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FEDERAL ELECTION COMMISSION
SECRETARIAT**FEDERAL ELECTION COMMISSION****FIRST GENERAL COUNSEL'S REPORT**

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FEB -8 2017**MUR 6915**

COMPLAINT DATE: 2/11/15
 SUPPLEMENT DATES: 5/27/15; 9/28/15; 2/26/16
 NOTIFICATION DATES: 2/18/15; 10/29/15; 3/3/16
 LAST RESPONSE DATE: 3/31/16
 ACTIVATION DATE: 12/8/15

STATUTE OF LIMITATIONS: 1/6/20 – 6/5/20
 ELECTION CYCLE: 2016

COMPLAINANT:

Brad Woodhouse
 American Democracy Legal Fund

RESPONDENTS:

John Ellis Bush
 Jeb 2016, Inc. and William Simon in his official capacity as
 treasurer
 Right to Rise PAC, Inc. and James P. Robinson in his
 official capacity as treasurer
 Right to Rise USA and Charles R. Spies in his official
 capacity as treasurer
 Michael Murphy

MUR 6927

COMPLAINT DATE: 3/31/15
 SUPPLEMENT DATE: 5/27/15
 NOTIFICATION DATES: 4/3/15; 11/3/15
 LAST RESPONSE DATE: 11/24/15
 ACTIVATION DATE: 12/8/15

STATUTE OF LIMITATIONS: 1/6/20 – 6/5/20
 ELECTION CYCLE: 2016

COMPLAINANTS:

Campaign Legal Center
 Democracy 21

RESPONDENTS:

John Ellis Bush
 Jeb 2016, Inc. and William Simon in his official capacity as
 treasurer
 Right to Rise PAC, Inc. and James P. Robinson in his
 official capacity as treasurer
 Right to Rise USA and Charles R. Spies in his official
 capacity as treasurer

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1 **RELEVANT STATUTES:
2 AND REGULATIONS**

52 U.S.C. § 30101(2)
52 U.S.C. § 30116(a)(1), (f)
52 U.S.C. § 301025
11 C.F.R. § 100.72
11 C.F.R. § 100.131
11 C.F.R. § 104.13(a)
11 C.F.R. § 300.2(c)

9 **INTERNAL REPORTS CHECKED:** Disclosure Reports; Commission Indices

10 **FEDERAL AGENCIES CHECKED:** None

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1 **I. INTRODUCTION**

2

3 On June 5, 2015, almost a year after he first began “testing the waters” for a potential

4 candidacy, John Ellis “Jeb” Bush filed a Statement of Candidacy for the office of President of

5 the United States. Ten days later, on June 15, he publicly announced his candidacy. In the year

6 leading up to his announcement, Bush engaged in a variety of interrelated activities — he spent

7 his own money to conduct research, polling, and other purported exploratory activities; he

8 established a multicandidate committee named Right to Rise PAC (“RTR PAC”), served as its

9 Honorary Chairman and travelled extensively to give speeches and raise money for the PAC; and

10 he participated in numerous fundraisers for Right to Rise USA (“Super PAC”), the self-described

11 “leading independent political action committee strongly supporting Jeb Bush for President,”¹

12 which raised over \$103,000,000 in the first half of 2015.

13

14 The Complaints in these two matters make a number of allegations relating to Bush’s

15 activities during that year and in the period following his formal announcement of candidacy that

16 implicate several possible violations of the Federal Election Campaign Act of 1971, as amended

17 (the “Act”). First, Bush may have failed to timely register as a candidate, and his authorized

18 campaign committee, Jeb 2016, Inc. (“Jeb 2016”), may have failed to timely register and report

19 with the Commission.² Second, Bush, RTR PAC, and the Super PAC may have violated the Act

 by raising and spending non-federal funds through RTR PAC and the Super PAC.³ Finally, RTR

¹ <https://righttorisesuperpac.org/about/rtrusa?lang=en>, Appendix at 2; Resp. of Jeb Bush, Jeb 2016, Inc. at 4, MUR 6915 (Nov. 27, 2015) (“Fourth Bush Resp.”) (citing same).

² See Compl., MUR 6915 at 4 (Feb. 4, 2015) (“MUR 6915 Compl.”); Compl., MUR 6927 at 15-16 (Mar. 31, 2015) (“MUR 6927 Compl.”).

³ See MUR 6915 Compl. at 1-2; MUR 6927 Compl. at 13-14. See also Supp. Compl., MUR 6915 at 1-2 (May 20, 2015) (“MUR 6915 Supp. Compl.”); Supp. Compl., MUR 6915 (Feb. 26, 2016) (“MUR 6915 Third Supp. Compl.”); Supp. Compl., MUR 6927 at 16-17 (May 27, 2015) (“MUR 6927 Supp. Compl.”).

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1 PAC and/or the Super PAC may have made excessive, unreported in-kind contributions to Bush
 2 by paying for testing the waters activity.⁴

3 Respondents each deny violating the Act. They assert that Bush did not become a
 4 candidate until June 2015 and was not subject to the Act's soft money restrictions set forth at
 5 52 U.S.C. § 30125(e) until that time.⁵ They argue that Bush never solicited contributions for the
 6 Super PAC and his only role with respect to the Super PAC was to appear as a featured guest at
 7 its fundraisers.⁶ With respect to RTR PAC, Respondents argue that the PAC raised and spent
 8 funds to further support other federal and non-federal candidates and did not support Bush's
 9 campaign.⁷

10 The available information indicates that there is reason to believe that Bush became a
 11 candidate at least as early as January 2015, that he and the Super PAC violated the Act's soft
 12 money ban, and that RTR PAC may have made excessive and unreported in-kind contributions
 13 to Bush and Jeb 2016. Consequently, we recommend that the Commission find reason to believe
 14 that Bush violated 52 U.S.C. § 30102(e)(1) by failing to timely file a Statement of Candidacy
 15 and designate a principal campaign committee and that Jeb 2016 violated 52 U.S.C. §§ 30103(a)
 16 and 30104 by failing to timely file a Statement of Organization and disclosure reports. We also
 17 recommend that the Commission find reason to believe that the Super PAC violated 52 U.S.C.
 18 § 30125(e) by soliciting and receiving soft money in connection with an election for federal
 19 office. Finally, we recommend that the Commission find reason to believe that RTR PAC made,

⁴ See MUR 6915 Compl. at 3; MUR 6927 Compl. at 14-15.

⁵ See Resp. of Jeb Bush, MUR 6915/6927 at 5, 37-44 (Aug. 6, 2015) ("Third Bush Resp."); Right to Rise Resp. at 2, MUR 6915 (June 10, 2015) ("Third RTR Resp.").

⁶ See Third Bush Resp. at 8; Right to Rise Resp. at 6, MUR 6927 (Apr. 24, 2015) ("Second RTR Resp."); Right to Rise Resp. at 4, MUR 6915 (Mar. 6, 2015) ("First RTR Resp.").

⁷ See First RTR Resp. at 3; Second RTR Resp. at 4-5; Third Bush Resp. at 5-7.

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1 and Bush and Jeb 2016 accepted, excessive in-kind contributions in violation of 52 U.S.C.
 2 §§ 30116(a) and (f), respectively. If the Commission approves our recommendations, we intend
 3 to engage in an investigation to confirm when Bush and Jeb 2016 should have registered and
 4 reported, the amount of non-federal funds raised and spent in violation of the Act, and the extent
 5 to which RTR PAC funded Bush's testing-the-waters and campaign activities. We request that
 6 the Commission authorize the use of compulsory process in the event it is necessary to our
 7 investigation.

8 **II. FACTS**

9
 10 On June 15, 2015, former Florida Governor John Ellis "Jeb" Bush publicly declared his
 11 candidacy for President of the United States.⁸ Bush had signed a Statement of Candidacy on
 12 June 5, designating Jeb 2016 as his authorized campaign committee with William Simon as the
 13 Committee's treasurer;⁹ Jeb 2016 filed its Statement of Organization on June 15.¹⁰ In the year
 14 leading up to his announcement, Bush engaged in a variety of interrelated activities with a
 15 network of allies and associates that appear to have had a common purpose — providing support
 16 for Bush's presidential candidacy.¹¹

17 **A. Testing-the-Waters Activity**

18
 19 In May 2014, Bush began spending funds on exploratory activities to test the waters of a
 20 2016 presidential candidacy.¹² On December 16, 2014, approximately seven months after Bush

⁸ See Third Bush Resp. at 5.

⁹ *Id.* (citing Jeb Bush, Statement of Candidacy (June 5, 2015)). Although Bush's Statement was signed on June 5, he did not file it with the Commission until June 15, 2015.

¹⁰ *Id.* (citing Jeb 2016 Statement of Organization (June 15, 2015)).

¹¹ Bush ultimately suspended his campaign in February 2016. See Ed O'Keefe, *Jeb Bush Drops Out of 2016 Presidential Campaign*, WASH. POST (Feb. 20, 2016).

¹² See Jeb 2016, 2015 July Quarterly Report at 1675-90 (January 31, 2016) (showing first payment for testing the waters to Kristy Campbell for \$1,875 for communications consulting on May 23, 2014).

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1 began testing the waters, he publicly announced his exploratory efforts on Facebook, writing that
 2 he had “decided to actively explore the possibility of running for President of the United
 3 States.”¹³ Shortly after registering with the Commission in June 2015, Jeb 2016 filed its first
 4 disclosure report revealing its spending during the period Bush asserts he was testing the waters
 5 — May 2014 through June 2015.¹⁴ The report disclosed \$516,870 for research and polling,
 6 political and communications consulting, and legal fees, *inter alia*, but only a single payment of
 7 \$1,089.08 for travel expenses during that time.¹⁵ Bush also asserts that he solicited no
 8 contributions for his campaign while testing the waters, and Jeb 2016’s first disclosure report
 9 reported no contributions received during this time.¹⁶

10 **B. Right to Rise PAC (Multicandidate Committee)**

11 In the same December 16 Facebook post announcing his exploratory efforts, Bush
 12 announced his “plan to establish a Leadership PAC” “to support leaders, ideas, and policies that
 13 will expand opportunity and prosperity for all Americans.”¹⁷ This PAC¹⁸ registered with the

¹³ Appendix at 1; *see also* MUR 6915 Compl. at 2 (citing “A Note from Jeb Bush,” Dec. 16, 2014, available at <https://www.facebook.com/notes/jeb-bush/a-note-from-jeb-bush/619074134888300>); MUR 6927 Compl. (citing same); Resp. of Jeb Bush, MUR 6915 at 1 (Mar. 9, 2015) (“First Bush Resp.”) (citing same); Resp. of Jeb Bush, MUR 6927 at 1 (Apr. 24, 2015) (“Second Bush Resp.”) (citing same); Third Bush Resp. at 2 (citing same).

¹⁴ *See* Jeb 2016, 2015 July Quarterly Report (July 15, 2015).

¹⁵ *See* Amend. Jeb 2016, 2015 July Quarterly Report at 1675-90 (Jan. 31, 2016) (“Amend. Jeb 2016, 2015 July Quarterly Report”) (showing payment to Joe M. Allbaugh of Washington, D.C. for travel/airfare/lodging); Third Bush Resp. at 2-5, 30-31.

¹⁶ *See* Amend. Jeb 2016, 2015 July Quarterly Report, Schedule A; Second Bush Resp. at 2; Third Bush Resp. at 2-5, 30.

¹⁷ *See* MUR 6915 Compl. at 3; MUR 6927 Compl. at 2; First Bush Resp. at 2; Second Bush Resp. at 2; Third Bush Resp. at 5.

¹⁸ The PAC was registered with the Commission as an unauthorized committee, and Respondents refer to it as a leadership PAC. Under Commission regulations, a Leadership PAC “means a political committee that is directly or indirectly established, financed, maintained or controlled by a candidate for Federal office or an individual holding Federal office but which is not an authorized committee of the candidate or individual and which is not affiliated with an authorized committee” 11 C.F.R. § 100.5(e)(6). Respondents state that because Bush was not a candidate or an office holder when he established Right to Rise PAC in January 2015, it was not technically a “Leadership PAC”; however, the term could be used colloquially to refer to political committees associated with public figures that do not act as authorized campaign committees. Third Bush Resp. at 17.

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1 Commission on January 6, 2015, as Right to Rise PAC and named Bush as its Honorary
 2 Chairman.¹⁹ RTR PAC's self-described activities included making contributions to federal
 3 candidates and "facilitating" Bush's appearances to raise money for the PAC and communicate
 4 important policy issues.²⁰ Mason Fink, former fundraiser for 2012 presidential candidate Mitt
 5 Romney, reportedly worked as a fundraiser for RTR PAC.²¹ RTR PAC raised \$5,356,584 and
 6 spent \$4,896,426 between January and June 2015.²² The Committee spent only 5% of the funds
 7 it raised (\$283,800) making contributions to other federal committees and candidates; much of
 8 the PAC's remaining spending related to activities such as fundraising, travel and related costs
 9 for Bush's appearances at various events around the country, and legal fees.²³

10 **C. Right to Rise USA (Independent Expenditure-Only Committee)**

11 On January 6, 2015, the same day that RTR PAC registered with the Commission, the
 12 Super PAC registered with the Commission as an independent expenditure-only political
 13 committee.²⁴ The Super PAC described itself as "the leading independent political action
 14 committee strongly supporting Jeb Bush for President."²⁵ Respondents assert that Bush neither
 15 established nor directed or controlled the Super PAC, but Bush acknowledges that it "was
 16 formed by [his] supporters . . . to provide independent support to him should he decide to seek
 17

¹⁹ Statement of Organization, RTR PAC (Jan. 6, 2015); First Bush Resp. at 1.

²⁰ This facilitation of Bush's appearances included, *inter alia*, paying for his travel expenses. See First Bush Resp. at 2; Second Bush Resp. at 2; Third Bush Resp. at 6.

²¹ See MUR 6927 Supp. Compl. at 7 (citing P. Rucker, *Bush Lands Romney Finance Director to Lead Super PAC Fundraising*, WASH. POST (Mar. 18, 2015)).

²² Amend. RTR PAC 2015 Mid-Year Report (July 31, 2015).

²³ *Id.*

²⁴ The Super PAC originally registered as Right to Rise Super PAC, Inc. Statement of Organization, RTR Super PAC, Inc. (Jan. 6, 2015). The Super PAC filed an amended Statement of Organization, changing its name to Right to Rise USA. Statement of Organization, RTR USA (June 12, 2015).

²⁵ <https://righttorisesuperpac.org/about/rtrusa?lang=en>, Appendix at 2; see also Fourth Bush Resp. at 4 (citing Super PAC's website).

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1 federal office.”²⁶ As alleged by the Complaint in MUR 6927,²⁷ Michael Murphy, senior advisor
 2 to Bush’s 1998 and 2002 gubernatorial campaigns, led the Super PAC as CEO;²⁸ Mason Fink left
 3 his fundraising role at RTR PAC in March 2015 to become Finance Director;²⁹ Neil Newhouse, a
 4 pollster for Bush’s previous gubernatorial campaigns, served as pollster;³⁰ and Charlie Spies,
 5 counsel for RTR PAC, simultaneously served as treasurer and counsel for the Super PAC. The
 6 Super PAC raised \$103,167,845 and spent \$5,444,338 between January and June 2015,
 7 reportedly with the assistance of Bush family members soliciting funds for the Super PAC.³¹

8 **D. RTR PAC and Super PAC Activities**

9
 10 Bush travelled extensively in the months following his December 2014 Facebook
 11 announcements, speaking at public events throughout the country. On January 20, 2015, Bush
 12 and his “operatives” reportedly announced plans to hold 60 fundraising events in cities across the
 13 country for both RTR PAC and the Super PAC.³²

²⁶ First Bush Resp. at 2; *see also* Third Bush Resp. at 8 (stating that the Super PAC “was founded by supporters of Governor Bush”).

²⁷ *See* MUR 6927 Supp. Compl. at 5-7.

²⁸ *See* Alex Leary, *Jeb Bush Super PAC Lays Out Plan to Refund \$12M to Donors*, MIAMIHERALD.COM (Apr. 5, 2016), <http://miamiherald.typepad.com/nakedpolitics/2016/04/jeb-bush-super-pac-lays-out-plan-to-refund-12m-to-donors.html>.

²⁹ *Id.* According to a news report cited by the Complaint in MUR 6927, Fink reportedly left RTR PAC in order to take on this role with the Super PAC. *See* MUR 6927 Supp. Compl. ¶ 15 (citing P. Rucker, *Bush Lands Romney Finance Director to Lead Super PAC Fundraising*, WASH. POST (Mar. 18, 2015)).

³⁰ *See* Ed O’Keefe, *Meet the People Who Will Try to Get Jeb Bush Elected President*, THE WASHINGTON POST (June 15, 2015).

³¹ *See* Amend. RTR USA 2015 Mid-Year Report (May 20, 2016) (“Amend. RTR USA Mid-Year Report”).

³² *See* MUR 6927 Compl. ¶ 8 (citing David M. Drucker, *Jeb Bush Lays out Plans for 60 Fundraisers for 2016 Bid*, WASH. EXAMINER (Jan. 20, 2015) <http://www.washingtonexaminer.com/jeb-bush-lays-out-plans-for-60-fundraisers-for-2016-bid/article/2558956>).

1 1. Super PAC Fundraisers

2 Bush reportedly “headlined” one of the Super PAC’s first reported fundraisers held in
 3 New York City in February 2015 where the price of admission was reportedly \$100,000.³³ Bush
 4 continued to headline Super PAC fundraisers over the next several months.³⁴ Respondents
 5 acknowledge that Bush attended and participated in the Super PAC’s fundraisers but assert that
 6 “out of an abundance of caution, Governor Bush has not solicited contributions on behalf of the
 7 [Super PAC].”³⁵ Rather, he simply agreed to appear as a “special guest at Super PAC
 8 fundraising events.”³⁶ By June 2015, the Super PAC had already amassed over \$100 million in
 9 funds to support Bush’s candidacy.³⁷

10 In addition to headlining the Super PAC fundraisers, according to a news report cited by
 11 Bush’s counsel, Bush and/or his staff appear to have collaborated with the Super PAC in
 12 discussing broad campaign strategy and allowing the Super PAC to film video footage of himself
 13 to be used for commercials after he officially declared his candidacy.³⁸ The report specifically

³³ MUR 6927 Supp. Compl. ¶ 13 (citing Ben White, *Jeb Bush’s eye popping event: 100K per ticket*, POLITICO, Feb. 10, 2015).

³⁴ See e.g., MUR 6927 Compl. ¶11 (citing Matea Gold, *Jeb Bush Super PAC Juggernaught Heads to California Next Week*, WASH. POST, Mar. 23, 2015, <http://www.washingtonpost.com/blogs/post-politics/wp/2015/03/23/jeb-bush-super-pac-juggernaught-heads-to-california-next-week/?postshare=1431427200105361>).

³⁵ Third Bush Resp. at 8 (quoting Zeke Miller & Phillip Elliott, *How Jeb Bush’s Super PAC Will Spend \$103 Million*, TIME (July 9, 2015) (“Aides say Bush never directly made a fundraising ask, even before he declared his candidacy.”)).

³⁶ First RTR Resp. at 4; see also First Bush Resp. at 2; Second Bush Resp. at 3; Third Bush Resp. at 8.

³⁷ See *supra* p. 8.

³⁸ See Miller and Elliot, *supra* note 35. In addition, twelve days after Bush filed his Statement of Candidacy, Mike Murphy reportedly announced during a conference call with donors that “he ‘can’t coordinate anymore’ with the campaign, but said he was ‘well informed as of a week ago.’” Andrew Kaczynski and Ilan Ben-Meir, *We Crashed Jeb Bush’s Super PAC’s Donor Call, And Here’s What They Said*, BUZZFEED.COM (June 17, 2015), <https://www.buzzfeed.com/andrewkaczynski/we-crashed-jeb-bushs-super-pacs-donor-9f>. He also referenced the video footage of Bush that the Super PAC had obtained, stating “we actually were able to do some filming before the wall went down, so we can do excellent creative. We have some incredible stuff in the can that we shot with the governor. So we’re going to be able to — starting with digital, but expanding to advertising — start to tell that story” *Id.*

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1 stated, “[c]ampaign and super PAC aides could, and did, discuss broad strategies for how to
 2 approach the primary and general elections, including the strengths and weaknesses of Bush and
 3 his Democratic and Republican rivals.”³⁹ Although these aides took a more “conservative
 4 position” by not discussing specific expenditures to avoid the possibility of coordinating on
 5 particular communications:

6 The super PAC’s film crews did hours of interviews with Bush about his
 7 legislative and personal records, including education reform and cutting the size
 8 of Florida’s government, which can be cut down later into an ad by the super PAC
 9 team. In essence, the super PAC banked the bulk of its footage for commercials
 10 before it had an official candidate.⁴⁰

11
 12 Once Bush declared his candidacy, the Super PAC continued to fundraise but the pace
 13 slowed considerably. According to the Super PAC’s 2015 Year End Report, the Super PAC
 14 reported receipts of \$15,139,189.64 in June through December 2015⁴¹ (compared to the \$103
 15 million raised in the first half of the year). Despite the marked slowdown in fundraising after
 16 Bush declared his candidacy, the total amount raised by the Super PAC in 2015 —
 17 \$118,307,035.47⁴² — dwarfs the \$31,922,099 raised by Jeb 2016 in 2015.⁴³ Thus, while the
 18 Super PAC’s fundraising decreased after Bush’s declaration of candidacy and Bush’s own
 19 campaign raised a relatively modest sum for a presidential election, the Super PAC had already
 20 amassed over \$100 million by June 2015 to spend on advertising and could use footage of Bush
 21 and information regarding Bush’s broad strategy to support Bush’s candidacy.

³⁹ See Miller and Elliot, *supra* note 35.

⁴⁰ *Id.*

⁴¹ See Amend. RTR USA 2015 Year-End Report (May 20, 2016) (“Amend. RTR USA 2015 YE Report”). The Super PAC’s receipts for all of 2016 fell to \$3,388,188.58. See RTR USA 2016 Year-End Report (Jan. 31, 2017).

⁴² See Amend. RTR USA 2015 YE Report.

⁴³ See Report Summaries for Jeb 2016, available at <http://www.fec.gov/fecviewer/CandidateCommitteeDetail.do>.

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2. RTR PAC Events

2 Bush also attended RTR fundraisers and other events purportedly on behalf of RTR
3 PAC.⁴⁴ Little is known about any fundraisers or other events sponsored directly by RTR PAC,
4 but the record contains information about certain events sponsored by others that Bush
5 purportedly attended in his role as Honorary Chairman of RTR PAC. Bush admits referencing
6 his potential candidacy at these events, and some of the events are traditional stops for declared
7 and hopeful presidential candidates (e.g., Conservative Political Action Conference (“CPAC”);
8 Republican Lincoln Dinner, New Hampshire house parties).⁴⁵ Bush argues that any references to
9 his potential candidacy at events he attended at RTR’s expense were incidental.⁴⁶ However, as
10 reflected in the transcript excerpts included in the Appendix, video footage of at least nine
11 appearances Bush made at RTR’s expense show Bush speaking about his possible run for office,
12 focusing on his own personal qualifications and accomplishments and framing the significance
13 and purpose of his entire remarks as his potential candidacy.⁴⁷ Further, Bush does not appear to
14 reference RTR PAC in his remarks or indicate that he is present in his capacity as RTR PAC’s
15 Honorary Chairman. And at one event, Bush appears to acknowledge himself that his travel in

⁴⁴ Jeb 2016 reported making a single payment for travel during this time. *See supra* p.6.

45 Third Bush Resp. at 6.

46 *Id.* at 32-33.

⁴⁷ See Appendix. For example, on February 27, 2015, Bush participated in a twenty-five minute interview with Sean Hannity at the CPAC Conference, where Bush stated:

Yeah, so, if I go beyond the consideration of the possibility of running, which is the legal terminology that many of the people here coming to CPAC or probably using to not to trigger a campaign. If I get beyond that and I run for president, I have to show what's in my heart. I have to show that I care about people, about their future.

Appendix at 7. On March 18, 2015 in South Carolina, he spoke at the Horry GOP Breakfast where he discussed his proposed strategy for “the ’16 Campaign” and stated, “But I know if I go forward I have to share my heart. I have to say who I am, what my ideas are. If I go beyond the consideration of this, it ought to be about the future.” *Id.* at 21. Further, at the Lincoln Dinner for the Republican Party of Iowa held in May 2015, Bush was featured as a “Prospective 2016 Republican Presidential Candidate” and stated in his introductory remarks, “But if I go beyond the consideration of running, to actually being a candidate, I know that I’m going to have to talk a little bit about who I am.” *Id.* at 4, 32.

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1 the months leading up to his announcement was for the purpose of testing the waters.⁴⁸ In May
 2 2015, Bush told one reporter, "No, no I'm not an official candidate. . . . I've been traveling the
 3 country for the last three months and making up my mind, trying to determine the support I may
 4 have should I go forward."⁴⁹

5 It appears that RTR PAC funded Bush's travel almost exclusively during this time. RTR
 6 PAC states that the travel facilitated his appearances as RTR's Chairman. Consistent with that
 7 position, RTR PAC did not report any of its payments for Bush's travel during this time as in-
 8 kind contributions once Bush declared himself a candidate. RTR PAC's political activities
 9 declined significantly in June 2015 after Bush formally declared his candidacy as the Committee
 10 was winding down its activities.⁵⁰

11 **III. LEGAL ANALYSIS**

12 **A. There is Reason to Believe that Bush Filed His Statement of Candidacy Late
 13 and Jeb 2016 Filed its Statement of Organization and Disclosure Reports
 14 Late**

15 As noted above, Bush's Statement of Candidacy and Jeb 2016's Statement of
 16 Organization were both filed on June 15, 2015.⁵¹ The Complaints in these matters allege that
 17 Bush violated the Act's candidate registration and reporting requirements because he had moved
 18 beyond testing the waters to become a candidate prior to filing his statements. In particular, the
 19 Complaints allege that Bush was amassing campaign funds that would be spent after he became

⁴⁸ On April 17, 2015, Bush appeared at an event in Nashua, NH, where he began his speech by stating, "I'm excited about this . . . this part of my life where I'm sounding out the views of people around the country I've been traveling around. I'm seriously considering the possibility of running and over the next few months I'll make a decision about that." *Id.* at 24.

⁴⁹ Theodore Schleifer, *It's Getting Harder for Jeb Bush to Pretend He's Not Running for President*, CNNPolitics.com (May 13, 2015), <http://www.cnn.com/2015/05/13/politics/jeb-bush-miscue-2016-campaign-finance/>, cited in Supp. Compl, note 1. MUR 6915.

⁵⁰ Third Bush Resp. at 7; Fourth Bush Resp. at 3.

⁵¹ Jeb Bush Statement of Candidacy (June 15, 2015); Jeb 2016 Statement of Organization (June 15, 2015).

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1 a candidate.⁵² Respondents argue that Bush never solicited or accepted any campaign
 2 contributions while testing the waters.⁵³

3 An individual becomes a candidate under the Act if: (a) such individual receives
 4 contributions or makes expenditures in excess of \$5,000, or (b) such individual gives his or her
 5 consent to another person to receive contributions or make expenditures on behalf of such
 6 individual and if such person has received such contributions or has made such expenditures in
 7 excess of \$5,000.⁵⁴ Once the \$5,000 threshold has been met, the candidate has fifteen days to
 8 designate a principal campaign committee by filing a Statement of Candidacy with the
 9 Commission.⁵⁵ The principal campaign committee must file a Statement of Organization within
 10 ten days of its designation,⁵⁶ and must file disclosure reports with the Commission in accordance
 11 with 52 U.S.C. § 30104(a) and (b).⁵⁷

12 The Commission has established limited “testing the waters” exemptions that permit an
 13 individual to test the feasibility of a campaign for federal office without becoming a candidate
 14 under the Act.⁵⁸ These exemptions exclude from the definition of “contribution” and
 15 “expenditure” those funds received and payments made solely to determine whether an
 16 individual should become a candidate.⁵⁹ These regulations seek to draw a distinction between

⁵² MUR 6915 Compl. at 1; MUR 6927 Compl. ¶ 48.

⁵³ *See supra* p. 9.

⁵⁴ 52 U.S.C. § 30101(2).

⁵⁵ 52 U.S.C. § 30102(e)(1); 11 C.F.R. § 101.1(a).

⁵⁶ *See* 52 U.S.C. § 30103(a); 11 C.F.R. § 102.1(a).

⁵⁷ *See, e.g.*, Factual and Legal Analysis at 6, MUR 6735 (Joseph A. Sestak); Factual and Legal Analysis at 5, MUR 6449 (Jon Bruning); Factual and Legal Analysis at 2, MUR 5363 (Alfred C. Sharpton).

⁵⁸ *See* 11 C.F.R. §§ 100.72 and 100.131; Factual and Legal Analysis at 7, MUR 6775 (Hillary Clinton); Factual and Legal Analysis at 8, MUR 6776 (Niger Innis); Factual and Legal Analysis at 6, MUR 6735 (Joseph A. Sestak).

⁵⁹ *See* 11 C.F.R. §§ 100.72(a); 100.131(a).

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1 activities directed to an evaluation of the feasibility of one's candidacy and conduct signifying
 2 that a decision to become a candidate has been made.⁶⁰ Testing the waters activities include, but
 3 are not limited to, payments for polling, telephone calls, and travel, and only funds permissible
 4 under the Act may be used for such activities.⁶¹ An individual who is testing the waters need not
 5 register or file disclosure reports with the Commission unless and until the individual
 6 subsequently decides to run for federal office.⁶²

7 The testing the waters exemption is not available to individuals who have made a
 8 decision to become a candidate.⁶³ Commission regulations set forth a non-exhaustive list of
 9 activities that indicate that an individual is no longer testing the waters and has decided to
 10 become a candidate. Such indicia include: (1) using general public political advertising to
 11 publicize his or her intention to campaign for federal office; (2) raising funds in excess of what
 12 could reasonably be expected to be used for exploratory activities or undertaking activity
 13 designed to amass campaign funds that would be spent after he or she becomes a candidate; (3)
 14 making or authorizing written or oral statements that refer to him or her as a candidate for a
 15 particular office; (4) conducting activities in close proximity to the election or over a protracted
 16 period of time;⁶⁴ and (5) taking action to qualify for the ballot under state law.⁶⁵

⁶⁰ See Advisory Op. 1981-32 (Askew) ("AO 1981-32").

⁶¹ *Id.*

⁶² *Id.*; see also Advisory Op. 2015-09 (Senate Maj. PAC, *et al.*) ("AO 2015-09").

⁶³ See AO 2015-09 at 5. See also Payments Received for Testing the Waters Activities, 50 Fed Reg. 9992, 9993 (Mar. 13, 1985) (exemption "explicitly limited 'solely' to activities designed to evaluate a potential candidacy").

⁶⁴ The Commission has advised that there is no specific time limit for such activities, and the length of time spent testing the waters is but one factor in determining whether an individual becomes a candidate. AO 2015-09 at 6.

⁶⁵ 11 C.F.R. §§ 100.72(b), 100.131(b).

1 1. Bush Engaged in Activities Indicating that He Had Decided to Become a
 2 Candidate As Early as January 2015

3 As noted above, the Commission, in deciding whether an individual is no longer testing
 4 the waters and has made a decision to run for federal office, assesses an individual's objectively
 5 deliberate actions to discern whether and when an individual decided to become a candidate.⁶⁶
 6 An assessment of Bush's activities in the six months leading up to his announcement of
 7 candidacy provides reason to believe that he had decided to run for president at least as early as
 8 January 2015.

9 First, Bush was publicly participating in the activities of the Super PAC in a variety of
 10 ways beginning in January 2015. Because the purpose of the Super PAC was to support Bush's
 11 eventual candidacy, and *not* to engage in activity designed to encourage him to run, or evaluate
 12 the feasibility of his candidacy,⁶⁷ Bush's participation in these activities demonstrates that he had
 13 made a decision to run for President.

14 Most notably, Bush announced in January 2015 that he would be participating in a series
 15 of Super PAC fundraisers that were designed to amass funds to be spent after Bush declared his
 16 candidacy.⁶⁸ Bush began attending these fundraisers as a "special guest" at least as early as

⁶⁶ See *id.*

⁶⁷ In MUR 6775 (Ready for Hillary), the Commission considered an allegation that an individual "triggered candidate status" when her authorized committee from a previous election rented its mailing list to a nonconnected committee whose purpose was to encourage her to run for office in the future. Factual and Legal Analysis at 5-8. The Commission found no reason to believe that the individual had become a candidate by renting out the mailing list because (1) the nonconnected committee's purpose was only to encourage her to run, not to support her if she did run, (2) the individual and the nonconnected committee "confined their activities solely to evaluating a *potential* candidacy," and (3) there was no information before the Commission indicating that either the rental or the nonconnected committee's other activities were "designed to amass campaign funds for a future candidacy." *Id.* at 7-8 (emphasis in original). Each of these considerations (plus the additional fact that the potential candidate in MUR 6775 played no role in the formation of the nonconnected committee) distinguishes that MUR from the facts presented in these matters.

⁶⁸ See *supra* note 32. The Commission has concluded that federal candidates may appear as a featured guest at non-federal fundraising events without violating the soft money provisions of the Act at 52 U.S.C. § 30125(e). See 11 C.F.R. § 300.64. However, in AO 2015-09, the Commission could not agree as to whether a prospective

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1 February 2015 and until he declared his candidacy in June, and with his assistance, the Super
 2 PAC raised \$103,167,845 in the first half of 2015. Though Bush asserts that he did not
 3 personally solicit any money, his participation in the Super PAC's efforts to amass substantial
 4 funds in excess of \$100 million to use *after* he became a candidate is strong indicia that he had
 5 already decided to become a candidate.⁶⁹ Indeed, Bush raised no funds for any of his testing the
 6 waters activities, and his own authorized committee only raised a little over \$30 million by the
 7 end of 2015.⁷⁰ Moreover, after Bush became a candidate, the Super PAC's fundraising declined
 8 appreciably, while it simultaneously began spending funds on advertising and other activities in
 9 support of Bush's candidacy.⁷¹ This suggests that Bush used the Super PAC as a vehicle to raise
 10 unlimited amounts of non-federal funds to support his campaign before he officially announced
 11 his candidacy. That it was a third party amassing the funds with Bush's knowing participation is
 12 no less an indication that Bush had already decided to run than if he had raised the funds
 13 directly.⁷²

candidate's participation in the activities of a "single candidate committee" – i.e., a committee that would raise non-federal funds "to support the [prospective candidate] if they decide to run for office" and "would 'work directly' with the prospective candidate[]" – would trigger candidacy. AO 2015-09 at 2.

⁶⁹ The regulations specifically state that one indicia of a decision to run is raising funds in excess of what could reasonably be expected to be used for exploratory activities or undertaking activity designed to amass campaign funds that would be spent after he or she becomes a candidate. 11 C.F.R. §§ 100.72(b), 100.131(b); *see also* Advisory Op. 1985-40 (Republican Majority Fund, *et al.*) ("AO 1985-40") at 4 (solicitation for testing-the-waters activities permissible where, *inter alia*, "you state the funds will be used for the purpose of . . . testing the waters activities" and "the solicitations will not result in amassing campaign funds for [requester's] use if he should become a candidate.").

⁷⁰ *See supra* section II.D.1.

⁷¹ Prior to Bush declaring candidacy, the Super PAC's spending appears to have been largely limited to administrative, travel, and fundraising costs. *See* Amend. RTR USA 2015 Mid-Year Report. The Committee did not report making its first independent expenditure until June 26, 2015. *See id.* at 1657 (independent expenditure of \$36,000 for media placement to Revolution Media Group).

