “include” SPLC staff members Heidi Beirich, Keegan Hanks, Stephen Piggott, and Evelyn Schlatter. Unlawful statements in Document I include:

1. “Donald Trump’s demonizing statements about Latinos and Muslims have electrified the radical right, leading to glowing endorsements from white nationalist leaders such as Jared Taylor and former Klansman David Duke.”<sup>88</sup>
2. “White supremacist forums are awash with electoral joy, having dubbed Trump their ‘Glorious Leader.’ And Trump has repaid the compliments, retweeting hate posts and spreading their false statistics on black-on-white-crime.”<sup>89</sup>

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<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> Mark Potok, *The Year in Hate and Extremism*, Southern Poverty Law Center (Feb. 17, 2016), <https://www.splcenter.org/fighting-hate/intelligence-report/2016/year-hate-and-extremism>.

<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

Mr. Steven Terner Mnuchin  
Secretary of the Treasury  
April 4, 2017

Page | 14

3. “From start to finish, the year 2015 was remarkable for its terrorist violence, the penetration of the radical right and its conspiracy theories into mainstream politics, and the boost far-right ideas and group received from pandering politicians like Donald Trump.”<sup>90</sup>

4. “Americans are arguably as angry as they have been in decades. The bulk of that anger is coming from beleaguered working-class and, to a lesser extent, middle-class white people, especially the less educated—the very same groups that most vociferously support Trump.”<sup>91</sup>

5. “[T]he reaction of whites who are struggling economically raises the specter of an outright political war along racial and ethnic lines over the distribution of resources and opportunities.’ Contributing to this war, remarkably, have been Trump and a number of other GOP candidates. Trump, of course, has attacked Muslims, Mexicans, and black people (he re-tweeted a neo-Nazi’s statistics falsely claiming that blacks are overwhelmingly responsible for the murder of whites).”<sup>92</sup>

6. “The year started out badly for Muslims, with the attack on the *Charlie Hebdo* satirical magazine in Paris, and ended even worse, with an Islamic State massacre in Paris and the similar murder of 14 people at a San Bernardino, Calif., office party—not to mention the call by Donald Trump for a ban on Muslim immigration.”<sup>93</sup>

7. “Groups like Frank Gaffney’s Center for Security Policy (CSP), which is being newly listed by the SPLC as a hate group, thrived in the wake of jihadist atrocities and counterattacks like that from Trump.”<sup>94</sup>

Document J: The same February 17, 2016 issue of the SPLC Intelligence Report included an article by SPLC staff member Leah Nelson, titled, “Backlash.”<sup>95</sup> The article’s subtitle reads, “Anti-Muslim hatred ratcheted up sharply after the Islamic State attacks in Paris. Then came San Bernardino and Donald Trump.”<sup>96</sup>

Nelson’s article contained five unlawful and negative partisan statements attacking then-Republican Party candidate and nominee Donald Trump or his campaign staff and supporters, plus three additional statements attacking then-Republican presidential

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<sup>90</sup> *Id.*

<sup>91</sup> Potok, *supra* note 85.

<sup>92</sup> *Id.*

<sup>93</sup> *Id.*

<sup>94</sup> *Id.*

<sup>95</sup> Leah Nelson, *Backlash*, Southern Poverty Law Center (Feb. 17, 2016), <https://www.splcenter.org/fighting-hate/intelligence-report/2016/backlash>.

<sup>96</sup> *Id.*

primary candidates Ben Carson, Marco Rubio and Chris Christie.<sup>97</sup> The Report only attacked the presidential candidacies of certain then-Republican candidates, including Trump.<sup>98</sup> Unlawful statements in Document J include:

1. “Anti-Muslim hatred ratcheted up sharply after the Islamic State attacks in Paris. Then came San Bernardino and Donald Trump.”<sup>99</sup>
2. “But increasingly as 2015 drew to a close, the loudest Islamophobic voices came from Republican presidential candidates—most notably Donald Trump, who had also suggested that Mexico was deliberately sending “rapists” and “drug dealers” over the border, endorsed and publicized utterly bogus statistics about black crime that originated with an apparent neo-Nazi, and even declined to condemn the roughing up of a black protester by members of the audience at one of his rallies.”<sup>100</sup>
3. “In September, Trump seemed to endorse the notion of expelling Muslims from America when he responded to a supporter who claimed Obama was a Muslim . . . . Speaking of Syrian refugees . . . later that month, he told supporters, “If I win, they’re going back.”<sup>101</sup>
4. “Other GOP presidential candidates were little better. On Nov. 15, responding to Democratic candidate Hillary Clinton’s avoidance of the term “radical Islam” to describe Islamic State terrorists, Marco Rubio compared Muslims to Nazis . . . .”<sup>102</sup>
5. “Trump, meanwhile, continued to ratchet up his rhetoric. On Nov. 21, he revived a completely debunked anti-Muslim myth . . . . On Dec. 7, he made his most extreme proposal yet.”<sup>103</sup>

Document K: An unsigned third article in the same February 17, 2016 issue of the SPLC’s Intelligence Report, titled, “Active ‘Nativist Extremist’ Groups in the United States,” accused the Trump campaign of having “essentially co-opted the issue [of ‘hatred directed at immigrants’].”<sup>104</sup> Document K included a statement that constitutes an unlawful intervention in an electoral campaign:

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<sup>97</sup> *Id.*

<sup>98</sup> *See id.*

<sup>99</sup> *Id.*

<sup>100</sup> *Id.*

<sup>101</sup> Nelson, *supra* note 95.

<sup>102</sup> *Id.*

<sup>103</sup> *Id.*

<sup>104</sup> *Active ‘Nativist Extremist’ Groups in the United States*, Southern Poverty Law Center (Feb. 17, 2016), <https://www.splcenter.org/fighting-hate/intelligence-report/2016/active-nativist-extremist-groups-united-states>.

The number of ‘nativist extremist’ groups . . . dropped again last year, falling from 19 to just 17. But that slight decline was not a reflection of diminishing hatred directed at immigrants to the United States . . . . [F]igures in the political mainstream, along with numerous state legislatures, have essentially co-opted the issue, making the nativist extremist groups’ activism unnecessary. A recent example of that is Donald Trump’s call for a ban on Muslim immigration and his description of Mexican immigrants as rapists and drug dealers . . . .<sup>105</sup>

Document L: The February 17, 2016, SPLC Intelligence Report also contained an unsigned fourth article, captioned, “Candidates for President, Other Offices, Voice Extremist Views.”<sup>106</sup> The report attacked “extremist views” attributed to no less than five presidential candidates, all Republicans. The SPLC commented, “It’s hard to say which [Republican] candidate’s rhetoric is most appalling.”<sup>107</sup>

The article included five unlawful and negative partisan statements attacking then-Republican Party candidates Trump, Carson, Cruz, Huckabee, and Rubio. Unlawful statements in Document L include:

1. “Donald Trump described President Dwight D. Eisenhower’s brutal ‘Operation Wetback’ as a ‘very humane’ way to accomplish mass deportation, [and] responded to the beating of a Black Lives Matter protester at a campaign rally by saying, “Maybe he should have been roughed up . . . .”<sup>108</sup>
2. “Ben Carson said he found the notion of gun control more disturbing than the sight of a bullet-riddled dead body, [and] believed the biblical figure Joseph built the Egyptian pyramids to serve as granaries . . . .”<sup>109</sup>
3. “Mike Huckabee lauded American Family Radio—which features among its pundits Bryan Fischer, who claims that LGBT people were responsible for the Holocaust . . . .”<sup>110</sup>
4. “Marco Rubio selected a man who believes President Obama was fathered by a communist pedophile as co-chair of his Alabama campaign committee.”<sup>111</sup>

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<sup>105</sup> *Id.*

<sup>106</sup> *Candidates for President, Other Offices, Voice Extremist Views*, Southern Poverty Law Center (Feb. 17, 2016), <https://www.splcenter.org/fighting-hate/intelligence-report/2016/candidates-president-other-offices-voice-extremist-views>.

<sup>107</sup> *Id.*

<sup>108</sup> *Id.*

<sup>109</sup> *Id.*

<sup>110</sup> *Id.*

<sup>111</sup> *Id.*



Mr. Steven Terner Mnuchin  
Secretary of the Treasury  
April 4, 2017

Page | 17

5. “It’s hard to say which candidate’s rhetoric is most appalling. Donald Trump, whose combination of nationalism, populism, and xenophobia has inspired serious analysts on both the left and right to describe him as a fascist or quasi-fascist, perhaps edges out the competition in this regard.”<sup>112</sup>

Document M: Finally, the SPLC Intelligence Report issue of February 17, 2016 included an “editorial,” also credited to SPLC Senior Fellow Mark Potok, captioned, “A Year of Living Dangerously.”<sup>113</sup> The SPLC editorial states, “Trump and other [Republican] candidates increasingly inject real hate into the electoral contest.”<sup>114</sup> Document M unlawfully states:

“In the second half of the year, a new factor came into play: a presidential race that grew more ugly by the month, beginning with Donald Trump’s description of undocumented Mexican immigrants as rapists and drug dealers and culminating, arguably, with his call for a temporary ban on Muslim immigration. Even as more establishment Republicans held back from most criticism, Trump and other [Republican] candidates increasingly injected real hate into the electoral contest.”<sup>115</sup>

Document N: A December 8, 2015 SPLC press statement by SPLC Intelligence Project Director Heidi Beirich stated that “Donald Trump’s call for a ‘total and complete shutdown’ of Muslims entering the United States is just the latest example of the extreme, anti-Muslim rhetoric that has reached a fever pitch this year.”<sup>116</sup>

Document O: In the October 27, 2015 issue of the SPLC Intelligence Report, an article, titled, “Donald Trump, Conspiracy Theory and the Radical Right,” by SPLC Senior Fellow Mark Potok, labeled the then-presidential candidate as a “hyper-nationalist” who is tapping into anger which will have repercussions for years to come.<sup>117</sup> The report linked Donald Trump to white nationalists as well as conspiracy theorists.<sup>118</sup> The SPLC begins by stating, “In the first months of his Republican presidential campaign, the demagogic New York billionaire has poured vitriol on anyone who dared to criticize him, proposed a crude immigration plan that virtually all sensible observers see as brutal and

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<sup>112</sup> Southern Poverty Law Center, *supra* note 106.

