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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT

ENERGY POLICY ADVOCATES, Petitioner, v. THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, Respondent.	Case No. 22STCP03214 **DECLARATION OF CHRISTOPHER HORNER IN SUPPORT OF PETITION FOR WRIT** Trial Date: December 14, 2023 (*Reserved*) Time: 9:30 a.m. Place: Dept. 85 Petition filed: August 30, 2022

I, Christopher Horner, declare:

INTRODUCTION

1. I make this declaration in support of the Petition for Writ filed by Petitioner Energy Policy Advocates ("EPA") in the above-captioned proceeding against Respondent The Regents of the University of California ("Regents"). In this Declaration, I address the Regents' response to the California Public Records Act ("CPRA") request at issue in this matter dated August 2, 2021 (the "8/2/21 CPRA Request")[1], and also set forth my opinions based on my experience with open records requests in California and nationwide, particularly as they relate to energy, environmental policy, and the global warming debate. Except as qualified, I make this declaration based on my personal

[1] While the Petition also references two other related CPRA requests made by EPA, EPA has determined that the trial on the Petition should exclusively address the issues raised regarding the 8/2/21 CPRA Request since those are the issues of the greatest general import.

and firsthand knowledge of those facts hereinafter set forth and could and would testify competently thereto under oath if called as a witness.

2. I obtained my *Juris Doctor* from Washington University in St. Louis in 1991 and am admitted to practice law in the District of Columbia. I have spent most of my professional life since 1997 requesting or assisting others in requesting, assessing and disseminating public information, pursuant to state and federal open records laws. Those pursuits have been the principal focus of my work for more than the past decade. These requests typically seek public information to educate about how public institutions have been or are being used, with whom, and how they came to be used that way. These requests require litigation when an agency does not respond as prescribed in the relevant statute or withholds all or parts of records in ways with which I, my colleagues or my client do not agree is proper. I have made, provided legal assistance in other parties making, and/or participated in litigation over hundreds of such requests to federal agencies, state executive and attorneys general offices and other agencies, and over two dozen academic institutions.

3. I came to this work after learning, relatively and somewhat embarrassingly late in life but at least first-hand, about the business of leveraging pressure campaigns to influence public institutions. Specifically, I began using open records laws to explore public-private interplay after, and in great part inspired by, an eye-opening stint with a Houston-based energy company in 1997, after having left my law firm to become the company's director of federal government relations (in a non-attorney capacity). I was gone from the company's ranks within weeks, about four years before it found itself in the news and its very name, Enron, became a cultural metaphor in 2001. After arriving at Enron I helped create an uncomfortable work environment for myself by indelicately voicing concerns over the company's leading role in what was becoming a "global warming" industry. I was particularly struck by a meeting I had attended on the company's behalf, in a large national law firm's Washington, D.C. conference room among a Who's Who of environmentalist pressure groups as well as senior representatives of individual companies and trade associations representing several industry sectors, discussing how to ensure U.S. participation, despite public and congressional opposition, in what several months later would be called the Kyoto Protocol, a "global warming" treaty. As Lawrence Solomon of Canada's *Financial Post* wrote as part of a series

exposing industry's driving role behind this pact and related policies, Enron was the early ringleader of the global warming industry:

> Enron Chairman Kenneth Lay...saw his opportunity when Bill Clinton and Al Gore were inaugurated as president and vice-president in 1993. To capitalize on Al Gore's interest in global warming, Enron immediately embarked on a massive lobbying effort to develop a trading system for carbon dioxide, working both the Clinton administration and Congress. Political contributions and Enron-funded analyses flowed freely, all geared to demonstrating a looming global catastrophe if carbon dioxide emissions weren't curbed. An Enron-funded study that dismissed the notion that calamity could come of global warming, meanwhile, was quietly buried.2
>
> To magnify the leverage of their political lobbying, Enron also worked the environmental groups. Between 1994 and 1996, the Enron Foundation donated $1-million to the Nature Conservancy and its Climate Change Project, a leading force for global warming reform, while Lay and other individuals associated with Enron donated $1.5-million to environmental groups seeking international controls on carbon dioxide.3

