

Approved: Randall W. Jackson
RANDALL W. JACKSON
Assistant United States Attorney

Before: HONORABLE JAMES L. COTT
United States Magistrate Judge
Southern District of New York

12 MAG 2520

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SEALED COMPLAINT

UNITED STATES OF AMERICA :

Violation of
18 U.S.C. §§ 207 & 208
26 U.S.C. § 7213

v. :

DENNIS LERNER, :

Defendant. :

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SOUTHERN DISTRICT OF NEW YORK, ss.:

ERIK WOOD, being duly sworn, deposes and says that he is a Special Agent with the United States Department of the Treasury, Treasury Inspector General for Tax Administration ("TIGTA"), and charges as follows:

COUNT ONE

1. From at least in or about August 2011 through and including January 2012, in the Southern District of New York and elsewhere, DENNIS LERNER, the defendant, being a former employee of the Internal Revenue Service of the United States ("IRS"), after the termination of his employment with the United States, did knowingly and wilfully communicate with employees of the IRS, with the intent to influence, on behalf of another entity, in connection with a particular matter in which the United States was a party, in which LERNER participated personally and substantially as an employee, and which involved specific parties at the time of LERNER's participation, to wit, after leaving the employment of the IRS, LERNER repeatedly spoke with former co-workers at the IRS in an effort to influence their actions with regard to a pending settlement between the IRS and LERNER's employer, in which LERNER had previously participated personally and substantially while an employee of the IRS.

(Title 18, United States Code, Section 207.)

COUNT TWO

2. From at least in or about January 2011 through and including August 2011, in the Southern District of New York and elsewhere, DENNIS LERNER, the defendant, being an employee of the IRS, did knowingly and wilfully participate personally and substantially as an IRS employee, through decision, approval, recommendation, the rendering of advice, and otherwise, in a particular matter in which, to his knowledge, he and an organization with whom he was negotiating prospective employment, had a financial interest, to wit, as an employee of the IRS, LERNER participated personally and substantially in settlement negotiations with a company while LERNER actively sought employment with the company.

(Title 18, United States Code, Section 208.)

COUNT THREE

3. From in or about March 2011 through and including August 2011, in the Southern District of New York, DENNIS LERNER, the defendant, being an employee of the Internal Revenue Service of the United States, did knowingly and wilfully disclose tax return information to another, to wit, LERNER disclosed information regarding audits being conducted by the IRS to an individual who was not an IRS employee.

(Title 26, United States Code, Section 7213.)

COUNT FOUR

4. In or about October 2011, in the Southern District of New York, DENNIS LERNER, the defendant, being a former employee of the Internal Revenue Service of the United States, did knowingly and wilfully disclose tax return information to another, to wit, LERNER disclosed, to an individual who was not an IRS employee, the identity of an individual who had provided confidential information to the IRS regarding an alleged tax violation committed by LERNER's employer.

(Title 26, United States Code, Section 7213.)

The bases for my knowledge and the foregoing charge are, in part, as follows:

5. I have been a Special Agent with TIGTA since 2008. Since joining TIGTA, I have conducted numerous investigations of violations of federal law. I have been involved personally in the investigation of this matter. I am familiar with the facts and circumstances set forth below from my personal participation

in the investigation, including interviews I have conducted, my examination of reports and records, and my conversations with witnesses and other law enforcement officers. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

6. In the fall of 2011, TIGTA began an investigation of DENNIS LERNER, the defendant, after learning that LERNER had taken a position as Tax Director at an international bank ("Bank 1"). Immediately before taking the position at Bank 1, LERNER had been employed by the IRS as an International Examiner. LERNER held his position with the IRS from June 21, 2010 until August 31, 2011. While employed by the IRS, LERNER received and passed multiple IRS training courses designed to educate IRS employees about various legal prohibitions on disclosing taxpayer information and other matters. During the months leading up to LERNER's resignation from the IRS, he had been responsible for calculating and structuring a tax fraud settlement between the IRS and Bank 1, valued at more than \$200 million. Immediately upon resigning from the IRS, while approval of the proposed settlement was still pending, LERNER began working as Tax Director at Bank 1.

7. The IRS audit, which led to the settlement described in paragraph 6, began after the IRS received confidential information from a whistle-blower regarding unpaid tax liability related to certain transactions of Bank 1. This information revealed that Bank 1 had received in excess of \$1 billion in untaxed income related to these transactions. At no point during the audit did the IRS publicly reveal the source of its information triggering the audit. All of the confidential whistle-blower information, including the name(s) of the individual(s) who had provided the information, was reviewed by DENNIS LERNER, the defendant, in his capacity as an International Examiner for the IRS.

