



COMMISSIONER

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, DC 20224

June 7, 2023

The Honorable Jason Smith  
Chairman  
Committee on Ways and Means  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Smith:

Thank you for the opportunity to brief you and Committee staff last week regarding criminal tax procedures and IRS whistleblower protections. I think it was a constructive meeting, and I hope that it furthers the Committee's important oversight work. As I mentioned, we are happy to provide further briefings on these topics to the extent it would be helpful to the Committee.

Thank you also for understanding that there are significant restrictions on our ability to speak about specific pending criminal tax matters. As you know, we are obliged to treat all tax return information as confidential, including with respect to taxpayers who are under criminal investigation. Indeed, as we discussed, there are even stricter limitations for many criminal cases, designed to ensure that taxpayers who are presumed innocent until charged and proven guilty receive due process and impartial treatment before courts of law. I know that the Committee shares our commitment to adhering to these laws, both to ensure that taxpayer rights are protected, and to ensure that our tax enforcement mission is properly executed. We will do all that we can to further the Committee's oversight work in a manner consistent with these provisions.

In addition, thank you for providing feedback regarding our whistleblower procedures. As we discussed, I think it is critical to adhere to robust procedures to ensure that whistleblower claims, including allegations of retaliation, are fairly and objectively evaluated. We must avoid prejudging allegations in any way. Likewise, we must avoid reacting in any manner that even inadvertently discourages IRS employees from presenting concerns in good faith. For this reason, I believe that the role of independent investigative authorities in this context is critical. In particular, the Treasury Inspector General for Tax Administration (TIGTA) plays an invaluable role, finding facts independently and providing IRS employees a venue to voice concerns that is removed from their management chain. In cases involving judicial proceedings, where IRS employees work at the direction of Department of Justice attorneys, the Department of Justice Inspector General (DOJ-IG) may play a similar role.

As we have discussed, in a matter you referenced where IRS personnel allege retaliation, the IRS has made a referral to TIGTA. In an abundance of caution, to ensure that an Inspector General with appropriate jurisdiction and authority is apprised of the matter, we also submitted a referral this week to the DOJ-IG. We are enclosing herewith, for your reference, copies of the referral letter to TIGTA and the referral email to DOJ-IG, including attachments. **Please note that these enclosures contain confidential taxpayer information;** please do not disclose these to anyone who does not possess authority to access such information under Section 6103 of the Internal Revenue Code.

In addition, Committee staff has advised us that one of the referenced employees has submitted a grievance with a separate independent investigatory authority, the Office of Special Counsel (OSC). Accordingly, the IRS has been in communication with OSC as well. Of course, going forward, we will cooperate fully with any inquiry that OSC pursues.

Apart from the above independent investigative authorities, there are of course important roles for IRS management, and for the IRS Commissioner in particular, to ensure that whistleblowers are supported and protected. To begin with, as I mentioned in my prior letter, when an Inspector General or other investigative authority produces findings of fact and/or recommendations, it is important for IRS management to take all necessary corrective measures. It is vital to respond robustly to any conclusive findings of impropriety by IRS personnel – including to make it abundantly clear that any identified retaliation against whistleblowers will not be tolerated in any circumstance. More generally, there are other important steps that the IRS should take to properly “set the tone.” Part of this process involves ensuring that all employees are aware of whistleblower rights and protections. As discussed above, there are often legal restrictions – sometimes multiple layers of restrictions – that limit our employees’ ability to share information about their work; employees need to have guidance about how they can voice workplace concerns without violating the law. As we discussed, the IRS recently put out such guidance to clarify and summarize employees’ obligations and options with respect to criminal tax cases. These are “safe harbors,” so to speak, for such employees to make whistleblower allegations without violating legal restrictions. For your reference, I have also enclosed a copy of this guidance.

I hope it is evident from the above, and from our briefing last week, that the IRS takes seriously its obligations to support whistleblowers, as well as its obligations to protect taxpayer confidences and to protect the integrity of judicial proceedings that underlie much of our work. It can be challenging to manage all of these obligations, and I know that the Committee is navigating many of these same issues.

