



DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

TE/GE: EO Examinations

1100 Commerce Street, MC 4920 DAL

Dallas, TX 75242

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

June 16, 2015

Number: **201538026**

Release Date: 9/18/2015

UIL Code: 501.03-00

Taxpayer Identification Number:

Person to Contact:

Identification Number:

Contact Telephone Number:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear :

This is a final adverse determination regarding your exempt status under section 501(c)(3) of the Internal Revenue Code (the Code). Our favorable determination letter to you dated December 31, 19XX is hereby revoked and you are no longer exempt under section 501(a) of the Code effective January 1, 20XX.

The revocation of your exempt status was made for the following reason(s):

You are not operating exclusively for any charitable purpose, educational purpose, or any other exempt purpose. Our examination reveals that you are not engaged primarily in activities which accomplish charitable, educational or other exempt purposes as required by Treas. Reg. 1.501(c)(3)-1(c)(1). Your activities, including your financial transactions, more than insubstantially furthered non-exempt purposes. Moreover, you failed to establish that you were not operated for the benefit of private interest of your founder/treasurer and president as required for continued recognition of exemption pursuant to Treas. Reg. 1.501(c)(3)-1(d)(1)(ii). Your income inured to the benefit of private shareholders and individuals.

Contributions to your organization are no longer deductible under IRC §170 after January 1, 20XX.

You are required to file Form 1120 U. S. Corporation Income Tax Return. These returns should be filed with the appropriate Service Center for tax years ended December 31, 20XX, December 31, 20XX, December 31, 20XX and for all years thereafter in accordance with the instructions of the return.

Processing of income tax returns and assessments of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

If you decide to contest this determination under the declaratory judgment provisions of section 7428 of the Code, a petition to the United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia must be filed before the 91st Day after the date this determination was mailed to you. Please contact the clerk of the appropriate court for rules regarding filing petitions for declaratory judgments by referring to the enclosed Publication 892. You may write to these courts at the following addresses:

United States Tax Court
400 Second Street, NW
Washington, D.C. 20217

United States Court of Federal Claims
717 Madison Place, NW
Washington, D.C. 20005

United States District Court for the District of Columbia
333 Constitution Avenue, NW
Washington, D.C. 20001

The Taxpayer Advocate Service (TSA) is an independent organization within the IRS that can help protect your taxpayer rights. We can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for our assistance, which is always free, we will do everything possible to help you. Visit taxpayeradvocate.irs.gov or call 1-877-777-4778.

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

Sincerely,

Margaret Von Lienen
Director, EO Examinations

Enclosure:
Publication 892



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities Division
1100 Commerce Street, MC 4957 DAL
Dallas, Texas 75242-1100

Date:
May 12, 2015
Taxpayer Identification Number:

Form:

Tax year(s) ended:

Person to contact / ID number:

Contact numbers:
Phone Number:
Fax Number:
Manager's name / ID number:

Manager's contact number:
Phone Number:
Response due date:

Certified Mail - Return Receipt Requested

Dear _____ :

Why you are receiving this letter

We propose to revoke your status as an organization described in section 501(c)(3) of the Internal Revenue Code (Code). Enclosed is our report of examination explaining the proposed action.

What you need to do if you agree

If you agree with our proposal, please sign the enclosed Form 6018, *Consent to Proposed Action – Section 7428*, and return it to the contact person at the address listed above (unless you have already provided us a signed Form 6018). We'll issue a final revocation letter determining that you aren't an organization described in section 501(c)(3).

After we issue the final revocation letter, we'll announce that your organization is no longer eligible for contributions deductible under section 170 of the Code.

If we don't hear from you

If you don't respond to this proposal within 30 calendar days from the date of this letter, we'll issue a final revocation letter. Failing to respond to this proposal will adversely impact your legal standing to seek a declaratory judgment because you failed to exhaust your administrative remedies.

Effect of revocation status

If you receive a final revocation letter, you'll be required to file federal income tax returns for the tax year(s) shown above as well as for subsequent tax years.

What you need to do if you disagree with the proposed revocation

If you disagree with our proposed revocation, you may request a meeting or telephone conference with the supervisor of the IRS contact identified in the heading of this letter. You also may file a protest with the

IRS Appeals office by submitting a written request to the contact person at the address listed above within 30 calendar days from the date of this letter. The Appeals office is independent of the Exempt Organizations division and resolves most disputes informally.

