

BEFORE THE FEDERAL ELECTION COMMISSION

CAMPAIGN LEGAL CENTER
1411 K Street NW, Suite 1400
Washington, DC 20005

v.

MUR No. _____

ALPHA MARINE SERVICES
16201 East Main Street
Galliano, LA 70354

COMPLAINT

1. This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) and is based on information and belief that Alpha Marine Services has violated FECA’s prohibition on federal contractors making contributions to political committees while negotiating or performing federal contracts, 52 U.S.C. § 30119(a)(1), by contributing \$100,000 to Congressional Leadership Fund (ID: C00504530).
2. “If the Commission, upon receiving a complaint . . . has reason to believe that a person has committed, or is about to commit, a violation of [the 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).

FACTS

3. Congressional Leadership Fund is an independent expenditure-only political action committee (i.e., a “super PAC”).¹ The “Donate” page of Congressional Leadership Fund’s

¹ Congressional Leadership Fund, Statement of Organization, FEC Form 1, at 1 (amended May 17, 2017), <http://docquery.fec.gov/pdf/682/201705179053954682/201705179053954682.pdf>.

website contains a disclaimer stating that “[b]y clicking contribute I confirm . . . I am not a federal contractor,” accompanied by an “Agree” checkbox.²

4. Alpha Marine Services, located at the physical address 16201 East Main Street, Galliano, LA 70354, is a tugboat manufacturing and marine transportation company and a subsidiary of the privately-held Edison Chouest Offshore, LLC, which is located at the same physical address.³ According to USAspending.gov, “the official source for spending data for the U.S. Government,”⁴ federal agencies have awarded numerous federal contracts and grants to Alpha Marine Services (under the names “Alpha Marine Services, LLC” and “Alpha Marine Services, Inc.”⁵) at the address 16201 East Main Street, Galliano, LA 70354.⁶

² See *Donate*, CONGRESSIONAL LEADERSHIPFUND.ORG, <https://www.congressionalleadershipfund.org/donate/> (last visited Feb. 20, 2019).

³ *Company Overview of Alpha Marine Services, Inc.*, BLOOMBERG.COM, <https://www.bloomberg.com/research/stocks/private/snapshot.asp?privcapid=3114944> (showing the address “16201 East Main Street, Galliano, LA”); *Company Overview of Edison Chouest Offshore*, BLOOMBERG.COM, <https://www.bloomberg.com/research/stocks/private/snapshot.asp?privcapid=4291932> (showing the address “16201 East Main Street, Cut Off, LA”). “Galliano, LA” and “Cut Off, LA” appear to be the same place. See Google Maps, “16201 East Main Street, Galliano, LA,” <https://www.google.com/maps/place/16201+E+Main+St,+Cut+Off,+LA+70345/@29.4760116,-90.3182107,17z/data=!3m1!4b1!4m5!3m4!1s0x8620f4c329e25af3:0x9da3738fc8cccc8d!8m2!3d29.4760116!4d-90.316022> (last visited Feb. 20, 2019) (showing “16201 East Main Street, Galliano, LA” as located at “16201 East Main Street, Cut Off, LA”).

⁴ *Mission*, USASPENDING.GOV, <https://www.usaspending.gov/#/about> (last visited Feb. 20, 2019).

⁵ According to Louisiana Secretary of State’s Business Filings, Alpha Marine Services, LLC merged with Alpha Marine Services, Inc. on December 24, 1996. Alpha Marine Services, LLC was the “survivor” corporation. The LLC’s Registered Agent is Dionne C. Austin and its Registered Address is 16201 East Main Street, Cut Off, LA 70345. Alpha Marine Services, Inc.’s Registered Agent is Dionne C. Austin (General Counsel of Edison Chouest Offshore, the Parent company) and its Officer is Gary Chouest (CEO of Edison Chouest Offshore). The address is the same as that registered for the LLC. See Louisiana Business Filings, “Alpha Marine Services, LLC,” Louisiana Secretary of State website, http://coraweb.sos.la.gov/commercialsearch/CommercialSearchDetails.aspx?CharterID=473655_E4B22C5157 (last visited Feb. 20, 2019).