⁷² The Commission has previously concluded that the amassing of funds by a third party could trigger candidacy. *See* AO 1985-40 at 9-10 (concluding that "steering committees" organized by individual's "political associates and representatives" could trigger candidacy status for individual "if the steering committees engage in activities on behalf of [the individual's] candidacy"); *cf.* First Gen. Counsel's Rpt. at 3, 9 MUR 1515 (Rattley)

1 Further, the available information shows that Bush and his aides, prior to announcing his
 2 candidacy, shared information with the Super PAC about his strategic plans, projects, activities,
 3 needs, campaign messaging, and scheduling plans for his intended campaign. As a result, the
 4 Super PAC could use that information after Bush declared his candidacy to engage in activity
 5 that was consistent with Bush's campaign strategy. In fact, he apparently permitted the Super
 6 PAC to film video footage of him to be used in future advertisements, and Murphy reportedly
 7 acknowledged such collaboration between Bush and the Super PAC.⁷³

8 *Second*, the available information indicates that Bush made at least two statements
 9 referring to himself as a candidate during his purported "testing-the-waters" period.

10 During an appearance on MSNBC's Morning Joe program, Bush described a private
 11 meeting with Mitt Romney in January 2015 in which "we talked about the campaign 'cause he
 12 was thinking about running and I went out to see him. I wanted him to know that I was all in and
 13 had a plan to win this, and I still do."⁷⁴ The Complaint alleges that this statement shows that
 14 Bush had decided to become a candidate before the January meeting.⁷⁵ Bush asserts that his
 15 statement to Romney was taken out of context because "all in" was meant to refer "to being 'all
 16 in' on the process — as in taking it seriously, giving it his all" with respect to the testing-the-
 17 waters process, not an official campaign.⁷⁶ This explanation is unpersuasive. Bush explicitly
 18 refers to "the campaign" and his "plan to win this." In contrast, he refers to Romney as merely

(concluding that individual did not become a candidate due to "write-in" effort where individual "had not participated in, not requested, the write-in campaign").

⁷³ See *supra* section II.D.1.

⁷⁴ Third Supp. Compl. at 2, MUR 6915 (Feb. 16, 2016) (citing Kyle Cheney, *Watchdog Accuses Bush of Illegally Conveying His Intention to Run*, POLITICO (Jan. 5, 2016)); <http://www.msnbc.com/morning-joe/watch/bush--trump-is-a-buddy-of-the-clintons-595966531784>.

⁷⁵ *Id.* at 5-6.

⁷⁶ Resp. of Jeb Bush, MUR 6915 at 3 (Mar. 31, 2016).

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1 “*Thinking* about running” (emphasis added). Bush further admits that he informed Romney that
 2 he “had a plan to win this, and I still do.” The most reasonable, and only credible, conclusion to
 3 draw from this exchange is that Bush had already made a decision and was trying to convince
 4 Romney not to run against him.

5 Further, in May 2015, at a town hall meeting in Reno, Nevada, Bush stated, “I am
 6 running for president in 2016, and the focus is going to be about how we, if I run, how do you
 7 create high sustained economic growth.”⁷⁷ Bush asserts that his statement in Reno was a “slip-
 8 up,” which was quickly corrected and did not automatically make him a candidate.⁷⁸ However,
 9 the Commission has determined that “[w]here the circumstances demonstrate that an individual’s
 10 statement regarding candidacy reflects that individual’s decision to run for office, mere
 11 assertions that the individual’s subjective intent differs from his or her statement generally will
 12 not negate the objective indication of candidacy arising from the statement.”⁷⁹ The facts here
 13 present just such a case. In the context of the entirety of the activities that Bush was conducting
 14 at this time, Bush’s explanation of his statement as a “slip-up,” and his continued assertions that
 15 he was not a candidate prior to his announcement, contradict the objective information
 16 demonstrating the he had already made up his mind to run.

⁷⁷ MUR 6915 Supp. Compl. at 1 (citing Michael Barbaro, *Jeb Bush Declares His Candidacy – Prematurely*, NY TIMES (May 13, 2015), <http://www.nytimes.com/politics/first-draft/2015/05/13/jeb-bush-declares-his-candidacy-prematurely>; T. Schleifer, *It’s Getting Harder for Jeb Bush to Pretend He’s Not Running for President*, CNN POLITICS (May 13, 2015), <http://www.cnn.com/2015/05/13/politics/jeb-bush-misue-2016-campaign-finance/>); MUR 6927 Supp. Compl. at 2-3 (citing P. Blumenthal, *Jeb Bush Messes Up Charade of Not Running for President*, THE HUFFINGTON POST (May 13, 2015)).

⁷⁸ See Third Bush Resp. at 35 (citing Statement of Reasons of Chairman Robert D. Lenhard, Vice Chairman David M. Mason and Commissioners Toner, von Spakovsky, and Weintraub, MURs 5672/5733 (Davis) at 2 (Mar. 13, 2007)).

⁷⁹ AO 2015-19 at 6.

2. Bush Had Spent More Than \$5,000 on Testing the Waters Activity and the Super PAC had Received in Excess of \$5,000 to be Spent on Bush's Candidacy By January 2015

Bush's activities beginning in January 2015 indicate that he had made a decision that he was going to run for president at least as early as that time, and certainly prior to his declaration of candidacy in June 2015. Because the testing the waters exemption does not apply to individuals who have decided to become candidates, and Jeb 2016's disclosure reports indicate that Bush spent more than \$5,000 in 2014 for testing-the-waters activities, it appears that he became a candidate by January 2015.⁸⁰ By January 6, the Super PAC also raised \$10,000.⁸¹ Because Bush did not file a Statement of Candidacy and designate a principal campaign committee until June 2015, we recommend that the Commission find reason to believe that Bush violated 52 U.S.C. § 30102(e)(1) and 11 C.F.R. § 101.1(a). Further, we recommend that the Commission find reason to believe that Jeb 2016 violated 52 U.S.C. § 30103(a) by failing to file a Statement of Organization.

B. There is Reason to Believe that the Super PAC Violated the Act When It Solicited and Received Non-Federal Funds While Bush Was a Candidate

The Complaints allege that Respondents violated the Act's prohibition on the solicitation and receipt of non-federal funds because (1) Bush and his agents solicited non-federal funds for

⁸⁰ *Id.* (citing Amended Jeb 2016, Inc. July 2015 Quarterly Report (Dec. 10, 2015)); 11 C.F.R. §§ 100.72(a), 100.131(a); Factual & Legal Analysis at 3, MUR 6533 (Haney, *et al.*) (Once an individual decides to become a candidate, funds that were raised or spent to test the waters apply to the \$5,000 threshold for qualifying as a candidate); Factual & Legal Analysis at 5, MUR 6449 (Bruning, *et al.*) (same).

⁸¹ See Amend. RTR USA 2015 Mid-Year Report. We note that Bush may have become a candidate on the alternative theory that he consented to another person, the Super PAC, to accept contributions and make expenditures on his behalf. See 52 U.S.C. § 30101(2)(B). Because the factual record indicates that (1) Bush participated in and headlined many of the Super PAC’s fundraisers, which raised funds specifically for his candidacy — not for testing-the-waters activities, (2) collaborated with the Super PAC in filming advertisements, and (3) may have directly or indirectly established, financed, maintained, or controlled the Super PAC, *see infra* section III.B.1, Bush’s conduct appears to reflect that he became a candidate as early as January 2015 given that the Super PAC accepted contributions and made expenditures in excess of \$5,000.

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1 the Super PAC;⁸² (2) Bush directly or indirectly through his agents established, financed,
 2 maintained, or controlled the Super PAC;⁸³ and (3) the Super PAC is “directly or indirectly”
 3 “acting on behalf” of Bush.”⁸⁴ Respondents deny each of these allegations.

4 The Act prohibits federal candidates and officeholders, their agents, and entities directly
 5 or indirectly established, financed, maintained or controlled by or acting on behalf of one or
 6 more candidates or individuals holding federal office, from “solicit[ing], receiv[ing], direct[ing],
 7 transfer[ing], or spend[ing] funds in connection with an election for Federal office, . . . unless the
 8 funds are subject to the limitations, prohibitions, and reporting requirements of [the] Act.”⁸⁵

9 This provision, among others enacted as part of the Bipartisan Campaign Reform Act of 2002,
 10 was designed to “plug the soft-money loophole.”⁸⁶

11 As the plain language of the statute indicates, the prohibition applies only after an
 12 individual becomes a candidate or officeholder, and liability may result from actions of a
 13 candidate, actions of a candidate’s agents; actions of entities that are indirectly or directly
 14 established, financed, maintained or controlled by a candidate; and actions of entities acting on
 15 behalf of a candidate. Because we conclude that Bush became a candidate at least as early as
 16 January 2015, the soft money prohibition applied from that point forward. We evaluate below
 17 whether the actions of any of the Respondents resulted in a violation of the soft money
 18 prohibition of the Act.

⁸² See MUR 6915 Supp. Compl. at 4, 6; MUR 6927 Supp. Compl. ¶¶ 12, 26, 40.

⁸³ See MUR 6915 Supp. Compl. at 4; MUR 6927 Supp. Compl. ¶ 39.

⁸⁴ MUR 6927 Supp. Compl. ¶ 43.

⁸⁵ 52 U.S.C. § 30125(e)(1)(A); *see also* 11 C.F.R. § 300.61.

⁸⁶ *McConnell v. FEC*, 540 U.S. 93, 133 (2003).

1 1. The factual record supports a reasonable inference that the Super PAC was
 2 an entity established, financed, maintained, or controlled by Bush
 3

4 To determine whether a candidate or his or her agent “directly or indirectly establishes,
 5 finances, maintains, or controls” an entity, the Commission considers a non-exhaustive list of ten
 6 factors.⁸⁷ Some of the factors include whether the entity “has common or overlapping officers or
 7 employees with the entity that indicates a formal or ongoing relationship,” whether the candidate
 8 “has authority or ability to direct or participate in the governance of the entity,” or “had an active
 9 or significant role in the formation of the entity,” and “provides funds or goods in a significant
 10 amount or an ongoing basis to the entity.”⁸⁸

11 Here, there are a number of facts in the record to support a reasonable inference that the
 12 Super PAC was established, financed, maintained, or controlled by Bush or his purported agents
 13 as set forth in section 300.2(c).

14 *First*, there are significant commonalities, including common or overlapping officers or
 15 employees, between the Super PAC and RTR PAC, an entity that is admittedly established and
 16 controlled by Bush. RTR PAC, which was founded and led by Bush himself, and the Super
 17 PAC, which was established to further Bush’s candidacy, share the same “Right to Rise”
 18 moniker. Further, these two committees registered with the Commission on the same day, an
 19 event unlikely to occur by pure coincidence, and one which raises doubts as to whether the Super
 20 PAC was truly formed and operated independently of Bush. In addition, publicly available
 21 information, cited by the Complaint and not specifically refuted by the Responses, reports that
 22 Charles Spies administratively established both RTR PAC and the Super PAC.⁸⁹

⁸⁷ 11 C.F.R. § 300.2(c)(2).

⁸⁸ *Id.* § 300.2(c)(2)(ii), (v), (vii), (ix).

⁸⁹ See MUR 6927 Supp. Compl. at 6, n. 19 (citing Matea Gold, *Why Super PACs have moved from Sideshow to Center Stage for Presidential Hopefuls*, WASH. POST (Mar. 12, 2015)). We also note that Bush personally made

1 *Second*, the available information shows that Bush provided the Super PAC with material
 2 that was crucial for the Super PAC to effectively support Bush's candidacy. Specifically,
 3 according to a news article cited in Bush's response, before officially declaring himself a
 4 candidate, Bush provided hours of interview footage to the Super PAC's film crews so that the
 5 Super PAC team could cut down the footage for commercials to be run in the future.⁹⁰ While not
 6 conclusive evidence that Bush was maintaining or controlling the Super PAC, these facts suggest
 7 the Super PAC did not act independently of Bush.

8 *Third*, Bush was an integral part of the Super PAC's fundraising. At a meeting with
 9 lobbyists in Washington, D.C. on January 20, 2015, Bush apparently announced his plan to hold
 10 60 fundraisers for both RTR PAC and the Super PAC. The Responses do not refute Bush's
 11 involvement in this event. Even if Bush was not directly asking for funds at this event, as
 12 Respondents contend, Bush's involvement in this event reflects that Bush was not only a
 13 featured speaker at Super PAC fundraisers but also may have had a role in planning them as
 14 well.

15 A reason to believe determination is not conclusive that Respondents violated the Act but
 16 rather recognizes the seriousness of the allegations and provides an opportunity to conduct an
 17 administrative fact-finding inquiry to resolve whether in fact a violation occurred.⁹¹ Thus, the
 18 Commission previously has determined as a matter of policy that a reason to believe finding is
 19 appropriate "in cases where the available evidence in the matter is at least sufficient to warrant

payments to Spies' law firm, Clark Hill for expenses related to testing-the-waters activities in the summer of 2014.
See Amend. Jeb 2016, 2015 Mid-Year Report at 1678-79.

⁹⁰ Miller and Elliot, *supra* note 35.

⁹¹ *See* Statement of Policy Regarding Commission Act in Matters at the Initial Stage in the Enforcement Process, 72 Fed. Reg. 12,545 (Mar. 16, 2007) (A reason to believe finding indicates "only that the Commission found sufficient legal justification to open an investigation to determine whether a violation of the Act has occurred.").

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1 conducting an investigation.”⁹² At this stage, we know that: 1) the timing and naming of the
2 Super PAC closely paralleled those of RTR PAC, Bush’s so-called “Leadership PAC”; and 2)
3 Bush’s involvement with Super PAC events went beyond merely appearing as a featured guest at
4 fundraisers. Under these circumstances, an investigation is warranted to determine exactly
5 which individuals were involved in the formation and operation of the Super PAC and their
6 respective roles. Because the facts in this matter support a reasonable inference that Bush or his
7 agents directly or indirectly established, financed, maintained, or controlled the Super PAC, we
8 recommend that the Commission find that there is reason to believe that the Super PAC violated
9 52 U.S.C. § 30125(e) by soliciting, receiving, directing, transferring, or spending non-federal
10 funds to advance the candidacy of Jeb Bush.

2. The Super PAC solicited and received non-federal funds in connection with the Presidential election on behalf of Bush

14 The Complaint in MUR 6927 alleges that the Super PAC is “directly or indirectly”
15 “acting on behalf” of Bush given that its “sole purpose . . . is to promote the election of Bush as
16 president [and] . . . is being operated as an arm of the Bush political operation and is acting in
17 concert with Bush and his agents for the common objective of promoting Bush’s candidacy.”⁹³

18 The available information shows that the Super PAC was an entity “acting on behalf” of
19 Bush for the purposes of section 30125(e). Bush’s apparent significant involvement in the Super
20 PAC’s fundraising activities, which raised over \$100 million to provide exclusive support to
21 Bush, shows that Right to Rise Super PAC was “acting on behalf” of Bush in soliciting soft
22 money. Bush’s response expressly acknowledges that it was formed to provide support for

⁹² See *id.* (reason to believe finding followed by an investigation is appropriate where complaint “credibly alleges that a significant violation may have occurred, but further investigation is required to determine whether a violation in fact occurred and, if so, its exact scope.”).

93 MUR 6927 Supp. Compl. ¶ 43.

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1 Bush,⁹⁴ and there is no evidence that the Super PAC solicited any contributions or made any
 2 expenditures to further the election of any other candidate. Although the Response characterizes
 3 the support as “independent,” the factual record suggests that such a claim is dubious given the
 4 evidence of Bush’s own involvement in Super PAC activities as described above.⁹⁵ As such, the
 5 available evidence suggests that beginning at least as early as January 2015, Bush and the Super
 6 PAC were impermissibly raising soft money in violation of the Act. Thus, we recommend that
 7 the Commission find reason to believe that the Super PAC violated 52 U.S.C. § 30125(e).

8 3. The available information is unclear as to whether Bush or other
 9 individuals acting as his agents solicited contributions for the Super PAC

10
 11 Whether or not the Commission finds that the Super PAC was established, financed,
 12 maintained, or controlled by Bush, or was acting on his behalf, liability may still result under
 13 section 30125(e)(1) if Bush personally solicited contributions for the Super PAC, or if any
 14 individuals soliciting contributions for the Super PAC were acting as agents of the Bush. The
 15 Commission defines “to solicit” to mean “to ask, request, or recommend, explicitly or implicitly,
 16 that another person make a contribution, donation, transfer of funds, or otherwise provide
 17 anything of value.”⁹⁶ An agent “means any person who has actual authority, either express or

⁹⁴ See First Bush Resp. at 2 (Super PAC was “formed by supporters of Governor Bush to provide independent support to him should he decide to seek federal office.”); Second Bush Resp. at 3.

⁹⁵ Indeed, the independent expenditure-only political committee contemplated by the D.C. Circuit in *SpeechNow.org v. FEC*, 599 F.3d 686 (D.C. Cir. 2010), stands in stark contrast to the Super PAC here. In *SpeechNow*, the committee disclaimed the involvement of any federal candidates in its activities and did not form and operate to advance the election of solely one candidate. During the district court proceedings, *SpeechNow.org* founder David Keating submitted a sworn declaration that *SpeechNow.org* operated wholly independently of any of candidate, committee, or political party and that *SpeechNow.org*’s mission was to protect rights to free speech and association and not to allow individuals to gain access to or obtain gratitude of any candidates or officeholders. See Declaration of David Keating in Support of Plaintiffs’ Proposed Findings of Fact ¶¶ 9, 10, *Speechnow.org v. FEC*, 08-cv-00248 (Oct. 28, 2008).

⁹⁶ 11 C.F.R. § 300.2(m).

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1 implied . . . to solicit, receive, direct, transfer, or spend funds in connection with any election" on
 2 behalf of a federal candidate.⁹⁷

3 Even if an individual is an agent for a federal candidate, however, liability under the soft
 4 money provisions will not attach to the agent if the individual is not acting on behalf of the
 5 principal.⁹⁸ Thus, an agent of a federal candidate generally may solicit non-federal funds for
 6 other political parties or organizations.⁹⁹ With respect to a "Single Candidate Committee," as
 7 described in AO 2015-09,¹⁰⁰ however, the Commission has been divided as to whether an
 8 individual who is an agent of that candidate may solicit funds on behalf of such a committee,
 9 even if steps are taken to ensure that the individual was not doing so in his or her capacity as the
 10 candidate's agent.¹⁰¹

11 Relying on numerous news reports, the Complaints allege that Bush solicited non-federal
 12 funds at Super PAC events in violation of the Act. Bush contends, however, that he did not
 13 solicit funds and "never directly made a fundraising ask"¹⁰² and that his involvement with the
 14 Super PAC was strictly limited to appearing as a special guest at Super PAC fundraising
 15 events.¹⁰³ Based on our preliminary review of publicly available information, including the text
 16 of Bush's remarks at certain events, we have found no instances of Bush directly soliciting

⁹⁷ 11 C.F.R. § 300.2(b)(3). In promulgating this regulation in 2002, the Commission explained that the definition of agent must cover "implied" authority because "[o]therwise, agents with actual authority would be able to engage in activities that would not be imputed to their principals so long as the principal was careful enough to confer authority through conduct or a mix of conduct and spoken words." Prohibited and Excessive Contributions: Non-Federal Funds or Soft Money, 67 Fed. Reg. 49064, 49082 (July 29, 2002) (explanation and justification). Thus, a principal may be held liable under an "implied actual authority theory" where "the principal's own conduct reasonably causes the agent to believe that he or she had authority." *Id.* at 49083.

⁹⁸ See Advisory Op. 2003-10 (Rory Reid); Advisory Op. 2007-05 (Iverson).

⁹⁹ See *id.*

¹⁰⁰ See *supra* note 68.

¹⁰¹ AO 2015-09 (Senate Majority PAC) at 7, note 4.

¹⁰² Third Bush Resp. at 8 (quoting Miller and Elliott, *supra* note 35).

¹⁰³ First RTR Resp. at 4; Second RTR Resp. at 5-6; Third Bush Resp. at 8.

1 contributions from donors. But the regulatory definition of “to solicit” is not so narrow and may
 2 include a request that is either explicit or implicit. If during the course of investigating the Super
 3 PAC we uncover evidence of Bush soliciting funds for the Super PAC, we will make the
 4 appropriate recommendation.

5 In addition, the Complaints identify individuals who were allegedly Bush’s agents and
 6 solicited non-federal funds for the Super PAC. These individuals include: Mike Murphy, one of
 7 Bush’s “top advisors,” who became CEO of the Super PAC;¹⁰⁴ Bush family members, who
 8 reportedly solicited funds for the Super PAC;¹⁰⁵ and Mason J. Fink, a former fundraiser for Mitt
 9 Romney who reportedly worked for RTR PAC but transitioned to the Super PAC.¹⁰⁶ The
 10 Complaints, however, do not provide specific facts to support a conclusion that any of these
 11 particular individuals solicited funds for the Super PAC as agents of Bush. Though news articles
 12 describe that Murphy served as an “advisor” to Bush, the record is unclear as to whether he
 13 qualified as an agent of Bush and what his role in fundraising may have been.¹⁰⁷ Further, though
 14 Bush family members and Fink reportedly had roles with the Super PAC specific to fundraising,
 15 we believe that further fact finding is warranted before making a determination that either had
 16 been granted actual authority by Bush to fundraise on his behalf as a candidate.¹⁰⁸

¹⁰⁴ MUR 6915 Supp. Compl. at 6; MUR 6927 Supp. Compl. ¶ 12 (citing M. Bender, *Jeb Bush Promises 2016 Decision in Few Months*, BLOOMBERG (Mar. 18, 2015)).

¹⁰⁵ MUR 6927 Supp. Compl. ¶ 26.

¹⁰⁶ *Id.* ¶ 15.

¹⁰⁷ Respondents acknowledge that Murphy is “an ally” of Bush and leads the Super PAC but argue that the Complaint provides no evidence that Murphy is an agent or that Bush sought to control the Super PAC through Murphy. Third Resp. at 43; *see also* Third RTR Resp. at 2 (claiming a “political confidante” does not automatically become an agent).

¹⁰⁸ With regard to the family members, the Commission has determined that a family relationship alone is insufficient to create an agency relationship with the candidate. Factual and Legal Analysis at 4, MUR 5761 (Madrid) (citing Adv. Op. 2003-10).

1 Thus, there is insufficient information in the current record to conclude that Murphy,
 2 Fink, or any Bush family members violated 52 U.S.C. § 30125(e) by soliciting non-federal funds
 3 as agents of Bush. If during the course of the investigation of the Super PAC, we uncover
 4 additional information as to the roles these individuals may have played with respect to soliciting
 5 contributions for the Super PAC, we will make the appropriate recommendation.

6 **C. There is Reason to Believe that RTR PAC Made, and Bush and the
 7 Committee Accepted, Unreported Excessive In-Kind Contributions Because
 8 RTR PAC Paid for Campaign Travel**

9
 10 The Commission's regulations at 11 C.F.R. § 106.1 require that expenditures on behalf of
 11 more than one clearly identified federal candidate be attributed to each such candidate according
 12 to the benefit reasonably expected to be derived.¹⁰⁹ Under Commission guidance, where a
 13 potential candidate engages in activities on behalf of a non-connected multicandidate committee,
 14 such as a leadership PAC, but also undertakes activities relating to his own potential candidacy,
 15 the potential candidate must allocate any expenses between that committee and his potential
 16 candidacy pursuant to 11 C.F.R. § 106.1(a).¹¹⁰ If the multicandidate committee spends more
 17 than \$5,000 on an individual's testing the waters activities, once that individual becomes a
 18 candidate, that committee makes excessive in-kind contributions to the candidate in violation of
 19 52 U.S.C. § 30116(a)(2).

20 A potential candidate need not allocate expenses where references to any potential
 21 candidacy "will be made 'in an incidental manner or in response to questions by the public or

¹⁰⁹ 11 C.F.R. § 106.1(a).

¹¹⁰ See Statement of Reasons of Chairman Matthew S. Petersen and Commissioners Caroline C. Hunter, Donald F. McGahn II, Steven T. Walther, and Ellen L. Weintraub at 3, MUR 5908 (Duncan Hunter) (finding that travel disbursements benefitting presidential campaign and leadership PAC "would have been allocable between the two committees."); Advisory Op. 1985-40 (Republican Majority Fund) at 8 (leadership PAC required to allocate travel costs where individual holds private meetings for testing-the-waters activities in conjunction with appearances on behalf of federal candidates).

1 press.”¹¹¹ However, an individual’s “incidental” references to a potential candidacy “should be
 2 narrowly interpreted to apply only to incidental contacts and incidental remarks, such as those in
 3 response to questions.”¹¹² Thus, the Commission has determined that it would not consider as
 4 incidental “public statements” referring to an individual’s possible intent to campaign for federal
 5 office and activities such as “soliciting funds, holding meetings (which constitute more than
 6 incidental contacts) with individuals or the press regarding such a potential candidacy . . .”¹¹³

7 1. RTR PAC Paid for Expenses That Appear to be Related to the Election

8 9 The Complaints allege that the RTR PAC funded Bush’s testing the waters activities.¹¹⁴

10 The Respondents deny that the RTR PAC paid for such expenses. Whether the Commission
 11 determines that Bush was testing the waters from May 2014 until June 2015, or that he became a
 12 candidate earlier in the year, the factual record suggests that Bush and the Committee accepted
 13 excessive in-kind contributions from RTR PAC in the form of unreimbursed travel expenses.

14 The public record shows that from December 2014 to June 2015, Bush traveled
 15 extensively and spoke about his purported exploratory efforts at public events. In May 2015, he
 16 specifically told reporters “I’ve been traveling the country for the last three months and making
 17 up my mind, trying to determine the support I may have should I go forward.”¹¹⁵ Thus, Bush
 18 acknowledges that he was traveling the country to conduct testing the water activities.

¹¹¹ Advisory Op. 1986-06 (Fund for America’s Future) at 4.

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ MUR 6915 Second Supp. Compl. at 4-6; MUR 6927 Compl. ¶ 44.

¹¹⁵ Theodore Schleifer, *It’s Getting Harder for Jeb Bush to Pretend He’s Not Running for President*, CNNPolitics.com (May 13, 2015), <http://www.cnn.com/2015/05/13/politics/jeb-bush-miscue-2016-campaign-finance/> (cited in MUR 6915 Supp. Compl. n. 1).

1 Respondents concede that RTR PAC funded Bush's travel during this time but argue that
2 the purpose of the travel was to facilitate his appearances as RTR's Chairman.¹¹⁶ They also
3 concede that Bush referenced his potential candidacy at such events but claims that such
4 references were only incidental — that he was responding to a question from a member of the
5 public or press, informally or privately discussing his potential candidacy outside of scheduled
6 events.¹¹⁷ The available evidence indicates otherwise. As described above, publicly available
7 video footage shows at least nine instances of Bush speaking about his possible run for office,
8 largely focusing on his own personal qualifications and accomplishments, including his record as
9 Governor of Florida. Further, the speeches lacked any reference to RTR PAC or its work. And
10 contrary to the representations made by Bush, he was not incidentally responding to questions to
11 the press or making informal comments at unscheduled events when he made his statements
12 about his exploratory efforts. Instead, he made them while giving meetings at scheduled events
13 before a large audience, where he would be featured as a possible candidate,¹¹⁸ or at formal
14 meetings held with press. Consequently, the record simply does not support Bush's contention
15 that his references to his potential candidacy were only incidental. And notably, Bush
16 acknowledges that RTR PAC's activities significantly declined after he became a candidate¹¹⁹ —
17 thus supporting an inference that the purpose of RTR PAC was to support his so-called
18 exploratory activities before officially declaring in June 2015.

19 Notwithstanding the clear indications that the travel funded by RTR PAC was related to
20 either exploratory efforts or Bush's candidacy, Jeb 2016, once established, reported only a single

¹¹⁶ Third Bush Resp. at 6.

¹¹⁷ *Id.* at 7, 33.

¹¹⁸ *See* Appendix at 4.

¹¹⁹ Third Bush Resp. at 7; Fourth Bush Resp. at 3.

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1 \$1,089 disbursement for travel during this time. In contrast, RTR PAC reported travel expenses
 2 totaling over \$800,000.¹²⁰

3 Under these circumstances, we recommend that the Commission find reason to believe
 4 that RTR PAC made, and Bush and Jeb 2016 accepted, excessive in-kind contributions in the
 5 form of unreimbursed travel expenses in violation of 52 U.S.C. § 30116(a) and (f). Further,
 6 assuming the Commission does not find that Bush triggered candidacy before June 2015, we
 7 recommend that the Commission find reason to believe that Bush violated 11 C.F.R.
 8 §§ 100.72(a) and 100.131(a) by testing the waters with funds that do not comply with the Act.
 9 Finally, we recommend that the Commission find reason to believe that Jeb 2016 violated 52
 10 U.S.C. § 30104(b) and 11 C.F.R. §§ 100.72(a) and 100.131(a) by failing to properly report
 11 Bush's testing the waters activities.¹²¹

12 The Complaints also allege that RTR PAC made excessive in-kind contributions to Bush
 13 under 11 C.F.R. § 110.2(l),¹²² which governs "pre-candidacy expenditures by multicandidate
 14 political committees deemed in-kind contributions." Under this regulation, a payment by a
 15 multicandidate political committee is an in-kind contribution to and an expenditure by a
 16 Presidential candidate, although made before he or she becomes a candidate, if three conditions
 17 are met: 1) the expenditure is made on or after January 1 of the year following the last
 18 Presidential election year; 2) with respect to goods or services involved, the candidate accepted
 19 or received them, requested or suggested their provision, was materially involved or involved in
 20 substantial discussion about providing them; and 3) the goods or services are - a) polling

¹²⁰ Amend. RTR PAC 2015 Mid-Year Report (July 31, 2015).

¹²¹ We note that should the Commission find reason to believe that Bush became a candidate before June 2015, we would consider any relevant payments made by RTR PAC as payments for campaign activity, not testing the waters activity.

¹²² MUR 6927 Compl. ¶ 31; MUR 6915 Second Supp. Compl. at 6-7.

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1 expenses; b) compensation paid to employees, consultants, vendors for services rendered “in
 2 connection with establishing and staffing offices in states” where Presidential primaries are to be
 3 held, other than offices in the candidate’s home state or in DC; or c) administrative expenses,
 4 including rent, utilities, office supplies and equipment, in connection with establishing and
 5 staffing offices described in subsection (b).¹²³ Travel expenses are not included in the regulation.

6 Here, the evidence is unclear as to whether RTR PAC paid for any expenses that would
 7 qualify as a non-travel pre-candidacy expenditure under section 110.2(l). In RTR PAC’s mid-
 8 year disclosure report, there are numerous disbursements relating to payments for consultants,
 9 vendors, and compensation to staff. We have found no expenditures for polling. While the
 10 Amended Complaint in MUR 6915 alleges that Bush’s campaign should have paid for RTR’s
 11 payments relating to consulting and vendor services expenses, we have no information indicating
 12 whether such disbursements were related to establishing offices in states where Presidential
 13 primaries will be held outside of Bush’s home state, Florida, or DC.¹²⁴ Indeed, the majority of
 14 disbursements for salary were reported as being made in Florida.

15 Thus, under the circumstances, we recommend that the Commission take no action at this
 16 time with respect to the allegation that RTR made, and Bush and Jeb 2016 accepted, an excessive
 17 in-kind contribution resulting from RTR PAC’s payment of certain pre-candidacy expenses.

18 Given that we have already requested an investigation into RTR PAC’s alleged payments of
 19 Bush’s testing the waters expenses, if we uncover any evidence indicating that certain payments

¹²³ 11 C.F.R. 110.2(l)(1). If a candidate through his authorized committee reimburses the multicandidate within 30 days of becoming a candidate, a payment by the multicandidate committee will not constitute an in-kind contribution. *Id.* § 110.2(l)(2).

¹²⁴ We note that there are a small number of disbursements relating to payroll taxes being made in other states, which could indicate that Right to Rise paid compensation to staff offices in other primary states. Those states include: California (\$642), Kentucky (\$315), Michigan (\$966), and Virginia (\$2307). We also found one disbursement for rent/utilities made to Comcast in Georgia for \$1,014 although almost all of the rent disbursements were made in Florida. *See* Amended RTR PAC 2015 Mid-Year Report.

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1 qualified as pre-candidacy expenditures under section 110.2(l), we will make the appropriate
2 recommendation.

3 2. The Record is Unclear as to Whether the Super PAC Paid For Bush's
4 Testing-the-Water Expenses

5 The Complaints also allege that the Super PAC funded Bush's testing the waters
6 activities.¹²⁵ The Respondents deny that the Super PAC paid for such expenses. Whereas the
7 Respondents admit that RTR PAC paid for Bush's travels, the Super PAC makes no such
8 admission. Indeed, the record suggests that the Super PAC's fundraising was designed to amass
9 funds to support Bush after he declared himself as a candidate, not for testing the waters.

10 According to the Super PAC's 2015 Mid-Year Report, the Super PAC raised over \$103 million
11 from January 2015 through June 2015 but had only spent approximately \$5.4 million during that
12 same period.¹²⁶ Nevertheless, if Bush discussed his exploratory efforts in speeches made at
13 Super PAC events held prior to June 2015, he should have allocated any costs in relation to those
14 events. Given that we plan to investigate Bush's testing the waters activities, if we discover that
15 the Super PAC paid for any such expenses, we will make the appropriate recommendation.
16 Consequently, we recommend that the Commission take no action at this time with respect to the
17 allegation that Super PAC made excessive contributions to Bush in violation of 52 U.S.C.
18 § 30116(a).

19 **IV. INVESTIGATION**

20 To determine whether Bush and the other Respondents violated the Act, we propose to
21 conduct an investigation into Bush's activities during his so-called testing the waters period from
22 May 2014 through June 2015. Specifically, we intend to examine Bush's involvement with the

¹²⁵ MUR 6915 Second Supp. Compl. at 4-6; MUR 6927 Compl. ¶ 44.

¹²⁶ Amend. RTR USA 2015 Mid-Year Report.

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1 Super PAC and to determine the role that he and other individuals played with respect to the
2 establishment and fundraising of the Super PAC. Further, we intend to investigate the extent to
3 which Bush should have allocated his travel and other related expenses for his pre-June 2015
4 appearances where he discussed his potential candidacy. We will seek to conduct our
5 investigation through voluntary means, but recommend that the Commission authorize the use of
6 compulsory process, including the issuance of appropriate interrogatories, document subpoenas,
7 and deposition subpoenas, as necessary.

