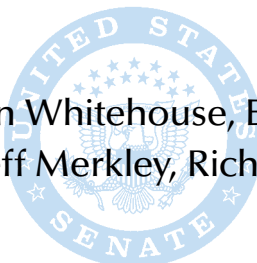


# The U.S. Chamber of Commerce: *Out of Step with the American People and its Members*



A Report from Senators Sheldon Whitehouse, Elizabeth Warren, Barbara Boxer, Bernard Sanders, Sherrod Brown, Jeff Merkley, Richard Blumenthal, and Edward Markey



## Executive Summary

The United States Chamber of Commerce (the Chamber), the largest lobbying organization in the country, has used its considerable resources to fight legislation in Congress and Obama Administration actions on tobacco and climate change at home and abroad. A series of 2015 New York Times articles exposed the Chamber's aggressive tactics to help the tobacco industry fight international antismoking laws, regulations, and policies,<sup>1</sup> and described the organization's systematic efforts to undermine the Environmental Protection Agency's work to address climate change and carbon pollution.<sup>2</sup> These activities raised questions about the Chamber's policy-making process; one analyst concluded that "the Chamber is at odds with the interests of some, if not most, of its membership in three other areas: climate change, minimum wages and tobacco," and described its advocacy as "aligned with the small number of companies that are its largest contributors."<sup>3</sup>

In response to the 2015 allegations, Senators Sheldon Whitehouse, Elizabeth Warren, Barbara Boxer, Bernard Sanders, Sherrod Brown, Jeff Merkley, Richard Blumenthal and Edward Markey examined the positions and actions of Chamber Board members to determine the extent to which the Chamber's activities on tobacco and climate change reflect its Board members' views and interests. The analysis focused on the 108 private-sector members of the Chamber's Board of Directors,<sup>4</sup> which the Chamber describes as "the principal governing and policymaking body of the U.S. Chamber of Commerce...[that] determine[s] the U.S. Chamber's policy positions on business issues and advise[s]

the U.S. Chamber on appropriate strategies to pursue."<sup>5</sup> The findings of this analysis—based on correspondence with the Chamber's Board members and a review of publicly available information on Chamber Board member positions on tobacco and climate change—reveal the following:

- The Chamber's positions and actions on tobacco and climate change are at odds with those of its Board members. Approximately half of the companies on the Chamber's Board of Directors have adopted anti-tobacco and pro-climate positions that contrast sharply with the Chamber's activities. Chamber Board member companies have acknowledged the public health harms of tobacco and support the efforts of their employees to quit smoking. They have also taken public positions and actions in support of efforts to reduce carbon emissions and address climate change. Despite the positions of its Board members, the Chamber opposes efforts in Congress and by the Administration to address these issues.
- Not a single Board member explicitly supported the Chamber's lobbying efforts. In response to inquiries from several senators, 21 Chamber Board members distinguished their actions from the Chamber's on tobacco by describing their own positive efforts, and five respondents distinguished their actions and positions on climate change. Five additional companies on the Chamber's Board explicitly disagreed with the Chamber's positions on tobacco or tobacco lobbying

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<sup>1</sup> Danny Hakim, U.S. Chamber Fights Smoking Laws While Hospitals and Insurers Sit on Its Board, THE NEW YORK TIMES (July 1, 2015), <http://www.nytimes.com/2015/07/02/business/international/many-board-members-fight-smoking-even-as-chamber-opposes-tobacco-laws.html?ref=collection%2Ftimestopic%2FChamber%20of%20Commerce%2C%20U.S.&r=0>; Danny Hakim, U.S. Chamber of Commerce Works Globally to Fight Anti-Smoking Measures, THE NEW YORK TIMES (June 30, 2015), <http://www.nytimes.com/2015/07/01/business/international/us-chamber-works-globally-to-fight-antismoking-measures.html>.

<sup>2</sup> Coral Davenport and Julie Hirschfeld Davis, Move to Fight Obama's Climate Plan Started Early, THE NEW YORK TIMES (Aug. 3, 2015), <http://www.nytimes.com/2015/08/04/us/obama-unveils-plan-to-sharply-limit-greenhouse-gas-emissions.html>.

<sup>3</sup> Barry Ritholtz, U.S. Chamber of Commerce Goes for the Extreme, BLOOMBERG VIEW (April 7, 2016), <http://www.bloomberg.com/view/articles/2016-04-07/u-s-chamber-of-commerce-goes-for-the-extreme>. See also Lydia DePillis, Leaked Documents Show Strong Business Support for Raising the Minimum Wage, THE WASHINGTON POST (April 4, 2016), <https://www.washingtonpost.com/news/work/wp/2016/04/04/leaked-documents-show-strong-business-support-for-raising-the-minimum-wage/> (reporting that over 80% of business executives across the country support a minimum wage increase and expanding maternity and paternity leave. The U.S. Chamber of Commerce lobbies against those policies.).

<sup>4</sup> As described in Section IV, senators sent a letter to the Chamber's 108 Board members on July 29, 2015, regarding their positions on tobacco issues. The membership of the Chamber's Board remained unchanged through September 18, 2015, when senators sent a separate letter to the Board's members regarding their positions on climate change issues.

<sup>5</sup> U.S. Chamber of Commerce, Leadership, <https://www.uschamber.com/about-us/leadership> (last visited June 1, 2016).

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activities. For example, Chamber Board member Celgene stated that it “[does] not support tobacco use or policies that promote tobacco use.”<sup>6</sup> Steward Health Care Systems elaborated on its disagreement with the Chamber’s actions, saying that it “was the only company on the Chamber Board that went on record to oppose the initiative.”<sup>7</sup> Other respondents sidestepped key questions and failed to respond to questions about how they viewed the Chamber’s activities. Not one Board member explicitly supported the Chamber’s actions on tobacco and climate.

- The Chamber’s decision-making process and Board policy decisions are not transparent. Ten Chamber Board members revealed, in their responses to the congressional inquiries, that they had no knowledge of or input into the Chamber’s lobbying activities on tobacco or climate issues. For example, Chamber Board

member Edward Jones, Inc., indicated that the company “[was] not advised of any campaigns...[and is] not aware of any processes” to develop these campaigns.<sup>8</sup> Sempra Energy reported that “the issues raised in [the] letter have not been discussed during the short time [it has] been a member of the organization.”<sup>9</sup> Despite the Chamber’s description of the Board as its “principal governing and policymaking body,” not one Chamber Board member explicitly indicated that they were fully aware of and able to provide their input and views to the Chamber regarding its actions on tobacco and climate.

The findings in this report raise serious questions about the Chamber’s credibility and its actions on tobacco and climate policy, and indicate that the Chamber does not accurately represent the positions, input, and knowledge of its membership.

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<sup>6</sup> Letter from Richard H. Bagger, Senior Vice President, Corporate Affairs and Strategic Market Access, Celgene Corporation, to U.S. Senators Elizabeth Warren, Sheldon Whitehouse, et al. (Nov. 2, 2015) (on file with the office of Senator Sheldon Whitehouse).

<sup>7</sup> Letter from Ralph de la Torre, Chairman and CEO, Steward Health Care System, to U.S. Senators Elizabeth Warren, Sheldon Whitehouse, et al. (July 15, 2015) (on file with the office of Senator Sheldon Whitehouse).

<sup>8</sup> Letter from Jesse Hill, Director of Regulatory Relations, Edward Jones, to U.S. Senators Elizabeth Warren, Sheldon Whitehouse, et al. (Oct. 28, 2015) (on file with the office of Senator Sheldon Whitehouse).

<sup>9</sup> Letter from Jessie J. Knight, Executive Vice President of External Affairs, Sempra Energy, to U.S. Senators Elizabeth Warren, Sheldon Whitehouse, et al. (July 29, 2015) (on file with the office of Senator Sheldon Whitehouse).

## I. Introduction

The United States Chamber of Commerce is the largest lobbying organization in the country. OpenSecrets, a nonprofit, nonpartisan research group that tracks the effects of money and lobbying, showed that in 2015 alone, the Chamber spent roughly \$85 million on lobbying efforts, more than twice the amount spent by the second-highest organization (the National Association of Realtors).<sup>10</sup> During the 2013-2014 election cycle, the Chamber spent \$35 million on political expenditures (through super PACs, 501(c) organizations, and/or political party committees) that were “outside” or independent of candidates’ campaign committees.<sup>11</sup>

The Chamber has used its considerable resources to fight legislation and government action on tobacco and climate change at home and abroad. A series of 2015 *New York Times* articles exposed the Chamber’s aggressive activities helping the tobacco industry to fight international antismoking laws, regulations, and policies,<sup>12</sup> and described the organization’s systematic efforts to undermine the Environmental Protection Agency’s work to address climate change and carbon pollution.<sup>13</sup>

While the Chamber claims that it “reflects the grassroots views of the entire business community”<sup>14</sup> and that

it represents the “interests of more than three million businesses of all sizes, sectors, and regions” when it interacts with Congress,<sup>15</sup> its positions and actions on tobacco and climate do not appear to reflect or communicate the positions of many of its member companies. The following analysis shows that approximately half of the companies on the Chamber’s Board of Directors have publicly taken positions on tobacco and climate change that are in conflict with the Chamber’s actions and positions. This calls into question the Chamber’s allegedly transparent decision-making process, and suggests that the Chamber does not accurately represent the positions of its member companies.

Moreover, the Chamber’s lobbying is at odds with its own public positions. The organization strongly professes that it is anti-tobacco, saying that it “is not in the business of promoting cigarette smoking at home or abroad, period.”<sup>16</sup> It also claims to support the environment, saying that it “has in its public documents, Hill letters and testimony, supported efforts to reduce greenhouse gas emissions in the atmosphere,” and calling for a “comprehensive climate change law.”<sup>17</sup> Plainly, there is a broad gap between the Chamber’s stated policies, its Board members’ positions, and its actual lobbying activities.

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<sup>10</sup> Center for Responsible Politics, U.S. Chamber of Commerce: Graph: Annual Lobbying by U.S. Chamber of Commerce, <https://www.opensecrets.org/orgs/summary.php?id=D000019798> (select “Lobbying” tab) (last visited April 7, 2016); Center for Responsible Politics, U.S. Chamber of Commerce: Top Spenders, <https://www.opensecrets.org/lobby/top.php?showYear=2015&indexType=s> (last visited April 7, 2016).

<sup>11</sup> Center for Responsible Politics, U.S. Chamber of Commerce: Profile for 2014 Election Cycle, <https://www.opensecrets.org/orgs/summary.php?id=D000019798&cycle=2014> (select “Summary” tab) (last visited June 1, 2016).

<sup>12</sup> Hakim, U.S. Chamber Fights Smoking Laws While Hospitals and Insurers Sit on Its Board, *supra* note 1; Hakim, U.S. Chamber of Commerce Works Globally to Fight Anti-Smoking Measures, *supra* note 1.

<sup>13</sup> Davenport and Davis, *supra* note 2.

<sup>14</sup> U.S. Chamber of Commerce, The Policymaking Process, <https://www.uschamber.com/about-us/about-us-chamber/policymaking-process> (last visited May 18, 2016).

<sup>15</sup> U.S. Chamber of Commerce, About the U.S. Chamber, <https://www.uschamber.com/about-us/about-the-us-chamber> (last visited June 8, 2016).

<sup>16</sup> Posting of U.S. Chamber Staff to the U.S. Chamber of Commerce website, <https://www.uschamber.com/above-the-fold/clearing-the-smoke-around-the-chamber-s-tobacco-related-advocacy> (July 1, 2015).

<sup>17</sup> U.S. Chamber of Commerce, Five Positions on Energy and the Environment, <https://www.uschamber.com/issue-brief/five-positions-energy-and-environment> (last visited June 6, 2016).

## II. Science, Public Health, and Public Opinion on Tobacco and Climate Change

### *Tobacco*

There is no dispute that tobacco use poses a major threat to public health.<sup>18</sup> The World Health Organization reports that tobacco is responsible for the deaths of about six million people each year. Despite decades of efforts in the United States, tobacco remains the leading cause of preventable death and disease. Every year, almost 500,000 Americans die from cigarette smoking; 41,000 of these deaths are the result of secondhand smoke exposure.<sup>19</sup> In 2014, 17% of U.S. adults—approximately 40 million Americans—smoked cigarettes.<sup>20</sup> Moreover, while teen smoking rates have dropped significantly in recent years, in 2014, about one in 15 high school seniors smoked daily.<sup>21</sup>

Court documents and whistleblowers have exposed a long history of systematic deceit by the tobacco industry about the harmful health effects of their products, from the connection between cigarettes and lung cancer to

the addictive properties of nicotine to the dangers of secondhand smoke. Despite decades of effort by big tobacco to convince Americans of the contrary,<sup>22</sup> it is now a widely-accepted fact that smoking causes serious health problems. A 2015 Campaign for Tobacco-Free Kids poll showed that 99% of Americans feel that smoking cigarettes is a health hazard, and 97% view it as a moderate or serious hazard.<sup>23</sup> Similarly, a 2012 Gallup poll found that 94% of Americans believe that cigarettes are a somewhat serious to extremely serious problem for society,<sup>24</sup> and a 2015 Gallup poll showed that 87% of Americans believe secondhand smoke is somewhat or very harmful to adults.<sup>25</sup> Moreover, most Americans support government regulation of tobacco products, and a 2015 Gallup poll found that 81% of Americans favor the 2009 law that gave the Food and Drug Administration regulatory authority over tobacco.<sup>26</sup>



<sup>18</sup> World Health Organization, Media Centre, Tobacco (July 6, 2015), <http://www.who.int/mediacentre/factsheets/fs339/en/> (last visited April 11, 2016).

<sup>19</sup> Ahmed Jamal, et al., Morbidity and Mortality Weekly Report: Current Cigarette Smoking Among Adults — United States, 2005–2014, CENTERS FOR DISEASE CONTROL AND PREVENTION (Nov. 13, 2015), [http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6444a2.htm?s\\_cid=mm6444a2\\_w](http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6444a2.htm?s_cid=mm6444a2_w).

<sup>20</sup> Id.

<sup>21</sup> U.S. Department of Health and Human Services, Trends in Adolescent Tobacco Use, <http://www.hhs.gov/ash/oah/adolescent-health-topics/substance-abuse/tobacco/trends.html> (last visited June 1, 2016).

<sup>22</sup> See, e.g., *United States v. Philip Morris USA, Inc.*, 449 F. Supp. 2d 219-1478 (D.D.C. 2006), available at <http://publichealthlawcenter.org/sites/default/files/resources/doj-final-opinion.pdf>.

<sup>23</sup> CAMPAIGN FOR TOBACCO-FREE KIDS, TOBACCO FREE KIDS NATIONAL SURVEY (Feb. 2-5, 2015), [https://www.tobaccofreekids.org/content/press\\_office/2015/2015\\_04\\_14\\_poll\\_questions.pdf](https://www.tobaccofreekids.org/content/press_office/2015/2015_04_14_poll_questions.pdf).

<sup>24</sup> GALLUP NEWS SERVICE, GALLUP POLL SOCIAL SERIES: CONSUMPTION HABITS, JULY 9-12, 2012, [http://www.gallup.com/file/poll/157472/Smoking-InDepth\\_120913.pdf](http://www.gallup.com/file/poll/157472/Smoking-InDepth_120913.pdf)

<sup>25</sup> GALLUP NEWS SERVICE, GALLUP POLL SOCIAL SERIES: CONSUMPTION HABITS, JULY 8-12, 2015, [http://www.gallup.com/file/poll/184412/Smoking\\_150730.pdf](http://www.gallup.com/file/poll/184412/Smoking_150730.pdf).

<sup>26</sup> CAMPAIGN FOR TOBACCO-FREE KIDS, TOBACCO FREE KIDS NATIONAL SURVEY (Feb. 2-5, 2016),

## Climate Change

Climate change is the most significant environmental threat of our time, and it too has serious implications for public health.

In April, the Obama Administration—with input from experts at 13 U.S. agencies, including the National Aeronautics and Space Administration (NASA), the National Science Foundation, and the Departments of Defense, State, and Commerce—released a new Climate and Health Assessment describing the many ways climate change is expected to affect our health. Climate change increases the risk of heat stroke and cardiovascular failure due to hotter temperatures and heat waves; respiratory attacks resulting from higher levels of ozone; injuries and fatalities relating to extreme weather events such as hurricanes, floods, and wildfires; longer allergy seasons due to first frosts arriving later each year; expanded habitat for pests and vector-borne diseases; and contamination of drinking and recreational waters by algal blooms. The most vulnerable populations, including children, the elderly, low-income individuals, some communities of color, and those with underlying health conditions, face even greater climate-related health risks.<sup>27</sup>

According to surveys conducted by the American Thoracic Society,<sup>28</sup> National Medical Association,<sup>29</sup> and American Academy of Allergy, Asthma and Immunology,<sup>30</sup> a significant majority of surveyed physicians believe climate change is occurring, that it is currently affecting the

health of their patients, and that climate-driven health effects will rise in the future.

The scientific community has reached a powerful consensus about the threat posed by global climate change, despite industry-funded efforts to the contrary. Americans agree with scientists, the military, and many businesses about the extent and seriousness of the problem. According to a 2015 poll conducted by *The New York Times*, Stanford University, and Resources for the Future, 81% of Americans believe climate change results at least in part from human activity, and more than 70% expect that they will be personally hurt by it.<sup>31</sup> If nothing is done to reduce global warming, 78% of Americans believe it will be a somewhat or very serious problem for the country.<sup>32</sup>



<sup>27</sup> U.S. GLOBAL CHANGE RESEARCH PROGRAM, THE IMPACTS OF CLIMATE CHANGE ON HUMAN HEALTH IN THE UNITED STATES: A SCIENTIFIC ASSESSMENT (2016), <https://health2016.globalchange.gov/> (last visited April 14, 2016).

<sup>28</sup> Mona Sarfaty, et al., American Thoracic Society Member Survey on Climate Change and Health, GEORGE MASON UNIVERSITY CENTER FOR CLIMATE CHANGE COMMUNICATION AND AMERICAN THORACIC SOCIETY, ET AL. (Feb. 2015), [http://www.thoracic.org/advocacy/resources/ATS\\_Annals\\_Survey\\_2014.pdf](http://www.thoracic.org/advocacy/resources/ATS_Annals_Survey_2014.pdf).

<sup>29</sup> Mona Sarfaty, M.D., MPH, et al., Key Findings of a National Medical Association Physician Survey, NATIONAL MEDICAL ASSOCIATION AND GEORGE MASON UNIVERSITY CENTER FOR CLIMATE CHANGE COMMUNICATION (June 25, 2014), <http://climatechangecommunication.org/wp-content/uploads/2016/04/NMA.pdf>.

<sup>30</sup> Mona Sarfaty, M.D., MPH, et al., Views of Allergy Specialists on the Health Effects of Climate Change, Key Findings: Membership Survey of the American Academy of Allergy, Asthma & Immunology, GEORGE MASON UNIVERSITY CENTER FOR CLIMATE CHANGE COMMUNICATION AND AMERICAN ACADEMY OF ALLERGY, ASTHMA & IMMUNOLOGY (Dec. 2015), <https://www.aaaai.org/Aaaai/media/MediaLibrary/PDF%20Documents/Libraries/Climate-Change-Survey.pdf>.

<sup>31</sup> NEW YORK TIMES, STANFORD UNIVERSITY, RESOURCES FOR THE FUTURE, GLOBAL WARMING : WHAT SHOULD BE DONE? (JAN. 29, 2015), [http://www.nytimes.com/interactive/2015/01/29/us/global-warming-poll.html?\\_r=0](http://www.nytimes.com/interactive/2015/01/29/us/global-warming-poll.html?_r=0).

<sup>32</sup> Id.—

### III. The Chamber's Lobbying on Tobacco and Climate Issues

When the Chamber weighs in, many in Washington, D.C., listen. The Chamber is the largest lobbying organization in the country and claims to represent the “interests of more than three million businesses of all sizes, sectors, and regions” when it interacts with Congress. OpenSecrets, a nonprofit, nonpartisan research group that tracks the effects of money and lobbying, showed that in 2015 alone, the Chamber spent roughly \$85 million on lobbying efforts, more than twice the amount spent by the second-highest organization (National Association of Realtors).<sup>33</sup> During the 2013-2014 election cycle, the Chamber spent \$35 million on political expenditures (through super PACs, 501(c) organizations, and/or political party committees) that were “outside” or independent of candidates’ campaign committees.<sup>34</sup>

The Chamber has aggressively lobbied—in the United States and abroad—in support of tobacco and climate policies that are directly at odds with science, public health, and public opinion. In June 2015, *The New York Times* reported that “the U.S. Chamber of Commerce and its foreign affiliates have become the hammer for the tobacco industry, engaging in a worldwide effort to fight antismoking laws of all kinds.”<sup>35</sup> The Chamber’s efforts span the globe, from fighting tobacco advertising bans in Uruguay to opposing graphic health warnings on tobacco labels in Burkina Faso.<sup>36</sup> The Chamber has lobbied to ensure tobacco companies are able to sue under future international treaties, including the Trans-Pacific Partnership.<sup>37</sup>

The Chamber has attacked U.S. climate policies with similar zeal. According to *The New York Times*, in early 2014, a group of 30 corporate lawyers, coal lobbyists, and Republican political strategists gathered at the Chamber’s headquarters to devise legal strategies to dismantle the President’s Clean Power Plan—before President Obama had even introduced a draft proposal of it.<sup>38</sup> The Chamber has also been vocal about its opposition to climate action when testifying before Congress. For instance, the Chamber has testified in opposition to the Paris Agreement,<sup>39</sup> despite the fact that many of its Board member companies have pledged to support the goals of the Agreement.<sup>40</sup> Additionally, nearly all of Chamber campaign contributions—94%—have reportedly gone to climate change denier candidates.<sup>41</sup>



<sup>33</sup> Center for Responsible Politics, U.S. Chamber of Commerce: Graph: Annual Lobbying by U.S. Chamber of Commerce, *supra* note 10; Center for Responsible Politics, U.S. Chamber of Commerce: Top Spenders, *supra* note 10.

