

JONES DAY

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July 14, 2010

VIA HAND DELIVERY

Dr. Washington Pesántez Muñoz
Prosecutor General of Ecuador
Av. Eloy Alfaro N32 250 y República
Quito, Ecuador

Re: Fraud In Connection With The Expert Report Of Richard Stalin Cabrera Vega

Dear Dr. Pesántez:

My law firm represents Chevron Corporation, and I am writing to share certain evidence that recently has been uncovered in connection with the ongoing civil case pending against Chevron in Lago Agrio. This evidence demonstrates that the plaintiffs' representatives and consultants colluded with the court-appointed, supposedly independent expert, Richard Stalin Cabrera Vega, to illicitly pass off their work product as the work of Mr. Cabrera. Through this scheme, the plaintiffs' representatives and Mr. Cabrera violated the expert's obligations of transparency and impartiality, and they committed a fraud on the court, on Chevron, and on the public. We are sharing this evidence with you because of its potential criminal implications.¹

In 2007, the Lago Agrio court appointed Richard Stalin Cabrera Vega to a unique role as an "auxiliary" to the judge. Mr. Cabrera's appointment came after the partial completion of the judicial-inspection process originally ordered by the court for specific sites. He was appointed as the court's sole expert to conduct a global assessment of environmental impacts in the concession area in which Texaco Petroleum Company and Petroecuador have operated, causation of such impacts, and remediation needs. In accordance with Articles 251 and 256 of the Code of Civil Procedure, the court ordered Mr. Cabrera to act independently of the parties and with complete transparency. The court stated

¹ The evidence described in this letter has been presented to the Lago Agrio court in filings made by Chevron on February 9, 2010, May 21, 2010, June 4, 2010, and July 12, 2010. These filings and supporting exhibits are submitted with this letter as Exhibits A, B, C, and D respectively.

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that “the role of the expert is one of complete impartiality and transparency with respect to the parties and their attorneys,” and it required that Mr. Cabrera “shall observe and ensure . . . the impartiality of his work, and the transparency of his activities as a professional appointed” by the court. The court also ordered that the individuals appointed to assist Mr. Cabrera must be “independent from the litigating parties” and that “[t]he activity of the assistants is included in the oath sworn by the expert Richard Cabrera, who was appointed as the sole expert.”

Mr. Cabrera repeatedly acknowledged that the court charged him with conducting an investigation independent from the parties, and repeatedly represented to the court that he adhered to the court’s order. Similarly, the plaintiffs’ representatives have repeatedly characterized Mr. Cabrera’s role as that of a “special master.” *See, e.g.*, 12/1/08 Press Release (enclosed as Exhibit E). They have made the Cabrera Report the centerpiece of their public-relations and lobbying campaigns to injure Chevron. And, like Mr. Cabrera himself, the plaintiffs’ representatives have insisted that Mr. Cabrera maintained his independence from them in performing his work. When Chevron challenged Mr. Cabrera’s independence, the plaintiffs’ public-relations firm issued a press release accusing Chevron’s management of “lying to shareholders,” and they avowed that “Chevron’s claim that Professor Cabrera is cooperating with the plaintiffs is completely false.” 4/3/08 Press Release (enclosed as Exhibit F); *see also* 12/1/08 Press Release (enclosed as Exhibit E) (“A lawyer for the plaintiffs blasted Chevron for putting out false information about the latest findings, and rejected allegations the plaintiffs improperly influenced the report.”).

The recently uncovered evidence includes the following indicia of misrepresentation, concealment, and fraud:

Stratus Consulting LLC (“Stratus”), a U.S.-based environmental consulting company, has worked for plaintiffs for many years. Despite initial denials, mounting evidence shows that Stratus personnel and contractors had extensive dealings with Mr. Cabrera and are the true authors of much of the Cabrera Report. A Stratus contractor produced in a United States federal court action an electronic database used by the plaintiffs’ consultants. Forensic analysis has shown that substantial portions of the same database were incorporated into the Cabrera Report virtually verbatim, without attribution or disclosure of the source. Counsel for Stratus have now admitted to the U.S. court that Stratus personnel recognize their work in the Cabrera Report and that at least two Stratus representatives communicated directly with Mr. Cabrera. Plaintiffs admitted to the same court that they had secret, “*ex parte* dealings” with Mr. Cabrera and that the Cabrera Report “is based, in part, on information prepared by Plaintiffs’ litigation team.” And plaintiffs recently admitted to the Lago Agrio court that they gave Mr. Cabrera “findings,” “analyses,” and “conclusions” that were adopted in total into the Cabrera Report.

