

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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July 8, 2015

M E M O R A N D U M

To: Chairman Jason Chaffetz

From: Majority Committee Staff

Re: Testimony of Rafael Moure-Eraso at Committee hearings

Background on the Committee's Investigation

The Chemical Safety Board (CSB) is the independent agency responsible for investigating chemical accidents.¹ President Obama appointed Rafael Moure-Eraso Chairman of the Chemical Safety Board by in June 2010.²

Moure-Eraso and his top lieutenants were the subjects of a whistleblower retaliation investigation by the EPA Office of Inspector General, who has jurisdiction over CSB.³ Mr. Moure-Eraso and other senior CSB officials repeatedly undermined the investigation by refusing to provide relevant documents to the inspector general.⁴

Mr. Moure-Eraso's unwillingness to cooperate with the inspector general's investigation violated section 6(a)(1) of the Inspector General Act, which makes clear that IGs have "access to all records, reports, audits, reviews, documents, papers, recommendations, or other materials available to the applicable establishment which relate to programs and operations with respect to which that Inspector General has responsibilities under this Act"⁵

The Inspector General was eventually forced to issue a Seven-Day Letter to bring Mr. Moure-Eraso's refusal to cooperate to the attention of Congress.⁶ The Seven-Day Letter is reserved for cases where the Inspector General "becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and

¹ U.S. Chemical Safety and Hazard Investigation Board website, "Mission," available at <http://www.csb.gov/about-the-csb/mission/>. (last accessed June 3, 2015).

² U.S. Chemical Safety and Hazard Investigation Board website, "Dr. Rafael Moure-Eraso Confirmed as New Chairman and Mark Griffon as Board Member," available at <http://www.csb.gov/dr-rafael-moure-eraso-confirmed-as-new-chairman-and-mark-griffon-as-board-member/> (last accessed June 9, 2015).

³ *Whistleblower Reprisal and Management Failures at the US Chemical Safety Board*, Staff Report, *H. Comm. on Oversight and Gov't Reform and H. Comm. on Science, Space, & Technology* (June 19, 2014).

⁴ *Id.*

⁵ 5 U.S.C. App. 3, § 6(a)(1).

⁶ Letter from Hon. Arthur A. Elkins, Jr., Inspector Gen. U.S. Environmental Protection Agency, to Hon. Rafael Moure-Eraso, Chairman, U.S. Chemical Safety and Hazard Investigation Board (Sep. 5, 2013).

operations of such [agency].”⁷ The Committee received the Seven-Day Letter on September 5, 2013.

As a result of the Seven-Day Letter, the Committee opened an investigation into misconduct by senior leadership at CSB, including Chairman Moure-Eraso.

The Committee found that Mr. Moure-Eraso retaliated against employees who he believed were raising concerns outside the agency. Some of those whistleblowers were stripped of their responsibilities at the CSB.⁸ Furthermore, Mr. Moure-Eraso’s “bullying” and “abusive” leadership style directly compromised the collegiality of CSB Board members.⁹ Several board members resigned because of Mr. Moure-Eraso’s “heavy-handed” tactics and his persistent failure to interact with the Board.¹⁰

Mr. Moure-Eraso’s management style also resulted in an exodus of highly skilled investigators and board members, which severely compromised CSB’s accident investigations.¹¹ The production and release of investigative reports became sluggish and expensive.¹² Complex accident investigations that had previously taken approximately two years to complete took an average of three or four years under Mr. Moure-Eraso’s leadership.¹³

Moreover, during the course of the investigation, the EPA OIG received an allegation that CSB leaders were using personal non-governmental email accounts to conduct official CSB business.¹⁴ The EPA OIG found that CSB leaders, including Mr. Moure-Eraso, intentionally used private non-governmental email accounts for official government business in violation of federal record-keeping statutes and contrary to the President’s guidance for heads of executive branch agencies regarding transparency and open government.¹⁵

The EPA OIG also discovered that CSB leaders purposely exchanged emails through private accounts so that certain CSB business communications would not appear on CSB servers.¹⁶ This was a tactic used by the agency’s leadership to completely shut out certain board members and staff from CSB deliberations and decisions.¹⁷ These email exchanges were particularly troubling to both the Inspector General and the Committee because it was highly

⁷ 5 U.S.C. App. 3, § 5(d).

