



**The IRS Harassment Scandal: A Timeline of “Reform”**  
*Documenting Efforts by the Regulatory Community to Police Political Speech*  
Timeline Events Current as of March 13, 2014

In May 2013, reports surfaced and investigations began into the revelation that the Internal Revenue Service had been scrutinizing groups applying for 501(c)(4) status using politically biased criteria. Beginning in March 2010, groups with names containing the words “Tea Party” or “patriot” were singled out for greater IRS scrutiny. Later, in an attempt to change from overtly partisan to more general criteria, the IRS shifted to targeting organizations with the goal of “teaching about the Constitution.” In addition to using these outrageous criteria, IRS officials were dishonest about their actions, repeatedly testifying before Congress that there was no targeting program. After admitting that the targeting had occurred, the IRS suggested that it was merely the result of a rogue group of agents in its Cincinnati office – a claim that has since been debunked by Congressional investigators.

After submitting applications for nonprofit status, conservative-leaning social welfare groups waited years to hear back from the IRS. When they finally did hear back about the status of their application, the responses came in the form of demands for additional information. In many cases, the IRS required that groups send the agency their donor lists, names of board members, copies of minutes from all board meetings, resumes of individuals involved in the organization, and copies of all social media postings. Some organizations were asked to provide reports about the books their members had read as a group. Others were asked about their relationship to other groups and to politically engaged individuals. In some cases, organizations were asked about what kinds of activities they would participate in the future. Organizations were even told to provide personal information on seasonal interns and to provide copies of all correspondence with former interns. Making matters worse, each of the questionnaires contained a letter threatening perjury charges for providing the wrong information, which is especially troubling when considering that, in some instances, the responses were over an astounding twenty thousand pages in length. For many small, grassroots organizations started by concerned citizens, complying with the IRS’s requests taxed organizations’ resources to the point that they ultimately had to shut down.

Six months after the Internal Revenue Service revealed that the agency had been targeting conservative organizations for added scrutiny and delaying their applications for tax-exempt status, the agency proposed expansive new rules for handling political activity by 501(c)(4) organizations. The proposed rules would plunge the agency deeper into the business of regulating political speech.

The IRS scandal calls into question the wisdom of requiring (or allowing) non-expert government agencies to police the political speech of individuals and organizations. The following working timeline documents the legislative, regulatory, and judicial actions on both the state and federal level, as well as the intense pressure from pro-regulatory organizations surrounding and in many ways emboldening the culture at the IRS that led to this harassment scandal. This working timeline is also available online at: <http://www.campaignfreedom.org/external-relations/irs-and-the-tea-party/>.

Please note: All entries marked with an asterisk are taken from a June 6, 2013 *Wall Street Journal Article*, “An IRS Political Timeline,” written by Kimberley A. Strassel. The article is available at: <http://online.wsj.com/article/SB10001424127887323844804578529571309012846.html>.

**April 29, 2008:** U.S. Representative Chris Van Hollen (D-MD), then-Chairman of the Democratic Congressional Campaign Committee, files a complaint with the IRS, asking Lois Lerner to investigate Freedom’s Watch, a conservative section 501(c)(4) organization.<sup>1</sup>

**February 3, 2009:** A FEC Enforcement Division attorney at the FEC asks the IRS for information about the tax-exempt statuses of the American Future Fund and American Issues Project. In an e-mail response, Lois Lerner, Director of Exempt Organizations Division at the IRS, asks, “What can we do to help the FEC here?”<sup>2</sup>

**May 13, 2009:** President Barack Obama jokes about having the IRS audit enemies at an Arizona State University commencement speech. After being refused an honorary degree by the University due to a lack of experience, Obama says, “I really thought this was much ado about nothing, but I do think we all learned an important lesson. I learned never again to pick another team over the Sun Devils in my NCAA brackets. . . . President [Michael] Crowe and the Board of Regents will soon learn all about being audited by the IRS.”<sup>3</sup>

**January 21, 2010:** The Supreme Court rules in *Citizens United v. Federal Election Commission* that, under the First Amendment, the government could not restrict corporations, associations, and labor unions from making independent expenditures in support of or opposition to candidates. Writing for the 5-4 majority, Justice Kennedy affirmed, “If the First Amendment has any force, it prohibits Congress from fining or jailing citizens, or associations of citizens, for simply engaging in political speech.” Meanwhile, President Obama called the ruling “a major victory for big oil, Wall Street banks, health insurance companies and the other powerful interests that marshal their power every day in Washington to drown out the voices of everyday Americans.”<sup>4</sup>

**January 26, 2010:** An internal memo from Media Matters founder David Brock explains how its 501(c)(4)-affiliate, Media Matters Action Network, will use disclosure information to its political advantage.<sup>5</sup> According to the memo, if a hypothetical company (ACME) supports a conservative candidate or cause, “Media Matters Action Network will track all ACME campaign

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<sup>1</sup> Warren L. Dean Jr., “DEAN: A Democrat’s IRS about-face,” *The Washington Times*. Retrieved on June 18, 2013. Available at: <http://www.washingtontimes.com/news/2013/jun/17/a-democrats-irs-about-face/> (June 17, 2013).

<sup>2</sup> U.S. Representative Dave Camp et al., “Letter to Mr. Daniel Werfel, U.S. House of Representatives Committee on Ways and Means. Retrieved on August 5, 2013. Available at: [http://waysandmeans.house.gov/uploadedfiles/camp\\_boustany\\_fec\\_7\\_30.pdf](http://waysandmeans.house.gov/uploadedfiles/camp_boustany_fec_7_30.pdf) (July 30, 2013), p. 5.

<sup>3</sup> Glenn Harlan Reynolds, “Tax Audits Are No Laughing Matter,” *The Wall Street Journal*. Retrieved on February 27, 2014. Available at: <http://online.wsj.com/news/articles/SB124260113149028331> (May 18, 2009).

<sup>4</sup> Adam Liptak, “Justices, 5-4, Reject Corporate Spending Limit,” *The New York Times*. Retrieved on June 17, 2013. Available at: [http://www.nytimes.com/2010/01/22/us/politics/22scotus.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2010/01/22/us/politics/22scotus.html?pagewanted=all&_r=0) (January 21, 2010).

<sup>5</sup> Ben Smith, “Media Matters political arm to attack corporate spenders,” *Politico*. Retrieved on June 12, 2013. Available at: [http://www.politico.com/blogs/bensmith/0110/Media\\_Matters\\_Action\\_Network\\_to\\_target\\_corporate\\_election\\_spending.html?h\\_owall](http://www.politico.com/blogs/bensmith/0110/Media_Matters_Action_Network_to_target_corporate_election_spending.html?h_owall) (January 26, 2010).

expenditures in its database and may aggressively attack ACME, or provide the information to progressive partners to attack ACME for supporting policies” that it opposes.<sup>6</sup>

**January 27, 2010:** In his 2010 State of the Union Address, President Barack Obama criticizes the Supreme Court for its ruling in *Citizens United v. Federal Election Commission*: “With all due deference to separation of powers, last week the Supreme Court reversed a century of law that I believe will open the floodgates for special interests – including foreign corporations – to spend without limit in our elections. I don't think American elections should be bankrolled by America's most powerful interests, or worse, by foreign entities...”<sup>7</sup>

**February 11, 2010:** Senator Chuck Schumer (D-NY) announces his intention to introduce a proposal known as the DISCLOSE Act, shorthand for “Democracy is Strengthened by Casting Light on Spending in Elections.” Schumer claims that the Act will target corporations that make political expenditures and “make them think twice.” He also says “The deterrent effect [of the DISCLOSE Act] should not be underestimated.”<sup>8</sup>

**March 2010:** According to the Treasury Inspector General for Tax Administration, the IRS Determinations Unit first started “searching for other requests for tax exemption involving the Tea Party, Patriots, 9/12, and...501(c)(4) applications involving political sounding names, e.g., ‘We the People’ or ‘Take Back the Country’” in March 2010.<sup>9</sup> This is the first known instance of the IRS targeting groups of a conservative political orientation applying for tax-exempt status.

**April 29, 2010:** Representative Chris Van Hollen introduces the House version of the DISCLOSE Act (H.R. 5175). One of the bill’s cosponsors, Representative Walter Jones (R-NC), remarks upon the bill’s introduction: “I don’t know many people in Eastern North Carolina who believe...that Chinese or Russian-flagged companies should be able to spend unlimited amounts to influence U.S. elections, or that Wall Street banks should be allowed to spend their bailout money on campaign ads.”<sup>10</sup>

**June 24, 2010:** The DISCLOSE Act passes the House of Representatives 219-206, with only two Republican Representatives voting in support of the bill.<sup>11</sup>

**July 2010 – September 20, 2013:** True the Vote, a Houston-based nascent conservative grassroots organization, applies for IRS tax-exempt status. In the following months, the group’s

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<sup>6</sup> David Brock and Eric Burns, “Media Matters 2012 – A Three-Year Campaign,” Media Matters. Retrieved on June 11, 2013. Available at: <http://www.scribd.com/doc/81500396/Media-Matters-Memo#page=83>, (January 26, 2010), p. 84.

<sup>7</sup> President Barack Obama et al., “Remarks by the President in State of the Union Address,” The White House, Office of the Press Secretary. Retrieved on: June 17, 2013. Available at: <http://www.whitehouse.gov/the-press-office/remarks-president-state-union-address> (January 27, 2010).

<sup>8</sup> Jess Bravin and Brody Mullins, “New Rules Proposed On Campaign Donors,” *The Wall Street Journal*. Retrieved on June 17, 2013. Available at: <http://online.wsj.com/article/SB10001424052748703382904575059941933737002.html> (February 12, 2010).

<sup>9</sup> J. Russell George, “Inappropriate Criteria Were Used to Identify Tax-Exempt Groups for Review,” Treasury Inspector General for Tax Administration. Retrieved on June 13, 2013. Available at: <http://www.treasury.gov/tigta/auditreports/2013reports/201310053fr.pdf>, (May 14, 2013), p. 36.

<sup>10</sup> U.S. Representative Chris Van Hollen, “Van Hollen, Castle, Jones, Brady Announce DISCLOSE Act to Address Citizens United Ruling,” Office of Representative Chris Van Hollen. Retrieved on June 17, 2013. Available at: <http://vanhollen.house.gov/news/documentsingle.aspx?DocumentID=183368> (April 29, 2010).

<sup>11</sup> “FINAL VOTE RESULTS FOR ROLL CALL 391,” United States House of Representatives. Retrieved on June 17, 2013. Available at: <http://clerk.house.gov/evs/2010/roll391.xml> (June 24, 2010).

founder, Catherine Engelbrecht, endures six FBI domestic terrorism inquiries, investigations by the Occupational Safety and Health Administration, the Bureau of Alcohol, Tobacco, Firearms and Explosives, and Texas environmental quality officials, as well as multiple IRS audits and five IRS requests for additional information about the organization.<sup>12</sup>

**July 21, 2010:** Senator Chuck Schumer formally introduces the DISCLOSE Act, S. 3628, in the U.S. Senate.<sup>13</sup> The bill has no Republican cosponsors.

**July 27, 2010:** The DISCLOSE Act fails its first vote in the Senate, as Democrats fail to invoke cloture (57-41) to proceed to consideration of the bill.<sup>14</sup>

**\*August 9, 2010:** In Texas, President Obama for the first time publicly names a group he is obsessed with—Americans for Prosperity (founded by the Koch Brothers)—and warns about conservative groups. Taking up a cry that had until then largely been confined to left-wing media and activists, he says: “Right now all around this country there are groups with harmless-sounding names like Americans for Prosperity, who are running millions of dollars of ads...And they don't have to say who exactly the Americans for Prosperity are. You don't know if it's a foreign-controlled corporation.”

**\*August 11, 2010:** The Democratic Congressional Campaign Committee sends out a fundraising email warning about “Karl Rove-inspired shadow groups.”

**\*August 21, 2010:** Mr. Obama devotes his weekly radio address to the threat of “attack ads run by shadowy groups with harmless-sounding names. We don't know who's behind these ads and we don't know who's paying for them.... You don't know if it's a foreign-controlled corporation.... The only people who don't want to disclose the truth are people with something to hide.”

**\*Week of August 23, 2010:** *The New Yorker's* Jane Mayer authors a hit piece on the Koch brothers, entitled “Covert Operations,” in which she accuses them of funding “political front groups.” The piece repeats the White House theme, with Ms. Mayer claiming the Koch's have created “slippery organizations with generic-sounding names” that have “made it difficult to ascertain the extent of their influence in Washington.”

**\*August 27, 2010:** White House economist Austan Goolsbee, in a background briefing with reporters, accuses Koch industries of being a pass-through entity that does “not pay corporate income tax.” The Treasury Inspector General investigates how it is that Mr. Goolsbee might have confidential tax information. The report has never been released. This same week, the Democratic Party files a complaint with the IRS claiming the Americans for Prosperity Foundation is violating its tax-exempt status.

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<sup>12</sup> Sharyl Attkisson and Kim Skeen, “What’s going on between the IRS and True the Vote?” *CBS News*. Retrieved on June 25, 2013. Available at: [http://www.cbsnews.com/8301-250\\_162-57586763/whats-going-on-between-the-irs-and-true-the-vote/](http://www.cbsnews.com/8301-250_162-57586763/whats-going-on-between-the-irs-and-true-the-vote/) (May 29, 2013).

<sup>13</sup> “Bill Summary & Status 111th Congress (2009 - 2010) S.3628 All Congressional Actions.” The Library of Congress. Retrieved on June 17, 2013. Available at: <http://thomas.loc.gov/cgi-bin/bdquery/z?d111:SN03628:@@X> (July 21, 2010).

<sup>14</sup> Vote Summary on the Motion to Invoke Cloture on the Motion to Proceed to S. 3628. United States Senate. Retrieved on June 17, 2013. Available at: [http://www.senate.gov/legislative/LIS/roll\\_call\\_lists/roll\\_call\\_vote\\_cfm.cfm?congress=111&session=2&vote=00220](http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=111&session=2&vote=00220) (July 27, 2010).

**\*September 2, 2010:** The Democratic Congressional Campaign Committee warns on its website that the Koch's have "funneled their money into right-wing shadow groups."

**\*September 16, 2010:** Mr. Obama, in Connecticut, repeats that a "foreign-controlled entity" might be funding "millions of dollars of attack ads." Four days later, in Philadelphia, he again says the problem is that "nobody knows" who is behind conservative groups.

**\*September 21, 2010:** Sam Stein, in his Huffington Post article "Obama, Dems Try to Make Shadowy Conservative Groups a Problem for Conservatives," writes that a "senior administration official" had "urged a small gathering of reporters to start writing on what he deemed 'the most insidious power grab that we have seen in a very long time.'"

**\*September 22, 2010:** In New York City, Mr. Obama warns that conservative groups "pose as non-for-profit, social welfare and trade groups," even though they are "guided by seasoned Republican political operatives" who might be funded by a "foreign-controlled corporation."

**September 23, 2010:** Upon reconsideration in the Senate, the 2010 Senate version of the DISCLOSE Act (S. 3628) dies in the Senate, as Democrats fell one vote short of invoking cloture (59-39) to proceed to consideration of the bill.<sup>15</sup>

**\*September 26, 2010:** On ABC's "This Week," Obama senior adviser David Axelrod declares outright that the "benign-sounding Americans for Prosperity, the American Crossroads Fund" are "front groups for foreign-controlled companies."

**\*September 28, 2010:** The President, in Wisconsin, again warns about conservative organizations "posing as nonprofit groups." Senator Max Baucus, Chairman of the Senate Finance Committee, writes to the IRS demanding it investigate nonprofits, citing "recent media reports" as his cause for concern. The letter names conservative organizations.

**October 5, 2010:** J. Gerald Hebert, Executive Director of Campaign Legal Center, and Fred Wertheimer, President of Democracy 21, write the first in a long series of letters to the IRS saying, "the IRS should investigate whether Crossroads GPS has a primary purpose of 'participation or intervention in political campaigns on behalf of or in opposition to' candidates for public office..."<sup>16</sup>

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<sup>15</sup> "Vote Summary on the Motion to Invoke Cloture on the Motion to Proceed to S. 3628," United States Senate. Retrieved on June 17, 2013. Available at: [http://www.senate.gov/legislative/LIS/roll\\_call\\_lists/roll\\_call\\_vote\\_cfm.cfm?congress=111&session=2&vote=00240](http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=111&session=2&vote=00240) (September 23, 2010).

<sup>16</sup> J. Gerald Hebert and Fred Wertheimer, "Watchdog Groups Send Treasury IG Previous Requests Urging IRS Action Against Groups Improperly Claiming 501(c)(4) Status," Democracy 21. Retrieved on June 13, 2013. Available at: <http://www.democracy21.org/wp-content/uploads/2013/05/Letters-to-IRS.pdf> (October 5, 2010), p. 15.



**October 11, 2010:** In a letter to the IRS, Senator Dick Durbin (D-IL) asks the agency to “quickly examine the tax status of Crossroads GPS and other (c)(4) organizations that are directing millions of dollars into political advertising.”<sup>17</sup>

**\*October 14, 2010:** Mr. Obama calls these nonprofit groups “a problem for democracy.”

**October 19, 2010:** Then-Director of the IRS Exempt Organizations Division, Lois Lerner, acknowledges at a Duke University panel that “everybody is screaming at [the IRS] right now” to stop spending by nonprofit groups. Lerner informs the audience: “I won’t know until I look at their 990s next year whether they have done more than their primary activity as political or not. So I can’t do anything right now.”<sup>18</sup>

**October 20, 2010:** Pro-“reform” group Public Citizen demands IRS and FEC investigations of the American Future Fund (a conservative 501(c)(4) organization), saying “American Future Fund is pulling out the stops to ensure that Republicans are elected this November,” and “hiding behind [its] nonprofit tax status.”<sup>19</sup>

**\*October 22, 2010:** The President slams those who “hide behind these front groups.”

**\*October 25, 2010:** President Obama upgrades them to a “threat to our democracy.”

**\*October 26, 2010:** Mr. Obama decries groups engaged in “unsupervised spending.”

**February 1, 2011:** In an e-mail to senior members of her staff, IRS Director of Exempt Organizations, Lois Lerner, warns her staff that the “Tea Party Matter [is] very dangerous. This could be the vehicle to go to court on the issue of whether Citizen’s United (sic) overturning the ban on corporate spending applies to tax exempt rules.” Lerner further directs her staff that “Cincy should probably NOT have these cases,” referencing the IRS office in Cincinnati, which generally handles applications for tax-exempt status. In her e-mail, Lerner directs her staff to have applications by Tea Party groups sent to IRS headquarters in Washington, D.C. for review.<sup>20</sup>

**April 20, 2011:** White House officials confirm that President Obama is considering an Executive Order that would require all government contractors to disclose their donations to any

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<sup>17</sup> U.S. Senator Richard J. Durbin, “DURBIN URGES IRS TO INVESTIGATE SPENDING BY CROSSROADS GPS,” Office of Senator Richard J. Durbin. Retrieved on June 17, 2013. Available at: <http://www.durbin.senate.gov/public/index.cfm/pressreleases?ID=833d8f1e-bbdb-4a5b-93ec-706f0cb9cb99> (October 12, 2010).

<sup>18</sup> James Taranto, “The Press and the IRS,” *The Wall Street Journal*. Retrieved on September 23, 2013. Available at: <http://online.wsj.com/article/SB10001424127887323808204579085100811015502.html?KEYWORDS=%22irs+scandal%22> (September 19, 2013).

<sup>19</sup> Memorandum from Majority Staff, “The SEC and Political Speech,” U.S. House of Representatives Committee on Oversight and Government Reform. Retrieved on July 24, 2013. Available at: <http://oversight.house.gov/wp-content/uploads/2013/07/OGR-Memo-The-SEC-and-Political-Speech.pdf> (July 22, 2013), p. 6-7.

<sup>20</sup> Lois G. Lerner, “RE: SCR Table for Jan. 2011,” E-Mail to Michael C. Seto. Retrieved on March 7, 2014. Available at: [http://oversight.house.gov/wp-content/uploads/2014/03/2157-Color-Copier@mail.house.gov\\_20140304\\_215233.pdf](http://oversight.house.gov/wp-content/uploads/2014/03/2157-Color-Copier@mail.house.gov_20140304_215233.pdf) (February 1, 2011), p. 2.

politically active organizations. Senate Minority Leader Mitch McConnell (R-KY) denounces the proposal as “a cynical effort to muzzle critics of this administration and its allies.”<sup>21</sup>

**May 12, 2011:** *The New York Times* reports that the IRS intends to “invok[e] a provision that had rarely, if ever, been enforced” to collect “gift taxes” from major donations to organizations such as Crossroads GPS and Americans for Prosperity.<sup>22</sup> *The Wall Street Journal* would later report that the IRS invoked the obscure provision to audit five donors to Freedom’s Watch, a conservative section 501(c)(4) organization already undergoing an IRS audit itself.<sup>23</sup>

**June 1, 2011:** Holly Paz, Director of the Office of Rulings and Agreements at the IRS, sends an e-mail to Cindy Thomas, Manager of Exempt Organizations Determinations at the Agency’s Cincinnati office, requesting a copy of Crossroads GPS’s application for tax-exempt status, so that Judy Kindell, Senior Adviser to Lois Lerner, can “take a look at it so she can summarize the issues for Lois.”<sup>24</sup>

**July 7, 2011:** Facing opposition and accusations of political bias from Republicans in Congress, the IRS suspends its open investigations into whether certain donors are liable for gift taxes, saying it needs more time “to determine whether there is a need for further guidance in this area.”<sup>25</sup>

**July 27, 2011:** Campaign Legal Center and Democracy 21 petition the IRS to adopt “new regulations to stop section 501(c)(4) organizations from being improperly used to inject tens of millions of dollars in secret contributions into federal elections.”<sup>26</sup>

**August 3, 2011 – Present:** A group of ten law professors submits a rulemaking petition to the SEC “that would require public companies to disclose information about their political spending.”<sup>27</sup> In the following months, it gathers support from “a loose coalition of Democratic elected officials, shareholder activists and pension funds” calling on the Commission “to require

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<sup>21</sup> Perry Bacon Jr. and T.W. Farnam, “Obama weighs disclosure order for contractors,” *The Washington Post*. Retrieved on June 12, 2013. Available at: [http://www.washingtonpost.com/politics/obama-weighs-disclosure-order-for-contractors/2011/04/20/AFBw7qEE\\_story.html](http://www.washingtonpost.com/politics/obama-weighs-disclosure-order-for-contractors/2011/04/20/AFBw7qEE_story.html) (April 20, 2011).

