

Internal Revenue Service
Appeals Office
1000 South Pine Island Road
Suite 350
Plantation, FL 33324

Release Number: 201049048
Release Date: 12/10/10
Date: September 13, 2010

A

B

Certified Mail

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) effective January 1, 2005.

Our adverse determination was made for the following reasons:

Because of your failure to maintain appropriate segregation of your revenue, expenditures, and assets from insiders of your organization, we have determined that you failed to operate exclusively for purposes enumerated in Section 501(c)(3) of the Code. You have failed to establish that you are operated exclusively for exempt purposes rather than for the benefit of private interests thereby violating the proscription against private benefit. You have also violated the proscription against private inurement in that a part of your net earnings inured to the benefit of your president and founder, D.

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

Department of the Treasury

Person to Contact:

Employee ID Number: -----

Tel:

Fax: /

Refer Reply to:

In Re:

EIN:

UIL: 501.00-00

Form Required to be Filed:

Tax Period Ended:

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

DEC 12 2010

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 black ink, appearing to read "Charles Fisher", with a long horizontal flourish extending to the right.

Charles Fisher
Appeals Team Manager

cc:

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
Internal Revenue Service Tax Exempt &
Government Entities 450 Golden Gate
Avenue, MS 7401
San Francisco, CA 94102-3412

October 27, 2008

ORG
ADDRESS

Taxpayer Identification Number:
Form:

Tax Year(s) Ended:
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:

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,

Vicki Hansen

Vicki L. Hansen
Acting Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Report of Examination

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer: ORG	EIN:	Year/Period Ended 20XX12 20XX12

LEGEND

ORG = Organization name XX = Date Address = address City = city
 State = state County = county RA-1 & RA-2 = 1st & 2nd RA President
 = president VP = VP Secretary = Secretary Secretary-1 = Secretary-
 1 Treasurer = Treasurer DIR-1, DIR-2, DIR-3, DIR-4 & DIR-5 = 1st, 2nd,
 3rd, 4th & 5th DIRECTORS CO-1 THRU CO-14 = 1st THRU 14th COMPANIES

I. ISSUE

Is the ORG operating exclusively for charitable and educational purposes described in Internal Revenue Code (IRC) § 501(c)(3)?

II. FACTS

A. Organizing Documents

i. Articles of Incorporation

The ORG (“Organization”) was formed on May 28, 20XX. Its Articles of Incorporation state the Organization’s specific purpose is:

to assist City youth who have economic disadvantages due to: lack of adequate education, lack of job skills and teen pregnancy. The program(s) will serve the western most part of County, which includes the cities of City and City. The primary programs will consists of: Operation On time – Strategies [sic] for setting a life pattern for punctuality. GPA Tutorial Program – This program is designed to increase study skills and raise GPA score through various siminars [sic] and class based training. The After School Basketball Clinic covers nutrition, fundamental skills and develops leadership and sportsmanship.

ii. Form 1023

On December 9th, 20XX, ORG applied to the Service for exemption under IRC § 501(c)(3). The Form 1023 application states:

“All of the activities will be available at no charge to the public. In the future, we may charge a nominal fee for some of the programs and services to cover a portion of the cost of the activities...Youth Development Programs – We will present workshops, classes, and athletic basketball clinics for youth to help build their personal, health, professional, and athletic skills and feelings of self-worth We will ask children, adults and families from local neighborhoods to work with us to design and develop programs that meet the needs of youth. The activities

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will take place at various locations, including the City City and nationally. We will ask participants to invite other community residents to participate in our programs. Our hope is that we can contribute to community building by offering youth from different backgrounds programs that will strengthen their chances of being successful and productive CO-9s. Community Resource Center - In the Future, we plan to acquire space to build a community resource center. In this space we will provide youth and the general public with resources such as a library, educational materials, and employment and social service information. Annual Awards Dinner - At the end of the year, we will present awards to youth in the community who have made outstanding personal progress and contributions to their neighborhoods. The dinner will be free to the general public and give community residents an opportunity to meet and share ideas. We will invite residents and other community organizations to participate and help with the development programs.”

For Part II, Question 2 of Form 1023, the organization stated that its sources of financial support would consist of: “Foundation Grants \$\$”; “Gifts and Donations \$\$”; and “Annual Awards Dinner \$\$”.

As for Question 3 of Form 1023, the Organization described that its fundraising program consisted of:

Foundation Grants - Submit proposals to four local foundations - 2/20XX - Board of Directors; Gifts and Donations - Solicit small contributions from supporters - 1/20XX - Board of Directors; Annual Awards Dinner - sponsor an annual fundraising Dinner - Board of Directors solicit financial support on an ongoing basis with the help of volunteers and other supporters.

Furthermore, in page 3, the Organization revealed that its governing body consisted of President, President, Address, City, State; Secretary, Secretary, Address, City, State; Treasurer, Treasurer, Address, City, State; DIR-1, Address, City, State; DIR-2, Address, City, State. The Organization also listed that the officers’ annual compensation was “-0-”.

The Organization added that it did not own any assets that are used in the performance of its exempt function.

Part IV of the Form 1023 application contained financial information for the initial year May 22, 20XX, through December 31, 20XX, and proposed budgets for the two subsequent years 20XX and 20XX. Part IV Financial Data stated:

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	05/22/xx - 12/31/xx	1/1/xx - 12/31/xx	11/xx - 12/31/xx	Total
1. Gifts, Grants, and Contributions				
8. Total				
15. Contributions, Gifts, Grants				
23. Total expenses				

iii. Form 4564

In a response to Form 4564, IDR 2, the Organization stated that it was formed as a charitable organization to provide educational services and assist youths by providing guidance and instruction in personal development, academics, and athletics to improve socio-economic conditions for them and their neighborhood. The Organization conducts public discussion groups, Forums, panels, lectures, and other similar educational events.

iv. Determination Letter

The Organization received its determination letter on February 13, 20XX. The Service recognized the Organization as a tax exempt entity described in IRC § 501(c)(3), and classified as a publicly supported organization as described in section 509(a)(1).

