

OFFICE OF  
GENERAL COUNSEL

## BEFORE THE FEDERAL ELECTION COMMISSION

2018 AUG -2 PM 12:02

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

v.

MUR No. 7450RECEIVED  
FEC MAIL CENTER  
2018 AUG -1 PM 4:56

ASHBRITT, INC.  
565 E. Hillsboro Blvd.  
Deerfield Beach, FL 33441

## COMPLAINT

1. This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) and is based on information and belief that Ashbritt, Inc. 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 \$500,000 to America First Action, Inc. (ID: C00637512).
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. America First Action, Inc. is an independent expenditure-only political action committee<sup>1</sup> that describes itself as "the primary super PAC dedicated to electing federal candidates who support the agenda of the Trump-Pence administration."<sup>2</sup>

<sup>1</sup> America First Action, Inc. Statement of Organization, FEC Form 1, at 5 (filed November 14, 2017), <http://docquery.fec.gov/pdf/950/201711219087653950/201711219087653950.pdf>.

<sup>2</sup> AMERICA FIRST ACTION, <https://www.afapac.org/> (last visited July 30, 2018).

4. Ashbritt, Inc. is a private company located at 565 East Hillsboro Blvd., Deerfield Beach, FL 33441.<sup>3</sup> Ashbritt, Inc., located at 565 East Hillsboro Blvd., Deerfield Beach, FL 33441, is and has been the recipient of numerous federal contracts and grants dating back to 2007, according to USAspending.gov.<sup>4</sup>
5. In a 2018 pre-primary report filed with the Commission, America First Action, Inc. reported that on April 11, 2018, it had received a \$500,000 contribution from Ashbritt, Inc., 565 East Hillsboro Blvd., Deerfield Beach, FL 33441.<sup>5</sup>

#### SUMMARY OF THE LAW

6. “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).
7. 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).
8. Federal law additionally prohibits any person from knowingly soliciting such a contribution from a federal contractor. 52 U.S.C. § 30119(a)(2).
9. 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 “selling any land or building,” if

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<sup>3</sup> Ashbritt, Inc., *2018 Florida Profit Corporation Annual Report*, Florida Division of Corporations (Apr. 3, 2018), <http://search.sunbiz.org/Inquiry/CorporationSearch/GetDocument?aggregateId=domp-p92000000600-f837aed0-d4df-436b-9f44-95cfcfb0bdc5&transactionId=p92000000600-4a40c240-8775-46d8-b401-c50df4251782&formatType=PDF>.

<sup>4</sup> See Keyword Search: Ashbritt, USAspending.gov, [https://www.usaspending.gov/#/keyword\\_search/%22ashbritt%22](https://www.usaspending.gov/#/keyword_search/%22ashbritt%22) (accessed July 30, 2018).

<sup>5</sup> America First Action, Inc., 2018 Montana Pre-Primary, FEC Form 3X, at 6 (filed May 24, 2018), <http://docquery.fec.gov/cgi-bin/fecimg/?201805249113352235>.

“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).

10. 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).
11. In 2011, the Commission 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*<sup>6</sup> and the D.C. Circuit decision in *SpeechNow.org v. FEC*.<sup>7</sup> See, e.g., Advisory Opinion 2011-11 (Colbert) at 4-5, 10 (June 30, 2011); see also Press Release, FEC, *FEC statement on Carey v. FEC reporting guidance for political committees that maintain a non-contribution account*, n.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).
12. 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

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<sup>6</sup> 130 S. Ct. 876 (2010).

<sup>7</sup> 599 F.3d 686 (D.C. Cir. 2010).

broken, more money in exchange for contracts would flow through the same channels already on display.” *Id.* at 18.

## CAUSE OF ACTION

### I. ASHBRIITT, INC. VIOLATED THE CONTRACTOR CONTRIBUTION BAN

13. 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.
14. According to USASpending.gov, “the official source for spending data for the U.S. Government,”<sup>8</sup> Ashbriitt, Inc. is a federal contractor and was a federal contractor when it made the \$500,000 contribution to America First Action on April 11, 2018.<sup>9</sup> Moreover, Ashbriitt, Inc. received a supplemental agreement valued at \$459,675 one day before making the contribution.<sup>10</sup>
15. Consequently, there is reason to believe that Ashbriitt, Inc., as a federal contractor, violated the federal contractor contribution ban by making a “contribution to any political ... committee,” namely America First Action, during the period its federal contracts were being negotiated and/or performed. 52 U.S.C. § 30119(a)(1).

<sup>8</sup> USASpending.gov, *Mission*, <https://www.usaspending.gov/#/about> (last visited July 30, 2018).

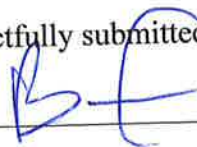
<sup>9</sup> See *supra* ¶¶4-5; see also USASpending.gov, Contract Summary, <https://www.usaspending.gov/#/award/62661522> (last visited July 30, 2018) (showing \$160,497 contract from Department of Defense to Ashbriitt, Inc. with performance period December 8, 2017 to May 30, 2018); USASpending.gov, Contract Summary, <https://www.usaspending.gov/#/award/65497534> (last visited July 30, 2018) (showing a \$41,698,565 contract from the Department of Defense to Ashbriitt, Inc. with a performance period of January 12, 2018 to May 30, 2018).

<sup>10</sup> USASpending.gov, Contract Summary, <https://www.usaspending.gov/#/award/66926361> (last visited July 30, 2018) (showing a \$1,669,769 contract from the Department of Defense to Ashbriitt, Inc. with a performance period of March 30, 2018 to May 30, 2018, and under the “Transaction History” tab, a “supplemental agreement for work within scope” valued at \$459,675 and dated April 10, 2018).

**PRAYER FOR RELIEF**

16. Wherefore, the Commission should find reason to believe that Ashbritt, Inc. violated 52 U.S.C. § 30101 *et seq.*, and conduct an immediate investigation under 52 U.S.C. § 30109(a)(2).
17. 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,



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Counsel to the Campaign Legal Center

August 1, 2018

**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 1 day of August 2018.

  
Notary Public

