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**FEDERAL ELECTION COMMISSION  
999 E Street, N.W.  
Washington, D.C. 20463**

**FIRST GENERAL COUNSEL'S REPORT**

**MUR: 6054**  
**DATE COMPLAINT FILED:** Aug. 19, 2008  
**DATES OF NOTIFICATION:** Aug. 26, 2008 –  
Dec. 18, 2008  
**DATE ACTIVATED:** Nov. 17, 2008  
**LAST RESPONSE RECEIVED:** Feb. 11, 2009  
**EPS:**  
**STATUTE OF LIMITATIONS:** Sept. 15, 2010 –  
Sept. 28, 2010

**COMPLAINANT:** Citizens for Responsibility and Ethics in Washington

**RESPONDENTS:** Vern Buchanan for Congress and Nancy H. Watkins,  
in her official capacity as treasurer  
Representative Vernon G. Buchanan  
1099 L.C. d/b/a Venice Nissan Dodge  
Buchanan Automotive Holdings, Inc.  
Sarasota 500, LLC d/b/a Sarasota Ford  
Carlo A. Bell  
Donald M. Caldwell  
Brad S. Combs  
Jason A. Martin  
William F. Mullins  
Jack Prater  
Marvin L. White

**Pre-MUR: 479**  
**DATE SUBMISSION RECEIVED:** Oct. 7, 2008  
**DATE ACTIVATED:** Nov. 17, 2008

**STATUTE OF LIMITATIONS:** Nov. 29, 2010 -  
Dec. 31, 2012

**SOURCE:** Vern Buchanan for Congress

**RESPONDENTS:** 11-2001 LLC d/b/a Hyundai of North Jacksonville  
Sam Kazran

1 RELEVANT STATUTES 2 U.S.C. § 441f  
2 AND REGULATIONS: 2 U.S.C. § 441a(a)  
3 2 U.S.C. § 441b  
4 11 C.F.R. § 110.1(e), (g)  
5 11 C.F.R. § 110.4(b)(1)(iii)

6  
7 INTERNAL REPORTS CHECKED: Disclosure Reports

8  
9 FEDERAL AGENCIES CHECKED: None

10  
11 I. INTRODUCTION

12 These matters involve reimbursed campaign contributions totaling at least \$53,000,  
13 which were received by Vern Buchanan for Congress ("VBFC" or "Committee"),  
14 Representative Vernon G. Buchanan's principal campaign committee during the 2006 and  
15 2008 election cycles. These campaign contributions were made by individuals who, at the  
16 time they made their campaign contributions, were employed by, or related to individuals  
17 employed by, car dealerships in which Representative Buchanan currently holds, or  
18 previously held, an ownership interest.

19 The complaint in MUR 6054 alleges that at least seven employees of two such car  
20 dealerships were reimbursed with corporate funds for making \$1,000 contributions to  
21 VBFC. The complaint is largely based on the sworn statements of two employees, one of  
22 whom details the alleged reimbursements, including coercive tactics by a dealership general  
23 manager who provided cash to the employees to reimburse their contributions. Other  
24 alleged conduits and the general manager responded by denying that contributions were  
25 reimbursed and deny that any coercion took place. Less than two months after the  
26 complaint was filed, and prior to the Committee's response, the Committee filed the  
27 *sua sponte* submission in Pre-MUR 479 disclosing that another Buchanan-related car  
28 dealership reimbursed \$52,000 in contributions to the Committee from nine individuals,  
29 including employees and family members. The submission provides no information

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1 regarding who at the dealership approved the reimbursements or how the reimbursements  
2 were carried out. We have attached diagrams indicating the flow of the contributions and  
3 reimbursements alleged in MUR 6054 and acknowledged in Pre-MUR 479. Attachment 1,  
4 pages 1-2.

5 Based on the available information, we recommend that the Commission find reason  
6 to believe that the apparent sources of the reimbursement funds, I1-2001 LLC d/b/a  
7 Hyundai of North Jacksonville ("HNJ") and 1099 L.C. d/b/a Venice Nissan Dodge  
8 ("VND"), knowingly and willfully violated 2 U.S.C. § 441f, and that VND knowingly and  
9 willfully violated 2 U.S.C. § 441a(a). Because it is unclear whether HNJ is a corporation or  
10 partnership, we recommend the Commission find reason to believe that HNJ knowingly and  
11 willfully violated 2 U.S.C. §§ 441a(a) or 441b. With respect to those two companies'  
12 executives, we recommend that the Commission find reason to believe that Sam Kazran  
13 (HNJ president) knowingly and willfully violated 2 U.S.C. § 441f, and that Donald M.  
14 Caldwell (VND General Manager) knowingly and willfully violated 2 U.S.C. § 441f. We  
15 also recommend that the Commission find reason to believe that Brad S. Combs violated  
16 2 U.S.C. § 441f.

