

BEFORE THE  
FEDERAL ELECTION COMMISSION

Free Speech For People

v.

MUR No. \_\_\_\_\_

Citgo Petroleum Corporation  
Citgo Holding, Inc.  
Petróleos de Venezuela, S.A.  
58th Presidential Inaugural Committee

**COMPLAINT**

**Introduction**

1. Citgo Petroleum Corporation (Citgo) is an energy company, founded in Oklahoma in 1910 and now headquartered in Texas, with some 3,500 employees. Citgo is also an iconic American brand. Its famous triangular logo is seen around the United States, and is a major landmark in Boston’s Kenmore Square.

2. But Citgo has not been under American ownership or control for a generation. Since 1990, Citgo has been a wholly-owned subsidiary of Petróleos de Venezuela, S.A. (PDVSA), a Venezuelan state-owned oil company. PDVSA, and the Venezuelan government, have long used Citgo for political purposes in the United States.

3. On December 22, 2016, Citgo donated \$500,000 to then President-elect Trump’s presidential inaugural committee, 58th Presidential Inaugural Committee.

4. Under the Bipartisan Campaign Reform Act of 2002 (“BCRA”), Pub. L. 107–155, 116 Stat. 81 (Mar. 27, 2002), and its implementing regulations, a “foreign national” may not make a donation to a presidential inaugural committee, nor may

an inaugural committee knowingly accept such a donation. 36 U.S.C. § 510(c); 11 C.F.R. § 110.20(j).

5. BCRA's limits on foreign national participation in our political process serve to protect our democratic self-government against foreign influence. *See generally Bluman v. FEC*, 800 F. Supp. 2d 281 (D.D.C. 2011) (three-judge court), *aff'd*, 132 S. Ct. 1087 (2012). Published reports suggest that the Venezuelan government may have directed this donation to influence the President regarding a financial matter involving Rosneft, a Russian oil company majority-owned by the Russian government. This type of foreign influence is a serious threat to our political system and merits urgent investigation.

6. This complaint is filed under 52 U.S.C. § 30109(a)(1) and 11 C.F.R. § 111.4, seeking an investigation of a potential violation of BCRA and its implementing regulations by Citgo, Citgo Holding, Inc., PDVSA, and the 58th Presidential Inaugural Committee. *See* 69 Fed. Reg. 59,775, 59,778 (Oct. 6, 2004).

### **COMPLAINANTS**

7. Free Speech For People (1340 Centre St., Suite 209, Newton, MA 02459) is a national non-partisan, non-profit 501(c)(3) organization that works to restore republican democracy to the people, including through legal advocacy concerning the law of campaign finance. Free Speech For People's thousands of supporters around the country engage in education and non-partisan advocacy to encourage and support effective government of, by, and for the American people. Since 2016, Free Speech For People has been actively engaged in efforts to push

back against political activity by foreign-influenced corporations. For example, Free Speech For People is actively assisting with pending legislation in Connecticut and in St. Petersburg, Florida that would target political spending by foreign-influenced corporations in state and local elections.

### **RESPONDENTS**

8. Citgo Petroleum Corporation (Citgo) (1293 Eldridge Parkway, Houston, TX 77077) is an energy corporation incorporated in Delaware. It is wholly owned by Citgo Holding, Inc.

9. Citgo Holding, Inc. (6100 South Yale Avenue, Tulsa, OK 74136) is a holding company in the oil, gas, and coal marketing industry, incorporated in Delaware. Since January 1990, Citgo Holding, Inc. has been wholly owned by Petróleos de Venezuela, S.A. (PDVSA).

10. Petróleos de Venezuela, S.A. (PDVSA) (Avenida Libertador con calle El Empalme, Complejo MinPetróleo - PDVSA, La Campiña, Caracas, Venezuela) is a “corporation owned by the Bolivarian Republic of Venezuela and subordinated to the Venezuelan state,” and “supervised and controlled by the People’s Power Ministry of Petroleum.”<sup>1</sup>

11. 58th Presidential Inaugural Committee (ID# C00629584) (301 Seventh Street SW Room 2080, Washington, DC 20599) is the official presidential inaugural committee appointed by President Donald J. Trump for the January 2017 presidential inauguration.

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<sup>1</sup> PDVSA, [http://www.pdvsa.com/index.php?option=com\\_content&view=article&id=6541&Itemid=888&lang=en](http://www.pdvsa.com/index.php?option=com_content&view=article&id=6541&Itemid=888&lang=en) (visited Apr. 24, 2017).