<sup>113</sup> Mark Potok, *A Year of Living Dangerously*, Southern Poverty Law Center (Feb. 17, 2016), <https://www.splcenter.org/fighting-hate/intelligence-report/2016/editorial-year-living-dangerously>.

<sup>114</sup> *Id.*

<sup>115</sup> *Id.*

<sup>116</sup> Heidi Beirich, *SPLC Statement on Donald Trump’s call to ban Muslims from entering US*, Southern Poverty Law Center (Dec. 8, 2015), <https://www.splcenter.org/news/2015/12/08/splc-statement-donald-trumps-call-ban-muslims-entering-us>.

<sup>117</sup> Mark Potok, *Donald Trump, Conspiracy Theory and the Radical Right*, Southern Poverty Law Center (Oct. 27, 2015), <https://www.splcenter.org/fighting-hate/intelligence-report/2015/donald-trump-conspiracy-theory-and-radical-right>.

<sup>118</sup> *See id.*

also completely unrealistic, and said that we can simply trust that his solutions for any number of problems will be ‘terrific.’”<sup>119</sup>

The report included eight unlawful and negative partisan statements attacking and denigrating the electoral campaign positions of then-Republican Party candidate and nominee Donald Trump, without—as is the case with all the documents submitted with this referral complaint—any mention of the campaign views of any candidate for the Democratic Party presidential nomination. Unlawful statements in Document O include:

1. “Who, exactly, is Donald Trump appealing to? In the first months of his Republican presidential campaign, the demagogic New York billionaire has poured vitriol on anyone who dared to criticize him . . . .”<sup>120</sup>
2. “[W]hile the vast majority of analysts agree that he cannot win the GOP nomination, let alone the presidency, it seems obvious that he is damaging the party and its future.”<sup>121</sup>
3. “But Trump, so far, is leading the field. Although he has not asked for its support, he has won the applause of virtually the entire white nationalist movement, as we detail in this issue.”<sup>122</sup>
4. “A hyper-nationalist, Trump has tapped into the anger of a growing constituency who see globalization changing the racial, religious, and economic dynamics of the world around them.”<sup>123</sup>
5. “A September survey by Public Policy Polling measured Trump supporters’ affinity for baseless conspiracy theories directly. It found that 66% of them believe President Obama is secretly Muslim and 61% think he is not born in the United States—significantly higher than for all Republicans. And Trump is at home in that world.”<sup>124</sup>
6. “Trump also has repeatedly attacked the Common Core educational standards, a favorite bogeyman of the far right . . . .”<sup>125</sup>
7. “And, rejecting the conclusions of a consensus of scientists, he sneers at the very idea of global warming.”<sup>126</sup>

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<sup>119</sup> *Id.*

<sup>120</sup> *Id.*

<sup>121</sup> *Id.*

<sup>122</sup> *Id.*

<sup>123</sup> Potok, *supra* note 117.

<sup>124</sup> *Id.*

<sup>125</sup> *Id.*

<sup>126</sup> *Id.*

8. “These baseless theories are today being pushed not merely by hyperventilating conspiracists like the radio host Alex Jones. They are being enabled by shocking numbers of politicians and others in the public square—people like Donald Trump.”<sup>127</sup>

Document P: In an unsigned second article in the October 27, 2015 SPLC Intelligence Report, titled, “Trump Stump,” the SPLC repeatedly linked Donald Trump to “white nationalists.”<sup>128</sup> The report focused almost exclusively on links between the Donald Trump candidacy and his alleged links to “the radical right.”<sup>129</sup> The report asserted that “Trump’s toxic anti-immigrant rhetoric, so prominent in the news today, has consequences.”<sup>130</sup>

The report included eight unlawful and negative partisan statements attacking and denigrating the electoral campaign positions of then-Republican Party candidate and nominee Donald Trump, without—as is the case with all the documents submitted with this referral complaint—any mention of the campaign views of any candidate for the Democratic Party presidential nomination. Unlawful Statements in Document P include:

1. “You can’t blame that pol for failing to denounce every ugly thing his or her enthusiasts might say. But at some point, you have to wonder. Such is the case with Donald Trump.”<sup>131</sup>
2. “[A]s the first three months of Trump’s unexpectedly super-charged campaign for the GOP nomination for president unfolded, it became clear that he was very much the preferred candidate of virtually the entire white nationalist movement in America.”<sup>132</sup>
3. “Whether Trump is consciously dog-whistling to racist extremists or simply following his own star, he has increasingly delighted the racist right, many of whose denizens were initially deeply skeptical of this candidacy.”<sup>133</sup>
4. “Donald Trump’s appeal to the radical right was there from the start, in the June 16 speech announcing his candidacy.”<sup>134</sup>
5. “[W]hen public figures savage minority communities—calling them rapists and drug dealers, for instance—a climate of fear and bigotry often follows that ultimately leads to

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<sup>127</sup> *Id.*

<sup>128</sup> *Trump Stump*, Southern Poverty Law Center (Oct. 27, 2015), <https://www.splcenter.org/fighting-hate/intelligence-report/2015/trump-stump>.

<sup>129</sup> *See id.*

<sup>130</sup> *Id.*

<sup>131</sup> *Id.*

<sup>132</sup> *Id.*

<sup>133</sup> *Id.*

<sup>134</sup> Southern Poverty Law Center, *supra* note 128.

Mr. Steven Terner Mnuchin  
Secretary of the Treasury  
April 4, 2017

Page | 20

hate violence. Trump’s toxic anti-immigrant rhetoric, so prominent in the news today, has consequences.”<sup>135</sup>

6. “After the release of Trump’s immigration plan, dozens of threads about the candidate appeared on Stormfront, the world’s largest hate forum, founded and still run by a former Alabama Klan leader.”<sup>136</sup>

7. “[H]is political campaign clearly caters to populist radical right attitudes, and his supporter base is almost identical to the core electorate of populist radical right parties in (Western) Europe,’ [Dutch scholar Cas] Mudde wrote in an opinion piece published in *The Washington Post*.”<sup>137</sup>

8. “Trump also stands in a long tradition of American nativism, going back to the Know Nothings of the mid 19th century . . . . But, in contrast to the rich history of U.S. populism, Trump is an anti-establishment elitist.”<sup>138</sup>

### Set III: SPLC “Teaching Tolerance” project documents

Document Q: SPLC campaign intervention has also occurred in other SPLC projects. On April 13, 2016, the SPLC Teaching Tolerance project published a 16-page report, titled, “The Trump Effect: The impact of the presidential campaign on our nation’s schools.”<sup>139</sup> The front cover of the report contained a full-page photograph of then-Republican presidential nominee Donald Trump.<sup>140</sup> Authorship was credited to SPLC Tolerance Project Director Maureen B. Costello, with editing by SPLC President and CEO Richard Cohen.<sup>141</sup>

The report claimed that “the data we collected is the richest source of information that we know of about the effect of the presidential campaign on education in our country”<sup>142</sup> However, the SPLC conceded that the project was “not scientific” and “not a random sample of teachers nationally” but instead solicited responses from partisan subscribers to the SPLC Teaching Tolerance newsletter and visitors to the project’s website.<sup>143</sup>

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<sup>135</sup> *Id.*

<sup>136</sup> *Id.*

<sup>137</sup> *Id.*

<sup>138</sup> *Id.*

<sup>139</sup> *The Trump Effect: The Impact of the Presidential Campaign on Our Nation’s Schools*, Southern Poverty Law Center (Apr. 13, 2016), <https://www.splcenter.org/20160413/trump-effect-impact-presidential-campaign-our-nations-schools>.

<sup>140</sup> *Id.*

<sup>141</sup> *Id.*

<sup>142</sup> *Id.* at 4.

<sup>143</sup> *Id.* at 4, 15.

The content and tone of the report indicate that it was used by the SPLC as a platform to push readers in a specific political direction, namely away from then-Republican Presidential candidate Donald Trump, who the SPLC accused of frightening and terrifying public school students.<sup>144</sup> The report mentioned Ted Cruz, Bernie Sanders, and Hilary Clinton once each, in a single neutral sentence, which only noted that combined responses mentioning these candidates were less than 20 percent of the comments mentioning Donald Trump.<sup>145</sup> In contrast, the SPLC mentioned Donald Trump and his campaign views 27 different times, always in a highly negative light.<sup>146</sup> The SPLC was fully aware of the partisan political nature of these communications, as it expressly claimed that “[i]t neither endorses political candidates nor engages in electioneering activities.”<sup>147</sup>

#### **Set IV: SPLC “Hatewatch Blog” links**

In addition to its original content publications, the SPLC is also responsible for partisan content opposing candidates for president which the SPLC has linked to its website from other sources. On its website, the SPLC publishes the “Hatewatch Headlines.”<sup>148</sup> This blog is composed entirely of links to third party websites that publish online headlines and stories that the SPLC finds relevant to their issues.<sup>149</sup> The webpage states that the blog “monitors and exposes the activities of the American radical right.”<sup>150</sup> A new or updated Hatewatch Headlines page is published on the SPLC website two to three times a week on average.

