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BEFORE THE UNITED STATES  
FEDERAL ELECTION COMMISSION

**SENSITIVE**

Campaign Legal Center  
215 E Street, NE  
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Democracy 21  
2000 Massachusetts Avenue, NW  
Washington, DC 20036  
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v.

MUR No. 6929

Governor Scott Walker  
Office of Governor Scott Walker  
115 East Capitol  
Madison, WI 53702

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 Wisconsin Governor Scott Walker 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 Scott Walker 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. In December 2014 Wisconsin Governor Scott Walker “brought on Rick Wiley, a former Republican National Committee political director and veteran of multiple presidential campaigns, . . . to build a political operation in advance of the 2016 race[.]”<sup>1</sup> Wiley was reportedly “tapped . . . to serve as his campaign manager should he decide to run for president[.]”<sup>2</sup> Wiley declined in early January to comment on the job but has reportedly “been aggressively reaching out to potential staffers in recent weeks.”<sup>3</sup> “One source close to Walker told CNN that the governor has no timeline for announcing a presidential bid but will be forming ‘some kind of entity in the coming weeks to lend itself as a vehicle’ . . . before moving forward with a full-blown campaign.”<sup>4</sup>
5. Walker then announced in late January 2015 that he had formed a “527 political organization” called Our American Revival “to help boost a potential 2016 presidential run, the first concrete step toward a possible campaign that comes as others are also ramping up efforts to seek the GOP nomination.”<sup>5</sup> 527 organizations are named after the section of the federal tax code that give tax exemption to groups “organized and operated primarily for the purpose of directly or indirectly accepting contributions or making

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<sup>1</sup> Peter Hamby, *Walker builds 2016 team with likely campaign manager*, CNN, Jan. 8, 2015, <http://www.cnn.com/2015/01/07/politics/walker-builds-2016-team-with-likely-campaign-manager/>.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> Scott Bauer and Philip Elliot, *Scott Walker Forms First Committee For 2016 Run*, HUFFINGTON POST, Jan. 27, 2015, [http://www.huffingtonpost.com/2015/01/27/scott-walker-2016\\_n\\_6556220.html](http://www.huffingtonpost.com/2015/01/27/scott-walker-2016_n_6556220.html).

expenditures, or both, for . . . influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office . . . .”<sup>6</sup> In other words, 527 groups must have the primary purpose of influencing candidate elections—not issue advocacy.

6. Soon after its creation, Our American Revival “fir[ed] its opening salvo in the 2016 presidential campaign,” releasing a two-minute commercial featuring Walker and warning “against looking to past leaders or the federal government for answers, taking a not-so-subtle jab at former Secretary of State Hillary Clinton.”<sup>7</sup>
7. “Likely candidates such as Jeb Bush and Scott Walker 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.”<sup>8</sup>
8. Walker traveled to Iowa in late January 2015 to speak at the Iowa Freedom Summit—a well-known proving ground for prospective presidential candidates<sup>9</sup> and said at that time that he would “likely visit other early primary states such as New Hampshire and South Carolina on weekends ‘in the not too distant future.’”<sup>10</sup>
9. In early February, Walker became the first prospective 2016 presidential candidate to open an office in Iowa, leasing space in a strip mall outside Des Moines that has previously been used as a campaign office for Michele Bachmann before the 2012 Iowa

<sup>6</sup> 26 U.S.C. § 527(e)(1)-(2) (definitions of “political organization” and “exempt function”).

<sup>7</sup> Jessie Opoien, *Scott Walker says fundraising committee is about ‘ideas,’ not promoting a candidate*, THE CAPITAL TIMES, Jan. 28, 2015, [http://host.madison.com/news/local/writers/jessie-opoien/scott-walker-says-fundraising-committee-is-about-ideas-not-promoting/article\\_ef9829dd-572f-5dab-b8fb-4ede66b8f52c.html](http://host.madison.com/news/local/writers/jessie-opoien/scott-walker-says-fundraising-committee-is-about-ideas-not-promoting/article_ef9829dd-572f-5dab-b8fb-4ede66b8f52c.html).

<sup>8</sup> Alex Altman, *How Super PACs Are Taking Over*, TIME, Mar. 25, 2015, <http://time.com/3758900/super-pacs-2016/> (emphasis added).

<sup>9</sup> Greg Richter, *Round 1 in Iowa: Scott Walker Emerges*, NEWSMAX, Jan. 25, 2015, <http://www.newsmax.com/Headline/Scott-Walker-presidential-race-appeals/2015/01/25/id/620596/>.

