

ONE HUNDRED TWELFTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
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November 9, 2011

The Honorable Fred Upton
Chairman
House Energy and Commerce Committee
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Cliff Stearns
Chairman
Subcommittee on Oversight and Investigations
House Energy and Commerce Committee
2125 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Upton and Chairman Stearns:

We write to express our extreme concern over your selective release today of three e-mails in conjunction with the Solyndra investigation. The e-mails you have released present a misleading and inaccurate account to the public. In fact, you have documents and communications in your possession that contradict the three e-mails you released today, yet you did not release them.

At your request, George Kaiser was interviewed by Committee staff yesterday for two hours. Many e-mails were presented to Mr. Kaiser for his comment, including some of the e-mails you released. In key instances, he directly contradicted your interpretations of the documents you released today. But you also failed to disclose this. This is wrong and an unfair smear of Mr. Kaiser.

During the course of the investigation, you have both made repeated assertions that the White House gave Solyndra special treatment at the request of Mr. Kaiser. Chairman Stearns has said that the Administration "give[s] some of this money out to people who are either

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contributors or strong supporters.”¹ Chairman Stearns has also said the Committee’s investigation “reveal[s] a startlingly cozy relationship between wealthy donors and the President’s confidantes, especially in matters related to Solyndra.”² Chairman Upton stated the investigation “portrays a disturbingly close relationship between President Obama’s West Wing inner circle, campaign donors, and wealthy investors that spawned the Solyndra mess.”³

To investigate the issue of alleged political influence over the decision to award a loan guarantee to Solyndra, the Committee requested documents from Argonaut Ventures I, the firm that made the investments in Solyndra for the George Kaiser Family Foundation, and sought an opportunity to interview Mr. Kaiser. In response to these requests, Argonaut provided 57,000 pages of documents to the Committee on September 30 and November 4, 2011, and Committee staff interviewed Mr. Kaiser on November 8, 2011. The Committee has also asked multiple Administration officials in hearings and interviews about Mr. Kaiser’s influence.

Because the Committee’s investigation is still continuing, final conclusions cannot yet be drawn. The record before the Committee, however, does not provide support for the allegations that Mr. Kaiser lobbied the White House for Solyndra. To the contrary, the evidence the Committee has received to date supports the opposite conclusion: neither Mr. Kaiser nor individuals working for him lobbied the White House or asked White House officials to intervene in agency decisions on behalf of Solyndra. The evidence that Mr. Kaiser did not lobby the White House comes from three separate sources: (1) Mr. Kaiser’s statements to the Committee in his interview; (2) the documents provided by Argonaut to the Committee; and (3) the statements of Administration officials who have been interviewed by the Committee staff or who have testified before the Committee.

Mr. Kaiser’s Statements

In his interview, Mr. Kaiser stated, “I never lobbied for Solyndra.”⁴ He said he did not ask anyone in the White House to intervene on behalf of Solyndra, and he did not urge Secretary

¹ *Obama fundraiser got clean energy aid, then perch to advise Energy Secretary*, The Center for Public Integrity iWatch News (Mar. 30, 2011) (online at www.iwatchnews.org/2011/03/30/3845/green-bundler-golden-touch).

² Congressman Cliff Stearns Press Release, *Stearns Expands Investigation into West Wing Involvement with Solyndra* (Oct. 5, 2011) (online at stearns.house.gov/index.cfm?sectionid=134&parentid=6§iontree=6,134&itemid=1910).

³ House Committee on Energy and Commerce, *Upton, Stearns Comment on Explosive White House Documents on Solyndra* (Oct. 7, 2011) (online at <http://energycommerce.house.gov/News/PRArticle.aspx?NewsID=9004>).

⁴ House Committee on Energy and Commerce, Interview of George Kaiser (Nov. 8, 2011).

