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COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
U.S. HOUSE OF REPRESENTATIVES,
WASHINGTON, D.C.

INTERVIEW OF: [REDACTED]

Thursday, June 6, 2013

Washington, D.C.

The interview in the above matter was held in Room 2203, Rayburn House Office Building, commencing at 10 a.m.

Appearances:

For the COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM:

(b)(5) - DPP ██████████ COUNSEL

(b)(5) - DPP ██████████ COUNSEL

(b)(5) - DPP ██████████ COUNSEL

(b)(5) - DPP ██████████ COUNSEL

(b)(5) - DPP ██████████ SENIOR PROFESSIONAL STAFF MEMBER

(b)(5) - DPP ██████████ PROFESSIONAL STAFF MEMBER

(b)(5) - DPP ██████████ MINORITY CHIEF COUNSEL

(b)(5) - DPP ██████████ MINORITY COUNSEL

(b)(5) - DPP ██████████ MINORITY COUNSEL

(b)(5) - DPP ██████████ MINORITY COUNSEL

(b)(5) - DPP ██████████ MINORITY COUNSEL

(b)(5) - DPP ██████████ MINORITY INTERN

For the COMMITTEE ON WAYS AND MEANS:

(b)(5) - DPP ██████████ TAX COUNSEL

(b)(5) - DPP ██████████ COUNSEL

For [Redacted] Screening Group Manager,

[Redacted] ESQ.

[Redacted] ESQ.

Law Offices of [Redacted]

[Redacted]

[Redacted]

[Redacted] ESQ.

[Redacted] ESQ.

[Redacted]

[Redacted]

[Redacted]

Counsel This is a transcribed interview of **Screening Group Manager** conducted by the House Committee on Oversight and Government Reform. This interview is requested by Chairman Darrell Issa and is part of the committee's investigation into the Internal Revenue Service's inappropriate treatment of certain groups applying for tax-exempt status. Chairman Issa has invited Chairman Camp's staff from the House Committee on Ways and Means to attend this interview.

Screening Group Manager Good morning.

Screening Group Manager Good morning.

Counsel Would you please state your name for the record, sir?

Screening Group Manager **Chairman Camp's Staff**

Counsel Thank you.

My name is **Counsel** I am a counsel with the committee.

I would ask the rest of the staff in the room to introduce themselves at this time.

Counsel I am **Counsel** I am also a counsel for the majority staff.

Counsel **Counsel** professional staff with the majority staff.

Counsel **Counsel** oversight counsel, Ways and Means.

Counsel **Counsel** minority staff, House Oversight Committee.

Counsel **Counsel** House Oversight Committee counsel for minority staff.

Counsel **Counsel** counsel to the minority staff for

the House Oversight Committee.

Counsel [REDACTED] Counsel [REDACTED] I am the chief counsel for the minority side of the Oversight Committee.

Counsel [REDACTED] I'm Counsel [REDACTED] I'm a counsel with the Republican staff of the Oversight Committee.

Counsel [REDACTED] Counsel [REDACTED] with the majority.

Counsel [REDACTED] Counsel [REDACTED] counsel with the minority staff.

Counsel [REDACTED] Thank you.

I will now explain how this interview will proceed. The way the questioning will proceed is we will alternate between the majority and minority staffs for 1 hour each turn. The majority staff will begin and proceed for an hour, and the minority staff will then have an hour to ask questions, and it will rotate back and forth until there are no more questions and the interview is over.

During the interview, we will do our best to limit the number of people who are directing questions to you during any given hour. That said, from time to time, a follow-up question or a clarifying question may be necessary. If that's the case, you may hear from someone else around the table.

A reporter is here to take down everything that's said in the interview for a full written record. With this in mind, it is important that you respond to questions verbally.

Screening Group Manager [REDACTED] Excuse me.

Counsel [REDACTED] The reporter cannot properly record nonverbal responses or gesture. Do you understand this?

Screening Group Manager Yes, I do.

Counsel Thank you.

We encourage witnesses that appear before the committee to freely consult with counsel. And you have counsel present. Would your counsel please state their names for the record?

Good morning. here with

I am with the law firm of & on behalf of

Mr. from the law firm of on behalf of

with the law offices of

Counsel Thank you.

we want you to answer our questions in the most complete and truthful manner possible, so we will take our time. If you have any questions or do not understand any of the questions, please let us know. We are happy to clarify or to repeat any of our questions. Just let us know.

If you honestly don't know the answer to a question or do not remember, it is better not to guess. Just say you do not know.

If you need to take a break, please let us know. We ordinarily take a 5-minute break at the end of each hour session, but if you want to stop before the hour is up, please let us know, and we can accommodate you.

Screening Group Manager Very good.

[REDACTED] [REDACTED] you are required to answer questions before Congress truthfully. Do you understand this?

[REDACTED] Yes, I do.

[REDACTED] And this requirement also applies to questions posed by congressional staff in an interview. Do you understand this?

[REDACTED] Yes, I do.

[REDACTED] Witnesses that knowingly provide false testimony could be subject to criminal prosecution for perjury or for making false statements. Do you understand this?

[REDACTED] Yes, I do.

[REDACTED] Is there any reason you are unable to provide truthful answers to today's questions?

[REDACTED] No, there is not.

[REDACTED] Do you have any questions before we begin?

[REDACTED] No, I do not.

[REDACTED] Great.

It is 10:06, and we'll begin the first hour of questioning.

[REDACTED] Before we begin, if I could just make the record clear on a couple of points. First, [REDACTED] obviously is voluntarily here to provide the testimony. He is going to be truthful and complete with you to the best of his ability.

Just so you know, [REDACTED] [REDACTED] and myself have been given authorization by the IRS to review certain documents in order to help him in his preparation for his testimony here today. The documents that were provided, however, were limited to the documents that

[REDACTED] on his own was able to locate. We are of the belief that there are additional documents that exist. [REDACTED] however, was not able to identify all relevant documents quickly. We asked the IRS for assistance and to provide us with additional documents. That request was denied -- or not granted.

We asked the IRS also for authorization to provide to you guys certain documents that I think would be relevant to the investigation. We by request citing 6103 were not able to provide you any documents. We then asked the IRS whether or not, I guess, they could provide all relevant documents to you. They asked us to provide some sort of criteria or a list of documents that we wanted to -- them to turn over. We said, we want you to provide all relevant documents to the IRS. Our understanding is that they provided some documents, but not all documents.

I guess the bottom line is [REDACTED] is here. He is going to answer your questions truthfully and completely. We have not been able to have access to all documents which we think would have been able to help [REDACTED] prepare fully and completely to testify before you guys here today, and we just would ask you to keep that in mind.

We would also ask you to allow [REDACTED] from time to time, if his memory needs recollection, to allow him to refer to any documents which we do have with the understanding that we're not able to provide those documents to you. So I guess we're kind of just asking to kind of see how this flows.

But I just want to make sure that's very clear, that he is here.

He is going to provide truthful and complete information. He has not had the ability -- or we, as his lawyers, have not had the ability to review the entire universe of documents in order to best, I guess, refresh his recollection as to what happened. His memory is what it is.

Counsel Thank you, sir. We certainly appreciate that. And if **Screening Group Manager** does need to review those documents in order to augment or refresh his memory, we are certainly willing to allow him to do so during the interview.

Counsel I just want to be clear about your statement.

You requested -- you expressed a desire to provide the committee documents that were in **Screening Group Manager** possession to the IRS, and the IRS denied that request?

Screening Group Manager No. We requested direct permission to provide you guys directly with documents.

Counsel To the committee.

Screening Group Manager To the committee. Citing 6103, the IRS said to us, if you provide us maybe with a list of what it is you want, maybe we could provide that. We said, we want you to provide to the committee everything that you have that's relevant to this investigation, and that we think it's in the best interest of everybody that all documents be provided in order to allow a full and truthful and complete interview of **Screening Group Manager**

Counsel In addition to that, with respect to the documents that you have there in front of you in that binder that refer to

[REDACTED] experiences at the IRS that are documents that he was involved with in some way, you requested to the IRS that they allow you to produce those documents to the committee before this interview, and the IRS denied that request?

[REDACTED] Let me just ask one more time -- what's the question? One more time.

[REDACTED] With respect to those documents there that are in front of you in that binder, which you've indicated to us are documents that are in [REDACTED] possession --

[REDACTED] They were the few documents [REDACTED] was able to quickly identify as relevant to the investigation, which he was then authorized by the IRS to share with [REDACTED] [REDACTED] and myself as part of his legal team.

[REDACTED] Thank you.

With respect to those documents, you expressed a desire to produce those documents to the committee?

[REDACTED] Directly from us to the committee, yes.

[REDACTED] And that request was denied by the IRS?

[REDACTED] The IRS said that we could give them a list of what it is that we may want to produce, and they would consider that request. We said, we want you to produce all documents, the thinking being because we didn't have complete access to all files, I don't want to be in a position of picking and choosing what documents we are going to turn over. So we want the IRS -- we've asked the IRS to provide all relevant documents, period.

Counsel Quick question. So the binders that you prepared contain 6103 information?

[REDACTED] Potentially.

Counsel Was that the concern of the IRS?

[REDACTED] The IRS cited 6103 and disclosure concerns.

Counsel Did you discuss the possibility of producing redacted versions of documents?

[REDACTED] We're not going to be in a position to determine what the IRS may think is 6103 or not. The IRS has access to all the documents we have. It's up to them to decide. We're not going to pick and choose what's going to be produced. As an employee, a current employee, of the IRS, **[REDACTED]** is prohibited from directly producing any documents directly to the committee.

Counsel How many documents do you have there in your possession?

[REDACTED] It's hard to say. It's probably about 45 emails or so, plus a few meeting minutes and a few other --

Counsel So these are emails and notes and minutes. They're not applications for tax-exempt status?

[REDACTED] Correct. There is reference, though, in the emails to some specific tax applications in which we're going to be mindful to make sure that we aren't disclosing any 6103 information.

Counsel So the IRS granted you a 6103 waiver with respect to these documents?

[REDACTED] There is an exception under 6103 which allows us,

as his attorneys, to review certain documents. The 6103(1)(4), we received that authorization from the IRS. That authorization is limited, though, to us. We are not able to extend that.

Counsel So did the IRS explain to you that the committee is already in negotiations with agency?

I'm sorry, we're not involved at all in those discussions. That's between the IRS and the committee.

Counsel Who at the IRS were you speaking with?

We were dealing with an attorney in counsel's office by the name of [REDACTED], and I believe his supervisor or the individual he was working with is an individual named [REDACTED].

Counsel Thank you.

Counsel And you will be preserving these materials --

[REDACTED] Correct.

Counsel -- should they be requested in the future?

[REDACTED] Correct.

Counsel Thank you, sir. We appreciate that clarification for the record.

It is 10:12, and we'll begin the first hour of examination.

EXAMINATION

BY **Screening Group Manager**

Q **Screening Group Manager** I just wanted to get in with some general background questions about yourself and your role with the IRS. Sir, what is your current position with the IRS?

A I'm a frontline manager.

Q Is that within EO Determinations?

A Yes, it is.

Q And you are based in Cincinnati, Ohio; is that correct?

A Yes, I am.

Q And how long have you been a frontline manager?

A I have been a frontline manager for 13 years.

Q And did you have any positions with the IRS previous to becoming a frontline manager?

A Yes, I did.

Q What were those?

A I started the Service in 1992 as a representative of Taxpayer Service, where I performed duties on the call site answering tax law questions. I completed 4 years of filing seasons, and I then was successful as being promoted to revenue agent with exempt organizations, and that was in, I believe, April of 1996.

Q So in April '96, you became a revenue agent?

A Correct.

Q And then in 2000, you became a frontline manager?

A Correct.

Q Okay. Thank you, sir.

Now, as a frontline manager, do you supervise a group of employees?

A Yes, I do.

Q How many employees do you supervise?

A Well, it changes from, you know, year to year, but the normal size of a group that I have supervised would have been 11 revenue agents, a clerk, and a secretary.

Q And they all report to you; is that correct?

A That's correct.

Q And was there a time as a group manager in which you were in charge of the screening group?

A Yes, it was. Yes.

Q Are you still currently in charge of the screening group?

A No, I'm not.

Q What was the time period that you were in charge of the screening group?

A I was in charge of the screening group from -- I believe it was around April of 2004, and that was until March 9, 2013.

Q And, sir, why did you leave the screening group?

