

BEFORE THE UNITED STATES
FEDERAL ELECTION COMMISSION

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Campaign Legal Center
215 E Street, NE
Washington, DC 20002
(202) 736-2200

Democracy 21
2000 Massachusetts Avenue, NW
Washington, DC 20036
(202) 355-9600

v.

MUR No. 6927

John Ellis "Jeb" Bush
c/o Right to Rise PAC
P.O. Box 14349
Tallahassee, FL 32317

COMPLAINT

1. This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) and is based on information providing reason to believe that John Ellis "Jeb" Bush has been "testing the waters" of a 2016 presidential campaign and has not complied with and will not comply with the requirement that "testing the waters" activities be paid for with funds that comply with the Federal Election Campaign Act's ("FECA") candidate contribution limits and restrictions, in violation of FECA provisions, 52 U.S.C. § 30101, *et seq.*, and Commission regulations.
2. Additionally, this complaint is based on information providing reason to believe that Jeb Bush moved beyond "testing the waters" to become a "candidate" under FECA and violated the candidate registration and reporting requirements, contribution limits and restrictions, and "soft money" prohibitions of FECA, 52 U.S.C. § 30101, *et seq.*, and Commission regulations.

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3. “If the Commission, upon receiving a complaint . . . has reason to believe that a person has committed, or is about to commit, a violation of [FECA] . . . [t]he Commission shall make an investigation of such alleged violation” 52 U.S.C. § 30109(a)(2) (emphasis added); *see also* 11 C.F.R. § 111.4(a) (emphasis added).

FACTS

4. On December 16, 2014, former Florida Governor Jeb Bush announced that he had planned to “launch a political action committee tasked with ‘exploring a presidential bid.’”¹ Bush further stated via a Facebook note that he had “decided to actively explore the possibility of running for President of the United States,” and announced his plans to launch a “Leadership PAC” in January to “facilitate conversations with citizens across America to discuss the most critical challenges facing our exceptional nation.” He concluded his Facebook note stating: “In the coming months, I hope to visit with many of you and have a conversation about restoring the promise of America.”²
5. On January 6, 2015, it was reported that “Bush and his supporters launched two new political action committees . . . as he moves closer to a 2016 presidential campaign, underscoring his desire to get a head start on his potential rivals on both fundraising and organizing.”³ According to the *Washington Post*, the new PAC, Right to Rise (FEC ID# C00571380), “will serve as a holding area for staff and a policy shop until Bush formally decides on whether to run. It will also serve as the focal point of Bush’s political efforts,

¹ Jose A. DelReal, *Jeb Bush forms PAC to explore presidential run*, WASH. POST, Dec. 16, 2014, <http://www.washingtonpost.com/blogs/post-politics/wp/2014/12/16/jeb-bush-forms-pac-to-explore-presidential-run/>.

² *Id.* *See also* Facebook, “A Note From Jeb Bush,” (Dec. 16, 2014), <https://www.facebook.com/notes/jeb-bush/a-note-from-jebbush/619074134888300>.

³ Robert Costa, *Jeb Bush and his allies form leadership PAC and super PAC, both dubbed Right to Rise*, WASH. POST, Jan. 6, 2015, <http://www.washingtonpost.com/blogs/post-politics/wp/2015/01/06/jeb-bush-forms-new-pac-right-to-rise/>.

from commissioning polls and producing ads to making hires for his digital team.”⁴ On the same day, Right to Rise Super PAC (FEC ID# C00571372) was also formed.

