J. MATTHEW WOLFE, ESQUIRE ID #34814 4256 Regent Square Philadelphia, PA 19104 (215) 387-7300 Matthew@Wolfe.org

Attorney for Complainant

KAREN BROWN, &	: FEDERAL COMMUNICATIONS : COMMISSION
ELECT KAREN BROWN FOR MAYOR	: COMMISSION
V.	: POLITICAL MATTER :
NBCUNIVERSAL, INC.	EXPEDITED CONSIDERATION EXPEDITED
T/A NBC10 WCAU-TV	: REQUESTED

MEDIA COMPLAINT

And now, Karen Brown and her campaign committee, Elect Karen Brown for Mayor, through her attorney, J. Matthew Wolfe, Esquire, respectfully requests that the Federal Communications Commission enforce the Equal Time provision of the U.S. Code, respectfully representing as follows:

 Karen Brown is a legally qualified candidate for Mayor of Philadelphia pursuant to 47 U.S.C. Section 315. She is the Republican Party nominee having won a contested Republican Primary.

2. Elect Karen Brown for Mayor is her authorized political action committee pursuant to state law and city ordinance.

3. NBCUniversal, Inc. is a corporation that owns Philadelphia television station NBC10, a broadcast television station in Philadelphia broadcasting on Channel 10 and bearing the call letters WCAU.

4. Michael Nutter is also a legally qualified candidate for Mayor of Philadelphia pursuant to 47 U.S.C. Section 315. He is the Democratic Party nominee having won a contested Democratic Primary.

5. On Tuesday, September 27, 2011, from 7:00 P.M. until 7:30 P.M., NBCUniversal, Inc. gave Candidate Nutter a free half hour of airtime for what was billed as a "live town hall event." The program aired on NBC 10 from 7:00 P.M. until 7:30 P.M. and continued on NBC Philadelphia Nonstop, their cable TV outlet, and on their website, NBCPhiladelphia.com, for the entire hour from 7:00 P.M. until 8:00 P.M. (A copy of a press release from NBC10 promoting the event is attached hereto and incorporated herein by reference, marked as Exhibit A.)

6. This event was a special program, presented for the first time just weeks from the November 8, 2011 General Election and was heavily promoted not only on the NBCPhiladelphia.com website but in many announcements on WCAU TV. (An excerpt from an advertisement promoting this program on the NBCPhiladelphia.com website is attached hereto and incorporated herein by reference, marked as Exhibit B.)

7. Said event was promoted on Candidate Nutter's campaign website, Nutter2011.com and it was reported that Mark McDonald, the principal representative in the Mayor's Office, stated that Sheila Simmons in the Nutter for Mayor office should be fielding questions about the campaign appearance on NBC10's Ask the Mayor program. (Ms. Simmons did point the finger back at Mr. McDonald.) (A copy of an excerpt from the Nutter2011.com website is attached hereto and incorporated herein by reference, marked as Exhibit C. A copy of the news report which appeared on the Philly.com website and was published in the print edition of The Philadelphia Inquirer is attached hereto and incorporated herein by reference, marked as Exhibit D.)

8. Karen Brown, through counsel, wrote a letter to NBC10 requesting equal time pursuant to 47 U.S.C. Section 315. (A copy of said letter is attached hereto and incorporated herein by reference, marked as Exhibit E)

9. NBC10 initially stated publically that they did not believe that the equal time provisions applied, but shortly thereafter stated that they would afford her equal time. (A copy of the news report which appeared on the Philly.com website is attached hereto and incorporated herein by reference, marked as Exhibit F.)

10. Kathleen Burke from NBC10 extended a formal offer to appear on their air on September 27, 2011 and offered to arrange for a representative to discuss specifics. (A copy of the email stream from Ms. Burke with Karen Brown's campaign manager and counsel is attached hereto and incorporated herein by reference, marked as Exhibit G.)

Chris Blackman, the Vice President of News for NBC10/WCAU TV
 contacted counsel on September 29, 2011 and requested a telephone call on Friday morning,
 September 30, 2011. (A copy of the email stream from Mr. Blackman and counsel for Karen Brown is attached hereto and incorporated herein by reference, marked as Exhibit H.)

