

# Exhibit 3



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www.murrayenergycorp.com

June 12, 2017

VIA EMAIL AND OVERNIGHT MAIL

Mr. Richard Plepler  
Chairman and Chief Executive Officer  
Home Box Office, Inc.  
1100 Avenue of the Americas  
New York, New York 10036  
[REDACTED]

Ms. Viviane Eisenberg  
Executive Vice President Legal Affairs  
Home Box Office, Inc.  
1100 Avenue of the Americas  
New York, New York 10036  
[REDACTED]

Mr. Charles Wilson  
Senior News Producer  
Last Week Tonight with John Oliver  
1100 Avenue of the Americas  
New York, New York 10036  
[REDACTED]

**RE: Cease and Desist Making False and Defamatory Statements Against  
Mr. Robert E. Murray and Murray Energy Corporation**

Dear Mr. Plepler, Ms. Eisenberg and Mr. Wilson:

We are absolutely shocked and dismayed by the false and defamatory nature of the material which Mr. Charles Wilson has threatened to include about Murray Energy Corporation (“Murray Energy”) and Mr. Robert E. Murray, Murray Energy’s Founder, Chairman, President, and Chief Executive Officer, in a June 18, 2017 segment for the “Last Week Tonight with John Oliver” television program. We hereby demand that you cease and desist from any effort to defame, harass, or otherwise injure Mr. Murray or Murray Energy. Failure to do so will result in immediate litigation, as we have done in recently suing The New York Times for making certain of the same false and defamatory statements.

Mr. Wilson’s communications, enclosed as Exhibit A, make it is clear that you are planning to regurgitate previously published malicious drivel, which is false, in a blatant effort to attack and harm Murray Energy and Mr. Murray, personally.

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The statements which Mr. Wilson references are outdated, and were false and defamatory when they were made, and remain so. You recklessly rely exclusively on previously discredited media reports.

Broadcast of this material will severely harm the reputation of Mr. Murray and Murray Energy, and cast them in a false light before the public. In the interest of promulgating the truth, the following examines each topic in more detail:

### **I. Supposed Workforce Reductions in 2012**

There is absolutely no connection between the reelection of Mr. Barack H. Obama and the layoffs of 2012, many of which were announced by the Company, but did not materialize. The pending layoffs announced in 2012 were due to the disastrous, anti-coal policies, and the express effort to destroy the United States coal industry, of the Obama Administration. Unfortunately, President Obama accomplished most of the destruction he sought, which is to the detriment of coal mining families, citizens on fixed incomes who are not able to pay their electric bills, and manufacturers whose products must compete in the global marketplace.

Indeed, before the election of Mr. Barack H. Obama as President, the United States mined 1.2 billion tons of coal per year. The policies of the Obama Administration, together with low natural gas prices, reduced this to approximately 650 million tons of steam coal per year. Additionally, prior to the election of Mr. Obama, fifty-two percent (52%) of America's electricity was generated from coal. Today, the percentage is thirty percent (30%). As stated in press releases at the time, Mr. Murray and Murray Energy were forced, based on economic realities, to reduce the workforce in a manner commensurate with this destruction. Once again, Mr. Wilson ignores these facts.

### **II. The Accident at Crandall Canyon**

Joking about this accident is simply cruel and heartless. Miners lost their lives and others were injured in this horrible tragedy. This accident has a lasting impact on many families, our employees, and our Company. When Mr. Murray first learned of the tragic collapse, he rushed to the Mine, arrived within four (4) hours, and then spent the next twenty-eight (28) days on that mountain. He personally attended to some of the dying miners and their families. It was an incredibly difficult time for the families, our employees, and Mr. Murray, personally. We insist that you refrain from making any of the events of August 2007 the butt of your jokes.

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Addressing the merits of what Mr. Wilson included, it is obvious that he has not taken the time to read and understand the Federal Mine Safety and Health Administration's entire report and addenda. Those conducting that analysis conceded that a sudden change in stresses due to a "slip along a joint" or "joint slip in the overburden," similar to the United States Geological Survey's definition of an "earthquake," could have been a factor in triggering the collapse seen on August 6, 2007. Those experts chose not to analyze the seismic data of the triggering event and focused on the secondary collapse, which is a disservice to those miners, their families, and the truth.

In addition, recent studies, which Mr. Wilson ignores, show that the mine collapse was a seismic event originating in the Joe's Valley Fault Zone. More specifically, these studies indicate that the triggering event for the Crandall Canyon seismic disturbance occurred on a subsidiary fault parallel to the Joe's Valley Fault. This is not consistent with normal mining-induced seismicity, and it is a technical way of saying the collapse was caused by what many would characterize as an earthquake. Accordingly, Mr. Murray was correct in his assessment.