<sup>10</sup> Opoien, *supra* note 7.

caucuses, Mitt Romney during the 2012 general election campaign, and John McCain during his 2008 presidential campaign.<sup>11</sup>

10. In late February 2015, Walker attended and spoke at the Conservative Political Action Conference (CPAC), where he effectively acknowledged that he is testing the waters of a presidential campaign, stating “those are the sorts of things we’re going to talk about going forward should I choose to be a candidate. . . . And that’s what we’re going to do in any decisions going forward, should we choose, my lawyers love that when I say, is we’re exploring a campaign, should we choose to run for the highest office in the land.”<sup>12</sup>
11. In a March 1, 2015 interview with Chris Wallace on *Fox News*, Walker referred to himself as a “candidate” in a discussion about immigration policy. Specifically, Wallace was questioning Walker about a change in his position on immigration, previously supporting comprehensive reform and now opposing it. “‘But you said you supported’ comprehensive reform, Wallace insisted. ‘And my view has changed. I’m flat out saying it. A candidate can say that. Sometimes they don’t,’ Walker said.”<sup>13</sup>
12. Walker traveled to New Hampshire in mid-March 2015 for a “private dinner with Republican leaders” that was “organized by New Hampshire GOP Chairwoman Jennifer

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<sup>11</sup> Jennifer Jacobs, *First 2016 presidential hopeful to open an Iowa office: Scott Walker*, DES MOINES REG., Feb. 10, 2015, <http://www.desmoinesregister.com/story/news/elections/presidential/caucus/2015/02/10/scott-walker-first-to-open-iowa-office-among-white-house-hopefuls/23173785/>.

<sup>12</sup> *Governor Scott Walker Remarks at CPAC*, (C-SPAN television broadcast Feb. 26, 2015), available at <http://www.c-span.org/video/?324557-12/governor-scott-walker-remarks-cpac>.

<sup>13</sup> Jose A. DelReal, *Scott Walker says he opposes comprehensive immigration reform. He didn’t always.*, WASH. POST, Mar. 1, 2015, <http://www.washingtonpost.com/blogs/post-politics/wp/2015/03/01/scott-walker-says-he-opposes-comprehensive-immigration-reform-he-didnt-always/>.

Horn”<sup>14</sup> and also addressed the 2016 Kickoff Grassroots Training Session in Concord hosted by the New Hampshire GOP.<sup>15</sup>

13. Walker also made “his inaugural trip to South Carolina as a presidential candidate” in March 2015, “using a two-day swing to lay the foundation for an aggressive campaign in the South . . . trying to position himself as the leading conservative alternative to former Florida Gov. Jeb Bush, who made his debut trip of the year” to South Carolina earlier in the same week.<sup>16</sup>
14. Walker 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.”<sup>17</sup>
15. In mid-March 2015 Walker added to his campaign staff, hiring digital strategist Liz Mair and her political consulting firm to advise “Walker’s fundraising committee, Our American Revival, on social media and blogger outreach.” Mair’s associates Brittany Cover and Dan Blum will join her.<sup>18</sup>

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<sup>14</sup> Peter Hamby, *Scott Walker backs pathway to citizenship at private dinner*, CNN, Mar. 27, 2015, <http://www.cnn.com/2015/03/26/politics/election-2016-scott-walker-immigration/>.

<sup>15</sup> Meghan Keneally, *Jeb Bush and Scott Walker Jostle for Position in New Hampshire*, ABC NEWS, Mar. 15, 2015, <http://abcnews.go.com/Politics/jeb-bush-scott-walker-face-off-hampshire/story?id=29650161>.

<sup>16</sup> James Hohmann, *Scott Walker makes 2016 South Carolina debut*, POLITICO, Mar. 19, 2015, <http://www.politico.com/story/2015/03/scott-walker-makes-2016-south-carolina-debut-116246.html>.

<sup>17</sup> 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/>.

<sup>18</sup> Jessie Opoien, *Scott Walker’s new digital strategist tells it like it f---ing is*, THE CAPITAL TIMES, Mar. 17, 2015, [http://host.madison.com/news/local/govt-and-politics/election-matters/scott-walker-s-new-digital-strategist-tells-it-like-it/article\\_d3f96838-4455-5eef-b51c-149629377a13.html](http://host.madison.com/news/local/govt-and-politics/election-matters/scott-walker-s-new-digital-strategist-tells-it-like-it/article_d3f96838-4455-5eef-b51c-149629377a13.html).

16. Walker’s extensive travel this year has not only involved extensive meetings with Republican Party leaders and influential activists; he has also been “on an ambitious mission this spring to scoop up major GOP donors ahead of a likely presidential run and send the early message that former Florida Gov. Jeb Bush doesn’t have a monopoly on the country’s deep-pocketed Republicans—and his backers say his plan is working.”<sup>19</sup> “[S]everal GOP operatives in Bush’s orbit conceded to CNN it’s clear a substantial chunk of GOP financiers have taken a liking to him.”<sup>20</sup> Our American Revival provided CNN with a “list of names of reliable Republican donors who have already committed to bundle funds for him or contribute significantly to a Super PAC that would be developed to support him should he run. And Republican fundraisers have told CNN donors are lining up to meet with him as he’s rocketing up in the polls.”<sup>21</sup>
17. Walker has reportedly successfully solicited “six figure” contributions for Our American Revival, including one from “Citadel Investment Group founder Kenneth Griffin, a billionaire, who could bankroll a future Walker Super PAC.”<sup>22</sup> One Walker supporter at a fundraising event earlier this year in Indian Wells, CA, gave Walker a “\$100,000 check on the spot.”<sup>23</sup>
18. Walker reportedly also has funding commitments from real estate mogul John Peck, Developer “Papa” Doug Manchester, philanthropist Peter Farrell, billionaire couple Frayda and George Lindemann, Stanley and Gay Gaines, former dairy company executive Marc Goldman, hedge fund manager Ron Santella and his wife, financier

