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FEDERAL ELECTION COMMISSION

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OFFICE OF GENERAL COUNSEL

## BEFORE THE FEDERAL ELECTION COMMISSION

CAMPAIGN LEGAL CENTER  
 1101 14th Street NW, Suite 400  
 Washington, DC 20005  
 (202) 736-2200

v.

MUR No. **7843**

MARATHON PETROLEUM COMPANY LP  
 539 South Main Street  
 Findlay, OH 45840

## COMPLAINT

1. This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) and is based on information and belief that Marathon Petroleum Company LP 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 Senate Leadership Fund (ID: C00571703) and \$500,000 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. Senate Leadership Fund is an independent expenditure-only political action committee (*i.e.*, a "super PAC").<sup>1</sup>

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<sup>1</sup> Senate Leadership Fund, Statement of Organization, FEC Form 1 at 1 (filed Jan. 20, 2015), <https://docquery.fec.gov/pdf/437/15031374437/15031374437.pdf>.

4. The “Donate” page on Senate Leadership Fund’s website redirects to a third-party “Revv” contribution platform that contains a disclaimer requiring contributors to affirm that they are “not a . . . federal government contractor.”<sup>2</sup>
5. So far in the 2020 cycle, Senate Leadership Fund has reported over \$200 million in independent expenditures supporting and opposing federal candidates in U.S. Senate races across the country.<sup>3</sup>
6. Congressional Leadership Fund is also an independent expenditure-only political action committee (*i.e.*, a “super PAC”).<sup>4</sup>
7. The “Donate” page on Congressional Leadership Fund’s website redirects to a third-party “WinRed” contribution platform that contains a disclaimer stating: “Contributions from . . . Federal contractors are prohibited.”<sup>5</sup>
8. So far in the 2020 cycle, Congressional Leadership Fund has reported over \$100 million in independent expenditures supporting and opposing federal candidates for the U.S. House of Representatives in races across the country, including in Ohio.<sup>6</sup>

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<sup>2</sup> See *Donate*, SENATELEADERSHIPFUND.ORG, <https://senate-leadership-fund.revv.co/donate> (last visited Oct. 22, 2020).

<sup>3</sup> See Senate Leadership Fund, Independent Expenditures, 2019–20, FEC.GOV, <https://www.fec.gov/data/committee/C00571703/?tab=spending&cycle=2020#independent-expenditures> (last visited Oct. 23, 2020).

<sup>4</sup> Congressional Leadership Fund, Statement of Organization, FEC Form 1 at 1 (filed Oct. 24, 2011), <https://docquery.fec.gov/pdf/996/11030681996/11030681996.pdf>.

<sup>5</sup> See *Donate*, CONGRESSIONALLEADERSHIPFUND.ORG, <https://secure.winred.com/clf/donate-today> (last visited Oct. 22, 2020).

<sup>6</sup> See Congressional Leadership Fund, Independent Expenditures, 2019–20, FEC.GOV, <https://www.fec.gov/data/committee/C00504530/?tab=spending&cycle=2020#independent-expenditures> (last visited Oct. 23, 2020); *see also* Congressional Leadership Fund, Independent Expenditures (24- and 48-hour reports) mentioning Ohio candidates, FEC.GOV, [https://www.fec.gov/data/independent-expenditures/?data\\_type=processed&committee\\_id=C00504530&is\\_notice=true&most\\_recent=true&candidate\\_office\\_state=OH&min\\_date=01%2F01%2F2019&max\\_date=12%2F31%2F2020](https://www.fec.gov/data/independent-expenditures/?data_type=processed&committee_id=C00504530&is_notice=true&most_recent=true&candidate_office_state=OH&min_date=01%2F01%2F2019&max_date=12%2F31%2F2020) (last visited Oct. 23, 2020) (showing independent expenditures opposing Ohio U.S. House of Representatives candidate Kate Schroder).

9. Marathon Petroleum Company LP is an oil refining, marketing, and pipeline transportation company located at 539 South Main Street, Findlay, OH 45840.<sup>7</sup> According to USAspending.gov, “the official source for spending data for the U.S. Government,”<sup>8</sup> Marathon Petroleum Company LP, at the address 539 S Main St, Findlay, OH 45840, holds an open “Indefinite Delivery/Indefinite Quantity (IDIQ) Contract” with the Department of Defense for a potential amount of \$1,953,770 and a “full and open competition” designation.<sup>9</sup>
10. According to federal lobbying disclosure records, Marathon Petroleum Company LP also uses the address “1201 F Street, NW, Suite 625, Washington, D.C. 20004.”<sup>10</sup>
11. On July 28, 2020, Congressional Leadership Fund received a \$500,000 contribution from “Marathon Petroleum Company” at “1201 F Street, NW, Suite 625, Washington, D.C.”

