

MAYOR AND CITY COUNCIL
OF BALTIMORE

Plaintiff,

v.

BP P.L.C., *et al.*

Defendants.

* IN THE
* CIRCUIT COURT
* FOR BALTIMORE CITY
* Case No. 24-C-18-004219
* Specially Assigned to the
* Hon. Videtta A. Brown
*

* * * * *

**PLAINTIFF MAYOR AND CITY COUNCIL OF BALTIMORE'S
MEMORANDUM OF LAW IN OPPOSITION TO DEFENDANTS
CONOCOPHILLIPS'S, CONOCOPHILLIPS COMPANY'S, AND
LOUISIANA LAND & EXPLORATION CO., LLC'S SUPPLEMENTAL MOTION
TO DISMISS FOR FAILURE TO STATE A CLAIM**

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CIVIL DIVISION

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I. INTRODUCTION

The Mayor and City Council of Baltimore (“City”) states claims against ConocoPhillips, ConocoPhillips Company, and Louisiana Land & Exploration Co., LLC (collectively, “COP”) and other defendants (with COP, “Defendants”). As explained in the City’s memorandum in opposition to Defendants’ joint motion to dismiss for failure to state a claim (“Opposition”), which the City incorporates by reference, the Complaint states viable tort and Maryland Consumer Protection Act (“MCPA”) claims against COP and other Defendants because they failed to warn of and concealed their fossil fuel products’ climatic risks, and participated in a campaign to disinform consumers about climate change and its relationship to their products. *See Opp.* at Part IV.D.1–IV.D.5

The arguments in COP’s supplemental motion to dismiss (“Motion”) change nothing. The City’s allegations notify COP of the claims against it, and satisfy the heightened pleading requirement applicable to only a portion of the City’s MCPA claim. Among other misconduct, the City alleges misrepresentations attributable to COP under a concert-of-action theory. Moreover, COP ignores the Complaint’s allegations when it argues it had no duty to warn of its products’ climatic dangers because it lacked superior knowledge of those dangers. Finally, Defendants’ fraudulent concealment of their deceptive activities tolled the statute of limitations applicable to the City’s MCPA claim, and a jury should decide when the City reasonably could have uncovered the facts essential to that claim.

The Court should avoid resolving factual disputes on mere pleadings and deny the Motion.

II. ARGUMENT

A. The Complaint Notifies COP of the Claims Against It.

The Complaint extensively details COP’s and other Defendants’ failures to warn of their products’ climatic risks and their campaigns to spread disinformation about the links between their

fossil fuel products and climate change. *See* Compl. ¶¶ 1, 6–7, 141–70, 221, 242, 275, 295–96. COP has marketed and sold its fossil fuel products to consumers through ConocoPhillips-branded gas stations throughout Maryland. *Id.* ¶ 26(i). In doing so, COP, like other Defendants, failed to disclose and knowingly concealed and omitted material facts about its products’ climatic risks. *See id.* ¶¶ 140–70, 295. COP has also misleadingly framed itself as developing renewable energy in line with its positions on sustainable development and climate change, while admitting elsewhere that it was “solely focused on [its] core business” of “crude oil and natural gas.” *Id.* ¶ 185.¹ Defendants’ strategy has worked as intended, unduly inflating demand for fossil fuels while substantially increasing greenhouse gas emissions and resulting climate impacts to Baltimore. *See id.* ¶¶ 8–10, 59–102, 169–70, 177–82, 190–217. Through this conduct, COP and other Defendants have committed various torts and repeatedly violated the MCPA. *See* Opp. at Part IV.D.1–IV.D.5.²

These allegations, taken as true and with reasonable inferences drawn in the City’s favor, fully satisfy Maryland Rule 2-305’s requirement to provide a “clear statement of the facts” that undergird the City’s theories of liability. Although COP invites the Court to ignore the Complaint’s collective allegations, *see* Mot. at 7–8, Maryland courts do not proscribe collective allegations,³

¹ COP insists its statements about renewable energy in the report at issue were not misleading, Mot. at 5–6, but that is a factual question for the jury to resolve. *See Green v. H & R Block, Inc.*, 355 Md. 488, 524–25 (1999) (whether a statement is misleading or omits material facts are factual questions generally reserved for the jury). At this stage, the Court must draw inferences in the City’s favor, not COP’s. *See Wheeling v. Selene Fin. LP*, 473 Md. 356, 374 (2021).

