

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF NEW YORK

-----X  
 CHEVRON CORPORATION, :  
 :  
 Plaintiff, :  
 :  
 -against- : Case No. 1:12-MC-65 GLS/CFH  
 STEVEN DONZIGER, et al., :  
 :  
 Defendants. :  
 :  
 -----X

**DECLARATION OF REBECCA GRAY ON BEHALF OF  
 CHEVRON CORPORATION IN OPPOSITION TO MOTIONS TO QUASH A  
 SUBPOENA TO MICROSOFT CORPORATION**

I, Rebecca Gray, declare:

1. I am an attorney licensed to practice law in the State of Maryland and the District of Columbia. I am an associate in the law firm of Gibson, Dunn & Crutcher LLP, counsel of record for Chevron Corporation (“Chevron”) in the above-captioned matter. I make this declaration, based on personal knowledge, on behalf of Chevron in opposition to two separate motions to quash Chevron Corporation’s subpoena to Microsoft Corporation (Dkts. 1 and 2).

2. Attached hereto as “**Exhibit A**” is a true and correct transcription of a voice message from Larry R. Veselka, counsel for certain Defendants in the above-captioned proceeding, which was received by my colleague, Christopher M. Joralemon, on Tuesday, October 2, 2012. In his message, Mr. Veselka indicates that he is “passing . . . on” a request from “counsel for some of the folks on the Google, Microsoft, Yahoo subpoenas . . . about trying to get an extension of the return date on those” and further notes that “it would be some convenience of getting all three of them at the same time.”

3. Attached hereto as “**Exhibit B**” is a true and correct copy of an email from my colleague, Howard S. Hogan, to Mr. Veselka on Wednesday, October 3, 2012. In his email, Mr.

Hogan confirms receipt of Mr. Veselka's voice message and states that Chevron is "generally amenable to extensions upon reasonable request. If you would like an extension on behalf of any clients of yours that are registered holders of accounts listed in the subpoenas, please let me know which accounts are at issue and the basis for your extension request and I will respond promptly. Should counsel for any other account holders desire an extension, please have them contact me directly."

4. I am informed and believe that Mr. Veselka did not send any response to Mr. Hogan's October 3 email before Defendants' motion to quash Chevron's subpoenas to Google Inc. and Yahoo! Inc. was filed with the United States District Court for the Northern District of California on October 5, 2012.

5. On September 24, 2012, I spoke by telephone with Laura Belanger regarding Chevron's subpoena to Google. During that conversation, Ms. Belanger confirmed that she is the owner of belanger.laura@gmail.com, and I confirmed that the subpoena does not request email content.

6. On September 29, 2012, I spoke by telephone with Joseph Mutti regarding Chevron's subpoena to Google. During that conversation, Mr. Mutti confirmed that he is the owner of josephmutti@gmail.com, and I confirmed that the subpoena does not request email content.

7. On October 4, 2012, I spoke with Mark A. Robertson regarding Chevron's subpoena to Google. During that conversation, Mr. Robertson represented that he is counsel for the owner of john.wotowicz@gmail.com and asked about the date range of Chevron's requests to Google. I confirmed that Chevron would be willing to narrow the date range requested in the subpoena based on his client's representations as to the relevant date range so long as those representations were not in conflict with evidence already in Chevron's possession.

8. Attached hereto as "**Exhibit C**" is a true and correct copy of a letter I received from Mr. Robertson on October 12, 2012, which says, "thank you for your willingness to limit the scope of Chevron's document request to Google related to john.wotowicz@gmail.com." The

letter continues: “As we discussed, Mr. Wotowicz is the only person who has had access to this account and he does not believe the e-mail account has ever been accessed by anyone other than himself. Mr. Wotowicz had contact with Donziger and investigated funding from sometime in July 2009 to sometime in May 2010 and did not deal with Donziger or the investigation of funding outside that time period. Accordingly, you have agreed to limit the document request to Google regarding john.wotowicz@gmail.com to that time period. Mr. Wotowicz consents to the production of documents responsive to Chevron’s document request (B) to the extent that request (B) is limited to July 1, 2009 through May 31, 2010.”

9. Attached hereto as “**Exhibit D**” is a true and correct copy of a letter I sent to Ms. Nguyen, of Google, on October 15, 2012, to “advise [Google] that Chevron has reached agreement with the owner of john.wotowicz@gmail.com.” The letter states that “Chevron is dropping document request (A) for john.wotowicz@gmail.com” and further notes that “the time period covered by document request (B) should be limited to July 1, 2009, through May 31, 2010, for john.wotowicz@gmail.com.”

10. On October 4, 2012, I spoke with Ethan A. Balogh regarding Chevron’s subpoena to Google. During that conversation, Mr. Balogh represented that he is counsel for the owner of briansethparker@gmail.com and asked about the date range of Chevron’s requests to Google. I confirmed that Chevron would be willing to narrow the date range requested in the subpoena based on his client’s representations as to the relevant date range.