⁸ *Whistleblower Reprisal and Management Failures at the US Chemical Safety Board, Staff Report, H. Comm. on Oversight and Gov’t Reform and H. Comm. on Science, Space, & Technology* (June 19, 2014).

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Whistleblower Reprisal and Management Failures at the US Chemical Safety Board: Hearing Before the H. Comm. on Oversight and Gov’t Reform* (June 19, 2014) (statement of Hon. Arthur A. Elkins, Jr.).

¹⁵ *See, e.g.*, The Federal Records Act, 44 U.S.C. § 3101. The Federal Records Act makes the head of each federal agency responsible to preserve records of the essential transaction of the agency. The National Archives and Records Administration is responsible for overseeing agencies’ adequacy of documentation and records disposition and practices, and implements these Federal Records Act requirements under regulations set forth in 36 C.F.R. 1236; White House Memorandum, Subject: Transparency and Open Government (Jan. 21, 2009).

¹⁶ Memorandum from Hon. Arthur Elkins, Inspector General, U.S. Environmental Protection Agency, to the President (Jan. 16, 2015).

¹⁷ *Whistleblower Reprisal and Management Failures at the US Chemical Safety Board, Staff Report, H. Comm. on Oversight and Gov’t Reform and H. Comm. on Science, Space, & Technology* (June 19, 2014).

likely that CSB leaders communicated on their non-official accounts to avoid congressional and OIG oversight.¹⁸

On June 19, 2014, Mr. Moure-Eraso testified before the Committee at a hearing entitled, “Whistleblower Reprisal and Management Failure at the U.S. Chemical Safety Board.”¹⁹ After the hearing, despite pledges to improve the agency, the Committee continued to hear complaints from CSB employees and other stakeholders. On March 4, 2015, Mr. Moure-Eraso was called to testify again, at a hearing entitled, “Rebuilding the Chemical Safety Board: Finding a Solution to the CSB’s Governance and Management Challenges.”²⁰

During the course of those two hearings, Members of the Committee asked Mr. Moure-Eraso three specific questions: (1) whether he consulted with CSB General Counsel Richard Loeb before approving a request to go through employee emails; (2) how long since he used his non-governmental email account to conduct official CSB business; and 3) whether the CSB’s chief information officer (CIO) was responsible for overseeing the production of the documents requested by the EPA OIG.²¹

Under oath, Chairman Moure-Eraso provided conflicting answers to these questions and his testimony directly contradicted that of the CSB’s general counsel and former CIO. These inconsistencies raise significant questions about the truthfulness of Mr. Moure-Eraso’s testimony before the Committee.

Relevant Statutes

The statutes set forth in this section are discussed herein as applied to the actions of Mr. Moure-Eraso.

Mr. Moure-Eraso made false statements to Congress, a crime under 18 U.S.C. § 1001. Section 1001 states in pertinent part:

[W]hoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully . . . makes any materially false, fictitious, or fraudulent statement or representation; or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry shall be fined under this title, imprisoned not more than 5 years . . . or both.²²

In addition, Mr. Moure-Eraso committed perjury by making false statements under oath to Congress, a crime under 18 U.S.C. § 1621. Section 1621 states, in pertinent part:

¹⁸ Memorandum from Hon. Arthur Elkins, Inspector General, U.S. Environmental Protection Agency, to the President (Jan. 16, 2015).

¹⁹ *Whistleblower Reprisal and Management Failures at the US Chemical Safety Board: Hearing Before the H. Comm. on Oversight and Gov’t Reform* (June 19, 2014).

²⁰ *Rebuilding the Chemical Safety Board: Finding a Solution to the CSB’s Governance and Management Challenge: Hearing Before the H. Comm. on Oversight and Gov’t Reform* (Mar. 4, 2015).