Said phone conference took place with Mr. Blackman and another NBC10 12. official on the line with counsel for Karen Brown. Karen Brown was not on the line but was in the room with her counsel. Mr. Blackman initially asked counsel what Karen Brown would like to see happen. Counsel expressed that she wanted a town hall program substantially similar to that provided to Candidate Nutter in a similar time slot with similar promotion of the event. Mr. Blackman stated that NBC10 felt that the town hall format provided to Candidate Nutter was inappropriate for Candidate Karen Brown. He stated that they would allow Karen Brown to be a guest on a regularly scheduled program, NBC10@Issue, which is presented every Sunday morning and moderated by Steve Highsmith. Counsel responded that Karen Brown felt that the town hall format provided for Candidate Nutter was just as appropriate for Candidate Karen Brown as it was about voters being able to ask the candidates what their vision for the city would be if they are elected on November 8, 2011. Notwithstanding that, a special interview with Mr. Highsmith would be acceptable but in a similar time slot to that given to Candidate Nutter and promoted in a similar manner. Mr. Blackman stated that they would discuss the matter and get back to counsel for Karen Brown either that afternoon or at the latest on Monday morning, October 3, 2011.

13. As of the present time, no representative of NBC10 has contacted counsel for Karen Brown.

14. The offer to appear on NBC10@Issue is in effect no offer. Karen Brown appeared on the program in advance of the spring Primary Election along with her primary opponent. Immediately after the program, she asked Mr. Highsmith whether if she won she could appear on the program again in advance of the General Election. Mr. Highsmith responded in the affirmative, saying that they would certainly ask both her and Candidate Nutter to appear in the program either together or separately prior to the General Election.

15. NBCUniversal, Inc. holds a license to broadcast over the public airwaves on Channel 10 in Philadelphia.

16. Both Michael Nutter and Karen Brown are legally qualified candidates for Mayor of Philadelphia in the November 8, 2011 General Election.

17. NBCUniversal, Inc. permitted Candidate Nutter to use their station and broadcast a program on its licensed airwaves for a special program. This was a great benefit to his campaign for election. In effect it was a half hour in-kind contribution of a commercial by NBCUniversal. They also promoted the event very heavily on the air and on their website. Each of these promotions mentioned Candidate Nutter by name, reinforcing his name recognition and enhancing his chances for success in the General Election. The program is still being promoted on their website, appearing with the ability to download or view portions of the program. (A copy of an excerpt from the NBCPhiladelphia.com website is attached hereto and incorporated herein by reference, marked as Exhibit I.)

18. This program did not fall into any category which would be permitted under 47 U.S.C. Section 315, specifically it was not a bona fide newscast, a bona fide news interview, a bona fide documentary or on-the-spot coverage of bona fide news events.

19. Licensed broadcasters are granted exclusive use of a limited and valuable part of the public domain, and with that franchise comes a requirement to accept enforceable public obligations. The Equal Time provisions are part of that obligation, necessary so that broadcasters do not use the public resources to unduly influence elections.

20. Karen Brown is entitled to an equal amount of airtime in a similar format in a similar time slot with similar promotions as was afforded Candidate Nutter by NBCUniversal, Inc.

21. This is a political matter and there is a narrow window for equal time to have an impact on the election. Any positive outcome coming too close to November 8, 2011 or afterwards would be a Pyrrhic victory. It is imperative that this matter receive expedited consideration.

WHEREFORE, your complainant respectfully requests the Federal Communications Commission to order NBCUniversal, Inc. to comply with the Equal Time provisions of 47 U.S.C. Section 315 and order that Karen Brown be afforded an equal amount of airtime for a program in a substantially similar time slot promoted on-air in a substantially similar manner to the free airtime that was afforded to Candidate Nutter.

Respectfully submitted,

ANA Min Hell

J. MATTHEW WOLFE, ESQUIRE Attorney for Karen Brown

EXHIBIT A

Monday, September 26, 2011

FOR IMMEDIATE RELEASE

MEDIA ADVISORY

MAYOR NUTTER, NBC10 TO HOST "ASK THE MAYOR"

WHO: Mayor Michael A. Nutter

WHAT: NBC10 will host a live town hall event—Ask the Mayor—airing live on NBC10 from 7:00 PM to 7:30 PM and on NBC Philadelphia Nonstop from 7:00 PM – 8:00 PM and streamed live on www.nbcphiladelphia.com.

