

Internal Revenue Service
Appeals Office
1352 Marrows Road, Suite 104
Newark, DE 19711-5445

Department of the Treasury

Person to Contact:

Employee ID Number:

Tel:

Fax:

Refer Reply to:

AP:FE:LA:JW

In Re:

EO Revocation

Tax Period(s) Ended:

12/31/

Form Required to be Filed:

1120

Employer Identification Number:

Release Number: **200928046**

Release Date: 7/10/09

Date: April 13, 2009

UIL Code: 501.32-00

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

Certified Mail

JUL 13 2009

Dear

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

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

Organizations exempt from Federal income tax under section 501(c)(3) of the Code are required to operate exclusively for charitable, educational, or other exempt purposes. Organizations are not operated exclusively for exempt purposes if the net earnings of the organization inure in whole or in part to the benefit of private shareholders or individuals of the organization. See Treas. Reg. section 1.501(c)(3)-1(c)(2). During 20 and 20 we have determined your net earnings inured to the benefit of your founders and principal officers by regularly paying their personal living expenses without contemporaneously recording the expenditures as salary or compensation. The funds inuring to your founders and principal officers were substantial in comparison to your total expenditures and were multiple or repeated over a pattern of years. You have not implemented safeguards to prevent a recurrence of funds inuring to your principal officers. As such, you have not operated exclusively for exempt purposes and have operated for the benefit of the private interest of your principal officers in contravention of the requirements of Treas. Reg. section 1.501(c)(3)-1(d)(1)(ii). The revocation of your exempt status is effective January 1, 2004.

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

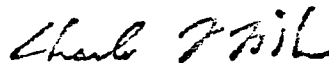
You are required to file Federal income tax returns on the form indicated above. You should file these returns within 30 days from the date of this letter, unless a request for an extension of time is granted. File the returns in accordance with their instructions, and do not send them to this office. Processing of income tax returns and assessment of any taxes due will not be delayed because you have filed 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 within 90 days from the date this determination was mailed to you. Contact the clerk of the appropriate court for rules for filing petitions for declaratory judgment. To secure a petition form from the United States Tax Court, write to the United States Tax Court, 400 Second Street, N.W., Washington, D.C. 20217.

We will notify the appropriate State officials of this action, as required by Code section 6104(c). You should contact your state officials if you have any questions about how this determination may affect your state responsibilities and requirements.

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

Sincerely,

A handwritten signature in cursive script that reads "Charles Fisher".

CHARLES FISHER
TEAM MANAGER



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY

Internal Revenue Service

5104 N. Blythe #203

Fresno, CA 93722

March 27, 2007

Taxpayer Identification Number:

Form:

990-PF

Tax Year(s) Ended:

December 31,

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Certified Mail - Return Receipt Requested

Dear

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

Letter 3618 (04-2002)
Catalog Number 34809F

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment 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 its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You 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 cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States 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. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

Tel:

Fax:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Marsha A. Ramirez
Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Report of Examination

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ISSUES:

Issue 1: Should the organization's private foundation status under section 507 of the Internal Revenue Code be modified to that of a publicly supported organization under section 509(a)(1) and 170(b)(1)(A)(vi) because it passed the public support test?

Issue 2: Should the organization's Federal tax exempt status under Internal Revenue Code section 501(c)(3) be revoked for failure to operate exclusively for one or more exempt purposes specified in such section?

FACTS:

XXXXXX was incorporated in August in XXX, XXX. The organization received the advanced ruling recognizing it as an organization exempt from Federal Income Tax under section 501(c)(3) and foundation status 509(a)(1) and 170(b)(1)(A)(vi) of the Internal Revenue Code in a letter dated September 26, The advanced ruling period began on August 16, and ended on December 31,

On January 4, 1995, the Service sent Letter 1046 and Form 8734 to the organization requesting it to establish that it is a publicly supported organization under either sections 509(a)(1) and 170(b)(1)(A)(vi) or section 509(a)(2) of the Code. The organization responded to the request by completing and returning Form 8734.

On March 9, 1995, the Service sent letter 2383 to the organization requesting additional information before issuing a final determination of the foundation status. The response due date was March 30, 1995. The organization did not respond to the request for additional information until May 4, 1995.

