

From: Mishaan, Jessica
Sent: Thursday, July 5, 2018 10:08 AM
To: dcorren [REDACTED]
Subject: response to public records act request

Mr. Corren,

Please find the attached response to your public records act request.

Thank you,

Jessica Mishaan | Paralegal
Office of the Attorney General | Civil Division
109 State Street Montpelier, VT 05609-1001

PRIVILEGED & CONFIDENTIAL COMMUNICATION: This communication may contain information that is privileged, confidential, and exempt from disclosure under applicable law. DO NOT read, copy or disseminate this communication unless you are the intended addressee. If you are not the intended recipient (or have received this E-mail in error) please notify the sender immediately and destroy this E-mail. Vermont's lobbyist registration and disclosure law applies to certain communications with and activities directed at the Attorney General. Prior to any interactions with the Office of the Vermont Attorney General, you are advised to review Title 2, sections 261-268 of the Vermont Statutes Annotated, as well as the Vermont Secretary of State's most recent compliance guide available at <https://www.sec.state.vt.us/elections/lobbying.aspx>.

THOMAS J. DONOVAN, JR.
ATTORNEY GENERAL

JOSHUA R. DIAMOND
DEPUTY ATTORNEY GENERAL

WILLIAM E. GRIFFIN
CHIEF ASST. ATTORNEY GENERAL



TEL: (802) 828-3171
FAX: (802) 828-3187
TTY: (802) 828-3665

<http://www.ago.vermont.gov>

STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER, VT
05609-1001

July 5, 2018

Dean Corren

via email: dcorren

Re: Public Records Request

Dear Mr. Corren:

I write in further response to your public records act request dated June 20, 2018, in which you request that the Attorney General's Office search for and produce four years of records that mention your name or the 2014 Lieutenant Governor election. Specifically, you have asked for:

1. *All correspondence, written and electronic (including communications received or sent on a private email or text messaging account), including all attachments, during the period from May 1, 2014 through the date of this request, regarding Dean Corren or the 2014 Lieutenant Governor election,*
 - a. *between William Sorrell and any individual*
 - b. *between Thomas Donovan and any individual, and*
 - c. *between William Sorrell and Thomas Donovan.*
2. *All calendar or other log entries of any kind that reflect a meeting, whether in person, telephonic, or by any other means between William Sorrell or Thomas Donovan and any other individuals.*
3. *All materials used directly or indirectly with preparing, executing, or recording any public statements, appearances, and presentations by William Sorrell or Thomas Donovan regarding Dean Corren or the 2014 Lieutenant Governor election, during the period from May 1, 2014 through the date of this request.*

4. *All records provided to or to be provided to Brady Toensing involving communications during the period from May 1, 2014 through the date of this request regarding Dean Corren or the 2014 Lieutenant Governor election, including those records provided or to be provided pursuant to the October, 2017 decision of the Vermont Supreme Court in Brady C. Toensing v. The Attorney General of Vermont, No. 2017-090.*

Below is information regarding: (1) publicly available documents that may be helpful to you; and (2) an approximate volume of additional, potentially responsive records and the cost of searching those records to further process your request. Initial searches related to your request have required approximately four hours of staff time to date. As a courtesy, you will not be billed for this time.

First, various records that are potentially responsive to your request have been previously produced and are available at no cost. Certain productions are available on the Attorney General's Office website at:

<http://ago.vermont.gov/open-government/2017-vermont-attorney-generals-office-public-record-act-requests-responses/> (See production provided to Robert Hemley of Gravel & Shea [request dated 6/19/17], link to potentially responsive documents at: <http://ago.vermont.gov/wp-content/uploads/2018/02/2017-07-03-RCB-response-to-PRA-request.pdf>).

In addition, the Attorney General's Office has previously produced approximately 300 pages of records to Brady Toensing that contain potentially responsive records to your request. Please find these records attached.

Second, initial searches reveal that further processing of your request will require review of approximately 5,900 pages of potentially responsive records. These records will need to be reviewed for attorney client and work product privilege, as well as whether the records are exempt from public disclosure under the relevant to litigation exemption to the Public Records Act. *See* 1 V.S.A. § 317(c)(3), (4) & (14).

Using a conservative estimate of two minutes per page, review of 5,900 pages will require 11,800 minutes or 196 hours of staff time. Using a middle rate permitted by the Secretary of State's Uniform Fee Schedule (recognizing that additional staff time could be billed at \$.57/minute under the Fee Schedule), the cost associated with this additional time will likely amount to at least: 11,800 x \$.45 a minute = \$5,310. (As noted above, the Attorney General's Office has not charged for the first four hours associated with processing your request.)

If you are willing to pay the above costs, please let us know and we will proceed with processing your request. Alternatively, in light of the volume of potentially responsive records and the continued litigation related to the records you have

Dean Corren
July 5, 2018
Page 3 of 3

requested, we ask that you consider submitting a narrower request including recommended search terms.

We hope the above information and the already available public records identified above are helpful to you.

Sincerely,

/s/ William E. Griffin

William E. Griffin

Chief Assistant Attorney General

Young, Susanne

From: toensing@gmail.com on behalf of Brady Toensing <brady@digtoe.com>
Sent: Monday, April 06, 2015 4:07 PM
To: Sorrell, Bill
Cc: Young, Susanne
Subject: Vermont Public Records Act Request -- ATTENTION -- Timely Response Required By Law

The Honorable William H. Sorrell
Attorney General of Vermont
Office of the Attorney General
109 State Street
Montpelier, VT 05609

Re: Vermont Public Records Act Request for Information

Dear General Sorrell:

Pursuant to Vermont's Access to Public Records Act, 1 V.S.A. §§ 315-320, for the time period January 1, 2014 to present, I hereby demand all emails, text messages, notes, memoranda, calendar entries, or documents of any kind related in any way to a September 15, 2014 event with Dean Corren at a Burlington gas station (McCaffrey's Sunoco), including, but not limited to, communications with the following:

- Julia Barnes;
- Megan Brook;
- Dean Corren;
- Dottie Deans;
- Doug Hoffer;
- Christopher Pearson;
- Senator Bernard Sanders;
- Michael Briggs;
- F. Philip "Phil" Fiermonte;
- Daniel McLean; or
- any agent, employee, or representative of Senator Bernard Sander's staff or campaign organization.

If no responsive records exist, then state this fact in your response. If any part of these requests is denied, please list the specific criteria you are relying on for the denial, as well as the name and title of the person responsible for the denial.

The Vermont Public Records Act is to be "liberally construed ... and the burden of proof" is on the agency to justify any refusal to produce records. 1 V.S.A. § 315. Absent a valid legal exemption, this law compels the production of documents and correspondence relating to official state business, regardless of what email or text messaging system is used. If such records exist and you do not intend to comply with this request, please inform me immediately so that I may pursue an appropriate legal remedy. Meantime, you should ensure these public records are preserved. 1 V.S.A. § 320 (Destruction of public records is prohibited by law).

Pursuant to the Public Records Act, please also do the following:

- Produce these documents promptly or certify within two business days why you are denying me access to them or any particular documents (this time limit may be extended only under certain conditions as outlined in 1 V.S.A. § 318);
- If you believe an otherwise public record is exempt from disclosure, produce a log with the page numbers of the documents, the date of the document, the people or entities who received copies, the authors of the document and a specific explanation (citing to the applicable exemption) for why a document has not been produced;
- If an otherwise public record has a portion that is exempt from disclosure, redact any exempt portion and release the redacted document together with a log (as described in the previous bullet);
- Inform me of the appeal procedures available to me if you withhold any documents;
- If you are unable to copy any material, identify the material and notify me when it will be available for my inspection; and
- Provide a written reply to this request.

If you refuse to produce any responsive records to me, it would be helpful to Bates Number any such documents for easy reference and to avoid confusion in future proceedings regarding the failure to produce records. I am willing to pay reasonable production fees, if necessary, but please call or email me first with an estimate as to the costs to produce these documents. Thank you for your assistance with this matter and I look forward to your response. If you have any questions, I can be reached at (202) 297-4245.

Sincerely,

Brady C. Toensing

Brady C. Toensing
diGenova & Toensing
Washington DC
202.297.4245

WILLIAM H. SORRELL
ATTORNEY GENERAL

SUSANNE R. YOUNG
DEPUTY ATTORNEY GENERAL

WILLIAM E. GRIFFIN
CHIEF ASST. ATTORNEY
GENERAL



STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
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05609-1001

TEL: (802) 828-3171
FAX: (802) 828-3187
TTY: (802) 828-3665

<http://www.ago.vermont.gov>

April 9, 2015

Brady C. Toensing
diGenova & Toensing
1776 K Street N.W.
Suite 737
Washington, D.C. 20006

RE: Public Record Request

Dear Mr. Toensing:

This is in response to your access to records request dated April 6, 2015. You have requested, from January 1, 2014 to the present:

all emails, text messages, notes, memoranda, calendar entries, or documents of any kind related in any way to a September 15, 2014 event with Dean Corren at a Burlington gas station (McCaffrey's Sunoco)., including, but not limited to, communications with the following: Julia Barnes; Megan Brook; Dean Corren; Dottie Deans; Doug Hoffer; Christopher Pearson; Senator Bernard Sanders; Michael Briggs; F. Philip "Phil" Fiermonte; Daniel McLean; or any agent, employee, or representative of Senator Bernard Sander's staff or campaign organization.

Several records responsive to this request are enclosed. They include several e-mail exchanges between September 10 and September 15, 2014 and a calendar entry for the event itself on September 15, 2015.

Sincerely,

A handwritten signature in black ink, appearing to read "W E Griffin".

William E. Griffin
Chief Assistant Attorney General

Enclosures

September 15, 2014

Monday

September 2014

Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

October 2014

Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

15 Monday		Notes
	<p>Leave Prius</p> <p>Montpelier</p>	
7 am		
8 ⁰⁰		
9 ⁰⁰		
10 ⁰⁰	<p>Press conference Sunoco - North St</p>	
11 ⁰⁰	<p>Lola Aiken Memorial Service St Augustine's Church</p>	
12 pm		
1 ⁰⁰	<p>meeting w/ Shelley Martin, VSEA your office Swanson, MaryKay</p>	
2 ⁰⁰	<p>Call w/ Grant Wood re: Opioids Lawsuit; he will call here</p>	
3 ⁰⁰		
4 ⁰⁰		
5 ⁰⁰		
6 ⁰⁰		

Gasoline prices

Dean Corren [dcorren@burlingtontelecom.net]

Sent: Wednesday, September 10, 2014 2:09 PM

To: Sorrell, Bill

Cc: Christopher Pearson [cp@biglocomotive.net]

Attachments: Gasoline Price Release.docx (15 KB) ; Gasoline Prices-Advisory.docx (13 KB)

Bill,

Attached are a draft press advisory and release for the gasoline price issue. Thanks very much for considering this.

Also, some background information from the Sanders and FTC investigations is copied below as a refresher for you and/or your staff (I don't know who worked on it before).

For tomorrow, we are preparing posters with photos from today of disparate prices in VT, and a plot of the gross profits from the study.

Perhaps you and Chris Pearson and I could speak around 3pm today. If there is a better time please let us know.

Also, a BFP story from just this past weekend:

<http://www.burlingtonfreepress.com/story/news/local/2014/09/04/cheapest-gas-vermont-burlington/15044167/>

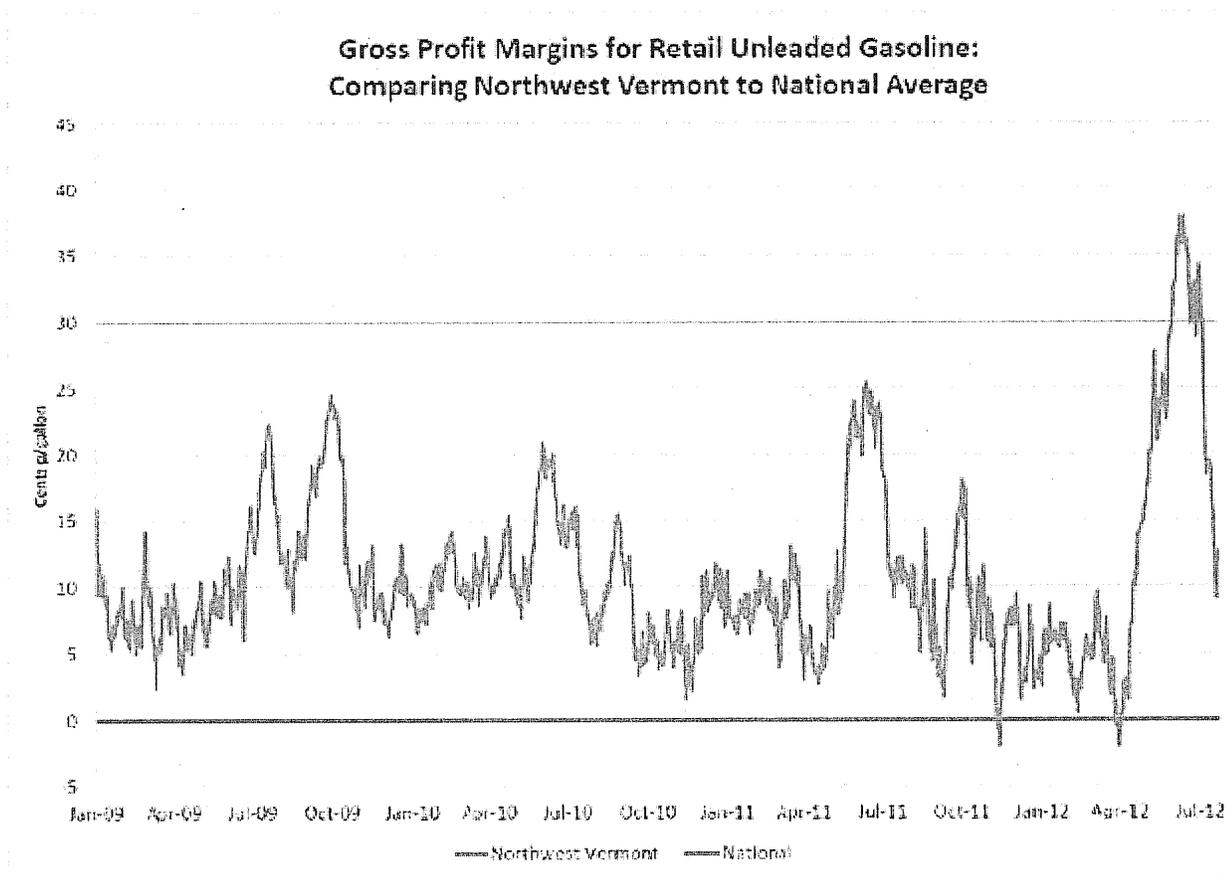
Regards,

Dean

GROSS PROFIT MARGINS

Northwestern Vermont (Chittenden, Grand Isle and Franklin counties) has been particularly lucrative for gas dealers. The region was the 11th most profitable place in the United States to sell gas last year, according to the Oil Price Information Service. In 2012, just 13 markets throughout the country had an average annual profit margin of at least 30 cents a gallon. Northwestern Vermont was one of them, averaging about 32 cents a gallon in profit for each gallon of gas sold.

With just two exceptions, gross profit margins on gas sold in northwestern Vermont (Chittenden, Grand Isle and Franklin Counties) consistently exceeded the national average during a 3 ½ year period ending late last summer. These high profit margins translate directly into higher prices at the pump. In the chart below, the blue line depicts how much above or below gas profit margins in northwestern Vermont were compared to the national average, which is noted in red. In late June 2012, the spike at the right of the chart, Burlington area profit margins were 38 cents a gallon more than the national average. Profit margins fell considerably after the senator launched his investigation into Vermont gas prices. Profit margin data were supplied by the Oil Price Information Service (OPIS).



Source: OPIS

[CLICK to see chart](#)

As part of his investigation, Sanders called upon the Federal Trade Commission to uncover why gas prices in northwestern Vermont were unusually high. The [FTC found](#) that gas prices in the Burlington area in June were as much as a dime to 43 cents greater than a Federal Trade Commission computer model projected they should be. An analysis of OPIS data also revealed that gasoline profit margins in northwest Vermont were double the national average, making greater Burlington the most lucrative gasoline market east of the Rockies this summer. In the wake of the senator's investigation, gasoline prices in the Burlington area became much more competitive. Profit margins fell and savings were passed along to Vermonters.

[Report: Profit Margins \(July 2012\)](#)

REGIONAL DIFFERENCES IN VERMONT

An analysis of gas prices throughout Vermont included a detailed examination of the weekly averages of fuel prices since the start of 2009. That analysis, using data provided by the Oil Price Information Service, revealed:

Vermonters living in northwestern Vermont consistently paid more than the U.S. average and the statewide average for gas.

- Burlington gas prices exceeded the U.S. average 86 percent of the time — sometimes by as much as 29 cents per gallon. Burlington prices were higher than the statewide average 72 percent of the time.
- St. Albans prices exceeded both the U.S. and statewide average 90 percent of the time.
- Waterbury prices exceeded the U.S. average 97 percent of the time and were higher than the statewide average 100 percent of the time. In each of the 188 weeks examined, Vermonters buying fuel in

Waterbury paid more than the statewide average.

Meanwhile, other parts of Vermont had much more competitive markets.

- Rutland never had higher prices than the statewide average. In each week of the more than three years examined, gasoline prices in Rutland were below the statewide average.
- Springfield exceeded the U.S. average less than half of the time and had prices higher than the statewide average just 7 percent of the time.
- Middlebury's average gas prices were lower than the statewide average more than half of the time.
- Vermont was above the national average 85 percent of the time.

Chris Pearson's bill:

<http://leg.state.vt.us/docs/2014/bills/Intro/H-476.pdf>

Dean Corren
92 Brookes Ave.
Burlington, VT 05401
802-864-9916

FOR IMMEDIATE RELEASE: September 11, 2014
CONTACT: Chris Pearson – 802-860-3933

Corren and Sorrell Say State Can Help Level Gas Price Playing Field

BURLINGTON, VT – Praising his former boss for highlighting unfairly inflated gas prices, Dean Corren thanked US Sen. Bernie Sanders for generating an important discussion and research. At his side was Attorney General Bill Sorrell who says his office is eager to help the thousands of Vermonters who are forced to pay high prices at the pump because they live in northwestern Vermont.

Standing in front of a large image that juxtaposes yesterday's (Sept. 9, 2014) pump prices between Middlebury and Burlington, the two Democrats explored why prices are \$0.23 lower just 35 miles down the road in Middlebury. "There are three major gas distributors in Chittenden County and Northeastern Vermont, and they just happen to own xx% of the gas stations in the area," said Sorrell. "Our working theory is that this allows the distributors to effectively squash competition and my office is interested in data that would reveal whether this is the case."

The pair suggest fuel distributors should be required to submit data that details how much gas they sell and to whom. The Attorney General's Consumer Protection office would then be able to determine if independent retailers are effectively barred from offering lower rates.

"This idea has been discussed in Montpelier and while a bill got hearings in the House, the proposal was essentially squashed last session by Senate Transportation Chair, Dick Mazza," said Corren. "We think Vermonters deserve a reasonable price for the gas that's essential to travel to work in our rural state, and will work to put this back on the table when the legislature convenes in January." Corren added, "This is not about making gasoline cheap, but ripping people off is not an energy conservation plan."

The duo took turns praising Sen. Bernie Sanders (I-VT) for getting the discussion started. "Every time Bernie raises this issue, we see gas prices drop for a couple of days. It would be nice to find a more permanent fix and the state can play an important role," said Corren.

"My office has been successful in protecting Vermont consumers whether it's xx or yy. We would like to be able to help save people some money and there's no reason people in Chittenden County should be forced to pay as 15-30 cents more per gallon than their neighbors down in Addison County. We need to make sure market competition ensures Vermonters get the best deal possible," said Sorrell.

###

MEDIA ADVISORY: September 10, 2014
CONTACT: Chris Pearson – 802-860-3933

**Corren and Sorrell Join Forces To Highlight Inflated Gas Prices in
Northeastern Vermont**

BURLINGTON, VT – Two Democratic candidates for statewide office have joined forces to highlight the inflated gas prices paid by people who live and work in Chittenden County and beyond. For several years, this issue has been brought to the forefront by US Sen. Bernie Sanders. Attorney General Bill Sorrell and Dean Corren, who is running for Lt. Governor as a Progressive and Democrat, say there are state-based solutions to help bring prices more in line with the rest of Vermont.

**Press Conference: Thursday, 11:00 am at McCaffrey's Sunoco, at the corner of
North Street and North Avenue in Burlington.**

###

Message - tentative press conference tomorrow in Burlington

Swanson, MaryKay

Sent: Wednesday, September 10, 2014 3:48 PM

To: Sorrell, Bill

Cc: Swanson, MaryKay; Young, Susanne

Importance: High

Dean Corren

Cell: 802-238-2432

or

Chris Pearson at cell: 802-860-3933

Re: gasoline prices

Spoke to you at the Governor's kickoff yesterday

Would like to talk to you today

Re: press conference tomorrow in Burlington around 11:00 am

Mary-Kay Swanson

Executive Assistant

Office of the Attorney General

109 State Street

Montpelier, VT 05609

802-828-3173

Young, Susanne

From: Swanson, MaryKay
Sent: Wednesday, September 10, 2014 3:49 PM
To: Sorrell, Bill
Cc: Swanson, MaryKay; Young, Susanne
Subject: Message - tentative press conference tomorrow in Burlington

Importance: High

Dean Corren

Cell: 802-238-2432

or

Chris Pearson at cell: 802-860-3933

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Mary-Kay Swanson
Executive Assistant
Office of the Attorney General
109 State Street
Montpelier, VT 05609
802-828-3173

RE: Message - tentative press conference tomorrow in Burlington

Swanson, MaryKay

Sent: Thursday, September 11, 2014 3:14 PM

To: Sorrell, Bill

Cc: Young, Susanne; Swanson, MaryKay

Dean Corren just called – would like to talk to you today if you have time

Also, wants to know if you can do an interview before you leave on Tuesday.

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To: Sorrell, Bill

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Mary-Kay Swanson
Executive Assistant
Office of the Attorney General
109 State Street
Montpelier, VT 05609
802-828-3173

Re: Message - tentative press conference tomorrow in Burlington

Sorrell, Bill

Sent: Thursday, September 11, 2014 3:24 PM

To: Swanson, MaryKay

Don't I leave early Tues AM?

Sent from my iPhone

On Sep 11, 2014, at 3:14 PM, "Swanson, MaryKay" <marykay.swanson@state.vt.us> wrote:

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Sent: Wednesday, September 10, 2014 3:49 PM

To: Sorrell, Bill

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Executive Assistant

Office of the Attorney General

109 State Street

Montpelier, VT 05609

802-828-3173

Re: Gasoline prices

Sorrell, Bill

Sent: Thursday, September 11, 2014 4:35 PM

To: Dean Corren [dcorren@burlingtontelecom.net]

Cc: Christopher Pearson [cp@biglocomotive.net]

Dean and Chris, I need to be at the airport at 6:30 AM Tuesday for flight to CA. I'll talk to Chris about what could be said attributable to me on the gas pricing issues.

Bill

Sent from my iPhone

On Sep 10, 2014, at 9:55 PM, "Dean Corren" <dcorren@burlingtontelecom.net> wrote:

Bill,

I'm resending this – I hope I don't have a mistake in the address.

My understanding is that we'll try for next Tuesday, if that works before you leave.

There will be some changes, e.g., in the press release we'll remove any reference to Dick Mazza (although I reserve the right to mention him later on, OK?), and we'll need to update the gas price data.

Thanks again,

Dean

Also, here are a couple of graphs from GasBuddy.com that are illustrative:

<image002.jpg>

<image005.jpg>

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Also, a BFP story from just this past weekend:

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Regards,

Dean

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<image001.jpg>

[CLICK to see chart](#)

As part of his investigation, Sanders called upon the Federal Trade Commission to uncover why gas prices in northwestern Vermont were unusually high. The FTC found that gas prices in the Burlington area in June were as much as a dime to 43 cents greater than a Federal Trade Commission computer model projected they should be. An analysis of OPIS data also revealed that gasoline profit margins in northwest Vermont were double the national average, making greater Burlington the most lucrative gasoline market east of the Rockies this summer. In the wake of the senator's investigation, gasoline prices in the Burlington area became much more competitive. Profit margins fell and savings were passed along to Vermonters.

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REGIONAL DIFFERENCES IN VERMONT

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Dean Corren
92 Brookes Ave.
Burlington, VT 05401
802-864-9916

<Gasoline Price Release.docx>

<Gasoline Prices-Advisory.docx>

RE: Gasoline prices

Dean Corren [dcorren@burlingtotelecom.net]

Sent: Thursday, September 11, 2014 5:07 PM

To: Sorrell, Bill

Cc: Christopher Pearson [cp@biglocomotive.net]

Thanks, Bill.

Glad the email got through.

What we'd like to do is wait until you are available to do the press conference. Monday the 22nd at 11 AM-ish would be good, would that work for you?

If not, then Tuesday, Wed. or Thurs. could work.

Please let us know, and have a good trip.

Regards,
Dean

Dean Corren

92 Brookes Ave.

Burlington, VT 05401

802-864-9916

802-238-2432 ©

From: Sorrell, Bill [mailto:bill.sorrell@state.vt.us]

Sent: Thursday, September 11, 2014 4:35 PM

To: Dean Corren

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Subject: Re: Gasoline prices

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<image005.jpg>

Bill,

Attached are a draft press advisory and release for the gasoline price issue. Thanks very much for considering this.

Also, some background information from the Sanders and FTC investigations is copied below as a refresher for you and/or your staff (I don't know who worked on it before).

For tomorrow, we are preparing posters with photos from today of disparate prices in VT, and a plot of the gross profits from the study.

Perhaps you and Chris Pearson and I could speak around 3pm today. If there is a better time please let us know.

Also, a BFP story from just this past weekend:

<http://www.burlingtonfreepress.com/story/news/local/2014/09/04/cheapest-gas-vermont-burlington/15044167/>

Regards,
Dean

GROSS PROFIT MARGINS

Northwestern Vermont (Chittenden, Grand Isle and Franklin counties) has been particularly lucrative for gas dealers. The region was the 11th most profitable place in the United States to sell gas last year, according to the Oil Price Information Service. In 2012, just 13 markets throughout the country had an average annual profit margin of at least 30 cents a gallon. Northwestern Vermont was one of them, averaging about 32 cents a gallon in profit for each gallon of gas sold.

With just two exceptions, gross profit margins on gas sold in northwestern Vermont (Chittenden, Grand Isle and Franklin Counties) consistently exceeded the national average during a 3 ½ year period ending late last summer. These high profit margins translate directly into higher prices at the pump.

In the chart below, the blue line depicts how much above or below gas profit margins in northwestern Vermont were compared to the national average, which is noted in red. In late June 2012, the spike at the right of the chart, Burlington area profit margins were 38 cents a gallon more than the national average. Profit margins fell considerably after the senator launched his investigation into Vermont gas prices. Profit margin data were supplied by the Oil Price Information Service (OPIS).

<image001.jpg>

[CLICK to see chart](#)

As part of his investigation, Sanders called upon the Federal Trade Commission to uncover why gas prices in northwestern Vermont were unusually high. The FTC found that gas prices in the Burlington area in June were as much as a dime to 43 cents greater than a Federal Trade Commission computer model projected they should be. An analysis of OPIS data also revealed that gasoline profit margins in northwest Vermont were double the national average, making greater Burlington the most lucrative gasoline market east of the Rockies this summer. In the wake of the senator's investigation, gasoline prices in the Burlington area became much more competitive. Profit margins fell and savings were passed along to Vermonters.

Report: Profit Margins (July 2012)

REGIONAL DIFFERENCES IN VERMONT

An analysis of gas prices throughout Vermont included a detailed examination of the weekly averages of fuel prices since the start of 2009. That analysis, using data provided by the Oil Price Information Service, revealed:

Vermonters living in northwestern Vermont consistently paid more than the U.S. average and the statewide average for gas.

- Burlington gas prices exceeded the U.S. average 86 percent of the time — sometimes by as much as 29 cents per gallon. Burlington prices were higher than the statewide average 72 percent of the time.
- St. Albans prices exceeded both the U.S. and statewide average 90 percent of the time.
- Waterbury prices exceeded the U.S. average 97 percent of the time and were higher than the statewide average 100 percent of the time. In each of the 188 weeks examined, Vermonters buying fuel in Waterbury paid more than the statewide average.

Meanwhile, other parts of Vermont had much more competitive markets.

- Rutland never had higher prices than the statewide average. In each week of the more than three years examined, gasoline prices in Rutland were below the statewide average.
- Springfield exceeded the U.S. average less than half of the time and had prices higher than the statewide average just 7 percent of the time.
- Middlebury's average gas prices were lower than the statewide average more than half of the time.
- Vermont was above the national average 85 percent of the time.

Chris Pearson's bill:

<http://leg.state.vt.us/docs/2014/bills/Intro/H-476.pdf>

Dean Corren
92 Brookes Ave.

Burlington, VT 05401
802-864-9916

<Gasoline Price Release.docx>

<Gasoline Prices-Advisory.docx>

Gas Price Comparison poster

Christopher Pearson [cp@biglocomotive.net]

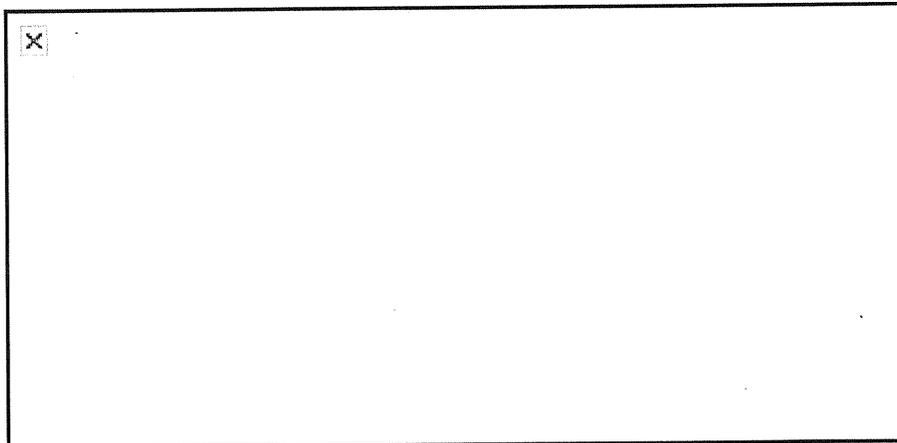
Sent: Sunday, September 14, 2014 7:05 PM

To: Dean Corren [dcorren@burlingtontelecom.net]; Sorrell, Bill

Here are the two posters I'm about to send to Kinko's.

Let me know quickly if you want any tweaks.

Chris



RE: Gas Price Comparison poster

Dean Corren [dcorren@burlingtontelecom.net]

Sent: Sunday, September 14, 2014 8:17 PM

To: Christopher Pearson [cp@biglocomotive.net]; Sorrell, Bill

Great.
Thanks

Dean

From: Christopher Pearson [mailto:cp@biglocomotive.net]

Sent: Sunday, September 14, 2014 7:06 PM

To: Dean Corren; bill.sorrell@state.vt.us

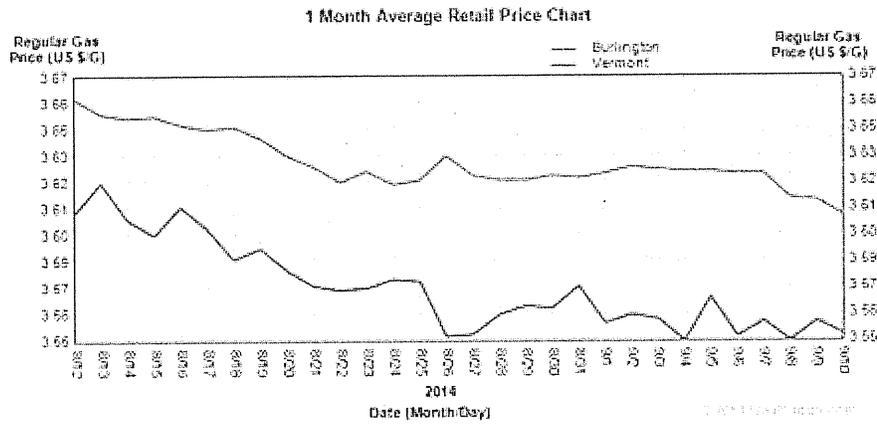
Subject: Gas Price Comparison poster

Here are the two posters I'm about to send to Kinko's.

Let me know quickly if you want any tweaks.

Chris





Fwd: For Chris Pearson

Christopher Pearson [cp@biglocomotive.net]

Sent: Sunday, September 14, 2014 10:18 PM

To: Dean Corren [dcorren@burlingtontelecom.net]; Sorrell, Bill

Start from the bottom...some valuable information here from Bernie's staff, highlighting some of the basic data...

Chris

Begin forwarded message:

From: "McLean, Daniel (Sanders)" <Daniel_McLean@sanders.senate.gov>
Subject: RE: For Chris Pearson
Date: November 30, 2012 at 10:46:09 PM EST
To: 'Christopher Pearson' <cp@biglocomotive.net>, "Weinstein, David (Sanders)" <David_Weinstein@sanders.senate.gov>

Handys do own many stations. I can provide data next week- but they are not wholesalers, which is not what we focused on. Handys are buying from distributors like RL Vallee and SB Collins.

-----Original Message-----

From: Christopher Pearson [cp@biglocomotive.net]
Sent: Friday, November 30, 2012 08:41 PM Eastern Standard Time
To: Weinstein, David (Sanders)
Cc: McLean, Daniel (Sanders)
Subject: Re: For Chris Pearson

Site looks great. It didn't adjust for my iPhone in case that's helpful.

What about Handy's? They own all the Simon's stations. I'm not sure how many that is but if its a lot then maybe go w five companies. doesn't sound a lot bigger than 4.

C

On Nov 30, 2012, at 5:09 PM, "Weinstein, David (Sanders)" <David_Weinstein@sanders.senate.gov> wrote:

Christopher:

See below from Dan.

The link is to a webpage that hasn't gone live yet, so please don't forward.

The August statement you can obviously share.

-d

From: McLean, Daniel (Sanders)
Sent: Friday, November 30, 2012 4:47 PM

To: Weinstein, David (Sanders)
Subject: For Chris Pearson

Dave: Feel free to share this with Chris. It's just about ready to go; just addressing a minor formatting issue. We have not released this page to the public yet, however.

<http://www.sanders.senate.gov/consumers/>

The best analysis of how the price of the pump is determined can be found [here](#). (A formatting issue is being addressed on this page.)

Below, is Bernie's opening statement from the Aug. 6 Senate field hearing in Burlington. It is also good summary.

August 6, 2012

STATEMENT BY SEN. BERNARD SANDERS ON GAS PRICES

This is a formal hearing of the U.S. Senate Committee on Energy and Natural Resources and I want to thank Sen. Jeff Bingaman of New Mexico, Chairman of the Committee, for allowing us to hold this hearing in Burlington. I also want to thank Committee staff for being with us today. What is being discussed here will become a part of the official record of the Committee. I also want to thank our panelists for taking the time to be with us and to share their views on this important issue.

The issue that we are going to explore today is an extremely important concern for many Vermonters and that is how gas prices at the local level are determined and why it is that, with few exceptions, gas prices at the pump in northwest Vermont - Chittenden, Franklin and Grand Isle Counties - have been significantly higher over the last several years than gas prices in other parts of Vermont, in New England, and throughout the country. That is the issue we want to explore today.

I think we all understand that in a rural state like Vermont high gasoline prices have a very serious economic impact on many people and families in our state. It is certainly not uncommon in Vermont for workers to travel 30, 40, 50 miles to their jobs and back. When gas prices get very high that is money coming right out of workers' paychecks, paychecks which in recent years have often been stagnant or even declining. High gasoline prices impact not only workers, but small business owners, family farmers, truckers, and volunteers delivering meals to senior citizens. In other words, they impact the entire local economy.

Let's be very clear. The issue that we are exploring today is a complicated one and is extremely opaque. It is an issue which has not gotten the public attention or transparency that it deserves. Today, what we are going to try to do is, to some degree, lift the veil of secrecy on this issue.

Let's be clear: there are many factors that go into setting gasoline prices in Vermont and across the country.

Gasoline prices to a significant degree are determined by the price of crude oil. When crude oil prices go up, gas prices go up. When crude oil prices go down,

gas prices go down. Excluding for a moment, the enormous power of OPEC, the Oil Producing Exporting Countries, we have in this nation five giant oil companies -- Exxon Mobil, BP, Shell, Chevron, and ConocoPhillips - that have made more than a trillion dollars in profits over the last decade. I think it's fair to say that most consumers understand that these giant oil companies, who year after year make enormous profits, do not stay up nights worrying about the needs of consumers. Just in passing, as one small example, I would mention that in 2005 Lee Raymond, the former chairman of Exxon Mobil was given a nearly \$400 million retirement package by that company. I should also mention that these very same oil companies receive billions of dollars in generous tax breaks and subsidies from the federal government - something which I have been trying to end.

Further, another reason why oil prices are so high has to do with Wall Street speculators who are buying and selling huge amounts of oil on the energy futures market. The last information that I have on this issue is that Wall Street speculators control over 80 percent of the oil futures market. Needless to say, unlike fuel dealers or airline companies or trucking companies, these Wall Street firms do not use one barrel of that oil. They are there just to speculate and make huge profits.

Goldman Sachs, perhaps the largest speculator on Wall Street, came out with a report earlier this year indicating that excessive oil speculation is costing Americans about 56 cents a gallon at the pump. Others have made estimates that are even higher.

While these two factors, and others, can explain why gas prices have been extremely high on the national level, they cannot explain what we are exploring today - and that is the significant differences in gasoline prices that have existed in northwest Vermont compared to other regions of our state and other parts of the country.

Over the past several months, many Vermonters have asked me why consumers have been forced to pay considerably more for a gallon of gasoline in northwest Vermont than in other regions of the state or New England. Clearly, in Vermont, state taxes are the same throughout the state and what we have learned is that transportation costs amount to just a few cents per gallon. Why on July 6, 2012 - a month ago - would the same gas station company (Maplefields) charge \$3.35 a gallon in Middlebury while charging \$3.59 a gallon just 35 miles away in Burlington?

Why, on July 1st, were people in St. Albans paying on average -- looking at all the gas stations in that area -- \$3.60 for a gallon of gas, while people in Springfield, Vermont, on average, were paying less than \$3.40 a gallon?

Why, on June 24th, were people in Waterbury paying more than \$3.65 a gallon for gas, on average, while people in Rutland were paying an average of \$3.49 a gallon?

These are just a few of the questions that the citizens of Vermont have been asking me and that my office has been trying to answer.

On July 2nd, I asked the Federal Trade Commission (FTC) and the Oil and Gas Price Fraud Working Group to investigate why prices could be so much higher throughout northwest Vermont than in other areas of the state and country.

In the days that followed, we learned a lot of interesting information.

First, the FTC provided information showing gasoline prices in greater Burlington in late June were 10 to 43 cents a gallon greater than their computer

model projected they should be based on historical wholesale prices.

Secondly, according to OPIS, the Oil Price Information Service, we learned that earlier this summer the Burlington area was the most profitable gasoline market in the northeast - more profitable than Washington, DC or New York City or, in fact, any other region east of the Rocky Mountains.

Further, according to data I received from OPIS, gasoline profit margins in Burlington more than tripled from January 1st of this year through June 30th of this year.

During the first half of this year, Burlington was one of the most lucrative markets in the entire eastern half of America.

As Ben Brockwell, the director of data at the Oil Price Information Service (OPIS), and one of our witnesses today, told the Burlington Free Press on July 13th: "Burlington is always the top market in the Northeast in terms of profits." Let's be clear. What we have seen in the first half of this year is not an aberration.

Over the last three years, gasoline prices and profit margins have almost always been higher in the Burlington area than the national average.

In fact, over the past three years, Burlington area gas prices have exceeded the U.S. average 86 percent of the time - sometimes by as much as 29 cents per gallon. And, Burlington gasoline prices, over the past three years have exceeded the statewide average 72 percent of the time. Prices in St. Albans exceeded both the U.S. average and the Vermont average 90 percent of the time. Prices in Waterbury exceeded the US average 97 percent of the time and Vermont 100 percent of the time.

As my office has looked at this issue, we have tried to understand why prices in northwest Vermont were so much higher than the rest of the nation, the rest of New England, and the rest of the country. And one conclusion that we have reached is that it appears that there is just not a whole lot of competition when it comes to gas prices in this region - certainly as compared to other parts of the state and this country.

One of the reasons for that may well be a reality that many Vermonters are not aware of. And that is that the three largest gasoline distributors in northwest Vermont (S.B Collins (43), Champlain Oil (35), and R.L Vallee (22)) own more than half of the filling stations in this region (owning 100 of 185 stations); and just four companies (adding Wesco (18) into the mix) own nearly two-thirds of the filling stations in northwest Vermont, or 64 percent -- owning 118 of 185 stations.

I suspect that this concentration of ownership and lack of price competition may be a significant reason why gasoline stations in northwest Vermont have been able to charge substantially higher prices than other regions of our state or the country.

No one is disputing that gasoline distributors have a right to make a profit. In my view, however, they should not be ripping people off in these tough economic times.

Now, let me mention something that I have found very interesting. And, that is that, since I have called for this investigation into unusually high gasoline prices in northwest Vermont, I am happy to say that I have detected a more competitive spirit among gasoline station distributors in Chittenden County. I say this fully understanding that national wholesale gas prices have soared in recent weeks, and have in the last couple of days been reflected locally.

On Friday, August 3rd, gas prices in Burlington were, for the first time in several months, below the national average. Today, as best as we understand, with gas prices in Vermont and nationally soaring, gas prices in the Burlington area remain at about the national average.

In the month of July, average gasoline prices in the Burlington area went down by about nine cents a gallon, even though wholesale gasoline prices in our region have gone up by more than 18 cents a gallon during this same time period.

Meanwhile, the national retail average price for gasoline during July went up by more than 19 cents a gallon, keeping track with the rise in wholesale prices. In other words, during July while gas prices nationally went up by 19 cents a gallon, they went down by 9 cents a gallon in the Burlington area. This indicates to me that when local distributors want to be competitive they have the capability of doing so. And, I hope very much that we continue to see that level of competition in northwest Vermont so that prices here reflect prices nationally and in the rest of New England.

Now, as many of you know, Costco has been trying to build a gasoline station at its Colchester location since 2007.

Costco recently informed my office, and I will enter that letter as part of the record, that it could have sold gasoline for 19 cents a gallon less than the average price charged by gas stations in Colchester during the past two years.

And, I want to thank a representative from Costco for being here today.

I raise this issue not to be "pro-Costco" or "anti-Costco," but to emphasize that when low-cost competitors enter a market, what national statistics show is that market forces have a tendency to bring prices down.

Let me also be clear: Costco is attempting to receive a permit through a regional environmental board. This hearing today has nothing to do with that process because it would be totally improper for I or anyone else to be intervening in what is a state of Vermont quasi-judicial process. As I think most people now know some of the major opponents to Costco getting that permit are local gasoline distributors. In a letter to me, Costco wrote and I quote: "Since 2007 Costco has been seeking land use permits and approvals to build a gasoline filling station at our current store in Colchester, Vermont. We have obtained several approvals for our proposed gas station in Colchester, but each approval has been appealed by, among others, gas station owners in northern Vermont. We can discern no legitimate reason for these appeals, and believe that they are really an attempt to use the land use process to stifle competition for gas sales."

That's Costco's view. Others can form their own opinion.

Press Conference on Gasoline Prices

Swanson, MaryKay

Sent: Monday, September 15, 2014 11:16 AM

To: jeff_frank@sanders.senate.gov

Cc: Swanson, MaryKay

Jeff,

I spoke with General Sorrell.

He said that Chris Pearson organized the press conference and would be putting out a press release.

Chris' phone number is 802-860-3933.

I'm sorry I don't have more information to give you.

Thanks

MK

Mary-Kay Swanson

Executive Assistant

Office of the Attorney General

109 State Street

Montpelier, VT 05609

802-828-3173

RE: Press Conference on Gasoline Prices

Frank, Jeff (Sanders) [Jeff_Frank@sanders.senate.gov]

Sent: Monday, September 15, 2014 11:17 AM

To: Swanson, MaryKay

Ok – thank you very much,

Jeff

From: Swanson, MaryKay [mailto:marykay.swanson@state.vt.us]

Sent: Monday, September 15, 2014 11:16 AM

To: Frank, Jeff (Sanders)

Cc: Swanson, MaryKay

Subject: Press Conference on Gasoline Prices

Jeff,

I spoke with General Sorrell.

He said that Chris Pearson organized the press conference and would be putting out a press release.

Chris' phone number is 802-860-3933.

I'm sorry I don't have more information to give you.

Thanks

MK

Mary-Kay Swanson

Executive Assistant

Office of the Attorney General

109 State Street

Montpelier, VT 05609

802-828-3173

2/6/16 ~~email~~ letter

(re. 4-6-15 record request)

Griffin, Bill

From: toensing@gmail.com on behalf of Brady Toensing <brady@digtoe.com>
Sent: Saturday, February 06, 2016 10:58 AM
To: Griffin, Bill
Cc: whsorrell@gmail.com; Sorrell, Bill
Subject: Re: VTPRAR: Legal obligation to produce all documents related to official state business
Attachments: Letter to Griffin re VTPRAR and obligation to produce all docs EXHIBITS 02062016.pdf

Dear Bill -- Please excuse me, I inadvertently sent you the letter without exhibits. Attached is the same letter with exhibits. Sincerely, Brady.

Brady C. Toensing
diGenova & Toensing
(m) 202.297.4245

On Sat, Feb 6, 2016 at 10:43 AM, Brady Toensing <brady@digtoe.com> wrote:

Dear Bill -- Please see attached.

Brady C. Toensing
diGenova & Toensing
1776 K Street NW
Washington DC 20006

(o) 202.289.7701

(m) 202.297.4245



diGENOVA & TOENSING, LLP
ATTORNEYS-AT-LAW

February 6, 2016

Via Email (bill.griffin@state.vt.us)

William E. Griffin
Chief Assistant Attorney General
Office of the Attorney General
State of Vermont
109 State Street
Montpelier, Vermont 05609

Re: Legal obligation to produce all documents related to official state business.

Dear Mr. Griffin:

This letter follows-up on our February 3, 2016 phone call regarding the obligation of Vermont State officials to produce records that are sent to or kept on a private email or text messaging account when they are responsive to a public records request.

On April 6, 2015, I submitted a Vermont Public Records Act request to General William Sorrell demanding all "documents of any kind related in any way to a September 15, 2104 event with Dean Corren at a Burlington gas station (McCaffrey's Sunoco) ..." Exhibit A. General Sorrell represented that this request was responded to fully.

