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<p>1 Q. Is it correct that Crossroads at this 12:35 2 point in time was still being considered part of the 12:35 3 advocacy Tea Party cases? 12:35 4 A. I don't recall. 12:35 5 Q. Do you have any reason to disagree with 12:35 6 what's stated in the E-mail, series of E-mails, in 12:35 7 Exhibit 17? 12:35 8 A. No. 12:35 9 MR. MARTIN: All right. That might be a 12:35 10 decent time for a break -- 12:35 11 MS. BENITEZ: Sure. 12:35 12 MR. MARTIN: -- for lunch. 12:35 13 VIDEOGRAPHER: Going off the record. The 12:35 14 time is now 12:34 p.m. 12:35 15 [Whereupon, at 12:34 p.m., a lunch recess was 12:35 16 taken, to reconvene at 1:15 p.m. this same day.] 12:35 17 18 19 20 21 22</p> <p style="text-align: right;">Page 150</p>	<p>1 applicants, were likely entitled to exemption; is 01:35 2 that right? 01:35 3 A. No. I don't know that it was 01:35 4 necessarily likely. From what I recall, the thinking 01:35 5 at that point in time while we might have had some 01:35 6 concerns about the amount of political activity 01:35 7 applicants were going to engage in, that because a 01:35 8 lot of them were newer organizations that had not 01:35 9 been in operation for very long, that we would not 01:35 10 have a basis for denial despite our concerns. 01:35 11 Q. Is that referring to the application 01:35 12 process generally being representational, as you've 01:35 13 mentioned? 01:35 14 A. Yes. 01:35 15 Q. And just so that I understand, the 01:35 16 organizations had filed applications representing 01:35 17 their intended -- what they were organized for and 01:35 18 what they have done and also their intended 01:35 19 activities, and you thought that -- you suspected 01:36 20 that for the majority of those applications that that 01:36 21 would warrant the recognition of exemption? 01:36 22 MS. BENITEZ: Objection. Vague. 01:36</p> <p style="text-align: right;">Page 152</p>
<p>1 AFTERNOON SESSION 12:35 2 VIDEOGRAPHER: We are back on the record. 01:34 3 The time is now 1:33 p.m. 01:34 4 FURTHER EXAMINATION BY COUNSEL FOR PLAINTIFFS 01:34 5 BY MR. MARTIN: 01:34 6 Q. Welcome back from lunch. I'm going to 01:34 7 ask you to turn to Exhibit 16 that we were discussing 01:34 8 previously. 01:34 9 A. Okay. 01:34 10 Q. This is the E-mail that -- the string of 01:34 11 E-mails that we were talking about from you and 01:34 12 Ms. Janine Cook and Nancy Marks that begin with 01:34 13 "Below is some background on what we are seeing." 01:34 14 Do you see that? 01:34 15 A. Yes. 01:34 16 Q. And if you turn to the seconds page, you 01:34 17 state, quote: We suspect we will have to approve the 01:34 18 majority of the (c)(4) applications. 01:34 19 Did I read that correctly? 01:34 20 A. Yes. 01:35 21 Q. So at this point in time, you knew it 01:35 22 was likely that the (c)(4) applicants, Tea Party 01:35</p> <p style="text-align: right;">Page 151</p>	<p>1 THE WITNESS: My recollection is that at the 01:36 2 time, my thinking was that the majority of the (c)(4) 01:36 3 applications, while they may have indicated some 01:36 4 amount of political activity, that we would not have 01:36 5 enough basis to make a determination that that would 01:36 6 be their primary activity and deny them exempt 01:36 7 status. 01:36 8 BY MR. MARTIN: 01:36 9 Q. And, therefore, they would receive an 01:36 10 approval or recognition of exemption? 01:36 11 A. Correct. 