

Inconsistencies In Chevron’s Allegations Based on Recordings from Diego Borja

	Chevron’s Initial Assertions	Inconsistencies
<p>Chevron’s Relationship with Diego Borja</p>	<p>In Chevron’s initial press release, the company stated, “Evidence of the bribery plot was brought to Chevron’s attention in June by an Ecuadorian, who was pursuing business opportunities in Ecuador with an American businessman. The Ecuadorian, Diego Borja, has performed work for Chevron as a logistics contractor. Borja also has a relative who works as a contractor to Chevron.”</p>	<p>In recordings between Borja and friend, Escobar, Borja admitted he has worked for Chevron for several years. At one point, Borja stated he has worked for the company for the past five years (since 2004). Another time, he said he had worked for Chevron, in some capacity, since age 24 (approximately nine years). Borja told Escobar that his signatures could be found on documents in the court file in Lago Agrio dating back to the beginning of his work for Chevron. He said the plaintiffs were unaware of this. He also said that Chevron publicly stated that he only worked on the last eight inspections, even though that was not true.</p> <p>(Transcript 11, October 1, 2009, p. 6-10; Transcript 4, October 1, 2009 p. 13)</p> <p>Borja also admitted in the conversations that his wife worked for Chevron (as a contractor) for four years and that she worked in the same office as Borja. The office he speaks of is the Borja-Paez building, where Chevron’s legal team is located. Borja’s uncle owns the building and has worked for Chevron for over 30 years. Borja notes that the plaintiffs and public are unaware of this. “...my uncle, dude, you get it? The guy's worked there 30 years. He’s the legal representative for</p>

acquisitions and sales of crude for Chevron. I mean, they don't know that, shit! Even my wife worked there four years, you get it?"

(Transcript 11, October 1, 2009 p. 7-8).

Grant Fine, the plaintiff's investigator, also located documents in the Lago Agrio court that showed Borja and Borja's wife, Sara Portilla, represented Severn Trent Labs, the US laboratory that Chevron used to test samples. On one document Borja relinquished contamination samples to Portilla, as STL's project manager. Part of Borja's job with Chevron was to take contamination samples from well sites. Borja told Escobar that he stored contamination samples in his refrigerator in his Quito office.

Notably, Borja said that he formed four companies for Chevron in order for his work for Chevron to appear independent. He intimates that this included a laboratory responsible for submitting evidence in the trial that was to appear to come from an independent source but really "belonged" to Chevron.

(Transcript 4, October 1, 2009 p. 12-13

Transcript 6, October 1, 2009 p.6-9)

"Chevron always stayed, supposedly, independent, and sent the analysis to have them analyzed... But I know that's not true ... I have proof that they [laboratories] were more than connected, they belonged to them." He stated that, beginning in

		<p>2004, he was the person who signed the contract to rent the house where Chevron’s (“independent”) tested contamination samples. (Transcript 6, October 1, 2009 p. 6-8; Transcript 11, October 1, 2009 p. 6-7)</p>
<p>Chevron’s Compensation to Borja for the Recordings</p>	<p>In its initial press release, Chevron stated that, “Borja and Hansen recorded their meetings in Ecuador without Chevron’s knowledge, and neither man was paid to provide the recordings to Chevron.”ⁱ Chevron is also quoted in <i>Bloomberg</i> stating, “Borja and the American weren’t paid for the tapes.”ⁱⁱ</p>	<p>Borja’s conversations reveal that when he first spoke with Chevron about the videos, Borja said he expected to be covered economically and in terms of security -- “in everything” -- if they were handed over. Diego stated that he told them, “Obviously, I’m not going to ask for anything now, because it would ruin everything.” Chevron told him not to worry, but it is “totally understood.” (Transcript 21, October 7, 2009 p. 11)</p> <p>According to Borja, Chevron told him “We can’t give you money because...it would compromise the evidence.... What we can do is (make you) our business partner.” Borja continued, “Now, that little word means a lot of things, right?” When Escobar then said, “the objective is to become their partner. I mean, once you’re a partner of the guys, you’ve got it made,” Borja replied, “That’s right you dog. So, I... I’ve seen how things work here now. I mean, it’s a brass ring this big, brother.” (Transcript 2, October 1, 2009 p. 6)</p> <p>Since turning over the tapes, Borja stated that he is receiving a monthly stipend from Chevron. He claimed to have been making \$10,000 per</p>

