

**Internal Revenue Service**

Appeals Office  
300 North Los Angeles Street  
MS LA 3000 Room 3054  
LOS ANGELES, CA 90012

Date: MAR 19 2020

Number: 202024016

Release Date: 6/12/2020

**Department of the Treasury**

Employer Identification Number:

Person to Contact:

\*\*\*\*

Employee ID Number: \*\*\*\*

Tel: \*\*\*\*

Fax: \*\*\*\*

UIL Index:

501.03-00

**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). We hereby revoke the favorable determination letter to you dated August 27, 20 and you are no longer exempt under Section 501(a) of the Code effective January 1, 20

We made the adverse determination for the following reason(s):

You operated in a manner whereby your net earnings inured to your founder and principal officer in contravention of the exemption requirement for organizations described in section 501(c)(3) of the Code. You failed to maintain contemporaneous records or otherwise demonstrate that your expenditures and operations more generally were exclusively for charitable, educational, or other exempt purposes. This revocation is effective on the first day of the first year we audited.

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, or 1041, U.S. Income Tax Return for Estates and Trusts. 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](http://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 Code section 6110 after deleting certain identifying information. We have 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 may file an action for declaratory judgment under the provisions of section 7428 of the Code in either:

- United States Tax Court,
- The United States Court of Federal Claims,
- 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  
400 Second Street, NW  
Washington, DC 20217

US Court of Federal Claims  
717 Madison Place, NW  
Washington, DC 20005

U. S. District Court for the District of Columbia  
333 Constitution Ave., N.W.  
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.

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. Please contact the Taxpayer Advocate for the IRS office that issued this letter. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit [www.taxpayeradvocate.irs.gov](http://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 any questions, contact the person at the top of this letter.

Sincerely,

\*\*\*\*

Appeals Team Manager



Date:  
May 22, 2018  
Taxpayer Identification Number:

Form:  
990-N  
Tax Year(s) Ended:

Person to Contact:

Manager's Contact Information:

Response Due Date:  
June 21, 2018

**CERTIFIED MAIL – Return Receipt Requested**

Dear

**Why you're receiving this letter**

We enclosed a copy of our audit report, Form 886-A, Explanation of Items, explaining that we propose to revoke your tax-exempt status as an organization described in Internal Revenue Code (IRC) Section 501(c)(3).

**If you agree**

If you haven't already, please sign the enclosed Form 6018, Consent to Proposed Action, and return it to the contact person shown at the top of this letter. We'll issue a final adverse letter determining that you aren't an organization described in IRC Section 501(c)(3) for the periods above.

After we issue the final adverse determination letter, we'll announce that your organization is no longer eligible to receive tax deductible contributions under IRC Section 170.

**If you disagree**

1. Request a meeting or telephone conference with the manager shown at the top of this letter.
2. Send any information you want us to consider.
3. File a protest with the IRS Appeals Office. If you request a meeting with the manager or send additional information as stated in 1 and 2, above, you'll still be able to file a protest with IRS Appeals Office after the meeting or after we consider the information.

The IRS Appeals Office is independent of the Exempt Organizations division and resolves most disputes informally. If you file a protest, the auditing agent may ask you to sign a consent to extend the period of limitations for assessing tax. This is to allow the

IRS Appeals Office enough time to consider your case. For your protest to be valid, it must contain certain specific information, including a statement of the facts, applicable law, and arguments in support of your position. For specific information needed for a valid protest, refer to Publication 892, How to Appeal an IRS Determination on Tax-Exempt Status.

Fast Track Mediation (FTM) referred to in Publication 3498, The Examination Process, generally doesn't apply now that we've issued this letter.

4. Request technical advice from the Office of Associate Chief Counsel (Tax Exempt Government Entities) if you feel the issue hasn't been addressed in published precedent or has been treated inconsistently by the IRS.

