



August 17, 2020

**BY EMAIL**

[REDACTED]

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As it becomes clear that a Super PAC known as America First Action (“AFA”) intends to use your airways to spread inaccurate information to Pennsylvanians concerning Vice President Biden’s position on fracking, I write to follow up on our campaign’s prior letter of August 7, 2020.

In the interim, there have been two material developments. First, AFA has placed another ad (available [here](#)) repeating the same debunked claims that: (i) Vice President Biden plans to “eliminate fracking,” which he decidedly does not; and (ii) this purported ban, which does not exist, will “kill up to 600,000 jobs.” Second, AFA’s law firm sent a letter that concedes the fundamental inaccuracy of these claims, but attempts to wrap its concession in rhetoric about political debate that is inapplicable to intentional falsehoods.

Beginning with Vice President Biden’s actual policy: He supports “banning only new oil and gas permits, fracking included, on federal land.”<sup>1</sup> Even AFA’s lawyers concede the point, as they must, quoting *USA Today*: “It is true that Biden has said he wants to stop new permits for fracking” on federal land.<sup>2</sup>

Having acknowledged the truth of Vice President Biden’s actual position, AFA’s counsel transitions into the falsehood at the heart of their client’s advertising. They claim that a bar on “new fracking [permits] is functionally the same as banning fracking.”<sup>3</sup> But that is false.

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<sup>1</sup> Ellen Knickmeyer & Calvin Woodward, “AP Fact Check: Trump distorts Biden’s position on fracking,” AP (Jul. 31, 2020), available [here](#).

<sup>2</sup> AFA Letter, p. 2 (Aug. 10, 2020), quoting Steve DeVane, “Fact Check: Joe Biden wants to eliminate new fracking permits, not all fracking,” USAToday (Jun. 19, 2020), available [here](#).

<sup>3</sup> AFA Letter, p. 2-3 (Aug. 10, 2020).

The restrictions proposed by Vice President Biden apply only to federal land; “[m]ost fracking, however, is reportedly done on private or state-owned land, which would not be stopped under the plan Biden has announced.”<sup>4</sup> And a decision not to issue new permits on federal land, would have no effect on the permits that already have been issued.<sup>5</sup>

AFA proceeds to another falsity: that the alleged ban, which does not exist, will “kill up to 600,000 jobs.” As the *Philadelphia Inquirer* has recently reported, when fact-checking this very same claim, “[a] recent U.S. Bureau of Labor Statistics report shows that 20,146 people are currently employed in Pennsylvania’s oil and natural gas industry.”<sup>6</sup> So, the ad makes up a policy, ascribes it to Vice President Biden, and then says the nonexistent policy will result in job losses of **30 times** more people than actually work in the industry.

These are falsehoods. Even Facebook, which has an unusually permissive stance on false advertising, has refused to run AFA advertisements making the identical claims, as its [Ad Library](#) reflects.

It is notable, too, that the news programs shown to your viewers have debunked these claims. Yet, you continue to accept advertising dollars to allow AFA to spread them further. This incongruence is a disservice to your viewers and a misleading business practice. We noted the assertions of AFA’s counsel that propagation of its falsehoods are somehow in the public interest, and that “robust, wide-open debate” is facilitated by promotion of known lies. We offer a different benchmark: respect your viewers by declining to run content that you know to be false. On this score, the law and the public interest are aligned. See *New York Times v. Sullivan*, 376 U.S. 254 (1964).

We ask for the prompt removal of these advertisements. We will not stand by and allow AFA to lie to Pennsylvanians about Joe Biden.

Sincerely,

/s/ *M. Patrick Moore Jr.*

M. Patrick Moore Jr.  
Deputy General Counsel

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<sup>4</sup> D’Angelo Gore, “Misleading Ad Targets Biden on Fossil Fuels, Fracking,” FactCheck.org (Jun. 10, 2020), available [here](#).

<sup>5</sup> Clifford Krauss & Ivan Penn, “Oil and Gas Groups See ‘Some Common Ground’ in Biden Energy Plan,” *New York Times* (Jul. 22, 2020), available [here](#).

<sup>6</sup> Jessica Calefati, “No, Joe Biden Doesn’t Want to Ban Fracking or Kill the Pennsylvania Jobs it Supports,” *Philadelphia Inquirer* (Jul. 21, 2020), available [here](#).