



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

Date: March 2, 2021

Taxpayer ID number:

Form:

Tax periods ended:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Release Number: **202221020**

Release Date: **5/27/2022**

UIL: **501.03-00**

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Dear

Why we are sending you this letter

This is a final determination that you don't qualify for exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a.) as an organization described in IRC Section 501(c)(3), effective January 1, 2016. Your determination letter dated February 26, 2008, is revoked.

Our adverse determination as to your exempt status was made for the following reasons: Organizations described in IRC Section 501(c)(3) and exempt under IRC Section 501(a) must be both organized and operated exclusively for exempt purposes. You failed to satisfy the operational test and your funds inured to the benefit of individuals. You have failed to show that you are operated exclusively for exempt purposes and that no part of your net earnings inure to the benefit of private shareholders or individuals.

Organizations that are not exempt under IRC Section 501 generally are required to file federal income tax returns and pay tax, where applicable. For further instructions, forms and information please visit www.irs.gov.

Because you were a private foundation as of the effective date of the adverse determination, you are considered to be a taxable private foundation until you terminate your private foundation status under IRC Section 507. In addition to your income tax return, you must also continue to file Form 990-PF, Return of Private Foundation or Section 4947(a)(1) Trust Treated as Private Foundation, by the 15th day of the fifth month after the end of your annual accounting period.

Contributions to your organization are no longer deductible under IRC Section 170.

What you must do if you disagree with this determination

If you want to contest our final determination, you have 90 days from the date this determination letter was mailed to you to file a petition or complaint in one of the three federal courts listed below.

How to file your action for declaratory judgment

If you decide to contest this determination, you may file an action for declaratory judgment under the provisions of IRC Section 7428 in one of the following three venues: 1) United States Tax Court, 2) the United States Court of Federal Claims or 3) the United States District Court for the District of Columbia.

Please contact the clerk of the appropriate court for rules and the appropriate forms for filing an action for declaratory judgment by referring to the enclosed Publication 892, How to Appeal an IRS Determination on Tax-Exempt Status. You may write to the courts at the following addresses:

United States Tax Court
400 Second Street, NW
Washington, DC 20217

U.S. Court of Federal Claims
717 Madison Place, NW
Washington, DC 20439

U.S. District Court for the District of Columbia
333 Constitution Ave., N.W.
Washington, DC 20001

Processing of income tax returns and assessments of any taxes due will not be delayed if you file a petition for declaratory judgment under IRC Section 7428.

We'll notify the appropriate state officials (as permitted by law) of our determination that you aren't an organization described in IRC Section 501(c)(3).

Information about the IRS Taxpayer Advocate Service

The IRS office whose phone number appears at the top of the notice can best address and access your tax information and help get you answers. However, you may be eligible for free help from the Taxpayer Advocate Service (TAS) if you can't resolve your tax problem with the IRS, or you believe an IRS procedure just isn't working as it should. TAS is an independent organization within the IRS that helps taxpayers and protects taxpayer rights. Contact your local Taxpayer Advocate Office at:

Internal Revenue Service
Taxpayer Advocate Office

Or call TAS at 877-777-4778. For more information about TAS and your rights under the Taxpayer Bill of Rights, go to taxpayeradvocate.irs.gov. Do not send your federal court pleading to the TAS address listed above. Use the applicable federal court address provided earlier in the letter. Contacting TAS does not extend the time to file an action for declaratory judgment.

Where you can find more information

Enclosed are Publication 1, Your Rights as a Taxpayer, and Publication 594, The IRS Collection Process, for more comprehensive information.

Find tax forms or publications by visiting www.irs.gov/forms or calling 800-TAX-FORM (800-829-3676)

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

If you prefer to write, use the address shown at the top of this letter. Include your telephone number, the best time to call, and a copy of this letter.

Keep the original letter for your records.

Sincerely,



Sean E. O'Reilly

Director, Exempt Organizations Examinations

Enclosures:
Publication 1
Publication 594
Publication 892



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

Date: May 29, 2020

Taxpayer ID number:

Form:

Tax periods ended:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Address:

Manager's contact information:

Name:

ID number:

Telephone:

Response due date:

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 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 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 Sean E. O'Reilly
Director, Exempt Organizations
Examinations

Enclosures:

Forms 4621-A, 886-A

Form 6018

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

ISSUE:

1. Do funds of the _____ inure and serve the private interests of the members of the governing body, _____, President, CEO, Director and _____, Secretary, CFO, Director in violation of exemption requirements under Section 501(c)(3) of the Internal Revenue Code (Code)?
2. Does the _____ fail to meet the operational test under Section 501(c)(3) of the Code?
3. If the _____ fails to meet the operational test and uses funds to serve private interests, should the exemption under Section 501(c)(3) of the Code be revoked as of 1/ /20 ____ ?

FACTS:

The _____ was incorporated in the State of _____ on March _____, 20 ____ . The _____ (_____) received determination letter 1076 dated February _____, 20 ____ , recognizing it as exempt from federal taxation under section 501(a) as a Charitable organization described in IRC section 501(c)(3) and classifying it as a private non-operating foundation. The organization's address is the same as the two members of its governing body, _____, (President) and _____, (Secretary).

