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ONE HUNDRED THIRTEENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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April 9, 2014

The Honorable Elijah E. Cummings  
Ranking Member  
Committee on Oversight and Government Reform  
U.S. House of Representatives  
Washington, DC 20515

Dear Ranking Member Cummings:

The Committee has engaged in a comprehensive and thorough examination of the IRS targeting of tax-exempt applicants. From the very outset, you have worked to obstruct the investigation, even declaring on national television after only a few weeks of fact-finding that the “case is solved.”<sup>1</sup> New IRS documents identified by the Committee raise disturbing concerns about your possible motivations for opposing this investigation and unwillingness to lend your support to efforts to obtain the testimony of former IRS Exempt Organizations Director Lois G. Lerner.

Although you have previously denied that your staff made inquiries to the IRS about conservative organization True the Vote that may have led to additional agency scrutiny, records of communication between your staff and IRS officials – which you did not disclose to Majority Members or staff – indicate otherwise. As the Committee is scheduled to consider a resolution holding Ms. Lerner, a participant in responding to your communications that you failed to disclose, in contempt of Congress, you have an obligation to fully explain your staff’s undisclosed contacts with the IRS.

Ms. Catherine Engelbrecht, the founder and President of True the Vote, an organization that had applied for tax-exempt status with the IRS, testified before the Subcommittee on Economic Growth, Job Creation, and Regulatory Affairs about the IRS targeting of True the Vote.<sup>2</sup> During this proceeding, she alleged that you targeted her group in the same manner as the IRS. She testified: “Three times, Representative Elijah Cummings sent letters to True the Vote, demanding much of the same information that the IRS had requested. Hours after sending

<sup>1</sup> *State of the Union with Candy Crowley* (CNN television broadcast June 9, 2013) (interview with Ranking Member Elijah E. Cummings).

<sup>2</sup> “*The IRS Targeting Investigation: What Is the Administration Doing?*”: Hearing before the Subcomm. on Economic Growth, Job Creation, and Regulatory Affairs of the H. Comm. on Oversight & Gov’t & Reform, 113th Cong. (2014).

letters, he would appear on cable news and publicly defame me and my organization. Such tactics are unacceptable.”<sup>3</sup>

During the hearing, Ms. Engelbrecht’s attorney, Cleta Mitchell, raised the possibility that your staff had coordinated with the IRS in targeting True the Vote. Your exchange with Ms. Mitchell was as follows:

Ms. Mitchell: **We want to get to the bottom of how these coincidences happened, and we’re going to try to figure out whether any – if there was any staff of this committee that might have been involved in putting True the Vote on the radar screen of some of these Federal agencies.** We don’t know that, but we – we’re going to do everything we can do to try to get to the bottom of how did this all happen.

Mr. Cummings: Will the gentleman yield?

Mr. Meadows: Yes.

Mr. Cummings: I want to thank the gentleman for his courtesy. **What she just said is absolutely incorrect and not true.**<sup>4</sup>

Beginning in 2010, congressional Democrats publicly and aggressively lobbied the IRS to crack down on 501(c)(4) organizations involved in political speech. Senator Dick Durbin urged the IRS to “quickly investigate the tax-exempt status of Crossroads GPS,”<sup>5</sup> and Senator Max Baucus implored the IRS to “survey major” nonprofit groups.<sup>6</sup> In March 2012, Representative Peter Welch and 31 other Democrats urged the IRS to “investigate whether any groups qualifying as social welfare organizations under 501(c)(4) . . . are improperly engaged in political campaign activity.”<sup>7</sup>

New IRS e-mails obtained in the Committee’s investigation of IRS targeting indicate that in late August 2012, your staff contacted the IRS to notify them that you “are about to launch an investigation similar to the one launched by Cong. Welch’s office.”<sup>8</sup> In October 2012, you sent the first of a series of letters to Ms. Engelbrecht, President of True the Vote, an organization that had applied for tax-exempt status with the IRS.<sup>9</sup> Your letter requested various categories of

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<sup>3</sup> *Id.* (written testimony of Catherine Engelbrecht, True the Vote).

<sup>4</sup> *Id.*

<sup>5</sup> Press Release, Senator Dick Durbin, Durbin urges IRS to investigate spending by Crossroads GPS (Oct. 12, 2010).

<sup>6</sup> Letter from Max Baucus, S. Comm. on Finance, to Douglas H. Shulman, Internal Revenue Serv. (Sept. 28, 2010).

<sup>7</sup> Letter from Peter Welch et al., U.S. House of Representatives, to Douglas Shulman, Internal Revenue Serv. (Mar. 28, 2012).