B. The Organization and Affiliated Entities

The Organization's officers are President, President; VP, Vice President; Secretary-1, Secretary; DIR-3, Board of Director, DIR-5, Financial Officer. The Organization's activities are indistinguishable from CO-1, a for-profit entity wholly owned by President. The Organization does not have any bank accounts in its name. The organization commingles all of its financial transactions with the for-profit, CO-1's bank account or President's personal bank account. The Organization and the for-profit share common offices, President and Secretary. The Organization's activities and expenditures are indistinguishable from the for-profit's and President's personal expenditures (see Activities section below).

C. Form 990 Filings

The Organization did not file a Form 990 for the 20XX or 20XX tax year. The 20XX Form 990 was filed in May of 20XX and the 20XX form, was filed June 25, 20XX. The Form 990 reported the Organization's address as Address, City, State. Note this is a residential address in which DIR-4 was listed as a resident in 20XX.

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Year	20XX	20XX
Contributions		
Interest on savings & temporary cash investments		
Dividends & Interest		
Plus:		
<i>Gross Amount of Sale (Sec)</i>		
<i>Less Cost/Expense</i>		
Gain (Loss) on Securities		
Other investment income		
<i>Total Revenue</i>		
Program Services		
Management and General		
Other Expenses		
<i>Total Expenses</i>		
Excess (Deficit) for Year		
Net Assets BOY	0	
<i>Other changes in Net Assets</i>		0
Net Assets EOY		

D. Activities

The provided a response to an information document request on October 14, 20XX claiming that the organization, over the past five years, has supported numerous projects and activities:

An Annual Celebrity Basketball Game at City High School (to solicit funds for uniforms for the basketball team), the President provides workshops (as a volunteer) for various schools, universities and faith based organizations focusing on tutorial programs, afterschool programs, athletic events, and recruitment of volunteers. Several publications have been written and can be ordered online (since 20XX) in which the funds go to paypal account of corporation – CO-1 The organization claims the funds from this account are subsequently spent on foundation activities. Note that monies donated to the foundation from the website go into the paypal account of the for-profit – CO-1

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The organization claims that it partnered with non-profit organization's and churches to make cash and noncash donations in the _____ area to provide food, clothing, water, and other supplies for _____ in 20XX. The organization also claims that it provided free workshops to CO-2, CO-5, CO-3, a CO-4, and numerous others.

The Organization did not verify these activities for the audit years of 20XX and 20XX. Substantially all documents submitted to the Service relating to the organization's activities pertained to speaking engagements, and could not be distinguished from the for-profit's activities.

E. Revenues

The organization stated that during 20XX, 20XX, 20XX they received funding from governing body. A 990 was not filed in 20XX because the receipts were no more than \$\$.

The Organization stated that as a result of the movie "Coach President," President had become known worldwide and schools, colleges, nonprofits all across America wanted him to come and take part in discussion groups, forums, panels, and lectures with the youths, parents and staff. Due to his successful speaking engagements to large youth audiences all over the country, he and the Directors decided to allocate monies from those engagements to the Organization to see the mission of the Organization become real.

F. Per Examination

i. Bank Accounts

The Organization does not have its own bank account. Rather, all financial transactions were conducted from four accounts:

- CO-6 account under "CO-1"
- CO-7 account under the name, "President's"
- CO-8 account under the name, "President"
- CO-9 account under the name, "President"

ii. Talent Agency Payments

The Organization did not receive any financial support. Rather the support claimed on the Form 990 was actually 1099-MISC payments to President (individual) for services he personally performed (public speaking/motivational speaking)¹. According to a statement made by CO-10,

* * * *

¹ See Exhibit A

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President is a non-exclusive client of CO-10 ("CO-10")², a speaker's bureau that books his speaking engagements. President and Andrew Roth, President of CO-10, have an understanding regarding President's speaking fees, and he normally nets anywhere from \$ to \$\$ for speaking engagements. President began working with CO-10 in 20XX. He is an independent contractor and not an employee of CO-10. In 20XX, fifty-four checks were issued to President totaling \$. In 20XX, twenty-three checks were paid to President by CO-10 totaling \$. All checks were endorsed / cashed by President:

<u>Payer</u>	<u>Payee</u>	<u>Amount</u>	<u>Date</u>	<u>Check Number</u>
CO-10	President	\$\$	1/25/xx	
CO-10	President	\$\$	2/15/xx	
CO-10	President	\$\$	2/28/xx	
CO-10	President	\$\$	4/25/xx	
CO-10	President	\$\$	5/09/xx	
CO-10	President	\$\$	5/16/xx	
CO-10	President	\$\$	5/31/xx	
CO-10	President	\$\$	6/27/xx	
CO-10	President	\$\$	9/29/xx	
CO-10	President	\$\$	10/17/xx	
CO-10	President	\$\$	10/21/xx	
CO-10	President	\$\$	10/21/xx	
CO-10	President	\$\$	10/25/xx	
CO-10	President	\$\$	11/21/xx	
CO-10	President	\$\$	12/12/xx	
CO-10	President	\$\$	12/13/xx	
		\$\$		
CO-10	President	\$\$	1/24/20XX	
CO-10	President	\$\$	2/6/20XX	
CO-10	President	\$\$	2/27/20XX	
CO-10	President	\$\$	3/5/20XX	
CO-10	President	\$\$	3/14/20XX	
CO-10	President	\$\$	3/20/20XX	
CO-10	President	\$\$	3/31/20XX	
CO-10	President	\$\$	4/4/20XX	
CO-10	President	\$\$	5/2/20XX	
CO-10	President	\$\$	5/8/20XX	

