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October 11, 2012

VIA CERTIFIED & U.S. MAIL

Steven Horsford
Horsford for Congress Campaign Headquarters
4060 Martin Luther King Blvd, #101A
North Las Vegas, NV 89032

Re: Defamatory Remarks about Danny Tarkanian

Dear Mr. Horsford:

I represent Mr. Tarkanian and am writing regarding certain defamatory remarks recently made in a TV advertisement by your campaign concerning Mr. Tarkanian. Specifically, your recent ad which states that “Tarkanian worked for telemarketing scammers.” This letter constitutes formal notice that you immediately **CEASE and DESIST** from making any further such defamatory remarks and immediately pull the ad containing the false allegation.

Although the law encourages free debate in elections, there are however certain limitations in limited circumstances involving false statements. The false allegation about Mr. Tarkanian is clearly designed to convey to the general public a false impression that Mr. Tarkanian was somehow knowingly involved in illegal schemes involving illegal activities by telemarketers. This same false allegation was made against Mr. Tarkanian through several forms of media by one of Mr. Tarkanian’s opponents in one of Mr. Tarkanian’s previous political campaigns. This false allegation is not only clearly unacceptable for proper political debate, it is without question, completely defamatory, designed to improperly and maliciously impugn Mr. Tarkanian’s character and integrity. It is worth noting that the defamatory nature of a false and unprivileged publication is determined by the natural and probable effect of the publication on the mind of the average listener. Thus, if the average listener would regard it as a defamatory publication it may be defamatory on its face even though it could be susceptible of innocent meaning. There is no question an average listener would see this as a statement that Mr. Tarkanian was engaged in illegal activities.

Because of the serious nature of the same false allegation against him by his opponent in his previous election, Mr. Tarkanian brought suit against his opponent. The suit ultimately resulted in a Jury Trial with an ensuing verdict in Mr. Tarkanian’s favor. The Jury not only found that the same allegation was completely false, but also found that the allegation was

malicious, and awarded Mr. Tarkanian monetary damages to compensate him for damages to his reputation. In addition, the Jury found that punitive damages against his then opponent were warranted. It is important to note that in a defamation action brought in the context of a political election, the law requires the Jury to apply a higher standard before it can award monetary damages. It is utterly inconceivable that this same false and previously discredited allegation would now surface again. Thus, we are putting you on notice and expect that you will immediately desist from using this defamatory allegation and expect that the ad containing it will be immediately removed.

Because Mr. Tarkanian as a congressional candidate is a public official/ public figure, admittedly, to recover from you, he would have to prove actual malice on your part. To show actual malice, Mr. Tarkanian would have to show that the statement was made with knowledge that it was false or with reckless disregard of whether it was false or not. As stated above, a Jury has already found the allegation not only completely false but also malicious. To continue airing the ad or using any other form of media to further disseminate the false allegation is clearly acting with knowledge that it is false or with reckless disregard of whether it is false or not.

For your reference, the Jury Trial to which I refer was held in Department II of the Eighth Judicial District Court, Clark County, Nevada, and is entitled Danny Tarkanian vs. Mike Schneider, Case No.: A500379. If you have any hesitation about immediately removing the defamatory remark about Mr. Tarkanian, it would be prudent on your part to research this case without delay.

If you have any questions or wish to discuss the matter, please don't hesitate to contact me.

Sincerely,

Gus W. Flangas, Esq.