²¹ *Id.*

²² 18 U.S.C. § 1001.

[W]hoever having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true . . . is guilty of perjury and shall, except as otherwise expressly provided by law, be fined under this title or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States.²³

Moire-Eraso's False Testimony Regarding Searching Employee Emails

In an effort to better understand CSB's management challenges, the agency commissioned Vantage Human Resources, a management consulting company, to examine the agency's internal problems.²⁴ Eighty percent of the CSB employees interviewed by Vantage expressed frustration with senior leadership.²⁵ Forty-seven percent also believed that senior leadership discouraged dissenting opinions.²⁶ Fifty-three percent believed senior leadership failed to collaborate in the decision-making process, and sixty percent believed there was a lack of accountability and follow through by the leaders.²⁷ The study found, overwhelmingly, that top level management was the most significant problem at the CSB.

As a result of the scathing report, Mr. Moire-Eraso and Managing Director Daniel Horowitz retaliated against the CSB employees who were responsible for contracting the work to Vantage.²⁸ On the very day Vantage released their report, Mr. Horowitz, with Mr. Moire-Eraso's approval, sent an email removing the contracting officer from the Vantage contract.²⁹ Furthermore, following the release of the report, Mr. Moire-Eraso authorized Mr. Horowitz to access the email accounts of the employees associated with the Vantage Contract.³⁰

Moire-Eraso testified that he sought legal counsel before authorizing the search.

Members of the Committee found both Mr. Moire-Eraso's and Mr. Horowitz's retaliatory actions to be deeply troubling. Consequently, at the March 4, 2015 hearing, Members specifically asked Mr. Moire-Eraso if he sought legal counsel before authorizing the search of email accounts.³¹ Mr. Moire-Eraso testified that he sought legal counsel and was told that he had the authority to search employee emails.³² He stated:

²³ 18 U.S.C. § 1621.

²⁴ *Rebuilding the Chemical Safety Board: Finding a Solution to the CSB's Governance and Management Challenge: Hearing Before the H. Comm. on Oversight and Gov't Reform* (Mar. 4, 2015).

²⁵ *Id.*

²⁶ *U.S. Chemical Safety Board Organizational Development Consultation: Briefing To CSB Senior Leadership*, Vantage Human Resource Services, Inc., Feb. 12, 2015.

²⁷ *Id.*

²⁸ *Rebuilding the Chemical Safety Board: Finding a Solution to the CSB's Governance and Management Challenge: Hearing Before the H. Comm. on Oversight and Gov't Reform* (Mar. 4, 2015).

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

Mr. Cummings: At that hearing, the inspector general recommended that the agency document the reasons for initiating, reviewing, and approving electronic monitoring, including opinions of legal counsel. **Did you seek legal counsel before authorizing a search of these employee emails? (emphasis added)**

Mr. Moure-Eraso: **Yes.**

Mr. Cummings: And your counsel, is he copied on it?

Mr. Moure-Eraso: Oh, yes. I mean, he -- I requested --

Mr. Cummings: He's not. He's not.

Mr. Moure-Eraso: -- the authority. I have verbal conversations with him about all of these developments.

Mr. Cummings: So but you didn't send -- you didn't provide him with a copy. Did you seek his advice?

Mr. Moure-Eraso: I sought his advice, yes.

Mr. Cummings: And who is your legal counsel? Who is that?

Mr. Moure-Eraso: Mr. Loeb.

Mr. Cummings: Is that the gentleman sitting behind you?

Mr. Moure-Eraso: Yes.

Mr. Cummings: All right. Now, why would you want -- so you're saying you didn't exclude him from it. You just didn't send him a copy.

Mr. Moure-Eraso: I discussed the issue with him, and I was told that I have the authority to do that under our rules, and I did it.³³

In fact, Moure-Eraso never consulted General Counsel Richard Loeb.

