

Gilmore *FOR AMERICA*

Nov. 13, 2015

WHDH TV 7NBC WLVI TV CW56
Sunbeam Television Corp
7 Bulfinch Place
Boston, MA 02114

Re: Equal Time Request - Presidential Candidate Jim Gilmore

Dear Sir or Madam:

On behalf of James S. Gilmore III ("Gilmore"), candidate for the 2016 Republican nomination for President of the United States in the 2016 election, we request that your station provide Gilmore with equal opportunities for broadcast time pursuant to federal law, following its November 7, 2015 broadcast of Saturday Night Live ("SNL") that included a number of appearances by presidential candidate Donald J. Trump ("Trump").

Under 47 C.F.R. §73.1941, when a station licensed by the Federal Communication Commission ("FCC") permits a candidate to use its facilities, it must provide equal opportunities to any other candidate for that office to use its facilities, so long as the candidate's request is made within seven days from the day that the first prior use giving rise to the right of equal opportunities occurred. The regulation defines the term "use" as any candidate appearance that does not qualify as: (1) a bona fide newscast; (2) a bona fide news interview; (3) a bona fide news documentary; or (4) an on-the-spot coverage of bona fide news events. The term "candidate" refers to any person has either: (1) qualified for the primary or Presidential preference ballot in that State, territory, or the District of Columbia; or (2) made a substantial showing of a bona fide candidacy for such nomination in that State, territory, or the District of Columbia under 47 C.F.R. §73.1940(e). Because you allowed Trump, a legally qualified candidate for the Republican nomination for President, to use your station by way of an appearance on SNL, a satirical show that does not attempt to frame itself as bona fide news, you must allow Gilmore, another legally qualified candidate for the Republican nomination for President, equal opportunities for broadcast time on the station.

SNL is a satirical comedy show. It is not a bona fide news cast, interview, documentary, nor on-the-spot coverage. A candidate's appearance on the show is to entertain, not to provide bona fide news coverage to the public. Trump's appearance, therefore, qualifies as a "use" under the language of the regulation that triggers a station's legal responsibility to provide Gilmore an equal opportunity to use similar broadcast time. The National Broadcasting Company ("NBC") recognized as much by distributing an internal memo to all stations that broadcasted the SNL episode that featured Trump, requiring that each station file a Notice in its Political File as required by 47 C.F.R. §73.1943 that the station was giving "free time" to Trump.¹ Additionally, the Chairman of the FCC

¹<https://stations.fcc.gov/collect/files/6885/Political%20File/2015/Federal/President/SNL%202015%20Section%2073/Trump%20for%20President%20NBC%20notification%20%2814470858798152%29.pdf> (retrieved Nov. 11, 2015).

made a statement in anticipation of Trump's SNL appearance that promised equal time to all other candidates for President.²

Gilmore is a legally qualified candidate for the President of the United States in Massachusetts. Pursuant to 47 C.F.R. §73.1940(a), the FCC sets forth a three-part test to determine whether a person qualifies as a legal candidate. First, the person must publicly announce his or her candidacy. Second, the person must be qualified under local, state, or Federal law to hold that particular office. Finally, the person must either have qualified for the primary ballot or run a bona fide candidacy, which can be demonstrated in a number of ways. Gilmore publicly announced his campaign in August 2015, and is qualified for the position under the laws of the United States because he is of appropriate age and is a natural-born United States citizen. Finally, Gilmore has further established himself as a legally qualified candidate because in Massachusetts, Gilmore has raised money, conducted media interviews, traveled in the state, and will be on the ballot in the Republican Primary as he already is in neighboring New Hampshire. Therefore, Gilmore is a legally qualified candidate in Massachusetts for the 2016 Republican nomination for President of the United States.

Pursuant to the governing federal laws and the reasons stated above, we respectfully request that your station provide Gilmore with equal opportunities for broadcast time.

Sincerely,

A handwritten signature in cursive script, appearing to read "Boyd Marcus".

Boyd Marcus
Senior Advisor

² Ken Meyer, "FCC Chairman Vows to Give Candidates Equal TV Time Ahead of Trump's SNL Appearance," *Mediaite*, Oct. 23, 2015. < <http://www.mediaite.com/online/fcc-chairman-vows-to-give-candidates-equal-tv-time-ahead-of-trumps-snl-appearance/>> (retrieved Nov. 12, 2015).

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WWLP 22 News
WWLP P.O. Box 2210
Springfield, MA 1102
1 Broadcast Center
Chicopee, MA 01013

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Boyd Marcus
Senior Advisor

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