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FRAUDULENT LETTERS OPPOSING CLEAN ENERGY LEGISLATION

HEARING

BEFORE THE

SELECT COMMITTEE ON
ENERGY INDEPENDENCE
AND GLOBAL WARMING
HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

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FRAUDULENT LETTERS OPPOSING CLEAN ENERGY LEGISLATION

THURSDAY, OCTOBER 29, 2009

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON ENERGY INDEPENDENCE
AND GLOBAL WARMING,
Washington, DC.

The committee met, pursuant to call, at 9:38 a.m., in room 1100, Longworth House Office Building, Hon. Edward J. Markey (chairman of the committee) presiding.

Present: Representatives Markey, Blumenauer, Inslee, Sensenbrenner, Miller, Sullivan, and Blackburn.

Staff present: Michael Goo and Jeffrey Sharp.

The CHAIRMAN. Welcome, ladies and gentlemen, to the Select Committee on Energy Independence and Global Warming. Today we have a very important hearing, and we very much appreciate everyone who is here and their willingness to participate.

The select committee has held more than 70 hearings over the last few years. Most of them have focused on the best of America: innovation, new technologies, American entrepreneurs working to create new, clean energy jobs. Unfortunately, today we must focus on a troubling issue, a fraud which has been committed on Congress. The subject matter of today's hearing is the fraudulent letters sent to Congress, letters that attempted to influence the vote on the Waxman-Markey clean energy legislation that passed the House in June.

Our investigation has uncovered four main findings.

Number one, more than a dozen fraudulent, manufactured letters were sent to Congress questioning the Waxman-Markey legislation, letters that featured text written by lobbyists, doctored on fake letterhead, and marked with forged signatures from civil rights, senior, women's, and veterans organizations.

Two, some here today will claim these letters can be attributed to a temporary employee, when, in fact, this fraud chiefly resulted from a systematic lack of oversight and quality control mixed with a substantial disregard for the facts.

Three, when the fraud was finally uncovered several days before the close affirmative vote for the Waxman-Markey bill, Members of Congress who had received these letters were not informed of the fraud until after the vote had occurred.

These events occurred within the context of a multimillion-dollar so-called "shadow lobbying" campaign launched by the coal industry to influence clean energy legislation. Our investigation uncov-

ered millions of unreported dollars spent on shadow lobbying by the coal coalition.

The story begins earlier this year, in June, as the Waxman-Markey bill was headed to the floor. The American Coalition for Clean Coal Electricity, a trade association funded by coal giants like the Southern Company, Arch Coal, and Peabody Coal, directed its PR firm, the Hawthorn Group, to manufacture a grassroots campaign questioning the Waxman-Markey legislation.

This was nothing new. The coal coalition had been paying the Hawthorn Group at least $1 million a year for lobbying and consulting activities since 2000. In the first 6 months of 2009, Hawthorn was paid nearly $3 million by the coal companies for their work and more than $7 million last year alone.

With 2 weeks left before the vote, Hawthorn was under the gun to produce results. They turned to Bonner & Associates, a firm with experience generating letters to support shadow lobbying efforts. Bonner & Associates, a firm that regularly hires temporary employees to generate these letters, immediately hired a temporary employee who, within his first few hours on the job, manufactured five letters from the Charlottesville chapter of the NAACP seeking changes to Waxman-Markey.

How was this employee so successful? Simple: The letters were forged. Did Jack Bonner or any other longstanding employee ask, how could a brand-new employee get five letters in 1 day? Did they ask why these associations, like the NAACP, would suddenly be willing to oppose the clean energy legislation? Did they ask that question? No. No one seems to have cared. Instead, these letters were simply sent to the targeted congressional offices without further review by Bonner & Associates, Hawthorn, or the coal coalition.

Bonner & Associates has admitted they did not confirm the authenticity of the letters before they were sent to Congress, and neither did Hawthorn, nor did the coal coalition. Indeed, Bonner & Associates does not recall any conversations with Hawthorn or the coal coalition about oversight or quality control.

But, even worse, although the fraud was uncovered days before the vote, neither Bonner nor Hawthorn nor the coal coalition took any steps to inform the affected Representatives. In fact, they were not told until weeks later. The coal coalition was willing to pay millions to peddle a point of view, but they were unwilling to spend a few cents to call the U.S. Capitol and clear the air.

This point of view was based on scare tactics and misleading figures and had zero to do with educating the public on key issues. These subterranean lobbying campaigns, where millions of dollars are spent in the cynical attempt to buy the support ideas don't earn, have become a substitute for an honest exchange of views and distort the playing field away from other Americans longing to have their voices heard.

Today's hearing examines how a process that takes place in the dark leads to fraudulent conduct. I have always believed that sunlight is the best disinfectant, and so we are here to see how this shadow campaign worked and why it went so terribly wrong.

That completes the opening statement of the Chair. I now turn to recognize the ranking member of the select committee, the gentleman from Wisconsin, Mr. Sensenbrenner.

[The prepared statement of Mr. Markey follows:]

Statement of Chairman Edward J. Markey
Hearing before the Select Committee
On Energy Independence and Global Warming
"Fraudulent Letters Opposing Clean Energy Legislation"

October 29, 2009

The Select Committee has held more than 70 hearings over the last few years. Most of them have focused on the best of America: innovation; new technologies; American entrepreneurs working to create new clean energy jobs.

Unfortunately, today we must focus on a troubling issue. A fraud has been committed on Congress.

The subject matter of today's hearing is the fraudulent letters sent to Congress—letters that attempted to influence the vote on the Waxman-Markey clean energy legislation that passed the House this June.

Our investigation has uncovered four main findings:

1. More than a dozen fraudulent, manufactured letters were sent to Congress questioning the Waxman-Markey legislation – letters that featured text written by lobbyists, doctored on fake letterhead, and marked with forged signatures from civil rights, senior, women's and veterans organizations.
2. Some here today will claim these letters can be attributed to a temporary employee, when, in fact, this fraud chiefly resulted from a systemic lack of oversight and quality control, mixed with a substantial disregard for the facts.
3. When the fraud was finally uncovered several days before the close affirmative vote for the Waxman-Markey bill, Members of Congress who had received these letters were not informed of the fraud until after the vote had occurred.
4. These events occurred within the context of a multi-million dollar so-called "shadow lobbying" campaign launched by the coal industry to influence clean energy legislation. Our investigation uncovered millions of unreported dollars spent on shadow lobbying by the coal coalition..

The story begins earlier this year, in June, as the Waxman-Markey bill was headed to the floor. The American Coalition for Clean Coal Electricity, a trade association funded by coal giants like Southern Company, Arch Coal and Peabody Coal,

directed its P.R. firm, The Hawthorn Group, to manufacture a "grassroots campaign" questioning the Waxman-Markey legislation.

This was nothing new. The Coal Coalition had been paying the Hawthorn Group at least one million dollars a year for lobbying and consulting activities since 2000. In the first six months of 2009, Hawthorn was paid nearly $3 million dollars by the coal companies for their work, and more than $7 million last year alone.

With two weeks left before the vote, Hawthorn was under the gun to produce results. They turned to Bonner & Associates, a firm with experience generating letters to support shadow lobbying efforts.

Bonner & Associates—a firm that regularly hires temporary employees to generate these letters—immediately hired a temporary employee who, within his first hours on the job, manufactured five letters from the Charlottesville chapter of the NAACP seeking changes to Waxman-Markey.

How was this employee so successful? Simple: the letters were forged. Did Jack Bonner or any other long-standing employee ask: how could a brand-new employee get 5 letters in one day? Did they why organizations like the NAACP were suddenly willing to oppose the clean energy legislation? No. No one seemed to care. Instead, these letters were simply sent to the targeted Congressional offices without further review by Bonner & Associates, Hawthorn or the Coal Coalition.

Bonner & Associates has admitted they did not confirm the authenticity of the letters before they were sent to Congress. And neither did Hawthorn. Nor did the Coal Coalition. Indeed, Bonner & Associates does not recall any conversations with Hawthorn or the Coal Coalition about oversight or quality control.

But even worse, although the fraud was uncovered days before the vote, neither Bonner, nor Hawthorn, nor the Coal Coalition took any steps to inform the affected Representatives. In fact, they were not told until weeks later. The Coal Coalition was willing to pay millions to peddle a point of view, but they were unwilling to spend a few cents to call the U.S. Capitol and clear the air. This point of view was based on scare tactics and misleading figures and had zero to do with educating the public on key issues.

These subterranean lobby campaigns—where millions of dollars are spent in the cynical attempt to buy the support ideas don't earn—have become a substitute for an honest exchange of views and distort the playing field away from other Americans longing to have their voices heard.

Today's hearing examines how a process that takes place in the dark leads to fraudulent conduct. I've always believed that sunlight is the best disinfectant, and so we're here to see how this shadow campaign worked and why it went so terribly wrong.

Mr. SENSENBRENNER. Mr. Chairman, thank you for recognizing me.

Let me say at the outset that no one appreciates frauds being perpetrated on them, whether it is the Congress and any of its Members, regardless of party; whether it is corporations; and whether it is the American public.

In this case, there was a fraud that was perpetrated on Congress. And no one can stand up to defend it. However, I think we ought to look at this fraud in the context of other frauds that have come up.

With Bonner & Associates, they have recognized that one of their temporary employees committed a fraud. This temporary employee worked for them for all of 6 days. When they found out that there was a fraud that was being perpetrated, they fired the person, which was the right thing to do. They were under a contract with the ACCCE, and they did not bill ACCCE or they did not receive any payment for the services that they rendered. So, when the boss found out what was going on, he did the right thing, and he also said that, because of this, we don't want to be paid or we will not accept any payment.

Now, astroturfing, unfortunately, is an art that, apparently, has been really perfected, and it has been perfected on both sides of the aisle. I have a Business Week article from March 14th, 2008, that talks about the secret side of David Axelrod. The Obama campaign's chief strategist was a master of astroturfing and has a second firm that shapes public opinion for corporations.

And I would like to ask unanimous consent that this article be included in the record following my opening statement.

The CHAIRMAN. Without objection, so ordered.

Mr. SENSENBRENNER. Now, after the hearing that was first called by the chairman was correctly postponed because the rules were not followed—and I appreciate his recognizing that fact and postponing the hearing—there was another hoax that was perpetrated by people on the other side of the cap-and-tax issue, a group called "Yes Men." And they perpetrated a hoax on the news media. They used the name of the U.S. Chamber of Commerce to get a room at the National Press Club. They got a press release out saying that the Chamber was changing its stand on the Waxman-Markey legislation.

And it was only shortly before the press conference was supposed to start that the Chamber found out about it and went and cancelled the press conference. But the damage was already done, and there were a number of media outlets, including The Washington Post and Reuters, that ended up running the story based upon the hoax that was perpetrated on them.

I hope that this hearing, which talks about a hoax where the perpetrators recognized that they had done something wrong, fired the employee, and didn't receive any payment, would set an example up to those like the Yes Men and other people that might be thinking about perpetrating hoaxes on important issues of public policy to think twice. And maybe the Yes Men are thinking twice because the Chamber has filed a civil action against them in the Federal courts here in Washington, D.C.

So I think what I want to say is that we are all unanimous in condemnation of hoaxes. This is one hoax that ended up having the people responsible paying the price. The Yes Men hoax did not.

And I would hope that, when we go forth from this, whether we are seated on this side of the dais, the other side of the dais, or those who are representing the news media covering this hearing would be equally vigilant and equally condemnatory of hoaxes, wherever they may come from, on whatever side of the issue they are, so that we can legislate based upon genuine public opinion.

And, again, I ask unanimous consent that the Business Week article about Mr. Axelrod's money-making activities be included in the record at this point.

The CHAIRMAN. So ordered.

[The information follows:]

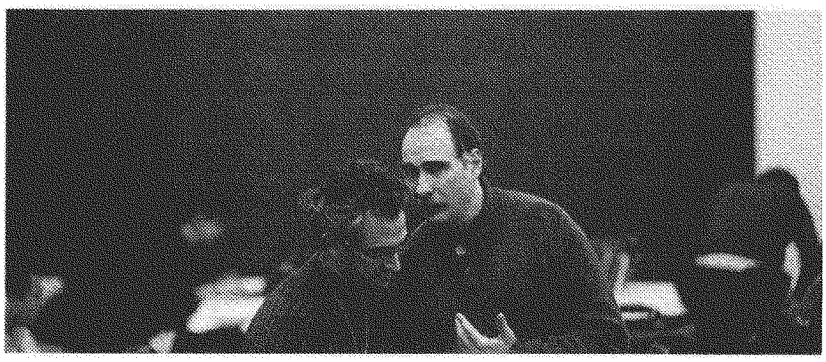
http://www.businessweek.com/bwdaily/dnflash/content/mar2008/db20080314_121054.htm

BusinessWeek

BW Chicago March 14, 2008, 4:20PM EST

The Secret Side of David Axelrod

The Obama campaign's chief strategist is a master of "Astroturfing" and has a second firm that shapes public opinion for corporations



David Axelrod (right), chief strategist of Senator Barack Obama's Presidential bid, talks with *Newsweek*'s Richard Wolffe on the campaign trail. Chip Somodevilla/Getty Images

By Howard Wolinsky

David Axelrod has long been known for his political magic. Through his AKP&D Message & Media consultancy, the campaign veteran has advised a succession of Democratic candidates since 1985, and he's now chief strategist for Senator Barack Obama's bid for President. But on the down low, Axelrod moonlights in the private sector.

From the same address in Chicago's River North neighborhood, Axelrod operates a second business, ASK Public Strategies, that discreetly plots strategy and advertising campaigns for corporate clients to tilt public opinion their way. He and his partners consider virtually everything about ASK to be top secret, from its client roster and revenue to even the number of its employees. But customers and public records confirm that it has quarterbacked campaigns for the Chicago Children's Museum, ComEd, Cablevision, and AT&T.

ASK's predilection for operating in the shadows shows up in its work. On behalf of ComEd and Comcast, the firm helped set up front organizations that were listed as sponsors of public-issue ads. Industry insiders call such practices "Astroturfing," a reference to manufacturing grassroots support. Alderman Brendan Reilly of the 42nd Ward, who has been battling the Children's Museum's relocation plans, describes ASK as "the gold standard in Astroturf organizing. This is an emerging industry, and ASK has made a name for itself in shaping public opinion and manufacturing public support."

Lowest of Low Profiles

Eric Sedler, 39, a former public relations director at AT&T and corporate-reputation specialist at PR giant Edelman, is the "S" in ASK and the company's managing partner. The "K" is John Kupper, 51, a former congressional press secretary and ad-industry consultant, while the "A," of course, is Axelrod, a onetime *Chicago Tribune* reporter who got his start in politics when he managed Illinois Democrat Paul Simon's first election to the U.S. Senate. Sedler says opponents mischaracterize what ASK does. "I reject the notion that a company can't advocate a public policy," he says. "These issues are complicated, and people have different points of view." Axelrod, 53, did not respond to phone messages and e-mails.

Though the consultancies share management—Kupper, like Axelrod, is also a partner at AKP&D—and loft space, the two firms come across as polar opposites. On its Web site, AKP&D lists dozens of candidates and referendums it has worked on. Sample ads are available for downloading. Employees are named. ASK's site is minimalist, revealing little more than that its three partners do all their work themselves. Sedler says, in fact, that in his six years at ASK, he had never done an interview with the media before. "We're not in a business that warrants a huge public profile," he explains.

Axelrod's political connections can cross over into his corporate business. Mayor Richard M. Daley, one of Axelrod's friends and earliest clients, is pushing construction of a new Children's Museum in Grant Park to replace a facility on Navy Pier that the museum says it has outgrown. So far, though, "open-space" foes such as Reilly have stymied the move. The museum retained ASK early in 2007. Sedler says Axelrod's ties with Daley had nothing to do with the contract.

ASK is counseling the museum, which reports annual revenue of more than $11 million, including government grants, on its message strategy. It is also writing ads, including a 60-second radio spot that stresses how the new quarters would blend into Grant Park and be more accessible. Sedler won't say how much ASK is receiving, joking that it's "about 30¢ per hour." Consultants at other PR firms say corporate clients pay monthly retainers of up to $25,000, though nonprofit groups usually pay less. In addition, firms typically get 15% of whatever clients spend on advertising.

ASK's relationship with ComEd goes back much further: The Chicago-based utility says ASK has been an adviser since at least 2002. ASK's workload picked up in 2005, as the Exelon subsidiary was nearing the end of a 10-year rate freeze and preparing to ask state regulators for higher electricity prices. Based on ASK's advice, ComEd formed Consumers Organized for Reliable Electricity (CORE) to win support.

One TV commercial, penned by ASK, warned of a ComEd bankruptcy and blackouts without a rate hike: "A few years ago, California politicians seized control of electric rates. They held rates down, but the true cost of energy kept rising. Soon the electric company went bust; the lights went out. Consumers had to pay for the mess. Now, some people in Illinois are playing the same game." CORE, which describes itself on its Web site as "a coalition of individuals, businesses and organizations," was identified as the ad's sponsor. After a complaint was filed with state regulators, ComEd acknowledged that it had bankrolled the entire $15 million effort.

The message seemed effective. Pollster Geoff Garin, president of Peter D. Hart Research Associates in Washington, which has worked with both of Axelrod's businesses, says his research showed that after the advertising campaign, ComEd customers were more supportive of a rate hike than customers served by other electric utilities elsewhere in Illinois.

Axelrod's public and private efforts bump into each other at ComEd, too. Illinois employees of the utility and its parent, Exelon, have contributed $181,711 to Obama's Presidential bid—more than workers at any other company in the state.

A Big Contract

Illinois does not require public-affairs firms to register as lobbyists unless they seek to influence officeholders directly. But New York does. In New York City, Cablevision, owner of Madison Square Garden, hired ASK to stop the New York Jets from building a stadium nearby in Manhattan. In its ads and materials, the opposition called itself the New York Association for Better Choices. Records show ASK was paid $1.2 million by Cablevision from 2004 to 2005. LegislativeGazette.com, an online weekly covering New York government, described ASK's payday as "the biggest lobbying contract of the year."

Among ASK's other clients: AT&T. The telecom company, formerly known as SBC Communications, had been a customer, Sedler confirms, when it requested ASK's help to defeat a broadband referendum in three Fox Valley suburbs in 2004. ASK received $22,500 for its voter-persuasion drive.

In politics, Axelrod's AKP&D is as partisan as they come. But ASK travels easily across the aisle. Gene Reineke, head of Hill & Knowlton's Chicago office and former chief of staff for Republican Governor Jim Edgar, says his PR firm shared ComEd as a client and now works with ASK on the Children's Museum. "Their firm is outstanding," he says. "I think it's one of the best in the field, to be honest."

Avis LaVelle, a former Daley press secretary who now runs Lavelle-Cousin Issues Management, also teamed with ASK on ComEd's CORE campaign. She says their consultancies are practicing a new kind of PR, bringing tools and know-how from the world of politics into the corporate and nonprofit realms. "A lot of what is done to shape public opinion in political life," LaVelle says, "can be applied to public affairs for corporations."

The CHAIRMAN. The gentleman's time has expired. The Chair recognizes the gentleman from Oregon, Mr. Blumenauer.

Mr. BLUMENAUER. Thank you, Mr. Chairman.

This is a very busy morning. I appreciate our colleague from Virginia joining us. I just would like to get on with the witnesses.

I would say that I—I do appreciate Congressman Perriello being an example of somebody who has the courage of his convictions, moving ahead, notwithstanding efforts like this to distort public opinion, and took a very courageous stand on a controversial issue and continues to be engaged deeply with the public.

And the best anecdote to cheating, I think, is a congressperson who is in touch with his constituents and his conscience. And I think our colleague is a great example of that. And I appreciate him being here to cast a little light on this unfortunate situation that he endured and hopefully assure that it is less likely to occur in the future.

The CHAIRMAN. Great. The gentleman's time has expired. The Chair recognizes the gentlelady from Michigan.

Mrs. MILLER of Michigan. Thank you very much, Mr. Chairman. I appreciate you calling the hearing this morning.