In December 1997, immediately on the heels of the 1997 Kyoto negotiation, CEO Ken Lay received a memo titled "Implications of the Climate Change Agreement in Kyoto & What Transpired" from Enron's point-man on the issue ("You know that I am responsible for developing "climate change" polices that promote our products and services"[4]), one who urged a (different) opponent of this form of corporate "rent-seeking" (*infra*) to come around in an email, Subject line: "Climate Change/work with me to make Enron rich."[5] The memo noted, *inter alia*, "this treaty is exactly what I have been lobbying for," "This agreement will be good for Enron stock!!," "if implemented, this agreement will do more to promote Enron's business than will almost any other regulatory initiative outside of restructuring of the energy and natural gas industries in Europe and the United States," "Enron has

[2] Sadly, no donors at the time or since have had the vision to organize an "Enron Knew" campaign.
[3] Lawrence Solomon, "Enron's Other Secret", *Financial Post* (Canada), May 30, 2009, available at https://ep.probeinternational.org/2009/05/30/enrons-other-secret/. This was "real money" at the time.
[4] Memo from John Palmisano to Steve Kean, Cynthia Sandherr, February 28, 1997, available at https://climatelitigationwatch.org/wp-content/uploads/2021/09/Principal-Enron-docs-11.11.15.pdf.
[5] https://climatelitigationwatch.org/wp-content/uploads/2021/09/Work-with-me-to-make-Enron-rich.pdf.

immediate business opportunities which derive directly from this agreement," "Enron now has excellent credentials with many 'green' interests including Greenpeace, [World Wildlife Fund], [Natural Resources Defense Council], German Watch, the U.S. Climate Action Network, the European Climate Action Network, Ozone Action, WRI, and Worldwatch, " and therefore that "This position should be increasingly cultivated and capitalized on (monitized)." (sic)[6]

4. Monetizing a (at the time) "global warming" industry was Enron's Big Idea. It planned on making money trading ration coupons, or "carbon credits", and from government policies juicing revenues to the then-world's largest windmill company which Enron had recently purchased (Zond Wind, which became Enron Wind). This required the system to be designed according to or as close as possible to Enron's and its peers' specifications. This was revelatory to me, though I came to learn just how widespread are these "Baptist-and-Bootlegger coalitions," which is the term coined by then-Professor and now Dean Emeritus at Clemson University, Bruce Yandle.[7] The Enron, *et al*., group of industry lobbies planned to use the "global warming" issue to obtain from government policy what economists call "rents".[8] Again quoting Lawrence Solomon, "We all know that the financial stakes are enormous in the global warming debate—many oil, coal and power companies are at risk should carbon dioxide and other greenhouse gases get regulated in a

[6] Memo from John Palmisano, "Implications of the Climate Change Agreement in Kyoto & What Transpired" (1997). https://web.archive.org/web/20110820070144/http://www.politicalcapitalism.org/enron/121297.pdf

[7] See, e.g., Testimony before the United States Senate Committee on Environment and Public Works Honorable Barbara Boxer, Chairman On the U.S. Climate Action Partnership Report, Fred L. Smith, Jr., President, Competitive Enterprise Institute, February 13, 2007, available at https://govoversight.org/wp-content/uploads/2021/09/fred.writtentestimony.senate.pdf.

[8] "Cap-and-trade" legislation was for a time the approach selected by the political class, including Enron. See, e.g., Jim Tankersley, "Industry Leaders join Obama on emissions limits," *Los Angeles Times*, May 18, 2009, discussing the passage, at long last (in one legislative house, only), of the Waxman-Markey "cap-and-trade" legislation. See also President Obama's serial use of language in support of these policies, that he would "finally make clean energy *the profitable kind* of energy in America" (emphasis added)(in, e.g., 2010 State of the Union address, https://obamawhitehouse.archives.gov/the-press-office/remarks-president-state-union-address)..

manner that harms their bottom line. The potential losses of an Exxon or a Shell are chump change, however, compared to the fortunes to be made from those very same regulations."[9]