11. Attached hereto as “**Exhibit E**” is a true and correct copy of a letter I sent to Mr. Balogh on October 9, 2012, which states that “Chevron’s subpoena seeks information about the briansethparker@gmail.com email account as it was (or is) related to the activities and events at issue in *Chevron Corp. v. Donziger* . . . [a]ccordingly, we are willing to withdraw category (A) of Chevron’s document requests if Mr. Parker confirms in writing that he created this account and maintained exclusive control over [it] from the time that it was created to the present . . . [f]urther . . . the scope of category (B) can be limited to the dates relevant to Mr. Parker’s communications with the defendants and non-party co-conspirators named in the *Chevron Corp.*

*v. Donziger case.*”

12. Attached hereto as “**Exhibit F**” is a true and correct copy of a letter dated October 3, 2012, from Mr. Hogan to Nathan Cardozo, counsel for several owners of email accounts listed on Chevron’s subpoenas to Google and Yahoo! Inc. In the letter, Mr. Hogan states that “Chevron’s subpoena seeks identifying information for the users of email accounts that have been identified through discovery, and seeks routine information about the dates and times that those email accounts were accessed. As is clear from the face of the subpoenas, they do not seek information about the contents or recipients of particular emails.”

13. Attached hereto as “**Exhibit G**” is a true and correct copy of an email exchange between myself and Edison Camino-Castro, who appears to be the owner of limcas2002@yahoo.com. In Mr. Camino-Castro’s initial October 9, 2012, email, he states that he is “willing and ready to cooperate with you, should you require my information, data, documents and testimony.” In my October 14, 2012, response email, I state that “Chevron’s subpoena to Yahoo only seeks information directly from Yahoo, not from you. The subpoena asks Yahoo to provide us with user account information and IP logs . . . but not the content of any emails sent using those email addresses.”

14. Attached hereto as “**Exhibit H**” is a true and correct copy of a letter Mr. Hogan sent to Mr. Veselka on October 13, 2012, which states that “Chevron’s subpoenas . . . include routine requests for user account information and IP logs . . . [and] do not call for the production of email content or internet searches. Further, Chevron’s document requests apply only to responsive information available as of the date of the request. As a result, the claims raised in your motion to quash are unfounded. We suggest again that you withdraw your motion to quash, given that it is based on an incorrect reading of the subpoena. We remain willing to discuss the specific date ranges that you believe should be applied for each of the email accounts.”

15. Attached hereto as “**Exhibit I**” is a true and correct copy of a letter Mr. Veselka sent to Mr. Hogan on October 17, 2012, in which Mr. Veselka states that Defendants will not withdraw their motion.

16. On October 30, 2012, Mr. Hogan and I spoke by telephone with Marcia Hofmann and Nathan Cardozo, counsel for several owners of email accounts listed on Chevron's subpoenas to Google and Yahoo! Inc. During that conversation, Ms. Hofmann and Mr. Cardozo represented that they had become counsel for John Rodgers and Laura Belanger, who had previously represented themselves *pro se*. Mr. Hogan and I confirmed Chevron's willingness to withdraw its request for identity information for any account owner who confirms in writing his or her identity and exclusive control over the account at issue. We also confirmed Chevron's willingness to narrow the timeframe of its request for computer usage and IP log information for any account owner who confirms the timeframe during which he or she was in communication with the Defendants.

17. On October 31, 2012, Mr. Hogan and I spoke by telephone with counsel for the Defendants. During that conversation, Mr. Hogan and I confirmed Chevron's willingness to withdraw its request for identity information for any of the Defendants who confirms in writing that he or she has maintained exclusive control over the account at issue.

18. On November 5, 2012, Mr. Hogan and I again spoke by telephone with Ms. Hofmann and Mr. Cardozo, counsel for John Rodgers and Laura Belanger. Mr. Hogan and I confirmed Chevron's previous offer to withdraw its request for identity information for the accounts held by Mr. Rodgers and Ms. Belanger. We also confirmed Chevron's willingness to narrow the timeframe of its request for computer usage and IP log information with respect to Mr. Rodgers and Ms. Belanger's email accounts in light of the sworn statements filed by Mr. Rodgers and Ms. Belanger in connection with prior motions to quash regarding the time frame of their work with the Defendants, subject to minor correction.

19. Chevron formally withdrew the request contained in its subpoena to Google for information concerning the email address kevinjonheller@gmail.com. Attached hereto as "**Exhibit J**" is a true and correct copy of a letter I sent to Chi Nguyen, of Google, on September 28, 2012, stating that "Chevron is dropping its request for information regarding the address kevinjonheller@gmail.com. There is no further need to gather or preserve such information."

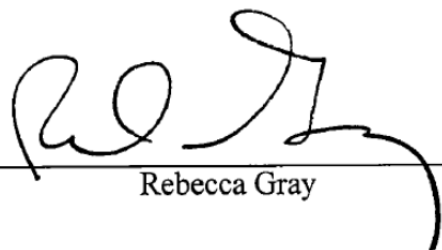
20. Chevron formally withdrew the request contained in its subpoena to Microsoft for information concerning the email address [faisal\\_baki@hotmail.com](mailto:faisal_baki@hotmail.com). Attached hereto as “**Exhibit K**” is a true and correct copy of a letter I sent to Brien Jacobsen, of Microsoft, on September 28, 2012, stating that “Chevron is dropping its request for information regarding the address [faisal\\_baki@hotmail.com](mailto:faisal_baki@hotmail.com). There is no further need to gather or preserve such information.”

21. Attached hereto as “**Exhibit L**” is a true and correct copy of a letter from Mr. Hogan to Ms. Hoffman on October 12, 2012. In the letter, Mr. Hogan confirms that “Chevron’s subpoena does not call for the production of email content” and describes specific ways in which Chevron is willing to narrow the scope of its requests.

