



Department of the Treasury
Internal Revenue Service
Appeals Office

Date: MAR 21 2019

Person to contact:
Name:
Employee ID number:
Telephone:
Fax:
Hours:
Employer ID number:

Uniform issue list (UIL):
501.03-05

Release Number: **201924018**

Release Date: 6/14/2019

Certified Mail

Dear

This is a final adverse determination that you do not qualify for exemption from federal income tax under Internal Revenue Code (the "Code") Section 501(a) as an organization described in Section 501(c)(3) of the Code.

We have hereby revoked the favorable determination letter to you dated January 17, and you are no longer exempt under Section 501(a) of the Code effective January 1,

We made the adverse determination for the following reasons:

You are not operated exclusively for charitable purposes under Internal Revenue Code section 501(c)(3).

Contributions to your organization are not deductible under Section 170 of the Code.

You're required to file federal income tax returns on Forms 1120, U.S. Corporation Income Tax Return. Mail your form to the appropriate Internal Revenue Service Center per the form's instructions. You can get forms and instructions by visiting our website at www.irs.gov/forms-pubs or by calling 800-TAX-FORM (800-829-3676).

We'll make this letter and the proposed adverse determination letter available for public inspection under Section 6110 of the Code after deleting certain identifying information. We provided to you, in a separate mailing, Notice 437, Notice of Intention to Disclose. Please review the Notice 437 and the documents attached that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in Notice 437.

If you decide to contest this determination, you can file an action for declaratory judgment under the provisions of Section 7428 of the Code in either:

- The United States Tax Court,
- The United States Court of Federal Claims, or
- The United States District Court for the District of Columbia

You must file a petition or complaint in one of these three courts within 90 days from the date we mailed this determination letter to you. Contact the clerk of the appropriate court for rules and the appropriate forms for filing petitions for declaratory judgment. You can write to the courts at the following addresses:

United States Tax Court	US Court of Federal Claims	US District Court for the District of Columbia
400 Second Street, NW	717 Madison Place, NW	333 Constitution Avenue, NW
Washington, DC 20217	Washington, DC 20005	Washington, DC 20001

Note: We will not delay processing income tax returns and assessing any taxes due even if you file a petition for declaratory judgment under Section 7428 of the Code.

Please refer to the enclosed Publication 892, How to Appeal an IRS Determination on Tax-Exempt Status, for more information about the Appeals process.

You also have the right to contact the Taxpayer Advocate Service (TAS). TAS is an independent organization within the IRS that can help protect your taxpayer rights. TAS 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 TAS assistance, which is always free, TAS will do everything possible to help you. Visit www.taxpayeradvocate.irs.gov or call 877-777-4778.

TAS assistance is not a substitute for established IRS procedures, such as the formal appeals process. TAS 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.

If you have questions, contact the person at the top of this letter.

Sincerely,

Joseph K. Phegley

Joseph K. Phegley
Appeals Team Manager

Enclosures:
Publication 892

cc: MARYBETH FRANTZ



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities Division

Date: MAR 21 2019

Taxpayer Identification Number:

Form:

Form 990

Tax year(s) ended:

December 31, 20XX

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	Explanations of Items		Schedule number or exhibit
Name of Taxpayer		Tax Identification Number	Year/Period ended 20XX

Issues:

- Whether (" "), Executive Director of (), misstated material facts on the Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code.
- Whether was operated as a not-for-profit educational organization?
- Whether was involved in illegal activities?

Facts:

Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code

filed Articles of Incorporation with the State of on April 05, 19XX. Article Three of the Articles of Incorporation states that is organized exclusively for charitable purposes within the meaning of Code §501(c)(3) (Article 3(a)).

The Article goes on to state that the specific objectives and purposes of the corporation shall be:

- To promote a better understanding of situation to the American people.
- To approach human rights advocates in the United States of America about the problem.
- To do all of the aforementioned, without regard to race, creed, gender and handicap.

The Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code, was signed on July 31, 19XX by , Executive Director, and received by the IRS on August 2, 19XX.

Part II of the Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code, Activities and Operational Information, stated how that the organization planned to do conduct its operations:

"The organization aims to educate the American public and leadership about the issue of which is subject to unenforced UN resolutions of 19XX and 19XX. Toward this end of creating awareness about the need for need for restoring the right of self-determination of the people, the () has a program of publications and direct personal contact through one-on-one meetings and public gatherings. has published and continues to produce and distribute a number of background information brochures and booklets, has placed newspaper advertisements, and has held meetings with the general public, academicians, and the media.