6. Bush’s advisers are reportedly “overseeing the operations of both Bush political committees”—Right to Rise PAC and Right to Rise Super PAC.⁵
7. Shortly after formation of Right to Rise PAC and Right to Rise Super PAC, “multiple Republican sources involved in finance meetings with Bush’s team” told reporters that Bush’s team had set a “fundraising goal of \$100 million in the first three months of this year—including a whopping \$25 million haul in Florida—in an effort to winnow the potential Republican presidential primary field with an audacious display of financial strength.”⁶
8. During a January visit to Washington DC, Bush met with Republican lobbyists “to provide an update on his expected run for president and let supporters know how they could boost his budding campaign.” Bush operatives “announced that 60 events in cities across the country have been scheduled to raise money for his federal leadership political action committee, which can accept money only in limited amounts, and his super PAC, which can accept checks in unlimited amounts.” According to one attendee, “Bush talked about how the expected campaign of Democrat Hillary Clinton, the former secretary of state under President Obama, would ‘be a campaign

⁴ *Id.*

⁵ Ed O’Keefe, *Jeb Bush sharpens his attacks on President Obama in South Carolina*, WASH. POST, Mar. 17, 2015, http://www.washingtonpost.com/politics/jeb-bush-sharpens-his-attacks-on-president-obama-in-south-carolina/2015/03/17/56b4d628-ccca-11e4-8c54-fb5ba6f2f69_story.html.

⁶ Michael C. Bender and Jonathan Allen, *Bush Team Sets Bold Fundraising Goal: \$100 Million in Three Months*, BLOOMBERG POLITICS, Jan. 9, 2015, <http://www.bloomberg.com/politics/articles/2015-01-09/bush-team-sets-bold-fundraising-goal-100-million-in-three-months>.

of the past dating back to what happened in the 1990s' and that his 'will be candidacy of future' focusing on positive immigration reform, among other issues."⁷

9. Bush's mother, Barbara Bush, has been soliciting contributions via e-mail for a fund within the Right to Rise Super PAC—the Run Jeb Run Fund, stating in the email solicitation: "I know that's a lot to ask, but Jeb is our best chance of taking back the White House in 2016, and I hope that you will join me in pushing him to run."⁸
10. Bush has spent much of the past three months traveling across the country, as evidenced from a plethora of news reports, as well as from his own statements on Twitter.⁹ In the past month alone, Bush has been to Illinois, the District of Columbia, Nevada, Iowa, New Hampshire, and South Carolina—and he has publicized and promoted these stops on social media.¹⁰
11. Bush's extensive travels have been "a nonstop fundraising tour raking in millions" for the Right to Rise Super PAC "to back his expected presidential bid."¹¹ Bush headlined a \$25,000-per-couple fundraising event on March 30 in Newport Beach, CA and is scheduled to attend a March 31 fundraising event in Bel Air, CA, with a requested minimum donation of \$25,000 per couple, and with those attendees who wish to

⁷ 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>.

⁸ Ed O'Keefe, *In fundraising E-mail, Barbara Bush says Jeb Bush 'Is Our Best Chance of Taking Back the White House in 2016'*, WASH. POST, Mar. 18, 2015, <http://www.washingtonpost.com/blogs/post-politics/wp/2015/03/18/in-fundraising-e-mail-barbara-bush-says-jeb-bush-is-our-best-chance-of-taking-back-the-white-house-in-2016/>. See also Right to Rise Super PAC, Run Jeb Run Fund Contribution Page, <https://contribute.righttorisesuperpac.org/run-jeb-run-fund/> (last visited Mar. 27, 2015) ("Please stand with Barbara Bush and contribute to the Run Jeb Run Fund today!").

⁹ See generally Twitter Account of @Jeb Bush, TWITTER, <https://twitter.com/jebbush> (last visited Mar. 19, 2015) (tweets indicating his frequent travel to meet with high profile individuals and speak on national issues in the last month alone: Mar. 18, 2:38pm—South Carolina; Mar. 13, 2:11pm—New Hampshire; Mar. 7, 5:17pm—Iowa; Mar. 2, 3:28pm—Nevada; Feb. 27, 12:54pm—Washington, D.C.; Feb 18. 8:43am—Illinois).

