

BEFORE THE  
FEDERAL ELECTION COMMISSION

American Democracy Legal Fund  
455 Massachusetts Avenue, NW  
Washington, DC 20001  
Complainant,

FEDERAL ELECTION  
COMMISSION  
2015 MAY 27 PM 3:44  
OFFICE OF GENERAL  
COUNSEL

v.

Mr. John Ellis "Jeb" Bush  
P.O. Box 14349  
Tallahassee, FL 32317

**MUR # 6915**

Right to Rise Super PAC, Inc., and Charles R. Spies, Treasurer  
601 Pennsylvania Avenue NW  
North Building, Suite 1000  
Washington, DC 20004

Respondents.

**SUPPLEMENT**  
**COMPLAINT**

Complainant files this complaint under 52 U.S.C. § 30109(a)(1) against Mr. John Ellis "Jeb" Bush and Right to Rise Super PAC, Inc., and Charles Spies, its treasurer, in his official capacity (collectively, "Respondents") for violating the Federal Election Campaign Act of 1971, as amended ("the Act"), as described below. Given Mr. Bush's recent declaration of his candidacy for president of the United States in the 2016 election cycle,<sup>1</sup> we file this complaint to supplement and highlight the allegations made in the complaints we filed against Respondents on February 5, 2015 ("the February Complaint") and May 12, 2015 ("the May Complaint"). It was clear before, but it is now crystal clear that Mr. Bush and Right to Rise Super PAC, Inc. have violated the Act in the following ways: (1) Mr. Bush, now a self-declared candidate for federal office, has been soliciting and raising funds outside of the federal limits for Right to Rise Super

<sup>1</sup> M. Barbaro, "Jeb Bush Declares His Candidacy -- Prematurely," *The New York Times*, May 13, 2015, available at <http://www.nytimes.com/politics/first-draft/2015/05/13/jeb-bush-declares-his-candidacy-prematurely>; see also T. Schleifer, "It's Getting Harder for Jeb Bush to Pretend He's Not Running for President," *CNN Politics*, May 13, 2015, available at <http://www.cnn.com/2015/05/13/politics/jeb-bush-miscue-2016-campaign-finance/>.

PAC, Inc., and (2) Right to Rise Super PAC, Inc., an independent expenditure-only committee that was established and is directed and controlled by Mr. Bush and his agents, has been soliciting, receiving, and spending funds not subject to the limitations and restrictions of the Act. And even if Mr. Bush stops raising money for Right to Rise Super PAC, Inc. and completely separates himself from the committee now that he has publicly declared his candidacy, Right to Rise Super PAC, Inc. will still be in violation of the law if it raises or spends soft money because it was established by and will be controlled by Mr. Bush and his agents.

In an apparent effort to flout his attempted end-run around the campaign finance laws, Mr. Bush has stated that Right to Rise Super PAC, Inc. raised more money in its first 100 days than any Republican candidate has ever raised at the beginning of a "campaign."<sup>2</sup> This is of course because funds raised by Right to Rise Super PAC, Inc. have been solicited primarily by Mr. Bush who has been traveling the country to raise money for the independent expenditure-only committee for months.<sup>3</sup> This has given Mr. Bush's "campaign" an unfair and illegal advantage over candidates who follow the law by first declaring their candidacy and then establishing a principal campaign committee and raising funds within the federal limits.

We urge the Commission to promptly investigate Mr. Bush and Right to Rise Super PAC Inc.'s violations. Without action, Mr. Bush's illegal behavior will set harmful precedent that would allow independent expenditure-only committees established and controlled by candidates to wholly finance a candidate's campaign using funds that are not subject to the Act's limitations or requirements, a clear violation of the Act's prohibition on federal candidates establishing, directing, and controlling a soft money entity.

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<sup>2</sup> See Schleifer *supra* note 1.

<sup>3</sup> F. Wertheimer, "Why Jeb Bush's Super PAC Plan is Potentially Illegal," *Reuters*, Apr. 23, 2015, available at <http://blogs.reuters.com/great-debate/2015/04/22/why-jeb-bushs-super-pac-plan-is-potentially-illegal/>.

## A. FACTS

On December 16, 2014, Mr. Jeb Bush, former Governor of Florida, announced his decision to "actively explore the possibility of running for President of the United States."<sup>4</sup> In his announcement, Mr. Bush shared his plans to launch a leadership PAC.<sup>5</sup> Mr. Bush formed his leadership PAC, Right to Rise PAC, Inc., ("the leadership PAC") on January 6, 2015. Less than two weeks later, Mr. Bush established an independent expenditure-only committee under the same name -- Right to Rise Super PAC, Inc. ("the independent expenditure-only committee") -- on January 16, 2015.

