



July 14, 2023

**VIA EMAIL**

General Counsel  
West Virginia State Treasurer's Office  
1900 Kanawha Boulevard, East  
Building 1, Room E-145  
Charleston, WV 25305  
FOIA@wvsto.com

**Re: West Virginia Freedom of Information Act Request**

Dear Records Custodian:

Pursuant to the West Virginia Freedom of Information Act, W. Va. Code §§ 29B-1-1 et seq., American Oversight makes the following request for copies of records.

**Requested Records**

American Oversight requests that your office produce the following records within five business days:<sup>1</sup>

1. All email communications (including email messages, complete email chains, calendar invitations, and any attachments) between (a) any of the Treasury officials listed below, and (b) any external individual or anyone communicating on behalf of an external organization listed below, including, but not limited to, anyone communicating from the listed email address(es) or an email address ending in the listed domain(s).

West Virginia Treasury

- a) State Treasurer Riley Moore
- b) Assistant State Treasurer Steve Bohman
- c) Deputy Treasurer Administration Bryan Archer
- d) Senior Advisor Jordan Burgess

External Individuals & Organizations

- a. Consumers' Research, including but not limited to Will Hild (consumersresearch.org)
- b. Consumers' Defense (consumersdefense.com)

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<sup>1</sup> W. Va. Code § 29B-1-3(d) (requiring custodian to furnish requested records "as soon as practicable but within a maximum of five days not including Saturdays, Sundays or legal holidays.").



- c. Leonard Leo (leonard.leo@fed-soc.org, ll@leonardleo.com, leonard.anthony.leo@gmail.com, lleo@fed-soc.org, leonard.leo@mindspring.com, leonard.leo@hotmail.com, honestelections.org, teneonetwork.com)
- d. CRC Advisors, including but not limited to Mike Thompson (crcadvisors.com or crcpublicrelations.com)
- e. State Financial Officers Foundation (sfof.com)
- f. Free Enterprise Project or the National Center (nationalcenter.org)
- g. Andy Puzder (ckr.com, Puzder.com, andy@puzder.com)
- h. Job Creators Network, including but not limited to Bernie Marcus, Alfredo Ortiz, or Tyrone Latchman (JobCreatorsNetwork.com)
- i. Strive Asset Management, including but not limited to Vivek Ramaswamy (strive.com)
- j. Heritage Foundation or Heritage Action for America (heritage.org, heritageaction.com)
- k. American Legislative Exchange Council, including but not limited to Jonathan Williams (alec.org)
- l. Foundation for Government Accountability, including but not limited to Eric Blesdoe (thefga.org)

Please note that American Oversight does not seek, and that this request specifically excludes, the initial mailing of news clips or other mass-distribution emails. However, subsequent communications forwarding such emails are responsive to this request. In other words, for example, if the listed officials received a mass-distribution news clip email from Heritage Foundation that initial email would not be responsive to this request. However, if that official forwarded that email to another individual with his own commentary, that subsequent message would be responsive to this request and should be produced.

- 2. All email communications (including any email messages, attachments, or calendar invitations) sent by any of the Treasury officials identified in part 1 of this request and containing any of the following key terms:
  - a. “BlackRock”
  - b. BLK
  - c. ESG
  - d. Fink

For part two of this request, in an effort to accommodate your office and reduce the number of potentially responsive records to be processed and produced, American Oversight has limited part two of its request to emails sent by the listed individuals. To be clear, however, American Oversight still requests that complete email chains be produced, displaying both sent and received messages. This means, for example, that both an official’s response to an email with a listed key term and the initial received message are responsive to this request and should be produced.

For both parts of this request, please provide all responsive records from October 1, 2021, through February 1, 2022.

Please notify American Oversight of any anticipated fees or costs in excess of \$100 prior to incurring such costs or fees.

### **Guidance Regarding the Search & Processing of Requested Records**

In connection with its request for records, American Oversight provides the following guidance regarding the scope of the records sought and the search and processing of records:

- Please search all locations and systems likely to have responsive records, regardless of format, medium, or physical characteristics.
- In conducting your search, please understand the term “record” in its broadest sense, to include any written, typed, recorded, graphic, printed, or audio material of any kind.<sup>2</sup>
- Our request for records includes any attachments to those records or other materials enclosed with those records when they were previously transmitted. To the extent that an email is responsive to our request, our request includes all prior messages sent or received in that email chain, as well as any attachments to the email.
- Please search all relevant records or systems containing records regarding agency business.<sup>3</sup> Do not exclude records regarding agency business contained in files, email accounts, or devices in the personal custody of your officials, such as personal email accounts or text messages.
- In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records.<sup>4</sup> If a request is denied in whole, please state specifically whether it is not reasonable to segregate portions of the record for release.
- Please take appropriate steps to ensure that records responsive to this request are not deleted by the agency before the completion of processing for this

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<sup>2</sup> See W. Va. Code § 29B-1-2(6) (defining “writing” to include “books, papers, maps, photographs, cards, tapes, recordings or other documentary materials regardless of physical form or characteristics.”).

<sup>3</sup> See W. Va. Code § 29B-1-2(5) (defining a “public record” to include “any writing containing information prepared or received by a public body” that “relates to the conduct of the public’s business.”).

<sup>4</sup> See *Farley v. Worley*, 215 W. Va. 412, 424, 599 S.E.2d 835, 847 (2004) (holding that a public body must redact or segregate exempt from non-exempt information contained within a responsive record, absent a written justification explaining that such segregation or redaction would impose an unreasonably high burden or expense).

request. If records potentially responsive to this request are likely to be located on systems where they are subject to potential deletion, including on a scheduled basis, please take steps to prevent that deletion, including, as appropriate, by instituting a litigation hold on those records.

If you have any questions regarding how to construe this request for records or believe that further discussions regarding search and processing would facilitate a more efficient production of records of interest to American Oversight, please do not hesitate to contact American Oversight to discuss this request. American Oversight welcomes an opportunity to discuss its request with you before you undertake your search or incur search or duplication costs. By working together at the outset, American Oversight and your office can decrease the likelihood of costly and time-consuming litigation in the future.

Where possible, please provide responsive material in an electronic format by email. Alternatively, please provide responsive material in native format or in PDF format on a USB drive. Please send any responsive material being sent by mail to American Oversight, 1030 15th Street NW, Suite B255, Washington, DC 20005. If it will accelerate release of responsive records to American Oversight, please also provide responsive material on a rolling basis.

### **Conclusion**

American Oversight is a 501(c)(3) nonprofit with the mission to promote transparency in government, to educate the public about government activities, and to ensure the accountability of government officials. American Oversight uses the information gathered, and its analysis of it, to educate the public through reports, press releases, or other media. American Oversight also makes materials it gathers available on its public website and promotes their availability on social media platforms, such as Facebook and Twitter.<sup>5</sup>

We share a common mission to promote transparency in government. American Oversight looks forward to working with your agency on this request. If you do not

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<sup>5</sup> American Oversight currently has approximately 16,000 followers on Facebook and 112,800 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited May 30, 2023); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited May 30, 2023).

understand any part of this request, please contact Rachel Baron at [records@americanoversight.org](mailto:records@americanoversight.org) or (202) 848-1320.

Sincerely,

/s/ Rachel Baron

Rachel Baron

on behalf of

American Oversight