For your protest to be valid, it must contain certain specific information including a statement of the facts, the applicable law, and arguments in support of your position. For specific information needed for a valid protest, please refer to page one of the enclosed Publication 892, *How to Appeal an IRS Decision on Tax-Exempt Status*, and page six of the enclosed Publication 3498, *The Examination Process*. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process. Please note that Fast Track Mediation referred to in Publication 3498 generally doesn't apply after we issue this letter.

You also may request that we refer this matter for technical advice as explained in Publication 892. Please contact the individual identified on the first page of this letter if you are considering requesting technical advice. If we issue a determination letter to you based on a technical advice memorandum issued by the Exempt Organizations Rulings and Agreements office, no further IRS administrative appeal will be available to you.

Contacting the Taxpayer Advocate Office is a taxpayer right

You have the right to contact the office of the Taxpayer Advocate. Their assistance isn't a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate can't reverse a legally correct tax determination or extend the time you have (fixed by law) to file a petition in a United States court. They can, however, see that a tax matter that hasn't 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:

Internal Revenue Service
Office of the Taxpayer Advocate

Phone Number:

For additional information

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,

Margaret Von Lienen
Director, EO Examinations

Enclosures:
Report of Examination
Form 6018
Publication 892
Publication 3498

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Years/Period ended 20XX, 20XX, 20XX

ISSUE:

Whether _____ continues to qualify for exemption under Section 501(c)(3) of the Internal Revenue Code?

FACTS:

_____ was granted tax-exempt status as a Section 501(c)(3) organization December 31, 19XX. The organization conducts its operations in _____ and the Articles of Incorporation were filed with the Secretary of State for the State of _____ on October 22, 19XX. An attachment to Form 1023 stated that the Institute's purposes are as follows:

- To spread the knowledge and availability of the _____ in countries not presently being served;
- To provide routine _____ therapy to the public;
- To lead and promote the continuing study and development of the _____ ;
- To document research case studies involving the _____ ;
- To formulate a booklet of progress testimonies;
- To develop an awareness of the _____ and collaborate with the medical community using lectures and educational seminar/workshops; and,
- To involve third-world countries in the understanding of the _____ through education and healthcare aid.

The attachment also stated that the institute is involved in the practice of the _____, created by its founder, _____. The _____ is described as a gentle Eastern medicine healing method that brings balance to the body's own subtle energies. It allows the body to function and feel better as well as heal itself more rapidly. The attachment goes on to state that the body's ability to naturally heal itself is becoming more recognized and accepted by Western medicine. The _____ does not involve massage, manipulation of bones, muscle, or tissues, or the use of drugs or other external substances. It is practiced by holding designated "subtle energy points" with the fingers or the palm of hands along the body's subtle energy pathways. The _____ is derived from the physics science of _____.

A _____ therapist requires extensive study and training as well as a natural ability to develop and effectively use intuitive senses. Mastering this complex technical subject requires understanding the subtle energy circulation patterns of the human body.

The organization has two (2) websites that explain their purpose and activities: _____ and _____. A description of the services they offer is provided on their website:

- Therapy Sessions – a 1-hour hands-on approach to health disorders.
- Nutritional Consultation – a test that incorporates the use of dark field microscopy to reveal the current state of the immune system, possible vitamin deficiencies, toxic effects, pH, mineral imbalances, fungus and yeast, plus other areas of concern and weakness.
- Zyto Testing – a 2-3 hour non-invasive way to survey your overall health; including allergies and other causes of symptoms.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Years/Period ended 20XX, 20XX, 20XX

FACTS (continued)

- EVOX Sessions - the EVOX (VOX is Latin for voice), uses your voice (frequencies) to map perception about specific topics like health, relationships, work or athletic performance.
- Educational Classes - to learn how _____ can be applied to help restore proper bio-electromagnetic conductivity (circulation/coherence) without any risk or repercussions.
- Lectures - The _____ conducts lectures throughout the year. These average 1-2 hours of informative health related lectures that have a wide range of subjects available to the public.

The _____ offers a variety of _____ classes ranging from introductory to advanced levels. The costs range from \$ _____ for a lecture to \$ _____ for a multi-level course.

The organization sells numerous products on their website.

