

The Washington Post

One Franklin Square – 1301 K Street, N.W.
WASHINGTON, D.C. 20071

JAMES A. MCLAUGHLIN
DEPUTY GENERAL COUNSEL
TEL: (202) 334-7988
FAX: (202) 334-5075
E-MAIL: james.mclaughlin@washpost.com

December 9, 2016

BY EMAIL (moodyjim@aol.com)

James A. Moody, Esq.
Attorney and Counselor at Law

Re: “Russian Propaganda effort helped spread ‘fake news’ during election, experts say,” by Craig Timberg, *The Washington Post* (Nov. 24, 2016)

Dear Mr. Moody:

This responds to your December 4 letter to Fred Ryan and Marty Baron regarding the above-referenced article (the “Article”).¹ You assert that the Article was false and defamatory of the website Naked Capitalism, published by your client, Aurora Advisers Incorporated, and demand that the Post publish a retraction and apology. We decline to do so for the reasons detailed below.

First, it should be pointed out that the Article was a news story about the work of several independent researchers (PropOrNot, Foreign Policy Institute, Rand Corporation, and George Washington University’s Elliott School of International Affairs) concerning a subject of unquestionable importance – namely, the impact, if any, of Russian propaganda efforts on American democracy and interests in recent years. The Post described the major conclusions of these groups, with clear attributions to the groups themselves, and did not purport to endorse or validate them. We think readers commonly recognize that a news organization does not express editorial-style approval of the underlying conclusions of researchers, whatever the field, simply by virtue of reporting on them. Similarly, the Post’s news coverage of PropOrNot’s research was not an endorsement of its research conclusions, much less

¹ While your letter is dated Sunday, December 4, and requests a reply within three business days, it was not received until it was transmitted to Mr. Baron by email on Tuesday, December 6.

its micro-level findings with respect to each of more than 200 different sites (none of which was mentioned, or even linked to, by the Post).²

Nevertheless, in order to err on the side of fairness and clarity, the Post has published the following editor's note stating explicitly that the Article was not an endorsement of the research it described:

"The Washington Post on November 24 published a story on the work of researchers who have examined what they say are Russian propaganda efforts to undermine American democracy and interests. One of them was PropOrNot, a group that insists on public anonymity, which issued a report identifying more than 200 websites that, in its view, wittingly or unwittingly published or echoed Russian propaganda. A number of those sites have objected to being included on PropOrNot's list, and some of the sites, as well as others not on the list, have publicly challenged the group's methodology and conclusions. The Post, which did not name any of the sites, does not itself vouch for the validity of PropOrNot's findings regarding any individual media outlet, nor did the article purport to do so. Since publication of The Post's story, PropOrNot has removed some sites from its list."

In keeping with our regular practice, the editor's note is now prominently appended to the top of the online story where no future reader could fail to see it. It was also published in the print newspaper on December 8.

We believe the editor's note appropriately responds to the issues you have raised, but let me also address some of your client's specific claims:

- You assert that the Article "identified," "denigrated," and "smeared" Naked Capitalism, and quote, in support, language from the second paragraph of the story that was clearly a summary of common themes found throughout multiple research studies, not a claim about any specific site. (I am referring to the Article's statement that researchers found that Russian propaganda "echoed and amplified right-wing sites across the Internet" and "sought to heighten the appearance of international tensions and promote fear of looming hostilities with nuclear-armed Russia.") You construe these comments as accusations regarding Naked Capitalism. As noted, however, Naked Capitalism was never mentioned or discussed in the Article. It is implausible that readers would have understood the Article

² As you appear to acknowledge, the Post only provided a hyperlink to the PropOrNot report itself, which does not identify Naked Capitalism. The "list" document appears elsewhere on the group's site. The Article referred to the *existence* of that list but did not publish, copy, or link to it.

to be making a factual claim of any kind about that specific website. Furthermore, the statements in the paragraph you cited are self-evidently about Russia itself, not the sites identified by PropOrNot. (Their antecedent was “*Russia’s* increasingly sophisticated propaganda machinery”).

- You assert that the Article “called upon Facebook and Google to ‘crack down on fake news,’” apparently by censoring Naked Capitalism.” In fact, the Article did not “call upon” Facebook or Google to do anything. The full quote makes this clear – the Article said that “[t]he sophistication of the Russian tactics may complicate efforts by Facebook and Google to crack down on ‘fake news,’ as they have vowed to do. . . .” This was plainly a *reference* to Facebook and Google’s efforts, not a call for action. Nor can this sentence seriously be read as advocating censorship of Naked Capitalism, a widely respected website.
- You criticize the Post for not contacting Naked Capitalism for comment before publication. We certainly would have done so if the Article had mentioned or specifically discussed Naked Capitalism (for instance, as an example of PropOrNot’s allegations). But it did not. The implication of your logic is that the Post was obligated to contact all 200 sites identified in PropOrNot’s work – or, put generally, that the press must seek comment from every entity mentioned in a negative way in any document to which it even refers in its coverage. That would obviously be an unworkable approach, and it has never been the customary practice.
- You criticize the Article for not providing more information about the backgrounds of three individuals whom you describe as “so-called researchers” (Clint Watts, Andrew Weisburd, and J.M. Berger) as well as “the ‘team’ at PropOrNot,” and for not disclosing “the methodology, protocols, or algorithms such ‘researchers’ may or may not have followed.” The three individuals are all associated with the Foreign Policy Institute, as the Article discloses – Watts is a fellow there, and Weisburd and Berger are researchers. It would have been odd to recite their professional qualifications when their work was only briefly discussed (two paragraphs in a 34-paragraph story) and a link was provided to the cited paper. In any event, since their research is not part of the PropOrNot study that your client disputes, it is unclear why you are questioning their credentials.

As for PropOrNot itself, the Article’s description of the organization as “a nonpartisan collective of researchers with foreign policy, military and technology backgrounds” is fully substantiated by Craig Timberg’s reporting, which included, among other things, interviews of sources both

within and outside PropOrNot, background checks of individuals involved with the group, and vetting of the group's reputation and work with other independent researchers. PropOrNot's analytical methods are also described in the Article, albeit not at the highly technical level that you apparently would have preferred. (We do not believe it is necessary for a newspaper article to delve into the precise "algorithms" and "protocols" used in independent research studies.) A fuller description of the group's methodology is available in its public report.

- In three separate places in your letter, you dispute the Article's description of the timing of publication of the PropOrNot report, and you demand a correction of the Post's reference to having received an "advance copy." The reference was accurate. At the time of the Article's publication (November 24), PropOrNot had not publicly released its report. That took place on November 26. We do not doubt your claim that Naked Capitalism had obtained a copy before the official release, or that leaked copies may have been available online. Nevertheless, the Article's description was correct.

In sum, we reject the contention that the Article made false statements about, or was defamatory of, Naked Capitalism, or that there is a basis to hold the Post responsible for any alleged errors in PropOrNot's list. Any further concerns you have about your client's inclusion in that list should be directed to PropOrNot as the entity that published and maintains it. As mentioned in the editor's note, PropOrNot has removed some websites from its list, and we presume it would respond appropriately to any showing you can make that Naked Capitalism should also be removed.

Please let me know if you would like to discuss this matter further.

Sincerely,

/s/ James A. McLaughlin

James A. McLaughlin

Copies (electronic):

Frederic J. Ryan, Jr.
Publisher & CEO

Marty Baron
Executive Editor

James A. Moody, Esq.
December 9, 2016
Page 5

Jay Kennedy, Esq.
VP & General Counsel