

1 **FEDERAL ELECTION COMMISSION**

2
3 **FIRST GENERAL COUNSEL'S REPORT**

4
5 **MUR 7568**

6 DATE COMPLAINT FILED: February 21, 2019

7 DATE OF NOTIFICATION: February 25, 2019

8 DATE OF LAST RESPONSE: March 19, 2019

9 DATE OF ACTIVATION: April 25, 2019

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11 ELECTION CYCLE: 2018

12 SOL EXPIRATION: June 29, 2023

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14 **COMPLAINANT:**

Campaign Legal Center

15 **RESPONDENTS:**

16 Alpha Marine Services Holdings, LLC

17 Congressional Leadership Fund and Caleb Crosby

18 In his official capacity as treasurer

19 **RELEVANT STATUTES AND**
20 **REGULATIONS:**

21 52 U.S.C. § 30119

22 11 C.F.R. § 115.1

23 11 C.F.R. § 115.2

24 **INTERNAL REPORTS CHECKED:**

Disclosure Reports

25
26 **FEDERAL AGENCIES CHECKED:**

None

27 **I. INTRODUCTION**

28 The Complaint alleges that Alpha Marine Services Holdings, LLC (“Alpha”), a federal
29 government contractor, made a \$100,000 contribution to Congressional Leadership Fund and
30 Caleb Crosby in his official capacity as treasurer (the “Committee”), an independent-
31 expenditure-only political committee (“IEOPC”), in violation of the Federal Election Campaign
32 Act of 1971, as amended (the “Act”).¹

¹ Compl. at 1, 4 (Feb. 21, 2019).

1 Alpha acknowledges that it is a government contractor and that it made the contribution.²
2 The Committee responds that the Complaint makes no allegation that it violated the Act, and
3 maintains that it did not knowingly solicit or knowingly accept a contribution from a federal
4 contractor.³

5 The available record indicates that Alpha was a federal contractor at the time of its
6 contribution to the Committee. Accordingly, we recommend that the Commission find reason to
7 believe that Alpha violated 52 U.S.C. § 30119(a)(1) by making a prohibited contribution to the
8 Committee. We further recommend that the Commission take no action at this time as to the
9 Committee. Finally, we recommend that the Commission authorize pre-probable cause
10 conciliation with Alpha.

11 **II. FACTUAL BACKGROUND**

12 According to the Complaint, Alpha is a Louisiana-based tugboat manufacturing and
13 marine transportation company.⁴ Alpha is also a federal government contractor, and in 2018
14 received 26 contracts and grants in amounts totaling \$27.8 million.⁵ The Committee is an
15 IEOPC that raised over \$157 million during the 2018 election cycle, and made over \$138 million
16 in independent expenditures that supported and opposed federal candidates.⁶

² Alpha Resp. at 1 (Mar. 13, 2019).

³ Committee Resp. at 1 (Mar. 19, 2019).

⁴ Compl. at 2.

⁵ *See* Compl. at 2-3, citing USASpending.gov information noting that “[a]t the time of the contribution, Alpha Marine Services was under multiple contracts with the Department of Defense totaling in excess of \$35 million.” *See also* USASpending.gov, Recipient Search, Alpha, <https://www.usaspending.gov/#/recipient/fa62c88c-848a-3a87-b4d6-97aefbb8599e-P>. In Fiscal Year 2019, Alpha has six federal contracts totaling \$10.6 million. *Id.*

⁶ *See* Congressional Leadership Fund 2017-2018 Financial Summary (Raising), *available at* <https://www.fec.gov/data/committee/C00504530/?tab=summary>; Committee 2017-2018 Financial Summary (Spending), *available at* <https://www.fec.gov/data/committee/C00504530/?tab=summary#cash-summary>.

1 The Complaint alleges that Alpha violated the Act's prohibition on contributions made to
2 political committees from federal government contractors when it made a \$100,000 contribution
3 to the Committee on June 29, 2018.⁷ Alpha confirms that it was a federal government contractor
4 at all relevant times, and it states that when it learned the contribution was prohibited under the
5 Act, it requested and received a refund from the Committee dated March 13, 2019.⁸ Alpha also
6 requests that the Complaint be dismissed without further action.⁹

7 The Committee asserts that the Complaint does not allege that the Committee knew
8 Alpha was a federal contractor.¹⁰ Further, the Committee states that it was unaware of Alpha's
9 status until after it received the Complaint in this matter.¹¹ The Committee also asserts that at
10 the time of Alpha's contribution, its online donation page and contribution form included an
11 attestation requiring donors to expressly confirm that they are not federal government
12 contractors, and Alpha completed and signed a paper contribution form containing this
13 statement.¹² Finally, the Committee states that after it learned of the contribution through the
14 Complaint, and that Alpha held federal contracts, it refunded the contribution, which will be

⁷ Compl. at 3. *See also* Congressional Leadership Fund, Amended 2018 July Quarterly *Report of Receipts and Disbursements* (Nov. 14, 2018) at 26, <http://docquery.fec.gov/pdf/635/201811149133679635/201811149133679635.pdf>.

