



September 16, 2013

Ms. Lisa J. Stevenson  
Deputy General Counsel  
Federal Election Commission  
999 E Street NW  
Washington, D.C. 20463

2013 SEP 17 A 9:06

**RE: Advisory Opinion Request of The Tea Party Leadership Fund**

Dear Ms. Stevenson:

Pursuant to 2 U.S.C. § 437f(a)(2), The Tea Party Leadership Fund (“TPLF”), a non-connected hybrid political action committee, requests an Advisory Opinion from the Federal Election Commission (“FEC”) as to whether TPLF, whose contributors face a reasonable probability of threats, harassment, or reprisals from government officials or private parties, is entitled to exemptions from reporting and disclosure requirements in the Federal Election Campaign Act of 1971, 2 U.S.C. § 431.

**INTRODUCTION**

The TEA Party is a nationwide grassroots movement that arose organically in 2009 out of an intense widespread desire to curb increasing government infringement of individual liberties. No single TEA Party exists; instead, the TEA Party is comprised of individual groups who share common values, including limited federal government, respect for the original meaning of the Constitution, fiscal responsibility, and returning political power to the states and the people.<sup>1</sup> The TEA Party is not a political party as defined by FECA because it does not nominate candidates to federal office. 2 U.S.C. § 431(16); 11 C.F.R. 100.15. Nevertheless, TEA Party groups are active in the electoral process and recruit candidates to run for office.

The Tea Party Leadership Fund is a leading group in the TEA Party movement. Since registering as a non-connected hybrid<sup>2</sup> political action committee (“PAC”) on May 9, 2012, TPLF has engaged in independent political advocacy and contributed to political candidates sharing TEA Party values. But TPLF’s ability to continue exercising its fundamental constitutional rights is now at risk.

As grassroots outsiders, TEA Party supporters are accustomed to defaming their values from official and private opprobrium. But the TEA Party is now encountering unprecedented harassment from both government officials and private actors. As documented in the attached exhibits and summarized below, the TEA Party faces widespread and ingrained hostility. Government agencies, elected officials, and the current administration have together shown an unprecedented willingness to utilize the machinery of the state to coerce TEA Party groups and their supporters into silence. Employing a multi-pronged strategy of

<sup>1</sup> “About The Tea Party Leadership Fund,” available at <http://www.theteapartyleadershipfund.com/about/>.

<sup>2</sup> A hybrid PAC is a political action committee that maintains a separate, non-contribution (“Carey”) account to accept unlimited contributions that may be used for any lawful purpose other than contributions to candidates, such as to make independent expenditures. *Carey v. FEC*, 791 F.Supp.2d 121 (D.D.C. 2011).

public ridicule, threats, economic pressure, and unreasonable scrutiny of TEA Party organizations' tax status has resulted in successful intimidation.

Indeed, we now learn from a *Wall Street Journal* editorial just last week that contrary to IRS claims that the targeting of Tea Party groups' applications for exempt status was not politically motivated, and was the actions of low level employees in the Cincinnati office, that Lois Lerner, Director of Exempt Organizations (and formerly FEC Director of Enforcement) was well aware of the targeting of Tea Party groups and so advised her staff in early 2011 that the Tea Party matter was "very dangerous." *Wall St. Journal, Lois Lerner's Own Words* (Sept. 11, 2013) (Exhibit H-1). Now, individuals who wish to contribute to TPLF or other TEA Party groups worry their names will be revealed, subjecting them to harassment or reprisal. So TEA Party supporters simply remain silent and refrain from associating with the TEA Party at all—to the detriment of TPLF advocacy efforts. Now, TPLF struggles to contribute its unique viewpoint to the political discussion, and society suffers from a less robust public debate.

The Federal Election Campaign Act ("the FECA") requires political committees to file reports with the FEC identifying contributors whose contributions aggregate over \$200 in a calendar year, and those who fall within other disclosure categories. 2 U.S.C. § 434(b)(3), (5), and (6); *see also* 2 U.S.C. 431(13). But in *Buckley v. Valeo*, the Supreme Court concluded the First Amendment may require anonymity for contributors to certain political associations—and also established the relevant standard for a group seeking to shield itself and its members from disclosure. 424 U.S. 1 (1976). Though the Court determined the First Amendment did not provide a blanket exemption for, in that instance, minor political parties, such parties could proffer specific evidence to obtain an exemption from disclosing their contributors. *Id.* at 74. A minor party must simply establish a "reasonable probability that the compelled disclosure" would result in "threats, harassment, or reprisals from either Government officials or private parties." *Id.*

The Court has since rejected an "unduly narrow view" of the *Buckley* test and has refused to limit the ability to obtain exemption from disclosure to minor parties. *Brown v. Socialist Workers '74 Campaign Comm.*, 459 U.S. 87, 95 (1982). In *Brown*, the Court made exemption available to any organization established for advocacy purposes that could establish a reasonable probability that disclosure would result in threats, harassment, or reprisals from government officials or private parties. *Id.* And in *McConnell v. FEC*, the Court confirmed that "*Buckley* recognized that compelled disclosures may impose an unconstitutional burden on the freedom to associate *in support of a particular cause.*" 540 U.S. 93, 197-198 (2003) (emphasis added).

Adhering to these precedents, the FEC issued advisory opinions providing exemptions from the FECA's reporting and disclosure provisions, so long as supporters of a particular cause demonstrate a reasonable probability that such disclosure will subject their contributors to threats, harassment, or reprisals from government officials or private parties. *See* AO 1990-13 (SWP); AO 1996-46 (SWP); AO 2003-02 (SWP); AO 2009-01 (SWP); AO 2012-38 (SWP). Specifically, the FEC exempted political committees supporting the Socialist Workers Party from reporting and disclosure obligations in 1990—and the FEC has continually renewed this exemption upon the applicants' requests, most recently in 2013. *See id.*

Because TPLF can establish a reasonable probability that disclosing its contributors and recipients of expenditures would result in threats, harassment, or reprisals from government officials or private parties, TPLF is entitled to exemption from the FECA's reporting and disclosure obligations.

### LEGAL BACKGROUND

The Constitution vigorously protects freedom of speech and association. U.S. CONST. amend. I. Indeed, our democracy "is unimaginable without the ability of citizens to band together in promoting among the electorate candidates who espouse their political views." *Cal. Democratic Party v. Jones*, 530 U.S. 567, 574 (2000). Government-imposed regulations can discourage political association: "when First Amendment rights are at stake ... the spectre of significant chill exists." *FEC v. Hall-Tyner Election Campaign Comm.*, 678 F.2d 416 (2d Cir. 1982). To ensure First Amendment freedoms have "breathing space to survive," courts closely guard against unnecessary government infringement. *NAACP v. Button*, 371 U.S. 415, 433 (1963).

"When dealing with values as fragile and precious as those contained in the First Amendment, special care is required." *Hall-Tyner*, 678 F.2d at 424. Such special care frequently requires permitting associational anonymity, which is "especially important in a historical context of harassment based on political belief." *Id.* at 421-22. Indeed, the Supreme Court has "repeatedly found" compelled disclosure to be capable of "seriously infring[ing] on privacy of association and belief guaranteed by the First Amendment." *Buckley*, 424 U.S. at 64; *see also Gibson v. Florida Legislative Comm.*, 372 U.S. 539 (1963); *NAACP v. Button*, 371 U.S. 415 (1963); *Shelton v. Tucker*, 364 U.S. 479 (1960); *Bates v. Little Rock*, 361 U.S. 516 (1960).

Recognizing that an individual's willingness to associate with an advocacy organization—particularly one with unpopular views—can be contingent on the availability of anonymity, the Court has routinely exempted these organizations from disclosing their membership. *See, e.g., NAACP v. Alabama*, 357 U.S. 449, 462 (1958); *Hall-Tyner*, 678 F.2d at 420 (recognizing the "insidious interference that often follows public identification with controversial organizations"). Similarly, minor political parties and advocacy organizations can be exempted from disclosing their contributors. *See, e.g., Buckley v. Valeo*, 424 U.S. 1 (1976); *Citizens United v. FEC*, 558 U.S. 310, 370 (2010) (disclosure "would be unconstitutional as applied to an organization if there were a reasonable probability that the group's members would face threats, harassment, or reprisals if their names were disclosed").

In *NAACP v. Alabama*, the Supreme Court held that compelling disclosure of NAACP members' identities exacted a constitutionally impermissible price on their freedom of association. 357 U.S. 449, 466 (1958). Acknowledging "the vital relationship between freedom to associate and privacy in one's associations," the Court determined privacy could be critical for groups espousing unpopular viewpoints. *Id.* at 462. "Inviolability of privacy in group association may in many circumstances be indispensable to preservation of freedom of association, particularly where a group espouses dissident beliefs." *Id.* Without anonymity, the Court reasoned, group members might be subject to majority animus. *See id.* Because prior disclosure had in fact exposed NAACP members to reprisal and public hostility, such privacy was necessary for the NAACP. *See id.* Compelled disclosure of its members would otherwise adversely impact the group's advocacy efforts, "induc[ing] members to withdraw from the Association and dissuade

others from joining it because of fear of exposure of their beliefs shown through their associations and of the consequences of this exposure.” *Id.* at 463.

Building upon this rationale in *Buckley v. Valeo*, the Supreme Court recognized individuals might fear similar reprisals should their monetary support of candidates or political viewpoints be revealed. *See* 424 U.S. at 74. The *Buckley* Court reasoned that disclosing contributor information presented an analogous risk of “invasion of privacy of belief.” *Id.* at 66. Thus, group members and contributors should be treated “interchangeably”: like groups, political associations could be exempted from disclosing their contributors. *Id.* at 74.

While declining to exempt all minor political parties from disclosure, the Court acknowledged the government had a lesser interest in disclosure with independent candidates and minor parties. *See id.* at 70. The Court reasoned that disclosure “allows voters to place each candidate in the political spectrum more precisely” and “alert[s] the voter to the interests to which a candidate is most likely to be responsive . . .” *Id.* at 67. But minor parties “represent definite and publicized viewpoints,” so there is “less need to inform the voters of the issues that specific candidates represent.” *Id.*

Governmental interests were thus diminished with respect to minor parties, but the potential for impairing First Amendment freedoms was much greater. *See id.* at 71. As the Court recognized, “[i]n some instances fears of reprisal may deter contributions to the point where the movement cannot survive.” *Id.* To guard against such potential damage to associational rights and the public interest, the *Buckley* Court conceived a test to measure the constitutionality of compelled disclosure. *See id.* If minor parties could present evidence showing “the type of chill and harassment identified in *NAACP v. Alabama*,” compelled disclosure would be unconstitutional as applied to them. *Id.* at 74.

For such future challenges, the Court established the relevant burden of proof:

Minor parties must be allowed sufficient flexibility in the proof of injury to assure a fair consideration of their claim. The evidence offered need show only a reasonable probability that the compelled disclosure of a party’s contributors’ names will subject them to threats, harassment, or reprisals from either Government officials or private parties.

