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ONE HUNDRED THIRTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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August 25, 2014

The Honorable Eric H. Holder, Jr.
Attorney General
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Attorney General:

The Committee on Oversight and Government Reform continues to examine the Internal Revenue Service's targeting of conservative tax-exempt applicants. The Committee – along with a bipartisan majority of the House of Representatives¹ – has expressed serious concerns about the apparent conflicts of interest in the Justice Department's criminal investigation of the IRS targeting.² New information raises further concerns about additional conflicts of interest in the Justice Department's response to the IRS targeting scandal. We request your cooperation as we examine this important matter.

The Committee previously obtained information that Barbara Bosserman, a Civil Rights Division attorney with a leading role in the Department's criminal investigation, has a conflict of interest stemming from her substantial contributions to the President's political campaigns.³ The Committee also previously learned that the other two Justice Department components involved in the investigation – the Public Integrity Section and the Federal Bureau of Investigation – have serious conflicts of interest stemming from their interaction with the IRS in October 2010.⁴ In particular, the Public Integrity Section discussed with Lois Lerner potential criminal aspects of

¹ See H. Res. 565, 113th Cong. (2014) (passed by a vote of 250 ayes to 168 nays).

² See, e.g., Letter from Darrell Issa & Jim Jordan, H. Comm. on Oversight & Gov't Reform, to Eric H. Holder, Jr., U.S. Dep't of Justice (June 10, 2014); Letter from Darrell Issa & Jim Jordan, H. Comm. on Oversight & Gov't Reform, to Eric H. Holder, Jr., U.S. Dep't of Justice (Jan. 8, 2014); see also "Examining the Justice Department's Response to the IRS Targeting Scandal": Hearing before the Subcomm. on Econ. Growth, Job Creation & Reg. Affairs of the H. Comm. on Oversight & Gov't Reform, 113th Cong. (2014).

³ See Letter from Darrell Issa, H. Comm. on Oversight & Gov't Reform, to Eric H. Holder, Jr., to U.S. Dep't of Justice (Jan. 8, 2014).

⁴ Transcribed interview of Jack Smith, U.S. Dep't of Justice, in Wash., D.C. (May 29, 2014); Transcribed interview of Richard Pilger, U.S. Dep't of Justice, in Wash., D.C. (May 6, 2014).

nonprofit political speech in 2010 in the wake of the President's attacks upon the Supreme Court's *Citizens United* decision.⁵ The FBI even went so far as to acquire 1.1 million pages of nonprofit tax-return information, including confidential taxpayer information protected by federal law, from the IRS.⁶

In recognition of these serious apparent conflicts of interest and the importance of restoring trust to the IRS, an overwhelmingly bipartisan majority of the House of Representatives recommended that you appoint a special counsel to investigate potential criminal wrongdoing.⁷ Despite these serious misgivings, the Department continues to refuse to appoint an independent special counsel to uphold the public's confidence in a thorough and vigorous criminal investigation. Deputy Attorney General James Cole recently testified that the multiple conflicts of interest in the Department's criminal investigation do not "meet any standard that would come to the point of warranting a special counsel."⁸

Perhaps new information obtained by the Committee will spur you to reconsider your decision and you will finally appoint a special counsel to get at the bottom of the IRS scandal. The Committee has recently learned of a similar conflict of interest stemming from the Department's representation of the IRS in *Z Street v. Koskinen*, a civil suit relating to the IRS targeting of conservative groups.⁹ In its suit, *Z Street* alleged that the IRS engaged in viewpoint discrimination by targeting for additional scrutiny 501(c) applicants whose political views about Israel were inconsistent with the viewpoints of the Obama Administration.¹⁰ Among other facts, *Z Street* alleged that the IRS sent its application to a "special unit" in Washington, D.C., for extra attention.¹¹ According to an exhibit attached to *Z Street*'s amended complaint, the IRS asked another similar applicant whether it supported "the existence of the land of Israel" and to describe its "religious belief system toward the land of Israel."¹²

⁵ E-mail from Jack Smith, U.S. Dep't of Justice, to Raymond Hulser, U.S. Dep't of Justice (Sept. 21, 2010) [OGR IRS 1]; Meeting among Jack Smith, Justin Shur, Nancy Simmons, Richard Pilger, & Raymond Hulser, U.S. Dep't of Justice, "Possible 501/Campaign Finance Investigation (Sept. 30, 2010). [OGR IRS 16]

⁶ Letter from Peter Kadzik, U.S. Dep't of Justice, to Darrell E. Issa, H. Comm. on Oversight & Gov't Reform (June 4, 2014); Letter from Peter Kadzik, U.S. Dep't of Justice, to Darrell E. Issa, H. Comm. on Oversight & Gov't Reform (May 29, 2014).

