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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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June 13, 2013

The Honorable Darrell E. Issa
Chairman
Committee on Oversight and Government
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

I am writing in response to your letter on June 11, 2013, regarding your recent objection to releasing the full transcripts of Committee staff interviews with IRS employees. Specifically, I am writing to seek clarification of your position and to request that you identify the specific text of the transcripts you believe should be withheld from the American public.

As you know, on May 14, 2013—before the Committee conducted any interviews with IRS employees—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.¹

After making this claim, you then set out to find evidence to support it, and Committee staff began conducting transcribed interviews with multiple IRS employees over the next several weeks.

On June 2, 2013, during an appearance on CNN's State of the Union, you unilaterally released excerpts from some of these interviews, and you made additional unsubstantiated allegations. When pressed to release the full transcripts to support your claims, you promised to do so:

¹ *Issa on IRS Scandal: "Deliberate" Ideological Attacks*, CBS This Morning (May 14, 2013) (online at www.cbsnews.com/video/watch/?id=50146771n). See also *Chairman Hal Rogers Talks IRS Targeting and Spending*, Fox News (June 3, 2013) (online at <http://youtu.be/AzXaJF09A1c>) ("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.").

CROWLEY: Why don't you put the whole thing out? Because you know our problem really is—and you know that your critics say that Republicans and you in particular sort of cherry pick information that go to your foregone conclusion, so it worries us to put this kind of stuff out. Can you not put the whole transcript out?

ISSA: The whole transcript will be put out. We understand—these are in real time. And the administration is still—their paid liar, their spokesperson, picture behind, he's still making up things about what happens in calling this local rogue. There's no indication—the reason the Lois Lerner tried to take the fifth is not because there is a rogue in Cincinnati, it's because this is a problem that was coordinated in all likelihood right out of Washington headquarters and we're getting to proving it.²

You raised no concerns about releasing the full transcripts during your interview, and you put no conditions on your commitment to do so.

For these reasons, on June 9, 2013, I wrote to ask that you follow through on your pledge. In particular, I asked you to release the transcript of the Committee's interview with a Screening Group Manager in Cincinnati who identified himself as a "conservative Republican" and led a team of Screening Agents in screening applications for tax exempt status. Answering questions from Committee staff directly and candidly for more than five hours, this official denied any political motivation on the part of his team.³

I asked for the Screening Group Manager's interview transcript to be made public because I believe it will establish several key facts:

- (1) **There was absolutely no White House involvement whatsoever in the origination or development of the process to screen Tea Party cases.**

Neither the Screening Group Manager nor any other witness who has appeared before the Committee has provided any evidence to back up this wholly unsubstantiated claim. The Inspector General also identified no evidence of White House involvement.

- (2) **We now know how the very first Tea Party case at issue in this investigation was initially flagged and elevated to IRS technical officials in Washington.**

According to the Screening Group Manager, a screener who worked for him in Cincinnati highlighted the first Tea Party case in February 2010. The Manager agreed that the case should be elevated to technical officials in Washington because the application indicated that the organization would be engaging in political activity, because it was "high profile," and because they wanted to ensure consistency in the treatment of cases with similar facts and circumstances.

² *State of the Union*, CNN (June 2, 2013) (online at www.youtube.com/watch?v=9zuQU-Mqll4&feature=youtu.be).

³ Letter from Ranking Member Elijah E. Cummings to Chairman Darrell E. Issa (June 9, 2013) (online at <http://go.usa.gov/bPcm>).

- (3) **We now know how the first effort to centralize these cases began.**
The first effort to centralize these cases was initiated by the same IRS Screening Group Manager in Cincinnati, who told Committee staff that he took this action on his own, without any direction from his superiors, and without any political motivation. When informed that officials in Cincinnati had identified similar cases, the technical office in Washington agreed to set up a process to provide tax law guidance to ensure the consistent review of those cases.
- (4) **We now know who first developed and used terms later identified by the Inspector General as “inappropriate,” such as “Patriot” and “9/12.”**
These terms were developed by another screener who also worked for this same self-identified “conservative Republican” Screening Group Manager in Cincinnati. The screener told Committee staff that based on a review of applicant websites, he found and began using terms like “Patriots” and “912 projects” in his searches. The Screening Group Manager told the Committee he did not become aware of the use of these terms until more than a year later.

