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October 3, 2016

**VIA EMAIL**

J. Randy Evans  
Dentons US LLP  
1900 K Street, Suite 100  
Washington, DC 20006

Re: *Doug Applegate for Congress*

Dear Mr. Evans:

As counsel to Colonel Doug Applegate and Doug Applegate for Congress, I write in response to your letter of September 29, 2016, and the attached draft complaint. Please direct all further correspondence regarding this matter to me.

Your client, who with a net worth of as much as \$768 million is already one of the richest members of Congress,<sup>1</sup> seeks \$10,000,000 in damages for an advertisement that you claim “inaccurately portrays Congressman Issa as a deceitful person who is corrupt in his role as a member of the U.S. House of Representatives.” In fact, a review of the advertisement and its supporting documentation shows that it is carefully documented and entirely accurate. Thus, your letter and draft complaint can only be seen as a misguided attempt by Mr. Issa to bully and intimidate my clients into silence, because Mr. Issa does not like the content of the advertisement.

Your first objection is that the advertisement contains “the following statement in quotation marks: ‘Rep. Issa gamed the system to line his own pockets. Steering millions into taxpayer money to help companies he owns.’” The advertisement then cites to an article in *The*

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<sup>1</sup> Jake Sherman, *Issa, one of the richest members of Congress, worth up to \$768M*, Politico (July 13, 2015); Sarah D. Wire, *Meet the richest member of Congress: California’s Issa earned it as a car alarm mogul*, L.A. Times (Nov. 3, 2015).

*New York Times* titled “A Businessman in Congress Helps His District and Himself.”<sup>2</sup> Because this statement does not appear verbatim in the article, Mr. Issa contends that the advertisement is misleading.

As it turns out, the advertisement does not print the above-described statement in quotation marks, as the letter and draft complaint falsely allege. The only quotation marks used in the entire advertisement are at the beginning, where the advertisement faithfully quotes a press statement issued by Mr. Issa’s campaign in which Mr. Issa said, “Trump is the obvious choice” for President.<sup>3</sup>

Though the advertisement does not quote the newspaper article – nor does it purport to do so – it accurately describes the article’s claim that, as a member of Congress, Issa took official actions that inured to his personal pecuniary benefit. Among other things, the article says about Mr. Issa:

As his private wealth and public power have grown, so too has the overlap between his private and business lives, with at least some of the congressman’s government actions helping to make a rich man even richer and raising the potential for conflicts.

and

He has secured millions of dollars in Congressional earmarks for road work and public works projects that promise improved traffic and other benefits to the many commercial properties he owns here north of San Diego.

The article then describes a number of cases in which Mr. Issa took official actions on matters in which he had a financial interest, including instances where Mr. Issa used his position in Congress to promote and defend businesses in which he had a financial stake. For example, when the Securities and Exchange Commission brought a lawsuit against Goldman Sachs, Mr. Issa opened an investigation into the lawsuit. Just weeks before this, he bought “another large batch of shares in one of the firm’s high-yield mutual funds. . . . By the end of the year, his stake in Goldman’s fund was worth as much as \$25 million.” In another example, at a House hearing in 2008, Mr. Issa praised a merger between XM and Sirius, a company with which one

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<sup>2</sup> Eric Lichtblau, *A Businessman in Congress Helps His District and Himself*, N.Y. Times (Aug. 14, 2011), available at [http://www.nytimes.com/2011/08/15/us/politics/15issa.html?\\_r=1](http://www.nytimes.com/2011/08/15/us/politics/15issa.html?_r=1).

<sup>3</sup> Press Release: Donald Trump is the Obvious Choice for Every American, Issa for Congress (May 6, 2016), available at <https://www.darrellissa.com/2016/05/06/donald-trump-is-the-obvious-choice-for-every-american/>.

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of Mr. Issa's companies had a "lucrative partnership." Thus, the advertisement's characterization of *The New York Times* article is completely accurate.

Your second objection appears to be that, because *The New York Times* issued three corrections to the article, the entire article must be disregarded. You identify three specific corrections that were made, and refer to "numerous additional falsehoods," which you fail to identify. *The New York Times* did issue corrections on three minor points – but none of the three are material to the content of the advertisement. And, rather than impeaching the accuracy of the entire article, the corrections demonstrate that the vast remainder of the article's claims have withstood rigorous scrutiny and fact-checking. In any case, the advertisement need not rely alone on *The New York Times* article for support; its claims are supported by a number of other press reports and documents in the public record, including the financial disclosure forms that Mr. Issa signed under penalty of false statement.<sup>4</sup>

It is understandable why Mr. Issa, as a 16-year incumbent who is now in danger of losing his lucrative position, would prefer that the advertisement not air. But he has no right to censor its truthful claims, which are amply supported by the public record.

Should your client decide to pursue legal action, please send the complaint to my attention. Before he does so, he should bear in mind that my clients, too, will vigorously pursue all legal rights and remedies available to them.<sup>5</sup>

Sincerely,

Andrew Harris Werbrock

AW:PS  
(00289260-3)

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<sup>4</sup> See, e.g., Jeff McDonald, *Issa's earmarks questioned*, The San Diego Tribune (Apr. 2, 2011).

<sup>5</sup> See Cal. Code Civ. Proc. § 425.16 (anti-SLAPP statute); see, e.g., *Reed v. Gallagher*, 204 Cal. Rptr. 3d 178 (Cal. Ct. App. 2016); see also Cal. Code Civ. Proc. § 128.5.