During the town hall, Mayor Nutter will answer questions asked via Twitter, Facebook, email, and from a live studio audience. Questions can be asked using the #TweetNutter hashtag, posting on the City of Philadelphia or NBC10 Facebook pages or emailing AskTheMayor@NBCPhiladelphia.com.

Media can RSVP by email to Kathleen.Burke@nbcuni.com or (610)668-5773.

WHERE: NBC10 Studio, 10 Monument Road, Bala Cynwyd, PA 19004

WHEN: Tuesday, September 27, 2011 7:00 pm

EXHIBIT B



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HOME > NEWS > LOCAL

NBC 10 Presents: Ask the Mayor

Have a question for the Mayor?

By NBC 10 Philadelphia Staff | Monday, Sep 26, 2011 | Updated 9:21 AM EDT





Do you have an idea or an issue you want to get in front of Philadelphia Mayor Michael Nutter? Now's your chance.

NBC10 is hosting a live town hall event -- Ask The Mayor -- at 7 p.m on Tuesday, Sept. 27. The program will air on NBC 10 from 7 to 7:30 p.m., and on NBC Philadelphia Nonstop for an entire hour from 7-8 p.m. You ask the questions and Mayor Nutter answers them. We'll also stream the event live on nbcphiladelphia.com as well as on the NBC Philadelphia and City of Philadelphia Facebook pages.

You'll have several ways to get your question or concern addressed. Just pick your medium:

Twitter: Follow the conversation and ask the Mayor questions using the #TweetNutter hashtag





Arrest Made in Mother, Daughter Murders



Plastic Surgery: Celebrities Then and Now

FOLLOW NBCPHILADELPHIA



Facebook: Post your question on either Facebook page.

Email: AskTheMayor@NBCPhiladelphia.com

It's your chance to talk to the mayor about the issues that are most important to you. Your city. Your mayor. Your question.

In the days leading up to the town hall, check back here to read the latest...

Fan, follow and download: Get the latest from NBCPhiladelphia.com anytime, anywhere. Follow us on Twitter, Facebook, our mobile site and NBC Philadelphia. Sign up for our breaking news newsletter. And, get breaking news delivered right to your mobile phone -- just text PHIBREAKING to 639710 to sign up. (Message and data rates may apply.)

Posted Thursday, Sep 15, 2011 - 10:01 AM EDT

72	end 61 Rec	Send Send	Places on this page			
This story make	es me feel:					
BORED	THRILLED	FURIOUS	SAD	HAPPY	INTRIGUED	67% BORED

Leave Comments

EXHIBIT C



Ν	u	tI	e	r		

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EXHIBIT D





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1

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Workers Comp - Attorneys

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"First I asked if I could be part of it," Brown said. "She said no. Then I asked if they would give me equal time. She said no. . . . I asked if I could attend as part of the audience and she said no. The mayor's people are selecting the audience."

Burke said both the Mayor's Office and NBC10 invited people to join the studio audience, estimated at 70 people. She said a "tech team" of NBC personnel would screen the questions, most of them to be drawn from social media and e-mail, and that the Mayor's Office would have no influence on which questions were aired.

"This is a long-planned forum designed to give the people of Philadelphia an opportunity to directly ask their mayor about issues of importance to them and their community," Burke said in a statement. "It is not a campaign event or a political debate."

Nutter's principal representatives - Mark McDonald in the Mayor's Office and Sheila Simmons in his reelection campaign office - each said the other should be handling questions about Nutter's TV appearance.

"This is not a campaign event," said Simmons. "This is part of his legitimate work in the position of mayor. . . . He can't stop being the mayor, or going before the press, just because he's running for reelection."

J. Matthew Wolfe, a lawyer and Republican ward leader in University City, fired off a letter to Burke on Brown's behalf, requesting equal broadcast time under federal law.

"The Equal Time provisions [are] necessary so that broadcasters do not use the public resources to unduly influence elections," Wolfe wrote.