<sup>22</sup> Stephanie Strom, “I.R.S. Moves to Tax Gifts to Groups Active in Politics,” *The New York Times*. Retrieved on June 18, 2013. Available at: [http://www.nytimes.com/2011/05/13/business/13gift.html?\\_r=0](http://www.nytimes.com/2011/05/13/business/13gift.html?_r=0) (May 12, 2011).

<sup>23</sup> John D. McKinnon and Dionne Searcey, “Donors to GOP Group Drew IRS Scrutiny,” *The Wall Street Journal*. Retrieved on June 17, 2013. Available at: <http://online.wsj.com/article/SB10001424127887324682204578517563566848922.html> (May 31, 2013).

<sup>24</sup> Holly O. Paz, “group of cases,” E-Mail to Cindy M. Thomas. Retrieved on March 11, 2014. Available at: <http://oversight.house.gov/wp-content/uploads/2014/03/Lerner-Report1.pdf> (June 1, 2011), p. 26.

<sup>25</sup> Steven T. Miller, “MEMORANDUM FOR COMMISSIONER, SMALL BUSINESS/SELF-EMPLOYED DIVISION COMMISSIONER, TAX-EXEMPT AND GOVERNMENT ENTITIES DIVISION,” Internal Revenue Service. Retrieved on June 18, 2013. Available at: [http://www.irs.gov/pub/newsroom/guidance\\_for\\_irs\\_sbse\\_estate\\_and\\_gift\\_tax\\_and\\_tege\\_exempt\\_organizations.pdf](http://www.irs.gov/pub/newsroom/guidance_for_irs_sbse_estate_and_gift_tax_and_tege_exempt_organizations.pdf) (July 7, 2011).

<sup>26</sup> Fred Wertheimer et al., “Democracy 21 and Campaign Legal Center Challenge Legality of IRS Regulations as Failing to Properly Limit Campaign Activity by 501(c)(4) Organizations,” Democracy 21. Retrieved on June 13, 2013. Available at: [http://democracy21.org/uploads/IRS\\_PETITION\\_JULY\\_27\\_2011.pdf](http://democracy21.org/uploads/IRS_PETITION_JULY_27_2011.pdf) (July 27, 2011), p. 18-19.

<sup>27</sup> Lucian A. Bebchuk, “Letting Shareholders Know How Their Money Is Spent,” *The New York Times DealBook*. Retrieved on June 12, 2013. Available at: <http://dealbook.nytimes.com/2012/11/14/letting-shareholders-know-how-their-money-is-spent/> (November 14, 2012).

publicly traded corporations to disclose to shareholders all of their political donations”<sup>28</sup> Former SEC senior staff write to former Chairman Mary Shapiro, saying “the mechanisms already exist, and...people are using them.”<sup>29</sup>

**September 28, 2011:** A letter authored by Campaign Legal Center and Democracy 21 says “the IRS should conduct an investigation of whether [Crossroads GPS, Priorities USA, American Action Network, and Americans Elect] has engaged in more than an insubstantial amount of non-exempt activity...”<sup>30</sup>

**November 1, 2011:** Senator Tom Udall (D-NM) introduces S.J. Res. 29, which proposes an amendment to the Constitution giving Congress “power to regulate the raising and spending of money and in kind equivalents with respect to Federal elections...”<sup>31</sup> The measure was referred to the Senate Judiciary Committee, but failed to receive a hearing.<sup>32</sup>

**November 15, 2011:** U.S. Representative Jim McGovern (D-MA) introduces the “People’s Rights” Amendment (H.J. Res. 88), which restricts “the rights protected by this Constitution” to “the rights of natural persons,” and grants Congress power to implement any and all regulation of corporate entities.<sup>33</sup> The proposed amendment was referred to the House Judiciary Committee, but never received a hearing.<sup>34</sup>

**December 14, 2011:** In a third letter to the IRS, Campaign Legal Center and Democracy 21 say “the failure of the IRS to carry out its statutory enforcement responsibilities to prevent the abuse of the tax laws could have a major impact on the 2012 elections,” and they “urge the IRS in the strongest possible terms to expeditiously examine the matters we have brought to its attention...before it is too late.”<sup>35</sup>

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<sup>28</sup> Nicholas Confessore, “S.E.C. Is Asked to Require Disclosure of Donations,” *The New York Times*. Retrieved on June 25, 2013. Available at: [http://www.nytimes.com/2013/04/24/us/politics/sec-is-asked-to-make-companies-disclose-donations.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2013/04/24/us/politics/sec-is-asked-to-make-companies-disclose-donations.html?pagewanted=all&_r=0) (April 23, 2013).

<sup>29</sup> Memorandum from Majority Staff, “The SEC and Political Speech,” U.S. House of Representatives Committee on Oversight and Government Reform. Retrieved on July 24, 2013. Available at: <http://oversight.house.gov/wp-content/uploads/2013/07/OGR-Memo-The-SEC-and-Political-Speech.pdf> (July 22, 2013), p. 3.

<sup>30</sup> J. Gerald Hebert and Fred Wertheimer, “Democracy 21 and Campaign Legal Center Challenge Tax Exempt Status of Crossroads GPS, Priorities USA, American Action Network and Americans Elect, Urge Prompt Investigations and Action by Internal Revenue Service,” Democracy 21. Retrieved on June 13, 2013. Available at: [http://democracy21.org/uploads/Letter to the IRS from Democracy 21 and Campaign Legal Center 9 28 2011.pdf](http://democracy21.org/uploads/Letter%20to%20the%20IRS%20from%20Democracy%20and%20Campaign%20Legal%20Center%209%2028%202011.pdf) (September 28, 2011), p. 23.

<sup>31</sup> U.S. Senator Tom Udall et al., “S.J. Res. 29,” Government Printing Office. Retrieved on June 26, 2013. Available at: <http://www.gpo.gov/fdsys/pkg/BILLS-112sjres29is/pdf/BILLS-112sjres29is.pdf> (November 1, 2011), p. 2.

<sup>32</sup> “Bill Summary & Status 112th Congress (2011 - 2012) S.J. Res. 29 All Congressional Actions,” The Library of Congress. Retrieved on June 26, 2013. Available at: <http://thomas.loc.gov/cgi-bin/bdquery/D?d112:1:./temp/~bdomomZ:@@X/home/LegislativeData.php?n=BSS;c=112> (November 1, 2011).

<sup>33</sup> U.S. Representative James P. McGovern et al., “H.J. Res. 88,” Government Printing Office. Retrieved on June 26, 2013. Available at: <http://www.gpo.gov/fdsys/pkg/BILLS-112hjres88ih/pdf/BILLS-112hjres88ih.pdf> (November 15, 2011), p. 2.

<sup>34</sup> “Bill Summary & Status 112th Congress (2011 - 2012) H.J. Res. 88 All Congressional Actions,” The Library of Congress. Retrieved on June 26, 2013. Available at: <http://thomas.loc.gov/cgi-bin/bdquery/D?d112:14:./temp/~bdpy0e:@@X/home/LegislativeData.php?n=BSS;c=112> (November 15, 2011).

<sup>35</sup> J. Gerald Hebert and Fred Wertheimer, “Watchdog Groups Send Treasury IG Previous Requests Urging IRS Action Against Groups Improperly Claiming 501(c)(4) Tax Status,” Democracy 21. Retrieved on June 13, 2013. Available at: <http://www.democracy21.org/wp-content/uploads/2013/05/Letters-to-IRS.pdf> (December 14, 2011), p. 40.



**January 2012:** The IRS begins sending letters explaining that applications for tax-exempt status cannot be evaluated until the groups complete lengthy and complex questionnaires, some of which ask over 80 questions and include requests for “all copies of...corporate minutes from inception to present,” and “how each compensation package was determined” for all “directors, officers, or key employees,” past and present.<sup>36</sup>

**February 9, 2012:** For a second time, Representative Chris Van Hollen introduces the DISCLOSE Act in the House of Representatives, where it eventually dies in the House Administration and House Judiciary Committees.<sup>37</sup>

**February 16, 2012:** A joint letter from Senators Michael Bennet (D-CO), Al Franken (D-MN), Jeff Merkley (D-OR), Chuck Schumer, Jeanne Shaheen (D-NH), Tom Udall (D-NM), and Sheldon Whitehouse (D-RI) asks the IRS to investigate tax-exempt organizations’ political activities.<sup>38</sup> In Senator Bennet’s accompanying press release, he opines that “operations such as Mr. [Karl] Rove’s [Crossroads GPS] should not be allowed to masquerade as charities.”<sup>39</sup>

**March 6, 2012:** *The New York Times* reports the IRS has begun scrutinizing “dozens” of Tea Party organizations, “demanding to know their political leanings and activities.”<sup>40</sup>

**March 9, 2012:** A fourth letter from Campaign Legal Center and Democracy 21 again asks “the IRS to move forward expeditiously to investigate the groups we have identified in our earlier letters...”<sup>41</sup>

**March 12, 2012:** Led by Senator Chuck Schumer, the seven Senators who sent the February 16, 2012 letter to the IRS send a second letter to the Agency demanding additional investigation and regulation of 501(c)(4) groups, declaring that they suspect “abuse of the tax code by political groups” and asking the agency to enforce a strict cap on political spending by 501(c)(4) groups. The letter also vows, “if the IRS is unable to issue administrative guidance in this area then we plan to introduce legislation to accomplish these important changes [to section 501(c)(4) of the Internal Revenue Code].”<sup>42</sup>

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<sup>36</sup> Exempt Organizations Specialist, “Letter 1312,” Internal Revenue Service. Retrieved on June 12, 2013. Available at: <http://www.documentcloud.org/documents/323502-letter-from-the-irs-to-tea-party-organizations.html> (January 26, 2012).

<sup>37</sup> “H.R. 4010 (112<sup>th</sup>): DISCLOSE 2012 Act,” Govtrack.us. Retrieved on June 17, 2013. Available at: <http://www.govtrack.us/congress/bills/112/hr4010> (February 9, 2012).

<sup>38</sup> U.S. Senator Tom Udall et al., “Senators Call for IRS Investigations into Potential Abuse of Tax-Exempt Status by Groups Engaged in Campaign Activity,” Office of Senator Tom Udall. Retrieved on June 17, 2013. Available at: [http://www.tomudall.senate.gov/?p=press\\_release&id=1026](http://www.tomudall.senate.gov/?p=press_release&id=1026) (February 16, 2012).

<sup>39</sup> U.S. Senator Michael Bennet, “Senators Call for IRS Investigations into Potential Abuse of Tax-Exempt Status by Groups Engaged in Campaign Activity,” Office of Senator Michael F. Bennet. Retrieved on June 17, 2013. Available at: <http://www.bennet.senate.gov/newsroom/press/release/senators-call-for-irs-investigations-into-potential-abuse-of-tax-exempt-status-by-groups-engaged-in-campaign-activity> (February 16, 2012).

<sup>40</sup> Jonathan Weisman, “Scrutiny of Political Nonprofit Sets Off Claim Of Harassment,” *The New York Times*. Retrieved on June 12, 2013. Available at: [http://www.nytimes.com/2012/03/07/us/politics/irs-scrutiny-of-political-groups-stirs-harassment-claim.html?\\_r=0](http://www.nytimes.com/2012/03/07/us/politics/irs-scrutiny-of-political-groups-stirs-harassment-claim.html?_r=0) (March 6, 2012).

<sup>41</sup> J. Gerald Hebert and Fred Wertheimer, “Watchdog Groups Call on IRS to Ignore Efforts to Dissuade the Agency from Investigating Eligibility of Political Groups for Tax-Exempt Status as 501(c)(4) “Social Welfare” Groups, Democracy 21. Retrieved on June 13, 2013. Available at: [http://www.democracy21.org/uploads/Letter\\_to\\_IRS\\_Requesting\\_Investigation\\_of\\_501c4\\_Organizations\\_3\\_9\\_2012.pdf](http://www.democracy21.org/uploads/Letter_to_IRS_Requesting_Investigation_of_501c4_Organizations_3_9_2012.pdf) (March 9, 2012), p. 3.

<sup>42</sup> U.S. Senator Charles E. Schumer et al., “SENATE DEMOCRATS URGE IRS TO IMPOSE STRICT CAP ON POLITICAL SPENDING BY NONPROFIT GROUPS—VOW LEGISLATION IF AGENCY DOESN’T ACT,” Office of Senator Charles E.

**March 14, 2012:** On the heels of Senator Schumer’s letter two days prior, twelve Republican Senators, including Senate Finance Committee Ranking Member Orrin Hatch (R-UT), Rob Portman (R-OH), Minority Leader Mitch McConnell, and Rand Paul (R-KY) send a letter to then-IRS Commissioner Dan Shulman regarding “excessive” IRS inquiries into grassroots Tea Party organizations, seeking “assurance that this recent string of inquiries has a sound basis in law and is consistent with the IRS’s treatment of tax-exempt organizations across the spectrum.”<sup>43</sup>

**March 21, 2012:** Senator Sheldon Whitehouse introduces a new version of the DISCLOSE Act, S. 2219. The bill later dies in the Senate Committee on Rules and Administration.<sup>44</sup>

**March 22, 2012:** Campaign Legal Center and Democracy 21 press the IRS for action on its 2011 rulemaking petition, saying “absent such action by the IRS, the agency will bear direct responsibility for the misuse and abuse of the tax laws by groups that are flooding our elections with secret money.”<sup>45</sup>

**April 12, 2012:** SEC Commissioner Luis Aguilar attempts to add a commitment to the rulemaking proposal (see August 3, 2011 entry) to the Agency’s agenda. A bipartisan majority of the five SEC Commissioners declines, approving the agenda in its original form.<sup>46</sup>

**April 16, 2012:** Representative Anna Eshoo (D-CA), Ranking Member of the House Communications and Technology Subcommittee, writes a letter to FCC Chairman Julius Genachowski, supporting a proposed regulation that would require TV broadcasters to make their public file, including political advertisers, available online.<sup>47</sup>

**April 17, 2012:** Campaign Legal Center and Democracy 21 send a sixth letter to the IRS to “again call on the IRS to investigate and take appropriate enforcement action against Crossroads GPS regarding its claimed status as a section 501(c)(4) tax-exempt ‘social welfare’ organization.”<sup>48</sup>

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Schumer. Retrieved on June 12, 2013. Available at: <http://www.schumer.senate.gov/Newsroom/record.cfm?id=336270> (March 12, 2012).

<sup>43</sup> Senator Orrin Hatch and Senator Rob Portman, et al., “Senators to IRS: Don’t Let Politics Trump Policy on Non-Profit Group Designations,” United States Senate Committee on Finance. Retrieved on June 25, 2013. Available at: <http://www.finance.senate.gov/newsroom/ranking/release/?id=b49bd610-6a0f-4ea5-bea2-8ce37e2e5e04> (March 14, 2012).

<sup>44</sup> “S. 2219 (112<sup>th</sup>): Democracy is Strengthened by Casting Light On Spending in Elections Act of 2012,” Govtrack.us. Retrieved on June 17, 2013. Available at: <http://www.govtrack.us/congress/bills/112/s2219> (March 21, 2012).

<sup>45</sup> J. Gerald Hebert and Fred Wertheimer, “Democracy 21 and Campaign Legal Center Again Call on IRS to Initiate Rulemaking Proceeding to Revise and Clarify Eligibility Requirements for 501(c)(4) Tax-Exempt Status,” Democracy 21. Retrieved on June 13, 2013. Available at: [http://www.democracy21.org/uploads/Letter\\_to\\_IRS\\_re\\_Petition\\_for\\_rulemaking\\_on\\_501c4\\_groups.pdf](http://www.democracy21.org/uploads/Letter_to_IRS_re_Petition_for_rulemaking_on_501c4_groups.pdf) (March 22, 2012), p. 4.

<sup>46</sup> Memorandum from Majority Staff, “The SEC and Political Speech,” U.S. House of Representatives Committee on Oversight and Government Reform. Retrieved on July 24, 2013. Available at: <http://oversight.house.gov/wp-content/uploads/2013/07/OGR-Memo-The-SEC-and-Political-Speech.pdf> (July 22, 2013), p. 4.

<sup>47</sup> U.S. Representative Anna G. Eshoo, “Letter to Julius Genachowski,” Congress of the United States. Retrieved on June 24, 2013. Available at: [http://eshoo.house.gov/images/stories/4.16.12\\_Public\\_Files\\_Letter\\_to\\_FCC.pdf](http://eshoo.house.gov/images/stories/4.16.12_Public_Files_Letter_to_FCC.pdf) (April 16, 2012).

<sup>48</sup> J. Gerald Hebert and Fred Wertheimer, “Democracy 21 and Campaign Legal Center Again Call on IRS to Investigate Eligibility of Crossroads GPS for Tax-Exempt Status as ‘Social Welfare’ Organization,” Democracy 21. Retrieved on June 13, 2013. Available at: [http://www.democracy21.org/uploads/IRS\\_LETTER\\_CROSSROADS\\_GPS\\_4\\_17\\_12.pdf](http://www.democracy21.org/uploads/IRS_LETTER_CROSSROADS_GPS_4_17_12.pdf) (April 17, 2012), p. 1.

**April 23, 2012:** IRS Chief Counsel William Wilkins meets with President Barack Obama two days before his office releases new guidelines for scrutinizing tea-party groups seeking tax-exempt status.<sup>49</sup> An unnamed attorney in the IRS was appalled: “In my seven years of working at a general counsel’s office, I have never once heard of our general counsel meeting with the President. OLC [White House Office of Legal Counsel] would go crazy if he did. I have worked on a couple of legal opinions that did go to the White House. And each time they were staffed through OLC...So I can’t for the life of me come up with any kind of innocent explanation for why Obama would have met with the chief counsel of the IRS. That meeting shouldn’t ever happen, and especially not without the commissioner of the IRS being there.”<sup>50</sup>

**April 26, 2012:** IRS Deputy Commissioner Steven Miller responds to GOP Senators’ March 14 letter. According to Senator Hatch’s Finance Committee office, “the letter does not acknowledge that the IRS had inappropriately targeted tea party groups or asked improper questions about their contributors.”<sup>51</sup>

**May 24, 2012:** In yet another joint letter from Campaign Legal Center and Democracy 21, the authors demand that the IRS “deny the pending application submitted by Crossroads GPS to obtain section 501(c)(4) tax status.”<sup>52</sup> The letter heavily bases its claims about Crossroads GPS on a May 22, 2012 article in *The New York Times*.

**June 18, 2012:** Eleven Republican Senators, led by Orrin Hatch and Mitch McConnell, demand that the IRS explain its rationale for requesting confidential donor lists as part of its evaluation of tax-exempt status applications. In their letter, the Senators caution that “the public release of private donor information exposes citizens to possible harassment and intimidation.”<sup>53</sup>

**June 20, 2012:** In a press release from Public Citizen, Craig Holman, the organization’s Government Affairs Lobbyist, calls for the FEC to scrutinize Crossroads GPS, saying it “appears to serve little purpose other than buying Congress and the White House in the 2012 elections, and therefore appears to be in clear violation of the law.”<sup>54</sup>

**July 9, 2012:** Former Representative Barney Frank (D-MA) and then-Ranking Member of the House Financial Services Committee writes to the SEC Office of Legislative and

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<sup>49</sup> Patrick Howley, “Embattled IRS chief counsel met with Obama 2 days before agency changed targeting criteria,” *The Daily Caller*. Retrieved on August 5, 2013. Available at: <http://dailycaller.com/2013/07/22/embattled-irs-chief-counsel-met-with-obama-2-days-before-writing-new-targeting-criteria/> (July 22, 2013).

<sup>50</sup> Sue Reisinger, “IRS Chief Counsel Continues to Draw Critical Fire,” *Corporate Counsel*. Retrieved on August 5, 2013. Available at: <http://www.law.com/corporatecounsel/PubArticleFriendlyCC.jsp?id=1202612653261&slreturn=20130705111802> (July 29, 2013).

<sup>51</sup> Julia Lawless and Antonia Ferrier, “Timeline of Key Events Surrounding IRS Targeting of Conservative Groups,” United States Senate Committee on Finance. Retrieved on June 25, 2013. Available at: <http://www.finance.senate.gov/newsroom/ranking/release/?id=916a4628-a5c2-4240-b659-3aaaa93290f1> (May 13, 2013).

<sup>52</sup> J. Gerald Hebert and Fred Wertheimer, “Watchdog Groups Submit New Information to IRS Showing Crossroads GPS Not Entitled to Section 501(c)(4) Tax-Exempt Status,” Democracy 21. Retrieved on June 13, 2013. Available at: [http://www.democracy21.org/uploads/IRS\\_LETTER\\_CROSSROADS\\_GPS\\_5\\_24\\_12%281%29.pdf](http://www.democracy21.org/uploads/IRS_LETTER_CROSSROADS_GPS_5_24_12%281%29.pdf) (May 24, 2012), p. 4.

<sup>53</sup> U.S. Senator Orrin Hatch et al., “Senators to IRS: Congress has Made Privacy the Rule, Not the Exception,” United States Senate Committee on Finance. Retrieved on June 25, 2013. Available at: <http://www.finance.senate.gov/newsroom/ranking/release/?id=16db8888-3c42-4e08-a203-f7d8e5b6428f> (June 18, 2012).

<sup>54</sup> Craig Holman, “Obama Campaign Joins the Calls for an FEC Investigation of Crossroads GPS,” Public Citizen. Retrieved on June 13, 2013. Available at: <http://www.citizen.org/pressroom/pressroomredirect.cfm?ID=3636> (June 20, 2012).