The linked communications on the Hatewatch Headlines dated web pages regularly featured hostile and partisan communications regarding then-Republican presidential nominee Donald Trump, former Republican candidate Ted Cruz, and their campaign staffs.

The SPLC’s publication of links to the following articles constitutes unlawful campaign intervention. The SPLC is responsible for the context on their website regardless of whether a third party wrote the article. As with SPLC-produced communications, the IRS should consider all circumstances and context of communications produced by other organizations that are linked by the SPLC on its “Hatewatch” blog. Because these third party articles would constitute campaign intervention if produced by the SPLC, the SPLC’s linking to the communications on the Hatewatch Headlines blog also constitutes campaign intervention:

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<sup>144</sup> See generally *id.*

<sup>145</sup> Southern Poverty Law Center, *supra* note 139, at 5.

<sup>146</sup> *Id.*

<sup>147</sup> *Id.* at 2.

<sup>148</sup> Southern Poverty Law Center, *supra* note 1.

<sup>149</sup> *Id.*

<sup>150</sup> *Id.*

1. On May 19, 2016, SPLC Hatewatch Headlines linked Salon.com's article, titled, "Trump's bigoted base: Keeping minorities down is the No. 1 issue for the billionaire's backers – it's not a theory, it's a fact."<sup>151</sup> The article pitted Bernie Sanders against Donald Trump.<sup>152</sup> In denigrating Donald Trump's electoral appeal, the article argued that Bernie Sanders voters have rational concerns, but in contrast attacked the Trump campaign as "a blend of casual racism and muscular nativism."<sup>153</sup> The article continued to attack Trump by stating, "[w]hatever Trump's talents, he's an heir to a real estate fortune and a fame whoring celebrity brand name in a suit not a brilliant captain of industry."<sup>154</sup> The article claimed that Trump supporters like him because "he bashes China, insults Mexicans, demonizes Muslims, degrades African Americans, and worships authority to keep all of them, and more, in line. His aggressive misogyny is just an added bonus."<sup>155</sup>

2. On May 18, 2016, SPLC Hatewatch Headlines included AlterNet's article, titled, "How We Must Face the Rise of the Radical Right."<sup>156</sup> The article, credited to Damon Silvers of Campaign for America's Future, featured a lead graphic of Donald Trump waving to a crowd but is meant to look like a Nazi salute.<sup>157</sup> The article stated that Donald Trump's campaign platform "tries to mix the traditional hatreds of the racist right with the economic anxieties of America's beleaguered middle class."<sup>158</sup>

3. On May 12, 2016, SPLC Hatewatch Headlines linked to a Salon.com article, titled, "It's time to call Donald Trump's supporters what they are – Entitled, racist bigoted thugs."<sup>159</sup> The article criticized Donald Trump for changing his opinions in response to the "political winds."<sup>160</sup> The article found that his changes in opinion were not based on knowledge or wisdom but because "[h]e is a nihilistic pragmatist who craves power at

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<sup>151</sup> *Hatewatch Headlines 5/19/2016*, Southern Poverty Law Center (May 19, 2016), [www.splcenter.org/hatewatch/2016/05/19/hatewatch-headlines-5192016](http://www.splcenter.org/hatewatch/2016/05/19/hatewatch-headlines-5192016).

<sup>152</sup> Heather Digby Parton, *Trump's bigoted base: Keeping minorities down is the No. 1 issue for the billionaire's backers – it's not a theory, it's a fact*, Salon (May 18, 2016), [http://www.salon.com/2016/05/18/trumps\\_bigoted\\_base\\_keeping\\_minorities\\_down\\_is\\_the\\_no\\_1\\_issue\\_for\\_the\\_billionaires\\_backers\\_its\\_not\\_a\\_theory\\_its\\_a\\_fact/](http://www.salon.com/2016/05/18/trumps_bigoted_base_keeping_minorities_down_is_the_no_1_issue_for_the_billionaires_backers_its_not_a_theory_its_a_fact/).

<sup>153</sup> *Id.*

<sup>154</sup> *Id.*

<sup>155</sup> *Id.*

<sup>156</sup> *Hatewatch Headlines 5/18/2016*, Southern Poverty Law Center (May 18, 2016), [www.splcenter.org/hatewatch/2016/05/18/hatewatch-headlines-5182016](http://www.splcenter.org/hatewatch/2016/05/18/hatewatch-headlines-5182016).

<sup>157</sup> Damon Silvers, *How We Must Face the Rise of the Radical Right*, Alternet (May 16, 2016), <http://www.alternet.org/tea-party-and-right/we-must-face-rise-radical-right>.

<sup>158</sup> *Id.*

<sup>159</sup> *Hatewatch Headlines 5/12/2016*, Southern Poverty Law Center (May 12, 2016), [www.splcenter.org/hatewatch/2016/05/12/hatewatch-headlines-5122016](http://www.splcenter.org/hatewatch/2016/05/12/hatewatch-headlines-5122016).

<sup>160</sup> Chauncey Devega, *Entitled, racists, bigoted thugs: It is time to call Donald Trump Supporters by their real names*, Salon (May 11, 2016), [http://www.salon.com/2016/05/11/entitled\\_racist\\_bigoted\\_thugs\\_it\\_is\\_time\\_to\\_call\\_donald\\_trump\\_supporters\\_by\\_their\\_real\\_names/](http://www.salon.com/2016/05/11/entitled_racist_bigoted_thugs_it_is_time_to_call_donald_trump_supporters_by_their_real_names/).

Mr. Steven Terner Mnuchin  
Secretary of the Treasury  
April 4, 2017

Page | 23

any cost.”<sup>161</sup> The article described Trump as “America’s II Duce[.]” and “a reality TV show hustler who is simply applying his carnival tricks and con artist routine to another venue . . . .”<sup>162</sup>

4. On May 11, 2016, SPLC Hatewatch Headlines linked to the American Prospect story, titled, “White Supremacy, Donald Trump’s Battle for “the Soul of America.”<sup>163</sup> The article stated, “Today, with the impending nomination of Trump—who cozies up to white supremacists, promises to build a wall on the U.S.-Mexico border for which the southern neighbor will pay, has tweeted out false statistics blaming blacks for violent crime, and demeans women whenever challenged by one—there is truly a battle for ‘the soul of America[.]’ . . . Trump has yanked the tea cozy off the bubbling cauldron of resentment that has fueled the Republican right for 50 years . . . .”<sup>164</sup>

5. On May, 7, 2016, SPLC Hatewatch Headlines linked to a Media Matters blog post, titled, “Here’s what happens when Trump refuses to denounce his neo-Nazi supporters: ‘Hail victory, comrades!’”<sup>165</sup> The article stated that Trump has refused to denounce neo-Nazi group endorsements, which amounts to support.<sup>166</sup>

6. On May 6, 2016, SPLC Hatewatch Headlines<sup>167</sup> linked to a Salon.com article, titled, “Dear media, please call out Trump on this: He’s a tinfoil-wearing conspiracy theorist – ignoring that is irresponsible.”<sup>168</sup>

7. On May 3, 2016, the SPLC Hatewatch Headlines blog linked to a Media Matters blog post, titled, “Trump Ally Roger Stone Has Repeatedly Urged the Killing of Public

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<sup>161</sup> *Id.*

<sup>162</sup> *Id.*

<sup>163</sup> *Hatewatch Headlines 5/11/2016*, Southern Poverty Law Center (May 11, 2016), [www.splcenter.org/hatewatch/2016/05/11/hatewatch-headlines-5112016](http://www.splcenter.org/hatewatch/2016/05/11/hatewatch-headlines-5112016).

<sup>164</sup> Adele M. Stan, *White Supremacy and Trump’s Battle for the “Soul of America,”* The American Prospect (May 6, 2016), <http://prospect.org/article/white-supremacy-and-trumps-battle-soul-america>.

<sup>165</sup> *Hatewatch Headlines 5/9/2016*, Southern Poverty Law Center (May 7, 2016), [www.splcenter.org/hatewatch/2016/05/09/hatewatch-headlines-572016](http://www.splcenter.org/hatewatch/2016/05/09/hatewatch-headlines-572016).

<sup>166</sup> Eric, Hananoki, *Here’s What Happens When Trump Refuses To Denounce His Neo-Nazi Supporters*, Media Matters for America (May 6, 2016), <http://mediamatters.org/blog/2016/05/06/heres-what-happens-when-trump-refuses-denounce-his-racist-neo-nazi-supporters/210275>.

<sup>167</sup> *Hatewatch Headlines 5/6/2016*, Southern Poverty Law Center (May 5, 2016), [www.splcenter.org/hatewatch/2016/05/06/hatewatch-headlines-562016](http://www.splcenter.org/hatewatch/2016/05/06/hatewatch-headlines-562016).

