

ONE HUNDRED EIGHTEENTH CONGRESS

**Congress of the United States**  
**House of Representatives**

COMMITTEE ON THE JUDICIARY

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July 12, 2024

Mr. Matthew E. Miller  
Foley Hoag LLP  
155 Seaport Boulevard  
Boston, MA 02210

Dear Mr. Miller:

The Committee on the Judiciary is conducting oversight of the adequacy and enforcement of U.S. antitrust laws.<sup>1</sup> Ceres appears to facilitate collusion among financial institutions to promote environmental, social, and governance (ESG)-related goals, potentially in violation of U.S. antitrust law. Specifically, Ceres may help to coordinate collusive investor activity through initiatives such as Climate Action 100+ and Net Zero Asset Managers (NZAM). As part of the Committee's oversight, on June 14, 2023, after Ceres failed to voluntarily comply with the Committee's document requests, the Committee issued a subpoena for relevant documents.<sup>2</sup> To date, Ceres's compliance with the subpoena has been insufficient and has materially impeded the Committee's oversight efforts.

Ceres has failed to produce materials from the Ceres Investor Portal, a communications and information-sharing platform used by Ceres and its members. Such materials are directly responsive to the Committee's subpoena, and despite repeated outreach by the Committee and good faith attempts to work with Ceres, Ceres has continually refused to produce documents from its Investor Portal.<sup>3</sup> For example, on a February 12, 2024, telephone call, to facilitate Ceres's production, Committee staff identified 23 company engagements and explained that Investor Portal documents relating to those engagements are responsive to the Committee's subpoena.<sup>4</sup> Despite the Committee's efforts, you demanded that the Committee unnecessarily limit the scope of the subpoena and Ceres's production as a condition of producing these documents. The Committee declined to do so.<sup>5</sup>

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<sup>1</sup> See generally Rules of the House of Representatives R. X (2023).

<sup>2</sup> See Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Mindy S. Lubber, Chief Executive Officer and President, Ceres (June 14, 2023) [hereinafter "subpoena"].

<sup>3</sup> While copies of some of the documents that Ceres has produced may also be located within the Ceres Investor Portal, Ceres did not search for and collect documents from the Investor Portal itself.

<sup>4</sup> Telephone call between Matthew E. Miller et al. and H. Comm. on the Judiciary Staff (Feb. 12, 2024).

<sup>5</sup> See Telephone call between Matthew E. Miller et al. and H. Comm. on the Judiciary Staff (Feb. 12, 2024).

Subsequently, on March 11, 2024, you represented to the Committee that Ceres planned to produce “engagement records and chatter group records if any” on the Ceres Investor Portal related to the 23 examples of company engagements identified by the Committee.<sup>6</sup> On March 22, 2024, Ceres produced just three spreadsheets that appear to have been generated from information on the Investor Portal but no documents from the Investor Portal itself. The minimal information that Ceres did provide was produced in a largely unusable or unreadable format. In addition, despite your representation that Ceres would produce information related to the 23 companies identified by the Committee, the spreadsheets contain information relating to only three companies.<sup>7</sup> To date, these three spreadsheets remain the only responsive documents that Ceres has produced regarding the Investor Portal.

On June 12, 2024, during her testimony before the Subcommittee on the Administrative State, Regulatory Reform, and Antitrust, the Chief Executive Officer and President of Ceres, Mindy Lubber, confirmed that the Investor Portal contains “hundreds and hundreds of documents” likely responsive to the Committee’s subpoena.<sup>8</sup> Ms. Lubber inaccurately asserted that Ceres “asked the committee to give [it] more guidelines on which [documents] to turn over” and that “[e]very document that’s been asked for [Ceres has] turned over.”<sup>9</sup> In fact, over a year after the Committee issued its subpoena to Ceres and after nearly a year of correspondence with the Committee regarding Ceres’s obligation to produce documents responsive to the subpoena, Ceres has not produced a single document from the Investor Portal itself and has provided only three spreadsheets of data from the portal.

Accordingly, we write to reiterate that we expect that Ceres will fully comply with the terms of the Committee’s subpoena. As a further accommodation to Ceres, we ask that you please prioritize production of the following documents and information:

1. All data, including all relevant documents and communications, from the Ceres Investor Portal for the 23 companies identified by the Committee on February 12, 2024; and
2. All documents noted and/or referenced in each of the Ceres Investor Portal spreadsheets provided to the Committee.<sup>10</sup>

We expect to receive these documents as soon as possible but no later than 5:00 p.m. EDT on July 26, 2024. Pursuant to the Rules of the House of Representatives, the Committee has jurisdiction to conduct oversight of matters concerning the “[p]rotection of trade and commerce

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<sup>6</sup> See Email from Matthew E. Miller to H. Comm. on the Judiciary Staff (Mar. 11, 2024).

<sup>7</sup> See Letter from Matt Miller to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Mar. 22, 2024).

<sup>8</sup> See *Climate Control: Decarbonization Collusion in Environmental, Social, and Governance (ESG) Investing*, 118th Cong. (2024) 89 (testimony of Mindy Lubber, President and CEO, Ceres).

<sup>9</sup> See *id.* at 89.

<sup>10</sup> See *Climate Control: Decarbonization Collusion in Environmental, Social, and Governance (ESG) Investing*, 118th Cong. (2024) 89 (testimony of Mindy Lubber, President and CEO, Ceres) (“As it relates to the three—the spreadsheet you’re talking about, which I’m not sure I’ve seen but I believe I’ve heard about, that spreadsheet has hundreds and hundreds of documents noted on it. And we’ve asked the committee to give us more guidelines on which ones to turn over. Every document that’s been asked for we have turned over.”).

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against unlawful restraints and monopolies” to inform potential legislative reforms, such as whether existing civil and criminal penalties and current antitrust law enforcement efforts are sufficient to deter anticompetitive collusion among financial institutions to promote ESG-related goals.<sup>11</sup> This request for prioritization is an accommodation to Ceres and does not limit the Committee’s ability to enforce compliance with its subpoena.

If you have any questions about this request, please contact Committee staff at (202) 225-6906. Thank you in advance for your prompt attention to this matter.

Thank you for your attention to this matter.

Sincerely,



Jim Jordan  
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

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<sup>11</sup> Rules of the House of Representatives R. X (2023).