Intergovernmental Affairs, inquiring about “SEC authority to require disclosure on corporate charitable [sic] contributions. There is particular interest in what the authority is for disclosure of 501(c)(4) contributions.”<sup>55</sup>

**July 10, 2012:** Senator Sheldon Whitehouse re-introduces the DISCLOSE Act of 2012 (S. 3369), where it faces further Republican opposition.<sup>56</sup>

**July 12, 2012:** A letter from The Campaign Legal Center urges senators to support the DISCLOSE Act, calling it an “urgently needed legislative response to the new types of high-dollar, anonymously-funded political spending triggered by the Supreme Court’s decision in *Citizens United v. FEC*.”<sup>57</sup>

**July 16, 2012:** A letter from Americans for Campaign Reform, the Brennan Center for Justice, Campaign Legal Center, Citizens for Responsibility and Ethics in Washington, Common Cause, Democracy 21, League of Women Voters, People for the American Way, Public Citizen, and Sunlight Foundation urges Senators to vote for cloture on the DISCLOSE Act, calling the vote “a clear choice: vote for public disclosure to inform citizens about the donors providing funds to influence their votes, or vote to protect secret money.”<sup>58</sup>

**July 16, 2012:** The DISCLOSE Act of 2012 fails to pass a Senate vote for cloture. Senate Majority Leader Harry Reid (D-NV) insists that wealthy conservative donors are on the cusp of purchasing the 2012 elections: “If this flood of outside money continues, the day after the election, 17 angry old white men will wake up and realize they’ve just bought the country.”<sup>59</sup>

**July 17, 2012:** The IRS responds to Campaign Legal Center’s and Democracy 21’s 2011 petition (see July 27, 2011 and March 22, 2012 entries), promising to “consider proposed changes in this area as we work...to identify tax issues that should be addressed through regulations...”<sup>60</sup>

**July 23, 2012:** Campaign Legal Center and Democracy 21 “welcome” the IRS’ response to their petitions, but call for urgent action and warn that “the failure of the IRS to take action on this matter has allowed groups...to make assertions about IRS rules that are unsupported by law, and

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<sup>55</sup> Memorandum from Majority Staff, “The SEC and Political Speech,” U.S. House of Representatives Committee on Oversight and Government Reform. Retrieved on July 24, 2013. Available at: <http://oversight.house.gov/wp-content/uploads/2013/07/OGR-Memo-The-SEC-and-Political-Speech.pdf> (July 22, 2013), p. 4, p. 5.

<sup>56</sup> “Bill Summary & Status 112th Congress (2011 - 2012) S.3369 All Congressional Actions,” The Library of Congress. Retrieved on June 17, 2013. Available at: <http://thomas.loc.gov/cgi-bin/bdquery/z?d112:SN03369:@@X/home/LegislativeData.php?n=BSS;c=112> (July 10, 2012).

<sup>57</sup> J. Gerald Herbert and Meredith McGehee, “July 12, 2012 - Legal Center Urges Senators to Pass DISCLOSE Act,” The Campaign Legal Center. Retrieved on June 17, 2013. Available at: [http://www.campaignlegalcenter.org/index.php?option=com\\_content&view=article&id=1789:july-12-2012-legal-center-urges-senators-to-pass-disclose-act-&catid=63:legal-center-press-releases&Itemid=61](http://www.campaignlegalcenter.org/index.php?option=com_content&view=article&id=1789:july-12-2012-legal-center-urges-senators-to-pass-disclose-act-&catid=63:legal-center-press-releases&Itemid=61) (July 12, 2012).

<sup>58</sup> Democracy 21 et al., “Reform Groups Urge Senators to Vote for Cloture on DISCLOSE Act,” Democracy 21. Retrieved on June 17, 2013. Available at: <http://www.democracy21.org/archives/whats-new/reform-groups-urge-senators-to-vote-for-cloture-on-disclose-act/> (July 16, 2012).

<sup>59</sup> Manu Raju, “Reid: ‘Angry old white men’ trying to buy elections,” *Politico*. Retrieved on June 12, 2013. Available at: <http://www.politico.com/blogs/on-congress/2012/07/reid-angry-white-men-trying-to-buy-elections-129067.html> (July 16, 2012).

<sup>60</sup> Julie Bykovicz, “IRS ‘Will Consider’ Changes for Tax-Exempt Groups in Politics,” *Bloomberg*. Retrieved on June 12, 2013. Available at: <http://go.bloomberg.com/political-capital/2012-07-23/irs-will-consider-changes-for-tax-exempt-groups-in-politics/> (July 23, 2012), p. 1.

thereby to provide a veil of secrecy for the donors financing their campaign-related expenditures.” The letter also singles out Crossroads GPS as the “biggest and most blatant example of massive campaign spending by a group claiming tax-exempt status as a section 501(c)(4) ‘social welfare’ organization.”<sup>61</sup>

**August 6, 2012:** Perturbed by the IRS’s vow to “consider proposed changes” in its July 17 response to Campaign Legal Center and Democracy 21’s joint 2011 rulemaking petition, Senator Orrin Hatch and nine other GOP Senators warn: “We believe these petitions have less to do with concerns about the sanctity of the tax code and more about setting the tone for the upcoming presidential election, and we urge you to resist allowing the IRS rulemaking process to be subverted to achieve partisan political gains.”<sup>62</sup>

**August 9, 2012:** Campaign Legal Center and Democracy 21 send a ninth joint letter to the IRS, characterizing opposition to their 2011 rulemaking petition as “a partisan effort to allow pro-Republican campaign groups like Crossroads GPS to continue hiding their donors from the American people...”<sup>63</sup>

**August 21, 2012:** Campaign Legal Center and Democracy 21 write to the IRS, apparently to bring a single ProPublica article on the activity of 501(c)(4)’s to the agency’s attention. The letter simply explains that they “believe the report further documents the case we have made in a series of letters.”<sup>64</sup>

**August 29, 2012:** When asked about *Citizens United* during an online Q&A session on the website *Reddit*, President Barack Obama responds, “We need to seriously consider mobilizing a constitutional amendment process to overturn *Citizens United*.”<sup>65</sup>

**September 2012:** Under pressure from Democratic Leadership in Congress and numerous pro-regulation organizations,<sup>66</sup> SEC Commissioners place the proposed donor disclosure rule on its rulemaking agenda, signaling their intention to decide whether to recommend the rule change. It is the most significant progress the proposed rule has made thus far.<sup>67</sup>

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<sup>61</sup> J. Gerald Hebert and Fred Wertheimer, “IRS Responds to Rulemaking Petition Submitted by Democracy 21 and Campaign Legal Center, Says Agency Will Consider Changing Rules for 501(c)(4) Eligibility,” Democracy 21. Retrieved on June 13, 2013. Available at: [http://www.democracy21.org/uploads/IRS\\_letter\\_-\\_July\\_21\\_2012.pdf](http://www.democracy21.org/uploads/IRS_letter_-_July_21_2012.pdf) (July 23, 2012), p. 3, 5.

<sup>62</sup> U.S. Senator Orrin Hatch et al., “Senators Want IRS to Clarify Intentions for 501(c)(4) Organizations,” United States Senate Committee on Finance. Retrieved on June 25, 2013. Available at: <http://www.finance.senate.gov/newsroom/ranking/release/?id=e00414de-2b2c-4954-8c9e-669e9fccff12> (August 6, 2012).

<sup>63</sup> J. Gerald Hebert and Fred Wertheimer, “Watchdog Groups Call on IRS to Ignore Partisan Pressure From Republican Senators and Proceed to Consider New Eligibility Rules for 501(c)(4) Organizations,” Democracy 21. Retrieved on June 13, 2013. Available at: [http://www.democracy21.org/uploads/Final\\_Letter\\_to\\_IRS\\_08\\_09.pdf](http://www.democracy21.org/uploads/Final_Letter_to_IRS_08_09.pdf) (August 9, 2012), p. 3.

<sup>64</sup> J. Gerald Hebert and Fred Wertheimer, “Letter to IRS Enclosing ProPublica Report on 501(c)(4) Organizations,” Democracy 21. Retrieved on June 13, 2013. Available at: <http://www.democracy21.org/archives/key-documents-archives/democracy-21-letters-and-reports/letter-to-irs-enclosing-propublica-report-on-501c4-organizations/> (August 21, 2012).

<sup>65</sup> Paul Blumenthal, “Obama Endorses Anti-Citizens United Amendment In Reddit Chat,” *The Huffington Post*. Retrieved on June 26, 2013. Available at: [http://www.huffingtonpost.com/2012/08/29/barack-obama-citizens-united-reddit\\_n\\_1841258.html](http://www.huffingtonpost.com/2012/08/29/barack-obama-citizens-united-reddit_n_1841258.html) (August 29, 2012).

<sup>66</sup> Memorandum from Majority Staff, “The SEC and Political Speech,” U.S. House of Representatives Committee on Oversight and Government Reform. Retrieved on July 24, 2013. Available at: <http://oversight.house.gov/wp-content/uploads/2013/07/OGR-Memo-The-SEC-and-Political-Speech.pdf> (July 22, 2013), p. 8.

<sup>67</sup> Jesse Hamilton and Jonathan Salant, “Political-Disclosure Rule Seekers See Hopeful Sign on SEC Agenda,” *Bloomberg*. Retrieved on June 12, 2013. Available at: <http://www.bloomberg.com/news/2013-01-07/political-disclosure-rule-seekers-see-hopeful-sign-on-sec-agenda.html> (January 7, 2013).



**September 19, 2012:** Senator Carl Levin (D-MI) demands that the IRS take a more active role in inspecting tax-exempt groups, saying “The Internal Revenue Service (IRS) – the organization that grants these groups their tax-exempt status in the first place – should be protecting the voting public from these groups that pretend to be acting in the social welfare but are instead engaging in partisan politics.”<sup>68</sup>

**September 27, 2012:** The eleventh letter from Campaign Legal Center and Democracy 21 to the IRS advocates “denying Crossroads GPS tax-exempt status and...imposing appropriate penalties on the organization.”<sup>69</sup>

**October 4, 2012:** Roughly a month before the 2012 general election, Representative Elijah Cummings (D-MD), Ranking Member of the House Oversight and Government Reform Committee, launches an investigation into True the Vote (TTV), a grassroots election-integrity organization, requesting extensive documentation from TTV and questioning the legality of the organization’s activities.<sup>70</sup>

**October 7, 2012:** Lisa Gilbert, of campaign finance “reform” group Public Citizen, writes in *USA Today*, “The Internal Revenue Service (IRS) should take more care as it classifies groups to ensure they don’t allow sham non-profits to register as 501(c)(4)s,” and urges Federal Communications Commissioner (FCC) and Securities and Exchange Commission (SEC) involvement.<sup>71</sup>

**November 6, 2012:** Colorado voters approve the Colorado Corporate Contributions Amendment (Amendment 65),<sup>72</sup> a ballot measure asking Colorado’s Congressional delegation to propose a Constitutional amendment to reverse *Citizens United* “that allows congress and the states to limit campaign contributions and spending.”<sup>73</sup>

**November 6, 2012:** Montanans approve Initiative No. 166,<sup>74</sup> which establishes that “corporations are not entitled to constitutional rights because they are not human beings, and charges Montana elected and appointed officials, state and federal, to implement that policy.”

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<sup>68</sup> Senator Carl Levin, “Senate Floor Statement on the Internal Revenue Service and 501(c)(4) Organizations,” Office of Senator Carl Levin. Retrieved on June 12, 2013. Available at: <http://www.levin.senate.gov/newsroom/speeches/speech/senate-floor-statement-on-the-internal-revenue-service-and-501c4-organizations/> (September 19, 2012).

<sup>69</sup> J. Gerald Hebert and Fred Wertheimer, “Watchdog Groups Send New Letter to IRS that Further Documents that Crossroads GPS Is Not Entitled to 501(c)(4) Status,” Democracy 21. Retrieved on June 13, 2013. Available at: [http://www.democracy21.org/uploads/IRS\\_LETTER\\_CROSSROADS\\_GPS\\_Sept\\_27.pdf](http://www.democracy21.org/uploads/IRS_LETTER_CROSSROADS_GPS_Sept_27.pdf) (September 27, 2012), p. 10.

<sup>70</sup> U.S. Representative Elijah Cummings, “Letter to Ms. Catherine Engelbrecht,” U.S. House Committee on Oversight and Government Reform. Retrieved on June 24, 2013. Available at: <http://www.scribd.com/doc/110033576/2012-10-04-EEC-to-Engelbrecht-TrueTheVote> (October 4, 2012).

<sup>71</sup> Lisa Gilbert, “Column: Two steps forward, two steps back,” *USA Today*. Retrieved on June 12, 2013. Available at: <http://www.usatoday.com/story/opinion/2012/10/07/disclosure-corporations-elections-money/1612181/> (October 7, 2012).

<sup>72</sup> “Amendment 65 - Campaign Finance Limits Election Results,” *The Denver Post*. Retrieved on June 24, 2013. Available at: <http://data.denverpost.com/election/results/amendment/2012/65-campaign-finance-limits/> (June 24, 2013).

<sup>73</sup> Ari Armstrong, “Amendment 65: An intrusion on our right to free speech,” *The Denver Post*. Retrieved on June 25, 2013. Available at: [http://www.denverpost.com/opinion/ci\\_21647818/no-it-intrudes-our-right-free-speech](http://www.denverpost.com/opinion/ci_21647818/no-it-intrudes-our-right-free-speech) (September 30, 2012).

<sup>74</sup> Montana Secretary of State Linda McCulloch, “2012 STATEWIDE GENERAL ELECTION CANVASS,” State of Montana. Retrieved on June 24, 2013. Available at: [http://sos.mt.gov/Elections/2012/2012\\_General\\_Canvass.pdf](http://sos.mt.gov/Elections/2012/2012_General_Canvass.pdf) (2012), p. 28.

This includes charging its Congressional delegation with proposing a Constitutional amendment to reverse *Citizens United*.<sup>75</sup>

**December 2012:** The Office of Management and Budget announces the SEC “is considering whether to recommend that the Commission issue a proposed rule to require that public companies provide disclosure to shareholders regarding the use of corporate resources for political activities.”<sup>76</sup>

**December 3, 2012:** An incredulous letter from Campaign Legal Center and Democracy 21 reacts to the IRS’ published list of agency priorities: “nowhere on this list of 317 agency ‘priorities,’ which includes a list of 13 priorities specifically relating to exempt organizations, is there any mention of a project to revise and clarify the rules dealing with political activities by section 501(c)(4) groups.”<sup>77</sup>

**December 7, 2012:** An internal SEC memo from the Agency’s Senior Special Counsel warns that “[the] FEC is the primary federal regulator of political activity disclosure. Formulating a SEC disclosure rule that is not duplicative of other federal and state law requirements and does not raise First Amendment issues may be challenging.”<sup>78</sup>

**December 11, 2012:** New York Attorney General Eric Schneiderman announces a “far-reaching draft regulation” that “would require any tax-exempt group that does business in New York to disclose what proportion of its total spending went to political activities.” He is required to hold public hearings, but is a legally capable of approving the proposed regulations unilaterally.<sup>79</sup>

**December 14, 2012:** ProPublica receives Crossroads GPS’ 2010 application for tax-exempt status from the IRS. Because the group’s tax-exempt status had not yet been recognized, the application was confidential. Despite the IRS’ warning that publishing a pending application could result in fines and/or jail time, ProPublica publishes the full application.<sup>80</sup>

**December 27, 2012:** Senators Ron Wyden (D-OR) and Lisa Murkowski (R-AK) announce their intention to formally introduce a campaign finance “reform” proposal, similar in many ways to

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<sup>75</sup> “BALLOT LANGUAGE FOR INITIATIVE NO. 166 (I-166),” State of Montana. Retrieved on June 24, 2013. Available at: <http://sos.mt.gov/Elections/2012/BallotIssues/I-166.pdf> (2012), p. 1.

<sup>76</sup> Memorandum from Majority Staff, “The SEC and Political Speech,” U.S. House of Representatives Committee on Oversight and Government Reform. Retrieved on July 24, 2013. Available at: <http://oversight.house.gov/wp-content/uploads/2013/07/OGR-Memo-The-SEC-and-Political-Speech.pdf> (July 22, 2013), p. 2.

<sup>77</sup> J. Gerald Hebert and Fred Wertheimer, “Democracy 21 and the Campaign Legal Center Charge the IRS With Indefensible Abdication of Responsibility,” Democracy 21. Retrieved on June 13, 2013. Available at: <http://www.democracy21.org/wp-content/uploads/2012/12/IRS-LETTER-PRIORITY-GUIDANCE-PLAN-12-3-12.pdf> (December 3, 2012), p. 1.

<sup>78</sup> Memorandum from Majority Staff, “The SEC and Political Speech,” U.S. House of Representatives Committee on Oversight and Government Reform. Retrieved on July 24, 2013. Available at: <http://oversight.house.gov/wp-content/uploads/2013/07/OGR-Memo-The-SEC-and-Political-Speech.pdf> (July 22, 2013), p. 3.

<sup>79</sup> Nicholas Confessore, “Attorney General Seeks to Force Disclosure of More Political Donors,” *The New York Times*. Retrieved on June 13, 2013. Available at: <http://www.nytimes.com/2012/12/12/nyregion/new-york-attorney-general-seeks-to-expose-more-political-donors.html?hp&r=1&> (December 11, 2012).

<sup>80</sup> Kim Barker, “Karl Rove’s Dark Money Group Promised IRS It Would Spend ‘Limited’ Money on Elections,” ProPublica. Retrieved on June 12, 2013. Available at: <http://www.propublica.org/article/what-karl-roves-dark-money-nonprofit-told-the-irs> (December 14, 2012).

the DISCLOSE Act,<sup>81</sup> which would require nonprofits to disclose their donors and would make the source and amount of each contribution immediately available online “so that the American people are not forced to suffer through another election cycle filled with anonymous sleaze and innuendo.”<sup>82</sup>

**January – February 2013:** New York Comptroller Thomas DiNapoli begins filing lawsuits to force private companies to reveal their political expenditures. The suits were filed on behalf of the state’s retirement fund, against companies in which the retirement fund is invested. The strategy has some early successes, as KeyCorp and Qualcomm<sup>83</sup> succumb to political pressure.<sup>84</sup>

**January 2, 2013:** Responding to ProPublica’s publication of Crossroads GPS’ application for tax-exempt status, Campaign Legal Center and Democracy 21 tell the IRS, “Crossroads GPS has no business being treated as a ‘social welfare’ organization and the IRS should deny its application for tax-exempt status as a section 501(c)(4) organization.”<sup>85</sup>

**January 3, 2013:** Once again, Representative Chris Van Hollen re-introduces the DISCLOSE Act in the House of Representatives.<sup>86</sup> The legislation, H.R. 148, has yet to get a hearing in any of the House Committees to which it’s been referred.<sup>87</sup>

**January 15, 2013:** A senior staff member at the Securities and Exchange Commission outlines new guidelines for closer scrutiny of section 501(c) and 527 groups.<sup>88</sup>

**January 16, 2013:** Citing ProPublica reports, Campaign Legal Center and Democracy 21 write to the IRS to request an investigation of American Tradition Partnership’s 501(c)(4) status.<sup>89</sup>

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<sup>81</sup> Dylan Matthews, “Wyden and Murkowski have a bill to fight super PACs. Does it go far enough?,” *The Washington Post*. Retrieved on June 17, 2013. Available at: <http://www.washingtonpost.com/blogs/wonkblog/wp/2013/04/27/wyden-and-murkowski-have-a-bill-to-fight-super-pacs-does-it-go-far-enough/> (April 27, 2013).

<sup>82</sup> U.S. Senator Lisa Murkowski et al., “Murkowski and Wyden Unveil Bipartisan Campaign Finance Disclosure Blueprint,” Office of Senator Lisa Murkowski. Retrieved on June 17, 2013. Available at: [http://www.murkowski.senate.gov/public/index.cfm?p=PressReleases&ContentRecord\\_id=bd4a0b05-1d7d-4c0b-a88f-9dd70f7de479](http://www.murkowski.senate.gov/public/index.cfm?p=PressReleases&ContentRecord_id=bd4a0b05-1d7d-4c0b-a88f-9dd70f7de479) (December 27, 2012).

<sup>83</sup> Nicholas Confessore, “Qualcomm Reveals Its Donations to Tax-Exempt Groups,” *The New York Times*. Retrieved on June 12, 2013. Available at: <http://cityroom.blogs.nytimes.com/2013/02/22/qualcomm-agrees-to-reveal-donations-to-tax-exempt-groups/> (February 22, 2013).

<sup>84</sup> Lachlan Markay, “A Chilling Effect,” *Washington Free Beacon*. Retrieved on June 12, 2013. Available at: <http://freebeacon.com/a-chilling-effect/> (January 29, 2013).

<sup>85</sup> J. Gerald Hebert and Fred Wertheimer, “Watchdog Groups Again Call on IRS to Deny Tax-Exempt Status to Karl Rove’s Crossroads GPS,” Democracy 21. Retrieved on June 13, 2013. Available at: <http://www.democracy21.org/wp-content/uploads/2013/01/IRS-LETTER-CROSSROADS-GPS-FINAL-1-2-13.pdf> (January 2, 2013), p. 3.

<sup>86</sup> U.S. Representative Chris Van Hollen, “Van Hollen Reintroduces DISCLOSE Act,” Office of Representative Chris Van Hollen. Retrieved on June 17, 2013. Available at: <http://vanhollen.house.gov/news/documentsingle.aspx?DocumentID=316296> (January 3, 2013).

<sup>87</sup> Bill Summary & Status 113<sup>th</sup> Congress (2013-2014) H.R. 148 All Congressional Actions,” The Library of Congress. Retrieved on June 17, 2013. Available at: <http://thomas.loc.gov/cgi-bin/bdquery/D?d113:1-:/temp/~bd2MxK:@@/X/home/LegislativeData.php> (January 3, 2013).

<sup>88</sup> Memorandum from Majority Staff, “The SEC and Political Speech,” U.S. House of Representatives Committee on Oversight and Government Reform. Retrieved on July 24, 2013. Available at: <http://oversight.house.gov/wp-content/uploads/2013/07/OGR-Memo-The-SEC-and-Political-Speech.pdf> (July 22, 2013), p. 2.

<sup>89</sup> J. Gerald Hebert and Fred Wertheimer, “Watchdog Groups Call on IRS to Investigate American Tradition Partnership; Cite Its Reported Submission of Apparent False Information to the IRS Regarding Its Application for Tax-exempt Status,” Democracy 21. Retrieved on June 13, 2013. Available at: <http://www.democracy21.org/wp-content/uploads/2013/01/IRS-LETTER-WESTERN-TRADITION-PARTNERSHIP-1-15-13.pdf> (January 16, 2013).

