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May 24, 2016

Via Electronic Mail

Ms. Elana Schor
Mr. Andrew Restuccia
Politico
eschor@politico.com
arestuccia@politico.com

Dear Ms. Schor and Mr. Restuccia:

The purpose of this letter is to complete the Office of the Attorney General's response to your two requests under the Public Information Act, Md. Code Ann., Gen. Prov. ("GP") §§ 4-101 through 4-601, for "[a]ll communications from ExxonMobil, or its employees, to the Attorney General's office that pertain to or reference the office's investigation into ExxonMobil and its communications to/disclosures about climate change," and "[a]ll communications from parties or entities in the private sector – excluding ExxonMobil – to the Attorney General's office that pertain to or reference the office's investigation into ExxonMobil and its communications to/disclosures about climate change." Your request excludes all internal communications within our Office and all communications with other governmental entities. On May 17, I provided responsive emails and promised that I would follow up with a more formal response shortly. This is that formal response.

You will have seen that the email strings that we provided contain redactions. The redacted materials are not responsive to your request because they consist of internal communications within our Office, but we provided them in redacted form in order to get you the portion of the email string that *is* responsive to your request. The redacted materials are also covered by one or more of the statutory exemptions from disclosure provided in the Act. Specifically, the Act prohibits the disclosure of a record if, "by law, the public record is privileged or confidential." Md. Code Ann., Gen. Prov. § 4-301(a)(1). This



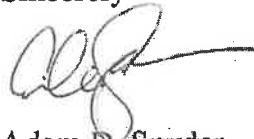
Ms. Elana Schor
Mr. Andrew Restuccia
May 24, 2016
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provision incorporates the attorney-client, attorney work product, executive privilege, and deliberative process privileges into the statute. *See Gallagher v. Office of Attorney Gen.*, 141 Md. App. 664 (2001).

Because the exempt materials are not responsive to your request, we have not denied inspection of them within the meaning of the Act. Nevertheless, if you believe that we have responded to your request in a manner that is inconsistent with the Act's requirements, you have the right to seek judicial review under § 4-362 of the General Provisions Article, and you may also refer your concerns to the Public Access Ombudsman under Subtitle 4-1B of that same Article. If you wish to refer this matter to the Ombudsman, you may do so by email addressed to lkershner@oag.state.md.us.

Please contact me if you have any questions about the materials available through our Office.


Sincerely

A handwritten signature in black ink, appearing to read 'ASnyder', with a long horizontal flourish extending to the right.

Adam D. Snyder
Assistant Attorney General

Snyder, Adam


From: Nitkin, David
Sent: Wednesday, March 16, 2016 2:05 PM
To: Frosh, Brian
Subject: FW: Maryland reporter w/ question re: RICO



From: David Eldridge [mailto:davideldridge@yahoo.com]
Sent: Wednesday, March 16, 2016 2:01 PM
To: Press <Press@oag.state.md.us>
Subject: Maryland reporter w/ question re: RICO

Hi, I'm a Maryland-based reporter (InsideSources.com) looking to followup on the AG's recent comments re possibility of joining with other states in possible action against ExxonMobil (New York's out front on this) using RICO statutes to determine if the company covered up climate science. Would the AG be available for a quick phone chat? Our content is distributed on the AP wires to papers across the country, including Maryland.

David Eldridge
202 286 9274



From: Pica, Erich [<mailto:EPica@foe.org>]
Sent: Tuesday, November 24, 2015 11:36 AM
To: Nitkin, David <dnitkin@oag.state.md.us>
Subject: Meeting Request