A The program manager [REDACTED] went through a major reorganization, and I was asked to be the manager of the Program and Support Group.

Q You said her name was [REDACTED]

A [REDACTED] I'm sorry. That's her maiden name. I apologize.

Q So [REDACTED] is the same person as [REDACTED]

A That's correct.

Q Okay.

BY Counsel [REDACTED]

Q Do you know why this reorganization occurred?

A At that particular time, I really wasn't involved with the reorganization, but I was aware that there were two area managers that had been promoted, [REDACTED] and [REDACTED] to area managers, which then they move out of their -- you know, so there's two vacancies here, so they brought in some additional managers and realigned.

And like I say, I was not involved with any of this realignment, but I was aware of how it was going on. And [REDACTED] did ask me if I would be the frontline manager for Programs and Support.

Q And is that a promotion or a lateral move?

A It's a lateral move.

Counsel [REDACTED] Thank you.

BY Counsel [REDACTED]

Q Was [REDACTED] the program manager for EO Determinations at the time you were the screening group manager?

A Yes, she was.

Q And did you report directly to [REDACTED]

A Off and on. Actually [REDACTED] was my area manager at one point in time, and then she got the job as the program director. And at that point in time, I had been through multiple area managers.

The realignment that we went through was not something that was unusual. There were numerous realignments throughout this period of, you know, 12 years that I'm talking about or 9 for the screening group. So this was not a consistent person that I would answer to. I do answer to her now, though.

Q Okay.

A I am considered to be part of her staff.

Q I see.

And are there also area managers between the group manager and the program manager?

A Yes.

Q And who were those during the relevant time period of February 2012 through -- let's start with June 2012.

A My area manager starting in February of 20 --

Q I'm sorry, 2010. Excuse me.

A -- of 2010 was [REDACTED]

Q Okay.

A And [REDACTED] was located in El Monte, California.

Q Oh, so she was in California?

A That's correct.

Q Okay. And, sir, during this time period, February 2010 through the present even, did you take direction from [REDACTED]

A Yes, I did.

Q And in the same time period, sir -- actually let me ask more generally. Does EO Determinations have periodic manager-level meetings?

A Yes, we do.

Q How often are these meetings?

A Monthly.

Q Who attends these meetings?

A There would be all of the managers that are in Cincinnati, a manager in Baltimore. We have a manager -- actually two managers in California. They would be attending on conferences. They would conference into our meeting.

Q Okay.

A And then all of the group managers in Cincinnati and the area managers in Cincinnati.

Q So it's all the group managers in Cincinnati, the area managers in Cincinnati, [REDACTED] presumably; is that correct?

A Correct.

Q And who were the managers in Baltimore? Are they group managers?

A Yes, they are.

Q And the managers in California, are they also group managers?

A Yes, they are.

Q Okay. So really these meetings are for group managers and above; is that correct?

A Correct.

Q And generally what do you discuss at these meetings?

A Whatever is pertinent that -- you know, [REDACTED] would conduct the meetings, and her staff assistant would be at the meetings and would prepare the agenda and take the notes. So it would vary about whatever was going on at the particular time that we were in discussions. I don't know, you know, if I could say there was a general theme in any

meeting, because it would change from month to month.

Q Do you discuss new issues facing EO Determinations?

A Occasionally we may, but I think it was more on a procedural situation. Also, I should mention that we do have a processing unit, and the processing manager also was part of this staff meeting.

Q Okay. And where is the processing manager based, also in Cincinnati?

A In Cincinnati.

Q Thank you.

A And her name is [REDACTED]

Q [REDACTED], [REDACTED]?

A Correct.

Q Thank you.

[REDACTED], do you know what an emerging issue is in the context of EO Determinations?

A I have an idea of what I believe an emerging issue is.

Q What's your idea of what an emerging issue is?

A An emerging issue would be -- in my particular group, I might mention that I always have confidence in the agents that work for me for a couple of reasons. Number one, my entire group consisted of volunteers. So there's something about -- I feel someone who wants to really do the job, that that's beneficial.

Also, I had hired rated agents. So I had three GS-13s and at this time seven GS-12s. And so these folks ended up with a variety of years of experience that probably went from the high level of 28 years to

possibly somebody who would be in the 8- to 9-year status.

So they were folks that had a lot of experience. So as they would be reviewing these initial applications, they would be well aware of things that they may not have seen before. So at that point in time, they would have -- they were feeling free to discuss with me if this could possibly be considered something that would be an emerging issue. At that point in time, after our discussion, if we mutually agreed that there was a possibility, it was my instruction that these things were always elevated through our management chain for a decision.

BY [REDACTED]

Q And when you say they were volunteers, what do you mean by that?

A Well, actually what happened is is that we had a group of folks that were manning the Technical Screening Group. And so when we first established this back in 2003, we had a memo of understanding, because we had to negotiate with the union that -- you know, how we would populate this group. But the first step was to ask for volunteers. So everyone within the division, which now is up to be like 120 agents, were given the opportunity as long as they -- I might backstep because all of them weren't 12s and 13s. This was limited to the higher-rated senior agents to volunteer for the group. And then we had a memo of understanding that if they couldn't populate the group with volunteers, then we would go down and we would begin through the union procedures of selection. And I think in all of the years that I was in the group, there was one agent that was selected that way.

BY [REDACTED]

Q You mentioned, sir, that you referenced that there was an increment in the union about populating this group; is that right?

A Well, as it is with the IRS when we are dealing with bargaining unit employees and you are describing a new work environment, which the Centralized Screening Unit was, that required negotiations, and the result of the negotiations was a memo of understanding of how this group would be populated.

BY [REDACTED]

Q And that at what time period?

A That was back when we did this in -- I believe it was in 2004.

[REDACTED] Okay.

BY [REDACTED]

Q And generally, what does that memorandum of understanding say; do you know?

A Well, what it was saying is that they understand that we had a group that was going to be doing the screening effort, and at that point in time, they understood that we were going to be soliciting volunteers for the group. And I think the basis of what they were interested in is that if we couldn't populate the group with volunteers, how would we make the selections? And so that ended up to be on a seniority basis. And probably when you looked at it, if we had a position that was a Grade 12, it was looking back at the person who really had the least seniority that would be then populated into the

group.

Q I see.

So did the union want the group to be populated by volunteers, or were they pushing for --

A I don't think they were.

██████████ If you know.

██████████ Deborah G. Galt, Manager I don't know what the union really wanted. I know they didn't object to what was happening.

BY Counsel ██████████

Q Okay. And, sir, are you aware of any criteria for what defines what is an emerging issue?

A I really have never considered this type of thing as a criteria-based thing, because we never -- I personally never established criteria. What we would do in Determinations, we would look at each case on its own merits. And all of our work is based upon facts and circumstances. So with that being said, we need to look closely at the case file and the issues that are presented by the taxpayer for these issues, and at that point in time, if we discover that we have an issue in this case that possibly could be something that we hadn't seen before or something that, you know, would have a particular, you know, concern for something, then we could identify this as a possible emerging issue. But I never, ever, ever published criteria that would indicate, you know, this is what you need to be for an emerging issue.

Q I see.

And you mentioned that your screeners would come to you, and you would kick it up the chain?

A If I found it was appropriate.

Q How far up the chain of command did that go; do you know?

A Well, it would go from me to my area manager. My area manager to the program director, which would be [REDACTED] for a number of years.

[REDACTED] [REDACTED]
[REDACTED] [REDACTED] I mean. I have to stop doing that. I'm sorry.

And then I can't really say that it was an automatic, because if [REDACTED] felt that this was a decision that she could make, then it would stop there. If not, then she would elevate it to EO Technical in Washington. So it was her decision, not mine, exactly how far this should go.

BY [REDACTED] Counsel

Q All right. But you're aware of instances where she would elevate the decision on what is an emerging issue to EO Technical in Washington?

A That's a possibility.

Q Okay. And you're aware of times that she has done that?

A Yes, I would say I am.

Q You mentioned EO Technical. How closely -- does EO Determinations work with EO Technical?

A Which part of EO Determinations? The reason I mention this

is that -- and I don't know if this is going to be something -- you know, there was a point in time when I was an agent before my management days, and it was a free and open line of communications to EO Technical. But when [REDACTED] came into the job, that was severed; that we were not permitted to contact EO Technical; that any time we had a question that we needed to have resolved by a more technical senior attorney that was in EO Technical, we needed to elevate it so that it would go through the chain. So there was a distinction there that all of these kinds of issues needed to go through the chain.

Q Okay. So if a line employee in EO Determinations wanted guidance or advice from someone in EO Technical, they would have to raise that issue to their group manager, who would then raise it to their area manager?

A We never looked at it that -- you know, I mean, as a manager, okay, I felt that if they had an issue, a technical issue, they should raise that to me, because I could have answered it possibly. So there was no reason for them to jump the chain and go all the way to EO Technical.

But with that being said, if I thought, well, you know, this is something that needs to be elevated, then I would elevate it to the next level, and that person would elevate it to the next level. And like I said, those decisions were made by those individual managers.

What I was referring to before about calling EO Technical is that, you know, I would maybe go ask someone that, you know, I need some guidance on this. And they'd say, oh, call so-and-so in EO Technical.

So that was something that we did, but that stopped.

BY Counsel [REDACTED]

Q And at what point did that stop?

A That was when [REDACTED] took over as the program director.

Q And what year was that?

A Now you're pressing me. I really couldn't answer that, exactly when that was.

Counsel [REDACTED] All right.

BY Counsel [REDACTED]

Q Were you given any reason as to why [REDACTED] didn't want you to contact E0 Technical?

A I'm not -- I was never given a reason, but what I just stated about the possibility that, you know, that I could answer it, I wouldn't submit that. So, I mean, I wasn't given a reason.

BY Counsel [REDACTED]

Q Maybe I will ask a more broad question as far as [REDACTED] taking over. Are we talking a long period of time, you know, 10 years? Are we talking more 5 years? Do you have any sort of --

A Since she's been in the program director's job?

Q Yes. And instituting that policy.

A I really don't know.

Counsel [REDACTED] Okay. Okay.

BY Counsel [REDACTED]

Q So does the decision lie with her on whether to reach out

to EO Technical?

A Yes, it does.

Q Okay. Now, sir, I understand that EO Determinations falls within the IRS Office of Rulings and Agreements; is that right?

A That's correct.

Q And [REDACTED] is the current director of that office; is that right?

A That's correct.

Q In your experience is there any oversight from the Office of Rulings and Agreements onto EO Determinations?

A What type of oversight?

Q Are they involved at all in the operations of EO Determinations?

A They have been.

Q Could you describe?

A I mean, you know, this is not something that I really am aware of.

[REDACTED] I don't want you to speculate, because --

[REDACTED] It's beyond me. I mean, whatever oversight they may have would probably be best addressed by [REDACTED]

Q Okay.

A Because it was out of my purview.

Q I see. But you are aware of some level of involvement from Office of Rulings and Agreements on [REDACTED]

A I can't really answer, you know, definitively that

question. So I really don't know.

Q Okay. That's fine.

Do you know [REDACTED]

A I know who she is, and I've met her. She's been in our office, and I have dealt with her.

Q What were the circumstances of these meetings?

A When she would visit Cincinnati for, you know, whatever reason, she would have staff meetings. When I was asked to interview with TIGTA, she was by my side. I haven't been in her presence that many times, but, you know, it has been a few times.

Q Sure.

Has she ever participated in the EO Determinations manager meetings?

A Not to my knowledge.

Q Okay. And, sir, the Office of Rulings and Agreements in turn falls within the IRS Office of Exempt Organizations; is that right?

A That's correct.

Q And Lois Lerner at the time was the director of the office; is that correct?

A At what time?

Q I'm sorry. Thank you. The February 2010 through March 2013 time period.

A I believe she was.

Q Okay. And to your knowledge, sir -- and please, if you don't know, I am not asking to you speculate. But to your knowledge

how involved was Ms. Lerner in the operations of EO Determinations?

A I really could not answer that.

Q That's fine.

A I mean, I had no interchange with her.

Q Okay. Have you met her at all?

A Yes, I have.

Q What were the context of the meetings; do you remember?

A The Washington office would, you know, periodically visit for reasons that I wouldn't be aware of, and on their visits, they would have town hall meetings. And then so she did, you know, chair some of these town hall meetings, and I had opportunities to meet her and talk to her, but nothing specific.

