

THOMAS J. MILLER
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IOWA DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

June 10, 2016

The Honorable Lamar Smith
Chairman
House Committee on Science, Space, and Technology
2321 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Smith:

I write in response to the May 18, 2016 letter signed by you and several other Republican members of the House Committee on Science, Space, and Technology. The letter requests documents relating to alleged investigations and prosecutions by the Iowa Attorney General's Office concerning climate change.

In Iowa, the Attorney General is a constitutional officer with statutory duties established by the Iowa General Assembly. One of those duties is the enforcement of the Iowa Consumer Fraud Act. As discussed more fully in responsive letters sent to you by other state attorneys general, Congress does not have jurisdiction over a state attorney general's enforcement of a state's sovereign police powers. I answer to the people of Iowa about the manner in which my office enforces Iowa's consumer protection laws. I do not answer to Congress in this regard. For this reason, my office respectfully declines to produce documents in response to your letter.

As a courtesy to you, I am enclosing a letter sent to thirty-six Iowa legislators answering questions about my office's recent activities concerning consumer protection and climate change.

Finally, I would like to comment on statements contained in your letter. You state that my office "is using legal actions and investigative tactics . . . that may rise to the level of an abuse of prosecutorial discretion. Further, such actions call into question the integrity of your office." In my long tenure as Iowa Attorney General, rarely has the integrity of my office been questioned, particularly in such an uninformed and baseless manner. I can assure you that on all issues facing my office, including consumer protection and climate change, I am guided by the rule of law and try to "call them like I see them."

Sincerely yours,

Tom Miller
Iowa Attorney General

Enclosure

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May 19, 2016

The Honorable Steven Holt
State Representative
1430 – 3rd Avenue S
Denison, IA 52442

And Via E-mail

Dear Representative Holt:

I am responding to your letter dated April 13, 2016. I welcome the opportunity to clarify the role of the Attorney General's Office ("Office") in the matters you discuss.

Recent press reports have indicated that Exxon and its scientists have determined for decades that climate change is real. It was alleged that Exxon made important business decisions in drilling and construction, among others, based on climate change being real. It would appear that what it said to its customers and investors was quite different. If true, this could be a violation of state and federal consumer and securities laws.

State attorneys general have a rich history of working together. Seventeen of us have been working together in a very loose coalition to address legal issues related to climate change. The main activity has been to support the federal government's Clean Power Plan, which would substantially reduce carbon emissions through means within each state's capacity to comply, especially Iowa. A few weeks ago the loose coalition met in person for the first time to talk about continuing to work together on the Clean Power Plan, whether to conduct a consumer protection investigation of Exxon, and other ways to address climate change issues.

Three states and the Virgin Islands have decided to conduct a formal consumer investigation of Exxon. The other fourteen, including Iowa, are considering whether to do so.

A great deal of false information and wild accusations have been made in regard to these issues. Among those are that this is a "witch hunt" against anyone who questions climate change; it is an attempt to silence disagreement on climate change; and an assault on the First Amendment. It is said that anyone who questions climate change will be

investigated, sued and prosecuted. None of this is true. What is true is that the Iowa Attorney General's office is considering opening a consumer fraud investigation against Exxon concerning possible deceptive statements it made to its consumers. Other states are, also doing so. If Iowa or any state files a case, it will be filed individually in each state. Iowa would have no control over other States' cases or their investigations, and other States would have no control over an Iowa case or its investigation.

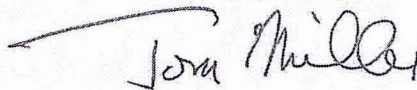
The sole focus of the Office at this time is gathering facts and reviewing the law to determine if there is any reason to pursue an investigation of Exxon for any potential violations of Iowa's consumer protection laws. These laws prohibit businesses from misleading consumers. Consumer protection cases do not seek to squelch corporate speech or beliefs; rather, they seek to hold people or entities accountable if there is deception or fraud directed toward consumers.

My Office will make its own decisions, regardless of decisions of other state attorneys general, on any potential course of action involving Exxon, including whether to open a formal investigation, based on a fair and objective review of the information and Iowa law. Iowa's investigation, if we decide to do one, will be done in a manner which respects the constitutional rights of all involved.

I, too, took an oath to defend the Iowa Constitution and United States Constitution. I take that oath very seriously. The work of my Office has always been guided by the rule of law. Enforcing consumer protection laws in no way infringes on First Amendment rights. On the contrary, consumer protection laws are intended to make the free market work efficiently by ridding the economy of deceptive and unfair business practices.

If you are in Des Moines in the coming weeks and would like to discuss anything related to the possible investigation of Exxon, please stop by my office and we can talk.

Sincerely yours,

A handwritten signature in black ink that reads "Tom Miller". The signature is written in a cursive style with a long horizontal stroke extending to the left.

Tom Miller
Iowa Attorney General