



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

MAR 11 2014

RE: MUR 6726
Chevron Corporation
Chevron U.S.A., Inc.

Dear Messrs. Kelner, Lenhard, and Glandon:

On March 12, 2013, the Federal Election Commission notified your clients, Chevron Corporation ("Chevron") and Chevron U.S.A., Inc. ("Chevron U.S.A.") of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On February 25, 2014, the Commission found, on the basis of the information in the complaint and information provided by you that there is no reason to believe that Chevron or Chevron U.S.A. violated 2 U.S.C. § 441c(a). Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). The Factual and Legal Analysis, which explains the Commission's findings, is enclosed for your information.

If you have any questions, please contact Jin Lee, the attorney assigned to this matter at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Shonkwiler".

Mark Shonkwiler
Assistant General Counsel

Enclosure
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Chevron Corporation
Chevron U.S.A., Inc.

MUR 6726

I. INTRODUCTION

This matter involves allegations that Chevron Corporation (“Chevron”) or its subsidiary Chevron U.S.A., Inc. (“Chevron U.S.A.”) made a contribution as a federal contractor in violation of the Federal Election Campaign Act, as amended (the “Act”).¹ Relying upon a government website, www.usaspending.gov, which tracks contracts awarded by the federal government, Complainants allege that Chevron was a federal contractor in October 2012 when it made a contribution to the Congressional Leadership Fund (“CLF”), an independent expenditure-only political committee. Chevron acknowledges that, on October 7, 2012, it made a \$2.5 million contribution to CLF but denies that it is a government contractor subject to the provisions of the Act cited by the Complainant. In contrast, Chevron U.S.A. acknowledges that it is a government contractor but denies that it made any federal political contribution in violation of the Act.

As discussed below, the available information indicates that Chevron was the entity that made the contribution to CLF, Chevron was not a federal contractor at the time it made the contribution, and Chevron and Chevron U.S.A. appear to be separate and distinct legal entities. It therefore does not appear that Chevron was subject to the Act’s ban on contributions by federal contractors at the time of the contribution or that Chevron’s contribution should be attributed to

¹ On March 5, 2012, the Complainants filed the original Complaint alleging that Chevron U.S.A., Inc. made the contribution at issue in this matter. Based on Chevron’s subsequent comments to the press that it, not Chevron U.S.A., made the contribution, the Complainants filed an Addendum to the Complaint, requesting that the Commission also conduct an investigation of Chevron. Addendum to Compl. at 1 (Mar. 22, 2012).

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1 Chevron U.S.A. Accordingly, the Commission finds no reason to believe that Chevron or
2 Chevron U.S.A. violated 2 U.S.C. § 441c(a).

3 **II. FACTUAL BACKGROUND**

4 **A. Corporate Structure of Chevron and Its Subsidiaries**

5 1. Chevron Corporation

6 Chevron is a Delaware corporation with headquarters in San Ramon, California. See
7 Chevron Resp. at 2. Chevron describes itself and its numerous subsidiaries as “one of the
8 world’s leading integrated energy companies.” Chevron Resp., Declaration of Kari H. Endries ¶
9 9 (“Endries Decl.”). Chevron reports that its combined sales and other revenue exceeded \$230
10 billion in 2012 and its combined income from its subsidiaries exceeded \$26.2 billion. Endries
11 Decl. ¶ 9.

12 Chevron holds 100% of the stock of Chevron Investments, Inc., which in turn owns the
13 stock of other companies, including 100% of the stock of Texaco, Inc. Endries Decl. ¶ 6.
14 Texaco, Inc. owns the stock of other companies, including 100% of Chevron U.S.A. Holdings,
15 Inc., which in turn owns 100% of the shares of Chevron U.S.A. *Id.*

16 The Response distinguishes Chevron from its subsidiaries, stating that its subsidiaries are
17 separate legal entities. Chevron Resp. at 2. The Response indicates that Chevron, “[a]s a general
18 matter . . . does not sell any goods or services.” *Id.* Rather, Chevron:

19 owns shares in, allocates capital to, reviews financial and performance goals for,
20 monitors the performance of, and provides general policy guidelines to numerous
21 global subsidiaries and affiliates, which are the separate holding or operating
22 companies, under the direction and control of their own management, engaged in
23 all aspects of worldwide energy operations.

