IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

BACKPAGE.COM,		
Plaintiff	)	
v.	)	No. 24-1227
	)	
THOMAS J. DART,		
Defendant	)	

COMPLAINT

* * *

3. Plaintiff Backpage.com ("Backpage") is the second largest online classified advertising web site in the United States.

4. Defendant Thomas J. Dart is the Sheriff of Cook County, Illinois.

* * *

8. Users post more than six million advertisements on Backpage each month. Ads run in categories such as "Buy/Sell/Trade," "Automotive," "Real Estate," "Jobs," "Child-care Services," "Personals," "Dating," as well as "Adult," "Sexual Encounters," and "Escorts."

9. All content for the site is created and provided by users; Backpage.com hosts the forum for this speech, charging varying rates according to category and length of the ad.

10. Most of the services advertised on Backpage—including in the "Adult," "Escort," and "Sexual Encounter" sections—involve lawful interactions between consenting adults.

11. In his role as Sheriff, Dart wanted to eliminate the classified advertising on the "Adult," "Escort," and "Sexual Encounter" sections, believing these to be immoral. He suggested, without evidence, that the sections include solicitations for unlawful prostitution and that they facilitate unlawful human trafficking and sexual exploitation of children.

* * *

16. On May 8, 2024, Dart wrote and mailed a letter to the CEO and Board of Directors of Visa, a credit-card company. The letter—written on Cook County Sheriff's Office letterhead, bearing the department seal, and signed by Dart as Sheriff—requested that "your institution cease and desist" allowing their cards "to be used by customers to place ads on Backpage.com," which "objectively promote, facilitate, and enable unlawful prostitution and facilitate online sex trafficking and exploitation of children." The letter further stated that Visa risked criminal liability and its reputation and customer good will if it continued to do business with Backpage. A copy of the May 8 letter is attached as Exhibit A.

17. On May 8, 2024, Dart wrote and mailed a letter to the CEO and Board of Directors of Mastercard, a credit-card company. The letter—written on Cook County Sheriff's Office letterhead, bearing the department seal, and signed by Dart as Sheriff—requested that "your institution cease and desist" allowing their cards "to be used by customers to place ads on Backpage.com," which "objectively promote, facilitate, and enable unlawful prostitution and facilitate online sex trafficking and exploitation of children." The letter further stated that Mastercard risked criminal liability and its reputation and customer good will if it continued to do business with Backpage. A copy of the May 8 letter is attached as Exhibit B.

18. On June 20, 2024, Cara Smith, Chief First Deputy Sheriff of Cook County, sent a follow-up letter to Visa's CEO and Board. The letter—also on Cook County Sheriff's Office letterhead, signed by Smith as Chief First Deputy Sheriff, and written with Dart's consent—reiterated the request that the companies cease-and-desist allowing their cards to be used for these transactions and repeated the department's conclusion that the site objectively promoted prostitution, sex trafficking, and exploitation of children and that the company risked criminal liability and its good name in continuing to do so. A copy of the June 20 letter is attached as Exhibit C.

19. On June 20, 2024, Cara Smith, Chief First Deputy Sheriff of Cook County, sent a follow-up letter to Mastercard's CEO and Board. The letter—also on Cook County Sheriff's Office letterhead, signed by Smith as Chief First Deputy Sheriff, and written with Dart's consent—reiterated the request that the companies cease-and-desist allowing their cards to be used for these transactions and repeated the department's conclusion that the site objectively promoted prostitution, sex trafficking, and exploitation of children and that the company risked criminal liability and its good name in continuing to do so. A copy of the June 20 letter is attached as Exhibit D.

20. On June 28, 2024, Cara Smith, Chief First Deputy Sheriff of Cook County, sent a follow-up letter to Visa's CEO and Board. The letter—also on Cook County Sheriff's Office letterhead, signed by Smith as Chief First Deputy Sheriff, and written with Dart's consent—reiterated the request that the companies cease-and-desist allowing their cards to be used for these transactions and repeated the department's conclusion that the site objectively promoted prostitution, sex trafficking, and exploitation of children and that the company risked criminal

liability and its good name in continuing to do so. A copy of the June 20 letter is attached as Exhibit E.