### **III. Complaints of Messrs. Harrison and Stolzenfels**

Murray American Energy, Inc. won both of these cases at arbitration, and then amicably resolved these complaints. Murray American Energy, Inc. deeply values the rights and opinions of its employees. Murray Energy Corporation prides itself on running the safest coal mines in the country.

We understand that you may choose to parody the decline of jobs in the United States coal industry, the regulatory reforms of President Donald J. Trump, and the hope of our workers have for a revival of coal jobs. However, ignoring the facts, twisting the truth, and maliciously seeking to injure Mr. Murray and Murray Energy, is inexcusable, particularly at the expense of grieving families.

If you insist on repeating falsehoods pertaining to specific issues relating to Mr. Murray and Murray Energy Corporation, as outlined in Mr. Wilson's communications, we will be forced to seek legal relief, including compensatory and punitive damages, and recovery of attorneys' fees, in order to protect their reputations, and remedy the harm that would be caused by your broadcast.

You have dredged up many of the same blatantly false media statements which we sued The New York Times for publishing. It is clearly your intent to recycle these blatantly false and extremely damaging statements, at a great detriment to Murray

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Energy and Mr. Murray, personally. If you do so, we will pursue our damages to the fullest extent of the law, including to the level of the Supreme Court of the United States, if we must.

Please advise as to what course of action you will take.

Sincerely,

MURRAY ENERGY CORPORATION

Gary M. Broadbent  
Senior Corporate Counsel and  
Director of Investor and Media Relations

Enclosure

**Exhibit A**

***Email Message and Attachment from Mr. Charles Wilson***

----- Original message -----

From: Charles Wilson [REDACTED]  
Date: 6/9/17 10:38 PM (GMT-05:00)  
To: "Broadbent, Gary" [REDACTED]  
Subject: Re: Murray Energy/"Last Week Tonight with John Oliver"

Gary,

I have attached an email that covers the material we might include in our segment for "Last Week Tonight." The piece will not focus on Murray Energy but may include some details that are specific to Murray. (In my document, I have quoted the sourcing I was drawing from just so you can see if you felt there were any inaccuracies or omissions in the sourcing itself.)

I am glad to treat any responses as on background or off-the-record. I wouldn't need any responses until Tuesday night or Wednesday morning; I'll be in the office over the weekend and back on Tuesday afternoon if you want to chat on the phone, or if you have any questions of me.

I appreciate your time, and I hope you're well.

My best,

Charles Wilson

[Charles Wilson](#)

Senior News Producer  
Last Week Tonight with John Oliver

[REDACTED]  
(212) [REDACTED]

**From:** Charles Wilson [REDACTED]  
**Date:** Thursday, June 8, 2017 at 6:55 PM  
**To:** "Broadbent, Gary" [REDACTED]  
**Subject:** Re: Murray Energy/"Last Week Tonight with John Oliver"

Thank you, Gary.

I do understand the sensitivity of it. I'll aim to have an email together for you by tomorrow; I wouldn't need any response until maybe Tuesday evening of next week. I'm also glad to talk just on background/off-the-record after you've seen the email if you have any questions of me.

(I'm a native of W.Va. and [my grandfather was a miner and later chief of the state department of mines.](#))

My best,

Charles

**From:** "Broadbent, Gary" [REDACTED]  
**Date:** Thursday, June 8, 2017 at 6:51 PM  
**To:** Charles Wilson [REDACTED]  
**Subject:** Re: Murray Energy/"Last Week Tonight with John Oliver"

Charles,

Please send me whatever information you plan to use and we'll review. This is obviously a very sensitive matter. Thanks for reaching out.

Gary Broadbent

----- Original message -----

**From:** Charles Wilson [REDACTED]  
**Date:** 6/8/17 6:37 PM (GMT-05:00)  
**To:** "[Media@coalsource.com](mailto:Media@coalsource.com)" <[media@coalsource.com](mailto:media@coalsource.com)>  
**Subject:** Murray Energy/"Last Week Tonight with John Oliver"

Dear Mr. Broadbent (or to whom it may concern),

I am a senior news producer at "[Last Week Tonight with John Oliver](#)," a comedy news show on HBO. We are preparing a segment for our June 18<sup>th</sup> show about the coal industry.

We intended to include some material that is specific to Mr. Bob Murray and Murray Energy, and I wanted to run the relevant material by your office for any clarifications or context you may offer. (We may touch briefly upon the Crandall Canyon mine accident, and the issue of whether there was a naturally-occurring earthquake; I particularly wanted to get Murray's perspective on any details we may include there.) I'd be glad to share the material we may include by email, and I'd welcome any response just on background/off-the-record.

I'm reachable in New York at (212) [REDACTED]; I'd also be glad to try to answer any questions you may have of me. I appreciate your time and hope you're well.