<sup>34</sup> Center for Responsible Politics, U.S. Chamber of Commerce: Profile for 2014 Election Cycle, *supra* note 11.

<sup>35</sup> Hakim, U.S. Chamber of Commerce Works Globally to Fight Anti-Smoking Measures, *supra* note 1.

<sup>36</sup> CAMPAIGN FOR TOBACCO-FREE KIDS, U.S. CHAMBER OF COMMERCE: BLOWING SMOKE FOR BIG TOBACCO (July 2015), [http://global.tobaccofreekids.org/files/pdfs/en/USCoC\\_FINAL.pdf](http://global.tobaccofreekids.org/files/pdfs/en/USCoC_FINAL.pdf).

<sup>37</sup> Hakim, U.S. Chamber of Commerce Works Globally to Fight Anti-Smoking Measures, *supra* note 1.

<sup>38</sup> Davenport and Davis, *supra* note 2. Before President Obama even proposed the CPP, the Chamber issued “Assessing the Impact of Potential New Carbon Regulations in the United States,” a report that so egregiously overestimated job losses and electricity bill increases that the *Washington Post* gave it a Four Pinocchio rating. Glenn Kessler, GOP lawmakers rush to cite study to discredit new EPA rule, but study assumed EPA rule would be tougher, *THE WASHINGTON POST* (June 3, 2014), <https://www.washingtonpost.com/news/fact-checker/wp/2014/06/03/gop-lawmakers-rush-to-cite-study-to-discredit-new-epa-rule-but-study-assumed-epa-rule-would-be-tougher/>. The Chamber is also challenging the CPP in court and petitioned the Supreme Court for a stay of the EPA’s final rule on carbon emissions. *Applicable for Immediate Stay of Final Agency Action, State of West Virginia, et al., v. U.S. Environmental Protection Agency, et al.*, No. 15-\_\_\_\_ (Jan. 27, 2016), granted sub nom. *Chamber of Commerce, et al.*, 577 U.S. \_\_\_\_ (2016) (No. 15A787).

<sup>39</sup> Paris Climate Promise: A Bad Deal for America, Hearing Before the H. Comm. on Science, Space, & Technology, 114th Cong. (Feb. 2, 2016), available at <https://science.house.gov/sites/republicans.science.house.gov/files/documents/HHRG-114-SY-WState-SEule-20160202.pdf> (testimony of Stephen Euele, Vice President for Climate and Technology, U.S. Chamber of Commerce).

<sup>40</sup> See *infra*, Appendix V.

<sup>41</sup> Ritholtz, *supra* note 3.

## IV. Report Methodology

### *Tobacco*

In response to allegations that the U.S. Chamber of Commerce has engaged in secretive, international pro-tobacco lobbying efforts, on July 8, 2015, U.S. Senators Elizabeth Warren, Richard Blumenthal, Sheldon Whitehouse, Al Franken, Sherrod Brown, and Jeff Merkley sent a letter to 108 companies whose executives held a position on the Chamber Board of Directors as of that date. In their letter, the legislators requested information on the companies' knowledge and approval of the Chamber's pro-tobacco campaigns (Appendix I) ("Tobacco Letter").

Thirty-two companies responded to this inquiry.<sup>42</sup> Among those, 25 provided a written response, four responded by telephone, and three responded via email. (Information on company responses can be found in Appendix III.)

Staff also conducted independent research, reviewing corporate websites, corporate wellness initiatives, press releases, and annual reports or other similar publications, to determine whether the 108 companies represented on the Chamber Board have taken public positions on tobacco issues.

Companies were classified as supporting anti-smoking policies if they offer their employees access to a smoking cessation program through a wellness or other health-related plan; if they sponsored anti-tobacco activities; or if they published information on their websites describing the dangers of tobacco products.

### *Climate Change*

U.S. Senators Warren, Sheldon Whitehouse, Patrick Leahy, Barbara Mikulski, Dianne Feinstein, Barbara Boxer, Tom Udall, Jeanne Shaheen, Al Franken, Mazie Hirono, Edward Markey, and Bernard Sanders sent a similar letter to the

same 108 companies on September 18, 2015, in response to new allegations about the Chamber's anti-climate lobbying efforts. In their letter, the legislators requested information on the companies' knowledge and approval of the Chamber's climate campaigns (Appendix II) ("Climate Letter").

Eleven companies responded in writing (Appendix III).<sup>43</sup> Staff also reviewed corporate websites, press releases, annual reports, and "sustainability" reports or other similar publications to determine whether companies on the Chamber Board have publicly taken a position on climate change issues.

In addition, staff conducted research to examine whether any of the 108 Board member companies had taken a public pledge, joined a coalition in support of climate change mitigation efforts, were awarded recognition for their efforts to reduce emissions or otherwise address climate change, or provided charitable contributions to environmental organizations. Companies were classified as supporting policies to address climate change if they stated so on their website, participated in any of the following activities, or received one of the following awards or recognitions:

- American Business Act on Climate Change—A pledge, sponsored by the White House, which 154 businesses signed voicing support for a strong outcome in the Paris climate negotiations and recognizing "that delayed action on climate change will be costly in economic and human terms, while accelerating the transition to a low-carbon economy will produce multiple benefits with regard to sustainable economic growth, public health, resilience to natural disasters, and the health of the global environment." Pledge signatories "have operations in all 50 states, employ nearly 11 million people, represent more than \$4.2 trillion in annual revenue, and have a combined market capitalization of over \$7 trillion."

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<sup>42</sup> Congressional staff followed up by telephone and email with companies that failed to respond to this letter.

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- Ceres Climate Declaration—A voluntary declaration signed by more than 1,000 companies and individuals, who acknowledge that “[t]ackling climate change is one America’s greatest economic opportunities of the 21st century.”<sup>44</sup>
- Ceres Company Network—A voluntary network of companies that agree to improve their environmental and social performance; publicly report on their sustainability strategies; engage with Ceres Coalition investors, sustainability experts, and other stakeholders; and continuously improve on their sustainability performance and disclosure.<sup>45</sup>
- National Climate Coalition—A multi-industry coalition whose members support congressional action to regulate greenhouse gases, as well as the role of the Environmental Protection Agency in regulating greenhouse gases.<sup>46</sup>
- Paris Pledge for Action—A voluntary pledge by businesses, cities, civil society groups, investors, regions, trade unions and other signatories, which promise to “ensure that the ambition set out by the Paris Agreement is met or exceeded to limit global temperature rise to less than 2 degrees Celsius.”<sup>47</sup>
- U.S. Climate Action Partnership—An alliance (now inactive) of more than 30 companies and organizations that called upon U.S. government leaders to take measures to slow, stop, and reverse the growth of greenhouse gas emissions.<sup>48</sup>
- Climate Disclosure Leadership Index (CDLI)—A global index of corporations and businesses that have voluntarily disclosed their efforts to manage greenhouse gas emissions and climate change risks and opportunities. The CDLI is compiled by the CDP (formerly the Carbon Disclosure Project).<sup>49</sup>
- Dow Jones Sustainability Index (DJSI)—An index assessing the sustainability practices and performance of nearly two thousand companies across a variety of sectors.<sup>50</sup>
- Environmental Protection Agency (EPA) Climate Leadership Award—A national award program that recognizes and incentivizes exemplary corporate, organizational, and individual leadership in response to climate change.<sup>51</sup>
- EPA SmartWay Excellence Award—An award honoring SafeWay Transport Partnership company members for their notable actions to reduce emissions and overall superior environmental performance.<sup>52</sup>

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<sup>44</sup> Ceres, Climate Declaration FAQ’s, <http://www.ceres.org/declaration/faq> (last visited April 8, 2016); Ceres, Who Has Signed, <http://www.ceres.org/declaration/sign/who-has-signed> (last visited April 8, 2016).

<sup>45</sup> Ceres, Become a Ceres Company, <http://www.ceres.org/company-network/join-member-benefits> (last visited April 11, 2016).

<sup>46</sup> The National Climate Coalition, <http://www.nationalclimatecoalition.com/> (last visited April 11, 2016).

<sup>47</sup> Paris Pledge for Action, About The Pledge, <http://www.parispledgeforaction.org/> (last visited April 11, 2016).

<sup>48</sup> UNITED STATES CLIMATE ACTION PARTNERSHIP, A BLUEPRINT FOR LEGISLATIVE ACTION: CONSENSUS RECOMMENDATIONS FOR U.S. CLIMATE PROTECTION LEGISLATION 25 [hereinafter CLIMATE ACTION PARTNERSHIP] (January 2009), <http://www.merid.org/~media/Files/Projects/USCAP/USCAP-A-Blueprint-for-Legislative-Action>.

<sup>49</sup> CDP, Climate Change Programs, <https://www.cdp.net/en-US/Programmes/Pages/climate-change-programs.aspx> (last visited April 11, 2016).

<sup>50</sup> ROBECOSAM, DJSI 2015 REVIEW RESULTS 5 (September 2015), <http://www.sustainability-indices.com/images/review-presentation-2015.pdf>.

<sup>51</sup> Environmental Protection Agency, EPA Center for Corporate Climate Leadership, Climate Leadership Awards, <https://www.epa.gov/climateleadership/climate-leadership-awards> (last visited April 11, 2016).

<sup>52</sup> Environmental Protection Agency, SmartWay Excellence Awards, <http://www3.epa.gov/smartway/about/sw-awards.htm> (last visited May 3, 2016). The SmartWay Excellence Award recognizes top companies in the SmartWay Program, an EPA program that helps the freight transportation sector improve supply chain efficiency and reduce transportation-related emissions that affect climate change, reduce environmental risk for companies, and increase global energy security.

## V. Findings

Based on the responses to the Tobacco and Climate Letters and public positions and policies of Board members, the report finds that:

- Approximately half of the companies on the U.S. Chamber of Commerce's Board of Directors have anti-tobacco and/or pro-climate positions.
- None of the respondents to the Tobacco and Climate Letters expressed explicit support for the Chamber's activities, and numerous Chamber Board members distanced themselves from Chamber activities on tobacco or climate.
- The Chamber's decision-making process lacks transparency, even with respect to its Board members. A number of Board members were unaware of key Chamber policymaking and lobbying decisions on tobacco and climate.

### *Tobacco Findings*

Almost half of the Chamber Board members (49 of 108, 45%) have taken positions on tobacco that stand in opposition to the Chamber's international lobbying efforts on this issue, including two-thirds of the companies that responded to the Senate inquiry on Chamber tobacco policies (see Appendix IV). These 49 companies have acknowledged the public health harms of tobacco, support the efforts of their employees to quit smoking, or otherwise have taken some public position that smoking is dangerous. With one exception – the tobacco company Altria, which is involved in pro-tobacco lobbying – the remaining Board members appear to have taken no public position on tobacco as a public health issue.<sup>53</sup> Not one of the 108 Board members explicitly supported the Chamber's lobbying actions on tobacco.

The contrast between the Chamber's activities and those of many of its members is stark. For instance, the Chamber is lobbying in Nepal against a proposal to increase graphic warnings on cigarette packs, while in New Zealand, it is leading the charge against plain packaging legislation that it claims "sets a dangerous precedent" of violating trade laws.<sup>54</sup> Meanwhile, 49 members of its Board are helping their employees quit smoking, establishing smoke-free campuses, or funding research programs to limit smoking. Such activities include:

- Amway's Nutrilite Health Institute Wellness Fund donated \$10 million to Stanford University to study how wellness and prevention programs (including smoking cessation) can lengthen the human lifespan.<sup>55</sup>
- AGCO Power,<sup>56</sup> Edward Jones,<sup>57</sup> Steward Health Care System,<sup>58</sup> and 3M<sup>59</sup> have established smoke-free campuses for their employees.
- Many other companies offer wellness programs with smoking cessation elements to their employees, such as Deere & Company, which offers a comprehensive tobacco cessation program (QuitPower®) as part of its employee benefits plan. The program offers "[a] personal coach for ongoing information and support, a quit plan that's customized for your needs, and nicotine patches or gum, delivered to your home with no out-of-pocket cost."<sup>60</sup>
- Indiana University Health is "proud of the many programs [it has] in place for smoking prevention and cessation, as well as health promotion and screenings for [its] team members, patients and members of the community. IU Health has been and will continue to be a leader in Indiana to prevent and curtail the use of tobacco products."<sup>61</sup>

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<sup>53</sup> Altria Client Services, Strategy & Approach, <http://www.altria.com/About-Altria/Government-Affairs/Pages/default.aspx?src=leftnav> (last visited June 8, 2016).

<sup>54</sup> Hakim, *supra* note 1.

<sup>55</sup> Press Release, Amway, Wellness Living Laboratory (WELL) to be first-ever research study to examine impacts of dietary and lifestyle habits on wellness and healthy aging (Sept. 17, 2014), <http://globalnews.amway.com/pressroom/news-release/news/wellness-living-laboratory-well-to-be-first-ever-research-study-to-examine-impacts-of-dietary-and-lifestyle-habits-on-wellness-and-healthy-aging>.

<sup>56</sup> Press Release, AGCO Power, AGCO Power will be smoke-free beginning April 1st, 2013 (Feb. 14, 2013), <http://www.agcopower.com/company/news/?x1595371=1993827>.

<sup>57</sup> Letter from Jesse Hill, *supra* note 8.

<sup>58</sup> Steward Health Care System, Norwood Hospital Campus Goes Smoke-Free, <https://www.norwood-hospital.org/article/norwood-hospital-campus-goes-smoke-free> (last visited May 16, 2016).

<sup>59</sup> 3M, Tobacco-Free/Smoke-Free Policy Questions and Answers (Dec. 4, 2013), [http://solutions.3m.com/3MContentRetrieval/API/BlobServlet?lmd=1400242327000&locale=en\\_US&assetType=MMM\\_Image&assetId=1319239559853&blobAttribute=ImageFile](http://solutions.3m.com/3MContentRetrieval/API/BlobServlet?lmd=1400242327000&locale=en_US&assetType=MMM_Image&assetId=1319239559853&blobAttribute=ImageFile) (last visited March 31, 2016).

<sup>60</sup> John Deere, Tobacco Cessation, <http://www.deere.com/healthydirections/wellness/programs/stopsmoking.html> (last visited April 13, 2016).

<sup>61</sup> Letter from Daniel F. Evans, Jr., President and Chief Executive Officer, Indiana University Health, to U.S. Senators Elizabeth Warren, Sheldon Whitehouse, et al. (Aug. 4, 2015) (on file with the office of Senator Sheldon Whitehouse).

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- OneAmerica lists on its website smoking cessation assistance as among the healthcare benefits provided to the company's employees.<sup>62</sup> OneAmerica also offers a "Socially Responsive" investment portfolio to its customers, which excludes investments in companies that are engaged in tobacco manufacturing.<sup>63</sup>
- Pfizer announced its support for the World Health Organization's guidelines on smoking cessation in 2010. These guidelines are aimed at helping countries to meet their obligations under the Framework Convention on Tobacco Control.<sup>64</sup>

Not only have Chamber Board member companies adopted anti-tobacco positions contrary to the Chamber's lobby activities, but several companies have outright rejected the Chamber's activities.<sup>65</sup> In July 2015, for instance, CVS Health (which was a Chamber member, but not a Board member) quit the Chamber after learning of its tobacco lobbying activities.<sup>66</sup> Additionally, five Chamber Board members explicitly stated that they do not support the Chamber's tobacco activities, and seven companies said in their responses to the Tobacco letter that they will or have already communicated their anti-smoking position to the Chamber.<sup>67</sup>

Chamber Board member Celgene stated that it "[does] not support tobacco use or policies that promote tobacco use."<sup>68</sup> Steward Health Care Systems indicated that it "was the only company on the Chamber Board that went on record to oppose the initiative."<sup>69</sup> Pfizer described its outreach to the Chamber, saying that it has "urged it to review its programs and initiatives to ensure that they are consistent with its policy to reduce smoking and promote wellness."<sup>70</sup>



<sup>62</sup> OneAmerica, Benefits, The Benefits That Come with Working for OneAmerica, <https://www.oneamerica.com/careers/employee-benefits> (last visited April 29, 2016).

<sup>63</sup> OneAmerica, Socially Responsive Portfolio, <https://www.oneamerica.com/wps/portal/oaf/portfolios/socially-responsive/socially-responsive> (last visited April 29, 2016).

<sup>64</sup> Press Release, Pfizer, Pfizer Supports Historic World Health Organization Guidelines on Smoking Cessation Tobacco Dependence Treatment (Nov. 20, 2010), [http://www.pfizer.com/files/news/guidelines\\_smoking\\_tobacco.pdf](http://www.pfizer.com/files/news/guidelines_smoking_tobacco.pdf).

<sup>65</sup> Danny Hakim, CVS Health Quits U.S. Chamber Over Stance on Smoking, THE NEW YORK TIMES (July 7, 2015), [http://www.nytimes.com/2015/07/08/business/cvs-health-quits-us-chamber-over-stance-on-smoking.html?\\_r=0](http://www.nytimes.com/2015/07/08/business/cvs-health-quits-us-chamber-over-stance-on-smoking.html?_r=0).

<sup>66</sup> These companies include: AT&T, Inc., Celgene Corporation, Deloitte & Touche LLC, Drystone Capital LLC, and Steward Health Care System LLC. Letters are on file with the office of Senator Sheldon Whitehouse.

<sup>67</sup> These companies include: 3M, Anthem, Inc., Health Care Service Corporation, Indiana University Health, LORD Corporation, Pfizer, Inc., and Sempra Energy. Letters are on file with the office of Senator Sheldon Whitehouse.

<sup>68</sup> Letter from Richard H. Bagger, *supra* note 6.

<sup>69</sup> Letter from Ralph de la Torre, *supra* note 7.

<sup>70</sup> Letter from Ken W. Cole, Senior Vice President, U.S. Government Relations, Pfizer Inc., to U.S. Senators Elizabeth Warren, Sheldon Whitehouse, et al. (Nov. 2, 2015) (on file with the office of Senator Sheldon Whitehouse).

# *The U.S. Chamber of Commerce: Out of Step with the American People and Its Members*

Even Chamber Board members that did not explicitly oppose the Chamber's tobacco efforts took pains to note that they did not agree with every position taken by the Chamber; others noted that they were ignorant of the Chamber's tobacco lobbying or had no input in developing it. Overall, nine of the 31 companies that responded to the Tobacco Letter indicated that they were not involved in or aware of the Chamber's tobacco-related activities. For example, AT&T said that it "is not aware of any U.S. Chamber campaign to fight globally against anti-smoking laws, and... we would not support any such campaign."<sup>71</sup>

## *Climate Change Findings*

Almost half of the Chamber Board members (52 of 108, 48%) have taken public positions supporting efforts to reduce carbon emissions and address climate change, including eight of the companies that responded to the Senate inquiry on Chamber climate policies (see Appendix V). The remaining Board member companies appear to have no public position on climate change as a public health or environmental issue.

These 52 companies that support efforts to address climate change, have undertaken their own initiatives to reduce carbon emissions, support the EPA's work on climate change, or have publicly committed to support of the Paris Agreement.

Indeed, many Chamber Board members are national and international leaders on this issue. For example:

- Allstate is a member of the Ceres Company Network,<sup>72</sup> a group of companies that have agreed to improve their environmental and social performance, publicly report on their sustainability practices, and continuously improve their performance and disclosure on sustainability issues.<sup>73</sup> Allstate was also named to the Climate Disclosure Leadership Index (CDLI) from 2008 to 2014 for its efforts to reduce its carbon footprint and transparency on its climate change adaptation.<sup>74</sup>
- AT&T is one of more than 150 companies to have signed on to the American Business Act on Climate Pledge.<sup>75</sup> AT&T has committed to reduce its direct greenhouse emissions by 20 percent and reduce its electricity consumption by 2020.<sup>76</sup>
- BMO Financial Group stated that it is "focused on reducing our environmental footprint, setting clear goals and consistently maintaining carbon neutrality across our entire enterprise."<sup>77</sup>
- Las Vegas Sands was named to the CDP's "A list" in 2015 for its efforts to address and disclose corporate climate change information.<sup>78</sup>
- Ryder received the EPA SmartWay Excellence Award in 2013 and 2014 in recognition of its efforts to address carbon pollution and emissions.<sup>79</sup>

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<sup>71</sup> Letter from Timothy P. McKone, Executive Vice President, Federal Relations, AT&T, to U.S. Senators Elizabeth Warren, Sheldon Whitehouse, et al. (July 29, 2015) (on file with the office of Senator Sheldon Whitehouse).