<sup>8</sup> E-mail from Catherine Williams, Internal Revenue Serv., to Ross Kiser & Kevin Smith, Internal Revenue Serv. (Aug. 31, 2012). [IRSR 563026]

<sup>9</sup> Letter from Elijah E. Cummings, H. Comm. on Oversight & Gov’t Reform, to Catherine Engelbrecht, True the Vote (Oct. 4, 2012) [hereinafter “Ranking Member Cummings Letter”].

information from Ms. Engelbrecht.<sup>10</sup> Several of your requests are virtually identical to the information requests sent by the IRS to True the Vote in February 2012.<sup>11</sup> For example:

- The IRS asked True the Vote “how many jurisdictions have you presented your review of voter rolls to election administration?”<sup>12</sup> You similarly requested “a list of voter registration rolls by state, county, and precinct that True the Vote is currently reviewing for potential challenges”; “a list of all individual voter registration challenges by state, county, and precinct submitted to government entities”; and “copies of all letters sent to states, counties, or other entities alleging non-compliance with the National Voter Registration Act for failing to conduct voter registrations list maintenance prior to the November elections.”<sup>13</sup>
- The IRS inquired about the intellectual property rights associated with True the Vote’s voter registration software.<sup>14</sup> You requested “copies of computer programs, research software, and databases used by True the Vote to review voter registration”; all contracts, agreements, and memoranda of understanding between True the Vote and affiliates or other entities relating to the terms of use of True the Vote research software and databases”; and “a list of all organizations and volunteer groups that currently have access to True the Vote computer programs, research software, and databases.”<sup>15</sup>
- The IRS asked True the Vote for information describing “the training process used by the organization” and for a copy of “any training materials used.”<sup>16</sup> You, likewise, requested “copies of all training materials used for volunteers, affiliates, or other entities.”<sup>17</sup>
- The IRS requested information about any for-profit organizations associated with True the Vote.<sup>18</sup> You similarly requested “a list of vendors of voter information, voter registration lists, and other databases used by True the Vote, its volunteers, and its affiliates.”<sup>19</sup>

This timeline and pattern of inquiries raises concerns that the IRS improperly shared protected taxpayer information with your staff.

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<sup>10</sup> *Id.*

<sup>11</sup> Letter from Janine L. Estes, Internal Revenue Serv., to True the Vote, c/o Clela Mitchell, Foley & Lardner LLP (Feb. 8, 2012) [hereinafter “IRS Letter”].

<sup>12</sup> *Id.*

<sup>13</sup> Ranking Member Cummings Letter, *supra* note 9.

<sup>14</sup> IRS Letter, *supra* note 11.

<sup>15</sup> Ranking Member Cummings Letter, *supra* note 9.

<sup>16</sup> IRS Letter, *supra* note 11.

<sup>17</sup> Ranking Member Cummings Letter, *supra* note 9.

<sup>18</sup> IRS Letter, *supra* note 11.

<sup>19</sup> Ranking Member Cummings Letter, *supra* note 9.

According to Ms. Engelbrecht, following your initial document request to her,<sup>20</sup> she faced additional scrutiny by multiple agencies and outside groups, including the IRS and the Bureau of Alcohol, Tobacco, Firearms and Explosives. For example, five days after your initial document request to Ms. Engelbrecht, in which you requested, among other things, “copies of all training materials used for volunteers, affiliates, or other entities,”<sup>21</sup> the IRS requested that Ms. Engelbrecht provide “a copy of [True the Vote’s] volunteer registration form,” “...the process you use to assign volunteers,” “how you keep your volunteers in teams,” and “how your volunteers are deployed ... following the training they receive by you.”<sup>22</sup> Less than two weeks after your initial document request to Ms. Engelbrecht, the Service Employees International Union (SEIU) urged Lois Lerner to deny True the Vote’s application for tax exempt status.<sup>23</sup> The following day, you sent a second request for documents to Ms. Engelbrecht, which you publicly described as “Ramp[ing] Up” your “Investigation” of True the Vote.<sup>24</sup>

In January 2013, your staff requested information from the IRS about True the Vote.<sup>25</sup> The head of the IRS Legislative Affairs office e-mailed several IRS officials, including former Exempt Organizations Director Lois Lerner, that “House Oversight Committee Minority staff” sought information about True the Vote.<sup>26</sup> The e-mail shows that your staff requested tax returns filed by True the Vote as well as any other IRS material about True the Vote’s tax-exempt status.

**From:** Barre Catherine M  
**Sent:** Friday, January 25, 2013 02:58 PM Eastern Standard Time  
**To:** Lerner Lois G; Paz Holly O; Marks Nancy J  
**Subject:** House Oversight Committee Minority Staff

The house oversight committee (not the subcommittee of ways and means) has requested any publicly available information on an entity that they believe has filed for c3 status.

