



**DEPARTMENT OF THE TREASURY**

Internal Revenue Service  
TE/GE EO Examinations  
1100 Commerce Street  
Dallas, TX 75424

**TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION**

Date: February 5, 2010

501.03-00

Release Number: **201021046**

Release Date: 5/28/10

**LEGEND**

ORG = Organization name      XX = Date      Address = address

ORG  
ADDRESS

Person to Contact:  
Identification Number:  
Contact Telephone Number:  
In Reply Refer to: TE/GE Review Staff  
EIN:

**LAST DATE FOR FILING A PETITION  
WITH THE TAX COURT: May 6, 20XX**

**CERTIFIED MAIL – Return Receipt Requested**

Dear

This is a Final Adverse Determination Letter as to your exempt status under section 501(c)(3) of the Internal Revenue Code. Your exemption from Federal income tax under section 501(c)(3) of the code is hereby revoked effective January 1, 20XX.

Our adverse determination was made for the following reasons:

You have not demonstrated that you are operated exclusively for charitable, educational, or other exempt purposes within the meaning of I.R.C. section 501(c)(3). Organizations described in I.R.C. section 501(c)(3) and exempt under section 501(a) must be organized and operated exclusively for an exempt purposes. You have provided no information regarding your receipts, expenditures or activities. You have not established that you have operated exclusively for an exempt purpose.

Contributions to your organization are no longer deductible under section 170 of the Internal Revenue Code.

You are required to file Federal income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for the year ending December 31, 20XX and for all years thereafter.

Processing of income tax returns and assessment of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

If you decide to contest this determination in court, you must initiate a suit for declaratory judgment in the United States Tax Court, the United States Claim Court or the District Court of the United States for the District of Columbia before the 91<sup>st</sup> day after the date this determination was mailed to you. Contact the clerk of the appropriate court for the rules for initiating suits for declaratory judgment.

You also have the right to contact the office of the Taxpayer Advocate. However, you should first contact the person whose name and telephone number are shown above since this person can access your tax information and can help you get answers.

You can call and ask for Taxpayer Advocate assistance. Or you can contact the Taxpayer Advocate from the site where the tax deficiency was determined by calling, Tel: or write :

Taxpayer Advocate assistance cannot be used as a substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determinations, nor extend the time fixed by law that you have to file a petition in the United States Tax Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling.

We will notify the appropriate State Officials of this action, as required by section 6104(c) of the Internal Revenue Code.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

Douglas H. Shulman  
Commissioner  
By

Nanette M. Downing  
Acting Director, EO Examinations

Enclosures:  
Publication 892  
Publication 1546  
Notice 437

Cc:



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
Internal Revenue Service

June 8, 2009

ORG  
ADDRESS

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Certified Mail - Return Receipt Requested

Dear

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Sunita B. Lough  
Director, EO Examinations

Enclosures:  
Publication 892  
Publication 3498  
Report of Examination  
Form 6018

Form <b>886-A</b> (Rev. January 1994)	<b>EXPLANATIONS OF ITEMS</b>	Schedule number or exhibit
Name of taxpayer  ORG	Tax Identification Number	Year/Period ended  20XX12-20XX12

**LEGEND**

ORG = Organization name      XX = Date      City = city      State = state      ATTN = attorney  
 DR = DR      Doctor = doctor      President = president      DIR-1, DIR-2, DIR-3, DIR-4 & DIR-5 = 1<sup>ST</sup>, 2<sup>ND</sup>, 3<sup>RD</sup>, 4<sup>TH</sup> & 5<sup>TH</sup> DIRECTORS      EMP-1, EMP-2, EMP-3, EMP-4, EMP-5,, EMP-6 & EMP-7 = 1<sup>ST</sup>, 2<sup>ND</sup>, 3<sup>RD</sup>, 4<sup>TH</sup>, 5<sup>TH</sup>, 6<sup>TH</sup>, 7<sup>TH</sup> & 8<sup>TH</sup> EMPLOYEES      CO-1, CO-2, CO-3, CO-4, CO-5, CO-6, CO-7, CO-8, CO-9, CO-10 & CO-11 = 1<sup>ST</sup>, 2<sup>ND</sup>, 3<sup>RD</sup>, 4<sup>TH</sup>, 5<sup>TH</sup>, 6<sup>TH</sup>, 7<sup>TH</sup>, 8<sup>TH</sup>, 9<sup>TH</sup>, 10<sup>TH</sup> & 11<sup>TH</sup> COMPANIES

**ISSUES:**

Whether recognition of exempt status under Internal Revenue Code ("IRC") §501(c)(3) for ORG ("ORG") should be revoked in the event that:

- 1) ORG has more than an insubstantial part of its activities not furthering exempt purposes and that a substantial part of its activities further a commercial purpose.
- 2) ORG has not established that it operates to serve public interests, but rather serves the private purposes of its president, President ("President"), and that ORG's net earnings have inured to its president, President.
- 3) ORG failed to maintain adequate records as provided by IRC § 6001.