**January 17, 2013:** Saying *Citizens United* “poses a direct threat to our democracy,” 19 Democratic Representatives submit a letter to the House Committee on the Judiciary requesting “a hearing on [proposed] Constitutional remedies to *Citizens United*.”<sup>90</sup>

**February – March 2013:** A new FCC rule requires TV stations to place information about all their ad-buys from political media agencies on a public file, which promptly results in “tens of thousands of dollars” being stolen from the advertisers by online thieves who obtained this bank account information from the publicly disclosed information.<sup>91</sup>

**February 19, 2013:** At a campaign stop, Representative Ed Markey (D-MA), then-special-election candidate for U.S. Senate, compares the *Citizens United* ruling to the 1857 pro-slavery ruling in *Dred Scott v. Sanford*, saying “The *Dred Scott* decision had to be repealed; we have to repeal *Citizens United*.”<sup>92</sup>

**February 28, 2013:** Leading Democrats, including House Minority Leader Nancy Pelosi (D-CA), respond to a Government Accountability Office report, which discusses the FCC’s role in enforcing FEC sponsorship identification requirements for political ads under its purview. Representative Anna Eshoo (D-CA), Ranking Democrat in the House Communications and Technology Subcommittee, quipped: “Where power once originated from the general electorate, that balance has shifted in favor of the enormously wealthy, who can now hide their identity and their political expenditures. It’s time for the FCC to play a crucial role in bringing greater transparency to America’s electoral system by requiring sponsors of political ads to disclose their true identity, not just their ambiguously-named Super PAC.”<sup>93</sup>

**March 12, 2013:** At a Senate Commerce, Science, and Transportation Committee hearing, Senator Bill Nelson (D-FL) urges the FCC to force advertisers to disclose their donors in TV ads, saying “as the result of a Supreme Court decision, we have been beset upon in the political sphere with an avalanche of undisclosed, unlimited money.”<sup>94</sup>

**March 20, 2013:** In a *New York Times* op-ed, New York State Comptroller Thomas DiNapoli and NYC Public Advocate Bill de Blasio write an open letter to the SEC calling for immediate

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<sup>90</sup> U.S. Representative Donna F. Edwards et al., “Letter to House Committee on the Judiciary Chairman Robert Goodlatte and Ranking Member John Conyers,” Congress of the United States. Retrieved on June 26, 2013. Available at: <http://big.assets.huffingtonpost.com/Letter.pdf> (January 17, 2013), p. 1.

<sup>91</sup> Gregg Skall and James Kahl, “Online Political Files Lead To Online Thefts,” TVNewsCheck. Retrieved on June 12, 2013. Available at: <http://www.tvnewscheck.com/article/66100/online-political-files-lead-to-online-thefts> (March 12, 2013).

<sup>92</sup> Aaron Blake, “Rep. Ed Markey compares Citizens United to Dred Scott case,” *The Washington Post*. Retrieved on June 26, 2013. Available at: <http://www.washingtonpost.com/blogs/post-politics/wp/2013/02/21/rep-ed-markey-compares-citizens-united-to-dred-scott-case/> (February 21, 2013).

<sup>93</sup> Representatives Nancy Pelosi, Henry Waxman, and Anna Eshoo, “Pelosi, Waxman, Eshoo Call on FCC to Increase Campaign Ad Disclosure,” U.S. House Committee on Energy and Commerce. Retrieved on June 12, 2013. Available at: <http://democrats.energycommerce.house.gov/index.php?q=news/pelosi-waxman-eshoo-call-on-fcc-to-increase-campaign-ad-disclosure> (February 28, 2013).

<sup>94</sup> Brendan Sasso, “Sen. Nelson urges FCC to unmask political ad donors,” *The Hill*. Retrieved on June 12, 2013. Available at: <http://thehill.com/blogs/hillicon-valley/technology/287761-sen-nelson-urges-fcc-to-unmask-political-ad-donors> (March 12, 2013).

action on the proposed rule requiring publicly traded companies to disclose all political expenditures.<sup>95</sup>

**March 30, 2013:** The IRS sends out another round of “compliance check” questionnaires to 1,300 501(c) groups. The IRS states that it is focusing on “self-declared” exempt groups.<sup>96</sup>

**April 9, 2013:** In a hearing of the Senate Judiciary Committee’s Subcommittee on Crime and Terrorism investigating issues in campaign finance enforcement, Subcommittee Chairman Senator Sheldon Whitehouse calls the IRS “toothless” in its regulation of 501(c)(4) organizations. Whitehouse claims that organizations are making a “mockery” of campaign finance law and that “big donors like to use these non-profit entities to launder campaign spending and hide their identities.”<sup>97</sup>

**April 9, 2013:** Citizens for Responsibility and Ethics in Washington (CREW) files a petition to the IRS to instigate a rulemaking to curtail the activities of 501(c)(4) organizations, claiming that organizations “operated exclusively” for social welfare purposes should not be permitted to engage in any political activity. The petition concludes: “Simply stated, the IRS can no longer be silent on a matter that threatens to upend the statutory scheme enacted by Congress. Accordingly, petitioner CREW requests that the IRS act immediately to initiate a rulemaking that will address the serious discrepancies between the Code and IRS regulations defining §501(c)(4) organizations.”<sup>98</sup>

**April 23, 2013:** Months after announcing a blueprint for their proposal, Senators Wyden and Murkowski formally introduce their campaign finance “reform” proposal, known as the Follow the Money Act (S. 791). In a joint *Politico* op-ed touting their legislation, the Senators explain that “the bill seeks to end the pass-the-buck, bureaucratic foot-dragging on the part of the FEC and the Internal Revenue Service, which have failed to take responsibility to enforce the law when it comes to bogus nonprofits that injected massive amounts of dark money into the 2012 elections.”<sup>99</sup> One of the provisions of the bill would grant the IRS the power to effectively impose a death sentence on tax-exempt organizations that make an error of \$25,000 or more on

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<sup>95</sup> Thomas P. DiNapoli and Bill de Blasio, “Companies: Show Us the Money,” *The New York Times*. Retrieved on June 13, 2013. Available at: <http://www.nytimes.com/2013/03/21/opinion/companies-show-us-the-money.html?ref=campaignfinance&r=1&> (March 20, 2013).

<sup>96</sup> Peter Overby, “IRS To ‘Social Welfare’ Groups: Show Me The Political Ad Money,” NPR. Retrieved on June 12, 2013. Available at: <http://www.npr.org/blogs/itsallpolitics/2013/03/30/175761558/irs-to-social-welfare-groups-show-me-the-political-ad-money> (March 30, 2013).

<sup>97</sup> Tarini Parti and Byron Tau, “DOJ, IRS tight-lipped on campaign finance probes,” *Politico*. Retrieved on June 12, 2013. Available at: <http://www.politico.com/story/2013/04/doj-irs-tight-lipped-on-campaign-finance-probes-89816.html#ixzz2VwH2X1i2> (April 9, 2013).

<sup>98</sup> Anne L. Weismann, “Petition for Rulemaking On Political Activities by Section 501(c)(4) Organizations,” Citizens for Responsibility and Ethics in Washington. Retrieved on March 11, 2014. Available at: [http://crew.3cdn.net/9e6dd1e2b163dbb240\\_i1m6b5q6u.pdf](http://crew.3cdn.net/9e6dd1e2b163dbb240_i1m6b5q6u.pdf) (April 9, 2013), p. 16-17.

<sup>99</sup> U.S. Senators Ron Wyden and Lisa Murkowski, “Shedding light on anonymous ads,” *Politico*. Retrieved on June 17, 2013. Available at: <http://www.politico.com/story/2013/05/bill-tests-truth-in-campaign-ads-91224.html> (May 12, 2013), p. 2.



their campaign finance reports.<sup>100</sup> The bill has yet to receive a hearing in the Senate Finance Committee.<sup>101</sup>

**April 30, 2013:** IRS Manager of Exempt Organizations David Fish responds to the petition by Citizens for Responsibility and Ethics in Washington regarding its rulemaking to curtail political activities by 501(c)(4) organizations (see April 9, 2013 entry), just three weeks after the petition is filed. The one-page response letter explains the IRS's decision not to promulgate a rulemaking at the time: "The IRS is aware of the current public interest in this issue. These regulations have been in place since 1959. We will consider proposed changes in this area as we work with the IRS Office of Chief Counsel and the Treasury Department's Office of Tax Policy to identify tax issues that should be addressed through regulations and other published guidance."<sup>102</sup>

**May 6, 2013:** Speaking at a Yale University conference, Ezra Klein, a *Washington Post* columnist and MSNBC contributor,<sup>103</sup> acknowledges that the media (himself included) dramatically overstated the supposed threat of Super PAC spending in advance of the 2012 election: "It's hard to look at the 2012 election, with its record fundraising and the flood of super PACs and all the rest of it, and come away really persuaded that money was a decisive player. And yet the way we talked about money in the run-up to the 2012 election, we really suggested it would be a decisive player. In fact, we suggested, quite often, that it wouldn't just decide the election, but that it would imperil democracy itself. So I think we have some explaining to do."<sup>104</sup>

**May 10, 2013:** In response to a planted question at a tax law conference, IRS Director of Exempt Organizations Division, Lois Lerner, publicly apologies on behalf of the IRS for "'absolutely inappropriate' actions by lower-level workers," who "had selected some conservative groups for extra scrutiny to determine whether their applications [for tax-exempt status] should be approved."<sup>105</sup>

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<sup>100</sup> David Keating and Eric Wang, "A First Look: The Wyden-Murkowski 'Follow the Money Act of 2013,'" Center for Competitive Politics. Retrieved on June 17, 2013. Available at: <http://www.campaignfreedom.org/wp-content/uploads/2013/04/2013-04-25-Wyden-Murkowski-Final.pdf> (April 25, 2013), p. 1.

<sup>101</sup> Bill Summary & Status 113<sup>th</sup> Congress (2013-2014) S. 791 All Congressional Actions," The Library of Congress. Retrieved on June 17, 2013. Available at: <http://thomas.loc.gov/cgi-bin/bdquery/D?d113:1:/temp/~bdXMkT:@@X/home/LegislativeData.php> (April 23, 2013).

<sup>102</sup> David L. Fish, "Letter to Anne L. Weismann," Internal Revenue Service Tax Exempt and Government Entities Division. Retrieved on March 11, 2014. Available at: [http://www.citizensforethics.org/page/-/PDFs/Legal/Letters/IRS/04\\_30\\_13\\_IRS\\_Rulemaking\\_Petition\\_Response.pdf?nocdn=1](http://www.citizensforethics.org/page/-/PDFs/Legal/Letters/IRS/04_30_13_IRS_Rulemaking_Petition_Response.pdf?nocdn=1) (April 30, 2013).

<sup>103</sup> "Ezra Klein - Columnist" *The Washington Post*. Retrieved on June 12, 2013. Available at: [http://www.washingtonpost.com/2011/02/24/ABifXwI\\_page.html](http://www.washingtonpost.com/2011/02/24/ABifXwI_page.html) (2013).

<sup>104</sup> Ezra Klein, "We got way too excited over money in the 2012 elections," *The Washington Post*. Retrieved on June 12, 2013. Available at: <http://www.washingtonpost.com/blogs/wonkblog/wp/2013/05/06/we-got-way-too-excited-over-money-in-the-2012-elections/> (May 6, 2013).

<sup>105</sup> John D. McKinnon and Siobhan Hughes, "Wider Problems Found at IRS," *The Wall Street Journal*. Retrieved on June 12, 2013. Available at: [http://online.wsj.com/news/articles/SB10001424127887324715704578478851998004528?mod=wsj\\_share\\_tweet](http://online.wsj.com/news/articles/SB10001424127887324715704578478851998004528?mod=wsj_share_tweet) (May 12, 2013).

**May 13, 2013:** ProPublica reports that it originally received nine confidential pending applications from IRS agents in December 2012, six of which it published. None of the confidential applications are from liberal organizations.<sup>106</sup>

**May 15, 2013:** In a speech on the Senate floor, Senator Whitehouse warns Congress that the IRS targeting of conservative-oriented groups is “not the only IRS scandal,” stating that the Service is also “allowing big shadowy forces to meddle in elections anonymously through front groups that file false statements.” The same day, Senator Whitehouse indicates that he plans to re-introduce a version of the DISCLOSE Act later in 2013.<sup>107</sup>

**May 15, 2013:** Pointing to partisan abuses in the IRS, House Republicans voice strong opposition to the proposed SEC rule during a three-hour hearing with new SEC Chairwoman Mary Jo White. “We’re giving you an opportunity today to make a clear and emphatic statement that you will refuse to be bullied by these outside radical groups that are trying to exploit the corporate disclosure process,” Representative Scott Garrett (R-NJ) said to Chairwoman White.<sup>108</sup>

**May 21, 2013:** Citizens for Responsibility and Ethics in Washington files a lawsuit against the IRS to compel the Service to initiate a rulemaking procedure to prohibit political activity by 501(c)(4) organizations, three weeks after the IRS rejects CREW’s petition for rulemaking (see April 30, 2013 entry). CREW Executive Director Melanie Sloan ties the targeting scandal to the lawsuit, stating: “Until now, it has been impossible to persuade the IRS or Congress to confront this issue. But now that the entire country has been educated about this previously obscure tax matter, this lawsuit may finally spur reform. The current IRS scandal directly stems from the problematic regulation. Only by changing it can we be sure we won’t see a repeat of the current debacle.”<sup>109</sup>

**May 22, 2013:** At a hearing of the House Oversight and Government Reform Committee, IRS Director of Exempt Organizations, Lois Lerner, reads an opening statement asserting her innocence in the events surrounding the IRS scandal, before ultimately invoking the Fifth Amendment when asked questions by members of the Committee. According to Lerner: “I have not done anything wrong. I have not broken any laws. I have not violated any IRS rules or regulations. And I have not provided false information to this or any other congressional committee.”<sup>110</sup> Members of the Committee believe that Lerner waived her right to plead the Fifth

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<sup>106</sup> Kim Barker and Justin Elliott, “IRS Office That Targeted Tea Party Also Disclosed Confidential Docs From Conservative Groups,” ProPublica. Retrieved on June 13, 2013. Available at: <http://www.propublica.org/article/irs-office-that-targeted-tea-party-also-disclosed-confidential-docs> (May 13, 2013).

<sup>107</sup> Paul Blumenthal, “Sheldon Whitehouse: IRS Tea Party Targeting ‘Not The Only IRS Scandal,’” *The Huffington Post*. Retrieved on June 17, 2013. Available at: [http://www.huffingtonpost.com/2013/05/15/sheldon-whitehouse-irs\\_n\\_3281252.html](http://www.huffingtonpost.com/2013/05/15/sheldon-whitehouse-irs_n_3281252.html) (May 15, 2013).

<sup>108</sup> Dina ElBoghdady, “SEC pressed to abandon corporate political spending disclosures petition,” *The Washington Post*. Retrieved on June 12, 2013. Available at: [http://www.washingtonpost.com/business/economy/sec-pressed-to-abandon-corporate-political-spending-disclosures-petition/2013/05/16/d76b782e-be55-11e2-97d4-a479289a31f9\\_story.html](http://www.washingtonpost.com/business/economy/sec-pressed-to-abandon-corporate-political-spending-disclosures-petition/2013/05/16/d76b782e-be55-11e2-97d4-a479289a31f9_story.html) (May 16, 2013).

<sup>109</sup> “CREW Sues IRS for Failing to Revise Rules Governing 501(c)(4) Groups,” Citizens for Responsibility and Ethics in Washington. Retrieved on March 11, 2014. Available at: <http://www.citizensforethics.org/legal-filings/entry/crew-sues-irs-for-failing-to-revise-rules-governing-501c4-groups> (May 21, 2013).

<sup>110</sup> Ed O’Keefe and William Branigin, “Lois Lerner invokes Fifth Amendment in House hearing on IRS targeting,” *The Washington Post*. Retrieved on May 23, 2013. Available at: [http://www.washingtonpost.com/politics/lois-lerner-invokes-fifth-amendment-in-house-hearing-on-irs-targeting/2013/05/22/03539900-c2e6-11e2-8c3b-0b5e9247e8ca\\_story.html](http://www.washingtonpost.com/politics/lois-lerner-invokes-fifth-amendment-in-house-hearing-on-irs-targeting/2013/05/22/03539900-c2e6-11e2-8c3b-0b5e9247e8ca_story.html) (May 22, 2013).

by making an opening statement, and the hearing is recessed, and not adjourned, so that Lerner can be called back to testify.

**June 1, 2013:** Nick Nyhart, President and CEO of Public Campaign, tells *ABC News* “there are legitimate questions to be asked about political groups that are hiding behind a 501(c)(4) status. It's unfortunate a few bad apples at the IRS will make it harder for those questions to be asked without claims of bias.”<sup>111</sup>

**June 3, 2013:** Democracy 21 and Campaign Legal Center send a letter to the House Ways and Means Committee arguing “the problem is not that the IRS regulations are too restrictive but that they are far too lax,” and requesting that the Committee not focus narrowly on the targeting of conservative groups.<sup>112</sup>

**June 4, 2013:** Congress’s investigation into the IRS’s handling of 501(c)(4) groups prompts some lawmakers to use the opportunity to introduce new rules and regulations for such organizations. Representative Richard Neal (D-MA) states that political activity by 501(c)(4) organizations “is even more egregious than some of the actions of the IRS.”<sup>113</sup>

**June 5, 2013:** New York Attorney General Eric Schneiderman officially adopts new disclosure rules “requiring nonprofit groups, including 501(c)(4) ‘social welfare’ organizations...to report the percentage of their expenditures that go to federal, state and local electioneering.”<sup>114</sup> Schneiderman vows that “‘Dark Money’ groups that proliferated since *Citizens United* will be brought into the light.”<sup>115</sup>

**June 18, 2013:** Sen. Jon Tester, (D-MT) introduces a Constitutional amendment to reverse *Citizens United*,<sup>116</sup> as requested by Montana Initiative No. 166 (see November 6, 2012 entry above). The amendment declares “the rights protected by this Constitution to be the rights of natural persons,” and grants Congress the power to impose upon corporate entities whatever regulations it may “deem reasonable.”<sup>117</sup>

**June 30, 2013:** In a report to Congress, the IRS’s National Taxpayer Advocate, Nina Olson, recommends that the Agency cease its role in regulating political speech in favor of an agency

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<sup>111</sup> Gregory Wallace, “Conservative sites tie IRS controversy to liberal group,” CNN. Retrieved on June 12, 2013. Available at: <http://politicalticker.blogs.cnn.com/2013/06/01/conservative-sites-tie-irs-controversy-to-liberal-group/> (June 1, 2013).

<sup>112</sup> J. Gerald Hebert and Fred Wertheimer, “Watchdog Groups Urge Ways and Means Committee to Investigate Failure of IRS to Enforce the Tax Laws Against 501(c)(4) Abusers,” Democracy 21. Retrieved on June 12, 2013. Available at: <http://www.democracy21.org/wp-content/uploads/2013/06/Letter-to-House-Ways-and-Means-Committee.pdf> (June 3, 2013), p. 4.

<sup>113</sup> Lauren French, “IRS scandal could change rules for nonprofits,” *Politico*. Retrieved on June 18, 2013. Available at: <http://www.politico.com/story/2013/06/irs-scandal-nonprofits-92865.html> (June 17, 2013), p. 2.

<sup>114</sup> Attorney General Eric T. Schneiderman, “Charity Disclosure Regulations,” New York State Office of the Attorney General. Retrieved on June 24, 2013. Available at: <http://www.ag.ny.gov/charity-disclosure-regulations> (June 5, 2013).

<sup>115</sup> Attorney General Eric T. Schneiderman, “A.G. Schneiderman Adopts New Disclosure Requirements For Nonprofits That Engage In Electioneering,” New York State Office of the Attorney General. Retrieved on June 12, 2013. Available at: <http://ag.ny.gov/press-release/ag-schneiderman-adopts-new-disclosure-requirements-nonprofits-engage-electioneering> (June 5, 2013).

<sup>116</sup> “TESTER’S CONSTITUTIONAL AMENDMENT: CORPORATIONS ARE NOT ‘PEOPLE’,” Office of Senator Jon Tester. Retrieved on June 26, 2013. Available at: [http://www.testersenate.gov/?p=press\\_release&id=2970](http://www.testersenate.gov/?p=press_release&id=2970) (June 18, 2013).

<sup>117</sup> U.S. Senator Jon Tester et al., “S.J. Res. 18,” Government Printing Office. Retrieved on June 26, 2013. Available at: <http://www.gpo.gov/fdsys/pkg/BILLS-113sjres18is/pdf/BILLS-113sjres18is.pdf> (June 18, 2013), p. 2.

with expertise on the subject, like the FEC. “It may be advisable to separate political determinations from the function of revenue collection. Under several existing provisions that require non-tax expertise, the IRS relies on substantive determinations from an agency with programmatic knowledge. Potentially, legislation could authorize the IRS to rely on a determination of political activity from the Federal Election Commission (FEC) or other programmatic agency. Specifically, the FEC would have to determine that proposed activity would not or does not constitute excessive political campaign activity.”<sup>118</sup>

**July 31, 2013:** The *National Review Online* reports that the House Ways and Means Committee has discovered e-mail correspondence between the IRS’s Lois Lerner and the FEC general counsel’s office, which seem to detail illicit sharing of tax information about the American Future Fund, a 501(c)(4) nonprofit organization. The FEC’s General Counsel’s Office allegedly colluded with Lois Lerner to sway a FEC vote on whether or not to prosecute the American Future Fund, asking for and receiving confidential information in 2008 and 2009.<sup>119</sup>

**September 17, 2013:** A memo released by the House Oversight and Government Reform Committee updating committee members on the IRS investigation points to “media attention” as the catalyst for differing treatment of conservative and liberal applications for tax-exempt status. The memo implies “that IRS personnel responded to ‘dog whistles’...in public statements from the president and his supporters” along with the criticism of Tea Party groups media outlets produced in 2010. As negative media coverage of the Tea Party multiplied, beginning in February 2010, IRS employees in Cincinnati “were flagging Tea Party applications for Washington’s attention, and their stated motive was media interest.”<sup>120</sup>

**September 18, 2013:** At a House Ways and Means Oversight Subcommittee hearing, Republican Representatives emphasize the revelation “that new information showed that the IRS flagged mostly conservative groups for extra surveillance, even after those groups received their tax-exempt status,” including untimely IRS audits and extensive requests for additional information. The Republican argument, mainly led by Representative Charles Boustany Jr. (R-LA), was met with accusations of partisanship and paranoia by Democrats on the Subcommittee, and the many questions regarding former Director of the IRS Exempt Organizations Division Lois Lerner’s role in the targeting remained unanswered by Danny Werfel, Interim IRS Commissioner.<sup>121</sup>

**September 20, 2013:** After enduring a three-year delay in a decision on its application for tax-exempt status, the grassroots election-integrity organization, True the Vote, has its application

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<sup>118</sup> Nina Olson, “Special Report to Congress: Political Activity and the Rights of Applicants for Tax-Exempt Status,” Internal Revenue Service. Retrieved on July 1, 2013. Available at: <http://www.taxpayeradvocate.irs.gov/userfiles/file/FullReport/Special-Report.pdf> (June 30, 2013), p. 16.