A January 28, 2016 article in Seven Days newspaper, however, revealed responsive documents that were not produced to me. Exhibit B. That article described and contained a September 16, 2014 email discussion between General Sorrell and Tom Torti about the September 15, 2014 McCaffrey's Sunoco press event with Dean Corren. Mr. Torti had initiated the communication by sending it to General Sorrell's private email. The email address was redacted from the article, but General Sorrell has previously used whsorrell@gmail.com for official government communications.

General Sorrell had selectively produced these emails to the Little Investigation as part of his effort to portray the Sunoco press event as official government business and not a campaign event. In the discussion, General Sorrell brags that one reason he attended the event was in order to punish a campaign contributor to his primary opponent. These emails, including General Sorrell's disturbing boast about using his public office to settle a political score, were indisputably responsive to my April 6 Public Records Act request. Yet General Sorrell failed to

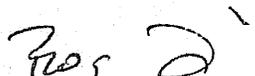
William E. Griffin
Chief Assistant Attorney General
February 6, 2016
Page 2

produce them. Perhaps more disturbing is that the existence of these emails and his failure to produce them in response to a lawful Public Records Act request indicates that General Sorrell is using a private email account in order to escape his legal obligation to produce public records.

Regardless of General Sorrell's machinations, Vermont law requires the production of all responsive records that are related in any way to official state business even if those records are contained on a personal email or text messaging account. Please confirm that General Sorrell will revisit the April 6 request and promptly produce *all* responsive documents, including those kept on private email or text messaging accounts. Please also confirm that your office will also produce all responsive records for past, pending, and future requests, regardless of the email or text messaging account on which those records are stored.

Thank you for your continued assistance with these matters. I look forward to your response. If you have any questions, I can be reached at (202) 297-4245 or by email at Brady@digtoe.com.

Sincerely,


Brady C. Toensing

Exhibits

cc: William Sorrell, Attorney General (via email whsorrell@gmail.com and bill.sorrell@state.vt.us)

Exhibit A



Brady Toensing <toensing@gmail.com>

Vermont Public Records Act Request -- ATTENTION -- Timely Response Required By Law

Brady Toensing <brady@digtoe.com>

Mon, Apr 6, 2015 at 4:07 PM

To: bill.sorrell@state.vt.us

Cc: susanne.young@state.vt.us

The Honorable William H. Sorrell
 Attorney General of Vermont
 Office of the Attorney General
 109 State Street
 Montpelier, VT 05609

Re: Vermont Public Records Act Request for Information

Dear General Sorrell:

Pursuant to Vermont's Access to Public Records Act, 1 V.S.A. §§ 315-320, for the time period January 1, 2014 to present, I hereby demand all emails, text messages, notes, memoranda, calendar entries, or documents of any kind related in any way to a September 15, 2014 event with Dean Corren at a Burlington gas station (McCaffrey's Sunoco), including, but not limited to, communications with the following: *

- Julia Barnes;
- Megan Brook;
- Dean Corren;
- Dottie Deans;
- Doug Hoffer;
- Christopher Pearson;
- Senator Bernard Sanders;
- Michael Briggs;
- F. Philip "Phil" Fiermonte;
- Daniel McLean; or
- any agent, employee, or representative of Senator Bernard Sander's staff or campaign organization.

If no responsive records exist, then state this fact in your response. If any part of these requests is denied, please list the specific criteria you are relying on for the denial, as well as the name and title of the person responsible for the denial.

The Vermont Public Records Act is to be "liberally construed ... and the burden of proof" is on the agency to justify any refusal to produce records. 1 V.S.A. § 315. Absent a valid legal exemption, this law compels the production of documents and correspondence relating to official state business, regardless of what email or text messaging system is used. If such records exist and you do not intend to comply with this request, please inform me immediately so that I may pursue an appropriate legal remedy. Meantime, you should ensure these public records are preserved. 1 V.S.A. § 320 (Destruction of public records is prohibited by law). *

Pursuant to the Public Records Act, please also do the following:

- Produce these documents promptly or certify within two business days why you are denying me

access to them or any particular documents (this time limit may be extended only under certain conditions as outlined in 1 V.S.A. § 318);

- If you believe an otherwise public record is exempt from disclosure, produce a log with the page numbers of the documents, the date of the document, the people or entities who received copies, the authors of the document and a specific explanation (citing to the applicable exemption) for why a document has not been produced;
- If an otherwise public record has a portion that is exempt from disclosure, redact any exempt portion and release the redacted document together with a log (as described in the previous bullet);
- Inform me of the appeal procedures available to me if you withhold any documents;
- If you are unable to copy any material, identify the material and notify me when it will be available for my inspection; and
- Provide a written reply to this request.

If you refuse to produce any responsive records to me, it would be helpful to Bates Number any such documents for easy reference and to avoid confusion in future proceedings regarding the failure to produce records. I am willing to pay reasonable production fees, if necessary, but please call or email me first with an estimate as to the costs to produce these documents. Thank you for your assistance with this matter and I look forward to your response. If you have any questions, I can be reached at (202) 297-4245.

Sincerely,

Brady C. Toensing

**Brady C. Toensing
diGenova & Toensing
Washington DC
202.297.4245**

Exhibit B

GUIDES → BERNIE SANDERS | BEST OF VERMONT | STUDENTS | TOURISM

VERMONT'S INDEPENDENT VOICE



off *** message

Archives | RSS

THURSDAY, JANUARY 28, 2016

CRIME / NEWS

Did Sorrell Take Official Action to Punish Opponent's Donor?

POSTED BY PAUL HEINTZ ON THU, JAN 28, 2016 AT 5:08 PM



Attorney General Bill Sorrell

FILE: JEB WALLACE-BRODEUR

An email obtained during an investigation of Attorney General Bill Sorrell suggests he sought to punish a donor to a rival's campaign during the course of official business.

First disclosed in this week's **Fair Game political column**, the email pertains to a September 2014 press conference organized by then-lieutenant gubernatorial candidate Dean Corren and attended by Sorrell. Standing in front of McCaffrey's Sunoco in Burlington, the two called for legislation requiring gasoline distributors to disclose pricing information to the attorney general's office.

After the event, the head of a local business group raised concerns about Sorrell's participation, prompting the AG to reply, "I care about the issue, not to mention the \$4k a whole seller gave a prior opponent ..."

The "whole seller" in question appears to be Skip Vallee, a political lightning rod whose Colchester-based business, R.L.

Vallee, Inc., has been accused of driving up gas prices in Chittenden County. Now the Vermont chairman of Sen. Marco Rubio's (R-Fla.) presidential campaign, Vallee has contributed generously to Republican candidates over the years, including President George W. Bush, who in 2005 appointed him ambassador to Slovakia.

In August 2012, Vallee and his wife, Denise, **donated \$4,000 to Chittenden County State's Attorney T.J. Donovan's Democratic primary campaign** against Sorrell. Though Donovan came close to unseating Sorrell, he ended up losing the election by 714 votes, just 11 days after the Vallees made their contributions.

Forwarded a copy of the email, Vallee would not say whether he thought he was the target of Sorrell's ire.

"You should ask General Sorrell," he replied.

Sorrell did not immediately respond to a request for comment.

Had Sorrell sought retribution against a rival's donor at a political event, it could have been considered politics as usual. But Sorrell has long claimed that he participated in the press conference in the course of his official duties.

"This was not a campaign rally," Sorrell wrote in a sworn affidavit submitted in July 2015 to a panel of state's attorneys investigating separate allegations against him. "Indeed, it was much like other issue-focused events I participated in during 2014 — as part of my job as Attorney General."

The nature of the press conference became an issue last spring when Vermont Republican Party vice chair Brady Toensing **accused the AG of failing to report Corren's expenses at the event as in-kind contributions to Sorrell's reelection campaign**. In response, Sorrell argued that he did not have to disclose the information because he did not drop by McCaffrey's as a political candidate.

"While Dean Corren may have treated it as a campaign event," Sorrell's lawyer, David Kirby, wrote last July in a separate filing, "attendance was simply part of General Sorrell's job promoting public awareness of an issue and legislation addressed to that issue."

A panel of state's attorneys that investigated Toensing's allegations agreed with the AG, writing in **a report released last week** that the press conference "was not staged as a Sorrell campaign event."

Vallee declined to comment directly on the email, but he addressed it obliquely in a statement to *Seven Days*.

"It is never appropriate for an elected law enforcement official to settle political scores using the power granted to him as a guardian of the public trust," Vallee wrote.

Beyond the Vallee reference, Sorrell's email exchange provides an intriguing glimpse inside of Vermont's political ecosystem. The correspondence began with Lake Champlain Chamber of Commerce president Tom Torti scolding Sorrell for attending the press conference.

"I'm sure you have heard about the level of displeasure Mazza feels about you standing with Corren," Torti wrote, referring to Sen. Dick Mazza (D-Grand Isle). "Just wanted to pass on what was mentioned to me."

Mazza, a powerful figure in the Chittenden County political and business communities, is a staunch ally of Republican Lt. Gov. Phil Scott. At the time, Corren was campaigning for Scott's job.

"I went out and talked with [Mazza] beforehand, before I committed to doing it," Sorrell replied. "He said 'you have to

do what you have to do.' I left on good terms. He's hosting a fundraiser for me. He called me a couple of hours later, suggesting I just give a quote for [the Corren campaign's press] release. But in the interim, I'd committed to participate."

Sorrell concluded: "I didn't endorse Corren. I care about the issue, not to mention the \$4k a whole seller gave a prior opponent..."

Torti replied, "Just being the messenger ..."

Sorrell turned the email and five others over to the state's attorneys investigating him. Though the information was considered privileged, Sorrell voluntarily provided some of the documentation to *Seven Days*, upon request.

Here is the email in full, with addresses redacted:

From: William Sorrell
Date: September 16, 2014 at 4:01:13 PM EDT
To: Tom Torti
Subject: Re: Gas, Corren, Mazza

Yup

Sent from my iPhone

On Sep 16, 2014, at 11:08 AM, Tom Torti wrote:

Just being the messenger....

From: William Sorrell
Sent: Tuesday, September 16, 2014 10:28 AM
To: Tom Torti
Subject: Re: Gas, Corren, Mazza

I went out and talked with him beforehand, before I committed to doing it. He said "you have to do what you have to do." I left on good terms. He's hosting a fundraiser for me. He called me a couple of hours later, suggesting I just give a quote for their release. But in the interim, I'd committed to participate.

I didn't endorse Corren. I care about the issue, not to mention the \$4k a whole seller gave a prior opponent...

Sent from my iPhone

On Sep 16, 2014, at 7:15 AM, Tom Torti wrote:

I'm sure you have heard about the level of displeasure Mazza feels about you standing with Corren. Just wanted to pass on what was mentioned to me.

T

Tags: Bill Sorrell, Skip Vallee, Brady Toensing,
 Image

Got something to say?
 Send a letter to the editor and we'll
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 Vermont Dignitary Visits Seven Days, Avoids Questions
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WILLIAM H. SORRELL
ATTORNEY GENERAL

SUSANNE R. YOUNG
DEPUTY ATTORNEY GENERAL

WILLIAM E. GRIFFIN
CHIEF ASST. ATTORNEY
GENERAL



STATE OF VERMONT
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109 STATE STREET
MONTPELIER, VT
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<http://www.ago.vermont.gov>

February 12, 2016

Brady C. Toensing
Di Genova & Toensing
1776 K Street NW, Suite 737
Washington, DC 20006

RE: 4/6/15 Records Request Follow-up

Dear Brady,

This is in reply to your February 6, 2016 letter following up on one of the access to records requests that you sent to the Attorney General's Office last spring. On April 6, 2015 you requested communications about a Burlington press conference on the topic of gasoline prices in Chittenden County. I replied to this request and produced the responsive records on April 9, 2015. The responsive records included email exchanges to and from the Attorney General's Office between September 10 and September 15, 2014 and an Office calendar entry for the event.

Your February 6, 2016 letter suggests that my response should have included a personal email exchange between Mr. Sorrell and an acquaintance on the day following the press conference. My search for emails did not include a search of Mr. Sorrell's personal emails. If it had, it is doubtful that I would have produced the personal exchange. The records that were produced were sent or received in the course of AGO business – which includes an interest in gasoline pricing. The personal exchange was entirely personal and political.

Sincerely,

A handwritten signature in cursive script that reads 'Bill'.

William E. Griffin
Chief Assistant Attorney General



diGENOVA & TOENSING, LLP
ATTORNEYS-AT-LAW

May 12, 2015

Via Email (bill.sorrell@state.vt.us)

The Honorable William H. Sorrell
Office of the Attorney General
State of Vermont
109 State Street
Montpelier, Vermont 05609

Re: Request for Appointment of Independent Counsel for Investigation of Vermont Attorney General.

Dear Mr. Attorney General:

This is a request for documents made pursuant to Vermont's Access to Public Records Act, 1 V.S.A. §§ 315-320. For the following state employees, I hereby demand any and all documents responsive to the requests below:

Vermont State Employees.

Elliot Burg;
Eve Jacobs Carnahan;
Mark DiStefano;
William E. Griffin;
Scot Kline;
Wendy Morgan;
Janet Murname;
Megan J. Shafritz;
William Sorrell;
MaryKay Swanson;
Susanne R. Young.

Requests. For the time period January 1, 2012 to present:

1. **Individuals and Entities.** Any and all communications with or documents related to the following individuals and entities:¹

Individuals:

- Todd Bailey;
- Travis Berry;
- Michael Briggs;
- Russell Budd;
- Dorothy Budd;
- Dana Bykowski (also known as Dana Bykowski Ju);
- Richard Cassidy;
- Stefan Chodkowski (Stefan@democraticags.org);
- Dean Corren (dcorren@burlingtontelecom.net);
- Michael Crowell;
- Howard Dean;
- F. Philip "Phil" Fiermonte;
- Jeff Frank (jeff_frank@sanders.senate.gov);
- Jenifer Fuller;
- Nicholas M. Gess;
- Jacob Gillison;
- Terry Goddard;
- Lori Kalani;
- JB Kelly;
- Cindy Lott;
- Daniel McLean (Daniel_McLean@sanders.senate.gov);
- Bernie Nash (nashb@dicksteinshapiro.com);
- Christopher Pearson (cp@biglocomotive.net);
- Kenneth Pennington;
- Michael Pieciak (mspieciak@gmail.com);
- L. Michael Messina;
- Benjamin C. Metcalf;
- Patricia Madrid;
- Lisa Madrid;
- Senator Bernard Sanders;
- Jane Sanders;
- Divonne Smoyer;
- Robert Stannard;

¹ To assist in the search process, an email address, if known, has been included for some individuals. The listing of an email address, of course, does not necessarily mean that it was the only email address used for that individual and its listing should not be interpreted to limit those requests to just that address.

- Scott Summy;
- James Tierney (jtierne@law.columbia.edu);
- David Weinstein (David_Weinstein@sanders.senate.gov).

Entities:

- Committee for Justice and Fairness PAC (CJF), including, but not limited to, any communications about filing (or failing to file) campaign finance reports in Vermont
 - Dickstein Shapiro;
 - Democratic Attorneys General Association (DAGA);
 - Media Strategies, Denver, Colorado.
2. Any communications received from or sent to (including blind copied to) any email addresses with the following domains:
 - @bernie.org;
 - @democraticags.org;
 - @dicksteinshapiro.com;
 - @Sanders.senate.gov.
 3. Any communications or documents related to any election or campaign of Attorney General Sorrell, including but not limited to, any complaints, compliance advice given to anyone, campaign contributions (in any form), working on a campaign, or any campaign events.
 4. Any communications or documents about retaining Baron & Budd, P.C., Weitz & Luxenberg, P.C., Pawa Law Group, P.C., or the Law Office of L. Michael Messina, P.A., for litigation regarding methyl tertiary butyl ether (MTBE), including but not limited to any communications with or documents discussing the Vermont Agency of Natural Resources.
 5. All documents related to the July 25, 2012 guidance from General Sorrell allowing unlimited PAC spending.

These requests include, but are not limited to, communications received or sent on a private email account (such as whsorrell@gmail.com)² or private text messaging account. If no responsive records exist, then state this fact in your response. If any part of these requests is denied, please list the specific criteria you are relying on for the denial, as well as the name and title of the person responsible for the denial.

² General Sorrell gave out his personal email address to at least one lobbyist who requested it. Ex. A. Communications related in any way to official state business must be produced even if contained on a personal email account.

The Honorable William H. Sorrell

May 12, 2015

Page 4

The Vermont Public Records Act is to be "liberally construed ... and the burden of proof" is on the agency to justify any refusal to produce records. 1 V.S.A. § 315. Absent a valid legal exemption, this law compels the production of documents and correspondence relating to official state business. If such records exist and you do not intend to comply with this request, please inform me immediately so that I may pursue an appropriate legal remedy. Meantime, you should ensure these public records are preserved. 1 V.S.A. § 320 (Destruction of public records is prohibited by law).

Except under extraordinary circumstances, Vermont law requires that you "promptly produce" public records. 17 V.S.A. § 318 (a). The statute allows a three day time period for you to respond, but only if you intend to withhold documents and need time to certify an exemption. 17 V.S.A. § 318 (a)(2). This three day time period was not intended to allow a state official to automatically avoid the prompt production requirements of the statute.

Pursuant to the Public Records Act, please also do the following:

- Produce any responsive documents to me electronically (please send to Brady@digtoe.com), if possible;
- Produce these documents promptly or certify within two business days why you are denying me access to them or any particular documents (this time limit may be extended only under certain conditions as outlined in 1 V.S.A. § 318);
- If you believe an otherwise public record is exempt from disclosure, produce a log with the page numbers of the documents, the date of the document, the people or entities who received copies, the authors of the document and a specific explanation (citing to the applicable exemption) for why a document has not been produced;
- If an otherwise public record has a portion that is exempt from disclosure, redact any exempt portion and release the redacted document together with a log (as described in the previous bullet);
- Inform me of the appeal procedures available to me if you withhold any documents;
- If you are unable to copy any material, identify the material and notify me when it will be available for my inspection; and
- Provide a written reply to this request.

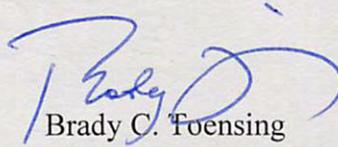
If you refuse to produce any responsive records to me, it would be helpful to Bates Number any such documents for easy reference and to avoid confusion in future proceedings regarding the failure to produce records.

I am willing to pay reasonable production fees, if necessary, but please call or email me first with an estimate as to the costs to produce these documents. Thank you for your assistance

The Honorable William H. Sorrell
May 12, 2015
Page 5

with this matter and I look forward to your response. If you have any questions, I can be reached at (202) 297-4245 or by email at Brady@digtoe.com.

Sincerely,



Brady C. Toensing

Exhibit A

From: Kalani, Lori E. <lkalani@orrick.com>
Sent: Friday, April 20, 2012 3:26 PM
To: Bill Sorrell
Subject: Do you have a personal email?

I would like to talk to you about a non work topic. Thanks.



O R R I C K

LORI KALANI

Senior Counsel

ORRICK, HERRINGTON & SUTCLIFFE LLP

51 WEST 52ND STREET
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(tel 212-506-5116

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Farnsworth, Karen

From: Young, Susanne
Sent: Thursday, May 14, 2015 11:00 AM
To: Farnsworth, Karen
Subject: FW: Vermont Public Records Act Request 12 May 2015 -- Attention. Timely Response Required by Law.
Attachments: Letter to General Sorrell VTPRAR 12 May 2015.pdf

Hi Karen,
Here is the latest request to include in the package you are putting together for Mark, Bill and me for tomorrow. Thanks, Susanne

From: toensing@gmail.com [mailto:toensing@gmail.com] **On Behalf Of** Brady Toensing
Sent: Tuesday, May 12, 2015 11:54 PM
To: Sorrell, Bill
Cc: Young, Susanne
Subject: Vermont Public Records Act Request 12 May 2015 -- Attention. Timely Response Required by Law.

Please see attached.

Brady C. Toensing
diGenova & Toensing
Washington DC
(m) 202.297.4245



PROPOSAL RESPONSE TO RFP:
SOW-RFP AGO Records Request



Due Date: June 1, 2015

Prepared for: Bill Griffin
Office of the Attorney General
109 State Street
Montpelier, VT 05609
(802) 828-3171
Bill.griffin@state.vt.us



Prepared by: Joe Noonan
Account Executive
Competitive Computing, Inc.
(802) 764-1762
Joe.noonan@competitive.com





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1 Executive Summary

Competitive Computing, Inc. (C2) is pleased to present the State of Vermont (SOV) with our response to the State's RFP "AGO Records Request." In our proposal, we detail our qualifications and experience and detail a work plan and proposed personnel.

We understand from the RFP that the State is looking for a third party vendor to conduct a search of emails of 11 state employees and return a list and copies of any emails discovered given a set of criteria. As a full-service business technology consulting firm with nearly 20 years of experience servicing both public and private sectors, C2 will provide quality services and solutions to the State in all initiatives for which we are engaged.

Depth of Experience

C2 has an established relationship with the State, decades of experience with strategic, large-scale deployments, and a highly knowledgeable and certified staff. Our full-service approach includes strategic IT planning, business process and workflow analysis, application development, technology infrastructure, and managed support services for the extended enterprise. Over the past 15 years, C2 has enjoyed a successful working relationship with various State agencies and departments to successfully complete a multitude of projects including the Vermont Travel Planner, Vermont Bid Registry, eDEC online permitting, Business Process Analysis for the DMV's Systems Modernization effort, Information Center Kiosks, and design of the enterprise Microsoft Exchange Environment, server consolidations using virtualization, email archiving, disaster and recovery (DR) planning and implementation, as well as numerous content-managed websites and network and email implementations. To accomplish these projects, we have worked in partnership with the Department of Information and Innovation to drive a common architecture and have provided many of the technology services that are included in this RFP. From these engagements, we have a detailed working knowledge of your operations, systems, customers, and partners, as well as a keen awareness of the State's go-forward initiatives, structure, and processes. We believe this uniquely positions us to continue to provide higher quality, higher value services to the State.



We are Technology Experts

As evidence of our unparalleled experience and expertise with the majority of technologies referenced within the RFP, C2 has achieved and maintains partnerships with top-tier server technology providers including Microsoft, Cisco, Citrix, Dell, EMC, Hewlett-Packard and VMware.

In addition to the highly certified engineers we have on staff, we also regularly consult with known industry experts when doing so will benefit our clients. Our project managers follow PMI standards to provide the structured processes and oversight that are so critical in the completion and adoption of IT projects. When working with C2, the State can be confident that we will always bring to bear the necessary team with the required skill set to provide a quality solution.

As a Vermont Company, We Share Your Goals

We are a Vermont company that upholds Vermont values. We take partnering with our clients very seriously and work to cultivate mutually beneficial, long-lasting relationships. We are very proud of



our work with Vermont State government and of the benefits we have collectively provided to all Vermont constituents. As Vermonters, we share your goals to improve the quality and efficiency of services provided by Vermont government. As a Vermont business in this small, well-connected community, your success and satisfaction are essential for our sustainability. The State can be confident in our commitment to your success in all IT initiatives.

C2's close proximity – in Colchester – means that our resources are just a short drive from Montpelier, Waterbury, and many State offices. Our accessibility means that we can conduct more project activities in-person which allows our individual team members to develop stronger, mutually beneficial relationships with those they are servicing and supporting. Our experience has shown us that in-person meetings often provide more effective communication and better collaboration with State teams during projects and, ultimately, produce better end results.

Throughout the term of a retainer contract, we will partner with the State to maximize opportunities, define priorities, and focus investment efforts on the areas of highest return. We are confident that our experience and capabilities – coupled with structured, industry-proven practices and standards for design, development and deployment – will serve the State well.



2 Transmittal Letter



June 1, 2015

Mr. Bill Griffin
Office of the Attorney General
109 State Street
Montpelier, VT 05609

RE: Response to RFP: “AGO Records Request”

Dear Mr. Griffin:

Competitive Computing, Inc. (C2) is pleased to respond to the State of Vermont’s RFP “AGO Records Request” for a search of emails of 11 state employees to identify any emails responsive to the request for records described in the RFP.

This SOW and work performed under it will be governed by our Master Services Agreement with the State of Vermont. We acknowledge the Terms and Conditions set forth by this contract.

I will serve as the point of contact for this proposal and can be contacted at the following:

Joe Noonan, Competitive Computing, 354 Mountain View Drive, Colchester, VT 05446
Phone: 802-764-1762 / Email: joe.noonan@competitive.com

Thank you for the opportunity to present our qualifications.

Sincerely,

A handwritten signature in black ink that reads 'Joe Noonan'. The signature is written in a cursive, flowing style.

Joe Noonan
Account Executive



3 C2 Proposed Services

C2 proposes the following work plan.

Project Kick Off – 1 Day

Meet with key resources from AGO and DII to review the specific information in scope for search. AGO/DII to provide a work space, client computer(s), and access to servers and information for C2 to perform such search activities in Exchange Server 2010 and Enterprise Vault.

C2 to review and verify access is working as expected.

Initial Search Work – 4 days

Perform initial round of searches, searching existing information that is available at the time of search in Exchange Server 2010 and Enterprise Vault.

Review search results with key AGO resources to ensure the searches are correct and search results are applicable.

Revise search as required.

Produce search results in PST format.

Additional Search Work – TBD based on number of databases required to be recovered

Should Exchange Server 2010 database backups need to be restored for additional searching, each database to be restored (using recovery storage group) and searched is estimated to take approximately 1 effort day to complete. It is not known if or how many of these may be required. An estimate of the number of databases requiring recovery will be made after the initial discovery phases accomplished during the kick-off meeting.

Assumptions/Parameters

1. C2 understands the State of Vermont mailboxes to be searched are stored ONLY in the DII Exchange Server 2010 and related Enterprise Vault environment. No other or external data sources are expected, none are included to be searched in this proposal.
2. Unless there has been a system in place for the entire timeframe of the information request that makes a compliance archive copy of all email automatically, any and all information searching cannot guarantee complete results.
3. Unless there has been a system in place to record any and all recipients of email messages, TO, CC, BCC, and Distribution List Memberships as the messages were sent, any and all information searching cannot guarantee complete results.
4. C2 is assuming, based on previous knowledge of the environment, that no compliance archiving has been in place during the timeframe outlined in the RFP. Therefore it is not



expected that search results will be complete since some and/or all requested information may have been removed from the State systems by users. If this assumption is correct, then search results are very likely to be lacking some portion of the desired data.

5. C2 may recommend purchase of Exchange Server 2010 Enterprise Client Access Licenses for the State of Vermont mailboxes that are in scope for information search, assuming they are all stored on Exchange Server 2010 Servers, to facilitate the use of advanced searching capabilities of the product for data that exists at the time of this work.
6. C2 will require access to the State of Vermont mailboxes in question for the purpose of running searches, both Exchange Server 2010 and Enterprise Vault.
7. Production of search results in PST format is expected.
8. C2 expects to use the tools and technologies already in place to perform searches and product search results, and expects such tools to product search results from the information sources identified.
9. Should additional tools be required, C2 will recommend such to the State if/when the need is identified. Purchase of additional tools is outside the scope of this proposal.
10. Email addresses of any and all mailboxes to be searched and to be searched for will be available. Only with complete information will it be possible to optimize the search work and produce the most accurate date from the searches.
11. C2 is not expecting this work to include any re-construction of previous versions of systems or data sets such as previous deployments of Exchange Server or Enterprise Vault. Any and all such work is out of scope.



4 Proposed Personnel

Competitive Computing, Inc. (C2) is a Vermont-based company and a recognized leader in strategic business technology solutions. We have earned a reputation for delivering high-quality, high-value solutions to Vermont State government, higher education, and the commercial sector. We are a full-service business technology consulting firm offering strategic planning, IT management consulting, business process analysis, enterprise architecture, custom application development, enterprise network computing, and mission-critical hosting & support services.

We propose that Jim Collins, Senior Systems Engineer and Jonathon Black, Systems Engineer will conduct the technical searches for emails under this RFP. Both have extensive experience with Microsoft Exchange and Active Directory. Jim Collins was instrumental in assisting DII during past projects involving Exchange and Active Directory.

Experience with Vermont State Government

To address the unique needs of State government, we have a consulting practice dedicated to State and Local Government. This allows us to apply project resources to State projects that are already familiar with the culture, working style, project approval logistics, etc. of Vermont government as well as with opportunities for cross-agency collaboration. C2 enjoys successful working relationships with numerous agencies throughout the State of Vermont including:

- Agency of Commerce and Community Development (ACCD)
- Agency of Human Services (AHS)
- Agency of Natural Resources (ANR)
- Agency of Transportation (VTrans)
- Attorney General's Office (AGO)
- Department of Buildings and General Services (BGS)
- Department of Economic Development
- Department of Information and Innovation (DII)
- Department of Labor (VDOL)
- Department of Motor Vehicles (VtDMV)
- Department of Public Safety (DPS)
- Department of Tourism and Marketing
- Natural Resources Board (ACT 250)
- Office of Child Support (OCS)
- Promotional Services Team (Marketing and Promotional Partnership)
- Treasurer's Office
- Vermont Arts Council
- Vermont Commission on Women
- Vermont Humanities Council

Our relationship with and knowledge of various State agencies continues to grow and we continue to share and leverage those experiences for the benefit of our State clients.



5 Pricing

C2 proposes these professional services on a time and materials basis due to the variables associated with recovering an unknown number of database backups . The C2 discounted hourly rate is \$150* per hour during C2 regular business hours, M-F 8AM-6PM excluding company holidays. C2 will not charge for the time and expense of travel to and from State Government offices in Montpelier, VT.

C2 will invoice the State of Vermont on a monthly basis. At the end of each month C2 will report the hours specific to this engagement and invoice accordingly.

* - Outside normal business hours the hourly rate is \$210/hour – To be approved & agreed upon by SOV and C2 in advance of such work if such work schedule is required



6 Agreement

Please sign below to indicate your acceptance of an agreement to this proposal and the associated investment. Your signature authorizes C2 to begin working in collaboration with the Middlebury College IT team and will also initiate the invoicing process as described in the Pricing section.

Middlebury College

Signature:

Name: **Bill Griffin**

Title: **Chief Assistant Attorney General**

Date:

Competitive Computing, Inc. ("C2")

Signature:

Name: **Joe Noonan**

Title: **Account Executive**

Date:

WILLIAM H. SORRELL
ATTORNEY GENERAL

SUSANNE R. YOUNG
DEPUTY ATTORNEY GENERAL

WILLIAM E. GRIFFIN
CHIEF ASST. ATTORNEY
GENERAL



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<http://www.ago.vermont.gov>

May 18, 2015

Mr. Brady C. Toensing
2613 Greenbush Road
Charlotte, VT 05445

RE: Access to Records Request – 44 individuals and entities

Dear Mr. Toensing,

This is in reply to your letter dated May 12 and received on May 13. The letter requests various records including all communications from any of 11 state employees to any of 44 individuals and entities during the period January 1, 2012 to May 12, 2015. The letter also requests all communications from any of the 44 individuals and entities to any of the 11 state employees during the same 40 month period. The letter also requests other documents.

In order to respond to your request we will have to search for, collect, and examine a voluminous amount of separate and distinct records. Therefore we are extending our response time to May 28, 2015. *See* 1 V.S.A. § 318(a)(5)(B).

Sincerely,

A handwritten signature in black ink, appearing to read 'W. E. Griffin'.

William E. Griffin
Chief Assistant Attorney General

Farnsworth, Karen

From: Griffin, Bill
Sent: Wednesday, May 27, 2015 7:37 PM
To: 'Brady Toensing'
Subject: Pending access to records requests
Attachments: 20150527174943248.pdf

Brady,

This is to confirm my understanding that we will proceed as follows on your several pending access to public records requests:

1. May 12, 2015 request for communications/documents to or from any of eleven State of Vermont employees and any of 40 individuals or entities during the period from January 1, 2012 to present.

Response: The Attorney General's Office invited three vendors to submit proposals for planning and conducting a search of State of Vermont emails to find responsive records. Two of the three informed me that they would submit proposals early next week. The Attorney General's Office will share the proposals with you and we can then discuss next steps.

2. May 12, 2015 request for communications to or from any of the eleven State employees and any email addresses containing any of four domain names.

Response: See response to item 1.

3. May 12, 2015 request for any communications/documents sent or received by any of the eleven State employees related to any election or campaign of Attorney General Sorrell.

Response: The Attorney General's Office will do an initial search for emails during the period March through September 2012.

4. May 12, 2015 request for any communications or documents about the outside counsel contract for litigation relating to MTBE, including communications with the Vermont Agency of Natural Resources.

Response: The Attorney General's Office will produce communications about the outside counsel contract, with minor redactions to protect attorney client information.

Our MTBE communications with ANR are voluminous. One Assistant Attorney General reported that he has communicated with 17 different officials and employees at ANR on potential and actual MTBE litigation. We discussed the possibility that you might narrow the scope of the ANR part of this request; for example, by requesting a one or two month sampling of communications from the AAG who reported the large number of communications. I will wait to hear from you before acting on this part of this request.

5. May 12, 2015 request for documents relating to the July 25, 2012 Attorney General's Guidance Regarding Independent Expenditure Committees.

Response: The Attorney General's Office will produce the document that prompted the Guidance and you will follow up as needed.

6. May 22, 2015 request for the attachment to Attorney Divonne Smoyer's email to Assistant Attorney General Ryan Kriger dated February 15, 2013.

Response: A redacted copy of the letter, which is a confidential settlement communication, is attached.

I hope this is a fair summary of the plan we discussed. Please let me know if any changes are needed.

Thank you.

Bill

Farnsworth, Karen

From: Griffin, Bill
Sent: Friday, June 05, 2015 12:58 PM
To: Brady Toensing (brady@digtoe.com)
Subject: email searches -- C2 and GF proposals
Attachments: SOV AGO - SOW-RFP AGO Records Request - 6-1-15.pdf; gallagher flynn proposal - 060215.doc

Brady,

The email search proposals that received by the AG's Office – one from Competitive Computing, Inc. (C2) and one from Gallagher, Flynn & Company, PLC – are attached. Both proposals relate to Request No. 1 and Request No. 2 that you submitted on May 12, 2015. The proposals were requested through an RFP process, so please treat them as confidential. The bidders have not seen their competitor's bid.

Also, I confirmed that the documents mailed yesterday were sent to your Charlotte address, so you should have them today or tomorrow.

Bill

Griffin, Bill

From: toensing@gmail.com on behalf of Brady Toensing <brady@digtoe.com>
Sent: Monday, July 13, 2015 2:17 PM
To: Griffin, Bill
Subject: Modified May 12, 2015 Vermont Public Records Act Request
Attachments: Letter to Griffin re 12 May 2015 VTPRAR Modification 07132015.pdf

Dear Bill -- Per our phone call last week, attached is the modified May 12, 2015 Vermont Public Records Act Request. Please let me know if you have any questions. Sincerely, Brady.

Brady C. Toensing
diGenova & Toensing
(m) 202.297.4245



diGENOVA & TOENSING, LLP
ATTORNEYS-AT-LAW

July 13, 2015

Via Email (bill.griffin@state.vt.us)

William E. Griffin
Chief Assistant Attorney General
Office of the Attorney General
State of Vermont
109 State Street
Montpelier, Vermont 05609

Re: Modified May 12, 2015 VTPRA Request.

Dear Mr. Griffin:

Per our discussion on July 9, 2012, below is a modified version of my May 12, 2015 request for documents made pursuant to Vermont's Access to Public Records Act, 1 V.S.A. §§ 315-320.

The May 12, 2015 request followed an earlier request for similar records and was an attempt to refine those requests to resolve some of the practical difficulties of responding to that earlier request. We have previously discussed retaining a vendor to perform an automated search for responsive emails. This option, however, would have been costly and may not have been an effective method for gathering responsive records.

Instead, the Vermont employees listed below will perform good-faith searches of their own emails and records for documents responsive to my requests, which are listed below the employees. As we also discussed, I have reduced the number of employees to perform searches and narrowed my requests.

Vermont State Employees.

Eve Jacobs Carnahan;
William E. Griffin;
Wendy Morgan;
Janet Murname;
Megan J. Shafritz;
William Sorrell;
Mary-Kay Swanson; and
Susanne R. Young.

Requests.

1. **Individuals and Entities.** For the time period January 1, 2012 to present, all communications with or documents related to the following individuals and entities:¹

Individuals:

- Travis Berry (Democratic Attorney Generals Association (DAGA))
- Michael Briggs (Sanders);
- Richard Cassidy;
- Stefan Chodkowski (Stefan@democraticags.org);
- Dean Corren (dcorren@burlingtontelecom.net);
- Michael Crowell (Sanders);
- Howard Dean;
- F. Philip "Phil" Fiermonte (Sanders);
- Jeff Frank (jeff_frank@sanders.senate.gov);
- Jenifer Fuller (DAGA);
- Nicholas M. Gess (DAGA);
- Jacob Gillison (Sanders);
- Terry Goddard (DAGA);
- Daniel McLean (Daniel_McLean@sanders.senate.gov);
- Bernie Nash (nashb@dicksteinshapiro.com);
- Christopher Pearson (cp@biglocomotive.net);
- Kenneth Pennington (Sanders);
- Michael Pieciak (mspieciak@gmail.com);
- L. Michael Messina;
- Patricia Madrid;
- Senator Bernard Sanders;
- Jane Sanders;
- James Tierney (jtiern@law.columbia.edu) (DAGA); and
- David Weinstein (David_Weinstein@sanders.senate.gov).

Entities:

- Committee for Justice and Fairness PAC (CJF);
- Democratic Attorneys General Association (DAGA); and
- Media Strategies, Denver, Colorado.

¹ To assist in the search process, an email address, if known, has been included for some individuals. The listing of an email address, of course, does not necessarily mean that it was the only email address used for that individual and its listing should not be interpreted to limit those requests to just that address. Where appropriate and also to assist in the search process, I have included the organization with whom an individual is associated.

William E. Griffin
Chief Assistant Attorney General
July 13, 2015
Page 3

2. For the time period January 1, 2012 to present, all communications received from or sent to (including copies and blind copies) any email addresses with the following domains:
 - @bernie.org;
 - @democraticags.org; and
 - @Sanders.senate.gov.
3. For the time period March 1, 2012 through November 30, 2012, all communications or documents related to the solicitation of campaign contributions to the campaign of Attorney General Sorrell. This request includes, but is not limited to, solicitations for volunteer work or appearances at campaign events.

These requests include, but are not limited to, communications received or sent on a private email account (such as whsorrell@gmail.com)² or private text messaging account. The Vermont Public Records Act is to be "liberally construed ... and the burden of proof" is on the agency to justify any refusal to produce records. 1 V.S.A. § 315. Absent a valid legal exemption, this law compels the production of documents and correspondence relating to official state business. If such records exist and you do not intend to comply with this request, please inform me immediately so that I may pursue an appropriate legal remedy. Meantime, you should ensure these public records are preserved. 1 V.S.A. § 320 (Destruction of public records is prohibited by law).

Please produce any responsive documents to me electronically, if possible. I am willing to pay reasonable production fees, if necessary, but please call or email me first with an estimate as to the costs to produce these documents. Thank you for your assistance with this matter and I look forward to your response. If you have any questions, I can be reached at (202) 297-4245 or by email at Brady@digtoe.com.

Sincerely,


Brady C. Toensing

² General Sorrell gave out his personal email address to at least one lobbyist who requested it. Communications related in any way to official state business must be produced even if contained on a personal email account.

Griffin, Bill

From: toensing@gmail.com on behalf of Brady Toensing <brady@digtoe.com>
Sent: Wednesday, August 19, 2015 3:47 PM
To: joe.noonan@competitive.com
Cc: Griffin, Bill
Subject: VTPRAR to Vermont Attorney General's Office
Attachments: VTPRAR Sorrell 19 August 2015 Modified Request.docx

Dear Joe -- Per our discussion yesterday, attached is the revised Vermont Public Records Act Request. It is my understanding that, per your June 1, 2015 proposal, you will work with Bill Griffin to arrange access to the appropriate databases. It is also my understanding that you will start by assessing the scope of the work involved in responding to my requests and will then contact me to discuss options and to provide me an estimate of the costs involved.

Please give me a call once you have had a chance to review the attached VTPRAR and to discuss the logistics of my providing feedback to you in an efficient manner. I would like to talk to the people you intend to use to perform this job before they start so that I can discuss how I would like to proceed and to answer any questions they might have after reading the VTPRAR. Perhaps we could bring Bill Griffin in on a discussion to coordinate moving forward. Sincerely, Brady.

* * * * *

Brady C. Toensing
diGenova & Toensing
(m) 202.297.4245

**Vermont Public Records Act Request for
Information to Vermont Attorney General Sorrell and listed state employees**

This is a request for documents made pursuant to Vermont's Access to Public Records Act, 1 V.S.A. §§ 315-320. For the following state employees, I hereby demand any and all documents responsive to the requests below:

Vermont State Employees.

William E. Griffin
Wendy Morgan
Janet Murname
Megan J. Shafritz
William Sorrell
MaryKay Swanson
Susanne R. Young

Requests. For the time period January 1, 2012 to present:

1. **Individuals.** Any and all communications with or documents related to the following individuals:¹

Individuals:

- Todd Bailey (SuperPAC, KSE Lobbyist);
- Travis Berry (DAGA);
- Michael Briggs (Sanders);
- Dana Bykowski (also known as Dana Bykowski Ju);
- Richard Cassidy;
- Stefan Chodkowski (Stefan@democraticags.org);
- Dean Corren (dcorren@burlingtontelecom.net);
- Michael Crowell (Sanders Chief of Staff);
- Howard Dean;
- F. Philip "Phil" Fiermonte (Sanders);
- Jeff Frank (jeff_frank@sanders.senate.gov);
- Jenifer Fuller (DAGA);
- Nicholas M. Gess (DAGA);
- Jacob Gillison (Sanders Admin Director);
- Terry Goddard (DAGA);
- Lori Kalani (lobbyist);
- JB Kelly (lobbyist);
- Cindy Lott (lobbyist);

¹ To assist in the search process, an email address or organizational affiliation, if known, has been included for some individuals. The listing of an email address, of course, does not necessarily mean that it was the only email address used for that individual and its listing should not be interpreted to limit those requests to just that address.

- Daniel McLean (Daniel_McLean@sanders.senate.gov);
- Bernie Nash (nashb@dicksteinshapiro.com);
- Christopher Pearson (cp@biglocomotive.net);
- Kenneth Pennington (Sanders Deputy Press Secretary);
- Michael Pieciak (mspieciak@gmail.com);
- Senator Bernard Sanders;
- Jane Sanders;
- David Weinstein (David_Weinstein@sanders.senate.gov).

2. Any communications received from or sent to (including blind copied to) any email addresses with the following domains:

- @bernie.org;
- @democraticags.org;
- @dicksteinshapiro.com;
- @Sanders.senate.gov.

I also demand that you produce any documents that are responsive to the above requests that are in the possession of you personally, your campaign, or any of the individuals or entities in the requests above, including any employee of the Attorney General's Office.

These requests include, but are not limited to, communications received or sent on a private email account (such as whsorrell@gmail.com)² or private text messaging account. If no responsive records exist, then state this fact in your response. If any part of these requests is denied, please list the specific criteria you are relying on for the denial, as well as the name and title of the person responsible for the denial.

The Vermont Public Records Act is to be "liberally construed ... and the burden of proof" is on the agency to justify any refusal to produce records. 1 V.S.A. § 315. Absent a valid legal exemption, this law compels the production of documents and correspondence relating to official state business. If such records exist and you do not intend to comply with this request, please inform me immediately so that I may pursue an appropriate legal remedy. Meantime, you should ensure these public records are preserved. 1 V.S.A. § 320 (Destruction of public records is prohibited by law).

Except under extraordinary circumstances, Vermont law requires that you "promptly produce" public records. 17 V.S.A. § 318 (a). The statute allows a three day time period for you to respond, but only if you intend to withhold documents and need time to certify an exemption. 17 V.S.A. § 318 (a)(2). This three day time period was not intended to allow a state official to automatically avoid the prompt production requirements of the statute.

Pursuant to the Public Records Act, please also do the following:

² General Sorrell gave out his personal email address to at least one lobbyist who requested it. Ex. A. Communications related in any way to official state business must be produced even if contained on a personal email account.

- Produce any responsive documents to me electronically (please send to Brady@digtoe.com), if possible;
- Produce these documents promptly or certify within two business days why you are denying me access to them or any particular documents (this time limit may be extended only under certain conditions as outlined in 1 V.S.A. § 318);
- If you believe an otherwise public record is exempt from disclosure, produce a log with the page numbers of the documents, the date of the document, the people or entities who received copies, the authors of the document and a specific explanation (citing to the applicable exemption) for why a document has not been produced;
- If an otherwise public record has a portion that is exempt from disclosure, redact any exempt portion and release the redacted document together with a log (as described in the previous bullet);
- Inform me of the appeal procedures available to me if you withhold any documents;
- If you are unable to copy any material, identify the material and notify me when it will be available for my inspection; and
- Provide a written reply to this request.

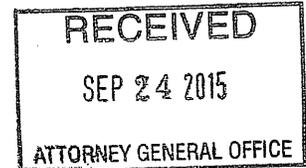
If you refuse to produce any responsive records to me, it would be helpful to Bates Number any such documents for easy reference and to avoid confusion in future proceedings regarding the failure to produce records.

I am willing to pay reasonable production fees, if necessary, but please call or email me first with an estimate as to the costs to produce these documents. Thank you for your assistance with this matter and I look forward to your response. If you have any questions, I can be reached at (202) 297-4245 or by email at Brady@digtoe.com.

JT

dIGENOVA & TOENSING, LLP
ATTORNEYS-AT-LAW

September 21, 2015



Via Email (bill.griffin@state.vt.us)

William E. Griffin
Chief Assistant Attorney General
Office of the Attorney General
State of Vermont
109 State Street
Montpelier, Vermont 05609

Re: Retainer Payment for VTPRA Request.

Dear Mr. Griffin:

Enclosed is a check for \$2,400 to be used as a retainer for the services of Competitive Computing (C2). This money will be used as a retainer for up to 16 hours of services by C2 to perform an assessment of the email system of the Vermont Attorney General in order to provide me with a Statement of Work for recovering emails responsive to my Vermont Public Records Act Request. Thank you for your assistance with this matter. If you have any questions, I can be reached at (202) 297-4245 or by email at Brady@digtoe.com.

