



The Honorable Eric H. Holder, Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

August 3, 2009

Dear Attorney General Holder,

I am writing to urge you to initiate an investigation into the recent, apparently illegal activities of Bonner & Associates, a consulting firm based in Washington, D.C. In June of 2009 Bonner & Associates, on behalf of an unspecified client, sent letters via fax machine to the offices of U.S. Representative Tom Perriello. These letters purported to come from community organizations within Rep. Perriello's Congressional district – including Creciendo Juntos and the Charlottesville, Virginia chapter of the NAACP – and utilized the letterhead of these organizations. The letters urged Rep. Perriello, on behalf of the organizations' members, to vote against the "American Clean Energy and Security Act of 2009" (also known as the "Waxman-Markey bill") which was then pending before the U.S. House of Representatives. In fact, the letters were forgeries. The letters were sent without the authorization of any representative of the community organizations. The individuals whose names and signatures appeared on the letters do not exist. In the case of at least the NAACP, the position advocated in the letter was in direct opposition to the official position of the organization. The national organization of the NAACP has taken a public position in support of the American Clean Energy and Security Act of 2009.

Sierra Club and its members strongly object to the actions of Bonner & Associates in providing these forged letters to Rep. Perriello. As the country's oldest and largest grassroots environmental group, Sierra Club takes authentic grassroots organizing seriously and takes offense at any efforts to undermine the expression of true community voices. The ability of constituents to communicate their opinions to their government representatives stands as a cornerstone of our democracy. Community organizations play an integral role in conveying those opinions from constituents to representatives. This process fails, however, when representatives cannot trust that community organizations truly speak for their members, or cannot trust that communications purported to be sent by community organizations actually come from those organizations.

On behalf of Sierra Club, therefore, I urge you to initiate an investigation into Bonner & Associates. First, the Department of Justice should ascertain whether forged letters were sent to other Representatives or Senators. Although, to date, apparently fraudulent letters have only

been discovered in the offices of Rep. Perriello, Bonner & Associates may have sent additional letters to other lawmakers. Second, the Department of Justice should investigate whether other community organizations were similarly misrepresented. Although only the letters from Creciendo Juntos and the Charlottesville chapter of the NAACP have so far been identified as forgeries, other organizations may also have had their identities misappropriated. Finally, the Department of Justice should pursue criminal charges against Bonner & Associates.

At a minimum, Bonner & Associates, acting through its employees or representatives, appears to have violated 18 U.S.C. § 1343 ("Fraud by wire, radio, or television") and 18 U.S.C. § 1346 ("Definition of 'scheme or artifice to defraud' "). A thorough investigation may reveal that Bonner & Associates devised a scheme to defraud the constituents of Rep. Perriello – including the members of Creciendo Juntos and the Charlottesville chapter of the NAACP – by depriving them of the intangible right to the honest services of their representatives. When it sent those letters to Rep. Perriello by fax, Bonner & Associates transmitted by means of wire a writing for the purpose of executing such scheme. The First Circuit Court of Appeals has held that, with the addition of 18 U.S.C. § 1346, the wire fraud statute reaches "schemes to defraud individuals of the intangible right to honest services of government officials." *See U.S. v. Sawyer*, 85 F.3d 713, 723-4 (1st Cir. 1996).

As described above, one of the most important "honest services" provided by a representative to his constituent is the service of considering the constituents' true opinions and viewpoints when contemplating how to vote on a bill before Congress. This service cannot be rendered when the representative has been provided falsified or erroneous representations of those opinions and viewpoints. In this case, Bonner & Associates misled Rep. Perriello as to the true opinion of Creciendo Juntos and the NAACP regarding the American Clean Energy and Security Act of 2009, thereby depriving the members of these organizations, as well as Rep. Perriello's other constituents, of the right to Rep. Perriello's honest services.

Rep. Perriello's ultimate decision to vote in favor of the clean energy bill would not preclude prosecution of Bonner & Associates, as it is well established that a fraudulent scheme that does not actually cause harm is still actionable. *See Durland v. United States*, 161 U.S. 306, 313-14 (1896); *United States v. Tadros*, 310 F.3d 999, 1006 (7th Cir. 2002). Furthermore, the harm in this case does not end at Rep. Perriello's vote, but encompasses a constituent's belief that her representative values her true opinion, and that her representative considers her true opinion when contemplating proposed legislation.

Thank you in advance for your prompt attention to this important matter. I look forward to following the course of your investigation into the outrageous actions of Bonner & Associates.

Sincerely,

A handwritten signature in black ink, appearing to read "Pat Gallagher", with a stylized flourish at the end.

Patrick Gallagher
Legal Director
Sierra Club