Department of the Treasury
Internal Revenue Service
Independent Office of Appeals

Date:
JUL 20, 2022

Person to contact:
Name:
Employee ID Number:
Phone:
Fax:

Employer ID number:

Uniform issue list (UIL):
0501.03-31

Release Number: **202241007**
Release Date: 10/14/2022

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) of the Code.

We made the adverse determination for the following reasons:

Organizations described in section 501(c)(3) of the Internal Revenue Code and exempt from tax under section 501(a) must be both organized and operated exclusively for exempt purposes. While your specific purposes include charitable and educational purposes to aid the poor and disadvantaged individuals, a substantial part of your activities involves providing real estate rehabilitation services, commercial-type real estate sales to the public, and receipt of commercial real estate sales commissions. Selling real estate to the public at a profit and earning commercial real estate commissions do not further charitable purposes. Moreover, the organization is operated without a community-based board of directors for substantial non-exempt purposes and serves private interests of the creator and his family. Therefore your organization is not organized and operated exclusively for exempt purposes within the meaning of section 501(c)(3).

You are no longer exempt under Section 501(a) of the Code effective January 1, .

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

You've agreed to waive your right to contest this determination under the declaratory judgment provisions of Section 7428 of the Code.

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

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

Sincerely,

Enclosures:
IRS Appeals Survey

cc:

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

Date:
01/14/2020
Taxpayer ID number:

Form:

Tax periods ended:

Person to contact:
Name: Adalid Caballero
ID number:
Telephone:
Fax:
Address:
Manager's contact information:
Name:
ID number:
Telephone:
Response due date:
02/14/2020

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.

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.

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,

Maria Hooke
Director, Exempt Organizations Examinations

Enclosures:
Form 886-A
Form 6018, Pub. 892, 3498

Issues

Whether 501(c)(3) status should be revoked on the grounds that:

1. It is operated for a substantial non-exempt purpose, selling homes to non-qualified buyers and
2. Its net earnings serve a private benefit rather than a public interest.

Facts

( ) was incorporated in the State of on , . Its purpose, as stated in its Articles of Incorporation, is "nonprofit public benefit corporation and is not organized for the private gain of any person." It further states that it was created for "charitable and educational purposes to aid the poor and disadvantaged individuals..." Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code, was filed on and signed by President, . The IRS issued a determination letter dated granting exemption under section 501(c)(3) of the Code. It was further classified as a non-private foundation pursuant to internal Revenue Code sections 509(a)(1) and 170(b)(1)(A)(vi) as a public charity. The IRS issued a final determination letter dated confirming its original ruling of foundation status described in section 509(a)(1) / 170(b)(1)(A)(vi) as a public charity. To date, this determination has not been changed.

Form 1023 Application:

On its application for exemption, Form 1023, stated that it would provide programs "designed to create homeownership to low and very low-income persons, to eradicate homelessness, to educate minority and underprivileged youth in the skills of rehabilitative, constructive, and other areas". And "to provide health and sanitory rental living facilities to those that are not eligible for home ownership." It also stated it would provide credit and homeownership counseling and; mortgage intervention counseling when needed. Under support services, stated the following "to promote the construction and rehabilitation of dwellings for low-and-moderate income persons in the State of , to operate as an outreach advocacy program for youth at high risk, employment services, both job training and placement, housing, land acquisition, and other programs to aid those in need."

During the determination process and in a letter dated , the IRS provided the guidelines relating to the provision of housing as an activity described in section 501(c)(3) of the Code and requested additional information regarding activities.

Question 3 requested the following:

> "Rev. Proc - 96-32 provides guidelines for determining whether organizations providing housing are described in section 501 (c)(3) of the Code. If you have not begun your housing program but wish this to be considered in your application for exemption, please explain how you will comply with the safe harbor guidelines of Rev. Proc.96-32.
>
> Specifically address the following:
>
> a. Will you agree that for each housing project that (a) at least percent of the units will be occupied by residents that qualify as low-income; and (b) either at least percent of the units will be occupied by residents that also meet the very low-income limit for the area or percent of the units will be occupied by residents that also do not exceed percent of the area's very low-income limit? Up to percent of the units may be provided at market rates to persons who have incomes in excess of the low-income limit.
>
> If you agree, please submit a resolution adopted by your governing body and signed by at least ( ) officers agreeing to the above."

In its response dated , attached a Board of Directors Resolution agreeing to provide at least percent of the units to residents that qualify as low-income; percent by very low-income or percent by families that do not exceed percent of the area very low-income limit. (Exhibit -A). The resolution was signed by the President and the Secretary.

> b. "Will you agree projects will actually be occupied by poor and distressed residents?"
>
> "If you agree, please submit a resolution adopted by your governing body and signed by at least ( ) officers agreeing to the above."

stated "Yes" in its response

> c. "Will you agree to provide housing that is affordable to charitable beneficiaries?"

If you agree, please adopt a rental policy which demonstrates affordable housing. Submit a copy of the policy."

stated "Yes" in response.

d. "Will your project share the same ground?

If not, please describe in detail the facts and circumstances in which separate locations will be required and explain how the separate locations will further your exempt purposes.

Please refer to Rev. Proc. 96-32 enclosed."

stated "Yes" in response.

e. "Explain how you will insure the sale of homes furthers exempt purposes. Describe in detail the procedures you will follow in the sale of homes. Fer example, will you restrict sales to individuals which would otherwise be unable to purchase a home? Will the sales price be set at an amount in which they may afford to purchase the property?"

provided the following response:

" Sales of our homes will be geared toward the poor and disadvantage individuals and families. We will offer the lowest possible price. We will target individuals who are unable to purchase home through the traditional process."

Question 4d asked the following:

"Please provide a list of your criteria and income guidelines when considering applicants for your housing project. Specifically, describe the criteria used to determine low income, very low income and moderate income."

provided the following response:

"Low income; those making less that percent of the average medium income, very low income; those making less than percent of the average medium income, moderate income; those making less than percent of the average medium income."