If accurate, these statements by the Screening Group Manager appear to directly contradict your allegations of political motivation. They also appear to contradict recent statements by Rep. Dave Camp, the Chairman of the House Committee on Ways and Means, who stated on June 12, 2013: “We know it didn’t originate in Cincinnati.”⁴

Although you committed on June 2 to release the full transcripts of these interviews, you wrote to me nine days later reversing your position and arguing instead that taking such action would be “reckless” and “undermine the integrity of the Committee’s investigation.”⁵ Since you did not raise these objections previously—either with me or in your various television appearances—I would like to seek clarification to ensure that we proceed in a responsible and considered manner:

- First, your letter states that full transcripts could be used by future witnesses “to devise testimony consistent with the narrative that previous witnesses presented to Committee investigators.” Your release of select excerpts, however, poses exactly the same risks. For this reason, one of your other Republican colleagues, Rep. Charles Boustany of Louisiana, who chairs the Oversight Subcommittee of the House Committee on Ways and Means, stated that your actions may “adversely alter our ability to get future information from other IRS employees.” He added: “Just simply from a process standpoint, you don’t want to do that and alter what others might say. ... I really am

⁴ *Ways and Means Chairman: IRS Targeting of Tea Party Groups Didn’t Start in Ohio*, The Hill (June 12, 2013) (online at <http://thehill.com/blogs/on-the-money/domestic-taxes/304965-camp-irs-targeting-didnt-start-in-cincinnati>).

⁵ Letter from Chairman Darrell E. Issa to Ranking Member Elijah E. Cummings (June 11, 2013).

concerned that it could tip this into the political realm rather than a true detailed investigation to get the facts out.”⁶

If a potential future witness reads the excerpts you already released publicly, won't he or she be able to devise testimony consistent with those excerpts?

- Second, your letter states that releasing select excerpts from interview transcripts is acceptable, but releasing full transcripts is not. One obvious problem with this approach is that by releasing only portions of transcripts, you subject yourself to charges of cherry-picking evidence you believe supports your position while concealing evidence that contradicts it. Since you have already crossed this threshold by releasing excerpts, some of your own Republican colleagues believe you should now allow the public to see the full transcripts. For example, on Tuesday, Republican Senator Rob Portman stated: “Let’s see everything. Let’s see it all. And let’s see all the transcripts and you know let’s have a fair, objective analysis of this.”⁷

Now that you have released pre-selected excerpts, isn't it more transparent and fair to release full transcripts, particularly when you promised to do so?

- Third, your letter states that releasing the full transcripts would serve as a “roadmap” of the Committee’s investigation. Yet, several media outlets have reported that you have been inviting select reporters into your offices to review copies of some entire transcripts. As one reporter stated: “We spent three hours sifting through the Committee interview transcripts of two different Cincinnati workers—those that were made available to us.”⁸

Why is it acceptable to allow select media outlets to review some full transcripts, but not release the Screening Group Manager’s full transcript?

Although I understand the general concern with disclosing publicly full transcripts, in this case you have already taken numerous unilateral steps that argue in favor of a full release: you chose to make very serious and unsubstantiated allegations before the Committee had conducted even a single interview of any IRS employees, you chose to unilaterally release select excerpts from these interviews to try to support your claims, you chose to pledge on national television that you would release the full transcripts, and you chose to allow select reporters to review at least some of these transcripts. Based on the totality of your actions to date, it seems very difficult for you to argue now that releasing the full transcripts to the public will somehow compromise the integrity of the Committee’s investigation.

⁶ *IRS Probe: 2 Distinct Approaches*, Politico (June 10, 2013) (online at www.politico.com/story/2013/06/irs-probe-darrell-issa-dave-camp-92545.html).

⁷ *Fox 19 Takes IRS Investigation to Washington D.C.*, Fox 19 (June 12, 2013) (online at www.fox19.com/category/240225/video-landing-page?clipId=8982493&autostart=true).

⁸ *Id.* See also *Cincinnati IRS Agents First Raised Tea Party Issues*, USA Today (June 11, 2013) (online at www.usatoday.com/story/news/politics/2013/06/11/how-irs-tea-party-targeting-started/2411515/).

In order to move forward in a responsible manner, I propose the following approach. I am attaching for your review a copy of the transcript of the Committee's interview of the IRS Screening Group Manager in Cincinnati. In this copy, the names of individuals have been redacted to protect their privacy. In order to provide the public with the most comprehensive information possible without jeopardizing the Committee's investigation, I request that you review this version of the transcript and identify any specific text you believe should be withheld from the American people, as well as the specific reason you believe that text should continue to be concealed from public view. I request that you provide any additional proposed redactions on Monday, June 17, 2013.

In addition, since you have not sought my input on a protocol for how to handle the release of interview transcripts, I propose that our staffs meet to discuss a bipartisan procedure to handle these types of issues in the future. As I made clear on Sunday, although I fundamentally disagree with the unsubstantiated claims you have made about the IRS matter being driven by the White House to attack the President's political enemies, you are the Chairman of this Committee, and I want to give you appropriate deference in conducting investigations. I believe we should proceed in a responsible manner in order to uphold the integrity of the Committee, and I continue to hope that we can focus in a bipartisan manner on an approach that maximizes transparency and accuracy.

I thank you in advance for your cooperation with this request.

Sincerely,



Elijah E. Cummings
Ranking Member