

FEDERAL ELECTION COMMISSION

In the matter of:

TH Holdings LLC
Marvin C. Schwartz
Heather Oaks, LLC
Right to Rise USA
Charles R. Spies, as treasurer, Right to Rise USA

MUR _____

COMPLAINT

1. Citizens for Responsibility and Ethics in Washington (“CREW”) and Noah Bookbinder bring this complaint before the Federal Election Commission (“FEC”) seeking an immediate investigation and enforcement action against TH Holdings LLC, Marvin C. Schwartz, Heather Oaks, LLC, Right to Rise USA, and its treasurer, Charles R. Spies, for direct and serious violations of the Federal Election Campaign Act (“FECA”).

Summary

2. In early 2015, TH Holdings LLC and Heather Oaks, LLC each made \$100,000 contributions to Right to Rise USA, a super PAC supporting Jeb Bush’s presidential campaign. Both appear to be contributions made in the name of another individual or entity in violation of the FECA and FEC regulations.

3. TH Holdings LLC is a limited liability company apparently owned in whole or in part by Marvin C. Schwartz, a managing director at New York private investment firm Neuberger Berman. The company’s only known activity is owning a property in the Hamptons area of Long Island, New York. If, as it appears, TH Holdings LLC did not generate any income,

and the funds for its \$100,000 contribution to Right to Rise USA in fact came from Mr. Schwartz, then the contribution was made in the name of another in violation of the law.

4. The Heather Oaks, LLC that made the \$100,000 contribution to Right to Rise USA appears to be a Delaware limited liability company that was established just two weeks before the contribution was made. Heather Oaks, LLC does not have any known business activity, and it is highly unlikely the company generated sufficient income to pay for the \$100,000 contribution in two weeks. Accordingly, if, as it appears, the funds for the \$100,000 contribution to Right to Rise USA came from another individual or organization, the contribution was made in the name of another in violation of the law.

5. Furthermore, if Right to Rise USA knew the contributions were made in the name of another, it likely violated the law as well.

Complainants

6. Complainant CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the right of citizens to be informed about the activities of government officials and to ensuring the integrity of government officials. CREW is dedicated to empowering citizens to have an influential voice in government decisions and in the governmental decision-making process. CREW uses a combination of research, litigation, and advocacy to advance its mission.

7. In furtherance of its mission, CREW seeks to expose unethical and illegal conduct of those involved in government. One way CREW does this is by educating citizens regarding the integrity of the electoral process and our system of government. Toward this end, CREW monitors the campaign finance activities of those who run for federal office and those who make

expenditures to influence federal elections, and publicizes those who violate federal campaign finance laws through its website, press releases, and other methods of distribution. CREW also files complaints with the FEC when it discovers violations of the FECA. Publicizing campaign finance violations and filing complaints with the FEC serves CREW's mission of keeping the public informed about individuals and entities that violate campaign finance laws and deterring future violations of campaign finance law.

8. In order to assess whether an individual or entity is complying with federal campaign finance law, CREW needs the information contained in disclosure reports political committees must file pursuant to the FECA, 52 U.S.C. §§ 30104(a), (b); 11 C.F.R. §§ 104.1, 104.3. CREW is hindered in its programmatic activity when an individual or entity fails to disclose campaign finance information in reports required by the FECA.

9. CREW relies on the FEC's proper administration of the FECA's reporting requirements because the FECA-mandated disclosure reports are the only source of information CREW can use to determine if an individual or entity is complying with the FECA. The proper administration of the FECA's reporting requirements includes mandating that all disclosure reports required by the FECA are properly and timely filed with the FEC. CREW is hindered in its programmatic activity when the FEC fails to properly administer the FECA's reporting requirements.

