

BEFORE THE FEDERAL ELECTION COMMISSION

CAMPAIGN LEGAL CENTER
1101 14th Street NW, Suite 400
Washington, DC 20005
(202) 736-2200

MARGARET CHRIST
1101 14th Street NW, Suite 400
Washington, DC 20005
(202) 736-2200

v. MUR No. _____

LOUIS DEJOY
c/o LDJ Global Strategies
628 Green Valley Road, Suite 203
Greensboro, NC 27408-7789

XPO LOGISTICS
5 American Lane
Greenwich, CT 06831

COMPLAINT

1. This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) and is based on information and belief that Louis DeJoy and XPO Logistics have violated the Federal Election Campaign Act (“FECA”), 52 U.S.C. § 30101, *et seq.*
2. Specifically, there is reason to believe that Louis DeJoy violated FECA by reimbursing his employees for federal political contributions, using his own funds and/or corporate funds from the company he led, XPO Logistics, and its predecessor, New Breed Logistics, in violation of 52 U.S.C. §§ 30122 and 30118. In addition to reports by the *Washington Post* and the *New York Times* that multiple former New Breed employees who gave to DeJoy’s preferred candidates received bonuses as

reimbursement for their political contributions, campaign finance records also suggest that the pattern continued after XPO Logistics acquired New Breed in 2014. Between 2015 and 2018, during DeJoy's tenure as XPO's CEO and then as a board member, campaign finance records show several instances of XPO employees contributing to the same candidate or committee, during the same period of time, and often in similar amounts; DeJoy family members, including DeJoy's college-aged children, also made contributions on the same day or in the same period as those employees. Between 2015 and 2018, XPO Logistics employees and DeJoy family members following this pattern together gave over \$150,000 to the same candidates and committees, including over \$50,000 to Trump Victory, President Donald Trump's joint fundraising committee.

3. "If the Commission, upon receiving a complaint . . . has reason to believe that a person has committed, or is about to commit, a violation of [FECA] . . . [t]he Commission *shall make an investigation* of such alleged violation" 52 U.S.C. § 30109(a)(2) (emphasis added); *see also* 11 C.F.R. § 111.4(a).

FACTS

4. Louis DeJoy was Chairman and CEO of New Breed Logistics from 1983 to 2014.¹ In September 2014, XPO Logistics acquired New Breed Logistics, and DeJoy became CEO of XPO's supply chain business.² In December 2015, DeJoy stepped down as

¹ Press Release, XPO Logistics, XPO Logistics Completes Acquisition of New Breed (Sept. 2, 2014), <https://investors.xpo.com/news-releases/news-release-details/xpo-logistics-completes-acquisition-new-breed>.

² *Id.*

CEO and “was appointed to a strategic role on XPO Logistics’ board of directors,”³ where he served until 2018.⁴

5. On September 6, 2020, the *Washington Post* reported:

Louis DeJoy’s prolific campaign fundraising, which helped position him as a top Republican power broker in North Carolina and ultimately as head of the U.S. Postal Service, was bolstered for more than a decade by a practice that left many employees feeling pressured to make political contributions to GOP candidates — money DeJoy later reimbursed through bonuses, former employees say.

Five people who worked for DeJoy’s former business, New Breed Logistics, say they were urged by DeJoy’s aides or by the chief executive himself to write checks and attend fundraisers at his 15,000-square-foot gated mansion beside a Greensboro, N.C., country club. There, events for Republicans running for the White House and Congress routinely fetched \$100,000 or more apiece.

Two other employees familiar with New Breed’s financial and payroll systems said DeJoy would instruct that bonus payments to staffers be boosted to help defray the cost of their contributions, an arrangement that would be unlawful.⁵

6. David Young, DeJoy’s now-retired director of human resources, who had access to payroll records at New Breed from the late 1990s to 2013, told the *Post* that “Louis was a national fundraiser for the Republican Party. He asked employees for money. We gave him the money, and then he reciprocated by giving us big bonuses.”⁶ The

³ *About Us*, DEJOY WOS FAMILY FOUNDATION, <http://louisdejoyandaldonawosfamilyfoundation.com/about-us-louis-dejoy-aldona-wos-family-foundation/> (last visited Sept. 14, 2020); see also Katie Arcieri, *Triad CEO Retires From Firm That Bought His Company, Joins Board of Directors*, TRIAD BUS. J. (Dec. 15, 2015), <https://www.bizjournals.com/triad/news/2015/12/15/triad-ceo-retires-from-firm-that-bought-his.html>.

