

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

DR. SHIVA AYYADURAI,

Plaintiff,

v.

WILLIAM FRANCIS GALVIN, MICHELLE
K. TASSINARI, DEBRA O'MALLEY, AMY
COHEN, NATIONAL ASSOCIATION OF
STATE ELECTION DIRECTORS, allegedly
in their individual capacities, and WILLIAM
FRANCIS GALVIN, in his official capacity as
Secretary of State for Massachusetts,

Defendants,

and

TWITTER, INC.,

Proposed Additional
Defendant.

Case No. 1:20-cv-11889-MLW

DECLARATION OF STACIA CARDILLE

I, Stacia Cardille, declare as follows:

1. I am Director and Associate General Counsel, Global Policy Legal at Twitter, Inc. ("Twitter"). I have held that position since July 2018. A significant aspect of my role involves policy-related, non-legal responsibilities, including working with external stakeholders on issues related to Twitter's efforts to safeguard the conversation occurring on the service regarding elections and civic processes. Based upon information I have learned and received in the course of my work in that capacity, including information provided to me by other employees of the company and Twitter documents and business

records I have reviewed in the preparation of this declaration, I have knowledge of the matters stated herein and, if called upon, I could and would competently testify thereto. I submit this declaration as a representative of Twitter and in doing so do not and do not intend to waive any attorney-client or other privilege.

2. Twitter aims to serve the public conversation by providing a platform open to a broad range of voices. Twitter is committed to protecting the health and safety of people using the service and fostering an environment for “safe, inclusive, and authentic conversations.” *Healthy Conversations*, Twitter <https://tinyurl.com/mcs28acx>.
3. Twitter strives to achieve these goals through content moderation policies, practices, and techniques that, among other things, are designed to minimize the reach of harmful or misleading information—including when such information is intended to disrupt, manipulate, or cause confusion around the conversation occurring on Twitter regarding civic processes.
4. In April 2019, Twitter instituted an Election Integrity Policy that prohibited posting or sharing content that may intimidate or dissuade people from voting or mislead people about when, where or how to vote. Twitter enforced the Election Integrity Policy by requiring the poster to remove the misleading content and instituting a temporary lock of their accounts. In certain circumstances, Twitter also permanently suspended accounts that severely or repeatedly violated this policy. Election Integrity Policy, Twitter (April 2019), https://web.archive.org/web/20190625225030if_/https://help.twitter.com/en/rules-and-policies/election-integrity-policy. In May 2020, the Election Integrity Policy was renamed the “Civic Integrity Policy” to make its application to civic events beyond elections (such as a census, referenda, and ballot initiatives) more clear.

5. In May 2020, Twitter publicly announced that it was modifying its Civic Integrity Policy, and as a result would begin to “label or remove false or misleading information about how to participate in an election or other civic process.” Civic Integrity Policy, Twitter Center (May 27, 2020), <https://tinyurl.com/nmajvysm>. Under the updated policy, Twitter may apply “labels” to Tweets that, in Twitter’s sole and independent judgment, make false or misleading claims about elections or other civic processes in violation of Twitter’s Civic Integrity Policy. These labels add context to a violating Tweet by stating that it may contain false or misleading information and providing a hyperlink to a collection of sources that contain what Twitter considers to be credible and authoritative information about the topic. In some instances, Twitter requires an accountholder who posts a Tweet that violates the policy to delete that Tweet, and, in some instances, briefly locks the poster’s account.
6. Twitter learns about the existence of Tweets that may violate its content moderation policies, including the Personal Information Policy and the Civic Integrity Policy, in a variety of ways. Any individual using Twitter may report Tweets as potentially violating Twitter’s platform rules. Twitter also receives reports about Tweets from a wide range of other sources, including journalists, companies, advertising partners, non-profit organizations, government officials, researchers, academics, and Twitter employees, among others. One such mechanism for receiving reports is the Partner Support Portal, through which select civic partners, nonprofit organizations, government officials, researchers, and other stakeholders can report issues with their account functionality or suspected violations by other accountholders of Twitter’s rules or policies, including Twitter’s Civic Integrity Policy. In its discretion, Twitter has established internal mechanisms for reviewing on an expedited basis reports received through the Partner

Support Portal. In addition, Twitter uses a variety of automated tools to proactively monitor Tweets on the platform for potential rule or policy violations.

