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FEDERAL ELECTION COMMISSION
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AGENDA ITEM

For Meeting of: 01-29-04

SUBMITTED LATE

MEMORANDUM

TO: The Commission

FROM: Chairman Bradley A. Smith *AKS*

SUBJECT: Draft Advisory Opinion 2004-1 (Bush/Kerr)
Agenda Document 04-08, for January 29, 2004

I would like to submit the following amendment to the draft Advisory Opinion for your consideration.

Delete p. 11, line 3-7. Replace with the following:

The Commission observes that the portions of the Act and the Regulations addressing the candidate authorization statements are addressed to "the candidate" in the singular, and do not anticipate multiple candidates. See 2 U.S.C. 441d(d)(1)(B) and 11 C.F.R. 110.11(c)(3)(ii). While it would be permissible for the Bush and Kerr campaigns to structure dual authorization statements in the advertisement, the Commission will not require such a statement for compliance with the Act. In light of the fact that Bush-Cheney '04 has in fact authorized this advertisement, provided that the authorization statement conveys that both candidates approved the advertisement, it can be made in the voice and with the image of only one of the candidates. For example, the statement provided in the regulations as an example at 110.11(c)(3)(iv)(B) could be adapted and read onscreen by State Senator Kerr as "My name is Alice Forgy Kerr. I am running for Congress and President Bush and I approved this message."