If you're considering requesting technical advice, contact the person shown at the top of this letter. If you disagree with the technical advice decision, you will be able to appeal to the IRS Appeals Office, as explained above. A decision made in a technical advice memorandum, however, generally is final and binding on Appeals.

**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 adverse determination letter.

**Contacting the Taxpayer Advocate Office is a taxpayer right**

The Taxpayer Advocate Service (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](http://www.taxpayeradvocate.irs.gov) or call 877-777-4778.

**For additional information**

You can get any of the forms and publications mentioned in this letter by visiting our website at [www.irs.gov/forms-pubs](http://www.irs.gov/forms-pubs) or by calling 800-TAX-FORM (800-829-3676).

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

Sincerely, \_\_\_\_\_

for Maria Hooke  
Director, Exempt Organizations  
Examinations

Enclosures:  
Form 886-A  
Form 6018

# Explanation of Items

Name of taxpayer

Tax Identification Number  
(last 4 digits)

Year/Period ended

## ISSUE

Whether (the "EO") 501(c)(3) tax-exempt status should be revoked because its earnings inured to the benefit of its President

## FACTS

The State of endorsed the EO's Articles of Incorporation on October 24, . Article II of the EO's Articles of Incorporation states that the corporation is a nonprofit Public Benefit Corporation and is not organized for the private gain of any person. EO was organized under the Nonprofit Public Benefit Corporation Law for both public purposes and public and charitable purposes. The EO's Articles states that the specific purpose of the corporation is to provide education about domestic and wild animals. EO also rescues, rehabilitates and rehomes unwanted or injured domestic and wild animals.

Revenue Agent secured (from the Secretary of State's public website) a copy of the EO's Certificate of Amendment of Articles of Incorporation filed in the office of the Secretary of State on September 22, . The amendment document states that Article 1 of EO's original governing instrument was amended, specifically the EO changed its name from to . Article 2B of the EO original Articles was also amended. The new provision states the following: *The specific purpose of this corporation is: Animal rescue and education, animal control, prevention of cruelty to animals.* Although the EO legally changed its name as indicated above, EO continues to use . The IRS will update its records to reflect the EO's current legal name.

The EO filed a Form 1023, *Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*, on July 23, , post mark date. a.k.a. put name down as the contact person on page one of the Form 1023, as authorized person on behalf of the organization.

was listed as the President, in Part II, of the Form 1023. signed page one of Form 1023 as authorized person on behalf the organization. One other officer is listed in Part II. was shown as the EO's Vice President.

In our letter dated August 27 , we determined the EO was exempt from federal income tax under section 501(a) of the Code as an organization described in Section 501(c)(3). We further determined that the EO was a publicly supported organization described under Code sections 509(a) (1) and 170(b)(1)(A)(vi).

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(last 4 digits)

Year/Period ended

For each of the tax years \_\_\_\_\_, the EO filed an annual IRS Form 990-N, Electronic Notice (e-Postcard) for Tax-Exempt Organization not Required To File Form 990 or 990-EZ. \_\_\_\_\_ was listed as the EO's principal officer on both the \_\_\_\_\_ and \_\_\_\_\_ Form 990-N filings. The EO filed a Form 990-EZ for the \_\_\_\_\_ tax year and \_\_\_\_\_ signed the return.

During the initial audit interview conducted on May 25, \_\_\_\_\_, \_\_\_\_\_ stated that \_\_\_\_\_ is the EO's founder, president and a member of the board of directors. Furthermore, \_\_\_\_\_ has held the position of president and has been a board member since the EO legally formed in \_\_\_\_\_. \_\_\_\_\_ stated that \_\_\_\_\_ was solely responsible for the operations and financial affairs of the organization. During \_\_\_\_\_ and \_\_\_\_\_, The EO maintained a checking account at \_\_\_\_\_. The EO maintained a checking account and \_\_\_\_\_ was the sole authorized user of the EO's bank debit card and \_\_\_\_\_ had exclusive signature authority. \_\_\_\_\_ made all bank deposits.