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organizes its annual General Assembly, holds periodic Board of Directors meetings, and holds fundraising and informational meetings in various cities across the U.S.

commenced these activities on a regular basis and continues to operate on the line detailed above."

The Form 1023 stated that the organizations sources of financial support would be "Member and general public donations, membership fees, and investment income".

The Form 1023 listed the officers and directors of as:

1. , Executive Director
2. , President
3. , Secretary-Treasurer
- 4.
- 5.
- 6.
- 7.
- 8.

The Form 1023 also states that is the only one who receives any compensation, \$0 per year.

received its initial Determination Letter on January 17, 19XX and its Final Determinations letter on June 13, 19XX, granting exemption under §§ 501(c)(3) and 170(b)(1)(A)(vi) of the Internal Revenue Code, as a publicly supported organization.

Operation as a Not-For-Profit Organization

The stated primary focus of the organization was to be:

1. To promote a better understanding of situation to the American people.
2. To approach human rights advocates in the United States of America about the problem.
3. To do all of the aforementioned, without regard to race, creed, gender and handicap.

On December 11, 20XX, entered into a plea agreement in the United States District Court for the Eastern District of Division. The plea agreement specified a two count criminal plea.

Count 1 - Conspiracy in violation of 18 U.S.C. § 371.

Count 2 - Corruptly endeavoring to impede the Internal Revenue Service, in violation of 26 U.S.C. § 7212.

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As part of the plea agreement, _____ agreed that all of the allegations in the Criminal Information underlying his conviction and the Statement of Facts which was incorporated into his plea agreement were true and correct, and that had the matter gone to trial the United States would have proven them beyond a reasonable doubt. A copy of the plea agreement is attached hereto as Exhibit 1. A copy of the Statement of Facts is attached hereto as Exhibit 2.

By executing the Statement of Fact and entering into the plea agreement, _____ agreed that from approximately 19XX, and continuing thereafter until approximately July 18, 20XX, in the Eastern District of _____ and elsewhere, he unlawfully and knowingly conspired with others to:

(a) falsify, conceal, and cover up material facts they had a duty to disclose by tricks, schemes and devices, in matters within the jurisdiction of the agencies of the executive branch of the Government of the United States, in violation of Section 1001 of Title 18 of the United States Code; and

(b) defraud the United States Department of the Treasury by impeding, impairing & obstructing and defeating the lawful functions of the Internal Revenue Service in the ascertainment, computation, assessment, and collection of the revenue.

_____ further agreed that the "purpose of the scheme to conceal and falsify was to obtain money from officials employed by the Government of _____, including the _____ ("_____"), for the operation of the _____ ("_____"), outside of the knowledge of the Government of the United States and without attracting the attention of law enforcement and regulatory authorities."¹ He further agreed that he made false, fictitious, and fraudulent material statements and representations in matters within the jurisdiction of the Department of Justice, Federal Bureau of Investigation, the Department of the Treasury, and the Internal Revenue Service, to prevent these agencies from learning the source of the money he obtained from officials employed by the _____ and the Government of _____ to operate the _____ and covered up material facts regarding his receipt of money for the operation of the _____ from officials employed by the _____ and the Government of _____.

By executing the plea agreement and statement of facts, _____ also admitted that from approximately 19XX, and continuing thereafter until approximately July 18, 20XX, he corruptly endeavored to obstruct and impede the due administration of the internal revenue laws by:

(a) arranging the transfer of at least \$0 to the _____ from employees of the _____ and the Government of _____;

¹ The _____ is a part of the Government of _____ and is _____ intelligence service. _____ is a non-governmental organization located at _____, in _____, was founded in 19XX and also goes by the name "_____".

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(b) accepting the transfer of such money to the from the and the Government of through (" ") and middlemen ("the ") who received reimbursement from for their transfers to the ;

(c) providing letters from the to the documenting that the transfers from the to the were deductible to the extent provided by law; and

(d) concealing from the Internal Revenue Service that the money received from the actually was indirectly given to the by the officials employed by and the Government of

Finally, agreed that the amount of the tax loss as a result of this conduct for purposes of calculating the Sentencing Guidelines is at least \$0 but not more than \$0.