<sup>72</sup> Ceres, Company Network Members, <http://www.ceres.org/company-network/company-directory> (last visited April 6, 2016).

<sup>73</sup> Ceres, Become a Ceres Company, <http://www.ceres.org/company-network/join-member-benefits> (last visited April 6, 2016).

<sup>74</sup> CDP, CDP CLIMATE CHANGE REPORT 2015: THE MAINSTREAMING OF LOW-CARBON ON WALL STREET, at 44 (2015) [hereinafter CDP CLIMATE CHANGE REPORT 2015], <https://www.cdp.net/CDPResults/CDP-USA-climate-change-report-2015.pdf>; CDP, CLIMATE DISCLOSURE LEADERSHIP INDEX—NORTH AMERICA (2014), <https://www.cdp.net/Documents/leaders/north-america.htm> (last visited April 6, 2016); CDP, INVESTMENT, TRANSFORMATION AND LEADERSHIP: CDP S&P 500 CLIMATE CHANGE REPORT, at 8 (2013), <https://www.cdp.net/CDPResults/CDP-SP500-climate-report-2013.pdf>; CARBON DISCLOSURE PROJECT, ACCELERATING PROGRESS TOWARD A LOWER-CARBON FUTURE: CDP S&P 500 CLIMATE CHANGE REPORT, at 13 (2012), <https://www.cdp.net/CDPResults/CDP-SP500-2012.pdf>; CARBON DISCLOSURE PROJECT, CDP GLOBAL 500 REPORT 2011 ACCELERATING LOW CARBON GROWTH, at 56 (2011), <https://www.cdp.net/CDPResults/CDP-G500-2011-Report.pdf>; CARBON DISCLOSURE PROJECT, CARBON DISCLOSURE PROJECT 2010 GLOBAL 500 REPORT, at 41 (2010), <https://www.cdp.net/CDPResults/CDP-2010-G500.pdf>; CARBON DISCLOSURE PROJECT, CARBON DISCLOSURE PROJECT 2009 GLOBAL 500 REPORT, at 36 (2009), [https://www.cdp.net/CDPResults/CDP\\_2009\\_Global\\_500\\_Report\\_with\\_Industry\\_Snapshots.pdf](https://www.cdp.net/CDPResults/CDP_2009_Global_500_Report_with_Industry_Snapshots.pdf); CARBON DISCLOSURE PROJECT, CARBON DISCLOSURE PROJECT REPORT 2008 GLOBAL 500, at 105 (2008), [https://www.cdp.net/CDPResults/67\\_329\\_143\\_CDP%20Global%20500%20Report%202008.pdf](https://www.cdp.net/CDPResults/67_329_143_CDP%20Global%20500%20Report%202008.pdf).

<sup>75</sup> Press Release, The White House, White House Announces Additional Commitments to The American Business Act on Climate Pledge (Dec. 1, 2015), <https://www.whitehouse.gov/the-press-office/2015/12/01/white-house-announces-additional-commitments-american-business-act>.

<sup>76</sup> Press Release, The White House, FACT SHEET: White House Announces Commitments to the American Business Act on Climate Pledge (Oct. 19, 2015), <https://www.whitehouse.gov/the-press-office/2015/10/19/fact-sheet-white-house-announces-commitments-american-business-act>.

<sup>77</sup> Letter from Mary Kenney, Director of U.S. Government Affairs, BMO Financial Group, to U.S. Senators Elizabeth Warren, Sheldon Whitehouse, et al. (Nov. 3, 2015) (on file with the office of Senator Sheldon Whitehouse).

<sup>78</sup> Press Release, Las Vegas Sands Corp., Las Vegas Sands Receives Global Designations For Corporate Action On Climate Change And Sustainability From Both CDP And Dow Jones (Nov. 19, 2015), <http://investor.sands.com/ir-home/press-releases/news-details/2015/Las-Vegas-Sands-Receives-Global-Designations-For-Corporate-Action-On-Climate-Change-And-Sustainability-From-Both-CDP-And-Dow-Jones/default.aspx>.

<sup>79</sup> EPA, SmartWay Excellence Awards, *supra* note 52.

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- Sanofi “strives to reduce [its] environmental impact, so that [it] can contribute to decreasing the effects of climate change. This includes a two-pronged approach to reduce [its] carbon footprint and to combat diseases directly correlated with climate change.”<sup>80</sup> Sanofi says that it has reduced its carbon emissions by 60 times, cut transport costs by 50 percent, and has set a goal of reducing its water consumption by 25 percent between 2010 and 2020.<sup>81</sup>
- 3M is a founding member of the National Climate Coalition.<sup>82</sup> In its 2015 Sustainability Report, 3M touted its “history of proactive leadership in addressing both the challenges and opportunities presented by climate change and energy conservation.”<sup>83</sup>
- UPS stated it was “pleased to join 12 other firms at the White House on July 27, 2015, in launching the American Business Act on Climate Change . . . [W]e pledged first to reduce our carbon intensity by 20% by 2020, from a 2007 baseline. Second, we plan for our alternative fuel and technology fleet, which will number about 8,000 trucks by the end of the year, to have driven a cumulative 1 billion miles by 2017.”<sup>84</sup>

No Chamber Board members that responded to the Senate letter explicitly supported the Chamber’s lobbying actions on climate policy. Seven respondents to the Climate Letter indicated that they do not agree with every action taken by trade associations of which they are a member, and three companies declined to express a position. Two of the eleven companies that responded to the Climate Letter (Citadel and HCSC) indicated that they were not involved in the Chamber’s climate-related activities,<sup>85</sup> and the other nine did not indicate whether they were involved in the Chamber’s climate policy decision-making process.

Despite the fact that nearly half of Chamber Board members have acknowledged the risk of climate change or are actively working to address the risks of climate change, the Chamber has opposed executive action on climate and lobbied heavily in support of legislation undermining climate action, assembling a “vast network of lawyers and lobbyists ranging from state capitols to Capitol Hill, aided by Republican governors and congressional leaders,” to oppose President Obama’s climate change regulations.<sup>86</sup>



<sup>80</sup> Sanofi, Environmental Commitment, <http://www.sanofi.us/l/us/en/layout.jsp?scat=A7257D49-ED84-4C9A-8699-F2A0B9526A68> (last visited May 4, 2016).

<sup>81</sup> Id.

<sup>82</sup> The National Climate Coalition, Current Membership, <http://www.nationalclimatecoalition.com/members> (last visited April 4, 2016).

<sup>83</sup> 3M, 2015 SUSTAINABILITY REPORT, at 76 (2015), <http://multimedia.3m.com/mws/media/1064170O/3m-2015-sustainability-report.pdf>.

<sup>84</sup> Letter from Laura Lane, President, Global Public Affairs, United Parcel Service, to U.S. Senators Elizabeth Warren, Sheldon Whitehouse, et al. (Oct. 7, 2015) (on file with the office of Senator Sheldon Whitehouse).

<sup>85</sup> Letters on file with the office of Senator Sheldon Whitehouse.

<sup>86</sup> Davenport and Davis, *supra* note 2.

## VI. Conclusion

The Chamber claims that it “reflects the grassroots views of the entire business community when the organization testifies before Congress or regulatory agencies, disseminates reports or statements to the media, or sends comments or letters to Capitol Hill and to policymakers.”<sup>87</sup> It states that “everyone involved in the process must help develop positions that benefit the entire business community, rather than any given narrow interest . . . The process must be open and above board.”<sup>88</sup>

But this investigation finds these claims to be plainly untrue. Despite its claims of a representative policy-making process, the Chamber does not speak for many of its Board members on two of the most pressing public health issues of our time. The discrepancy between how the Chamber and its Board members act on tobacco and climate is stark. Bloomberg columnist Barry Ritholtz contends that it is easy for the Chamber to ignore its numerous member companies that oppose its stance because one third of its revenue comes from just 19 companies, many of them in the energy industry.<sup>89</sup>

Indeed, based on the responses of Chamber Board member companies, the Chamber seems to act at will, without broadly consulting its leading members about fundamental policy positions on which it spends millions of dollars in collected dues.

Some American business icons have demonstrated leadership by disaffiliating themselves from the Chamber over fundamental policy disagreements. Apple, Exelon, and Pacific Gas and Electric (PG&E), have left the Chamber over its destructive climate policies.<sup>90</sup> Nike left the Board for similar reasons,<sup>91</sup> and other members—Intel, Johnson & Johnson, and Microsoft—publicly disagree with and distance themselves from the Chamber’s climate position.<sup>92</sup> And CVS Health withdrew its membership from the Chamber last year due to the group’s tobacco lobbying.<sup>93</sup>

Many Chamber members do good work to address the risks of tobacco and climate change. But too many of these members quietly disapprove of the Chamber’s positions without taking action. As long as these Board members lend their tacit support to an organization that spearheads systematic efforts against policies to limit tobacco and climate change, it is difficult to accept their claims that they are anti-tobacco or good on climate.

We encourage Chamber Board members to stop looking the other way where there is disagreement, and defending their Chamber membership as supporting free speech. This positioning makes it appear as though they’re trying to have it both ways and damages their credibility and efforts in support of positive action.<sup>94</sup> These companies should take responsibility for the positions and actions of the Chamber, and use their leverage as an opportunity to shift the tenor of a powerful lobbying force away from harming public health and towards positions that help reduce tobacco use and address the risks of climate change.

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<sup>87</sup> U.S. Chamber of Commerce, *The Policymaking Process*, *supra* note 14.

<sup>88</sup> *Id.*

<sup>89</sup> Ritholtz, *supra* note 3.

<sup>90</sup> David A. Farenthold, *Apple Leaves U.S. Chamber Over its Climate Position*, *THE NEW YORK TIMES* (Oct. 6, 2009), <http://www.washingtonpost.com/wp-dyn/content/article/2009/10/05/AR2009100502744.html>.

<sup>91</sup> Lisa Lerer, *Nike to Quit Chamber Post*, *THE NEW YORK TIMES* (Sept. 30, 2009), <http://www.politico.com/story/2009/09/nike-to-quit-chamber-post-027739>.

<sup>92</sup> Josh Israel, *Major Companies Distance Themselves from U.S. Chamber Campaign Against Obama’s Climate Plan*, *THINKPROGRESS.ORG* (June 3, 2014), <http://thinkprogress.org/climate/2014/06/03/3444143/member-companies-chamber-climate/>.

<sup>93</sup> Hakim, *CVS Health Quits U.S. Chamber Over Stance on Smoking*, *supra* note 65.

<sup>94</sup> Indeed, the Chamber actively fights efforts to make corporate political spending more transparent. For example, the Center for Political Accountability (CPA), in conjunction with the Wharton School at the University of Pennsylvania, tracks the political disclosure and accountability policies and practices of leading U.S. public companies. Center for Political Accountability, *The 2015 CPA-Zicklin Index of Corporate Political Disclosure and Accountability* (2015), [http://files.politicalaccountability.net/index/CPA-Zicklin\\_Index\\_Final\\_with\\_Links.pdf](http://files.politicalaccountability.net/index/CPA-Zicklin_Index_Final_with_Links.pdf). Its CPS-Zicklin Index allows the public to see companies; transparency practices in lobbying spending. The Chamber fights these policies to promote transparency. In 2015, it sent a letter to business leaders claiming that the CPA’s political spending transparency efforts were an insidious attempt to “mute the business community’s voice in political and public policy debates.” Letter from John Engler, President, Business Roundtable; Jay Timmons, President and CEO, National Association of Manufacturers; and Thomas Donahue, President and CEO, U.S. Chamber of Commerce; to business leaders (Oct. 13, 2015), <https://assets.documentcloud.org/documents/2697724/U-S-Chamber-Letter.pdf>.

## Appendix I: Original Tobacco Letter



July 8, 2015

Kenneth Griffin  
Founder and Chief Executive Officer  
Citadel LLC  
131 South Dearborn Street  
Chicago, IL 60603

Dear Mr. Griffin:

We are writing regarding recent reports in the *New York Times* that “the U.S. Chamber of Commerce and its foreign affiliates have become the hammer for the tobacco industry, engaging in a worldwide effort to fight antismoking laws of all kinds.”<sup>1</sup> This follows on the heels of the Chamber’s relentless opposition to addressing climate change and its support of “dark money” in politics.

Although Citadel LLC holds a seat on the U.S. Chamber of Commerce’s (U.S. Chamber or “the chamber”) Board of Directors, “the principal governing and policymaking body of the U.S. Chamber ... [that] determines the U.S. Chamber’s policy positions on business issues and advise[s] the U.S. Chamber on appropriate strategies to pursue,”<sup>2</sup> the U.S. Chamber’s work on behalf of tobacco companies does not appear to serve the interests of American business in general or your company in particular. Earlier this week, CVS Health, resigned from the Chamber, noting the company’s “surprise” at the group’s pro-tobacco lobbying.<sup>3</sup>

We are writing to you so we can fully understand the U.S. Chamber’s support for the tobacco industry, the decision-making process that resulted in this support, and the role of your company and other board members in this process.

The *Times* describes a number of extraordinary interventions by the U.S. Chamber or its international affiliates to curtail efforts to reduce tobacco use and eliminate abusive marketing practices. According to the *Times*,

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<sup>1</sup> New York Times, *U.S. Chamber of Commerce Works Globally to Fight Anti-Smoking Measures* (June 30, 2015) ([http://www.nytimes.com/2015/07/01/business/international/us-chamber-works-globally-to-fight-antismoking-measures.html?\\_r=0](http://www.nytimes.com/2015/07/01/business/international/us-chamber-works-globally-to-fight-antismoking-measures.html?_r=0)).

<sup>2</sup> U.S. Chamber of Commerce, *Leadership: Board of Directors* (accesses July 1, 2015) (<https://www.uschamber.com/about-us/leadership>).

<sup>3</sup> New York Times, *CVS Health Quits U.S. Chamber Over Stance on Smoking* (July 7, 2015) ([http://www.nytimes.com/2015/07/08/business/cvs-health-quits-us-chamber-over-stance-on-smoking.html?emc=edit\\_tnt\\_20150707&nid=68586528&intemail0=y](http://www.nytimes.com/2015/07/08/business/cvs-health-quits-us-chamber-over-stance-on-smoking.html?emc=edit_tnt_20150707&nid=68586528&intemail0=y)).

{T]he chamber has ... undertak[en] a three-pronged strategy in its global campaign to advance the interests of the tobacco industry. In the capitals of far-flung nations, the chamber lobbies alongside its foreign affiliates to beat back antismoking laws. In trade forums, the chamber pits countries against one another. The Ukrainian prime minister, Arseniy Yatsenyuk, recently revealed that his country's case [seeking to weaken tobacco regulations in] Australia was prompted by a complaint from the U.S. Chamber. And in Washington, Thomas J. Donohue, the chief executive of the chamber, has personally taken part in lobbying to defend the ability of the tobacco industry to sue under future international treaties, notably the Trans-Pacific Partnership.

To single out one industry for such an extraordinary dedication of U.S. Chamber resources seems quite remarkable, but to choose to lobby for tobacco is even more difficult to understand. These lobbying activities in support of the leading cause of preventable death worldwide<sup>4</sup> run directly contrary to the stated interests of the Chamber's members, which have identified among their chief health-care concerns that "American patients are increasingly suffering from costly and often deadly chronic diseases that are many times preventable."<sup>5</sup>

Given this contradiction and the potential adverse public health consequences of the U.S. Chamber's pro-tobacco advocacy efforts, we want to provide members of the Board of Directors an opportunity to clarify where they stand on these activities. As such, we request a response from you within three weeks regarding the following questions.

- 1) What is your company's position regarding the efforts of the U.S. Chamber and its international affiliates to fight globally against anti-smoking laws, regulations, and other efforts or policies?
- 2) Did your company's representatives on the U.S. Chamber's Board of Directors receive information that describes this campaign and the activities of the U.S. Chamber and its international affiliates? If so, please describe the information and when it was received?
- 3) Did the U.S. Chamber have a process for your company's representative to provide approval for the pro-tobacco activities or provide an opportunity to express your company's views on these activities?
- 4) Has your company informed its stockholders of the actions and role of the U.S. Chamber in support of the tobacco industry internationally?

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<sup>4</sup> CDC, *Smoking & Tobacco Use* (accessed July 1, 2015)  
[http://www.cdc.gov/tobacco/data\\_statistics/fact\\_sheets/fast\\_facts/](http://www.cdc.gov/tobacco/data_statistics/fact_sheets/fast_facts/)

<sup>5</sup> U.S. Chamber of Commerce, *Health Care* (accesses July 1, 2015)  
(<https://www.uschamber.com/Health-Care?type=280>)



Please contact Brian Cohen of Sen. Warren's staff ([Brian\\_Cohen@warren.senate.gov](mailto:Brian_Cohen@warren.senate.gov)), Lauren Jee of Sen. Blumenthal's staff ([Lauren\\_Jee@blumenthal.senate.gov](mailto:Lauren_Jee@blumenthal.senate.gov)), Jennifer DeAngelis ([Jennifer\\_DeAngelis@whitehouse.senate.gov](mailto:Jennifer_DeAngelis@whitehouse.senate.gov)) of Sen. Whitehouse's staff, or Ali Nouri ([Ali\\_Nouri@franken.senate.gov](mailto:Ali_Nouri@franken.senate.gov)) of Senator Franken's staff if you have any questions about this letter.

Sincerely,



Elizabeth Warren  
U.S. Senator



Richard Blumenthal  
U.S. Senator



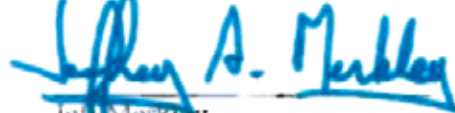
Sheldon Whitehouse  
U.S. Senator



Al Franken  
U.S. Senator



Sherrod Brown  
U.S. Senator



Jeff Merkley  
U.S. Senator

## Appendix II: Original Climate Letter



September 18, 2015

Inge G. Thulin  
Chairman of the Board, President and Chief Executive Officer  
3M  
3M Center  
St. Paul, MN 55144

Dear Mr. Thulin:

Recently, the New York Times reported that the United States Chamber of Commerce (“the Chamber”) has campaigned aggressively to repeal anti-smoking laws overseas. Now, another report in the same paper shows that the Chamber is leading efforts to undermine new EPA standards to address carbon pollution and climate change. These stories show that while the U.S. Chamber positions itself as the voice of all American businesses, in reality, it acts as a partisan enforcer for industries whose activities threaten public health and undermine the public well-being.

According to the New York Times, the Chamber is at the heart of a campaign to undermine the Environmental Protection Agency’s carbon pollution standards for existing power plants – the recently finalized Clean Power Plan – which will reduce carbon emissions, protect public health, and establish American leadership in the global fight against climate change.

Early last year, the Chamber began hosting regular meetings of “a group of about 30 corporate lawyers, coal lobbyists and Republican political strategists” to “start devising a strategy for dismantling the climate change regulations” before EPA had even issued a proposal. The New York Times reports that the Chamber-hosted effort has since “expanded into a vast network of lawyers and lobbyists” committed to challenging the Administration’s climate policy “at every opportunity.”

The Chamber has long opposed action to prevent climate change. It supports political leaders who are among the most extreme climate change deniers, and Chamber officials have failed to acknowledge the scientific reality of human-caused climate change in congressional testimony. The Chamber claims it supports reducing CO2 emissions and that to “make further progress, we should be guided by what has already worked: gains in efficiency, new technologies, and the increased use of natural gas and renewable fuels.” EPA’s Clean Power Plan allows states to use all of these tools, yet the Chamber does not support this plan, and has not presented or supported any alternative to the Clean Power Plan that would result in equivalent or greater emissions reductions. The strategy of the Chamber on climate change amounts to little more than denial and delay.

We are writing to you to ensure that you fully understand the Chamber’s role in the campaign to undermine U.S. action and leadership on climate change, and to give you an opportunity to

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clarify where your company stands on this issue. We request a response from you within three weeks regarding the following questions:


1. What is your company's position on the U.S. Chamber's effort to legally challenge or otherwise undermine the Obama Administration's Clean Power Plan?
2. Did your company's representatives on the U.S. Chamber's Board of Directors receive information that describes this campaign and the activities of the U.S. Chamber in support of this effort?
3. Did the U.S. Chamber have a process for your company's representative to provide approval for the activities described in the New York Times article or provide an opportunity to express your company's views on these activities?
4. If applicable, has your company informed its (1) board of directors and (2) stockholders of the actions of the U.S. Chamber against climate action, and your company's position on those actions?