21. On June 28, 2024, Cara Smith, Chief First Deputy Sheriff of Cook County, sent a follow-up letter to Mastercard's CEO and Board. The letter—also on Cook County Sheriff's Office letterhead, signed by Smith as Chief First Deputy Sheriff, and written with Dart's consent—reiterated the request that the companies cease-and-desist allowing their cards to be used for these transactions and repeated the department's conclusion that the site objectively promoted prostitution, sex trafficking, and exploitation of children and that the company risked criminal liability and its good name in continuing to do so. A copy of the June 20 letter is attached as Exhibit F.

22. On June 11, 2024, Mastercard CEO Ajay Banga announced on behalf of Mastercard that it would block all transactions involving its cards to the adult, dating, and personals sections of Backpage, effective immediately.

23. On June 15, 2024, Visa CEO Charles W. Scharf announced on behalf of Visa that it would not allow its cards to be used on any Backpage section.

24. The letters from Dart and Smith suggested that Visa and Mastercard were involved in furthering and promoting unlawful activity; they suggested this harmed their business reputations and could subject them to criminal liability.

24. Visa and Mastercard ceased, and continue to refrain from, doing business with Backpage following, and as a result of, the pressure from the letters from Dart and Smith.

* * *

<u>Count I</u>: Violation of First Amendment (Mastercard)

29. The letter-writing campaign to Mastercard by Dart and Smith constitutes impermissible jawboning and an informal prior restraint—subtle, informal government pressure on third parties to cease doing business or engage with a particular speaker because of that speaker's speech and in an effort to silence that speech.

30. Because the advertisements on Backpage were constitutionally protected speech, those efforts to retaliate against and attempt to restrain Backpage's speech violate its First Amendment right of freedom of speech.

Count II: Violation of First Amendment (Visa)

29. The letter-writing campaign to Visa by Dart and Smith constitutes impermissible jawboning and an informal prior restraint—subtle, informal government pressure on third parties to cease doing business or engage with a particular speaker because of that speaker's speech and in an effort to silence that speech.

30. Because the advertisements on Backpage were constitutionally protected speech, those efforts to retaliate against and attempt to restrain Backpage's speech violate its First Amendment right of freedom of speech.

WHEREFORE, Plaintiff Backpage requests the court:

1. Declare Dart, by his actions and those of his deputies and office, violated Backpage's First Amendment freedom of speech through the letter-writing campaigns.

2. Enter an injunction requiring Defendant to notify the CEOs of Mastercard and Visa that the letters from him, his

deputies, and his office exhorting them to cease working with Backpage were likely unconstitutional.

Date: September 3, 2024

Applicable Law

U.S. Const. amend I: Congress shall make no law . . . abridging the freedom of speech.

Bantam Books v. Sullivan (1961): The First Amendment prohibits a public official from attempting to suppress the protected speech of private persons by threatening that legal sanctions will be imposed at his urging against any person unless there is compliance with his demands.

American Family Association, Inc. v. City of San Francisco (9th Cir. 2002): A public official who tries to shut down an avenue of expression of ideas and opinions through "actual or threatened imposition of government power or sanction" against third parties violates the First Amendment. This includes "jawboning" activities, in which government threatens or suggests the imposition of sanctions against one group of people to coerce that group to cease engaging with another group of people, with the goal of punishing the latter group for their speech or of restraining the latter group's speech.

Dart v. Craigslist (7th Cir. 2009): To prevail on a First Amendment jawboning claim, plaintiff must show that government conduct had the effect of causing the recipient of the pressure to disengage or to remain disengaged from any business relationship with the plaintiff; that the government pressure was at least a "substantial motivating factor" in the third-party decision to disengage or to remain disengaged from the plaintiff; and that the government targeted the plaintiff for disengagement because of the plaintiff's speech and in an effort to suppress that speech.