¹⁰ *Id.*

¹¹ 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>.

attend the reception and dinner being asked to contribute \$100,000 per couple to Right to Rise Super PAC.¹²

12. In mid-March, Bush paid a visit to the early primary state of South Carolina, holding “private meetings with potential donors, supporters and staffers” in Myrtle Beach and Charleston.¹³
13. In February Bush drew headlines for an “eye-popping \$100,000 per-ticket Park Avenue event hosted by private equity mogul Henry Kravis and his wife. The price of admission to the event, which [raised] funds for Bush’s ‘Right to Rise’ super PAC, surprised even Wall Street veterans used to high-dollar fundraisers.”¹⁴ The New York City event was part of Bush’s “shock and awe approach to early 2016 fundraising that people close to the campaign say could eventually see the former governor reach a total of between \$50 million and \$100 million between the super PAC, a traditional political action committee and an eventual presidential campaign.”¹⁵
14. Bush’s campaign strategy reportedly began in November 2013. In 2015, “Bush’s team hit the phones and emails with what some have called a ‘shock and awe’ campaign that could raise between \$50 million and \$100 million by the end of the first quarter of the year.” By the end of March, “Bush’s team believes, many would-be competitors will have joined Romney on the sidelines, unwilling or unable to compete with the Bush

¹² *Id.*

¹³ Ed O’Keefe, *Jeb Bush sharpens his attacks on President Obama in South Carolina*, WASH. POST, Mar. 17, 2015, http://www.washingtonpost.com/politics/jeb-bush-sharpens-his-attacks-on-president-obama-in-south-carolina/2015/03/17/56b4d628-ccca-11e4-8c54-fb5ba6f2f69_story.html.

¹⁴ Ben White, *Jeb Bush’s eye-popping event: \$100K per ticket*, POLITICO, Feb. 10, 2015, <http://www.politico.com/story/2015/02/jeb-bush-fundraiser-100k-per-ticket-115086.html>.

¹⁵ *Id.*

- juggernaut, while the candidate can be freed up to address the many serious questions about why another Bush is the best solution to the nation's problems.”¹⁶
15. By March 2015, as Bush was “headlining a series of high-dollar events” for Right to Rise Super PAC, his team sent out an “unusual request . . . to wealthy donors writing large checks to support former Florida governor Jeb Bush: Please don't give more than \$1 million right away.” Bush advisers were reportedly concerned that “accepting massive sums from a handful of uber-rich supporters could fuel a perception that the former governor is in their debt.”¹⁷
 16. According to one report, Bush and other “likely candidates” have been “deeply involved in setting up their outside-spending vehicles, installing top staff and drawing down funds to pay for early voter contact, including trips to primary states.”¹⁸
 17. In late February 2015, Bush attended and spoke at the Conservative Political Action Conference (CPAC), where he began his remarks by effectively acknowledging that he is testing the waters of a presidential campaign, stating: “If I go beyond the consideration of the possibility of running . . . if I get beyond that and run for President, I have to show what's in my heart.”¹⁹
 18. In early March 2015, Bush, together with eight other “White House aspirants,” attended the Iowa agriculture summit—an important stop on the road to Iowa's 2016 presidential caucuses—where Bush took the stage to “court[] Iowa's farming industry.” Bush

¹⁶ Ben White and Mark Caputo, *Inside Jeb Bush's 'shock and awe' launch*, POLITICO, Feb. 18, 2015, <http://www.politico.com/story/2015/02/inside-jeb-bushs-shock-and-awe-launch-115272.html>.

¹⁷ Matea Gold, *Awash in cash, Bush asks donors not to give more than \$1 million – for now*, WASH. POST, Mar. 4, 2015, http://www.washingtonpost.com/politics/awash-in-cash-bush-asks-donors-to-limit-gifts-to-1-million--for-now/2015/03/04/0b8d3fc6-c1c8-11e4-9271-610273846239_story.html.