*Id.*

The Court also elaborated on the type of evidence that might meet this standard. Evidence could include “specific evidence of past or present harassment of members due to their associational ties, or of harassment directed against the organization itself.” *Id.* at 74. Even demonstrating a mere “pattern of threats or specific manifestations of public hostility may be sufficient.” *Id.*

Thus, *NAACP* established—and *Buckley* confirmed—that courts could exempt dissident groups or political associations espousing non-majority viewpoints from disclosing their supporters’ identities. *See id.*; *see also NAACP v. Alabama* at 466. The “organization” must only present facts demonstrating a

“reasonable probability” of “threats, harassment, or reprisals.” *Buckley* at 70, 74. And courts have not deviated from reaffirming and actively applying this standard since.

Relying on *Buckley*, the Supreme Court exempted the Socialist Workers Party (“SWP”) from Ohio’s reporting and disclosure requirements. *Brown v. Socialist Workers ‘74 Campaign Comm.*, 459 U.S. 87 (1982). Because the SWP espoused a minority viewpoint outside of the two-party system, the governmental interests in disclosure were diminished, while First Amendment harms were potentially far greater: compelled disclosure could cripple a minor party’s ability to operate. *Id.* at 95, 98. Further, the plaintiffs had presented sufficient evidence to establish *Buckley*’s requisite “reasonable probability” that disclosure would subject identified supporters to “threats, harassment, and reprisals.” *Id.* at 100. The SWP’s evidence of private harassment included threatening phone calls, hate mail, burning of SWP literature, destruction of SWP members’ property, a single instance of shots fired at a SWP office, and evidence suggesting that SWP members were fired due to their party affiliation. *Id.* at 99. The SWP also presented proof of government harassment: the FBI had conducted surveillance of SWP members and employed techniques specifically aimed at uncovering the source of SWP funds and the nature of its expenditures. *Id.* at 99-100. The FBI also distributed these reports to other governmental agencies. *Id.* at 100. Even though the government had recently curbed this misconduct, the evidence demonstrated private and government hostility toward the SWP and its members was “ingrained and likely to continue.” *Id.* at 101. Accordingly, the Court exempted the SWP from disclosing contributors *and* expenditures, reasoning that anyone receiving campaign funds was equally vulnerable to threats, harassment, and reprisals. *Id.* at 97, 101-102. Protecting only contributors’ names and not recipients of disbursements would take an “unduly narrow view” of *Buckley* that was “inconsistent with [its] rationale.” *Id.* at 95.

The Second Circuit similarly applied *Buckley* to exempt the Hall-Tyner Election Campaign Committee, which supported the Communist Party’s presidential and vice-presidential candidates, from the FECA’s reporting and disclosure requirements. *FEC v. Hall-Tyner Campaign Comm.*, 678 F.2d 416, 421-422 (2d Cir. 1982). Emphasizing “the Constitution protects private support of political associations,” the court reaffirmed that *Buckley* provided an opportunity for “disfavored minority parties or groups” to seek exemption from disclosure. *Id.* at 419. Contributors to these “fringe organizations” supporting “unpopular ideolog[ies]” would otherwise be dissuaded from contributing. *Id.* at 420.

The court reiterated that plaintiffs seeking to protect their First Amendment rights do not bear a heavy evidentiary burden: “*Buckley* did not impose unduly strict or burdensome requirements on the minority group seeking constitutional exemption.” *Hall-Tyner*, 678 F.2d at 417, 422. Under this light, the court reviewed the District Court’s assessment of the Committee’s evidence, which included reports documenting prior and ongoing FBI surveillance and IRS investigations. *Id.* at 423; *see also Hall-Tyner*, 525 F. Supp. 955, 959 (S.D.N.Y. 1981). The Committee also presented affidavits of individuals stating they contributed to the committee only after being reassured their contributions would remain anonymous. *Hall-Tyner*, 678 F.2d at 423. Finally, the Committee presented evidence of state and federal legislation purporting to subject Communist Party members to civil and criminal liability. *Id.* at 422.

In concluding this evidence fulfilled *Buckley*’s standard, the court gave “substantial weight” to the fact that Communist Party supporters were subject to FBI surveillance. *Id.* at 423. Laws subjecting Party members to civil or criminal sanctions constituted an “ever-present threat of reprisal”—even though the

laws were “rare” and “may currently lie dormant.” *Id.* at 422. Given this background, it was unsurprising that the Committee received contributions only after guaranteeing anonymity. *Id.* at 423. The total evidence adduced not only “amply” met *Buckley*’s standard but also demonstrated a “substantial infringement” of First Amendment rights unjustified by the government’s “relatively insignificant interest” in disclosure. *Id.*

In *McConnell v. FEC*, the Supreme Court confirmed the Second Circuit’s holding. 540 U.S. 93 (2003). Any advocacy organization capable of fulfilling the *Buckley* criteria could obtain exemption from disclosure. *See id.* at 197-198. Indeed, *Buckley* demanded as much: “*Buckley* recognized that compelled disclosures may impose an unconstitutional burden on the freedom to associate in support of a particular cause.” *Id.* (emphasis added). While rejecting the American Civil Liberties Union’s facial challenge for its failure to present sufficient evidence,<sup>3</sup> the Court issued a specific reminder to other associations: so long as a group could meet its evidentiary burden of establishing a reasonable probability that disclosure would subject its supporters to threats, harassment, or reprisals, the group could bring a successful as applied challenge to noncompelled disclosure requirements. *See id.* at 199; *see also Citizens United v. FEC*, 558 U.S. 310, 370 (2010) (reaffirming *McConnell*’s holding that disclosure “would be unconstitutional as applied to an organization if there were a reasonable probability that the group’s members would face threats, harassment, or reprisals if their names were disclosed.”).

### THE FEC EXEMPTIONS

Consistent with this judicial precedent, the FEC has exempted disfavored groups from compelled disclosure. Initially, political committees supporting Socialist Workers Party candidates sued in the U.S. District Court for the District of Columbia, claiming the First Amendment entitled them to an exemption from the FECA’s disclosure requirements due to past and present harassment of SWP supporters. *Socialist Workers 1974 Nat’l Campaign Comm. v. FEC*, Civil Action No. 74-1338 (D.D.C. 1979). The consent decree exempted the SWP from the FECA provisions requiring disclosure of: (1) the names, addresses, occupations, and principal places of business of contributors to SWP committees; (2) other political committees or candidates to which the SWP committees made contributions; (3) lenders, endorsers, or guarantors of loans to the SWP committees; and (4) persons to whom the SWP committees made expenditures. *See id.* In 1985, the court approved an updated agreement that included these requirements and a partial reporting exemption.

In 1990, the SWP sought an exemption through an advisory opinion rather than through renewal of its initial consent decree. *See* AOR 1990-13. In its Advisory Opinion Request, the SWP asked the FEC whether it was still entitled to the same exemption. *Id.* The FEC acknowledged that the D.C. District Court had been the forum for granting SWP’s exemptions from disclosure and renewals of the same. AO 1990-13 at 2. Even so, the FEC could consider a request for the application of an exemption to prospective behavior, including the filing of disclosure reports. *Id.* Although the FEC lacked authority to renew a court-ordered exemption, it could properly consider whether, in light of the evidence, it should grant the SWP a new exemption. *Id.*

<sup>3</sup> An organization requesting exemption must present specific evidence to satisfy *Buckley*’s standard; therefore, because the ACLU had simply claimed exemption based on its controversial positions and disfavored status, the ACLU had failed to present sufficient evidence to fulfill *Buckley*’s requirements. *Id.* at 199.

After establishing its authority to grant exemptions from disclosure to political committees, the FEC considered the SWP's evidence, which described government and private hostility towards the SWP and its supporters. Evidence of governmental hostility included facts indicating the FBI had conducted investigations, which at times included electronic surveillance, to scrutinize SWP supporters. AO 1990-13 at 4-5. Additionally, officials of the Office of Personnel Management, the State Department, the Immigration and Naturalization Service, and the Defense Investigative Service had all attempted to procure information on the SWP based on their own unfavorable perceptions of the SWP. *Id.* at 5. The FEC noted that an OPM official characterized the SWP as "opposed to our form of Government and the national interest," and the State Department official described the SWP as a "hostile organization which has consistently posed a threat to free governments." *Id.* Local governments harassed SWP supporters distributing campaign literature on three occasions. *Id.* at 6. The SWP also offered evidence of private harassment: a newspaper article encouraged companies to screen new employees for Communist and Marxist ties, threatening phone calls were made to two SWP offices, bricks were thrown through the window of another office, and a single shot was fired through the window of one SWP candidate's campaign headquarters. *Id.* The SWP also presented documents from the preceding ten years evincing threats and violence against individuals with left-wing views. *Id.*

Based upon this evidence, the FEC concluded that, during the past five years, the SWP had continued to experience harassment from several sources. *Id.* at 6. The political committees supporting SWP candidates faced a "reasonable probability" that disclosure would subject supporters to "threats, harassment, or reprisals," and they were thus entitled to the same exemption provided for in the consent decree. *Id.* (citing *Buckley* at 70). The FEC exemption lasted through the next two presidential election cycles, at which point the SWP could submit another request seeking renewal. *Id.*

Since then, the FEC has consistently issued advisory opinions renewing the SWP's exemption. *See* AOs 1996-46 (SWP); 2003-02 (SWP); 2009-01 (SWP). The FEC most recently renewed the SWP exemptions earlier this year, finding the SWP's evidence of 45 instances of harassment over a four-year period was sufficient to merit exemption from disclosure. AO 2012-38 (SWP) at 32.

## DISCUSSION

The Tea Party Leadership Fund is a leading TEA Party advocacy group dedicated to recruiting ordinary citizens who share its values, including limited government, individual freedom, personal responsibility, and returning political power to the states and the people. TPLF engages in direct political advocacy and independent speech to support the election of constitutional conservatives and TEA Party aligned candidates. But TPLF's ability to continue exercising its fundamental First Amendment rights is now in jeopardy.

Because TPLF and the TEA Party movement operate outside of the two-party system, the government interest in compelling disclosure is diminished. *See Buckley* at 67. TPLF represents "definite and publicized viewpoints," and there is thus "less need to inform the voters of the issues that specific candidates represent." *Id.* And TEA Party candidates, who lack access to the same funding and financial support guaranteed mainstream parties, have a lesser chance of election victory; correspondingly, there is

a lesser risk of corruption. *See id.* At the same time, the potential First Amendment harms are far greater: compelled disclosure could cripple TPLF's continued ability to operate. *See Brown*, 459 U.S. at 95, 98. Like the SWP, the TEA Party and its supporters are political outsiders untethered to—and often at odds with—both major political parties. Thus, TEA Party supporters are equally vulnerable to being attacked for their beliefs. Indeed, as described below, the TEA Party and its supporters have repeatedly faced severe hostility and harassment: the attached exhibits reveal at least 111 instances of harassment<sup>4</sup> over only four years, from 2009 to the present, which only partially represents the harassment actually suffered. This number far outpaces the 45 instances of harassment over a four-year period that the FEC most recently found sufficient to exempt SWP from compelled disclosure. AO 2012-38 (SWP) at 32. TPLF fears that disclosing its supporters will subject them to continued harassment, and potential supporters, fearing reprisal, are less likely to contribute—severely damaging TPLF's advocacy efforts.

