



607 Fourteenth Street N.W.  
Washington, D.C. 20005-2011

PHONE: 202.628.6600

FAX: 202.434.1690

www.perkinscoie.com

Kate S. Keane  
PHONE: (202) 434-1641  
EMAIL: KSKeane@perkinscoie.com

September 10, 2008

**Re: Lowest Unit Charge for Coleman for Senate 08**

Dear Station Manager:

We are counsel to Al Franken for Senate. The purpose of this letter is to alert you to the fact that Norm Coleman and his authorized campaign committee, Coleman for Senate 08, are currently running an advertisement on your station that violates the Communications Act of 1934. As a result, ***Coleman and his campaign have forfeited their entitlement to the lowest unit charge for the duration of the campaign.*** Now and until Election Day, your station should charge Coleman and his campaign committee the same rate for broadcast time that it charges non-political advertisers for comparable use.

The Communications Act of 1934 permits a federal candidate receiving the lowest unit charge to air a television advertisement that makes direct reference to another candidate for the same office only if, “at the end of such broadcast, there appears simultaneously, for a period no less than 4 seconds – (i) a clearly identifiable photographic or similar image of the candidate; and (ii) a clearly readable printed statement, identifying the candidate and stating that the candidate has approved the broadcast and that the candidate’s authorized committee paid for the broadcast.” 47 U.S.C. § 315(b)(2)(C). If a candidate does not comply with this requirement at any time during the sixty days preceding the general election, that candidate may not receive the lowest unit charge “for such broadcast or any other broadcast ... that occur on or after the date of such broadcast ...” *Id.* § 315(b)(2)(B).

This is not a requirement of Federal Election Commission rules. Rather, it falls within the jurisdiction of the Federal Communications Commission (“FCC”). A candidate’s campaign must provide written certification to your station at the time of purchase that it will comply with this requirement. *Id.* § 315(b)(2)(E).

The purpose of the FCC requirement is to require candidates to demonstrate their support for the statements made in the preceding advertisement. Coleman’s advertisement, which features Sandy Keith, former lieutenant governor and Minnesota Supreme Court Justice, does not meet this requirement. While the written disclaimer does appear at the end, ***Coleman’s image does***

68966-0001/LEGAL14654544.1

ANCHORAGE · BEIJING · BELLEVUE · BOISE · CHICAGO · DENVER · LOS ANGELES · MENLO PARK  
OLYMPIA · PHOENIX · PORTLAND · SAN FRANCISCO · SEATTLE · SHANGHAI · WASHINGTON, D.C.

Perkins Coie LLP and Affiliates

September 10, 2008  
Page 2

***not appear for a period of 4 seconds at the end of the advertisement along with the written disclaimer.*** Though the written disclaimer does appear for four seconds, Coleman's image only appears for the last two seconds of the advertisement – in clear violation of the disclaimer requirements of section 315. By failing to appear for the requisite amount of time at the end of the ad, Coleman dodges the statutory mandate to stand by his attacks against Al Franken.

Consequently, Coleman may no longer lawfully benefit from the lowest unit charge. As a result, for the duration of the current election cycle, your station should refuse to run additional advertisements from Coleman or his campaign committee unless paid at the rate your station charges for comparable use by other non-political advertisers.

Please contact us should you have any questions regarding this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kate Sawyer Keane", with a long horizontal flourish extending to the right.

Marc E. Elias  
Ezra W. Reese  
Kate Sawyer Keane  
Counsel to Al Franken for Senate