month while living in Ecuador, and said that Chevron is paying him an amount that allows him to live at the same level in the United States. He said the company is renting him a fully-furnished \$6,000 per month house, in Berkeley (the location is actually in San Ramon). He said all of his expenses are paid, and he has a Saturn SUV to drive. He also said he has security guards watching him. He said his house is located in a gated community and borders a golf course. He has a swimming pool.

(Transcript 3, October 1, 2009 p. 12-15)

In reference to this understanding of compensation, Borja made clear that if Chevron tricked him and “if something bad happened to me...and they don’t give my wife what they have to...what it supposedly should be....There’s a document for that, where I ... immediately go to the other side....I have correspondence that talks about things you can’t even imagine, dude....I can’t talk about them here, dude, because I’m afraid, but they’re things that can make the Amazons win this just like that (snapping his fingers).”

(Transcript 4, October 1, 2009 p. 3, 7-9).

Notably, Borja said that because he could tip the balance in the other direction, some “people in the company were opposed to using the videos...it’s too much power for one individual, you get it?” Borja implied Chevron worried about the Foreign Corrupt Practices Act. “In other words, imagine if

		<p>there's a bill that prohibits corruption for U.S. companies in other countries, right? If an act of corruption can be proven against a U.S. company or that, no [Unintelligible], they shut down the company here.“ (Transcript 5, October 1, 2009, p.1-2)</p>
<p>Chevron's Knowledge of the Fourth Meeting</p>	<p>In the company's initial press release, Chevron stated, "Borja and Hansen recorded their meetings in Ecuador without Chevron's knowledge, and neither man was paid to provide the recordings to Chevron."ⁱⁱⁱ In a letter by Thomas Cullen of Jones Day to the Prosecutor General of Ecuador, the Chevron lawyer stated, "Chevron has obtained audiovisual recordings of four meetings involving variously the presiding judge, Juan Evangelista Núñez Sanabria; persons purporting to represent the Ecuador government and the Alianza Pais party; and prospective environmental remediation contractors. The recordings were made by the contractors in May and June of this year without Chevron's knowledge."^{iv} Most notably, <i>Bloomberg</i> reported, "All four videotapes of Borja's meetings in May and June were made without the company's knowledge, Chevron said in its statement. Borja and the American weren't paid for the tapes, the company said."^v</p>	<p>Chevron has since admitted Diego Borja met with the company's U.S. legal team in San Francisco on June 18, days before the fourth and final meeting- the only meeting where a bribe is explicitly discussed.^{vi} The company has been inconsistent in its statements regarding whether or not it knew there would be a final meeting, stating both that it had no knowledge that there would be a fourth meeting, and that Borja informed them of a final meeting which it strongly discouraged.^{vii}</p> <p>Contrary to Chevron's initial assertion, Borja reveals that not only did the company have knowledge of the tapes before the fourth meeting, but they also had knowledge of Diego's long history with the company and the trial itself. According to Borja's conversations with Escobar, Borja stated that when he came to the U.S. in June 2009, he not only shared the videos with Chevron officials at San Ramon he also "sent them messages about everything else I had also, you get it? Like, 'See, you can trust me because of this, this, this, this... You know why my company was created?'" He reminded them why his company, Interintelg, S.A., was formed (at Chevron's request). Borja stated that he has all</p>