The articles of incorporation state the corporation was organized and operated exclusively for charitable purposes within the meaning of Section 501(c)(3), Internal Revenue Code. The property of this corporation is irrevocably dedicated to charitable purposes and no part of the net income or assets of this corporation shall never inure to the benefit of any director, officer or member thereof or to the benefit of any private person.

Upon the dissolution or winding up of the corporation, its assets remaining after payment, or provision for payment, of all debts and liabilities of this corporation shall be distributed to a nonprofit fund, foundation or corporation which is organized and operated exclusively for charitable purposes and which has established its tax exempt status under Section 501(c)(3), Internal Revenue Code.

The articles further specifies its purpose is to donate available fund assets to certain academic institutions for their research and development activity uses; advocacy for community benefits, which include, but not limited to the performance of arts; and the remaining money is used to develop and expand our variety of philanthropic missions.

The Articles of Incorporation for this Private Foundation included the following language:

- A. The corporation will distribute its income for each tax year at a time and in a manner as not to become subject to the tax on undistributed income imposed by section 4942 of the Internal Revenue Code, or the corresponding section of any future federal tax code.
- B. The corporation will not engage in any act of self-dealing as defined in section 4941(d) of the Internal Revenue Code, or the corresponding section of any future federal tax code.
- C. The corporation will not retain any excess business holdings as defined in section 4943(c) of the Internal Revenue code, or corresponding section of any future federal tax code.

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

- D. The corporation will not make any investments in a manner as to subject it to tax under section 4944 of the Internal Revenue Code, or the corresponding section of any future federal tax code.
- E. The corporation will not make any taxable expenditure as defined in section 4945(d) of the Internal Revenue Code, or the corresponding section of any future federal tax code.

For the year ending _____, 20____ the Form _____ listed two officers, _____, (President) and _____, (Secretary) each working (____) hours per week in the _____.

The _____ secretary stated during an initial interview conducted on ____/____/____ that during the year under examination, she and her husband were both employed full-time in the _____ industry as _____. They conducted the activities of the organization out of their home in their spare time. At the time of securing exemption, the _____ requested foundation status as a non-operational private foundation. Subsequently, they developed activities which they are directly involved in conducting.

In Part IX-A of Form _____ they listed the following as their four largest direct activities:

1. President volunteered with non-profit organizations in their fund-raising and community outreach activities (____ Area) annually. President, with a group of musicians, volunteered their time, to practice, prepare, and perform for local community outreach activities and fund- raising events. These activities were organized by local non-profit organizations, foundations and church in _____ with expenses listed on form _____ as \$ _____.
2. Secretary volunteered her time regularly to a permanently disabled patient, who lives locally and suffering from uncontrollable seizures and mild depression. Secretary drives the patient weekly to grocery shopping, movies, local errands, doctor visits, medical exams and occasionally pays for rent, groceries, meals and entertainment with expenses listed on form _____ as \$ _____.
3. Both founders traveled to _____ and _____ regularly to volunteer in clinic and hospital by providing companionship to patients, assisting medical staff with patients, transporting and escorting patients in wheelchairs, and running errands in other areas with expenses listed on form _____ as \$ _____.
4. Foundation owns and manages _____ rental properties, acquired during economic downturn in 20____ and kept the monthly rent at _____ % below the market price for low-income families, the elderly and the disabled to afford decent, safe, and sanitary housing. They have provided their corporate place of business, for free, to a financial struggling _____, to teach class every _____ in their community. They have volunteered their time at _____ on _____, _____, _____, _____, _____, _____, _____ & Secretary has volunteered time at _____ as foster parent for dogs/cats with the expense for these activities shown on form _____ as \$ _____.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
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The Form and Books for the tax year ending , showed the following income:

	<u>Form</u>	<u>Books</u>
Contributions from founders	\$,	\$,
Interest on Savings		
Dividends/Interest on Securities		
Gross Rents	,	,
Net Gain or Loss from sale of Assets	,	,
Other Income-Rebates		
Total Income	<u>\$ ±</u>	<u>\$ ±</u>

The income primarily comes from contributions from President and Secretary. The other sources of income for the are investment income from an e trade account and rental income from rental properties owned/maintained by the. One of these was sold during the subsequent year.

Expenses shown on the Form are as follows:

Legal Fees	-	-	-
Accounting Fees	\$,		
Taxes	\$		
Depreciation	\$,		
Auto Expense	\$		
Bank Charge	\$,		
Filing Fee	\$		
Meals Expense	\$		
Membership Dues	\$		
Office Expense	\$		
Postage	\$		
Office Supplies	\$		
Telephone	\$		
Utilities	\$		
Rental Expenses	\$,		
Contributions Paid	\$,		
Program Fee	\$ ±		
TOTAL	<u>\$ ±</u>		

Secretary indicated in a phone conversation with the examiner that she was unaware of the rules regulating private foundations. She stated that she was doing what she thought was acceptable per an accountant they had hired to assist them in establishing and operating their. He has since been prosecuted by the Attorney General of. They have since replaced accountants and have continued to operate even after being revoked by the State of subsequent to an examination.