² COP’s reliance on the unreported opinion *Richards v. Johns Hopkins Univ. Applied Physics Lab., LLC*, 2020 WL 639424 (Md. App. Feb. 11, 2020), violates Maryland Rule 1-104(a)(2). Even if *Richards* were citable, it does not help COP because the claims and allegations there bear no relation to the City’s case. *See* 2020 WL 639424, at *4–6 (dismissing employment discrimination claims where allegations failed to show employer took any retaliatory adverse action against employee, as “the incidents in the complaint do not go beyond ‘petty harms’ and ‘minor slights’”).

³ The cases COP cites do not hold otherwise. In *Heritage Harbour, L.L.C. v. John J. Reynolds, Inc.*, the Appellate Court upheld dismissal where the complaint lacked “any mention of” eight of twenty defendants, and the only allegation that could pertain to those eight defendants was that all twenty “we[re] developers, architects and/or contractors who participated in the design, construction, evaluation and/or repair of” defective buildings.” 143 Md. App. 698, 711 (2002). The court did not establish a general bar against collective allegations. Unable to find authority supporting its position, COP resorts to citing the unpublished and non-precedential circuit court decision *Donahue v. Congressional Country Club, Inc.*, 2016 Md. Cir. Ct. LEXIS 1 (Cir. Ct. Mont. Cnty. Jan. 29, 2016), which is also

and federal courts have often held that such allegations “provide defendants with fair notice of the claims against them and the grounds upon which they rest.” *State v. Exxon Mobil Corp.*, 406 F. Supp. 3d 420, 476 (D. Md. 2019) (cleaned up) (rejecting defendants’ argument that “group pleading” was “improper”).⁴ This Court should not recognize a novel proscription of collective allegations because such a proscription would clash with well-established Maryland pleading principles. Maryland has long eschewed technical pleading requirements by commanding that “a pleading shall be simple, concise, and direct” and “shall contain only such statements of fact as may be necessary to show the pleader’s entitlement to relief.” Md. Rule 2-303(b). A pleading serves four purposes, the first of which is most important: “(1) it provides notice to the parties as to the nature of the claim or defense; (2) it states the facts upon which the claim or defense allegedly exists; (3) it defines the boundaries of litigation; and (4) it provides for the speedy resolution of frivolous claims and defenses.” *Ledvinka v. Ledvinka*, 154 Md. App. 420, 429 (2003).

Here, the collective allegations are permissible because the City alleges each Defendant

factually distinct. The plaintiff alleged that, “upon information and belief Defendants NBC, NBCM[,] CBS, CBSTL, TGC, and/or TGCL mandated” certain conditions on the premises of a country club for a televised golf tournament, and that all defendants owed a duty to attendees to organize and operate the tournament with reasonable care and to properly train tournament volunteers and employees. *Id.* at *6–7. The court found these allegations insufficient to show that two broadcasting defendants who did not own the country club and were not alleged to have any responsibility for the tournament operations were liable for the plaintiff’s injuries on negligence, negligent hiring, or strict liability theories. *Id.* at *6–14. The *Donahue* court relied on two cases to support its contention that “[c]ourts in Maryland” have found collective allegations insufficient to notify defendants: *Heritage Harbour*, discussed above, and a federal district court decision, *Lee v. Queen Anne’s County Office of Sheriff*, 2014 WL 476233 (D. Md. Feb. 5, 2014). *Lee* involved claims brought against a sheriff’s deputy and sheriff arising out of the allegedly unlawful traffic stop, arrest, and prosecution of the plaintiff. *Id.* at *1, *14. The court found collective allegations insufficient to state claims against the sheriff (with the exception of a negligent supervision claim), where the complaint alleged that the *deputy* performed the traffic stop and arrest, harassed the plaintiff, and provided false testimony, but did not show the sheriff participated in or directed those acts. *See id.* at *1, *15. In contrast to these cases, the Complaint here alleges COP marketed and sold its fossil fuel products to consumers at ConocoPhillips-branded gas stations throughout Maryland, Compl. ¶ 26(i), and that in doing so, like other Defendants, COP failed to warn, concealed, and omitted the severe climatic hazards of its fossil fuel products, *e.g.*, *id.* ¶¶ 221(b), 241, 295–96.

⁴ *See also, e.g., Chevron U.S.A. Inc. v. Apex Oil Co.*, 113 F. Supp. 3d 807, 815 n.1 (D. Md. 2015) (collecting cases to show that “[n]othing in [Federal Rule of Civil Procedure] 8 prohibits collectively referring to multiple defendants where the complaint alerts defendants that identical claims are asserted against each defendant” (quotation omitted)); *Lackey v. MWR Investigations, Inc.*, 2015 WL 132613, at *2–3 (D. Md. Jan. 8, 2015) (rejecting argument that complaint improperly grouped defendants and explaining “presum[ption] that all allegations made against the defendants collectively applied equally to the individual defendant” (collecting cases)).

engaged in the same wrongful conduct by failing to warn of their fossil fuel products' climatic risks and instead deploying campaigns to deceive consumers and the public about the link between those products and climate change. *See, e.g.*, Compl. ¶¶ 1, 6–7, 141–70, 295–96. The City's allegations give COP ample notice about the claims, the underlying facts, and the bounds of the litigation, assuring the Court that the City's claims are meritorious. The City has sufficiently alleged its case against COP, and the Complaint's use of collective allegations simply promotes brevity without undermining any of the well-established purposes of pleading.

