



250 Massachusetts Ave NW, Suite 400 | Washington, DC 20001

February 16, 2024

VIA ELECTRONIC MAIL

Georgia Secretary of Brad Raffensperger
Elections Division
214 State Capitol
Atlanta, GA 30334

Re: Submission of Independent Candidate Nomination Petitions by Political Action Committee

Dear Secretary Raffensperger,

We write on behalf of Third Way, a national non-profit think tank. Public press reports indicate that American Values 2024, a federal super PAC supporting Robert F. Kennedy, Jr., intends to collect and submit nomination petitions in support of Mr. Kennedy's candidacy for President of the United States in Georgia. Georgia law prohibits you from accepting nomination petitions for a candidate for President that are submitted by a third-party organization operating independently of that candidate. We write to urge adherence to the law; it is critical to protect the integrity of one of the most fundamental aspects of our democratic system – access to the ballot.

Robert F. Kennedy Jr. became a candidate for U.S. President for federal campaign finance purposes no later than October 17, 2023.¹ According to recent public reporting, a federal super political action committee (“PAC”) named American Values 2024 has hired signature-gathering vendors to collect and submit nomination petitions to obtain ballot access for Mr. Kennedy in several states, including Georgia.²

¹ 52 U.S.C. 30101(2) (defining a “candidate” as an individual who has received contributions aggregating in excess of \$5,000 or made expenditures in excess of \$5,000 in support of their election to federal office); 11 C.F.R. § 101.1(a) (requiring an individual to designate a principal campaign committee within 15 days of becoming a candidate); Robert F. Kennedy, Statement of Candidacy (October 17, 2023), available at <https://docquery.fec.gov/pdf/800/202310179598479800/202310179598479800.pdf>.

² Vaugh Hillyard and Katherine Koretski, *RFK Jr.'s Super PAC Hires Signature-Gathering Vendors as Ballot Effort Ramps Up*, NBC News (Jan. 12, 2024) <https://www.nbcnews.com/politics/2024-election/rfk-jr-super-pac-ballot-access-rcna133734>. American Values 2024 is set up as a hybrid PAC. See American Values 2024 FEC Statement of

Federal campaign finance law requires American Values 2024 to undertake this effort independently of Mr. Kennedy.³ We therefore assume for purposes of this letter that American Values 2024 efforts in Georgia will be conducted entirely independently of Mr. Kennedy or his campaign. **However, Georgia law does not permit a third party organization to collect and submit nomination petition signatures independently of the qualifying candidate.**

Georgia's ballot access rules for independent candidates require the candidate – and not a third-party organization operating independently of the candidate – to begin the petition process. The law states that “[a/n] independent candidate for the office of President or Vice President of the United States shall file with the Secretary of State . . . a slate of candidates for the office of presidential elector *which such independent candidate has certified* as being the presidential electors for such independent candidate.”⁴ The requirement that the candidate personally certify the electors as being “the presidential electors for such independent candidate” is not a pro forma step – it ensures the electors are then authorized to act on behalf of the candidate. All other steps for the presidential candidate to qualify—including filing a notice of candidacy, accompanying affidavit, and filing nomination petitions—are then required be undertaken *by the candidate's designated presidential electors*.⁵

Therefore, your office is prohibited under the plain text of Georgia law from accepting nominating petitions from a third-party organization operating independently of a presidential candidate. Only a presidential candidate's designated electors, as evidenced by paperwork filed by the candidate with your office, may file nominating petitions on behalf of the candidate.

We urge you to adhere to Georgia law and refuse to accept any nomination petitions submitted by American Values 2024 absent proof that the organization is expressly operating under the direction of Mr. Kennedy, as his agent.

Sincerely,

Jacquelyn K. Lopez
Elizabeth P. Poston

Counsel to Third Way

Organization, <https://docquery.fec.gov/pdf/985/202401189600114985/202401189600114985.pdf>. A hybrid PAC is an entity that maintains two accounts - a super PAC account and a regular, hard money PAC account. *See Carey v. FEC*, Civ. No. 11-259-RMC (D.D.C. 2011); FEC Statement on *Carey v. FEC* (Oct. 6, 2011), available at <https://www.fec.gov/updates/fec-statement-on-carey-v-fec/>. American Values 2024 has made clear to the press the petition effort is being conducted by the super PAC account. *See* Hillyard and Koretski, *supra* note 2; Brittany Gibson, *RFK Super PAC Rolls Out Ballot Access Priorities*, Politico (Dec. 22, 2023) <https://www.politico.com/news/2023/12/22/rfk-jr-super-pac-rolls-out-ballot-access-priorities-00133142>.

³ Super PACs are prohibited from coordinating their spending with federal candidates. *See* Citizens United v. Fed. Election Comm'n, 558 U.S. 310 (2010); SpeechNow.org v. Fed. Election Comm'n, 599 F.3d 686 (D.C. Cir. 2010).

⁴ Ga. Code Ann. § 21-2-132.1(a) (emphasis added).

⁵ *Id.* §§ 21-2-132.1(b), 21-2-132(d)(1), (e), (f).