* * * *

² CO-10, Address, City, State

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CO-10	President	\$\$	6/20/20XX
CO-10	President	\$\$	7/10/20XX
CO-10	President	\$\$	7/19/20XX
CO-10	President	\$\$	8/4/20XX
CO-10	President	\$\$	8/11/20XX
CO-10	President	\$\$	8/21/20XX
CO-10	President	\$\$	9/6/20XX
CO-10	President	\$\$	10/4/20XX
CO-10	President	\$\$	10/13/20XX
CO-10	President	\$\$	10/24/20XX
CO-10	President	\$\$	11/7/20XX
CO-10	President	\$\$	11/7/20XX
CO-10	President	\$\$	11/27/20XX
		\$\$	

20XX & 20XX Total \$\$

CO-10 sent the original 1099 for 20XX totaling \$\$ to President on January 17, 20XX. The recipient's ID number was erroneously recorded. A corrected 1099 was sent on April 23, 20XX ascribing the full amount (\$\$) to President. In March, 20XX, DIR-5 requested that CO-10 submit a corrected Form 1099-Misc dividing the payment - \$\$ under President's Social Security Number and \$\$ under the Foundation EIN. DIR-5 stated to CO-10 that the division was a result of her tabulating what is considered educational outreach (e.g. when President speaks to college students, these payments are for the foundation versus when he addresses corporate entities, this revenue is ascribed to his Social Security Number.)

CO-10 sent the original 1099 for 20XX \$\$ in February 20XX, with the recipients identification number being President's Social Security Number. In May 20XX, DIR-5 requested that CO-10 issue a corrected 1099 for 20XX, ascribing the full amount to the ORG. CO-10 issued an amended 1099 on 5/11/20XX. The State Franchise Tax Board garnished % of one payment due to President in the amount of \$\$ and then % of the subsequent fees remitted to President.

CO-10 also stated that the sponsoring organization or CO-10 would pay for travel, i.e. airfare, hotel, rental car etc for President for his speaking engagements.

iii. Expenditures

The disbursement journal for 20XX reported \$\$ in expenditures. The Form 990 reported \$\$ in expenditures. President's personal bank statements and cancelled checks revealed a total of \$\$ in expenditures. Within the \$\$ expenditures, \$\$ was directly distributed to President, personally, in

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the form of checks payable to President, bank and ATM withdrawals, and checks made payable to cash. \$\$ in the form of bank debits (store, rental cars, airlines, etc). The \$\$ expenditures (\$ + \$) to President are unsubstantiated payments:

Direct Payments – Checks payable to President / Cash

Date	Amount	Payee	#	Purpose	Authorizing
4/14/20XX				Business	President
5.9.20XX				youth program	Source: Disbursement Journal
7/1.20XX					
9/7/20XX				Business	President
11/21/20XX				Business	President
11.29/20XX				sic	Source: Disbursement Journal
11/29/20XX				school	Source: Disbursement Journal
11.29/20XX				Uniforms for...	Source: Disbursement Journal
11/29/20XX					Source: Disbursement Journal
12.13/20XX				school	Source: Disbursement Journal

Total Direct Payments to President for 20XX \$

Withdrawals

2/23/20XX		withdrawal
5/23/20XX		withdrawal
6/1/20XX		withdrawal
7/7.20XX		withdrawal
8/2/20XX		withdrawal
9/6.20XX		withdrawal
9/15/20XX		withdrawal
9/27/20XX		withdrawal
10/18/20XX		withdrawal
10/24/20XX		withdrawal
11/7.20XX		withdrawal
11/14/20XX		withdrawal
12.8/20XX		withdrawal
12/27/20XX		withdrawal

Total ATM / Counter Withdrawals for 20XX \$

Bank Debits

1.28.20XX		print publication
2.2.20XX		south west
2.23.20XX		Hotel
4.14.20XX		store

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4/18/20XX	hardware
4/27/20XX	Air
5/2/20XX	store
5/25/20XX	
6/20/20XX	school
6/28/20XX	gas
7/1/20XX	air
7/25/20XX	
8/3/20XX	renaissance
8/10/20XX	hardware
8/22/20XX	Internet
8/31/20XX	Air
9/13/20XX	car
9/15/20XX	
10/12/20XX	gas
11/21/20XX	hotels
11/25/20XX	
12/2/20XX	Store
12/12/20XX	Air
12/13/20XX	Store
12/22/20XX	Store
12/28/20XX	store

1/xx - 11/xx

Telephone

Total ATM / Debits for 20XX \$\$

Total 20XX distributions to President \$\$.

Profit and loss statement for 20XX initially reported \$\$ in total expenses. The Organization provided a subsequent profit and loss statement with the 2nd form 4564, Information document request. The second profit and loss reported \$\$ in expenses. This information provided was recreated from bank statements. The cancelled checks provided by the Foundation totaled \$\$.

Note that the Profit and Loss statements were under CO-1 and Foundation accounts were commingled with the "Corporation" and "Individual" accounts.

Within the \$\$ expenditures, \$\$ was distributed directly to President in the form of checks, checks made payable to cash, and withdrawals. \$\$ was distributed to President in the form of bank / ATM transactions. The \$\$ expenditures (\$\$ + \$\$) to President are unsubstantiated payments:

Checks to President, Cash, and Withdrawals

Date	Amount	Payee	Bank Account	Trans. Check #	Authorizing Signature
1/23/20XX	5.00				President

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1/30/20XX	
1/30/20XX	CO-7
2/14/20XX	
2/14/20XX	CO-7
3/3/20XX	CO-6
3/6/20XX	CO-9
3/13/20XX	CO-9
3/20/20XX	
3/31/20XX	
4/22/20XX	
5/12/20XX	CO-6
6/12/20XX	CO-9
6/20/20XX	CO-6
7/11/20XX	
7/17/20XX	CO-9
7/17/20XX	
7/25/20XX	
8/4/20XX	CO-6
8/15/20XX	CO-9
8/15/20XX	CO-9
8/21/20XX	
8/25/20XX	
9/5/20XX	
9/5/20XX	
9/18/20XX	
9/18/20XX	
9/18/20XX	CO-7
9/18/20XX	CO-6
9/25/20XX	
9/29/20XX	CO-9
10/13/20XX	
10/23/20XX	CO-6
10/23/20XX	CO-6
10/23/20XX	CO-6
10/25/20XX	CO-6
10/25/20XX	CO-6
11/6/20XX	CO-6
11/7/20XX	CO-6
12/18/20XX	
12/18/20XX	
12/19/20XX	CO-7
12/20/20XX	SS
12/29/20XX	S