<sup>168</sup> Amanda Marcotte, *Dear media, Please call out Trump this: He’s a tinfoil wearing conspiracy theorist – ignoring that is irresponsible*, Salon (May 5, 2016), [http://www.salon.com/2016/05/05/dear\\_media\\_please\\_call\\_out\\_trump\\_on\\_this\\_hes\\_a\\_tinfoil\\_wearing\\_conspiracy\\_theorist\\_ignoring\\_that\\_is\\_irresponsible/](http://www.salon.com/2016/05/05/dear_media_please_call_out_trump_on_this_hes_a_tinfoil_wearing_conspiracy_theorist_ignoring_that_is_irresponsible/).

Mr. Steven Terner Mnuchin  
Secretary of the Treasury  
April 4, 2017

Page | 24

Figures.”<sup>169</sup> While the blog article called Mr. Stone an “ally[,] . . . longtime adviser and confidant”<sup>170</sup> to Donald Trump, he is not officially connected to the Trump campaign.<sup>171</sup> In fact, CNN reports that Roger Stone has not been a part of the campaign since August 2015.<sup>172</sup> In the same Hatewatch Headlines blog, the SPLC also linked to a Right Wing Watch article, titled, “Ted Cruz Joins Forces With Yet Another Anti-LGBT Extremist.”<sup>173</sup> In it, Right Wing Watch labeled the Executive Director of the American Family Association of Indiana an anti-LGBT extremist and condemned the Cruz campaign for embracing the endorsement.<sup>174</sup>

8. On April 13, 2016, the SPLC Hatewatch Headlines blog linked to a Stir article, titled, “I know why poor whites chant, ‘Trump, Trump, Trump.’”<sup>175</sup> The article asked rhetorical questions to equate then-Republican candidate Donald Trump to a slave owner.<sup>176</sup> “But does Trump care about the white underclass, or does he still think poor people are ‘morons’? Did slave owners care about white indentured servants when they pitted them against African slaves, or did they want to ensure a steady supply of cheap labor?”<sup>177</sup>

9. In the April 6, 2016, Hatewatch Headlines, the SPLC linked the story, titled, “The Border Patrol’s Bizarre Choice,” which criticized the National Border Patrol Council’s endorsement of Donald Trump.<sup>178</sup> In its criticism, The New York Times stated “[The] truth hardly matters to politicians who prey on fear and hate. Those were the emotions Mr. Trump was summoning when he built his campaign . . . Mr. Trump’s immigration views are driven by defiant ignorance.”<sup>179</sup>

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<sup>169</sup> *Hatewatch Headlines 5/3/2016*, Southern Poverty Law Center (May 3, 2016), [www.splcenter.org/hatewatch/2016/05/03/hatewatch-headlines-532016](http://www.splcenter.org/hatewatch/2016/05/03/hatewatch-headlines-532016).

<sup>170</sup> Eric Hananoki, *Trump Ally Roger Stone Has Repeatedly Urged the Killing Of Public Figures*, Media Matters for America (May 2, 2016), <http://mediamatters.org/blog/2016/05/02/trump-ally-roger-stone-has-repeatedly-urged-killing-public-figures/210169>.

<sup>171</sup> Dylan Byers, *The return of Roger Stone*, CNN (Apr. 19, 2016), <http://www.cnn.com/2016/04/19/politics/roger-stone-donald-trump/>.

<sup>172</sup> *Id.*

<sup>173</sup> Brian Tashman, *Ted Cruz Joins Forces With Yet Another Anti-LGBT Extremist*, People for the American Way (May 2, 2016), <http://www.rightwingwatch.org/content/ted-cruz-joins-forces-yet-another-anti-lgbt-extremist>.

<sup>174</sup> *Id.*

<sup>175</sup> *Hatewatch Headlines 4/13/2016*, Southern Poverty Law Center (Apr. 13, 2016), [www.splcenter.org/hatewatch/2016/04/13/hatewatch-headlines-4132016](http://www.splcenter.org/hatewatch/2016/04/13/hatewatch-headlines-4132016).

<sup>176</sup> Jonna Ivin, *I Know Why Poor Whites Chant Trump, Trump, Trump*, The Stir (Apr. 1, 2016), <http://www.stirjournal.com/2016/04/01/i-know-why-poor-whites-chant-trump-trump-trump/>.

<sup>177</sup> *Id.*

<sup>178</sup> *Hatewatch Headlines 4/6/2016*, Southern Poverty Law Center (Apr. 6, 2016), [www.splcenter.org/hatewatch/2016/04/06/hatewatch-headlines-462016](http://www.splcenter.org/hatewatch/2016/04/06/hatewatch-headlines-462016).

<sup>179</sup> *The Border Patrol’s Bizarre Choice*, The New York Times (Apr. 5, 2015), [http://www.nytimes.com/2016/04/05/opinion/the-border-patrols-bizarre-choice.html?\\_r=0](http://www.nytimes.com/2016/04/05/opinion/the-border-patrols-bizarre-choice.html?_r=0).



Mr. Steven Terner Mnuchin  
Secretary of the Treasury  
April 4, 2017

Page | 25

10. The March 29, 2016 SPLC Hatewatch Headlines blog linked to a Daily Kos article, titled, “Why Trump, indeed?”<sup>180</sup> The article had a picture of Donald Trump and directly underneath of it stated “Raise your hand if you can’t understand why anyone thinks Trump would make a good president.”<sup>181</sup> The article found that the core of “Trumpism” is based on white racism and white racial resentment.<sup>182</sup> The article asserted that if a voter supports Trump, that support is based at least in part on racism: “Trumpism draws on a toxic cocktail consisting of white racial resentment, white cultural anxiety, and just general white despair.”<sup>183</sup>

11. The March 24, 2016 SPLC Hatewatch Headlines linked to the Media Matter’s article, titled, “On MSNBC, Rep. Keith Ellison Calls Out Ted Cruz’s Reliance on Anti-Muslim Hate Group Leader Frank Gaffney.”<sup>184</sup> The article provided a transcript for an MSNBC interview with Representative Keith Ellison (D-MN).<sup>185</sup> During the interview, the Democrat elected official attacked the presidential campaign of then-candidate Ted Cruz, stating that “Cruz is scared and doesn’t want to actually do the hard work of making America safe, but would rather just scapegoat a religious minority.”<sup>186</sup>

12. On March 21, 2016, SPLC Hatewatch Headlines linked the Progressive article, titled, “Just how scary is Donald Trump?”<sup>187</sup> The article interviewee stated that Trump is “an authoritarian rightwing populist who is stoking white nationalism to build his constituency.”<sup>188</sup> The blog called Trump’s campaign “a scary brand of popular rightwing outrage, featuring racial antagonism and explicit calls to violence . . . .”<sup>189</sup> The article contrasted Trump’s positions mainly with then-candidate Bernie Sanders, whose campaign platform was favorably supported as “friendly democratic socialism.”<sup>190</sup> The rhetoric of the article unmistakably favored the Democratic Party’s candidates over the Republican candidate, Donald Trump.

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<sup>180</sup> *Hatewatch Headline 3/29/16*, Southern Poverty Law Center (Mar. 29, 2016), [www.splcenter.org/hatewatch/2016/03/29/hatewatch-headlines-3292016](http://www.splcenter.org/hatewatch/2016/03/29/hatewatch-headlines-3292016) (last viewed Aug. 4, 2016).

<sup>181</sup> Ian Reifowitz, *Why Trump, indeed?*, Daily Kos (Mar. 27, 2016), <http://www.dailykos.com/stories/2016/3/27/1505294/-Why-Trump-indeed>.

<sup>182</sup> *Id.*

<sup>183</sup> *Id.*

<sup>184</sup> *Hatewatch Headlines 3/24/2016*, Southern Poverty Law Center (Mar. 24, 2016), [www.splcenter.org/hatewatch/2016/03/24/hatewatch-headlines-3242016](http://www.splcenter.org/hatewatch/2016/03/24/hatewatch-headlines-3242016).

<sup>185</sup> *On MSNBC, Rep. Keith Ellison Calls Out Ted Cruz’s Reliance on Anti-Muslim Hate Group Leader Frank Gaffney*, Media Matters in America (Mar. 23, 2016), <http://mediamatters.org/video/2016/03/23/on-msnbc-rep-keith-ellison-calls-out-ted-cruzs/209506>.

<sup>186</sup> *Id.*

<sup>187</sup> *Hatewatch Headlines 3/21/2016*, Southern Poverty Law Center (Mar. 21, 2016), [www.splcenter.org/hatewatch/2016/03/21/hatewatch-headlines-3212016](http://www.splcenter.org/hatewatch/2016/03/21/hatewatch-headlines-3212016).

<sup>188</sup> Ruth Conniff, *Just How Scary Is Donald Trump?*, The Progressive (Mar. 18, 2016), <http://www.progressive.org/news/2016/03/188628/just-how-scary-donald-trump>.

<sup>189</sup> *Id.*

<sup>190</sup> *Id.*

13. The March 18, 2016 SPLC Hatewatch Headlines linked to the Salon.com article, titled, “The five craziest things about Ted Cruz’s extremist, neo-McCarthyist, anti-Muslim foreign-policy adviser, Frank Gaffney.”<sup>191</sup> The blog article stated that Donald Trump “is running a fascistic campaign, one based on overtly racist, xenophobic, far-right demagoguery.”<sup>192</sup> The article labeled candidate Trump the “American Mussolini.”<sup>193</sup> The article then moved on to criticize Ted Cruz by finding that his policies were just as extreme as Trump but that he was a little more understated about his extremist policies.

