



THE UNITED STATES VIRGIN ISLANDS
DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

CLAUDE EARL WALKER, ESQUIRE
ATTORNEY GENERAL

VIA ELECTRONIC MAIL AND U.S. MAIL

April 12, 2016

Sam Kazman
General Counsel
Competitive Enterprise Institute
1899 L Street NW
Washington, D.C. 20036
sam.kazman@cei.org

Re: *In Re Investigations of Violations of the Criminally
Influenced and Corrupt Organizations Act*

Dear Attorney Kazman:

On April 7, 2016 the Virgin Islands Department of Justice (“the Government”) served you with a subpoena seeking documents related to its investigation of Exxon Mobil Corporation (“Exxon Mobil”) for potential civil violations of the Criminally Influenced and Corrupt Organizations Act, 14 Virgin Islands Code § 605. That same day, I read in the news that you intended to seek to quash this subpoena and asserted that the subpoena infringes upon the Competitive Enterprise Institute’s (“CEI”) First Amendment rights.

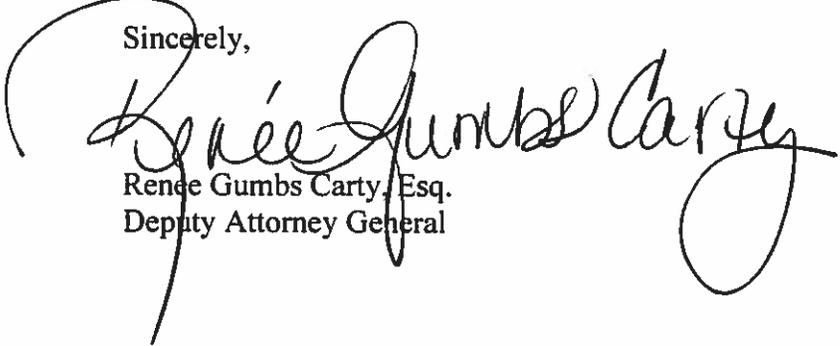
The Government can identify no authority that would support your claim that the subpoena implicates the First Amendment or infringes upon CEI’s constitutional rights. As the subpoena clearly indicates, CEI is not a target of the Government’s investigation of Exxon Mobil. This subpoena places no restrictions on your public speech, content-based or otherwise. Furthermore, the purpose of this subpoena is to investigate whether Exxon Mobil has engaged in deception or fraud in its marketing or its disclosures to investors, and “the First Amendment does not shield fraud.” *Illinois, ex rel. Madigan v. Telemarketing Associates, Inc.*, 538 U.S. 600, 612 (2003) (citing *Donaldson v. Read Magazine, Inc.*, 333 U.S. 178, 190 (1948) (the government’s power “to protect people against fraud” has “always been recognized in this country and is firmly established”). Finally, because the Government is only investigating Exxon Mobil’s conduct, the potential for an enforcement action affecting *any* entity is speculative, and does not provide a basis for refusing to cooperate with an authorized subpoena. See *Google, Inc. v. Hood*, No. 15-60205, slip op. at 16–22 (5th Cir. Apr. 8, 2016) (finding that pre-litigation investigative subpoena issued

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by state Attorney General did not create First Amendment injury ripe for adjudication until enforcement action or imminent threat thereof). If you are aware of authority that supports your position, please share it, as I would be happy to reexamine our position.

Your public comment also indicates that you regard the subpoena as unduly burdensome. To the extent that you have concerns about the scope, timing, manner, or cost of your obligation to respond to this subpoena, I invite you to meet and confer on these topics. Please feel free to contact me at Renee.Gumbs@doj.vi.gov to start that conversation.

Sincerely,



Renee Gumbs Carty, Esq.
Deputy Attorney General