You referenced in our meeting that the Committee spoke with an IRS employee who presented as a whistleblower in the aforementioned matter, and you asked us for the names of any IRS personnel who have potentially relevant information about allegations

of retaliation with respect to this employee. For the reasons discussed above, I do not think it would be appropriate for IRS management to get out ahead of the independent investigative authorities that have been asked to conduct fact-finding in this case. I do not want IRS management to interfere, or to be perceived to be interfering, in these independent investigations. Without conducting such investigations, and before reviewing findings of fact from Inspectors General or other relevant investigative authorities, it is not evident to me what IRS personnel might potentially have information that may be relevant.

Accordingly, I respectfully suggest that you connect with either TIGTA, DOJ-IG, or OSC, who may be in a better position to help identify IRS personnel with information potentially relevant to your inquiry. These independent authorities are also positioned to advise you on potential legal limitations that may impact a given employee's ability to answer questions from the Committee; they may thus help you determine the best scope of inquiries to pursue. Of note, should the Committee request to interview an IRS employee in this matter, we would also consult the Department of Justice for advice as to whether any witness's testimony would be precluded under the Federal Rules of Criminal Procedure or any other relevant provision of law governing judicial proceedings. In addition, in cases where we are aware that an independent investigative authority such as TIGTA or OSC is conducting an investigation, it is our practice to consult with such authority before any outreach to employees, to ensure that we do not disrupt or influence any investigatory work they are conducting. If any such issues arise, we will of course advise you promptly; and if there is a way to work through them, we will do so.

As we have discussed, we are copying Ranking Member Neal on this correspondence. We understand that you have designated Ranking Member Neal and his staff to have access to Section 6103 materials with respect to this matter.

I hope this information is helpful. If you have questions, please contact me, or a member of your staff may contact Amy Klonsky, National Director, Legislative Affairs, at [REDACTED]

Sincerely,

Daniel I.  
Werfel

Digitally signed by Daniel  
I. Werfel  
Date: 2023.06.07  
13:48:27 -04'00'

Daniel I. Werfel

Enclosures (3)

cc: The Honorable Richard Neal  
Ranking Member, Committee on Ways and Means





DEPUTY COMMISSIONER

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, DC 20224

May 23, 2023

Russell George  
Inspector General  
Treasury Inspector General for Tax Administration  
Washington, D.C.

Dear Inspector General George,

In light of recent media reports regarding whistleblower correspondence, and since we have been emailing with you on this issue piecemeal, I wanted to take this opportunity to clarify and confirm our respective roles in any investigatory process. As you and your staff review this, please bear in mind that Commissioner Werfel and I stand ready to assist TIGTA in any way that is helpful and appropriate in all investigative matters. Our goal is to safeguard the integrity of any investigation into employee allegations of wrongdoing, and to ensure that we comply with related provisions of law. Accordingly, by the Commissioner's calls to you of April 20 and May 16, 2023, we referred this matter to TIGTA to conduct appropriate review of employee allegations. In all of this, we welcome your input as to how we can best support you and would like to confirm with you that the IRS' role in this and similar matters is to support TIGTA in any investigation it might undertake.

To review, the Commissioner and I (and several other IRS managers) received an email on Thursday, May 18, 2023, from an IRS-Criminal Investigation employee who presented as a whistleblower. As I assessed that this email might contain information within the ambit of Federal Rule of Criminal Procedure 6(e), I conferred with the Commissioner and his staff, and we agreed to delete the correspondence from the Commissioner's mailbox without him opening it and to coordinate with IRS Criminal Investigation to forward the email to Department of Justice attorneys for Rule 6(e) review.<sup>1</sup> I advised you on May 18 of the fact that we had received this correspondence, deleted it from the Commissioner's mailbox, and submitted it to DOJ for Rule 6(e) review. On Sunday, May 21, 2023, after DOJ completed its review and per DOJ's direction, I submitted this correspondence to you with a minor redaction to protect Rule 6(e) material.

---

<sup>1</sup> As we discussed, as Deputy Commissioner for Services and Enforcement, I am on Rule 6(e) access lists, as a matter of course, for all grand jury cases worked by IRS-CI agents. In accordance with longstanding IRS practices to ensure that specific taxpayer matters are handled by career civil servants, the Commissioner is not on any Rule 6(e) lists. In accordance with longstanding procedure, we defer to DOJ attorneys to ultimately assess whether a document contains or comprises grand jury information within the meaning of Rule 6(e).