¹⁸ Alex Altman, *How Super PACs Are Taking Over*, TIME, Mar. 25, 2015, <http://time.com/3758900/super-pacs-2016/>.

¹⁹ *Jeb Bush Remarks at CPAC*, (C-SPAN television broadcast Feb. 27, 2015), available at <http://www.c-span.org/video/?324558-16/former-governor-jeb-bush-rfi-remarks-cpac-2015>.

criticized the Environmental Protection Agency and called for reining in “this top-down driven regulatory system.” Asked how to achieve that, Bush said, “The first thing you do is you change presidents.”²⁰

19. Bush is a confirmed speaker for the Iowa Republican party’s annual Lincoln dinner on May 16, 2015. The Party’s announcement explains: “There’s always the chance for a candidate to have a defining moment at an event like this in Iowa. This dinner is an opportunity for our distinguished guests to set themselves apart and announce to Iowa and the country why they should be the next President of the United States. . . . The Lincoln Dinner is an important stepping stone for candidates on their way to the caucuses in February 2016.”²¹
20. Bush’s campaign activities have not been limited to fundraising and meetings with party leaders in early primary states. “The political apparatus surrounding former Gov. Jeb Bush, determined to avoid embarrassment in a state that has vexed his party and family in national elections, is plotting a vast operation aimed at turning Florida into a bulwark for his presidential campaign, according to dozens of interviews. The plan, code-named ‘Homeland Security,’ seeks to try to neutralize two potentially grave but homegrown threats to Mr. Bush’s long-anticipated run for president: the likely challenge from a charismatic young Republican senator from Miami, Marco Rubio . . . and a demographic drift within Florida that could doom Mr. Bush there in a fall campaign against a Democrat.”²²

²⁰ Philip Rucker and Dan Balz, *Iowa agriculture summit splits GOP 2016 field on subsidies, immigration*, WASH. POST, Mar. 7, 2015, http://www.washingtonpost.com/politics/iowa-agriculture-summit-splits-gop-2016-field-on-subsidies-immigration/2015/03/07/a5f12300-c4f4-11e4-ad5c-3b8ce89f1b89_story.html.

²¹ Press Release, Republican Party of Iowa, *Iowa GOP to Host Star-Studded Lincoln Dinner on May 16*, Mar. 26, 2015, <http://www.iowagop.org/2015/03/26/iowa-gop-to-host-star-studded-lincoln-dinner-on-may-16/>.

²² Michael Barbaro, *Jeb Bush’s Team Plots Vast Effort to Win Florida*, N.Y. TIMES, Mar. 21, 2015, http://www.nytimes.com/2015/03/22/us/politics/jeb-bushs-team-plots-vast-effort-to-win-florida.html?_r=3.

21. Throughout the early months of 2015, Bush has been building a presidential campaign staff. Bush has hired “Jon Downs and Danny Diaz, both founding partners in the Washington-based political firm FP1 Strategies, [to] help steer advertising and messaging efforts for Bush’s Right To Rise Leadership PAC” and “will hold similar roles on a potential campaign if Bush decides to officially become a candidate, a prospect that appears likelier by the day.” Bush has also hired “David Kochel, a veteran Iowa operative and longtime adviser to Mitt Romney, to serve as an adviser to the PAC and likely campaign manager.”²³

SUMMARY OF THE LAW

I. “CANDIDATE” STATUS & “TESTING THE WATERS”

22. The term “candidate” is defined in FECA to mean “an individual who seeks nomination for election, or election, to Federal office” and for purposes of the statutory definition an individual is deemed to seek nomination for election, or election, “if such individual has received contributions aggregating in excess of \$5,000 or has made expenditures aggregating in excess of \$5,000” or “given his or her consent to another person to receive contributions or make expenditures on behalf of such individual and if such person has received such contributions aggregating in excess of \$5,000 or has made such expenditures aggregating in excess of \$5,000.” 52 U.S.C. § 30101(2) (emphasis added); *see also* 11 C.F.R. § 100.3(a).
23. The term “contribution” is defined in FECA to mean “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of

²³ Peter Hamby and Mark Preston, *Jeb Bush adds veteran consultants to likely campaign team*, CNN, Feb. 2, 2015, <http://www.cnn.com/2015/02/02/politics/2016-election-jeb-bush-hiring/>.

influencing any election for Federal office.” 52 U.S.C. § 30101(8)(A)(i) (emphasis added); *see also* 11 C.F.R. §§ 100.51–100.56.