Law:

Internal Revenue Code (IRC) §501(a) provides that an organization described in §501(c)(3) is exempt from income tax.

IRC §501(c)(3) lists organizations exempt from taxation under §501(a) as Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

IRC §501(h)(1) states that as a general rule, in the case of an organization to which this subsection applies, exemption from taxation under subsection (a) shall be denied because a substantial part of the activities of such organization consists of carrying on propaganda, or otherwise attempting, to influence legislation, but only if such organization normally:

- A. Makes lobbying expenditures in excess of the lobbying ceiling amount for such organization for each taxable year, (501(h)(1)(A)) or
- B. Makes grass roots expenditures in excess of the grass roots ceiling amount for such organization for each taxable year (501(h)(1)(B)).

IRC §501(h)(2) defines the term "lobbying expenditures" as expenditures for the purpose of influencing legislation (as defined in §4911(d)), (501(h)(2)(A)), lobbying ceiling amount for any organization for any taxable year is 150 percent of the lobbying nontaxable amount for such organization for such taxable year,

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determined under §4911, (501(h)(2)(B)), "grass roots expenditures" as expenditures for the purpose of influencing legislation (as defined in §4911(d) without regard to paragraph (1)(B) thereof, (501(h)(2)(C)), and the grass roots ceiling amount for any organization for any taxable year is 150 percent of the grass roots nontaxable amount for such organization for such taxable year, determined under §4911, (501(h)(2)(D))

IRC §501(h)(3) states that this subsection shall apply to any organization which has elected (in such manner and at such time as the Secretary may prescribe) to have the provisions of this subsection apply to such organization and which, for the taxable year which includes the date the election is made, is described in subsection (c)(3).

IRC §4911(d) defines the term "influencing legislation" as any attempt to influence any legislation through an attempt to affect the opinions of the general public or any segment thereof (4911(d)(1)(A)), and any attempt to influence any legislation through communication with any member or employee of a legislative body, or with any government official or employee who may participate in the formulation of the legislation (4911(d)(1)(B)).

An IRC §170(b)(1)(A)(vi) organization is defined as an organization referred to in subsection (c)(2) which normally receives a substantial part of its support (exclusive of income received in the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under §501(a)) from a governmental unit referred to in subsection (c)(1) or from direct or indirect contributions from the general public.

IRC §170(c) defines the term "charitable contribution" as a contribution or gift to or for the use of —

§170(c)(1) - A State, a possession of the United States, or any political subdivision of any of the foregoing, or the United States or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes.

§170(c)(2) A corporation, trust, or community chest, fund, or foundation —

1. created or organized in the United States or in any possession thereof, or under the law of the United States, any State, the District of Columbia, or any possession of the United States; (170(c)(2)(A))
2. organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals; (170(c)(2)(B))
3. no part of the net earnings of which inures to the benefit of any private shareholder or individual; (170(c)(2)(C)) and
4. which is not disqualified for tax exemption under §501(c)(3) by reason of attempting to influence legislation, and which does not participate in, or intervene in (including the publishing or

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distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.(170(c)(2)(D))

Regulations §1.501(a)-1(a)(3) states that an organization claiming exemption under section 501(a) and described in any paragraph of section 501(c) (other than section 501(c)(1)) shall file the form of application prescribed by the Commissioner and shall include such information as required by such form and the instructions issued with respect thereto.

Regulations §1.501(a)-1(b)(1)(iii) states that an organization described in section 501(c)(3) shall submit with, and as a part of, an application filed after July 26, 1959, a detailed statement of its proposed activities.

Regulations §1.501(a)-1(b)(2) states that in addition to the information specifically called for by this section, the Commissioner may require any additional information deemed necessary for a proper determination of whether a particular organization is exempt under section 501(a), and when deemed advisable in the interest of an efficient administration of the internal revenue laws, he may in the cases of particular types of organizations prescribe the form in which the proof of exemption shall be furnished.

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

Regulations §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 engages primarily in activities that accomplish one or more of such exempt purposes specified in Code §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. The existence of a substantial nonexempt purpose, regardless of the number or importance of exempt purposes, will cause failure of the operational test. Better Business Bureau of Washington, DC v. U.S., 326 U.S. 279 (1945).