Question 4e asked the following:

"How many very low income occupants will you have as compared to low and moderate income occupants in your housing project? If actual numbers are not available, please provide the percentage of very low income, low income and moderate income occupants."

provided the following response:

"Very low income will make up approximately percent of our clients."

Question 4f asked the following:

"How is it determined how much money is to be put down by the low income housing buyers for their home?"

provided the following response:

"It is based on their income."

Governance:

President founded . On its most recent Form filed for , , is still listed as the president, his wife , is listed as a Trustee/Director, and his daughter in law, , as the Vice-President (VP), respectively. There are other Directors listed and . and control the day to day operations and finances of .

Section 1, Bylaws, states that "The corporation should have Directors and collectively they shall be known as the Board of Directors". The Articles of Incorporation lists , , and , as the initial Directors of , and as the incorporator. Both the Articles and Bylaws have not been amended since inception.

In addition to the directors listed above, has a close working relationship with , Volunteer (son and husband of President and Vice President, respectively); and , Independent Contractor, (Son of Vice President).

Form for lists officers and directors. of the board members are related: , , and .

President and VP compensation was reported at $ and $, respectively. Both Forms W2 were filed for the amounts reported. compensation was reported for $ on Form 1099. No compensation was reported for .

EO Activities:

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Name of Taxpayer		Year/Period Ended

During the years ended and , activities consisted primarily of renting and selling homes, which it calls "low income family houses". Occasionally, it lends money to home buyers and borrow money from private investors for the purpose of conducting its business activities. reported total revenues of $ and $ for home sales and rentals for the tax year ended and , respectively.

Property sales:

By far the main activity of by way of revenue is to buy foreclosed properties and sell them in the open market. The homes are purchase from the ( ), a national non-for-profit organization and intermediary in the transfer of foreclosed and abandoned homes to " ".

In response to IDR 03, Item 1, submitted a letter dated from which stated that is an approved since to participate in its . The letter further stated that in became a participant in the ( ) in which a consistent flow of new inventory from and are available on a pre-listed "first Look" basis to . Through , properties in , , and valued below $ are available for acquisition. has acquired properties from as part of .

According to the [Program Guide] provided in response to IDR 03, facilitates the transfer of properties between financial institutions ( ) and eligible housing providers ( ) and supports the property transactions needs of the . Support includes establishing standard pre- and post-purchase procedures. is not involve in resale transactions with the subsequent end users. Section of the Program Guide states that " may only acquire properties of accessible value, defined as:

- "When the fair market value of a property at acquisition is within the reasonable purchase range for a low-, moderate-, or middle-income homebuyer (up to % of Area Median Income) using conventional financing products; and
- When the sales price of the property post-rehabilitation will be within the reasonable purchase range for a low-, moderate-, or middle-income homebuyer using conventional mortgage financing products."

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Section of the Program Guide states that " agree to use their best effort to source income-eligible end users for properties acquired through the . Income-eligible is defined as an individual or family whose income is up to % of local Area Median Income". Section of the Program Guide requires certain data fields to be completed in its system. The data includes income verification of end user; owner occupation verification; and homebuyer education verification.

Once purchased, repairs and rehabilitate the homes. At the completion of the repairs, the homes are then placed on the ( ) for resale or rent. website states that " is a fully licensed real estate brokerage company and is a member of the Board of Realtors." According to , the selling price of the homes were set based on fair market value in the area. A review of listing provided with IDR-3, shows as the selling office and its President, as the listing agent with license # . As the seller. charged a percent commission for selling its own properties on the listing site. It received a commission from each home sale which is charged to buyers at closing. reported real estate commission income of $ in and $ in . The listing offers the buyer's agent compensation of %. For the sample listing provided in IDR-3, Under the Instructions Remarks the following was stated:

> " ". There is no note or remark referencing low-moderate income buyers.

With regards to homeownership counseling, indicated that while this was done in prior years "historically low interest rates and depressed home prices improved the home affordability index to a near all-time high, greatly reducing the need for counseling services. Further, due to the geographical diversity of the properties, marketing model changed to include the utilization of the ( ) to market its properties. Hence, has little to no direct contact with the buyers and the selling agents are directly responsible for guiding the buyers through the counseling, finance, and sales process."

The following is a sample overview of a home from the date it was purchased to the date it was sold by :

- , purchased home located at , from the program for $.
- Between and , rehabilitated the property.
- On , listed the property for sale on the for $.
- On the property was ultimately sold to , a limited liability company registered and managed by for $.

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- On , , sold the property to final end-user for $.

The chart below shows a sample of properties purchased from and sold to end-users:

Homes purchased through are acquired at a cost less than FMV, as noted on the chart above in the section for Purchases. The chart above shows that for the sample properties reviewed, reported Net Profits to on of the properties shown; properties were reported as sold to Occupants making less than % of and reported no " " (presented as N/A in the chart). The column title "% Profit" shows percentage of profit from sales.

Further review of Affidavit of Income secured from buyers and submitted with IDR-2,3, and responses (See column title Affidavit %), shows that of the reports submitted to showing no " ", all reported percentage of at % or higher and in cases no Affidavit of Income was secured.

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IDR 3, Item 9, requested income verification for a sample of properties including those in the chart below. filed the following statement:

"Acceptable income documentation has been provided in accordance with the Federal Housing Finance Agency...as administered by the ( )...Every transaction has been reported to , and the.... as required in section and of the program guidelines. This includes the uploading of the Buyer's Affidavit of Income and other documents as set forth in section of the federally approved program guidelines..."

IDR 3, Item 1, Requested for source documents used in determining low and median income as reported on the Affidavit of Income. The answer was the same as in Item 9.