Immediately following the March 4, 2015 hearing, the Committee received an email from CSB General Counsel Richard Loeb stating that he never gave Mr. Moure-Eraso legal advice concerning the search of employee emails.³⁴ His email stated:

³³ *Id.* (emphasis added)

³⁴ E-mail from Richard Loeb, General Counsel, U.S. Chemical Safety and Hazard Investigation Board, to H. Comm. on Oversight and Gov't Reform staff (Mar. 4, 2015).

This is to confirm our discussion following the hearing, that I was never consulted, in writing, verbally, or otherwise, on the decision to review the Lau/Lyon e-mails.³⁵

Mr. Loeb's unequivocal statement—that Mr. Moure-Eraso never consulted him regarding the decision to review CSB employee emails—directly contradicted Mr. Moure-Eraso's testimony under oath. Mr. Loeb sent the message to Committee investigators just hours after Mr. Moure-Eraso testified.

Mr. Moure-Eraso's testimony and Loeb's statement by email cannot both be true. Mr. Loeb's email to the Committee was tantamount to a statement against his own interest with respect to his job security.

Moure-Eraso's False Testimony Regarding Use of His Personal Email Account

During the Committee's hearings, Members explicitly asked Mr. Moure-Eraso how long it had been since he last used his personal email account to conduct official CSB business. Mr. Moure-Eraso's answers at the June 19, 2014 and March 4, 2015 hearings were inconsistent with concurrent and previous testimony and with documents obtained by the EPA OIG in the course of its investigation.

Moure-Eraso testified on June 19, 2014 that he stopped using his personal account "a year and a half ago."

At the June 19, 2014 hearing, Mr. Moure-Eraso stated that it had been a year and a half since he last used his personal email account to conduct official CSB business. He testified:

Mr. Chaffetz: When is the most recent time that you used your personal email?

Mr. Moure-Eraso: We stopped that practice about a year and a half ago because we realized how problematic it was.³⁶

In fact, Moure-Eraso used his personal account for official business until at least February 2014.

According to Mr. Moure-Eraso's testimony, he stopped using his personal email account for official agency business in approximately January 2013—"about a year and a half" before the June 2014 hearing. However, documents produced to the EPA OIG during the course of its investigation showed that Mr. Moure-Eraso continued to use his personal email account for official business until at least February 2014. In a February 2, 2015, email from an EPA OIG investigator to Committee staff, the EPA OIG stated:

³⁵ *Id.*

³⁶ *Whistleblower Reprisal and Management Failures at the US Chemical Safety Board: Hearing Before the H. Comm. on Oversight and Gov't Reform*, Hearing Transcript, 113th Cong. at 49 (June 19, 2014).

Our review of the documents produced after the June 2014 hearing has shown CSB used non-governmental emails regularly from January 2012 to March 2013, and then after Loeb and the Chairman notified their employees to cease using non-governmental email for CSB related matters (approximately March 2013), they (to include Loeb and Mr. Moure-Eraso) continued to use it in May 2013, July 2013, August 2013, November 2013, December 2013 and again in February 2014.³⁷

The documentary evidence obtained by the EPA OIG shows that Mr. Moure-Eraso used his personal email account to conduct official CSB business for a period long after January 2013. Those documents directly contradict Mr. Moure-Eraso's testimony at the June 19, 2014.

Moure-Eraso was unable to explain the discrepancy between his testimony and the facts.

On March 4, 2015, Mr. Moure-Eraso testified before the Committee for a second time to address the continued management concerns with the CSB.³⁸ During the course of the hearing, Committee Members questioned Mr. Moure-Eraso about the discrepancies between his June 19, 2014, testimony and the documentary evidence in the EPA OIG's possession that showed he continued to use his personal email account for official business long after the date by which he claimed to have stopped doing so.³⁹ Mr. Moure-Eraso contradicted himself when answering questions about this discrepancy.

Congressman Trey Gowdy explicitly asked Mr. Moure-Eraso about the inconsistencies.⁴⁰ Mr. Moure-Eraso responded by claiming that he did not actually know when he stopped using his personal email account. He testified:

Mr. Gowdy: So your testimony would have been that I stopped that practice about a year and a half ago. If 'I' is included in the word 'we,' then your answer was, I stopped that practice about a year and a half ago.