They do not have a waiver.

The entity is KSP True the Vote EIN [REDACTED].

They believe the entity has filed tax returns in the past and would like copies of those if they are publicly available in addition to any other information that is publicly available about the entity’s tax-exempt status.

In response to your staff’s request, Lerner’s subordinate Holly Paz – who has since been placed on administrative leave for her role in the targeting of conservative groups<sup>27</sup> – asked an

<sup>20</sup> Letter from Hon. Elijah Cummings, Ranking Member, House Comm. on Oversight and Govt. Reform, to Ms. Catherine Engelbrecht, Oct. 4, 2012.

<sup>21</sup> *Id.*

<sup>22</sup> Letter from IRS to True the Vote, Inc., October 9, 2012.

<sup>23</sup> Letter from Judith A. Scott, General Counsel, Service Employees International Union, to Douglas Shulman and Lois Lerner, Oct. 17, 2012.

<sup>24</sup> Press Release, Hon. Elijah Cummings, Ranking Member, House Comm. on Oversight and Govt. Reform, Oct. 18, 2012, available at <http://democrats.oversight.house.gov/press-releases/cummings-ramps-up-investigation-of-voter-suppression-allegations/>.

<sup>25</sup> E-mail from Catherine Barre, Internal Revenue Serv., to Lois Lerner et al., Internal Revenue Serv. (Jan. 25, 2013). [IRSR 180906]

<sup>26</sup> *Id.*

<sup>27</sup> See Eliana Johnson, *Did the IRS fire Holly Paz*, NAT’L REVIEW ONLINE, June 13, 2013.

IRS employee to look for material about True the Vote.<sup>28</sup> This e-mail included material redacted as confidential taxpayer information covered by I.R.C. § 6103, suggesting that the IRS discussed particular sensitivities about True the Vote's tax information as a result of your request. It is unclear how the IRS responded to your request or what information you received from the IRS.

<b>From:</b>	Paz Holly O
<b>Sent:</b>	Friday, January 25, 2013 3:53 PM
<b>To:</b>	Megosh Andy
<b>Subject:</b>	Fw: House Oversight Committee Minority Staff

Can you please have someone look and see what publicly available docs (app, 990s) we have on this one? I [REDACTED]  
[REDACTED] Thank you!

IRS e-mails indicate that Lois Lerner appeared personally interested in fulfilling your request for information about True the Vote. Your staff requested the information on Friday, January 25, 2013. The following Monday, January 28, Lerner wrote to Paz: "Did we find anything?"<sup>29</sup> When Paz informed her minutes later that she had not heard back about True the Vote's information, Lerner replied: "thanks – check tomorrow please."<sup>30</sup>

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<sup>28</sup> E-mail from Holly Paz, Internal Revenue Serv., to Andy Megosh, Internal Revenue Serv. (Jan. 25, 2013). [IRSR 180906]

<sup>29</sup> E-mail from Lois Lerner, Internal Revenue Serv., to Holly Paz, Internal Revenue Serv. (Jan. 28, 2013). [IRSR 557133]

<sup>30</sup> E-mail from Lois Lerner, Internal Revenue Serv., to Holly Paz, Internal Revenue Serv. (Jan. 28, 2013). [IRSR 557133]

**From:** Lerner Lois G  
**Sent:** Monday, January 28, 2013 5:57 PM  
**To:** Paz Holly O  
**Subject:** RE: House Oversight Committee Minority Staff

thanks—check tomorrow please

*Lois G. Lerner*  
Director of Exempt Organizations

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**From:** Paz Holly O  
**Sent:** Monday, January 28, 2013 4:04 PM  
**To:** Lerner Lois G  
**Subject:** RE: House Oversight Committee Minority Staff

Have not heard yet. We didn't get the request until people had left on Friday and people were in late or on unscheduled leave today.

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**From:** Lerner Lois G  
**Sent:** Monday, January 28, 2013 4:01 PM  
**To:** Paz Holly O  
**Subject:** RE: House Oversight Committee Minority Staff

Did we find anything?

*Lois G. Lerner*  
Director of Exempt Organizations

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**From:** Paz Holly O  
**Sent:** Friday, January 25, 2013 4:51 PM  
**To:** Barre Catherine M; Lerner Lois G; Marks Nancy J  
**Subject:** Re: House Oversight Committee Minority Staff

I will see what we have as far as publicly available info and get back to you asap.