Hi David,

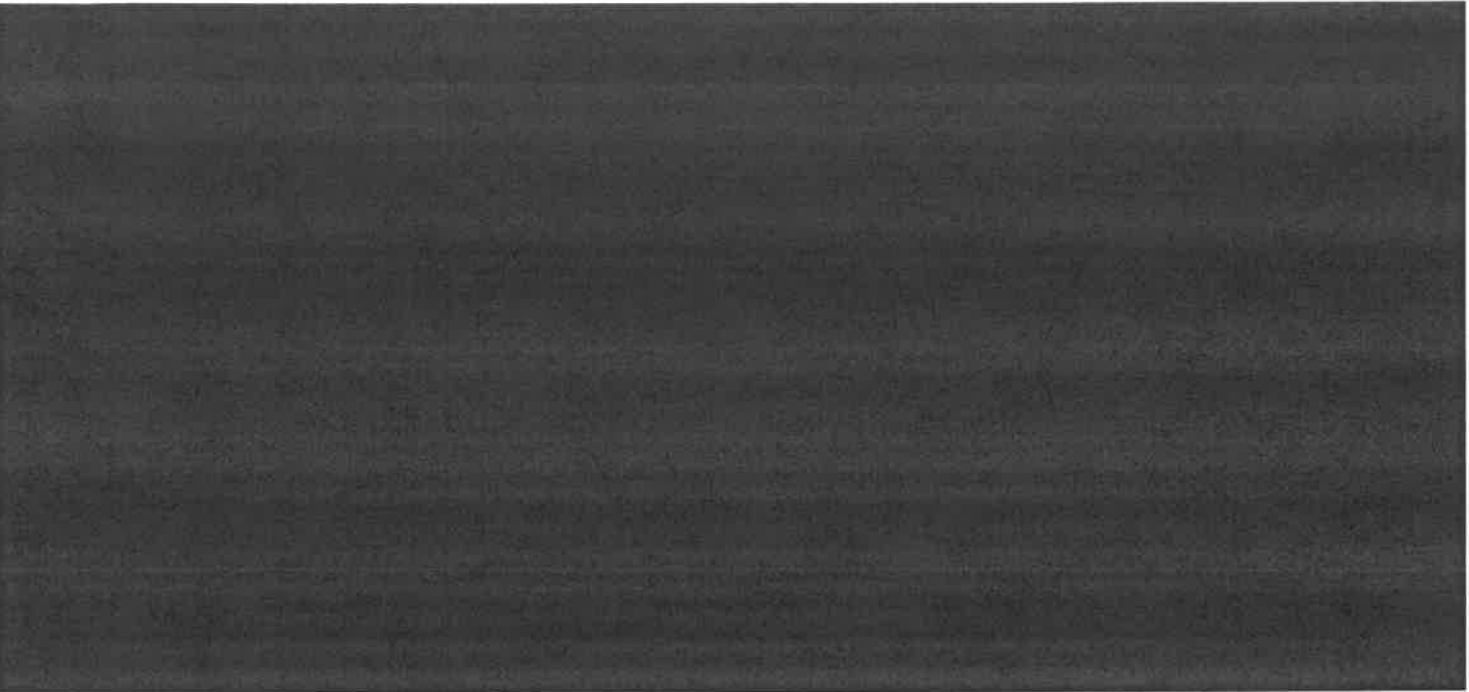
After talking to the attorney's and with various holiday travel schedules, we would be prepared to brief AG Frosh and staff early next year in January on the potential consumer related complaints and other authorities re: Exxon Mobil.

Please send me some suitable times and I can assemble the team.

Thanks,

Erich

Erich Pica
President
Friends of the Earth
(202) 222-0739



From: Diane Moss [<mailto:petitions-noreply@moveon.org>]
Sent: Thursday, February 18, 2016 2:27 PM
To: Frosh, Brian <bfrosh@oag.state.md.us>
Subject: I'm the 162nd signer: "State Attorneys General: Prosecute Exxon for Climate Deception"

Dear Brian Frosh,

I just signed a petition addressed to you titled *State Attorneys General: Prosecute Exxon for Climate Deception*. So far, 255 people have signed the petition.

You can reach me directly by replying to this email. **Or, post a response for MoveOn.org to pass along to all petition signers by clicking here:**

http://petitions.moveon.org/target_talkback.html?tt=tt-105915-custom-66680-20260218-6G5y4t

The petition states:

"Launch an investigation of Exxon and its fellow fossil-fuel companies for deliberate and malicious climate deception."

My additional comments are:

It's about time that action is being taken to prosecute Exxon for its "deliberate and malicious climate deception" that reveals the unforgivable damage it has been responsible for in the 1970s and 1980s as well as the horrifying damage caused by its oil spills. Exxon should be punished to the highest degree for all of its nefarious deeds that have impacted the environment in such an unconscionable manner.

To download a PDF file of all of your constituents who have signed the petition, including their addresses, click this link:

http://petitions.moveon.org/deliver_pdf.html?job_id=1734308&target_type=custom&target_id=66680

To download a CSV file of all of your constituents who have signed the petition, including their addresses, click this link:

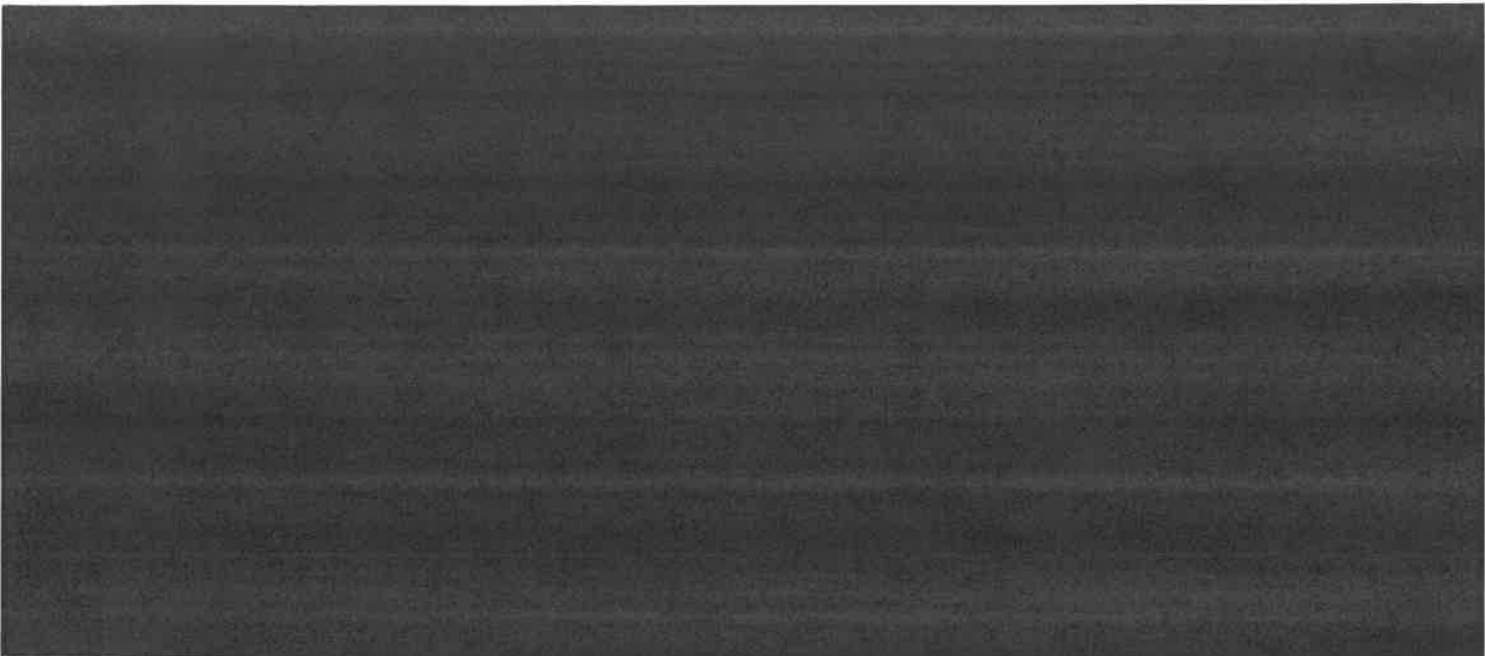
http://petitions.moveon.org/deliver_pdf.html?job_id=1734308&target_type=custom&target_id=66680&csv=1

Diane Moss
Woodside, NY

This email was sent through MoveOn's public petition website, a free service that allows anyone to set up their own online petition and share it with friends. MoveOn does not endorse the contents of petitions posted on our public petition website. If you have any questions, please email petitions@moveon.org. If you don't want to receive further emails updating you on how many people have signed this petition, click here:

http://petitions.moveon.org/delivery_unsub.html?e=aAVztKevWK1YK2WoYUVHq2Jmcm9zaEBvYWcuc3RhdGUubWQudXM-&petition_id=105915.

<image001.jpg><image001.jpg>



From: Schwartz, John [mailto:jswatz@nytimes.com]
Sent: Monday, March 28, 2016 12:23 PM
To: Nitkin, David <dnitkin@oag.state.md.us>
Subject: NY Times reporter hopes to talk about tomorrow's press conference

Dear Mr. Nitkin,

I'm going to be writing about tomorrow's event in New York on climate change. We broke the story of the NY AG's investigation into ExxonMobil last year, and I'm wondering if any of the participating states will be talking about whether they will be launching their own investigations or joining forces with New York on its investigation of fossil fuel companies.