17 We further recommend that the Commission take no action at this time with respect  
18 to VND employees Carlo A. Bell, Jack Prater, Jason A. Martin, Marvin L. White, and  
19 William F. Mullins; Buchanan Automotive Holdings, Inc.; Sarasota 500, LLC d/b/a  
20 Sarasota Ford; the Committee; and Representative Buchanan. With respect to the nine HNJ  
21 conduits, we make no recommendation at this time.

22 Finally, because of the relative lack of information regarding the reimbursements in  
23 Pre-MUR 479 and the conflicting information regarding the alleged reimbursements in  
24 MUR 6054, we recommend that the Commission authorize the use of compulsory process,

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1 including orders to submit written answers, subpoenas to produce documents, and  
2 deposition subpoenas, which we would use in the event the parties do not cooperate in  
3 providing information that will help us bring this matter to a satisfactory conclusion.

4 **II. FACTUAL BACKGROUND**

5 Representative Buchanan is the sole shareholder of 1099 Management Co., LLC,  
6 which has a majority ownership interest in VND. Representative Buchanan is also the sole  
7 shareholder of Buchanan Automotive Holdings, Inc. ("BAH"), which has a majority  
8 ownership interest in Sarasota 500, LLC d/b/a/ Sarasota Ford. See Response of 1099 L.C.  
9 d/b/a Venice Nissan Dodge; Buchanan Automotive Holdings, Inc.; Vernon G. Buchanan;  
10 Donald M. Caldwell; Brad S. Combs; and Sarasota 500, LLC d/b/a/Sarasota Ford  
11 ("Buchanan, et al. Response"), dated October 17, 2008, at 1. Representative Buchanan also  
12 had a financial interest in HNJ. See *Sua Sponte* Submission of Vern Buchanan for  
13 Congress ("Submission") at 1.

14 According to one press account, in September 2005, then-candidate Buchanan "was  
15 in a tight race to emerge as the frontrunner in the Republican primary race for Sarasota's  
16 open congressional seat" and his "campaign had been slow in raising money." Managers at  
17 Representative Buchanan's car dealerships reportedly "approached employees about  
18 Buchanan's bid for Congress." Jeremy Wallace and Carol E. Lea, *Official denies donation*  
19 *pressure - Dealership workers gave to his campaign*, Sarasota Herald Tribune, July 29,  
20 2008. Based on our review of the Committee's disclosure reports, it appears that during the  
21 2006 and 2008 election cycles, 67 individuals who are in some way connected with  
22 business entities in which Representative Buchanan holds or held a financial interest, made  
23 contributions to the Committee totaling \$290,380.

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1 Two former VND employees, respondent Carlo A. Bell and David J. Padilla,  
2 confirmed the newspaper's account in sworn affidavits, which were submitted with the  
3 complaint in MUR 6054. See Complaint Exhibits A and D. As discussed below,  
4 employees at other Buchanan car dealerships in Florida have reportedly made similar  
5 statements.

6 **III. LEGAL ANALYSIS**

7 **A. 11-2001 LLC d/b/a/ Hyundai of North Jacksonville**

8 The Committee's Submission in Pre-MUR 479 discloses that HNJ reimbursed nine  
9 individuals, including employees and family members, for their contributions to VBFC,  
10 totaling \$52,000. The reimbursements spanned a two-year period, from November 2005  
11 through December 2007. The Submission provides no information regarding who at HNJ  
12 approved the reimbursements or how the reimbursements were carried out. We requested  
13 more information from the Committee's counsel, but, citing ongoing commercial litigation  
14 between Representative Buchanan and HNJ president Sam Kazran concerning ownership  
15 of the car dealership, counsel stated that he was unable to comply with our requests.<sup>1</sup>

16 Mr. Kazran, in his letter to this Office requesting an extension of time to retain  
17 counsel and provide documentation to the Commission, stated that he "instructed" the  
18 employees to make the contributions. See Request for Extension of Time dated  
19 February 13, 2009. Prior to making his written request for an extension of time, Mr.  
20 Kazran spoke to OGC staff regarding an extension of time. During that telephone

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<sup>1</sup> The Submission states that the information regarding the reimbursements "came to light during the course of threatened commercial litigation between Representative Buchanan, in his personal capacity, and Sam Kazran." See Submission at 1. Apparently there are different ways of spelling Mr. Kazran's last name. In the Committee's disclosure report, his last name was spelled "Khazrawan." However, in his correspondence with the Commission, he spelled his last name "Kazran."

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1 conversation, Mr. Kazran volunteered that then-candidate Buchanan told him to reimburse  
2 employees through company accounts.