The Secretary asserted in the initial interview, conducted, / / , that the expenses reported on the Form includes expenses related to their corporate place of business, (their home), on basis that several of the direct activities they listed in Part IX-A, Summary of Direct Activities are charitable activities conducted at their home, therefore all expenses relating to the upkeep of the premises are operational expenses and should be deductible.

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In a fax received from the Secretary on / / she stated, "Our house setup- we hold events mostly in kitchen, family, living and dining room, approx. sq. ft. The house is about sq. ft. We have a (purchased by ourselves), tables, sofa and chairs." No allocation of household expenses was made.

Activities Listed on Form :

1. Information provided regarding President's activities in the was vague. In / / , response to IDR1 the responded "No written contracts exists between the and the with whom pays certain expenses for the such as meals, travel, rental of equipment, purchase of , books and phone and internet services in order to help make these community outreach activities and fundraising possible." The documents provided / / did not relate to the period under examination.

When asked for specifics as to costs related to this activity, the / / response to IDR4 included the following:

volunteered his time and money for provided for and provided and as well. For each , everyone is responsible for small groups, and individual practices. Practice and location is not consistent. It can be any member's home and it depends on member's schedule. There is daily, weekly and monthly practices. Currently, we do not keep track of travel to practices or or expenses specifically related to this project. website - which contains photos, videos of has driven to for practices. can only give a rough estimate of , miles travelled to participate in practices and events.

is a 501(c)(3) organization established by a group of alumni of from and who live in the . It consists of a larger group of amateur and professional in the area that share the passion of and together in their leisure time.

A further review of the website does not give a schedule of during the year under exam. Documentation provided on / / regarding this activity does not support President's claim of expenses provided by the related to his participation in this or use of their home for activities related to this activity.

The organization was asked about expenses related to a trip to from / / to / / . In / / response to IDR4 the PF responded "Between / / to / / made a trip to , and volunteered in anniversary events, met several volunteers in , and , volunteered at a clinic and visited the orphanage." No records were provided that identify when he went to the orphanage, who he met with and what was discussed, or on what date he worked at the clinic.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
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2. Secretary volunteers her time regularly to a permanently disabled patient, who lives locally and suffering from uncontrollable seizures and mild depression. Secretary drives the patient weekly to grocery shopping, movies, local errands, doctor visits, medical exams and occasionally pays for rent, groceries, meals and entertainment.

When asked about this activity, the POA // response to IDR1 stated, " provides services for , that assist with her activities of daily living. suffers from uncontrollable seizures and mild depression. She receives social security as income and cannot be left alone, cook, drive, or work, assists by cooking for her, purchasing and delivering her groceries, taking her to the doctor and medical exams, taking her to an epilensv support group, and providing sources of entertainment such as trips to the movies." // , the also provided a letter dated // from , the mother of , (Secretary's sister) basically confirming all the assistance the has provided for her daughter.

When asked if they could tell me the total amount they provided to this activity, the // response to IDR4 was "We cannot determine the specific amounts, receipts and expenses related to assisting disabled person , because we don't track expenses by charitable project or activity. We estimate miles were driven for this activity." Their log of meals, (provided //) also showed they purchased season tickets to the Symphony, in addition to several meals. s the only person the assisted in this manner.

3 Both the President and Secretary traveled to and regularly to volunteer in clinic and hospital by providing companionship to patients, assisting medical staff with patients, transporting and escorting patients in wheelchairs, and running errands in other areas.

Secretary stated in the initial interview that she and the President travel to and on average four (4) times a year, usually on their vacations. During these trips she confirmed that when they both go; their children accompany them. // in response to IDR1, the provided an itinerary of trips provided by the included the following:

A. Trip to from // to // to take donated goods, to volunteer, monitor progress in , discuss charity projects. On way back travel delay coming from , airline rerouted to . They had to stay at the in , due to woather delay. Came back thru then on // . Trip by whole family.

// - , \$.

// In response to IDR1 the states, " began volunteering in clinics and hospitals in and , because family and friends of its Board of directors work in the clinics and hospitals. Its members generally travel to and once every three months. provides a variety of services that do not require professional training in medical fields such as donating financial resources to charities, transporting and escorting patients in wheelchairs, and running errands. 's expenses related to travel include airfare, lodging, taxis, meals, parking, and bridge tolls."

They keep no records of what days volunteered in the hospital or clinic, what projects monitored, what charities they donated to, how and when cash was donated or what charity projects discussed. No record of what account the cash was taken out of.

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B. Trip by Secretary / / to / / to Meeting architect, to discuss design of school in . In // response to IDR2 when asked about this trip the indicated the following:

found an architect in who could help them in designing a school from scratch. visited the architect to discuss the objective and goal of charity project, an elementary and middle school in a rural area. Attached is a rough plan for a school in a rural area. believes this project adheres to their "purpose and mission" - promoting education, advocacy for community benefits.