The equal-time requirements do not apply to coverage of news events and documentaries, Wolfe noted. He added: "I do not believe that the special, heavily advertised program that you have scheduled just weeks before the election would qualify under any of those exceptions."

"If it is determined that Equal Time provisions apply in this situation, we will of course comply," Burke said in her statement. She left it unclear who would make that determination - whether the station planned to consider the issue after its broadcast, or whether Brown would have to appeal to federal authorities.

Contact staff writer Bob Warner at 215-854-5885 or warnerb@phillynews.com.

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Get Warren's Next Email

EXHIBIT E

LAW OFFICES

J. MATTHEW WOLFE 4256 REGENT SQUARE PHILADELPHIA, PA 19104

(215) 387-7300 Matthew@Wolfe.org

September 26, 2011

Ms. Kathleen Burke NBC10 10 Monument Road Bala Cynwyd, PA 19004

> Re: Ask the Mayor Program Scheduled 7PM, 9/27/11

Dear Ms. Burke:

Please be advised that I represent Karen Brown, the Republican candidate for Mayor in the November 8, 2011 election. I am writing to you because you were the point of contact in the press release sent out regarding the "Ask the Mayor" program scheduled for tomorrow evening. I did leave you a telephone message.

The program is billed as a live town hall event to be carried on NBC 10 where Michael Nutter, the Democratic candidate for Mayor, will answer questions from a live studio audience as well as from other sources. You told Ms. Brown that the live studio audience was by invitation only and controlled by candidate Nutter and his staff.

I formally request equal time on behalf of Ms. Brown pursuant to 47 U.S.C.A. Section 315. If you would like this request to be addressed to the station generally, to some individual at the station or to counsel, please notify me of that and I will be happy to cooperate, although I believe that this notice is sufficient under the statute.

I NBC10 is a licensee under the FCC. Licensed broadcasters are granted exclusive use of a limited and valuable part of the public domain, and with that franchise comes a requirement to accept enforceable public obligations. The Equal Time provisions are part of that obligation, necessary so that broadcasters do not use the public resources to unduly influence elections.

You are not under any obligation to allow candidates to use your station, but when you permit a legally qualified candidate such use the law requires that equal opportunity be given to all other such candidates for that office. Michael Nutter is a legally qualified candidate for Mayor, as is Karen Brown.

I recognize that there are circumstances whereby a legally qualified candidate can appear that do not trigger application of the Equal Time provisions, but those are limited to any 1) bone fide newscast, 2) bona fide news interview, 3) bona fide news documentary or 4) on-the-spot coverage of bona fide news events. I do not believe that the special, heavily advertised program that you have scheduled just weeks before the election would qualify under any of those exceptions.

Thank you for your consideration in this matter.

Sincerely,

J. Matthew Wolfe

JMW/mbs Sent via email to Kathleen.Burke@nbcuni.com

EXHIBIT F



EXHIBIT G

From: "J. Matthew Wolfe" <matthew@wolfe.org> Date: September 28, 2011 3:28:17 AM EDT To: Kathleen.burke@nbcuni.com Cc: Karen Brown <kbrown@karenbrownmayor.com>, gene@karenbrownmayor.com Subject: Karen Brown Campaign

Dear Ms. Burke:

Thank you for your prompt response to our request. Karen has asked me to get back to you.

The campaign is certainly open to appearing on the air as Michael Nutter did. I would be happy to be the point of contact.

Sincerely,

Matthew Wolfe

-----Original Message-----From: <u>gene@karenbrownmayor.com</u> Date: Tue, 27 Sep 2011 20:41:00 To: Karen Brown for Mayor<<u>kbrown@karenbrownmayor.com</u>> Reply-To: <u>gene@karenbrownmayor.com</u> Subject: Fw: Mayor Nutter Town Forum

Copy of the email Sent via BlackBerry by AT&T

-----Original Message-----From: "Burke, Kathleen (NBCUniversal, WCAU)" <<u>Kathleen.burke@nbcuni.com</u>> Date: Tue, 27 Sep 2011 16:21:45 To: <<u>gene@karenbrownmayor.com</u>> Subject: RE: Mayor Nutter Town Forum

Mr. VanArsdale:

As I mentioned when we just spoke, in response to your phone call from yesterday, we would like to extend an offer for Karen Brown to appear on our air on a date and time to be determined.