3 At this time, only one of the reimbursed employees has responded in writing to the  
4 allegations in the Submission.<sup>2</sup> Stephanie Champ (HNJ office manager), in her letter dated  
5 February 13, 2009, stated that she was "asked by Sam [Kazran] to make a contribution to  
6 Vern Buchanan's campaign for \$9,200." See Pre-MUR 479 Response from Stephanie  
7 Champ. Ms. Champ further stated that she received a check from HNJ in the amount of  
8 \$9,200 and deposited the check into her account. After the check cleared, she wrote a  
9 personal check to the Buchanan campaign for \$9,200. According to Ms. Champ, the  
10 Committee returned that check to her "stating that being a single person with one name on  
11 the check that I could only contribute was [sic] \$4,600." *Id.* Ms. Champ stated that she  
12 then wrote a check to the Buchanan campaign in the amount of \$4,600. Ms. Champ also  
13 wrote a check in the amount of \$4,600 to another HNJ employee, Joe Cutaia, to pay him  
14 back for his contribution to the Buchanan campaign. *Id.* Ms. Champ did not explain who  
15 provided the HNJ funds to her or the circumstances of providing \$4,600 to Mr. Cutaia.  
16 Mr. Cutaia's wife, Doreen Cutaia, spoke to OGC staff after receiving a Pre-Reason to  
17 Believe notification letter concerning her contributions to VBFC. Mrs. Cutaia stated that  
18 her husband and other HNJ employees were told that they had to write checks to the  
19 Buchanan campaign. Mrs. Cutaia also stated that her husband felt that his job depended on  
20 his making the contribution and that he needed to be a team player.

21 The Federal Election Campaign Act of 1971, as amended ("the Act") prohibits any  
22 person, including a partnership, from making a contribution in the name of another person.

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<sup>2</sup> We sent Pre-Reason to Believe notification letters to each reimbursed contributor identified in the Submission and to HNJ. We have not yet received a response from HNJ.

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1 2 U.S.C. § 441f. The available information indicates that HNJ gave money to employees  
2 such as Stephanie Champ to make contributions to the Buchanan campaign in their names.  
3 Thus, HNJ made contributions to the Buchanan campaign disguised as contributions from  
4 Stephanie Champ, Joe Cutaia, and the seven other identified conduits.

5 Moreover, this activity raises the question of whether the violations may have been  
6 knowing and willful. The phrase "knowing and willful" indicates that "acts were  
7 committed with full knowledge of all the relevant facts and a recognition that the action is  
8 prohibited by law...." 122 Cong. Rec. H3778 (daily ed. May 3, 1976); see also *AFL-CIO v.*  
9 *FEC*, 628 F.2d 97-98, 101-02 (D.C. Cir.), cert. denied, 449 U.S. 982 (1980) (noting that a  
10 "willful" violation includes "such reckless disregard of the consequences as to be  
11 equivalent to a knowing, conscious, and deliberate flaunting of the Act," but concluding on  
12 the facts before it that this standard was not met); *National Right to Work Comm. v. FEC*,  
13 716 F.2d 1401, 1403 (D.C. Cir. 1983)(same). By contributing \$52,000 of company money  
14 to the Committee through other persons, HNJ disguised itself as the source of the  
15 contributions, and, to the extent HNJ was permitted to make any contributions to the  
16 Committee, HNJ gave several times the permissible limit over the course of two election  
17 cycles. These facts strongly suggest an attempt to circumvent the law, which we would  
18 attempt to confirm one way or another if the Commission approves an investigation in this  
19 matter. In our proposed investigation we will seek information regarding, among other  
20 things, how HNJ characterized the reimbursement payments on its ledgers. An inference of  
21 knowing and willful conduct may be drawn "from the defendant's elaborate scheme for  
22 disguising" his or her actions. See *United States v. Hopkins*, 916 F.2d 207, 214-15 (5th Cir.  
23 1990) (defendants were active in deciding how to reimburse employees with corporate  
24 funds for their contributions).

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1           Based on the available information, we recommend that the Commission find reason  
2 to believe that 11-2001 LLC d/b/a Hyundai of North Jacksonville knowingly and willfully  
3 violated 2 U.S.C. § 441f. In addition, HNJ has made a \$52,000 contribution to VBFC that  
4 is either completely prohibited or excessive depending on HNJ's status as an LLC. An  
5 LLC that elects to be treated by the Internal Revenue Service ("I.R.S.") as a corporation is  
6 considered a corporation under the Act, and an LLC that elects to be treated by the I.R.S. as  
7 a partnership is considered a partnership under the Act. See 11 C.F.R. § 110.1(g). If HNJ  
8 is considered a corporation, it is prohibited from making any contributions to candidates for  
9 federal office. See 2 U.S.C. § 441b(a).