The plan they attached, (/ /) was not an architect's plans but is written more like a business plan entitled " " and it was prepared in February 20 .

Expenses included:

/ /	to , one-way, depart / /	\$.
/ /		.
/ /	to , one-way, return / /	\$.
/ /	from / - /	\$.
/ /	from / to / /	\$.
	TOTAL	\$.

This trip also included purchase of tickets for her sister and sister's mother for same time by Secretary. These tickets were on the but not on . And as indicated below, the provided a Founders' Log of Activities, (/ /) and for the period / / to / / there is no mention of this trip. During these days it is listed that on / / the Secretary went to the Post Office to check the mail, driving to take grocery shopping, working on problem at one of the condo, & Monitoring the clay class taught at their home; on 3/30 & / / driving to the Post Office to check the mail. The Log of activities does not support the PF's assertion of the purpose of the travel expenses.

C. Trip by President / - / / , this trip was addressed by in / / response to IDR4 listed above. The expenses shown in the books for this trip include the Airline expenses booked under travel which were purchased thru a travel agency:

/ /	to , to rd. Trip	\$.
/ /	and one way	\$.

No records were provided that identify when he went to the orphanage, who he met with and what was discussed, or on what date he worked at the clinic.

D. Trip by President / - / / to to volunteer, donate goods and cash, monitor progress, discuss charity projects.

The expenses shown in the books for this trip include the following:

/ /	- to round trip	\$
-----	-----------------	----

Although we received documents on / / from several doctors stating that the two members of the governing body have volunteered at a hospital and a clinic when in since , there are no contemporaneous records kept indicating of what day(s) or where he volunteered, where he went to monitor

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progress of what project or what types of goods and what cash donation he made or how cash was taken to the foreign country or no evidence of any cash being taken out of any of the accounts.

E. Trip Both to , starting in , going to then returning to from .
When asked about these trips the // response to IDR2 was as follows:

When in or , volunteers with Dr. and Dr. .in . They generally assist with incoming visitors, greeting, directing and escorting. They also help the doctors with data entry, troubleshooting computer and running office errands. They also do networking with local community members. makes donations of toys, sheets, blanket, and shoes to local and international organizations

The expenses for this trip were as follows:

//	to	, round trip for both for	//	\$, .
//	to	one way for both depart	//	.
//	to	one way for both depart	//	.
//	from	// to //		.
//	for	//		.
//	in	// to //		.

The expenses for this trip do not show up in the books or records of the organization for . The remainder of the food expenses were paid in

As to their foreign activities, the Secretary stated in the initial interview that they came from a poor area and got education and now want to return to where they came from and give back to those communities. In the hospital she said they work at the volunteer desk. In the // response to IDR1 the provided a table which indicated that the foreign donations are monitored by "a. Family and friends to monitor the use of our donation, to ensure our funds are benefiting communities and general public. b. We also travel to and frequently for site visits, to monitor the use of our donation."

The also provided documents in support of their foreign efforts:
In response to IDR1, // the provided:

- 1) Letter dated // from Dr. at to University of in indicating, they have been volunteers in the hospital since .
- 2) Letter dated // from Dr. at Clinic in , indicating they have volunteered in the clinic since .
- 3) Letter dated // from for donations from thru .

Then in response to IDR4, // , when asked who this person is and what the relationship to the primaries of the they responded, ' was introduced to when volunteered for a local charity event in , in is an accountant who practices in is also a volunteer who has donated to various charity organizations. is not related to the founders of at all. The founders have never paid for anything. donated to various charity organizations in , based upon professional and knowledgeable recommendations."

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
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The list provided in response to IDR1, / / shows the cash donation made in and to have occurred as follows:

<u>Date</u>	<u>Amount</u>	<u>Name</u>	<u>Purpose of Donation</u>
/ /	.		General fund to people in poverty
/ /	.		General fund to people in poverty
/ /	.		General fund to people in poverty
/ /	.		General fund to people in poverty
/ /	.		General fund to people in poverty
/ /	,		To bring ed to benefit underprivilege children in orphanago
/ /	,		Funds to repair temple which will benefit the public.
TOTAL \$, .			

Since these are cash donations, the entries into the books are shown as Journal Entries and are posted to an Account , Donated Gifts as of / / . The entries as can be seen in copies of GL received from during exam on / / for donation to are shown in the books as \$, . and the as \$, . . The supporting documents received / / during the exam are in foreign language and are not translated. The dates are handwritten on the documents and agree with what is shown in the table, but do not correlate with the dates of any trips taken by the President or Secretary of the . There was no evidence in the books or statements provided showing what account the cash was taken out of for these cash donations.

The on / / in response to IDR1 provided a list of purchases which included office supplies and donated gifts which included titles Date Description Amount. On this list and accompanied by receipts were purchases of video games at . These are donated gifts per the organization's records.

4a. owns and manages rental properties, acquired during economic downturn in and kept the monthly rent at % below the market price for low-income families, the elderly and the disabled to afford decent, safe, and sanitary housing.

