

CAUSE NO. 2019-11471

MARISOL GOMEZ,	§	IN THE DISTRICT COURT OF
	§	
Plaintiff,	§	
	§	
V.	§	
	§	HARRIS COUNTY, T E X A S
CITGO PETROLEUM CORPORATION,	§	
	§	
Defendant.	§	
	§	215TH JUDICIAL DISTRICT

PLAINTIFF'S FIRST AMENDED PETITION

Plaintiff Marisol Gomez files her First Amended Petition against Defendant CITGO Petroleum Corporation ("CITGO," "the Company," or "Defendant").

THE PARTIES, JURISDICTION, AND VENUE

1. Ms. Gomez was CITGO's Vice President of Human Resources. In the months preceding Ms. Gomez's termination from CITGO, CITGO's then President and CEO, Nelson Martinez – who was subsequently arrested for corruption and theft – requested Ms. Gomez to engage in criminal acts, specifically:

- a. Martinez requested Ms. Gomez to execute a \$1.7 million contract that was part of a multi-million dollar kick-back scheme with a company co-owned by his son, Charles Martinez, whereby millions of dollars from CITGO and a CITGO affiliate were sent to the company for little to no value in return, and the company then kicked-back some of the payments to Martinez – and also offered an illegal kick-back to Ms. Gomez if she would sign the \$1.7 million contract.
- b. Martinez requested Ms. Gomez to change the Plan Administrator on CITGO's pension plan, so that the terms of the Plan could be changed. Doing so would have resulted in: (1) a kick-back payment from the Plan Administrator to Martinez that normally would go to a Company charity fund; and (2) raising Martinez's monthly pension from approximately \$2,700 per month, to approximately \$17,300 a month, while raiding the pension of a large number of CITGO employees.
- c. Martinez requested Ms. Gomez to approve a CITGO contract with Yakima Trading Corporation or other Yakima entity owned or controlled by a fugitive Venezuelan billionaire named Samark Jose Lopez Bello. Samark Jose Lopez Bello is the primary frontman for Tareck Zaidan El Aissami, an international narcotics

trafficker,¹ who is also the former Executive Vice President of Venezuela, and current Minister of Industries and National Production, who reports directly to Venezuela's President, Nicolas Maduro. Samark Jose Lopez Bello used the Yakima entities to launder drug money for Tareck Zaidan El Aissami.² This is why Ms. Gomez refused to do business with the Yakima entities, despite Martinez's request to do so. After the United States charged both Samark Jose Lopez Bello and Tareck Zaidan El Aissami with criminal violations of the U.S. Kingpin Act, Samark Jose Lopez Bello went on the run, and is currently a fugitive from justice who eluded escape from U.S. authorities in the Dominican Republic just three days ago.³

2. Had Ms. Gomez submitted to Martinez's requests, and committed the illegal acts he asked of her, she would have violated, and could have been prosecuted under: Texas Penal Code Section 31.03 (theft), Texas Penal Code Section 15.01 (criminal attempt), Texas Penal Code Section 34.02, (money laundering), and 18 U.S.C. § 1956 (laundering of monetary instruments), 18 U.S.C. §§ 371 and Tex. Penal Code Section 15.02 (federal and state conspiracy), 18 U.S.C. § 1343 (wire fraud), Texas Penal Code Section 7.02(a)(3) (criminal responsibility for conduct of another), and 18 U.S.C. § 664 (theft or embezzlement from employee benefit plan).

3. Ms. Gomez repeatedly refused to engage in the criminally illegal actions that Martinez requested her to engage in. As a result, on Martinez's orders, on March 14, 2017, Ms. Gomez was terminated solely because she refused to commit the criminally illegal acts that Martinez asked of her. Accordingly, Ms. Gomez brings this case against CITGO under *Sabine Pilot Svc., Inc. v. Hauck*, 687 S.W.2d 733 (Tex. 1985). Discovery is to be conducted under Level 2 of Texas Rule of Civil Procedure 190, in that Plaintiff seeks monetary relief aggregating more than \$50,000.00.

¹ <https://www.treasury.gov/press-center/press-releases/Pages/as0005.aspx>.

² <https://www.treasury.gov/press-center/press-releases/Pages/as0005.aspx>.

³ https://www.washingtonpost.com/world/the_americas/venezuelan-billionaires-home-raided-in-dominican-republic/2019/05/13/9c12a7ae-75b8-11e9-a7bf-c8a43b84ee31_story.html?utm_term=.0096862da49c.

4. Plaintiff Marisol Gomez is a natural person residing in Katy, Texas. She was employed by CITGO located at 1293 Eldridge Pkwy, Houston, TX 77077, and has standing to file this lawsuit.

5. Defendant CITGO is a for-profit business operating wholly commercial activities in multiple states, including but not limited to the State of Texas. CITGO is headquartered at 1293 Eldridge Pkwy, Houston, TX 77077. That is where Ms. Gomez worked for CITGO. CITGO will be served with this amended petition via its undersigned counsel.

6. The Court has subject matter jurisdiction over this matter, as the claims Plaintiff asserts, and the damages she seeks, are within this Court's jurisdictional power to rule upon and grant. The Court has personal jurisdiction over CITGO based on both general and specific jurisdiction.

7. Venue is proper in this Court because a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in Harris County, and because CITGO's headquarters are located in Harris County.

FACTUAL BACKGROUND

A. CITGO

8. CITGO is a refiner, transporter and marketer of transportation fuels, lubricants, petrochemicals and other industrial products. CITGO is owned by CITGO Holdings, Inc., an indirect wholly owned subsidiary of Petróleos de Venezuela, S.A. ("PDVSA"), the national oil company of Venezuela. CITGO has a net worth of into the billions of dollars.

B. Ms. Gomez

9. In August 1989, Ms. Gomez began working for PDVSA in Venezuela. She worked for PDVSA in Venezuela for more than 25 years. Then, effective November 1, 2014, PDVSA assigned Ms. Gomez to CITGO, to be CITGO's Vice President of Human Resources in Houston, Texas. Ms. Gomez's annual salary in that position was \$431,500. In addition to her salary, Ms.