Essentials
Bookmarks
Lumbar Star and Stratum Chart
Energy Pathways DVD Set
Strategies for Success DVD Set
Levels 3 and 4 DVD Set
Tooth Chart Pad (5-pack)
Tooth Correlations Laminated Chart
Teeth and Body Poster
Energy Sphere Poster
Energy Spheres DVD
Procedures Booklet
Levels 1 and 2 DVD Set
Wonderfully Made Textbook
Volume 1 of 4 Textbook
Self Help Book - 2010 Edition
3" X 5" Self-Help Pocket Booklet
EMT Laminated Cards
3" X 5" Emergency Integrative Medicine Technique
Emergency Integrative Medicine Techniques (EMT Introduction DVD
Palms, Finger and 24-Hour Chart
Dog and Horse Energy Sphere Chart

are sold in single and multi-packs as *Natural Health Essentials*.

Natural Health Essentials
(3 Pack) - Fights microbes

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Years/Period ended 20XX, 20XX, 20XX

FACTS (continued)

Water purification systems are advertised through their website and distributed from the manufacturer.

PRODUCTS

- | | |
|----------|--|
| | Shower Filter |
| Black | Purification Elements |
| | Arsenic and Flouride Protection Elements |
| Crown | - 6.0 Gallon Size |
| Imperial | - 4.5 Gallon Size |
| Travel | - 1.5 Gallon Size |
| Big | - 2.25 Gallon Size |

is organized exclusively for charitable purposes. It's articles of incorporation states that it's operated exclusively for charitable, scientific, literary, and educational purposes within the meaning of section 501(c)(3). The articles state that no part of the net earnings of the organization will inure to the benefit of any private shareholder or individual. No substantial part of the activities of the organization will be the carrying on of propaganda, or otherwise attempting to influence legislation. The organization will not participate in or intervene in any political campaign on behalf of or in opposition to any candidate for public office. Upon dissolution, the organization will dispose of all assets exclusively for the purpose of the organization in such a manner, or to an organization as described in section 501(c)(3).

The questions in the left column were presented to the _____, to clarify what their current charitable activities are. The organization's response is in the right column.

Information Document Request (IDR)	Responses to IDR from
1. For what activities were granted exemption?	To enhance the public's understanding and availability of therapy.
2. What is the Institute's "charitable" purpose(s)?	The health, education, and treatment of the general public.
3. What are the organization's current activities and how are those activities in accordance with the Institute's purpose?	The _____ serves its charitable purpose through education, books, and treatment.
4. Describe the organization's day-to-day operations.	Providing health, education and treatment, including therapy, to the general public.
5. How does the organization obtain clients or customers?	Most clients are obtained through word-of-mouth referrals.
6. What is the billing procedure for clients that visit the office?	Most clients pay at the time of service. For financially challenged clients there are adjustable discounts to make the treatment available; for those who truly cannot pay and need treatment, the _____ provides treatment without charge.
7. How do you determine an individual's cost for treatment?	Standard fees are set based on comparable services provided in the market.
8. What happens when a client is unable to pay the stated treatment cost?	If the client is truly unable to pay, the _____ still provides the services.
9. The _____ website offers various	Most of the products on the website are

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
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products. How does the Institute obtain these products?	educational materials developed by and licensed by _____ to the _____.
10. Does the Institute have distributor licenses for any products?	No.
11. Are the products shipped directly from the Institute or drop-shipped from the manufacturer/distributor?	All products are shipped directly from the Institute with the exception of the occasional water purification system that is drop shipped from the distributor/manufacturer.
12. Does the Institute have any medical affiliations or work directly with any physicians?	No.
13. The Institute offers classes and seminars on their website. Describe the individuals that typically enroll in these classes. (Is a medical background required?)	Most attendees are individuals learning how to help themselves or a family member with a health concern. No medical background is required.
14. Are there any prerequisites to enrolling in these classes?	No prerequisites are required for these classes.
15. What does the individual do with the information learned in these classes?	Most individuals learn to better the health of themselves or their family members.
16. Your EMT and Self-Help classes offer a "contract to teach class" for \$ _____. What does the contract include?	The _____ offers how to teach/train others and allows access to the related materials.