Regulations §1.501(c)(3)-1(c)(2) provides that the operational test is not satisfied where any part of the organization's earnings inure to the benefit of private shareholders or individuals, and where the organization serves a private benefit rather than public interests.

Regulations §1.501(c)(3)-1(c)(3)(i) provides that the operational test is not satisfied if it is an "action" organization as defined in subdivisions (ii), (iii), or (iv) of this subparagraph.

(ii) An organization is an "action" organization if a substantial part of its activities is attempting to influence legislation by propaganda or otherwise. For this purpose, an organization will be regarded as attempting to influence legislation if the organization (a) Contacts, or urges the public to contact, members of a legislative body for the purpose of proposing, supporting, or opposing legislation; or (b) Advocates the adoption or rejection of legislation.

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The term "legislation", as used in this subdivision, includes action by the Congress, by any State legislature, by any local council or similar governing body, or by the public in a referendum, initiative, constitutional amendment, or similar procedure. An organization will not fail to meet the operational test merely because it advocates, as an insubstantial part of its activities, the adoption or rejection of legislation. An organization for which the expenditure test election of § 501(h) is in effect for a taxable year will not be considered an "action" organization by reason of this paragraph (c)(3)(ii) for that year if it is not denied exemption from taxation under §501(a) by reason of §501(h).

(iii) An organization is an "action" organization if it participates or intervenes, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office. The term "candidate for public office" means an individual who offers himself, or is proposed by others, as a contestant for an elective public office, whether such office be national, State, or local. Activities which constitute participation or intervention in a political campaign on behalf of or in opposition to a candidate include, but are not limited to, the publication or distribution of written or printed statements or the making of oral statements on behalf of or in opposition to such a candidate.

(iv) An organization is an "action" organization if it has the following two characteristics: (a) Its main or primary objective or objectives (as distinguished from its incidental or secondary objectives) may be attained only by legislation or a defeat of proposed legislation; and (b) it advocates, or campaigns for, the attainment of such main or primary objective or objectives as distinguished from engaging in nonpartisan analysis, study, or research and making the results thereof available to the public. In determining whether an organization has such characteristics, all the surrounding facts and circumstances, including the articles and all activities of the organization, are to be considered.

Revenue Ruling 80-278, 1980-2 CB 175, (Jan. 01, 1980) provides that in making the determination of whether an organization's activities are consistent with exemption under section 501(c)(3) of the Code, the Service will rely on a three-part test. The organization's activities will be considered permissible under section 501(c)(3) if:

- (1) The purpose of the organization is charitable;
- (2) The activities are not illegal, contrary to a clearly defined and established public policy, or in conflict with express statutory restrictions; and
- (3) The activities are in furtherance of the organization's exempt purpose and are reasonably related to the accomplishment of that purpose.

Revenue Ruling 75-384, 1975-2 CB 204, (Jan. 01, 1975) states that as a matter of trust law, one of the main sources of the general law of charity, no trust can be created for a purpose which is illegal. The purpose is illegal if the trust property is to be used for an object which is in violation of the criminal law, or if the trust tends to induce the commission of crime, or if the accomplishment of the purpose is otherwise against public policy. IV *Scott on Trusts* Sec. 377 (3d ed. 1967). Thus, all charitable trusts (and by implication all charitable organizations, regardless of their form) are subject to the requirement that their purposes may not be illegal

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or contrary to public policy. See Revenue Ruling 71-447, 1971-2 C.B. 230; *Restatement* (Second), Trusts (1959) Sec. 377, Comment (c).

Revenue Procedure 2016-5, 2016-1 I.R.B. 188, Section 12, states that a determination letter recognizing exemption may be revoked or modified: (1) by a notice to the taxpayer to whom the determination letter was issued. This Revenue Procedure further provides that the revocation or modification of a determination letter recognizing exemption may be retroactive if the organization omitted or misstated a material fact, operated in a manner materially different from that originally represented.

Government's Position:

Issue 1 – Misstatement of material facts on the Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code.

It is the position of the government that the Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code, for [redacted] was knowingly filed with misstatements of material fact in that [redacted] was never intended to be operated in a manner that would qualify for exemption under §501(c)(3) of the Internal Revenue Code, and that [redacted] has failed to operate exclusively for charitable, educational, and other purposes.