Chu to take action on Solyndra's loan guarantee application. He explained that he has philanthropic interests in the areas of early childhood education and national energy policy and that his contacts with White House officials were focused on these topics. He said that he "regularly refused" requests to intervene on his private interests, stating he "didn't want to talk to anyone in government about anything other than my charitable interests." He said that mixing investment requests with other requests discredits the purposes of a charitable request or policy ask. He did not want to commingle his charitable interests with his for-profit investments.⁵

Mr. Kaiser described for the Committee a series of meetings that he had at the White House in March 2009 and an additional meeting on February 24, 2010. In March 2009, Mr. Kaiser met with Pete Rouse, then-Senior Advisor to the President, Austan Goolsbee of the National Economic Council, Heather Zichal, Deputy Assistant to the President for Energy and Climate Change, and others. In these meetings, he discussed early childhood education and a report from the National Energy Policy Institute, an energy policy think tank he funds. According to Mr. Kaiser, he did not mention Solyndra at any of the March 2009 meetings.⁶

On February 24, 2010, Mr. Kaiser said he and Ken Levit, the Executive Director of the George Kaiser Family Foundation, met with six or seven Administration staff to discuss the foundation's efforts to build a park in Tulsa powered by on-site geothermal energy and a study from the National Energy Policy Institute on a new national energy policy. During the meeting, Administration staff asked Mr. Kaiser why the NEPI study did not address renewable energies as part of its assessment of options for reducing reliance on traditional fossil fuels. Mr. Kaiser stated his opinion that there was not much improvement that could be made for certain renewable technologies, like wind power, but improvements could be made for solar power. He explained that dozens of companies were working on new technologies and disclosed that "we have an interest in one of them." At that point, someone in the room mentioned Solyndra, and Mr. Kaiser or Mr. Levit acknowledged their interest in the company. Mr. Kaiser said that the Administration staff knew about Solyndra and expressed a positive reaction to the company, which surprised him.⁷

The Argonaut E-Mails

Mr. Kaiser's account is confirmed by the internal e-mails the Committee received. They show Mr. Kaiser was concerned about any appearance that he was trying to influence the White House and rejected suggestions that he intervene on behalf of Solyndra.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

On February 7, 2010, Mr. Kaiser e-mailed Ken Levit to express concern whether the media might link approval of the Solyndra loan guarantee to his campaign contributions, writing:

S'pose an investigative reporter will ever make an association between an early Obama supporter and majority shareholder (through "his" charity) in the entity that received one half billion (or two total billion) dollar loan guarantee(s)? Solyndra is still the only recipient through that program.⁸

Mr. Levit responded: "I've wondered about it, given the WH lists, etc. The truth is that the name of the company has never crossed your lips with the Administration (not so with Congress) and we've certainly never lobbied for the company."⁹

In Mr. Kaiser's interview with Committee staff, he stated this e-mail was "unfortunately predictive," and he explained he wrote the e-mail because he was worried about this allegation even though there was no substance underlying it. He also said that while he avoided contacting the White House, he and his foundation staff did contact Congressmen and Senators about Solyndra, including Senators Coburn and Inhofe.¹⁰ This is confirmed by e-mails produced to the Committee. In an e-mail dated November 7, 2009, Mr. Levit forwarded a link on Solyndra to Representative John Sullivan, writing, "Hoping to bring the next plant to Tulsa. Foundation owns 1/3 o[f] company."¹¹ In response, Mr. Sullivan wrote: "Looks like a great company. Hope you get them to come to Tulsa."¹²

In early October 2010, Mr. Kaiser was asked to contact the White House on behalf of Solyndra by Steve Mitchell, Managing Director of Argonaut and member of Solyndra's Board of Directors. Mr. Mitchell wrote Mr. Kaiser:

the consensus is that a meeting with the new White House Chief of Staff is the best avenue to approach the administration for support on the DOE front and for assistance in securing any type of procurement commitments [from] the government or the military.

⁸ E-mail from George Kaiser to Ken Levit, Executive Director, George Kaiser Family Foundation (Feb. 7, 2010) (AVI-HCEC-55285-7).

⁹ E-mail from Ken Levit, Executive Director, George Kaiser Family Foundation, to George Kaiser (Feb. 7, 2010) (AVI-HCEC-55285-7).

¹⁰ House Committee on Energy and Commerce, Interview of George Kaiser (Nov. 8, 2011).

¹¹ E-mail from Ken Levit, Executive Director, George Kaiser Family Foundation, to Rep. John Sullivan (Nov. 7, 2009) (AVI-HCEC-8925).

¹² E-mail from Rep. John Sullivan, to Ken Levit, Executive Director, George Kaiser Family Foundation (Nov. 8, 2009) (AVI-HCEC-8925).