Q Okay. And has Ms. Lerner been involved in these EO Determinations manager meetings, to your knowledge?

A I believe she has.

You know, I might mention -- because I just -- you know, my memory is that -- because I also applied for the program director job when [REDACTED] was selected, and at that time I did have contact with Lois Lerner because she was a selecting official.

Q Okay. So she interviewed you for the job?

A She declined to interview. She just telephoned me and said that I didn't get the job.

Q Okay. And, [REDACTED] Screening Group Manager are you familiar with the Examinations Unit within --

A I am not. I mean, I know it's there, and I'm aware of it,

but I have never participated or had any involvement with Examinations.

Q Okay. Have you ever had any involvement with the IRS officials conducting individual audits of personal income tax returns?

██████████ What do you mean by "involvement"?

BY ██████████

Q Any kind of interaction with those officials.

A Not to my knowledge. I mean, I guess really why I paused is that when I was a telephone representative with Taxpayer Service, those questions on individual tax returns from taxpayers are what I addressed. That's what I answered. But as far as from -- if you're talking about the examine or review that would be conducted by -- no, I have not.

Q Okay. And, sir, are you familiar with the National Treasury Employees Union?

A Yes.

Q Are you a member of the union?

A No, I am not.

Q And, ██████████ are you registered to vote?

A Yes, I am.

Q Do you have a party affiliation?

A Yes, I do.

Q What's your party affiliation?

A I am a conservative Republican.

Q Have you ever contributed to a political organization or candidate?

A A financial commitment?

Q Yes.

A No, I have not.

Q Have you ever worked or volunteered on behalf of a political candidate?

A No, I have not.

Q Thank you, sir.

Did you receive any bonuses in 2010; do you recall?

A Actually I'm in a position -- an IR-04 -- where we are compensated for pay for performance. And so based upon my performance review, I did get a bonus.

Q What about 2011; do you recall 2011?

A I got a bonus then also.

Q What about 2012?

A That's now -- or no. You know, the thing that happens is that as the pay for performance goes, probably I could go back for a number of years and I did get some type of a bonus.

Q Okay.

A What I really was referring to is that for the last two bonus periods, my performance was outstanding, and so with that, you know, there is a compensation. Before that, if my performance was satisfactory, there also could have been -- it ends up to be with the service. Bargaining unit, nonbargaining unit, there are pools of money that then, depending on how many people are in what pool, and some years you may get something, but some years you may not get

something.

Q I see.

A But it's based on your performance.

Q So it's all merit-based?

A Correct.

██████████ Now or always?

██████████ Screening Group Manager Well, since this went into effect, the pay for performance, they -- I mean, I used to be a GS-14. Now I'm an IR-04. And I believe that that happened 6 years ago, if my memory serves me right.

BY ██████████ Counsel

Q Okay. ██████████ Screening Group Manager how did you become aware that the committee wanted to interview you?

A How did I become aware? I received a notice from Joseph Grant instructing me that I was to voluntarily appear, which I would have done. But, I mean, that's basically where I first found out.

Q So he instructed you to voluntarily come in?

A Well, I mean, I would have to read the exact thing, but, you know, it was Joseph Grant who made that request. If you want specifically, you may have that.

██████████ There was an email that was sent to ██████████ Screening Group Manager advising him of the committee's request.

██████████ Counsel Okay. Okay.

BY ██████████ Counsel

Q And, ██████████ Screening Group Manager after you received this email from

Mr. Grant, did you discuss the committee's desire to interview you with anyone at IRS?

A I had a discussion with [REDACTED] because she hadn't been copied, or notified, or, you know, and I just really posed the question, was she aware, and she told me she was not.

Q She was not aware of the request?

A Well, she didn't get copied on the email. I think she may have been aware of the request. I'm not sure. But she did not get copied on the email.

Q Okay. Did you speak to anyone else at IRS about today's proceeding?

A Not specifically. No, I did not.

[REDACTED] Obviously he had to make travel arrangements. People -- they know he is here. But as far as content or specifics, I will let him answer that question.

[REDACTED] Screening Group Manager I made an effort to avoid any specific conversation, because I only thought that was fair to everyone involved. But if when you say, you know, did I talk about, well, people knew I was coming here. People knew that I was requested to attend. But I didn't really end up with a lot of conversations, and that was by my design. And after I talked --

[REDACTED] You don't need to get into our conversations.

BY Counsel [REDACTED]

Q Aside from telling [REDACTED] that you were being interviewed by us, did you -- what else did you discuss in that

conversation?

A During that conversation, she had some communication about 6103, and she did send out a notification, which it was just alerting me of my responsibilities. And I think that within that email, the -- [REDACTED] was it?

[REDACTED] Yeah. I don't want to jump in here, but there were conversations, once counsel was retained, with certain folks within IRS about today's proceedings, which [REDACTED] participated in some of those conversations.

BY [REDACTED]

Q Did they give you any instructions about what to say or what not to say today?

A No.

Q Any instructions about what you could say with respect to 6103 and what you could not say?

A Well, as I read over, you know, what -- there was the regulations. I don't know if it was an IRM citing. But they were specific about -- and I was aware of what they were talking about, and that's revealing taxpayer information. And so, you know, I wouldn't have done that anyway.

[REDACTED] And also [REDACTED] received a letter from the IRS authorizing him to testify here today which laid out certain parameters.

[REDACTED] Counsel What were those parameters?

[REDACTED] I would have to see the letter.

Counsel [REDACTED] Is it part of the documents you have?

[REDACTED] It actually is not in this binder, but we do have it.

Counsel [REDACTED] Okay.

BY Counsel [REDACTED]

Q [REDACTED] Screening Group Manager did you receive any financial assistance that allowed you to appear before the committee today?

A Financial assistance? The IRS is paying for my trip.

Counsel [REDACTED] Thank you.

Examination

BY Counsel [REDACTED]

Q I have a couple of questions. You mentioned the staff assistant for [REDACTED] was typically present at the manager meetings that were held monthly?

A Correct.

Q Who was that staff assistant?

A The staff assistant has changed with this last reorganization. The present staff assistant is [REDACTED].

Q And did she prepare minutes of the meeting that were circulated?

A I'm not sure. Actually I was on leave during last month's meeting, and I didn't participate, and I did -- if I would review, I think there were minutes, but I'm not sure.

Q Okay. But were those typically circulated on a monthly basis?

A Yes.

Q Okay.

A But like I said, she was part of this reorg, so she has only been in the job a very short period of time.

Q Okay. So from 2010 through --

A I think during that period of time, there were probably -- and I really can't say this for sure because that wasn't part of my realm, but I knew that there were other staff assistants in there during that period of time, and I just can't be specific. I don't know.

Q But each staff assistant would take notes and circulate minutes?

A Normally that would be the case.

Q Okay.

BY Counsel

Q Screening Group Manager I want to turn to the beginning of 2010. At that time, sir, what was your position with the IRS?

A The beginning of 2010?

Q That's correct.

A I was manager of the Screening Unit.

Q Okay.

Counsel I'm sorry. I didn't hear you, sir.

Screening Group Manager Manager of the Screening Unit.

Counsel Thank you.

Counsel

Q Sir, in this period in the beginning of 2010, the early part of 2010, was there a time at which you became aware of a case involving an application for tax-exempt status involving a Tea Party group?

A I believe the instance you're talking about was at the latter part, if I recall, of February 2010.

[REDACTED] Exhibit No. 1

was marked for identification.]

BY [REDACTED]

Q Okay. I want to show you a document, sir. We'll mark this as Exhibit 1. This has been produced to the committee by [REDACTED]. The Bates number for the record is [REDACTED] 1 through 5, and I made 10 copies. I hope we have enough for the table.

And, [REDACTED] I will give you a few minutes to review the document.

[REDACTED] Yeah, if we could just have a minute.

[REDACTED] Okay.

BY [REDACTED]

Q [REDACTED] I want to turn your attention to [REDACTED] 4, page 4 of this document, and in particular to the email. It starts on this page from [REDACTED] to you, dated February 25, 2010. Do you recall this email coming in?

A Yes, I do.

Q And to your knowledge, sir, to your recollection, is this the email in which you first became aware of the Tea Party application?

A Actually I became aware of it earlier than this email

because [REDACTED] was an agent who worked for me, and he came to my office. And he was asking guidance concerning a case that had been assigned to him, and I believe his comment at that point in time to me was that, I can't really close this case. I'm going to send it to inventory. But because of media attention that he had seen, he had concerns about this being a high-profile case.

And I might mention here is that part of our effort with EO Determinations is to be very consistent about applications. So it was normal business for us to look at a situation that may be defined as a high-profile application, and that there was a lot of concerns about making sure that any cases that had, you know, similar-type activities or items included, that they would be worked by the same agent and the same group.

What I'm talking here is that if we end up with four applications coming into the group that are pretty similar, and we assign them to four different agents, we don't want four different determinations. It's just not good business. It's not good customer service.

So, you know, when we get into why we -- and this was normal business, by the way -- why this was brought to my attention was for consistency. And so when he had this concern about this case -- and the basic concern that he's looking at here is that, you know, we're talking about an organization, and this one was applying for (c)(4), and they were a social welfare organization. But part of these -- it ended up to be mentioned of potential political activity. And so in itself, on a (c)(4), that's not prohibited, but it's not real clear

as to how much political activity a (c)(4) public organization can participate in.

So immediately, my agents -- because their job was to review cases and make a determination about if they could be closed. That's what our big interest was. If not, then we send it to inventory for someone else to develop whatever issues were in the case.

And in this particular case, it was apparent that there was not enough information that was allowing ██████ to make -- ██████ to make the proper determination, so he appropriately was going to put this into inventory. But because of the consistency situation, he also raised the question of a high-profile case. So I told him at that point in time I agreed with his thinking, and to give me the particulars of the case, and that I would elevate that issue to my area manager. And at that time that was ██████

Counsel ██████ Okay.

BY Counsel ██████

Q So you said one purpose was the consistency, right?

A Correct. I mean, he had -- he had made his assessment that -- maybe I should backtrack just a little bit, because I think it might be helpful to understand our process.

Q Well, let me just ask one first before you do that.

But at this point this was the first application that came in, right?

A Not that I am aware of. I mean, this was the first case that came in that was brought to my attention.

Q Okay. That was brought to your attention. So do you know if [REDACTED] had seen other Tea Party applications?

A I do not.

Counsel [REDACTED] Okay.

[REDACTED] But go ahead and explain the process. I think it would be helpful.

[REDACTED] But basically, you know -- and I don't know if you know the scope of what our Cincinnati office does, but I was in charge of the review of all applications that were sent to Cincinnati. Cincinnati was designated as the centralized site, and all applications are mailed to our office. On an annual basis we receive upwards to 70,000 applications each year. On a monthly basis there would be 4,000 to 5,000 applications that would go through my group for a review.

Now, what we're looking at first off is is the application as submitted complete. In other words, are all the pages there or the things that are required as part of this application.

Second, we would look at what code section they're applying for. And a majority of our work is resolving around 501(c)(3) organizations. 501(c)(3) organizations really have a lot more scrutiny, and the reason being is that contributions made to a 501(c)(3) are deductible on individual tax returns, so there are specific tests that must be met, organizational tests, operational tests. Their organizing documents must have specific language in them.

So as the agent is reviewing through these cases, first they're seeing if the application is complete. Second, they're seeing if it's

procedurally up to snuff. So the (c)(3), is the org doc correct, et cetera, from that standpoint.

The other thing that we would then look at are their activities. And we want to make sure -- and like a (c)(3), are their activities exclusively religious, charitable, educational or scientific? And that's pretty easy to see in most cases. But if you can't really determine by looking at this application if these activities fall within that realm, then you can't make a determination, and this should be a closure. And at that time, it's moved to someone who has additional time to look at a case.

My agents would typically look at 20 to 25 cases daily. So when we look at it, it's less than a half-hour on the average of what we're looking at. And so they really didn't have time to be doing a whole lot of other things other than saying, yes, yes, yes, yes. No, this isn't here. Or this needs further -- like I don't see enough information here. And they would make their decision on what bucket to put it in.

So when we got through the end of the line, we ended up with like four buckets, the first bucket being the ones that were incomplete, and those would be returned. The bucket that we always looked at were the closures, because at that point in time, we were to merit closed 35 percent of all applications that come in the door.

Q And that means they are approved?

A Yes.

Q Everything that's closed goes to you for your approval; is

that right?