Gomez was entitled to an annual short-term cash incentive. In 2016, her last full year with CITGO, Ms. Gomez's total cash compensation was \$1,028,638.86. Ms. Gomez also participated in a broad array of CITGO-sponsored health, welfare, and pension benefit programs.

10. As a Vice President of Human Resources, Ms. Gomez owed CITGO a legal duty not to steal from CITGO, not to knowingly allow others to steal from CITGO, and not to participate in any scheme whereby CITGO's (or its affiliates) funds were misappropriated.

C. Nelson Martinez, The President And CEO Of CITGO During The Relevant Time Period

11. At the time Ms. Gomez began working for CITGO in November 2014, its President and CEO was Nelson Martinez. Martinez had joined PDVSA in 1980 and oversaw the company's offices in Britain, Argentina and Ecuador before being named CITGO's President and CEO in June 2013. Martinez held those positions until January 2017.

12. In January 2017, Venezuela's President, Nicolas Maduro, named Martinez to the position of Oil Minister for Venezuela, and Martinez moved to Venezuela. CITGO then named Jose Pereira as its acting CEO. Pereira reported to Martinez and was Martinez's puppet at CITGO for the approximately two months before Ms. Gomez was terminated in March 2017. As explained further herein, in November 2017, Martinez was arrested and imprisoned for CITGO-related corruption, theft, and criminality.

D. Nelson Martinez's Illegal Kick-Back Scheme With GFC, A Company Registered To His Friend, And Owned By His Son

13. During his time as CEO of CITGO, and after that, on behalf of CITGO, Martinez had hired and paid GFC Consultores, L.L.C. ("GFC") in order to steal money from a CITGO affiliate, PDV USA,⁴ and CITGO, and then have some of that money "kicked-back" to himself. GFC was

⁴ PDV USA lacked controls, or a compliance committee, and was never audited. It was a "black box" that was used to channel money through for corrupt and illegal purposes. Asdrúbal Chávez, Hugo Chávez's cousin, who was

a Florida corporation registered by Gustavo Felice, a friend of Martinez's, and co-owned by Felice and Martinez's son, Charles Martinez.

14. GFC contracted to provide multiple services for CITGO, with inflated and fraudulent costs, which it used to kick-back "commissions" on the payments for those "services" to its coconspirator in the fraudulent scheme, Nelson Martínez. GFC was an "Intermediary Logistics Agency" between CITGO and the Communist Venezuelan Government of Nicolas Maduro. At Martinez's and others' direction, CITGO awarded contracts to companies that benefited Martinez, the Communist Venezuelan Government of President Maduro, and his henchmen, including entities owned or controlled by a front man for Venezuela's former Executive Vice President and current Minister of Industries and National Production, Tareck Zaidan El Aissami Maddah, who is a designed international narcotics kingpin.⁵ See *infra*.

15. Martinez had hired and paid GFC even though GFC had not ever been cleared by CITGO's procurement, credit, legal, or compliance departments to perform work for CITGO, as was required by CITGO protocols. GFC's bogus invoices reflected charges for banquets, events, meals, improvements and repairs for employees' personal homes, gifts and other personal and unjustified, significantly inflated, false, and fraudulent expenses for CITGO and PDVSA executives and their families. Nevertheless, with full knowledge of this, millions of dollars of payments were authorized in writing by Martinez, Pereira, and another now imprisoned Vice

CITGO's President and CEO between late 2017 and early 2019, was terrified of what the U.S. Government would find it if ever audited PDV USA. During the relevant time, its Administrator was Krizia Gravina, whose father, Alphonso Gravina, was a close confidant of Martinez's. Mr. Gravina pleaded guilty on December 10, 2015 to one count of conspiracy to launder money and one count of making false statements on his federal income tax return. In 2018, Mr. Gravina pled guilty as part of a larger, ongoing investigation by the U.S. government into bribery at PDVSA. Including Mr. Gravina, the Justice Department has announced the guilty pleas of a total of 15 individuals in connection with the investigation. <https://www.justice.gov/opa/pr/texas-businessman-pleads-guilty-conspiracy-obstruct-justice-connection-venezuela-bribery>.

⁵ <https://www.treasury.gov/press-center/press-releases/Pages/as0005.aspx>.

President of CITGO, Gustavo Cardenas,⁶ through PDV USA and CITGO banks accounts. Specifically, under Martinez's administration, GFC received total payments of \$6,164,823 from October 2014 to November 2017, consisting of \$4,576,784 from PDV USA and \$1,588,039 from CITGO. Numerous other fraudulent payments were approved by senior management using PDV USA accounts. As a result, because of Martinez's illegal scheme with GFC, PDV USA and CITGO paid many millions of dollars to GFC based on false and fraudulent pretenses. As noted above, GFC kicked-back some of that money to Martinez.

16. In short, as described herein, during his time as CEO of CITGO, and after, Martinez was engaged in multiple criminal conspiracies to defraud CITGO and PDV USA, and to launder the proceeds of the fraud, in a number of ways. Martinez conspired with his son Charles Martinez, and Gustavo Felice, to direct millions of dollars in self-dealing payments to GFC. GFC had not undergone—and would never have passed—the vetting process required of every vendor that seeks to do business with CITGO, and nothing suggested that it possessed any competence or skill in the projects that Martinez sought to hire it for. Martinez intentionally avoided the vetting process—simply approving the transactions personally—because it would have revealed the self-dealing nature of the contracts. Between 2014 and 2017, CITGO and PDV USA made \$6.16 million in payments to GFC, through contracts approved personally by Martinez and his co-conspirators. These invoices reflected charges that were grossly inflated and/or for non-business expenses. Martinez and the others were receiving kickbacks in the form of cash and other compensation from GFC.

⁶ Cardenas was Vice President of Strategic Shareholder Relations, Government and Public Affairs.

E. Nelson Martinez's Request In Mid-2016 To Ms. Gomez That She Participate In The Illegal Kick-Back Scheme With GFC – Which She Refused To Do

17. **The Request To Commit Illegal Acts:** Martinez wanted Ms. Gomez to engage in criminal acts in furtherance of his illegal kick-back scheme with GFC. In mid-2016, Martinez personally asked Ms. Gomez to approve and personally sign a contract on behalf of CITGO with GFC under which GFC would provide CITGO an approximately three-day executive leadership course to approximately twelve employees in Arizona for approximately \$1.7 million. GFC had no experience, background, or expertise in providing executive leadership courses. Furthermore, Ms. Gomez researched the costs of such programs from qualified providers, and they were a small fraction of the amount GFC was seeking to charge CITGO.

