

**BEFORE THE
FEDERAL ELECTION COMMISSION**

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OFFICE OF GENERAL
COUNSEL
MUR No. 6917

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

Complainant,

v.

Scott Walker
115 East, State Capitol,
Madison, WI 53702

Our American Revival, and Andrew Hitt, treasurer
P.O. Box 628154
Middleton, WI 53562

Respondents.

SUPPLEMENT TO COMPLAINT

Complainant files this supplement to its initial complaint in MUR No. 6917 under 52 U.S.C. § 30109(a)(1) against Scott Walker, Our American Revival, and Andrew Hitt, its treasurer, in his official capacity (collectively, Respondents) for violating the Federal Election Campaign Act of 1971, as amended (“the Act”) and Federal Election Commission regulations, as described below.

As explained in the initial complaint, Respondent Walker, the current governor of Wisconsin, recently created Our American Revival (“OAR”), a political organization organized under section 527 of the Internal Revenue Code.¹ At the time, the facts indicated Gov. Walker was testing the waters for a campaign for president of the United States, using OAR as his exploratory committee, and raising and spending funds that are beyond the contribution limits and source restrictions of the Act.

¹ Our American Revival, IRS Form 8871, Political Organization, Notice of Section 527 Status, Jan. 16, 2015, available at <http://forms.irs.gov/app/pod/basicSearch/search?execution=e1s3&pacid=52380>.

The facts now show Gov. Walker has moved beyond testing the waters, and is a candidate for president. Gov. Walker, however, has failed to register and report as a candidate or designate a principal campaign committee, and he and OAR are soliciting and raising funds in violation of the Act.

A. FACTS

As previously explained, in late 2014 and early 2015, Gov. Walker explored a run for president in 2016. On January 27, 2015, in the midst of this testing the waters activity, Gov. Walker announced he had created OAR.² Although OAR is not registered with the Commission, Gov. Walker has operated it as his exploratory committee for his run for president.

Recent public statements by Gov. Walker and activities by OAR demonstrate he no longer is testing the waters. Gov. Walker is now a candidate for president. Foremost, Gov. Walker has publicly declared he is a candidate. In an interview conducted on February 27, 2015 and broadcast March 1, 2015, Gov. Walker was described as one of the “top contenders for the Republicans presidential nomination,” and repeatedly asked how he would conduct himself as president.³ Explaining in the interview that his views on immigration legislation recently changed, Gov. Walker asserted: “And my view has changed. I’m flat out saying it. I’m – uh, *candidates* can say that. Sometimes they don’t.”⁴

Supporting this acknowledgement he is a candidate, Gov. Walker also recently declared he is the “front-runner” in the race for president. In a March 10, 2015 interview, in which Gov.

² Dan Balz, [Scott Walker Forms Committee In Preparation For 2016 Presidential Bid](http://www.washingtonpost.com/blogs/post-politics/wp/2015/01/27/scott-walker-forms-committee-in-preparation-for-2016-presidential-bid/), *Washington Post*, Jan. 27, 2015, available at <http://www.washingtonpost.com/blogs/post-politics/wp/2015/01/27/scott-walker-forms-committee-in-preparation-for-2016-presidential-bid/>.

³ See <http://www.foxnews.com/on-air/fox-news-sunday-chris-wallace/2015/03/01/gov-walker-cpac-record-wisconsin-rep-scalise-talks-dhs-funding-fight#p/v/4087171184001>.

⁴ *Id.* (emphasis added). It is not clear whether Gov. Walker said “I’m – uh, candidates can say that” or “I’m – a candidates can say that”. The difference is irrelevant, as Gov. Walker clearly was referring to himself as either a candidate for president or one of the candidates for president.

