



Details Released of Witch Hunt Against Exxon Mobil

In a subpoena issued by his office on March 15, Virgin Islands Attorney General Claude Walker notified Exxon Mobil Corporation that it was suspected of engaging in a civil violation of the Racketeer Influenced and Corrupt Organizations Act (RICO) by having engaged in “conduct misrepresenting Your knowledge of the likelihood that Your products and activities have contributed and are continuing to contribute to Climate Change.”



A [report in *The New American* on April 18](#) noted that Walker’s action was part of a coalition of state attorneys general (calling itself “AGs United for Clean Power”) who had banded together in an attempt to use legal harassment to silence so-called climate change skeptics. However, noted that report, the attorneys general themselves may have violated the law by conspiring in an illegal assault on freedom of speech and the First Amendment. *The New American’s* report cited an article written in *USA Today* by University of Tennessee law professor Glenn Harlan Reynolds headlined “[Dear attorneys general, conspiring against free speech is a crime: Glenn Reynolds.](#)”

In his article, Reynolds quoted directly from Section 241 of Title 18 of the United States Code (U.S.C.), which makes it a felony “for two or more persons to agree together to injure, threaten, or intimidate a person in any state, territory or district in the free exercise or enjoyment of any right or privilege secured to him/her by the Constitution or the laws of the United States, (or because of his/her having exercised the same).”

Reynolds wondered whether Walker or the other attorneys general (including California’s Kamala Harris, or New York’s Eric Schneiderman) engaged in the harassing legal action against Exxon Mobil had read the federal statute. He posed that question because, in his opinion, “what they’re doing looks like a concerted scheme to restrict the First Amendment free speech rights of people they don’t agree with.”

In his article, Reynolds quoted a condemnation of the actions of the attorneys general by the Competitive Enterprise Institute’s (CEI) Hans Bader, who wrote:

Should government officials be able to cut off donations to groups because they employ people disparaged as “climate change deniers?”... Only a single-issue zealot with ideological blinders and a contempt for the First Amendment would think so....

The First Amendment has long been interpreted as protecting corporate lobbying and donations, even to groups that allegedly deceive the public about important issues.... So even if being a “climate denier” were a crime (rather than constitutionally protected speech, as it in fact is), a donation to a non-profit that employs such a person would not be.

In a recent *Bloomberg View* article, Megan McArdle said of the subpoena of the attorneys general: “They threw the word ‘fraud’ around a lot. But the more they talked about it, the more it became clear that what they meant by ‘fraud’ was ‘advocating for policies that they disagreed with.’”



Written by [Warren Mass](#) on May 4, 2016

The CEI was one of many organizations named in the subpoena by the attorneys general as part of their witch hunt against Exxon Mobil, but it wasn't until the *Washington Times* obtained an unredacted copy of the subpoena that the extent of the probe became known. The amount of documentation demanded by the attorneys general made a typical IRS audit seem puny in comparison. They demanded copies of all communications (including letters, e-mails, social networking posts, etc.) sent or received from January 1, 1977 to the present (39 years!) between Exxon Mobil and a long list of organizations that the *Times* described as "a veritable who's who of conservative and free market organizations."

The list, the *Times* reported, included:

The Heritage Foundation, the Committee for a Constructive Tomorrow, the Heartland Institute, the National Taxpayers Union Foundation, the Manhattan Institute, FreedomWorks, and the Media Research Center.

The subpoena also lists pro-business groups such as the U.S. Chamber of Commerce Foundation, the National Black Chamber of Commerce, and the U.S. Oil and Gas Association.

The disclosure came as a surprise to the U.S. Chamber of Commerce. "This is the first time we're seeing this list, and we find it very curious," the organization said in an e-mail response to a request for comment.

"Regardless, the Chamber is not going to let this sideshow impact what it does. We're focused on issues related to American jobs, economic growth, and the nation's energy future," said the statement.

The subpoena also demands that Exxon Mobil provide any documents or communications using any of a long list of terms, including: "climate change," "climatology," "climate science," "climate model," "global warming," "greenhouse gas," "greenhouse effect," "CO2 greenhouse," "climate skeptics," "global cooling," "arctic shrinkage," "carbon tax," and "climate legislation."

Given the sheer volume of material "demanded" by Walker, one wonders what level of audacity could justify such unreasonable and arrogant demands in this man's mind.

The subpoena naturally prompted some strong reactions.

The Competitive Enterprise Institute's attorney, Andrew Grossman, of the Washington firm BakerHostetler, called the subpoena "a blatant attempt to intimidate and harass an organization for advancing views that you oppose."

"Your demand on CEI is offensive, it is un-American, it is unlawful, and it will not stand," wrote Grossman. "You can either withdraw it or expect to fight."

A report in the *Washington Free Beacon* quoted a statement from Hans von Spakovsky, a former federal election commissioner and a senior legal fellow at The Heritage Foundation, another organization named in the subpoena. Von Spakovsky called the subpoena "a truly outrageous abuse of authority [by the attorneys general] and a misuse of the law."

"This investigation is intended to silence and chill any opposition," von Spakovsky wrote in an article in the *Daily Signal*. "It is disgraceful and contemptible behavior by public officials who are willing to exploit their power to achieve ideological ends."

At the conclusion of his article in *USA Today*, Reynolds quoted an important principle expressed in the Supreme Court decision *West Virginia Board of Education v. Barnette*:



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“If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion.”

Once the companies and individuals named in the subpoena of the attorneys general start fighting back, these heavy-handed officials should be made fully aware of this important constitutional principle.

Photo: AP Images

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