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Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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June 9, 2013

The Honorable Darrell E. Issa
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, DC 20510

Dear Mr. Chairman:

Over the past three years as Chairman, you have made a series of unsubstantiated allegations against the President, the White House, and senior Administration officials with little or no evidence to support your claims. Despite repeated urgings to focus on gathering facts in a bipartisan manner, you have made more and more extreme accusations with less and less evidence. You did this when you accused White House officials of being involved in "Operation Fast and Furious,"¹ when you accused Administration officials of deliberately lying about the attacks in Benghazi,² and again now as you accuse White House officials of using the IRS to target the President's political opponents—and then lying about it.³

Your actions over the past three years do not reflect a responsible, bipartisan approach to investigations, and the Committee's credibility has been damaged as a result. Your approach in all of these cases has been to accuse first, and then go in search of evidence to back up your claims. Rather than apologizing or correcting the record when the evidence does not fit your narrative, you have selectively leaked excerpts of interview transcripts, documents, and other

¹ *Rep. Issa: Operation Fast and Furious Went To The White House, Real Clear Politics* (Sept. 14, 2011) ("it went all the way to the White House") (online at www.realclearpolitics.com/video/2011/09/14/rep_issa_operation_fast_furious_went_to_the_white_house.html).

² *Issa: "No Question" Clinton's Circle Involved in Benghazi "Cover-Up," CBS News* (May 6, 2013) ("deliberately premeditated lying to the American people") (online at www.cbsnews.com/video/watch/?id=50146311n).

³ *Rep. Issa Tells Crowley: Cincinnati IRS Staff Says Direction Came From Washington, Calls Carney a "Paid Liar," CNN State of the Union* (June 2, 2013) (online at <http://cnnpressroom.blogs.cnn.com/2013/06/02/rep-issa-tells-crowley-cincinnati-irs-staff-say-direction-came-from-washington-calls-carney-a-paid-liar/>).

information, and you have withheld evidence that directly contradicts your claims, is exculpatory, or provides a more complete and fair understanding of the facts.

Your actions in the IRS investigation illustrate this concern. On May 14, 2013—before the Committee conducted even a single interview with any IRS employee—you went on national television and made this serious accusation:

This was the targeting of the president's political enemies effectively and lies about it [sic] during the election year, so that it wasn't discovered until afterwards.⁴

Other House Republicans followed your lead. For example, on June 3, 2013, Rep. Hal Rogers, the Chairman of the House Appropriations Committee, stated on national television:

Of course, the enemies list out of the White House that IRS was engaged in shutting down or trying to shut down the conservative political viewpoint across the country—an enemies list that rivals that of another president some time ago.⁵

To date, the Committee has obtained no evidence to indicate that the White House was involved in any way with the targeting of conservative groups by the IRS, identifying “Tea Party” groups for enhanced scrutiny for tax exempt status, or directing the use of criteria identified by the Inspector General as “inappropriate.” None of the five IRS officials who have appeared before the Committee has identified any White House involvement in these matters.

I am writing today to provide a copy of a memorandum prepared by my staff that includes additional information from witnesses who have appeared before the Committee regarding how these activities originated and evolved. This memo is not comprehensive, but it includes many critical facts you have not made public:

- Committee staff conducted a key interview last week with the IRS manager who supervised the team of screeners that evaluates applications for tax exempt status in Cincinnati, and this official stated that he is a “conservative Republican” with 21 years of experience at the IRS.
- Answering questions directly and candidly for more than five hours, he directly contradicted your claim of White House involvement, stating: “I do not believe that the screening of these cases had anything to do other than consistency and identifying issues that needed to have further development.”

⁴ *Issa on IRS Scandal: “Deliberate” Ideological Attacks*, CBS This Morning (May 14, 2013) (online at www.cbsnews.com/video/watch/?id=50146771n).

⁵ *Chairman Hal Rogers Talks IRS Targeting and Spending*, Fox News (June 3, 2013) (online at <http://youtu.be/AzXaJF09A1c>).