18. Mr. Felice himself came to Houston, Texas, from Florida, and told Ms. Gomez that if she approved and signed the contract for the GFC provided executive leadership course, he would: (1) provide her family with food from Venezuela as a gift, and claimed that he was currently doing the same for the then Venezuelan Ambassador to the United Nations, in New York, Rafael Ramirez, and his wife, Beatrice Sanso de Ramirez (and that the food was delivered from Venezuela to New York via a CITGO-owned private jet, which was later confirmed to Ms. Gomez by CITGO's then Manager of Aviation, Alvaro Maldonado); and (2) give her and others a watch and/or phone from GFC as a gift. Mr. Felice thus offered Ms. Gomez her own kick-back if she approved and signed the at-issue contract.

19. Ms. Gomez knew this contract would not be for legitimate expenditures, but rather to further line Martinez and his co-conspirators' pockets. Ms. Gomez received information from other employees within CITGO (including Patricia Milano and Adriana Santaella) that verified that Martinez and GFC were orchestrating an illegal kick-back scheme, whereby Martinez and his minions stole from the coffers of PDV USA and CITGO in order to give GFC monies based on

bogus contracts that GFC did little to nothing for PDV USA or CITGO, but instead kicked-back some of the money it received to Martinez.

20. Had Ms. Gomez approved and personally signed the contract so that GFC could obtain the approximately \$1.7 million – knowing full well that Martinez was stealing that money from PDV USA and CITGO, sending it to GFC for little to no value, and then receiving a financial kickback from GFC (and she herself receiving kickback gifts from GFC for playing her part) – she would have been committing a crime under many different criminal laws.

21. First, Texas Penal Code Section 31.03, entitled “Theft,” provides that a person commits a criminal offense if he unlawfully appropriates property with intent to deprive the owner of property.

22. Under Texas Penal Code Section 31.01(5) “Property” means:

(A) real property;

(B) tangible or intangible personal property including anything severed from land;
or

(C) a document, **including money**, that represents or embodies anything of value.

23. Under Texas Penal Code Section 31.03(b), appropriation of property is unlawful if it is without the owner’s “effective consent.” Under Texas Penal Code Section 31.01(3) “effective consent” includes consent by a person legally authorized to act for the owner. Consent is not effective if: (A) induced by deception or coercion; or (B) given by a person the actor knows is not legally authorized to act for the owner. Under Texas Penal Code Section 31.01(1), “Deception” means:

(A) creating or confirming by words or conduct a false impression of law or fact that is likely to affect the judgment of another in the transaction, and that the actor does not believe to be true;

(B) failing to correct a false impression of law or fact that is likely to affect the judgment of another in the transaction, that the actor previously created or confirmed by words or conduct, and that the actor does not now believe to be true;

(C) preventing another from acquiring information likely to affect his judgment in the transaction;

(D) selling or otherwise transferring or encumbering property without disclosing a lien, security interest, adverse claim, or other legal impediment to the enjoyment of the property, whether the lien, security interest, claim, or impediment is or is not valid, or is or is not a matter of official record; or

(E) promising performance that is likely to affect the judgment of another in the transaction and that the actor does not intend to perform or knows will not be performed, except that failure to perform the promise in issue without other evidence of intent or knowledge is not sufficient proof that the actor did not intend to perform or knew the promise would not be performed.

24. Violations of Texas Penal Code Section 31.03 carry criminal penalties. Kick-back schemes have been prosecuted as theft under Texas Penal Code Section 31.03. *See Moncada v. State*, 960 S.W.2d 734, 738-40 (Tex.App. – El Paso 1997, pet. ref’d). The contract that Ms. Gomez was fired for refusing to sign was theft from CITGO, and by signing the contract, she would have been a party to the theft, and thus violated Texas Penal Code Section 31.03.

25. Second, Texas Penal Code Section 15.01, entitled “Criminal Attempt,” provides that “(a) A person commits an offense if, with specific intent to commit an offense, he does an act amounting to more than mere preparation that tends but fails to effect the commission of the offense intended.” Had Ms. Gomez approved and personally signed the contract so that GFC could obtain the approximately \$1.7 million – knowing full well that Martinez was stealing that money from PDV USA and CITGO, sending it to GFC for little to no value, and then receiving a financial kickback from GFC (and she herself receiving kickback gifts from GFC for playing her part) – she would have been committing attempted theft, even if the actual theft never occurred.

26. Third, Texas Penal Code Section § 34.02, entitled “Money Laundering,” provides that a person commits an offense if the person knowingly:

(1) acquires or maintains an interest in, conceals, possesses, transfers, or transports the proceeds of criminal activity;

(2) conducts, supervises, or facilitates a transaction involving the proceeds of criminal activity . . .

27. “Criminal activity” is defined as any offense that is “classified as a felony under the laws of this state....” *Id.* § 34.01(1)(A). “Proceeds” are “funds acquired or derived directly or indirectly from, produced through, realized through, or used in the commission of ... an act.” *Id.* § 34.01(4)(A). Federal law similarly defines money laundering. *See* 18 U.S.C. § 1956(a)(1)(B)(i). Both Federal and Texas courts have held that financial kick-back schemes constitute violations of the money laundering statutes. *See Demond v. State*, 452 S.W.3d 435, 457-60 (Tex. Civ. App.—Austin 2014, pet. ref’d) (evidence supported defendant’s conviction for money laundering arising out of scheme with client’s general manager, pursuant to which general manager instructed defendant, who was partner of law firm that represented client, to hire lobbying consultant and retain attorney, and then have client reimburse law firm for salary and retainer fee, all without client’s knowledge; client’s funds became proceeds of criminal activity, namely, misapplication of client property, when funds were received by law firm, and defendant’s subsequent transfer of funds to consultant and attorney, who essentially provided no services or benefit to client, was transaction that involved proceeds of criminal activity); *In United States v. Allen*, 76 F.3d 1348, 1361 (5th Cir. 1996) (finding a violation of the federal money laundering law where a bank executive conspired to hire his business associates as consultants for the bank, pay the associates substantially more than their work would justify, and then have the associates “kickback” a portion of their consultant salaries to the executive). Had Ms. Gomez approved and personally signed the contract so that GFC could obtain the approximately \$1.7 million – knowing full well that Martinez was stealing that money from PDV USA and CITGO, sending it to GFC for little to no value, and then receiving a financial kickback from GFC (and she herself receiving kickback gifts from GFC

for playing her part) – she would have been committing money laundering under both Texas and federal law.