10           In contrast, if HNJ is considered a partnership, it can make contributions to a  
11 candidate for federal office in the amount specified in 2 U.S.C. § 441a(a)(1)(A).<sup>3</sup>  
12 See 11 C.F.R. § 110.1(e). A contribution by a partnership is attributed to the partnership  
13 and to each partner. *Id.* We have no information at this time regarding the members of  
14 HNJ who may be treated as partners.

15           Because we presently have no information regarding how HNJ has elected to be  
16 treated by the I.R.S., we recommend that the Commission make alternative reason to  
17 believe findings. Thus, we recommend that the Commission find reason to believe that  
18 11-2001 LLC d/b/a Hyundai of North Jacksonville knowingly and willfully violated  
19 2 U.S.C. §§ 441a(a) or 441b(a).

20           B. Sam Kazran

21           HNJ president Sam Kazran acknowledged that he instructed HNJ employees to  
22 make the contributions. According to Stephanie Champ, Mr. Kazran asked her to make a

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<sup>3</sup> The contributions at issue were made during the 2006 and 2008 election cycles. See Submission at 2. During the 2006 election cycle, the contribution limit was \$2,100. During the 2008 election cycle, the contribution limit was \$2,300.

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1 contribution to the Buchanan campaign, and she was given a company check to provide her  
2 with the funds to make the contribution. In view of his position as president of HNJ and his  
3 apparent involvement in the HNJ reimbursements, we recommend that the Commission  
4 find reason to believe that Sam Kazran knowingly and willfully violated 2 U.S.C. § 441f by  
5 assisting HNJ in making contributions in the names of HNJ employees. See 11 C.F.R.  
6 § 110.4(b)(1)(iii).

7 C. Hyundai of North Jacksonville Conduits

8 The available information indicates that the nine HNJ conduits were instructed by  
9 their superior, Sam Kazran, to make the contributions, and it appears that some of them  
10 may have felt they had no choice other than to go along with the reimbursement  
11 arrangement. As recounted above, HNJ employee Joe Cutaia told his wife that he felt his  
12 job depended on his making the contribution.<sup>4</sup> Accordingly, we are not making a  
13 recommendation at this time as to Stephanie K. Champ, Doreen A. Cutaia, Joseph P.  
14 Cutaia, Eric Khazravan, Heidi Khazravan, Earnest C. Lephart, Gayle Lephart, Diana M.  
15 Smith, or Gary W. Smith. If we obtain information during the course of our proposed  
16 investigation indicating a larger role on the part of any of these conduits, we will make the  
17 appropriate recommendation at that time.

18 D. 1099 L.C. d/b/a Vanique Nissan Dodge

19 The complaint in MUR 6054 alleges that at least seven employees of BAH car  
20 dealerships, including employees of VND and Sarasota Ford, were reimbursed with  
21 corporate funds for making \$1,000 campaign contributions to Representative Buchanan's

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<sup>4</sup> In recent matters, the Commission has not proceeded against subordinates who were coerced by their superiors. See MURs 5927 (Joseph A. Solomon) (no action taken with respect to employees who felt pressured or coerced to make contributions solicited by the company president), MUR 5871 (Thomas W. Noe) (no action taken with respect to subordinates who may have felt pressured to participate in the reimbursement arrangement).

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1 2006 congressional campaign. The complaint also alleges that employees were coerced  
2 into making contributions to Representative Buchanan's campaign.

3 Attached to the complaint were sworn affidavits from two former VND employees,  
4 Carlo A. Bell (finance director) and David J. Padilla (finance manager). See Complaint,  
5 Exhibits A and D. Mr. Bell stated in his affidavit that his supervisor, Don Caldwell  
6 (VNB's General Manager), told him and two other VND employees, Jack Prater (sales  
7 manager) and Jason A. Martin (finance manager), that they "needed to contribute to the  
8 campaign of Vera Buchanan." Affidavit of Carlo A. Bell ("Bell Aff.") ¶¶ 2, 3. According  
9 to Mr. Bell, "Mr. Caldwell was holding cash in his hand at the time and said that the  
10 company would reimburse us for our contributions. He (Caldwell) explained that the  
11 company would give us \$1,000 in cash in exchange for our writing \$1,000 checks to the  
12 Campaign." *Id.* ¶ 3.