01:36 12 Q. You also say: "Given the volume of 01:36 13 applications and the fact that this was not a new 01:36 14 issue, just an increase in the frequency of issue, we 01:36 15 plan to have EO Determinations work the cases." 01:36 16 Did I read that correctly? 01:36 17 A. Yes. 01:36 18 Q. And you're saying this is not a new 01:36 19 issue. Is that referring to potential political 01:36 20 campaign intervention? 01:36 21 A. Yes. 01:37 22 Q. So the issue of potential political 01:37</p> <p style="text-align: right;">Page 153</p>

39 (Pages 150 to 153)

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<p>1 campaign intervention was something that EO 01:37 2 Determinations had previously been handling up until 01:37 3 that point? 01:37 4 A. It's an issue that both EO 01:37 5 Determinations and EO Technical had dealt with 01:37 6 before. 01:37 7 Q. So there were agents with experience in 01:37 8 that and you were confident that EO Determinations 01:37 9 could handle that; is that right? 01:37 10 A. I would not say that, just that it was 01:37 11 an issue that we had encountered before. 01:37 12 Q. And that led you to conclude that -- or 01:37 13 led you to plan to have EO Determinations work the 01:37 14 case? 01:37 15 MS. BENITEZ: Objection. Vague. 01:37 16 THE WITNESS: As I recall, part of the 01:37 17 decision, the thought, the thinking regarding 01:37 18 Determinations working the case was the number of 01:37 19 applications. EO Determinations had a far greater 01:37 20 number of employees than EO Technical did. 01:37 21 BY MR. MARTIN: 01:37 22 Q. And as we had talked about previously, 01:37</p> <p style="text-align: right;">Page 154</p>	<p>1 A. Yes. That's what it says. 01:39 2 Q. And then that was June 27, 2011. I 01:39 3 think it's shown here that you then forward this 01:39 4 E-mail to members of the Treasury Inspector General; 01:39 5 is that right? 01:39 6 A. Yes. 01:39 7 Q. And you note that: "Attached is the 01:39 8 briefing paper used in the meeting with EO director 01:39 9 in June 2011." 01:39 10 A. Yes. That's what the E-mail says. 01:39 11 Q. And this is referring to that June or 01:39 12 July 2011 meeting that we've discussed previously? 01:39 13 A. Yes. 01:39 14 Q. And if you'll look to the actual 01:39 15 briefing paper titled "Increase in (c)(3), (c)(4) 01:39 16 advocacy org applications". Do you see that? 01:39 17 A. Yes. 01:39 18 Q. And the third bullet point says that 01:39 19 over 100 cases have been identified so far, a mix of 01:39 20 (c)(3)s and (c)(4)s. Do you see that? 01:39 21 A. Yes. 01:40 22 Q. And is that correct as to how many cases 01:40</p> <p style="text-align: right;">Page 156</p>
<p>1 at this point, there were more than a hundred 01:38 2 organizations that had been flagged as a Tea Party by 01:38 3 this point; is that right? 01:38 4 A. I have would have to look back at the 01:38 5 dates on all the different documents that we've 01:38 6 looked at here before. 01:38 7 Q. Well, let me hand you just another 01:38 8 exhibit. 01:38 9 A. Okay. 01:38 10 [Paz Exhibit No. 18 was 01:38 11 marked for identification.] 01:38 12 MR. MARTIN: I'm going to hand you what's 01:38 13 marked as Exhibit 18. 01:38 14 [Witness peruses exhibit.] 01:38 15 THE WITNESS: Okay. 01:38 16 BY MR. MARTIN: 01:38 17 Q. And there's an E-mail from Justin Lowe 01:38 18 to you. It says: "Holly, attached is the briefing 01:38 19 paper we plan to use at the meeting with Lois on 01:39 20 Wednesday afternoon. Please let me know if you have 01:39 21 any questions or would like to meet beforehand." 