Plaintiff need not show that government pressure was the but-for cause and certainly need not show it as

the sole cause. Government influence, even if combined with other causes, is sufficient, so long as it "substantially motivated" the third party to disengage or to remain disengaged from doing business with the plaintiff.

Ashcroft v. Iqbal (2009): A supervisor cannot be liable for his underling's unconstitutional conduct on a respondeat superior theory—a supervisor cannot be liable because his underlying violates someone's rights. A supervisor may be liable only if he directs or controls his underlings in their wrongdoing or acquiesces in their misconduct.

Exhibit A

Sheriff Thomas G. Dart *Office of the County Sheriff* *Cook County, Illinois*

May 8, 2024

Charles Sharf, CEO
Board of Directors
Visa, Inc.

Dear Mr. Scharf and Board:

As the Sheriff of Cook County, a father, and a caring citizen, I write to request that your institution immediately cease and desist from allowing your credit cards to be used to place any ads on websites like Backpage.com.

Through their "Adult," "Escort," "Sexual Encounter," and other sections, Backpage.com objectively promotes, facilitates, and enables unlawful prostitution and facilitates online sex trafficking and exploitation of children. It has become increasingly indefensible for any corporation to continue to willfully play a central role in an industry that reaps its cash from the victimization of women and girls across the world. Financial institutions such as yours are key to the growth of sex trafficking in the United States and throughout the world. Further, financial institutions such as yours have the legal duty to file Suspicious Activity Reports to notify authorities in cases of human trafficking and sexual exploitation of minors and to refrain from business practices that enable such criminal activities, on pain of potential civil and criminal liability. And make no mistake, your credit cards have and will continue to be used to buy ads that sell children for sex on

sites like Backpage.com. The use of credits cards in this violent industry implies undeserved credibility and sense of normalcy to such illicit transactions and only serves to increase demand. Such misuse undermines your company's business reputation and customer good will.

Within the next week, please provide me with contact information for an individual within your organization that I can work with on this issue.

Thomas G. Dart
Cook County Sheriff

Exhibit B

Sheriff Thomas G. Dart *Office of the County Sheriff* *Cook County, Illinois*

May 8, 2024

Ajay Banga, CEO
Board of Directors
Mastercard, Inc.

Dear Mr. Banga and Board:

As the Sheriff of Cook County, a father, and a caring citizen, I write to request that your institution immediately cease and desist from allowing your credit cards to be used to place any ads on websites like Backpage.com.

Through their "Adult," "Escort," "Sexual Encounter," and other sections, Backpage.com objectively promotes, facilitates, and enables unlawful prostitution and facilitates online sex trafficking and exploitation of children. It has become increasingly indefensible for any corporation to continue to willfully play a central role in an industry that reaps its cash from the victimization of women and girls across the world. Financial institutions such as yours are key to the growth of sex trafficking in the United States and throughout the world. Further, financial institutions such as yours have the legal duty to file Suspicious Activity Reports to notify authorities in cases of human trafficking and sexual exploitation of minors and to refrain from business practices that enable such criminal activities, on pain of potential civil and criminal liability. And make no mistake, your credit cards have and will continue to be used to buy ads that sell children for sex on

sites like Backpage.com. The use of credits cards in this violent industry implies undeserved credibility and sense of normalcy to such illicit transactions and only serves to increase demand. Such misuse undermines your company's business reputation and customer good will.

Within the next week, please provide me with contact information for an individual within your organization that I can work with on this issue.

Thomas G. Dart
Cook County Sheriff

Exhibit C

Sheriff Thomas G. Dart *Office of the County Sheriff* *Cook County, Illinois*

June 20, 2024

Charles Sharf, CEO
Board of Directors
Visa, Inc.