## FACTS

### Venezuela's History of Using Citgo for Political Purposes

12. Citgo was founded in 1910 as Cities Service Company in Bartlesville, Oklahoma. It re-branded as “Citgo” in 1965.<sup>2</sup>

13. In September 1986, Citgo’s then-owner, The Southland Corporation, sold 50% of Citgo to Petróleos de Venezuela, S.A. (PDVSA), “the national oil company of the Bolivarian Republic of Venezuela.” In January 1990, PDVSA acquired the other 50% of Citgo.<sup>3</sup>

14. Citgo is a vital national asset for the government of Venezuela.<sup>4</sup> The company’s web site now lists its history as intertwined with that of Venezuela,<sup>5</sup> and “[s]enior managers from the parent [PDVSA] are cycled in and out of U.S. offices.”<sup>6</sup>

15. Over time, and especially with the 1999 accession of the late Hugo Chávez to the presidency of Venezuela, Citgo has become an instrument for Venezuelan government influence in the United States.

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<sup>2</sup> Citgo, <https://www.citgo.com/AboutCITGO/CompanyHistory.jsp> (visited Apr. 24, 2017).

<sup>3</sup> *Id.*

<sup>4</sup> See Rick Gladstone, *How Venezuela Fell Into Crisis, and What Could Happen Next*, N.Y. Times, May 27, 2016, <https://nyti.ms/2pdKXap> (“Citgo is vital for Venezuela because it generates much of the oil revenue that the country is still receiving. Despite the political tensions between the two nations, the United States is Venezuela’s largest customer.”).

<sup>5</sup> See Citgo, <https://www.citgo.com/AboutCITGO/CITGOHeritage/CITGOHeritage1910s.jsp> (visited Apr. 24, 2017) (intertwining history of Cities Service and Venezuela in recounting Citgo corporate history).

<sup>6</sup> Joe Carroll, *Venezuela Is Pawning Pieces of Iconic American Brand Citgo to Survive*, Bloomberg, Oct. 6, 2016, <https://bloom.bg/2oF8MVe>.

16. In September 2005, Venezuela made a “public announcement about diverting shipments of gasoline to the United States to help prevent shortages after hurricanes Katrina and Rita knocked out refineries along the Gulf Coast.”<sup>7</sup>

17. Later that year, working in partnership with Citizens Energy Corporation (a non-profit run by former Massachusetts Congressman Joseph P. Kennedy II), Citgo began providing heating oil to low-income communities in New York and Massachusetts “in what . . . the company president and chief executive, called a purely ‘humanitarian’ gesture.”<sup>8</sup> Many others, however, viewed it as a political move orchestrated by the Venezuelan government:

Many analysts, however, saw the move as a stunt by Chávez aimed at embarrassing the Bush administration. And some say Citgo's generosity — likely to cost it more than \$20 million — suggests the company may be turning into a political tool for Chávez.

“It has had a turn for the worse, perhaps the much worse. . . . Now it’s a different entity. It's not completely run like a business,” says Antonio Szabo, a former PDVSA official and the president of Stone Bond Technologies, a Houston energy software firm.<sup>9</sup>

18. Citgo ran television ads across the country in 2006 and 2007 promoting this program and describing it as a gift “from Citgo and the people of Venezuela.” However, many observers “wonder[ed] whether the ads [were] really

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<sup>7</sup> Justin Blum, *Chavez Pushes Petro-Diplomacy*, Wash. Post, Nov. 22, 2005, <http://wapo.st/2oF2PaQ>.

<sup>8</sup> David J. Lynch, *Has Citgo become a political tool for Hugo Chávez?*, USA Today, Jan. 11, 2006, <http://usat.ly/2oEx9m6>.