⁸ Alpha Resp. at 1; Attach. (copy of contribution refund check).

⁹ *Id.* at 1.

¹⁰ Committee Resp. at 1.

¹¹ *Id.*

¹² *Id.*

1 reflected on its upcoming 2019 Mid-Year Report.¹³ The Committee requests that the
2 Commission dismiss the Complaint as to it.¹⁴

3 **III. LEGAL ANALYSIS**

4 A “contribution” is defined as “any gift . . . of money or anything of value made by any
5 person for the purpose of influencing any election for Federal office.”¹⁵ Under the Act, a federal
6 contractor may not make contributions to political committees.¹⁶ Specifically, the Act prohibits
7 “any person . . . [w]ho enters into any contract with the United States . . . for the rendition of
8 personal services or furnishing any material, supplies, or equipment to the United States or any
9 department or agency thereof” from making a contribution “if payment for the performance of
10 such contract . . . is to be made in whole or in part from funds appropriated by the Congress.”¹⁷
11 These prohibitions begin to run at the beginning of negotiations or when proposal requests are
12 sent out, whichever occurs first, and end upon the completion of performance of the contract or
13 the termination of negotiations, whichever occurs last.¹⁸ And these prohibitions apply to a
14 federal contractor who makes contributions to any political party, political committee, federal
15 candidate, or “any person for any political purpose or use.”¹⁹

¹³ *Id.*

¹⁴ *Id.*

¹⁵ 52 U.S.C. § 30101(8)(A)(i).

¹⁶ 52 U.S.C. § 30119(a); 11 C.F.R. § 115.2.

¹⁷ 52 U.S.C. § 30119(a)(1); *see also* 11 C.F.R. part 115.

¹⁸ 52 U.S.C. § 30119 (a)(1); 11 C.F.R. § 115.1(b).

¹⁹ 52 U.S.C. § 30119(a)(1); 11 C.F.R. § 115.2; *see also* MURs 7099 (Suffolk Construction Co.) and 7451 (Ring Power Corp.) (open matter) (Commission found reason to believe that federal government contractor made a prohibited contribution to an IEOPC).

1 Alpha acknowledges that it was a federal contractor when it made its contribution to the
2 Committee. Accordingly, we recommend that the Commission find reason to believe that Alpha
3 Marine Services Holdings, LLC, violated 52 U.S.C. § 30119(a)(1).

4 The Act also prohibits any person from knowingly soliciting any federal contractor
5 contribution.²⁰ The Complaint does not allege that the Committee knowingly solicited the Alpha
6 contribution or provide any information that would indicate that the Committee knew that Alpha
7 was a federal contractor.²¹ The Committee denies that it knowingly solicited contributions from
8 a federal contractor, and it refunded the contribution when it learned that Alpha was a federal
9 contractor.²² Nevertheless, the available record does not include information regarding the
10 making of the contribution, and the Committee's denial is unsworn and did not include Alpha's
11 signed attestation.²³ As it is possible that Alpha's response to the reason-to-believe finding
12 could provide more information regarding the making of this contribution, we recommend that
13 the Commission take no action at this time with respect to the Committee.

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²⁰ See 52 U.S.C. § 30119(a)(2); *see also* 11 C.F.R. § 115.2(c).

²¹ See Compl.

²² Committee Resp. at 1.

²³ The Committee's online donation page asks contributors to check a box above the "Donate Now" button, and states that "By checking contribute I confirm: * I am not a foreign national[;] * I am not a federal contractor[; and] * The funds used to make my contribution are not the funds of another person or entity[.]" See <https://www.congressionalleader shipfund.org/donate/>.

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2 **V. RECOMMENDATIONS**

- 3 1. Find reason to believe that Alpha Marine Services Holdings, LLC, violated
4 52 U.S.C. § 30119(a)(1) by making a federal government contractor contribution;
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6 2. Take no action at this time with respect to Congressional Leadership Fund and
7 Caleb Crosby in his official capacity as treasurer;
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9 3. Authorize pre-probable cause conciliation with Alpha Marine Services Holdings,
10 LLC;
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12 4. Approve the attached Factual and Legal Analysis;
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14 5. Approve the attached Conciliation Agreement; and

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First General Counsel's Report

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6. Approve the appropriate letter.

Lisa J. Stevenson
Acting General Counsel

Charles Kitcher
Acting Associate General Counsel
for Enforcement

Date: 6.13.2019

Stephen Gura by MA
Stephen Gura
Deputy Associate General Counsel
for Enforcement

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Mark Allen
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