CLARK HILL

Clark Hill PLC
601 Pennsylvania Avenue NW
North Building, Suite 1000
Washington, DC 20004
T 202.772.0909
F 202.772.0919

clarkhill.com

Charles R. Spies
T 202.572.8663
F 202.572.8683
Email: cspies@clarkhill.com

December 9, 2015

Alan Garten
General Counsel
The Trump Organization
725 Fifth Avenue
New York, NY 10022
VIA FEDERAL EXPRESS

Re: Your December 4th Letter

Dear Mr. Garten:

On behalf of our client, Right to Rise PAC, Inc. ("RTR"), we write to respond to your December 4th, 2015 letter, in which you state your intentions to "seek immediate legal action" against RTR should it produce and disseminate certain political communications that "directly and personally" attack your client, Donald Trump. Please be aware that RTR is a federal "Leadership PAC" that has never produced, and has no plans to produce, advertisements against your client, or any political candidate for that matter. As a Leadership PAC, RTR was organized to raise money to support conservative candidates through direct contributions. In fact, RTR has made almost $300,000 in contributions since its creation in January 2015. Unlike your client, we only support conservative candidates.

It is possible you are confusing RTR with any number of federal independent expenditure-only committees (i.e. "Super PACs") that have exercised their First Amendment rights to educate the public about your client's public statements and stances on important public policy issues. We suggest you consult the Federal Election Commission's ("FEC") website (www.fec.gov) to familiarize yourself about the differences between Leadership PACs and Super PACs, or perhaps skim through the Supreme Court's decision in *Citizens United v. FEC* or the D.C. Circuit's decision in *Speechnow.org v. FEC*. They are both very helpful and might clear up some of your confusion.

In addition, although RTR has no plans to produce any advertisements against your client, we are intrigued (but not surprised) by your continued efforts to silence critics of your client's campaign by employing litigious threats and bullying. Should your client actually be elected Commander-in-Chief, will you be the one writing the cease and desist letters to Vladimir Putin, or will that be handled by outside counsel? As a candidate for President, your client is a

public figure and his campaign should, and will, be fact-checked. The ability to criticize a candidate's record, policies and matters of public importance lies at the heart of the First Amendment, as courts have repeatedly recognized. If you have the time between bankruptcy filings and editing reality show contracts, we urge you to flip through the Supreme Court's decision in *New York Times v. Sullivan*. If your client is so thin-skinned that he cannot handle his critics' presentation of his own public statements, policies and record to the voting public, and if such communications hurts his feelings, he is welcome to purchase airtime to defend his record. After all, a wall can be built around many things, but not around the First Amendment.

Lastly, in light of your confusion over the difference between Leadership PACs and Super PACs, we have to assume you may also be unaware of the FEC's prohibition on a federal candidate's use of corporate resources for campaign purposes. Although your client may think he is above the law and be accustomed to using lawsuits to bail out his failed business deals, the Federal Election Campaign Act and the FEC's Regulations nonetheless apply to him and his campaign. Perhaps the attached complaint, filed today, will serve as a reminder of your client's legal obligations under federal election laws. Just as your client is attempting to quickly learn the basics of foreign policy, we wish you personally the best in your attempts to learn election law.

Cordially,

Charles R. Spies
James E. Tyrrell III
Counsel to Right to Rise PAC, Inc.

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December 9, 2015

Daniel A. Petalas
Acting General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463
VIA HAND DELIVERY

Re: <u>Complaint Against Donald J. Trump, et al.</u>

Dear Mr. Petalas:

On behalf of Right to Rise PAC, Inc. ("RTR"), this complaint is against Donald J. Trump ("Trump"), Donald J. Trump for President, Inc., and Timothy Jost, as Treasurer (the "Campaign"), and The Trump Organization (the "Organization") (collectively, the "Respondents"), for multiple violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Federal Election Commission's ("Commission") Regulations.

It appears that Donald Trump and his Campaign have violated federal campaign finance laws that prohibit the use and acceptance of corporate contributions and resources in connection with his campaign for President. *See* 52 U.S.C. § 30118(a). Trump and the Campaign also continue to violate federal law that prohibits federal candidates from directly or indirectly controlling "soft money." *See* 52 U.S.C. § 30125(e). Specifically of concern is Trump and the Campaign's continued exploitation of the Organization's in-house and outside legal team for campaign purposes and to defend the Trump campaign against his critics' campaign advertisements.