Total Direct payments and withdrawals to President for 20XX SS

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Date	Amount	Payee	Bank	P & L Trans #
2/6/20XX			CO-6	
2/7/20XX			CO-6	
2/14/20XX			CO-6	
2/21/20XX			CO-6	
2/28/20XX			CO-6	
3/1/20XX			CO-6	
3/23/20XX			CO-6	
4/18/20XX			CO-6	
5/30/20XX			CO-6	
6/15/20XX			CO-6	
6/15/20XX			CO-6	
6/16/20XX			CO-6	
6/23/20XX			CO-6	
6/27/20XX			CO-6	
7/19/20XX			CO-6	
7/26/20XX			CO-6	
8/2/20XX			CO-6	
8/4/20XX			CO-6	
8/4/20XX			CO-6	
8/4/20XX			CO-6	
8/14/20XX			CO-6	
8/14/20XX			CO-6	
8/14/20XX			CO-6	
9/7/20XX			CO-6	
9/8/20XX			CO-6	
9/8/20XX			CO-6	
9/8/20XX			CO-6	
9/18/20XX			CO-6	
9/18/20XX			CO-6	
9/18/20XX			CO-6	
9/18/20XX			CO-6	
9/21/20XX			CO-6	
9/22/20XX			CO-6	
9/25/20XX			CO-6	
9/27/20XX			CO-6	
9/27/20XX			CO-6	
9/28/20XX			CO-6	
9/28/20XX			CO-6	
10/2/20XX			CO-6	
10/5/20XX			CO-6	
10/10/20XX			CO-6	
10/12/20XX			CO-6	
10/16/20XX			CO-6	

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10/16/20XX	CO-6
10/16/20XX	CO-6
10/16/20XX	CO-6
10/16/20XX	CO-6
10/18/20XX	CO-6
10/20/20XX	CO-6
10/25/20XX	CO-6
11/3/20XX	CO-6
11/6/20XX	CO-6
11/6/20XX	CO-6
11/6/20XX	CO-6
11/6/20XX	CO-6

Total ATM / Debits for 20XX \$\$

Total 20XX distributions to President \$\$.

Total 20XX and 20XX distributions to President \$³.

Funds distributed to President was not compensation for the performance of services. The Organization stated that all of President's work with the Foundation has been as a volunteer from 20XX to 20XX. Furthermore, the organization did not file any information returns (1099-Misc, Form W-2, etc) for any individual during 20XX and 20XX.

On Part V-A, page 5 of the 20XX Form 990 it is reported that President received \$0 in compensation. Part V-A, page 5 of the 20XX Form 990 also reports \$0 in compensation to President, however, it lists \$\$ in expense account and other allowances for President and \$\$ in the same category for Secretary-1.

The Organization is unable to substantiate any payment. In response to the Service's request for expense receipts and contemporaneous substantiation (Form 4564 Information Document Request 2), The Organization stated that the office located at Address was vandalized and burglarized in May of 20XX and all records (including receipts) for clients were destroyed or not usable. The offices was the address of a separate organization Innovative Behavioral Services⁴ (IBS), however the books and records were purportedly in the care of IBS. The Foundation provided a copy of the police report.

* * * *

³ In the form of checks payable to authorized by President or Bank withdrawals by President

⁴ DIR-5 is

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The Organization stated that monies were disbursed for renovations to transform the old CO-11 (see below) into a school in the midst of a location with severe academic problems and failures and socially and economically deprived [sic]. This location was perfect to accommodate socially economically disadvantaged youths. The school *was to be* open to the general public and minimum fees would be charged to accommodate acquiring the most talent resources in teachers.

The Organization could not explain nor substantiate any disbursement. Listed below are more Foundation expenditures that could not be substantiated:

20XX Miscellaneous

5/9/20XX
5/25/20XX
7/22/20XX
4/25/20XX
5/3/20XX
10/21/20XX
4/25/20XX
5/16/20XX
12/26/20XX
8/23/20XX
10/16/20XX
11/22/20XX
12/16/20XX
10/8/20XX
10/17/20XX
2/1/20XX
8/3/20XX
9/28/20XX
11/27/20XX
6/6/20XX
3/14/20XX
6/5/20XX
12/26/20XX
8/3/20XX

Total

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20XX Miscellaneous

1/8/20XX
 1/12/20XX
 2/6/20XX
 2/20/20XX
 3/8/20XX
 3/17/20XX
 3/31/20XX
 4/8/20XX
 5/29/20XX
 6/3/20XX
 6/3/20XX
 6/6/20XX
 6/27/20XX
 6/28/20XX
 7/19/20XX
 8/1/20XX
 8/1/20XX
 8/8/20XX
 8/8/20XX
 8/21/20XX
 8/25/20XX
 9/7/20XX
 9/7/20XX
 9/8/20XX
 9/14/20XX
 10/6/20XX
 10/14/20XX
 11/6/20XX
 11/8/20XX
 11/15/20XX
 12/1/20XX
 12/15/20XX
 12/15/20XX
 12/21/20XX

Total Misc

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Note that payments to DIR-4 is President's brother. And Payments to DIR-9 is President's son. There is a significant amount of expenditures for construction. In addition, note that President and/or his for-profit own the following properties:

- Address, President
- Address, City, State, Corporation
- Address, State, Individual
- Address, State, Individual (used to be owned)
- Address, State, Corporation
- Address, State, Corporation
- Address, State, Corporation
- Address, State, Individual

The Service asked the Organization to provide documentation to substantiate these expenditures on Form 4564 IDR #2 on May 8, 20XX. The Organization could not substantiate any of these payments nor could it explain why it made a payment for \$\$ to President's brother and \$\$ to President's son. The Organization could not explain nor show how large and questionable transfers and withdrawals such as an \$\$ cash withdrawal by President on 9/18/20XX or a \$\$ bank transaction made by President on 11/07/20XX furthered an exempt purpose. The organization could not show how an expenditure totaling \$\$ to **CO-13 (CO-13) a wholesale distributor of pre-recorded DVD's (a distributor to retailers) furthered an exempt purpose rather than the private interests of President .**

The Organization stated in Form 4564, IDR 2, that the

Foundation provides scholarships to youths who are in college and to those who are excelling in athletics. The Foundation provides incentives for youths including tee-shirts, coach President Videos and autographs free to keep and attract their interest in education. Storage space is used in State to store personal and old printing equipment used to make tee-shirts for give a-ways all over the country as President travels and speaks to youths.