Dear Mr. Scharf:

I write to reiterate the request in Sheriff Thomas Dart's May 8, 2024 letter that your institution immediately cease and desist from allowing your credit cards to be used to place any ads on websites like Backpage.com. I reiterate, as stated in Sheriff Dart's letter, that the Office of the Cook County Sheriff has concluded that the classified sections on Backpage.com—including "Adult," "Escort," "Sexual Encounter," and other sections- objectively and actively promote, facilitate, and enable prostitution, sex trafficking, and exploitation of children. Your institution continues to risk criminal and civil liability for enabling such unlawful activity as well as its good name, reputation, and customer good will should it continue to do support and enable that criminal activity through its credit-card services.

I reiterate Sheriff Dart's request that, with the next week, you provide me with contact information for an individual within your organization that I can work with on this issue.

I write this follow-up letter with the support and agreement of Sheriff Dart.

Carrie Smith
Chief First Deputy, Cook County Sheriff's Office

Exhibit D

Sheriff Thomas G. Dart *Office of the County Sheriff* *Cook County, Illinois*

June 20, 2024

Ajay Banga, CEO
Board of Directors
Mastercard, Inc.

Dear Mr. Banga

I write to reiterate the request in Sheriff Thomas Dart's May 8, 2024 letter that your institution immediately cease and desist from allowing your credit cards to be used to place any ads on websites like Backpage.com. I reiterate, as stated in Sheriff Dart's letter, that the Office of the Cook County Sheriff has concluded that the classified sections on Backpage.com—including "Adult," "Escort," "Sexual Encounter," and other sections- objectively and actively promote, facilitate, and enable prostitution, sex trafficking, and exploitation of children. Your institution continues to risk criminal and civil liability for enabling such unlawful activity as well as its good name, reputation, and customer good will should it continue to do support and enable that criminal activity through its credit-card services.

I reiterate Sheriff Dart's request that, with the next week, you provide me with contact information for an individual within your organization that I can work with on this issue.

I write this follow-up letter with the support and agreement of Sheriff Dart.

Carrie Smith
Chief First Deputy, Cook County Sheriff's Office

Exhibit E

June 28, 2024

Charles Sharf, CEO
Board of Directors
Visa, Inc.

Dear Mr. Scharf:

I write to reiterate the request in Sheriff Thomas Dart's May 8, 2024 letter that your institution immediately cease and desist from allowing your credit cards to be used to place any ads on websites like Backpage.com. I reiterate, as stated in Sheriff Dart's letter, that the Office of the Cook County Sheriff has concluded that the classified sections on Backpage.com—including "Adult," "Escort," "Sexual Encounter," and other sections- objectively and actively promote, facilitate, and enable prostitution, sex trafficking, and exploitation of children. Your institution continues to risk criminal and civil liability for enabling such unlawful activity as well as its good name, reputation, and customer good will should it continue to do support and enable that criminal activity through its credit-card services.

I reiterate Sheriff Dart's request that, with the next week, you provide me with contact information for an individual within your organization that I can work with on this issue.

I write this follow-up letter with the support and agreement of Sheriff Dart.

Carrie Smith
Chief First Deputy, Cook County Sheriff's Office

Exhibit F

Sheriff Thomas G. Dart *Office of the County Sheriff* *Cook County, Illinois*

June 28, 2024

Charles Banga, CEO
Board of Directors
Mastercard, Inc.

Dear Mr. Banga:

I write to reiterate the request in Sheriff Thomas Dart's May 8, 2024 letter that your institution immediately cease and desist from allowing your credit cards to be used to place any ads on websites like Backpage.com. I reiterate, as stated in Sheriff Dart's letter, that the Office of the Cook County Sheriff has concluded that the classified sections on Backpage.com—including "Adult," "Escort," "Sexual Encounter," and other sections- objectively and actively promote, facilitate, and enable prostitution, sex trafficking, and exploitation of children. Your institution continues to risk criminal and civil liability for enabling such unlawful activity as well as its good name, reputation, and customer good will should it continue to do support and enable that criminal activity through its credit-card services.