8. I have reviewed a number of e-mails sent and received by DENNIS LERNER, the defendant, using a personal e-mail account, during the time period that he was working as an International Examiner at the IRS. These e-mails reveal that LERNER was actively engaged in an attempt to secure a position in the private sector throughout this time period. The e-mails further reveal that LERNER attempted to secure a position as Tax Director at Bank 1 during the time period that he was working on the pending tax fraud case and potential settlement between the IRS and Bank 1. These e-mails include the following messages:

a. On or about February 9, 2011, LERNER sent an e-mail to an individual with whom LERNER appears to have been in a romantic relationship ("Individual-1"), who was employed at the bank where LERNER previously worked ("Bank 2"). In this message, LERNER wrote, in part, "If you have time today go on the website indeed.com and put in tax director jobs. See if anything looks interesting for me. Thanks. This is pure waste of my time." Based on my experience, my review of other evidence, and my involvement in this investigation, I believe that when LERNER referred to "indeed.com," he was referring to a website which allows individuals to post their resumes and aggregates public job postings. I believe that when LERNER directed Individual-1 to "[s]ee if anything looks interesting for me," he was requesting that Individual-1 identify whether there were any available private sector jobs suitable for him.

b. On or about February 13, 2011, Individual-1 sent LERNER an e-mail stating, in part, "All will be good! We got a few resumes in, so let's see what happens!!! Call u soon." Based on my experience, my review of other evidence, and my involvement in this investigation, I believe that when Individual-1 stated "We got a few resumes in, so let's see what happens!!!," she was referring to the fact that LERNER and Individual-1 had submitted LERNER's resume to multiple companies, and were awaiting responses.

c. On or about March 10, 2011, LERNER sent Individual-1 an e-mail stating, in part, "Another wasted day. On job boards looking for anything I can send a resume to." Individual-1 responded "Keep looking, something may pop up! You never know." Based on my experience, my review of other evidence, and my involvement in this investigation, I believe that when LERNER stated "Another wasted day," he was referring to his belief that his day spent as an employee of the IRS was a waste of his time. I also believe that when he stated "On job boards looking for anything I can send a resume to," he was referring to the fact that he had spent the day searching for any available jobs in the private sector.

d. On or about March 20, 2011, LERNER sent an e-mail to Individual-1 stating, in part, "I needed to see my idiot manager before he went out to the field While you get paid well for you[sic] expertise I get paid next to nothing and work with fools I don't need this crap. I have enough difficulty trying to cope with life change over the past 14 months and coming to grips with no. Job future. Remember you said it will All Be okay, I promise. Well bullshit, because it's not and it's not going to be. I hope you enjoy your dinner and have lots of laughter. At least you can afford to." Based on my experience, my review of other evidence, and my involvement in

this investigation, I believe that when LERNER stated "While you get paid well for you expertise I get paid next to nothing and work with fools," he was referring to his belief that his salary at the IRS was insufficient and that his colleagues were less skilled and less intelligent than himself. In addition, I believe that when LERNER wrote "Remember you said it will All Be okay, I promise. Well bullshit, because it's not and it's not going to be," he was referring to Individual-1's earlier statement that she believed LERNER would be successful finding a job in the private sector, as well as his increasing despondency regarding his search for a higher paying job. Finally, I believe that when he referred to "no. Job future," LERNER was referring to his dissatisfaction with his IRS employment.

e. On or about May 23, 2011, LERNER sent Individual-1 an e-mail stating, in part, "My day is empty and without any purpose. . . . No prospects, no job, no pay, nothing I can't even get one interview. This just sucks so bad you have no idea." Individual-1 responded in an e-mail stating, in part, "I do understand your frustration. It is hard to feel as though you are not accomplishing anything worthwhile on a day to day basis. Your new resume looks good. I think I would try to distribute the new version. Get it out there. Maybe you'll have more bites!" Based on my experience, my review of other evidence, and my involvement in this investigation, I believe that when LERNER stated "My day is empty and without any purpose. I would kill to be in a boring meeting falling asleep. At least you are working for a company," he was referring to his lack of interest in work at the IRS, and his relative interest in working in the private sector. I believe that when LERNER stated "I can't even get one interview. This just sucks so bad you have no idea," he was referring to his difficulty finding a job in the private sector and the significant dissatisfaction it was causing him.