22. Attached hereto as “**Exhibit M**” is a true and correct copy of a letter from Mr. Cardozo to Mr. Hogan and myself on October 17, 2012. In the letter, Mr. Cardozo states that “We have conferred with our clients regarding your offer to narrow the scope of the subpoenas . . . . None has agreed.”

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 15 day of January, 2013, in Olney, MD.

  
\_\_\_\_\_  
Rebecca Gray

# EXHIBIT A

**Voice Message**

Date: Tuesday, October 2, 2012  
Time: 6:35 PM  
From: (713) 221-2300  
To: Christopher Joralemon

Chris, Larry Veselka.

We've been contacted by counsel for some of the folks on the Google, Microsoft, Yahoo subpoenas and asked about the ability of the dealings with y'all about trying to get an extension of the return date on those. So, I'm calling you about that. What they have said is they had wanted to see if we could get a return date of the 22nd, it would make, it would be some convenience of getting all three of them at the same time. So, I'm passing that on. Give me a call if you can. I would ask in that sense to have it where you would do it for everybody's return date so that it applies to everybody, for us as well as them, and our—Werdegar, if they're doing anything, which I'll find out.

Also would like to know where you are on the privilege logs and the number of depositions, so, if you get a chance, give me a call. Oh, I think you may have said you're going to be out on depositions, today, weren't you?

So I've left you the message, call me when you can. Bye.



# EXHIBIT B

**Gray, Rebecca**

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**From:** Hogan, Howard S.  
**Sent:** Wednesday, October 03, 2012 4:44 PM  
**To:** lveselka@skv.com  
**Cc:** Joralemon, Christopher M.; Gray, Rebecca  
**Subject:** Chevron v. Donziger, et al., No. 11-civ-0691 (S.D.N.Y.)

I write in response to your voicemail to Chris Joralemon of last night regarding the subpoenas Chevron served on Google, Yahoo and Microsoft regarding email account information. We are in communication with a number of account holders already, and are generally amenable to extensions upon reasonable request. If you would like an extension on behalf of any clients of yours that are registered holders of accounts listed in the subpoenas, please let me know which accounts are at issue and the basis for your extension request and I will respond promptly. Should counsel for any other account holders desire an extension, please have them contact me directly.

**Howard S. Hogan**

**GIBSON DUNN**

Gibson, Dunn & Crutcher LLP  
1050 Connecticut Avenue, N.W., Washington, DC 20036-5306  
Tel +1 202.887.3640 • Fax +1 202.530.9550  
HHogan@gibsondunn.com • www.gibsondunn.com

# EXHIBIT C



**Mark A. Robertson**  
*Partner*

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666 Fifth Avenue, 31st Floor • New York, New York 10103-3198  
*mrobertson@fulbright.com • Direct: 212 318 3304 • Main: 212 318 3000 • Facsimile: 212 318 3400*

October 12, 2012

**VIA E-MAIL: RGray@gibsondunn.com**

Rebecca Gray, Esq.  
Gibson, Dunn & Crutcher LLP  
1050 Connecticut Avenue, N.W.  
Washington, DC 20036-5306

Re: Chevron v. Donziger: Google Subpoena related to john.wotowicz@gmail.com

Dear Rebecca:

Thank you for speaking with me and thank you for your willingness to limit the scope of Chevron's document request to Google related to john.wotowicz@gmail.com.

We represent John Wotowicz related to the inclusion of john.wotowicz@gmail.com in Chevron's subpoena to Google. As we discussed, Mr. Wotowicz is the only person who has had access to this account and he does not believe the e-mail account has ever been accessed by anyone other than himself.

Mr. Wotowicz had contact with Donziger and investigated funding from sometime in July 2009 to sometime in May 2010 and did not deal with Donziger or the investigation of funding outside that time period. Accordingly, you have agreed to limit the document request to Google regarding john.wotowicz@gmail.com to that time period. Mr. Wotowicz consents to the production of documents responsive to Chevron's document request (B) to the extent that request (B) is limited to July 1, 2009 through May 31, 2010.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Robertson", is written over a white background.

Mark A. Robertson

MAR/pc

# EXHIBIT D

GIBSON DUNN

Gibson, Dunn & Crutcher LLP

1050 Connecticut Avenue, N.W.

Washington, DC 20036-5306

Tel 202.955.8500

www.gibsondunn.com

Rebecca Gray

Direct: 202.887.3616

rgray@gibsondunn.com

October 15, 2012

VIA ELECTRONIC MAIL

Chi Nguyen  
Google, Inc.  
1600 Ampitheatre Parkway  
Mountain View, CA 94043

Re: Subpoena in *Chevron Corp. v. Donziger, et al.*, Case No. 11 Civ. 0691 (S.D.N.Y.)

Dear Ms. Nguyen:

I write to advise you that Chevron has reached agreement with the owner of john.wotowicz@gmail.com regarding the above-referenced subpoena. As a result, Chevron is modifying its request for information regarding that specific address.

Please note that Chevron is dropping document request (A) for john.wotowicz@gmail.com. Please also note that the time period covered by document request (B) should be limited to July 1, 2009, through May 31, 2010, for john.wotowicz@gmail.com.

I enclose a letter from counsel confirming that the owner of john.wotowicz@gmail.com has consented to the production of documents responsive to the subpoena as modified by this letter.

Should you have any questions, please contact me at 202.887.3616 or rgray@gibsondunn.com.