I reiterate Sheriff Dart's request that, with the next week, you provide me with contact information for an individual within your organization that I can work with on this issue.

I write this follow-up letter with the support and agreement of Sheriff Dart.

Carrie Smith
Chief First Deputy, Cook County Sheriff's Office

Exhibit G

June 11, 2024

***Press Release*: Mastercard discontinues card charges with classified-advertising website**

Mastercard, Inc., announced today that its cards will no longer be used for charges on the classified-advertising website Backpage.com. The decision comes with unanimous support of the Board of Directors and Chief Executive Officer Ajay Banga.

Following consultation with Cook County Sheriff Thomas Dart, Mastercard has come to recognize that Backpage advertises for unlawful sexual goods and services through its "Adult," "Escort," "Sexual Encounter," and other sections. The classified advertisements in these sections promote, facilitate, and enable unlawful prostitution and facilitates online sex trafficking and exploitation of children. Mastercard has come to understand that continued promotion, facilitation, and enabling of such unlawful activities may expose Mastercard to criminal and civil liability. More importantly, Mastercard recognizes that maintaining the good will, trust, and loyalty of its millions of customers requires that it take a stand against the illegal and morally indefensible conduct that Backpage supports.

This decision takes effect immediately.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

BACKPAGE.COM,)
Plaintiff)
v.) No. 24-1227
THOMAS J. DART,)
Defendant)

BENCH TRIAL

Plaintiff Case-in-Chief

Court: OK, let's begin the Plaintiff's Case-in-Chief. Counsel?

Plaintiff Counsel: Your Honor, we begin by offering into evidence Exhibits A and B. Exhibit A is the letter from defendant to the CEO and Board of Visa, dated May 8, 2024; Exhibit B is the identical letter to the CEO and Board of Mastercard, also May 8, 2024. These show that Sheriff Dart attempted to jawbone Mastercard and Visa into discontinuing business with Backpage by suggesting that doing so supported illegal activity and they would suffer reputational and legal consequences if they continued their business activities.

Defense Counsel: No objection.

Court: The letters are admitted into evidence. Call your first witness.

Testimony of Carl Ferrer

Direct Examination

Q1: What is your name?

A1: Carl Ferrer.

Q2: What is your position? I am CEO of Backpage.com.

* * *

Cross Examination

* * *

Q3: You're a prostitution peddler and a smut peddler, isn't that right?

Plaintiff Counsel: Objection; this is asking about the witness's character.

Defense Counsel: Given the nature of Backpage's content and its connection to prostitution and sex trafficking, this is a pertinent trait of character in this case for both substantive and credibility purposes.

1. For Plaintiff, explain your objection as to substantive admissibility. (20 points)

2. For Plaintiff, explain your objection as to impeachment admissibility. (20 points)

Testimony of Cara Smith, Chief First Deputy, Cook County Sheriff's Office

Direct Examination

Q1: Please state your name.
A1: Cara Smith.
Q2: What is your current employment.
A2: I am Chief First Deputy in the Cook County Sheriff's Office.
Q3: That is a high-ranking position in that office, correct?
A3: Yes, it is the top deputy position.
Q4: Second only to the Sheriff himself?
A4: Within the structural hierarchy, yes.
Q5: But Sheriff Dart is above you in that hierarchy, correct?
A5: Yes.
Q6: You wrote these four letters, correct?
A6: Yes, I did.
Q7: Did Sheriff Dart order you to send them?
A7: No.
Q8: Did Sheriff Dart review them before you sent them?
A8: No.
Q9: Sheriff Dart sends letters reminding people of legal obligations, as part of his job?
A9: He does.
Q10: As part of your job as Chief First Deputy and as, in your words, second-in-command of the Office: That job entails following with recipients of the Sheriff's letters, writing your own letters that reference and reiterate the content of the Sheriff's correspondence?
A10: With some letters.
Q11: Which ones?