Because TPLF can establish a reasonable probability that disclosing its contributors and recipients of its disbursements will subject them to “threats, harassment, or reprisals from either Government officials or private parties,” *Buckley* at 74, TPLF should be exempted from the FECA provisions requiring disclosure of: (1) the names, addresses, occupations, and principal places of business of contributors to TPLF; (2) other political committees or candidates to which TPLF has contributed; (3) lenders, endorsers, or guarantors of loans to TPLF; and (4) persons to whom TPLF has made expenditures. To demand disclosure “in the face of the clear chilling effect this activity will inevitably have [would] exhibit an appalling disregard for the needs of the free and open political process safeguarded by the First Amendment.” *Hall-Tyner* at 424.

### I. *The Evidentiary Standard*

The requestor bears the burden of proffering sufficient evidence to establish a “reasonable probability” that compelled disclosure will result in “threats, harassment, or reprisals from either Government officials or private parties.” *Buckley* at 74. In determining whether the requisite reasonable probability exists, the FEC must view the totality of the evidence, taking into account both prior occurrences and ongoing harassment. AO 2003-02 at 10. The evidentiary bar is low: “*Buckley* did not impose unduly strict or burdensome requirements on the minority group seeking constitutional exemption.” *Hall-Tyner* at 421-422. Indeed, “speakers must be able to obtain an as-applied exemption without clearing a high evidentiary hurdle.” *Doe v. Reed*, 130 S. Ct. 2811, 2823 (2010) (Alito, J., concurring) (clarifying that, from its inception in *Buckley*, “the as-applied exemption has not imposed onerous burdens of proof on speakers who fear that disclosure might lead to harassment or intimidation.”). *Id.*

Thus, establishing a reasonable probability does not require providing evidence that harassment will certainly follow. *Id.*; AO 2003-02 at 9 (SWP) (“[I]t must be stressed that the evidence . . . does not need to indicate a certainty that harassment would follow.”). Further, there must “only be ‘a reasonable

<sup>4</sup> IRS records establish that 96 applications for tax-exempt status were set aside for extra scrutiny because the organizations had “tea party,” “patriots,” or “9/12” in their names. Ex. A-1(ww). Taken together with Appendix F, which reveals 15 instances of targeted harassment by individuals, the exhibits show 111 separate instances of harassment. *See* App. F. Including derogatory statements by government officials, the exhibits establish 295 total instances of harassment. *See* Apps. B-D. And this number does not include surveillance by the FBI and other government agencies, the impact of which is impossible to quantify, nor does it include acts of harassment by the news media. Taking either number into account, TPLF has presented far more substantial evidence of harassment than that which the FEC and the courts have found sufficient to permit exemption from disclosure.



probability that such harm would result from *either* Government offic[ials] or private parties.” AO 2003-02 at 9-10 (emphasis in original). Establishing both is unnecessary. *See id.*; *see also* AO 1996-42 (determining that, although most governmental hostility toward the SWP had abated, ongoing private harassment constituted sufficient evidence for exemption).

Moreover, plaintiffs seeking disclosure may present an array of evidence, which may include “specific evidence of past or present harassment of members due to their associational ties, or of harassment directed against the organization itself.” *Buckley* at 74. But simply demonstrating “[a] pattern of threats or specific manifestations of public hostility may be sufficient.” *Id.* Importantly, organizations “may offer evidence of the experiences of other chapters who share the same political ideology.” *Brown*, 459 U.S. at 101 n.20; *see also Buckley* at 74 (holding that newly-established organizations “may be able to offer evidence of reprisals and threats directed against individuals or organizations holding similar views.”).

Plaintiffs need not present any witnesses to testify about their fear of contributing: individuals afraid of having their political affiliation disclosed would often be afraid to testify about this fear. *See Brown* at 101 n.20. Further, plaintiffs need not prove that the potential harassment is “directly attributable to the specific disclosure from which the exemption is sought.” *Id.*

## II. *The Evidentiary Record*

As described below, the TEA Party<sup>5</sup> and its supporters have faced sustained harassment and severe hostility from government officials and private actors. The evidence is set forth in the attached exhibits containing official records and articles. As summarized, TPLF proffers more than adequate evidence to fulfill its modest evidentiary burden and easily establishes a reasonable probability that compelling TPLF to disclose its contributors will result in continued threats, harassment or reprisals from government officials or private parties.

Most notably, government agencies have singled out the TEA Party for surveillance and exposed supporters to unwarranted scrutiny, and government officials have demonstrated overt hostility towards TEA Party supporters. Just as the FBI gathered information and conducted surveillance of SWP supporters conducting “peaceful, lawful political activity,”<sup>6</sup> so the FBI has similarly instructed its agents to collect data on individuals organizing TEA Party protests. Ex. A-3. The FEC should give this ongoing FBI surveillance “substantial weight.”<sup>7</sup> Additionally, as was the case with the SWP,<sup>8</sup> government surveillance of the TEA Party is not just conducted by the FBI: armed agents from the Department of Homeland Security have patrolled and monitored TEA Party protests and rallies. Ex. A-2(b). Such unwarranted government intrusion from multiple agencies clearly constitutes harassment.

The IRS has engaged in even more significant harassment of the TEA Party, pointedly targeting supporters and penalizing them for their political views. The IRS implemented a sweeping program

<sup>5</sup> Because political organizations “may offer evidence of the experiences of other chapters who share the same political ideology,” *Brown*, 459 U.S. at 101 n.20, TPLF presents evidence of harassment directed at TPLF supporters and other TEA Party groups.

<sup>6</sup> *See, e.g.*, AO 1990-13 at 4.

<sup>7</sup> *Hall-Tyner* at 423.

<sup>8</sup> AO 1990-13 at 5.

designed to expose TEA Party groups to enhanced scrutiny, delaying their applications for tax-exempt status for unprecedented lengths or entirely denying them the status regularly granted to other political groups. *See* App. A. Directed by high-ranking IRS officials, IRS employees in Cincinnati exposed identifiably TEA Party tax-exempt applications to enhanced scrutiny. Exs. A-1(e)-(g). While their applications were under review, often for years, Ex. A-1(a), TEA Party groups were regularly commanded to compile burdensome documentation and disclose highly private information to the IRS, including copies of emails, phone calls, contributors and their contribution amounts. *See, e.g.*, Exs. A-1 (l-q). The Chattanooga Tea Party's application for tax-exempt status was under review for three years; in the meantime, the IRS demanded copies of all emails, phone calls, and handouts distributed by the organization since the group's inception. Ex. A-1(l). The San Fernando Valley Patriots received an IRS letter that included requests for the Employer Identification Numbers of their contributors' businesses, Ex. A-1(q), and three Pennsylvania TEA Party groups received IRS letters demanding their members' personal Facebook pages. Ex. A-1(n). Such routine government-sanctioned harassment is reminiscent of the FBI's efforts to procure information about SWP contributors, funds, and expenditures.<sup>9</sup> But the IRS went far beyond attempts at information gathering: the IRS frequently audited TEA Party contributors, Ex. A-1(ii-ji), even admitting the audits were being conducted solely due to the individuals' TEA Party ties. Ex. A-1(ee). And notwithstanding suggestions by government agencies that they are now attempting to curb their widespread misconduct, the existing proof of government hostility towards TEA Party supporters show that harassment is ingrained—and likely to continue.<sup>10</sup>

Private individuals have engaged in equally damaging conduct, and TEA Party supporters have faced harassment, threats, and even violence. While the SWP offices received threatening phone calls,<sup>11</sup> the offices of one TEA Party group received such a high volume of death threats that it was forced to relocate to a more secure facility. Ex. F-15. At an event in Arizona, a man was arrested after threatening a TEA Party supporter even more directly, telling him: "You're dead." Ex. F-13. And, although SWP supporters were subject to threats, TEA Party supporters have been directly exposed to physical violence. Members of a pro-amnesty group promised a "militant confrontation" with "tea-baggers" and delivered, physically assaulting two Florida TEA Party activists. Ex. F-10. A TEA Party protestor says union members verbally attacked him with racial slurs before punching him in the face. Ex. F-9. Frightened attendees were forced to evacuate a TEA Party Christmas party in Chicago when the bar filled with smoke. Ex. F-14. The arsonist left a profane anti-TEA Party note. *Id.* And before one TEA Party rally in Wisconsin, opponents covered the parking lot with long roofing nails. Ex. F-17. Just as the SWP's campaign literature was destroyed and its property vandalized,<sup>12</sup> supporters of Senator Harry Reid threw eggs at a Tea Party Express bus in Nevada. Ex. F-11. Bill Randall, a candidate for the House of Representatives with TEA Party support, had his signs defaced with "KKK" written over his picture. Ex. F-12.

Unsurprisingly, public sentiment echoes this behavior, resulting in an "ever-present threat of reprisal."<sup>13</sup> Polls reveal widespread majority animus towards TEA Party supporters, confirming that compelled disclosure will reasonably result in additional harassment or reprisals from private citizens. A CBS and

<sup>9</sup> *See, e.g., Brown*, 459 U.S. at 99-100.

<sup>10</sup> *See Brown* at 101 (finding that, although the government had recently curbed its misconduct and decreased FBI harassment, the evidence showed hostility was "ingrained and likely to continue").

<sup>11</sup> *Brown* at 99; AO 1990-13 at 6.

<sup>12</sup> *Id.*

<sup>13</sup> *Hall-Tyner* at 422.

New York Times poll revealed that roughly 40% of Americans surveyed hold a negative view of the TEA Party, Ex. F-1, and another poll shows 13% of respondents surveyed believe the TEA Party is the most serious threat facing the United States. Ex. F-3. A Rasmussen poll reveals 14% of respondents believe TEA Party groups should be monitored by the government as possible terror threats. Ex. F-4. That such a large percentage of the population views the TEA Party negatively—and even as something to be feared—underscores the reality that harassment of TEA Party supporters is unlikely to subside.

Additionally, numerous government officials have directly participated in ongoing government harassment of the TEA Party. Members of the current administration, including the President himself, have publicly referred to the TEA Party in highly derogatory terms and accused TEA Party supporters of racism. Exs. B-1(a) and (b). And both Democrats and Republicans in Congress have publicly ridiculed the TEA Party, accusing supporters of racism and misogyny,<sup>14</sup> characterizing them as dangerous extremists with warrant comparison to terrorists, and calling on government agencies to investigate them based purely on their viewpoint. *See* Apps. C and D. As the evidence reveals, that two government officials characterized the SWP as hostile or against our national interest<sup>15</sup> pales in comparison. House Minority Leader Nancy Pelosi baselessly accused TEA Party protestors of “actually spitting on” members of Congress. Ex. C-1. Rep. Sheila Jackson Lee and Rep. Steve Cohen compared TEA Party supporters to the Ku Klux Klan. Exs. C-3 and C-14. Rep. Karen Bass insisted TEA Party efforts were “outright racist.” Ex. C-84. Rep. Barbara Lee, among others, argued the TEA Party was “obstructionist” and attempting to “dismantle government.” Ex. C-62. And numerous members of Congress urged the IRS to investigate tax-exempt groups, which has been widely interpreted as a Congressional effort to scrutinize conservative Tea Party groups. *See, e.g.*, Exs. C-75, D-3, D-4, D-10, D-14. Such concentrated efforts to brand the TEA Party as a dangerous, racist movement only augment widespread public hostility toward the TEA Party.