7. When Twitter receives a report about a potential violation through the mechanisms described above, Twitter reviews the Tweet to determine whether it does indeed violate any of Twitter's rules. Regardless of the source of a report, Twitter makes its own independent judgment as to whether the Tweet violates its platform rules, and what enforcement actions (if any) Twitter will take in response. Employees in the Trust & Safety and Twitter Service teams are responsible for monitoring policy violations and applying enforcement actions as necessary.
8. Twitter does not take direction from any third party, including any government official or representative, when deciding whether to enforce its policies against a Tweet or account. To the contrary, it is absolutely critical to Twitter that it conduct its own independent evaluation of reports, including of reports received from government officials, to ensure that the reporting process is not used to advance a political or otherwise improper agenda. Twitter's review and ultimate enforcement decisions of its policies are therefore based on Twitter's own rules and Twitter's own judgment about whether those rules have been violated.
9. I understand that the plaintiff in this case is Dr. Shiva Ayyadurai, who previously operated the @va_shiva Twitter account. Each and every enforcement action taken against @va_shiva described below was based on Twitter's independent judgement and determination that the Tweets posted by @va_shiva violated Twitter's rules.
10. On September 25, 2020, Twitter received an external report through its Partner Support Portal from the Massachusetts Secretary of State, Election Division's ("Election Division")

email address elections@sec.state.ma.us about a Tweet posted by @va_shiva on September 24, 2020, a screenshot of which is depicted immediately below.



11. A Twitter reviewer analyzed the report and concluded that the Tweet did not violate Twitter’s policies and that no enforcement action was warranted. Accordingly, Twitter did not take any enforcement actions with respect to the Tweet reported by the Election Division and it remained visible on the service.
12. Twitter also received an external report through the Partner Support Portal from a representative of the National Association of State Election Directors (“NASED”) about a different Tweet, posted on September 25, 2020, by @va_shiva, a screenshot of which is reproduced immediately below.



Dr.SHIVA Ayyadurai, MIT PhD. Inventor of Email

@va_shiva

BREAKING: Legal Counsel of Massachusetts FURTHER confirms #CharlieBaker Sec. of State DESTROYED 1 Million+ Ballots - images used to COUNT votes on electronic equipment. She evades answering what statute allows MA to DESTROY ballots & evade Federal Law. Email exchange below: <https://t.co/gcygVK1wiC>

10:49 PM - 25 Sep 2020

13. Plaintiff had appended the following email exchange to this September 25 Tweet:



Shiva Ayyadurai <vashiva@vashiva.com>

10:33 PM (9 minutes ago)



to Michelle, John, Venu, Ralph, benniejsmith, Jude ▾

Subject: Destroying Ballots is Illegal. The Ballot Images ARE the Ballots. You DESTROYED The Ballots. Period.

Michelle

First, you have NOT answered my question, from my previous email. I repeat it below. PLEASE answer the question.

Kindly refer me to the statute or law, in which the "...approval of digital scan equipment in Massachusetts specifically prohibits the capturing of ballot images."

Second, neither the people of Massachusetts nor I are stupid. I presume you must be under incredible pressure from Bill Galvin and Charlie Baker to deflect this issue to hope it disappears.

However, the fact is the State has illegally destroyed ballots. The electronic equipment used to tally and count the vote MUST first CREATE an image - the ballot image - in order for the vote to be processed and COUNTED by the machine. When that image is created, that image becomes THE BALLOT, as it is THE entity used to count the vote. If no image was created, no vote count could exist. You are required by Federal Law to store,preserve, archive those ballots for 22 months. If those ballot images DO NOT exist, they were DESTROYED. This destruction is illegal, and therefore, the election is null and void.