5. Industry participants, like Enron, which had bought uneconomic assets or otherwise made financial arrangements ("bets") in anticipation of getting this agenda in place — which assets would then be rewarded by government policies — joined with, e.g., the Union of Concerned Scientists (see, *infra*) to (at the time) rather quietly lobby for policies in the name of the threat of catastrophic man-made global warming, soon to be re-branded as "climate change" and "clean energy economy."[10] Later that year, as affirmed by certain internal Enron documents which emerged and were reported in a Robert Novak column in, *inter alia*, the *Washington Post*, the public learned of an August 1997 Oval Office meeting between Enron's Ken Lay and BP's John Brown with both President Clinton and Vice President Al Gore.[11] There, according to a memo reported in the Novak column, Ken Lay was to advise the President to disregard the unanimous Senate instruction under the Constitution's "advise and consent" clause just over a week prior, on July 25, 1997, and agree to the Kyoto Protocol, and also ensure that the agreement include "cap-and-trade" which, of course, Enron would help design. Unanimous Senate instruction under Article II, Sec. 2 of the U.S. Constitution notwithstanding, President Clinton did in fact enter Kyoto by the signature, on November 12, 1998, of Acting Ambassador to the United Nations Peter Burleigh.

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[9] Lawrence Solomon, "Enron's Other Secret", *Financial Post* (Canada), May 30, 2009.

[10] After the November 2009 "Climategate" email scandal as well as poll-testing of the issue led "global warming" to be been rebranded "the climate crisis" and the focus shifting to a line that somewhat nods to the actual genesis of the agenda, "the clean energy economy." See, e.g., Edward Felker and Stephen Dinan, "Democrats urged to play down 'global warming'", Washington Times, June 19, 2009 https://www.washingtontimes.com/news/2009/jun/19/party-memo-urges-democrats-to-fix-pitch-on-climate/; to the displeasure of some advocates, see, e.g., "When did 'climate change' become 'clean energy'?" (print and syndication title (see, e.g., https://madison.com/ct/news/opinion/column/maxwell-t-boykoff-when-did-climate-change-become-clean-energy/article_78e0aaec-6a34-5439-b721-31085e6041a8.html), Washington Post, February 5, 2012, https://www.washingtonpost.com/opinions/a-dangerous-shift-in-obamas-climate-change-rhetoric/2012/01/26/gIQAYnwzVQ_story.html; speaking of re-branding, the Post has elected for the more ominous and lecturing on-line title, "A dangerous shift in Obama's 'climate change' rhetoric".

[11] See, e.g., "Enron's Secret Energy Plan," Chicago Sun-Times, January 17, 2002.

6. At the time, a mere six years out of law school, these coalitions and the cavalier approach to, e.g., "advice and consent" in pursuit of an agenda rather shocked my naïve, younger self. I had not yet learned the terrible economic and social costs of these "global warming" policies, particularly on seniors and the poor and most notably from death of the alone from hypothermia, but instead this experience prompted my early forays into the freedom of information realm by probing further into the role of Enron and others in advancing this agenda in the federal government, from correspondence to rosters of participation in trade junkets. I inquired after records discussing the scientific, economic, and political angles, moving to a range of issues as they emerged or developed and seeking the deliberations in agencies throughout government about the relationships, the costs, and the agendas of those in government. In the two-and-a-half decades since and particularly the most recent, I have maintained a strong emphasis in my work on open records requests, litigation, and advice. I made and have continued pursuing the request at issue in this matter on behalf of several public policy and governmental transparency groups including Petitioner Energy Policy Advocates.

6. My efforts are often successful in obtaining and broadly disseminating public information, through publication and/or coverage in, e.g., the *Wall Street Journal* news, editorial and opinion pages, *Washington Times* news and opinion pages as well as numerous on-line outlets. Recipients of information requests and their allies also target my work for criticism, often on the grounds that these requests reflect *the wrong kind of people* seeking access to public information, for example in the *Washington Post* editorial page (*infra*). *Politico* wrote in its June 2013 article "Master of FOIA" that my work is that of "a determined digger" who "bedevils the White House" with Freedom of Information requests. This alludes to my having discovered then-U.S. Environmental Protection Agency Administrator Jackson's use of a false-identity email account in the name of "Richard Windsor," in violation of the Federal Records Act and of course increasing the chance that

