

Attorney Lester A. Pines  
lpines@pinesbach.com

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**VIA EMAIL & U.S. MAIL***pahoffman@hoffmanlegal.net*Mr. Paul A. Hoffman  
Hoffman Legal Corporation  
Individual Rights Affiliate Counsel  
27405 Puerta Real, Suite 250  
Mission Viejo, CA 92691Re: Your August 17, 2018 Letter to Representative Chris Taylor and  
The Center for Media and Democracy

Dear Mr. Hoffman:

I represent Representative Chris Taylor and the Center for Media and Democracy ("CMD"). You wrote to them on August 17, 2018 regarding an article by Representative Taylor entitled "ALEC in Disarray," that was posted on CMD's websites. Your letter claims that Representative Taylor's description of your client, David Horowitz, as a "hatemonger" and "anti-Islamic," based on a published report by the Southern Poverty Law Center ("SPLC"), is defamatory and demands a retraction and apology.

The article by Representative Taylor, which was published by CMD, addressed matters of public concern raised during a meeting of the American Legislative Exchange Council ("ALEC"), an organization which is at the forefront of numerous nationwide conservative policy initiatives. The article discusses the range of viewpoints presented at a recent ALEC conference as well as the tensions generated by those differing viewpoints. Because David Horowitz spoke extensively at the ALEC conference, Representative Taylor used him as an example of ALEC's changing tactics and rhetoric.

"When the speech is of public concern and the plaintiff is a public official or public figure, *the Constitution clearly requires the plaintiff to surmount a much higher barrier* before recovering damages from a media defendant than is raised by the common law." *Philadelphia Newspapers, Inc. v. Hepps*, 475 U.S. 767, 775, 106 S. Ct. 1558, 1563, 89 L. Ed. 2d 783 (1986) (emphasis added). This high barrier exists because of the Supreme Court's "[c]oncern[s] that traditional state law actions for defamation might interfere with the

First Amendment guarantees of free expression. . .” *Brown & Williamson Tobacco Corp. v. Jacobson*, 827 F.2d 1119, 1128 (7th Cir. 1987).

“[C]ommonly, those classed as public figures have thrust themselves to the forefront of particular public controversies in order to influence the resolution of the issues involved. . . . they invite attention and comment.” *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 345, 94 S. Ct. 2997, 3009, 41 L. Ed. 2d 789 (1974). David Horowitz is a public figure. A simple internet search proves that in about two seconds.

Because David Horowitz is a public figure, and Representative Taylor’s article addresses matters of public concern, to prove that he was defamed, your client would have to satisfy the high standard set out in *New York Times v. Sullivan*, 376 U.S. 254, 84 S.Ct. 710, 11 L.Ed.2d 686 (1964), which requires him to prove (by clear and convincing evidence, see *Brown & Williamson Tobacco Corp. v. Jacobson*, 827 F.2d 1119, 1128 (1987)) that the alleged defamatory statement was made with “‘actual malice’ — that is with knowledge that it was false or with reckless disregard of whether it was false or not.”

While David Horowitz may not believe that the SPLC is a credible source, Representative Taylor and a vast number of other people do, including Senator Patrick Leahy.<sup>1</sup> Your assertion that Representative Taylor and the CMD had an obligation to research criticisms of the SPLC and weigh them to determine the SPLC’s credibility before relying on its characterization of your client is wrong.

Neither Representative Taylor nor the CMD defamed your client. Neither of them will publish a retraction. They stand by the accuracy of the article’s statements as written. They did, however, modify a sentence in the article to clarify the source of the quote from the SPLC.

Were your client to bring a suit for defamation against Representative Taylor or CMD, it would be dismissed as frivolous and they would seek attorneys’ fees and expenses, and other sanctions.

Very truly yours,

PINES BACH LLP



Lester A. Pines

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<sup>1</sup> <https://www.judiciary.senate.gov/download/sessions-responses-to-leahy-follow-up-questions-for-the-record>