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<sup>7</sup> See, e.g., *Marathon Petroleum Co LP*, BLOOMBERG, <https://www.bloomberg.com/profile/company/27894Z.US> (last visited Oct. 25, 2020). Marathon Petroleum Company LP is a subsidiary of Marathon Petroleum Corporation. U.S. Securities and Exchange Commission, *Marathon Petroleum Corporation List of Subsidiaries as of December 31, 2019*, SEC.GOV, <https://www.sec.gov/Archives/edgar/data/1510295/000151029520000006/mpc-20191231xex211.htm> (last visited Oct. 22, 2020).

<sup>8</sup> *Mission*, USASPENDING.GOV, <https://www.usaspending.gov/#/about> (last visited Oct. 22, 2020).

<sup>9</sup> USAspending.gov, Indefinite Delivery / Indefinite Quantity (IDIQ) Contract, Award ID SPE60220D0477, USASPENDING.GOV, [https://www.usaspending.gov/award/CONT\\_IDV\\_SPE60220D0477\\_9700](https://www.usaspending.gov/award/CONT_IDV_SPE60220D0477_9700) (last visited Oct. 22, 2020) (showing an open federal indefinite delivery contract for the U.S. Department of Defense with a start date of February 24, 2020, an end date of April 30, 2021, a description for “Turbine Fuel, Aviation” and product code for “liquid propellants and fuels, petroleum base,” a current potential value of \$1,953,770, and the recipient as Marathon Petroleum Company LP, 539 S Main St, Findlay, OH 45840). Under government contract law, an indefinite delivery indefinite quantity contract is a form of a federal contract. 48 C.F.R. § 16.504; *see also* Glossary, *Indefinite Delivery Contract (IDC)*, USASPENDING.GOV, <https://www.usaspending.gov/?glossary=indefinite-delivery-contract-idc> (last visited Oct. 22, 2020) (stating that a “Indefinite Delivery Contract (IDC) facilitates the delivery of supply and service orders during a set timeframe. **This type of contract** is awarded to one or more vendors” and listing the three types of IDCs, including IDIQs (emphasis added)); *Indefinite Delivery Contract – Definition*, FEDERAL PROCUREMENT DATA SYSTEMS, [https://www.fpds.gov/help/Indefinite\\_Delivery\\_Contract.htm](https://www.fpds.gov/help/Indefinite_Delivery_Contract.htm) (last visited Oct. 22, 2020) (“Indefinite Quantity Contract provides for an indefinite quantity, within stated limits, of specific supplies or services to be furnished during a fixed period with deliveries to be scheduled by placing orders with the contractor. **The contract shall** require the Government to order and **the contractor to** furnish at least a stated minimum quantity of supplies or services and, if ordered, the contractor to furnish any additional quantities not to exceed a stated maximum.” (emphasis added)).

<sup>10</sup> E.g., Marathon Petroleum Company LP, Lobbying Registration under Lobbying Disclosure Act of 1995 (Jan. 20, 2017), <https://soprweb.senate.gov/index.cfm?event=getFilingDetails&filingID=513D9849-3322-463C-99BE-A1F0DD105BB3&filingTypeID=2> (listing 1201 F Street, NW, Suite 625, Washington, D.C. 20004 address); Marathon Petroleum Company LP, Q3 2020 Lobbying Report under Lobbying Disclosure Act of 1995 (Oct. 20, 2020), <https://soprweb.senate.gov/index.cfm?event=getFilingDetails&filingID=745BDA13-387C-49DB-BB42-89F16BCA923B&filingTypeID=69> (listing 1201 F Street, NW, Suite 625, Washington, D.C. 20004 address).

20004,” according to the committee’s 2020 October quarterly report filed with the Commission.<sup>11</sup>

12. On August 5, 2020, Senate Leadership Fund received a \$500,000 contribution from “Marathon Petroleum Company, LP” at “539 South Main Street, Findlay, OH 45840,” according to the committee’s 2020 September monthly report filed with the Commission.<sup>12</sup>

#### **SUMMARY OF THE LAW**

13. “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).
14. 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).
15. Federal law additionally prohibits any person from knowingly soliciting such a contribution from a federal contractor. 52 U.S.C. § 30119(a)(2).
16. 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).

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<sup>11</sup> Congressional Leadership Fund, 2020 October Quarterly Report, FEC Form 3X at 428 (filed Oct. 15, 2020), <https://docquery.fec.gov/pdf/482/202010159295638482/202010159295638482.pdf>.

<sup>12</sup> Senate Leadership Fund, 2020 September Monthly Report, FEC Form 3X at 10 (filed Sept. 20, 2020), <https://docquery.fec.gov/pdf/071/202009209275581071/202009209275581071.pdf>.

