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February 9, 2015

**VIA EMAIL**

Mr. R. Doak Bishop  
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1100 Louisiana, Suite 4000  
Houston, TX 77002

Mr. Theodore B. Olson  
Mr. Randy Mastro  
Ms. Andrea Neuman  
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200 PARK AVENUE  
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***RE: Racich expert report contradicting Chevron's allegations***

Dear Sirs and Madams:

I write on behalf of myself and the plaintiffs in the *Aguinda* case in Ecuador to formally request the immediate disclosure of the expert forensic report of J. Christopher Racich ("Racich Report"). This report was filed in the BIT arbitration by the Republic of Ecuador in connection with its counter-memorial dated November 7, 2014.

While some of the relevant filings discussing the Racich Report have been redacted, the counter-memorial nonetheless makes clear that the report contains what appears to be highly probative and potentially exculpatory evidence as regards Chevron's allegation that a "bribe" occurred in the *Aguinda* matter. According to court filings in the BIT proceeding recently made public, the Racich Report "directly contradicts" Chevron's allegations of impropriety regarding authorship of the trial court judgment in that case. The affected Ecuadorian communities and those of us in the United States targeted by Chevron's retaliatory litigations have long asserted that your client's claim in this regard is the product of untruthful and flagrantly corrupt witness testimony. It is our position that any probative or exculpatory evidence related to the Chevron bribe allegation must be made public under your continuing duty of candor to courts where these issues have been raised, and in the interests of justice for all involved in this long-running dispute.

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It is our understanding that the release of the Racich Report is subject to a confidentiality agreement signed by Chevron and the Republic of Ecuador. As you know, our team already has requested that the Republic of Ecuador waive any assertion of confidentiality that might exist and otherwise take all necessary steps to release the Report because of its critical importance in learning the truth behind Chevron's allegations. I now make the same request for the same reasons to you. We note that as of today's date we have yet to receive a response to our request to the Attorney General of Ecuador, Diego Garcia Carrion.

Your ethical duties commit you to a continuing duty of candor with respect to the proceedings Chevron initiated in multiple jurisdictions based at least in part on allegations of impropriety regarding the authorship of the *Aguinda* judgment. If new evidence exists that calls into question (or demonstrates the falsity of) representations Chevron has made before any tribunal in this regard, your ethical duties (and to the extent applicable, Fed. R. Civ. P. 11(b)) require an affirmative correction and/or clarification of any misrepresentations.<sup>1</sup>

Of immediate concern is the fact that the U.S. Court of Appeals for the Second Circuit is soon scheduled to hear argument on my appeal of Chevron's RICO case where the "bribe" allegation is probably the most important factual finding underpinning the district court's decision. Prompt release of the Racich Report is necessary to provide full candor to the Second Circuit in its consideration of this appeal. If we do not receive a copy of the Racich Report or otherwise hear from you forthwith, we reserve all rights regarding the ethical duties of each of you as well as those of your client.

Please respond promptly to this request and acknowledge receipt.

Sincerely,



Steven R. Donziger

cc

Mr. Humberto Piaguaje, Dr. Pablo Fajardo M., Mr. Luiz Yanza  
UNIÓN DE AFECTADOS/AS POR TEXACO  
Portete E12-79 y Abascal  
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<sup>1</sup> See, e.g., *Rentz v. Dynasty Apparel Indus., Inc.*, 556 F.3d 389, 395 (6th Cir. 2009).

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