These rentals are not low-income housing but are investment which provides rental income for the

b. They have provided their corporate place of business, for free, to a financial struggling art teacher, to teach class every in their community. When asked about this activity the Secretary told me that she allows an Teacher to teach classes in her home once a week for hours for the community at no cost to the teacher.

I asked her where in her home she said in mostly in the kitchen, family, living and dining room. During the examination / / at the representative's office in response to IDR1 questions about this activity their written response included "With respect to relationship with the teacher who teaches at place of business, members of Board of Directors met the teacher at a local school function and discussed offering classes at corporate place of business. does not receive any payment from the teacher or her students for their use of place of business."

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I also received () color photos of _____ and an email response from the _____ teacher, _____. The Secretary's email to her asked her if she could provide a few statements on their relationship and what the President and she have provided her. Could you confirm that they provided her a classroom at their home on a regular basis, every _____, hrs. to teach _____ to people in the community and that she didn't teach their kids or receive any payments from them. Her reply was "Yes, I teach _____ class at your house in _____ and _____ and you didn't receive any payments from me, and your kids are not part of the class."

Subsequently the Secretary indicated in her / / fax that their home is _____ sq. ft and the activities of the _____ Class and the _____ practices happen in approximately _____ sq. ft of their home. The Secretary provided photos of their kitchen, family room, dining/living room and a bedroom. She also stated, "I use a Cleaner After holding _____ class or _____ at our home, we need cleaning-up of the area. I personally clean my house every week as well, so cleaners do not come every week or month."

She also stated, "Pest Control- We always have ants 'Infestation problem at our property since _____. It is quarterly service. Without controlling ants, we would need a weekly house cleaning service to keep the place presentable. Gardner- we have used the same gardener since _____. We lived in a community that has a strict CC&R and we have monthly HOA dues \$ _____. Per CC&R, residents need to upkeep the front and back landscaping, and all external facing items, such as fences, trees, lightings, etc...We are not able to spend time to keep up with our yard maintenances as we have too many things going on in our life. We keep the yard tidy, so people don't trip over outgrown plants, or vegetation. Trying to avoid unnecessary liability for us and the _____. Then she asks if they can deduct part of the HOA fee, repair of plumbing fixtures, replacement of water heater, fence repair as business expense.

The expenses taken without allocation that relate to their personal residence are as follows:

Property Insurance	Annually	\$, .
General Liability Insurance	Annually	.
Pest Control	Quarterly	.
Gardner- - Monthly	Paid Monthly	.
House Cleaning-	Bi-Monthly (6 times)	.
Utilities-		
- Gas & Elec.	Monthly	, .
Water-	Bi-Monthly	.
Garbage-	Quarterly	.
	Monthly	- .
Telecommunications	Monthly	. .
		\$, .

Some of these expenses show up on the return in two places, for example, Utilities are shown as part of Other Expenses and listed in as Schedule of Other Expenses as \$ _____ with the remainder lumped together with other expenses to be listed "PROGRAM FFF" also a part of Other Expenses. Same with Telephone, shown in that Schedule of Other Expenses as \$ _____, while the remainder of Telecommunications is lumped into PROGRAM FEE along with other expenses. Note Telecommunications includes not only the phone number used primarily by the _____ but () total phones.

c. They have volunteered their time at _____ Food bank on / , / , / , / , / , / , / , / , / / & Secretary has volunteered time at _____ as foster parent for dogs/cats

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In response to IDR4, / / , the PF provided a Founders' Activity Log. It is an excel printout which shows a list with the titles Date Purpose Driver Distance (miles) Time Spent (hr.). This list was for all year. This list doesn't include the activity of going out for meals. A sample of what this list shows are:

/ / Drive to , take to Secretary (hr.)
grocery shopping

This activity done weekly. The Property is owned by Secretary, is her sister, lives in home w/mother.

/ /	Secretary
/ /	Secretary
/ /	Secretary
/ /	Secretary
/ /	Secretary

The Secretary states that part of why she includes household expenses is because they foster cats and dogs. She took training to foster animal in and only one Foster puppy was in their home during year under exam for () days, then it was returned. Subsequently, she was trained in another capacity and she volunteered to do work at the stuffing envelopes etc.

Additionally, the provided on / / in response to IDR1 Lists of Meals which had the following titles: Date Description Purpose Attendees Amount This list was for all year January-December 20 .
Examples of Entries are as follows:

/ /	Discuss charity project	Both	\$.
/ /	Discuss charity project	Secretary	.
/ /	Discuss charity project	Both	.
/ /	Discuss charity project	Both	.
/ /	Discuss charity project	Both & family	.
/ /	First time visiting , Discussing charity projects	Both & Potential Donor	.
/ /	Discuss charity project	Both	.
/ /	Season Tickets for	Both &	.
/ /	Discuss charity project	Both	.
/ /	Discuss charity project	Both & family	.
/ /	Take to Movies	Secretary &	.
/ /	Discuss charity project	President	.