My best,

Charles Wilson

[Charles Wilson](#)

Senior News Producer  
Last Week Tonight with John Oliver

[REDACTED]  
(212) [REDACTED]

Last Week Tonight Season 4

Gary,

I wanted to share below the material we might include about Murray Energy in our piece about the coal industry for “Last Week Tonight with John Oliver.”

In broad strokes, we intend to discuss the decline of jobs in the coal industry, the political criticism of President Obama’s “war on coal,” the recent regulatory rollback by the Trump administration, and the prospect going forward of a revival of coal jobs. In that context, we will address the “war on coal” narrative and mention other pressures on coal jobs outside of regulation—including the competition the coal industry has faced from cheap natural gas and renewable energy, the displacement of mining jobs through mechanization and surface mining, and the competition that Appalachian coal has faced from the Powder River basin coal.

I have included the specific details we might include below that pertain to Murray Energy, particularly where we may be critical of the company. I have also included links to my sourcing so you’ll know where I was drawing any material.

I am glad to receive any clarification and context just on background or off-the-record, as well as any other perspective you might have. Written responses are helpful but if easier I’m also glad to talk by phone. I’m reachable at (212) [REDACTED]. I appreciate your time. **If you could get back to me by Tuesday evening, June 13th,** I’d be most grateful. I will be out of the office on Monday but should be around Tuesday afternoon and throughout the rest of next week. We will refine the piece on Wednesday and Thursday of next week.

My best,

Charles Wilson

**\*The impact of Obama-era regulations, and Murray Energy's November 2012 layoffs:**

\*We intend to say that Murray Energy Corporation is the largest privately-owned coal company in the United States.

<http://www.murrayenergycorp.com/about/>

\*We intend to say Bob Murray, CEO of Murray Energy Corporation, has been clear about his opinions about President Obama's impact on the coal industry. In this context, we might include a video clip in this spirit of this clip of an appearance on Maria Bartiromo's show:

*\*Mr. Murray: "It's a tragedy as to what's happening in the coal fields with the destruction of lives by Barack Obama who is the greatest destroyer America has had."*

[https://archive.org/details/FBC\\_20161004\\_100000\\_Mornings\\_With\\_Maria\\_Bartiromo/start/7320/end/7380](https://archive.org/details/FBC_20161004_100000_Mornings_With_Maria_Bartiromo/start/7320/end/7380)

\*We might include that Murray was so upset by President Obama's reelection in 2012, that he laid off 156 of his own workers the following day, placing the blame on President Obama's coal policies. In that context, we may use a clip from Bret Baier's show here:

\*Fox News Network November 9, 2012: Mr. BAIER: "Murray Energy CEO, Robert Murray, read the prayer to a group of company staff members, quote, "Lord, please forgive me and anyone with me in Murray Energy Corporation for the decisions that we're now forced to make to preserve the very existence of any of the enterprises that you have

*helped us build." Wednesday, Murray laid off more than 150 people at its company and subsidiaries blaming the Obama administration's, quote, "war on coal."*

[https://archive.org/details/FOXNEWS\\_20121109\\_230000\\_Special\\_Report\\_With\\_Bret\\_Baier/start/1680/end/1740](https://archive.org/details/FOXNEWS_20121109_230000_Special_Report_With_Bret_Baier/start/1680/end/1740)

**\*Crandall Canyon mine accident:**

\*We might briefly mention the Crandall Canyon accident. I had read the company's recent legal complaint against the *New York Times* in relation to their editorial coverage.

\*I understood from the complaint that the *Times* didn't contact you before publishing the editorial. I think the *Times* editorial board might have been drawing on its own reporting on August 24, 2007:

\***NY Times:** "As recently as Wednesday night, Mr. Murray, chief executive of the Murray Energy Corporation, continued to insist that the collapse had been caused by a 3.9 magnitude earthquake. He shouted down two reporters who tried to remind him that seismic scientists at the University of Utah and elsewhere were just as certain that the opposite occurred — that coal veins already thinned by a risky form of deep mining had buckled, setting off the collapse that sent seismograph needles spiking."

<http://www.nytimes.com/2007/08/24/us/24murray.html>

\*This AP video from August 7, 2007, has Mr. Murray making the apparent argument that it was a naturally-occurring earthquake that had caused the collapse:

\***Mr. Murray: (Around 1:40):** "Now the Lord has already decided whether they are alive or dead and whether they were killed from the percussion from the earthquake, but it's up to Bob Murray and my management to get the access to them as quickly as we can."