Part II of the Form 1023, Activities and Operational Information, stated how the organization planned to conduct its operations:

The organization aims to educate the American public and leadership about the issue of which is subject to two unenforced UN resolutions of 19XX and 19XX. Toward this end of creating awareness about the need for need for restoring the right of self-determination of the [redacted] people, the [redacted] ([redacted]) has a program of publications and direct personal contact through one-on-one meetings and public gatherings. [redacted] has published and continues to produce and distribute a number of background information brochures and booklets, has placed newspaper advertisements, and has held meetings with the general public, academicians, and the media.

[redacted] organizes its annual General Assembly, holds periodic Board of Directors meetings, and holds fundraising and informational meetings in various cities across the U.S.

[redacted] commenced these activities on a regular basis and continues to operate on the line detailed above.

On December 11, 20XX, [redacted] entered into a plea agreement in the United States District Court for the Eastern District of [redacted], [redacted] Division. The plea agreement specified a two count criminal plea.

Count 1 - Conspiracy in violation of 18 U.S.C. § 371.

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(b) accepting the transfer of such money to the from the and the Government of through (" ") and middlemen ("the ") who received reimbursement from for their transfers to the ;

(c) providing letters from the to the documenting that the transfers from the to the were deductible to the extent provided by law; and

(d) concealing from the Internal Revenue Service that the money received from the actually was indirectly given to the by the officials employed by and the Government of .

Finally, agreed that the amount of the tax loss as a result of this conduct for purposes of calculating the Sentencing Guidelines is at least \$0 but not more than \$0.

The result of the admission by of engaging in each of the illegal activities outlined in the Statement of Facts which began prior to the filing of the Form 1023 establishes that he knowingly and intentionally made misstatements of material facts in the preparation and filing of Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code.

Pursuant to Revenue Procedure 2016-5 these misstatements of material facts regarding the purpose and intended operation of as admitted to by in both the Statement of Facts and plea agreement warrant the revocation of exempt status back to January 17, 19XX when was issued its initial Determination Letter.

Issue 2 - Operating as a not-for-profit educational organization

It is the government's position that was not operated as a not-for-profit educational organization as defined in IRC §501(c)(3) of the Internal Revenue Code in that it fails the Operational Test of Regulations §1.501(c)(3)-1(c)(3) by meeting the definition of an "Action" organization.

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

Regulations §1.501(c)(3)-1(c)(3)(i) states that an organization is not operated exclusively for one or more exempt purposes if it is an "action" organization as defined in subdivisions (ii), (iii), or (iv) of this subparagraph.

(ii) An organization is an "action" organization if a substantial part of its activities is attempting to influence legislation by propaganda or otherwise. For this purpose, an organization will be regarded as attempting to influence legislation if the organization —

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(a) Contacts, or urges the public to contact, members of a legislative body for the purpose of proposing, supporting, or opposing legislation; or

(b) Advocates the adoption or rejection of legislation.

The term "legislation", as used in this subdivision, includes action by the Congress, by any State legislature, by any local council or similar governing body, or by the public in a referendum, initiative, constitutional amendment, or similar procedure. An organization will not fail to meet the operational test merely because it advocates, as an insubstantial part of its activities, the adoption or rejection of legislation. An organization for which the expenditure test election of §501(h) is in effect for a taxable year will not be considered an "action" organization by reason of this paragraph (c)(3)(ii) for that year if it is not denied exemption from taxation under §501(a) by reason of section Link 501(h).

(iv) An organization is an "action" organization if it has the following two characteristics: (a) Its main or primary objective or objectives (as distinguished from its incidental or secondary objectives) may be attained only by legislation or a defeat of proposed legislation; and (b) it advocates, or campaigns for, the attainment of such main or primary objective or objectives as distinguished from engaging in nonpartisan analysis, study, or research and making the results thereof available to the public. In determining whether an organization has such characteristics, all the surrounding facts and circumstances, including the articles and all activities of the organization, are to be considered.

On December 11, 20XX, entered into a plea agreement in the United States District Court for the Eastern District of Division. The plea agreement specified a two count criminal plea.

Count 1 - Conspiracy in violation of 18 U.S.C. §371.

Count 2 - Corruptly endeavoring to impede the Internal Revenue Service, in violation of 26 U.S.C. §7212.