14. On March 3, 2016, SPLC Hatewatch Headlines linked to a History News Network publication, titled, “The Wrong Lesson Trump Learned from History.”<sup>194</sup> The article detailed the political history of Theodore Bilbo, a politician who told his supporters to keep the opposition from voting by “any means necessary.”<sup>195</sup> The article then detailed violence that occurred because the aggressor was a Trump supporter even though Trump never called for the instances of violence to occur.<sup>196</sup> The article concluded by commenting, “Like Bilbo, Trump’s words possess the power to become very real sticks and stones. A responsible society would deplore the comments of Trump, not dismiss them as farce, and would certainly not applaud them as ‘telling it like it is.’”<sup>197</sup>

15. In the Hatewatch Headlines on February 3, 2016, the SPLC linked an article from Salon with the headline, “Ted Cruz’s radical supporters: He won Iowa on the back of the scariest Bible-thumpers in the business.”<sup>198</sup> After quickly insulting Donald Trump, the article moved on to Ted Cruz stating that “Cruz clawed his way to victory in Iowa by implying – well, more than implying – that he’s a religious messiah, a prophet who is the next best thing to the second coming of Jesus.”<sup>199</sup>

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<sup>191</sup> *Hatewatch Headlines 3/18/2016*, Southern Poverty Law Center (Mar. 18, 2016), [www.splcenter.org/hatewatch/2016/03/18/hatewatch-headlines-3182016](http://www.splcenter.org/hatewatch/2016/03/18/hatewatch-headlines-3182016).

<sup>192</sup> Ben Norton, *The 5 craziest things Ted Cruz’s extremist, neo-McCarthyist, anti-Muslim, foreign policy advisor Frank Gaffney*, Salon (Mar. 17, 2016), [http://www.salon.com/2016/03/17/the\\_5\\_craziest\\_things\\_about\\_ted\\_cruzs\\_extremist\\_neo\\_mccarthyist\\_anti\\_muslim\\_foreign\\_policy\\_advisor\\_frank\\_gaffney/](http://www.salon.com/2016/03/17/the_5_craziest_things_about_ted_cruzs_extremist_neo_mccarthyist_anti_muslim_foreign_policy_advisor_frank_gaffney/).

<sup>193</sup> *Id.*

<sup>194</sup> *Hatewatch Headlines 3/4/2016*, Southern Poverty Law Center (Mar. 4, 2016), [www.splcenter.org/hatewatch/2016/03/04/hatewatch-headlines-332016](http://www.splcenter.org/hatewatch/2016/03/04/hatewatch-headlines-332016).

<sup>195</sup> Zachary Wakefield, *The Wrong Lesson Trump Learned from History*, History News Network (Mar. 1, 2016), <http://historynewsnetwork.org/article/162148>.

<sup>196</sup> *Id.*

<sup>197</sup> *Id.*

<sup>198</sup> *Hatewatch Headlines 2/3/2016*, Southern Poverty Law Center (Feb. 3, 2016), [www.splcenter.org/hatewatch/2016/02/03/hatewatch-headlines-232016](http://www.splcenter.org/hatewatch/2016/02/03/hatewatch-headlines-232016).

<sup>199</sup> Amanda Marcotte, *Ted Cruz’s radial supporters: He won Iowa on the back of the scariest Bible-Thumpers in the business*, Salon (Feb. 2, 2016), [http://www.salon.com/2016/02/02/ted\\_cruzs\\_radical\\_supporters\\_he\\_won\\_iowa\\_on\\_the\\_back\\_of\\_t\\_he\\_scariest\\_bible\\_thumpers\\_in\\_the\\_business/](http://www.salon.com/2016/02/02/ted_cruzs_radical_supporters_he_won_iowa_on_the_back_of_t_he_scariest_bible_thumpers_in_the_business/).

Mr. Steven Terner Mnuchin  
Secretary of the Treasury  
April 4, 2017

Page | 27

16. On February 1, 2016, the SPLC Hatewatch Headlines linked to an AlterNet article, titled, “How Donald Trump has brought America’s darkest political obsessions and beliefs into the open.”<sup>200</sup> The article described Donald Trump as an authoritarian leader.<sup>201</sup> The article then described the qualities of an authoritarian follower: “Tend to be highly conventional, always and easily submissive to authority, while willing to work aggressively on behalf of such authority. They tend to be very religious, with moderate to little education, trusting of untrustworthy authorities, prejudice . . . they are typically mean-spirited, narrow-minded, intolerant, bullying, zealous, dogmatic, uncritical of their chosen authority, hypocritical, inconsistent, . . . have little self-awareness, and are typically politically and economically conservative Republicans.”<sup>202</sup>

17. On January 29, 2016, SPLC Hatewatch Headlines linked to a column in the Washington Post, titled, “In the age of Trump, Holocaust survivors begin to offer grim warnings.”<sup>203</sup> Post writer Dana Milbank attacked the campaign of then-Republican candidate Donald Trump by featuring comments from Holocaust survivors comparing Trump’s campaign communications to the campaigns and statements of Nazi dictator Adolf Hitler.<sup>204</sup>

18. On January 28, 2016, SPLC Hatewatch Headlines linked to the Think Progress article, titled, “Ted Cruz assures voters he will address the ‘crisis’ of same-sex marriage.”<sup>205</sup> The article targeted Cruz based upon his sincerely held religious belief that does not coincide with the majority’s view of same-sex marriage.<sup>206</sup>

19. On January 15, 2016, SPLC Hatewatch Headlines linked to the Huffington Post’s Huff Politics blog post, titled, “Donald Trump May Not Be a Fascist, But He Is Leading

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<sup>200</sup> *Hatewatch Headlines 2/1/2016*, Southern Poverty Law Center (Feb. 1, 2016), [www.splcenter.org/hatewatch/2016/02/01/hatewatch-headlines-212016](http://www.splcenter.org/hatewatch/2016/02/01/hatewatch-headlines-212016).

<sup>201</sup> Jon Dean, *How Doanld Trump Has Brought America’s Darkest Political Obsessions and Beliefs Into The Open*, Alternet (Jan 29, 2016), <http://www.alternet.org/election-2016/how-donald-trump-has-brought-americas-darkest-political-obsessions-and-beliefs-open>.

<sup>202</sup> *Id.*

<sup>203</sup> *Hatewatch Headlines 1/29/2016*, Southern Poverty Law Center (Jan. 29, 2016), [www.splcenter.org/hatewatch/2016/01/29/hatewatch-headlines-1292016](http://www.splcenter.org/hatewatch/2016/01/29/hatewatch-headlines-1292016).

<sup>204</sup> Dana Milbank, *In the age of Trump, grim warnings from Holocaust survivors*, Washington Post (Jan. 27, 2016), [https://www.washingtonpost.com/opinions/in-the-age-of-trump-grim-warnings-from-holocaust-survivors/2016/01/27/c65ea38c-c549-11e5-8965-0607e0e265ce\\_story.html?hpid=hp\\_opinions-for-wide-side\\_opinion-card-a%3Ahomepage%2Fstory](https://www.washingtonpost.com/opinions/in-the-age-of-trump-grim-warnings-from-holocaust-survivors/2016/01/27/c65ea38c-c549-11e5-8965-0607e0e265ce_story.html?hpid=hp_opinions-for-wide-side_opinion-card-a%3Ahomepage%2Fstory).

<sup>205</sup> *Hatewatch Headlines 1/28/2016*, Southern Poverty Law Center (Jan. 28, 2016), [www.splcenter.org/hatewatch/2016/01/28/hatewatch-headlines-1282016](http://www.splcenter.org/hatewatch/2016/01/28/hatewatch-headlines-1282016).

<sup>206</sup> Emily Atkin, *Ted Cruz Assures Voters He Will Address ‘Crisis’ Of Gay Marriage*, Think Progress (Jan 27, 2016), <http://thinkprogress.org/lgbt/2016/01/27/3743336/cruz-gay-marriage-iowa/>.

Us Merrily Down That Path.”<sup>207</sup> Huff Politics guest blogger David Neiwert, who also authored the highly politicized Documents B and F for the Hatewatch Project, offered his view of the salient attributes of fascism and a fascist leader, and then set out why then-Republican presidential candidate Trump and his campaign share the attributes of fascist politics.<sup>208</sup> “[Trump is] the charismatic leader around whom fascist troops can rally.”<sup>209</sup> While the article admitted that Trump is not a “bona fide fascist,” Neiwert asserted that this makes him more dangerous “because it disguises the swastika looming in the shadows of the flamboyant orange hair.”<sup>210</sup>

20. On December 15, 2015, SPLC Hatewatch Headlines linked to a Washington Post article, titled, “Thanks to Trump, fringe news enters the mainstream.”<sup>211</sup> The article attacked Trump’s campaign platform and statements: “Many of Trump’s more controversial assertions since he declared for president have come from the murky swamp of right-wing, libertarian and flat-out paranoid sources that have proliferated and thrived as the Internet and social media have grown.”<sup>212</sup>

21. On December 8, 2015, SPLC Hatewatch Headlines linked to a Think Progress blog post, titled, “Ted Cruz’s Weirdly Insurrectionist Take on the Second Amendment.”<sup>213</sup> The article turned Senator’s Cruz’s position on Second Amendment rights into one that is echoed by the “radial elements of the gun rights movement.”<sup>214</sup> However, the article found that Senator Cruz’s stance on the Second Amendment is “incoheren[t]” when it is compared to his position on ISIS because allowing citizens to exercise their Second Amendment rights may also put weapons in the hands of radicalized citizens who support ISIS.<sup>215</sup> Also linked was a New York Times article, titled, “Donald Trump Calls for

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<sup>207</sup> *Hatewatch Headlines 1/15/2016*, Southern Poverty Law Center (Jan. 15, 2016), [www.splcenter.org/hatewatch/2016/01/15/hatewatch-headlines-1152016](http://www.splcenter.org/hatewatch/2016/01/15/hatewatch-headlines-1152016).

