

Congress of the United States

Washington, DC 20515

September 9, 2024

Mr. Mike Sommers
President and Chief Executive Officer
American Petroleum Institute
200 Massachusetts Avenue NW, Suite 1100
Washington, DC 20001

Dear Mr. Sommers:

We write to request improvement of your woefully inadequate response to our May 13 and 23, 2024 letters about the April 11, 2024 fundraising event at which former President Donald Trump reportedly laid out a proposed *quid pro quo*: in exchange for \$1 billion in campaign cash from oil and gas executives, he would agree to implement specific regulatory and tax measures supported by the oil and gas industry, if re-elected. Concurrent reporting by *Politico* revealed that the oil and gas industry was drafting “ready-to-sign” executive orders for a possible second Trump administration.¹ Your response did not attempt to refute the accuracy of this reporting. Accordingly, we offer you another chance to cooperate with this bicameral, multi-Committee investigation.

In your May 28 letter to Ranking Member Raskin and June 6 letter to Chairmen Whitehouse and Wyden, and during a June 21 call between your attorneys and Senate Budget and Senate Finance staff, API failed entirely to address any of the inquiries outlined in our letters. Instead, API accused the Committees of political gamesmanship and chilling protected speech. However, API’s responses were telling in one key respect: they neither denied possessing relevant information and documents nor refuted the public reporting about the proposed *quid pro quo*.

We received similarly deficient responses from the other subjects of the investigation, Some have erroneously asserted that this investigation could serve no legislative purpose or is outside the jurisdiction of the inquiring Committees. The rules of the House and Senate are clear that the inquiring Committees have jurisdiction to conduct investigations concerning these matters,² including in the consideration of legislation pertaining to tax policy, anti-trust, bribery, campaign finance, and ethics, among other things.

¹ *‘A Little Bold and Gross’: Oil Industry Writes Executive Orders for Trump to Sign*, Politico (May 8, 2024) (online at www.politico.com/news/2024/05/08/oil-industry-orders-trump-day-one-00156705).

² See House Rule X(4)(c)(2); Senate Rule XXV(e)(2)(B)-(C); Senate Rule XXV(i)(1). Rule X(4)(c)(2) of the House of Representatives states clearly that the House Oversight Committee “may at any time conduct investigations of any matter.” Senate Rule XXV(e)(2)(B)-(C) confers on the Senate Budget Committee the authority to “make continuing studies of the effect on budget outlays of relevant existing and proposed legislation, to “request and evaluate continuing studies of tax expenditures,” and “to devise methods of coordinating tax expenditures, policies, and programs with direct budget outlays”—including, for example, legislation and spending relating to government fiscal policy that supports the oil and gas industry. The Senate Finance Committee, similarly, has broad jurisdiction over tax and trade legislation.

Some of the responses cited the First Amendment to withhold information, an argument neither credible nor based in law. On May 23, 2024, House Oversight Chairman James Comer responded on behalf of his oil and gas industry allies that Ranking Member Raskin’s inquiry was not only an “assault on the private sector but a naked attempt to chill rights protected by the Constitution under the First Amendment.”³

The Committees’ investigation is entirely consistent with the First Amendment and with Congress’s duty to investigate and protect against the corruption of our political processes and democracy. As courts have repeatedly affirmed, the First Amendment does not excuse companies from producing records in response to congressional requests.⁴ It is a novel and unsupported theory of “privilege” to constrain investigative and oversight authority when the subject is a matter of public debate, legislative lobbying, or political influencing. Such a theory would eviscerate Congressional investigative and oversight authority to meaninglessness.

Furthermore, it is well-established that the First Amendment does not protect bribery, extortion, racketeering and the sale of legislation and public policy. Free speech does not comprehend the quid pro quo exchange of money for public policy favors. Congress thus clearly has the right to investigate and regulate the cold-cash commodification of government process.

In the weeks since our initial letters, the behavior of Donald Trump and the oil and gas industry has added to evidence of possible misconduct. At another fundraiser with Big Oil executives on May 22, 2024, one month after the proposed quid pro quo at Mar-a-Lago, Occidental Petroleum CEO Vicki Hollub complained about Federal Trade Commission (FTC) scrutiny of proposed mergers of oil and gas majors. In response, Donald Trump assured the executives present that, were he to be re-elected, he would pressure the FTC, an independent agency, to give favorable treatment to the oil and gas industry.⁵

Campaign finance records show that following Trump’s quid pro quo solicitation at least one company made a significant contribution in support of Trump’s presidential run. Specifically, on April 29, 2024, Continental Resources Inc. contributed \$1 million to Make America Great Again, Inc.—a super PAC dedicated to Trump’s reelection.⁶ Continental’s CEO,

³ Letter from Chairman James Comer, House Committee on Oversight and Accountability, to Ranking Member Jamie Raskin, House Committee on Oversight and Accountability (May 23, 2024) (online at <https://oversight.house.gov/wp-content/uploads/2024/05/CJC-Letter-to-Raskin-Re-Energy-Inquiries.pdf>).

⁴ See, e.g., *Konigsberg v. State Bar of California*, 366 U.S. 36, 49-50 (1961) (rejecting the notion “that freedom of speech and association, as protected by the First and Fourteenth Amendments, are ‘absolutes,’ not only in the undoubted sense that where the constitutional protection exists it must prevail, but also in the sense that the scope of that protection must be gathered solely from a literal reading of the First Amendment”); see also *Senate Permanent Subcom. on Investigations v. Ferrer*, 199 F. Supp. 3d 125, 139 (D.D.C. 2016).

⁵ *Trump suggests to oil donors he will fast-track their merger deals*, Washington Post (May 31, 2024) (online at www.washingtonpost.com/nation/2024/05/31/trump-oil-mergers-occidental-crownrock/).

⁶ Federal Election Commission, Schedule A (FEC Form 3X) Itemized Receipts for Make America Great Again Inc. (online at <https://docquery.fec.gov/cgi-bin/fecimg/?202405209648566108>) (accessed June 25, 2024).

Harold Hamm, who is also an informal adviser to Trump, has reportedly given \$1.6 million to aid Trump's reelection so far this year, and he has raised millions more from independent oil producers operating in Texas and Alaska.⁷

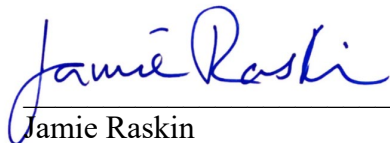
For all these reasons, we renew our requests for information and look forward to further engagement with you on this topic.



Sheldon Whitehouse
Chairman
Senate Committee on the Budget



Ron Wyden
Chairman
Senate Committee on Finance



Jamie Raskin
Ranking Member
House Committee on Oversight
and Accountability

⁷ *Oil Execs, Already Wary of Biden, See Path to Victory for Trump Following Debate*, E&E News (July 1, 2024) (online at www.eenews.net/articles/oil-execs-already-wary-of-biden-see-path-to-victory-for-trump-following-debate/).