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March 6, 2015

Jeff S. Jordan  
 Supervisory Attorney  
 Complaints Examination & Legal Administration  
 Federal Election Commission  
 999 E Street, NW  
 Washington, DC 20463  
 VIA FACSIMILE: (202) 219-3923

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RECEIVED  
 OFFICE OF GENERAL  
 COUNSEL  
 FEDERAL ELECTION  
 COMMISSION

**Re: MUR 6915; Complaint against Right to Rise PAC, Inc., et al.**

Dear Mr. Jordan:

We are writing this letter on behalf of Right to Rise PAC, Inc. (the "PAC"), James Robinson in his official capacity as Treasurer of the PAC, Right to Rise Super PAC, Inc. (the "Super PAC"), and Charles R. Spies, in his official capacity as Treasurer of the Super PAC (collectively referred to as the "Respondents") in response to the Complaint filed in the above-referenced matter by a Democrat front-group called American Democracy Legal Fund ("ADLF" or "Complainant"). The Complaint was clearly filed for publicity and political gain, and is based exclusively on flawed legal theories, speculation and innuendo. The asserted facts on their face do not support a reason to believe finding in this matter, and the Complaint should be dismissed.

The Federal Election Commission (the "Commission") may find "reason to believe" only if a Complaint sets forth sufficient specific facts, which, if proven true, would constitute a violation of the Federal Election Campaign Act (the "Act"). *See* 11 C.F.R. § 111.4(a), (d). Unwarranted legal conclusions from asserted facts or mere speculation will not be accepted as true. *See* MUR 4960, Commissioners Mason, Sandstrom, Smith and Thomas, Statement of Reasons (Dec. 21, 2001). Moreover, the Commission will dismiss a complaint when the allegations are refuted with sufficiently compelling evidence. *See id.*

In this case, despite Complainant's vast resources and motivation to create some sort of scenario in the Complaint that, if proven, would constitute a violation of the Act by Respondents, it is unable to provide any evidence that Respondents have violated the Act other than its own self-serving and politically charged conclusions about Respondents' activities.

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It should be noted that ADLF frequently makes public its disagreements with First Amendment protections for political speech, as ADLF and its staff are committed advocates for restrictions on political speech for their political adversaries. As such, ADLF raises funds for their partisan pro-regulatory agenda by regularly filing FEC complaints hyperbolically asserting violations of the Act by conservative-leaning organizations. ADLF's partisan motives are well-documented,<sup>1</sup> as all of its complaints have been lodged at conservative and Republican organizations. We note this ideological agenda and practice not to pass judgment upon ADLF's business model, but instead to reinforce the facts regarding ADLF's motivation in manufacturing their complaints with the Commission.

The current Complaint is no different, as ADLF once again relies on unsupported allegations and innuendo, this time from several news articles, and ADLF's own politically motivated and legally flawed conclusions about Respondents' activities. ADLF's accusations are without legal or factual support. Each spurious allegation is addressed in turn below.

### **Analysis**

#### ***Right to Rise PAC's Honorary Chairman, Governor Jeb Bush, is Not a Candidate***

Before focusing on ADLF's allegations against Respondents, it is important to address its baseless argument that the PAC's Honorary Chairman, former Florida Governor Jeb Bush, is a "candidate" for federal office. ADLF's entire complaint relies on the false premise that Governor Bush is a candidate for federal office. In fact, each and every allegation of wrongdoing set forth by ADLF is dependent on this flawed conclusion. ADLF knows that its arguments fail without this self-serving supposition, which is why ADLF spends the majority of the complaint conjuring up defective legal theories and making up assertions about Governor Bush's activities as a private citizen in order to arrive at their desired conclusion. These hyperbolic assertions, based solely on ADLF's partisan construal of a handful of news articles, have no grounding in actual law.

As has consistently been made clear, Governor Bush is not a candidate for federal office. As a private citizen, Governor Bush enjoys a First Amendment right to associate with any political organization of his choosing, including those that share his policy views and support for conservative candidates across the country. He may lend his name to such political organizations for fundraising purposes, attend, speak at, and solicit contributions to such groups at their events, and serve as their Honorary Chairman, as is the case with the PAC. Such activities do not somehow transform Governor Bush into a candidate for federal office, and they certainly do not subject Governor Bush to the Commission's registration and reporting requirements. Because Governor Bush is not a candidate for federal office, ADLF's complaint is factually and legally deficient on its face.

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<sup>1</sup> Kenneth Vogel, *Media Matters' David Brock Expands Empire*, POLITICO, Aug. 13, 2014, available at <http://www.politico.com/story/2014/08/david-brock-citizens-for-responsibility-and-ethics-in-washington-110003.html>.