Mr. Moure-Eraso: I don't know the exact date as you are asking for, but yes, I stopped the practice.

Mr. Gowdy: I'm -- I'm looking at your exact testimony. That's what I'm looking at. And you said --

Mr. Moure-Eraso: I don't know --

Mr. Gowdy: -- you stopped it --

³⁷ E-mail from Jeffrey Lagda, Office of Inspector Gen., Chemical Safety Board, to H. Comm. on Oversight and Gov't Reform majority staff (Feb. 2, 2015).

³⁸ *Rebuilding the Chemical Safety Board: Finding a Solution to the CSB's Governance and Management Challenge: Hearing Before the H. Comm. on Oversight and Gov't Reform* (Mar. 4, 2015).

³⁹ *Id.*

⁴⁰ *Id.* at 42-44.

Mr. Moure-Eraso: -- the exact day.

Mr. Gowdy: You said you stopped it a year and a half prior to when Chairman Chaffetz asked you about it. Do you agree that a common understanding of a year and a half would be 18 months? Is that a common understanding of a year and a half? Do you disagree that a year and a half would be 18 months, Dr. Moure-Eraso?

Mr. Moure-Eraso: Mr. Congressman, I cannot tell you an exact day. I'm sorry.

Mr. Gowdy: Well, you gave Chairman Chaffetz an exact date.

Mr. Moure-Eraso: I said --

Mr. Gowdy: Under oath you said a year and a half ago--⁴¹

At that same hearing, shortly after Mr. Moure-Eraso testified that he did not know when he stopped using his personal email account, Congressman Mick Mulvaney asked him a similar question. During this round of questioning, Mr. Moure-Eraso told the Committee that he stopped using his personal account about a year and a half prior to the June 19 hearing and even identified the month.⁴² He testified:

Mr. Mulvaney: You said that it was the Federal Records Act that was adopted in November of 2014 that prompted you to change your practice. Yet, in June of 2014, which was before the Federal Records Act passed, you said, 'We stopped that practice about a year and a half ago because we realized how problematic it was,' end quote. So tell me, if you're relying on the November 2014 changes to the law, why did you make your change 18 months before your June 2014 testimony?

Mr. Moure-Eraso: Well, first of all, Mr. Congressman, we stopped using the emails, giving the exact date, March of 2013.⁴³

When Mr. Moure-Eraso was asked for a third time about these discrepancies, he contradicted himself once again.⁴⁴ Chairman Jason Chaffetz played a video from the June 19, 2014 hearing that showed Mr. Moure-Eraso testifying that he stopped using his personal email account a year

⁴¹ *Id.*

⁴² *Id.* at 67-68.

⁴³ *Id.*

⁴⁴ *Id.* at 97.

and half prior to the first hearing.⁴⁵ Mr. Moure-Eraso continued to insist that he did not know when he last used his personal email account.⁴⁶ Mr. Moure-Eraso testified:

Chairman Chaffetz: Mr. Moure-Eraso, I want to play a clip of a hearing from last time. [Video shown.]

So that would have put the date back in January 13. Did you use your personal email after January 13 -- or January 2013, I should say?

Mr. Moure-Eraso: Mr. Chairman, I have to look at my --

Chairman Chaffetz: It's a yes or no. It's a yes --

Mr. Moure-Eraso: I have to look at my records. I don't know.

Chairman Chaffetz: When is the most recent time that you used your personal email?

Mr. Moure-Eraso: I have to look at --

Chairman Chaffetz: For work?

Mr. Moure-Eraso: -- my records. I cannot answer you.

Chairman Chaffetz: You can't tell us that you just haven't?

Mr. Moure-Eraso: I have to look at my records.

Chairman Chaffetz: Let me ask the inspector general. What's the most recent time you've seen him using his personal email for work-related business?

Mr. Sullivan: August of 2013.

