

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

*October 15, 2009*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- Three senior ACCCE executives, including myself, have been reprimanded and received substantial financial penalties.
- ACCCE staff have implemented a Public Policy Outreach Code of Conduct, which will be formally reviewed by the board of directors at the annual meeting in November. This policy requires compliance by all ACCCE employees, contractors, and subcontractors. The policy includes:
  - Additional procedures requiring that all communications to elected or appointed officials be fully verified by subcontractors, contractors, and ACCCE.
  - Requirements that any communications be sent directly from the author. Communications will not be collected or forwarded to officials by ACCCE or its consultants and contractors.

- Penalties for failure to verify communications to elected or appointed officials.
- Strict internal controls for approving any materials disseminated to the public or to policymakers.
- ACCCE has informed Bonner and Associates that it will not be paid for any of the work it performed under the contract with Hawthorn and that Bonner and Associates will never perform work for ACCCE again.

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

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

- (1) ACCCE had no knowledge of—or participation in—the generation of the fraudulent letters;
- (2) ACCCE in no way ordered, authorized, condoned, or encouraged the generation of fraudulent letters to Members of Congress; and

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

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

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

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