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October 29, 2008

VIA FEDERAL EXPRESS

Senator Elizabeth Dole
The Watergate Hotel
2650 Virginia Ave NW
Washington, DC 20037

VIA FACSIMILE

Mr. Marty Ryall, Campaign Manager
Elizabeth Dole Committee, Inc.
P.O. Box 2629
Salisbury, NC 28145

VIA HAND DELIVERY

Mr. Marty Ryall, Campaign Manager
Elizabeth Dole Committee, Inc.
706 Hillsborough St, Suite 102
Raleigh, NC 27603

RE: Defamatory Advertisement Sponsored by Dole Campaign

Dear Senator Dole and Mr. Ryal:

Your campaign has produced and is now sponsoring and broadcasting an advertisement that references a group known as the "Godless Americans PAC" on North Carolina television stations that contains untruthful statements about our client, Kay Hagan. These knowingly false statements have injured her reputation and standing in the community. As such, the broadcast of the advertisement by you and your campaign constitutes defamation and libel under North Carolina law and is subject to severe penalties.

CHARLESTON, SC
CHARLOTTE, NC
COLUMBIA, SC
MYRTLE BEACH, SC
SPARTANBURG, SC

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You are hereby put on notice that Kay Hagan and the Hagan Senate Committee, Inc. will not tolerate any further attempts by you to malign Kay Hagan's character and reputation through the use of an advertisement that contains information you know to be false. Consider this letter as Kay Hagan's and the Hagan Senate Committee Inc.'s demand that you immediately cease broadcasting the advertisement. If neither you nor your legal counsel provide me with an assurance by Thursday, October 30, 2009, at 12:00pm (Noon) that you have ceased broadcasting this libelous advertisement through print, television, internet and all other forms of media, Kay Hagan and the Hagan Senate Committee, Inc. will not hesitate to pursue any and all available legal remedies to protect Ms. Hagan's reputation and standing in the community. Such action could include, but not be limited to, obtaining an injunction from the court and seeking the recovery of monetary damages from you.

Your advertisement purposely misstates several fundamental facts about our client. The publication of this advertisement in various print and broadcast media sources tends to falsely imply that Kay Hagan shares the views of an entity that calls itself the Godless Americans PAC. Recent North Carolina cases suggest that a false statement about a candidate's private life may be actionable without regard to whether or not it was genuinely libelous. However, here, your ad is genuinely libelous because you and your campaign know that it contains false statements and implications about Kay Hagan.

These false statements, when viewed through the eyes of an average person and in the context of the advertisement as a whole, are defamatory *per se*. The statements directly malign Kay Hagan in her personal life and are not ambiguous. It is clear to us that you intended for these statements to be defamatory and that the average person can only interpret the advertisement in a derogatory fashion.

The most egregious portion of this advertisement is the photograph of our client along with the voiceover that implies it is Kay Hagan's voice and her statement. The voiceover, clearly presented to appear to be Kay Hagan's, is shocking even to the most veteran of political observers. Kay Hagan has never made such a statement. Despite knowing this, you purposely made it appear that she did. The only accurate voiceover was that of Senator Dole endorsing this defamatory advertisement.

The truth, of which you are both well aware, is that on September 15, Kay Hagan attended a fundraiser in Boston at the home of Wendy Kaminer and Woody Kaplan. The event was hosted by Senator John Kerry and the Secure Our Senate Majority Host Committee, which included nine chairs and 25 other hosts. Despite your assertions to the contrary, Kay Hagan has never taken any contributions from the Godless Americans PAC. A simple review of Ms. Hagan's Federal Election Commission report reveals her campaign has never taken money from the Godless Americans PAC.

Your advertisement features two members of the Godless Americans PAC: Ellen Johnson and David Silverman. However, Kay Hagan has not received any campaign contributions from these individuals. By using them in your footage, you falsely imply that Kay Hagan has a

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relationship with them, shares their view and has accepted their donations. All of this you said knowing that such statements and implications were as far from the truth as possible.

The truth, of which you are well aware, is very simple:

- **Kay Hagan Is A Devout Christian.**
- **Kay Hagan Is An Elder At First Presbyterian Church of Greensboro.**
- **Kay Hagan Has Taught Sunday School.**
- **Kay Hagan Worked Tirelessly As An Active Member Of The Capital Campaign For First Presbyterian Church.**
- **Kay Hagan Attends Worship Services, Her Sunday School Class And Bible Study At First Presbyterian Church.**

Kay Hagan has been active in her community, raising money for local causes, helping out at the Bell House and the Moses Cone Hospital, volunteering with the Junior League and leading a Girl Scout troop. Kay Hagan has put her Christian faith to work in the community. Your suggestion of anything less than that through your television advertisement is false, demeaning and defamatory.

