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JUL 29 1996

EIN: _____
Key District: Northeast (Brooklyn, NY)

Dear Applicant:

We have considered your application for recognition of exemption from Federal Income tax under section 501(c)(4) of the Internal Revenue Code and have determined that you do not qualify for exemption under this section. Our reasons for this conclusion and the facts upon which it is based are explained below.

The information submitted shows that you were incorporated under the non-profit corporation laws of the State of _____ on _____. You were formed by twenty-five _____ state legislators and five local elected _____ officials. You are an outgrowth of the _____ ("_____"). In your original Articles of Incorporation, dated _____, you were established to: (a) give _____ at the grassroots a chance to join the national _____ in shaping an agenda for the _____ party and the nation, (b) promote the _____ agenda in _____ and its political subdivisions, (c) influence the message of the national and state _____ parties, (d) become a part of a network of grassroots _____ all over the country, which will make up the _____'s Mainstream Movement, and (e) promote voter education and public policy activities. On _____, you restated your Articles. Your new Articles provide that your purposes are to: (1) encourage public dialogue on issues of state and national significance, (2) formulate innovative policies to address these issues, and (3) promote voter education and public policy activities.

Your by-laws indicate that you will be governed by an Executive Board which includes your officers. In _____, you reported that your officers included four _____ members of _____ House, a _____ mayor, and a _____ State

[REDACTED]

Committeewoman.

In furtherance of your new purposes, you plan to hold public policy forums on current social, economic and foreign policy issues to give [REDACTED] residents an opportunity to have input into public policy at the state and national levels. You state that you will attempt to encourage innovative approaches and positions in public policy questions, through a variety of avenues including: educating public officials about current issues; fostering a better informed and more active public; and urging the [REDACTED] Party and its leaders to adopt new approaches to issues.

Thus far, you have held several forums. On [REDACTED], you held a domestic policy forum entitled "[REDACTED]", for the benefit of both you and the [REDACTED]. Senator [REDACTED], a [REDACTED] officer, was the keynote speaker. The forum's program indicated that several [REDACTED] Congressmen would discuss issues ranging from fiscal discipline to [REDACTED] capitalism. In [REDACTED] of [REDACTED], a health care forum entitled "[REDACTED]": [REDACTED]. Other forums have addressed topics such as tax structure, environmental regulations and utilities.

You are a membership organization and expect to be supported financially by corporation and foundation grants, fund-raising events, donations and membership dues. Your membership is composed primarily of active [REDACTED] Party legislators.

Your membership application is provided by the [REDACTED] [REDACTED]. Members may subscribe to the [REDACTED] Magazine, which is published by the [REDACTED] six times a year.

Section 501(c)(4) of the Code provides for exemption from Federal income tax of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community, i.e., primarily for the purpose of bringing about civic betterment and social improvements. A "social welfare" organization will qualify for exemption as a charitable organization if it falls within the definition of

[REDACTED]

"charitable" set forth in paragraph (d)(2) of section 1.501(c)(3)-1 and is not an "action" organization as set forth in paragraph (c)(3) of section 1.501(c)(3)-1.

Section 1.501(c)(4)-1(a)(2)(ii) of the regulations provides that the promotion of social welfare does not include direct or indirect participation in political campaigns on behalf of or in opposition to any candidate for public office.

Rev. Rul. 73-306, 1973-2 C.B. 179, provides that an organization formed for the purpose of promoting the common interest of tenants who reside in an apartment complex does not qualify for exemption under section 501(c)(4) of the Code. Any person regularly living in the complex is eligible for membership. The organization represents its members-tenants in negotiations with the management of the complex in order to secure better maintenance and services, and reasonable rentals. The Service concluded that this organization was not described in section 501(c)(4) of the Code because it operated to benefit its members and was not primarily engaged in activities that promote the common good and general welfare of the community.

In Rev. Rul. 73-349, 1973-2 C.B. 179, an organization formed to purchase groceries for its membership at the lowest possible prices on a cooperative basis was not exempt under section 501(c)(4) of the Code. Each member paid for the cost of food ordered plus a monthly service charge which defrayed the organization's expenses. The organization was a cooperative enterprise for the economic benefit or convenience of its members. The Service stated that the organization was operated primarily for the benefit of its members and not to promote the common good and general welfare of the community. The ruling relied on Commissioner v. Lake Forest, Inc., 305 F.2d 814 (4th Cir. 1962), which held that a corporation that provided housing on a cooperative basis lacked the necessary requirements of an organization described in section 501(c)(4) because the corporation operated as a private self help enterprise with only incidental benefit to the community.