Thank you for your attention to this matter. Please contact Dylan Handelsman of Sen. Whitehouse's staff ([Dylan\\_Handelsman@whitehouse.senate.gov](mailto:Dylan_Handelsman@whitehouse.senate.gov)) or Brian Cohen of Sen. Warren's staff ([Brian\\_Cohen@warren.senate.gov](mailto:Brian_Cohen@warren.senate.gov)) if you have any questions about this letter.

Sincerely,

  
Elizabeth Warren  
United States Senator

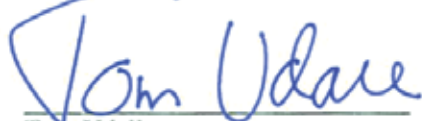
  
Sheldon Whitehouse  
United States Senator

  
Patrick J. Leahy  
United States Senator

  
Barbara A. Mikulski  
United States Senator

  
Dianne Feinstein  
United States Senator

  
Barbara Boxer  
United States Senator

  
Tom Udall  
United States Senator

  
Jeanne Shaheen  
United States Senator

  
Al Franken  
United States Senator

  
Mazie Hirono  
United States Senator

  
Edward J. Markey  
United States Senator

  
Bernard Sanders  
United States Senator

## Appendix III: List of Chamber Board Members that Responded and Did Not Respond

Responded to the July 8, 2015, Tobacco Letter	Did Not Respond to the July 8, 2015, Tobacco Letter	Responded to the September 18, 2015, Climate Change Letter	Did Not Respond to the September 18, 2015, Climate Change Letter
3M	Ace Hardware Corporation	Anthem, Inc.	3M
A.O. Smith Corporation	AEGON N.V.	Atlantic Council	A.O. Smith Corporation
Abbott Laboratories	AGCO Corporation	BMO Financial Group	Abbott Laboratories
Amadeus North America	AGL Resources	Citadel LLC	Ace Hardware Corporation
Anthem, Inc.	Alliance Resource Partners, L.P.	FedEx	AEGON N.V.
AT&T, Inc.	Allstate Insurance Company	Ford Motor Company	AGCO Corporation
Atlantic Council	Alpha Technologies, Inc.	Health Care Service Corporation	AGL Resources
Bay Electric Co., Inc.	Altria Client Services	International Business Machines (IBM)	Alliance Resource Partners, L.P.
Caterpillar, Inc.	American Air Liquide Holdings, Inc.	Union Pacific Corporation	Allstate Insurance Company
Celgene Corporation	American Ethane, LLC	United Parcel Service	Alpha Technologies, Inc.
Citadel LLC	Amway	Xerox Corporation	Altria Client Services
CNH Industrial	APi Group, Inc.		Amadeus North America
CUNA Mutual Group	Argo Group International Holdings Ltd.		American Air Liquide Holdings, Inc.
Deloitte LLP	Associates International, Inc.		American Ethane, LLC
DryStone Capital LLC	The Bay Cast Companies		Amway
Edward Jones	Black Hills Corporation		APi Group, Inc.
FedEx Freight	Blue Rock Companies		Argo Group International Holdings Ltd.
Health Care Service Corporation	BMO Financial Group		Associates International, Inc.
Indiana University Health	BNSF Railway Company		AT&T, Inc.
International Business Machines (IBM)	Caesars Entertainment Corporation		The Bay Cast Companies
Knowledge Universe	CHEP North America		Bay Electric Co., Inc.
LORD Corporation	Chester Group		Black Hills Corporation
NuScale Power LLC	Clark Robinson Capital		Blue Rock Companies
Pfizer, Inc.	CNL Financial Group, Inc.		BNSF Railway Company
Ryder System, Inc.	Comanche Lumber Company, Inc.		Caesars Entertainment Corporation
Schneider National, Inc.	ConocoPhillips		Caterpillar, Inc.
Schnitzer Steel Industries	CONSOL Energy, Inc.		Celgene Corporation
Sempra Energy	Cynosure Investments LLC		CHEP North America
Steward Health Care System LLC	DDB Worldwide Communications Group, Inc.		Chester Group
Travelers Companies, Inc.	Deere & Company		Clark Robinson Capital
Union Pacific Corporation	DHL		CNH Industrial
Xerox Corporation	DonahueFavret Contractors Holding Company		CNL Financial Group, Inc.
	The Dow Chemical Company		Comanche Lumber Company, Inc.
	E&E Enterprises Global, Inc.		ConocoPhillips
	Emergent BioSolutions, Inc.		CONSOL Energy, Inc.
	Emerson Electric Co.		CUNA Mutual Group
	Florida Power & Light Company		Cynosure Investments LLC
	Fluor Corporation		DDB Worldwide Communications Group, Inc.
	Ford Motor Company		Deere & Company
	Front Street Advisors Ltd.		Deloitte LLP
	Great Western Lodging		DHL
	The H.L. Turner Group, Inc.		DonahueFavret Contractors Holding Company
	Indigo Partners LLC		The Dow Chemical Company
	International Merchants, LLC		DryStone Capital LLC
	The Laclede Group		E&E Enterprises Global, Inc.
	Las Vegas Sands Corporation		Edward Jones
	Leading Authorities, Inc.		Emergent BioSolutions, Inc.

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Responded to the July 8, 2015, Tobacco Letter	Did Not Respond to the July 8, 2015, Tobacco Letter	Responded to the September 18, 2015, Climate Change Letter	Did Not Respond to the September 18, 2015, Climate Change Letter
	LTM Enterprises; Ludlum Measurements, Inc.		Emerson Electric Co.
	Melaleuca, Inc.		Florida Power & Light Company
	Mesa Capital Partners, LLC		Fluor Corporation
	NCI Building Systems, Inc.		Front Street Advisors Ltd.
	Norfolk Southern Corporation		Great Western Lodging
	Odney		The H.L. Turner Group, Inc.
	OneAmerica Financial Partners, Inc.		Indiana University Health
	PERMAC Industries		Indigo Partners LLC
	PGi		International Merchants, LLC
	Phillips 66		Knowledge Universe
	Pool Corporation		The Laclede Group
	Quam-Nichols Company, Inc.		Las Vegas Sands Corporation
	Ruan Transportation Management Systems		Leading Authorities, Inc.
	Salt Lake Chamber		LORD Corporation
	Sanofi US Services, Inc.		LTM Enterprises
	Select Milk Producers		Ludlum Measurements, Inc.
	Silgan Holdings, Inc.		Melaleuca, Inc.
	Southern Company		Mesa Capital Partners, LLC
	SSA Consultants		NCI Building Systems, Inc.
	State Farm Mutual		Norfolk Southern Corporation
	Step toe & Johnson PLLC		Nuscale Power LLC
	Sunrise Senior Living		Odney
	Telcom Ventures		OneAmerica Financial Partners, Inc.
	United Parcel Service		PERMAC Industries
	Wood Stieper Capital Group		Pfizer, Inc.
	World Pac Paper, LLC		PGi
	WPGlimcher		Phillips 66
	Yancey Bros. Co.		Pool Corporation
			Quam-Nichols Company, Inc.
			Ruan Transportation Management Systems
			Ryder System, Inc.
			Salt Lake Chamber
			Sanofi US Services, Inc.
			Schneider National, Inc.
			Schnitzer Steel Industries
			Select Milk Producers
			Sempra Energy
			Silgan Holdings, Inc.
			Southern Company
			SSA Consultants
			State Farm Mutual
			Step toe & Johnson PLLC
			Steward Health Care System LLC
			Sunrise Senior Living
			Telcom Ventures
			Travelers Companies, Inc.
			Wood Stieper Capital Group
			World Pac Paper, LLC
			WPGlimcher
			Yancey Bros. Co.

## Appendix IV: Tobacco Analysis

Based on responses to the Senators' July 8, 2015 letter and staff research, the following 49 Chamber Board members have been identified as having adopted anti-tobacco policies or practices.

### 3M

Between 2013 and 2015, 3M phased in a Tobacco-Free Policy at all of its work sites to "provide a healthy work environment for its employees, as well as all workers, customers and visitors."<sup>95</sup>

### Abbott

Abbott is a health-focused company that releases articles with advice on how to improve health. One such article, focused on heart health, asks, "did you know that over time, a smoker who quits can reduce his or her risk of heart disease to that of a nonsmoker's risk? In fact, some of the health benefits of quitting smoking are immediate. Within 20 minutes, your heart rate and blood pressure drop, and after 12 hours, the carbon monoxide level in your blood returns to normal."<sup>96</sup> The article then provides a link to the World Health Organization's guide to quitting smoking.

### Ace Hardware Corporation

One Ace Hardware retailer has described the health and wellness benefits that it makes available to its employees as follows: "[o]ur health insurance provider makes one-on-one coaching available to eligible team members so that they can reach their wellness goals. Wellness coaches support you in customized programs that include exercise, weight management, nutrition, stress, tobacco cessation, diabetes and more."<sup>97</sup>

### Aegon N.V.

Aegon N.V. offers Socially Responsible Investment funds which "have a greater focus on responsible investment issues than mainstream funds." One fund, available in the Netherlands, uses the DJSI as a benchmark, excluding sectors such as "alcohol, tobacco, gambling, armaments and firearms."<sup>98</sup>

### AGCO Corporation

Beginning on April 1, 2013, AGCO Power transitioned to a smoke-free campus. The company touted the change, saying "[t]here are a lot of benefits, both immediate and long term benefits . . . heart rate and blood pressure, which are abnormally high while smoking, begin to return to normal. Within a few weeks, people who quit smoking have improved circulation and don't cough or wheeze as often... Quitting smoking lowers the risk of cancer, diabetes and other diseases and helps the heart and lungs. With our new policy we shall have healthier working environment and healthier employees. A smoke-free workplace benefits the entire working community."<sup>99</sup>

### AGL Resources

In its 2010 Corporate Responsibility Report, AGL Resources described the launch of its wellness program, "The Prevention Plan," which saw an 85 percent participation rate amongst employees and their families during its first year. Among other health-promoting activities, the plan "provides support to lose weight, quit smoking, get fit or achieve other important health goals."<sup>100</sup>

### Allstate Insurance Company

In a post on Allstate's blog, an article describes ways to foster workplace wellness, noting that "[h]aving healthy employees not only makes for a happier workplace, it's also a smart way to run a business." One of the post's suggestions is to focus on risks for chronic diseases, explaining that "[t]he key habits you may want to tackle first are physical activity, healthy eating and tobacco cessation programs."<sup>101</sup>

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<sup>95</sup> 3M, Tobacco-Free/Smoke-Free Policy Questions and Answers (Dec. 4, 2013), [http://solutions.3m.com/3MContentRetrievalAPI/BlobServlet?lmd=1400242327000&locale=en\\_US&assetType=MMM\\_Image&assetId=1319239559853&blobAttribute=ImageFile](http://solutions.3m.com/3MContentRetrievalAPI/BlobServlet?lmd=1400242327000&locale=en_US&assetType=MMM_Image&assetId=1319239559853&blobAttribute=ImageFile) (last visited March 31, 2016).

<sup>96</sup> Abbott, 7 Tips to Keep Your Heart Happy, <http://www.abbott.com/newsroom/news/tips-to-keep-your-heart-happy.html>.

<sup>97</sup> Westlake Ace Hardware, Health & Wellness Benefits, <https://www.westlakehardware.com/careers/health-a-wellness/> (last visited April 8, 2016).

<sup>98</sup> Aegon, Socially responsible investment funds, [http://www.aegon.com/en/Home/Sustainability/Responsible-Investment/Socially-Responsible-Investment-Funds/?d\\_tab\\_id=42292](http://www.aegon.com/en/Home/Sustainability/Responsible-Investment/Socially-Responsible-Investment-Funds/?d_tab_id=42292) (last visited April 8, 2016).

<sup>99</sup> Press Release, AGCO Power, AGCO Power will be smoke-free beginning April 1st, 2013 (Feb. 14, 2013), <http://www.agcopower.com/company/news/?x1595371=1993827>.

<sup>100</sup> AGL RESOURCES, CORPORATE RESPONSIBILITY REPORT, at 9 (2010), [http://www.aglresources.com/pdfs/2010\\_CRR.pdf](http://www.aglresources.com/pdfs/2010_CRR.pdf).

<sup>101</sup> Posting of Nicole Markle to the Allstate Blog, [https://blog.allstate.com/wellness-in-workplace/?intcid=ILC-Internal-Search-Results-120808:wellness:result%204&\\_ga=1.235580361.916380236.1459268540](https://blog.allstate.com/wellness-in-workplace/?intcid=ILC-Internal-Search-Results-120808:wellness:result%204&_ga=1.235580361.916380236.1459268540) (June 24, 2015).

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## **Alpha Technologies, Inc.**

Alpha Technologies makes wellness benefits available to its employees. On its benefits page, the company states that it “encourage[s] all staff to live healthier lifestyles, support[s] a healthy workplace and create[s] a culture of wellness throughout our community. Alpha frequently offers health and wellness programs and activities including . . . [a] smoking cessation program.”<sup>102</sup>

## **Amadeus North America**

Amadeus’s Vice President of Commercial Development and Industry Affairs, Stewart Alvarez responded to the Tobacco Letter, stating that “Amadeus has not been involved, nor was I aware to the best of my knowledge/memory, about any activities and efforts related to anti-smoking laws and regulations with the Chamber as stated in the Letter.” The Amadeus representative further denied having been informed by the Chamber about its anti-tobacco campaign, saying “I specifically do not recall any such information being included in the board documentation.”<sup>103</sup>

## **Amway**

Amway’s Nutrilite Health Institute Wellness Fund donated \$10 million to Stanford University to study how wellness and prevention programs can lengthen the human lifespan.<sup>104</sup> In a Stanford Medical School Publication, Media Relations and Digital Media Specialist Becky Bach wrote that “[p]articipants will also have the opportunity to enroll in a variety of clinical trials to test various interventions, such as nutrition counseling or smoking cessation programs.”<sup>105</sup>

## **Anthem, Inc.**

Anthem President and CEO Joseph R. Swedish responded to the Tobacco letter, describing the company’s anti-tobacco initiatives such as its smoke-free facilities, the Quit For Life tobacco cessation program it makes available

to employees, and its broader community partnerships to incentivize smoking cessation. Anthem also said that it “has shared its strong, longstanding position on tobacco with the Chamber and will continue to work to improve public health as an employer, as a health plan, and as a member of the communities we serve.”<sup>106</sup> Additionally, in 2013, Anthem (under its former name WellPoint, Inc.) awarded the American Lung Association \$1.5 million to support its “Quitter in You” smoking cessation campaign.<sup>107</sup>

## **AT&T**

AT&T’s Executive Vice President for Federal Relations, Timothy P. McKone, responded to the Tobacco Letter, stating that “AT&T does not support any campaign to encourage tobacco use or fight against anti-smoking laws.”<sup>108</sup> AT&T also makes wellness benefits available to its employees. On its benefits overview webpage, the company describes its “Your Health Matters” portal, which provides “resources and wellness programs to help you . . . quit tobacco.”<sup>109</sup>

## **Atlantic Council**

In the Atlantic Council’s response to the Tobacco Letter, President and CEO Frederick Kempe stated that “I do not personally agree with all the public positions adopted by the U.S. Chamber of Commerce,” and that “[a]s a 501c3, the Atlantic Council doesn’t have a lobbying function.”<sup>110</sup>

## **BNSF Railway Company**

BNSF Railway Company’s winter 2014 Employee Magazine described the development of its Wellness Program from a pilot program three years prior to full deployment across BNSF’s 12 divisions. The program offers a variety of services including tobacco cessation assistance.<sup>111</sup>

## **Caterpillar, Inc.**

Caterpillar Vice President and Chief Human Resources Officer Kim Hauer described, in an article published on

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<sup>102</sup> Alpha Technologies, Why work at Alpha, <http://www.alpha.ca/company/latest-updates/why-work-at-alpha#health-wellness-benefits> (last visited April 8, 2016).

<sup>103</sup> Letter from Stewart Alvarez, Vice President, Commercial Development and Industry Affairs, Amadeus North America, Inc., to U.S. Senators Elizabeth Warren, Sheldon Whitehouse, et al. (Aug. 3, 2015) (on file with the office of Senator Sheldon Whitehouse).

<sup>104</sup> Press Release, Amway, Wellness Living Laboratory (WELL) to be first-ever research study to examine impacts of dietary and lifestyle habits on wellness and healthy aging (Sept. 17, 2014), <http://globalnews.amway.com/pressroom/news-release/news/wellness-living-laboratory-well-to-be-first-ever-research-study-to-examine-impacts-of-dietary-and-lifestyle-habits-on-wellness-and-healthy-aging>.

<sup>105</sup> Posting of Becky Bach to Scope, the Stanford Medicine blog, <http://scopeblog.stanford.edu/2014/09/18/stanford-to-launch-wellness-living-laboratory/> (Sept. 18, 2014).

<sup>106</sup> Letter from Joseph R. Swedish, President and Chief Executive Officer, Anthem, Inc., to U.S. Senators Elizabeth Warren, Sheldon Whitehouse, et al. (July 28, 2015) (on file with the office of Senator Sheldon Whitehouse).

<sup>107</sup> Press Release, New Smoking Cessation Campaign Offers Support for the “Quitter in You”, Anthem (June 24, 2013), <http://ir.antheminc.com/phoenix.zhtml?c=130104&p=irol-newsArticle&ID=1832769>.

<sup>108</sup> Letter from Timothy P. McKone, supra note 71.

<sup>109</sup> AT&T, BENEFITS OVERVIEW, at 5 (Jan. 2014), [http://att.jobs/media/47959/benefits-overview\\_mgmt-l1-l4\\_final\\_121613.pdf](http://att.jobs/media/47959/benefits-overview_mgmt-l1-l4_final_121613.pdf).

<sup>110</sup> Letter from Frederick Kempe, President and CEO, Atlantic Council, to U.S. Senators Elizabeth Warren, Sheldon Whitehouse, et al. (Nov. 10, 2015) (on file with the office of Senator Sheldon Whitehouse).

<sup>111</sup> BNSF Railway, Who We Are, What We Do: Medical & Environmental Health, RAILWAY, Winter 2014, at 6, <http://www.bnsf.com/employees/communications/railway-magazine/pdf/winter-2014.pdf>.

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Caterpillar's website, the company's activities that aim to "better enable our people's success and innovation." In particular, Caterpillar described how the company is committed to employee well-being, stating, "[w]e're going out to the factories and offices where our people are and providing information and resources that can help them live a healthier lifestyle, from better eating and exercise to the dangers of tobacco or distracted driving."<sup>112</sup>

## **Celgene**

In Celgene's response to the Tobacco Letter, Senior Vice President of Corporate Affairs and Strategic Market Access Richard H. Bagger stated that "[w]e do not support tobacco use or policies that promote tobacco use." He further noted the company's position as a member of the CEO Roundtable on Cancer, saying, "Celgene believes that employers and the business community should play an important leadership role in tobacco cessation."<sup>113</sup> According to its website, Celgene offers its employees "[a]ccess to the Quit for Life® Program from the American Cancer Society® that helps participants gain knowledge, skills and behavior strategies to quit smoking for life through customized plans and a supportive online community."<sup>114</sup>

## **Citadel, LLC**

Citadel did not respond to the Tobacco Letter, but its Senior Managing Director and Chief Legal Officer, Adam Cooper, did respond to us via email when we reached out about the Chamber's work on tobacco. Citadel stated that "[w]e have had no involvement or input that we are aware of and certainly devoted no time or resources to any such matter."<sup>115</sup>

## **CNH Industrial N.V.**

In a phone call following up on the Tobacco Letter, Richard Konrath, Vice President and General Counsel for CNH noted that the company offers a wellness program to its employees that discourages smoking and helps with cessation efforts. He stated further that in its role as a Chamber Board Member, CNH has not been involved in any discussions related to tobacco.<sup>116</sup>

## **CONSOL Energy, Inc.**

CONSOL's 2013 Corporate Responsibility Report includes descriptions of the "Well-Being Program" it makes available to its employees, which had a 68% participation rate that year. According to the report, "[t]he Program is comprised of both lab work and a health risk assessment questionnaire, with the main objective of identifying risk areas that lead to chronic disease. Aggregate 2013 data demonstrated a decreased population of high risk individuals in several chronic disease areas, as well as over a 4% decrease in heavy cigarette smoking among employees."<sup>117</sup>

## **CUNA Mutual Group**

CUNA Senior Vice President of Corporate and Legislative Affairs Christopher P. Roe responded to the Tobacco Letter, stating that "[a]s demonstrated in our workplace, we are supportive of smoke-free environments and measures necessary to reduce smoking and tobacco-related illnesses."<sup>118</sup>

## **Deere & Company**

Deere & Company offers a comprehensive tobacco cessation program (QuitPower®) as part of its employee benefits plan. The program offers "[a] personal coach for ongoing information and support, a quit plan that's customized for your needs, and nicotine patches or gum, delivered to your home with no out-of-pocket cost."<sup>119</sup>

## **Deloitte & Touche LLP**

In a phone call following up on the Tobacco Letter, a Deloitte representative stated that the company would not formally respond to the inquiry, but that Deloitte was not supportive of the Chamber's pro-tobacco lobbying.<sup>120</sup>

## **The Dow Chemical Company**

In a hearing on employer wellness programs before the U.S. Senate Committee on Health, Education, Labor and Pensions, Dow Chief Medical Officer Dr. Catherine Baase testified on behalf of the company about the actions it is taking to reduce tobacco use among employees. According

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<sup>112</sup> Kim Hauer, *Innovating in HR: Building the Team That Builds a Better World*, Caterpillar (Oct. 9, 2015), <http://www.caterpillar.com/en/news/caterpillarNews/innovation/innovating-in-hr-building-the-team-that-builds-a-better-world.html>.