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<sup>19</sup> Erin McPike, *Scott Walker PAC: Jeb Bush is not the only one who can raise money*, CNN, Mar. 16, 2015, <http://www.cnn.com/2015/03/16/politics/scott-walker-pac-donors-bundlers/>.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> Matea Gold, *Scott Walker works to harness national donor network for White House run*, WASH. POST, Feb. 4, 2015, [http://www.washingtonpost.com/politics/scott-walker-works-to-harness-national-donor-network-for-white-house-run/2015/02/04/44c0ee96-ab5c-11e4-abe8-e1ef60ca26de\\_story.html](http://www.washingtonpost.com/politics/scott-walker-works-to-harness-national-donor-network-for-white-house-run/2015/02/04/44c0ee96-ab5c-11e4-abe8-e1ef60ca26de_story.html).

Thomas Patrick of New Vernon Capital, investment banker Dan Cook, former energy executive Bob Kay and the anti-union Brent Southwell of Professional Janitorial Service in Houston, brothers Jacob and Dan Eberhart of Canary energy company and private equity firm Eberhart Capital, as well as business partners Bob Rasmus and James Whipkey, who run energy company Hi-Crush Partners and private equity firm Red Oak Capital.<sup>24</sup>

### SUMMARY OF THE LAW

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

19. 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).
20. 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 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.
21. 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

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<sup>24</sup> McPike, *supra* note 19.

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.

22. 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).<sup>25</sup>
23. 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).
24. 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” under federal law and would therefore trigger “candidate” status when they exceeded \$5,000.
25. Section 100.72(a), structured as a limited exception to the definition of “contribution,” provides:

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<sup>25</sup> Available at [http://www.fec.gov/law/cfr/ej\\_compilation/1985/50fr9992.pdf](http://www.fec.gov/law/cfr/ej_compilation/1985/50fr9992.pdf).



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).

26. 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).

27. 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.
28. 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).

29. 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).

30. 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

31. 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.
32. The treasurer of a political committee must file reports of receipts and disbursements pursuant to 52 U.S.C. § 30104.
33. 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

34. 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).<sup>26</sup> 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).
35. 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.
36. Candidate committees may not accept contributions from corporations or labor organizations. 52 U.S.C. § 30118(a).
37. 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).

#### CAUSES OF ACTION

##### COUNT I:

**There is reason to believe that Scott Walker 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.**

38. FECA and Commission regulations and advisory opinions make clear that activities engaged in for the purpose of determining whether an individual should become a

<sup>26</sup> 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).

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.

39. 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.”
40. Based on published reports detailed above, complainants have reason to believe that Scott Walker and/or his agents have engaged in activities for the purpose of determining whether he should become a candidate, including but not limited to:
- 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;
  - 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 state political party 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.
41. Based on published reports detailed above, complainants have reason to believe that payments have been made for Scott Walker’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 Walker and/or Our American Revival 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 Scott Walker 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.**

42. 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).
43. 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).
44. Based on published reports detailed above, complainants have reason to believe that Scott Walker has received contributions and made expenditures in excess of \$5,000, triggering “candidate” status under 52 U.S.C. § 30101(2).
45. Based on published reports detailed above, complainants have reason to believe that Scott Walker has decided to become a candidate, as indicated by his reference to himself as a

candidate on March 1, 2015 in an interview with Chris Wallace on *Fox News*,<sup>27</sup> rendering inapplicable the “testing the waters” exception to “candidate” status established by 11 C.F.R. §§ 100.72(b) and 100.131(b).

46. Based on published reports detailed above, complainants have reason to believe that Scott Walker has decided to become a candidate, as indicated by his activities on behalf of Our American Revival 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).
47. Based on published reports detailed above, complainants have reason to believe that as a “candidate” under FECA, Scott Walker 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**

48. Wherefore, the Commission should find reason to believe that Scott Walker 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

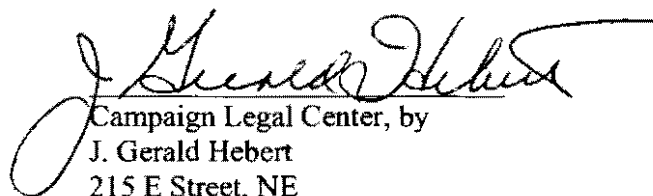
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<sup>27</sup> Jose A. DelReal, *Scott Walker says he opposes comprehensive immigration reform. He didn't always.*, WASH. POST, Mar. 1, 2015, <http://www.washingtonpost.com/blogs/post-politics/wp/2015/03/01/scott-walker-says-he-opposes-comprehensive-immigration-reform-he-didnt-always/>.

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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**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