13 Mr. Bell stated that this did not seem right to him and he asked Mr. Caldwell if it  
14 was legal. According to Mr. Bell, "Mr. Caldwell did not answer my question, instead  
15 asking me if I was on the team or not." *Id.* ¶ 4. Mr. Bell stated that he was afraid he might  
16 lose his job if he refused, so he replied that he was part of the team and agreed to write the  
17 check. *Id.* Mr. Bell further stated that Mr. Caldwell then gave him, as well as Messrs.  
18 Prater and Martin, \$1,000 in cash. *Id.* ¶ 5. Mr. Bell also stated that he later discovered that  
19 two other VND employees, Marvin L. White (the used car manager) and William F.  
20 Mullins (a VND salesman), also received \$1,000 cash reimbursements when they agreed to  
21 write checks to the Buchanan campaign. *Id.* ¶ 8. Messrs. Prater, Martin, White, and  
22 Mullins each wrote a check in the amount of \$1,000 to VBFC on September 16, 2005, and

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1 Mr. Bell wrote his \$1,000 check to VBFC on September 17, 2005.<sup>5</sup> See Complaint,  
2 Exhibit E and Reply of Vern Buchanan for Congress ("VBFC Response"), Exhibit A.

3 David J. Padilla stated in his sworn affidavit that he was informed by Brad Combs  
4 (VND finance manager) that then-candidate Buchanan needed campaign contributions and  
5 that "anyone who made a contribution would get his money back plus additional  
6 compensation." Affidavit of David J. Padilla ("Padilla Aff.") ¶ 2. Mr. Padilla further stated  
7 Mr. Combs asked him "if I wanted in on the deal," to which Mr. Padilla replied, "you have  
8 to be out of your mind." *Id.* ¶ 3. Mr. Padilla stated that he told Mr. Combs that "accepting  
9 reimbursement for making a campaign contribution is against the law." *Id.* According to  
10 Mr. Padilla, Mr. Combs also told him "all of the managers were being asked to contribute  
11 and that many were planning to accept reimbursements in exchange for contributions."  
12 *Id.* ¶ 4. Mr. Padilla further stated that Mr. Bell told him that he accepted reimbursement for  
13 making a contribution to the Buchanan campaign and that he later discovered that several  
14 other VND employees, including Jack Prater and Jason Martin, had been reimbursed for  
15 making contributions to the Buchanan campaign. *Id.* ¶¶ 5, 6.

16 In support of the Buchanan, et al. Response to the complaint, Jason A. Martin,  
17 Jack Prater, Marvin L. White, and William F. Mullins, who are currently employed by  
18 VND, submitted identically-worded sworn affidavits. See Buchanan, et al. Response,  
19 Exhibits A-D. Each employee stated that they "made the donation of my own free will and  
20 was not pressured, coerced or forced by anyone to make the donation." Each employee  
21 further stated "I was not reimbursed by anyone for making my contribution to the campaign  
22 of Vern Buchanan."

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<sup>5</sup> VBFC reported receiving \$1,000 contributions from Messrs. Bell, Prater, Martin, White, and Mullins on September 28, 2005.

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1 Donald M. Caldwell, in his sworn affidavit submitted in response to the complaint,  
2 admitted that he asked Carlo Bell, Jack Prater, and Jason Martin to contribute to the  
3 Buchanan campaign, but denied that he coerced them into making a contribution.  
4 See Affidavit of Donald M. Caldwell ("Caldwell Aff."), Exhibit A to Supplemental  
5 Buchanan, et al. Response, dated February 11, 2009. Mr. Caldwell also denied reimbursing  
6 Messrs. Bell, Prater, or Martin for their contributions to the Buchanan campaign. *Id.*

7 Brad S. Combs also submitted a sworn affidavit in response to the complaint, in  
8 which he stated that he "did not coerce, or attempt to coerce, David J. Padilla into making  
9 contributions to the Buchanan campaign." See Affidavit of Brad S. Combs ("Combs Aff."),  
10 Exhibit B to Christopher DeLacy letter dated February 11, 2009. Mr. Combs further stated  
11 that he "did not reimburse, or attempt to reimburse, David J. Padilla for contributions to the  
12 Buchanan campaign." See Combs Aff. ¶¶ 4, 5. However, Mr. Combs did not refute Mr.  
13 Padilla's statements that Mr. Combs told him: "Mr. Buchanan needed campaign  
14 contributions and that anyone who made a contribution would get his money back plus  
15 additional compensation," and asked him "if I wanted in on the deal." Affidavit of David J.  
16 Padilla ("Padilla Aff.") ¶¶ 2, 3.

17 In addition to the affidavits, the Buchanan, et al. Response included a partial  
18 transcript of a televised interview with Mr. Padilla, wherein Mr. Padilla stated that he was  
19 not asked to make political campaign contributions to Buchanan, but he heard "that went  
20 on."<sup>6</sup> See Buchanan, et al. Response, Exhibit E. The Buchanan, et al. Response asserts that  
21 Mr. Padilla's statement contradicts what he said in his affidavit. Buchanan, et al. Response  
22 at 2. However, Mr. Padilla may not have considered being asked if he "wanted in on the  
23 deal" to serve as a straw donor and obtain "additional compensation," to be the same as

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<sup>6</sup> VBFC's disclosure reports do not show any contributions from Mr. Padilla.