- When asked if he had “any reason to believe that anyone in the White House was involved in the decision to screen Tea Party cases,” he said he did not.
- When asked if he was “aware of any political motivations behind the screening, centralizing, and development of Tea Party cases,” he said he was not.
- This IRS manager was emphatic throughout his interview and stated repeatedly that he and his team “looked at these cases from a standpoint of the facts and circumstances that were in each case.”
- He informed the Committee that he agreed with one of his screeners that the first Tea Party case that came under scrutiny in this investigation was “appropriately” elevated to his superiors in 2010 as part of a standard procedure.
- Since that Tea Party group was seeking tax exempt status and indicated that it would be engaging in political activity, this IRS manager explained that more scrutiny was necessary: “We would need to know how frequently or—of the total activities, 100 percent of the activities, what portion of those total activities would you be dedicating to political activities. And in this particular case, it wasn’t addressed.”
- He said he then instructed his team of screeners to identify similar cases so that “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.” He stated that he took this action on his own and that “no one said to make a search.”
- In addition, the Committee interviewed an IRS screener in Cincinnati who worked for the self-identified “conservative Republican” IRS manager. This screener acknowledged developing search terms later identified by the Inspector General as “inappropriate.”
- This screener explained, for example: “I used ‘patriots,’ because some of the Tea Parties wouldn’t—they would shorten their name to TP Patriots. I thought, okay, I will use ‘patriot.’ And I would see TP Patriots.”
- This screener said he developed these terms on his own based on a request from the IRS manager, but the IRS manager said he did not become aware that this screener used these terms until June 2, 2011, when the head of the Cincinnati IRS office asked him for a list of criteria screeners were using to identify Tea Party cases.

As the IG report explains, when information about how Tea Party cases were being centralized and screened was provided in 2011 to Lois Lerner, the Director of Exempt Organizations, she ordered a halt to these activities and directed that the criteria be changed to include all “organizations involved with political, lobbying, or advocacy” rather than only Tea

Party organizations.⁶ Ms. Lerner failed to inform Congress of her actions, however, despite sending multiple responses to congressional inquiries after she had ordered the change.

Conclusion

When you first assumed your position as Chairman in January 2011, I wrote to you with an offer to be “your partner in responsible oversight that serves the American public by eliminating wasteful spending and making government work more effectively and efficiently.” I also raised concern, however, with “a series of unfounded and reckless assertions” you had made prior to becoming Chairman—such as calling President Obama “one of the most corrupt Presidents in modern times”—and I proposed working together to “elevate the level of discourse not only on our Committee, but across the nation.” As I wrote:

I want the Committee to engage in oversight that is regarded as serious rather than dismissed as silly or absurd; to establish strong predicates for investigations rather than making unsubstantiated allegations that waste taxpayer funds; to use Committee resources to inform and educate the American people rather than attacking opponents; and to conduct comprehensive, balanced investigations that seek out the truth rather than launching one-sided inquiries designed to fulfill predetermined outcomes.⁷

I still believe the Committee can conduct a responsible and bipartisan investigation of the IRS matter, and I believe the American people want us to do just that. For these reasons, I request that we work together to take the following steps going forward:

- (1) develop consensus findings based on the evidence before the Committee;
- (2) release publicly the transcripts of all interviews conducted by Committee staff, after making limited redactions to protect individual privacy; and
- (3) issue a comprehensive and bipartisan report with recommendations adopted by the full Committee.

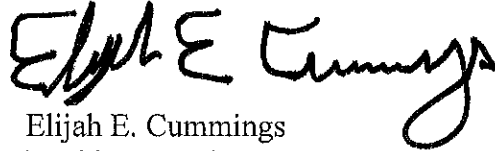
⁶ Treasury Inspector General For Tax Administration, *Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review* (May 14, 2013).

⁷ Ranking Member Elijah E. Cummings to Chairman Darrell E. Issa, House Committee on Oversight and Government Reform (Jan. 18, 2011) (online at http://democrats.oversight.house.gov/index.php?option=com_content&task=view&id=5158&Itemid=104).

The Honorable Darrell E. Issa
Page 5

I believe these key steps will help restore trust not only in the IRS, but in our Committee as well. Thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Elijah E. Cummings". The signature is fluid and cursive, with the first name "Elijah" written in a stylized, somewhat abbreviated manner, followed by "E." and "Cummings".

Elijah E. Cummings
Ranking Member