EXHIBIT 2

Morgan Lewis

Michael D. Blanchard
Partner
+1.860.240.2945
michael.blanchard@morganlewis.com

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VIA EMAIL

Mark Goldfeder
National Jewish Advocacy Center
NJACLaw@NJACLaw.org

Re: National Center For Public Policy Research Demand For <u>Inspection Of Books And Records Of The New York Times Company</u>

Dear Counsel:

We represent The New York Times Company ("The Times" or the "Company") in connection with your May 29, 2026 letter sent on behalf of the National Center for Public Policy Research ("NCPPR"), which demands to inspect broad categories of The Times's "books and records" under New York law (the "Demand") in response to a May 11, 2026 column by Nicholas Kristof titled "The Silence That Meets the Rape of Palestinians" (the "Kristof Article"). The Demand fails to establish NCPPR's entitlement to The Times's books and records under either New York Business Corporation Law ("N.Y. BCL") § 624 or the common law. While the Demand claims to be brought to investigate purported wrongdoing by directors and officers of the Company, the circumstances surrounding the Demand and NCPPR's counsel's public statements demonstrate that this is not NCPPR's true purpose and, accordingly, the Demand is made in bad faith. It is instead an overt effort to silence opinions and reporting that NCPPR and its counsel opposes. But even crediting the Demand's stated rationale, its focus extends beyond legitimate board oversight and instead improperly seeks to infringe upon management's authority over the day-to-day affairs of The Times—objectives that fail to constitute a proper purpose reasonably related to NCPPR's interests as a shareholder. In light of the pretextual purposes outlined in the Demand, The Times requests that NCPPR provide a sworn affidavit of purpose compliant with N.Y. BCL § 624(c) and a response that addresses the deficiencies in the Demand. The Times will comply with its legal obligations and confer in good faith about books and records responsive to a valid demand to inspect. However, The Times will not be intimidated by this attempt to suppress its First Amendment rights and, if necessary, will defend itself against any lawsuit that seeks to silence its commentary and reporting about an issue of public interest.

Morgan, Lewis & Bockius LLP

One State Street
Hartford, CT 06103-3178
United States

T +1.860.240.2700
F +1.860.240.2701

I. The Demand and Its Stated Purposes.

In the Demand, NCPPR claims that its "interests as a shareholder" warrant forcing The Times to produce, under N.Y. BCL § 624 and New York common law, 1.5 years' worth of internal company documents supposedly for the purpose of "enabl[ing] NCPPR to investigate whether the Company's Board of Directors . . . and senior management have failed to adequately discharge their fiduciary duties with respect to material legal, reputational, and financial risks arising from the Company's publication of factually unsupported content[.]" Demand at 1, 3.

Based on this purpose, the Demand seeks for the time period of January 1, 2025 to the present: (1) Board and committee minutes, agendas, presentations, and other Board materials regarding, *inter alia*, defamation threats and potential litigation, the design and operation of The Times's pre-publication legal-review programs, "business communications" concerning alleged inaccurate or biased coverage, and reputational and credibility risk; (2) reports, memoranda, and presentations to the Board or its Audit Committee concerning identified or threatened defamation claims; and (3) "[r]eserves, insurance, and audit materials for defamation and related litigation contingencies." *Id.* at 3.

The Demand contains no allegations of wrongdoing by the Board—nor anyone else at The Times—and fails to identify any actual harm done to The Times by the Kristof Article or related publications.

II. The Demand Is Not Made In Good Faith For A Proper Purpose.

A. The Demand's Stated Purposes Of Investigating Board-Level Wrongdoing Are Not NCPPR's True Purpose.

While the Demand is peppered with phrases designed to invoke legal doctrines regarding directors' duty of care, the context in which the Demand is made, the express political aspirations of NCPPR, and the speculative and unsupported nature of NCPPR's suspicions of wrongdoing belie NCPPR's true objective—to chill viewpoints with which it disagrees and advance a political agenda at odds with the tax-exempt purpose for which it was formed. Rather than seeking to investigate whether the Board allowed The Times to be harmed, NCPPR's counsel's actions appear designed to *encourage* others to file lawsuits that challenge the Kristof Article—*i.e.*, create the very harm to the Company that NCPPR claims it seeks to mitigate. The facts speak for themselves:

- Both NCPPR and its counsel, the National Jewish Advocacy Center ("NJAC"), are self-described political actors. NCPPR bills its Free Enterprise Project as "the original and premier opponent of the woke takeover of American corporate life and defender of true capitalism" and boasts of "fil[ing] shareholder resolutions, engag[ing] corporate CEOs and board members, . . . craft[ing] legislation . . . and direct[ing] media campaigns to push corporations to respect their fiduciary obligations and to stay out of political and social engineering."[1] Likewise, NJAC's "mission" is to "leverage the legal system to combat antisemitism by . . . engaging law makers, community organizations and other stakeholders." To further this mission, NJAC seeks to "change the international conversation about . . . the Jewish State" and claims it cannot do so "by always playing defense."[2]

- On May 15, 2026, NCPPR's lead counsel—the author of the Demand—published an article that attacked the Kristof Article as containing "one of the vilest accusations ever leveled at a soldier" and advocated for a "narrow, disciplined legal theory that forces the *Times* to produce the evidentiary basis for one of the most inflammatory factual allegations it has ever published."[3] Specifically, the article proposes using United States laws to extract from The Times documentary evidence for use in an Israeli civil action against The Times for "the tort of injurious falsehood, codified in section 58 of Israel's Civil Wrongs Ordinance[.]"[4] The article goes so far as to draft "subpoena categories" to be served upon The Times, and to suggest a response if "[t]he Times . . . raise[s] reporter's privilege."[5]

- In the same article, NCPPR's lead counsel also expressly agrees with commentators who have opined that a threatened defamation action by Israel against The Times would be dismissed for lack of standing, stating: "They are right that a standard defamation suit would fail[.]"[6] The Demand nonetheless cites Israel's May 14, 2026 announcement of "its intention to commence defamation litigation against the Company" as the only evidence of "harm underlying [NCPPR's] inspection demand." Demand at 1.

- Contrary to the Demand's feigned concern that "negative perceptions [of The Times] could adversely affect its business, financial condition, and results of operations" (Demand at 3), on May 29, 2026—the same day the Demand was served—NCPPR's lead counsel tweeted a copy of the Demand and wrote that "we" are "demanding the records" of the Company "[t]o see whether the Board did its job while the

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[1] *About the Free Enterprise Project*, NAT'L CTR. FOR PUB. POL'Y RSCH., https://nationalcenter.org/programs/free-enterprise-project/ (last visited June 5, 2026).

[2] *Mission*, NAT'L JEWISH ADVOC. CTR., https://www.njaclaw.org/about (last visited June 5, 2026).

[3] Mark Goldfeder, *Israel Knows a Defamation Case Won't Fly. That's Not the Play*, NAT'L REV. (May 15, 2026), https://www.nationalreview.com/2026/05/israel-knows-a-defamation-case-wont-fly-thats-not-the-play/ (last visited June 5, 2026).

[4] *Id.*

[5] *Id.*

[6] *Id.*

company's credibility, reputation, and exposure were put at risk."[7] On the same day, NCPPR's lead counsel was quoted by the *Jewish News Syndicate* arguing that the Demand arose from "legal, reputational, source-reliability, correction or standards issues arising from" the Kristof Article.[8]

- On June 2, 2026, NCPPR issued a press release concerning the Demand in which it contends, without any cited evidence, that The Times "allowed Kristof . . . to sidestep" "extraordinary fact-checking."[9] In the press release, NCPPR also touts the mission of its Free Enterprise Project "to push corporations to respect their fiduciary obligations and to stay out of political and social engineering."[10] The press release also cites the threatened defamation suit by the State of Israel against The Times, the same suit that NCPPR's counsel previously admitted "would fail."[11]

- The Demand cites vague, unsourced "internal concerns" reported by The New York Post and argues that the follow-up article published on May 21, 2026 titled "Your Questions About Nicholas Kristof's Column on Palestinians and Sexual Assault" "ignored many of the pertinent questions that had already been publicly raised" and "raised more questions than it answered[.]" Demand at 2.

These facts demonstrate that NCPPR and NJAC are pursuing their own social and/or political goals through the Demand, which is an "improper purpose" because it is "inimical to the corporation." *In re Tatko v. Tatko Bros. Slate Co.*, 173 A.D.2d 917, 917–18 (3d Dep't 1991) ("Improper purposes are those which are inimical to the corporation, for example, to

[7] @MarkGoldfeder, X (May 29, 2026, 3:30 PM), https://x.com/MarkGoldfeder/status/2060443802674823519 (last visited June 5, 2026).