24. The term “expenditure” is defined in FECA to mean “any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office.” 52 U.S.C. § 30101(9)(A)(i) (emphasis added); *see also* 11 C.F.R. §§ 100.110–100.114.
25. The Commission has explained that under FECA, “an individual is deemed a ‘candidate’ . . . if he or she receives contributions or makes expenditures in excess of \$5,000 or gives consent to another person” to do so on his or her behalf. *See Payments Received for Testing the Waters Activities*, 50 Fed. Reg. 9992–93 (Mar. 13, 1985) (Final Rules and Explanation and Justification).²⁴
26. The Commission has further explained: “The Act thus establishes automatic dollar thresholds for attaining candidate status which trigger its registration and reporting requirements.” However, “[t]hrough its regulations, the Commission has established limited exceptions to these automatic thresholds which permit an individual to test the feasibility of a campaign for Federal office without becoming a candidate under the Act.” *See Payments Received for Testing the Waters Activities*, 50 Fed. Reg. at 9992–93 (emphasis added).
27. These “limited exceptions” to the definitions of “contribution” and “expenditure” are commonly referred to as the “testing the waters” exceptions and are found at 11 C.F.R. §§ 100.72 and 100.131. In the absence of these regulatory exemptions, funds raised and spent for the activities described therein would be “contributions” and “expenditures”

²⁴ Available at http://www.fec.gov/law/cfr/ej_compilation/1985/50fr9992.pdf.

under federal law and would therefore trigger “candidate” status when they exceeded \$5,000.

28. Section 100.72(a), structured as a limited exception to the definition of “contribution,” provides:

Funds received solely for the purpose of determining whether an individual should become a candidate are not contributions. . . . Only funds permissible under the Act may be used for such activities. The individual shall keep records of all such funds received. See 11 CFR 101.3. If the individual subsequently becomes a candidate, the funds received are contributions subject to the reporting requirements of the Act. Such contributions must be reported with the first report filed by the principal campaign committee of the candidate, regardless of the date the funds were received.

11 C.F.R. § 100.72(a) (emphasis added).

29. Section 100.72(b) makes clear that the exception is “not applicable to individuals who have decided to become candidates[,]” nor “for activities relevant to conducting a campaign.” 11 C.F.R. § 100.72(b) (emphasis added). Examples of activities that indicate that an individual has decided to become a candidate include, but are not limited to:

- (1) The individual uses general public political advertising to publicize his or her intention to campaign for Federal office.
- (2) The individual raises funds in excess of what could reasonably be expected to be used for exploratory activities or undertakes activities designed to amass campaign funds that would be spent after he or she becomes a candidate.
- (3) The individual makes or authorizes written or oral statements that refer to him or her as a candidate for a particular office.
- (4) The individual conducts activities in close proximity to the election or over a protracted period of time.
- (5) The individual has taken action to qualify for the ballot under State law.

11 C.F.R. § 100.72(b) (emphasis added).

30. Section 100.131 creates a near-identical exception to the definition of “expenditure,” replacing the opening phrase “funds received” with the phrase “payments made.” 11 C.F.R. § 100.131.