10. Complainant Noah Bookbinder is the executive director of Citizens for Responsibility and Ethics in Washington. At all times relevant to the complaint, he has been and remains a citizen of the United States and a registered voter and resident of Maryland. As a registered voter, Mr. Bookbinder is entitled to receive information contained in disclosure reports

required by the FECA, 52 U.S.C. § 30104; 11 C.F.R. §§ 104.1, 104.3. Mr. Bookbinder is harmed when an individual, candidate, political committee, or other entity fails to report campaign finance activity as required by the FECA. *See FEC v. Akins*, 524 U.S. 11, 19 (1998), *quoting Buckley v. Valeo*, 424 U.S. 1, 66-67 (1976) (political committees must disclose contributors and disbursements to help voters understand who provides which candidates with financial support). Mr. Bookbinder is further harmed when the FEC fails to properly administer the FECA's reporting requirements, limiting his ability to review campaign finance information.

Respondents

11. TH Holdings LLC is a domestic limited liability company organized and registered in New York State, and located in Suffolk County. New York State Department of State, Division of Corporations, Entity Information for TH Holdings LLC (attached as Exhibit A) (“TH Holdings LLC Registration”).

12. Marvin C. Schwartz is a managing director of Neuberger Berman LLC, a “private, independent, employee-owned investment manager.” Neuberger Berman, Annual Report 2014, at 69 (excerpts attached as Exhibit B); Jeb 2016, Inc., FEC Form 3P, July 2015 Quarterly Report, Amended, at 1344 (September 4, 2015) (excerpts attached as Exhibit C); Neuberger Berman website, “About Neuberger Berman” page (*available at <http://www.nb.com/pages/public/global/our-firm.aspx>*).

13. Heather Oaks, LLC is a domestic limited liability company organized and registered in Delaware. Delaware Department of State, Division of Corporations, Entity Detail for Heather Oaks, LLC (attached as Exhibit D).

14. Right to Rise USA is an independent expenditure-only committee (“super PAC”) established on January 6, 2015. Right to Rise USA, FEC Form 1, Statement of Organization (January 6, 2015) (excerpts attached as Exhibit E). Right to Rise USA asserts it is “the leading independent super PAC supporting Jeb Bush’s campaign for President.” Right to Rise USA website, Homepage (*available at* <https://righttorisesuperpac.org/home?lang=en>).

15. Charles R. Spies is treasurer of Right to Rise USA. Exhibit E.

Factual Allegations

16. On February 26, 2015, TH Holdings LLC made a \$100,000 contribution to Right to Rise USA. On March 9, 2015, Heather Oaks, LLC made a \$100,000 contribution to Right to Rise USA. Right to Rise USA, FEC Form 3X, Mid-Year Report, Amended, at 1319, 1407 (December 5, 2015) (attached as Exhibit F).

17. Right to Rise USA’s disclosure reports provide little information about these limited liability companies. The only information provided is that TH Holdings LLC’s address is 605 Third Avenue, 42nd Floor, New York, NY 10158-0180 and Heather Oaks, LLC’s address is 216 Summit Boulevard, Birmingham, Alabama, 35243-3507. *Id.*

18. These contributions, and the lack of information about who ultimately paid for them, has led to questions about “mystery money” and “ghost companies” funding groups supporting presidential candidates. Russ Choma, Who’s Behind the Ghost Companies Funding Jeb Bush’s Super-PAC, *Mother Jones*, December 2, 2015 (*available at* <http://www.motherjones.com/politics/2015/11/ghost-companies-funding-jeb-bush-super-pac-right-to-rise>); Eric Lichtblau and Nick Confessore, From Fracking to Finance, a Torrent of Campaign Cash, *New York Times*, October 10, 2015 (*available at* [5](http://www.nytimes.com/2015/10/11/us/politics/wealthy-</p></div><div data-bbox=)

[families-presidential-candidates.html](#)). *Mother Jones* described TH Holdings LLC as a “special case” that “represents the worst-case scenario of in the post-*Citizens United* campaign finance landscape: untraceable corporations shoveling untraceable cash into the political system.”