Happy to talk about this --

Best wishes,

John
212.556.7353

--

John Schwartz


The New York Times

jswatz@nytimes.com / twitter.com/jswatz

Telephone: 212 556 7353

620 Eighth Avenue, New York, NY 10018

Speaking only for myself since 1957



From: Brian Frosh [mailto:brian@brianfrosh.com]
Sent: Friday, April 01, 2016 10:26 AM
To: Brian Frosh <bfrosh@gmail.com>; Harris, Elizabeth <lharris@oag.state.md.us>
Subject: Fwd: Attorneys general address ALEC's climate decept

Wasn't sure whom else to send this to.

jane

Begin forwarded message:

From: Greg LeRoy <goodjobs@goodjobsfirst.org>
Subject: FW: Attorneys general address ALEC's climate decept
Date: April 1, 2016 at 9:35:56 AM EDT
To: "brian@brianfrosh.com" <brian@brianfrosh.com>

Attorney General Frosh:

bravo on your joining the investigation of climate-denying fossil fuel companies!

your naming-names candor at the press conference has been warmly noted by us activists, per below (and also in linked UCS blog)

GLR

Greg LeRoy
Executive Director
Good Jobs First ~ www.goodjobsfirst.org
202-232-1616 x 211

From: ___ on behalf of danderson [danderson@ucsusa.org]
Sent: Friday, April 01, 2016 6:42 AM
To:
Subject: Attorneys general address ALEC's climate decept

Hello,

In case you missed it, the American Legislative Exchange Council was called out during this week's announcement of a new coalition of attorneys general who will be working together on climate change, where Massachusetts and the U.S. Virgin Islands joined the investigations into ExxonMobil.

Please share this great new blog post by Kathryn Mulvey, climate accountability manager for the Union of Concerned Scientists, which includes this key quote from Maryland's attorney general, "What we want from ExxonMobil, Peabody Energy, and ALEC is very simple. We want them to tell the truth."

<http://blog.ucsusa.org/kathy-mulvey/peabody-energy-bankruptcy>

ReTweets appreciated:

https://twitter.com/kathy_mulvey/status/715651876381986816

Best,

David Anderson
Outreach Coordinator
Climate & Energy Program
Union of Concerned Scientists

From: Mike Tidwell [mailto:mtidwell@chesapeakeclimate.org]
Sent: Monday, April 18, 2016 9:28 AM
To: Frosh, Brian <bfrosh@oag.state.md.us>
Cc: Vinny DeMarco <demarco@mdinitiative.org>; Nitkin, David <dnitkin@oag.state.md.us>
Subject: Brian: Following up re scheduling a mtg about Exxon investigation

Hi Brian,

Hope you are well. Was wondering if it's now possible to schedule a meeting with you to discuss your next steps re possibly joining the other AGs in investigating Exxon. Let me know. Eager to get our grassroots members informed and supportive on this issue.

Look forward to hearing from you.

Best,
Mike Tidwell
Director, Chesapeake Climate Action Network
cell 240-460-5838

On Fri, Apr 1, 2016 at 6:01 PM, Frosh, Brian <bfrosh@oag.state.md.us> wrote:

Mike

We are looking into it. Next week won't work. It will take us a few weeks before we have a good sense of what our options are. How about after that?

Brian

Sent from my Verizon Wireless 4G LTE DROID

Mike Tidwell <mtidwell@chesapeakeclimate.org> wrote:

Brian,

Hope you are well. Just wanted to express my thanks to you for joining 11 other state AGs this week in announcing serious collaboration in fighting climate change and in investigating various climate-related issues.

I was wondering if you were free to sit down and discuss next steps on this front with me and Vinny DeMarco (he's expanded his portfolio to include some climate activism!). Specifically, we'd like to talk with you about the Exxon investigations and see if there's a way for Maryland to formally join NY, CA, MA and Virgin Islands on this.

Are you free to meet in your Baltimore office next week?

Let me know. And again thanks for your leadership on this issue!

Best,

Mike Tidwell
Director
Chesapeake Climate Action Network
240-460-5838

--

Mike Tidwell
Director
Chesapeake Climate Action Network
240-460-5838

Snyder, Adam

From: Mike Tidwell <mtidwell@chesapeakeclimate.org>
Sent: Friday, April 08, 2016 10:53 AM
To: Frosh, Brian; Nitkin, David
Subject: Virgin Is. AG subpoenas CEI over Exxon scandal

Think Tank With Fossil-Fuel Ties Subpoenaed in AG's Climate Inquiry

The subpoena of the Competitive Enterprise Institute by the Virgin Islands AG represents a widening of the investigations into Exxon and other companies.



BY JOHN H. CUSHMAN JR.

APR 8, 2016



Sam Kazman, general counsel of the Competitive Enterprise Institute, a think tank long backed by fossil fuel interests, is seen here speaking to members of the media. CEI was subpoenaed by the attorney general of the U.S. Virgin Islands as part of his climate fraud investigation. Kazman said CEI will fight to "quash" the subpoena. Credit: Alex Wong/Getty Images

The Competitive Enterprise Institute, a conservative Washington, D.C., think tank and one of the fossil fuel industry's most steadfast allies, disclosed on Thursday that the attorney general of the U.S. Virgin Islands is demanding to see records of the group's donors and activities involving climate policy.