B. API's Misrepresentations and Conduct Are Imputable to COP.

The Complaint also sufficiently alleges that COP acted in concert with other Defendants and the American Petroleum Institute ("API") to hold COP jointly liable for API's misconduct.

The Maryland Supreme Court has long "recognized joint and several liability for 'true' joint tortfeasors" that "act in concert." *Consumer Prot. Div. v. Morgan*, 387 Md. 125, 177 (2005). "Those who actively participate in the wrongful act, by cooperation or request, or who lend aid, encouragement or countenance to the wrongdoer, or approval to his acts done for their benefit, are equally liable with him." *Id.* at 178 (quoting Prosser, *Joint Torts and Several Liab.*, 25 Calif. L. Rev. 413, 429–30 (1936)). "Express agreement is not necessary; all that is required is that there shall be a common design or understanding." *Id.* (quoting Prosser, 25 Calif. L. Rev. at 430).

The Complaint alleges that COP acted in concert with other Defendants, primarily through its participation in API. *See* Compl. ¶¶ 31, 147, 219, 242, 254, 275. COP and its predecessors have been API members at relevant times, *id.* ¶ 31(a), and have actively participated in the trade association, including by joining API's Climate and Energy Task Force in the 1980s, *id.* ¶ 115. According to ConocoPhillips' own website, its Chairman and CEO Ryan Lance "currently serves

on [API's] Executive Committee,"⁵ and API's judicially noticeable tax returns indicate that Mr. Lance was API Chairman in 2016 and 2017.⁶ COP and its collaborators had a common design: together they "discredited and/or misrepresented information that tended to support restricting consumption of . . . fossil fuel products," including through use of "climate change denialist" front groups working "to influence consumers to continue using [] fossil fuel products." *Id.* ¶¶ 146–47.

API has played a vital role in Defendants' campaign of deception and denial. *See id.* ¶¶ 31, 154, 158–59, 162–67. For example, in 1996, API "published an extensive report . . . warning against concern over [] buildup" of greenhouse gases "and any need to curb consumption" of fossil fuels, and "den[ying] the human connection to climate change." *Id.* ¶ 154. API also developed a multi-million-dollar Global Climate Science Communications Plan that aimed to convince "average citizens" to "recognize[] uncertainties in climate science." *Id.* ¶ 158. API engaged in such conduct on behalf of Defendants including COP, and COP has participated in API's misleading messaging through its membership and leadership in API. *See id.* ¶¶ 31(a), 115, 158.

COP cites cases for the unremarkable proposition that mere membership in a lawful trade organization does not suffice to impute liability, in part "because of First Amendment associational rights." Mot. at 5. But the City's claims do not threaten to impair COP's associational rights because the City's claims target tortious conduct that API and COP undertook in concert, not COP's mere association with API. Any First Amendment concerns are further diminished because

⁵ ConocoPhillips, *Ryan Lance, Chairman and Chief Executive Officer*, <https://perma.cc/VR88-H5N9>. The City requests that the Court take judicial notice of this fact, which is not subject to reasonable dispute because it is listed on ConocoPhillips' own website, a source whose accuracy COP cannot reasonably question. *See* Md. Rule 5-201; *see also Dashiell v. Meeks*, 396 Md. 149, 175 & n.6 (2006) (noticeable adjudicative facts include "facts about the parties and their activities, businesses and properties" (citation omitted)).

⁶ *See* Am. Petroleum Inst., *Form 990* at 2 (2016) (relevant excerpts attached as Ex. 1), https://apps.irs.gov/pub/epostcard/cor/130433430_201612_990O_2018011115111922.pdf; Am. Petroleum Inst., *Form 990* at 2 (2017) (relevant excerpts attached as Ex. 2), https://apps.irs.gov/pub/epostcard/cor/130433430_201712_990O_2019022516126496.pdf. The City similarly requests that the Court take judicial notice of these facts, which are also readily verifiable from "sources whose accuracy cannot reasonably be questioned," Md. Rule 5-201, *i.e.*, API's own submissions to the IRS.

the City seeks to hold COP liable for its and API's deceptive and misleading commercial speech, and "the First Amendment does not protect commercial speech that is false, deceptive or misleading." *Luskin's Inc. v. Consumer Prot. Div.*, 338 Md. 188, 198 (1995).⁷ If anything, the factually distinct cases COP cites only underscore that COP's membership, participation, and leadership in API *can* give rise to liability consistent with the First Amendment if COP and the group intended and acted to undertake unlawful conduct.⁸ And here, the Complaint alleges that the very purpose and nature of API was to advance a shared goal of spreading deception. Taking the allegations as true and drawing reasonable inferences in the City's favor, COP acted in concert with other Defendants and API by funding, encouraging, ratifying, and otherwise aiding API's knowingly false and misleading conduct, and thus is jointly liable for that conduct.

