

United States Senate

WASHINGTON, DC 20510

January 12, 2017

Walter M. Shaub, Jr.
Director
U.S. Office of Government Ethics
1201 New York Avenue, NW
Washington, D.C. 20005

Dear Mr. Shaub:

Thank you for your continuing efforts to ensure Senate committees, like the Senate Environment and Public Works Committee [EPW] on which we serve, have the information we need to review potential conflicts of interest faced by nominees of President-elect Trump.

We are in receipt of the Office of Government Ethics [OGE] certified financial disclosure report [Form 278] of Edward Scott Pruitt, nominee to be the Administrator of the Environmental Protection Agency [EPA]. After reviewing Mr. Pruitt's information, we are concerned that the record presented may not provide a complete picture of ethical issues faced by this nominee.

Since the Supreme Court's decision in *Citizens United*, we have entered into an unprecedented and dangerous time in which massive and often anonymous corporate political spending threatens to corrupt our government. OGE's ethics review focuses primarily on a nominee's personal financial interests, and appears not to address a nominee's history of political solicitations and activity. Corporations spend their money to get results, so it is now more important than ever that we have a full disclosure of a nominee's ties to the industries he or she will be charged with regulating. This is particularly important where a nominee may have solicited or raised "dark money" from interests to which they thus may be beholden.

During his tenure as Attorney General of Oklahoma, Mr. Pruitt has blurred the distinction between official and political actions, often at the behest of corporations he will regulate if confirmed to lead EPA. While the disclosures Mr. Pruitt made to OGE may be sufficient to ascertain his personal financial conflicts of interest, they do not document conflicts he may have as a result of political activities. Public reporting based on documents produced by Freedom of Information Act requests illustrate how Mr. Pruitt and members of his staff have worked closely with fossil fuel lobbyists to craft his office's official positions. Public reporting has also identified numerous potential conflicts of interest not disclosed on his Form 278 or addressed in his ethics agreement. For example:

- Pruitt indicated on his Form 278 that he has served in various positions, including Chairman, of the Rule of Law Defense Fund [RLDF] since 2014. Because RLDF is organized under section 501(c)(4) of the Internal Revenue Code, it can receive unlimited contributions from individuals, corporations, and partnerships and need not disclose the identities of its donors, donors who may have been solicited directly by Mr. Pruitt in exchange for the RLDF advocating certain positions.

- Although Mr. Pruitt served as Chairman of the Republican Attorney Generals Association [RAGA] for two terms, his affiliation was not listed on his OGE disclosures. Since 2014, RAGA has received nearly \$4 million from fossil fuel-related entities, many of which are either companies regulated by EPA or industry trade associations.¹ According to campaign finance records and the RLDF's 990s, hundreds of thousands of dollars have passed between the RLDF and RAGA. Recently released emails show that RAGA has provided services such as chartered airplane flights to its members. Mr. Pruitt's OGE disclosures do not include information about any gifts or in-kind donations Mr. Pruitt received from RAGA or other groups with which he's been involved.
- It has been reported that Mr. Pruitt is, or has been, affiliated with at least three other political action committees [PACs]: Liberty 2.0, Oklahoma Strong Leadership, and Scott Pruitt for Attorney General. These PACs have received contributions from numerous corporations that are regulated by EPA.² Many of these are challenging EPA standards in court along with Mr. Pruitt. Mr. Pruitt's OGE disclosures do not include any of this information.³

To better understand the types of information Mr. Pruitt is required to disclose and the potential conflicts of interest that may remain outstanding, we would appreciate answers to the following questions:

- Did Mr. Pruitt provide OGE any information about the identity of RLDF donors, amounts contributed, and any promises made or actions taken by him or the RLDF in exchange for donations made to it?
- Did Mr. Pruitt provide OGE any information about his positions with RAGA, any role he played soliciting money for RAGA, what resulted from those solicitations, or any promises made or actions taken by him or RAGA in exchange for donations made to it?
- Did Mr. Pruitt provide OGE with any information about gifts, such as any RAGA-sponsored chartered flights he may have been on?
- Did Mr. Pruitt disclose contributions to section 527 PACs operating on his behalf?
- Does OGE require nominees to provide information about the types of groups described above as part of its vetting process? If so, is OGE satisfied that it has received complete disclosures from Mr. Pruitt? Is OGE aware of any other avenues that will require Mr.

¹ These include Devon Energy, ExxonMobil, Koch Industries, Murray Energy, and Southern Company, and several industry trade associations, such as the American Petroleum Institute, American Fuel and Petrochemical Manufacturers, and National Mining Association. All of these entities have been involved in litigation Mr. Pruitt has pursued against the EPA and representatives from at least three had private meetings with Republican Attorneys General and staff at RAGA events.

² Murray Energy was the leading contributor to Liberty 2.0 in the 2016 election cycle and executives from Devon Energy and Alliance Resources maxed out to Oklahoma Strong Leadership in 2016. Devon Energy, Koch Industries, Arch Coal, and ExxonMobil all contributed thousands to Scott Pruitt for Attorney General when he was last up for reelection during the 2014 cycle.

³ Just last week we learned that a new 501(c)(4) organization, Protecting America Now, has formed specifically to support Mr. Pruitt's confirmation. This new dark money organization is promising anonymity to donors who contribute to its efforts on behalf of Mr. Pruitt. With so many fossil fuel interests having publicly supported to Mr. Pruitt's political organizations in the past, it would come as little surprise if many of these same interests are now supporting his nomination anonymously.

Pruitt to disclose this information to EPA's Designated Agency Ethics Official during his tenure as Administrator, if confirmed?

For your information, attached to this letter is a letter we are sending today to EPA requesting additional information on its recusal and waiver process. The EPW Committee has scheduled Mr. Pruitt's confirmation hearing for January 18th. Accordingly, we respectfully request responses to these questions prior to the date of the hearing.

Sincerely,



Thomas R. Carper
United States Senator



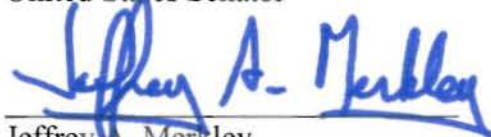
Sheldon Whitehouse
United States Senator



Benjamin L. Cardin
United States Senator




Bernard Sanders
United States Senator



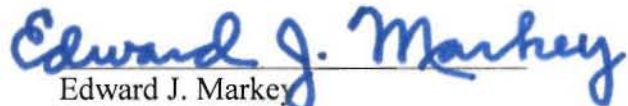
Jeffrey A. Merkley
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Kirsten Gillibrand
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Cory A. Booker
United States Senator



Edward J. Markey
United States Senator



Tammy Duckworth
United States Senator

Enclosure: letter to Kevin Minoli, Designated Agency Ethics Official, U.S. Environmental Protection Agency