There was no evidence that any student received a scholarship after analyzing the bank statements, cancelled checks, and disbursement journals. The Organization could not substantiate these claims nor could it show the Service that any payments furthered an exempt purpose.

iv. President Store

The Organization stated that the reason it moved from the City to City, State is as follows:

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construction costs he "loaned" to RA-1 for the creation of a new school for area children... President claims in the lawsuit that the "proposed school never opened and (President) has been prohibited from entering the property." According to the lawsuit, the _____ was "terminated on July 5, 20XX by the filing of a Certificate of Termination of a Domestic Entity with the Secretary of State of _____ Office" which was signed by RA-1. As of Friday, the chain-link fence surrounding the property was secured by padlocked gates. "Beware of Dog" and "Private Property" signs guarded the Boarded up brick building and freshly cut grass near the building was littered with chairs and a few loose construction materials. There was still high grass and piles of wood on the property. "He lent a lot of money and provided a lot of funds to improve the building," said RA-2, who is representing President. On Mar. 3, RA-1 filed a response to President's lawsuit denying "each and every allegation" and demanding "strict proof thereof."

PICTURE DELETED

Checks made to individual RA-1

9/6/20XX	RA-1
3/8/20XX	RA-1
3/23/20XX	RA-1
4/6/20XX	RA-1
4/6/20XX	RA-1
4/30/20XX	RA-1
5/26/20XX	RA-1
5/31/20XX	RA-1
6/13/20XX	RA-1
7/5/20XX	RA-1
7/6/20XX	RA-1
7/17/20XX	RA-1
8/1/20XX	RA-1
8/29/20XX	RA-1
9/25/20XX	RA-1
9/26/20XX	RA-1
10/6/20XX	RA-1
10/19/20XX	RA-1
11/1/20XX	RA-1
11/2/20XX	RA-1

The Organization could not show that the payments to an individual, RA-1, furthered an exempt purpose even though they claimed some of the payments to RA-1 were consideration for the performance of particular services. The Foundation states in IDR 2 that each payment to vendors

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further the exempt purpose to provide a facility to conduct educational services through after school enrichment, tutorial assistance, and provide a safe academic learning environment along with providing Boarding for students within the neighborhood at rental properties in close proximity to schools. Payments were made for upkeep or maintenance of lawns for school, Boarding facility for students, electric payments for schools, repairs, cleanup, construction of fence, painting, roof replacement, etc.

The Organization does not own any property. The properties for Boarding students do not belong to the Foundation. All properties listed on page 9 are under President's name personally or The Foundation could not show that these Boarding facilities were used for an exempt purpose.

The Organization could not substantiate any payment nor could it show the Service that the payments were for the actually for school renovation. The School has never opened.

On May 23, 20XX KWTX.com, a Central news website, printed an article titled
It stated:

No one was injured Friday afternoon in the collapse of a detached gym at what used to be CO-11 at address. in City. The school now houses the CO-13. The center's CEO, RA-1, said the gym was not in use and was closed to learning center students because of concerns about its structural integrity. She said what remains of the gym will be razed and said a basketball court could be built in its place. The main building, which is fenced off and posted with no trespassing signs, was not damaged in the collapse. CO-13 bought the school and property for \$\$ in August 20XX, the City Democrat newspaper reported. According to the newspaper, the center is in a legal dispute with the legendary high school basketball President, who sued the center for breach of contract, claiming he lent money for creation of the at the old middle school. The suit alleges the store never opened and that President has been barred from the property. RA-1's response denies the allegations, the paper reported.

PICTURE DELETED

The organization provided a document on October 14, 20XX that states that the claims between the two parties were settled between the two parties. According to the document, part of the terms was that defendant, RA-1, would be paid \$\$ on or before October 15, 20XX, and defendant will convey property as set forth in Exhibits "1" and "2" to ORG at the same time the plaintiff pays the defendant. The Foundation did not provide Exhibits "1" and "2" to the Service.

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v. Website

The Organization does not have its own website. Rather, it is a branch or link of President's personal site: Organization's website. President's personal website consists of various personal promotions such as an advertisement for services for Motivational Speaking (including online booking), a promotion for President: The Movie, Media Coverage, an online store for books/CD's (101 Ways to Earn a Higher GPA, Positive Self Image 101, etc.), and various other links relating to and promoting President personally.

The Foundation's website is commingled with President's personal website. The website does not detail any specific charitable activity conducted by the Foundation presently nor for the audit year. The website, states that its mission is to: assist youth by providing guidance and instruction in personal development, academics and athletics to improve socio-economic conditions for them and their neighborhoods. The website also has a link to book President for speaking engagements.

The Foundation commingles with President & for-profits via the "Support" link on the Foundation's page. The "Support" link allows a donor to donate any amount to CO-1 via paypal account. The "Support" link states:

In an effort to share the same support with other young men and girls that he has enjoyed throughout his life, _____ has personally endowed "The ORG" with a yearly grant. Together with personal friends and corporate partners, The ORG will make financial gifts to deserving individuals and student-athletes who apply and meet the Award criteria. You can help make a difference by making a tax deductible donation online below. You can also support the foundation by purchasing any of our educational materials.

