

# BakerHostetler

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January 27, 2016

### VIA FEDEX AND EMAIL

Mr. Jeff Bartlett  
President and General Manager  
WMUR  
100 S. Commerical Street  
Manchester, New Hampshire 03101

*Re: American Future Fund Advertisement*

Dear Mr. Bartlett:

On January 26, 2016, American Future Fund spent nearly \$600,000 to purchase broadcast advertising time on your station to run advertisements criticizing Ohio Governor John R. Kasich.<sup>1</sup> Not only does the advertisement fail to disclose the true identity of the sponsor of the advertisement, it is also false and misleading. We demand that your station not run these advertisements for the reasons stated herein.

The Communications act and the Federal Communications Commission's regulations require WMUR to "fully and fairly disclose the true identity" of the sponsor of any broadcast advertisements that the time the advertisement is aired on your station. *See* 47 U.S.C. § 317; 47 C.F.R. § 73.1212(e). Publicly available information indicates that American Future Fund is not the true identity of the sponsor of these advertisements scheduled to air on WMUR. In fact, the true identity of the sponsor of these advertisements cannot be determined because American Future Fund does not disclose its donors to the Federal Election Commission, the founder and Chief Strategist of American Future Fund runs the Super PAC for former Governor Mike Huckabee, and the commercial was created by a company run by a convicted felon with close ties to a Super PAC endorsed by Senator Rand Paul. We demand that WMUR not air any

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<sup>1</sup> *See* <https://stations.fcc.gov/collect/files/73292/Political%20File/2016/Non-Candidate%20Issue%20Ads/American%20Future%20Fund/1.26.16%20American%20Future%20Fund%201441893%20NAB%20%2814538475256072%29.pdf>.

Atlanta Chicago Cincinnati Cleveland Columbus Costa Mesa Denver  
Houston Los Angeles New York Orlando Philadelphia Seattle Washington, DC

advertisements by American Future Fund until the identity of the sponsors of the advertisements can be determined.

First, American Future Fund is a 501(c)(4) organization that files reports with the Federal Election Commission. Despite spending nearly \$35 million on independent expenditures since 2010, American Future Fund has not disclosed the name of a single contributor to the FEC. In fact, the Federal Election Commission does not list a single contribution to American Future Fund. Consequently, it is impossible to identify the true identity of the sponsors of the advertisements set to air on WMUR.

Second, American Future Fund was founded by Nick Ryan, the head of the Super PAC supporting former Arkansas Governor Mike Huckabee.<sup>2</sup> Mr. Ryan has also served as an advisor to Senator Rick Santorum and founded a pro-Santorum Super PAC, the Red, White, and Blue Fund.<sup>3</sup> Additionally, former state Senator Sandra Greiner, the President/Director of American Future Fund, recently posted information supporting Donald J. Trump on her Twitter account.<sup>4</sup> Any one of these Super PACs could be the true sponsor of the American Freedom Fund advertisements.

Finally, Content Creative Media is run by Nick Everhart,<sup>5</sup> an operative who was previously convicted of a felony<sup>6</sup> and pleaded guilty to charges of obstructing official business and falsification.<sup>7</sup> Despite this background, it appears that the only other entity that has used Mr. Everhart's company this election cycle was America's Liberty PAC, "a Super PAC created for and dedicated to electing Senator Rand Paul (R-Kentucky) as the next President of the United States."<sup>8</sup> Importantly, "it is the only Super PAC endorsed by Senator Paul as he makes his bid for the White House in 2016."<sup>9</sup> Given Mr. Everhart's close ties with a Super PAC endorsed by Senator Paul, it is essential that WMUR investigate the true identity of the sponsor of the advertisements set to air on WMUR.

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<sup>2</sup> See Paul Blumenthal, "Want To Know The Real GOP Rivalries? Check Out These Attack Ads," *The Huffington Post*, 1/6/16.

<sup>3</sup> See Madeleine Stevens, "American Future Fund," FactCheck.org, 3/14/14.

<sup>4</sup> See [https://twitter.com/sandy\\_greiner](https://twitter.com/sandy_greiner).

<sup>5</sup> See Content Creative Media Website, available at: <http://www.contentcreativemediallc.com/>. Last accessed 1/26/16

<sup>6</sup> Randy Ludlow, "Former Exec Guilty Of 1 Count In GOP Ad-Firm Case," *The Columbus Dispatch*, 7/11/15

<sup>7</sup> Randy Ludlow, "Ex-President Of GOP Media Company Gets Probation, Fine For Hacking," *The Columbus Dispatch*, 9/9/15

<sup>8</sup> See America's Liberty Pac website, available at: <http://americaslibertypac.com/>. Last accessed 1/26/16.

<sup>9</sup> *Id.*

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In addition, the advertisement itself is false, misleading, and deceptive. Your station has a duty "to protect the public from false, misleading or deceptive advertising."<sup>10</sup> This advertisement knowingly makes the following false state:

*"And Kasich's budget raised taxes by billions, hitting business hard and the middle class even harder."*

This statement verifiably is false. The statement cites to a February 2, 2015 article in The Columbus Dispatch. That article is attached hereto as Exhibit A. As the article makes clear, Governor Kasich's tax proposal resulted in "a \$500 million tax cut" and not a tax increase.