Choma, *Mother Jones*, Dec. 2, 2015. Heather Oaks, LLC, *Mother Jones* added, “is even more ghostly than TH Holdings.” *Id.* Similar questions were raised in 2011 regarding contributions by limited liability companies to a super PAC supporting Mitt Romney’s 2012 campaign for president, and the FEC has still not resolved complaints about those contributions. *Id.*

TH Holdings LLC

19. Despite the difficulty of obtaining information about TH Holdings LLC, public records indicate this company is owned in whole or in part by Mr. Schwartz. According to the Division of Corporations of New York State’s Department of State, TH Holdings LLC filed its articles of organization with the Department of State on June 9, 2010. TH Holdings LLC Registration (Exhibit A). Two months later, on August 10, 2010, TH Holdings LLC completed the purchase of a property in Suffolk County, New York for \$452,000. Suffolk County Clerk’s Office, Deeds for Tax Map ID 0900-380.00-02.00-096.000 (attached as Exhibit G). The tax identification number on the recorded deed corresponds to 23 Tuthill Lane, Remsenburg, New York. Town of Southampton, New York, Assessment Rolls, Taxable Status Date March 1, 2015, at 5884 (“Southampton Assessment Rolls”) (page attached as Exhibit H, full record *available at* <http://www.southamptontownny.gov/DocumentCenter/View/49>); *see also* Zillow listing for 23 Tuthill Lane, Remsenburg, New York (*available at* http://www.zillow.com/homedetails/23-Tuthill-Ln-Remsenburg-NY-11960/111526497_zpid/) (listing parcel number in “Home Facts” section).

20. The Southampton Assessment Rolls list the owner of 23 Tuthill Lane as TH Holdings LLC. The address listed for TH Holdings LLC is: “c/o Marvin Schwartz, 605 Third Ave, FL 42, New York, NY, 10158-0180.” Southampton Assessment Rolls, at 5884.

21. As noted, that address – 605 Third Avenue, 42nd Floor, New York, NY – is the same address Right to Rise USA reported to the FEC as the address for TH Holdings LLC. *Id.* It also is the address of the global headquarters of Neuberger Berman, where Mr. Schwartz is a managing director, as well as the address Mr. Schwartz provided to other political committees as his address. Neuberger Berman website, “Global Office Locations” page (*available at* <http://www.nb.com/pages/public/global/office-locations.aspx>)¹; Jeff Merkley for Oregon, FEC Form 3, 2012 Year-End Report, at 298 (February 16, 2013) (excerpts attached as Exhibit I); Jeb 2016, Inc., FEC Form 3P, July 2015 Quarterly Report, Amended, at 1344 (September 4, 2015).

22. Mr. Schwartz’s contributions to political committees include a total of \$5,400 to Jeb Bush’s presidential campaign, the maximum amount permitted under FECA. *Id.*; Jeb 2016, Inc., FEC Form 3P, October 2015 Quarterly Report, at 2594 (October 10, 2015) (excerpts attached as Exhibit J).

23. Mr. Schwartz’s interests in the property at 23 Tuthill Lane may stem from his apparent ownership of the property directly across the street at 16 and 22 Tuthill Lane through another limited liability company, Tuthill Holdings LLC. That company filed its articles of organization on May 12, 2009. New York State Department of State, Division of Corporations, Entity Information for Tuthill Holdings LLC (attached as Exhibit K). A month later, Tuthill Holdings LLC completed its purchase of 16 and 22 Tuthill Lane for \$3.4 million. Suffolk

¹ The website states Neuberger Berman is located on the 41st floor, but public records indicate the firm and its associated companies are located on multiple floors, including the 42nd floor.

County Clerk's Office, Deeds for Tax Map ID 0900-380.00-03.00-042.000 (attached as Exhibit L); Southampton Assessment Rolls, at 5892, 5899 (page attached as Exhibit M). The Southampton Assessment Rolls list the owner of 16 and 22 Tuthill Lane as Tuthill Holdings LLC, and again provide as an address: "c/o Marvin Schwartz, 605 Third Ave, FL 42, New York, NY, 10158-0180."

