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United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

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June 25, 2014

The Honorable Eric Holder
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Holder:

The Senate Finance Committee (Committee) has jurisdiction over revenue matters, and the Committee is responsible for conducting oversight of the federal tax system. Since May 2013, the Committee has been conducting a bipartisan investigation of whether the Internal Revenue Service (IRS) improperly targeted certain applicants for tax-exempt status based on their political affiliation.

As Republican members of the Finance Committee, we are determined to get to the bottom of what happened at the IRS and why it happened. To date, the Committee's investigation has largely consisted of evaluating information provided by the IRS. Unfortunately, following the IRS' recent pattern of misleading the Committee and failing to provide accurate and timely information, we now need to look outside of the IRS. We require your help to construct a more complete record of communications between the IRS and the Department of Justice (DOJ).

On June 11, 2014, Committee staff contacted the IRS to verify that all relevant documents requested by the Committee had, in fact, been produced by the IRS. In response, the IRS asserted that some of Ms. Lerner's emails and other documents from 2009 to 2011 were lost as a result of a computer hard drive crash. Subsequently, we have learned that several other employees who are also custodians of records relevant to our investigation may have suffered similar computer malfunctions. Those employees are:

- Nikole Flax, Chief of Staff to former Acting Commissioner Steven Miller;
- Michelle Eldridge, Supervisory Public Affairs Specialist;
- Kimberly Kitchens, Revenue Agent;
- Julie Chen, Revenue Agent;
- Tyler Chumney, Supervisory Revenue Agent;
- Nancy Heagney, Revenue Agent;
- Mitchell Steele, Revenue Agent;
- Justin Lowe, Technical Advisor; and

- David Fish, Senior Manager.

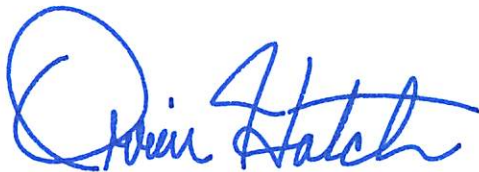
The IRS indicated that it took certain measures to attempt to find Ms. Lerner's emails, but that those measures were not entirely successful. The IRS is still determining whether the other employees identified above suffered a loss of data comparable to Ms. Lerner's, and if so, whether the agency has already taken measures to try to recover that data. Collectively, these missing documents are a serious impediment to the Committee's investigation and may prevent us from reaching definitive conclusions.

The most flagrant information gap is instances when Ms. Lerner, or any other IRS employee whose computer malfunctioned, sent or received a message outside of the IRS. Unless another IRS employee was copied on the message, the IRS may not be able to produce a copy of the communication to the Committee. Based on publicly-available information, we are aware that Ms. Lerner communicated with DOJ during the relevant period of our investigation.¹ However, we do not know the full extent to which Ms. Lerner and the other IRS employees identified above corresponded with DOJ employees.

We strongly request that you conduct a thorough search of your records for communications to and from any of the IRS employees identified herein. We request that you produce all messages between any DOJ employee and Ms. Lerner generated between January 1, 2009 and June 15, 2011 (the approximate date of Ms. Lerner's computer malfunction). We further request that you produce all messages between any DOJ employee and the other IRS employees identified above generated between January 1, 2009 and May 15, 2013, as we do not yet know the date when the IRS lost data for those employees. Given the importance of this matter, please provide all responsive records to the Committee no later than July 2, 2014.

We appreciate your cooperation in helping the Committee with this investigation. If we become aware that additional IRS employees lost data relevant to our investigation, we may ask that you produce information for those employees as well. Committee staff can be reached at (202) 224-4515 if there are any questions regarding this letter.

Sincerely,





¹ See "Judicial Watch Obtains IRS Documents Showing Lerner in Contact with DOJ about Potential Prosecution of Tax-Exempt Groups," (April 16, 2014) available at <http://www.judicialwatch.org/press-room/press-releases/jw-obtains-irs-documents-showing-lerner-contact-doj-potential-prosecution-tax-exempt-groups/>.

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