Sincerely,


Brady C. Toensing

Enclosure

BRADY C TOENSING
2613 GREENBUSH RD.
CHARLOTTE, VT 05445

15-7525/2540

1017

DATE 9/21/2015

0 DELUXE online.com/checks

PAY TO State of Vermont \$ 2,400.00
THE ORDER OF
Two thousand four hundred & 00/100 DOLLARS  Security Features Included. Details on Back.

United States Senate
Federal Credit Union
P.O. Box 77920, Washington, DC 20013

MEMO Cal Retainer

For [Signature]

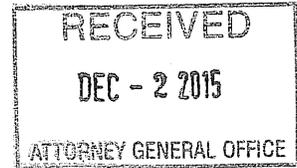
RP

⑆ 254075250⑆ 70000000755020⑈ 1017

SPECIALTY BLUE



diGENOVA & TOENSING, LLP
ATTORNEYS-AT-LAW



December 1, 2015

Via Email (bill.griffin@state.vt.us)

William E. Griffin
Chief Assistant Attorney General
Office of the Attorney General
State of Vermont
109 State Street
Montpelier, Vermont 05609

Re: Retainer Payment for VTPRA Request.

Dear Mr. Griffin:

Enclosed is a check for \$6,000 to be used as a retainer for the services of Competitive Computing (C2). This money will be used as a retainer for services by C2 to gather emails responsive to my Vermont Public Records Act Request. Thank you for your assistance with this matter. If you have any questions, I can be reached at (202) 297-4245 or by email at Brady@digtoe.com.

Sincerely,


Brady C. Toensing

Enclosure

BRADY C TOENSING
2613 GREENBUSH RD.
CHARLOTTE, VT 05445

15-7525/2540

1024

DATE 1 December 2015

DELIVER DELIVER.COM/CHECKS

PAY TO State of Vermont

THE ORDER OF

\$ 6,000.00

Six thousand + ⁰⁰/₁₀₀

DOLLARS



Security Features
included
Details on Back.

**United States Senate
Federal Credit Union**
P.O. Box 77920, Washington, DC 20013

MEMO Retainer for Public Records Reg.

Reg. 2

MP

⑆ 254075250⑆ 70000000755020⑆ 1024

SPECIALTY BLUE

Vermont Public Records Act Request for Information to Vermont Attorney General Sorrell and listed state employees

This is a request for documents made pursuant to Vermont's Access to Public Records Act, 1 V.S.A. §§ 315-320. For the following state employees, I hereby request any and all documents responsive to the requests below:

Vermont State Employees.

Jill S. Abrams
William E. Griffin
Ryan Kriger
Wendy Morgan
Janet Murnane
Megan J. Shafritz
William Sorrell
MaryKay Swanson
Susanne R. Young

Requests. For the time period January 1, 2011 to present:

1. **Individuals.** Any and all communications with or documents related to the following individuals:¹

Individuals:

- Todd Bailey (SuperPAC, KSE Lobbyist);
- Travis Berry (DAGA);
- Michael Briggs (Senator Sanders);
- Dana Bykowski (also known as Dana Bykowski Ju);
- Richard Cassidy;
- Stefan Chodkowski (Stefan@democraticags.org);
- Dean Corren (dcorren@burlingtontelecom.net);
- Michaelleen Crowell (Senator Sanders);
- Howard Dean;
- F. Philip "Phil" Fiermonte (Senator Sanders);
- Jeff Frank (jeff_frank@sanders.senate.gov);
- Jenifer Fuller (DAGA);
- Nicholas M. Gess (DAGA);
- Jacob Gillison (Senator Sanders);
- Terry Goddard (DAGA);
- Lori Kalani (lobbyist);

¹ To assist in the search process, an email address or organizational affiliation, if known, has been included for some individuals. The listing of an email address, of course, does not necessarily mean that it was the only email address used for that individual and its listing should not be interpreted to limit those requests to just that address.

- JB Kelly (lobbyist);
- Cindy Lott (lobbyist);
- Daniel McLean (Daniel_McLean@sanders.senate.gov);
- Michael Murphy (Bailey & Glasser; mmurphy@baileyglasser.com)
- Bernie Nash (nashb@dicksteinshapiro.com);
- Christopher Pearson (cp@biglocomotive.net);
- Kenneth Pennington (Senator Sanders);
- Michael Pieciak (mspieciak@gmail.com);
- Senator Bernard Sanders;
- Jane Sanders;
- David Weinstein (David_Weinstein@sanders.senate.gov).

2. Any communications received from or sent to (including blind copied to) any email addresses with the following domains:

- @bernie.org;
- @democraticags.org;
- @Sanders.senate.gov.

STATE OF VERMONT
STATEMENT OF WORK (SOW) AMENDMENT

CONTRACTOR: Competitive Computing, Inc.

SOW #: BU 02100 - 0000001997

AMENDMENT #: 1

SOW # BU 02100 - 0000001997, entered into by the Office of the Attorney General, on behalf of the State of Vermont and by Competitive Computing, Inc., is amended as follows:

1. **Maximum Amount:** The maximum amount payable under SOW # BU 02100 - 0000001997, wheresoever such references to the maximum amount appear in said SOW or subsequent amendments shall be changed from \$2,400.00 to \$8,400.00.
2. **SOW Term:** The end date of SOW # BU 02100 - 0000001997, wheresoever such references appear in said SOW and its attachments and amendments, is changed from December 31, 2015 to March 31, 2016.
3. **Scope of Work** (Section 2): Section 2 – Scope of Work is amended to include the following language relative to the Recovery Phase of the project:

e. The intent of the Recovery Phase of this project is to search and recover emails based on the criteria defined in the public records request dated December 11, 2015, which may be further amended based on information learned while carrying out the project. A copy of the December 11 request is attached and is marked Attachment A. The deliverables for this phase are:

1. A list of emails that are responsive to the criteria identified in the public records request.
2. Copies of all emails resulting from the search will be delivered in an electronic format to a mailbox provided by SOV-AGO/DII
3. The steps for conducting the work are:
 - a. AGO and DII will create an email mailbox for the individual conducting the search
 - b. Access will be granted to mailboxes requested in the search
 - c. Searches of the Microsoft Exchange Mailbox and Enterprise Vault Store will be conducted for the list of individuals and domains included in the records request
 - d. The returned emails will be verified to make sure they only include emails to/from the requested individuals and domains
 - e. Emails will be moved to a .PST file to be reviewed by the AGO

f. Assigned Contractor Engineers will meet with key resources from the AGO and the DII to review the specific information in scope for restoration and search. AGO/DII will provide a work space, client computer(s), and access to servers and information for Contractor to perform such search activities in Windows Exchange and Enterprise Vault.

4. **Deliverables and Services Produced** (Section 3): Section 3 – Deliverables and Services Produced is modified to include the following language relative to the Recovery Phase of the project:

c. The deliverables for this phase will be receipt of the .PST file as stated in Section 2(e)(3)(e) of this amendment.

5. Assumptions / Parameters (Section 4): In addition to existing language; Section 4 – Assumptions / Parameters is amended to include the following language relative to the Recovery Phase of the project:

e. Contractor will require access to the State of Vermont, Department of Information and Innovation archiving tools for the purpose of reviewing setup configurations and policy settings.

f. Since restoring backups will not recover any deleted emails older than 14 days, the search will only be conducted in Microsoft Exchange Enterprise Vault.

6. Payment Provisions (Section 5):

Section 5(b) is replaced in its entirety with the following language:

The services under this Agreement will be provided on a time and materials basis. The hourly rate to be invoice for the Discovery Phase is \$150 per hour for regular business hours. The hourly rate to be invoiced for the Recovery Phase is \$165 per hour for regular business hours. Regular business hours are defined as Monday through Friday from 8AM to 6PM excluding company holidays. The hourly rate to be invoice for the Recovery Phase is \$225 per hour outside normal business hours. Contractor will not charge for the time and expense of travel to and from State Government offices in Montpelier, VT.

Section 5(d) is replaced in its entirety with the following language:

Contractor will invoice the State of Vermont at the completion of each phase of work. Payment to the Contractor shall be made upon acceptance of the Description of Work described in paragraph 3(a) of this Agreement and upon acceptance of the .PST file described in paragraph 4(c) of this Agreement.

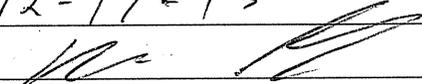
7. Taxes Due to the State: Contractor further certifies under the pains and penalties of perjury that, as of the date this contract amendment is signed, the Contractor is in good standing with respect to, or in full compliance with, a plan to pay, any and all taxes due the State of Vermont.

8. Certification Regarding Suspension or Debarment: Contractor further certifies under pains and penalties of perjury that, as of the date that this Amendment is signed, neither Contractor nor Contractor's principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in federal programs or programs supported in whole or in part by federal funds.

All other terms and conditions of SOW # BU 02100 - 0000001997 not hereby amended shall remain in full force and effect.

The signatures of the undersigned parties indicate that each has read this amendment of SOW # BU 02100 - 0000001997 in its entirety and agrees to be bound by the provisions enumerated therein.

By the State of Vermont:

Date: 12-17-15
Signature: 
Name: Wm Griffin
Title: Chief Asst. AG

By the Contractor:

Date: _____
Signature: _____
Name: _____
Title: _____

Attachment A

Vermont Public Records Act Request for Information to Vermont Attorney General Sorrell and listed state employees

This is a request for documents made pursuant to Vermont's Access to Public Records Act, 1 V.S.A. §§ 315-320. For the following state employees, I hereby request any and all documents responsive to the requests below:

Vermont State Employees.

Jill S. Abrams
William E. Griffin
Ryan Kriger
Wendy Morgan
Janet Murnane
Megan J. Shafritz
William Sorrell
MaryKay Swanson
Susanne R. Young

Requests. For the time period January 1, 2011 to present:

1. **Individuals.** Any and all communications with or documents related to the following individuals:¹

Individuals:

- Todd Bailey (SuperPAC, KSE Lobbyist);
- Travis Berry (DAGA);
- Michael Briggs (Senator Sanders);
- Dana Bykowski (also known as Dana Bykowski Ju);
- Richard Cassidy;
- Stefan Chodkowski (Stefan@democraticags.org);
- Dean Corren (dcorren@burlingtontelecom.net);
- Michaelleen Crowell (Senator Sanders);
- Howard Dean;
- F. Philip "Phil" Fiermonte (Senator Sanders);
- Jeff Frank (jeff_frank@sanders.senate.gov);
- Jenifer Fuller (DAGA);
- Nicholas M. Gess (DAGA);
- Jacob Gillison (Senator Sanders);
- Terry Goddard (DAGA);
- Lori Kalani (lobbyist);

¹ To assist in the search process, an email address or organizational affiliation, if known, has been included for some individuals. The listing of an email address, of course, does not necessarily mean that it was the only email address used for that individual and its listing should not be interpreted to limit those requests to just that address.

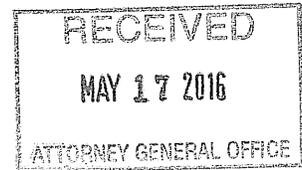
- JB Kelly (lobbyist);
- Cindy Lott (lobbyist);
- Daniel McLean (Daniel_McLean@sanders.senate.gov);
- Michael Murphy (Bailey & Glasser; mmurphy@baileyglasser.com)
- Bernie Nash (nashb@dicksteinshapiro.com);
- Christopher Pearson (cp@biglocomotive.net);
- Kenneth Pennington (Senator Sanders);
- Michael Pieciak (mspieciak@gmail.com);
- Senator Bernard Sanders;
- Jane Sanders;
- David Weinstein (David_Weinstein@sanders.senate.gov).

2. Any communications received from or sent to (including blind copied to) any email addresses with the following domains:

- @bernie.org;
- @democraticags.org;
- @Sanders.senate.gov.



diGENOVA & TOENSING, LLP
ATTORNEYS-AT-LAW



May 11, 2016

***Via Email (bill.griffin@state.vt.us)
and First Class Mail***

William E. Griffin
Chief Assistant Attorney General
Office of the Attorney General
State of Vermont
109 State Street
Montpelier, Vermont 05609

Re: Response to Modified May 12, 2015 VTPRA Request.

Dear Bill:

This letter responds to your April 28, 2016 letter, which transmitted documents responsive to my May 12, 2015 Public Records Act Request, as modified and submitted on December 11, 2015. That modified request asked for communications between nine state employees and 27 individuals, and communications between those same nine employees and any email addresses containing three specified domain names. **Exhibit A.**

The scale of this request necessitated numerous communications between me and your office and ultimately the employment of an outside consultant to electronically gather responsive emails. During the course of our correspondence and discussions regarding this request I emphasized that I had also requested responsive emails to and from private email accounts.¹

The issue of private email accounts came to my attention as a result of a January 28, 2016 article in Seven Days, which revealed that General William Sorrell had produced emails from a private account to the Little Investigation in order to support his defense that an event with Dean Corren, a candidate for Lieutenant Governor, was an official government event and not a campaign event.² The article described and contained a September 16, 2014 email discussion between General Sorrell and Tom Torti about the September 15, 2014 McCaffrey's Sunoco press event with Mr. Corren. Mr. Torti, a registered lobbyist and the President of the Lake Champlain Regional Chamber of Commerce, had initiated the communication by sending it to General

¹ I will raise other questions I have regarding some of the exemptions claimed in the state's responses to my records request in separate correspondence.

² Available at: <http://www.sevendaysvt.com/OffMessage/archives/2016/01/28/did-sorrell-take-official-action-to-punish-opponents-donor#more> .

William E. Griffin
Chief Assistant Attorney General
May 11, 2016
Page 2

Sorrell's private email address. The email address was redacted from the article, but I am aware that General Sorrell has previously used whsorrell@gmail.com for official government communications. In the discussion, General Sorrell brags that one reason he attended the event was in order to punish a campaign contributor to his primary opponent.

These emails, including General Sorrell's disturbing boast about using his public office to settle a political score, were indisputably responsive to a Public Records Act Request I submitted on April 6, 2015. **Exhibit B.** Yet General Sorrell did not produce them. The existence of these emails and his refusal to produce them in response to a lawful Public Records Act request indicates that General Sorrell is using a private email account in order to escape his legal obligation to produce public records.

Other documents that were produced to me include an additional example of one of the nine state employees using personal email for agency related business. Assistant Attorney General Wendy Morgan used her personal (wmorgan1948@gmail.com) and state email addresses as part of an effort to assist General Sorrell's political campaign. **Exhibit C** (Bates Nos. WM100 to 104). The email exchange shows Ms. Morgan using her official government position during work hours in conjunction with General Sorrell's political campaign to respond to a citizen, but only after he was first vetted by General Sorrell's campaign manager as a "Strong Democrat." Ms. Morgan should produce all responsive, agency-related communications contained on her private email and text accounts.

As a result of General Sorrell's refusal to abide by his legal obligations, on February 6, 2016, I sent you a letter setting forth the legal obligation for General Sorrell and state employees in your office who have received public records requests to produce all responsive records, including those on personal email accounts. **Exhibit D.** I also subsequently requested, on February 7, 2016, that General Sorrell produce all communications with Mr. Torti regarding official state business. **Exhibit E.**

The Vermont Public Records Act is to be "liberally construed ... and the burden of proof" is on the agency to justify any refusal to produce records. 1 V.S.A. § 315. The term "public record" under 1 V.S.A. § 317(b) has been described by the Vermont Supreme Court as "sweeping," requiring production of all documents "that are produced or acquired in the course of agency business." *Herald Ass'n, Inc. v. Dean*, 174 Vt. 350, 353 (Vt. 2002) (citation omitted). Therefore, any communications that arguably have any connection to the work of the Office of the Attorney General must be produced. Furthermore, absent a valid legal exemption, this law compels the production of documents and correspondence relating to official state business, regardless of what email or text messaging system is used, including private accounts. *Bradford v. Dir. Empl. Sec. Dep't*, 128 S.W. 3d 20, 27-28 (Ark. Ct. App. 2003) ("...communications about the public's business is no less subject to the public's access because it was transmitted over a private communications medium than it is when generated as a result of having been transmitted over a publicly controlled medium."). Indeed, in a phone conversation we had on March 10, 2016, you conceded that the account used, personal or state, does not matter.

William E. Griffin
Chief Assistant Attorney General
May 11, 2016
Page 3

However, it does not appear from the responses I have received so far that the nine state employees searched their personal accounts for responsive records. It also does not appear that emails from General Sorrell's personal or state accounts between Mr. Torti and General Sorrell were searched for or produced. Please produce responsive records or confirm for each employee that no responsive records exist.

I have requested these records multiple times starting a year ago. Therefore, to the extent your office intends to deny my request that the nine employees search for and produce responsive emails and text messages from their personal accounts, this letter should be considered as an appeal. For that reason, I have also copied Deputy Attorney General Susanne Young on this letter as an appeal to any adverse determination. Meantime, the employees should ensure these public records are preserved. 1 V.S.A. § 320 (Destruction of public records is prohibited by law).

Sincerely,


Brady C. Toensing

cc: Susanne Young, Deputy Attorney General (*Via Email susanne.young@vermont.gov*)

Exhibit A

Vermont Public Records Act Request for Information to Vermont Attorney General Sorrell and listed state employees

This is a request for documents made pursuant to Vermont's Access to Public Records Act, 1 V.S.A. §§ 315-320. For the following state employees, I hereby request any and all documents responsive to the requests below:

Vermont State Employees.

Jill S. Abrams
William E. Griffin
Ryan Kriger
Wendy Morgan
Janet Murnane
Megan J. Shafritz
William Sorrell
MaryKay Swanson
Susanne R. Young

Requests. For the time period January 1, 2011 to present:

1. **Individuals.** Any and all communications with or documents related to the following individuals:¹

Individuals:

- Todd Bailey (SuperPAC, KSE Lobbyist);
- Travis Berry (DAGA);
- Michael Briggs (Senator Sanders);
- Dana Bykowski (also known as Dana Bykowski Ju);
- Richard Cassidy;
- Stefan Chodkowski (Stefan@democraticags.org);
- Dean Corren (dcorren@burlingtontelecom.net);
- Michaeleen Crowell (Senator Sanders);
- Howard Dean;
- F. Philip "Phil" Fiermonte (Senator Sanders);
- Jeff Frank (jeff_frank@sanders.senate.gov);
- Jenifer Fuller (DAGA);
- Nicholas M. Gess (DAGA);
- Jacob Gillison (Senator Sanders);
- Terry Goddard (DAGA);
- Lori Kalani (lobbyist);

¹ To assist in the search process, an email address or organizational affiliation, if known, has been included for some individuals. The listing of an email address, of course, does not necessarily mean that it was the only email address used for that individual and its listing should not be interpreted to limit those requests to just that address.

- JB Kelly (lobbyist);
- Cindy Lott (lobbyist);
- Daniel McLean (Daniel_McLean@sanders.senate.gov);
- Michael Murphy (Bailey & Glasser; mmurphy@baileyglasser.com)
- Bernie Nash (nashb@dicksteinshapiro.com);
- Christopher Pearson (cp@biglocomotive.net);
- Kenneth Pennington (Senator Sanders);
- Michael Pieciak (mspieciak@gmail.com);
- Senator Bernard Sanders;
- Jane Sanders;
- David Weinstein (David_Weinstein@sanders.senate.gov).

2. Any communications received from or sent to (including blind copied to) any email addresses with the following domains:

- @bernie.org;
- @democraticags.org;
- @Sanders.senate.gov.

Exhibit B



Brady Toensing <toensing@gmail.com>

Vermont Public Records Act Request -- ATTENTION -- Timely Response Required By Law

3 messages

Brady Toensing <brady@digtoe.com>

Mon, Apr 6, 2015 at 4:07 PM

To: bill.sorrell@state.vt.us

Cc: susanne.young@state.vt.us

The Honorable William H. Sorrell
Attorney General of Vermont
Office of the Attorney General
109 State Street
Montpelier, VT 05609

Re: Vermont Public Records Act Request for Information

Dear General Sorrell:

Pursuant to Vermont's Access to Public Records Act, 1 V.S.A. §§ 315-320, for the time period January 1, 2014 to present, I hereby demand all emails, text messages, notes, memoranda, calendar entries, or documents of any kind related in any way to a September 15, 2014 event with Dean Corren at a Burlington gas station (McCaffrey's Sunoco), including, but not limited to, communications with the following:

- Julia Barnes;
- Megan Brook;
- Dean Corren;
- Dottie Deans;
- Doug Hoffer;
- Christopher Pearson;
- Senator Bernard Sanders;
- Michael Briggs;
- F. Philip "Phil" Fiermonte;
- Daniel McLean; or
- any agent, employee, or representative of Senator Bernard Sander's staff or campaign organization.

If no responsive records exist, then state this fact in your response. If any part of these requests is denied, please list the specific criteria you are relying on for the denial, as well as the name and title of the person responsible for the denial.

The Vermont Public Records Act is to be "liberally construed ... and the burden of proof" is on the agency to justify any refusal to produce records. 1 V.S.A. § 315. Absent a valid legal exemption, this law compels the production of documents and correspondence relating to official state business, regardless of what email or text messaging system is used. If such records exist and you do not intend to comply with this request, please inform me immediately so that I may pursue an appropriate legal remedy. Meantime, you should ensure these public records are preserved. 1 V.S.A. § 320 (Destruction of public records is prohibited by law).

Pursuant to the Public Records Act, please also do the following:

- Produce these documents promptly or certify within two business days why you are denying me access to them or any particular documents (this time limit may be extended only under certain conditions as outlined in 1 V.S.A. § 318);
- If you believe an otherwise public record is exempt from disclosure, produce a log with the page numbers of the documents, the date of the document, the people or entities who received copies, the authors of the document and a specific explanation (citing to the applicable exemption) for why a document has not been produced;
- If an otherwise public record has a portion that is exempt from disclosure, redact any exempt portion and release the redacted document together with a log (as described in the previous bullet);
- Inform me of the appeal procedures available to me if you withhold any documents;
- If you are unable to copy any material, identify the material and notify me when it will be available for my inspection; and
- Provide a written reply to this request.

If you refuse to produce any responsive records to me, it would be helpful to Bates Number any such documents for easy reference and to avoid confusion in future proceedings regarding the failure to produce records. I am willing to pay reasonable production fees, if necessary, but please call or email me first with an estimate as to the costs to produce these documents. Thank you for your assistance with this matter and I look forward to your response. If you have any questions, I can be reached at (202) 297-4245.

Sincerely,

Brady C. Toensing

Brady C. Toensing
diGenova & Toensing
Washington DC
202.297.4245

Exhibit C

From: Wendy Morgan
Sent: Sunday, July 15, 2012 11:18 PM
To: 'Bill Sorrell'; 'Wendy Morgan'
Cc: Sorrell, Bill; mike pieciak; Elliot Burg; Murnane, Janet
Subject: RE: Realtors CP work

Categories: Printed

I'm sorry, thanks for the reminder -- Elliot and I could not think of any cases other than lead. We were thinking more of enforcement against them but even with your "efforts/plans" I can't think of anything beyond lead

Re lead, the amendments to the lead law that came out of the Get the Lead Out of VT initiative included provisions re disclosures on lead when selling pre-1978 housing and the obligation of a buyer to perform Essential Maintenance Practices after purchasing a pre-1978 rental unit even if they have not been done previously -- it's been a while since I looked at the specifics -- do you need more detail?

-----Original Message-----

From: Bill Sorrell [mailto:whsorrell@gmail.com]
Sent: Sunday, July 15, 2012 6:37 PM
To: Wendy Morgan; Wendy Morgan
Cc: Bill Sorrell; mike pieciak
Subject: Realtors CP work

Wendy, did you or Elliot send me that info on the AGO's issues/cases/efforts/plans with or relating to realtors and consumer protection?

My answers are due on the 20th.

Thanks.

From: Wendy Morgan
Sent: Monday, July 23, 2012 9:53 AM
To: 'mspieciak@gmail.com'
Subject: FW: Jonathan Gibson

Categories: Printed

Talked to Mr. Gibson – good conversation -- he was very appreciative – thanks for passing it on – Wendy

From: Wendy Morgan [mailto:wmorgan1948@gmail.com]
Sent: Saturday, July 21, 2012 6:14 PM
To: Wendy Morgan
Subject: Fwd: Jonathan Gibson

----- Forwarded message -----

From: Mike Pieciak <mspieciak@gmail.com>
Date: Wed, Jul 18, 2012 at 9:26 AM
Subject: Re: Jonathan Gibson
To: Will Bedford-Sutro <willbedfordsutro@gmail.com>
Cc: Wendy Morgan <wmorgan1948@gmail.com>

Wendy- the emailer is most certainly the Jonathan Gibson from Shrewsbury.

Could you call him at the number listed below at your convenience. Thanks

Mike

Sent from my iPhone

On Jul 18, 2012, at 9:23 AM, Will Bedford-Sutro <willbedfordsutro@gmail.com> wrote:

- > Jonathan Gibson- 67 Shrewsbury Strong Democrat -
- > Jonathan Gibson- 34 Williston Party affiliation unknown-
- >
- > Will
- >
- > On 7/18/2012 9:18 AM, Mike Pieciak wrote:
- >> What are their party affiliations and ages?
- >>
- >> Sent from my iPhone
- >>
- >> On Jul 18, 2012, at 9:17 AM, Will Bedford-Sutro <willbedfordsutro@gmail.com> wrote:
- >>
- >>> There are two Vermonters by this name, one in Williston and one in Shrewsbury.. any other clues?
- >>>
- >>> Will

>>>

>>> On 7/17/2012 11:28 PM, mike pieciak wrote:

>>>> Will -

>>>> can you look up this name in vote builder and email me and Wendy Morgan his phone number tomorrow?

>>>> Wendy, this is the gentelman would was concerned about consumer protection matters.

>>>> Thanks!

>>>> Mike

>>>

>

>

From: Wendy Morgan
Sent: Monday, July 23, 2012 11:16 AM
To: 'mike pieciak'
Subject: RE: FW: Jonathan Gibson

Categories: Printed

Anytime

From: mike pieciak [mailto:mspieciak@gmail.com]
Sent: Monday, July 23, 2012 9:56 AM
To: Wendy Morgan
Subject: Re: FW: Jonathan Gibson

Great! Thanks Wendy.

Mike

On Mon, Jul 23, 2012 at 9:52 AM, Wendy Morgan <WMorgan@atg.state.vt.us> wrote:

Talked to Mr. Gibson – good conversation -- he was very appreciative – thanks for passing it on – Wendy

From: Wendy Morgan [mailto:wmorgan1948@gmail.com]
Sent: Saturday, July 21, 2012 6:14 PM
To: Wendy Morgan
Subject: Fwd: Jonathan Gibson

----- Forwarded message -----

From: Mike Pieciak <mspieciak@gmail.com>
Date: Wed, Jul 18, 2012 at 9:26 AM
Subject: Re: Jonathan Gibson
To: Will Bedford-Sutro <willbedfordsutro@gmail.com>
Cc: Wendy Morgan <wmorgan1948@gmail.com>

Wendy- the emailer is most certainly the Jonathan Gibson from Shrewsbury.

Could you call him at the number listed below at your convenience. Thanks

Mike

Sent from my iPhone

On Jul 18, 2012, at 9:23 AM, Will Bedford-Sutro <willbedfordsutro@gmail.com> wrote:

> Jonathan Gibson- 67 Shrewsbury Strong Democrat -
> Jonathan Gibson- 34 Williston Party affiliation unknown-
>
> Will

>
> On 7/18/2012 9:18 AM, Mike.Pieciak wrote:

>> What are their party affiliations and ages?

>>

>> Sent from my iPhone

>>

>> On Jul 18, 2012, at 9:17 AM, Will Bedford-Sutro <willbedfordsutro@gmail.com> wrote:

>>

>>> There are two Vermonters by this name, one in Williston and one in Shrewsbury.. any other clues?

>>>

>>> Will

>>>

>>> On 7/17/2012 11:28 PM, mike pieciak wrote:

>>>> Will -

>>>> can you look up this name in vote builder and email me and Wendy Morgan his phone number tomorrow?

>>>> Wendy, this is the gentelman would was concerned about consumer protection matters.

>>>> Thanks!

>>>> Mike

>>>>

>>>>

>>>>

Exhibit D



diGENOVA & TOENSING, LLP
ATTORNEYS-AT-LAW

February 6, 2016

Via Email (bill.griffin@state.vt.us)

William E. Griffin
Chief Assistant Attorney General
Office of the Attorney General
State of Vermont
109 State Street
Montpelier, Vermont 05609

Re: Legal obligation to produce all documents related to official state business.

Dear Mr. Griffin:

This letter follows-up on our February 3, 2016 phone call regarding the obligation of Vermont State officials to produce records that are sent to or kept on a private email or text messaging account when they are responsive to a public records request.

On April 6, 2015, I submitted a Vermont Public Records Act request to General William Sorrell demanding all “documents of any kind related in any way to a September 15, 2104 event with Dean Corren at a Burlington gas station (McCaffrey’s Sunoco) ...” Exhibit A. General Sorrell represented that this request was responded to fully.

A January 28, 2016 article in Seven Days newspaper, however, revealed responsive documents that were not produced to me. Exhibit B. That article described and contained a September 16, 2014 email discussion between General Sorrell and Tom Torti about the September 15, 2014 McCaffrey’s Sunoco press event with Dean Corren. Mr. Torti had initiated the communication by sending it to General Sorrell’s private email. The email address was redacted from the article, but General Sorrell has previously used whsorrell@gmail.com for official government communications.

General Sorrell had selectively produced these emails to the Little Investigation as part of his effort to portray the Sunoco press event as official government business and not a campaign event. In the discussion, General Sorrell brags that one reason he attended the event was in order to punish a campaign contributor to his primary opponent. These emails, including General Sorrell’s disturbing boast about using his public office to settle a political score, were indisputably responsive to my April 6 Public Records Act request. Yet General Sorrell failed to

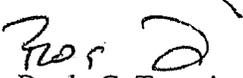
William E. Griffin
Chief Assistant Attorney General
February 6, 2016
Page 2

produce them. Perhaps more disturbing is that the existence of these emails and his failure to produce them in response to a lawful Public Records Act request indicates that General Sorrell is using a private email account in order to escape his legal obligation to produce public records.

Regardless of General Sorrell's machinations, Vermont law requires the production of all responsive records that are related in any way to official state business even if those records are contained on a personal email or text messaging account. Please confirm that General Sorrell will revisit the April 6 request and promptly produce *all* responsive documents, including those kept on private email or text messaging accounts. Please also confirm that your office will also produce all responsive records for past, pending, and future requests, regardless of the email or text messaging account on which those records are stored.

Thank you for your continued assistance with these matters. I look forward to your response. If you have any questions, I can be reached at (202) 297-4245 or by email at Brady@digtoe.com.

Sincerely,


Brady C. Toensing

Exhibits

cc: William Sorrell, Attorney General (via email whsorrell@gmail.com and bill.sorrell@state.vt.us)

Exhibit A



Brady Toensing <toensing@gmail.com>

Vermont Public Records Act Request -- ATTENTION -- Timely Response Required By Law

Brady Toensing <brady@digtoe.com>
 To: bill.sorrell@state.vt.us
 Cc: susanne.young@state.vt.us

Mon, Apr 6, 2015 at 4:07 PM

The Honorable William H. Sorrell
 Attorney General of Vermont
 Office of the Attorney General
 109 State Street
 Montpelier, VT 05609

Re: Vermont Public Records Act Request for Information

Dear General Sorrell:

Pursuant to Vermont's Access to Public Records Act, 1 V.S.A. §§ 315-320, for the time period January 1, 2014 to present, I hereby demand all emails, text messages, notes, memoranda, calendar entries, or documents of any kind related in any way to a September 15, 2014 event with Dean Corren at a Burlington gas station (McCaffrey's Sunoco), including, but not limited to, communications with the following:

- Julia Barnes;
- Megan Brook;
- Dean Corren;
- Dottie Deans;
- Doug Hoffer;
- Christopher Pearson;
- Senator Bernard Sanders;
- Michael Briggs;
- F. Philip "Phil" Fiermonte;
- Daniel McLean; or
- any agent, employee, or representative of Senator Bernard Sander's staff or campaign organization.

If no responsive records exist, then state this fact in your response. If any part of these requests is denied, please list the specific criteria you are relying on for the denial, as well as the name and title of the person responsible for the denial.

The Vermont Public Records Act is to be "liberally construed ... and the burden of proof" is on the agency to justify any refusal to produce records. 1 V.S.A. § 315. Absent a valid legal exemption, this law compels the production of documents and correspondence relating to official state business, regardless of what email or text messaging system is used. If such records exist and you do not intend to comply with this request, please inform me immediately so that I may pursue an appropriate legal remedy. Meantime, you should ensure these public records are preserved. 1 V.S.A. § 320 (Destruction of public records is prohibited by law).

Pursuant to the Public Records Act, please also do the following:

- Produce these documents promptly or certify within two business days why you are denying me

access to them or any particular documents (this time limit may be extended only under certain conditions as outlined in 1 V.S.A. § 318);

- If you believe an otherwise public record is exempt from disclosure, produce a log with the page numbers of the documents, the date of the document, the people or entities who received copies, the authors of the document and a specific explanation (citing to the applicable exemption) for why a document has not been produced;
- If an otherwise public record has a portion that is exempt from disclosure, redact any exempt portion and release the redacted document together with a log (as described in the previous bullet);
- Inform me of the appeal procedures available to me if you withhold any documents;
- If you are unable to copy any material, identify the material and notify me when it will be available for my inspection; and
- Provide a written reply to this request.

If you refuse to produce any responsive records to me, it would be helpful to Bates Number any such documents for easy reference and to avoid confusion in future proceedings regarding the failure to produce records. I am willing to pay reasonable production fees, if necessary, but please call or email me first with an estimate as to the costs to produce these documents. Thank you for your assistance with this matter and I look forward to your response. If you have any questions, I can be reached at (202) 297-4245.

Sincerely,
Brady C. Toensing

Brady C. Toensing
dIGenova & Toensing
Washington DC
202.297.4245

Exhibit B

GUIDES → BERNIE SANDERS | BEST OF VERMONT | STUDENTS | TOURISM

VERMONT'S INDEPENDENT VOICE



off *** message

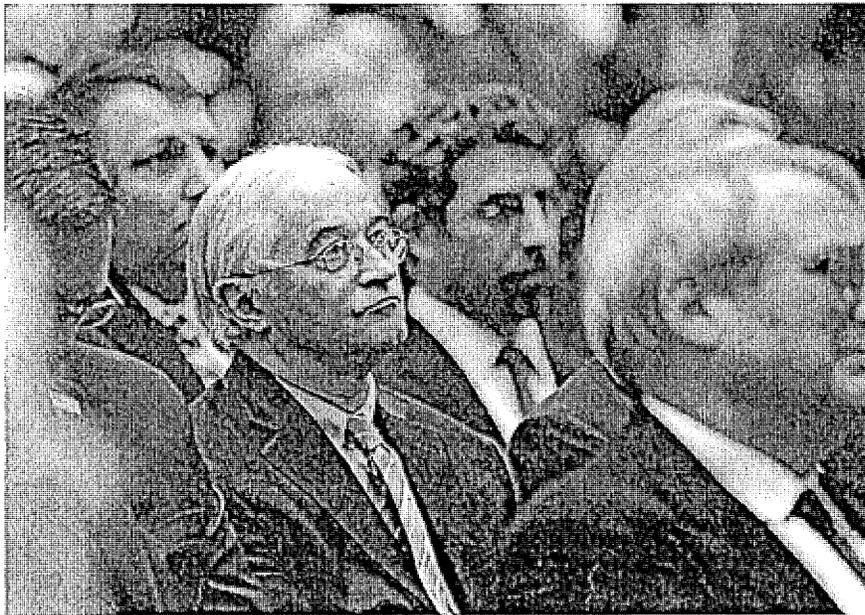
Archives | RSS

THURSDAY, JANUARY 28, 2016

CRIME / NEWS

Did Sorrell Take Official Action to Punish Opponent's Donor?

POSTED BY PAUL HEINTZ ON THU, JAN 28, 2016 AT 5:08 PM



Attorney General Bill Sorrell

FILE: JEB WALLACE-BRODEUR

An email obtained during an investigation of Attorney General Bill Sorrell suggests he sought to punish a donor to a rival's campaign during the course of official business.

First disclosed in this week's **Fair Game political column**, the email pertains to a September 2014 press conference organized by then-lieutenant gubernatorial candidate Dean Corren and attended by Sorrell. Standing in front of McCaffrey's Sunoco in Burlington, the two called for legislation requiring gasoline distributors to disclose pricing information to the attorney general's office.

After the event, the head of a local business group raised concerns about Sorrell's participation, prompting the AG to reply, "I care about the issue, not to mention the \$4k a whole seller gave a prior opponent ..."

The "whole seller" in question appears to be Skip Vallee, a political lightning rod whose Colchester-based business, R.L.

Vallee, Inc., has been accused of driving up gas prices in Chittenden County. Now the Vermont chairman of Sen. Marco Rubio's (R-Fla.) presidential campaign, Vallee has contributed generously to Republican candidates over the years, including President George W. Bush, who in 2005 appointed him ambassador to Slovakia.

In August 2012, Vallee and his wife, Denise, **donated \$4,000 to Chittenden County State's Attorney T.J. Donovan's Democratic primary campaign** against Sorrell. Though Donovan came close to unseating Sorrell, he ended up losing the election by 714 votes, just 11 days after the Vallees made their contributions.

Forwarded a copy of the email, Vallee would not say whether he thought he was the target of Sorrell's ire.

"You should ask General Sorrell," he replied.

Sorrell did not immediately respond to a request for comment.

Had Sorrell sought retribution against a rival's donor at a political event, it could have been considered politics as usual. But Sorrell has long claimed that he participated in the press conference in the course of his official duties.

"This was not a campaign rally," Sorrell wrote in a sworn affidavit submitted in July 2015 to a panel of state's attorneys investigating separate allegations against him. "Indeed, it was much like other issue-focused events I participated in during 2014 — as part of my job as Attorney General."

The nature of the press conference became an issue last spring when Vermont Republican Party vice chair Brady Toensing **accused the AG of failing to report Corren's expenses at the event as in-kind contributions to Sorrell's reelection campaign**. In response, Sorrell argued that he did not have to disclose the information because he did not drop by McCaffrey's as a political candidate.

"While Dean Corren may have treated it as a campaign event," Sorrell's lawyer, David Kirby, wrote last July in a separate filing, "attendance was simply part of General Sorrell's job promoting public awareness of an issue and legislation addressed to that issue."

A panel of state's attorneys that investigated Toensing's allegations agreed with the AG, writing in a **report released last week** that the press conference "was not staged as a Sorrell campaign event."

Vallee declined to comment directly on the email, but he addressed it obliquely in a statement to *Seven Days*.

"It is never appropriate for an elected law enforcement official to settle political scores using the power granted to him as a guardian of the public trust," Vallee wrote.

Beyond the Vallee reference, Sorrell's email exchange provides an intriguing glimpse inside of Vermont's political ecosystem. The correspondence began with Lake Champlain Chamber of Commerce president Tom Torti scolding Sorrell for attending the press conference.

"I'm sure you have heard about the level of displeasure Mazza feels about you standing with Corren," Torti wrote, referring to Sen. Dick Mazza (D-Grand Isle). "Just wanted to pass on what was mentioned to me."

Mazza, a powerful figure in the Chittenden County political and business communities, is a staunch ally of Republican Lt. Gov. Phil Scott. At the time, Corren was campaigning for Scott's job.

"I went out and talked with [Mazza] beforehand, before I committed to doing it," Sorrell replied. "He said 'you have to

do what you have to do.' I left on good terms. He's hosting a fundraiser for me. He called me a couple of hours later, suggesting I just give a quote for [the Corren campaign's press] release. But in the interim, I'd committed to participate."

Sorrell concluded: "I didn't endorse Corren. I care about the issue, not to mention the \$4k a whole seller gave a prior opponent..."

Torti replied, "Just being the messenger ..."

Sorrell turned the email and five others over to the state's attorneys investigating him. Though the information was considered privileged, Sorrell voluntarily provided some of the documentation to *Seven Days*, upon request.

Here is the email in full, with addresses redacted:

From: William Sorrell
Date: September 16, 2014 at 4:01:13 PM EDT
To: Tom Torti
Subject: Re: Gas, Corren, Mazza

Yup

Sent from my iPhone

On Sep 16, 2014, at 11:08 AM, Tom Torti wrote:

Just being the messenger....

From: William Sorrell
Sent: Tuesday, September 16, 2014 10:28 AM
To: Tom Torti
Subject: Re: Gas, Corren, Mazza

I went out and talked with him beforehand, before I committed to doing it. He said "you have to do what you have to do." I left on good terms. He's hosting a fundraiser for me. He called me a couple of hours later, suggesting I just give a quote for their release. But in the interim, I'd committed to participate.

I didn't endorse Corren. I care about the issue, not to mention the \$4k a whole seller gave a prior opponent...

Sent from my iPhone

On Sep 16, 2014, at 7:15 AM, Tom Torti wrote:

I'm sure you have heard about the level of displeasure Mazza feels about you standing with Corren. Just wanted to pass on what was mentioned to me.

T

Tags: Bill Sorrell, Skip Vallee, Brady Toensing,
 Image

Got something to say?

Send a letter to the editor and we'll
 publish your feedback in print!

readers also liked



Vermont Dignitary Visits Seven Days, Avoids Questions
 by Mark Davis

Exhibit E



Brady Toensing <toensing@gmail.com>

**Vermont Public Records Act Request (February 7, 2016) -- ATTENTION --
Timely Response Required By Law**

Brady Toensing <brady@digtoe.com>
To: bill.sorrell@state.vt.us, whsorrell@gmail.com
Cc: "Griffin, Bill" <bill.griffin@state.vt.us>

Sun, Feb 7, 2016 at 5:12 PM

The Honorable William H. Sorrell
Attorney General of Vermont
Office of the Attorney General
109 State Street
Montpelier, VT 05609

Re: Vermont Public Records Act Request for Information

Dear General Sorrell:

Pursuant to Vermont's Access to Public Records Act, 1 V.S.A. §§ 315-320, for the time period January 1, 2012 to present, I hereby demand all communications to or from Tom Torti.

If no responsive records exist, then state this fact in your response. If any part of these requests is denied, please list the specific criteria you are relying on for the denial, as well as the name and title of the person responsible for the denial.

The Vermont Public Records Act is to be "liberally construed ... and the burden of proof" is on the agency to justify any refusal to produce records. 1 V.S.A. § 315. Absent a valid legal exemption, this law compels the production of documents and correspondence relating to official state business, regardless of what email or text messaging system is used, including private email and text messaging accounts.

As part of the Little Investigation, you produced emails to and from Mr. Torti that you claimed were related to official state business and that were from a private email account held by you. (It is believed that the two addresses used were "Tom@Vermont.org" and "whsorrell@gmail.com.") These emails were responsive to my April 6, 2015 Public Records Act request to you, yet you failed to produce them to me as required by Vermont law. If you have responsive records held on private email or text messaging accounts and you do not intend to comply with this request, please inform me immediately so that I may pursue an appropriate legal remedy. Meantime, you should ensure these public records are preserved. 1 V.S.A. § 320 (Destruction of public records is prohibited by law).

Pursuant to the Public Records Act, please also do the following:

- Produce these documents promptly or certify within two business days why you are denying me access to them or any particular documents (this time limit may be extended only under certain conditions as outlined in 1 V.S.A. § 318);
- If you believe an otherwise public record is exempt from disclosure, produce a log with the page numbers of the documents, the date of the document, the people or entities who received copies, the

authors of the document and a specific explanation (citing to the applicable exemption) for why a document has not been produced;

- If an otherwise public record has a portion that is exempt from disclosure, redact any exempt portion and release the redacted document together with a log (as described in the previous bullet);
- Inform me of the appeal procedures available to me if you withhold any documents;
- If you are unable to copy any material, identify the material and notify me when it will be available for my inspection; and
- Provide a written reply to this request.

If you refuse to produce any responsive records to me, it would be helpful to Bates Number any such documents for easy reference and to avoid confusion in future proceedings regarding the failure to produce records. I am willing to pay reasonable production fees, if necessary, but please call or email me first with an estimate as to the costs to produce these documents. Thank you for your assistance with this matter and I look forward to your response. If you have any questions, I can be reached at (202) 297-4245.

Sincerely,
Brady C. Toensing

* * * * *

Brady C. Toensing
diGenova & Toensing
1776 K Street NW
Washington DC 20006
(o) 202.289.7701
(m) 202.297.4245

WILLIAM H. SORRELL
ATTORNEY GENERAL

SUSANNE R. YOUNG
DEPUTY ATTORNEY GENERAL

WILLIAM E. GRIFFIN
CHIEF ASST. ATTORNEY
GENERAL



STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER, VT
05609-1001

TEL: (802) 828-3171
FAX: (802) 828-3187
TTY: (802) 828-3665

<http://www.ago.vermont.gov>

June 13, 2016

Brady C. Toensing
diGenova & Toensing
2613 Greenbush Road
Charlotte, Vermont 05445

Re: Record Request of May 12, 2015 (as modified by request dated December 11, 2015)

Dear Brady:

This acknowledges your June 6, 2016 letter in which you state that you are appealing AAG William E. Griffin's April 28, 2016 denial of a public records request you made to our office. You stated in your letter that your appeal was "in particular" of a decision by AAG Griffin to refuse to produce, or search for, responsive records in the private email or text messaging accounts of nine state employees.

Your public records request dated May 12, 2015 (as modified by a request dated December 11, 2015) was extensive and included requests for multiple items, including four years of communications between 9 state employees and 30 separate individuals and organizations. A contractor was hired and conducted a search of the state e-mail accounts of the nine employees that identified 13,629 e-mail messages responsive to your request. Those were consolidated into 1,129 e-mail chains. The review of those e-mails took in excess of 250 hours to complete to ensure that this Office complied with its ethical and confidentiality obligations under the Rules of Professional Conduct.

Hundreds of pages of documents were produced in response to your request in six productions over three months between February 5, 2016 and April 28, 2016. Mr. Griffin provided you with the final production of records on April 28, 2016 and provided a comprehensive list of the exemptions that were determined to be applicable to documents that were either redacted or not provided.

In a letter dated May 11, 2016, you previously stated your intention to appeal with respect to the determination not to conduct a search of private email and private text messaging accounts of the nine employees. In response, on May 17, 2016 I requested that you clarify, pursuant to 1 V.S.A. §318(d), the scope of your intended appeal. I asked that you send me a comprehensive listing of all grounds for appealing the determinations set forth in Mr. Griffin's April 28 letter or

that you inform me that you are asserting no additional grounds for appeal beyond those expressly set forth in your May 11, 2016 letter.

