

October 16, 2006

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Dear Station Manager:

I write on behalf of my client, Just the Facts America, in response to the puzzling letter you received from Riggs, Abney, Neal, Turpen, Orbison & Lewison on Friday, October 13. Contrary to counsel's self-serving but incorrect interpretation of the law, Just the Facts America has not run, is not running, and will not ever run an "electioneering communication" as defined by Oklahoma law.

Just the Facts America, a Texas-based membership organization, is devoted to maintaining ethics in government, as well as encouraging officeholders to be honest about their motives and political allegiances. As part of the group's ongoing educational effort, Just the Facts America is currently airing an advertisement with the following script:

The good ol' boy Democrat system in Oklahoma has made it illegal for us to tell you this politician's name...

She's broken the public trust, but we can't tell you who she is.

Thousands upon thousands of out-of-state insurance industry dollars flowing into her office as if it were up for sale...

The very insurance industry she is supposed to regulate and keep from raising our rates.

Visit www.oklahomasecrets.com and learn the terrible truth today... before it's too late.

According to Oklahoma law, an "electioneering communication" is one "sent by handbill or direct mail; broadcast by radio, television, cable or satellite; or appears in a newspaper, magazine or on a billboard" that "refer[] to one or more clearly identified candidates for state office[.]" Okla. Stat. Tit. 74, Ch. 62, App. 257-1-1-2. The communication at issue here cannot be an "electioneering communication" since nowhere in Just the Facts America's advertisement is Kim Holland "clearly identified" or even mentioned. Indeed, counsel fails to articulate any theory under which an advertisement that never mentions Ms. Holland's name could possibly "clearly identify" her.

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Despite counsel's efforts, this advertisement falls squarely within the protections of the First Amendment. As the Supreme Court has succinctly explained, "[w]hatever differences may exist about interpretations of the First Amendment, there is practically universal agreement that a major purpose of that Amendment was to protect the free discussion of governmental affairs. This of course includes discussions of candidates, structures and forms of government, the manner in which government is operated or should be operated, and all such matters relating to political processes." *Mills v. Alabama*, 384 U.S. 214, 218-19 (1966); see also *New York Times Co. v. Sullivan*, 376 U.S. 254, 269 (1964) ("The general proposition that freedom of expression upon public questions is secured by the First Amendment has long been settled by our decisions.")

Although Ms. Holland may not like the advertisement and may not want Just the Facts America to provide information about this subject, your station should not fall victim to her bullying. Just the Facts America's advertisement must remain on the air.

Sincerely,



Benjamin L. Ginsberg