And I would want to associate myself with our ranking member's comments and just add this. Certainly, any time we have any fraud perpetrated, whether it is Members of Congress or at any level of government, it demeans the process, it demeans our democracy, our way of governing ourselves here.

And I would just say, from a personal perspective, I have been involved in politics in an elected capacity probably for about 30 years. One of my jobs was I was a former Secretary of State in the State of Michigan for 8 years, and I was our chief elections officer. And I always thought then that transparency was best. And when I was trying to enforce campaign finance law, there were many times that we would find, you know, shadow organizations that were trying to drive a particular agenda or a particular issue.

My favorite was always lots of money going to a group called "Good Government," you know, and yet—so you didn't know where the money came from, you couldn't tell who was all involved in it, and yet they were trying to drive the legislature on a particular issue. I guess you certainly can't call that fraud, but yet it is not transparent, and it is trying to achieve an end without full transparency.

And I think it is very important that all of us in government and in Congress or State legislatures or city council or county commission or what have you, we all find similar situations. We are always going to have the human element that goes overboard in trying to drive a particular outcome and an agenda and an issue. And transparency and letting the sun shine in is always the best antiseptic, I think, for making sure that our democracy continues to be strong and vibrant. And certainly calling attention to this issue today is just one in many, many things that happen and always happen and will continue to happen, but we need to always be ever-vigilant, and those of us involved in the process trying to shed the light, if you will, and sunshine on people who are trying to drive an agenda.

And what has happened here is unfortunate. This is not the first; it won't be the last. And I think, as Members of Congress—I know on this particular issue, the cap-and-trade issue, my office received about 10,000 correspondence in various forms, whether that was letters or faxes or phone calls or e-mails or what have you. I would say about 70 percent of them were opposed to the cap-and-trade piece of legislation. But, you know, people have to speak. But a lot of times you would get things and you would wonder, you know, is this a fraudulent idea, who is this group, et cetera. And you just have to try to do your best to weed through these things.

So, again, I look forward to the testimony by the witness. I appreciate, Mr. Chairman, you calling the hearing. And thank you very much.

The CHAIRMAN. Thank you.

The gentlelady's time has expired. The Chair recognizes the gentleman from Washington State, Mr. Inslee.

Mr. INSLEE. Thank you.

Just a note. If there is ever a fellow who represents the kind of "Mr. Smith Goes to Washington" idealism and courage, it is the Representative who is before us today. And I really honor your work on this and other issues so far.

I just want to make two comments.

First, we have seen this movie before, and it was the exercise by the tobacco industry to try to hoodwink and cover up the science of the devastating toxicity that they were involved in for decades. And it actually worked for decades. And we have seen a similar effort to hoodwink and defraud and deceive the American public now to cover up the toxicity to the world environment and ultimately to our own health of carbon dioxide and other climate change gases. And they have used every trick in the book, including the ones that we will investigate today.

But I just want to note that they are now failing. The tobacco industry got its comeuppance, if you will, and justice triumphed ultimately. And that is what is going on right now in the climate change debate, where you see in the U.S. Senate, Members of the U.S. Senate, on a bipartisan basis, finally coming out to move based on the science, which is now becoming dominant in the discussion.

The second thing I want to note is that this is not the only continuing effort to deceive the American public. I want to note a book called "Freakonomics" or "SuperFreakonomics" some authors wrote that basically asserted, "We don't have to control CO_2. We will just pump sulphur dioxide up into the atmosphere, and that will solve the problem."

They purported to quote a scientist named Ken Caldeira from Stanford, who is one of the predominant researchers in ocean acidification to suggest that Dr. Caldeira didn't think we should control CO_2, which is an absolute deception. Dr. Caldeira I have spoken to personally. He has told me we have to solve ocean acidification; you can't solve ocean acidification without controlling CO_2.

And yet people are still trying to write books to deceive the American public, and we have to blow the whistle on them. We are blowing the whistle on one today. We will continue to do it because, ultimately, science is going to triumph in this discussion.

Thank you.

The CHAIRMAN. The gentleman's time has expired.

[The prepared statement of Ms. Blackburn follows:]

Prepared Statement of Congresswoman Blackburn
Hearing before the Select Committee
On Energy Independence and Global Warming
"Fraudulent Letters Opposing Clean Energy Legislation"

Mr. Chairman,

I thank you for holding this hearing and thank the witnesses for taking their time to come and testify before this committee.

The committee today is examining a situation where fraudulent letters opposing the Cap-and-Trade bill were sent to Members of Congress.

It is a situation where Congress must look into the circumstances surrounding the event.

In this case, it seems one rogue employee sent out twelve fake letters with the names of people and organizations stating that they opposed the bill.

Due to the revelations about the forged letters, some activists are now claiming a widespread conspiracy to send false information to Members.

And these accusations have now led to expanding this hearing into discussion of campaign finance and lobbying rules and regulations.

Mr. Chairman,

This committee is not the proper place for an extensive debate on the technical aspect of these reporting issues and instead should be referred to the House Judiciary and Administration Committees.

But it is proper for this committee to conduct oversight on the mailing of the fraudulent letters.

And we must also keep in mind that the actions of one employee do not justify condemnation of an entire organization.

Neither do these actions represent any widespread effort to mislead Members of Congress.

I urge my colleagues to not give in to some of the unfounded allegations that some organizations are proposing, but instead use proper and due diligence to examine the current issue before this committee.

I yield the balance of my time.

All time for opening statements has been completed, so we will turn to our first witness, who is Congressman Tom Perriello, representing Charlottesville and other communities in the Fifth District of Virginia.

He is in his first term here in Congress. He has proven to be an outstanding freshman congressman. And in the energy debate, he clearly, as Congressman Inslee pointed out, has mastered this issue and has a true command of the subject material and an ability to explain these issues in a way that had enormous importance to the average citizen.

So we welcome you, Representative Perriello. Whenever you are ready, please begin.

STATEMENT OF THE HON. TOM PERRIELLO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Mr. PERRIELLO. Thank you, Chairman Markey, Ranking Member Sensenbrenner, and respected members of the committee, for providing this opportunity to speak today about the unfortunate tactics employed by opponents of the energy independence efforts here in the Congress.

I will leave it to you and your committee to figure out where there are patterns of behavior, where there was deception of intent versus deception of omission. I can tell you simply my story of my experience with this and what I have seen, both in our congressional office here and in the district.

It certainly has pained me to see so many upstanding groups, including senior advocacy groups and American Legion posts, misrepresented and dragged into this debate.

Our Founding Fathers knew the importance of an elected representative body held responsible by the people and ensured that the right of the people to petition the government would be protected by the first amendment. While politics has never been pretty, there are certain lines you just don't cross, like the forging of letters. And this must be taken very seriously. You don't get into politics expecting a game of pinochle, but you do expect a basic ability to know the will of the people when they call your office, when they write, when they show up at meetings.

And what I see here is a disservice not just to those who were advocating for the energy independence efforts but, also, those who are genuinely advocating against. At the point that we have to ask deeper and deeper questions about how valid the phone call is, how valid the letter is, how valid the meeting with constituents are, we are undermining the effort of those on either side of the issue who take the time on their own free will out of their busy schedule to allow our elected officials to know their feelings.

So I thank the Chair for holding this hearing today to bring light to this important matter and give attention, as it deserves.

My office, like many others, received a very high volume of constituent calls, letters, e-mails, and faxes in the weeks and days leading up to the final vote on the clean energy bill. It is not only justified but admirable for citizens of this country to be so actively engaged in following such a piece of legislation, one that I believe will be one of the more transformative in a generation for rebuilding our competitive advantage and our national security.

But while I hold strongly to the belief that this is key to the job creation and security of the next century, I also recognize that decent Americans can fundamentally disagree. Every Member of Congress, regardless of whether or not they supported the bill, should value hearing from those who have deep concerns about the energy strategy of this country. This is the solemn and sacred duty we have, as elected representatives.

As my office worked to sort through the piles of correspondence after the vote, we were contacted by the Charlottesville-based organization Creciendo Juntos, a nonprofit network that tackles issues related to the Hispanic community in my district.

A letter from Tim Freilich, who sits on the executive committee, informed me that a partner with the lobbying firm Bonner & Associates had contacted Creciendo Juntos to inform them that an employee of Bonner & Associates had faked a letter claiming to be from them. This fake letter was said to be a mistake, but Freilich, exercising his right of the people to petition the government for a redress of grievances, contacted my office to pass along the information about the forgery.

This was the first my office was told of this or any other fake letter, despite the fact that it now appears Bonner & Associates and the American Coalition for Clean Coal Electricity that had hired them knew about the forged letters before the final vote. I leave that to your committee to determine.

After being notified about this letter, my office noticed similarities in the wording of the letter with others they had been sorting. Going back through the correspondences, my staffers found five more forged letters, these purportedly from the Albemarle-Charlottesville branch of the NAACP.

I would point out that the national NAACP organization did support the ACCCE's legislation, stating that climate change disproportionately impacts communities of color and recognizing the economic and public health benefits of the legislation. Since the forged letters were revealed, the national NAACP has said it is diametrically opposed to the claims made in the forged correspondence.

Since this time, other forged letters have been discovered claiming to be from other groups, including two wonderful seniors organizations in my district, the Jefferson Area Board for the Aging and the Senior Center, Incorporated, as well as a local American Legion post. Forged letters sent to other Members of Congress have also been uncovered.

Forgery and identity theft and attempting to influence Members of Congress not only does a disservice to those who support the legislation but also to those who oppose it. If Members of Congress have to view voices of opposition with suspicion or doubt, it hurts the opposition's cause and our national debate on the whole.

As for me, I will not change my dedication to listening to my constituents and treating their opinions legitimately. But, clearly, there are astroturf and other types of tactics that are expanding, in my mind, a corporate capture of government. As the ranking member mentioned, this can occur on both sides of the aisle.

But as we see more and more influence of money and corporate influence in this decision-making process, the greatest antidote, the

greatest counterweight is people power. Regardless of where the people are in the ideological spectrum, it is ultimately, in a democracy, their accountability that should matter the most. Where that is undermined through such deceitful tactics, we all lose, regardless of our position on this particular bill.

Again, I leave it to your committee to know where this was patterns of behavior, where this was one outlier. But the important thing is that we get to the bottom of this so that we continue to have the most robust and democratic public debate, not only on issues of energy independence but all those that face us at this critical time.

With that, thank you.

[The statement of Mr. Perriello follows:]

TESTIMONY OF REP. TOM PERRIELLO
To the Select Committee for Energy Independence and Global Warming
October 29, 2009

Remarks as prepared for delivery

Chairman Markey, Ranking member Sensenbrenner, and respected members of the committee, thank you for providing me with the opportunity to speak here today about the unfortunate tactics employed by opponents of H.R. 2454, the American Clean Energy and Security Act. I was pained to see that so many good, upstanding groups, including seniors' groups and an American Legion post, misrepresented and dragged into this debate. Our Founding Fathers knew the importance of an elected representative body held responsible by the people and ensured that the right of the people to petition the government would be protected by the 1st Amendment. While politics has never been pretty, there are certain lines you just don't cross, like the forging of letters, which must be taken very seriously. I thank the Chair for holding this hearing today to bring light to this important matter and giving it the attention it so greatly deserves.

My office, like many others, received a high volume of constituent calls, letters, e-mails, and faxes in the weeks and days leading up to the final vote on the clean energy bill. It is not only justified but admirable for citizens of this country to be so active in following such a key piece of legislation. I believe this bill is crucial for strengthening our country by putting us at the forefront of a new clean energy economy and freeing us from our dependence on foreign oil. But I recognize that decent Americans can fundamentally disagree. Every member of Congress, regardless of whether or not they supported the bill, should value hearing from those who have deep concerns about this energy strategy, either for or against. That is the solemn and sacred duty we have as elected representatives.

As my office worked to sort through the piles of correspondence after the vote, we were contacted by the Charlottesville-based organization Creciendo Juntos, a nonprofit network that tackles issues related to the Hispanic community in my district. A letter from Tim Freilich, who sits on the executive committee, informed me that a partner with the lobbying firm Bonner & Associates had contacted Creciendo Juntos to inform them that an employee of Bonner & Associates had faked a letter claiming to be from Creciendo Juntos. This faked letter was said to be a mistake, but Freilich, exercising his right of the people to petition the government for a redress of grievances, contacted my office to pass along the information about this forgery. This was the first my office was told of this or any other faked letter, despite the fact that it is now known that Bonner & Associates and the American Coalition for Clean Coal Electricity that had hired them knew about the forged letter before the final vote on this crucial energy legislation.

After being notified about the Creciendo Juntos letter, my office noticed similarities in the wording of the letter with other letters they had been sorting. Going back through our letters, e-mails, and faxes, my staffers found five more forged letters, these purportedly from the Albemarle-Charlottesville branch of the NAACP. I would point out that the national NAACP organization actually supports the ACES legislation, stating that climate change disproportionately impacts communities of color and recognizing the economic and public health

benefits of the legislation. Since the forged letters were revealed, the national NAACP has said it is "diametrically opposed" to the claims made in the faked correspondence.

Since this time, other forged letters have been discovered claiming to be from other groups, including two wonderful seniors' organizations in my district – the Jefferson Area Board for Aging and the Senior Center Inc. - and a local American Legion post. Forged letters sent to other Members of Congress have also been uncovered. Forgery and identify theft in attempting to influence Members of Congress not only does a disservice to those who support the legislation, but also to those who oppose it. If Members of Congress have to view voices of opposition with suspicion or doubt, it hurts the opposition's cause and our national debate on the whole. As for me, I will not change my dedication to listening to my constituents and treating their opinions legitimately, but clearly, "astroturf" campaigns and the expanding corporate capture of government are not healthy for our democracy. We must return to real people-powered politics and a level playing field to make sure all voices are heard and treated equally in tackling the critical issues of our time.

The CHAIRMAN. Thank you, Congressman Perriello, very much.

The Chair will recognize himself and ask you, what was your reaction when you learned that fraudulent letters had been sent to your office, seeking to elicit a negative vote from you on the Waxman-Markey clean energy legislation as it was about to be voted on on the floor of Congress?

Mr. PERRIELLO. To be honest, at first there was very little shock. Nothing shocks me in this business anymore. I think we have all, probably on both sides of the aisle, had negative TV ads run about us that we think have no bearing in truth and other things, and we just learn to be a little bit numb to it.

But it was actually the visual that shocked me, seeing the actual taking of the letterhead, and of such respected organizations, both nationally and locally, that really did shock me and say this is a conscious level of forgery that is very different from a lot of the manipulations that go on in our politics today.

So, if someone thought this was okay, either this was a real really bad apple or there are some incentives that are very much in the wrong place here that is driving this process. And it seemed worthwhile to do our due diligence on the office side to see what else we could find.

The CHAIRMAN. Well, in the short run, do you think that fraudulent activity as we have seen does help those who want to oppose legislation, clean energy legislation, as it moves through Congress?

Mr. PERRIELLO. I can't speak for other Members. I know for me, you know, when we try to figure out where folks are on the bill, there is never consensus in my district. You want to use every avenue you can. You use, obviously, the calls coming into the office. You proactively go and try to meet with groups. Many of the groups that are here are groups that I call on a regular basis to talk to and hear their opinions on things. So, some of it seemed a little naive, to think that we wouldn't actually eventually have those conversations.

So, you know, each Member is going to make their decisions in their own way. I think most of us try to consult our constituents and consult our conscience, as Mr. Blumenauer said, and try to reach the right opinion on that. But it makes it that much more difficult to do it when, in addition to the normal due diligence, you are also trying to filter through things that are just outright forgeries.

The CHAIRMAN. But you were not notified before the vote that NAACP did not, in fact, oppose the Waxman-Markey clean energy bill; is that correct?

Mr. PERRIELLO. That is correct.

The CHAIRMAN. So, as far as your office was concerned, they were in opposition.

Mr. PERRIELLO. I would say that, if anyone knew that this was going on before the vote and didn't let us know, that is certainly an issue of concern and something worth asking some questions about.

But for me, yes, they did not approach our office before the vote to correct the record on that.

The CHAIRMAN. My time has expired. The Chair recognizes the gentleman from Oregon, Mr. Blumenauer.

Mr. BLUMENAUER. What have you heard from the perpetrators of this fraud?

Mr. PERRIELLO. Several of the people involved in the chain have reached out to apologize personally and profusely, and I do appreciate that. And they have certainly let me know that they have conducted investigations internally. And, again, you know, I will leave that to your committee to figure out whether those have taken place, whether they are sufficient. But I did appreciate them reaching out to apologize.

I said to them what I will say to you, which is, you know, to me, the really big picture here is a little bit of what Mr. Inslee was talking about, which is we know we are in a climate crisis. I think we have taken a genuine effort to work with all of the interested parties in this, to protect stakeholders with a very slow phase-in time, with a lot of efforts to invest, for example, in clean coal.

And, to me, the most important thing is when you try to work together with all of the stakeholders to come up with a fair deal, it is then, you know, not entirely pleasing when the response to that is to be told it is Armageddon by the very groups that you are working with.

But, in terms of the fraud itself, I will commend them for taking proactive efforts to track me down personally and apologize.

Mr. BLUMENAUER. And when did they track you down and apologize?

Mr. PERRIELLO. I don't remember, but it was about the time this started to break in the Daily Progress, one of the top local papers in my district.

Mr. BLUMENAUER. You had discovered it before they did.

Mr. PERRIELLO. Yes.

Mr. BLUMENAUER. And it was in the press before.

Mr. PERRIELLO. My understanding is they had reached out to Creciendo Juntos on their own. That information had come to us. The newspaper—I don't remember the sequence between Creciendo Juntos talking to us versus the paper publishing it, but they broke that story. And it was subsequent to that that we were contacted about setting up a phone call for that.

Mr. BLUMENAUER. So you were that contacted after this other stuff bubbled, you found out. And a significant period of time after the actual vote occurred?

Mr. PERRIELLO. That would probably have been, you know, a matter of weeks, not days, afterwards. But I can try to track down the exact time when those calls occurred.

Mr. BLUMENAUER. And did they give any indication why they didn't tell you this before the vote, since they knew?

Mr. PERRIELLO. Well, I think different people knew at different times. And, again, I just—I haven't done the deepest due diligence on this. I know that is in your hands.

But I think that, as these things are set up, often there are six or seven layers between the actual actors and the person who is forging the letter. So I don't think it is at all a stretch to say that some of the folks in that chain had no idea this was going on and didn't know until it broke in the papers, would be my guess.

And I think there were probably some very decent and honorable people who got caught up in this and really regret it and were very

serious about it. I think, you know, my best guess would be that there were others further down that chain who knew exactly what was going on.

Mr. BLUMENAUER. You have an extensive background in working with people, advocacy, some community—I hate to use the term "community organization," but you have a background of working with groups like this to try and articulate concerns, communicate them, solve problems, long before you got involved in elective politics.

So I would ask just maybe your judgment as a semi-informed professional, when you have groups that are tasked to try and create public demonstrations and it is outsourced—and you mentioned layers upon layers, and we are seeing this—doesn't it almost invite this sort of—it is just a matter of degree, in terms of—the more buffering is in it, the harder to actually give an honest expression of what people feel and what they need?

Mr. PERRIELLO. Well, at the risk of resorting to the "you know it when you see it" logic, I think that there is a blurring of that line.

And, certainly, August was an example of that. As you know, I did over 100 hours of town hall meetings in my district during August. And the vast majority of people, constituents who attended that were there absolutely on their own free will. They genuinely had strong concerns either for or against the bill, against health care reform, about fiscal responsibility. There were other folks who were not even from the district or other things, and there was obviously a lot of orchestration on the talking-points level.

So, how do you distinguish the genuine concern of people from some of these tactics? Where do you put, for example, things that just make it a lot easier for people to participate, such as calling and saying, "Just press 1, and you will automatically be connected to your congressperson"? Well, in my mind, that is an absolute legitimate and positive thing to be getting people connected. Obviously, if the information before that "Press number 1" is false and scare tactics, then it sort of moves down that line.

So, from an organizing perspective, I think getting—most people care deeply what is at stake in these debates, but most people are also extremely busy trying to find a way to provide for their families. And where we can do genuine efforts to bring people together, whether as an organizer or an official, I think that is a positive thing for promoting public debate.

