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RECEIVED

November 7, 2014

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Bob Ferguson
Attorney General
1220 Main St. Suite 549
Vancouver, WA 98660-2964

OFFICE OF THE ATTORNEY GENERAL
VANCOUVER OFFICE

Dear Mr. Ferguson,

By way of introduction, my name is James Abernathy. I am General Counsel at the Freedom Foundation, a not-for-profit organization in the State of Washington. This letter is written to you pursuant to RCW 42.17A.765(4) to notify you in writing that there is reason to believe that at least one provision of RCW 42.17A was violated in Washington.

Specifically, both the Washington Education Association Political Action Committee ("WEA") and the Working Together for the 17th Political Action Committee ("Working Together") violated RCW 42.17A.335(1)(c), which provides

(1) It is a violation of this chapter for a person to sponsor with actual malice a statement constituting libel or defamation per se under the following circumstances: ... (c) Political advertising or an electioneering communication that makes either directly or indirectly, a false claim stating or implying the support or endorsement of any person or organization when in fact the candidate does not have such support or endorsement.

The WEA violated this provision by publishing a TV commercial and mailing fliers in Clark County, Washington which make directly and/or indirectly a false claim which states and/or implies that the Freedom Foundation supported a candidate for office in the 17th District. First, the WEA published and caused to be aired on television political advertising which violates RCW 42.17A.335(1)(c). (See enclosed Exhibit I on the enclosed CD-ROM.) Second, the WEA published and mailed fliers which also violate RCW 42.17A.335(1)(c). One such flier is enclosed as Exhibit A. Each of these is political advertising which constitute, in the least, a false claim implying an organization's support or endorsement of a person.

The WEA's statements are false. The Freedom Foundation does not support any candidate for any political office. The Freedom Foundation is a nonpartisan not-for-profit organization. The WEA's statement that the Freedom Foundation supports big corporations and tax loopholes is also false. Further, these statements do not constitute privileged

communications, and the WEA knew these statements were false or, in the least, displayed a reckless disregard for the truth or falsity of these statements. Lastly, the WEA is at fault because it produced, paid for, and caused these false statements to be published and distributed to the public, as can be seen on the publications themselves. The WEA's statements injure the Freedom Foundation as an organization, exposes it to contempt, and deprives it of public confidence. Not only do these statements bring contempt upon and deprive the Freedom Foundation of the confidence of the public who supports it, they also threaten the Freedom Foundation as a not-for-profit organization because such organizations are prohibited from endorsing or campaigning on behalf of individual candidates. RCW 42.17A.335(4) provides that damages are presumed if a violation is proven.

Upon learning of the television commercial, the Freedom Foundation contacted the cable company airing the commercial (Comcast) by phone and by e-mail to lodge a complaint stating that the WEA commercial contained defamatory statements against the Freedom Foundation. (See enclosed Exhibits D and E.) The WEA pulled the ad less than 24 hours later. (See enclosed Exhibit F.) In other words, the WEA did not even attempt to substantiate its statements because it knew it could not. Yet, the WEA continued to publish and distribute these false statements. This constitutes compelling evidence that the WEA knew from the beginning that its statements were false, or, in the least, displayed a reckless disregard for the truth or falsity of its statements. At the least, the WEA knew its statements were false due to the Freedom Foundation's complaint *but continued* to make these statements in its political advertising.

Working Together also violated RCW 42.17A.335(1)(c). First, Working Together authored, paid for, and caused to be published a website at the address wilsonfactcheck.com. This website's original website contained the following false statement:

Lynda Wilson is supported by the extreme Freedom Foundation, which favors providing more wasteful tax loopholes to profitable big corporations and the wealthy. That means they pay less than their fair share, and working families get stuck with the bill.

Second, this false statement was also made on a flier paid for, published, and mailed by Working Together. (See enclosed Exhibit B.) This statement violates RCW 42.17A.335(1)(c) because Working Together directly made a false claim stating that Freedom Foundation endorsed a candidate even though this is patently false.

