

200826043

Internal Revenue Service
Appeals Office
1352 Marrows Road, Suite 104
Newark, DE 19711

Date: **MAR 21 2008**

UIL Index:

501.03-30
501.38-00

Department of the Treasury

Employer Identification Number

Person to Contact:

Employee ID Number:

Tel:

Fax:

Refer Reply to:

AP:FE:AP4:

In Re:

Application for Recognition of
Exemption - IRC Section 501(c)(3)

Form Required to be Filed:

1120

Tax Years:

and subsequent years

**Last Day to File a Petition with the
United States Tax Court:**

CERTIFIED MAIL

Dear

This is a final adverse determination as to your exempt status under section 501(c)(3) of the Internal Revenue Code. It is determined that you do not qualify as exempt from Federal income tax under Section 501(c)(3) of the Internal Revenue Code, effective December 1,

Our adverse determination was made for the following reason(s):

Based on the facts and information submitted, you are not operated exclusively for exempt purposes as is required under I.R.C. section 501(c)(3).

Based on the facts and information submitted, your purposes are contrary to a fundamental public policy.

Contributions to your organization are not deductible under code section 170.

You are required to file Federal income tax returns on the form indicated above. Processing of income tax returns and assessment of any taxes due will not be delayed in the event that you file a petition for declaratory judgment under Code section 7428.

If you decide to contest this determination under the declaratory judgment provisions of code section 7428, a petition to the United States Tax Court, the United States Court of Claims, or the district court of the United States for the District of Columbia must be filed before the 91st (ninety-first) day after the date this determination was mailed to you. Contact the clerk of the

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appropriate court for rules for filing petitions for declaratory judgment. To secure a petition from the United States Tax Court, write to United States Tax Court, 400 Second Street, NW, Washington, D.C. 20217.

We will notify the appropriate State officials of this action, as required by Code section 6104(c).

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

You also have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures such as the formal appeals process. The Taxpayer Advocate is not able to reverse legally correct tax determinations, nor extend the time fixed by law that you have to file a petition in the U.S. Tax Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. If you want Taxpayer Advocate assistance, please contact the Taxpayer Advocate for the IRS office that issued this notice of deficiency. See the enclosed Notice 1214, *Helpful Contacts for Your "Notice of Deficiency"*, for Taxpayer Advocate telephone numbers and addresses.

Thank you for your cooperation.

Sincerely,



CHARLES FISHER
APPEALS TEAM MANAGER

Enclosures:

Notice 1214 - Helpful Contacts for your Deficiency Notice



200826043

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date:

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

Legend:

A = Applicant Organization
B = State located
C = Nonprofit State Code
D = Founder's Name
E = Date of Incorporation
F = Filing Date
G = Beginning Date referred to by the Founder
H = Ending Date referred to by the Founder

UIL Index:

501.03-30
501.38-00

Dear

We have considered your application for recognition of exemption from Federal income tax under Internal Revenue Code section 501(a). Based on the information provided, we have concluded that you do not qualify for exemption under Code section 501(c)(3). The basis for our conclusion is set forth below.

Facts:

On E the applicant organization A was incorporated pursuant to the B Nonprofit Corporation Act under C. Article III of the Articles of Incorporation states the purposes for which the corporation was organized are: "Charitable." "Working for law change to protect the rights of sexual active consenting kids and adults, and to amend child sexual photography law; to provide counseling to sexual active kids and adults; and scientific studies; educational & artistic."

The applicant organization filed its Form 1023 application on F.

The narrative description of activities in the attachment to Part V of the Form 1023 application states that the organization's activities are:

"To executive scientific study and research into the pros and cons of decriminalizing natural consensual sexual behaviors between adults and underagers and decriminalizing what is defined as child pornography. Such research and studies will consist from secondary anaalysis a research method in which a researcher uses data collected by others, also research and study will be recorded from oral visitation and observation of consenting participants, ALSO such studies and research will include trips of travel world-wide and will be executed by myself or by paid part-time employees or by volunteers. Such study and research will also look into the relationship of forced abstinence and why it produces hateraid and violense. Such findings or conclusive facts will be converted into educational material and will be distributed to the general public and legislatures for tconsideration for use in law reforming/repeals/ decriminalization/or use in making new law bills."