8 **V. RECOMMENDATIONS**

9

10 1. Find reason to believe John Ellis Bush violated 52 U.S.C. § 30102(e)(1) and 11
11 C.F.R. § 101.1(a) and that Jeb Bush 2016, Inc. and William Simon in his official
12 capacity violated 52 U.S.C. §§ 30103(a) and 30104; or in the alternative, find reason
13 to believe that Jeb Bush violated 11 C.F.R. §§ 100.72(a) and 100.131(a) and that Jeb
14 Bush 2016, Inc. and William Simon in his official capacity violated 52 U.S.C.
15 § 30104;

16 2. Find reason to believe that Right to Rise PAC, Inc. and James P. Robinson in his
17 official capacity as treasurer violated 52 U.S.C. § 30116(a) by making excessive in-
18 kind contributions to John Ellis Bush and Jeb 2016, Inc.;

19 3. Find reason to believe that John Ellis Bush and Jeb Bush 2016, Inc. and William
20 Simon violated 52 U.S.C. § 30116(f) by accepting excessive contributions from Right
21 to Rise PAC;

22 4. Find reason to believe that Right to Rise U.S.A. and Charles R. Spies in his official
23 capacity as treasurer violated 52 U.S.C. § 30125(e);

24 5. Take no action at this time with respect to the allegation that John Ellis Bush or
25 Michael Murphy violated 52 U.S.C. § 30125(e);

26 6. Take no action at this time with respect to the allegation that Right to Rise U.S.A. and
27 Charles R. Spies in his official capacity as treasurer violated 52 U.S.C. § 30116(a) by
28 making excessive in-kind contributions;

29 7. Take no action at this time with respect to the allegation that John Ellis Bush, Jeb
30 Bush 2016, Inc. and William Simon in his official capacity, and Right to Rise PAC,
31 Inc., and James P. Robinson in his official capacity as treasurer violated 52 U.S.C.
32 § 30116(a) or (f) as a result of making contributions defined by 11 C.F.R. § 110.2(l);

33 8. Approve the attached Factual and Legal Analyses;

MURs 6915 & 6927 (John Ellis Bush, *et al.*)

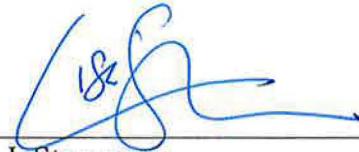
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1 9. Authorize the use of compulsory process; and

2 10. Approve the appropriate letters.

3
4
5 Date: 2/8/2017



Lisa J. Stevenson
Acting General Counsel

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20 Kathleen M. Guith
21
22 Kathleen M. Guith
23 Associate General Counsel



Jin Lee
Acting Assistant General Counsel

20 Attachments:

21
22 A. Appendix
23 B. Factual and Legal Analysis for Jeb Bush and Jeb Bush 2016, Inc.
24 C. Factual and Legal Analysis for Right to Rise PAC and Right to Rise U.S.A.
25

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APPENDIX

**Jeb Bush**

December 16, 2014

Create Page

Recent

2015

2014

2013

2012

A Note from Jeb Bush

Merry Christmas and Happy Hanukkah!

Like many of you, our family was blessed with the opportunity to gather together over the recent Thanksgiving holiday.

Columba and I are so proud of the wonderful adults our children have become, and we loved spending time with our three precious grandchildren.

We shared good food and watched a whole lot of football.

We also talked about the future of our nation. As a result of these conversations and thoughtful consideration of the kind of strong leadership I think America needs, I have decided to actively explore the possibility of running for President of the United States.

In January, I also plan to establish a Leadership PAC that will help me facilitate conversations with citizens across America to discuss the most critical challenges facing our exceptional nation. The PAC's purpose will be to support leaders, ideas and policies that will expand opportunity and prosperity for all Americans.

In the coming months, I hope to visit with many of you and have a conversation about restoring the promise of America.

Best wishes to you and your families for a happy holiday season. I'll be in touch soon.

Onward,
Jeb Bush

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http://ecm.suite.sec.gov/ecmprd/lisapi.dll/3290503/Capture_FB_12-16-2014.PNG?func=d... 7/29/2015

Attachment A

[ENGLISH](#) · [ESPAÑOL](#)

About

[Right to Rise USA \(\)](#) [About Jeb \(\)](#)

Right to Rise USA is the leading independent political action committee strongly supporting Jeb Bush for President.

We're raising money and organizing supporters across America to carry Jeb's optimistic conservative message of renewal and reform to every voter.

We support Jeb's belief that every American deserves the right to move up the income ladder based on hard work and earned success. We believe he is the one candidate for the Republican nomination with the positive conservative vision we need to put America back on the right track.

If you are interested in keeping up with our activities and learning how you can help us work to elect Jeb Bush, please [click here \(home\)](#).

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8/12/2015

About | Right to Rise USA

We believe in transparency. As what the Federal Election Commission (FEC) calls an “Independent Expenditure Committee” (or is often referred to in the press as a “super PAC”), all of our donations and our expenditures are publicly disclosed on a periodic basis and comply with all applicable FEC regulations and federal law. You can see our reports at FEC.gov (<http://www.fec.gov/>). We strive to keep overhead as low as possible and our financial operations are overseen by a governance advisory committee of our donors.

We are the leading independent organization supporting Jeb. That means we do not, by law, coordinate our political activities with Jeb's official campaign committee.

Join us.

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[Privacy Policy](#) ([privacy](#))

Paid for by Right to Rise USA. Not Authorized by Any Candidate or Candidate's Committee.
<http://righttoriseusa.org> (<http://www.righttoriseusa.org>)

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Republican Party
of IOWA "First in the Nation"

THE REPUBLICAN PARTY OF IOWA
LINCOLN DINNER

SATURDAY, MAY 16TH, 2015
IOWA EVENTS CENTER BALLROOM
833 5TH AVE
DES MOINES

FEATURING PROSPECTIVE 2016 REPUBLICAN
PRESIDENTIAL CANDIDATES



Dr. Ben Carson



Senator
Rick Santorum



Governor
Scott Walker



Carly Fiorina



Governor
John Kasich



Governor
Rick Perry



Governor
Bobby Jindal



Donald Trump



Lindsey Graham

Dear Friend,

We are honored to invite you to our 2015 Lincoln Dinner, which will host many of the Republican Party's top presidential candidates.

It's going to be a spectacular, star-studded event. We hope you'll join us for the main program and the receptions that follow.

What: The Iowa GOP's Annual Lincoln Dinner

When: May 16, doors open 4:30 p.m.

Where: Iowa Events Center, 833 5th Avenue, Des Moines

Tickets: ~~\$150 for general seating, \$180 for premium seating, \$1,000 for table of 10~~
~~\$150 for general seating, \$180 for table of 10 in premium seating~~

Source: Sunlight Foundation's Party Time www.politicalpartytime.org. The Sunlight Foundation collects these invitations from anonymous lobbyist sources.

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**Jeb Bush CPAC Q&A
National Harbor, MD
February 27, 2015**

Sean Hannity (Hannity): Wow! We've got a packed house. How ya'll doing? We're going to have a Q&A with Governor Bush. And, uh, by the way as a lot of, um, **I gotta start with, um, are you mad at your mom because she did say, "I don't know if we need another Bush in the White House". What is your reaction to your mom?**

Jeb Bush (Bush): Well I saw that actually Sean on the Today show when my brother was opening up his presidential library and my mom unleashed this on me on national television instead of telling me directly. **That was a little difficult. But since that time she's had a change of heart. And that's alright by me.**

Sean Hannity: What did we, we've had your dad and your brother as President of the United States. You made a statement the other day you said: "Well wait a minute. I am my own man."

Jeb Bush: Yeah, so, if I go beyond the consideration of the possibility of running, which is the legal terminology that many of the people here coming to CPAC or probably using to not to trigger a campaign. If I get beyond that and I run for president, I have to show what's in my heart. I have to show that I care about people, about their future. It can't be about the past, it can't be about my mom and dad or my brother who I love. I love them all. It has to be about the ideas that I believe in to move our country forward so that we can have high sustained economic growth where more people have a chance at earned success because in America today more and more people don't think that system works for them anymore. And for conservatives to win we need to give them hope that if we create the field of dreams that people can rise up again.

Hannity: Let me ask you, the last time you were at CPAC, this was picked out the Washington Post today, you said "all too often we're...", I think you were talking about conservatives, "we are labeled and associated with being anti-everything. Way too many people believe Republicans are anti-immigrant, anti-women, anti-science, anti-gay, anti-worker and the list goes on. I want you to expand on that.

Bush: Sure. So, look. I think the conservatives in Washington have been principled and opposing the overreach. And they've actually done a pretty good job. The President jammed down the throat, Obama Care, The Affordable Care Act, and Dot Frank and the stimulus. But we have fought, in a principle way, increased overreach. He's now using his executive power to try to carry out his agenda. But overtime we have to start being for things again. And I think what we need to be for is a strong national defense where we are committed each and every day to protect the homeland with these new asymmetric threats that exists that are real, it's not a joke, these leisure threats that not just have an impact in the neighborhood in the Middle East or certainly have an impact on Israel. It impacts us as well.

And so we need to stand for a strong national offense of the homeland and we need to give people a since that if we started growing our economy again the middle will start having rising

income again. What you would do to do that is offer compelling alternatives to the failed tax policies, the failed regulation policies, a broken education system and making sure the people know that we're on their side to rise up. So, it's good to oppose the bad things, but we need to start being for things. And here Sean, here's the deal. Here's the deal. There're a lot of, obviously there're a lot of committed conservatives in this room and this is why it's such a spectacular gathering. There're a lot of other conservatives that haven't been asked. They don't know that they're conservative. If we share our enthusiasm and love for our country and belief in our philosophy, we will be able to get Latinos and young people and other people that you need to win to get fifty?

Hannity: Governor. Every article I have read talks about you and a divide with the conservative movement over two issues.

Bush: I've read about it.

Hannity: So. You saw it once more? It has to do with immigration and common cause. Let's directly deal with this. Now, you said "yeah they broke the law, it's not a felony it's an act of love". You also said that you support a pathway to citizenship. And I want..., I, when you were governor, two other things. When you were governor you supported driver's license for illegal immigrants and you supported in-state tuition prices for those children of illegal immigrants that weren't citizens. Wait a minute, hang on. I want... I want to give you an opportunity to address that.

Bush: So, so. On immigration I wrote a book about this and instead of people pining about what I believe, they might want to read the book. It's called 'Immigration Wars', you can get it on Amazon for probably a buck ninety-nine. It's probably deeply discounted. And in that book I talk about first and foremost the need to enforce the borders. A great country needs to enforce borders for national security purposes, public health purposes, and the rule of law. First and foremost we have to do that.

Secondly, we need to narrow family petitioning. So that it's the same as every other country, spouse and minor children. Not this broad definition of spouse, minor children, adult siblings and adult parents that crowds out what we need, which are economic driven immigrants. Those that want to come here to work, to invest in their dreams in this country to create opportunities for all of us. That's what we need to get to.

And so, the plan also includes a path to legal status. I have not seen anybody, and I know there's disagreement here. Some of these people are angry about this and look I kinda feel your pain. I was in Miami this morning, it was 70 degrees and so, the simple fact is- the simple fact is there is no plan to deport 11 million people. We should give them a path to legal status where they work, where they don't receive government benefits, where they don't break the law, where they learn English and where they make a contribution to our society. That's what we need to be focused on.

Hannity: A lot of reaction. Let me do a follow up. We had Senator Rubio, a friend of yours, from Florida and I asked him the same question. We always hear about spending cuts and tax increases, we always end up with the tax increases, we never the spending cuts. The Congresses try comprehensive immigration reform and it has failed. We now have a crisis going on with the

Department of Homeland Security, the president of executive orders. My question is why not secure the borders first, once it's verified secured...

Bush: Let's do it.

Hannity: ...first...

Bush: Let's do it man.

Hannity: ...and then talk about...

Bush: I mean so, so instead of having a political argument about, about this, the President who did use authority, doesn't have. The courts are going to overrule that. I've been consistent about that. Let's control the border. There's nothing wrong with that. That's what a great nation has to do. There's nothing that's gonna hold back the Republicans to put a comprehensive plan in place to do that. But the simple fact is this nation needs to start growing at a far faster rate than we're growing today. We have to be young and dynamic and aspirational again for all the young people in this crowd to be able to get a job a purpose and meaning. We need to begin to change the subject to high sustained economic growth.

Hannity: Let me, let me ask, I don't want to spend all our time on immigration but I want to go through some yes or no scenarios with you. Number one- for example, do you agree with conservatives that says Congress should not pass a Homeland Security Funding bill that would fund the President's illegal and unconstitutional amnesty?

Bush: I think the President, I think that Congress ought to pass a bill that does not allow him to use that authority.

Hannity: And they should stand their ground...

Bush: We should not, look, I don't know. I'm not an expert on the ways of Washington. It makes no sense to me that we're not funding control of our border which is the whole argument. I'm missing. I'm missing something. I'm not an expert on that. The simple fact is the President has gone way beyond his constitutional power to do this and the Congress has every right reinstate their responsibility for what laws about.

Hannity: Yes or No? A hundred thousand people came from Central America, we all watched over the last summer. Should they be sent home?

Bush: I thought they should've been sent home at the border to be honest with you. Because it would've created..., here's the deal. The humanitarian thing to do, would've been to consistently say from the beginning, don't risk your lives crossing as young people. Don't pay the gangsters in Central America money from your family members in this country to come all the way across and just get into the country to be processed. And now with our broken system it may take 3 or 4 years to even begin to process them. Send the clear signal that this was a dangerous thing to do and the wrong thing to do and it would've stopped the flow. We did that, uh, as it relates to in Miami, in

Florida, that was exactly what Bush 41 did as it related to Haitians and it stopped the flow of people and people didn't lose their lives trying to come to this country.

Hannity: Let me ask you this. I mentioned this earlier when I had an opportunity to speak to this great crowd here and that is, right now at this point in the country, at this moment in history, we have 50 million Americans, nearly 50 in poverty, nearly 50 million Americans on food stamps. The lowest labor participation rates since the 1970s. I want you to connect it to immigration. Shouldn't Americans have the opportunity for those jobs first? You say go to the back of the line, but if they go to the back of the line they still get to stay here and compete for those jobs that are available.

Bush: Here's the deal. You either believe that this pie is static, that's the lesser point of view. Many on the right don't agree with that. But they, by their policies they imply it. And therefore we're splitting up. Someone's benefit is someone's detriment. I believe that what we ought to be focused on is growing the economic pie and growing it at a rate that looks more like the 80s in America, growing it closer to 4% not 2%. If we stay in this anemic economic rate then your argument becomes valid. But if we grow at 4% there's going to be opportunities for all. It's not a zero sum game. That's not how Republicans and Conservatives think. We don't think that it's just all about the government divvying up for us to get our crumbs. We believe we should pursue our dreams as we see fit and the more people doing it with the capacity to achieve earned success the more economic growth will take place for all of us.

Hannity: My last question on immigration is, it's gonna be... As governor, do you stand by the decision, driver's license for...

Bush: It didn't happen.

Hannity: It didn't happen, you tried and the other decision about in-state tuition explorer for children.

Bush: Yeah, I do. I do. In fact, that was the, uh, in-state tuition was passed this year by one of the most conservative state legislatures I might add and a conservative governor signed into law this last year.

Hannity: Let me ask you the second big issue...

Bush: Not by me.

Hannity: ...that always come up. When you read about Governor Jeb Bush it's the issue of common core. It was interesting, I didn't know until I was researching you that you were the first governor to institute vouchers in the country which was eventually overruled by the Supreme Court of Florida but you were the first governor to allow a voucher system, I think a lot of conservatives believe in vouchers. I want you to address the common core issue.

Bush: Sure, sure. I'll do it in the context of comprehensive form because high standards by themselves aren't meaningful. They're helpful, they're better than lower standards but by themselves that there's no accountability around this if there's no consequences between

mediocrity or failure or excellence then the system won't move forward. In Florida we took a comprehensive approach. Yes, we did have the first state-wide voucher program and we have more school choice in Florida both public and private than any state in the country. And we have the largest virtual school.

We have the largest corporate tax scholarship program. We have 30,000 students that if their parents, if their child has a learning disability they can take the dollars, the state and local dollars and send them to any private school of their choice. We have all of that and that's improved public schools. We eliminated social promotion in 3rd grade which was a pretty difficult thing to do. We did all of this and we raised standards and my belief is our standards have to be high enough where a student going through our system is college or career ready. And that's not what's happening right now.

Hannity: Is common core a federal take-over?

Bush: No. And it shouldn't be. Here is where I think conservatives and myself. All of us are deeply concerned with this President and this Department of Education there's a risk that they will intrude and they had as it relates to race to the top. What we should say quite clearly and the reauthorization in the K12 law that, I think it may have actually been on the floor in the House of Representatives today is to say the Federal Government has no role in the creation of standards either directly or indirectly. The Federal Government has no role in the creation of curriculum and content. The Federal Government should have no access to the student ID or student information. If the role of the Federal Government, if there's any, is to provide incentives for more school choices. Take the Title 1 money and the IDEA money and if states want to innovate with their own programs give them the money to let them create their own programs. That is a better approach.

Hannity: Yeah. I want to give you an opportunity to talk a little bit about your govern..., your record as governor, in as much as, you privatize state jobs. I did see you vetoed \$2 billion in spending in eight years as governor. You cut taxes \$19 billion as governor, doing my research. You ended affirmative action. I want to give you a chance to explain. For those that, earlier today I was surprised. I was mentioning candidates, some people ooh, when I mentioned your name. I want to give you a chance to talk about your record directly to the people of CPAC.

Bush: You bet. Well first of all for those that made a ooh sound, is that what it was? I'm marking them down and neutral and I want to be your second choice if I decide to go beyond this. But here's the record. It's a record that may be hard for people to imagine because it's a record of accomplishment of getting things done. Of taking conservative principles, running on them for starters and having the courage to say I was for a state-wide voucher program that I believe that we should cut spending, that we need to take on the trial bar and all the things we did.

So we created a world class business climate, 1.3 million net new jobs were created in 8 years more than any state but one. Don't tell Rick Perry but more than Texas during those 8 years. I left the state with a 3% unemployment rate. We made Florida business friendly and they came and they created jobs. Our economy grew by something like 3.9% when the rest of the country was growing at 2.6%. We reformed our education system as I mentioned. In Florida it wasn't just the

fight that mattered we actually led the country in rising student achievement. Kids in poverty now are the leaders. They outperformed all of their peers in most of the categories in other places.

Florida is a place where conservative principles have helped not just Republicans but everybody. We eliminated affirmative action, Sean. I know there are people that come here and talk about the courage legitimately so of their efforts. I eliminated affirmative action by executive order, trust me, there were a lot of people upset about this but trust me, we ended up having a system where there were more African Americans and Hispanic kids attending our university system than prior to the system that was discriminatory.

One more thing, I left the state, I left the state with \$9.5 billion of reserves. No drunken sailors were around. They called me "Veto Corleone" because we did veto 2,500 line items in the budget totaling \$2 billion. We left my successor \$9 billion+ of cash for a rainy day. And then we had the financial meltdown. And so conservatives need to be focused on not spending everything that they have, of cutting taxes of simulating economic growth so that more revenue comes in people's pockets and the government gets their fair share as well.

Hannity: You think you can lower taxes with 18.1 trillion in debt that we now have 100 trillion in unfunded liabilities?

Bush: You can lower taxes and create more economic opportunity that will generate more revenue for government than any of the most exotic tax plans that Barack Obama has. Yes, I believe that.

Hannity: Looking at the clock. Let me, let me ask, National Security, National Defense, ah, your brother predicted in 2007 unfortunately with pinpoint accuracy what was going to happen if we left Iraq too early, we didn't keep intelligence on the ground, training forces on the ground. Now we have ISIS, people being beheaded, burned to death, a war on terror that is being waged Coptic Christians, simultaneous beheadings. *My question is, what would you do if you were the Commander-In-Chief to defeat ISIS?*

Bush: By the way, and Mitt Romney was right in the debate about Putin. And Mitt Romney was right about a lot of things that the President just slept off about not having a strong military, so, our position just need to be to reengage with a strong military and a strong presence. We can't disengage in the world and expect a good result. As we pull back voids are filled. Iraq is the best example of that, so where to from here? We need to reestablish relationships with countries that we've managed to mess up. I mean we've managed to mess up almost every relationship in the world if you think about it, including Canada which is hard to do but we've done it, but Egypt, we got it wrong 3 times in a row in the last few years, Jordan, the king comes asking for support, I've yet to see it. Perhaps it went covertly but I haven't heard anything.

Hannity: Israel.

Bush: Israel for sure. Turkey, all of these countries have doubts about America. We need to be engaged in the world, build a coalition to isolate and put ISIS around a noose and take them out. And that can be done not by ourselves unilaterally that has to be done with American leadership.

Hannity: How would you do it? Specifically, what would be your first step?

Bush: I like the idea that Senator Corker was talking about, about pushing, creating a safe zone for the creation of a free Syrian army which we should've done three years ago but begin that process. I like the idea of not putting conditions of boots on the ground so that we could have the Intelligence capabilities and the Special Forces capabilities to make a difference. I like these ideas but all of them require reengaging with the neighborhood so that they're considered a high priority for their own interest to be able to participate in this. And in negotiations with Iran makes this far more complicated. The idea that we're going to be tripping over finding a deal, negotiating downward, creating an unsafe world and basically legitimizing the Ayatollah and his nuclear capability is really troubling.

Hannity: All the reports are that this deal that is being negotiated, the negotiations that are going on now, that in fact, the mullahs of Iran who have threatened repeatedly to wipe Israel off the map will in fact be allowed to enrich uranium, they have the delivery system, as President what would you say to any deal that was struck before you took office as it relates to a...

Bush: Well first I hope that Congress acts on this and requires this deal go back for approval in the United States Congress. I think that is the first step so that we don't get to the point where the next President, because it'll be done by executive order will be forced to undo by executive order as well. That will be the best thing to do. But we need to be clear that there should be no light between us and Israel and we need to be clear that other discussions as it relates to Iran need to include their strategy of using surrogates to destabilize the region. Simply focusing on whether or not Iran has a weapon. And then negotiating downward where we're going to regulate it is just bad policy.

Hannity: What is your reaction to a President that can't acknowledge radical Islam or the Islamic state, Islamic...what is your reaction?

Bush: You know that this is all about economic uncertainty and if they could just get jobs...

Hannity: Job programs for Jihadi's?

Bush: ...Jihadi, by the way, that was identified in London was a college graduate.

Hannity: And rich and wealthy. Bin Laden was rich.

Bush: This total misunderstanding of what this Islamic terrorist threat is very dangerous because it doesn't allow to then have the right strategy to deal with this. We need to heighten awareness of what this threat means and be honest about it. Which is why I think Prime Minister Netanyahu visit is going to be really important. He's going to be able to tell the truth on this and the American people, who I believe, are going to reject what President Obama is trying to do realm.

Hannity: I'm running out of time. I've got to wrap up in a minute. I've asked every other candidate that I had an opportunity to interview, real quickly...

Bush: Boxers

Hannity: (laugh) ...that was not the question.

Bush: Thank God it wasn't.

Hannity: I'll leave that for NBC news. **The top 5 agenda, if you become President what are your top 5 priorities in the first 100 days?**

Bush: Undoing... (chuckle), yeah right, undoing the uh, by executive order, undoing what the President has done using authority he doesn't have. Creating a regulatory reform agenda that allows for investment to take place in our country. Presenting to Congress a plan to reform our tax code so that we can see in versions happen the other way, where companies invest in our country to create high wage jobs. We need to get back to high sustained economic growth and then send the signal to the rest of the world that we're going to be their partner for peace and security.

Hannity: Alright, I'm going to do our lightening round but before I do that, a lot has been written about Terri Schiavo. You use to have a license plate that said "Choose Life". Any regrets over the Terri Schiavo fight?

Bush: No. We were the first state to have a "Choose Life" license plate that helped with crisis pregnancy centers around the country, around the state and um, I'm Pro-Life. I also believe that the most vulnerable in our society need to be protected. And in this case, here was a woman who was vulnerable and the court, because of our laws, didn't allow her, they were going to allow her to be starved to death. So we passed a law, Terri's Law that was a year later ruled unconstitutional. I stayed within the law but I acted on my core belief that the most vulnerable in our society should be in the front of the line. They should receive our love and protection and that's exactly what I did.

Hannity: Where you stand today. Ok. There's an indication in an article today, gay marriage. Are you changing your position on it?

Bush: No I believe in traditional marriage.

Hannity: Ok. There're numerous reports you're telling people privately that you are a moderate but then publicly...

Bush: No.

Hannity: How do you...I describe myself as a Reagan constitutional conservative. How do you describe yourself?

Bush: I describe myself as a practicing, reform minded conservative, that I've actually done it.

Hannity: Marijuana in Colorado, legalization, good or bad idea?

Bush: I thought it was a bad idea but states ought to have the right to do it. I would've voted no if I was in Colorado.

Hannity: Ok. I'm going to mention a few names. We've gotten some very interesting answers on this question. Uh, Hillary Clinton?

Bush: Foreign fundraising.

Hannity: Ok.

Bush: We suppose to do word association?

Hannity: That's, kinda, you did good. Ah.

Bush: How did that work compared to the other ones?

Hannity: Ok. Bill Clinton?

Bush: Bubba.

Hannity: Alright, that's pretty funny. I do an impress...I want to say high to the cute chick in the back there. The governor's not responsible for that.

Bush: I better get over here.

Hannity: Stay away from these radio and TV talk hosts. Um, Barack Obama?

Bush: Failed President. Failed President.

Hannity: You know, it's been such a big debate now about the issue of American exceptionalism. In your view, do you a) believe America is exceptional, and why do you love this country enough that you are gonna go through the difficulty and the trials and tribulations of running for Office? And that's the last question.

Bush: Well, I do believe in American exceptionalism. I got to be the chairman of the National Constitution Center for a couple of years. It's the center that honors our constitution. It's a museum in Philadelphia. I urge everybody to go. And I fell in love with the constitution again being there in its presence. And this President has trampled over the constitution. And put aside whether you like his beliefs or not and I imagine no one in this room does. The fact that he is disrespecting our history and the extraordinary nature of our country by doing what he's done is deeply disturbing to me. **And so I think restoring a love of our country and its heritage and its tradition and expanding that love in a way that draw his people confidence that they can rise up, they can live the American dream, has to be one of the prime responsibilities of the next President of the United States.**

Hannity: Ladies and gentlemen, CPAC, Governor Jeb Bush.

**Jeb Bush at House Party hosted by Fergus Cullen
Dover, NH
March 13, 2015**

Cullen: Thank you all for being here. **Jenny and I are so grateful to opening our home for an event like this, you know, house parties are such an important part of the tradition of our first in the nation primary here in New Hampshire. Candidates or potential candidates come and meet with voters, one on one in small group settings, make their case, answer our questions and rise or fall on their own merits.** I think it's a system that has served our country very well over the last many decades. We're especially honored to host Governor Bush on this his first visit to New Hampshire since he announced that he's thinking about, maybe, possibly, running next year. **And the fact that he wanted to do and include the house party as his first visit, I think, sends an important message about the kind of campaign you might run in New Hampshire in case he becomes a candidate here.** I do have a couple of people I want to recognize and ask you to hold your applause until a little bit later. I know somewhere here, the Mayor of Dover, Karen Wesson is here a couple of our City Counselors, Kathy Chaney and John O'Connor are here and also, uh, oh, here's our Mayor. Hi mayor. Thank you. And I want to point out, Doris Grady who is here. Doris is in her 8th decade as an educator in the city of Dover. She is serving, I believe, 20th year, 22nd year on the school board and she is a true marvel. So I'm really glad.

I need to thank my wife Jenny. When we talked about hosting a house party and she agreed, I think she might have had something a little smaller in mind. I want to recognize my mother and father-in-law, the Goodridge's, who are, where are they? Ok.

Dorothy and Glenn who helped us pull this event off. I am very lucky my in-laws, and I also want to thank my mom and dad Tom and Mary Cullen, who I think they're over here. Governor Bush, I share something in common. We both have very strong, tough mothers. If you haven't had a chance to meet my mom and dad I hope you'll make that opportunity tonight. **Um, so four years ago in the last primary season, we had a lot of candidates running for president but we didn't have enough serious, credible, substantive candidates. And if Governor Bush were to become a candidate, he's the one person antidote for that problem.** His family obviously has distinguished itself his service to our nation. I like the fact that Governor Bush was a successful history conservative, two-term governor of a big and diverse state, Florida. I appreciate that education reform and innovation schools, was a signature issue for your run for governor and after you left office as well. And I appreciate that Governor Bush has been a leading voice on fixing and modernizing our broken immigration system in a way that welcomes the worlds' most talented and motivated people to come to our country. Please join me in welcoming, Governor Jeb Bush.

Bush: Thank you. Thank you. To the Cullen's thanks so much for doing this. This is my inaugural voyage in a house party that, uh, that looks like this at least. I'm really. I'm really honored to be here. Thank you all for coming. You could be doing other things. It's Friday night, there's probably a lot fun things you could do. I'm truly humble that you would come to hear me talk and to ask me questions and let me have it.

So, uh, before I start, I want to talk a little bit about myself because people do know me as George's boy, Barbara's boy. Everybody knows that and George W's brother and all of that I'm very proud of. When I was born in Middling, Texas and I woke up, my little eyes opened and there I was, probably crying to get a little oxygen, I looked up and Barbara Bush was there. I didn't know at the time but I won the lottery. I truly won. I'm blessed in so many ways but I know if I'm gonna go beyond the consideration of running I have to share my heart and kinda tell my life story in a way that gets people a sense that I care about them, that I have ideas that will help people rise up. And my life experience really has been driven by my wife for 41 years, Columba. I met her in Leon, Guanajuato, Mexico when I was 17 years old in an exchange program. Actually, Fernando, a little school down south of here, and I fell madly in-love with her, a totally head over heels in love. And it gave me, it just gave me direction and purpose and it allowed me to, first of all I wanted to marry her so I had to actually figure out a way to make a living 'cause its kinda hard to make the pitch without having somewhere with all to do it.

I got out of school in 2 years and started working and I've worked most of my adult life, all of my adult life without missing more than a week off. And, uh, that experience kind of, has been part of my life. The other part is that I've signed the front side of a paycheck and I think we need more people with practical experience in that endeavor which is really the heartbeat of our country in Washington, DC. Because we see this massive amount of oppressive rules on top of old rules that creates complexity that makes it harder and harder and harder for people to have a chance to have rising income. I was governor of the state of Florida which, I recommend highly.

Are there any young people? I got 2 pieces of advice for young people who are interested in politics, run for governor, don't settle for something not nearly as interesting, and run against the bad candidate if you can because it's easier to win. Or better stated don't run against the guy who never lost because I've tried it. Better to have a chance to win. And I had a chance to serve.

When I was a candidate for governor in 1998, I had these deeply held views about education and I want to tell the story because I think it has something to do about how we start fixing problems in Washington. My views didn't change much when I ran between '94 and '98 but I decided I wanted to take these deeply held views of turning the system kinda upside down and check it a little bit so that it could become more student centered. So I went to visit 250 schools and it was a spectacular experience. The horns kind of subsided and me, people saw me for who I was. I showed my heart. I stood my ground as it related to my convictions and I learned a lot. And I learned to share the need to reform our schools in a human context. And also said I was gonna do and it gave me a chance to do it. And in Florida we have led the nation in many categories in terms of rising student achievement. Particularly kids in poverty that are always left behind and there's always another excuse.

Now we can't afford that anymore because our country is 56 percent majority minority, 57 percent free and reduced lunch qualified. We have a growing number of people that are poor which is fine because they have every chance to rise up, if we get it right. And so changing these big things I've had a chance to do as governor. We created the first statewide voucher program. We created the increase in chartered schools. We eliminated social promotion in 3rd Grade. We advanced early childhood literacy to make sure that children, the gaps didn't start early that we

began to close them. We hit it on all cylinders whether it was school choice or accountability and Florida did see big gains. We also built a better business climate. I cut taxes between \$19 billion. We reduced the state government workforce by 13,000 but we took on the entrenched interest in our state.

Whether it's the trial bar or the folks that were making a lot of money off our workers comp. system, we reduced those costs and the net effect of this was we had 1.3 million net new jobs during my eight years. I didn't do it. I actually was part of the 13,000 decrease in jobs 'cause I was state governor. But the private sector did a lot better. And people's personal income grew faster than the government. And we were the only state in those eight years that went to Triple A because we were frugal. Government didn't grow faster than people's income.

They called me 'Veto Corleone'. Maybe I called myself that, I can't remember now because we vetoed, I vetoed something like twenty-five hundred separate line items in the budget to try and create some discipline and focus on how the budget worked. And the legislature ultimately responded. And so, my point is you can be a conservative, you can do it with joy in your heart, you can do it, you don't have to be angry about this, you can do it in a way that draws people towards our cause and you can win in a purple state. And in this country if you're going to begin to solve problems we have to win, we have to go out and reach out to people of every walk of life. Not with a divisive me message but one that is unified, one that says that everybody should have a chance to rise up, everybody should have the God given skills to achieve her own success.

And so, if I get beyond the consideration of this, that's kind of the mission I'm on and I believe that this country is on the precipice of the greatest time to be alive. If we had a strategy of high sustained economic growth where people's income begins to rise again nothing's going to stop this country. We should pause and reflect on our greatness. Not just our history but our innovative spirit, the ability to do things that defies the imagination of the rest of the world. We should be optimistic about the future and begin to govern to solve these problems so everybody gets optimistic. And if we do that this is going to be young, I'd rather be your age than mine.

So with that, I really appreciate y'all being here, I'm happy to answer any questions, this is really kinda up close and personal.

Jeb Bush at David Young Fundraiser
Urbandale, IA
March 16, 2015

Announcer: Welcome and thank you for being here. Ladies and gentlemen Governor Jeb Bush.

Jeb: Thank you David. Thank you Congressman. Thank you very much. So, um, I don't know why all the press is here but it's nice to see them to, um. Thank you for, um, continuing to serve and thank you for supporting your congressman. He's going to need your help in going forward and early money really does matter, so thanks so much for coming. **I want to get the legal part of this out of the way. I'm seriously considering the possibility of running for President. All of that now allows me to talk about that possibility in a way that doesn't trigger a campaign, so thank you all very much for allowing me to be lawyered up, make sure that I get that part right. Um, I have fond memories of Iowa.**

I got married when I was 21 years old. I fell in love at first sight. My life can be divided between BC and AC, before Columba and after Columba. And I met my wife when I was 17, it took three years to convince her but I was ready to marry her right then and there. I lost 20, I was pretty skinny back then, I lost 20 pounds, couldn't sleep, fell head over heels in love with this young beautiful girl from Leon, Guanajuato, Mexico. And, um it kind of changed my life and part of that was we got married quickly, we had 2 kids, we lived in Venezuela working for a bank and then I came back to work in my dad's campaign. And most of that time, at least the beginning of it, was right here in Iowa. And it was a blast.

I learned to do things I never could've imagined doing. I learned to make a fool of myself speaking. I learned to, I went to the Muscatine Pork Roast, I think twice. I saw Chuck Grassley everywhere I went. The guy was like the most amazing, what an inspirational person, this man, he must've cloned him. There must be 4 or 5 Chuck Grassley's in Iowa. In any given time he's, I know on the weekends he's in 5 different places. I just love the state and I really had a good time and my dad won, which was a spectacular experience. I've done it both ways, I've been to Iowa where my dad lost and I've been there when he won. I like the winning part better to be honest with you. So I intend to come back with regularity should I get behind, you know, beyond the possibility of the consideration of running and I'm excited about that prospect.

Because I have a record that I think people might be interested in learning about. I got to be governor of a Purple State, a crazy wild state. There are a few Iowans right now actually in Florida, um, I think last time I checked. They do migrate down there once in awhile. And as governor the state I got to, as a candidate I got to say what I was going to do. I talked about cutting taxes about creating a world class business climate, about changing our education system, about turning the system upside down so that people could prosper in our state. And for eight years I got to act on my conservative principles and it worked. By the way, just in case you were worried. We cut taxes every year, totaling \$19 billion. We reduced the state government workforce by 13 thousand people during my time but the number of jobs created in the state during these eight years, were 1.3 million net new jobs. We were the only state during these eight years to go to a Triple A bond rating without raising taxes, without having all of the broad base taxes that in the old days people said you had to have to be Triple A bond rated.