⁴ Press Release, U.S. Postal Service, Board of Governors Announces Selection of Louis DeJoy to Serve as Nation’s 75th Postmaster General (May 6, 2020), <https://about.usps.com/newsroom/national-releases/2020/0506-bog-announces-selection-of-louis-dejoy-to-serve-as-nations-75th-postmaster-general.htm>; see also Press Release, XPO Logistics, XPO and the USPS (Aug. 20, 2020), https://news.xpo.com/2460/xpo-and-the-usps/?gclid=CjwKCAjwzIH7BRABEiwAoDxxTiy6AGVtBB4FV_8WfQ92Gos5UIORbwfom7TE2mpyNUYqsgcKlBMx9hoCB1cQAvD_BwE.

⁵ Aaron C. Davis, Amy Gardner & Jon Swaine, *Louis DeJoy’s rise as GOP fundraiser was powered by contributions from company workers who were later reimbursed, former employees say*, WASH. POST (Sept. 6, 2020), https://www.washingtonpost.com/investigations/louis-dejoy-campaign-contributions/2020/09/06/1187bc2c-e3fe-11ea-8181-606e603bb1c4_story.html.

⁶ *Id.*

bonuses, according to Young, “exceeded expectations — and that covered the tax and everything else.”⁷

7. The *Post* additionally reported that:

Another former employee with knowledge of the process described a similar series of events, saying DeJoy orchestrated additional compensation for employees who had made political contributions, instructing managers to award bonuses to specific individuals.

“He would ask employees to make contributions at the same time that he would say, ‘I’ll get it back to you down the road,’ ” said the former employee, who, like others interviewed for this report, spoke on the condition of anonymity out of fear of retribution from DeJoy.⁸

8. The *Post* found that “[b]etween 2000 and 2014, 124 individuals who worked for the company together gave more than \$1 million to federal and state GOP candidates,” and that “[m]any had not previously made political donations, and have not made any since leaving the company, public records show.”⁹

9. Also on September 6, 2020, the *New York Times* similarly cited “three former employees at New Breed Logistics, Mr. DeJoy’s former company, who said that workers would receive bonuses if they donated to candidates he supported, and that it was expected that managers would participate.”¹⁰ The *Times* reported that three of the former employees “said it was widely believed that the bonuses were meant to reimburse the political donations.”¹¹ The “employees spoke on the condition of anonymity for fear of professional retaliation.”¹²

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ Catie Edmondson, Jessica Silver-Greenberg & Luke Broadwater, *DeJoy Pressured Workers to Donate to GOP Candidates, Former Employees Say*, N.Y. TIMES (Sept. 6, 2020), <https://www.nytimes.com/2020/09/06/us/politics/dejoy-political-donations.html>.

¹¹ *Id.*

¹² *Id.*

10. Commission records show a pattern of New Breed Logistics employees contributing to the same candidate or committee, in the same period, and often in the same amount. For example, on October 8, 2014, twenty New Breed employees together gave a total of \$37,600 to the Thom Tillis Victory Committee, an authorized committee of then-U.S. Senate candidate Thom Tillis.¹³ The contributions ranged from \$1,000 to the 2014 legal maximum of \$2,600.¹⁴
11. In some instances, DeJoy family members also gave to the same committees, and on the same day, as the New Breed employees. For example, on September 29, 2014, eighteen New Breed employees (other than DeJoy) together gave \$153,500 to the Thom Tillis Victory Committee.¹⁵ On that same day, Louis DeJoy and two of his family members also made simultaneous contributions of \$12,600 each—totaling \$37,800—to the Thom Tillis Victory Committee.¹⁶ On May 7, 2007, seventeen individuals listing New Breed as their employer together gave \$39,650 to the Rudy

¹³ See Individual Contributions Listing Employer “New Breed,” Oct. 8, 2014, FEC.GOV, https://www.fec.gov/data/receipts/individual-contributions/?contributor_employer=new+breed&two_year_transaction_period=2014&two_year_transaction_period=2012&two_year_transaction_period=2010&min_date=10%2F08%2F2014&max_date=10%2F08%2F2014 (last visited Sept. 15, 2020).