On Saturday, May 20, 2023, the Commissioner and I received a second email on behalf of a purported whistleblower. Again, upon conferring with the Commissioner and his staff, I directed that staff delete the email from the Commissioner's mailbox without him reviewing it, and I coordinated with IRS Criminal Investigation to forward the email to DOJ for Rule 6(e) review. DOJ determined that the correspondence did not contain Rule 6(e) material, and so I forwarded this second email to you on Tuesday, May 23.

With the benefit of now having had time to reflect on the above, please advise us if you suggest that we handle future correspondence of this nature any differently. More generally, we understand that it is proper and best practice – again, in the chief interest of ensuring the integrity of any necessary factfinding – for TIGTA or another appropriate independent investigative authority, rather than the Commissioner's Office or any other element of IRS management, to oversee any and all necessary investigations into allegations presented by employees alleging wrongdoing including retaliation.

Please advise us, of course, if there is any way that we can support TIGTA in its assessment of or response to the above IRS employee correspondence. Finally, if it would be helpful for us further to discuss this matter for any other reason, please do not hesitate to reach out to me.

Sincerely,  
**Douglas W.  
O'Donnell**

Douglas W. O'Donnell  
Deputy Commissioner for  
Services and Enforcement

 Digitally signed by Douglas W.  
O'Donnell  
Date: 2023.05.23 17:54:22 -04'00'

**From:** O'Donnell Douglas W  
**Sent:** Monday, June 5, 2023 8:38 PM  
**To:** [REDACTED]  
**Subject:** FW: Whistleblower Retaliation -

Hi Jon,

I am forwarding to you per an email from Carlton Forbes in ODAG. I intended to send to the IG but the email address we had was incorrect.

Please let me know whether you require any further information.

Sincerely,

Doug

Douglas W. O'Donnell (he/him/his)  
Deputy Commissioner, Services & Enforcement  
[REDACTED] (Desk)

---

**From:** O'Donnell Douglas W  
**Sent:** Monday, June 5, 2023 3:30 PM  
**To:** [REDACTED]  
**Subject:** Whistleblower Retaliation -

---





Dear Inspector General Horowitz,

I am the IRS Deputy Commissioner for Services & Enforcement and am responsible for the IRS Criminal Investigation Division among a number of other business segments involved in federal tax administration.

I write to you today regarding an IRS employee who has alleged retaliation in a criminal tax matter. As reflected in the enclosed correspondence, the IRS has made a referral in this matter to the Treasury Inspector General for Tax Administration (TIGTA). In order to ensure that an Inspector General with appropriate jurisdiction and authority is apprised of the matter, we are also hereby referring the matter to your office. We trust that you will dialog with TIGTA as to the appropriate path forward. Please advise us if and as we may be of support to you in addressing this employee's allegations.

I am providing two attachments for purposes of sharing context. The first – TIGTA Letter, 5-23-23 from DCSE to IG – provides background as to when a referral was made to TIGTA. The second – 2020-05-20 Letter to IRS with attachments – provides information transmitted to me by the individual reporting retaliation for being a whistleblower. For clarity, the attachments to the second letter include a redacted version of an email sent to me by an employee who has not to my knowledge made a claim as a whistleblower. If you feel like having the referenced redacted email, e.g., where metadata could be helpful, then please let me know and I will transmit it to you.

I am available to speak if it would be helpful.

Sincerely,

Doug

Douglas W. O'Donnell (he/him/his)  
Deputy Commissioner, Services & Enforcement  
[REDACTED] (Desk)





DEPUTY COMMISSIONER

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, DC 20224

May 23, 2023

Russell George  
Inspector General  
Treasury Inspector General for Tax Administration  
Washington, D.C.

Dear Inspector General George,

In light of recent media reports regarding whistleblower correspondence, and since we have been emailing with you on this issue piecemeal, I wanted to take this opportunity to clarify and confirm our respective roles in any investigatory process. As you and your staff review this, please bear in mind that Commissioner Werfel and I stand ready to assist TIGTA in any way that is helpful and appropriate in all investigative matters. Our goal is to safeguard the integrity of any investigation into employee allegations of wrongdoing, and to ensure that we comply with related provisions of law. Accordingly, by the Commissioner's calls to you of April 20 and May 16, 2023, we referred this matter to TIGTA to conduct appropriate review of employee allegations. In all of this, we welcome your input as to how we can best support you and would like to confirm with you that the IRS' role in this and similar matters is to support TIGTA in any investigation it might undertake.