Because we restricted government spending, personal income growth grew faster than the government spending. And we put in place conservative principles that made it possible for us to garner that Triple A bond rating. I vetoed two thousand five hundred separate line items in the budget over \$2 billion, earning the reputation of, or nickname of Veto Corleone. And I was quite proud of that because we created a process and if the legislature went beyond that process their items in the budget wouldn't be included. We did things like eliminated affirmative action by executive order and replaced it with a leadership model that wasn't discriminatory but made sure that people that had a chance to go to universities African Americans and Hispanic kids did it and we had more African Americans and Hispanic kids attending our universities because they were more qualified because we reformed our education system like nobody's business.

We were the state that created the first statewide voucher program. We expanded school choice both public and private. We eliminated social promotion in 3rd Grade. The insidious policy that says if you're functionally illiterate in 3rd Grade, it's o.k. to go to 4th Grade when you're starting to, instead of just learning to read you're reading to learn. And if you can't read you can't learn. And we cut the number of people that were functionally illiterate in half. We were going and blowing, let me tell you and this is in a state that has more Democrats than Republicans.

We had took on the trial bar the teachers unions across the board. And this conservative record of accomplishment, I think it's what's necessary now for our country to get back on track. If we fix a few big complex things, if you have a president that could work with David and others in Congress, if we fixed how we taxed, how we regulated, how we moved our job training program so people had another chance to be able to move up in this kind of disruptive economy that we're living in. If created a more peaceful secure world by restoring America's presence in the world this will be the greatest time to be alive as an American. I honestly believe that. And so, my hope is that the '16 Campaign for all these races will be about what we believe in, what we're for, that we draw people towards our cause. That we're not as reactionary but there we're much more positive about the future of our country because it's there for us to fix and when we fix it this country will lead the world for a long, long while.

That should be worth fighting for by electing principle centered conservatives, like Congressman Young and others. **And I hope that you continue to stay involved to make it happen. I intend to stay involved in some fashion. I'll let you know later what that fashion turns out to be.** But I'm excited to be here and I really appreciate your support for David Young. God Bless you, thanks a lot.

Jeb Bush at Horry GOP Breakfast
Myrtle Beach, SC
March 18, 2015

You take the time to talk to people you find out that they want to rise up just like everybody else. They are the people that work here, are probably going to school to get additional degrees so that they can get a better job so that they can provide for their families. And it just sounds kind of like decree that the grand damn with Republican Party here in Myrtle Beach just gave which is that everybody that I know wants to rise up. They want to achieve earned success. They don't want to get a handout they want to earn success.

So how do we create a society again that's an opportunity society? Not one that strives to get a guarantee of results but one who rebuild capacity so that people can dream the biggest possible dreams so that the interaction of all of us together in pursuit of our own individual dreams continues to create the greatest country on the face of the Earth. That I think is what elections ought to be about. It shouldn't be about how bad the other guy is or how bad his ideas are. There's a give and take in politics look it's contact sport I get that. I understand, trust me I've got a front row seat. I've participated as a blocking guard, if you will, for candidates in the past. But I know going forward we have to fix a few big complex things. And if we do, this will be the most extraordinary time to be alive as a young person and for all of us.

And so I think hopefully the '16 Campaign is going to be about, how do we fix, how we tax, how we regulate, how we embrace the energy revolution in our country. How we fix our entitlement system and deal with the structural fiscal debt and the fiscal deficits that we have so that we can create high sustained economic growth where more people have a chance at earned success. My background is one that has led me to believe that by far is the way is the best philosophy, the best governing philosophy for our country.

My life started, you know, when I woke up and saw my mom. I didn't know at the time that I won the lottery but I sure as heck did in Midland, Texas. My little eyes opened up and there was Barbara Bush. And I, I am so blessed to have my mom and dad, not just because they're famous people but because they're the best mom and a dad that anybody could ever have. They taught me right and wrong. They gave me the habits of work. They taught me integrity and courage and all the virtues that lead to a successful life. In all my screw ups, and I've had some like all of us had, are all my own doing. Have nothing to do with my parents. My dad, I believe is the greatest man alive. And if anybody wants to disagree with that I'll see you outside and talk about it.

And I'm proud of my brother as well. I'm proud of my brother. He served this country at a difficult time. **But I know if I go forward I have to share my heart. I have to say who I am, what my ideas are. If I go forward beyond the consideration of this it ought to be about the future. I've worked every day of my life. I've taken no more than a week off. I'm a grinder. And I think it's important to work really hard. If you have big problems you have to develop strategies to fix them. You have to be earnest about it and you have to be all in. And my life has been one of being all in.**

I am proud of the fact that I've done something really unique in politics at least which is I've signed the front side of a paycheck. Now I know that in Washington that's kind of a foreign concept but actually, making payroll, taking risks, dusting yourself off when it doesn't work out all of the time. Pursuing strategies that others might not understand allowed myself and my partner, Armando Codina to build the largest full service commercial real estate company in South Florida. And I'm proud of that experience because that is at the heart of America. It isn't the top down rules, it's not the Obama Care rules the thousands and thousands of pages of rules and laws that are passed. That the progressive liberal agenda. The freedom loving, limited government agenda that believes in entrepreneurial capitalism is the one that has created prosperity for more people than any government program ever created. And I'm proud of the fact that I participated in that and we need more people in Washington to do that.

In 1998, learning what I learned in 1994, I became governor of the wacky state of Florida, which I'm very proud of. I love my state, it is a purple... you're not kidding purple state. It has people moving in, people moving out. It's a place that was not hitting on all cylinders, to say the least, when I was governor. And we applied conservative principles and made life better for everybody. We cut taxes every year totaling \$19 billion. We reduce the state government workforce by 13,000. But we increased. Not we but the private sector, increased jobs on a net basis of 1.3 million net new jobs during a year, more than any state other than California. Don't tell Governor Perry if he wonders around here or my brother if he does, more than Texas, which I'm kinda proud of being a competitive guy.

Our state is the only state that moved up the Triple A bond rating during my time. We were frugal. Government didn't grow faster than people's income. The economy of the state of Florida grew faster. We challenged every basic aspect of how government works, if it created a barrier for people to not be able to achieve earned success. We tried to tear down that ceiling so that people could aspire to a better life. And the net result was it worked out pretty good. Talking about conservative principles, not just saying how bad the other side is but actually taking conservative principles and having the creativity and the guts and the determination to take on entrenched interests to fix things for everybody not to win a political argument but improve the condition for people in the state is what we need.

Washington needs principle centered leadership. Not leadership that tries to divide us as President Obama does. Not leadership that demonizes anybody that disagrees with him. But leadership that says "here are our objectives" and anybody that wants to join in can. I don't know about you but I'm tired of the partisan divide where everything, nothing happens because we're used to this massive food fight. It's time for conservatives to be able to lead to fix a few big things so that we can have high economic growth where more people could achieve earned success. The next president of the United States will have to reengage with the world where his or her bond matters. Or his word means that the United States will act. No more redlines and no action. No more Russia is a regional power and allows 30 day later the invasion of Primaria. No more calling ISIS the junior varsity and allowing them to take huge swaths of territory and arm themselves, not just as a terrorist organization but as a military

organization. No more saying that we're going to do something where nothing happens. That we're pivets and not no pivets.

All of this has created an uncertainty where our friends no longer count on us and our enemies no longer fear us. An America that is engaged with creating a more peaceful world and will make it less likely that we have boots on the ground in this country. And we need to restore that bipartisan tradition before it is too late.

I just want to tell you that I have burnt all my bridges behind me. I am seriously considering the possibility of this and in a few months time I'm not sure exactly when I'll make up my mind and if I do, I'll come back here with a more pointed kind of advocacy, asking for your support. Until that time, I hope that you pray for this incredibly great country. I hope that you continue to stay involved to support principle centered Republican conservative candidates. And I hope that you stay involved all the way through 2016. This will be a huge election. Not just for president but across the board. If we get this right, we can restore American greatness. We can create an opportunity society again where it doesn't matter where you came from, where you started in life. You can pursue the American dream just like everybody else. That's worth fighting for and I appreciate you coming on this early breakfast banquet.

Jeb Bush at Politics & Eggs Event
Nashua, NH
April 17, 2015

Thank you Jim. Thank you Jim. I, uh. When I met Jim he said I'm the president of a group of small businesses that maybe sometime you'll get a chance to visit with and I look over and I see Bank of America and Lincoln Financial, Fidelity. A little understated but it's a joy to be here. **I'm excited about this, uh, this part of my life where I'm sounding out the views of people around the country I've been traveling around. I'm seriously considering the possibility of running and over the next few months I'll make a decision about that.**

But, I'm honored to be here, to be able to talk to you a little bit about, ah, about me. It's kinda interesting, I'm looking out at this room and I'm seeing these incredible pictures. Some of which brings back really fond memories, right over there, right over there. **So I know, I know for a fact if I go beyond the consideration that I'm gonna to have to show my heart, show who I am, tell my story. It's a little different than the story of my brother and my dad.**

This may come as a shock to you but you have brothers and sisters so you may appreciate this, their not all alike. We make our own mistakes in life. We, we're on our own life's journey and mine started in Midland, TX when I was born and we moved to Houston. But the transformative part of my life I give credit to Andover. So cudos to New England in that regard because I got a chance to go to Mexico. I actually didn't like my experience in Andover that much. The two things that they gave me the ability to think. In fact, I didn't really need to go to college after going through one of the hardest academic experiences in my life. I learned how to learn, I learned how to challenge assumptions and I learned how to think. And I met my wife, in Leon, Guanajuato, Mexico at the age of 17 and I fell madly in love. I was a fairly normal kid I would say at the time and I got my life order like nobody's business. I got organized first to try to make sure that she had the same passion and love that I had for her and I finally convinced her of that, I guess.

We got married when I turned 21 and she was still 20. I graduated from the University of Texas in 2 years with a degree in Latin America Studies. Some would say that was my second Latin American Affairs degree. And off we went on our life's journey. I have 3 kids, Jeb, Jr., who lives in Coral Gables near us and who's married to Sandra and they have 2 beautiful daughters, Noel who lives in Orlando who I love dearly and George and Mandy who lives in Austin, TX. George, I'm particularly proud of, he's, this last time. Bob you might appreciate this, was the highest vote getter, percentage wise, on the ballot in Texas. Got 62% of the vote and I'm really proud of him and Mandy, because 4 days ago they brought into the world my fourth grandchild.

Jack is gonna be part of the generation that where their fate is kinda decided by what we do over the next ten years perhaps. Are we gonna change how our country operates or are we gonna kinda keep the status quo? If we fix a few big things the generation that Jack is part of is gonna live in the most wondrous time alive as Americans. I totally believe that, I honestly believe that and it's up to us now, the adults around our children to figure out how we organize ourselves in a far better way. I've done something that was a little odd for someone who's

thinking about running for office in Washington, DC these days. I actually signed the front side of a paycheck with pretty good regularity when I was in business.

I formed a business with my friend Armando Cordina in Miami. It started with 3 people, Lourdes, Armodo and Jeb and we built it into the largest commercial full service real estate company in South Florida. And anybody in business knows that it's not all the way the progressives decide it for us. Kinda the top driven approach where we all suppose to get in line and it's just gonna happen because it's all planned out. America at its best is an America that is dynamic. That embraces the unforeseen that takes risks that when there's a failure you dust yourself and go at it again and again and again. And the interaction of all of together creates more prosperity, more potential more innovations more creativity than any government program ever created. And I know that first hand because I did it and it was a joyful ride and we built up a business with three people to 280 before I did something else. I got to be governor for the state of Florida.

Now Florida, many of you may know because I see some of you. I won't tell you which ones, particularly in December and January and February. I've seen you in the streets wondering around, checking things out. Florida is a dynamic place. It has more people moving in and the third highest number of people moving out. It is purple as purple can get. I don't need to remind you of that. It is a state that is constantly changing. And I got to apply to conservative principles in a way that made it possible for a whole lot of people to rise up. And I think going forward for our country, we need to embrace conservative principles not just talk about them but apply them in a way that gives people hope again.

Today in America, when polled adults think their children will have less opportunities than what they had I don't know about you but that deeply troubles me and I know how we fix it. We fix it by fixing the things that make it harder for people to rise up. In the six year of recovery it is shameful that leading income is lower than it was at the start of the recovery but that's the fact. In the sixth year of a so called recovery it is shameful that there are more businesses failing than starting in this country. In the sixth year of a so called recovery, it troubles me and it should trouble that business formation rates are lower than they were in the 1980s and that workforce participation rates are lower as well. Think of all the lives that where full potential is not being met.

And so, as governor, I got a chance to take these principles and apply them and I'll give you a quick rundown. Eighteen billion dollars accumulative tax cuts, thirteen thousand person reduction in the state government workforce, a Triple A bond rating. 9.5 billion dollars of reserves when we ended. Less than a billion when we started. I was called 'Veto Corleone'. Which is a, I was called a lot of things actually. The one I like the most was Veto Corleone 'cause I vetoed 2,500 separate line items in the budget, totaling 2 billion dollars to create some order.

My objective was that personal income would grow faster than government income and it did. Personal income, the GDP of the state if you will, grew by over 4%. The national average was close to the 2.5% during that same period of time. And the net result was that Florida began to lead the nation in many ways. And the one place that I'm most proud of is that we did this in

education as well. We were 50th in the country and there're only 50 states in a graduation rate. But since the time we began to reform our school system and it was dramatic, grading schools A, B, C, D and F, a hundred percent based on student learning, ending social promotion in 3rd grade. The insidious policy that exists all across this country that says that if you can't read go ahead it's ok, it doesn't matter. Of course it matters. And we have this huge learning gap now. If we want to create a Right to Rise Society then we need to make sure that every child is empowered with the ability to learn to rise up.

The world we're leaning towards is a world that will punish those that don't have the skills to rise up. And it is incumbent upon a just society and a society that wants to make sure that their own family succeeds to make sure that all children learn. We created the most ambitious school choice program by far, by far in the country. And the net result of this was that we went from the bottom of the pack and we moved up dramatically. Eleven points doesn't quite tell the full story. Low income Hispanic kids on the 4th grade nation report card do better than the California average. Hispanic kids in Florida now do better than or equal to 38 states on that same 4th grade reading test. We've had a big dramatic improvement and our graduation rate has improved every year.

The point of this isn't that the next president isn't going to be the superintendent of schools. We're not going to create a national school board. The point though is that this should be a national priority. If we're serious about making sure that we have high sustained economic growth where more people have a chance at earned success then we better fix this, businesses, government leaders, charitable organizations, foundations, all of us to transform our education system so that every child has a chance to learn.

I did this as governor of the state of Florida. And so going forward, I know for a fact, **yesterday a person insisted, I had this round table discussion and this guy just insisted that it's over.** This is a successful person. He just kept repeating 'how come there's no way you can find consensus in Washington, DC anymore. It's over". I totally disagree with that. **But it's been requiring leadership, the kind of leadership that we've seen on this wall by the way. The kind of leadership where instead demonizing someone or tearing us apart that you try to have the patience and the humility and the determination to be able to draw people together. I don't know about you but I'm sick and tired of the political gain where you push someone down to make yourself look better. It's time to reverse that. It's time force consensus.**

And in that context, having the practical experience of being a governor, the final thing I'll say and then we'll open it up for Q&A, is that we can't create high sustained economic growth in this country over the long haul which should be the mission, irrespective of your ideology unless we reengage with the rest of the world in a way that creates a more peaceful and secure world. Simply put the disengagement. The belief that American power used judiciously isn't of course for good in the world that, America's presence in the world, somehow creates more problems than benefits, needs to be reversed and it needs to be reversed very quickly.

America has led the world and it has created a more peaceful and secure world for us and for the rest of the world. It has been a bipartisan consensus that has been ruptured and it needs to

be rebuilt. Our friends need to know over the long haul that we have their back. **And our enemies need to fear us a little bit, just enough for them to deter the action that create insecurity. Restoring the alliances and restoring the relationships that will create less likelihood of America's boots on the ground has to be the priority, first priority of the President of United States.**

With that, I will open it up for questions but let me conclude simply by saying that Jim, I honestly believe that we're on the verge of the greatest time to be alive. I honestly believe it. If you just look at the world, how it's unveiling. See the stories. Little Jack will live until he's 130 years old. That's the new science. That's the discoveries much of which is going in this region, discoveries that will cure diseases medical devices that will allow people to live lives of purpose in meaning and ways that we can't even imagine today. Information technology that will give us the chance to be able to do things, that are, unimaginable as well. All of this is at our door step but we'd have to fix how we tax, how we regulate, fix a broken immigration system challenge a orthodoxies of a broken education system, challenge the notion that somehow our entitlement system can't stay as it is. All of those things, if we fix them this will be extraordinary time to be in America. Thank you.

Jeb Bush at GOP Summit
Nashua, NH
April 17, 2015

Thank you all very much. Thank you for that great introduction. **I've had a blast these last 24 hours in New Hampshire. You all know how to, uh, be a magnet for candidates. There's only 55 people that are thinking about running for president. Best I can tell. I believe we're probably going to be an economic driver for creating highways jobs for New Hampshire for which I'm gonna play my part as well today. So, thank you for letting me come.** Everybody knows me as George's boy, Barbara's boy, W's brother. I have some other family members but if I'm going to go beyond the consideration of running for the highest office in the land I need to share my heart to show a little bit about my life experience. For those who have family members I think you can appreciate this. We're not always like our brother or sister or mom or dad. We all have our own unique DNA and our own life experiences. And while I'm blessed when I woke up in Midland, Texas and my eyes, little eyes opened up and there she was, the greatest mom that anybody could ever imagine. I didn't know at the time but I... I'm not a big gambler but it turns out that I won the lottery. And I wish that everybody would have the kind of upbringing I had of two decent, beautiful parents that love me with all their heart and soul.

My life began...my transformation began in many ways when I was in Leon, Guanajuato, Mexico at the age of 17, on a Sunday afternoon, where I met my wife. Literally, she was in a car I was sitting in the towns square and our eyes met and I fell madly in love with her, it was love at first sight. To the young guys here it does happen, trust me. And my life was organized in a way that I cannot describe to you from there on in. I wanted to. It wasn't love at first for my wife, sadly. In fact, it took her a couple of years to get going. Some of you may have had that experience. But she finally consented and we've been together now 41 years. We got married in Austin, Texas. I had just turned 21, she was 20 and I got out of the University of Texas in two and a half years and started my life's journey with her. And it's been a great ride. We lived in Venezuela for 2 years, we moved back. I worked on my dad's campaign and I started my life in Miami as a business person.

Before I mention, I forgot to mention 3 other important people and those are my 3 kids. Jeb was my business partner, he lives in Miami and he has 2 great granddaughters and a wonderful wife. My daughter Noel lives in Orlando. And my son George P., some of you may know him, is a statewide elected official in Texas. I'm incredibly proud of he and Mandy because they actually brought a baby into the world, Jack, 4 days ago.

So as I begin to think about this journey I think about, little George, little Vivy, little P we call him, Prescott, and Jack. What's the world gonna look like for them. Is it going to be a world of abundance and purpose or is it going to be a world of great insecurity and fear where people feel compelled to not dream the biggest possible dreams. Where they sit back and wonder what it's like and that uncertainty that makes it harder for all of us to rise up. My personal belief is that we have a chance to make it the time, the greatest time to be alive as Americas. My son, by the way, also served, he volunteered at the age of 30 to serve in the Naval Reserves. He was an intelligence officer and served in Afghanistan. And I'm proud of all of his life but I'm particularly proud of that. And I'm proud of the men and women here in New Hampshire and across the country that have served the country to keep us free

and it's an obligation, I think, for all of us to pay our respects for them with the best care they deserve in our Veterans Department and also honor them by keeping America strong so that their sacrifice was not in vain.

I did something when I started my life's journey as an adult that's kind of unusual. I actually learned how to sign the front side of a paycheck. I built a business with my friend Armando Cordina and Lourdes. It started with 3 people and we built it into the largest full service commercial real estate company in South Florida. It got up to about 260 to 280 people. It doesn't work the way the progressive liberals in Washington make you want to believe. That you all have to, we just have to kind of march, one step forward, one step forward, back and forth, do what you're told. That's not America. America looks like the life journey of many people in this room. It's dynamic, where you take risk, where it doesn't always work out. Where you may have a failure but you dust yourself off. In the interaction of all of us in the pursuit of our own unique dreams in a free society has created the greatness of this society, not the top down driven approach of the liberals. And I've learned it by doing it. And I think it's important, in fact, if I had to pick the one thing that I value the most in my life experience that makes me feel confidence that the future of this country is bright is the exact thing I said, which is signing the front side of a paycheck, growing jobs, having the challenges that exist in the real world.

I got to be governor of the state of Florida. Some of you may know. Some of you subsequently go down there in January and February. I know, I know I've seen you on the streets of Miami and Tampa and other places. It's an incredible state. It's big, it's dynamic, it's kind of whacky, it's kind of crazy, it's definitely purple. It is definitely purple. And it's a state where I got to apply conservative principles in a way that moved the needle for people to have a chance for a better life. I did it with diligence. I did it with passion. I did it with conviction and the state is better off because we shift it towards a conservative philosophy, not just talking about it. We did it.

In Florida, when I was governor, I said that we needed to cut taxes rather than raise taxes. We never raised taxes during my eight years. We cut taxes every year. Nineteen billion dollars of cumulative tax cuts back into the pockets of people that then could pursue their dreams as they see fit. We reduce the state government workforce by 13,000 people, more than 10 percent. Not many states can make that claim, particularly a state that was growing at the pace of Florida. We rebuilt our reserves. This sounds like a nerdy thing, I guess. But reserving for a rainy day is what conservatives do. Spending money you don't have is what liberals do. And in Florida we reserve for a rainy day and we started with a billion dollars of reserve. And when I left we had 9.5 billion dollars of cash reserves. The net result by the way was during that 8 years. We're the only state that went from Double A to Triple A bond rating. It used to be that the bond rating agencies would look at states and say, you have to tax everything, excuse me for living tax, tax the air you breath tax, taxes the broad base tax club was the one that would generate the most solvent kind of state. We went to the bond rating agency and said no, no. What we need is a dynamic state of limited government where the economy grows, where personal income grows faster than the size and scope of government and in doing so, you're creating more solvent state. And they rewarded us, the only state to go up to Triple A bond rating.

We took on the trial bar, if anybody's tried that, that's a big challenge. The plainest bar most places it's very powerful. We took them on to bring a balanced approach to our tort system, so the uncertainty of business was made better. We did something that was important. I don't know how it is here in New Hampshire but in Florida we had the second highest premiums for workers compensation. It

was a huge driver for lessening the opportunities of job growth. We reformed it by taking on those that were making a lot of money off the system and we created \$400,000,000 a year of reductions in premiums. And I guarantee you that money went into the pockets of small business and then out so that their businesses could expand and jobs were created.

I was called "Veto Corleone". Actually, I was called a lot of things, ah, particularly by the left in my state. We didn't quite agree with everything that I did. But I was called "Veto Corleone" because I vetoed 2,500 separate line items in the budget, totaling 2 billion dollars to bring order to a budget process that allowed for personal income to grow at about four and a half percent and government income to grow at about two and a half percent. And the net result was, the net result was that we created 1.3 million net new jobs in Florida during my eight years. The business folks in this state, in Florida, 1.3 million second only to California and for 5 out of those 8 years we led the nation in job growth. We did other things as well. We eliminated Affirmative Action by executive order and replaced it with a leadership model that did not discriminate based on race but applied leadership principles to allow for more minority students that were qualified to attend our universities. And during my eight years, more Hispanics and more African Americans attended our universities that we did not use a policy that discriminated from one group against the other. We affirmed and expanded 2nd Amendment Rights, gun rights in our state and I think that if you look at the record, Florida is a model for those that believe in the protection of the 2nd Amendment.

We defended the sanctity of life from beginning to end in our state and we reformed the things that are most important. My set of values, believe that the most vulnerable in our society should be in the front of the line not in the back of the line. And Republicans, I think, do better when we show our consciousness to do the exact same. Whether, it's the developing disabled or a child welfare system or the people that are struggling. We should give them our attention and help and reform the systems to make sure they have a better chance to rise up. And in Florida I do believe that more and more people had a chance to rise up because we reformed our education system like nobody's business. In Florida we were languishing near the bottom or at the bottom. In fact, we were fiftieth in graduation rate when I started this journey and by expanding school choice, the most dramatic expansion of any state in the country. We're the first state with a state wide voucher program. We expanded the corporate tax scholarship program that has begun here with a baby step. We have 70,000 students that are taking advantage of that. We're the first state to have a voucher program for kids that have learning disabilities where their parents can send their kids to private options. We have the largest number of students attending virtual school in the country. We eliminated social promotion in 3rd grade. That may not sound like a big deal but it is an insidious policy in our country. It is shameful that we have a policy that says a 3rd grader going to 4th grade it's ok that they're functionally illiterate. Moms know this and dads know this that if you can't read by the end of third grade you're not going to acquire knowledge. And in most places we don't have the courage to take on the teachers union and the bureaucracies. Both focused on the economic interest of the adults rather than moving to a child centered system where their God given abilities can learn. And the net result of turning system upside down with high standards, with robust accountability, with accurate assessments, with school choice was that Florida has been the leader in terms of learning gains in the United States of America. And I'm proud of that.

It's not that Washington's going to be the place where the next President ends up being the head of a school board. That's not what I'm advocating. God forbid that would happen. But it is important, rather than just talking about things. I think it's important to look at people's records.

What have they done in their lives? Have they moved the needle? Have they had the courage of their conviction? Have they focused on making sure that everybody has a chance to rise up? Because we're moving into a world, we're an intersection today where we're either going to be in decline because we refuse to change the things that are broken or we're on the verge on the greatest time to alive. If you think about it today, we're challenged. We're in the 6th year of recovery but a majority of Americans believe that we're still in a recession. And they are. We're a sixth year of recovery but business start-up rates are lower than business failure rates. And that's a challenge. We're in the sixth year of a so called recovery and workforce participation rates and business participation rates are lower than they were than 1980. I know we can do better. In fact, it has be done better and we can do better. But it requires the kind of leadership to create a strategy of high sustained economic growth where more and more and more people have a chance at earned success. That's how we will win. We will win if we offer a compelling, hopeful alternative, grounded in principle using applied common sense leadership to be able to fix things.

We're in the verge where my little boy Jack, my 4 day old Jack, is going to live until he's 130 years old. You're kids and grandkids are going to as well. We're on the verge of discovering the cures of diseases using life science in a way that defines our imagination. Every sector of our economy is being transformed through disruptive technologies and innovations. The question that we have in front of is, are we capable of making disruption our friend or will it overwhelm us. And that requires the leadership to fix a few big complex things. None of this is going to be possible. None of this will be possible unless we restore a since of security in the lives of Americas. A since of security that is based on American leadership in the world. This is the first President in the post WWII era that does not believe that America's presence in the world as a leader and America's power in the world is a force for good. I do. And I hope you do as well.

We need to re-nourish the alliance that have kept us safe. We need a President that does not disrespect our friends like Israel and tries to cater to our enemies like Iran. We need a president that doesn't unilaterally give away things but negotiates based on principles and strength and is engaged where our friends know that we have their back. Not just today but over the long haul. And our enemies fear us again. That's how you create a more secure and stable world. And so if we do those two things, if we grow our economy at a rate where people no long believe that the end is near, that their children will have more opportunities than they had that they're willing to take risks again that we build capacity so that everybody has a chance to achieve earned success. And that we advocate a strong America, a presence in the world that creates greater security than what we have today. This will be the greatest time to be alive. And I hope you agree with that and I hope you will support candidates and people that have this hopeful optimistic vision because that's how we're going to win as well. I know for a fact we will not win if we just complain about how bad things are. What we have to do is be principle in our opposition for the status quo for sure. But we also have to offer a compelling alternative so that more and more and more people join us in our cause.

Thank you all very much. Thanks for allowing me to come.

Jeb Bush at Iowa Republican Lincoln Dinner
Des Moines, Iowa
May 16, 2015

Thank you all very much. I am excited to be here because this is day five hundred and forty-one. There are only 541 days left for the end of the age of Obama and Hillary Clinton. Look, many of you all know me as George and Barbara's boy for which I'm proud. Some of you may know that W's my brother. I'm proud of that to. Whether people don't like that or not, they're gonna have to get use to it. But if I go beyond the consideration of running, to actually being a candidate, I know that I'm going to have to talk a little bit about who I am. First, and foremost, I'm the husband of Columba Bush. We've been married 41 years. We have three great kids. We have four, unbelievably perfect grandchildren. Columba and I have lived in Austin, TX, Houston, Caracas, Venezuela. We've lived in Tallahassee and we've lived in Miami. I did something kind of unusual for people who aspired a public life. I've actually signed the front side of a paycheck. I've been in business. I built, with a great partner, we built the largest full service commercial real estate company in south Florida. And I took those trades of being in business, of taking risks, of understanding of how markets work and how you have to, through trial and error get better. I took that basic belief and went to Tallahassee as governor of the fourth largest state, now the third largest state. In the experience that I had as governor is completely different in the experience that we've seen over the last six years in Washington, DC.

In the last six years, President Obama has increased taxes a trillion dollars to pay for Obama Care, an additional 600 billion dollars over ten years because he could. In Miami, and in Florida, we cut taxes every year totaling 18 billion dollars. And by the way, we don't have an income tax to cut. It took a little creativity to get there. In Washington, the debt has gone to 18 billion dollars, almost double in the last six years. In Washington, DC our national government now has been downgraded, from triple A to double A. In Florida, I raised reserve from 1 billion dollars to close to 10 billion dollars. They called me "Veto Corleone", because I vetoed over 2,500 separate line items in the budget to bring in budget discipline to Tallahassee. We reduced the state government workforce by 13,000 people, more than 10% of the workforce. And we were the only state during those 8 years to go from double A to triple A. There's a difference between the liberal progressive agenda and a conservative agenda applied the right way.

Under this president, our growth has been anemic, 2% growth over the last six years. There are 5 million more people living in poverty than before. Our welfare roles have grown. Food stamps now total 48 million people who are receiving food stamps, up from 32 million. And household income, median household income in the sixth year of a recovery is down 21 hundred dollars. People are suffering and this economic policy is pitiful. In Florida, our state economy grew by 4.4% and we added 1.3 million net new jobs in Florida because we challenged every aspect of how our economy should work. And whenever there was an impediment as it related to workers comp cost or torque reform cost, or training problems or taxes, what we did was tear down those barriers so people could freely pursue their dreams as they saw fit and 1.3 million new jobs were created, more than any state in the country, during those eight years other than California.

We did a lot of other things other than just economic development. We had law after law to protect the Second Amendment of the United States and because of that I got an A+ rating from the NRA, year after year after year and I was proud of that. We protected the most vulnerable in our society, in Florida. I acted on my faith and many others agree with me, and so we, we put the people most vulnerable in our society at the front of the line -the unborn, the disabled, the frail, the elders. I think conservatives need to do that as a higher priority. That the most vulnerable should be taken care of and we can do that if we grow our economy fast enough we can take care of people, and by the way, that's pretty good politics as well. I'm proud of my record of accomplishment and integrity as governor of the state Florida and I believe that it's time to change the record of what's going on in Washington, DC.

The Obama Administration has politicized things that use to sacred, the Justice Department, the IRS. There are scandals of epic proportions. Today is Armed Forces Day. And it is scandalous that we treat our military coming home from service, in the Veterans Department and the Veterans Administration in the way where people should be fired. One person has been fired. There should be scores of people fired for withholding services for people that truly need it. This administration has tried to regulate everything under the sun. Everything under the sun. Whether it's the FCC trying to regulate access to the internet, the EPA regulating the air, mercury and all of these levels creating huge economic dislocations potentially for our country. This administration uses executive authority that many times they don't have. And it is frozen in place economic activity and for the first time Americans are beginning to doubt whether our government and the basic institutions that we have had to trust and we have trusted for two hundred and thirty nine years can be trusted anymore. You know what though? We can fix this. We can fix this. And we can do it with proper leadership. We can do it by creating high sustained economic growth where more people have a chance at earned success. If we fix how we tax, how we regulate, embrace the energy revolution that is here instead of trying to push it down. Fix a broken immigration system. Fix our entitlement system. This would be the most extraordinary time to be alive. I totally believe that and I hope that you do to because our children and grandchildren are deserving of that very basic promise.

You know what, if we're going to do that at home we also have to do that abroad. Leadership matters and we see what happens when a president does not believe America's power and presence in the world is a force for good. It starts by rebuilding our military. No more sequesters of our military. No more making it harder for us to have the best fighting force in the world. We have to be vigilant to make sure that we live in a peaceful world and the best way to do that is peace through strength. We need to support our veterans for sure. And our friends need to believe in us and trust us and our enemies need to fear us once again.

The next President of the United States is also going to have to rebuild the relationships that had been tattered to the core. Israel, the Arab Gulf states, Canada for crying out loud, we've managed to hurt our relationship with our largest trading partner. Country after country, our relationships are worse. Name a country where the relationship is better than the day Barack Obama came into office? Iran, Cuba (shoulder shrugging), I rest my case. If we want to have a safe country, if we want to have a world where people have a chance to rise up, we have to be engaged. But, for the United States, who? Who is going to take care of the persecuted Christians in Iraq? Who's going to take of the Christians that were killed in Kenya, only because they were in a

university? Who's going to take care of the Christian girls in northern Nigeria? But for us who? The United States is a leader because our values are powerful, our mite is powerful, and people have to know that the United States will be with them over the long haul. And if we do that, incredible things can happen.

Let me close with a story about a friend of mine. In Florida we've turned the whole education system upside down. We have the largest number of kids going to voucher programs and one of them is Danisha Meriweather. This is a child, who was held back two years in a row. Because she was unruly, her family was moving around, there was not an order in her life and she got wind, her godmother got wind of a corporate tax scholarship program and she was sent to a private school. She went from being two grade levels back, to graduating in high school, first in her family to graduate high school and the first in her family to graduate college, because there were people, including the governor at the time that had the courage to challenge the institutions that weren't working for the next generation. And because of that, Danisha is now living a life of purpose and meaning. For Republicans the wind going forward, we have to be on the side of the Danisha's of the world. We need to embrace them and share it with them the joy and possibilities of freedom and limited government by creating opportunities for them just as it has done for us.

God bless you all and thank you very much for everything you do for the Republican Cause."

Bush Speech at RNC Annual Spring Meeting
Scottsdale, AZ
MAY 18, 2015

It is an incredible joy to be with you thank you so much Reince. Talking about a Nerd-A-Thon, I'm a nerd guy to. Uh, we're all into confessions tonight. I totally believe in the republican cause in fact, I started my journey as a Republican probably in 1964. I don't want to show my age but it was I was eleven-years-old and I'mounted an elephant with George, Little George W, Neil and Marvin, and I don't know if Dor was alive yet but she probably was, uh, campaigning for my dad in 1964. My dad got the largest number of votes in 1964 and lost by 53 uh 57-43 just for the record. Barry Goldwater lost Texas 72-28, so we've come a long way baby. Particularly in Texas where, where things have been a lot better but I appreciate the fact that Rights previous and this committee, all of you are focused on the important things. Not about making a point but by building an organization that is possible for us to be successful going forward.

