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June 6, 2017

**VIA ELECTRONIC TRANSMISSION**

Thomas E. Brandon  
Acting Director  
Bureau of Alcohol, Tobacco, Firearms, and Explosives  
Washington, D.C. 20226

Dear Acting Director Brandon:

On February 22, 2017, the *New York Times* ran a piece that raised questions with the Bureau of Alcohol, Tobacco, Firearms, and Explosives' (ATF) use of confidential informants.<sup>1</sup> Specifically, the story alleged informants were trafficking cigarettes and using profits to fund a secret account that was then used to finance investigations and pay informants without the usual "cumbersome paperwork and close oversight."<sup>2</sup>

Therefore, to better understand the circumstances surrounding ATF's generation and use of these secret funds, as soon as possible, please produce the following:

1. All ATF rules and guidelines relating to the use of so-called "management accounts" by the ATF's agents or others when investigating tobacco diversion.
2. ATF Order 3380.1, titled "Alcohol and Tobacco Enforcement Programs."
3. Any memoranda accompanying ATF Order 3380.1, including any memoranda issued in April 2011.
4. All documents relating to the facts and investigation (the Investigation) giving rise to *U.S. Tobacco Cooperative Inc. v. Big South Wholesale of Va. LLC*, No. 5:13-CV-00527-F (E.D.N.C., filed July 23, 2013), including:

<sup>1</sup> <https://www.nytimes.com/2017/02/22/us/alcohol-tobacco-firearms-cigarettes-millions-secret-bank-account.html>

<sup>2</sup> *Id.*

- a. The ATF's investigative plan for the Investigation;
  - b. The ATF's Undercover Review Committee's approval of the investigative plan, as well as any written concurrence by the Department of Justice for the Investigation;
  - c. All documents relating to deposits or expenditures made into or from accounts to further the Investigation, including any deposits into the "management fund";
  - d. All approvals for any expenditures made from accounts to further the Investigation, including any deposits into the "management fund";
  - e. All Monitored Case Program reports relating to the Investigation; and
  - f. Documents sufficient to show the identities of any non-ATF employee who had approval to deposit or withdraw any funds from any accounts related to the investigation.
5. All documents relating to any discipline, reprimand, warning, or other employment action taken by the Department, including the ATF, against any individuals related to the Investigation, including Thomas Lesnak.
  6. All documents and communications relating to the OIG's review of the Investigation.
  7. The overall number of churning investigations conducted by ATF from July 2011 – present, as well as:
    - a. The number of churning investigations reviewed by the Department; and
    - b. The number reviewed by ATF's Undercover Review Committee prior to submission to the Department.
  8. All audit reports for any ATF investigation involving churning from January 1, 2009 – present.
  9. All case-closing audit reports for any ATF investigation involving churning from January 1, 2009 – present.
  10. All policy guidance issued since the Department's OIG's 2013 report on income-generating operations, including relating to the following:
    - a. Churning;

- b. Tobacco tracking;
- c. Monitored Case Program requirements;
- d. Expenditure approval;
- e. Accounting of funds in investigations using churning; and
- f. Confidentiality of informants and undercover agents.

Thank you for your attention to this important matter. Should you have any questions, please contact Katherine Nikas of my Committee staff at 202-224-5225.

Sincerely,



Charles E. Grassley  
Chairman  
Committee on the Judiciary

cc: The Honorable Dianne Feinstein  
Ranking Member  
Committee on the Judiciary