24
25 *Id.* Consequently, Chevron’s primary assets consist of stock of other companies, and Chevron
26 derives most of its income from the dividends of these companies. *Id.*

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1 Contrary to the Complaint's assertions, Chevron claims that it was neither a federal
2 contractor nor seeking to become one in October 2012 and that it has no division, unit, or person
3 responsible for federal contracting. *Id.*; Endries Decl. ¶ 5. Although publicly available
4 information identified in the Complaint and Response available on www.usaspending.gov
5 identifies "Chevron Corporation" as a federal contractor during the relevant time period,
6 Chevron argues that this information is in error. Chevron Resp. at 6-7. Chevron states that many
7 of the entries in the database involve companies other than Chevron or one of its subsidiaries and
8 do not list the true vendor. *Id.* at 7 (citing Endries Decl. ¶¶ 16, 18-22). Moreover, many of the
9 entries are dated outside the relevant time period. *Id.* at 7-8.

10 2. Chevron U.S.A., Inc.

11 Chevron U.S.A. is a Pennsylvania corporation with headquarters also located in San
12 Ramon, California.² According to its Response, Chevron U.S.A. is engaged in all branches of
13 the petroleum industry as well as mineral, geothermal, and other activities but derives a relatively
14 insignificant amount from contracts with the federal government. Chevron Resp. at 2; Endries
15 Decl. ¶ 7. Chevron U.S.A. not only explores for and produces crude oil and natural gas but also
16 refines crude oil into petroleum products and markets such products. Endries Decl. ¶ 7.
17 Chevron U.S.A. acknowledges that it is a federal contractor, but asserts that it derives "a
18 relatively insignificant amount of revenue" from federal contracts. Resp. at 2.

19 **B. Contribution to the Congressional Leadership Fund**

20 CLF is an independent expenditure-only political committee registered with the FEC.
21 CLF Resp. at 1; CLF Statement of Organization (filed Oct. 24, 2011). According to its
22 Response, CLF does not accept contributions from federal contractors and does not solicit such

² According to www.usaspending.gov, both Chevron and Chevron USA are located at the same street address, 6001 Bollinger Canyon Road, San Ramon, California. Compl., Appendix A; Addendum to Compl., Attachment.

1 contributions. CLF Resp. at 1, citing Affidavit of Trent T. Edwards ¶ 4 (“Edwards Aff.”). CLF
2 claims that its fundraising materials, including its website, have stated its policy against
3 accepting contributions from federal contractors. CLF Resp. at 1, citing Edwards Aff. ¶¶ 2, 4.

4 According to CLF, in late September 2012, Trent T. Edwards, Director of Development
5 for CLF, met with representatives of Chevron to explore the possibility of Chevron’s making a
6 contribution to CLF. Edwards Aff. ¶ 5. Soon after that meeting, a representative of Chevron
7 indicated that Chevron was considering a contribution to CLF and that Chevron was not a federal
8 contractor. *Id.* According to a sworn statement provided by the Chevron Response, Chevron’s
9 Policy, Government and Public Affairs Corporate Department requested the \$2.5 million
10 contribution to CLF, and the payment was “charged to Chevron.” *See* Chevron Resp.,
11 Declaration of Thomas G. Hoffman ¶ 3 (“Hoffman Decl.”). On October 7, 2012, CLF received a
12 check from Chevron in the amount of \$2.5 million. *See id.*; Check No. 0024282612, Chevron
13 Resp., Ex. A.; CLF Amended 2012 12 Day Pre-Election Report (filed Oct. 26, 2012).

14 III. LEGAL ANALYSIS

15 A. The Act’s Prohibition of Contributions Made By Federal Contractors

16 The Act prohibits any person who is negotiating or performing a contract with the United
17 States government or any of its agencies or departments from making a contribution to any
18 political party, political committee, federal candidate, or “any person for any political purpose or
19 use.” 2 U.S.C. § 441c(a)(1); 11 C.F.R. § 115.2(a). In addition, the Act prohibits any person
20 from knowingly soliciting a contribution from any person who is negotiating or performing a
21 contract with the United States government. 2 U.S.C § 441c(a)(2); 11 C.F.R. § 115.2(c).

22 The available information indicates that Chevron made the contribution to CLF and that
23 Chevron was not a federal contractor when it made that contribution. The Chevron Response

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1 includes sworn testimony and documentation that Chevron, not Chevron U.S.A., made the
2 contribution to CLF in October 2012. *See* Thomas Decl. ¶ 3. There is no available information
3 to contradict this evidence.