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1 being asked to make a contribution, in which case he would spend \$1,000 of his own  
2 money. In any event, in the proposed investigation we would explore Messrs. Padilla and  
3 Combs' explanations of events and assess their credibility.

4 A DVD of the televised news story, which included Mr. Padilla's interview, was  
5 provided with the Buchanan, et al. Response as well.<sup>7</sup> The news story discussed the  
6 complaint in this matter and included a short video clip of an interview with Mr. Bell that  
7 apparently aired during a prior broadcast.<sup>7</sup> In that interview, Mr. Bell stated, "I was given  
8 \$1,000 in cash and told to write a check for \$1,000 to his campaign fund." The news story  
9 also includes a short statement made by Mr. Martin, who is VND General Manager Donald  
10 M. Caldwell's nephew. Mr. Martin, who Mr. Bell said was present at the meeting where  
11 they were told they would be reimbursed for making a contribution to the Buchanan  
12 campaign, stated that he "didn't feel like anyone was pressured and I specifically was not  
13 pressured to do anything like that."

14 In view of the seriousness and specificity of the complaint's allegations –  
15 contributions in the name of another with an element of coercion – and the key witnesses'  
16 differing sworn accounts of what transpired in connection with their contributions to the  
17 Buchanan campaign, there is reason to investigate whether VND knowingly and willfully  
18 violated 2 U.S.C. § 441f by reimbursing Messrs. Bell, Martin, Mullins, Prater, and White's  
19 \$1,000 contributions to VBFC. Because VND is taxed as a partnership (see Buchanan, et  
20 al. Response at 1) it appears that VND may have violated 2 U.S.C. § 441a(a) by

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1 contributing more than \$2,100 to VBFC.<sup>9</sup> Accordingly, we recommend that the  
2 Commission find reason to believe that 1099 L.C. d/b/a Venice Nissan Dodge knowingly  
3 and willfully violated 2 U.S.C. §§ 441f and 441a(a).

4 **E. Donald M. Caldwell**

5 Based on the available information, it appears that Donald M. Caldwell may have  
6 reimbursed Messrs. Bell, Frater, Martin, White, and Mullins, and thus violated 2 U.S.C.  
7 § 441f by making contributions in the name of another and/or by knowingly assisting VND  
8 in making contributions in the names of these VND employees. See 11 C.F.R.  
9 § 110.4(b)(1)(iii) (prohibiting a person from knowingly assisting another person in making  
10 a contribution in the name of another). Given Mr. Caldwell's alleged role in the  
11 reimbursements and the allegations of coercion (telling VND employees that they needed to  
12 make contributions to the Buchanan campaign, providing cash to reimburse their  
13 contributions, and then asking Carlo Bell if he was on the team or not when Mr. Bell  
14 questioned the legality of the reimbursement), we recommend that the Commission find  
15 reason to believe that Donald M. Caldwell knowingly and willfully violated 2 U.S.C.  
16 § 441f.

17 **F. Brax S. Combs**

18 Based on the available information, it appears that Mr. Combs may have assisted  
19 VND in making contributions in the names of VND employees. According to David  
20 Padilla, Mr. Combs came to Mr. Padilla's office and told him that "Mr. Buchanan needed  
21 contributions and that anyone who made a contribution would get his money back plus  
22 additional compensation." Padilla Aff. ¶ 2. Mr. Padilla also stated that Mr. Combs asked

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<sup>9</sup> A contribution by a partnership is attributed to the partnership and to each partner. See 11 C.F.R. § 110.1(e). We have no information at this time regarding the members of VND who may be treated as partners.

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1 him if he "wanted in on the deal." *Id.* ¶ 3. Mr. Combs denies coercing or attempting to  
2 coerce Mr. Padilla into making a contribution, or reimbursing, or attempting to reimburse  
3 Mr. Padilla for making a contribution. Combs Aff. ¶¶ 4, 5. Mr. Combs does not, however,  
4 deny telling Mr. Padilla that Mr. Buchanan needed campaign contributions, nor does he  
5 deny raising the subject of reimbursements. In fact, according to Mr. Padilla, Mr. Combs  
6 told him "all of the managers were being asked to contribute and that many were planning  
7 to accept reimbursements in exchange for contributions." Padilla Aff. ¶ 4. Because there is  
8 reason to investigate whether Mr. Combs knowingly assisted VND in making contributions  
9 in the names of VND employees, *see* 11 C.F.R. § 110.4(b)(1)(iii), we recommend that the  
10 Commission find reason to believe that Brad S. Combs violated 2 U.S.C. § 441f. We are  
11 not recommending a knowing and willful finding for Mr. Combs because, unlike Donald  
12 M. Caldwell, we presently have no information that Mr. Combs coerced anyone into  
13 making a contribution or reimbursed anyone for making a contribution.

