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House of Representatives

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September 3, 2014

The Honorable Eric H. Holder, Jr.
Attorney General
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Attorney General:

The Committee on Oversight and Government Reform continues to examine the Internal Revenue Service's targeting of conservative tax-exempt applicants. On August 25, 2014, Chairman Issa and I wrote to you with concerns about a startling conflict of interest in Andrew Strelka's representation of the IRS in *Z Street v. Koskinen*, a civil suit relating to the IRS targeting of conservative groups.¹ We requested that you make Mr. Strelka available for a transcribed interview with Committee staff. Despite notifying Committee staff that the Department no longer employs Mr. Strelka, the Department has refused to assist the Committee in speaking to Mr. Strelka directly.² The Department's efforts to prevent the Committee from learning Mr. Strelka's whereabouts suggest that the Department has cause for keeping him from speaking with the Committee.

Prior to joining the Justice Department, Mr. Strelka worked for former IRS executive Lois Lerner in the IRS Exempt Organizations (EO) Division from 2008 to 2010.³ While working at the IRS, Mr. Strelka received an e-mail directing him to "[b]e on the look out for a tea party case," adding: "If you have received or do receive a case in the future involving an exemption for an organization having to do with tea party let me know."⁴ After he left the IRS for the Justice Department, Mr. Strelka maintained a relationship with Ms. Lerner, writing to her: "I cherished

¹ See Letter from Darrell Issa & Jim Jordan, H. Comm. on Oversight & Gov't Reform, to Eric H. Holder, Jr., U.S. Dep't of Justice (Aug. 25, 2014) [hereinafter "Aug. 25th Letter"]; see also *Z Street v. Koskinen*, 1:12-cv-401-kbj (D.D.C. filed 2010).

² E-mail from Molly Gaston, U.S. Dep't of Justice, to Committee staff (Aug. 25, 2014); E-mail from Molly Gaston, U.S. Dep't of Justice, to Committee staff (Aug. 27, 2014).

³ *Justice's IRS connection*, WALL ST. J., Aug. 11, 2014.

⁴ E-mail from Ronald Shoemaker, Internal Revenue Serv., to Ellen Berick et al., Internal Revenue Serv. (Mar. 17, 2010). [IRSR 631577]

my time in the EO family and I owe a big thanks to you for hiring me.”⁵ Earlier this year, Mr. Strelka completed a detail in the White House Counsel’s Office before mysteriously being removed as a Justice Department attorney on the *Z Street* case.⁶

Our letter requested that you make Mr. Strelka – whom we believed to be a Department employee at the time – available for a transcribed interview with Committee staff.⁷ After this letter was transmitted to the Department, a senior official in the Department’s Office of Legislative Affairs informed Committee staff that Mr. Strelka “is no longer with the Department.”⁸ Because Mr. Strelka was not a current Department employee, Committee staff requested his contact information in an effort to contact him about the Committee’s request.⁹ The Department declined to provide the information and instead interjected itself in the Committee’s efforts to reach Mr. Strelka.¹⁰ The Department even chided the Committee for attempting to contact Mr. Strelka directly.¹¹

I am troubled by the Department’s actions to prevent the Committee from knowing the whereabouts of a private citizen formerly employed by the IRS and Justice Department. Obstructing a congressional investigation is a crime.¹² Additionally, denying or interfering with a federal employee’s rights to furnish information to Congress is against the law.¹³ Taxpayer dollars may not be used to pay the salaries of federal officials who deny or interfere with an employee’s ability to furnish information to Congress.¹⁴ The Justice Department’s refusal to

⁵ E-mail from Andrew Strelka, U.S. Dep’t of Justice, to Lois Lerner, Internal Revenue Serv. (Aug. 23, 2012). [IRSR 717505]

⁶ See Aug. 25th Letter, *supra* note 1.

⁷ See *id.*

⁸ E-mail from Molly Gaston, U.S. Dep’t of Justice, to Committee staff (Aug. 25, 2014).

⁹ E-mail from Committee staff to Molly Gaston, U.S. Dep’t of Justice (Aug. 26, 2014).

¹⁰ E-mail from Molly Gaston, U.S. Dep’t of Justice, to Committee staff (Aug. 27, 2014).

¹¹ E-mail from Molly Gaston, U.S. Dep’t of Justice, to Committee staff (Aug. 27, 2014).

¹² 18 U.S.C. § 1505 states, in pertinent part:

Whoever corruptly, or by threats or force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States, or the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress—
Shall be fined under this title, imprisoned not more than 5 years. . . .