01:39 22 Is that right? 01:39</p> <p style="text-align: right;">Page 155</p>	<p>1 have been identified so far at this point in time? 01:40 2 A. I don't recall exactly how many cases, 01:40 3 but that's what the document says. 01:40 4 Q. And segueing that back to the question I 01:40 5 asked before we turned to this exhibit, is that what 01:40 6 you were referring to as far as the number of cases 01:40 7 at this point in time as the basis for wanting to 01:40 8 have EOD work the cases? 01:40 9 A. Yes. 01:40 10 Q. In this briefing document, there is some 01:40 11 background on the cases. There is an EOD request. 01:40 12 There's options for next steps and then cautions. 01:40 13 Do you see how the document is structured? 01:40 14 A. Yes. 01:40 15 Q. And in the options for next steps, 01:40 16 there's a number of bullet points. Are you with me? 01:40 17 A. Yes. 01:40 18 Q. And No. 2, the second bullet point, 01:40 19 says: "EOT composes a list of issues or political 01:41 20 lobbying indicators to look for when investigating 01:41 21 potential political intervention and excessive 01:41 22 lobbying, such as reviewing website content, getting 01:41</p> <p style="text-align: right;">Page 157</p>

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<p>1 copies of educational and fundraising materials, and 01:41 2 close scrutiny of expenditures." 01:41 3 Did I read that correctly? 01:41 4 A. Yes. 01:41 5 Q. And so this was an option for this 01:41 6 meeting to be discussed; is that right? 01:41 7 A. Yes. 01:41 8 Q. And the exhibits we talked about 01:41 9 previously that we'll have you look -- first, if we 01:41 10 begin with Exhibit 15 -- 01:41 11 A. Okay. 01:41 12 Q. -- the attachment on the second page 01:41 13 that you're looking at, the first bullet point is: 01:41 14 "EO Technical will develop a draft check sheet for 01:41 15 Cincinnati to use." 01:42 16 Do you see that? 01:42 17 A. Yes. 01:42 18 Q. Is that essentially similar to what is 01:42 19 shown in the second bullet point of Exhibit 18? 01:42 20 A. Yes. I would say they're similar. 01:42 21 Q. So that option, would you agree that 01:42 22 that option was implemented, agreed to be 01:42</p> <p style="text-align: right;">Page 158</p>	<p>1 Goehausen did a triage document, triage review of the 01:43 2 advocacy cases held? 01:43 3 A. She did, but I don't believe it was 01:43 4 limited to 15 or 20 cases. 01:43 5 Q. It was more than that? 01:43 6 A. I believe it was all of the cases that 01:43 7 were open at that point in time. 01:43 8 Q. Okay. So that, actually, was part of 01:43 9 this options for next steps in No. 18; would you 01:43 10 agree? 01:43 11 MS. BENITEZ: Objection. Vague. 01:43 12 BY MR. MARTIN: 01:43 13 Q. The third bullet in the options for next 01:43 14 steps. 01:44 15 A. I don't know that those are really the 01:44 16 same thing. 01:44 17 Q. Okay. See -- and, again, we're going to 01:44 18 jump again to Exhibit 16. 01:44 19 A. Sixteen, okay. 01:44 20 Q. I think we were just talking about that. 01:44 21 A. Okay. 01:44 22 Q. And you say "However, we plan to have EO 01:44</p> <p style="text-align: right;">Page 160</p>