Much like government officials, the media has perpetuated falsehoods about TEA Party beliefs, exacerbating the potential for additional harassment. Keith Olbermann declared: “If racism is not the whole of the Tea Party, it is in its heart, along with blind hatred, a total disinterest in the welfare of others.” Ex. E-13. William Yeomans, a Politico contributor, described the TEA Party as “full-blown terrorists.” Ex. E-2. Joe Conason of Real Clear Politics described the movement as one characterized by “violent rhetoric, the hateful threats, and the fanatical intolerance.” Ex. E-15. These accusations exacerbate hostility towards TEA Party organizations and encourage reprisal against their supporters.

In total, the described harassment, which describes only selected instances and is by no means all-inclusive, far exceeds that which the FEC found sufficient to grant the SWP exemptions. Indeed, TPLF establishes that at least 111<sup>16</sup> incidents of harassment directed at its supporters occurred in the past four years, from 2009 to 2013. In sharp contrast, the SWP recently presented 45 incidents of harassment in the four-year period from 2008-2012, which the FEC found sufficient to give the SWP an exemption from FECA disclosure. AO 2012-38 at 32. Similarly, the FEC exempted the SWP from disclosure in 2003 based on 74 documented instances of harassment occurring over the prior six years, and renewed this

<sup>14</sup> The TEA Party disputes any characterization of its views as racist or misogynistic, but it is worth noting that even if this were an accurate characterization, it would not matter: “free expression requires that all groups remain unfettered when expounding their ideologies, regardless of how universally disfavored or repugnant those opinions may be.” *Hall-Tyner* at 419.

<sup>15</sup> AO 1990-13 at 3.

<sup>16</sup> *See supra* n.5.

exemption in 2009 based on evidence demonstrating 76 instances of harassment over a six year period. *Id.*; see also AOs 2003-02, 2009-01.

This extensive harassment has had an inevitable result. Just as SWP supporters feared that associating with the SWP would lead to government harassment,<sup>17</sup> so individuals, concerned with government reprisal, now fear associating with the TEA Party. Indeed, TPLF has received several letters from contributors or would-be contributors expressing their fear that associating with TPLF would lead to governmental retribution. One individual explained he could not contribute to TPLF due to his fear the IRS would be “sent after” him. See Ex. G-1. As discussed *supra*, the IRS’s Lois Lerner was well aware of the targeting of Tea Party groups’ applications for exempt status. Ex. H-1. Another contributor sent a cash contribution in an effort to keep the contribution private—and avoid government punishment. Ex. G-2. Given the extent of harassment they face, the fact that some contributors wish to remain anonymous is “not surprising.”<sup>18</sup> One woman sent a letter to TPLF asking to be removed from its list due to her fear of government reprisal from the IRS or NSA. She wrote: “We agree with your cause but are intimidated.” Ex. G-3. Another individual expressed his desire to contribute but wrote that he could not do so, as he feared government retribution. Ex. G-4. These sentiments are not unique: innumerable individuals, terrified of reprisal, simply refrain from contributing. They avoid writing explanatory letters for fear that even that will expose them to harassment. Would-be supporters fear injury “that is neither imaginary nor speculative,” and this fear “discourages the exercise of valued and revered First Amendment rights.”<sup>19</sup> As TPLF supporters opt to refrain from associating with TPLF rather than risk retaliation, TPLF struggles to continue expressing its viewpoint, and the FEC must intercede.

The TEA Party and its supporters and contributors have faced, and continue to face, unwarranted harassment and hostility from the government, mainstream media, and private individuals as a result of their views. Considering the totality of the evidence and taking both prior and ongoing events into account, there is a reasonable probability that forcing TPLF to disclose its contributors and recipients of expenditures will result in “threats, harassment, or reprisals from either Government officials or private parties.” *Buckley* at 74. Refusing to grant TPLF’s requested exemption would exacerbate the harm to supporters’ First Amendment rights and result in a less robust political debate, the very outcome *Buckley* sought to prevent. In the words of Senate Majority Leader Harry Reid: “...Tea Party folks will either be gone as a result of their extreme positions or they will move to the more moderate position.” Ex. D-7. To counter this possibility and the corresponding harm such a result would inflict on TEA Party supporters and society as a whole, the FEC must grant TPLF exemption from compelled disclosure.

<sup>17</sup> AO 2012-08 at 33, 55-57.

<sup>18</sup> *Hall-Tyner*, 678 F.2d at 423 (finding the fact that individuals contributed to the SWP only after being reassured that contributions would remain anonymous was “not surprising”).

<sup>19</sup> *Id.*

**QUESTIONS PRESENTED**

Whether TPLF, whose contributors have been targeted for harassment and continue to face a reasonable probability of threats, harassment, or reprisals from government officials or private parties, is entitled to reporting and disclosure exemptions from requirements in the Federal Election Campaign Act of 1971, 2 U.S.C. § 431 as enumerated below:

1. *Disclosure of the names and residential addresses, occupations, and employers of contributors to TPLF (§ 434(b)(3)(A));*
2. *Political, authorized, or affiliated committees making contributions or transfers to TPLF (§ 434(b)(3)(B));*
3. *Lenders, guarantors, or endorsers of loans to TPLF (§ 434(b)(3)(E));*
4. *Persons providing rebates, refunds, or other offsets to operating expenditures to TPLF (§ 434(b)(3)(F));*
5. *Persons providing any dividend, interest, or other receipt to TPLF (§ 434(b)(3)(G));*
6. *Persons to whom expenditures, loans, loan repayments, disbursements, or contribution refunds or other offsets or committees to which expenditures, transfers, contributions, disbursements, or loans have been made (§ 434(b)(5)-(6));*
7. *Submission and publication of electronic reports (§ 434(a)(11)(B) and § 434(a)(12));*
8. *Submission and publication of receipts and disbursements (§ 434(e));*
9. *Electioneering communication disclosure (§ 434(f)); and*
10. *Independent expenditure reporting (§ 434(g)).*

**CONCLUSION**

Because TPLF has easily fulfilled the standard established in *Buckley* and followed by the FEC, the FEC should grant TPLF an exemption from reporting and disclosure requirements in the Federal Election Campaign Act of 1971, 2 U.S.C. § 431.

Respectfully Submitted,



DAN BACKER, ESQ.  
COUNSEL, TEA PARTY LEADERSHIP FUND  
DB CAPITOL STRATEGIES PLLC  
717 KING STREET, SUITE 300  
ALEXANDRIA, VA 22314  
(202) 210-5431  
[DBACKER@DBCAPITOLSTRATEGIES.COM](mailto:DBACKER@DBCAPITOLSTRATEGIES.COM)

PAUL D. KAMENAR  
COOLIDGE REAGAN FOUNDATION  
1629 K STREET, N.W., SUITE 300  
WASHINGTON, DC 20006  
(202) 603-5397  
[PAUL@COOLIDGEREAGAN.ORG](mailto:PAUL@COOLIDGEREAGAN.ORG)

Appendix A: Government Agencies

1. The Internal Revenue Service (IRS)
  - a. An internal audit conducted by the IRS revealed that, despite regular, timely compliance by TEA Party organizations seeking certification as 501(c)(3) and 501(c)(4) tax-exempt organizations, the IRS regularly stretched the certification process out over years. Ex. A-1(a).
  - b. The American Center for Law and Justice created a timeline of waiting periods for TEA Party groups whose certification was subject to extreme delays. These groups reported that their applications' review regularly exceeded the IRS target of 270 days. Ex. A-1(b).
  - c. In accordance with the Paperwork Reduction Act, the IRS is required to estimate the burden that any information collection imposes on those filling out relevant paperwork. The IRS estimates that Form 1024, the application for 501(c)(4) tax-exempt status, requires thirty hours per application. Ex. A-1(c).
  - d. The Champaign Tea Party of Illinois received approval for tax-exempt status in ninety days. Shortly thereafter, IRS staff began setting aside the applications of TEA Party groups for extra scrutiny. For twenty-seven months, no TEA Party organization received approval. Ex. A-1(d).
  - e. High-ranking IRS officials in Washington, D.C. directed IRS employees in Cincinnati to subject TEA Party applications to enhanced scrutiny. Exs. A-1(e)-(g).
  - h. The IRS has since identified 64 million pages of records "potentially relevant" to its targeting of TEA Party groups for additional scrutiny. Ex. A-1(h).
  - i. IRS officials responsible for delaying TEA Party applications received instruction directly from the IRS Office of General Council, William Wilkins. Wilkins, one of two political appointees at the IRS, visited the White House for a meeting with President Barack Obama two days before disseminating criteria regarding how the IRS should review TEA Party applications. Ex. A-1(i).
  - j. President Barack Obama met with the head of the IRS employee union on March 31, 2010, the day before the IRS placed a hold on all TEA Party applications for tax-exempt status. Ex. A-1(j).
  - k. U.S. Rep. Dave Camp inquired about the status of TEA Party groups seeking exemption. Thereafter, forty TEA Party groups received tax-exempt status. Ex. A-1(k).
  - l. The Chattanooga Tea Party's application for tax-exempt status was under review for three years. The IRS demanded copies of all emails, phone calls, and handouts distributed by the organization since the group's inception. Ex. A-1(l).
  - m. The IRS did not respond to Tea Party Maui's application for fifteen months, then gave the group twenty-one days to answer twenty-nine questions with accompanying documents. Ex. A-1(m).
  - n. The IRS gave three Pennsylvania TEA Party groups a questionnaire demanding the personal Facebook pages of group members. One group needed six months to respond, and the group's treasurer resigned as a result of the questionnaire's complexity. Ex. A-1(n).
  - o. The IRS asked the Wetumpka Tea Party to provide lists of all contributors and their contribution amounts. The organization also waited a full year after submitting its