<sup>113</sup> Letter from Richard H. Bagger, *supra* note 6.

<sup>114</sup> Celgene, *Employee Safety*, <https://www.celgene.com/responsibility/commitment-to-safety/employee-safety/> (last visited April 13, 2016).

<sup>115</sup> Email from Adam Cooper, Senior Managing Director and Chief Legal Officer, Citadel LLC, to staff for U.S. Senator Elizabeth Warren (Nov. 2, 2015) (on file with the office of U.S. Senator Elizabeth Warren).

<sup>116</sup> Phone call between Richard Konrath, Vice President and General Counsel, CNH Industrial N.V., and staff for U.S. Senator Elizabeth Warren (Nov. 4, 2015).

<sup>117</sup> CONSOL Energy, 2013 Corporate Responsibility Report, at 40 (2013), [http://www.consolenenergy.com/media/24348/2013\\_consol\\_energy\\_corporate\\_responsibility\\_report.pdf](http://www.consolenenergy.com/media/24348/2013_consol_energy_corporate_responsibility_report.pdf).

<sup>118</sup> Letter from Christopher P. Roe, Senior VP, Corporate & Legislative Affairs, CUNA Mutual Group, to U.S. Senators Elizabeth Warren, Sheldon Whitehouse, et al. (Oct. 19, 2015) (on file with the office of Senator Sheldon Whitehouse).

<sup>119</sup> John Deere, *Tobacco Cessation*, <http://www.deere.com/healthydirections/wellness/programs/stopsmoking.html> (last visited April 13, 2016).

<sup>120</sup> Phone call between staff of Deloitte and staff for Senator Elizabeth Warren (Oct. 23, 2015).



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to Dr. Baase, the company instituted a surcharge on medical plans for smokers, which can be avoided by agreeing to attend a smoking cessation class.<sup>121</sup> In its fourth quarter 2015 sustainability report, Dow described its Healthy Workplace Index, a tool that measures nine areas impacting employee health at each Dow workplace site, including tobacco cessation.<sup>122</sup>

## **DryStone Capital LLC**

In a phone call following up on the Tobacco Letter, John Henry, Chairman and CEO of DryStone Capital, indicated that his company is not supportive of the Chamber's tobacco-related activities.<sup>123</sup>

## **Edward Jones**

In its response to the Tobacco Letter, Edward Jones's Director of Regulatory Relations, Jesse Hill, described the company's anti-tobacco activities, stating, "Edward Jones actively supports a smoke free environment. In fact, here at Jones, we established a smoke-free campus for our associates on May 1, 2015."<sup>124</sup> Additionally, according to the company's website, Edward Jones offers a healthcare and wellness benefits package that includes smoking cessation assistance.<sup>125</sup>

## **FedEx**

In its 2016 Global Citizenship Report, FedEx described the wellness program options it makes available to its employees, including its QuitNet Tobacco Cessation Program. FedEx noted in the report that it "continued targeted health initiatives through [its] Healthways Well-Being Program. These include Well-Being Coaching, Innergy Healthier Weight Program and the QuitNet Tobacco Cessation Program, which provide team members with one-

on-one coaching and practical tools to make smart choices about their health."<sup>126</sup>

## **Fluor Corporation**

In its 2011 Sustainability Report, Fluor Corporation is committed to its employees, and its "emphasis on health and fitness instigated smoking cessation" programs at Fluor worksites around the world.<sup>127</sup>

## **Ford Motor Company**

In its 2014/2015 Sustainability Report, Ford Motor Company said that it "recognize[s] the impact that health issues such as heart disease, diabetes, smoking and obesity can have on the well being of our employees."<sup>128</sup> As an example of one of its programs that promotes "the good health, well-being, longevity and productivity" of its employees, the company further cited an initiative undertaken in 2013 to designate all of its facilities, buildings, and plants in Latin America as smoke-free.<sup>129</sup>

## **Health Care Service Corporation**

HCSC Divisional Senior Vice President and Chief Government Relation Officer M. Theresa Doyle responded to the Tobacco Letter, stating that HCSC is "convinced that ending smoking may help people live longer, enjoy a better quality of life and reduce costs in our healthcare system. We have advocated this position for decades and made it clear to organizations that we support."<sup>130</sup> According to its website, HCSC offers several wellness programs to healthcare consumers, including lifestyle management programs that offer guidance and support to help members stop smoking.<sup>131</sup> In a press statement released by HCSC in 2013, "members enrolled in HCSC's smoking cessation program reported a quit rate of 32%."<sup>132</sup>

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<sup>121</sup> Employer Wellness Programs: Better Health Outcomes and Lower Costs: Hearing Before the S. Comm. on Health, Education, Labor & Pensions, 114th Cong. (Jan. 29, 2015), available at <http://www.help.senate.gov/imo/media/doc/Baase4.pdf> (testimony of Dr. Catherine Baase).

<sup>122</sup> DOW, 2015 SUSTAINABILITY GOALS: 4Q 2015 UPDATE, at 11, <http://www.dow.com/~media/DowCom/Corporate/PDF/science-and-sustainability/Goals%20and%20Reporting/Q4SustainabilityReport2015-Digital20316.ashx>.

<sup>123</sup> Phone call between John Henry, Chairman and CEO, DryStone Capital, and staff for Senator Elizabeth Warren (Oct. 16, 2015).

<sup>124</sup> Letter from Jesse Hill, *supra* note 8.

<sup>125</sup> Edward Jones, Investing in You Wellness Program, <http://www.edwardjonesbenefits.com/edj/Default.aspx?tabid=468&language=en-US>

<sup>126</sup> FEDEX, 2016 GLOBAL CITIZENSHIP REPORT: DELIVER IT FORWARD, at 95 (2016), [http://csr.fedex.com/pdfs/FedEx\\_2016\\_Global\\_Citizenship\\_Report\\_Single.pdf](http://csr.fedex.com/pdfs/FedEx_2016_Global_Citizenship_Report_Single.pdf).

<sup>127</sup> FLUOR, 2011 SUSTAINABILITY REPORT: CELEBRATE THE PAST. SERVE THE FUTURE., at 13 (2011), [http://www.fluor.com/SiteCollectionDocuments/2011\\_Fluor\\_Sustainability\\_Report.pdf](http://www.fluor.com/SiteCollectionDocuments/2011_Fluor_Sustainability_Report.pdf).

<sup>128</sup> FORD MOTOR COMPANY, GLOBAL MOBILITY THROUGH CHANGING TIMES: SUSTAINABILITY REPORT 2014/2015, at 486, <http://corporate.ford.com/microsites/sustainability-report-2014-15/doc/sr14.pdf>.

<sup>129</sup> *Id.* at 491.

<sup>130</sup> Letter from M. Theresa Doyle, Divisional Senior Vice President and Chief Government Relations Officer, Health Care Service Corporation, to U.S. Senators Elizabeth Warren, Sheldon Whitehouse, et al. (July 29, 2015) (on file with the office of Senator Sheldon Whitehouse).

<sup>131</sup> HCSC, Programs and Tools for Healthy Living, <http://www.hcsc.com/programs.html> (last visited April 14, 2016).

<sup>132</sup> Press Release, HCSC, Health Care Service Corporation Offers Strategies to Improve Health while Saving Money in the New Year (Jan. 8, 2013), [http://hcsc.com/newyears\\_health\\_money.html](http://hcsc.com/newyears_health_money.html)

### **Indiana University Health**

Indiana University Health's President and CEO, Daniel F. Evans, Jr., responded to the Tobacco Letter, highlighting IU Health's efforts to reduce tobacco use. IU Health explained, "[w]e are proud of the many programs we have in place for smoking prevention and cessation, as well as health promotion and screenings for our team members, patients and members of the community. IU Health has been and will continue to be a leader in Indiana to prevent and curtail the use of tobacco products."<sup>133</sup> The health care provider further stated that it has communicated to the Chamber its disapproval of the Chamber's pro-tobacco lobbying, explaining: "IU Health has strongly encouraged the Chamber to review these policies to ensure they are consistent with its own stated position to oppose smoking and promote wellness."<sup>134</sup>

IU Health also enclosed in its reply a copy of a letter it sent to Chamber President and CEO Thomas Donahue in July 2015. In the letter, IU Health expressed particular concern "about reports of the Chamber's public policy advocacy related to tobacco use internationally" and requested "a full briefing on the issues raised and ask[ed] that [Mr. Evans] be included in any committee level deliberations on these policies so that [he] might provide a public health perspective to the debate."<sup>135</sup>

### **International Business Machines (IBM)**

Christopher A. Padilla, Vice President of Government and Regulatory Affairs for IBM, responded to the Tobacco Letter, stating the company's anti-tobacco policy "prohibits, to the extent permitted by applicable law, all smoking of tobacco-related products in all company-owned or leased buildings, vehicles, and client sites, as well as at all company events, meetings, and training classes. In addition, IBM's U.S. health plans provide targeted tobacco cessation support to

IBM employees and their family members."<sup>136</sup> According to IBM, it also charges its employees, and anyone else enrolled in their IBM healthcare plan, a "tobacco surcharge" of \$50 per month for each enrolled person who has used tobacco products within six months after their IBM medical coverage begins. This surcharge can be waived for each affected person who agrees to complete a smoking cessation program.<sup>137</sup>

### **Knowledge Universe**

Knowledge Universe CEO of Early Learning Programs, Elanna S. Yalow, responded to the Tobacco Letter, stating that "[r]educing the number of smokers is in the health and economic interests of our company and the nation" and that the company is "committed to helping any employee who still smokes to quit and all others to remain smoke-free. We offer a fully-paid smoking cessation program to all employees. Additionally, we are soon instituting a surcharge on our health benefits premium for employees who use tobacco products. We will waive the surcharge for employees who attest that they will join one of our fully-paid smoking cessation programs."<sup>138</sup>

### **Melaleuca, Inc.**

On its website, Melaleuca encourages its customers to take control of their heart health, noting that tobacco use is one of "6 controllable factors" that can affect heart health.<sup>139</sup>

### **Norfolk Southern Corporation**

Norfolk Southern's website cites some of the many benefits provided by the company's health and wellness program, including tobacco cessation assistance.<sup>140</sup> According to the company's wellness program website, that assistance includes health coaches to help employees quit and free over-the-counter nicotine replacement therapies.<sup>141</sup>

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<sup>133</sup> Letter from Daniel F. Evans, Jr., *supra* note 61.

<sup>134</sup> *Id.*

<sup>135</sup> Letter from Daniel F. Evans, Jr., President and Chief Executive Officer, Indiana University Health, to Thomas J. Donahue, President and CEO, U.S. Chamber of Commerce (July 9, 2015) (on file with the office of Senator Sheldon Whitehouse).

<sup>136</sup> Letter from Christopher A. Padilla, Vice President of Government and Regulatory Affairs, IBM Corporation, to U.S. Senators Elizabeth Warren, Sheldon Whitehouse, et al. (July 20, 2015) (on file with the office of Senator Sheldon Whitehouse).

<sup>137</sup> IBM, 2015 IBM BENEFITS PROGRAM OVERVIEW (MODULE I), at 7 (Nov. 2014), <http://www-01.ibm.com/services/socomm/shared/pdf/2015b1.pps>.

<sup>138</sup> Letter from Elanna S. Yalow, Ph.D., M.B.A., Chief Executive Officer, Early Learning Programs, Knowledge Universe, to U.S. Senators Elizabeth Warren, Sheldon Whitehouse, et al. (Oct. 26, 2015) (on file with the office of Senator Sheldon Whitehouse).

<sup>139</sup> Melaleuca, Inc., Health, Take Control of Your Heart Health, <http://www.melaleuca.info/About/Health> (last visited April 19, 2016).

<sup>140</sup> Norfolk Southern Corporation, Health and WellNS, <http://nssustainability.com/culture/wellness.php> (last visited April 28, 2016).

<sup>141</sup> Norfolk Southern Corporation, WellNS, <http://www.nscorp.com/wellns/WellNS/faq.html> (last visited April 28, 2016).

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## **NuScale Power LLC**

Nuscale General Counsel John M. Eustermann responded to the Tobacco Letter to note that NuScale is “committed to the health and safety of our employees, contractors and site visitors” and strongly supports “a healthy lifestyle for [its] employees with a smoke-free work environment. Nuscale seeks to encourage and assist employees who wish to avoid using tobacco products and . . . offer[s] tobacco-use cessation products and services to employees through [its] health benefits program.”<sup>142</sup>

## **OneAmerica Financial Partners, Inc.**

OneAmerica’s website lists smoking cessation assistance among the healthcare benefits provided to the company’s employees.<sup>143</sup> Additionally, according to its website, OneAmerica offers a “Socially Responsive” investment portfolio to its customers, which excludes investments in companies that are engaged in tobacco manufacturing.<sup>144</sup>

## **Pfizer, Inc.**

In 2010, Pfizer announced its support for the World Health Organization’s guidelines on smoking cessation, which are aimed at helping countries meet their obligations under the Framework Convention on Tobacco Control (FCTC).<sup>145</sup> The FCTC is a global treaty aimed at reducing the demand for tobacco and limiting its supply. The 2010 guidelines advise parties on how to implement Article 14 of the FCTC, which requires state parties to undertake efforts to promote the cessation of tobacco use.

In addition to supporting global efforts to promote smoking cessation, Pfizer has also published information on its

website regarding the hazards of smoking.<sup>146</sup> Pfizer has also awarded a number of grants to medical centers seeking to help patients quit smoking.<sup>147</sup>

## **Ryder System, Inc.**

Ryder Systems Chairman and CEO Robert Sanchez responded to the Tobacco Letter, explaining that Ryder “believe[s] that smoking is a health hazard to the public and . . . encourage[s] and incentivize[s] its staff to avoid consuming any tobacco products.”<sup>148</sup>

## **Ruan Transportation Management Systems**

On its website, Ruan Transportation explains that the health of its professional drivers is “paramount,” noting that 67% professional truck drivers smoke.<sup>149</sup> Among some of the more common health issues facing drivers, according to Ruan, are high blood pressure and sleep apnea, which Ruan notes can be mitigated by reducing smoking.<sup>150</sup> Ruan offers medical insurance to its employees that charges a monthly premium of between \$70 and \$843 to employees and covered family members who use tobacco.<sup>151</sup>

## **Sanofi US Services, Inc.**

According to its website, Sanofi supports policy approaches to health care that focus on disease- and illness-prevention, including employee prevention programs and policies that ban tobacco products on public property.<sup>152</sup>

## **Schneider National, Inc.**

Schneider National President and CEO Christopher Lofgren responded to the Tobacco Letter to explain that it “support[s] measures to reduce the prevalence of tobacco/nicotine

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<sup>142</sup> Letter from John M. Eustermann, General Counsel, Nuscale, to U.S. Senators Elizabeth Warren, Sheldon Whitehouse, et al. (July 29, 2015) (on file with the office of Senator Sheldon Whitehouse).

<sup>143</sup> OneAmerica, Benefits, The Benefits That Come with Working for OneAmerica, <https://www.oneamerica.com/careers/employee-benefits> (last visited April 29, 2016).

<sup>144</sup> OneAmerica, Socially Responsive Portfolio, <https://www.oneamerica.com/wps/portal/oaf/portfolios/socially-responsive/socially-responsive> (last visited April 29, 2016).

<sup>145</sup> Press Release, Pfizer, Pfizer Supports Historic World Health Organization Guidelines on Smoking Cessation Tobacco Dependence Treatment (Nov. 20, 2010), [http://www.pfizer.com/files/news/guidelines\\_smoking\\_tobacco.pdf](http://www.pfizer.com/files/news/guidelines_smoking_tobacco.pdf).

<sup>146</sup> PFIZER, VALUE OF MEDICINES: SMOKING CESSATION (2015), [http://www.pfizer.com/files/health/VOM\\_SmokingCessation\\_102815.pdf](http://www.pfizer.com/files/health/VOM_SmokingCessation_102815.pdf).

<sup>147</sup> See, e.g., Pfizer, Smoking Cessation, Living Tobacco Free, <http://www.pfizer.com/content/living-tobacco-free-0> (last visited April 20, 2016) (\$50,000 grant awarded to St. Tammany Hospital Foundation to support project aimed at increasing the number of patients counseled for tobacco use); Pfizer, Smoking Cessation, Expanding Provider Education and Resource Training for Tobacco Cessation (ExPERT Tobacco Cessation Program), <http://www.pfizer.com/content/expanding-provider-education-and-resource-training-tobacco-cessation-expert-tobacco> (last visited April 29, 2016) (\$50,000 grant awarded to Hunterdon Medical Center Foundation to support project aimed at educating healthcare providers on the most effective means of helping patients quit smoking).

<sup>148</sup> Letter from Robert Sanchez, Chairman and CEO, Ryder, to U.S. Senators Elizabeth Warren, Sheldon Whitehouse, et al. (July 28, 2015) (on file with the office of Senator Sheldon Whitehouse).

<sup>149</sup> Ruan, Driving Healthy for Life, <https://www.ruan.com/health-and-benefits.aspx> (last visited May 3, 2016).

<sup>150</sup> Ruan, Common Health Issues, <https://www.ruan.com/common-health-issues.aspx> (last visited May 3, 2016).

<sup>151</sup> Ruan, 2016 Employee Benefits Summary, Medical Plan Options, at 2, [https://www.ruan.com/filesimages/New%20PDFs/2016\\_BenefitsSummary\\_reduced.pdf](https://www.ruan.com/filesimages/New%20PDFs/2016_BenefitsSummary_reduced.pdf).

<sup>152</sup> Sanofi, Perspectives on Policy—Prevention, <http://www.sanofi.us/l/us/en/layout.jsp?scat=32A95422-2971-4144-A8E5-F29327A15713> (last visited May 4, 2016).

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use in [its] workforce and provide[s] effective interventions while subsidizing cessation programs for those who want to quit.” Schneider also explained that it offers reduced health insurance premiums to employees who don’t use tobacco or nicotine.<sup>153</sup>

### **Schnitzer Steel Industries, Inc.**

Schnitzer Steel Senior Vice President and General Counsel Peter Saba responded to the Tobacco Letter, explaining that Schnitzer is “committed to the health and safety of [its] employees, contractors and site visitors,” and that it “strongly support[s] a smoke-free work environment” and offers “tobacco use cessation products and services to employees through [its] health benefits program.”<sup>154</sup>

### **Sempra Energy**

Jessie J. Knight, Executive Vice President of External Affairs for Sempra Energy, responded to the Tobacco Letter to note that the company “strongly believe[s] in providing [its] employees with the necessary resources, including programs focused on smoking cessation, to help them live healthier lives.”<sup>155</sup>

### **State Farm Insurance Companies**

State Farm Insurance offers a number of wellness benefits and programs to its employees, including smoking cessation assistance.<sup>156</sup> On its website, the company encourages clients to utilize the American Cancer Society’s Quit for Life Smoking Cessation Program, noting that “[t]obacco use is

one of the largest preventable causes of death, and quitting is an important step in improving our health.”<sup>157</sup>

### **Steptoe & Johnson LLP**

Steptoe & Johnson promotes the American Cancer Society’s Quit for Life Smoking Cessation program, which provides support to individuals seeking to quit.<sup>158</sup>

### **Steward Health Care System LLC**

Steward Health Care System Chairman and CEO Ralph de la Torre responded to the Tobacco Letter, stating its position as follows: “Smoking is one of the leading causes of death. If the [U.S. Chamber of Commerce] is in fact advocating for increased smoking we do not agree with them on this public health issue.”<sup>159</sup> On its website, Steward Health Care System—a health care organization with 10 hospital campuses and 24 affiliated urgent care locations—lauds the efforts of one of its hospitals to ban smoking on its campus.<sup>160</sup> Steward also touts its own capital investments in another hospital to support the provision of community benefits such as tobacco use cessation.<sup>161</sup>

### **Sunrise Senior Living, Inc.**

Sunrise Senior Living oversees more than 300 senior living communities throughout the United States, Canada, and the United Kingdom. On its blog, Sunrise provides advice,<sup>162</sup> resources,<sup>163</sup> and information about scientific studies<sup>164</sup> for seniors seeking to quit smoking.

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<sup>153</sup> Letter from Christopher Lofgren, President and CEO, Schneider National, to U.S. Senators Elizabeth Warren, Sheldon Whitehouse, et al. (July 29, 2015) (on file with the office of Senator Sheldon Whitehouse).