IDR 3, Item 2, requested Selling/Leasing eligibility requirements or criteria used by to determine low, very low, and Moderate income. filed the following statement:

" board of directors approved the organization to participate in the " " program and adopted the (attached). From to has participated in the and adhered to all of the program guidelines. Income limits (attached) are set by HUD and the and these tables are published annually based on geographical area and family size. "Low to Moderate" income buyers/tenants are identified by using these tables and income documents are collected in accordance with ."

During and , sold a total of and properties respectively including homes and lots. Prices ranged from $ for a sale of a lot to $ for a home sold. During the examination, a representative sample of of these properties' records were requested including verification of "end-user" income. Some records provided included listings, Sales contract, Settlement Statements, reports, ( ), and Income Affidavits (IA). did not provide income verification, so as to establish a basis for income requirements.

Exhibit-B attached show a sample of properties sold, at (%) percent- , Affidavit percentage of income reported based on household size for each year for the sampled properties.

It shows that of Income Affidavits reported income of % or higher, another either did not complete it or left it blank, and the rest reported of % or lower.

The Income Affidavits (IA) are self-completed. A copy of an IA is attached on Exhibit-C (with buyer identifiable information redacted). The IA shows as a percentage based on family size. Below the income table buyers are asked for the number of family members who will occupy the home and percentage of median income. The IA also includes the following statement above buyers' signature:
"By signing below, Buyer acknowledges that he/she meets the above income criteria and is therefore eligible to purchase a home under this program. If needed, buyer may be requested to provide further documentation for income qualification purposes. ***Buyer further certifies that the property will be used as his/her primary residence."***

It is noted that "if needed, buyer may be requested to provide further documentation for income qualification purposes". did not verify buyers' income for properties sold and relied solely on selling agents for completion of the IA. On IDR-1 for tax year ended , agent requested a sample of properties file documents for review. response was as follows: "The request of sample files for is overreaching and duplicative as the documents remained the same between and and were submitted pursuant to IDR#1 dated ."

When was asked for other program-related activities conducted in relation to its exempt purpose (IDR-3, Item-3), in part the reply says: "Hence, has little to no direct contact with buyers and the selling agents are directly responsible for guiding the buyers through the counseling, finance, and sales process."

Property Rentals:

In addition to selling homes, also rents some of the properties bought through the programs. The homes are located through out south . Rental prices range from about $ for an apartment to about $ for a single-family home.

A review of a sample of rental properties for and shows that secured a self-reported Affidavit of Income from tenants either through rental agencies or directly from the tenants. Appendix-D, Rental Properties, shows the rental property address, % of (based on number of household members), percentage of income reported on affidavit, and documents obtained from and reviewed.

Appendix-D, Column "Verification: doc", shows "None" to indicate that no verification of income or family size documents were provided to independently verified information reported on IA submitted by home buyers.

On the letter dated , the IRS requested more information relating to original responses by on "Home Rental Projects" reported during the filing of the

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Form 1023 application for exemption. On and in response to the request, reported the following:

"at the present time we do not-have any policy regarding housing that is affordable to charitable beneficiaries. However, this is something that we may wish to address in the future. The procedure used here in comes from a program entitled "RFA" (Request for Applications). For your file, I have attached a copy of the policy regarding the minimum requirements of their rental programs that are part of the RFA, which would be used in the future."

The policy attached to the response includes the following provisions:

"INCOME REQUIREMENTS FOR HOME TENANT

Home program requirements with respect to the occupancy and affordability of the units apply at the time home assistance is initially provided, and for an extended period of time.

Owners of rental properties are required to maintain occupancy of units by low-income persons for the duration of the mortgage, which is generally years. During the applicable affordability period:

-

Monitoring and Ongoing Responsibilities

Tenants whose incomes exceed percent of median may stay in their units. However. these over-income tenants must pay at least percent of their adjusted monthly income for rent and utilities. Projects combining and are exempt from this. provision."

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<u>Lending Activity - Interest Income</u>:
In its return reported $ interest income from its lending activity. lending practice through its affiliates: and , provided a limited number of small amount loans ranging from $ to $. The interest charged on these loans was between percent (%). The financial records for showed interest payments being received for approximately loans. According to , the loans were provided to "held back seller financing in the form of a note and mortgage. A review of " "- submitted with IDR-4 shows the principal loan amount of $ with per cent interest. For late payments it includes the following statement:

"If the holder has not received the full amount of any installment by the end of ( ) calendar days after the date it is due, Maker will pay a late charge of (%) percent of the overdue installment." And, for default, the following applies:

"If default be made in the payment of any of the sums or interest mentioned here in or in said mortgage for a period of thirty days, or in the performance of any of the agreements contained herein or in said mortgage, then the entire principal sum and accrued interest shall at the option of the Holder hereof become at once due and collectible without notice, time being of the essence; and said principal sum and accrued interest shall both bear interest from such time until paid at the highest rate allowable under the laws of the State of ...."

<u>Borrowing from Private Sources</u>
reported $ for investor interest payments for and S for . Private investor loans were taken at around percent interest plus % profit sharing on the homes sold. Again, a review of of those loan agreements named "Memorandum of Understanding and Agreement", shows in part the following terms and conditions:

"The Lender hereby establishes a loan in Borrower's favor in the amount of advanced for each property at the lender's discretion; provided...."

"Any loan made in accordance with this agreement will bear interest at the rate of % per annum plus a profit participation equal to percent (%) of the lender's pro rate portion of the total cash equity on the sale of the property..."

"Any loan made in accordance with this agreement shall allowed to be encumbered on a property in the form of a Mortgage..."

<u>Summary of Income & Expenses:</u>

The primary source of income was $ reported from homes sales and $ from home rentals. It also derived income from its Real Estate Sales commission in the amount of ($) and interest income from loans.

It also reported a loss on its sale of assets (equipment, vehicles, rentals) of $.

Total revenues reported on the return was $.