¹⁴ *Id.*

¹⁵ Thom Tillis Victory Committee, Individual Contributions Listing Employer “New Breed,” Sept. 29, 2014, FEC.GOV, https://www.fec.gov/data/receipts/individual-contributions/?committee_id=C00564633&contributor_employer=New+Breed&min_date=09%2F29%2F2014&max_date=09%2F29%2F2014 (last visited Sept. 15, 2020).

¹⁶ Thom Tillis Victory Committee, Individual contributions from “DeJoy,” Sept. 29, 2014, FEC.GOV, https://www.fec.gov/data/receipts/individual-contributions/?committee_id=C00564633&contributor_name=dejoy&min_date=09%2F29%2F2014&max_date=09%2F29%2F2014 (last visited Sept. 15, 2020).

Giuliani Presidential Committee, including DeJoy, his brother, his sister, and his mother;¹⁷ his wife also gave \$4,600 to the committee on that date.¹⁸

12. Commission records show that the pattern continued after New Breed was acquired by XPO Logistics in 2014:

- a) On June 30, 2015, Louis DeJoy, DeJoy's wife, DeJoy's two college-aged children, and two other individuals listing XPO Logistics as their employers each gave \$2,700 to Jeb Bush's 2016 presidential campaign committee, Jeb 2016, Inc.; those contributions totaled \$16,200.¹⁹
- b) In the final two weeks of August 2015, between August 17 and August 31, **thirty** individual employees of XPO gave a total of \$44,850 to Jeb 2016, Inc., with individual contributions ranging from \$1,000 to \$2,700.²⁰ Also in that two-week period, an additional \$7,400 in federal contributions came from one DeJoy family member who gave \$2,700 to Jeb 2016, Inc., a different DeJoy family member (DeJoy's college-age son) who gave \$2,000 to the Richard

¹⁷ Rudy Giuliani Presidential Committee, Individual Contributions Listing Employer "New Breed," May 7, 2007, FEC.GOV, https://www.fec.gov/data/receipts/individual-contributions/?committee_id=C00430512&contributor_employer=new+breed&min_date=05%2F07%2F2007&max_date=05%2F07%2F2007 (last visited Sept. 15, 2020).

¹⁸ Rudy Giuliani Presidential Committee, Individual Contributions from "Aldona Wos," May 7, 2007, FEC.GOV, https://www.fec.gov/data/receipts/individual-contributions/?committee_id=C00430512&contributor_name=aldona+wos&min_date=05%2F07%2F2007&max_date=05%2F07%2F2007 (last visited Sept. 15, 2020).

¹⁹ Jeb 2016, Inc., Individual contributions of \$1,000 or more listing "XPO," "student," or "NC Department of Health" employers from North Carolina, June 30, 2015, FEC.GOV, https://www.fec.gov/data/receipts/individual-contributions/?committee_id=C00579458&contributor_employer=NC+department+of+health&contributor_employer=student&contributor_employer=xpo&min_date=06%2F30%2F2015&max_date=06%2F30%2F2015&contributor_state=NC&min_amount=1000 (last visited Sept. 14, 2020).

²⁰ Jeb 2016, Inc., Individual contributions of \$1,000 or more listing "XPO" employer, Aug. 17 – Aug. 31, 2015, FEC.GOV, https://www.fec.gov/data/receipts/individual-contributions/?committee_id=C00579458&contributor_employer=xpo&min_date=08%2F17%2F2015&max_date=08%2F31%2F2015&min_amount=1000 (last visited Sept. 14, 2020).