A Well, I mean, as it comes through, I do have to have the approval on those cases. So when they complete their work, and they send it to the manager -- that's me -- and that has to go through my approval.

Counsel Okay.

BY Counsel

Q So are you recommending it for approval?

A No . They're recommending it for approval.

Q And then you are physically approving it?

A Yes.

Counsel Okay.

And the other two buckets?

Screening Group Manager The other two buckets, 50 percent of the cases that come through our office are ones that are needing minor issues. These were the ones that maybe they had the wrong language in their organizational document. These were ones that we could quickly go out, request this information to complete the case file, and get a closure. The remaining --

Counsel You said 50 percent of the group?

Screening Group Manager Fifty percent of the receipts. And these were my stats that I kept, okay, as we went through the years, because I was more interested in consistency and reviewing how I could improve my process. My job was more of a, you know, this is really important for us.

But the last one ends up to be those that were determined to be cases that would have to be assigned to a revenue agent for extensive development.

BY [REDACTED]

Q Okay. And this case here, which bucket did that fall in?

A I'm sorry, which case?

Q The case referenced in the email in front of you, Exhibit 1.

A Okay. This case ended up to be something because of the track of this case. And every case would have probably had a different degree of difficulty. For example, if a political organization was applying for 501(c)(3), that's not allowed.

BY [REDACTED]

Q Could I just say a clarifying point? This application is for (c)(4)?

A Correct. Yes. Yes. But what I'm saying is that when we're -- the process I thought you were asking me is that would these go into this development bucket? And that's a strong possibility. But each case rests on its own merit, so, therefore, it could have been a case that needed minor development and the 50 percent it would take. But in this particular case, because the concern was elevated to [REDACTED] and from that -- and I reviewed this email -- she elevated it to Cincinnati Director, and Cincinnati Director elevated it to EO Technical [REDACTED] came back and said, yes, EO Technical wants to see this case, then this ends up to be a case that we want to make sure we're consistently

going to look at, and that's where this started.

Q Okay. So if I'm understanding you correctly, this case doesn't really fall into any of those four buckets. It's kind of a special case?

A Correct.

██████████ I'm not sure you said "special." The determination of which bucket came ultimately from ██████████ as to what to do with it or --

██████████ The thing is that this is outside of the bucketing that I was talking about. I mean, look at this case. Is it complete? It could have been. You know, does it pass the organization test if it's a (c)(3)? Could have.

Each case -- I can't stress this enough. Each case rests on its own merits. And what's in the case file, it's all facts and circumstances on every case. But when this particular case, the reason -- and I guess that's what you are asking -- that I made the decision to elevate this to my area manager was the consideration of a high-profile case.

Counsel ██████████ Okay.

BY Counsel ██████████

Q I want to be clear for the record. At this point in time, are you all seeing a high volume of these cases?

██████████ I think he has already said this is the first one.

██████████ This is the first one.

██████████ That he saw.

Counsel [REDACTED] Right. Exactly. I understand.

BY Counsel [REDACTED]

Q So when you talk about consistency, I'm trying to understand it, at this point you don't know if there is going to be an issue of consistency, right?

A That's correct. You are 100 percent correct. I mean, it was identified, and actually I think in this -- if I can find it -- at one point in time -- [REDACTED] says, EO Technical would like the case. Please thank [REDACTED] for identifying the issue and elevating it.

So from that, I was following [REDACTED] --

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

BY Counsel [REDACTED]

Q [REDACTED] is [REDACTED] just for the record.

A She would probably throw something at me.

But she was pleased with the decision to elevate this case, and she did say that right here.

BY Counsel [REDACTED]

Q Even though at this point this is the first case that you've seen?

A Correct. Correct. And that actually comes from EO Technical. [REDACTED] was the one who said, yes, we want to look at this case.

BY Counsel [REDACTED]

Q And, sir, when you spoke to [REDACTED] about this case

for the first time, did he indicate to you the case was complete, if all the parts of the application were there?

A He did not.

RPTS [REDACTED]

DCMN [REDACTED]

[11:00 a.m.]

BY Counsel [REDACTED]

Q Did he indicate to you that the case needed further development with respect to questions that were still pending?

A He felt that there was not sufficient information presented in the case, facts and circumstances, that would allow him to make a definitive decision.

[REDACTED] I think this is important because this is one -- a document which the copy of is redacted and it's redacted for 6103 reasons. In the unredacted version, there is more detail about the specific issue which is referenced as needing further development. So I just think it would be fair to [REDACTED] if that was clear for the record.

Counsel [REDACTED] I appreciate that.

[REDACTED] You guys don't, for 6103 reasons, don't see all that, but that is what it is.

BY Counsel [REDACTED]

Q Aside from the media attention that's referenced in the email, would there have been any other reason not to just send it to general inventory?

A No.

BY Counsel [REDACTED]

Q Okay. And did you ask [REDACTED] to send this email to

you?

A Yes, I did.

Q Okay. And do you recall when your conversation was with him? I mean, the email reference is that he discussed this morning?

A It was the same day.

Q Okay. The same day. Sir, I want to turn your attention to the page before that, Bates Number [REDACTED] 3, and sir, the email at the very bottom of this is from you to [REDACTED] dated the same day. You wrote to her, "[REDACTED] this case will be sent to inventory for further development. Political campaigns on behalf or in opposition to any political candidate do not promote social welfare, but an exempt 501(c)(4) may intervene in political campaigns as long as its primary activity is the promotion of social welfare and would be subject to the tax imposed by IRC 527. I will hold this case for a decision concerning this type of organization may be considered a, quote, High Profile Case."

Do you recall this email?

A Yes, I do.

Q So this is where you send it out to [REDACTED]

A Correct.

Q Did you have any contemporaneous discussions with her about this case?

A I did not. Like I said, [REDACTED] was located in California. [REDACTED] background would have been employee plans, and it was my normal course of business to probably be a little more instructive to her so

that she understood what the issues may be.

Q I see.

A And that -- and then normally this narrative probably wouldn't have been something I would have done to [REDACTED]

Q I see.

A Because she would have been aware of more of this, but [REDACTED] I think, required this kind of commentary.

Q Okay. I'm going to ask you about this further. It says, the case will be sent to inventory for further development, and then later you write, I will hold this case for a decision. Those two seem to be at odds.

Could you explain that?

A I think what I said before is [REDACTED] had made the decision -- he made the determination he could not close the case, that it was -- it was complete, and it needed to have further development. In addition to that, okay, you know, he said that, you know, this case will be sent to inventory for further development, and -- but it was the high profile part of his concern, it was the reason it was elevated.

Q Right. So, when it's sent to inventory, is it still held in the screening group?

A No, no.

Q Okay. So, then when you say later, I will hold this case for decision, that seems to be at odds that you will hold the case in your group but then send it to general inventory?

A Well, I mean, he had made the decision that it should go

to general inventory, but after his conversation with me, we said we will elevate it. Now, if the decision coming back down from E0 Technical was saying we don't want to see this case, we would have put it in the general inventory.

Q Okay. And was it your recommendation to [REDACTED] to send the case to inventory?

A Was it my recommendation?

Q I think that's what you were saying here, "[REDACTED] this case will be sent to inventory for further development"?

A It was not my recommendation. It was actually [REDACTED] [REDACTED] determination.

Q Okay. But you agreed with that determination?

A Correct.

Q Okay.

A I mean, what I'm saying there is this case needed further development, and not that anything more than we needed to have additional information to make a definitive decision.

Q Okay.

BY Counsel [REDACTED]

Q And you were waiting from direction from E0 Technical on how they wanted you-all to handle these; is that --

A I had nothing to do with how these were handled. The only thing at my level, as we were going through these reviews, and like I was saying in [REDACTED] case, you know, 20 to 25 cases a day, that what happened after he looked at it and said, you know, I can't make a

decision because I don't have enough information, whatever happened after that is in someone else's, you know, situation.

But, you know, with this additional concern for high profile, and I think I alluded to that previously, is that, you know, we may want to really look at things for precedent setting, we may want to look at things for consistency setting. I mean, we were really stressing, at least I was stressing customer service, making sure that, you know, that we do this correctly.

Counsel [REDACTED] I see.

BY Counsel [REDACTED]

Q I just want to make sure. When you say, "I will hold this case for decision concerning this type of organization," whose decision were you waiting on?

A I was waiting -- well, I would send it to [REDACTED]

[REDACTED] At this point, yeah.

Screening Group Manager [REDACTED] I was sending it to [REDACTED]

BY Counsel [REDACTED]

Q Okay.

A And I mean, [REDACTED] at her level, could have come back and said --

Q Sure.

A You know, because she was my superior.

Q Okay.

A And then that would have been it.

Q So you sent it to [REDACTED] and were you just waiting to hear

back.

A Correct.

Q Okay.

BY [REDACTED]

Q Did [REDACTED] ever respond to this email? I know she forwarded it to [REDACTED]

A She was copied on -- she copied me on what she forwarded.

Q Okay. So, she never responded to you directly?

[REDACTED] I'm not even sure -- if you look at the document, I'm not sure she even copied -- copied you.

BY [REDACTED]

Q Yeah, you're correct. On the email above that, it says from [REDACTED] to [REDACTED]

A No, she did not.

Q But you then received that exchange in a later email --

A Yes.

Q -- back from [REDACTED] which included all this email history?

A Correct.

Q So you were aware that she had sent this to [REDACTED] [REDACTED] had sent it to [REDACTED]

A Yeah, because that came by -- it came back pretty quickly, I believe, if I'm not mistaken. Let's see, the 25th -- [REDACTED] on the 25th, that same day.

[REDACTED] 26th.

Screening Group/Manager 26th, did copy me. Or no, she sent it to me, which then was [REDACTED] response to her. That was the next day.

BY [REDACTED]

Q Okay. So [REDACTED] at this time, never give you any instructions on what to do with the case?

A No, she did not.

Q Okay. And the next time you became aware of a communication with this case is an email from [REDACTED] to you with [REDACTED] copied the next day, February 26, 2010, is that correct, it's on the page --

A Correct, uh-huh.

Q -- 2 there.

Now, sir, other than the email exchanges here between [REDACTED] and [REDACTED] are you aware of any other discussions that [REDACTED] had with [REDACTED] or [REDACTED]

A I am not.

Q Okay. Do you know if [REDACTED] spoke to [REDACTED] about these cases?

A I do not know.

Q At this time. And [REDACTED] tells you in an email on page 2 here at 8:36 a.m., "EO Technical would like the case. Please thank [REDACTED] for identifying the issue and elevating it. Thanks."

In your experience, sir, how often does an issue identified by a screening group get sent to EO Technical?

A That's very difficult for me to answer because, you know,

it's as it would be identified within this group. Does it happen very frequently? I really can't address that because there is no really good pattern that I could reference.

Q Okay.

A I mean, I can tell you that I have elevated cases that have come back and said, okay, no, we think you can go ahead and approve that, which we have.

Q Okay. And before this time in February 2010, had a case that had been identified by one of your superiors ever been sent to EO Technical before?

A Yes, it had.

Q Okay. And with -- when [redacted] wrote back to you on February 26th, 2010, do you have any follow-up conversation with her in person about how to handle this case?

A I did not.

Q Okay. So the only communication you had with her at this time was the email; is that right?

A Correct.

Q And following this, after [redacted] told you that EO Technical wanted the case, what did you do?

A We prepared it to send to EO Technical.

Q Who is "we"?

A Just this -- within my group, [redacted] would have done that.

Q Okay.

A The case was assigned to him.

Q And what does it mean to prepare it to go to EO Technical?

A Well, my agents review cases on an electronic system called TEDS, T-E-D-S, so they're looking at these cases electronically. EO Technical does not. I think they have access to TEDS, but they don't process anything on TEDS. They only look at hard copy cases. So we had to retrieve the hard copy from this case file, and then we had to close it off of our TED system and prepare it on a transmittal to be sent to EO Technical.

Q I see. Did you speak to [REDACTED] about this case?

A Did I speak to him?

Q Yes.

[REDACTED] Other than what he's already talked about?

BY [REDACTED]

Q About preparing the case?

A Well, I mean, I did tell him this case needs to be, you know, prepared to go to EO Technical.

Q Did anyone else assist in that process in preparing the case?

A I couldn't answer that.

Q Okay. And do you know if he, in fact, did send the case to EO Technical?

A Yes, I do.

Q Did he send it or did you?

A I don't send it. I had to sign off on it.