Mr. Bush has been raising money for his leadership PAC and Right to Rise Super PAC, Inc. since their formation despite the fact that Mr. Bush is a candidate for president.<sup>6</sup> Indeed, on May 13, 2015, Mr. Bush finally publicly declared what his actions have demonstrated all along (and especially since he began fundraising in excess of what is reasonably necessary to "test the waters")<sup>7</sup> in the following statement to reporters: "I'm running for president in 2016 and the focus [of the campaign] is going to be about . . . ."<sup>8</sup>

News reports have indicated that Mr. Bush's campaign team intends to continue raising large amounts of money for Right to Rise Super PAC, Inc. so that they can run the bulk of Mr. Bush's campaign out of the independent expenditure-only committee instead of a traditional

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<sup>4</sup> "A Note from Jeb Bush," Dec. 16, 2014, *available at* <https://www.facebook.com/notes/jeb-bush/a-note-from-jeb-bush/619074134888300>.

<sup>5</sup> *Id.*

<sup>6</sup> B. Reinhard, "Jeb Bush Gives Potential Big Donors a Price List," *The Wall Street Journal*, Jan. 23, 2015, *available at* <http://blogs.wsj.com/washwire/2015/01/23/jeb-bush-gives-potential-big-donors-a-price-list/>.

<sup>7</sup> The February and May Complaints allege that Mr. Bush failed to register and report as a candidate with the Commission in violation of the Act. We incorporate that allegation by reference here, and refer the Commission to the February and May Complaints for a full discussion of this allegation.

<sup>8</sup> *See* Schleifer *supra* note 1.

campaign committee.<sup>9</sup> Indeed, the *Associated Press* has reported that Mr. Bush and his allies intend to use the independent-expenditure only committee to take on many of the duties typically conducted by a campaign, including television advertising and direct mail, data gathering, highly individualized online advertising, and running phone banks.<sup>10</sup> News reports suggest that Right to Rise Super PAC, Inc. will spend more money on Mr. Bush's campaign than his own yet to be formed campaign committee.<sup>11</sup>

Importantly, Right to Rise Super PAC, Inc. will be run by one of Mr. Bush's close advisors. News reports indicate that Mike Murphy, who has been described as Mr. Bush's "longtime political confidant," will run the committee.<sup>12</sup> The *Associated Press* has reported that the only reason Mr. Bush and his agents are comfortable delegating many of the traditional campaign activities to Right to Rise Super PAC, Inc. is because Mr. Murphy, someone with knowledge of the campaign's strategies and plans, will run the committee.<sup>13</sup>

## B. LEGAL ARGUMENT

### 1. Mr. Bush is raising funds for an independent expenditure-only committee that he and his agents established and currently direct and control in clear violation of the law.

The Act prohibits federal candidates and their agents from establishing, directing, controlling, or soliciting money for an entity that raises money outside of the federal contribution limits such as an independent expenditure-only committee.<sup>14</sup> Conversely, federal law prohibits an entity established, directed, or controlled by a federal candidate or his agents from receiving

<sup>9</sup> T. Beaumont, "Jeb Bush Prepares to Give Traditional Campaign A Makeover," *Associated Press*, Apr. 21, 2015, available at <http://bigstory.ap.org/article/409837aa09ee405493ad64a94b8c2c3d/bush-preparing-delegate-many-campaign-tasks-super-pac>.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *See id.*

<sup>14</sup> 52 U.S.C. § 30125(e)(1); *see also* FEC Advisory Opinion 2011-21 (Lee).

and spending money outside of the federal contribution limits.<sup>15</sup> Specifically, under 52 U.S.C. § 30125(e)(1), "[a] candidate, individual holding Federal office, agent of a candidate or an individual holding Federal office, or an entity directly or indirectly established, financed, maintained, controlled by or acting on behalf of 1 or more candidates or individuals holding Federal office shall not - solicit, receive, direct, transfer, or spend funds in connection with an election for Federal office, including funds for any Federal election activity, unless the funds are subject to the limitations, prohibitions, and reporting requirements of [the] Act."<sup>16</sup>

