



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

VIA ELECTRONIC AND FIRST CLASS MAIL

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SEP 18 2017

RE: MUR 7276 (Right to Rise USA)
(formerly Pre-MUR 591)

Dear Messrs. Spies and Tyrrell:

On February 25, 2017, Right to Rise USA and Charles R. Spies in his official capacity as treasurer ("Right to Rise") filed a *sua sponte* submission notifying the Federal Election Commission ("Commission") that Right to Rise may have violated certain provisions of the Federal Election Campaign Act of 1971, as amended ("Act").

Upon review of the available information, the Commission, on September 12, 2017, opened a matter under review and found reason to believe that Right to Rise violated 52 U.S.C. § 30104(g). The Factual and Legal Analysis, which provides the basis for the Commission's findings, is enclosed for your information.

Please note that you have a legal obligation to preserve all documents, records, and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. *See* 18 U.S.C. § 1519.

In order to expedite the resolution of this matter, the Commission has authorized the Office of the General Counsel to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Pre-probable cause conciliation is not mandated by the Act or the Commission's regulations, but is a voluntary step in the enforcement process that the Commission is offering to resolve this matter at an early stage and without the need for briefing the issue of whether or not the Commission should find probable cause to believe that Right to Rise violated the law.

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If Right to Rise is interested in engaging in pre-probable cause conciliation, please contact Dominique Dillenseger, the attorney assigned to this matter, at (202) 694-1650 or ddillenseger@fec.gov, within seven days of receiving this letter. During conciliation, you may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Because the Commission only enters into pre-probable cause conciliation in matters that it believes have a reasonable opportunity for settlement, it may proceed to the next step in the enforcement process if a mutually acceptable conciliation agreement cannot be reached within sixty days. *See* 52 U.S.C. § 30109(a), 11 C.F.R. Part 111 (Subpart A). Conversely, if Right to Rise is not interested in pre-probable cause conciliation, the Commission may conduct formal discovery or proceed to the next step in the enforcement process. Please note that once the Commission enters the next step in the enforcement process, it may decline to engage in further settlement discussions until after making a probable cause finding. Pre-probable cause conciliation, extensions of time, and other enforcement procedures and options are discussed more comprehensively in the Commission's "Guidebook for Complainants and Respondents on the FEC Enforcement Process," which is available on the Commission's website at http://www.fec.gov/respondent_guide.pdf.

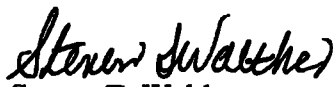
In the meantime, this matter will remain confidential in accordance with 52 U.S.C. §§ 30109(a)(4)(B) and 30109(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. Please be advised that although the Commission cannot disclose information regarding an investigation to the public, it may share information on a confidential basis with other law enforcement agencies.¹

¹ The Commission has the statutory authority to refer knowing and willful violations of the Act to the Department of Justice for potential criminal prosecution, 52 U.S.C. § 30109(a)(5)(C), and to report information regarding violations of law not within its jurisdiction to appropriate law enforcement authorities. *Id.* § 30107(a)(9).

Charles R. Spies, Esq.
James E. Tyrrell III, Esq.
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We look forward to your response.

On behalf of the Commission,


Steven T. Walther
Chairman

Enclosures
Factual and Legal Analysis

1 1

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1. **FEDERAL ELECTION COMMISSION**
2. **FACTUAL AND LEGAL ANALYSIS**

3
4 **RESPONDENTS:** Right to Rise USA and Charles R. Spies **MUR 7276**
5 in his official capacity as treasurer
6

7 **I. INTRODUCTION**

8 This matter was generated by a *sua sponte* submission by Right to Rise USA and Charles
9 R. Spies in his official capacity as treasurer (“RTR” or the “Committee”).¹ RTR, an
10 independent-expenditure-only political committee, admitted that it did not timely file certain
11 independent expenditure reports for television and radio media placements in 2016. As
12 discussed below, the factual record shows that RTR failed to timely file these independent
13 expenditure reports. Accordingly, the Commission finds reason to believe that RTR failed to
14 timely file 24- and 48-hour independent expenditure reports in violation of 52 U.S.C. § 30104(g).