f. On or about June 15, 2011, Individual-1 sent LERNER an e-mail stating, in part, "Despite what you think, I do understand, and I pray that this opportunity will work for you, and that you will be back as a TD in that Bank." Later that day, LERNER responded, in part, "I am frustrated over the lack of opportunities, interviews, current job, etc. It is also that this may be only possibility left and what if I don't get it." Individual-1 responded "You are frustrated with the job opportunities! Then just talk to me about it Funny-you decide to go nuts the day a job opportunity comes out. He seemed sincere to try to get you in this position. I pray to god for your sake!!! For some reason, you see your life as being over if you don't get it. I disagree, but I am not you." Based on my experience, my review of other evidence, and my involvement in this investigation, I believe that when Individual-1 stated "I pray that this opportunity will work for you, and that you will

be back as a TD in that Bank," she was referring to her hope that LERNER would do well at a meeting regarding possible employment at Bank 1 as their Tax Director. I also believe that when LERNER stated "It is also that this may be only possibility left and what if I don't get it," he was referring to his belief that Bank 1 was possibly his last opportunity to secure a job in the private sector.

g. On or about June 28, 2011, Individual-1 sent an e-mail to LERNER stating, in part, "I hope you are gearing up for tomorrow. If you just be yourself, with your strong ideas, you will do great. Just don't be nervous, be confident." LERNER responded, in part, "Thank you. Reading Dodd Frank. Right now." Based on my experience, my review of other evidence, and my involvement in this investigation, I believe that when LERNER responded "Thank you. Reading Dodd Frank. Right now," he was referring to the preparation he was doing for an interview with Bank-1 for their Tax Director position.

h. On or about July 27, 2011, LERNER sent an e-mail to Individual-1 stating, in part, "Meeting with CEO went good." Based on my experience, my review of other evidence, and my involvement in this investigation, I believe that when LERNER stated "Meeting with CEO went good," he was referring to a meeting regarding possible employment with an executive at Bank 1.

i. On or about August 3, 2011, Individual-1 sent an e-mail to LERNER stating, in part, "Good luck honey!!! I am praying for you. You will do amazing. I just know it." LERNER responded "Thanks." Based on my experience, my review of other evidence, and my involvement in this investigation, I believe that when LERNER stated "Thanks," he was thanking Individual-1 for wishing him well at an interview at Bank 1.

j. On or about August 4, 2011, LERNER sent an e-mail to Individual-1 stating, in part, "Have been on the phone with the general counsel's office on my write-up of [Bank 1] case. I believe they will sign off by end of business today. I will tell you more later." Based on my experience, my review of other evidence, and my involvement in this investigation, I believe that when LERNER stated "Have been on the phone with the general counsel's office on my write up of [Bank 1]," he was referring to a conversation with the Office of the General Counsel for the IRS regarding his evaluation and proposed settlement with Bank 1. I further believe that when LERNER stated " I believe they will sign off by end of business today," he was referring to his belief that the IRS General Counsel's office would approve the settlement that day.

k. On or about August 15, 2011, Individual-1 sent an e-mail to LERNER stating, in part, "Congratulations! I am very happy for you, today is a special day! You will do great in your new job!" Based on my experience, my review of other evidence, and my involvement in this investigation, I believe that in this message Individual-1 was congratulating LERNER on accepting his new position as Tax Director at Bank 1.

l. On or about August 25, 2011, LERNER sent an e-mail to Individual-1 stating, in part, "Day is okay. I am in a meeting concerning the closing of [Bank 1]." Based on my experience, my review of other evidence, and my involvement in this investigation, I believe that in this message, LERNER was referring to a meeting he was participating in at the IRS concerning the possible closing of the IRS matter concerning Bank 1 and the settlement.

9. I have reviewed a number of e-mails sent between Individual-1 and an employee at Bank 1 ("Individual-2"). The emails include the following:

a. On or about June 13, 2011, Individual-1 sent Individual-2 an e-mail with the resume of DENNIS LERNER, the defendant, attached to it. Individual-1 sent this message to Individual-2's work email address at Bank 1. Individual-1 also copied LERNER on this message.

b. On or about June 14, 2011, Individual-2 responded to Individual-1 "thanks. I'll make sure the right person gets it." LERNER was also copied on this reply. Later that day, Individual-1 responded, "Thank you! It is greatly appreciated."