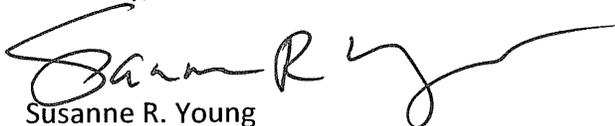
This request to clarify was necessitated by the statement in your letter of an intention "to raise other questions...in separate correspondence" regarding some of the exemptions claimed by the state. That statement suggested the possibility that you might intend to assert additional grounds for appeal from Mr. Griffin's April 28, 2016 determination beyond the grounds set forth in your May 11 letter. Your June 6, 2016 letter, however, does not provide the requested clarification of your appeal. Rather, you assert that there is no basis to require that all grounds for appeal be identified by the requester. Your argument is contrary to the Public Records Act and common sense.

The Public Records Act allows a person "aggrieved by a denial of a request for public records" to apply to the Civil Division of the Superior Court "to enjoin the public agency from withholding agency records and to order the production of any records improperly withheld from the complainant." 1 V.S.A. §319(a). The Act clearly contemplates a single court action to raise any and all claims of error associated with a request for public records. Moreover, an individual must exhaust administrative remedies before pursuing a court action. Bloch v. Angney, 149 Vt. 29, 31 (1987). Exhaustion requires that you present all grounds for appeal.

Piecemeal and multiple challenges to a final determination of a Public Records Act request, particularly one as extensive as yours, could conceivably result in multiple lawsuits in Superior Court. The fact that there is no time period specified in section 318(c) of the Act within which an appeal to an agency head must be made further supports the conclusion that only one appeal in connection with a request is contemplated. Requesters can take a reasonable amount of time needed by them to review an agency's determinations, to review the records produced, and to formulate a single, comprehensive appeal.

I am prepared to make a determination on your assertion that personal email and text messaging accounts of our employees should be searched once I receive from you a statement in writing of any and all additional grounds for appeal from AAG Griffin's April 28, 2016 determination or a written statement that the only grounds for appeal that you are asserting are the grounds specified in your June 6, 2016 letter.

Sincerely,



Susanne R. Young
Deputy Attorney General

cc: Bill Griffin

WILLIAM H. SORRELL
ATTORNEY GENERAL

SUSANNE R. YOUNG
DEPUTY ATTORNEY GENERAL

WILLIAM E. GRIFFIN
CHIEF ASST. ATTORNEY
GENERAL



STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER, VT
05609-1001

TEL: (802) 828-3171
FAX: (802) 828-3187
TTY: (802) 828-3665

<http://www.ago.vermont.gov>

June 17, 2016

Brady C. Toensing
diGenova & Toensing
2613 Greenbush Road
Charlotte, Vermont 05445

Re: Determination of Public Records Request Appeal

Dear Brady:

This is a determination, pursuant to 1 V.S.A. §318(d), of your administrative appeal dated June 6, 2016, as clarified on June 13, 2016, from the denial of a portion of an extensive public records request you made to the Attorney General's Office ("AGO"). You assert that private e-mail and text messaging accounts of 9 state employees should be searched for any responsive records in addition to the lengthy and exhaustive search of the AGO's records that has already been completed.

This appeal is in connection with your May 12, 2015 request, as modified by a request dated December 11, 2015 (hereinafter "your request"), in which you requested multiple items, including four years of communications between 9 state employees and 30 separate individuals and organizations. In response to your initial request, a search was conducted of the AGO e-mail accounts of the 9 employees for responsive records spanning the four-year time frame. That search identified 13,629 e-mail messages, which were subsequently consolidated into 1,129 e-mail chains. Hundreds of pages of documents were produced to you over three months, between February 5, 2016 and April 28, 2016. The review of those e-mails took in excess of 250 hours to complete to ensure that this Office complied with its ethical and confidentiality obligations under the Rules of Professional Conduct.

Chief Assistant Attorney General Griffin advised you that the documents provided with his letter dated April 28, 2016 were the final documents to be produced as part of a rolling production of records between February 5, 2016 and April 28, 2016. That letter also included a comprehensive list of the reasons why certain records were not provided.

Your e-mail dated June 13, 2016 clarified that the scope of your appeal from Mr. Griffin's April 28 comprehensive determination is limited to the assertion in your June 6, 2016 letter

(incorporating your May 11, 2016 letter by reference) that Mr. Griffin's decision declining to search the private e-mail and text messaging accounts of these 9 state employees over 4 years was "arbitrary and capricious." For the reasons set forth below, your appeal is denied.

First, the Public Records Act (hereinafter "PRA") defines a "public record" as "any written or recorded information, regardless of physical form, which is produced or acquired in the course of public agency business." 1 V.S.A. §317(b). There is no requirement in the law that a state agency search private accounts that are not accessible to the agency or to search the private electronic devices of individual officials or employees of the agency. On the contrary, the law only addresses records generated or received by a public agency.

Moreover, aside from the express statutory language in the PRA, there is no basis to conclude that the Legislature would have expected state agencies to conduct searches of the private accounts of state officials and employees, given its statement that the PRA should balance both privacy interests and the goal of holding governmental officials accountable. See 1 V.S.A. § 315(a); Ch. 1, Art. 6, as well as the obvious practical problems associated with attempting to search private accounts that a state agency does not control.

And, finally, even assuming that an obligation on the part of a state agency to attempt to conduct a search of private accounts could conceivably arise under the PRA, you have not provided a sufficient justification for your request in this case. Your appeal argues that the existence of three specific e-mails provide the factual showing, or "predicate," for your request to search private e-mail and text messaging accounts.

Two of the three e-mails that you cite as support were located in AGO e-mail accounts and were produced to you in response to your request. (Exhibit 2C of your request). One is an e-mail exchange between AAG Morgan and campaign staff for the Sorrell re-election campaign, (Bates Nos. WM 101-104). This e-mail referred information to the AGO about an individual who told campaign staff that "he was concerned about consumer protection matters." The exhibit shows that the original e-mail was subsequently forwarded to AAG Morgan's state account. Follow-up with this individual was conducted in the normal course of agency business because the Vermont Attorney General has enforcement authority under the state's consumer protection laws and provides a resource to Vermonters with consumer protection concerns and issues.

The second e-mail (Bates No. WM 100) reflects an exchange from Bill Sorrell to AAG Morgan that inquired about the AGO's work relating to realtors and consumer protection. Both private and state e-mail addresses were used in the original e-mail. This e-mail exchange was provided to you in response to your request because it was a public record produced or acquired during the course of agency business. Contrary to your suggestion, a state officeholder is entitled to ask his staff to provide details about the agency's work under his leadership.

The third e-mail that you argue supports your request to search private accounts is a September 16, 2014 e-mail from Bill Sorrell's private account that originated from a private citizen. You provided a copy of this e-mail to the AGO. This e-mail was sent a day after the Attorney General participated in a press conference questioning gasoline pricing in Chittenden County. As you described in your appeal, and included in public complaints made by you about this event, you believe this press conference was not an official event but a campaign event that ran afoul of Vermont's campaign finance laws. Your allegations about this event were investigated by a private and independent attorney, Tom Little (the so-called Little investigation), under the direction of a Special Committee of State's Attorneys. No violation was found and the Committee concluded this was not a Sorrell campaign event.

This private e-mail exchange about a public event after the fact of the event did not constitute agency business. Moreover, the fact that this e-mail was provided to the Little investigation as part of its review of the event does not change its character.

In sum, you have not demonstrated why a search of private e-mail and text messaging accounts would serve the purposes of the PRA in this case and justify the resulting intrusion into the private accounts of officials and employees of the AGO.

The PRA provides that a person aggrieved by a denial of a request for public records may apply to the Civil Division of the Superior Court to enjoin the withholding of agency records and to order their production. See 1 V.S.A. §319(a).

Sincerely,

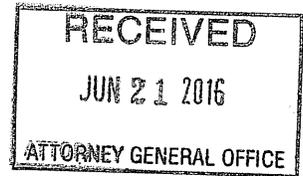


Susanne R. Young

Deputy Attorney General



diGENOVA & TOENSING, LLP
ATTORNEYS-AT-LAW



June 17, 2016

**Via Email (bill.griffin@vermont.gov)
and First Class Mail**

William E. Griffin
Chief Assistant Attorney General
Office of the Attorney General
State of Vermont
109 State Street
Montpelier, Vermont 05609

Dear Bill:

Enclosed is a check in the amount of \$3,799 as payment for the documents produced by the Attorney General's Office in response to my May 12, 2015 Vermont Public Records Act Request, which was modified from the request submitted on December 11, 2015. Thank you for the documents.

Sincerely,

Brady C. Toensing

Enclosure

BRADY TOENSING
~~3027 GARFIELD STREET NW~~
~~WASHINGTON, DC 20007~~

SchwabOne®

231

6/17/2016 19

3-5/310
150

PAY TO THE
ORDER OF

State of Vermont

\$ 3,799.00

Three thousand Seven hundred Ninety Nine & ⁰⁰/₁₀₀ DOLLARS

Charles Schwab

PNC BANK, N.A.
Philadelphia, PA

Security features
are included.
Details on back.

FOR VTPRAR doc. fee



MP

⑆031000053⑆ 7013162381⑆ 20231



diGENOVA & TOENSING, LLP
ATTORNEYS-AT-LAW

May 12, 2015

Via Email (bill.sorrell@state.vt.us)

The Honorable William H. Sorrell
Office of the Attorney General
State of Vermont
109 State Street
Montpelier, Vermont 05609

Re: Request for Appointment of Independent Counsel for Investigation of Vermont Attorney General.

Dear Mr. Attorney General:

This is a request for documents made pursuant to Vermont's Access to Public Records Act, 1 V.S.A. §§ 315-320. For the following state employees, I hereby demand any and all documents responsive to the requests below:

Vermont State Employees.

Elliot Burg;
Eve Jacobs Carnahan;
Mark DiStefano;
William E. Griffin;
Scot Kline;
Wendy Morgan;
Janet Murname;
Megan J. Shafritz;
William Sorrell;
MaryKay Swanson;
Susanne R. Young.

Requests. For the time period January 1, 2012 to present:

1. **Individuals and Entities.** Any and all communications with or documents related to the following individuals and entities:¹

Individuals:

- Todd Bailey;
- Travis Berry;
- Michael Briggs;
- Russell Budd;
- Dorothy Budd;
- Dana Bykowski (also known as Dana Bykowski Ju);
- Richard Cassidy;
- Stefan Chodkowski (Stefan@democraticags.org);
- Dean Corren (dcorren@burlingtontelecom.net);
- Michael Crowell;
- Howard Dean;
- F. Philip "Phil" Fiermonte;
- Jeff Frank (jeff_frank@sanders.senate.gov);
- Jenifer Fuller;
- Nicholas M. Gess;
- Jacob Gillison;
- Terry Goddard;
- Lori Kalani;
- JB Kelly;
- Cindy Lott;
- Daniel McLean (Daniel_McLean@sanders.senate.gov);
- Bernie Nash (nashb@dicksteinshapiro.com);
- Christopher Pearson (cp@biglocomotive.net);
- Kenneth Pennington;
- Michael Pieciak (mspieciak@gmail.com);
- L. Michael Messina;
- Benjamin C. Metcalf;
- Patricia Madrid;
- Lisa Madrid;
- Senator Bernard Sanders;
- Jane Sanders;
- Divonne Smoyer;
- Robert Stannard;

¹ To assist in the search process, an email address, if known, has been included for some individuals. The listing of an email address, of course, does not necessarily mean that it was the only email address used for that individual and its listing should not be interpreted to limit those requests to just that address.

- Scott Summy;
- James Tierney (jtierne@law.columbia.edu);
- David Weinstein (David_Weinstein@sanders.senate.gov).

Entities:

- Committee for Justice and Fairness PAC (CJF), including, but not limited to, any communications about filing (or failing to file) campaign finance reports in Vermont
 - Dickstein Shapiro;
 - Democratic Attorneys General Association (DAGA);
 - Media Strategies, Denver, Colorado.
2. Any communications received from or sent to (including blind copied to) any email addresses with the following domains:
 - @bernie.org;
 - @democraticags.org;
 - @dicksteinshapiro.com;
 - @Sanders.senate.gov.
 3. Any communications or documents related to any election or campaign of Attorney General Sorrell, including but not limited to, any complaints, compliance advice given to anyone, campaign contributions (in any form), working on a campaign, or any campaign events.
 4. Any communications or documents about retaining Baron & Budd, P.C., Weitz & Luxenberg, P.C., Pawa Law Group, P.C., or the Law Office of L. Michael Messina, P.A., for litigation regarding methyl tertiary butyl ether (MTBE), including but not limited to any communications with or documents discussing the Vermont Agency of Natural Resources.
 5. All documents related to the July 25, 2012 guidance from General Sorrell allowing unlimited PAC spending.

These requests include, but are not limited to, communications received or sent on a private email account (such as whsorrell@gmail.com)² or private text messaging account. If no responsive records exist, then state this fact in your response. If any part of these requests is denied, please list the specific criteria you are relying on for the denial, as well as the name and title of the person responsible for the denial.

² General Sorrell gave out his personal email address to at least one lobbyist who requested it. Ex. A. Communications related in any way to official state business must be produced even if contained on a personal email account.

The Honorable William H. Sorrell

May 12, 2015

Page 4

The Vermont Public Records Act is to be "liberally construed ... and the burden of proof" is on the agency to justify any refusal to produce records. 1 V.S.A. § 315. Absent a valid legal exemption, this law compels the production of documents and correspondence relating to official state business. If such records exist and you do not intend to comply with this request, please inform me immediately so that I may pursue an appropriate legal remedy. Meantime, you should ensure these public records are preserved. 1 V.S.A. § 320 (Destruction of public records is prohibited by law).

Except under extraordinary circumstances, Vermont law requires that you "promptly produce" public records. 17 V.S.A. § 318 (a). The statute allows a three day time period for you to respond, but only if you intend to withhold documents and need time to certify an exemption. 17 V.S.A. § 318 (a)(2). This three day time period was not intended to allow a state official to automatically avoid the prompt production requirements of the statute.

Pursuant to the Public Records Act, please also do the following:

- Produce any responsive documents to me electronically (please send to Brady@digtoe.com), if possible;
- Produce these documents promptly or certify within two business days why you are denying me access to them or any particular documents (this time limit may be extended only under certain conditions as outlined in 1 V.S.A. § 318);
- If you believe an otherwise public record is exempt from disclosure, produce a log with the page numbers of the documents, the date of the document, the people or entities who received copies, the authors of the document and a specific explanation (citing to the applicable exemption) for why a document has not been produced;
- If an otherwise public record has a portion that is exempt from disclosure, redact any exempt portion and release the redacted document together with a log (as described in the previous bullet);
- Inform me of the appeal procedures available to me if you withhold any documents;
- If you are unable to copy any material, identify the material and notify me when it will be available for my inspection; and
- Provide a written reply to this request.

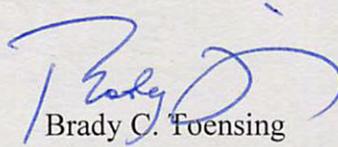
If you refuse to produce any responsive records to me, it would be helpful to Bates Number any such documents for easy reference and to avoid confusion in future proceedings regarding the failure to produce records.

I am willing to pay reasonable production fees, if necessary, but please call or email me first with an estimate as to the costs to produce these documents. Thank you for your assistance

The Honorable William H. Sorrell
May 12, 2015
Page 5

with this matter and I look forward to your response. If you have any questions, I can be reached at (202) 297-4245 or by email at Brady@digtoe.com.

Sincerely,



Brady C. Foensing

Exhibit A

From: Kalani, Lori E. <lkalani@orrick.com>
Sent: Friday, April 20, 2012 3:26 PM
To: Bill Sorrell
Subject: Do you have a personal email?

I would like to talk to you about a non work topic. Thanks.



O R R I C K

LORI KALANI

Senior Counsel

ORRICK, HERRINGTON & SUTCLIFFE LLP

51 WEST 52ND STREET
NEW YORK, NY 10019-6147

(el 212-506-5116

(ax 212-506-5151

mobile 703-338-8753

or tel 202 319 8406

lkalani@orrick.com

bio | vcard

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IRS Circular 230 disclosure: To ensure compliance with requirements imposed by the IRS, we inform you that any tax advice contained in this communication, unless expressly stated otherwise, was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any tax-related matter(s) addressed herein.

NOTICE TO RECIPIENT: THIS E-MAIL IS MEANT FOR ONLY THE INTENDED RECIPIENT OF THE TRANSMISSION, AND MAY BE A COMMUNICATION PRIVILEGED BY LAW. IF YOU RECEIVED THIS E-MAIL IN ERROR, ANY REVIEW, USE, DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS E-MAIL IS STRICTLY PROHIBITED. PLEASE NOTIFY US IMMEDIATELY OF THE ERROR BY RETURN E-MAIL AND PLEASE DELETE THIS MESSAGE FROM YOUR SYSTEM. THANK YOU IN ADVANCE FOR YOUR COOPERATION.
For more information about Orrick, please visit <http://www.orrick.com/>

Farnsworth, Karen

From: Young, Susanne
Sent: Thursday, May 14, 2015 11:00 AM
To: Farnsworth, Karen
Subject: FW: Vermont Public Records Act Request 12 May 2015 -- Attention. Timely Response Required by Law.
Attachments: Letter to General Sorrell VTPRAR 12 May 2015.pdf

Hi Karen,
Here is the latest request to include in the package you are putting together for Mark, Bill and me for tomorrow. Thanks, Susanne

From: toensing@gmail.com [mailto:toensing@gmail.com] **On Behalf Of** Brady Toensing
Sent: Tuesday, May 12, 2015 11:54 PM
To: Sorrell, Bill
Cc: Young, Susanne
Subject: Vermont Public Records Act Request 12 May 2015 -- Attention. Timely Response Required by Law.

Please see attached.

Brady C. Toensing
diGenova & Toensing
Washington DC
(m) 202.297.4245



PROPOSAL RESPONSE TO RFP:

SOW-RFP AGO Records Request



Due Date: June 1, 2015

Prepared for: Bill Griffin
Office of the Attorney General
109 State Street
Montpelier, VT 05609
(802) 828-3171
Bill.griffin@state.vt.us



Prepared by: Joe Noonan
Account Executive
Competitive Computing, Inc.
(802) 764-1762
Joe.noonan@competitive.com





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1 Executive Summary

Competitive Computing, Inc. (C2) is pleased to present the State of Vermont (SOV) with our response to the State's RFP "AGO Records Request." In our proposal, we detail our qualifications and experience and detail a work plan and proposed personnel.

We understand from the RFP that the State is looking for a third party vendor to conduct a search of emails of 11 state employees and return a list and copies of any emails discovered given a set of criteria. As a full-service business technology consulting firm with nearly 20 years of experience servicing both public and private sectors, C2 will provide quality services and solutions to the State in all initiatives for which we are engaged.

Depth of Experience

C2 has an established relationship with the State, decades of experience with strategic, large-scale deployments, and a highly knowledgeable and certified staff. Our full-service approach includes strategic IT planning, business process and workflow analysis, application development, technology infrastructure, and managed support services for the extended enterprise. Over the past 15 years, C2 has enjoyed a successful working relationship with various State agencies and departments to successfully complete a multitude of projects including the Vermont Travel Planner, Vermont Bid Registry, eDEC online permitting, Business Process Analysis for the DMV's Systems Modernization effort, Information Center Kiosks, and design of the enterprise Microsoft Exchange Environment, server consolidations using virtualization, email archiving, disaster and recovery (DR) planning and implementation, as well as numerous content-managed websites and network and email implementations. To accomplish these projects, we have worked in partnership with the Department of Information and Innovation to drive a common architecture and have provided many of the technology services that are included in this RFP. From these engagements, we have a detailed working knowledge of your operations, systems, customers, and partners, as well as a keen awareness of the State's go-forward initiatives, structure, and processes. We believe this uniquely positions us to continue to provide higher quality, higher value services to the State.



We are Technology Experts

As evidence of our unparalleled experience and expertise with the majority of technologies referenced within the RFP, C2 has achieved and maintains partnerships with top-tier server technology providers including Microsoft, Cisco, Citrix, Dell, EMC, Hewlett-Packard and VMware.

In addition to the highly certified engineers we have on staff, we also regularly consult with known industry experts when doing so will benefit our clients. Our project managers follow PMI standards to provide the structured processes and oversight that are so critical in the completion and adoption of IT projects. When working with C2, the State can be confident that we will always bring to bear the necessary team with the required skill set to provide a quality solution.

As a Vermont Company, We Share Your Goals

We are a Vermont company that upholds Vermont values. We take partnering with our clients very seriously and work to cultivate mutually beneficial, long-lasting relationships. We are very proud of



our work with Vermont State government and of the benefits we have collectively provided to all Vermont constituents. As Vermonters, we share your goals to improve the quality and efficiency of services provided by Vermont government. As a Vermont business in this small, well-connected community, your success and satisfaction are essential for our sustainability. The State can be confident in our commitment to your success in all IT initiatives.

C2's close proximity – in Colchester – means that our resources are just a short drive from Montpelier, Waterbury, and many State offices. Our accessibility means that we can conduct more project activities in-person which allows our individual team members to develop stronger, mutually beneficial relationships with those they are servicing and supporting. Our experience has shown us that in-person meetings often provide more effective communication and better collaboration with State teams during projects and, ultimately, produce better end results.

Throughout the term of a retainer contract, we will partner with the State to maximize opportunities, define priorities, and focus investment efforts on the areas of highest return. We are confident that our experience and capabilities – coupled with structured, industry-proven practices and standards for design, development and deployment – will serve the State well.



2 Transmittal Letter



June 1, 2015

Mr. Bill Griffin
Office of the Attorney General
109 State Street
Montpelier, VT 05609

RE: Response to RFP: “AGO Records Request”

Dear Mr. Griffin:

Competitive Computing, Inc. (C2) is pleased to respond to the State of Vermont’s RFP “AGO Records Request” for a search of emails of 11 state employees to identify any emails responsive to the request for records described in the RFP.

This SOW and work performed under it will be governed by our Master Services Agreement with the State of Vermont. We acknowledge the Terms and Conditions set forth by this contract.

I will serve as the point of contact for this proposal and can be contacted at the following:

Joe Noonan, Competitive Computing, 354 Mountain View Drive, Colchester, VT 05446
Phone: 802-764-1762 / Email: joe.noonan@competitive.com

Thank you for the opportunity to present our qualifications.

Sincerely,

A handwritten signature in black ink that reads 'Joe Noonan'. The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Joe Noonan
Account Executive



3 C2 Proposed Services

C2 proposes the following work plan.

Project Kick Off – 1 Day

Meet with key resources from AGO and DII to review the specific information in scope for search. AGO/DII to provide a work space, client computer(s), and access to servers and information for C2 to perform such search activities in Exchange Server 2010 and Enterprise Vault.

C2 to review and verify access is working as expected.

Initial Search Work – 4 days

Perform initial round of searches, searching existing information that is available at the time of search in Exchange Server 2010 and Enterprise Vault.

Review search results with key AGO resources to ensure the searches are correct and search results are applicable.

Revise search as required.

Produce search results in PST format.

Additional Search Work – TBD based on number of databases required to be recovered

Should Exchange Server 2010 database backups need to be restored for additional searching, each database to be restored (using recovery storage group) and searched is estimated to take approximately 1 effort day to complete. It is not known if or how many of these may be required. An estimate of the number of databases requiring recovery will be made after the initial discovery phases accomplished during the kick-off meeting.

Assumptions/Parameters

1. C2 understands the State of Vermont mailboxes to be searched are stored ONLY in the DII Exchange Server 2010 and related Enterprise Vault environment. No other or external data sources are expected, none are included to be searched in this proposal.
2. Unless there has been a system in place for the entire timeframe of the information request that makes a compliance archive copy of all email automatically, any and all information searching cannot guarantee complete results.
3. Unless there has been a system in place to record any and all recipients of email messages, TO, CC, BCC, and Distribution List Memberships as the messages were sent, any and all information searching cannot guarantee complete results.
4. C2 is assuming, based on previous knowledge of the environment, that no compliance archiving has been in place during the timeframe outlined in the RFP. Therefore it is not



expected that search results will be complete since some and/or all requested information may have been removed from the State systems by users. If this assumption is correct, then search results are very likely to be lacking some portion of the desired data.

5. C2 may recommend purchase of Exchange Server 2010 Enterprise Client Access Licenses for the State of Vermont mailboxes that are in scope for information search, assuming they are all stored on Exchange Server 2010 Servers, to facilitate the use of advanced searching capabilities of the product for data that exists at the time of this work.
6. C2 will require access to the State of Vermont mailboxes in question for the purpose of running searches, both Exchange Server 2010 and Enterprise Vault.
7. Production of search results in PST format is expected.
8. C2 expects to use the tools and technologies already in place to perform searches and product search results, and expects such tools to product search results from the information sources identified.
9. Should additional tools be required, C2 will recommend such to the State if/when the need is identified. Purchase of additional tools is outside the scope of this proposal.
10. Email addresses of any and all mailboxes to be searched and to be searched for will be available. Only with complete information will it be possible to optimize the search work and produce the most accurate date from the searches.
11. C2 is not expecting this work to include any re-construction of previous versions of systems or data sets such as previous deployments of Exchange Server or Enterprise Vault. Any and all such work is out of scope.



4 Proposed Personnel

Competitive Computing, Inc. (C2) is a Vermont-based company and a recognized leader in strategic business technology solutions. We have earned a reputation for delivering high-quality, high-value solutions to Vermont State government, higher education, and the commercial sector. We are a full-service business technology consulting firm offering strategic planning, IT management consulting, business process analysis, enterprise architecture, custom application development, enterprise network computing, and mission-critical hosting & support services.

We propose that Jim Collins, Senior Systems Engineer and Jonathon Black, Systems Engineer will conduct the technical searches for emails under this RFP. Both have extensive experience with Microsoft Exchange and Active Directory. Jim Collins was instrumental in assisting DII during past projects involving Exchange and Active Directory.

Experience with Vermont State Government

To address the unique needs of State government, we have a consulting practice dedicated to State and Local Government. This allows us to apply project resources to State projects that are already familiar with the culture, working style, project approval logistics, etc. of Vermont government as well as with opportunities for cross-agency collaboration. C2 enjoys successful working relationships with numerous agencies throughout the State of Vermont including:

- Agency of Commerce and Community Development (ACCD)
- Agency of Human Services (AHS)
- Agency of Natural Resources (ANR)
- Agency of Transportation (VTrans)
- Attorney General's Office (AGO)
- Department of Buildings and General Services (BGS)
- Department of Economic Development
- Department of Information and Innovation (DII)
- Department of Labor (VDOL)
- Department of Motor Vehicles (VtDMV)
- Department of Public Safety (DPS)
- Department of Tourism and Marketing
- Natural Resources Board (ACT 250)
- Office of Child Support (OCS)
- Promotional Services Team (Marketing and Promotional Partnership)
- Treasurer's Office
- Vermont Arts Council
- Vermont Commission on Women
- Vermont Humanities Council

Our relationship with and knowledge of various State agencies continues to grow and we continue to share and leverage those experiences for the benefit of our State clients.



5 Pricing

C2 proposes these professional services on a time and materials basis due to the variables associated with recovering an unknown number of database backups . The C2 discounted hourly rate is \$150* per hour during C2 regular business hours, M-F 8AM-6PM excluding company holidays. C2 will not charge for the time and expense of travel to and from State Government offices in Montpelier, VT.

C2 will invoice the State of Vermont on a monthly basis. At the end of each month C2 will report the hours specific to this engagement and invoice accordingly.

* - Outside normal business hours the hourly rate is \$210/hour – To be approved & agreed upon by SOV and C2 in advance of such work if such work schedule is required



6 Agreement

Please sign below to indicate your acceptance of an agreement to this proposal and the associated investment. Your signature authorizes C2 to begin working in collaboration with the Middlebury College IT team and will also initiate the invoicing process as described in the Pricing section.

Middlebury College

Signature:

Name: **Bill Griffin**

Title: **Chief Assistant Attorney General**

Date:

Competitive Computing, Inc. ("C2")

Signature:

Name: **Joe Noonan**

Title: **Account Executive**

Date:

WILLIAM H. SORRELL
ATTORNEY GENERAL

SUSANNE R. YOUNG
DEPUTY ATTORNEY GENERAL

WILLIAM E. GRIFFIN
CHIEF ASST. ATTORNEY
GENERAL



STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER, VT
05609-1001

TEL: (802) 828-3171
FAX: (802) 828-3187
TTY: (802) 828-3665

<http://www.ago.vermont.gov>

May 18, 2015

Mr. Brady C. Toensing
2613 Greenbush Road
Charlotte, VT 05445

RE: Access to Records Request – 44 individuals and entities

Dear Mr. Toensing,

This is in reply to your letter dated May 12 and received on May 13. The letter requests various records including all communications from any of 11 state employees to any of 44 individuals and entities during the period January 1, 2012 to May 12, 2015. The letter also requests all communications from any of the 44 individuals and entities to any of the 11 state employees during the same 40 month period. The letter also requests other documents.

In order to respond to your request we will have to search for, collect, and examine a voluminous amount of separate and distinct records. Therefore we are extending our response time to May 28, 2015. *See* 1 V.S.A. § 318(a)(5)(B).

Sincerely,

A handwritten signature in black ink, appearing to read 'W. E. Griffin'.

William E. Griffin
Chief Assistant Attorney General

Farnsworth, Karen

From: Griffin, Bill
Sent: Wednesday, May 27, 2015 7:37 PM
To: 'Brady Toensing'
Subject: Pending access to records requests
Attachments: 20150527174943248.pdf

Brady,

This is to confirm my understanding that we will proceed as follows on your several pending access to public records requests:

1. May 12, 2015 request for communications/documents to or from any of eleven State of Vermont employees and any of 40 individuals or entities during the period from January 1, 2012 to present.

Response: The Attorney General's Office invited three vendors to submit proposals for planning and conducting a search of State of Vermont emails to find responsive records. Two of the three informed me that they would submit proposals early next week. The Attorney General's Office will share the proposals with you and we can then discuss next steps.

2. May 12, 2015 request for communications to or from any of the eleven State employees and any email addresses containing any of four domain names.

Response: See response to item 1.

3. May 12, 2015 request for any communications/documents sent or received by any of the eleven State employees related to any election or campaign of Attorney General Sorrell.

Response: The Attorney General's Office will do an initial search for emails during the period March through September 2012.

4. May 12, 2015 request for any communications or documents about the outside counsel contract for litigation relating to MTBE, including communications with the Vermont Agency of Natural Resources.

Response: The Attorney General's Office will produce communications about the outside counsel contract, with minor redactions to protect attorney client information.

Our MTBE communications with ANR are voluminous. One Assistant Attorney General reported that he has communicated with 17 different officials and employees at ANR on potential and actual MTBE litigation. We discussed the possibility that you might narrow the scope of the ANR part of this request; for example, by requesting a one or two month sampling of communications from the AAG who reported the large number of communications. I will wait to hear from you before acting on this part of this request.

5. May 12, 2015 request for documents relating to the July 25, 2012 Attorney General's Guidance Regarding Independent Expenditure Committees.

Response: The Attorney General's Office will produce the document that prompted the Guidance and you will follow up as needed.

6. May 22, 2015 request for the attachment to Attorney Divonne Smoyer's email to Assistant Attorney General Ryan Kriger dated February 15, 2013.

Response: A redacted copy of the letter, which is a confidential settlement communication, is attached.

I hope this is a fair summary of the plan we discussed. Please let me know if any changes are needed.

Thank you.

Bill

Farnsworth, Karen

From: Griffin, Bill
Sent: Friday, June 05, 2015 12:58 PM
To: Brady Toensing (brady@digtoe.com)
Subject: email searches -- C2 and GF proposals
Attachments: SOV AGO - SOW-RFP AGO Records Request - 6-1-15.pdf; gallagher flynn proposal - 060215.doc

Brady,

The email search proposals that received by the AG's Office – one from Competitive Computing, Inc. (C2) and one from Gallagher, Flynn & Company, PLC – are attached. Both proposals relate to Request No. 1 and Request No. 2 that you submitted on May 12, 2015. The proposals were requested through an RFP process, so please treat them as confidential. The bidders have not seen their competitor's bid.

Also, I confirmed that the documents mailed yesterday were sent to your Charlotte address, so you should have them today or tomorrow.

Bill

Griffin, Bill

From: toensing@gmail.com on behalf of Brady Toensing <brady@digtoe.com>
Sent: Monday, July 13, 2015 2:17 PM
To: Griffin, Bill
Subject: Modified May 12, 2015 Vermont Public Records Act Request
Attachments: Letter to Griffin re 12 May 2015 VTPRAR Modification 07132015.pdf

Dear Bill -- Per our phone call last week, attached is the modified May 12, 2015 Vermont Public Records Act Request. Please let me know if you have any questions. Sincerely, Brady.

Brady C. Toensing
diGenova & Toensing
(m) 202.297.4245



diGENOVA & TOENSING, LLP
ATTORNEYS-AT-LAW

July 13, 2015

Via Email (bill.griffin@state.vt.us)

William E. Griffin
Chief Assistant Attorney General
Office of the Attorney General
State of Vermont
109 State Street
Montpelier, Vermont 05609

Re: Modified May 12, 2015 VTPRA Request.

Dear Mr. Griffin:

Per our discussion on July 9, 2012, below is a modified version of my May 12, 2015 request for documents made pursuant to Vermont's Access to Public Records Act, 1 V.S.A. §§ 315-320.

The May 12, 2015 request followed an earlier request for similar records and was an attempt to refine those requests to resolve some of the practical difficulties of responding to that earlier request. We have previously discussed retaining a vendor to perform an automated search for responsive emails. This option, however, would have been costly and may not have been an effective method for gathering responsive records.

Instead, the Vermont employees listed below will perform good-faith searches of their own emails and records for documents responsive to my requests, which are listed below the employees. As we also discussed, I have reduced the number of employees to perform searches and narrowed my requests.

Vermont State Employees.

Eve Jacobs Carnahan;
William E. Griffin;
Wendy Morgan;
Janet Murname;
Megan J. Shafritz;
William Sorrell;
Mary-Kay Swanson; and
Susanne R. Young.

Requests.

1. **Individuals and Entities.** For the time period January 1, 2012 to present, all communications with or documents related to the following individuals and entities:¹

Individuals:

- Travis Berry (Democratic Attorney Generals Association (DAGA))
- Michael Briggs (Sanders);
- Richard Cassidy;
- Stefan Chodkowski (Stefan@democraticags.org);
- Dean Corren (dcorren@burlingtontelecom.net);
- Michael Crowell (Sanders);
- Howard Dean;
- F. Philip "Phil" Fiermonte (Sanders);
- Jeff Frank (jeff_frank@sanders.senate.gov);
- Jenifer Fuller (DAGA);
- Nicholas M. Gess (DAGA);
- Jacob Gillison (Sanders);
- Terry Goddard (DAGA);
- Daniel McLean (Daniel_McLean@sanders.senate.gov);
- Bernie Nash (nashb@dicksteinshapiro.com);
- Christopher Pearson (cp@biglocomotive.net);
- Kenneth Pennington (Sanders);
- Michael Pieciak (mspieciak@gmail.com);
- L. Michael Messina;
- Patricia Madrid;
- Senator Bernard Sanders;
- Jane Sanders;
- James Tierney (jtiern@law.columbia.edu) (DAGA); and
- David Weinstein (David_Weinstein@sanders.senate.gov).

Entities:

- Committee for Justice and Fairness PAC (CJF);
- Democratic Attorneys General Association (DAGA); and
- Media Strategies, Denver, Colorado.

¹ To assist in the search process, an email address, if known, has been included for some individuals. The listing of an email address, of course, does not necessarily mean that it was the only email address used for that individual and its listing should not be interpreted to limit those requests to just that address. Where appropriate and also to assist in the search process, I have included the organization with whom an individual is associated.

William E. Griffin
Chief Assistant Attorney General
July 13, 2015
Page 3

2. For the time period January 1, 2012 to present, all communications received from or sent to (including copies and blind copies) any email addresses with the following domains:
 - @bernie.org;
 - @democraticags.org; and
 - @Sanders.senate.gov.
3. For the time period March 1, 2012 through November 30, 2012, all communications or documents related to the solicitation of campaign contributions to the campaign of Attorney General Sorrell. This request includes, but is not limited to, solicitations for volunteer work or appearances at campaign events.

These requests include, but are not limited to, communications received or sent on a private email account (such as whsorrell@gmail.com)² or private text messaging account. The Vermont Public Records Act is to be "liberally construed ... and the burden of proof" is on the agency to justify any refusal to produce records. 1 V.S.A. § 315. Absent a valid legal exemption, this law compels the production of documents and correspondence relating to official state business. If such records exist and you do not intend to comply with this request, please inform me immediately so that I may pursue an appropriate legal remedy. Meantime, you should ensure these public records are preserved. 1 V.S.A. § 320 (Destruction of public records is prohibited by law).

Please produce any responsive documents to me electronically, if possible. I am willing to pay reasonable production fees, if necessary, but please call or email me first with an estimate as to the costs to produce these documents. Thank you for your assistance with this matter and I look forward to your response. If you have any questions, I can be reached at (202) 297-4245 or by email at Brady@digtoe.com.

Sincerely,


Brady C. Toensing

² General Sorrell gave out his personal email address to at least one lobbyist who requested it. Communications related in any way to official state business must be produced even if contained on a personal email account.

Griffin, Bill

From: toensing@gmail.com on behalf of Brady Toensing <brady@digtoe.com>
Sent: Wednesday, August 19, 2015 3:47 PM
To: joe.noonan@competitive.com
Cc: Griffin, Bill
Subject: VTPRAR to Vermont Attorney General's Office
Attachments: VTPRAR Sorrell 19 August 2015 Modified Request.docx

Dear Joe -- Per our discussion yesterday, attached is the revised Vermont Public Records Act Request. It is my understanding that, per your June 1, 2015 proposal, you will work with Bill Griffin to arrange access to the appropriate databases. It is also my understanding that you will start by assessing the scope of the work involved in responding to my requests and will then contact me to discuss options and to provide me an estimate of the costs involved.

Please give me a call once you have had a chance to review the attached VTPRAR and to discuss the logistics of my providing feedback to you in an efficient manner. I would like to talk to the people you intend to use to perform this job before they start so that I can discuss how I would like to proceed and to answer any questions they might have after reading the VTPRAR. Perhaps we could bring Bill Griffin in on a discussion to coordinate moving forward. Sincerely, Brady.

* * * * *

Brady C. Toensing
diGenova & Toensing
(m) 202.297.4245

**Vermont Public Records Act Request for
Information to Vermont Attorney General Sorrell and listed state employees**

This is a request for documents made pursuant to Vermont's Access to Public Records Act, 1 V.S.A. §§ 315-320. For the following state employees, I hereby demand any and all documents responsive to the requests below:

Vermont State Employees.

William E. Griffin
Wendy Morgan
Janet Murname
Megan J. Shafritz
William Sorrell
MaryKay Swanson
Susanne R. Young

Requests. For the time period January 1, 2012 to present:

1. **Individuals.** Any and all communications with or documents related to the following individuals:¹

Individuals:

- Todd Bailey (SuperPAC, KSE Lobbyist);
- Travis Berry (DAGA);
- Michael Briggs (Sanders);
- Dana Bykowski (also known as Dana Bykowski Ju);
- Richard Cassidy;
- Stefan Chodkowski (Stefan@democraticags.org);
- Dean Corren (dcorren@burlingtontelecom.net);
- Michael Crowell (Sanders Chief of Staff);
- Howard Dean;
- F. Philip "Phil" Fiermonte (Sanders);
- Jeff Frank (jeff_frank@sanders.senate.gov);
- Jenifer Fuller (DAGA);
- Nicholas M. Gess (DAGA);
- Jacob Gillison (Sanders Admin Director);
- Terry Goddard (DAGA);
- Lori Kalani (lobbyist);
- JB Kelly (lobbyist);
- Cindy Lott (lobbyist);

¹ To assist in the search process, an email address or organizational affiliation, if known, has been included for some individuals. The listing of an email address, of course, does not necessarily mean that it was the only email address used for that individual and its listing should not be interpreted to limit those requests to just that address.

- Daniel McLean (Daniel_McLean@sanders.senate.gov);
- Bernie Nash (nashb@dicksteinshapiro.com);
- Christopher Pearson (cp@biglocomotive.net);
- Kenneth Pennington (Sanders Deputy Press Secretary);
- Michael Pieciak (mspieciak@gmail.com);
- Senator Bernard Sanders;
- Jane Sanders;
- David Weinstein (David_Weinstein@sanders.senate.gov).

2. Any communications received from or sent to (including blind copied to) any email addresses with the following domains:

- @bernie.org;
- @democraticags.org;
- @dicksteinshapiro.com;
- @Sanders.senate.gov.

I also demand that you produce any documents that are responsive to the above requests that are in the possession of you personally, your campaign, or any of the individuals or entities in the requests above, including any employee of the Attorney General's Office.

These requests include, but are not limited to, communications received or sent on a private email account (such as whsorrell@gmail.com)² or private text messaging account. If no responsive records exist, then state this fact in your response. If any part of these requests is denied, please list the specific criteria you are relying on for the denial, as well as the name and title of the person responsible for the denial.

The Vermont Public Records Act is to be "liberally construed ... and the burden of proof" is on the agency to justify any refusal to produce records. 1 V.S.A. § 315. Absent a valid legal exemption, this law compels the production of documents and correspondence relating to official state business. If such records exist and you do not intend to comply with this request, please inform me immediately so that I may pursue an appropriate legal remedy. Meantime, you should ensure these public records are preserved. 1 V.S.A. § 320 (Destruction of public records is prohibited by law).

Except under extraordinary circumstances, Vermont law requires that you "promptly produce" public records. 17 V.S.A. § 318 (a). The statute allows a three day time period for you to respond, but only if you intend to withhold documents and need time to certify an exemption. 17 V.S.A. § 318 (a)(2). This three day time period was not intended to allow a state official to automatically avoid the prompt production requirements of the statute.

Pursuant to the Public Records Act, please also do the following:

² General Sorrell gave out his personal email address to at least one lobbyist who requested it. Ex. A. Communications related in any way to official state business must be produced even if contained on a personal email account.

- Produce any responsive documents to me electronically (please send to Brady@digtoe.com), if possible;
- Produce these documents promptly or certify within two business days why you are denying me access to them or any particular documents (this time limit may be extended only under certain conditions as outlined in 1 V.S.A. § 318);
- If you believe an otherwise public record is exempt from disclosure, produce a log with the page numbers of the documents, the date of the document, the people or entities who received copies, the authors of the document and a specific explanation (citing to the applicable exemption) for why a document has not been produced;
- If an otherwise public record has a portion that is exempt from disclosure, redact any exempt portion and release the redacted document together with a log (as described in the previous bullet);
- Inform me of the appeal procedures available to me if you withhold any documents;
- If you are unable to copy any material, identify the material and notify me when it will be available for my inspection; and
- Provide a written reply to this request.

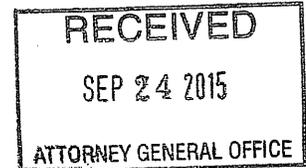
If you refuse to produce any responsive records to me, it would be helpful to Bates Number any such documents for easy reference and to avoid confusion in future proceedings regarding the failure to produce records.

I am willing to pay reasonable production fees, if necessary, but please call or email me first with an estimate as to the costs to produce these documents. Thank you for your assistance with this matter and I look forward to your response. If you have any questions, I can be reached at (202) 297-4245 or by email at Brady@digtoe.com.

JT

dIGENOVA & TOENSING, LLP
ATTORNEYS-AT-LAW

September 21, 2015



Via Email (bill.griffin@state.vt.us)

William E. Griffin
Chief Assistant Attorney General
Office of the Attorney General
State of Vermont
109 State Street
Montpelier, Vermont 05609

Re: Retainer Payment for VTPRA Request.

Dear Mr. Griffin:

Enclosed is a check for \$2,400 to be used as a retainer for the services of Competitive Computing (C2). This money will be used as a retainer for up to 16 hours of services by C2 to perform an assessment of the email system of the Vermont Attorney General in order to provide me with a Statement of Work for recovering emails responsive to my Vermont Public Records Act Request. Thank you for your assistance with this matter. If you have any questions, I can be reached at (202) 297-4245 or by email at Brady@digtoe.com.

Sincerely,


Brady C. Toensing

Enclosure

BRADY C TOENSING
2613 GREENBUSH RD.
CHARLOTTE, VT 05445

15-7525/2540

1017

DATE 9/21/2015

0 DELUXE online.com/checks

PAY TO
THE ORDER OF

State of Vermont

\$2,400.00

Two thousand four hundred & 00/100

DOLLARS



Security Features
Included
Details on Back

United States Senate
Federal Credit Union
P.O. Box 77920, Washington, DC 20013

MEMO

Cal Retainer

Joe J

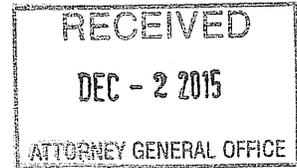
RP

⑆ 254075250⑆ 70000000755020⑈ 1017

SPECIALTY BLUE



diGENOVA & TOENSING, LLP
ATTORNEYS-AT-LAW



December 1, 2015

Via Email (bill.griffin@state.vt.us)

William E. Griffin
Chief Assistant Attorney General
Office of the Attorney General
State of Vermont
109 State Street
Montpelier, Vermont 05609

Re: Retainer Payment for VTPRA Request.

Dear Mr. Griffin:

Enclosed is a check for \$6,000 to be used as a retainer for the services of Competitive Computing (C2). This money will be used as a retainer for services by C2 to gather emails responsive to my Vermont Public Records Act Request. Thank you for your assistance with this matter. If you have any questions, I can be reached at (202) 297-4245 or by email at Brady@digtoe.com.

Sincerely,


Brady C. Toensing

Enclosure

BRADY C TOENSING
2613 GREENBUSH RD.
CHARLOTTE, VT 05445

15-7525/2540

1024

DATE 1 December 2015

DELIVER DELIVER.COM/CHECKS

PAY TO State of Vermont

THE ORDER OF

\$ 6,000.00

Six thousand + ⁰⁰/₁₀₀

DOLLARS



Security Features included. Details on Back.

**United States Senate
Federal Credit Union**
P.O. Box 77920, Washington, DC 20013

MEMO Retainer for Public Records Reg.

Reg. 2

MP

⑆ 254075250⑆ 70000000755020⑆ 1024

SPECIALTY BLUE

Vermont Public Records Act Request for Information to Vermont Attorney General Sorrell and listed state employees

This is a request for documents made pursuant to Vermont's Access to Public Records Act, 1 V.S.A. §§ 315-320. For the following state employees, I hereby request any and all documents responsive to the requests below:

Vermont State Employees.