FOIA productions seeking Ms. Jackson's public-record correspondence as EPA Administrator would not be properly located or released. *Politico* noted, *inter alia*, "Horner's far from a pioneer in using FOIA, of course. Environmental groups file most FOIA requests with EPA, and businesses often use the law to acquire information on competitors." In 2014 *The Hill* named me one of its "100 People to Watch" for these efforts[12], and the *Washington Examiner* wrote that "Horner has been busy busting what he sees as absurd global warming claims and the federal government's deepening lack of transparency"[13]. I have given addresses on the topic of my open records work in numerous places throughout the United States, and also, e.g., to policy-attuned audiences in London and Munich some of whom, I am heartened to see, have picked up the mantle. The public record reflects some of what I also have been otherwise informed of, that I have also been the subject of numerous open records requests made to state and federal agencies by other parties, including pressure-group activists and journalists, seeking to learn and disseminate information about how public institutions are used and with whom, which I understand to be part of the package of dealing with public entities.

7. I have written four books, three of them on energy and environmental policy and politics, two of which were national best-sellers. The fourth book was on federal and state open records laws and how to use them. Three of these books included a focus on information obtained through public record requests as well as on efforts to fight the release of such information. One of these books addressed in detail the "Climategate" affair. That involved the anonymous release of thousands of pages of correspondence opening a window onto the taxpayer-financed climate-science industry, many of which records were subject to numerous open records laws — state and federal, and non-U.S. — but whose custodians, according to correspondence among themselves, were not interested in complying with or otherwise responding to requests for data (even, expressly, because

[12] http://thehill.com/business-a-lobbying/315837-100-people-to-watch-this-fall-?start=7.
[13] http://washingtonexaminer.com/chris-horner-foia-watchdog-demands-transparency-from-governments-global-warming-advocates/article/2544632.

that could assist the requesters in possibly finding fault with the scientists' claims, previously deemed an elementary component of science). This reluctance led to one principal having, according to correspondence, "conveniently lost many emails,"[14] "moved all their emails from all the named people off their PCs and they are all on a memory stick,"[15] suggested to colleagues "to delete all emails at the end of the process" just in case it turns out the records are subject to open records laws,[16] admitting in an email to colleagues that he "deleted loads of emails" despite at first claiming, publicly, "We've not deleted any emails or data here at [his institution]"[17] while also instructing a colleague "delete after reading - please!,"[18] and, "With the earlier FOI requests re David Holland, I wasted a part of a day deleting numerous emails and exchanges with almost all the skeptics. So I have virtually nothing. I even deleted the email that I inadvertently sent. There might be some bits of pieces of paper, but I'm not wasting my time going through these".[19]

8. Other behavior obstructing public access to public records, which I have personally experienced in my work involves facts similar to those present in the matter at issue here, when institutions tasked individuals who are also the principals in the records sought with conducting the initial canvass for potentially responsive records to be turned over for review and possible release. As noted, *infra*, this situation has resulted in officials, including faculty, deciding they do not appreciate the records request and, e.g., for one reason or another concluding that some or all

[14] https://tomnelson.blogspot.com/search?q=conveniently+lost+many+emails.
[15] Id.
[16] https://tomnelson.blogspot.com/2012/01/email-4778-may-2009-phil-jones-to.html.
[17] Leo Hickman, "Climate scientist at centre of leaked email row dismisses conspiracy claims," The Guardian, November 24, 2009, https://www.theguardian.com/environment/2009/nov/24/climate-professor-leaked-emails-uea.
[18] http://tomnelson.blogspot.com/2011/11/climategate-2_8905.html.
[19] Id. See also, https://climateaudit.org/2011/02/23/new-light-on-delete-any-emails/, and Department of Commerce Inspector General's report available at Department of Commerce, Office of Inspector General, "Response to Sen. James Inhofe's Request to OIG to Examine Issues Related to Internet Posting of Email Exchanges Taken from the Climatic Research Unit of the University of East Anglia, UK," February 18, 2011, pp. 12–16, available at https://www.oig.doc.gov/OIGPublications/2011.02.18-IG-to-Inhofe.pdf.

potentially responsive records are not "records" under the law in question, or anyway would be exempt if they were, and so the individual does not turn them over for further processing.