10. I have spoken with Individual-2 and other employees at Bank 1 regarding the messages and events leading up to the hiring of DENNIS LERNER, the defendant, at Bank 1. I have also reviewed a number of documents and internal Bank 1 communications. Among other information, I have learned the following:

a. Between 2010 and 2011, several employees of the Tax Department at Bank 1 worked on the settlement between the IRS and Bank 1. During an audit in 2011, the IRS issued an information document request ("IDR") pertaining to certain transactions executed by Bank 1. At the time this IDR was issued, Bank 1 was unaware of why the IRS had begun looking at these transactions of Bank 1. An employee of Bank 1 stated that, after examining the IDR, Bank 1 had been willing to settle the audit for an amount substantially greater than \$210 million.

b. In the spring of 2011, as the audit was ongoing, Bank 1 provided LERNER with all of the information requested in the IDR. The information provided regarding the transactions at issue was quite voluminous.

c. Individual-2 communicated with LERNER on a number of occasions during the audit. At one point during the audit, an employee of Bank 1's tax department left the bank for another position. In a conversation with Individual-2 in the first half of 2011, LERNER asked about this employee's departure and asked about the possibility of LERNER being hired at Bank 1 "when the audit [was] over." LERNER and Individual-2 also had a number of conversations about the value of the settlement which could be reached between Bank 1 and the IRS.

d. In or about late June 2011, LERNER approached Individual-2 and asked if Individual-2 had received his resume. Individual-2 confirmed that he had. Individual-2 also told LERNER that his resume had been forwarded to the Chief Financial Officer ("CFO") of Bank 1.

e. On or about July 8, 2011, LERNER met with Individual-2 and the CFO of Bank 1 at Bank 1's offices in Manhattan. During the meeting, they briefly discussed the ongoing audit, LERNER's reasons for leaving the private sector and joining the IRS, and other matters. LERNER admitted that he had been terminated from his prior position in the private sector. When Individual-2 and the CFO asked LERNER why he had taken the significant pay cut to join the IRS, LERNER stated that he was working for the IRS "to maintain contacts within the industry" in case future opportunities in the private sector became available. After the meeting, LERNER stated to Individual-2 "I think that went well," and that he "felt good" about the meeting. LERNER also stated to Individual-2 that he "couldn't leave" the IRS and join Bank 1 "without a settlement."

f. Between July 11, 2011 and July 14, 2011, LERNER actively negotiated with Bank 1 regarding a potential settlement. In this capacity, LERNER met with Individual-2 to directly negotiate the settlement without the presence of any other IRS employees. In the late summer of 2011, after extensive negotiation, the tentative settlement reached was approximately 62% of the total theoretical tax liability related to the transactions at issue, amounting to approximately \$210 million. Moreover, based on my interviews of Bank 1 employees and review of Bank 1 documents, I have learned that executives at Bank 1 had believed any settlement valued between \$200 million and \$300 million would have been considered a favorable disposition for

Bank 1. On August 10, 2011, Bank 1 wired approximately \$210 million to the IRS, in contemplation of the still-pending settlement.

11. Based on interviews conducted and documents reviewed during the investigation, I have learned that between July 22, 2011 and August 10, 2011, DENNIS LERNER, the defendant, traveled to Bank 1's offices in Manhattan on multiple occasions to interview for the position of Tax Director.

12. On or about August 11, 2011, DENNIS LERNER, the defendant, was officially offered the position of Tax Director at Bank 1, which LERNER immediately accepted. On August 16, 2011, LERNER submitted his resignation letter to the IRS, which indicated that LERNER's resignation was effective August 31, 2011. LERNER's resignation letter did not identify Bank 1 as his new employer. On August 17, 2011, LERNER delivered an "employment application" to Bank 1's human resource department. On the application, LERNER identified the name of his supervisor at the IRS, but provided an incorrect telephone number. The telephone number LERNER identified as that of his supervisor was actually LERNER's extension at the IRS.

13. On or about August 17, 2011, the supervisor of DENNIS LERNER, the defendant, at the IRS provided LERNER with a copy of IRS Document 7106, entitled "Post-Government Employment Restrictions for Internal Revenue Service and Chief Counsel Employees." This two-page document contains information regarding various statutory restraints and prohibitions related to conflicts of interest and post-employment participation in certain IRS matters. Among other information, IRS Document 7106 describes the "lifetime prohibition, that commences upon termination of government service, on a former employee" with regard to communications with current IRS employees, with the intent to influence, for matters on which the employee "participated personally and substantially" while employed by the IRS. Moreover, among other information, IRS Document 7106 specifically cites Title 18, United States Code, Section 207, and explains certain of its provisions.