To review, the Commissioner and I (and several other IRS managers) received an email on Thursday, May 18, 2023, from an IRS-Criminal Investigation employee who presented as a whistleblower. As I assessed that this email might contain information within the ambit of Federal Rule of Criminal Procedure 6(e), I conferred with the Commissioner and his staff, and we agreed to delete the correspondence from the Commissioner's mailbox without him opening it and to coordinate with IRS Criminal Investigation to forward the email to Department of Justice attorneys for Rule 6(e) review.<sup>1</sup> I advised you on May 18 of the fact that we had received this correspondence, deleted it from the Commissioner's mailbox, and submitted it to DOJ for Rule 6(e) review. On Sunday, May 21, 2023, after DOJ completed its review and per DOJ's direction, I submitted this correspondence to you with a minor redaction to protect Rule 6(e) material.

---

<sup>1</sup> As we discussed, as Deputy Commissioner for Services and Enforcement, I am on Rule 6(e) access lists, as a matter of course, for all grand jury cases worked by IRS-CI agents. In accordance with longstanding IRS practices to ensure that specific taxpayer matters are handled by career civil servants, the Commissioner is not on any Rule 6(e) lists. In accordance with longstanding procedure, we defer to DOJ attorneys to ultimately assess whether a document contains or comprises grand jury information within the meaning of Rule 6(e).

On Saturday, May 20, 2023, the Commissioner and I received a second email on behalf of a purported whistleblower. Again, upon conferring with the Commissioner and his staff, I directed that staff delete the email from the Commissioner's mailbox without him reviewing it, and I coordinated with IRS Criminal Investigation to forward the email to DOJ for Rule 6(e) review. DOJ determined that the correspondence did not contain Rule 6(e) material, and so I forwarded this second email to you on Tuesday, May 23.


With the benefit of now having had time to reflect on the above, please advise us if you suggest that we handle future correspondence of this nature any differently. More generally, we understand that it is proper and best practice – again, in the chief interest of ensuring the integrity of any necessary factfinding – for TIGTA or another appropriate independent investigative authority, rather than the Commissioner's Office or any other element of IRS management, to oversee any and all necessary investigations into allegations presented by employees alleging wrongdoing including retaliation.

Please advise us, of course, if there is any way that we can support TIGTA in its assessment of or response to the above IRS employee correspondence. Finally, if it would be helpful for us further to discuss this matter for any other reason, please do not hesitate to reach out to me.

Sincerely,

Douglas W.  
O'Donnell

Douglas W. O'Donnell  
Deputy Commissioner for  
Services and Enforcement

 Digitally signed by Douglas W.  
O'Donnell  
Date: 2023.05.23 17:54:22 -04'00'

May 20, 2023

***Via Electronic Transmission***

The Honorable Daniel Werfel  
Commissioner  
Internal Revenue Service

Dear Commissioner Werfel:

We represent Supervisory Special Agent (SSA) Gary Shapley. Five days ago, you were copied on a letter to various committees of Congress warning that the IRS had removed our client's entire team of investigators from a criminal tax case in an apparent act of retaliation aimed at some of those employees who had expressed concerns about the Department of Justice (DOJ) improperly allowing politics to infect its decisions.

This action was inconsistent with your testimony to the House Committee on Ways and Means that there would be "no retaliation" against whistleblowers at the IRS. It was our understanding that although the IRS executed the reprisal, it did so on behalf of DOJ officials who had the motive to retaliate because it was the propriety of their own actions that had been called into question by the protected disclosures.

Yesterday, we became aware that even after receiving the May 15 letter to Congress, the IRS has inexplicably decided to initiate additional reprisals against these special agents, apparently for a protected disclosure directly to you. This is unacceptable and contrary to the law, which clearly prohibits it.