Burr Victory Committee, and \$2,700 from a household member of one of the thirty XPO employees who gave \$2,700 to Jeb 2016, Inc.²¹

- c) On June 16, 2016, nine XPO employees gave a total of \$29,000 to then-presidential candidate Donald Trump’s joint fundraising committee, Trump Victory, with seven employees writing \$2,000 checks, one giving \$5,000, and one giving \$10,000.²² Also on June 16, 2016, a tenth individual reporting the same surname and address as one of the XPO employees reported giving an additional \$5,000 to Trump Victory.²³
- d) In the final two weeks of September 2017, between September 15 and September 29, five individuals listing XPO or New Breed as their employers together gave \$18,700 to Trump Victory, in contributions ranging from \$2,000 to \$10,000, and DeJoy himself gave an additional \$100,000 to the joint fundraising committee in that period.²⁴

²¹ Individual contributions from Wanda Wos, Andrew DeJoy, and Dawn Fraine, Aug. 17, 2015 – Aug. 31, 2015, FEC.GOV, https://www.fec.gov/data/receipts/individual-contributions/?contributor_name=dejoy+andrew&contributor_name=fraine+dawn&contributor_name=wos+wanda&min_date=08%2F17%2F2015&max_date=08%2F31%2F2015&min_amount=1000

(last visited Sept. 14, 2020).

²² See Individual Contributions of \$1,000 or More Listing Employer “XPO,” June 16, 2016, FEC.GOV, https://www.fec.gov/data/receipts/individual-contributions/?contributor_employer=CDJ&contributor_employer=LJ&contributor_employer=XPO&contributor_employer=new+breed&two_year_transaction_period=2012&two_year_transaction_period=2014&two_year_transaction_period=2016&two_year_transaction_period=2018&two_year_transaction_period=2020&min_date=06%2F16%2F2016&max_date=06%2F16%2F2016&min_amount=1000 (last visited Sept. 14, 2020).

²³ Trump Victory, Individual contributions of \$1,000 or more listing employer “homemaker” and city “Gibsonville, NC,” June 16, 2016, FEC.GOV, https://www.fec.gov/data/receipts/individual-contributions/?committee_id=C00618389&contributor_city=gibsonville&contributor_employer=homemaker&min_date=06%2F16%2F2016&max_date=06%2F16%2F2016&contributor_state=NC&min_amount=1000 (last visited Sept. 14, 2020).

²⁴ Trump Victory, Individual contributions of \$1,000 or more listing employer “XPO” or “New Breed,” Sept. 15, 2017 – Sept. 29, 2017, FEC.GOV, https://www.fec.gov/data/receipts/individual-contributions/?committee_id=C00618389&contributor_employer=xpo&contributor_employer=new+breed&min_date=09%2F15%2F2017&max_date=09%2F29%2F2017&min_amount=1000 (last visited Sept. 14, 2020).

- e) Over a nine-day period in March 2018, between March 21 and March 30, at least seven individual contributors who listed a DeJoy company as their employer, reported the same address as a DeJoy company employee contributor, and/or belonged to the DeJoy family made contributions to the Mark Walker Victory Committee totaling \$33,200, with each individual contribution amounting to between \$1,000 and \$7,500.²⁵
13. Three of the XPO Logistics/New Breed Logistics employees who were part of the contribution patterns described *supra* were subsequently hired to work with DeJoy at the U.S. Postal Service.²⁶

SUMMARY OF THE LAW

14. “Contribution” is defined as “any gift . . . of money or anything of value made by any person for the purpose of influencing any election for Federal office.” 52 U.S.C. § 30101(8)(A)(i).
15. Corporations are prohibited from making any contribution to an authorized committee or party committee. 52 U.S.C. § 30118.
16. FECA provides that “[n]o person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution and no

²⁵ Walker Victory Committee, Republican National Committee, and Walker 4 NC, Individual contributions of \$1,000 or more from Frances Ann DeJoy (NY), Frances DeJoy (NC), William Fraine, Dawn Fraine, Ashfaq Chowdhury, Ronnie Jarriel, and James Hendricks, Mar. 21, 2018 – Mar. 30, 2018, FEC.GOV, https://www.fec.gov/data/receipts/individual-contributions/?committee_id=C00003418&committee_id=C00543231&committee_id=C00669853&contributor_name=chowdhury+ashfaq&contributor_name=dejoy+frances&contributor_name=fraine+dawn&contributor_name=fraine+william&contributor_name=hendricks+james&contributor_name=jarriel+ronnie&min_date=03%2F21%2F2018&max_date=03%2F30%2F2018&min_amount=1000 (last visited Sept. 14, 2020). Commission records show these joint fundraising contributions were distributed to the Republican National Committee and Walker 4 NC. *Id.*

²⁶ Compare Ellie Kaufman, *DeJoy Hired Four People Who Worked for his Businesses at USPS*, CNN (Sept. 15, 2020), <https://www.cnn.com/2020/09/15/politics/dejoy-usps-hires/index.html> (noting that DeJoy hired Heather Clarke, Patrick Fiorentino, and Kelly Abney to senior positions in the U.S. Postal Service in June 2020), *with* Commission records cited *supra* notes 13, 15, 20, 22.

person shall knowingly accept a contribution made by one person in the name of another person.” 52 U.S.C. § 30122.

