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FEDERAL BUREAU OF INVESTIGATION

Date of entry 05/07/2014

FEDERAL TAXPAYER INFORMATION

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LOIS G. LERNER, date of birth [redacted] Social Security account number [redacted] residence address [redacted] home telephone [redacted] e-mail address [redacted]

[redacted] was interviewed pursuant to a proffer letter at the law offices of Zuckerman Spaeder LLP, 1800 M St. NW, Suite 1000, Washington, D.C. 20036, telephone (202) 778-1800. LERNER's attorneys, [redacted] and [redacted] were present during the interview. Also present during the interview were Department of Justice Attorneys [redacted] and [redacted] and Treasury Inspector General for Tax Administration (TIGTA) Special Agent [redacted]. Prior to the interview, LERNER's attorneys provided a copy of her resume which contained her professional and educational background information. This document will be maintained in the 1A section of the case file. During the interview, documents were shown to LERNER and hereafter those documents will be referred to by their respective bates numbers or other identifying information and copies will be maintained in the 1A section of the case file. After being advised of the identities of the interviewing Agents and the nature of the interview, LERNER provided the following information:

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When LERNER first joined the Internal Revenue Service (IRS) in 2001 it was as the Director of Rulings and Agreements (R&A) in Exempt Organizations (EO). STEVE MILLER was the Director of EO at the time. He was then promoted to Commissioner of Tax Exempt and Government Entities (TEGE). LERNER became the Acting Director of EO for three to four months after MILLER left. MARTHA SULLIVAN, who was in charge of Small Business (SB), was brought in to be EO Director because she had experience in Examinations and LERNER did not. SULLIVAN held the position for a year before leaving. MILLER then asked LERNER to be EO Director. After turning MILLER down three times, LERNER finally took the permanent position of EO Director at the end of 2005. LERNER stated that the joke was always that MILLER was the Director of EO no matter who was in the role because he was very involved in EO.

For background, former IRS Commissioner MARK EVERSON moved the focus of

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by [redacted]

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the IRS back towards enforcement on the tax side, particularly on tax abuses. The Federal Trade Commission (FTC) put out "buyer beware" type information on the credit counseling business. EVERSON called LERNER over to discuss the credit counseling issue before he met with the press to discuss it. EVERSON wanted a focused project on credit counseling because it appeared individuals would take advantage of the exempt status afforded credit counseling. With over 18 million exempt organizations, and only 450 people working in EO for the IRS, only about one percent of exempt organizations are audited annually. Since EO did not have the resources for more, they focused on areas of significant non-compliance. A working group was created from various groups in the IRS, which included IRS Counsel (Counsel) and Outreach, to review large amounts of information and come up with a work plan which was then used to guide where the IRS focused its resources. This work plan went to the TEGE Commissioner and the Deputy Commissioner of Services and Enforcement and was then usually shared with the IRS Commissioner. It was EO's desire to be open with the exempt sector so that they knew what issues the IRS reviewed.

In 2010, LERNER reported to the Deputy Commissioner of TEGE, JOSEPH GRANT. SARAH HALL INGRAM was the Commissioner of TEGE and she reported to MILLER, who was the Commissioner of Services and Enforcement. When GRANT took over as Acting Commissioner of TEGE after INGRAM went to work on the Affordable Care Act (ACA), he was not given a Deputy with whom to share the administrative burden of the position. Unlike INGRAM, GRANT did not have an EO background; rather he had an Employee Plans (EP) background. As such, GRANT had a tough time transitioning to the position of TEGE Commissioner. This created an atmosphere where functionally LERNER reported directly to MILLER, depending on the issue. LERNER would mostly talk with NIKOLE FLAX, MILLER's advisor. Once the Tea Party issue was recognized, it was coordinated through MILLER's office even when MILLER moved from Services and Enforcement to the IRS Commissioner at the end of 2012. LERNER stated the worst thing you can do is to not tell people above you about issues because you do not want them to get "caught with [their] pants down" on issues.

The direct reports for the Director of EO included the following: Director of R&A, an executive assistant, secretary, Customer Outreach, Director of Examination, Senior Technical Advisor, and Administrative Program Manager.