Both Robert W. and Jason mentioned that you or Ken Levit may have a fairly good relationship there. Are you open to helping Solyndra secure a meeting[?]¹³

Mr. Levit was copied on this e-mail. Ten minutes after Mr. Mitchell's e-mail was sent, Mr. Levit objected to the proposal and said that Solyndra's lobbyists should lobby for Solyndra, not Mr. Kaiser or his foundation. Mr. Levit wrote: "It's really quite hard to engineer an ask like that to WH Chief of Staff from GKFF or GBK. Our relationship is based on completely different issues. George may feel differently but I think it's real tricky."¹⁴ Mr. Levit also emailed Robert Thomas, the Chief Investment Officer at George Kaiser Family Foundation, to express his concern, writing: "this just feels like a totally inappropriate level of pressure on GK re WH. Blows up all the credibility that we[']ve build up over two years."¹⁵ Mr. Thomas e-mailed back to ask: "is the concern that the philanthropy angle we have been taking with the white house to drive education, energy policy etc will simply look like a r[u]se if we demand help with a commercial endeavor?"¹⁶ Mr. Levit responded, "Yeah."¹⁷

Mr. Kaiser also rejected the suggestion that he or his foundation intervene. He responded to Mr. Mitchell:

I question the assumption that WH is the path to pursue when both of your issues are with DOE. I doubt whether Rouse/Browner would intervene and, if they did, I am concerned that DOE/Chu would resent the intervention and your problem could get more difficult. I would see an appeal as only a last resort and, even then, questionable.¹⁸

¹³ E-mail from Steve Mitchell, Managing Director, Argonaut, to George Kaiser et al. (Oct. 6, 2010) (AVI-HCEC-17816-20).

¹⁴ E-mail from Ken Levit, Executive Director, George Kaiser Family Foundation, to Steve Mitchell, Managing Director, Argonaut, and George Kaiser (AVI-HCEC-28336-8).

¹⁵ E-mail from Ken Levit, Executive Director, George Kaiser Family Foundation, to Robert Thomas, Chief Investment Officer, George Kaiser Family Foundation (Oct. 6, 2010) (AVI-HCEC-55682-6).

¹⁶ E-mail from Robert Thomas, Chief Investment Officer, George Kaiser Family Foundation, to Levit, Executive Director, George Kaiser Family Foundation (Oct. 6, 2010) (AVI-HCEC-55682-6).

¹⁷ E-mail from Ken Levit, Executive Director, George Kaiser Family Foundation, to Robert Thomas, Chief Investment Officer, George Kaiser Family Foundation (Oct. 6, 2010) (AVI-HCEC-55682-6).

¹⁸ E-mail from George Kaiser, to Steve Mitchell, Managing Director, Argonaut, and Ken Levit, Executive Director, George Kaiser Family Foundation (Oct. 6, 2010) (AVI-HCEC-28386-91).

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Mr. Mitchell contacted executives at Solyndra. He explained that Mr. Kaiser and the foundation “have spent a great deal of time working Washington to develop relationships for George’s early childhood education and intervention of poverty. At some level I’m sure Ken just doesn’t want to muddy the waters on getting involved on a business front. Ken does have a foundation for understanding Washington as he was George Tenet’s right hand guy at the CIA some time ago.”¹⁹

Jason Martin, who like Mr. Mitchell worked for Argonaut, urged Mr. Mitchell to press harder for intervention by Mr. Kaiser and Mr. Levit. He suggested Mr. Mitchell “call Ken and tell him that u see the \$400 m GKFF has in Solyndra and GKFF philanthropic mission as ‘inextricably linked.’”²⁰ In a subsequent e-mail, he wrote: “And if you want to get really practical ... without DOE flexibility on loan terms, we will lose \$400MM. Are we expecting our conversations with the WH on our charitable initiatives to yield \$400MM cash? If not, we need to change the conversation with them right now.”²¹

Mr. Kaiser in his interview was asked specifically about these documents and categorically stated he did not contact the White House as requested by Mr. Mitchell.²²

On October 22, 2010, Mr. Kaiser attended a fundraising dinner with President Obama and Senate Majority Leader Harry Reid in Las Vegas. In preparation for this meeting, Mr. Kaiser asked Mr. Mitchell for some “sound bytes for tomorrow night ... showing how green energy manufacturing from American designs is going overseas to China. A solar company we own can get orders from Spain and Belgium and Hungary but not from the DOD.”²³ In response, Mr. Mitchell provided Mr. Kaiser with detailed talking points that “would be very helpful for US solar manufacturers – not just Solyndra.”²⁴ The talking points included requesting an “Extension of the grant program,” a “Manufacturing tax credit for solar,” the creation of a “Green

¹⁹ E-mail from Steve Mitchell, Managing Director, Argonaut, to John Gaffney, Solyndra, and Bill Stover, Solyndra (Oct. 6, 2010) (AVI-HCEC-28336-8).