When the Commission is considering whether a candidate has "established" an independent expenditure-only committee, the Commission focuses principally on whether the candidate "directly or through his agent, had an active or significant role in the formation of the entity."<sup>17</sup> When considering whether a candidate "finances" or "maintains" an independent expenditure-only committee, the Commission considers a number of factors, including whether the candidate, directly or through his agent, provides funds or goods in a significant amount to the committee, or causes or arranges for funds in a significant amount or on an ongoing basis to be provided to the committee.<sup>18</sup> Finally, when determining whether a candidate "controls" an independent expenditure-only committee, the Commission will consider factors such as (1) whether the candidate has the authority or ability to direct or participate in the governance of the entity; (2) whether the candidate has the authority to hire, appoint, demote, or otherwise control the officers or decision-makers of the committee; and (3) whether the candidate has a common or overlapping membership with the committee that indicates a formal or ongoing relationship

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<sup>15</sup> *Id.*

<sup>16</sup> 52 U.S.C. § 30125(e)(1).

<sup>17</sup> 11 C.F.R. § 300.2(c)(2)(ix).

<sup>18</sup> *Id.* § 300.2(c)(2).

between the candidate and the entity.<sup>19</sup> Additionally, a federal candidate is strictly prohibited from soliciting, raising, and spending funds in excess of the contribution limits through an independent expenditure-only committee.<sup>20</sup>

Given Mr. Bush's recent declaration that he is a candidate for president, it is now undoubtedly clear that Mr. Bush -- a self-declared federal candidate -- and his agents have been soliciting and raising funds for Right to Rise Super PAC, Inc. in violation of 52 U.S.C. § 30125(e)(1). Indeed, until now, Mr. Bush purposefully failed to declare himself a candidate so that he could travel the country to raise money for the independent expenditure-only committee despite the fact that he actually triggered federal candidacy several months ago.<sup>21</sup>

Similarly, Right to Rise Super PAC, Inc. has violated 52 U.S.C. § 30125(e)(1) by raising funds outside of the federal limits because it was established by Mr. Bush and his agents and is currently directed and controlled by the same. Mr. Bush established Right to Rise Super PAC, Inc. at the same time that he launched his leadership PAC, which has the same name, Right to Rise PAC. News reports indicate that Mr. Bush is directing and controlling Right to Rise Super PAC, Inc. through his agent Mike Murphy, who was clearly hired or appointed to his position by Mr. Bush and who will run the committee in the future. Mr. Murphy is a "Bush confidante" who has been "deeply involved in Bush's steps, courting donors, selecting staff and developing strategy."<sup>22</sup> By the time Mr. Murphy takes full control of the independent expenditure-only committee, he will have spent enough time with Mr. Bush developing and organizing his

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<sup>19</sup> *Id.* § 300.2.

<sup>20</sup> 52 U.S.C. § 30125(e)(1).

<sup>21</sup> *See* note 7.

<sup>22</sup> *See* Beaumont *supra* note 9.

campaign strategy to be able to operate Right to Rise Super PAC, Inc. in complete coordination with the plans, projects, activities, and needs of the campaign.<sup>23</sup>

Importantly, even if Mr. Bush stops raising money for Right to Rise Super PAC, Inc. and completely separates himself from the committee now that he has publicly declared his candidacy, Right to Rise Super PAC, Inc. will still be in violation of the law if it raises or spends soft money because it was established by and will be controlled by Mr. Bush and his agents.

As such, the facts above clearly demonstrate that Mr. Bush and Right to Rise Super PAC, Inc. have violated 52 U.S.C. § 30125(e)(1) because (1) Mr. Bush, a federal candidate, and (2) Right to Rise Super PAC, Inc., an independent expenditure-only committee that was established and is directed and controlled by Mr. Bush and his agents, have been soliciting, receiving, and spending funds that are not subject to the limitations and restrictions of the Act.

### **C. REQUESTED ACTION**

As we have shown, Mr. Bush, as a candidate for federal office, and Right to Rise Super PAC, Inc., as an independent expenditure-only committee established, controlled, and directed by Mr. Bush and his agents, have violated the Act's prohibition on candidates and entities established and controlled by candidates soliciting, raising, receiving, and spending money not subject to the federal limits. As such, we respectfully request that the Commission investigate these violations in addition to the violations alleged in our February and May Complaints, and that Respondents be enjoined from further violations and be fined the maximum amount permitted by law.

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<sup>23</sup> See Wertheimer *supra* note 3.

Sincerely,

*Paul Walker*

SUBSCRIBED AND SWORN to before me this 20 day of May, 2015.

*Paul Walker*  
Notary Public

My Commission Expires:

JANUARY 15, 2020

