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October 25, 2018

VIA ELECTRONIC MAIL

Re: Cease and Desist False Advertisement Regarding Attorney General Josh Hawley

Dear Station Manager:

Our firm represents Josh Hawley for Senate, the principal campaign committee of Josh Hawley, the current Attorney General of Missouri and a candidate for the United States Senate from Missouri. It has come to our attention that a third-party super PAC calling itself "SMP" (formerly "Senate Majority PAC") has purchased airtime on your television station and is currently airing a series of negative advertisements targeting my client (collectively, "the Advertisements").¹

Together, the Advertisements blatantly misrepresent Attorney General Hawley's comments, position, and important work on an issue of fundamental concern to the voters of Missouri at a time when those voters are choosing their representative for the United States Senate. Therefore, we respectfully demand that your network refuse to air the Advertisements. The characterizations of Attorney General Hawley's comments and actions are not only false, but they are a deliberate attempt to mislead Missouri voters. We further request that you reject any attempts by SMP to purchase time from your station for future airings given their deliberate material misstatements of fact and blatant disregard for the truth.

In short, both Advertisements falsely attribute statements to Attorney General Hawley that he simply did not say (nor does he believe the claims about premarital sex and contraception that are falsely being attributed to him). Specifically, the Advertisements explicitly accuse Attorney General Hawley of:

¹ The Advertisement is available at: <https://host2.advertisinganalyticsllc.com/admo/#/view/1298483>.

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“saying sex trafficking exists because it’s too easy for women to get contraception.”

and

“saying sex trafficking exists because it’s too easy for women to get contraception and have premarital sex.”

These assertions are false. Attorney General Hawley did not make these statements, nor does he believe them.

SMP has provided no evidence to support its claim that Attorney General Hawley made these statements. Although SMP cites a newspaper article from *The Kansas City Star* to support its claim, neither this article nor any available transcript of Attorney General Hawley’s comments supports SMP’s assertion. Indeed, it was the reporter from *The Kansas City Star* who used the words “premarital sex and contraception,” and SMP is now falsely attributing those words to our client. We encourage your station to read the actual statements Attorney General Hawley made to the American Renewal Project,² which was the impetus for *The Kansas City Star* article, because **you will not be able to dispute the fact that Attorney General Hawley did not make the statements featured in the Advertisements.**

Unfortunately, the false assertions about “premarital sex and contraception” are not the only material falsehoods in these Advertisements. One of the Advertisements goes so far as to claim Attorney General Hawley “ignored [the issue of human-trafficking] instead of addressing the problem,” and “Attorney General Josh Holly blamed women.” These claims are a clear attempt to mislead Missouri voters by disregarding any modicum of fact in favor of unfounded allegations. Throughout his tenure as Attorney General, Mr. Hawley has made combatting the terrible scourge of human-trafficking a central pillar of the Missouri Attorney General Office’s law enforcement work. Attorney General Hawley has put his agency on the offensive against human-traffickers, authorizing raids of business engaged in human-trafficking, shutting down online promoters of human-trafficking, and partnering with major state employers to empower local business to take a stand with women, against human-trafficking.³ To say that he has “ignored” the problem and “blamed women” for these atrocities is offensive.

² *Josh Hawley at the American Renewal Project*, Josh Hawley for Senate, 2018 at <https://www.youtube.com/watch?v=rw4BxVdrUnc> (last visited Oct 25, 2018).

³ Meg Hilling, *Missouri AG Hawley launches human trafficking task force*, KOMU Online, 2017 at: <https://www.komu.com/news/missouri-ag-hawley-launches-human-trafficking-task-force> (last visited Oct 25, 2018); Celeste Bott, *Missouri attorney general to investigate Backpage with new human trafficking unit*, St. Louis Post-Dispatch Online, 2017 at: https://www.stltoday.com/news/local/crime-and-courts/missouri-attorney-general-to-investigate-backpage-with-new-human-trafficking/article_1dda0fe2-6455-5236-9ae6-88645214eaf.html (last visited Oct 25, 2018); *Fighting Human Trafficking With Attorney General Josh Hawley*,

While voters have unfortunately come to expect a requisite number of exaggerations and distortions from political campaigns, SMP's reckless disregard for the truth has unequivocally crossed the line from misleading to the basest form of unlawful muckraking. Unfortunately, this is not the first instance where SMP has attempted to distort the truth to deliberately mislead Missouri voters and we do not suspect it will be the last.

SMP does not have a guaranteed right of access to air the Advertisements on your network, and your network is not protected from legal liability for airing the Advertisement. First, this attack by SMP does not constitute a "candidate use." Under *Columbia Broadcasting Sys., Inc. v. Democratic Nat'l Comm.*, 412 U.S. 94 (1973), and *Nat'l Conservative Political Action Comm.*, 89 FCC 2d 626 (1982), your station is not obligated to air any third-party advertisements, such as those aired by SMP. Second, broadcast licensees have a legal responsibility to review and to eliminate any false, misleading, or deceptive materials contained in advertising. **Therefore, it is important for you and your station to understand the elements of a defamation claim under Missouri law.** They are: (1) publication; (2) of a defamatory statement; (3) that identifies the plaintiff; (4) that is false; (5) published with the requisite degree of fault; and (6) damages the plaintiff's reputation. *See Farrow v. Saint Francis Med. Ctr.*, 407 S.W.3d 579, 598–99 (Mo. banc 2013) (internal citations omitted). These elements are easily satisfied by the continued distribution of this blatantly false characterization of Attorney General Hawley's comments.

Your station, and anyone participating in the public distribution of defamatory content may not discharge their duty to the public by falling back upon a defense of SMP's words as conjecture and innuendo. While the *Nezari* court made clear that context is important when considering defamatory words, these words must always be stripped of their charged innuendo so that they may be considered innocent of connotation and only in their plain and ordinary meaning. *Nezari v. Missouri Valley College*, 860 S.W.2d 303 (Mo. 1993). Under this *Nazeri* standard, words must always be viewed as conveying the message that is most obvious and natural. *Id.* at 311. Where words are considered in this light and the reasonable person is left to conclude that a statement of opinion implies an assertion of fact, defamation may exist. *Castle Rock Remodeling, LLC v. Better Bus. Bureau of Greater St. Louis, Inc.*, 354 S.W.3d 234, 241–42 (Mo. Ct. App. 2011); *see also Others First, Inc. v. Better Bus. Bureau of Greater St. Louis, Inc.*, 829 F.3d 576, 580–81 (8th Cir. 2016).

We respectfully demand that your network refuse to air the Advertisement. We further request that you reject any attempts by SMP to purchase time from your station for future airings given their material misstatements of fact and blatant disregard for the truth. Only your refusal to further disseminate this deliberately misleading and false Advertisement will satisfy your network's obligation to prevent the distribution of deceptive content to your audience. Any continued delivery of this content will make your network an

Missouri Chamber of Commerce and Industry, 2017 at: <https://mochamber.com/news/fighting-human-trafficking-attorney-general-josh-hawley/> (last visited Oct 25, 2018).

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active participant in distributing material misrepresentations of fact when our voters are owed true, honest, and fair information about their candidates.

Thank you for your prompt attention to this matter. Please contact me at your earliest convenience to advise on your network's actions regarding the airing of this Advertisement. I can be reached at (512) 354-1783 if you have any questions regarding this letter.

Sincerely,



Chris K. Gober
Counsel to Attorney General Josh Hawley

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