As part of the plea agreement, agreed that all of the allegations in the Criminal Information underlying his conviction and the Statement of Facts which was incorporated into his plea agreement were true and correct, and that had the matter gone to trial the United States would have proven them beyond a reasonable doubt. Exhibits 1 and 2.

By executing the Statement of Fact and entering into the plea agreement, agreed that from approximately 19XX, and continuing thereafter until approximately July 18, 20XX, in the Eastern District of and elsewhere, he unlawfully and knowingly conspired with others to:

(a) falsify, conceal, and cover up material facts they had a duty to disclose by tricks, schemes and devices, in matters within the jurisdiction of the agencies of the executive branch of the Government of the United States, in violation of Section 1001 of Title 18 of the United States Code; and

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(b) defraud the United States Department of the Treasury by impeding, impairing & obstructing and defeating the lawful functions of the Internal Revenue Service in the ascertainment, computation, assessment, and collection of the revenue.

further agreed that the "purpose of the scheme to conceal and falsify was to obtain money from officials employed by the Government of _____, including the _____ ("_____"), for the operation of the _____ ("_____"), outside of the knowledge of the Government of the United States and without attracting the attention of law enforcement and regulatory authorities."³ He further agreed that he made false, fictitious, and fraudulent material statements and representations in matters within the jurisdiction of the Department of Justice, Federal Bureau of Investigation, the Department of the Treasury, and the Internal Revenue Service, to prevent these agencies from learning the source of the money he obtained from officials employed by the _____ and the Government of _____ to operate the _____ and covered up material facts regarding his receipt of money for the operation of the _____ from officials employed by the _____ and the Government of _____.

By executing the plea agreement and statement of facts, _____ also admitted that from approximately 19XX, and continuing thereafter until approximately July 18, 20XX, he corruptly endeavored to obstruct and impede the due administration of the internal revenue laws by:

- (a) arranging the transfer of at least \$0 to the _____ from employees of the _____ and the Government of _____;
- (b) accepting the transfer of such money to the _____ from the _____ and the Government of _____ through ("_____") and middlemen ("the _____") who received reimbursement from _____ for their transfers to the _____;
- (c) providing letters from the _____ to the _____ documenting that the transfers from the _____ to the _____ were deductible to the extent provided by law; and
- (d) concealing from the Internal Revenue Service that the money received from the _____ actually was indirectly given to the _____ by the officials employed by _____ and the Government of _____.

Finally, _____ agreed that the amount of the tax loss as a result of this conduct for purposes of calculating the Sentencing Guidelines is at least \$0 but not more than \$0.

Specifically with respect to government's position that _____ operated _____ as an "action organization" which disqualifies _____ as an organization operated exclusively for one or more exempt purposes the government relies on _____ specific admissions made in the Statement of Facts attached hereto as Exhibit 2

³ The _____ is a part of the Government of _____ and is _____ intelligence service. _____ is a non-governmental organization located at _____, _____, _____ was founded in 19XX and also goes by the name "_____".

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(paragraphs 11, 14, 15, 16, 21, 27, 34, 36, 37, 39, 54 and 55) which demonstrate that a substantial part of 's activities were attempting to influence legislation, by propaganda or otherwise, by contacting members of Congress and the Executive Branch for the purpose of proposing, supporting, or opposing legislation. did this by providing information to Executive Branch officials, using Congress to highlight the issue of , arranging Congressional trips to , and attempting to offset the Indian lobby.

As detailed in the Statement of Facts admitted to by , documents that prepared and submitted to his contacts (annual "Strategy Document for the -American Counsel, USA") contained detailed budget requirements including money for contributions to members of Congress, conferences, seminars, opinion pieces to be distributed to newspapers across the country, and to organize a Congressional trip to

Moreover, the admissions made by in the Statement of Facts demonstrate the i Government, through its agents, had complete control of the content of facts that purport to support the viewpoints or positions of the organization. submitted detailed summaries of his planned activities to his contacts and was told what to say and who to invite to functions and conferences. This control was used to promote the Government's positions on to Congress and the Executive Branch of the U.S. Government, direct the topics and choose panelists at annual conference, influence newspaper articles on in the press, and offset the Indian lobby.

The activities illustrated in the Statement of Facts admitted to by meet the definition of an action organization contained in Regulations §1.501(c)(3)-1(c)(3)(ii) and (iv) and disqualify as an organization that is operated exclusively for one or more exempt purposes.