- application before receiving any IRS response, which included additional inquiries. Ex. A-1(o).
- p. The IRS asked the Laurens County Tea Party to provide lists of all contributors as well as copies of the group's Articles of Incorporation and voter registration activities. Ex. A-1(p).
  - q. The San Fernando Valley Patriots received an IRS letter with eighty total inquiries that included requests for the Employer Identification Numbers of their contributors' businesses. Ex. A-1(q).
  - r. Linchpins of Liberty waited twenty-nine months for an IRS response to its application. Because the group was unable to begin its activities, it lost a \$30,000 non-profit grant. The IRS asked Linchpins of Liberty to provide the political affiliation of the group's "mentors." Ex. A-1(r).
  - s. The Richmond Tea Party received an IRS letter with fifty-five questions requesting information. Ex. A-1(s).
  - t. The IRS demanded contributor information and screen shots of all web postings from the First Coast Tea Party. Ex. A-1(t).
  - u. The Arlington Tea Party received an IRS letter demanding that the group provide usernames and passwords for access to the group's website. Ex. A-1(u).
  - v. The IRS asked the Northeast Tarrant Tea Party about its relationship with groups participating in the recall of Wisconsin Governor Scott Walker. The IRS questioned the group's relationship to TEA Party group True the Vote and Catherine Engelbrecht, the founder of the King Street Patriots. Ex. A-1(v).
  - w. The Colorado Tea Party Patriots have not received tax-exempt status, and their confidential forms may have been leaked to the public. Ex. A-1(w).
  - x. The Greater Phoenix Tea Party Patriots waited two years for the IRS to respond to their request for tax exemption. The Mississippi Tea Party withdrew its application for tax-exempt status, citing delays. Ex. A-1(x).
  - y. The IRS asked the Liberty Township Tea Party about its connection to Justin Binik-Thomas, a TEA Party member and owner of Conservative Media Group. Ex. A-1(y).
  - z. The IRS also asked the Liberty Township Tea Party to provide any educational materials and training information it had received from EmpowerU, an Ohio educational services group. EmpowerU features a class on "Obamacare." Ex. A-1(z); see also Ex. A-1(y).
  - aa. Two years after receiving the Albuquerque Tea Party's application for 501(c)(4) tax-exempt status, the IRS asked the group to provide contributor information as well as all private correspondence between the group's board members. After four years, the Albuquerque Tea Party still has not received a final IRS decision. Ex. A-1(aa).
  - bb. After the group's initial application, the IRS told the Ottawa County Patriots that they would receive additional information within sixty to ninety days. The group waited for a year and a half but never received any information. The group never received tax-exempt status. Ex. A-1(bb).
  - cc. The IRS sent the Tea Party Patriots letters requesting "intrusive" contributor and volunteer information as well as Facebook page information. Debbie Dooley of the Tea Party Patriots believes these letters were sent to intimidate her group. Ex. A-1(cc).



- dd. Catherine Engelbrecht, the founder of the King Street Patriots, received three inquiries from the FBI, five rounds of IRS questioning, an audit from the Occupational Safety and Health Administration, and a visit from the Bureau of Alcohol, Tobacco, and Firearms. Ex. A-1(dd).
- ee. An IRS official told George Brunemann of the Southwest Cincinnati Tea Party that he was being audited because of his ties to the Cincinnati Tea Party. Ex. A-1(ee).
- ff. The Leadership Institute, a conservative organization, received an IRS letter demanding the names and current employment of former interns—and their initial application materials. Ex. A-1(ff).
- gg. The Kentucky 9/12 Project received a seven page IRS questionnaire that included eighty-eight separate inquiries. Ex. A-1(gg).
- hh. The IRS asked the Ohio Liberty Council to provide the names of all group members and their Facebook postings. Ex. A-1(hh).
- ii. Several news outlets have reported that the IRS planned to audit five major TEA Party contributors regarding compliance with gift tax rules. Ex. A-1(ii)-(jj).
- kk. The IRS allegedly halted this audit only after several members of Congress expressed concern. Ex. A-1(kk).
- ll. USA Today reviewed nine TEA Party groups and determined that when a group employed attorneys, the IRS was less likely to request additional information. Ex. A-1(ll).
- mm. The IRS conducted a “Screening Workshop” on July 28, 2010. The session warned attendees to “look for names” like “TEA Party,” “Patriot,” “9/12 Project,” and “Progressive.” Ex. A-1(mm).
- nn. The minutes from this IRS meeting mention a “Tea Party Coordinator/Reviewer” who would only review TEA Party applications. Ex. A-1(nn).
- oo. IRS senior counsel Carter Hull expressed his belief that the IRS possessed enough information to make decisions on TEA Party groups. Even so, Michael Satu, the head of Hull’s unit, says the IRS Director of Exempt Organizations instructed him to subject TEA Party applications to “multi-tier review” and informed him the applications would eventually have to go through the chief counsel’s office. Hull had never previously exposed an application to such extensive review. Elizabeth Hofacre, the Cincinnati office coordinator of TEA Party applications, also acknowledged this process was “unusual.” After three years, the IRS has still not issued a decision on the initial TEA Party applications pulled as “test cases.” Ex. A-1(oo).
- pp. IRS demands have burdened TEA Party groups’ ability to engage in political speech, and have cost groups money, time, and opportunities. Ex. A-1(pp).
- qq. Albuquerque Tea Party Party president Rick Harbaugh said its members were afraid to contribute for fear their names would be linked to conservative politics. Harbaugh explained: “Our members are very concerned about making donations if their name is attached to it... I think there is some fear of getting involved with the Tea Party.” Ex. A-1(qq).
- rr. Real Clear Markets concluded that IRS targeting of TEA Party groups affected its ability to operate during the recent election cycle. Ex. A-1(rr).
- ss. The U.S. Treasury’s Inspector General for Tax Administration, J. Russell George, said his office referred a case to the Department of Justice when his office found “willful





- unauthorized access” of confidential tax records of political candidates or contributors. The Department of Justice did not prosecute. Ex. A-1(ss).
- tt. Confidential tax information of American Future Fund and the American Issues Project were disclosed by the IRS at the request of officials at the FEC. Under Rule 6103, the IRS may not divulge confidential tax information, and the FEC is not exempt from this rule. Ex. A-1(tt).
  - uu. IRS records indicate that 104 applications from conservative groups were flagged by the agency for additional scrutiny. Seven applications that included the terms “progressive” or “progress” were set aside for extra scrutiny. On average, the IRS responded to conservative applications with 14.9 additional questions, and only asked an additional 4.7 questions when following up with applications that contained the terms “progressive” and “progress.” Ex A-1(uu).
  - vv. By far, applications that included the term “TEA Party” received the most additional questioning from the IRS. These groups received 1,012 additional questions, compared to 33 for the seven applications containing “progressive” and “progress.” Only 46% of conservative applications set aside by the IRS have been approved. All seven applications containing “progressive” or “progress” have since been approved. Ex. A-1(vv).
  - ww. IRS records establish that 96 organizations thought to be affiliated with the TEA Party—applications with “tea party,” “patriots,” or “9/12” in their names—were set aside for extra scrutiny. Ex. A-1(ww).
- 2. The Department of Homeland Security (DHS)
    - a. On April 7, 2009, the DHS published a report prepared by the Homeland Threat Analysis Division that warned of the “rise of right wing extremism.” Ex. A-2(a).
    - b. Armed DHS agents have patrolled and monitored TEA Party rallies. Ex. A-2(b).
  - 3. The Federal Bureau of Investigation (FBI)
    - a. The FBI instructed its agents to collect data on the organizers of TEA Party protests and relay that information to FBI headquarters. Ex. A-3.
  - 4. U.S. Departments of Agriculture and Commerce
    - a. Ronald E. Johnson, a small business owner and TEA Party activist, received numerous questionnaires and phone calls from agency officials requesting information on his property in Texas. These forms requested “extensive, intrusive information” concerning his employees’ gender, ethnicity, and social security numbers. Ex. A-4.

Appendix B: The Obama Administration

- 1. President Barack Obama
  - a. In a 2009 interview, President Obama characterized TEA Party supporters as “tea-baggers.” Ex. B-1(a).
  - b. After a dinner guest argued that the TEA Party was attempting to “stir up anger and anxiety at having a black president,” President Obama answered that there was a “subterranean agenda” in the anti-Obama movement. Ex. B-1(b).
  - c. President Obama stated he wanted to win over only those members of the TEA Party with “mainstream, legitimate concerns.” Ex. B-1(c).
  - d. President Obama’s former presidential campaign committee, Obama for President, accused Americans for Prosperity, a TEA Party group, of faking its grassroots support,



- writing that Americans for Prosperity “appear[ed] to be nothing more than an effort to promote the corporate interests of [the Koch brothers’] employers and others who lavishly, and secretly, fund its operations.” Ex. B-1(d).
2. Vice President Joe Biden
    - a. Vice President Joe Biden was alleged to have described elected officials who aligned with the TEA Party movement as “act[ing] like terrorists.” Ex. B-2(a).
    - b. Vice President Biden discussed non-TEA Party members of Congress: “They are so afraid of a challenge by the tea party that they vote against what is the right vote. Imagine what they will do to Barack and me if Terry McAuliffe loses.” Ex. B-2(b).
    - c. Vice President Biden argued that the TEA Party has “no care of the consequences to the economy.” Ex. B-2(c).
  3. Cabinet Officials
    - a. Secretary of Labor Hilda Solis said: “[A] few tea baggers want to somehow muzzle my voice.” Ex. B-3(a).
    - b. Sec. Hilda Solis accused the TEA Party of “hurting the American public, our economy, and the future of our country.” Ex. B-3(b).
    - c. Secretary of Transportation Ray LaHood described newly elected TEA Party Representatives: “Two years ago, between 50 to 60 Republicans were elected to the House of Representatives to come to Washington to do nothing, and that’s what they’ve done and they’ve stopped any progress.” Ex. B-3(c).
    - d. Secretary of Education Arne Duncan defended the Common Core learning standards program against critics, whom he labels as belonging to “fringe groups.” He called TEA Party critiques “outlandish.” Ex. B-3(d).

Appendix C: The United States House of Representatives

1. Rep. Nancy Pelosi accused TEA Party activists of “actually spitting on people.” Rep. Pelosi did not provide evidence for this assertion. Ex. C-1.
2. Former Rep. Barney Frank compared al-Qaeda with the TEA Party. Rep. Frank offered: “I wonder how the right wing in America feels about being aligned with the Tea Party?” Ex. C-2.
3. Rep. Sheila Jackson Lee compared the TEA Party to the Ku Klux Klan. Rep. Lee stated: “All those who wore sheets a long time ago have now lifted them off and started wearing, uh, clothing, uh, with a name, say, I am part of the tea party.” Ex. C-3.
4. In 2010, Rep. Sheila Jackson Lee urged the IRS to investigate True the Vote. Ex. C-4.
5. Rep. Maxine Waters offered: “[A]s far as I’m concerned, the ‘tea party’ can go straight to Hell.” Ex. C-5.
6. Rep. Andre Carson accused TEA Party representation in Congress of wishing to see African Americans “hanging on a tree.” Ex. C-6.
7. Rep. Tim Ryan referred to TEA Party activists as “tea bagger protestors.” Ex. C-7.
8. Rep. Hank Johnson noted that “Tea Partiers” have enacted a “plan to dismantle the American government.” Ex. C-8.