⁶ See Keyword Search for “alpha marine services,” USASPENDING.GOV, https://www.usaspending.gov/#/keyword_search/%22alpha%20marine%20services%22 (last visited Feb. 20, 2019); see also, e.g., Contract Summary, Award ID N6238715C2100, USASPENDING.GOV, <https://www.usaspending.gov/#/award/26732265> (last visited Feb. 20, 2019) (showing a contract from the Department of Defense to Alpha Marine Services, Inc., with a period of performance of April 21, 2015 through August 31, 2019, and both current and potential award amounts of \$28,925,149); Contract Summary, Award ID N3220517C3505, USASPENDING.GOV, <https://www.usaspending.gov/#/award/26588598> (last visited Feb. 20, 2019) (showing a \$9,987,757 contract from the Department of Defense to Alpha Marine Services, LLC, with a period of performance of Aug. 4, 2017 through Jan. 2, 2019 and a potential award amount of \$28,822,192).

5. In other documents filed with federal and state authorities, 16201 East Main Street is listed as the physical address for Alpha Marine Services and its parent company, Edison Chouest Offshore, LLC, while P.O. Box 310, Galliano, LA 70354 is listed as the mailing address.⁷ A 2011 Office of Congressional Ethics investigation found that twelve subsidiaries of Edison Chouest Offshore, LLC, including Alpha Marine Services, LLC, contributed to Rep. Don Young's legal defense fund from this P.O. Box address.⁸
6. In a 2018 Quarterly Report filed with the Commission, Congressional Leadership Fund reported that on June 29, 2018 it received a \$100,000 contribution from "Alpha Marine Services" at the address P.O. Box 310, Galliano, LA, 70354-0310.⁹
7. At the time of the contribution, Alpha Marine Services was under multiple contracts with the Department of Defense totaling in excess of \$35 million.¹⁰ One contract, worth \$4,303,512 at the time of the contribution and now worth \$10,426,784, started less than a month before the contribution, on June 1, 2018, and will run through May 31, 2019.¹¹

SUMMARY OF THE LAW

⁷ See e.g., Louisiana Secretary of State's 2010 Good Standing Certificate for Alpha Marine Services, LLC, <https://bit.ly/2Euw6zQ> (archived website last visited Feb. 20, 2019) (listing P.O. Box 310, Galliano LA as the Mailing Address for Alpha Marine Services, LLC); Federal Communications Commission Universal Licensing System, "Ship Compulsory Equipped License – WCX5002 – Edison Chouest Offshore LLC" (effective Mar. 9, 2017 to May 22, 2027), FCC website, <https://bit.ly/2LoDJJt> (listing both the P.O. Box 310 and 16201 East Main addresses).

⁸ Office of Congressional Ethics, Report to the Committee of Ethics of the U.S. House of Representatives, Review No. 11-3175 at 11-12 (Sept. 27, 2011), https://oce.house.gov/sites/congressionaethics.house.gov/files/migrated/disclosures/Review_No_11-3175_Referral_to_Committee.pdf.

⁹ Congressional Leadership Fund, Quarterly Report, FEC Form 3X, at 26 (amended Nov. 14, 2018), <http://docquery.fec.gov/pdf/635/201811149133679635/201811149133679635.pdf>.

¹⁰ See, e.g., Contract Summary, Award ID N3220517C3505, *supra* note 6 (showing a \$9,987,757 contract from the Department of Defense to Alpha Marine Services, LLC, with a period of performance of August 4, 2017 through January 2, 2019 and a potential award amount of \$28,822,192); see also Contract Summary, Award ID N6238715C2100, *supra* note 6 (showing a \$28,925,149 contract from the Department of Defense to Alpha Marine Services, Inc., with a period of performance of April 21, 2015 through August 31, 2018).

¹¹ Contract Summary, Award ID N3220518C3520, USASPENDING.GOV, <https://www.usaspending.gov/#/award/67689749> (last visited Feb. 20, 2019) (showing a \$10,426,784 contract from the Department of Defense to Alpha Marine Services, LLC, with a period of performance of June 1, 2018 through May 31, 2019).