Chairman Chaffetz: There is some information that suggests you may have emails as late as 2014. Would that be accurate or inaccurate, Mr. --

Mr. Moure-Eraso: I assume that Mr. Sullivan has probably a document that says so.⁴⁷

The Inspector General's findings directly contradict Mr. Moure-Eraso's testimony regarding when he stopped using his personal email account in violation of the Federal Records

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

Act. Mr. Moure-Eraso's inability or unwillingness to explain that contradiction creates the appearance that he attempted to intentionally mislead the Committee.

Moure-Eraso's False Testimony Regarding the Chief Information Officer's Role in Producing Documents to the Inspector General

Mr. Moure-Eraso also testified falsely to the Committee and the EPA OIG about the CSB Chief Information Officer's role in the inspection of documents.⁴⁸ After the June 19, 2014 hearing, Mr. Moure-Eraso, under false pretenses, attempted to demonstrate that he was cooperating with the Inspector General by turning over the documents that were the subject of the IG's Seven Day Letter.⁴⁹ Most of the OIG's document requests pertained to email exchanges conducted by CSB leaders on their personal accounts.⁵⁰ In a certified letter dated July 15, 2014, Mr. Moure-Eraso assured the Inspector General that the CIO oversaw the production of all the documents.⁵¹ The letter stated:

In addition, we updated our search to make it current as of July 14, 2014. Accordingly, I believe that all documents requested by your office covering the period January 1, 2012 through the present have been fulfilled. The CSB's Chief Information Officer was responsible for conducting and overseeing these searches, and based on his assurances, and to the best of my knowledge and belief, the documents provided to your Office satisfy all outstanding requests concerning this matter.⁵²

Moure-Eraso affirmed under oath that the CSB's CIO oversaw the document production to the Inspector General.

In order to verify the claims from Mr. Moure-Eraso's July 15, 2014 letter, on March 4, 2015, the Committee specifically asked Mr. Moure-Eraso if the agency's CIO oversaw the production of documents to the EPA OIG.⁵³ Mr. Moure-Eraso confirmed the statements he made in the certified letter were true.⁵⁴ He testified:

Chairman Chaffetz: -- you said the CIO, chief information officer, had gone through this. Did you give the chief information officer your password to your personal Gmail account?

Mr. Moure-Eraso: Yes.

⁴⁸ *Rebuilding the Chemical Safety Board: Finding a Solution to the CSB's Governance and Management Challenge: Hearing Before the H. Comm. on Oversight and Gov't Reform*, Hearing Transcript, 114th Cong. at 98 (Mar. 4, 2015).

⁴⁹ Letter from Hon. Rafael Moure-Eraso, Chairman, U.S. Chemical Safety and Hazard Investigation Board, to Hon. Arthur Elkins, Inspector Gen., U.S. Environmental Protection Agency (July 15, 2014).

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Rebuilding the Chemical Safety Board: Finding a Solution to the CSB's Governance and Management Challenge: Hearing Before the H. Comm. on Oversight and Gov't Reform*, Hearing Transcript, 114th Cong. at 98 (Mar. 4, 2015).

⁵⁴ *Id.*

Chairman Chaffetz: And did you let the CIO go through all of your personal emails on your Gmail account?

Mr. Moure-Eraso: Yes.

Chairman Chaffetz: Your document here, July 15, 2014, says, these documents were produced based on a search of both CSB and personal email accounts of the individuals from whom the documents were requested, and the document request was above and beyond you.

Mr. Moure-Eraso: So what is the question?

Chairman Chaffetz: Did they or did they not have the CIO check their personal emails, Mr. Horowitz and Mr. –

Mr. Moure-Eraso: As far as I know, yes.⁵⁵

In fact, the CSB CIO never conducted or oversaw the collection of Moure-Eraso's personal emails.

