

LAW OFFICE OF JOHN FOGARTY, JR.  
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Chicago, IL 60613  
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October 4, 2022

Re: False Advertisement Sponsored by DCCC – “Can’t Trust”

Dear Station Manager:

My firm represents Esther For Congress, the authorized committee supporting Esther Joy King’s candidacy for Congress in the 17<sup>th</sup> Congressional District. I am writing regarding an intentionally disingenuous advertisement (“the Advertisement”) called “Can’t Trust” that is currently airing on your station and sponsored by the Democratic Congressional Campaign Committee (“DCCC”). The Advertisement claims that Ms. King “...stands with Republicans who want a national abortion ban, with no exceptions for rape or incest.” The DCCC fails to provide any source explaining which Republicans Ms. King purportedly “stands with” on this issue. Moreover, the DCCC is purposefully distorting Ms. King’s publicly-stated position.

The DCCC was undoubtedly aware when it chose to air the Advertisement that Ms. King is firmly and publicly on record stating both that “abortion access should ultimately be left up to individual states to decide” and that she “supports exceptions in case of rape, incest, and to protect the life of the mother.”<sup>1</sup> In fact, just last night at a public debate at Bradley University, Ms. King reiterated that “she opposes abortion because of her faith, except in instances of rape, incest and the mother’s life . . .” and went on to confirm that she opposes a national abortion ban.<sup>2</sup> The DCCC must have found Ms. King’s own positions too inconvenient as they attempted to assign the views of some unidentified “Republicans” to her.

The type of smear that is contained in the Advertisement is a desperate and unfortunate campaign tactic. But it is not one in which your station is obligated to participate. The “no censorship” provisions of federal law that prevents broadcasters from censoring advertisements sponsored by candidates do not apply to third-party advertisements such as this one. *Columbia Broadcasting System v. Democratic National Committee*, 412 U.S. 94 (1973); *You Can Afford Dodd Committee*, 81 F.C.C. 2d 579 (1980); *National Conservative Political Action Committee*, 89 FCC2d 626 (1982). As such, you are able to reject this Advertisement.

In fact, as a licensee, you have a legal *duty* to reject the Advertisement “to protect the public from false, misleading or deceptive advertising”. *Licensee Responsibility With Respect to the Broadcast of False, Misleading or Deceptive Advertising*, 74 F.C.C.2d 623 (1961). You are

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<sup>1</sup> <https://www.nprillinois.org/illinois/2022-08-29/republican-esther-joy-king-zeroes-in-on-combating-inflation-during-her-second-il-17-run>

<sup>2</sup> <https://news.wsiu.org/state-of-illinois/2022-10-03/king-sorensen-outline-differences-on-major-issues-during-debate-in-race-for-17th-district-house-seat>

obligated to take “reasonable steps” to satisfy yourself “as to the reliability and reputation of every prospective advertiser.” *In re Complaint by Consumers Association of District of Columbia*, 32 F.C.C.2d 400, 405 (1971). Failure to take these steps may be “probative of an underlying abdication of licensee responsibility.” *Cosmopolitan Broadcasting Corp. v. FCC*, 581 F.2d 917, 927 (D.C. Cir. 1971).

For these reasons, we respectfully request that your station cease airing the Advertisement no later than close of business today, before more viewers are misled by the DCCC’s false claims.

Thank you for your immediate attention. Please do not hesitate to contact me at [REDACTED] if you have any questions.

Sincerely,

/s/ John G. Fogarty, Jr.

John G. Fogarty, Jr.