

October 7, 2011

VIA FEDEX

Randy M. Mastro
Direct: +1 212.351.3825
Fax: +1 212.351.5219
RMastro@gibsondunn.com

Client: T 19624-00020

Hon. Thomas P. DiNapoli
New York State Comptroller
Office of the New York State Comptroller
110 State Street
Albany, NY 12236

Re: Freedom of Information Law Request

Dear Comptroller DiNapoli:

I write on behalf of Chevron Corporation (“Chevron”), pursuant to New York State’s Freedom of Information Law (“FOIL”), New York Public Officers’ Law § 87 *et seq.*, to request copies of certain records, described in Section II of this letter. The requested documents pertain to your activities and those of your predecessor in office, Alan Hevesi, on behalf of a group of lawyers and consultants demanding a “settlement” from Chevron who have contributed to your campaigns and received your support.

Some of the relevant activities already have been documented through discovery in civil litigation in the Southern District of New York and other U.S. federal courts. This documentary evidence shows that you and your predecessor have issued public statements and taken official actions, purportedly as a result of your office’s own independent assessment, that were in fact coordinated with these same plaintiffs’ lawyers and consultants who have been orchestrating this scheme to extort a settlement from Chevron. This documentary evidence further demonstrates that these same plaintiffs’ lawyers and consultants have made monetary contributions to your campaign. For example, in an email produced pursuant to a court-authorized subpoena, Steven Donziger, the lead U.S. lawyer for the group suing Chevron in Ecuador wrote, “We are delivering a bunch of checks to DeNapoli [sic] today,” but “I am worried this might not be a great idea.” He then instructed an associate: “Take checks to his office and deliver them personally. Call me beforehand and I’ll tell u how to play it.” The next day, Donziger included in a list of completed tasks: “DiNapoli contributions are on the counter.” You have since supported shareholder letters and made public statements parroting the plaintiffs’ position, even after their fraudulent scheme was publicly exposed and excoriated by federal judges around the country.¹

¹ See *In re Applic. of Chevron Corp.*, 749 F. Supp. 2d 141, 147 (S.D.N.Y. 2010) (finding that “Donziger’s own words raise substantial questions as to his possible criminal liability and amenability to professional discipline”), *aff’d*, *Lago Agrio Plaintiffs v. Chevron Corp.*, 409 F. App’x 393 (2d Cir. 2010); *Chevron*

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Based on the evidence we have already obtained, we believe that an independent investigation of your office is warranted. And because additional, relevant documents are undoubtedly within your office's possession, custody, or control, we submit this FOIL request to you and the Records Access Officer for your office to obtain them.

I. Background to this Request

In 2003, U.S. and Ecuadorian lawyers filed a lawsuit against Chevron in Lago Agrio, Ecuador, asserting claims of environmental impacts allegedly stemming from Texaco subsidiary Texaco Petroleum Company's ("TexPet's") oil operations in Ecuador between 1964 and 1992. Chevron never operated in Ecuador. Despite the fact that TexPet and Texaco both existed as distinct corporations (and still do today), the lawyers sued only Chevron, whose sole connection to the case was the fact that it acquired Texaco's stock in October 2001. As multiple U.S. federal courts have recently noted, the Ecuadorian lawsuit has been marked by fraud by the lawyers representing the Lago Agrio Plaintiffs ("LAPs").

Chevron has thoroughly investigated the claims of social, health and environmental harms in Ecuador. At Chevron's request, many of the world's top toxicologists, epidemiologists, ecologists, anthropologists and geoscientists have considered the evidence, including more than 1,500 environmental samples, and have concluded that there is no scientific support for the claims.² To the contrary, all of the legitimate evidence presented to the Ecuadorian court demonstrates that former TexPet operations present no risk to residents' health, and have not resulted in any significant impact to groundwater, drinking water, biodiversity, or indigenous culture.