<sup>119</sup> Eliana Johnson, “E-mails Suggest Collusion Between FEC, IRS to Target Conservative Groups,” *National Review Online*. Retrieved on August 5, 2013. Available at: <http://nationalreview.com/corner/354801/e-mails-suggest-collusion-between-fec-irs-target-conservative-groups-eliana-johnson> (July 31, 2013).

<sup>120</sup> James Taranto, “The Press and the IRS,” *The Wall Street Journal*. Retrieved on January 30, 2014. Available at: <http://online.wsj.com/news/articles/SB10001424127887323808204579085100811015502?KEYWORDS=%22irs+scandal%22> (September 19, 2013).

<sup>121</sup> Bernie Becker, “GOP puts IRS controversy back into focus at hearing,” *The Hill*. Retrieved on January 30, 2014. Available at: <http://thehill.com/homenews/news/323231-gop-puts-irs-controversy-back-into-focus-at-hearing#ixzz2fL9PDCVz> (September 19, 2013).

approved by a joint decision of the IRS and the Department of Justice. As part of the decision to grant True the Vote's tax-exempt status, the IRS motions to dismiss the organization's lawsuit against the Agency.<sup>122</sup>

**September 23, 2013:** In the wake of a *USA Today* story revealing internal IRS documents flagging groups for "anti-Obama rhetoric," ABC, CBS, and NBC neglect to cover not only this development, but have not reported on anything related to the IRS scandal for several months. The obtained IRS documents feature names of targeted groups with commentary by IRS lawyers as to why the groups were chosen.<sup>123</sup>

**September 23, 2013:** Lois Lerner retires after 12 years with the IRS while remaining an important component of the IRS scandal investigations. Senate Finance Committee Chairman Senator Orin Hatch states that Lerner's retirement "does not mean the investigation is over." The IRS determines Lerner "mismanaged her department and was 'neglectful of duty' but found no evidence of political bias." According to a Democratic congressional aide, Lerner was to be terminated following the investigation of her role in the scandal.<sup>124</sup>

**September 25, 2013:** Despite a concerted effort from activist investors wishing to influence corporate disclosure practices and chill the speech rights of business entities, the 2013 proxy season ends with significant investor opposition to corporate disclosure resolutions. "According to the Manhattan Institute's Center for Legal Policy, such proposals were introduced more often than any other proposal type in 2013, constituting 20 percent of all proposals among Fortune 250 companies. However, none of these proposals to Fortune 250 companies attracted majority support, receiving average support from only 18 percent of shareholders in 2013, down from nearly 25 percent in 2011."<sup>125</sup>

**October 3, 2013:** The National Organization for Marriage files a lawsuit against the IRS, believing the Agency's 2012 leak of their private donor list to its political enemies to be intentional. The Treasury Inspector General for Tax Administration also "investigated the leak of the National Organization for Marriage's donor list, but apparently closed the case without publicly identifying who was responsible." Privacy laws further prevent the organization from attaining any information on who leaked their donor list. John C. Eastman, Chairman of National Organization for Marriage, vows to find the perpetrator and "keep the pressure on" the Justice Department.<sup>126</sup>

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<sup>122</sup> Stephen Dinan, "After three-year wait, IRS OKs tea party application," *The Washington Times*. Retrieved on September 27, 2013. Available at: <http://www.washingtontimes.com/blog/inside-politics/2013/sep/23/irs-oks-tea-party-application-after-3-year-wait/> (September 23, 2013).

<sup>123</sup> Geoffrey Dickens, "IRS Documents Reveal Agency Flagged Groups for 'Anti-Obama Rhetoric,' Big Three Refuse to Report," *The Wall Street Journal*. Retrieved on January 30, 2014. Available at: <http://online.wsj.com/news/articles/SB10001424052702304213904579093491966449908?KEYWORDS=%22irs+scandal%22> (September 23, 2013).

<sup>124</sup> Lauren French, "Lois Lerner still Hill's favorite piñata," *Politico*. Retrieved on January 30, 2014. Available at: <http://www.politico.com/story/2013/09/lois-lerner-retires-irs-97217.html> (September 23, 2013).

<sup>125</sup> "ICYMI: 5 Facts The Center For Political Accountability Does Not Want You To Know," Center for Competitive Politics. Retrieved on September 26, 2013. Available at: <http://www.campaignfreedom.org/2013/09/25/icymi-5-facts-the-center-for-political-accountability-does-not-want-you-to-know/> (September 25, 2013).

<sup>126</sup> Stephen Dinan, "Marriage group to sue IRS over donor leak, says list went to political enemies," *The Washington Times*. Retrieved on January 30, 2014. Available at: [http://www.washingtontimes.com/news/2013/oct/3/marriage-group-to-sue-irs-over-donor-leak/?utm\\_source=RSS\\_Feed&utm\\_medium=RSS#ixzz2gflWHYe](http://www.washingtontimes.com/news/2013/oct/3/marriage-group-to-sue-irs-over-donor-leak/?utm_source=RSS_Feed&utm_medium=RSS#ixzz2gflWHYe) (October 3, 2013), p. 1.



**October 9, 2013:** In potential violation of Section 6103 of the Internal Revenue Code, which forbids any federal employee from “disclos[ing] any return or return information obtained by him in any manner in connection with his service as such an officer or an employee,” Sarah Hall Ingram, Director of the IRS Affordable Care Act Office, and senior Obama White House officials, including Ellen Montz, White House Health Policy Advisor, and Jeanne Lambrew, Deputy Assistant to the President for Health Policy, reportedly discussed religious groups’ opposition to the contraception mandate in the Affordable Care Act via email. Through these email conversations, confidential taxpayer information was exposed. When questioned by Representative Darrell Issa (R-CA) at a House Oversight and Government Reform Committee hearing, Ingram denies knowledge of the documents.<sup>127</sup>

**October 17, 2013:** Senator Ted Cruz (R-TX) attempts to shut down another regulatory attempt at implementing DISCLOSE Act-like provisions through the FCC (see February 11, 2010, April 29, 2010, July 21, 2010, February 9, 2012, March 21, 2012, July 10, 2012, and January 3, 2013 entries) by placing a hold on the nomination of former telecom lobbyist and venture capitalist Tom Wheeler to lead the Agency “until Mr. Wheeler pledges not to require more disclosures from the sponsors of political ads.” Cruz previously addressed the issue with Wheeler in a June confirmation hearing and was reportedly unsatisfied with Wheeler’s response. Earlier in 2013, “several Democrats suggested the FCC could require such disclosure under its existing authority.”<sup>128</sup>

**October 29, 2013:** Tom Wheeler and Michael O’Rielly are confirmed by a unanimous vote in the Senate to fill two empty Federal Communications Commission seats. Senator Ted Cruz, who had previously placed a hold on the nomination, lifted the hold after he “received assurances from [Wheeler] that the commission would not immediately pursue changes for political advertising on television.”<sup>129</sup>

**October 30, 2013:** An investigation by the House Ways and Means Committee into the unlawful leak of the National Organization for Marriage’s donor list (See October 3, 2013 entry) successfully identifies the IRS employee who disclosed the list. Under the protection of the same law the employee broke, and because of the employee’s position in the IRS’s Exempt Organizations Division, no information on the perpetrator of the leak – name, disciplinary action taken, employment status, etc. – or the leak itself can be revealed to the public or to the National Organization for Marriage. The donor list at issue went from the unnamed IRS employee to Matthew Meisel, a former Bain & Company employee, to the Human Rights Campaign, where it was used to show that then-presidential candidate Mitt Romney’s PAC had previously donated to the National Organization for Marriage.<sup>130</sup>

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<sup>127</sup> Patrick Howley, “White House, IRS exchanged confidential taxpayer info,” *The Daily Caller*. Retrieved on January 30, 2014. Available at: <http://dailycaller.com/2013/10/09/white-house-irs-exchanged-confidential-taxpayer-info/> (October 9, 2013).

<sup>128</sup> Gautham Nagesh, “Sen. Cruz Places Hold on Obama Nominee,” *The Wall Street Journal*. Retrieved on January 30, 2014. Available at: <http://blogs.wsj.com/washwire/2013/10/17/sen-cruz-places-hold-on-obama-nominee/> (October 17, 2013).

<sup>129</sup> Edward Wyatt, “New Chief of the F.C.C. Is Confirmed,” *The New York Times*. Retrieved on January 30, 2014. Available at: [http://www.nytimes.com/2013/10/30/business/media/senate-approves-fcc-nominees.html?ref=politics&\\_r=1&](http://www.nytimes.com/2013/10/30/business/media/senate-approves-fcc-nominees.html?ref=politics&_r=1&) (October 29, 2013).

<sup>130</sup> Eliana Johnson, “Investigation IDs IRS Leaker,” *National Review Online*. Retrieved on February 3, 2014. Available at: <http://www.nationalreview.com/article/362667/investigation-ids-irs-leaker-eliana-johnson> (October 30, 2013).

**October 31, 2013:** An email chain between the former IRS Director of Exempt Organizations Division, Lois Lerner, and enforcement attorneys at the Federal Election Commission obtained by Judicial Watch reveals that several conservative groups' confidential applications for tax-exempt status and tax return information were shared between the two agencies. Beginning as early as January 2009, Lerner shared confidential information about organizations such as the American Future Fund and American Issues Project through these exchanges in potential violation of Section 6103 of the Internal Revenue Code.<sup>131</sup>

**November 7, 2013:** House Oversight and Government Reform Committee Chairman Darrell Issa (R-CA) issues a subpoena to the Treasury Department in an effort to discover what knowledge the Department may have of the IRS's targeting scandal. The Department has sent the Committee approximately 1,200 pages of information, but still "several of [the Committee's] questions have gone totally unanswered."<sup>132</sup>

**November 21, 2013:** The IRS reports that it has cleared 75 percent of the applications for Section 501(c)(4) status delayed by the unraveling IRS scandal. Some applications for tax-exempt status remain unapproved, even after years of delay.<sup>133</sup>

**November 26, 2013:** In an effort to "help the government avoid future dust-ups with politically active nonprofit organizations," the IRS proposes new rules to restrict what the Agency deems as excessive spending on campaigns by tax-exempt 501(c)(4) groups. The proposed rules broadly expand the definition of "political activity" to include activities that have never before been deemed as "political," such as voter-registration drives and the production of nonpartisan legislative scorecards, potentially jeopardizing the tax-exempt status of many nonprofit groups on both sides of the political spectrum.<sup>134</sup> Kimberley Strassel of *The Wall Street Journal* suggests that the "Treasury [Department] appears to have combed through those tea party applications, compiled all the groups' main activities, and then restricted those activities in the new rule," noting that most of the aforementioned nonpartisan activities previously considered to be for social welfare would become illegal under the new regulations. Strassel sees the proposed rules as a continuation of the IRS targeting, only now codified in law. Comments on the proposed rulemaking are due to the IRS by February 27.<sup>135</sup>

**November 27, 2013:** On behalf of the Alliance for Justice (AFJ), a national association of more than 100 progressive organizations, AFJ President Nan Aron responds to the IRS's proposed rulemaking regulating 501(c)(4) organizations, arguing that defining certain activities as "political" removes the ability of organizations to engage in important social welfare activities

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<sup>131</sup> Caroline May, "Report: IRS provided conservative groups' confidential tax information to FEC," *The Daily Caller*. Retrieved on February 3, 2014. Available at: <http://dailycaller.com/2013/10/31/report-irs-provided-conservative-groups-confidential-tax-information-to-fec/#ixzz2je64LypH> (October 31, 2013).

<sup>132</sup> Bernie Becker, "Rep. Issa jolts IRS probe with subpoena," *The Hill*. Retrieved on February 3, 2014. Available at: <http://thehill.com/blogs/on-the-money/domestic-taxes/189664-rep-issa-jolts-probe-of-irs-targeting-with-new-subpoena> (November 8, 2013).

<sup>133</sup> Rick Hasen, "IRS Has Cleared Most 501(c)(4) Applications Caught Up in Tea Party Dispute, Official Says," *Election Law Blog*. Retrieved on February 3, 2014. Available at: <http://electionlawblog.org/?p=56897> (November 21, 2013).

<sup>134</sup> John D. McKinnon, Brody Mullins, and Thomas Catan, "IRS Moves To Restrict Nonprofits' Politicking," *The Wall Street Journal*. Retrieved on February 3, 2014. Available at: <http://online.wsj.com/news/articles/SB10001424052702304465604579222110598111076> (November 26, 2013).

<sup>135</sup> Kimberley A. Strassel, "IRS Targeting: Round Two," *The Wall Street Journal*. Retrieved on February 3, 2014. Available at: <http://online.wsj.com/news/articles/SB10001424052702303932504579254521095034070> (December 12, 2013).

like “nonpartisan get-out-the-vote drives, candidate questionnaires, and voter registration drives.” Aron suggests that smaller 501(c)(4) groups will be forced to shut down due to the lack of resources needed to obtain the lawyers and accountants necessary to ensure proper adherence to the new rules. According to Aron, “While the IRS and Treasury achieved their stated goal of creating clear and definitive definitions, they erred by quashing democratic participation—the heart of what so many social welfare organizations do.”<sup>136</sup>

**November 30, 2013:** The Securities and Exchange Commission releases its 2014 to-do list. Absent from the list is the proposed rule requiring public companies to disclose their political spending, a proposal that was on the SEC’s 2013 to-do list. The rule’s exclusion, however, will not necessarily prevent the issue from being given attention by the Commission in 2014. “SEC spokesman John Nester said in a statement that the latest agenda ‘represents our best estimate as to what would be ready for Commission consideration by fall of 2014.’”<sup>137</sup>

**December 2, 2013:** Representatives Darrell Issa and Jim Jordan (R-OH), leaders of the House Oversight and Government Reform Committee’s IRS inquiry, claim the FBI refuses to share documents from the Bureau’s IRS investigation. “‘The department’s tactics have impeded a congressional investigation and interfered with the committee’s access to documents and information. Obstructing a congressional investigation is a crime,’” Mr. Issa and Mr. Jordan write in a letter to FBI Director James B. Comey, Jr., warning that if they don’t receive the information they have requested, they will use “‘compulsory’ means” after December 16.<sup>138</sup>

**December 10, 2013:** During his confirmation hearing, John Koskinen, President Obama’s nominee to become the next IRS Commissioner, assures members of the Senate Finance Committee that he will “cooperate fully” with the ongoing investigations of the IRS after being warned by the Committee’s Ranking Member Orrin Hatch that “the next IRS leader must be trustworthy and transparent.”<sup>139</sup>

**December 13, 2013:** In light of the IRS’s proposed rules for 501(c)(4) groups (See November 26, 2013 entry), both liberal and conservative leaning groups are protesting the rules as unwarranted restrictions on their activities. Left-leaning groups like the League of Women Voters and the League of Conservation Voters have spoken out against the expansive new rules.<sup>140</sup>

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<sup>136</sup> Nan Aron, “AFJ: Treasury, IRS proposal endangers citizen participation in democracy,” Alliance for Justice. Retrieved on February 3, 2014. Available at: <http://www.afj.org/press-room/press-releases/afj-treasury-irs-proposal-endangers-citizen-participation-in-democracy> (November 27, 2013).

<sup>137</sup> Dina ElBoghdady, “SEC drops disclosure of corporate political spending from its priority list,” *The Washington Post*. Retrieved on February 3, 2014. Available at: [http://www.washingtonpost.com/business/economy/sec-drops-disclosure-of-corporate-political-spending-from-its-priority-list/2013/11/30/f2e92166-5a07-11e3-8304-caf30787c0a9\\_story.html](http://www.washingtonpost.com/business/economy/sec-drops-disclosure-of-corporate-political-spending-from-its-priority-list/2013/11/30/f2e92166-5a07-11e3-8304-caf30787c0a9_story.html) (November 30, 2013).

<sup>138</sup> Stephen Dinan, “Issa: FBI impeding inquiry into IRS targeting of conservative groups,” *The Washington Times*. Retrieved on February 3, 2014. Available at: <http://www.washingtontimes.com/news/2013/dec/2/lawmakers-suspect-fbi-is-impeding-irs-inquiry-targ/#ixzz2mSZ5Icwc> (December 2, 2013), p. 1.

<sup>139</sup> Marissa Higdon, “IRS Nominee Supports Investigation Into Tea Party Scandal,” *Talk Radio News Service*. Retrieved on February 3, 2014. Available at: [http://www.talkradionews.com/audio/2013/12/10/irs-nominee-supports-investigation-into-tea-party-scandal.html#Uu\\_cv42A3\\_W](http://www.talkradionews.com/audio/2013/12/10/irs-nominee-supports-investigation-into-tea-party-scandal.html#Uu_cv42A3_W) (December 10, 2013).

<sup>140</sup> Gabriel Debenedetti and Patrick Temple-West, “Proposed IRS campaign rules may create strange tax-exempt allies,” *Reuters*. Retrieved on February 3, 2014. Available at: <http://www.reuters.com/article/2013/12/13/us-usa-politics-nonprofits-idUSBRE9BC0U920131213> (December 13, 2013).

**December 13, 2013:** After what Republicans characterize as a rushed vote, the Senate Finance Committee approves John Koskinen's nomination as the new IRS Commissioner with only one "no" vote by Senator Pat Roberts (R-KS).<sup>141</sup>

**January 8, 2014:** House Oversight and Government Reform Committee Chairman Darrell Issa and Economic Growth, Job Creation, and Regulatory Affairs Subcommittee Chairman Jim Jordan question the Department of Justice's choice of Barbara Kay Bosserman, a civil-rights attorney and not a prosecutor in the Department of Justice's Public Integrity Section (which traditionally handles campaign finance and election law cases), to head the investigation of the IRS, because Bosserman had previously "donated more than \$6,000 to Mr. Obama's 2008 and 2012 campaigns, as well as several hundred dollars to the national Democratic Party." Issa and Jordan write in a letter that "it is unbelievable that the department would choose such an individual to examine the federal government's systematic targeting and harassment of organizations opposed to the president's policies," characterizing Bosserman's role as a "startling conflict of interest."<sup>142</sup>

**January 9, 2014:** After being left off the Securities and Exchange Commission's 2014 to-do list (See November 30, 2013 entry), 79 members of Congress send a letter to SEC Chairwoman Mary Jo White requesting the addition of corporate political spending disclosure to the Commission's 2014 agenda. The letter states: "We strongly urge the SEC to reconsider and use its rulemaking authority to require corporations to disclose their political spending to shareholders."<sup>143</sup>

**January 9, 2014:** More than 55 conservative and free market organizations sign a letter urging Congress to stop the proposed 501(c)(4) regulations in the omnibus spending bill: "This latest IRS power grab must be stopped, and we urge you to do so in the omnibus appropriations bill." The letter identifies the IRS as a "rogue agency" that has yet to be held accountable for the "outrageous abuses" of power it demonstrated in targeting conservative-leaning groups.<sup>144</sup>

**January 13, 2014:** The FBI announces that it does not plan to file criminal charges related to its investigation of the IRS, concluding that there was not "the kind of political bias or 'enemy hunting' that would amount to a violation of criminal law," but rather "evidence of a mismanaged bureaucracy enforcing rules about tax-exemption applications it didn't understand." At this point in the investigation, FBI officials predict that no charges will be made barring the discovery of any unforeseen evidence.<sup>145</sup>

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<sup>141</sup> Bernie Becker, "Finance Committee clears IRS nominee," *The Hill*. Retrieved on February 3, 2014. Available at: <http://thehill.com/blogs/on-the-money/domestic-taxes/193099-senate-finance-clears-irs-nominee> (December 13, 2013).

<sup>142</sup> Stephen Dinan, "JUSTICE: Feds pick Obama supporter to lead probe into IRS tea party targeting," *The Washington Times*. Retrieved on February 3, 2014. Available at: <http://www.washingtontimes.com/news/2014/jan/8/feds-pick-obama-supporter-lead-irs-tea-party-probe/> (January 8, 2014), p. 1.

<sup>143</sup> Representative Michael E. Capuano et al., "Letter to Chairwoman White," Congress of the United States. Retrieved on February 3, 2014. Available at: <http://www.citizen.org/documents/house-letter-sec-chair-political-disclosure-rule.pdf> (January 9, 2014), p. 1.

<sup>144</sup> Jim Martin et al., "55+ Conservative and Free Markets Groups Urge Congress To Stop IRS 501(c)4 Rule in Omnibus," 60 Plus Association et al. Retrieved on February 26, 2014. Available at: [http://waysandmeans.house.gov/uploadedfiles/irs\\_cr\\_omni\\_final\\_support\\_letter.pdf](http://waysandmeans.house.gov/uploadedfiles/irs_cr_omni_final_support_letter.pdf) (January 9, 2014), p. 1.

<sup>145</sup> Devlin Barrett, "Criminal Charges Not Expected in IRS Probe," *The Wall Street Journal*. Retrieved on February 3, 2014. Available at: <http://online.wsj.com/news/articles/SB10001424052702303819704579318983271821584> (January 13, 2014).