Mr. BLUMENAUER. Thank you.

Thank you, Mr. Chairman.

Thank you, Congressman Perriello. I think that the work that you have done in less than a year in office, sort of, is a fascinating experience in being connected with constituents, and even this unfortunate episode is useful. And I deeply appreciate your contributions.

Mr. PERRIELLO. Well, thank you.

And, again, you know, I do think there are folks in the clean coal coalition who have been very active and positive and constructive in this debate. And I think, as we do look at this, we want to make sure we don't paint everyone with the same brush. I hope you will

be able to get to the real core of, you know, what was at the base of this.

The CHAIRMAN. Great. The gentleman's time has expired. The Chair recognizes the gentleman from Washington State, Mr. Inslee.

Mr. INSLEE. Thank you.

You know, I really do consider this a serious thing because it affects not just you but all of us in Congress when this happens. It diminishes our confidence and our ability to communicate with our constituents. So I do consider it a serious thing.

The research that I am looking at, as far as the staff investigation, suggests that not only, sort of, an underling of this organization sent these fraudulent letters on multiple occasions, not just one, but that supervisory personnel learned of this fraudulent activity several days before the vote took place on the Waxman-Markey bill. On June 22nd and 23rd it suggests that the supervisory people at Bonner & Associates became aware of this. Then the vote took place a few days later on June 26th. But there was not any attempt to notify you of the fraud until July 1st. It was not successful, effectively, until July 13th.

Have the companies given you any explanation why, even when supervisory personnel was aware of the fraud before the vote, that they waited until after the vote to let you know about the fraud?

Mr. PERRIELLO. The people who reached out to me were from the coal coalition itself. And I think their issue, if I recall—and I am sure you can ask them—was that the information had not reached them before the vote. But I don't want to put those words in their mouths. I think that is just a question you will have to ask them, in terms of when they knew and why they didn't let us know immediately. I think everyone would agree that that is there.

And, also, you know, I used to do some war crimes prosecution work in West Africa, as you know. And the issue with command responsibility was always not just whether you ordered it but did you know or should you have known that certain things were going on.

And I think, you know, part of the question here is whether—what concerns me is not just what people knew, but were there incentive structures set up in which there was a looking the other way to encourage or incent this sort of behavior that, I do agree with you, is extremely disruptive to our democratic process.

Mr. INSLEE. Well, the fact of the matter is that people who have been try to obfuscate and deceive Americans about the clear consensus on the science of climate change have created a climate where you could expect this type of thing to happen, because they have on multiple occasions tried to deceive Americans into thinking that there is not a consensus about climate change.

And so, myself, I believe they have created that climate where this kind of thing can be tolerated and happen in their organizations. And, frankly, I just think this is just the tip of the iceberg on the deception that Americans have been subjected to.

Let me just ask you this. Why did their efforts fail? Why did you move forward on this vote of conviction?

Mr. PERRIELLO. Well, I do think, for all of the, sort of, corporate capture and slick tactics that have taken over our democratic process, the voice of the people tends to emerge. And I think what you

see overwhelmingly from the American people is an understanding that energy independence is one of the challenges of our generation.

Our country is being made less safe. People don't like the idea that, every time they go to a gas station, they are essentially sending their hard-earned money straight overseas to countries that don't like us particularly. They understand that the energy is being produced elsewhere. The technology, we are being leapfrogged in these areas.

The southern part of my district has very high unemployment, old manufacturing areas, textiles hubs, and furniture factories. And we are looking for the next thing. And I think that, for too long, we have had elites in both parties, quite honestly, pursue an economic strategy based almost entirely on the financial sector and banking and not on an industrial policy or an ag policy.

I think, you know, when I started out in politics and took the step into this world, I conducted a couple hundred interviews with business leaders and others in these economically depressed areas and said, what can bring the jobs back? And people kept coming back to the energy economy over and over again—smart grid, decentralized power production, biofuel, biodiesel developments, all of these; as well as not only wanting wind and solar but wanting to manufacture it there; also an advocate of nuclear power and some of those efforts that I think can be part of the solution. So all of that is there.

And, as you know, really good ideas often take 30 minutes to explain and only 30 seconds to destroy. We have seen that in other debates, as well. And I think, at the end of the day, the way you break through this is to just work that much harder to be able to make sure you find the time to have the 30-minute conversation and not just the 30-second conversation.

If you look at—you know, not to be driven by polls, but the polling even in my district where I think folks on the other side assume this is going to be a very detrimental issue, people overwhelmingly support this and support a move in this direction. And I think the division people are going to see at the end of the day is the folks who had the courage to step up and solve a problem versus those who didn't.

And I think it is the same courage issue, you know, that you get at with whether your company comes right out and says, "We don't believe this," or does the company create a coalition, the coalition hire a lobbying firm, the lobbying firm hire a sub-lobbying group that then hires a temp employee to do something.

I think this is the time where, you know, if you believe something, stand up, put your name on it, and fight for it, wherever you come down on that issue. And I think that is the kind of leadership that the American people are looking for. They don't expect to agree with you every time, but they expect you to look them in the eye and tell you——

Mr. INSLEE. Well, it looks to me like they picked the wrong guy to bully.

Mr. PERRIELLO. Thank you.

The CHAIRMAN. The gentleman's time has expired.

And, Representative Perriello, thank you so much. And we appreciate the fact that you are willing to come forward and to make this presentation to the committee. I think it is a very important issue that we get out to the American people.

And it is important, as well, as you are pointing out to the committee, that the public has a right to the facts. They have a right to know what the real truth is in the clean energy debate but also how that debate is being conducted. And your testimony here today is very much appreciated, and it reflects the excellent work that you have been doing here in Congress for your district and for the country.

We thank you so much.

Mr. PERRIELLO. Thank you, Chairman.

The CHAIRMAN. Now we would ask the next panel of witnesses to come forward. And we would ask the staff to put the names of the witnesses in front of the seats.

We ask that you rise, please.

[Witnesses sworn.]

The CHAIRMAN. Our first witness is Mr. Hilary O. Shelton of the NAACP. The NAACP's name was used on five of the fraudulent letters. Mr. Shelton presently serves as the director to the NAACP's Washington Bureau and senior vice president for advocacy and policy. The NAACP's Washington Bureau is the Federal legislative and public policy division of the NAACP, which is the oldest and largest civil rights organization in the United States. He is the recipient of many awards and honors in the civil rights area.

Mr. Shelton, we are pleased to have you with us here today. Whenever you are ready, please begin.

STATEMENTS OF HILARY O. SHELTON, DIRECTOR AND SENIOR VICE PRESIDENT FOR ADVOCACY AND POLICY, NAACP WASHINGTON BUREAU; STEVE MILLER, PRESIDENT AND CEO, AMERICAN COALITION FOR CLEAN COAL ELECTRICITY; JACK BONNER, BONNER & ASSOCIATES; LISA M. MAATZ, DIRECTOR OF PUBLIC POLICY AND GOVERNMENT RELATIONS, AMERICAN ASSOCIATION OF UNIVERSITY WOMEN

STATEMENT OF HILARY O. SHELTON

Mr. SHELTON. Thank you. Good morning, and thank you, Chairman Markey, Ranking Member Sensenbrenner, and other members of the committee, for holding this important hearing and for inviting us here to testify.

The NAACP sincerely appreciates the efforts of the committee to investigate this attack on the very integrity in the democratically structured congressional legislative process. The NAACP takes our integrity very seriously. As such, we are outraged and appalled that anyone would fraudulently misrepresent our position as we pursue legislative opportunities to make our Nation greater still.

Mr. Chairman, members of the committee, as we understand it, the facts are these: Just prior to debate on the final vote on H.R. 2454, the "American Clean Energy and Security Act of 2009," Congressman Tom Perriello received a number of letters purportedly from representatives of the Charlottesville, Virginia, branch of the

NAACP in opposition to the legislation. These letters, which had the official NAACP seal at the top, asked that Congressman Perriello support provisions intended to weaken the legislation.

After the vote on H.R. 2454, the Congressman Perriello office determined that at least five of these letters were forgeries, that they did not come from representatives of the NAACP Charlottesville branch, nor did they even represent the official policy position of the NAACP. Further investigation appears to indicate that the letters were sent out by a consultant group that had been hired to represent opponents of the legislation.

Mr. Chairman, members of the committee, please allow me, for the record, to make one issue very clear. The NAACP supports many of the very important provisions in the "American Clean Energy and Security Act of 2009," and we oppose amendments that would weaken these provisions.

Secondly, let me say that, for more than 100 years, the NAACP has fought for equal access to our political establishment. For too long, the NAACP represented people in this country whose voices were marginalized, to say the least. That is why it is particularly offensive and infuriating to us when our name and all that we have worked for is misused and distorted by others in an effort to misrepresent or deceive the United States Congress.

Mr. Chairman, members of the committee, it has been my honor and privilege to serve in the capacity as director of the NAACP's Washington Bureau for more than 12 years. During this time, I have endeavored to build on the reputation of my predecessors and to dutifully and effectively represent the interests of the NAACP members from across the Nation.

As you may all be aware, the NAACP is nonpartisan. We do not support, endorse, or oppose individuals or political parties. We do, however, fiercely advocate for our public policy agenda and legislative priorities as passed by our members. As such, it has been my pleasure to work with Members of the Congress from across the ideological spectrum on a myriad of public policy issues.

For example, in the course of my tenure with the NAACP, I have worked with Chairman Markey on issues that include clean-up after Hurricane Katrina, making the change to digital television, and closing the digital divide. It has also been my pleasure to work closely with Ranking Member Sensenbrenner as he played a key role in the reauthorization of the Voting Rights Act and his ongoing battle for the rights of disabled Americans.

In all of these legislative battles, as well as in many others that we have fought and that we continue to fight, the political strength of the NAACP lay not only in our reputation but also in the clarity and consistency of our policy agenda. To have somebody blatantly misrepresent the policy of the NAACP is, therefore, to threaten not only all that we have worked for for these past hundred years, but also to challenge our ability to continue to advocate effectively on behalf of our constituent members.

Furthermore, because the NAACP has been working for the rights of disenfranchized and underserved communities for so long, our counsel is often sought by other organizations that represent similar groups of Americans. If our position is misrepresented, then it leads to confusion, weakens our position, and prevents our voices

from being clearly heard on many crucial issues that affect our communities, our Nation, and even our world.

So the NAACP is looking forward to a thorough investigation by this committee into what happened. We will be especially interested in knowing if the practice of sending fraudulent letters in any effort to give the appearance of a grassroots movement is a common one. We will also be interested in learning what is being done to correct the misinformation and to mitigate any damage a fraudulent campaign like this may very well cause.

I will say that, from our experience, the first we heard of the misuse of our name was on July 31st, 2009, more than a month after the vote took place, and only then from a media outlet. I am also curious to know if this type of fraud has been perpetrated using the name of the NAACP or any other organization or individual in any other instances.

I understand that it is not the scope of this hearing to make recommendations on how to avoid future problems such as this. And, frankly, I am not sure I have any solid response that we can give to help address this issue in the future.

However, I do know that we are very interested in working with the committee and the rest of the Congress in finding a way to continue to encourage honest, democratically based political activism by constituents and grassroots organizations, as well as other stakeholders, including industry and corporations. At the same time, we must strive to ensure that dishonest communications which misrepresent the positions of one or more of these groups is stopped.

And, indeed, Mr. Chairman, I thank you and the committee for the opportunity to testify today.

[The statement of Mr. Shelton follows:]

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TESTIMONY OF HILARY O. SHELTON,
DIRECTOR, NAACP WASHINGTON BUREAU &
SENIOR VICE PRESIDENT FOR ADVOCACY AND POLICY
BEFORE THE SELECT COMMITTEE ON
ENERGY INDEPENDENCE & GLOBAL WARMING
ON *FRAUDULENT TACTICS BY CLEAN ENERGY OPPONENTS*
October 15, 2009

Good morning, and thank you Chairman Markey, Ranking Member Sensenbrenner, and other members of this committee for holding this important hearing and for asking me here to testify. The NAACP sincerely appreciates the efforts of this committee to investigate this attack on the very integrity of the democratic Congressional process. The NAACP is outraged and appalled that anyone would fraudulently misrepresent our position in order to make it appear that there was a national grassroots movement to effect legislation.

More than one hundred years old, the NAACP today is our Nation's oldest, largest and most widely recognized grassroots-based civil rights organization. We currently have more than 2,200 units in every state in the country, as well as in Italy, Germany, Korea and Japan.

Mr. Chairman, members, as we understand it the facts are these: just prior to the debate and final vote in the House of Representatives on H.R. 2454, the *American Clean Energy and Security Act of 2009,* Congressman Tom Perriello, who represents the fifth congressional district of Virginia received a number of letters purportedly from representatives of the NAACP in opposition to the legislation. These letters, which had the official NAACP seal at the top asked that Congressman Perriello take the concerns of minorities into consideration and support substantive, weakening provisions to the legislation.

Subsequent to the vote on H.R. 2454, Congressman Perriello's office determined that at least five of these letters were forgeries; that they did not come from representatives of the NAACP Charlottesville branch, nor did they even represent the official policy position of the branch or the NAACP.

Further investigation of the situation appears to indicate that the letters were sent out by a group that had been hired to represent opponents of the legislation. I look forward to

hearing from the representative of the group, to find out what they know about the letters, when they knew it, what actions they have taken to mitigate the deception as well as what has been done to try to insure that this does not happen in the future.

The NAACP takes these forgeries very seriously for a number of reasons, and looks forward to working with everyone concerned to try to ensure that it does not occur again.

First, however, I wish to set the record straight. The NAACP supports very important provisions in the *American Clean Energy and Security Act of 2009*, and we oppose any weakening amendments.

Secondly, let me say that for more than 100 years the NAACP has fought for equal access to our political establishment and to the powers that make the laws under which we all must live. For too long, the NAACP represented people in this country whose voices were marginalized. That is why it is particularly distressing and infuriating to us when our name, and all that we have worked for, is used and distorted by others in an effort to misrepresent or deceive.

The NAACP is also concerned about the impact this deception will have on our future advocacy efforts. The NAACP arrives at policy decisions through a very democratic and inclusive process. Our members across the nation are educated on issues and policies and then debate, potentially amend, and vote on initiatives, or resolutions, at our annual convention in July and at the quarterly meetings of our National Board of Directors. By misrepresenting our policies, the perpetuators of the misinformation campaigns are blatantly disregarding a procedure that we have been following for over 100 years, one that is written into our Constitution, and one that we take very seriously.

Furthermore, because the NAACP has been working for the rights of disenfranchised and underserved communities for so long, and we do it so well, our counsel is often sought by other groups who represent similar groups of Americans. If our position can be easily manipulated and misrepresented, then it leads to confusion, weakens our position, and prevents our voices from being clearly heard on many crucial issues that affect our communities, our Nation and our world. That is why we are so interested in a thorough investigation by this committee and other into the misuse of our name and our seal and the misrepresentation of our positions.

So the NAACP is looking forward to a thorough investigation by this committee into what happened and to see if we can determine the full extent of the damage as well as who was behind it. We will be especially interested in knowing if the practice of sending fraudulent letters, blatant forgeries, in an effort to give the appearance of a grassroots movement, is a common one.

We will be interested in learning what has been or is being done to correct the misinformation and to mitigate any damage the fraudulent campaign may have caused. When was the deception uncovered, before or after the June 26 vote that was

determined by only a seven vote margin? If the deception was discovered prior to the vote, was the information relayed to the affected parties in time to set the record straight? I will say that from our experience, the first we heard of the misuse of our name was on July 31, more than a month after the vote took place, and only then from a media outlet. I am also curious to know if this type of fraud has been perpetrated using the name of the NAACP or any other organization or individual.

The NAACP is also interested in knowing what is being done to avoid future deceptions As we all know, this legislation must also be considered in the other body as well. What assurances do we have that a similar operation based in lies and forgeries will not be carried out in the Senate, as well? And what about other issues and legislation? What can be done to assure members of the House and Senate that they are receiving accurate information from real people who represent the groups they say they represent?

I understand that it is not the scope of this hearing to make recommendations on how to avoid future problems such as this, and frankly, I am not sure I have any solid responses as we are still trying to determine exactly what happened here. I do know, however, that we must find a way to continue to encourage healthy democratically-based political activism by constituents and grassroots organizations, as well as other stakeholders including industry and corporations while at the same time ensuring that unhealthy communications, which misrepresent the position of one or more of these groups, is stopped. I look forward to working with this committee as well as with other members of Congress to help make sure that communication to legislators are genuine, while at the same time being very respectful of each person's First Amendment right to free speech.

I again wish to thank the committee for this hearing and for all of your hard work on this matter. As I have said, the NAACP takes this situation very seriously, and is appalled that our name and our seal were misrepresented in this manner. I look forward to ensuring that all of the facts are brought to light, and that those responsible for the lies and forgeries are brought to justice. I also look forward to working with you, Chairman Markey, and other Members of Congress to ensure that future deceptions do not occur.

I thank you again and welcome any comments or questions you may have.

The CHAIRMAN. Thank you, Mr. Shelton, very much for being here today.

Our next witness is Mr. Steve Miller. He is the president and CEO of the American Coalition for Clean Coal Electricity, a trade association of companies involved in the production, transportation, and use of coal.

Thank you for being with us today, Mr. Miller. Whenever you are ready, please begin.

STATEMENT OF STEVE MILLER

Mr. MILLER. Thank you, Chairman Markey, Ranking Member Sensenbrenner, and other distinguished committee members. I am Steve Miller, president and CEO of the American Coalition for Clean Coal Electricity, ACCCE. I appreciate the opportunity to further assist the committee with its investigation into this important matter.

For more than 15 years, ACCCE has worked to advance a constructive public policy dialogue on issues related to energy and environmental policy. ACCCE has publicly stated our support for Federal carbon management legislation. And we recognize that a cap-and-trade program is one option for such legislation, as long as the program provides continued access to affordable, reliable, and domestically produced energy.

ACCCE supported changes to the Waxman-Markey bill that would guarantee additional protections for consumers and the economy. We encouraged constituents to voice their support for measures that would limit the potential for significant electricity price increases.

As a part of this overall effort, Bonner & Associates was contracted by the Hawthorn Group, our primary grassroots consultant for 10 years, to reach out to organizations in seven legislative districts. I am appalled that some of the letters sent to Members of Congress by Bonner & Associates were falsified. The sending of fraudulent letters to Members of Congress or any other policymaker is simply unacceptable.

Furthermore, it is inexcusable that Members of Congress and the affected organizations were not promptly notified about these letters, and we at ACCCE should have taken more timely action to make these notifications.

That is why we have taken extensive steps to investigate and address the situation. Nearly 3 months ago, we launched a full examination, relying upon the considerable investigative experience of Venable LLP, our outside legal counsel. Former U.S. Attorney General Benjamin Civiletti oversaw this review as a senior partner of the firm, which led to three key findings.

First, ACCCE did not play any role in the generation of the false letters and had absolutely no knowledge that Bonner had produced them until we were informed by the Hawthorn Group.

Second, Venable examined the authenticity of all 58 letters submitted by Bonner. Bonner self-identified 12 as being falsified. Subsequently, our review questioned the authenticity of two additional letters. As soon as we identified concerns about these letters, Venable alerted select committee staff and ACCCE notified the Member's office.

Third, Venable examined ACCCE's response after first being notified about the falsified letters in late June. At that time, ACCCE instructed Hawthorn that Bonner & Associates should immediately notify the affected Members of Congress and organizations.

But the investigation also showed that my colleagues and I at ACCCE should have acted faster to ensure that those affected had been notified before the June 26th vote on H.R. 2454. Our misplaced reliance on Mr. Bonner's firm to quickly make those contacts resulted in our own failure to act in a timely fashion. We have apologized to the affected Members of Congress and the local community organizations.

Following the examination, Mr. Civiletti made recommendations to the ACCCE board of directors. Based on those recommendations, the board has taken or directed the following actions.

First, three senior ACCCE executives, including myself, have been reprimanded and received substantial financial penalties.

Second, ACCCE staff have implemented a public policy activity code of ethics that our board will review next month. All ACCCE employees, contractors, and subcontractors must abide by that policy.

