

AKIN GUMP
STRAUSS HAUER & FELD LLP

Attorneys at Law

STEVEN R. ROSS
202.887.4343/fax: 202.887.4288
sross@akingump.com

August 12, 2009

The Honorable Edward J. Markey
Chairman
Select Committee on Energy Independence
and Global Warming
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Markey:

We represent Bonner & Associates (“B&A”) and respectfully submit this initial response to the Committee’s August 3, 2009 letter inquiring about the events surrounding the transmittal of fabricated letters to Members of Congress. As we previously advised Mr. Waldron of your staff, since being retained by our client we have been asked to conduct an internal investigation to determine all of the facts surrounding this unfortunate matter. Although we have not completed that inquiry, as promised, we are providing you our current understanding of the circumstances surrounding these events.

At this time, we believe our client has been the victim of a fraud committed by an individual who appears to have obtained temporary employment at B&A for the purpose, and with the pre-determined intent, of engaging in fraudulent activity. Although at this point we do not know the complete motivation of this individual, due to the serious implications of his actions, we have referred the matter to law enforcement authorities for proper investigation and will, of course, fully cooperate with both the Committee’s and their investigation.

But let one thing be clear, our inquiry indicates that the improper activity was undertaken without the knowledge or permission of B&A and that it was B&A supervisors who first discovered the fraud and immediately initiated corrective actions – all over a month before any press coverage of the events. As part of its corrective actions, B&A has already developed and is implementing the following five point action plan to earn the reputation as the industry leader for the highest quality standards. The first four initiatives have already been implemented and the fifth initiative will be implemented within 45 days. These concrete initiatives include:

Action 1: 100% call back verification of *all* groups that have signed statements of support to elected officials. The 100% call back verification will be conducted by permanent B&A staff who did not place the original calls. The 100% verification will occur *before* any letter is

August 12, 2009
Page 2

delivered to an elected official. We believe that this new policy will make B&A the only firm in this industry to go to this length to insure quality.

Action 2: ALL temporary workers will review and sign an ethics policy *before* employment begins.

Action 3: ALL resumes of prospective temporary employees will be verified by permanent B&A staff *before* temporary employee begins.

Action 4: ALL new employees will complete mandatory ethics training and pass an examination administered by permanent B&A staff to ensure the full understanding of B&A's ethics policies.

Action 5: B&A will retain an independent Ethical Standards Advisor who is well-regarded as maintaining the highest ethical standards and independence. The Ethical Standards Advisor will review B&A policies and work with B&A to improve its internal quality control system to the highest standards.

In hindsight, it is obvious that B&A, and others affected, would have been better served if there had been a more robust and timely control system in place and if there had been a clearer and more complete set of curative communications. But it is also clear that this incident, whatever its' motivation, was an anomaly in the lengthy and honorable operation of this business. While this was a fraud perpetrated against B&A, the manner in which it was done has demonstrated to B&A the need to develop and implement, in every instance, a more robust internal control system and they are committed to do so.

As background, for over twenty-five years, B&A has been recognized for its professionalism and integrity in the fields of grassroots and "grasstops" organizing. B&A's clients include not only corporations, but high-profile charitable and non-profit organizations. B&A is one of the premier consulting firms in the country dedicated to helping clients, regardless of their political affiliation, to educate political leaders on their issues by using innovative and time-tested techniques designed to recruit, educate and mobilize grassroots and "grasstops" supporters. In doing so, B&A locates and educates leaders from local organizations who share legitimate stakes in the issues important to the client. These supporters are then mobilized to take action by writing, calling or meeting with elected officials at the city, county, state and federal level.

August 12, 2009
Page 3

Over these twenty-five years, B&A's number one priority has been to provide its clients with the best possible service while maintaining the highest level of ethics and integrity. While B&A accepts full responsibility for allowing an individual who obtained temporary employment the opportunity to commit such a serious fraud upon not only itself, but also the very political process that our client has spent a professional career supporting, it has never experienced anything like this in its nearly quarter century of work in this arena.

Before answering the specific questions you asked, we would like to take this opportunity to provide you with results of our internal inquiry, to date. After months of discussions, on approximately June 10, 2009, B&A was retained by the Hawthorn Group ("Hawthorn") to identify and solicit the support of veteran, minority, and senior organizations who agreed with the legislative goals of the American Coalition for Clean Coal Electricity ("ACCCE") in seven specified congressional districts. As part of this contract, B&A would generate lists of organizations that were likely to share the views of ACCCE regarding the price of electricity. When those organizations were identified, they would be asked if they were willing to submit a letter to their Member of Congress expressing those views. If the organization agreed, a B&A representative would fax a sample draft of a letter. The organizations were free to make any changes to the text and could approve the letter by signing it and sending it back to B&A who would then transmit the letter to Capitol Hill.