**FACTS:**

**Application for Exemption:**

ORG, Employer Identification Number EIN, was recognized for exemption under §501(c)(3) of the IRC on January, 20XX, and determined to be a public charity under §509(a)(2) and §170((b)(1)(A)(vi) of the IRC. This recognition was based on additional information and changes made to ORG's initial application in a letter dated January 4, 20XX (explained below).

The purposes of ORG, as provided in its Application for Recognition of Exemption (Form 1023), are to explore the questions of man's purpose and role on earth. ORG stated its activities consist of the following:

- Esoteric research through meditation and scholarly pursuits and meditative communication with realms of creation for the purpose of establishing wisdom to aid in the correction of problems in the physical and unseen level,
- The recording and cataloging of this information to establish a body of work to further research of the mind to aid in evolution and contribute to interspecies communication.
- Using the information to provide consultative services to correct clients' health and relationship problems,
- The recording and cataloging of these case studies to add to the existing knowledge of the power of the mind,

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ORG		20XX12-20XX12

- Botanical research to further the purpose of ORG and literary research within herbal traditions, and
- Raise capital to purchase acreage and a botanical gardening research center to assist in healing.

According to Part V of the articles of incorporation, filed with the state of State on March 12, 19XX, ORG stated its purpose is to operate exclusively for educational and scientific purposes within the meaning of IRC §501(c)(3). Officers and directors consisted of President and her two family members: DIR-1, who resides at the home of President and the location of ORG, and DIR-2, who resides in another state. The articles state all assets of the corporation, after payment of its just debts, shall be transferred or distributed to an organization exempt under §501(c)(3) of the IRC.

The Internal Revenue Service ("Service") was disinclined to grant ORG's application based on the initial information within ORG's Application for Recognition of Exemption (Form 1023) submitted to the Service. The Service requested additional information in a letter dated December 6, 19XX.

ORG replied to the Service's concerns in a letter dated January 4, 20XX. In this letter, ORG expanded its explanation of its activities and changed the members of its board, as explained below.

ORG stated its exempt purpose was to bring to the general public modalities that will educate and assist people in the healing power of the mind and body. ORG stated an on-going health education program will be available to the general public through the internet and this health care program would feature self care utilizing communication with the subconscious, meditation and herbal therapy. Additional reports, publications and media presentations would be created for the health education community and the general public, as needed or requested. "It is ORG's intent to place its research findings (patents, copyrights, processes or formulas) into the public domain for the benefit of all." ORG claimed all of ORG's research, writing and tutoring work was conducted by volunteers and that all funds, except legal and professional services, will be applied to ORG's exempt educational and scientific purposes.

The original application listed its officers as President and her family members and claimed President would conduct all activities. Because the Service challenged the all-family-member board, ORG's changed the board of directors from all family members to three directors: DIR-3, DIR-4 ("DIR-4"), and DIR-5 ("DIR-5"). ORG claimed President had done graduate work in business administration and that DIR-4 has knowledge of the legal, financial and bookkeeping requirements for a tax exempt organization, and had a strong business background.

President's family members (DIR-1 as Secretary and DIR-2 as VP) were added back to the board at an unknown time prior to 20XX.

#### **Relationship with CO-1 CO-2 (CO-2):**

Both CO-2 and ORG incorporate principles of \_\_\_\_\_ in their activities. DIR-5 is an officer of CO-2 and a director of ORG. President was listed as CO-2's vice president as of 20XX.

CO-2's website shows the following as staff, EMP-1 DIR-5, EMP-2, EMP-3 and EMP-4, EMP-5, and as of 20XX, President and EMP-6.

Beginning in 20XX, CO-2's website began listing President as its vice president. CO-2's website identifies President as follows:

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President has practiced Self-I-Dentity through \_\_\_\_\_ for over thirty years. She practices the ancient method of Statean massage applying the principles. She is the principle broker for her real estate company and is involved in sales and property management.

Many of the payments for ORG's services are from individuals listed as officers or staff of the CO-2's organization, (as explained in more detail below).

ORG explained that many of its clients have attended classes given by the CO-2 and that ORG's purpose is to provide individual tutoring for those individuals (many of ORG's clients were also referred by "word of mouth"). ORG does not furnish educational materials to its clients but may refer to the educational materials ORG's clients purchased from CO-2.