\_\_\_\_\_ disclosed on May 25, \_\_\_\_\_ that in \_\_\_\_\_ and \_\_\_\_\_, the EO had two additional officers and board members. \_\_\_\_\_ served as the EO's Vice President and board member and \_\_\_\_\_ held the positions as Secretary and board member. \_\_\_\_\_ and \_\_\_\_\_ have both since resigned from their respective positions with the EO. As of the date of this report, \_\_\_\_\_ stated that there are two officers (who are also board members). \_\_\_\_\_ continues to be the EO's president and \_\_\_\_\_ is the other officer and board member). \_\_\_\_\_ is the EO's corporate secretary.

\_\_\_\_\_ provided the following list of EO's activities conducted in \_\_\_\_\_ and \_\_\_\_\_:

- Rescuing wild animals for release. Animals have included \_\_\_\_\_
- Sheltering rescued animals
- Paying for spay/neuter of animals
- Conducting wildlife presentations and exhibits at public events
- Creating and uploading animal rescue videos to YouTube
- Maintaining a Facebook page
- Responding to public emails and provided animal advice/help
- Participating in Adopt-a-pet events

\_\_\_\_\_ stated that the current activities of the EO are nearly the same as they were in the \_\_\_\_\_ and \_\_\_\_\_ years. The major change in activities since the end of \_\_\_\_\_ is that the EO's sheltering of animals has drastically diminished because the EO had to move its facility.

**Facilities:**

\_\_\_\_\_ stated that the EO rented (from \_\_\_\_\_ through \_\_\_\_\_) a 1-bedroom cabin/house located at \_\_\_\_\_. The EO's facility was also the \_\_\_\_\_.

# Explanation of Items

Name of taxpayer

Tax Identification Number  
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Year/Period ended

residence of \_\_\_\_\_ provided an unsigned lease agreement that listed \_\_\_\_\_ as the tenant. The lease agreement did not make any reference to the EO. \_\_\_\_\_ stated that the EO subleased the facility from \_\_\_\_\_ did not submit any documentation regarding any subleasing arrangement. Section 21 of the Residential Lease or Month-To Month Rental Agreement submitted by \_\_\_\_\_ reads, in part, as follows: *ASSIGNMENT; SUBLETTING: Tenant shall not sublet all or any part of Premises, or assign or transfer this Agreement or any interest in it, without Landlord's prior written consent.* Section 13 of Agreement reads: *PETS: Unless otherwise provided in \_\_\_\_\_, no animal or pet shall be kept on or about the Premises without Landlord's prior written consent, except:* \_\_\_\_\_ did not submit copies of any written consents pertaining to Sections 21 and 13 of the lease/rental agreement.

\_\_\_\_\_ made the following statement in \_\_\_\_\_ faxed correspondence dated June 21, \_\_\_\_\_ : *I didn't collect rent from \_\_\_\_\_ even though it took over all my yard, half of my garage and \_\_\_\_\_ rooms in the house. My monthly mortgage, insurance, utilities were \$ \_\_\_\_\_ /month.*

\_\_\_\_\_ stated in \_\_\_\_\_ faxed correspondence dated June 21, \_\_\_\_\_ that the wildlife are currently being housed with volunteers. \_\_\_\_\_ further stated that \_\_\_\_\_ does not personally house any wildlife at \_\_\_\_\_ house as \_\_\_\_\_ does not want to give \_\_\_\_\_ address to the United States Department of Agriculture (USDA) and Fish and Wildlife. Furthermore, \_\_\_\_\_ does not want to give the IRS (and \_\_\_\_\_ has refused to give, during the course of this audit) the address to \_\_\_\_\_ current residence where \_\_\_\_\_ states that \_\_\_\_\_ cares for the EO's domestic animals, such as \_\_\_\_\_

Even though asked several times by agent and agent's group manager, \_\_\_\_\_ would not provide the IRS with the addresses ( \_\_\_\_\_ and volunteers) where \_\_\_\_\_ states that the EO's animals are currently housed and cared for.