The environmental condition of the oil fields at issue was initially evaluated through a series of judicial inspections involving Chevron, the LAPs, and an independent panel of

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Corp. v. Donziger, 768 F. Supp. 2d 581, 636 (S.D.N.Y. 2011) (finding "ample evidence of fraud in the Ecuadorian proceedings" in granting a preliminary injunction), *preliminary injunction vacated*, *Chevron Corp. v. Naranjo*, 2011 WL 4375022 (2d Cir. Sept. 19, 2011); *see also Chevron Corp. v. The Weinberg Group*, No. 11-mc-00409-JMF (D.D.C. Sept. 8, 2011); *Chevron Corp. v. Page*, No. RWT-11-1942 (D. Md. Aug. 31, 2011); *Chevron Corp. v. Salazar*, No. 11-civ-3718, 2011 WL 3424486 (S.D.N.Y. Aug. 3, 2011); *Chevron Corp. v. Champ*, Nos. 1:10-mc-27, 10-mc-28 (W.D.N.C. Nov. 29, 2010); *In re Applic. of Chevron Corp.*, No. 10-cv-1146-IEG (WMC) 2010 WL 3584520 (S.D. Cal. Sept. 10, 2010); *In re Chevron Corp.*, 10-mc-00021 (JCH-LHG) (D.N.M. Sept. 1, 2010); *In re Applic. of Chevron Corp.*, No. CV-10-2675 (SRC) (D.N.J. June 6, 2010), *aff'd in part and remanded in part*, *In re Chevron Corp.*, 633 F.3d 153 (3d Cir. 2011) (all finding the crime-fraud doctrine applicable to discovery relating to various aspects of the scheme).

² The scientists' reports are publicly available in the Ecuadorian court's docket and online at www.chevron.com/ecuador.

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settling experts. After the first (and only) independent settling expert report supported Chevron's findings of no significant risk to human health, the LAPs' counsel covertly arranged for the judicial appointment of a single, ostensibly neutral Ecuadorian expert, Richard Stalin Cabrera Vega ("Cabrera"), to conduct a "global assessment" of liability and damages. Cabrera's official assessment was a fraud, ghostwritten by the LAPs' representatives, and then falsely passed off as the "independent" work of a court-expert, whom the LAPs portrayed as akin to a U.S. "Technical Special Master."³

To expose this fraudulent scheme, Chevron commenced several actions in United States federal courts, seeking discovery pursuant to 28 U.S.C. § 1782. One of these actions was brought against Steven Donziger, the chief architect of the LAPs' fraudulent scheme.⁴ In February 2011, Chevron commenced a related action in the Southern District of New York, seeking a declaratory judgment that the Lago Agrio judgment is unenforceable, and asserting civil RICO claims against Donziger and others involved in the fraud.⁵

Documents produced in these actions, as well as information that is publicly available, demonstrate that from around 2004 through to the present, the Office of the New York State Comptroller—under both former Comptroller Alan Hevesi and you—has been closely coordinating with Donziger, the LAPs and some of their financiers in an effort to pressure Chevron into settling the fraudulent Lago Agrio claims. Indeed, just days ago, on September 26, 2011, you published an article in the *Huffington Post*, completely ignoring the overwhelming evidence of fraud and corruption detailed in multiple federal court orders⁶ and

³ Ex.1 2008.12.01 Comments on the Report of the Court-Appointed Expert Richard Cabrera Vega in the Case of *Maria Aguinda y Otros v. Chevron Corp.*, Stratus Consulting.

⁴ *In re Applic. of Chevron Corp.*, 749 F. Supp. 2d 141, 147 (S.D.N.Y. 2010), *aff'd*, *Lago Agrio Plaintiffs v. Chevron Corp.*, 409 F. App'x 393 (2d Cir. 2010).

⁵ *Chevron Corp. v. Donziger*, 11 Civ. 0691 (LAK) (S.D.N.Y.).

⁶ *See Donziger*, 768 F. Supp. 2d at 636 ("There is ample evidence of fraud in the Ecuadorian proceedings. The LAPs, through their counsel, submitted forged expert reports in the name of [technical expert] Dr. [Charles] Calmbacher. Their counsel orchestrated a scheme in which [plaintiffs' technical consulting firm] Stratus ghost-wrote much or all of Cabrera's supposedly independent damages assessment without, as far as the record discloses, notifying the Ecuadorian court of its involvement. . . . When it became evident that the LAPs' improper contacts with Cabrera, including the pre-appointment meetings, ghost-writing, and illicit payments, would be revealed through the Section 1782 proceedings, LAP representatives undertook a scheme to 'cleanse' the Cabrera report. They hired new consultants who, without visiting Ecuador or conducting new site inspections and relying heavily on the initial Cabrera report, submitted opinions that increased the damages assessment from \$27 billion to \$113 billion."), *aff'd*, *Lago Agrio Plaintiffs*, 409 F. App'x 393; *In re Applic. of Chevron Corp.*, 749 F. Supp. 2d at 167 ("[T]here is more than a little evidence that Donziger's activities – as several courts already have held in the context of Section 1782 applications

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demanding that Chevron agree to a settlement.