Sincerely

  
Rebecca Gray

Enclosure

# EXHIBIT E

# GIBSON DUNN

Gibson, Dunn & Crutcher LLP  
1050 Connecticut Avenue, N.W.  
Washington, DC 20036-5306  
Tel 202.955.8500  
www.gibsondunn.com

Rebecca Gray  
Direct: 202.887.3616  
rgray@gibsondunn.com

October 9, 2012

## VIA ELECTRONIC MAIL

Ethan A. Balogh, Esq.  
Coleman & Balogh LLP  
774 Montgomery Street, Fifth Floor  
San Francisco, CA 94111  
eab@colemanbalogh.com

Re: Subpoena to Google in *Chevron Corp. v. Donziger*, No. 11 civ. 0691 (S.D.N.Y.)

Dear Ethan:

As we discussed on the telephone, Chevron's subpoena seeks information about the briansethparker@gmail.com email account as it was (or is) related to the activities and events at issue in *Chevron Corp. v. Donziger*, No. 11 civ. 0691 (S.D.N.Y.). Accordingly, we are willing to withdraw category (A) of Chevron's document requests if Mr. Parker confirms in writing that he created this account and maintained exclusive control over the account in question from the time that it was created to the present (*i.e.*, that he did not provide the account credentials to anyone else for their use).

Further, as we discussed, the scope of category (B) can be limited to the dates relevant to Mr. Parker's communications with the defendants and non-party co-conspirators named in the *Chevron Corp. v. Donziger* case. Our understanding of Mr. Parker's prior testimony is that he worked with the defendants and non-party co-conspirators from February 1, 2009, through November 30, 2010. If Mr. Parker is able to confirm in writing that he is not currently working with the defendants or non-party co-conspirators, and that February 1, 2009, through November 30, 2010, is the only range of dates in which he used briansethparker@gmail.com to communicate with the defendants and non-party co-conspirators, then we are willing to limit the scope of the subpoena to those dates. If Mr. Parker cannot make such a representation, then we will be happy to discuss what additional date ranges should be included in the subpoena, or whether there are other adjustments to the scope of the subpoena that are appropriate.

Once we reach an understanding regarding scope, we will notify Google and Mr. Parker will need to indicate his agreement to the modified terms of the subpoena by completing Google's consent procedure through his account.

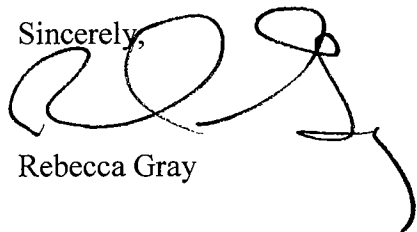


# GIBSON DUNN

Ethan A. Balogh, Esq.  
October 9, 2012  
Page 2

We appreciate your willingness to meet and confer about this subpoena. Please feel free to call if you would like to discuss further.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rebecca Gray', with a large loop at the end of the line.

Rebecca Gray

101382597.1

# EXHIBIT F

# GIBSON DUNN

Gibson, Dunn & Crutcher LLP  
1050 Connecticut Avenue, N.W.  
Washington, DC 20036-5306  
Tel 202.955.8500  
www.gibsondunn.com

Howard S. Hogan  
Direct: +1 202.887.3640  
Fax: +1 202.530.9550  
HHogan@gibsondunn.com

Client: 19624-00020

October 3, 2012

## VIA E-MAIL

Nathan Cardozo  
Electronic Frontier Foundation  
454 Shotwell Street  
San Francisco, CA 94110

Re: Chevron's Subpoenas to Google, Yahoo, and Microsoft in *Chevron v. Donziger, et al.*, No. 11-civ-0691 (S.D.N.Y.)

Dear Mr. Cardozo:

I write in response to your letter of October 2, 2012 to my colleague, Rebecca Gray. We appreciate your attempt to provide a written summary of your position, but a number of issues require clarification.

Based on the statements in your letter, you may not be aware that the matter underlying this subpoena is a RICO case involving a \$19 billion conspiracy to extort Chevron using a fraudulently obtained court judgment in Ecuador. Evidence Chevron already has obtained from the plaintiffs' attorneys and consultants involved in the fraud, including email and other electronic documents, has established that the conspirators used multiple alias email accounts and the email accounts of affiliates and proxies to help them carry out and conceal their fraud. Chevron's Amended Complaint in the underlying action details just some of the evidence that was available as of the time of filing as to defendants' repeated instances of ghostwriting and other frauds facilitated by the use of email.<sup>1</sup> Other evidence that we have obtained through discovery (including evidence unearthed since the Amended Complaint was filed) indicates that secret email accounts have also been used to facilitate this fraud, and discovery into this activity continues.

Chevron's subpoena seeks identifying information for the users of email accounts that have been identified through discovery, and seeks routine information about the dates and times that those email accounts were accessed. As is clear from the face of the subpoenas, they do not seek information about the contents or recipients of particular emails. Obtaining basic identifying information and internet access information about email accounts that are associated with the RICO defendants' fraudulent scheme is reasonably calculated to assist

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<sup>1</sup> A copy of the Amended Complaint is available at <<http://chevronecuadortrial.com/>>. You can also watch a summary of video evidence of the fraud at <<http://www.youtube.com/texacoecuador>>.

# GIBSON DUNN

Nathan Cardozo  
October 3, 2012  
Page 2

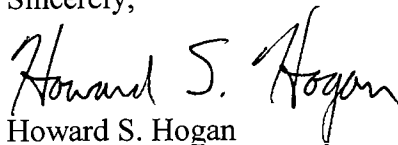
Chevron in determining what additional discovery is required from the RICO defendants or third parties.