I want to mention, um, your great co-chairman, as well, I appreciate her a lot, Sharon, for all the great work that you do. And Sharon has brought as a surprise to me at least until I saw the list of people coming, brought, uh, a brother from another mother, RB Holmes, a great pastor from Tallahassee whom I just love and respect. And thank you for being here RB, he's has been a great friend, he was appointed as chairman of the Florida A&M University where he did a spectacular job and it's important for us to recognize our friends who has done great work. RB, I've never asked if you were even the republican. I hope you are and if you're not there's always a chance for redemption. But it's a joy to have you here for sure and I just appreciate all the work that you do.

If I'm gonna run for President of the United States, which is my hope, I'm not a candidate yet, I'm in the process of thinking about this, I know that I'm gonna have to get beyond being George, uh, George HW Bush's son and Barbara's son for which I'm really proud and I'm gonna get beyond being George W's brother for which I am extraordinarily proud as well. I love them all. Hard for me to like this it's, oh, a lot people in here, and there's a lot interest in finding the ways that were different in all this, look. The simple fact is, we're all on our own life's journey. My brothers and sister are different than me but I'm not gonna go out of my way to say that my brother did this wrong or my dad did this wrong. It's just not going to happen. I have a hard time with that I love my family a lot. **But having said that I know, I know for a fact I'm gonna have to show my heart show who I am, show my, tell my life story so people know that I'm doing this for the right reason. So I'm gonna give you a little thumb nail sketch of the life of John Ellis Bush aka Jeb.**

I began life in Midland, Texas where I woke up in there she was Barbara Bush. I won the lottery, for sure. I definitely won the lottery but my life my life was transformed when I was 17 years old where I met Columba Garnica de Gallo in Leone, Mexico. I met her on a Sunday afternoon I'll never forget I think it was about five o'clock and it was love at first sight. Most the guys in the room have no clue what this means. Sometimes the women get a sense of how this works. I fell in love at first sight, I'm not kidding, it was like some transformational event, lightning struck. I lost 20 pounds and back then, trust me I didn't have twenty pounds to lose. I was a string bean. I couldn't sleep. I was totally consumed by this beautiful woman and I made up my mind that I was

gonna marry her and I was gonna live my life with her. And it worked, unfortunately for me she didn't feel, fall in love at first sight so I had to, uh, develop some skills to convince her of the same feeling that I had and thankfully I did and we got married in the Newman Catholic Center at the University of Texas, 10 days after I turn 21 and she was twenty. And because of her I got out of the University of Texas in two years. And because of her I've always worked. I've never taken more than a week off in my life and I give my wife credit for giving my life a purpose and meaning that has driven me to do whatever I've done. And I'm proud of her I love her very much.

We got, we have three beautiful children. Everybody's proud of their kids. Jeb Junior is my former partner now that I've burned all the bridges behind me he is no longer my partner but he lives in the same zip code and he has two beautiful granddaughters. I call them granddaughters he probably calls them daughters. And he's married to Sandra Elga Dottie Bush who's a beautiful girl from Canada that hopefully will become an American citizen as soon as our confounding immigration system gets a little more efficient. He's, important to me. My daughter, Noel is my precious daughter she lives in Orlando. And my son George is a statewide elected official in Texas where he won with 62% of the vote last time and I'm proud of him. I'm proud of his extraordinarily and competent beautiful wife, Mandy, and the two grandsons that exists in their family. I'm proud of George because at the age of thirty, more or less, he decided to go serve in the military as well. Like a lot of people did to be able to keep us safe to be able to show their support. He did it and he was a Naval Intelligence officer. He served in Afghanistan, I'm proud of his service. And I'm proud of the service of the service of every man and woman and their families that have served in the military to keep us free.

We moved to Miami, and I did something, fasten your seatbelts here for some this will be really hard to, this will be really kind of a radical idea, but I did something that people in Washington have no clue about these days at least in the Obama Administration. I've signed the front side of a paycheck. I think about that. That's a really extraordinary experience. I started the business with a guy named Armando Codina, and Lourdes, basically all three of us and we built a business that started with three people and it became the largest full-service commercial real estate company in South Florida. **And that experience is far more powerful and far more important than people in Washington give it credit for.** Because it's the heartbeat of our country, it truly is. **To be able to take risks, to learn from mistakes, to dust yourself off, to figure out how to make things better to build a business so that other people can be successful.** And by the way, what happens when you do that is some people leave because they want to be the CEO of the business and they create their own business and some of them succeed in some of them fail. That's America. That's the America we need to restore, the America that is always striving to rise up. And there are a lot of people that can talk about this they're very few people actually in public like particularly in Washington, DC particularly this President and his team that have any clue about how this works.

So it shouldn't be a surprise that every time they have an impulse is to create another rule, to create another task, to create another complication to say that they're too smart you're, you just get in line and do what you're told. I believe the exact opposite should be the way we go. I've done it it's in my DNA it's how I've been successful in my life is to take risks and to not try to regulate and mandate and to control everything but just unleash the American animal spirits in this country and make sure that more and more that everybody has a chance to rise up. And in Miami I had a chance

to do that. And that's an experience I brought to bear when I got elected as governor. A state that is not a red state per se although we over perform. I have to admit. It's a purpose state, there're five hundred thousand more Democrats than Republicans it's a big state. It's a state where a lot of people moving in and a lot of people moving out. It's a state that watches these things with their peripheral vision. Governor it's kinda like Arizona. It's kinda like Arizona. It's a, it's a state that's in its ascendancy in many ways because it is growing still. But it's not necessarily a conservative state and I took conservative principles.

First of all, I said what I was going to do when I was a candidate, I took conservative principles and I applied them so that more and more people had a better life. And compare that to Washington, DC, where Barack Obama, for the last six years, has raised a trillion dollars of taxes to pay for Obamacare and 600 billion dollars of additional taxes over 10 years. Compare that to the record in Florida where we cut taxes by 19 billion dollars and by the way we don't have an income tax to cut. In Washington the President has almost doubled the federal debt. It now totals 18 trillion dollars. In, in Washington, amazingly has lost its Double-A bond rated status. Imagine that. Compare that to Florida where they called me Veto Corleoni, because I vetoed over 2,000 separate line items totaling more than 2 billion dollars to bring structure and discipline to our budget. Where our budget reserves went from a billion dollars to close to two, 10 billion dollars over my eight years in where we've reduced and we reduce the government work force by 13,000 people. More than 10% and, and Florida went from Double-A status. And we're the only state during my eight years to go to Triple-A status, higher credit rating than our federal government. It can happen if you apply conservative principles the right way.

Under President Obama in this, in this sixth year now over recovery, we had the most tepid economic growth we've ever had in modern history, 2% growth, which makes it impossible for people to rise up. In the net result its workforce participation is lower than it was in 1980. We now have a situation where there are more business failures than business start-ups. Imagine what the future looks like if we stay on this course where everybody feels compelled to get in line rather than to dream the biggest possible dreams to create the disruptions in the in the innovations that will create higher income for all of us.

In the world of the President, we now have not only workforce participation low but 5 million more people in poverty. And as republicans we should be concerned about that. We should make sure that we're for those that want to rise up. We should never believe, never believe that people in poverty wanna stay there, because it's not true. And if we're gonna win elections we better be on the side of the people that wanna have the chance to achieve earned success. And it will not happen at 2% growth. It will not happen with policies that make it impossible for us to grow more. Compare that to Florida, where during my eight years the economy grew by 4.4%. Personal income grew by a similar kind of amount. The state government grew by significantly less. And we created, we being the people of Florida not the government or the governor, 1.3 million net new jobs during those eight years, more than any state other than California.

Family income in the last six years has declined in this recovery by 21 hundred dollars. Family income, in Florida, grew by a similar amount. So you tell me which policy is the better policy, one that believes in limited government and the aspirations of people to achieve earned

success or the progressive agenda that says more government, more taxation, more regulation is the path to go. It's up to us now to convince those that haven't actually heard the conservative message that we or the policy we're the party that will give them hope to be able to rise up, because our policies are the right ones those that fail. And by the way I had a chance to govern not just on economic policy but a lot of other policies will. I'm proud of the fact, I gotta a lot of ratings when I was, was governor, all do, all governors do. I'm proud of the fact that every year I got an A-plus rating from the NRA because every part of the bill rights is important to protect. You can't pick and choose which ones you like.

I also had a chance to act on my core beliefs which is the most vulnerable in our society are deserving of being in the front of the line. I don't know why it is, that those that create kind of the scorecard in politics say that conservatives don't care about people. It's not true. Conservatives generally the ones that act on their hearts. They're the ones that volunteer. They're the ones that act on their conscience. But also conservatives if they're correct based on their own beliefs, put the most vulnerable in society in the front of the line, not in the back of the line. We're gonna win if we show our heart. And in Florida I had a chance to do that. The development disable our child welfare system, people that had no hope other than to receive a compassionate hug from people by mobilizing the support of volunteers and support from government. You can believe in limited government and shift the priorities towards the most vulnerable in our society to allow them to rise up as well. And I'm proud of the fact that. I'm not embarrassed about it all.

So, imagine a Washington that has that kind of philosophy, instead of the philosophy of politicizing everything. A philosophy that politicizes the IRS of all things. A philosophy that uses the powers of the executive branch and then takes that to the next step and the next step and the next step after that. That policy is creating so much doubt and so much division in our country that we're never going to be able to fix a few big complex things. But if we get rid of that philosophy and restore the traditional philosophy of limited government and respect for the constitution, this is the most extraordinary time to be alive in our country's history. The amount of innovation and disruption that's gonna create times of abundance is there for us to take but we have to fix how we tax. We have to fix how we regulate. We have to fix a broken immigration system and fix it so that we create an economic driver for high sustained economic growth. We have to fix our entitlement system and we have to embrace our energy revolution. If we do those things, all of which are within our grasp, this will be the most extraordinary time to be alive.

The other thing that we have to do to assure that we're gonna have high sustained economic growth is to be able to recognize and this president is unable to do so that America's presence in the world is not a force for bad things happening America's presence in the world is a force for good, a force for security, a force for peace. It used to be a bipartisan consensus that America's engagement in the world actually created security and peace and it lessen the chance of having our men and women in uniform to go in harm's way. That's what we need to restore. This President honestly believes that America's power is not a force for good and so he's withdrawn from the world. We're now part of the community of nations. We're now leading from behind. We're now grandiose with grandiosity talking about red lines in the never fulfilling them. We're creating so much uncertainty and doubt that one of our strongest allies for the last 50 years, Saudi Arabia, their king doesn't even come to Camp David when invited.

We're now creating so much insecurity that Israel no longer doubts, now doubts whether the United States is going to have their backs. In the net result whether it's in Europe or Asia or Latin America or the Middle East is an incredibly uncertain world where we have new asymmetric threats. Threats, barbaric threats Islamic terrorist threats that now challenge the security of our own country. Restoring America's presence in the world where our word is our bond with our friends and or enemies fear us once again has to be the highest priority for the next President of the United States.

The way I look at this in to simplify this a bit is but for us who? Think about it that way. But for us who? Think of the Christian Cops on the shores, I don't know if you saw it on You Tube near Benghazi, being beheaded where they were saying the Lord's Prayer. But for us who? Think of the Christian students in Kenya being killed because of their faith separated from the Muslim students to be shot and murder. But for us who? Think of the Christian girls in Nigeria captured by Boko Haram. But for us who? Think of the most ancient Christian communities in in Iraq and in Syria. Who's gonna stand for them? The most helpless in the Middle East. But for us who? Think of the Jews now being discriminated against as it was similar to pre WWII in Europe. But for us who? United States has a role to play in this world that goes beyond just security. We have a role to play to embrace and support the values that are right. And we must do so. And we need to stand on behalf of the most vulnerable around the world as well. If we do these things we will gain the respect of people all around the world. And will create a safer more secure world as well. We have a duty and obligation to do it, not just because we're Americans but because it's in our security interest to do so as well. I hope you believe that and I hope this campaign because without that as well.

I'm going to tell you a story about a woman who, uh, and then I'm gonna close. Tell you a story about a woman who I become friends with, who I didn't know at the time. Her name is Denisha Merriweather. Denisha is now an adult but Denisha is quite similar to a lot of people in America not just in Florida but around this country. We've cast aside because we have an education system focused on the economic interest of adults rather than assuring that the God given ability of every child to learn takes place. That's the fact in America a third of our kids are college and/or career-ready after we spend more per student than any country in the world other than Luxemburg and a couple other rounding errors to be honest with you. It's a tragedy but no one's marching in the street for the future Danisha's. In Florida we changed the path for a lotta kids because we created voucher programs, corporate scholarship programs, programs for the developly disabled, programs for for kids with learning disabilities to allow their parents to go to any school including private schools. We have the most ambitious school choice programs of any any state, I believe, in the country. We eliminated social promotion in third grade, the insidious policy that functional illiterate kids, gets passed along as no big deal. It's a huge deal. The learning gap starts that early and they never are overcome.

If you don't really care about kids fine but I know that everybody in this room does and most people do but no one has taken on this challenge of fixing this but in Florida we did. And so Danisha went to a public school. She came from a family that was broken in many ways. Her mom didn't graduate from high school her brother didn't graduate from high school she's from Jacksonville. She moved around because they were living month to month, renting one place to the next. It's very common in America today, very common. We may not see it in our own lives but trust me, it's

there. And Danisha, got her Godmother, her Godmother told her that there was a school that she could go to, a private school, paid for by the state and she went there. And it was a blessing. This woman, this young woman who'd lost, been held back two years, gained in one year's time gained one of those years back. There was discipline her life she knew for the first time that she was smart because she was told over and over again in ways that no one really seem to care about that she was stupid because that's how we do it now. That's how we roll in the United States, that's our education system some kids can learn some kids can't. That's not the way it really works. Every kid has a God given ability to learn and she went. She went. She was the first in her family to graduate from high school in her immediate family and she was the first in her extended family to graduate from college.

In Florida there are 230,000 kids that are now reading at grade level because we have accountability in school choice and higher standards and we made it a high priority. Now I'm not saying that Washington should have anything to do with this. In fact, I would urge all up to you to go to your leaders, your senators and your congressmen to make sure that that's the case. There should be nothing to do with Washington about this but this should be our highest priority to ensure that every child has a chance to be able to achieve their dreams, to make, to make it their dreams about achieving earned success. And I know that we can do this because we did it in Florida. And the rest of the country can do it with the proper leadership in Washington, DC as well.

So, let me conclude by saying, I'm on I'm on the side of Danisha. I'm on the side of people that have been left behind. Because they're republicans, they just don't know it yet. They're conservatives, they want to be conservatives, they've never been asked. I know Rights, I know from Rights that we want to win. He tells me every day. He's organizing a plan to win. I know from you all that you want to win. The only, the only way that we can restore the greatness of this country is to win. So how we gonna do that? We need to fight hard and push back when we get attacked. I'm all in on that, trust me. I'm a competitive guy in a competitive family. I know how to do that. Doing that is important. But we also have to we need to show our heart. We need to be hopeful and optimistic. We need to challenge every basic assumption about the things that are wrong in this in this country and guarantee people that if you elect Republicans to Congress to the Senate and to the Presidency that will fix these things. Not just for those that have already made it but more importantly a lot more importantly for those that aspire to make it. If we do those things and we fight hard we're gonna win. If we go back to the old way of fighting amongst ourselves and say you not righteous enough, you're not perfect enough you're not this enough we're not going to win. But we can win and if we do. If we win and if we're true to our beliefs and we have the leadership skills to fix these big complex things this is the greatest time to be alive as an American. This is the most extraordinary time to be an American. I hope you believe that in your heart, in your soul, in your mind and I hope that you work as hard as you can to make it so. God bless you for what you do. I look forward to being with you.

Jeb Bush at Southern Republic Leadership Conference
Oklahoma City, OK
May 22, 2015

Ya'll know me that, you know me as George and Barbara's boy. At least, if you haven't then I don't know where you've been, and W's brother. And I'm proud of my family. I really am. I love my mom and dad. I'm so blessed to be their son. And I'm proud of my brother. He is a spectacular brother. **But I have enough self awareness to know that if I'm going to go beyond the consideration of running to be an actual candidate, I'm going to have to share my heart, tell my life story. Talk about the ideas that I believe will allow Americans to rise up and to describe my leadership experience. So I'm going to give you a little taste of that today if you don't mind.**

I was born in Midland, Texas and proud of it and grew up in Houston and I, uh, a couple of Midlanders here. But my life changed when I was 17 years old. I don't know, sometimes when I say this I can tell that the women kind of get this a little better than the men. But I was 17 years old in Leon, Mexico and I'd met a women. Didn't get to talk to her, I just saw her and I fell in love at first sight. Anybody have that happen to you? It's pretty wild. I couldn't sleep, I lost 20 pounds and back then I was a string bean to start with and I just, my whole life was transformed figuring out first, how could I convince my, my, my beautiful Columba to be my wife and, and how could I, how could we move forward together. She finally figured out, she, her first comment to me was "you're too tall". Cause she's kind of 5 foot tall and, but she finally got convinced and I got married, 10 days after I turned 21. My wife was 20. We got married at the University of Texas Catholic Center. And, we've been married 41 years and she is the purpose of my life and I'm proud of her.

I got out of the University of Texas in two and a half years because of her. I worked my entire adult life never taking more than a week off because of her. And because of her I have 3 spectacular children that I'm really proud of. Jeb Jr. and Sandra live in Miami, I recommend that highly to have grandchildren, which we have 2 granddaughters in the same zip code. If you can organize your life that way life is pretty good. My daughter Noel is the love of my life and she lives in Orlando and my son George P. and Mandy live in Texas, where he is the land commissioner in the state of Texas. And they have 2 kids as well, 2 boys, Jack is the latest and he's 1 month old. I think about a lot of the future through the eyes of my grandchildren a lot these days and I think we're in a time of incredible possibilities but we also have huge problems we need to begin to fix so that their future and their prospects are going to be as bright as what we have today.

George did something else that's a little different, and I'm proud of him for it, at the age of 30 he enlisted in the Navy Reserve. He was a Naval Intelligence officer. He served in Afghanistan and I'm proud of his service and I'm proud of the men and women in military and in uniform that have consistently kept us free.

In 1981 after working in the Reagan/Bush Campaign, now that was a good campaign, I moved to Houston, I moved from Houston to Miami, FL where we started out our two kids and soon to be third kid, we lived there. **And I did something a little unusual for people that are thinking about running for public office in Washington, DC.** I learned how to sign the front side of a paycheck. I started a business that had three people and through trial and error it grew to be the largest commercial real estate company

in South Florida. That has more value than people in Washington understands. The greatness of our country doesn't reside in DC and all of the alphabet soup regulatory agencies or in the top down driven approach that the progressive liberals us. The greatness in our country is when people freely pursue their dreams as they see fit and through trial and error they figure it out. And they create more opportunities and more prosperity for other people and then they do the same thing. That's the America that has created the most prosperous country on the face of the earth. That the America that typically leads the world in human discoveries, in sciences, in innovation, in the embrace of technology, not fearing the unknown and the unforeseen but in embracing it, embracing the dynamic solution that are there for our taking.

FEDERAL ELECTION COMMISSION FACTUAL AND LEGAL ANALYSIS

RESPONDENT: John Ellis Bush
Jeb 2016, Inc. and William Simon in his
official capacity as treasurer **MURs 6915 and 6927**

I. INTRODUCTION

These matters were generated by complaints filed with the Federal Election Commission (“Commission”). On June 5, 2015, almost a year after he first began “testing the waters” for a potential candidacy, John Ellis “Jeb” Bush filed a Statement of Candidacy for the office of President of the United States. Ten days later, on June 15, he publicly announced his candidacy. In the year leading up to his announcement, Bush engaged in a variety of interrelated activities — he spent his own money to conduct research, polling, and other purported exploratory activities; he established a multicandidate committee named Right to Rise PAC (“RTR PAC”), served as its Honorary Chairman and travelled extensively to give speeches and raise money for the PAC; and he participated in numerous fundraisers for Right to Rise USA (“Super PAC”), the self-described “leading independent political action committee strongly supporting Jeb Bush for President,”¹ which raised over \$103,000,000 in the first half of 2015.

The Complaints in these two matters make allegations relating to Bush's activities during that year and in the period following his formal announcement of candidacy that implicate possible violations of the Federal Election Campaign Act of 1971, as amended (the "Act"). Bush may have failed to timely register as a candidate, and his authorized campaign committee, Jeb 2016, Inc. ("Jeb 2016"), may have failed to timely register and report with the Commission.²

¹ <https://righttorisesuperpac.org/about/rtrusa?lang=en>; Resp. of Jeb Bush, Jeb 2016, Inc. at 4, MUR 6915 (Nov. 27, 2015) (“Fourth Bush Resp.”) (citing same).

² See Compl., MUR 6915 at 4 (Feb. 4, 2015) (“MUR 6915 Compl.”); Compl., MUR 6927 at 15-16 (Mar. 31, 2015) (“MUR 6927 Compl.”).

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1 Respondents each deny violating the Act. They assert that Bush did not become a
 2 candidate until June 2015 and was not subject to the Act's soft money restrictions set forth at
 3 52 U.S.C. § 30125(e) until that time.³ They argue that Bush never solicited contributions for the
 4 Super PAC and his only role with respect to the Super PAC was to appear as a featured guest at
 5 its fundraisers.⁴

6 The available information indicates that there is reason to believe that Bush became a

7 candidate at least as early as January 2015, that he violated the Act's soft money ban.

8 Consequently, the Commission finds reason to believe that Bush violated 52 U.S.C.

9 § 30102(e)(1) by failing to timely file a Statement of Candidacy and designate a principal

10 campaign committee and that Jeb 2016 violated 52 U.S.C. §§ 30103(a) and 30104 by failing to

11 timely file a Statement of Organization and disclosure reports. The Commission also finds

12 reason to believe that Bush and Jeb 2016 accepted excessive in-kind contributions from RTR

13 PAC in violation of 52 U.S.C. § 30116(f).

14 **I. FACTS**

15 On June 15, 2015, former Florida Governor John Ellis "Jeb" Bush publicly declared his
 16 candidacy for President of the United States.⁵ Bush had signed a Statement of Candidacy on
 17 June 5, designating Jeb 2016 as his authorized campaign committee with William Simon as the
 18 Committee's treasurer;⁶ Jeb 2016 filed its Statement of Organization on June 15.⁷ In the year
 19 leading up to his announcement, Bush engaged in a variety of interrelated activities with a

³ See Resp. of Jeb Bush, MUR 6915/6927 at 5, 37-44 (Aug. 6, 2015) ("Third Bush Resp.").

⁴ See Third Bush Resp. at 8.

⁵ See *id.* at 5.

⁶ *Id.* (citing Jeb Bush, Statement of Candidacy (June 5, 2015)). Although Bush's Statement was signed on June 5, he did not file it with the Commission until June 15, 2015.

⁷ *Id.* (citing Jeb 2016 Statement of Organization (June 15, 2015)).

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1 network of allies and associates that appear to have had a common purpose — providing support
 2 for Bush's presidential candidacy.⁸

3 **A. Testing-the-Waters Activity**

4 In May 2014, Bush began spending funds on exploratory activities to test the waters of a
 5 2016 presidential candidacy.⁹ On December 16, 2014, approximately seven months after Bush
 6 began testing the waters, he publicly announced his exploratory efforts on Facebook, writing that
 7 he had "decided to actively explore the possibility of running for President of the United
 8 States."¹⁰ Shortly after registering with the Commission in June 2015, Jeb 2016 filed its first
 9 disclosure report revealing its spending during the period Bush asserts he was testing the waters
 10 — May 2014 through June 2015.¹¹ The report disclosed \$516,870 for research and polling,
 11 political and communications consulting, and legal fees, *inter alia*, but only a single payment of
 12 \$1,089.08 for travel expenses during that time.¹² Bush also asserts that he solicited no
 13 contributions for his campaign while testing the waters, and Jeb 2016's first disclosure report
 14 reported no contributions received during this time.¹³

⁸ Bush ultimately suspended his campaign in February 2016. *See* Ed O'Keefe, *Jeb Bush Drops Out of 2016 Presidential Campaign*, WASH. POST (Feb. 20, 2016).

⁹ *See* Jeb 2016, 2015 July Quarterly Report at 1675-90 (Jan. 31, 2016) (showing first payment for testing the waters to Kristy Campbell for \$1,875 for communications consulting on May 23, 2014).

¹⁰ *See also* MUR 6915 Compl. at 2 (citing "A Note from Jeb Bush," Dec. 16, 2014, available at

¹¹ *See* Jeb 2016, 2015 July Quarterly Report (July 15, 2015).

¹² *See* Amend. Jeb 2016, 2015 July Quarterly Report at 1675-90 (Jan. 31, 2016) ("Amend. Jeb 2016, 2015 July Quarterly Report") (showing payment to Joe M. Allbaugh of Washington, D.C. for travel/airfare/lodging); Third Bush Resp. at 2-5, 30-31.

¹³ *See* Amend. Jeb 2016, 2015 July Quarterly Report, Schedule A; Second Bush Resp. at 2; Third Bush Resp. at 2-5, 30.

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1 **B. Right to Rise PAC (Multicandidate Committee)**

2

3 In the same December 16 Facebook post announcing his exploratory efforts, Bush
 4 announced his “plan to establish a Leadership PAC” “to support leaders, ideas, and policies that
 5 will expand opportunity and prosperity for all Americans.”¹⁴ This PAC¹⁵ registered with the
 6 Commission on January 6, 2015, as Right to Rise PAC and named Bush as its Honorary
 7 Chairman.¹⁶ RTR PAC’s self-described activities included making contributions to federal
 8 candidates and “facilitating” Bush’s appearances to raise money for the PAC and communicate
 9 important policy issues.¹⁷ Mason Fink, former fundraiser for 2012 presidential candidate Mitt
 10 Romney, reportedly worked as a fundraiser for RTR PAC.¹⁸ RTR PAC raised \$5,356,584 and
 11 spent \$4,896,426 between January and June 2015.¹⁹ The Committee spent only 5% of the funds
 12 it raised (\$283,800) making contributions to other federal committees and candidates; much of
 13 the PAC’s remaining spending related to activities such as fundraising, travel and related costs
 14 for Bush’s appearances at various events around the country, and legal fees.²⁰

¹⁴ See MUR 6915 Compl. at 3; MUR 6927 Compl. at 2; First Bush Resp. at 2; Second Bush Resp. at 2; Third Bush Resp. at 5.

¹⁵ The PAC was registered with the Commission as an unauthorized committee, and Respondents refer to it as a Leadership PAC. Under Commission regulations, a Leadership PAC “means a political committee that is directly or indirectly established, financed, maintained or controlled by a candidate for Federal office or an individual holding Federal office but which is not an authorized committee of the candidate or individual and which is not affiliated with an authorized committee” 11 C.F.R. § 100.5(e)(6). Respondents state that because Bush was not a candidate or an office holder when he established Right to Rise PAC in January 2015, it was not technically a “Leadership PAC”; however, the term could be used colloquially to refer to political committees associated with public figures that do not act as authorized campaign committees. Third Bush Resp. at 17.

¹⁶ Statement of Organization, RTR PAC (Jan. 6, 2015); First Bush Resp. at 1.

¹⁷ This facilitation of Bush’s appearances included, *inter alia*, paying for his travel expenses. See First Bush Resp. at 2; Second Bush Resp. at 2; Third Bush Resp. at 6.

¹⁸ See MUR 6927 Supp. Compl. at 7 (citing P. Rucker, *Bush Lands Romney Finance Director to Lead Super PAC Fundraising*, WASH. POST (Mar. 18, 2015)).

¹⁹ Amend. RTR PAC 2015 Mid-Year Report (July 31, 2015).

²⁰ Id.

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1 **C. Right to Rise USA (Independent Expenditure-Only Committee)**

2 On January 6, 2015, the same day that RTR PAC registered with the Commission, the
 3 Super PAC registered with the Commission as an independent expenditure-only political
 4 committee.²¹ The Super PAC described itself as “the leading independent political action
 5 committee strongly supporting Jeb Bush for President.”²² Respondents assert that Bush neither
 6 established nor directed or controlled the Super PAC, but Bush acknowledges that it “was
 7 formed by [his] supporters . . . to provide independent support to him should he decide to seek
 8 federal office.”²³ As alleged by the Complaint in MUR 6927,²⁴ Michael Murphy, senior advisor
 9 to Bush’s 1998 and 2002 gubernatorial campaigns, led the Super PAC as CEO;²⁵ Mason Fink left
 10 his fundraising role at RTR PAC in March 2015 to become Finance Director;²⁶ Neil Newhouse, a
 11 pollster for Bush’s previous gubernatorial campaigns, served as pollster;²⁷ and Charlie Spies,
 12 counsel for RTR PAC, simultaneously served as treasurer and counsel for the Super PAC. The
 13 Super PAC raised \$103,167,845 and spent \$5,444,338 between January and June 2015,
 14 reportedly with the assistance of Bush family members soliciting funds for the Super PAC.²⁸

²¹ The Super PAC originally registered as Right to Rise Super PAC, Inc. Statement of Organization, RTR Super PAC, Inc. (Jan. 6, 2015). The Super PAC filed an amended Statement of Organization, changing its name to Right to Rise USA. Statement of Organization, RTR USA (June 12, 2015).

²² See also Fourth Bush Resp. at 4 (citing Super PAC’s website).

²³ First Bush Resp. at 2; see also Third Bush Resp. at 8 (stating that the Super PAC “was founded by supporters of Governor Bush”).

²⁴ See MUR 6927 Supp. Compl. at 5-7.

²⁵ See Alex Leary, *Jeb Bush Super PAC Lays Out Plan to Refund \$12M to Donors*, MIAMIHERALD.COM (Apr. 5, 2016), <http://miamiherald.typepad.com/nakedpolitics/2016/04/jeb-bush-super-pac-lays-out-plan-to-refund-12m-to-donors.html>.

²⁶ Id. According to a news report cited by the Complaint in MUR 6927, Fink reportedly left RTR PAC in order to take on this role with the Super PAC. See MUR 6927 Supp. Compl. ¶ 15 (citing P. Rucker, *Bush Lands Romney Finance Director to Lead Super PAC Fundraising*, WASH. POST (Mar. 18, 2015)).

²⁷ See Ed O’Keefe, *Meet the People Who Will Try to Get Jeb Bush Elected President*, WASH. POST (June 15, 2015).

²⁸ See Amend. RTR USA 2015 Mid-Year Report (May 20, 2016) (“Amend. RTR USA Mid-Year Report”).

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1 **D. RTR PAC and Super PAC Activities**

2

3 Bush travelled extensively in the months following his December 2014 Facebook

4 announcements, speaking at public events throughout the country. On January 20, 2015, Bush

5 and his “operatives” reportedly announced plans to hold 60 fundraising events in cities across the

6 country for both RTR PAC and the Super PAC.²⁹

7 1. Super PAC Fundraisers

8 Bush reportedly “headlined” one of the Super PAC’s first reported fundraisers held in

9 New York City in February 2015 where the price of admission was reportedly \$100,000.³⁰ Bush

10 continued to headline Super PAC fundraisers over the next several months.³¹ Respondents

11 acknowledge that Bush attended and participated in the Super PAC’s fundraisers but assert that

12 “out of an abundance of caution, Governor Bush has not solicited contributions on behalf of the

13 [Super PAC].”³² Rather, he simply agreed to appear as a “special guest at Super PAC

14 fundraising events.”³³ By June 2015, the Super PAC had already amassed over \$100 million in

15 funds to support Bush’s candidacy.³⁴

²⁹ See MUR 6927 Compl. ¶ 8 (citing David M. Drucker, *Jeb Bush Lays out Plans for 60 Fundraisers for 2016 Bid*, WASH. EXAMINER (Jan. 20, 2015) <http://www.washingtonexaminer.com/jeb-bush-lays-out-plans-for-60-fundraisers-for-2016-bid/article/2558956>).

³⁰ MUR 6927 Supp. Compl. ¶ 13 (citing Ben White, *Jeb Bush’s eye popping event: 100K per ticket*, POLITICO, Feb. 10, 2015).

³¹ See e.g., MUR 6927 Compl. ¶11 (citing Matea Gold, *Jeb Bush Super PAC Juggernaut Heads to California Next Week*, WASH. POST, Mar. 23, 2015, <http://www.washingtonpost.com/blogs/post-politics/wp/2015/03/23/jeb-bush-super-pac-juggernaut-heads-to-california-next-week/?postshare=1431427200105361>).

³² Third Bush Resp. at 8 (quoting Zeke Miller & Phillip Elliott, *How Jeb Bush’s Super PAC Will Spend \$103 Million*, TIME (July 9, 2015) (“Aides say Bush never directly made a fundraising ask, even before he declared his candidacy.”)).

³³ See also First Resp. at 2; Second Bush Resp. at 3; Third Bush Resp. at 8.

³⁴ See *supra* p. 5.

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1 In addition to headlining the Super PAC fundraisers, according to a news report cited by

2 Bush's counsel, Bush and/or his staff appear to have collaborated with the Super PAC in
 3 discussing broad campaign strategy and allowing the Super PAC to film video footage of himself
 4 to be used for commercials after he officially declared his candidacy.³⁵ The report specifically
 5 stated, “[c]ampaign and super PAC aides could, and did, discuss broad strategies for how to
 6 approach the primary and general elections, including the strengths and weaknesses of Bush and
 7 his Democratic and Republican rivals.”³⁶ Although these aides took a more “conservative
 8 position” by not discussing specific expenditures to avoid the possibility of coordinating on
 9 particular communications:

10 The super PAC’s film crews did hours of interviews with Bush about his
 11 legislative and personal records, including education reform and cutting the size
 12 of Florida’s government, which can be cut down later into an ad by the super PAC
 13 team. In essence, the super PAC banked the bulk of its footage for commercials
 14 before it had an official candidate.³⁷

15

16 Once Bush declared his candidacy, the Super PAC continued to fundraise but the pace

17 slowed considerably. According to the Super PAC’s 2015 Year End Report, the Super PAC
 18 reported receipts of \$15,139,189.64 in June through December 2015³⁸ (compared to the \$103
 19 million raised in the first half of the year). Despite the marked slowdown in fundraising after

³⁵ See Miller and Elliot, *supra* note 32. In addition, twelve days after Bush filed his Statement of Candidacy, Mike Murphy reportedly announced during a conference call with donors that “he ‘can’t coordinate anymore’ with the campaign, but said he was ‘well informed as of a week ago.’” Andrew Kaczynski and Ilan Ben-Meir, *We Crashed Jeb Bush’s Super PAC’s Donor Call, And Here’s What They Said*, BUZZFEED.COM (June 17, 2015), <https://www.buzzfeed.com/andrewkaczynski/we-crashed-jeb-bushs-super-pacs-donor-9f>. He also referenced the video footage of Bush that the Super PAC had obtained, stating “we actually were able to do some filming before the wall went down, so we can do excellent creative. We have some incredible stuff in the can that we shot with the governor. So we’re going to be able to — starting with digital, but expanding to advertising — start to tell that story” *Id.*

³⁶ See Miller and Elliot, *supra* note 32.

³⁷ *Id.*

³⁸ See Amend. RTR USA 2015 Year-End Report (May 20, 2016) (“Amend. RTR USA 2015 YE Report”). The Super PAC’s receipts for all of 2016 fell to \$3,388,188.58. See RTR USA 2016 Year-End Report (Jan. 31, 2017).

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1 Bush declared his candidacy, the total amount raised by the Super PAC in 2015 —
 2 \$118,307,035.47³⁹ — dwarfs the \$31,922,099 raised by Jeb 2016 in 2015.⁴⁰ Thus, while the
 3 Super PAC's fundraising decreased after Bush's declaration of candidacy and Bush's own
 4 campaign raised a relatively modest sum for a presidential election, the Super PAC had already
 5 amassed over \$100 million by June 2015 to spend on advertising and could use footage of Bush
 6 and information regarding Bush's broad strategy to support Bush's candidacy.

