[redacted]

Person to Contact: [redacted]
Telephone Number: [redacted]
Refer Reply to: [redacted]

Attn: [redacted]

CERTIFIED

Date: SEP 23 1987

Dear Applicant:

We have considered your application for recognition of exemption from Federal Income Tax under Section 501(c)(3) of the Internal Revenue Code of 1954.

The information submitted discloses that you were incorporated on [redacted] under the nonprofit corporation laws of the State of [redacted].

As stated in your Articles of Incorporation, "The purpose of this corporation is stock car racing in the City of [redacted], and all acts and things related to and necessary to carry out the purpose of the corporation".

Form 1023 indicates the following:

a. Your sources of financial support are racing proceeds, advertising and concessions.
b. Your purpose is to attract shoppers and business to [redacted], a city with high unemployment.
c. The money is used entirely for equipment and operation of the racing program.
d. You pay salaries and wages.

Section 501(c)(3) of the Code provides for the exemption from Federal Income Tax of corporations organized and operated exclusively for religious, charitable, literary, scientific, and educational purposes; no part of the net earnings of which inures to any private shareholder or individual.

Section 1.501(c)(3)-1 of the Tax Regulations relates to the definition of the organization and operation of organizations described in Section 501(c)(3). It is quoted, in part, as follows:

Initiator	Reviewer	Reviewer		Reviewer	Reviewer	Reviewer
[redacted]	[redacted]	[redacted]	[redacted]			
6/10/87	9/11/87	9/21/87	9/22/87			

(6-80) Correspondence Approval and Clearance — Department of the Treasury/Internal Revenue Service

[redacted]

"(a) Organizational and operational tests. (1) 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. (2) The term "exempt purpose or purposes", as used in this section, means any purpose or purposes specified in Section 501(c)(3)..."

"(b) Operational test. (1) Primary activities. 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 of such exempt purposes specified in Section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. (2) Distribution of earnings. 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..."

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

Section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations provides that "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 of such exempt purposes specified in Section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose."

In order to comply with the requirements of the organizational test, the organization's purposes, as set forth in its creating documents, cannot be broader than the purposes set forth in Section 501(c)(3) of the Code. Since your purposes are "not exclusively" limited to one or more exempt purposes described in Section 501(c)(3) of the Code, you fail to meet the organizational test.

Your primary activity is clearly to operate a restaurant as a business. This is not an exclusively charitable activity within the meaning of Code Section 501(c)(3) of the Code.

[redacted]

Accordingly, we have concluded that you are not entitled to recognition of exemption from Federal income tax under Section 501(c)(3) of the Code, since you are not organized and operated exclusively for charitable, religious, or other exempt purposes within the meaning of Section 501(c)(3).

You are required to file Federal income tax returns.

Contributions made to you are not deductible by the donors as charitable contributions as defined in Section 170(c) of the Code.

If you do not agree with these conclusions, you may within thirty days from the date of this letter, file a brief of the facts, law and arguments (in duplicate) which clearly sets forth your position. In the event you desire an oral discussion of the issues, you should so indicate in your submission. A conference will be arranged in the Regional Office after you have submitted your brief to the Chicago District Office and we have had an opportunity to consider the brief and it appears that the conclusions reached are still unfavorable to you. Any submission must be signed by one of your principal officers. If the matter is to be handled by a representative, the Conference and Practice Requirements regarding the filing of a power of attorney and evidence of enrollment to practice must be met. We have enclosed Publication 892, Exempt Organization Appeal Procedures for Adverse Determinations, which explains in detail your rights and procedures.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

If we do not hear from you within 30 days from the date of this letter, this determination will become final. In accordance with Code Section 6104(c), we will notify the appropriate State officials of this action.

[redacted]

Please keep this determination letter in your permanent records.

If you agree with this determination, please sign and return the enclosed Form 6018.

[redacted]

Enclosures:
Publication 892
Form 6018