24. On information and belief, TH Holdings LLC does not conduct any business and has not generated any income, and does not serve any function other than owning 23 Tuthill Lane. TH Holdings LLC appears to have no presence on the Internet. Based on a search of the Suffolk County Clerk's Office website, <https://kiosk.suffolkcountyny.gov/KioskWeb/Default.aspx>, TH Holdings LLC does not appear to have a business certificate to operate as a partnership in Suffolk County. In addition, TH Holdings LLC has not sold 23 Tuthill Lane to generate income. Suffolk County Clerk's Office, Deeds for Tax Map ID 0900-380.00-03.00-042.000. Limited liability companies like TH Holdings LLC commonly are used as shell companies to purchase real estate in New York. *See, e.g., Louise Story and Stephanie Saul, Stream of Foreign Wealth Flows to Elite New York Real Estate, New York Times, February 7, 2015 (available at <http://www.nytimes.com/2015/02/08/nyregion/stream-of-foreign-wealth-flows-to-time-warner-condos.html>).*²

² Mr. Schwartz also is indirectly linked to TH Holdings LLC through the party named on the limited liability company's registration form to receive mail, Paul Freedman of Freedman and Company, located at 61 Broadway, Suite 1405, New York, NY. TH Holdings LLC Registration (Exhibit A). Mr. Freedman also keeps the books and prepares the tax returns for the private foundation of Mr. Schwartz and his wife. Donna and Marvin Schwartz Foundation, 2013 Form 990-PF, Part VII-A, Line 14 and page 13 (available at http://990s.foundationcenter.org/990pf_pdf_archive/137/137114848/137114848_201404_990PF.pdf?_ga=1.166277502.1135072798.1449169471).

Heather Oaks, LLC

25. A limited liability company named Heather Oaks, LLC was registered in Alabama in 1994 with purpose of managing an apartment complex, but merged into another limited liability company in 2004, which went out of business a week later. Choma, *Mother Jones*, Dec. 2, 2015; Alabama Secretary of State, Business Entity Details, Heather Oaks, L.L.C. (*available at <http://arc-sos.state.al.us/cgi/corpdetail.mbr/detail?corp=650497&page=name&file=M>*); Alabama Secretary of State, Business Entity Details, JM WH & RC Brown L.L.C. (*available at <http://arc-sos.state.al.us/cgi/corpdetail.mbr/detail?corp=658243&page=name&file=D>*).

26. An apparently unrelated limited liability company also named Heather Oaks, LLC was formed or incorporated on February 23, 2015 in Delaware. Delaware Department of State, Division of Corporations, Entity Detail for Heather Oaks, LLC. Just two weeks later, on March 9, 2015, Right to Rise USA received a \$100,000 contribution from a Heather Oaks, LLC. Right to Rise USA, FEC Form 3X, Mid-Year Report, Amended, at 1319. As a result, the contribution most likely came from the Delaware entity.

27. Little additional information appears to be available about this Heather Oaks, LLC. The address Right to Rise USA reported for Heather Oaks, LLC is 216 Summit Boulevard, Birmingham, Alabama, 35243-3507. *Id.* At the time of the contribution, Suite 300 at this address was the location of Sellers Richardson Holman & West LLP, an accounting and consulting firm. Press Release, RSM, McGladrey to Expand in Alabama Through Transaction with Sellers Richardson Holman & West LLP, February 10, 2015 (*available at <http://rsmus.com/newsroom/news-releases/2015/mcgladrey-to-expand-in-alabama-through->*

[transaction-with-sellers.html](#)).³ The firm has since been acquired by McGladrey LLP, “a leading provider of audit, tax, and consulting services,” which then changed its name to RSM. *Id.*

28. On information and belief, Heather Oaks, LLC did not generate sufficient income in the two weeks between its formation and the date on which it contributed \$100,000 to Right to Rise USA to account for the contribution. Heather Oaks, LLC does not appear to conduct any business, it does not have a presence on the Internet, and does not even appear to own any property. As *Mother Jones* observed, Heather Oaks, LLC appears to be a “classic” shell company with no assets or business operations of its own that exists “solely as a conduit for transactions by other companies or individuals.” Choma, *Mother Jones*, Dec. 2, 2015.

Count I

29. The FECA and FEC regulations prohibit making a contribution in the name of another person and knowingly permitting one’s name to be used to effect a contribution in the name of another person. 52 U.S.C. § 30122; 11 C.F.R. § 110.4(b).

