



COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
CIVIL ACTION NO.: 16-1888F

IN RE CIVIL INVESTIGATIVE
DEMAND NO. 2016-EPD-36,
ISSUED BY THE OFFICE OF THE
ATTORNEY GENERAL

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**THE COMMONWEALTH'S CROSS-MOTION TO COMPEL
EXXON MOBIL CORPORATION TO COMPLY WITH
CIVIL INVESTIGATIVE DEMAND NO. 2016-EPD-36**

The Commonwealth of Massachusetts (the "Commonwealth"), acting by and through the Office of Attorney General Maura Healey (the "Attorney General"), hereby cross-moves pursuant to the Consumer Protection Act ("Chapter 93A"), G.L. c. 93A, § 7, for an order compelling the petitioner Exxon Mobil Corporation ("Exxon") to comply with Civil Investigative Demand No. 2016-EPD-36 (the "CID"), issued by the Attorney General on April 19, 2016, pursuant to her authority under G.L. c. 93A, § 6. As grounds therefor, the Attorney General states the following.

1. On June 16, 2016, Exxon filed its Petition and so-called Emergency Motion to Set Aside or Modify the Civil Investigative Demand or Issue a Protective Order in this case.
2. In response to Exxon's motion, and in support of this cross-motion,¹ the Attorney General is submitting the accompanying: (i) Consolidated Memorandum Opposing Exxon's Motion to Set Aside or Modify the CID or For a Protective Order and Supporting the Commonwealth's Cross-Motion to Compel Exxon to Comply with the CID (the "Consolidated

¹ This cross-motion is being served in accordance with the agreed upon schedule set forth in this Court's order of June 23, 2016 (Ames, J.), and is being served without a certificate pursuant to Suffolk Superior Court Rule 9C because under the circumstances no Rule 9C certificate is required.

Memorandum”);² and (ii) an Appendix in the Consolidated Memorandum.

3. The Attorney General issued the CID to Exxon pursuant to G.L. c. 93A, § 6, as part of the Attorney General’s pending investigation of Exxon’s potential violations of G.L. c. 93A, § 2, and the regulations promulgated thereunder, for unfair and deceptive acts or practices in its marketing and/or sale of energy and other fossil fuel derived products to consumers in Massachusetts, and its marketing and/or sale of securities, as defined by G.L. c. 110A, § 401(k), to Massachusetts investors.

4. The CID seeks information related to *what Exxon knew* about the impacts of burning fossils fuels (its primary product) on climate change and climate-driven risk to Exxon’s own business and assets; *when Exxon knew those facts*; and *what Exxon told the world, including investors and consumers in Massachusetts*, about climate change over time. The Attorney General is seeking this information because it appears that Exxon had extensive knowledge of what one of Exxon’s own scientists described as the potentially “catastrophic” impacts of climate change, and nevertheless took and continues to take public positions directed to investors, consumers, and the public that misleadingly minimize and fail to fully disclose the risks associated with climate change, to induce investors to invest in Exxon’s securities or to induce consumers to purchase its products, in violation of G.L. c. 93A, § 2, and its implementing regulations.

5. Chapter 93A, G.L. c. 93A, § 6(1), grants the Attorney General broad authority to investigate entities she believes have engaged or are engaging in any method, act or practice declared to be unlawful. *Attorney General v. Bodimetric Profiles*, 404 Mass. 152, 157-158 (1987). And pursuant to her investigatory powers, the Attorney General may examine or cause to

² The Attorney General was granted leave to file such a consolidated memorandum by order of this Court (Brieger, J.) on July 29, 2016.

be examined, through a CID, any material that is relevant to any alleged unlawful method, act or practice. Chapter 93A, G.L. c. 93A, § 6(1)(b).

6. As explained more fully in the accompanying Consolidated Memorandum, Exxon is unable to establish good cause or otherwise meet its burden to set aside or modify the CID or be granted a protective order. Instead, Chapter 93A provides lawful authority for the Attorney General's investigation, and the CID is both reasonable and imposes no undue burden on Exxon. Accordingly, this Court should compel Exxon to comply with it.

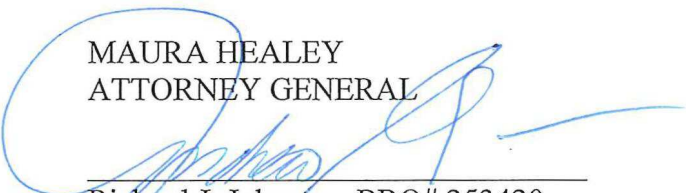
WHEREFORE, the Commonwealth requests that the Court issue an order: (i) denying in its entirety Exxon's motion to set aside or modify the CID or for a protective order; (ii) compelling Exxon to comply in all respects with the CID, including by forthwith producing to the Attorney General's Office the documents identified in the CID; and (iii) granting the Commonwealth such other and further relief as is just and proper in the circumstances.

Respectfully submitted,

THE COMMONWEALTH OF
MASSACHUSETTS

By its attorney:

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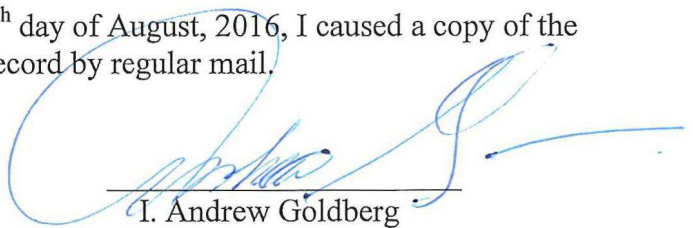
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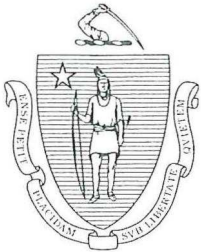
Dated: August 8, 2016

CERTIFICATE OF SERVICE

I, I. Andrew Goldberg, hereby certify that on this 8th day of August, 2016, I caused a copy of the foregoing document to be served upon counsel of record by regular mail.



I. Andrew Goldberg



MAURA HEALEY
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August 8, 2016

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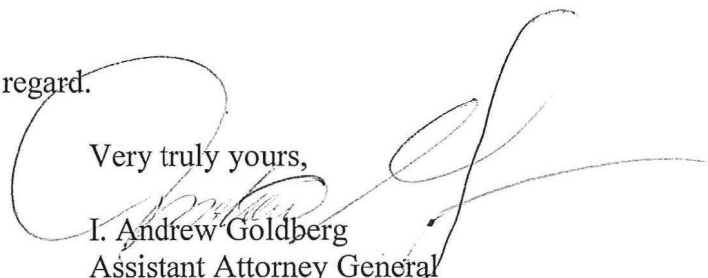
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Issued by the Office of the Attorney General
Suffolk Superior Court Civil Action No.: 16-1888F

Dear Mr. Frongillo:

Pursuant to Superior Court Rule 9A, we enclose an original for filing with the Court, and one copy, of each of: (i) the Commonwealth's consolidated memorandum opposing Exxon's motion regarding the Commonwealth's Civil Investigative Demand and supporting the Commonwealth's cross-motion to compel compliance; (2) the Commonwealth's appendix accompanying the opposition and cross-motion; and the Commonwealth's motion to compel Exxon to comply with the CID.

Thank you for your kind attention in this regard.

Very truly yours,


I. Andrew Goldberg
Assistant Attorney General
Environmental Protection Division

Enclosure

cc: Paul, Weiss, Rifkind, Wharton & Garrison, LLP (by regular mail)
Patrick J. Conlon, Esq. (by regular mail)