<sup>154</sup> Letter from Peter Saba, Senior Vice President and General Counsel, Schnitzer Steel, to U.S. Senators Elizabeth Warren, Sheldon Whitehouse, et al. (July 29, 2015) (on file with the office of Senator Sheldon Whitehouse).

<sup>155</sup> Letter from Jessie J. Knight, *supra* note 9.

<sup>156</sup> State Farm, *Become an Employee: Worklife & Wellness*, <https://www.statefarm.com/careers/become-an-employee/employee-benefits/employee-worklife-wellness> (last visited May 11, 2016).

<sup>157</sup> State Farm, *Live Well, Be Well with the American Cancer Society’s Quit For Life Program*, <https://www.statefarm.com/retirees/resources/healthy-living/quit-for-life-program> (last visited May 11, 2016).

<sup>158</sup> Press Release, Steptoe & Johnson LLP, *Steptoe Named One of Healthiest Employers in Washington* (Aug. 12, 2014), <http://www.steptoe.com/news-1784.html>.

<sup>159</sup> Letter from Ralph de la Torre, *supra* note 7.

<sup>160</sup> Steward Health Care System, *Norwood Hospital Campus Goes Smoke-Free*, <https://www.norwood-hospital.org/article/norwood-hospital-campus-goes-smoke-free> (last visited May 16, 2016).

<sup>161</sup> Press Release, Steward Health Care System, *Steward Health Care’s Investments at Morton Hospital Improve Quality of Care and Create Positive Economic Impact on Community* (Jan. 27, 2014), <https://www.mortonhospital.org/article/steward-health-care%E2%80%99s-investments-morton-hospital-improve-quality-care-and-create>.

<sup>162</sup> Posting of Tim Watt to the Sunrise Senior Living blog, <http://www.sunriseseniorliving.com/blog/july-2015/5-tips-for-seniors-trying-to-quit-smoking.aspx> (July 8, 2015).

<sup>163</sup> Posting of Julia Little to the Sunrise Senior Living blog, <http://www.sunriseseniorliving.com/blog/september-2014/initiative-aims-to-help-seniors-quit-smoking.aspx> (Sept. 10, 2014).

<sup>164</sup> See, e.g., Posting of Julia Little to the Sunrise Senior Living blog, <http://www.sunriseseniorliving.com/blog/october-2013/study-never-too-late-to-quit-smoking.aspx> (Oct. 8, 2013).

### **Union Pacific Corporation**

Union Pacific President and CEO Lance M. Fritz responded to the Tobacco Letter to state only that the Chamber of Commerce is best suited to address the questions raised in that letter.<sup>165</sup> Union Pacific offers a smoking cessation program to employees as part of its health benefits package.<sup>166</sup>

### **Xerox Corporation**

Michele L. Cahn, Xerox's Vice President for Global Government Affairs & Philanthropy, responded to the Tobacco Letter to state that the company believes that the use of tobacco products "causes serious health consequences."<sup>167</sup> Xerox also noted that it "has long supported a healthy lifestyle for [its] employees, and... maintains a tobacco cessation program as part of its wellness program."<sup>168</sup>

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<sup>165</sup> Letter from Lance M. Fritz, President and CEO, Union Pacific, to U.S. Senators Elizabeth Warren, Sheldon Whitehouse, et al. (July 20, 2015) (on file with the office of Senator Sheldon Whitehouse).

<sup>166</sup> Union Pacific, Health & Wellness, <https://up.jobs/health-and-wellness.html> (last visited May 17, 2016); Union Pacific, Wellness Programs, <https://up.jobs/wellness-program.html> (last visited May 17, 2016).

<sup>167</sup> Letter from Michele L. Cahn, Vice President for Global Government Affairs & Philanthropy, Xerox, to U.S. Senators Elizabeth Warren, Sheldon Whitehouse, et al. (July 28, 2015) (on file with the office of Senator Sheldon Whitehouse).

<sup>168</sup> Id.

## Appendix V: Climate Analysis

Based on responses to the Senators' September 18, 2015 letter and staff research, the following 52 Chamber Board members have been identified as having adopted pro-climate policies or practices.

### 3M

3M is a founding member of the National Climate Coalition.<sup>169</sup> Additionally, in its 2015 Sustainability Report, 3M touted its "history of proactive leadership in addressing both the challenges and opportunities presented by climate change and energy conservation."<sup>170</sup> 3M further noted that its approach to climate change is based on several principles, including the company's recognition of "the activities of the United Nations Framework Convention on Climate Change" and 3M's support for an approach to reducing emissions that "includes all nations."<sup>171</sup>

### A.O. Smith Corporation

A.O. Smith has sponsored an annual "Sustainability Summit" since 2011, which is focused on raising awareness about climate change issues.<sup>172</sup> In 2016, the summit theme is focused on "engaging industry, community, and academia in sustainable action."<sup>173</sup>

### Abbott

According to its 2014 Global Citizenship Report, Abbott notes that climate change is among the company's top three environmental priorities, acknowledging that, "clearly, climate change poses serious challenges for humanity and our planet," and that "action is required, not only to mitigate these risks, but also to help society adapt to the climate changes already underway."<sup>174</sup> From 2013 through 2015, Abbott was named by the Dow Jones Sustainability Index (DJSI) as the leading company in its industry for

sustainability practices. Abbott has been included in the DJSI for the past eleven years.<sup>175</sup> Additionally, Abbott was recognized by the Environmental Protection Agency for its Excellence in Greenhouse Gas Management Goal Achievement Award in 2013 for the company's successful efforts in reducing its greenhouse gas emissions.<sup>176</sup>

### Ace Hardware Corporation

Ace Hardware acknowledges that "hardware stores sell stuff that is not environmentally friendly—but we're trying to change that." Among other things, Ace tries to provide "green" products to its customers, and it sponsors a Helpful Earth Choices Program that helps customers identify environmentally-friendly products and sustainable items. Additionally, Ace has installed energy-efficient lighting within its stores, reduced Volatile Organic Compounds in its paint, provides recycling services for customers, and is exploring the possibility of installing a solar power grid at its Sacramento, CA, facility.<sup>177</sup>

### Aegon N.V.

In December 2015, Aegon N.V. joined more than 500 businesses, cities, civil society groups, and other stakeholders in signing the Paris Pledge for Action, a global commitment by local governments and non-governmental actors to support the objectives and implementation of the Paris Agreement.<sup>178</sup> The Agreement, which was adopted by 195 countries in late 2015, would require signatory states to stem greenhouse gas emissions over the next several

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<sup>169</sup> The National Climate Coalition, Current Membership, <http://www.nationalclimatecoalition.com/members> (last visited April 4, 2016).

<sup>170</sup> 3M, 2015 SUSTAINABILITY REPORT, *supra* note 83 at 76.

<sup>171</sup> *Id.*

<sup>172</sup> A.O. Smith Corporation, 12th Annual Sustainability Summit 2015, <http://www.aosmith.com/Events/Current-Events/12th-Annual-Sustainability-Summit-2015/> (last visited April 4, 2016); Sustainability Summit and Exposition, <http://www.sustainabilitysummit.us/Home.aspx> (to view summit sponsors between 2011 and 2014, hover over the "About Us" drop-down menu; then hover over "Past Summits"; then hover over any of the 2011 through 2014 "Summit" drop-down menus; then select the "Summit Sponsors" hyperlink) (last visited April 5, 2016).

<sup>173</sup> Sustainability Summit and Exposition, *supra* note 172.

<sup>174</sup> ABBOTT, GLOBAL CITIZENSHIP REPORT: FINDING THE UPSIDE, at 31 (2014), [http://prod3.dam.abbott.com/en-us/documents/pdfs/abbott-citizenship/2014\\_Global\\_Citizenship\\_Report\\_121515-Interactive-with%20GRI-v13.pdf](http://prod3.dam.abbott.com/en-us/documents/pdfs/abbott-citizenship/2014_Global_Citizenship_Report_121515-Interactive-with%20GRI-v13.pdf).

<sup>175</sup> Press Release, Abbott, Abbott Named Industry Leader for Responsible and Sustainable Business for Three Consecutive Years on the Dow Jones Sustainability Index (DJSI) (Sept. 10, 2015), <http://abbott.mediaroom.com/2015-09-10-Abbott-Named-Industry-Leader-for-Responsible-and-Sustainable-Business-for-Three-Consecutive-Years-on-the-Dow-Jones-Sustainability-Index-DJSI>.

<sup>176</sup> Environmental Protection Agency, EPA Center for Corporate Climate Leadership, 2013 Climate Leadership Award Winners, <https://www.epa.gov/climateleadership/2013-climate-leadership-award-winners#main-content>.

<sup>177</sup> Ace Hardware, Helpful Earth Choices, <http://www.acehardware.com/helpfulearthchoices/index.jsp> (last visited April 8, 2016).

<sup>178</sup> Press Release, Aegon, Aegon Commits to Action Against Climate Change (Dec. 22, 2015), <http://www.aegon.com/en/Home/Investors/News/News/Archive/Aegon-commits-to-action-against-climate-change/>.

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decades, with an aim of preventing global temperatures from rising more than 3.6 degrees Fahrenheit by the year 2100. The Agreement will enter into force after instruments of ratification have been deposited by 55 countries that account for 55% of global emissions.<sup>179</sup> In addition to signing the Pledge, Aegon's CEO, Alex Wynaendts, recently remarked that policymakers in Europe need to change existing laws and regulations to make it easier for investors to support sustainable energy investment opportunities.<sup>180</sup>

## **AGCO Corporation**

AGCO considers long-term environmental, economic, and social sustainability to be a "core business imperative."<sup>181</sup> Pursuant to this priority, the company has developed a "strategic sustainability road map" focused on integrating sustainability practices in four key areas: operations, customers, suppliers, and community.<sup>182</sup> Accordingly, in its 2013 Sustainability Report, AGCO noted that the company has "set goals to achieve a 10 percent intensity (per US \$100,000 net sales) reduction in energy and greenhouse gas (GHG) emissions by 2017, as well as a 10 percent waste reduction by 2015."<sup>183</sup>

## **Allstate Insurance Company**

Allstate is a member of the Ceres Company Network,<sup>184</sup> a group of companies that have agreed to improve their environmental and social performance, publicly report on

their sustainability practices, and continuously improve their performance and disclosure on sustainability issues.<sup>185</sup>

In addition to its Ceres membership, Allstate was also named to the Climate Disclosure Leadership Index (CDLI) from 2008 to 2014 for its efforts to reduce its carbon footprint and transparency on its climate change adaptation.<sup>186</sup> CDP invites thousands of companies each year to respond to its annual climate change questionnaire, which uses a variety of criteria to measure a company's performance in disclosing climate-related information.<sup>187</sup> Of the companies that responded, the top 10 percent are featured on the CDLI.<sup>188</sup>

## **Altria Client Services**

According to Altria's website, the company "think[s] it's important that our companies play an active role in protecting our natural resources and reducing our impact on the environment." Consequently, each of Altria's companies has adopted an environmental policy that "addresses air emissions, environmental assessment, hazardous materials, waste and wastewater/storm water management."<sup>189</sup> Altria also maintains a Supplier Code of Conduct that "describes the broad expectations for Suppliers that provide goods and services to the Altria family of companies." Among other things, suppliers are expected to comply with applicable environmental laws, reduce their environmental impact, and promote sustainable practices.<sup>190</sup>

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<sup>179</sup> Press Release, United Nations Framework Convention on Climate Change, Historic Paris Agreement on Climate Change: 195 Nations Set Path to Keep Temperature Rise Well Below 2 Degrees Celsius (Dec. 12, 2015) <http://newsroom.unfccc.int/unfccc-newsroom/finale-cop21/> (last visited April 6, 2016).

<sup>180</sup> Press Release, Aegon, Aegon calls for fewer constraints on sustainable investments (March 16, 2016), <http://www.aegon.com/en/Home/Investors/News/News/Archive/Aegon-pleas-for-sustainable-investments/>.

<sup>181</sup> AGCO, Sustainability, <http://www.agcocorp.com/commitment/sustainability.html> (last visited April 6, 2016).

<sup>182</sup> AGCO, Focus Areas, <http://www.agcocorp.com/commitment/sustainability/focus-areas.html> (last visited April 6, 2016).

<sup>183</sup> AGCO, 2013 SUSTAINABILITY REPORT, at 2 (2013), <http://agco.uberflip.com/i/388918-2013-sustainability-report>.

<sup>184</sup> Ceres Company Network Members, *supra* note 72.

<sup>185</sup> Ceres, Become a Ceres Company, *supra* note 73.

<sup>186</sup> CDP CLIMATE CHANGE REPORT 2015, *supra* note 74; CDP, CLIMATE DISCLOSURE LEADERSHIP INDEX—NORTH AMERICA (2014), <https://www.cdp.net/Documents/leaders/north-america.htm> (last visited April 6, 2016); CDP, INVESTMENT, TRANSFORMATION AND LEADERSHIP: CDP S&P 500 CLIMATE CHANGE REPORT, at 8 (2013), <https://www.cdp.net/CDPResults/CDP-SP500-climate-report-2013.pdf>; CARBON DISCLOSURE PROJECT, ACCELERATING PROGRESS TOWARD A LOWER-CARBON FUTURE: CDP S&P 500 CLIMATE CHANGE REPORT, at 13 (2012), <https://www.cdp.net/CDPResults/CDP-SP500-2012.pdf>; CARBON DISCLOSURE PROJECT, CDP GLOBAL 500 REPORT 2011 ACCELERATING LOW CARBON GROWTH, at 56 (2011), <https://www.cdp.net/CDPResults/CDP-G500-2011-Report.pdf>; CARBON DISCLOSURE PROJECT, CARBON DISCLOSURE PROJECT 2010 GLOBAL 500 REPORT, at 41 (2010), <https://www.cdp.net/CDPResults/CDP-2010-G500.pdf>; CARBON DISCLOSURE PROJECT, CARBON DISCLOSURE PROJECT 2009 GLOBAL 500 REPORT, at 36 (2009), [https://www.cdp.net/CDPResults/CDP\\_2009\\_Global\\_500\\_Report\\_with\\_Industry\\_Snapshots.pdf](https://www.cdp.net/CDPResults/CDP_2009_Global_500_Report_with_Industry_Snapshots.pdf); CARBON DISCLOSURE PROJECT, CARBON DISCLOSURE PROJECT REPORT 2008 GLOBAL 500, at 105 (2008), [https://www.cdp.net/CDPResults/67\\_329\\_143\\_CDP%20Global%20500%20Report%202008.pdf](https://www.cdp.net/CDPResults/67_329_143_CDP%20Global%20500%20Report%202008.pdf).

<sup>187</sup> See, e.g., CDP CLIMATE CHANGE REPORT 2015, *supra* note 74, at 4 ("More than 5,500 companies now disclose to CDP, generating the world's largest database of corporate environmental information, covering climate, water and forest-risk commodities.").

<sup>188</sup> Jessica Lyons Hardcastle, CDP Global 500: 10% of Largest Companies Produce 73% of GHGs, ENVIRONMENTAL LEADER (Sept. 12, 2013), <http://www.environmentalleader.com/2013/09/12/cdp-global-500-10-of-largest-companies-produce-73-of-ghgs/>.

<sup>189</sup> Altria, Environmental Management, <http://www.altria.com/Responsibility/Environmental-Management/Pages/default.aspx?src=leftnav> (last visited April 7, 2016).

<sup>190</sup> ALTRIA, SUPPLIER CODE OF CONDUCT, at 5, 15, [http://www.altria.com/Responsibility/Supply-Chain-Responsibility/Documents/Supplier\\_Code\\_of\\_Conduct\\_Brochure.pdf](http://www.altria.com/Responsibility/Supply-Chain-Responsibility/Documents/Supplier_Code_of_Conduct_Brochure.pdf).

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In 2015, Altria companies gave more than \$3.5 million in charitable contributions to twelve environmental organizations,<sup>191</sup> including the National Fish and Wildlife Foundation and the Ocean Conservancy, which seek to mitigate the effects of climate change on wildlife and marine animals, forests and grasslands, and oceans, coasts, and other waterways.

## **Amadeus North America**

Amadeus maintains a Code of Ethics and Business Conduct, which stipulates that the company is “committed to reducing the overall environmental impact of [its] operations, and to helping the industries [it] serve[s] take the important steps forward to reducing carbon emissions and other forms of pollution.”<sup>192</sup> Amadeus has been listed on the DJSI from 2012 through 2015.<sup>193</sup>

## **Amway**

Amway’s 2014 Corporate Social Responsibility report notes that the company “believes that the proper use and management of the earth’s resources is the responsibility of industry and individuals alike.”<sup>194</sup> The report further explains that Amway strives to reduce waste and emissions, promote sustainable building practices, and increase the use of alternative energy and sustainable agriculture.

## **Anthem, Inc.**

Anthem responded to the Climate Letter, which requested information about the company’s commitment to climate change in light of its position on the Board of Directors of the Chamber of Commerce. In Anthem’s response, the company’s Vice President of the Office of Government Affairs, Elizabeth Hall, explained Anthem’s commitment to sustainability and environmental conservation, stating, “[a]s a health benefits company committed to transforming health care with trusted and caring solutions, Anthem recognizes the link between our environment and our health.” Ms. Hall cited Anthem’s participation in the Carbon Disclosure Project since 2009, recognition as an

Environmental Protection Agency (EPA) Energy Star Partner, and other corporate efforts to improve sustainability and conserve resources as examples of Anthem’s commitment to environmental conservation. Ms. Hall also explained that “Anthem has shared its commitment to environmental sustainability with the Chamber and plans to continue this important discourse.”<sup>195</sup>

## **AT&T, Inc.**

AT&T is one of more than 150 companies to have signed on to the American Business Act on Climate Pledge.<sup>196</sup> AT&T has committed to reduce its direct greenhouse emissions by 20 percent and reduce its electricity consumption by 2020.<sup>197</sup> AT&T also maintains a corporate climate change policy, which notes that AT&T “recognizes that climate change is happening, that greenhouse gas emissions are contributing to it, and that transitioning to a more resource efficient world will be a primary determinant of success in the 21st century global economy.”<sup>198</sup>

## **Atlantic Council**

The Atlantic Council’s President and CEO, Frederick Kempe, responded to the Climate Letter, explaining that he holds his position on the U.S. Chamber of Commerce Board of Directors in his personal capacity and not as a representative of the Atlantic Council. Nevertheless, Mr. Kempe noted that the Atlantic Council—a 501(c)(3)—does not have a lobbying function, but it does attempt to educate stakeholders on “the latest global trends and latest policy innovations for securing a more prosperous tomorrow.” Notably, the Council houses a Global Energy Center, which has worked “consistently on climate issues.”<sup>199</sup>

## **BMO Financial Group**

BMO Financial Group’s Director of U.S. Government Affairs, Mary Kenney, responded to the Climate Letter, stating: “BMO’s position on the environment and climate change is clear and unambiguous. BMO is focused on reducing our environmental footprint, setting clear goals and consistently maintaining carbon neutrality across our entire enterprise.”<sup>200</sup>

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<sup>191</sup> ALTRIA, 2015 RECIPIENTS OF CHARITABLE CONTRIBUTIONS FROM ALTRIA FAMILY OF COMPANIES, at 5, <http://www.altria.com/Responsibility/Investing-In-Communities/Documents/2015GranteesList.pdf>.

<sup>192</sup> AMADEUS, CODE OF ETHICS AND BUSINESS CONDUCT, at 3 (Oct. 2015), <http://www.amadeus.com/documents/corporate/amadeus-code-of-ethics-and-business-conduct.pdf>.

<sup>193</sup> Posting of Tomas López Fernebrand to Amadeus Blog, <http://blogamadeus.com/24/09/amadeus-dow-jones-sustainability-index/> (Sept. 24, 2015).

<sup>194</sup> AMWAY, HELPING PEOPLE LIVE BETTER LIVES: 2014 CORPORATE SOCIAL RESPONSIBILITY REPORT, at 15 (2014), [http://globalnews.amway.com/SiteFiles/501484/assets/CSR\\_Report.pdf](http://globalnews.amway.com/SiteFiles/501484/assets/CSR_Report.pdf).

<sup>195</sup> Letter from Elizabeth Hall, Vice President, Office of Federal Government Affairs, Anthem, Inc., to U.S. Senators Elizabeth Warren, Sheldon Whitehouse, et al. (Oct. 9, 2015) (on file with the office of Senator Sheldon Whitehouse).

<sup>196</sup> Press Release, The White House, *supra* note 75.

<sup>197</sup> Press Release, The White House, FACT SHEET, *supra* note 76.

<sup>198</sup> AT&T, Climate Change Policy, [http://about.att.com/content/dam/csr/FAQpdfs/Policypdfs/climate\\_policy.pdf](http://about.att.com/content/dam/csr/FAQpdfs/Policypdfs/climate_policy.pdf).

<sup>199</sup> Letter from Frederick Kempe, *supra* note 110.

<sup>200</sup> Letter from Mary Kenney, *supra* note 77.