Normally, for such a contract, B&A would be able to confirm the letters before their transmittal to Congress. Unfortunately, by the time the final agreement was reached with Hawthorn, there was less than two weeks for B&A to complete the entire project. Compounding this short time frame, one of B&A's seven permanent staff members, and the person scheduled to manage the ACCCE project, faced an unanticipated dire medical diagnosis that necessitated her taking an emergency leave of absence. Due to short staffing and an increased volume of other work, a substitute staff person could not devote full attention to quality control until after the project was completed and the letters delivered to Congress.

To carry out this two week contract, B&A hired five temporary employees, to staff the phone banks and call prospective veteran, minority and senior citizen organizations. A sixth permanent staff member was subsequently added to the team who worked remotely from home. One of these temporary employees was the individual who was responsible for the transmission of fabricated letters to Congress. This individual had been hired shortly after the contract was confirmed after submitting a resume and participating in a telephone interview. The resume was impressive and showed bipartisan political experience with extensive grassroots advocacy work.

August 12, 2009
Page 4

This individual worked for B&A for seven and one half business days. On his eighth day, after the discovery of the fabricated letters, he was immediately terminated and ushered off the premises. Through its initial investigation, B&A determined that the fired employee concocted a scam whereby he would create false names at legitimate organizations and then “forge” their signature on the letters authorizing their transmittal to Congress. In one case, the fired employee actually made up a fictitious local chapter of a legitimate national organization. (Copies of all the fabricated letters are attached at Tabs B and C.)

From our investigation, it appears that within his first hours on the job, on his very first day, Friday, June 12th, this individual “generated” five fabricated letters from the Charlottesville chapter of the NAACP. Further, based on the fax transmittal information on these initial five letters, it would appear that he had the assistance of an individual located at the offices of a professional liability insurance provider who would sign the letters and fax them back to the fired employee at B&A. As far as we can tell, there was no legitimate reason to send these letters or any other correspondence to this company since B & A has no business relationship with this firm or any employee of the firm.

During the next week, additional fabricated letters purporting to be from other organizations were “produced” through the fraudulent actions of this individual. Later that week a group of letters, which unbeknownst to anyone at B&A other the individual who had committed the fraud, included those which had been fabricated, were delivered to offices of members of the House.

On June 22nd and 23rd, in reviewing the delivered letters, a B&A employee concluded that the fired employee was responsible for twelve fabricated letters that were purportedly sent on behalf of eight organizations to three Members of Congress. Immediately upon determining the scope of the fraud, B&A informed its client, Hawthorn, who, in turn, advised B&A that they had notified ACCCE. In the following days, B&A personally contacted each of the eight organizations that were defrauded. B&A employees conducted in person meetings with some of the organizations to discuss what happened and to apologize.

On July 1, 2009, B&A contacted the offices of two of the three Members of Congress who received fabricated letters. On that date, messages were left with the Chiefs of Staff for Rep. Perriello and Rep. Dahlkemper. It is our understanding that although these calls were not initially returned, continued efforts were made by B&A to reach out to those Member’s offices. On July 13, 2009, B&A staff succeeded in directly speaking with congressional staff for Rep. Perriello and Rep. Dahlkemper about this matter. Unfortunately, due to a miscommunication, Rep. Carney’s office was not contacted at that time.

August 12, 2009
Page 5

While B&A takes full responsibility for what happened and recognizes that there are quality control and human resources improvements that can and will be made, it is difficult to defend against a person bent on committing fraud. B&A looks forward to constantly improving its internal systems and will assist your Committee and the U.S. Attorney for the District of Columbia in its investigation into this matter to the fullest extent possible.

The following will respond to the specific inquiries by the Committee.

