

BEFORE THE FEDERAL ELECTION COMMISSION

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

v.

MUR No. 7569

3M COMPANY
3M Center
St. Paul, MN 55144

COMPLAINT

2019 FEB 21 PM 2:30
OFFICE OF
GENERAL COUNSEL

1. This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) and is based on information and belief that 3M Company 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 \$50,000 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. In the 2018 election cycle, Congressional Leadership Fund reported over \$138 million in independent expenditures to the Commission.³ Those expenditures supported and opposed federal candidates in races across the country.⁴
5. 3M Company is a public company based in St. Paul, Minnesota, that describes itself as “a diversified technology company with a global presence in the following businesses: Industrial; Safety and Graphics; Health Care; Electronics and Energy; and Consumer.”⁵ Its website includes a “3M Government Contracts” page, where 3M Company highlights its federal government contract work.⁶ According to USA Spending.gov, “the official source for spending data for the U.S. Government,”⁷ 3M Company, located at 3M Center, St. Paul, MN

² See *Donate*, CONGRESSIONAL LEADERSHIP FUND.ORG, <https://www.congressionalleadershipfund.org/donate/> (last visited Feb. 21, 2019).

³ Congressional Leadership Fund, Financial Summary, 2017-18, FEC.gov, <https://www.fec.gov/data/committee/C00504530/?tab=summary> (last visited Feb. 21, 2019).

⁴ See Congressional Leadership Fund, Independent Expenditures, 2017-18, FEC.gov, <https://www.fec.gov/data/committee/C00504530/?tab=spending> (last visited Feb. 21, 2019); see also Congressional Leadership Fund, Independent Expenditures (24- and 48-hour reports) mentioning Minnesota candidates, FEC.gov, https://www.fec.gov/data/independent-expenditures/?data_type=processed&committee_id=C00504530&is_notice=true&candidate_office_state=mn&min_date=01%2F01%2F2017&max_date=12%2F31%2F2018 (last visited Feb. 21, 2019) (showing independent expenditures opposing Minnesota U.S. congressional candidates Joseph Radinovich, Dean Phillips, Dan Feehan, Pete Stauber).

⁵ 3M Company, 2017 Annual Report, SEC Form 10-K, at 4 (filed Feb. 8 2018), <http://d18rn0p25nwr6d.cloudfront.net/CIK-0000066740/244bbb40-9914-4fb8-a545-ccc0942951b3.pdf>.

⁶ 3M Government Contracts, 3M COMPANY, https://www.3m.com/3M/en_US/government-solutions-us/contracts/ (last visited Feb. 21, 2019).

⁷ USA Spending.gov, Mission, <https://www.usaspending.gov/#/about> (last visited Feb. 21, 2019).

55144, is and has been the recipient of numerous federal contracts and grants,⁸ including a contract with the Department of Homeland Security that began on October 23, 2018.⁹

6. In its 2018 post-general report filed with the Commission, Congressional Leadership Fund reported that on November 1, 2018 it had received a \$50,000 contribution from “The 3M Company,” 3M Center, Building 216-2N-07, St. Paul, MN 55144-1001.¹⁰

SUMMARY OF THE LAW

7. “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).
8. 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).
9. Federal law additionally prohibits any person from knowingly soliciting such a contribution from a federal contractor. 52 U.S.C. § 30119(a)(2).

⁸ See Advanced Search for “3M Company,” USA Spending.gov, <https://www.usaspending.gov/#/search/456df8bf86e659a4006be6558ef1e180> (last visited Feb. 21, 2019); see also, e.g., USA Spending.gov, Contract Summary, Award ID 123A9418F0116, <https://www.usaspending.gov/#/award/67511714> (last visited Dec. 13, 2018) (showing a contract from the U.S. Department of Agriculture to 3M Company, with a period of performance of July 31, 2018 through July 5, 2023 and a potential award amount of \$5,645,260); USA Spending.gov, Contract Summary, Award ID 36C10B18C2732 <https://www.usaspending.gov/#/award/66246878> (last visited Feb. 21, 2019) (showing a contract from the U.S. Department of Veterans Affairs to 3M Company, with a period of performance of May 23, 2018 through May 22, 2019 and a potential award amount of \$3,940,775).

⁹ USA Spending.gov, Contract Summary, Award ID 70Z03819FP00000001, <https://www.usaspending.gov/#/award/70009006> (last visited Feb. 21, 2019) (showing a \$10,930 contract from the U.S. Department of Homeland Security to 3M Company with a period of performance of October 23, 2018 through November 16, 2018).

¹⁰ Congressional Leadership Fund, 30-Day Post-General Report, FEC Form 3X, at 31 (filed Dec. 6, 2018), <http://docquery.fec.gov/pdf/954/201812069135232954/201812069135232954.pdf>. Building 216 is a building on 3M Company’s St. Paul campus. See Directions to 3M and 3M Campus Map, 3M.COM, <http://multimedia.3m.com/mws/media/2910790/3m-directions.pdf>; see also 3M Company, 2017 Annual Report, *supra* note 5, at 1 (showing 3M Center, St. Paul, MN 55144 as 3M Company’s “principal executive offices”). On its latest annual report filed with the Securities and Exchanges Commission, 3M Company listed no subsidiaries also containing “3M Company” in their names. *Id.* at 168-69.

10. 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).
11. 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).
12. 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*¹¹ and the D.C. Circuit decision in *SpeechNow.org v. FEC*.¹² 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). In 2017, the Commission found reason to believe that federal contractor Suffolk Construction Company, Inc. had

¹¹ 130 S. Ct. 876 (2010).

¹² 599 F.3d 686 (D.C. Cir. 2010).

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.

13. 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. 3M COMPANY VIOLATED THE CONTRACTOR CONTRIBUTION BAN

14. 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.
15. According to USA Spending.gov, "the official source for spending data for the U.S. Government," 3M Company is a federal contractor and was a federal contractor when it made the \$50,000 contribution to Congressional Leadership Fund on November 1, 2018.¹³
16. Consequently, there is reason to believe that 3M Company, as a federal contractor, violated the federal contractor contribution ban by making a "contribution to any political . . .

¹³

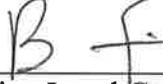
See supra ¶¶5-6.

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

17. Wherefore, the Commission should find reason to believe that 3M Company violated 52 U.S.C. § 30101 *et seq.*, and conduct an immediate investigation under 52 U.S.C. § 30109(a)(2).
18. 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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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 11 day of February 2019.



Notary Public