The _____ reported gross receipts of \$ _____ from *unrelated business income* for the year ending December 31, 20XX. In fact, their only source of income for the prior, current, and subsequent year's return was from unrelated business income as shown:

- 20XX - \$ _____
- 20XX - \$ _____
- 20XX - \$ _____

The initial interview was held July 21, 20XX. The organization's POA, _____, who was originally scheduled to represent the organization, was out of the office due to medical reasons. _____, a partner in the accounting firm, agreed to represent the organization in his absence.

_____ advised the examiner that he was unable to reconcile the amounts listed on the return to the tax workpapers _____ provided. Therefore, he requested all of the organization's bank and credit card statements, receipts, and tax documents. The following accounts were reviewed:

Interest Checking – A/C ending _____
Credit Card – A/C ending _____
Checking – A/C ending _____
Savings – A/C ending _____
Free Checking – A/C ending _____ (personal)

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Years/Period ended 20XX, 20XX, 20XX

Each transaction was input into their accounting software, Tax Organizer, and classified as either business or personal with the assistance of . The following report was provided to the examiner for the tax year ending December 31, 20XX.

EXPENSE	INSTITUTE	PERSONAL	TOTAL
Accounting Fees			
Advertising			
Appraisal			
Auto - Fuel*			
Auto - Repairs/maintenance*			
Bank charge			
Car Wash			
Charitable contributions			
Cleaning			
Clothing			
Comp to DP			
Computer expenses			
Dry cleaning			
Duplication			
Electricity			
Entertainment			
Flowers for members			
Gifts			
Groceries/Household			
Gym			
HOA dues			
Insurance			
Insurance -			
Interest expense			
Landscaping			
Legal fees			
Massage			
Meals*			
Medical			
Merchant card fees			
Mortgage - home			
Office supplies			
Payment processing			
Payroll taxes			
Penalties			
Personal			
Pest control			
Postage, mailing svc			
Printing & copying			
Recreation			
Rent			
Repairs & Maintenance			

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Years/Period ended 20XX, 20XX, 20XX

- Royalties -
- Salaries
- Subcontractors
- Supplies
- Taxes
- Taxes - personal
- Telephone, telecommunications
- Tolls
- Training
- Travel
- Unknown expenses
- Water
- Website

**These expenses weren't substantiated by adequate recording or contemporaneous documentation as required by Treas. Reg. 1.274(d).*

At a meeting held January 27, 20XX, the Examiner requested and received the general ledger and bank statements for 20XX and 20XX.

Expenses for year ending December 31, 20XX:

EXPENSE	INSTITUTE	PERSONAL	TOTAL
Accounting Fees			
Advertising			
Auto - Fuel			
Auto-Registration			
Auto - Repairs/maintenance			
Bank charge			
Car Wash			
Charitable contributions			
Cleaning			
Clothing			
Computer expenses			
Dry cleaning			
Electricity			
Entertainment			
Flowers for members			
Groceries/Household			
Gym			
HOA dues			
Insurance			
Insurance -			
Interest expense			
Landscaping			

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Years/Period ended 20XX, 20XX, 20XX

Massage
 Meals
 Medical
 Merchant card fees
 Mortgage - home
 Office supplies
 Payment processing
 Payroll taxes
 Penalties
 Personal
 Pest control
 Postage, mailing svc
 Printing & copying
 Property tax
 Recreation
 Rent
 Repairs & Maintenance
 Royalties -
 Salaries
 Salon nails
 Security
 Subcontractors
 Supplies
 Taxes - personal
 Telephone, telecommunications
 Travel
 Uniforms
 Water
 Website

Expenses for year ending December 31, 20XX:

EXPENSE	INSTITUTE	PERSONAL	TOTAL
Accounting Fees			
Advertising			
Auto - Fuel			
Auto - Repairs/maintenance			
Bank charge			
Car Wash			
Charitable contributions			
Cleaning			
Clothing			
Computer expenses			
Dry cleaning			
Electricity			
Entertainment			

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Years/Period ended 20XX, 20XX, 20XX

Flowers for members
 Groceries/Household
 Gym

 HOA dues
 Insurance
 Insurance -
 Interest expense
 Jewelry
 Landscaping
 Massage
 Meals
 Medical
 Merchant card fees
 Mortgage - home
 Office supplies
 Payment processing
 Payroll taxes
 Penalties
 Personal
 Pest control
 Postage, mailing svc
 Printing & copying
 Property tax
 Rent
 Repairs & Maintenance
 Royalties -
 Salaries
 Salon nails
 Security
 Subcontractors
 Supplies
 Taxes - personal
 Telephone, telecommunications
 Travel
 Uniforms
 Water
 Website

See Exhibit A for a detailed list of each transaction.