7 2. RTR PAC Events

8 Bush also attended RTR fundraisers and other events purportedly on behalf of RTR
 9 PAC.⁴¹ Little is known about any fundraisers or other events sponsored directly by RTR PAC,
 10 but the record contains information about certain events sponsored by others that Bush
 11 purportedly attended in his role as Honorary Chairman of RTR PAC. Bush admits referencing
 12 his potential candidacy at these events, and some of the events are traditional stops for declared
 13 and hopeful presidential candidates (*e.g.*, Conservative Political Action Conference ("CPAC");
 14 Republican Lincoln Dinner, New Hampshire house parties).⁴² Bush argues that any references to
 15 his potential candidacy at events he attended at RTR's expense were incidental.⁴³ However, as
 16 reflected in transcript excerpts, video footage of at least nine appearances Bush made at RTR's
 17 expense show Bush speaking about his possible run for office, focusing on his own personal
 18 qualifications and accomplishments and framing the significance and purpose of his entire

³⁹ See Amend. RTR USA 2015 YE Report.

⁴⁰ See Report Summaries for Jeb 2016, available at <http://www.fec.gov/fecviewer/CandidateCommitteeDetail.do>.

⁴¹ Jeb 2016 reported making a single payment for travel during this time. *See supra* p. 3.

⁴² Third Bush Resp. at 6.

⁴³ *Id.* at 32-33.

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1 remarks as his potential candidacy.⁴⁴ Further, Bush does not appear to reference RTR PAC in
 2 his remarks or indicate that he is present in his capacity as RTR PAC's Honorary Chairman.
 3 And, at one event, Bush appears to acknowledge that his travel in the months leading up to his
 4 announcement was for the purpose of testing the waters.⁴⁵ In May 2015, Bush told one reporter,
 5 "No, no I'm not an official candidate. . . . I've been traveling the country for the last three
 6 months and making up my mind, trying to determine the support I may have should I go
 7 forward."⁴⁶

8 It appears that RTR PAC funded Bush's travel almost exclusively during this time. RTR
 9 PAC states that the travel facilitated his appearances as RTR's Chairman. Consistent with that
 10 position, RTR PAC did not report any of its payments for Bush's travel during this time as in-
 11 kind contributions once Bush declared himself a candidate. RTR PAC's political activities
 12 declined significantly in June 2015 after Bush formally declared his candidacy as the Committee
 13 was winding down its activities.⁴⁷

⁴⁴ For example, on February 27, 2015, Bush participated in a twenty-five minute interview with Sean Hannity at the CPAC Conference, where Bush stated:

Yeah, so, if I go beyond the consideration of the possibility of running, which is the legal terminology that many of the people here coming to CPAC or probably using to not to trigger a campaign. If I get beyond that and I run for president, I have to show what's in my heart. I have to show that I care about people, about their future.

On March 18, 2015 in South Carolina, he spoke at the Horry GOP Breakfast where he discussed his proposed strategy for "the '16 Campaign" and stated, "But I know if I go forward I have to share my heart. I have to say who I am, what my ideas are. If I go beyond the consideration of this, it ought to be about the future." Further, at the Lincoln Dinner for the Republican Party of Iowa held in May 2015, Bush was featured as a "Prospective 2016 Republican Presidential Candidate" and stated in his introductory remarks, "But if I go beyond the consideration of running, to actually being a candidate, I know that I'm going to have to talk a little bit about who I am."

⁴⁵ On April 17, 2015, Bush appeared at an event in Nashua, NH, where he began his speech by stating, "I'm excited about this . . . this part of my life where I'm sounding out the views of people around the country I've been traveling around. I'm seriously considering the possibility of running and over the next few months I'll make a decision about that." *Id.* at 24.

⁴⁶ Theodore Schleifer, *It's Getting Harder for Jeb Bush to Pretend He's Not Running for President*, CNNPOLITICS.COM (May 13, 2015), <http://www.cnn.com/2015/05/13/politics/jeb-bush-miscue-2016-campaign-finance/>, cited in MUR 6915 Supp. Compl., at n.1.

⁴⁷ Third Bush Resp. at 7; Fourth Bush Resp. at 3.

1 **II. LEGAL ANALYSIS**

2

3 **A. There is Reason to Believe that Bush Filed His Statement of Candidacy Late**
 4 **and Jeb 2016 Filed its Statement of Organization and Disclosure Reports**
 5 **Late**

6

7 As noted above, Bush's Statement of Candidacy and Jeb 2016's Statement of
 8 Organization were both filed on June 15, 2015.⁴⁸ The Complaints in these matters allege that
 9 Bush violated the Act's candidate registration and reporting requirements because he had moved
 10 beyond testing the waters to become a candidate prior to filing his Statement. In particular, the
 11 Complaints allege that Bush was amassing campaign funds that would be spent after he became
 12 a candidate.⁴⁹ Respondents argue that Bush never solicited or accepted any campaign
 13 contributions while testing the waters.⁵⁰

14 An individual becomes a candidate under the Act if: (a) such individual receives
 15 contributions or makes expenditures in excess of \$5,000, or (b) such individual gives his or her
 16 consent to another person to receive contributions or make expenditures on behalf of such
 17 individual and if such person has received such contributions or has made such expenditures in
 18 excess of \$5,000.⁵¹ Once the \$5,000 threshold has been met, the candidate has fifteen days to
 19 designate a principal campaign committee by filing a Statement of Candidacy with the
 20 Commission.⁵² The principal campaign committee must file a Statement of Organization within

⁴⁸ Jeb Bush Statement of Candidacy (June 15, 2015); Jeb 2016 Statement of Organization (June 15, 2015).

⁴⁹ MUR 6915 Compl. at 1; MUR 6927 Compl. ¶ 48.

⁵⁰ *See supra* p. 6.

⁵¹ 52 U.S.C. § 30101(2).

⁵² *Id.* § 30102(e)(1); 11 C.F.R. § 101.1(a).

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1 ten days of its designation,⁵³ and must file disclosure reports with the Commission in accordance
 2 with 52 U.S.C. § 30104(a) and (b).⁵⁴

3 The Commission has established limited “testing the waters” exemptions that permit an
 4 individual to test the feasibility of a campaign for federal office without becoming a candidate
 5 under the Act.⁵⁵ These exemptions exclude from the definition of “contribution” and
 6 “expenditure” those funds received and payments made solely to determine whether an
 7 individual should become a candidate.⁵⁶ These regulations seek to draw a distinction between
 8 activities directed to an evaluation of the feasibility of one’s candidacy and conduct signifying
 9 that a decision to become a candidate has been made.⁵⁷ Testing the waters activities include, but
 10 are not limited to, payments for polling, telephone calls, and travel, and only funds permissible
 11 under the Act may be used for such activities.⁵⁸ An individual who is testing the waters need not
 12 register or file disclosure reports with the Commission unless and until the individual
 13 subsequently decides to run for federal office.⁵⁹

14 The testing the waters exemption is not available to individuals who have made a
 15 decision to become a candidate.⁶⁰ Commission regulations set forth a non-exhaustive list of

⁵³ See 52 U.S.C. § 30103(a); 11 C.F.R. § 102.1(a).

⁵⁴ See, e.g., Factual and Legal Analysis at 6, MUR 6735 (Joseph A. Sestak); Factual and Legal Analysis at 5, MUR 6449 (Jon Bruning); Factual and Legal Analysis at 2, MUR 5363 (Alfred C. Sharpton).

⁵⁵ See 11 C.F.R. §§ 100.72 and 100.131; Factual and Legal Analysis at 7, MUR 6775 (Hillary Clinton); Factual and Legal Analysis at 8, MUR 6776 (Niger Innis); Factual and Legal Analysis at 6, MUR 6735 (Joseph A. Sestak).

⁵⁶ See 11 C.F.R. §§ 100.72(a); 100.131(a).

⁵⁷ See Advisory Op. 1981-32 (Askew) (“AO 1981-32”).

⁵⁸ *Id.*

⁵⁹ *Id.*; see also Advisory Op. 2015-09 (Senate Maj. PAC, *et al.*) (“AO 2015-09”).

⁶⁰ See AO 2015-09 at 5. See also Payments Received for Testing the Waters Activities, 50 Fed Reg. 9992, 9993 (Mar. 13, 1985) (exemption “explicitly limited ‘solely’ to activities designed to evaluate a potential candidacy”).

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1 activities that indicate that an individual is no longer testing the waters and has decided to
 2 become a candidate. Such indicia include: (1) using general public political advertising to
 3 publicize his or her intention to campaign for federal office; (2) raising funds in excess of what
 4 could reasonably be expected to be used for exploratory activities or undertaking activity
 5 designed to amass campaign funds that would be spent after he or she becomes a candidate; (3)
 6 making or authorizing written or oral statements that refer to him or her as a candidate for a
 7 particular office; (4) conducting activities in close proximity to the election or over a protracted
 8 period of time;⁶¹ and (5) taking action to qualify for the ballot under state law.⁶²

9 1. Bush Engaged in Activities Indicating that He Had Decided to Become a
 10 Candidate as Early as January 2015

11 As noted above, the Commission, in deciding whether an individual is no longer testing
 12 the waters and has made a decision to run for federal office, assesses an individual's objectively
 13 deliberate actions to discern whether and when an individual decided to become a candidate.⁶³
 14 An assessment of Bush's activities in the six months leading up to his announcement of
 15 candidacy provides reason to believe that he had decided to run for president at least as early as
 16 January 2015.

17 First, Bush was publicly participating in the activities of the Super PAC in a variety of
 18 ways beginning in January 2015. Because the purpose of the Super PAC was to support Bush's
 19 eventual candidacy, and *not* to engage in activity designed to encourage him to run, or evaluate

⁶¹ The Commission has advised that there is no specific time limit for such activities, and the length of time spent testing the waters is but one factor in determining whether an individual becomes a candidate. AO 2015-09 at 6.

⁶² 11 C.F.R. §§ 100.72(b), 100.131(b).

⁶³ See *id.*

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1 the feasibility of his candidacy,⁶⁴ Bush’s participation in these activities demonstrates that he had
 2 made a decision to run for President.

3 Most notably, Bush announced in January 2015 that he would be participating in a series
 4 of Super PAC fundraisers that were designed to amass funds to be spent after Bush declared his
 5 candidacy.⁶⁵ Bush began attending these fundraisers as a “special guest” at least as early as
 6 February 2015 and until he declared his candidacy in June, and with his assistance, the Super
 7 PAC raised \$103,167,845 in the first half of 2015. Though Bush asserts that he did not
 8 personally solicit any money, his participation in the Super PAC’s efforts to amass substantial
 9 funds in excess of \$100 million to use *after* he became a candidate is strong indicia that he had
 10 already decided to become a candidate.⁶⁶ Indeed, Bush raised no funds for any of his testing the
 11 waters activities, and his own authorized committee only raised a little over \$30 million by the

⁶⁴ In MUR 6775 (Ready for Hillary), the Commission considered an allegation that an individual “triggered candidate status” when her authorized committee from a previous election rented its mailing list to a nonconnected committee whose purpose was to encourage her to run for office in the future. Factual and Legal Analysis at 5-8. The Commission found no reason to believe that the individual had become a candidate by renting out the mailing list because (1) the nonconnected committee’s purpose was only to encourage her to run, not to support her if she did run, (2) the individual and the nonconnected committee “confined their activities solely to evaluating a *potential* candidacy,” and (3) there was no information before the Commission indicating that either the rental or the nonconnected committee’s other activities were “designed to amass campaign funds for a future candidacy.” *Id.* at 7-8 (emphasis in original). Each of these considerations (plus the additional fact that the potential candidate in MUR 6775 played no role in the formation of the nonconnected committee) distinguishes that MUR from the facts presented in these matters.

⁶⁵ See *supra* note 29. The Commission has concluded that federal candidates may appear as a featured guest at non-federal fundraising events without violating the soft money provisions of the Act at 52 U.S.C. § 30125(e). See 11 C.F.R. § 300.64. However, in AO 2015-09, the Commission could not agree as to whether a prospective candidate’s participation in the activities of a “single candidate committee” – i.e., a committee that would raise non-federal funds “to support the [prospective candidate] if they decide to run for office” and “would ‘work directly’ with the prospective candidate[]” – would trigger candidacy. AO 2015-09 at 2.

⁶⁶ The regulations specifically state that one indicia of a decision to run is raising funds in excess of what could reasonably be expected to be used for exploratory activities or undertaking activity designed to amass campaign funds that would be spent after he or she becomes a candidate. 11 C.F.R. §§ 100.72(b), 100.131(b); see also Advisory Op. 1985-40 (Republican Majority Fund, et al.) (“AO 1985-40”) at 4 (solicitation for testing-the-waters activities permissible where, *inter alia*, “you state the funds will be used for the purpose of . . . testing the waters activities” and “the solicitations will not result in amassing campaign funds for [requester’s] use if he should become a candidate.”).

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1 end of 2015.⁶⁷ Moreover, after Bush became a candidate, the Super PAC's fundraising declined
 2 appreciably, while it simultaneously began spending funds on advertising and other activities in
 3 support of Bush's candidacy.⁶⁸ This suggests that Bush used the Super PAC as a vehicle to raise
 4 unlimited amounts of non-federal funds to support his campaign before he officially announced
 5 his candidacy. That it was a third party amassing the funds with Bush's knowing participation is
 6 no less an indication that Bush had already decided to run than if he had raised the funds
 7 directly.⁶⁹

8 Further, the available information shows that Bush and his aides, prior to announcing his
 9 candidacy, shared information with the Super PAC about his strategic plans, projects, activities,
 10 needs, campaign messaging, and scheduling plans for his intended campaign. As a result, the
 11 Super PAC could use that information after Bush declared his candidacy to engage in activity
 12 that was consistent with Bush's campaign strategy. In fact, he apparently permitted the Super
 13 PAC to film video footage of him to be used in future advertisements, and Murphy reportedly
 14 acknowledged such collaboration between Bush and the Super PAC.⁷⁰

15 *Second*, the available information indicates that Bush made at least two statements
 16 referring to himself as a candidate during his purported "testing-the-waters" period.

⁶⁷ See *supra* section II.D.1.

⁶⁸ Prior to Bush declaring candidacy, the Super PAC's spending appears to have been largely limited to administrative, travel, and fundraising costs. *See* Amend. RTR USA 2015 Mid-Year Report. The Committee did not report making its first independent expenditure until June 26, 2015. *See id.* at 1657 (independent expenditure of \$36,000 for media placement to Revolution Media Group).

⁶⁹ The Commission has previously concluded that the amassing of funds by a third party could trigger candidacy. *See* AO 1985-40 at 9-10 (concluding that "steering committees" organized by individual's "political associates and representatives" could trigger candidacy status for individual "if the steering committees engage in activities on behalf of [the individual's] candidacy"); *cf.* First Gen. Counsel's Rpt. at 3, 9 MUR 1515 (Rattley) (concluding that individual did not become a candidate due to "write-in" effort where individual "had not participated in, not requested, the write-in campaign").

⁷⁰ See *supra* section II.D.1.

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1 During an appearance on MSNBC's Morning Joe program, Bush described a private
 2 meeting with Mitt Romney in January 2015 in which "we talked about the campaign 'cause he
 3 was thinking about running and I went out to see him. I wanted him to know that I was all in and
 4 had a plan to win this, and I still do."⁷¹ The Complaint alleges that this statement shows that
 5 Bush had decided to become a candidate before the January meeting.⁷² Bush asserts that his
 6 statement to Romney was taken out of context because "all in" was meant to refer "to being 'all
 7 in' on the process — as in taking it seriously, giving it his all" with respect to the testing-the-
 8 waters process, not an official campaign.⁷³ This explanation is unpersuasive. Bush explicitly
 9 refers to "the campaign" and his "plan to win this." In contrast, he refers to Romney as merely
 10 "thinking about running" (emphasis added). Bush further admits that he informed Romney that
 11 he "had a plan to win this, and I still do." The most reasonable, and only credible, conclusion to
 12 draw from this exchange is that Bush had already made a decision and was trying to convince
 13 Romney not to run against him.

14 Further, in May 2015, at a town hall meeting in Reno, Nevada, Bush stated, "I am
 15 running for president in 2016, and the focus is going to be about how we, if I run, how do you
 16 create high sustained economic growth."⁷⁴ Bush asserts that his statement in Reno was a "slip-

⁷¹ Third Supp. Compl. at 2, MUR 6915 (Feb. 16, 2016) (citing Kyle Cheney, *Watchdog Accuses Bush of Illegally Conveying His Intention to Run*, POLITICO (Jan. 5, 2016)); *see* <http://www.msnbc.com/morning-joe/watch/bush--trump-is-a-buddy-of-the-clintons-595966531784>.

⁷² *Id.* at 5-6.

⁷³ Resp. of Jeb Bush, MUR 6915 at 3 (Mar. 31, 2016).

⁷⁴ MUR 6915 Supp. Compl. at 1 (citing Michael Barbaro, *Jeb Bush Declares His Candidacy – Prematurely*, NY TIMES (May 13, 2015), <http://www.nytimes.com/politics/first-draft/2015/05/13/jeb-bush-declares-his-candidacy-prematurely>; T. Schleifer, *It's Getting Harder for Jeb Bush to Pretend He's Not Running for President*, CNN POLITICS (May 13, 2015), <http://www.cnn.com/2015/05/13/politics/jeb-bush-misuse-2016-campaign-finance/>); MUR 6927 Supp. Compl. at 2-3 (citing P. Blumenthal, *Jeb Bush Messes Up Charade of Not Running for President*, THE HUFFINGTON POST (May 13, 2015)).

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1 up,” which was quickly corrected and did not automatically make him a candidate.⁷⁵ However,
2 the Commission has determined that “[w]here the circumstances demonstrate that an individual’s
3 statement regarding candidacy reflects that individual’s decision to run for office, mere
4 assertions that the individual’s subjective intent differs from his or her statement generally will
5 not negate the objective indication of candidacy arising from the statement.”⁷⁶ The facts here
6 present just such a case. In the context of the entirety of the activities that Bush was conducting
7 at this time, Bush’s explanation of his statement as a “slip-up,” and his continued assertions that
8 he was not a candidate prior to his announcement, contradict the objective information
9 demonstrating the he had already made up his mind to run.

2. Bush Had Spent More Than \$5,000 on Testing the Waters Activity and the Super PAC had Received in Excess of \$5,000 to be Spent on Bush's Candidacy by January 2015

14 Bush's activities beginning in January 2015 indicate that he had made a decision that he
15 was going to run for president at least as early as that time, and certainly prior to his declaration
16 of candidacy in June 2015. Because the testing the waters exemption does not apply to
17 individuals who have decided to become candidates, and Jeb 2016's disclosure reports indicate
18 that Bush spent more than \$5,000 in 2014 for testing-the-waters activities, it appears that he
19 became a candidate by January 2015.⁷⁷ By January 6, the Super PAC also raised \$10,000.⁷⁸

⁷⁵ See Third Bush Resp. at 35 (citing Statement of Reasons of Chairman Robert D. Lenhard, Vice Chairman David M. Mason and Comm’rs Toner, von Spakovsky, and Weintraub, MURs 5672/5733 (Davis) at 2 (Mar. 13, 2007)).

76 AO 2015-19 at 6.

⁷⁷ *Id.* (citing Amended Jeb 2016, Inc. July 2015 Quarterly Report (Dec. 10, 2015)); 11 C.F.R. §§ 100.72(a), 100.131(a); Factual & Legal Analysis at 3, MUR 6533 (Haney, *et al.*) (Once an individual decides to become a candidate, funds that were raised or spent to test the waters apply to the \$5,000 threshold for qualifying as a candidate); Factual & Legal Analysis at 5, MUR 6449 (Bruning, *et al.*) (same).

⁷⁸ See Amend. RTR USA 2015 Mid-Year Report. We note that Bush may have become a candidate on the alternative theory that he consented to another person, the Super PAC, to accept contributions and make expenditures on his behalf. See 52 U.S.C. § 30101(2)(B). Because the factual record indicates that (1) Bush

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1 Because Bush did not file a Statement of Candidacy and designate a principal campaign
 2 committee until June 2015, the Commission finds reason to believe that Bush violated 52 U.S.C.
 3 § 30102(e)(1) and 11 C.F.R. § 101.1(a). Further, the Commission finds reason to believe that
 4 Jeb 2016 violated 52 U.S.C. § 30103(a) by failing to timely file a Statement of Organization.

5 **B. There is Reason to Believe that Bush and Jeb 2016 Accepted Unreported,
 6 Excessive In-Kind Contributions Because RTR PAC Paid for Campaign
 7 Travel**

8 The Commission's regulations at 11 C.F.R. § 106.1 require that expenditures on behalf of
 9 more than one clearly identified federal candidate be attributed to each such candidate according
 10 to the benefit reasonably expected to be derived.⁷⁹ Under Commission guidance, where a
 11 potential candidate engages in activities on behalf of a non-connected multicandidate committee,
 12 such as a leadership PAC, but also undertakes activities relating to his own potential candidacy,
 13 the potential candidate must allocate any expenses between that committee and his potential
 14 candidacy pursuant to 11 C.F.R. § 106.1(a).⁸⁰ If the multicandidate committee spends more than
 15 \$5,000 on an individual's testing the waters activities, once that individual becomes a candidate,
 16 that committee makes excessive in-kind contributions to the candidate in violation of 52 U.S.C.
 17 § 30116(a)(2).

participated in and headlined many of the Super PAC's fundraisers, which raised funds specifically for his candidacy — not for testing-the-waters activities and (2) collaborated with the Super PAC in filming advertisements, Bush's conduct appears to reflect that he became a candidate as early as January 2015 given that the Super PAC accepted contributions and made expenditures in excess of \$5,000.

⁷⁹ 11 C.F.R. § 106.1(a).

⁸⁰ See Statement of Reasons of Chairman Matthew S. Petersen and Comm'rrs Caroline C. Hunter, Donald F. McGahn II, Steven T. Walther, and Ellen L. Weintraub at 3, MUR 5908 (Duncan Hunter) (finding that travel disbursements benefitting presidential campaign and leadership PAC "would have been allocable between the two committees."); Advisory Op. 1985-40 (Republican Majority Fund) at 8 (leadership PAC required to allocate travel costs where individual holds private meetings for testing-the-waters activities in conjunction with appearances on behalf of federal candidates).

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1 A potential candidate need not allocate expenses where references to any potential
 2 candidacy “will be made ‘in an incidental manner or in response to questions by the public or
 3 press.’”⁸¹ However, an individual’s “incidental” references to a potential candidacy “should be
 4 narrowly interpreted to apply only to incidental contacts and incidental remarks, such as those in
 5 response to questions.”⁸² Thus, the Commission has determined that it would not consider as
 6 incidental “public statements” referring to an individual’s possible intent to campaign for federal
 7 office and activities such as “soliciting funds, holding meetings (which constitute more than
 8 incidental contacts) with individuals or the press regarding such a potential candidacy”⁸³

9 1. RTR PAC Paid for Expenses That Appear to be Related to the Election

10 The Complaints allege that the RTR PAC funded Bush’s testing the waters activities.⁸⁴

11 The Respondents deny that the RTR PAC paid for such expenses. the factual record suggests
 12 that Bush and the Committee accepted excessive in-kind contributions from RTR PAC in the
 13 form of unreimbursed travel expenses.

14 The public record shows that from December 2014 to June 2015, Bush traveled
 15 extensively and spoke about his purported exploratory efforts at public events. In May 2015, he
 16 specifically told reporters “I’ve been traveling the country for the last three months and making
 17 up my mind, trying to determine the support I may have should I go forward.”⁸⁵ Thus, Bush
 18 acknowledges that he was traveling the country to conduct testing the water activities.

⁸¹ Advisory Op. 1986-06 at 4 (Fund for America’s Future).

⁸² *Id.*

⁸³ *Id.*

⁸⁴ MUR 6915 Second Supp. Compl. at 4-6; MUR 6927 Compl. ¶ 44.

⁸⁵ Schleifer, *supra* note 46.

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1 Respondents concede that RTR PAC funded Bush's travel during this time but argue that
2 the purpose of the travel was to facilitate his appearances as RTR's Chairman.⁸⁶ They also
3 concede that Bush referenced his potential candidacy at such events but claims that such
4 references were only incidental — that he was responding to a question from a member of the
5 public or press, informally or privately discussing his potential candidacy outside of scheduled
6 events.⁸⁷ The available evidence indicates otherwise. As described above, publicly available
7 video footage shows at least nine instances of Bush speaking about his possible run for office,
8 largely focusing on his own personal qualifications and accomplishments, including his record as
9 Governor of Florida. Further, the speeches lacked any reference to RTR PAC or its work. And
10 contrary to the representations made by Bush, he was not incidentally responding to questions to
11 the press or making informal comments at unscheduled events when he made his statements
12 about his exploratory efforts. Instead, he made them while giving meetings at scheduled events
13 before a large audience, where he would be featured as a possible candidate, or at formal
14 meetings held with press. Consequently, the record simply does not support Bush's contention
15 that his references to his potential candidacy were only incidental. And notably, Bush
16 acknowledges that RTR PAC's activities significantly declined after he became a candidate⁸⁸ —
17 thus supporting an inference that the purpose of RTR PAC was to support his so-called
18 exploratory activities before officially declaring in June 2015.

19 Notwithstanding the clear indications that the travel funded by RTR PAC was related to
20 either exploratory efforts or Bush's candidacy, Jeb 2016, once established, reported only a single

⁸⁶ Third Bush Resp. at 6.

⁸⁷ *Id.* at 7, 33.

⁸⁸ Third Bush Resp. at 7; Fourth Bush Resp. at 3.

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1 \$1,089 disbursement for travel during this time. In contrast, RTR PAC reported travel expenses
2 totaling over \$800,000.⁸⁹

3 Under these circumstances, the Commission finds reason to believe that Bush and Jeb
4 2016 accepted excessive in-kind contributions in the form of unreimbursed travel expenses from
5 RTR PAC in violation of 52 U.S.C. § 30116(f).

⁸⁹ Amend. RTR PAC 2015 Mid-Year Report (July 31, 2015).

FEDERAL ELECTION COMMISSION FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Right to Rise PAC and James P. Robinson in his official capacity as treasurer Right to Rise USA and Charles R. Spies in his official capacity as treasurer **MURs 6915 and 6927**

1. INTRODUCTION

These matters were generated by complaints filed with the Federal Election Commission (“Commission”). On June 5, 2015, almost a year after he first began “testing the waters” for a potential candidacy, John Ellis “Jeb” Bush filed a Statement of Candidacy for the office of President of the United States. Ten days later, on June 15, he publicly announced his candidacy. In the year leading up to his announcement, Bush engaged in a variety of interrelated activities — he spent his own money to conduct research, polling, and other purported exploratory activities; he established a multicandidate committee named Right to Rise PAC (“RTR PAC”), served as its Honorary Chairman and travelled extensively to give speeches and raise money for the PAC; and he participated in numerous fundraisers for Right to Rise USA (“Super PAC”), the self-described “leading independent political action committee strongly supporting Jeb Bush for President,”¹ which raised over \$103,000,000 in the first half of 2015.

The Complaints in these two matters make a number of allegations relating to Bush's activities during that year and in the period following his formal announcement of candidacy that implicate several possible violations of the Federal Election Campaign Act of 1971, as amended (the "Act"). They allege that RTR PAC, and the Super PAC may have violated the Act by

<https://righttorisesuperpac.org/about/rtrusa?lang=en>

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1 raising and spending non-federal funds.² Further, RTR PAC and/or the Super PAC may have
 2 made excessive, unreported in-kind contributions to Bush by paying for testing the waters
 3 activity.³

4 Respondents each deny violating the Act. They argue that Bush never solicited
 5 contributions for the Super PAC and his only role with respect to the Super PAC was to appear
 6 as a featured guest at its fundraisers.⁴ With respect to RTR PAC, Respondents argue that the
 7 PAC raised and spent funds to further support other federal and non-federal candidates and did
 8 not support Bush's campaign.⁵

9 The available information indicates that there is reason to believe that the Super PAC
 10 violated 52 U.S.C. § 30125(e) by soliciting and receiving soft money in connection with an
 11 election for federal office. Further, the Commission finds reason to believe that RTR PAC made
 12 excessive in-kind contributions to Bush and Jeb 2016 in violation of 52 U.S.C. § 30116(a).

13 **II. FACTS**

14
 15 On June 15, 2015, former Florida Governor John Ellis "Jeb" Bush publicly declared his
 16 candidacy for President of the United States. Bush had signed a Statement of Candidacy on June
 17 5, designating Jeb 2016 as his authorized campaign committee with William Simon as the
 18 Committee's treasurer;⁶ Jeb 2016 filed its Statement of Organization on June 15.⁷ In the year

² See MUR 6915 Compl. at 1-2; MUR 6927 Compl. at 13-14. See also Supp. Compl., MUR 6915 at 1-2 (May 20, 2015) ("MUR 6915 Supp. Compl."); Supp. Compl., MUR 6915 (Feb. 26, 2016) ("MUR 6915 Third Supp. Compl."); Supp. Compl., MUR 6927 at 16-17 (May 27, 2015) ("MUR 6927 Supp. Compl.").

³ See MUR 6915 Compl. at 3; MUR 6927 Compl. at 14-15.

⁴ See Right to Rise Resp. at 6, MUR 6927 (Apr. 24, 2015) ("Second RTR Resp."); Right to Rise Resp. at 4, MUR 6915 (Mar. 6, 2015) ("First RTR Resp.").

⁵ See First RTR Resp. at 3; Second RTR Resp. at 4-5.

⁶ Jeb Bush, Statement of Candidacy (June 5, 2015). Although Bush's Statement was signed on June 5, he did not file it with the Commission until June 15, 2015.

⁷ Jeb 2016 Statement of Organization (June 15, 2015).

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1 leading up to his announcement, Bush engaged in a variety of interrelated activities with a
 2 network of allies and associates that appear to have had a common purpose — providing support
 3 for Bush’s presidential candidacy.⁸

4 **A. Testing-the-Waters Activity**

5 In May 2014, Bush began spending funds on exploratory activities to test the waters of a
 6 2016 presidential candidacy.⁹ On December 16, 2014, approximately seven months after Bush
 7 began testing the waters, he publicly announced his exploratory efforts on Facebook, writing that
 8 he had “decided to actively explore the possibility of running for President of the United
 9 States.”¹⁰ Shortly after registering with the Commission in June 2015, Jeb 2016 filed its first
 10 disclosure report revealing its spending during the period Bush asserts he was testing the waters
 11 — May 2014 through June 2015.¹¹ The report disclosed \$516,870 for research and polling,
 12 political and communications consulting, and legal fees, *inter alia*, but only a single payment of
 13 \$1,089.08 for travel expenses during that time.¹² Bush also asserts that he solicited no
 14 contributions for his campaign while testing the waters, and Jeb 2016’s first disclosure report
 15 reported no contributions received during this time.¹³

⁸ Bush ultimately suspended his campaign in February 2016. *See* Ed O’Keefe, *Jeb Bush Drops Out of 2016 Presidential Campaign*, WASH. POST (Feb. 20, 2016).

⁹ *See* Jeb 2016, 2015 July Quarterly Report at 1675-90 (January 31, 2016) (showing first payment for testing the waters to Kristy Campbell for \$1,875 for communications consulting on May 23, 2014).

¹⁰ *See* MUR 6915 Compl. at 2 (citing “A Note from Jeb Bush,” Dec. 16, 2014, available at <https://www.facebook.com/notes/jeb-bush/a-note-from-jeb-bush/619074134888300>); MUR 6927 Compl. (citing same).

¹¹ *See* Jeb 2016, 2015 July Quarterly Report (July 15, 2015).

¹² *See* Amend. Jeb 2016, 2015 July Quarterly Report at 1675-90 (Jan. 31, 2016) (“Amend. Jeb 2016, 2015 July Quarterly Report”) (showing payment to Joe M. Allbaugh of Washington, D.C. for travel/airfare/lodging); Third Bush Resp. at 2-5, 30-31.

¹³ *See* Amend. Jeb 2016, 2015 July Quarterly Report, Schedule A.

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1 **B. Right to Rise PAC (Multicandidate Committee)**
 2

3 In the same December 16 Facebook post announcing his exploratory efforts, Bush
 4 announced his “plan to establish a Leadership PAC” “to support leaders, ideas, and policies that
 5 will expand opportunity and prosperity for all Americans.”¹⁴ This PAC¹⁵ registered with the
 6 Commission on January 6, 2015, as Right to Rise PAC and named Bush as its Honorary
 7 Chairman.¹⁶ RTR PAC’s self-described activities included making contributions to federal
 8 candidates and “facilitating” Bush’s appearances to raise money for the PAC and communicate
 9 important policy issues.¹⁷ Mason Fink, former fundraiser for 2012 presidential candidate Mitt
 10 Romney, reportedly worked as a fundraiser for RTR PAC.¹⁸ RTR PAC raised \$5,356,584 and
 11 spent \$4,896,426 between January and June 2015.¹⁹ The Committee spent only 5% of the funds
 12 it raised (\$283,800) making contributions to other federal committees and candidates; much of
 13 the PAC’s remaining spending related to activities such as fundraising, travel and related costs
 14 for Bush’s appearances at various events around the country, and legal fees.²⁰

15 **C. Right to Rise USA (Independent Expenditure-Only Committee)**
 16

17 On January 6, 2015, the same day that RTR PAC registered with the Commission, the
 18 Super PAC registered with the Commission as an independent expenditure-only political

¹⁴ See MUR 6915 Compl. at 3; MUR 6927 Compl. at 2.

¹⁵ The PAC was registered with the Commission as an unauthorized committee, and Respondents refer to it as a leadership PAC. Under Commission regulations, a Leadership PAC “means a political committee that is directly or indirectly established, financed, maintained or controlled by a candidate for Federal office or an individual holding Federal office but which is not an authorized committee of the candidate or individual and which is not affiliated with an authorized committee” 11 C.F.R. § 100.5(e)(6).

¹⁶ Statement of Organization, RTR PAC (Jan. 6, 2015).

¹⁷ This facilitation of Bush’s appearances included, *inter alia*, paying for his travel expenses.

¹⁸ See MUR 6927 Supp. Compl. at 7 (citing P. Rucker, *Bush Lands Romney Finance Director to Lead Super PAC Fundraising*, WASH. POST (Mar. 18, 2015)).

¹⁹ Amend. RTR PAC 2015 Mid-Year Report (July 31, 2015).

²⁰ Id.

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1 committee.²¹ The Super PAC described itself as “the leading independent political action
 2 committee strongly supporting Jeb Bush for President.”²² Respondents assert that Bush neither
 3 established nor directed or controlled the Super PAC. As alleged by the Complaint in MUR
 4 6927,²³ Michael Murphy, senior advisor to Bush’s 1998 and 2002 gubernatorial campaigns, led
 5 the Super PAC as CEO;²⁴ Mason Fink left his fundraising role at RTR PAC in March 2015 to
 6 become Finance Director;²⁵ Neil Newhouse, a pollster for Bush’s previous gubernatorial
 7 campaigns, served as pollster;²⁶ and Charlie Spies, counsel for RTR PAC, simultaneously served
 8 as treasurer and counsel for the Super PAC. The Super PAC raised \$103,167,845 and spent
 9 \$5,444,338 between January and June 2015, reportedly with the assistance of Bush family
 10 members soliciting funds for the Super PAC.²⁷

11 **D. RTR PAC and Super PAC Activities**

12 Bush travelled extensively in the months following his December 2014 Facebook
 13 announcements, speaking at public events throughout the country. On January 20, 2015, Bush

²¹ The Super PAC originally registered as Right to Rise Super PAC, Inc. Statement of Organization, RTR Super PAC, Inc. (Jan. 6, 2015). The Super PAC filed an amended Statement of Organization, changing its name to Right to Rise USA. Statement of Organization, RTR USA (June 12, 2015).