8. “Contribution” is defined as “any gift . . . 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).
9. Federal law prohibits a federal contractor from making any “contribution to any political party, committee, or candidate for public office” at any time between the commencement of negotiations for a federal contract and the completion of performance or termination of negotiations for the contract. 52 U.S.C. § 30119(a)(1).
10. Federal law additionally prohibits any person from knowingly soliciting such a contribution from a federal contractor. 52 U.S.C. § 30119(a)(2).
11. The contractor contribution ban applies to any person “who enters into any contract with the United States or any department or agency thereof” for “the rendition of personal services” or for “furnishing any material, supplies, or equipment,” or for “selling any land or building,” if “payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress.” 52 U.S.C. § 30119(a)(1); 11 C.F.R. § 115.1(a).
12. The ban applies from when a request for proposals is sent out (or when contractual negotiations commence) until the completion of performance of the contract or the termination of negotiations. 52 U.S.C. § 30119(a)(1); 11 C.F.R. § 115.1(b).
13. Since 2011, the Commission has made clear that the government contractor prohibition applies to contributions to independent expenditure-only political committees (i.e., “super PACs”) following the U.S. Supreme Court’s decision in *Citizens United v. FEC*¹² and the D.C. Circuit decision in *SpeechNow.org v. FEC*.¹³ See, e.g., Advisory Opinion 2011-11 (Colbert) at 4-5, 10 (June 30, 2011); see also Press Release, FEC, *FEC statement on Carey*

¹² 130 S. Ct. 876 (2010).

¹³ 599 F.3d 686 (D.C. Cir. 2010).

v. FEC reporting guidance for political committees that maintain a non-contribution account, note 1 (Oct. 5, 2011), <https://www.fec.gov/updates/fec-statement-on-carey-fec/>. In MUR 6403, the Commission emphasized that a contractor making a contribution to a political committee to fund independent expenditures is not itself making an expenditure; therefore, a contribution to such a committee falls “squarely within the statute’s prohibitions.” MUR 6403 (Alaskans Standing Together), Notification with Factual and Legal Analysis to Ahtna, Inc. and NANA Regional Corporation, Inc. at 5, 9 (Nov. 10, 2011). In 2017, the Commission found reason to believe that federal contractor Suffolk Construction Company, Inc. had violated 52 U.S.C. § 30119(a)(1) by contributing \$200,000 to Priorities USA Action, a super PAC supporting then-presidential candidate Hillary Clinton. *See* MUR 7099 (Suffolk Construction Company, Inc.), Notification to Campaign Legal Center at 1 (Sep. 25, 2017). The Commission emphasized that there is no *de minimis* exception to section 30119(a)(1), finding that even if a contributor’s federal contract work is only a “small fraction” of its overall business, this “does not negate the company’s status as a federal contractor.” MUR 7099, Factual and Legal Analysis at 4-5.

14. The federal contractor ban was upheld unanimously by the *en banc* D.C. Circuit in *Wagner v. Fed. Election Comm’n*, 793 F.3d 1 (D.C. Cir. 2015) (*en banc*). The *en banc* court stressed that “the record offers every reason to believe that, if the dam barring contributions were broken, more money in exchange for contracts would flow through the same channels already on display.” *Id.* at 18.

CAUSE OF ACTION

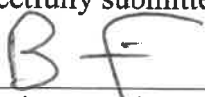
I. ALPHA MARINE SERVICES VIOLATED THE CONTRACTOR CONTRIBUTION BAN

15. Federal law and Commission regulations prohibit a federal contractor from making any contribution to any political committee during the period in which a federal contract is being negotiated or performed. 52 U.S.C. § 30119(a)(1), 11 C.F.R. Part 115.
16. According to USAspending.gov, “the official source for spending data for the U.S. Government,” Alpha Marine Services is a federal contractor and was a federal contractor when it made the \$100,000 contribution to Congressional Leadership Fund on June 29, 2018.¹⁴
17. Consequently, there is reason to believe that Alpha Marine Services, as a federal contractor, violated the federal contractor contribution ban by making a “contribution to any political . . . committee,” namely Congressional Leadership Fund, during the period its federal contracts were being negotiated and/or performed. 52 U.S.C. § 30119(a)(1).

PRAYER FOR RELIEF

18. Wherefore, the Commission should find reason to believe that Alpha Marine Services violated 52 U.S.C. § 30101 *et seq.*, and conduct an immediate investigation under 52 U.S.C. § 30109(a)(2).
19. The Commission should seek appropriate sanctions for any and all violations, including civil penalties sufficient to deter future violations and an injunction prohibiting the respondents from any and all violations in the future, and should seek such additional remedies as are necessary and appropriate to ensure compliance with the FECA.

Respectfully submitted,



Campaign Legal Center, by
Brendan M. Fischer

¹⁴ See *supra* ¶¶4-7.

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February 21, 2019

VERIFICATION

The complainant listed below hereby verify that the statements made in the attached Complaint are, upon their information and belief, true.

Sworn pursuant to 18 U.S.C. § 1001.

For Complainant Campaign Legal Center



Brendan M. Fischer

Sworn to and subscribed before me this 21 day of February 2019.



Notary Public

