



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

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AUG 22 2019

RE: MUR 7568
Alpha Marine Services Holdings, LLC

Dear Mr. Owen:

On February 25, 2019, the Federal Election Commission (the "Commission") notified your client, Alpha Marine Services Holdings, LLC ("Alpha"), of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint was forwarded to Alpha at that time.

After reviewing the available information and your client's response, the Commission, on August 20, 2019, found reason to believe that your client violated 52 U.S.C. § 30119(a)(1) by making a prohibited federal contractor contribution. Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determination.

In order to expedite the resolution of this matter, the Commission has authorized the Office of the General Counsel to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Pre-probable cause conciliation is not mandated by the Act or the Commission's regulations, but is a voluntary step in the enforcement process that the Commission is offering to the Committee as a way to resolve this matter at an early stage and without the need for briefing the issue of whether or not the Commission should find probable cause to believe that the Committee violated the law.

If your client is interested in engaging in pre-probable cause conciliation, please contact Roy Q. Luckett, the attorney assigned to this matter, at (202) 694-1650 or rluckett@fec.gov, within seven days of receipt of this letter. During conciliation, you may submit any factual or

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legal materials that you believe are relevant to the resolution of this matter. No action by the Commission or any person and no information derived in connection with any conciliation attempt by the Commission may be made public by the Commission without the written consent of the respondent and the Commission. 52 U.S.C. § 30109(a)(4)(B). The Commission may proceed to the next step in the enforcement process if the Committee is not interested in pre-probable cause conciliation or a mutually acceptable conciliation agreement cannot be reached within 60 days. *See* 52 U.S.C. § 30109(a), 11 C.F.R. Part 111 (Subpart A). Conversely, if you are not interested in pre-probable cause conciliation, the Commission may conduct formal discovery in this matter or proceed to the next step in the enforcement process. Please note that once the Commission enters the next step in the enforcement process, it may decline to engage in further settlement discussions until after making a probable cause finding.

Pre-probable cause conciliation, extensions of time, and other enforcement procedures and options are discussed more comprehensively in the Commission's "Guidebook for Complainants and Respondents on the FEC Enforcement Process," which is available on the Commission's website at http://www.fec.gov/respondent_guide.pdf.

Please be advised that, although the Commission cannot disclose information regarding an investigation to the public, it may share information on a confidential basis with other law enforcement agencies.¹

This matter will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and 30109(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act.

We look forward to your response.

On behalf of the Commission,



Ellen L. Weintraub
Chair

Enclosures
Factual and Legal Analysis

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¹ The Commission has the statutory authority to refer knowing and willful violations of the Act to the Department of Justice for potential criminal prosecution, 52 U.S.C. § 30109(a)(5)(C), and to report information regarding violations of law not within its jurisdiction to appropriate law enforcement authorities. *Id.* § 30107(a)(9).

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS****RESPONDENT:** Alpha Marine Services Holdings, LLC**MUR:** 7568**I. INTRODUCTION**

This matter was generated by a Complaint filed with the Federal Election Commission (the “Commission”) by the Campaign Legal Center. The Complaint alleges that Alpha Marine Services Holdings, LLC (“Alpha”), a federal government contractor, made a \$100,000 contribution to Congressional Leadership Fund and Caleb Crosby in his official capacity as treasurer (the “Committee”), an independent-expenditure-only political committee (“IEOPC”), in violation of the Federal Election Campaign Act of 1971, as amended (the “Act”).¹ Alpha acknowledges that it is a government contractor and that it made the contribution.²

The available record indicates that Alpha was a federal contractor at the time of its contribution to the Committee. Accordingly, the Commission finds reason to believe that Alpha violated 52 U.S.C. § 30119(a)(1) by making a prohibited contribution to the Committee.

II. FACTUAL BACKGROUND

According to the Complaint, Alpha is a Louisiana-based tugboat manufacturing and marine transportation company.³ Alpha is also a federal government contractor, and in 2018 received 26 contracts and grants in amounts totaling \$27.8 million.⁴ The Committee is an

¹ Compl. at 1, 4 (Feb. 21, 2019).

² Alpha Resp. at 1 (Mar. 13, 2019).

³ Compl. at 2.

⁴ 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.*

1 IEOPC that raised over \$157 million during the 2018 election cycle, and made over \$138 million
2 in independent expenditures that supported and opposed federal candidates.

3 The Complaint alleges that Alpha violated the Act's prohibition on contributions made to
4 political committees from federal government contractors when it made a \$100,000 contribution
5 to the Committee on June 29, 2018.⁵ Alpha confirms that it was a federal government contractor
6 at all relevant times, and it states that when it learned the contribution was prohibited under the
7 Act, it requested and received a refund from the Committee dated March 13, 2019.⁶

8 **III. LEGAL ANALYSIS**

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

⁵ 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>.

⁶ Alpha Resp. at 1; Attach. (copy of contribution refund check).

⁷ 52 U.S.C. § 30101(8)(A)(i).

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

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

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1 under the contract or the termination of negotiations, whichever occurs last.¹⁰ And these
2 prohibitions apply to a federal contractor who makes contributions to any political party, political
3 committee, federal candidate, or “any person for any political purpose or use.”¹¹

4 Alpha acknowledges that it was a federal contractor when it made its contribution to the
5 Committee. Accordingly, the Commission finds reason to believe that Alpha Marine Services
6 Holdings, LLC, violated 52 U.S.C. § 30119(a)(1).

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

¹¹ 52 U.S.C. § 30119(a)(1); 11 C.F.R. § 115.2; *see also* MUR 7099 (Suffolk Construction Co.) (Commission found reason to believe that federal government contractor made a prohibited contribution to an IEOPC).