American Democracy Legal Fund
455 Massachusetts Avenue, N.W.
Washington, D.C. 20001,

Complainant,

v.

Mr. John Ellis “Jeb” Bush
P.O. Box 440669
Miami, FL 33144,

Jeb 2016, Inc. and William Simon, Treasurer
P.O. Box 440669
Miami, FL 33144,

Right to Rise USA and Charles Spies, Treasurer,
6230 Wilshire Blvd. #1790
Los Angeles, CA 90048,

Right to Rise PAC, Inc. and James Robinson, Treasurer,
2475 Brickell Ave. #2009
Miami, FL 33129,

Respondents.

Complainant files this complaint under 52 U.S.C. § 30109(a)(1) against Mr. John Ellis
“Jeb” Bush; his principal campaign committee, Jeb 2016, Inc. and its treasurer in his official
capacity; Right to Rise USA and its treasurer in his official capacity; and Right to Rise PAC, Inc.
and its treasurer in his official capacity (collectively, “Respondents”) for violating the Federal
Election Campaign Act of 1971, as amended (“the Act”) and Federal Election Commission (the
“Commission”) regulations, as described below.
A. FACTS

Mr. Bush declared his candidacy for president on June 15, 2015, filing his statement of candidacy with the Commission that same day.¹ His principal campaign committee (hereinafter the “Campaign”) is Jeb 2016, Inc.² Right to Rise USA (hereinafter the “Super PAC”) is an independent expenditure-only committee or Super PAC organized to support Mr. Bush’s federal candidacy.³ Right to Rise PAC, Inc. (hereinafter the “Leadership PAC”) is a multicandidate political committee that is established, financed, maintained, or controlled by Mr. Bush.⁴

Mr. Bush began testing the waters for a campaign as early as May 23, 2014,⁵ nearly eight months before the formation of his Super PAC and Leadership PAC on January 6, 2015.⁶ He tested the waters until, at the very latest, he formally announced his candidacy on June 15, 2015. During this period, as explained below, the Super PAC and Leadership PAC each spent thousands of dollars on activities that may have been for testing-the-waters purposes. These payments have not been reimbursed by Mr. Bush or the Campaign.

Super PAC Expenditures. According to media reports and FEC filings, the Super PAC spent thousands of dollars on activities that may have been for the purpose of allowing Mr. Bush

² FEC Form 2, Statement of Candidacy, Jeb Bush (June 15, 2015).
³ See FEC Form 1, Statement of Organization, Right to Rise USA (June 12, 2015); Right to Rise USA, available at https://righttorisesuperpac.org/#/home?lang=en (“Right to Rise USA is the leading independent super PAC supporting Jeb Bush’s campaign for President.”).
⁵ FEC July Quarterly Report, Jeb., Inc. (July 15, 2015) (recording payment of $1,875 from Jeb Bush to Jeb 2016, Inc. for “In Kind (Testing the Waters) Communications Consulting,” through Kristy Campbell).
⁶ See FEC Form 1, Statement of Organization, Right to Rise PAC, Inc. (Jan. 6, 2015); FEC Form 1, Statement of Organization, Right to Rise USA (Jan. 6, 2015).
to test the waters. The categories of these expenditures include, but are not limited to, travel, rent, communications consulting, and even payments to current employees of the Campaign.

**Travel.** The Super PAC’s Mid-Year 2015 report reflects that it spent over $200,000 on travel during the testing-the-waters period. For example, the Super PAC reported two expenditures ($420 and $403) at the Biltmore Hotel in Coral Gables, Florida on March 8, 2015, one day before a Bush fundraiser in that city. The Super PAC also reported an expenditure ($889) on May 15, 2015, to the Duke Mansion in Charlotte, North Carolina, and Mr. Bush met with donors in Charlotte on May 1, 2015. To give one final example, Mr. Bush spoke at the Henry Ford Academy in Michigan on May 29, 2015, and on June 2 the Super PAC reported an expenditure of $242 to the Marriott in Grand Rapids, Michigan, for travel.