Since the Service did not receive the requested information by March 30, 1995, it issued a final determination on May 4, 1995 ruling that the organization, under section 508(b) of the Code, presumed to be a private foundation as of the 91st day after the end of the advanced ruling period. In addition, the organization was presumed to be a private foundation as of the first day of its first tax year for purposes of section 507(d) and 4940 of the Code. The above presumption was rebuttable. The organization may request a non-private foundation reclassification by proving that it is in fact a publicly supported organization. However, the organization took no action to rebut the Service's final determination.

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The organization has a Form 990-PF filing requirement. However, that form has not been filed since 1996.

During the examination, financial support of the four years prior to the year under examination was reviewed for the purpose of determining the public support percentage. Substantially all of financial support was public supports and program service fees.

The public support percentage was computed to determine whether or not the organization qualifies for non-private foundation status. The aggregate public support for the four years prior to the year under examination was \$. Since the organization did not file Form 990-PF, public support was computed using the bank statements from the same periods.

The exempt purposes as stated in the article of incorporation are to propogate the Christian gospel; to provide teaching and training that will help to establish Christian in their faith.

The organization conducts the following activities: conferences, speaking engagements, and radio programs. The organization conducts conferences out of rented facilities such as hotels and ballrooms. In the organization added a television program titled to its activities. The television program is aired on channel 5 (cable television) or 59 (regular broadcast) from 6:30am – 7:00am on Tuesday and Thursday. At the end of the program, the organization asks for donations and supports.

The sources of support included public contributions, registration fees at conferences, and love offerings at speaking engagements. For the tax year ended December 31, the organization received \$ of public supports and fees (Exhibit 1.) Total expenses were \$ (Exhibit 2.) There was no non-cash expense such as depreciation that would reduce the net income. Net income for the year totaled \$ However, the ending bank balance on December 31, showed an increase of only \$ (from \$ on January 1, to \$ on December 31, When asked why the ending bank balance did not reflect the change in net income, the chief financial officer disclosed that the president bought dresses, clothes, etc... at JC Penny, Kohl's, Gottschalk, etc... for speaking engagements and conferences using the organization's funds. Per the chief financial officer, "*The president thought that these dresses and clothes that she bought were business related.*" The purchases of dresses and clothes were not reported on the organization's schedule of expenses. Other expenses reported on schedule of expenses included car maintenance, gas,

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car registration and insurance, and cell phone paid for the president's personal car. These expenses totaled \$

At the conclusion of the interview, the revenue agent informed the president, chief financial officer, and the representative of potential revocation of exemption on ground of inurement. The chief financial officer said, "Have mercy."

The result of the financial examination disclosed the extent of the abuse of the organization's funds by the president. The president used the organization's ATM card to purchase groceries, household supplies, decorations, toys, movies, shoes, etc...; pay her personal credit card debts and withdraw cash (Exhibit 3). From available bank statements, ATM card purchases totaled \$ in related expenses included purchases of made at a Christian store and monthly bank service charges of \$ Personal expenses, purchases made at places such as Von Store Market, Savemart, Walgreen, Longs Drug, Crafters Palace, Trader Joe, Bath & Body Works, Bed, Bath & Beyond, Toy "R" Us, Blockbuster, Payless Shoes, Kmart, etc. accounted for \$ Payments for the president's personal credit card, Capital One, accounted for \$ ATM cash withdrawals accounted for \$ No substantiations, such as invoices, were available for ATM card purchases.

The president also used the organization's checks to pay for her personal expenses. From the available bank statements and canceled checks, check purchases totaled \$ in (Exhibit 4). Check payments for the president's personal credit cards such as Gottschalk, Capital One, JC Penney, and Providian accounted for \$ Other personal living expenses such as hair cut, dining, spa and salon, household supply, newspaper, etc. accounted for \$ No substantiations, such as invoices, were available for check purchases.

The abuse of the organization's funds continued into ATM card purchases for the year ended December 31, totaled \$ (Exhibit 5.) related expenses included purchases of \$ made at a Christian store and monthly bank service charges of \$ (\$ + \$ Personal living expenses such as groceries, household supplies, home decorations, and cash withdrawals accounted \$ No substantiations, such as invoices, were available for ATM card purchases.