The subpoena represents a broadening of a multifaceted legal inquiry into whether fossil fuel companies broke any laws as they sought for decades to undermine the scientific consensus and head off forceful action to address the climate crisis.

For the first time, the investigation now appears to touch on the actions of third parties supported by the industry—and perhaps into their joint lobbying actions.

CEI said it "will vigorously fight to quash this subpoena."

The island territory is just one of several jurisdictions now looking into the actions of ExxonMobil Corporation and other fossil fuel companies. The investigations, first announced by New York Attorney General Eric Schneiderman, are thought to be in their early stages, and the investigators have offered few details of their scope.

x

Attorney General Claude Walker of the Virgin Islands/Credit: ICN

Turning the spotlight on CEI is an assertive tactic from a surprising quarter. The Virgin Islands, while it may not have the legal muscle of New York with its powerful securities and consumer laws, is especially vulnerable to the effects of climate change.

CEI said the subpoena from Attorney General Claude E. Walker "attempts to unearth a decade of the organization's materials and work on climate change policy."

"The subpoena requests a decade's worth of communications, emails, statements, drafts, and other documents regarding CEI's work on climate change and energy policy, including private donor information," the institute said. "It demands that CEI produce these materials from 20 years ago, from 1997-2007, by April 30, 2016."

"This is the latest effort in an intimidation campaign to criminalize speech and research on the climate debate, led by New York Attorney General Eric Schneiderman and former Vice President Al Gore," the institute said.

Schneiderman's subpoena of Exxon last year sparked an expanding inquiry by several Democratic attorneys general. A group of them held a press conference along with Gore last week to describe their coordinated actions on climate change, including the inquiries as well as support for the Obama administration's climate agenda. The attorneys general of Massachusetts and California are also investigating Exxon or other fossil fuel interests.

The investigations began after InsideClimate News, and later the Los Angeles Times, as well as other journalists reported on the history of Exxon's emerging understanding of climate change science in the 1970s and its subsequent efforts to undermine the scientific consensus, in part by financing research organizations including CEI.

CEI's general counsel, Sam Kazman, said it was "an affront to our First Amendment rights of free speech and association for Attorney General Walker to bring such intimidating demands against a nonprofit group. If Walker and his allies succeed, the real victims will be all Americans, whose access to affordable energy will be hit by one costly regulation after another, while scientific and policy debates are wiped out one subpoena at a time."

The inquiry's timeframe covers a crucial period beginning in 2000 and 2001, at the start of the Bush-Cheney administration, when lobbyists from ExxonMobil and other fossil fuel companies were pressing the new administration to reverse Clinton-Gore policies on global warming, reject the Kyoto Protocol and overhaul government research programs into climate change.

CEI was deeply involved in this campaign, according to multiple sources, including a detailed expose by a whistleblower named Rick Piltz.

For example, CEI filed a lawsuit against both the outgoing Clinton and the incoming Bush administrations, aimed at preventing a significant review of climate science, the 2000 National Climate Assessment, from forming the basis of federal policies and international negotiations. The lawsuit was dismissed, but the CEI had made its point with the Bush administration, which continued to resist the scientific consensus endorsed by the previous administration.

At the time the Bush administration was rewriting federal climate studies, a task carried out by a former oil company lobbyist who moved into the Council on Environmental Quality under Bush, and then went to work for Exxon when his role was publicly disclosed.

Much of the White House's engagement with the energy lobby during the early Bush-Cheney years still remains undisclosed. The administration refused to publish all its communications with the industry during its first year in office, when Vice President Dick Cheney ran an energy policy task force that consulted heavily with the industry behind closed doors.

The Virgin Islands subpoena suggests one way that some new details might be brought to light.

CEI is one of several organizations that have been repeatedly named over the years by those who have criticized Exxon and other fossil fuel companies for financing the climate denial work of third parties. After the Royal Society of the United Kingdom castigated Exxon in 2006 for giving money to groups misrepresenting climate science, Exxon said it had stopped financing the CEI.

In his remarks at last week's press conference, Walker said the fossil fuel investigation "is not an environmental issue as much as it is about survival. We try as attorneys general to build a safe community for all. But what good is that if, annually, everything is destroyed.

"It could be David versus Goliath—the Virgin Islands against a huge corporation," he said. "But we will not stop until we get to the bottom of this and make it clear to our residents as well as the American people that we have to do something transformational."

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BUSINESS AND ACCOUNTABILITY

PRINTER-FRIENDLY VERSION

ABOUT THE AUTHOR

Mike Tidwell
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