[8] Jessica Russak-Hoffman, *EXCLUSIVE: 'New York Times' shareholder demands probe of Kristof column*, JEWISH NEWS SYNDICATE (May 29, 2026), https://www.jns.org/news/u-s-news/exclusive-new-york-times-shareholder-demands-investigation-into-kristof-column (last visited June 5, 2026); *see also* Mathilda Heller, *New York Times Shareholder Demands Inspection of Board Documents After Kristof Article*, THE JERUSALEM POST (May 31, 2026), https://www.jpost.com/diaspora/antisemitism/article-897873 (last visited June 5, 2026) (NCPPR publicizing the Demand); Maayan Hoffman, *Experts Say Israel Likely Cannot Win Against The New York Times. Here's What It Can Do Instead*, THE MEDIA LINE (May 24, 2026), https://themedialine.org/top-stories/experts-say-israel-likely-cannot-win-against-the-new-york-times-heres-what-it-can-do-instead/ (last visited June 5, 2026).

[9] Press Release, Nat'l Ctr. For Pub. Pol'y Rsch., Shareholders Demand New York Times Records After Commentary Alleging Palestinian Abuse (June 2, 2026), https://nationalcenter.org/ncppr/2026/06/02/shareholders-demand-new-york-times-records-after-commentary-alleging-palestinian-abuse/ (last visited June 5, 2026).

[10] *Id.*

[11] *Id.*

discover business secrets to aid a competitor of the corporation, to secure prospects for personal business, to find technical defects in corporate transactions to institute 'strike suits', and to locate information to pursue one's own social or political goals." (quoting HARRY G. HENN & JOHN R. ALEXANDER, LAWS OF CORPORATIONS AND OTHER BUSINESS ENTERPRISES § 199, at 538 (3d ed. 1983))); *see also In re Presher*, 1 Misc. 3d 546, 550 (Sup. Ct. Monroe Cnty. 2003) (same), *aff'd sub nom. Presher v. Ormec Sys. Corp.*, 8 A.D.3d 1119 (4th Dep't 2004).

Under Delaware law, which New York courts look to for guidance,[12] books and records demands advancing a social or political agenda are properly rejected. For example, the Court of Chancery denied a statutory books and records demand served upon The Walt Disney Company regarding its public opposition to Florida House Bill 1557, which, the shareholder alleged, caused the company's stock price to drop. *Simeone v. Walt Disney Co.*, 302 A.3d 956, 958–59 & 967–68 (Del. Ch. 2023). Like the Demand here, the shareholder's demand letter in *Simeone* claimed to be investigating potential breaches of fiduciary duties by the company's officers and directors. *Id.* at 963. The court held that "[t]he purposes stated in the demand [we]re pretextual." *Id.* at 967. Finding the action to be "lawyer-driven," it aptly stated:

> The plaintiff's counsel and the Thomas More Society are entitled to their beliefs. They are also entitled to pursue litigation in support of those beliefs. But a [books and records] suit, which is designed to address the plaintiff's interests as a stockholder, is not a vehicle to advance them.

Id. at 967–68.

Because NCPPR's stated purpose for an inspection demand is pretextual, and its actual purpose for the demand is an improper purpose and constitutes bad faith, the Demand is deficient. *See, e.g.*, *Liaros v. Ted's Jumbo Red Hots, Inc.*, 96 A.D.3d 1464, 1464–45 (4th Dep't 2012) (where demand's stated purpose was to investigate suspected mismanagement, ordering hearing to resolve "issue of fact" as to whether demand's true purpose was "inimical to the corporation" and thus an "improper purpose"); *Ne. Litho Co. v. Stearns & Beale*, 90 A.D.2d 713, 714 (1st Dep't 1982) (remanding to trial court to determine whether demand made in good faith where company's "demands for inspection of books followed a business disagreement unrelated to petitioner's stock holding"); *Hammerman v. Bueche-Girod Corp.*, 421 N.Y.S.2d 210, 211 (1st Dep't 1979) (reversing and remanding trial court's grant of inspection demand in light of factual issue regarding whether demand made in good faith).

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[12] *City Trading Fund v. Nye*, 59 Misc. 3d 477, 491 n.11 (Sup. Ct. N.Y. Cnty. 2018) ("[W]here there is a dearth of precedent on an issue of New York corporate law, our courts should look to the Delaware Court of Chancery for guidance." (citing *Ficus Invs., Inc. v. Priv. Cap. Mgmt., LLC*, 61 A.D.3d 1, 9 (1st Dep't 2009) (noting that Delaware courts' holdings "can be instructive"))).

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B. Even The Pretextual Purposes Of The Demand Are Insufficient.