28. Fourth, Texas Penal Code Section 7.02(a)(3) provides that a person is criminally responsible for the conduct of another if “having a legal duty to prevent commission of the offense and acting with intent to promote or assist its commission, he fails to make a reasonable effort to prevent commission of the offense.” Had Ms. Gomez approved and personally signed the contract so that GFC could obtain the approximately \$1.7 million – knowing full well that Martinez was stealing that money from PDV USA and CITGO, sending it to GFC for little to no value, and then receiving a financial kickback from GFC (and she herself receiving kickback gifts from GFC for playing her part) – she would have violated this law. See, e.g., *Price v. State*, 456 S.W.3d 342, 348-49 (Tex. App.—Houston [14th Dist.] 2015, pet. ref’d) (sufficient evidence existed that the defendant failed to take action to prevent his business partner’s submission of more than \$1.2 million in fraudulent Medicaid claims for services not provided by their dental clinic because he intended to promote or assist business partner’s commission of the theft supported finding that defendant was a knowing party to the theft, pursuant to Texas Penal Code Section 7.02(a)(3)); *Medrano v. State*, 612 S.W.2d 576, 578 (Tex. Crim. App. [Panel Op.] 1981) (noting that a night watchman or policeman would be criminally responsible as a party to an offense if he purposefully neglected his duty with the intent to assist the perpetuating party in the commission of an offense).

29. Fifth, the crime of conspiracy is complete, under both state and federal law, when (1) two or more people; (2) come to an agreement; (3) to commit a criminal offense; and (4) commit any overt act in furtherance of that offense. 18 U.S.C. §§ 371; Tex. Penal Code § 15.02. The overt act need not be criminal in and of itself; rather, it must simply be done with the intent to further the conspiracy in some way. All parties are guilty of the offense of conspiracy, even if the crime

is thwarted or is otherwise unsuccessful. Further, all co-conspirators are criminally liable for any and all offenses committed by any of the others in furtherance of the conspiracy, if those offenses were foreseeable. Had Ms. Gomez approved and personally signed the contract so that GFC could obtain the approximately \$1.7 million – knowing full well that Martinez was stealing that money from PDV USA and CITGO, sending it to GFC for little to no value, and then receiving a financial kickback from GFC (and she herself receiving kickback gifts from GFC for playing her part) – she would have committed the crime of conspiracy under Texas and federal law. Moreover, because the criminal theft was underway, meaning that Ms. Gomez’s would-be co-conspirators had already committed acts in furtherance of their conspiracy, her mere assent to join the conspiracy would complete the offense. Signing the contract would have been an unambiguous act in furtherance of the conspiracy.

30. Sixth, 18 U.S.C. § 1343, the federal wire fraud statute, provides:

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, shall be fined under this title or imprisoned not more than 20 years, or both. If the violation affects a financial institution, such person shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both.

31. Most, if not all, of the communications surrounding this scheme occurred by telephone, facsimile, and computer transmission, making this a conspiracy to commit wire fraud within the meaning of 18 U.S.C. §§ 1343, 1349. Likewise, under Texas law, such self-dealing and kickback schemes have been held to be Theft within the meaning of Tex. Penal Code § 31.03, because the defrauded party’s consent to the transaction is obtained by deceit. Further, because the conspirators disguised their theft to appear as legitimate transactions, the conspirators were laundering the proceeds within the meaning of Tex. Penal Code § 34.02. *See supra*.

32. Seventh, federal law prohibits attempted criminal conspiracy. Specifically, 18 U.S.C. § 1349 provides that “[a]ny person who attempts or conspires to commit any offense under this chapter shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.” Just as under Texas law, merely agreeing to join the ongoing conspiracy to commit federal wire fraud would have been an offense in and of itself; the pre-existing co-conspirators had already committed acts in furtherance of the conspiracy. But to settle the issue beyond any question, Ms. Gomez signing a contract authorizing a fraudulent payment would clearly make her a co-conspirator. Because conspiracy to Commit Wire Fraud is subject to 18 U.S.C. § 1349, her agreement to join the conspiracy would carry penalties as severe as the multi-million dollar wire fraud itself, regardless of whether their scheme was successful.

33. **The Refusal:** Ms. Gomez personally told Martinez that, despite his request to do so, she would not approve or personally sign the contract with GFC under which GFC would provide CITGO an approximately three-day executive leadership course in Arizona for approximately \$1.7 million. Ms. Gomez told Martinez the reasons for her refusal – the same ones described above. Upon being told this, Martinez immediately became very angry with Ms. Gomez, and demanded to know who gave her the information she was relying on. Mr. Martinez pressured Ms. Gomez into telling him that one source for the information was Patricia Milano, who worked in the Office of the Presidency at the time, where she was the direct assistant of Gustavo Cardenas.

34. Upon learning that Patricia Milano had tipped Ms. Gomez off to the fact his corrupt relationship with Gustavo Felice and GFC, Martinez promptly had Milano transferred out of her position and out of the Office of the Presidency. Ms. Gomez reported Martinez’s aforementioned illegal request to at least five different individuals within CITGO.