The first time LERNER recalled the issue of the advocacy cases coming up was in a meeting held in June or July 2011. LERNER acknowledged that there had been articles in the press recently about how she received documents earlier than this, including a Sensitive Case Report (SCR) that she responded to in an e-mail; however, she did not recall that e-mail

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exchange. HOLLY PAZ, [REDACTED] attended the meeting along with others who she did not remember. In this meeting, LERNER was told or shown something that stated that the EO Determinations people in Cincinnati were selecting cases for further review based on name. When she found this out, she went "ballistic." She had them change the name to advocacy. She did not recall there being a lot of cases at the time nor did she recall why this meeting/briefing came about. It would be normal for her to get briefed on relevant issues. LERNER did not believe the reason she was briefed was because of the name issue or because people had a problem with what Cincinnati EO Determinations was doing. LERNER yelled and raised her voice at the meeting; she is passionate and tended to get loud when that happened. She was definitely upset at the meeting. She found it extraordinarily inappropriate and dangerous to use names as a way to refer to and select cases. After the meeting, LERNER had a conversation with PAZ. PAZ mentioned the term "Tea Party" was just used inside the IRS to describe these cases. LERNER explained that was still not right. It probably never occurred to Cincinnati that it would be wrong to use the term "Tea Party" to describe the cases. LERNER recognized that PAZ was a new executive who did not come up through the ranks of the IRS, and therefore, had not learned the political sensitivity piece of the job yet. LERNER described her conversation with PAZ as "this was her lesson" in political sensitivity.

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The action item people left the meeting with was to describe the cases as advocacy cases. LERNER received no pushback on this issue from anyone at the meeting. People at the meeting understood the fact that labeling could be a problem because she told them that during the meeting. The people in the meeting were Washington D.C. people, not Cincinnati people. "They were lawyers; they should get it." Cases should be selected based on the issues and she told them what the criteria should be based on the issues that were discussed at the meeting. LERNER advised that you "don't argue with the boss at the IRS." LERNER focused her talking to PAZ. PAZ went back and talked to [REDACTED] and they changed it. LERNER may have talked to [REDACTED] on the telephone about it, but she was not sure when. LERNER was told the "Be on the Lookout" list or BOLO list was set up because cases needed to be categorized together as determinations specialists were based all over the country. The BOLO also consolidated e-mails that had previously been the primary way specialists were notified about issues.

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Shortly after the meeting, LERNER told GRANT that Cincinnati selected cases based on the organization, not based on issue criteria. LERNER did not use the name of the groups or the term "Tea Party" when she described it to GRANT. She told him that she told Cincinnati to fix it. She gave him this information as part of a bunch of other items on which she briefed

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him. She did not emphasize the issue because she knew it was taken care of based on her meeting with PAZ and everyone else.

The next time LERNER dealt with these cases was around February 2012 when she received a call from FLAX requesting that she talk to some Capitol Hill staff, most likely from Representative DARRELL ISSA's office, about 501(c)(4) applications and how some were taking too long. As background, the IRS employees in Cincinnati are revenue agents. As such, their job was to expedite the handling of cases and get through their work as quickly as possible. Their function is similar to that of an assembly line. The employees in Washington D.C. are tax law specialists, and most of them are also attorneys, especially those that work in EO Technical. The specialists work with the grey area of tax law. LERNER met with PAZ and [REDACTED] to prepare for this meeting. They told her about the process that these cases went through which seemed very normal to LERNER. To start off, there were new or different issues, so EO Technical got involved. EO Technical would often try to come up with a guidesheet to assist Cincinnati in working the cases. Cincinnati would use development letters to work their cases. For example, when Cincinnati had an influx of credit counseling cases, EO Technical helped come up with a questionnaire to assist in creating the development letters. Also, with regard to the credit counseling cases, every group was asked every question in the development letter questionnaire. The other useful part of development letters was that the IRS put them on its website so that the public knew what was needed when other organizations sought exemption in similar areas.

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As background, 501(c)(4) organizations can do general advocacy, lobbying, or political advocacy. While they can do political advocacy, it cannot be the organization's social welfare purpose. The distinction between political advocacy and lobbying can be a difficult one to make and usually requires further review and development. The hardest issue is determining whether activity is political or not. Determining whether something has a social welfare purpose or a non-social welfare purpose was not unusual. The "new animal" they were dealing with was the size of the political activity that organizations were getting involved in.

These applications for exemption had come in and EO Technical, trying to assist Cincinnati, asked for one 501(c)(3) case and one 501(c)(4) case to work. [REDACTED] coordinated the cases with [REDACTED] because she was the subject matter expert in political activity, not because she was LERNER's technical advisor. Cincinnati had started to develop the cases while waiting for help from Washington. Some of the organizations failed to respond to the development letters, which meant their status became Failure to Establish (FTE). The difference between these cases and groups of cases in the past, was that these cases did not all have similar issues which

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made it difficult to work them. LERNER asked PAZ and [REDACTED] if they had a guidesheet and they said they had a draft of one, which pleased her. Everything regarding these cases seemed like the regular process cases go through; only these cases just had difficult, non-similar issues. LERNER was aware that these cases were taking a long time, but that was not unusual in the IRS. Unfortunately, lots of cases took too long for various reasons including staffing rules, Counsel involvement, and other factors. LERNER clarified that staff rules were related to grade-level specific work, meaning only certain grade level agents can work certain types of cases.