C. The City Satisfies the Particularity Pleading Requirement Where It Applies.

COP argues that the City does not plead fraud with particularity, and contends that this requires dismissal of *all* the City's claims. *See* Mot. at 4–6. But only the subset of the City's MCPA claim that relies on fraud is subject to particularity pleading, which the Complaint satisfies.

Maryland's particularity pleading requirement for fraud is a "judge-made gloss on the

⁷ As described in the City's Opposition to the Chevron Defendants' Motion to Dismiss Under Maryland's Anti-SLAPP Law at Part IV.A.1, the Complaint targets deceptive and misleading commercial speech by Defendants and API, which is not protected under the First Amendment or the Maryland Declaration of Rights. *See Bolger v. Youngs Drug Prods. Corp.*, 463 U.S. 60, 64, 69 (1983) (explaining that "the Constitution accords less protection to commercial speech" than other forms of expression, meaning that "false, deceptive, or misleading" commercial speech may be restricted without offending the First Amendment); *Jakanna Woodworks, Inc. v. Montgomery Cnty.*, 344 Md. 584, 595 (1997) (the Maryland Declaration of Rights confers the same speech rights as the First Amendment).

⁸ *See In re Asbestos Sch. Litig.*, 46 F.3d 1284, 1290 (3d Cir. 1994) (conspiracy and concerted action claims failed *at summary judgment* because, among other reasons, discovery had produced "simply no evidence" that manufacturer defendant had requisite intent to further trade association's wrongful conduct); *N.A.A.C.P. v. Claiborne Hardware Co.*, 458 U.S. 886, 920 (1982) (even in the context of a Jim Crow-era lawsuit in a rural Mississippi county against the NAACP by white merchants, noting in dicta that civil liability might be imposed on an individual based on their NAACP membership without impairing their First Amendment associational rights if "the group itself possessed unlawful goals and that the individual held a specific intent to further those illegal aims"); *Santopietro v. Howell*, 73 F.4th 1016, 1023–27 (9th Cir. 2023) (explaining that criminal liability could not be imposed on a street performer based on her fellow performer's conduct because there was no evidence of her "intent to engage with [the other performer] in anything other than clearly constitutionally protected expressive activity").

general rules of pleading.” *McCormick v. Medtronic, Inc.*, 219 Md. App. 485, 528 (2014). It applies only where a plaintiff seeks “relief on the ground of fraud,” *see Thomas v. Nadel*, 427 Md. 441, 453 (2012) (quotations omitted), meaning fraud is “[t]he basis of . . . the relief sought,” *Spangler v. Sprosty Bag Co.*, 183 Md. 166, 173 (1944). COP is thus wrong to assert that particularity pleading applies to the City’s tort claims, which do not include fraud as an element. As to the City’s MCPA claim, Maryland courts have applied particularity pleading to MCPA claims *only* to the extent they rely on Md. Code Ann., Com. Law § 13-301(9), which includes fraud as an element and thus “replicates common-law fraud.” *See McCormick*, 219 Md. App. at 529–30.

The City alleges *non-fraudulent* MCPA violations under Md. Code Ann., Com. Law § 13-301(1) and (3) based on COP’s statements, representations, and omissions that had the effect, capacity, or tendency to deceive, as well as fraudulent violations under § 13-301(9) based on COP’s deception with the *specific intent* to induce consumer reliance.⁹ Under controlling precedent, *McCormick*, 219 Md. App. at 529, only the subset of the City’s MCPA claim based on § 13-301(9) is subject to particularity pleading. The City amply pleads that claim by exhaustively describing the multi-decade deception and concealment campaign in which COP participated.

Lloyd v. General Motors Corp., 397 Md. 108, 150–54, similarly involved an MCPA claim alleging automakers’ multi-decade effort to fraudulently conceal a product danger. The Maryland Supreme Court found particularity pleading satisfied because the plaintiffs alleged that the defendants “ha[d] known the risk of injury,” provided “facts that support that assertion,” and alleged that the defendants had “engaged in a 30-year cover-up.” *Id.* at 153–54 & n.21. The court did not require greater precision. The City’s allegations here are more robust than those in *Lloyd*.