Once again, please answer my question, above.

Warmest regards,

Dr.SHIVA Ayyadurai
US Senate Candidate

14. Referencing the September 25 Tweet discussed in paragraphs 12-13 above, NASED's report to Twitter stated, "This is incorrect. Massachusetts does not, and did not, destroy ballots. The voting equipment used in Massachusetts does not store images of the ballots, and Massachusetts stores physical copies of the paper ballots consistent with federal laws. This person doesn't understand that the images are not the ballots of record, the physical ballots are the records, which Massachusetts retains for 22 months."
15. On September 26, 2020, Twitter teams reviewed NASED's report. The teams analyzed the Tweet that was the subject of NASED's report and three additional Tweets that were part of the same "Tweet thread" as the reported Tweet. Screenshots of the three additional Tweets, together with other content appended to those Tweets, are reproduced immediately below this paragraph. The Twitter teams independently determined that the four Tweets violated Twitter's policies.

Tweet 2/4



Dr.SHIVA Ayyadurai, MIT PhD. Inventor of Email
@va_shiva

Email response from Massachusetts Legal Counsel to #Shiva4Senate confirming ballot images were DESTROYED. - September 25, 2020. 11:45AM. <https://t.co/OPNvqdThvK>

Sep 25, 2020, 10:49 PM

Plaintiff appended the following email exchange to his Tweet¹:

Tassinari, Michelle (SEC)

11:45 AM (10 hours ago) ☆ ↩ ⋮

to me ▾

Shiva-

Attached please find the certification of two different types of digital scan equipment in Massachusetts.

Please note that while the ballot images are **not stored**, the actual ballots voted on at any federal election are secured and stored for 22 months in accordance with federal law. However, under state law, those ballots must remain sealed until such time as they can be destroyed.

Michelle K. Tassinari

Director and Legal Counsel

Elections Division



Tweet 3/4



Dr.SHIVA Ayyadurai, MIT PhD. Inventor of Email

@va_shiva

Email response from Dr. SHIVA Ayyadurai to Massachusetts Legal Counsel request the statute or Law that allows Massachusetts to violate Federal Law - September 24, 2020. 11:22AM. <https://t.co/LkGLOUFhRn>

Sep 25, 2020, 10:49 PM

Plaintiff appended the following email exchange to his Tweet:

¹ The contact information in this and the next two Tweets for Michelle Tassinari has been redacted because it constitutes personally identifiable information.

From: Shiva Ayyadurai <vashiva@vashiva.com>

Sent: Thursday, September 24, 2020 11:22 AM

To: Tassinari, Michelle (SEC) [REDACTED]

Subject: Re: Records Request

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Michelle,

Kindly refer me to the statute or law, in which the "...approval of digital scan equipment in Massachusetts specifically prohibits the capturing of ballot images."

Thank you in advance.

Warmest regards,

Dr. Shiva Ayyadurai
US Senate Candidate.

Tweet 4/4



Dr.SHIVA Ayyadurai, MIT PhD. Inventor of Email

@va_shiva

Email response from Massachusetts Legal Counsel to #Shiva4Senate request for ballot images. - September 24, 2020. 10:47AM.
<https://t.co/oDKf8my3pf>

Sep 25, 2020, 10:49 PM

Plaintiff appended the following email exchange to his Tweet:

On Thu, Sep 24, 2020 at 10:47 AM Tassinari, Michelle (SEC) [REDACTED]

Good Morning-

I am writing to acknowledge receipt of your request for records. Please note, that this Office does not maintain voter tabulation software, firmware or hardware. While this office certifies voting equipment, as required by law, we do not purchase or lease equipment. Once equipment is approved by this Office, cities and towns can purchase or lease such equipment. Accordingly, this Office has no records responsive to your request.

