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CONFIDENTIAL

F. Andrew Turley, Esq.
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 4839 (KSDK-TV)

Dear Mr. Turley:

This office has been retained by television station KSDK, St. Louis, Missouri, in connection with Matter Under Review 4839. Enclosed herewith please find an Executed Designation of Counsel form. Your letter states that a complaint had been filed which indicates that KSDK ("Respondent") may have violated the Federal Election Campaign Act of 1971, as amended ("Act"). In fact, the complaint does not suggest that Respondent violated the Act. Moreover, Respondent did not violate the Act and therefore asks that the Federal Election Commission find no reason to believe any violation occurred.

The complaint in this matter focuses on the interaction between the Republican candidate for State Auditor and two Republican candidates for the United States House of Representatives with respect to advertising spots purchased by the candidate for State Auditor and aired in the St. Louis

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media market. See Complaint dated October 26, 1998 and Supplement dated October 28, 1998.

The complaint states that as a non-registered committee, the nonfederal State Auditor's committee made excessive contributions to the federal candidates through the purchase of 30-second advertising spots, 15-seconds of which was devoted to a federal candidate, and that some of the funds used may have been prohibited by the Act because Missouri law permits that acceptance of such funds. See id. These allegations do not involve KSDK. Indeed, the complaint does not suggest that KSDK violated the law. Rather, the ads aired on KSDK, among other stations, and KSDK is mentioned only in the context of having required that the ads be modified to reflect the fact that a single political committee paid for the spots, which is in fact true. See Supplement at ¶ 2.

By way of explanation, Pierce/Hulsof, an advertising agency, "sought to purchase the spots as 30-second political advertising spots." See Declaration of Robert Drewell, Sales Manager of KSDK-TV, at ¶ 1 (attached as Exhibit 1). However, as originally produced, the ads contained two separate sponsorship identifications. See id. ¶ 2. "Thus, consistent with FCC [Federal Communications Commission] requirements, KSDK initially required [the candidates] to pay rates applicable for separate 15-second spots." Id. As a result of this decision, the ad production company, Wilson/Grand Communications, lodged a complaint with the FCC. See id. ¶ 3. The FCC then directed KSDK (through its Washington FCC counsel) to sell the spots as 30-second spots.

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See id. ¶ 4. However, pursuant to FCC requirements only the sponsor of the advertisements, that is, the entity paying for the spots, should be identified on the spots. See id. ¶ 5. Thus, once required to sell the spots as 30-second spots, KSDK asked the production company to comply with FCC requirements. Id. The production company agreed to and did comply with the FCC provisions. Id.

Thus, the complaint is correct that KSDK asked the production agency to comply with FCC rules regarding sponsorship identification and that KSDK sold the spots as 30-second spots. However, as seen above, KSDK's actions were governed and directed by the FCC.

In sum, in complying with the FCC regulations and directions the station was not violating the Act, nor was it accused of doing so by the complainant in this matter. Therefore, the Federal Election Commission should find no reason to believe that KSDK violated the Act.

Sincerely,



Carol A. Laham

cc: Lynn Beall

FEDERAL ELECTION COMMISSION
MATTER UNDER REVIEW 4839

DECLARATION OF ROBERT DREWELL

1. I am the Sales manager of television station KSDK, St. Louis, MO. In this capacity I was responsible for processing the Pierce/Hulsof purchases of political spot advertising which became the subject of a complaint to the Federal Election Commission ("FEC") filed by Perkins Coie on behalf of the Democratic Congressional Campaign Committee, Matter Under Review 4839.

2. Specifically, Pierce/Hulsof sought to purchase the spots as 30-second political advertising spots. However, when reviewing the spots the station determined on the advice of counsel that the spots, which were being purchased as 30-second spots, should in fact be treated as two 15-second spots because each 15-second segment had its own separate sponsorship identification ("sponsor ID"). Thus, consistent with FCC requirements, KSDK initially required Mr. Wilson's clients to pay the rates applicable for separate 15-second spots.

3. On or about October 20, 1998, I was called by KSDK's FCC counsel, Peter O'Connell, who notified me about a complaint registered with the FCC regarding our decision to sell the time as two 15-second spots. Specifically, he said that Mr. Paul Wilson, of Wilson/Grand Communications, had complained to the FCC (Mr. Bobby Baker, Chief of the Political Broadcasting Section) that station KSDK-TV was declining to sell Pierce/Hulsof 30-second political advertising spots and was seeking instead to sell two 15-second spots for each 30-second spot purchased. I was aware that Mr. Wilson's agency had produced these spots. Mr. O'Connell said he had participated in a conference call with Mr. Wilson and Mr. Baker that afternoon.

4. According to Mr. O'Connell, in the conference call Mr. Wilson had advised both Mr. Baker and Mr. O'Connell that: (1) there was only one sponsor paying for each 30-second announcement; (2) the second sponsor ID had been included solely to conform to a provision of Missouri law; and (3) KSDK was improperly seeking to censor the content of the spot (in violation of FCC rules) by placing its focus on the texts of each 15-second segment. Based on these representations, Mr. Baker informed Mr. O'Connell that KSDK should carry the spots as priced for 30-seconds, not as priced for two 15-second spots. (Mr. Baker also noted that the station could insist that the second, non-sponsor ID be identified as such to avoid confusion.) Effective thereafter KSDK complied with the requirement that the FCC had set forth, and accepted the spots as 30-second ads.