Since the auditing agent has not been able to tour the EO's places of business, the agent has been unable to observe the EO's daily business activities or physically verify the EO's non-cash assets, such as animal enclosures. We have only received \_\_\_\_\_ verbal claims of the EO rescuing and housing animals activities.

\_\_\_\_\_ has only provided the IRS with the EO's mailing address which is a post office box:

The EO's \_\_\_\_\_ Balance Sheet submitted by \_\_\_\_\_ states that the volunteers buy and use their own crates, food, some medications, pay veterinary bills for the animals in their possession.

# Explanation of Items

Name of taxpayer

Tax Identification Number  
(last 4 digits)

Year/Period ended

**Vehicles:**

stated that personally owned a and that donated that car to the EO. further stated that with the donation of the car came with a written agreement. has indicated that currently neither nor the EO has a copy of the written agreement. In EO's correspondence dated June 21, , stated that the agreement allowed to retain the right to use the car for personal use. stated that alone made this car use arrangement with the EO and . Additionally, indicated that the agreement was for the use of future cars owned by EO. stated the EO sold the vehicle and the proceeds from the sale of the vehicle was used as a down payment for another car, namely a . The was purchased in .

The EO is the registered owner, per the Department Motor Vehicle, of the . On June 5, , submitted a faxed copy of a purchase agreement for the vehicle. The purchase agreement entered on November 22, indicates that the buyer of the car is . The purchase price of the car was \$ . The contract indicates that will make a down payment of \$ and balance will be paid in monthly installments of \$ . The payments will continue until the sale price is paid in full.

stated that paid \$ as an initial down payment for the and the EO made two additional payments of \$ and \$ states that outstanding balance (as of February ) due for the is \$ further stated that the certificate of owner is being held by the seller ( ) of the vehicle until the car is paid in full.

stated that uses the EO's car for personal use. further indicated. in faxed correspondence dated June 21, that It is not eco-friendly to have a car for the EO and a car for . Neither the EO nor maintained any contemporaneous records regarding car usage between the EO and personal use. used the EO's bank debit card on numerous occasions to purchase gas for the car; however, does not have receipts or contemporaneous records documenting whether the purchase of gas was for personal use or for the EO's exempt purpose.

**Loans:**

When agent asked during the interview conducted on May 25, about any loans, stated that there were no loans, to or from the organization during the years through . However, in submitted correspondence dated June 21, , states, in part the following:

*Previously I was keeping a running tally of all that I loaned to*

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since ... I spent of my own money on 's veterinary, medications, d vaccinations, animal food, supplies...I stopped counting at \$ . As I said at our meeting, I doubt will ever be able to pay back."

does not have any written or verbal loan agreements with the EO. has not submitted any contemporaneous (or otherwise) documentation that substantiates that the EO was party to any loans with its president

Transactions for Cash Withdrawals and Questionable Expenses:

During the and tax years, the EO maintained very few financial records. EO relied primarily on its monthly bank statements to document the incoming and out-going of funds.

stated in faxed correspondence dated February 7, that threw away all paper documents when moved from her previous place of residence at the end of further stated that does not have paper receipts of the charges (debit card and checks).

During the initial audit interview conducted on May 25, stated that the EO did not (and does not) compensate its officer and board members and the EO did not (and does not) have any employees or compensated individuals. stated that was the live-in caretaker for the animals; however, did not receive any compensation. stated that during the years through , there were no loans, to or from the EO. stated that used her personal funds to pay for EO expenses; however, did not request any reimbursements. indicated that considered any use of her personal funds as a gift to the EO.

**Personal Business:**

has stated that is a by profession. has an business. We are unable to separate expenses from private business and the EO's.

uses the EO's car for private business and other personal interests.

On EO's website/blog (see attached photo of EO's web page) there is evidence that the EO has commingled its exempt activities content with private business.

