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October 8, 2020

Broadcast Station General Managers
California TV Stations

Re: False and Misleading No on Proposition 21 TV Spot Featuring Gov. Gavin Newsom

Dear Station General Manager:

We write to you on behalf of Yes on 21, also known as Renters and Homeowners United to Keep Families in Their Homes. As its name indicates, our client supports Proposition 21 on the November 3, 2020 California ballot, which would amend California's Costa-Hawkins Rental Housing Act to expand local jurisdictions' authority to enact rent control on certain residential properties.

Recently, a committee formed to oppose Proposition 21 (No on Prop 21—Californians for Responsible Housing, a coalition of seniors, veterans, affordable housing advocates, labor, and social justice organizations, sponsored by California Apartment Association) purchased time on your station and supplied a 0:30 second spot featuring Governor Newsom. This spot leads with footage of Gavin Newsom "signing the strongest statewide rent control law in America just last year" before making the successive claims that "Proposition 21 reverses this progress." "21 repeals portions of California's rent law with no solution," and "hurts renters." *Those claims are false and misleading, recklessly disregard the truth, and confuse voters as to the actual effect of Proposition 21.*

The spot's reference to the "rent control law" enacted by Governor Newsom "just last year" refers to the Tenant Protection Act of 2019 (AB 1482), which imposed statewide rent caps for residential rental property throughout California. Specifically, with certain exemptions, AB 1482 caps annual rent increases at 5% plus inflation, or 10%, whichever is lower, thereby preventing the most excessive rent hikes. If enacted, Proposition 21 would not amend or repeal any provision of AB 1482. The spot's claim that Proposition 21 "reverses this progress" is demonstrably false because it implies that Proposition 21 "reverses" progress made by AB 1482, when in truth, Proposition 21 would have absolutely no effect on AB 1482 or its protections for renters.

The ad makes no mention of the law that Proposition 21 *would* amend—the Costa-Hawkins Rental Housing Act, enacted by the California Legislature in 1995. The ad's next claim—that "21 repeals portions of California's rent law with no solution" purposefully confuses

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AB 1482—the only rent law mentioned by the spot—with the completely different law that Proposition 21 actually would amend. This ad is therefore an intentional mischaracterization of the legal and factual effect of Proposition 21. By this sleight of hand, the spot misleads voters into thinking that Proposition 21 will “reverse” and “repeal” the recent gains of AB 1482 endorsed by their governor.

The spot’s claims cannot be defended on the basis that Proposition 21 would repeal certain provisions of the Costa-Hawkins Act, another “California[] rent law.” The Costa-Hawkins Act is not mentioned by the ad, and the obvious effect of its omission is to lead voters to believe that the “rent law” to be repealed is AB 1482, particularly when voters have also just been told that Prop 21 will “reverse [the] progress” of AB 1482.

The ad’s claim that Proposition 21 “hurts renters” is also demonstrably false and further misleads voters as to the direct effects of the initiative. Indeed, in August, the Superior Court of California for the County of Sacramento struck from the State Voter Information Guide’s Argument Against Proposition 21 a statement that “[Prop 21] offers no protections for renters.” The court held that this statement was false and misleading because Proposition 21 “does *offer* protection for renters and thus *has* protections for renters, should local governments pursue them.” And even in the absence of further action by local governments, Proposition 21 would have the *immediate* effect of increasing the number of rental units subject to rent control in communities with existing rental control measures that were suspended by the Costa-Hawkins Act, thereby immediately increasing the number of renters protected by their local rent control ordinances.” Proposition 21 clearly *protects* renters, and it lacks any provision that will *hurt* renters. Regardless of whether the No on Prop 21 campaign *believes* that the enactment of rent control measures somehow tend to hurt renters in the long run, this claim is objectively false when considering that Proposition 21’s direct and immediate effect will be the expansion of protections for renters. Making the claim that Proposition 21 “hurts renters” in this context only further serves to mislead voters into believing that Proposition 21 will repeal and reverse AB 1482’s protections for renters signed into law by Governor Newsom in 2019.

The No on Prop 21 campaign cannot deny that Proposition 21 will not amend or repeal any portion of AB 1482 or take away from renters any of its protections. Nor can they clearly explain how a law that expands the authority of local governments to enact rent control hurt will hurt renters. In that light, the ad’s claims that Proposition 21 “reverses this progress,” “repeals portions of California’s rent law,” and “hurts renters” are clearly false and misleading and misrepresent the effect of Proposition 21 to the voters.

Third-party PAC advertisements containing demonstrably false or misleading statements are not entitled to constitutional or statutory protection, even when the advertisements relate to political issues. “Untruthful speech, commercial or otherwise, has never been protected for its own sake.” (See *Virginia State Bd. of Pharmacy v. Virginia Citizens Consumer Council* (1976) 425 U.S. 748, 771.) As a federally licensed broadcast station, you are *not* legally obligated to accept any advertisements concerning ballot measures, and certainly not advertisements containing false and misleading statements that will confuse and harm the public.

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We respectfully request that you cease airing this advertisement on your station until its sponsors correct the spot to eliminate the false and misleading statements.

If we can provide any additional information, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "Beverly Grossman Palmer". The signature is fluid and cursive, with the first name "Beverly" being more prominent.

Beverly Grossman Palmer