Total of Meals was \$, Of the days listed, listed only one attendee, included both and family, included , included a potential donor. As for purpose, of them had the purpose of "discuss charity project", while had purpose of "discuss audit" or related, related to , related to recent Travel, related to Rental and "Celebrating Birthday" etc.

IDR1 requested minutes of all meetings of the board and in their response received / / , they provided one set of minutes kept are at beginning of the year, for the annual board of director meeting. No notes stating which charity project was discussed during the meal meetings was provided. According to the records these meals are paid for usually with CCs and are part of expenses shown on the Form

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On / / in response to IDR1, PF provided a list of Auto related expenses:

1) Fuel, which showed Date Description Amount, example

/ /	Gas	.
/ /	Gas	.
/ /		.

No indication of what car fuel was for; based on credit card statements also received on / / able to see charges made on / & / charges made on card used by President.

2) Bridge Tolls & Parking, which showed Date Description Amount, example:

/ /	Parking	.	We know that was trip taking	to	for medical
/ /	Tolls				

This also included a list (/ /) of Toll Crossings which consisted of a print-out from their . The list does provide the dates between / - / / , name of bridge crossed, lists different vehicles tags, and time they crossed.

3) List of Auto Expenses other than fuel – including receipts for both , , and . The PF purchased a new car in which they paid \$, . which they are currently depreciating on the return.

Expenses shown on the return and in the books:

/ /	\$.	DMV Renewal
/ /	\$.	DMV Renewal
/ /	\$.	B Service
//	\$, .	A Service
/ /	\$.	Cert. Tire
//	\$.	A Service
/ /	\$, .	4 Tire, Align.
/ /	\$.	B Service

Even though the organization has shown a vehicle on their depreciation statement and they purchased it with funds of the organization, they have not provided any proof it is recorded in the name of the but two autos can be shown to belong to the President.

Lastly, records, received / / in response to IDR1 included statements from bank account and from numerous credit cards. There was always two cards from each company in the name of the one used primarily by the Secretary and one used by the President. These credit cards were used by the Secretary and President for personal type expenses, including golf course, grocery store, purchasing travel for relatives, Legal Fees, on-line shopping, etc. The balance sheet also showed an equity account "Director Distribution" with a balance of \$, which many of the credit card accounts had transactions split with.

In response to IDR2, / / regarding an account 'Director Distribution', the representative responded, " decided that some expenses were not related to the business as they are trivial to their foundation's overall mission. The expenses were categorized as director distribution, and this is "account receivable" for the corporation."

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Subsequently, Secretary called my office on / / and explained that they used the organization's credit cards for their personal expenses in order to help get bigger cash-back rebates. She then directs personal expenses to be put into a "Director Distribution" account and treated as an accounts receivable that they eventually pay back. In IDR3 I asked if this statement was accurate to please explain the process for keeping track of what is personal usage and how and when the amounts are paid back.

On / / the representative's response to IDR3," The Founders' process of keeping track of personal and business usage is to separate receipts and write a personal check to pay credit card charges (for personal expenses if applicable) every month. You can see these payments made by the Founders' personal accounts under GL account .

- a. The Founders hired in to correct and keep accurate accounting of the . The Founders have designated a great many expenses as "Director Distribution" even if such expenses were related to a charity project.
- b. The Founders pay the amount under "account receivable". However, currently there is an account payable of \$, because the Founders have personally contributed \$, into from to , but only "\$, " was reported as revenue.
 - i. In , the Founders personally contributed \$, into and it was reported by the Foundation as "\$ " in revenue.
 - ii. In , the Founders personally contributed \$, into and was reported by the Foundation as "\$ " in revenue
 - iii. In , the Founders personally contributed \$, into and \$, was reported."

In review of the response provided by the representative, the account shown on the books as GL account is a personal checking account, which is shown to have made payments to some of the various Credit Card accounts totaling \$, throughout the year. This account carried on the GL is the only evidence received from the PF, no copies of the statements for this account was given.

The payments made on all Credit Card accounts together out of the Checking totaled \$, and after this amount was paid during the year the balance remaining in the Director Distribution account to which the moved personal expenditures was \$, . This account was not shown on the balance sheet as a receivable but rather as an equity account. It was not shown at all on the Form .

As for an accounts receivable, the year under examination there was no accounts receivable and the Director Distributions has been shown as an Equity Account.(See GL Documents Received / /) The has not provided any documentation to support any notes receivable or proof of amounts due from prior years.

The Secretary indicated that the basis for doing this with the Credit Card accounts was in order to get the cash-back rebates which would enable the to have more funds in which to utilize for exempt purposes. The total number of Rebates reported as other income in either the books or the return were from the Credit Cards for \$, none reported from the Credit Cards for which the used for part of the year.