30. Mr. Schwartz appears to have made a \$100,000 contribution to Right to Rise USA in the name of TH Holdings LLC in violation of 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b). Mr. Schwartz appears to own, in whole or in part, TH Holdings LLC, a limited liability company that seemingly does not conduct any business, has not generated any income, and does not serve any function other than owning a property in the Hamptons. Accordingly, the \$100,000 contribution appears to have been made by Mr. Schwartz, not TH Holdings LLC.

³ As *Mother Jones* noted, 216 Summit Boulevard is shopping mall, and the address reported by Right to Rise USA does not specify a particular suite or office. Choma, *Mother Jones*, Dec. 2, 2015. A Google Maps search of the address, however, shows the mall complex is split into several buildings with different street numbers, and number 216 appears to correspond only to a handful of stores. Of those, all are retail stores or restaurants, except for the accounting firm, a branch of the Fidelity Investments brokerage, and a travel agency.

31. TH Holdings LLC appears to have correspondingly violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b) by knowingly permitting its name to be used to effect a \$100,000 contribution by Mr. Schwartz to Right to Rise USA.

32. If these violations were knowing and willful, they are subject to criminal penalties and should be referred to the Department of Justice for investigation. 52 U.S.C. §§ 30109(a)(5)(C), 30109(d)(1).

Count II

33. The FECA and FEC regulations prohibit making a contribution in the name of another person and knowingly permitting one's name to be used to effect a contribution in the name of another person. 52 U.S.C. § 30122; 11 C.F.R. § 110.4(b).

34. An unknown individual or entity appears to have made a \$100,000 contribution to Right to Rise USA in the name of Heather Oaks, LLC in violation of 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b). Heather Oaks, LLC had been in existence for two weeks or less when it made the contribution, and it does not appear to conduct any business. It is, therefore, highly unlikely Heather Oaks, LLC generated sufficient income in that short period to account for the \$100,000 contribution. Accordingly, the \$100,000 contribution appears to have been made by an unknown individual or entity, not Heather Oaks, LLC.

35. Heather Oaks, LLC appears to have correspondingly violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b) by knowingly permitting its name to be used to effect the \$100,000 contribution to Right to Rise USA.

36. If these violations were knowing and willful, they are subject to criminal penalties and should be referred to the Department of Justice for investigation. 52 U.S.C. §§ 30109(a)(5)(C), 30109(d)(1).

Count III

37. The FECA and FEC regulations also prohibit knowingly accepting a contribution made by one person in the name of another person. 52 U.S.C. § 30122; 11 C.F.R. § 110.4(b).

38. If Right to Rise USA and Mr. Spies knowingly accepted a contribution made by Mr. Schwartz in the name of TH Holdings LLC, or knowingly accepted a contribution by an unknown individual or entity in the name of Heather Oaks, LLC, they may have violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b).

Conclusion

WHEREFORE, Citizens for Responsibility and Ethics in Washington and Noah Bookbinder request that the FEC conduct an investigation into these allegations, declare the respondents to have violated the FECA and applicable FEC regulations, and order respondents to correct these violations by amending the Right to Rise USA's disclosures to identify and make public the source(s) of the contribution to the PAC. In addition, respondents request that the FEC impose sanctions appropriate to these violations and take such further action as may be appropriate, including referring this case to the Department of Justice for criminal prosecution.

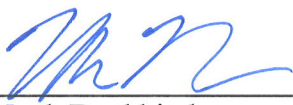


ON BEHALF OF COMPLAINANTS

Noah Bookbinder
Executive Director
Citizens for Responsibility and Ethics in
Washington
455 Massachusetts Ave. N.W., Sixth Floor
Washington, D.C. 20001
(202) 408-5565 (phone)
(202) 588-5020 (fax)

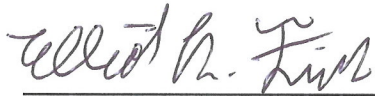
VERIFICATION

Citizens for Responsibility and Ethics in Washington and Noah Bookbinder verify that the statements made in the attached Complaint are, upon information and belief, true. Sworn pursuant to 18 U.S.C. § 1001.



Noah Bookbinder

Sworn to and subscribed before me this 10th day of December 2015.



Notary Public