		<p>sorts of evidence showing “who I really was” when he worked for Chevron in Ecuador. (Transcript 4, October 1, 2009 p.12-13; Transcript 6, October 1, 2009 p. 8-10)</p>
<p>Chevron’s Involvement In Making The Tapes</p>	<p>Since publicly releasing the videos, the company has maintained the recordings were unsolicited and that, “Borja and Hansen made the videos on their own initiative and brought them to the company to expose official corruption.”^{viii} Cris Arguedas, Borja’s lawyer released a statement saying, “Diego is an outstanding and proud Ecuadorean who came forward on his own to expose corruption.”^{ix}</p>	<p>While Borja said, at one point, that he did not inform Chevron about the videotapes until June, he also referred several times to another version of his story that has Chevron instructing him to make the videotapes. Borja said that if he admitted “yes, they ordered me” to produce the videotapes, he could still apply for political asylum. (Transcript 24, October 15, 2009 p. 19) Earlier, he wrote in an online chat: “Imagine I disappear and say that everything is planned by the company.” When Escobar replied that that Borja could say he was pressured, and Chevron promised a “castle in the sky,” Borja responded: “They’ll shit themselves, because the corruption law would apply in that case, and they’d close down their operations in the U.S.” (9/15 online chat) Later Borja and Escobar discussed what would happen if Borja changed his story: “They offered to pay me... all the orders came from there; I simply wanted to help and yes I went to...I mean, you know, that’s very easy, dude. So then everything would get screwed up.” (Transcript 8, October 1, 2009 p. 13)</p> <p>While his attorney said Borja taped the meetings to “expose corruption,” it’s clear from his conversations with Escobar money was the motivating factor in making the videos. Borja,</p>

		<p>chuckling, says, “Crime does pay.” (Transcript 1, October 1, 2009 p. 6)</p> <p>As noted previously, it was “understood” at the time the recordings were given to Chevron that Borja would be taken care of financially.</p> <p>Though money is the central theme in the recordings surrounding the making of the tapes, Borja also stated that he made the videotapes for “power,” and the “art of doing it.” (Transcript 12, October 1, 2009 p. 2-3; Transcript 2, October 1, 2009 p. 7)</p>
<p>Wayne Hansen</p>	<p>Chevron reported that the meetings and alleged bribery scandal were related to Borja and Hansen’s efforts to secure remediation contracts in Ecuador for Hansen’s company should Chevron be found guilty in the Lago trial. In the company’s press release, Chevron stated, “The American, Wayne Hansen, has no relationship to Chevron.”^x Chevron also maintained that Wayne Hansen was never their point of contact and that Chevron has “no association” with Hansen.”^{xi}</p>	<p>After initially alleging no relationship with Hansen, Chevron admitted to offering to pay his legal fees^{xii} and Charles James, Executive Vice President, revealed the company interviewed Hansen at time recordings were turned over.^{xiii}</p> <p>However, despite Chevron’s claim that the purpose of the meetings was to secure remediation contracts, prior investigations revealed Hansen has no known ownership interest or position with a remediation company. He also does not have an engineering license in the United States, scientific background or college degree and therefore could not have genuinely been seeking to secure contracts for bioremediation. Moreover, Hansen is a convicted federal felon with a history of flouting the law. Known as a “hustler” and “conman” with a history of legal trouble, it was already found unlikely that he and</p>

his “Ecuadorian partner” would have held and recorded the meetings out of a sense of civic duty.^{xiv}

Borja’s recordings further reveal that Hansen was thought to be “really crazy” and a known liability from the beginning. Therefore, Borja admits to providing Hansen with a script during the recordings. (**Transcript 2**, October 1, 2009 p. 5, 10-13; **Transcript 12**, October 1, 2009 p. 1) But while both Hansen and Borja were the ones that supplied tapes to Chevron and Borja has been compensated greatly, Borja stated that Hansen was proven disreputable by news reports of his past and Chevron refused to compensate him.

Borja discussed news reports about Hansen’s criminal past in an online chat stating: “We knew that from the get go...Collateral damage...He’s disreputable. That leaves me as the only source of reliable information” (9/15 online chat)

Borja revealed that Hansen “went totally mad,” “lost control” and was “hysterical” because Chevron refused to pay him and doesn’t “even pay attention to him at all, dude.” Borja said Hansen threatened to “open my mouth so their stock drops I don’t know how many points” if he didn’t get paid “in a week.”