This request seeks all records in the possession, custody or control of the Comptroller's Office that are related to these and similar efforts concerning the Lago Agrio case, which are specifically described below in Section II.

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against experts involved on the Lago Agrio plaintiffs' side – come within the crime-fraud exception to both the privilege and to work product protection.”); *In re Chevron Corp.*, 736 F. Supp. 2d 773, 776 (S.D.N.Y. 2010) (“[T]he [Crude] outtakes contain substantial evidence of misconduct in and relating to the Ecuadorian litigation.”); *Weinberg Group*, No. 11-mc-00409-JMF at 8 (“[T]here is more than sufficient evidence of a prima facie case that [plaintiffs’ consultant] the Weinberg Group’s work was part of a fraud upon the Ecuadorian court.”); *Page*, No. RWT-11-1942, Oral Arg. Tr. at 10:17-21, 11:13-23 (“I do think that probable cause has been established if for no other reason than for the production of the admittedly co-authored, or documents co-authored by [interns for the plaintiffs] the Pages, which has found its way into the decision in Ecuadorian court . . . So, at the end of the day, regardless of how I get there, and I get there, I get to the same place by at least four or five different routes. This information is very much discoverable. It is no longer privileged, and it is to be produced immediately.”); *Salazar*, 2011 WL 3424486 at *3 (“As to the crime-fraud exception, I concluded that Judge Kaplan had made findings that required application of that exception to information relating to three different subjects: (1) the report to which an expert’s name had fraudulently been appended (the ‘Calmbacher report’); (2) the report that was purportedly independent but had been ghostwritten by agents of the LAPs (the ‘Cabrera report’); and (3) the memoranda that were purportedly independent reports intended to supercede the Cabrera report, but which in fact simply repeated that report’s findings (the ‘cleansing memos’).”); *In re Applic. of Chevron Corp.*, 633 F.3d at 166 (“Though we recognize that the Lago Agrio Court may view what seems to us to be a conflict of interest differently than we do, we believe that this showing of [plaintiffs’ technical consultant] Villao’s dual employment is sufficient to make a prima facie showing of a fraud that satisfies the first element of the showing necessary to apply the crime-fraud exception to the attorney-client privilege.”); *In re Applic. of Chevron Corp.*, 2010 WL 3584520, at *6 (“There is ample evidence in the record that the Ecuadorian Plaintiffs secretly provided information to Mr. Cabrera, who was supposedly a neutral court-appointed expert, and colluded with Mr. Cabrera to make it look like the opinions were his own. Thus, any privilege which existed was waived; Respondents’ claim of privilege neither bars production of the subpoenaed documents nor gives [plaintiffs’ technical consultant] Powers a basis for refusing to testify.”); *In re Chevron Corp.*, Nos. 1:10-mc-00021-22, slip op. at 3-4 (D.N.M. Sept. 2, 2010) (“The release of many hours of the [Crude] outtakes has sent shockwaves through the nation’s legal communities, primarily because the footage shows, with unflattering frankness, inappropriate, unethical and perhaps illegal conduct.”); *Chevron Corp. v. Champ*, Nos. 1:10-mc-27, 1:10-mc-28, 2010 WL 3418394, at *6 (W.D.N.C. Aug. 30, 2010) (“While this court is unfamiliar with the practices of the Ecuadorian judicial system, the court must believe that the concept of fraud is universal, and that what has blatantly occurred in this matter would in fact be considered fraud by any court. If such conduct does not amount to fraud in a particular country, then that country has larger problems than an oil spill.”).

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A. Involvement of Comptroller Hevesi

Documentary evidence shows that former Comptroller Alan Hevesi, who held office from 2003 until 2006, when he left office as part of a criminal plea agreement, worked closely in supporting Donziger and the LAPs in their attempts to pressure Chevron into settling the Lago Agrio case. This record indicates there were likely several meetings, substantial communication, and a number of public efforts by Hevesi, such as sponsoring shareholder resolutions, which are further detailed below.

2005 Shareholder Resolution

Hevesi was central to Donziger's "Divestment Campaign," which was intended to "convince a mass sell-off of billions in [Chevron] stock by state pension funds," with Hevesi taking a "leadership role nationally on same with state comptrollers."⁷ In order "to keep a safe distance from these nasty trial lawyers," Hevesi maintained contact with Donziger through intermediaries, specifically Hevesi's lawyer Julie Gresham and, on Donziger's end, Amazon Watch.⁸ Hevesi acted in his official capacity, sponsoring the resolution on behalf of the New York Common Retirement Fund.