Walker again was asked what he would do if elected president, the interviewer told Gov. Walker he was “singled out today by the President of the United States for signing right to work legislation yesterday,” and asked “How does that make you feel?”⁵ Gov. Walker responded: “Well, it suggests maybe we’re the front-runner, if somebody is taking an active interest in what a state governor is doing.”⁶

In addition to these statements, recent activity by Gov. Walker and OAR strongly suggest Gov. Walker is a candidate, and the organization is being used to support his candidacy. Two weeks after creating OAR, the organization opened an office in Iowa,⁷ the location of the first presidential caucus, and hung a sign outside quoting Gov. Walker.⁸ In addition, Gov. Walker announced last week in New Hampshire his two sons will not attend college next fall to campaign for him.⁹

Gov. Walker’s declaration he is a candidate has not stopped him from soliciting and accepting large contributions for OAR. OAR recently provided *CNN* a list of contributors “who have already committed to bundle funds for [Gov. Walker] or contribute significantly to a Super PAC that would be developed to support him should he run.”¹⁰ As *CNN* reported, in early March Gov. Walker asked billionaire Citadel Investment Group founder Kenneth Griffin for an undisclosed sum of money, and “came away with a hefty check” for OAR that was “in the low

⁵ Jon Fleischman, [Breitbart California Interview: Governor Scott Walker](http://www.breitbart.com/big-government/2015/03/11/breitbart-california-interview-governor-scott-walker/), *Breitbart*, March 11, 2015, available at <http://www.breitbart.com/big-government/2015/03/11/breitbart-california-interview-governor-scott-walker/>.

⁶ *Id.*

⁷ Terence Burlij, [Scott Walker Becomes First 2016 Contender To Open Iowa Office](http://www.cnn.com/2015/02/10/politics/scott-walker-iowa-office/), *CNN*, February 10, 2015, available at <http://www.cnn.com/2015/02/10/politics/scott-walker-iowa-office/>.

⁸ See http://host.madison.com/scott-walker-opens-political-office-in-iowa/image_f62ae86c-c2a0-5b78-90d8-bf49c41d9f93.html.

⁹ Philip Elliott and Kathleen Ronayne, [Wisconsin’s Walker: Sons Ditching College For Fall Campaign](http://bigstory.ap.org/article/95357a1657a749c6b1bf52ca9ac2a66e/wisconsin-walker-sons-ditching-college-fall-campaign), *Associated Press*, March 14, 2015, available at <http://bigstory.ap.org/article/95357a1657a749c6b1bf52ca9ac2a66e/wisconsin-walker-sons-ditching-college-fall-campaign>.

¹⁰ Erin McPike, [Scott Walker PAC: Jeb Bush Is Not The Only One Who Can Raise Money](http://www.cnn.com/2015/03/16/politics/scott-walker-pac-donors-bundlers/), *CNN*, March 16, 2015, available at <http://www.cnn.com/2015/03/16/politics/scott-walker-pac-donors-bundlers/>.

six figures.”¹¹ Gov. Walker also recently met with, or is scheduled to meet with soon, “card-carrying members of the GOP’s well-heeled donor class” in Chicago, Los Angeles, Miami, New York, and Texas, presumably to solicit large contributions.¹² In addition, OAR continues to advertise that it accepts unlimited contributions from individual, corporations, and political action committees.¹³

B. LEGAL ARGUMENT

1. Gov. Walker has failed to register and report as a candidate in violation of the Act.

Under the Act, an individual becomes a candidate for federal office, triggering the Act’s registration and reporting requirements, when the individual exceeds \$5,000 in contributions or expenditures.¹⁴ Among other requirements, a candidate must file a statement of candidacy and designate a principal campaign committee within 15 days of becoming a candidate.¹⁵ The regulations permit an individual who has not made the decision to run for office to raise funds for “testing the waters” to make that decision.¹⁶ While an individual is testing the waters, he or she may raise or expend funds for activities such as conducting a poll, making telephone calls, and traveling.¹⁷ An individual crosses the line from exploratory efforts to candidacy if he or she takes actions relevant to conducting a campaign.¹⁸ Those actions specifically include making or authorizing “written or oral statements that refer to him or her as a candidate for a particular office.”¹⁹

¹¹ *Id.* (see text of report and correction).

¹² *Id.*

¹³ Our American Revival website, “Donate” page, available at <https://www.ouramericanrevival.com/donate/>.

¹⁴ 52 U.S.C. § 30101(2); 11 C.F.R. § 100.3(a).

¹⁵ 11 C.F.R. § 101.1(a).

¹⁶ 11 C.F.R. § 100.72(a).

¹⁷ 11 C.F.R. § 100.131(a).

¹⁸ 11 C.F.R. §§ 100.72(b); 100.131(b).

