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Julie M. Parodi  
Special Agent in Charge  
Treasury Inspector General for Tax Administration (TIGTA)  
1301 Clay St., Suite 1120 S  
Oakland, CA 94612

Tel: (510) 637-2558

**RE: Emergency Request For Investigation**

Dear Ms. Parodi:

I am writing to supplement my request for investigation dated 1 July 2009.

I sent my initial request for information to you by priority mail. The post office confirms your office received this document on 6 July 2009 at 0949 hrs. (see **Exhibit 1**). I also sent the document as a .pdf attachment by email to the IG Hotline requesting assistance on 2 July 2009. To date, I have received no confirmation that this request has been received by either location. Further, I have received no notification that this matter is, or is not, being investigated. This lack of communication is extremely disturbing.

As described in the request for investigation, this is an **extremely time sensitive matter** as it pertains to evidence in a pending criminal trial. As previously requested, please confirm receipt of these requests and please indicate whether an investigation has been commenced. If I receive no response this request for investigation you leave me no choice but to subpoena you to testify in the hearing regarding this matter and to seek sanctions for failure to respond to my communications. Likewise, if no investigation is going to be conducted, I will be subpoenaing you to testify in Federal Court after 25 August 2009. Finally, if no response is received or if nothing is going to occur, I will provide notification to the thousands of xelan clients, employees, customers, and their employees to contact TIGTA to determine whether their tax return and tax return information has been improperly disclosed.

Since the initial complaint, I have discovered additional unauthorized disclosures and have included additional information showing that the unauthorized disclosures were willful.

**Additional Unauthorized Disclosures.**

**Document #17 Filed in with the Court 2 June 2008 stated:**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Additional Category of Disclosures.**

It has also come to my attention that IRS agents may have made disclosures to individuals of tax return and tax return information prior to the indictment, to include, but not limited to statements that I am under criminal investigation or grand jury investigation for tax crimes. The law clearly treats such disclosures as unauthorized:

*“The government next contends that disclosing the fact that Taxpayers were under grand jury investigation is not a disclosure of return information. However, the statute plainly provides that the fact that a taxpayer is under grand jury investigation constitutes "return information" because the statute defines "return information" to include "whether the taxpayer[] . . . is being, or will be . . . subject to other investigation . . . ." § 6103(b)(2) (emphasis added). While the*

*government is correct that an agent can disclose that he or she is making an official inquiry, this does not mean that the agent can disclose the target of the investigation. The same reasons mentioned above that apply to disclosing the identity of the taxpayer under criminal investigation apply to disclosing the identity of a taxpayer under grand jury investigation. Therefore, the disclosure that the taxpayers were under investigation by a grand jury was not authorized and was not made in good faith.” Snider v. U.S., 468 F.3d 500 (8th Cir., 2006)*

Persons to which information may have been disclosed include but are not limited to:

Cheryl Bartley,  
Silas Harrington,  
Paul Dunn,  
Court Koep and  
Claudia St. Pierre.

### **Additional Evidence that the Government Disclosures Were Intentional.**

In the original letter, I described seven (7) reasons why the Government’s disclosures in the case were intentional. These were:

1. The disclosures happened repeatedly over a long period of time and involved multiple trained and experienced people.
2. The same individuals involved in the unauthorized disclosures did make disclosures where they attempted to redact return information, indicating that they knew that such information was not to be disclosed.
3. The disclosures were made in a criminal case to a criminal defendant.
4. There appears to have been **no effort** to identify, segregate and safeguard tax returns and tax return information during the search even though tax returns and other obviously protected material was collected.
5. There appears to have been **no effort** to identify, segregate and safeguard tax returns and tax return information after the search. To the contrary the tax returns and tax return information seems to have been available to anyone who wanted to look at it.
6. There is no indication that the disclosures were anything but voluntary.
7. No order was sought by the Government from the Court allowing the disclosure even though the U.S. Attorney’s Office involved routinely files for such orders.

In addition to this evidence of willful behavior, another shocking set of circumstances further proves that the Government disclosures were willful.

As part of the preparation for trial, I requested the discovery information I was entitled to under Rule 16 of the Federal Rules of Criminal Procedure and exculpatory evidence required by Brady v. Maryland, 373 U.S. 83, 87 (1963). This information was requested in writing multiple times and ultimately a Court order seeking to compel the government to comply was filed. The timeline of events is as follows:

On 21 May 2008 I sent the Government a letter making a general request for discovery under Rule 16 and for exculpatory evidence under Brady. See Exhibit 1. At the hearing on 22 May 2008 the government provided some discovery. Again at the hearing on 9 June 2008 the government provided some additional discovery.