Q Okay.

A And so then the secretary would have sent it.

Q And who was it sent to; do you know?

A I do not know.

Q But someone here in Washington in EO Technical?

A Yes.

Q And do you know when it was sent?

A Not specifically. You know, I mean, because what we're talking here is that, you know, as I indicated, we had to get the hard copy case, and once we got the hard copy case, then the paperwork had to be prepared. I would not really be able to tell you when that happened.

Q Is that a few days process?

A Yes, that should be a few days.

Q Okay. So, it's fair to say late February, early March it was sent to EO Technical?

A Correct.

Q Of 2010?

A But I don't know that for sure.

Q Okay.

A I mean, I just can't address that because I don't know. I mean, once -- you know, once it's -- once it's kind of out, you know, it's gone. I mean, these cases we are going through -- I don't want to sound as if, you know, that -- it's just that the volumes. I mean, I hope you can appreciate the volumes that we're dealing with here,

and you know, with limited resources, the 70,000 cases a year, it gets to be daunting sometimes, but you know, I do the best remembering it, and that -- I mean, I can surmise about procedures and how things should work, but things always don't work that way. So to say, you know, this and this, I can't say that for sure.

Q Sure. And, sir, at this point, in February 2010, had you personally had any conversations with anyone at EO Technical about --

A No, I had not.

Q Okay. The Tea Party cases.

Okay, sir, why don't we stop there before we get into another series of questions and take a short break.

A Okay.

Counsel Go off the record, please.

[Discussion off the record.]

Counsel Is everyone ready? The time is 11:25.

EXAMINATION

BY Counsel

Q Screening Group Manager my name is Counsel again. I, for the next hour or so, will be asking you some questions along with Counsel and Counsel my colleagues.

In order to save time, I will do my best to avoid retreading ground that my colleagues have covered in the last hour, but I do have some questions concerning the things that you just discussed.

A Okay.

Q When you were talking about elevating high profile cases,

why do you elevate high profile cases?

A There could be any number of reasons. I think each case would probably rest on its own merits. That, as I indicated already, we want to make sure that these cases are looked at correctly. I really have a strong sense of customer service, and I want to make sure that, you know, all aspects are considered in these cases.

I mean, in the past, we've had high profile cases that were centered around celebrities, for example, and so with that in mind, I think it behooves us to make sure that these cases are going to be assigned to the appropriate individual with the utmost scrutiny. And so when we get into a high profile case such as this, we don't need to have someone else commenting, say, you know, in a different way.

So, it would be our normal case -- our normal approach is to make sure that this case that is of interest for other reasons to other people is handled appropriately.

So, with that being said, when I said this case would have been one that would have been put into the inventory, then we lose total control of who may be assigned that case and what they may say, and I mean, I'm not saying that we would do that normally, but we have a definite reason for making sure that scrutiny would be done on these cases.

And so, I mean, this case, there's any number of reasons that we could. There's not a list or anything like that. It would be what's in the case file itself.

Q When you say "utmost scrutiny," do you mean increased

scrutiny or careful scrutiny?

A What do you mean now?

Q In response to my previous question, one of the things that you said was that you would elevate high profile cases to ensure the utmost scrutiny is given. Do you mean the same type of increased scrutiny or careful scrutiny that is given to all cases --

A Correct, all cases.

Q -- in the general development process?

A Correct, all cases.

Q So when you're elevating high profile cases, are you in part doing it to ensure consistency amongst all high profile cases?

A Correct.

Q Is it standard procedure to elevate high profile cases?

A Correct.

Q Can you think of other instances in which you have suggested high profile cases be elevated to your direct supervisor?

██████████ Obviously, without violating 6103.

Counsel ██████████ Of course.

██████████ Securing Group Message It's very difficult to, you know, right off the top of my head, that I could say this or that because I can't. I mean, has it been done? Yes, it has. But -- and I'm not trying to be, you know, defensive in a lot of things I say, but I hope everyone can appreciate that when we're dealing in the volumes that we're dealing with, you know, again, I'm saying the 70,000 cases a year, 5- to 6,000 cases, you know, each month, it's tough to go back and remember

this and that because, you know, this is very significant, and I realize that, but when I look at the whole realm of what, what we're faced with, you know, it is kind of daunting sometimes. And then to recall this and this, it's something that I really don't know. I mean, I am aware of cases that, you know, like I said before, that I have -- you know, I sent up. What are they exactly? I don't recall.

BY [Counsel]

Q You mentioned earlier celebrities, though, was one of the sort of general categories of cases that might be high profile?

A Well, I don't -- there was facts and circumstances within that case.

Q Okay.

A That really was something that I wanted to get approval on. It wasn't that it was a celebrity case. But again, the first decision was we probably need to get some more information on this case. The second decision ends up to be it's a celebrity so therefore it's high profile. I mean, and that follows through with what we've done on this case, that just to ensure that, you know, that it's going to be correctly reviewed.

BY [Counsel]

Q In addition to the high profile aspect of this case, were there any concerns specific to the type of application being a (c)(4) with indications of political activity?

A Those considerations, when we're looking at the facts and circumstances that each case, you know, presents to us, the issues

within that case are paramount. And so the issues that were in this case indicated that we needed more information, that, you know --

Q You mentioned that revenue agents at the screening level look at the degree of difficulty of each case. Would this type of case, which was a (c)(4) application with indications of political activity, be considered a higher level of difficulty?

A I don't recall saying difficulty. What --

Q We were talking generally about the process previously.

A Okay.

Q Not about this specific case.

A Okay.

Q But you talked about the screener's role in assessing the different degrees of difficulty in each case that comes before them.

A That could be. Our cases -- just again, our cases are graded.

Q Right.

A And they're graded by the application itself, and so the automatic system will grade a case as a 12, a 13 or an 11, and so the ultimate assignment, if it needs more development, will go to that grade of agent because of difficulty, so I guess that's what you're asking me. My agents aren't really assigning difficulty, but what they're doing is that they're verifying difficulty because the automated system assigns the grade, and part of their responsibility is to make sure that that grade is correct. And so we do have a document called the CAG, case grading guide, that they can refer to if they need to, but

our cases are all graded by difficulty, no doubt, because that's how assignment will ultimately be done. So, in answer to your question, an agent would have difficulty.

██████████ Just, you mean assignment within the screening group? And I don't mean -- but just for clarification, or assignment if it gets referred out for further --

██████████ Well, it's not assigned within the screening group. The screening -- the screening group's responsibility was to verify that the grade that was assigned to the case was correct.

BY ██████████

Q And do (c)(4) applications with indications of political activity generally get a certain type of grade in terms of the level of difficulty?

A The case -- not necessarily. You know, again, I keep going back to facts and circumstances because the fact that it's a (c)(4) with political activity does not automatically say anything. It's what's in that case, what the issues are in that case, you know. And again, the facts and circumstances will warrant whatever needs to be done with that case.

If we could produce, and you could get it -- in fact, it's public, the CAG, and I'm not sure if this particular issue is in there and they would say, okay, a grade 11 or a grade 12, if we were to put this case into inventory, what that grade is, I don't know. I mean, it exists, but I'm not really familiar enough to say that that type of case, and I thought that's what you asked, would be graded as a more difficult

case or a less difficult case.

I mean, what we really determined is that we need more information. The facts and circumstances in this case aren't enough for us to make our determination.

Q And the grading corresponds with a GS level, correct?

A Well, the grading --

Q 11, 12?

A Yes, the grading -- the CAG document definitely has -- case grades certain types of issues.

BY [REDACTED]

Q And the case that [REDACTED] identified for you on February 25th, 2010, was the application considered high profile by [REDACTED] because it was a Tea Party organization or because it was a celebrity?

A He really didn't say to me exactly why the organization was a Tea Party organization, so that would be, you know, it would follow through to me. He says here, here's the case number for the Tea Party application, so it would be Tea Party. I mean, when I was talking about the celebrity, that was just another instance where we would possibly identify something that's high profile.

Q Based on your discussion with [REDACTED] was it your impression that [REDACTED] flagged the case, the Tea Party case for you on February 25th, 2010, because of his disagreement with their political views of the group?

A We never -- never discussed any -- any political, you know,

personal aspirations whatsoever. His determination of the case was that, you know, again, we needed additional information that was not complete and that the fact that he recognized that it had been something that had been in the media, that we may want it to make sure that, you know, that EO Technical didn't believe this was a, you know, warranting a high profile designation.

Q Did you decide to elevate the case to your direct supervisor [REDACTED] because you disagreed with the political views of the Tea Party organization identified in the application?

A No, I did not.

Q Let's continue to look at Exhibit 1 before you, specifically at the March 16th, 2010, email from yourself to [REDACTED]

A What page is that?

Q It is on [REDACTED] 002. That is the Bates number at the bottom of the page.

A Okay.

[REDACTED] Which email?

[REDACTED] What's the time on it?

BY Counsel [REDACTED]

Q The time is 9:35 a.m.

A Okay.

Q And the date is Tuesday, March 16th.

A Correct.

Q It's an email from yourself to Cincinnati Director. And it reads,

"██████████ we have identified a total of 10 Tea Party cases." And there's, as you can see, a gap of 2 weeks between this email and the last email from ██████████ to yourself, which was on February 26th, 2010.

Had you been instructed to conduct a search for the 10 Tea Party cases or had you decided to conduct that search yourself?

A There was no -- there was no -- no one said to make a search. What happened was that when this case was determined that EO Technical wanted to see it, I, as a course of doing business, called my three senior agents, which included ██████████, ██████████ and ██████████ ██████████ making them, you know, apprising them of situations within the group, this case being one. And I did this on a regular basis, especially with my senior people because I depended on what they were doing. From that, you know, we discussed that this case was something that EO Technical wanted to see.

██████████ When you say "this case," just to be clear, the one case referenced.

██████████ (Screening Group) Manager The one case that we had. So, you know, it would be then something we need to be aware of, and we need to hold those cases until we have further direction. And so this was -- this was communicated not only to these three senior people but to the group. So, anyone who would be looking at cases and if they had these same particular issues presented to them, that we needed to not let them maybe go into the general inventory as we were looking for consistency.

BY Counsel ██████████

Q When you say that you communicated this to the group, what

group are you referring to?

A This is my group, the technical screening group.

Q And how did you communicate the need to hold these cases?

A I couldn't -- I don't recall. I mean, I could have sent out an email. I'm not -- I don't know.

BY Counsel [REDACTED]

Q And you communicated this as a regular course of your general business procedures, not because anyone particularly told you to do that?

A That's correct. That's correct. I mean, you know, I -- as I indicated before, the senior people in my group, the three 13s I had, and they had varying degrees of experience from 28 years to, you know, possibly down to 12 or 14, these kind of things, and I depended on them, and I depended on them because I have open communication, and so this was my normal course of business, that they needed to know what I needed to know so that if I were not available, they could handle those situations, and I think in this particular case, later on, it did happen that way.

[REDACTED] But just to make clear, I want to go back to the email on February 26th from [REDACTED] -- from [REDACTED] to [REDACTED] which she thanked the group -- thanked [REDACTED] for identifying it, whether or not that played into your decision to --

BY Counsel [REDACTED]

Q Can you describe how, if at all, the email from Cincinnati Director [REDACTED] to you on Friday, February 26, 2010, impacted your decision to ask the

group to hold this type of cases?

A The one from the 26th?

Q Yes.

A Yes. It was a case that I don't know if we're never -- if we were ever going to get another one of these cases, but because it had been, you know, elevated as a potential high profile case and EO Technical said yes, this is a high profile case, we want that, in my mind is that if we found another one or someone came to me the next day with another one that had the same issues in this case, then it would lead me to say I need to check because this appears it's a high -- and that's what I did.

██████████ You need to check where? I'm sorry.

██████████ Granting Group manager I need to check to see if this high profile case, which was similar to the one they accepted, you know, if they want that one also.

BY Counsel ██████████

Q Was your instruction to the group to search for similar cases driven in part by a need to ensure consistency of treatment? Do I make sense?

A I guess.

Q Can you --

A I mean --

Q -- describe to me why you instructed the group to search --

A Well, ultimately, you know, consistency, you know, is paramount in what we're doing, and so that is a big factor in a decision

to do this. Equally so is that this was identified by EO Technical as something they felt was appropriately their domain. So with that as an indicator, okay, consistency is very, very important, but also when I looked at the situation as it was there, this led me to believe that, you know, I needed to check to see if they really wanted this one also or this one, so...