Even the pretextual purposes NCPPR advances in the Demand are improper. While investigating purported breaches of fiduciary duty by the Board of Directors—in the abstract—can be a proper purpose in some circumstances, the Demand fails as a matter of New York law because it offers nothing more than speculation and innuendo as to any wrongdoing.

The Demand posits that "the Company" was apprised in advance of the May 12, 2026 Civil Commission on October 7 Crimes by Hamas Against Women and Children report regarding sexual violence by Hamas during the October 7, 2023 attacks, insinuating that the Kristof Article on May 11, 2026 was deliberately timed in connection therewith. Demand at 2. The Demand then: challenges the veracity of certain statements by a Times "spokesperson" denying advance notice of the Civil Commission report, paired with vague criticisms of The Times's "editorial process by which the Kristof Article was reviewed, approved, edited, fact-checked, legally vetted, escalated, corrected, or otherwise cleared for publication"; parades a laundry list of purported journalistic failures with the May 21, 2026 follow-up Kristof piece; and then claims former Israeli Prime Minister Ehud Olmert's statements were misrepresented. *Id.* From these allegations, the Demand seeks an "Inspection of the Board's Oversight," including the broad categories of documents outlined above. *Id.*

Entirely absent from these alleged "facts" is any allegation whatsoever that concerns the Board, let alone a basis to suspect that there are no controls in place or that the Board consciously failed to respond to a "red flag[]" that would warrant board attention and action. *See Reese ex rel. Bristol-Myers Squibb Co. v. Andreotti*, 57 Misc. 3d 1210(A), 68 N.Y.S.3d 380, 2017 N.Y. Slip Op. 51373(U), *6 (Sup. Ct. N.Y. Cnty.), *judgment entered sub nom. Reese v. Andreotti* (Sup. Ct. N.Y. Cnty. 2017); *Okla. Firefighters Pension & Ret. Sys. v. Corbat*, 2017 WL 6452240, at *15 (Del. Ch. Dec. 18, 2017) ("[A] plaintiff asserting a *Caremark* oversight claim must plead with particularity 'a sufficient connection between the corporate trauma and the board.'").

For that reason, the Demand fails to establish a proper purpose of investigating a claimed failure of oversight by the Company's Board. *See Beatrice Corwin Living Irrevocable Tr. v. Pfizer, Inc.*, 2016 WL 4548101, at *1, *4–7 (Del. Ch. Aug. 31, 2016) *as revised* (Sept. 1, 2016) (rejecting a stockholder's inspection request, holding "where a stockholder's sole purpose for investigating mismanagement is to determine whether the board breached its duty of oversight, it is not enough to provide a credible basis from which the Court may infer that management or lower-level employees engaged in wrongdoing. The stockholder also must provide some evidence from which the Court may infer that the board utterly failed to implement a reporting system or ignored red flags."). "Mere suspicion . . . or a subjective belief of wrongdoing, without more, is not sufficient to state a proper purpose." *Id.*, at *4. Thus, allegations that are "speculative, vague, and conclusory" do not satisfy the shareholder's burden of stating a proper purpose. *JAS Fam. Tr. v. Oceana Holding Corp.*, 109 A.D.3d 639, 643–44 (2d Dep't 2013); *Lapsley v. Sorfin Int'l, Ltd.*, 43 A.D.3d 1113, 1114

(2d Dep't 2007) (recognizing a "claim of waste of corporate assets may be a basis for limited review of the books and records" but rejecting inspection because "conclusory claims of corporate waste are insufficient to justify a limited review of the books and records of the corporation"); *Galasso v. Cobleskill Stone Prods., Inc.*, 156 N.Y.S.3d 715 (N.Y. Sup. Ct. Albany Cnty. 2021) ("inspection will not be granted for speculative purposes or the gratification of curiosity" nor may a "petitioner . . . meet his burden of pleading and proving a proper purpose by attesting to his lack of an improper purpose").

In sum, the Demand's purposes are improper because they are factually unsupported and improperly speculative.[13]

III. The Demand Seeks To Second-Guess Editorial Judgment And Chill Protected Speech.

The Demand claims that "[i]t does not ask the Company to justify a viewpoint or second-guess editorial judgment," which it concedes is protected by the First Amendment. Demand at 4. But, in fact, the Demand does. That bald misrepresentation cannot be reconciled with the Demand's express purpose to determine whether "the Company's pre-publication legal-review programs, source-verification programs, corrections and retraction procedures, [and] escalation protocols . . . were followed or bypassed with respect to" the Kristof Article. *Id.* at 1. Or, as NCPPR's press release states, "[t]he ultimate issue here concerns unchecked 'facts.'" *See* n.9, *supra*. The press release repeatedly emphasizes this focus on news gathering and editorial processes, asserting that "[n]ews requires fact-checking" and "[e]xtraordinary news requires extraordinary fact-checking." *Id*. (concluding, "The Times allowed Kristof, an opinion writer, to sidestep that process and publish these allegations, making them available for others to cite as New York Times reporting").