Third, ACCCE has informed Bonner & Associates that it will not be paid for the work performed and it will never work for ACCCE again.

Fourth, ACCCE will recompete its primary contract for grassroots outreach. Any contract or bidding must comply with our new standards of conduct.

Finally, Mr. Chairman, your letter from last week raised issues about how ACCCE discloses its lobbying activities. We disclose our direct Federal lobbying expenses on the quarterly lobbying disclosure act filings, consistent with how many other organizations on all sides of these issues report. In addition, we disclose our grassroots Federal lobbying and State lobbying expenditures on our annual tax return. We will continue to accurately and completely disclose these activities, as required by law.

As we move forward, ACCCE will strengthen our commitment to a constructive, transparent, and authentic public policy dialogue that supports environmental progress, greater energy independence, and access to affordable, reliable energy to promote economic growth and prosperity.

I look forward to answering your questions.

[The statement of Mr. Miller follows:]

TESTIMONY OF STEVE MILLER
PRESIDENT & CEO
AMERICAN COALITION FOR CLEAN COAL ELECTRICITY

October 15, 2009

Chairman Markey, Ranking Member Sensenbrenner, and other distinguished Members; I am Steve Miller, President and CEO of the American Coalition for Clean Coal Electricity ("ACCCE"). I appreciate the opportunity to further assist the House Select Committee on Energy Independence and Global Warming ("Select Committee") with its investigation into falsified letters sent to certain Members of Congress by Bonner and Associates ("Bonner"), which was a subcontractor to the Hawthorn Group ("Hawthorn"), ACCCE's primary consultant for grassroots outreach. In response to the Chairman's letter of August 5, 2009, I provided the Select Committee with detailed results from an extensive investigation implemented by ACCCE's board of directors. These submissions were provided to the Select Committee on August 13, 19, and 28, 2009.

As we have said, the generation of any fraudulent letters is inexcusable. There is no place for any kind of deception in the public policy dialogue. A thorough examination of this matter shows that these fraudulent letters were generated and sent to Members of Congress without the consent and knowledge of ACCCE or Hawthorn. We have taken steps to prevent such misdeeds from ever happening again in any outreach effort in which ACCCE is involved.

The examination did, however, find that we should have acted much faster to notify Members of Congress and the organizations whose names were used without their consent. We deeply regret that we did not.

For more than fifteen years, ACCCE (and its predecessor organizations) has worked to advance a constructive public policy dialogue on issues relating to energy and environmental policy. ACCCE supports continuous environmental improvements

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through the adoption of energy efficiency measures and the deployment of advanced technologies; access to affordable, reliable electricity as a means of promoting economic prosperity; and greater energy independence through the use of coal and other domestic energy resources.

In addition to direct outreach to policymakers, ACCCE has a longstanding tradition of educating community leaders and encouraging grassroots interaction between those leaders and their elected and appointed officials. Groups, regardless of their perspective, frequently promote grassroots engagement on public policy issues, and we are proud that 225,000 community leaders from all fifty states have chosen to be a part of our grassroots organization.

With respect to federal climate policy, ACCCE has publicly stated its support for the adoption of federal carbon management legislation, and recognizes that a cap-and-trade program is one option for such legislation, as long as certain principles are adequately addressed. We believe these principles will promote emissions reductions while simultaneously maintaining access to affordable, reliable, domestically produced energy.

In keeping with our legislative principles, ACCCE supported changes to the American Clean Energy and Security Act of 2009, H.R. 2454, that would guarantee protection for consumers and the economy, and we encouraged broad grassroots involvement in support of that goal. Our outreach encouraged constituents to voice their support for measures that would limit the potential for significant electricity price increases. For example, we believe that placing a reasonable upper limit on allowance prices, especially during the early phases of a cap-and-trade program, would help to avoid the possibility of economic harm, while preserving the legislation's goal of reducing greenhouse gas emissions.

In promoting such changes to H.R. 2454, the Hawthorn Group, our primary grassroots consultant, engaged Bonner and Associates for a short time earlier this year

for a limited scope project. As part of the work under the agreement with Hawthorn, Bonner submitted 58 constituent letters directly to seven Members of Congress. But, in late June, Mr. Bonner indicated to Hawthorn for the first time that eight of those letters had been falsified. Later, he determined a total of twelve letters (ostensibly from eight organizations) had been falsified. Those letters were sent to Representatives Perriello (VA-5), Dahlkemper (PA-3), and Carney (PA-10).

These fraudulent letters and the fact that Members of Congress and affected groups were not properly notified of their existence have rightfully drawn the interest of the Select Committee. Because we share the Select Committee's concern, we launched a full examination into the facts surrounding this matter, relying upon the investigative experience of Venable LLP, our outside legal counsel. This examination was overseen by former U.S. Attorney General and Venable senior partner Benjamin Civiletti, and Mr. Civiletti has made a full report to ACCCE's board of directors on Venable's findings. The review included three key findings.

First, Venable found that ACCCE did not play any role in the generation of the false letters and had absolutely no knowledge that Bonner had produced the fraudulent letters until informed of them by Hawthorn. Likewise, Hawthorn was not aware of the fraudulent letters until advised of their existence by Bonner.

Second, Venable examined the authenticity of *every* letter generated by Bonner under its contract with Hawthorn. Bonner had produced a total of 58 letters and self-identified twelve as fraudulent. Our examination verified the authenticity of 44 of the remaining 46 letters submitted under the scope of Bonner's work with Hawthorn. Our review raised concerns about the authenticity of the two remaining letters, both of which had been sent to Representative Perriello's office. As soon as the examination identified concerns about the authenticity of each of these two letters, Venable alerted Select Committee staff and ACCCE notified the affected congressional office.

Third, Venable also focused on ACCCE's response when we were first notified about the existence of falsified letters. When Hawthorn informed ACCCE on the evening of June 24 that Bonner reported sending fraudulent letters to Congress, Hawthorn indicated that Mr. Bonner, himself, had offered to make contact with the affected local organizations and Members of Congress. It is important to note that ACCCE instructed Hawthorn on the morning of June 25 to authorize Bonner to take such action, demanding that Bonner promptly make these contacts. It was our understanding that Hawthorn immediately gave these instructions to Mr. Bonner, and conveyed the importance and urgency that ACCCE had emphasized.

Because Bonner had come forward to Hawthorn with its own discovery of the falsified letters, and because Mr. Bonner had offered to make contact with the affected organizations and Members of Congress, ACCCE relied on Bonner to address the situation by making all appropriate contacts promptly. Indeed, we believed that it was in Bonner's own professional interest to address this situation through prompt disclosure, and it was our understanding from Hawthorn that Bonner had agreed to do just that.

With respect to the timing of those notifications, Venable's examination determined that there was an explicit order given by ACCCE to Hawthorn that the notification by Bonner was to take place immediately. Venable has found that no explicit direction was given to Hawthorn by ACCCE that the notification had to be conducted before the vote, but ACCCE did stress that notification was urgent. Venable determined that ACCCE never gave any instruction—expressed or implied—to Hawthorn or Bonner to delay notification until after the vote on H.R. 2454, and in fact, the order to move with due haste suggests that any delay would have been counter to ACCCE's wishes.

Without question, we did not adequately verify that Bonner notified the organizations and Members of Congress before the June 26 vote on H.R. 2454. I acknowledge that this misplaced reliance resulted in our *own* failure to act in a timely fashion (and certainly before the June 26, 2009 vote on H.R. 2454) to notify the Members and groups of the situation.

We have apologized to the affected Members of Congress and local community organizations. Moreover, as a result of this examination, we have instituted new policies that would require notification to Members of Congress or other affected policy makers of the existence of any suspicious or fraudulent communications within 24 hours of their discovery (and certainly before any vote or policy action is taken).

Following the examination, Mr. Civiletti presented recommendations to the ACCCE board of directors concerning (1) administrative actions that should be taken and (2) additional safeguards that should be implemented that supplement standards ACCCE already had in place and encompass all aspects of advocacy communications. Based on those recommendations, the ACCCE board of directors has taken or directed the following actions:

- Three senior ACCCE executives, including myself, have been reprimanded and received substantial financial penalties.

- ACCCE staff have implemented a Public Policy Outreach Code of Conduct, which will be formally reviewed by the board of directors at the annual meeting in November. This policy requires compliance by all ACCCE employees, contractors, and subcontractors. The policy includes:

    - Additional procedures requiring that all communications to elected or appointed officials be fully verified by subcontractors, contractors, and ACCCE.
    - Requirements that any communications be sent directly from the author. Communications will not be collected or forwarded to officials by ACCCE or its consultants and contractors.

- Penalties for failure to verify communications to elected or appointed officials.
- Strict internal controls for approving any materials disseminated to the public or to policymakers.

- ACCCE has informed Bonner and Associates that it will not be paid for any of the work it performed under the contract with Hawthorn and that Bonner and Associates will never perform work for ACCCE again.

ACCCE will also re-compete its primary contract for grassroots outreach. Any contractor bidding will be required to demonstrate that it will fully comply with the new standards of conduct. For any grassroots outreach done on ACCCE's behalf, these standards will be in place, whether that outreach involves our current contractor or future contractors.

Let me conclude by saying that the sending of fraudulent letters to Members of Congress, or any other policy maker, is inexcusable. And, we should have taken more timely action to notify the affected organizations and Members of Congress once we learned of the existence of these fraudulent letters. With that in mind, I want to emphasize that:

(1) ACCCE had no knowledge of—or participation in—the generation of the fraudulent letters;

(2) ACCCE in no way ordered, authorized, condoned, or encouraged the generation of fraudulent letters to Members of Congress; and

(3) ACCCE *never* gave any instruction—expressed or implied—to Hawthorn or Bonner that notification to the affected Members and organizations should be delayed in any way. On the contrary, ACCCE advised Hawthorn to tell Bonner that such notification needed to be made promptly.

(4) As a result of Venable's review of this situation, we have implemented systems and procedures that will ensure that all grassroots communications facilitated by ACCCE meet the highest possible standards.

As we move forward, ACCCE will strengthen our commitment to a constructive and authentic public policy dialogue that supports environmental progress, greater energy independence, and access to affordable, reliable energy to promote economic growth and prosperity.

Again, thank you for this opportunity to testify today. I look forward to answering any further questions you may have.

The CHAIRMAN. Thank you, Mr. Miller.

Our next witness is Mr. Jack Bonner, president and founder of Bonner & Associates.

Thank you for coming, Mr. Bonner. Whenever you are ready, please begin.

STATEMENT OF JACK BONNER

Mr. BONNER. Good morning, and thank you, Chairman Markey and Ranking Member Sensenbrenner, for providing me an opportunity to set the record straight on what did and what did not happen during this most unfortunate matter.

As founder and president of Bonner & Associates, I personally take full responsibility for what happened, for the improper actions of our temporary employee who fabricated more than a dozen letters to Congress in the names of organizations and individuals. While we certainly did not authorize or condone his actions, we also did not prevent them.

I want to take this opportunity to publicly apologize to the three Members of Congress who received the fabricated letters and, perhaps most importantly, to those organizations who were fraudulently used by our former employee.

I also want to apologize to Hawthorn and to ACCCE. What this individual did was wrong, and we should have caught him before he perpetrated his scheme.

In hindsight, it is obvious that our firm and others would have been better served if we had avoided hiring this individual or prevented his fraudulent acts. But it is also clear that this incident was an anomaly, the result of an individual who, from the day he showed up, intentionally disregarded our procedures and instructions and was determined to engage in fraudulent activity. Although we still do not know what fully motivated him, due to the serious implications of his actions, we referred the matter to the U.S. Attorney's Office.

But let one thing be very clear: This improper activity was undertaken without the knowledge of anyone at our firm. It was the actions of one rogue temporary employee acting on his own against our company's policies and without the knowledge of anyone else at Bonner & Associates.

Once we discovered the fraud, we took prompt action to notify our client and to immediately reach out to the organizations whose names had been used to apologize and explain what had happened. While we did attempt to contact congressional offices to which the letters had been delivered, I should have personally taken immediate steps to contact those offices.

While this was a fraud perpetrated against our firm, the manner in which it was done has demonstrated to me the need to develop and implement, in every instance, a more robust internal control system, and that is exactly what we are doing. We have developed and implemented a five-point action plan to earn back our reputation.

All five corrective actions have already been implemented. And they include:

Action one: 100 percent call-back verification of all groups that have signed statements of support to elected officials before any letter is delivered.

Action two: All temporary employees review and sign an ethics policy before their employment begins.

Action three: All resumes of prospective temporary employees are verified by permanent Bonner & Associates staff before temporary employment begins.

Action four: All new employees must complete an ethics training course and must pass an examination administered by permanent B&A staff to ensure the full understanding of B&A's ethics policies.

Action five: B&A has retained an independent ethics adviser who is well-regarded as maintaining the highest standards and independence. The ethical standards adviser will review our policies and work with us to continue to improve our internal quality control system to the highest standards. I am pleased to inform you, sir, that Professor Dr. James Thurber, a leading expert in the field, has agreed to serve in this capacity.

Let me now take an opportunity to explain the events surrounding the fabrication of these letters.

On approximately June 10th, we were retained under a contract for $43,500 by a public affairs firm, the Hawthorn Group, to identify and attempt to solicit the support of veteran, minority, and senior organizations.

One of the temporary employees we hired for this project was an individual responsible for the fabricated letters. His resume had appeared impressive and demonstrated bipartisan political experience and extensive grassroots advocacy.

However, it is now clear that, on his very first day on the job, June 12th, this employee used fictitious names of officers and employees to generate five fabricated letters. And, over the next several days, he fabricated additional letters.

When we discovered what had happened, our immediate reaction to this fraud was to advise our client, as well as to reach out immediately and apologize to the organizations whose names were used without authorization.

On July 1st, we contacted offices of two Members of Congress who received fabricated letters. After numerous attempts and the intervening congressional recess, it was not until July 13th that one of our staff finally succeeded in directly speaking with the congressional staff of Representative Perriello and Representative Dahlkemper about this matter, although it appears that Representative Carney's office, which received one letter, was not contacted. As I said earlier, we should have immediately contacted all three offices and immediately apologized in person.

Finally, while we take full responsibility for what happened and recognize there were quality control and human resources improvements that need to be made, we have learned that it is difficult to defend against a person bent on committing fraud. I also know that all of us who play a role in facilitating public participation in the democratic process bear an important responsibility to ensure that process is free from unethical behavior. Because I recognize how important it is for people to be encouraged to express their views and participate in debate on public issues, I am committed to doing

everything I can to make sure that something like this does not happen again.

Thank you for this opportunity to answer any questions you may have.

The CHAIRMAN. Thank you, Mr. Bonner.

[The statement of Mr. Bonner follows:]

TESTIMONY BEFORE THE
HOUSE SELECT COMMITTEE ON ENERGY INDEPENDENCE
AND GLOBAL WARMING
October 15, 2009
Washington, DC

Mr. Jack Bonner
President and Founder
Bonner & Associates

Good morning and thank you Chairman Markey and Ranking Member Sensenbrenner for providing me with an opportunity to set the record straight on what did and what did *not* happen during this most unfortunate matter.

As the founder and President of Bonner & Associates ("B&A"), I personally take full responsibility for the improper actions of our former temporary employee who fabricated more than one dozen letters to Congress in the name of organizations and individuals that did not authorize them. While Bonner & Associates certainly did not authorize or condone his actions, we also did not adequately prevent them. I want to take this opportunity to once again publicly apologize to not only the three Members of Congress who received the fabricated letters but perhaps most importantly to those organizations whose names were fraudulently used by our former employee. I also want to apologize to the Hawthorn Group and to Stephen Miller and the American Coalition for Clean Coal Electricity (ACCCE), who were also hurt by the indefensible conduct of our former temporary employee. What this individual did was wrong and we should have caught him before he perpetrated his scheme.

In hindsight it is obvious that our firm and others would have been better served if we had not hired this individual or were able to prevent his fraudulent actions. But it is also clear that this incident was an anomaly and the result of an individual who from his first day at work, intentionally disregarded our procedures and instructions and was determined to engage in fraudulent activity. Although we still do not know what fully motivated him, due to the serious implications of his actions, we referred the matter to the U.S. Attorney's Office.

But let one thing be very clear: this improper activity was undertaken without the knowledge or permission of anyone at our firm. These were the actions of one rogue temporary employee, acting against our company's policy and without the knowledge of anyone else at Bonner & Associates.

It is also important for me to re-emphasize that it was our senior staff that first discovered the fraud and immediately initiated corrective action. As a matter of fact, I doubt that we would be here today if our company had not taken the initiative to alert our client and the organizations whose names were improperly used by the rogue employee---all over a month before any press coverage of the events. Once we discovered the fraud, we took prompt action to notify our clients and to reach out to the organizations whose names had been used.

While this was a fraud perpetrated against our firm, the manner in which it was done has demonstrated to me the need to develop and implement, in every instance, a more robust internal control system and that is exactly what we are doing. We have developed and implemented a five point action plan to earn back our reputation as the industry leader for the highest quality standards. All five corrective action initiatives have been implemented. They include:

Action 1: 100% call back verification of *all* groups that have signed statements of support to elected officials. The 100% call back verification is being conducted by permanent B&A staff that did not place the original calls. The 100% verification occurs *before* any letter is delivered to an elected official. We believe that this new policy makes B&A the only firm in this industry to go to this length to insure quality.

Action 2: ALL temporary workers are reviewing and signing an ethics policy *before* employment begins.

Action 3: ALL resumes of prospective temporary employees are being verified by permanent B&A staff *before* temporary employee begins.

Action 4: ALL new employees are completing mandatory ethics training and must pass an examination administered by permanent B&A staff to ensure the full understanding of B&A's ethics policies.

Action 5: B&A has retained an independent Ethical Standards Advisor who is well-regarded as maintaining the highest ethical standards and independence. The Ethical Standards Advisor will review our policies and work with us to continue to improve our internal quality control system to the highest standards.

By way of background, for over twenty-five years, B&A has been recognized for its professionalism and integrity in the fields of grassroots and "grasstops" organizing. We have never engaged in partisan campaign work; rather we have focused on advocacy relating to public issues. Our clients include not only corporations, but high-profile charitable and non-profit organizations.

B&A is one of the premier consulting firms in the country dedicated to helping clients, regardless of their political affiliation, to educate political leaders on their issues by using innovative and time-tested techniques designed to recruit, educate and mobilize grassroots and "grasstops" supporters. In doing so, we locate and educate leaders from local organizations who share legitimate stakes in the issues important to the client. These supporters are then mobilized to take action by writing, calling or meeting with elected officials at the city, county, state and federal level. In facilitating and encouraging communication and dialogue between citizens and their government we try to serve a very important role under our constitutional system.

At Bonner & Associates, our number one priority has been to provide our clients with the best possible service while maintaining the highest level of ethics and integrity. Again, while I accept full responsibility for allowing a temporary employee the opportunity to commit such a

serious fraud upon not only our firm, but also the very political process that I have spent a professional career supporting, we have never experienced anything like this in our nearly quarter century of work in this arena.

Let me now take this opportunity to explain the events surrounding the fabrication of these letters.

On approximately June 10, 2009, we were retained by a public relations firm, the Hawthorn Group, to identify and attempt to solicit the support of veteran, minority, and senior citizen organizations who agreed with certain legislative goals of their client, the American Coalition for Clean Coal Electricity ("ACCCE"), in seven specified congressional districts. As part of our agreement for which we billed Hawthorn $43,500, we were required to generate lists of organizations that were likely to share the views of ACCCE on this matter. The organizations would then be asked if they were willing to submit a letter to their Member of Congress expressing those views. We had no contractual relationship with ACCCE nor did we have any contact with them during this engagement. We dealt solely with our client, the Hawthorn Group.

Let me emphasize that this project was not designed to solicit grassroots opposition to the legislation---rather, the stated purpose of the letters was to simply ask the Member to make pro-consumer changes to keep electricity costs down. If the organization agreed with this view, one of our employees would send them, by either fax or overnight mail, a sample draft of a letter. The organizations were told they were free to make any changes they desired to the text of the letter and to sign and send the approved letter back to us if they wanted us to transmit the letter to Capitol Hill.