Q How did you instruct the group to identify similar cases?

A I don't really specifically recall. I mean, if it was by email, or the group that -- that was very encouraged to share ideas, to share situations, and so I'm sure that we discussed this within the group. I could come up and say, yeah, I went around to every -- that's not in my memory. I don't recall.

██████████ You don't remember.

██████████ Screening Group Manager I just don't recall specifically what instruction was given, but I can tell you what my normal process would be, and that, like I say, was to deal with my three seniors, and I'm sure they would, you know, communicate different situations as they went through.

BY ██████████ Counsel

Q Did you have an understanding of why EO Technical wanted this particular case?

A Only from what ██████████ EO Technical says, "I think sending it up here is a good idea, given the potential for media interest."

Q Are you aware of the role EO Technical plays in producing sensitive case reports?

A I'm aware of sensitive case reports, but I am not in a

position of commenting because I never produce sensitive case reports. The folk -- the agents that work for me were the ones that just, like I say, did their job and put them in the proper bucket. Now, if someone is assigned, you know, these sensitive cases, that's on another manager. I never really was involved in that.

Q Are you aware of whether EO Technical reviews cases that are considered a high level of difficulty in terms of the legal standards and application of difficult legal standards to the facts and circumstances of a particular case?

A No, I'm not. You're getting into case development, and my group is just, you know, right at the very level of entry and making these quick decisions about what path these cases should go. And once they leave my group, I really am not aware what happens to them.

Q Do you recall during this February 2010 time period when this first case came up, do you have any general awareness of media surrounding Tea Party organizations?

A I did not.

Q You did not.

BY Counsel

Q Screening Group Manager did it make sense to you that the legal experts in EO Technical had an interest in this case that your shop brought to their attention?

A Did it make sense to me?

Q Yeah.

A I can't address that. I don't even think that was part of

what I -- what was in my consideration. My job was to review these situations, and I would elevate them for someone who would make their decision. It was not my position to evaluate if something made sense or not.

BY [REDACTED]

Q You stated you had previously elevated other high profile cases before.

A Correct.

Q And EO Technical had, in some circumstances, decided to review those cases?

A And then some they didn't, correct.

Q So this didn't seem out of usual course to you for EO Technical?

A No, it did not.

BY [REDACTED]

Q So you can't remember how you informed the group to look for these types of cases. Did you indicate to the group the manner in which they should find the cases? Did you give them terms to use?

A Definitely not. What they were doing, again, each case rests on its own merits. They look at the issues in the case and then they make their decision on the facts and circumstances.

[REDACTED] I think there's maybe a little ambiguity. Are you talking about which -- are you talking specifically about this time period or are you talking about down the line, because I think there may be a miscommunication here.

BY Counsel [REDACTED]

Q Right. I am talking specifically about this time period. I am talking about -- go ahead.

[REDACTED] No, I think she's asking about the -- when you conveyed to your senior managers, whether it was email or however, about senior advisors looking for similar cases, if you remember any details about that.

[REDACTED] I do not. I mean, the specifics -- you know, it could have been as simple as these is -- these are the facts that [REDACTED] has presented, and so if you find these issues in these type of cases, that we need to see if we want to also consider those as part of this group.

BY Counsel [REDACTED]

Q So you cannot remember the specifics of the direction that you provided to the group --

A No, I cannot.

Q -- at that time?

A No, I cannot.

[REDACTED] And just to be very clear, when he said this definitely not, he was not -- I just -- there was a answer a little bit ago, that I think was subject to some confusion, and I just want to be clear.

[REDACTED] You may want to ask the question again just to make the record clear.

Counsel [REDACTED] Sure.

██████████ But I just want to make sure that when you were asking about specific terms, and he said definitely not, I don't think that he was answering the same question that you were posing.

Counsel ██████████ We'll ask it again.

██████████ I just want to make sure.

BY Counsel ██████████

Q In the time period between February 26, 2010, and March 16, 2010, when you asked the group to identify cases similar to the case ██████████ identified for you, did you provide the group with specific direction on how to identify those cases?

A I don't recall.

Q Was your request to the group to identify similar cases intended to identify all political advocacy organizations applying for a tax exempt status?

██████████ If you understand the question.

BY Counsel ██████████

Q Were you asking the group to identify only cases that were similar to the one presented to you by ██████████ in the March 16th, 2010, timeframe?

A I still don't quite understand the question, but I will answer the best I can. When we talk about all political advocacy (c)(4) cases, okay, that in itself, and I think we talked about this before, would be determined that it needs other development, and we would put it into inventory.

So, if one of those cases that was a political advocacy case that

we were, because of the issues that were not present or that needed additional consideration, so we were going to put it into inventory, then the next question would be is there something else about this case that would make it a high profile case. And so, you know, those were what the issues that we were looking at.

Q Okay. In the March 16th, 2010, time period, if an application from a Tea Party organization came across the desk of a screener and then yourself but it was not clear from the face of an application that the organization was engaging in political activity, would you have directed that the case be held?

A I would have to look at the case. I mean, when -- and I would have to have a definition of, you know, if we saw a Tea Party organization. I'm not sure what that is. And the reason I say that, and I can give you an example, that during this period of time, I did take it upon myself to review some cases that were Tea Parties, and one of them I pulled out, and it was not --

██████████ I just want to caution you on 6103.

██████████ Screening Group Manager Okay. But it, you know -- fictitiously, it was, you know, Little Susie's Tea Party. So when I reviewed the case, okay, it became evident that this was an organization that had fundraisers to contribute money to charity. So, by saying that, just the fact that "Tea Party" was in the case name, to me, did not designate a whole lot other than we needed to review the facts and circumstances and the issues within that case. And when I did that, it became very evident that this was not really a concern, and that case was, I'm sure,

approved.

BY [REDACTED]

Q So in this time period, were you instructing the screeners to pull all cases with "Tea Party" in their name?

A No, I was not.

Q What were you instructing?

A That any case that was similar, okay, to -- or had issues that we were -- going through the flow again, okay, the case, first off, is not -- it's complete, that, you know, we get to a point where the issues aren't resolved and within that case, and that we, therefore, are not going to be able to approve it. It has to go into inventory, and then if we look again and see that, you know, this is considered to be a high profile, that's what determines it would go this route.

BY [REDACTED]

Q And how did you instruct this group or the screeners to determine if a case was similar?

A I don't recall other than using the detail on this unredacted part as a model, of this is you know kind of what we're seeing. But my agents, you must understand, are veteran people that do understand, that we do have some tax law background that tells us, okay, that when we do look at this type of a case, that the political activity, you know, cannot be primary, and if anybody wants to define that for me, go ahead, but you get into these things that that's what a determination is, and that's why -- and I think it goes back to what you heard me say, but that if you have 28 years of experience and you

have 2 years of experience, you may make a better call. I mean, that -- that's what experience means. And I can't say that someone, you know, at any time is more or less, but in the process of this case, it's -- it's past whatever I do.

BY [REDACTED]

Q And so was your intention to have your screeners capture all groups that were part of the Tea Party movement or only those that had similar circumstances such as high -- indications of high levels of political activity?

A There could be other things in there. I mean, I think each case again rests on its own merits. The facts and circumstances in the case will determine if we are going to approve it, and so, therefore, the facts and circumstances in this first case met that threshold. There could be additional facts and circumstances that weren't in this case that could be in another case that would meet that threshold. It's very difficult to say, you know, that -- because I didn't do it this way. I didn't say this, you know, we really need to do these things. So, each case rests on its open merits.

[REDACTED] And I think he's already said he used the one as the example to discuss.

[REDACTED] And I mean, you know, specifically, you know, boiler down to be very truthful of the fact, I would have been more concerned about approving cases. So, I mean, I don't want to approve like the 35 percent I talked about, cases that shouldn't be. So the fact that if we look at this case, I would always err on the side of caution and

let another pair of eyes, who had more time, to scrutinize this, and at that point in time they say, oh, we can close it. But the circumstances didn't necessarily have to mirror one case or another because they could be different.

BY Counsel

Q So given those circumstances, were you instructing your screeners to pull all Tea Party cases and then you envisioned that the determination specialist would make that --

A No, no, I was not. As I go back --

Q Let me just finish my question.

A Okay. I'm sorry.

Q Only because the record gets jumbled if we don't finish our question.

So, in this February 2010 time period, were you requesting that these screeners pull all Tea Party cases for someone else to then make the determination of whether or not they needed to be held or were you having them pull only Tea Party cases that were similar to the case that identified?

A Again, I was not asking them for those kind of cases. It goes back to my -- if I would have directed them to pull our Tea Party cases, little Susie's Tea Party would have been pulled and it wasn't. So, I mean, the thing is, is that you have to go back into the case and review the facts and circumstances of that case, and from that standpoint, if we go ahead and see that everything is in there that's needed, such as the example I gave, it would be approved.

So, in answer to your question, no, I did not instruct that if you had "Tea Party" in a case that it would automatically go to another group for screening.

BY **Counsel**

Q You mean "Tea Party" in the name?

A In the name.

Q You wouldn't instruct your screeners to pull out all of the cases just because they had "Tea Party" in their name?

A Not to my knowledge.

BY **Counsel**

Q What about if it was part of the Tea Party movement, would you instruct your screeners if the case was part of a Tea Party movement, pull that case?

Screening Group Manager If you know what Tea Party movement is.

Screening Group Manager I mean, again, it's the facts and circumstances within the case and they could have part of that. If it was a Tea Party movement, that in itself in my, would not have been something that I would have instructed anyone to put into another inventory. It depends on the issues and what they're doing.

BY **Counsel**

Q So you expected your screeners to look at the substance of the application, not just the name of the organization?

A Correct, correct. That's our norm. That was our normal course of business on every case, not only these, on every case.

BY **Counsel**

Q Do you recall when [REDACTED] provided you with the results of the search?

A I do not.

Q Okay. At any time in the February, early March 2010 timeframe, did you ask [REDACTED] or the other screening group members how they conducted the search?

A I did not.

Q Did you have any discussions with [REDACTED] about how you conducted the search?

A I don't recall if I did or not. It would be my recollection I did not.

Q Did you have any discussions with [REDACTED] about how this search was conducted?

A I did not.

Q Did you have any discussions with anyone in E0 Technical about how the search was conducted?

A I did not.

Q This email on March 16, 2010, reads, "Three cases have been approved, two 501(c)(4) and one 501(c)(3). I have collected the other cases and will forward them to E0 Technical."

Is that statement consistent with your recollection of the results of the search?

A Again, I didn't -- I didn't say anyone should do a search, okay. But the cases that were identified as a potential Tea Party case or whatever we wanted to call these at that juncture, that there were

these numbers that were included. Now, these numbers, I really -- were in a position of saying, okay, I'm glad these were presented to me. I really am not in a position of saying exactly how that happened.

██████████ Yeah. Just for the record, I think what's important is how obviously when the word search was done is kind of irrelevant. Bottom line is whatever was determined or found was forwarded up the chain by him on this March 16th email.

BY ██████████

Q Sir, I have a clarification. You said -- you're referring to March 16, 2010, email. You said, "they pulled Tea Party cases or whatever it was being called," right?

A Okay.

Q I'm trying to -- I'm a little confused because I'm trying to understand why they're being called "Tea Party cases" when you've already testified that you didn't instruct anyone to pull cases just because "Tea Party" is in their name. I mean, was it a shorthand of some sort?

A There's more -- what I testified to was that there's more involved. I mean, the case that stands on its own merits, the facts and circumstances within the case, the issues within the case, that warrants a case that could have possible additional scrutiny, and the fact that this was a high profile case because of media attention is what brought that position to us.

Now, if someone was identifying cases that had "Tea Party" in them, I think I explained that we needed to look further and to see,

you know, if the facts and circumstances within that case were enough to, you know, not -- and in my group it was a proven, okay. So, I mean, we're going to approve these cases, that's the 35 percent of the 70,000, or we are going to put them into inventory. Now, is it prudent for us to then make sure, for consistency purposes, that these cases are worked by the same folks or the same group? The determination was yes, it is. And in this particular case, it went one step further with going to headquarters who said they wanted to look at it.

BY [REDACTED]

Q Were you referring to these cases as the, quote, Tea Party cases because the first case identified by [REDACTED] was from a Tea Party organization?