The public contact telephone number for business is the same telephone number used for the EO.

# Explanation of Items

Name of taxpayer

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**Personal Use of EO's Checks:**

disclosed during the interview conducted on May 25, that wrote two checks from the EO's bank account for personal use.

- ck written in the amount of \$ and dated
- ck written in the amount of \$ and dated

stated that these two checks issued to were for personal business expenses and not for the EO's business. further stated that paid personal expenses using the EO's checks because could not find personal checks. further stated that reimbursed the EO for the total amount of the two checks. did not submit any documentation to agent substantiating the repayment of these specific funds to the EO.

The EO's bank statement reflect numerous debit card transactions for court related fees. stated that these expenditures were related to the EO because the EO was named in a lawsuit. The lawsuit, names as the sole defendant. These court fees appear to be private expenses.

Exhibit 1 provides a complete list of these transactions in date order. The following table summarized these transactions by year:

expense type	Reasoning	total	total
automobile	need supporting records to allocate		
communication	need supporting records to allocate		
drawings	need supporting records to allocate		
gas	need supporting records to allocate		
general	need supporting records to allocate		
grocery	need supporting records to allocate		
insurance	need supporting records to allocate		
legal	The EO wasn't a party to the case.		
legal-shipping	The EO wasn't a party to the case.		

# Explanation of Items

Name of taxpayer	Tax Identification Number <i>(last 4 digits)</i>	Year/Period ended
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mailbox	The EO didn't have a PO box.		
meals	need supporting records to allocate		
personal	related to appraisal business		
shipping	need supporting records to allocate		
utilities	need supporting records to allocate		
<b>Total EBT for first tier tax</b>			
Cash deposits:	claimed them to be personal funds		
<b>Net EBT for second tier tax</b>			

## Law

### Internal Revenue Code

§501(c)(3) of the Internal Revenue Code provides for exemption from Income Tax for 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.

§4958(c) defines the term “excess benefit transaction” as any transaction in which an economic benefit is provided by an applicable tax-exempt organization directly or indirectly to or for the use of any disqualified person if the value of the economic benefit provided exceeds the value of the consideration (including the performance of services) received for providing such benefit. For purposes of the preceding sentence, an economic benefit shall not be treated as consideration for performance of services unless such organization clearly indicated its intent to so treat such benefit.

§4958(e) defines “applicable tax-exempt organization” as an organization described in either §501(c)(3) or §501(c)(4) of the Internal Revenue Code or an organization which was so described at any time during the five-year period ending on the date of the excess benefit transaction.

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§4958(f)(1) defines a “disqualified person” as (A) any person who was, at any time during the five-year period ending on the date of such transaction, in a position to exercise substantial influence over the affairs of the organization, (B) a member of the family of a disqualified person, and (C) a 35% controlled entity.

## Treasury Regulations

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

§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.

§1.501(c)(3)-1(d)(3)(i) defines the word “educational”, as used in §501(c)(3) of the Code, as –

(a) The instruction or training of the individual for the purpose of improving or developing his capabilities; or

(b) The instruction of the public on subjects useful to the individual and beneficial to the community.

§1.501(c)(3)-1(e) states that an organization may meet the requirements of section 501(c)(3) although it operates a trade or business as a substantial part of its activities, if the operation of such trade or business is in furtherance of the organization's exempt purpose or purposes and if the organization is not organized or operated for the primary purpose of carrying on an unrelated trade or business, as defined in section 513. In determining the existence or nonexistence of such primary purpose, all the circumstances must be considered, including the size and extent of the trade or business and the size and extent of the activities which are in furtherance of one or more exempt purposes. An organization which is organized and operated for the primary purpose of carrying on an unrelated trade or business is not exempt under section 501(c)(3) even though it has certain religious purposes, its property is held in common, and its profits do not inure to the benefit of individual members of the organization.

