

Congress of the United States

Washington, DC 20515

April 6, 2017

The President
The White House
Washington, DC 20500

Dear Mr. President:

In your inaugural address, you said, “What truly matters is not which party controls our government, but whether our government is controlled by the people.” The most powerful and feared agency Americans interact with is the Internal Revenue Service, and it is currently run by a commissioner who testified falsely and obstructed a congressional investigation. His actions permanently deprived Americans of a full understanding of the IRS targeting scandal, where Americans were selected for extra scrutiny based on their political views. In keeping with the spirit expressed in your inaugural address, we ask that you demand IRS Commissioner John Koskinen’s resignation.

The IRS targeting scandal involved a concerted effort to target conservative non-profit organizations for their political beliefs. By applying additional rigorous scrutiny and unjustifiable, interminable delays to their applications for tax-exempt status, our own government betrayed the fundamental principles of liberty, free speech and democracy for partisan political reasons. The IRS delayed processing these groups for years.

Lois Lerner, the head of the Exempt Organizations division at IRS during the targeting, refused to testify before Congress about her role in the targeting, invoking her Fifth Amendment right against self-incrimination. The Committee interviewed many of her colleagues, but the best remaining source of information about her actions was her email records.

Koskinen repeatedly obstructed congressional attempts to recover those emails, both in what he said and what he failed to do. He made false statements under oath to Congress and failed to exercise any reasonable amount of diligence in preserving the crucial Lerner email records.

First, he did not preserve IRS records in accordance with his legal obligations pursuant to multiple congressional subpoenas.¹ Koskinen’s counselor learned of gaps in the Lerner email production on February 2, 2014.² At that time, the email back up tapes could have supplied missing Lois Lerner communications. However, over a month after IRS learned of the Lerner

¹ See H. Comm. on Oversight & Gov’t Reform Subpoena to Jacob Lew, Sec’y, Dep’t of the Treasury (Aug. 2, 2013); H. Comm. on Oversight & Gov’t Reform Subpoena to John Koskinen, Comm’r, Internal Revenue Serv. (Feb. 14, 2014).

² Transcribed interview of Thomas Kane, Deputy Assoc. Chief Counsel, Procedure & Administration, Office of Chief Counsel, Internal Revenue Serv. (July 17, 2014).

email gap, on March 4, 2014, midnight shift IRS employees in Martinsburg, West Virginia magnetically erased 422 backup tapes containing up to 24,000 Lois Lerner emails.³

The Treasury Inspector General for Tax Administration (TIGTA) would later easily find the backup tapes within 15 days of starting their investigation.⁴ It was simply a matter of asking for them—they were not hidden away.

Following the destruction of documents responsive and material to the Committee's investigation and related subpoenas, Koskinen testified falsely under oath:

- On June 20, 2014, he testified to the House Ways and Means Committee: “[S]ince the start of this investigation, every email has been preserved. Nothing has been lost. Nothing has been destroyed.”⁵ That was not true. The IRS destroyed email backup tapes containing up to 24,000 Lois Lerner emails on March 4, 2014, well after the investigation into IRS targeting had begun.
- At that same hearing, he also testified: “We confirmed that backup tapes from 2011 no longer existed because they have been recycled pursuant to the IRS normal policy.”⁶ This was also false. Senior IRS personnel knew of the gap in Lerner emails on February 3, 2014, and the tapes were destroyed over a month later, on March 4, 2014.
- Koskinen further testified: “We’ve gone to great lengths to spend a significant amount of money trying to make sure that there is no email that is required that has not been produced.”⁷ In reality, Koskinen and his staff failed to look in five of the six places where emails could potentially have been recovered.⁸ The Treasury Inspector General for Tax Administration testified to the Committee: “To the best that we can determine through the investigation, [IRS] just simply didn’t look for those emails. So, for the 1,000—over 1,000 emails that we found on the backup tapes, **we found them because we looked for them.**”⁹

In addition to those false statements, Koskinen fundamentally did not live up to the promises of cooperation he made at the time of his confirmation. At his confirmation hearing, he promised: “[W]e will be transparent about any problems we run into; and the public and

³ TREASURY INSPECTOR GEN. FOR TAX ADMIN., REPORT OF INVESTIGATION: EXEMPT ORGANIZATIONS DATA LOSS 2 (2015).

⁴ IRS: TIGTA Update, Part Two: Hearing before the H. Comm. on Oversight & Gov’t Reform, 114th Cong. (June 25, 2015).

⁵ Recent Developments in the Committee’s Investigation into the Internal Revenue Service’s Use of Inappropriate Criteria to Process Applications of Tax-Exempt Organizations: Hearing before the H. Comm. on Ways & Means, 113th Cong. (2014).