## **BNSF Railway Company**

In its 2014 Corporate Responsibility and Sustainability report, BNSF shared its belief that it is “good business and good citizenship to minimize [its] impact on the planet and to contribute to the long-term sustainability of every community [it] serve[s].”<sup>201</sup> Its initiatives include efforts to reduce energy consumption within the company, maintain fuel efficiency for BNSF locomotives, reduce greenhouse gas emissions, and invest in and utilize renewable energy where possible.<sup>202</sup> In 2009, BNSF Railway was named to the Climate Disclosure Leadership Index (CDLI) for its efforts to disclose its climate change practices.<sup>203</sup>

## **Caesars Entertainment Corporation**

Caesars is a signatory to the Ceres Climate Declaration, which acknowledges that “[t]ackling climate change is one America’s greatest economic opportunities of the 21st century [sic].”<sup>204</sup> Caesars was also awarded a Climate Leadership Award by the Environmental Protection Agency in 2014 in recognition of the company’s efforts to reduce emissions.<sup>205</sup>

## **Caterpillar Inc.**

According to its 2015 Sustainability Report, Caterpillar acknowledges that “[g]reenhouse gas (GHG) accumulation in the atmosphere is a major concern in both the public and private sectors because of the potential for these gases to affect climate patterns.” The company further explains that it “support[s] intelligent, responsible public policies addressing climate and energy issues. Additionally, [it] support[s] the reduction of GHG accumulation through improved GHG management practices.”<sup>206</sup> Caterpillar notes that it is working to set “aggressive energy efficiency and GHG reduction goals”; invest in “energy-efficiency

and emissions-reduction technologies” for its products; and commit to the “development and deployment of advanced technologies that capture and store GHG emissions.”<sup>207</sup> In addition to its self-avowed support for efforts to mitigate climate change, Caterpillar is also a member of the U.S. Climate Action Partnership.<sup>208</sup>

## **Celgene Corporation**

According to its website, Celgene has set a number of goals for the company to reduce its greenhouse gas emissions, increase renewable energy usage, increase recycling and decrease general waste volume, and reduce the impact of water disposal on nearby communities.<sup>209</sup> In addition to its corporate commitment to reduce its environmental impact, for the past several years, Celgene has also publicly disclosed information to the CDP about its greenhouse gas emissions, water consumption and conservation, and environmental management.<sup>210</sup>

## **CNH Industrial N.V.**

According to CNH’s 2014 Sustainability Report, the company is working on the development of methodology to measure its carbon emissions, and has taken a number of other measures to limit its energy consumption and use of fossil fuels, including by encouraging its suppliers to reduce their environmental impact. CNH also “contributes to the global fight against climate change by marketing products whose innovative features allow reducing polluting emissions and that are increasingly efficient at cutting fuel consumption and CO<sub>2</sub> emissions.”<sup>211</sup> Additionally, in 2015, CNH was ranked by the CDP as one of more than 100 companies that made the CLDI “A List”—a designation reserved for companies that score at the top of their industry categories based on their performance in reducing greenhouse gas emissions.<sup>212</sup>

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<sup>201</sup> BNSF, CORPORATE RESPONSIBILITY AND SUSTAINABILITY REPORT, at 3 (2014), <http://www.bnsf.com/communities/pdf/corporate-responsibility-report.pdf>.

<sup>202</sup> *Id.* at 3-10.

<sup>203</sup> Press Release, BNSF Railway Company, BNSF Leads Surface Transportation Providers in Climate Change Disclosure (Oct. 29, 2009), <https://www.bnsf.com/media/news/articles/2009/10/2009-10-29b.html>.

<sup>204</sup> Ceres, Climate Declaration FAQ’s, <http://www.ceres.org/declaration/faq> (last visited April 8, 2016).

<sup>205</sup> Environmental Protection Agency, EPA Center for Corporate Climate Leadership, 2014 Climate Leadership Award Winners, <https://www.epa.gov/climateleadership/2014-climate-leadership-award-winners#Caesars%20Entertainment>.

<sup>206</sup> CATERPILLAR, 2015 SUSTAINABILITY REPORT: WHAT WE’VE BUILT, WHAT WE’RE SOLVING, at 18 (2015), <http://s7d2.scene7.com/is/content/Caterpillar/C10875019>.

<sup>207</sup> *Id.* at 22.

<sup>208</sup> CLIMATE ACTION PARTNERSHIP, *supra* note 48.

<sup>209</sup> Celgene, Environmental Management, <https://www.celgene.com/responsibility/environment-sustainability/environmental-management/>.

<sup>210</sup> Celgene, CDP (Carbon Disclosure Project), <https://www.celgene.com/responsibility/environment-sustainability/carbon-disclosure-project/>.

<sup>211</sup> CNH INDUSTRIAL, 2014 SUSTAINABILITY REPORT: ECONOMIC, ENVIRONMENTAL, AND SOCIAL RESPONSIBILITY, at 137, 160-61, 181 (2014), [http://www.cnhindustrial.com/en-us/sustainability2014/FiatDocuments/2014\\_Sustainability\\_Report.pdf#page=27](http://www.cnhindustrial.com/en-us/sustainability2014/FiatDocuments/2014_Sustainability_Report.pdf#page=27).

<sup>212</sup> CDP CLIMATE CHANGE REPORT 2015, *supra* note 74, at 11.

## **ConocoPhillips**

ConocoPhillips's Senior Vice President of Government Affairs, Andrew Lundquist, responded to a February 2015 letter led by U.S. Senators Boxer, Whitehouse, and Markey, which requested information about payments by the company in support of scientists and scientific research, as well as other climate change-related support. In his response, Mr. Lundquist cited his company's position that ConocoPhillips "recognizes that human activity, including the burning of fossil fuels, is contributing to increased concentrations of greenhouse gases (GHG) in the atmosphere that can lead to adverse changes in climate." He also cited the company's Climate Action Plan, pursuant to which ConocoPhillips has set a number of goals to reduce its greenhouse gas emissions.

Mr. Lundquist also noted that in 2010, ConocoPhillips became a cosponsor of the MIT Joint Program on the Science and Policy of Global Change, which aims to quantitatively analyze global change risk and its social and environmental consequences. The Program seeks to, in Mr. Lundquist's words, "[a]ugment the pool of people needed for work in this area by the education of graduate and undergraduate students in relevant disciplines of economic and Earth science analysis and methods of policy assessment."<sup>213</sup> ConocoPhillips is also a member of the U.S. Climate Action Partnership.<sup>214</sup>

## **DHL**

DHL offers a climate-neutral shipping service, through which DHL customers can offset the emissions from shipping by purchasing carbon credits. Revenue from the purchase of these credits is then used to finance climate protection products. According to its website, DHL "invest[s] in climate protection projects complying with the Clean Development Mechanism (CDM) criteria set down in the Kyoto Protocol."<sup>215</sup> DHL's Deutsche Post DHL Group was named to CDP's "A List" for its region in 2015.<sup>216</sup>

## **The Dow Chemical Company**

Mr. Kevin Kolevar, Dow's Vice President of Government Affairs and Public Policy, responded to a letter sent by Senator Sheldon Whitehouse and Representative Henry Waxman in January 2013, requesting the company's views on what actions the federal government should take to address climate change. Dow responded to say that it supports the "enactment of environmentally effective and economically sustainable energy and climate policy to foster the transition to a lower carbon economy. . . . More specifically, we believe the country would benefit from a comprehensive energy plan that rests on four pillars, defined by the acronym COAT: conserve energy through aggressive energy efficiency; optimize, increase, and diversify our domestic hydrocarbon resources; accelerate cost-effective, clean, renewable, and alternative energy; and transition to a sustainable energy future."<sup>217</sup> Additionally, the Dow Chemical Company was a member of the U.S. Climate Action Partnership.<sup>218</sup>

## **FedEx Freight**

FedEx Freight's President and CEO, Michael Ducker, responded to the Climate Letter, noting that FedEx's Environmental Policy Statement "recognizes that the long-term health of our business is directly connected to the health of the planet and local communities." Mr. Ducker also described some of the efforts his company has undertaken to reduce emissions and improve its environmental sustainability practices.<sup>219</sup>

## **Florida Power and Light Company**

According to its website, Florida Power and Light Company (FPL) is "recognized as a clean energy company, with one of the lowest emissions profiles among U.S. utilities. FPL's carbon dioxide emissions rate, for example, is 35 percent better than the industry average."<sup>220</sup> FPL is a subsidiary of NextEra Energy, the world's largest generator of renewable energy from the wind and sun. NextEra was ranked the top "green utility" in the United States and 4th in the world in 2014 and 2015, based on its carbon emissions and

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<sup>213</sup> Letter from Andrew D. Lundquist, Senior Vice President of Government Affairs, ConocoPhillips, to U.S. Senators Barbara Boxer, Sheldon Whitehouse, and Edward Markey (March 30, 2015) (on file with the office of Senator Sheldon Whitehouse).

<sup>214</sup> CLIMATE ACTION PARTNERSHIP, *supra* note 48 at 25.

<sup>215</sup> DHL, Climate Neutral, [http://www.dhl.com/en/about\\_us/green\\_solutions/climate\\_neutral.html](http://www.dhl.com/en/about_us/green_solutions/climate_neutral.html) (last visited April 8, 2016).

<sup>216</sup> Press Release, DHL, Deutsche Post DHL Group receives highest CDP Climate Score rating of 100 A (Nov. 4, 2015), [http://www.dhl.com/en/press/releases/releases\\_2015/group/dpdhl\\_group\\_receives\\_highest\\_cdp\\_climate\\_score\\_rating\\_of\\_100\\_a.html](http://www.dhl.com/en/press/releases/releases_2015/group/dpdhl_group_receives_highest_cdp_climate_score_rating_of_100_a.html).

<sup>217</sup> Letter from Kevin Kolevar, Vice President of Government Affairs and Public Policy, Dow Chemical Company, to U.S. Senator Sheldon Whitehouse and U.S. Representative Henry Waxman (March 14, 2013) (on file with the office of Senator Sheldon Whitehouse).

<sup>218</sup> CLIMATE ACTION PARTNERSHIP, *supra* note 48 at 25.

<sup>219</sup> Letter from Michael L. Ducker, President and CEO, FedEx Freight, to U.S. Senators Elizabeth Warren, Sheldon Whitehouse, et al. (Oct. 14, 2015) (on file with the office of Senator Sheldon Whitehouse).

<sup>220</sup> Florida Power and Light Company, Power Plant Projects, <https://www.fpl.com/clean-energy/plant-projects.html> (last visited April 15, 2016).

<sup>221</sup> Press Release, NextEra Energy, NextEra Energy once again recognized as a World's Most Ethical Company (March 7, 2015), <http://www.nexteraenergy.com/news/contents/2016/030716.shtml>; Press Release, NextEra Energy, NextEra Energy ranked as top green utility in North America as part of EI Energy Intelligence global ranking (Nov. 6, 2014), [http://www.investor.nexteraenergy.com/phoenix.zhtml?c=88486&p=irol-newsArticle\\_print&ID=1987114](http://www.investor.nexteraenergy.com/phoenix.zhtml?c=88486&p=irol-newsArticle_print&ID=1987114).

renewable energy capacity.<sup>221</sup>

## Fluor Corporation

In its 2014 Sustainability Report, Fluor noted that the company “proactively report[s its] GHG emission information to . . . the CDP . . .,” and that since it began collecting data on its greenhouse gas emissions, Fluor has reduced its carbon footprint by 35 percent.<sup>222</sup> In addition to these efforts, Fluor also continues to reduce waste and increase recycling, enhance its energy efficiency, and work with suppliers that comply with Fluor’s Sustainability Program or develop one of their own.<sup>223</sup>

## Ford Motor Company

Ford Motor Company’s Vice President for Government Relations, Curt Magleby, responded to the Climate Letter, stating that his company is “committed to doing [its] share to prevent or reduce the potential for environmental, economic and social harm due to climate change.”<sup>224</sup> Ford is a member of the Ceres Company Network,<sup>225</sup> a group of companies that have agreed to improve their environmental and social performance, publicly report on their sustainability practices, and continuously improve their performance and disclosure on sustainability issues. In 2012, Ford was awarded a Climate Leadership Award by the Environmental Protection Agency in recognition of its efforts to reduce emissions.<sup>226</sup>

## International Business Machines (IBM)

IBM’s Vice President for Government and Regulatory Affairs,

Christopher Padilla, responded to the Climate Letter, noting that IBM “has long been a recognized global leader on the issue of climate change.” Mr. Padilla cited the company’s success in reducing its carbon emissions by more than 25 percent against a 2005 baseline. He further notes that, between 1990 and 2014, IBM “saved 6.8 million megawatt hours of electricity consumption, avoided 4.2 million metric tons of CO<sub>2</sub> emissions, and saved \$550 million through energy conservation actions.” He said IBM plans to further reduce CO<sub>2</sub> emissions by 35 percent by the end of 2020, and procure electricity from renewable resources for 20 percent of the company’s annual consumption by 2020.<sup>227</sup> IBM was awarded a Climate Change Leadership Award by the EPA in 2012, 2013, and 2014.<sup>228</sup>

## Las Vegas Sands Corp.

Las Vegas Sands was named to the CDP’s “A list” in 2015 for its efforts to address and disclose corporate climate change information. The company was also listed on the Dow Jones Sustainability Index for the first time in 2015.<sup>229</sup> In addition to these awards, Las Vegas Sands also maintains a Supplier Code of Conduct that defines the company’s expectation that all suppliers will “minimize environmental pollution and make continuous improvements in environmental protection.”<sup>230</sup>

## LORD Corporation

On its website, LORD Corporation cites “safeguarding the environment” as one of the company’s top priorities.<sup>231</sup> LORD notes that its “commitment to sustainability applies across our entire supply chain—from the conservation of

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<sup>222</sup> FLUOR, 2014 SUSTAINABILITY REPORT, at 39 (2014), <http://www.fluor.com/SiteCollectionDocuments/2014-fluor-sustainability-report.pdf>.

<sup>223</sup> Id. at 46.

<sup>224</sup> Letter from Curt Magleby, Vice President, Government Relations, Ford Motor Company, to U.S. Senators Elizabeth Warren, Sheldon Whitehouse, et al. (Oct. 13, 2015) (on file with the office of Senator Sheldon Whitehouse).

<sup>225</sup> Ceres Company Network Members, *supra* note 72.

<sup>226</sup> Environmental Protection Agency, EPA Center for Corporate Climate Leadership, 2012 Climate Leadership Award Winners, <https://www.epa.gov/climateleadership/2012-climate-leadership-award-winners#Ford%20Motor%20Company>.

<sup>227</sup> Letter from Christopher A. Padilla, Vice President, Government and Regulatory Affairs, IBM Corporation, to U.S. Senators Elizabeth Warren, Sheldon Whitehouse, et al. (Oct. 15, 2015) (on file with the office of Senator Sheldon Whitehouse).

<sup>228</sup> Environmental Protection Agency, EPA Center for Corporate Climate Leadership, 2014 Climate Leadership Award Winners, <https://www.epa.gov/climateleadership/2014-climate-leadership-award-winners#IBM>; Environmental Protection Agency, EPA Center for Corporate Climate Leadership, 2013 Climate Leadership Award Winners, <https://www.epa.gov/climateleadership/2013-climate-leadership-award-winners#IBM>; Environmental Protection Agency, EPA Center for Corporate Climate Leadership, 2012 Climate Leadership Award Winners, <https://www.epa.gov/climateleadership/2012-climate-leadership-award-winners#IBM>.

<sup>229</sup> Press Release, Las Vegas Sands Corp., Las Vegas Sands Receives Global Designations For Corporate Action On Climate Change And Sustainability From Both CDP And Dow Jones (Nov. 19, 2015), <http://investor.sands.com/ir-home/press-releases/news-details/2015/Las-Vegas-Sands-Receives-Global-Designations-For-Corporate-Action-On-Climate-Change-And-Sustainability-From-Both-CDP-And-Dow-Jones/default.aspx>.

<sup>230</sup> Las Vegas Sands Corp., Supplier Code of Conduct, [https://www.sands.com/content/dam/corporate/sands/master/main/home/files/lvs\\_suppliercodeofconduct\\_jan2013.pdf](https://www.sands.com/content/dam/corporate/sands/master/main/home/files/lvs_suppliercodeofconduct_jan2013.pdf).

<sup>231</sup> LORD Corporation, Environmental Health and Safety, <http://www.lord.com/our-company/environmental-health-and-safety> (last visited April 19, 2016).

<sup>232</sup> LORD Corporation, Sustainability, <http://www.lord.com/our-company/corporate-citizenship/sustainability> (last visited April 19, 2016).

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renewable and non-renewable resources such as energy and water to the optimal use of manufacturing materials and product constituents.”<sup>232</sup> In its Code of Conduct, LORD expresses its support for a “proactive approach to environmental challenges [and] initiatives to promote greater environmental responsibility.”<sup>233</sup> In 2013, LORD was awarded the Pratt and Whitney Canada Sustainability Award, in recognition of the company’s reduction of its environmental impact.<sup>234</sup>

## **Melaleuca, Inc.**

According to its website, Melaleuca “has made environmental wellness an important part of its business culture,” utilizing “eco-conscious business processes” and selling “eco-friendly products.”<sup>235</sup>

## **NCI Building Systems, Inc.**

NCI’s website explains that the company is “dedicated to sustainable growth,” noting that NCI has strengthened its commitment to manufacturing products that “increase energy efficiency and reduce harmful environmental impacts.”<sup>236</sup> The company also touts its green products manufacturing and its efforts to build energy-efficient and environmentally-friendly buildings, as well as its participation in an “industry-wide life cycle assessment study,” which evaluates the environmental impacts of a product’s raw material procurement, manufacturing, delivery, deployment, use, deconstruction, recycling and disposal.”<sup>237</sup> At the same time, in a discussion about risk factors that could potentially affect the company’s financial health, NCI acknowledged in its 2015 Annual Report that the company does “emit and discharge pollutants into the environment.”<sup>238</sup>

## **Norfolk Southern Corporation**

Norfolk Southern’s website notes that the company is

“committed to industry leadership in sustainability,” and highlights several initiatives it has undertaken to promote environmental conservation, from reducing greenhouse gas emissions to leading reforestation and land conservation projects.<sup>239</sup> In its 2015 Sustainability Report, Norfolk Southern outlines the company’s sustainability goals: to become an industry leader in “fuel conservation, emissions reduction, efficient energy use, recycling, use of renewable materials, and environmental partnerships.”<sup>240</sup>

## **NuScale Power LLC**

NuScale Power produces “clean, . . . carbon-free” small modular nuclear reactors which have “the smallest environmental footprint of available electricity generating technologies,” including wind, solar, and hydro.<sup>241</sup> According to the company’s chief commercial officer, Mike McGough, NuScale’s technology “will play an important role in this transition to clean, sustainable generation of electricity.”<sup>242</sup> In an interview during the Paris climate talks in December 2015, U.S. Energy Secretary Ernest Moniz cited NuScale’s technology as one of the technologies his agency is supporting in an effort to advance energy innovation that can help to reduce greenhouse gas emissions.<sup>243</sup>

## **Pfizer, Inc.**

According to Pfizer’s Environmental Sustainability Commitment, because the company’s “unmatched resources allow [it] to do more good for more people, [Pfizer] will use [its] global presence and scale to make a difference in local communities and the world around us.”<sup>244</sup> Pfizer’s environmental sustainability efforts are governed by an Environmental Sustainability Council, which focuses on three areas: mitigating climate change, advancing stewardship, and sustainably managing water resources.<sup>245</sup> Among other goals, Pfizer aims to reduce its greenhouse gas emissions by 20 percent from 2012 through 2020, reduce

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<sup>233</sup> LORD CORPORATION, CODE OF CONDUCT, at 14, [http://www.lord.com/sites/default/files/Code\\_of\\_Conduct\\_English.pdf](http://www.lord.com/sites/default/files/Code_of_Conduct_English.pdf).

<sup>234</sup> Press Release, LORD Corporation, LORD Corporation Wins Pratt and Whitney Canada Sustainability Award (June 4, 2014), <http://www.lord.com/our-company/newsroom/lord-corporation-wins-pratt-and-whitney-canada-sustainability-award>.

<sup>235</sup> Melaleuca, Your Environment, Melaleuca’s Commitment, <http://www.melaleuca.info/about/environment?culture=en-us> (last visited April 19, 2016).

<sup>236</sup> NCI Building Systems, Sustainability/Responsibility, <http://www.ncibuildingsystems.com/sustainability.html> (last visited April 27, 2016).

<sup>237</sup> NCI Building Systems, Innovative Solutions, [http://www.ncibuildingsystems.com/innovativesol\\_green.html](http://www.ncibuildingsystems.com/innovativesol_green.html).

<sup>238</sup> NCI BUILDING SYSTEMS, ANNUAL REPORT (2015), at 23, <http://www.ncibuildingsystems.com/pdf/annual%20reports/2000s/2015AR-WEB.pdf>.

<sup>239</sup> Norfolk Southern Corporation, Environment, <http://www.nscorp.com/content/nscorp/en/about-ns/environment.html> (last visited April 28, 2016).