F. Nelson Martinez's Request For Ms. Gomez To Participate In An Illegal Kick-Back Scheme And Pension Theft Of CITGO's Pension Plan In December 2016 – Which She Refused To Do

35. In December 2016, Martinez requested Ms. Gomez to change the Plan Administrator on CITGO's pension plan, so that the terms of the Plan could be changed. Doing so would have resulted in: (1) a kick-back payment from the Plan Administrator to Martinez that normally would go to a Company charity fund; and (2) raising Martinez's monthly pension from approximately \$2,700 per month, to approximately \$17,300 a month. Mr. Martinez told Ms. Gomez that no one lives on \$2,700 a month, and that, as his Vice President of Human Resources, it was her job to change the Plan Administrator on CITGO's pension plan, so that the terms of the Plan could be changed, and his pension could go from approximately \$2,700 per month, to approximately \$17,300 a month.

36. Ms. Gomez objected and refused to change the Plan Administrator on CITGO's pension plan, so that the terms of the Plan could be changed. One reason for her objection was that doing so would have negatively impacted CITGO's finances by approximately \$2 billion over the next ten years. When she told Martinez this, he told her not to worry about it, because she would not be with CITGO in ten years anyway (she would be retired), so it would not affect her. Martinez also told Ms. Gomez that the change of the Plan Administrator, and Plan terms, would personally benefit her, too. Ms. Gomez refused to change the Plan Administrator on CITGO's pension plan, so that the terms of the Plan could be changed.

37. Ms. Gomez also traveled to Caracas, Venezuela, and warned the Board of Directors of PDVSA of what Martinez had tried to get her to do. Ms. Gomez told the Board of Directors of PDVSA that what Martinez was trying to do was a "crime," because it amounted to stealing pension benefits from a large number of CITGO employees in order to benefit Martinez and a small handful of his cronies. CITGO's Controller at the time, John Butts, analyzed the proposal, and agreed with

Ms. Gomez. In addition, CITGO's CFO at the time, Jose Pereira, said "we are all going to jail" if the proposal was implemented.

38. Martinez angrily and profanely attacked Ms. Gomez for not supporting the proposal. Right after Ms. Gomez's termination, Martinez ordered Trina Garcia to re-submit the proposed change for approval at the Headquarters of PDVSA in Caracas, Venezuela. Guillermo Blanco, PDVSA's Vice President of Refining and Director, called Ms. Gomez – who by then was a former employee – to understand the proposal. Mr. Blanco told Ms. Gomez that he felt Ms. Garcia was hiding information from him. Ms. Gomez explained why adopting the proposal would be a crime, and ultimately the proposal was not implemented.

39. Had Ms. Gomez changed the Plan Administrator on CITGO's pension plan, so that the terms of the Plan could be changed, thereby greasing the skids so that Martinez could receive a kick-back from the Plan Administrator, and had his monthly pension increased from approximately \$2,700 per month, to approximately \$17,300 a month, she would have been committing violations of criminal laws, including the aforementioned Texas Penal Code Section 31.03 (theft), Texas Penal Code Section 15.01 (criminal attempt), Texas Penal Code Section 34.02 (Money Laundering), 18 U.S.C. § 1956 (laundering of monetary instruments), and Texas Penal Code Section 7.02(a)(3) (criminally responsible for conduct of another). In addition, given that pension funds were involved, such conduct would have violated 18 U.S.C. § 664, which provides in pertinent part:

Any person who embezzles, steals, or unlawfully and willfully abstracts or converts to his own use or to the use of another, any of the moneys, funds, securities, premiums, credits, property, or other assets of any employee welfare benefit plan or employee pension benefit plan, or of any fund connected therewith, shall be fined under this title, or imprisoned not more than five years, or both.

18 U.S.C. § 664.

G. On February 13, 2017, OFAC Determined That Nelson Martinez's And CITGO's Preferred Contracting Companies – Such As Yakima Trading Corporation – Were Part Of An International Drug Trafficker's Vast Empire Of Corrupt Holdings And Money Laundering Activities, Which Is Why Ms. Gomez Had Refused Martinez's Request To Approve A Contract Between CITGO And An Entity The Drug Trafficker Controlled

40. Nelson Martinez asked Ms. Gomez to approve a CITGO contract with Yakima Trading Corporation or other Yakima entity owned or controlled by a Venezuelan national named Samark Jose Lopez Bello. By way of background, Tareck Zaidan El Aissami (“El Aissami”), is an international narcotics trafficker.⁷ He is also the former Executive Vice President of Venezuela, and current Minister of Industries and National Production, who reports directly to President Maduro. El Aissami's primary front man is another Venezuelan national named Samark Jose Lopez Bello (Lopez Bello).⁸ Lopez Bello is a billionaire who owns or controls a number of companies – including the Yakima entities – as part of an international money laundering network spanning the British Virgin Islands, Panama, the United Kingdom, the United States, and Venezuela.⁹ As explained herein, Martinez asked Ms. Gomez to approve a contract with a Yakima entity controlled by Lopez Bello as part of an international criminal money laundering scheme, and she refused to do so.

41. On July 30, 2015, Yakima was set up by Joel Rutledge, Corporate Purchasing Agent in the CITGO SAP system, under the vendor #1116949. Before setting Yakima up as a vendor in the CITGO system, Ivan Parra, CITGO Project Manager for the Aruba upgrade project, and Gustavo Cardenas did not perform normal vendor due diligence on Yakima – no one from did. Ivan Parra presented Yakima to the CITGO Procurement Committee (“CPC”), and falsely

⁷ <https://www.treasury.gov/press-center/press-releases/Pages/as0005.aspx>.

⁸ <https://www.treasury.gov/press-center/press-releases/Pages/as0005.aspx>.

⁹ <https://www.treasury.gov/press-center/press-releases/Pages/as0005.aspx>.

informed the CPC members that the direct and urgent award was to secure specialized consulting services. Yakima Trading Corp would provide support for the Crude Oil Production and Logistics (Upstream) due diligence. Departing from normal practice, Ivan Parra, Gustavo Cardenas, Jose Pereira, and project managers did not request review by CITGO legal, credit or compliance before adding this vendor to the approved vendor master list. In addition, again departing from normal practice, technical and commercial evaluations were not performed.