15 **II. FACTUAL BACKGROUND**

16
17 On February 25, 2016, RTR filed this Submission admitting that it failed to timely file
18 24- and 48-hour independent expenditure reports for disbursements made to RTR’s media buyer,
19 Oath Strategies, LLC, in support of 2016 presidential candidate Jeb Bush.² The expenditures
20 were for television and radio media placements which were disseminated in January 2016. RTR
21 filed the reports for these expenditures on February 12, 2016.
22

¹ RTR *Sua Sponte* Submission (Feb. 25, 2016) (“Submission”); see Policy Regarding Self-Reporting of Campaign Finance Violations (*Sua Sponte* Submissions), 72 Fed. Reg. 16,695 (Apr. 5, 2007) (“*Sua Sponte* Policy”).

² Submission at 1.

The late-filed reports are summarized in the chart below:

	Report Type	Date of Dissemination	Name of Payee	Amount	Candidate/State	Date of Primary Election
1	24-hr	1/18/16	Oath Strategies LLC	\$2,465,125	Jeb Bush/Iowa	IA Pres.Caucus-2/1/16
2	48-hr	1/18/16	Oath Strategies LLC	\$2,200,000	Jeb Bush/National Cable Buy	Nationwide
3	48-hr	1/19/16	Oath Strategies LLC	\$203,200	Jeb Bush/NH	NH-2/9/16
		1/19/16	Oath Strategies LLC	\$1,905,898	Jeb Bush/NH	NH-2/9/16
		1/19/16	Oath Strategies LLC	\$523,916	Jeb Bush/SC	SC- 2/20/16
4	24-hr	1/26/16	Oath Strategies LLC	\$1,866,948	Jeb Bush/NH	NH-2/9/16
5	48-hr	1/26/16	Oath Strategies LLC	\$490,862	Jeb Bush/SC	SC-2/20/16
Total				\$9,655,949		

RTR asserts that it filed the reports late because it inadvertently overlooked an invoice from its media vendor.³

III. LEGAL ANALYSIS

An independent expenditure is an expenditure that expressly advocates the election or defeat of a clearly identified federal candidate and “that is not made in concert or cooperation with or at the request or suggestion of such candidate, the candidate’s authorized political committee, or their agents, or a political party committee or its agents.”⁴ Political committees must disclose their independent expenditures.⁵ Political committees that makes independent expenditures aggregating \$1,000 or more after the 20th day but more than 24 hours before a

³ *Id.* at 7.

⁴ 52 U.S.C. § 30101(17).

⁵ *See id.* § 30104(b)(4)(H)(iii); 11 C.F.R. § 104.3(b)(1)(vii).

1 given election must file a report describing those expenditures within 24 hours.⁶ A political
2 committee that makes independent expenditures aggregating \$10,000 outside of that 20-day
3 period, up to and including the 20th day, must file a report describing those expenditures within
4 48 hours.⁷ These reports must be filed within 24 hours or 48 hours, as applicable, “following the
5 date on which a communication that constitutes an independent expenditure is publicly
6 distributed or otherwise publicly disseminated.”⁸

7 RTR admits that it failed to timely file independent expenditure reports concerning media
8 placements that were disseminated in January 2016. Therefore, the Commission finds reason to
9 believe that RTR violated 52 U.S.C. § 30104(g).

⁶ 52 U.S.C. § 30104(g)(1); 11 C.F.R. § 104.4(c).

⁷ 52 U.S.C. § 30104(g)(2); 11 C.F.R. § 104.4(b)(2).

⁸ 11 C.F.R. § 104.4(b), (c).

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