

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

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PUBLIC RESOURCE.ORG)	
)	
Plaintiff)	
)	
v.)	Case No: 3:13-cv-2789
)	
INTERNAL REVENUE SERVICE,)	
)	
Defendant.)	
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DECLARATION OF DENISE HIGLEY

I, Denise Higley, pursuant to the provisions of 28 U.S.C. § 1746, declare as follows:

1. I am a Lead Management and Program Analyst in the HQ Disclosure Office's Freedom of Information Act (FOIA) function of the Internal Revenue Service (IRS). I have been employed with the IRS since April 26, 1977, and employed in the Office of Disclosure since February 1999. My duties include responding to requests for agency records under the FOIA and other access statutes. These duties require that I have knowledge of the types of documents created and maintained by the various divisions and functions of the IRS and an understanding of the provisions of the FOIA, which exempts certain types of documents from disclosure in response to a request.
2. As part of my duties, I was assigned to process the plaintiff's FOIA request dated March 11, 2013, which I received on March 12, 2013. The plaintiff's request sought Form 990 (*Return of Organization Exempt from Income Tax*) for nine exempt organizations in the Modern e-File (MeF) format.
3. I had never received a request for a Form 990 in MeF format before, and, to the

best of my knowledge, this is the first request for this format that the IRS has ever received.

4. I am aware that most of the Form 990 series exempt organization returns are available for public inspection pursuant to section 6104 of the Internal Revenue Code. Accordingly, the IRS has routine agency procedures to provide copies upon request via a Form 4506-A (*Request for Public Inspection or Copy of Exempt Organization IRS Form*). A copy of Form 4506-A is attached to this declaration as Exhibit 101.
5. The Form 4506-A offers a choice of “raw” or “alchemy” formats, but does not provide for the MeF format.
6. I am aware that Forms 4506-A requests for exempt organization returns are processed by the RAIVS unit in Ogden, Utah. On March 13, 2013, I called the RAIVS unit and spoke to an employee about the formats that are available through RAIVS. I learned that the “raw” and “alchemy” formats listed on the Form 4506-A apply only to CD requests, and not to individual requests for a Form 990. The PDF TIF format is what RAIVS provides to individual requesters.
7. I did not search for the requested returns in the MeF format because the returns are available through the routine agency procedures.
8. By letter dated March 19, 2013 I advised the requester that he should follow the routine agency procedures and submit a Form 4506-A to the RAIVS Unit for copies of the Forms 990. I included a copy of the Form 4506-A with my response letter to assist him with his request.

9. Since receipt of the FOIA request for Forms 990 in the MeF format from Public Resource, the IRS HQ FOIA Office received two other requests for Forms 990 in the MeF format. One of these requests was submitted by plaintiff's counsel on behalf of Carl Malamud, one of plaintiff's officers.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 13th day of August, 2014.



Denise Higley
Lead Management and Program Analyst
HQ FOIA Office
Internal Revenue Service
Ogden, Utah