Normally, we would have had more time to complete such a project, including the opportunity to make follow-up contacts prior to the delivery of letters to Capitol Hill. Unfortunately, the client repeatedly changed and delayed the start date and ultimately, we had **less than two weeks** to complete the entire project. Compounding this short time frame, the permanent staff member scheduled to manage this project had to take an emergency medical leave of absence immediately before the project began. Due to short staffing and an increased volume of other work, another permanent staff person---substituting for the staffer on leave---could not devote full attention to quality control until after the project was completed and the letters delivered to Congress.

To carry out this short-term contract, Bonner & Associates hired five temporary project employees to call prospective veteran, minority and senior citizen organizations. One of these five temporary employees was the individual responsible for the transmission of the fabricated letters to Congress. This individual was hired shortly after the contract was confirmed after submitting a resume and participating in a telephone interview. His resume appeared impressive and demonstrated bipartisan political experience with extensive work in grassroots advocacy.

However, it is now clear that on his very first day on the job, Friday, June 12th, this former employee used fictitious names of officers and employees to "generate" five fabricated letters from the Charlottesville chapter of the NAACP.

During the next week, this rogue employee continued his scheme and fabricated additional letters purporting to be from other organizations. Those letters, whose fabricated nature was unknown to anyone at our company other than this rogue employee, were later transmitted to three Members of Congress.

On June 23rd, shortly after the letters were delivered, one of our permanent employees who was assigned to contact the various organizations discovered the fraud. He determined that the temporary employee was responsible for twelve fabricated letters that were purportedly sent on behalf of eight organizations to three Members of Congress. Some time later, after having the opportunity to conduct a more complete review of all of the fax, FedEx and phone records, we were able to determine that a thirteenth letter had also been fabricated and sent to Congress. The Committee should note that we have corroborating phone, fax or FedEx records for **all of the other letters** that were delivered to Congress as part of this project. But again let me reiterate, it does not matter that the overwhelming majority of the letters obtained during this project were properly authorized and it does not matter that there were a relatively small number of fraudulent letters---even one such letter is unacceptable and will not be tolerated at Bonner & Associates.

To be clear, this employee worked for us for only **seven and one half business days**. On his eighth day of work, after our discovery of the fabricated letters, he was confronted with our preliminary findings and was immediately terminated and ushered off the premises. At that time, we believed that his scheme solely consisted of creating false names of officers and senior staff at legitimate organizations and then "forging" their signature on the letters authorizing their transmittal to Congress. However, in one case, the fired employee actually made up not only a fictitious individual but also a fictitious local chapter of a legitimate national organization. Subsequently, we learned that in another instance he forged the name of a legitimate officer in an organization in a letter sent to Congress.

Immediately upon determining the scope of the fraud, I informed our client, Hawthorn, who subsequently advised me that they had notified ACCCE. On June 24th, I sent a list of the then identified forged letters to Hawthorne and in the following days, we personally contacted each of the organizations that we believed at that time to have been defrauded by this employee. Our senior staff also traveled to meet with a number of the of the organizations to discuss what happened and to apologize in person.

While our immediate focus upon learning of this fraud was to reach out and apologize to the organizations whose names were used without authorization, on July 1, 2009, we contacted the offices of two of the three Members of Congress who received fabricated letters. After numerous attempts and the intervening Congressional recess, it was not until July 13, 2009, that one of our staff finally succeeded in directly speaking with Congressional staff for Rep. Perriello and Rep. Dahlkemper about this matter although it appears that Rep. Carney's office, which received one letter, was not contacted. In retrospect, we should have immediately contacted all three offices and apologized in person.

While we take full responsibility for what happened and recognize that there were quality control and human resources improvements that needed to be made, we have learned that it is difficult to defend against a person bent on committing fraud. I also know all of us who play a

role in facilitating public participation in the democratic process bear an important responsibility to insure that the process is free from unethical behavior. Because I recognize how important it is for people to be encouraged to express their views and to participate in the debate on public issues, I am committed to doing everything I can to make sure that something like this does not happen again.

Thank you for this opportunity to answer any questions you may have.

The CHAIRMAN. And our last witness is Ms. Lisa Maatz. She has served as the Director of Public Policy and Government Relations at the American Association of University Women since 2003. The name and the letterhead of the American Association of University Women was misappropriated and used on one of the fraudulent letters.

We welcome you. And whenever you feel comfortable, please begin.

STATEMENT OF LISA MAATZ

Ms. MAATZ. Thank you, Chairman Markey and members of the committee. I would like to thank you for conducting this investigation into fraudulent letters sent to Members of Congress during debate over the Clean Energy and Security Act.

I am glad to be here today to address the troubling practice of astroturfing. What is astroturfing, you may ask yourself. Simply put, it is politically motivated public relations campaigns that try to create the impression of spontaneous grassroots engagement. Hence, the reference to astroturf.

The goal of these campaigns is to disguise the efforts of a corporation as an independent public relations action. These well-funded activities masquerade as people-driven movements when, in fact, they are anything but. I know because I work for a genuine grassroots organization complete with community-based advocates.

Founded in 1881, AAUW has approximately 100,000 dues-paying members and 1,000 branches nationwide. AAUW has recently been affected by the worst form of astroturfing. Bonner & Associates, a grassroots lobbying firm hired by ACCCE, has used AAUW's good name in fraudulent letters to Congress.

Ironically, energy policy is not even an area in which AAUW advocates. A Bonner employee resurrected a now-defunct Charlottesville branch, used the AAUW logo, and faxed and hand-delivered at least one letter to Representative Tom Perriello of Virginia, urging a vote against the energy bill.

According to press accounts, Bonner, Hawthorn, and ACCCE knew of the fraudulent letters at least 2 days before the House voted on the energy bill, but neglected to inform the affected offices about the letters until weeks later, well after a very close vote.

The scapegoating of one employee is not necessarily going to solve this problem. Not only does AAUW join in the call for an investigation by the Department of Justice; we also encourage Congress to reconsider legislation to address this shockingly legal but unreported practice of astroturfing.

In 2007, there were attempts to include grassroots lobbying disclosures in the ethics bill which would have required grassroots firms, such as Bonner, to disclose their lobbying expenditures and identify their clients. Unfortunately, this section was removed. AAUW urges Congress to revisit this issue in the light of these revelations.

Our members are a conscientious, persistent, and outspoken lot, as probably one or more members of this particular committee, can attest. Perhaps the most poignant response came from Willa Lawall of Virginia. She wrote, "As a former president of the Charlottesville AAUW branch, I was shocked to learn from Gwen Dent,

our past president, that the cited letter used her home address without her permission and cited the name of our dear, lamented, longtime historian, Anne Waldner, who died before the cap-and-trade issue ever came up. So not only were Bonner & Associates engaging brazenly in theft of the AAUW logo, their theft of address and identity was grossly insulting."

So they used the address of one AAUW member and the name of another AAUW member, who happened to be dead, also from a branch of AAUW that was no longer in existence.

One of the more disturbing elements of this mess was that Bonner never contacted AAUW directly. We confirmed with our Virginia State affiliate that they had been contacted by ACCCE, but since there is no longer a Charlottesville branch, our members were confused as to what was actually happening. When it was clear that there was no branch and that they were dealing with grassroots advocates rather than paid staff, Bonner and ACCCE should have immediately called AAUW's national headquarters. Unfortunately, they did not. Instead, like the NAACP, AAUW found out about our involvement in this situation in a way no one wants to hear such a news, in a newspaper.

Because of our active membership, AAUW is respected in Congress. Perhaps this is why corporate lobbyists used our good name to try to unfairly sway the outcome of the energy bill. AAUW has a small team of ethical professional lobbyists that fight for our issues on Capitol Hill and in the administration. We approach our policy challenges as good, clean fights.

I would like to note, as well, that objections to the practice of astroturfing and the fraudulent letters that resulted is not about partisanship. It is about something much more fundamental. It is about who gets heard in the halls of power. This is about the fact that we, as a real grassroots group, don't necessarily have the astroturfers' resources and corporate funding.

According to media accounts, ACCCE spent over $11 million in lobbying in the second quarter of this year alone. That is on pace to spend roughly $44 million for the year. AAUW and similarly affected nonprofit groups spend a fraction of this amount.

But what groups like us have always had is the honest, earnest voices of our members. When Congress receives a letter from our members, it is critical that they feel confident that they are being contacted by real people, committed to the mission of AAUW, not a phony who is trying to undermine the principles of our representative democracy. If corporate-driven astroturf campaigns start corrupting the integrity of that commodity, the power of constituent voices, what tools are concerned citizens left with to improve our communities?

Quite frankly, it is possible that other unrelated, but just as fraudulent letters have been sent to the House and the Senate over the years. That is not a partisan issue, it is the reality, and it undermines citizens' confidence in their elected officials and their government. AAUW believes it is important to call attention to these unscrupulous practices in addition to protecting our good name.

Mr. Chairman, I have a great job at an organization that has a worthwhile mission. We have worked for more than a century to build our reputation and keep our name untarnished. AAUW mem-

bers have used their collective voices to break through many barriers for women and girls. The notion that someone would come along and co-op that name or attempt to harness that collective voice under false pretenses is a breathtaking and very personal deceit.

I am pleased to be here today and to add our voice to the call for reform. I welcome your questions.

The CHAIRMAN. Thank you, Ms. Maatz, very much.

[The statement of Ms. Maatz follows:]

AAUW

Testimony of Lisa M. Maatz

Director Public Policy and Government Relations

American Association of University Women

before the

United States House Select Committee on Energy Independence and Global Warming

Hearing on

"Fraudulent Letters Opposing Clean Energy Legislation"

October 15, 2009

Chairman Markey, Ranking Member Sensenbrenner, and members of the select committee. My name is Lisa Maatz, and I am the director of public policy and government relations for the American Association of University Women (AAUW). I'd like to thank you and your able staff for conducting this important investigation into fraudulent letters sent to House members during the debate over the Clean Energy and Security Act – also known as the "cap and trade" bill.

I am glad to be here today to address the troubling practice of "astroturfing." What is astroturfing, you may ask? It is simply this: politically-motivated public relations campaigns that seek to create the impression of spontaneous grassroots engagement, hence the reference to artificial grass; astroturfing refers to imitating or faking popular grassroots opinion or behavior. The goal of these campaigns is to disguise the efforts of a political group or corporation as an independent public reaction – in this case to a specific piece of legislation. These corporate-funded (read: well-funded) activities are designed to appear to the electorate as true, people-driven grassroots movements, when in fact such efforts are anything but. I know, because I work at a genuine grassroots organization, with committed, community-based advocates. Founded in 1881, AAUW has approximately 100,000 dues-paying members and 1000 community-based branches nationwide. We have a proud 128-year history of breaking through educational and economic barriers for women and girls, and we continue our mission through education, advocacy and research.

As you know, AAUW recently has been affected by the worst form of astroturfing – one that attempted to play off our good reputation. Bonner & Associates, a grassroots lobbying firm hired by the American Coalition for Clean Coal Electricity (ACCCE), has used AAUW's good name –

and those of other national organizations such as the NAACP and local organizations as well – in fraudulent letters to members of Congress. They did this under the auspices of the Hawthorn Group and ACCCE to further the coal industry's lobbying against the cap and trade bill. Ironically, energy policy is not an area in which AAUW actively advocates. We are best known for playing a leading role in some of the nation's most important public policy success stories in the areas of pay equity, family-friendly workplaces and education.

In this act of forgery, an agent of Bonner & Associates manufactured a nonexistent Charlottesville AAUW branch, used the AAUW logo, and faxed and hand-delivered at least one letter to a Virginia congressman, asking Rep. Tom Periello to vote against the energy bill. According to press accounts, Bonner, Hawthorn, and ACCCE knew of the fraudulent letters at least two days before the House voted on the cap and trade bill, but neglected to inform the House or the affected offices about the fraudulent letters until weeks later – well after what proved to be a very close vote.

When I contacted Bonner & Associates, I was told that a total of 57 fraudulent letters were sent to several members of Congress by Bonner & Associates on behalf of ACCCE. I was also told that the employee in question had been fired, and the matter referred to the US Attorney in DC to pursue prosecution against the individual. In truth, the scapegoating of one employee is not going to get to the bottom of this astroturfing problem. AAUW, and many of the other groups affected by this scandal, wonders what – besides this committee's efforts – is being done to hold both Bonner & Associates and ACCCE accountable. On August 2, 2009, the Sierra Club sent a letter to Attorney General Eric Holder asking for an investigation into the matter, especially with regards to any possible criminal wrongdoing such as wire fraud and identity theft. MoveOn.org also did an action towards this end. But to date, the AG's office has not responded.

Not only does AAUW join the call for an investigation by the Department of Justice, but we also encourage Congress to look at legislation to address this shockingly legal and unreported practice of astroturfing. In 2007, there were attempts made to include grassroots lobbying disclosures in the ethics bill, which would have required grassroots firms such as Bonner & Associates to disclose their lobbying expenditures and the identity of their clients. Unfortunately, that section was removed by Sen. Bennett from Utah. AAUW urges Congress to revisit this issue in light of these revelations.

Our members are a proud, conscientious, outspoken lot – as probably can be attested to by more than one member of this committee. It is very clear to all of us in the AAUW community that we have been subjected to a clear act of fraud. I think a quote by one of our members, taken from the AAUW blog, summarizes the membership's outrage:

> "Thanks Lisa, and [AAUW CEO] Linda Hallman, for being on top of this with a quick and measured response. One of our greatest strengths as an organization is the reality that we've always worked from Facts. In this era of angry talk show hosts and shoddy reporting, a voice of reason is needed more than ever. I'd love to credit this quote, but I can't remember where I read it: 'Belligerence is the currency of the intellectually bankrupt.'" *Jackie Littleton, Texas*

In a list of disturbing developments, one of the most problematic was that Bonner & Associates never reached out to AAUW directly. We confirmed with our Virginia state affiliate that they had been contacted by ACCCE, but since there is not a Charlottesville Branch, our members were confused as to what was actually happening. At this point, when it was clear to both ACCCE and to Bonner & Associates that there was no branch and that they were dealing with grassroots advocates rather than paid staff, they should have immediately called AAUW's national headquarters. Unfortunately, they did not.

Instead, AAUW found out about our involvement in this disturbing situation in a way no one wants to hear such news – the newspaper. As a result, a lot of what we know has come from media reports and talking to the other groups involved. Quite frankly, it's possible there were more letters stemming from this incident. Astroturfing happens more than people want to acknowledge, on a range of issues, so it's also possible that other unrelated but just as fraudulent letters have been sent to both the House and the Senate over the years.

This incident of forgery is an outright deception and represents a blatant lack of ethics. AAUW greatly resents having been portrayed in false light, and sympathizes with the other organizations that have been victims of this outrageous act. When members of Congress receive a letter from AAUW and its members, it is critical that they feel confident that they are being contacted by real people committed to the mission of AAUW – not a phony who is trying to undermine the principles of our representative democracy.

Because of our dedicated and active membership, AAUW is well-respected on Capitol Hill. Perhaps this is why corporate lobbyists used our good name to try to unfairly sway the outcome of the energy bill vote. How dare they think that they can take advantage of our dedicated members, our good work, and our solid reputation?

AAUW has a small team of ethical, professional lobbyists to fight for our issues on Capitol Hill and in the administration. We claim legislative victories like the Lilly Ledbetter Fair Pay Act and the New G.I. Bill because we use facts and are driven by our honest devotion to the public good. We don't need underhanded tactics to move our mission forward. We organize our dedicated membership, and it is their voices that ensure that AAUW can continue to advocate for laws that are fair to women, and speak truth to power.

AAUW approaches our challenges as good clean fights. We believe that cynical and premeditated lies have no place in public policy debates. This astroturfing issue, and the fraudulent letters that resulted, is not about partisanship. That's way too simple. This is about who gets heard in the halls of Congress. This is about the fact that we, as REAL grassroots, don't necessarily have their resources and corporate funding. According to media accounts, ACCCE spent over $11 million in lobbying in the second quarter of this year alone. That's on pace to spend roughly $44 million for the year alone.

AAUW and similarly affected groups spend a fraction of this amount; we simply cannot hope to compete with corporations in the money department. But what groups like AAUW have always had is the honest, earnest voices of our members. If corporate-driven astroturf campaigns start corrupting the integrity of THAT commodity, what tools are concerned citizens left with to improve the lives of our communities? Precious little. That is not partisanship, it's the reality.

AAUW believes it is very important that we call attention to these unscrupulous practices, in addition to protecting our good name. We have sounded the alarm so that all AAUW branches are on the lookout for these types of situations. Mr. Chairman, I have a great job, working for an amazing group with a worthwhile mission. But my members and I have been unnecessarily distracted from that critical work as we responded to the blatant fraud perpetrated against this esteemed, 128-year-old charitable membership organization.

AAUW has worked for a more than a century to build our good reputation and keep our name untarnished. Our members have used their collective voices to break through barriers for women and girls. The notion that someone would come along and co-opt that name, or attempt to harness that collective voice under false pretenses, is a breathtaking and very personal deceit. And so AAUW has responded to set the record straight. AAUW is a community of women and men who will not be made into victims.

The CHAIRMAN. We thank the witnesses for their testimony.

The Chair will recognize himself now for a round of questions.

Mr. Bonner, you learned of the fraudulent activity on June 22nd or 23rd of this year, 4 days before we actually had the vote on the floor of the House of Representatives on the Waxman-Markey bill.

Why didn't you take action before June 26, before the vote on the floor of Congress to let the Members of Congress know that the NAACP, that the University Women, were not in opposition to the clean energy legislation?

Mr. BONNER. Mr. Chairman, I am personally very sorry that I did not immediately go up to the three Members involved, sit in their office until I was able to talk to somebody and tell them directly what had happened.

We have put in place measures to make sure this never happens again. But should it ever happen again, whether I was asked by the client or anyone else, I should have been up there.

We were wrong not to be up there. I should have sat there and made sure that the three Members knew. We reached out to the organizations where—that were victims of this fraud to make sure that they knew about this, and we started that immediately, but the Members of Congress should have been contacted.

I take responsibility, sir, for not doing that.

The CHAIRMAN. Now, why was it so hard for anyone who worked at Bonner not to meet with the Members personally, but just to make a phone call to let them know that you had identified the fact that the NAACP, that the University Women were not in opposition?

Those are not insignificant organizations in our country. That really does put a thumb on the scale against clean energy technologies, and word would spread on the House floor as to why particular Members might be considering opposing the legislation.

Why could a phone call not have been made from Bonner to those three Members so that they and their staffs would not be representing that these very distinguished organizations were in opposition to the legislation?

Mr. BONNER. Well, Mr. Chairman, we should have done that, and we should have gone beyond the call, and I should have personally sat there to make sure the message got through. Regardless of how little or how much effort that would have taken, it should have been done, sir.

The CHAIRMAN. Did you personally know that the vote was taking place?

Mr. BONNER. No. I didn't know when the vote was taking place. I do know when we discovered the fraud.

The CHAIRMAN. And you are saying that you just didn't have processes in place at Bonner to notify people when a fraud was, in fact, being perpetrated; and as a result, those extra 3 or 4 days, the critical days before the vote, there was no notification of the Members of Congress that the NAACP was not in opposition?

Mr. BONNER. Mr. Chairman, we are a grassroots firm; we are not a lobbying firm.

But having said that, we should have found a way to make sure that the Hill was notified promptly by us immediately. We have put in place these five steps to make sure that that can't happen

in the future, because no letter will go up to the Hill until we have another person at Bonner & Associates, a permanent staff person, has verified that that letter is legitimate at the 100 percent level. No letter to any elected official, Mr. Chairman.

The CHAIRMAN. So you say that you didn't know when the vote was going to occur. But that was about as well advertised a moment in legislative activity as could possibly exist. A deadline had been set, we were going to have the vote before we broke for the 4th of July; and earlier in that week Bonner did receive the information that would have made it possible for those Members of Congress to know that these very distinguished groups had not, in fact, issued statements in opposition to the legislation.

So when you say you didn't know, what were the processes that existed inside of your company to ensure that when fraudulent activity had been identified, it would trigger an immediate rectification because it could have a profound negative impact on historic legislation passing through Congress?