⁷ See H. Res. 565, 113th Cong. (2014).

⁸ "Examining the Justice Department's Response to the IRS Targeting Scandal": Hearing before the Subcomm. on Econ. Growth, Job Creation & Reg. Affairs of the H. Comm. on Oversight & Gov't Reform, 113th Cong. (2014) (question and answer with Rep. Gowdy).

⁹ 1:12-cv-401-kbj (D.D.C. filed 2010).

¹⁰ Amended Complaint, *Z Street v. Koskinen*, 1:12-cv-401-kbj (D.D.C. filed 2010).

¹¹ *Id.*

¹² *Id.* (Exhibit A).

The IRS was represented in this case by Andrew Strelka, an attorney in the Department's Tax Division.¹³ Strelka's involvement in this matter is very troubling. From 2008 to 2010 – right as Z Street applied for tax-exempt status – Strelka worked at the IRS in its Exempt Organizations (EO) Division.¹⁴ Documents obtained by the Committee show that Strelka was directly involved in the IRS targeting of conservative tax-exempt applicants. In March 2010, Strelka received an e-mail from IRS manager Ronald Shoemaker directing him to “[b]e on the lookout for a tea party case.”¹⁵ Shoemaker directed Strelka: “If you have received or do receive a case in the future involving an exemption for an organization having to do with tea party let me know.”¹⁶ It is unclear if, or how, Strelka responded to this directive.

Figure 1: E-mail from Ronald Shoemaker to Andrew Strelka et al.

From:	Shoemaker Ronald J
Sent:	Wednesday, March 17, 2010 9:34 AM
To:	Berick Ellen S; Gitterman Janet E; Henzke Leonard J; Hull Carter C; Manasteri Jacqueline B; Kastenbergl Elizabeth C; Mackay James R; Orcino Leonardo M; Patton John M; Paul Susan L; Phaup Lee T; Strelka Andrew C; Wrathall Meghan R; Zelasko James
Subject:	lookout

Be on the lookout for a tea party case. If you have received or do receive a case in the future involving an exemption for an organization having to do with tea party let me know.

Thanks.

Even after Strelka left the IRS, he maintained close ties to IRS EO personnel. In fact, Strelka had such a close relationship with the EO Division that he was informed of Lois Lerner's hard drive crash in June 2011.¹⁷ In documents produced recently in response to the Committee's subpoena – and inexplicably withheld by the Department for almost three months – Strelka called Lerner's crashed hard drive “[p]robably the biggest drama in EO since the new microwave came in.”¹⁸ Setting aside his levity, his e-mail confirms that months after he left the IRS, Strelka was privy to internal communications pertaining to the IRS EO Division.

¹³ See *Justice's IRS connection*, WALL ST. J., Aug. 11, 2014.

¹⁴ *Id.*

¹⁵ E-mail from Ronald Shoemaker, Internal Revenue Serv., to Ellen Berick et al., Internal Revenue Serv. (Mar. 17, 2010). [IRSR 631577]

¹⁶ *Id.*

¹⁷ E-mail from Pilar Jarrin, Internal Revenue Serv., to Andrew Strelka, U.S. Dep't of Justice (June 13, 2011). [HOCR IRS 353]

¹⁸ E-mail from Andrew Strelka, U.S. Dep't of Justice, to Pilar Jarrin, Internal Revenue Serv. (June 13, 2011). [HOCR IRS 353]

Other documents suggest that Strelka had a fondness for his tenure at the IRS and, in particular, his mentorship by Lois Lerner. In one e-mail to Lerner in August 2012, Strelka wrote “I still feel an EO connection” and “I cherished my time in the EO family and I owe a big thanks to you for hiring me”¹⁹ Lerner responded in part, “I’m glad we could be a part of your success” and “[s]top by and see us if you’re in the area.”²⁰ Lerner added cryptically: “I do have to agree that the issues we’re dealing with these days may be more interesting than what’s on your plate – we’ve had a lot of Congressional attention this year.”²¹

Department lawyers, as attorneys for the United States, have a unique responsibility that transcends the particulars of their cases. As you have said, “the Department’s mission is to do justice, not just [to] win cases.”²² In this instance, with his direct involvement in the IRS EO Division during the targeting and his close relationship with key figures in the matter, Strelka appears to have a predisposition that creates a conflict with this duty in the *Z Street* matter. On July 28, 2014 – six days after the publication of a news article about this conflict of interest²³ – Strelka was removed as an attorney on the *Z Street* case.²⁴ Curiously, before his withdrawal from the case, Strelka also completed a detail to the White House Counsel’s Office from December 2013 to June 2014 – during which time the White House learned of Lois Lerner’s destroyed e-mails.²⁵ Although he is no longer on the case, it is unknown how Strelka’s experience with the IRS and Lois Lerner influenced the Department’s handling of the *Z Street* matter.

