

EXHIBIT H



INSTITUTE FOR JUSTICE

January 23, 2017

Via Email

Amanda M. Jones
Acting Chief, FOIA/PA Unit
Criminal Division
Department of Justice
Suite 1127, Keeney Building
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001
Phone: (202) 616-0307
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Email: crm.foia@usdoj.gov

Dear Ms. Jones:

Under the Freedom of Information Act, 5 U.S.C. § 552, I write to request, on behalf of the Institute for Justice, records pertaining to the Department of Justice's review of structuring-related petitions for remission or mitigation.

As described in the attached letter from IRS Commissioner John Koskinen to Members of the House Ways & Means Subcommittee on Oversight, the IRS and DOJ cooperated to send notice letters to individuals who had property forfeited based on alleged violations of the structuring laws. *See* Exhibit B. The notice letters invited individuals to submit petitions for remission or mitigation seeking the return of their forfeited property.

For June 10, 2016 through today, I am requesting emails, correspondence, memoranda, or other documents concerning petitions for remission or mitigation seeking return of property forfeited based on alleged violations of the structuring laws, including but not limited to:

- Any documents concerning the number of such petitions submitted;
- Any documents concerning DOJ's review of such petitions;
- Any documents concerning the number of such petitions granted, denied, or otherwise resolved by DOJ;

- Any communications with the IRS, Members of Congress, journalists, or others concerning such petitions;
- Any documents concerning the number of such petitions still awaiting a decision from DOJ.

If any information is exempt from disclosure it should be considered severable from the other information requested. Additionally, if any information is exempt please include a Vaughn Index with the denial.

The Institute for Justice is a non-profit, public-interest law firm. The information will not be used for commercial purposes.

Additionally, IJ requests a waiver of all fees for this request. Disclosure of the requested information is in the public interest and is likely to contribute significantly to the public understanding of the operations or activities of the government. *See* Exhibit A (fee waiver request).

If there is a cost associated with this request and it is greater than \$50, please contact me with an estimate.

Thank you in advance for your help with this matter. I can be reached at (703) 682-9320. Electronic copies of the data are preferred and can be sent to rjohnson@ij.org. Hard copies of documents can be sent to:

Robert Everett Johnson
Institute for Justice
901 N Glebe Road
Suite 900
Arlington, VA 22203

Regards,



Robert Everett Johnson
Attorney

Exhibit A: Fee waiver request

IJ requests a fee waiver because “disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester” (see 5 U.S.C. § 552(a)(4(A)(iii)).

Regarding the four criteria for eligibility of a fee waiver pursuant to *Judicial Watch, Inc. v. DOJ*, 365 F.3d 1108, 1126 (D.C. Cir. 2004):

- (1) The requested information consists of records of DOJ’s operations and activities that were generated and maintained by DOJ, not third-party records.
- (2) The requested documents will provide meaningful information about DOJ’s review of structuring-related petitions for remission or mitigation. Disclosure will reveal crucial information about the operations and activities of DOJ in considering and deciding such petitions.
- (3) Disclosure of the requested information will contribute to public understanding of DOJ’s review of structuring-related petitions for remission or mitigation. IJ plans to use the requested information to generate articles, blog posts, and/or press releases that will inform the public and news media about this topic.

IJ has expertise in this area and the ability to disseminate this information to the public. IJ has already produced research reports, blog posts, articles, op-eds, press releases, and other materials about structuring-related forfeitures and petitions for remission or mitigation.

- (4) Disclosure of this information will contribute significantly to public understanding of DOJ’s review of structuring-related petitions for remission or mitigation because (a) the information requested has not previously been fully disclosed to the public, and (b) IJ plans to analyze and summarize the information and use its editorial skills to produce articles, blog posts, and/or press releases on the topic.

Disclosure of this information is not in IJ’s commercial interest because, as explained in our request, IJ is not a commercial entity, and is instead a 501(c)(3) nonprofit organization. IJ distributes its materials to the media and the public at no charge.