Sent from my BlackBerry Wireless Device

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**From:** Barre Catherine M  
**Sent:** Friday, January 25, 2013 02:58 PM Eastern Standard Time  
**To:** Lerner Lois G; Paz Holly O; Marks Nancy J  
**Subject:** House Oversight Committee Minority Staff

The house oversight committee (not the subcommittee of ways and means) has requested any publicly available information on an entity that they believe has filed for c3 status.

Subsequently, on January 31, 2013, Holly Paz informed the IRS Legislative Affairs office that True the Vote had not been recognized for exempt status.<sup>31</sup> Paz attached True the Vote's form 990s, which she authorized the IRS to share with your staff.<sup>32</sup> Paz's e-mail also

<sup>31</sup> E-mail from Holly Paz, Internal Revenue Serv., to Catherine Barre, Internal Revenue Serv. (Jan. 31, 2013). [IRSR 557181]

<sup>32</sup> *Id.*

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included information redacted as confidential taxpayer information.<sup>33</sup> It is unclear whether the IRS shared True the Vote's confidential taxpayer information with you or your staff through either official or unofficial channels. The IRS certainly did not share these documents or others related to True the Vote at the time nor did they inform the Majority of your staff's request for information.

<b>From:</b>	Paz Holy O
<b>Sent:</b>	Thursday, January 31, 2013 4:40 AM
<b>To:</b>	Barre Catherine M
<b>Cc:</b>	Lemier Lois G; Marks Nancy J
<b>Subject:</b>	FW: House Oversight Committee Minority Staff
<b>Attachments:</b>	27-2860095 67 201112.pdf; 27-2860095 67 2010 .pdf
<b>Importance:</b>	High

Cathy,

We have no record that this organization is recognized as a tax-exempt organization by virtue of an approved application. As you know, 6103 only permits us to talk about or provide copies of approved applications. [REDACTED]

[REDACTED] 6103

[REDACTED] The organization has filed two Forms 990-EZ (attached) that we can share with the staffers.

Please let me know if you would like to discuss.

Thanks,

Holly

These documents, indicating the involvement of IRS officials at the center of the targeting scandal responding to your requests, raise serious questions about your actions and motivations for trying to bring this investigation to a premature end. If the Committee, as you publicly suggested in June 2013, "wrap[ped] this case up and moved on" at that time,<sup>34</sup> the Committee may have never seen documents raising questions about your possible coordination with the IRS in communications that excluded the Committee Majority. Your frequent complaints about the Committee Majority contacting individuals on official matters without the involvement of Minority staff make the reasons for your staff's secretive correspondence with the IRS even more mysterious.<sup>35</sup>

As the Committee continues to investigate the IRS's wrongdoing and to gather all relevant testimonial and documentary evidence, the American people deserve to know the full truth. They deserve to know why the Ranking Member and Minority staff of the House Committee on Oversight and Government Reform surreptitiously contacted the IRS about an

<sup>33</sup> *Id.*

<sup>34</sup> *State of the Union with Candy Crowley* (CNN television broadcast June 9, 2013) (interview with Ranking Member Elijah E. Cummings).

<sup>35</sup> See, e.g., letter from Hon. Elijah Cummings, Ranking Member, House Comm. on Oversight and Govt. Reform, and Hon. Gerald Connolly, Ranking Member, Subcommittee on Government Operations, to Hon. J. Russell George, Treasury Inspector General for Tax Administration, Feb. 4, 2012.

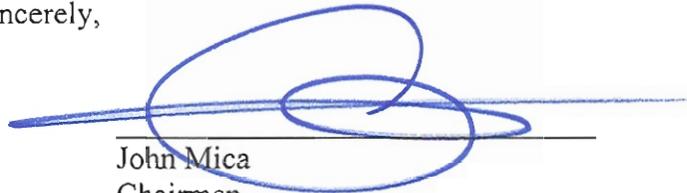
individual organization without informing the Majority Staff and even failed to disclose the contact after it became an issue during a subcommittee proceeding.

The public deserves a full and truthful explanation for these actions. We ask that you explain the full extent of you and your staff's communications with the IRS and why you chose to keep communications with the IRS from Majority Members and staff even after it became a subject of controversy.

Sincerely,



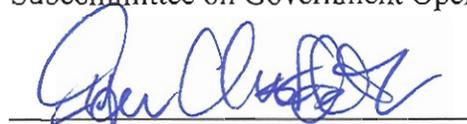
Darrell Issa  
Chairman



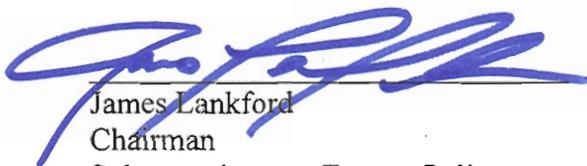
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