²² <https://righttorisesuperpac.org/about/rtrusa?lang=en>.

²³ See MUR 6927 Supp. Compl. at 5-7.

²⁴ See Alex Leary, *Jeb Bush Super PAC Lays Out Plan to Refund \$12M to Donors*, MIAMIHERALD.COM (Apr. 5, 2016), <http://miamiherald.typepad.com/nakedpolitics/2016/04/jeb-bush-super-pac-lays-out-plan-to-refund-12m-to-donors.html>.

²⁵ Id. According to a news report cited by the Complaint in MUR 6927, Fink reportedly left RTR PAC in order to take on this role with the Super PAC. See MUR 6927 Supp. Compl. ¶ 15 (citing P. Rucker, *Bush Lands Romney Finance Director to Lead Super PAC Fundraising*, WASH. POST (Mar. 18, 2015)).

²⁶ See Ed O’Keefe, *Meet the People Who Will Try to Get Jeb Bush Elected President*, THE WASHINGTON POST (June 15, 2015).

²⁷ See Amend. RTR USA 2015 Mid-Year Report (May 20, 2016) (“Amend. RTR USA Mid-Year Report”).

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1 and his “operatives” reportedly announced plans to hold 60 fundraising events in cities across the
 2 country for both RTR PAC and the Super PAC.²⁸

3 1. Super PAC Fundraisers

4 Bush reportedly “headlined” one of the Super PAC’s first reported fundraisers held in
 5 New York City in February 2015 where the price of admission was reportedly \$100,000.²⁹ Bush
 6 continued to headline Super PAC fundraisers over the next several months.³⁰ Respondents
 7 acknowledge that Bush attended and participated in the Super PAC’s fundraisers but contend
 8 that he simply agreed to appear as a “special guest at Super PAC fundraising events.”³¹ By June
 9 2015, the Super PAC had already amassed over \$100 million in funds to support Bush’s
 10 candidacy.³²

11 In addition to headlining the Super PAC fundraisers, according to a news report cited by
 12 Bush’s counsel, Bush and/or his staff appear to have collaborated with the Super PAC in
 13 discussing broad campaign strategy and allowing the Super PAC to film video footage of himself
 14 to be used for commercials after he officially declared his candidacy.³³ The report specifically

²⁸ See MUR 6927 Compl. ¶ 8 (citing David M. Drucker, *Jeb Bush Lays out Plans for 60 Fundraisers for 2016 Bid*, WASH. EXAMINER (Jan. 20, 2015) <http://www.washingtonexaminer.com/jeb-bush-lays-out-plans-for-60-fundraisers-for-2016-bid/article/2558956>).

²⁹ MUR 6927 Supp. Compl. ¶ 13 (citing Ben White, *Jeb Bush’s eye popping event: 100K per ticket*, POLITICO, Feb. 10, 2015).

³⁰ See e.g., MUR 6927 Compl. ¶ 11 (citing Matea Gold, *Jeb Bush Super PAC Juggernaut Heads to California Next Week*, WASH. POST, Mar. 23, 2015, <http://www.washingtonpost.com/blogs/post-politics/wp/2015/03/23/jeb-bush-super-pac-juggernaut-heads-to-california-next-week/?postshare=1431427200105361>).

³¹ First RTR Resp. at 4; *see also* Zeke Miller & Phillip Elliott, *How Jeb Bush’s Super PAC Will Spend \$103 Million*, TIME (July 9, 2015) (“Aides say Bush never directly made a fundraising ask, even before he declared his candidacy.”).

³² *See supra* p. 8.

³³ *See* Miller and Elliott, *supra* note 31. In addition, twelve days after Bush filed his Statement of Candidacy, Mike Murphy reportedly announced during a conference call with donors that “he ‘can’t coordinate anymore’ with the campaign, but said he was ‘well informed as of a week ago.’” Andrew Kaczynski and Ilan Ben-Meir, *We Crashed Jeb Bush’s Super PAC’s Donor Call, And Here’s What They Said*, BUZZFEED.COM (June 17, 2015), <https://www.buzzfeed.com/andrewkaczynski/we-crashed-jeb-bushs-super-pacs-donor-9f>. He also referenced the

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1 stated, “[c]ampaign and super PAC aides could, and did, discuss broad strategies for how to
 2 approach the primary and general elections, including the strengths and weaknesses of Bush and
 3 his Democratic and Republican rivals.”³⁴ Although these aides took a more “conservative
 4 position” by not discussing specific expenditures to avoid the possibility of coordinating on
 5 particular communications:

6 The super PAC’s film crews did hours of interviews with Bush about his
 7 legislative and personal records, including education reform and cutting the size
 8 of Florida’s government, which can be cut down later into an ad by the super PAC
 9 team. In essence, the super PAC banked the bulk of its footage for commercials
 10 before it had an official candidate.³⁵

11
 12 Once Bush declared his candidacy, the Super PAC continued to fundraise but the pace
 13 slowed considerably. According to the Super PAC’s 2015 Year End Report, the Super PAC
 14 reported receipts of \$15,139,189.64 in June through December 2015³⁶ (compared to the \$103
 15 million raised in the first half of the year). Despite the marked slowdown in fundraising after
 16 Bush declared his candidacy, the total amount raised by the Super PAC in 2015 —
 17 \$118,307,035.47³⁷ — dwarfs the \$31,922,099 raised by Jeb 2016 in 2015.³⁸ Thus, while the
 18 Super PAC’s fundraising decreased after Bush’s declaration of candidacy and Bush’s own
 19 campaign raised a relatively modest sum for a presidential election, the Super PAC had already

video footage of Bush that the Super PAC had obtained, stating “we actually were able to do some filming before the wall went down, so we can do excellent creative. We have some incredible stuff in the can that we shot with the governor. So we’re going to be able to — starting with digital, but expanding to advertising — start to tell that story” *Id.*

³⁴ See Miller and Elliot, *supra* note 31.

³⁵ *Id.*

³⁶ See Amend. RTR USA 2015 Year-End Report (May 20, 2016) (“Amend. RTR USA 2015 YE Report”). The Super PAC’s receipts for all of 2016 fell to \$3,388,188.58. See RTR USA 2016 Year-End Report (Jan. 31, 2017).

³⁷ See Amend. RTR USA 2015 YE Report.

³⁸ See Report Summaries for Jeb 2016, available at <http://www.fec.gov/fecviewer/CandidateCommitteeDetail.do>.

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1 amassed over \$100 million by June 2015 to spend on advertising and could use footage of Bush
 2 and information regarding Bush's broad strategy to support Bush's candidacy.

3 2. RTR PAC Events

4 Bush also attended RTR fundraisers and other events purportedly on behalf of RTR
 5 PAC.³⁹ Little is known about any fundraisers or other events sponsored directly by RTR PAC,
 6 but the record contains information about certain events sponsored by others that Bush
 7 purportedly attended in his role as Honorary Chairman of RTR PAC. The record indicates that
 8 Bush referenced his potential candidacy at these events, and some of the events are traditional
 9 stops for declared and hopeful presidential candidates (*e.g.*, Conservative Political Action
 10 Conference ("CPAC"); Republican Lincoln Dinner, New Hampshire house parties). Video
 11 footage of at least nine appearances Bush made at RTR's expense show Bush speaking about his
 12 possible run for office, focusing on his own personal qualifications and accomplishments and
 13 framing the significance and purpose of his entire remarks as his potential candidacy.⁴⁰ Further,
 14 Bush does not appear to reference RTR PAC in his remarks or indicate that he is present in his
 15 capacity as RTR PAC's Honorary Chairman. And at one event, Bush appears to acknowledge
 16 himself that his travel in the months leading up to his announcement was for the purpose of

³⁹ Jeb 2016 reported making a single payment for travel during this time. *See supra* p.6.

⁴⁰ For example, on February 27, 2015, Bush participated in a twenty-five minute interview with Sean Hannity at the CPAC Conference, where Bush stated:

Yeah, so, if I go beyond the consideration of the possibility of running, which is the legal terminology that many of the people here coming to CPAC or probably using to not to trigger a campaign. If I get beyond that and I run for president, I have to show what's in my heart. I have to show that I care about people, about their future.

On March 18, 2015 in South Carolina, he spoke at the Horry GOP Breakfast where he discussed his proposed strategy for "the '16 Campaign" and stated, "But I know if I go forward I have to share my heart. I have to say who I am, what my ideas are. If I go beyond the consideration of this, it ought to be about the future." Further, at the Lincoln Dinner for the Republican Party of Iowa held in May 2015, Bush was featured as a "Prospective 2016 Republican Presidential Candidate" and stated in his introductory remarks, "But if I go beyond the consideration of running, to actually being a candidate, I know that I'm going to have to talk a little bit about who I am."

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1 testing the waters.⁴¹ In May 2015, Bush told one reporter, “No, no I’m not an official candidate.
 2 . . . I’ve been traveling the country for the last three months and making up my mind, trying to
 3 determine the support I may have should I go forward.”⁴²

4 It appears that RTR PAC funded Bush’s travel almost exclusively during this time. RTR
 5 PAC states that the travel facilitated his appearances as RTR’s Chairman. Consistent with that
 6 position, RTR PAC did not report any of its payments for Bush’s travel during this time as in-
 7 kind contributions once Bush declared himself a candidate. RTR PAC’s political activities
 8 declined significantly in June 2015 after Bush formally declared his candidacy as the Committee
 9 was winding down its activities.

10 **III. LEGAL ANALYSIS**

11 **A. Bush Filed His Statement of Candidacy Late and Jeb 2016 Filed its**
 12 **Statement of Organization and Disclosure Reports Late**

13 An individual becomes a candidate under the Act if: (a) such individual receives
 14 contributions or makes expenditures in excess of \$5,000, or (b) such individual gives his or her
 15 consent to another person to receive contributions or make expenditures on behalf of such
 16 individual and if such person has received such contributions or has made such expenditures in
 17 excess of \$5,000.⁴³ Once the \$5,000 threshold has been met, the candidate has fifteen days to
 18 designate a principal campaign committee by filing a Statement of Candidacy with the
 19 Commission.⁴⁴ The principal campaign committee must file a Statement of Organization within

⁴¹ On April 17, 2015, Bush appeared at an event in Nashua, NH, where he began his speech by stating, “I’m excited about this . . . this part of my life where I’m sounding out the views of people around the country I’ve been traveling around. I’m seriously considering the possibility of running and over the next few months I’ll make a decision about that.”

⁴² Theodore Schleifer, *It’s Getting Harder for Jeb Bush to Pretend He’s Not Running for President*, CNNPolitics.com (May 13, 2015), <http://www.cnn.com/2015/05/13/politics/jeb-bush-miscue-2016-campaign-finance/>, cited in Supp. Compl, note 1. MUR 6915.

⁴³ 52 U.S.C. § 30101(2).

⁴⁴ 52 U.S.C. § 30102(e)(1); 11 C.F.R. § 101.1(a).

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1 ten days of its designation,⁴⁵ and must file disclosure reports with the Commission in accordance
 2 with 52 U.S.C. § 30104(a) and (b).⁴⁶

3 The Commission has established limited “testing the waters” exemptions that permit an
 4 individual to test the feasibility of a campaign for federal office without becoming a candidate
 5 under the Act.⁴⁷ These exemptions exclude from the definition of “contribution” and
 6 “expenditure” those funds received and payments made solely to determine whether an
 7 individual should become a candidate.⁴⁸ These regulations seek to draw a distinction between
 8 activities directed to an evaluation of the feasibility of one’s candidacy and conduct signifying
 9 that a decision to become a candidate has been made.⁴⁹ Testing the waters activities include, but
 10 are not limited to, payments for polling, telephone calls, and travel, and only funds permissible
 11 under the Act may be used for such activities.⁵⁰ An individual who is testing the waters need not
 12 register or file disclosure reports with the Commission unless and until the individual
 13 subsequently decides to run for federal office.⁵¹

14 The testing the waters exemption is not available to individuals who have made a
 15 decision to become a candidate.⁵² Commission regulations set forth a non-exhaustive list of
 16 activities that indicate that an individual is no longer testing the waters and has decided to

⁴⁵ See 52 U.S.C. § 30103(a); 11 C.F.R. § 102.1(a).

⁴⁶ See, e.g., Factual and Legal Analysis at 6, MUR 6735 (Joseph A. Sestak); Factual and Legal Analysis at 5, MUR 6449 (Jon Bruning); Factual and Legal Analysis at 2, MUR 5363 (Alfred C. Sharpton).

⁴⁷ See 11 C.F.R. §§ 100.72 and 100.131; Factual and Legal Analysis at 7, MUR 6775 (Hillary Clinton); Factual and Legal Analysis at 8, MUR 6776 (Niger Innis); Factual and Legal Analysis at 6, MUR 6735 (Joseph A. Sestak).

⁴⁸ See 11 C.F.R. §§ 100.72(a); 100.131(a).

⁴⁹ See Advisory Op. 1981-32 (Askew) (“AO 1981-32”).

⁵⁰ *Id.*

⁵¹ *Id.*; see also Advisory Op. 2015-09 (Senate Maj. PAC, *et al.*) (“AO 2015-09”).

⁵² See AO 2015-09 at 5. See also Payments Received for Testing the Waters Activities, 50 Fed Reg. 9992, 9993 (Mar. 13, 1985) (exemption “explicitly limited ‘solely’ to activities designed to evaluate a potential candidacy”).

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1 become a candidate. Such indicia include: (1) using general public political advertising to
 2 publicize his or her intention to campaign for federal office; (2) raising funds in excess of what
 3 could reasonably be expected to be used for exploratory activities or undertaking activity
 4 designed to amass campaign funds that would be spent after he or she becomes a candidate; (3)
 5 making or authorizing written or oral statements that refer to him or her as a candidate for a
 6 particular office; (4) conducting activities in close proximity to the election or over a protracted
 7 period of time;⁵³ and (5) taking action to qualify for the ballot under state law.⁵⁴

8 1. Bush Engaged in Activities Indicating that He Had Decided to Become a
 9 Candidate As Early as January 2015

10 As noted above, the Commission, in deciding whether an individual is no longer testing
 11 the waters and has made a decision to run for federal office, assesses an individual's objectively
 12 deliberate actions to discern whether and when an individual decided to become a candidate.⁵⁵
 13 An assessment of Bush's activities in the six months leading up to his announcement of
 14 candidacy provides reason to believe that he had decided to run for president at least as early as
 15 January 2015.

16 First, Bush was publicly participating in the activities of the Super PAC in a variety of
 17 ways beginning in January 2015. Because the purpose of the Super PAC was to support Bush's
 18 eventual candidacy, and *not* to engage in activity designed to encourage him to run, or evaluate

⁵³ The Commission has advised that there is no specific time limit for such activities, and the length of time spent testing the waters is but one factor in determining whether an individual becomes a candidate. AO 2015-09 at 6.

⁵⁴ 11 C.F.R. §§ 100.72(b), 100.131(b).

⁵⁵ See *id.*

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1 the feasibility of his candidacy,⁵⁶ Bush's participation in these activities demonstrates that he had
 2 made a decision to run for President.

3 Most notably, Bush announced in January 2015 that he would be participating in a series
 4 of Super PAC fundraisers that were designed to amass funds to be spent after Bush declared his
 5 candidacy.⁵⁷ Bush began attending these fundraisers as a "special guest" at least as early as
 6 February 2015 and until he declared his candidacy in June, and with his assistance, the Super
 7 PAC raised \$103,167,845 in the first half of 2015. Though Bush asserts that he did not
 8 personally solicit any money, his participation in the Super PAC's efforts to amass substantial
 9 funds in excess of \$100 million to use *after* he became a candidate is strong indicia that he had
 10 already decided to become a candidate.⁵⁸ Indeed, Bush raised no funds for any of his testing the
 11 waters activities, and his own authorized committee only raised a little over \$30 million by the

⁵⁶ In MUR 6775 (Ready for Hillary), the Commission considered an allegation that an individual "triggered candidate status" when her authorized committee from a previous election rented its mailing list to a nonconnected committee whose purpose was to encourage her to run for office in the future. Factual and Legal Analysis at 5-8. The Commission found no reason to believe that the individual had become a candidate by renting out the mailing list because (1) the nonconnected committee's purpose was only to encourage her to run, not to support her if she did run, (2) the individual and the nonconnected committee "confined their activities solely to evaluating a *potential* candidacy," and (3) there was no information before the Commission indicating that either the rental or the nonconnected committee's other activities were "designed to amass campaign funds for a future candidacy." *Id.* at 7-8 (emphasis in original). Each of these considerations (plus the additional fact that the potential candidate in MUR 6775 played no role in the formation of the nonconnected committee) distinguishes that MUR from the facts presented in these matters.

⁵⁷ See *supra* note 28. The Commission has concluded that federal candidates may appear as a featured guest at non-federal fundraising events without violating the soft money provisions of the Act at 52 U.S.C. § 30125(e). See 11 C.F.R. § 300.64. However, in AO 2015-09, the Commission could not agree as to whether a prospective candidate's participation in the activities of a "single candidate committee" – i.e., a committee that would raise non-federal funds "to support the [prospective candidate] if they decide to run for office" and "would 'work directly' with the prospective candidate[]" – would trigger candidacy. AO 2015-09 at 2.

⁵⁸ The regulations specifically state that one indicia of a decision to run is raising funds in excess of what could reasonably be expected to be used for exploratory activities or undertaking activity designed to amass campaign funds that would be spent after he or she becomes a candidate. 11 C.F.R. §§ 100.72(b), 100.131(b); see also Advisory Op. 1985-40 (Republican Majority Fund, *et al.*) ("AO 1985-40") at 4 (solicitation for testing-the-waters activities permissible where, *inter alia*, "you state the funds will be used for the purpose of . . . testing the waters activities" and "the solicitations will not result in amassing campaign funds for [requester's] use if he should become a candidate.").

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1 end of 2015.⁵⁹ Moreover, after Bush became a candidate, the Super PAC's fundraising declined
 2 appreciably, while it simultaneously began spending funds on advertising and other activities in
 3 support of Bush's candidacy.⁶⁰ This suggests that Bush used the Super PAC as a vehicle to raise
 4 unlimited amounts of non-federal funds to support his campaign before he officially announced
 5 his candidacy. That it was a third party amassing the funds with Bush's knowing participation is
 6 no less an indication that Bush had already decided to run than if he had raised the funds
 7 directly.⁶¹

8 Further, the available information shows that Bush and his aides, prior to announcing his
 9 candidacy, shared information with the Super PAC about his strategic plans, projects, activities,
 10 needs, campaign messaging, and scheduling plans for his intended campaign. As a result, the
 11 Super PAC could use that information after Bush declared his candidacy to engage in activity
 12 that was consistent with Bush's campaign strategy. In fact, he apparently permitted the Super
 13 PAC to film video footage of him to be used in future advertisements, and Murphy reportedly
 14 acknowledged such collaboration between Bush and the Super PAC.⁶²

15 *Second*, the available information indicates that Bush made at least two statements
 16 referring to himself as a candidate during his purported "testing-the-waters" period.

⁵⁹ See *supra* section II.D.1.

⁶⁰ Prior to Bush declaring candidacy, the Super PAC's spending appears to have been largely limited to administrative, travel, and fundraising costs. *See* Amend. RTR USA 2015 Mid-Year Report. The Committee did not report making its first independent expenditure until June 26, 2015. *See id.* at 1657 (independent expenditure of \$36,000 for media placement to Revolution Media Group).

⁶¹ The Commission has previously concluded that the amassing of funds by a third party could trigger candidacy. *See* AO 1985-40 at 9-10 (concluding that "steering committees" organized by individual's "political associates and representatives" could trigger candidacy status for individual "if the steering committees engage in activities on behalf of [the individual's] candidacy"); *cf.* First Gen. Counsel's Rpt. at 3, 9 MUR 1515 (Rattley) (concluding that individual did not become a candidate due to "write-in" effort where individual "had not participated in, not requested, the write-in campaign").

⁶² See *supra* section II.D.1.

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1 During an appearance on MSNBC’s Morning Joe program, Bush described a private
 2 meeting with Mitt Romney in January 2015 in which “we talked about the campaign ‘cause he
 3 was thinking about running and I went out to see him. I wanted him to know that I was all in and
 4 had a plan to win this, and I still do.”⁶³ The Complaint alleges that this statement shows that
 5 Bush had decided to become a candidate before the January meeting.⁶⁴ Bush explicitly refers to
 6 “the campaign” and his “plan to win this.” In contrast, he refers to Romney as merely “*thinking*
 7 about running” (emphasis added). Bush further admits that he informed Romney that he “had a
 8 plan to win this, and I still do.” The most reasonable, and only credible, conclusion to draw from
 9 this exchange is that Bush had already made a decision and was trying to convince Romney not
 10 to run against him.

11 Further, in May 2015, at a town hall meeting in Reno, Nevada, Bush stated, “I am
 12 running for president in 2016, and the focus is going to be about how we, if I run, how do you
 13 create high sustained economic growth.”⁶⁵ The Commission has determined that “[w]here the
 14 circumstances demonstrate that an individual’s statement regarding candidacy reflects that
 15 individual’s decision to run for office, mere assertions that the individual’s subjective intent
 16 differs from his or her statement generally will not negate the objective indication of candidacy
 17 arising from the statement.”⁶⁶ The facts here present just such a case. In the context of the

⁶³ Third Supp. Compl. at 2, MUR 6915 (Feb. 16, 2016) (citing Kyle Cheney, *Watchdog Accuses Bush of Illegally Conveying His Intention to Run*, POLITICO (Jan. 5, 2016)); <http://www.msnbc.com/morning-joe/watch/bush--trump-is-a-buddy-of-the-clintons-595966531784>.

⁶⁴ *Id.* at 5-6.

⁶⁵ MUR 6915 Supp. Compl. at 1 (citing Michael Barbaro, *Jeb Bush Declares His Candidacy – Prematurely*, NY TIMES (May 13, 2015), <http://www.nytimes.com/politics/first-draft/2015/05/13/jeb-bush-declares-his-candidacy-prematurely>; T. Schleifer, *It’s Getting Harder for Jeb Bush to Pretend He’s Not Running for President*, CNN POLITICS (May 13, 2015), <http://www.cnn.com/2015/05/13/politics/jeb-bush-misuse-2016-campaign-finance/>); MUR 6927 Supp. Compl. at 2-3 (citing P. Blumenthal, *Jeb Bush Messes Up Charade of Not Running for President*, THE HUFFINGTON POST (May 13, 2015)).

⁶⁶ AO 2015-19 at 6.

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1 entirety of the activities that Bush was conducting at this time, Bush's explanation of his
 2 statement as a "slip-up," and his continued assertions that he was not a candidate prior to his
 3 announcement, contradict the objective information demonstrating the he had already made up
 4 his mind to run.

5 2: Bush Had Spent More Than \$5,000 on Testing the Waters Activity and the
 6 Super PAC had Received in Excess of \$5,000 to be Spent on Bush's
 7 Candidacy By January 2015

8
 9 Bush's activities beginning in January 2015 indicate that he had made a decision that he
 10 was going to run for president at least as early as that time, and certainly prior to his declaration
 11 of candidacy in June 2015. Because the testing the waters exemption does not apply to
 12 individuals who have decided to become candidates, and Jeb 2016's disclosure reports indicate
 13 that Bush spent more than \$5,000 in 2014 for testing-the-waters activities, it appears that he
 14 became a candidate by January 2015.⁶⁷ By January 6, the Super PAC also raised \$10,000.⁶⁸

15 **B. There is Reason to Believe that the Super PAC Violated the Act When It**
 16 **Solicited and Received Non-Federal Funds While Bush Was a Candidate**

17
 18 The Complaints allege that Respondents violated the Act's prohibition on the solicitation
 19 and receipt of non-federal funds because (1) Bush and his agents solicited non-federal funds for
 20 the Super PAC;⁶⁹ (2) Bush directly or indirectly through his agents established, financed,

⁶⁷ *Id.* (citing Amended Jeb 2016, Inc. July 2015 Quarterly Report (Dec. 10, 2015)); 11 C.F.R. §§ 100.72(a), 100.131(a); Factual & Legal Analysis at 3, MUR 6533 (Haney, *et al.*) (Once an individual decides to become a candidate, funds that were raised or spent to test the waters apply to the \$5,000 threshold for qualifying as a candidate); Factual & Legal Analysis at 5, MUR 6449 (Bruning, *et al.*) (same).

⁶⁸ See Amend. RTR USA 2015 Mid-Year Report. We note that Bush may have become a candidate on the alternative theory that he consented to another person, the Super PAC, to accept contributions and make expenditures on his behalf. See 52 U.S.C. § 30101(2)(B). Because the factual record indicates that (1) Bush participated in and headlined many of the Super PAC's fundraisers, which raised funds specifically for his candidacy — not for testing-the-waters activities, (2) collaborated with the Super PAC in filming advertisements, and (3) may have directly or indirectly established, financed, maintained, or controlled the Super PAC, *see infra* section III.B.1, Bush's conduct appears to reflect that he became a candidate as early as January 2015 given that the Super PAC accepted contributions and made expenditures in excess of \$5,000.

⁶⁹ See MUR 6915 Supp. Compl. at 4, 6; MUR 6927 Supp. Compl. ¶¶ 12, 26, 40.

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1 maintained, or controlled the Super PAC;⁷⁰ and (3) the Super PAC is “directly or indirectly”
 2 “acting on behalf” of Bush.”⁷¹ Respondents deny each of these allegations.

3 The Act prohibits federal candidates and officeholders, their agents, and entities directly
 4 or indirectly established, financed, maintained or controlled by or acting on behalf of one or
 5 more candidates or individuals holding federal office, from “solicit[ing], receiv[ing], direct[ing],
 6 transfer[ing], or spend[ing] funds in connection with an election for Federal office, . . . unless the
 7 funds are subject to the limitations, prohibitions, and reporting requirements of [the] Act.”⁷²

8 This provision, among others enacted as part of the Bipartisan Campaign Reform Act of 2002,
 9 was designed to “plug the soft-money loophole.”⁷³

10 As the plain language of the statute indicates, the prohibition applies only after an
 11 individual becomes a candidate or officeholder, and liability may result from actions of a
 12 candidate, actions of a candidate’s agents; actions of entities that are indirectly or directly
 13 established, financed, maintained or controlled by a candidate; and actions of entities acting on
 14 behalf of a candidate. Because we conclude that Bush became a candidate at least as early as
 15 January 2015, the soft money prohibition applied from that point forward. We evaluate below
 16 whether the actions of any of the Respondents resulted in a violation of the soft money
 17 prohibition of the Act.

18 1. The factual record supports a reasonable inference that the Super PAC was
 19 an entity established, financed, maintained, or controlled by Bush

20 To determine whether a candidate or his or her agent “directly or indirectly establishes,
 21 finances, maintains, or controls” an entity, the Commission considers a non-exhaustive list of ten

⁷⁰ See MUR 6915 Supp. Compl. at 4; MUR 6927 Supp. Compl. ¶ 39.

⁷¹ MUR 6927 Supp. Compl. ¶ 43.

⁷² 52 U.S.C. § 30125(e)(1)(A); *see also* 11 C.F.R. § 300.61.

⁷³ *McConnell v. FEC*, 540 U.S. 93, 133 (2003).

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1 factors.⁷⁴ Some of the factors include whether the entity “has common or overlapping officers or
 2 employees with the entity that indicates a formal or ongoing relationship,” whether the candidate
 3 “has authority or ability to direct or participate in the governance of the entity,” or “had an active
 4 or significant role in the formation of the entity,” and “provides funds or goods in a significant
 5 amount or an ongoing basis to the entity.”⁷⁵

6 Here, there are a number of facts in the record to support a reasonable inference that the
 7 Super PAC was established, financed, maintained, or controlled by Bush or his purported agents
 8 as set forth in section 300.2(c).

9 *First*, there are significant commonalities, including common or overlapping officers or
 10 employees, between the Super PAC and RTR PAC, an entity that is admittedly established and
 11 controlled by Bush. RTR PAC, which was founded and led by Bush himself, and the Super
 12 PAC, which was established to further Bush’s candidacy, share the same “Right to Rise”
 13 moniker. Further, these two committees registered with the Commission on the same day, an
 14 event unlikely to occur by pure coincidence, and one which raises doubts as to whether the Super
 15 PAC was truly formed and operated independently of Bush. In addition, publicly available
 16 information, cited by the Complaint and not specifically refuted by the Responses, reports that
 17 Charles Spies administratively established both RTR PAC and the Super PAC.⁷⁶

18 *Second*, the available information shows that Bush provided the Super PAC with material
 19 that was crucial for the Super PAC to effectively support Bush’s candidacy. Specifically, before
 20 officially declaring himself a candidate, Bush provided hours of interview footage to the Super

⁷⁴ 11 C.F.R. § 300.2(c)(2).

⁷⁵ *Id.* § 300.2(c)(2)(ii), (v), (vii), (ix).

⁷⁶ See MUR 6927 Supp. Compl. at 6, n. 19 (citing Matea Gold, *Why Super PACs have moved from Sideshow to Center Stage for Presidential Hopefuls*, WASH. POST (Mar. 12, 2015)). We also note that Bush personally made payments to Spies’ law firm, Clark Hill for expenses related to testing-the-waters activities in the summer of 2014. See Amend. Jeb 2016, 2015 Mid-Year Report at 1678-79.

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1 PAC's film crews so that the Super PAC team could cut down the footage for commercials to be
 2 run in the future.⁷⁷ While not conclusive evidence that Bush was maintaining or controlling the
 3 Super PAC, these facts suggest the Super PAC did not act independently of Bush.

4 *Third*, Bush was an integral part of the Super PAC's fundraising. At a meeting with
 5 lobbyists in Washington, D.C. on January 20, 2015, Bush apparently announced his plan to hold
 6 60 fundraisers for both RTR PAC and the Super PAC. The Responses do not refute Bush's
 7 involvement in this event. Even if Bush was not directly asking for funds at this event, as
 8 Respondents contend, Bush's involvement in this event reflects that Bush was not only a
 9 featured speaker at Super PAC fundraisers but also may have had a role in planning them as
 10 well.

11 A reason to believe determination is not conclusive that Respondents violated the Act but
 12 rather recognizes the seriousness of the allegations and provides an opportunity to conduct an
 13 administrative fact-finding inquiry to resolve whether in fact a violation occurred.⁷⁸ Thus, the
 14 Commission previously has determined as a matter of policy that a reason to believe finding is
 15 appropriate "in cases where the available evidence in the matter is at least sufficient to warrant
 16 conducting an investigation."⁷⁹ At this stage, we know that: 1) the timing and naming of the
 17 Super PAC closely paralleled those of RTR PAC, Bush's so-called "Leadership PAC"; and 2)
 18 Bush's involvement with Super PAC events went beyond merely appearing as a featured guest at
 19 fundraisers. Under these circumstances, an investigation is warranted to determine exactly

⁷⁷ Miller and Elliot, *supra* note 31.

⁷⁸ See Statement of Policy Regarding Commission Act in Matters at the Initial Stage in the Enforcement Process, 72 Fed. Reg. 12,545 (Mar. 16, 2007) (A reason to believe finding indicates "only that the Commission found sufficient legal justification to open an investigation to determine whether a violation of the Act has occurred.").

⁷⁹ See *id.* (reason to believe finding followed by an investigation is appropriate where complaint "credibly alleges that a significant violation may have occurred, but further investigation is required to determine whether a violation in fact occurred and, if so, its exact scope.").

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1 which individuals were involved in the formation and operation of the Super PAC and their
 2 respective roles. Because the facts in this matter support a reasonable inference that Bush or his
 3 agents directly or indirectly established, financed, maintained, or controlled the Super PAC, the
 4 Commission finds that there is reason to believe that the Super PAC violated 52 U.S.C.
 5 § 30125(e) by soliciting, receiving, directing, transferring, or spending non-federal funds to
 6 advance the candidacy of Jeb Bush.

7 2. The Super PAC solicited and received non-federal funds in connection
 8 with the Presidential election on behalf of Bush

9
 10 The Complaint in MUR 6927 alleges that the Super PAC is “directly or indirectly”
 11 “acting on behalf” of Bush given that its “sole purpose . . . is to promote the election of Bush as
 12 president [and] . . . is being operated as an arm of the Bush political operation and is acting in
 13 concert with Bush and his agents for the common objective of promoting Bush’s candidacy.”⁸⁰

14 The available information shows that the Super PAC was an entity “acting on behalf” of
 15 Bush for the purposes of section 30125(e). Bush’s apparent significant involvement in the Super
 16 PAC’s fundraising activities, which raised over \$100 million to provide exclusive support to
 17 Bush, shows that Right to Rise Super PAC was “acting on behalf” of Bush in soliciting soft
 18 money. There is no evidence that the Super PAC solicited any contributions or made any
 19 expenditures to further the election of any other candidate. Although the Response characterizes
 20 the support as “independent,” the factual record suggests that such a claim is dubious given the
 21 evidence of Bush’s own involvement in Super PAC activities as described above.⁸¹ As such, the

⁸⁰ MUR 6927 Supp. Compl. ¶ 43.

⁸¹ Indeed, the independent expenditure-only political committee contemplated by the D.C. Circuit in *SpeechNow.org v. FEC*, 599 F.3d 686 (D.C. Cir. 2010), stands in stark contrast to the Super PAC here. In *SpeechNow*, the committee disclaimed the involvement of any federal candidates in its activities and did not form and operate to advance the election of solely one candidate. During the district court proceedings, *SpeechNow.org* founder David Keating submitted a sworn declaration that *SpeechNow.org* operated wholly independently of any of candidate, committee, or political party and that *SpeechNow.org*’s mission was to protect rights to free speech and

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1 available evidence suggests that beginning at least as early as January 2015, Bush and the Super
 2 PAC were impermissibly raising soft money in violation of the Act. Thus, the Commission finds
 3 reason to believe that the Super PAC violated 52 U.S.C. § 30125(e).

4 **C. There is Reason to Believe that RTR PAC Made Excessive In-Kind
 5 Contributions Because RTR PAC Paid for Campaign Travel**

6
 7 The Commission's regulations at 11 C.F.R. § 106.1 require that expenditures on behalf of
 8 more than one clearly identified federal candidate be attributed to each such candidate according
 9 to the benefit reasonably expected to be derived.⁸² Under Commission guidance, where a
 10 potential candidate engages in activities on behalf of a non-connected multicandidate committee,
 11 such as a leadership PAC, but also undertakes activities relating to his own potential candidacy,
 12 the potential candidate must allocate any expenses between that committee and his potential
 13 candidacy pursuant to 11 C.F.R. § 106.1(a).⁸³ If the multicandidate committee spends more than
 14 \$5,000 on an individual's testing the waters activities, once that individual becomes a candidate,
 15 that committee makes excessive in-kind contributions to the candidate in violation of 52 U.S.C.
 16 § 30116(a)(2).