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FLAX, JOSEPH URBAN, and LERNER went to this meeting with four congressional staff from ISSA's office. LERNER was not sure which committee it was for. URBAN went because he was very familiar with disclosure requirements regarding what could and could not be discussed. IRS Legislative Affairs, which always went to these types of meetings with people on Capitol Hill, sent someone but LERNER did not remember who it was. The meeting with the congressional staff was about complaints from their constituents. Since the staff did not have authority to receive disclosure of 6103 material, LERNER and the IRS did not get into case specifics. Instead they talked about the general process that cases went through. LERNER was aware that these were advocacy cases because of the issues being discussed. During this discussion the congressional staff asked whether the IRS had guidance in the context of 501(c)(4)s. LERNER said the IRS did and the congressional staffers asked if they could get a copy. LERNER said she would have to check if they could do that. LERNER had looked quickly at the guidesheet before the meeting and thought it looked good. The guidesheet needed to be a practical tool, not just restate the revenue rulings and other guidance. It seemed like a reasonable tool to her. LERNER attended many meetings on Capitol Hill and would not describe this meeting as "painful." The staffers were simply expressing concerns. There was a lot of confusion about what 501(c)(4)s could do. Senator CARL LEVIN's office had also inquired about 501(c)(4)s not being able to do political work. LERNER noted that there were more groups than just Tea Party groups on the list of cases that were being inquired about by Capitol Hill.

LERNER and FLAX briefed MILLER about the meeting. LERNER wanted approval to give out the guidesheet. MILLER asked if it had been reviewed by Counsel to which LERNER did not know the answer. LERNER had three action items coming out of the meeting with MILLER. First, she was to find out if the guidance had been approved. Secondly, she was to put together a letter to applicants that were put in the FTE status because they did not answer questions. This was in response to the concern of how long the process was taking and to notify them that the IRS will help work with

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them. Lastly, she was to stop Cincinnati from issuing any more development letters. In the meeting with the congressional staffers, there was concern that Cincinnati was asking too many questions. LERNER was not sure if this was true or not. LERNER did not recall any specific questions being discussed at that meeting, more that there were just a lot of questions being asked of groups. LERNER stated she probably did not know that there were issues with specific questions until later, when people from the Washington office went out to Cincinnati.

LERNER had PAZ ask Cincinnati to find out if there was a template development letter for all of these cases or were they reviewing each case individually and coming up with questions. The answer LERNER got back was that these letters were individually specific to each case. LERNER would not second guess what revenue agents thought they needed to develop a case. However, what LERNER was finding out and telling MILLER was not meshing with what was in the press. LERNER also assigned PAZ to draft the letter MILLER wanted sent to applicants who were put in the FTE status. LERNER or PAZ asked [REDACTED] to look at the development questions.

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LERNER understood that a copy of part of the guidesheet was sent to Cincinnati to review in order to get feedback as to whether it was helpful or not. [REDACTED] said the guidance was not helpful. While the guidance was progressing, it was not finalized so it was never issued to Cincinnati to use.

LERNER talked to JANINE COOK and VICTORIA JUDSON in Counsel's office. It was normal for LERNER to talk to COOK or JUDSON on issues. COOK and JUDSON had Employee Plans backgrounds. She told them about the guidesheet and that she needed it as quickly as possible. [REDACTED] were assigned to work on it. Counsel was not comfortable with the guidesheet and came back with a revision that was not particularly useful. LERNER met with COOK, PAZ, and the people working on the guidance. LERNER became very "passionate at the meeting." What Counsel gave them was not guidance, but rather a "law review article." Guidesheets were meant to be informal guidance, not formal guidance for precedential value. She pulled in NAN MARKS, Senior Technical Advisor, to help. MARKS used to be in JUDSON's position at Counsel and had been a revenue agent in EO. Counsel tried to meet halfway on the guidance, but Counsel's process was even slower than the determination's process. LERNER stated that Congress asking about the draft guidesheet was not the motivation to get the guidesheet out. It was to be able to make the guidesheet public so it could be shared and used.

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It was not unusual that the guidance had not gone to Counsel earlier. There was a little tension between Counsel and the IRS tax specialists in

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EO. Since EO had its own tax specialists and provided its own technical assistance internally, it was not unusual for EO to not consult with Counsel. While it took a long time for Counsel to review the guidance, LERNER was not shocked by how long it took. LERNER kept MILLER and FLAX apprised of what was going on.

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There were several things that were swirling around at the end of March 2012. MILLER called in MARKS to take a look at what was going on. There was precedent for using the Senior Technical Advisor to conduct a review of whether the IRS was doing something correctly or not. FLAX called LERNER because she was worried that LERNER would be upset about having someone else come in and review what was going on. LERNER was supportive of MARKS coming in and going to Cincinnati with a team to review what was going on. Since LERNER was the head of the department, she was not supposed to be involved in a review. At some point around this time, [REDACTED] came back and reported on troubling questions being used in the development letters. [REDACTED] may have reported this to MARKS.