4 Chevron asserts that “Chevron Corporation is not, and was not in October 2012, in the
5 business of federal contracting.” Chevron Resp. at 12. It supports this assertion with testimony
6 from staff responsible for Chevron’s corporate governance and the results of an internal review
7 initiated in response to the Complaint. *See* Endries Decl. ¶¶ 1-5, 10-31. Chevron declares that,
8 upon reviewing www.usaspending.gov and the Complaint, it identified 140 results for “Chevron
9 Corporation.” *Id.* ¶ 11. Fifty-one of those entries pertained to agreements by companies other
10 than Chevron. *Id.* ¶¶ 13-14 (explaining that the website returned entries for a corporation that
11 makes insignia shaped as “chevrons”). The remaining 89 entries, which include purchase or
12 delivery orders and contract modifications, reflect a total of only 16 underlying contracts. *Id.*
13 ¶ 15. Chevron was able to locate nine of these contracts. *Id.* Of these nine contracts, five were
14 “issued in the names of Chevron affiliates and not Chevron Corporation.” *Id.* Four of the nine
15 located contracts “had erroneously been issued in the name of Chevron,” and performance was
16 complete on all before October 2012. *Id.* at ¶¶ 15, 17-24.

17 Chevron was unable to locate the remaining 7 of the 16 contracts. *Id.* ¶¶ 15-16. Chevron
18 provides testimony, however, that “the database contains sufficient information about the
19 contracting company, the product, or service to be delivered . . . that it can be reasonably
20 ascertained that, if these contracts listed Chevron Corporation as the contracting party, it would
21 have been in error.” *Id.* ¶ 16. These contracts included, for example, providing fuel to the U.S.
22 Coast Guard in El Salvador, a service Chevron Corporation does not provide. *Id.* ¶ 26.

1 Consistent with Chevron's sworn testimony, most of the contracts listed on
2 www.usaspending.gov appeared to have been completed prior to October 2012 and awarded to a
3 Chevron subsidiary. See <http://www.usaspending.gov> (last visited Sept. 26, 2013), Search
4 Results for "Chevron Corporation." Although OGC found one contract that could arguably be
5 attributed to Chevron during the relevant time period (Contract No. SP0600095C5541), Chevron
6 states that the true vendor for this contract was its subsidiary, Chevron U.S.A. Product Company.
7 See Endries Decl. ¶ 21.

8 Accordingly, Chevron does not appear to have been a federal contractor during the
9 relevant time period.

10 **B. Chevron Appears to Have Been Separate and Distinct from Chevron U.S.A.**

11
12 The Commission has recognized a parent company may make a contribution to an
13 independent-expenditure-only political committee if it has an ownership interest in a federal-
14 contractor subsidiary when (1) the subsidiary is a "separate and distinct legal entity" and (2) the
15 parent company has sufficient revenue derived from sources other than its contractor subsidiary
16 to make the contribution. See, e.g. MUR 6403 (*Alaskans Standing Together. et al.*). Here, the
17 available information indicates that Chevron and Chevron U.S.A. appear to be separate and
18 distinct entities. Chevron and Chevron U.S.A. are separately incorporated: Chevron is a
19 registered corporation in Delaware, and Chevron U.S.A. is registered as a Pennsylvania
20 corporation. Although both Chevron and Chevron U.S.A. are located at the same street address.
21 Compl., Appendix A; Addendum to Compl., Attachment, the companies are under the direction
22 and control of separate management. See Chevron Resp. at 2. Although publicly available
23 information indicates that Chevron and Chevron U.S.A. may share the same CEO, the public
24 record also indicates most of the companies' directors and officers do not overlap. See

1 *generally* Advisory Op. 1998-11 at 5, n. 3 (determining that overlapping officers and directors
2 between a parent company and its subsidiaries was insufficient to establish that the subsidiaries
3 were alter egos of the parent company). In addition, Chevron appears to have had sufficient
4 funds *not* derived from revenue of subsidiaries with federal contracts to make the \$2.5 million
5 contribution to CLF. Chevron's combined sales and operating revenues in 2012 exceeded \$230
6 billion, and it has provided sworn testimony that significantly more than \$2.5 million was
7 derived from dividend revenues from domestic subsidiaries that were not federal contractors.
8 *See* Endries Decl. ¶ 9.

9 Accordingly, the available information indicates that Chevron and Chevron U.S.A.
10 appear to be separate and distinct legal entities and that Chevron made its contribution to CLF
11 with revenue from sources other than subsidiaries holding federal contracts.

12 IV. CONCLUSION

13 Accordingly, the Commission finds no reason to believe that Chevron or Chevron U.S.A.
14 violated 2 U.S.C. § 441c(a) by making a contribution as a federal contractor.³
15

³ Because the Commission is not proceeding in this matter, we do not address the constitutional challenges to 441c(a) raised by the respondents. *See* Chevron Resp. at 13-18.

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