Moreover, as Ms. Gray has made clear, Chevron is willing to discuss reasonable limitations to those requests that affect your clients. Indeed, we have already extended the response deadline for each account you have identified as belonging to your clients to allow us to work with you to address any concerns about scope. We also have already concluded successful negotiations with other account holders and their counsel regarding the scope of the subpoenas as to their specific email addresses. And we continue to engage in productive discussions with the owners of other accounts. To the extent the Electronic Frontier Foundation (EFF) has an attorney-client relationship with additional account holders, we would be happy to discuss with you in good faith the scope and timing of the response to the subpoena with respect to those accounts. You have to date refused to identify all the email accounts that you claim to represent, and Chevron cannot engage in negotiations with you regarding discovery related to parties you are not authorized to represent, including those who we know have affirmatively chosen other counsel.

With regard to timing, Chevron provided the account owners with more than sufficient time to assert their rights with respect to these subpoenas—our initial response date provided approximately four weeks for notification and response (far longer than the customary two weeks). While we are willing to accommodate reasonable extensions, Chevron's ability to do so is limited by upcoming discovery deadlines in the RICO case. The deadline for service of new party discovery in the underlying action is December 1, 2012, and the information we expect to obtain from this subpoena is likely to require follow up discovery and implicate that deadline.

Accordingly, I reiterate Ms. Gray's request that you please identify all email accounts for which the owners have specifically authorized you to represent them. Regarding the six accounts that you have identified as held by your clients, and for which Chevron has extended the response deadline to October 22, we will be in touch shortly regarding the basis for our subpoenas and possible limitations.

Sincerely,

  
Howard S. Hogan

HSH/ppm  
101378798.1

# EXHIBIT G

**Gray, Rebecca**

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**From:** Gray, Rebecca  
**Sent:** Sunday, October 14, 2012 2:44 PM  
**To:** 'Edison CAMINO-CASTRO'  
**Cc:** Hogan, Howard S.; 'john.hays@haysowens.com'  
**Subject:** RE: Subpoena Edison Camino

Dear Mr. Castro,

Chevron's subpoena to Yahoo only seeks information directly from Yahoo, not from you. The subpoena asks Yahoo to provide us with user account information and IP logs for the specific email addresses listed, but not the content of any emails sent using those email addresses. If you have no objection to Yahoo producing this limited information for [limcas2002@yahoo.com](mailto:limcas2002@yahoo.com), then all you need to do is let Yahoo know by responding to the email notice that you received from Yahoo and stating that you do not object to production of the requested information. Please confirm that is what you are doing, either by including [RGray@gibsondunn.com](mailto:RGray@gibsondunn.com) on your email to Yahoo, or by forwarding your e-mail to Yahoo directly to me. Thank you for your willingness to cooperate.

Sincerely,

Rebecca

**Rebecca Gray**

**GIBSON DUNN**

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1050 Connecticut Avenue, N.W., Washington, DC 20036-5306  
Tel +1 202.887.3616 • Fax +1 202.530.9644  
[RGray@gibsondunn.com](mailto:RGray@gibsondunn.com) • [www.gibsondunn.com](http://www.gibsondunn.com)

**From:** Edison CAMINO-CASTRO [<mailto:limcas2002@yahoo.com>]  
**Sent:** Tuesday, October 09, 2012 1:59 PM  
**To:** Gray, Rebecca  
**Cc:** Southwell, Alexander H.  
**Subject:** Subpoena Edison Camino

Dear Mrs. Rebecca Gray:

You have requested my YAHOO information through a California Court. Mr. Alexander H. Southwell requested last year the same information (September 13, 2011).

I am willing and ready to cooperate with you, should you require my information, data, documents and testimony.

I do not know and have no experience in the judicial systems and laws of USA. I am Ecuadorian citizen, living and working in Ecuador. I have knowledge and experience in the judicial systems and laws of Ecuador.

To make contact with you and discuss the delivery of information, data, documents and testimony, it is going to be necessary to hire an attorney who is currently working in Quito.

May I recommend a lawyer for you to start your business contacts, he knows me since I have been involved in the environmental lawsuit, as Perito (witness expert). Here is his name and address:

**Dr. Adolfo Callejas Ribadeneira.** Ecuadorian lawyer based in Quito. Currently local lawyer for Chevron in the environmental lawsuit.

His address: Rumipamba Ave. 706. Quito. Telephone: 5932 2268221; 5932 2268222; 5932 2268086.

Best regards,

Edison CAMINO-CASTRO

593 999684349

# EXHIBIT H



GIBSON DUNN

Gibson, Dunn & Crutcher LLP  
1050 Connecticut Avenue, N.W.  
Washington, DC 20036-5306  
Tel 202.955.8500  
www.gibsondunn.com

Howard S. Hogan  
Direct: +1 202.887.3640  
Fax: +1 202.530.9550  
HHogan@gibsondunn.com

October 13, 2012

VIA ELECTRONIC MAIL

Larry R. Veselka, Esq.  
Smyser Kaplan & Veselka, LLP  
Bank of America Center  
700 Louisiana, Suite 2300  
Houston, Texas 77002

Re: Subpoenas to Google and Yahoo! in *Chevron Corp. v. Donziger*,  
No. 11-civ-0691 (S.D.N.Y.)

Dear Larry:

This letter follows up on our recent discussions. On October 3, 2012, I sent you an email letting you know that Chevron was amenable to extending the deadline for response to the subpoenas served on Google and Yahoo! in order to try to narrow the scope of the information requested with respect to account users that you represent.

