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October 20, 2016

Re: CEASE AND DESIST DEMAND—Democratic Senatorial Campaign  
Committee (DSCC) “Nightmare” Advertisement

Dear Station Manager:

As counsel for Friends of Pat Toomey, I write to inform you that the Democratic Senatorial Campaign Committee (“DSCC”) is running an advertisement on your station which contains blatantly false and defamatory representations about Senator Pat Toomey.

As I am sure you are aware, broadcasters cannot air issue advertisements that violate the “public trust” granted to you by your license and you have a duty “to protect the public from false, misleading or deceptive advertising.” *Licensee Responsibility With Respect to the Broadcast of False, Misleading or Deceptive Advertising*, 74 F.C.C. 623 (1961). Failure to prevent the airing of “false and misleading advertising” may be probative of an underlying abdication of licensee responsibility” and can be cause for the loss of a station’s license. *Cosmopolitan Broad. Corp. v. FCC*, 581 F.2d 917, 927 (D.C. Cir. 1978). Your station cannot violate the public trust you are federally mandated to uphold—you must serve the “public interest.” Specifically, the falsehoods presented in the “DSCC” issue advertisement are as follows:

1. CLAIM: Confession of Judgment provisions in loan documents are somehow a predatory lending practice.

TRUTH: Confession of Judgment provisions are standard in Pennsylvania commercial loan agreements, and are expressly permitted by Pennsylvania law. *See* Pa.R.C.P. No. 2950 *et seq.* Demonstrating the absurdity of the DSCC’s claims, the U.S. Small Business Administration (“SBA”), an entity that could never be confused as a predatory lender, includes a confession of judgment clause in their form Pennsylvania loan documents, and, in fact, requires that such a provision be included in all such loans guaranteed by the SBA.<sup>1</sup>

2. CLAIM: Upon a Confession of Judgment being entered, a bank can evict someone “no warning, no hearing.”

TRUTH: This statement completely misrepresents how foreclosures occur under Pennsylvania law. A confession of judgment is merely the starting point of the litigation, just

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<sup>1</sup> “Lender must include confession of judgment clauses in the Note for borrower(s) resident in Pennsylvania.” U.S. Small Business Administration National 7(a) Authorization Boilerplate, Version 2011, at Page 20, *available at* <https://www.sba.gov/sites/default/files/files/a7a2011.pdf#page23>

like a complaint in any other civil action. It is merely the first step in a foreclosure proceeding. A borrower merely needs to contest the confession of judgment, and legal proceedings concerning the foreclosure would ensue. *See* Pa.R.C.P. No. 2959.

3. CLAIM: Team Capital Bank was “owned by Pat Toomey.”

TRUTH: This DSCC claim is entirely divorced from reality, and lacks an understanding of the meaning of the word “ownership”. Senator Toomey owned stock in Team Capital Bank, a small community bank, that was worth, at most, \$500,000 to \$1,000,000.<sup>2</sup> Team Capital Bank was sold in 2014 for \$120,000,000.<sup>3</sup> The concept that a stockholder owning less than one percent of a company’s stock “owns” that company is mathematically and logically deficient, and is a willful distortion of facts that are public record.

4. CLAIM: Team Capital Bank forced “twenty-one (21) small business owners out of their homes. . .”

TRUTH: This statement, the most scandalous charge in the DSCC advertisement, is categorically false and defamatory. In our examination of the relevant court records, we identified only twelve (12) (not 21) instances whereby Team Capital Bank began foreclosure proceedings using confessions of judgment. Of those, only three (3) of those properties have actually been sold, and none of those properties were the borrower’s principal residence. For your convenience, a summary of this research is attached hereto as Exhibit A. As such, *absolutely no part* of the claim in question has any factual basis.

5. CLAIM: Senator Toomey is “using his power in the Senate to help himself, voting to gut rules that protect us and crack down on big banks.”

TRUTH: This statement is categorically untrue, and the citations used by the DSCC in support of that statement do not document anything of the kind. The two citations: “Vote 46, 3/21/13; Vote 98, 5/16/12” document nothing having to do with confessions of judgment or foreclosures, or even banking regulations, but rather, were votes on Congressman Paul Ryan’s Budget Plan. This is outright deceit in attempting to bolster unsourced statements through votes that have no bearing on the instant matter.

The issue advertisement sponsored by the DSCC must be removed as soon as possible. There is no proper attribution to any of the claims about Senator Toomey, all of which are conjecture, or are outright lies, and done with a malicious intent to defame his character and reputation.