On 4 August 2008 I sent the government a letter making specific requests for additional items of information. On 14 August 2008, the government responded in writing that “*consistent with local practice in this district and applicable federal criminal law*” that they have “*complied with our discovery obligations pursuant to Federal Rule of Criminal Procedure 16 and our Brady/Giglio obligations.*” In the same correspondence the Government did disclose that it had a small amount of additional discovery it would provide at the 9 September 2009 hearing. Moments before the hearing on 9 September 2008, the Government provided a small amount of additional discovery to my counsel in the Courtroom.

However, when the issue of discovery was brought up at the hearing on 9 September 2008, the government backpedaled from its written position that “*consistent with local practice in this district and applicable federal criminal law*” that they have “*complied with our discovery obligations pursuant to Federal Rule of Criminal Procedure 16 and our Brady/Giglio obligations.*” Instead, the Government claimed that “*communication problems*” with had prevented the Government from meeting their obligations. It is impossible to see how specific written requests that resulted in a written response denying production because all required disclosure had already occurred constitutes a “*communication problem.*” However, in the interest of resolving this matter without Court involvement, I agreed to a continuance of the Motion to Compel to allow the parties to try and work out a resolution.

My counsel then met with AUSA Devine and IRS Agent Nguyen. They agreed to provide him more electronic discovery. However, instead of responding to the written specific requests with relevant information, the Government did **a massive data dump** on me. They provided over 35 gigabytes of materials consisting of over 1,200 folders containing **971,123 files**. (See Exhibit 2.) These scanned documents are un-indexed so they must be individually reviewed and if relevant information is found, they must be logged into an index. Assuming that on average 4 documents a minute can be reviewed and logged into an index, it will take 3,950 hours to review the search documents. At 8 hours per day, it will take more than 493 days to review the information provided. What occurred is simply a “slight of hand” trick by the Government. By dumping all this data

on me, they can allege they have provided the required discovery, when as a practical matter they know they have not, because it is virtually impossible to review the data prior to trial and find the “needle in the haystack” that I need. This is clearly a bad faith act by the Government.

Not only was the Government’s data dump a bad faith attempt to deprive me of information needed for my defense, **it was a massive unauthorized disclosure of third party tax returns and return information.** The Government is clearly aware of the contents of these files. It seized and has had possession of the same for **over 4 years.** Documents from this seizure have been used in the case and more will be used in the case, clearly indicating that the IRS has reviewed and knows the contents of the seized items. Moreover, a simple review of the first 50 documents in the first scanned search document folder (folder #1) will reveal actual tax returns and multiple documents containing return information of third parties. Likewise any random review of any of the scanned search document folders will show that they contain large amounts of return information.

In summary when pressed on the matter of providing the information that the law requires, the Government officers and employees in bad faith intentionally made a massive data dump in an attempt to obscure relevant information. The **971,123** files provided in this bad faith attempt are packed with third party return information. This data dump, combined with the seven factors described in the original letter leaves no question that the Government officers and employees intentionally disclosed return information in violation of their known duty.

I request that this supplemental information be reviewed and included in your investigation. I request that receipt of this letter be confirmed in writing and that the requests for information contained in the original complaint be honored, including but not limited to apprising me of the commencement and findings of the investigation.

Sincerely,

David Jacquot

# Exhibit 1



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## Track & Confirm

### Search Results

Label/Receipt Number: 0307 1790 0002 5014 7282

Class: **Priority Mail**<sup>®</sup>

Service(s): **Delivery Confirmation**<sup>™</sup>

Status: **Delivered**

Your item was delivered at 9:49 AM on July 6, 2009 in OAKLAND, CA 94612.

Detailed Results:

- **Delivered, July 06, 2009, 9:49 am, OAKLAND, CA 94612**
- **Arrival at Unit, July 06, 2009, 5:46 am, OAKLAND, CA 94612**
- **Processed through Sort Facility, July 02, 2009, 7:59 pm, SPOKANE, WA 99224**
- **Acceptance, July 02, 2009, 3:47 pm, ATHOL, ID 83801**

### Notification Options

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Postal Inspectors  
Preserving the Trust



Inspector General  
Promoting Integrity

# Exhibit 2