MARKS and her team traveled to Cincinnati and when they returned held meetings in May 2012 to discuss their findings. MARKS may have had a pre-meeting with MILLER prior to the larger group meeting attended by MARKS, LERNER, MILLER, FLAX, GRANT, and INGRAM. One of the findings was that in January 2012 Cincinnati changed the BOLO list description for political advocacy to more specific names. LERNER found out about this change in April 2012, possibly from PAZ. PAZ then changed the description for advocacy on the BOLO list. FLAX appeared like she knew about Cincinnati changing the criteria on the BOLO, and LERNER felt like she may have told FLAX about it beforehand on a telephone call and that it may have come up again in another meeting. MILLER appeared like he knew about the issue as well, however, LERNER was not sure if she told him. MARKS also discussed how Cincinnati pulled cases based on names and asked lots of questions in the development process including the donor question. It was agreed in the meeting that since they could not get a guidesheet from Counsel, they would send an experienced team from Washington to Cincinnati to walk Cincinnati through these cases to find out why they were working cases the way they were. They did not want to give Cincinnati the impression that they were bad or wrong in what they were doing, rather they just wanted to help them work the cases while allowing Cincinnati to make the decisions.

MILLER was very upset about the person who changed the criteria on the BOLO and a group discussion ensued. Everyone did not agree on what to do about it. Ultimately, MILLER said he would leave the decision of what to do about it up to that person's management. Since LERNER was sidelined at this point, she did not deal with it. It was also agreed at the meeting

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that this matter rose to the level of something that TIGTA should look at, and therefore, it should be referred to TIGTA. LERNER said she would make the referral since she was the head of EO, but MILLER said the Commissioner's Office would refer it. The decision to involve TIGTA was because of the use of political focus for selection. However, she did not have concerns that it actually happened. Cincinnati was always overwhelmed and the people there were always trying to reduce the workload. This was them trying to move cases.

A team was sent back to Cincinnati to review and work cases with Cincinnati as a group and try to approve as many cases as they could. LERNER had to provide people for the team. She was not kept apprised of what was going on while the team was in Cincinnati. She probably talked to MARKS about staffing for the team, but she was not supposed to be very involved. She was not walled off, rather she was just not told about what the team was going to do. LERNER reviewed scripts of what the revenue agents were to say when they contacted taxpayers.

While people at the IRS were upset about what happened with these cases, they still had to deal with it. LERNER did not feel like she was on the hot seat at that time, but maybe she should have. She did not feel that PAZ had withheld any information, but LERNER was still frustrated by what had happened. LERNER was very upset about Cincinnati changing the BOLO list again. LERNER believed "when a manager tells you something to do, it gets done."

LERNER thought that MARKS' view of the situation was to get Cincinnati back on track and not reprimand them. She thought MILLER's view was to remove the person responsible. LERNER thought both viewpoints were understandable. LERNER did not and still does not know the name of the employee that changed the BOLO list.

The legislative affairs section of the IRS received letters from Congress about the general process around 501(c)(4) organizations. LERNER attended a meeting where there was discussion about sending letters out to Congress about changes the IRS was making in how these applications were being processed. She received a draft of the letter from FLAX. She gave her comments on the letter back to FLAX but did not hear from her again about it. LERNER did not think the letter went far enough in explaining the issue and it did not mention that there could be political motivation. LERNER did not know if the letter went out, but does not think it did. The letter did not mention the Tea Party name. There was no discussion about mentioning the name. LERNER did not have any discussions about names. The Tea Party name did not mean anything to her. There were several names and criteria that were used to select cases.

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LERNER provided a copy of an e-mail dated June 4, 2012 from FLAX to LERNER that contained a letter to update Congress on changes to the application process and a copy of the e-mail where LERNER made her changes to the letter. With regard to the latter e-mail, LERNER was uncertain as to why the "From:" and "To:" sections of the e-mail both have LERNER's name. The comments on the attached letter were hers. (Copies of both e-mails will be maintained in the 1A section of the case file). At this point, LERNER started reviewing response letters to Congressional inquiries into 501(c)(4) issues. LERNER never sent Congressional response letters she was not comfortable with in the back and forth with Congress. In preparing responses she would not have talked to staff in Cincinnati, but may have talked to [REDACTED] about a template development letter.