<sup>208</sup> David Neiwert, *Donald Trump May Not Be A Fascist, But He Is Leading Us Down That Merry Little Path*, Huffington Post (Jan. 14, 2016), [http://www.huffingtonpost.com/david-neiwert/trump-may-not-be-a-fascist-but\\_b\\_8973768.html](http://www.huffingtonpost.com/david-neiwert/trump-may-not-be-a-fascist-but_b_8973768.html); see also Neiwert, *supra* note 17; Neiwert, *supra* note 39.

<sup>209</sup> *Id.*

<sup>210</sup> *Id.*

<sup>211</sup> *Hatewatch Headlines 12/15/2015*, Southern Poverty Law Center (Dec. 15, 2015), [www.splcenter.org/hatewatch/2015/12/15/hatewatch-headlines-12152015](http://www.splcenter.org/hatewatch/2015/12/15/hatewatch-headlines-12152015).

<sup>212</sup> Paul Farhi, *Thanks to Trump, fringe news enters the mainstream*, Washington Post (Dec. 11, 2015), [https://www.washingtonpost.com/lifestyle/style/thanks-to-trump-fringe-news-enters-the-mainstream/2015/12/11/292e518c-a01b-11e5-8728-1af6af208198\\_story.html](https://www.washingtonpost.com/lifestyle/style/thanks-to-trump-fringe-news-enters-the-mainstream/2015/12/11/292e518c-a01b-11e5-8728-1af6af208198_story.html).

<sup>213</sup> *Hatewatch Headlines 12/8/15*, Southern Poverty Law Center (Dec. 8, 2015), [www.splcenter.org/hatewatch/2015/12/08/hatewatch-headlines-1282015](http://www.splcenter.org/hatewatch/2015/12/08/hatewatch-headlines-1282015).

<sup>214</sup> Ian Millhiser, *Ted Cruz’s Weirdly Insurrectionist Take on the Second Amendment*, Think Progress (Dec. 5, 2016), <http://thinkprogress.org/justice/2015/12/05/3728705/ted-cruzs-weirdly-insurrectionist-take-on-the-second-amendment/>.

<sup>215</sup> *Id.*

Mr. Steven Terner Mnuchin  
Secretary of the Treasury  
April 4, 2017

Page | 29

Barring Muslims From Entering U.S.”<sup>216</sup> The article equated an immigration restriction platform plank of the Trump campaign with “hate group” activity: “A prohibition of Muslims – an unprecedented proposal by a leading American presidential candidate, and an idea more typically associated with hate groups – reflects a progression of mistrust that is rooted in ideology as much as politics.”<sup>217</sup>

22. On November 25, 2015, SPLC Hatewatch Headlines linked to a Salon.com article, titled, “This is on Donald Trump and Fox News’ hands: Now their war on #blacklivesmatter draws real blood.”<sup>218</sup> The article blamed the Donald Trump presidential campaign for inspiring a shooting by alleged Minnesota white supremacists of Black Lives Matter movement demonstrators.<sup>219</sup> The article stated that Donald Trump “endorsed [the] thuggery and was proud” because he “embrace[s] political violence . . .”<sup>220</sup>

23. On November 12, 2015, SPLC Hatewatch Headlines linked to a Media Matters article, titled, “Media Slam Trump For Invoking A Deadly, ‘Unabashedly Racist’ Deportation Program As A Model For His Immigration Plans.”<sup>221</sup> The article collected harsh partisan commentary on Donald Trump’s immigration plan from various news outlets.<sup>222</sup>

24. On September 29, 2015, SPLC Hatewatch Headlines blog linked to a Crooks and Liars’ blog post, titled, “Trump Promises to ‘Round Up’ Immigrants And Deport Them Humanely.”<sup>223</sup> The article provided a transcript from a 60 minutes interview with Donald Trump.<sup>224</sup> In the interview, Donald Trump talks about his plan to deport illegal aliens and

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<sup>216</sup> Patrick Healy & Michael Barbaro, *Donald Trump Calls for Barring Muslims from Entering U.S.*, New York Times (Dec. 7, 2015), <http://www.nytimes.com/politics/first-draft/2015/12/07/donald-trump-calls-for-banning-muslims-from-entering-u-s/>.

<sup>217</sup> *Id.*

<sup>218</sup> *Hatewatch Headlines 11/25/2015*, Southern Poverty Law Center (Nov. 25, 2015), [www.splcenter.org/hatewatch/2015/11/25/hatewatch-headlines-112515](http://www.splcenter.org/hatewatch/2015/11/25/hatewatch-headlines-112515).

<sup>219</sup> Chauncey Devega, *This Blood is on Donald Trump and Fox News’ Hand: Now their war on #blacklivesmatter draws real blood*, Salon (Nov. 24, 2015), [http://www.salon.com/2015/11/24/this\\_blood\\_is\\_on\\_donald\\_trump\\_and\\_fox\\_newss\\_hands/](http://www.salon.com/2015/11/24/this_blood_is_on_donald_trump_and_fox_newss_hands/).

<sup>220</sup> *Id.*

<sup>221</sup> *Hatewatch Headlines 11/12/2015*, Southern Poverty Law Center (Nov. 12, 2015), [www.splcenter.org/hatewatch/2015/11/12/hatewatch-headlines-11122015](http://www.splcenter.org/hatewatch/2015/11/12/hatewatch-headlines-11122015).

<sup>222</sup> Cristina Lopez & Brennan Suen, *Media Slams Trump For Invoking a Deadly, ‘Unabashedly Racist’ Deportation Program As A Model For His Immigration Plans*, Media Matters in America (Nov. 11, 2015), <http://mediamatters.org/research/2015/11/11/media-slam-trump-for-invoking-a-deadly-unabashe/206792>.

<sup>223</sup> *Hatewatch Headlines 9/29/2015*, Southern Poverty Law Center (Sep. 29, 2015), [www.splcenter.org/hatewatch/2015/09/29/hatewatch-headlines-9292015](http://www.splcenter.org/hatewatch/2015/09/29/hatewatch-headlines-9292015).

<sup>224</sup> Karoli Kuns, *Trump Promises To ‘Round Up’ Immigrants and Deport Them Humanely*, Crooks and Liars (Sep. 28, 2015), <http://crooksandliars.com/2015/09/trump-60-minutes-ill-round-immigrants-and>.

Mr. Steven Terner Mnuchin  
Secretary of the Treasury  
April 4, 2017

Page | 30

build a wall.<sup>225</sup> After questioning the legality of his ability to put these plans into action, the article stated, “In other words, Donald Trump says he will either bend the will of the other two branches of government to make them do what he wants them to do, or he will just do whatever the hell he wants anyways?”<sup>226</sup> The article claimed that “This is how dictatorships are made . . . .”<sup>227</sup>

25. On September 10, 2015, SPLC Hatewatch Headlines linked to a Salon.com article, titled, “Rise of the GOP’s paranoia brigade: What Ted Cruz & Donald Trump’s wing-nut rally today says about opposition to the Iran deal.”<sup>228</sup> The article bashed Ted Cruz and Donald Trump by saying that they were present at an Iran non-proliferation rally with “rabid Islamophobes.”<sup>229</sup>

26. On August 31, 2015, SPLC Hatewatch Headlines linked to a Vice.com story, titled, “Why white supremacists love Trump.”<sup>230</sup> Within the article, SPLC Senior Fellow Mark Potok emphasized how white nationalists supported Donald Trump for president.<sup>231</sup> After quoting Mark Potok, the article stated, “As for the fate of the Republican Party after it emerges from his vitriolic immigration swamp, Trump doesn’t seem to care.”<sup>232</sup>

27. On August 27, 2015, SPLC Hatewatch Headlines linked to a Huffington Post article, titled, “Hate-Group Watchdog: Trump Has ‘White Nationalist Positions.’”<sup>233</sup> The blog post was the report of an interview with SPLC Senior Fellow Mark Potok.<sup>234</sup> In an edited transcript, Mark Potok states that Trump takes a more extreme position than white nationalists in some areas of politics.<sup>235</sup> Whether Donald Trump is a white nationalist was

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<sup>225</sup> *Id.*

<sup>226</sup> *Id.*

<sup>227</sup> *Id.*

<sup>228</sup> *Hatewatch Headlines 9/10/2015*, Southern Poverty Law Center (Sep. 10, 2015), [www.splcenter.org/hatewatch/2015/09/10/hatewatch-headlines-9102015](http://www.splcenter.org/hatewatch/2015/09/10/hatewatch-headlines-9102015).