"Secondary programs will promoot safe sex; promoot friendship/peace and love indiscriminally world-wide; another program will advocate suicide preventions; another program will use any surplues funds to provide food in life or death situations to the hungry world-wide; Another program provides mentoring to any aged person whom either asks for mentoring or whom I feel is consenting to my mentoring and may better their need from it; Another program will advocate anti-illegal drugs. Overall (A) research and studies will show and tell the facts of how human-kind have naturally experimented in sexual behaviors with one-another and-other creatures or and material objects sense the beginning of time, (A) will in the futurer host a show and tell room of artifacts displaying nudity/sexual behaviors/etc. in statue or and in historic replicas stauue and painting forms and in possible preserved cadaverous nude poses with educational material attachments. Evidence of today factually shows a sharp increase in adult and underagers hateraided and violense as result of bills being made into law or by the strenghentened old sexual behavior and pornography law reforms that fruited from the political haste from the 1980tys Ronald Reagan Administration's appointed Meese commission as a ouick-fix to remedy a small percentage of unconsenting human sexual behaviors that fruited a few victoms. While those well intended laws remedied a small percentage of those sex abuse cases those laws went-on to perpetually to victimoze the general public at the larger percentage and today yet no one to my knowledge realizes the harms these precieved to be ex post facto laws have done and continue to do to society at large and its justice system that is nagatively effecting the UNITED STATES reputation and creditability country-wide. AS A CLAIRVOYANT I HAVE THE GOD AND MOTHER_NATURES GIFT OF THE FUTURE INSIGHT TO A SERIOUS PROBLEM THAT COULD EVENTUALLY HARM THE UNITED STATES BEYOND REPAIR IF LEFT UNINTENDED."

In addition, to "A's show room" the organization has acquired books for its library and will publish its own educational books and artworks. The show and tell room and library are open to the general public and there will be no admission charges.

The Founder and Executive Director of A is D. D is currently the sole officer and board member.

The attachment to Part V of the Form 1023 application states that the qualifications of D are "Life-long Bisexual identity. Creditable, on former seasonal employment jobs I held management posisions. From till I owned & operated myown profitable salage yard business with some ten PART_TIME EMPLOYEES. College diplomaed in graphic arts and theology and ordained minister. I am presentally continuing my college rducation as a full time student working to a degree in psychology and social science. I already oualified as a natural scientist by

my unique life-long study and research as an outgoing active bisexual who has been there done that with all the differing sexual identified sexed humans. formerly a boy scout and little league baseball player. Life-long (B) U.S.A. citizen. Mentored adults and juvenile delinquents for some 40 years on-going today. Legally operated and founded A, a disadvantaged organization because of lack of funds and because I was imprisoned from through as a first time felon on two counts of sex abuse (Its District court documented on trial transcripts where the alleged two teenaged male victims testified under oath they were not victims and (D) did not harm them on the alleged two sexual behavior acts they consented to, and they stated the hate-monger 300 some pound deputy sheriff coerced them into perjury against (D) by putting his gun to their heads with death threats; the prosecutor agreed with the victims testimony but denied any wrong doing by the deputy sheriff. Officials fabricated those two criminal charges in retaliation for (D) former criminal whistle-blowings against that local sheriff, his deputies and prosecutor, also (D) had a pending civil suit filed in the U.S. District court that was nearing its docketed jury trial date in December of and because all law enforcement knew that sex offender crimes, regardless of innocence or guilt is the easiest crime to obtain a conviction on is why the civil suit defendants retaliated with the sex charges untried of fabricating a different type of crime.

The Bylaws state, in part, under item #2 that:

"(C) No member will have the voting power to remove the Executive Director unless said director is found guilty in a court of law of a felony of mis-using the incorporations funds for his/her own personal gain.

(D) In the event of Death of the Executive Director, all members shall be notified within 30 days, and members shall hold a special vote to elect a new Executive Director...

(E) The Executive Director is to have over ten years of scientific study & research into human sexuality, psychosexuality, criminology, mystics, no college degrees are required but natural experiences are required. Said director shall be open minded to every form of human sexual identities & preferences and shall not discriminate to any adult or child, and said director & members included shall assist any non member or even member who may be in need of counseling, or in need of any other form of assistance as a last resort to safe guard their life, said members shall report them to the incorporations office immediately so that the incorporation can consider assisting them in any way possible within the incorporations goal carrying-out programs.

