



November 6, 2016

Dear Station Manager:

I am General Counsel to Hillary for America. I write with regard to advertisements, some or all of which we understand to be airing on your station:

PAC Name	Ad Name
Rebuilding America Now	Classified Reopening
Future45	Same Path
Future45	Transparent
Future45	The Clintons
Future45	Not So Fast
45 Committee	Same Path
45 Committee	50 Points Ahead

These ads falsely claim that Secretary Clinton is currently under investigation by the Federal Bureau of Investigation (“FBI”) for emails that she sent or received while serving as Secretary of State. The claim is false. At no point did the FBI “re-open” an investigation into Secretary Clinton’s emails. Instead, FBI Director James Comey informed Congress that he had found emails in an entirely unrelated investigation that might be relevant. Nine days later, Director Comey updated Congress again that the FBI had “reviewed all communications” that were newly discovered and had “not changed our conclusions” that Secretary Clinton is cleared of all wrongdoing.<sup>1</sup> Therefore, the claim in these ads is provably false.

For the sake of both FCC licensing requirements and the public interest, your station must immediately cease airing it. Unlike federal candidates, independent political organizations do not have a “right to command the use of broadcast facilities.” See *CBS v. DNC*, 412 U.S. 94, 113 (1973). Because you do not need to air this advertisement, your station bears responsibility for its content when you do grant access. See *Felix v. Westinghouse Radio Stations*, 186 F.2d 1, 6 (3rd Cir. 1950), *cert. denied*, 314 U.S. 909 (1950). Moreover, 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.2d 623 (1961). Failure to prevent the airing of “false and misleading advertising” may be “probative of an underlying abdication of licensee responsibility” that can be cause for the loss of a station’s license. See *Cosmopolitan Broad. Corp. v. FCC*, 581 F.2d 917, 927 (D.C. Cir. 1978).

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<sup>1</sup> Alan Rappoport, *Emails Warrant No New Action Against Clinton, F.B.I. Director Says*, New York Times (Nov. 6, 2016), <http://www.nytimes.com/2016/11/07/us/politics/hilary-clinton-male-voters-donald-trump.html>.

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Your station should cease airing these false ads. Please contact me ([melias@hillaryclinton.com](mailto:melias@hillaryclinton.com)) to inform me of your decision.

Very truly yours,

A handwritten signature in black ink, appearing to read 'M. Elias', with a long horizontal stroke extending to the right.

Marc E. Elias  
General Counsel to Hillary for America