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45 North Hill Drive • Suite 100 • Warrenton, VA 20186

September 26, 2018

WFLA/WTVA
Skip Valet
200 South Parker Street
Tampa, FL 33606

Re: False and Misleading Advertising by Majority Forward

Dear Mr. Valet:

It has come to our attention that a group calling itself Majority Forward has purchased airtime on your network to run a negative advertisement targeting Governor Rick Scott, a candidate for election to the United States Senate in the State of Florida (“the Advertisement”). The Advertisement contains demonstrably false and misleading assertions about Gov. Scott intended to deceive your viewers. Indeed, the Advertisement appears to contain *no statements whatsoever that are* truthful and honest. As a licensee, you have a legal obligation to review and eliminate false, misleading, or deceptive advertisements in order to protect your viewers.

The Advertisement falsely asserts that Gov. Scott’s “company was found guilty of massive Medicare fraud. But Rick Scott walked away with millions.” This claim is not only a blatant manipulation of the facts, but intentionally crafted to mislead your audience. Gov. Scott’s company, Columbia HCA, was not found guilty of Medicare fraud. It was HCA and not Columbia HCA that, long after Gov. Scott left the company, decided to settle these allegations rather than go through a lengthy trial. In fact, Gov. Scott wished to fight the charges at the time.¹

The Advertisement also displays a partial, deceitfully edited clip of Fox News’ Megyn Kelly which manipulates her clear *question* into what is presented as a *statement of fact*. The clip by Majority Forward in the Advertisement appears to show Megyn Kelly claiming that Gov. Scott “got rich on the backs of, uh, American health care patients.” What Ms. Kelly actually said, in a full, unedited clip, is “*so they say* you got rich on the

¹ See Michael Auslen, Report: *Rick Scott is helping Trump craft Obamacare replacement*, Tampa Bay Times (Jan. 19, 2017) <http://www.tampabay.com/report-rick-scott-is-helping-trump-craft-obamacare-replacement/2310182> (“Scott was at Columbia/HCA during what was then the largest Medicare fraud case in U.S. history. The case was settled after he left the company, though Scott wanted to fight the accusations.”)

backs of, uh, American health care patients.”² Ms. Kelly, through the original statement, was clearly asking Gov. Scott to respond to erroneous charges from officials within the Obama administration that accused him of getting rich on the backs of American health care patients. Through selective editing, the Advertisement turned Ms. Kelly’s question about an erroneous statement into a statement of fact. Again, Majority Forward blatantly manipulates the facts and intentionally crafted the clip to mislead your audience.

The Advertisement also makes a number of other false and/or misleading statements. The Advertisement claims that “as governor, no-bid contracts were steered to Scott’s friends and contributors.” In doing so, the Advertisement cites to a news story about Gov. Scott’s former chief of staff steering a no-bid contract to one of his friends, not to Gov. Scott or one of Gov. Scott’s friends.³ Majority Forward glosses over this important detail in an obvious effort to conceal the truth. The advertisement also cites allegations that Broward Health gave no bid contracts to contributors of Gov. Scott, but does not allege that Gov. Scott gave those contracts, knew about those contracts, or that the contributions had anything to do with the award of those contracts.⁴ The Advertisement goes on to state that “[as governor,] new laws were pushed through, helping companies [Gov. Scott] had ownership in.” Majority Forward cites no facts, news stories, or even a piece of legislation apparently “pushed through” in support of this allegation. As has been widely reported, Gov. Scott’s investments are in a blind trust, and he has no control over those companies, the investments within the blind trust, or knowledge of the contents of the blind trust until their public disclosure earlier this year.⁵ Finally, the Advertisement states that “[as governor,] Scott’s income soared by \$83 million last year alone.” In making this assertion, Majority Forward relies on personal financial disclosures from differing jurisdictions which ask for different disclosures based on different laws.⁶ Namely, while the state financial disclosure required by Florida law from last year only reports Gov. Scott’s income, the federal financial reports due to his U.S. Senate candidacy and required by federal law

² A more complete version of that interview is available here: <https://www.youtube.com/watch?v=wRZVYjJHdTs>

³ Mary Ellen Klas, “GOV. SCOTT’S CHIEF OF STAFF FACES ETHICS COMPLAINT,” Tampa Bay Times, 5/12/12 (“In the past week, the Times/Herald reported that MacNamara intervened to give a \$5.5 million no-bid contract to the business partner of a friend and overruled an agency head to approve travel for the state film commissioner. The Associated Press reported that MacNamara gave a \$360,000 no-bid contract to another close acquaintance.”).

⁴ Frank Gluck, “New suit hits 21st Century Oncology; Health provider accused of kickbacks to win contract,” The News-Press, 9/26/17 (“A newly unsealed whistleblower lawsuit against Fort Myers-based 21st Century Oncology alleges the company used kickbacks and its connections to Gov. Rick Scott to secure a lucrative no-bid contract with the public Broward Health hospital system. It specifically accuses Broward Health’s then-CEO, Frank Nask, of helping to facilitate a 25-year deal that was “excessively lucrative” to 21st Century Oncology, in exchange for political backing for his continued tenure in the post. At the time Nask earned a base salary of \$680,000 a year.”).

⁵ Gary Fineout, “Florida Gov. much richer than previously reported,” Associated Press, 7/28/18 (““Scott has routinely insisted he has no control over his investments since his own personal holdings are in a blind trust that is not managed by him. His campaign repeated that assertion after the report was released. “The blind trust is managed by an independent financial professional who decides what assets are bought, sold or changed,” Scott’s campaign said in a statement. “The rules of the blind trust prevent any specific assets or the value of those assets within the trust from being disclosed to the governor, and those requirements have always been followed.”).

⁶ See Gary Fineout, “Florida Gov. much richer than previously reported,” Associated Press, 7/28/18.

disclose both Gov. Scott's and his wife's assets and income. Accordingly, these claims are factually false and intended to purposefully deceive your audience.

Broadcast licensees have a legal responsibility to review and to eliminate any false, misleading, or deceptive materials contained in advertising. *Licensee Responsibility With Respect to the Broadcast of False, Misleading, or Deceptive Advertising*, 74 F.C.C.2d 623 (1961); *In re Complaint by Consumers Association of District of Columbia*, 32F.C.C.2d 400,405 (1971). Because Majority Forward is not a federal candidate or candidate committee, the "no censorship" provisions of the law that protect *candidate* use do not apply here. Efforts by organizations that are not candidate committees to obtain a private right of access have been consistently rejected by the FCC. See e.g., *National Conservative Political Action Committee*, 89 FCC2d 626 (1982). Because this is not a "use" of your facilities by a clearly identified candidate, your station has the freedom to refuse this Advertisement. ***Failure to do so will result in your station's being liable for the false and deceptive charges made by the Advertisement's sponsor.***

We urge you to recognize Majority Forward's egregious manipulation of the facts in this instance and respectfully demand that your network cease airing this false Advertisement. We further demand that you reject any attempts by Majority Forward to purchase time for the future airing of this Advertisement because of its intentionally misleading content and blatant disregard for the truth of the matter. Knowing that the Advertisement is false, and possessing the legal authority to refuse to air it, your station is obligated to exercise such authority in accordance with its duty to protect the public.

Sincerely,



Steve Roberts
Counsel to Rick Scott for Florida