⁹ Although the Complaint expressly refers to only §§ 13-301(1) and 13-301(9), *see* Compl. ¶ 292, the City also states a violation of § 13-301(3) by alleging that the climatic risks of fossil fuel products are material to Maryland consumers, *see id.* ¶¶ 295–96, and that COP and other Defendants failed to warn of their products’ climatic risks while marketing and selling those products, *see id.* ¶¶ 141–70, 241, 274, which has deceived consumers, *id.* ¶ 170.

COP's reliance on the Appellate Court's decision in *McCormick*, 219 Md. App. 485, fails for at least two key reasons. *First*, the City's allegations here are far more detailed than those in *McCormick*, where the complaint only "vague[ly] reference[d]" misrepresentations. *See id.* at 528. The City shows "who made what false statement, when, and in what manner . . . ; why the statement is false; and why a finder of fact would have reason to conclude that the defendant acted with scienter . . . and with the intention to [induce reliance]." *See id.* As discussed, the Complaint details deliberate, particular misrepresentations by API that are attributable to COP, *e.g.*, Compl. ¶ 154. *Second*, *McCormick* involved only allegations of a fraudulent, affirmative misrepresentation. *See* 219 Md. App. at 528 (defendants' statements "intended to induce physicians . . . to rely on [certain] alleged misrepresentations"). By contrast, the City—as in *Lloyd*, 397 Md. at 153—also alleges failure to warn, concealment, and omissions. Compl. ¶¶ 295–96; *see also id.* ¶¶ 141–70. *McCormick*'s requirement to specify "who made what false statement, when, and in what manner," 219 Md. App. at 528, simply does not fit the City's case, which places weight on COP's failure to warn, concealment, and omissions of its fossil fuel products' climatic risks.

D. COP's Superior Knowledge Gave Rise to a Duty to Warn.

Next, COP argues it had no duty to warn because it lacked "superior" knowledge about its products' dangers. Mot. at 9. The Complaint alleges otherwise: Defendants, including COP, had early knowledge that using their fossil fuel products as intended would cause myriad climate-related hazards that the City now faces. *See* Compl. ¶¶ 59–102, 106–40. COP knew or should have known of its products' climatic hazards based on information shared by the international scientific community and by Defendants' internal research divisions, trade associations, and industry groups. *E.g., id.* ¶¶ 111, 115, 137, 239–40. For example, COP's predecessors received a report from API in 1972 describing the global warming impacts of fossil fuel products. *Id.* ¶ 111. COP thus owed

a duty to issue adequate warnings to protect the City and others foreseeably harmed by its products' intended uses, *id.* ¶¶ 238, 271, which it breached by failing to warn and concealing its knowledge, *see id.* ¶¶ 141–70, 241, 274; Opp. at Part IV.D.3.a. In arguing otherwise, COP reiterates its flawed arguments against collective allegations and ignores the rule that it is “held responsible for knowing what was generally known in the scientific or expert community about [its] product[s]’ hazards,” including “by scientists or experts employed by other manufacturers.” *U.S. Gypsum Co. v. Mayor & City Council of Baltimore*, 336 Md. 145, 165 (1994).¹⁰

COP’s suggestion that “the public was just as aware” of these risks, Mot. at 9, ignores the allegations that Defendants’ deceptive tactics, which included working to “refute” and “discredit the growing body of publicly available scientific evidence” and “advanc[ing] pseudo-scientific theories of their own,” affirmatively “prevented reasonable consumers” from gaining comparable knowledge about the climatic risks of Defendants’ products. *E.g.*, Compl. ¶¶ 1, 242. Those risks were thus not obvious to average Maryland consumers, which in any event is a factual question for the jury. *See* Opp. at Part IV.D.3.b. The Court should credit the City’s allegations that COP knew or should have known of its products’ non-obvious hazards, giving rise to a duty to warn.

E. COP’s Fraudulent Concealment Told the MCPA’s Statute of Limitations.

Finally, COP contends that the three-year statute of limitations for MCPA claims bars the City’s claim against it. For the reasons discussed in the City’s Opposition, however, *see* Opp. at Part. IV.D.5.a, COP’s and other Defendants’ fraudulent concealment tolled the limitations period until the City reasonably could have discovered the bases for its MCPA claim.