<sup>9</sup> *Id.*

promoting the South American country's leader."<sup>10</sup> As a former U.S. diplomat explained:

“It's a good thing to provide concessionary oil to the people in the United States,” said Bernard Aronson, former assistant secretary of state for inter-American affairs. “But if the price of that is to rationalize the loss of political liberty for the people in Venezuela, that's not a fair price and it's a betrayal of the people of Venezuela.”<sup>11</sup>

19. Similarly, a Heritage Foundation commentary suggested that Chavez was “using the ads as part of his public relations campaign to influence the American people to look more favorably upon Venezuela and the oil and power his regime controls.”<sup>12</sup>

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<sup>10</sup> Jeffrey H. Birnbaum & Steven Mufson, *Is Citgo Program for Poor, or for Chávez?*, Wash. Post, Feb. 24, 2007, <http://wapo.st/2oENZRN>. At the time, Chávez was controversial within the United States; he had recently called then-President Bush “the devil” in a speech at the United Nations. In September 2006, the 7-Eleven chain of convenience stores decided not to renew a 20-year contract with Citgo, explaining: “Regardless of politics, we sympathize with many Americans' concern over derogatory comments about our country and its leadership recently made by Venezuela's president.” David Koenig, *7-Eleven Drops Citgo As Gas Supplier*, Wash. Post, Sept. 28, 2006, <http://wapo.st/2oYfPuY>; Scott Horsley, *7-11 Drops Citgo, Citing Ties to Venezuela's Chavez*, NPR, Sept. 27, 2006, <http://n.pr/2oEFg1U>.

<sup>11</sup> Birnbaum & Mufson, *supra*.

<sup>12</sup> James M. Roberts, *Citgo and Joseph P. Kennedy: Hugo Chavez's Agents of Influence*, Heritage Foundation, Jan. 23, 2008, <http://www.heritage.org/americas/commentary/citgo-and-joseph-p-kennedy-hugo-chavezs-agents-influence>.

20. Another commentator who understood that Citgo's corporate donations were directed by the Venezuelan government was Donald J. Trump.

21. On March 1, 2013, Mr. Trump tweeted: "Joseph Kennedy is really being used by Venezuela and Hugo C. in oil commercial!"<sup>13</sup>

22. Four days later, Mr. Chavez died and Citgo lowered American flags at its Texas and Louisiana refineries to half staff.<sup>14</sup>

### **Citgo's Relation to Venezuela's Current Financial Problems**

23. Due in part to low oil prices, in recent years PDVSA, like the Venezuelan economy more broadly, has experienced severe financial difficulty.<sup>15</sup>

24. In December 2016, in dire financial condition, PDVSA pledged 49.9% of its shares as collateral for a \$1.5 billion loan from Rosneft, a Russian oil company majority-owned by the Russian government.<sup>16</sup>

25. The possibility of PDVSA being taken over by Rosneft raised concern in the United States. On April 4, 2017, six U.S. Senators from both the Republican and Democratic parties sent a letter to the Secretary of the Treasury expressing concern about the potential risks of Rosneft taking over PDVSA and, therefore, Citgo. As they explained, "This could leave Rosneft, a Russian company controlled

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<sup>13</sup> Donald Trump (@realDonaldTrump), Twitter (Mar. 1, 2013, 4:07 PM), <https://twitter.com/realDonaldTrump/status/307643192432525314>.

<sup>14</sup> Natalia Angulo, *Venezuelan-owned Citgo flies flags half staff in Texas, Louisiana for Chavez*, FOX News, Mar. 6, 2013, <http://fxn.ws/2oF0ywc>.

<sup>15</sup> See Justin Fox, *How Hugo Chavez Trashed Latin America's Richest Economy*, Bloomberg, Aug. 27, 2015, <http://bv.ms/1hivY7r>.

<sup>16</sup> *Venezuela's PDVSA uses 49.9 pct Citgo stake as loan collateral*, Reuters, Dec. 23, 2016, <http://reut.rs/2ioQwvH>.

by oligarchs with close ties to Vladimir Putin, in control of critical infrastructure in the United States.”<sup>17</sup>

### **Citgo’s Donation to President Trump’s Inaugural Committee**

26. On December 22, 2016, Citgo donated \$500,000 to then President-elect Trump’s presidential inaugural committee, 58th Presidential Inaugural Committee.<sup>18</sup>

27. On information and belief, and as widely understood by the U.S. media, this donation was directed from Venezuela, by PDVSA management and perhaps Venezuelan government officials.<sup>19</sup>

### **VIOLATIONS**

28. Under BCRA, a presidential inaugural committee “shall not accept any donation from a foreign national.” 36 U.S.C. § 510(c); 11 C.F.R. § 110.20(j) (“No person shall knowingly accept from a foreign national any donation to an inaugural committee.”).<sup>20</sup>

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<sup>17</sup> Letter to Steven T. Mnuchin, <https://go.usa.gov/x5kQB> (Apr. 4, 2017).