The Demand's true purpose is to advance a political agenda by seeking documents that can be used to criticize the editorial process, undermine the reputation of The Times for independent fact-based journalism, and chill protected speech. These tactics are impermissible as a matter of corporate law and violate the constitutional and statutory protections that apply to publications like The Times when they publish speech on matters of public interest.

As a matter of corporate law, shareholders like NCPPR are not entitled to second-guess decisions made as part of the day-to-day business of the Company, including the way individual stories were reported, authored, fact-checked, and reviewed by editors and (in appropriate circumstances) lawyers. *Pomerance v. McGrath*, 143 A.D.3d 443, 444 (1st Dep't 2016) ("While inspection rights permit shareholders to examine records that are relevant

[13] The Demand also asserts the need to investigate "whether the Company's public statements concerning the [Kristof publications] accurately reflect the facts known to its officers and directors." Demand at 1. This too fails. Nowhere does the Demand attribute a statement to any officer or director or identify any purported facts known to any of its officers or directors.

and necessary for a valid purpose, they do not grant shareholders a right to be involved in day to day management."). Indeed, it is hard to imagine a request more "inimical to the corporation" than seeking documents to use to undermine The Times's journalism. *In re Tatko*, 173 A.D.2d at 917–18 ("Improper purposes are those which are inimical to the corporation . . . .").

The Demand's threatened legal action would also infringe on longstanding constitutional principles and statutory protections. The New York courts provide "the broadest possible protection" for "the sensitive role of gathering and disseminating news of public events[.]" *Trump v. Trump*, 79 Misc. 3d 866, 879 (Sup. Ct. N.Y. Cnty. 2023). New York's reporter's shield law further protects "unpublished news," including a reporter's notes and the identities of confidential sources. N.Y. CIV. RIGHTS LAW § 79-h(c).

New York's robust anti-SLAPP law also provides broad protections for journalists and media outlets exercising their First Amendment rights, as The Times has done here in publishing the Kristof Article. N.Y. CIV. RIGHTS LAW §§ 70-a, 76-a. The statute applies to any "action involving public petition and participation," *id.* § 76-a, including the books and records request threatened by NCPPR. Under CPLR 3211(g), the court must grant a motion to dismiss a SLAPP suit "unless the party responding to the motion demonstrates that the cause of action has a substantial basis in law or is supported by a substantial argument for an extension, modification or reversal of existing law." CPLR 3211(g). And the anti-SLAPP law provides for mandatory fee shifting. N.Y. CIV. RIGHTS LAW § 70-a(1)(a); *Gottwald v. Sebert*, 40 N.Y.3d 240, 257 (Ct. App. 2023) (noting that in the amended law, "[t]he award of costs and attorney's fees to defendants was made mandatory rather than a matter of discretion"). Any effort to harass The Times for its protected speech will result in early dismissal and fee shifting under the anti-SLAPP law.

CONCLUSION

For the reasons stated above, NCPPR's Demand is deficient and could be refused outright. However, The Times is willing to engage in good faith about the deficiencies outlined in this response and, if they can be addressed, a more narrowly tailored request that is strictly limited to information necessary and essential to a proper purpose.

Please provide an affidavit sworn under penalty of perjury in support of NCPPR's Demand that, at a minimum, complies with N.Y. BCL § 624. In light of the evidence indicating that the Demand's stated purposes are a pretext for improper purposes, evaluating any further request from NCPPR will require a detailed factual affidavit that supports its stated purposes and purported good faith for the request.

By providing this response, The Times does not in any manner waive, but expressly reserves, all rights, objections, and defenses to the Demand, whether legal, equitable, or otherwise, including but not limited to The Times's rights, objections, and defenses to the Demand, its purported purposes, whether the Demand is made in good faith, and the scope of books and records sought for inspection.

Sincerely,

Michael D. Blanchard

cc: Mark@njaclaw.org
Ben@njaclaw.org
Anat@njaclaw.org
David@njaclaw.org
simon@schoenlawfirm.com
schoenlawfirm@gmail.com