14 G. Venice Nissan Dodge Conduits

15 The complaint alleges that then-VND employees Carlo A. Bell (finance director),  
16 Jason A. Martin (finance manager), William F. Mullins (salesman), Jack Prater (sales  
17 manager), and Marvin L. White (used car manager) were reimbursed for their contributions  
18 to VBFC. The latter four deny they were reimbursed. Because the available information  
19 does not provide a clear picture as to the positions of these individuals in the company  
20 hierarchy and does not suggest that any of these individuals played an active role in the  
21 alleged reimbursements, such as that allegedly played by VND General Manager Donald  
22 M. Caldwell, we recommend that the Commission take no action at this time as to them. If  
23 we obtain information during the course of our proposed investigation indicating that one or  
24 more of these individuals should bear responsibility for the reimbursements, we will make

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1 the appropriate recommendation at that time. Finally, with respect to Carlo A. Bell, his  
2 counsel has informed us that Mr. Bell will cooperate with the Commission in any  
3 investigation undertaken.

4 H. Sarasota 500, LLC d/b/a Sarasota Ford

5 The complaint alleges that campaign contributions were reimbursed at Sarasota  
6 Ford as well as at VND. This allegation is based on an article in *Roll Call*. See Complaint,  
7 Exhibit E. In that article, Joseph Kezer, the former finance director at Sarasota Ford,  
8 reportedly stated that "he observed campaign finance violations" and that he "personally  
9 fielded phone calls from other dealership executives<sup>10</sup> wanting to know whether company  
10 reimbursement checks they had cashed put them in legal peril." Mr. Kezer also reportedly  
11 stated that "a couple of managers contacted me because they were concerned." Matthew  
12 Murray, *Buchanan Faces Another Lawsuit*, *Roll Call*, June 2, 2008. Mr. Kezer, who  
13 contributed \$2,000 to VBFC, also reportedly said that then-candidate Buchanan personally  
14 promised him a week at Buchanan's Vail, Colorado, resort home in exchange for  
15 Mr. Kezer's campaign contribution. See Jeremy Wallace, *Workers tell of donation*  
16 *pressure*, *Sarasota Herald-Tribune*, July 24, 2008 at 2.

17 Sarasota Ford responded that the complaint's allegation of campaign contributions  
18 reimbursements at that dealership is "not supported by the evidence." Instead, Sarasota  
19 Ford argues that most of the alleged reimbursement activity took place at VND and that the  
20 only Sarasota Ford employee mentioned in the complaint is Joseph Kezer, but the  
21 complaint's allegations related to him are not supported by an affidavit. See Buchanan,  
22 et al. Response at 2, 3.

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<sup>10</sup> The Committee's disclosure reports indicate that other individuals connected with Sarasota Ford contributed to the Buchanan campaign in September 2005: Donald Slater (manager) contributed \$4,200; David Long (partner) contributed \$4,200; and Celena Thibodeaux (executive assistant) contributed \$1,000.

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1           Because the complaint makes no allegations regarding specific reimbursements at  
2 Sarasota Ford, we recommend that the Commission take no action at this time with respect  
3 to Sarasota 500, LLC d/b/a Sarasota Ford. If we obtain information during the course of  
4 our proposed investigation that suggests that contributions from executives or employees  
5 were reimbursed, we will make the appropriate recommendation at that time.

6           I. Buchanan Automotive Holdings, Inc.

7           BAH is a corporation and, as such, is prohibited from making contributions to  
8 candidates for federal office from their general treasury funds. See 2 U.S.C. § 441b(a).  
9 If BAH funds were used to reimburse any of the contributors to VBFC, either directly or  
10 through the car dealerships, then BAH violated 2 U.S.C. §§ 441f and 441b(a). However,  
11 because we presently do not have information as to whether BAH funds were used to effect  
12 any reimbursements, we recommend that the Commission take no action at this time with  
13 respect to BAH. Should our proposed investigation uncover information that BAH funds  
14 were used to effect reimbursements, we will make the appropriate recommendation at that  
15 time.

16           J. Representative Buchanan and Vera Buchanan for Congress

17           The Act's prohibition on knowingly accepting a contribution made in the name of  
18 another applies to individuals and political committees as well. 2 U.S.C. § 441f. In  
19 addition, any candidate who receives a contribution in connection with the campaign shall  
20 be considered as having received the contribution as an agent of his or her authorized  
21 committee. 2 U.S.C. § 432(e)(2).

22           VBFC, in its *sua sponte* submission, acknowledges that it received \$52,000 in  
23 reimbursed contributions, but notes that the contributions were all made by personal checks  
24 and, as such, are facially permissible under Commission regulations. See Submission at 2.

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1 VBFC also makes this assertion in its response to the complaint and urges the Commission  
2 to dismiss the matter. VBFC Response at 2, 3.