42. On September 23, 2015, a Competitive Bid Exception (“CBE”) was approved by Jose Pereira, CITGO CFO; Gustavo Cardenas; Ivan Parra, and Jose Zambrano, General Manager Mid-office recommending not to perform a competitive bidding process and to select Yakima as a “single source / preferred vendor” for this contract. On September 25, 2015, a service contract was signed by CITGO and Yakima Trading Corp, a company established under the laws of Panama. The estimated CPC for approval was \$1 billion. As of April 4, 2016, CITGO had made payments to Yakima of \$2.4 Billion in just six months, 140% over the initial amount approved.

43. Given the insistence and pressure from Martínez to assign the contract to Yakima and the violation of internal controls, Ms. Gomez reported the irregular facts to the internal audit department so that Yakima could be investigated. Specifically, on May 2016, Ms. Gomez ordered an investigation of Yakima and Lopez Bello, to be conducted by Franklin Domond, CITGO General Auditor. Domond’s internal audit: (a) detected and reported internal control deficiencies during the Yakima contract process and identified more than 56 front entities used by Lopez Bello to do business with CITGO, PDVSA and other Venezuelan government institutions; and (b) revealed that Lopez Bello owned or controlled the Yakima entities, and was an international drug dealer and money launderer who used the Yakima entities to launder money illegally (not coincidentally, Martinez and CITGO fired Domond shortly after Ms. Gomez was fired). By this

point in time, it was clear to Domond, CITGO's then Controller, John Butts, and CITGO's then Vice President of Legal, Jeff Bednar, that Lopez Bello was a money laundering, drug dealer and criminal, who used the Yakima entities to illegally launder money.

44. Nevertheless, Martinez – very likely at the direction of Venezuelan President Maduro and Executive Vice President El Aissami – insisted that Ms. Gomez approve a contract between CITGO and a Yakima entity owned or controlled by Lopez Bello.¹⁰ The contract was for Yakima to provide personnel in Houston and Aruba to staff the Aruba upgrade project at an above-market, inflated, unjustifiable cost to CITGO. Ms. Gomez informed Mr. Martinez that CITGO already had employees on staff who could do that work, and refused to approve the contract, because it was part of Lopez Bello's illegal network of money laundering. Martinez became angry with Ms. Gomez. He had her pulled from anything to do with the Aruba upgrade project, and assigned that aspect of her work to her malleable subordinate, Trina Garcia.

45. Had Ms. Gomez acceded to Martinez's request to approve the contract with a Yakima controlled entity, she would have been violating state and federal laws concerning money laundering and aiding and abetting money laundering. *See* Texas Penal Code Section 34.02 (Money Laundering), 18 U.S.C. § 1956 (laundering of monetary instruments); Texas Penal Code Section 7.02(a)(3) (criminal responsibility for conduct of another).

46. Soon, the U.S. government drew the same conclusion concerning Lopez Bello as Ms. Gomez. Specifically, on February 13, 2017, the U.S. Department of the Treasury's Office of

¹⁰ There is strong reason to believe that Lopez Bello and his companies were favored by Maduro, because Maduro used them to traffic illegal drugs and launder money. Along those lines, on August 1, 2016, a U.S. District Court announced the indictment of Nestor Revere, who is now Venezuela's interior minister, on charges of participating in an international cocaine trafficking conspiracy. In February 2017, as noted, the U.S. Treasury Department imposed sanctions against El Aissami for drug trafficking and other related crimes. And in December 2017, two nephews of Maduro's wife, Franqui Francisco Flores de Freitas and Efrain Antonio Campo Flores, were convicted in U.S. federal court for drug smuggling.

Foreign Assets Control (“OFAC”) designated El Aissami as a Specially Designated Narcotics Trafficker pursuant to the Foreign Narcotics Kingpin Designation Act (Kingpin Act), 21 U.S.C. § 1901 *et seq.*, for playing a significant role in international narcotics trafficking.¹¹ As noted above, El Aissami is the former Executive Vice President of Venezuela, and current Minister of Industries and National Production. El Aissami’s primary front man, Lopez Bello, was also designated for providing material assistance, financial support, or goods or services in support of the international narcotics trafficking activities of, and acting for or on behalf of, El Aissami.¹²

47. OFAC further designated or identified as blocked property 13 companies owned or controlled by Lopez Bello or other designated parties that comprise an international network spanning the British Virgin Islands, Panama, the United Kingdom, the United States, and Venezuela.¹³ As a result of that action, U.S. persons and companies, such as CITGO, were generally prohibited from engaging in transactions or otherwise dealing with these individuals and entities, and any assets the individuals and entities may have under U.S. jurisdiction are frozen.¹⁴ An American citizen who willfully violates such U.S. sanctions may be held criminally liable for doing so under, *inter alia*, the International Emergency Economic Powers Act 50 U.S.C. §§ 1701–1707. Nevertheless, on information and belief, CITGO and its affiliates continue to do business with Yakima controlled entities, just under a different name.

48. The U.S. government also concluded, as did Ms. Gomez, that Lopez Bello oversaw an international network of petroleum, distribution, engineering, telecommunications, and asset holding companies: Alfa One, C.A. (Venezuela), Grupo Sahect, C.A. (Venezuela), MFAA

¹¹ <https://www.treasury.gov/press-center/press-releases/Pages/as0005.aspx>.

¹² <https://www.treasury.gov/press-center/press-releases/Pages/as0005.aspx>.

¹³ <https://www.treasury.gov/press-center/press-releases/Pages/as0005.aspx>.

¹⁴ <https://www.treasury.gov/press-center/press-releases/Pages/as0005.aspx>.

Holdings Limited (British Virgin Islands), Profit Corporation, C.A. (Venezuela), Servicios Tecnologicos Industriales, C.A. (Venezuela), SMT Tecnologia, C.A. (Venezuela), and Yakima Trading Corporation (Panama).¹⁵ Another entity, Yakima Oil Trading, LLP (United Kingdom), is owned, controlled, or directed by, or acting for or on behalf of, Yakima Trading Corporation (Panama).¹⁶ As stated above, some of those companies owned or controlled by Lopez Bello or other designated parties – including the Yakima entities – were companies that Martinez had insisted Ms. Gomez approve a CITGO contract with, which she refused to do.¹⁷

49. As noted above, according to OFAC, Lopez Bello is a key front man for El Aissami and in that capacity launders drug proceeds.¹⁸ According to OFAC, Lopez Bello is used by El Aissami to purchase certain assets.¹⁹ According to OFAC, he also handles business arrangements and financial matters for El Aissami, generating significant profits as a result of illegal activity benefiting El Aissami.²⁰

50. In sum, Ms. Gomez was aware that Lopez Bello controlled the aforementioned entities, including the Yakima entities, and that he used them to launder drug proceeds. For that reason, when Martinez subsequently asked her to approve a CITGO contract with a Yakima entity to staff Yakima personnel on the Aruba upgrade project, she refused to do so. Had she done so, she would have been violating state and federal laws concerning money laundering and aiding and abetting money laundering. See Texas Penal Code Section 34.02 (Money Laundering), 18 U.S.C.

