



WASHINGTON, D.C. OFFICE
flour mill building
1000 potomac street nw
suite 200
washington, d.c. 20007-3501
TEL 202 965 7880 FAX 202 965 1729

anchorage, alaska
beijing, china
new york, new york
portland, oregon
seattle, washington
GSBLAW.COM

GARVEY SCHUBERT BARER

A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

Please reply to BRAD C. DEUTSCH
bdeutsch@gsblaw.com
TEL EXT 1793

November 3, 2017

BY FEDERAL EXPRESS & EMAIL

Jack Abernethy
Co-President, Fox News Channel
President, Fox Television Stations, LLC
1211 Avenue of the Americas
New York, NY 10036
jabernethy@21cf.com

Re: Wrongful Cancellation of NeedToImpeach.com Advertisement

Dear Mr. Abernethy:

This firm serves as legal counsel to Tom Steyer, who financed, produced and appeared in an advertisement (the "Advertisement") encouraging viewers to sign a petition urging our Members of Congress to impeach President Trump on the website NeedToImpeach.com.¹ As you know, on Friday, October 27, 2017, Mr. Steyer purchased a second week of national spots from the Fox News Channel ("Fox News") to run the Advertisement. Fox News unconditionally accepted Mr. Steyer's payment and agreed to carry the Advertisement for a second week, as it had done the week before.

On Tuesday, October 31, 2017, however, Fox News abruptly pulled the Advertisement without explanation (the "Cancellation"). We write to protest this baseless and unethical decision. The Cancellation is not only a breach of your agreement with Mr. Steyer – it is also a profound failure of journalistic integrity, a suppression of constitutionally protected speech, and likely a consequence of inexcusable political pressure.

We note that other Fox-owned television stations – including those owned and operated by Fox News' parent company, Fox Television Stations, LLC ("Fox Television") – continue to run the Advertisement without interruption. Though Mr. Steyer has not been given the courtesy of an explanation, we can only conclude that the Cancellation was directed from, and limited to, Fox News.

¹ The Advertisement can be viewed in full at <https://www.needtoimpeach.com/>.



We support the right of television and cable networks to reject advertisements that are harmful or false. Indeed, President Trump's campaign produced one such advertisement earlier this year touting the first 100 days of his presidency and impugning mainstream news media as "fake news." Virtually every major news outlet in the nation – ABC, NBC, CBS and CNN – refused to carry the Trump ad, and rightly so.² These same outlets, in contrast, rebuffed requests by the Clinton campaign to pull attack ads produced by the pro-Trump super-PAC Rebuilding America Now.³ We applaud these stations for refusing to silence protected speech in the face of political pressure. And we do not take exception to any outlet's principled exercise of editorial discretion. But it is clear that the Cancellation of the Advertisement was not the product of such discretion. Fox News has never taken the position that the Advertisement is untruthful. To the contrary, Fox News willingly carried the Advertisement until October 31, when it was pulled without warning.

It is no coincidence that the Cancellation of the Advertisement, in the second week of its run, came on the heels of a tweet from President Trump,⁴ criticizing the spot and Mr. Steyer personally. The only plausible explanation seems to be that Fox News capitulated to political pressure from the Trump administration itself. President Trump has threatened retaliation against broadcasters who provide him with negative coverage⁵ and Fox News appears to have answered these threats with servility.

By censoring viewpoints on matters of national importance, you have failed both your profession and your viewers, who turn to Fox News for "fair and balanced" coverage of current events. Journalists must engage in critical, independent reporting to pose a foil against the abuses of elected officials. Instead, Fox News appears to assist these very officials in suppressing the protected opinions of American citizens like Mr. Steyer.

It is ironic that an American company would so willingly yield to American politicians in stifling the speech of American citizens, when our country still struggles to prevent Russian operatives from tampering in our elections with fake political advertisements. Mr. Steyer paid for the Advertisement himself. He appears personally throughout the ad, showing his face and identifying himself by name. The Advertisement is a quintessential American act of civic protest, the epitome of protected First Amendment speech.

Fox News owes its viewers more than this. At minimum, they deserve transparency. They deserve to know why the Advertisement was pulled, who directed the Cancellation, and whether that direction was given at the insistence of the Trump administration or one of its surrogates.

² See <http://variety.com/2017/tv/news/donald-trump-fake-news-ad-1202410560/>.

³ See <https://newrepublic.com/article/135835/hillary-using-gops-attacks-trump>.

⁴ Available at <https://twitter.com/realDonaldTrump/status/923866515358789633>.

⁵ See <http://www.foxnews.com/politics/2017/10/11/trump-threatens-to-target-licenses-nbc-and-networks-after-nuclear-arsenal-report.html>.



November 3, 2017

Page 3

Additionally, you owe Mr. Steyer – not an explanation, but the seven airings of the Advertisement as agreed to on Friday, October 27, 2017, when Mr. Steyer purchased the second week of spots. We urge you to honor your contract with Mr. Steyer by airing the Advertisement as agreed.

Respectfully Submitted,

Brad Deutsch
Counsel to Tom Steyer

cc: Ellen Agress
Senior Vice President
Fox Television Stations, LLC
c/o Twenty-First Century Fox, Inc.
1211 Avenue of the Americas
New York, NY 10036
eagress@21cf.com

Joe M. Di Scipio
Fox Television Stations, LLC
400 North Capitol Street, NW, Suite 890
Washington, DC 20001
jdiscipio@21cf.com