17 A potential candidate need not allocate expenses where references to any potential
 18 candidacy "will be made 'in an incidental manner or in response to questions by the public or
 19 press.'"⁸⁴ However, an individual's "incidental" references to a potential candidacy "should be

association and not to allow individuals to gain access to or obtain gratitude of any candidates or officeholders. *See* Declaration of David Keating in Support of Plaintiffs' Proposed Findings of Fact ¶¶ 9, 10, *Speechnow.org v. FEC*, 08-cv-00248 (Oct. 28, 2008)).

⁸² 11 C.F.R. § 106.1(a).

⁸³ *See Statement of Reasons of Chairman Matthew S. Petersen and Commissioners Caroline C. Hunter, Donald F. McGahn II, Steven T. Walther, and Ellen L. Weintraub* at 3, MUR 5908 (Duncan Hunter) (finding that travel disbursements benefitting presidential campaign and leadership PAC "would have been allocable between the two committees."); *Advisory Op. 1985-40* (Republican Majority Fund) at 8 (leadership PAC required to allocate travel costs where individual holds private meetings for testing-the-waters activities in conjunction with appearances on behalf of federal candidates).

⁸⁴ *Advisory Op. 1986-06* (Fund for America's Future) at 4.

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1 narrowly interpreted to apply only to incidental contacts and incidental remarks, such as those in
 2 response to questions.”⁸⁵ Thus, the Commission has determined that it would not consider as
 3 incidental “public statements” referring to an individual’s possible intent to campaign for federal
 4 office and activities such as “soliciting funds, holding meetings (which constitute more than
 5 incidental contacts) with individuals or the press regarding such a potential candidacy”⁸⁶

6 1. RTR PAC Paid for Expenses That Appear to be Related to the Election

7 The Complaints allege that the RTR PAC funded Bush’s testing the waters activities.⁸⁷

8 The Respondents deny that the RTR PAC paid for such expenses. Whether the Commission
 9 determines that Bush was testing the waters from May 2014 until June 2015, or that he became a
 10 candidate earlier in the year, the factual record suggests that Bush and the Committee accepted
 11 excessive in-kind contributions from RTR PAC in the form of unreimbursed travel expenses.

12 The public record shows that from December 2014 to June 2015, Bush traveled
 13 extensively and spoke about his purported exploratory efforts at public events. In May 2015, he
 14 specifically told reporters “I’ve been traveling the country for the last three months and making
 15 up my mind, trying to determine the support I may have should I go forward.”⁸⁸ Thus, Bush
 16 acknowledges that he was traveling the country to conduct testing the water activities.

17 As described above, publicly available video footage shows at least nine instances of
 18 Bush speaking about his possible run for office, largely focusing on his own personal
 19 qualifications and accomplishments, including his record as Governor of Florida. Further, the
 20 speeches lacked any reference to RTR PAC or its work. Bush was not incidentally responding to

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ MUR 6915 Second Supp. Compl. at 4-6; MUR 6927 Compl. ¶ 44.

⁸⁸ Schleifer, *supra* note 42.

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1 questions to the press or making informal comments at unscheduled events when he made his
2 statements about his exploratory efforts. Instead, he made them while giving meetings at
3 scheduled events before a large audience, where he would be featured as a possible candidate, or
4 at formal meetings held with press. Consequently, the record simply does not support the
5 contention that his references to his potential candidacy were only incidental. And notably, RTR
6 PAC's activities significantly declined after he became a candidate — thus supporting an
7 inference that the purpose of RTR PAC was to support his so-called exploratory activities before
8 officially declaring in June 2015.

9 Notwithstanding the clear indications that the travel funded by RTR PAC was related to
10 either exploratory efforts or Bush's candidacy, Jeb 2016, once established, reported only a single
11 \$1,089 disbursement for travel during this time. In contrast, RTR PAC reported travel expenses
12 totaling over \$800,000.⁸⁹ Under these circumstances, the Commission finds reason to believe
13 that RTR PAC made excessive in-kind contributions to Jeb Bush and Jeb 2016 in the form of
14 unreimbursed travel expenses in violation of 52 U.S.C. § 30116(a).

⁸⁹ Amend. RTR PAC 2015 Mid-Year Report (July 31, 2015).

MSP working 11.9.18
ELW working edits 11/13/18
MSP/CCH edits 11/15/18
CCH/MSP edits 11/29/18

MSP/CCH 12.6.18

1 FEDERAL ELECTION COMMISSION
2 FACTUAL AND LEGAL ANALYSIS
3

4 RESPONDENT: John Ellis Bush MURs 6915 and 6927
5 Jeb 2016, Inc. and William Simon in his
6 official capacity as treasurer

7 I. INTRODUCTION

8 These matters were generated by complaints filed with the Federal Election Commission
9 (“Commission”). The complaints allege that John Ellis “Jeb” Bush, and Jeb 2016, Inc. and
10 William Simon in his official capacity as treasurer, Bush’s authorized campaign committee (“Jeb
11 2016”), violated the Federal Election Campaign Act of 1971, as amended (the “Act”), by
12 receiving excessive contributions from a multicandidate committee, Right to Rise PAC (“RT
13 PAC”), while Bush was testing the waters of a potential candidacy for President of the United
14 States. The complaints also allege that Bush became a candidate as early as January 2015
15 through his activities for an independent expenditure-only committee, Right to Rise USA (the
16 “Super PAC”) and, accordingly, that he violated the Act by failing to timely file a declaration of
17 candidacy and designate a principal campaign committee. Further, the complaints allege that
18 Bush established, financed, maintained, and controlled the Super PAC and that the Super PAC
19 acted on Bush’s behalf and, accordingly, that both Bush and the Super PAC violated the Act by
20 raising and spending funds in excess of the Act’s contribution limits and source prohibitions.
21 Finally, the complaints allege that Jeb 2016 violated the Act by failing to timely file a Statement
22 of Organization and required disclosure reports.

23 Respondents deny violating the Act. They assert that Bush personally paid for all of his
24 testing-the-waters activities, conducted them independently of RTR PAC and the Super PAC,
25 and correctly disclosed them after becoming a candidate. Respondents further assert that Bush

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1 did not establish, finance, maintain, or control the Super PAC; Bush's only role with respect to
2 the Super PAC was to appear as a featured guest at its fundraisers; and Bush timely filed a
3 Statement of Candidacy and designated a principal campaign committee after becoming a
4 candidate in June 2015. Respondents also assert that Jeb 2016 timely filed a Statement of
5 Organization and disclosure reports.

6 As explained below, the information in the record provides reason to believe that Bush
7 and Jeb 2016 may have violated 52 U.S.C. § 30116(f) by accepting potentially excessive in-kind
8 contributions from RTR PAC, and that Jeb 2016 may have violated 52 U.S.C. § 30104 by failing
9 to report such contributions. The Commission also finds reason to believe that Bush may have
10 violated 52 U.S.C. § 30102(e)(1) by failing to timely file a Statement of Candidacy and designate
11 a principal campaign committee, and that Jeb 2016 may have violated 52 U.S.C. §§ 30103(a) and
12 30104 by failing to timely file a Statement of Organization and disclosure reports.

13 II. FACTUAL BACKGROUND

14
15 On June 15, 2015, former Florida Governor John Ellis "Jeb" Bush publicly declared his
16 candidacy for President of the United States.¹ Bush had signed a Statement of Candidacy on

¹ See Response of Jeb Bush at 5, MURs 6915/6927 (Aug. 6, 2015) ("Third Bush Resp."); Response of Jeb Bush, Jeb 2016 at 2, MUR 6915 (Nov. 27, 2015) ("Fourth Bush Resp").

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1 June 5, designating Jeb 2016 as his authorized campaign committee with William Simon as the

2 Committee's treasurer;² Jeb 2016 filed its Statement of Organization on June 15.³

3 In May 2014, Bush began spending funds on exploratory activities to test the waters of a

4 potential 2016 presidential candidacy.⁴ On December 16, 2014, he publicly announced his

5 exploratory efforts on Facebook, writing that he had "decided to actively explore the possibility

6 of running for President of the United States."⁵

7 In the same December 16 Facebook post announcing his exploratory efforts, Bush

8 announced his "plan to establish a Leadership PAC" "to support leaders, ideas, and policies that

9 will expand opportunity and prosperity for all Americans."⁶ The PAC registered with the

10 Commission on January 6, 2015, as Right to Rise PAC, Inc.,⁷ and named Bush as its honorary

11 chairman.⁸ RTR PAC described its activities as including making contributions to federal

12 candidates and "facilitating" Bush's appearances to raise money for the PAC and communicate

13 on policy issues, which included paying for Bush's travel expenses.⁹

² Third Bush Resp. at 5 (citing Jeb Bush, Statement of Candidacy (June 5, 2015)). Bush signed his Statement on June 5, 2015, and filed it with the Commission on June 15, 2015.

³ *Id.* (citing Jeb 2016 Statement of Organization (June 15, 2015)).

⁴ See Amend. Jeb 2016, 2015 July Quarterly Report at 1675-90 (Jan. 31, 2016) (showing first payment for testing the waters to Kristy Campbell for \$1,875 for communications consulting on May 23, 2014).

⁵ See also MUR 6915 Compl. at 2 (Feb. 11, 2015) (citing "A Note from Jeb Bush," Dec. 16, 2014, available at

⁶ See MUR 6915 Compl. at 3; MUR 6927 Compl. at 2; First Bush Resp. at 2; Second Bush Resp. at 2; Third Bush Resp. at 5.

⁷ Statement of Organization, RTR PAC (Jan. 6, 2015). The PAC registered with the Commission as an unauthorized committee, and Respondents refer to it as a Leadership PAC. Third Bush Resp. at 17.

⁸ See First Bush Resp. at 1; Second Bush Resp. at 1.

⁹ See First Bush Resp. at 2; Second Bush Resp. at 2; Third Bush Resp. at 6. RTR PAC raised \$5,356,584 and spent \$4,896,426 between January and June 2015. See Amend. RTR PAC 2015 Mid-Year Report (July 31,

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1 The complaints allege that Bush tested the waters of a potential candidacy while
 2 attending RTR PAC fundraisers and events sponsored by third parties around the country.¹⁰
 3 Bush admits referring to his potential candidacy at several events — including a third-party
 4 fundraiser in Palm Beach¹¹; a privately hosted “house party” in New Hampshire¹²; an RTR PAC-
 5 sponsored event in Las Vegas¹³; in a presentation at the Economic Club in Detroit¹⁴; and in an
 6 interview with Fox News’s Megyn Kelly¹⁵ — but states that any such references were isolated,
 7 incidental, or in response to questions.¹⁶ Bush also linked his travel with his testing-the-waters
 8 activities in his public statements.¹⁷ And, as noted, Bush was testing the waters during the same
 9 period of time that he was fundraising for RTR PAC.

2015). It spent \$283,800 in contributions to other federal committees and candidates in the first half of 2015. *See id.*

¹⁰ See MUR 6915 Compl. at 3-4; MUR 6927 Compl. at 2-8.

¹¹ Third Bush Resp. at 7 (citing James Hohmann, *Jeb Bush Says Florida Years Show He’s No Moderate*, POLITICO (Feb. 26, 2015) (discussing Bush’s appearance at Club for Growth’s annual meeting in Florida), available at <http://www.politico.com/story/2015/02/jeb-bush-cpac-2015-115577.html?hp=lc3>).

¹² Third Bush Resp. at 4 (citing Morgan Palmer, *Jeb Bush Kicks Political Tires in Dover*, FOSTER’S DAILY DEMOCRAT (Mar. 13, 2015) (discussing Bush appearance at house party in Dover, N.H.), available at <http://www.seacoastonline.com/article/20150313/News/150319527>).

¹³ See Third Bush Resp. at 4 (citing Yesenia Amaro, *Potential 2016 Candidate Jeb Bush Talks Conservative Values at Vegas Event*, LAS VEGAS REVIEW-JOURNAL (Mar. 2, 2015) (quoting Bush as saying, “If I go beyond consideration, I will offer ideas”), available at <http://www.reviewjournal.com/politics/government/potential-2016-candidate-jeb-bush-talks-conservative-values-vegas-event>).

¹⁴ See Third Bush Response at 3 (citing *Jeb on Running as a Bush: ‘Interesting Challenge,’* POLITICO (Feb. 4, 2015) (quoting Bush as saying, “If I was to go beyond the consideration of running, I would have to deal with this and turn this fact into an opportunity to share who I am, to connect on a human level with people and offer ideas that are important to people . . . So that when they think of me, they think that I am on their side, that I care about them and that the issues I’m passionate about will help them rise up.”), available at <http://www.politico.com/story/2015/02/jeb-bush-candidate-2016-family-dynasty-114906.htm>).

¹⁵ See Third Bush Resp. at 4-5 (citing Interview by Megyn Kelly with Jeb Bush, *The Kelly File*, FOX NEWS NETWORK (May 10, 2015) (“Kelly Interview”) (quoting Bush as saying, “But here’s the deal, Megyn, if I go beyond the consideration of running to be an actual candidate, do you want people to just bend with the wind, to mirror people’s sentiment whoever is in front of you?”), available at <http://www.foxnews.com/politics/2015/05/10/exclusive-jeb-bush-says-hillary-clinton-would-have-backed-iraq-invasion>).

¹⁶ See Third Bush Resp. at 7, 32-33.

¹⁷ See MUR 6915 Supp. Compl. at n.1 (citing Theodore Schleifer, *It’s Getting Harder for Jeb Bush to Pretend He’s Not Running for President*, CNNPOLITICS.COM (May 13, 2015) (quoting Bush as saying, “No, no I’m

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1 After Bush declared candidacy in June 2015, Jeb 2016 identified only one travel expense
 2 as having been incurred for testing-the-waters purposes from May 2014 through June 2015, in
 3 the amount of \$1,089.¹⁸ By contrast, RTR PAC disclosed more than \$800,000 in travel expenses
 4 for the first half of 2015.¹⁹ Neither RTR PAC nor Jeb 2016 reported any RTR PAC payments of
 5 Bush's travel expenses as in-kind contributions for the period that Bush identified as having
 6 tested the waters.

7 On January 6, 2015, the same day that RTR PAC registered with the Commission, the

8 Super PAC registered with the Commission as an independent expenditure-only political
 9 committee.²⁰ The Super PAC later described itself as "the leading independent political action
 10 committee strongly supporting Jeb Bush for President."²¹ Bush states that the Super PAC "was
 11 formed by [his] supporters . . . to provide independent support to him should he decide to seek

not an official candidate. . . . I've been traveling the country for the last three months and making up my mind, trying to determine the support I may have should I go forward"), available at <http://www.cnn.com/2015/05/13/politics/jeb-bush-misuse-2016-campaign-finance>); Third Bush Response at 4-5 (citing Kelly Interview) (video showing Bush saying, "I don't know that. I've been traveling over the last three months, and I get the sense that people can be persuaded," in response to reporter's statement that his position on immigration would be "a deal breaker" in "getting though the GOP primary"), available at <http://insider.foxnews.com/2015/05/10/tune-megyn-kelly-interviews-jeb-bush-kelly-file-monday-9p-et>.

¹⁸ See Jeb 2016, 2015 July Quarterly Report at 1658 (July 15, 2015) (disclosing receipt of \$1,089.08 as "IN-KIND (TTW): TRAVEL/AIRFARE/LODGING"), 1687 (disclosing corresponding disbursement); *see also* Amend. Jeb 2016, 2015 July Quarterly Report at 1659 (Jan. 31, 2016) (disclosing receipt of \$1,089.08 as "IN-KIND (TTW): TRAVEL/AIRFARE/LODGING"), 1688 (disclosing corresponding disbursement) ("Amend. Jeb 2016, 2015 July Quarterly Report"). Jeb 2016 identified expenses totaling approximately \$516,870 as having been incurred for other testing-the-waters activities, such as research and polling, political and communications consulting, and legal fees. *See* Amend. Jeb 2016, 2015 July Quarterly Report at 1675-90, 1694-95, 1777 (Jan. 31, 2016); Third Bush Resp. at 2-3, 5, 30-31. In the same report, Jeb 2016 disclosed repaying RTR PAC \$484,348 for various expenses, including some travel; the reports do not indicate when RTR PAC incurred these travel expenses. *See* Amend. Jeb 2016, 2015 July Quarterly Report at 1785-88, 1792.

¹⁹ Amend. RTR PAC 2015 Mid-Year Report (July 31, 2015).

²⁰ The Super PAC originally registered as Right to Rise Super PAC, Inc. Statement of Organization, RTR Super PAC, Inc. (Jan. 6, 2015). The Super PAC filed an amended Statement of Organization, changing its name to Right to Rise USA. Statement of Organization, RTR USA (June 12, 2015).

²¹ *See* Fourth Bush Resp. at 4 (citing Super PAC's website).

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1 federal office.”²² The Supplemental Complaint in MUR 6927 claimed that “published reports
 2 indicate that Bush and his aides are actively involved in recruiting high-level staff for the Right
 3 to Rise Super PAC,”²³ including Michael Murphy, “one of [Bush’s] top advisers”²⁴; Mason
 4 Fink, who was reportedly expected to transition from RTR PAC to oversee national fundraising
 5 for the Super PAC²⁵; Neil Newhouse, who reportedly served as Bush’s pollster in previous
 6 gubernatorial campaigns²⁶; and Charles Spies, counsel for RTR PAC, who simultaneously
 7 served as treasurer and counsel for the Super PAC.²⁷ Respondents also acknowledge that Bush
 8 appeared as a “special guest at Super PAC fundraising events”²⁸ but assert that “Governor Bush
 9 has not solicited contributions on behalf of the [Super PAC].”²⁹

10 According to a media report cited by Bush’s counsel, Bush’s aides reportedly discussed
 11 general campaign strategy with the Super PAC’s staff³⁰ and allowed the Super PAC to film

²² First Bush Resp. at 2; *see also id.* at n.4 (quoting press report stating that “Mr. Bush’s allies are simultaneously launching a Super PAC by the same name that can accept unlimited funds.”) (citation omitted); Third Bush Resp. at 8 (stating that the Super PAC “was founded by supporters of Governor Bush”).

²³ *See* MUR 6927 Supp. Compl. at 5.

²⁴ *Id.*

²⁵ *Id.* at 7 (citing P. Rucker, Bush Lands Romney Finance Director to Lead Super PAC Fundraising, WASH. POST (Mar. 18, 2015)).

²⁶ *Id.* at 6 (citing P. Rucker and M. Gold, “*Top Republican Strategists in Talks to Join Jeb Bush’s super PAC*,” WASH. POST (March 17, 2015)).

²⁷ *Id.*

²⁸ Third Bush Resp. at 8; *see also* First Resp. at 2; Second Bush Resp. at 3; M. Bender, “What We’ve Learned About Jeb Bush So Far,” Mar. 24, 2015, *Bloomberg News*, available at <https://www.bloomberg.com/news/articles/2015-03-24/what-we-ve-learned-about-jeb-bush-so-far> (referring to Bush’s “fundraising blitz,” which included “raising money in Philadelphia on Tuesday, in Dallas on Wednesday with his brother, former President George W. Bush, and in Houston on Thursday with his father, another former president, and his mother,” and noting that “reporters were welcomed at six of the events over 11 days this month”) (cited in First Bush Resp. at n.2).

²⁹ Third Bush Resp. at 8 (citing Zeke Miller & Phillip Elliott, *How Jeb Bush’s Super PAC Will Spend \$103 Million*, TIME (July 9, 2015) (“Miller & Elliott”) (“Aides say Bush never directly made a fundraising ask, even before he declared his candidacy.”)); *see also* First Resp. at 2; Second Bush Resp. at 3.

³⁰ Miller & Elliott (“Campaign and super PAC aides could, and did, discuss broad strategies for how to approach the primary and general elections, including the strengths and weaknesses of Bush and his Democratic and Republican rivals.”).

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1 hours of interviews with Bush, which could be used for commercials after he officially declared
 2 his candidacy.³¹ Although the Super PAC's fundraising decreased significantly after Bush
 3 declared candidacy, it had raised more than \$103 million by June 2015³²; between January 1,
 4 2015 and December 31, 2015, the Super PAC spent more than \$47 million on independent
 5 expenditures,³³ and it spent an additional \$39.6 million on independent expenditures in 2016³⁴—
 6 all either supporting Bush or opposing other Republican presidential primary election

³¹ *Id.* (“The super PAC’s film crews did hours of interviews with Bush about his legislative and personal records, including education reform and cutting the size of Florida’s government, which can be cut down later into an ad by the super PAC team. In essence, the super PAC banked the bulk of its footage for commercials before it had an official candidate.”).

³² The Super PAC’s reported receipts decreased from \$103,167,845 in the first six months of 2015 to \$15,139,189.64 in the second half of the year. *See* Amend. RTR USA 2015 Mid-Year Report (May 20, 2016); Amend. RTR USA 2015 Year-End Report (May 20, 2016). The Super PAC reported total receipts of \$3,388,188.58 for Calendar Year 2016. *See* RTR USA 2016 Year-End Report (Jan. 31, 2017).

³³ *See* Super PAC Amend. 2015 Year-End Report at 4 (May 20, 2016) (reporting independent expenditures of \$47,211,785.91 in calendar year 2015), available at <http://docquery.fec.gov/pdf/695/201605209015993695/201605209015993695.pdf>.

³⁴ *See* Super PAC 2016 Year-End Report at 4 (Jan. 31, 2017) (reporting independent expenditures of \$39,605,692.40 in calendar year 2016), available at <http://docquery.fec.gov/pdf/637/201701319042234637/201701319042234637.pdf>.

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1 candidates.³⁵ Jeb 2016, Bush’s authorized campaign committee, raised \$31.9 million through

2 December 2015,³⁶ and less than \$35 million total in the 2015-2016 election cycle.³⁷

3 III. LEGAL ANALYSIS

4

5 A. There is Reason to Believe that Bush and Jeb 2016 May Have Accepted

6 Potentially Excessive and Unreported In-Kind Contributions From RTR PAC for

7 Testing-the-Waters Travel

8

9 A “candidate” is “an individual who seeks nomination for election, or election, to Federal

10 office.”³⁸ Under the Act, an individual “shall be deemed to seek nomination for election, or

11 election . . . if such individual has received contributions aggregating in excess of \$5,000 or has

12 made expenditures aggregating in excess of \$5,000” or “has given his or her consent to another

13 person to receive contributions or make expenditures on behalf of such individual and if such

14 person has received such contributions aggregating in excess of \$5,000 or has made such

15 expenditures aggregating in excess of \$5,000.”³⁹ Within 15 days after becoming a candidate, the

16 individual must designate a principal campaign committee by filing a Statement of Candidacy

17 with the Commission.⁴⁰ The principal campaign committee must file a Statement of

³⁵ See Report Summaries for Right to Rise USA (showing breakdown of Super PAC’s reported independent expenditures by candidate supported or opposed), <https://www.fec.gov/data/committee/C00571372/?tab=spending&cycle=2016>.

³⁶ See Jeb 2016 Amend. 2015 Year-End Report at 3 (May 16, 2016) (reporting receipt of \$31,873,116.96 in contributions in calendar year 2015), available at <http://docquery.fec.gov/pdf/289/201605169015504289/201605169015504289.pdf>.

³⁷ See Jeb 2016 2016 Year-End Report at 3 (Jan. 5, 2017) (reporting receipt of \$34,365,074.58 in contributions in election cycle), available at <http://docquery.fec.gov/pdf/184/201701059040973184/201701059040973184.pdf>.

³⁸ 52 U.S.C. § 30101(2).

³⁹ *Id.*

⁴⁰ 52 U.S.C. § 30102(e)(1); 11 C.F.R. § 101.1(a).

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1 Organization within ten days after its designation,⁴¹ and file periodic disclosure reports with the
2 Commission thereafter.⁴²

3 Commission regulations exempt from the definitions of “contribution” and “expenditure”
4 funds received and payments made by an individual solely to determine whether the individual
5 should become a candidate.⁴³ This exemption enables an individual to raise and spend money to
6 “test the waters” of a potential campaign without becoming a candidate under the Act.⁴⁴

7 Testing- the-waters activities include polling, telephone calls, and travel.⁴⁵ An individual who is
8 testing the waters need not register or file disclosure reports with the Commission unless and
9 until the individual becomes a candidate.⁴⁶ All funds raised and spent for testing-the-waters
10 activities are subject to the Act’s amount limitations and source prohibitions.⁴⁷ Once an
11 individual becomes a candidate, all reportable amounts from the beginning of the testing-the-
12 waters period must be disclosed on the first financial disclosure report filed by the candidate’s
13 committee, even if the funds were received or spent before the current reporting period.⁴⁸

14 The record here provides reason to believe that RTR PAC’s funding of Bush’s travel may
15 be attributable, at least in part, to Bush’s exploratory activities. Bush publicly announced that he

⁴¹ 52 U.S.C. § 30103(a); 11 C.F.R. § 102.1(a).

⁴² 52 U.S.C. § 30104(a)-(b); 11 C.F.R. part 104; *see, e.g.*, Factual and Legal Analysis at 6, MUR 6735 (Joseph A. Sestak); Factual and Legal Analysis at 5, MUR 6449 (Jon Bruning); Factual and Legal Analysis at 2, MUR 5363 (Alfred C. Sharpton).

⁴³ *See* 11 C.F.R. §§ 100.72(a), 100.131(a).

⁴⁴ *See, e.g.*, Advisory Op. 1981-32 (Askew) at 4.

⁴⁵ *See* 11 C.F.R. §§ 100.72(a), 100.131(a).

⁴⁶ 11 C.F.R. §§ 100.72(a), 100.131(a).

⁴⁷ 11 C.F.R. §§ 100.72(a), 100.131(a); *see* Factual & Legal Analysis at 3, MUR 6533 (Haney, *et al.*) (Once an individual decides to become a candidate, funds that were raised or spent to test the waters apply to the \$5,000 threshold for qualifying as a candidate); Factual & Legal Analysis at 5, MUR 6449 (Bruning, *et al.*) (same); *see also* Advisory Op. 2015-09 at 5 (Senate Maj. PAC, *et al.*) (concluding that “[i]f an individual becomes a candidate, payments that were made for testing-the-waters must have been made with ‘funds permissible under the Act’”).

⁴⁸ 11 C.F.R. §§ 101.3, 104.3(a)-(b).

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1 was creating RTR PAC and exploring a potential candidacy at the same time and in the same
 2 Facebook posting.⁴⁹ RTR PAC's reported travel expenses for the first half of 2015 totaled more
 3 than \$800,000.⁵⁰ Although RTR PAC states that the travel facilitated Bush's appearances as
 4 RTR PAC's honorary chairman,⁵¹ Bush's remarks at several of these events included references
 5 to his potential candidacy for President in 2016⁵² and, in at least two statements to reporters,
 6 Bush explicitly linked his travel during the February to May 2015 time period with his testing-
 7 the-waters activities.⁵³ And, as noted, he was testing the waters in the same time period that he
 8 raised funds for RTR PAC. Nonetheless, after Bush declared candidacy, Jeb 2016 identified
 9 disbursements of only \$1,089 for all testing-the-waters travel.⁵⁴ This contrast between Jeb
 10 2016's and RTR PAC's reported travel expenditures for a period in which Bush appears to have
 11 both traveled extensively for RTR PAC while simultaneously testing the waters indicates that
 12 RTR PAC may have funded some portion of Bush's testing-the-waters travel.

13 Accordingly, under these circumstances, the Commission finds reason to believe that
 14 Bush and Jeb 2016 may have violated 52 U.S.C. § 30116(f) by accepting excessive in-kind

⁴⁹ See *supra* n.5-n.6.

⁵⁰ See *supra* n.19.

⁵¹ See *supra* n.9.

⁵² See MUR 6927 Compl. at 6-7. For example, at the Conservative Political Action Conference in Maryland on February 27, 2015, Bush stated in an interview with Sean Hannity: “[I]f I go beyond the consideration of the possibility of running, which is the legal terminology that many of the people here coming to CPAC are probably using to not trigger a campaign, if I get beyond that and run for President, I have to show what's in my heart. I have to show that I care about people, about their future.” See *Jeb Bush Remarks at CPAC* (C-SPAN television broadcast Feb. 27, 2015, available at <http://www.cspan.org/video/324558-16/former-governor-jeb-bush-fl-remarks-cpac-2015>) (cited in MUR 6927 Compl. at 6, n.19); see also *supra* n.11-n.15; Third Bush Response at 3-5.

⁵³ See *supra* n.17.

⁵⁴ See *supra* n.17.

⁵⁴ See *supra* n.18.

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1 contributions in the form of unreimbursed travel expenses from RTR PAC, and Jeb 2016

2 violated 52 U.S.C. § 30104 by failing to report such contributions.

3 B. There is Reason to Believe that Bush May Have Filed His Statement of
 4 Candidacy Late and Jeb 2016 May Have Filed its Statement of Organization and
 5 Disclosure Reports Late

6 “Although an individual may raise or spend more than \$5000 on testing-the-waters

7 activity without becoming a candidate, the ‘testing-the-waters’ exemption does not apply ‘to

8 individuals who have decided to become candidates.”⁵⁵ Thus, the Commission’s testing-the-

9 waters regulations seek to distinguish activities directed to evaluating the feasibility of a

10 potential candidacy from conduct signifying that a decision to become a candidate has been

11 made.⁵⁶ The regulations set out five non-exhaustive factors to be considered in determining

12 whether an individual has moved beyond exploring a potential candidacy and has decided to

13 become a candidate: whether the individual (1) uses general public political advertising to

14 publicize his or her intention to campaign for Federal office; (2) raises funds in excess of what

15 could reasonably be expected to be used for exploratory activities or undertakes activities

16 designed to amass campaign funds that would be spent after the individual becomes a candidate;

17 (3) makes or authorizes statements referring to the individual as a candidate; (4) conducts

⁵⁵ Advisory Opinion 2015-09 (Senate Maj. PAC, *et al.*) at 5 (citing 11 C.F.R. §§ 100.72(b), 100.131(b); Advisory Opinion 1981-32 (Askew) at 4); *see also* Factual and Legal Analysis at 5-8, MUR 6775 (Ready for Hillary) (concluding that interaction between potential candidate and single-candidate Super PAC did not reflect decision by individual to run for federal office where individual and Super PAC confined their activities solely to evaluating individual’s potential candidacy).

⁵⁶ *See* Advisory Op. 1981-32 (Askew) at 4.

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1 activities in close proximity to an election or over a protracted period of time; and (5) takes
 2 actions to qualify for the ballot under State law.⁵⁷

3 The complaints allege that Bush's participation in the Super PAC's fundraising efforts
 4 shows that he was no longer testing the waters and had decided to become a candidate.⁵⁸
 5 Respondents assert that Bush did not solicit any funds for the Super PAC and that his
 6 participation in its fundraising was limited to appearing as a special guest.⁵⁹

7 Information in the record indicates the following: Bush tested the waters for several
 8 months before announcing his exploratory activities and the creation of Right to Rise PAC in a
 9 single December 2014 Facebook post; Right to Rise PAC and the Super PAC registered with the
 10 Commission on the same day three weeks later, using the same name and, reportedly, the same
 11 logo⁶⁰; Bush stated that the Super PAC "was formed by [his] supporters . . . to provide
 12 independent support to him should he decide to seek federal office"⁶¹; Bush reportedly knew
 13 when the Super PAC was being established and by whom⁶²; Bush did not raise any funds for
 14 testing-the-waters activities, but he reportedly invested considerable time and energy in the
 15 Super PAC's fundraising activities — an investment from which he could derive returns only as
 16 a candidate, given that the Super PAC was established to support his campaign; before Bush
 17 declared candidacy, his aides reportedly discussed campaign strategy with the Super PAC and

⁵⁷ 11 C.F.R. §§ 100.72(b)(2), 100.131(b)(2).

⁵⁸ MUR 6915 Compl. at 6-7 (May 4, 2015); MUR 6927 Compl. at 15-16 (Mar. 31, 2015).

⁵⁹ Third Bush Resp. at 8.

⁶⁰ See B. Reinhard, "Jeb Bush Registers 'Right to Rise PAC,'" Jan. 6, 2015, *Wall Street Journal*, available at <https://blogs.wsj.com/washwire/2015/01/06/jeb-bush-registers-right-to-rise-pac> (cited in First Bush Resp. at n.4).

⁶¹ See *supra* n.22.

⁶² *Supra* n.22 (quoting "Bush's spokeswoman Kristy Campbell" as stating, on same day Super PAC registered with Commission, "'We are aware that supporters of Gov. Bush are establishing today the Right to Rise super PAC'").

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1 allowed the Super PAC to film hours of interviews with Bush to be used in commercials
 2 supporting Bush after he declared candidacy; the Super PAC had raised more than \$103 million
 3 by the time Bush declared candidacy in June 2015; between June and December 2015, the Super
 4 PAC spent 50 percent more on independent expenditures in support of Bush or in opposition to
 5 other Republican presidential primary election candidates (\$47 million) than Bush's authorized
 6 committee had raised (\$31.9 million); and the Super PAC ultimately spent a total of \$86.8
 7 million in independent expenditures, all of which either supported Bush or opposed other
 8 Republican presidential primary election candidates.⁶³ Together, these factors indicate that
 9 Bush's activities vis-à-vis the Super PAC were so inextricably intertwined with his candidacy as
 10 to provide reason to believe that Bush may have decided to run for President before June 2015.⁶⁴

11 As noted above, the testing the waters exemption does not apply to individuals who have
 12 decided to become candidates. Because the information in the record provides reason to believe
 13 that Bush may have decided to run for federal office more than 15 days before filing his
 14 Statement of Candidacy and designating a principal campaign committee, and Jeb 2016's
 15 disclosure reports indicate that Bush spent more than \$5,000 in 2014 for testing-the-waters

⁶³ See *supra* n.33-n.35.

⁶⁴ Cf. Advisory Op. 1986-06 (Fund for America's Future). Although not dispositive, the Commission also notes comments that Bush made in January 2016 on MSNBC's morning talk show, Morning Joe, well after he filed his statement of candidacy. In an interview, Bush described a private meeting with Mitt Romney in January 2015 in which "we talked about the campaign 'cause he was thinking about running and I went out to see him. I wanted him to know that I was all in and had a plan to win this, and I still do." Supp. Compl. at 2, MUR 6915 (Feb. 16, 2016) (citing Kyle Cheney, *Watchdog Accuses Bush of Illegally Conveying His Intention to Run*, POLITICO (Jan. 5, 2016)); see <http://www.msnbc.com/morning-joe/watch/bush-trump-is-a-buddy-of-the-clintons-595966531784>. Bush asserts that his statement in the interview was taken out of context because "all in" referred "to being 'all in' on the process — as in taking it seriously, giving it his all" with respect to the testing-the-waters process, not an official campaign. Resp. of Jeb Bush, MUR 6915 at 3 (Mar. 31, 2016). In the interview, however, Bush said that he and Romney discussed "the campaign" and his "plan to win this." In contrast, he referred to Romney as merely "thinking about running" (emphasis added). Thus, Bush's meeting with Romney could be interpreted as indicating that Bush had decided to run and was trying to convince Romney not to run against him.

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1 activities,⁶⁵ the Commission finds reason to believe that Bush may have violated 52 U.S.C.

2 § 30102(e)(1) and 11 C.F.R. § 101.1(a), and that Jeb 2016 may have violated 52 U.S.C.

3 § 30103(a) by failing to timely file a Statement of Organization.

4

⁶⁵ See Amend. Jeb 2016, July 2015 Quarterly Report at 1675-1690 (Jan. 31, 2016) (showing itemized disbursements for testing-the-waters activity in 2014), available at <http://docquery.fec.gov/pdf/580/201601319005221580/201601319005221580.pdf>.