17. The Commission regulation implementing the statutory prohibition on “contributions in the name of another” provides the following examples of “contributions in the name of another”:
 - a) “Giving money or anything of value, all or part of which was provided to the contributor by another person (the true contributor) without disclosing the source of money or the thing of value to the recipient candidate or committee at the time the contribution is made,” 11 C.F.R. § 110.4(b)(2)(i), and
 - b) “Making a contribution of money or anything of value and attributing as the source of the money or thing of value another person when in fact the contributor is the source.” *Id.* § 110.4(b)(2)(ii).
18. The so-called straw donor ban is also violated by the “augmentation of compensation paid to an employee, in any manner, where such augmentation is done to effect a contribution in the employee's name to Federal candidates or political committees.” Advisory Opinion 1986-41 at 2-3 (Air Transport) (Dec. 5, 1986).
19. As the Commission has observed, “[t]his section serves to insure disclosure of the source of contributions to Federal candidates and political committees as well as compliance with the Act's limitations and prohibitions.” *Id.* at 2.
20. The requirement that a contribution be made in the name of its true source promotes Congress’s objective of ensuring the complete and accurate disclosure by candidates and committees of the political contributions they receive,²⁷ and ensures that the

²⁷ *United States v. O'Donnell*, 608 F.3d 546, 553 (9th Cir. 2010) (“[T]he congressional purpose behind [Section 30122]—to ensure the complete and accurate disclosure of the contributors who finance

public and complainant Christ have the information necessary to evaluate candidates for office and cast an informed vote.

CAUSES OF ACTION

I. LOUIS DEJOY AND XPO LOGISTICS/NEW BREED LOGISTICS VIOLATED THE STRAW DONOR BAN

21. Based on published reports, there is reason to believe that Louis DeJoy and XPO Logistics/New Breed Logistics violated 52 U.S.C. § 30122 by “[m]aking a contribution of money . . . and attributing as the source of the money . . . another person [namely, XPO Logistics/New Breed Logistics employees] when in fact [DeJoy or XPO Logistics/New Breed Logistics was] the source.” *See* 11 C.F.R. § 110.4(b)(2)(ii).
22. According to published reports, the making of a contribution in the name of another was carried out by DeJoy using XPO Logistics/New Breed Logistics resources to pay “bonuses” to employees to cover their political contributions and associated taxes,²⁸ a scheme that appears functionally identical to the bonus reimbursements that the Commission found impermissible in AO 1986-41. Commission records show multiple examples of New Breed employees and DeJoy family members giving to the same committees on or around the same day,²⁹ and multiple former employees told the *Washington Post* and the *New York Times* that they felt pressured to give to DeJoy’s preferred candidates, and understood that the bonuses they would later receive were a form of reimbursement for their political contributions.³⁰ Many of the

federal elections— is plain.”); *Mariani v. United States*, 212 F.3d 761, 775 (3d Cir. 2000) (rejecting constitutional challenge to Section 30122 in light of the compelling governmental interest in disclosure).

²⁸ See sources cited *supra* ¶¶ 5-9.

²⁹ See sources cited *supra* ¶¶ 10-11.

³⁰ See sources cited *supra* ¶¶ 5-9.

employees who gave contributions during this period “had not previously made political donations, and have not made any since leaving the company, public records show,”³¹ which supports an inference that they made contributions during their employment under duress and with the understanding that they would be reimbursed.

23. Evidence indicates that the practice continued after New Breed Logistics was acquired by XPO Logistics, during DeJoy’s tenure as CEO and then as an XPO board member. Between 2015 and 2018, Commission records show a pattern of DeJoy family members and XPO employees (and family members of those employees) donating to the same candidate or committee, during the same period of time, and often in similar amounts.³²

24. Therefore, there is reason to believe that Louis DeJoy and XPO Logistics (on its own and as the successor to New Breed Logistics) violated 52 U.S.C. § 30122 by “[m]aking a contribution of money” to political committees “and attributing as the source of the money . . . another person.”