Mr. BONNER. As I said, we are a grassroots firm, not a lobbying firm, so we weren't following precisely when that vote would occur. However, regardless of whether the vote was in 24 hours or 3 weeks away, or whatever point in the future, I feel I personally should have gone up to the Hill and made sure that Members knew that, whether the vote was the next day or 2 weeks later.

The CHAIRMAN. Well, we have a letter here, which had been sent from your organization, from the NAACP saying to the Member of Congress: You are about to vote on important environmental legislation, the Waxman-Markey bill. And it is signed here by Sheila Dow, NAACP, Charlottesville.

Now, you knew by June 22nd or 23rd that this was not accurate, and that was internal information inside of Bonner. So what happened? Why didn't Bonner make this public? Why didn't they correct this mistake? Why didn't you let Congressman Perriello know that this was not accurate?

This is no insignificant group in Virginia in terms of its impact on the decisions made by a Congressman in terms of how they should be voting.

Mr. BONNER. When we found, through our own quality control checks, that the fraud had occurred, we immediately fired the person involved and we immediately informed the client. We should have also immediately informed the Member of Congress.

The CHAIRMAN. And why didn't you?

Mr. BONNER. The reason we didn't is, we felt our first responsibility, a responsibility of our firm as a grassroots firm, was to get to the organizations involved in a very open way and tell them that we, Bonner & Associates, had made this mistake and that we apologize to these groups directly, and that we, as soon as we had found that this fraud had been committed by this temporary employee, fire that employee.

And we should have also, as I look back on it, sir, and as I look forward to the future, should have immediately informed Congress of it at that moment.

The CHAIRMAN. Well, again, these letters were targeting some of the swing voters on this issue. And all reports for the preceding 2 weeks were that this was going to come down to a small handful

of votes, determining whether or not success was possible in passing the legislation.

So the information that these Members of Congress had in their offices on the day that the vote was cast, June 26, Friday of that week, was that the American Association of University Women, the NAACP, veterans groups, were opposed to the legislation which, if they relied upon that, could have actually resulted in the defeat of the legislation.

So, again, it goes back to the question of why didn't Bonner notify the Members of Congress that this information was inaccurate, that it had been manufactured, and that they should not be casting their vote based upon these misrepresentations?

Mr. BONNER. Mr. Chairman, we should have done that.

It wasn't done for any other reason than we should have done it and that our responsibilities were to make sure that the third-party groups, the community organizations who had this awful fraud perpetrated upon them, were informed immediately by us, telling them our responsibility, and Bonner & Associates' responsibility alone. This was something we were responsible for; and our employee did that and he shouldn't have, and we should have caught it. And we fired him.

But I would say, from this experience, Chairman Markey, we would, going forward, immediately inform the Members of Congress. I have no knowledge of whether the Members were swing votes or not. We don't lobby; we just go and get advocacy work done.

The CHAIRMAN. Well, the reality is that they were, and the reality was that this was going to come down to a small handful of votes. And so miscommunication of information to these Members went right to the heart of our ability to have a debate on the facts of whether or not this energy legislation was good for the country or not. And so, again, organizations of this nature have a very heavy moral and political influence in our country.

So, Mr. Shelton, Mr. Bonner said that your organization, the NAACP, was notified as soon as possible.

When were you notified? The vote was on June 26th. The fraud was identified on June 22nd or 23rd. When was the NAACP notified?

Mr. SHELTON. My office first heard about this on July 31st, which—and I run the Government Affairs office for the NAACP that oversees all government interactions between the NAACP and the U.S. Congress, and we did not hear from any outside organization. We heard from news outlets asking us what we thought about the fraudulent activities that had occurred.

The CHAIRMAN. So Mr. Bonner, what do you have to say to Mr. Shelton about that long delay in notifying them that the good name of the NAACP had been used to attempt to defeat this clean energy legislation?

Mr. BONNER. Mr. Chairman, on June 29th, one of my staff people had a very lengthy conversation, of which we have a record that the conversation took place, with the vice president of the Charlottesville NAACP, at which time we apologized for what we did. We informed the vice president of what went on, that Bonner & Associates was responsible for this, and we told her all about this.

The CHAIRMAN. On June 29th, 3 days after the vote had occurred.

Mr. BONNER. Yes, sir.

The CHAIRMAN. Now, what do you have to respond to that, Mr. Shelton?

Mr. SHELTON. It is outrageous that they would wait that long to try to correct the record on a process that is so sacred to our very democracy, sir. Very well indeed it is outrageous, and they should be ashamed of themselves for carrying on this kind of fraudulent behavior.

The CHAIRMAN. Ms. Maatz, when did you find out that the use of your organization's name has been misappropriated and used to attempt to defeat the Waxman-Markey clean energy bill?

Ms. MAATZ. We actually at national AAUW found out even later than the NAACP did. It was the first week of August. And we found out as a result of a newspaper article from Charlottesville; it was literally something that came up on a Google search, believe it or not.

The CHAIRMAN. So, Mr. Bonner, what do you say to Ms. Maatz in terms of that long delay all the way from June 22nd to the first week of August, and this organization, the American Association of University Women, still don't know that their name has been used to defeat clean energy legislation?

Mr. BONNER. Mr. Chairman, what I would say to her is, we should have found the national organization immediately. The person—this temporary employee that did the fraud had actually made up a chapter that was no longer there; and we attempted to find that chapter in Virginia, and we didn't. We should have contacted the national immediately.

When we talked on the phone—because the AAUW contacted us and I personally spoke and apologized for what happened and explained that Bonner & Associates was responsible and that we fired the person involved. But we should have gotten ahold of the national organization right away, and I apologize for that.

We wouldn't do that again.

The CHAIRMAN. Ms. Maatz, what is your response?

Ms. MAATZ. Well, I found it regrettable that I had to be the one to reach out.

I do appreciate the fact that when I did, there was a conversation that was held. But there are a couple of things that I would question.

Number one, as a grassroots lobbying firm, I find it hard to believe that they were not involved in the targeting of Members, because grassroots folks worth their salt do targeting in terms of figuring out who they need to spend their time on to try to influence votes.

The other thing I would say is that not knowing when the vote is seems also a little disingenuous, because how could you know when to stop doing your grassroots advocacy work if you didn't know when the vote was? So it seems, again, there is some disingenuousness going on here.

And for our members, quite frankly, it is outrageous. The fact that they used the name of a dead member, the fact that this was someone who—that particular branch, when it used to be in exist-

ence, was very highly regarded. You know, our members are incredibly distressed.

One of the things AAUW relies on is not only our good name, but the fact that we have women who come up to the Hill every week that Congress is in session to talk to Members of Congress. And the fact that they now are worried in some respects that when they go into an office that someone won't believe that this is actually our position is incredibly distressing to them.

The CHAIRMAN. My time has expired.

The Chair recognizes the gentleman from Washington State, Mr. Inslee.

Mr. INSLEE. Well, all I can say is, Give me a break. That senior executives know about this defrauding Congress, but somehow, despite the fact that you are hiring lobbyists by the army-full you can't tell us until after the vote that there has been this defrauding going on. Give me a break.

Mr. Miller, would you agree that your organization, on behalf of a part of the coal industry, is partially responsible for defrauding Congress in this context?

Mr. MILLER. Mr. Inslee, the investigation, the internal review done by Venable and overseen by former Attorney General Civiletti found without question that we did not have any knowledge and did not in any way direct that fraudulent letters be done.

The investigation further showed, however, that our reliance on Mr. Bonner's firm was misplaced. We relied on him for basically three reasons for our failure to act before the vote.

Number one——

Mr. INSLEE. Let me just for a moment, I am just trying to get to kind of "yes" or "no," and then I will allow an explanation at the end. Do you think that your organization was partially responsible for defrauding Congress in this context?

Mr. MILLER. Fraudulent activity? No, sir, I do not believe.

Mr. INSLEE. Do you think you are partially responsible for misleading Congress in this context?

Mr. MILLER. I believe that our organization had an obligation. And now, based on 3 months of thinking about this issue every day, clearly we had a responsibility to draw a line at a certain point before the vote.

Mr. INSLEE. So the answer is "yes," you were partially responsible for misleading Congress? Say "yes" or "no."

Mr. MILLER. We are partially responsible for the failure of affected Members to not be notified.

Mr. INSLEE. Well, let me suggest that this really is, in a bit, the tip of the iceberg because I think you are responsible in a lot of other ways as well. I am holding the talking points for ACCCE of phone calls that I am told were made, and it is about what you advised people to call and tell potential voters.

Were you familiar with this text to be used in these phone calls?

Mr. MILLER. Mr. Inslee, I don't have a copy of the particular item that you have. I would be glad to take a look at it.

Mr. INSLEE. Well, it talks about—this is from committee staff. I will just read it to you. Because this is a whole 'nother issue of misleading Congress, frankly, that goes beyond even misidentifying who was calling, because you paid an outfit to call and say this:

Have the caller call a citizen and say, "How much do you pay for electricity? What would you cut out of your budget if your utility bill went from 'X' to," parentheses, "double," parentheses, "every month? Would you write a letter to help stop that from happening?" Close quote.

You hired an agency that was apparently calling citizens. And I will hand this document to you, and I am sorry I don't have it for you right now; I will just give you the whole document in a minute. But apparently you hired an agency to call people and effectively tell them that something was going on in Congress that has the potential of doubling their electricity, which is just wholly wrong and fraudulent.

And this goes beyond simple misidentification of who is calling; it goes to a deeper issue as to what you are telling the citizens. And it is consistent with all of your other ads you are running in all of these other newspapers, trying to scare the bejesus out of citizens thinking we are going to be doubling electric bills as a result of Waxman-Markey. And this is a deeper defrauding of the people in Congress beyond the simple misidentification.

And I would ask you to respond to that. I am going to ask staff to give you this and ask you and ask Mr. Bonner to take a look at this script.

And, first, Mr. Bonner, tell me, is this an accurate depiction of the script that your callers used as part of this contract? I will hand it to you in just a moment here. Is that basically the script, Mr. Bonner, that your callers worked off of when you called people?

Mr. BONNER. No, it is not the script that we used.

Mr. INSLEE. Are you familiar with that document?

Mr. BONNER. Yes, it is—I am sorry—it is original talking points that we used in our training. When we do calls, Congressman, we don't read a script to anybody.

Mr. INSLEE. Let me get to the heart of this. This is a training document. You told your callers what to tell citizens. And in that document and in that training, you told them to tell the citizens that there was something going on, or potentially going on, that would end up doubling their electrical rates. Isn't that right?

Mr. BONNER. I am reading it right now, Congressman.

Well, it says, What would happen if their utility bill doubled?

Mr. INSLEE. Right. And it is real clear that what you wanted to do and what this industry wanted to do is to scare the dickens out of voters, thinking that some bill was percolating back here that would double their electrical rates. Am I right?

Mr. BONNER. What we wanted to do was inform citizens their electrical rates could go up.

Mr. INSLEE. You want them to think they were going to double. That is why you put it in your training document, isn't it?

Mr. BONNER. We said——

Mr. INSLEE. Why did you put "double" in your training document if that is not what you wanted your people to say when they called?

Mr. BONNER. The talking points supplied by ACCCE were what we used as the model to talk—or supplied by Hawthorn were used as talking points to do that, to communicate what was going on.

Mr. INSLEE. Right. And what happened here is, Hawthorn, after getting their instructions from the coal industry, wanted you to try

to convince citizens that there was a potential their electrical rates were going to double as a result of some legislation back here. Now, isn't that what happened?

And I would really like to short-circuit this. Isn't that what happened?

Mr. BONNER. The talking points that we train from do have the line in it, what would happen if their utility bill doubled.

Mr. INSLEE. Right. And that didn't come from a figment of your imagination; that came from information from Hawthorn that got their information from Mr. Miller's organization. Isn't that your understanding?

Mr. BONNER. Yes. Well, my understanding is, Hawthorn——

Mr. INSLEE. Thank you.

Now, Mr. Miller, did your organization suggest to the Hawthorn organization that in their calls or in other information given to citizens that it would be discussed, a potential doubling of people's electrical rates?

Mr. MILLER. Never, sir.

Mr. INSLEE. Okay. So your testimony is that the Hawthorn administration apparently imagined this. Is that what happened?

Mr. MILLER. I don't believe so either, sir.

And I would like to cite you to——

Mr. INSLEE. Well, if you can help us, where did this doubling—whose idea was it to try to scare the citizens into believing there is doubling using your money?

Mr. MILLER. I believe that came from Bonner internally. And I would cite you, sir, to the filing that the Hawthorn group made with the Select Committee on August 27th. One of the attachments to it is a full-page document that was under penalty of perjury what the Hawthorn group says that they delivered to Bonner & Associates to develop their work.

Mr. INSLEE. So you believe Bonner & Associates came up with this doubling, using your money; but apparently you didn't have enough good quality control in what you were trying to scare the citizens about to know that you were spending millions of dollars to try to convince the American public that there was a potential to double electrical rates. Isn't that what happened?

Mr. MILLER. We have never in the debate about the Waxman-Markey bill ever intimated directly, indirectly, that there would be a doubling of rates.

Mr. INSLEE. You remind me of the guy who hired a hit man and said, Just take care of the problem; don't tell me whether you are using the knife or the gun.

That is wholly irresponsible on your part not to give them and confine the information they were giving to the public. Don't you agree? Don't you believe that was wholly irresponsible by your organization?

Mr. MILLER. We provided to the Hawthorn Group a very detailed list of talking points and suggested activity.

And, Mr. Inslee, this is critically important. Our organization has never opposed the Waxman-Markey bill. And in the directions that we gave to Hawthorn to provide to Bonner and for the Hawthorn Group to use with phone calls that they also oversaw, that we were seeking changes to the bill, particularly a limit on the price of

emission allowances that they would be sold in order to hold down the price of electricity.

We have never opposed the Waxman-Markey bill. We were seeking changes to it. And the record, I think, very clearly shows that in regards to our filings before this committee.

Mr. BONNER. Congressman, if I could.

Mr. INSLEE. Excuse me, Mr. Bonner. I want to make sure I understand Mr. Miller's testimony.

You are telling us that—is it our understanding that you hired the Hawthorn Group? And was there any information you gave to the Hawthorn Group that you authorized them to convey to the citizens as to the amount of potential increases of their electrical rates?

Mr. MILLER. No. All it said—and I can quote from our filing with the committee yesterday to your interrogatories from last week.

Their script that the Hawthorn Group used for telephone calls, for example, stated that "The U.S. House of Representatives is set to vote soon on a climate bill to change—to reduce carbon dioxide emissions. Most everyone agrees the bill will increase energy prices."

And I believe, Mr. Inslee, from almost every analysis that has been done by the EPA and EIA and other government sources, it is clear that effective, strong climate legislation will increase to some degree energy prices.

Mr. INSLEE. So you are telling me you don't believe, given the context of what happened here, that you spent millions of dollars both on lobbyists and on a public—I won't call it information; I think it is a disinformation—campaign, that they were telling citizens that it would potentially double their electrical rates.

You are telling me that you don't believe that you were at least somewhat irresponsible in not confining the information that was purveyed to the public in this regard?

Mr. MILLER. I believe the information that we gave to Hawthorn to provide to any subcontractors they used was entirely responsible.

Mr. INSLEE. So you are telling me you would do it again?

Mr. MILLER. No, sir.

Mr. INSLEE. Well, I want to make sure I understand this. You are telling me that you don't think your group acted irresponsibly when it spent millions of dollars that ended up trying to scare people into believing their electrical rates could double without telling them, No, you need to tell the truth? You would do that again knowing what happened here and not make sure that the people were told to tell the truth, not to try to scare them into this thing that their electrical rates were going to double?

Mr. MILLER. Part of the new code of ethics that we put in place codifies the rationale that we used in providing this information to Hawthorn. We are going to require now contracts not only between ACCCE and Hawthorn, but any contracts we have with subcontractors that require that those subcontractors use only materials that have been prior approved by ACCCE.

Mr. INSLEE. So you are telling me you won't do it again then?

Mr. MILLER. We are taking extra measures to make sure that the legitimate public policy items and information and requests to make changes to legislation, rather than to vote against it——

Mr. INSLEE. So I want to try to understand. You are not going to go out and tell citizens or try to make them believe that their electrical rates are going to double as a result of this legislation. Is that correct?

Mr. MILLER. ACCCE has never done that, sir, in regards to this legislation. And I cannot imagine that we would do so again unless—unless a truly valid analysis showed that whatever proposal was in place would, in fact, do so. But that is not the case here.

Mr. INSLEE. Well, we agree that there was some wrongdoing here. And the question is, what is penance?

And I want to make sure I understand it. On June 25th, as we were preparing to look for the 218th vote to pass the Waxman-Markey bill, did your organization have lobbyists working Capitol Hill?

Mr. MILLER. We did have lobbyists working Capitol Hill to seek changes to the legislation, particularly for a safety valve to try to put an upper limit on the price of emission allowances to hold down electricity prices.

Mr. INSLEE. And pending that change, were you advising Members how you wanted them to vote?

Mr. MILLER. We were seeking changes—we did not. Let me hit that question straight on.

We did not seek members voting "yes" or "no" on this bill. It was the judgment of our board that we should be continuing to try to seek changes not only for a safety valve, but other aspects of the bill that we thought needed to be changed. And at no time did our contract lobbyists or did we direct anyone on staff or any consultants that work for us to seek votes to oppose the Waxman-Markey bill.

Mr. INSLEE. Mr. Miller, we do agree, I think, that there was misfeasance or malfeasance here. And, again, I want to just briefly ask you what you believe the appropriate penance is when an organization does something wrong.

And you have agreed they have done something wrong; the question is, how do you make it right? What is the appropriate penance?

Right now your organization is running millions of dollars of ads suggesting that the current Waxman-Markey bill, I think, is not to your liking—the best way I can categorize it. You still have lobbyists on the Hill.

Let me just suggest, don't you think as a first step that you direct your lobbyists to talk to, for instance, Senator Inhofe and tell him, Look, Senator, this is a real problem in America. Climate change has real, potential cataclysmic consequences. Our industry believes that we have to deal with this. We need to limit carbon dioxide gas, and you are simply wrong in saying that this is some fiction of rogue scientists.

Now, don't you think that is a penance that your organization should do? Let's start with Senator Inhofe.

Mr. MILLER. Our organization and our board have very clearly stated for 2 years that we support a Federal carbon management

program as a matter of Federal law and that a cap-and-trade provision could be—is one option for that.

So we clearly recognize that carbon management legislation and Federal legislation in this area is a desirable action by this Congress, so long as it is reasonable. And we take that message, Mr. Inslee, to Democrats, Republicans across the board.

And so, whether it is Mr. Inhofe or whether it is Members of the House, we are methodically working through the Members of Congress to say that our organization supports Federal carbon management legislation that could include a mandatory cap-and-trade.

Mr. INSLEE. So, Mr. Miller, do you think it would be proper partial penance for your organization, when you leave this hearing, to call your lobbyists and tell them to go talk to Senator Inhofe and tell him that your organization believes that we have to limit CO_2 because it has potentially catastrophic impacts on America, number one?

And, number two, maybe run one ad saying that, that we have got to have in fact CO_2 limitation or we are in deep trouble?

Now, don't you think those are two things that you ought to do and will do? I will just ask you simply.

Mr. MILLER. Yes. If I may address this——

Mr. INSLEE. Is that a "yes" to both?

Mr. MILLER. We will speak to Mr. Inhofe, as we will all 100 Members of the United States Senate, that our organization supports Federal carbon management legislation and that a mandatory cap-and-trade can be part of that. We will do that.

You have that commitment that we will touch base with all 100. We are well on the path.

Mr. INSLEE. That is one.

Will you run some ads in the Hill rags talking about the fact that we need CO_2 regulation in this country as a lead title? Will you do that?

Mr. MILLER. Sir, I would be happy to submit to this committee copies of advertisements, print advertisements.

Mr. INSLEE. That's great.

I will ask you one more question and then I will let you go. I have gone well over time. Thank you, Mr. Chair.

Will you run an ad as partial penance for this transgression a thing that says at the top, We need CO_2 regulation in America and we need it fast? Will you do that?