(F) Members shall not promote, but will not deny the fact of past & present human history that humankind from youth on-through adulthood has in majority been sexual active whether be in promiscuous, deviant, or experimentation sexual acts, and members will promote safe sex education and say no to illegal drugs uses until the event that they become legalized, members will promote feed the hungry, suicide prevention and any amended programs as the incorporation finds such a public need to add such programs that will benefit society at large. No member shall promote any kind or form of laws or advocacy person or organization whose goals promote of influence hatred or/and violence."

The bylaws further state, in part, that "The Executive Director shall act as officer, treasurer until at such a time a need arises to appoint officers and a treasurer, or at a time when the corporation has funds on hand exceeding five million dollars" and that "The executive director, officers, directors, treasure and all members shall at all times promote educational nudist camps & organizations family or single nudists, and that in acts of harmless consensual sex that abstinence is the safest way but that sexual experimentation is a natural act and safe-sex is a must, members will also promote that artistic use of human nudity young and old, plus promote all other of the incorporations programs mentioned so far in these by-laws at hand."

The administrative file shows the Executive Director, D's qualifications include management experience, qualifies as a natural scientist and a life time study and researcher. D is also a practicing free-lance writer and artist.

The file also states that A "is a disadvantaged organization because of lack of funds and because I was imprisoned from G through H as a first time felon on two counts of sex abuse."

A copy of a newsletter published by the organization was submitted by the applicant. Among other things, it indicated that B's "attorney general has falsely imprisoned me as a first time felon for over 22-years ongoing today for personal financial gain motives and the two counts of sex abuse charges were fabricated for the purpose of deceiting the general public and the appeals courts". The newsletter further states that the organization "was not founded for my own personal use & gain the fact my sexual conviction case is one case out of millions of other adults and juveniles sexual abuse criminal and civil cases that have occurred over the last 30ty some years accross the United States, plues A educational goal is aimed at every human being in the world and it is not aimed solely at those who are or have been accused of convicted at sexual crimes." The newsletter also indicates that D was a "natural scientist who has discovered scientific and other evidense facts that prove beyond doubt that there is a mandatory need to preserve human sexual experimentations of human kind regardless of age indifferences, and that some governmental made sexual laws that prohibit such natural acts of consensual sexual behaviors are on a destructive course that is fastly destroying societies best interests at large and such as bearing fruit of hate and violense putting human being against another human being." Later the newsletter indicates that A "was organized and is operating primarily not for influencing a change in the laws concerning sexual exploitation of children, (A) was and is organized to execute natural scientific study & research on the pros and cons of human sexual behaviors and to convert the conclusive findings into educational materials and advocacy and to make such available to the general public at large worldwide."

In the addition information letter sent to the applicant the organization's founder was asked to comment on statements made in the Court of Appeals of B about the formation of A.

The founder had filed an appeal on F on his civil commitment as a sexually violent predator.

The Court records noted the founder's formation of a corporation with a stated purpose of advocating for reform and repeal of sex abuse laws. It was also recorded by the court that the founder was asked if he believed that sex between children and adults could actually be helpful to them. The founder's recorded reply was "yes I do."

The B Court of Appeals concluded that the district court did not abuse its discretion in admitting the evidence and affirmed the decision that D was a sexually violent predator.

Tax Law:

IRC § 501(c)(3) of the Code exempts from federal income tax corporations organized and operated

exclusively for charitable, educational, and other purposes, including the prevention of cruelty to children or animals provided that no part of its net earnings inures to the benefit of any private shareholder or individual and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation.

US Code Title 18 § 2251 prohibits the sexual exploitation of a minor.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations states, "In order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational or operational test, it is not exempt."

Section 1.501(c)(3)-1(b)(1)(i) of the Regulations provides that an organization is organized exclusively for one or more exempt purposes only if its articles of organization:

- (a) Limit the purposes of such organization to one or more exempt purposes; and
- (b) Do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities that in themselves are not in furtherance of one or more exempt purposes.

Section 1.501(c)(3)-1(c)(1) of the Regulations states that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Rev. Rul. 75-384, 1975-2 C.B. 204 holds that an organization formed to promote world peace that planned and sponsored protest demonstrations at which members were urged to commit acts of civil disobedience did not qualify for IRC 501(c)(3) or (4) exemption.