**January 13, 2014:** A 1,582-page, \$1.1 trillion omnibus bill released by congressional negotiators prohibits funding for the disclosure of campaign contributions by contractors bidding on federal contracts. As for the IRS, “there’s no funding ‘to target groups for regulatory scrutiny based on their ideological beliefs or to target citizens for exercising their First Amendment rights.’”<sup>146</sup>

**January 14, 2014:** House Ways and Means Committee Chairman Dave Camp (R-MI) introduces legislation (H.R. 3865) to halt the proposed IRS rules for 501(c)(4) organizations by proposing a one-year hold on the new regulations, arguing that it is too soon to create new rules given that the investigation of the IRS targeting scandal has yet to reach a conclusion.<sup>147</sup>

**January 16, 2014:** Kimberley Strassel of *The Wall Street Journal* reveals that in negotiations on the passage of the omnibus earlier in the week, Democrats sacrificed their main legislative priorities in order to save the proposed IRS rules for 501(c)(4)s from being halted by GOP efforts to include provisions to stop implementation of the proposed regulations within the omnibus. Strassel asserts that the new IRS regulations could “shut up hundreds of groups that pose a direct threat by restricting their ability to speak freely in an election season about spending or ObamaCare or jobs.”<sup>148</sup>

**January 17, 2014:** President Obama signs the omnibus spending bill into law, codifying language preventing funding for the disclosure of campaign donations by federal contractors bidding on government contracts, and language prohibiting the IRS from targeting organizations based on their political beliefs.<sup>149</sup>

**January 22, 2014:** In an attempt to understand the IRS language on page 439 of the 1,582-page omnibus spending bill President Obama signed into law on January 17, many experts have come to only one conclusion: no one is quite sure of the language’s impact. “Just nine lines long and 68 words, the two clauses say money designated for the IRS cannot be used to ‘target citizens of the United States for exercising any right guaranteed under the first Amendment’ or to target ‘groups for regulatory scrutiny based on their ideological beliefs.’” The vague language – open for interpretation by regulators, courts, and lawyers – could have a significant impact on future IRS regulation of tax-exempt nonprofits.<sup>150</sup>

**January 22, 2014:** In a letter to U.S. Attorney General Eric Holder, Senator Ted Cruz admonishes the Obama administration for its failure to properly investigate the IRS targeting

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<sup>146</sup> Ed O’Keefe, “The winners and losers of the new spending bill,” *The Washington Post*. Retrieved on February 3, 2014. Available at: <http://www.washingtonpost.com/blogs/the-fix/wp/2014/01/13/the-winners-and-losers-of-the-new-spending-bill/> (January 14, 2014).

<sup>147</sup> John D. McKinnon, “Rep. Camp Seeks to Halt IRS Curbs on Some Groups’ Political Activities,” *The Wall Street Journal*. Retrieved on February 3, 2014. Available at: <http://blogs.wsj.com/washwire/2014/01/14/rep-camp-seeks-to-halt-irs-curbs-on-some-groups-political-activities/?KEYWORDS=%22irs+scandal%22> (January 14, 2014).

<sup>148</sup> Kimberley A. Strassel, “IRS Targeting and 2014,” *The Wall Street Journal*. Retrieved on February 3, 2014. Available at: <http://online.wsj.com/news/articles/SB10001424052702304603704579324783339931114> (January 16, 2014).

<sup>149</sup> Justin Sink, “Obama signs \$1.1T omnibus,” *The Hill*. Retrieved on February 3, 2014. Available at: <http://thehill.com/blogs/on-the-money/budget/195856-obama-signs-11t-omnibus> (January 17, 2014).

<sup>150</sup> Patrick Caldwell, “Did These 68 Words Just Kill IRS Oversight of Dark Money?,” *Mother Jones*. Retrieved on February 3, 2014. Available at: <http://www.motherjones.com/politics/2014/01/congress-irs-law-regulate-political-groups> (January 22, 2014).



scandal and discipline those responsible, as was promised when the scandal first broke. In his letter, Cruz states, “Two hundred fifty-three days have passed since both you and President Obama professed outrage at the IRS’s wrongful conduct. To date, no one has been indicted.” Cruz’s letter also encourages Holder to appoint a new, unbiased special prosecutor to conduct the remainder of the investigation.<sup>151</sup>

**January 23, 2014:** In a speech at the Center for American Progress, Senator Chuck Schumer encourages the Obama administration and the IRS to take action “administratively” to close “huge holes in our campaign finance laws created (sic) this ill-advised decision,” referring to 2010’s *Citizens United* ruling. Schumer further implores the IRS and other government agencies to “redouble” efforts to combat the “Citizens United loopholes” he views as being taken advantage of by the Tea Party. In his speech, Schumer also acknowledges that efforts to create new campaign finance regulations legislatively are not likely to pass Congress in the near future.<sup>152</sup>

**January 23, 2014:** Conservative author, pundit, and noted critic of President Obama, Dinesh D’Souza is indicted by the FBI “on federal charges of violating campaign finance laws by using straw donors to funnel money to a U.S. Senate candidate.” According to the complaint, D’Souza illegally reimbursed friends for their donations to the Senate campaign of his friend Wendy Long (R), who lost in 2012 to incumbent Senator Kirsten Gillibrand (D-NY) by a wide margin. D’Souza’s attorney Benjamin Brafman said in a statement that “Mr. D’Souza did not act with any corrupt or criminal intent whatsoever. He and the candidate have been friends since their college days, and at worst, this was an act of misguided friendship by D’Souza. . . It is important to note that the indictment does not allege a corrupt relationship between Mr. D’Souza and the candidate.”<sup>153</sup>

**January 29, 2014:** Despite the FBI’s predictions that its IRS investigation will not result in criminal charges (see first January 13, 2014 entry), Attorney General Eric Holder backtracks from the original report, clarifying that the government may still file criminal charges against IRS employees involved in the targeting scandal. Though Holder would not discuss the progress of the investigation, “he denied a published report that the investigation concluded there were no criminal acts in the targeting.”<sup>154</sup>

**January 30, 2014:** Senator Mitch McConnell implores new IRS Commissioner John Koskinen to stand up against the proposed IRS regulations for 501(c)(4) social welfare organizations in a speech on the Senate floor: “what the administration is proposing poses a grave threat to the

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<sup>151</sup> Ramsey Cox, “Cruz demands special investigation of IRS,” *The Hill*. Retrieved on February 3, 2014. Available at: <http://thehill.com/blogs/floor-action/senate/196257-cruz-demands-special-investigation-of-irs#ixzz2rHju8jCQ> (January 23, 2014).

<sup>152</sup> Meredith Shiner, “Schumer: Administration, IRS Must ‘Redouble Efforts’ on Campaign Finance Enforcement,” *Roll Call*. Retrieved on February 3, 2014. Available at: <http://atr.rollcall.com/schumer-administration-irs-must-redouble-efforts-on-campaign-finance-enforcement/> (January 23, 2014).

<sup>153</sup> Tom Hamburger and Alice Crites, “Conservative author and pundit Dinesh D’Souza charged in campaign finance case,” *The Washington Post*. Retrieved on February 3, 2014. Available at: [http://www.washingtonpost.com/politics/conservative-author-and-pundit-dinesh-dsouza-charged-in-campaign-finance-case/2014/01/23/69c67ee4-848a-11e3-bbe5-6a2a3141e3a9\\_story.html](http://www.washingtonpost.com/politics/conservative-author-and-pundit-dinesh-dsouza-charged-in-campaign-finance-case/2014/01/23/69c67ee4-848a-11e3-bbe5-6a2a3141e3a9_story.html) (January 23, 2014).

<sup>154</sup> Stephen Dinan, “Holder won’t rule out criminal charges for employees in IRS scandal,” *The Washington Times*. Retrieved on February 3, 2014. Available at: <http://www.washingtontimes.com/news/2014/jan/29/holder-criminal-charges-still-possible-irs-scandal/?page=1> (January 29, 2014), p. 1.

ability of ordinary Americans to freely participate in the Democratic process...Commissioner Koskinen must take a stand against this kind of thuggery and make it clear to a nervous public that his agency will not engage in any more government-sanctioned crackdowns on speech.”<sup>155</sup>

**January 30, 2014:** Chairman of the House Ways and Means Committee Dave Camp writes a letter to Secretary of the Treasury Jacob Lew requesting “all documents pertaining to [the] 501(c)(4) rulemaking” between January 1, 2009 and the present. Camp requested the documentation be proffered no later than February 13, 2014.<sup>156</sup>

**February 2, 2014:** In response to a question about the IRS scandal during a Super Bowl Sunday interview with *Fox News*’ Bill O’Reilly, President Barack Obama blames the IRS targeting scandal on “some bone-headed decisions...out of a local office,” emphatically declaring that “not even a smidgeon of corruption” was involved.<sup>157</sup>

**February 4, 2014:** Louisiana Governor Bobby Jindal (R) weighs in on the IRS scandal and the proposed (c)(4) regulations, urging Congress to prevent the proposed regulations from moving forward because of their threat to privacy and First Amendment freedoms: “The IRS could easily use those donor lists to engage in harassment and intimidation against those who disagree with the Administration’s liberal agenda.”<sup>158</sup>

**February 4, 2014:** In another joint letter, House Oversight and Government Reform Committee Chairman Darrel Issa and Economic Growth, Job Creation, and Regulatory Affairs Subcommittee Chairman Jim Jordan write to IRS Commissioner John Koskinen requesting that the IRS not consider the proposed 501(c)(4) regulations and that the Committee receive information as to how the proposed regulations came into being. “As written, the Administration’s proposed rule will stifle the speech of social welfare organizations and will codify and systematize targeting of organizations whose views are at odds with those of the Administration...we also have serious concerns about the process by which the Administration promulgated this rule.”<sup>159</sup> The letter also details congressional testimony from former IRS Acting Commissioner Stephen T. Miller, in which he alludes that the IRS targeting of conservative groups was a response to pressure from Democrats in Congress: “I mean, I think we were – we had, you know, Mr. Levin complaining bitterly to us about – Senator Levin complaining bitterly about our regulation that was older than me...And, you know, we were being asked to take a look at that. And so we were thinking about what things could be done.”<sup>160</sup>

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<sup>155</sup> U.S. Senator Mitch McConnell, “McConnell Calls on IRS Commissioner to Resist Obama Administration Efforts to Muzzle Free Speech,” Office of Senator Mitch McConnell. Retrieved on February 3, 2014. Available at: [http://www.mcconnell.senate.gov/public/index.cfm?p=PressReleases&ContentRecord\\_id=5102c641-48de-4262-a431-619f8e06340b](http://www.mcconnell.senate.gov/public/index.cfm?p=PressReleases&ContentRecord_id=5102c641-48de-4262-a431-619f8e06340b) (January 30, 2014).

<sup>156</sup> U.S. Representative Dave Camp, “Letter to Secretary Lew,” Congress of the United States. Retrieved on February 26, 2014. Available at: [http://waysandmeans.house.gov/uploadedfiles/13014\\_camp\\_to\\_lew\\_regs.pdf](http://waysandmeans.house.gov/uploadedfiles/13014_camp_to_lew_regs.pdf) (January 30, 2014).

<sup>157</sup> “TRANSCRIPT: Bill O’Reilly interviews President Obama,” *Fox News*. Retrieved on February 6, 2014. Available at: <http://www.foxnews.com/politics/2014/02/02/transcript-bill-oreilly-interviews-president-obama/> (February 2, 2014).

<sup>158</sup> Rick Manning, “Obama’s IRS intimidation has no place in America,” *The Hill*. Retrieved on February 6, 2014. Available at: <http://thehill.com/blogs/pundits-blog/the-administration/197408-obamas-irs-intimidation-has-no-place-in-america> (February 4, 2014).

<sup>159</sup> U.S. Representatives Darrell Issa and Jim Jordan, “Letter to Commissioner Koskinen,” United States House Committee on Oversight and Government Reform. Retrieved on February 7, 2014. Available at: <http://oversight.house.gov/wp-content/uploads/2014/02/2014-02-04-DEI-JDJ-to-Koskinen-IRS-c4-Rule.pdf> (February 4, 2014), p. 1.

<sup>160</sup> *Ibid.*, p. 9.

**February 5, 2014:** During a House Ways and Means Oversight Subcommittee hearing with newly installed IRS Commissioner John Koskinen, House Ways and Means Chairman Dave Camp reveals a June 2012 email exchange between a Treasury Department attorney and IRS officials in the Tax Exempt Organizations Division, including former Director Lois Lerner, about “off-plan” conversations regarding 501(c)(4) groups. “Mr. Camp noted that in this case ‘off-plan’ appears to mean ‘hidden from the public.’ He added that committee interviews with IRS officials have found that the new 2013 rules were in the works as early as 2011, meaning the Administration has ‘fabricated the rationale’ for this new regulation.”<sup>161</sup> Koskinen also indicates during the hearing that the number of public comments on the proposed (c)(4) rulemaking – over 21,000 at the time of the hearing – is the highest on record that the Agency has received on a Notice of Proposed Rulemaking.<sup>162</sup>

**February 5, 2014:** In a letter to Commissioner Koskinen, members of the Republican Leadership in the House and Senate as well as Republicans from the House Appropriations, Senate Finance, and House Ways and Means Committees strongly encourage the IRS not to go forth with the proposed rule changes for 501(c)(4)s because it “continu[es] to target the first amendment rights of [the] same grass-roots groups” targeted in the IRS scandal. The letter continues: “This proposed rule is an affront to free speech itself. It poses a serious and undeniable threat to the ability of ordinary Americans to freely participate in the democratic process. That’s why groups all along the political spectrum, from the ACLU to the Chamber of Commerce, and the citizens who support them, are increasingly concerned about its effect.”<sup>163</sup>

**February 5, 2014:** Representatives Gerry Connolly (D-VA) and Matt Cartwright (D-PA) request an investigation of Treasury Inspector General for Tax Administration J. Russell George, expressing concern about George’s May 2013 audit of the IRS, which revealed that “the IRS used inappropriate criteria that identified for review Tea Party and other organizations applying for tax-exempt status.”<sup>164</sup>

**February 5, 2014:** Cause of Action, a nonpartisan 501(c)(3) investigative organization, requests that the IRS extend the public comment period on the Agency’s proposed 501(c)(4) rulemaking and files a lawsuit to “delay the IRS issuing a final rule until the IRS produces responsive records; and order the IRS to re-open the comment period on the proposed rule after the IRS produces all responsive records.”<sup>165</sup>

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<sup>161</sup> “Obama’s IRS ‘Confusion,’” *The Wall Street Journal*. Retrieved on February 6, 2014. Available at: <http://online.wsj.com/news/articles/SB10001424052702304181204579365161576171176> (February 5, 2014).

<sup>162</sup> “GOP leaders urge new IRS boss to scrap rule they claim would muzzle free speech,” *Fox News*. Retrieved on February 6, 2014. Available at: <http://www.foxnews.com/politics/2014/02/06/gop-leaders-urge-new-irs-boss-to-scrap-rule-claim-would-muzzle-free-speech/> (February 6, 2014).

<sup>163</sup> U.S. Senator Mitch McConnell et al., “Letter to Commissioner Koskinen,” Congress of the United States. Retrieved on February 6, 2014. Available at: [http://www.speaker.gov/sites/speaker.house.gov/files/UploadedFiles/IRS%20letter\\_140205.PDF](http://www.speaker.gov/sites/speaker.house.gov/files/UploadedFiles/IRS%20letter_140205.PDF) (February 5, 2014), p. 1.

<sup>164</sup> Josh Hicks, “Two Democrats call for investigation of IRS watchdog who led targeting probe,” *The Washington Post*. Retrieved on February 10, 2014. Available at: <http://www.washingtonpost.com/blogs/federal-eye/wp/2014/02/07/two-democrats-call-for-investigation-of-irs-watchdog-who-led-targeting-probe/> (February 7, 2014).

<sup>165</sup> “Cause of Action Sues IRS Over Proposed Regulations Affecting Nonprofits,” Cause of Action. Retrieved on February 6, 2014. Available at: <http://causeofaction.org/cause-action-sues-irs-proposed-regulations-affecting-nonprofits/> (February 5, 2014).

**February 6, 2014:** One week after his previous speech on the subject (see January 30, 2014 entry), Senator McConnell speaks on the Senate floor against the proposed 501(c)(4) regulations: “Under the Administration’s proposed regulations, many citizen groups could be prohibited from participating in some of the most basic civic engagement activities... Grassroots groups shouldn’t be persecuted for doing the very things Americans expect them to do – they shouldn’t be forced to shut down for engaging in the very kind of educational activities the 501(c)4 designation was designed to support. The idea is to shut up and shut down the voices that oppose the Administration’s priorities – and it comes on the heels of a long-running pet project of this Administration to expose conservative donors to harassment in order in order to dry up their funding.”<sup>166</sup>

**February 6, 2014:** Catherine Engelbrecht, founder of True the Vote, the grassroots election-integrity outfit, files a formal ethics complaint with the Office of Congressional Ethics over the conduct of House Oversight and Government Reform Committee Ranking Member Elijah Cummings. Engelbrecht’s complaint alleges that Representative Cummings “misrepresented his authority as a Member of Congress to intimidate me and others associated with me, and which may be responsible for a series of incursions into my personal, organizational and business affairs by various federal agencies, agents and bureaucracies over the past four years.”<sup>167</sup>

**February 7, 2014:** In a letter to IRS Commissioner Koskinen complaining about the “millions of dollars” of taxpayer money “Congressional Republicans are wasting” through requests to the IRS for documents pertaining to the six ongoing investigations into the Agency’s targeting of conservative groups, Ranking Member of the House Ways and Means Committee, Sander Levin (D-MI), and Ranking Member of the House Oversight and Government Reform Committee, Elijah Cummings, request documentation with “accounting of taxpayer dollars and federal employee time spent to date on these investigations.”<sup>168</sup>

**February 10, 2014:** A coalition of 11 groups who advocate for greater regulation of political speech write to members of the House Ways and Means Committee, urging them to vote against a bill by Ways and Means Committee Chairman Dave Camp that would delay implementation of the IRS’s proposed rules for 501(c)(4) organizations for a year (see January 14, 2014 entry). The letter implores Committee members not to delay the rulemaking because the signees believe that delay of the proposed rulemaking “will only serve to prolong the opportunity for the abuses of the tax laws that have resulted in hundreds of millions of dollars of undisclosed “dark” money flowing into federal elections.”<sup>169</sup>

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<sup>166</sup> U.S. Senator Mitch McConnell, “McConnell: Proposed IRS Rule Designed to Stifle Administration Critics,” Office of Senator Mitch McConnell. Retrieved on February 6, 2014. Available at: [http://www.mcconnell.senate.gov/public/index.cfm?p=PressReleases&ContentRecord\\_id=1ec79f29-242b-4078-8956-232ea741724f](http://www.mcconnell.senate.gov/public/index.cfm?p=PressReleases&ContentRecord_id=1ec79f29-242b-4078-8956-232ea741724f) (February 6, 2014).

<sup>167</sup> “Conservative activist claims Rep. Cummings tried to ‘intimidate’ her, files complaint,” *Fox News*. Retrieved on February 10, 2014. Available at: <http://www.foxnews.com/politics/2014/02/06/conservative-activist-claims-rep-cummings-tried-to-intimidate-her-files/> (February 6, 2014).

<sup>168</sup> U.S. Representatives Sander Levin and Elijah Cummings, “Letter to Commissioner Koskinen,” Congress of the United States. Retrieved on February 10, 2014. Available at: <http://democrats.waysandmeans.house.gov/sites/democrats.waysandmeans.house.gov/files/LevinCummingsIRSletter-2-7.pdf> (February 7, 2014), p. 1-2.

<sup>169</sup> Americans for Campaign Reform et al., “Vote No on Bill to Delay and Prohibit New IRS Rules on 501(c)(4) Standards.” Retrieved on February 11, 2014. Available at: <http://www.democracy21.org/wp-content/uploads/2014/02/Groups-letter-to-Congress-re-IRS-rulemaking-2-10-14-22.pdf> (February 10, 2014), p. 2.

**February 11, 2014:** Senator Mitch McConnell again takes to the Senate floor, this time to promote legislation called the “Stop Targeting of Political Beliefs by the IRS Act of 2014” (S. 2011), which would prohibit the proposed 501(c)(4) regulations from becoming law: “Instead of putting safeguards in place to protect our civil liberties, the Obama Administration is now dragging the IRS back in the opposite direction. It’s now pushing a regulation that would actually entrench and encourage the harassment of groups that dare to speak up and engage in the conversation. It’s trying to intimidate into silence those who send donations to civic groups too. Predictably, the Obama Administration has tried to spin these regulations as some sort of ‘good government’ measure – as reforms initiated in response to the IRS scandal. But, of course, we know that that’s simply not true. In recent days, we learned that these regulations – regulations designed to suppress free speech – have been in the works for years. So let’s be clear: all of this is simply unacceptable.”<sup>170</sup>

**February 11, 2014:** Senators John Cornyn (R-TX), Orrin Hatch, and Jeff Flake (R-AZ) also speak on the Senate floor to rally support for S. 2011, the “Stop Targeting of Political Beliefs by the IRS Act of 2014” (see previous entry). Cornyn warns that the proposed 501(c)(4) regulations will “institutionalize the role of the IRS as the speech police.”<sup>171</sup> Hatch highlights the importance of S. 2011: “That’s why this legislation we’ve introduced today is so important. We need to send a message to the administration that it can’t tamper with the rules of free speech just because it doesn’t like what’s being said.”<sup>172</sup> Flake encourages the IRS to make amends with the public: “It’s time to end the intimidation and harassment. Let’s preserve the First Amendment rights of all groups, regardless of their ideology, especially those that commit themselves to improving our society. And let’s restore the public’s faith in the ability of the IRS to fairly administer our nation’s tax laws.”<sup>173</sup>

**February 11, 2014:** The House Ways and Means Committee votes on a party line basis in favor of H.R. 3865 (see January 14, 2014 entry), taking a key step towards delaying the IRS’s proposed 501(c)(4) regulations. “These rules are a blatant attempt to legalize and institutionalize targeting by the IRS, and are designed to put conservative groups out of business,” Ways and Means Committee Chairman Dave Camp explained. “It is no wonder the IRS tried to develop this rule behind closed doors and out of the public’s view. This legislation will put a hold on these proposed rules until Congress completes its investigation into the IRS’s abuses.”<sup>174</sup> The

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<sup>170</sup> U.S. Senator Mitch McConnell, “Republican Senators Introduce Bill to Halt Proposed IRS Free Speech Restrictions,” Office of Senator Mitch McConnell. Retrieved on February 12, 2014. Available at: [http://www.mcconnell.senate.gov/public/index.cfm?p=PressReleases&ContentRecord\\_id=7f8ab008-83e4-4f63-b119-fabe46338b78&ContentType\\_id=c19bc7a5-2bb9-4a73-b2ab-3c1b5191a72b&Group\\_id=0fd6ddca-6a05-4b26-8710-a0b7b59a8f1f](http://www.mcconnell.senate.gov/public/index.cfm?p=PressReleases&ContentRecord_id=7f8ab008-83e4-4f63-b119-fabe46338b78&ContentType_id=c19bc7a5-2bb9-4a73-b2ab-3c1b5191a72b&Group_id=0fd6ddca-6a05-4b26-8710-a0b7b59a8f1f) (February 11, 2014).