A I don't recall my thought pattern back then, you know. It -- they were what they were, and so, I mean, it's -- on the surface it does say, you know, Tea Party, but I can't say that's what my thought patterns were.

Q Did all 10 of the cases that were sent up have "Tea Party" in the name?

A They -- they didn't send them up.

Q I'm sorry. I mean all 10 of the Tea Party cases that you're referring to in this email, did all 10 of those cases have "Tea Party" in the name?

A I don't know. I couldn't tell you.

BY [REDACTED]

Q But you wouldn't assume that they did?

A I would not.

BY Counsel

Q Were you using "Tea Party" as a type of a shorthand in this email?

A I was not. I really was identifying or trying to get back to what the original case that we looked at was.

BY Counsel

Q So is being involved in the Tea Party movement or being a Tea Party organization part of the criteria used to identify similar cases to the February 25th case identified?

A There was no criteria. Each case is again reviewed and the determination is made on the facts and circumstances within that case.

Q You stated previously you didn't tell anyone to do a search. How did you expect your screeners to identify similar cases?

A You know, if a screener has, and they would, the ability to do a search, I really was not able to control their thought pattern or their initiative and so that could have happened, but I can --

Q You didn't give the specific instruction?

A I did not say go out and search.

BY Counsel

Q Were you expecting screeners only to be aware of this particular fact pattern going forward rather than to search moving backwards as an example?

A That is correct. Again, my concern was that EO Technical had again identified this as a case they wanted to look at, and I wanted

to make sure that, you know, similar cases were not put into general inventory so that we would have an inconsistency on how we would look at these cases.

Q Let's move forward in the email chain to [REDACTED] 0001. In there is a page, an email from [REDACTED] to you dated March 17th, 2010, at 1:21 p.m. The email reads, "[REDACTED] per [REDACTED] email directly below, EOT does not want all of the Tea Party cases. They only want two of them and want us to hold the remainder. We can discuss who should hold them if you would like. Let me know. Thanks."

Did you send the two Tea Party cases to EOT?

A To the best of my knowledge, we did.

Q Did you personally --

A No, I did not.

Q -- send this?

A No, I did not.

Q Did you help select the Tea Party cases that were sent to EOT?

A No, I did not.

Q Do you know who did select the cases?

A No, I do not.

Q Did you participate at all in the selecting process?

A I did not.

Q Do you know who in EOT received the cases?

A I do not.

Q When I say EOT or when the emails says EOT, is that referring

to EO Technical Unit?

A Yes, it is.

Q Did you have any discussions with [REDACTED] about the decision to send the cases to the Technical Unit?

A Other than this email, I did not.

Q Did you have any discussions with [REDACTED] about the decision to send the cases to the Technical Unit?

A I don't recall.

Q Do you have any discussions with anyone in the Technical Unit about the decision to send the cases to the Technical Unit?

A I don't recall.

Q Who in the -- where in the Determinations Unit were cases held?

A During what period of time?

Q In March 2010?

A Well, the cases that -- again, we're electronically talking about cases, so, you know, when -- when you're saying held, it's a -- it's a very difficult thing, but each group in the Determinations Unit does have a spot that they can put cases of -- that will be held, okay, and I would think that these cases, from this email, when the decision hadn't been made as to, you know, where we're going with these, these cases were held in my group's 75 number, which is group inventory for my group.

Q So, on March 17th, 2010 --

[REDACTED] I'm sorry. Until -- just to be clear. They weren't

held in your group indefinitely. They were held until you got further direction?

Deborah Group Manager: Correct.

BY Counsel:

Q And when did you receive further direction?

A I believe that was the next month.

Q In April?

A Correct.

Or about.

Deborah Group Manager: Yes, it was in April sometime.

Or later.

Deborah Group Manager: Yeah. I don't really recall specifically. We can...

Counsel: We'll get to that time period.

Counsel: There's more to cover before April.

We could fast forward if you want.

Counsel: We could.

BY Counsel:

Q Did you request that your group continue looking for these Tea Party cases after being asked to hold the seven on March 17th, 2010?

A Did I ask again or...

Q Did you ask again or assume that your previous instruction was still standing?

A My previous instruction, that's what I would have -- I don't recall, but I don't think -- or I don't recall ever giving another

instruction because it wasn't necessary.

Q The committee interviewed ██████████ last week and he testified that he, during this time period, continued to screen for Tea Party cases after the initial search and that he developed search criteria to identify Tea Party cases which included phrases such as "Patriot" and the "9/12 Project." Do you have any reason to disagree with this statement?

A I wasn't aware of that during this period of time. What -- what mental process each of these agents would instill to make these determinations would be theirs. I wasn't aware of that at this time.

Q Despite not being aware of it at the time, do you have any particular reason to disagree with the statement or to believe it is not correct?

A That that was his thought pattern?

██████████ Again, he can't speculate.

██████████ I can't talk about, you know, what ██████████ was in his mind. I mean, ██████████ in his 28 years of experience, would, you know, probably lend him into having a lot of thoughts that were germane.

BY Counsel ██████████

Q Do you have any knowledge that would lead you to believe that ██████████ statement wasn't accurate?

A No, I do not.

Q Based on your previous answer, I'm guessing that you did

not instruct [REDACTED] to use these terms in the March 2010 time period?

A I did not.

Q And I'm guessing you also did not instruct anyone other than [REDACTED] to search for Tea Party cases in spring 2010 using those type -- those criteria?

A I did not.

Counsel [REDACTED] We are making it into April.

Counsel [REDACTED] Time flies when you are having fun.

[REDACTED] Good thing February is only 28 days, I think.

Screening Group Manager [REDACTED] So this, I can put this [REDACTED] away?

Counsel [REDACTED] I'm afraid not.

[REDACTED] Exhibit No. 2

was marked for identification.]

BY Counsel [REDACTED]

Q [REDACTED] I'm handing you a document that is marked Exhibit 2. It's an email chain, and the top email in the chain is from Cincinnati Director [REDACTED] to [REDACTED] dated April 5th, 2010. It was introduced by the committee -- to the committee from [REDACTED] and it's [REDACTED] 0006 through [REDACTED] 0008. You were copied on the email chain. Do you recall receiving this email chain?

[REDACTED] If we could have a minute.

Counsel [REDACTED] Absolutely. Take your time.

[REDACTED] Thanks.

BY Counsel [REDACTED]

Q Looking in the top -- at the top email in the chain from [REDACTED] to [REDACTED] copying yourself on April 5th, 2010, it reads, "[REDACTED] since you're acting for [REDACTED] and I believe the Tea Party cases are being held in your group, would you be able to gather information as requested in the email below to provide it to [REDACTED] so that EO Technical can prepare a sensitive case report for these cases? Thanks in advance."

Who is [REDACTED]

A I have not met [REDACTED] but I believe he works for EO Technical.

Q Whose decision was it to hold the cases in your group?

A By previous email, it was [REDACTED].

Q And did you have a reason, an understanding of the reason at this time that the cases were being held in your group?

A I wasn't given a reason. I was told to hold them in my group.

BY Counsel [REDACTED]

Q To clarify, when this April 5th, 2010 email was sent, were you in the office at the time?

A April 5th?

Q 2010. I'll draw your attention to the beginning of the email which says, "since you are acting for [REDACTED] --

A No, I was on -- I was on leave.

Q So was [REDACTED] acting in your capacity?

A Yes, he was acting manager, correct.

BY Counsel

Q And how long were you on leave for in April?

A I would have to check my leave record. I'm not really sure.

Q Was it an extended leave or a short one?

A I don't believe so.

Q What is a sensitive case report?

A Again, I've not been in a position of having to produce a sensitive case report. I'm aware that there is such a thing, so I really can't address to that because what the content is or really how it's produced, I never had to do that.

Q Do you know what the purpose of a sensitive case report is?

A I do not.

BY Counsel

Q Prior to this time, have you ever been involved in preparing information to send to E0 Technical so that they could produce a sensitive case report?

A Not to my knowledge.

Q Did you provide any information to E0 Technical so that they could create a sensitive case report referenced in this email?

A Not to my knowledge.

BY Counsel

Q Did you play any role in providing that information?

A Not to my knowledge.

BY Counsel

Q Do you recall ultimately receiving the sensitive case report referred to in this email?

A I did not.

Q Do you know who makes the decision to create a sensitive case report?

A I do not.

Q Did you have any discussion with [REDACTED] about the sensitive case report referred to in this email?

A Not to my knowledge, I did not.

Q Did you have any communications with [REDACTED] about the sensitive case report referred to in this email?

A I did not.

Q Did you have any communications with anyone in EO Technical about the sensitive case report referred to in this email?

A Not to my knowledge.

RPTS [REDACTED]

DCMN [REDACTED]

[12:10 p.m.]

BY [REDACTED]

Q Can you describe what the term "emerging issues" means in the context of your work in the Determinations Unit?

A I'm not sure I have a definitive definition. An emerging issue would be something new that we really hadn't seen before. And so we would want to give it some consideration. The determination that this type of activity or this issue was emerging was not mine. So, you know, it's, again, identifying something that could possibly be something we hadn't seen before, something that required special attention. So when we're talking about the emerging issue, that is a decision made somewhere else.

Q Are cases designed as emerging issues typically grouped together or centralized for review?

A I really cannot answer that. If we identify an emerging issue in one case, then it's not going to be grouped with others. I mean, depending on the numbers that are seen, I can tell you, for example, presently in EO determinations, there has been an emerging issue due to the fact that a group ruling was terminated. There's 400 subs that are now applying to our organization. It's an emerging issue because of this determination. And it was determined these cases need to be worked in one area consistently by a group of agents within one group. And that is because of customer service. So in that case, we

definitely would be merging things together. But we could get to an instance -- and this is nothing that I can say this case was it -- that one case comes in and it appears as if this could be an emerging issue because we've never seen it. Maybe there's only one case. So it depends, is my answer, if there are more than one or multiple ones because there could be huge amounts.

Q You need to have a certain number of cases to justify creating an entire emerging issues group?

A And I can't say that because I do not make that call. That's not my purview to decide what is an emerging issue. It's my purview to maybe identify a potential emerging issue.

Q Who does makes the decision to determine what is an emerging issue?

A I do not know.

BY Counsel

Q In the case of that group sub parent ruling that you were just discussing, in that case, were cases grouped together based on the name of that group identity?

A Yes. I mean it was the most effective way of making sure these were consistently worked. But with that being said, there were other cases that, you know, with this maybe name that were assigned someone else. And we attempted to then pull them back so that they could be consistently worked in one group.

BY Counsel

Q Is it common for a Determinations Unit to ask screeners to

identify organizations by name, to put them in certain emerging issues groups?

A No. That's not what we're asking. That could happen after the fact. So I mean my screeners are not, you know, doing -- I guess what you are saying, are they searching names? No, they're not.

██████████ I think there's some confusion as to what causes the emerging issue versus what the screening group's role is.

BY ██████████

Q Can you describe what causes an emerging issue as opposed to --

██████████ If you know.

██████████ Emerging Group Manager I 100 percent do not know, okay. But I can say if you were coming to my office as a screener and you would say, is this an emerging issue, we would have a dialogue and say, you know, my experience would say I don't think I've seen this before. We would want to elevate this as a potential emerging issue. It could happen that way. I mean, again, the whole structure of what I do is to quickly say, oh, this could be that and we elevate it. Or this could be that and it goes into inventory. We're not really having, you know, oh, this type of list or -- that's not part of what we're doing.

BY ██████████

Q So you elevate the new issues that may be worthy of an emerging issue and then someone else makes the determination about whether that in fact should be classified as an emerging issue?

A Correct.

Q Okay. How do screeners know when something is an emerging issue?

A Experience.

Q Is there a list of emerging issues?

A I couldn't answer that. There could be a list. But I'm not aware of one.

Q Okay. Have you been informed about certain emerging issues to look for by other employees in the Determinations Unit?

A I have not, to my knowledge.

BY [REDACTED]

Q Can I just clarify when you were talking about the group ruling earlier because I didn't quite understand, it sounded to me like part of that process was looking at a group of organizations that may have had a similar name. Is that a correct understanding?

A Well, you know, the way that we identified those is that there was an agent screening, oh, he went through 15 cases. And it was apparent they were all coming out of this group ruling. So when you looked at the case file itself -- and he would do that -- that the issues that were in that case file said, we can't close this.

Q So it would be fair to say though that in previous circumstances, the name of a group or type of group of organizations would be part of the analysis of figuring out how to group a certain type of cases for consistency?

