



## Office of Special Counsel

Patrick J. Fitzgerald  
Special Counsel

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### Confidential Communication as Part of Good Faith Negotiations

Via Telefax & Federal Express

July 27, 2004

Lee Levine, Attorney  
LEVINE SULLIVAN KOCH & SCHULZ, L.L.P.  
1050 17<sup>th</sup> Street, N.W., Suite 800  
Washington, DC 20036-5514

Dear Mr. Levine:

This will confirm the understandings pursuant to which we intend to resolve the matter of a grand jury subpoena issued to your client, Tim Russert. As you know, we began discussing whether the Office of Special Counsel would subpoena Russert earlier this year. When we could not reach a mutually agreeable compromise, we later litigated (under seal) a motion by Russert to quash a subpoena for his testimony. That motion was resolved by a sealed opinion and order issued by Chief Judge Thomas Hogan on July 21, 2004.

Pursuant to conversations following resolution of the motion, we have worked out the following arrangements which if complied with will obviate the necessity for Mr. Russert to appear in the grand jury to testify as to the specific matters for which the subpoena was issued.

Mr. Russert has agreed to be interviewed under oath and on the record in a proceeding ("the Deposition") to be audio taped and transcribed by a court reporter. The recordings will be treated as if they were recordings of grand jury proceedings. The Deposition will be conducted as if Mr. Russert were in the grand jury, with the exception that counsel for Mr. Russert and NBC will be present in the room.

It is the understanding that while the Office of Special Counsel requests that Mr. Russert keep his testimony confidential, Mr. Russert will have the same rights to disclose publicly what took place in the Deposition as he would if he had testified in the grand jury.

As you are aware from prior discussions, the government intends to examine Mr. Russert in a manner consistent with the preferred topics outlined in my June 2, 2004, letter to you. The specific description of the areas to be inquired about is intended in good faith to provide Mr. Russert and NBC


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with an understanding of the scope of the intended inquiry during the Deposition, and is not intended to be a waiver or diminution of the right of Special Counsel to conduct future investigation as is appropriate.

Very truly yours,

  
PATRICK J. FITZGERALD  
Special Counsel