



April 17, 2015

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

Dear Governor Bush:

I’m writing on behalf of Common Cause’s 400,000 members and supporters from across the country to express our deep concern over your apparent disregard of federal campaign finance laws as you pursue a campaign for president of the United States. Our concerns are similar to those raised by the Campaign Legal Center and Democracy 21 in their recent complaint to the Federal Elections Commission (FEC).¹

It is disappointing to see those who aspire to our nation’s highest office begin their pursuit of it by flouting the law. As you should know, whether “testing the waters” or operating as an announced candidate, a presidential prospect is subject to contribution caps of \$2,700 from each individual per election and \$5,000 from each political action committee (PAC) per election, and may not accept corporate, labor and nonprofit funds. These are rules enacted in the wake of corruption scandals to protect the integrity of America’s elections and federal government.

It is patently evident to everyone in America who is paying attention – voters, donors and the media – that you are running for president in 2016. Despite your pretenses to the contrary, your extensive public appearances, fundraising events and press statements over the last few

¹ See Complaint by Campaign Legal Center and Democracy 21 to the Federal Elections Commission (March 31, 2015), available at: <http://www.campaignlegalcenter.org/news/press-releases/fec-complaints-against-presidential-hopefuls-show-widespread-violations-total>.

months make it obvious that you have moved past the “testing the waters” phase and are an outright “candidate” under the Federal Election Campaign Act (FECA).

“Testing the waters” is a limited exception under the guidelines that applies to restricted activities to explore the feasibility of becoming a candidate. Notably, “testing the waters” does *not* apply to activities that “indicate that an individual has decided to become a candidate” including, but not limited to when an individual 1) “raises funds in excess of what could reasonably be expected to be used for exploratory activities”; 2) “undertakes activities designed to amass campaign funds that would be spent after he or she becomes a candidate”; or 3) “makes or authorizes written or oral statements that refer to him or her as a candidate for a particular office.” 11 C.F.R. § 100.72(b)(2); – (3).

We are profoundly concerned that your engagement in unlimited and unrestricted fundraising under the pretense that you aren’t even considering a run for president is based on a thinly veiled legal fiction and therefore illegal. Such behavior suggests a flagrant disrespect for the rule of law, and the American people deserve better.

Using a shared name, Right to Rise, your leadership PAC and Super PAC set a fundraising goal of \$100 million in the first three months of this year.² Indeed, during a session with donors in Washington early this year, you forewarned that an “ungodly” amount of money would be required to clinch the Republican nomination.³ To meet this goal, you have launched a fundraising blitz of 60 cities across the country, headlining various fundraising events at a cost of

² Michael C. Bender, *Shock-and-Awe: 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>; Patrick O’Connor, Beth Reinhard, Heather Haddon, *Jeb Bush’s Blitz to Lock In Donors Aims to Squeeze Potential Rivals*, WALL ST. J., Jan. 22, 2015, available at: <http://www.wsj.com/articles/jeb-bushs-blitz-to-lock-in-donors-aims-to-squeeze-potential-rivals-1421976835>.

³ O’Conner et al., *supra* n. 2.

\$25,000 to \$100,000 per couple, and even an eye-popping \$100,000 per-ticket program on Park Avenue.⁴

While you are engaging in this full-scale fundraising of unlimited revenue from unrestricted sources, you are setting the stage for your primary contest with key stops in Iowa, during which you laud your executive credentials and even mention the need to “change Presidents.”⁵ Additionally, your heavy travel across the country, most recently in Illinois, the District of Columbia, Nevada, Iowa, New Hampshire, and South Carolina,⁶ coupled with your building up of a campaign staff,⁷ make it abundantly clear that you are a candidate despite your contentions otherwise.

We are similarly concerned about your close association with a new nonprofit 501(c)(4) group, Right to Rise Policy Solutions, which shares the same name as your PACs, while

⁴ 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/>; Matea Gold, *Jeb Bush kicks off week-long California money tour in San Diego*, WASH. POST, March 30, 2015, <http://www.washingtonpost.com/blogs/post-politics/wp/2015/03/30/jeb-bush-kicks-off-week-long-california-money-tour-in-san-diego/>; 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>.

⁵ Phillip 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; Web Video, “Iowa,” Right to Rise PAC (March 10, 2015), <http://blog.4president.org/2016/2015/03/right-to-rise-pac-releases-new-web-video-iowa.html>; Press Release, Republican Party of Iowa, *Iowa GOP to Host Star-Studded Lincoln Dinner on May 16*, Mar. 26, 2015, http://coralvillecourier.typepad.com/mikes_politics/2015/03/iowa-gop-to-host-star-studded-lincoln-dinner-on-may-16.html.

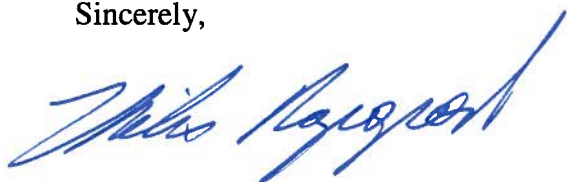
⁶ See Compl., *supra* n. 1, at fn. 9 and accompanying text (tracking Twitter Account of @Jeb Bush from March 18 through February 27, 2015).

⁷ Peter Hamby and Mark Preson, *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>.

enjoying anonymity for its donors.⁸ As you know, the Internal Revenue Code requires that 501(c)(4) organizations have the promotion of social welfare as their primary purpose. This means that campaign activity cannot be the organization's primary activity, and that a group that primarily benefits private partisan interests may jeopardize its 501(c)(4) status.⁹

If you are not running for president, or even testing the waters for a run for president, please explain to the American people what your purpose is for these activities. Barring some unforeseen explanation that defies common sense, we urge you to move swiftly to comply with our nation's campaign finance laws by registering as a candidate, demonstrating how your campaign has been and will be funded by contributions within the allowable limits, and ceasing all coordination with other political organizations.

Sincerely,



Miles Rapoport
President,
Common Cause

CC: Ann M. Ravel
Chair

⁸ Ed O'Keefe and Matea Gold, *How a Bush-allied nonprofit could inject more secret money into '16 race*, WASH. POST, March 31, 2013, http://www.washingtonpost.com/politics/how-secret-donors-could-play-a-big-role-boosting-jeb-bush/2015/03/31/05647310-d7cd-11e4-b3f2-607bd612aeac_story.html.

⁹ See Erika K. Lunder and L. Paige Whitaker (2013, May). *501(c)(4)s and Campaign Activity: Analysis Under Tax and Campaign Finance Laws* (CRS Report No. R40183). Retrieved from Congressional Research Service website: <http://fas.org/sgp/crs/misc/R40183.pdf>; see also Priv. Ltr. Rul. 201128035 ("To qualify for exemption under 501(c)(4), an organization must primarily benefit the community as a whole, rather than select individuals or groups.")

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