

Exhibit A

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November 7, 2016

ATTENTION STATION MANAGER

Re: 45Committee and Future45's Advertisements

On behalf of 45Committee and Future45 (collectively, the "Committees"), we write about a letter you may have received from counsel to Hillary for America, the principal campaign committee for Hillary Clinton ("Clinton"), regarding a series of advertisements sponsored by the Committees that may currently be airing on your station. The letter takes issue with the Committees' advertisements that inform the voting public of Hillary Clinton's long history of scandals and criminal investigations.

Specifically, Clinton's letter asserts that the Committees' "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," and that that "at no point did the FBI 're-open' an investigation into Secretary Clinton's emails." As support for this contention, Clinton's counsel asserts that "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." The twisted Clinton logic here is that because Director Comey has to-date declined to indict Secretary Clinton that she is supposedly cleared of wrongdoing and no longer being investigated. This is factually and logically absurd. The letter also misstates the actual language in the Committees' ads, and utterly fails to account for the **multiple investigations into the Clintons by the FBI and various other investigative bodies, including the ongoing FBI investigation of the Bill, Hillary & Chelsea Clinton Foundation (i.e., the "Clinton Foundation")**.

The letter from Clinton's counsel is a desperate attempt to conceal Clinton's embarrassing and politically damaging history of scandal and lying to the American people. It is meant to intimidate stations with two days left until the election. Clinton's challenge is baseless. Each and every statement in the Committees' advertisements are carefully worded, documented and supported. The Committees' advertisements are accurate in every respect, raise critical character issues, and should continue to air.

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Director Comey's Letter to Congress on November 6th Did Not State that the Investigation Into Clinton Was Closed

Clinton's letter maintains that the Committees' advertisements are false, claiming that "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." This is **NOT** what Director Comey's letter said. Nowhere in the letter does it state that "Secretary Clinton is cleared of all wrongdoing," and most significantly, it does not state that the investigation was closed or terminated. It simply states that "we have not changed our conclusions that we expressed in July with respect to Secretary Clinton." Importantly, Director Comey's letter to Congress on October 28th stated that:

I am writing to inform you that the investigative team briefed me on this yesterday, and I agreed that **the FBI should take investigative steps** designed to allow investigators to review these emails to determine whether they contain classified information, **as well as to assess their importance to our investigation.**

Numerous current and former government officials and countless news organizations concluded that this amounted to a reopening of the FBI investigation into Hillary Clinton and her private email server.¹ The fact that Director Comey wrote a letter to Congress yesterday stating only that "we have not changed our conclusions" does **NOT** amount to a closing of the investigation into Clinton's private email server. Moreover, the fact that Director Comey's letter states in the final underlined portion of the quote above, "as well as to assess their importance **to our investigation.**" means that the investigation never ended. If the investigation into Clinton had truly been closed, then Director Comey would not have explicitly referenced "**our investigation.**"

Clinton's Letter Misquotes the Language in the Committees' Advertisements

The letter from Clinton's counsel argues that the Committees' "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." None of the ads cited by Clinton make these explicit statements. As an initial matter, if a candidate is going to request that stations remove numerous advertisements in a single cease and desist letter, it is the candidate's obligation to cite explicit language in each advertisement with which the candidate takes issue. Clinton's letter fails to cite any specific language in the Committees' ads.

¹ See, e.g. CBS Evening News, Oct. 28, 2016, available at <https://www.youtube.com/watch?v=IL27Gqk-bco> ("Today the FBI unexpectedly reopened its criminal investigation of Hillary Clinton's private email servers.").

Instead, Clinton's letter lists at least five advertisements sponsored by the Committee and makes the blanket statement that the Committees' "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." Although it is difficult to ascertain which ads Clinton's counsel is referring to—he incorrectly states the name of the Committees' ads and even lists an ad that stopped running in early October—none of the Committees' ads that are presently on the air say "currently" and none of the ads make the statement that Clinton is under FBI investigation "for emails that she sent or received while serving as Secretary of State." To the contrary, the ads make general references to Clinton's scandals and corruption and simply cite a Wall Street Journal headline from October 29th on screen that stated "FBI Reopens Clinton Email Probe." The Committees' picturing of a newspaper headline is hardly grounds to get an ad removed from the air.

Clinton's Letter Falsely Assumes that the Committees' Advertisements are Based Solely on the FBI's Investigation into Clinton's Use of a Private Email Server

Clinton's letter is based entirely on its mischaracterization of Director Comey's letter to Congress yesterday morning. The letter ignores the fact that the Clintons are currently under FBI investigation for their illicit role in the Clinton Foundation. Any references in the Committees' ads to Hillary Clinton or the Clintons being under investigation by the FBI are substantiated by these additional investigations. In fact, numerous articles have revealed that the FBI is currently investigating the Clinton Foundation and Hillary Clinton's role in apparent pay to play schemes.