LAW:

IRC § 501(c)(3) 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 for the prevention of cruelty to children or animals, no part of the net

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Years/Period ended 20XX, 20XX, 20XX

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 and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

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

Treas. Reg. § 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an exempt organization must serve a public rather than a private interest. The organization must demonstrate that it is not organized or operated to benefit private interests such as "designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests." Thus, if an organization is operated to benefit private interests rather than for public purposes, or is operated so that there is prohibited inurement of earnings to the benefit of private shareholders or individuals, it may not retain its exempt status.

IRC § 6001 provides that every person liable for any tax imposed by the IRC, or for the collection thereof, shall keep adequate records as the Secretary of the Treasury or his delegate may from time to time prescribe.

Treas. Reg. § 1.6001-1(c) states that in addition to such permanent books and records as are required by paragraph (a) of this section with respect to the tax imposed by section 511 on unrelated business income of certain exempt organizations, every organization exempt from tax under section 501(a) shall keep such permanent books of account or records, including inventories, as are sufficient to show specifically the items of gross income, receipts and disbursements. Such organizations shall also keep such books and records as are required to substantiate the information required by section 6033. See section 6033 and §§1.6033-1 through -3.

Treas. Reg. § 1.6001-1(e) states that the books or records required by this section shall be kept at all times available for inspection by authorized Internal Revenue Service officers or employees, and shall be retained as long as the contents thereof may be material in the administration of any Internal Revenue law.

IRC § 6033(a)(1) provides, except as provided in IRC § 6033(a)(2), every organization exempt from tax under § 501(a) shall file an annual return, stating specifically the items of gross income, receipts and disbursements, and such other information for the purposes of carrying out the internal revenue laws. The Secretary may also prescribe by forms or regulations the requirement of every organization to keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

Treas. Reg. § 1.6033-1(h)(2) provides that every organization that has established its right to exemption from tax, whether or not it is required to file an annual return of information, shall submit such additional information as may be required by the District Director for the purpose of enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (section 501 and the following), chapter 1 of the Code and IRC § 6033.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Years/Period ended 20XX, 20XX, 20XX

Treas. Reg. § 1.6033-(2)(i)(2) states "Every organization which is exempt from tax, whether or not it is required to file an information return shall submit such additional information as may be required by the Internal Revenue Service for the purpose of inquiring into its exempt status and administering the provisions of subchapter F, chapter 1 of subtitle A of the Code, §6033 and chapter 42 of subtitle D of the Code."

Rev. Rul. 59-95, 1959-1 C.B. 627 held that "failure or inability to file the required information return or otherwise to comply with the provision of §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.

Revenue Procedure 2012-9, superseding Rev. Proc. 90-27, 1990-1 C.B. 514, Section 4.01, provides that the Internal Revenue Service will recognize the tax-exempt status of an organization only if its application and supporting documents establish that it meets the particular requirements of the section under which exemption from federal income tax is claimed. Section 4.02 states that a determination letter or ruling on exempt status is issued based solely upon the facts and representations contained in the administrative record. It further states:

- (1) The applicant is responsible for the accuracy of any factual representations contained in the application.
- (2) Any oral representation of additional facts or modification of facts as represented or alleged in the application must be reduced to writing over the signature of an officer or director of the taxpayer under a penalty of perjury statement.
- (3) The failure to disclose a material fact or misrepresentation of a material fact on the application may adversely affect the reliance that would otherwise be obtained through issuance by the Service of a favorable determination letter or ruling.

In PLR 20113041, the IRS **revoked** the tax exemption of a public charity based on excess benefit and private inurement issues. The charity's records demonstrated that the President "consistently utilized" the charity's income for private purposes. The President routinely made "loans to officers," but never fully substantiated the *purpose* of these loans. Since the charity had no Conflict of Interest Policy, the President who made these loans in the first place, then approved these "loans" with his wife and father. All of these amounts went into a "Loans to Officers" account and inadequate records were kept on how this money was spent to further the charity's exempt purposes. The IRS noted that the charity's inurement issues and excess benefit transactions "*resulted from the organization being under the control of one-person with a family-based governing board.*" Moreover, the IRS noted that because of the charity's structure, "*sufficient safeguards had not been put in place to prevent future violations....*"

In *United States v. Wells Fargo Bank*, 485 U.S. 351, 108 S. Ct. 1179, 99 L Ed. 2d 368 (1990), the Supreme Court held that an organization must prove unambiguously that it qualifies for a tax exemption.