Violation of constitutionally valid laws is inconsistent with exemption under IRC 501(c)(3). As a matter of trust law, one of the main sources of the general law of charity, planned activities that violate laws are not in furtherance of a charitable purpose. "A trust cannot be created for a purpose which is illegal. The purpose is illegal ... if the trust tends to induce the commission of crime or if the accomplishment of the purpose is otherwise against public policy.... Where a policy is articulated in a statute making certain conduct a criminal offense, then ..., a trust is illegal if its performance involves such criminal conduct, or if it tends to encourage such conduct." IV Scott on Trusts Section 377 (3d ed. 1967). Thus, all charitable trusts (and by implication all charitable organizations, regardless of their form) are subject to the requirement that their purpose may not be illegal or contrary to public policy. Rev. Rul. 71-447, 1971-2 C.B. 230; Restatement (Second) of Trusts, Section 377, Comment c (1959). Moreover by conducting criminal activities, an organization increases the burden of government and thus thwarts a well recognized charitable goal, i.e., relief of the burdens of government.

Application of Law:

IRC § 501(c)(3) of the Code exempts from federal income tax corporations organized and operated exclusively for charitable, educational, and other purposes, including the prevention of cruelty to

children. A was not formed for any charitable or educational purpose but was formed to sexually exploit children by promoting the repeal of child pornography and exploitation laws.

A was formed for the purpose of "working for law change." In addition, the organization's primary activity is to "research the pros and cons of decriminalizing sex between adults and minors and decriminalizing child pornography." The research is to be "converted into educational materials to be distributed to the general public and legislatures for consideration for use in law reforming/repeals/ decriminalization/or use in making new law bills."

The application Form 1023 articulates the organization's primary activity and purpose is to decriminalize or change laws that prohibit the sexual exploitation of a minor. In addition, the policy "working for law change concerning the rights of sexual active consenting kids and adults" is stated in the purpose clause of the organizing documents. Therefore, the purpose for which the organization is formed is contrary to public policy to protect the sexual exploitation of children.

The purpose clause in A's organizing document does not meet the organizational test. IRC § 501(c)(3) states that exempt purposes include the prevention of cruelty to children and that no part of its net earnings inures to the benefit of any private shareholder or individual and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation.

The Bylaws provide D a lifetime position as Executive Director to ensure the furtherance of the organization's purpose and goals. Court documents report the founder's views are in favor of sex between children and adults and that the formation of D's corporation A is to work towards reform and repeal of sex abuse laws. The court documents and decision to affirm the classification that D as a violent sexual predator supports the fact that D formed A to change laws that adversely affect the founder of A. Therefore, the formation of a corporation to work towards reforming laws to legalize sexual abuse of minors is for the private benefit of the founder and not in furtherance of a charitable purpose.

US Code Title 18 § 2251 prohibits the sexual exploitation of a minor. The purpose and activities of the organization involve the purposeful sexual exploitations of minors.

Like the organization in Revenue Ruling 75-384 that did not qualify for 501(c)(3) or 501(c)(4) exemption, this organization encourages individuals to violate the law.

Applicants Position:

The Executive Director/Founder for A stated in response to the additional information letter that his corporation "was not founded for my own personal use & gain." "The fact my sexual conviction case is one case out of millions of other adults and juveniles sexual abuse criminal and civil cases that have occurred over the last 30 some years across the United States, plus A educational goal is aimed at every human being in the world and it is not aimed solely at those who are or have been accused of convicted at sexual crimes."

In reference to the comments made in the court of appeals D explained that "a lot of the statements in that 11 page civil appeal at hand are false & propaganda that was written by the said official

conspirators." "In conspiracy B's Attorney General had falsely imprisoned me as a first time felon for over 22 years ongoing today for personal financial gain motives and the two counts of sex abuse charges were fabricated for the purpose of deceiving the general public and the appeals courts." "Shortly after I founded A the department of corrections in conspiracy with the Attorney General attempted to destroy A because it would give D to much credibility with the state and federal political authorities and might be able to publicly expose the corruptions within the B justice system along with ex post facto sexual laws...I do plan a future U.S. civil suit against the B Attorney General for bringing up A's name & fabricating mistruths about A at my civil prosecution trials."

In support of the qualifications for exemption under IRC § 501(c)(3) the applicant stated that "A is an educational organization and it's in the prevention of cruelty to children and adults, A's educational advocacy is directed to society at large, there is no direct influence to legislation." "The fact A is mandated by law to make it's financial log books open to the general public, A is licensed to be an educational advocacy, there is no way humanly possible to stop a legislature from reading A's educational materials if she or he decides to take it on themselves to read or view it." "Any educational statements from A can be defended with either scientific facts or from secondary facts from governmental public files or other expert's files, etc."