17. 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).
18. The Commission relies on federal government contract and acquisitions law to determine whether a person is performing or negotiating a federal contract, and is thus considered a federal contractor under FECA and Commission regulations. *See* Advisory Opinion 2008–11 (Brown) at 2–4 (Oct. 14, 2008).
19. Under federal government contract and acquisitions law, an indefinite-quantity contract, as a subtype of the indefinite delivery contract category, 48 C.F.R. § 16.501-2 (a), is a federal contract, and a person holding or negotiating such a contract is a federal contractor, *see* 48 C.F.R. § 16.504 (describing an indefinite-quantity contract as a “contract” under federal law).<sup>13</sup>
20. 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*<sup>14</sup> and the D.C. Circuit decision in *SpeechNow.org v. FEC*.<sup>15</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

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<sup>13</sup> *See also* *supra* n.9.

<sup>14</sup> 130 S. Ct. 876 (2010).

<sup>15</sup> 599 F.3d 686 (D.C. Cir. 2010).

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.

21. In 2019, the Commission found reason to believe that federal contractor Ring Power Corporation violated 52 U.S.C. § 30119(a)(1) when it contributed \$50,000 to the super PAC New Republican PAC while holding active federal contracts. MUR 7451 (Ring Power Corporation), Notification to Campaign Legal Center at 1 (June 19, 2019). The Commission found reason to believe, and entered into pre-probable cause conciliation, even though the super PAC ultimately refunded the illegal contribution. MUR 7451, Conciliation Agreement at 2–3 (June 4, 2019). In recommending a reason-to-believe finding, the Commission’s Office of General Counsel emphasized that Ring Power Corporation’s assertion that the active contract constituted only a small proportion of the company’s overall revenue “does not negate the company’s status as a federal contractor under the Act, or obviate the violation.” MUR 7451, First General Counsel’s Report at 6 (Apr. 8, 2019). “Similarly,” OGC proceeded, “Ring Power’s remedial measures—obtaining a refund and other steps

taken to ensure it would no longer make prohibited contributions—do not excuse the violation.” *Id.* Pursuant to the conciliation agreement, Ring Power Corporation agreed to pay the Commission a \$9,500 penalty. MUR 7451, Conciliation Agreement at 2–3. Similarly, in 2020, the Commission found reason to believe that Alpha Marine Services violated 52 U.S.C. § 30119(a)(1) by contributing \$100,000 to Congressional Leadership Fund while holding active federal contracts, notwithstanding the fact that Alpha Marine sought and obtained a refund upon learning of the complaint. MUR 7458 (Alpha Marine Services), Notification to Campaign Legal Center at 1 (July 22, 2020); MUR 7458, Conciliation Agreement at 3–4. Alpha Marine Services agreed to pay the Commission a \$17,000 penalty. MUR 7458, Conciliation Agreement at 4.

22. The *en banc* D.C. Circuit unanimously upheld the federal contractor ban 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. MARATHON PETROLEUM COMPANY LP VIOLATED THE CONTRACTOR CONTRIBUTION BAN**

23. 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. § 115.

24. According to USA Spending.gov and federal government contract and acquisitions law, Marathon Petroleum Company LP is a federal contractor and was a federal contractor when it made the \$500,000 contribution to Congressional Leadership Fund on July 28, 2020.<sup>16</sup>

25. According to USA Spending.gov and federal government contract and acquisitions law, Marathon Petroleum Company LP is a federal contractor and was a federal contractor when it made the \$500,000 contribution to Senate Leadership Fund on August 5, 2020.<sup>17</sup>

26. Consequently, there is reason to believe that Marathon Petroleum Company LP, as a federal contractor, violated the federal contractor contribution ban by making a “contribution to any political . . . committee,” namely Senate Leadership Fund and 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**

27. Wherefore, the Commission should find reason to believe that Marathon Petroleum Company LP violated 52 U.S.C. § 30101 *et seq.*, and conduct an immediate investigation under 52 U.S.C. § 30109(a)(2).

28. 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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<sup>16</sup> See *supra* ¶¶ 9–10, 12–13, 17–20.  
<sup>17</sup> See *supra* ¶¶ 9, 11–13, 17–20.

*B*   
\_\_\_\_\_  
Campaign Legal Center, by  
Brendan M. Fischer  
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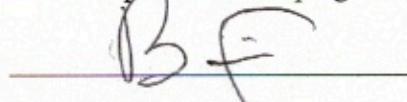
Brendan M. Fischer  
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Washington, DC 20005  
Counsel to the Campaign Legal Center

October 28, 2020

**VERIFICATION**

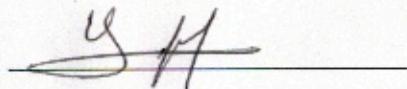
The complainant listed below hereby verify that the statements made in the attached Complaint are, upon their information and belief, true.  
Sworn pursuant to 18 U.S.C. § 1001.

For Complainant Campaign Legal Center



Brendan M. Fischer

Sworn to and subscribed before me this 27 day of October 2020.



Notary Public