Mr. MILLER. We will continue to run ads. And I would suggest, sir, that if you have the full rank of ads that we have run this year, we have said that our organization supports Federal carbon management legislation and that we are working to make that legislation be correct legislation.

Mr. INSLEE. I don't know if that is a "yes" or "no." It is the best I am going to get. I suggest you think about that. I think it would be the responsible thing for you to do.

Thank you very much.

The CHAIRMAN. The gentleman's time has expired.

Ms. MAATZ. If I could jump in here real quickly. I think we need to be real clear what happened. Basically, it was an argument about increasing the rate, doubling the rate, that was targeted in the districts of swing members, that was then targeted in terms of

the organizations that were affected, that were forged, to African Americans who are discriminated in all sectors of society, to seniors who were fixed incomes, to women who make 77 cents on the male dollar, groups who are absolutely going to be scared by an argument that their electric rates are going to be doubled. And then those letters from groups that represent those constituencies were forged and sent to Members of Congress who were on the fence about this particular bill.

I think that is something that you really need to take into account in the sense that this was calculated and this was deliberate. This was a strategy employed to try to influence Members of Congress from the very people who—their particular fraudulent argument was going to be the most persuasive with.

The CHAIRMAN. We thank you, Ms. Maatz, for that.

To the gentleman from Washington State, there are two roll calls on the floor, but I intend on returning after those roll calls to continue this hearing.

Let me just follow up with what Mr. Inslee just said.

Mr. Miller, your organization is one that has been advocating for funding for technologies that can put the pollution which is created from the coal industry—and, by the way, 40 percent of all greenhouse gases, all of this pollution comes from the coal industry. So, actually, if we can't solve the problem of coal and the role that it plays in creating this climate change, then we can't solve the problem.

And so you and your organization have advocated for funding to put this pollution underground, to find ways of keeping it from ever going into the atmosphere. And that underground strategy is something that—is something that you have advocated.

But at the same time, you have lobbying activities which you fund, which is similarly kept underground. There are organizations that you hire that hire other organizations that then result in Mr. Bonner hiring temporary employees who are sending out information that says that there will be a doubling of electricity rates if the legislation moves forward, that there will be great harm that comes to minority groups, to women, to seniors in our country if this legislation goes forward. And that is part of the campaign as well.

Well, there is a big difference between advocating for modest changes in legislation and sending out information like that that is then repeated by Senators and other Members as though it is true, when in fact the information that is developed all emanates from the coal coalition that hires the contractor that hires the subcontractor that hires the temporary employee that is then spreading that information to individual members.

As Mr. Inslee is saying, they don't get the message that you support clean coal technology, that you want legislation to pass that effects that goal. You are sending out just the opposite message. You are saying that if this strategy is adopted, it will double the rates of electricity users in our country, which is completely false. Your advertising doesn't reflect that.

The message that you sent either using this methodology, this subterranean, this underground methodology that you use to lobby Congress doesn't tell Members that, doesn't tell the public that.

And your ads that are in public don't say that at all, as well. It makes it seem as though it is a very scary, expensive, dangerous prospect for the American economy and for these consumers.

And so if you are stepping back, Mr. Miller, and you are looking at what happened here, you are saying the average person would just say, Well, that is coming from a very reliable source, from the coal coalition of our country, the source of electricity in my home, they are saying to themselves. And unless that misinterpretation, that misrepresentation is corrected, then they are going to assume there must be some validity. And the proof in that is that Senators and Members of the House of Representatives repeat it as though it is true.

And so that has a profoundly negative impact on the legislative process. And ultimately it comes back to you, Mr. Miller, because you are the funding source ultimately for this message as it is transmitted to the American public and to the Congress.

So this is your moment. This is your opportunity here to make it clear that you are going to ensure that the positive message is out there and that you will correct the misinterpretations.

As Waxman-Markey is evaluated by the Congressional Budget Office, by the Environmental Protection Agency, it is clear that it costs no more than a postage stamp per day for the public in order to implement it. But if people hear it will double their electricity rates, if people hear that it will have a profound negative impact on the economy, then of course—and using organizations like the NAACP, like the American Association of University Women or veterans groups and senior groups across our country, well, they are going to believe that this is accurate.

So what do you have to say to us, Mr. Miller? How do we correct this?

Mr. MILLER. We correct this in a number of ways. Number one, in exchanges that we are having right now, I am trying to be very clear and accurate in regards to what we have said in our advertising and requests that we made for contacts to be made and suggestions for contacts to be made with policymakers that we, our organization, supports Federal carbon management legislation that could include a mandatory cap-and-trade; that that legislation needs to have key components to it, one of which are very strong measures to make sure electricity prices do not surge because of this; and that our advertising has said that, the direction that we have given to our consultants that Mr. Bonner's firm apparently, from what I am reading here, did not follow.

Even, Mr. Markey, I would cite that on the day that the Waxman-Markey legislation passed out of the House Energy Committee, we issued a press release in my name, which I approved, which said we look forward to working with the Members of the House of Representatives, going forward; and at the end, we want to commend Chairman Waxman, Chairman Markey, Chairman Dingell, and Chairman Boucher for their leadership in making important changes to the discussion draft of this bill. We have been publicly stating that the bill needed changes, and we still believe that, as it has been used as a basis for much of the Kerry-Boxer bill, that needs changes.

But our organization supports Federal carbon management legislation, one of the reasons being, as you correctly stated a few minutes ago, we will not solve the challenge of climate change globally unless there is an effective carbon capture-and-storage technology program that spreads for broad-based commercial use around the world. And the sooner we can get to that, the sooner we will be dealing with one of the major challenges for climate change.

So we are speaking for aspects of this very clearly and we will continue to do so.

One change though, one reform in our code of ethics that our board will formally act on in about 3 weeks and that we are implementing now as an interim measure: We are going to insist in all of the contracts that exist that our consultants, our contractors, their subcontractors only use scripts that we have seen and absolutely approve.

The CHAIRMAN. Mr. Miller, are you ashamed of how the coalition has been represented by Hawthorn, by Bonner?

Mr. MILLER. I used the word "outraged" on Day One. And I am outraged here that the clear direction that we provided Hawthorn that was then—according to the documents filed to this committee, then passed on to Bonner & Associates were not followed.

The CHAIRMAN. I am going to take a brief recess right now, and we will return, Mr. Miller, so we can continue to have this conversation about the way in which the coal industry represents this entire debate to clean up our air.

The committee will stand in recess for 10 minutes.

[Recess.]

The CHAIRMAN. The committee is once again called to order. We apologize to all of you. We had, as Members, to run over to the House floor to cast three votes, but I think we can have an uninterrupted period of time now to move forward.

So, Mr. Miller, let me ask you this, when—again, just to recap—the fraudulent letters were sent out early in the month of June, 2009, and—on June 22 or 23, it was clear that these letters were fraudulent. But the vote was on Friday of that week, on June 26, so there was a 3- or 4-day period on which the Members of Congress could have been notified that the NAACP, American Association of University Women, veterans and other groups were not, in fact, signatories to these letters that were in opposition to the Waxman-Markey clean energy bill.

When you did you find out, Mr. Miller? When did the coal coalition find out that these letters, these fraudulent letters, had been sent out?

Mr. MILLER. In the evening of Wednesday the 24th, I believe, of June, the Hawthorn Group called our senior vice president for national affairs and informed him that Mr. Bonner had contacted Hawthorn to say that there were some fraudulent letters.

The CHAIRMAN. Now is your senior vice president for national affairs, was he the person coordinating the campaign?

Mr. MILLER. No, he is not. That is our senior vice president for communications.

So the Hawthorn folks—apparently the examination that Venable did showed that the Hawthorn Group tried to reach our senior vice president of communications first, then called our senior

vice president of national affairs, who then called me the morning of Thursday, June 25—so the day before the vote.

The CHAIRMAN. So—the vote occurred on Friday evening, so as of Thursday morning now you know personally——

Mr. MILLER. Yes, sir.

The CHAIRMAN [continuing]. That these letters are fraudulent, that they had been sent to Members of Congress who had been identified as key swing votes on the bill.

And what did you do at that time, Mr. Miller?

Mr. MILLER. I discussed this with our senior vice president of communications because the communication that came to us from Hawthorn was that the Bonner firm wanted to know if it was okay to contact the Members of Congress and the local organizations. And my direction to our senior vice president of communications, who then made that very clear to the Hawthorn Group, was, Absolutely, and in fact, that we demanded that they do so immediately.

That has also been verified by the examination that the Venable firm did, that we were very clear in our instructions to Hawthorn; and, in fact, based on their discussions with the Hawthorn folks that they imparted those directions to Mr. Bonner that this notification of the Members of Congress and the local organizations needed to be made immediately.

The CHAIRMAN. Now let me ask you this, Mr. Miller: On that Thursday, the day before we cast the vote, amongst your major funders are the Southern Company, Arch Coal, Peabody Coal. Were they told by any of your employees at the coal coalition that this fraud had been perpetrated?

Mr. MILLER. No, sir.

The CHAIRMAN. So on the day before the vote, the Peabody Coal Company did not know about this?

Mr. MILLER. That is correct.

The CHAIRMAN. And did your lobbyists for the coal coalition know about this?

Mr. MILLER. No, sir.

The CHAIRMAN. So you did not tell your lobbyists, you did not tell your chief funders that this had occurred?

Mr. MILLER. That is correct.

The CHAIRMAN. And did you do any follow-up to make sure that your instructions, that the Members of Congress be told that this fraud had been perpetrated, had occurred and that they should know that these letters were, in fact, fraudulent?

Mr. MILLER. Mr. Chairman, I was so convinced that because the Bonner folks had found the letters and had voluntarily come forward to say, We have found these, we found these letters, that it was in their personal interest, their company's reputational interest, to address this issue; and that they had volunteered to—"We will go deal with this immediately"—I was convinced that their voluntary actions coming to the Hawthorn Group and stating the problem and stating their desire to address that problem, that I was convinced that they would do so.

The CHAIRMAN. But can you understand, Mr. Miller, how somebody looking at this might be a little bit incredulous?

Mr. Bonner has testified that he was paid $43,000. The Hawthorn group, in turn, was paid millions of dollars and had been con-

tracted by you for the preceding 8 years with millions and millions of additional dollars that you had paid them.

And yet on top of that, the coal coalition was trying to kill the Waxman-Markey bill on Friday; and that this multi-multi-million dollar effort to kill Waxman-Markey was funded by Peabody Coal, by Arch Coal, by the Southern Company, by other entities that were your principal funders, and it was all towards the goal of getting these swing votes on Friday to vote "no" on the bill.

So it seems hard to believe that being notified that this had happened, that this fraud had been perpetrated, was delegated, on the day before the vote, to Hawthorn; and then you assumed that Mr. Bonner, who had just been hired a couple of weeks before—this wasn't his issue, his passion, he was being, you know, basically, hired for $43,000 to do some astroturfing.

So it comes back to you, Mr. Miller. You are kind of giving us the Sergeant Schultz defense here, "I see nothing, I know nothing. I instructed that Hawthorn move on, I assumed," you say, "that Mr. Bonner then acted."

Well, you know, we are coming down—we are in a situation here where that is putting a lot of responsibility on someone that you had only hired 2 or 3 weeks beforehand who had, in turn, hired temporary employees.

I think it comes back to you, Mr. Miller. I think it comes back to what the objective was on the most historic energy and environment bill ever on the floor of the House of Representatives, that your organization had raised millions and millions of dollars to try to defeat.

And I think that your responsibility—I will put it right on your shoulders. Your responsibility was to ensure that the Members of Congress knew that this information was fraudulent, or other people in—your lobbyists, your communications people, these are the high-paid people. $43,000 to a subcontractor, it seems to me, is not the place where this responsibility reposes to ensure that—the NAACP, the American Association of University Women, veterans groups, senior organizations across the country have had their good reputations absconded with by your coalition.

So what responsibility, Mr. Miller, do you think you shoulder now in retrospect? Because I am putting it on you, not—and I am not going to allow you to say, you assumed that it would be in Mr. Bonner's best interest to clarify this, because he is very far down this communications food chain.

Have you had enough time here to examine whether or not, in your own opinion, you did not do the job you should have done to make sure that this was corrected in the minds of these key Members of Congress before they cast a vote?

Mr. MILLER. Mr. Chairman, I think there were two aspects of your question. One was, what was the motivation here, what was the goal? And let me reiterate.

Our board has directed us to support Federal carbon management legislation and, in particular in regards to the Waxman-Markey bill, to make changes to it, not to defeat it. There is no accurate example anywhere, because it just doesn't exist, that our organization opposed the Waxman-Markey bill before this vote took place either before the committee or on the House floor.

Now, as to my personal responsibility here, Mr. Chairman, I can tell you this literally, and not figuratively, a thousand times over the last 3 months I have thought about what I should have done differently, not just my colleagues at ACCCE or our consultants. And I will tell you that based on what I know now, I would have drawn a line on a particular hour if Mr. Bonner had wanted to make these contacts. I would have drawn a definite line that said, After this hour, if I don't have conclusive proof that these contacts have been made both to the Members of Congress and the local organizations, that I will go to the halls of Congress and I will go pass a note to whomever I have to at the staff level to make sure that the affected Members know this, that I send a fax or whatever I have to do to make sure that that happens.

The CHAIRMAN. I don't accept, Mr. Miller—I don't accept the fact that you are arguing now that you did not oppose this legislation.

We have an e-mail here from Hawthorn to Bonner. And the e-mail says, "Okay, I now have the targets, and we're ready to go in the following districts with vets, seniors, minorities"—any combination you think you can get. "Just need a few. You define for me, but I am thinking, you know, five"—I guess letters—"per district."

But then, as you look through the seven target Members, next to one of the names, Hawthorn is saying to Bonner here in the e-mail, "He's a potential probable 'no' vote on here, so we are doing a little more intel to determine whether or not to keep him on our target list." In other words, if he is already "no" on the bill, then why spend money on him? Why spend millions of dollars from the coal coalition on him?

So the very e-mail that is being used to target all these Members, seven Members there 2 weeks before the vote, is to get a "no" vote. And so that is what the coal coalition was doing. Peabody Coal, Arch Coal they didn't want a "yes" vote; they wanted a "no" vote on this bill.

They are paying you your salary. They have got a coal coalition put together to defeat Waxman-Markey. Their e-mail makes it clear they are targeting Members that might potentially vote "yes," but as soon as they go "no," then take them off of the list.

So I am having a hard time, Mr. Miller, in kind of parsing your sentences and understanding how you can possibly contend that this whole operation wasn't intended to defeat Waxman-Markey.

Mr. MILLER. Sir, I will be going back to the submission that the Hawthorn Group made on August 27 to this committee and the attachment to this, which has an exact copy of the information that we agreed to with the Hawthorn Group, that they say they passed on to Bonner, regarding our position here. And it states very clearly that we are here to—in this process, to make changes to the bill.

And now, you specifically—and particularly in regards to a safety valve that would put an upper limit on the price of allowances——

The CHAIRMAN. Here is the problem we have, Mr. Miller. Hawthorn has been working for you for 8 years. You have given them millions and millions of dollars to be your principal wing of communication in order to affect legislation; and you are telling us that in the final week before the most important vote on energy legislation that could affect the coal industry that they are wrong in saying that trying to get a "no" vote is the key goal here and that, as

the list is being sent on to Mr. Bonner, that is not the objective. And I just have a hard time believing it, Mr. Miller.

It seems to me that you were trying to kill the bill, that Peabody wanted the bill killed, that Arch wanted the bill killed, and that this was the message that got sent out. And that is what translates into these letters over here that I have put up on the easel so that the people here in the hearing room can see it, that these letters reflect a desire to communicate with voters, with Congressmen, that their electricity rates will be doubled, that it will have other horrific consequences for our country.

And they are invoking the names of groups that represent the poor people in our country, seniors in our country, minorities in our country; and it seems to me that the real goal that you had at the end of the day was to kill the bill and that what you are sitting here trying to argue is that you have plausible deniability because you assumed that when you told Hawthorn, that Hawthorn would tell Bonner—who only got hired 3 weeks before, and a day later is hiring a temporary to start to develop letters—that somehow or another that would get passed through, down through the food chain, beginning on Thursday, the day before the vote.

So none of these people would be in trouble right now if it all had been corrected on Thursday. We wouldn't be here, huh?

So it comes back to you. And what happened in headquarters as you are getting this information, the list is narrowing, it's getting smaller and smaller, the vote is obviously getting closer and closer. So these key Members will decide whether or not your agenda to defeat the legislation—because this e-mail makes it clear that was the goal—is going to be successful.

And so, it comes back to you again, Mr. Miller, and the people who fund your organization. That was what you were trying to do; and this fraudulent activity was in your hands 2 days before the vote. And you had a chance to clarify it, and you did not.

Mr. MILLER. Is there a question there, sir?

The CHAIRMAN. I am giving you a chance to say, You are right.

Yes, I am giving you a chance to say, You are right, and I am ashamed that we did not correct it when it came to headquarters, since our whole goal in this effort was to affect swing Members of Congress that we knew that we had the responsibility, that we couldn't delegate it and then have it redelegated again and then have it redelegated down to a temporary employee; that we, as the coal coalition, as the organization representing all of these companies that were giving us millions and millions of dollars, that we had the responsibility.

Yes, there is a question there.

Mr. MILLER. Yes, we definitely had the responsibility as I said in my opening statement and I have said a couple of times; and I am profoundly disappointed that we did not do that.

And we have—in your new ethics code we have a requirement that any time we have anything that is untoward that we can't verify within 24 hours, we are required to notify the Member.

But, Mr. Chairman, I must respectfully say again, these 58 letters that were generated and sent in by Bonner to Hawthorn are a very, very small part of the grassroots, legitimate grassroots program we had.

One of the things we filed with this committee in our submission to you yesterday was the telephone scripts that we used, and that we generated thousands—made opportunities available for thousands of constituents to touch base with their Members.

And if I might just take a few seconds to quote, "America's power army supports the timely adoption of legislation that reduces carbon dioxide and other greenhouse gas emissions, protects consumers from unnecessary increases in energy costs, promotes energy independence and encourages the development and deployment of cleaner technologies"—underlined in the text. "This climate bill needs changes to make sure all that happens. One of the most important changes would be to protect consumers, is to put a limit on the price of emission allowances."

This is what thousands of telephone calls are—we encourage folks to say in thousands of telephone calls to targeted Members, never to just vote "no" on this bill, but to make changes.

And Mr. Chairman, you and others, Mr. Waxman and others on the committee, were working diligently in the hours right up to the vote, seeking changes to the bill to secure votes, because it was not clear at all until the day of the vote that there would be enough votes to pass.

And so we were very clear that the policy situation in place here made it possible for additional changes to be made in that legislation.

The CHAIRMAN. I am going to recognize Mr. Inslee.

All I can say to you, Mr. Miller, is that it was in the interests of the coal coalition for these Members to think that the NAACP, veterans, seniors and women's groups were opposed to the bill with 48 hours left to go; and that you had a chance to clarify it, but your goal was to defeat the legislation. And that is why one of these Members was taken off the list, because he was already a "no" vote on the bill on Waxman-Markey, and so the targeting would go for the other six Members.

And so all I am saying to you, Mr. Miller, is that when interests and opportunity coincide, you wind up in a situation where those who had an opportunity to stop and to clarify, create a delegation process that may or may not be completed before the vote would be taking place; and that you, as the head of this organization, and the companies that you are representing, had a responsibility to clarify—a far, far greater responsibility than the temporary employee, than Mr. Bonner, than the Hawthorn Group had.

This was your plan. This was your organization. Everyone else was hired. And it is clear that the objective was to kill the bill. And that was what was in question at that time.

So I just have a hard time in accepting your explanation, because I think that 24-hour, 48-hour delay was just enough to perhaps contribute to your victory in defeating the legislation. And therein lies the real problem here where it keeps coming back to you.

Let me conclude there and turn to the gentleman from Washington State.

Mr. INSLEE. Well, it is clear after the chief executive officer of the clean coal coalition learned that the Congress had been defrauded that you knew you only needed to keep this silent for about another 48 hours to try to maybe pick up a couple more critical votes,

because you were looking for votes under your designation to change the bill under the fact that it wasn't going to change to kill the bill, and all you had to do was keep this fraud quiet for about another 48 hours.