Jill S. Abrams
William E. Griffin
Ryan Kriger
Wendy Morgan
Janet Murnane
Megan J. Shafritz
William Sorrell
MaryKay Swanson
Susanne R. Young

Requests. For the time period January 1, 2011 to present:

1. **Individuals.** Any and all communications with or documents related to the following individuals:¹

Individuals:

- Todd Bailey (SuperPAC, KSE Lobbyist);
- Travis Berry (DAGA);
- Michael Briggs (Senator Sanders);
- Dana Bykowski (also known as Dana Bykowski Ju);
- Richard Cassidy;
- Stefan Chodkowski (Stefan@democraticags.org);
- Dean Corren (dcorren@burlingtontelecom.net);
- Michaelleen Crowell (Senator Sanders);
- Howard Dean;
- F. Philip "Phil" Fiermonte (Senator Sanders);
- Jeff Frank (jeff_frank@sanders.senate.gov);
- Jenifer Fuller (DAGA);
- Nicholas M. Gess (DAGA);
- Jacob Gillison (Senator Sanders);
- Terry Goddard (DAGA);
- Lori Kalani (lobbyist);

¹ To assist in the search process, an email address or organizational affiliation, if known, has been included for some individuals. The listing of an email address, of course, does not necessarily mean that it was the only email address used for that individual and its listing should not be interpreted to limit those requests to just that address.

- JB Kelly (lobbyist);
- Cindy Lott (lobbyist);
- Daniel McLean (Daniel_McLean@sanders.senate.gov);
- Michael Murphy (Bailey & Glasser; mmurphy@baileyglasser.com)
- Bernie Nash (nashb@dicksteinshapiro.com);
- Christopher Pearson (cp@biglocomotive.net);
- Kenneth Pennington (Senator Sanders);
- Michael Pieciak (mspieciak@gmail.com);
- Senator Bernard Sanders;
- Jane Sanders;
- David Weinstein (David_Weinstein@sanders.senate.gov).

2. Any communications received from or sent to (including blind copied to) any email addresses with the following domains:

- @bernie.org;
- @democraticags.org;
- @Sanders.senate.gov.

STATE OF VERMONT
STATEMENT OF WORK (SOW) AMENDMENT

CONTRACTOR: Competitive Computing, Inc.

SOW #: BU 02100 - 0000001997

AMENDMENT #: 1

SOW # BU 02100 - 0000001997, entered into by the Office of the Attorney General, on behalf of the State of Vermont and by Competitive Computing, Inc., is amended as follows:

1. **Maximum Amount:** The maximum amount payable under SOW # BU 02100 - 0000001997, wheresoever such references to the maximum amount appear in said SOW or subsequent amendments shall be changed from \$2,400.00 to \$8,400.00.
2. **SOW Term:** The end date of SOW # BU 02100 - 0000001997, wheresoever such references appear in said SOW and its attachments and amendments, is changed from December 31, 2015 to March 31, 2016.
3. **Scope of Work** (Section 2): Section 2 – Scope of Work is amended to include the following language relative to the Recovery Phase of the project:

e. The intent of the Recovery Phase of this project is to search and recover emails based on the criteria defined in the public records request dated December 11, 2015, which may be further amended based on information learned while carrying out the project. A copy of the December 11 request is attached and is marked Attachment A. The deliverables for this phase are:

1. A list of emails that are responsive to the criteria identified in the public records request.
2. Copies of all emails resulting from the search will be delivered in an electronic format to a mailbox provided by SOV-AGO/DII
3. The steps for conducting the work are:
 - a. AGO and DII will create an email mailbox for the individual conducting the search
 - b. Access will be granted to mailboxes requested in the search
 - c. Searches of the Microsoft Exchange Mailbox and Enterprise Vault Store will be conducted for the list of individuals and domains included in the records request
 - d. The returned emails will be verified to make sure they only include emails to/from the requested individuals and domains
 - e. Emails will be moved to a .PST file to be reviewed by the AGO

f. Assigned Contractor Engineers will meet with key resources from the AGO and the DII to review the specific information in scope for restoration and search. AGO/DII will provide a work space, client computer(s), and access to servers and information for Contractor to perform such search activities in Windows Exchange and Enterprise Vault.

4. **Deliverables and Services Produced** (Section 3): Section 3 – Deliverables and Services Produced is modified to include the following language relative to the Recovery Phase of the project:

c. The deliverables for this phase will be receipt of the .PST file as stated in Section 2(e)(3)(e) of this amendment.

5. Assumptions / Parameters (Section 4): In addition to existing language; Section 4 – Assumptions / Parameters is amended to include the following language relative to the Recovery Phase of the project:

e. Contractor will require access to the State of Vermont, Department of Information and Innovation archiving tools for the purpose of reviewing setup configurations and policy settings.

f. Since restoring backups will not recover any deleted emails older than 14 days, the search will only be conducted in Microsoft Exchange Enterprise Vault.

6. Payment Provisions (Section 5):

Section 5(b) is replaced in its entirety with the following language:

The services under this Agreement will be provided on a time and materials basis. The hourly rate to be invoice for the Discovery Phase is \$150 per hour for regular business hours. The hourly rate to be invoiced for the Recovery Phase is \$165 per hour for regular business hours. Regular business hours are defined as Monday through Friday from 8AM to 6PM excluding company holidays. The hourly rate to be invoice for the Recovery Phase is \$225 per hour outside normal business hours. Contractor will not charge for the time and expense of travel to and from State Government offices in Montpelier, VT.

Section 5(d) is replaced in its entirety with the following language:

Contractor will invoice the State of Vermont at the completion of each phase of work. Payment to the Contractor shall be made upon acceptance of the Description of Work described in paragraph 3(a) of this Agreement and upon acceptance of the .PST file described in paragraph 4(c) of this Agreement.

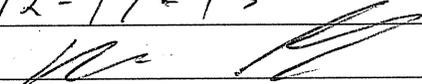
7. Taxes Due to the State: Contractor further certifies under the pains and penalties of perjury that, as of the date this contract amendment is signed, the Contractor is in good standing with respect to, or in full compliance with, a plan to pay, any and all taxes due the State of Vermont.

8. Certification Regarding Suspension or Debarment: Contractor further certifies under pains and penalties of perjury that, as of the date that this Amendment is signed, neither Contractor nor Contractor's principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in federal programs or programs supported in whole or in part by federal funds.

All other terms and conditions of SOW # BU 02100 - 0000001997 not hereby amended shall remain in full force and effect.

The signatures of the undersigned parties indicate that each has read this amendment of SOW # BU 02100 - 0000001997 in its entirety and agrees to be bound by the provisions enumerated therein.

By the State of Vermont:

Date: 12-17-15
Signature: 
Name: Wm Griffin
Title: Chief Asst. AG

By the Contractor:

Date: _____
Signature: _____
Name: _____
Title: _____

Attachment A

Vermont Public Records Act Request for Information to Vermont Attorney General Sorrell and listed state employees

This is a request for documents made pursuant to Vermont's Access to Public Records Act, 1 V.S.A. §§ 315-320. For the following state employees, I hereby request any and all documents responsive to the requests below:

Vermont State Employees.

Jill S. Abrams
William E. Griffin
Ryan Kriger
Wendy Morgan
Janet Murnane
Megan J. Shafritz
William Sorrell
MaryKay Swanson
Susanne R. Young

Requests. For the time period January 1, 2011 to present:

1. **Individuals.** Any and all communications with or documents related to the following individuals:¹

Individuals:

- Todd Bailey (SuperPAC, KSE Lobbyist);
- Travis Berry (DAGA);
- Michael Briggs (Senator Sanders);
- Dana Bykowski (also known as Dana Bykowski Ju);
- Richard Cassidy;
- Stefan Chodkowski (Stefan@democraticags.org);
- Dean Corren (dcorren@burlingtontelecom.net);
- Michaelleen Crowell (Senator Sanders);
- Howard Dean;
- F. Philip "Phil" Fiermonte (Senator Sanders);
- Jeff Frank (jeff_frank@sanders.senate.gov);
- Jenifer Fuller (DAGA);
- Nicholas M. Gess (DAGA);
- Jacob Gillison (Senator Sanders);
- Terry Goddard (DAGA);
- Lori Kalani (lobbyist);

¹ To assist in the search process, an email address or organizational affiliation, if known, has been included for some individuals. The listing of an email address, of course, does not necessarily mean that it was the only email address used for that individual and its listing should not be interpreted to limit those requests to just that address.

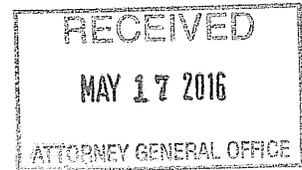
- JB Kelly (lobbyist);
- Cindy Lott (lobbyist);
- Daniel McLean (Daniel_McLean@sanders.senate.gov);
- Michael Murphy (Bailey & Glasser; mmurphy@baileyglasser.com)
- Bernie Nash (nashb@dicksteinshapiro.com);
- Christopher Pearson (cp@biglocomotive.net);
- Kenneth Pennington (Senator Sanders);
- Michael Pieciak (mspieciak@gmail.com);
- Senator Bernard Sanders;
- Jane Sanders;
- David Weinstein (David_Weinstein@sanders.senate.gov).

2. Any communications received from or sent to (including blind copied to) any email addresses with the following domains:

- @bernie.org;
- @democraticags.org;
- @Sanders.senate.gov.



diGENOVA & TOENSING, LLP
ATTORNEYS-AT-LAW



May 11, 2016

***Via Email (bill.griffin@state.vt.us)
and First Class Mail***

William E. Griffin
Chief Assistant Attorney General
Office of the Attorney General
State of Vermont
109 State Street
Montpelier, Vermont 05609

Re: Response to Modified May 12, 2015 VTPRA Request.

Dear Bill:

This letter responds to your April 28, 2016 letter, which transmitted documents responsive to my May 12, 2015 Public Records Act Request, as modified and submitted on December 11, 2015. That modified request asked for communications between nine state employees and 27 individuals, and communications between those same nine employees and any email addresses containing three specified domain names. **Exhibit A.**

The scale of this request necessitated numerous communications between me and your office and ultimately the employment of an outside consultant to electronically gather responsive emails. During the course of our correspondence and discussions regarding this request I emphasized that I had also requested responsive emails to and from private email accounts.¹

The issue of private email accounts came to my attention as a result of a January 28, 2016 article in Seven Days, which revealed that General William Sorrell had produced emails from a private account to the Little Investigation in order to support his defense that an event with Dean Corren, a candidate for Lieutenant Governor, was an official government event and not a campaign event.² The article described and contained a September 16, 2014 email discussion between General Sorrell and Tom Torti about the September 15, 2014 McCaffrey's Sunoco press event with Mr. Corren. Mr. Torti, a registered lobbyist and the President of the Lake Champlain Regional Chamber of Commerce, had initiated the communication by sending it to General

¹ I will raise other questions I have regarding some of the exemptions claimed in the state's responses to my records request in separate correspondence.

² Available at: <http://www.sevendaysvt.com/OffMessage/archives/2016/01/28/did-sorrell-take-official-action-to-punish-opponents-donor#more> .

William E. Griffin
Chief Assistant Attorney General
May 11, 2016
Page 2

Sorrell's private email address. The email address was redacted from the article, but I am aware that General Sorrell has previously used whsorrell@gmail.com for official government communications. In the discussion, General Sorrell brags that one reason he attended the event was in order to punish a campaign contributor to his primary opponent.

These emails, including General Sorrell's disturbing boast about using his public office to settle a political score, were indisputably responsive to a Public Records Act Request I submitted on April 6, 2015. **Exhibit B.** Yet General Sorrell did not produce them. The existence of these emails and his refusal to produce them in response to a lawful Public Records Act request indicates that General Sorrell is using a private email account in order to escape his legal obligation to produce public records.

Other documents that were produced to me include an additional example of one of the nine state employees using personal email for agency related business. Assistant Attorney General Wendy Morgan used her personal (wmorgan1948@gmail.com) and state email addresses as part of an effort to assist General Sorrell's political campaign. **Exhibit C** (Bates Nos. WM100 to 104). The email exchange shows Ms. Morgan using her official government position during work hours in conjunction with General Sorrell's political campaign to respond to a citizen, but only after he was first vetted by General Sorrell's campaign manager as a "Strong Democrat." Ms. Morgan should produce all responsive, agency-related communications contained on her private email and text accounts.

As a result of General Sorrell's refusal to abide by his legal obligations, on February 6, 2016, I sent you a letter setting forth the legal obligation for General Sorrell and state employees in your office who have received public records requests to produce all responsive records, including those on personal email accounts. **Exhibit D.** I also subsequently requested, on February 7, 2016, that General Sorrell produce all communications with Mr. Torti regarding official state business. **Exhibit E.**

The Vermont Public Records Act is to be "liberally construed ... and the burden of proof" is on the agency to justify any refusal to produce records. 1 V.S.A. § 315. The term "public record" under 1 V.S.A. § 317(b) has been described by the Vermont Supreme Court as "sweeping," requiring production of all documents "that are produced or acquired in the course of agency business." *Herald Ass'n, Inc. v. Dean*, 174 Vt. 350, 353 (Vt. 2002) (citation omitted). Therefore, any communications that arguably have any connection to the work of the Office of the Attorney General must be produced. Furthermore, absent a valid legal exemption, this law compels the production of documents and correspondence relating to official state business, regardless of what email or text messaging system is used, including private accounts. *Bradford v. Dir. Empl. Sec. Dep't*, 128 S.W. 3d 20, 27-28 (Ark. Ct. App. 2003) ("...communications about the public's business is no less subject to the public's access because it was transmitted over a private communications medium than it is when generated as a result of having been transmitted over a publicly controlled medium."). Indeed, in a phone conversation we had on March 10, 2016, you conceded that the account used, personal or state, does not matter.

William E. Griffin
Chief Assistant Attorney General
May 11, 2016
Page 3

However, it does not appear from the responses I have received so far that the nine state employees searched their personal accounts for responsive records. It also does not appear that emails from General Sorrell's personal or state accounts between Mr. Torti and General Sorrell were searched for or produced. Please produce responsive records or confirm for each employee that no responsive records exist.

I have requested these records multiple times starting a year ago. Therefore, to the extent your office intends to deny my request that the nine employees search for and produce responsive emails and text messages from their personal accounts, this letter should be considered as an appeal. For that reason, I have also copied Deputy Attorney General Susanne Young on this letter as an appeal to any adverse determination. Meantime, the employees should ensure these public records are preserved. 1 V.S.A. § 320 (Destruction of public records is prohibited by law).

Sincerely,


Brady C. Toensing

cc: Susanne Young, Deputy Attorney General (*Via Email susanne.young@vermont.gov*)

Exhibit A

Vermont Public Records Act Request for Information to Vermont Attorney General Sorrell and listed state employees

This is a request for documents made pursuant to Vermont's Access to Public Records Act, 1 V.S.A. §§ 315-320. For the following state employees, I hereby request any and all documents responsive to the requests below:

Vermont State Employees.

Jill S. Abrams
William E. Griffin
Ryan Kriger
Wendy Morgan
Janet Murnane
Megan J. Shafritz
William Sorrell
MaryKay Swanson
Susanne R. Young

Requests. For the time period January 1, 2011 to present:

1. **Individuals.** Any and all communications with or documents related to the following individuals:¹

Individuals:

- Todd Bailey (SuperPAC, KSE Lobbyist);
- Travis Berry (DAGA);
- Michael Briggs (Senator Sanders);
- Dana Bykowski (also known as Dana Bykowski Ju);
- Richard Cassidy;
- Stefan Chodkowski (Stefan@democraticags.org);
- Dean Corren (dcorren@burlingtontelecom.net);
- Michaeleen Crowell (Senator Sanders);
- Howard Dean;
- F. Philip "Phil" Fiermonte (Senator Sanders);
- Jeff Frank (jeff_frank@sanders.senate.gov);
- Jenifer Fuller (DAGA);
- Nicholas M. Gess (DAGA);
- Jacob Gillison (Senator Sanders);
- Terry Goddard (DAGA);
- Lori Kalani (lobbyist);

¹ To assist in the search process, an email address or organizational affiliation, if known, has been included for some individuals. The listing of an email address, of course, does not necessarily mean that it was the only email address used for that individual and its listing should not be interpreted to limit those requests to just that address.

- JB Kelly (lobbyist);
- Cindy Lott (lobbyist);
- Daniel McLean (Daniel_McLean@sanders.senate.gov);
- Michael Murphy (Bailey & Glasser; mmurphy@baileyglasser.com)
- Bernie Nash (nashb@dicksteinshapiro.com);
- Christopher Pearson (cp@biglocomotive.net);
- Kenneth Pennington (Senator Sanders);
- Michael Pieciak (mspieciak@gmail.com);
- Senator Bernard Sanders;
- Jane Sanders;
- David Weinstein (David_Weinstein@sanders.senate.gov).

2. Any communications received from or sent to (including blind copied to) any email addresses with the following domains:

- @bernie.org;
- @democraticags.org;
- @Sanders.senate.gov.

Exhibit B



Brady Toensing <toensing@gmail.com>

Vermont Public Records Act Request -- ATTENTION -- Timely Response Required By Law3 messages

Brady Toensing <brady@digtoe.com>

Mon, Apr 6, 2015 at 4:07 PM

To: bill.sorrell@state.vt.us

Cc: susanne.young@state.vt.us

The Honorable William H. Sorrell
Attorney General of Vermont
Office of the Attorney General
109 State Street
Montpelier, VT 05609

Re: Vermont Public Records Act Request for Information

Dear General Sorrell:

Pursuant to Vermont's Access to Public Records Act, 1 V.S.A. §§ 315-320, for the time period January 1, 2014 to present, I hereby demand all emails, text messages, notes, memoranda, calendar entries, or documents of any kind related in any way to a September 15, 2014 event with Dean Corren at a Burlington gas station (McCaffrey's Sunoco), including, but not limited to, communications with the following:

- Julia Barnes;
- Megan Brook;
- Dean Corren;
- Dottie Deans;
- Doug Hoffer;
- Christopher Pearson;
- Senator Bernard Sanders;
- Michael Briggs;
- F. Philip "Phil" Fiermonte;
- Daniel McLean; or
- any agent, employee, or representative of Senator Bernard Sander's staff or campaign organization.

If no responsive records exist, then state this fact in your response. If any part of these requests is denied, please list the specific criteria you are relying on for the denial, as well as the name and title of the person responsible for the denial.

The Vermont Public Records Act is to be "liberally construed ... and the burden of proof" is on the agency to justify any refusal to produce records. 1 V.S.A. § 315. Absent a valid legal exemption, this law compels the production of documents and correspondence relating to official state business, regardless of what email or text messaging system is used. If such records exist and you do not intend to comply with this request, please inform me immediately so that I may pursue an appropriate legal remedy. Meantime, you should ensure these public records are preserved. 1 V.S.A. § 320 (Destruction of public records is prohibited by law).

Pursuant to the Public Records Act, please also do the following:

- Produce these documents promptly or certify within two business days why you are denying me access to them or any particular documents (this time limit may be extended only under certain conditions as outlined in 1 V.S.A. § 318);
- If you believe an otherwise public record is exempt from disclosure, produce a log with the page numbers of the documents, the date of the document, the people or entities who received copies, the authors of the document and a specific explanation (citing to the applicable exemption) for why a document has not been produced;
- If an otherwise public record has a portion that is exempt from disclosure, redact any exempt portion and release the redacted document together with a log (as described in the previous bullet);
- Inform me of the appeal procedures available to me if you withhold any documents;
- If you are unable to copy any material, identify the material and notify me when it will be available for my inspection; and
- Provide a written reply to this request.

If you refuse to produce any responsive records to me, it would be helpful to Bates Number any such documents for easy reference and to avoid confusion in future proceedings regarding the failure to produce records. I am willing to pay reasonable production fees, if necessary, but please call or email me first with an estimate as to the costs to produce these documents. Thank you for your assistance with this matter and I look forward to your response. If you have any questions, I can be reached at (202) 297-4245.

Sincerely,

Brady C. Toensing

Brady C. Toensing
diGenova & Toensing
Washington DC
202.297.4245

Exhibit C

From: Wendy Morgan
Sent: Sunday, July 15, 2012 11:18 PM
To: 'Bill Sorrell'; 'Wendy Morgan'
Cc: Sorrell, Bill; mike pieciak; Elliot Burg; Murnane, Janet
Subject: RE: Realtors CP work

Categories: Printed

I'm sorry, thanks for the reminder -- Elliot and I could not think of any cases other than lead. We were thinking more of enforcement against them but even with your "efforts/plans" I can't think of anything beyond lead

Re lead, the amendments to the lead law that came out of the Get the Lead Out of VT initiative included provisions re disclosures on lead when selling pre-1978 housing and the obligation of a buyer to perform Essential Maintenance Practices after purchasing a pre-1978 rental unit even if they have not been done previously -- it's been a while since I looked at the specifics -- do you need more detail?

-----Original Message-----

From: Bill Sorrell [mailto:whsorrell@gmail.com]
Sent: Sunday, July 15, 2012 6:37 PM
To: Wendy Morgan; Wendy Morgan
Cc: Bill Sorrell; mike pieciak
Subject: Realtors CP work

Wendy, did you or Elliot send me that info on the AGO's issues/cases/efforts/plans with or relating to realtors and consumer protection?

My answers are due on the 20th.

Thanks.

From: Wendy Morgan
Sent: Monday, July 23, 2012 9:53 AM
To: 'mspieciak@gmail.com'
Subject: FW: Jonathan Gibson

Categories: Printed

Talked to Mr. Gibson – good conversation -- he was very appreciative – thanks for passing it on – Wendy

From: Wendy Morgan [mailto:wmorgan1948@gmail.com]
Sent: Saturday, July 21, 2012 6:14 PM
To: Wendy Morgan
Subject: Fwd: Jonathan Gibson

----- Forwarded message -----

From: Mike Pieciak <mspieciak@gmail.com>
Date: Wed, Jul 18, 2012 at 9:26 AM
Subject: Re: Jonathan Gibson
To: Will Bedford-Sutro <willbedfordsutro@gmail.com>
Cc: Wendy Morgan <wmorgan1948@gmail.com>

Wendy- the emailer is most certainly the Jonathan Gibson from Shrewsbury.

Could you call him at the number listed below at your convenience. Thanks

Mike

Sent from my iPhone

On Jul 18, 2012, at 9:23 AM, Will Bedford-Sutro <willbedfordsutro@gmail.com> wrote:

- > Jonathan Gibson- 67 Shrewsbury Strong Democrat -
- > Jonathan Gibson- 34 Williston Party affiliation unknown-
- >
- > Will
- >
- > On 7/18/2012 9:18 AM, Mike Pieciak wrote:
- >> What are their party affiliations and ages?
- >>
- >> Sent from my iPhone
- >>
- >> On Jul 18, 2012, at 9:17 AM, Will Bedford-Sutro <willbedfordsutro@gmail.com> wrote:
- >>
- >>> There are two Vermonters by this name, one in Williston and one in Shrewsbury.. any other clues?
- >>>
- >>> Will

>>>

>>> On 7/17/2012 11:28 PM, mike pieciak wrote:

>>>> Will -

>>>> can you look up this name in vote builder and email me and Wendy Morgan his phone number tomorrow?

>>>> Wendy, this is the gentelman would was concerned about consumer protection matters.

>>>> Thanks!

>>>> Mike

>>>

>

>

From: Wendy Morgan
Sent: Monday, July 23, 2012 11:16 AM
To: 'mike pieciak'
Subject: RE: FW: Jonathan Gibson

Categories: Printed

Anytime

From: mike pieciak [mailto:mspieciak@gmail.com]
Sent: Monday, July 23, 2012 9:56 AM
To: Wendy Morgan
Subject: Re: FW: Jonathan Gibson

Great! Thanks Wendy.

Mike

On Mon, Jul 23, 2012 at 9:52 AM, Wendy Morgan <WMorgan@atg.state.vt.us> wrote:

Talked to Mr. Gibson – good conversation -- he was very appreciative – thanks for passing it on – Wendy

From: Wendy Morgan [mailto:wmorgan1948@gmail.com]
Sent: Saturday, July 21, 2012 6:14 PM
To: Wendy Morgan
Subject: Fwd: Jonathan Gibson

----- Forwarded message -----

From: Mike Pieciak <mspieciak@gmail.com>
Date: Wed, Jul 18, 2012 at 9:26 AM
Subject: Re: Jonathan Gibson
To: Will Bedford-Sutro <willbedfordsutro@gmail.com>
Cc: Wendy Morgan <wmorgan1948@gmail.com>

Wendy- the emailer is most certainly the Jonathan Gibson from Shrewsbury.

Could you call him at the number listed below at your convenience. Thanks

Mike

Sent from my iPhone

On Jul 18, 2012, at 9:23 AM, Will Bedford-Sutro <willbedfordsutro@gmail.com> wrote:

> Jonathan Gibson- 67 Shrewsbury Strong Democrat -
> Jonathan Gibson- 34 Williston Party affiliation unknown-
>
> Will

>
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>> What are their party affiliations and ages?

>>

>> Sent from my iPhone

>>

>> On Jul 18, 2012, at 9:17 AM, Will Bedford-Sutro <willbedfordsutro@gmail.com> wrote:

>>

>>> There are two Vermonters by this name, one in Williston and one in Shrewsbury.. any other clues?

>>>

>>> Will

>>>

>>> On 7/17/2012 11:28 PM, mike pieciak wrote:

>>>> Will -

>>>> can you look up this name in vote builder and email me and Wendy Morgan his phone number tomorrow?

>>>> Wendy, this is the gentelman would was concerned about consumer protection matters.

>>>> Thanks!

>>>> Mike

>>>>

>>>>

>>>>

Exhibit D



diGENOVA & TOENSING, LLP
ATTORNEYS-AT-LAW

February 6, 2016

Via Email (bill.griffin@state.vt.us)

William E. Griffin
Chief Assistant Attorney General
Office of the Attorney General
State of Vermont
109 State Street
Montpelier, Vermont 05609

Re: Legal obligation to produce all documents related to official state business.

Dear Mr. Griffin:

This letter follows-up on our February 3, 2016 phone call regarding the obligation of Vermont State officials to produce records that are sent to or kept on a private email or text messaging account when they are responsive to a public records request.

On April 6, 2015, I submitted a Vermont Public Records Act request to General William Sorrell demanding all “documents of any kind related in any way to a September 15, 2104 event with Dean Corren at a Burlington gas station (McCaffrey’s Sunoco) ...” Exhibit A. General Sorrell represented that this request was responded to fully.

A January 28, 2016 article in Seven Days newspaper, however, revealed responsive documents that were not produced to me. Exhibit B. That article described and contained a September 16, 2014 email discussion between General Sorrell and Tom Torti about the September 15, 2014 McCaffrey’s Sunoco press event with Dean Corren. Mr. Torti had initiated the communication by sending it to General Sorrell’s private email. The email address was redacted from the article, but General Sorrell has previously used whsorrell@gmail.com for official government communications.

General Sorrell had selectively produced these emails to the Little Investigation as part of his effort to portray the Sunoco press event as official government business and not a campaign event. In the discussion, General Sorrell brags that one reason he attended the event was in order to punish a campaign contributor to his primary opponent. These emails, including General Sorrell’s disturbing boast about using his public office to settle a political score, were indisputably responsive to my April 6 Public Records Act request. Yet General Sorrell failed to

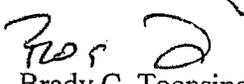
William E. Griffin
Chief Assistant Attorney General
February 6, 2016
Page 2

produce them. Perhaps more disturbing is that the existence of these emails and his failure to produce them in response to a lawful Public Records Act request indicates that General Sorrell is using a private email account in order to escape his legal obligation to produce public records.

Regardless of General Sorrell's machinations, Vermont law requires the production of all responsive records that are related in any way to official state business even if those records are contained on a personal email or text messaging account. Please confirm that General Sorrell will revisit the April 6 request and promptly produce *all* responsive documents, including those kept on private email or text messaging accounts. Please also confirm that your office will also produce all responsive records for past, pending, and future requests, regardless of the email or text messaging account on which those records are stored.

Thank you for your continued assistance with these matters. I look forward to your response. If you have any questions, I can be reached at (202) 297-4245 or by email at Brady@digtoe.com.

Sincerely,


Brady C. Toensing

Exhibits

cc: William Sorrell, Attorney General (via email whsorrell@gmail.com and bill.sorrell@state.vt.us)

Exhibit A



Brady Toensing <toensing@gmail.com>

Vermont Public Records Act Request -- ATTENTION -- Timely Response Required By Law

Brady Toensing <brady@digtoe.com>
 To: bill.sorrell@state.vt.us
 Cc: susanne.young@state.vt.us

Mon, Apr 6, 2015 at 4:07 PM

The Honorable William H. Sorrell
 Attorney General of Vermont
 Office of the Attorney General
 109 State Street
 Montpelier, VT 05609

Re: Vermont Public Records Act Request for Information

Dear General Sorrell:

Pursuant to Vermont's Access to Public Records Act, 1 V.S.A. §§ 315-320, for the time period January 1, 2014 to present, I hereby demand all emails, text messages, notes, memoranda, calendar entries, or documents of any kind related in any way to a September 15, 2014 event with Dean Corren at a Burlington gas station (McCaffrey's Sunoco), including, but not limited to, communications with the following:

- Julia Barnes;
- Megan Brook;
- Dean Corren;
- Dottie Deans;
- Doug Hoffer;
- Christopher Pearson;
- Senator Bernard Sanders;
- Michael Briggs;
- F. Philip "Phil" Fiermonte;
- Daniel McLean; or
- any agent, employee, or representative of Senator Bernard Sander's staff or campaign organization.

If no responsive records exist, then state this fact in your response. If any part of these requests is denied, please list the specific criteria you are relying on for the denial, as well as the name and title of the person responsible for the denial.

The Vermont Public Records Act is to be "liberally construed ... and the burden of proof" is on the agency to justify any refusal to produce records. 1 V.S.A. § 315. Absent a valid legal exemption, this law compels the production of documents and correspondence relating to official state business, regardless of what email or text messaging system is used. If such records exist and you do not intend to comply with this request, please inform me immediately so that I may pursue an appropriate legal remedy. Meantime, you should ensure these public records are preserved. 1 V.S.A. § 320 (Destruction of public records is prohibited by law).

Pursuant to the Public Records Act, please also do the following:

- Produce these documents promptly or certify within two business days why you are denying me

2/4/2016

Gmail - Vermont Public Records Act Request -- ATTENTION -- Timely Response Required By Law

access to them or any particular documents (this time limit may be extended only under certain conditions as outlined in 1 V.S.A. § 318);

- If you believe an otherwise public record is exempt from disclosure, produce a log with the page numbers of the documents, the date of the document, the people or entities who received copies, the authors of the document and a specific explanation (citing to the applicable exemption) for why a document has not been produced;
- If an otherwise public record has a portion that is exempt from disclosure, redact any exempt portion and release the redacted document together with a log (as described in the previous bullet);
- Inform me of the appeal procedures available to me if you withhold any documents;
- If you are unable to copy any material, identify the material and notify me when it will be available for my inspection; and
- Provide a written reply to this request.

If you refuse to produce any responsive records to me, it would be helpful to Bates Number any such documents for easy reference and to avoid confusion in future proceedings regarding the failure to produce records. I am willing to pay reasonable production fees, if necessary, but please call or email me first with an estimate as to the costs to produce these documents. Thank you for your assistance with this matter and I look forward to your response. If you have any questions, I can be reached at (202) 297-4245.

Sincerely,

Brady C. Toensing

Brady C. Toensing
dIGenova & Toensing
Washington DC
202.297.4245

Exhibit B

GUIDES → BERNIE SANDERS | BEST OF VERMONT | STUDENTS | TOURISM

VERMONT'S INDEPENDENT VOICE



off *** message

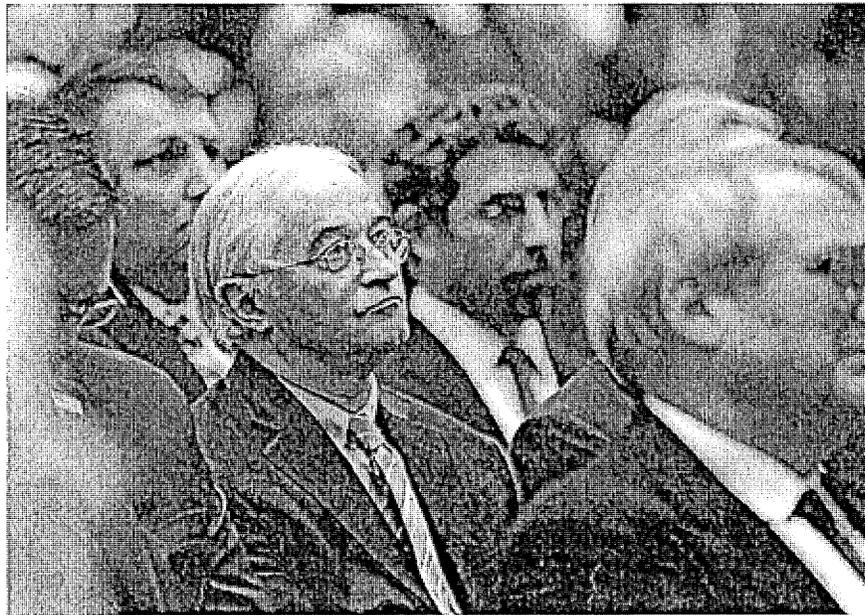
Archives | RSS

THURSDAY, JANUARY 28, 2016

CRIME / NEWS

Did Sorrell Take Official Action to Punish Opponent's Donor?

POSTED BY PAUL HEINTZ ON THU, JAN 28, 2016 AT 5:08 PM



Attorney General Bill Sorrell

FILE: JEB WALLACE-BRODEUR

An email obtained during an investigation of Attorney General Bill Sorrell suggests he sought to punish a donor to a rival's campaign during the course of official business.

First disclosed in this week's **Fair Game political column**, the email pertains to a September 2014 press conference organized by then-lieutenant gubernatorial candidate Dean Corren and attended by Sorrell. Standing in front of McCaffrey's Sunoco in Burlington, the two called for legislation requiring gasoline distributors to disclose pricing information to the attorney general's office.

After the event, the head of a local business group raised concerns about Sorrell's participation, prompting the AG to reply, "I care about the issue, not to mention the \$4k a whole seller gave a prior opponent ..."

The "whole seller" in question appears to be Skip Vallee, a political lightning rod whose Colchester-based business, R.L.

Vallee, Inc., has been accused of driving up gas prices in Chittenden County. Now the Vermont chairman of Sen. Marco Rubio's (R-Fla.) presidential campaign, Vallee has contributed generously to Republican candidates over the years, including President George W. Bush, who in 2005 appointed him ambassador to Slovakia.

In August 2012, Vallee and his wife, Denise, **donated \$4,000 to Chittenden County State's Attorney T.J. Donovan's Democratic primary campaign** against Sorrell. Though Donovan came close to unseating Sorrell, he ended up losing the election by 714 votes, just 11 days after the Vallees made their contributions.

Forwarded a copy of the email, Vallee would not say whether he thought he was the target of Sorrell's ire.

"You should ask General Sorrell," he replied.

Sorrell did not immediately respond to a request for comment.

Had Sorrell sought retribution against a rival's donor at a political event, it could have been considered politics as usual. But Sorrell has long claimed that he participated in the press conference in the course of his official duties.

"This was not a campaign rally," Sorrell wrote in a sworn affidavit submitted in July 2015 to a panel of state's attorneys investigating separate allegations against him. "Indeed, it was much like other issue-focused events I participated in during 2014 — as part of my job as Attorney General."

The nature of the press conference became an issue last spring when Vermont Republican Party vice chair Brady Toensing **accused the AG of failing to report Corren's expenses at the event as in-kind contributions to Sorrell's reelection campaign**. In response, Sorrell argued that he did not have to disclose the information because he did not drop by McCaffrey's as a political candidate.

"While Dean Corren may have treated it as a campaign event," Sorrell's lawyer, David Kirby, wrote last July in a separate filing, "attendance was simply part of General Sorrell's job promoting public awareness of an issue and legislation addressed to that issue."

A panel of state's attorneys that investigated Toensing's allegations agreed with the AG, writing in a **report released last week** that the press conference "was not staged as a Sorrell campaign event."

Vallee declined to comment directly on the email, but he addressed it obliquely in a statement to *Seven Days*.

"It is never appropriate for an elected law enforcement official to settle political scores using the power granted to him as a guardian of the public trust," Vallee wrote.

Beyond the Vallee reference, Sorrell's email exchange provides an intriguing glimpse inside of Vermont's political ecosystem. The correspondence began with Lake Champlain Chamber of Commerce president Tom Torti scolding Sorrell for attending the press conference.

"I'm sure you have heard about the level of displeasure Mazza feels about you standing with Corren," Torti wrote, referring to Sen. Dick Mazza (D-Grand Isle). "Just wanted to pass on what was mentioned to me."

Mazza, a powerful figure in the Chittenden County political and business communities, is a staunch ally of Republican Lt. Gov. Phil Scott. At the time, Corren was campaigning for Scott's job.

"I went out and talked with [Mazza] beforehand, before I committed to doing it," Sorrell replied. "He said 'you have to

do what you have to do.' I left on good terms. He's hosting a fundraiser for me. He called me a couple of hours later, suggesting I just give a quote for [the Corren campaign's press] release. But in the interim, I'd committed to participate."

Sorrell concluded: "I didn't endorse Corren. I care about the issue, not to mention the \$4k a whole seller gave a prior opponent..."

Torti replied, "Just being the messenger ..."

Sorrell turned the email and five others over to the state's attorneys investigating him. Though the information was considered privileged, Sorrell voluntarily provided some of the documentation to *Seven Days*, upon request.

Here is the email in full, with addresses redacted:

From: William Sorrell
Date: September 16, 2014 at 4:01:13 PM EDT
To: Tom Torti
Subject: Re: Gas, Corren, Mazza

Yup

Sent from my iPhone

On Sep 16, 2014, at 11:08 AM, Tom Torti wrote:

Just being the messenger....

From: William Sorrell
Sent: Tuesday, September 16, 2014 10:28 AM
To: Tom Torti
Subject: Re: Gas, Corren, Mazza

I went out and talked with him beforehand, before I committed to doing it. He said "you have to do what you have to do." I left on good terms. He's hosting a fundraiser for me. He called me a couple of hours later, suggesting I just give a quote for their release. But in the interim, I'd committed to participate.

I didn't endorse Corren. I care about the issue, not to mention the \$4k a whole seller gave a prior opponent...

Sent from my iPhone

On Sep 16, 2014, at 7:15 AM, Tom Torti wrote:

I'm sure you have heard about the level of displeasure Mazza feels about you standing with Corren. Just wanted to pass on what was mentioned to me.

T

Tags: Bill Sorrell, Skip Vallee, Brady Toensing,
 Image

Got something to say?

Send a letter to the editor and we'll
 publish your feedback in print!

readers also liked



Vermont Dignitary Visits Seven Days, Avoids Questions
 by Mark Davis

Exhibit E



Brady Toensing <toensing@gmail.com>

**Vermont Public Records Act Request (February 7, 2016) -- ATTENTION --
Timely Response Required By Law**

Brady Toensing <brady@digtoe.com>
To: bill.sorrell@state.vt.us, whsorrell@gmail.com
Cc: "Griffin, Bill" <bill.griffin@state.vt.us>

Sun, Feb 7, 2016 at 5:12 PM

The Honorable William H. Sorrell
Attorney General of Vermont
Office of the Attorney General
109 State Street
Montpelier, VT 05609

Re: Vermont Public Records Act Request for Information

Dear General Sorrell:

Pursuant to Vermont's Access to Public Records Act, 1 V.S.A. §§ 315-320, for the time period January 1, 2012 to present, I hereby demand all communications to or from Tom Torti.

If no responsive records exist, then state this fact in your response. If any part of these requests is denied, please list the specific criteria you are relying on for the denial, as well as the name and title of the person responsible for the denial.

The Vermont Public Records Act is to be "liberally construed ... and the burden of proof" is on the agency to justify any refusal to produce records. 1 V.S.A. § 315. Absent a valid legal exemption, this law compels the production of documents and correspondence relating to official state business, regardless of what email or text messaging system is used, including private email and text messaging accounts.

As part of the Little Investigation, you produced emails to and from Mr. Torti that you claimed were related to official state business and that were from a private email account held by you. (It is believed that the two addresses used were "Tom@Vermont.org" and "whsorrell@gmail.com.") These emails were responsive to my April 6, 2015 Public Records Act request to you, yet you failed to produce them to me as required by Vermont law. If you have responsive records held on private email or text messaging accounts and you do not intend to comply with this request, please inform me immediately so that I may pursue an appropriate legal remedy. Meantime, you should ensure these public records are preserved. 1 V.S.A. § 320 (Destruction of public records is prohibited by law).

Pursuant to the Public Records Act, please also do the following:

- Produce these documents promptly or certify within two business days why you are denying me access to them or any particular documents (this time limit may be extended only under certain conditions as outlined in 1 V.S.A. § 318);
- If you believe an otherwise public record is exempt from disclosure, produce a log with the page numbers of the documents, the date of the document, the people or entities who received copies, the

authors of the document and a specific explanation (citing to the applicable exemption) for why a document has not been produced;

- If an otherwise public record has a portion that is exempt from disclosure, redact any exempt portion and release the redacted document together with a log (as described in the previous bullet);
- Inform me of the appeal procedures available to me if you withhold any documents;
- If you are unable to copy any material, identify the material and notify me when it will be available for my inspection; and
- Provide a written reply to this request.

If you refuse to produce any responsive records to me, it would be helpful to Bates Number any such documents for easy reference and to avoid confusion in future proceedings regarding the failure to produce records. I am willing to pay reasonable production fees, if necessary, but please call or email me first with an estimate as to the costs to produce these documents. Thank you for your assistance with this matter and I look forward to your response. If you have any questions, I can be reached at (202) 297-4245.

Sincerely,
Brady C. Toensing

* * * * *

Brady C. Toensing
diGenova & Toensing
1776 K Street NW
Washington DC 20006
(o) 202.289.7701
(m) 202.297.4245

WILLIAM H. SORRELL
ATTORNEY GENERAL

SUSANNE R. YOUNG
DEPUTY ATTORNEY GENERAL

WILLIAM E. GRIFFIN
CHIEF ASST. ATTORNEY
GENERAL



STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER, VT
05609-1001

TEL: (802) 828-3171
FAX: (802) 828-3187
TTY: (802) 828-3665

<http://www.ago.vermont.gov>

June 13, 2016

Brady C. Toensing
diGenova & Toensing
2613 Greenbush Road
Charlotte, Vermont 05445

Re: Record Request of May 12, 2015 (as modified by request dated December 11, 2015)

Dear Brady:

This acknowledges your June 6, 2016 letter in which you state that you are appealing AAG William E. Griffin's April 28, 2016 denial of a public records request you made to our office. You stated in your letter that your appeal was "in particular" of a decision by AAG Griffin to refuse to produce, or search for, responsive records in the private email or text messaging accounts of nine state employees.

Your public records request dated May 12, 2015 (as modified by a request dated December 11, 2015) was extensive and included requests for multiple items, including four years of communications between 9 state employees and 30 separate individuals and organizations. A contractor was hired and conducted a search of the state e-mail accounts of the nine employees that identified 13,629 e-mail messages responsive to your request. Those were consolidated into 1,129 e-mail chains. The review of those e-mails took in excess of 250 hours to complete to ensure that this Office complied with its ethical and confidentiality obligations under the Rules of Professional Conduct.

Hundreds of pages of documents were produced in response to your request in six productions over three months between February 5, 2016 and April 28, 2016. Mr. Griffin provided you with the final production of records on April 28, 2016 and provided a comprehensive list of the exemptions that were determined to be applicable to documents that were either redacted or not provided.

In a letter dated May 11, 2016, you previously stated your intention to appeal with respect to the determination not to conduct a search of private email and private text messaging accounts of the nine employees. In response, on May 17, 2016 I requested that you clarify, pursuant to 1 V.S.A. §318(d), the scope of your intended appeal. I asked that you send me a comprehensive listing of all grounds for appealing the determinations set forth in Mr. Griffin's April 28 letter or

that you inform me that you are asserting no additional grounds for appeal beyond those expressly set forth in your May 11, 2016 letter.

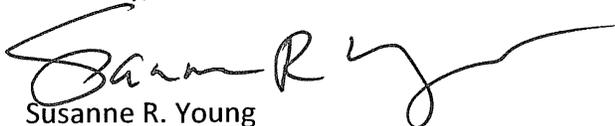
This request to clarify was necessitated by the statement in your letter of an intention "to raise other questions...in separate correspondence" regarding some of the exemptions claimed by the state. That statement suggested the possibility that you might intend to assert additional grounds for appeal from Mr. Griffin's April 28, 2016 determination beyond the grounds set forth in your May 11 letter. Your June 6, 2016 letter, however, does not provide the requested clarification of your appeal. Rather, you assert that there is no basis to require that all grounds for appeal be identified by the requester. Your argument is contrary to the Public Records Act and common sense.

The Public Records Act allows a person "aggrieved by a denial of a request for public records" to apply to the Civil Division of the Superior Court "to enjoin the public agency from withholding agency records and to order the production of any records improperly withheld from the complainant." 1 V.S.A. §319(a). The Act clearly contemplates a single court action to raise any and all claims of error associated with a request for public records. Moreover, an individual must exhaust administrative remedies before pursuing a court action. Bloch v. Angney, 149 Vt. 29, 31 (1987). Exhaustion requires that you present all grounds for appeal.

Piecemeal and multiple challenges to a final determination of a Public Records Act request, particularly one as extensive as yours, could conceivably result in multiple lawsuits in Superior Court. The fact that there is no time period specified in section 318(c) of the Act within which an appeal to an agency head must be made further supports the conclusion that only one appeal in connection with a request is contemplated. Requesters can take a reasonable amount of time needed by them to review an agency's determinations, to review the records produced, and to formulate a single, comprehensive appeal.

I am prepared to make a determination on your assertion that personal email and text messaging accounts of our employees should be searched once I receive from you a statement in writing of any and all additional grounds for appeal from AAG Griffin's April 28, 2016 determination or a written statement that the only grounds for appeal that you are asserting are the grounds specified in your June 6, 2016 letter.