Check purchases for the year ended December 31, totaled \$ (Exhibit 6.) related expense included offerings/donations to other ministries of \$ and facility rental of

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§ Personal living expenses, such as payments for the president's personal credit cards, dining, hair cuts, groceries, etc. accounted for \$

At the conclusion of the financial examination, the revenue agent interviewed the representative further to determine whether the abuse of the organization's funds was an isolated incident or it was on going. The representative disclosed he was aware of the fact that the president has been using the organization's funds for her personal living expenses since he became an outside accountant of the organization. In the past, the representative would ask the president if she paid herself salaries or wages. The president response was "No." The representative would then ask if the president she used the organization's funds to pay for her personal living expenses. The president responded "Yes." The representative would then ask the president for the canceled checks the president paid for her personal expenses. The representative totaled those checks up and issued a W-2 and filed delinquent Form 941s. The representative kept the organization and president in compliance with tax laws by having the organization issuing and filing Forms W-2, W-3, and delinquent Forms 941 and the president reporting the amounts as income on her Form 1040, U.S. Individual Income Tax Return, up until . In .he representative gave up trying to get the president to give him the canceled checks that she paid for personal living expenses. He was *"Tired of making phone calls asking for information and preparing delinquent 941."* *"What's the point? She knew what she had to do. But she did not do it."*

For the tax years ended December 31, and the organization did not issue Form W-2, Wage and Tax Statement, or Form 1099, Miscellaneous Income, for the amount the president paid for her personal living expenses. The organization did not file Form 941, Employer's Quarterly Tax Return to report the amount paid for the president's personal living expenses.

On January 3, the agent sent out a preliminary report proposing modification of the organization's foundation status from private foundation to that of a publicly supported organization and revocation of the organization's Federal tax exempt status under IRC section 501(c)(3). The agent also solicited the organization's positions on the proposed actions. On January 11, the agent received signed Forms 6018, Consent to Proposed Action - Section 7428, agreeing to the proposed foundation modification and revocation. On February 2, the organization sent the agent a written statement revoking its previous agreements and requested a conference with the agent's immediate supervisor.

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		12/31/20

During the un-agreed conference with acting group manager and the agent on February 27, 2007, the chief financial officer, XXX, acknowledged that the facts of the case are accurate and he and his wife, also the president of the organization, did not dispute the facts and the laws applicable to this case. XXX acknowledged that what his wife did violated the laws governing the 501(c)(3) organization. However, XXX protested that the organization and his wife are being taxed three times; losing the Federal tax exempt status, paying the excise taxes, and paying the corrections amount to another public charity. XXX acknowledged that the representative has advised them on several occasions not to commingle personal expenses with the organization's expenses. XXX went on to state that the representative did not thoroughly explain to them the ramifications of XXX's practices of commingling personal living expenses with the organization's expenses. Per XXX, "The bell was not loud enough. XXX was busy with his job and did not pay attention to what his wife did with the organization's funds. XXX was filing quarterly reports up until 20 and thought that was in compliance with the laws. Per XXX, other people told her that she could use the organization's money for personal living expenses such as clothes, car insurance, cell phones, etc.

LAWS:

Section 509(a) defines the term "private foundation" to mean any domestic or foreign organization described in section 501(c)(3) other than an organization described in section 509(a)(1), (2), (3) or (4). Organizations which fall into the categories excluded from the definition of "private foundation" are generally those which either have broad public support or actively function in a supporting relationship to such organizations. Organizations which test for public safety are also excluded.

Internal Revenue Code section 509(a)(1) excludes from the definition of private foundation organizations described in section 170(b)(1)(A).

Section 170(b)(1)(A)(vi) of the Code describes organizations that normally receive a substantial part of their support from governmental units and/or from direct or indirect contributions from the general public.

Section 1.170-2(b)(5)(iii)(b) of the Regulations provides a mechanical test for determining whether or not an organization will be considered to be "publicly supported". Under this test, an organization will be considered to be publicly supported organization for its current taxable

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year and the taxable year immediately succeeding its current year, if, for the four taxable years immediately preceding the current taxable year, the total amount of the support which the organization receives from governmental units, from donations made directly or indirectly by the general public, or from a combination of these sources equals 33 1/3 percent or more of the total support of the organization for such four taxable years.

IRC section 509(a)(2) excludes from the definition of private foundation an organization that normally receives not more than one-third of its support from investments and more than one-third of its support from contributions, membership dues and assessments, and gross receipts from activities relating to its exempt purpose.

Internal Revenue Code section 509(a)(3) excludes organizations from private foundation classification by reason of their close relationship to those public charities classified as either IRC section 509(a)(1) or IRC section 509(a)(2) organization. IRC section 509(a)(3) supporting organizations have neither broadly based support nor do they engage in an inherently public or charitable activity. IRC section 509(a)(3) organizations must meet three tests, (1) Organizational and Operational Test, (2) Relationship Test, and (3) Lack of Outside Control Test. Overall, these tests seek to define the extent of control or involvement of the IRC section 509(a)(1) or IRC section 509(a)(2) supported organization and the lack of control or involvement of others.