Our client learned that one of the agents he supervises—the case agent on the case our client is blowing the whistle on—sent you an email in which he wrote:

As I'm sure you were aware, I was removed this week from a highly sensitive case...after nearly 5 years of work.

\* \* \*

There is a human impact to the decisions being made that no one in the government seems to care about or understand...[T]o ultimately be removed for always trying to do the right thing[] is unacceptable in my opinion...[M]y leadership above my direct manager—who was also removed—didn't even give me the common courtesy of a phone call, did not afford me the opportunity of understanding why this decision was made, and did not afford me an opportunity to explain my case. If this is how our leadership expects our leaders to lead, without considering the

human component, that is just unacceptable and you should be ashamed of yourselves.

\* \* \*

For the last couple years, my SSA and I have tried to gain the attention of our senior leadership about certain issues prevalent regarding the investigation. I have asked for countless meetings with our chief and deputy chief, often to be left out on an island and not heard from. The lack of IRS-CI senior leadership involvement is deeply troubling and unacceptable...[W]hen I said on multiple occasions that I wasn't being heard and that I thought I wasn't able to perform my job adequately because of the actions of the USAO and DOJ, my concerns were ignored by senior leadership[]. The ultimate decision to remove the investigatory team...without actually talking to that investigatory team, in my opinion was a decision made not to side with the investigators but to side with the US Attorney's Office and Department of Justice who we have been saying for some time has been acting inappropriately.<sup>1</sup>

In response to making his good faith expression of reasonable concerns—concerns shared by our client—the case agent had a right to expect that his email would be taken seriously, considered, and addressed professionally without retribution, as the law requires.

Instead, the IRS responded with accusations of criminal conduct and warnings to other agents in an apparent attempt to intimidate into silence anyone who might raise similar concerns. Specifically, the Assistant Special Agent in Charge emailed the case agent suggesting, without any basis, that he might have illegally disclosed 6(e) grand jury material in his email to you.<sup>2</sup> While such a claim is utterly baseless and without support in the law or facts of this matter,<sup>3</sup> the language of the response suggests the case agent may have been referred for investigation, an even more intimidating form of reprisal likely to chill anyone from expressing dissent. Furthermore, the Acting Special Agent in Charge issued a contemporaneous email to supervisors—including our client—admonishing employees to obey “the chain of command,” writing: “There should be no instances where case related activity discussions leave this field office without seeking approval from your direct report.”<sup>4</sup>

As Commissioner, you are responsible by statute for preventing prohibited personnel practices, such as whistleblower retaliation.<sup>5</sup> As the May 15 letter you received made clear, the salary of government officials can be withheld if they “prohibit[] or prevent[], or attempt[] or threaten[] 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[.]”<sup>6</sup> This includes requiring that an employee “seek[] approval from [their]

---

<sup>1</sup> Email from case agent to Deputy Commissioner for Services and Enforcement Douglas O'Donnell, et al., May 18, 2023, 9:58 AM (Exhibit A).

<sup>2</sup> Email from Assistant Special Agent in Charge Lola Watson to case agent, May 19, 2023, 1:20 PM (Exhibit B).

<sup>3</sup> Rule 6(e)(2) of the Federal Rules of Criminal Procedure prohibits certain enumerated persons from disclosing “a matter occurring before a grand jury.” Clearly, none of the assertions the IRS has complained of indicate any matters occurring before any grand jury, such as testimony occurring before the grand jury or grand jury deliberations.

<sup>4</sup> Email from Acting Special Agent in Charge Kareem Carter, May 19, 2023, 1:23 PM (Exhibit C).

<sup>5</sup> 5 U.S.C. § 2302(c)(3).

<sup>6</sup> Consolidated Appropriations Act, 2023, Pub. L. 117–328, Div. E, Sec. 713.

direct report.” Our legal team has experience ensuring this provision was enforced against other agencies.<sup>7</sup>

Furthermore, agencies may not adopt nondisclosure policies which “prohibit[] or restrict[] an employee...from disclosing to Congress, the Special Counsel, [or] the Inspector General...any information that relates to any violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or any other whistleblower protection[.]”<sup>8</sup> Agency communications which purport to “implement or enforce any nondisclosure policy” are therefore required by statute to include the following statement notifying employees that no nondisclosure policy can modify their statutory rights and responsibilities, including the rights to communicate with Congress and blow the whistle:

These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General or the Office of Special Counsel of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling.”<sup>9</sup>

No appropriated funds may be used to enforce a disclosure policy which does not comply with these requirements,<sup>10</sup> and attempting to enforce such a policy is a prohibited personnel practice.<sup>11</sup>

Finally, we would reiterate that 18 U.S.C. § 1505 makes it a crime to obstruct an investigation of Congress. Under 26 U.S.C. § 6103(f)(5), the House Committee on Ways and Means and the Senate Committee on Finance have been apprised of matters related to the case on which our client is in the process of scheduling congressional interviews related to this case.

---

<sup>7</sup> See Government Accountability Office, B-325124.2, *Department of Housing and Urban Development—Application of Section 713 of the Financial Services and General Government Appropriations Act, 2012 (Reconsideration)*, Apr. 5, 2016 (available at <https://www.gao.gov/assets/b-325124.2.pdf>); press release, “Goodlatte, Chaffetz and Grassley Urge HUD to Hold Employees Accountable Following GAO Report,” Apr. 5, 2016 (available at <https://judiciary.house.gov/media/press-releases/goodlatte-chaffetz-and-grassley-urge-hud-to-hold-employees-accountable>); letter from Charles E. Grassley, Jason Chaffetz, and Bob Goodlatte to Julian Castro, Jun. 22, 2016; letter from Charles E. Grassley, Jason Chaffetz, and Bob Goodlatte to Ben Carson, May 3, 2017 (available at [https://www.judiciary.senate.gov/imo/media/doc/2017-05-03%20CEG%20JC%20BG%20to%20HUD%20\(GAO\).pdf](https://www.judiciary.senate.gov/imo/media/doc/2017-05-03%20CEG%20JC%20BG%20to%20HUD%20(GAO).pdf)); letter from Aaron Santa Anna to Charles E. Grassley, Jason Chaffetz, and Bob Goodlatte, Jun. 19, 2017 (available at [https://www.judiciary.senate.gov/imo/media/doc/06-19-17%20Santa%20Anna,%20Aaron%20to%20CEG%20re%20GAO%20Legal%20Opinion%20Financial%20Services%20and%20General%20Government%20Appropriations%20Act\\_Redacted.pdf](https://www.judiciary.senate.gov/imo/media/doc/06-19-17%20Santa%20Anna,%20Aaron%20to%20CEG%20re%20GAO%20Legal%20Opinion%20Financial%20Services%20and%20General%20Government%20Appropriations%20Act_Redacted.pdf)).

<sup>8</sup> 5 U.S.C. § 2302(b)(13)(B).

<sup>9</sup> 5 U.S.C. § 2302(b)(13)(A).

<sup>10</sup> Consolidated Appropriations Act, 2023, Pub. L. 117–328, Div. E, Sec. 743.

<sup>11</sup> 5 U.S.C. § 2302(b)(13).

The IRS must immediately cease and desist intimidating our client for simply exercising his Constitutional right to petition Congress<sup>12</sup> and his statutory right against retaliation for doing so.<sup>13</sup> Please immediately issue corrective guidance clarifying the aforementioned supervisor communications lest they chill the disclosures of other IRS whistleblowers who may wish to come forward.

Cordially,

/Tristan Leavitt/  
Tristan Leavitt  
President  
Empower Oversight

/Mark D. Lytle/  
Mark D. Lytle  
Partner  
Nixon Peabody LLP

#### ATTACHMENTS

cc: The Honorable Janet Yellen  
Secretary, U.S. Department of the Treasury

The Honorable Russell George  
Inspector General for Tax Administration, U.S. Department of the Treasury

The Honorable Henry Kerner  
Special Counsel, Office of Special Counsel

---

<sup>12</sup> First Amendment, United States Constitution.

<sup>13</sup> 5 U.S.C. § 2302(b)(8)(C).



