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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

May 23, 2013

VIA U.S. MAIL & EMAIL (Catherine.M.Barre@IRS.gov)

Mr. Daniel I. Werfel
Acting Commissioner
Internal Revenue Service
U. S. Department of the Treasury
1111 Constitution Avenue
Washington, D.C. 20224

Dear Mr. Werfel:

We are writing to urge you to suspend immediately Lois Lerner from her office as Director of the Office of Exempt Organizations at the Internal Revenue Service (IRS). We believe that Ms. Lerner failed to disclose crucial information concerning the IRS's inappropriate targeting of some conservative 501(c)(4) organizations during the course of a Permanent Subcommittee on Investigations inquiry into how the IRS enforces the 501(c)(4) law, leading to an incomplete account of the full operations of her unit.

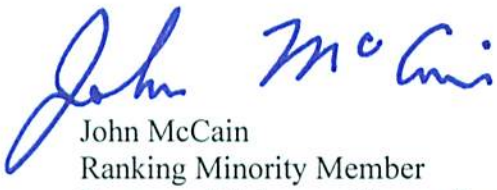
Since March of last year, the Subcommittee has been examining whether the IRS adequately and appropriately enforces tax code provisions and implementing regulations regarding the extent to which tax-exempt 501(c)(4) groups may engage in political campaign activity. The Subcommittee asked the IRS why it was not enforcing the 501(c)(4) statute which states that social welfare organizations should be used "exclusively for the promotion of social welfare" and instead enforcing the more lenient IRS regulation which states that a social welfare organization may be used "primarily" for social welfare. It also asked the IRS about how they reviewed applications filed by certain Democratic and Republican leaning 501(c)(4)s. Our investigation has included a year's worth of correspondence between the Subcommittee and the IRS, as well as document productions and repeated consultations with IRS staff.

On April 30, 2013, Ms. Lerner and seven IRS colleagues spent six hours being interviewed, on a bipartisan basis, by Subcommittee staff. That interview covered, among other topics, how the IRS determines which groups to review, what actions are taken in connection with the IRS reviews, and how the laws and regulations are used to examine those groups. Ms. Lerner failed to disclose the internal controversy over the search terms used by the Cincinnati office to identify 501(c)(4) groups for further review, the actions taken by that office in reviewing the identified groups, the investigation and imminent findings by the Treasury Department Inspector General for Tax Administration (TIGTA), and TIGTA's conclusion that the IRS had used inappropriate criteria to target Tea Party and other conservative groups. Ms. Lerner also failed to disclose that she was fully aware of these issues as early as June 2011, and,

according to TIGTA, had been personally involved in reviewing questionable actions taken by the Cincinnati office.

Given the serious failure by Ms. Lerner to disclose to this Subcommittee key information on topics that the Subcommittee was investigating, we have lost confidence in her ability to fulfill her duties as Director of Exempt Organizations at the IRS. Ms. Lerner's continued tenure in the office she holds, where she is responsible for overseeing 1.6 million tax-exempt organizations, would erode public trust and confidence in the IRS and its professional integrity. We believe that the immediate removal of Ms. Lerner from office would be a vital step in helping to restore public trust in the agency.

Sincerely,



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Ranking Minority Member
Permanent Subcommittee on Investigations

Carl Levin
Chairman
Permanent Subcommittee on Investigations