Issue 3 – Engaging in illegal activities

It is the government's position that , acting on behalf of as its Executive Director, was involved in illegal activities in violation of 18 U.S.C. § 371 and 26 U.S.C. § 7212.

On December 11, 20XX, entered into a plea agreement in the United States District Court for the Eastern District of , Division. The plea agreement specified a two count criminal plea.

Count 1 - Conspiracy in violation of 18 U.S.C. § 371.

Count 2 - Corruptly endeavoring to impede the Internal Revenue Service, in violation of 26 U.S.C. § 7212.

As part of the plea agreement, agreed that all of the allegations in the Criminal Information underlying his conviction and the Statement of Facts which was incorporated into his plea agreement were true and correct, and that had the matter gone to trial the United States would have proven them beyond a reasonable doubt. Exhibits 1 and 2.

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By executing the Statement of Fact and entering into the plea agreement, _____ agreed that from approximately 19XX, and continuing thereafter until approximately July 18, 20XX, in the Eastern District of _____ and elsewhere, he unlawfully and knowingly conspired with others to:

(a) falsify, conceal, and cover up material facts they had a duty to disclose by tricks, schemes and devices, in matters within the jurisdiction of the agencies of the executive branch of the Government of the United States, in violation of Section 1001 of Title 18 of the United States Code; and

(b) defraud the United States Department of the Treasury by impeding, impairing & obstructing and defeating the lawful functions of the Internal Revenue Service in the ascertainment, computation, assessment, and collection of the revenue.

_____ further agreed that the "purpose of the scheme to conceal and falsify was to obtain money from officials employed by the Government of _____, including the _____ ("_____"), for the operation of the _____ ("_____"), outside of the knowledge of the Government of the United States and without attracting the attention of law enforcement and regulatory authorities."⁴ He further agreed that he made false, fictitious, and fraudulent material statements and representations in matters within the jurisdiction of the Department of Justice, Federal Bureau of Investigation, the Department of the Treasury, and the Internal Revenue Service, to prevent these agencies from learning the source of the money he obtained from officials employed by the _____ and the Government of _____ to operate the _____ and covered up material facts regarding his receipt of money for the operation of the _____ from officials employed by the _____ and the Government of _____.

By executing the plea agreement and statement of facts, _____ also admitted that from approximately 19XX, and continuing thereafter until approximately July 18, 20XX, he corruptly endeavored to obstruct and impede the due administration of the internal revenue laws by:

(a) arranging the transfer of at least \$0 to the _____ from employees of the _____ and the Government of _____;

(b) accepting the transfer of such money to the _____ from the _____ and the Government of _____ through ("_____") and middlemen ("the _____") who received reimbursement from _____ for their transfers to the _____;

(c) providing letters from the _____ to the _____ documenting that the transfers from the _____ to the _____ were deductible to the extent provided by law; and

⁴ The _____ is a part of the Government of _____ and is _____ intelligence service. _____ is a non-governmental organization located at _____, _____, _____ was founded in 19XX and also goes by the name "_____".

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(d) concealing from the Internal Revenue Service that the money received from the actually was indirectly given to the by the officials employed by and the Government of

Finally, agreed that the amount of the tax loss as a result of this conduct for purposes of calculating the Sentencing Guidelines is at least \$0 but not more than \$0.

Revenue Ruling 80-278, 1980-2 CB 175, (Jan. 01, 1980) establishes that in making the determination of whether an organization's activities are consistent with exemption under section 501(c)(3) of the Code, the Service will rely on a three-part test. The organization's activities will be considered permissible under section 501(c)(3) if:

- (1) The purpose of the organization is charitable;
- (2) The activities are not illegal, contrary to a clearly defined and established public policy, or in conflict with express statutory restrictions; and
- (3) The activities are in furtherance of the organization's exempt purpose and are reasonably related to the accomplishment of that purpose.

, who engaged in illegal activities as the Executive Director of , as admitted to by him in the plea agreement and Statement of Facts annexed hereto as Exhibits 1 and 2, which date back to 1990, are not consistent with exemption under §501(c)(3). The fact that this involvement dates to the inception of the organization, requires that exemption be revoked back to its initial Determination Letter of January 17, 19XX.