The Act strictly prohibits corporations from making contributions in connection with a federal election. 52 U.S.C. § 30118(a). It also makes it illegal for any candidate to knowingly accept or receive any contribution from a corporation, or for any officer or any director of a corporation to consent to any contribution by a corporation to a federal candidate. *Id.* The Act and Commission regulations define a contribution to include "any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value" to a political committee in connection with any federal election. *Id.* §§ 30118(b)(2), 30101(8)(a); 11 CFR § 114.1(a)(1). The term "anything of value" includes in-kind contributions, such as goods or services provided without charge or at a charge that is less than the usual and normal charge

for such goods or services. 11 CFR § 100.52(d)(1). There is a limited exception to the prohibition on a corporation's rendering of legal and accounting services to a campaign, **but only for services rendered "for the purpose of ensuring compliance with [the] Act."** 11 CFR § 114.1(a)(2)(vii).

The Act also prohibits the solicitation and use of non-federal funds by federal candidates, including agents acting on their behalf and entities that are directly or indirectly established, maintained, financed or controlled by one or more federal candidates. *See* 52 U.S.C. § 30125(e)(1). Federal candidates can only solicit, receive, direct, transfer, spend or disburse federal funds in connection with a federal election. *See* 52 U.S.C. 30125(e)(1)(A).

In this case, Trump and the Campaign have continued to misuse the Organization's in-house and outside legal counsel to defend Trump's candidacy. For example, on September 21, 2015, the Organization's General Counsel, Alan Garten, sent a cease and desist letter to the Club for Growth, on the Organization's letterhead (attached as Exhibit A), to bully and attempt to intimidate that group into stopping running an advertisement that informed voters about candidate Trump's support for higher taxes. In vintage Trump Organization fashion, the letter threatens a "multi-million dollar lawsuit" if the group does not cease showing the ad. Now, RTR has received a similar cease and desist letter (attached as Exhibit B) from the Trump Organization threatening to "seek immediate legal action" if RTR runs any political advertisements informing voters about any embarrassing facts about Trump and his Campaign. To be clear, this letter was also on the Trump Organization's corporate letterhead, not from the Trump campaign's counsel. Of course, it appears corporate counsel Garten was confused about RTR's legal status, as it is a leadership PAC that contributes to candidates and has not run any advertisements, but the PAC's status is immaterial to the Trump corporation's activity here.

It is clear that Trump and his agents have explicitly directed his corporate attorneys at the Organization to do the dirty work for the Campaign. The Organization's rendering of these legal services, at no apparent cost to the Campaign, and Trump and the Campaign's acceptance of such services at the expense of the Organization, constitute prohibited corporate in-kind contributions from the Organization to Trump and the Campaign, in violation of 52 U.S.C. § 30118(a). Importantly, such legal work is not at all related to Trump's or the Campaign's compliance with the Act—it is work solely aimed at intimidating and silencing Trump's political opponents—and would therefore not qualify as a legal and accounting exception under 11 CFR § 114.1(a)(2)(vii).

Likewise, because Trump and his agents directed his corporate attorneys to produce numerous cease and desist letters that are clearly aimed at defending his candidacy and silencing his political opponents, Trump and his agents are responsible for facilitating the making of a prohibited corporate in-kind contribution to the Campaign in violation of the soft-money ban at 52 U.S.C. § 30125(e).

It is imperative that the Commission promptly conduct an investigation into the serious and ongoing potential violations outlined herein. Due to the scope and seriousness of the potential violations, we also request that the Commission refer this matter to the U.S. Department of Justice pursuant to 52 U.S.C. § 30109(a)(5)(C). The foregoing is correct and accurate to the best of our knowledge, information and belief.

Respectfully submitted,

Charles R. Spies
James E. Tyrrell III
Counsel to Right to Rise PAC, Inc.

Signed and sworn before me this 9th day of December, 2015

Barbara J Ramsey
NOTARY PUBLIC

BARBARA J. RAMSEY
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires September 14, 2018

Exhibit A

CEASE & DESIST DEMAND

September 21, 2015

By Federal Express

David McIntosh
The Club for Growth
2001 L Street, NW, Suite 600
Washington, D.C. 20036

Re: *Your Defamatory Attack Ad*

Dear Mr. McIntosh:

I am General Counsel to Donald J. Trump. We recently had the opportunity to view your television commercial entitled "*Politician*" together with your accompanying statements in the media concerning my client's views (collectively, your "Attack Ad") and, quite frankly, are dismayed by the depths special interest groups like yours will go to in an attempt to materially mislead the public for the personal benefit of you and your financial backers.

Simply stated, your Attack Ad is not only completely disingenuous, but replete with outright lies, false, defamatory and destructive statements and downright fabrications which you fully know to be untrue, thereby exposing you and your so-called "club" to liability for damages and other tortious harm. For example, while your Attack Ad blatantly misrepresents to the public that Mr. Trump "supports higher taxes", nothing could be further from the truth. To be clear, Mr. Trump's tax plan, which is scheduled to be released later this week, supports a lowering of taxes.