§1.501(c)(3)-1(f)(2)(i) states that, regardless of whether a particular transaction is subject to excise taxes under section 4958, the substantive requirements for tax exemption under section 501(c)(3) still apply to an applicable tax-exempt organization described in section 501(c)(3) whose disqualified persons or organization managers are subject to excise taxes under section 4958.

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Accordingly, an organization will no longer meet the requirements for tax-exempt status under section 501(c)(3) if the organization fails to satisfy the requirements of paragraph (b), (c) or (d) of this section.

§1.501(c)(3)-1(f)(2)(ii) provides that, in determining whether to continue to recognize the tax-exempt status of an applicable tax-exempt organization (as defined in section 4958(e) and §53.4958-2) described in section 501(c)(3) that engages in one or more excess benefit transactions that violate the prohibition on inurement under section 501(c)(3), the Commissioner will consider all relevant facts and circumstances, including, but not limited to, the following —

- (A) The size and scope of the organization's regular and ongoing activities that further exempt purposes before and after the excess benefit transaction or transactions occurred;
- (B) The size and scope of the excess benefit transaction or transactions (collectively, if more than one) in relation to the size and scope of the organization's regular and ongoing activities that further exempt purposes;
- (C) Whether the organization has been involved in multiple excess benefit transactions with one or more persons;
- (D) Whether the organization has implemented safeguards that are reasonably calculated to prevent excess benefit transactions; and
- (E) Whether the excess benefit transaction has been corrected (within the meaning of section 4958(f)(6) and §53.4958-7), or the organization has made good faith efforts to seek correction from the disqualified person(s) who benefited from the excess benefit transaction.

In *Joan Farr f.k.a. Joan Feffington vs. Commissioner*, (TC Memo 2018-2), the United States Tax Court upheld the Internal Revenue Service's determinations in the notice of deficiencies pursuant to IRC section 4958.

**Government's Position**

EO's earnings have inured, in substantial part, to the benefit of [redacted]. This violates §1.501(c)(3)-1(c)(2) of the Treasury Regulations, and warrants revocation of EO's 501(c)(3) status. [redacted] was in a position of complete financial control during the years under examination. Because of this control, [redacted] could use EO's debit card and its cash to pay personal expenses. [redacted] did so on numerous occasions during [redacted] and [redacted] has stated that [redacted] was not compensated by the EO. Furthermore, [redacted] stated that there were no loan agreements between [redacted] and the EO. Therefore, all checks, cash withdrawals, and debit card purchases that benefited [redacted] constitute inurement to [redacted].

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**Interaction with Section 4958 of the Code**

The EO, having been recognized on August 27, as an organization described in §501(c)(3) of the Internal Revenue Code, and remaining so recognized through the date of this report, is an “applicable tax-exempt organization”, as contemplated by §4958(e) of the Code.

is the founder and President of EO. writes and signs checks drawn on EO’s bank account. is an officer of, and exercises substantial influence over the affairs of EO, and therefore meets the definition of a “disqualified person” as contemplated by §4958(f)(1) of the Code.

indicated that is a volunteer, and that was not to be compensated by the EO. was not issued either Forms W2 or 1099 by the EO. There was thus no intent by EO to treat any economic benefit to as compensation. Therefore, per §53.4958-4(c)(1) of the Treasury Regulations, any economic benefit that received from EO is an automatic excess benefit transaction. All of the transactions itemized in Exhibit 1 represent economic benefit to , and are thus all excess benefit transactions.

