

FINNEY LAW FIRM

January 7, 2014

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**VIA CERTIFIED MAIL
AND ELECTRONIC MAIL**

Mike Plantamura, Esq.
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RADIO ONE, INC.
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**VIA CERTIFIED MAIL
AND ELECTRONIC MAIL**

Mr. John D. Lewis,
Vice-President & General Manager
RADIO ONE CINCINNATI
(WDBZ 1230 The Buzz)
1 Centennial Plaza, 705 Central Ave., Suite 200
Cincinnati, Ohio 45202
jlewis@radio-one.com

Re: Britton v. Cincinnatians for Jobs Now
Ohio Elections Commission Case No. 2013 G _____

Gentlemen:

I am writing to you for two separate and distinct purposes: (i) to obtain information on the disclosure of which is mandated by Ohio law; and (ii) to put you on notice of pending or imminent litigation or administrative proceedings and the necessity to preserve all evidence relative thereto.

With respect to the first of the foregoing purposes, Section 3517.20(B)(1) of the Ohio Revised addresses, *inter alia*, the communication over the broadcast facilities of any radio or television station of any communication that is designed to promote the election or defeat of a candidate for public office. Part of the requirements that statutory provision requires “a radio station, for a period of at least six months [after such communication], [t]o keep the residence or business address [of the entity publishing such communication] on file and [to] divulge it to any person upon request.” During late October or early November of this past year, a political advertisement was broadcasted over the airways of WDBZ 1230 The Buzz on behalf of an organization identified as Cincinnatians for Jobs Now. (For your reference, an audio of the communication as broadcasted on the airways of WDBZ 1230 The Buzz has been obtained by an individual and posted on YouTube at <http://www.youtube.com/watch?v=MBxwGr7crAw>.) Consistent with the requirements of Ohio Revised Code § 3517.20(B)(1), the advertisement only named the organization responsible for that communication and an individual identified as a trustee of the organization. Now, *pursuant to the right afforded by that same statutory provision, I am making a demand that you provide the residence or business address of Cincinnatians for Jobs Now.*

With respect to the second of the foregoing purposes, I am writing to provide you notice and to demand that your company (including any subsidiaries or related entities, as well as the employees thereof) preserve and maintain all potential evidence (including electronically stored information including,

without limitation, emails) relative to pending or imminent pending or imminent litigation or administrative proceedings. These pending or imminent proceedings relate to the broadcast on the airways of WDBZ 1230 The Buzz of the foregoing referenced political advertisement on behalf of Cincinnatians for Jobs Now.

It is important to note and recognize that the involvement of WDBZ 1230 The Buzz or its employees/agents is not necessarily limited to the airing of this advertisement, but may extend so far as to involve the assistance and cooperation of WDBZ 1230 The Buzz and/or its employees or agents in the production of the advertisement itself. If you review the political advertisement at issue, you will note that it includes the singing of "Lift Every Voice and Sing." This singing is being done by Christopher Smitherman who was the target of the advertisement. Previously, Mr. Smitherman regularly hosted a show on WDBZ 1230 The Buzz and would conclude the show with the singing of the song. That, in fact, would have been the only potential source by which Cincinnatians for Jobs Now were able to obtain a copy of Mr. Smitherman singing that song for use in its political advertisement. The clarity of the recording, as well as the technical means to re-produce it in the advertisement, strongly indicates that WDBZ 1230 The Buzz or its employees/agents provided aide and assistance to Cincinnatians for Jobs Now.

Thus, consistent with the foregoing, I am writing to provide you notice and to demand that your company (including any subsidiaries or related entities, as well as the employees thereof) preserve and maintain all potential evidence (including electronically stored information including, without limitation, emails) relative to: (i) all activities (including, without limitation, communications) with or associated with Cincinnatians for Jobs Now or anyone acting on its behalf or bequest (who would include, without limitation, individuals named Jonathon White and Michael Engbert and/or e-mails to/from the domain names of @ovssr.org, @rroho.com, or @liuna.org); or (ii) all activities (including, without limitation, communications) concerning, referencing or relating to Christopher Smitherman, from June 1, 2013, to the present. As you will note, the above YouTube was provided to and published by an individual named Nathaniel Livingston and, thus, would include communications between him and WDBZ 1230 The Buzz or its employees/agents.

This notice includes the obligation to not destroy, conceal or alter in any manner whatsoever any or all evidence, documents, information, paper or electronic data and/or other tangible items pertaining or relevant to or property discoverable in the above-referenced matter including but not limited to all computers and cell phones owned by WDBZ 1230 The Buzz or its employees/agents. This notice also includes, but is not limited to, all data generated and/or stored on any and all computers and cellular telephones owned or used by WDBZ 1230 The Buzz or its employees/agents; all data stored on any and all other electronic storage media of any type such as hard disks, floppy disks, CD-ROMs, DVDs, flash drives, backup tapes, online backup services or any other storage media or service; all emails; all instant messages; all SMS text messages; all audio data such as voicemail, tape recordings; and all photographs, videos, writing or other documentary material of any nature found or stored on his computers, cellular telephones, or Internet accounts. This notice also applies specifically, but without limitation, to any and all emails, instant messages, SMS text messages, email accounts, Internet addresses and/or Internet accounts utilized or established by your company (including any subsidiaries or related entities, as well as the employees thereof), whether or not the data is stored locally on a computer or stored by a third party on an Internet server such as Gmail.com, Yahoo.com, Hotmail.com, or any other third party Internet service.

The importance of immediate action cannot be overstated. In order to assure compliance with the obligation to preserve documents and things will be met, please forward a copy of this letter to any and all persons and entities with custodial responsibilities for the items referred to herein or such persons and entities who may exercise dominion or control over any such items.

In due course, the proper legal notification relative to such items will be forthcoming.

Respectfully,

FINNEY LAW FIRM, LLC

By:



Christopher P. Finney, Esq.

CPF/lml
cc: Mr. Christopher Smitherman