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LERNER did not recall meeting with IRS Commissioner DOUGLAS SHULMAN on this issue. She only met with SHULMAN two or three times ever. She did not know if information about these cases was briefed up to him or what he may have been briefed on if they were. LERNER had a discussion with [REDACTED] and FLAX about SHULMAN's testimony and the timing of it. She did not recall the context of the discussion because that was not her issue. She did recall that SHULMAN's testimony, that there was no targeting, was accurate. It was accurate because that was not what happened. Targeting was also the issue that TIGTA would look into.

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Around June 2012, the IRS received an opening letter for the audit from TIGTA, which seemed normal. LERNER put PAZ in charge of responding to audit requests as LERNER knew that TIGTA would need a lot of information. Usually the group being audited spoke with TIGTA throughout the entire audit process. As such, the IRS often saw an informal draft of the report before the actual draft report. LERNER had gone through many, many audits before and it was good to go over the pre-draft report in a collegial manner. She found this often eliminated confusion on issues early on.

[REDACTED] PAZ, and LERNER met with TIGTA about the draft. TIGTA looked at the black and white on issues. While the selection of these groups of cases may have been inappropriate, how the cases were then worked was not inappropriate. TIGTA saw improper selection, and therefore, saw an improper result. LERNER thought the issue TIGTA was looking into was whether there was political bias, not whether there was bad management. If TIGTA wanted to "ding" management then fine, but TIGTA should be clear that there was no bias. Cases were more complex than just whether certain terms were used in the applications. She felt that TIGTA oversimplified their review of the cases.

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LERNER sent an e-mail to [REDACTED] of TIGTA addressing these concerns. She talked to him on the telephone about her issues.

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Additionally, EO could not find an e-mail about the BOLO List that TIGTA had requested. LERNER contacted Counsel's office and tried to put them in touch with [REDACTED] because she knew that the disclosure and Freedom of Information Act (FOIA) people within Counsel's office could often locate documents because of the search ability that they used to respond to litigation holds and inquiries. LERNER thought [REDACTED] and someone in Counsel's office talked, but he still could not find the e-mail. LERNER had PAZ ask Cincinnati again to look for the e-mail. When it could not be located, LERNER asked PAZ to find out if there even was an e-mail in the first place. It turned out that there was not an e-mail, but rather it was a training about the BOLO list. LERNER found it troubling that TIGTA was going to refer this particular issue of the missing e-mail for investigation had it not been worked out.

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LERNER also had concerns about terms that TIGTA was using in its report like "political team" and "targeting." TIGTA ultimately took out "political team" but left "targeting" in the report. [REDACTED] asked LERNER if he could e-mail her questions regarding the audit and have her respond in writing by e-mail. This was highly unusual, but LERNER complied and responded to three questions via e-mail. LERNER did not recall if she showed her response to anyone. She did write the response herself.

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When EO received the formal draft of the TIGTA report, it was given to PAZ to write the draft response. [REDACTED] who coordinated the formal responses to TIGTA, gave the report to PAZ, but he did not give her examples to use on how to respond. LERNER did not think PAZ's draft response was what it needed to be. The response should be very formal. LERNER wanted the response to give a larger context of the issue. The response was not a place to argue TIGTA's findings. The response then went to the TEGE Commissioner's office, and then to the IRS Commissioner's office for review. The final response did not have some things that LERNER thought should be in there, like a reference to the Citizens United case.

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FLAX asked LERNER if she was speaking at the Georgetown Conference in April. She told FLAX she was. FLAX told LERNER that MILLER wanted her to speak about the Cincinnati issue. However, because LERNER was the first speaker in the morning, the timing did not work out. The Secretary of the Treasury, JACK LEW, was scheduled to speak on Capitol Hill at the same time in the morning and they did not want him to have to address questions. [REDACTED] was the contact for the conference and LERNER called her and asked about changing her times. [REDACTED] said she would get back to her and then later notified LERNER that she could do the later time. FLAX told LERNER not to worry, that FLAX and MILLER would tell LERNER what to say. LERNER did not know what she was allowed to say. LERNER got something from FLAX that she characterized as a "rambling" document. LERNER was not

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comfortable with what was in it. She was not sure if she got it from an e-mail or it was handed to her. She did not like the "thrust" of it and did not think it was in line and consistent with what they had been telling Congress. Also, it was not what they had used to respond to the TIGTA report, and therefore, why give a different response. This was before the final response to the TIGTA report was written. LERNER told FLAX that the draft response to the TIGTA report was better than this document. LERNER did not end up saying anything at the Georgetown Conference. FLAX told LERNER not to worry about it, MILLER had a Congressional appearance coming up where he would get a question and could address the issue. LERNER did not think about the timing of the announcement; she was concerned with what was okay to say in light of the fact that the report had not been released yet. MILLER did not end up getting asked the question at his Congressional meeting.