<sup>229</sup> Heather Digby Parton, *Rise of the GOP’s paranoia brigade: What Ted Cruz & Donald Trump’s wing nut rally today says about opposition to the Iran Deal*, Salon (Sep. 9, 2015), [http://www.salon.com/2015/09/09/rise\\_of\\_the\\_gops\\_paranoia\\_brigade\\_what\\_ted\\_cruz\\_donald\\_trumps\\_wing\\_nut\\_rally\\_today\\_says\\_about\\_opposition\\_to\\_the\\_iran\\_deal/](http://www.salon.com/2015/09/09/rise_of_the_gops_paranoia_brigade_what_ted_cruz_donald_trumps_wing_nut_rally_today_says_about_opposition_to_the_iran_deal/).

<sup>230</sup> *Hatewatch Headline 8/31/2015*, Southern Poverty Law Center (Aug. 31, 2015), [www.splcenter.org/hatewatch/2015/08/31/hatewatch-headlines-8312015](http://www.splcenter.org/hatewatch/2015/08/31/hatewatch-headlines-8312015).

<sup>231</sup> Peter Rugh, *Why White Nationalists Love Donald Trump*, Vice (Aug. 27, 2016), <http://www.vice.com/read/why-white-supremacists-love-donald-trump-827>.

<sup>232</sup> *Id.*

<sup>233</sup> *Hatewatch Headlines 8/27/2015*, Southern Poverty law Center (Aug. 27, 2015), [www.splcenter.org/hatewatch/2015/08/27/hatewatch-headlines-8272015](http://www.splcenter.org/hatewatch/2015/08/27/hatewatch-headlines-8272015).

<sup>234</sup> Daniel Marans, *Hate-group Watchdog: Trump has White Nationalist Positions*, Huffington Post (Aug. 26, 2015), [http://www.huffingtonpost.com/entry/trump-white-nationalist-positions\\_us\\_55dde385e4b0a40aa3acfab8?hb0529=](http://www.huffingtonpost.com/entry/trump-white-nationalist-positions_us_55dde385e4b0a40aa3acfab8?hb0529=).

<sup>235</sup> *Id.*

Mr. Steven Terner Mnuchin  
Secretary of the Treasury  
April 4, 2017

Page | 31

irrelevant to Mr. Potok because “[Donald Trump] is an actor . . . who is willing to say things that are incredibly poisonous and incredibly damaging to the country.”<sup>236</sup>

28. On August 26, 2015, SPLC Hatewatch Headlines linked to a blog post, titled, “Will Donald Trump rebrand the GOP as America’s white-nationalist party?”<sup>237</sup> From the beginning, the article asserted that Donald Trump has rebranded the GOP into a white nationalist party. “Donald Trump . . . [is] the candidate of resentment and privilege or simply the final embodiment of the Crazy . . . . One of the great injuries Trump has already done to America and our collective dignity is that we are now forced to take him seriously in terms of understanding what he represents in political terms . . . .”<sup>238</sup>

29. On August 25, 2015, SPLC Hatewatch Headlines linked to a Salon.com blog post, titled, “Donald Trump’s Southern strategy: What his Alabama pep rally revealed about the right’s new racial politics.”<sup>239</sup> The article compared Donald Trump’s rally support to Richard Nixon and George Wallace.<sup>240</sup> “We’re still supposed to act like Trump’s anti-immigrant campaign represents the legitimate frustration of the white working class. The frustration is real, but the solution is Nixonian: Get those white voters focused on a menacing ‘other,’ rather than plutocrats like Trump.”<sup>241</sup>

30. On April 30, 2015, SPLC Hatewatch Headlines linked the Crooks and Liars blog post, titled, “Ted Cruz Goes Full Fevered Militia On Government ‘Tyranny.’”<sup>242</sup> The article discussed Ted Cruz’s opinion on the Second Amendment.<sup>243</sup> The article stated that Ted Cruz has “no conscience” regarding his opinions of the Second Amendment’s reach.<sup>244</sup>

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<sup>236</sup> *Id.*

<sup>237</sup> *Hatewatch Headlines 8/26/2015*, Southern Poverty Law Center (Aug. 26, 2015), [www.splcenter.org/hatewatch/2015/08/26/hatewatch-headlines-82615](http://www.splcenter.org/hatewatch/2015/08/26/hatewatch-headlines-82615).

<sup>238</sup> Josh Marshall, *Will Trump Rebrand GOP As White Nationalist Party?*, Talking Points Memo (Aug. 24, 2015), <http://talkingpointsmemo.com/edblogger/will-trump-rebrand-gop-as-white-nationalist-party>.

<sup>239</sup> *Hatewatch Headlines 8/25/2015*, Southern Poverty Law Center (Aug. 25, 2015), [www.splcenter.org/hatewatch/2015/08/25/hatewatch-headlines-82515](http://www.splcenter.org/hatewatch/2015/08/25/hatewatch-headlines-82515).

<sup>240</sup> Joan Walsh, *Donald Trump’s Southern strategy: what his Alabama pep rally revealed about the right’s new racial politics*, Salon (Aug. 24, 2015), [http://www.salon.com/2015/08/24/donald\\_trumps\\_southern\\_strategy\\_what\\_his\\_alabama\\_pep\\_rally\\_revealed\\_about\\_the\\_rights\\_new\\_racial\\_politics/](http://www.salon.com/2015/08/24/donald_trumps_southern_strategy_what_his_alabama_pep_rally_revealed_about_the_rights_new_racial_politics/).

<sup>241</sup> *Id.*

<sup>242</sup> *Hatewatch Headline 4/30/2015*, Southern Poverty Law Center (Apr. 30, 2015), [www.splcenter.org/hatewatch/2015/04/30/hatewatch-headlines-43015](http://www.splcenter.org/hatewatch/2015/04/30/hatewatch-headlines-43015).

<sup>243</sup> Susie Madrak, *Ted Cruz Goes Full Fevered Militia On Government ‘Tyranny’*, Crooks and Liars (Apr. 28, 2015), <http://crooksandliars.com/2015/04/ted-cruz-goes-full-fevered-militia-1>.

<sup>244</sup> *Id.*

### **CLAIM I: UNLAWFUL CAMPAIGN INTERVENTION**

**SPLC has repeatedly published or linked to written material in this election cycle that qualifies as prohibited campaign intervention activity under 26 U.S.C. § 501(c)(3).**

Applying the seven factors that the IRS has determined qualify a communication as prohibited campaign intervention, the SPLC communications referenced above clearly constitute electoral campaign intervention:

**1. Whether the statement identifies one or more candidates.**

All SPLC communications referenced above qualify as campaign intervention under this test as each references one or more candidates.

**2. Whether the statement expresses approval or disapproval for the position.**

All SPLC communications referenced above unequivocally expressed disapproval of the candidacy and campaign platform of Donald Trump, Ted Cruz, or other Republican Party candidates. In contrast, Democratic candidates Hilary Clinton and Bernie Sanders are mentioned only once or twice, and in a uniformly supportive context.

**3. Whether the statement is expressed close to an election.**

All SPLC communications referenced above were issued subsequent to the first primary election of the 2016 Presidential election campaign.

**4. Whether the statement references voting or an election.**

All SPLC communications referenced above expressly refer to the “nomination,” “campaign,” “candidacy,” “platform,” “contest for president,” “bid for the presidency,” “presidential bid,” campaign “plan,” “campaign “advisor,” “candidate,” “endorsement,” “call for” a campaign position, campaign “claim,” etc., of Donald Trump, Ted Cruz, or some other Republican Party candidate for president of the United States during the 2015 and 2016 primary elections.

**5. Whether the issue has been raised as an issue distinguishing candidates.**

All SPLC communications referenced above are partisan statements that unfavorably distinguish the statements or positions of Donald Trump or his primary election competitors for the Republican Party nomination from the



positions and platform of the Democratic Party and its candidates and nominee for president.

**6. Whether the communication is a part of an ongoing series of communications on the same issue that are made independent of any election.**

Although the SPLC Intelligence and Hatewatch projects have existed for at least ten years, a search of the SPLC website reveals no mention of Donald Trump or Ted Cruz prior to the commencement of the 2016 presidential primary season in 2015.

**7. Whether the time of the communication and identification of the candidate are related to a non-electoral event such as a scheduled vote.**

All SPLC communications referenced above refer to an event or action in the 2016 election for President of the United States. None of the communications refer to a scheduled vote in a legislature.

Applying the facts and circumstances the IRS has announced it will consider when determining whether a linked communication is an unlawful campaign intervention, the SPLC-linked communications referenced above also clearly constitute electoral campaign intervention:

**1. The context for the link on the organization's website.**

All SPLC-linked communications referenced above were published and remain publicly available on the internet as part of the Hatewatch Headlines blog, an activity of the SPLC Hatewatch project that self-identifies as an organization that "monitors and exposes the activities of the American radical right," an unambiguously political activity.

**2. Whether all candidates are represented.**

In all SPLC-linked communications referenced above, Donald Trump, Ted Cruz, or in a few instances other Republican Party primary election candidates were represented. All of the representations were unambiguously, uniformly, and vociferously opposed to the election of these candidates for national office. Democratic Party primary candidate Bernie Sanders is mentioned in one communication, but in a positive contrast to Donald Trump.

**3. Any exempt purpose served by offering the link.**

None of the SPLC-linked communications referenced above serve any exempt purpose. *See* analysis under the following section (Significant Non-Exempt Activities).

- 4. The directness of the links between the organization's website and the web page that contains material favoring or opposing a candidate for public office.**

All SPLC linked communications referenced above are central components of and direct links from the SPLC website at [www.splcenter.org](http://www.splcenter.org).