<sup>171</sup> U.S. Senator John Cornyn, “Does Anyone Really Think The IRS Needs More To Do?,” Office of Senator John Cornyn. Retrieved on February 12, 2014. Available at: <https://www.youtube.com/watch?v=Cta0bKrYIXE> (February 11, 2014).

<sup>172</sup> U.S. Senator Orrin Hatch, “Hatch Slams 501(c)(4) Proposed Rules; Backs Bill to Delay Implementation,” Office of Senator Orrin Hatch. Retrieved on February 12, 2014. Available at: <http://www.hatch.senate.gov/public/index.cfm/2014/2/hatch-slams-501-c-4-proposed-rules-backs-bill-to-delay-implementation> (February 11, 2014).

<sup>173</sup> U.S. Senator Jeff Flake, “Sen. Flake’s Remarks on Flake-Roberts Bill to Prevent IRS Targeting, Preserve Free Speech,” Office of Senator Jeff Flake. Retrieved on February 12, 2014. Available at: [http://www.youtube.com/watch?v=qatG-PJky-g&list=UUPSnrXko\\_G21KzwgXmOZaeQ&feature=share](http://www.youtube.com/watch?v=qatG-PJky-g&list=UUPSnrXko_G21KzwgXmOZaeQ&feature=share) (February 11, 2014).

<sup>174</sup> U.S. Representative Dave Camp, “Ways and Means Committee Votes to Block IRS Regulations Designed to Put Conservative Groups Out of Business,” Office of Representative Dave Camp. Retrieved on February 12, 2014. Available at: <http://camp.house.gov/news/documentsingle.aspx?DocumentID=369731> (February 11, 2014).



vote comes after Camp reveals that Committee investigations found that the IRS also targeted established conservative tax-exempt groups for audits, and not just those groups applying for tax-exempt status.<sup>175</sup>

**February 11, 2014:** Chief Deputy Whip Peter Roskam (R-IL) sends a letter to lead Department of Justice investigator for the IRS targeting scandal Barbara Bosserman detailing his expectations regarding the unbiased principles with which the investigation should be conducted. Acknowledging the firestorm Bosserman faces considering her prior donations to President Obama and the Democratic Party, Roskam says his “principle interest is in finding out what happened, who is responsible, and ultimately achieving justice for those injured throughout this process.”<sup>176</sup>

**February 12, 2014:** Amid cries of disapproval from both conservative and liberal leaning groups, experts are beginning to doubt the likelihood that the IRS’s proposed 501(c)(4) regulations will move forward. Tax attorney Marcus Owens, a former high-ranking official at the IRS, said “the regulations are dead in the water.” With more than 23,000 public comments overwhelmingly in opposition to the proposed regulations, “critics and supporters of the proposal agree that the vehement objections could delay or even derail the rules. Tax experts now expect the Treasury Department to pull back the regulations and rewrite them – or perhaps even withdraw them completely.”<sup>177</sup>

**February 12, 2014:** A growing chorus of tax attorneys indicate that the IRS’s proposed rules governing 501(c)(4) organizations violate the Paperwork Reduction Act of 1995, which requires government agencies to accurately estimate the paperwork burdens of newly proposed programs on the public. According to a letter submitted to the Office of Management and Budget on behalf of the nonprofit watchdog group Judicial Watch, “The [IRS] fails to mention, let alone review and evaluate as required under [the Paperwork Reduction Act], the burden of the collection of information arising out of its replacement of longstanding language.”<sup>178</sup>

**February 13, 2014:** Echoing the actions of Democratic Congressmen before the IRS scandal came to light in May 2013, several vulnerable Democratic Senators publicly prod the IRS to regulate 501(c)(4) organizations more aggressively. According to Senator Mark Pryor (D-AK), “That whole 501(c)(3), 501(c)(4) [issue], those are IRS numbers. It is inherently an internal revenue matter. There are two things you don’t want in political money, in the fundraising world and expenditure world. You don’t want secret money, and you don’t want unlimited money, and

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<sup>175</sup> John D. McKinnon, “Camp: IRS Targeted Established Conservative Groups for Audits, Too,” *The Wall Street Journal*. Retrieved on February 12, 2014. Available at: <http://blogs.wsj.com/washwire/2014/02/11/camp-irs-targeted-conservative-groups-for-audits/?KEYWORDS=%22irs%22> (February 11, 2014).

<sup>176</sup> U.S. Representative Peter Roskam, “Letter to Barbara Bosserman,” Congress of the United States. Retrieved on February 12, 2014. Available at: [https://roskam.house.gov/sites/roskam.house.gov/files/wysiwyg\\_uploaded/Bosserman%20Letter%20-%20FINAL%20-%20SIGNED\\_1.pdf](https://roskam.house.gov/sites/roskam.house.gov/files/wysiwyg_uploaded/Bosserman%20Letter%20-%20FINAL%20-%20SIGNED_1.pdf) (February 11, 2014), p. 1.

<sup>177</sup> Matea Gold, “IRS plan to curb politically active groups threatened by opposition from both sides,” *The Washington Post*. Retrieved on February 12, 2014. Available at: [http://www.washingtonpost.com/politics/irs-plan-to-curb-politically-active-groups-threatened-by-opposition-from-both-sides/2014/02/12/99dcfd2a-932a-11e3-b46a-5a3d0d2130da\\_story.html](http://www.washingtonpost.com/politics/irs-plan-to-curb-politically-active-groups-threatened-by-opposition-from-both-sides/2014/02/12/99dcfd2a-932a-11e3-b46a-5a3d0d2130da_story.html) (February 12, 2014).

<sup>178</sup> Patrick Howley, “Claims: Obama administration’s new nonprofit rules violate the Paperwork Reduction Act,” *The Daily Caller*. Retrieved on February 13, 2014. Available at: <http://dailycaller.com/2014/02/12/claims-obama-administrations-new-nonprofit-rules-violate-the-paperwork-reduction-act/#ixzz2tBeZvz5B> (February 12, 2014), p. 2.

that's what we have now.” For her part, Senator Jeanne Shaheen called spending by 501(c)(4) groups “outrageous.”<sup>179</sup>

**February 18, 2014:** 29 Senators send a letter to IRS Commissioner John Koskinen asking him to suspend the IRS’s proposed rulemaking for 501(c)(4) groups. According to the co-signers, “The IRS is not the appropriate agency to regulate political activity as the proposal delineates given its lack of subject-matter expertise and role as impartial administrator of our nation’s tax laws. At a minimum, the IRS should not finalize any regulations related to political activity that would jeopardize the rights established by the First Amendment or be applied selectively to tax-exempt organizations.”<sup>180</sup>

**February 19, 2014:** Senators Chuck Grassley (R-IA), Jeff Sessions (R-AL), Ted Cruz, and Mike Lee (R-UT) send a letter to FBI Director James Comey inquiring as to the scope and methodology of the FBI’s routine reviews of campaign finance filings with the FEC. In particular, the Senators express concern with the FBI’s indictment of Dinesh D’Souza (see second January 23, 2014 entry), which they believe to be politically motivated: “To dispel this sort of public perception that Mr. D’Souza may have been targeted because of his outspoken criticisms of the President, it is important for the FBI to be transparent regarding the precise origin of this investigation.”<sup>181</sup>

**February 19, 2014:** Speaking at a District of Columbia Bar Association event on the IRS’s proposed rulemaking for 501(c)(4) organizations, Marcus Owens, a partner with Caplin & Drysdale and a former employee of the IRS’s Exempt Organizations Division, notes: “The only question is whether the proposed rules will be withdrawn before the midterm election, not whether they will be finalized. They just aren’t workable.” Panelists at the event also noted that if the proposed rules are finalized, they are likely to be litigated.<sup>182</sup>

**February 24, 2014:** In order to continue the House Committee on Ways and Means investigation of the IRS scandal, Committee Chairman Dave Camp writes a letter to IRS Commissioner John Koskinen requesting “fulfillment of a document request” made nearly eight months prior. Camp threatens “using compulsory process to compel the [documents],” should the IRS continue to avoid handing over the requested documents.<sup>183</sup>

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<sup>179</sup> Alexander Bolton, “Vulnerable Dems want IRS to step up,” *The Hill*. Retrieved on February 13, 2014. Available at: <http://thehill.com/homenews/senate/198298-vulnerable-dems-want-irs-to-step-up> (February 13, 2014).

<sup>180</sup> U.S. Senator Jeff Flake et al., “Letter to Commissioner Koskinen,” United States Senate. Retrieved on February 20, 2014. Available at: [http://www.flake.senate.gov/public/\\_cache/files/3466bab8-b367-48fb-85a9-6f0121d37a28/sen.-flake-letter-to-irs-commissioner-koskinen.pdf](http://www.flake.senate.gov/public/_cache/files/3466bab8-b367-48fb-85a9-6f0121d37a28/sen.-flake-letter-to-irs-commissioner-koskinen.pdf) (February 18, 2014), p. 1.

<sup>181</sup> U.S. Senator Charles E. Grassley et al., “Letter to Director Comey,” United States Senate Committee on the Judiciary. Retrieved on February 20, 2014. Available at: [http://images.politico.com/global/2014/02/21/2014-02-19\\_ceg\\_sessions\\_cruz\\_lee\\_to\\_fbi\\_routine\\_reviews.html](http://images.politico.com/global/2014/02/21/2014-02-19_ceg_sessions_cruz_lee_to_fbi_routine_reviews.html) (February 19, 2014), p. 1.

<sup>182</sup> Diane Freda, “IRS Proposed Rules on 501(c)(4) Politicking Going Nowhere, Risk Litigation, Attorneys Say,” *BNA Money & Politics Report* (\$). Retrieved on February 20, 2014. Available at: [http://news.bna.com/mpdm/MPDMWB/split\\_display.adp?fedfid=41884373&vname=mpebulallissues&fn=41884373&jd=41884373](http://news.bna.com/mpdm/MPDMWB/split_display.adp?fedfid=41884373&vname=mpebulallissues&fn=41884373&jd=41884373) (February 19, 2014).

<sup>183</sup> U.S. Representative Dave Camp, “Letter to Commissioner Koskinen,” Congress of the United States. Retrieved on February 26, 2014. Available at: [http://waysandmeans.house.gov/uploadedfiles/2.24.14\\_camp\\_to\\_irs\\_document\\_request.pdf](http://waysandmeans.house.gov/uploadedfiles/2.24.14_camp_to_irs_document_request.pdf) (February 24, 2014).

**February 24, 2014:** Eleven organizations favoring greater regulation of political speech write a letter to members of the House Representatives encouraging them to vote no on H.R. 3865 (see January 14, 2014, February 10, 2014, and third February 11, 2014 entries), saying the proposed 501(c)(4) regulations the bill intends to halt are vital to prevent “abuses of the tax laws that have resulted in hundreds of millions of dollars of “dark money” flowing into federal elections.” The letter says there is “no legitimate justification” for the one-year delay proposed by H.R. 3865.<sup>184</sup>

**February 25, 2014:** Senator Ted Cruz weighs in with a public comment opposing the proposed 501(c)(4) regulations: “It is disturbing that the IRS is proposing new rules that would attempt to further limit the free speech rights of Americans, while the IRS and the Department of Justice still refuse to provide the American people with all the facts surrounding the IRS’s targeting of certain organizations based on their political activity.” The letter continues: “The IRS should not be used as a tool for partisan warfare. And the federal government must respect the First Amendment rights of our citizens. The proposed new rules do neither.”<sup>185</sup>

**February 25, 2014:** As answers continue to elude those investigating the IRS targeting scandal, House Oversight and Government Reform Committee Chairman Darrell Issa and the Committee intend to revisit the questions surrounding Lois Lerner’s pleading of the Fifth following her opening statement to the Committee insisting she was innocent during a hearing last May. At the time, some Republican members claimed “she had waived her right by making the statement” of innocence. Issa writes a letter to Lerner’s attorney indicating the Committee will discuss the matter on March 5.<sup>186</sup>

**February 25, 2014:** With a rapidly approaching floor vote on H.R. 3865 – the bill that would delay action on the proposed 501(c)(4) regulations for one year – the White House releases a statement threatening to veto the bill if it reaches the President’s desk. The White House claims the bill prevents the IRS “from administering the tax code more effectively and from providing greater clarity to organizations seeking tax-exempt status.”<sup>187</sup>

**February 26, 2014:** Lois Lerner’s attorney responds to Darrell Issa’s request for her to reappear before the House Oversight and Government Reform Committee (see second February 25, 2014 entry), asking him to revoke the Committee’s summons due to Lerner being “the subject of numerous threats on her life and safety.” Lerner’s attorney further claims that she will invoke her Fifth Amendment rights again if called before the Committee, and “will decline to answer unless she is ordered to do so by a United States District Court or receives immunity.”<sup>188</sup>

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<sup>184</sup> Americans for Campaign Reform et al., “Vote No on H.R. 3865, a Bill to Restrict New IRS Rules on 501(c)(4) Standards,” Democracy 21. Retrieved on February 26, 2014. Available at: <http://www.democracy21.org/wp-content/uploads/2014/02/Letter-to-House-2-24-14.pdf> (February 24, 2014), p. 2.

<sup>185</sup> U.S. Senator Ted Cruz, “Comments on IRS NPRM, REG-134417-13,” United States Senate. Retrieved on February 26, 2014. Available at: <http://www.scribd.com/doc/209182441/Comments-from-Sen-Ted-Cruz-on-Proposed-Rules-that-Allow-the-IRS-to-Stifle-Free-Speech#download> (February 25, 2014), p. 1-2.

<sup>186</sup> John D. McKinnon, “Panel Seeks New Testimony by Former IRS Official Over Tea-Party Targeting,” *The Wall Street Journal*. Retrieved on February 26, 2014. Available at: <http://blogs.wsj.com/washwire/2014/02/25/panel-seeks-new-testimony-by-former-irs-official-over-tea-party-targeting/?KEYWORDS=%22irs%22> (February 25, 2014).

<sup>187</sup> Bernie Becker, “White House threatens veto of House IRS bill,” *The Hill*. Retrieved on February 26, 2014. Available at: <http://thehill.com/blogs/on-the-money/domestic-taxes/199250-white-house-threatens-veto-of-house-irs-bill> (February 25, 2014).

<sup>188</sup> Andrea Drusch, Rachael Bade, and Lauren French, “Lawyer to Darrell Issa: Lois Lerner facing threats,” *Politico*. Retrieved on February 26, 2014. Available at: <http://www.politico.com/story/2014/02/darrell-issa-seeks-lois-lerner-irs-testimony-103977.html> (February 26, 2014).

**February 26, 2014:** All six Republican members of the House Committee on House Administration, including Chairman Candice Miller (R-MI), submit public comments on the IRS rulemaking. In a statement announcing the comments, Chairman Miller said: “We cannot allow the expansion of the IRS’ role in the regulation of political activity and give them carte blanche authority to drive our nation’s political conversation, especially given the recent scandal involving the agency’s improper targeting of ideologically conservative groups. We urge the IRS to, at a minimum, delay their proposed regulations respective effective dates until after the elections, and no sooner than January 1, 2015. These proposed regulations are rooted in the belief that social welfare activity does not include political activity. But one can think of few activities intended more clearly to promote the general welfare of the United States than engaging in the political process.”<sup>189</sup>

**February 26, 2014:** House Judiciary Committee Chairman Bob Goodlatte (R-VA) comments to the IRS in opposition to the proposed 501(c)(4) rulemaking. According to Goodlatte, “These proposed regulations not only would chill Americans’ First Amendment protections, they also, in light of the investigations regarding the inappropriate treatment of tax-exempt applicants by the Internal Revenue Service (‘IRS’), appear to codify the IRS’s agenda to thwart the political activities of conservative-leaning groups.”<sup>190</sup>

**February 26, 2014:** H.R. 3865, the “Stop Targeting of Political Beliefs by the IRS Act,” passes the House by a vote of 243-176, with 14 Democrats voting in favor of the bill. Speaker John Boehner (R-OH) releases a statement, saying that “The taxman has no business targeting citizens for their political views. None whatsoever. On behalf of every American fed up with the IRS’s antics, I call on Senate Democrats to allow a vote on this bill immediately.”<sup>191</sup>

**February 26, 2014:** In a hearing of the House Appropriations Committee’s Subcommittee on Financial Services and General Government, IRS Commissioner John Koskinen tells Committee members that “the chances of [the 501(c)(4) rulemaking] getting finalized before the November election are fairly slim.” He further tells members of the Committee that the IRS is likely to hold a public hearing on the proposed rules and potentially another round of public comment before they are finalized.<sup>192</sup>

**February 26, 2014:** Senator Sheldon Whitehouse gives a speech on the Senate floor blaming legislative gridlock and the Senate’s failure to act on climate change legislation on “the evils of

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<sup>189</sup> U.S. Representative Candice S. Miller, “Chairman Miller: We Must Protect Free Speech from Abuse by the IRS” CHA Press Office. Retrieved on February 26, 2014. Available at: <http://cha.house.gov/press-release/chairman-miller-we-must-protect-free-speech-abuse-irs> (February 26, 2014).

<sup>190</sup> U.S. Representative Bob Goodlatte, “Re: Comments in Response to Notice of Proposed Rulemaking on “Guidance for Tax-Exempt Social Welfare Organizations on Candidate-Related Political Activities,” House of Representatives Committee on the Judiciary. Retrieved on February 27, 2014. Available at: [http://www.campaignfreedom.org/wp-content/uploads/2014/02/2014-02-26\\_Chairman-of-the-House-Committee-on-the-Judiciary\\_IRS\\_Comments-On-Proposed-501c4-Rulemaking.pdf](http://www.campaignfreedom.org/wp-content/uploads/2014/02/2014-02-26_Chairman-of-the-House-Committee-on-the-Judiciary_IRS_Comments-On-Proposed-501c4-Rulemaking.pdf) (February 26, 2014), p. 1.

<sup>191</sup> Speaker Boehner’s Press Office, “House Votes to Protect First Amendment, Stop IRS Overreaching,” Speaker of the House John Boehner. Retrieved on February 26, 2014. Available at: <http://www.speaker.gov/press-release/house-votes-protect-first-amendment-stop-irs-overreaching?Source=GovD> (February 26, 2014).

<sup>192</sup> Stephen Dinan, “IRS says planned tea party crackdown rules won’t be in place by November,” *The Washington Times*. Retrieved on February 27, 2014. Available at: <http://www.washingtontimes.com/news/2014/feb/26/new-irs-rules-tea-party-wont-be-ready-election/> (February 26, 2014), p. 1.

*Citizens United.*” Whitehouse continues by calling the decision “one of the worst and most disgraceful decisions ever made by the Supreme Court,” and further faults the Koch brothers for gridlock in Congress.<sup>193</sup>

**February 26, 2014:** After accusing Americans for Prosperity, a group with funding from the Koch brothers, of lying in all ads critical of Democrats who supported Obamacare on the Senate floor, Senate Majority Leader Harry Reid re-evaluates his statement a few hours later: “I can’t say that every one of the Koch brothers ads are a lie, but I’ll say this ... the vast, vast majority of them are. It’s too bad that they are trying to buy America. And it’s time that the American people spoke out against this terrible dishonesty of these two brothers, who are about as un-American as anyone that I can imagine.” Reid focused on the “hundreds of millions of dollars” being spent to discredit Obamacare, continuing the trend of demonizing the Kochs for their success in the oil business.<sup>194</sup>

**February 27, 2014:** In response to Senator Majority Leader Harry Reid’s floor remarks calling the Kansas-native Koch brothers “un-American” the day before (see seventh February 26, 2014 entry), Kansas Senators Pat Roberts (R) and Jerry Moran (R) take to the Senate floor to defend the Koch brothers. Roberts defends their actions as legal, and Moran compares Reid’s action to those of Joseph McCarthy, noting that “It’s troubling that there is a reflexive reaction in Congress to label people who disagree with you as un-American. This tactic didn’t end in 1950 and indeed it continues today.”<sup>195</sup>

**February 27, 2014:** Before a hearing of the House Oversight and Government Reform Committee’s Subcommittee on Economic Growth, Job Creation and Regulatory Affairs, Jenny Beth Martin, President and Co-Founder of the Tea Party Patriots, reveals that her organization has finally received its tax-exempt status from the IRS, nearly three years after the organization submitted its initial application.<sup>196</sup>

**February 27, 2014:** Senator Mitch McConnell speaks on the Senate floor about the proposed 501(c)(4) regulations, saying it’s “inappropriate to hand this kind of power to any Administration.” In speaking on the last day for the public to comment on the proposed rules, McConnell calls on the IRS to “leave the First Amendment alone,” concluding his speech with a call to action for the IRS commissioner: “Commissioner Koskinen: Do the right thing. Stop this regulation.”<sup>197</sup>

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<sup>193</sup> U.S. Senator Sheldon Whitehouse, “Citizens United, Congressional Gridlock, and Climate Change,” Office of Senator Sheldon Whitehouse. Retrieved on February 27, 2014. Available at: <http://www.whitehouse.senate.gov/news/speeches/citizens-united-congressional-gridlock-and-climate-change> (February 26, 2014).

<sup>194</sup> Burgess Everett, “Harry Reid tempers Koch criticism,” *Politico*. Retrieved on February 27, 2014. Available at: <http://www.politico.com/story/2014/02/harry-reid-koch-brothers-103986.html#ixzz2uXAiMREq> (February 26, 2014).