31. Sections 110.2(l) and 9034.10 establish certain activities as *de facto* “testing the waters” activities—payments for:

- Polling expenses for determining the favorability, name recognition, or relative support level of the candidate involved;
- Compensation paid to employees, consultants, or vendors for services rendered in connection with establishing and staffing offices in States where Presidential primaries, caucuses, or preference polls are to be held, other than offices in the candidate’s home state and in or near the District of Columbia;
- Administrative expenses, including rent, utilities, office supplies and equipment, in connection with establishing and staffing offices in States where Presidential primaries, caucuses, or preference polls are to be held, other than offices in the candidate’s home state and in or near the District of Columbia; or
- Expenses of individuals seeking to become delegates in the Presidential nomination process.

11 C.F.R. §§ 110.2(l)(1) and 9034.10(a).

32. These regulations, 11 C.F.R. §§ 110.2(l) and 9034.10, make clear that payments for such activities benefiting presidential candidates, paid for by federal multicandidate committees before the individual announces her candidacy, constitute in-kind “contributions” from the multicandidate committee to the candidate subject to the \$5,000 limit on contributions from multicandidate committees to candidates—unless reimbursed by the candidate. The Commission has explained:

These provisions were designed to address situations where unauthorized political committees closely associated with a particular individual planning to run for President defray costs that are properly treated as in-kind contributions unless reimbursed by the Presidential campaign. . . . The focus of the final rules, therefore, is those expenses paid by multicandidate political committees prior to actual candidacy under the law, i.e., during the “testing the waters” phase and before.

Public Financing of Presidential Candidates and Nominating Conventions, 68 Fed. Reg. 47386, 47387, 47407 (Aug. 8, 2003) (Final Rules and Explanation and Justification).

33. In Advisory Opinion 1985-40, the Commission concluded that travel expenses and hospitality suite rentals for a prospective presidential candidate’s attendance at state and

regional Republican Party meetings and conferences, described as “cattle shows” that would “be attended by party officials, party activists, elected officeholders, political consultants, and the press,” constituted “testing the waters” expenses. Similarly, the Commission concluded that expenses related to the prospective candidate’s “travel to early primary and convention states to meet privately with Republican Party leaders to seek their views on whether he should seek the 1988 Republican presidential nomination” constituted “testing the waters” activities. Finally, the Commission concluded that expenses related to setting up “steering committees in certain states, such as Iowa and New Hampshire, which will hold early caucuses and primaries in connection with the 1988 Republican presidential nomination” constituted “testing the waters” activities. FEC Advisory Opinion 1985-40 at 6-9.

II. Registration & Reporting Requirements

34. No later than 15 days after becoming a candidate, a candidate for federal office must “designate in writing a political committee . . . to serve as the principal campaign committee of such candidate” by filing a Statement of Candidacy using the Commission’s Form 2. 52 U.S.C. § 30102(e)(1); 11 C.F.R. § 101.1. Such a committee must file a statement of organization no later than 10 days after designation as the candidate’s authorized principal campaign committee. 52 U.S.C. § 30103.
35. The treasurer of a political committee must file reports of receipts and disbursements pursuant to 52 U.S.C. § 30104.
36. All funds received or payments made in connection with “testing the waters” activities conducted under 11 C.F.R. §§ 100.72(a) and 100.131(a) prior to becoming a candidate are “considered contributions or expenditures under the Act and shall be reported . . . in the first report filed by such candidate’s principal campaign committee.” 11

C.F.R. § 101.3. An individual “testing the waters” must keep records of the “name of each contributor, the date of receipt and amount of all contributions received and all expenditures made in connection with” “testing the waters” activities. *Id.*