¹⁹ 11 C.F.R. §§ 100.72(b)(3); 100.131(b)(3).

In publicly available news reports Gov. Walker has made statements that refer to himself as a candidate for president. Gov. Walker referred to himself as one of the candidates on February 27, 2015, adding on March 10 that President Obama's comments suggest he is the "front-runner." In addition, Gov. Walker announced his two sons would be skipping college in the fall to campaign for him, and Gov. Walker's political action committee, OAR, opened an office in Iowa.

Accordingly, Gov. Walker has qualified as a candidate under the Act, and has violated it by failing to register as a candidate with the Commission and designate a principal campaign committee to raise and spend money for his campaign.

2. Gov. Walker and OAR are soliciting and raising money in violation of the Act.

The Act prohibits federal candidates, their agents, and entities established, financed, maintained, or controlled by candidates from soliciting or receiving funds in connection with any election outside of the federal contribution and source limits.²⁰ When the Commission is considering whether a candidate has "established" an entity, the Commission focuses principally on whether the candidate "directly or through his agent, had an active or significant role in the formation of the entity."²¹ When considering whether a candidate "finances" or "maintains" an entity, the Commission considers a number of factors, including whether the candidate directly, or through his agent, provides funds or goods in a significant amount or on an ongoing basis to the entity, or causes or arranges for funds in significant amount or on an ongoing basis to be provided to the entity.²² Finally, when determining whether a candidate "controls" an entity, the Commission considers factors such as: (1) whether the candidate has the authority or ability to direct or participate in the governance of the entity; (2) whether the candidate has the authority to

²⁰ 52 U.S.C. § 30125(e); *see also* FEC Advisory Opinion 2011-21 (Lee).

²¹ 11 C.F.R. § 300.2(c)(2)(ix).

²² 11 C.F.R. § 300.2(c)(2).

hire, appoint, demote, or otherwise control the officers or decision-makers of the entity; and (3) whether the candidate has a common or overlapping membership with the entity that indicates a formal or ongoing relationship between the candidate and the entity.²³

The Act limits individual contributions to a candidate to \$2,700 per election during the 2015-16 election cycle, and contributions from a multi-candidate political action committee to \$5,000 per year.²⁴ In addition, corporations are strictly prohibited from making political contributions under the Act.²⁵

After he became a candidate, Gov. Walker solicited and received from Mr. Griffin a contribution “in the low six figures” for OAR, an amount far in excess of the Act’s prescribed limits. Gov. Walker also appears to have solicited and likely received additional contributions, some of which may exceed the limits and/or the source restrictions of the Act. In addition, the Commission should investigate Gov. Walker’s role in the establishment, organization, and operation of OAR. Publicly available reports indicate Gov. Walker played a leading role in OAR’s establishment, and he may control the group’s operations. If Gov. Walker or his agents established OAR, or if he or his agents directly or indirectly finance, maintain, or control the organization, OAR violated the Act if it accepted Mr. Griffin’s contribution, or any other contribution that exceed the limits and/or source restrictions of the Act.

C. REQUESTED ACTION

As shown, Respondent Walker violated the Act and Commission regulations by failing to register and report as a candidate and designate a principal campaign committee. Respondent Walker further violated the Act and Commission regulations by soliciting funds from Mr. Griffin in violation of the Act. Respondent OAR appears to have violated the Act by receiving those

²³ 11 C.F.R. § 300.2.

²⁴ 52 U.S.C. § 30116(a)(2)(A); 80 Fed. Reg. 5752 (Feb. 3, 2015).

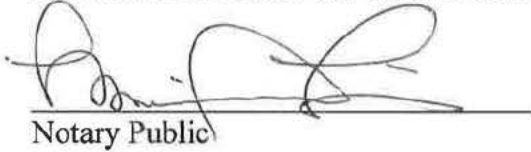
²⁵ 52 U.S.C. § 30118(a).

funds, and both Respondents may have solicited or received other contributions in violation of the Act. We again respectfully request that the Commission promptly investigate these violations, and that Respondents be enjoined from further violations and be fined the maximum amount permitted by law.

Sincerely,



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



Notary Public

My Commission Expires:

JAN 14, 2020

