

**WRITTEN STATEMENT OF
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COMMISSIONER
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BEFORE THE
HOUSE JUDICIARY COMMITTEE
ON ALLEGATIONS OF MISCONDUCT BY THE IRS COMMISSIONER
SEPTEMBER 21, 2016**

INTRODUCTION

Chairman Goodlatte, Ranking Member Conyers, and Members of the Committee, thank you for the opportunity to answer questions here today. I understand the extraordinary responsibilities entrusted to this Committee. I appreciate both your willingness to hear from me and the serious and fair-minded approach you have taken to the discharge of your duties.

I will do my best today to answer your questions and I am committed to full cooperation. I recognize the obligation all public servants share to be responsive to Congress to the best of our abilities. That means listening and responding to feedback and criticism, acknowledging mistakes and working diligently to improve.

Let me note at the outset how much I deeply regret our inability to bring the C-4 issue to a close in a way that satisfies all Americans and members of Congress. I understand the level of suspicion and distrust caused by the IRS's failure to properly handle applications for social welfare status based solely on the names of the organizations. I took this job in large part to help restore confidence in the IRS and to ensure that the agency never returned to the unacceptable practices that had occurred before I arrived. I believe we have made real progress during my tenure in ending the practices that gave rise to concerns, addressing operational weaknesses, creating a culture of risk management, and working to reassure taxpayers that our tax system treats taxpayers fairly.

The tax system only works if taxpayers are confident that the IRS will treat them fairly and that it doesn't make any difference who they are, what organizations or political party they belong to, or whom they voted for in the last election. This is an important principle to us at the IRS. And no one should have to wait years for an answer to a question or a request for a determination of any kind.

The Congress also has a right to expect that reforms to restore the public's trust in a nonpartisan and effective IRS will be implemented fully. I have devoted my energies as Commissioner to that goal. The IRS accepted all of the recommendations made by the Inspector General in his May 2013 report and implemented all but one. The steps taken by the IRS to implement the

recommendations include: eliminating the use of inappropriate criteria; re-training employees; expediting the processing of section 501(c)(4) applications; and instituting a quality review process to assure that no unnecessary or improper information requests are sent to applicants.

One of the most significant actions taken in response to the Treasury Inspector General for Tax Administration (TIGTA) report was eliminating use of “Be On the Lookout” (BOLO) lists that had resulted in the improper scrutiny of a number of applicants as described in TIGTA’s May 2013 report.

Given recent litigation on this issue, I believe it is important to emphasize that our Exempt Organizations division ended the use of the BOLO lists more than three years ago. I have repeatedly stated this point in congressional testimony and in public speeches. Other independent parties, including TIGTA, have also confirmed this point. The IRS and its leadership team remain absolutely committed to avoiding any selection and further review of determination requests based only on names and policy positions of the applicant. There should be no doubt on this point, or regarding the continued, ongoing commitment by the IRS to be guided by the tax law and nothing else.

Another point that has been raised in recent litigation is that the applications of a few organizations that were pending at the time of TIGTA’s May 2013 report are still unresolved. The applications of these organizations remain pending because the organizations are engaged in litigation with the government, and the IRS has a longstanding policy of ordinarily suspending administrative action on a pending application if an issue involving the organization's exempt status is in litigation. Nonetheless, I recently asked our Exempt Organizations leadership to consult the Department of Justice (DOJ) and attempt to resolve the applications that remain pending by making determinations as soon as practicable.

I would note that in 2013, as part of its actions to implement TIGTA’s recommendations, the IRS offered an optional expedited approval process for organizations whose applications for 501(c)(4) status had been pending for more than 120 days as of May 28, 2013. Currently, the applications of 142 of the 145 organizations, or 98 percent, included in the expedited process have been resolved one way or another. As noted above, the applications of the remaining three organizations have not been resolved because they opted for litigation.

After reviewing our actions in response to the May 2013 report, TIGTA issued a follow-up report in March 2015 that noted the IRS had taken “significant actions” to address their recommendations.

The work done by the IRS on these issues also included accepting recommendations made by the Senate Finance Committee in the comprehensive report it issued in August 2015 after a two-and-a-half year investigation.

As I testified to the Finance Committee in October of 2015, the IRS accepted all the recommendations in the Committee's report that were within our control – that is, those that did not involve tax policy matters or legislative action. They included 15 of the report's 18 bipartisan recommendations. We also accepted and have implemented all of the recommendations within our control in the separate reports prepared by the Majority and Minority Members of the Committee.

Continuing our efforts to restore public confidence in the IRS will remain my top priority every day that I am fortunate enough to continue to serve.

I also understand that there are significant remaining questions on the minds of some Members about the IRS response to Congressional inquiries on my watch. I stand ready to answer those questions today. I responded honestly and in good faith as events unfolded, particularly in response to the discovery that Lois Lerner's hard drive had crashed in 2011. From the start, I directed IRS staff to cooperate fully with Congress and to recover lost information where possible, and I testified to the best of my knowledge. But the truth is that we did not succeed in preserving all of the information requested and some of my testimony later proved mistaken. I regret both of those failings. I can also tell you that, with the benefit of hindsight, even closer communication with Congress would have been advisable. But my commitment is, and always has been, to tell you the truth and to address issues head on.

As you know, there has been considerable public dialogue regarding the legal standards for impeachment, regular order and due process for impeachment proceedings, and the impact impeachment could have on the country's tax system. I am attaching to this statement a compilation of materials which you may have seen, but which have not been organized in one place. The attachments include statements from distinguished constitutional law and tax professors, statements from tax professionals, statements from former IRS Commissioners, letters from my counsel, and the viewpoints of editorial boards from prominent publications across the country. All of them maintain that impeachment is not appropriate in this circumstance.

I accept that it is up to you to judge my overall record, but I believe that impeachment would be improper. It would create disincentives for many good people to serve. And it would slow the pace of reform and progress at the IRS. I hope that, following this hearing, the Committee will decide against reporting to the House floor a resolution authorizing a formal impeachment proceeding. Should the Committee take that step, however, I am fully prepared to assist the Committee in developing a solid and vetted factual and legal record that Members can rely on to exercise their constitutional responsibility.

Chairman Goodlatte, Ranking Member Conyers, and Members of the Committee, this concludes my statement.