IRC section 509(a)(4) excludes from the definition of private foundation an organization that is organized and operated exclusively for testing for public safety. The definition of "testing for public safety" includes testing of consumer products, such as electrical products, to determine if they are safe for the general public's use.

Section 501(c)(3) of the Internal Revenue Code exempts from Federal income tax corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or

Name of Taxpayer

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XXXXX.

distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

Section 1.501(c)(3)-1(c)(2) of the Regulations clarifies that an organization is not operated exclusively for exempt purposes if its net earning inures to the benefit of private individual.

Section 1.501(a)-1(c) of the Regulations defines "private shareholder or individual" as persons having a personal and private interest in the activities of the organization.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations states, "An organization is not organized or operated exclusively for one or more of the purposes specified in subdivision (i) of this subparagraph unless it serves a public rather than a private interest. Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interest such as designated individuals, the creator or his family, shareholders or the organization, or persons controlled, directly or indirectly, by such private interests."

In The Founding Church of Scientology v. United States, 412 F.2d 1197 (Ct. Cl. 1969), the court held that The Founding Church of Scientology did not qualify for exemption under IRC 501(c)(3) because its net earnings inured to the benefit of the organization's founder and members of his family.

The courts issued similar rulings in People of God Community v. Commissioner, 75 T.C. No 8 (1980); Bubbling Well Church of Universal Love v. Commissioner, 74 T.C. 531 (1980); Unitary Mission of Church of Long Island, Inc. v. Commissioner, 74 T.C. 507 (1980); Western Catholic Church v. Commissioner, 73 T.C. 196 (1979); The Basic Unit Ministry of Schurig v. U.S., 81-1 USTC S9188 (D.D.C. 1981); Church of the Transfiguring Spirit, Inc. v. Commissioner, 76 T.C. 1 (1981); and Church of Scientology of California v. Commissioner, 823 F.2d 1310 (9th Cir. 1987)

Revenue Ruling 81-94, 1981-1 CB 330 held that an exempt organization operates to serve the private interest of the designated individual is not operated exclusively for religious or charitable purposes. Therefore, it does not qualify for exemption from Federal income tax under section 501(c)(3) of the Code.

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GOVERNMENTS

POSITION:

Issue 1: XXXXXs' sources of financial support have not changed over the years since it was originally classified as an organization described by section 509(a)(1) and 170(b)(1)(A)(vi) of the Internal Revenue Code.

Based on the manners the organization operates, the broad public supports, and the result of the financial examination for the tax year ended December 31, it was reasonably expected that substantially all of supports were public supports. Of the \$ total support, \$ constitutes support from governmental units and/or from direct or indirect support from the general public (Exhibit 7). This amount equates to 100 percent of the organization's total support. Since financial support from governmental units and/or from direct or indirect public support satisfied the 33 1/3 percent support test required by section 1.170-2(b)(5)(iii)(b) of the Regulations, the organization qualifies as an organization described in section 509(a)(1) and 170(b)(1)(A)(vi) of the Code. The organization was classified as a private foundation because it failed to respond to the Service's request for additional information on a timely manner and not because it failed to pass the public support test. A review of information the organization subsequently submitted to the Service on May 4, disclosed that percent of supports was public supports (Exhibit 8). The organization clearly passed the public support test required by section 1.170-2(b)(5)(iii)(b) of the Regulations. The effective date of this modification will be January 1,

Issue 2: An organization, to be qualified as an entity described in section 501(c)(3) of the Internal Revenue Code or in certain other categories of tax-exempt organization, must be organized and operated so that no part of its net earning inures to the benefit of any private shareholder or individual. The essence of the concept is to ensure that a tax-exempt charitable organization is serving a public interest and not a private interest. Section 1.501(c)(3)-1(c)(2) of the Regulations made it clear that an organization is not operated exclusively for exempt purposes if its net earning inures to the benefit of private individual. XXXXX was operated exclusively to serve the private interest of the president rather than the interest of the public. For the tax year ended December 31, while expenses necessary to carry out the organization's exempt purposes accounted for \$ the president spent \$ of the organization's fund on her personal living expenses (Exhibit 9). The president's

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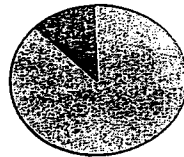
12/31/

XXXXX.

personal living expenses were 7.44 times more than expenses incurred for the exempt purpose activities, 88 percent as compared to 12 percent.

