

WRITTEN STATEMENT OF ALVIN S. BROWN, ESQ.<sup>1</sup>  
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BEFORE THE

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES

HEARING ON

INTERNAL REVENUE SERVICE TARGETING CONSERVATIVE GROUPS

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Chairman Camp, Ranking Member Levin and members of the House Ways and Means Committee, I applaud the interest you have in what appears to be IRS inappropriate conduct of IRS employees in evaluating applications for section 501(c)(4) tax exempt status.

I am a tax attorney who specializes in IRS controversies and for that reason have ongoing daily experiences dealing with active cases pending before the IRS. I previously had a 27 year career working in the Office of the IRS Chief Counsel. With this vast experience in dealing with tax issues within and outside of the IRS, I believe I can offer this Committee some unique insight into IRS misconduct including willful misapplication of the tax law far more serious than the “inappropriate” targeting identified by TIGTA that is the subject of this Hearing.

I am a witness to the fact that IRS misconduct is far more pervasive than the limited issues dealing with applications for tax exempt status. My contribution to this Hearing is to bring to your attention some examples of unpunished IRS “misconduct” that should require the sanctions of § 7214 of the IRS Code which deals with “offenses by officers and employees of the United States.”

Example 1: I have in my possession three U.S. government CD’s with tax return data of taxpayers who were victims of a Ponzi scheme. The tax return data includes social security numbers, bank account data and brokerage account data. The CD’s with that disclosure data was sent by the IRS to help the defendants of the Ponzi scheme. The CDs were recovered when the U.S. taxpayers prevailed in the law suit. This willful disclosure of confidential taxpayer data is a “felony” under § 7213, and yet IRS management took no action against the IRS examiners responsible for this felonious disclosure.

Example 2: IRS levies of salaries exceed the statutory “economic hardship” prohibitions on levies under § 6343(a)(1)(D). That statute states that the IRS shall not levy if the levy creates an “economic hardship” (e.g., taking of income needed for basic living expenses). The IRS does not inform employers receiving the levy notice that there are limitations on the IRS authority to levy income. I have complained about this statutory misconduct to the National Taxpayer Advocate who has refused to stop these documented abuses and misconduct.

Example 3: The IRS levies the gross income and accounts receivable of businesses without limitations in all cases in violation of § 6343(a)(1)(D). This statute does not distinguish between individual and business taxpayers, yet the IRS willfully closes business by levying gross income without any limitations. The National Taxpayer Advocate has taken the position that businesses cannot have an “economic hardship” when their accounts receivable and gross income are levied.

Example 4: The IRS does not follow the guidelines for the withdrawal of tax liens under § 6323(j) even when justified by documentation under that statute. This abuse and misconduct

has been brought to the attention of the National Taxpayer Advocate who has not assisted in stopping this tax liens abuse that result in the closing of businesses.

Example 5: A Revenue Officer has the authority to recommend that an offer in compromise, meeting the settlement standards of § 7122, the regulations under § 7122 and the IRM dealing with that statute; the IRS Service Centers will refuse to consider an offer in compromise upon the recommendation of the IRS Revenue Officer. In effect, Revenue Officers, untrained in compromise law, are effectively given the power to veto an Offer in Compromise. I have complained about this misconduct and abuse of the tax law to the National Taxpayer Advocate repeatedly and she refuses to stop this clear abuse of the tax law.

Example 6: The National Taxpayer Advocate was given the authority by Congress under § 7811 to issue “Taxpayer Assistance Orders” to assist taxpayers who are “suffering or about to suffer a significant hardship as a result of the manner in which the internal revenue laws are being administered.” If you look at the reports to Congress filed by the National Taxpayer Advocate since 1998, you will note no discussion of her use of Taxpayer Assistance Orders and you will also note that the Taxpayer Assistance Orders issued by the National Taxpayer Advocate are very small (in most years, less than 10) relative to the large volume of requests for assistance in “economic hardship” situation. Although I come across IRS abuse cases regularly (largely in excess levy situations), I have never received a Taxpayer Assistance Order from the Office of the National Taxpayer Advocate in any case.

The above examples are not intended as a comprehensive list of IRS abuses of the tax law and misconduct. I merely want this Committee to understand that the subject of the present Hearing needs to be expanded to cover even more serious abuses and misconduct of the IRS and, in my opinion, the ineffectiveness of the National Taxpayer Advocate in her administration of § 7811.

It is my recommendation that this Committee expand its focus to other IRS abuses and misconduct of the kind that I experience as a tax attorney working on a daily basis on IRS controversy cases. I also believe that this Committee needs to examine the effectiveness of the Office of the National Taxpayer Advocate and its 2,000 employees under § 7811. This ties in to the focus of this Committee on comprehensive tax reform. Any tax reform proposal should also consider the many instances of IRS documentable IRS misconduct and abuses of the tax law. There are also excessive layers of “managers” at the IRS. “Management” is emphasized over technical knowledge and technical competence. For this reason, the Committee should also consider the effectiveness of the current managerial structure of the IRS. I am willing to discuss any of these abuse issues with Members of this Committee and/or its staff.

.Respectfully submitted,

Alvin S. Brown, Esq.