According to emails Donziger produced, in early 2004, Donziger and Bianca Jagger, former wife of Rolling Stones lead singer Mick Jagger, met with Comptroller Hevesi. Donziger also "had drinks with Hevesi's lawyer," Julie Gresham. Exs. 2-4. Following the meeting with Comptroller Hevesi, Donziger emailed fellow LAP attorney Alberto Wray ("Wray"), stating that Hevesi was "ready to send [a] letter to the [Chevron] Board of Directors demanding a meeting [and] organizing CALPERS and other states to join in. Building significant momentum." Ex. 5. Donziger also wrote in a July 2004 memo that "[environmental activist group] Amazon Watch and Ms. Jagger have organized several state pension funds that own stock in ChevronTexaco to reach out to company executives. This effort is being led by Alan Hevesi, Comptroller of the State of New York." Ex. 6.

Later that year, in November 2004, Comptroller Hevesi "host[ed] a meeting in his office for several shareholders and high-level ChevTex officials." Ex. 7. Donziger wrote to Wray and Cristobal Bonifaz ("Bonifaz"), another LAP lawyer, prior to Comptroller Hevesi's meeting, stating that "Hevesi will likely co-sponsor the shareholder resolution against CVX on the Ecuador issue, and . . . the fact that Hevesi is willing to make this commitment is huge." *Id.*

⁷ Ex. 9; Ex. 5; Ex. 6.

⁸ Ex. 3; Ex. 8.

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The following year, these efforts at coordination with the Comptroller's Office paid off for the LAPs. According to an email from Leila Salazar-Lopez, a representative of Amazon Watch, to Donziger, "Hevesi . . . agreed to co-file the [shareholder] resolution" in 2005. Ex. 8.

Comptroller Hevesi then actively publicized the involvement of the Comptroller's Office in the shareholder resolution. In April 2005, Comptroller Hevesi stated in a press release that "[a]s an institutional investor, I hope that the company will resolve its issues in Ecuador as soon as possible."⁹ Attempting to further leverage Comptroller Hevesi's involvement, Amazon Watch later openly copied Hevesi on an October 25, 2005 demand letter to Chevron. Ex. 11.

2006 Shareholder Resolution

In 2006, Comptroller Hevesi lent his support to another shareholder resolution, co-sponsored by shareholder activist group Trillium Asset Management ("Trillium"), asking Chevron's Board of Directors to disclose the costs of attorneys' fees, expert fees, public relations work, and lobbying costs related to the defense of the Ecuador litigation as well as the costs of remediation. Ex. 12. As in 2005, the New York State Common Retirement Fund, a Chevron shareholder, signed onto the resolution. *Id.*; Ex. 13.

Letter to SEC

Documents suggest that Comptroller Hevesi may have sent a letter to the SEC as part of Donziger's efforts to convince that agency to investigate Chevron. After Amazon Watch submitted a January 2006 letter to the SEC urging an investigation of Chevron, Donziger emailed Amazon Watch staffers, suggesting a "coherent strategy to build pressure for [Chevron's] April shareholder meeting." This strategy included convincing Comptroller Hevesi and others to send follow up letters to the SEC. Ex. 14. Donziger also sought to leverage Comptroller Hevesi's involvement with the SEC investigation in the press, specifically *The Wall Street Journal*, to "get [them] really excited." Ex. 15.

B. Your Involvement

The available documentary evidence demonstrates that, since succeeding Comptroller Hevesi, you also have worked closely with Donziger and the LAPs in their attempts to coerce Chevron into a settlement. You have supported shareholder proposals, published statements and letters critical of Chevron, lobbied the Attorney General's Office on the LAPs' behalf,

⁹ <http://chevrontoxico.com/news-and-multimedia/2005/0427-ceo-oreilly-reports-record-profits.html>.

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and published a press release and an online article urging Chevron to settle the Lago Agrio case. You have received thousands of dollars in campaign contributions from Donziger and his cohorts. These activities are further detailed below.