Further, to the extent you request the same information from local election officials, please note that the approval of digital scan equipment in Massachusetts specifically prohibits the capturing of ballot images.

Michelle K. Tassinari
Director and Legal Counsel
Elections Division

16. On September 26, as a result of its determination that these four Tweets violated one or more of its policies, Twitter requested @va_shiva to delete these Tweets, and locked access to his account for seven days from September 27, 2020 until October 4, 2020.

17. On January 8, 2021, following the violent attack on the U.S. Capitol, Twitter updated its Civic Integrity Policy to institute a five-strike enforcement protocol for Tweets that Twitter deems violate that policy. Under this protocol, enforcement actions become more severe as an account holder continues to post Tweets that violate Twitter's Civic Integrity Policy. Specifically, the enforcement action associated with each successive strike is as follows:

- 1 strike: No account-level action;
- 2 strikes: 12-hour account lock;
- 3 strikes: 12-hour account lock;
- 4 strikes: 7-day account lock; and
- 5 or more strikes: Permanent suspension.

Twitter, Civic Integrity Policy, <https://help.twitter.com/en/rules-and-policies/election-integrity-policy>

18. To enforce this policy, as with other Twitter Rules, Twitter uses a combination of automated monitoring and human review.
19. On January 9, 2021, @va_shiva posted a Tweet², which was then reviewed by a Twitter employee who determined that it violated Twitter's Civic Integrity Policy. Twitter accordingly applied a label to the Tweet on January 10, 2021. This constituted @va_shiva's first strike under the five-strike protocol instituted on January 8, 2021 as described above.
20. On January 17, 2021, @va_shiva posted a Tweet. A Twitter employee reviewed the Tweet and determined that it violated Twitter's Civic Integrity Policy. This constituted @va_shiva's second strike under the five-strike protocol described above. Accordingly, on January 18, 2021, Twitter applied a label to the Tweet and locked the @va_shiva account for 12 hours.
21. On January 17, 2021, @va_shiva posted another Tweet. A Twitter employee reviewed the Tweet and determined that it violated Twitter's Civic Integrity Policy. This constituted @va_shiva's third strike under the five-strike protocol described above. On January 19, 2021, Twitter applied a label to the Tweet and locked the @va_shiva account for an additional 12 hours.
22. On February 1, 2021, @va_shiva posted three Tweets in close succession. Two of these Tweets are publicly available and reproduced below.

² Because some of the Tweets referred to in paragraphs 19-22 are not available publicly, an image is not included here.



The following day, a Twitter employee reviewed the three Tweets. The reviewing employee determined that the Tweets violated Twitter’s Civic Integrity Policy. These violations constituted @va_shiva’s fourth, fifth, and sixth strikes under the five-strike protocol described above.

23. Twitter teams determined that @va_shiva had accrued at least five strikes for violating Twitter’s Civic Integrity Policy and permanently suspended the account pursuant to Twitter’s policies. The suspension took effect on February 3, 2021.

24. Twitter teams reviewed the six Tweets described in paragraphs 19-22 because they were internally flagged for review by automated monitoring mechanisms that Twitter deploys to identify Tweets that potentially violate various Twitter rules, including the Civic Integrity Policy. The mechanisms that flagged these Tweets were not and are not directed specifically at the account @va_shiva. Nor were these mechanisms directed at identifying Tweets that include the name “Tassinari” or that repeat or reference anything regarding Plaintiff’s Fall 2020 email exchange with Massachusetts election officials. Twitter did not

create or institute any automated detection algorithm in response to any report by the Massachusetts elections officials.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief. This declaration was executed on May 14, 2021 in Washington, D.C.

/s/ Stacia Cardille

Stacia Cardille

Dated: May 14, 2021

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF System will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) on May 14, 2021.

/s/ Felicia H. Ellsworth
Felicia H. Ellsworth