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There was also a Check # _____ which was written to Secretary for \$ _____ from the Checking Account, with a memo notation of :Adv. from _____ " on the check. The check was shown in the books as a \$ _____ deduction from the total amount contributed from the President and a \$ _____ deduction from the total amount contributed from the Secretary. The amounts reflected on the return is after this deduction. When asked about this check, / / in response to IDR4, the _____ stated, "In _____, the Founders, on behalf of _____, donated personal cash \$ _____ to a foreign charitable organization. Receipts written in _____ are provided on google drive. Thus, _____ wrote a check # _____ to reimburse herself for the donation. These organizations are: _____ and _____. The Founders advanced these funds to the charitable organizations, then were reimbursed from the _____ for the charitable donations by _____. The check was written to _____ on / / . The list of donations provided in response to IDR1 on / / discussed above indicates that cash payments made to some of these entities were made \$ _____ on / / and \$ _____ // and \$ _____ on / / . And the total donations on the list is \$ _____ . (See list above).

LAW:

Section 501(c)(3) of the Code provides, in part, exemption from federal income tax to organizations that are organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, as long as no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

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

Regulations Section 1.501(c)(3)-1(c)(1) states an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish one or more exempt purposes specified in Section 501(c)(3) of the Code. The Regulations further clarifies that an organization will not be regarded as operated exclusively for exempt purposes if more than an insubstantial part of its activities is not in furtherance of exempt purposes.

Regulations Section 1.501(c)(3)-1(c)(2) further specifies 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.

Regulations Section 1.501(c)(3)-1(d)(1)(ii) provides that in order to meet the operational test, an organization must serve a public purpose rather than private interests. Thus, the organization must establish that it is not operated for the benefit of private interests such as designated individuals, the creator or his family, or the persons who directly or indirectly control the organization.

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Regulations Section 1.501(a)-1(c) defines private shareholder or individual within this section 501 as persons having a personal and/or private interest in the activities of the organization. section 501(c)(3) of the Code.

While the provision speaks of "net earnings," it is not interpreted in a strict accounting sense to mean the remainder after expenses are subtracted from gross earnings. Any unjust enrichment, whether out of gross or net earnings, may constitute inurement. See *People of God Community v. Commissioner*, 75 T.C. 127 (1980).

In *Better Business Bureau of Washington D.C., Inc. v United States*, 326 U.S. 279, 283 (1945), the Supreme Court held that the presence of a single non-exempt purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes.

In *Wendy L. Parker Rehabilitation Foundation, Inc. v. C.I.R.*, T.C. Memo. 1986-348, the Tax Court upheld the Service's position that a foundation formed to aid coma victims, including a family member of the founders, was not entitled to recognition of exemption. The Court found that the family coma victim was a substantial beneficiary of the foundation's funds. It also noted that such distributions relieved the family of the economic burden of providing medical and rehabilitation care for their family member and, therefore, constituted inurement to the benefit of private individuals.

In *Spokane Motorcycle Club v. U.S.*, 222 F. Supp. 151 (E.D. Wash. 1963) it was found that since the profits of the club inured to the benefit of private individuals, the club members, the taxpayer was denied exempt status. The Counsel for plaintiff argued that the amount involved in this case was de minimis; however, the court found that the organization was not operated exclusively for recreation, pleasure, charitable and other nonprofit purposes and that part of the earning of the organization did inure to the benefit of private individuals.

The court found that if any part of the net earnings inure to the benefit of the private individuals, the organization's tax-exempt status will be revoked.

Government's Position:

A private foundation must not be organized or operated for the benefit of private individuals. No part of the net earnings of an organization organized per IRC 501(c)(3) of the Internal Revenue Code may inure to the benefit of any private shareholder or individual. A private shareholder or individual is a person having a personal and private interest in the activities of the organization.

A private foundation is prohibited from allowing more than an insubstantial amount of private benefits, including non-monetary benefits, to individuals or organizations. The intent is to ensure that a tax exempt organization serves a public interest, not a private interest.

Based on Form information, during the year under examination, ending , the stated that they conducted direct activities which served public interest out of their corporate place of business, their home, such as fostering cats and dogs, when evidence showed the Secretary received training for the activity, picked up a dog, had it for days then returned it.

They also indicated the President hosted practices for an he plays in, yet the documentation failed to support this. No contemporaneous records of when practices were held at their home, documents provided

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suggested a long time had occurred since the group had last seen each other and that perhaps he travels to other places to practice and or perform or that these are the activities of another (c)(3) organization.

It is clear that the President enjoys playing the _____ in this _____, but this is not a charitable activity carried on by the _____. Without documentation to support when the home was used for practices by the members of the orchestra and without contemporaneous records of use of the auto for travel to and from performances and practices outside of the home, his use of their home to practice and the cost of any materials or equipment is personal and should not be the expense of the _____ but rather an activity inuring to the benefit of the President.

The _____ used these activities which consisted of an _____ class being taught in their home _____ hrs. per week to pay for the personal residence expenses such as:

- Personal gardener
- House cleaner
- Utilities
- Insurance on their home
- Telephone

No allocation was done and not all the activities are charitable., therefore expenses _____ believes belong to the _____ are actually personal expenses of the individuals.

They also provided assistance to the sister of the Secretary, _____ who is disabled by driving her to the doctor, taking her grocery shopping weekly, making purchases for her, etc. Providing assistance to a relative is inurement and is not an exempt activity per IRC501(c)(3). The use of the _____'s assets is for personal purposes.

