

Closed - No Protest Received

[REDACTED] 5/10/92
[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

MAR 26 1992

RECEIVED
JAN 08 1992
EPIEO STATE DISTRICT
ATLANTA KEY DISTRICT

Employer Identification Number: [REDACTED]
Key District: [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code and have concluded that you do not qualify under that section for the reasons herein set forth.

You were incorporated under the laws of the State of [REDACTED] in [REDACTED] for the purpose, as stated in your Articles of Incorporation, "to further the development of human potential through exploring new boundaries and territories of our existing paradigm". It is stated in a narrative description of your purposes that you are acting as a vehicle for the dissemination of the message of the Pleiadians. To quote from your literature: "The Pleiadians of are a collective of extraterrestrials from the star system the Pleiades. The Pleiadian culture is ancient and was 'seeded' from another universe of love long before Earth was created. They have formed a tremendous society which operates with love, with ideas and ideals that we are yet unfamiliar with. The Pleiadians call themselves our ancient family because many of us come here from the Pleiades to participate in the new experiment of Earth. The Pleiadians are now here as ambassadors from another universe to help Earth through her difficult transition from the third dimension to the fourth dimension and to assert each of us in our personal endeavors of awakening, remembering and knowing".

You are the successor to the sole proprietorship of [REDACTED] that had the same purposes and conducted the same activities that you presently engage in. [REDACTED] is your President, Executive Director and trustee.

It is asserted that [REDACTED] communicates directly with the Pleiadians and through her their message is brought to

████████████████████

individuals who participate in your activities. She does not see the Pleiadians but senses their presence. Through these "channeling sessions" the "experience" of communication with "other than physical" forms of intelligence occurs. The Pleiadians message is one of working and living in harmony so as to create a planetary role model of behavior.

In pursuit of her activities, ██████████ travels extensively and conducts classes and workshops for various fees, depending on related expenses. You receive royalties from commercial entities from the sale of magazines, books and tapes. You also sell tapes directly. Sacred Site trips are arranged with "seminar" fees up to \$████ a week. It is noted too that individuals and organizations often sponsor your workshops and classes and you pay them commissions on your receipts therefrom.

Section 501(c)(3) of the Code provides exemption to organizations organized and operated exclusively for purposes that include educational, charitable, or that foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment).

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides that 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 test or operational test, it is not exempt.

Section 1.501(c)(3)-1(c)(1) of the Regulations provides 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). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(1)(i) of the Regulations states that an organization is not operated exclusively for section 501(c)(3) purposes unless it serves a public rather than a private interest. Thus, to qualify under section 501(c)(3) an organization must establish that it is not organized or operated for the benefit of private interests such as designated individuals, or person controlled directly or indirectly by such private interests.

Section 1.501(c)(3)-1(d)(3) of the Regulations provides that the term "educational" as used in section 501(c)(3), relates to -

- (a) The instruction or training of the individual for the purpose of improving or developing his capabilities; or
- (b) The instruction of the public on subjects useful to the individual and beneficial to the community.

Any private benefit arising from an organization's activities must be incidental in both a qualitative and quantitative sense if an organization is to be entitled to exemption under section 501(c)(3). That is, an activity may provide an indirect benefit to private interests, and thus be incidental from a qualitative standpoint, but if it provides a substantial benefit to private interests, albeit indirectly, it will negate charity and exemption under section 501(c)(3).

If an activity provides a direct benefit to private interests, it does not matter that the benefit may be quantitatively insubstantial; the direct benefit is deemed repugnant to the idea of an exclusively public charitable purpose and the organization cannot be exempt under section 501(c)(3).

In Rev. Rul. 69-266, 1969-2 C.B. 151 a medical doctor created an organization which he controlled. The organization then employed the doctor to conduct a program of medical research that consisted of the doctor treating his patients on a fee for service basis. The organization was held not to be exempt under section 501(c)(3) because it served the doctor's private interest. In return for his services, the doctor received a small salary, a paid vacation, a pension plan, free health and life insurance, scholarships for his children and the use of a personal residence and a automobile. The Service held that under the facts described the operation of the medical practice by the organization did not differ significantly from the private practice of medicine for profit.

In Rev. Rul. 69-545, 1969-2 C.B. 117, the Service held that although a hospital's ownership had been transferred to a non-profit organization, the hospital continued to operated from the private benefit of the original owners who exercised control through the board of trustees and the medical committee. The owners used their control to restrict the number of doctors admitted to the medical staff, to enter into favorable rental agreements with the hospital and to limit emergency room care and facts indicated that the hospital operated for the private benefit of its original owners, rather than for the exclusive benefit of the public.

In State v. Wilmar Hospital, 2 N.W. 2d 564 (Minn. 1942), the court held that where there is a change in ownership of a

corporation from one not exempt to one exempt from taxation, as, for example a hospital or institution of learning, mere change of ownership, unaccompanied by a completed change of control by and use for the purposes of, the new owner is not sufficient to entitle it to exemption from taxation. The court stated that exemption depended on whether the use for private profit under the former ownership had been changed to one of purely public charity under the new ownership.

It cannot be said that acting as a vehicle for the dissemination of messages of the Pleiadians who are described to be from another universe by [REDACTED], the only person it is asserted that sensed their presence and is in communication with them, is "educational" within the meaning of section 501(c)(3) of the Code and section 1.501(c)(3)-1(d)(3) of the regulations.

Further, as in Rev. Rul. 69-266, supra, Rev. Rul. 69-545 supra, you are operating for the private benefit of the original owner of your for-profit predecessor. Your original owner still maintains control of you and you operate in a similar fashion to your for-profit predecessor.

Accordingly, you are not operated exclusively for charitable purposes under section 501(c)(3) of the Code. You are engaged in furthering the private interests of the original owner of your for profit predecessor, a private benefit contrary to section 1.501(c)(3)-1(c)(1) and 1(d)(ii) of the regulations. This private benefit is more than incidental in both a qualitative and quantitative sense. We conclude, therefore, that you are not entitled to recognition of exemption from federal income tax under section 501(c)(3) of the Code. You are required to file federal income tax returns on Form 1120. Contributions to you are not deductible under section 170 of the Code.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your 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 some one who is not one of your officers, that person will need to file a proper power of attorney and other wise qualify under our Conference and Practice Procedures.

If you do not protest this proposed ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section

████████████████████

7428(b)(2) of the Code provides, in part, that a declaratory judgement or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it with in the Internal Revenue Service.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key District Director. Thereafter, any question about your federal income tax status should be addressed to that office.

Additional letters with respect to this case should be sent to ████████████████████, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224

Sincerely yours,

(signed) ████████████████████

████████████████████
Chief, Exempt Organizations
Rulings Branch 2

cc: ████████████████████

cc: State officials