<sup>195</sup> Ramsey Cox, “Moran: Reid’s attacks on Koch brothers rings of 1950s McCarthyism,” *The Hill*. Retrieved on March 5, 2014. Available at: <http://thehill.com/blogs/floor-action/senate/199512-moran-reids-attacks-on-kochs-rings-of-mccarthyism#ixzz2ucjywafr&nbsp;#> (February 27, 2014).

<sup>196</sup> Mark Hrywna, “Congress Gets Nearly 100K Comments On Advocacy Rules,” *The NonProfit Times*. Retrieved on March 5, 2014. Available at: <http://www.thenonprofitimes.com/news-articles/congress-gets-nearly-100k-comments-on-advocacy-rules/> (February 27, 2014).

<sup>197</sup> U.S. Senator Mitch McConnell, “McConnell to the IRS: Leave the First Amendment Alone,” Office of Senator Mitch McConnell. Retrieved on February 27, 2014. Available at: [http://www.mcconnell.senate.gov/public/index.cfm?p=PressReleases&ContentRecord\\_id=d3cffe1f-d569-4eb9-9ea1-](http://www.mcconnell.senate.gov/public/index.cfm?p=PressReleases&ContentRecord_id=d3cffe1f-d569-4eb9-9ea1-)



**February 27, 2014:** Led by Senator Sheldon Whitehouse, a total of 15 Democratic Senators and Bernie Sanders (I-VT) write to the IRS supporting the intent of the proposed rulemaking, but asking the IRS to go farther in regulating the activity of 501(c)(4) organizations. In their letter, the Senators suggest a 5 to 15 percent cap on the amount of political activity allowed by (c)(4) organizations. In asking the IRS to go even further in its rulemaking, the Senators demand: “In particular, the new rules must make clear that it is impermissible for political operatives to create what are for all practical purposes PACs, obtain 501(c)(4) status for those PACs, and then spend essentially unlimited money to influence elections without disclosing their donors, as is now common practice.”<sup>198</sup>

**February 27, 2014:** Senator Carl Levin submits a public comment to the IRS, expressing support for the proposed rulemaking and recommending that the final rule only permit 501(c)(4) organizations to engage in an “insubstantial” amount of newly-defined “candidate related political activity.”<sup>199</sup> Levin had previously written to the IRS, requesting that the Agency take an active role in investigating 501(c)(4) organizations for potential abuses of their tax-exempt status (see September 19, 2012 entry).

**February 27, 2014:** U.S. Representative Chris Van Hollen, Democracy 21, and the Campaign Legal Center submit joint comments to the IRS in favor of the proposed rulemaking governing 501(c)(4) organizations. The comments urge the Agency to separate the targeting scandal from the current rulemaking: “Although the agency has been remiss in failing to start this rulemaking earlier, it is now underway and the agency should move forward with determination to take the steps necessary to restore effective disclosure of campaign money to elections in this country, by closing the loopholes that have allowed undisclosed money to flow into campaigns since *Citizens United*. The IRS should not allow false and misleading claims about the purpose of this rulemaking to deter it from the clear need to adopt new rules and prevent future abuses of the tax laws.”<sup>200</sup>

**February 27, 2014:** U.S. Representative Lloyd Doggett (D-TX) weighs in on the proposed IRS rulemaking governing 501(c)(4) organizations, touting the proposed rule as necessary to combat the *Citizens United* decision: “But in the past few years, in the wake of the United States Supreme Court’s *Citizens United* decision, the use of section 501(c)(4) social welfare organizations as an instrument through which to funnel secret contributions to political

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<sup>198</sup> U.S. Senator Sheldon Whitehouse et al., “Comments on Guidance for Tax-Exempt Social Welfare Organizations on Candidate-Related Political Activities,” United States Senate. Retrieved on February 28, 2014. Available at: <http://www.whitehouse.senate.gov/download/?id=909cd508-041a-40b4-a75c-69761bc994c3&download=1> (February 27, 2014), p. 4.

<sup>199</sup> U.S. Senator Carl Levin, “Proposed Guidance for Tax-Exempt Social Welfare Organizations on Candidate-Related Political Activities, RIN (1545-BLSI),” United States Senate Committee on Homeland Security and Governmental Affairs. Retrieved on February 28, 2014. Available at: [http://www.levin.senate.gov/download/irs\\_comment\\_letter022714](http://www.levin.senate.gov/download/irs_comment_letter022714) (February 27, 2014), p. 3.

<sup>200</sup> U.S. Representative Chris Van Hollen et al., “Comments on REG-134417-13 (relating to definition of “candidate-related political activity,” United States House of Representatives. Retrieved on March 11, 2014. Available at: [http://www.campaignlegalcenter.org/images/D21-CLC-Van\\_Hollen\\_Comments\\_on\\_IRS\\_rulemaking\\_-\\_definition\\_comments\\_-\\_FINAL\\_-\\_2-27-14.pdf](http://www.campaignlegalcenter.org/images/D21-CLC-Van_Hollen_Comments_on_IRS_rulemaking_-_definition_comments_-_FINAL_-_2-27-14.pdf) (February 27, 2014), p.15.

campaigns has exploded.” The comments conclude by urging the IRS to prohibit 501(c)(4) organizations from engaging in any political activity, in excess of *de minimis* amounts.<sup>201</sup>

**February 27, 2014:** Senator Ron Johnson (R-WI) submits public comments to the IRS, calling on the Agency to withdraw its proposed rulemaking governing 501(c)(4) organizations: “I urge the IRS to abandon this cynical, unconstitutional attempt to limit free speech. It is a rule worthy of an autocracy. It is a rule that insults our founders and every American citizen.”<sup>202</sup>

**February 27, 2014:** 81 members of the House Republican Study Committee submit joint comments to the IRS highly critical of the proposed rule: “Rescinding the rights of organizations which seek to do nothing more than ensure that their members have the most updated, relevant information before taking part in one of our most sacred traditions – voting – goes against the liberty these types of organizations have enjoyed for more than 50 years, and is an affront to the free speech rights established in the Bill of Rights.” The undersigned “request that this proposed Rule be abandoned.”<sup>203</sup>

**February 27, 2014:** Republican FEC Commissioners Lee Goodman, Matthew Petersen, and Caroline Hunter submit public comments to the IRS encouraging the Agency to “harmonize its policies and definition of ‘candidate-related political activity’ with the FEC’s policies and definitions.”<sup>204</sup>

**February 27, 2014:** Democratic FEC Commissioners Ann Ravel and Ellen Weintraub also submit public comments to the IRS focusing on “public interest in the disclosure of political spending.” Their comments encourage the IRS not to look to the FEC to define “political activity”: “The proposed rules outlined in the NPRM contain only limited cross-references to the FEC’s regulations, leaving most important determinations in the hands of the IRS. This is a reasonable approach. We encourage the IRS to pursue clear guidance that represents the best of its independent judgment.”<sup>205</sup>

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<sup>201</sup> U.S. Representative Lloyd Doggett, “Re: Comments in Response to Notice of Proposed Rulemaking (“NPRM”) on Guidance for Tax-Exempt Social Welfare Organizations on Candidate-Related Political Activities,” Congress of the United States House of Representatives. Retrieved on March 10, 2014. Available at: <http://www.regulations.gov#!documentDetail;D=IRS-2013-0038-133615> (February 27, 2014).

<sup>202</sup> U.S. Senator Ron Johnson, “Comments on IRS NPRM, REG 134417-13,” United States Senate. Retrieved on February 28, 2014. Available at: [http://www.ronjohnson.senate.gov/public/\\_cache/files/107de767-80c1-490d-8d07-42cea72443b9/johnson-comments-to-irs.pdf](http://www.ronjohnson.senate.gov/public/_cache/files/107de767-80c1-490d-8d07-42cea72443b9/johnson-comments-to-irs.pdf) (February 27, 2014), p. 2.

<sup>203</sup> U.S. Representative Steve Scalise et al., “Letter to Mr. Koskinen,” Congress of the United States. Retrieved on March 10, 2014. Available at: [http://rsc.scalise.house.gov/uploadedfiles/irs\\_comment\\_2.27.14.pdf](http://rsc.scalise.house.gov/uploadedfiles/irs_comment_2.27.14.pdf) (February 27, 2014), p. 1.

<sup>204</sup> FEC Chairman Lee E. Goodman et al., “Re: Comments in Response to Notice of Proposed Rulemaking on ‘Guidance for Tax-Exempt Social Welfare Organizations on Candidate-Related Political Activities,’” Federal Election Commission. Retrieved on March 10, 2014. Available at: [http://electionlawblog.org/wp-content/uploads/Goodman\\_Petersen\\_Hunter\\_IRS-Comment.pdf](http://electionlawblog.org/wp-content/uploads/Goodman_Petersen_Hunter_IRS-Comment.pdf) (February 27, 2014), p. 4.

<sup>205</sup> Commissioners Ann M. Ravel and Ellen L. Weintraub, “RE: Proposed Guidance for Tax-Exempt Social Welfare Organizations on Candidate-Related Political Activities,” Federal Election Commission. Retrieved on March 10, 2014. Available at: [http://www.fec.gov/members/ravel/statements/irs\\_guidance\\_for\\_tax-exempt\\_social\\_welfare\\_organizations.pdf](http://www.fec.gov/members/ravel/statements/irs_guidance_for_tax-exempt_social_welfare_organizations.pdf) (February 27, 2014), p. 1, 6.

**February 27, 2014:** After 90 days, the public comment period closes on the IRS rulemaking governing 501(c)(4) organizations.<sup>206</sup> All told, 143,730 individuals and organizations weigh in on the proposed regulation, with the vast majority of comments in opposition to the rulemaking.<sup>207</sup> At the last minute, two prominent left-leaning groups, the Alliance for Justice and the National Association for the Advancement of Colored People, submit substantive comments to the IRS critical of the proposed rulemaking.<sup>208</sup>

**February 27, 2014:** U.S. District Court Judge John D. Bates dismisses the lawsuit filed by Citizens for Responsibility and Ethics in Washington (CREW) against the Internal Revenue Service to force the agency to promulgate a rulemaking prohibiting 501(c)(4) organizations from engaging in political activity (see May 21, 2013 entry). Judge Bates rules that CREW lacks standing in the case as a 501(c)(3) organization, because it is speculative whether a change in IRS regulations governing section 501(c)(4) organizations would cause these groups to disclose their donors or whether any rulemaking would improve CREW's organizational mission.<sup>209</sup>

**February 27, 2014:** In remarks to attendees of the Democratic National Committee's Winter Meeting in Washington, D.C., in reference to political spending by the Koch brothers, Vice President Joe Biden quips that "Money can't buy an election when you're selling a bad set of goods."<sup>210</sup>

**March 4, 2014:** Following his remarks a week earlier (see seventh February 26, 2014 entry), Senator Majority Leader Harry Reid continues his public attacks on the Koch brothers in a speech on the Senate floor: "The oil baron Koch brothers are very good at protecting and growing their prodigious future and fortune. There's nothing un-American about that. But what is un-American is when shadowy billionaires pour unlimited money into our democracy to rig the system to benefit themselves and the wealthiest one percent." According to the article, "Reid is leading a concerted election-year strategy by Democrats to demonize the Koch brothers, starting on the Senate floor."<sup>211</sup>

**March 5, 2014:** In her first appearance before Congress since a hearing of the House Oversight and Government Reform Committee over nine months earlier, at which she made an opening

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<sup>206</sup> "Guidance for Tax-Exempt Social Welfare Organizations on Candidate-Related Political Activities (REG-134417-13)," Regulations.gov. Retrieved on February 28, 2014. Available at: <http://www.regulations.gov/#!docketDetail:D=IRS-2013-0038> (February 27, 2014).

<sup>207</sup> Matea Gold, "An amazing number of people care about a single IRS rule change," *The Washington Post*. Retrieved on March 5, 2014. Available at: [http://www.washingtonpost.com/blogs/the-fix/wp/2014/02/28/an-amazing-number-of-people-care-about-a-single-irs-rule-change/?tid=pm\\_politics\\_pop](http://www.washingtonpost.com/blogs/the-fix/wp/2014/02/28/an-amazing-number-of-people-care-about-a-single-irs-rule-change/?tid=pm_politics_pop) (February 28, 2014).

<sup>208</sup> Diane Freda, "Opposition to Proposed 501(c)(4) Rules Rises; Concerns Remain Over Secret Money," *BNA Money & Politics Report* (\$). Retrieved on March 5, 2014. Available at: [http://news.bna.com/mpdm/MPDMWB/split\\_display.adp?fedfid=42307851&vname=mpebulallissues&fcn=2&wsn=497440500&fn=42307851&split=0](http://news.bna.com/mpdm/MPDMWB/split_display.adp?fedfid=42307851&vname=mpebulallissues&fcn=2&wsn=497440500&fn=42307851&split=0) (February 27, 2014).

<sup>209</sup> *Citizens for Responsibility and Ethics in Washington v. Department of Treasury*, No. 13-732, (D.D.C. Feb. 27, 2014). Available at: [http://www.citizensforethics.org/page/-/PDFs/Legal/CREW%20v.%20IRS%20%28Rulemaking%20Petition%29/2-27-14\\_CREW\\_v\\_IRS\\_Rulemaking\\_Opinion.pdf?nocdn=1](http://www.citizensforethics.org/page/-/PDFs/Legal/CREW%20v.%20IRS%20%28Rulemaking%20Petition%29/2-27-14_CREW_v_IRS_Rulemaking_Opinion.pdf?nocdn=1).

<sup>210</sup> Alexander Mallin, "Joe Biden Shrugs Off Threat of Koch Bros. Money Against Democrats," *ABC News*. Retrieved on March 5, 2014. Available at: <http://abcnews.go.com/blogs/politics/2014/02/joe-biden-shrugs-off-threat-of-koch-bros-money-against-democrats/> (February 27, 2014).

<sup>211</sup> Burgess Everett, "Harry Reid continues showdown with Kochs," *Politico*. Retrieved on March 5, 2014. Available at: <http://www.politico.com/story/2014/03/harry-reid-koch-brothers-104248.html?hp=17> (March 4, 2014).

statement and then pleaded the Fifth (see May 22, 2013 entry), Lois Lerner again invokes the Fifth Amendment on advice of counsel, when asked questions by members of the House Oversight and Government Reform Committee. Committee Chairman Darrell Issa abruptly adjourns the hearing amid speculation that the Committee will vote to hold Lerner in contempt of Congress.<sup>212</sup>

**March 5, 2014:** At a press conference, Lois Lerner's lawyer, William Taylor III, reveals that Lerner has "given a lengthy interview to Justice Department prosecutors within the last six months, as part of the agency's investigation into IRS targeting of conservative tea-party groups for burdensome special scrutiny as they sought tax-exempt status." This revelation prompts outrage from members of the House Oversight and Government Reform Committee, before which Lerner, the former IRS Exempt Organization Division Director, has declined to testify twice (see May 22, 2013 entry and first March 5, 2014 entry).<sup>213</sup>

**March 5, 2014:** House Republicans investigating the IRS scandal release e-mails documenting former IRS Exempt Organizations Division Director Lois Lerner and her staff's preoccupation with the Supreme Court's 2010 decision in *Citizens United v. FEC*. In one instance, Lerner forwarded an e-mail to her colleagues containing an EO Tax Journal blog that quoted a story warning about "educational organizations woven by the fabulously rich Koch brothers to foster their own financial interest by political means." Building on a growing belief that the Washington IRS office was the reason behind Tea Party groups' delayed applications for tax-exempt status, another e-mail from IRS Manager Holly Paz to Cincinnati-based Program Manager Cindy Thomas reads, "Can you please send me a copy of the Crossroad (sic) Grassroots Policy Strategies ... application? Lerner wants Judy to take a look at it so she can summarize the issues for Lois."<sup>214</sup>

**March 5, 2014:** A coalition of eleven organizations advocating for greater regulation of political speech send a letter to Secretary of the Treasury Jack Lew and IRS Commissioner John Koskinen, requesting that the IRS "proceed expeditiously with the rulemaking proceeding," claiming that "The IRS revisions of its regulations governing section 501(c)(4) tax status became essential following the 2010 *Citizens United* decision and the resulting explosion of secret money in federal elections."<sup>215</sup>

**March 5, 2014:** During a hearing of the Senate Finance Committee, Treasury Secretary Jack Lew characterized the improper treatment of conservative groups applying for tax-exempt status as "bad judgment" and not political motivation on the part of the screeners. When questioned during the hearing about the IRS rulemaking governing 501(c)(4) organizations, Lew admitted

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<sup>212</sup> Josh Hicks, "Tempers flare after Lois Lerner declines to testify about IRS targeting," *The Washington Post*. Retrieved on March 5, 2014. Available at: <http://www.washingtonpost.com/blogs/federal-eye/wp/2014/03/05/tempers-flare-after-lois-lerner-declines-to-testify-about-irs-targeting/> (March 5, 2014).

<sup>213</sup> John D. McKinnon, "Former IRS Official Lerner Gave Interview to DOJ," *The Wall Street Journal*. Retrieved on March 7, 2014. Available at: <http://blogs.wsj.com/washwire/2014/03/06/former-irs-official-lerner-gave-interview-to-doj/> (March 6, 2014).

<sup>214</sup> Rachael Bade, "GOP: Emails show IRS staff obsessed with Citizens United," *Politico*. Retrieved on March 6, 2014. Available at: <http://www.politico.com/story/2014/03/lois-lerner-citizens-united-104279.html> (March 5, 2014), p 1-2.

<sup>215</sup> Americans for Campaign Reform et al., "Letter to Secretary Lew and Commissioner Koskinen," Democracy 21. Retrieved on March 6, 2014. Available at: <http://www.democracy21.org/wp-content/uploads/2014/03/LETTER-FROM-REFORM-GROUPS-TO-TREASURY-SECRETARY-LEW-AND-IRS-COMMISSIONER-KOSKINEN-3-5.pdf> (March 5, 2014), p. 1-2.

that IRS Commissioner John Koskinen and Treasury's Assistant Secretary for Tax Policy had the power to sign off on stopping the proposed rules.<sup>216</sup>

**March 11, 2014:** The House Oversight and Government Reform Committee releases an investigative report on the IRS targeting scandal, entitled "Lois Lerner's Involvement in the IRS Targeting of Tax-Exempt Organizations." The 141-page report excoriates Lerner, the former IRS Exempt Organizations Division Director, and details through numerous previously unreleased e-mail exchanges Lerner's involvement in the targeting scandal. The report determines that Lerner "created unprecedented roadblocks for Tea Party organizations, worked surreptitiously to advance new Obama Administration regulations that curtail the activities of existing 501(c)(4) organizations – all the while attempting to maintain an appearance that her efforts did not appear, in her own words, "per se political." The report concludes by condemning Lerner: "Most damning of all, even when she found that the actions of subordinates had not adhered to a standard that could be defended as not "per se political," instead of immediately reporting this conduct to victims and appropriate authorities, Lerner engaged in efforts to cover it up. She falsely denied to Congress that criteria for scrutiny had changed and that disparate treatment had occurred. The actions she took to broaden scrutiny to non-conservative applicants were consistent with efforts to create plausible deniability for what had happened – a defense that the Administration and its most hardcore supporters have repeated once unified outrage eroded over one of the most divisive controversies in American politics today." No Democrats on the Committee signed off on the report.<sup>217</sup>

**March 13, 2014:** In a speech on the Senate floor, Republican Leader Mitch McConnell again (see January 30, 2014, February 6, 2014, and February 27, 2014 entries) calls on the Obama Administration to abandon the proposed IRS rulemaking governing 501(c)(4) groups: "So if the agency wants to regain trust and return to its true mission, then it's simply got to get out of the speech regulation business altogether. And the Obama Administration can do that." McConnell concludes: "All it has to do is listen to the American people who are speaking out in record numbers – and put an end, for good, to the idea that the law should be used to harm political enemies. Let's protect the First Amendment and restore integrity to the IRS."<sup>218</sup>

*The Center for Competitive Politics is a nonpartisan, nonprofit 501(c)(3) organization focused on promoting and protecting the First Amendment political rights of speech, assembly, and petition. It was founded in 2005 by Bradley A. Smith, a former Chairman of the Federal Election Commission. In addition to scholarly and educational work, the Center is actively involved in targeted litigation against unconstitutional laws at both the state and federal levels.*

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<sup>216</sup> Diane Freda and Aaron Lorenzo, "Lew Says IRS Treatment of Conservative Groups Result of Bad Judgment, Not Politics," *BNA Money & Politics Report* (\$). Retrieved on March 6, 2014. Available at: [http://news.bna.com/mpdm/MPDMWB/split\\_display.adp?fedfid=42513513&vname=mpebulallissues&fcn=1&wsn=497428000&fn=42513513&split=0](http://news.bna.com/mpdm/MPDMWB/split_display.adp?fedfid=42513513&vname=mpebulallissues&fcn=1&wsn=497428000&fn=42513513&split=0) (March 5, 2014).

<sup>217</sup> Committee on Oversight and Government Reform, "Lois Lerner's Involvement in the IRS Targeting of Tax-Exempt Organizations," U.S. House of Representatives. Retrieved on March 11, 2014. Available at: <http://oversight.house.gov/wp-content/uploads/2014/03/Lerner-Report1.pdf> (March 11, 2014), p. 5, 48.

<sup>218</sup> U.S. Senator Mitch McConnell, "McConnell Urges Obama Administration to Reject Anti-First Amendment Rule," Office of Senator Mitch McConnell. Retrieved on March 13, 2014. Available at: [http://www.mcconnell.senate.gov/public/index.cfm?p=PressReleases&ContentRecord\\_id=754006ac-6f50-4869-b9e2-9f87fca2e998&ContentType\\_id=c19bc7a5-2bb9-4a73-b2ab-3c1b5191a72b&Group\\_id=b9ad8a82-099c-461d-99e1-b8565e492a8c](http://www.mcconnell.senate.gov/public/index.cfm?p=PressReleases&ContentRecord_id=754006ac-6f50-4869-b9e2-9f87fca2e998&ContentType_id=c19bc7a5-2bb9-4a73-b2ab-3c1b5191a72b&Group_id=b9ad8a82-099c-461d-99e1-b8565e492a8c) (March 13, 2014).