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IRS Chief Skips Hearings On Impeachment, But Don't Skip Your Tax Audit

As the House Judiciary Committee opens hearings on the impeachment of IRS Commissioner John Koskinen, one notable absence is the Commissioner himself. The Commissioner didn't exactly thumb his nose at the frustrated Republicans who want to grill him. But the I'm-too-busy-at-the-moment excuse wasn't exactly customary either. It might make a few taxpayers too busy to show up for their tax audits too.

Of course, not coming could turn out to be a shrewd move by the long-practiced bureaucrat. At least he can sidestep for now having to talk about all those lost emails and the series of dissembling excuses that were hard to swallow. After all, it is unlikely that the Republicans can touch him anyway. Rep. Jason Chaffetz (R-UT) introduced [House Resolution 737](#) to censure IRS Commissioner Koskinen. The resolution offers Congressional condemnation and disapproval for what it claims is the IRS Commissioner's pattern of conduct. It says that is inconsistent with the trust and confidence placed in him as an Officer of the United States.



The resolution formally censures Mr. Koskinen, urges his resignation or removal, and even requires him to forfeit all rights to his government pension and other federal benefits. But as the hearings open, Commissioner Koskinen did submit a written statement, including these excerpts:

- 6 The IRS, under my direction, responded to Congressional requests for information with a massive production of documents. Both TIGTA and DOJ have determined that the erasure of disaster recovery tapes was an accident. No one has even suggested, nor could they suggest, that I was somehow personally involved in the erasure of the tapes.

The IRS has taken steps to prevent a repeat of the failure to preserve information. Under my direction, the IRS has responded comprehensively and in good faith to the various subpoenas and document requests from the investigating entities. Despite historically low levels of funding, the IRS incurred more than \$20 million in expenses (and devoted more than 160,000 man-hours) to collect, review, and produce approximately 1.3 million pages of documents. As part of this massive document production, the IRS recovered and produced over 78,000 emails that were sent or received by former IRS Director of Exempt Organizations Lois Lerner, including over 24,000 emails from the period affected by Ms. Lerner's hard drive crash.

The IRS was able to recover such a large number of emails by looking in the places where it believed the emails were most likely to be found; in the email accounts of IRS employees that Ms. Lerner worked with or supervised. The IRS's strategy was to make up for any technical or recordkeeping shortcomings that may have existed by pursuing a broad, even redundant, document collection and review effort.

- 6 I acted in good faith in my efforts to comply with all Congressional requests related to the investigations. I testified truthfully and to the best of my knowledge in answering questions concerning the search for, and production of, emails related to the investigations. The IRS only became aware of the accidental erasure of disaster recovery tapes in 2015, after being notified by TIGTA during its investigation of the Lerner hard drive crash.

The allegations that I somehow attempted to deceive Congress are unfounded. On June 20, 2014, I testified to the House Ways and Means Committee that "since the start of this investigation, every email has been preserved. . . ." That was my honest belief at the time, as I was not yet aware of the Martinsburg erasure.

I only became aware of the erasure in 2015, after TIGTA briefed the IRS on the matter. On June 23, 2014, I testified to the House Oversight and Government Reform Committee that “backup tapes from 2011 no longer existed because they had been recycled,” and that IRS personnel “went back and looked and made sure” of this. This was my honest belief, based on briefings with IRS Information Technology (IT) personnel.

It is *highly* unlikely that the Republicans will succeed with their impeachment effort. The Commissioner seems well aware of that.

For alerts to future tax articles, email me at Wood@WoodLLP.com. This article is not legal advice.