United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510–6200

Sean M. Akins, Esq.

[redacted]

June 10, 2019

Dear Mr. Akins:

This letter regards the Senate Finance Committee's investigation into certain conservation-easement transactions, an investigation that began on March 27 of this year, and we are writing to follow up on your response of April 30 to our initial request for information from your client Mr. Robert McCullough.

In our letter to your client, we asked for answers to questions as well as for copies of various documents. You largely responded to these questions by simply stating, "This information is contained in the documents being produced in connection with this response," or something to similar effect. This is an insufficient method of answering questions, especially as those documents contained over 100,000 pages. We understand you and your colleagues met with our staffs in early April to discuss your client's disposition to our letter of March 27, and that disposition was generally one of cooperation. We now ask for that cooperation and, to the extent your client has answered questions by reference to documents, for direct written answers to the questions instead of references to documents.

Furthermore, in your response of April 30, you declined to provide names of your client's investors because the associated investments "are distributed through FINRA-regulated broker dealers and financial advisors." Your letter provides no basis to withhold this information from Congress. Courts have consistently recognized that confidentiality statutes do not prohibit the production of information to Congress unless those statutes specifically refer to Congress.[1] We now ask again for such information, which is crucial for this investigation. This applies to all requests for information relating to investor identification, including meeting minutes, vote tallies, etc.

[1] *See, e.g., F.T.C. v. Owens-Corning Fiberglass Corp.*, 626 F.2d 966, 970 (D.C. Cir. 1980); *Exxon Corp. v. F.T.C.*, 589 F.2d 582, 585-86 (D.C. Cir. 1978), *cert denied*, 441 U.S. 943 (1979); *Ashland Oil Co., Inc. v. F.T.C.*, 548 F.2d 977, 979 (D.C. Cir. 1976)).

Finally, in your response of April 30, you stated your client's company did not provide promotional materials to investors, and we understand the reason for that position is that your client provided investments through broker dealers rather than directly to investors. We regard the relevant document request for promotional materials to encompass communications with broker dealers, or other intermediaries, as well as with individual investors, and therefore that request for documents and information should be read as such.

Accordingly, please fully respond to all questions in the March 27 letter we sent to your clients no later than **June 21, 2019**. Thank you for your attention to this important matter.

Sincerely,

Charles E. Grassley
Chairman
Senate Committee on Finance

Ron Wyden
Ranking Member
Senate Committee on Finance