Forms for the years ended and show the following:

Gross Receipts

Revenues		
Program Service Revenue		
Investment Interest		
Loss on sales of Assets	( )	( )
Total Revenue	$	$
Total Expenses		$
Excess (deficit)		$
Assets		
Cash		
Total Assets		
Total Liabilities	$	$

Most of income for the years under examination was reported in its financial statements as Rental and Sales of "Low Income" houses. In addition, charged a percent commission for listing its own properties on the listing site.

The Expenses on the returns are represented as Program-related. A substantial part was reported as Depreciation, Investor Interest Payments, Repairs, Compensation of current officers, Occupancy, and Other Management and General Expenses. Depreciation schedule included antique and other newer financed vehicles for which a business purpose could not be established due to the lack of record keeping. Private investor loans were taken at around percent interest plus % profit sharing on the homes sold. In addition, reimbursements to officers and Independent Contractors for used of home office, meals, tolls, and other expenses were disproportionate without proper substantiation or an Accountable Plan for reimbursement.

During and , leased warehouse and office space located at for which it reported $ on Occupancy expense on its Return. In addition, VP, , claims her personal resident was also used as a business office and % of the home total expenses were reimbursed by . There was no written contract or board approval for the reimbursed amount which total $ for and $ in . The home was purchased by from in a prior year.

According to financial records (bank and Accounts) a substantial amount of money, time, and effort was invested on vehicle financed payments, repairs for antique vehicles, tolls, meals, unaccountable check payments, and ATM cash withdraws. The organization's expenses and invoices do not indicate any educational programs or financial support to aid the poor and disadvantage as stated on its application for exemption.

Use of EO Assets

Credit Card Payments:

has represented that it only had bank account during and that it was unable to obtain a credit card account, therefore, (President) used his own personal Credit Card ( ) for purchases. However, there were other Credit Card Accounts (,) which used primarily for home building supplies and materials. CC statements show numerous and other transactions including of personal nature. There are other card holders on this account: his wife, , his son , and another account holder only identified as (possible). The credit card was used both for business and personal expenses. was the primary user and expender on the account.

Most of the alleged business charges identified on the statements were made by the President's son, , for vehicle repairs, gasoline, food, travel, and construction material. antique vehicle expenses stood out a and , over $ was spent in on these vehicles along. There was no business purpose for these vehicles. When the agent toured facility, the vehicles were not there. The expenses appear to be to improve the appearance and performance of the vehicles including: paint, sound system, mechanical. was also the driver of the , for which many expenses were charged to the

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card. Request for records to support business usage of these vehicles were not provided, or if provided, did not support a business purpose for the excessive expenses.

transactions were only identified with a note next to them relating to the nature of the expense others were left blank. Review of reimbursements and the credit card statements show paid the full monthly balance and a debit expense was created on the Receivable Due Account of the . There were no records of each individual user of the account beside the CC statements.

There was no substantiation for the business purpose of the expenses and no accountable plan for reimbursement. When the auditor requested financial records, submitted an report showing debits and credits with a note on top "Personal Charges Paid by " with a balance due of ($).

Total payments to personal credit card totaled $ for , of this amount $ was debited as " Personal Charges" on the account name "Receivables Due " (See Exhibit-E). On the same account, credit payments to in the amount of $ were reported. In response to a request for supporting records on IDR-5, Appendix-A, to show personal payments made by , submitted copies of its Account ( ) bank statements highlighting deposits for $ and $, and a note indicating a personal cash loan transaction from for the purchase of a house located at . Review of the property Settlement Statement does not indicate funded the transaction. The name of the Borrower on the Settlement Statement is shown as " " There is no indication that the deposits or cash loans were made by personal funds.

In received an credit card ( ) which was issued under both name and . The users listed on the CC statements are the same as in the prior account (, ,). Review of the CC statements show the primary usage was for meals, gasoline, and other purchases (construction material).

Checks

President, and VP, , control the finances of . They wrote and signed all checks drawn on bank account, deposited, withdrew, and transferred money in and out of the account. They both had ATM debit cards. Also, , the President's wife, and , the VP's husband, and (VP's son) had ATM cards. used the ATM card for cash withdrawals and purchases. The President and VP make the day-to-day financial decisions including setting up their own compensation, bonuses, reimbursements, and payments. This included bonuses for $ to , and $ to in based on payroll reconciliation. During the Initial Interview, confirmed she and set up their own compensation and bonuses. When asked how each employee salary is determined, she replied that "because is family related business no information is kept".

In addition to their bonuses, , received a total of $ in check payments and received $ not reported as compensation (See Exhibit-F). When asked for records to support the business purpose of the transactions (IDR-5, Appendix-D), highlighted some transactions and noted on the appendix either "Bonus" or "Advance of P/R...returned on ." Included with the response was a copy of account ( ) statement for showing a deposit of $ and a comparable salary calculator printout for the Vice president position. Reviewed of the documents provided did not indicate either that the $ deposit was paid by with personal funds or that the advance payment was returned on as indicated. The comparable Vice-president data also does not indicate the payment highlighted as "Bonus" was meant to be compensation at the time of the payment nor was reported as compensation on Form W-2.

ATM Withdraws:
Debit cards (, ,) from Account number ( ) were used for cash withdrawals and other purchases (Exhibit-G). Based on bank statements, the debit cards were used primarily by and on occasion by . The total withdrawals from these transactions were $.

Requests for supporting records to establish a business purpose for these multiple transactions was made on IDR-5, Appendix-E. submitted a sample of an invoice, receipt, copy of emails relating to a trip to , and an expense report for of the questionable transactions on for $ cash. Review of the documents submitted did not indicate that the specific transactions referred to in the Appendix were directly related to the documents provided.