COP’s argument that “climate change and its connection to fossil fuel combustion was

¹⁰ *See also Gourdine v. Crews*, 405 Md. 722, 742 (2008) (confirming that a defendant’s “knowledge can be established by evidence that the dangerous quality of the product should have been known by a manufacturer because it was known in the scientific or expert community” (quoting *Owens-Illinois, Inc. v. Zenobia*, 325 Md. 420, 433 (1992))).

widely reported . . . as early as 1965,” Mot. at 8, conflates knowledge of climate change and its impacts with knowledge of the facts underpinning the deceptive nature of COP’s conduct, including COP’s own early knowledge about its products’ risks, and its efforts to undermine the public’s understanding of the connection between its products and climate change. *See, e.g.*, Compl. ¶¶ 1, 158–67, 242. COP did not violate the MCPA by producing fossil fuels; it did so by concealing and misrepresenting its products’ climatic dangers and by attacking the very knowledge and reporting it now seeks to hide behind.¹¹ Thus, the City’s historical knowledge of climate change, fossil fuel use, and climate impacts is not enough to trigger the limitations clock.

Next, COP points to statements in its 2012 corporate sustainability report. Mot. at 2, 8 (citing Compl. ¶ 185 n.213). Even assuming the City should have been aware in 2012 of the statement in COP’s report recognizing that burning fossil fuels “can lead to adverse changes in global climate,” *id.* at 2 (quotation omitted), the report says nothing of COP’s repeated failures to warn, concealment, and omissions of its fossil fuel products’ risks *when marketing and selling those products*, including at its Maryland gas stations, Compl. ¶ 26(i), or of COP’s role in Defendants’ efforts to spread disinformation and otherwise deceive consumers about the climatic risks of fossil fuels—key facts underpinning the City’s MCPA claim. A jury must decide when, in light of COP’s and others’ fraudulent concealment, the City reasonably could have discovered these facts. *See Mathews v. Cassidy Turley Md., Inc.*, 435 Md. 584, 618, 620–21 (2013).

III. CONCLUSION

For these reasons, the Court should deny the Motion. If the Court finds the allegations deficient in any regard, the City respectfully requests leave to amend. *See* Md. Rule 2-341.

¹¹ *See Mayor & City Council of Baltimore v. BP P.L.C.*, 31 F.4th 178, 233 (4th Cir. 2022), *cert. denied*, 143 S. Ct. 1795 (2023) (the City’s Complaint “clearly seeks to challenge the promotion and sale of fossil-fuel products without warning and abetted by a sophisticated disinformation campaign,” not merely Defendants’ production and sale of fossil fuels).

Dated: December 12, 2023

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of December 2023, a copy of the *Mayor and City Council of Baltimore's Memorandum of Law in Opposition to Defendants ConocoPhillips's, Conocophillips Company's, and Louisiana Land & Exploration Co., LLC's Motion to Dismiss for Failure to State a Claim* was served upon all counsel of record via email (by agreement of the parties).

/s/ Matthew K. Edling
Matthew K. Edling

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EXHIBIT 1

Form **990**

 Department of the Treasury
 Internal Revenue Service

Return of Organization Exempt From Income Tax

Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except private foundations)

- ▶ Do not enter social security numbers on this form as it may be made public
 ▶ Information about Form 990 and its instructions is at www.irs.gov/form990

OMB No 1545-0047

2016

Open to Public
Inspection

A For the 2016 calendar year, or tax year beginning 01-01-2016, and ending 12-31-2016

- B** Check if applicable:
☐ Address change
☐ Name change
☐ Initial return
☐ Final
☒ Return/terminated
☐ Amended return
☐ Application pending

C Name of organization
 AMERICAN PETROLEUM INSTITUTE

Doing business as

Number and street (or P.O. box if mail is not delivered to street address) Room/suite
 1220 L STREET NW

City or town, state or province, country, and ZIP or foreign postal code
 WASHINGTON, DC 20005

F Name and address of principal officer
 JACK N GERARD
 1220 L STREET NW
 WASHINGTON, DC 20005

D Employer identification number

13-0433430

E Telephone number

(202) 682-8000

G Gross receipts \$ 254,789,984

I Tax-exempt status ☐ 501(c)(3) ☒ 501(c)(6) (Insert no) ☐ 4947(a)(1) or ☐ 527

J Website: ▶ www.api.org

H(a) Is this a group return for subordinates? ☐ Yes ☒ No

H(b) Are all subordinates included? ☐ Yes ☐ No

If "No," attach a list (see instructions)

H(c) Group exemption number ▶

K Form of organization ☒ Corporation ☐ Trust ☐ Association ☐ Other ▶

L Year of formation 1919

M State of legal domicile DC

Part I Summary

1 Briefly describe the organization's mission or most significant activities

The mission of American Petroleum Institute (API) is to promote safety across the industry globally and to influence public policy in support of a strong, viable U.S. oil and natural gas industry