Although the true identity of the sponsor of these advertisements is unclear at this time, there is significant evidence that the true sponsor of these advertisements is not American Future Fund and that the advertisement is false, misleading, and deceptive. Every broadcast licensee must use "reasonable diligence" to obtain the information necessary to make the required disclaimer under Section 317 of the Communications Act.<sup>11</sup> Moreover, Licensees must not air advertisements that are false, misleading, and deceptive. We demand that WMUR exercise reasonable diligence to identify the true identity of the sponsor of these advertisements and to investigate the false claim before this commercial airs on your station.

Sincerely,



Patrick T. Lewis  
Partner

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<sup>10</sup> *Licensee Responsibility With Respect to the Broadcast of False, Misleading or Deceptive Advertising*, 74 F.C.C.2d 623 (1961); see also *Cosmopolitan Broad. Corp. v. FCC*, 581 F.2d 917, 927 (D.C. Cir. 1978) (finding that a failure to prevent the airing of false and misleading advertisements may result in the loss of station's license).

<sup>11</sup> See 47 U.S.C. § 317(c).

# EXHIBIT A

# The Columbus Dispatch

» Hot Links:

## Ohio Politics Now: What we know about Gov. John Kasich's budget proposal

### HELPFUL LINKS

- » Corrections
- » Lottery
- » Obituaries
- » Weather

### HEADLINES FROM THISWEEKNEWS.COM

- » Planning commission approves new Huntington Bank
- » Business owner trying to make some noise about sound wall

### THE CITY BLOG

- » New report shows Americans sacrifice to pay for housing

### LOCAL STORIES FROM THISWEEK

- » Rausenberg's video, girls' testimonies convince jury
- » Delaware Buehler's last day is Feb. 13
- » Worthington schools to keep but tweak IB program
- » Dublin council ponders purchase of 24 acres along Frantz
- » Ex-Olentangy teacher found guilty in sexual assault of students
- » Franklin County dog-license fees double after Feb. 1
- » Marysville police pull child-enticement suspect from burning van after chase
- » ThisWeek dropping app, stepping up social media, video
- » COTA redesign spares Tri-Village bus route, stops



REQUEST TO BUY THIS PHOTO  
CHRIS RUSSELL | DISPATCH

Gov. John Kasich

By **Michelle Everhart**

*The Columbus Dispatch* • Monday February 2, 2015 9:11 AM

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767

A look at what is happening in Ohio politics and policy today:

Gov. John Kasich will unveil his two-year state budget today but quite a bit has already been revealed. Here's a look what we know so far:

**Tax cuts:** One million small businesses will see their income taxes eliminated and 3 million low-income and middle-class families will see a reduction in their income taxes.

**Tax increases:** Kasich proposes an increase to the "5.75 percent state sales tax, expand the sales tax to cover various services that currently aren't taxed, elevate the cigarette tax by as much as \$1 a pack and up the commercial-activities tax on larger businesses," as well as increasing the severance tax, Dispatch Public Affairs Editor Darrel Rowland writes.

Still, Ohioans will net a \$500 million tax cut.

**Medicaid:** Kasich isn't asking lawmakers to consider Medicaid expansion because it's already been authorized. But, he is proposing some changes that include co-pays and premiums, Dispatch reporter Catherine Candisky writes.

MORE ARTICLES

**ThisWeek**  
COMMUNITY NEWS

*Infant mortality:* With Ohio's infant mortality rates among some of the worst in the nation, the governor wants to get "extra medical care to all young women who live in at-risk areas," (Cincinnati) Enquirer reporter Chrissie Thompson writes.

*Charter schools:* The governor wants to reform the state's 20-year-old charter school system by improving the quality of sponsors and allowing schools two new funding sources, including allowing charter schools to seek local tax levies from voters, according to Cleveland Plain-Dealer's Patrick O'Donnell.

*Higher education reform:* He also wants to allow 2-year community colleges the opportunity to award 4-year degrees for some in-demand jobs as well as give students college credit for life experience.

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**Federal budget:** Not only will we get a full look at the state budget today but President Barack Obama will propose a \$4 trillion budget that includes a \$478 billion public works program for highway, bridge and transit upgrades, the Associated Press reports.

"The grab-bag of proposals, many recycled from past Obama budgets, already is generating fierce objections from Republicans, who control both chambers of Congress for the first time in his presidency. They will move ahead on their own, mindful they eventually must strike a deal with Obama, whose signature is needed for the budget to become law."

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**Gray area:** Social media is a gray area for lawmakers and lacks formal ethics laws governor what is OK, Dispatch reporter Jim Siegel writes. The issue came up again after Rep. Anne Gonzales tweeted about her real estate business from her account that she uses as a state representative last week. The tweet was later deleted.

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**Middle class:** Dispatch reporter Jessica Wehrman explores the role the middle class is playing in politics lately with both Democrats and Republicans. "Both sides are focusing on the same socioeconomic group, but that's where the agreement ends. Obama and the Democrats are calling for policy changes such as a minimum wage increase, more access to affordable health care and free community college. Republicans, policies have thwarted the middle class and contributed to

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**What we are covering today:** We will bring you the latest news on both the state and federal budget and how the proposals could affect you. Look for updates at Dispatch.com.

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## **This Is Why You Don't Mess With The US! Watch What Happens**

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