²⁰ E-mail from Jason Martin, Advisor, Argonaut Equity, to Steve Mitchell, Managing Director, Argonaut (Oct. 6, 2010) (AVI-HCEC-28339).

²¹ E-mail from Jason Martin, Advisor, Argonaut Equity, to Steve Mitchell, Managing Director, Argonaut (Oct. 6, 2010) (AVI-HCEC-28339).

²² House Committee on Energy and Commerce, Interview of George Kaiser (Nov. 8, 2011).

²³ E-mail from George Kaiser, to Steve Mitchell, Managing Director, Argonaut (Oct. 21, 2010) (AVI-HCEC-33066).

²⁴ E-mail from Steve Mitchell, Managing Director, Argonaut, to George Kaiser (Oct. 21, 2010) (AVI-HCEC-33058-60).

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Bank/Clean Energy Development Authority,” and “Buy American application to military power purchase agreements.”²⁵

Mr. Kaiser was not pleased with receiving so much detail. He wrote:

I’m sorry I asked. I’ll come up with something. I wanted the most important sound byte, not a Swiss Watch factory design. This is a social dinner with the President and Majority Leader, not a business meeting with staff. I’ll probably get the opportunity for two questions (unless they seat me next to him) – one on Early Childhood Education and I’ll come up with one on Chinese competition and green jobs or preferential government purchasing for companies whose products have majority local content.²⁶

Mr. Kaiser also received information from Mr. Levit in preparation for his dinner with the President. Mr. Levit suggested talking points for Mr. Kaiser for a comment to Jim Messina. Mr. Levit suggested “an aside to Messina that sounds like ‘Jim, is there an effective, appropriate channel to make the case to DOD for Solyndra product given the fact that the USG has an important stake in the company? No desire to jump in front of process but seems like Administration has a legitimate interest in making sure the Solyndra product has every opportunity to complete in the DOD process. Is there a person an appropriate person either at WH or DOD who looks at these kinds of things? If so, how best to secure a conversation?’”²⁷

After the dinner, Mr. Kaiser reported to Mr. Levit:

OK, I’ll admit it. It was pretty intoxicating. Two hours at dinner. They sat me right next to Him. Charming and incisive as always. Casual conversation; not speechifying. The only question he declined was the one I asked him about whether there were prominent Taliban leaders in the current discussions.

Got a fair amount of points made and especially the connection. He volunteered before I said anything that we were the national model for ECE [Early Childhood Education]. I asked about ELCF [Early Learning Challenge Fund] and he said what we wanted to hear. I talked in general about the Chinese and solar but didn’t want to get too specific with

²⁵ *Id.*

²⁶ E-mail from George Kaiser, to Steve Mitchell, Managing Director, Argonaut (Oct. 22, 2010) (AVI-HCEC-33058-60).

²⁷ E-mail from Ken Levit, Executive Director, George Kaiser Family Foundation, to George Kaiser (Oct. 21, 2010) (AVI-HCEC-17803).

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him. Talked to Messina about government agencies bypassing the Buy American Act and he said they were drafting a directive. I never mentioned Solyndra directly.²⁸

Mr. Kaiser also e-mailed Mr. Mitchell with a summary of his dinner with the President. He wrote:

I did not name Solyndra specifically and don't know how good his staff work was but I did talk to him about the Chinese subsidy over the past nine months and the effect it was having on US solar and wind manufacturers and that – even though I strongly believe in free trade – I thought that a more aggressive trade policy with the Chinese was essential. ... I also spoke with Jim Messina (deputy chief of staff to both Rahm Emanuel and Pete Rouse) who was chief of staff for the 2008 campaign and will soon resign to run the next campaign. I said that I understood that the Buy American Act was being bypassed by “agencies of government” (I didn't say specifically DOD) either by buying from “American” companies which sourced their supplies from abroad or by entering into power purchase agreements with third parties who in turn sourced their equipment from non-American suppliers. He seemed quite aware of that problem and said they were preparing a directive to deal with it. I can follow up with him on that subject during a trip to DC early next year if he is still in the White House (or with Pete Rouse).²⁹