<https://www.youtube.com/watch?v=zUtHxhGDjx0>

\*And this AP article from that same day (August 7, 2007) says that there was a dispute at the time between the company and seismologists over whether it was a natural earthquake—or was a tremor induced by a cave-in:

\*Associated Press: "A fierce dispute erupted over that question Tuesday, with a top mine executive declaring on national television that he has the science to prove a quake caused the collapse. But seismologists said their instruments recorded shaking from the cave-in and not a natural temblor. Scientists believe the seismic waves in the area of the **Crandall Canyon** mine were "the signature of the collapse and that the collapse was not caused by an earthquake," said James W. Dewey, a seismologist at the National Earthquake Information Center in Golden, Colo. Scientists have not ruled out a natural earthquake since the region surrounding the mine is seismically active, and they do not know the exact time the mine collapsed. But, Dewey said, "the data we have seen seem more consistent with the collapse being the cause of the 'earthquake' rather than the other way around." On Monday, University of Utah seismographs recorded seismic waves of 3.9 magnitude near the mine. At least 10 aftershocks were felt more than 24 hours after the collapse, with the strongest registering 2.2 magnitude. Scientists say quakes caused by mine collapses tend to occur at shallower depths and at different frequencies than natural earthquakes. The first motions of the Utah disturbance indicated a downward movement consistent with a collapse, scientists said. If it was a natural quake, it would have produced up and down motions on the seismograms. The quake occurred anywhere from 2,000 to 8,500 feet underground. Mine officials insisted Monday's accident was caused by a natural disaster. "This was caused by an earthquake, not something that Murray Energy ... did or our employees did or our management did," Robert E. Murray, chairman of Murray Energy Corp. of Cleveland, a part owner of the Crandall Canyon

Mine, said at a televised news conference, his voice rising in anger. "It was a natural disaster. An earthquake. And I'm going to prove it to you." The company released a statement saying the depth of the earthquake occurred in a region that was 3,500 feet deeper than where the miners were."

[http://www.washingtonpost.com/wp-dyn/content/article/2007/08/07/AR2007080701425\\_pf.html](http://www.washingtonpost.com/wp-dyn/content/article/2007/08/07/AR2007080701425_pf.html)

\*I just wanted to see if you felt it would be inaccurate to say that the seismic scientists at the time maintained the tremor was related to mining practices even as Mr. Murray insisted the cause of the collapse was a natural earthquake. [I wasn't sure what was meant in the complaint against the *Times* where it says: "The statement is false because the triggering event of the collapse was what is commonly understood as an earthquake."]

\*My understanding from MSHA's ultimate investigation was that they ultimately backed the opinion that the collapse was not a 'natural' earthquake:

\*MSHA report: "The August 6 collapse was not a "natural" earthquake, but rather was caused by a flawed mine design ... Three separate methods of analysis employed as part of MSHA's investigation confirmed that the mining plan was destined to fail. Results of the first method, Analysis of Retreat Mining Pillar Stability (ARMPS), were well below NIOSH recommendations. The second method, a finite element analysis of the mining plan, indicated a decidedly unsafe, unstable situation in the making even without pillar recovery. Similarly, the third method, boundary element analysis, demonstrated that the area was primed for a massive pillar collapse. Seismic analyses and subsidence information employed in the investigation provided clarification that the collapse was most likely initiated by the mining activity."

<https://arlweb.msha.gov/Fatals/2007/CrandallCanyon/FTL07CrandallCanyon.pdf>

**\*Marion County mine production-based bonus program**

\*I wanted to check if Murray had any context or clarification for the *International Business Times*' reporting surrounding the Marion County mine production-based bonus program, particularly the portions included below. (I see that they had been in touch before the publication of the article, and had included a response from Mr. Murray. I just wondered if there was any additional context from Murray's point of view on that story, or anything you felt was misreported):

**\*International Business Times:** "Under the program, workers received bonuses based on the amount of coal they extracted. Many opposed it on safety grounds, including Stolzenfels and Harrison, according to court filings. The latter, in particular, had a history of a speaking out over safety. Meanwhile, the company told miners who disagreed with the plan that they could opt out of it by writing "void" on their checks and returning them. In February 2015, Harrison and Stolzenfels took this route – but not before adding some profanity-laced flair. Harrison's check, for \$11.58, read, "Void Void Kiss My Ass Bob." Stolzenfels' check, for \$3.22, read "Void Eat S--- Bob." The company responded by suspending both of them with "intent to discharge," citing the employee handbook's policy against profanity. Murray Energy CEO Bob Murray told *International Business Times* he never saw the checks, and that his staff took action on their own. "My management has enough respect for me and my company and my people that they said, 'We're not going to have somebody insulting Mr. Murray like that,' " Murray said.

Last Week Tonight Season 4

“We respect him too much, he works too hard for us, too hard for our safety, too hard for keeping our jobs, and they fired ‘em.’”

<http://www.ibtimes.com/cussing-coal-miners-face-against-murray-energy-help-feds-2263919>

That’s all. Many thanks.