On October 30th, the Wall Street Journal reported that "[t]he probe of the foundation began more than a year ago to determine whether financial crimes or influence peddling occurred related to the charity," and that "[a]ccording to a person familiar with the probes, on Aug. 12, a senior Justice Department official called [FBI second in command] Mr. McCabe to voice his displeasure at finding that **New York FBI agents were still openly pursuing the Clinton Foundation probe during the election season.**"² A Reuters piece from November 3rd noted that "**Democratic Party sources** said such a faction was likely responsible for a recent surge in media leaks on alleged details of **an ongoing FBI investigation of the Clinton Foundation.**"³ Politico also made clear that there is "an ongoing investigation into Clinton Foundation."⁴ Lastly, just yesterday, the Weekly Standard definitively maintained that "**[t]here is an ongoing investigation into the Clinton Foundation,**" and reported that "CNN Senior Law Enforcement Analyst Tom Fuentes, a former top FBI official, cited conversations with 'several' senior FBI

² Devlin Barrett, *FBI in Internal Feud Over Hillary Clinton Probe*, WALL ST. J., Oct. 30, 2016, available at <http://www.wsj.com/articles/laptop-may-include-thousands-of-emails-linked-to-hillary-clintons-private-server-1477854957>.

³ Mark Hosenball, *FBI fear of leaks drove decision on emails linked to Clinton: sources*, REUTERS, Nov. 3, 2016, available at <http://www.reuters.com/article/us-usa-election-fbi-leaks-idUSKBN12Y2QD>.

⁴ Kelsey Sutton, *Fox News' Bret Baier apologizes for 'mistake' in Clinton Foundation report*, POLITICO, Nov. 4, 2016, available at <http://www.politico.com/blogs/on-media/2016/11/fox-news-bret-baier-sorry-for-clinton-foundation-report-230743>.

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officials when reported three times last weekend that the FBI investigation of the Clinton Foundation was **‘ongoing.’**⁵ Quoting Fuentes, the Weekly Standard piece adds:

“The FBI has an intensive investigation ongoing into the Clinton Foundation,” Fuentes said. “The FBI made the determination that the investigation would go forward as a comprehensive unified case and be coordinated. So that investigation is ongoing and Huma Abedin and her role in the foundation and possible allegations concerning the activities of the Secretary of State in the nature of the Foundation and possible pay-to-play, that's still being looked at.”⁶

All of these reports and statements make clear that there is a current, ongoing investigation in the Clinton Foundation and that the FBI is actively looking into **“allegations concerning the activities of the Secretary of State in the nature of the Foundation and possible pay-to-play.”**⁷ Therefore, even assuming arguendo that the FBI investigation into Clinton’s private email server has concluded—which, as explained above, it has not—the language in the Committees’ advertisements are accurate in light of the ongoing FBI investigation into the Bill, Hillary & Chelsea Clinton Foundation.

Conclusion

In threatening your station with baseless arguments, Clinton is trying to halt a healthy discussion about the candidates for President, by cutting off her critics’ access to the airwaves. While Clinton is welcome to purchase airtime on your station to defend her record, or attempt to make the case that her long history of dishonesty and corruption is somehow good for America – she cannot silence her critics by taking away their right to respond. Clinton is a public figure, and the ability to criticize a candidate’s policies, and matters of public importance, lies at the heart of the First Amendment, as courts have repeatedly recognized. *See, e.g. Time, Inc. v. Hill*, 385 U.S. 374 (1967); *New York Times v. Sullivan*, 376 U.S. 254 (1964). As you know, the Federal Communications Commission has held that stations best meet their public interest obligations “by presenting contrasting views” and encouraging “robust, wide-open debate.” *In re Complaint by Hon. Ronald Reagan*, 38 F.C.C.2D 314 (1972). It has consistently rejected invitations by political figures to “judge the truth or falsity of material being broadcast on either side of a currently controversial issue.” *Id. Accord In re Complaint by Alan S. Burstein*, 43 F.C.C.2d 590 (1973); *In re Complaint by Patton Echols*, 43 F.C.C.2d 479 (1973).

The facts set forth above clearly support each and every claim made in 45Committee and Future45’s advertisements. We trust you will make a fact-based decision and continue to air these ads in order to allow the American people to be fully educated about their candidates for

⁵ Stephen F. Hayes, *Clinton Foundation Probe Continues*, WEEKLY STANDARD, Nov. 6, 2016, available at <http://www.weeklystandard.com/clinton-foundation-probe-continues/article/2005261>.

⁶ *Id.*

⁷ *Id.*

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President. With just one day before the election, any decision to stop airing the ad will cause irreparable harm to 45Committee and Future45.

If you have any questions, or believe that 45Committee and Future45's ads are somehow unfit for airing on your station, we ask that you contact us immediately to discuss this matter further. I can be reached directly at (202) 772-0915.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Spies". The signature is fluid and cursive, with a large initial "C" and "S".

Charles R. Spies
James E. Tyrrell III
Counsel to 45Committee and Future45