An invoice dated for " " for a on the amount of $ is reported to be associated with a cash withdrawal on . The invoice shows to make the check payable to ; the date of the cash withdrawn is not near the date of the invoice; and there is no indication that invoice was paid with the cash withdrawn on beside a hand-written note on the invoice "Paid Cash". Another cash withdrawal on for $ is associated with a receipt dated from for the same amount. On the receipt credit card payment is checked including an apparent credit card number. It is not clear if the payment was made in cash or by credit card. The airline tickets purchased with the ATM and the copies of emails provided associated with the expense, also did not indicate business related purpose. Both expenses on and indicate travelers (husband) and

Fringe Benefits: Vehicles
During and into , financed -vehicles: , , and . All vehicles were purchased and financed through credit based on 's Vehicle Loan Interest account on the General Ledger. Total vehicles loan interest paid in was $ and $ in . The increased in finance charges was due to purchasing of newer and models.

The President, , drove the . The vehicle is kept at his house all year and all expenses are paid by including tolls, gasoline, finance charges, maintenance, and insurance. On IDR-5, Item 5, supporting documents for the business use of all vehicles were requested. For vehicle it was reported that % is for business use and % for personal. In addition, with the IDR-5 response, submitted an allocation expense of with total expenses for this vehicle at $ and $ allocated to the personal usage of the vehicle. There were no logs of business trips, miles driven, or any other business-related support of the vehicle usage provided.

The was reported as being used by for volunteer labor. Review of the credit card statements, checking account, and debit card shows he was the primary spender for maintenance, repairs, and upkeep of this vehicle. The truck was not kept on site and logs for business and personal use of this vehicle were also not kept.

, Independent Contractor, for was reported as driving the . Review of the Automotive Expense account of the General Ledger shows a number of expenses relating to maintenance and upkeep of this vehicle for . Records for business usage of the vehicle were not provided. On a copy of an email sent with IDR-5 response, writes, "I drive the . seems about right". However, no records were provided to show the allocation of business and personal usage of the vehicle.

The cost value of any of the above vehicles as a taxable benefit to those who received it was not established or reported in any employment tax return.

Reimbursements: Home Office

In and received percent (%) reimbursement credits for her personal residence expenses that she claimed for a room that was allegedly used as a home office. Expenses included: water, electricity, taxes, Insurance, HMI, telephone, trash removal, Internet, and furniture. Total home office expenses claimed were $ for and $ for . The account was reported as Office Expense and Accounts Receivables: Due was credited with the amounts reported. There was no written contract for the usage of the home office, and leased over of office and warehouse space in the same locality where she lives. During a tour of the facility, the agent asked to let see the home office, but she refused.

A drawing of the house floor plan submitted shows the office is Sq. feet including a pass-way to the office, but this was not verified. The floor drawing submitted shows a total base area of Sq. Ft. In addition to the floor drawing, pictures of the office were also included. There was no other written document provided that would show the legitimate business purpose of the office to .

The home is located at . County records shows the house has bedrooms and baths, Total property size is acres and the building Square footage is Sq Ft. This is the same property that was purchased from in prior years and reported as a Quitclaim deed on county records.

Meals and Tolls:
Meals and tolls expenses for totaled $ and $ respectively. $ and $ for (See Exhibit-H). A sample review of meal transactions revealed that the account ( ) ATM was the primary method used for payments and that ATM numbers (,) used by and were used. Many of the toll transactions are in increments of $ and $ paid by both account holders. To this date there has been no substantiation submitted for the business purpose of these expenses.

For the request for substantiation on IDR-5, Appendix-B, and IDR-2 for , submitted a State of red and blue dotted map showing properties owned by across the State of . Properties owned were highlighted in green and tolls were highlighted in red. No other records or support for individual questionable transactions were submitted that will show a business purpose for the expenses and business activities. fail to follow its own Accountable Plan guidelines submitted with response to IDR-1 for , Appendix-7. Which state in part, under #2, "Under no circumstances will reimburse employees or volunteers for business or professional expenses incurred on behalf of that are not properly substantiated."

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Below is a chart that shows the name, type, and total benefits received by each individual in and .

Fiscal Year ended :

Benefits:				
Exp.				
Vehicle-Value				
Meals/Tolls				
Cash/Checks				
Total...				

Fiscal year ended :

Benefits:				
Exp.				
Vehicle-Value				
Meals/Tolls				
Boat				
Cash/Checks				
Total...				

Noteworthy statements made by and during the initial and subsequent interviews include the following:

The ATM is used by me ( ) and

- Affidavit of Income is the only document secured by
- When asked if there was an Accountable Plan for reimbursement the answer was "no".
- When asked about the process for determining compensation, bonuses, and employment contracts for officers the answer was there was none because it was family related.
- The personal credit card was used because was unable to obtain its own credit card.
- When asked if the home office was used for purposes other than , the answer was "I don't remember."

<u>Law</u>

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.

§1.501(c) (3)-1 (d) (2) of the Income Tax Regulations defines the term "Charitable" to include: relief of the poor and distressed or of the underprivileged; lessening the burdens of Government; and promotion of social welfare by organizations designed to accomplish any of the above purposes, or (i) to lessen neighborhood tensions; (ii) to eliminate prejudice and discrimination; (iii) to defend human and civil rights secured by law; or (iv) to combat community deterioration and juvenile delinquency.

Rev. Proc. 96-32, establishes a safe harbor guideline for organizations that seek exemption under Section 501(c)(3) on the basis of relief of the poor and distressed. The guideline provides a safe harbor for projects in which (1) at least 20% of the units are for residents with incomes that are 50% or less of area median income or 40% of the units are for residents with income that are 60% or less of area median income; (2) on an overall basis, at least 75% of the units are for residents with incomes at 75% or less of area median income; and (3) there are rental restrictions for low-income residents to ensure that the housing is affordable. Rev. Proc. 96-32 also makes it clear that organizations may qualify for exemption without meeting the safe harbor based on other facts and circumstances.