⁶ *Id.*

⁷ *Id.*

⁸ IRS: TIGTA Update, Part Two: Hearing before the H. Comm. on Oversight & Gov’t Reform, 114th Cong. (2015).

⁹ *Id.* (emphasis added).

certainly this committee [the Senate Finance Committee] will know about those problems as soon as we do.”¹⁰ Koskinen’s Office of Chief Counsel knew of the gap in Lois Lerner emails in February 2014 and did not inform Congress until June.¹¹ The Senate Finance Committee’s August 2015 report on the IRS targeting scandal noted “[t]here is bipartisan agreement that the IRS showed a lack of candor in this matter.”¹²

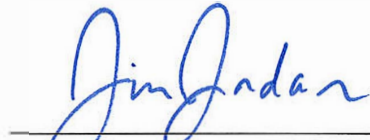
That lack of candor is ongoing. It has been over three years since Koskinen became commissioner, and new documents continue to emerge. On March 13, 2017, the IRS produced several hundred pages of new targeting-related emails to the Committee. On March 27, IRS produced several hundred more pages. With new documents coming so long after the initial request, we can have no certainty that Koskinen has identified and disclosed all relevant documents in IRS’s possession.

So long as the IRS commissioner is a man who has misled the people, destroyed evidence, and failed his legal duties to the people’s representatives in Congress, the IRS is not “controlled by the people.” For that reason, we request you immediately remove Koskinen.

Sincerely,



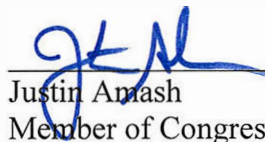
Jason Chaffetz
Member of Congress



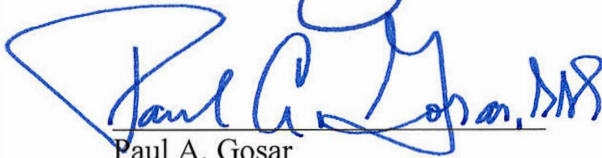
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Paul A. Gosar
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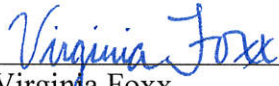
Scott DesJarlais
Member of Congress

¹⁰ *Nomination of John Koskinen, to be Commissioner, Internal Revenue Service: Hearing before the S. Comm. on Finance, 113th Cong. (2011).*

¹¹ *The Internal Revenue Service’s Processing of 501(c)(3) and 501(c)(4) Applications for Tax-Exempt Status Submitted by “Political Advocacy” Organizations From 2010-2013: Hearing before the S. Comm. on Finance at 20, 114th Cong. (S. Rept. 114-119).*


¹² *Id.* at 269.


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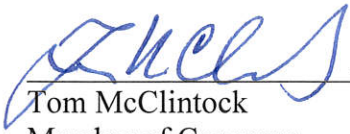

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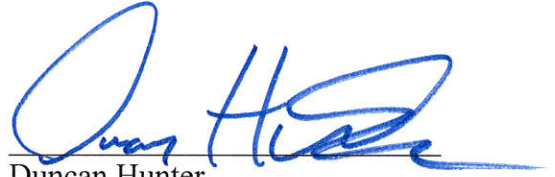

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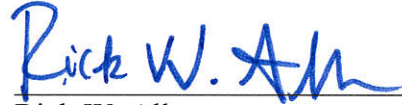
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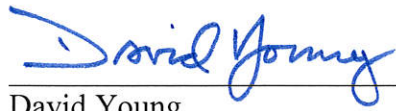
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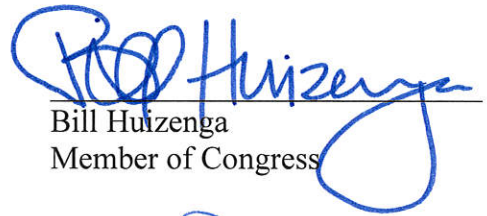
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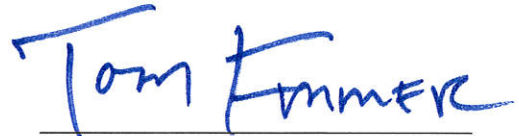
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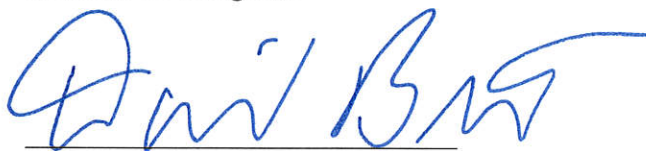
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