14. According to an email drafted by LERNER and statements made by IRS employees, on or about August 25, 2011, DENNIS LERNER, the defendant, participated in a meeting at the IRS regarding the still-pending settlement with Bank 1. Subsequently, on or about September 1, 2011, LERNER began working as the Tax Director at Bank 1.

15. In or about September 2011, DENNIS LERNER, the defendant, had several conversations with an IRS International Examiner still involved in the pending audit and pending \$210 million settlement with Bank 1 ("IRS Employee-1"). During these conversations, LERNER asked IRS Employee-1 on multiple occasions about the "status of the case" involving Bank 1. IRS Employee-1 told LERNER that LERNER needed to recuse himself from the audit of Bank 1, on which LERNER had worked while employed by the IRS. LERNER continued to contact IRS Employee-1 and ask about the Bank 1 audit.

16. On or about November 4, 2011, DENNIS LERNER, the defendant, placed a telephone call to IRS Employee-1, and left a voice message requesting to call him back. IRS Employee-1 notified TIGTA.

17. On or about November 7, 2011, under the direction of TIGTA agents, IRS Employee-1 placed a telephone call to DENNIS LERNER, the defendant, which was monitored and recorded. During the call, LERNER asked IRS Employee-1 if he knew when the Bank 1 audit was going to be finalized and if IRS Employee-1 was going to prepare closing documents for the audit of Bank 1.

18. On or about December 1, 2011, at the direction of his supervisor, IRS Employee-1 issued a new IRS Information Document Request ("IDR") to Bank 1, seeking more information related to the audit of Bank 1. Shortly after IRS Employee-1 sent the IDR to Bank 1, IRS Employee-1 received a telephone call from DENNIS LERNER, the defendant. During the call, LERNER asked why the new IDR had been issued when an agreement had already been reached while LERNER was working for the IRS. IRS Employee-1 informed LERNER that he should not be speaking with LERNER about the matter. However, LERNER ignored this statement and continued discussing the matter. IRS Employee-1 informed LERNER that more documents were needed, to which LERNER responded that they were not. IRS Employee-1 then told LERNER that LERNER would have to speak with his supervisor if he had any other questions.

19. On or about December 1, 2011, DENNIS LERNER, the defendant, and another Bank 1 employee placed a telephone call to a different IRS Employee involved in the audit of Bank 1 ("IRS Employee-2"). During this call, LERNER asked why IRS Employee-2 was seeking additional documents related to the audit. IRS Employee-2 told LERNER that these documents were needed. LERNER and the other Bank 1 employee responded by saying that these documents were not relevant, and they didn't understand the basis for requesting the documents. LERNER further stated that the case was "closed" and that Bank 1 was awaiting the closing agreement

from the IRS. LERNER then asked IRS Employee-2 to tell him who made the decision to look into the Bank 1 audit in more detail.

20. On December 2, 2011, IRS Employee-1 went to Bank 1's offices in Manhattan in order to examine certain documents as part of the audit. While IRS Employee-1 was sitting in office space that Bank 1 had provided, DENNIS LERNER, the defendant, walked in and began speaking about the audit. IRS Employee-1 again told LERNER that he should not be speaking with him about the case. LERNER responded that it was "too late" and that he had already been drawn into the matter. Later that day, IRS Employee-1 set up a teleconference with his supervisor at the IRS and a Bank 1 employee. Before the call began, LERNER walked into the room. IRS Employee-1 asked LERNER "what are you doing here" and further stated to LERNER "you know you're not supposed to be here." LERNER responded that it was "too late for that," and that he had a right to be there, because, as Tax Director, he was responsible for the tax matter.

21. On or about December 7, 2011, under the direction of TIGTA agents, IRS Employee-1 placed a telephone call to DENNIS LERNER, the defendant, which was monitored and recorded. During the telephone call, IRS Employee 1 and LERNER discussed LERNER's attempts to contact a different IRS employee ("IRS Employee-3"). IRS Employee-1 informed LERNER that IRS Employee-3 was out of the office. LERNER responded "Seems everybody in New York is out of the office. I called 25 phone numbers, no one picked up."