On the day you were appointed as Hevesi's replacement in February 2007, Donziger wrote, "the advantage of a guy like this is that he is political, meaning, if we show him how he can look good going after [C]hevron, he might be even more likely to help us."¹⁰

On November 17, 2008, you wrote to Chevron, questioning its defense of the LAPs' claims and the adequacy of Chevron's securities disclosures.¹¹ Citing the (now shown to be fraudulent) report of "court-appointed expert, Professor Richard Cabrera," you wrote that "Chevron's potential liability in this litigation may be as high as \$16 billion. In addition, the cost of defending this litigation, coupled with reputational harm that has resulted from widespread negative publicity, creates an unacceptable - and avoidable - risk to the Fund's investment." *Id.* You sought Chevron's response by December 15, 2008. *Id.*

Just weeks later, on January 8, 2009, Donziger emailed his associate Andrew Woods ("Woods") with the subject line "issue w checks" in which he informed Woods that "[w]e are delivering a bunch of checks to DeNapoli [sic] today."¹² Ex. 16. He further instructed Woods to "[g]et checks from Fed Ex sent to my house from Barnes. Inside should be 2 or more checks in amount of 2,000 each. . . . Go to closet and get out that plastic box w all my checks in it. Find my personal check book (the little one) and write a check to DeNapoli [sic] 2010 and sign my name. However, call me before u do this - I am worried this might not be a great idea. . . . Take checks to his office and deliver them personally. Call me beforehand and I'll tell u how to play it." *Id.*

Your contribution report reflects that on January 9, 2009, you received checks from Donziger, Ben Barnes, Barnes's wife, and James Sharp, a Washington attorney with

¹⁰ Ex. 10.

¹¹ http://osc.state.ny.us/press/chevron_oreilly_111708.pdf

¹² On January 5, 2009, Susan Martin at the Ben Barnes Group, emailed Donziger an invitation to a campaign fundraiser for you at the Regency Hotel in New York City, requesting that Donziger complete the attached contribution form and that the LAPs' U.S. co-counsel and financier of the litigation Joseph Kohn "do the same thing." Ex. 18. The requested contribution amounts for this event ranged from \$1,000 to \$10,000. *See id.* In addition, the invitation urged attendees to "make best efforts to send contributions on or before January 8th so we may count them toward the crucial 2008 financial filing." *Id.*

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connections to Barnes, each check in the amount of \$2,000.¹³ And Donziger's January 9, 2009, "summary" of completed tasks reported: "DiNapoli contributions are on the counter." Ex. 19.

Then, on June 22, 2011—shortly after you issued a press release ignoring the multiple court orders addressing the fraud permeating the Lago Agrio case and the overwhelming scientific evidence showing that TexPet's operations pose no risk to human health or the environment, and instead urging Chevron to settle the case (discussed below)—Orin Kramer, who had earlier invested \$150,000 in the Lago Agrio scheme,¹⁴ contributed another \$10,000 to your campaign.¹⁵

Lobbying of The Office of the Attorney General

In 2009, you assisted the LAPs with an effort to secure the support of the Attorney General. Specifically, in and around February of that year, you met with LAP lobbyist Barnes, who, at Donziger's instruction, asked you to call the Attorney General or write him a letter advocating on the LAPs' behalf. In a February 2009 e-mail, LAP press representative Karen Hinton ("Hinton") noted: "Information has been sent to dinapoli. Next step is for him to read it and decide if he will ask [the Attorney General]. Ben [Barnes] said it sounded like he would do it. Then, I'm sure he will have to write a letter, etc." Ex. 22. An e-mail exchange from that same day between Hinton and Barnes' employee, Scott Moorhead ("Moorhead"), confirms that Barnes spoke with you. Ex. 23.

In a subsequent email, Donziger provided "DeNapoli info/instructions for Ben" that made clear Donziger intended for you to call the Attorney General's office "or write a letter, requesting assistance on the Chevron disclosure matter to enable [the Attorney General] to write a letter to Chevron seeking more information." Ex. 24. Consistent with these efforts, a February 26, 2009 task list prepared by Hinton included: "Get [the Attorney General] to write a letter to Chevron. Working with Barnes to get NY State Comptroller to ask AG's

¹³ See NYS Board of Elections Financial Disclosure Report for Thomas DiNapoli, January 2009 Periodic, available at <http://www.elections.state.ny.us>. James Sharp and Ben Barnes both represented Allen Stanford, who was later accused of perpetrating a \$7 billion fraud on investors. See <http://www.palmbeachpost.com/news/state/as-feds-closed-in-allen-stanford-scrambled-to-103340.html>.

¹⁴ Ex. 20; Ex. 21.