<sup>240</sup> NORFOLK SOUTHERN CORPORATION, 2015 SUSTAINABILITY REPORT, [http://nssustainability.com/Norfolk\\_Southern\\_2015\\_Sustainability\\_Report.pdf](http://nssustainability.com/Norfolk_Southern_2015_Sustainability_Report.pdf).

<sup>241</sup> NuScale Power, Environmental Footprint, Potential Impacts of Deploying an Electrical Generating Technology, <http://www.nuscalepower.com/why-smr/environmental-footprint> (last visited April 28, 2016).

<sup>242</sup> Press Release, NuScale Power, NuScale Power Participates In White House Clean Energy Investment Summit (June 16, 2015), <http://newsroom.nuscalepower.com/press-release/nuscale-power-participates-white-house-clean-energy-investment-summit>.

<sup>243</sup> David J. Unger, Paris climate talks: US energy chief says solution lies in innovation, CHRISTIAN SCIENCE MONITOR (Dec. 7, 2015), <http://www.csmonitor.com/Environment/Energy/2015/1207/Paris-climate-talks-US-energy-chief-says-solution-lies-in-innovation>.

<sup>244</sup> Pfizer, Protecting the Environment, [http://www.pfizer.com/responsibility/protecting\\_environment/protecting\\_the\\_environment](http://www.pfizer.com/responsibility/protecting_environment/protecting_the_environment) (last visited April 29, 2016).

<sup>245</sup> Pfizer, About Pfizer’s Green Journey, [http://www.pfizer.com/responsibility/protecting\\_environment/about\\_green\\_journey](http://www.pfizer.com/responsibility/protecting_environment/about_green_journey) (last visited April 29, 2016).

<sup>246</sup> Id.

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disposable waste by 15 percent, and reduce water use by 5% over the same timeframe.<sup>246</sup>

## Phillips 66

According to Phillips 66's website, protecting the environment is among the company's top three core values.<sup>247</sup> In its 2013 Annual Report, the company noted its progress in reducing its environmental footprint, noting that Phillips 66 had received the EPA's ENERGY STAR status for four of its refineries, and had implemented energy efficiency updates at other refineries to help control emissions.<sup>248</sup>

## POOL Corporation

According to its website, POOL Corp aims to be a "thoughtful steward of the environment."<sup>249</sup> The company further notes that it adheres to the principles of "Responsible Care" in the distribution of its products, and that it expects its vendors to meet the same standards.<sup>250</sup> POOLCORP has begun exploring alternative fuel options for its operations to help reduce its greenhouse gas emissions,<sup>251</sup> and it is also working on other initiatives to reduce waste and energy consumption.<sup>252</sup> Employees are also encouraged to "report any environmentally-harmful acts that they become aware of with no threat of negative repercussions on their part."<sup>253</sup>

## Ruan Transportation Management Systems

Ruan Transportation's website explains that the company "view[s] sustainability as... a moral imperative."<sup>254</sup> From 2012 through 2014, Ruan was awarded the EPA's SmartWay Excellence Award, which recognizes efforts by freight

industry leaders to reduce carbon pollution and other harmful emissions.<sup>255</sup>

## Ryder System, Inc.

According to its website, "Ryder is deeply committed to supporting the goals of sustainable development, environmental protection and pollution prevention. This includes developing and implementing environmental practices in every business activity, monitoring those practices to identify opportunities for improvement and respecting all laws and regulations in keeping with Ryder's core values."<sup>256</sup> Ryder also received the EPA SmartWay Excellence Award in 2013 and 2014 in recognition of its efforts to address carbon pollution and emissions.<sup>257</sup> Finally, Ryder has voluntarily reported its carbon emissions to the CDP since 2008,<sup>258</sup> and was named to the CDLI in 2011 and 2015.<sup>259</sup>

## Salt Lake Chamber

In a press release, the Chamber announced its business priorities for the 2016 general legislative session which, according to Chamber CEO Lane Beattie, include "making strategic investments to improve our air quality... and ensur[ing] that we make informed decisions to address our water future."<sup>260</sup> In the Chamber's 2016 Public Policy Guide, it highlights greenhouse gas emissions, air quality, and water conservation as three issues the Chamber plans to address in 2016. On greenhouse gases, the Chamber notes that "[g]lobal warming requires global solutions."<sup>261</sup> Regarding air quality standards, the Chamber urged the

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<sup>247</sup> Phillips 66, Our Vision and Values, <http://www.phillips66.com/EN/about/Pages/visionandvalues.aspx> (last visited April 29, 2016).

<sup>248</sup> PHILLIPS 66, 2013 SUMMARY ANNUAL REPORT: INVESTING, BUILDING, GROWING (2013), at 2, [http://s1.q4cdn.com/175206842/files/doc\\_financials/annual/annual-report-2013.pdf](http://s1.q4cdn.com/175206842/files/doc_financials/annual/annual-report-2013.pdf).

<sup>249</sup> POOLCORP, POOLCORP Culture, <http://www.poolcorp.com/jobs-careers/poolcorp-culture> (last visited April 29, 2016).

<sup>250</sup> POOLCORP, Environmental Health, <http://www.poolcorp.com/sustainability/environmental-health> (last visited April 29, 2016).

<sup>251</sup> POOLCORP, GHG Emissions, <http://www.poolcorp.com/sustainability/environmental-health/ghg-emissions> (last visited April 20, 2016).

<sup>252</sup> POOLCORP, Waste Management, <http://www.poolcorp.com/sustainability/environmental-health/waste-management> (last visited April 29, 2016).

<sup>253</sup> POOLCORP, Environmental Health, <http://www.poolcorp.com/sustainability/environmental-health> (last visited April 29, 2016).

<sup>254</sup> Ruan, Driving Toward a Cleaner Future, <https://www.ruan.com/environmental.aspx> (last visited May 3, 2016).

<sup>255</sup> EPA, SmartWay Excellence Awards, <https://www3.epa.gov/smartway/about/sw-awards.htm> (last visited May 3, 2016).

<sup>256</sup> Ryder, Ryder Environmental Policy: Proactively protecting the environment for more than two decades, <http://www.ryder.com/about-us/sustainability/environment/policy.aspx> (last visited May 3, 2016).

<sup>257</sup> EPA, SmartWay Excellence Awards, *supra* note 52255 .

<sup>258</sup> CDP, Search company & city responses, <https://www.cdp.net/en-US/Results/Pages/Responses.aspx?Search=True&Keyword=ryder> (last visited May 3, 2016) (enter "Ryder" in the search box for results).

<sup>259</sup> Ryder, Environmental, Sustainability, and Safety Awards, <http://www.ryder.com/en/about-us/awards/environmental-and-sustainability-awards.aspx> (last visited May 3, 2016).

<sup>260</sup> Press Release, Salt Lake Chamber, Utah's Business Community Releases Priorities for 2016 General Legislative Session (Jan. 25, 2016), <http://slchamber.com/utahs-business-community-releases-priorities-for-2016-general-legislative-session/>.

<sup>261</sup> SALT LAKE CHAMBER, 2016 PUBLIC POLICY GUIDE, at 21, <http://slchamber.com/2016-public-policy-guide/>.

<sup>262</sup> *Id.*

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state of Utah's compliance with current federal air quality standards.<sup>262</sup> The Chamber also expressed its support for "aggressive water conservation efforts to significantly reduce per-capita water use in communities."<sup>263</sup> According to the Salt Lake Chamber's 2014-2015 Annual Report, the Chamber partnered with several environmental organizations in the 2014-2015 time period, including Breathe Utah, Utah Clean Cities Coalition, and Leaders for Clean Air.<sup>264</sup>

### **Sanofi US Services Inc.**

According to its website, Sanofi "strives to reduce [its] environmental impact, so that [it] can contribute to decreasing the effects of climate change."<sup>265</sup> This includes a two-pronged approach to reduce [its] carbon footprint and to combat diseases directly correlated with climate change." Sanofi says that it has reduced its carbon emissions by 60 times, cut transport costs by 50 percent, and has set a goal of reducing its water consumption by 25 percent between 2010 and 2020.<sup>266</sup>

### **Schneider National, Inc.**

Schneider National's website touts the company's more than 30-year history conducting business in an environmentally sustainable manner. Schneider continues to reduce its carbon footprint by reducing greenhouse gas emissions, improving fuel efficiency, and upgrading the energy efficiency of its facilities.<sup>267</sup> Schneider also received the SmartWay Excellence Award from 2006 through 2009 and in 2012 and 2015.<sup>268</sup>

### **Schnitzer Steel Industries, Inc.**

On its website, Schnitzer—a recycling and resource

recovery company—states that it is "committed to operating its businesses in an environmentally responsible manner and to the practice of sustainable recycling... [O]ur businesses recognize the importance of maximizing metals recovery, waste diversion and natural resource conservation."<sup>269</sup> Schnitzer publicly disclosed its greenhouse gas emissions, water consumption, and waste generation levels for the first time in 2014. In its 2014 Sustainability Report, Schnitzer cites a number of the efforts it has undertaken to utilize renewable energy sources, conserve energy use, conserve and reuse water, and minimize waste.<sup>270</sup>

### **Sempra Energy**

According to its website, Sempra's businesses aim to minimize their impact on the environment by reducing emissions, minimizing waste, using water efficiently, and protecting the biodiversity of the areas where they operate.<sup>271</sup> In its Climate Change and Air Emissions position statement, Sempra commits to advocate for sensible energy policy to regulate and reduce greenhouse gas emissions and other air emissions; continue to implement its low-carbon business model, employing energy efficiency, natural gas, and renewable energy; reduce its carbon footprint and that of its customers; and continue to support the development of clean energy solutions.<sup>272</sup>

### **Southern Company**

Southern Company was sent a Climate Letter in 2015, to which the company failed to respond. In its 2015 Carbon Disclosure Report, Southern Company notes that it and its subsidiaries have "taken on a leadership role researching and developing innovative technologies, and in deploying those technologies to address greenhouse gas emissions."<sup>273</sup> Southern Company also notes that its greenhouse gas

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<sup>263</sup> Id. at 22.

<sup>264</sup> SALT LAKE CHAMBER, 2014-2015 ANNUAL REPORT, at 6, <http://slchamber.com/annual-report/>

<sup>265</sup> Sanofi, Environmental Commitment, <http://www.sanofi.us/l/us/en/layout.jsp?scat=A7257D49-ED84-4C9A-8699-F2A0B9526A68> (last visited May 4, 2016).

<sup>266</sup> Id.

<sup>267</sup> Schneider, About Us: Environmental, [http://www.schneider.com/About\\_Schneider/Sustainability/Environmental/index.htm](http://www.schneider.com/About_Schneider/Sustainability/Environmental/index.htm) (last visited May 4, 2016).

<sup>268</sup> EPA, SmartWay Excellence Awards, *supra* note 52.

<sup>269</sup> Schnitzer, Sustainability/Environment, [http://www.schnitzersteel.com/values\\_sustainability.aspx](http://www.schnitzersteel.com/values_sustainability.aspx) (last visited May 9, 2016).

<sup>270</sup> Schnitzer, Sustainability Report: Fiscal Year 2014, [http://www.schnitzersteel.com/sustainability\\_report.aspx](http://www.schnitzersteel.com/sustainability_report.aspx) (last visited May 9, 2016).

<sup>271</sup> Sempra Energy, Environmental, <http://responsibility.sempra.com/environmental/> (last visited May 10, 2016).

<sup>272</sup> SEMPR ENERGY, POSITION STATEMENT – CLIMATE CHANGE AND AIR EMISSIONS (May 14, 2015), [http://responsibility.sempra.com/wp-content/uploads/2015/09/Climate\\_Change\\_and\\_Air\\_Emissions\\_Position\\_Statement.pdf](http://responsibility.sempra.com/wp-content/uploads/2015/09/Climate_Change_and_Air_Emissions_Position_Statement.pdf).

<sup>273</sup> SOUTHERN COMPANY, 2015 CARBON DISCLOSURE REPORT, at 1, [http://www.southerncompany.com/what-doing/pdf/Carbon\\_Disclosure\\_Report\\_2015.pdf](http://www.southerncompany.com/what-doing/pdf/Carbon_Disclosure_Report_2015.pdf).

<sup>274</sup> Id. at 2.

<sup>275</sup> Id. at 6.

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emissions were 20 percent lower in 2014 than they were in 2005,<sup>274</sup> and that it supports the development and use of renewable energy sources.<sup>275</sup>

## **State Farm Insurance Companies**

On its website, State Farm Insurance declares that it is “committed to a future where environmental values are key to the way [it does] business. [State Farm] will continue to find solutions to reduce [its] impacts and help build safer and greener communities.”<sup>276</sup> The company further notes some of the options it makes available to its customers, including paperless billing, green driving tips, and discounts to customers who use more durable roofing technology, reducing the frequency with which roofs need to be replaced.<sup>277</sup> State Farm has also undertaken efforts to reduce the greenhouse gas emissions of its vehicle fleet.<sup>278</sup> Additionally, the company has awarded a number of grants to organizations doing work on the impacts of climate change.<sup>279</sup>

## **Steptoe & Johnson LLP**

While Steptoe & Johnson has not published a position statement on climate change, the firm hosted a conference in 2008 entitled “Climate Change Changes Everything.”<sup>280</sup> In the event description, Steptoe states that “[c]limate change will dramatically impact environmental compliance as the United States and various states and regions move to regulate greenhouse gas emissions. Climate change will also spawn various types of environmental litigation. Our

conference addressed new trends regarding greenhouse gas emissions and strategies for dealing with increased risk of regulation and litigation.”<sup>281</sup>

## **Sunrise Senior Living, Inc.**

Sunrise Senior Living states on its website that it is “committed to making energy-conscious decisions to better our planet.”<sup>282</sup> Among other endeavors, Sunrise notes that its communities “participate in the Environmental Protection Agency (EPA) ENERGY STAR program” and “many have achieved ENERGY STAR certification in the senior housing category.”<sup>283</sup> The company has also endeavored to ensure that its facilities use energy-efficient equipment and materials, and that facilities are weatherproofed to minimize energy usage.<sup>284</sup>

## **The Travelers Companies, Inc.**

On its website, Travelers states that it continually “monitor[s], anticipat[es], and react[s] to climate change conditions across all of [its] operations.”<sup>285</sup> In 2009, the Travelers Institute—a public policy center established by The Travelers Companies—joined Ceres, other insurers, and environmental groups in calling for “bold action to adapt to changing climate trends.”<sup>286</sup> The coalition issued a report entitled *Resilient Coasts: A Blueprint for Action*, in which it highlighted the “obvious and immediate” need to adapt to climate-driven changes and to manage coastal risks.<sup>287</sup>

## **Union Pacific Corporation**

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<sup>276</sup> State Farm, Environmental Programs: Building for the Future, <https://www.statefarm.com/about-us/environmental-programs/green-facilities-operations> (last visited May 11, 2016).

<sup>277</sup> State Farm, Environmental Programs: Green Services, <https://www.statefarm.com/about-us/environmental-programs/green-policies/housing> (last visited May 11, 2016).

<sup>278</sup> State Farm, Environmental Programs: Green Vehicles, <https://www.statefarm.com/about-us/environmental-programs/green-initiatives/vehicles> (last visited May 11, 2016).

<sup>279</sup> See, e.g., State Farm, South Broadway Urban Forestry Project, <http://www.statefarmyab.com/projects/details/south-broadway-urban-forestry-project/> (last visited May 11, 2016) (State Farm awarded a grant of \$36,727 to a group in New Mexico seeking to reforest the community, which had suffered a “major tree die-off due to . . . climate change.”), State Farm, A Pine Creek Homecoming: Beaver Reintroduction for Watershed Health, <http://www.statefarmyab.com/projects/details/a-pine-creek-homecoming-beaver-reintroduction-for-watershed-health/> (last visited May 11, 2016) (State Farm awarded \$43,250 to a group in Canada seeking to educate students on how to improve water quality as climate change impacts water use trends).

<sup>280</sup> Steptoe & Johnson LLP, Seminars & Events, *Climate Change Changes Everything: What You Need to Know Regarding Emerging Regulatory & Litigation Issues Concerning Global Warming* (A Steptoe-Sponsored Event), <http://www.steptoelaw.com/news-events-720.html> (last visited May 12, 2016).

<sup>281</sup> Id.

<sup>282</sup> Posting of Andy Coelho to the Sunrise Senior Living blog, <http://www.sunriseseniorliving.com/blog/april-2016/our-commitment-to-the-environment.aspx> (April 21, 2016).

<sup>283</sup> Id.

<sup>284</sup> Posting of Julia Little to the Sunrise Senior Living blog, <http://www.sunriseseniorliving.com/blog/october-2012/sunrise-communities-show-dedication-to-the-environment.aspx> (Oct. 1, 2012).

<sup>285</sup> Travelers, *Climate & the Environment*, <https://www.travelers.com/travelers-institute/climate-environment/index.aspx> (last visited May 17, 2016).

<sup>286</sup> Press Release, The H. John Heinz III Center for Science, Economics and the Environment and Ceres, *Leading Insurers, Public Officials, and Environmental Groups Call for Bold Action to Adapt to Changing Climate Trends to Protect America’s Coastlines* (April 23, 2009), <https://www.travelers.com/travelers-institute/iw-documents/ResilientCoasts.pdf>.

<sup>287</sup> THE H. JOHN HEINZ III CENTER FOR SCIENCE, ECONOMICS AND THE ENVIRONMENT AND CERES, *RESILIENT COASTS: A BLUEPRINT FOR ACTION* (2009), at 3, <https://www.travelers.com/about-us/docs/ResilientCoastsBlueprint.pdf>.

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Union Pacific's Chairman and CEO, Lance M. Fritz, responded to the Climate Letter to state that he did not "believe it would be appropriate for [him] to provide information regarding the internal operations of the Chamber of Commerce."<sup>288</sup> According to its 2014 Sustainability and Citizenship Report, Union Pacific "recognizes that we must preserve the environment in which we operate," and aims to operate an "environmentally responsible rail network." The company has set a goal of reducing its fuel consumption by 1 percent each year from 2015 through 2017, and reducing its greenhouse gas emissions by the same amount per year.<sup>289</sup> Regarding climate change, Union Pacific notes in its report that it "proactively assesses the risk climate change poses to [its] operations" and takes seriously its oversight of sustainability issues.<sup>290</sup>

### **United Parcel Service (UPS)**

United Parcel Service (UPS) President of Global Affairs Laura Lane responded to the Climate Letter to note that UPS has signed the American Business Act on Climate Pledge and pledged to reduce its carbon intensity by 20 percent by 2020. UPS also explained that, as per its Corporate Climate Change Statement, it "recognizes that greenhouse gas (GHG) emissions affect our climate and pose a serious challenge to the environment."<sup>291</sup> UPS further noted some of the awards it has won in recognition of its sustainability efforts, including the 2015 EPA SmartWay Excellence Award. Finally, UPS noted that it is an advisory member and

supporter of the Blue Green Alliance, which is "composed of environmental groups such as the Sierra Club."

### **WP Glimcher**

On its website, WP Glimcher states that it works "diligently to find ways to manage properties' and identify environmentally-friendly alternatives that reduce waste, maximize energy efficiency and improve recycling efforts."<sup>292</sup>

### **Xerox Corporation**

Michele L. Cahn, Xerox's Vice President for Global Government Affairs & Philanthropy, responded to the Climate Letter to explain that the company does its part to reduce the risk of climate change, noting that it signed on to the American Business Act on Climate Pledge and pledged to reduce its greenhouse gas emissions and energy consumption by 20% by 2020.<sup>293</sup> Xerox further noted in its letter that it recognizes that "delaying action on climate change will be costly in economic and human terms," and that "accelerating the transition to a low-carbon economy will produce multiple benefits with regard to sustainable economic growth, public health, resilience to natural disasters, and the health of the global environment."<sup>294</sup>

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<sup>288</sup> Letter from Lance M. Fritz, President and CEO, Union Pacific Corporation, to U.S. Senators Elizabeth Warren, Sheldon Whitehouse, et al. (Oct. 5, 2015) (on file with the office of Senator Sheldon Whitehouse).

<sup>289</sup> UNION PACIFIC, 2014 SUSTAINABILITY AND CITIZENSHIP REPORT, at 5, 33, [http://www.up.com/cs/groups/public/@uprr/documents/up\\_pdf\\_native/docs/pdf\\_up\\_sustain\\_2014.pdf](http://www.up.com/cs/groups/public/@uprr/documents/up_pdf_native/docs/pdf_up_sustain_2014.pdf).

<sup>290</sup> Id. at 34.

<sup>291</sup> Letter from Laura Lane, *supra* note 84.

<sup>292</sup> WP Glimcher, Giving Back to the Community, <http://wpglimcher.com/company/giving-back/> (last visited May 18, 2016).

<sup>293</sup> Letter from Michele L. Cahn, Vice President for Global Government Affairs & Philanthropy, Xerox, to U.S. Senators Elizabeth Warren, Sheldon Whitehouse, et al. (Oct. 26, 2015) (on file with the office of Senator Sheldon Whitehouse).

<sup>294</sup> Id.