Not surprisingly, a closer look at your Attack Ad reveals that your supposed "*source*" for this statement is -- according to the small print on your website -- nothing more than a single article published in the *Advocate* on February 15, 2000 which quoted Mr. Trump as supposedly saying he would "impose a one-time net worth tax of 14.25% on the superwealthy ... to pay off the national debt." That's it. While a reputable organization would have at least had the decency to disclose its source – and the fact that the source article is more than 15 years old -- your pitiful little group conveniently chose to leave that information out in a deliberate attempt to mislead the public into believing that it is reflective of Mr. Trump's current position – when, unquestionably, it is not. Making matters worse, you then chose to appear on several talk shows, including, MSNBC's *Morning Joe*, in which you furthered the erroneous notion that Mr. Trump "supports higher taxes" even though you have absolutely no factual support for that statement. In other words, you lied. Mr. Trump does not support higher taxes. This is the very definition of libel.

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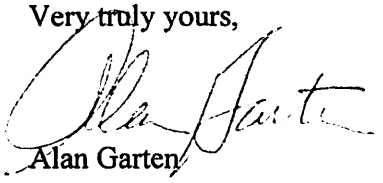
Sadly, the deplorable actions of your organization are not the least bit surprising. As I am sure you recall, it was only a few short months ago that you very openly and shamelessly attempted to extort Mr. Trump to the tune of $1 million in exchange for your political support. Indeed, you were not even the least bit discreet about your motives in that, after meeting with Mr. Trump, you immediately followed up with a June 2, 2015 letter requesting a "contribution of $1 million" in exchange for an endorsement by your organization's political action committee. "*This contribution*," you proclaimed, "*would have a dramatically positive impact on the Club's ability to identify future free-enterprise champions*." When Mr. Trump, however, presumably unlike many of the other candidates, refused to succumb to your extortionist demands, your only response was to oppose his inclusion in the August 6, 2015 Fox News Republican Presidential Debate, launch a series of misleading Attack Ads targeting Mr. Trump and, ultimately, endorse certain other candidates. Though your website states that donations to "Club for Growth ... are NOT publicly disclosed", one can only assume that the candidates you are endorsing paid handsomely for your support. American politics at its worst. If that is not a "shake-down", I do not know what is.

Rest assured, however, we will not sit idly by and allow special interest groups and political action committees like yours to defame Mr. Trump and cause damage to his reputation and business interests by intentionally disseminating libelous statements you fully know to be untrue and, even worse, continue to purposely mislead the American people for your own financial gain. Toward that end, Mr. Trump has authorized our legal team to take all necessary and appropriate actions to bring an immediate halt to your defamatory Attack Ads. In the interest of avoiding what will certainly be a costly litigation process, we are prepared to offer you the one-time opportunity to rectify this matter by providing us with your prompt written assurances that (i) you have stopped running the Attack Ads; and (ii) you will not generate or disseminate any misleading or inaccurate information or make any factually baseless accusations you know to be untrue with respect to my client at any point in the future. In the event, however, we do not promptly receive these assurances, please be advised that we will commence a multi-million dollar lawsuit against you personally and your organization for your false and defamatory statements and the damage you have intentionally caused to my client's interests as well as pursue all other remedies available to us at law or in equity.

Please be guided accordingly.

Very truly yours,



Alan Garten

cc: Donald J. Trump
Marc E. Kasowitz, Esq.

Exhibit B

TRUMP

THE TRUMP ORGANIZATION

December 4, 2015

By Federal Express

Michael Fernandez
MBF Healthcare Partners
121 Alhambra Plaza
Suite 1100
Coral Gables, FL 33134

James P. Robinson
Right to Rise PAC, Inc.
2475 Brickell Avenue
Unit 2009
Miami, FL 33129

Re: *Anti-Trump Advertisements*

Gentlemen:

I am General Counsel to The Trump Organization and its President, Donald J. Trump. It has come to my attention that you plan on producing and disseminating certain radio, television and newspaper advertisements directly and personally attacking my client. Though we believe your decision is fool hearted, please be advised that in the event your ads contain any false, misleading, defamatory, inaccurate or otherwise tortious statements or representations concerning Mr. Trump, his businesses or his brand, we will not hesitate to seek immediate legal action to prevent such distribution and hold you jointly and severally liable to the fullest extent of the law for any damages resulting therefrom … and will look forward to doing it.

Please be guided accordingly.

Very truly yours,

Alan Garten

cc: Donald J. Trump

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