9. It is my experience that, with exceedingly rare exception, universities are the institutions most reluctant to cooperate with public records requests, and have even profligately offered false "no records" responses, typically after administrations ask the faculty whose correspondence or other records is sought to make the initial determination whether they possess any responsive records.

10. Consistent with this reluctance and attitude, it is my opinion that — despite substantial public financing in the scores of billions of dollars nationally per year — academic institution officials and their faculties often hold the view that lawmakers were mistaken to include public schools in open records statutes, or anyway that universities shouldn't be forced to comply with these laws. Whether derived from this seemingly widespread attitude or not, it is my experience that requests to universities disproportionately result in the employment of *ad hominem* in support of the idea of selective application of open records laws (the "bad person" (non-)defense). This is sometimes — as in a prior case involving Regents in which I was involved — express, though more typically is the work of supporters or surrogates likely, in my opinion, because it is widely known among any party tasked with processing open records laws that these considerations are inherently irrelevant. Of course, demands that these laws be applied unevenly so as to afford unequal rights of access to public information inherently require irrelevant if extended *argumentum ad hominem*.

11. It is my experience that Respondent's practices in responding to CPRA requests for records that illuminate the Climate Change Agenda ("Climate Change Agenda Records") includes both (a) the unjustified delay of responses to, and the unjustifiably delayed production of documents demanded in, requests for Climate Change Agenda Records, and (b) the assertion of unwarranted

claims of exemption and also sweeping and improper claims of "not public records" in attempts to avoid the production of key Climate Change Agenda Records.

12. It is my opinion that these practices are intentional. Indeed, as long ago as September 2012, UCLA published a Statement on the Principles of Scholarly Research and Public Records Requests (the "September 2012 Statement on Principles of Scholarly Research and Public Records Requests") which remains in effect today that states, in relevant parts, as follows:

> "… faculty scholarly communications must be protected from PRA and FOIA requests to guard the principles of academic freedom, the integrity of the research process and peer review, and the broader teaching and research mission of the university. Moreover, these requests have increasingly been used for political purposes or to intimidate faculty working on controversial issues. These onerous, politically motivated, or frivolous requests may inhibit the very communications that nourish excellence in research and teaching, threatening the long-established principles of scholarly research. … *Faculty often choose research topics that are highly relevant to society and therefore may generate strong reactions*. These topics may be controversial and highly politicized (*e.g.* global warming) … Faculty must be free to work on these important topics without fear of retribution, threats or interference." (Italics in original.)

13. The use of public institutions in pursuit of the Climate Change Agenda, whether academia or law enforcement, is of great public interest, is a principal area of focus of EPA, and is the source of much financial support by private, outside parties to these institutions and officeholders who obtain substantial contributions to use their institutions in assisting this effort. Universities, including mostly private institutions such as the University of Chicago, Harvard, Columbia, New York University law schools, but also the University of California at Los Angeles and University of Minnesota School of Law, have taken it upon themselves, in concert with activists, the plaintiff's tort bar, major financial contributors, and state attorneys general, to institute a national campaign of legal actions against ideological opponents ("climate denialists", to employ Prof. Horowitz's vocabulary). As Prof. Horowitz candidly if indelicately described this campaign in an email to her Institute's

principal non-governmental benefactor Dan Emmett, this entails "going after climate denialism—along with a bunch of state and local prosecutors nationwide"[20]. Law school clinics have been described as a "secret weapon" in the climate litigation campaign.[21] "Climate denialism" is nowhere an offense, but shorthand for pursuing (with "prosecutors nationwide") those viewed as standing in the way of certain desired "progress". That campaign has led to attorney general investigations of private parties[22], and targeted more than 100 research and advocacy groups, scientists and other private parties and entities.[23] One of these is the Competitive Enterprise Institute (CEI) with which I was affiliated for twenty years, including at the time it was subpoenaed in 2016[24].