9. After Rep. Gabby Giffords was shot, Rep. Debbie Wasserman-Schultz, Chairwoman of the Democratic National Committee, blamed the violence on a “lack of civility” precipitated by the growth of the TEA Party movement. Ex. C-9.
10. Rep. Albio Sires blamed the TEA Party anti-government culture for gun violence, including the Sandy Hook massacre. Rep. Sires said Congress’s failure to act on gun control was due to “right wing shackles that bind the Republican Party” Ex. C-10.
11. Rep. Jan Schakowsky labeled TEA Party protests as “despicable” and “a shameful political stunt.” Ex. C-11.
12. Rep. Steny Hoyer claimed that people in the TEA Party movement “have unhappy families.” Ex. C-12.
13. After repeatedly referring to TEA Party supporters as “teabaggers,” Rep. John Dingell was informed of the word’s derogatory meaning. Rep. Dingell stated: “It’s funny and I’m going to keep using it.” Ex. C-13.
14. Rep. Steve Cohen tied the TEA Party to the Ku Klux Klan, saying: “The Tea Party people are kind of, without robes and hoods, they have really shown a very hardcore angry side of America that is against any type of diversity.” Ex. C-14.
15. Rep. Keith Ellison argued that there are “extreme racists” in the TEA Party. Ex. C-15.
16. Rep. Luis Gutierrez compared TEA Party members to arsonists, declaring: “The Tea Partiers and the GOP have made their slash and burn lunacy clear, and while I do not love this compromise, my vote is a hose to stop the burning. The arsonists must be stopped.” Ex. C-16.
17. Rep. Mike Doyle said that the TEA Party is a “small group of terrorists.” Ex. C-17.
18. Rep. Frederica Wilson declared: “Let’s all remember who the real enemy is... the real enemy is the Tea Party...the Tea Party holds the Congress hostage.” Ex. C-18.
19. Rep. Baron Hill characterized town hall protestors as political terrorists, saying: “They have only one purpose in mind and that’s to blow up the meetings that are being held.” Rep. Hill continued: “If you just want to blow up a meeting that’s a political terrorist.” Ex. C-19.
20. Rep. John Larson declared: “[W]e have one segment — the Tea Party of the Republican Party — at war with our own government.” Ex. C-20.
21. Rep. Patrick Murphy labeled TEA Party groups as “whacktavists,” accusing them of “forc[ing] their ultra-right agenda on the country.” Ex. C-21.
22. Rep. Lois Frankel described her opponent, Adam Hasner, as a “Tea Party extremist whose anti-women record is a mile wide.” Ex. C-22.
23. Rep. Betty McCollum responded to backlash regarding her refusal to say “under God” when reciting the Pledge of Allegiance by saying: “Conservatives are using an eight year old video clip to incite hate, racism, and intolerance among Tea Party Republicans.” According to Rep. McCollum, this “right-wing effort” is “blatantly anti-American.” Ex. C-23.
24. Rep. Steve Israel declared, “2014 will be a referendum about one thing: tea party extremism.” Ex. C-24.
25. When TEA Party protestors visited his office, Rep. Jim Moran had to be restrained by his staff. A staffer for Rep. Moran told the protestors: “We’re not protecting him from you, we’re protecting you from him.” Ex. C-25.
26. Rep. Scott Peters said: “The Tea Party really has [Congress] locked up.” Ex. C-26.
27. Rep. Mike Capuano dismissed TEA Party protestors at a pro-union rally as “a couple of nuts in the background that want to take it all away from you.” Ex. C-27.

28. Rep. Sean Maloney connected opponent Nan Hayworth to "Tea Party extremists," elaborating: "Congresswoman Nan Hayworth's gone Tea Party on us, and it's not pretty." Ex. C-28.
29. Rep. Gary Peters called his opponent a "tea-bagger." According to Rep. Peters, those attending TEA Party rallies are "close-minded." Ex. C-29.
30. Rep. Julia Brownley's campaign accused TEA Party groups of having a "radical agenda to restrict women's health rights." Ex. C-30.
31. Rep. John Garamendi equated the TEA Party to an "attack machine." Rep. Garamendi accused the TEA Party of wishing to "surrender our clean energy future to China." Ex. C-31.
32. Rep. Kurt Schrader said "extremists in Congress [] are in league with the TEA Party." Ex. C-32.
33. Rep. Ed Perlmutter accused the TEA Party of "playing games with Americans." Rep. Perlmutter said: "Because of their irresponsible actions, 160 million Americans face a tea party tax increase in the New Year, and 48 million senior citizens may lose access to their doctors." Ex. C-33.
34. Rep. Janice Hahn said the TEA Party was "very willing to take this country over the cliff and blow up our economy if they didn't get their way." Ex. C-34.
35. Rep. Cedric Richmond accused the TEA Party starting "a war" with the United States. Rep. Richmond said: "They're willing to wreck this economy simply for political gain." Ex. C-35.
36. Rep. David Cicilline said the Republican Party had been "hijacked" by the TEA Party. Rep. Cicilline insisted that "infrastructure, women's rights, [and] equality" were all "under attack in this Republican Congress." Ex. C-36.
37. Rep. Hakeem Jeffries said he was "focused" on "batting the Tea Party." Ex. C-37.
38. Rep. Yvette D. Clarke dismissed the Tea Party as "crazy." Rep. Clarke further characterized TEA Party protestors as representing "the ugliest sides of the United States of America that you can imagine." Ex. C-38.
39. Rep. Carol Shea-Porter called her TEA Party opponent "extreme." Ex. C-39.
40. Rep. Bill Foster spoke about the shooting of Rep. Gabby Giffords and the TEA Party, appearing to link the two. He recalled speaking with Rep. Giffords about "the substantial Tea Party presence" and discussing "how we deal with these people." Ex. C-40.
41. In a campaign video, Rep. Rick Larsen included a cartoon depicting a Tea Party supporter and a Ku Klux Klansman hanging President Obama. Ex. C-41.
42. Rep. Susan Delbene has claimed she will focus on "results" and "not the uncompromising brinksmanship and extreme Tea Party ideology that my opponent represents." Ex. C-42.
43. Rep. John Conyers called the TEA Party "small and dismissible." Ex. C-43.
44. Referring to the Tea Party, Rep. Charlie Rangel said: "It is the same group we faced in the South with those white crackers and the dogs and the police." Ex. C-44.
45. Rep. Henry Waxman said that Congressional support for women's programs had been "shattered by tea party extremism." Ex. C-45.
46. Rep. Peter DeFazio referred to TEA Party members in Congress as "these tea party people" whose "dominance of the Republican caucus" contributed to the fiscal cliff. Ex. C-46.
47. Rep. David Price asserted that the TEA Party has held the country "hostage to an extreme ideological position." Ex. C-47.



48. Rep. Rosa DeLauro's campaign sent a letter warning that the "Tea Party agenda" is working to "block us from progress." Ex. C-48.
49. Rep. Jarrold Nadler accused the TEA Party of guiding Republican efforts to "hold the country hostage." Ex. C-49.
50. Rep. Corrine Brown described "Tea Party ideologues" that had proposed an "extremist bill." Ex. C-50.
51. Rep. Alcee Hastings refused to debate his opponent, arguing the TEA Party had arranged the event, and he would not "voluntarily subject [himself] to any Tea Party shenanigans." Ex. C-51.
52. Rep. Carolyn Maloney accused the "extreme right-wing" of trying to send women "back to the 19<sup>th</sup> century when it comes to their choices, their rights, and their health care." Ex. C-52.
53. Rep. Sam Farr said: "Congress has been derailed by extreme Tea Party politics." Ex. C-53.
54. Rep. Lloyd Doggett referred to his opponent as "some Tea Party extremist." Ex. C-54.
55. Rep. Chaka Fattah called the TEA Party "characters who say nothing government does is useful." Rep. Fattah characterized these groups as "unreasonable." Ex. C-55.
56. Rep. Earl Blumenauer's campaign criticized his opponent's "extreme Tea Party positions." Ex. C-56.
57. Rep. Diana DeGette characterized her experience in the post-2010 Congress as "a trip into Alice's Wonderland." According to her, the Republican-held House was consumed by "[m]adness." Ex. C-57.
58. Rep. Carolyn McCarthy accused the TEA Party of holding the Congress "hostage" and characterized supporters' behavior as "extreme partisan brinkmanship." Ex. C-58.
59. Rep. Bill Pascrell's campaign warned that the country must focus on stopping the Tea Party. Ex. C-59.
60. Referring to TEA Party-backed conservatives in Congress, Rep. Loretta Sanchez publicly mocked TEA Party representatives and declared: "Everything to them is unconstitutional. It's unconstitutional, it's unconstitutional, it's unconstitutional." Ex. C-60.
61. Rep. John Tierney's campaign called the TEA Party "too extreme." Ex. C-61.
62. Rep. Barbara Lee accused the TEA Party of wishing to "dismantle government." Rep. Lee called the TEA Party "obstructionist." Ex. C-62.
63. Rep. Joe Crowley said: "The Republican tea party agenda stuck on repeat might satisfy the extreme rightwing, but it neither satisfies nor helps hardworking Americans." Ex. C-63.
64. Rep. William Lacy Clay said he intended to "fight[] against extremist Tea Party policies." Rep. Clay further insisted that the TEA Party "wants to shut down the government." Ex. C-64.
65. Describing the TEA Party, Rep. James Langevin said it was "unfortunate" that John Boehner was "bound to the wishes of this very conservative element." Ex. C-65.
66. Rep. Tim Bishop's campaign called TEA Party views "extreme." Ex. C-66.
67. In the aftermath of the shooting of Rep. Gabby Giffords, Rep. Raul Grijalva said that Sarah Palin's TEA Party rhetoric helped create a "toxic" climate that "set[] up for this kind of reaction." Ex. C-67.
68. Referencing TEA Party protestors at a public meeting, Rep. David Scott said: "There were tea baggers all over the place." Ex. C-68.
69. Rep. Chris Van Hulle called some members of the TEA Party caucus "extreme." Ex. C-69.



70. Rep. G.K. Butterfield said that TEA Party votes against the Federal Agriculture Reform and Risk Management Act Of 2013 were proof of a TEA Party national agenda to “place poor people, which includes children and the elderly and veterans, in a position that none of you would want to be in.” Ex. C-70.
71. Rep. Gwyn Moore labeled the TEA Party “that wild contingency.” Ex. C-71.
72. Rep. Kathy Cantor accused TEA Party representation of acting “irresponsibly.” Ex. C-72.
73. Rep. Joe Courtney said that the Congressional Education Committee is “crippled by the Tea Party obsession that the Department of Education should be abolished.” Ex. C-73.
74. Rep. Tim Walz accused TEA Party groups of letting “ideology trump[] common sense.” Ex. C-74.
75. In 2012, Rep. Peter Welch urged the IRS to investigate Crossroads GPS, an organization affiliated with the TEA Party, suggesting it and other nonprofit groups were “political groups masquerading as nonprofits.” Ex. C-75.
76. Rep. John Yarmuth said TEA Party Caucus leader Michelle Bachmann advocates ideas that “are extremely radical and reckless.” Ex. C-76.
77. Rep. Rick Nolan called the Tea Party Caucus “radical right wingers” who wage “blind attacks on government services to the people.” Ex. C-77.
78. Rep. Gerry Connolly closed his office door in the face of TEA Party protestors visiting his Washington, D.C. office, and refused to meet with them. Ex. C-78.
79. Rep. Chellie Pingree accused the TEA Party of saying: “We are not voting for anything unless you follow our right-wing agenda.” She classified this as “scary.” Ex. C-79.
80. Rep. Jared Polis said the TEA Party has brought “dysfunction.” Ex. C-80.
81. Rep. Michael Quigley suggested Republicans feared the TEA Party, saying that Republicans were afraid that they would be targeted when running for reelection if they didn’t “do the right thing” and support the TEA Party’s agenda. Ex. C-81.
82. Rep. Bill Owens accused the TEA Party of “declaring war” on him and suggested TEA Party groups used “aggression, lies, [and] nonsensical rhetoric.” Ex. C-82.
83. Rep. Ted Deutch said that “tea party extremists really held this country hostage.” Ex. C-83.
84. Rep. Karen Bass framed TEA Party efforts as “outright racist.” Ex. C-84.
85. Rep. John Carney accused TEA Party Republicans of “playing games and manufacturing crises.” Ex. C-85.
86. Rep. Bill Keating referred to “the obstinance of Tea-Party oriented members” as creating “a situation that is very troublesome.” Ex. C-86.
87. Rep. Alan Grayson blamed the 2010 TEA Party gains on the “outright lies and trickery” and “propaganda” of the Koch brothers, both active TEA Party supporters. Ex. C-87.
88. When a meeting with constituents turned hostile, Rep. Ann Kirkpatrick said: “Unfortunately, the tea party ambushed it.” Ex. C-88.
89. Rep. Dan Maffei said his opponent had a “disturbing Tea Party record.” Ex. C-89.
90. Rep. Dina Titus decried the 2010 takeover of the House of Representatives by the “radical right.” Ex. C-90.
91. Rep. Joyce Beatty promised constituents that she would “stand up to anyone, especially the Tea Party.” Ex. C-91.
92. Rep. Brad Schneider said Republicans “remain beholden to an extreme, ideologically-driven segment of their party.” Ex. C-92.