In reference to the TIGTA report, LERNER asked [redacted] to mention in the report that EO referred the whole issue to TIGTA. [redacted] told LERNER that he did not know that it was referred by EO. LERNER contacted FLAX, possibly by e-mail, to ask about this. FLAX said she would look into it. LERNER asked FLAX a couple more times. LERNER then asked MARKS, who said there was a miscommunication and it was not referred to TIGTA by EO for some reason. LERNER does not know the reason.

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LERNER participated in a meeting before the American Bar Association (ABA) meeting where she was given handwritten notes from MILLER (LERNER provided a copy of these notes which will be maintained in the 1A section of the case file). [redacted] FLAX, MILLER, and [redacted] were at this meeting. The notes were not her wording style, so she asked if she could change them. One of the concerns they had was that they did not want to send letters to only "one side of the aisle" in Congress, and by addressing it at the ABA everyone received the information at the same time. LERNER had never been given handwritten notes before and told to use them. This was unusual. LERNER was not involved in any discussions about how to release the information or why they should release it before the report. She knew they were trying to get the word out, and give their side before the release of the report. No one ever explicitly told her the reasons.

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On Wednesday, May 8, 2013, LERNER was involved in a hearing in front of Representative CHARLES BOUSTANY regarding the Colleges and Universities Report. In preparation, she had a meeting where she was briefed by Legislative Affairs on questions that had been received from Congress, one of which was about the two political projects EO was working on. During the hearing, the last question she received was about political stuff, and she thought it was about the political projects. Based on the rules of the hearing she only had half a minute to respond. At this point, she knew she

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was going to speak at the ABA meeting. FLAX had previously asked her if she was speaking at the ABA meeting. The ABA meeting was set up in a panel format and was very topic specific, unlike the general work plan style of the Georgetown Conference. As such, LERNER needed to have a question asked to set the platform to discuss the TIGTA issue. FLAX acted as a middle man between LERNER and MILLER. FLAX told her that she needed to bring up the issue at the ABA meeting. LERNER knew [] as she was part of LERNER's Advisory Committee which wrote public reports and made recommendations on EO issues. LERNER asked [] if she would be willing to ask a question. [] told LERNER that was fine, but she was not the moderator of LERNER's panel, [] was. So LERNER asked [] if [] could ask a question. LERNER noted that draft guidance on 501(c)(4) organizations had been a topic at the ABA meeting before.

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MILLER and LEW were scheduled to be in hearings on May 8, 2013 as well. LERNER did not recall if they were to be together in one hearing or were in two separate hearings. LERNER understood that [] would give the Congressional staff at that hearing a heads up about what was going to be said at the ABA meeting. After LERNER's hearing, she met with [] who told her that LEW and MILLER's hearing was delayed. [] said she would go later to give the staff a heads up [] never provided the information. LERNER did not find out that it did not happen until after the ABA meeting.

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LERNER's statement at the ABA meeting was basically what MILLER had written. LERNER only made a few changes and she told FLAX what her changes were. One change was the removal of the term "political vendetta." MILLER wanted her to say there was no "political vendetta." LERNER did not understand why she should even bring it up since it was not the case and the term "political vendetta" had not been used anywhere before. (LERNER provided a copy of her notes used at the ABA meeting, which will be maintained in the 1A section of the case file).

IRS Media Relations called two friendly reporters to have them at the ABA meeting. At the ABA meeting, LERNER was involved in two different sessions. LERNER read the statement at her first session. During the break before her second session she met with the two reporters that Media Relations sent over. LERNER assumed there would be press. After the ABA meeting, LERNER received an e-mail from [] That is when "all hell broke loose." She went to [] office and was told they had 20 reporters that wanted to talk to her on a conference call. That was when LERNER realized [] never told anyone. It was crazy and no one seemed to know what was going on. MILLER was not at the IRS, as [] had some medical issue. What LERNER said was reported differently, something about low-level staff. Cincinnati was upset that she used the term low-level

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staff not line-level staff. She did not remember saying low-level. LERNER talked to [] in [] office, but the issue they were dealing with was way bigger than what Cincinnati was upset about. LERNER put together an e-mail to go out to Cincinnati employees, but she was not sure if it ever went out. LERNER left the next morning to go on a previously scheduled trip to Canada for a wedding and her wedding anniversary.

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LERNER received a letter from Representative ISSA which was passed on to her by [] ISSA was upset about her statement and wanted to know if she was coming to testify. The letter basically told her that they think she lied before Congress and that was a crime. She was very upset. She talked to General Legal Counsel (GLS). She might have talked to [] but she was not sure. She asked about the letter. She was told that if your boss tells you to go, you have to go. GLS also told her if she did go, she did not have to testify. And if she did not testify, there were no repercussions from the IRS.

