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April 18, 2007

BY E-MAIL AND FACSIMILE

Hon. Henry A. Waxman
Chairman
U.S. House of Representatives
Committee on Oversight and Government Reform
2157 Rayburn House Office Building
Washington, D.C. 20515-6143

Dear Mr. Chairman:

Thank you for your letter of April 13, 2007. You asked that by today we summarize steps the Republican National Committee ("RNC") is taking to preserve e-mails sent to or received by White House officials using accounts hosted by the RNC. You also asked for a schedule under which the RNC would produce documents to the Committee and for a list of White House users of RNC-hosted accounts.

The RNC has taken, and is continuing to take, reasonable and appropriate steps to preserve e-mails sent to or from accounts of White House officials hosted by the RNC. *First*, the RNC has copied and segregated active e-mails in White House users' accounts as of March 14, 2007. *Second*, beginning on March 14, 2007, the RNC began archiving all new e-mails sent from or to the e-mail accounts of White House users, and that archiving process is continuing. *Third*, the RNC has searched for and located electronic media such as servers previously in use at the RNC or components of servers previously in use, and segregated those media to ensure that they are preserved. *Fourth*, a backup copy has been made of active files in currently operating RNC servers. *Fifth*, Covington & Burling LLP has retained a leading, nationally-known computer forensics firm, Stroz Friedberg, LLC, to provide advice and technical support in connection with the identification and preservation of e-mail data. Stroz Friedberg, LLC is

creating a forensic image of unallocated RNC server space and imaging laptop and other computer devices owned by the RNC and issued to White House employees.

As the Committee staff was previously advised, the RNC has continued to search for e-mails, such as those that are on hard drives rather than the RNC server. This effort has yielded additional e-mails, which have been copied and are being preserved. In light of these ongoing efforts to identify additional e-mails, we would again respectfully caution against premature, inflammatory, and potentially misleading, assertions by the Committee concerning whether e-mails have been preserved for any particular period or person.

Regarding the production of documents requested by the Committee, as you know we met with Committee staff on April 12 to discuss those requests. Your letter does not reflect the content of that in-person discussion, nor of our subsequent telephone conversation that same day with David Rapallo of your staff. We indicated during our meeting with the staff that the RNC could not commit at this time to a schedule for production of documents, for two reasons. *First*, as we told the staff on April 12, the White House has requested, and the RNC has agreed, to provide White House lawyers an opportunity to review e-mails identified by the RNC as responsive to determine whether any executive branch prerogatives may be implicated, before producing documents. Such an opportunity for third parties to review documents prior to production is commonplace in routine litigation matters, and all the more appropriate where separation of powers and executive branch prerogatives are at issue. Any production schedule therefore will necessarily be contingent upon the outcome of the White House's review.

Second, as we also previously explained to the staff, because of the large volume of White House users' e-mails preserved by the RNC, any search that is not constrained by the use of appropriate electronic search terms could be extraordinarily burdensome for the RNC. During our telephone conversation with Mr. Rapallo on April 12, he stated that the Committee would consider the use of electronic search terms, and asked that the RNC submit suggested terms for the first two of the Committee's three requests. Those suggested search terms have since been

transmitted to Mr. Rapallo. During that same call, Mr. Rapallo stated that he agreed that the Committee's third document request was too broad, and he indicated that the staff would itself propose ways to narrow or focus the search called for by that request. The RNC looks forward to receiving the staff's proposal, which it has yet to receive, and will give it prompt consideration once it is received.

In light of the continuing need to agree upon appropriate search terms and date restrictions, and to await the outcome of the White House's review, any attempt to determine now a final schedule for production would, in the RNC's view, be unrealistic. We will remain in touch with the Committee concerning the progress of the document review, once search terms are agreed upon.

In your April 13 letter, you also asked that we identify White House users of RNC e-mail accounts and indicate for which of those users data is currently available. The RNC agrees to produce such a list, and is in the process of collecting records and other information necessary to compile as accurate a list as circumstances will permit. That collection and review process is not complete at this time. Again, we will keep the Committee apprised of this continuing review.

We look forward to resolving negotiations with the staff concerning search terms, and then to commencing review of the e-mails.

Sincerely,

Robert K. Kelner

cc: Hon. Tom Davis
Hon. Fred Fielding