The organization provided an internet link: in an attempt to substantiate the school renovation.

vi. Minutes

The minutes for the audit years were provided for October 1, 20XX, June 3, 20XX. The 20XX minutes report that the president spent a large amount of his time overseeing the repair of the school. The weather and other factors have slowed the process. Funds for the project have come from services rendered by the president. No contributions by other donors at the time.

Minutes were provided for March 3, 20XX and state the tentative opening date is in April 20XX.

III. RULES

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A. Statutes

I.R.C. § 501(c)(3) provides for the exemption from federal income tax of organizations that are organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Treas. Reg. § 1.501(c)(3)-1(a)(1) provides that an organization must be both organized and operated exclusively for one or more of the purposes specified in section 501(c)(3) of the Code in order to be exempt as an organization described in such section.

Treas. Reg. § 1.501(c)(3)-1(c)(1) provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it is engaged primarily in activities that 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.

Treas. Reg. § 1.501(c)(3)-1(c)(2) provides that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.

Treas. Reg. § 1.501(c)(3)-1(d)(ii) states that an organization is not organized or operated for one or more exempt purposes unless it serves a public rather than a private interest. Accordingly, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator, shareholders, or persons controlled, directly or indirectly, by such private interests.

Treas. Reg. § 1.501(a)-1(c) defines a private shareholder or individual as those persons having a personal and private interest in the activities of an organization. In general, a private shareholder or individual is considered an "insider" with respect to the exempt organization.

Treas. Reg. § 1.6033-2(i)(2) provides that "Every organization which is exempt from tax, whether or not it is required to file an annual information return shall submit such additional information as may be required by the Internal Revenue Service for the purpose in inquiring into its exempt status and administering the provisions of subchapter F (section 501 and following), chapter 1 of subtitle A of the Code...."

B. Cases

Better Business Bureau v. United States, 316 U.S. 279 (1945), holds that the existence of a single non-exempt purpose, if substantial in nature, will destroy the exemption under section 501(c)(3).

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An organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities that accomplish one or more of such purposes.

In *Church of World Peace, Inc. v. Commissioner*, 67 T.C.M. (CCH) 2282 (1994), *aff'd*, 52 F.3d 337 (10th Cir. 1995), the Tax Court held that a church did not operate exclusively for religious purposes because the church facilitated a circular tax-avoidance scheme. The facts showed that individuals made tax-deductible contributions to the church. The court found that the church then returned the money to the individuals claiming that the payments were for housing allowances and reimbursement of expenses. The court further found that such payments were in fact unrelated to the church's operations.

People of God Community v. Commissioner, 75 T.C. 127 (1980) decided that a portion of gross earnings inured to the benefit of private shareholders or individuals. The court stated:

An organization will qualify under section 501(c)(3) only if (1) it is organized and operated exclusively for exempt purposes, (2) no part of its net earnings inures to the benefit of any private shareholder or individual, and (3) it devotes no substantial part of its activities to political or lobbying activity...

Respondent argues that petitioner's loan policies and ministers' compensation each demonstrate both private inurement of net earnings and prohibited private purposes. While not necessarily identical, the prohibitions against private inurement and private purposes overlap to a great extent ... we will confine our discussion herein to the private inurement issue....

...The burden falls upon petitioner to establish the reasonableness of the compensation paid to Donhowe and petitioner's other ministers. *Bubbling Well Church of Universal Love Inc. v. Commissioner* [Dec. 36,999], 74 T.C. 531 (1980). Petitioner has failed to do so inasmuch as the record on this point contains little more than conclusory assertions and the fact that Dowhowe's compensation was partly based on his personal needs. Moreover, the method by which ministers' compensation was determined shows clearly that a part of petitioner's net earnings was paid to private shareholders or individuals.

In *Founding Church of Scientology v. United States*, 412 F.2d 1197 (Ct. Cl. 1969), a wide variety of devices were employed, including fees, commissions, excessive rental payments, loans and excessive salaries, to divert the organization's funds to its founder, L. Ron Hubbard, and his immediate family. The principle of inurement was summarized when the Court stated, "what emerges from these facts is the inference that the Hubbard family was entitled to make ready personal use of the corporate earnings."

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Rev. Rul. 67-5, 1967-1 C.B. 123 held that a foundation controlled by the creator's family was operated to enable the creator and his family to engage in financial activities which were beneficial to them, but detrimental to the foundation. It was further held that the foundation did not operate a charitable program commensurate in scope with its financial resources, rather the foundation was only able to carry out minimal charitable activities. The ruling stated that the foundation was operated for a substantial non-exempt purpose and served the private interests of the creator and his family. Therefore, the foundation was not entitled to exemption from Federal income tax under I.R.C. § 501(c)(3).

In Rev. Rul. 59-95, 1959-1 C.B. 627, an organization previously held exempt from Federal income tax was requested to produce a financial statement as of the end of the year and a statement of its operations during such year. However, its records were so incomplete that it was unable to furnish such statements. Section 6033 of the Internal Revenue Code of 1954 provides that every organization, except as provided therein, exempt from taxation under section 501(a) of the Code shall file an annual return, stating specifically the items of gross income, receipts, and disbursements, and shall keep such records, render under oath such statements, make such other returns and comply with such rules and regulations as the Secretary of the Treasury or his delegate may from time to time prescribe. Held, failure or inability to file the required information return or otherwise to comply with the provision of section 6033 of the Code and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of an exempt status.

In determining the effective date of revocation, an organization may ordinarily rely on a favorable determination letter received from the Internal Revenue Service. Treas. Reg. §1.501(a)-1(a)(2); Rev. Proc. 20XX-4, §14.01 (cross-referencing §13.01 *et seq.*), 20XX-1 C.B. 123. An organization may not rely on a favorable determination letter, however, if the organization omitted or misstated a material fact in its application or in supporting documents. In addition, an organization may not rely on a favorable determination if there is a material change, inconsistent with exemption, in the organization's character, purposes, or methods of operation after the determination letter is issued. Rev. Proc. 20XX-52, 20XX8-30, IRB 222.

