

**Caplin & Drysdale**  
ATTORNEYS

Caplin & Drysdale, Chartered  
One Thomas Circle, NW, Suite 1100  
Washington, DC 20005  
202-862-5000 202-429-3301 Fax  
www.caplindrysdale.com

May 3, 2004

Renee Salzmnn, Esq.  
Office of General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
2005 MAY - 3 P 4: 26

Re: MUR 5379 (Michael B. Fernandez)

Dear Ms. Salzmnn:

On behalf of Respondent Michael B. Fernandez, I am hereby providing you with an amended statement of Mr. Fernandez. With the exception of the first phrase of paragraph five, the attached statement is identical to the statement dated September 18, 2003 submitted by Mr. Fernandez in response to the complaint filed by Peter Deutsch for Senate. Thus, paragraph five had stated, "In early March of 2002," but has now been corrected to state, "In early 2003."

Please do not hesitate to call me with any questions.

Sincerely,

  
Kirk L. Jowers

Enclosure

## **Statement of Michael B. Fernandez**

1. My name is Michael Fernandez. I am providing this statement in response to the complaint filed by Peter Deutsch for Senate in MUR 5379 against Mayor Alex Penelas.
2. I am Chairman and Chief Executive Officer of CAC - CarePlus Health Plans, Inc. ("CarePlus"). I also am the Chairman & CEO of CPHP Holdings, Inc. and Chairman of Healthcare Atlantic Corporation. I have been a healthcare executive for the better part of the past three decades.
3. I have lived in Miami since 1975. It is my home. It is where I raise my family, make my living, and participate in community events. To try and give back to the Miami people and otherwise work to improve this community I have created the Fernandez Family Foundation, Inc., serve on the Board of Directors for the United Way of Miami-Dade County, Florida, and have served on the Board of Directors of the Miami Children's Hospital Foundation. I also have served and contributed to other local charities, government task forces, and political candidates.
4. One government official in particular has stood out as an outstanding supporter of the Miami community, Mayor Alex Penelas. I have observed and worked with Mayor Penelas in a number of capacities. I believe he is someone who truly wants to serve the people of Florida and is extremely effective at doing just that. When I learned that he was considering a campaign to become Florida's next U.S. Senator, I was thrilled. I felt it was a logical step for him and fantastic opportunity for us to be represented by him in our nation's capitol.
5. In early 2003—upon learning that Mayor Penelas planned to announce in the next few weeks once Florida's sitting senator, Sen. Bob Graham, announced his candidacy for president—I spoke to a few of my close friends and colleagues about my desire to volunteer for Mayor Penelas and raise money for him. Among others, I spoke with Bert Valdes, Vice President of CAC CarePlus Medical Centers.
6. Bert shared my enthusiasm for the Mayor and believed others in the CarePlus family might also want to support Mayor Penelas's bid for the U.S.

Senate. In our personal capacities, we both began to look for willing volunteers and contributors for Mayor Penelas.

7. In the latter weeks of March, I began planning a fundraiser to be held in early April. The next time I heard of Bert's efforts was when a Miami Herald reporter Jim DeFede called me seeking comments on an email allegedly sent by Bert. I knew that Bert was going to contact people on Mayor Penelas's behalf, but I did not know how he planned to do it. More specifically, I did not know Bert had sent an email about Mayor Penelas and obviously had not had an opportunity to comment on or edit the email described in Mr. DeFede's March 30, 2003 Miami Herald article.

8. Shortly after reading the article, I spoke with Bert. He was confused and angered over the inaccuracies and mischaracterizations contained in the article. He also told me that he had only sent his email to one administrator at the company, although he acknowledged that he had no way of knowing how many others had been forwarded the email. Bert explained that he had discussed the Penelas candidacy with this administrator and had promised to follow-up with more information — hence the email.

9. In light of the email and the resulting article, I decided that we should postpone my fundraiser for Mayor Penelas until May. I also drafted and sent an email from my personal email account to the administrator's peers. These fellow administrators — according to Bert — had been part of a discussion about supporting Mayor Penelas. See Attachment A.

10. I wanted to ensure that Bert's email was not interpreted by company employees in the same manner as it had been in Jim DeFede's article and make a clear break from that email. Accordingly, in my email I stated that I did not authorize Bert's email and that they should "disregard it in its entirety." I also "directed that any contributions received as a result of that email be returned." I then confirmed that I was, "on a purely personal basis," supporting Mayor Penelas's U.S. Senate campaign and that whether others also wanted to support him "is purely a personal decision for each individual to make." I then instructed that they "may refuse to contribute without reprisal and contributions to Penelas for Senate or any other candidate committee are strictly voluntary."

11. I also went back to people with whom I had spoken about the April Penelas fundraiser and told those who were interested not to send in any checks to the campaign at that time, but rather to wait until the May fundraiser.

12. My final step was to ensure that I and my executives understood federal campaign finance laws and to address any concerns that may have arisen because of the DeFede article. On March 31, 2003, I therefore retained a law firm to brief our executives, provide handouts, and review and approve invitations and procedures for my May fundraiser and any future fundraising activity.

13. In conclusion, I can categorically state that I have never coerced any employee to attend a fundraiser, make a political contribution, or otherwise engage in political activity. Likewise, I have never subjected any employee to reprisal for their decision not to contribute or engage in political activity. I run my companies with a belief and understanding that making political contributions and supporting or opposing candidates are personal matters.

Signed

Dated

5/3/04

Sworn and subscribed  
to before me this 3rd  
day of May, 2004.

*Elizabeth Richard*  
Notary Public



Elizabeth Richard  
MY COMMISSION # 0075544 EXPIRES  
March 2, 2005  
WORKERS REPLY TRUST LIFE INSURANCE, INC.

My Commission expires: 3/2/05