

**BEFORE THE
FEDERAL ELECTION COMMISSION**

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

Complainant,

v.

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

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

Fred E. Cooper
P.O. Box 52367
Atlanta, GA 30355

Emil Henry
717 5th Avenue
New York, NY 10022

Respondents.

COMPLAINT

Complainant files this complaint under 52 U.S.C. § 30109(a)(1) against Mr. John Ellis "Jeb" Bush and his principal campaign committee, Jeb 2016, Inc. and its treasurer, in his official capacity (collectively, "Respondents") for violating the Federal Election Campaign Act of 1971, as amended ("the Act"), as described below. Public reports strongly suggest that numerous agents of Mr. Bush may have violated the Act by soliciting, receiving, directly, transferring,

and/or spending funds in connection with a federal election outside of the limitations, prohibitions, and reporting requirements of the Act while acting in their capacity as Mr. Bush's agents. We urge the Commission to investigate these violations.

A. FACTS

Mr. Bush declared his candidacy for president of the United States on June 15, 2015 and filed his statement of candidacy with the Federal Election Commission that same day.¹ His principal campaign committee is Jeb 2016, Inc.² Right to Rise USA (hereinafter "Right to Rise" or the "Super PAC") is an independent expenditure-only committee or Super PAC organized to support Mr. Bush's federal candidacy.³

According to media reports and FEC filings, several individuals who have been actively involved in fundraising for Jeb 2016, Inc. appear to have simultaneously participated in events raising money outside of the federal limitations and source restrictions (hereinafter "soft money") for Right to Rise.

- On June 29, 2015, Fred Cooper, the Chairman of Koops, LLC, actively participated in a Right to Rise event when he made a \$1,506 in-kind contribution for catering at one of the Super PAC's events.⁴ At the time that he made the in-kind contribution to Right to Rise, Mr. Cooper was actively fundraising for Mr. Bush's campaign. Specifically, on the exact same night that Mr. Cooper paid for the catering for the Super PAC event, Mr. Cooper was co-hosting a fundraising reception in Atlanta, Georgia for Jeb 2016, Inc.⁵

¹ Michael Barbaro and Jonathan Martin, *Jeb Bush Announces White House Bid, Saying 'America Deserves Better'*, N.Y. Times (June 15, 2015), available at http://www.nytimes.com/2015/06/16/us/politics/jeb-bush-presidential-campaign.html?_r=0; FEC Form 2, Statement of Candidacy, Jeb Bush (June 15, 2015), available at <http://docquery.fec.gov/pdf/747/15031431747/15031431747.pdf>.

² FEC Form 2, Statement of Candidacy, Jeb Bush (June 15, 2015), available at <http://docquery.fec.gov/pdf/747/15031431747/15031431747.pdf>.

³ See FEC Form 1, Statement of Organization, Right to Rise USA (June 12, 2015), available at <http://docquery.fec.gov/pdf/367/15951468367/15951468367.pdf>; Right to Rise USA, available at <https://righttorisesuperpac.org/#/home?lang=en> ("Right to Rise USA is the leading independent super PAC supporting Jeb Bush's campaign for President.").

⁴ See FEC Form 3X, Schedule A Itemized Receipts, Right to Rise USA at 226 (July 31, 2015), available at <http://docquery.fec.gov/pdf/819/201507319000471819/201507319000471819.pdf>.

⁵ See Jim Galloway, *Jeb Bush Calls Confederate Symbols 'Racist,' Heads to Atlanta*, AJC.com (June 30, 2015), available at <http://politics.blog.ajc.com/2015/06/29/jeb-bush-calls-confederate-symbols-racist-heads-to-atlanta/>; Jim

Individuals at the Jeb 2016, Inc. reception, including Mr. Cooper, were encouraged to raise \$27,000 to get a photo opportunity with Mr. Bush and receive an invitation to a campaign retreat in Maine.⁶

- On June 29, 2015, Emil Henry, the Managing Director of Tiger Infrastructure, made a \$1,224.41 in-kind contribution for catering to Right to Rise, just days after he served as a co-chair of a Jeb 2016, Inc. reception on June 24, 2015.⁷ As a co-host at the Jeb 2016, Inc. reception, Mr. Henry reportedly committed to raise at least \$27,000 for Mr. Bush's campaign committee.⁸ Thus, Mr. Henry was raising money for Jeb 2016, Inc. just days before he was also participating in Right to Rise's event.

Additionally, public reports indicate that three individuals simultaneously worked as fundraisers for Jeb 2016, Inc. and Right to Rise.⁹ This information strongly suggests that the three individuals were raising money for Jeb 2016, Inc. while also raising soft money for Right to Rise to support Mr. Bush's candidacy.

B. LEGAL ARGUMENT

The Act prohibits federal candidates from soliciting, receiving, directing, transferring, or spending "funds in connection with an election for [f]ederal office, including funds for any [f]ederal election activity, unless the funds are subject to the limitations, prohibitions, and reporting requirements of th[e] Act."¹⁰ The restriction applies with equal force to *agents of*

Galloway, *Georgia Halts Sales of Confederate License Tags*, AJC.com (June 26, 2015), available at <http://politics.blog.ajc.com/2015/06/26/confederate-license-tag-removed-from-state-website/> (explaining that Jeb Bush would be in Atlanta on Monday, June 29, 2015 for a fundraiser for his campaign).

⁶ See Galloway, *Jeb Bush Calls Confederate Symbols 'Racist,' Heads to Atlanta*, AJC.com (June 30, 2015), available at <http://politics.blog.ajc.com/2015/06/29/jeb-bush-calls-confederate-symbols-racist-heads-to-atlanta/>.