¹³ 5 U.S.C. § 7211 states:

The right of employees, individually or collectively, to petition Congress or a Member of Congress, or to furnish information to either House of Congress, or to a committee or Member thereof, may not be interfered with or denied.

¹⁴ P.L. 111 -117 § 714 states:

No part of any appropriation contained in this or any other Act shall be available for the payment of the salary of any officer or employee of the Federal Government, who –
(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any other officer or employee of the Federal Government from having any direct oral or written communication or contact with any Member, committee, or subcommittee of the Congress in connection with any matter pertaining to the employment of such other officer or employee or pertaining to the department or agency of such other officer or employee in any way, irrespective of whether such communication or contact is at

assist the Committee in learning Mr. Strelka's whereabouts and in speaking with him directly prevents the Committee from obtaining information about the IRS's targeting of conservative groups, among other topics. These actions severely hinder the Committee's ongoing oversight work.

While I am disappointed by the Department's interference with the Committee's investigation, I am not surprised given the Department's history of obstruction and obfuscation. During a recent hearing of the Subcommittee on Economic Growth, Deputy Attorney General James Cole asserted that the Department has undertaken "substantial efforts to cooperate" with the Committee's oversight.¹⁵ This statement rings hollow in light of the Department's litany of unfulfilled requests and broken promises. For example, the Department continues to withhold material responsive to a Committee subpoena, and it refuses to provide any information about the contents of that material.¹⁶ The Department has ignored the Committee's request for information about the discovery of confidential taxpayer information in a 1.1-million page database at the Federal Bureau of Investigation.¹⁷ You continue to refuse to appoint a special counsel to independently investigate the IRS targeting, despite bipartisan concerns about widespread conflicts of interest in the Department's criminal investigation.¹⁸ These actions significantly undercut your promise in May 2013 to conduct a thorough investigation of the IRS targeting of conservative tax-exempt applicants.¹⁹

The American people deserve answers about the IRS targeting. For far too long, you have refused to partner with the Committee in obtaining those answers. Your refusal to assist the Committee in learning Mr. Strelka's whereabouts and your efforts to prevent the Committee from speaking with him directly only serve to increase concerns about Mr. Strelka's actions and suggest that the Department is conspiring with Mr. Strelka to prevent the American people from learning the truth. I ask that you direct your staff to provide the Committee with Mr. Strelka's contact information so that the Committee may schedule a transcribed interview with Mr. Strelka

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- the initiative of such other officer or employee or in response to the request or inquiry of such Member, committee, or subcommittee; or
- (2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, states, pay, or performance of efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any other officer or employee of the Federal Government, or attempts or threatens to commit any of the foregoing actions with respect to such other officer or employee, by reason of any communication or contact of such other officer or employee with any Member, committee, or subcommittee of the Congress as described in paragraph (1).

¹⁵ "Examining the Justice Department's Response to the IRS Targeting Scandal": Hearing before the Subcomm. on Economic Growth, Job Creation & Reg. Affairs of the H. Comm. on Oversight & Gov't Reform, 113th Cong. (2014) (statement of James Cole, Deputy Attorney General) [hereinafter "*Econ. Growth Hearing*"].

¹⁶ *Id.*; Letter from Peter Kadzik, U.S. Dep't of Justice, to Darrell E. Issa, H. Comm. on Oversight & Gov't Reform (May 28, 2014).

¹⁷ See Letter from Darrell Issa & Jim Jordan, H. Comm. on Oversight & Gov't Reform, to Eric H. Holder, Jr., U.S. Dep't of Justice (June 10, 2014).

¹⁸ See *Econ. Growth Hearing*, *supra* note 15; see also H. Res. 565, 113th Cong. (2014).

¹⁹ Rachael Weiner, *Holder has ordered IRS investigation*, WASH. POST, May 14, 2013.

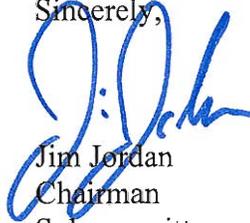
The Honorable Eric H. Holder, Jr.

September 3, 2014

Page 4

directly outside of the prejudicial influence of the Justice Department. Please provide this information as soon as possible, but no later than 12:00 p.m. on Friday, September 5, 2014. Thank you for your attention to this matter.

Sincerely,



Jim Jordan
Chairman

Subcommittee on Economic Growth,
Job Creation and Regulatory Affairs

cc: The Honorable Matthew A. Cartwright, Ranking Minority Member
Subcommittee on Economic Growth, Job Creation and Regulatory Affairs