The Commissioner may revoke a favorable determination letter for good cause. Treas. Reg. § 1.501(a)-1(a)(2). Revocation of a determination letter may be retroactive if the organization omitted or misstated a material fact or operated in a manner materially different from that originally represented. Rev. Proc. 20XX-52, 20XX-30 IRB 222.

IV. ANALYSIS

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A. Taxpayer's Position

Is yet to be received.

B. Government's Position

The ORG is not operating exclusively for charitable or educational purposes within the meaning of IRC section 501(c)(3) during 20XX and 20XX.

The Government contends that the Foundation failed the operational test of IRC 501(c)(3) on the following grounds:

- Unsubstantiated Expenditures / Inurement
- Commingling bank accounts/activities with insider, President's wholly owned for-profit (also personal bank accounts) – Foundation Activities are indistinguishable from the for-profit's activities
- Foundation's lack of charitable/educational activity (activities inconsistent with the Foundation's Application for Exemption, Form 1023) - The Foundation serves the President's personal interest by allowing him to personally use funds purportedly for the Foundation. Private Benefit also exists by using the Foundation to promote President's for-profit entities.

i. Inurement/Unsubstantiated Payments

The Organization's key officer and shareholder is President, as he meets the definition of such under § 1.501(a)-1(c). President is a "person having a personal and private interest in the activities of an organization."

The Service asked the Organization to show how each expenditure furthered the organization's exempt purpose and the Organization was unable to show the Service any contemporaneous substantiation or the purpose of these expenses. For instance, the Organization could not substantiate checks written to President or checks to cash totaling \$\$, withdrawals totaling \$\$, bank debits for Store, rental cars, airlines, etc totaling \$\$ for a grand total of \$\$ in direct distributions to President for the 20XX tax year.

For the 20XX tax year, the unsubstantiated payments include checks payable to President, payable to cash, and bank / ATM withdrawals total \$\$, \$\$ in various other expenditures such as

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purchases from: Store, Whole foods, Hardware, PHONE, Store, Store, Store, Thrifty, various airlines and hotels⁸ etc. Total 20XX direct distributions to President was \$\$.

The 20XX and 20XX total direct distributions to President for personal use and private benefit was \$.

This amount was not compensation for services, nor was intended to be compensation because the organization:

1. States that President's role with the Foundation has been as a volunteer from 20XX through 20XX
2. The organization has not filed any information returns (1099-MISC/W-2 etc) to indicate this would be compensation
3. The Forms 990 for 20XX and 20XX report President as receiving \$0 in compensation from the Foundation.

The Service asked the organization several times to substantiate these payments⁹. The Organization was unable to explain or show the Service they served an exempt purpose.

¹⁰% of purported Organizational funds that were supposed to be used for exempt purposes were directly distributed to the Organization's insider President for personal and private benefit. The Organization's earnings inured to President, a private shareholder by distributing a primary portion of its funds back to President for personal use. President has sole signature authority on his personal bank accounts. The lack of any necessary internal controls allows President to write himself a check, withdraw funds, and make charges at his leisure. There is no distinguishing these expenditures from personal, for-profit ventures or if any Foundation activities. There is no accountability on behalf of the ORG, its Officers, and Board members. All purported Foundation transactions remain unaccounted.

Indirect payments to President that are used for personal gain and private benefit include miscellaneous payments for 20XX totaling \$ and \$ in 20XX. These payments include \$ payments to Secretary-1, who also works for President's for-profit, \$ to DIR-4, President's brother, \$\$ to DIR-9, President's son, \$\$ to a DVD distributor, \$\$ for the website (in which substantially all the content is for the for-profit). President has complete control over the funds, and is allowed full access to use funds for personal and private gain.

* * * *

⁸ Note that CO-10 or Sponsor pay's for the travel associated with a speaking engagement. Travel expenses are personal in nature.

⁹ Asked in IDR 1 dated March 8, 20XX, IDR 2 dated May 8, 20XX, and during phone interview in June 20XX.

¹⁰ \$\$\$

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Also included in the above payments is over \$\$ in construction and supplies could not be substantiated. The Foundation claims that these amounts were for the renovation of the proposed school, in addition to \$\$ payments to individual RA-1. Additionally, The Organization claimed that it made expenditures on properties in City, State¹¹ near the proposed school. These rental properties were purportedly to be Boarding facilities for students. Of the eight properties listed on page 16, none are in the name of the ORG. The properties are in the name of President or In fact, one property, Address, State, use to be in the name of RA-1.

The Service contends these expenses were for construction / renovation of the school / houses. The School was to be opened in June of 20XX. As of October 28,20XX the school is not opened and is still in need of repair because of misappropriated and mismanaged funds by President. The Foundation could not show Service The payments totaling \$\$ to RA-1, an individual who controls a CO-13, a 501(c)(3) was for construction of the School. The Service contends that these properties were never assets of the Organization and never meant to be assets of the Organization. Expenditures on these properties are for personal gain and private benefit and do not further an exempt purpose.

All expenditures and payments are unsubstantiated and serve the Private Benefit of President.

Direct: \$\$
Indirect: \$\$

\$\$ or % of revenues for 20XX and 20XX

RA-1: \$\$
Total: \$\$ – All unaccounted.

ii. Commingling

All financial transactions of the Organization were conducted from (1) CO-6 bank account under the name of CO-1; (2) CO-7 account under President's name; (3) CO-8 account under President's name; (4) CO-9 account under President's name.

The Organization could not distinguish for-profit's activities from the Organization's activities. President engages in motivational speaking events under the for-profit CO-1 However in 20XX and 20XX, the Organization considered its activities to consist of President's speeches to colleges, universities, and high schools. President personally received % of the fees for the speaking engagements. President was paid personally (not the Organization) by check and
* * * *

¹¹ See list of properties on page 16 of this report.