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<sup>2</sup> Jonathan Tamari, “McGinty accuses Toomey of conflict in banking issues,” Philadelphia Inquirer, 10/7/2016

<sup>3</sup> Eric Strauss, “N.J. bank wraps up \$120 million acquisition,” NJBIZ, 6/2/2014

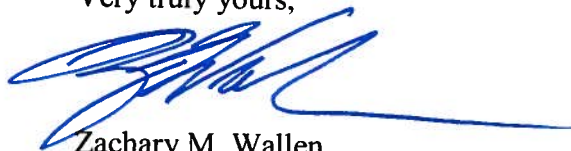
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Again, the aforementioned issue advertisement is false, misleading, defamatory, and deceptive. We respectfully request your station not be a party to this character assassination and immediately cease airing it.

Please do not hesitate to contact me with any concerns regarding this matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Zachary M. Wallen', with a long horizontal flourish extending to the right.

Zachary M. Wallen

# EXHIBIT A

DSCC's 21 Confessions of judgment filed by Team Capital Bank						
#	Filed	County	Case	Amount	Foreclosed?	Property sold
12	2/3/2014	Lehigh	Team Capital Bank v Stewart Property Holdings, LLC	\$75,000	No (Released)	
	2/3/2014		Team Capital Bank v James A Stewart and Ruth F. Stewart	\$75,000	No (Released)	
11	8/22/2013	Lehigh	Team Capital Bank v John Rafetto	\$720,000	No (Satisfied - 5/20/16)	
	8/22/2013		Team Capital Bank v Brian Stahl	\$720,000	No (Satisfied - 5/20/16)	
10	3/8/2013	Lehigh	Team Capital Bank v Patricia Simon	\$115,600	No (Withdrawn - 6/14/13)	
9	9/27/2012	Bucks	Team Capital Bank v Iron Horse Excavating	\$400,000	No	
	9/27/2012		Team Capital Bank v Iron Horse Excavating	\$100,000	No	
8	6/5/2012	Lehigh	Team Capital Bank v Shirley L Rosenberger, Joseph A. Straub and Jackie R. Straub	\$200,000	Yes (Praecepte for Execution - 8/21/12)	618-28 10 <sup>th</sup> Avenue, Bethlehem, PA (One story warehouse with a loading dock and a paved area)
7	10/14/2011	Bucks	Team Capital Bank v Holly Farm Associates LP	\$1,790,000	Partial release - 7/18/12	
	10/14/2011		Team Capital Bank v Steven Katz, Craig Katz, and Terry Katz	\$1,790,000	Partial release - 7/18/12	52 West Bristol Road, Ivyland, PA (Two story dwelling)*
6	5/4/2011	Lehigh	Team Capital Bank v Ashley Development Corporation and Louis P. Pektor		No (No other events listed)	
5	11/22/2010	Bucks	Team Capital Bank v Liberty Heritage Homes, LLC	\$318,500	Yes (Praecepte for Execution 1/28/11)	1515 Gibson Road, Bensalem, PA (Vacant one and 1/2 story residence with aluminum siding)
	11/22/2010		Team Capital Bank v James R Levin Jr		Yes (Praecepte for Execution 1/28/11)	
4	11/9/2010	Bucks	Team Capital Bank v Connected Business Solutions, Inc and Brenda K. Fick	\$200,000	No (Satisfied - 10/27/09)	
	11/9/2010		Team Capital Bank v Connected Business Solutions, Inc and Brenda K. Fick	\$130,000	No (Satisfied - 12/30/10)	
3	8/17/2010	Bucks	Team Capital Bank v Bucks County Gourmet Foods, LLC and Paul Mataras	\$140,000; \$64,000; \$20,000	No (Discontinued 11/5/10)	
2	6/10/2010	Lehigh	Team Capital Bank v Scott E. Lane	\$120,000	No (Satisfied - 11/14/11)	
	6/10/2010		Team Capital Bank v Scott E. Lane	\$20,000	No (Satisfied - 11/14/11)	

1	11/3/2009		Team Capital Bank v Richard C. Norris d/b/a RCNA Properties	\$460,000	No (Satisfied - 6/10/10)	
	11/3/2009	Lehigh	Team Capital Bank v Richard C. Norris	\$40,000	No (No other events listed)	
	11/2/2009		Team Capital Bank v RCN America, Inc.	\$40,000	No (No other events listed)	

\*This is not the primary dwelling of ANY of the five individuals who signed the promissory note.

Craig Katz	207 Whisper Way, Chalfont, PA, 18914
Marvin Katz	1718 Willow Grove Avenue, Laverock, PA 19038
Shelly Blum	811 Breckenridge Court, New Hope, PA 18938
Terry Katz	1657 Rockcress Drive, Jamison, PA 18929
Steve Katz	121 Cheston Lane, Ambler, PA 19002