22. On or about December 8, 2011, DENNIS LERNER, the defendant, placed a call to IRS Employee-3, who did not answer. I have reviewed and recorded a message left by LERNER on IRS Employee-3's voicemail. In the message, LERNER stated "this is Dennis Lerner from [Bank 1]. I'm calling on behalf of [Bank 1]. We would like to have a meeting with you to discuss certain IDRs that have been received, uh, with regards to the audit. If you can give me a call back please, (212)[***-****]. I think it is quite important you and I meet to discuss the nature of these IDRs and the continuing audit." Later that day, IRS Employee-3 returned the call to LERNER with another IRS employee on the phone. The phone call was recorded and monitored by me. During this conversation, IRS Employee-3 stated that she was "returning [LERNER's] call." LERNER responded "I'd like to have a meeting with you regarding [Bank 1]." IRS Employee-3 stated "Dennis, I have on the phone with me [another IRS employee], who is territory manager . . . I'm a little bit surprised that you are representing [Bank 1]. Is that correct?" LERNER responded, "Well, I'm the head of tax at [Bank 1]." At this point, the second IRS employee on the call stated "Understood, Dennis . . . as a former

IRS employee, I don't know that you should really be representing the bank on a matter that you participated in while you were here." LERNER responded "Well, that's one of the reasons why I want to have the conversation, because quite frankly, I don't understand why the, the IDR was issued in the first place, and explanation that was given makes absolutely no sense." The parties to the call then discussed certain forms which had been requested during the audit. Later in the conversation, LERNER stated "the bank has already paid a substantial amount of money . . . there's going to be no other payment, in terms of, you know, the rest of the audit, so."

23. I have spoken with officials in the IRS General Legal Service office. This office is charged with addressing any ethical concerns or potential conflicts for IRS employees seeking employment outside of the IRS, as well as restrictions on former IRS employees related to their prior work at the IRS. These officials have confirmed that at no point during his employment at the IRS did LERNER seek any advice regarding potential employment with Bank 1 or any other employer.

24. I have also spoken with witnesses and reviewed documents, which indicate that DENNIS LERNER, the defendant, disclosed confidential tax return information during and after his work as an IRS examiner, including information regarding pending IRS audits and the identity of an individual who had provided confidential whistle-blower information to the IRS. The evidence I have reviewed regarding these matters includes the following:

a. On or about March 23, 2011, Individual-1 sent Lerner an e-mail containing extensive language regarding a request for tax information. This message stated, in part:

For the tax years under audit, please provide a copy of the functional analysis for each of the global trading activities to which a US entity or US team is a participant. Please provide a list of all locations with the Bank participating to the activities, and what their respective roles are? For instance, please outline which entity serves as the booking location, where the traders, marketers, service providers reside, and what types of functions are performed. Please include a description of the Bank's risk management and risk limits policies Please provide a copy of all internal SLA and

TPA agreements which address or cover these trading activities."

Later that day, LERNER sent an e-mail in response stating "Thank you." Individual-1 then responded "You are welcome, but I typed fast, so check some of my spelling. Second sentence should say "within" the Bank. Make sure it reads properly. For the mark-ups, you can ask whether a benchmarking exercise was performed, as well." Based on my experience, my review of other evidence, and my involvement in this investigation, I believe that the first message sent by Individual-1 on March 23, 2011 was a response to a request from LERNER for assistance with a confidential IRS tax inquiry. Among the evidence I have reviewed are IRS documents showing that LERNER used almost the exact language obtained from Individual-1 in the course of an audit of a company.

b. On or about July 29, 2011, LERNER sent Individual-1 an e-mail stating "My day is total crap." Individual-1 responded "what happened?" LERNER stated "They want me to put together the risk analysis for [a specific bank] for all three years by Thursday. That's 13000 pages per return per year going at a time on the computer." Based on my experience, my review of other evidence, and my involvement in this investigation, I believe that when LERNER stated "They want me to put together the risk analysis for [a specific bank] for all three years by Thursday," he was referring to work his supervisor had requested he do in a confidential IRS matter regarding the specific bank LERNER named.

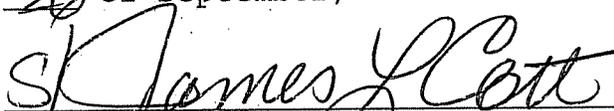
c. After the conversations described above, Individual-2 had additional conversations with LERNER. During one such conversation, in or about October of 2011, LERNER revealed the name of an individual who had provided confidential whistleblower information to the IRS regarding Bank 1, and stated "doesn't it suck that someone you trust would turn their back on you?"

WHEREFORE, deponent requests that DENNIS LERNER, the defendant, be arrested, and be imprisoned or bailed, as the case may be.



ERIK WOOD
Special Agent
Treasury Inspector General for Tax
Administration

Sworn to before me this
26 of September, 2012



HONORABLE JAMES L. COTT
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK

SEP 26 2012