¹⁵ <https://www.treasury.gov/press-center/press-releases/Pages/as0005.aspx>.

¹⁶ <https://www.treasury.gov/press-center/press-releases/Pages/as0005.aspx>.

¹⁷ <https://www.treasury.gov/press-center/press-releases/Pages/as0005.aspx>.

¹⁸ <https://www.treasury.gov/press-center/press-releases/Pages/as0005.aspx>.

¹⁹ <https://www.treasury.gov/press-center/press-releases/Pages/as0005.aspx>.

²⁰ <https://www.treasury.gov/press-center/press-releases/Pages/as0005.aspx>.

§ 1956 (laundering of monetary instruments); Texas Penal Code Section 7.02(a)(3) (criminal responsibility for conduct of another).

H. On March 14, 2017, Nelson Martinez Had Ms. Gomez Terminated Solely Because She Refused To Commit Illegal Acts

51. On March 14, 2017, Ms. Gomez was out of town with her husband and children on a long-planned Spring Break vacation. She received a phone call from Gustavo Cardenas and Jose Pereira. Cardenas told Ms. Gomez that Martinez had unilaterally decided to terminate her employment. Pereira said he did not agree with the decision, because it would cause CITGO huge problems. Just three weeks earlier, Martinez had consolidated his power such that he then had the unilateral ability to terminate Ms. Gomez (a power he had lacked up until that point).

52. Shortly after Ms. Gomez was told of her termination, she received a phone call from her team members in the CITGO HR department in Houston, who told her that her office was being invaded, searched, and materials being seized. Ms. Gomez called the former Venezuelan Oil Minister, and then PDVSA President, Eulogio del Pino, to complain. Ms. Gomez subsequently called Pereira from Hawaii. Pereira first denied that her office was being invaded and searched, and materials seized, but then admitted that it was true. Pereira was upset and animated in his statements to Ms. Gomez, telling her that: (a) Martinez had ordered that her office be invaded and searched – and materials seized – because he (Martinez) believed that she had proof of his illegal schemes and conduct in her office; and (b) Martinez told him that he did not want Ms. Gomez anywhere in or near CITGO, because she was the only barrier between him and all the illegal activities that he was doing, and wanted to continue to do, at CITGO. Pereira also told Ms. Gomez that it was “unfair” on the part of Martinez to fire her, and that it was not a good idea, because Ms. Gomez could make strong claims against CITGO.

53. Eulogio del Pino ordered Pereira to permit Ms. Gomez to return to CITGO to retrieve her personal belongings. So, after returning from in Hawaii, Ms. Gomez went to CITGO to retrieve her personal belongings from her office. Her office had been invaded, searched, and all materials seized. As Ms. Gomez waited for her personal belongings to be given back, other management level CITGO employees lamented at how foolish and unfair it was to fire Ms. Gomez. It was clear to all that, solely because of her refusal to commit criminally illegal acts, Ms. Gomez was fired from her job with CITGO on the orders of Martinez. Ms. Gomez has been unemployed since then.

54. In approximately August 2017, President Maduro moved Eulogio del Pino to another position, and replaced him with Martinez. As such, at that time, Martinez became PDVSA's President.

I. In May And September 2017, Ms. Gomez Reported Martinez's And CITGO's Illegal Conduct Directly To PDVSA, And In November 2017, Martinez Was Arrested And Imprisoned For Corruption And Theft

55. After her termination, Ms. Gomez reported Martinez's corruption to PDVSA in Venezuela. In fact, to do so, after her termination, at risk to her own personal safety, Ms. Gomez traveled twice to Venezuela in May and September 2017 to report to PDVSA and the Venezuelan government the illegal acts of corruption committed within CITGO using the financial systems, computer networks and other channels of the company. While in Caracas, Ms. Gomez reported the illegal activities to Guillermo Blanco, PDVSA's Vice President of Refining and Director, and Oscar Jose D'Jesus Damoutte, PDVSA's Manager of Security and Safety.

56. In November 2017, Martinez, Pereira, Cardenas, and several other CITGO Vice Presidents were arrested for corruption, theft, and other crimes in Caracas, Venezuela, and

imprisoned. Days later, Venezuelan President Nicolas Maduro announced that those who were arrested – including Martinez – were “corrupt, thieving traitors.”²¹

57. On or about November 9, 2018, Ms. Gomez submitted a written report setting out some of the illegal conduct by CITGO and Martinez to CITGO’s then President and CEO, Asdrúbal Chávez, its Executive Vice President, Frank Gygaz, its Chief Strategy Officer, Rick Essser, and its Vice President of Legal, Alejandro Escarrá Gil. In December 2018, Martinez died while still in custody.

J. In March 2019, The Billionaire International Drug Trafficker And Money Launderer Whose Companies Martinez Insisted CITGO Contract With Were Charged Under The Kingpin Act

58. In February 2019 – having received no remedy from CITGO or PDVSA despite her multiple reports to them – Ms. Gomez was forced to file her Original Petition in this lawsuit.

59. In March 2019, former Venezuelan Vice President, and current Minister of Industries and National Production, El Aissami, and his front man, Lopez Bello – the billionaire international drug trafficker and money launderer who owned and operated companies Martinez had insisted CITGO contract with – were charged with criminal violations of the Kingpin Act.²² They remain fugitives from justice. Just days ago, Lopez Bello escaped capture.