(**Transcript 2**, October 1, 2009 p. 11; **Transcript 3**, October 1, 2009 p. 6).

-
- ⁱ Press Release, Chevron, Videos Reveal Serious Judicial Misconduct and Political Influence in Ecuador Lawsuit (Aug. 31, 2009), available at, <http://www.chevron.com/news/press/release/?id=2009-08-31>.
- ⁱⁱ Karen Gullo and Stephan Kueffner, *Chevron Accuses Ecuadorean Judge of Bribery Scheme*, BLOOMBERG, Sept. 1, 2009.
- ⁱⁱⁱ Press Release, Chevron, Videos Reveal Serious Judicial Misconduct and Political Influence in Ecuador Lawsuit (Aug. 31, 2009), available at, <http://www.chevron.com/news/press/release/?id=2009-08-31>.
- ^{iv} Letter from Thomas F. Cullen, Jr., Jones Day, to Dr. Washington Pesántez Muñoz, Prosecutor General of Ecuador (Aug. 31, 2009), available at <http://www.chevron.com/ecuador/background/judicialmisconduct/>.
- ^v Karen Gullo and Stephan Kueffner, *Chevron Accuses Ecuadorean Judge of Bribery Scheme*, BLOOMBERG, Sept. 1, 2009.
- ^{vi} Letter from Thomas F. Cullen, Jr., Jones Day, to Dr. Diego Garcia Carrion, Solicitor General of Republic of Ecuador (Oct. 26, 2009) (hereinafter Cullen Letter (Oct. 26, 2009)); *See also* Simon Romero and Clifford Krauss, *Ecuador Oil Pollution Case Only Grows Murkier*, NY TIMES, Oct. 9, 2009.
- ^{vii} *Compare* Cullen Letter (Oct. 26, 2009) at 8 *with* Simon Romero and Clifford Krauss, *Ecuador Oil Pollution Case Only Grows Murkier*, N.Y. TIMES, Oct. 9, 2009.
- ^{viii} David R. Baker, *Allegations Fly Against Man in Chevron Video*, SAN FRANCISCO CHRONICLE, Oct. 9, 2009.
- ^{ix} Simon Romero and Clifford Krauss, *Ecuador Oil Pollution Case Only Grows Murkier*, N.Y. TIMES, Oct. 9, 2009, at A4.
- ^x Press Release, Chevron, Videos Reveal Serious Judicial Misconduct and Political Influence in Ecuador Lawsuit (Aug. 31, 2009), available at, <http://www.chevron.com/news/press/release/?id=2009-08-31>.
- ^{xi} Press Release, Chevron (Aug. 31, 2009); Clifford Krauss, *Revelation Undermines Chevron Case in Ecuador*, N.Y. TIMES, Oct. 30, 2009.
- ^{xii} Karen Gullo, *Chevron May Foot Legal Bills for Man Who Taped Judge*, BLOOMBERG, Sept. 9, 2009 (quoting Laurie Levenson, former federal prosecutor, saying, “Either Chevron has turned into the biggest good Samaritan out there or they have allied interests with this man. The ball’s in Chevron’s court to give a better explanation of whether they’ll pay his legal costs out of the goodness of their heart or as part of a contractual arrangement.”).
- ^{xiii} Brian Baxter, *Former Chevron GC Speaks Out On Ecuadorian Recordings*, The American Lawyer, Sept. 1, 2009
- ^{xiv} *See* Frank Bajak & Jeanneth Valdivieso, *Felon Involved in Clandestine Videos in Ecuador*, The Associated Press, Oct. 29, 2009; Plaintiff Investigation Report available at, <http://chevrontoxico.com/news-and-multimedia/2009/1029-american-who-shot-secret-videos-for-chevron-is-convicted-drug-trafficker.html>.