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***Right to Rise PAC is Not Being Used to Raise Money for Exploratory Purposes***

ADLF erroneously maintains that the PAC is being used to raise money for exploratory campaign efforts of its Honorary Chairman, Governor Bush. This assertion is not correct. If ADLF had performed even a cursory review of the PAC's website, it would have learned that the PAC is organized to "support candidates who want to restore the promise of America with a positive, conservative vision of reform and renewal." Such an objective is commonplace among leadership PACs and well within the legally permitted activities of a federal political action committee. It is also entirely consistent with ADLF's own statement in the complaint about the legitimate functions of a leadership PAC—"to raise money to support other candidates."<sup>2</sup> In fact, raising money to support other candidates is precisely what the PAC has done. In February, the PAC made over \$122,000 in contributions to conservative candidates and state party committees across the country.<sup>3</sup>

ADLF also seems to think Governor Bush's statement on his personal Facebook page that the PAC will "facilitate conversations with citizens across America to discuss the most critical challenges facing our exceptional nation" is somehow *prima facie* evidence that the PAC is being used for exploratory purposes. Aside from having no legal relevance and doing nothing to bolster ADLF's argument, such statements are both common and legally permissible for individuals to make to promote the policies and objectives of political action committees, especially, as is the case here, when made by a PAC's Honorary Chairman.

Contrary to ADLF's misguided contentions, none of the funds raised by the PAC have been used for exploratory activities by Governor Bush. The mission of the PAC, as stated on its website, "is to support candidates who share our optimistic, conservative, positive vision for helping every American get ahead." In the few short weeks since its creation, the PAC has already followed through on this mission, making over \$120,000 in contributions to candidates and parties that share the PAC's conservative vision for America. There are simply no provisions of the Act or the Commission's regulations that would prohibit Governor Bush, a private citizen, from exercising his First Amendment rights to support this mission by serving as the PAC's Honorary Chairman, participating in the PAC's fundraisers, speaking to supporters at the PAC's events, and facilitating contributions to conservative candidates.

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<sup>2</sup> Compl. at 4.

<sup>3</sup> A press release issued by the PAC announcing these contributions is attached as Exhibit A.

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***Governor Bush is Not Subject to the Soft Money Ban Because He is Not a Candidate***

ADLF takes its flawed logic a step further in its claim that Governor Bush violated the Act's soft money ban by establishing, directing, and raising money for Right to Rise Super PAC, Inc. As an initial matter, this is factually incorrect. The Super PAC was not established by Governor Bush, and Governor Bush does not direct or control the Super PAC's fundraising or other activities. The extent of Governor Bush's involvement with the Super PAC is his appearance as a special guest at Super PAC fundraising events, which would be permissible even if Governor Bush was a candidate for federal office.<sup>4</sup>

Of course, Governor Bush is not a candidate, so each and every statute and regulation cited by ADLF in Section 3 of its complaint is wholly irrelevant and inapplicable. Even if Governor Bush did establish, direct, control or raise unlimited contributions for the Super PAC, which he has not, it would be within his First Amendment rights as a private citizen to do so. Indeed, the Commission acknowledged as recently as last month in MUR 6775, a matter involving Ready for Hillary PAC and Hillary Clinton, that its regulations concerning a candidate's interaction with independent expenditure-only committees do not extend to *potential* candidates who have made no decision to run for federal office and remain as private citizens.<sup>5</sup>

The Commission's decision in MUR 6775 not to regulate the activities of a non-candidate private citizen is not surprising. What is surprising, however, is that ADLF, a group funded by liberal activist and Hillary Clinton operative, David Brock,<sup>6</sup> would launch the same line of frivolous attacks on Governor Bush, the PAC, and the Super PAC, when Clinton just finished successfully advocating for the legality of similar activities before the Commission. Such hypocrisy only further demonstrates ADLF's disingenuousness and lack of credibility in filing such a bogus complaint.

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<sup>4</sup> The Commission made clear in Advisory Opinion 2011-12 (Majority PAC and House Majority PAC) that candidates "may attend, speak at, or be featured guests at fundraisers for [independent expenditure-only committees], at which unlimited individual, corporate, and labor organization contributions will be solicited, so long as the...candidates...restrict any solicitations they make to funds subject to the limitations, prohibitions, and reporting requirements of the Act."

<sup>5</sup> See MUR 6775, Ready for Hillary PAC, Factual and Legal Analysis, Feb. 12, 2015.

<sup>6</sup> See Lachlan Markay, *Democracy Alliance State Spending Plans Revealed*, WASH. FREE BEACON, Nov. 12, 2014, available at <http://freebeacon.com/politics/democracy-alliance-state-spending-plans-revealed/>

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**Conclusion**

In presenting politically motivated and factually and legally unsubstantiated arguments, ADLF has failed to demonstrate that Respondents have violated any provision of the Act or the Commission's regulations. Instead, ADLF has yet again invoked an administrative process as a means to continue its thinly veiled assault on the First Amendment and its political opponents' constitutional rights of political speech. The Complaint is based on frivolous legal theories and malicious speculation. We therefore respectfully request that the Commission recognize the legal and factual insufficiency of the Complaint on its face and immediately dismiss it.

Thank you for your consideration of this matter, and please do not hesitate to contact me directly at (202) 572-8663 with any questions.