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In addition, the website of the Amazon Defense Front—the plaintiffs’ designated beneficiary of any judgment in the case—contains an alleged English “translation” of the Cabrera Report. Expert forensic analysis has concluded that the English “translation” is the original text, and that the Spanish version of the Cabrera Report filed with the Court is a translation from the original English text. However, neither Mr. Cabrera nor any of his named team members are native English speakers. Additional English versions of the Cabrera Report produced by Stratus in the U.S. court action further indicate that the involvement of plaintiffs’ team in drafting the Cabrera Report was extensive.

Furthermore, at least two of Mr. Cabrera’s assistants did not have the independence mandated by the law. Juan Cristóbal Villao Yopez is one of the disclosed assistants whose work product appears in the Cabrera Report. Mr. Villao works for Uhl, Baron, Rana & Associates, Inc., (“UBR”) another U.S. environmental consulting firm. Plaintiffs have admitted that UBR “was retained by Plaintiffs to serve as a consulting expert in the Lago Agrio Litigation.” A United States federal court has concluded that Mr. Villao’s undisclosed dual role as a Cabrera assistant and an employee of plaintiffs’ consulting firm demonstrates “a fraud on the [Lago Agrio] tribunal.”

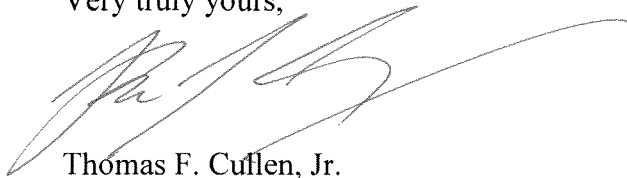
Another disclosed Cabrera assistant was Carlos Martín Beristain. Mr. Cabrera relied on Mr. Beristain’s work in recommending the assessment of \$9.5 billion in damages for alleged “excess cancer deaths.” A version of the film “Crude” shows Mr. Beristain meeting and working with plaintiffs’ lawyers Steven Donziger and Pablo Fajardo, and with plaintiffs’ associates Emergildo Criollo, Adolfo Maldonado and others. The filmmaker has admitted to a United States federal court in New York that he edited his movie to remove the evidence of Mr. Beristain’s presence at the meeting and that he did so at the request of plaintiffs’ lawyers. The United States federal court addressing this matter called this manipulation “a fact suggestive of an awareness of questionable activity.”

The information set forth in this letter and in the attachments hereto shows that the Cabrera Report is a fraud and that the plaintiffs’ representatives and Mr. Cabrera worked in concert to perpetrate that fraud. Both Mr. Cabrera and the plaintiffs’ representatives have made repeated misrepresentations to conceal their collusion, which violated Mr. Cabrera’s obligations of transparency and impartiality. This fraud has been perpetrated as part of plaintiffs’ efforts to obtain an unfounded judgment against Chevron in Lago Agrio, and to injure Chevron through their public-relations and lobbying campaigns. As such, the evidence has serious implications for the integrity of the Lago Agrio proceedings and for the possible criminal liability of Mr. Cabrera and the plaintiffs’ representatives.

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We hope that you will give this evidence your highest and most serious attention. Because of the implications for U.S. law, we are taking steps to inform the appropriate U.S. authorities as well.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Tom Cullen', with a long, sweeping horizontal stroke extending to the right.

Thomas F. Cullen, Jr.

Enclosures

cc: Dr. Diego García Carrión, Attorney General of Ecuador
Dr. Luis Benigno Gallegos Chiriboga, Ecuador Ambassador to the United States
Hon. Heather M. Hodges, U.S. Ambassador to Ecuador
Charles E. Duross, Assistant Chief, Fraud Section, Criminal Division,
U.S. Department of Justice