<p>1 implemented? 01:42 2 A. Yes, in that form. 01:42 3 Q. And the second -- sorry -- the third 01:42 4 bullet point in Exhibit 18 -- 01:42 5 A. Are you under options? 01:42 6 Q. Yes. Yes. Thank you, and we're jumping 01:42 7 around a little bit. So let me know if I lose you at 01:42 8 some point. 01:42 9 It says: "Establish a formal process similar 01:42 10 to that used in healthcare screening where EOT 01:42 11 reviews each application on TEDS and highlights 01:42 12 issues for development." 01:42 13 Do you see that? 01:43 14 A. Yes. 01:43 15 Q. And if you look back on Exhibit 15, the 01:43 16 second bullet point, it's not exactly the same, but 01:43 17 the second one says Cincinnati will send 15 to 20 01:43 18 developed cases to EO Technical in order for 01:43 19 Technical to review or via the TEDS system. Do you 01:43 20 see that? 01:43 21 A. Yes. 01:43 22 Q. And, in fact, isn't it the case that Ms. 01:43</p> <p style="text-align: right;">Page 159</p>	<p>1 Technical compose some informal guidance", which we 01:44 2 just spoke about. 01:44 3 A. Okay. 01:44 4 Q. I think that is similar to the check 01:44 5 sheet that we just talked about; would you agree? 01:44 6 A. Yes. 01:44 7 Q. "Regarding development of cases", and 01:44 8 you mentioned "review websites". Do you see that? 01:44 9 A. Yes. 01:44 10 Q. And that's similar to what in the 01:44 11 options for next steps, No. 2, recommended reviewing 01:44 12 website content? 01:44 13 A. Yes. 01:44 14 Q. Is that right? 01:44 15 Other of the options for next steps, it says: 01:44 16 "Include pattern paragraphs on the political 01:45 17 intervention restrictions in all favorable letters." 01:45 18 Do you see that? 01:45 19 A. Yes. 01:45 20 Q. That, in fact, did occur with the 01:45 21 advocacy organizations at a later point in time when 01:45 22 favorable letters were sent out; is that right? 01:45</p> <p style="text-align: right;">Page 161</p>

41 (Pages 158 to 161)

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<p>1 A. I don't remember. 01:45</p> <p>2 <b>Q. It say: "Refer the organizations that</b> 01:45</p> <p>3 <b>were granted exemption to the ROO for followup."</b> 01:45</p> <p>4 <b>Did I read that correctly?</b> 01:45</p> <p>5 A. Yes. 01:45</p> <p>6 <b>Q. And that's -- what is a ROO?</b> 01:45</p> <p>7 A. Review of operations. 01:45</p> <p>8 <b>Q. And what's the process involved with</b> 01:45</p> <p>9 <b>that?</b> 01:45</p> <p>10 A. The process for what? 01:45</p> <p>11 <b>Q. The ROO.</b> 01:45</p> <p>12 A. The ROO was a part of EO Exam, and 01:45</p> <p>13 Determinations could send approved applications that 01:45</p> <p>14 refer them to the ROO for followup at a later date. 01:45</p> <p>15 <b>Q. And the ROO is not an actual</b> 01:46</p> <p>16 <b>examination; is that right?</b> 01:46</p> <p>17 A. No. From what I recall, they would 01:46</p> <p>18 review publicly-available information to see if an 01:46</p> <p>19 organization's activities were consistent with what 01:46</p> <p>20 it indicated in its application. 01:46</p> <p>21 <b>Q. And so there would actually be no</b> 01:46</p> <p>22 <b>taxpayer contact as part of the ROO?</b> 01:46</p> <p style="text-align: right;">Page 162</p>	<p>1 BY MR. MARTIN: 01:47</p> <p>2 <b>Q. And that applies for any tax-exempt</b> 01:47</p> <p>3 <b>entities that's applying that doesn't have</b> 01:47</p> <p>4 <b>well-established activities at that point?