Because you did not respond to that email, we were surprised to learn that you filed a motion to quash on Friday, October 5, 2012.

As I said in my October 9 voicemail, and again when we spoke earlier this week, your motion is based on a flawed reading of Chevron's subpoenas. Chevron's subpoenas seek information from the email service providers regarding specific email accounts connected with the activities and events at issue in *Chevron Corp. v. Donziger*, No. 11-civ-0691 (S.D.N.Y.). These subpoenas include routine requests for user account information and IP logs. The subpoenas, moreover, do not call for the production of email content or internet searches. Further, Chevron's document requests apply only to responsive information available as of the date of the request. As a result, the claims raised in your motion to quash are unfounded.

We suggest again that you withdraw your motion to quash, given that it is based on an incorrect reading of the subpoena. We remain willing to discuss the specific date ranges that you believe should be applied for each of the email accounts. Please let me know whether you are willing to withdraw the currently pending motion by no later than 5:00 p.m. Eastern on Wednesday, October 17.

# GIBSON DUNN

Larry R. Veselka, Esq.  
October 13, 2012  
Page 2

Sincerely,

A handwritten signature in blue ink that reads "Howard".

Howard S. Hogan

HSH/rg

# EXHIBIT I

SMYSER KAPLAN & VESELKA, L.L.P.

BANK OF AMERICA CENTER  
700 LOUISIANA SUITE 2300 HOUSTON, TEXAS 77002  
TELEPHONE 713.221.2300 FACSIMILE 713.221.2320

Direct Dial Number:  
(713) 221-2325

Author's E-mail Address:  
lveselka@skv.com

October 17, 2012

Howard S. Hogan  
GIBSON, DUNN, CRUTCHER, LLP  
1050 Connecticut Avenue, N.W.  
Washington, DC 20036-5306

Re: *Subpoenas to Google and Yahoo and Microsoft In Chevron Corp. v. Donziger  
No. 11-civ-0691 (S.D.N.Y)*

Dear Mr. Hogan:

Your letter of October 13, 2012 regarding our recent discussions about the above-referenced subpoenas contains numerous statements with which I disagree. I discuss below only those issues necessary to attempt to resolve the matter cooperatively.

This matter began with Chevron's issuance and service of the subject Google and Yahoo subpoenas on September 7, 2012 and of the subject Microsoft subpoena on September 10, 2012, without complying with the prior notice to all parties required by Federal Rule of Civil Procedure 45. When we pointed that out to Chevron by letter dated September 17, 2012, Chevron's counsel compounded the violation of the prior notice requirement by re-serving the same subpoenas on September 19, 2012, the same date that Chevron's counsel dismissively notified Defendants of that action. *See* Randy Mastro letter of September 18, 2012 attached. Re-serving these subpoenas on the same date as the "notice" likely does not even comply with the letter of the rule, but it certainly violates the spirit and intent of the Rule to allow Defendants time to seek Court intervention before service. Indeed, the subpoenas, although served that day, some 9-12 days later than the original service dates, called for responses and production on the original return dates – October 5 for the Google and Yahoo subpoenas and October 8 for the Microsoft subpoenas – a mere 16 to 19 days from the new service date.

Notwithstanding that history, Defendants did not reply to Mr. Mastro's letter so cavalierly dismissing failure to comply with Rule 45. Instead, we attempted to resolve the matter by professional cooperation. I called the Chevron counsel designated as the point man for conferring about discovery matters and left a voicemail on October 2, 2012 requesting that Chevron extend the return dates on the subpoenas until October 22, 2012 for all account holders whose information Chevron was seeking from the Internet Service Providers.

Howard S. Hogan  
GIBSON, DUNN, CRUTCHER, LLP  
October 17, 2012  
Page 2

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You responded by voicemail and email on October 3, 2012. Your email did not agree to extend the date for all account holders. Instead, you offered (two days before the return date for the Google and Yahoo subpoenas) only to consider an extension for “any clients of yours that are registered holders” and requested that I identify the accounts and the “basis for your extension request....”

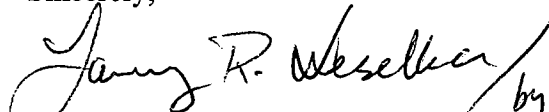

In light of that exchange, you should not have been surprised when we filed our motion to quash on the return date of October 5, 2012, as you purport to have been in your letter of October 13, 2012. Your letter also claims that your October 3, 2012 email addressed your potential willingness “to try to narrow the scope of the information requested.” Your email included no reference to narrowing the scope, only potential extension of the return date for identified account holders.

Having forced us to file the motion to quash on October 5, 2012, Chevron then later that same day unilaterally extended the return dates to October 22, 2012, as I had requested initially.

You then contacted me to discuss our motion to quash. We discussed the matter on October 10. We explained how we thought that the definitions used and the description of the data requested went beyond the material permissible under federal law. We also questioned how Chevron felt it relevant to this case to seek data after February 14, 2011, the date of the Ecuadorian judgment, since Chevron was objecting to producing documents to the Donziger Defendants after that date as irrelevant. In our conversation, we asked you to propose in writing limitations to (a) the definitions and descriptions of the data being sought and (b) time frame covered for us to see if we could resolve the motion. I understood that you said that you would consider doing so. Your letter of October 13, 2012 does neither. It merely regurgitates your earlier denial and does not attempt to clarify, much less limit, the overly broad and improperly defined subpoena.