You have clearly stooped to a level that is not protected speech and has no place in our public discourse. The United States Supreme Court had exactly your type of behavior in mind when it held over forty years ago that

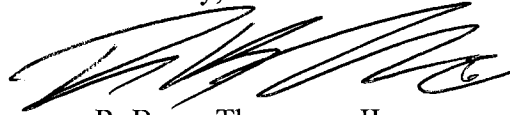
At the time the First Amendment was adopted, as today, there were those unscrupulous enough and skillful enough to use the deliberate or reckless falsehood as an effective political tool to unseat the public servant or even topple an administration. That speech is used as a tool for political ends does not automatically bring it under the protective mantle of the Constitution. For the use of the known lie as a tool is at once at odds with the premises of democratic government and with the orderly manner in which economic, social, or political change is to be effected. Calculated falsehood falls into that class of utterances which are no essential part of any exposition of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality. Hence the knowingly false statement and the false statement made with reckless disregard of the truth, do not enjoy constitutional protection.

Garrison v. Louisiana, 379 U.S. 64, 75, 13 L. Ed. 2d 125, 133 (1964).

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Please contact me or have your legal counsel contact me should you have any questions concerning this letter. We expect to receive prompt and adequate assurances that you will cease running this defamatory advertisement.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Bruce Thompson II', with a stylized flourish at the end.

R. Bruce Thompson II

RBT/lrb

cc: The Honorable Kay Hagan

HAGAN HAS NEVER SUPPORTED THE AGENDA OF THE GODLESS AMERICANS PAC

Hagan Does Not Support The Views Presented In Dole's Ad. After Dole criticized Hagan for attending a fundraiser with an individual affiliated with the Godless Americans PAC, the *Fayetteville Observer* editorialized, "Hagan did attend a fundraiser in September hosted by author Wendy Kaminer and her husband Woody Kaplan...But that doesn't make Hagan an atheist or anti-American. Hagan is an elder at the First Presbyterian Church in Greensboro and she does not support removing the 'Under God' from the Pledge of Allegiance." [Fayetteville Observer editorial, [10/15/08](#)]

Raleigh News & Observer: Mailer Sponsored By Dole "Incorrectly Suggests" Hagan Shares The Views Of Godless Americans PAC. The *Raleigh News & Observer* Under the Dome blog responded to a mailer sent out by the North Carolina Republican Party and Elizabeth Dole trying to link Hagan with the Godless Americans PAC, which advocates for the separation of church and state. It claimed "Some readers may be left with the impression that Hagan supports the PAC's position on the Pledge of Allegiance, Christmas and the Boy Scouts — or that Hagan is an atheist... the mailer incorrectly suggests that she shares the views of the Godless Americans PAC on the Pledge of Allegiance and the Boy Scouts." The Dole campaign also released a web video making similar allegations. [ABC News Blog, [10/18/08](#); Raleigh News & Observer Under The Dome Blog, [10/8/08](#)]

- **Hagan Does Not Support Removing "Under God" From The Pledge Of Allegiance.** According to the *Raleigh News & Observer* Under the Dome blog's fact check, the Hagan campaign claimed Hagan does not support removing "Under God" from the Pledge of Allegiance. [Raleigh News & Observer Under The Dome Blog, [10/8/08](#)]
- **Hagan Does Not Support Eliminating The Christmas Holiday.** According to the *Raleigh News & Observer* Under the Dome blog's fact check, Hagan does not support eliminating the Christmas holiday, and "her family often spends part of Christmas morning at a home for severely handicapped people, where they cook breakfast, wash dishes and play Santa Claus to relieve the home's staff." [Raleigh News & Observer Under The Dome Blog, [10/8/08](#)]
- **Hagan Does Not Support The Government Interfering In The Boy Scouts' Operations.** According to the *Raleigh News & Observer* Under the Dome blog's fact check, "Hagan's son is an Eagle Scout. Her campaign said that while Hagan opposes discrimination, she believes questions about who can be troop leaders is a decision for the Boy Scouts, not Washington, to make." [Raleigh News & Observer Under The Dome Blog, [10/8/08](#)]
- **Hagan Does Not Support Altering U.S. Currency.** Although a web video produced by the Dole campaign claimed the Godless Americans PAC would like to, among other issues, erase "in God we trust" from U.S. currency, Hagan specifically stated she opposes that idea. [ABC News Blog, [10/18/08](#)]