



City of Chicago



R2021-782

Office of the City Clerk

Document Tracking Sheet

Meeting Date: 6/25/2021

Sponsor(s): Sigcho-Lopez (25)
Rodriguez (22)
Smith (43)
Ramirez-Rosa (35)

Type: Resolution

Title: Call for end to pretrial house arrest of human rights attorney Steven Donziger, call for U.S. Department of Justice to investigate Judge Lewis A. Kaplan's violation of basic fairness in judicial process, and call for President Biden Administration to hold Chevron accountable for environmental crimes in Ecuador

Committee(s) Assignment: Committee on Health and Human Relations

Resolution

WHEREAS, In 1993, U.S. human rights attorney, Steven Donziger, became part of the legal team for 30,000 indigenous peoples and affected campesinos in the Ecuadorian Amazon seeking justice from the environmental damage and ongoing health crisis caused by oil company Texaco, for deliberately polluting the Amazon Rainforest; and,

WHEREAS, From 1964 to 1990, Texaco dumped over 16 billion gallons of toxic wastewater, spilled more than 17 million gallons of crude oil and left hundreds of open pits with hazardous waste on the forest floor; and,

WHEREAS, In 2000, Chevron purchased Texaco along with everything that came with it – including liability for the destruction Texaco had caused in Ecuador's Amazon region; and,

WHEREAS, The Cofan people, among other indigenous groups and rural communities that call the Amazon home, have suffered intense environmental and health ramifications from "Chevron's cost of doing business," including lack of potable water, displacement from ancestral lands, irreparable loss of culture, and severe health impacts, including heightened mortality rates due to birth defects and the widespread incidence of cancer; and,

WHEREAS, In 2011, after nearly two decades of litigation in Ecuador—where Chevron executives had accepted jurisdiction—Chevron was found guilty and ordered to pay \$19 billion in damages for cleanup, a decision Chevron appealed to the Ecuadorian Supreme Court, which upheld the trial court judgment but eliminated a punitive damages penalty, lowering Chevron's final clean-up liability to \$9.5 billion; and,

WHEREAS, Despite knowing that the money from the judgment would be used for environmental repair, not individual indemnifications, Chevron—one of the world's largest corporations with over \$260 billion in assets—sold its assets in Ecuador and fled the country; and,

WHEREAS, In the US, Chevron began a counter-offensive strategy, threatening human rights lawyers and the indigenous plaintiffs with a "lifetime of litigation," and to date, by some estimates, Chevron has spent nearly \$2 billion in a massive legal and defamatory propaganda campaign on at least 60 law firms, all aimed at taking down Steven Donziger and finding work-arounds to the Ecuadorian judgment; and,

WHEREAS, At the unorthodox suggestion of Judge Kaplan, in 2011, Chevron filed a civil RICO complaint against Donziger and two Ecuadorian attorneys, claiming that the judgment obtained after 10-years of litigation that was validated by three levels of Ecuadorian courts was the product of fraud and extortion; and,

WHEREAS, In 2014, after the prolonged non-jury RICO trial aimed at weakening the resolve of Donziger and the Amazonian plaintiffs, Judge Kaplan, who has made numerous public comments about Chevron's importance to the global economy, ruled in favor of Chevron; and,

WHEREAS, At the time of his decision, Judge Kaplan had undisclosed financial ties to Chevron that would have provided grounds for the Ecuadorian plaintiffs and Donziger to seek his recusal; and,

WHEREAS, In Kaplan's RICO decision, despite having previously ignored the basic principle of international comity (respect among nations for each other's legal systems) when he attempted to prohibit enforcement of the Ecuadorian judgment against Chevron in any nation—an injunction that was ultimately vacated by the U.S. Court of Appeals for the Second Circuit in 2011—Kaplan found a new way to circumvent the enforcement issue anyway; and,

WHEREAS, The RICO order, though explicitly allowing enforcement in other countries, imposes a constructive trust where any funds that might be collected on the judgment outside the U.S. would have to be held in trust for Chevron; more recently, Kaplan held that this constructive trust also blocks the Ecuadorian plaintiffs from raising any money to pay for the supposedly allowed foreign enforcement actions; and,

WHEREAS, After some progress was made in other countries to enforce the judgment with Donziger's help, Judge Kaplan allowed Chevron to initiate a costly and intrusive document discovery process against Donziger and others associated with the Ecuadorian plaintiffs in which Kaplan required Donziger to turn over his client communications to Chevron from over two decades of work, meaning that Chevron would gain backdoor access to information they could not obtain legally through the discovery process, including to conversations regarding litigation strategy, among other things, of all those involved in the human rights case, thus infringing upon one of the most time-honored privileges: that of an attorney and his clients; and,

WHEREAS, Donziger objected to Kaplan's orders and filed an appeal, and when Kaplan demanded that Donziger nonetheless produce the privileged information while the appeal was pending, Donziger refused on principle and openly stated he was willing to be held in civil contempt of court if necessary; and,

WHEREAS, Kaplan did hold him in civil contempt—and then, in July 2019, increased the pressure by drafting extraordinary and unprecedented criminal contempt charges against Donziger which he referred to the U.S. Attorney's Office for the Southern District of New York, which declined to prosecute; and,

WHEREAS, Kaplan then took it upon himself to appoint a private law firm, Seward & Kissel (a firm with known ties to Chevron and Chevron-related entities) to prosecute Donziger despite their flagrant conflict of interest, and then bypassed the random case assignment process and handpicked Judge Loretta Preska to oversee the prosecution; and,

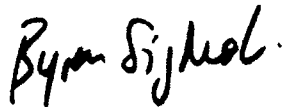
WHEREAS, 475 lawyers, legal organizations and human rights defenders have signed onto a letter in support for Donziger from which this resolution is adapted and he has received additional support from several congressional leaders including Reps Jim McGovern (D-Mass.), Alexandria Ocasio-Cortez (D-N.Y.), Cori Bush (D, Mo.), Rashida Tlaib (D-Mich.), Jamaal Bowman (D-N.Y.), and Jamie Raskin (D-Md.);

NOW THEREFORE BE IT RESOLVED

The City of Chicago calls for the immediate end to the unjustified pretrial house arrest of human rights attorney Steven Donziger and further calls for the United States Department of Justice to investigate Judge Lewis A. Kaplan's lack of impartiality and his refusal to recuse himself in a case where he repeatedly displayed a clear bias towards one of the parties, thus violating basic notions of fairness in the judicial process that lie at the core of the rule of law.

BE IT FURTHER RESOLVED

Chevron cannot be allowed to obtain impunity for the environmental damages caused to the Ecuadorian Amazon and to the 30,000 Indigenous peoples who have waited long enough for justice. We call on President Biden and his administration to hold Chevron accountable for its environmental crimes in Ecuador.



Byron Sigcho-Lopez
Alderman, 25th Ward



CITY OF CHICAGO

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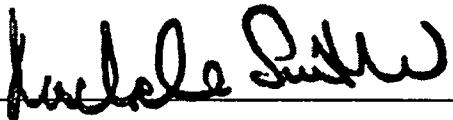
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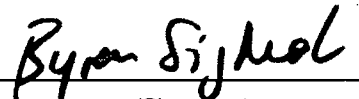
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