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**VIA FACSIMILE (202-219-3923) AND
CERTIFIED MAIL**

Federal Election Commission
999 E Street NW
Washington, DC 20463
ATTN: Office of General Counsel

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
2004 MAR 22 A 11:46

Re: MUR 5402

Dear Federal Election Commission:

On behalf of Bush-Cheney '04, Inc. this letter responds to the allegations contained in the complaint filed with the Federal Election Commission (the "Commission") by George Anderson on or about January 12, 2004.

(1) Overview

The particular allegations in the above-referenced matter have been the subject of a complaint with the Georgia Attorney General, part of a complaint filed with the Georgia State Ethics Commission, and the complaint filed with the Commission in this case, all of which are still pending. The only connection to any federal election is that Mr. Tanenblatt has raised funds for Bush-Cheney '04, Inc (the "Campaign"). There is no allegation or evidence that Mr. Tanenblatt solicited money in excess of the BCRA limits or acted in violation of Commission rules and regulations. Instead, at best, George Anderson infers, from Mr. Tanenblatt's role as a fundraiser for the Campaign and from his previous position as the Governor Sonny Perdue's Chief of Staff, that phone calls that Mr. Tanenblatt made from the Governor's Office (the total cost of which was less than \$100.00 and for which Mr. Tanenblatt reimbursed the State) were fundraising phone calls, thereby resulting in a contribution to the Campaign. The only allegation against the Campaign is that any reimbursement by Mr. Tanenblatt for the phone calls referenced above would exceed the BCRA limit since Mr. Tanenblatt has already contributed the maximum amount to the Campaign.

Although Mr. Tanenblatt is a Campaign fundraising agent, there is no evidence indicating that Mr. Tanenblatt made an in-kind donation to the Campaign. Notwithstanding the complete absence of factual merit to the allegations against Mr. Tanenblatt, Bush-Cheney '04, Inc. has refunded Mr. Tanenblatt's full contribution,

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thereby eliminating any basis for a suggestion that Mr. Tanenblatt has contributed, and Bush-Cheney '04, Inc. has accepted, any amount in excess of the BCRA limit. As the Campaign has no evidence that the calls were related to Mr. Tanenblatt's fundraising efforts, there is no basis for reflecting them as an in-kind contribution, and the complaint should be dismissed.

(2) **Specific Allegations Against Bush-Cheney '04, Inc.**

Mr. Anderson's complaint contains different allegations against the three named respondents in the complaint, i.e., Bush-Cheney '04, Inc.; the Office of the Governor of the State of Georgia; and Mr. Tanenblatt. A careful review of the complaint reveals, however, that there is only one allegation made directly against the Campaign. Specifically, Mr. Anderson alleges that the Campaign violated the Federal Election Campaign Act of 1971, as amended (the "Act") by accepting excessive contributions from Mr. Tanenblatt.

The factual basis for this allegation is as follows. In his complaint, Mr. Anderson notes that Mr. Tanenblatt has contributed \$2,000 to the Campaign. He then alleges that Mr. Tanenblatt exceeded this limit by making an in-kind donation to the Campaign by reimbursing the State of Georgia for the costs of what are alleged to have been long-distance fundraising phone call charges made from the Governor's Office while Mr. Tanenblatt was serving as Chief of Staff to Governor Perdue. In support of this claim, Mr. Anderson has submitted to the Commission a package of virtually indecipherable materials which he contends support his allegations. For the reasons set out herein, Mr. Anderson's allegations are baseless, and there is no reason to believe that the Campaign has violated the Act.

(3) **Response to Allegations Against Bush-Cheney '04, Inc.**

The Campaign instructs all of its fundraising agents to report in-kind donations if and when incurred. In this regard, the Campaign also provides its fundraising agents with a form document to report all such in-kind donations.

The Campaign is not aware of and has no record of any in-kind donation made on its behalf by Mr. Tanenblatt. However, out of an abundance of caution and in order to protect itself and Mr. Tanenblatt, the Campaign has refunded Mr. Tanenblatt's original contribution of \$2000.00. In this regard, Mr. Tanenblatt's refund should not be viewed as evidence of any improper activity, but rather as a guarded effort to avoid any appearance of impropriety.

(4) **Additional Points**

In addition, it should be noted that Mr. Anderson has attached numerous documents to his complaint that appear to have absolutely no bearing whatsoever to his complaint. For example, he has attached (a) copies of Governor Perdue's executive orders (which are irrelevant for purposes of determining whether Mr. Tanenblatt violated federal election law); (b) reimbursement requests for a "Thomas D. Hills" that are not

mentioned, referenced or explained in the complaint; and (c) a copy of Mr. Tanenblatt's calendar (which is irrelevant). The randomness with which Mr. Anderson has thrown documents together and slapped them to the back of the complaint underscores that Mr. Anderson has no real facts upon which to base his complaint: he is simply trying to convince the Commission that, were there is smoke, there must be fire.

(5) **Conclusion**

The Campaign has been very careful in its fundraising efforts and has given detailed instructions to all fundraising agents regarding the reporting of in-kind contributions. Although there is no evidence that the calls referenced in Mr. Anderson's complaint are linked to Campaign fundraising activity, Mr. Tanenblatt reimbursed all charges for long distance calls on his direct line in order to avoid any suggestion of impermissible activity. The total cost of such calls was the de minimis amount of \$83.43. Out of an abundance of caution, the Campaign has refunded all of Mr. Tanenblatt's \$2000.00 contribution. In this regard, the Campaign has taken every precaution to assure that its actions remain above reproach. There is no basis to permit these unfounded accusations to continue, and no reason to believe that a violation of the Act has occurred.

For the foregoing reasons, Bush-Cheney '04, Inc. respectfully requests that the Commission dismiss Mr. Anderson's complaint with regard to the Campaign. Thank you.

Very truly yours,



Thomas Josefiak
General Counsel

STATEMENT OF DESIGNATION OF COUNSEL

Please use one form for each respondent

MUR: **5402**

NAME OF COUNSEL: **Thomas J. Josefiak**

FIRM: **N/A**

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The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

David Herndon

Print Name

3/15/04
Date


Signature

Treasurer
Title

Respondent's Name: **Bush-Cheney '04, Inc.**

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