The _____ kept logs of auto expenses by the individuals which consisted of a list of fuel purchases, list of auto repairs, list of toll crossings, list of toll and parking expenses, but failed to identify how these items are for _____ purposes. The auto expenses are in relation to the individual's personal autos and no documentation has been offered to show how these are related to the _____ purposes and not for the benefit of the individuals, they purchased an automobile in _____, but no proof of any auto being owned by the _____ was found. It was noted that the President was owner of several of the vehicles for which repairs were made. No calculation was done for personal use; therefore, auto expense is personal.

Documentation establishes that the organization incurred the following unreported expenses (omitted from Form _____) that benefited of the Secretary, President, and their family members:

- Season tickets to _____ for _____
- Attorney fees not related to _____
- Trips- to perform in reunion events in _____
- Large check written to Secretary _____
- Using _____ credit cards for personal purchases

The President and Secretary were aware the funds were used for personal expenses, as the checks and the credit cards purchases were signed by _____ and _____.

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As for the rental properties the maintains, although the expenses may not be charged directly to the tenant, they are paid out of the rental income. There is no evidence that the rental properties are charitable activity but rather an investment to the

With regards to the identified travel, expenses were in question. The Secretary and President took trips back to and on their vacations. They went back to the place they came from where they had family. But because the did not keep records that identify during the year under examination, when they volunteer, on what days, what projects they are monitoring, how and when they are making the cash and non-cash donations, it is not clear what accounts the cash came out of. Also, the non-cash donations that they provided receipts for include video games. It is unknown how the underprivileged utilize the video games. It is unclear how much of the expense of the travel is related to purpose and how much is personal.

In addition, the Secretary received a check for \$. It was memo notated "Adv from foundation". The reason given for the check and the way it was memo notated along with how it was recorded in the books do not agree, it appears to be personal benefit to the Secretary.

The President and Secretary, disqualified persons ("DP"), used credit cards for personal expenses; use of credit is a self-dealing transaction. They claimed to have put these transactions into an accounts receivable called "Director Distribution". We also have concerns with how the Director Distribution was (not reported) on Form return and how it was reported in the accounting records. did not report Accounts Receivable from Disqualified Persons on line in the year under exam or in prior years. We are unable to verify whether the amounts owed to the were repaid and how they were characterized. This amount serves a private benefit.

For the year ending , the form listed \$, in total expenses and disbursements. It is the government's position that \$, of the funds inured to the benefit of the governing body members and .

The is not operated exclusively for charitable purposes if its activities are carried on in a manner that can be classified as contrary to public benefit. As a result, the does not satisfy the operational test under Section 501(c)(3) of the Code.

With funds inuring to the private benefit of individuals and the failure to meet the operational test under Section 501(c)(3) of the Code, the exemption should be revoked.

TAXPAYER'S POSITION:

The believes that husbands performing in is charitable activity of

The believes that fostering one dog for days and allowing an art teacher to teach class for hrs. per week in their home allows the o pay for most of the expenses of their personal residence.

With regards to using the Credit Cards for personal usage, " decided that some expenses were not related to the business as they are trivial to their foundation's overall mission. The expenses were categorized as director distribution, and this is "account receivable" for the corporation."

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They also stated:

The Founders' process of keeping track of personal and business usage is to separate receipts and write a personal check to pay credit card charges (for personal expenses if applicable) every month. You can see these payments made by the Founders' personal accounts under GL account .

- a. The Founders hired in to correct and keep accurate accounting of the . The Founders have designated a great many expenses as "Director Distribution" even if such expenses were related to a charity project.
- b. The Founders pay the amount under "account receivable". However, currently there is an account payable of \$, because the Founders have personally contributed \$, into from to , but only "\$, " was reported as revenue.
 - i. In , the Founders personally contributed \$, into and it was reported by the as "\$ " in revenue.
 - ii. In , the Founders personally contributed \$, into and was reported by the as "\$ " in revenue.
 - iii. In , the Founders personally contributed \$, into and \$, was reported.

They do not believe they should be revoked.

Conclusion:

exempt status with the State of was revoked for years - because the State determined the organization was not operating exclusively in a charitable manner.

The did not keep contemporaneous records that includes substantiation for the projects they support, travel, and donations given.

The President and Secretary have not established that they repaid the for personal usage of the credit cards. The Checking Account was used to repay % of the credit card debt. At the end of the year, the books still identified an unpaid balance of \$, in the "Director Distribution" account, which was not classified as a receivable on the balance sheet.

Personal use of the assets inured to the benefit of , President, CEO, Director and , Secretary, CFO, Director in violation of exemption requirements under Section 501(c)(3) of the Code and are further characterized as self-dealing transactions per Code section 4941.

failed to satisfy the operational test under Section 501(c)(3) of the Code.

Because failed to satisfy the operational test and the organizations funds inured to the benefit of individuals, exemption under Section 501(c)(3) of the Code should be revoked as of / / .