Personal Living vs. Exempt Function Expense

Exempt
Function
Expenses
12%



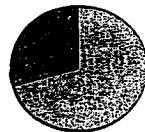
Personal Living
Expenses
88%

- Personal Living Expenses
- Exempt Function Expenses

For the tax year ended December 31, while the expenses necessary to carry out the exempt activities were only \$ the president's personal living expenses accounted for or 71 percent of the organization's cash disbursements (Exhibit 10).

2005 Personal Living Expenses vs. Exempt Function Expenses

Exempt
Function
Expenses
29%



Personal
Living
Expenses
71%

- Personal Living Expenses
- Exempt Function Expenses

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Section 1.501(c)-1(d)(1)(ii) of the Regulations specifically states that an organization is not organized or operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational unless it serves a public rather than a private interest. Revenue Ruling 81-94, 1981-1 CB 330 further clarifies section 1.501(c)-1(d)(1)(ii) of the Regulations by stating that an exempt organization operates to serve the private interest of the designated individual is not operated exclusively for religious or charitable purposes. Therefore, it does not qualify for exemption from Federal income tax under section 501(c)(3) of the Code. In The Founding Church of Scientology v. United States, 412 F.2d 1197 (Ct. Cl. 1969), People of God Community v. Commissioner, 75 T.C. No 8 (1980); Bubbling Well Church of Universal Love v. Commissioner, 74 T.C. 531 (1980); Unitary Mission of Church of Long Island, Inc. v. Commissioner, 74 T.C. 507 (1980); Western Catholic Church v. Commissioner, 73 T.C. 196 (1979); The Basic Unit Ministry of Schurig v. U.S., 81-1 USTC S9188 (D.D.C. 1981); Church of the Transfiguring Spirit, Inc. v. Commissioner, 76 T.C. 1 (1981); and Church of Scientology of California v. Commissioner, 823 F.2d 1310 (9th Cir. 1987), the courts upheld the Service's position that an organization did not qualify for exemption under section 501(c)(3) because its net earnings inured to the benefit of the organization's founder and members of his family. XXXXX was not operated exclusively for religious, charitable, and scientific purposes when substantially all of the organization's assets were used to pay for the president's personal living expenses. Therefore, the Federal tax exempt status of XXXXX, should be revoked. The effective date of this revocation will be January 1, 2004.

Response to the organization's positions: Based on the facts and applicable laws, the Service believes that it made correct determinations of deficiencies, related penalties, modification and revocation of the organization's tax exempt status under IRC section 501(c)(3). Please refer to the facts and laws sections.

TAXPAYERS

POSITION:

The organization and the president agreed with the government's positions and had signed Forms 6018 dated January 11, 2007 to memorialize the present intent. On February 2, 2007 the president sent a written statement to the revenue agent revoking their previous agreement without providing the reason(s) for disagreeing with the government's positions. The president requested a conference with the agent and the agent's immediate supervisor.

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During the un-agreed conference with acting group manager and the agent on February 27, 2007, the chief financial officer, .XXX, provided the following positions on issues 1 and 2.

Issue 1: XXX has not provided an official position on issue 1.

Issue 2: The chief financial officer, XXXXX, acknowledged that the facts of the case are accurate and he is not disputing those facts. XXX acknowledged that what his wife did violated the laws governing the 501(c)(3) organizations. However, XXX protested that the organization and his wife are being taxed three times; losing the Federal tax exempt status, paying the excise taxes, and paying the corrections amount to another public charity. His main objection is that he and his wife are not financially capable of paying the \$ corrections to another publicly supported charity. XXX requested that the agent and the acting group manager to exercise flexibility on the corrections amount by reducing or abating the corrections.

In a written statement, the president provided the following position, "*We believe you have erred in your determination of deficiencies, related penalties and the modification of tax exempt status.*"

CONCLUSIONS:

Issue 1: Since XXXXX satisfied the public support test under section 1.170-2(b)(5)(iii)(b) of the Regulations, its foundation status should be modified to that of a publicly supported organization described under section 509(a)(1) and 170(b)(1)(A)(vi). The effective date of this modification will be January 1, 2004.

Issue 2: Since XXXXX failed to operate exclusively for one or more exempt purposes described in section 501(c)(3) of the Internal Revenue Code, its Federal tax exempt status should be revoked. The effective date of this revocation will be January 1, 2004.