¹⁵ See NYS Board of Elections Financial Disclosure Report for Thomas DiNapoli, January 2009 Periodic, available at <http://www.elections.state.ny.us>; NYS Board of Elections Financial Disclosure Report for Thomas DiNapoli, July 2009 Periodic, available at <http://www.elections.state.ny.us>; NYS Board of Elections Financial Disclosure Report for Thomas DiNapoli, July 2011 Periodic, available at <http://www.elections.state.ny.us>.

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office to write a letter of concern to Chevron. Ben to meet with DiNapoli the week of March 2nd to discuss.” Ex. 25.

2010 Shareholder Statement

Donziger, Barnes and the LAPs also sought your support for a 2010 shareholder statement critical of Chevron’s handling of the Lago Agrio case. Documents demonstrate that you agreed to support the shareholder statement at Barnes’s urging.

According to an email produced to Chevron, on March 23, 2009, Moorhead spoke with Cynthia Cranmer, Comptroller of Pennsylvania regarding a Shareholder resolution. In a follow-up e-mail to Cranmer he attached “key points on the case,” and stated, “Comptrollers Peter Franchot of Maryland, Tom DiNapoli of New York and Pat Doherty of NYC have written letters” to the effect that “the possible liability demands an answer from Chevron as it pertains to their shareholders.” Ex. 26.

On March 30, 2010, Shelley Alpern (“Alpern”), a representative of Trillium, e-mailed Donziger regarding a “Draft CVX investor statement.” She said, “Pat [Doherty, an employee of the New York City Comptroller’s Office] has told me the statement looks good, but I haven’t yet heard that DiNapoli has signed off on it. (DiNapoli’s GC is also an officer within the Council of Inst’l Investors with [Chevron’s Secretary] Lydia Beebe, so Pat’s got politics to deal with, but he says that DiNapoli himself seems to be very interested in being supportive.) So this would be a great time to share the statement with Kerry Kennedy and have her call DiNapoli to urge him to approve it. She’s been a big supporter of him.”¹⁶ Ex. 27.

Approximately two weeks later, on April 18, 2010, Amazon Watch’s Mitchell Anderson (“Anderson”) emailed Donziger, attaching the latest version of the investor statement and stating, “Let me know whether or not you are planning on asking Barnes to call DiNapoli at NY State re: the investor statement? As I told you, Doherty told me that DiNapoli will sign the attached investor statement if he knows, for some reason, that Barnes supports it.” Ex. 28.

¹⁶ Kerry Kennedy is a paid blogger, who has received at least \$50,000 to date from the LAPs in exchange for her advocacy on their behalf. Ex. 17; Ex. 34. There is also evidence to suggest she may have been promised an equity share of any settlement with Chevron. Ex. 35.

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May 25, 2011 Shareholder Letter and Press Release

On May 25, 2011, you, along with various shareholder groups, including Trillium, released the statement urging Chevron to settle the Lago Agrio case, again citing “grave reputational damage” to Chevron due to the lawsuit. Ex. 32.

Also on May 25, 2011, you issued a press release announcing this letter, which was posted on the New York State Comptroller’s Web site, and also posted on Trillium’s Web site. That press release included the prominent quote from you: “It’s time for Chevron to face reality.”¹⁷ You continued, “Investors don’t derive any benefit from this never-ending courtroom drama.”¹⁸

The documentary record demonstrates that the release of the letter and accompanying press statement was coordinated with Donziger, Amazon Watch and others on the LAPs’ team. In emails sent on May 24, 2011, a representative of Amazon Watch discussed the contents of the letter and press statement with Hinton, Donziger and Woods, in advance of the public release the next day. Exs. 29, 30 . Also on May 24, Hinton sent Donziger and Woods the entire text of the investors’ statement before it was made public. Ex. 31.

On September 26, 2011, you followed up on the letter and press statement by publishing an article in the *Huffington Post*, reiterating your claims against Chevron and publicly calling on the company to “negotiat[e] a fair settlement that restores the company’s reputation.”¹⁹ Two days later, a Spanish version of the same article was published in Ecuador’s government-owned *Ecuador Inmediato* online newspaper.²⁰

¹⁷ <http://www.osc.state.ny.us/press/releases/may11/052511.htm>

¹⁸ <http://www.osc.state.ny.us/press/releases/may11/052511.htm>

¹⁹ Thomas P. DiNapoli, *What Chevron Owes the People of Lago Agrio*, Huffingtonpost.com (Sept. 26, 2011). Available at http://www.huffingtonpost.com/thomas-p-dinapoli/chevron-ecuador-lawsuit_b_981638.html.