In *Better Business Bureau of Washington, D.C., Inc. v. United States*, 326 U.S. 179 (1945), the Supreme Court held that the presence of a single non-exempt purpose, if substantial in nature, will destroy a claim for exemption regardless of the number or importance of truly exempt purposes.

In *Bubbling Well Church of Universal Love, Inc. v. Commissioner*, 74 T.C. 531 (1980), in an action for declaratory judgment pursuant to Section 7428(a), the Tax Court considered an adverse ruling by the IRS

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Years/Period ended 20XX, 20XX, 20XX

on an application for exempt status as a church. The applicant had declined to furnish some information, and made answers to other inquiries that were vague and uninformative. On the basis of the record, the Court held that the applicant had not shown that no part of its net earnings inures to the benefit of the family or that petitioner was not operated for private benefit.

In *Western Catholic Church v. Commissioner*, 73 T.C. 196 (1980), the petitioner's only activities were some individual counseling and distribution of a few grants to needy individuals. The petitioner's failure to keep adequate records and its manner of operation made it impossible to trace the money completely, but the court found it clear that money passed back and forth between petitioner and its director and his for-profit businesses. The Court held that petitioner had not shown it was operated exclusively for exempt purposes or that no part of its earnings inured to the benefit of its officer.

In *New Dynamics Foundation v. United States*, 70 Fed. Cl. 782 (2006), the petitioner brought to challenge the denial of its application for exempt status. The court found that the administrative record supported the Service's denial on the basis that the organization operated for the private benefit of its founder, who had a history of promoting dubious schemes. The organization's petition claimed that the founder had resigned and it had changed. However, there was little evidence of change other than replacement of the founder with an acquaintance who had no apparent qualifications. The court resolved these questions against the petitioner, who had the burden of establishing it was qualified for exemption. If the petitioner had evidence that contradicted these findings, it should have submitted it as part of the administrative process. "It is well-accepted that, in initial qualification cases such as this, gaps in the administrative record are resolved against the applicant".

TAXPAYER'S POSITION:

The taxpayer's position is that the organization still serves its charitable purpose by providing health, education and treatment, including therapy, to the general public.

GOVERNMENT'S POSITION:

Based on the examination, the [redacted] does not qualify for exemption as a charitable organization as described in IRC §501(c)(3) and Treas. Reg. §1.501(c)(3) which provides that "An organization must be organized exclusively for charitable purposes; it must be operated exclusively for charitable purposes; no part of the net earnings of which may inure to the benefit of any private shareholder or individual; it may not conduct more than an insubstantial amount of lobbying activities; and, it may not intervene in a political campaign."

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. [redacted] and [redacted] used the net earnings from the [redacted], for their personal benefit. [redacted] received a royalty from the organization for the use of his [redacted] material. [redacted] received wages as well as additional compensation from the organization. Despite having received compensation, the [redacted] had personal use of the funds from the organization's bank account.

The organization offers certifications to teach [redacted]. All approved Instructors start at the EMT level and work up one level at a time with a two year minimum of meeting all annual requirements for each level. Certification is renewed every year. The instructors pay a fee for the contract to teach a class or train

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Years/Period ended 20XX, 20XX, 20XX

others and they're allowed access to the related materials. receives additional income from the use of his licensed materials.

To further demonstrate that the organization serves a private interest, one would only need to look at the manner in which the Institute is operated. As stated in the questionnaire above, the standard fees are set based on comparable services provided in the market. As such, he has recognized that the income the organization received for *at least* the last calendar years wasn't exempt function income. The income was reported as unrelated business income on Form 990, yet Form 990-T wasn't filed.

CONCLUSION:

The does not qualify for tax-exempt status under Section 501(c)(3) because their earnings inured to the benefit of private individuals.

Accordingly, the organization's exempt status is revoked effective January 1, 20XX.

Form 1120 returns should be filed for the tax periods ending on or after December 31, 20XX.