Rev. Rul. 70-585, 1970-2 C.B. 115, illustrates 4 situations where an applicable tax-exempt organization is within the meaning of Section 501 (c)(3). Situation-1, the organization was found eligible under section 501 (c)(3) on the basis that it provided homes to low income families who could not afford them under conventional channels by providing low-payment plans, aid financially eligible potential buyer who did not have the necessary down payment and offered new constructions homes for sale to low income families who qualified under a Federal housing program. Or Situation-4, however, it was found that the organization did not qualify for exemption under section 501 (c)(3) on the basis that its programs were not designed to provide relief to the poor or to carry out any other charitable purpose.

§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.

§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. 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.

Government's Position

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Issue #1: Homes Sales to non-qualified buyers

Sales of homes to non-qualified very low, low, and medium income buyers as a charitable activity does not meet the operational requirements established under §501(c)(3) of the Internal Revenue code. Section 501(c)(3) 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. sale of homes to non-qualified (non-charitable class) home buyers does not further its exempt purpose and it does not meet the operational test under Section 501 (c)(3) of code.

Rev. Proc. 96-32, provides guidelines for relief of the poor and distressed. It provides a safe harbor for organization wishing to be considered under the income percentages requirements established within the guidelines. However, even though, accepted these safe harbor requirements during its process for recognition of exemption and even submitted its own Board of Directors' resolution adhering to these requirements, the facts during the examination show otherwise.

The "Affidavit of Income" requested by from home buyers, alone, does not independently show it met the safe harbor guideline in Rev. Proc. 96-32. In addition, its own guidelines reported on Appendix-A, board resolution submitted for recognition of exemption reflect this. The chart under Facts, Property Sales section, shows home buyers income at all levels from % to over % (percent) of . Even for those under % of , the supporting documents are not available to independently verify if met the income guidelines for homes sold during the periods audited.

sold its properties at fair market value on the open market using the site. There is no down payment assistance, education, counseling, or any other related exempt activity conducted with home buyers to set apart from a counter-part doing the same activity for profit. This further indicates running a commercial enterprise rather than a charitable activity. Rev. Rul. 70-585, referred under Law Section, Situation 4, found that organization did not qualify for exemption on the bases that its programs and activities did not provide relief to the poor or carried out a charitable purpose. Similarly, homes sales main purpose is not to provide relief to the poor or a charitable class, but to buy low, and sell high, to the highest bidder in disregard of the requirements imposed under the law even under its own board resolution requirements.

did not follow, or chose to ignore, program guidelines which call for " " to acquire properties of accessible value for very low, low, and medium income end-users. The guidelines also report that " " agree to use their best effort to source income-eligible end users for properties acquired through the and to report income verification of end-user. ignored buying properties of accessible value prior or after rehabilitation; instead, it purchased properties of all sizes and values. The chart above, reporting sample properties purchased from , shows prices ranging from $ -$ with resale prices between $ up to $ unreachable for a very low to moderate income buyer. Therefore, selling rehabilitated homes to any buyer who paid the fair market value of the property not withstanding its charitable exempt purpose in clear violation of Section 501 (c)(3)-1 (d)(2), Rev. Proc.96-32 safe harbor guidelines, and its own board resolution.

did have the opportunity to show its best effort to sell its homes to low and moderate-income buyers when it listed its properties on the but chose not to. As it is, evidence on the sample listing provided during the examination and referenced under Facts, EO Activities Section reflects this as well. There are no signs or any notes or, remarks, where let buyers or selling agents know of its intent to sell its homes to low-to-moderate income buyers. It is not even involved in the completion of buyers' Affidavit of Income to source income eligible buyers. Its actions clearly violate both guidelines and IRS Section 501 (c)(3).

There are no related educational programs or credit counseling offered as stated on its application for exemption Form 1023. statements during the initial and follow up interviews as to the lack of financial records, loans at above market rate interest, and lack of financial assistance to those who may qualify but lack a down payment or need credit assistance, are all indicative of a non-exempt purpose for the activity; namely, making money for profit.

Inurement, as grounds for revocation in Issue #2, stands on its own and would alone warrant revocation. But, given the estimates of at least % (percent) in non-qualified "low income" home sales per year, and other non-related income sources (Interest, RE Commissions), this is a substantial non-exempt activity. This activity does not meet the exemption of Treasury Regulations §1.501(c) (3) 1 (d) (2), and therefore further warrants revocation of exempt status.

Issue #2: Private benefits

earnings have inured, in substantial part, to the benefit of the officers and their family. This violates §1.501(c)(3)-1(c)(2) of the Treasury Regulations and warrants revocation of 's 501(c)(3) status. and and her husband and son ( ) were in a position of complete financial control during the years under examination. Because of this control, was able to use his father's Credit card and the ATM debit cards to withdraw cash, pay for meals, and pay for his personal expenses including the maintenance of the and the vehicles. He did so on numerous occasions during and

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has stated, that he was a volunteer and only performed small jobs. However, financial transactions with his father's credit card (paid by), meals, gasoline, tolls, and maintenance and repair expenses show otherwise. She has stated that the vehicles were used primarily for business purposes but has not submitted any records to that effect nor were any logs of business trips kept. A dotted State of map submitted to show business trips in relation to tolls, meals, and gas expenses do not support a business connection to those expenses.

used by

Taxable year-	
Annual Lease Value	
Other expenses: Fuel Value	
Less: % of business used	
Net Taxable-Income	

Cash Withdraws:
The ATM cash withdraws itemized on Exhibits G were made by and her husband, , using their assigned ATM cards. has not provided documentation of any exempt purposes for these expenditures. The documents provided during the examination were inadequate to represent a business purpose. An Accountable Plan was not maintained for the use of these expenses. Therefore, whatever the purpose of the expense was, it was not necessary for tax-exempt purposes and is therefore deemed to have benefited Mrs. and her husband .