²⁰ Thomas P. DiNapoli, *Dueda de Chevron a Perjudicados en Ecuador Podría afectar a Fondo de Retiro Común de Nueva York*, Ecuadorinmediato.com (Sept. 28, 2011). Available at http://www.ecuadorinmediato.com/index.php?module=Noticias&func=news_user_view&id=158735&umt=deuda_chevron_a_perjudicados_en_ecuador_podria_afectar_a_fondo_retiro_comun_nueva_york.

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II. Documents Requested

In light of the foregoing, from 2003 to the present, we request, pursuant to New York Public Officers' Law § 87 *et seq.*, copies of all records related to the following:

1. All correspondence, complaints, petitions, requests, and attachments or supporting documents thereto, received by the Office of the State Comptroller regarding the involvement by Chevron Corporation, Texaco, TexPet, or any of their respective subsidiaries (collectively, "Chevron") in litigation in the Republic of Ecuador (whether denominated *María Aguinda et al. v. Chevron Texaco Corporation*, Nueva Loja Superior Court, Ecuador, Case No. 002-2003, or otherwise, referred to herein as "Ecuador Litigation"), from any person or entity whatsoever, including, but not limited to, the individuals and entities listed in Appendix A.
2. All documents reflecting or relating to the 2005 shareholder resolution described above, including all documents regarding the authorship of the resolution and any documents received, reviewed, analyzed or prepared by the Office of the State Comptroller in connection with this resolution, including but not limited to communications with any of the persons or representatives of any of the entities referred to in Appendix A, or any person or entity associated with any of the persons or entities denominated in Appendix A or any others regarding this resolution.
3. All documents reflecting or relating to the 2006 shareholder resolution described above, including all documents regarding the authorship of the resolution and any documents received, reviewed, analyzed or prepared by the Office of the State Comptroller in connection with this resolution, including but not limited to communications with any of the persons or representatives of any of the entities referred to in Appendix A, or any person or entity associated with any of the persons or entities denominated in Appendix A or any others regarding this resolution.
4. All documents reflecting or relating to any submissions to the SEC made by the State Comptroller or the Office of the State Comptroller concerning Chevron or the Ecuador litigation, including but not limited to the 2006 letter to the SEC described above and including any documents received, reviewed, analyzed or prepared by the Office of the State Comptroller in connection with submissions to the SEC, including but not limited to communications with any of the persons or representatives of any of the entities referred to in Appendix A, or any person or entity associated with any of the persons or entities denominated in Appendix A or any others regarding submissions to the SEC.
5. All documents reflecting or relating to the 2008 letter to Chevron described above, including all documents regarding the authorship of the letter and any documents

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received, reviewed, analyzed or prepared by the Office of the State Comptroller in connection with this letter, including but not limited to communications with any of the persons or representatives of any of the entities referred to in Appendix A, or any person or entity associated with any of the persons or entities denominated in Appendix A or any others regarding this letter.

6. All documents reflecting or relating to efforts to communicate with the New York Attorney General's Office about Chevron or the Ecuador litigation, including but not limited to the efforts in 2009 described above and including but not limited to communications with any of the persons or representatives of any of the entities referred to in Appendix A, or any person or entity associated with any of the persons or entities denominated in Appendix A or any others regarding the New York Attorney General.
7. All documents reflecting or relating to the 2010 shareholder statement described above, including all documents regarding the authorship of the proposal and any documents received, reviewed, analyzed or prepared by the Office of the State Comptroller in connection with this statement, including but not limited to communications with any of the persons or representatives of any of the entities referred to in Appendix A, or any person or entity associated with any of the persons or entities denominated in Appendix A or any others regarding this statement.
8. All documents reflecting or relating to the May 25, 2011 "Investor Statement on Chevron and Aguinda v. Texaco," attached as Exhibit 32, signed by the Office of the State Comptroller, among other entities, and the May 25, 2011 press release, "DiNapoli to Chevron: Resolve Amazon Lawsuit," attached as Exhibit 33, including all documents regarding the authorship of those documents and any documents received, reviewed, analyzed, or prepared by the Office of the State Comptroller in preparation to draft the letter or press release, and any documents alleged to support any of the assertions made in the letter and press release.
9. All documents reflecting or relating to any Chevron shareholder resolution or letter to Chevron's board of directors regarding the Ecuador Litigation or Chevron's activities abroad, including, but not limited to, Chevron's evaluation of host country laws and regulations and their ability to protect human health, the environment, and Chevron's reputation, or relating to any Chevron shareholder meetings or press conferences.
10. All documents reflecting or relating to any meeting between any employee or representative of the Office of the State Comptroller, including Thomas P. DiNapoli and Alan Hevesi, and any of the persons or representatives of any of the entities referred to in Appendix A, or any person or entity associated with any of the persons