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LERNER talked to PAZ the next day about the people in Cincinnati. She thought she talked to PAZ before she talked to MILLER. When MILLER called her, he told her that the President had asked for his resignation and that he would give it. MILLER told her to get a lawyer and that it was every man for himself. MILLER said he would testify because he wanted to. LERNER told MILLER what GLS had told her. MILLER said he would not tell her to testify. GRANT then called LERNER. He was crying and told her that he had resigned. He then directed her to appear before Congress.

While LERNER was still on vacation, she was supposed to go to her law school and receive an award. She received a call from [] who told her that "they killed Steve on the Hill." She recommended that LERNER not go get the award. LERNER said [] told her this as a friend, not as an IRS employee.

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LERNER was shown an e-mail dated February 1, 2011 from her to PAZ mentioning "Tea Party Matter very dangerous." By "dangerous," LERNER meant that this was a very sensitive issue because it could go to court in light of the Citizens United ruling. LERNER had attended an EO conference at New York University (NYU) in 2010 where academics and practitioners came together. At the conference there were papers presented about the effect of Citizens United. While Citizens United was based on election laws, which are different from tax rules, there was discussion about what the Supreme Court might do regarding whether the decision affected EOs. These cases needed to be done correctly, that was why she asked PAZ if Cincinnati should have them. Cincinnati was more of an assembly line approach to cases. PAZ responded that they were handling them like it was a sensitive issue.

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SCRs were not a regular part of EO R&A. LERNER did not believe they had SCRs prior to January 2011. LERNER usually received a table listing the reports, but was not sure about whether she saw the underlying reports. In EO Examinations they did not use a table; they used the reports themselves and consequently LERNER saw these reports on a regular basis. LERNER was shown a copy of the April 2010 SCR for [REDACTED] [REDACTED] She was not sure if she saw this report but did not think she received it.

b3 -1

LERNER was shown an e-mail dated May 24, 2011 between her, [REDACTED] and several others. This e-mail was about another issue that was swirling around at the time. While there was a push for getting cases moving, one of the problems that they found was organizations would say they had no political activity, then on the Form 990 they stated they were politically active. People were asking if the IRS will go after people for lying on either form 1023 or 1024. Referrals were a vehicle to lodge formal complaints against EOs. These complaints went to a panel of career IRS employees to determine if the complaint was really an issue.

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Several years ago, the IRS came up with the Political Activities Compliance Initiative (PACI). PACI was a program that arose out of the realization that the IRS cannot select all cases where there were allegations of political activity by an exempt organization, as this will swamp them with work. So the IRS came up with criteria for selection for examination. The IRS tried to use the information from the form 990 to come up with better selection criteria. Either the referral committee received it or a classifier agreed it should be looked at.

LERNER was shown an e-mail dated May 26, 2011 between her, PAZ, and [REDACTED] regarding [REDACTED] LERNER did not remember these e-mails. LERNER did not think [REDACTED] was one of the best people they had and did not think he should be heading up such a sensitive issue. Her views had to do with his performance, not his political views. [REDACTED] had been there a long time but did not have a history of working political activity as far as LERNER knew. She did not think he had the appropriate sensitivity and knowledge to work the cases.

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b7C -3

LERNER was shown an e-mail chain dated May 27, 2011 regarding [REDACTED] LERNER remembered that EO Examinations had received referrals on [REDACTED] The Dual Track project had selected one referral. EO Determinations was working on a denial for exemption. LERNER told NAN DOWNING that opening an exam on [REDACTED] was a waste of time if EO Determinations denied the application. LERNER had discussions with people in Washington who were working with Cincinnati. She might have told FLAX about the proposed

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denial. There was still a lot of development that was being done as this case was a bucket four case. This case was probably raised to her attention because of Congress asking about it and it was receiving media attention.

[redacted] writes a blog about EOs that most EOs follow. In relation to the [redacted] cases, he had an article about the critique of a case where an organization was approved and it appeared that the IRS had changed its view. The approved case, which was made public, was very similar to some denials, which were redacted and then made public. LERNER went to EO Technical to find out what was going on. She may have talked to [redacted] or someone else. Cincinnati had approved the case mentioned, but did not look closely at the issues. The case appeared like it would favor "one side of the aisle." The IRS had to look at its options. It could either refer the one case to EO Examinations, which would end up revoking the exemption, or send a letter to the taxpayer notifying them that the IRS was looking at the issue and would work with them on it. This would get EO Technical involved to look at the issues. EO Technical eventually pulled the exemption. LERNER was shown five e-mail chains dating July 20, 2011 to July 22, 2011 regarding the [redacted] cases. The IRS put out three redacted denials for [redacted] cases. She noted that [redacted] changed from 501(c)(4) status to 527 status. In the e-mails, LERNER also wanted to know what else may be out there in Cincinnati. LERNER did not think that a grouping was made for the [redacted] cases. She did not know what the [redacted] groups did.