</b> 01:47</p> <p>5 A. For many of them, the ones that have not 01:47</p> <p>6 been in operation for very long. 01:47</p> <p>7 <b>Q. And then that's what generally we spoke</b> 01:47</p> <p>8 <b>about with your comment about we suspect we'll have</b> 01:47</p> <p>9 <b>to approve the majority of the (c)(4) applications at</b> 01:47</p> <p>10 <b>the end of the day because of this representational</b> 01:47</p> <p>11 <b>process?</b> 01:47</p> <p>12 A. Because of the representational process 01:47</p> <p>13 and not having enough information to support a denial 01:47</p> <p>14 based on campaign intervention. 01:48</p> <p>15 [Paz Exhibit No. 19 was 01:49</p> <p>16 marked for identification.] 01:49</p> <p>17 MR. MARTIN: I'm going to hand you Exhibit 01:49</p> <p>18 19. 01:49</p> <p>19 MS. BECKERMAN: Before we move on to Exhibit 01:49</p> <p>20 19, I would like to note for the record about Exhibit 01:49</p> <p>21 18, that the attachment was produced as 01:49</p> <p>22 USA_NORCAL_RFP_0015972. 01:49</p> <p style="text-align: right;">Page 164</p>
<p>1 A. I believe that's correct. 01:46</p> <p>2 <b>Q. And isn't it correct that advocacy</b> 01:46</p> <p>3 <b>cases, at least in part, were referred for ROO</b> 01:46</p> <p>4 <b>followup?</b> 01:46</p> <p>5 A. I don't know if any were actually 01:46</p> <p>6 referred or not. 01:46</p> <p>7 <b>Q. The second point under cautions, if you</b> 01:46</p> <p>8 <b>see that, it says: "The determinations process is</b> 01:46</p> <p>9 <b>representational; therefore, it is extremely</b> 01:46</p> <p>10 <b>difficult to establish that an organization will</b> 01:46</p> <p>11 <b>intervene in political campaigns at that stage."</b> 01:47</p> <p>12 <b>Did I read that correctly?</b> 01:47</p> <p>13 A. Yes. 01:47</p> <p>14 <b>Q. And that's referring to this</b> 01:47</p> <p>15 <b>representational process that you just -- that we</b> 01:47</p> <p>16 <b>talked about previously?</b> 01:47</p> <p>17 MS. BENITEZ: Objection. Vague. 01:47</p> <p>18 THE WITNESS: It's referring to the fact that 01:47</p> <p>19 the -- as I mentioned before, the application process 01:47</p> <p>20 relies on representations from the applicant, often 01:47</p> <p>21 times just statements about what they intend to do in 01:47</p> <p>22 the future. 01:47</p> <p style="text-align: right;">Page 163</p>	<p>1 [Witness peruses exhibit.] 01:51</p> <p>2 THE WITNESS: Okay. 01:51</p> <p>3 BY MR. MARTIN: 01:51</p> <p>4 <b>Q. And you'll see an E-mail from Lois</b> 01:51</p> <p>5 <b>Lerner to a number of recipients, including you,</b> 01:51</p> <p>6 <b>dated February 4, 2012; is that right?</b> 01:51</p> <p>7 A. Yes. 01:51</p> <p>8 <b>Q. And the E-mail is addressed to a number</b> 01:51</p> <p>9 <b>of recipients, but No. 2 is addressed to you; is that</b> 01:51</p> <p>10 <b>right?</b> 01:51</p> <p>11 <b>It says "Holly", dash, dash.</b> 01:51</p> <p>12 A. Yes. 01:52</p> <p>13 <b>Q. And Ms. Lerner says: "A timeline</b> 01:52</p> <p>14 <b>relating to the uptick, that is about when did we</b> 01:52</p> <p>15 <b>notice there was enough of these cases that we needed</b> 01:52</p> <p>16 <b>guidance from R and A and then when did we get cases</b> 01:52</p> <p>17 <b>up to look at. If there's info regarding development</b> 01:52</p> <p>18 <b>and FTEs and replacement cases, give me that too."</b> 01:52</p> <p>19 <b>Is that right?</b> 01:52</p> <p>20 A. Yes. That's what it says. 01:52</p> <p>21 <b>Q. And we've talked about much of this</b> 01:52</p> <p>22 <b>before, about the original Tea Party case that was</b> 01:52</p> <p style="text-align: right;">Page 165</p>

42 (Pages 162 to 165)