In Mr. Kaiser's interview, he confirmed that he did not mention Solyndra to the President during the course of the two-hour dinner. In fact, he said he could recall only one time when he possibly mentioned Solyndra to White House officials. This was the February 24, 2010, meeting with Administration staff working on the stimulus.³⁰

Mr. Kaiser's account is consistent with communications provided to the Committee. On March 6, 2010, Mr. Kaiser wrote “a couple of weeks ago when Ken and I were visiting with a group of Administration folks in DC who are in charge of the Stimulus process (White House, not DOE) and Solyndra came up, every one of them responded simultaneously about their thorough knowledge of the Solyndra story, suggesting it was one of their prime poster children.”³¹ Mr. Levit colorfully reported to Steve Mitchell on the positive response they

²⁸ E-mail from George Kaiser, to Ken Levit, Executive Director, George Kaiser Family Foundation (Oct. 23, 2010) (AVI-HCEC-17739).

²⁹ E-mail from George Kaiser, to Ken Levit, Executive Director, George Kaiser Family Foundation (Oct. 29, 2010) (AVI-HCEC-28006).

³⁰ House Committee on Energy and Commerce, Interview of George Kaiser (Nov. 8, 2011).

³¹ E-mail from George Kaiser to Steve Mitchell, Managing Director, Argonaut (Mar. 6, 2010) (AVI-HEC-33559-60).

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received when they mentioned Solyndra, writing, “They about had an orgasm in Biden’s office when we mentioned Solyndra.”³²

Statements of Administration Officials

In addition to reviewing the Kaiser documents and interviewing Mr. Kaiser, the Committee staff has held interviews and substantive briefings with five current or former Department of Energy and Office of Management and Budget officials and the Committee has taken testimony from four additional officials from DOE, OMB, and the Treasury Department. All nine of these officials have confirmed that Mr. Kaiser’s donations to the President played no role in their decision making and the decision making of career staff on the Solyndra loan guarantee, that they were never instructed to take any action as a result of Mr. Kaiser’s donations to the President, and that they have no reason to believe Mr. Kaiser’s donations to the President played any role in the Solyndra loan guarantee.

Conclusion

In your letter today to the White House Counsel, you say the three e-mails you released show that “Mr. Kaiser and/or his operatives discussed Solyndra with White House officials” and “directly contradict” White House statements that “no political influence was brought to bear with regard to Solyndra.” None of your three e-mails support this claim.

In one e-mail, Mr. Mitchell states, “we do have a contact within the White House that we are working with.” In the same e-mail chain, Mr. Kaiser responds, “Why don’t you pursue your contacts in the WH.” During the interview with Mr. Kaiser yesterday, your staff asked Mr. Kaiser about this document and suggested that it showed that Mr. Kaiser was lobbying the White House. Mr. Kaiser told us that this was not accurate. He said he and Mr. Mitchell were referring to a White House contact that Solyndra had, not a contact that Mr. Kaiser had. Other e-mails confirm that Mr. Kaiser’s position was that Solyndra should do its own lobbying.

The other two e-mails refer to the February 24, 2010, meeting, which is described above. To cite that meeting as an example of improper influence is a stretch, to say the least.

³² E-mail from Executive Director, George Kaiser Family Foundation, to Steve Mitchell, Managing Director, Argonaut (Feb. 27, 2010) (AVI-HCEC-55225).

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We are growing increasingly concerned about the partisan way in which you are conducting the investigation. We support an investigation of Solyndra, but it should be fair and evenhanded. The tactics you are using – holding empty chair hearings, humiliating witnesses, denying Democratic requests for witnesses, seeking gratuitous conflicts with the White House, and now releasing misleading excerpts from e-mails – are unfair and reflect poorly on the Committee's objectivity.

Sincerely,



Henry A. Waxman
Ranking Member
Committee on Energy
and Commerce



Diana DeGette
Ranking Member
Subcommittee on Oversight
and Investigations