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or entities denominated in Appendix A, related to or concerning the Ecuador Litigation or any alleged wrongdoing on the part of Chevron, including copies of any documents provided to or prepared by the Office of the State Comptroller in connection with such meeting.

11. All documents reflecting or relating to communications between any employee or representative of the Office of the State Comptroller, including Thomas P. DiNapoli and Alan Hevesi, and any employee or representative of the Office of the State Comptroller of any other state or city, related to or concerning the Ecuador Litigation or any alleged wrongdoing on the part of Chevron.
12. All documents reflecting or relating to campaign contributions made or solicited for Thomas P. DiNapoli and/or Alan Hevesi by and any of the persons or representatives of any of the entities referred to in Appendix A, or any person or entity associated with any of the persons or entities denominated in Appendix A, including but not limited to Steven Donziger, Orin Kramer, Ben Barnes, James Sharp, Karen Hinton and Howard Glaser.

If it were somehow the case that your office identified no documents responsive to any part of this request, please let us know in writing. If this request is denied in part, please specify the exemptions claimed for each page or passage that is withheld, and for documents withheld in their entirety, please specify the exemption claimed for each document, the date of and number of pages in each document.

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We are willing to undertake the costs of fulfilling this request, but please feel free to contact me should you have any questions regarding this request. In order to minimize delay, we would appreciate it if you would produce documents responsive to this request on a rolling basis where possible. I thank you in advance for your prompt attention to this matter.

Respectfully,

A handwritten signature in cursive script that reads "Randy M. Mastro".

Randy M. Mastro

cc: The Honorable Ellen Biben, New York State Inspector General (via FEDEX)
Records Access Officer, Office of the New York State Comptroller (via E-mail)

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Appendix A

Steven Donziger, Andrew Woods, Graham Erion, Aaron Marr Page, Laura Garr or any lawyer, representative, or employee of Donziger & Associates	Ben Barnes, Melanie Barnes, Scott Moorhead, Patsy Thomasson, Susan Martin, or any representative or employee of the Ben Barnes Group
Karen Hinton, Howard Glaser, or any employee of Hinton Communications	Any representative or employee of the New York Attorney General's Office
Joseph Kohn, or any lawyer, representative, or employee of Kohn, Swift & Graf LLP	Patrick Doherty, or any representative or employee of the New York City Comptroller's Office
Shelley Alpern, and any representative or employee of Trillium Asset Management Corporation	James Sharp
Mitchell Anderson, Leila Salazar-Lopez, Atossa Soltani, Sarah Aird, or any representative or employee of Amazon Watch	Catholic Health Partners
Catholic Healthcare West	Christopher Reynolds Foundation
International Brotherhood of Teamsters General Fund	Laidlaw Foundation
Mercy Investment Services	Missionary Oblates of Mary Immaculate
Oneida Trust	Oxfam America
Pinnacle Investment Advisors	School Sisters of Notre Dame Cooperative Investment Fund
Sisters of Notre Dame of Toledo, OH	Sisters of St. Joseph of Springfield, MA
Spring Water Asset Management	American Federation of Labor-Congress of Industrial Organizations
Unitarian Universalist Association	United Food and Commercial Workers International Union, CLC
Zevin Asset Management, LLC	Boston Common Asset Management
James Tyrrell, Eric Westenberg or any	Kerry Kennedy

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employee or partner of Patton Boggs LLP, Motley Rice LLC, F. Gerald Maples P.A., Gomez LLC, Smyser Kaplan & Veselka, L.L.P., or Emery Celli Brinckerhoff & Abady LLP.	
Cristóbal Bonifaz, Alberto Wray, or any Ecuadorian attorney for the Lago Agrio Plaintiffs in the Ecuador Litigation	Any representative or employee of CALPERS
Bianca Jagger	Chris Lehane, or any employee of CSL Strategies LLC or Fabiani & Lehane
John Wilke, or any representative or employee of the Wall Street Journal	Orin Kramer