**Rent.** The Super PAC made a rent payment of $3,957, reported as May 31, 2015, to Hoffman Flagler LLC. This is the same company to which the Campaign is paying for his Florida offices.

**Communications consulting.** The Super PAC reported an expenditure of $55,989 on May 18, 2015, to FP1 Strategies for “communications consulting.” FP1 Strategies was founded by Mr. Bush’s eventual campaign manager, Danny Diaz.

**Payments to current employees of the Campaign.** Two individuals who are on the payroll of the campaign, Brandon Doyle and Salvatore Purpura, were paid by the Super PAC for

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11 FEC July Quarterly Report, Jeb 2016, Inc.
various reasons: the Super PAC recorded an expense on May 5, 2015, to Mr. Doyle for “equip purchase,” and on May 22, 2015, for “postage;” and five entries reflect payments to Mr. Purpura for “compliance consulting,” totaling over $25,000.14

None of these payments, though made during the testing-the-waters period and likely supporting Mr. Bush and his agents during that period, have been reimbursed by Mr. Bush or the Campaign.

**Leadership PAC Expenditures.** According to the Leadership PAC’s July 2015 report,15 it made nearly 50 expenditures for consulting services – including services for financing, communications, websites, politics, logistics, research, etc. – totaling over $700,000. Moreover, the Leadership PAC spent over $175,000 on vendor services through 10 separate expenditures. These vendor services included payments for database management, facility rental, and catering. A full account of these expenditures for consulting and vendor services is attached as Exhibit A. Though these payments were all made while Mr. Bush was testing the waters and likely supported Mr. Bush and his agents’ activities during that period, none of these payments has been reimbursed by Mr. Bush or the Campaign.16

**B. LEGAL ARGUMENT**

1. **Mr. Bush and the Super PAC may have violated the Act by using Super PAC funds to finance exploratory activities.**

   Under the Act, an individual becomes a candidate for federal office (thus triggering registration and reporting requirements) when his or her campaign either receives in excess of

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16 In fact, the only two reimbursements reported by the Campaign to the Leadership PAC are for “repayment - rent deposit” and for “repayment - rent/equipment/purchase/computer/office supply purchase.”
$5,000 in contributions or makes in excess of $5,000 in expenditures. There is an exception for amounts raised and spent while an individual is “testing the waters” in order to decide whether to become a candidate; federal regulations provide that the terms “contribution” and “expenditure” do not include funds received or payments made solely to determine whether an individual should become a candidate. But this exception is limited in a key way: “[o]nly funds permissible under the Act may be used for such activities.” Once the individual becomes a candidate, payments count as contributions to the candidate and must be reported as such.

The Super PAC raises funds outside of the Act’s limits and source restrictions. If any of its payments financed Mr. Bush or his agents to test the waters, the Super PAC provided—and Bush accepted—impermissible contributions. “Testing the waters” includes any activities conducted to determine whether an individual should become a candidate, including, without limitation, conducting a poll, telephone calls, and travel. It is clear that Mr. Bush began testing the waters well before the Super PAC was formed, and the Super PAC made several expenditures that fall under the umbrella activity that traditionally means to test the waters.

Regarding travel, for example, the Super PAC spent nearly $200,000, in various localities during a time period in which Mr. Bush was speaking at those localities. Moreover, the Super PAC made a rent payment on a building that was likely used to house discussions or make telephone calls to determine the viability of a candidacy. This also may have been the purpose behind the payments to two consultants who are now employees of the Campaign. Some entity had to have financed Mr. Bush’s activities during the long testing-the-waters period; because

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17 52 U.S.C. § 30101(2).
18 See 11 C.F.R. §§ 100.72, 100.131.
19 11 C.F.R. § 100.72(a).
20 11 C.F.R. § 100.72(a).
21 Id. § 100.72(a).
there is no record of Mr. Bush or the Campaign paying for it, it appears that the Super PAC contributed the funds.