Freedom Foundation contacted Working Together by e-mail to inform it of the defamatory statements on its website. Freedom Foundation's first e-mail to Working Together is enclosed as Exhibit G (also sent by a written letter via regular mail). Working Together did not even attempt to substantiate its false statement in a response. In fact, Working Together did not respond to the Freedom Foundation at all. Instead, Working Together altered the language on its website after receiving the Freedom Foundation's letter/email. However, the statements still violated RCW 42.17A.335(1)(c). The website's altered language states

Lynda Wilson is supported by the extreme right like Tom McCabe, CEO of the Freedom Foundation, which opposes eliminating wasteful tax loopholes that

benefit the corporations and the wealthy. This means they pay less than their fair share, and the working families get stuck with the bill.

See a copy of the website enclosed as Exhibit C. This altered statement still violates RCW 42.17A.335(1)(c) because Working Together directly made a false claim that, in the least, implied that the Freedom Foundation endorses a candidate, even though the statement is patently false.

The Freedom Foundation sent a second e-mail to Working Together to inform it that its altered language still violated RCW 42.17A.335(1)(c). (*See* enclosed Exhibit H.) Working Together responded by letter dated October 29, 2014 attempting to substantiate its altered statements. (*See* enclosed Exhibit J.) Working Together's response did not address the original language on its website; nor did it address its flier (exhibit B). Additionally, Working Together's response did not adequately address its altered false statements on its altered website. (But even if it did, that still leaves its fliers and original website language unsubstantiated.) Further, Working Together did not change the altered language subsequent to the Freedom Foundation's second e-mail. Working Together's conduct constitutes compelling evidence it knew from the beginning that its statements in its fliers and original website were false, or, in the least, displayed a reckless disregard for the truth or falsity of its statements. At the least, Working Together knew its statements were false after the Freedom Foundation's emails *but continued* to make these statements in its political advertising.

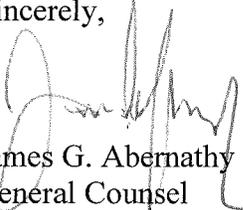
Similar to the WEA's statements, Working Together's statements are also false. The Freedom Foundation does not support any candidate for any political office. The Freedom Foundation is a nonpartisan not-for-profit organization. Working Together's statement that the Freedom Foundation supports big corporations and tax loopholes is false as well. Further, these statements do not constitute privileged communications, and Working Together knew these statements were false or, in the least, displayed a reckless disregard for the truth or falsity of these statements. Lastly, Working Together is at fault because it produced, paid for, and caused these false statements to be published and distributed to the public, as can be seen on the publications themselves. Working Together's statements injure the Freedom Foundation as an organization, because they expose it to contempt and deprive it of public confidence. Not only do these statements bring contempt upon and deprive the Freedom Foundation of the confidence of the public who supports it, they also threaten the Freedom Foundation as a not-for-profit organization because such organizations are prohibited from endorsing or campaigning on behalf of individual candidates. RCW 42.17A.335(4) provides that damages are presumed if a violation is proven.

Working Together's and the WEA's conduct clearly violates RCW 42.17A.335(1)(c). Further, their conduct also violates RCW 42.17A.335(1)(a) because they engaged in political advertising that contains false statements of material fact about a candidate for public office. The evidence enclosed in this letter alone shows beyond a reasonable doubt or, at least by clear and convincing evidence, that Working Together in the WEA have violated the law as described above. In the least, there is reason to believe the above cited statutes were violated. Moreover, there is also reason to believe these two political action committees made false statements on publications not included in this letter. After all, political advertising and electioneering are

multi-pronged efforts which utilize varying forms of media. Even if not, however, the enclosed evidence is more than enough to show that Working Together and the WEA clearly violated the law.

Please contact me at (360) 956-3482 or jabernathy@myfreedomfoundation.com if you have any questions. Thank you for your consideration of this matter.

Sincerely,



James G. Abernathy
General Counsel
The Freedom Foundation

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