Cash withdrawals-

Taxable year-	
Cash withdraws-	
Less: Less other/questionable	
Meals and Tolls	
Net owed to -Inurement	

Similarly, the expenditures itemized on Exhibit-H for meals, tolls occurring on dates and by when they were not traveling in conjunction with an event were not necessary for tax-exempt purposes. So, they too will be deemed to have benefited . The excess benefits, however, did not stop with , his wife, Vice-President, ( ), also took part on the easy access and personal use of assets.

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Vice-President, :
The use of personal resident as a "home office" without an accountable plan, lease agreement, and/or board approval, is unreasonable on the basis of the percentage (%) taken of the total home expenses. The fact that leased a building near her house, and the fact that the business usage of the room could not be verified due to denial of a tour further demonstrates this. Home expenses from residence paid by constitute excess benefits. All ATM cash withdrawals, checks, and charges to without substantiation of business purpose are direct personal benefits to with no benefit to .

Checks & Other Payments:
Other miscellaneous check payments itemized in Exhibit F to including a transfer to unidentified checking accounts, also bear no relationship to conducting a tax-exempt activity, and will therefore also be deemed to have benefited .

claimed to have returned some money to during , but the documents provided do not indicate deposits were made from personal funds.

Therefore, deposit/credits shown on the Receivables Due account are not credited as paid by . The amount of money owes to for and is $ and $ respectively, calculated as follows:

Net Miscellaneous Payments to -
Cash/Check payments to
Less: Receivables due (Deposits)
Meals and Tolls
Value of Boat
Net owed to -

The amount shown as Net Owed to - is the total amount of excess benefits Mrs. received from from checks and other type of payments made directly to her with no benefits whatsoever to . This violates Section 1.501(c)(3)-1(f)(2)(i) in general, and in particular Part C, for multiple excess benefit transactions. The inurement amount is in addition to her personal residence's expenses reimbursed to Mrs. which will be addressed separately. The value and usage of the listed above was questioned during the examination. reported its cost basis on the depreciation schedule at $ and a current depreciation of $. On IDR-2 response dated , it was reported as a donation with no usage and eventually sold for an undisclosed amount.

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President, :
The President and creator of , was also not immune to the temptation of easy access to assets. He too was engaged in excess benefit transactions. He used and let other family members take part, by providing ATM access and additional credit cards, in the scheme of using assets without any consideration. His personal credit card was used for both personal and business transactions without any accountability Family members including his wife, , and , , used it as they wished without any accountability. was left to pay the full tab every month. , on the other hand, reported debits and credit on General Ledger, "Receivable Due " Account, without any substantiation or oversight.

Charges:
Based on review of the statement transactions and based on the fact that some transactions were made at for construction materials during or around the time some homes rehabilitation were taking place, is given the benefit-of-the-doubt that some expenses were related to its purpose, even though, no supporting records were presented that would indicate the transaction was in connection to a home rehabilitation activity. After subtracting the $ of possible business expenditures itemized in Exhibit E, the amount of money owed to for payments to card in is $, calculated as follows:

Net Payments to Personal -
Payments to in
Less: Business Expenditures
Net Personal Expenses due -

The President has stated that he paid back for the personal expenses based on adjusting entries reported on "Account Receivables Due " submitted with a remaining balance of $- due to . Accordingly, the net payments to will be applied first to the net payments to $ in determining the net inurement during . Substantiation of business purpose of the total expenses was requested on IDR-2-5, and copies of checks for personal expenses paid to were requested but no records have been received as of the date of this report. Total inurement for and is calculated as follows:

Excess Benefit Transactions-
Personal card payment by
Cash and Other Check Payments
Meals and Tolls
Value of Purchased-

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Net Inurement to -

reported making payments or credit adjustments on the "Receivable Due " account of the . However, the supporting documents provided did not establish that any personal expenses paid by on his behalf were returned to .

The submission of documents regarding the "Balance due " of $- transaction appears intended to establish that full correction has been made. This has not been established as of today. The making of payments for the total balance on personal credit card without an Accountable Plan for reimbursement, which, if anything, would be responsibility to prove a business purpose for each individual expense and responsibility to maintain those records to substantiate its exempt purpose further demonstrates this. The making of deposits by the President and the transfer of moneys for repayment without substantiation and business purpose leaves in the same or worse position than it was before the deposit, with a balance due to of $ and $ for and , respectively, due by .

Vehicles:
Usage of vehicle without accountability and substantiation of business vs personal usage leads to at least a taxable benefit or, at worst, inurement. was the driver of and in and . The vehicles were financed by and all expenses including gasoline and tolls, were paid by . The vehicles were kept at his house. has not provided substantiation of the business purpose of these vehicles. In the absence of records, showing benefit and business purpose, the entire amount of the cost of operating this vehicle is consider a direct benefit to . In response to IDR-5 for substantiation of business use of the vehicle, it was stated that the vehicle is use % for business and % for personal. Included with the response is an email record dated from to (unknown person) stating "over % of the use Is for business." However, no specific records for each business trip or business logs were kept to showed that assertion. Therefore, in the absence of business trips records to show a business connection with the vehicle usage, the total leased and fuel value is a direct benefit to . The amount of the taxable benefit is calculated as follow:

used by -

Other Expenses: Fuel Value	
Less: business used of vehicle	
Net-Taxable benefit to	

Interaction with Section 4958 of the Code

, having been recognized in 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 and his daughter in law, . Vice-President. Their son and husband, Respectively, , was the primary user of the accounts during . His place was taken by his and , , in as evidence by numerous ATM debit and credit transactions. and write, and sign checks drawn on bank account, make deposits, and signs Forms . and are officers of , and exercise substantial influence over the affairs of , and therefore meets the definition of a "disqualified person" as contemplated by §4958(f)(1) of the Code. and also meet the definition of a "disqualified person" as linear family members of both the President and Vice-President.