2. Mr. Bush, the Leadership PAC, and the Campaign may have violated the Act by giving or accepting impermissible contributions or failing to comply with reporting requirements.

As noted earlier, if an entity makes payments to support the exploratory activities of an individual who becomes a candidate, those payments count as expenditures subject to the Act’s limitations and reporting requirements. Moreover, pre-candidacy expenditures by multicandidate PACs are deemed an in-kind contribution to, and an expenditure by, a Presidential candidate, even if made before candidacy is triggered, if three conditions are met:

(1) the expenditure is made on or after January 1 of the year immediately following the last presidential election year; (2) with respect to the goods or services involved, the candidate accepted or received them, requested or suggested their provision, was materially involved in the decision to provide them, or was involved in substantial discussions about their provision; and (3) the goods and services are for (a) polling expenses, (b) compensation paid to employees, consultants, or vendors for services concerning staffing offices in states where presidential primaries, caucuses, or preference polls are to be held (other than offices in the candidate’s home state or near D.C.), (c) administrative expenses concerning such offices, including rent, utilities, office supplies and equipment, and (d) expenses of individuals seeking to become delegates in the presidential nomination process. However, if the candidate, through an authorized committee, reimburses the multicandidate PAC within 30 days of becoming a candidate, the payment is not deemed an in-kind contribution for either entity, nor an expenditure.

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22 Id. § 100.131(a).
23 Id. § 110.2(1).
24 Id. § 110.2(1)(2).
Because the Campaign has not reimbursed the Leadership PAC (which is a multicandidate committee\(^{25}\)) for the expenditures listed in Exhibit A, the Campaign may have violated the Act. First, all expenditures at issue occurred after January 1, 2013, the year immediately following the last presidential election year. Second, given that the Leadership PAC paid for activities that are traditionally paid for by a campaign – including finance consulting, communications consulting, political strategy consulting, etc. – Mr. Bush and his agents were surely materially involved in the decisions to provide these services or at least engaged in discussions about them. Third, the Leadership PAC’s expenditures were for consulting and vendor services, and it is likely that – given the proximity to the primary season – these services were used for polling expenses or staffing offices in various states other than Florida and the District of Columbia.

Moreover, multicandidate PACs may contribute only up to $5,000 per election to a candidate committee.\(^ {26}\) If its payments, which total nearly $1,000,000, constitute contributions, the Leadership PAC clearly violated the contribution limits.

**C. REQUESTED ACTION**

As shown, FEC and media reports strongly suggest that Mr. Bush and Respondents have violated the Act and Commission regulations by using impermissible funds to support testing-the-waters efforts. We respectfully request that the Commission investigate these violations, and that Respondents be enjoined from further violations and fined the maximum amount permitted by law.

Sincerely,

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\(^{25}\) FEC Form 1, Statement of Organization, Right to Rise PAC, Inc. (Jan. 6, 2015).

SUBSCRIBED AND SWORN to before me this 14th day of September, 2015.

Ashly D. Rice
Notary Public

My Commission Expires:
2/25/2019
Leadership PAC Expenditures

A. Consulting Services


3/2/15: Right to Rise PAC Inc. paid $9,000 to Redwave Communications for “Political Strategy Consulting” [Right to Rise PAC Inc., USA Midyear 2015 Report, FEC, 7/31/15]


6/12/15: Right to Rise PAC Inc. paid $1,000 to Philip Condo for “Political Strategy Consulting” [Right to Rise USA Midyear 2015 Report, FEC, 7/31/15]

B. Vendor Services


5/15/15: Right to Rise PAC Inc. paid $2036.18 to Iowa Events Center for “Facility Rental” [Right to Rise PAC Inc., USA Midyear 2015 Report, FEC, 7/31/15]