The applicant also stated that "A was organized and is operating primarily not for influencing a change in the laws concerning sexual exploitation of children, A was and is organized to execute natural scientific study & research on the pros and cons of human sexual behaviors and to convert the conclusive findings into educational materials and advocacy and to make such available to the general public at large worldwide."

Response to Applicant's Position:

The applicant's position that A is educational and not organized and operating for influencing a change in the laws does not agree with the stated purposes for which the organization was formed.

The purpose clause in the Articles of Incorporation says that the corporation was organized to "work for law change to protect the rights of sexual active consenting kids and adults and to amend child sexual photography law."

The application states that the activities include the study and research into the pros and cons of decriminalizing what is defined as child pornography. To decriminalize child pornography the organization's activities would require working for law change as stated in A's organizing documents.

The Founder is the sole officer and the Executive Director. Provisions in the bylaws say that the Executive Director is responsible in carrying out the corporation's goals and the Executive Director position is for the life time of that individual.

The B Court of Appeals records referred to in the additional information requests show that the founder formed A with a stated purpose of advocating for reform and repeal of sex abuse laws. In the documented statements the founder stated that statistics discovered by A shows that sex between children and adults is beneficial to society. The court affirmed D's classification as a sexually violent predator. The public court records provide further evidence that D's purpose for

forming **A** is to work for law changes that support **D**'s criminal defense. The Founder's position that the **B** Attorney General and the Department of Corrections are in conspiracy to destroy **A** are only accusations and are not found to be factual statements in the courts.

Conclusion:

The organization's primary activity and purpose is to decriminalize or change laws that prohibit the sexual exploitation of minors. The Founder, sole officer and Executive Director of the organization, **D**, has been affirmed by the U.S. Court system as a violent sexual predator.

IRC § 501(c)(3) of the Code exempts from federal income tax corporations organized and operated exclusively for charitable, educational, and other purposes, including the prevention of cruelty to children. **A** was not formed for any charitable or educational purpose but was formed to sexually exploit children by promoting the repeal of child pornography and exploitation laws. US Code Title 18 § 2251 prohibits the sexual exploitation of a minor. The purpose and activities of the organization involve the purposeful sexual exploitations of minors.

Accordingly, **A** does not qualify for exemption under Section 501(c)(3) of the Code.

You have the right to file a protest if you believe this determination is incorrect. To protest, you must submit a statement of your views and fully explain your reasoning. You must submit the statement, signed by one of your officers, within 30 days from the date of this letter. We will consider your statement and decide if the information affects our determination. If your statement does not provide a basis to reconsider our determination, we will forward your case to our Appeals Office. You can find more information about the role of the Appeals Office in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*.

An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you during the appeal process. If you want representation during the appeal process, you must file a proper power of attorney, Form 2848, *Power of Attorney and Declaration of Representative*, if you have not already done so. You can find more information about representation in Publication 947, *Practice Before the IRS and Power of Attorney*. All forms and publications mentioned in this letter can be found at www.irs.gov, Forms and Publications.

If you do not file a protest within 30 days, you will not be able to file a suit for declaratory judgment in court because the Internal Revenue Service (IRS) will consider the failure to appeal as a failure to exhaust available administrative remedies. Code section 7428(b)(2) provides, in part, that a declaratory judgment or decree shall not be issued in any proceeding unless the Tax Court, the United States Court of Federal Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted all of the administrative remedies available to it within the IRS.

If you do not intend to protest this determination, you do not need to take any further action. If we do not hear from you within 30 days, we will issue a final adverse determination letter. That letter will provide information about filing tax returns and other matters.

Please send your protest statement, Form 2848, and any supporting documents to the applicable address:

Mail to:

Internal Revenue Service
EO Determinations Quality Assurance
Room 7-008
P.O. Box 2508
Cincinnati, OH 45201

Deliver to:

Internal Revenue Service
EO Determinations Quality Assurance
550 Main Street, Room 7-008
Cincinnati, OH 45202

You may fax your statement using the fax number shown in the heading of this letter. If you fax your statement, please call the person identified in the heading of this letter to confirm that he or she received your fax.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Rob Choi
Director, Exempt Organizations
Rulings & Agreements