Following is a discussion of the five factors contemplated in §1.501(c)(3)-1(f)(2)(ii) of the Treasury Regulations for revoking 501(c)(3) status on the grounds of inurement when the inurement also constitutes excess benefit transactions (“EBTs”):

**Factor #1: Size and scope of exempt activities before and after EBTs**

Revocation is being proposed primarily on the grounds of inurement, and secondarily on the grounds of EO’s activities’ qualification for 501(c)(3) status.

would not provide the IRS with the addresses ( and volunteers) where states that the EO’s animals are currently housed and cared for. stated that

. Since, the auditing agent has not able to tour the EO’s places of business. Agent has been unable to observe the EO’s daily business activities or physically verify the EO’s non-cash assets, such as animal enclosures. Agent is unable to confirm the size and scope of the EO’s exempt activities

**Factor #2: Size and scope of EBTs in relation to size and scope of exempt activities**

During , the EBTs were numerous and frequent. The \$ of gross inurement detailed in this report is a significant amount of inurement; particularly for an

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organization that generates less than \$ \_\_\_\_\_ in revenue per year. Considering that a substantial amount of the EO's revenue was used for \_\_\_\_\_ private purposes, the amount of revenue available for use by the EO for exempt activities pales in comparison. Therefore, consideration of this second factor weighs in favor of revocation.

**Factor #3: Multiple EBTs**

As shown in Exhibit 1, there were numerous transactions during the \_\_\_\_\_ tax years that constitute both inurement and EBTs. EBTs were thus not isolated or infrequent. Consideration of this third factor then also weighs in favor of revocation.

**Factor #4: Whether safeguards have been implemented**

The transactions constituting inurement and EBTs were routine and continuous. This suggests a complete absence of any internal controls or safeguards, with the most glaring absence being that of an independent governing body. \_\_\_\_\_ ability to write checks, sign checks, and use EO's debit card is evidence of \_\_\_\_\_ having unfettered control of EO's finances. This condition allowed these transactions to occur.

No safeguards have been implemented. It should be noted that the EO's governing body consisting only of \_\_\_\_\_ and one other person. Despite the EO having one other officer besides \_\_\_\_\_ maintains sole control of the EO's financial affairs. If the EO implemented any safeguards, there are not enough disinterested person on the governing body to enforce them. Consideration of this fourth factor therefore also weighs in favor of revocation.

**Factor #5: Whether the EBTs have been corrected**

Of the \$ \_\_\_\_\_ of EBTs and gross inurement that occurred during \_\_\_\_\_ and \_\_\_\_\_, \$ \_\_\_\_\_ are cash deposits to EO's bank account that \_\_\_\_\_ claimed them to be \_\_\_\_\_ personal funds, as of the date of this report. This leaves \$ \_\_\_\_\_ of net inurement and uncorrected EBTs. This amount alone warrants revocation of EO's 501(c)(3) status.

For the purposes of considering this fifth factor, considering \_\_\_\_\_ unfettered control of EO's finances, there is little significance to the transfer of money from \_\_\_\_\_ account to EO's. The money in EO's bank account has been no less at risk of being used by \_\_\_\_\_ than has any other money. For this reason, consideration of this fifth factor weighs more in favor of revocation.

# Explanation of Items

Name of taxpayer

Tax Identification Number  
(last 4 digits)

Year/Period ended

## Summary

The \$ \_\_\_\_\_ of net inurement detailed in this report is a significant amount of inurement; particularly for an organization that generates less than \$ \_\_\_\_\_ in revenue per year. This puts EO in violation of §1.501(c)(3)-1(c)(2) of the Treasury Regulations, and warrants revocation of its exempt status under Code §501(c)(3). Given the routine and continuous nature of the inurement throughout \_\_\_\_\_ and \_\_\_\_\_, revocation is proposed effective January 1, \_\_\_\_\_.

## Taxpayer's Position

The taxpayer's position is not known at this time.

## Conclusion

EO's net earnings have inured, in substantial part, to the benefit of its founder and President, \_\_\_\_\_. This violates §1.501(c)(3)-1(c)(2) of the Treasury Regulations, and warrants revocation of EO's 501(c)(3) status effective January 1, \_\_\_\_\_. Form 1120, U.S. Corporation Income Tax Return, should be filed for \_\_\_\_\_, \_\_\_\_\_, and each year thereafter if EO remains subject to federal income tax.