Sincerely,



Susanne R. Young
Deputy Attorney General

cc: Bill Griffin

WILLIAM H. SORRELL
ATTORNEY GENERAL

SUSANNE R. YOUNG
DEPUTY ATTORNEY GENERAL

WILLIAM E. GRIFFIN
CHIEF ASST. ATTORNEY
GENERAL



STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
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TTY: (802) 828-3665

<http://www.ago.vermont.gov>

June 17, 2016

Brady C. Toensing
diGenova & Toensing
2613 Greenbush Road
Charlotte, Vermont 05445

Re: Determination of Public Records Request Appeal

Dear Brady:

This is a determination, pursuant to 1 V.S.A. §318(d), of your administrative appeal dated June 6, 2016, as clarified on June 13, 2016, from the denial of a portion of an extensive public records request you made to the Attorney General's Office ("AGO"). You assert that private e-mail and text messaging accounts of 9 state employees should be searched for any responsive records in addition to the lengthy and exhaustive search of the AGO's records that has already been completed.

This appeal is in connection with your May 12, 2015 request, as modified by a request dated December 11, 2015 (hereinafter "your request"), in which you requested multiple items, including four years of communications between 9 state employees and 30 separate individuals and organizations. In response to your initial request, a search was conducted of the AGO e-mail accounts of the 9 employees for responsive records spanning the four-year time frame. That search identified 13,629 e-mail messages, which were subsequently consolidated into 1,129 e-mail chains. Hundreds of pages of documents were produced to you over three months, between February 5, 2016 and April 28, 2016. The review of those e-mails took in excess of 250 hours to complete to ensure that this Office complied with its ethical and confidentiality obligations under the Rules of Professional Conduct.

Chief Assistant Attorney General Griffin advised you that the documents provided with his letter dated April 28, 2016 were the final documents to be produced as part of a rolling production of records between February 5, 2016 and April 28, 2016. That letter also included a comprehensive list of the reasons why certain records were not provided.

Your e-mail dated June 13, 2016 clarified that the scope of your appeal from Mr. Griffin's April 28 comprehensive determination is limited to the assertion in your June 6, 2016 letter

(incorporating your May 11, 2016 letter by reference) that Mr. Griffin's decision declining to search the private e-mail and text messaging accounts of these 9 state employees over 4 years was "arbitrary and capricious." For the reasons set forth below, your appeal is denied.

First, the Public Records Act (hereinafter "PRA") defines a "public record" as "any written or recorded information, regardless of physical form, which is produced or acquired in the course of public agency business." 1 V.S.A. §317(b). There is no requirement in the law that a state agency search private accounts that are not accessible to the agency or to search the private electronic devices of individual officials or employees of the agency. On the contrary, the law only addresses records generated or received by a public agency.

Moreover, aside from the express statutory language in the PRA, there is no basis to conclude that the Legislature would have expected state agencies to conduct searches of the private accounts of state officials and employees, given its statement that the PRA should balance both privacy interests and the goal of holding governmental officials accountable. See 1 V.S.A. § 315(a); Ch. 1, Art. 6, as well as the obvious practical problems associated with attempting to search private accounts that a state agency does not control.

And, finally, even assuming that an obligation on the part of a state agency to attempt to conduct a search of private accounts could conceivably arise under the PRA, you have not provided a sufficient justification for your request in this case. Your appeal argues that the existence of three specific e-mails provide the factual showing, or "predicate," for your request to search private e-mail and text messaging accounts.

Two of the three e-mails that you cite as support were located in AGO e-mail accounts and were produced to you in response to your request. (Exhibit 2C of your request). One is an e-mail exchange between AAG Morgan and campaign staff for the Sorrell re-election campaign, (Bates Nos. WM 101-104). This e-mail referred information to the AGO about an individual who told campaign staff that "he was concerned about consumer protection matters." The exhibit shows that the original e-mail was subsequently forwarded to AAG Morgan's state account. Follow-up with this individual was conducted in the normal course of agency business because the Vermont Attorney General has enforcement authority under the state's consumer protection laws and provides a resource to Vermonters with consumer protection concerns and issues.

The second e-mail (Bates No. WM 100) reflects an exchange from Bill Sorrell to AAG Morgan that inquired about the AGO's work relating to realtors and consumer protection. Both private and state e-mail addresses were used in the original e-mail. This e-mail exchange was provided to you in response to your request because it was a public record produced or acquired during the course of agency business. Contrary to your suggestion, a state officeholder is entitled to ask his staff to provide details about the agency's work under his leadership.

The third e-mail that you argue supports your request to search private accounts is a September 16, 2014 e-mail from Bill Sorrell's private account that originated from a private citizen. You provided a copy of this e-mail to the AGO. This e-mail was sent a day after the Attorney General participated in a press conference questioning gasoline pricing in Chittenden County. As you described in your appeal, and included in public complaints made by you about this event, you believe this press conference was not an official event but a campaign event that ran afoul of Vermont's campaign finance laws. Your allegations about this event were investigated by a private and independent attorney, Tom Little (the so-called Little investigation), under the direction of a Special Committee of State's Attorneys. No violation was found and the Committee concluded this was not a Sorrell campaign event.

This private e-mail exchange about a public event after the fact of the event did not constitute agency business. Moreover, the fact that this e-mail was provided to the Little investigation as part of its review of the event does not change its character.

In sum, you have not demonstrated why a search of private e-mail and text messaging accounts would serve the purposes of the PRA in this case and justify the resulting intrusion into the private accounts of officials and employees of the AGO.

The PRA provides that a person aggrieved by a denial of a request for public records may apply to the Civil Division of the Superior Court to enjoin the withholding of agency records and to order their production. See 1 V.S.A. §319(a).

Sincerely,

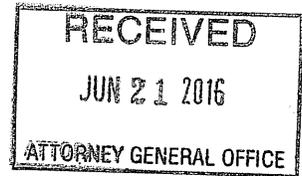


Susanne R. Young

Deputy Attorney General



diGENOVA & TOENSING, LLP
ATTORNEYS-AT-LAW



June 17, 2016

**Via Email (bill.griffin@vermont.gov)
and First Class Mail**

William E. Griffin
Chief Assistant Attorney General
Office of the Attorney General
State of Vermont
109 State Street
Montpelier, Vermont 05609

Dear Bill:

Enclosed is a check in the amount of \$3,799 as payment for the documents produced by the Attorney General's Office in response to my May 12, 2015 Vermont Public Records Act Request, which was modified from the request submitted on December 11, 2015. Thank you for the documents.

Sincerely,

Brady C. Toensing

Enclosure

BRADY TOENSING
~~3027 GARFIELD STREET NW~~
~~WASHINGTON, DC 20007~~

SchwabOne®

231

6/17/2016 19

3-5/310
150

PAY TO THE
ORDER OF

State of Vermont

\$ 3,799.00

Three thousand Seven hundred Ninety Nine & ⁰⁰/₁₀₀ DOLLARS

Charles Schwab

PNC BANK, N.A.
Philadelphia, PA

Security features
are included.
Details on back.

FOR VTPRAR doc. fee

[Signature]

MP

⑆031000053⑆ 7013162381⑆ 20231



diGENOVA & TOENSING, LLP
ATTORNEYS-AT-LAW

May 12, 2015

Via Email (bill.sorrell@state.vt.us)

The Honorable William H. Sorrell
Office of the Attorney General
State of Vermont
109 State Street
Montpelier, Vermont 05609

Re: Request for Appointment of Independent Counsel for Investigation of Vermont Attorney General.

Dear Mr. Attorney General:

This is a request for documents made pursuant to Vermont's Access to Public Records Act, 1 V.S.A. §§ 315-320. For the following state employees, I hereby demand any and all documents responsive to the requests below:

Vermont State Employees.

Elliot Burg;
Eve Jacobs Carnahan;
Mark DiStefano;
William E. Griffin;
Scot Kline;
Wendy Morgan;
Janet Murname;
Megan J. Shafritz;
William Sorrell;
MaryKay Swanson;
Susanne R. Young.

Requests. For the time period January 1, 2012 to present:

1. **Individuals and Entities.** Any and all communications with or documents related to the following individuals and entities:¹

Individuals:

- Todd Bailey;
- Travis Berry;
- Michael Briggs;
- Russell Budd;
- Dorothy Budd;
- Dana Bykowski (also known as Dana Bykowski Ju);
- Richard Cassidy;
- Stefan Chodkowski (Stefan@democraticags.org);
- Dean Corren (dcorren@burlingtontelecom.net);
- Michael Crowell;
- Howard Dean;
- F. Philip "Phil" Fiermonte;
- Jeff Frank (jeff_frank@sanders.senate.gov);
- Jenifer Fuller;
- Nicholas M. Gess;
- Jacob Gillison;
- Terry Goddard;
- Lori Kalani;
- JB Kelly;
- Cindy Lott;
- Daniel McLean (Daniel_McLean@sanders.senate.gov);
- Bernie Nash (nashb@dicksteinshapiro.com);
- Christopher Pearson (cp@biglocomotive.net);
- Kenneth Pennington;
- Michael Pieciak (mspieciak@gmail.com);
- L. Michael Messina;
- Benjamin C. Metcalf;
- Patricia Madrid;
- Lisa Madrid;
- Senator Bernard Sanders;
- Jane Sanders;
- Divonne Smoyer;
- Robert Stannard;

¹ To assist in the search process, an email address, if known, has been included for some individuals. The listing of an email address, of course, does not necessarily mean that it was the only email address used for that individual and its listing should not be interpreted to limit those requests to just that address.

- Scott Summy;
- James Tierney (jtierne@law.columbia.edu);
- David Weinstein (David_Weinstein@sanders.senate.gov).

Entities:

- Committee for Justice and Fairness PAC (CJF), including, but not limited to, any communications about filing (or failing to file) campaign finance reports in Vermont
 - Dickstein Shapiro;
 - Democratic Attorneys General Association (DAGA);
 - Media Strategies, Denver, Colorado.
2. Any communications received from or sent to (including blind copied to) any email addresses with the following domains:
 - @bernie.org;
 - @democraticags.org;
 - @dicksteinshapiro.com;
 - @Sanders.senate.gov.
 3. Any communications or documents related to any election or campaign of Attorney General Sorrell, including but not limited to, any complaints, compliance advice given to anyone, campaign contributions (in any form), working on a campaign, or any campaign events.
 4. Any communications or documents about retaining Baron & Budd, P.C., Weitz & Luxenberg, P.C., Pawa Law Group, P.C., or the Law Office of L. Michael Messina, P.A., for litigation regarding methyl tertiary butyl ether (MTBE), including but not limited to any communications with or documents discussing the Vermont Agency of Natural Resources.
 5. All documents related to the July 25, 2012 guidance from General Sorrell allowing unlimited PAC spending.

These requests include, but are not limited to, communications received or sent on a private email account (such as whsorrell@gmail.com)² or private text messaging account. If no responsive records exist, then state this fact in your response. If any part of these requests is denied, please list the specific criteria you are relying on for the denial, as well as the name and title of the person responsible for the denial.

² General Sorrell gave out his personal email address to at least one lobbyist who requested it. Ex. A. Communications related in any way to official state business must be produced even if contained on a personal email account.

The Honorable William H. Sorrell

May 12, 2015

Page 4

The Vermont Public Records Act is to be "liberally construed ... and the burden of proof" is on the agency to justify any refusal to produce records. 1 V.S.A. § 315. Absent a valid legal exemption, this law compels the production of documents and correspondence relating to official state business. If such records exist and you do not intend to comply with this request, please inform me immediately so that I may pursue an appropriate legal remedy. Meantime, you should ensure these public records are preserved. 1 V.S.A. § 320 (Destruction of public records is prohibited by law).

Except under extraordinary circumstances, Vermont law requires that you "promptly produce" public records. 17 V.S.A. § 318 (a). The statute allows a three day time period for you to respond, but only if you intend to withhold documents and need time to certify an exemption. 17 V.S.A. § 318 (a)(2). This three day time period was not intended to allow a state official to automatically avoid the prompt production requirements of the statute.

Pursuant to the Public Records Act, please also do the following:

- Produce any responsive documents to me electronically (please send to Brady@digtoe.com), if possible;
- Produce these documents promptly or certify within two business days why you are denying me access to them or any particular documents (this time limit may be extended only under certain conditions as outlined in 1 V.S.A. § 318);
- If you believe an otherwise public record is exempt from disclosure, produce a log with the page numbers of the documents, the date of the document, the people or entities who received copies, the authors of the document and a specific explanation (citing to the applicable exemption) for why a document has not been produced;
- If an otherwise public record has a portion that is exempt from disclosure, redact any exempt portion and release the redacted document together with a log (as described in the previous bullet);
- Inform me of the appeal procedures available to me if you withhold any documents;
- If you are unable to copy any material, identify the material and notify me when it will be available for my inspection; and
- Provide a written reply to this request.

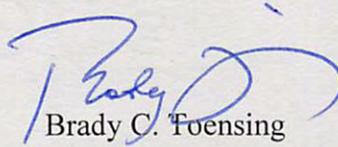
If you refuse to produce any responsive records to me, it would be helpful to Bates Number any such documents for easy reference and to avoid confusion in future proceedings regarding the failure to produce records.

I am willing to pay reasonable production fees, if necessary, but please call or email me first with an estimate as to the costs to produce these documents. Thank you for your assistance

The Honorable William H. Sorrell
May 12, 2015
Page 5

with this matter and I look forward to your response. If you have any questions, I can be reached at (202) 297-4245 or by email at Brady@digtoe.com.

Sincerely,



Brady C. Toensing

Exhibit A

From: Kalani, Lori E. <lkalani@orrick.com>
Sent: Friday, April 20, 2012 3:26 PM
To: Bill Sorrell
Subject: Do you have a personal email?

I would like to talk to you about a non work topic. Thanks.



O R R I C K

LORI KALANI

Senior Counsel

ORRICK, HERRINGTON & SUTCLIFFE LLP

51 WEST 52ND STREET
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IRS Circular 230 disclosure: To ensure compliance with requirements imposed by the IRS, we inform you that any tax advice contained in this communication, unless expressly stated otherwise, was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any tax-related matter(s) addressed herein.

NOTICE TO RECIPIENT: THIS E-MAIL IS MEANT FOR ONLY THE INTENDED RECIPIENT OF THE TRANSMISSION, AND MAY BE A COMMUNICATION PRIVILEGED BY LAW. IF YOU RECEIVED THIS E-MAIL IN ERROR, ANY REVIEW, USE, DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS E-MAIL IS STRICTLY PROHIBITED. PLEASE NOTIFY US IMMEDIATELY OF THE ERROR BY RETURN E-MAIL AND PLEASE DELETE THIS MESSAGE FROM YOUR SYSTEM. THANK YOU IN ADVANCE FOR YOUR COOPERATION.
For more information about Orrick, please visit <http://www.orrick.com/>



PROPOSAL RESPONSE TO RFP:
SOW-RFP AGO Records Request



Due Date: June 1, 2015

Prepared for: Bill Griffin
Office of the Attorney General
109 State Street
Montpelier, VT 05609
(802) 828-3171
Bill.griffin@state.vt.us



Prepared by: Joe Noonan
Account Executive
Competitive Computing, Inc.
(802) 764-1762
Joe.noonan@competitive.com





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1 Executive Summary

Competitive Computing, Inc. (C2) is pleased to present the State of Vermont (SOV) with our response to the State's RFP "AGO Records Request." In our proposal, we detail our qualifications and experience and detail a work plan and proposed personnel.

We understand from the RFP that the State is looking for a third party vendor to conduct a search of emails of 11 state employees and return a list and copies of any emails discovered given a set of criteria. As a full-service business technology consulting firm with nearly 20 years of experience servicing both public and private sectors, C2 will provide quality services and solutions to the State in all initiatives for which we are engaged.

Depth of Experience

C2 has an established relationship with the State, decades of experience with strategic, large-scale deployments, and a highly knowledgeable and certified staff. Our full-service approach includes strategic IT planning, business process and workflow analysis, application development, technology infrastructure, and managed support services for the extended enterprise. Over the past 15 years, C2 has enjoyed a successful working relationship with various State agencies and departments to successfully complete a multitude of projects including the Vermont Travel Planner, Vermont Bid Registry, eDEC online permitting, Business Process Analysis for the DMV's Systems Modernization effort, Information Center Kiosks, and design of the enterprise Microsoft Exchange Environment, server consolidations using virtualization, email archiving, disaster and recovery (DR) planning and implementation, as well as numerous content-managed websites and network and email implementations. To accomplish these projects, we have worked in partnership with the Department of Information and Innovation to drive a common architecture and have provided many of the technology services that are included in this RFP. From these engagements, we have a detailed working knowledge of your operations, systems, customers, and partners, as well as a keen awareness of the State's go-forward initiatives, structure, and processes. We believe this uniquely positions us to continue to provide higher quality, higher value services to the State.



We are Technology Experts

As evidence of our unparalleled experience and expertise with the majority of technologies referenced within the RFP, C2 has achieved and maintains partnerships with top-tier server technology providers including Microsoft, Cisco, Citrix, Dell, EMC, Hewlett-Packard and VMware.

In addition to the highly certified engineers we have on staff, we also regularly consult with known industry experts when doing so will benefit our clients. Our project managers follow PMI standards to provide the structured processes and oversight that are so critical in the completion and adoption of IT projects. When working with C2, the State can be confident that we will always bring to bear the necessary team with the required skill set to provide a quality solution.

As a Vermont Company, We Share Your Goals

We are a Vermont company that upholds Vermont values. We take partnering with our clients very seriously and work to cultivate mutually beneficial, long-lasting relationships. We are very proud of



our work with Vermont State government and of the benefits we have collectively provided to all Vermont constituents. As Vermonters, we share your goals to improve the quality and efficiency of services provided by Vermont government. As a Vermont business in this small, well-connected community, your success and satisfaction are essential for our sustainability. The State can be confident in our commitment to your success in all IT initiatives.

C2's close proximity – in Colchester – means that our resources are just a short drive from Montpelier, Waterbury, and many State offices. Our accessibility means that we can conduct more project activities in-person which allows our individual team members to develop stronger, mutually beneficial relationships with those they are servicing and supporting. Our experience has shown us that in-person meetings often provide more effective communication and better collaboration with State teams during projects and, ultimately, produce better end results.

Throughout the term of a retainer contract, we will partner with the State to maximize opportunities, define priorities, and focus investment efforts on the areas of highest return. We are confident that our experience and capabilities – coupled with structured, industry-proven practices and standards for design, development and deployment – will serve the State well.



2 Transmittal Letter



June 1, 2015

Mr. Bill Griffin
Office of the Attorney General
109 State Street
Montpelier, VT 05609

RE: Response to RFP: “AGO Records Request”

Dear Mr. Griffin:

Competitive Computing, Inc. (C2) is pleased to respond to the State of Vermont’s RFP “AGO Records Request” for a search of emails of 11 state employees to identify any emails responsive to the request for records described in the RFP.

This SOW and work performed under it will be governed by our Master Services Agreement with the State of Vermont. We acknowledge the Terms and Conditions set forth by this contract.

I will serve as the point of contact for this proposal and can be contacted at the following:

Joe Noonan, Competitive Computing, 354 Mountain View Drive, Colchester, VT 05446
Phone: 802-764-1762 / Email: joe.noonan@competitive.com

Thank you for the opportunity to present our qualifications.

Sincerely,

A handwritten signature in black ink that reads 'Joe Noonan'. The signature is written in a cursive, flowing style.

Joe Noonan
Account Executive



3 C2 Proposed Services

C2 proposes the following work plan.

Project Kick Off – 1 Day

Meet with key resources from AGO and DII to review the specific information in scope for search. AGO/DII to provide a work space, client computer(s), and access to servers and information for C2 to perform such search activities in Exchange Server 2010 and Enterprise Vault.

C2 to review and verify access is working as expected.

Initial Search Work – 4 days

Perform initial round of searches, searching existing information that is available at the time of search in Exchange Server 2010 and Enterprise Vault.

Review search results with key AGO resources to ensure the searches are correct and search results are applicable.

Revise search as required.

Produce search results in PST format.

Additional Search Work – TBD based on number of databases required to be recovered

Should Exchange Server 2010 database backups need to be restored for additional searching, each database to be restored (using recovery storage group) and searched is estimated to take approximately 1 effort day to complete. It is not known if or how many of these may be required. An estimate of the number of databases requiring recovery will be made after the initial discovery phases accomplished during the kick-off meeting.

Assumptions/Parameters

1. C2 understands the State of Vermont mailboxes to be searched are stored ONLY in the DII Exchange Server 2010 and related Enterprise Vault environment. No other or external data sources are expected, none are included to be searched in this proposal.
2. Unless there has been a system in place for the entire timeframe of the information request that makes a compliance archive copy of all email automatically, any and all information searching cannot guarantee complete results.
3. Unless there has been a system in place to record any and all recipients of email messages, TO, CC, BCC, and Distribution List Memberships as the messages were sent, any and all information searching cannot guarantee complete results.
4. C2 is assuming, based on previous knowledge of the environment, that no compliance archiving has been in place during the timeframe outlined in the RFP. Therefore it is not



expected that search results will be complete since some and/or all requested information may have been removed from the State systems by users. If this assumption is correct, then search results are very likely to be lacking some portion of the desired data.

5. C2 may recommend purchase of Exchange Server 2010 Enterprise Client Access Licenses for the State of Vermont mailboxes that are in scope for information search, assuming they are all stored on Exchange Server 2010 Servers, to facilitate the use of advanced searching capabilities of the product for data that exists at the time of this work.
6. C2 will require access to the State of Vermont mailboxes in question for the purpose of running searches, both Exchange Server 2010 and Enterprise Vault.
7. Production of search results in PST format is expected.
8. C2 expects to use the tools and technologies already in place to perform searches and product search results, and expects such tools to product search results from the information sources identified.
9. Should additional tools be required, C2 will recommend such to the State if/when the need is identified. Purchase of additional tools is outside the scope of this proposal.
10. Email addresses of any and all mailboxes to be searched and to be searched for will be available. Only with complete information will it be possible to optimize the search work and produce the most accurate date from the searches.
11. C2 is not expecting this work to include any re-construction of previous versions of systems or data sets such as previous deployments of Exchange Server or Enterprise Vault. Any and all such work is out of scope.



4 Proposed Personnel

Competitive Computing, Inc. (C2) is a Vermont-based company and a recognized leader in strategic business technology solutions. We have earned a reputation for delivering high-quality, high-value solutions to Vermont State government, higher education, and the commercial sector. We are a full-service business technology consulting firm offering strategic planning, IT management consulting, business process analysis, enterprise architecture, custom application development, enterprise network computing, and mission-critical hosting & support services.

We propose that Jim Collins, Senior Systems Engineer and Jonathon Black, Systems Engineer will conduct the technical searches for emails under this RFP. Both have extensive experience with Microsoft Exchange and Active Directory. Jim Collins was instrumental in assisting DII during past projects involving Exchange and Active Directory.

Experience with Vermont State Government

To address the unique needs of State government, we have a consulting practice dedicated to State and Local Government. This allows us to apply project resources to State projects that are already familiar with the culture, working style, project approval logistics, etc. of Vermont government as well as with opportunities for cross-agency collaboration. C2 enjoys successful working relationships with numerous agencies throughout the State of Vermont including:

- Agency of Commerce and Community Development (ACCD)
- Agency of Human Services (AHS)
- Agency of Natural Resources (ANR)
- Agency of Transportation (VTrans)
- Attorney General's Office (AGO)
- Department of Buildings and General Services (BGS)
- Department of Economic Development
- Department of Information and Innovation (DII)
- Department of Labor (VDOL)
- Department of Motor Vehicles (VtDMV)
- Department of Public Safety (DPS)
- Department of Tourism and Marketing
- Natural Resources Board (ACT 250)
- Office of Child Support (OCS)
- Promotional Services Team (Marketing and Promotional Partnership)
- Treasurer's Office
- Vermont Arts Council
- Vermont Commission on Women
- Vermont Humanities Council

Our relationship with and knowledge of various State agencies continues to grow and we continue to share and leverage those experiences for the benefit of our State clients.



5 Pricing

C2 proposes these professional services on a time and materials basis due to the variables associated with recovering an unknown number of database backups . The C2 discounted hourly rate is \$150* per hour during C2 regular business hours, M-F 8AM-6PM excluding company holidays. C2 will not charge for the time and expense of travel to and from State Government offices in Montpelier, VT.

C2 will invoice the State of Vermont on a monthly basis. At the end of each month C2 will report the hours specific to this engagement and invoice accordingly.

* - Outside normal business hours the hourly rate is \$210/hour – To be approved & agreed upon by SOV and C2 in advance of such work if such work schedule is required



6 Agreement

Please sign below to indicate your acceptance of an agreement to this proposal and the associated investment. Your signature authorizes C2 to begin working in collaboration with the Middlebury College IT team and will also initiate the invoicing process as described in the Pricing section.

Middlebury College		Competitive Computing, Inc. ("C2")	
Signature:	<input type="text"/>	Signature:	<input type="text"/>
Name:	Bill Griffin	Name:	Joe Noonan
Title:	Chief Assistant Attorney General	Title:	Account Executive
Date:	<input type="text"/>	Date:	<input type="text"/>

Farnsworth, Karen

From: Griffin, Bill
Sent: Wednesday, May 27, 2015 7:37 PM
To: 'Brady Toensing'
Subject: Pending access to records requests
Attachments: 20150527174943248.pdf

Brady,

This is to confirm my understanding that we will proceed as follows on your several pending access to public records requests:

1. May 12, 2015 request for communications/documents to or from any of eleven State of Vermont employees and any of 40 individuals or entities during the period from January 1, 2012 to present.

Response: The Attorney General's Office invited three vendors to submit proposals for planning and conducting a search of State of Vermont emails to find responsive records. Two of the three informed me that they would submit proposals early next week. The Attorney General's Office will share the proposals with you and we can then discuss next steps.

2. May 12, 2015 request for communications to or from any of the eleven State employees and any email addresses containing any of four domain names.

Response: See response to item 1.

3. May 12, 2015 request for any communications/documents sent or received by any of the eleven State employees related to any election or campaign of Attorney General Sorrell.

Response: The Attorney General's Office will do an initial search for emails during the period March through September 2012.

4. May 12, 2015 request for any communications or documents about the outside counsel contract for litigation relating to MTBE, including communications with the Vermont Agency of Natural Resources.

Response: The Attorney General's Office will produce communications about the outside counsel contract, with minor redactions to protect attorney client information.

Our MTBE communications with ANR are voluminous. One Assistant Attorney General reported that he has communicated with 17 different officials and employees at ANR on potential and actual MTBE litigation. We discussed the possibility that you might narrow the scope of the ANR part of this request; for example, by requesting a one or two month sampling of communications from the AAG who reported the large number of communications. I will wait to hear from you before acting on this part of this request.

5. May 12, 2015 request for documents relating to the July 25, 2012 Attorney General's Guidance Regarding Independent Expenditure Committees.

Response: The Attorney General's Office will produce the document that prompted the Guidance and you will follow up as needed.

6. May 22, 2015 request for the attachment to Attorney Divonne Smoyer's email to Assistant Attorney General Ryan Kriger dated February 15, 2013.

Response: A redacted copy of the letter, which is a confidential settlement communication, is attached.

I hope this is a fair summary of the plan we discussed. Please let me know if any changes are needed.

Thank you.

Bill

Farnsworth, Karen

From: Griffin, Bill
Sent: Friday, June 05, 2015 12:58 PM
To: Brady Toensing (brady@digtoe.com)
Subject: email searches -- C2 and GF proposals
Attachments: SOV AGO - SOW-RFP AGO Records Request - 6-1-15.pdf; gallagher flynn proposal - 060215.doc

Brady,

The email search proposals that received by the AG's Office – one from Competitive Computing, Inc. (C2) and one from Gallagher, Flynn & Company, PLC – are attached. Both proposals relate to Request No. 1 and Request No. 2 that you submitted on May 12, 2015. The proposals were requested through an RFP process, so please treat them as confidential. The bidders have not seen their competitor's bid.

Also, I confirmed that the documents mailed yesterday were sent to your Charlotte address, so you should have them today or tomorrow.

Bill

Griffin, Bill

From: toensing@gmail.com on behalf of Brady Toensing <brady@digtoe.com>
Sent: Monday, July 13, 2015 2:17 PM
To: Griffin, Bill
Subject: Modified May 12, 2015 Vermont Public Records Act Request
Attachments: Letter to Griffin re 12 May 2015 VTPRAR Modification 07132015.pdf

Dear Bill -- Per our phone call last week, attached is the modified May 12, 2015 Vermont Public Records Act Request. Please let me know if you have any questions. Sincerely, Brady.

Brady C. Toensing
diGenova & Toensing
(m) 202.297.4245



diGENOVA & TOENSING, LLP
ATTORNEYS-AT-LAW

July 13, 2015

Via Email (bill.griffin@state.vt.us)

William E. Griffin
Chief Assistant Attorney General
Office of the Attorney General
State of Vermont
109 State Street
Montpelier, Vermont 05609

Re: Modified May 12, 2015 VTPRA Request.

Dear Mr. Griffin:

Per our discussion on July 9, 2012, below is a modified version of my May 12, 2015 request for documents made pursuant to Vermont's Access to Public Records Act, 1 V.S.A. §§ 315-320.

The May 12, 2015 request followed an earlier request for similar records and was an attempt to refine those requests to resolve some of the practical difficulties of responding to that earlier request. We have previously discussed retaining a vendor to perform an automated search for responsive emails. This option, however, would have been costly and may not have been an effective method for gathering responsive records.

Instead, the Vermont employees listed below will perform good-faith searches of their own emails and records for documents responsive to my requests, which are listed below the employees. As we also discussed, I have reduced the number of employees to perform searches and narrowed my requests.

Vermont State Employees.

Eve Jacobs Carnahan;
William E. Griffin;
Wendy Morgan;
Janet Murname;
Megan J. Shafritz;
William Sorrell;
Mary-Kay Swanson; and
Susanne R. Young.

Requests.

1. **Individuals and Entities.** For the time period January 1, 2012 to present, all communications with or documents related to the following individuals and entities:¹

Individuals:

- Travis Berry (Democratic Attorney Generals Association (DAGA))
- Michael Briggs (Sanders);
- Richard Cassidy;
- Stefan Chodkowski (Stefan@democraticags.org);
- Dean Corren (dcorren@burlingtontelecom.net);
- Michael Crowell (Sanders);
- Howard Dean;
- F. Philip "Phil" Fiermonte (Sanders);
- Jeff Frank (jeff_frank@sanders.senate.gov);
- Jenifer Fuller (DAGA);
- Nicholas M. Gess (DAGA);
- Jacob Gillison (Sanders);
- Terry Goddard (DAGA);
- Daniel McLean (Daniel_McLean@sanders.senate.gov);
- Bernie Nash (nashb@dicksteinshapiro.com);
- Christopher Pearson (cp@biglocomotive.net);
- Kenneth Pennington (Sanders);
- Michael Pieciak (mspieciak@gmail.com);
- L. Michael Messina;
- Patricia Madrid;
- Senator Bernard Sanders;
- Jane Sanders;
- James Tierney (jtierne@law.columbia.edu) (DAGA); and
- David Weinstein (David_Weinstein@sanders.senate.gov).

Entities:

- Committee for Justice and Fairness PAC (CJF);
- Democratic Attorneys General Association (DAGA); and
- Media Strategies, Denver, Colorado.

¹ To assist in the search process, an email address, if known, has been included for some individuals. The listing of an email address, of course, does not necessarily mean that it was the only email address used for that individual and its listing should not be interpreted to limit those requests to just that address. Where appropriate and also to assist in the search process, I have included the organization with whom an individual is associated.

William E. Griffin
Chief Assistant Attorney General
July 13, 2015
Page 3

2. For the time period January 1, 2012 to present, all communications received from or sent to (including copies and blind copies) any email addresses with the following domains:
 - @bernie.org;
 - @democraticags.org; and
 - @Sanders.senate.gov.
3. For the time period March 1, 2012 through November 30, 2012, all communications or documents related to the solicitation of campaign contributions to the campaign of Attorney General Sorrell. This request includes, but is not limited to, solicitations for volunteer work or appearances at campaign events.

These requests include, but are not limited to, communications received or sent on a private email account (such as whsorrell@gmail.com)² or private text messaging account. The Vermont Public Records Act is to be "liberally construed ... and the burden of proof" is on the agency to justify any refusal to produce records. 1 V.S.A. § 315. Absent a valid legal exemption, this law compels the production of documents and correspondence relating to official state business. If such records exist and you do not intend to comply with this request, please inform me immediately so that I may pursue an appropriate legal remedy. Meantime, you should ensure these public records are preserved. 1 V.S.A. § 320 (Destruction of public records is prohibited by law).

Please produce any responsive documents to me electronically, if possible. I am willing to pay reasonable production fees, if necessary, but please call or email me first with an estimate as to the costs to produce these documents. Thank you for your assistance with this matter and I look forward to your response. If you have any questions, I can be reached at (202) 297-4245 or by email at Brady@digtoe.com.

Sincerely,


Brady C. Toensing

² General Sorrell gave out his personal email address to at least one lobbyist who requested it. Communications related in any way to official state business must be produced even if contained on a personal email account.

Griffin, Bill

From: toensing@gmail.com on behalf of Brady Toensing <brady@digtoe.com>
Sent: Wednesday, August 19, 2015 3:47 PM
To: joe.noonan@competitive.com
Cc: Griffin, Bill
Subject: VTPRAR to Vermont Attorney General's Office
Attachments: VTPRAR Sorrell 19 August 2015 Modified Request.docx

Dear Joe -- Per our discussion yesterday, attached is the revised Vermont Public Records Act Request. It is my understanding that, per your June 1, 2015 proposal, you will work with Bill Griffin to arrange access to the appropriate databases. It is also my understanding that you will start by assessing the scope of the work involved in responding to my requests and will then contact me to discuss options and to provide me an estimate of the costs involved.

Please give me a call once you have had a chance to review the attached VTPRAR and to discuss the logistics of my providing feedback to you in an efficient manner. I would like to talk to the people you intend to use to perform this job before they start so that I can discuss how I would like to proceed and to answer any questions they might have after reading the VTPRAR. Perhaps we could bring Bill Griffin in on a discussion to coordinate moving forward. Sincerely, Brady.

* * * * *

Brady C. Toensing
diGenova & Toensing
(m) 202.297.4245

**Vermont Public Records Act Request for
Information to Vermont Attorney General Sorrell and listed state employees**

This is a request for documents made pursuant to Vermont's Access to Public Records Act, 1 V.S.A. §§ 315-320. For the following state employees, I hereby demand any and all documents responsive to the requests below:

Vermont State Employees.

William E. Griffin
Wendy Morgan
Janet Murname
Megan J. Shafritz
William Sorrell
MaryKay Swanson
Susanne R. Young

Requests. For the time period January 1, 2012 to present:

1. **Individuals.** Any and all communications with or documents related to the following individuals:¹

Individuals:

- Todd Bailey (SuperPAC, KSE Lobbyist);
- Travis Berry (DAGA);
- Michael Briggs (Sanders);
- Dana Bykowski (also known as Dana Bykowski Ju);
- Richard Cassidy;
- Stefan Chodkowski (Stefan@democraticags.org);
- Dean Corren (dcorren@burlingtontelecom.net);
- Michael Crowell (Sanders Chief of Staff);
- Howard Dean;
- F. Philip "Phil" Fiermonte (Sanders);
- Jeff Frank (jeff_frank@sanders.senate.gov);
- Jenifer Fuller (DAGA);
- Nicholas M. Gess (DAGA);
- Jacob Gillison (Sanders Admin Director);
- Terry Goddard (DAGA);
- Lori Kalani (lobbyist);
- JB Kelly (lobbyist);
- Cindy Lott (lobbyist);

¹ To assist in the search process, an email address or organizational affiliation, if known, has been included for some individuals. The listing of an email address, of course, does not necessarily mean that it was the only email address used for that individual and its listing should not be interpreted to limit those requests to just that address.

- Daniel McLean (Daniel_McLean@sanders.senate.gov);
- Bernie Nash (nashb@dicksteinshapiro.com);
- Christopher Pearson (cp@biglocomotive.net);
- Kenneth Pennington (Sanders Deputy Press Secretary);
- Michael Pieciak (mspieciak@gmail.com);
- Senator Bernard Sanders;
- Jane Sanders;
- David Weinstein (David_Weinstein@sanders.senate.gov).

2. Any communications received from or sent to (including blind copied to) any email addresses with the following domains:

- @bernie.org;
- @democraticags.org;
- @dicksteinshapiro.com;
- @Sanders.senate.gov.

I also demand that you produce any documents that are responsive to the above requests that are in the possession of you personally, your campaign, or any of the individuals or entities in the requests above, including any employee of the Attorney General's Office.

These requests include, but are not limited to, communications received or sent on a private email account (such as whsorrell@gmail.com)² or private text messaging account. If no responsive records exist, then state this fact in your response. If any part of these requests is denied, please list the specific criteria you are relying on for the denial, as well as the name and title of the person responsible for the denial.

The Vermont Public Records Act is to be "liberally construed ... and the burden of proof" is on the agency to justify any refusal to produce records. 1 V.S.A. § 315. Absent a valid legal exemption, this law compels the production of documents and correspondence relating to official state business. If such records exist and you do not intend to comply with this request, please inform me immediately so that I may pursue an appropriate legal remedy. Meantime, you should ensure these public records are preserved. 1 V.S.A. § 320 (Destruction of public records is prohibited by law).

Except under extraordinary circumstances, Vermont law requires that you "promptly produce" public records. 17 V.S.A. § 318 (a). The statute allows a three day time period for you to respond, but only if you intend to withhold documents and need time to certify an exemption. 17 V.S.A. § 318 (a)(2). This three day time period was not intended to allow a state official to automatically avoid the prompt production requirements of the statute.

Pursuant to the Public Records Act, please also do the following:

² General Sorrell gave out his personal email address to at least one lobbyist who requested it. Ex. A. Communications related in any way to official state business must be produced even if contained on a personal email account.

- Produce any responsive documents to me electronically (please send to Brady@digtoe.com), if possible;
- Produce these documents promptly or certify within two business days why you are denying me access to them or any particular documents (this time limit may be extended only under certain conditions as outlined in 1 V.S.A. § 318);
- If you believe an otherwise public record is exempt from disclosure, produce a log with the page numbers of the documents, the date of the document, the people or entities who received copies, the authors of the document and a specific explanation (citing to the applicable exemption) for why a document has not been produced;
- If an otherwise public record has a portion that is exempt from disclosure, redact any exempt portion and release the redacted document together with a log (as described in the previous bullet);
- Inform me of the appeal procedures available to me if you withhold any documents;
- If you are unable to copy any material, identify the material and notify me when it will be available for my inspection; and
- Provide a written reply to this request.

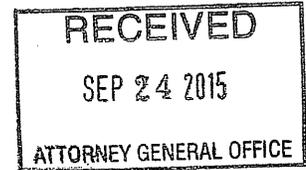
If you refuse to produce any responsive records to me, it would be helpful to Bates Number any such documents for easy reference and to avoid confusion in future proceedings regarding the failure to produce records.

I am willing to pay reasonable production fees, if necessary, but please call or email me first with an estimate as to the costs to produce these documents. Thank you for your assistance with this matter and I look forward to your response. If you have any questions, I can be reached at (202) 297-4245 or by email at Brady@digtoe.com.

JT

dIGENOVA & TOENSING, LLP
ATTORNEYS-AT-LAW

September 21, 2015



Via Email (bill.griffin@state.vt.us)

William E. Griffin
Chief Assistant Attorney General
Office of the Attorney General
State of Vermont
109 State Street
Montpelier, Vermont 05609

Re: Retainer Payment for VTPRA Request.

Dear Mr. Griffin:

Enclosed is a check for \$2,400 to be used as a retainer for the services of Competitive Computing (C2). This money will be used as a retainer for up to 16 hours of services by C2 to perform an assessment of the email system of the Vermont Attorney General in order to provide me with a Statement of Work for recovering emails responsive to my Vermont Public Records Act Request. Thank you for your assistance with this matter. If you have any questions, I can be reached at (202) 297-4245 or by email at Brady@digtoe.com.

Sincerely,


Brady C. Toensing

Enclosure

BRADY C TOENSING
2613 GREENBUSH RD.
CHARLOTTE, VT 05445

15-7525/2540

1017

DATE 9/21/2015

0 DELUXE online.com/checks

PAY TO
THE ORDER OF

State of Vermont

\$2,400.00

Two thousand four hundred & 00/100

DOLLARS



Security Features
Included
Details on Back

United States Senate
Federal Credit Union
P.O. Box 77920, Washington, DC 20013

MEMO

Cal Retainer

Joe J

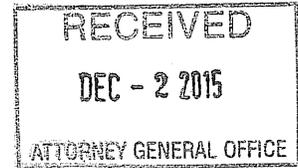
RP

⑆ 254075250⑆ 70000000755020⑈ 1017

SPECIALTY BLUE



diGENOVA & TOENSING, LLP
ATTORNEYS-AT-LAW



December 1, 2015

Via Email (bill.griffin@state.vt.us)

William E. Griffin
Chief Assistant Attorney General
Office of the Attorney General
State of Vermont
109 State Street
Montpelier, Vermont 05609

Re: Retainer Payment for VTPRA Request.

Dear Mr. Griffin:

Enclosed is a check for \$6,000 to be used as a retainer for the services of Competitive Computing (C2). This money will be used as a retainer for services by C2 to gather emails responsive to my Vermont Public Records Act Request. Thank you for your assistance with this matter. If you have any questions, I can be reached at (202) 297-4245 or by email at Brady@digtoe.com.

Sincerely,


Brady C. Toensing

Enclosure

BRADY C TOENSING
2613 GREENBUSH RD.
CHARLOTTE, VT 05445

15-7525/2540

1024

DATE 1 December 2015

DELIVER DELIVER.COM/CHECKS

PAY TO State of Vermont

THE ORDER OF

\$ 6,000.00

Six thousand + ⁰⁰/₁₀₀

DOLLARS



Security Features
included
Details on Back.

**United States Senate
Federal Credit Union**
P.O. Box 77920, Washington, DC 20013

MEMO Retainer for Public Records Reg.

EGG J

MP

⑆ 254075250⑆ 70000000755020⑆ 1024

SPECIALTY BLUE



diGENOVA & TOENSING, LLP
ATTORNEYS-AT-LAW

May 12, 2015

Via Email (bill.sorrell@state.vt.us)

The Honorable William H. Sorrell
Office of the Attorney General
State of Vermont
109 State Street
Montpelier, Vermont 05609

Re: Request for Appointment of Independent Counsel for Investigation of Vermont Attorney General.

Dear Mr. Attorney General:

This is a request for documents made pursuant to Vermont's Access to Public Records Act, 1 V.S.A. §§ 315-320. For the following state employees, I hereby demand any and all documents responsive to the requests below:

Vermont State Employees.

Elliot Burg;
Eve Jacobs Carnahan;
Mark DiStefano;
William E. Griffin;
Scot Kline;
Wendy Morgan;
Janet Murname;
Megan J. Shafritz;
William Sorrell;
MaryKay Swanson;
Susanne R. Young.

Requests. For the time period January 1, 2012 to present:

1. **Individuals and Entities.** Any and all communications with or documents related to the following individuals and entities:¹

Individuals:

- Todd Bailey;
- Travis Berry;
- Michael Briggs;
- Russell Budd;
- Dorothy Budd;
- Dana Bykowski (also known as Dana Bykowski Ju);
- Richard Cassidy;
- Stefan Chodkowski (Stefan@democraticags.org);
- Dean Corren (dcorren@burlingtontelecom.net);
- Michael Crowell;
- Howard Dean;
- F. Philip "Phil" Fiermonte;
- Jeff Frank (jeff_frank@sanders.senate.gov);
- Jenifer Fuller;
- Nicholas M. Gess;
- Jacob Gillison;
- Terry Goddard;
- Lori Kalani;
- JB Kelly;
- Cindy Lott;
- Daniel McLean (Daniel_McLean@sanders.senate.gov);
- Bernie Nash (nashb@dicksteinshapiro.com);
- Christopher Pearson (cp@biglocomotive.net);
- Kenneth Pennington;
- Michael Pieciak (mspieciak@gmail.com);
- L. Michael Messina;
- Benjamin C. Metcalf;
- Patricia Madrid;
- Lisa Madrid;
- Senator Bernard Sanders;
- Jane Sanders;
- Divonne Smoyer;
- Robert Stannard;

¹ To assist in the search process, an email address, if known, has been included for some individuals. The listing of an email address, of course, does not necessarily mean that it was the only email address used for that individual and its listing should not be interpreted to limit those requests to just that address.

- Scott Summy;
- James Tierney (jtierne@law.columbia.edu);
- David Weinstein (David_Weinstein@sanders.senate.gov).

Entities:

- Committee for Justice and Fairness PAC (CJF), including, but not limited to, any communications about filing (or failing to file) campaign finance reports in Vermont
 - Dickstein Shapiro;
 - Democratic Attorneys General Association (DAGA);
 - Media Strategies, Denver, Colorado.
2. Any communications received from or sent to (including blind copied to) any email addresses with the following domains:
 - @bernie.org;
 - @democraticags.org;
 - @dicksteinshapiro.com;
 - @Sanders.senate.gov.
 3. Any communications or documents related to any election or campaign of Attorney General Sorrell, including but not limited to, any complaints, compliance advice given to anyone, campaign contributions (in any form), working on a campaign, or any campaign events.
 4. Any communications or documents about retaining Baron & Budd, P.C., Weitz & Luxenberg, P.C., Pawa Law Group, P.C., or the Law Office of L. Michael Messina, P.A., for litigation regarding methyl tertiary butyl ether (MTBE), including but not limited to any communications with or documents discussing the Vermont Agency of Natural Resources.
 5. All documents related to the July 25, 2012 guidance from General Sorrell allowing unlimited PAC spending.

These requests include, but are not limited to, communications received or sent on a private email account (such as whsorrell@gmail.com)² or private text messaging account. If no responsive records exist, then state this fact in your response. If any part of these requests is denied, please list the specific criteria you are relying on for the denial, as well as the name and title of the person responsible for the denial.

² General Sorrell gave out his personal email address to at least one lobbyist who requested it. Ex. A. Communications related in any way to official state business must be produced even if contained on a personal email account.

The Honorable William H. Sorrell

May 12, 2015

Page 4

The Vermont Public Records Act is to be "liberally construed ... and the burden of proof" is on the agency to justify any refusal to produce records. 1 V.S.A. § 315. Absent a valid legal exemption, this law compels the production of documents and correspondence relating to official state business. If such records exist and you do not intend to comply with this request, please inform me immediately so that I may pursue an appropriate legal remedy. Meantime, you should ensure these public records are preserved. 1 V.S.A. § 320 (Destruction of public records is prohibited by law).

Except under extraordinary circumstances, Vermont law requires that you "promptly produce" public records. 17 V.S.A. § 318 (a). The statute allows a three day time period for you to respond, but only if you intend to withhold documents and need time to certify an exemption. 17 V.S.A. § 318 (a)(2). This three day time period was not intended to allow a state official to automatically avoid the prompt production requirements of the statute.