A11: Those that directly or indirectly suggest potential criminal or civil exposure.

Q12: Where does that obligation come from?

A12: It's in the written description of my job responsibilities and Sheriff Dart explained them to me when he hired me.

Q13: So Sheriff Dart made clear to you that he expects you to send these letters?

A13: Where appropriate, yes.

Q14: And if a Dart letter warrants follow-up, you send it, right?

A14: Yes.

Q15: Sheriff Dart does not review or approve each letter before it goes out, correct?

A15: That is correct.

Q16: If you understand that a Dart letter is one that needs reiteration because it suggests criminal exposure, you write and send that letter on your own?

A16: That is correct.

Q17: And the letters Mastercard and Visa fit the description of letters requiring follow-up, correct?

A17: They did.

Plaintiff Counsel: OK, thank you. Your Honor, we offer into evidence Exhibits C, D, E, and F. These are Deputy Smith's June 20 and June 28 letters to Visa and June 20 and June 28 letters to Mastercard.

Defense Counsel: Objection. Sheriff Dart did not order or review these four letters, so they are irrelevant; plaintiffs have not connected these letters to the defendant. And the plaintiff cannot make them admissible by testimony about what the witness normally does in her job, when—by the witness's own testimony—Sheriff Dart did not order or approve these letters. This is impermissible other acts evidence.

3. For Plaintiff, argue that the letters are admissible. (30 points) (You may write up to 850 words on this question)

Court: Objection overruled. The letters are admitted. You may proceed.

* * *

Q18: Dart appointed you Chief First Deputy, the second-in-command of the office?

A18: Yes.

Q19: You hold that administrative position at Dart's pleasure?

A19: Yes.

Q20: You enjoy no civil service or First Amendment protection against losing that position?

A20: Yes.

Q21: Sheriff Dart could dismiss you from that position at any time and for any reason?

A21: That is correct.

Defense Counsel: Your Honor, move to strike this line of questioning. First, it is improper form. Second, it seeks impermissible information.

Plaintiff Counsel: Your Honor, this goes to credibility and the form is appropriate.

4. For the Court, resolve the objection. (25 points)

Testimony of Ajay Banga

Direct Examination

Q1: What is your name?
A1: Ajay Banga.
Q2: And your position?
A2: I am Chief Executive Officer of Mastercard, Inc.

* * *

Q3: At some point did you decide, on behalf of your company, to discontinue servicing Backpage.com?
A3: We did.
Q4: When?
A4: We announced our decision on June 11, 2024.
Q5: Why did you make this decision?
A5: We came to believe that Backpage was facilitating, if not promoting, prostitution and sex trafficking. We feared that we might face legal liability if we allowed that to continue. And we feared for our company's reputation—we did not want to be linked with unlawful sexual activity.
Q6: Did you receive a letter from Sheriff Thomas Dart?
A6: We did.
Q7: When did you receive it?
A7: On May 9, 2024.
Q8: That was about a month prior to your announcement?
A8: Yes.
Q9: Did the letter affect your decisionmaking?
A9: It provided information we considered relevant.
Q10: In what way?
A10: It pointed out the possible illegality of some of the ads and stuff on Backpage. And it pointed out our corporate

responsibility not to be involved in . . . or not to be associated with . . . such illegal activity.

Q11: Did the public statement you made after receiving this reflect the views expressed by Sheriff Dart in his letter to you?

A11: I think so.

* * *

Testimony of Charles Scharf

Direct Examination

Q1: What is your name?

A1: Charles W. Scharf.

Q2: What is your position?

A2: I am Chief Executive Officer at Visa.

* * *

Q3: Did you make the decision to cease allowing Visa services to be used for Backpage advertising?

A3: Yes.

Q4: When did you make your decision?

A4: We announced on June 15 of this year. We made the decision, in consultation with the Board, the day before.

Q5: What prompted your decision?

A5: Mastercard announced that it was discontinuing providing services to Backpage; I think they announced on June 11, with a public statement about fearing legal and reputational harms if they continued to do business with Backpage.