Rev. Rul. 79-316, 1979-2 C.B. 228, concerns an organization whose purpose was to prevent liquid spills, primarily oil spills, within a city port area and to develop a program for the containment and cleanup of liquid spills that occurred. The organization was a membership organization but it participated in the cleanup of all spills regardless of whether they were caused by members or nonmembers. The charge for cleaning up was the same for members and nonmembers. By preventing and cleaning up liquid spills that endanger marine life and foul recreational

[REDACTED]

beaches and shore-front property in the port area, the organization was primarily engaged in activities designed to benefit all inhabitants of the community served by it. In concluding that the organization qualified for exemption under section 501(c)(4), the revenue ruling emphasized the substantial benefit flowing to the community. Since all spills were cleaned up and uniform prices were charged, benefits to members were incidental to the organization's primary activity which provided benefits to the community as a whole.

Rev. Rul. 79-316, *supra*, should be contrasted with Contracting Plumbers Cooperative Restoration Corp. v. United States, 488 F.2d 684 (2nd Cir. 1973), cert. denied, 419 U.S. 827 (1974). In Contracting Plumbers, plumbers working in New York City were responsible for the repair of "cuts" they made in the city streets. Prior to the organization's existence, the city had repaired the cuts and billed the plumbers individually. This system proved to be highly inefficient. The organization was formed as a cooperative in order to restore the city streets. It only repaired cuts made by its members. The joint effort of the plumbers reduced their liability and their expenses. While the court found the program to be highly beneficial, it concluded that the organization principally served the private economic interests of its members and thus, could not be considered exempt under section 501(c)(4) of the Code.

In American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989), a school, organized to train individuals as political campaign professionals, was denied exemption under section 501(c)(3) because the school operated for the substantial nonexempt purpose of benefiting the private interests of Republican Party entities and candidates. Although the school had a legitimate educational program, the Tax Court held that the school conducted its educational activities with the partisan objective of benefiting the private interests of the Republican Party as evidenced by:

- 1) the composition of the school's board of directors,
- 2) the failure of the school to counterbalance the Republican party focus of its curriculum with comparable studies of the Democratic or other political parties,
- 3) the incorporation of the school by the General Counsel of the NRCC, an unincorporated association comprised of Republican members of the House of Representatives and

- [REDACTED]
- 4) a lack of showing by the school that its graduates served in Congressional and Senatorial campaigns of candidates from both major political parties in substantial numbers.

We think that section 501(c)(3) precedent is relevant in this situation because both your organization and the school in the American Campaign Academy case are operated to benefit a political party and not for the general benefit of the community.

The above cases and rulings confirm the principle that organizations described in section 501(c)(4) must primarily promote the common good of the community as a whole rather than benefit select individuals. A review of the information submitted clearly indicates that you are being operated primarily for the benefit of a select group, (the [REDACTED] Party and politicians affiliated with the [REDACTED] Party) and not for the benefit of the community as a whole.

As stated in your original Articles of Incorporation and membership application, you were created to help [REDACTED] create a new agenda and to influence the national and state [REDACTED] parties. This new agenda will represent "[REDACTED]." Your activities benefit [REDACTED] by creating a mainstream [REDACTED] agenda to help [REDACTED] to win elections and, thereby, to continue their political careers.

Your activities are also designed to enhance the electoral and political fortunes of the Party. Party identification is strengthened when individuals participate in your partisan activities. These activities generate public support and enthusiasm for your policies and positions. In turn, the public support and enthusiasm may enhance the election or reelection prospects of [REDACTED] politicians (i.e. their political careers) and, thereby, the fortunes of the [REDACTED] Party. Your activities are partisan in nature due to the fact that [REDACTED] are the major participants.

Because you are operated primarily to benefit a small group rather than the community as a whole, you are not operated exclusively to promote social welfare. Also you are not operated primarily to promote social welfare because you conduct political partisan activities. Accordingly, you do not qualify for exemption as an organization described in section 501(c)(4) of the Code and you must file federal income tax returns.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your

[REDACTED]

views, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

You will expedite our receipt of your reply by using the following address on the envelope:

Internal Revenue Service
1111 Constitution Avenue
Washington, D.C. 20224
Attn: CP:E:EO:T-2, Room 6138

Sincerely yours,

[REDACTED]
Acting Branch Chief,
Exempt Organizations
Technical Branch 2

cc: DD, Brooklyn
Attn: EO Group

[REDACTED]

CP:E:EO:T:2
[REDACTED]

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7/29/96

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