II. XPO LOGISTICS/NEW BREED LOGISTICS VIOLATED THE CORPORATE CONTRIBUTION BAN

25. By financing such contributions, there is reason to believe that XPO Logistics/New Breed Logistics violated the corporate contribution ban at 52 U.S.C. § 30118.

PRAYER FOR RELIEF

26. Wherefore, the Commission should find reason to believe that Louis DeJoy and XPO Logistics violated 52 U.S.C. § 30101, *et seq.*, and conduct an immediate investigation under 52 U.S.C. § 30109(a)(2).

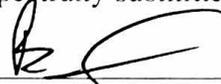
³¹ Davis, Gardner & Swaine, *supra* note 5.

³² See sources cited *supra* ¶ 12.

27. Further, the Commission should seek appropriate sanctions for any and all violations, including civil penalties sufficient to deter future violations and an injunction prohibiting the respondents from any and all violations in the future, and should seek such additional remedies as are necessary and appropriate to ensure compliance with the FECA.
28. FECA violations are generally subject to a five-year statute of limitations, 28 U.S.C. § 2462, and many of the unlawful contributions described *supra* were made within the preceding five years. However, for those contributions over five years old, the statute of limitations is tolled because the respondents fraudulently concealed the wrongful conduct, thus preventing the Commission and complainants from timely discovering the violations. Under the fraudulent concealment doctrine, “in case of defendant’s fraud or deliberate concealment of material facts relating to his wrongdoing,” the statute of limitations “time does not begin to run until plaintiff discovers, or by reasonable diligence could have discovered, the basis of the lawsuit.” *Fitzgerald v. Seamans*, 553 F.2d 220, 228 (D.C. Cir. 1977) (internal citation omitted). Fraudulent concealment may be established if the wrongdoing is “self-concealing (such as frauds),” and “if the defendant has an affirmative duty to disclose the relevant information,” including a statutory duty to disclose, but fails to do so. *Sprint Commc’ns Co., L.P. v. F.C.C.*, 76 F.3d 1221, 1226-27 (D.C. Cir. 1996) (internal quotation omitted) (internal citation omitted). Here, the nature of the straw donor offense is self-concealing, and involves using deceptive methods to disguise the violation, and DeJoy and XPO Logistics/New Breed Logistics had an affirmative statutory duty to disclose the true source of the contributions at the time they were

made; indeed, the “congressional purpose behind” the statutory straw donor ban was “to ensure *the complete and accurate disclosure* of the contributors who finance federal elections.” *United States v. O'Donnell*, 608 F.3d 546, 553 (9th Cir. 2010) (emphasis added). Finally, even if the statute of limitations were not tolled, Section 2462 does not preclude the Commission from seeking declaratory or injunctive relief. *FEC v. Christian Coalition*, 965 F. Supp. 66, 71 (D.D.C. 1997). Equitable relief may include an order to correct the false disclosures and identify the true source(s) of the contributions, and to enjoin DeJoy from future violations.

Respectfully submitted,



Campaign Legal Center, by
Brendan M. Fischer
1101 14th Street, NW, Suite 400
Washington, DC 20005
(202) 736-2200



Margaret Christ
1101 14th Street, NW, Suite 400
Washington, DC 20005
(202) 736-2200

Brendan M. Fischer
Campaign Legal Center
1101 14th Street, NW, Suite 400
Washington, DC 20005
Counsel to the Campaign Legal Center,
Margaret Christ

September 16, 2020

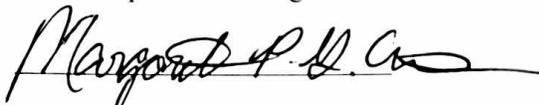
VERIFICATION

The complainants listed below hereby verify that the statements made in the attached Complaint are, upon their information and belief, true.

Sworn pursuant to 18 U.S.C. § 1001.



For Complainant Margaret Christ


Margaret Christ

Sworn to and subscribed before me this 16 day of September 2020.



Notary Public



For Complainant Campaign Legal Center



Brendan M. Fischer

Sworn to and subscribed before me this 16 day of September 2020.



Notary Public