Respectfully submitted,



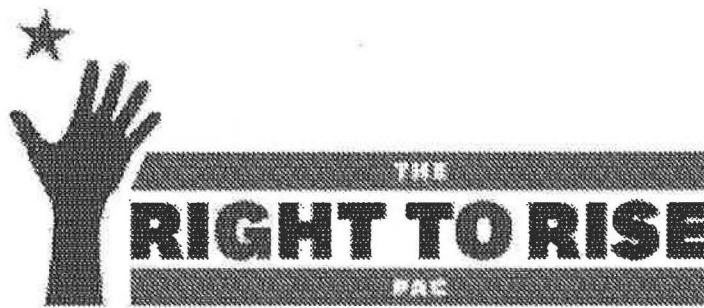
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Charles R. Spies  
James E. Tyrrell III  
CLARK HILL PLC

*Counsel to Right to Rise PAC, Inc. and  
Right to Rise Super PAC, Inc.*

Enc.

# Exhibit A



FOR IMMEDIATE RELEASE  
February 13, 2015

CONTACT: Press Shop  
[press@righttorisepac.org](mailto:press@righttorisepac.org)

## RIGHT TO RISE PAC RELEASES FIRST ROUND OF CANDIDATE CONTRIBUTIONS

Tallahassee, FL – Today, the Right to Rise PAC released its first round of contributions to conservative candidates running in 2016 totaling over \$100,000.

"I'm proud to support great conservative candidates who are committed to renewing America's promise by expanding opportunity and igniting upward mobility in our country," said Governor Jeb Bush, Right to Rise PAC's Honorary Chairman. "In the coming months, our PAC will continue to support conservative candidates and conservative policies that will ensure all Americans have the right to rise."

**Right to Rise PAC Contributions:**

- Senator Kelly Ayotte (\$5,200)
- Senator Richard Burr (\$5,200)
- Senator Chuck Grassley (\$5,200)
- Senator Rob Portman (\$5,200)
- Senator Tim Scott (\$5,200)
- Representative Barbara Comstock (\$5,200)
- Representative Trey Gowdy (\$5,200)
- Representative Frank Guinta (\$5,200)
- Representative Joe Heck (\$5,200)
- Representative Mia Love (\$5,200)

- Representative Martha McSally (\$5,200)
- Representative Elise Stefanik (\$5,200)
- Representative David Young (\$5,200)
- Representative Lee Zeldin (\$5,200)
- Republican Party of Florida (\$10,000)
- Republican Party of Iowa (\$10,000)
- Nevada Republican Party (\$10,000)
- New Hampshire Republican State Committee (\$10,000)
- South Carolina Republican Party (\$10,000)

**Total Amount Given: \$122,800**

###

PAID FOR BY RECENTLY NAMED PAC INC.  
NOT AUTHORIZED BY ANY CANDIDATE OR CANDIDATE'S COMMITTEE.  
RECENTLY NAMED PAC INC.

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## BEFORE THE FEDERAL ELECTION COMMISSION STATEMENT OF DESIGNATION OF COUNSEL

**MUR # 6915**

**Name of Counsel:** Charles R. Spies

James E. Tyrrell III  
Clark Hill PLC  
601 Pennsylvania Avenue NW  
North Building, Suite 1000  
Washington, DC 20004

**Telephone:** (202) 572-8663  
**Fax:** (202) 572-8683

**The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.**

03/05/2015



Treasurer

Date

Respondent/Client Signature

Title

Respondent/Client:

Right to Rise Super PAC, Inc.  
Charles R. Spies, in his official capacity as Treasurer  
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Washington, DC 20004

Telephone - Home:

Business: (202) 572-8663

Information is being sought as part of an investigation being conducted by the Federal Election Commission and the confidentiality provisions of 2 U.S.C. 437g(a)(12)(A) apply. This section prohibits making public any investigation conducted by the Federal Election Commission without the express written consent of the person under investigation.

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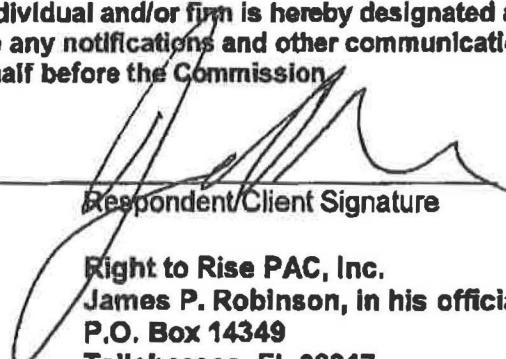
MUR # 6915

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**Telephone:** (202) 572-8663  
**Fax:** (202) 572-8683

The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

2/25/14  
Date

  
Respondent/Client Signature

Treasurer

James P. Robinson  
Title

**Respondent/Client:** Right to Rise PAC, Inc.  
James P. Robinson, in his official capacity as Treasurer  
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Information is being sought as part of an investigation being conducted by the Federal Election Commission and the confidentiality provisions of 2 U.S.C. 437g(a)(12)(A) apply. This section prohibits making public any investigation conducted by the Federal Election Commission without the express written consent of the person under investigation.