We would still like to resolve the matter without involving the Court if you will propose language limiting the scope and time frame of the data requested. Otherwise, we respectfully decline your request that we withdraw the motion.

Sincerely,

  
Larry R. Veselka *by permission* 

cc: Chris Joralemon  
Matthew Werdegar

# GIBSON DUNN

Gibson, Dunn & Crutcher LLP

200 Park Avenue  
New York, NY 10166-0193  
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Randy M. Mastro  
Direct: 212.351.3825  
Fax: 212.351.5219  
RMastro@gibsondunn.com

Client: T 19624-00020

September 18, 2012

VIA EMAIL

Craig Smyser  
Smyser Kaplan & Veselka, LLP  
700 Louisiana, Suite 2300  
Houston, TX 77002

Re: *Chevron Corp. v. Donziger, et al.*, Case No. 11 Civ. 0691 (LAK)

Dear Mr. Smyser:

I write as counsel for Chevron Corporation (“Chevron”) in response to your letter of yesterday regarding service of third-party document subpoenas. Your complaints are either unfounded, inconsequential, or both.

Your complaint about lack of notice concerning the subpoena to Andrew Woods is simply wrong. Prior to its service on the witness, all counsel of record were provided prior notice by email (attaching a copy of the subpoena) from my colleague, Anne Champion, sent at 1:57 PM EDT on Friday, September 14. We also contacted counsel for Mr. Woods at Keker & Van Nest that same day prior to service to ask whether they wanted to accept service of the subpoena before sending a process server. We understand from the process server that the subpoena was served on Saturday, September 15. Because all or the vast majority of the potentially responsive documents to that subpoena should have already been collected and reviewed in response to Chevron’s subpoena to Mr. Woods from the Count 9 action, the two-week return date should be more than sufficient, but that is an issue to be addressed, if necessary, with Mr. Woods’ counsel, not you.

Your complaint about lack of notice concerning the subpoenas to email service providers Google, Yahoo, and Microsoft is of no consequence. You received notice by email (attaching copies of the subpoenas) from my colleague, Rebecca Gray, yesterday morning at 7:13 AM EDT. And as you are undoubtedly now aware, the return dates on those document subpoenas are far out, October 5, 2012 for both Google and Yahoo, and October 8 for Microsoft. While we do not believe defendants have been prejudiced in any way from proceeding in this manner, in an abundance of caution, and to eliminate any issue whatsoever, we are immediately re-serving these subpoenas on the email service providers, Microsoft, Google, and Yahoo, and advising them by letter that we are amenable to affording them more time to respond to the re-served subpoenas if they need it.

It is obvious from your latest letter that you intend to continue your “obstruct and delay” tactics and to interpose any objection, no matter how meritless or frivolous, to try to block Chevron’s discovery efforts here. This much is also evident from your demand that Chevron afford you 10


## GIBSON DUNN

September 17, 2012

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days' prior notice of subpoenas, which is nowhere required under any federal rule. We do not believe that Rule 45 requires any special protocol or timing for the provision of notice of a third-party subpoena. Rule 45 simply requires that notice of a document subpoena be provided to the parties "before it is served." Fed. R. Civ. P. 45(b)(1). Defendants have now received such notice for all of these subpoenas served by Chevron to date.

Sincerely,

A handwritten signature in black ink that reads "Randy M. Mastro / A.S." The signature is written in a cursive style with a large initial 'R' and 'M'.

Randy M. Mastro

cc: All Counsel of Record

# EXHIBIT J



GIBSON DUNN

Gibson, Dunn & Crutcher LLP

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Fax: +1 202.530.9644  
RGray@gibsondunn.com

September 28, 2012

VIA ELECTRONIC MAIL

Chi Nguyen  
Google, Inc.  
1600 Ampitheatre Parkway  
Mountain View, CA 94043

Re: Subpoena in *Chevron Corp. v. Donziger, et al.*, Case No. 11 Civ. 0691 (S.D.N.Y.)  
Google Internal Reference No. 257121

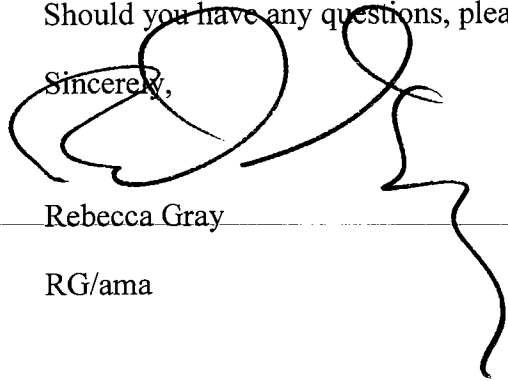
Dear Madam:

I write as counsel for Chevron Corporation ("Chevron"), regarding the subpoena that Chevron served on Google, Inc., on September 19, 2012, in the above-referenced action.

Please note that Chevron is dropping its request for information regarding the address kevinjonheller@gmail.com. There is no further need to gather or preserve such information.

Should you have any questions, please contact me at 202.887.3616 or rgray@gibsondunn.com.

Sincerely,



Rebecca Gray

RG/ama

101376331.1

# EXHIBIT K

GIBSON DUNN

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Fax: +1 202.530.9644  
RGray@gibsondunn.com

September 28, 2012

VIA ELECTRONIC MAIL

Brien Jacobsen  
Microsoft Corporation  
One Microsoft Way  
Redmond, WA 98052-6399  
brienj@microsoft.com

Re: Subpoena in *Chevron Corp. v. Donziger, et al.*, Case No. 11 Civ. 0691 (S.D.N.Y.)

