

**Congress of the United States**  
**Washington, DC 20515**

June 27, 2014

The Honorable Eric H. Holder, Jr.  
Attorney General  
Washington, DC 20530

Dear Attorney General Holder:

On May 7, 2014, the House of Representatives passed H. Res. 565, which called upon you to appoint a special counsel to investigate the targeting of conservative nonprofit groups by the Internal Revenue Service. The House passed this resolution by a wide, bipartisan vote, with 26 Democrats – including two who serve on the House Judiciary Committee – joining 224 Republicans.<sup>1</sup>

The resolution laid out in detail the grounds for appointing a Special Counsel. As you know, the relevant regulations require you to appoint a Special Counsel when you determine that criminal investigation of a person or matter is warranted and: (1) That investigation or prosecution of that person or matter by a United States Attorney's Office or litigating Division of the Department of Justice would present a conflict of interest for the Department or other extraordinary circumstances; and (2) that under the circumstances, it would be in the public interest to appoint an outside Special Counsel to assume responsibility for the matter.<sup>2</sup> When matters are brought to your attention that might warrant appointment of a Special Counsel, the regulations permit you to direct that an initial investigation, consisting of such factual inquiry or legal research as the Attorney General deems appropriate, be conducted in order to better inform the decision; or conclude that under the circumstances of the matter, the public interest would not be served by removing the investigation from the normal processes of the Department, and that the appropriate component of the Department should handle the matter.<sup>3</sup>

The information included in the resolution (which we have attached for your convenience) clearly establishes a basis for the appointment of a Special Counsel. The resolution explains, in great detail, how the Administration has sought to undermine whatever investigation the DOJ is conducting at every opportunity. This includes, among other things, the leaks by unnamed Department personnel to the Wall Street Journal suggesting that the Department did not plan to file criminal charges while its investigation was allegedly pending, and President Obama's statement that there was "not even a smidgen of corruption" in connection with the IRS targeting. By pre-judging the outcome of the investigation, the actions of the unnamed officials and especially of the President have created an indisputable conflict of interest for the Department. They have also served to completely undermine the integrity of the investigation the Department is allegedly conducting, and indeed have made it impossible for the Department to conduct a fair, unbiased investigation. We find it impossible to believe that any

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<sup>1</sup> See FINAL VOTE RESULTS FOR ROLL CALL 204, available at <http://clerk.house.gov/evs/2014/roll204.xml>.

<sup>2</sup> 28 C.F.R. § 600.1.

<sup>3</sup> 28 C.F.R. § 600.2.

Department investigator could work without feeling pressure from above to conform to these expectations.

Moreover, it is clear that appointing an outside Special Counsel to investigate this matter would be in the public interest. The American people are very concerned that their government has targeted individual American citizens for harassment solely on the basis of their political beliefs. They deserve to know who ordered the targeting, when the targeting was ordered, and why.

Additionally, recent developments in the IRS targeting matter make your decision even easier. On May 8, 2014, the IRS finally agreed to turn over to the Ways and Means Committee all emails belonging to Lois Lerner, the former IRS Director of Exempt Organizations.<sup>4</sup> However, on June 13, 2014, the IRS announced it had lost an untold number of emails belonging to Ms. Lerner.<sup>5</sup> The “lost” emails covered the period between January 1, 2009 and April 2011 – a period when the IRS targeting of conservative groups was occurring regularly. Any emails written to or from Ms. Lerner from people outside the IRS would, according to the IRS, be lost.<sup>6</sup>

Finally, the Committee on Ways and Means recently uncovered emails showing that Ms. Lerner mistakenly received an invitation to an event that was intended for Iowa Senator Charles E. Grassley, the Ranking Member of the Senate Judiciary Committee. In the email invitation, the event organizer apparently offered to pay for Senator Grassley’s wife to attend the event. Rather than exercising due diligence, Ms. Lerner forwarded the email to other IRS officials, saying “Looked like they were inappropriately offering to pay for his wife. Perhaps we should refer to Exam?”<sup>7</sup> “Exam” refers to the IRS office that conducts taxpayer audits. In response, another IRS official stated that “Not sure we should send to exam. I think the offer to pay for Grassley's wife is income to Grassley, and not prohibited on its face,” and went on to say that the IRS would need to wait to see whether Senator Grassley attended, and how he handled the payment, before taking any action.<sup>8</sup> This new revelation shows that, at every turn, Ms. Lerner was using her position in the IRS for political purposes.

The timing of the revelation of the lost emails and the new information regarding the apparent consideration of a sitting Republican Senator – and vocal critic of the IRS targeting of conservative groups – for a baseless investigation and audit, have served to wash away whatever credibility the Administration retained in this matter, and have indisputably created the “extraordinary circumstances” called for in the regulations. We demand that you appoint a professional, impartial Special Counsel without delay.

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<sup>4</sup> See Timeline of the IRS’s Abuse of Conservatives, H. Comm. on Ways & Means, *available at* <http://waysandmeans.house.gov/news/documentsingle.aspx?DocumentID=385679>.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> See, e.g., John D. McKinnon and Gautham Nagesh, “Retired IRS Official Sought Audit of Senator, GOP Lawmakers Say,” *The Wall Street Journal*, June 25, 2014, *available at* <http://online.wsj.com/articles/retired-irs-official-sought-audit-of-sen-grassley-lawmakers-say-1403729355>.

<sup>8</sup> *Id.*

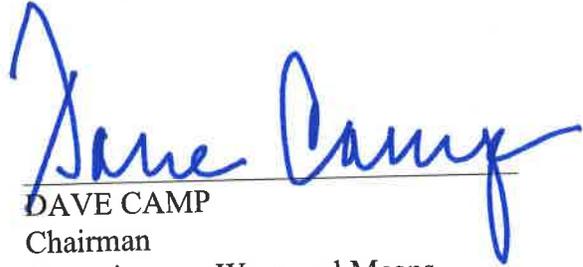
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June 27, 2014  
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BOB GOODLATTE  
Chairman  
Committee on the Judiciary

Sincerely,



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DAVE CAMP  
Chairman  
Committee on Ways and Means