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December 14, 2017

Honorable John Michael Vazquez, U.S.D.J.
United States District Court for the District of New Jersey
U.S. Courthouse and Post Office Building
50 Walnut Street, Courtroom PO 03
Newark, New Jersey 07101

**Re: *Democratic National Committee, et al. v. Republican National Committee, et al.*,
Civil Action No.: 81-3876 (JMV) (JBC)**

Dear Judge Vazquez:

On December 6, 2017, former RNC Communications Director and Chief Strategist Sean Spicer appeared for a deposition taken by the Democratic National Committee.

As ordered by the Court (ECF Nos. 197 and 205), Mr. Spicer testified in response to the DNC's questions "related his presence on Trump Tower on Tuesday, November 8, 2016." *See id.*; *see also* Deposition of Sean Spicer (Dec. 6, 2017) (attached as Exhibit 1). He provided a detailed account of his whereabouts on election day, his personal interactions with Trump campaign and RNC representatives (*see, e.g.*, Spicer Dep. 30:8-32:16 and 64:10-65:1), and the layout of the fifth floor at Trump Tower (*see id.* at 51:15-61:3). Mr. Spicer also addressed and, in several respects disputed, the anonymous reports published in *Politico* on November 10, 2017.

In particular, Mr. Spicer explained that he visited the television studio located on the fifth floor of Trump Tower in order to conduct a PBS interview before the polls closed on Election Day. *See id.* 40:5-43:2. As noted in the *Politico* article, there was nothing unusual about the Mr. Spicer's presence there in light of his duties as the RNC's Communications Director. Mr. Spicer also confirmed reports that he joined Trump campaign personnel and other senior RNC personnel in a "utility room" on the fifth floor to monitor the vote tallies on election evening. *See, e.g.*, Spicer Dep. 48:22-49:21; 61:5-14; 65:15-66:18; and 119:21-120:4.

Contrary to the suggestions by some of the anonymous sources in the *Politico* article, Mr. Spicer did not observe, nor was he aware of, any signs prohibiting RNC personnel from being present on the fifth floor of Trump Tower on Election Day (*see id.* at 55:10-57:11 and 69:7-21), nor did he see any phone banks at Trump Tower fielding calls about reports of voter fraud (*see id.* at 121:2-20, 123:13-124:22; and 125:1-16). He also testified that he did not observe any ballot security activities occurring at Trump Tower on that day. *See id.* at 123:13-124:22.

Honorable John Michael Vazquez, U.S.D.J.
United States District Court for the District of New Jersey
December 14, 2017
Page 2

Of particular note, Mr. Spicer testified that he did not participate in, and was not aware of, any ballot security activities or acts of voter suppression by the RNC or any of its employees during the 2016 election campaign. *See id.* 129:19–132:19. Mr. Spicer also confirmed that he was fully aware of the Consent Decree and had received substantial training on compliance with the Consent Decree from RNC counsel. *See id.* 101:11–102:8.

This Court has repeatedly observed that the DNC has failed to submit evidence of RNC participation in ballot security efforts or voter suppression efforts during the 2016 election cycle. *See* Hr’g 8:17–24 and 9:16–25 (Nov. 29, 2017) (attached as Exhibit 2); Hr’g Tr. 39:1–5 (Sept. 29, 2017) (attached as Exhibit 3); Hr’g Tr. 44:6–9 (July 6, 2017) (attached as Exhibit 4). Mr. Spicer’s testimony further confirms the RNC’s compliance with the Consent Decree. The DNC has thus failed in its burden to establish a violation of the Consent Decree by a preponderance of the evidence before its expiration on December 1, 2017. Accordingly, the RNC urges the Court to terminate these proceedings and confirm that the Consent Decree has expired. A proposed Order is attached as Exhibit 5.

Respectfully submitted,

/s/ Bobby R. Burchfield
Bobby R. Burchfield

cc: DNC Counsel (by ECF)