⁷ See FEC Form 3X, Schedule A Itemized Receipts, Right to Rise USA at 486 (July 31, 2015), available at <http://docquery.fec.gov/pdf/819/201507319000471819/201507319000471819.pdf>; New York Breakfast Reception Invitation, Jeb 2016, Inc., available at <http://www.washingtonpost.com/news/post-politics/wp/2015/06/11/wall-street-lining-up-for-jeb-bush-campaign-fundraiser-in-new-york/>.

⁸ Matea Gold, *Wall Street Lining Up for Jeb Bush Campaign Fundraiser in New York*, Washington Post (June 11, 2015), available at <http://www.washingtonpost.com/news/post-politics/wp/2015/06/11/wall-street-lining-up-for-jeb-bush-campaign-fundraiser-in-new-york/>.

⁹ Alex Isenstadt and Marc Caputo, *Top Jeb Fundraisers Leave Campaign Amid Troubling Signs*, Politico (Aug. 29, 2015), available at <http://www.politico.com/story/2015/08/jeb-bush-president-2016-fundraisers-problems-213156>.

¹⁰ 52 U.S.C. § 30125(e)(1); 11 C.F.R. § 300.61.

candidates raising funds while acting in their agency capacity.¹¹ An agent is “any person who has actual authority, either express or implied, to...solicit, direct, or receive, any contribution, donation, or transfer of funds.”¹²

Individuals who are agents of a federal candidate may raise soft money *only* when those individuals are not acting on behalf of the federal candidate. In other words, a campaign’s agents may wear two hats: one when the agents are acting on behalf of the campaign and one when the agents are not acting on behalf of the campaign.¹³ For example, an individual who is an agent of Senate candidate may solicit soft money for a Super PAC supporting a Presidential candidate if that agent is not acting on behalf of the Senate candidate, or any other candidate, when raising the soft money.

However, the Commission has only approved the wearing of two hats when the solicitation of the soft money was entirely unrelated to the agent’s work for a candidate. Commission precedent has not been extended to permit an agent of a candidate to raise soft money when that soft money will be used to aid the candidate on whose behalf the agent is working. Indeed, the Commission has stated that even if an agent has been explicitly instructed not to raise soft money on behalf of a candidate, his or her solicitation of soft money is still imputed to the candidate.¹⁴ Therefore, when an agent of a presidential candidate solicits soft money contributions for a single-candidate Super PAC supporting the presidential candidate, the individual is inherently raising soft money in his or her capacity as the candidate’s agent in violation of federal law.

¹¹ 52 U.S.C. § 30125(e)(1); 11 C.F.R. § 300.61

¹² 11 C.F.R. § 300.2(b).

¹³ See FEC Adv. Op. 2003-10.

¹⁴ Definitions of “Agent” for BCRA Regulations of Non-Federal Funds or Soft Money and Coordinated and Independent Expenditure, 71 Fed. Reg. 4975, 4978 (Jan. 31, 2006).

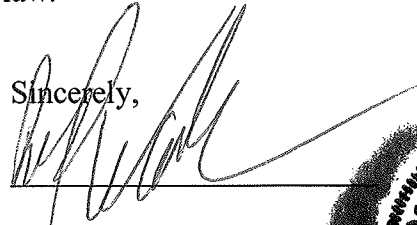
In an apparent direct violation of these clear legal principles, numerous agents of Jeb 2016, Inc. appear to have been involved in soliciting, receiving, directing, transferring, or spending funds to support Mr. Bush's federal election campaign through Right to Rise in their capacities as agents of Mr. Bush. Both Fred Cooper and Emil Henry served as co-hosts/chairs for fundraising events for Jeb 2016, Inc., helping to raise money for Mr. Bush's campaign. In their capacities as co-hosts/chairs, both Mr. Cooper and Mr. Henry were agents of Mr. Bush's campaign because they were soliciting money for the campaign and as a result, were barred from raising soft money in connection with a federal election. Yet, each individual actively participated in a Right to Rise soft money event by providing in-kind contributions for catering at such events to raise money to support Mr. Bush's federal candidacy. Mr. Cooper and Mr. Henry were inherently raising soft money in their capacities as agents of Mr. Bush in violation of federal law because they were both agents of Jeb 2016, Inc. and involved in a soft money event for a single-candidate Super PAC supporting Mr. Bush's campaign.

Additionally, media reports strongly suggest that Kris Money, Trey McCarley, and Debbie Aleksander simultaneously served as fundraising consultants for Jeb 2016, Inc. and Right to Rise. As fundraising consultants for the campaign, Mr. Money, Mr. McCarley, and Ms. Aleksander had authority to solicit contributions for Jeb 2016, Inc. and thus, were agents of Jeb 2016, Inc. As agents for the campaign, Mr. Money, Mr. McCarley, and Ms. Aleksander were prohibited from raising soft money in their capacities as agents for Mr. Bush. Yet while serving as Mr. Bush's agent, these three individuals solicited soft money for Right to Rise to support Mr. Bush's federal campaign. This solicitation violated the law.

C. REQUESTED ACTION

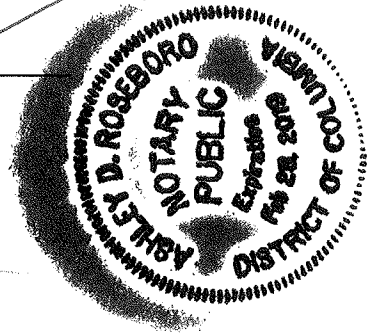
As we have shown, Mr. Bush and Respondents have violated the Act when agents of Mr. Bush's campaign committee were involved in soliciting, receiving, directing, transferring, or spending funds for Right to Rise in support of a federal election. We respectfully request that the Commission investigate 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 21 day of September, 2015.


Notary Public



My Commission Expires:

2/28/2019