III. CONTRIBUTION LIMITS & RESTRICTIONS

37. A presidential candidate’s principal campaign committee, together with any other committees authorized by the candidate, may not accept contributions from an individual that, in the aggregate, exceed \$2,700 per election. 52 U.S.C. § 30116(a)(1)(A).²⁵ Candidates may not accept contributions from political party committees and other multicandidate PACs that exceed \$5,000 per election. 52 U.S.C. § 30116(a)(2).
38. Contributions made from a candidate’s personal funds to her campaign are not subject to any limits, though they must still be reported. *See* 11 C.F.R. § 110.10; *see also* FEC Advisory Opinions 1991-09, 1990-09 and 1985-33.
39. Candidate committees may not accept contributions from corporations or labor organizations. 52 U.S.C. § 30118(a).
40. A federal candidate, officeholder, or any entity directly or indirectly established, financed, maintained or controlled by or acting on behalf of a candidate is prohibited from soliciting, receiving, directing, transferring or spending funds in connection with a federal election unless the funds are subject to the limitations, prohibitions, and reporting requirements of FECA. 52 U.S.C. § 30125(e)(1).

²⁵ As prescribed by statute under 52 U.S.C. § 30116(c), the \$2,000 limit has been adjusted for changes in the cost of living at the beginning of every odd-numbered year since 2002, most recently in this month. *See* Price Index Adjustments for Expenditure Limitations and Lobbying Bundling Disclosure Threshold, 80 Fed. Reg. 5750, 5752 (Feb. 3, 2015).

CAUSES OF ACTION

COUNT I:

There is reason to believe that Jeb Bush has been “testing the waters” of a 2016 presidential campaign and has not complied and will not comply with the requirement that “testing the waters” activities be paid for with funds that comply with FECA’s candidate contribution limits and restrictions in violation of provisions of FECA.

41. FECA and Commission regulations and advisory opinions make clear that activities engaged in for the purpose of determining whether an individual should become a candidate constitute “testing the waters” and must be paid for with funds that comply with FECA’s contribution limits and restrictions, and must be reported by an individual who becomes a candidate on that candidate’s first disclosure report.
42. Whether or not someone is “testing the waters,” and thus subject to the candidate contribution limits and prohibitions of federal law, is a fact-based question and cannot be dismissed solely based on a person’s statements during public appearances that they are not “testing the waters.”
43. Based on published reports detailed above, complainants have reason to believe that Jeb Bush and/or his agents have engaged in activities for the purpose of determining whether he should become a candidate, including but not limited to:
 - Conducting a poll for the purpose of determining whether an individual should become a candidate;
 - Telephone calls for the purpose of determining whether an individual should become a candidate;
 - Travel for the purpose of determining whether an individual should become a candidate;
 - Polling expenses for determining the favorability, name recognition, or relative support level of the candidate involved;
 - Compensation paid to employees, consultants, or vendors for services rendered in connection with establishing and staffing offices in states other than the candidate’s home state and in or near the District of Columbia;
 - Administrative expenses, including rent, utilities, office supplies and equipment, in connection with establishing and staffing offices in states other than the candidate’s home state and in or near the District of Columbia;

- Travel expenses to attend, address and rent hospitality suites at conferences where the individual “indicates his potential interest in, and his ongoing consideration of whether to seek” his party’s nomination;
- Travel expenses for private meetings with state party leadership to gauge support of a possible candidacy; and
- Expenses to set up “steering committees” in early caucus/primary states with the understanding that the committee will become the official campaign organization in the event the individual runs for office.

44. Based on published reports detailed above, complainants have reason to believe that payments have been made for Jeb Bush’s “testing the waters” activities—*i.e.*, activities for the purpose of determining whether to run for president—using funds not in compliance with the candidate contribution limits and restrictions established by 52 U.S.C. §§ 30116(a) and 30118(a), including payments made by Bush and/or Right to Rise PAC and/or Right to Rise Super PAC and/or others, in violation of federal law candidate contribution limits and restrictions established by 52 U.S.C. §§ 30116(a) and 30118(a).

COUNT II:

There is reason to believe that Jeb Bush moved beyond “testing the waters” to become a “candidate” under FECA and violated the candidate registration and reporting requirements, contribution limits and restrictions, and “soft money” prohibitions of FECA.