<sup>18</sup> 58th Presidential Inaugural Committee, FEC Form 13, at 21, Apr. 18, 2017, <http://docquery.fec.gov/pdf/286/201704180300150286/201704180300150286.pdf>.

<sup>19</sup> See, e.g., *Cash-strapped Venezuela a major funder of Trump inauguration*, AP, Apr. 20, 2017, <http://apne.ws/2oF08WL>; Karen Gilchrist, *Venezuela donated \$500,000 to Trump fund amid spiralling economic woes and rising death toll*, CNBC, Apr. 20, 2017, <http://cnb.cx/2oNOXh4>; Ana Campoy, *Venezuela, where people are starving, gave Trump half a million dollars for his inauguration*, Quartz, Apr. 19, 2017, <https://qz.com/963702>.

<sup>20</sup> The “knowingly” standard “does not require knowledge that one is violating the law, but merely requires an intent to act.” *FEC v. Malenick*, 310 F. Supp. 2d 230, 237 n.9 (D.D.C. 2004) (quoting *FEC v. John A. Dramesi for Congress Comm.*, 640 F. Supp. 985, 987 (D.N.J. 1986)), *rev’d in other part on reconsideration*, No. Civ. A. 02-1237, 2005 WL 588222 (D.D.C. Mar. 7, 2005)).

29. A “foreign national” is defined to include a “foreign principal,” which in turn includes a foreign government, as well as a “corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.” 52 U.S.C. § 30121(b)(1); 22 U.S.C. § 611(b).

30. The FEC’s implementing regulations for BCRA also prohibit the foreign national from *making* the donation: “A foreign national shall not, directly or indirectly, make a donation to an inaugural committee.” 11 C.F.R. § 110.20(j).

### **Count I – Unlawful Donation by Foreign National**

31. As set forth above, on December 22, 2016, respondent Citgo Petroleum Corporation made a \$500,000 donation to the 58th Presidential Inaugural Committee.

32. Respondent Citgo Petroleum Corporation is wholly-owned by respondent Citgo Holding, Inc., which is wholly-owned by respondent PDVSA, which is a “foreign national” under 52 U.S.C. § 30121(b)(1) and 22 U.S.C. § 611(b).

33. Respondent Citgo Petroleum Corporation has a four-member board of directors: Nelson Martínez (chairman, and currently Venezuela’s Minister of Petroleum), Sergio Antonio Tovar, Jesús Luongo, and Antón Castillo.<sup>21</sup> On information and belief, all four directors are foreign nationals.

34. On information and belief, at least part of the decisions concerning the donation and disbursement were made by individuals who are not U.S. citizens or

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<sup>21</sup> Citgo, <https://www.citgo.com/AboutCITGO/Operations/BoardOfDirectors.jsp> (visited Apr. 24, 2017).

permanent residents. For this reason, the FEC's *TransCanada* advisory opinion<sup>22</sup> regarding corporate donations from domestic subsidiaries of foreign corporations does not apply.<sup>23</sup>

35. Respondents Citgo Petroleum Corporation, Citgo Holding, Inc., and PDVSA violated 11 C.F.R. § 110.20(j) by making a donation, directly or indirectly, from a foreign national to a presidential inaugural committee.

### **Count II – Unlawful Acceptance of Donation by Foreign National**

36. As set forth above, it was widely understood by the mid-2000s (including by Mr. Trump himself) that Citgo's corporate political activity is directed by the Venezuelan government.

37. On information and belief, key personnel of respondent 58th Presidential Inaugural Committee understood that Citgo is generally known to be controlled by the Venezuelan government in political matters.

38. Respondent 58th Presidential Inaugural Committee violated 36 U.S.C. § 510(c) and 11 C.F.R. § 110.20(j) by knowingly accepting a donation made by a foreign national.

### **PRAYER FOR RELIEF**

39. Based on the above-described facts that indicate that Citgo, PDVSA, and the Venezuelan government directed money to the presidential inaugural

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<sup>22</sup> FEC, Advisory Op. 2006-15 (TransCanada), <http://saos.fec.gov/aodocs/2006-15.pdf> (May 19, 2006).

<sup>23</sup> Additionally, *TransCanada* does not apply because it applies to “corporate donations and disbursements *in connection with State and local elections.*” *Id.* at 2 (emphasis added).

committee, with the possible aim of influencing the President with respect to a pending transaction involving a Russian government-controlled oil firm, the FEC should conduct an immediate investigation under 52 U.S.C. § 30109.

Respectfully submitted,

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