## **CLAIM II: SIGNIFICANT NON-EXEMPT ACTIVITIES**

**The SPLC Intelligence Program activities that constitute unlawful campaign intervention are also significant activities subject to taxation because they are not operated exclusively for a charitable or educational purpose, nor do they serve the public interest.**

The SPLC Form 990 for 2014, the most recent available to the complainants, alleges that the SPLC Intelligence and Hatewatch projects operate to promote educational and charitable purposes.<sup>245</sup> **However, the SPLC communications identified in this referral, in significant part, do not serve an educational or charitable purpose under the operational test.**

### **Educational Purpose:**

An educational purpose is defined to include "the instruction of the public on subjects useful to the individual and beneficial to the community."<sup>246</sup> The regulation clarifies that "an organization is not educational if its principal function is the mere presentation of

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<sup>245</sup> *See* 2014 SPLC IRS Form 990, attached hereto as Exhibit 1. Specifically, it states: "The SPLC's public information and education efforts seek to combat hate and bias in our society, expose extremism, and reduce discrimination and injustice. The SPLC provides information about hate groups and other extremists, their activities and their crimes to the public, law enforcement, policymakers, human rights organizations, and the media with the goal of preventing hate and extremism from entering the mainstream. The SPLC provides information and training materials to tens of thousands of law enforcement officers nationwide and conducts in-person training with thousands of officers per year. The SPLC also seeks to foster equality in the classroom and support tolerance education by providing award-winning, anti-bias materials to more than 400,000 teachers and schools nationwide. The SPLC educates the public on the structural causes, and impacts, of inequality and uses a multifaceted approach of community education, mobilization, media and legislative advocacy to combat bias and discrimination against minorities, immigrants, the poor, the LGBT community and other vulnerable members of society. All of the SPLC's work is provided free of charge." *Id.* at Part III, Line 4b. The SPLC separates and distinguishes its justice and legal representation operations from its educational activities for tax purposes.

<sup>246</sup> 26 C.F.R. § 1.501(c)(3)-1(d)(3)(b).

Mr. Steven Terner Mnuchin  
Secretary of the Treasury  
April 4, 2017

Page | 35

unsupported opinion.”<sup>247</sup> An educational presentation by an exempt organization must present “a sufficiently full and fair exposition of the pertinent facts as to permit an individual or the public to form an independent opinion or conclusion.”<sup>248</sup>

To determine whether an exempt organizational purpose is educational, the IRS

“will look to the method used by the organization to develop and present its views. The method used by the organization will not be considered educational if it fails to provide a factual foundation for the viewpoint or position being advocated, or if it fails to provide a development from the relevant facts that would materially aid a listener or reader in a learning process.”<sup>249</sup>

Major candidates<sup>250</sup> for the Republican Party nomination for President of the United States, as well as their campaign staff, advisors, and public campaign platforms almost by definition cannot constitute “hate groups and other extremists, their activities and their crimes”<sup>251</sup> for which the SPLC claims exemption from taxation in order to purportedly educate “the public, law enforcement, policymakers, human rights organizations, and the media with the goal of preventing hate and extremism from entering the mainstream.”<sup>252</sup>

Present in all of the SPLC communications referenced above are four factors which the IRS has identified as criteria whose “presence . . . in the presentations made by an organization is indicative that the method used by the organization to advocate its viewpoints or positions is not educational.”<sup>253</sup>

**1. The first factor is whether presentation of viewpoints or positions unsupported by facts is a significant portion of the organization’s communications.**

In all communications identified in this referral, the primary function is the presentation of the private viewpoints, unsupported by facts, of SPLC leadership, staff, contractors, and Board of Directors.

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<sup>247</sup> *Id.*

<sup>248</sup> *Id.*

<sup>249</sup> Rev. Proc. 86-43.02 (IRS 1986).

<sup>250</sup> “Major candidate” means a person who appears as a candidate for President of the United States on two or more state primary election ballots.

<sup>251</sup> SPLC 2014 Form 990, *supra* note 245, at Part III, Line 4b.

<sup>252</sup> *Id.*

<sup>253</sup> Rev. Proc. 86-43.02, *supra* note 249.

The primary technique used habitually in the SPLC communications is the “smear by association.” The “smear by association” is an inductive informal fallacy which typically asserts that a purported taboo or reviled qualities of one party are qualities or characteristics of another, merely by an irrelevant association. It is not a viewpoint supported by facts. While these invalid syllogisms could in theory be made conclusive by the presentation of statistical evidence, such evidence is notably lacking in SPLC communications published by its Intelligence Report and Hatewatch projects.

Document A, reviewed in Documentation Set I, typifies the presentation of viewpoint unsupported by facts, where the SPLC has communicated a non-exempt fallacious smear by association. The May 11, 2016 Hatewatch report intervenes in the 2016 presidential election campaign by informing the public that a vote for Donald Trump will promote taboo and reviled “white nationalist” policies.<sup>254</sup> This Hatewatch article profiled several individuals it characterizes as “white nationalist” and then attributes those “facts” to the Trump presidential campaign, arguing that “Trump refuses to distance himself from these individuals and groups until he absolutely must.”<sup>255</sup>

**2. The second factor is whether facts that purport to support the viewpoints or positions are distorted.**

For the same reasons the SPLC communications referenced above are “unsupported by facts,” the facts presented are overwhelmingly used in “smears by association.” As with the first factor, the “smears by association” rely on an irrelevant and irrational distortion of facts to support the viewpoint that the communications’ national public audience should reject Trump, Cruz, and the other cited Republican candidates for election as president.

**3. The third factor is whether the organization’s presentations make substantial use of inflammatory and disparaging terms and express conclusions more on the basis of strong emotional feelings than of objective evaluations.**

This referral identifies not merely substantial, but pervasive use of inflammatory and disparaging and emotive language and conclusions in each of the identified SPLC documents.

**4. The fourth factor is whether the presentations failed to consider the “background or training in the subject matter” of the intended nationwide**

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<sup>254</sup> Piggott, *supra* note 15.

<sup>255</sup> *Id.*

Mr. Steven Terner Mnuchin  
Secretary of the Treasury  
April 4, 2017

Page | 37

**audience and was “not aimed at developing an understanding on the part of” that audience.**

The intended audience of the subject SPLC communications is potential donors, contributors or other supporters of partisan election campaigns who are not associated with or politically oppose “the American radical right wing.” Training or developing an understanding of the SPLC’s viewpoint as to the candidates for President of the United States for persons who are politically anti-“radical right wing” is not an educational method or purpose recognized under U.S. tax law.

### **Charitable Purpose:**

The SPLC communications identified in this referral in significant part do not serve a charitable purpose under the operational test.

Whether the cost of an activity would descend upon the public if the activity was not undertaken is a factor in considering whether an activity is charitable.<sup>256</sup> The purposes toward which the SPLC directs its Intelligence and Hatewatch project activities, and not the nature of the activities themselves, determine whether the SPLC meets the operational test for charitable purpose.<sup>257</sup>

The clear and unambiguous purpose of each of the subject SPLC communications was to attempt to convince the public—and voters in particular—that Donald Trump, Ted Cruz, and other named Republican Party candidates for President of the United States hold extreme bigoted and “right-wing” views, and thus should not be elected to that high office. That activity is *prima facie* campaign interference. There is no evidence whatsoever that, if the SPLC terminated such activity, funding for that campaign activity could lawfully be assumed by any other government or charitable entity.

### **CONCLUSION**

For the reasons described above, FAIR respectfully requests that the IRS Exempt Organizations division immediately investigate the blatant violations of 26 U.S.C. § 501 by the SPLC. The communications identified above qualify as prohibited campaign intervention activity under 26 U.S.C. § 501(c)(3) and only benefited the electoral opponents of the named candidates, and the personal political interests of the SPLC. The communications served no cognizable exempt purpose. Because the SPLC is not operating exclusively for an exempted purpose, the SPLC must be designated a non-exempt “action” organization, and tax levied on these and related projects.

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<sup>256</sup> *Dulles v. Johnson*, 273 F.2d 362 (2d Cir. 1959), *cert. denied*, 364 U.S. 834 (1960).

<sup>257</sup> *Nationalist Movement v. Comm’r*, 102 T.C. 558 (1994).

Mr. Steven Terner Mnuchin  
Secretary of the Treasury  
April 4, 2017

Page | 38

FAIR is itself acutely aware of the restrictions on electioneering and campaign intervention, which it must carefully and continuously monitor and observe as a condition for operating in tax-exempt status in the vitally important but highly contentious field of immigration law. For the IRS to turn a blind eye to the continuing operational defiance and violation of these restrictions by the wealthy and politically-connected SPLC, as set forth in this referral would set a corrupt and discriminatory standard that would damage the collection of federal taxes in general, which must rely on a public perception that the IRS operates in a fair, consistent and impartial manner when exempting organizations from taxation.

Should you or your designee have any questions, please contact me. Thank you for your time and consideration in this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bob Dane', with a stylized flourish at the end.

Bob Dane  
Executive Director  
Federation for American Immigration Reform

CC: Mr. John Koskinen, Commissioner, Internal Revenue Service  
Ms. Tamera Ripperda, Director, Exempt Organizations, Internal Revenue Service  
The Hon. Orrin Hatch, Chairman, Committee on Finance, U.S. Senate  
The Hon. Kevin Brady, Chairman, Ways and Means Committee, U.S. House of Representatives