14. This campaign flowed from a 2012 legal strategies meeting in La Jolla, California convened to contemplate the general failure of legislative efforts to impose the "climate" agenda and the use of courts to overcome that failure, to which end Co-Executive Director Horowitz asserts the Emmett Institute is dedicated (FN 20, *supra*). The summary of the La Jolla meeting stated, *inter alia*, "State attorneys general can also subpoena documents, raising the possibility that a single

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[20] "Hi Dan, Thought you would like to hear that Harvard's enviro clinic, UCLA Emmett Institute, and the Union of Concerned Scientists are talking together today about going after climate denialism [sic]—along with a bunch of state and local prosecutors nationwide. Good discussion." April 25, 2016 email from UCLA Law School's Cara Horowitz to Dan Emmett, namesake and funder of the Harvard and UCLA centers, Subject: See, e.g., https://climatelitigationwatch.org/on-the-subject-of-recruiting-law-enforcement-email-affirms-origin-of-prosecutorial-abuses/.

[21] "Yale's civil litigation clinic aims to train law students and make a difference," Stephanie Francis Ward, ABA Journal, April 1, 2018, https://www.abajournal.com/magazine/article/san_francisco_yale_civil_litigation_clinic.

[22] *People of the State of New York v PricewaterhouseCoopers and Exxon Mobil Corporation*, New York State Supreme Court, New York County, No. 451962/2016, and 1:17-cv-2301 in U.S. District Court, Southern District of New York; *People of the State of New York v. Exxon Mobil Corporation*, Supreme Court of New York Index No. 452044/2018; *Commonwealth of Massachusetts v. Exxon Mobil Corporation*, Suffolk County Superior Court, 19-3333.

[23] *See, e.g.*, Valerie Richardson, "Exxon climate change dissent subpoena sweeps up more than 100 U.S. institutions", Washington Times, May 3, 2016, https://www.washingtontimes.com/news/2016/may/3/virgin-islands-ag-subpoenas-exxon-communications/; Walter Olson, "Massachusetts AG to Exxon: hand over your communications with think tanks", June 16, 2016, https://www.overlawyered.com/2016/06/+setts-ag-exxon-hand-communications-think-tanks/.

[24] See https://cei.org/publication/first-amendment-fight-ceis-climate-change-subpoena/.

sympathetic state attorney general might have substantial success in bringing key internal documents to light. In addition, lawyers at the workshop noted that even grand juries convened by a district attorney could result in significant document discovery."[25] The same report also stated, "Equally important was the nearly unanimous agreement on the importance of legal actions, both in wresting potentially useful internal documents from the fossil fuel industry and, more broadly, in maintaining pressure on the industry that could eventually lead to its support for legislative and regulatory responses to global warming."[26]

15. Public records already obtained from UCLA and other institutions affirm certain details of the University's role, through its faculty's involvement in their official UCLA capacities, in this effort led by activist groups and the Attorneys General (AGs) of Massachusetts and New York, later joined by other AG offices. This role has included participating in that "secret meeting at Harvard" to brief not only state attorneys general staff and activists, but "prospective funders"[27] of a coordinated campaign pushing "potential state causes of action against major carbon producers"[28], which is the subject of great media and public interest due to the controversial origin of — and collaboration involved in — these investigations. A public record obtained from the California Office of Attorney General (OAG) titled "Technical Advisors and Experts" lists Prof. Horowitz

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[25] Climate Accountability Institute, *Establishing Accountability for Climate Change Damages: Lessons from Tobacco Control* (Oct. 2012), page 11, http://www.climateaccountability.org/pdf/Climate%20Accountability%20Rpt%20Oct12.pdf (Summary of the Workshop on Climate Accountability, Public Opinion, and Legal Strategies).

[26] Id. at 27.

[27] "We will have as small number of climate science colleagues, as well as prospective funders, at the meeting." March 14, 2016, email from Frumhoff to Mote; Subject: invitation to Harvard University—UCS convening. Obtained under same PRA request cited in FN 22, *supra*. https://climatelitigationwatch.org/wp-content/uploads/2018/08/BOOM-OAGs-flew-in-for-briefing-for-UCS-prospective-funders.png.

