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November 17, 2004

J. Kenneth Blackwell
Ohio Secretary of State
180 E. Broad Street, 16th Floor
Columbus, OH 43215

Dear Secretary Blackwell:

We write you on behalf of our clients, Green Party presidential candidate David Cobb and Libertarian Party presidential candidate Michael Badnarik. Mr. Cobb and Mr. Badnarik plan to exercise their rights under Ohio law to seek a full recount of all votes cast for President of the United States in the 2004 election (Ohio Revised Code, Section 3515.02).

While Ohio law provides that an application for a recount “shall be filed within five days after the day upon which the board of elections of such county declares the results of such election,” (Ohio Revised Code, Section 3515.02), Ohio law makes no reference to a recount demand filed in a presidential election. As you know, the Electoral College is scheduled to convene in the state capitol of every state on December 13, 2004, for the casting of the electors’ votes for President. Your office has stated publicly that the certification of the results of the 2004 election in Ohio will occur around December 6, 2004. Assuming certification occurs on December 6 and that the recount were to begin immediately on that day in every county in Ohio, this would only allow for seven days for Ohio election officials to conduct a full recount of all of the votes cast in Ohio for President prior to the electors’ meeting in Columbus on December 13.

Such a timeframe will not allow for a meaningful recount and will undermine our clients’ rights under applicable law, including the Ohio recount law. Further, the lack of a meaningful recount will also violate the rights under federal and state constitutional and statutory law of all Ohio citizens who cast a ballot for President on Election Day, including the right to vote as guaranteed under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and under Article 5 of the Ohio Constitution.

We will separately file, on behalf of our clients, the necessary demands with each County Board of Elections in Ohio and will post the necessary bonds for such a recount as required by statute (Ohio Revised Code, Section 3515.03). We are sending you this letter so that you may begin making preparations for the recount. We request that you begin the recount procedures as soon as you receive the necessary bonds. We further request that you immediately initiate appropriate procedures to start the recount. We wish to meet with you immediately in person or by phone to discuss the prompt initiation of the recount in every county in Ohio prior to the certification of

the election results and the prompt initiation of related procedures and disclosures necessary for a meaningful recount.

Our clients have publicly called for your recusal with respect to the recount, which we believe is appropriate under the current circumstances. We, therefore, ask that you forward this letter to the appropriate official in your office who will be supervising matters related to the recount.

We request a response to this letter via email, phone, or fax by noon, Friday, November 19, 2004. Please direct your office's response to John Bonifaz, co-counsel for Mr. Cobb and Mr. Badnarik. Please include in your office's response whether you will commence the recount procedures in advance of the certification, upon receipt of the bonds at the county boards of elections. Thank you for your prompt attention to this matter.

Sincerely,

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