93. Rep. Raul Ruiz said: "With this gathering of extremist Tea Party patrons right in our own backyard, we need to show the Kochs they can't just buy elections." Ex. C-93.
94. Rep. Mark Pocan said he would "continue our national struggle to stand up to Tea Party extremists who want to eliminate women's rights." Ex. C-94.
95. Rep. Grace Meng said she would ensure the "Tea Party-dominated Republican party" did not use Medicare as a "bargaining chip." Ex. C-95101.
96. Rep. Michelle Lujan Grisham said: "I was very clear about the Tea Party. Extremism in Congress has got to go away. Who's in control of that extremism right now is the Tea Party." Ex. C-96.
97. Rep. Dan Kildee said the Fourth of July "should also be a time where State Senate Republicans declare their independence from the Tea Party." Ex. C-97.
98. Rep. Joseph Kennedy III accused TEA Party protestors of "shouting out racist and anti-gay slurs to members of Congress." Ex. C-98.
99. Rep. Fred Huffman said: "The hot flawed Farm Bill wasn't extreme enough for the Tea Party." Ex. C-99.
100. Rep. Steve Horsford's campaign website touted the Congressman as not "caving in to extreme Republican Tea Party demands." This page has since been removed. Ex. C-100.
101. Rep. Dennis Heck campaigned to take on the "Tea Party Congress." Ex. C-101.
102. Rep. Tulsi Gabbard said the Tea Party had "effectively gotten a stranglehold [on Republicans] and on moderates." Ex. C-102.
103. Rep. Elizabeth Esty spoke at a lectern with a sign that read: "Fire the Tea Party." Ex. C-103.
104. Rep. Joaquin Castro said that Republicans "seem to be taken right now by the tea party's more-extreme base." Ex. C-104.
105. Rep. Matt Cartwright referred to the TEA Party as the party of "No." Rep. Cartwright clarified: "You cannot go down to Washington with a viewpoint of I'm going to say no to whatever the other side has to propose." Ex. C-105.
106. Rep. Cheri Bustos called her opponent "a Tea Party Republican," then accused him of lying. Ex. C-106.
107. Rep. Kyrsten Sinema said her opponent was "a Tea Party candidate who would force his narrow views on women." Ex. C-107.
108. Rep. Ann McLane Kuster said her opponent "share[d] an agenda with the Tea Party" and had a "radical" voting record. Ex. C-108.
109. Rep. Pete Gallego called the TEA Party "extremists." Ex. C-109.
110. Rep. Paul Tonito said: "Tea Party Republicans have manufactured this crisis because they didn't want to give middle class Americans a tax cut. While they want in great lengths to protect tax breaks for millionaires and billionaires, Tea Party Republicans have played a political game that will result in a tax hike for 160 million Americans." Ex. C-110.
111. Rep. Dave Loebsack blamed "Tea Party folks" for holding up the Farm Bill because they "simply don't like government involvement in the economy at all." Ex. C-111.
112. Rep. Bruce Braley called his opponent "another Tea Party extremist." Ex. C-112.
113. Rep. Doris Matsui said she believed TEA Party members in the House "are adamantly against everything." Ex. C-113.
114. Rep. Al Green, alluding to grass roots activists including TEA Party groups, said: "We now have folks who call themselves by many names, but, they have hijacked the principles of the



- civil rights movement . . . they don't just go into their neighborhoods and protest, they come into the hood and protest!" Ex. C-114.
115. Rep. George Miller said: "Congress has been taken over by the right wing of the Republican Party, the Tea Party wing that has a radical agenda..." Rep. Miller went on to say accuse the TEA Party of using Medicare as a "weapon" and holding Congress "hostage." Ex. C-115.
  116. Rep. Jose Serrano said: "These Tea Party-driven cuts are beyond draconian; they are irresponsible and extreme." Ex. C-116.
  117. Referring to Tea Party supporters in Congress, Rep. Jim Costa argued: "We can no longer tolerate a radical minority holding our economy hostage only to prove a partisan point." Ex. C-117.
  118. Rep. Rush Holt insisted: "The Tea Party and their enablers have held America hostage. They have insisted that, unless Congress enacted their radical, ideological agenda, they would force an unprecedented default on America's obligations and thus trigger an economic collapse." Ex. C-118.
  119. Rep. Grace Napolitano opined whether the "Tea Party [was] so strong that it is now controlling the Republican Party." Ex. C-119.
  120. Rep. Mike Thompson's campaign alleged a general fear of the TEA Party, saying: "Members of Congress have been wary of public town hall meetings in recent years, following the rise of the tea party." Ex. C-120.
  121. Rep. Linda Sanchez called Tea Party supporters "obstructionists" and claimed they are "willing to take this country off a cliff." Ex. C-121.
  122. Rep. Emanuel Cleaver released a statement accusing TEA Party protestors of spitting on him and calling him "the 'n' word." Witnesses maintain that neither incident ever occurred, and when questioned about it later, Rep. Cleaver refused to directly answer whether he had actually been spat upon. Exs. C-122 (a-c).
  123. Rep. Robin Kelly told supporters she would "take on the NRA, the tea party and anyone else standing in the way of safety." Ex. C-123.
  124. Rep. Tammy Duckworth called her Republican challenger "an extremist loudmouth for the tea party." Ex. C-124.
  125. Rep. Brian Schatz characterized the Tea Party as "bound and determined to undermine Social Security." Ex. C-125.

**Appendix D: The Senate**

1. Sen. John Kerry commented: "We also see how revved up the tea baggers are at the thought of hijacking health care reform and every chance we have at making progress in Washington." Ex. D-1.
2. Sen. John Kerry described TEA Party supporters in Congress as a "small group that has the ability in the last days to hold the entire country and our economy hostage and were willing to literally shoot the hostage." Ex. D-2.
3. Sen. Max Baucus wrote to the IRS Commissioner in 2010 to pressure the IRS into auditing tax-exempt groups, including TEA Party organizations. Ex. D-3.
4. Sen. Max Baucus admitted that his request was motivated by successful fundraising efforts of conservative groups. Ex. D-4.



5. Sen. Tom Harkin accused TEA Party lawmakers of being “hostage taker[s].” Ex. D-5.
6. Sen. Tom Harkin said that “people elect these crazy Tea Party people to come in here and they vote to do these wacko things.” Ex. D-6.
7. Senate Majority Leader Harry Reid said: “I think you will find even people that claim they’re Tea Party folks will either be gone as a result of their extreme positions, or they will move to the more moderate position.” Ex. D-7.
8. Sen. Harry Reid gave a speech on the floor of the U.S. Senate comparing the TEA Party to anarchists. Sen. Reid said: “They don’t say they’re against government, but that is what it all amounts to. They’re not doing physically destructive things to buildings and people, directly, but they are doing everything they can to throw a monkey wrench into every form of government, whether its local, state, or federal.” Ex. D-8.
9. Sen. Chuck Schumer described former Sen. Scott Brown as a “far-right tea-bagger.” Ex. D-9.
10. Sen. Chuck Schumer also advocated for an IRS audit of tax-exempt groups and demanded that these groups disclose their contributors. Ex. D-10.
11. Sen. Richard Blumenthal accused TEA Party “axtremists” of holding the payroll tax cut “hostage.” Ex. D-11.
12. Sen. Barbara Boxer sent a letter to the Department of Justice accusing TEA Party groups of voter intimidation. Sen. Boxer wrote that True the Vote, which she described as “an offshoot of the Tea Party,” was “leading a voter suppression campaign in many states.” Ex. D-12.
13. Sen. Maria Cantwell said: “The tea party is not the values of Washington state.” Ex. D-13.
14. Sen. Richard Durbin advocated for IRS scrutiny of tax-exempt groups, including Crossroads GPS. Ex. D-14.
15. Sen. Patrick Leahy said Rep. John Boehner was “thwarted by a tiny and radical element, the Tea Party element, in the House.” Ex. D-15.
16. Sen. Carl Levin said the TEA Party had “kind of, taken over the Republican party and that’s too bad for the Republican party and the country, because those are some extreme voices, radical voices . . .” Ex. D-16.
17. Sen. Patty Murray stated: “The bigger issue there is that Mitch McConnell is now going to have, potentially, a much more Tea Party-oriented caucus and we have all seen the damage that has done.” Ex. D-17.
18. In a direct mail solicitation, Sen. Patty Murray warned: “We can’t take the risk of the Tea Party taking over the Senate — not now, when the economy is just starting to pick up . . . Don’t let the Tea Party extremists add another member to the Senate.” Ex. D-18.
19. Sen. Debin Stabenow said: “There are folks that are very, very right-wing and sort of the tea party part of the Republican caucus now that believe we shouldn’t be providing any kind of crop insurance or help or research or conservation or anything like that. Or nutrition services or anything like that.” Ex. D-19.
20. Sen. Sheldon Whitehouse said: “For the regular order and business of government, the Tea Party/Hastert Rule combination is deadly for bipartisan Senate legislation.” Sen. Whitehouse further noted that “it’s . . . death-by-Tea Party to any bipartisan Senate legislation.” Ex. D-20.
21. Sen. Bob Menendez blamed the TEA Party for the debt ceiling debate, labeling supporters “a radical few” and referring to them as “a band of Tea Party tyrants.” Ex. D-21.
22. Sen. Claire McCaskill labeled her opponent’s “Tea Party policies” as being “outside of the mainstream and dangerous for Missouri families.” Ex. D-22.