60. Specifically, on Sunday, May 12, 2019, Dominican and United States authorities raided two villas in Cap Cana, eastern La Altagracia province of the Dominican Republic, in search of Lopez Bello, who was accurately described in the *Dominica Today* news outlet as “an

²¹ <https://www.reuters.com/article/us-venezuela-oil-usa/detained-venezuelan-u-s-CITGO-executives-to-be-tried-as-traitors-maduro-idUSKBN1DM2OE>.

²² <https://www.ice.gov/news/releases/venezuelan-minister-and-former-vice-president-tareck-zaidan-el-aissami-maddah-charged>.

international fugitive allegedly linked to money laundering [and] drug trafficking.”²³ During the raid near Juanillo beach, the agents also searched two villas of a tourist complex in Verón township, Punta Cana, allegedly owned by Lopez Bello, and seized \$25,000 U.S. dollars, 8,000 Euros, three SUVs, and more than 30 watches.²⁴ The Washington Post described the raid as follows:

Drug and money-laundering investigators joined by U.S. federal agents raided a villa linked to one of Venezuela’s richest men, Dominican officials say.

Billionaire Samark López Bello was recently indicted by federal prosecutors in New York for allegedly violating sanctions on Venezuela. He has close ties to former Venezuelan Vice President Tareck El Aissami, who is accused by the U.S. of being linked to Hezbollah and drug traffickers.

The raid Sunday at a villa in the tourist resort of Verón in the Punta Cana area resulted in the confiscation of more than 30 watches, three sport-utility vehicles, more than \$43,000 in cash and other property, authorities said. Two Venezuelans and two Colombian citizens were arrested.

López Bello wasn’t present and is believed to be in Venezuela.²⁵

SABINE PILOT CLAIM

61. Ms. Gomez repeats, re-alleges, and reincorporates all prior paragraphs as if set forth fully herein.

62. Ms. Gomez has standing to bring this claim.

63. All conditions precedent to suit and to recovery have been performed.

64. In Texas, it is illegal for an employer to terminate an employee solely because he or she refused to commit a criminally illegal act. This exception to the at-will employee rule was set

²³ <https://dominantoday.com/dr/local/2019/05/13/dominican-us-agents-raid-eastern-farms-after-venezuelan-fugitive>.

²⁴ <https://dominantoday.com/dr/local/2019/05/13/dominican-us-agents-raid-eastern-farms-after-venezuelan-fugitive>.

²⁵ https://www.washingtonpost.com/world/the_americas/venezuelan-billionaires-home-raided-in-dominican-republic/2019/05/13/9c12a7ae-75b8-11e9-a7bf-c8a43b84ee31_story.html?utm_term=.0096862da49c.

out by the Texas Supreme Court in *Sabine Pilot Svc., Inc. v. Hauck*, 687 S.W.2d 733 (Tex. 1985), and the cause of action for such a claim is referred to as a *Sabine Pilot* claim. That is the claim Ms. Gomez brings here.

65. As forth above, despite Martinez requesting her to do so, Ms. Gomez refused to engage or participate in criminal activity in violation of Texas Penal Code Section 31.03 (theft), Texas Penal Code Section 15.01 (criminal attempt), Texas Penal Code Section 34.02, (Money Laundering), and 18 U.S.C. § 1956 (laundering of monetary instruments), 18 U.S.C. §§ 371 and Tex. Penal Code Section 15.02 (federal and state conspiracy), 18 U.S.C. § 1343 (wire fraud), Texas Penal Code Section 7.02(a)(3) (criminal responsibility for conduct of another), and 18 U.S.C. § 664 (theft or embezzlement from employee benefit plan), thus giving rise to a valid *Sabine Pilot* claim for lost back-pay, reinstatement or front-pay, mental anguish, punitive damages, interest, and costs. *See, e.g., Lisanti v. Dixon*, 147 S.W.3d 638 (Tex.App. – Dallas 2004, pet. denied) (affirming jury verdict in favor of plaintiff in a *Sabine Pilot* case); *Ebasco Constructors, Inc. v. Rex*, 923 S.W.2d 694 (Tex.App. – Corpus Christi 1996, writ denied) (upholding jury verdict in employee's favor in a *Sabine Pilot* case).

66. CITGO's illegal termination has caused Ms. Gomez substantial damages, including economic and non-economic injuries and losses. Ms. Gomez earned approximately \$1 million per year at CITGO. *See supra*. Since her termination, Ms. Gomez has been continuously unemployed. As such, Ms. Gomez's backpay losses alone already exceed \$2 million.

67. As a result of her illegal termination, Ms. Gomez has suffered emotional distress and mental anguish.

68. As reflected by, *inter alia*, Martinez's own admissions, CITGO's illegal termination was done with malice, spite, or reckless indifference, thus justifying the imposition of punitive damages.

JURY DEMAND

69. Ms. Gomez demands a jury trial and deposits with the District Clerk of Harris County, Texas, the required jury fee.

PRAYER

70. In compliance with Texas Rule of Civil Procedure 47, Ms. Gomez states that she seeks monetary relief of more than \$1 million and judgment for all the other relief to which she deems herself entitled. Ms. Gomez asks that she be awarded a judgment against CITGO for the following:

- a. Pecuniary losses, consequential damages, and incidental damages, including but not limited to lost back pay and front pay from earnings Ms. Gomez would have received but for her illegal termination;
- b. Damages for emotional distress and mental anguish;
- c. Exemplary, or punitive, damages;
- d. Prejudgment and post-judgment interest;
- e. Court costs; and
- f. All other relief to which she is entitled.

Respectfully submitted,

s/ Mark J. Oberti

Mark J. Oberti

State Bar No. 00789951

OBERTI SULLIVAN LLP

712 Main Street, Suite 900

Houston, TX 77002

(713) 401-3555 – Telephone

(713) 401-3547 – Facsimile

mark@osattorneys.com – Email

ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing pleading was filed and served on counsel of record, as listed below, via e-filing and e-service on this the 15th day of May 2019.

Cristina Espinosa Rodriguez
Blake A. Jenkins
HOGAN LOVELLS US LLP
609 Main Street, Suite 4200
Houston, TX 77002

s/ Mark J. Oberti

Mark J. Oberti

Unofficial Copy Office of Marilyn Burgess District Clerk