¹⁹ E-mail from Andrew Strelka, U.S. Dep’t of Justice, to Lois Lerner, Internal Revenue Serv. (Aug. 23, 2012). [IRSR 717505]

²⁰ E-mail from Lois Lerner, Internal Revenue Serv., to Andrew Strelka, U.S. Dep’t of Justice (Aug. 23, 2012). [IRSR 717505]

²¹ *Id.*

²² Press Release, U.S. Dep’t of Justice, Department Asks Alaska Corruption Cases Be Remanded to District Court, Former State Representatives Be Released (June 4, 2009) (statement of Attorney General Eric H. Holder, Jr.)

²³ See Eliana Johnson, *Defending the IRS*, NAT’L REVIEW, July 22, 2014.

²⁴ See Notice of Withdrawal of Counsel, *Z Street v. Koskinen*, 1:12-cv-401-kbj (D.D.C. July 28, 2014).

²⁵ See Johnson, *supra* note 23; Josh Hicks, *Controversy within a controversy: A timeline of IRS’s missing emails*, WASH. POST, June 26, 2014.

Figure 2: E-mail exchange between Andrew Strelka & Pilar Jarrin

From: Strelka, Andrew C. (TAX)
Sent: Monday, June 13, 2011 11:25 AM
To: Jarrin Pilar
Subject: RE: LOIS LERNER HARD DRIVE CRASH

Probably the biggest drama in EO since the new microwave came.

From: Jarrin Pilar (mailto: [REDACTED]@irs.gov)
Sent: Monday, June 13, 2011 11:20 AM
To: Strelka, Andrew C. (TAX)
Subject: FW: LOIS LERNER HARD DRIVE CRASH

SOUND THE ALARMS!!!!!!!!!!!!!!!!!!!!

Pilar Oberwetter Jarrin
Customer Education and Outreach
IRS Exempt Organizations
202-283-[REDACTED] (p)
202-283-8858 (f)

From: Douglas Akaisha
Sent: Monday, June 13, 2011 11:19 AM
To: Grant Joseph H; Medina Moises C; &TEGE:EO 1750 Penn Ees
Cc: Cook Janine; Marks Nancy J; Livingston Cathenne E; Ingram Sarah H; Flax Nikole C; Holland Tiwana M; Lemons Terry L; Sierveld Brett L; Teser Cheryl A
Subject: LOIS LERNER HARD DRIVE CRASH

Lois' hard drive has crashed on her computer and will be without email. If you need to contact Lois please call her at 202-283-[REDACTED]. For immediate attention, contact Akaisha Douglas at 202-283-[REDACTED].

Akaisha Douglas
IRS Exempt Organizations
202-283-[REDACTED]

Figure 3: E-mail exchange between Lois Lerner & Andrew Strelka

From: Lerner Lois G
Sent: Thursday, August 23, 2012 4:30 PM
To: Strelka, Andrew C. (TAX)
Subject: RE: Greetings

That is terrific--Congratulations! I'm glad we could be a part of your success. Enjoy the trip--San Diego is lovely.

We are hanging in here at North Capital. The office space is nice, but not many eateries around, although folks keep saying there will be "soon." I do have to agree that the issues we're dealing with these days may be more interesting than what's on your plate--we've had a lot of Congressional attention this year. I will pass on your good news to all. Stop by and see us if you're in the area.

Lois G. Lerner

Director of Exempt Organizations

From: Strelka, Andrew C. (TAX) [REDACTED]
Sent: Thursday, August 23, 2012 5:16 PM
To: Lerner Lois G
Subject: Greetings

Lols,

When I left EO you said my time here would fly by. The last two years have felt like two months. I hope everyone has settled in on North Capitol. Apart from my almost daily emails to Pilar, I still feel an EO connection as my time in your office has led to me being assigned to several § 7428 cases. I can conclusively state that the nuances of EO law trumps the mechanics of federal tax liens any day.

