

United States Senate

WASHINGTON, DC 20510

January 10, 2019

The Honorable Andrew Wheeler
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue N.W.
Washington, D.C. 20460

Dear Acting Administrator Wheeler:

We write to request information related to a gift of \$50,000 given to former Administrator Scott Pruitt by Diane Hendricks. The gift was disclosed by Mr. Pruitt on the Public Financial Disclosure report he filed upon his termination from EPA, which was made public on December 6, 2018. The form indicates that the payment was a "Contribution to Scott Pruitt Legal Expenses Trust." According to notes made on the report by Justina Fugh, EPA's certifying ethics official, Pruitt "did not seek ethics advice from EPA before accepting this gift to pay for legal expenses. EPA ethics officials did not know of this contribution...until they received the termination report."

Several Senators wrote to then-Administrator Pruitt on May 21, 2018, asking further information related the legal defense fund after it was first publicly reported, including a question about what steps were being taken to ascertain whether any contributors, their employers, clients, or any entity in which they have a beneficial interest, have business before EPA.¹ On July 31, 2018, EPA responded providing no information and referring further inquiries to Mr. Pruitt's private attorney.

The Office of Government Ethics (OGE) recommends public disclosure of legal defense fund donors consistent with federal rules concerning the disclosures of gifts.² Employees cannot receive contributions to a legal defense from a prohibited source,³ defined as any person who:

- (1) Is seeking official action by the employee's agency;
- (2) Does business or seeks to do business with the employee's agency;
- (3) Conducts activities regulated by the employee's agency;
- (4) Has interests that may be substantially affected by the performance or nonperformance of the employee's official duties; or

¹ <https://www.vanhollen.senate.gov/news/press-releases/van-hollen-carper-udall-whitehouse-demand-transparency-on-pruitts-legal-defense-fund>

² See <https://www.oge.gov/Web/278eGuide.nsf/Content/FAQs~FAQs:+Gifts+and+Travel+Reimbursements>

³ OGE Legal Advisory LA-17-10 (2017).

(5) Is an organization a majority of whose members are described in paragraphs (d)(1) through (4) of this section.⁴

Recently, OGE has issued additional guidance to agency ethics officials about gifts to legal defense funds “[g]iven the heightened appearance concerns unique to an employee’s acceptance of this type of gift.”⁵ “Agency ethics officials need to remind employees that they may not accept gifts from prohibited sources to pay for legal expenses, and that *they should seek ethics advice before accepting a gift to pay for legal expenses.*”⁶ Plainly, Mr. Pruitt did not do so.

In addition to being a large donor to Republican politicians and political action committees that support conservative political causes,⁷ Ms. Hendricks is chairperson of ABC Supply Company, the largest wholesale distributor of roofing in the United States, and owns Hendricks Holdings Company, which consists of “an extensive and diverse portfolio of domestic and international companies.”⁸ Because Hendricks Holdings is a privately held company, Ms. Hendricks likely has a personal financial stake in its numerous subsidiaries, any one of which may be a prohibited source.

To better understand the application federal ethics rules to Ms. Hendricks’ gift to Mr. Pruitt, we request the following:

- 1) any communications (including but not limited to emails, memos, meeting notes, correspondence, and calendar items) between EPA and the following companies or their representatives from February 17, 2017 to the date of production:
 - ABC Supply Company
 - Blackhawk Transport & Logistics
 - Hendricks River Logistics
 - American Aluminum Extrusion Company
 - American Industrial Steel & Supply
 - Federal Heath Sign Company
 - Henry Technologies GmbH
 - Stainless Tank & Equipment
 - HT Industrial Holdings
 - Avid Pallet
 - Garick
 - GarTran LLC
 - Humane Manufacturing
 - Universal Recycling Technologies
 - Corporate Contractors, Inc. (CCI)
 - Hendricks Commercial Properties

⁴ 5 C.F.R. § 2635.203(d)

⁵ OGE Legal Advisory LA-18-11 (2018).

⁶ *Id.* (emphasis added)

⁷ See, e.g., Wisconsin Democracy Campaign, Influence Peddler of the Month - Diane Hendricks, <https://www.wisdc.org/follow-the-money/46-influence-peddler/5300-influence-peddler-of-the-month-diane-hendricks>.

⁸ <https://www.hendricksholding.com/about-us/diane-hendricks>

- GEM Pharmaceuticals
 - NorthStar Medical Technologies
 - Blonhaven Hunt Club
 - Ironworks Hotel
 - Merrill & Houston's Steak Joint
 - Beloit Art Foundry
 - Marsh Global Holdings
- 2) A list of any investigations or enforcement actions brought by EPA against any of the companies in the previous request within the last five years.
 - 3) Any communications between any person at EPA and Diane Hendricks from February 17, 2017 to the date of production.
 - 4) Any other information that may have bearing on whether any of the entities identified in request #1 is a prohibited source under 5 C.F.R. § 2635.203(d).

Thank you for your prompt attention to this request.

Sincerely,



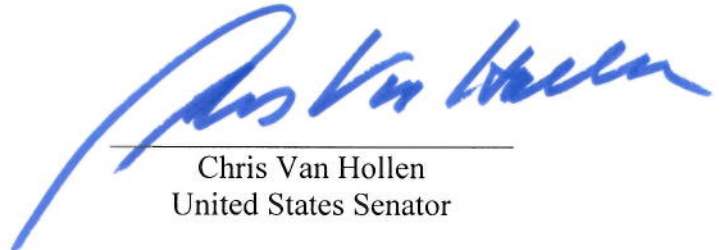
Sheldon Whitehouse
United States Senator



Thomas R. Carper
United States Senator



Tom Udall
United States Senator



Chris Van Hollen
United States Senator