[28] "Confidential Review Draft—March 20, 2016, Potential State Causes of Action Against Major Carbon Producers: Scientific, Legal, and Historical Perspectives." Obtained in Energy & Environment Legal Institute v. Attorney General, Superior Court of the State of Vermont, 349-16-9 Wnc, December 6, 2017. https://climatelitigationwatch.org/wp-content/uploads/2018/08/FN-55-Harvard-AGs-briefing-UCS-fundraiser-agenda-copy.pdf.

among the presenters at that briefing, expressly as the "Andrew Sabin Family Foundation Co-Executive Director of the Emmett Institute on Climate Change and the Environment, Co-Director, UCLA Environmental law Clinic, UCLA School of Law, Los Angeles, CA."[29]. The agenda, obtained by the Energy & Environment Legal Institute in litigation with the Vermont Office of the Attorney General, shows that at this meeting, Prof. Horowitz advocated "climate" related "Consumer protection claims" be brought against energy companies. The Massachusetts Attorney General's Office sent five attorneys to this briefing,[30] and its subsequently filed complaint against ExxonMobil for "potential violations of the Massachusetts consumer protection statute" is now pending in a Massachusetts state court. From that "secret meeting", Prof. Horowitz wrote the breathtaking email to her principal (non-governmental) benefactor Dan Emmett, "Hi Dan, Thought you would like to hear that Harvard's enviro clinic, UCLA Emmett Institute, and the Union of Concerned Scientists are talking together today at Harvard about going after climate denialism--along with a bunch of state and local prosecutors nationwide. Good discussion."

16. The Law Clinic/Sher Edling Agreements' purported "client", Sher Edling, is a law firm that specializes in bringing contingency lawsuits against fossil fuel companies on behalf of public entities.[31] This litigation campaign in furtherance of an activist climate change agenda, and the gravity of the public's interest in the disclosure of the Law Clinic/Sher Edling Agreements is highlighted in three recent letters exchanged between Sher Edling's counsel, William Pittard of the law firm KaiserDillon PLLC, and Senator Ted Cruz (ranking member of the of the U.S. Senate Committee on Commerce, Science and Transportation), joined in the more recent correspondence by

[29] See https://climatelitigationwatch.org/wp-content/uploads/2018/04/Union-of-Concerned-Scientists-Technical-Advisors-and-Experts-1.pdf.

[30] *See, e.g.*, March 17, 2016, email from OAG's Melissa Hoffer to Harvard Law School's Shaun Goho, Subject: RE: SAVE THE DATE—HLS/UCS Meeting on April 25, 2016, listing Andy Goldberg, Glenn Kaplan, Christophe Courchesne, Richard Johnson as participants in addition to herself. https://climatelitigationwatch.org/wp-content/uploads/2019/10/MA-AAG-Hoffer-to-HLS-on-MA-OAG-attendees.pdf.

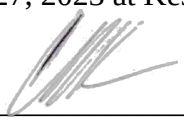
[31] https://www.sheredling.com/cases/climate-cases/

Congressman James Comer (Chairman of the House of Representatives Committee on Oversight and Accountability). Copies of these letters posted on a congressional website are attached according to their chronological order as Exhibit 1 hereto. Therein, Senator Cruz and Chairman Comer seek information concerning, among other matters, (1) the role played by third-party donations in Sher Edling's pursuit of its global warming agenda through litigation in federal and state courts, (2) whether "dark money" is fueling Sher Edling's litigation to accomplish a left-wing legislative goal: the eradication of fossil fuels and (3) whether the California fisc effectively subsidized Sher Edling's pursuit of its global warming agenda through the Law Clinic/Sher Edling Agreements.

17. It is my experience that public records acts generally are grounded in the principle of keeping governments and covered public institutions accountable, with tools to discourage as well as to defeat efforts by officials with such institutions to obstruct faithful application of the law.

18. It is my experience that certain parties, disproportionately represented among journalists and academics, believe that open records laws were designed *for them*, and the wrong kind of people do not have the same access. It is my opinion, based upon the totality of the events in this matter and indeed at least two prior requests made to Regents of which I am aware, that this same perspective is at play in the instant matter, manifested in the administration impeding release of records responsive to EPA's requests, and Regents' defense thereof in this Court.

I declare under penalty of perjury under the laws of California that the foregoing is true and correct, and that this declaration was executed on October 27, 2023 at Keswick, Virginia.



Christopher Horner