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LERNER was shown three e-mail chains dated August 10, 11 and 22, 2011 regarding political activity and 501(c)(4)s. LERNER was making a speech in Nebraska when she got a call from MILLER. He wanted her to be thinking about what the IRS was going to do in the 501(c)(4) area. The IRS had received lots of letters from Congress related to 501(c)(4)s. These inquiries included: what were these organizations doing, why was the IRS not shutting them down, and gift tax issues. This happened after the Citizens United verdict. LERNER got [redacted] on board with obtaining information related to these topics. [redacted] oversaw LERNER's strategic planning process, which covered what EO would be working next year. She had [redacted] figure out what projects they could start to review an organization's activities. She wanted [redacted] to look at the cases involved in political activity, and in particular their 990s and come up with some recommendations. They looked at information they had in-house and tried to come up with plans. LERNER did not remember if the Cincinnati 501(c)(4) issues came up in her discussions with MILLER at this time. She thought maybe they did, but she did not recall.

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LERNER was shown a spreadsheet of taxpayer information frequently called the "triage sheet." LERNER had not seen this "triage sheet"

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before. [redacted] replaced [redacted] to work advocacy cases with [redacted]
[redacted] PAZ thought [redacted] was good which was why she was
selected to become an expert in this area.

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LERNER was shown an e-mail dated May 12, 2011 between her, MILLER, FLAX, and GRANT. LERNER had no recollection of this e-mail where the Commissioner wanted the name of an EO taxpayer. The IRS Commissioner was permitted to know the name of a taxpayer, however, LERNER noted that it was the career staff's job to keep the Commissioner out of trouble so that he or she did not ask things that were inappropriate. This was not unusual and therefore protected the Commissioner from pressure. The IRS is not political.

LERNER was shown an e-mail dated May 12, 2011 between her and MILLER about donations referred. This e-mail was related to the gift tax issue and global high wealth, which was where the IRS looked into high wealth donors. The IRS was looking at contributions. A revenue agent saw large donations in EO Determinations cases and called the person. The agent did not tell his/her bosses about it. The IRS was then accused of looking at donors of 501(c)(4) organizations.

LERNER was shown an e-mail dated June 16, 2011 between her, [redacted] and [redacted]
[redacted] This e-mail was about general plans on the projects.

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LERNER was shown an e-mail chain dated May 4, 2012 between her and MILLER. A discussion had occurred about moving an individual out of his or her position. MILLER bit her head off about it, and she had voiced her opinions strongly on the matter.

LERNER was shown an e-mail dated May 2, 2012 between her and MILLER. This e-mail was about what LERNER should be doing. LERNER had a conversation with [redacted] and was getting back to MILLER about it. It was a little awkward with MARKS doing things for MILLER in Cincinnati and LERNER being out of the loop on them.

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LERNER was shown an e-mail chain dated May 10, 2012 between her and MILLER with subject "C4 issue." She had no recollection of this e-mail.

LERNER recommended PAZ for [redacted] in her personnel evaluation. PAZ was very new, but LERNER thought very highly of her. This issue was the toughest of issues. LERNER thought PAZ handled it well as this was the hardest stuff they have to deal with. 501(c)(4)s were not black and white. The people trying to do the work were doing the best they could. The things done were not done for the wrong reasons or political agenda.

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Some things they did to try and fix the issue were not the best, while some were good. No one was particularly to blame. Congress made it a big deal.

LERNER had no knowledge of people acting with political or other motivations. She had no knowledge of anyone disregarding the litigation hold. No one tried to influence her statements and she did not have any knowledge of people acting in an obstructive way. LERNER had only spoken to PAZ twice since she was put on administrative leave. PAZ contacted her once about the civil suit defense and once about the status of her personnel action. LERNER only spoke to MARKS twice as well.

The [REDACTED] never came up in LERNER's work at the IRS. To save money at the IRS and not get new signature stamps, they used her signature stamp as EO Director to sign the letter. It should be the head of EO Rulings and Agreements, but since there was only an acting at the time they used LERNER's stamp.

b3 -1

LERNER heard that PAZ sat in on the TIGTA interviews. She was not sure if she knew this at the time it happened. She did not find it unusual or odd. In LERNER's many audits while at the IRS, she was not sure if that happened before, but she would condone that so that they would know what was going on. LERNER remembered PAZ saying that the staff were nervous about the interviews, so it was good that PAZ was there.

LERNER was shown two e-mail chains dated November 4, 2012 and November 8, 2012 between her and the e-mail addresses [REDACTED] and [REDACTED] respectively. These e-mails were from personal friends who sent them to her IRS e-mail account. They should not have sent them. LERNER stated that people at the IRS did not talk about political views. The IRS is not a political organization, they keep that out. LERNER did not discuss her political views at work.

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