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Office:

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From:

Sent: Thursday, July 10, 2008 4:42:24 PM

To:

Cc:

Subject: Notarized Correspondence Following FOIA Appeal

Dear _____ :

This confirms the voice mail message I left for you earlier this week in response to your request, below, for direction concerning correspondence received from a FOIA requester following Appeals' affirmance of the Disclosure Officer's actions.

According to your incoming request, your office upheld the Disclosure Officer's determination to deny a FOIA request for the requester's DIF score and Form 1041, but to otherwise release all available information. The DIF score was withheld as exempt from disclosure and the Form 1041 could not be located. Following Appeals' decision to uphold the Disclosure Officer's determination, Appeals received correspondence from the FOIA requester as listed below. You have requested advice on whether a response to this correspondence is required and if so, what response should be made.

The correspondence you have described is frivolous and does not require a response. Our office has seen similar documents submitted by persons making meritless challenges and protests to the internal revenue laws and the authority of federal courts to hear tax cases. Courts have routinely rejected these types of documents as frivolous and of no legal effect. See, for example, the court's opinion in *United States v. Uptergrove*, 2008 U.S. Dist. LEXIS 2261 (E.D. Calif. 2008), in which the taxpayers submitted similarly-styled documents such as "Notice of Default, File on Demand By Special Appearance" and "Refusal for Cause Without Dishonor" in response to discovery requests. The district court concluded that the taxpayers actions were taken "in the cynical disdain for the rules of civil procedure relating not only to discovery, but to the entire judicial system" and punished the taxpayers with appropriate sanctions.

Accordingly, you need not respond to the notarized correspondence your office received following the conclusion of the FOIA appeal, and the case may remain closed.

Please contact me if there are any questions concerning the foregoing or if you require further assistance.