Pursuant to the Public Records Act, please also do the following:

- Produce any responsive documents to me electronically (please send to Brady@digtoe.com), if possible;
- Produce these documents promptly or certify within two business days why you are denying me access to them or any particular documents (this time limit may be extended only under certain conditions as outlined in 1 V.S.A. § 318);
- If you believe an otherwise public record is exempt from disclosure, produce a log with the page numbers of the documents, the date of the document, the people or entities who received copies, the authors of the document and a specific explanation (citing to the applicable exemption) for why a document has not been produced;
- If an otherwise public record has a portion that is exempt from disclosure, redact any exempt portion and release the redacted document together with a log (as described in the previous bullet);
- Inform me of the appeal procedures available to me if you withhold any documents;
- If you are unable to copy any material, identify the material and notify me when it will be available for my inspection; and
- Provide a written reply to this request.

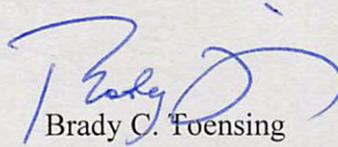
If you refuse to produce any responsive records to me, it would be helpful to Bates Number any such documents for easy reference and to avoid confusion in future proceedings regarding the failure to produce records.

I am willing to pay reasonable production fees, if necessary, but please call or email me first with an estimate as to the costs to produce these documents. Thank you for your assistance

The Honorable William H. Sorrell
May 12, 2015
Page 5

with this matter and I look forward to your response. If you have any questions, I can be reached at (202) 297-4245 or by email at Brady@digtoe.com.

Sincerely,



Brady C. Foensing

Exhibit A

From: Kalani, Lori E. <lkalani@orrick.com>
Sent: Friday, April 20, 2012 3:26 PM
To: Bill Sorrell
Subject: Do you have a personal email?

I would like to talk to you about a non work topic. Thanks.



O R R I C K

LORI KALANI

Senior Counsel

ORRICK, HERRINGTON & SUTCLIFFE LLP

51 WEST 52ND STREET
NEW YORK, NY 10019-6147

(el 212-506-5116

(ax 212-506-5151

mobile 703-338-8753

or tel 202 319 8406

lkalani@orrick.com

bio | vcard

www.orrick.com

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For more information about Orrick, please visit <http://www.orrick.com/>

Farnsworth, Karen

From: Griffin, Bill
Sent: Wednesday, May 27, 2015 7:37 PM
To: 'Brady Toensing'
Subject: Pending access to records requests
Attachments: 20150527174943248.pdf

Brady,

This is to confirm my understanding that we will proceed as follows on your several pending access to public records requests:

1. May 12, 2015 request for communications/documents to or from any of eleven State of Vermont employees and any of 40 individuals or entities during the period from January 1, 2012 to present.

Response: The Attorney General's Office invited three vendors to submit proposals for planning and conducting a search of State of Vermont emails to find responsive records. Two of the three informed me that they would submit proposals early next week. The Attorney General's Office will share the proposals with you and we can then discuss next steps.

2. May 12, 2015 request for communications to or from any of the eleven State employees and any email addresses containing any of four domain names.

Response: See response to item 1.

3. May 12, 2015 request for any communications/documents sent or received by any of the eleven State employees related to any election or campaign of Attorney General Sorrell.

Response: The Attorney General's Office will do an initial search for emails during the period March through September 2012.

4. May 12, 2015 request for any communications or documents about the outside counsel contract for litigation relating to MTBE, including communications with the Vermont Agency of Natural Resources.

Response: The Attorney General's Office will produce communications about the outside counsel contract, with minor redactions to protect attorney client information.

Our MTBE communications with ANR are voluminous. One Assistant Attorney General reported that he has communicated with 17 different officials and employees at ANR on potential and actual MTBE litigation. We discussed the possibility that you might narrow the scope of the ANR part of this request; for example, by requesting a one or two month sampling of communications from the AAG who reported the large number of communications. I will wait to hear from you before acting on this part of this request.

5. May 12, 2015 request for documents relating to the July 25, 2012 Attorney General's Guidance Regarding Independent Expenditure Committees.

Response: The Attorney General's Office will produce the document that prompted the Guidance and you will follow up as needed.

6. May 22, 2015 request for the attachment to Attorney Divonne Smoyer's email to Assistant Attorney General Ryan Kriger dated February 15, 2013.

Response: A redacted copy of the letter, which is a confidential settlement communication, is attached.

I hope this is a fair summary of the plan we discussed. Please let me know if any changes are needed.

Thank you.

Bill

WILLIAM H. SORRELL
ATTORNEY GENERAL

SUSANNE R. YOUNG
DEPUTY ATTORNEY GENERAL

WILLIAM E. GRIFFIN
CHIEF ASST. ATTORNEY
GENERAL



TEL: (802) 828-3171
FAX: (802) 828-3187
TTY: (802) 828-3665

<http://www.ago.vermont.gov>

STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER, VT
05609-1001

June 3, 2015

Mr. Brady Toensing
2613 Greenbush Road
Charlotte, VT 05445

Re : May 12, 2015 Records Request - No. 4 (MTBE communications)

Dear Brady,

This is to follow up on my May 27 reply to the several access to records requests that you submitted on May 12. One of those requests asked for:

Any communications or documents about retaining Baron & Budd, P.C., Weitz & Luxenberg, P.C., Pawa Law Group, P.C., or the Law Office of L. Michael Messina, P.A., for litigation regarding methyl tertiary butyl ether (MTBE), including but not limited to any communications with or documents discussing the Vermont Agency of Natural Resources.

Redacted copies of responsive documents except for Agency of Natural Resources documents are enclosed. The responsive documents relate mostly to the contract but include references to the preparation, filing and prosecution of an MTBE lawsuit and an MTBE memorandum prepared by Baron & Budd. Those references and sections of the memorandum have been redacted because they are protected from disclosure by the attorney-client privilege, the work product doctrine and the rules of professional conduct, and they relate to pending litigation to which the State is a party. They are exempt from disclosure under 1 V.S.A. § 317(c)(3), (4) and (14). Several pages of notes taken by assistant attorneys general who attended a meeting with the Attorney General and a Baron & Budd attorney are being withheld for the same reasons. The Office is waiving the 1 V.S.A. § 317(c)(15) exemption for contract negotiation records. We have not made any redactions based on that exemption.

You may appeal the redactions relating to the preparation, filing and prosecution of the lawsuit to Susanne R. Young, Deputy Attorney General, 109 State Street, Montpelier, VT 05609.

Sincerely,

A handwritten signature in black ink, appearing to read 'W. Griffin'.

William E. Griffin
Chief Assistant Attorney General

From: Erin McIntosh <emcintosh@baronbudd.com>
Sent: Wednesday, March 19, 2014 4:53 PM
To: Scot Kline
Cc: Scott Summy; rgordon@weitzlux.com; RGreenwald@weitzlux.com; Carla Burke
Subject: MTBE Conference Call

Mr. Kline –

Below is the call-in number for the conference call tomorrow (Thursday, 3/20/14) at 12 noon Eastern time/11am Central
re: MTBE. Please let me know if you have any questions.

800-326-6981
452179 – participant code

Thank you,
Erin McIntosh
Senior Paralegal
With Scott Summy

From: Erin McIntosh <emcintosh@baronbudd.com>
Sent: Friday, March 21, 2014 1:46 PM
To: Scot Kline
Cc: Scott Summy; rgordon@weitzlux.com; RGreenwald@weitzlux.com; Carla Burke; Gavin Boyles
Subject: Re: MTBE

Thank you, Scot.

On Mar 21, 2014, at 12:40 PM, "Scot Kline" <skline@atg.state.vt.us> wrote:

Erin:

Here is the sample standard contract for legal services for the State of Vermont.

Thanks.

Scot

From: Erin McIntosh [<mailto:emcintosh@baronbudd.com>]
Sent: Wednesday, March 19, 2014 4:53 PM
To: Scot Kline
Cc: Scott Summy; rgordon@weitzlux.com; RGreenwald@weitzlux.com; Carla Burke
Subject: MTBE Conference Call

Mr. Kline –

Below is the call-in number for the conference call tomorrow (Thursday, 3/20/14) at 12 noon Eastern time/11am Central re: MTBE. Please let me know if you have any questions.

800-326-6981
452179 – participant code

Thank you,
Erin McIntosh
Senior Paralegal
With Scott Summy

<legal services sample-032014.docx>

From: Scott Summy <SSummy@baronbudd.com>
Sent: Thursday, March 27, 2014 1:47 PM
To: Gavin Boyles
Cc: Scot Kline; Erin McIntosh; rgordon@weitzlux.com; RGreenwald@weitzlux.com; Carla Burke
Subject: Re: MTBE

Ok. That is fine on our end.

On Mar 27, 2014, at 12:45 PM, "Gavin Boyles" <gboyles@atg.state.vt.us> wrote:

As you work on the draft, you should know that we've had some internal conversations on this end, and it is our strong preference (and past practice) in cases involving multiple outside firms that the contract be between the AGO and just one of the firms. I.e. the State would have a single contract w/ Baron & Budd, which would then make arrangements with Weitz & Luxenberg and Pawa Law Group. A single contractual point of contact makes more sense for us. Please let us know if that is a concern.

From: Scott Summy [mailto:SSummy@baronbudd.com]
Sent: Thursday, March 27, 2014 1:23 PM
To: Gavin Boyles
Cc: Scot Kline; Erin McIntosh; rgordon@weitzlux.com; RGreenwald@weitzlux.com; Carla Burke
Subject: Re: MTBE

Funny you should ask. I was working on it this morning. We received your form of contract and I have instructed my office to use your form. We will add some of our language into your form. Also we will have references to you shortly. Thanks and stay tuned. We are excited about the possibility of working with you guys.

On Mar 27, 2014, at 12:19 PM, "Gavin Boyles" <gboyles@atg.state.vt.us> wrote:

Hi all, just wanted to see if there's been any movement on the draft contract.

From: Scott Summy [mailto:SSummy@baronbudd.com]
Sent: Friday, March 21, 2014 3:59 PM
To: Scot Kline
Cc: Erin McIntosh; rgordon@weitzlux.com; RGreenwald@weitzlux.com; Carla Burke; Gavin Boyles
Subject: Re: MTBE

Great. We will incorporate and send you guys a draft. Thanks.

On Mar 21, 2014, at 12:40 PM, "Scot Kline" <skline@atg.state.vt.us> wrote:

Erin:

Here is the sample standard contract for legal services for the State of Vermont.

Thanks.

Scot

From: Erin McIntosh [<mailto:emcintosh@baronbudd.com>]
Sent: Wednesday, March 19, 2014 4:53 PM
To: Scot Kline
Cc: Scott Summy; rgordon@weitzlux.com; RGreenwald@weitzlux.com;
Carla Burke
Subject: MTBE Conference Call

Mr. Kline –

Below is the call-in number for the conference call tomorrow (Thursday, 3/20/14) at 12 noon Eastern time/11am Central re: MTBE. Please let me know if you have any questions.

800-326-6981
452179 – participant code

Thank you,
Erin McIntosh
Senior Paralegal
With Scott Summy

<legal services sample-032014.docx>

From: Gavin Boyles
Sent: Thursday, March 27, 2014 4:36 PM
To: 'Scott Summy'; Scot Kline
Cc: rgordon@weitzlux.com; RGreenwald@weitzlux.com; Carla Burke; Erin McIntosh
Subject: RE: MTBE References

Thanks, Scott.

-----Original Message-----

From: Scott Summy [<mailto:SSummy@baronbudd.com>]
Sent: Thursday, March 27, 2014 4:34 PM
To: Scot Kline; Gavin Boyles
Cc: rgordon@weitzlux.com; RGreenwald@weitzlux.com; Carla Burke; Erin McIntosh
Subject: MTBE References

Scot and Gavin -

Per your request, below are 3 references for Baron & Budd and Weitz & Luxenberg. Please let us know if you need anything further.

Thanks,
Scott

Timothy J. Hopkins
General Counsel
Suffolk County Water Authority
4060 Sunrise Highway
PO Box 38
Oakdale, New York 11769
631-563-0236

Kenneth C. Jones
Vice President - Legal
Illinois-American Water Company
300 N. Water Works Drive
Belleville, Illinois 62223
618-239-3222

William S. Ingersoll
Town Manager
Town of Chestertown
118 N. Cross Street
Chestertown, Maryland 21620
410-778-0500

From: Scott Summy <SSummy@baronbudd.com>
Sent: Monday, March 31, 2014 4:29 PM
To: Gavin Boyles
Cc: Carla Burke; Erin McIntosh
Subject: MTBE - Draft Proposed Agreement
Attachments: State of Vermont Standard Contract for Services - CMB edits.pdf

Gavin,

Enclosed please find the DRAFT proposed Agreement. We attempted to use the state's form. We added some of our standard language and fee percentages.

Please review and let us know your thoughts. We are happy to discuss any of the provisions.

Scott

From: Ford, Diane
Sent: Friday, April 03, 2015 3:50 PM
To: Griffin, Bill
Subject: Baron Budd justification memo
Attachments: 20150403143427810.pdf

-----Original Message-----

From: DoNotReply@CivilCopier.com [<mailto:DoNotReply@CivilCopier.com>]
Sent: Friday, April 03, 2015 3:34 PM
To: Ford, Diane
Subject:

This E-mail was sent from "Copier3" (Aficio MP 6500).

Scan Date: 04.03.2015 14:34:27 (-0500)
Queries to: DoNotReply@CivilCopier.com

WILLIAM H. SORRELL
ATTORNEY GENERAL

SUSANNE YOUNG
DEPUTY ATTORNEY GENERAL

WILLIAM E. GRIFFIN
CHIEF ASST. ATTORNEY
GENERAL



TEL: (802) 828-3171
FAX: (802) 828-2154
TTY: (802) 828-3665
CIVIL RIGHTS: (802) 828-3657
WEBPAGE: www.atg.state.vt.us

STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER
05609-1001

MEMORANDUM

TO: Jeb Spaulding, Secretary of Administration
FROM: Bill Griffin, Chief Assistant Attorney General
RE: Attorney General/Baron & Budd Contract
Sole source exception request
DATE: April 25, 2014

The Attorney General's Office requests approval for a sole source contract with the Baron & Budd, P.C. law firm. We propose to retain Baron & Budd to assist this office in pursuing civil litigation to recover damages and other relief arising from contamination of the State's property and waters with methyl tertiary butyl ether (MTBE), a chemical that was blended into gasoline and sold into Vermont.

A sole source contract is appropriate because Baron & Budd has been litigating similar MTBE cases on behalf of other clients for more than 10 years and is uniquely qualified to do this work. The firm has specialized in MTBE cases and has been successful in such litigation. Their lawyers are among the lead counsel in the national Multi-District Litigation for MTBE claims in federal court and come highly recommended.

Baron & Budd is willing to represent the State on acceptable terms, including the standard State contract terms. This would be a contingent fee contract (25%) and the firm would pay all litigation expenses. The Attorney General will supervise and control any lawsuits filed on behalf of the State.

Therefore, I am recommending that you allow a sole source exception for this contract. A draft of the contract is attached.

Thank you.

Approved: _____

Date: _____

[Handwritten signature]
[Handwritten date: 05/2/14]

APR 29 2014

From: Scot Kline
Sent: Thursday, April 03, 2014 10:29 AM
To: Bill Griffin
Cc: Gavin Boyles
Subject: FW: State of Vermont Standard Contract for Services - AMENDED

Bill:

Draft of contract from Baron and Budd – link in Gavin’s email. Gavin has highlighted the provisions with issues – particularly paragraphs 3 and 4. On para. 3 with partial settlements, I can see why a provision calling for reimbursement of costs makes sense but I don’t get why there is a need for a special provision for fees (wouldn’t we do the agreed to split at that time). On para. 4, does this mean we get paid last if there is a series of payments from the defendants? I am not sure what else that provision means.

Paragraph 1 calls for arbitration in certain circumstances. I am okay with the concept but didn’t know if the office has agreed to such things in the past.

Thanks.

Scot

From: Gavin Boyles
Sent: Thursday, April 03, 2014 9:36 AM
To: Scot Kline
Subject: FW: State of Vermont Standard Contract for Services - AMENDED

Scot, the changes are all in Attachment B – Payment Provisions. I’ve highlighted them in this copy of the draft. My comments to the initial draft still stand.

I’ve got no problem with the new ¶ 3 or the minor clerical changes (“Contingent Fee” and “Contractor”).

The changes to ¶¶ 1 and 4 implicate the issue I raised in my initial comments: does the State reimburse expenses if there’s a Recovery? Note that the Finnell tax contract and the Baily & Glasser contract both say simply that the contractor is responsible for expenses, full stop. I think that’s the right approach.

From: Scott Summy [<mailto:SSummy@baronbudd.com>]
Sent: Wednesday, April 02, 2014 5:52 PM
To: Gavin Boyles
Cc: Carla Burke; Erin McIntosh
Subject: State of Vermont Standard Contract for Services - AMENDED

Gavin –

Please find an amended contract. After further review, we found some areas that we felt needed clarifying. Thanks and we look forward to hearing from you all.

-Scott

From: Scot Kline
Sent: Thursday, April 03, 2014 10:49 AM
To: Bill Griffin
Subject: FW: MTBE draft contract - GJB comments
Attachments: 20140401 DRAFT legal services contract.GJB edits.pdf

I sent my email too soon. I missed their additions to Attachment D. Gavin has marked their draft up. I generally have problems with paragraphs 3 and 5. Paragraph 4 also raises issues – I suppose any such obligation should be contingent on a recovery in the case.

From: Gavin Boyles
Sent: Tuesday, April 01, 2014 4:24 PM
To: Scot Kline
Subject: MTBE draft contract - GJB comments

Scot, see attached – tried to send this earlier but I gather it didn't go through.

They sent the draft as a PDF and I wasn't sure what you could do down there through the VPN, so this is just marked up in pen.

Gavin J. Boyles
Assistant Attorney General
Environmental Protection Division
Office of the Attorney General
109 State Street
Montpelier, VT 05609
(802) 828-1059

From: Erin McIntosh <emcintosh@baronbudd.com>
Sent: Friday, April 04, 2014 4:10 PM
To: Gavin Boyles; Scott Summy
Cc: Carla Burke; Scot Kline
Subject: RE: State of Vermont Standard Contract for Services - AMENDED
Attachments: State of Vermont Standard Contract for Services - CMB edits.docx

Here you go.

From: Gavin Boyles [<mailto:gboyles@atq.state.vt.us>]
Sent: Friday, April 04, 2014 3:03 PM
To: Scott Summy
Cc: Carla Burke; Erin McIntosh; Scot Kline
Subject: RE: State of Vermont Standard Contract for Services - AMENDED

Scott, we have reviewed and have some markup.

Would you please send us a Word version so we can more easily put them in the document?

From: Scott Summy [<mailto:SSummy@baronbudd.com>]
Sent: Wednesday, April 02, 2014 5:52 PM
To: Gavin Boyles
Cc: Carla Burke; Erin McIntosh
Subject: State of Vermont Standard Contract for Services - AMENDED

Gavin –

Please find an amended contract. After further review, we found some areas that we felt needed clarifying. Thanks and we look forward to hearing from you all.

-Scott

From: Gavin Boyles
Sent: Friday, April 04, 2014 10:00 AM
To: Scot Kline; Susanne Young; Bill Griffin
Subject: RE: Baron & Budd references

One addendum: I asked all three whether they have had any contractual or administrative disputes, and they have not.

From: Scot Kline
Sent: Friday, April 04, 2014 9:45 AM
To: Susanne Young; Bill Griffin
Cc: Gavin Boyles
Subject: FW: Baron & Budd references

Update: The references from Baron and Budd et al. are good. See Gavin's summaries below. I also spoke previously with the Vermont counsel for the other Vermont entities represented by B&B and Weitz & Luzenberg (W&L) in

From: Scot Kline
Sent: Friday, April 04, 2014 9:45 AM
To: Susanne Young; Bill Griffin
Cc: Gavin Boyles
Subject: FW: Baron & Budd references

Update: The references from Baron and Budd et al. are good. See Gavin's summaries below. I also spoke previously with the Vermont counsel for the other Vermont entities represented by B&B and Weitz & Luzenberg (W&L) in MTBE litigation. David Silver was local counsel for the Town of Hartford and Craftsbury Fire District, which used B&B and W&L. They settled. David said his client was happy with their representation. David was not heavily involved in the litigation. He said B&B and W&L are

From: Scott Summy <SSummy@baronbudd.com>
Sent: Friday, April 11, 2014 6:52 PM
To: Scot Kline
Cc: rgordon@weitzlux.com; Gavin Boyles
Subject: Re: Draft of Contract

Okay. Let us review and discuss. Then we can have a call. Thanks

On Apr 11, 2014, at 2:31 PM, "Scot Kline" <skline@atg.state.vt.us> wrote:

Scott:

Attached is a red-line of the draft of the contract. Once you have had a chance to review our proposed changes in the draft, it may be helpful to have a call to talk through the issues.

Please note that given the nature of the contract, once we agree on terms of the proposed contract, we will need to have the contract reviewed and approved by the Secretary of Administration in the Governor's Office before we can formally enter into it.

Thanks.

Scot

<State of Vermont Standard Contract for Services.AGO edits.doc>

From: Gordon, Robert <RGordon@weitzlux.com>
Sent: Thursday, April 17, 2014 4:17 PM
To: Scott Summy
Cc: Scot Kline; Gavin Boyles; Susanne Young; mp@pawalaw.com; Greenwald, Robin
Subject: Re: draft MTBE complaint

Scot,
I would also want you to meet Robin Greenwald, our chief of the environmental unit. Robin was previously chief of environmental enforcement at the US Attorneys Office, Eastern District of New York.

Rob

> On Apr 17, 2014, at 11:53 AM, "Scott Summy" <SSummy@baronbudd.com> wrote:

>

> Scot, et al.,

>

> I have really tried to figure out and make next week work. I know rob is out the next several weeks. I have to be in Los Angeles on Tuesday. So here are a few options:

>

> 1. I could come in Monday am and we meet Monday afternoon.

>

> 2. I am already coming to the east coast the week after next--I am tied up on April 30th--but could do any other day that week.

>

> 3. I will go anywhere else to meet AG if need be.

>

> Just let me know your thoughts. I want to be accommodating and get this thing off the ground.

>

>> On Apr 17, 2014, at 11:08 AM, "Scot Kline" <skline@atg.state.vt.us> wrote:

>>

>> Scott:

>>

>> Following up on trying to schedule a meeting with the Attorney General, is there any way to schedule something this coming week? I ask because Bill is here this coming week and we can be pretty flexible in scheduling, but then he is traveling and we are probably looking at mid-May, which is too long to wait. From our end, it is important for you and Rob to meet him. We can do the meeting in Burlington which is close to the airport if that would help. Please let me know. If meeting this coming week just can't be done because of other commitments, we will try to figure something else out.

>>

>> Thanks.

>>

>> Scot

>>

>> -----Original Message-----

>> From: Scott Summy [mailto:SSummy@baronbudd.com]

>> Sent: Thursday, April 17, 2014 11:08 AM

>> To: Scot Kline

>> Cc: rgordon@weitzlux.com; Gavin Boyles; Susanne Young

>> Subject: Re: draft MTBE complaint

>>

>> Thanks for your response. We look forward to hearing from you all on the contract.

>>

>>> On Apr 16, 2014, at 3:12 PM, "Scott Summy" <SSummy@baronbudd.com> wrote:

>>>

>>> Scot, Gavin and Susanne,

>>>

>>> Wanted to reach out to you guys just to make sure we are clear on several fronts:

>>> 2. Commitment

>>> We also understand that this will be a high profile case for the AG and your office. We also understand that reputations are on the line and that we all are responsible for the outcome. Again I want you all to know that both BB and WL will take this case very serious and will put our A Teams on it. We will do our very best to bring about a great result for Vermont.

>>>

>>> 3. Contract

>>> I must admit we are very concerned about the contract. Neither BB nor WL have represented clients in the water contamination/environmental litigation realm without the ability to be reimbursed for our costs. These cases can be very expert intensive and we must have the ability to recoup our expenses. Obviously, we will not charge expenses if the case is lost--only in the event of a recovery. I have often told potential clients that if I can't take care of my own financial interest, I can't take care of yours.

>>>

>>> Conclusion

>>> We truly very much want to represent you all in mtbe litigation. We also believe that it will be a worthwhile endeavor. However, it must work for everyone. We would very much like to try and resolve the contractual issues as soon as possible. Please let us know how best to proceed. We could meet face to face--but it would have to be the week after next due to our current schedules. Or we will make ourselves available by phone.

>>>

>>> We stand ready.

>>>

>>>

>>>

>>>> On Apr 14, 2014, at 2:54 PM, "Scott Summy" <SSummy@baronbudd.com> wrote:

>>>> We will be back to you all shortly on the contract.

>>>>

>>>>> On Apr 14, 2014, at 2:42 PM, "Scot Kline" <skline@atg.state.vt.us> wrote:

>>>>>

>>>>> Scott and Rob:

>>>>>

>>>> We look forward to hearing from you on the draft contract.

>>>>

>>>> Scot

>>>>

>>>>

>>>> -----Original Message-----

>>>> From: Carla Burke [mailto:Cburke@baronbudd.com]

>>>> Sent: Wednesday, April 09, 2014 7:41 PM

>>>> To: Scot Kline; Gavin Boyles

>>>> Cc: Scott Summy; Robin Greenwald (E-mail) Greenwald; Rob Gordon;

>>>> Erin McIntosh

>>>> Subject: draft MTBE complaint

>>>>

>>>> Hi, all.

>>>> Let us know if you have any questions,

>>>>

>>>> Carla Burke

>>>>

>>>>

Please visit us at <http://www.weitzluxenberg.com>

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From: Greenwald, Robin <RGreenwald@weitzlux.com>
Sent: Thursday, April 17, 2014 8:04 PM
To: Scott Summy
Cc: Gordon, Robert; Scot Kline; Gavin Boyles; Susanne Young; mp@pawalaw.com
Subject: Re: draft MTBE complaint

I am flexible - there are several available flights.

I am looking forward to meeting you,
Robin

Sent from my iPhone

On Apr 17, 2014, at 7:57 PM, "Scott Summy" <SSummy@baronbudd.com> wrote:

> Great! Robin I will let everyone know what time I can get there once I firm up travel.

>

>> On Apr 17, 2014, at 6:46 PM, "Gordon, Robert" <RGordon@weitzlux.com> wrote:

>>

>> Scot, Gavin and Susanne,

>>

>> Robin Greenwald, cced here, will join you in Burlington on Monday afternoon. Please provide the exact time and place when you can.

>>

>> Thank you.

>>

>> Rob

>> _____

>> From: Scott Summy [SSummy@baronbudd.com]

>> Sent: Thursday, April 17, 2014 5:12 PM

>> To: Scot Kline

>> Cc: Gordon, Robert; Gavin Boyles; Susanne Young; mp@pawalaw.com

>> Subject: Re: draft MTBE complaint

>>

>> Yes let's do Burlington. I will let you know time as soon as I get flight set up.

>>

>>> On Apr 17, 2014, at 4:07 PM, "Scot Kline" <skline@atg.state.vt.us> wrote:

>>>

>>> Scott and Rob:

>>>

>>> We appreciate your flexibility. Monday afternoon (4/21) works for us. Scott, let me know the time that works best for you. I am assuming that Burlington would be better for you if you are flying in that day. That is fine. I will send the directions. It is a short cab ride from the airport.

>>>

>>> Rob, I understand you are out then. Happy to have Robin attend. If you want to sit in by telephone, we can do that or not. Your decision -- just let me know.

>>>

>>> Thanks again for working with us to schedule this.

>>>

>>> Scot

>>>

>>> -----Original Message-----

>>> From: Scott Summy [mailto:SSummy@baronbudd.com]

>>> Sent: Thursday, April 17, 2014 2:53 PM

>>> To: Scot Kline

>>> Cc: rgordon@weitzlux.com; Gavin Boyles; Susanne Young;

>>> mp@pawalaw.com

>>> Subject: Re: draft MTBE complaint

>>>

>>> Scot, et al.,

>>>

>>> I have really tried to figure out and make next week work. I know rob is out the next several weeks. I have to be in Los Angeles on Tuesday. So here are a few options:

>>>

>>> 1. I could come in Monday am and we meet Monday afternoon.

>>>

>>> 2. I am already coming to the east coast the week after next--I am tied up on April 30th--but could do any other day that week.

>>>

>>> 3. I will go anywhere else to meet AG if need be.

>>>

>>> Just let me know your thoughts. I want to be accommodating and get this thing off the ground.

>>>

>>>> On Apr 17, 2014, at 11:08 AM, "Scot Kline" <skline@atg.state.vt.us> wrote:

>>>>

>>>> Scott:

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>>>> Following up on trying to schedule a meeting with the Attorney General, is there any way to schedule something this coming week? I ask because Bill is here this coming week and we can be pretty flexible in scheduling, but then he is traveling and we are probably looking at mid-May, which is too long to wait. From our end, it is important for you and Rob to meet him. We can do the meeting in Burlington which is close to the airport if that would help. Please let me know. If meeting this coming week just can't be done because of other commitments, we will try to figure something else out.

>>>>

>>>> Thanks.

>>>>

>>>> Scot

>>>>

>>>> -----Original Message-----

>>>> From: Scott Summy [mailto:SSummy@baronbudd.com]

>>>> Sent: Thursday, April 17, 2014 11:08 AM

>>>> To: Scot Kline

>>>> Cc: rgordon@weitzlux.com; Gavin Boyles; Susanne Young

>>>> Subject: Re: draft MTBE complaint

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>>>> Thanks for your response. We look forward to hearing from you all on the contract.

>>>>

>>>>> On Apr 16, 2014, at 3:12 PM, "Scott Summy" <SSummy@baronbudd.com> wrote:

>>>>>

>>>>> Scot, Gavin and Susanne,

>>>>>

>>>>> Wanted to reach out to you guys just to make sure we are clear on several fronts:

>>>>> 2. Commitment

>>>>> We also understand that this will be a high profile case for the AG and your office. We also understand that reputations are on the line and that we all are responsible for the outcome. Again I want you all to know that both BB and WL will take this case very serious and will put our A Teams on it. We will do our very best to bring about a great result for Vermont.

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>>>>> 3. Contract

>>>>> I must admit we are very concerned about the contract. Neither BB nor WL have represented clients in the water contamination/environmental litigation realm without the ability to be reimbursed for our costs. These cases can be very expert intensive and we must have the ability to recoup our expenses. Obviously, we will not charge expenses if the case is lost--only in the event of a recovery. I have often told potential clients that if I can't take care of my own financial interest, I can't take care of yours.

>>>>>

>>>>> Conclusion

>>>>> We truly very much want to represent you all in mtbe litigation. We also believe that it will be a worthwhile endeavor. However, it must work for everyone. We would very much like to try and resolve the contractual issues as soon as possible. Please let us know how best to proceed. We could meet face to face--but it would have to be the week after next due to our current schedules. Or we will make ourselves available by phone.

>>>>>

>>>>> We stand ready.

>>>>>

>>>>>

>>>>>

>>>>>> On Apr 14, 2014, at 2:54 PM, "Scott Summy" <SSummy@baronbudd.com> wrote:

>>>>>>

>>>>>> We will be back to you all shortly on the contract.

>>>>>>

>>>>>>> On Apr 14, 2014, at 2:42 PM, "Scot Kline" <skline@atg.state.vt.us> wrote:

>>>>>>>

>>>>>>> Scott and Rob:

>>>>>>>

>>>>>>

>>>>>> We look forward to hearing from you on the draft contract.

>>>>>>

>>>>>> Scot

>>>>>>

>>>>>>

>>>>>> -----Original Message-----

>>>>>> From: Carla Burke [mailto:Cburke@baronbudd.com]

>>>>>> Sent: Wednesday, April 09, 2014 7:41 PM

>>>>>> To: Scot Kline; Gavin Boyles

>>>>>> Cc: Scott Summy; Robin Greenwald (E-mail) Greenwald; Rob Gordon;

>>>>>> Erin McIntosh

>>>>>> Subject: draft MTBE complaint

>>>>>>

>>>>>> Hi, all.

>>>>>> Let us know if you have any questions,

>>>>>>

>>>>>> Carla Burke

>> Please visit us at <http://www.weitzluxenberg.com>

>>

>> *****

>> ***

>>

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>> confidential and protected from disclosure. If the reader of this
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>> you are hereby notified that any dissemination, distribution or
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>> deleting it and all of its attachments from your computer. Thank you. Weitz & Luxenberg, P.C.

>>

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>> should, however, review this e-mail message, as well as any
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>>

>> *****

>> ***

>>

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From: Greenwald, Robin <RGreenwald@weitzlux.com>
Sent: Friday, April 18, 2014 1:13 PM
To: 'Scott Summy'; Scot Kline
Cc: Gordon, Robert; Gavin Boyles; Susanne Young; mp@pawalaw.com; Erin McIntosh;
Subject: RE: draft MTBE complaint

These times work for me (indeed, I will be arriving much earlier). I will be the only person from WL.

-----Original Message-----

From: Scott Summy [mailto:SSummy@baronbudd.com]
Sent: Friday, April 18, 2014 1:10 PM
To: Scot Kline
Cc: Gordon, Robert; Gavin Boyles; Susanne Young; mp@pawalaw.com; Greenwald, Robin; Erin McIntosh;
Subject: Re: draft MTBE complaint

Let's say 1:30 to be safe--to start meeting. Only me from BB.

> On Apr 18, 2014, at 12:06 PM, "Scot Kline" <skline@atg.state.vt.us> wrote:

>

> Scott:

>

> Does that mean your flight is supposed to be in at 1 p.m. or you can get to downtown Burlington (10-15 minutes from airport) by 1 p.m.? We are fine with meeting at 1 or 1:30 (or a bit later) depending on what works for you and Robin. When is your flight out? Also, just for planning purposes, will there be anyone else from B&B or W&L? That would be fine, but I want to make sure we have the right size meeting room.

>

> The location is the Vermont Department of Health, 108 Cherry Street, Burlington, Vt. Bill has an office in the building, and I think we are reserving a conference room. Please call me (802) 224-6379 when you are leaving the airport and we will meet you in the front lobby of the building.

>

> -----Original Message-----

> **From:** Scott Summy [mailto:SSummy@baronbudd.com]

> **Sent:** Friday, April 18, 2014 11:45 AM

> **To:** Scot Kline

> **Cc:** rgordon@weitzlux.com; Gavin Boyles; Susanne Young; mp@pawalaw.com; Robin Greenwald; Erin McIntosh;

> **Subject:** Re: draft MTBE complaint

>

> Guys,

>

> Looks like I can be there by 1 pm eastern on Monday. What time would

> you all like to start? (Robin does this work for you ?)

>

> Also, what is the address again for your office in Burlington?

>

>> On Apr 17, 2014, at 4:07 PM, "Scot Kline" <skline@atg.state.vt.us> wrote:

>>

>> Scott and Rob:

>>

>> We appreciate your flexibility. Monday afternoon (4/21) works for us. Scott, let me know the time that works best for you. I am assuming that Burlington would be better for you if you are flying in that day. That is fine. I will send the directions. It is a short cab ride from the airport.

>>

>> Rob, I understand you are out then. Happy to have Robin attend. If you want to sit in by telephone, we can do that or not. Your decision -- just let me know.

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>> Thanks again for working with us to schedule this.

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>> Scot

>>

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>> Sent: Thursday, April 17, 2014 2:53 PM

>> To: Scot Kline

>> Cc: rgordon@weitzlux.com; Gavin Boyles; Susanne Young; mp@pawalaw.com

>> Subject: Re: draft MTBE complaint

>>

>> Scot, et al.,

>>

>> I have really tried to figure out and make next week work. I know rob is out the next several weeks. I have to be in Los Angeles on Tuesday. So here are a few options:

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>> 1. I could come in Monday am and we meet Monday afternoon.

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>> 2. I am already coming to the east coast the week after next--I am tied up on April 30th--but could do any other day that week.

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>> 3. I will go anywhere else to meet AG if need be.

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>> Just let me know your thoughts. I want to be accommodating and get this thing off the ground.

>>

>>> On Apr 17, 2014, at 11:08 AM, "Scot Kline" <skline@atg.state.vt.us> wrote:

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>>>

>>> Thanks.

>>>

>>> Scot

>>>

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>>> To: Scot Kline

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>>> Subject: Re: draft MTBE complaint

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>>>> Scot, Gavin and Susanne,

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>>>> Wanted to reach out to you guys just to make sure we are clear on several fronts:

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>>>> 2. Commitment

>>>> We also understand that this will be a high profile case for the AG and your office. We also understand that reputations are on the line and that we all are responsible for the outcome. Again I want you all to know that both BB and WL will take this case very serious and will put our A Teams on it. We will do our very best to bring about a great result for Vermont.

>>>>

>>>> 3. Contract

>>>> I must admit we are very concerned about the contract. Neither BB nor WL have represented clients in the water contamination/environmental litigation realm without the ability to be reimbursed for our costs. These cases can be very expert intensive and we must have the ability to recoup our expenses. Obviously, we will not charge expenses if the case is lost--only in the event of a recovery. I have often told potential clients that if I can't take care of my own financial interest, I can't take care of yours.

>>>>

>>>> Conclusion

>>>> We truly very much want to represent you all in mtbe litigation. We also believe that it will be a worthwhile endeavor. However, it must work for everyone. We would very much like to try and resolve the contractual issues as soon as possible. Please let us know how best to proceed. We could meet face to face--but it would have to be the week after next due to our current schedules. Or we will make ourselves available by phone.

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>>>>> Scott and Rob:

//////

>>>>> We look forward to hearing from you on the draft contract.

>>>>>

>>>>> Scot

>>>>>

>>>>>

>>>>> -----Original Message-----

>>>>> From: Carla Burke [mailto:Cburke@baronbudd.com]

>>>>> Sent: Wednesday, April 09, 2014 7:41 PM

>>>>> To: Scot Kline; Gavin Boyles

>>>>> Cc: Scott Summy; Robin Greenwald (E-mail) Greenwald; Rob Gordon;

>>>>> Erin McIntosh

>>>>> Subject: draft MTBE complaint

>>>>>

>>>>> Hi, all.

>>>>>

>>>>> Let us know if you have any questions,

>>>>>

>>>>> Carla Burke

>>>>>

>>>>>>

>>>>>>

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From: Scott Summy <SSummy@baronbudd.com>
Sent: Friday, April 18, 2014 2:17 PM
To: Scot Kline
Cc: rgordon@weitzlux.com; Gavin Boyles; Susanne Young; mp@pawalaw.com; Robin Greenwald; Erin McIntosh; .
Subject: Re: draft MTBE complaint

Sounds good. See you all on Monday. Have a great Weekend.

> On Apr 18, 2014, at 1:13 PM, "Scot Kline" <skline@atg.state.vt.us> wrote:

>

> We are good with 1:30 p.m. We are hoping to hear your thoughts about the composition of the legal team and roles. We also would like to talk about the timeline and resources for work necessary to be able to file the complaint in early June, and any open contract issues. Thanks.

>

> -----Original Message-----

> From: Scott Summy [mailto:SSummy@baronbudd.com]

> Sent: Friday, April 18, 2014 1:10 PM

> To: Scot Kline

> Cc: rgordon@weitzlux.com; Gavin Boyles; Susanne Young; mp@pawalaw.com; Robin Greenwald; Erin McIntosh; .

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>> Cc: rgordon@weitzlux.com; Gavin Boyles; Susanne Young; mp@pawalaw.com; Robin Greenwald; Erin McIntosh; .

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>>> Cc: rgordon@weitzlux.com; Gavin Boyles; Susanne Young; mp@pawalaw.com

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>>>>>> Scott and Rob:

>>>>>>

>>>>>> We look forward to hearing from you on the draft contract.

>>>>>>

>>>>>> Scot

>>>>>>

>>>>>>

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>>>>>> From: Carla Burke [mailto:Cburke@baronbudd.com]

>>>>>> Sent: Wednesday, April 09, 2014 7:41 PM

>>>>>> To: Scot Kline; Gavin Boyles

>>>>>> Cc: Scott Summy; Robin Greenwald (E-mail) Greenwald; Rob Gordon; Erin McIntosh

>>>>>> Subject: draft MTBE complaint

>>>>>>

>>>>>> Hi, all.

>>>>>>

////////

>>>>>> Let us know if you have any questions,

>>>>>>

>>>>>> Carla Burke

>>>>>>
>>>>>>

From: Gavin Boyles
Sent: Monday, April 21, 2014 12:13 PM
To: Gordon, Robert
Cc: Matthew F. Pawa; Scot Kline; SSummy@baronbudd.com; Greenwald, Robin
Subject: Re: Today

Call in is 877-273-4202. Room # 9639008.

"Gordon, Robert" <RGordon@weitzlux.com> wrote:

Scot and Gavin,
Please provide the call -in number to me, as well. Thanks.
Rob

Rob

On Apr 21, 2014, at 6:25 AM, "Matt Pawa" <mp@pawalaw.com<<mailto:mp@pawalaw.com>>> wrote:

Scot and Gavin - I can participate today by phone. Let me know what number to call. Thank you.

Matt

Matt Pawa
Pawa Law Group, P.C.
1280 Centre Street, Suite 230
Newton Centre, MA 02459
(617) 641-9550
(617) 641-9551 facsimile
<http://pawalaw.com/>

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From: Gavin Boyles
Sent: Wednesday, April 23, 2014 3:03 PM
To: Bill Griffin
Subject: FW: MTBE contract

Bill,

Scot asked me to consult with you about this latest draft of the MTBE outside-counsel contract. In particular, my comments numbered 1, 2, and 4, regarding the scope of our entanglement with the subcontractor firms, and the speed with which we'd pay out the contingent fee from any recovery.

Thanks,

Gavin

From: Gavin Boyles
Sent: Wednesday, April 23, 2014 9:11 AM
To: Scot Kline
Subject: MTBE contract

Scot,

Here's some markup. Mostly small stuff

From: Gavin Boyles
Sent: Thursday, April 24, 2014 12:35 PM
To: Bill Griffin
Subject: FW: MTBE contract

Bill, here are Scot's comments. Any input you have would be great. I'm out of the office from 1 – 2:30 or so but will be in for the duration after that.

From: Scot Kline
Sent: Thursday, April 24, 2014 9:56 AM
To: Gavin Boyles
Cc: Scot Kline
Subject: RE: MTBE contract

My comments and suggestions are red-lined. Not sure if you connected with Bill Griffin on your questions. Feel free to send my comments to him. Thanks.

From: Bill Griffin
Sent: Friday, April 25, 2014 4:51 PM
To: 'ssummy@baronbudd.com'
Cc: Diane Ford
Subject: State of Vermont contract with Baron & Budd, P.C.

Scott,

Diane Ford and I work on contract matters for the Vermont Attorney General's Office. Assistant Attorneys General Gavin Boyles and Scot Kline tell me that the Office may be entering into a contract for legal services with Baron & Budd, P.C.. In order to set up a contract we will need a W-9. Please ask your business office to email a completed W-9 to Diane and to me. If you have any questions, please give me a call.

Thank you.

Bill Griffin
Chief Assistant Attorney General
802-828-5503

From: Bill Griffin
Sent: Friday, April 25, 2014 4:41 PM
To: Diane Ford
Subject: RE: MTBE outside counsel contact information

Diane -- At least for now I'll contact Baron and Budd only, and get their information

From: Gavin Boyles
Sent: Friday, April 25, 2014 4:39 PM
To: Bill Griffin; Diane Ford
Cc: Scot Kline
Subject: MTBE outside counsel contact information

Bill, I see no problem with starting the ball rolling on collecting W-9 information from the outside firms. While the contract is not yet finalized, we're very close.

There are four firms all told. I have attached contact information for our main point of contact at each firm:

Baron & Budd P.C.	Scott Summy
Pawa Law Group P.C.	Matt Pawa
Weitz & Luxenberg P.C.	Rob Gordon
Law Office of L. Michael Messina, P.C.	L. Michael Messina

Diane, let me know if you need anything more.

Gavin J. Boyles
Assistant Attorney General
Environmental Protection Division
Office of the Attorney General
109 State Street
Montpelier, VT 05609
(802) 828-1059

From: Gavin Boyles
Sent: Friday, April 25, 2014 11:19 AM
To: Bill Griffin
Cc: Scot Kline
Subject: Sole-source memo - MTBE

Bill, please see attached sole-source memo for your review and signature. Scot and I are both okay with it.

Also attached is the latest clean copy of the contract, with the changes we discussed yesterday. I sent it to outside counsel early this morning and have not yet heard back. It is close but not quite final yet.

Gavin J. Boyles

Assistant Attorney General

Environmental Protection Division

Office of the Attorney General

109 State Street

Montpelier, VT 05609

(

From: Bill Griffin
Sent: Friday, April 25, 2014 12:41 PM
To: Gavin Boyles
Cc: Scot Kline
Subject: RE: Sole-source memo - MTBE

Thanks. I'll get this upstairs today, and attach the latest draft of the contract marked as a draft.

From: Gavin Boyles
Sent: Friday, April 25, 2014 11:19 AM
To: Bill Griffin
Cc: Scot Kline
Subject: Sole-source memo - MTBE

Bill, please see attached sole-source memo for your review and signature. Scot and I are both okay with it.

Also attached is the latest clean copy of the contract, with the changes we discussed yesterday. I sent it to outside counsel early this m

From: Gavin Boyles
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To: Bill Griffin; Diane Ford
Cc: Scot Kline
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Scott Summy

Pawa Law Group P.C.

Matt Pawa

Weitz & Luxenberg P.C.

Rob Gordon

Law Office of L. Michael Messina, P.C.

L. Michael Messina

Diane,

From: Bill Griffin
Sent: Friday, April 25, 2014 4:51 PM
To: 'ssummy@baronbudd.com'
Cc: Diane Ford
Subject: State of Vermont contract with Baron & Budd, P.C.

Scott,

Diane Ford and I work on contract matters for the Vermont Attorney General's Office. Assistant Attorneys General Gavin Boyles and Scot Kline tell me that the Office may be entering into a contract for legal services with Baron & Budd, P.C.. In order to set up a contract we will need a W-9. Please ask your business office to email a completed W-9 to Diane and to me. If you have any questions, please give me a call.

Thank you.

Bill Griffin

Chief Assistant

From: Erin McIntosh <emcintosh@baronbudd.com>
Sent: Friday, April 25, 2014 5:19 PM
To: Scott Summy; Bill Griffin
Cc: Diane Ford
Subject: RE: State of Vermont contract with Baron & Budd, P.C.

Attached is a completed W-9. Please let me know if you have any trouble opening the attachment.