# Exhibit A

[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Thursday, May 18, 2023 9:58 AM  
**To:** O'Donnell Douglas W <[REDACTED]>; Werfel Daniel I <[REDACTED]>; Lee James C <[REDACTED]>; Ficco Guy A <[REDACTED]>; Batdorf Michael T <[REDACTED]>; Carter Kareem A <[REDACTED]>; Watson Lola B <[REDACTED]>  
**Subject:** [REDACTED] Investigation-Removal of Case Agent  
**Importance:** High

My Respective IRS Leadership —

First off, I apologize for breaking the managerial chain of command but the reason I am doing this is because I don't think my concerns and/ or words are being relayed to your respective offices. I am requesting that you consider some of the issues at hand.

As I am sure you were aware, I was removed this week from a highly sensitive case out of the [REDACTED] USAO after nearly 5 years of work. I was not afforded the opportunity of a phone call directly from my SAC or ASAC, even though this had been my investigation since the start.

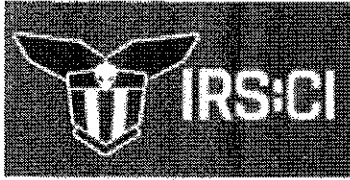
I can't continue to explain how disappointed I am by the actions taken on behalf of our agency. I want to echo that I love my job, I love my agency and I am extremely appreciative of the job and position that I have had over the last 13 years.

There is a human impact to the decisions being made that no one in the government seems to care about or understand. I had opened this investigation in 2018, have spent thousands of hours on the case, worked to complete 95% of the investigation, have sacrificed sleep / vacations / gray hairs etc., my husband and I (identifying me as the case agent) were publicly outed and ridiculed on social media due to our sexual orientation, and to ultimately be removed for always trying to do the right thing, is unacceptable in my opinion. Again, my leadership above my direct manager -who was also removed - didn't even give me the common courtesy of a phone call, did not afford me the opportunity of understanding why this decision was made, and did not afford me an opportunity to explain my case. If this is how our leadership expects our leaders to lead, without considering the human component, that is just unacceptable and you should be ashamed of yourselves. I am continually asking myself, is this the kind of culture we want within the IRS and that I want to be a part of.

For the last couple years, my SSA and I have tried to gain the attention of our senior leadership about certain issues prevalent regarding the investigation. I have asked for countless of meetings with our chief and deputy chief, often to be left out on an island and not heard from. The lack of IRS-CI senior leadership involvement in this investigation is deeply troubling and unacceptable. Rather than recognizing the need to ensure close engagement and full support of the investigatory team in this extraordinarily sensitive case, the response too often had been that we were isolated (even when I said on multiple occasions that I wasn't being heard and that I thought I wasn't able to perform my job adequately because of the actions of the USAO and DOJ, my concerns were ignored by senior leadership). The ultimate decision to remove the investigatory team from [REDACTED] without actually talking with that investigatory team, in my opinion was a

decision made not to side with the investigators but to side with the US Attorney's office and Department of Justice who we have been saying for some time has been acting inappropriately.

I appreciate your time and courtesy in reviewing this email. Again, I can only reiterate my love for my work at CI and a great appreciation for my colleagues – and a strong desire for CI to learn from and be strengthened by my difficult experience. I never thought in my career that I would have to write an email like this, but here I am. Thank you again for your consideration with me.



[REDACTED]  
Special Agent

International Tax & Financial Crimes Group (ITFC)

Washington DC Field Office

Cell: [REDACTED]

# Exhibit B

[REDACTED]

---

From: Watson Lola B <[REDACTED]>  
Sent: May 19, 2023 1:20 PM  
To: [REDACTED] <[REDACTED]>  
Subject: Reminder - Chain of Command

Good Afternoon Special Agent [REDACTED],

We acknowledge your email received yesterday morning. You have been told several times that you need to follow your chain of command. IRS-CI maintains a chain of command for numerous reasons to include trying to stop unauthorized disclosures. Your email yesterday may have included potential grand jury (aka 6e material) in the subject line and contents of the email, and you included recipients that are not on the 6e list.

In the future, please follow previously stated directives and this written directive that no information should be sent to the DFO, Deputy Chief, Chief or any other executive without being sent through my office and the SAC office.