I wanted to let you know that I was just recently informed that I've been awarded the Federal Bar Association's 2012 Younger Federal Lawyer Award, and my nominators noted some of my accomplishments in EO (I pasted what my nominators wrote below my signature and highlighted the EO parts). I will receive the award at a ceremony in late September at the FBA's annual convention in San Diego. I cherished my time in the EO family and I owe a big thanks to you for hiring me, Chip for teaching me, and Ron for putting up with me!

All the best,

Andrew C. Strelka

In addition, it has come to our attention that yet another Department employee has a history with the IRS that could conflict with the Department's mission to "do justice" with respect to the IRS targeting. Nicole Siegel, an attorney-advisor in the Department's Office of Legislative Affairs, worked previously for Lois Lerner in the IRS EO Division.²⁶ Earlier in her career, Siegel worked for ActBlue, described as an "Internet-based political action committee that lets Democratic candidates use their Web site as a portal to collect donations."²⁷ In fact, ActBlue, a tax-exempt entity, boasted that it raised \$19 million for Democratic candidates in July 2014.²⁸ After Siegel joined the Justice Department, she appears to have maintained a close relationship with Lerner. According to one document, Siegel requested a meeting with Lerner in July 2011 to discuss her career.²⁹

As an attorney in the Office of Legislative Affairs, Siegel is in a position to exert influence over the Department's response to congressional oversight of the Department's interactions with Lerner and the IRS. Her experience with the IRS and her work with a partisan campaign organization could create the appearance of a conflict with the Department's willingness to be frank and forthcoming with Congress. Given the Department's reluctance to cooperate with the Committee's oversight, and its affirmative withholding of subpoenaed documents,³⁰ this information is troubling.

This new information about additional conflicts of interest within the Justice Department shows that almost every facet of the Department with an interest in the IRS targeting investigation is compromised. From the Civil Rights Division to the Public Integrity Section and the FBI, from the Tax Division to the Office of Legislative Affairs, the Justice Department has serious and wide-ranging conflicts of interest in its handling of the IRS targeting matter. With these startling revelations, we reiterate the bipartisan calls for the appointment of an independent special counsel. In addition, to better examine the actions and experiences of Andrew Strelka and Nicole Siegel at the IRS and the Justice Department, and for other relevant matters, we request that you make Mr. Strelka and Ms. Siegel available for transcribed interviews with Committee staff. Please direct your staff to contact Committee staff as soon as possible but no later than September 8, 2014, to begin scheduling these interviews.

²⁶ See Letter from Peter J. Kadzik, U.S. Dep't of Justice, to Darrell E. Issa, H. Comm. on Oversight & Gov't Reform (Aug. 15, 2014).

²⁷ Leslie Wayne, *A fund-raising rainmaker arises online*, N.Y. TIMES, Nov. 29, 2007; "Nicole Siegel, Attorney Advisor – DOJ Legislative Affairs," www.linkedin.com/pub/nicole-siegel/10/185/692 (last visited Aug. 18, 2014).

²⁸ See Blog Post by Kim Niedermaier, "July '14: our mission in action," www.blog.actblue.com (Aug. 5, 2014).

²⁹ "Meeting Legislative Affairs – Discuss Personnel issue," July 1, 2010. [HOCR IRS 351]

³⁰ Letter from Peter Kadzik, U.S. Dep't of Justice, to Darrell E. Issa, H. Comm. on Oversight & Gov't Reform (May 28, 2014).

The Honorable Eric H. Holder, Jr.

August 25, 2014

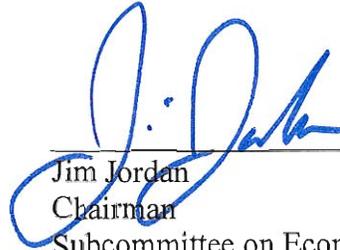
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The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at "any time" investigate "any matter" as set forth in House Rule X. Please contact David Brewer or Drew Colliatie with the Committee staff at 202-225-5074 if you have any questions. Thank you for your attention to this matter.

Sincerely,



Darrell Issa
Chairman



Jim Jordan
Chairman
Subcommittee on Economic Growth,
Job Creation and Regulatory Affairs

cc: The Honorable Elijah E. Cummings, Ranking Minority Member

The Honorable Matthew A. Cartwright, Ranking Minority Member
Subcommittee on Economic Growth, Job Creation and Regulatory Affairs