Please let me know if your campaign is open to this, and I'll arrange for a representative from NBC 10 to get in touch with your team before week's end to discuss specifics.

Regards,

Kathleen Burke

J. Matthew Wolfe Law Offices of J. Matthew Wolfe 4256 Regent Square Philadelphia, PA 19104 (215) 387-7300 Matthew@Wolfe.org

EXHIBIT H

From: "Blackman, Chris (NBCUniversal, WCAU)" <Chris.Blackman@nbcuni.com> Date: September 29, 2011 3:23:25 PM EDT To: "J. Matthew Wolfe" <Matthew@wolfe.org> Cc: "Brown Karen" <kbrown@karenbrownmayor.com> Subject: RE: Friday Call?

Thanks Matt. My direct line is 610-668-5654.

Best,

Chris

From: J. Matthew Wolfe [mailto:Matthew@wolfe.org]
Sent: Thursday, September 29, 2011 3:14 PM
To: Blackman, Chris (NBCUniversal, WCAU)
Cc: Brown Karen
Subject: Re: Friday Call?

Dear Chris:

I put it on my calendar. The number below will ring to my cell. Why don't you email me a number in case I don't hear from you.

Thanks.

Sincerely,

Matt

On Sep 29, 2011, at 3:05 PM, Blackman, Chris (NBCUniversal, WCAU) wrote:

Mr Wolfe, Chris Blackman here at NBC10. Are you available for a call tomorrow at 11am? Best,

Chris

CHRIS BLACKMAN VP of News NBC10/WCAU TV chris.blackman@nbcuni.com

J. Matthew Wolfe Law Offices of J. Matthew Wolfe 4256 Regent Square Philadelphia, PA 19104 (215) 387-7300 Matthew@Wolfe.org

EXHIBIT I



HOME > NEWS > POLITICS

Video: Mayor Nutter Answers Your Questions

By Karen Araiza | Thursday, Sep 29, 2011 | Updated 3:37 PM EDT

View Comments (0)	Email Print	6	Recommend	Send	0	



In all, we had more than 350 questions from people for Philadelphia Mayor Michael Nutter. He answered 31 of those live Tuesday night during our Ask The Mayor town hall event.

• Ask The Mayor: The Most Pressing Issues

We've put the video clips for those specific questions below. Right now we're pulling all the other questions together into a simple format for the mayor to answer them, and more importantly, for you to be able see all the remaining questions and answers.

Ask The Mayor DROP



Ask The Mayor: Philly's Waterfront



TOP STORIES

TODA

MOST WATCHED MOST EMAILED

Ask The Mayor: Property Taxes

Ask The Mayor: AIDS Housing Issue

Ask The Mayor: Cheesesteaks?? Up Top!!

Ask The Mayor: Recycle Scavengers

Ask The Mayor: We Need More Jobs

As The Mayor: Casino Revenues

Ask The Mayor: Can We Talk About Flood Plans?

Ask The Mayor: Our Streets Are a Wreck

Ask The Mayor: What's The City's Most Critical Issue?

Ask The Mayor: Are We Snow-Ready This Year?

Ask The Mayor: Police and People Collaborating

Ask The Mayor: Police My Own Streets?

Ask The Mayor: Ackerman and the S.R.C.

Ask The Mayor: Flash Mobs, Curfews

Ask The Mayor: The Integrity of City Leaders

Ask The Mayor: How Do We Get Your Attention?

Ask The Mayor: Idea to Help the Homeless

Ask The Mayor: When's That Sales Tax Hike Going Away?

Ask The Mayor: Bike Safety And Respect on the Road

Ask The Mayor: How Do We Stop Brain Drain?

Ask The Mayor: Workers Abusing City's Car and Phone Use

Ask The Mayor: The Tax Abatement Debate

Ask The Mayor: The Prep

Ask The Mayor: Trash Transplant

Ask The Mayor: Trash (La Vern)

Ask The Mayor: Trash. Trash, Trash

Ask The Mayor: What Happened to WiFi For All?

Ask The Mayor: How Can We Help You?



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