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IRS Brass: Did You Order The Code Red?

Cincinnati is trying to clear its name. There are still plenty of [Tea Party groups](#) upset over the IRS singling them out for extra scrutiny. But the debate over how much political activity 501(c)(4) groups should have missed the bigger point: a cover-up worse than the crime.

Two IRS employees in the now-infamous “rogue” Cincinnati office tell investigators that IRS officials in Washington helped direct Tea Party scrutiny starting in 2010. It wasn’t those lower level employees who were trying to be efficient and centralize cases, they say. See [IRS Staff Cite Washington Link](#). Besides, what does that mean anyway?

Even before putative IRS rogues were interviewed, if you deal with the IRS or other agencies you wonder. Cincinnati rogues, really? Who ordered the targeting remains unclear, but the Cincinnati contingent has a different take on who did what to whom.

Republican and Democratic investigators participating in the interviews heard one employee lash out at now Fifth Amendment invoking head of the



IRS Director of Exempt Organizations Lois Lerner, Treasury Inspector General for Tax Administration J. Russell George, Former IRS Commissioner Douglas Shulman, and Deputy Secretary of the Treasury Neal S. Wolin are sworn in before testifying to the House Oversight and Government Reform Committee on May 22, 2013 in Washington, DC. (Image credit: AFP/Getty Images via @daylife)

Exempt Organization unit, Lois Lerner. It is hard not to sympathize with the Cincinnati employees thrown under the bus. Ms. Lerner had explained that this “error in judgment” started when those Cincinnati employees decided to centralize cases for consistency.

That Cincinnati-was-the-epicenter explanation was echoed by former Acting Commissioner of the IRS [Steven Miller](#). Even so, Miller claimed he didn’t know until May of 2012, a year ago. Even J. Russell George, IRS Inspector General, seemed to be drinking the Cincinnati Kool-Aid.

Mr. Miller’s attorney defended his client’s record. He asserted that the Acting Commissioner had quickly put a stop to it as soon as he learned of it. Mr. Obama asked Miller to resign since the IRS needed new leadership, Danny Werfel. See [Transcript of Obama’s Remarks on IRS Misconduct](#). The President promised full cooperation with the multitude of congressional investigations. See [Acting Chief of I.R.S. Forced Out Over Tea Party Targeting](#).

The IRS apology for unfairly targeting [Tea Party groups](#) with hot-button terms like “tea party” and “patriot” will be discussed for months. Much of the story and the fumbling explanations that ‘it wasn’t intended-it was low-level-not political-just misunderstanding’ was hard to fathom.

Even if the cover-up is worse than the crime, we should understand what happened. After all, the report by the Treasury Inspector General for Tax Administration depicts a bureaucratic mess, with some employees ignorant about tax laws, defiant of supervisors and insensitive to the appearance of impropriety. See [Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review](#).

Despite it all, the IRS is a far, far better organization than this. Thousands of employees are truly doing their level best to do a difficult but necessary job. The agency needs a chance to clean house and clear the air. Like it or not, we need the IRS and we should keep watching.

You can reach me at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.