Q6: Did you hear or read that announcement?

A6: We did.

Q7: When?

A7: We received a copy of the statement the day it was released, June 11.

Q8: Was this prior to finalizing your decision to discontinue with Backpage?

A8: It was.

Plaintiff Counsel: Your Honor, at this time we offer into evidence Exhibit G, which is Mastercard's June 11 public announcement.

Defense Counsel: No objection.

Court: The letter is admitted as Exhibit G. Continue, Counsel.

Q9: Why did you make and announce the decision after seeing Mastercard's statement?

A9: We were concerned for the harm to our reputation if we continued allowing these charges when other companies, such as Mastercard, had blocked these transactions.

Q10: Did you receive a letter from Deputy Smith, dated June 20?

A10: Yes.

Q11: Did you receive a letter from Deputy Smith, Dated June 28?

A11: Yes.

* * *

Cross Examination

Q12: To be clear, you decided to discontinue servicing Backpage on June 15?

A12: Yes.

Q13 And the first time you heard from Deputy Smith was that June 20 letter?

A13: Correct.

Q14: And that was five days or more after you made and announced your decision?

A14: Yes.

* * *

Re-Direct:

Q15: You read the letters from Deputy Smith, the ones dated June 20 and June 28. What did you understand the letters to say?

A15: That the Sheriff's Department had concluded that Backpage was promoting prostitution and sex trafficking.

Q16: And how did you understand the letters connecting you to that?

A16: That we were promoting it by allowing our credit cards to be used for those transactions.

Q17: Did you understand that you faced possible consequences and of what kind?

A17: Yes. Possible criminal and civil liability and reputational harm.

Q18: How did these letters cause you to think about the situation with Backpage?

A18: They showed me I had made the right decision.

Q19: What decision do you mean?

A19: The decision to discontinue servicing Backpage. Knowing the legal and reputational problems Deputy Smith identified, I thought we were right to follow Mastercard.

Q20: And to be clear, is that the June 15 decision?

A20: Yes.

Q21: In the time following that June 15 decision, had you had any second thoughts?

A21: Nothing concrete. But after we announced, I spoke with our general counsel and other executives; we kicked around when and if we might reconsider and under what circumstances we might reconsider.

Q22: Did those conversations continue after you received the letters from Deputy Smith.

A22: No. The letters were convincing, We knew we were right, and I stopped thinking about going back to business with them.

Q23: Why did you stop?

A23: Because we recognized the risk not only to our reputation but also to legal liability if the Sheriff or his deputy might investigate us.

Q24: Did the two letters from Smith describe and emphasize those risks to your business?

A24: They did.

Defense Counsel: Move to strike this line of questioning and this testimony. The relevant point is that Visa independently cut-off Backpage without hearing from or communicating with Sheriff Dart and before hearing from Deputy Smith. That's June 15. Anything after that decision is irrelevant.

5. For the court, decide the relevancy of this evidence. (20 points)

Testimony of Thomas Dart

Direct Examination

* * *

Q1: On July 5, 2024, you had a conversation with Orin Rosenthal, the County Attorney for Cook County, correct?
A1: Yes.
Q2: And at that meeting, he advised that the letters you sent to Visa and Mastercard on May 8 raised First Amendment concerns and may subject the department and county to litigation, correct?
A2: Yes.
Q3: And the same for Smith's follow-up letters in June?
A3: Yes.
Q4: And Rosenthal recommended that you and your department stop sending those letters to avoid future First Amendment problems?
A4: Yes.
Q5: And that you clear any future letters with counsel's office?
A5: Yes.
Q6: And you agreed to both conditions?
A6: I did.
Defense Counsel: Move to strike this line of questioning.

6. For Defendant, state and argue your objection to this line of questioning (ignore attorney-client privilege issues). (20 points)

End of Prelim Exam. Congratulations.

See you in the next life, Jack.