A Well, it could be helpful. I mean in this particular case -- I mean I can say, you know, we produce determination letters.

[REDACTED] I'm not sure which particular case you are talking about.

[REDACTED] We're talking about the group ruling.

BY [REDACTED]

Q Group ruling?

A So we issue determination letters. And I think that because of consistency and good customer service, they should all be the same. In this particular case, you know, we have the sorority chapters now that are, you know, now getting their own exemption, that's what this was.

Q Without revealing any 6103 information, are you able to say generally what type of organizations this particular group rulings issue came up in?

A It was a sorority.

BY [REDACTED]

Q In 2010, were applications involving the Tea Party placed in an emerging issues group?

A I'm not aware of that.

BY [REDACTED]

Q You are not aware that Tea Party cases were designated as an emerging issue?

A I am not aware of that.

BY [REDACTED]

Q So in March 2010, the Tea Party cases were held in your unit, correct?

A Correct.

Q And then at some point they were no longer held in your unit, correct?

A Correct.

Q Where did they go?

A There's an email, if we can reference that, I believe in April, maybe late April. I was directed to assign all of these cases to Group 7822.

BY [REDACTED]

Q And you had no knowledge at the time that that was the unit in charge of handling emerging issues?

A That unit, as I was aware, was a unit that at one time was consistency which kind of goes with emerging issues. So i mean it was a unit that kind of designated as, you know, these situations.

BY [REDACTED]

Q Was there a particular person in unit 7822 who you were instructed to send the cases to?

A Again I want to say I don't recall but I know there's an email in there that I read that refreshed my memory. And I think that the name -- and I would want to review the email.

[REDACTED] Just one second.

[REDACTED] Counsel And you say it is in an email that IRS has not allowed you to produce to the committee?

[REDACTED] We're not allowed to hand over any emails directly to the committee.

[Redacted] Okay. This actually is an email that I was copied so it did not come to me. And this says these cases will be assigned to [Redacted]

BY Counsel [Redacted]

Q Who directed you to send the cases to [Redacted]

A This is from Cincinnati Director [Redacted].

Q And why did Cincinnati Director [Redacted] tell you to direct the cases to [Redacted]

A I do not know.

[Redacted] The email is dated April 25, 2010, sent on Sunday at 1:00 p.m. from [Redacted] to --

[Redacted] [Redacted] He is E0 Technical. I believe he is the manager.

Counsel [Redacted] The email doesn't state in what capacity [Redacted] would be reviewing these cases as part of what you did or -- you read one particular part.

[Redacted] Yes. This is part of the difficulty we have in that. The email speaks for itself.

BY Counsel [Redacted]

Q Putting the email aside and having looked at it, do you recall whether or not at this time period [Redacted] was identified as an emerging issues coordinator?

A I did not.

BY Counsel [Redacted]

Q Did you have any conversations with Mr. [Redacted] to send

the cases to [REDACTED]

A I did not.

Q Did you have any conversations with anyone in E0 Technical at the time about decisions to send the cases to [REDACTED]

A Not to my recollection.

Q Did you have an understanding at the time about what the reason was for sending the cases to [REDACTED] for review?

A No. I don't recall ever having that conversation.

BY Counsel [REDACTED]

Q And just as a practical matter, once you received that direction, is it then a matter of a code being imported into the computer when you see these cases? Or how did the cases actually get sent to [REDACTED]

A As I indicated, at my Group 75 number, which was my group inventory is where these were housed, and what I would do is go into the electronic system, and I would transfer these cases to Group 7822.

Q Thank you for that clarification.

A And I did not -- and for additional clarification, I did not assign these to [REDACTED] Her manager has to assign those. So, I mean, that transfer was to that group. And that manager has to assign them.

[REDACTED] And again, the email clearly directs management saying where these cases are going to go.

Counsel [REDACTED] Who's [REDACTED] manager?

Screening Group Manager [REDACTED] I believe at that time by this email it was

Mr. [REDACTED] who answered to area manager [REDACTED].

[REDACTED] Our hour is up. Thank you very much.

[Discussion off the record.]

[REDACTED] We'll go back on the record please. It is 1:14 and we'll begin our next hour of examination. And I will turn to [REDACTED] to begin.

BY [REDACTED]

Q So I just have a couple of follow-up questions. You've explained many times that cases can be grouped together or elevated for consistency, right?

A Correct.

Q With respect to the Tea Party cases, did you ever discuss with [REDACTED] or anyone else that the reason EO Technical in D.C. wanted the cases was specifically for consistency?

A I don't recall.

Q Okay. Now I want to let you review Exhibit 1. And specifically, there's an email on the first page marked [REDACTED] 0001, an email from [REDACTED] to [REDACTED] on March 17, 2010, at 12:40. I'll give you a second to review that particular email.

A Okay.

Q Now you stated earlier that you thought [REDACTED] decided to have the Tea Party cases held?

A I believe I did say I'm not sure she made that decision, but she told me to hold the Tea Party cases in my office.

Q Okay. But so after reviewing the email where [REDACTED] says

to [REDACTED] that she "would ask that you hold the rest until we get a sense of what the issues may be," is it fair to say that [REDACTED] made the decision to hold the Tea Party cases?

A I don't know who may have told. And I don't know.

Q Sure. Okay.

BY [REDACTED]

Q [REDACTED] I want to return to the discussion we were having earlier with our colleagues on the other side about the criteria that was used to search for these cases initially. And I believe you said that you do not give your screeners any particular criteria to use, is that correct?

A That's correct.

Q Okay. Sir, [REDACTED] testified before the committee and he testified that he used the phrase "Tea Party" because you told him to use that phrase. Do you have any recollection of that?

A I don't recall.

Q Okay. Do you have any personal knowledge of how the screeners selected the criteria to use in the search?

A I don't believe that they selected criteria. What is in the mind of each screener is based upon their experience. So they would be able to identify issues that were presented in the case file by dealing with their own expertise. They were never given criteria.

Q Okay. And you are not aware of what criteria it was, if any, that they used to select those cases initially?

A I do not.

[redacted] Exhibit No. 3

was marked for identification.]

BY [redacted]

Q Okay. I want to introduce another document. This is an email produced to the committee by TIGTA. There is no Bates number but for identification purposes, I will just recite the initial email on this page is an email from [redacted] of TIGTA to [redacted] of TIGTA dated May 20, 2013, at 10:12 a.m. And this is Exhibit 3.

And sir, I will give you a few minutes to review this document.

A Okay.

Q Do you recall this email exchange?

A I don't recall the email exchange. I do have a copy of it though.

Q You do have a copy of it? Where did you get a copy of this email?

A It was in my string of emails on my own personal stuff.

Q Okay. Now although this is dated June 2, 2011, I want to turn your attention to the email that starts on the bottom of the first page and carries over to the second page.

A Okay.

Q This is an email from you to [redacted] dated June 2, 2011, at 9:21 a.m. and you copy on this email [redacted] and [redacted]. And you write to [redacted] the following are issues that couldn't get a case because there was a potential "Tea Party" case and sent to Group 7822 for secondary screening. One, Tea Party, patriots, or 9/12

project is referenced in the case file; two, issues include government spending, government debt and taxes; three, educate the public through advocacy, legislative activities to make America a better place to live; four, statements in the case file that are critical of how the country is being run.

Do you recall sending this email to [REDACTED]

A Yes, I do.

Q And why did you send this email to [REDACTED]

A She had sent me an email on June 2, 12:46 asking me a series of things. Could I send her an email that included criteria for screeners. There was no criteria for screeners. Organizations involving the Tea Party movement for exemption. That was another. She says, the application specifies Tea Party. If not, how do we know applicant is involved with the Tea Party movement? And they did not.

I responded actually to the latter part of the third sentence. You need to forward me per [REDACTED] request. So what I did is at this point in time I called -- actually I emailed.

Q Before you get there, the guy is asking you, is this criteria that she is searching for, is it the criteria that you use initially in the February-March time frame?

A Criteria wasn't used. Again we looked at these cases from a standpoint of the facts and circumstances that were in each case. Now again, each of my screeners would have had experience in looking at these issues. And that's what I relied upon for their development.

Q Okay.

A In the case.

Q I interrupted you. You may continue with what you were going to say before.

A But what I did in response to her request, I sent an email to [REDACTED] [REDACTED] and [REDACTED], my three great --

Do you have that email in there?

And in that email -- and this was copied through the chain.

[REDACTED] I just don't want you reading from the email. If you could just refresh your memory and then summarize.

[REDACTED] I was asking them to provide me with issues that may indicate no organization is involved with the Tea Party movement. And the reason that I wrote it that way, if you look at [REDACTED] request, she had said in here -- how do we know the applicant is involved with the Tea Party movement? So I asked again, what issues that they detected in these cases and they indicate an organization was involved in the Tea Party cases. All three of my 13 responded to me as to what issues they considered when they developed this. And the email I have here is from one of those individuals. And he comes back to me and says, you know, again, some of the cases --

[REDACTED] You can't read the email. Just generally -- we don't want to be in a 6103 box. So just generally, did he --

[REDACTED] He generally comes back and he identifies the issues that he looks at. In this email he is talking about government spending, government debt and taxes.

BY Counsel [REDACTED]

Q So that's how that screener identified Tea Party cases?

A That's what issues he found in cases that indicated to him that they could be a potential Tea Party case. And from what you showed me before from [REDACTED] I believe that a number of the things that were on his mind and that he thought were issues were responding back to me to this email I sent out to him. I don't have a copy of that one. But you know what I did was I consolidated their responses in my response back to [REDACTED].

Q Just so we're clear, sir, which screener is that email from that you are holding?

A [REDACTED]

Q And what is the date of that email?

A June 2.

Q It's [REDACTED] to you?

Counsel [REDACTED] It's actually June 3.

Counsel [REDACTED] June 3, 2011?

Screening Group Manager [REDACTED] June 2, 2011 at 8:02 a.m.

Counsel [REDACTED] Thank you.

BY Counsel [REDACTED]

Q Okay. Just to be clear, [REDACTED] in the email that is Exhibit 3 in front of you asked for criteria that the screeners used to label a case a Tea Party case and I think you just testified there was no criteria?

A That's correct.

Q Did you ever tell [REDACTED] there was no criteria?

A I didn't tell her that to my knowledge. In my response to her, I did not refer to criteria. Criteria was her words, not mine. And I responded back, these were issues that my screeners were finding in these cases that identified them as potential Tea Party.

Q Okay. So these four items here on page 2 of Exhibit 3 are the sort of items that screeners would see in Tea Party cases, is that right?

A This, again, was a response to my request to my three senior GS 13 agents as to what issues they found in cases that would indicate a potential Tea Party. What the rest of the screeners -- you know, this is from the three senior people.

Q Okay. And to your knowledge, did those three senior people reach out to the others in the group to get their sense of what they used to identify a Tea Party case?

A I really don't know that.

Q Okay. That's fine. And sir, as far as the time frame for these four items here on Exhibit 3 on the second page, do you know, was this language the language they used to identify Tea Party cases throughout the whole relevant time period, February 2010 through here June 2011?

A Language used where?

Q The language here on Exhibit 3, page 2, the four items. To your knowledge, is this the language that they saw in Tea Party cases throughout the whole relevant time period or is it a subset?

A I don't know that. This is the only time that I requested

that they provide me the information about the issues that they considered when addressing a potential Tea Party case.

Q Okay. And so to your knowledge, sir -- for instance when a screener saw Tea Party or Patriots of the 9/12 project or saw an issue that included government spending, government debt, or taxes that are referenced here in Exhibit 3, what would they do with those cases?

A Well, first off, they would probably analyze them a little bit more to see if there was development needed. And if there were development needed, the first decision was, it should be put into inventory to be worked. And the second one, this has been designated as a high-profile case. So it would then be put into that inventory.

Q Okay. So any of the applications that came in that had elements of these four items here in Exhibit 3 were then given a little additional screening, put into general inventory?

A I cannot say that. Again to stress that this is a compilation of three people's thought patterns when they were reviewing their cases. And what I asked them to identify to me is what issues that they were finding in their cases that prompted them to consider a potential Tea Party case. So like I say, I know the one that I recited to you, what ██████████ sent back to me. And those things are in here. I know ██████████ cited to you what was in his mind. But this was not something that was distributed to everybody because that's not the way that we were conducting this. It was not a criteria-based anything. It was you know what issues are you finding.

Q I see.