



June 18, 2014

J.P. Cooney
Trial Attorney
United States Department of Justice
Criminal Division--Public Integrity Section
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

Via Email Only (joseph.cooney2@usdoj.gov)

Re: Criminal Investigation of IRS Mistreatment of Conservative Tax-Exempt Applicants

Dear Mr. Cooney:

We are writing to inform you that, in light of new information, we are no longer voluntarily cooperating with your criminal investigation regarding the mistreatment by IRS officials of conservative groups, including our clients, during their tax-exempt application process. We presented the clients you specified for interviews on May 8, 2014, provided you with requested documents and additional information, and also agreed to speak with our thirty-seven other client groups regarding information you requested in your letter of May 13, 2014. During the process we were working under the assurances from the Department of Justice (DOJ) that our clients are not subjects or targets of your investigation.

Recently, hundreds of emails to and from Lois Lerner, who was the then-Director of Exempt Organizations for the IRS, have been made public. One chain of email correspondence, in particular, has raised serious concerns on our behalf. It originates with an email of May 8, 2013, a copy of which is attached, from Lerner to Nikole Flax, the chief of staff to former IRS commissioner Steven Miller. Copied on the email are other IRS officials.

In her email to Flax, Lerner states that she had received a call that same day from Richard Pilger, the Director of the Election Crimes Branch of DOJ's criminal division. Pilger called Lerner seeking to coordinate with the IRS to see whether they could "piece together false statement cases" against applicants who allegedly "lied" on their tax-exempt application forms. Based on the context of the email and the time period, the tax-exempt groups they were referencing were obviously conservative groups. In the email response of May 9, 2013, which is also enclosed, Flax agreed to the idea and wanted to include the Criminal Investigation Division to help coordinate the effort and possibly the Federal Election Commission (FEC).

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As noted, we have fully cooperated with what you have requested of us as it relates to your investigation, but, in light of this new information regarding a possible or actual DOJ/IRS/FEC criminal investigation of tax-exempt applicants, which could include our clients, we have decided to cease our voluntary cooperation.

We think the information we have provided you to date is sufficient to further your ongoing investigation, which we hope leads to criminal prosecution of those IRS officials who unlawfully discriminated against conservative applicants for tax exemption based on their political affiliation or viewpoint.

Very truly yours,

AMERICAN CENTER FOR LAW & JUSTICE

A handwritten signature in black ink, reading "Edward L. White III". The signature is fluid and cursive, with a horizontal line at the end.

Edward L. White III*
Senior Counsel

*Admitted in Michigan & Florida

Encl: May 8-9, 2013, Lerner/Flax emails

cc w/ encl.: ACLJ co-counsel

From: Flax Nikole C
Sent: Thursday, May 09, 2013 8:04 AM
To: Lerner Lois G
Cc: Grant Joseph H; Marks Nancy J; Vozne Jennifer L
Subject: RE: DOJ Call

I think we should do it – also need to include CI, which we can help coordinate. Also, we need to reach out to FEC. Does it make sense to consider including them in this or keep it separate?

From: Lerner Lois G
Sent: Wednesday, May 08, 2013 5:30 PM
To: Flax Nikole C
Cc: Grant Joseph H; Marks Nancy J
Subject: DOJ Call
Importance: High

I got a call today from Richard Pilger Director Elections Crimes Branch at DOJ. I know him from contacts from my days there. He wanted to know who at IRS the DOJ folks could talk to about Sen. Whitehouse idea at the hearing that DOJ could piece together false statement cases about applicants who "lied" on their 1024s --saying they weren't planning on doing political activity, and then turning around and making large visible political expenditures. DOJ is feeling like it needs to respond, but want to talk to the right folks at IRS to see whether there are impediments from our side and what, if any damage this might do to IRS programs.

I told him that sounded like we might need several folks from IRS. I am out of town all next week, so wanted to reach out and see who you think would be right for such a meeting and also hand this off to Nan as contact person if things need to happen while I am gone --

Thanks

Lois G. Lerner
Director of Exempt Organizations