

ONE HUNDRED ELEVENTH CONGRESS
Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
2157 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6143

Majority (202) 225-5051
Minority (202) 225-5074

June 9, 2010

Mr. Edward E. Whitacre, Jr.
Chairman and Chief Executive Officer
General Motors Corporation
300 Renaissance Center
Detroit, MI 48243

Dear Mr. Whitacre:

As you know, General Motors (“GM”) is currently the subject of multiple investigations by the House Committee on Oversight and Government Reform.¹ As part of these investigations, the Committee has requested a wide range of documents, including e-mails, notes, letters and recordings involving GM personnel since November 1, 2008.² In light of these ongoing investigations, we are deeply disturbed to learn that GM is engaging in a continuous process of destroying documents relevant to the Committee’s oversight efforts. We are writing to request that you immediately cease any further document destruction.

In a recent interview with Committee staff, a senior GM attorney informed the Committee that GM’s company-wide “document retention policy” entailed the “purging” of all electronic documents after 60 days.³ Committee staff were also informed that GM does not employ any backup system to retain copies of electronic documents.⁴ The

¹ These investigations include GM’s politicized decisions to close and then reopen domestic manufacturing plants and parts distribution centers, to choose new plant locations in order to please powerful politicians, to use criteria such as “carbon footprint” and “community impact” to make decisions instead of profitability and return to shareholders, to participate in a secret agreement to support the Obama Administration’s pursuit of new fuel economy standards, and to run a false and misleading advertising campaign. *See* letters to GM from Darrell Issa et. al., July 22, 2009, March 31, 2010, April 22, 2010, April 29, 2010, and May 24, 2010.

² *Id.*

³ Committee staff interview with Lucy Clark Dougherty, Executive Director, Legal Government Relations and Global Public Policy, General Motors, May 25, 2010.

⁴ *Id.*

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implication of this policy is that many documents relevant to the Committee's investigations may have already been destroyed, and every day even more documents are being destroyed due to GM's policy.

Under Title 18, Section 1505 of the U.S. Code, it is a felony to obstruct a congressional investigation:

Whoever, with intent to avoid, evade, prevent, or obstruct ... willfully withholds, misrepresents, removes from any place, conceals, covers up, destroys, mutilates, alters, or by other means falsifies any documentary material ... or ... obstructs ... the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House ... [s]hall be fined under this title, [and] imprisoned not more than 5 years⁵

In light of the American taxpayers' 61 percent ownership stake in GM and the Committee's ongoing investigations, GM's continued destruction of documents is unacceptable. Until such time as U.S. taxpayers have been divested of all financial interests in GM, we request that you immediately stop destroying documents and begin preserving all records and communications referring or relating to GM's status as a taxpayer-owned company, its relationship or interaction with government officials, and any issue that could be relevant to public policy.

We have seen no evidence to suggest that any GM employee has destroyed any documents in order to intentionally prevent this Committee from learning the full truth on behalf of the American people. However, this letter puts the company on notice that we will be forced to conclude that any further destruction of relevant material is evidence of criminal misconduct. We would then have an obligation to report such conduct to the U.S. Department of Justice for prosecution.

The Committee on Oversight and Government Reform is the main investigative committee in the U.S. House of Representatives. Pursuant to House Rule X, it has authority to investigate the subjects within the Committee's legislative jurisdiction as well as "any matter" within the jurisdiction of the other standing House Committees. The terms "records," "communications," and "referring or relating" should be interpreted consistently with the attached Definitions of Terms.

⁵ 18 U.S.C. § 1505.

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If you have any questions regarding this request, please contact Christopher Hixon or Brien Beattie of the Committee Staff at (202) 225-5074.

Sincerely,



Darrell Issa
Ranking Member



Jim Jordan
Ranking Member
Subcommittee on Domestic Policy

cc: The Honorable Edolphus Towns, Chairman
Committee on Oversight and Government Reform
The Honorable Dennis Kucinich, Chairman
Subcommittee on Domestic Policy

Attachment

Definitions of Terms

1. The term "record" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A record bearing any notation not a part of the original text is to be considered a separate record. A draft or non-identical copy is a separate record within the meaning of this term.
2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, telexes, discussions, releases, personal delivery, or otherwise.
3. The terms "referring or relating," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is in any manner whatsoever pertinent to that subject.