1. The fabricated letters from the NAACP and Creciendo Juntos were part of a coordinated advocacy campaign to advance the legislative goals of ACCCE. The Hawthorn Group retained B&A to gather support from third-party organizations in certain congressional districts. B&A is not aware if Hawthorn is registered under the Lobbying Disclosure Act. B&A sent Hawthorn an invoice for \$43,500. No payment has been received.
2. B&A was retained by Hawthorn to develop third party organizational support in seven congressional districts: Virginia-2, Virginia-5, Pennsylvania-3, Pennsylvania-4, Pennsylvania-10, Oklahoma-2, and New Mexico-1. At this time, we cannot confirm how many of the fabricated letters were shared with Hawthorn before the fraud was uncovered. As described in detail above, as soon as the letters were determined to be fraudulent, Hawthorn was contacted and attempts were made to contact the affected congressional offices. B&A did so well before any press articles concerning this matter were written.
3. The fired employee had previously been employed by B&A for one day in June 2003 as a temporary employee on an entirely different matter. At that time, he used a different first name. With regard to the ACCCE project, on June 3, 2009, this individual responded to an advertisement that appeared in Roll Call and, after a phone interview, was hired. His first day of work was Friday, June 12, 2009. He worked seven days and on the eighth day, June 23, 2009, upon B&A discovering that the letters he generated contained fabrications, was immediately terminated. The fired employee was a temporary employee, not a contractor. Because it was concluded that the fired employee was the sole B&A employee to perpetrate this fraud, he was the only person fired.
4. In 2009, B&A employed two individuals as contractors for other client matters. B&A markets itself as being able to assemble a team of individuals who are able to perform the tasks necessary for the particular advocacy project. The vast majority of the individuals hired to generate grassroots or "grasstops" are temporary employees.

August 12, 2009

Page 6

5. On this engagement, B&A paid its temporary employees an hourly wage. There is no quota system. Due to the extremely short duration of this project, on Tuesday, June 16, 2009, an incentive program was announced to encourage and reward hard work. Compensation for temporary employees is not based on the amount of letters generated. However, temporary employees could earn a small bonus payment for additional letters generated within that employee's assigned district. It should be noted that the fired employee provided five fabricated letters on his first day of work, June 12, 2009, before the incentive program was even announced. Prior to the discovery of his fraudulent activity, since it had appeared that the fired employee met the requirements of the incentive program, he was paid a bonus on Friday, June 19, 2009.
6. One page of talking points was prepared to guide the temporary employees in their calls to third party organizations. The talking points are attached here at Tab A.
7. All temporary employees, including the fired employee, were paid a fair hourly wage. There is no quota system. Given the complicated legal issues surrounding employee compensation and before retaining counsel in this matter, B&A decided to pay the fired employee for the time he spent at B&A.
8. Rep. Perriello received eight fabricated and eight legitimate letters from B&A. Copies of each letter are attached here at Tab B.
9. Due to the time sensitivity of this contract and for the convenience of the organization, logos were copied from the organization's websites and inserted onto the draft letters. These drafts were then sent to the organization for their review, approval, and signature with the logo formatted as letterhead.
10. Rep. Kathy Dahlkemper (PA-3) and Rep. Christopher Carney (PA-10) were sent fabricated letters authored by the fired employee. Copies of those letters are attached at Tab C.
11. On every project, B&A takes steps to ensure the quality of their work. Due to being short-staffed and given the incredibly short time frame of this project, however, some letters were transmitted to Capitol Hill before they could be thoroughly reviewed. In keeping with B&A's usual practice, a permanent employee of B&A began to spot-check the letters by placing phone calls to verify their authenticity. Unfortunately, he was not able to start the process until June 22, 2009. Once the permanent staff member found the first fabricated letter, he called each organization that had purportedly signed a letter during this project to confirm their authenticity. This review determined that only twelve letters were fabricated and that each one was generated by one temporary employee who was immediately confronted and fired.

August 12, 2009
Page 7

12. No documents pertaining to this matter have been destroyed and a retention order has been initiated and remains in place pending the conclusion of the investigation.

* * *

Please let me know if you have any questions or desire to discuss any aspect of our response.

Sincerely,

A handwritten signature in black ink, consisting of a series of overlapping loops and a long horizontal stroke extending to the left.

Steven R. Ross
Counsel for Bonner & Associates

Enclosures

cc: Rep. F. James Sensenbrenner, Jr., Ranking Member
Rep. Thomas S. P. Perriello
Rep. Kathy Dahlkemper
Rep. Christopher Carney

Talking points for ACCCE

Relate to the group that you are approaching.

Examples:

Hi xyz, I am working with Seniors/Retirees to help stop their utility bills from doubling.

Hi xyz, I am working with Vets/Veterans/Veterans organizations to help stop their utility bills from doubling.

Make the conversation personal

Example:

How much do you pay for electricity? What would you cut out of you budget if your utility bill went from xxx to (double) every month? Would you right a letter to help stop that from happening?

Ask for a story to get support:

Example:

I am working with seniors to stop an increase in their utility bills. Do you know any senior that are struggling to get by on Social Security? {wait for a response} What would happen if their utility bill doubled? Would they not run the air-conditioner in the summer or not have heat in the winter? What else might they cut out of their budget to have electricity...food...medicine? I have a letter that other Senior groups have wrote would you write a similar one (OR) would you sign a similar letter?