5. Subsequently, Mr. O'Connell advised us that, based on further research, Mr. Wilson's interpretation of Missouri law as requiring a second sponsor ID was incorrect. Rather, consistent with FCC provisions, the sponsor ID on the spots should be limited to the party who actually tendered payment to KSDK for the spots. He further advised that Mr. Wilson had agreed to this method of sponsor ID.

6. I have noted a trade press report (Broadcasting & Cable magazine, Nov. 2, 1998, p. 28) that St. Louis stations KMOV and KTVI also carried these spots as 30-second spots. Mr. Baker was quoted in the article as to his FCC rulings in this matter upon which KSDK relied. I also note that other FCC counsel reportedly requested a single sponsor ID to comport with the actual payment for the spots (see the copy of the article attached hereto).

7. Finally, to my knowledge, in following the FCC requirements KSDK was not violating any FEC rules or regulations.



STATION BREAK

By Dan Trigoboff

On a clear day, you can see our call letters

A news helicopter leased by WPXI(TV) Pittsburgh, and meant exclusively for station use was hired out by its owner for political use. The chopper flew over the home of Democratic Rep. Ron Klink in an attempt by his election opponent, Mike Turzai, to make Klink's elegant home a campaign issue.

The effort may have backfired, embarrassing both Turzai and the station, which apparently was a mere bystander. The attempt to shoot some footage of Klink's home drew complaints from Klink and his family. Although Turzai told WTAE-TV Pittsburgh that he never got the footage he wanted, one of Klink's children managed to shoot some tape of the chopper, which was broadcast on WTAE-TV in a story about the incident.

"When I heard about it," says WPXI Vice President and General Manager John Howell, "I said 'that can't be my helicopter. They're not allowed to do that. We've got our call letters on that helicopter; that's why it's not supposed to fly for anyone else.'"

Howell says Klink was in his office the next day and seemed to accept the station's innocence in the matter, although he's nonetheless made an issue of the overhead flight. Howell also says he's looking into legal action—but it's not that

easy to break the contract, nor does he want to be without a news chopper going into the November sweeps.

Definitely not a flight of fancy

An New York, WWOR-TV will interrupt the continuing election night coverage of the D'Amato/Schumer Senate race for an investigative report on the safety of pet travel by air. I-Team producer Allison Gilbert and a reporter were barred by FAA regulations from using digital cameras. So instead of a hidden camera they put temperature and humidity sensors in the cage of a dog volunteered by the mother of a station staffer to take a flight. The animal not only was exposed to scorching levels of heat and humidity, Gilbert said, but also was bleeding when the plane landed. Moreover, the report finds, animal travel falls through a regulatory enforcement gap between the Transportation and Agriculture departments, and that better records are kept for lost luggage than lost or injured animals

Homecoming

Sportscaster Mike Adamle has become Larry Wert's latest acquisition for WMAQ-TV Chicago. The well-known former pro football player and network sports reporter will be the station's lead sports anchor. Adamle, who has worked for NBC, ABC, ESPN and on syndicated shows, including *American Glad-*

iators, should be in familiar surroundings. He played his college ball at Northwestern and finished his pro career with the Bears. Adamle also worked as anchor/reporter at WLS-TV Chicago from 1983 to 1989, when his current boss, Wert, was in sales there.

"I'm not a shtick guy," Adamle says. "I don't plan a weekly staple of bloopers. I know the people here in Chicago love their sports." Among his first challenges will be to fill newscasts, usually dominated by highlights from Michael Jordan and the Bulls, during the NBA lockout. "It will make the sportscasts less scintillating, but the NBA will be in the news anyway," Adamle says, referring to ongoing negotiations that could eventually start the season. "I'd like to see them playing ball. But it should be settled by January, and in the minds of people, the basketball season doesn't really begin until January."

Separated at broadcast

Missouri Democrats are charging that a Republican candidate for state auditor purchased ad time on St. Louis TV stations, then illegally resold it to two GOP candidates for Congress. In essence the ads, which are running on KSDK(TV), KMOV(TV), and KTVI(TV), allow two candidates to split a single 30-second spot at a cost lower than two separate 15-second spots. But it's not necessarily illegal, FCC lawyer Bobby Baker says, if the spots are paid and



Mike Adamle

identified as being paid by the same, identified source "even if a person viewing it would consider it to be two ads."

Under FCC regulations covering federal candidates, says Molly Pauker, VP for corporate and legal affairs at Fox Television Stations, "we can't censor. We'd like to charge more, but we don't have a lot of leeway, except to say, 'Please put one ID on it.'"

Give him the 'steal' sign

Baseball has not been very, very good to WLS-TV Chicago sports reporter Paul Meincke, who had to negotiate his return from the the Dominican Republic through the U.S. State Department. The reason: His passport was stolen while he was covering Cubs slugger Sammy Sosa's homecoming celebration.

As Sosa was being paraded down a main street, Meincke got next to him and put a mike up for a couple of questions. "I felt hands going into every pocket," he says. "I had to get the interview, but I felt my billfold being lifted." After conducting the interview with his right hand in the air holding a mike and the left trying to protect his wallet, he realized that the pouch in which he carried his billfold was missing. "We ran back to our van, and a bunch of people followed us. I think they wanted another shot at us," says Meincke.

All news is local. Contact Dan Trigoboff at (202) 463-3710, fax (202) 429-0651, or e-mail to d.trig@cahners.com.

