

From: "Brand, Stan" [REDACTED]

Date: June 20, 2016 at 4:35:31 PM EDT

To: [REDACTED]

Subject: Pension forfeiture

You have asked me to address the effect of a simple House resolution purporting to require the Commissioner of the Internal Revenue Service to forfeit his pension based on a "censure" of the Commissioner for alleged failure to comply with Committee subpoenas and other alleged infractions. First a simple one House resolution does not have binding legal effect on any person outside the House of Representatives. This has been clear at least since the Supreme Court decision in *Chadha v INS* which established that any law having the purpose or effect of governing the conduct of persons outside the legislature is subject to the constitutional requirements of bicameral passage and presentment to the President. Accordingly any House resolution purporting to impact Commissioner Koskinen's federal pension rights would be of no binding legal effect on officers of the federal government. Moreover even a bicameral resolution if enacted and signed by the President would be subject to constitutional challenge as a prohibited bill of attainder barring the imposition of pains and penalties by the legislature as a "trial" affecting the rights of an individual. These types of judgments are reserved to federal courts under controlling Supreme Court jurisprudence.

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