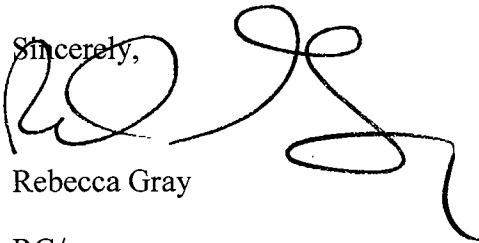
Dear Mr. Jacobsen:

I write as counsel for Chevron Corporation (“Chevron”), regarding the subpoena that Chevron served on Google, Inc., on September 19, 2012, in the above-referenced action.

Please note that Chevron is dropping its request for information regarding the address [faisal\\_baki@hotmail.com](mailto:faisal_baki@hotmail.com). There is no further need to gather or preserve such information.

Should you have any questions, please contact me at 202.887.3616 or [rgray@gibsondunn.com](mailto:rgray@gibsondunn.com).

Sincerely,



Rebecca Gray

RG/ama

101376350.1

# EXHIBIT L

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HHogan@gibsondunn.com

October 12, 2012

VIA ELECTRONIC MAIL

Marcia Hofmann, Esq.  
Electronic Frontier Foundation  
454 Shotwell Street  
San Francisco, CA 94110

Re: Subpoenas to Google, Yahoo!, and Microsoft in *Chevron Corp. v. Donziger*,  
No. 11-civ-0691 (S.D.N.Y.)

Dear Marcia:

I write to confirm the substance of our conversation Wednesday afternoon regarding the above-referenced subpoenas.

As I mentioned when we spoke, Chevron's subpoenas seek information from the email service providers regarding specific email accounts connected with the activities and events at issue in *Chevron Corp. v. Donziger*, No. 11-civ-0691 (S.D.N.Y.). As we noted, these subpoenas involve standard requests for user account information and IP logs. Chevron's subpoena does not call for the production of email content, and does not call for the production of IP logs or other account access information for any email addresses other than those that are listed on the subpoenas themselves. Further, Chevron's document requests apply only to responsive information available as of the date of the request. As we discussed, Chevron also is willing to narrow even these limited requests if the owners of the accounts in question can provide certain information to us directly.

First, we are willing to withdraw category (A) of Chevron's document requests for any account owner who confirms in writing that he or she (1) created the account at issue and (2) has maintained exclusive control over the account in question from the time that it was created to the present (*i.e.*, that he or she is confident that no one else accessed or otherwise made use of the email account). As you suggested, we would also be willing to withdraw category (A) for specific accounts if the document(s) that would be produced in response to category (A) have previously been produced to us in other contexts.

Second, for those account holders who are not themselves defendants or named non-party co-conspirators in the *Chevron Corp. v. Donziger* case, we would be willing to limit the scope of category (B) of Chevron's document requests to those periods of time during which the

## GIBSON DUNN

Marcia Hofmann, Esq.  
October 12, 2012  
Page 2

account holder was in communication with the defendants and non-party co-conspirators named in the underlying proceeding. If any of your clients are able to confirm in writing that their work for, and communication with, the defendants and non-party co-conspirators was limited to specific date ranges, then we would be willing to limit the scope of the subpoena to those dates so long as that representation is not inconsistent with other evidence that we already have in our possession.

As I told you when we spoke, we have been engaged in active negotiations with counsel for a number of the account owners covered by these subpoenas and have reached, or are currently in the midst of concluding, agreements along these same lines that will allow production to proceed.

You indicated that you would confer with your clients regarding our offer to narrow the scope of the above-referenced subpoenas. In the meantime, please feel free to contact me with any questions or concerns.

Sincerely,



Howard S. Hogan

HSH/rg

# EXHIBIT M



**ELECTRONIC FRONTIER FOUNDATION**  
Protecting Rights and Promoting Freedom on the Electronic Frontier

October 17, 2012

Howard S. Hogan  
Rebecca Gray  
1050 Connecticut Ave, N.W.  
Washington, DC 20036  
[HHogan@gibsondunn.com](mailto:HHogan@gibsondunn.com)  
[RGray@gibsondunn.com](mailto:RGray@gibsondunn.com)

VIA EMAIL

Re: Chevron's Subpoenas to Google, Yahoo, and Microsoft in *Chevron v. Donziger, et al.*, No. 11-civ-0691 (S.D.N.Y.)

Dear Howard and Rebecca:

We are in receipt of your letter of October 12, 2012 confirming the substance of our conversation on October 10. Thank you for stating your position in writing to the three providers copied on this letter. We would like to further clarify that you confirmed verbally to us that Chevron does not expect to receive any email header data in response to the above-referenced subpoenas.

We have conferred with our clients regarding your offer to narrow the scope of the subpoenas if our clients confirm certain information in writing. None has agreed. As such, we intend to move to quash all three subpoenas on Monday, October 22, 2012.

Sincerely,

A handwritten signature in black ink, appearing to read "Nathan Cardozo".

Nathan Cardozo

cc: Einat Clarke ([eclarke@google.com](mailto:eclarke@google.com))  
Brien Jacobsen ([brienj@microsoft.com](mailto:brienj@microsoft.com))  
Christopher Madsen ([cmadsen@yahoo-inc.com](mailto:cmadsen@yahoo-inc.com))