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ONE HUNDRED FIFTH CONGRESS

# Congress of the United States

## House of Representatives

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March 10, 1998

The Honorable Dan Burton  
Chairman  
Committee on Government Reform and Oversight  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Burton:

I received your letter dated March 6, 1998, in response to my February 27, 1998, letter regarding the Donald Lam subpoena.

In your letter, you disagreed with my statement that you are "unilaterally compelling a private citizen to violate a federal law." I am surprised by your complaint, since that is exactly what you are seeking to do when you subpoena an accountant to produce a client's tax preparation materials. I believe the tone of my letter was necessarily serious and concerned, given the subject at hand.

I will not address every point you raise because most of these were addressed in my February 27 letter. I would point out, however, that your citation to the actions of Chairman Dingell turns reality on its head. It is true that Mr. Dingell subpoenaed certain tax preparer information. Once Chairman Dingell became aware that the subpoena would cause an accountant to violate federal law, he did what you should be -- but are not -- doing. He applied to a court for an order to have the tax preparation material made available to his Committee, as prescribed under 26 U.S.C. 7216.

I also question the Committee procedures you are seeking to follow. You may be technically correct that I cannot insist under the House rules on a Committee meeting to resolve my appeal until after you have made an official "ruling" in a deposition or a Committee meeting. I believe, however, that delaying my appeal until such a ruling is a tremendous waste of taxpayer dollars and an unnecessary burden on the witness. The deposition is scheduled to be taken in Los Angeles on March 12. Proceeding with the deposition before my appeal is resolved will require both majority and minority staffs to fly to California to take a deposition that will in all likelihood be recessed once my objection is made on the record.

As I noted in my previous letter, a better approach would be for the Committee to apply for a court order for the subpoenaed documents. If you choose not to follow that course of action, I renew my request that you schedule a Committee meeting to vote on my appeal before needlessly spending taxpayer money on this trip to California.

Sincerely,

  
Henry A. Waxman  
Ranking Minority Member

cc: Members of the Committee on Government Reform and Oversight