So I want to ask about your participation. Your entire goal of your organization is to influence Congress; is that right?

Mr. Miller? Your entire goal as an organization is to influence Congress; is that right?

Mr. MILLER. We do work at the State level. We do regulatory matters. We do general education to the public. So direct Federal lobbying has, in fact, only been part of our portfolio since April 2008 over the 16-year history of the organization.

Mr. INSLEE. What I want to get at is, this isn't some peripheral responsibility, this is the big enchilada, the major leagues of climate change legislation. And on June 25, you would describe it—your highest priority was to get Congress to do your bidding; wouldn't you say that is correct?

Mr. MILLER. Our clear direction from our board was to seek the adoption of Federal carbon management legislation that could include a mandatory cap-and-trade program so long as it adequately met a number of principles that we had publicly been articulating for well over a year.

Mr. INSLEE. I am just trying to get at your individual thinking on June 25. The hottest thing on your plate on June 25 was trying to influence Congress on the Waxman-Markey bill. It wasn't worrying about the overhead of your computer system in Dubuque or something; isn't that right?

This was the hottest thing on your personal agenda. It was your whole reason for getting up in the morning that day, wasn't it?

Mr. MILLER. The highest priority of that particular day was to continue to seek changes to the Waxman-Markey bill with a particular focus on trying to get——

Mr. INSLEE. That is where I am getting at. So that day you knew that Congress had been defrauded, you had paid lobbyists physically present on the Hill trying to influence this legislation; and instead of picking up the phone to call your lobbyist who is under your direct control or sending them an e-mail telling them to get to Representative Perriello's office and everybody else that had been defrauded as their first order of business that morning, instead of doing that, your testimony is you passed it off to some subcontractor and told him maybe they should talk to the people.

Is that your testimony?

Mr. MILLER. No. It is not my testimony.

We didn't say "may" do this. We said——

Mr. INSLEE. You said "do this"? Excuse me.

Mr. MILLER. We said "do this now."

Mr. INSLEE. Did you say tell them to do that by 10 o'clock that morning?

Mr. MILLER. We did not. We said to do it immediately and urgency was there.

And also, again, Mr. Inslee, I would direct your attention to the submission of the Hawthorn Group on August 27 where they say and I quote, "After discussions with ACCCE, Hawthorn directed Mr. Bonner on the morning of June 25 to immediately contact

Members of Congress and organizations, and Mr. Bonner agreed to do that."

Mr. INSLEE. And according to Ms. Hammelman of the Hawthorn company, the conversation with your agency did not include a specific discussion or instruction to make contacts before a day certain as the timing of the vote on the Waxman-Markey bill was uncertain. That was her testimony; I will just put that into the record.

So, let me just ask you, if this were a criminal—if there were a criminal statute that says you can't defraud Congress by conveying information under a phony or fictitious name without authorization to do so, if that were a criminal statute, do you think that might have focused your mind a little more on making sure that you did not allow this fraud to continue?

Mr. MILLER. I am not sure, sir, whether it was a criminal statute or anything else.

Mr. INSLEE. We are trying to figure out how we stop this from happening again.

If there were a criminal statute and you were aware of that, do you think you might have been a little more prompt in notifying the affected Congressman of this fraud?

Mr. MILLER. I don't know. I never, criminally, really considered that question since I don't think there is one.

But in any regard, as I have said before, we—in retrospect, I clearly recognize the responsibility and would absolutely do it differently myself.

Mr. INSLEE. You still even as of this day haven't notified the victims of this fraud—of the fraud, have you?

Mr. MILLER. That is not true, sir.

Mr. INSLEE. Let's find out about that.

Mr. Bonner, we have this telephone training memo of how you trained your telephone callers. And it basically instructed them to call people and tell them that your electrical rates could double because of some pending legislation in Congress. We went through that discussion a little bit later. You have that document in front of you.

Have you called the people who were called as a result of that fraud and told them that they were the victims of misinformation?

Mr. BONNER. First of all, Congressman, the document that you showed me was an early training document that we had used. It was subsequently not used, I believe, in what we actually talked to people about.

The other thing, sir, is that if you look at the letters themselves, up on the board there that the chairman referred to, all of those letters talk about an increase in costs to consumers. It doesn't quantify it. And I might also add those letters don't urge opposition to the bill either.

Mr. INSLEE. So you are testifying that this document was never used, the one that you are looking at—or, by the way, Exhibit A?

Mr. BONNER. The talking points was part of our early effort to refine what we were doing.

Mr. INSLEE. Did that document—was that used in training any of your callers ever?

Mr. BONNER. I would have to check and get back to you with a precise answer on that.

Mr. INSLEE. So it may or may not have been; is that what you are telling me?

Mr. BONNER. I am telling you I am not sure.

Mr. INSLEE. Okay. Well, then, it is clear then that if it was used, which you have not investigated, you haven't gone back to try to clarify that with the people that your folks may have called; is that correct?

Mr. BONNER. What I do know is that when our people called and they had the discussion with constituents, they—if the constituent group was interested, we then sent them the letter that you have seen; and the letter itself has the information in it that I just referenced.

Mr. INSLEE. Okay. We have your answers to interrogatories that were posed to your organization; and an answer was prepared on Akin Gump stationery, and it said, Answer No. 6: One page of talking points was prepared to guide the temporary employees in their calls to third-party organizations. The talking points are attached here at Tab A.

Now let's get this straight. Is the document before you, Tab A, which your interrogatories answered as saying being the talking points used to guide, quote, "the temporary employees in their calls to third-party organizations," close quote? Is the document you are looking at Tab A?

Mr. BONNER. I am sorry, sir?

Mr. INSLEE. Is the document that was handed to you Tab A? That is what you sent to us.

Mr. BONNER. Right. That you handed me, right.

Mr. INSLEE. Right. So I want to make sure you understand, your organization, your counsel on your behalf——

Mr. BONNER. Right.

Mr. INSLEE. We, the committee, asked you a question about this. And what you told us, you said, quote, "One page of talking points was prepared to guide the temporary employees in their calls to third-party organizations."

The talking points are attached here at Tab A?

Mr. BONNER. Yes, sir.

Mr. INSLEE. Now I want to make clear, so that everybody understands, you told the committee staff—and I don't know if this was under oath or not, but you told the committee staff—that you had a talking point memo; you used it to train your employees in their conversations with third-party organizations. And that document makes reference to a doubling of electrical rates.

Now isn't that the situation here?

Mr. BONNER. Yes, sir. The submittal that I believe you are quoting from, the August 12th submittal from Akin Gump, our representative law firm, says that the talking points were prepared to guide temporary employees.

And so, sir, what I am saying is, I don't know and we certainly will get back to you whether that was used or not.

But what I do know as a matter of fact is, that went to all the groups, all the 50—all the 43 groups that wrote, that were legitimate, as well as the fraudulent letters, all did not contain—none of them contained any reference to a doubling——

Mr. INSLEE. That is great. I am not asking you about the letters. I am asking about the phone calls.

We asked you what you used to train people. You sent us Tab A. It said—it made reference to doubling electricity. You haven't sent us any other, Tab B; you haven't sent us any other training document, have you?

Mr. BONNER. Well——

Mr. INSLEE. Just answer it "yes" or "no." We have limited time here.

Mr. BONNER. I am trying to give you the best answer I can, sir.

Mr. INSLEE. Let me just ask you, did you send us any Tab B, C or D of any training documents?

Mr. Ross. Mr. Chairman, if Mr. Inslee wants to ask——

The CHAIRMAN. Could you identify yourself?

Mr. ROSS. Yes, I am Steven Ross from Akin Gump. If you are asking a question about the letter that we wrote, we will be happy to respond. I don't think it is fair to ask Mr. Bonner, who is not the author of that letter about that kind of parsing.

Mr. INSLEE. Let me just ask you, you are Mr. Bonner's attorney, correct?

Mr. ROSS. Correct.

Mr. INSLEE. So let me ask you, did you send us any Tab A, B, C or D of any other training document, other than what was referenced in your letter of August 12, 2009?

Mr. ROSS. If you look at our letter, I think we describe it as a document we prepared——

Mr. INSLEE. You are a lawyer. You should know it helps to answer the question.

Did you, sir, send us any Tab A, B, C or D of any other training document other than Tab A that made reference to doubling electrical rates? That is a simple "yes" or "no."

Mr. ROSS. No. There is no other tab.

Mr. INSLEE. Thank you. That is all we need, sir. I am going to ask Mr. Bonner a question.

Mr. Bonner, your attorney, when we asked you—and it shouldn't take this long to get to the bottom of this; and if you could answer the questions, it would hurry it up.

We asked you what you told people. You told us you had a training document. It made doubling electricity part of the discussion, and you did not provide us any other training document other than that one; is that correct?

Mr. BONNER. What is correct is what Akin Gump submitted to you, as Steve Ross just told you. We are prepared to give you further information, as you would like.

Mr. INSLEE. Now, it appears from this, to me, highly likely under these circumstances that at least some of your employees called people up and tried to scare the dickens out of them, telling them that there was a potential that their electrical rates were going to double as a result of some legislation.

Now, have you tried to find out who was called and told that so that you can make that right and let them know they were defrauded about that misstatement?

Mr. BONNER. What I do know they were all told was—because it is what was put in front of them in writing so that is how I am

sure that it happened—was that their cost of electricity could go up; and that they were, as I wrote in the letter, opposed to unaffordable increases in electricity.

We—and that is what is in the letter.

Mr. INSLEE. So, Mr. Miller, having heard of this, that the people that you paid, according to their lawyer, used a training document to train their people to tell citizens of this country that their electrical rates were going to double potentially if this legislation passed.

Have you taken any action to fix that misrepresentation that took place at least at your initiation?

Mr. Miller. First of all, we didn't pay Hawthorn—Bonner, and we are not going to.

But secondly to your question, the first week of August, after this story broke and we realized that perhaps not all of the local organizations had been contacted, but whether they had or hadn't, our staff contacted each one of these affected organizations, personally, with phone calls. The only one that we were not able to contact directly was the gentleman with the Albemarle Charlottesville chapter of the NAACP so we sent a Federal Express letter to him, a letter of apology, for which we have received that it was received.

So we absolutely expressed our deep apology to them for what had happened. We couldn't apologize for the doubling number here because the first time that we knew about that—or we could have later on, I suppose, but we didn't know anything about the fact that the Bonner folks may have used this doubling thing until we just recently have seen the submissions.

Mr. INSLEE. So are you going to try to cure that misrepresentation now with the people who were given that misrepresentation?

Mr. MILLER. I am absolutely happy to.

Mr. INSLEE. What are you going to do about that?

Mr. MILLER. Well, a second time, I am happy to communicate with them orally and/or in writing to say if they received from representatives of Bonner & Associates a representation that under the Waxman-Markey bill, the electricity rates will double, that is not our—that has never been——

Mr. INSLEE. I am not talking about just these people that wrote letters falsifying the NAACP. I am talking about the people, that could be thousands of people, that Mr. Bonner's organization called and tried to defraud them into thinking their electrical bills were going to double as a result of this legislation. I am talking about those people that got the calls.

What are you going to do to tell those people that they got a load of bunk from this organization using your money? What are you going to do about that?

Mr. MILLER. The investigation that Venable did showed that of the 58 letters that Mr. Bonner's firm obtained, that 44 of those were legitimate letters that these entities submitted, and——

Mr. INSLEE. Mr. Miller, I am sorry to interrupt. I don't like to interrupt witnesses. But you are just not answering the question.

I want you to listen to my question.

Mr. MILLER. Yes, sir.

Mr. INSLEE. What are you going to do about the people that Mr. Bonner's organization apparently—or probably, I believe—or may

have called and told that their electrical rates may double, fraudulently using money that in one way or another came from you? What are you going to do about that misinformation?

Mr. MILLER. I would be happy to send a letter to each organization that Bonner & Associates reached out to as a follow-up to this hearing to say to them that if, in fact, someone on behalf of Bonner & Associates said that their electricity rates would double here, that because of the Waxman-Markey bill, that that is not a position that ACCCE has ever taken.

I am happy—all I know about are the 58 organizations where letters came from. I don't know how many others were called.

Mr. INSLEE. Would you favor me with a copy of those letters when they go out, please?

Mr. MILLER. Absolutely. Absolutely.

Mr. INSLEE. Thank you. Because I think you need to start sharing that information with Members of the U.S. Senate. And I will tell you why.

Our Nation is involved in a great discussion about how to deal with this problem of CO_2 in the atmosphere. I think there are some ways that the coal industry can play a productive and positive role in that discussion, including advocating for research for ways to sequester CO_2, research that I have wholeheartedly supported and voted to put $1 billion a year in for research in the hope that we can find a way to sequester that CO_2.

But this participation of your organization while the Senate is debating this issue while you have let this stand, you should make a full court press to go over and tell every Member of the U.S. Senate, this is not going to double people's electrical rates, you know it is not going to double electrical rates, you are sorry that you attempted to defraud—you didn't attempt, but somebody using your money attempted to defraud people to that effect, and you don't want them making a decision based on that fraud.

Now, I think you should do that with Members of the U.S. Senate very specifically and personally by you, the guy who is responsible for part of this. Now, will you do that?

Mr. MILLER. I am not certain that I can personally see all 100 Members, but I will tell you and the other members of the committee that we will be extremely responsible; and any assertions that we make here in regards to costs that we will share with Members of the United States Senate and subsequent discussions with Members of the House that there is clearly a range of belief here on what these price increases may be.

And, Mr. Inslee, the price increases that are going to take place here will widely vary depending on what kind of provisions are in the bills. Will there be a safety valve or a price collar? Will there be carbon capture and storage, not only funding, but the framework for how pipelines are going to be sited? And there are many, many aspects of this that, depending on the final details, the costs will vary greatly.

And so we will, as we have in the past, make sure that people understand that under any rigorous climate change regime, energy prices will go up. Variance of that will be dependent upon about what the provisions of the final bill will look like.

Mr. INSLEE. I will look forward to evidence that you are broadly trying to tell the American public and the U.S. Senate that the CBO and EPA did an analysis of the bill and concluded that there would not be any significant increase in utility bills; in fact, low-income families could actually see a benefit because of the provisions we built into the bill to help low-income families; and that a cost estimate in total is less than a postage stamp a day for a family of four.

I will look for public evidence that you are making that clear to the public. And, frankly, I think you got that obligation, given what went on here. And I hope that you will fulfill it. Thank you.

The CHAIRMAN. The gentleman's time has expired.

Let me say this to you, Mr. Miller. Here is a New York Times story in early August. What the New York Times is reporting here is that it says Duke Energy also left the American Coalition for Clean Coal Electricity, citing climate policy, quote, "It was clear that many influential members could never support climate legislation in 2009 or 2010, no matter how it was written, Tom Williams, a Duke Energy spokesman said."

And so, again, I agree with the Duke Energy conclusion, I think it is very consistent with what happened on that Thursday and Friday before we cast the vote, at the coal coalition, that they were trying to defeat the legislation. I think the e-mails that we have been able to unearth and identify points in that direction as well; that once someone was committed to voting "no" on final passage, that they could move on, and Mr. Bonner and the Hawthorn Group and all of the rest of your lobbyists who had been hired for this effort could continue to focus on obtaining the "no" votes.

But I do believe that you were given notice. I mean, Mr. Bonner fired the temporary employee on the 23rd. The vote is on the 26th. You have notice by Wednesday night, 2 days before the vote, that this is information in the hands of Congressmen that could mislead them about whether or not they should vote for the Waxman-Markey bill.

So I do believe it comes back to you. And I do believe that Duke Energy, in leaving your coalition, one of the largest southern utilities, is accurate in that assessment. And that is why, again, as we are looking at this, it comes back to you.

It comes back to your organization, Mr.Miller; and going forward, I think it puts a real burden on you to prove that you do want legislation and that you—that you are not going to allow for this type of activity to continue, you are not going to allow for misinformation to be disseminated in your name, and that it will be a debate that will be based upon accurate representations of what is occurring.

Because by far the greatest responsibility is on your shoulders, given the fact that you knew 2 days before the vote; because this was an agenda that I think—Duke Power and I at least believe—was aimed at killing the legislation; and that in 2009 and 2010 that, if that could be achieved, then that would be the goal.

So that is my conclusion. I don't know, Mr. Inslee, if you have any concluding statements that you want to talk about at this time.

Mr. INSLEE. I guess my only statement would be this:

Everyone is capable of making mistakes. There are gradients of whether it is negligence, carelessness, recklessness or intentional. I am just saying at how people look at organizations is how they respond after that happens. And I just have to say to Mr. Miller specifically, I have not seen evidence yet that you have tried to repair the disinformation campaign that associated here adequate to the nature of this debate.

And I think you have an opportunity to do so. I just hope you take it. Thank you.

The CHAIRMAN. Let me ask one final question of you, Mr. Bonner.

Did you discipline, fire or place on administrative leave any permanent Bonner employee as a result of this incident?

Mr. BONNER. No, sir.

The CHAIRMAN. You did not?

Mr. BONNER. No.

But I will say to you, sir, that for me personally—my name is on the door; it was an awful experience, something I am very regretful happened, something I am going to do Herculean efforts, that I hopefully demonstrated at the beginning of which to the committee to make sure it never happens again.

The biggest penalty was paid, is being paid by me personally; 25 years I have had this business, and I can't tell you how bad I feel personally about this. It is a small business, we are not a big corporation; and it is something that I want to be able to turn around, something that I want to earn a reputation as the best in the business from corrective action we have taken. And the penalties have been paid by me.

The CHAIRMAN. Well, Mr. Bonner and Mr. Miller, I think here is what we learned today.

We learned that the coal coalition learned 2 days in advance of the historic vote on the House floor that a fraud had been perpetrated. Mr. Bonner had sent that information to the coal coalition. But although the coal coalition knew of this, it took precious little effort to ensure that Members of Congress knew that this fraud had been perpetrated.

My own feeling is that while you might point the finger back at a rogue subcontractor and a rogue temporary employee, that since you did have notice 2 days in advance that the responsibility rested on your shoulder to make sure that your coalition, the coal coalition, notified the NAACP, the American Association of University Women, who have built over generations their reputation, that this fraud had been perpetrated, that the responsibility was on your shoulder.

They are outraged. So am I. You had a much higher responsibility than it appears you discharged in terms of ensuring that this was corrected before that historic vote.

You know, the ultimate question framed by Senator Baker 35 years ago is still relevant here: What did you know? When did you know it? And what did you do in order to correct what was obviously wrong that was occurring under the guise of your responsibility?

And so that is what is really, in my opinion, what you have to conclude that occurred here.

The goal from the record was that it was to obtain "no" votes, opposition votes to clean energy bill; and that as soon as that "no" vote was obtained, the focus went on other Members. It was clear that it was going to be a very close vote, and it was clear that it was also in the coal coalition's interest to not immediately correct the record. And there is little evidence that the kind of active effort that should have been made did occur.

So we thank all of you, the witnesses, for being here today, and we thank especially the University Women and you, Mr. Shelton, representing the NAACP, for contributing to this hearing.

We are going to proceed now for the rest of the year in trying to develop legislation that truly goes to the heart of the responsibility that we have in order to protect our planet. It is running a fever; 40 percent of that fever has been created by coal that has been burnt in our country and around the world. We have a responsibility to put together legislation so that our country will be the leader.

My hope, Mr. Miller, is that your coalition will decide that you want to work towards getting "yes" votes and to do so in a way that makes our country the leader; and that the impression that Duke Energy has—and, I think, many others—that you do not want legislation under any circumstances in 2009 and 2010 is wrong; and that we not hear again information about the science that is being questioned by your organization, the doubling of electricity rate, the outrageous information that is coming forward is repeated.

And so that is the hope that we have that we can work together.

But this hearing, I think, has helped to illuminate the pathology that unfortunately existed in our political system in the first 6 months of this year in trying to debate this issue. And perhaps, in some way, this hearing is going to help going forward, to make sure that it does not occur again.

This hearing is adjourned.

[Whereupon, at 12:55 p.m., the committee was adjourned.]