23. Sen. Ed Markey said: "Tea Party Republicans are truly committed to bringing the government down." Ex. D-23.
24. Sen. Elizabeth Warren's website posted a letter from President Bill Clinton warning against "Tea Party radicals." Ex. D-24.
25. Sen. Tim Kaine said: "The tea party movement is savaging the GOP." Sen. Kaine also said: "There is a corrosive and consistent fight within the tea bag party." Ex. D-25.
26. Sen. Martin Heinrich said that "tea party Republicans are willing to take our economy hostage." Ex. D-26.
27. Sen. Chris Murphy's campaign accused his TEA Party opponent of having an "extreme right-wing agenda" and "radical right-wing policies." Ex. D-27.
28. Sen. Mark Warner said people should "blame" the TEA Party members in the House for making every issue "make-or-break." Ex. D-28.
29. Sen. Sherrod Brown argued in an op-ed that the TEA Party is divisive, driven by anger, and does not like America "the way we are." Ex. D-29.
30. Sen. Mary Landrieu said: "...[w]hat the tea party threatens to do to undermine the safety net for the middle class in this country is breathtakingly cruel." Ex. D-30.
31. Sen. Jack Reed blamed the sequester on "Tea Party conservatives in Washington irresponsibly taking our economy hostage." Ex. D-31.
32. Sen. Tim Johnson accused the TEA Party of being willing to "let rural America go." Ex. D-32.
33. Sen. Dianne Feinstein claims the TEA Party has a "radical, ideological agenda" Ex. D-33.
34. Sen. Jay Rockefeller said TEA Party supporters in Congress are "extremists" that have "no shame." Ex. D-34.
35. Sen. Bob Casey, Jr. argued his opponent was "embrac[ing] all of the Tea Party's extreme policies." Ex. D-35.
36. Sen. Bill Nelson's campaign accused TEA Party candidate Allen West of "irresponsibly...voting in the most extreme measures" and suggested he supported "draconian" measures. Ex. D-36.
37. Sen. Ben Cardin charged Congressman Paul Ryan with "[g]randstanding to satisfy the extreme whims of the Tea Party." Ex. D-37.
38. Sen. Barbara Mikulski referred to the potential federal government shutdown as "this Tea Party shutdown." Ex. D-38.
39. Sen. John McCain likened TEA Party supporters to "hobbits." Ex. D-39.
40. Sen. Lindsey Graham insisted his own policy positions were "completely opposite" of the TEA Party, and claimed the TEA Party would "die out." Ex. C-40.

#### Appendix E: The Media

1. Fareed Zakaria, a CNN contributor, defended his description of the TEA Party movement as "un-American" by explaining that "nobody [else] has ever held a country hostage and said, 'If you don't pass our policies, we'll blow up the economy, we'll blow up the credibility of the United States.'" Ex. E-1.
2. William Yeomans, a Politico contributor, described the TEA Party as "full-blown terrorists." Yeomans notes that the Tea Party has "joined the villains of American history who have been

- sufficiently craven to inflict massive harm on innocent victims to achieve their political goals.” Ex. E-2.
3. Jen Quraishi, contributor to Mother Jones, posted an article posing the question: “Are Tea Party signs racist? Or just offensive?” Ex. E-3.
  4. Lawrence Rosenthal, a Huffington Post contributor, discussed “living under Tea Party rule.” Rosenthal characterized the Tea Party as “the most severely conservative faction represented on a major party slate in a hundred years.” Ex. E-4.
  5. Elizabeth Palmer, CBS News reporter, compared the Iranian presidential candidates to TEA Party candidates, saying: “In U.S. terms, it was as if all the candidates for the presidency came from the tea party.” Ex. E-5.
  6. The Week published an article entitled, *Will Tea Party ‘Bigotry’ Tear Down the GOP?* The article describes the GOP as having a “Tea Party problem.” Ex. E-6.
  7. Joe Nocera, a New York Times contributor, wrote: “. . . Tea Party Republicans have waged jihad on the American people. Their insouciant demands for deep spending cuts, coupled with their almost gleeful willingness to destroy one of America’s most invaluable assets, its full faith and credit, were incredibly irresponsible. But they didn’t care. Their goal, they believed, was worth blowing up the country for, if that’s what it took.” Ex. E-7.
  8. In an article entitled *The Tea Party’s Legacy of Racism*, Robert Parry of Consortiumnews.com wrote that “racism has always been at the heart of the American right.” Ex. E-8.
  9. Bill Maher, appearing on *The David Letterman Show*, accused the TEA Party of racism. Using the term “tea-bagger,” Maher offered that TEA Party followers are “corporate America’s useful idiots.” Ex. E-9.
  10. Anderson Cooper, a CNN host, said: “It’s hard to talk when you’re teabagging.” Ex. E-10.
  11. Rachel Maddow, an MSNBC host, aired an entire segment focusing on the word “teabagging” as it relates to the TEA Party. A guest declared, “You know it’s going to be teabagging 24/7 when it comes to the midterms.” Ex. E-11.
  12. David Remnick, editor of The New York Times magazine, wrote: “When you hear people in the Tea Party movement saying, ‘I want my country back, I’ve lost my country,’ something is being said there, very often, that has to do with race.” Ex. E-12.
  13. Keith Olbermann, a former MSNBC host, declared: “If racism is not the whole of the Tea Party, it is in its heart, along with blind hatred, [and] a total disinterest in the welfare of others. . . .” Ex. E-13.
  14. Cenk Uygur, host of *Young Turks*, referred to Rep. Joe Walsh of Illinois as a “Tea Party whore.” Ex. E-14.
  15. Joe Conason of Real Clear Politics published an article referring to the TEA Party as “teabaggers.” Conason described the movement as one characterized by “violent rhetoric, the hateful threats, and the fanatical intolerance.” Ex. E-15.
  16. Ed Schultz, an MSNBC contributor, differentiated between the TEA Party and the Occupy Wall Street movement by citing a lack of racist signs and firearms at Occupy rallies. Ex. E-16.
  17. The Daily Caller has researched the media’s preference for blaming the TEA Party for national tragedies, including terrorist attacks and violent crimes. This research cites the New

York Times and Time Magazine for accusing Tea Party members of anti-American behavior.  
Ex. E-17.

#### Appendix F: Private Actors

1. A joint poll conducted by The New York Times and CBS News in 2011 found that 40% of Americans surveyed held a negative view of the TEA Party. This number is up from a 2010 poll result of 18%. Ex. F-1.
2. A 2011 Rasmussen Reports poll of 1,000 individuals found that 29% of Americans believed the TEA Party to be economic terrorists. Ex. F-2.
3. A 2013 poll found that 26% of respondents who strongly approve of President Obama's job performance believed that TEA Party members pose a serious terrorist threat to the United States. Of all respondents surveyed, 13% believed the TEA Party was the most serious threat facing the United States. This same poll found 26% of government workers believed that the TEA Party was a greater national security risk than radical Muslims. Ex. F-3.
4. Fourteen percent of likely voters surveyed believed that most Tea Party groups should be monitored by the government as possible terror threats. Ex. F-4.
5. University of Washington assistant professor Christopher Parker, appearing on MSNBC, said: "My study suggests that there is a strain of racism in the tea party." Parker continued: "There's definitely a racist strain, but it goes beyond racism. It goes to homophobia and xenophobia as well, Chris." Ex. F-5.
6. David Axelrod, President Obama's former campaign manager, described the TEA Party as a "reign of terror from the far right." Ex. F-6.
7. Julian Bond, former NAACP Chairman, characterized the TEA Party as the "Taliban wing of American politics." Bond said TEA Party groups are "overtly racist." Ex. F-7.
8. Ron Schiller of NPR said the TEA Party is "not just Islamophobic, but really xenophobic, I mean basically they are, they believe in sort of white, middle-America go-toting. I mean, it's scary. They're seriously racist, racist people." Ex. F-8.
9. During a Town Hall meeting on the Patient Protection and Affordable Care Act, TEA Party supporters claim they were confronted by Service Employees International Union (SEIU) members who attacked a protestor with racial slurs and punched him in the face. Ex. F-9.
10. A member of a pro-amnesty group sent an email promising a "militant confrontation" with the "tea-baggers." Group members later attacked two Florida TEA Party activists. Ex. F-10.
11. Supporters of Senator Harry Reid throw eggs at a Tea Party Express bus during an event in Searchlight, Nevada. Ex. F-11.
12. Bill Randall, an African American TEA Party candidate for the House of Representatives, had his campaign signs defaced with graffiti. Someone wrote "KKK" over his picture. Ex. F-12.
13. During an event in Tucson, Arizona, a man was arrested after yelling "you're dead" at a TEA Party spokesman. Ex. F-13.
14. A Christmas party hosted by the Chicago Tea Party was disrupted when thick black smoke filled the venue where the event was taking place. The authorities later determined that someone had taped together flares in the restroom of the event space. Profane anti-TEA Party language was written on the device. Ex. F-14.



15. The offices of TEA Party affiliated group Freedom Works received such a high volume of death threats and threats of violence during their 2012 advocacy efforts that the group was forced to relocate to a more secure facility. Ex. F-15.
16. An online video game has been developed and circulated called "Tea Party Zombies Must Die," where a player carries out extreme acts of violence against TEA party leadership. Ex. F-16.
17. Prior to a Racine, Wisconsin Tea Party get-out-the-vote rally, opponents covered the parking lot where the rally was to be held with long roofing nails. Ex. F-17.
18. The website of the Independence Hall Tea Party PAC was attacked by hackers who took control of the group's website and posted racial slurs and pornography. Ex. F-18.
19. Kirk Groenig, a TEA Party activist, had his car vandalized. The vehicle's windows were shattered and its tires punctured, and the car was covered with derogatory graffiti. Ex. F-19.

**Appendix G: Supporters' Fear of Reprisal**

1. In response to an informational mailing from the Tea Party Leadership Fund, one individual declared he would not contribute to the organization because "Obama will probably send the IRS after us." Ex. G-1.
2. An individual making a cash contribution to the Tea Party Leadership Fund explained he or she would only send cash due to a fear of the government. The contributor also wrote that he or she feared government "punish[ment]" for contributing. Ex. G-2.
3. An individual wrote to the Tea Party Leadership Fund asking to be removed from TPLF's contact lists. She was afraid to be connected to the group, since the IRS targeted conservative groups. The individual wrote: "We agree with your cause but are intimidated" by the IRS and NSA. Ex. G-3.
4. An individual wrote to the Tea Party Leadership Fund expressing his desire to contribute. He would not contribute, however, as he feared government retribution. Ex. G-4.
5. An individual wrote a letter to the Tea Party Leadership Fund explaining that, while the sender would like to contribute, the individual's business was audited after making a previous contribution. Ex. G-5.
6. An individual responded to a mailing from the Tea Party Leadership Fund by writing: "Yeah sure! So we can have the IRS all over us." Ex. G-6.

**Appendix H: Late-added material**

1. Newly obtained internal IRS emails include an exchange where former Director of Exempt Organizations Lois Lerner describes the TEA Party as "very dangerous." In response to an email from a colleague describing a report that outside money was making it difficult for democrats to keep their majority in the U.S. Senate, Ms. Lerner remarked: "Perhaps the FEC will save the day." Ex. H-1.