3 If Mr. Kazran's statement that then-candidate Buchanan told him to reimburse HNJ  
4 employees through company accounts is true, *see* p. 6 *supra*, then Representative Buchanan  
5 and his committee may have been aware that the contributions made in the names of the  
6 conduits were impermissible. On the other hand, we recognize that Mr. Kazran and  
7 Representative Buchanan are engaged in litigation against each other and that Mr. Kazran  
8 has not submitted a sworn statement. Because we intend to investigate who directed the  
9 reimbursements at HNJ and VND, we recommend that the Commission take no action at  
10 this time with respect to Representative Buchanan and Vern Buchanan for Congress.

11 Should our proposed investigation uncover information that Representative Buchanan or  
12 the Committee knowingly accepted reimbursed contributions, we will make the appropriate  
13 recommendation at that time.

14 We also note that the Committee requested the Commission's guidance concerning  
15 whether it should refund the \$52,000 in reimbursed contributions to the contributors or  
16 disgorge the funds to a charity or the U.S. Treasury. The Commission's regulations provide  
17 that after a treasurer has discovered that a contribution is illegal based on new evidence that  
18 was not available at the time of receipt and deposit, the treasurer shall refund or disgorge  
19 the contribution within 30 days of the date on which the illegality is discovered. *See*  
20 11 C.F.R. § 103.3(b)(2); Advisory Opinion 1996-5. In enforcement matters involving  
21 contributions in the name of another, the Commission has requested that the recipient  
22 committee disgorge the illegal contributions to the U.S. Treasury, usually where the  
23 Commission has obtained a waiver from the actual source of the funds as part of the

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1 conciliation process. See, e.g., MUR 5643 (Carter's Inc.). We will address this issue with  
2 VBFC at the appropriate time.

3 **IV. INVESTIGATION**

4 As discussed above, an investigation is required to determine which employees were  
5 reimbursed for making contributions to the Buchanan campaign and who authorized the  
6 reimbursements, the source of the reimbursement funds, and whether HNJ is treated as a  
7 corporation or partnership by the I.R.S. Specifically, we will seek records from each of the  
8 car dealerships regarding payments to employees in the same amounts as their  
9 contributions. We will also seek financial records from the alleged conduits covering the  
10 time period in which contributions to VBFC were made. Finally, we intend to informally  
11 interview or depose alleged and acknowledged conduits, Brad Combs, Donald M. Caldwell,  
12 Sam Kazran, and any other individuals identified during the course of the investigation with  
13 significant roles in the reimbursements, possibly including Representative Buchanan.  
14 Accordingly, we recommend that the Commission authorize the use of compulsory process,  
15 including orders to submit written answers and subpoenas to produce documents, and  
16 deposition subpoenas, which we would use in the event the parties do not cooperate in  
17 providing this information.

18 **V. RECOMMENDATIONS**

- 19 1. Open a MUR in Pre-MUR 479 and merge it into MUR 6054;  
20  
21 2. Find reason to believe that 11-2001 LLC d/b/a Hyundai of North  
22 Jacksonville knowingly and willfully violated 2 U.S.C. § 441f;  
23  
24 3. Find reason to believe that 11-2001 LLC d/b/a Hyundai of North  
25 Jacksonville knowingly and willfully violated 2 U.S.C. §§ 441a(a) or  
26 441b(a);  
27  
28 4. Find reason to believe that Sam Kazran knowingly and willfully violated  
29 2 U.S.C. § 441f;

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5. Find reason to believe that 1099 L.C. d/b/a Venice Nissan Dodge knowingly and willfully violated 2 U.S.C. §§ 441f and 441a(a);
6. Find reason to believe that Donald M. Caldwell knowingly and willfully violated 2 U.S.C. § 441f;
7. Find reason to believe that Brad S. Combs violated 2 U.S.C. § 441f;
8. Take no action at this time with respect to Carlo A. Bell; Jack Prater; Jason A. Martin; Marvin L. White; William F. Mullins; Buchanan Automotive Holdings, Inc.; Sarasota 500, LLC d/b/a Sarasota Ford; Representative Vernon G. Buchanan; and Vern Burkman for Congress and Nancy H. Watkins, in her official capacity as treasurer.
9. Approve the attached Factual and Legal Analyses;
10. Authorize the use of compulsory process as to all Respondents and witnesses in this matter, including the issuance of appropriate interrogatories, document subpoenas, and deposition subpoenas, as necessary; and
11. Approve the appropriate letters.

Thomasenia P. Duncan  
General Counsel

Date: 5/26/09

BY:   
Stephen A. Gura  
Deputy Associate General Counsel  
for Enforcement

  
Mark Allen  
Assistant General Counsel

  
Jack Gould  
Attorney

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