## STEARNS WEAVER MILLER Weissler Alhadeff & Sitterson, p.a.

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October 11, 2018

ATTENTION: Station Manager

Dear Madam or Sir:

On behalf of Mayor Andrew Gillum and the Gillum for Governor Campaign, I write to request that you immediately cease and desist broadcasting the following advertisement available at: <u>http://mycmag.kantarmediana.com/KMIcmagvidbin2/GOV\_FL\_DESANTIS&FLRP\_FBI\_INVE\_STIGATION.html</u> (the "Advertisement").

The Advertisement, paid for by the Republican Party of Florida and approved by Ron DeSantis, Dane Eagle and Byron Donalds, is demonstrably false in numerous respects and has been made with actual malice within meaning of *New York Times v. Sullivan*, 376 U.S. 254 (1964); for example:

- Audio stating "Andrew Gillum is running for Governor **and also from the FBI**" combined with the text "**Andrew Gillum FBI Investigation**" intentionally make the false statement of fact that Mayor Gillum is the subject of an FBI investigation from which he is running away from. Neither the Advertisement nor any source material cited therein demonstrates a basis for those statements. To the contrary, it has been widely reported that the Mayor has been advised by the FBI that he is not the subject of an investigation.
- Text stating "**Illegal** Trips with Lobbyists" intentionally makes the false statement of fact that Mayor Gillum took illegal trips. However, the source material cited [*Tallahassee Democrat* 6/1/18] merely states that a trip to New York City is the subject of an ethics complaint. A mere complaint is not an adjudication of any violation, and the Advertisement's statement that the Mayor took "**Illegal** Trips with Lobbyists" is made with actual knowledge of its falsity. Moreover, the allegation of illegal conduct is classic defamation *per se*.
- Audio stating that "Now Gillum refuses to disclose who's paid him" combined with text stating "Andrew Gillum Refuses to Disclose Who's Paid Him" again misstate the source material [*Politico* 9/14/18] and falsely state that Mayor Gillum accepted or was otherwise paid money. To the contrary, as the source material makes clear, the Mayor did not accept any money and was not paid by anyone. Rather, as noted in the source article, Mayor Gillum provided documentary evidence of payments <u>made by him</u> (including a transfer of <u>his own funds between his own accounts</u>). There simply is no basis to state that anyone paid Mayor Gillum (or that he refused to disclose <u>non-existent</u> payments).

• The Advertisement concludes with the intentionally false statement of fact "Andrew GIIlum: ... he's **corrupt**." Such an accusation is not supported by the source material and is defamatory *per se*.

These are but a few examples of the intentionally malicious and false statements contained in the Advertisement. Even the most cursory review of the purported source material cited in the Advertisement demonstrates that the statements were made with actual knowledge of, or with reckless disregard as to, their falsity. The Advertisement intentionally misstates and contorts facts in the source material, while omitting facts contained in that same material that are contrary to the false statements made in the Advertisement. In short, the Advertisement constitutes libel and slander of the worst sort.

This letter shall serve as notice that any further publication or rebroadcast of the Advertisement by you will be intentional and made with actual knowledge of the maliciously false and defamatory statements contained therein. Mayor Andrew Gillum and the Gillum for Governor Campaign will take all available legal recourse to prevent the spread of the false and defamatory Advertisement.

The Advertisement is emblematic of the corrosive and divisive rhetoric tearing our society apart. And the fact that it is being run in the midst of a devastating hurricane is reprehensible. Regardless of whether you believe that you have a meritorious defense to broadcast the Advertisement, as a matter of ethics and common decency, your station should decline to traffic in such shameful, false and malicious advertising. Your viewers, and shareholders, deserve better.

Sincerely,

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Glenn Burhans, Jr. Legal Counsel Gillum for Governor Campaign