If you require any additional information to make your determination please feel free to contact us.

Exhibit B:
Letter from IRS Commissioner Koskinen
To Members of the House Ways & Means Oversight Subcommittee



COMMISSIONER

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

June 10, 2016

The Honorable Peter Roskam
Chairman
Committee on Ways and Means
Subcommittee on Oversight
U.S. House of Representatives
Washington, DC 20515

The Honorable John Lewis
Ranking Member
Committee on Ways and Means
Subcommittee on Oversight
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman and Ranking Member Lewis:

Thank you for the opportunity on May 25, 2016, to appear before the Committee on Ways and Means Subcommittee on Oversight and testify on seizure and forfeiture activities involving legal source structuring. I am writing to update you and the Subcommittee on our planned actions.

We are taking steps toward addressing the concerns of the Subcommittee. First, as we stated in the hearing, we have reviewed 76 investigations in which assets were seized prior to our October 17, 2014 policy change. I have enclosed a breakdown of these cases.

Second, we intend to send notice to persons or entities that had property seized relating to structuring activity between October 1, 2009 and the date of our policy change. This notice will advise the persons or entities that they may be entitled to a return of their property through the petition for remission or mitigation process. We have identified over 700 investigations for which we will mail these notices. If an investigation was referred for prosecution or the property owner has already received a full return of property, a notice will not be sent.

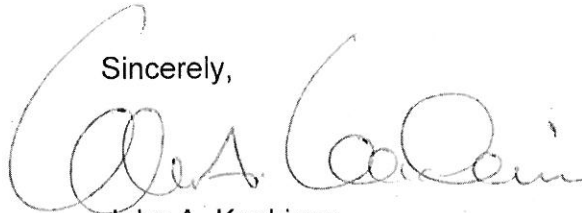
Our notices will be tailored depending on whether the forfeiture was an administrative forfeiture or a civil judicial forfeiture. Once a petition is received as a result of these notices, we will either make a determination in administrative forfeiture cases or make a recommendation to the Department of Justice in civil judicial forfeiture cases. For administrative cases, any property owner who participates in this process to seek a return of their funds or property qualifies by establishing that the underlying funds came from a legal source and there is no evidence the petitioning property owner engaged in structuring to conceal other criminal activity, such as tax evasion, money laundering, or other crimes.

We expect to mail the notices pertaining to administrative forfeiture cases this week. We plan to mail letters relating to civil judicial forfeitures by June 17, 2016, pending a follow-up meeting with the Department of Justice. We also will post information on our website, IRS.gov, advising the public of this process.

Finally, I note that during the hearing the attorney from the Institute for Justice testified that from the years 2007 to 2013 the IRS took \$43 million from 618 people. We conducted a review of the FOIA information provided to the Institute for Justice and we were unable to reconcile either the amount or the number of people to the Institute for Justice's numbers. However, we are confident that the approximately 700 investigations we identified represent the universe of persons entitled to notices under the process described above.

I ask that you please share this letter with all of the members in the Subcommittee. If you have any questions, please contact me or a member of your staff may contact Leonard Oursler, Director, Legislative Affairs, at (202) 317-6985.

Sincerely,

A handwritten signature in cursive script, appearing to read "John A. Koskinen". The signature is written in dark ink and is positioned above the printed name.

John A. Koskinen

Enclosure

Summary of Seizure Investigations Prior to October 2014 Policy

Pre-Policy Seizure Investigations Reviewed (76)	Legal Source	Illegal Source
Total Investigations Seized Pre-Policy Not Yet Forfeited	32	22
Total Petitions Decided On After Policy	16	6
Total	48	28

Disposition	Investigation Count
Return to Owner/Victim	17
Recommendation made to the Department of Justice	16
Proceed with Forfeiture- Referred for Prosecution	35
Petitions-Withdrawn, Denied, Partially Returned to Owner or Transferred to Other Federal Agency	8
Total	76