2 Check this box ☐ if the organization discontinued its operations or disposed of more than 25% of its net assets

3 Number of voting members of the governing body (Part VI, line 1a)	3	44
4 Number of independent voting members of the governing body (Part VI, line 1b)	4	43
5 Total number of individuals employed in calendar year 2016 (Part V, line 2a)	5	332
6 Total number of volunteers (estimate if necessary)	6	6,000
7a Total unrelated business revenue from Part VIII, column (C), line 12	7a	10,671,550
b Net unrelated business taxable income from Form 990-T, line 34	7b	633,384

Activities & Governance

Revenue

Expenses

Net Assets or Fund Balances

	Prior Year	Current Year
8 Contributions and grants (Part VIII, line 1h)	0	12,193,728
9 Program service revenue (Part VIII, line 2g)	200,847,919	200,946,375
10 Investment income (Part VIII, column (A), lines 3, 4, and 7d)	868,917	504,780
11 Other revenue (Part VIII, column (A), lines 5, 6d, 8c, 9c, 10c, and 11e)	14,536,268	16,013,935
12 Total revenue—add lines 8 through 11 (must equal Part VIII, column (A), line 12)	216,253,104	229,658,818
13 Grants and similar amounts paid (Part IX, column (A), lines 1–3)	6,193,088	4,321,347
14 Benefits paid to or for members (Part IX, column (A), line 4)	0	0
15 Salaries, other compensation, employee benefits (Part IX, column (A), lines 5–10)	54,932,364	60,071,949
16a Professional fundraising fees (Part IX, column (A), line 11e)	0	0
b Total fundraising expenses (Part IX, column (D), line 25) ▶ 0		
17 Other expenses (Part IX, column (A), lines 11a–11d, 11f–24e)	189,213,934	160,686,526
18 Total expenses Add lines 13–17 (must equal Part IX, column (A), line 25)	250,339,386	225,079,822
19 Revenue less expenses Subtract line 18 from line 12	-34,086,282	4,578,996
	Beginning of Current Year	End of Year
20 Total assets (Part X, line 16)	83,690,323	88,459,067
21 Total liabilities (Part X, line 26)	116,060,215	112,383,184
22 Net assets or fund balances Subtract line 21 from line 20	-32,369,892	-23,924,117

Part II Signature Block

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.

Sign
Here

Signature of officer

2017-11-15

Date

JACK N GERARD, PRESIDENT AND CEO

Type or print name and title

Print/Type preparer's name

Preparer's signature

Date

PTIN

Form 990, Part VII - Compensation of Officers, Directors, Trustees, Key Employees, Highest Compensated Employees, and Independent Contractors

Name and Title	Average hours per week (list any hours for related organizations below dotted line)	Position (do not check more than one box, unless person is both an officer and a director/trustee)					(D) Reportable compensation from the organization (W-2/1099-MISC)	(E) Reportable compensation from related organizations (W-2/1099-MISC)	(F) Estimated amount of other compensation from the organization and related organizations
		Individual trustee or director	Institutional Trustee	Officer	Key employee	Highest compensated employee			
Paul Kibsgaard Board Member	0 50 0 00	X					0	0	0
Tracy W Krohn Board Member	0 50 0 00	X					0	0	0
Ryan M Lance Chairman of the Board	0 50 0 00	X		X			0	0	0
Robert Doug Lawler Board Member	0 50 0 00	X					0	0	0
Virginia Gigi B Lazenby Board Member	0 50 0 00	X					0	0	0
David J Lesar Board Member	0 50 0 00	X					0	0	0
Douglas R Matthews Board Member	0 50 0 00	X					0	0	0
John C Minge Board Member	0 50 0 00	X					0	0	0
Al Monaco Board Member	0 50 0 00	X					0	0	0
Richard Muncrief Board Member	0 50 0 00	X					0	0	0

EXHIBIT 2

Form **990**Department of the Treasury
Internal Revenue Service**Return of Organization Exempt From Income Tax**

Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except private foundations)

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Inspection**A For the 2017 calendar year, or tax year beginning 01-01-2017, and ending 12-31-2017**

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 - ☐ Application pending

C Name of organization
AMERICAN PETROLEUM INSTITUTE

Doing business as

Number and street (or P.O. box if mail is not delivered to street address) Room/suite
1220 L STREETCity or town, state or province, country, and ZIP or foreign postal code
WASHINGTON, DC 20005**D** Employer identification number

13-0433430

E Telephone number

(202) 682-8000

G Gross receipts \$ 226,586,227**F** Name and address of principal officer
MICHAEL J SOMMERS
1220 L STREET
WASHINGTON, DC 20005**H(a)** Is this a group return for subordinates? ☐ Yes ☒ No**H(b)** Are all subordinates included? ☐ Yes ☐ No