Thank you,

Erin

From: Scott Summy
Sent: Friday, April 25, 2014 4:15 PM
To: Bill Griffin
Cc: Diane Ford; Erin McIntosh
Subject: Re: State of Vermont contract with Baron & Budd, P.C.

Bill,

Yes--we will do so right away. Erin please see below and send. Thank you.

Let us know if you need anything else.

Scott
On Apr 25, 2014, at 1:51 PM, "Bill Griffin" <BGr

From: Diane Ford
Sent: Friday, April 25, 2014 6:43 PM
To: 'Erin McIntosh'; Scott Summy; Bill Griffin
Subject: RE: State of Vermont contract with Baron & Budd, P.C.

Hello Erin –

Thank you for forwarding a W-9 so quickly. Unfortunately, our Dept. of Finance & Management will only accept W-9 forms that are dated within the last 6 months. I hate to ask, but could you please forward a current dated W-9 form?

Please let me know if you have any questions.

Thank you,

Diane Ford, Financial Administrator

Vermont Attorney General's Office

109 State St., Floor 3

Montpelier, VT 05609-1001

Phone: (802) 828-2503

dfo

From: Erin McIntosh <emcintosh@baronbudd.com>
Sent: Friday, April 25, 2014 7:06 PM
To: Diane Ford
Cc: Scott Summy; Bill Griffin
Subject: Re: State of Vermont contract with Baron & Budd, P.C.

Yes, I will get another one to you.

On Apr 25, 2014, at 5:42 PM, "Diane Ford" <dford@atg.state.vt.us> wrote:

Hello Erin –

Thank you for forwarding a W-9 so quickly. Unfortunately, our Dept. of Finance & Management will only accept W-9 forms that are dated within the last 6 months. I hate to ask, but could you please forward a current dated W-9 form?

Please let me know if you have any questions.

Thank you,

Diane Ford, Financial Administr

From: Bill Griffin
Sent: Sunday, April 27, 2014 9:29 AM
To: 'Erin McIntosh'
Cc: Diane Ford; 'Scott Summy'
Subject: RE: State of Vermont contract with Baron & Budd, P.C.

Sorry. I guess we need something more current.

From: Diane Ford
Sent: Friday, April 25, 2014 6:43 PM
To: 'Erin McIntosh'; Scott Summy; Bill Griffin
Subject: RE: State of Vermont contract with Baron & Budd, P.C.

Hello Erin –

Thank you for forwarding a W-9 so quickly. Unfortunately, our Dept. of Finance & Management will only accept W-9 forms that are dated within the last 6 months. I hate to ask, but could you please forward a current dated W-9 form?

Please let me know if you have any questions.

Thank you,

Diane Ford, Financial Administrator
Vermont Attorney General's Office
109 State St., Floor 3
Montpelier, VT 05609-1001
Phone: (802) 828-2503
dford@atg.state.vt.us

From: Erin McIntosh [<mailto:emcintosh@baronbudd.com>]
Sent: Friday, April 25, 2014 5:19 PM
To: Scott Summy; Bill Griffin
Cc: Diane Ford
Subject: RE: State of Vermont contract with Baron & Budd, P.C.

Attached is a completed W-9. Please let me know if you have any trouble opening the attachment.

Thank you,
Erin

From: Scott Summy
Sent: Friday, April 25, 2014 4:15 PM
To: Bill Griffin
Cc: Diane Ford; Erin McIntosh
Subject: Re: State of Vermont contract with Baron & Budd, P.C.

Bill,

Yes--we will do so right away. Erin please see below and send. Thank you.
Let us know if you need anything else.

Scott

On Apr 25, 2014, at 1:51 PM, "Bill Griffin" <BGriffin@atg.state.vt.us> wrote:

Scott,

Diane Ford and I work on contract matters for the Vermont Attorney General's Office. Assistant Attorneys General Gavin Boyles and Scot Kline tell me that the Office may be entering into a contract for legal services with Baron & Budd, P.C.. In order to set up a contract we will need a W-9. Please ask your business office to email a completed W-9 to Diane and to me. If you have any questions, please give me a call.

Thank you.

Bill Griffin
Chief Assistant Attorney General
802-828-5503

From: Diane Ford
Sent: Monday, April 28, 2014 11:10 AM
To: 'Erin McIntosh'; Scott Summy; Bill Griffin
Subject: RE: State of Vermont contract with Baron & Budd, P.C.

Thank you Erin – Have a great day.

Diane

From: Erin McIntosh [<mailto:emcintosh@baronbudd.com>]
Sent: Monday, April 28, 2014 10:21 AM
To: Diane Ford; Scott Summy; Bill Griffin
Subject: RE: State of Vermont contract with Baron & Budd, P.C.

Here you go. This one is dated January, 2014. Please let me know if you need anything else.

From: Diane Ford [<mailto:dford@atg.state.vt.us>]
Sent: Friday, April 25, 2014 5:43 PM
To: Erin McIntosh; Scott Summy; Bill Griffin
Subject: RE: State of Vermont contract with Baron & Budd, P.C.

Hello Erin –

Thank you for forwarding a W-9 so quickly. Unfortunately, our Dept. of Finance & Management will only accept W-9 forms that are dated within the last 6 months. I hate to ask, but could you please forward a current dated W-9 form?

Please let me know if you have any questions.

Thank you,

Diane Ford, Financial Administrator
Vermont Attorney General's Office
109 State St., Floor 3
Montpelier, VT 05609-1001
Phone: (802) 828-2503
dford@atg.state.vt.us

From: Erin McIntosh [<mailto:emcintosh@baronbudd.com>]
Sent: Friday, April 25, 2014 5:19 PM
To: Scott Summy; Bill Griffin
Cc: Diane Ford
Subject: RE: State of Vermont contract with Baron & Budd, P.C.

Attached is a completed W-9. Please let me know if you have any trouble opening the attachment.

Thank you,
Erin

From: Scott Summy
Sent: Friday, April 25, 2014 4:15 PM
To: Bill Griffin

Cc: Diane Ford; Erin McIntosh

Subject: Re: State of Vermont contract with Baron & Budd, P.C.

Bill,

Yes--we will do so right away. Erin please see below and send. Thank you.

Let us know if you need anything else.

Scott

On Apr 25, 2014, at 1:51 PM, "Bill Griffin" <BGriffin@atg.state.vt.us> wrote:

Scott,

Diane Ford and I work on contract matters for the Vermont Attorney General's Office. Assistant Attorneys General Gavin Boyles and Scot Kline tell me that the Office may be entering into a contract for legal services with Baron & Budd, P.C.. In order to set up a contract we will need a W-9. Please ask your business office to email a completed W-9 to Diane and to me. If you have any questions, please give me a call.

Thank you.

Bill Griffin
Chief Assistant Attorney General
802-828-5503

From: Erin McIntosh <emcintosh@baronbudd.com>
Sent: Monday, April 28, 2014 10:21 AM
To: Diane Ford; Scott Summy; Bill Griffin
Subject: RE: State of Vermont contract with Baron & Budd, P.C. [w-9]

Here you go. This one is dated January, 2014. Please let me know if you need anything else.

From: Diane Ford [<mailto:dford@atg.state.vt.us>]
Sent: Friday, April 25, 2014 5:43 PM
To: Erin McIntosh; Scott Summy; Bill Griffin
Subject: RE: State of Vermont contract with Baron & Budd, P.C.

Hello Erin -

Thank you for forwarding a W-9 so quickly. Unfortunately, our Dept. of Finance & Management will only accept W-9 forms that are dated within the last 6 months. I hate t

From: Diane Ford
Sent: Friday, May 09, 2014 11:58 AM
To: Scott Summy
Subject: SOV AGO Contract
Attachments: Baron Budd 26552.pdf

Hello Scott

I've attached a copy of SOV contract 26552 between the Vermont Office of the Attorney General and Baron & Budd, PC for legal services related to MTBE per your communications with Bill Griffin, Chief Assistant Attorney General and other members of our office. It's my understanding that you have worked closely with them on the development of this contract.

Please review and sign the contract and return it to me along with a copy of the certificate(s) of insurance as referenced in the contract. If you should have any questions concerning the content of the contract, please contact Bill Griffin at bgriffin@atg.state.vt.us or by phone at 802-828-5503.

Thank you,

Diane Ford, Financial Administrator
Vermont Attorney General's Office
109 State St., Floor 3
Montpelier, VT 05609-1001
Phone: (802) 828-2503
dford@atg.state.vt.us

From: Scott Summy <SSummy@baronbudd.com>
Sent: Friday, May 09, 2014 12:26 PM
To: Gavin Boyles
Cc: Scot Kline
Subject: Re: Vermont MTBE contract

Ok just got it. Don't think those changes are a problem at all. We will review and get it back out. Look forward to working with you all.

On May 9, 2014, at 11:01 AM, "Gavin Boyles" <gboyles@atg.state.vt.us> wrote:

Scott, our business manager is sending you today an executed copy of the contract.

I wanted to highlight that it is not precisely identical to the last draft we exchanged, but that there are no substantive changes.

The changes are as follows:

- 1) Elimination of " – AGO" after "Baron & Budd, P.C." in the header.
- 2) Addition of contract dates @ p. 1, ¶ 4
- 3) Change from Susanne Young to Bill Griffin as state's signatory @ p. 2
- 4) Slight pagination changes due to elimination of extra line spaces @ 3-4 and 8-9

Please let us know if you have any questions.

Best,
Gavin

Gavin J. Boyles
Assistant Attorney General
Environmental Protection Division
Office of the Attorney General
109 State Street
Montpelier, VT 05609
(802) 828-1059

BARON  BUDD®

*Baron & Budd
makes the Hot List
8 out of 10 years*

THE NATIONAL
LAW JOURNAL

THE PLAINTIFFS'

HOT LIST

... a reputation as an advocate in some of the hottest litigation going -- the firm helped obtain a \$410 million settlement with Bank of America Corp. -- The limelight for Baron & Budd stretched across industries during the past year -- a \$7.8 billion settlement with BP LLC in March -- ...especially well regarded for its work on behalf of mesothelioma victims, for whom Baron & Budd has secured hundreds of millions of dollars in settlements and verdicts, including the largest asbestos win -- \$55 million -- 50 lawyers who handle cases ranging from water contamination and whistleblower actions to occupational injuries a \$9 million verdict against Dow for the family of a Dow contract employee who was exposed to insulation containing asbestos -- a leadership role in the high-profile litigation

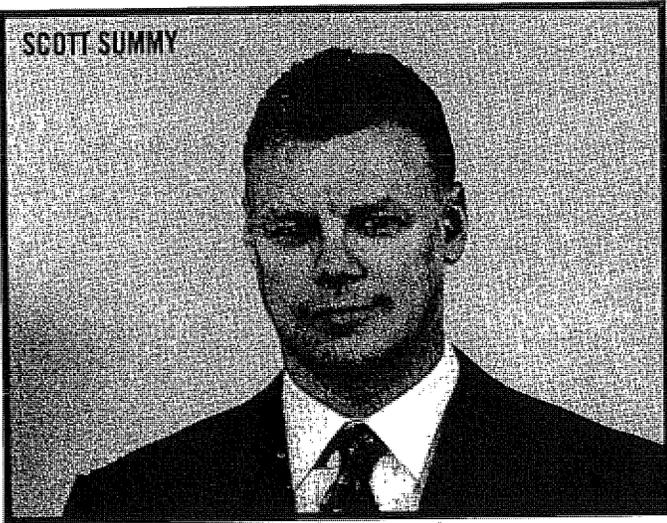
THE PLAINTIFFS'

A SPECIAL REPORT

HOT LIST

Baron & Budd 2012

SCOTT SUMMY



With billions of dollars at stake in the litigation over the Gulf of Mexico oil spill, the case marks one of the largest private civil actions in the country's history. Baron & Budd played a leadership role in the high-profile litigation, serving on both the plaintiffs' steering and executive committees.

The Dallas-based firm, with 50 lawyers who handle cases ranging from water contamination and whistleblower actions to occupational injuries, helped shape the multidistrict litigation in U.S. District Court for the Eastern District of Louisiana. The team reached a \$7.8 billion settlement with BP PLC in March resolving claims for economic loss, property damage and injuries.

Baron & Budd shareholder Scott Summy, who served on the steering committee that actually litigated the case with more than a dozen attorneys, helped lead the team of lawyers looking at the science of the spill. "At the beginning, when you

started hearing about the spill, you never dreamed it would be as big as it was," Summy recalled. The executive committee, which coordinated the steering team, also included James Parkerson Roy of Lafayette, La.'s Domengeaux, Wright, Roy & Edwards; Stephen Herman of Herman, Herman & Katz in New Orleans; and Brian Barr of Levin Papantonio Thomas Mitchell Rafferty & Proctor in Pensacola, Fla.

The steering committee, Summy said, was "extremely focused" on the task at hand: to prove liability. "The full tentacle of how many people were impacted is mind-blowing," he said. A lead attorney for BP, J. Andrew Langan, a Kirkland & Ellis partner in Chicago, declined to comment. The U.S. Department of Justice hasn't settled with BP.

The limelight for Baron & Budd stretched across industries during the past year—including a deepening of the firm's role in financial-sector class actions. The firm snagged a spot on the plaintiffs' executive committee in the JPMorgan Chase & Co. overdraft litigation in U.S. District Court for the Southern District of Florida.

A judge in May preliminarily approved a \$110 million nationwide settlement of allegations the bank—among others—manipulated debit card transactions to boost overdraft fees. Bank of America Corp. last year settled for \$410 million. Name partner Russell Budd, a negotiator in the settlements, called the litigation "a huge case in terms of the benefit for consumers." —Mike Scarcella

The Deepwater Horizon oil spill. Shoddy drywall. Bad actions by banks. This Dallas firm has established a reputation as an advocate in some of the hottest litigation going. It is especially well regarded for its work on behalf of mesothelioma victims, for whom Baron & Budd has secured hundreds of millions of dollars in settlements and verdicts, including the largest asbestos win—\$55 million. In the pending oil spill multidistrict litigation, it represents the state of Louisiana and has a seat on the plaintiffs' executive committee.

NOTEWORTHY CASES:

- *In re Checking Account Overdraft Litig.*, MDL No. 2036 (S.D. Fla.). The crux of this case is the alleged manipulation of data by banks to increase overdraft fee revenue. The firm helped obtain a \$410 million settlement with Bank of America Corp., the largest financial institution involved. General litigation practice leader Bruce Steckler served on the plaintiffs' executive steering committee with attorneys from Grossman Roth, Hanly Conroy Bierstein Sheridan Fisher & Hayes, the Alters Law Firm and Podhurst Orseck. The suit accused the banks of manipulating the timing of debit card transactions so they could soak customers for overdraft fees. Besides the monetary recovery, the litigation forced banks across the country to change their overdraft policies—they no longer offer “courtesy” overdraft protection or “re-ordering debits.”
- *City of San Diego v. Hotels.com L.P.*, No. GIC 8611117 (San Diego Co., Calif., Sup. Ct.). Plaintiffs' counsel Laura Baughman and Thomas Sims won a \$21.2 million award for the City of San Diego. Travel companies allegedly shortchanged the city by millions of dollars in hotel occupancy taxes for their online bookings. Baron & Budd is working on 40 similar suits involving other cities. Baron's litigation group participated in strategic planning, working with co-counsel from Kiesel, Boucher & Larson and McKool Smith and the San Diego city attorney's office.
- *Henderson v. The Dow Chemical Co.*, No. 10-07003 (Dallas Co., Texas, Dist. Ct.). John Langdoc and Alana Kalantzakis won a \$9 million verdict against Dow for the family of a Dow contract employee who was exposed to insulation containing asbestos, with fatal consequences. Asbestos litigation practice chief Steve Baron said that Dow refused to settle, “so we presented our case to the jury.”

Baron & Budd 2008

Baron & Budd comprises 50 attorneys in offices in Dallas; Beverly Hills, Calif.; Baton Rouge, La.; and Austin, Texas. Founded in 1977, Baron & Budd is 100% dedicated to representing those harmed by corporate misconduct, with a primary focus on toxic torts including asbestos and methyl tertiary butyl ether (MTBE) litigation. In 2006, it served on the negotiating committee that secured a \$3.9 billion settlement with United States Gypsum Co.

NOTEWORTHY CASES:

- *In re W.R. Grace & Co.*, No. 01-01139 (Bankr. D. Del.). Co-lead counsel Russell Budd and Steve Baron. The firm was one of four that served on the negotiating committee that in April reached a \$2.87 billion settlement with W.R. Grace & Co. on behalf of asbestos claimants. W.R. Grace was forced into bankruptcy in 2001 by asbestos liabilities and the trust negotiated by the firms will pay out the claims.
- *In re Methyl Tertiary Butyl Ether Prod. Liab. Litig.*, No. MDL-1358 (S.D.N.Y.). Co-lead counsel Scott Summy, Celeste Evangelisti, Cary McDougal, Laura Baughman, Carla Burke and Stephen Johnston. Baron & Budd was involved in all stages and represented all of the settling plaintiffs in multidistrict litigation over the contamination of drinking water by a foul-tasting fuel additive. In May 2008, the firm reached a \$422 million settlement with major gasoline refiners on behalf of 153 water providers in 17 states. The refiners made a 30-year commitment to clean up contaminated wells.
- *Environmental Law Found. v. Laidlaw Transit Inc.*, No. CGC-06-451832 (San Francisco Co., Calif., Super. Ct.). Lead counsel Laura Baughman and Thomas Sims. Baron & Budd reached a \$34.9 million settlement on behalf of three environmental organizations to provide California's school children with newer buses that meet current pollution emission standards.

Baron & Budd 2006

Founded in Dallas in 1977, Baron & Budd specializes in toxic torts including asbestos injury; it helped write the casebook on groundwater contamination. At present it represents some 180 municipalities, water providers and private well owners across 19 states suing over contaminants including methyl tertiary-butyl ether. The 80-attorney firm also maintains offices in California, Ohio, Louisiana and New York.

NOTEWORTHY CASES:

- *In re USG Corp.*, No. 01-2094-JKF (U.S. Bankr. Ct., D. Del.). Co-lead counsel Russell Budd was one of the negotiators for the asbestos creditors' committee that secured a \$3.9 billion settlement with the bankrupt United States Gypsum Co. It was one of the largest

bankruptcy settlements on record.

- *In re 7-Eleven Inc. Shareholders Litig.*, No. 05-08944-M (Dallas Co., Texas, Dist. Ct.). Lead counsel Randall K. Pulliam. The firm represented shareholders attempting to force the company to pay more to take the corporation private. The company ultimately agreed to boost its tender offer by \$5 per share, worth \$145 million to the shareholders.
- *Bostic v. Metropolitan Life Ins. Co.*, No. CC-03-01977-C (Dallas Co., Texas, Ct. at Law). Lead counsel Charla Aldous and Chris Panatier. This was the second plaintiffs' verdict in the case—the first was vacated—and brought \$13.5 million to an East Texas man who died of mesothelioma at 41 following exposure to asbestos as a child.

Baron & Budd 2005

Baron & Budd stayed in the limelight representing clients as varied as a Mississippi oysterman, scores of municipal governments and alumni of the Beverly Hills High School in claims involving toxic chemical exposure. With more than 80 attorneys in Texas, Illinois, Ohio, Louisiana and New York, it claims to have recovered \$23 million in asbestos verdicts thus far in 2005. The Dallas-based firm seems assured of maintaining its high profile, having secured a key ruling in April allowing local authorities and other plaintiffs in 18 states to pursue products liability claims against petroleum refiners arising from MTBE contamination. Another widely reported pending case involves cancers attributed to oil drilling on the fabled high school's grounds; it goes to trial early next year.

NOTEWORTHY CASES:

- *Strong v. E.I. du Pont de Nemours & Co.*,

No. 2005-57-CV3 (Jones Co., Miss., Cir. Ct.). Lead attorney Allen Stewart. A jury awarded \$15.5 million on Aug. 26 to an oysterman who allegedly contracted cancer through exposure to dioxin released from a Gulfport, Miss., chemical plant into the air in the surrounding neighborhood and St. Louis Bay. The firm argued he was exposed to the toxin through consuming contaminated oysters and other environmental exposure. This is the bellwether case for more than 2,000 claims brought by the plant's neighbors.

- *Bostic v. Metropolitan Life Ins. Co.*, No. CC-03-01977-C (Dallas Co., Texas, Ct. at Law No. 3). Co-lead attorneys Charla Aldous and Chris Panatier. A jury awarded \$9.3 million against Georgia-Pacific Corp. for a man who died at 41 from mesothelioma attributed to his exposure to asbestos while working with his father as a boy. Within six weeks, the firm

Baron & Budd 2005 - continued

would secure a \$10 million verdict for a Los Angeles Navy veteran who developed cancer after being exposed to asbestos during his World War II service and as a Navy contractor following the war, and a \$3.6 million verdict for a former chemical plant worker in Louisiana who died from cancer attributed to asbestos exposure.

- *CBE v. Tosco Corp.*, No. 300595 (San Francisco Co., Calif., Super. Ct.). Co-lead attorneys

Scott Summy and Laura Baughman. Baron & Budd reached settlements in March and September 2004 requiring oil companies including ExxonMobil Corp., Shell Oil Co., Atlantic Richfield Co. and ChevronTexaco to upgrade gas stations, clean up groundwater contamination and take steps to prevent gasoline leaking from more than 1,000 underground storage tanks in California. The monetary and injunctive relief was valued at \$107 million.

Baron & Budd 2004

Dallas' *Baron & Budd* has won national recognition representing individuals and municipalities injured by exposure to hazardous substances, particularly asbestos. Founded in 1977, the 78-lawyer firm has recovered hundreds of millions of dollars in verdicts and settlements. It has offices in Cleveland; Baton Rouge, La.; Canton, N.Y.; and Glen Carbon, Ill.

NOTEWORTHY CASES:

- *City of Santa Monica v. Shell Oil* (Orange Co., Calif., Super. Ct. 2003), lead attorneys Fred Baron and Scott Summy. The firm secured a \$312.8 million settlement from a dozen oil

companies accused of polluting drinking water with the gasoline additive MTBE.

- *Blandford v. Garlock Sealing Technologies* (Cuyahoga Co., Ohio, Ct. C.P. 2003), lead attorney Ladd Gibke. A jury returned a verdict of \$6.4 million to the family of a pipe-and-steam-fitter who died of asbestos-related mesothelioma.
- *Ytuarte v. Quigley* (El Paso Co., Texas, Ct. at Law_2004), lead attorney Al Stewart. The firm won a \$5.2 million verdict for the family of a tradesman who died of asbestos-related mesothelioma.

Baron & Budd 2003

Sentences were excerpted from *The National Law Journal*, "The Plaintiffs' Hot List, Featured Firm - Baron & Budd," 7/21/2003, by David Hechler

NOTEWORTHY MENTIONS:

- And by any measure, Baron & Budd, which celebrated its 25th anniversary last year, is one of the country's most successful firms.
- Its specialty is toxic torts. The product that turned it into one of the largest plaintiffs' shops anywhere is asbestos.
- It has all the assets and resources of a big defense firm.

THE WINNINGEST FIRM IN THE U.S.

NLJ LITIGATION

Disparate firms top 2001 list

NLJ verdict survey shows two that topped \$1 billion.

By Margaret Cronin Fisk STAFF REPORTER

THE "WINNINGEST" law firms in the United States are a decidedly disparate lot.

Solo origins

Many of the firms started as solo practices or small partnerships by attorneys with minimal experience and little or no financial backing. Others were started by seasoned refugees from other traditional or plaintiffs' law firms. Most of the firms are fairly small; three are solo practitioners. But eight firms have more than 20 lawyers and one firm, Dallas-based Baron & Budd, has 80 attorneys.

The National Law Journal's Litigation 50 is a survey of the "winningest" trial firms of 2001, based on the gross amount of money awarded by juries during trials concluded between Jan. 1, 2001, and Dec. 31, 2001. A firm's ranking is based on the total amount from all cases tried to a verdict before a jury, but does not include any money obtained through settlements or through bench trials. The ranking also does not take into account any post-trial changes in the judgment, subsequent settlements or the ultimate chances of collection—just the amount the jury awarded.

To determine the rankings, the NLJ sent out surveys to every law firm involved in the 100 largest jury verdicts of 2001 and every firm we could determine, through searches of VerdictSearch.com

Total won: \$59,825,000 Attorneys: 80
Firm name: Baron & Budd, Dallas, Texas
Largest verdict: \$55,515,000,
Hernandez v. Kelly-Moore Paint Co.



and other databases, that had won at least one \$5 million verdict in 2001. These surveys, sent to more than 300 firms, were supplemented by additional research, including calls to the various firms, to determine every verdict won by each firm in 2001. If multiple firms participated together in a single trial, we gave each firm credit for the full amount of the verdict.

Not every firm responded to the survey. Where firms did not respond, we used information in "The 100 Largest Verdicts of 2001," published in the NLJ's Feb. 4, 2002, issue, articles in various other publications and reports in VerdictSearch and other compilers of verdicts. Despite this additional research, the final numbers do not include all verdicts. Many verdicts are not reported by this publication, or by anyone else.

Overall, the Litigation 50 made one thing clear: In 2001, juries found the lawyers in these firms incredibly persuasive.

Fisk's e-mail address is michwriter@aol.com.

Baron & Budd is one of the largest and most accomplished plaintiffs' law firms in the country. Since it was founded in 1977, Baron & Budd has garnered national acclaim for championing the rights of people and communities harmed by corporate misconduct. Baron & Budd's mission is Protecting What's Right® through its work in the following areas:

- Asbestos/Mesothelioma
- Water Contamination
- Gulf Oil Spill
- Financial Fraud
- Whistleblower
- Overtime Violations (FLSA)
- Consumer Scams
- Deceptive Advertising
- Pharmaceutical
- Chinese Drywall

"Being part of THE NATIONAL LAW JOURNAL's Hot List is a real honor, and a reflection of both the importance of our firm's work and the caliber of our legal team."

– Baron & Budd managing shareholder, Russell Budd

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1.866.844.4556
main office: Dallas, TX
Austin, TX
Baton Rouge, LA
Los Angeles, CA

MTBE CONTAMINATION OF DRINKING WATER SUPPLIES

PRESENTED TO
ATTORNEY GENERAL WILLIAM H. SORRELL
STATE OF VERMONT

Section IV: PAST RESULTS

In re Methyl Tertiary Butyl Ether ("MTBE") Products Liability Litigation (MDL 1358)

2008 Settlement

Baron & Budd and Weitz & Luxenberg represented over 150 public water providers in seventeen states in litigation against the oil companies. The lawsuits were consolidated in MDL 1358 before Judge Shira Scheindlin in the Southern District of New York. Two water providers in Vermont were part of this settlement: Craftsbury Fire District 2 and Town of Hartland.

Scott Summy and Rob Gordon were instrumental in negotiating settlements totaling over \$450 million in cash payments plus an agreement by 70% of the refiners to pay for the treatment of new wells that became contaminated with MTBE (and meet certain preconditions) for the next 30 years. The well protection provided by the settlement protects over 3,600 wells serving millions of Americans.

2011 Settlement

The firms represented approximately 21 public water providers from six states in similar litigation against oil refiners. These cases settled (without engaging in discovery) for almost \$20 million.

Communities for a Better Environment v. Unocal, et al. (California)

Baron & Budd represented the non-profit organization Communities for a Better Environment in an action for injunctive relief to protect public and private groundwater wells across the State of California. After a partial bench trial, the oil refiners agreed to provide warnings about MTBE, and agreed to state agency directives on MTBE cleanup. The settlement involved over 1,000 contaminated sites and was valued at approximately \$200 million.

City of Santa Monica v. Shell Oil Company, et al. (California)

Baron & Budd represented the City of Santa Monica and Southern California Water Company in litigation arising from MTBE contamination of five public groundwater wells extracting from the Charnock Basin. Scott Summy negotiated a settlement that requires the oil refiners to pay for the design, construction, operation, and maintenance of an appropriate filtration system until all wells are free of MTBE contamination. The court valued the settlement at over \$315 million. The defendants paid the City an additional \$120 million in case, which allowed the city to pay its legal fees without spending City funds.

Other Cases

The work that Baron & Budd and Weitz & Luxenberg performed for their clients has benefitted other public water providers in MTBE litigation. As discussed above, the firms conducted the fact discovery and addressed many legal theories that are of use in all MTBE cases --- the refiners' failure to warn, for example, and the ability to recover for contamination below regulatory levels.

The early charge led by Scott Summy and Rob Gordon delineated a path for other lawyers to follow later in similar cases. Among those cases are two recent successes:

City of New York

In a case arising from MTBE contamination of six public water supply wells, a jury awarded the city \$105 million in trial against ExxonMobil. The Second Circuit recently upheld the verdict and affirmed the MDL court's rulings on many of the legal issues that Baron & Budd and Weitz & Luxenberg had briefed earlier.

State of New Hampshire

After settling with all refiners except ExxonMobil for \$136 million, the State tried its case against ExxonMobil. The jury found that the State's damages for past cleanup costs, well testing costs, and public well treatment costs totaled \$816 million. The jury awarded \$236 million in trial against ExxonMobil (charging it with the portion of damages that represents its share of the market for gasoline containing MTBE from the years 1988 to 2005).

As in other cases, the verdict for the State of New Hampshire built upon the foundation laid by Scott Summy and Rob Gordon. And that foundation, in turn, rests on their firms' long histories of complex, environmental litigation.

Since it was founded in 1977, Baron & Budd, P.C. has been nationally recognized as a pioneer in the area of toxic tort litigation and has litigated major community contamination cases involving MTBE, TCE, radiation, lead, and other pollutants. Weitz & Luxenberg positioned itself as a major presence in asbestos and environmental litigation more than 25 years ago. These firms see environmental cases as their primary focus.



diGENOVA & TOENSING, LLP
ATTORNEYS-AT-LAW

May 12, 2015

Via Email (bill.sorrell@state.vt.us)

The Honorable William H. Sorrell
Office of the Attorney General
State of Vermont
109 State Street
Montpelier, Vermont 05609

Re: Request for Appointment of Independent Counsel for Investigation of Vermont Attorney General.

Dear Mr. Attorney General:

This is a request for documents made pursuant to Vermont's Access to Public Records Act, 1 V.S.A. §§ 315-320. For the following state employees, I hereby demand any and all documents responsive to the requests below:

Vermont State Employees.

Elliot Burg;
Eve Jacobs Carnahan;
Mark DiStefano;
William E. Griffin;
Scot Kline;
Wendy Morgan;
Janet Murname;
Megan J. Shafritz;
William Sorrell;
MaryKay Swanson;
Susanne R. Young.

Requests. For the time period January 1, 2012 to present:

1. **Individuals and Entities.** Any and all communications with or documents related to the following individuals and entities:¹

Individuals:

- Todd Bailey;
- Travis Berry;
- Michael Briggs;
- Russell Budd;
- Dorothy Budd;
- Dana Bykowski (also known as Dana Bykowski Ju);
- Richard Cassidy;
- Stefan Chodkowski (Stefan@democraticags.org);
- Dean Corren (dcorren@burlingtontelecom.net);
- Michael Crowell;
- Howard Dean;
- F. Philip "Phil" Fiermonte;
- Jeff Frank (jeff_frank@sanders.senate.gov);
- Jenifer Fuller;
- Nicholas M. Gess;
- Jacob Gillison;
- Terry Goddard;
- Lori Kalani;
- JB Kelly;
- Cindy Lott;
- Daniel McLean (Daniel_McLean@sanders.senate.gov);
- Bernie Nash (nashb@dicksteinshapiro.com);
- Christopher Pearson (cp@biglocomotive.net);
- Kenneth Pennington;
- Michael Pieciak (mspieciak@gmail.com);
- L. Michael Messina;
- Benjamin C. Metcalf;
- Patricia Madrid;
- Lisa Madrid;
- Senator Bernard Sanders;
- Jane Sanders;
- Divonne Smoyer;
- Robert Stannard;

¹ To assist in the search process, an email address, if known, has been included for some individuals. The listing of an email address, of course, does not necessarily mean that it was the only email address used for that individual and its listing should not be interpreted to limit those requests to just that address.

- Scott Summy;
- James Tierney (jtierne@law.columbia.edu);
- David Weinstein (David_Weinstein@sanders.senate.gov).

Entities:

- Committee for Justice and Fairness PAC (CJF), including, but not limited to, any communications about filing (or failing to file) campaign finance reports in Vermont
 - Dickstein Shapiro;
 - Democratic Attorneys General Association (DAGA);
 - Media Strategies, Denver, Colorado.
2. Any communications received from or sent to (including blind copied to) any email addresses with the following domains:
 - @bernie.org;
 - @democraticags.org;
 - @dicksteinshapiro.com;
 - @Sanders.senate.gov.
 3. Any communications or documents related to any election or campaign of Attorney General Sorrell, including but not limited to, any complaints, compliance advice given to anyone, campaign contributions (in any form), working on a campaign, or any campaign events.
 4. Any communications or documents about retaining Baron & Budd, P.C., Weitz & Luxenberg, P.C., Pawa Law Group, P.C., or the Law Office of L. Michael Messina, P.A., for litigation regarding methyl tertiary butyl ether (MTBE), including but not limited to any communications with or documents discussing the Vermont Agency of Natural Resources.
 5. All documents related to the July 25, 2012 guidance from General Sorrell allowing unlimited PAC spending.

These requests include, but are not limited to, communications received or sent on a private email account (such as whsorrell@gmail.com)² or private text messaging account. If no responsive records exist, then state this fact in your response. If any part of these requests is denied, please list the specific criteria you are relying on for the denial, as well as the name and title of the person responsible for the denial.

² General Sorrell gave out his personal email address to at least one lobbyist who requested it. Ex. A. Communications related in any way to official state business must be produced even if contained on a personal email account.

The Honorable William H. Sorrell

May 12, 2015

Page 4

The Vermont Public Records Act is to be "liberally construed ... and the burden of proof" is on the agency to justify any refusal to produce records. 1 V.S.A. § 315. Absent a valid legal exemption, this law compels the production of documents and correspondence relating to official state business. If such records exist and you do not intend to comply with this request, please inform me immediately so that I may pursue an appropriate legal remedy. Meantime, you should ensure these public records are preserved. 1 V.S.A. § 320 (Destruction of public records is prohibited by law).

Except under extraordinary circumstances, Vermont law requires that you "promptly produce" public records. 17 V.S.A. § 318 (a). The statute allows a three day time period for you to respond, but only if you intend to withhold documents and need time to certify an exemption. 17 V.S.A. § 318 (a)(2). This three day time period was not intended to allow a state official to automatically avoid the prompt production requirements of the statute.

Pursuant to the Public Records Act, please also do the following:

- Produce any responsive documents to me electronically (please send to Brady@digtoe.com), if possible;
- Produce these documents promptly or certify within two business days why you are denying me access to them or any particular documents (this time limit may be extended only under certain conditions as outlined in 1 V.S.A. § 318);
- If you believe an otherwise public record is exempt from disclosure, produce a log with the page numbers of the documents, the date of the document, the people or entities who received copies, the authors of the document and a specific explanation (citing to the applicable exemption) for why a document has not been produced;
- If an otherwise public record has a portion that is exempt from disclosure, redact any exempt portion and release the redacted document together with a log (as described in the previous bullet);
- Inform me of the appeal procedures available to me if you withhold any documents;
- If you are unable to copy any material, identify the material and notify me when it will be available for my inspection; and
- Provide a written reply to this request.

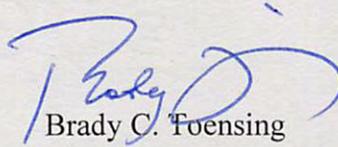
If you refuse to produce any responsive records to me, it would be helpful to Bates Number any such documents for easy reference and to avoid confusion in future proceedings regarding the failure to produce records.

I am willing to pay reasonable production fees, if necessary, but please call or email me first with an estimate as to the costs to produce these documents. Thank you for your assistance

The Honorable William H. Sorrell
May 12, 2015
Page 5

with this matter and I look forward to your response. If you have any questions, I can be reached at (202) 297-4245 or by email at Brady@digtoe.com.

Sincerely,



Brady C. Foensing

Exhibit A

From: Kalani, Lori E. <lkalani@orrick.com>
Sent: Friday, April 20, 2012 3:26 PM
To: Bill Sorrell
Subject: Do you have a personal email?

I would like to talk to you about a non work topic. Thanks.



O R R I C K

LORI KALANI

Senior Counsel

ORRICK, HERRINGTON & SUTCLIFFE LLP

51 WEST 52ND STREET
NEW YORK, NY 10019-6147

(el 212-506-5116

(ax 212-506-5151

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For more information about Orrick, please visit <http://www.orrick.com/>

Farnsworth, Karen

From: Griffin, Bill
Sent: Wednesday, May 27, 2015 7:37 PM
To: 'Brady Toensing'
Subject: Pending access to records requests
Attachments: 20150527174943248.pdf

Brady,

This is to confirm my understanding that we will proceed as follows on your several pending access to public records requests:

1. May 12, 2015 request for communications/documents to or from any of eleven State of Vermont employees and any of 40 individuals or entities during the period from January 1, 2012 to present.

Response: The Attorney General's Office invited three vendors to submit proposals for planning and conducting a search of State of Vermont emails to find responsive records. Two of the three informed me that they would submit proposals early next week. The Attorney General's Office will share the proposals with you and we can then discuss next steps.

2. May 12, 2015 request for communications to or from any of the eleven State employees and any email addresses containing any of four domain names.

Response: See response to item 1.

3. May 12, 2015 request for any communications/documents sent or received by any of the eleven State employees related to any election or campaign of Attorney General Sorrell.

Response: The Attorney General's Office will do an initial search for emails during the period March through September 2012.

4. May 12, 2015 request for any communications or documents about the outside counsel contract for litigation relating to MTBE, including communications with the Vermont Agency of Natural Resources.

Response: The Attorney General's Office will produce communications about the outside counsel contract, with minor redactions to protect attorney client information.

Our MTBE communications with ANR are voluminous. One Assistant Attorney General reported that he has communicated with 17 different officials and employees at ANR on potential and actual MTBE litigation. We discussed the possibility that you might narrow the scope of the ANR part of this request; for example, by requesting a one or two month sampling of communications from the AAG who reported the large number of communications. I will wait to hear from you before acting on this part of this request.

5. May 12, 2015 request for documents relating to the July 25, 2012 Attorney General's Guidance Regarding Independent Expenditure Committees.

Response: The Attorney General's Office will produce the document that prompted the Guidance and you will follow up as needed.

6. May 22, 2015 request for the attachment to Attorney Divonne Smoyer's email to Assistant Attorney General Ryan Kriger dated February 15, 2013.

Response: A redacted copy of the letter, which is a confidential settlement communication, is attached.

I hope this is a fair summary of the plan we discussed. Please let me know if any changes are needed.

Thank you.

Bill

Farnsworth, Karen

From: Griffin, Bill
Sent: Monday, July 13, 2015 10:29 AM
To: Brady Toensing (brady@digtoe.com)
Subject: May 12 access to records request -- Item 4 -- AGO/ANR communications

Brady,

This is to follow up on my May 27 email, my June 3 letter and our conversation last week about item 4 in your May 12, 2015 access to records request. Item 4 requested records relating to a contract for legal services for the MTBE litigation and communications with the Agency of Natural Resources. On June 3 the Attorney General's Office produced redacted copies of documents relating to the contract. Last week we discussed the communications between the AGO and ANR.

We limited the search for AGO/ANR communications to emails between Assistant Attorneys General Scot Kline and Gavin Boyles and four individuals at ANR. Scot and Gavin are the AAGs primarily responsible for the MBTE litigation in the AGO. Their primary contacts at ANR, for this case, are DEC Commissioner David Mears, DEC General Counsel Matt Chapman, Director of Waste Management Chuck Schwer and the former Director of Waste Management George Desch. We searched for emails from Scot or Gavin to David, Matt, Chuck or George – and vice versa – during the time period May 9, 2013 through May 9, 2014 (the date of the State of Vermont/Baron & Budd contract).

The search was reasonably thorough, but not high-tech. We did not bring in any IT resources. Rather, Scot and Gavin searched their MTBE and general email folders for messages to or from the four individuals at ANR, including messages on which they were copied, then searched for MTBE content. They identified 60 messages. (Our initial count was 54, but Scot did a final check after we spoke last week and identified a few additional items.)

All of these messages contain information relating to the Attorney General's representation of the State in the MTBE litigation, and the litigation is pending. *State v. Atlantic Richfield Co., et al.*, No. 340-6-14 Wncv. Therefore these communications are protected by 1 V.S.A. § 317(c)(3), (4) and (14).

Bill



diGENOVA & TOENSING, LLP
ATTORNEYS-AT-LAW

May 12, 2015

Via Email (bill.sorrell@state.vt.us)

The Honorable William H. Sorrell
Office of the Attorney General
State of Vermont
109 State Street
Montpelier, Vermont 05609

Re: Request for Appointment of Independent Counsel for Investigation of Vermont Attorney General.

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- Dorothy Budd;
- Dana Bykowski (also known as Dana Bykowski Ju);
- Richard Cassidy;
- Stefan Chodkowski (Stefan@democraticags.org);
- Dean Corren (dcorren@burlingtontelecom.net);
- Michael Crowell;
- Howard Dean;
- F. Philip "Phil" Fiermonte;
- Jeff Frank (jeff_frank@sanders.senate.gov);
- Jenifer Fuller;
- Nicholas M. Gess;
- Jacob Gillison;
- Terry Goddard;
- Lori Kalani;
- JB Kelly;
- Cindy Lott;
- Daniel McLean (Daniel_McLean@sanders.senate.gov);
- Bernie Nash (nashb@dicksteinshapiro.com);
- Christopher Pearson (cp@biglocomotive.net);
- Kenneth Pennington;
- Michael Pieciak (mspieciak@gmail.com);
- L. Michael Messina;
- Benjamin C. Metcalf;
- Patricia Madrid;
- Lisa Madrid;
- Senator Bernard Sanders;
- Jane Sanders;
- Divonne Smoyer;
- Robert Stannard;

¹ To assist in the search process, an email address, if known, has been included for some individuals. The listing of an email address, of course, does not necessarily mean that it was the only email address used for that individual and its listing should not be interpreted to limit those requests to just that address.

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- David Weinstein (David_Weinstein@sanders.senate.gov).

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 - Media Strategies, Denver, Colorado.
2. Any communications received from or sent to (including blind copied to) any email addresses with the following domains:
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 - @democraticags.org;
 - @dicksteinshapiro.com;
 - @Sanders.senate.gov.
 3. Any communications or documents related to any election or campaign of Attorney General Sorrell, including but not limited to, any complaints, compliance advice given to anyone, campaign contributions (in any form), working on a campaign, or any campaign events.
 4. Any communications or documents about retaining Baron & Budd, P.C., Weitz & Luxenberg, P.C., Pawa Law Group, P.C., or the Law Office of L. Michael Messina, P.A., for litigation regarding methyl tertiary butyl ether (MTBE), including but not limited to any communications with or documents discussing the Vermont Agency of Natural Resources.
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The Honorable William H. Sorrell

May 12, 2015

Page 4

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- If you believe an otherwise public record is exempt from disclosure, produce a log with the page numbers of the documents, the date of the document, the people or entities who received copies, the authors of the document and a specific explanation (citing to the applicable exemption) for why a document has not been produced;
- If an otherwise public record has a portion that is exempt from disclosure, redact any exempt portion and release the redacted document together with a log (as described in the previous bullet);
- Inform me of the appeal procedures available to me if you withhold any documents;
- If you are unable to copy any material, identify the material and notify me when it will be available for my inspection; and
- Provide a written reply to this request.

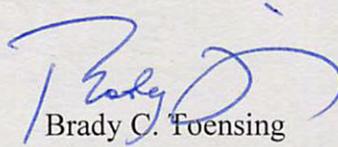
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The Honorable William H. Sorrell
May 12, 2015
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Sincerely,



Brady C. Foensing

Exhibit A

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Sent: Friday, April 20, 2012 3:26 PM
To: Bill Sorrell
Subject: Do you have a personal email?

I would like to talk to you about a non work topic. Thanks.



O R R I C K

LORI KALANI

Senior Counsel

ORRICK, HERRINGTON & SUTCLIFFE LLP

51 WEST 52ND STREET
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Farnsworth, Karen

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Response: A redacted copy of the letter, which is a confidential settlement communication, is attached.

I hope this is a fair summary of the plan we discussed. Please let me know if any changes are needed.

Thank you.

Bill

WILLIAM H. SORRELL
ATTORNEY GENERAL

SUSANNE R. YOUNG
DEPUTY ATTORNEY GENERAL

WILLIAM E. GRIFFIN
CHIEF ASST. ATTORNEY
GENERAL



STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER, VT
05609-1001

TEL: (802) 828-3171
FAX: (802) 828-3187
TTY: (802) 828-3665

<http://www.ago.vermont.gov>

June 3, 2015

Mr. Brady Toensing
2613 Greenbush Road
Charlotte, VT 05445

Re: May 12, 2015 Records Request - No. 5 (Independent Expense Guidance)

Dear Brady,

This is to follow up on my May 27 reply to the several access to records requests that you submitted on May 12. One of those requests asked for:

All documents related to the July 25, 2012 guidance from Attorney General Sorrell allowing unlimited PAC spending.

On July 25, 2012 the Attorney General's Office published a Guidance Regarding Independent Expenditure Committees. I agreed to produce the document that prompted the Guidance, with the understanding that you would follow up as needed.

Enclosed please find the July 18, 2012 email from the Director of Elections and Campaign Finance to the Attorney General's Office that prompted the Guidance published on July 25.

Very truly yours,

A handwritten signature in black ink, appearing to read "Bill", written over a white rectangular area.

William E. Griffin
Chief Assistant Attorney General

Enclosure

From: Kathleen Scheele <kscheele@sec.state.vt.us>
Sent: Wednesday, July 18, 2012 10:55 AM
To: Eve Jacobs-Carnahan; Megan J. Shafritz
Cc: Susanne Young

Good morning,

Jim Condos just told me that Todd Bailey from KSE is coming in to talk to him at 11:30. Todd called and said that he would be filing a bank designation and treasurer designation form on behalf of a PAC. He went on to tell Jim that he was enclosing with it a letter stating that it is a "Super PAC" and that it will be making only independent expenditures.

Jim has asked me to join him. I plan to explain to Todd that there is no such thing as a "Super PAC" under Chapter 59, Title 17. I also plan to give him a copy of the CF guide that discusses independent expenditures.

Please let me know if you think there is anything else to add.

Best Regards, Kathy

Kathleen C. Scheele
Director of Elections and Campaign Finance
Vermont Office of the Secretary of State
128 State Street, Montpelier, VT 05633-1101

802-828-2304

<http://www.sec.state.vt.us>, Click on Elections