*Lola Watson*  
*Assistant Special Agent in Charge*  
*Washington DC Field Office*  
*IRS-Criminal Investigation*  
[REDACTED] (Cell)

# Exhibit C

**From:** Carter Kareem A  
**To:** [REDACTED]; [REDACTED]; [REDACTED]  
**Subject:** REMINDER - Field Office Chain of Command  
**Date:** Friday, May 19, 2023 1:23:40 PM

---

ASACs/SSAs/SIAs-

As I've previously stated in staff meetings, chain of command is important to the successful communication and operation within a field office. Following chain of command prevents confusion, conflict, and misunderstandings.

There should be no instances where case related activity discussions leave this field office without seeking approval from your direct report (i.e. SA to SSA to ASAC to SAC). By following the chain of command, we can all work together to ensure that our team is successful.

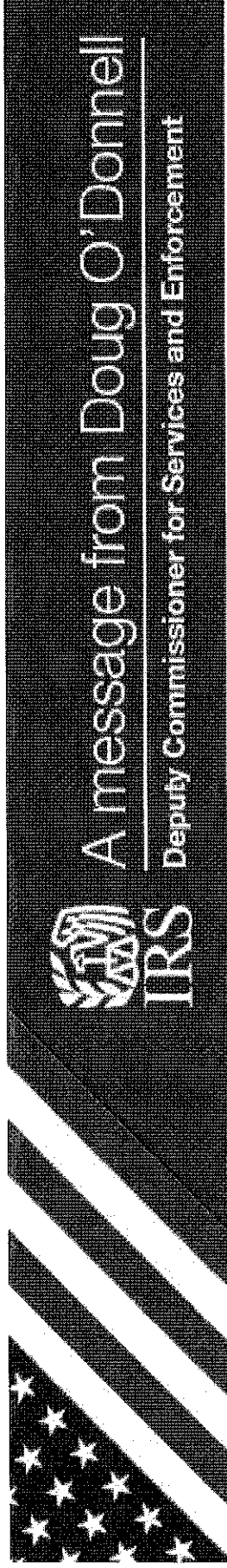
Kind Regards ,

Kareem Carter  
(Acting) Special Agent in Charge, Washington DC Field Office  
Internal Revenue Service – Criminal Investigation  
Cell: [REDACTED]  
[REDACTED]





**From:** \*Deputy Commissioner Services & Enforcement [REDACTED]  
**Sent:** Thursday, May 25, 2023 4:53 PM  
**To:** &&ALL DCSE Employees [REDACTED]  
**Subject:** IRS Employees Working with Taxpayer Information in Grand Jury and non-Grand Jury Matters



Good evening IRS Services & Enforcement colleagues,

I am writing to you all given concerns related to reporting of and reports of wrongdoing. The IRS is deeply committed to protecting the role of whistleblowers, and there are robust processes and procedures in place to protect them. We take any issue involving whistleblowers seriously.

IRS employees may be entrusted with access to information that includes materials subject to protection under the Federal Tax laws, e.g., Section 6103, and Federal Rule of Criminal Procedure 6(e). As such, if you become aware of potential wrongdoing involving activities where information is subject to protection under either or both Section 6103 and/or 6(e), you have options for reporting this wrongdoing.

Employees who reasonably believe, with respect to a **grand jury matter**, that there is evidence of a (1) violation of law, rule, or regulation; (2) gross mismanagement; (3) a gross waste of funds; (4) an abuse of authority; or (5) a substantial and specific danger to public health or safety, should: (i) report such evidence to their supervisor; (ii) report such evidence to any management official; **or** (iii) report such evidence to the Department of Justice Inspector General (DOJ IG) and notify Treasury Inspector General for Tax Administration (TIGTA) that a referral of a grand jury matter has been made to DOJ IG. Such employees are authorized to disclose return and return information, as necessary, in such communications with the DOJ IG.

Employees who reasonably believe, with respect to a ***non-grand jury matter***, that there is evidence of a (1) violation of law, rule, or regulation; (2) gross mismanagement; (3) a gross waste of funds; (4) an abuse of authority; or (5) a substantial and specific danger to public health or safety, should: (i) report such evidence to their supervisor; (ii) report such evidence to any management official; **or** (iii) report such evidence to TIGTA.

Notwithstanding the above, with respect to any matter involving classified information, you are reminded that you must follow classified information protocols.

Sincerely,

Doug

Douglas W. O'Donnell (he/him/his)

Deputy Commissioner, Services & Enforcement