45. Under FECA, an individual is deemed a “candidate” if she receives contributions or makes expenditures in excess of \$5,000. *See* 52 U.S.C. § 30101(2); *see also* 11 C.F.R. § 100.3(a).
46. The limited “testing the waters” exception to “candidate” status is “not applicable to individuals who have decided to become candidates[.]” nor “for activities relevant to conducting a campaign.” 11 C.F.R. § 100.72(b) (emphasis added); *see also id.* § 100.131(b). Examples of activities that indicate that an individual has decided to become a candidate include raising “funds in excess of what could reasonably be expected to be used for exploratory activities or undertakes activities designed to amass

campaign funds that would be spent after he or she becomes a candidate” and making written or oral statements that refer to him or her as a candidate for a particular office.”

11 C.F.R. § 100.72(b) (emphasis added).

47. Based on published reports detailed above, complainants have reason to believe that Jeb Bush has received contributions and made expenditures in excess of \$5,000, triggering “candidate” status under 52 U.S.C. § 30101(2).
48. Based on published reports detailed above, complainants have reason to believe that Jeb Bush has decided to become a candidate, as indicated by his activities on behalf of Right to Rise Super PAC to raise “funds in excess of what could reasonably be expected to be used for exploratory activities” and “designed to amass campaign funds that would be spent after he or she becomes a candidate,” rendering inapplicable the “testing the waters” exception to “candidate” status established by 11 C.F.R. §§ 100.72(b) and 100.131(b).
49. Based on published reports detailed above, complainants have reason to believe that as a “candidate” under FECA, Jeb Bush has failed to comply with the candidate registration and reporting requirements established by 52 U.S.C. §§ 30102(e)(1), 30103 and 30104, as well as the candidate contribution limits and restrictions established by 52 U.S.C. §§ 30116(a), 30118 and 30125(e)(1).

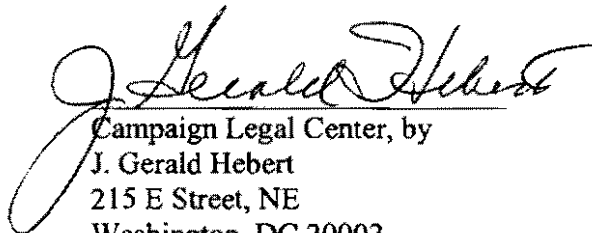
PRAYER FOR RELIEF


50. Wherefore, the Commission should find reason to believe that Jeb Bush has violated 52 U.S.C. § 30101, *et seq.*, including 52 U.S.C. §§ 30116(a), 30118(a), 30102(e)(1), 30103 and 30104, and conduct an immediate investigation under 52 U.S.C. § 30109(a)(2). Further, the Commission should determine and impose appropriate sanctions for any and all violations, should enjoin the respondents from any and all violations in the future, and

should impose such additional remedies as are necessary and appropriate to ensure compliance with the FECA.

March 31, 2015

Respectfully submitted,


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Democracy 21, by
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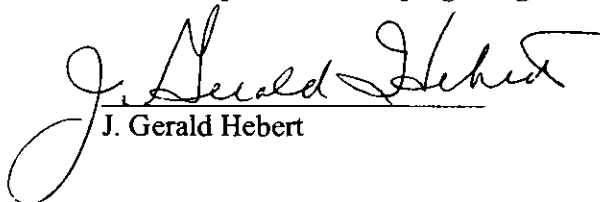
Counsel to Democracy 21

VERIFICATION

The complainants listed below hereby verify that the statements made in the attached Complaint are, upon their information and belief, true.

Sworn to pursuant to 18 U.S.C. § 1001.


For Complainant Campaign Legal Center


J. Gerald Hebert

Sworn to and subscribed before me this 31 day of March, 2015.


Notary Public

For Complainant Democracy 21


Fred Wertheimer

Sworn to and subscribed before me this 31 day of March, 2015.


Notary Public