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President endorsed each check. The funds were deposited into President's personal bank accounts and never reached the Organization. In fact, the Foundation does not have any bank accounts. Funds were distributed to President immediately. The Foundation is operating no differently than a for-profit entity, and is not operating exclusively for 501(c)(3) purposes. Its resources and cash are being used to further non-exempt activities. It is furthering the activities of CO-1, a for-profit.

Moreover, the Form 990 reported \$\$ in 20XX and \$ in 20XX on line 1(b) contributions, gifts, and grants- Direct public support. This is incorrect reporting. The Organization did not receive any outside support from the public. The Organization received zero support from President since the funds never left his possession. All of the Organization's funds inured to President. The Organization was operated primarily to serve the private interests of President by allowing him to use all its assets for non-exempt purposes - % of the proceeds that were purportedly for the Organization were distributed to President and unaccounted for. Because the Organization is operated in this manner the Service concludes that the speaking engagements are exclusive activities of CO-1, a for-profit entity. They do not constitute activities provided by the Organization.

The Organization's website, is commingled with President's personal website. The Personal website promotes President including the DVD movie Coach President. The DVD is also sold on the personal website along with other merchandise associated with President's for-profit. The Foundation portion of the website does not detail any specific charitable activity conducted by the Organization presently nor for the audit years. The Foundation portion of the website's "Support" link deposits donations for the Foundation into the For-profits bank account, once again allowing President immediate use of Foundation funds for personal use. President is using the Foundation - through his personal website - in a manner to benefit and promote his for-profit's image and sales. The commingling of the personal and the Foundation website serves President's private interest and President personally benefits in this arrangement.

President benefits substantially from the operations of the Foundation. Similarly, in *Church by Mail v. Commissioner*, 765 F 2d 1387 (9th Cir. 1985), the Tax Court found it unnecessary to consider the reasonableness of payments made by the applicant to a business owned by its officers. The 9th Circuit Court of Appeals, in affirming the Tax Court's decision, stated: "The critical inquiry is not whether particular contractual payments to a related for-profit organization are reasonable or excessive, but instead whether the entire enterprise is carried on in such a manner that the for-profit organization benefits substantially from the operations of the Church."

iii. Lack of Charitable/Educational Activity (Inconsistent with Form 1023)

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The Organization's application for exemption stated that it would assist City youth (cities of City and City) who are at economic disadvantages. The application stated the primary programs would be Operation On time, GPA Tutorial Program, and After School Basketball Clinic. The Foundation was unable to show the Service that it conducts said activities.

The Organization could not show that any expenses were for the proposed school, the in City, State. Newspaper articles (online) show that the proposed school between President and RA-1 at Address in City, State, now housing the CO-13, an entity controlled by RA-1, never came to formation. RA-1 terminated the Store on July 5, 20XX by the filing of a Certificate of Termination of a Domestic Entity with the Secretary of State of The newspaper describes the building as property: "the chain-link fence surrounding the property was secured by padlocked gates. "Beware of Dog" and "Private Property" signs guarded the Boarded up brick building and freshly cut grass near the building was littered with chairs and a few loose construction materials".

The Organization could not explain why it inconsistently classified its payments to RA-1. The payments were classified as the Organization's expenditures, however, in the lawsuit between President and RA-1, the payments to RA-1 were classified as "loans". The lawsuit is between President (personally) and CO-13. The payments to RA-1 have been unsubstantiated. The Organization was unable provide any contemporaneous substantiation such as receipts, invoices, or contracts to show that any of these payments were used or intended for exempt purposes. By the manner in which the Organization conducted its activity, it appears evident that the Organization never meant for the to exists. Rather the expenditures purportedly conducted for the Store were a series of financial transactions for the benefit of two individuals: President and RA-1.

The website stated The ORG will make financial gifts to deserving individuals and student-athletes who apply and meet the Award criteria. The Foundation was unable to show that it made any grants.

President controls the Foundation and the use of its assets. President uses the Foundation as a vehicle to promote his personal interests. President has sole signature authority over bank accounts purportedly used by the Organization. By having sole signature authority, President is able to use the Organization's assets without any Board approval.

A charity's assets must be irrevocably dedicated to charitable purposes. Treas. Reg. § 1.501(c)(3)-1(b)(4). The inurement prohibition serves to prevent the individuals who operate the charity from siphoning off any of a charity's income or assets for personal use. The Organization breached the dedication requirement and its assets have inured to the benefit of President.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer:	EIN:	Year/Period Ended
ORG		20XX12 20XX12

Furthermore, all documents that the organization provided to validate its activities pertain to the speaking engagements or do not relate to applicable audit years.

C. Effective Date of Revocation

As mentioned previously, while revocation of a determination letter is generally not retroactive, revocation of a determination letter may be retroactive if the organization omitted or misstated a material fact or operated in a manner materially different from that originally represented. In cases where the organization omitted or misstated a material fact, revocation may be retroactive to all open years under the statute. In cases where revocation is due to a material change, inconsistent with exempt status, in the character, the purpose, or the method of operation, revocation will ordinarily take effect as of the date of the material change. In any event, revocation will ordinarily take effect no later than the time at which the organization received written notice that its exemption ruling or determination letter might be revoked. Rev. Proc. 20XX-52, 20XX-30 IRB 222.

In this case, the agent recommends retroactive revocation of the determination letter because the Foundation operated in a manner inconsistent with its exempt status under IRC 501(c)(3), since its inception. Accordingly, it is recommended that revocation be effective as of January 1, 20XX.

V. CONCLUSION

ORG's recognition as an organization described under section 501(c)(3) should be revoked effective January 1, 20XX, because it did not operate exclusively for 501(c)(3) exempt purposes. The Organization's income inured to, and served, the private interests of its shareholder, President. A Form 1120 Income Tax Return should be filed for tax years ending December 31, 20XX and December 31, 20XX. Subsequent returns are due no later than the 15th day of the 3rd month following the close of the Corporation's accounting period. Returns should be sent to the following mailing address: (over)

Internal Revenue Service