The Officers stated unequivocally that they have no employment contracts and they set up their own compensation and bonuses. and his daughter in law are listed on Forms as receiving compensation and Forms W-2s were filed as stated on return. was reported as a volunteer for the services he provided. received Form 1099 for the total compensation reported. Therefore, any additional compensation or economic benefit received by the officers or other family members were not intended to be treated as compensation by . Per §53.4958-4(c)(1) of the Treasury Regulations, and any economic benefit that they received from is an automatic excess benefit transaction. All of the transactions itemized in Exhibits E thru H represent economic benefit to them 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"):

<u>Factor #1: Size and scope of exempt activities before and after EBTs</u>

Revocation is being proposed primarily on the grounds of selling homes to non-qualified buyers under Section 501 (c)(3), and secondarily on the grounds of inurement. The definition of the word "educational" in §1.501(c)(3)-1(d)(3)(i) of the Treasury Regulations includes *"the instruction or training of the individual for the purpose of improving or developing his capabilities"*. For the purposes of this report, it is assumed that through its independent realtors provided counseling and education for this purpose. It will further be assumed that homes were sold to "low income" families, (which it is clear is not the case), is related, however remotely, to its exempt purpose.

The sale of "low income" homes is unrelated to stated exempt purpose. Any person can come across the Ad on the listing, sign the Affidavit of Income, and purchase a house from . There is no proof of income required by , no counseling, education, financial assistance, down payment assistance. Instead, loans are offered at above market rate, and charge a sales commission of % of the sales price plus an additional % which goes to the selling realtor. Home prices are at market value, and no discounts, no down payment assistance nor any kind of financial assistance to aid the poor in obtaining home ownership is provided. All of this combined indicates is, in fact, running a commercial enterprise.

Since did not maintain financial records adequately to distinguish buyer qualifications for low, very low, and area medium income all the homes sold are considered non-qualified buyer sales for the purpose of 501 (c)(3) status. Given the sample of homes reviewed during the examination, records provided, and statements provided by the officers stating that the "Affidavit of Income" was the only financial record requested and received, it is determined that does not meet the requirements of Section 501 (c)(3) charitable purpose.

lack of education, counseling, and home sales to qualified buyers as exempt activities, such as they are, do not mitigate the instances of inurement detailed in this report. Further, given the level of non-exempt activity represented by the selling of so called "low income" homes to anyone who can afford them, qualification for 501(c)(3) status was tenuous to begin with. As such, consideration of this first factor weighs in favor of revocation.

<u>Factor #2: Size and scope of EBTs in relation to size and scope of exempt activities</u>

As discussed in Factor #1 above, the sale of homes is not educational nor is it to Area low income buyers. Therefore, the EBTs are to be considered relative to the size and scope of EO's home sales. For the purposes of this report, this comparison is made using exempt function revenues. Subtracting $ of home sales, RE Commissions of $, and $ of Interest Income from the total revenues reported for yields $ of Exempt Revenue. Subtracting $ from the home sales, RE Commissions of $, and Interest Income of $ from total revenues reported for yields $. The year Form examination has now been completed. However, information received on IDR-1, , did not change the outcome. did not provide records to show homes sold in met buyers' low-income requirements. Therefore, one must look at the size and scope of the EBT in comparison to exempt revenues.
The comparison is as follows:

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Year	EBTs	Exempt Revenue	EBTs as % of Exempt Revenue
-year total			

As shown in the chart, the level of EBTs during the years , and , is approximately % of exempt revenue. This is a substantial level of EBTs and does not account for any other EBTs that may have occurred in the years under audit, but which have not been identified. Therefore, consideration of this second factor weighs in favor of revocation.

Factor #3: Multiple EBTs

As shown in Exhibits E and H, there were hundreds of transactions over the course of and 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. Officers familial relationships and the ability to write checks, sign checks, use ATMs at their discretion without any accountability, and use of personal cards show the unfettered control of finances. This condition allowed these transactions to occur.

No safeguards have been implemented. There is no internal control process in place, no accountability, nor any due diligence process to protect the assets of . It should be noted, however, that with governing body consisting of family members and other names listed on the return but having no saying on finances and operations, there has not been any disinterested party within to enforce any safeguards, if any were implemented. 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 $ in , $ has been verifiably returned to bank account as of the date of this report. This leave $ of net inurement and uncorrected EBTs. This amount alone warrants revocation of 501(c)(3) status.

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

Summary

The $ of net EBTs detailed in this report is a significant amount of inurement; particularly for an organization that reported a loss in and mere net revenue of $ in . This puts 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). So, too, does its non-exempt activity of selling "Low Income" homes to anyone who can afford to buy them. Given the routine and continuous nature of the inurement and non-qualified home sales throughout and , revocation is proposed effective .

<u>Taxpayer's Position</u>

Unknown at this time.

<u>Conclusion</u>

is not operated exclusively for exempt purposes within the meaning of section 501(c)(3) of the Code. Its housing activity is not being conducted in a manner that serves a charitable purpose within the meaning of §501(c)(3) of the Code. net earnings have inured, in substantial part, to the benefit of its founder and President, , VP , and . This violates §1.501(c)(3)-1(c)(2) of the Treasury Regulations. An organization cannot be recognized as exempt under §501(c)(3) unless it shows that it is operated exclusively for charitable, education, or other exempt purposes. Since housing activity is not conducted within the meaning of §501(c)(3) and its net earnings have inured to the founder and other related parties, its exemption status should be revoked effective . The non-exempt activity of selling "Low Income" homes to non-qualified buyers only reinforces this. Forms 1120, U.S. Corporation Income Tax Return, should be filed for , , and each year thereafter as long as remains subject to federal income tax. If the proposed revocation becomes final, appropriate state officials will be notified of such action in accordance with §6104(c) of the Internal Revenue Code.