Shortly after the second hearing, the Committee received a letter from the Inspector General stating that his investigators identified inconsistencies between Mr. Moure-Eraso's testimony and sworn statements by the former CSB CIO, which were taken a week after the March 4, 2015 hearing.⁵⁶

On March 12, 2015, the EPA OIG interviewed Allen Smith, the CSB's chief information officer from 2009 until August 2014.⁵⁷ In summary, Mr. Smith stated the following:

- On or about September 12, 2014, Mr. Smith became aware of Mr. Moure-Eraso's July 15, 2014, letter assuring the EPA OIG that Mr. Smith oversaw the production of documents for the purposes of the investigation.
- Contrary to Mr. Moure-Eraso's assertions, Mr. Smith never conducted or oversaw any new search of Mr. Moure-Eraso's personal email account on July 13, 2014.
- Mr. Smith did not conduct or oversee the searches for the managing director, Daniel Horowitz, or the General Counsel, Richard Loeb.
- In September 2014, Mr. Smith informed Mr. Loeb that Mr. Moure-Eraso's letter was inaccurate and pointed out the inaccuracies. Mr. Smith also spoke with Mr. Moure-Eraso and told him that the letter was inaccurate.

⁵⁵ *Id.*

⁵⁶ Letter from Patrick Sullivan, Ass't Inspector General for Investigation, U.S. Environmental Protection Agency, to Hon. Jason Chaffetz, Chairman, and Hon. Elijah Cummings, Ranking Member, H. Comm. on Oversight and Gov't Reform (Mar. 2015).

⁵⁷ Sworn Statement of Allen Smith to U.S. Environmental Protection Agency Office of Inspector Gen., in Washington, D.C. (Mar. 12, 2015).

- On March 4, 2015, Mr. Smith listened to Mr. Moure-Eraso's testimony before the Committee and was troubled to hear that Mr. Moure-Eraso assured the Committee that Mr. Smith, as the CIO, oversaw the completeness of the documents. He knew this was not true.
- Mr. Smith was also troubled by the fact that even after he told Mr. Loeb and Mr. Moure-Eraso about the letter's inaccuracies, Mr. Moure-Eraso still testified to the Committee that the contents of the letter were true and correct.⁵⁸

The contradictions between the statements made by Mr. Moure-Eraso before the Committee and in his letter to the EPA OIG, and Mr. Smith's sworn statements to the EPA OIG, raise serious questions about the veracity of Mr. Moure-Eraso's March 4, 2015, testimony before the Committee. Furthermore, rather than acknowledge the inaccuracies of the July 15, 2014, letter, Mr. Moure-Eraso attempted to conceal his misstatement by lying to the Committee.

Conclusion

Mr. Moure-Eraso appears to have made false statements to the Committee under oath on at least three occasions. We recommend that this information is referred to the Department of Justice to consider criminal prosecution. We have enclosed relevant documents and transcripts that support these conclusions.

Enclosures:

1. Transcript, *Rebuilding the Chemical Safety Board: Finding a Solution to the CSB's Governance and Management Challenge: Hearing Before the H. Comm. on Oversight and Gov't Reform* (Mar. 4, 2015).
2. Transcript, *Whistleblower Reprisal and Management Failures at the US Chemical Safety Board: Hearing Before the H. Comm on Oversight and Gov't Reform* (June 19, 2014).
3. Staff Report, *Whistleblower Reprisal and Management Failures at the US Chemical Safety Board*, H. Comm. on Oversight and Gov't Reform and H. Comm. on Science, Space, and Technology (June 19, 2014).
4. Letter from Patrick Sullivan, Ass't Inspector General for Investigation, U.S. Environmental Protection Agency, to Hon. Jason Chaffetz, Chairman, and Hon. Elijah Cummings, Ranking Member, H. Comm. on Oversight and Gov't Reform (Mar. 2015).
5. E-mail from Richard Loeb, General Counsel, U.S. Chemical Safety and Hazard Investigation Board, to H. Comm. on Oversight and Gov't Reform staff (Mar. 4, 2015).

⁵⁸ *Id.*; Letter from Patrick Sullivan, Ass't Inspector General for Investigation, U.S. Environmental Protection Agency, to Hon. Jason Chaffetz, Chairman, and Hon. Elijah Cummings, Ranking Member, H. Comm. on Oversight and Gov't Reform (Mar. 2015).