If "No," attach a list (see instructions)

H(c) Group exemption number ▶**I** Tax-exempt status ☐ 501(c)(3) ☒ 501(c)(6) (insert no) ☐ 4947(a)(1) or ☐ 527**J** Website: ▶ WWW.API.ORG**K** Form of organization ☒ Corporation ☐ Trust ☐ Association ☐ Other ▶**L** Year of formation 1919**M** State of legal domicile DC**Part I Summary****1** Briefly describe the organization's mission or most significant activities

SEE PART III, LINE 1

2 Check this box ☐ if the organization discontinued its operations or disposed of more than 25% of its net assets

3 Number of voting members of the governing body (Part VI, line 1a)	3	44
4 Number of independent voting members of the governing body (Part VI, line 1b)	4	43
5 Total number of individuals employed in calendar year 2017 (Part V, line 2a)	5	332
6 Total number of volunteers (estimate if necessary)	6	6,000
7a Total unrelated business revenue from Part VIII, column (C), line 12	7a	11,371,855
b Net unrelated business taxable income from Form 990-T, line 34	7b	1,099,053

		Prior Year	Current Year
Revenue	8 Contributions and grants (Part VIII, line 1h)	12,193,728	100,000
	9 Program service revenue (Part VIII, line 2g)	200,946,375	187,074,722
	10 Investment income (Part VIII, column (A), lines 3, 4, and 7d)	504,780	513,458
	11 Other revenue (Part VIII, column (A), lines 5, 6d, 8c, 9c, 10c, and 11e)	16,013,935	18,987,624
	12 Total revenue—add lines 8 through 11 (must equal Part VIII, column (A), line 12)	229,658,818	206,675,804
Expenses	13 Grants and similar amounts paid (Part IX, column (A), lines 1-3)	4,321,347	2,347,561
	14 Benefits paid to or for members (Part IX, column (A), line 4)	0	0
	15 Salaries, other compensation, employee benefits (Part IX, column (A), lines 5-10)	60,071,949	61,818,084
	16a Professional fundraising fees (Part IX, column (A), line 11e)	0	0
	b Total fundraising expenses (Part IX, column (D), line 25) ▶ 0		
	17 Other expenses (Part IX, column (A), lines 11a-11d, 11f-24e)	160,686,526	156,678,262
Net Assets or Fund Balances	18 Total expenses Add lines 13-17 (must equal Part IX, column (A), line 25)	225,079,822	220,843,907
	19 Revenue less expenses Subtract line 18 from line 12	4,578,996	-14,168,103
		Beginning of Current Year	End of Year
	20 Total assets (Part X, line 16)	88,459,067	84,629,322
	21 Total liabilities (Part X, line 26)	112,383,184	133,279,064
	22 Net assets or fund balances Subtract line 21 from line 20	-23,924,117	-48,649,742

Part II Signature Block

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge

Sign Here

Signature of officer

2018-11-15
DateMICHAEL J SOMMERS PRESIDENT AND CEO
Type or print name and titlePrint/Type preparer's name
DEBORAH G KOSNETTPreparer's signature
DEBORAH G KOSNETTDate
2018-11-01Check ☐ ifPTIN
P00290720

Form 990, Part VII - Compensation of Officers, Directors, Trustees, Key Employees, Highest Compensated Employees, and Independent Contractors

(A) Name and Title	(B) Average hours per week (list any hours for related organizations below dotted line)	(C) Position (do not check more than one box, unless person is both an officer and a director/trustee)					(D) Reportable compensation from the organization (W-2/1099-MISC)	(E) Reportable compensation from related organizations (W-2/1099-MISC)	(F) Estimated amount of other compensation from the organization and related organizations
		Individual trustee or director	Officer	Key employee	Highest compensated employee	Former			
PAAL KIBSGAARD BOARD MEMBER	0 50 0 00	X					0	0	0
TRACY W KROHN BOARD MEMBER	0 50 0 00	X					0	0	0
RYAN M LANCE CHAIRMAN OF THE BOARD	0 50 0 00	X	X				0	0	0
ROBERT DOUG LAWLER BOARD MEMBER	0 50 0 00	X					0	0	0
DAVID J LESAR BOARD MEMBER	0 50 0 00	X					0	0	0
JEFF MILLER BOARD MEMBER	0 50 0 00	X					0	0	0
JOHN C MINGE BOARD MEMBER	0 50 0 00	X					0	0	0
AL MONACO BOARD MEMBER	0 50 0 00	X					0	0	0
RICHARD MUNCRIEF BOARD MEMBER	0 50 0 00	X					0	0	0
STEVE PASTOR BOARD MEMBER	0 50 0 00	X					0	0	0