**Returns:** ORG filed Forms 990 for the calendar years ended December 31, 19XX through 20XX, Forms 990-T for calendar years ended 20XX through 20XX and Forms 941 from years 19XX through 20XX.

**Forms 990-T:**

Forms 990-T reported unrelated business income ("UBI") of investment income and loss. Based on its Forms 990 (Part IV-A) Support Schedule, ORG had investment losses from years 20XX, 20XX, and 20XX of \$\$, \$\$, \$\$ respectively. The income (before losses) for those years was \$\$, \$\$, \$\$\$. For year 20XX, 20XX, and 20XX, ORG reported UBI of \$\$, \$\$ and \$\$ respectively.

**Forms 990 and Documentation:**

**Activities:**

**Tax Year 20XX, Form 990 Statement:**

1. 34 individuals with problems related to diabetes, 10 Alzheimer's, 220 tutorial assistance with financial problems, 265 with relationship problems, and "many for dietary/health issues.
2. 4 businesses concerning buying and selling properties, building on lands, cleaning lands, and planting crops on lands.
3. 3 family pets with stress and physical problems.
4. Studied 4 plant types to begin gathering information of a healing and recuperative nature to earth and its inhabitants.
5. According to need, several individuals were provided services at no charge and useful information is provided to the general public on the ORG website.

**Tax Year 20XX, Documentation:**

Documentation of the activities claimed on its return was requested by the Service. ORG supported the above claims with the following information:

Form <b>886-A</b> (Rev. January 1994)	<b>EXPLANATIONS OF ITEMS</b>	Schedule number or exhibit
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1. Claim of individual's assisted:

- 34 individuals with problems related to diabetes are the individuals, staff, and students involved with a doctoral thesis hypertension study performed by DR. DR. is not related to ORG. President explained that she assisted DR. with developing the tools and curriculum for DR.'s study. ORG explained that 23 participants attended a half day class on Self Identify through ORG's substantiated its contributions to DR.'s study of with the following:
  - An email dated 02/06/20XX from President to "CO-3" "After cleaning and meditating the following came up as the format for the RW tea". A typed and handwritten note on an unidentified page to drink tea once a week and to include shrimp and lemon in your diet which states "works on high blood pressure, cholesterol and heart rhythms"
  - Email dated 05/08/20XX from CO-3 to President, regarding brain stimulation, where CO-3 provided President notes (breathing exercise) from CO-2 documents that show "Copyright (c) 20XX CO-1.
  - A page of a log of 4 blood pressure readings with the name "IND-6"
- Also provided was direction given by DR.:
  - An unidentified typed page with instructions for the rainwater tea hypertension program to drink the tea once a week, have blood pressure monitored one day per month, places for obtaining blood pressure measurements, and maintain a log of blood pressures and send these to DR..
  - Email dated 02/16/20XX from DR. to 12 people including President and DIR-5. DR. requested blood pressure measurements and providing directions for blood pressure monitoring and a medication log.
- 10 Alzheimer individuals were assisted: During ORG's counseling sessions, President tutored 10 people who referenced the need for spiritual and meditative tools to be applied to Alzheimer's disease. No documentation of these counseling sessions was supplied.
- 220 tutorial assistance with financial problems: 220 individuals is an estimate obtained by counting the tutorial students with their family, friends, and associates. Included in this count were the verbal discussions with CO-2 instructors/coordinators. No documentation was maintained.
- 265 with relationship problems: ORG explained this was a reasonable estimate obtained by counting the tutorial students and including their family, friends, and associates. ORG explained research results were the "Tools": The use of Natural Butter (Tool) for a result of "letting go of negative emotions. ORG provided no documentation of the manner in which it reached these research results.
- ORG's explanations included the following additional statements:
  - Doctor hired ORG to perform educational research through the practice and application of SITH and to tutor him in the application of \_\_\_\_\_ for his university research. No documentation of this activity was provided.



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- ORG explained that another organization's (CO-2's) coordinators were given free tutorial services for their FOI classes in the use and application of the cleansing process. Hundreds of students were assisted. No documentation of these free tutorials to CO-2's coordinators was supplied, yet, payments for President's services include several payments from CO-2's coordinators as explained in more detail below.
  - People had access to ORG's website cleansing process tools and discussions. (Note: No discussions were in ORG's website as explained later.)
  - A United Nations employee contacted ORG for tutorial services in 20XX. She wanted to better understand how to apply Ho'oponopono to the violent problems she understood were happening in Haiti. The research results were that the student reported feeling better about the situation in Haiti. No documentation was maintained.
  - "IND-1" was a CO-2 student for many years. He experienced extreme health and financial problems. In 20XX and 20XX he was invited to contact ORG for SITH tutorial research in his application of Ho'oponopono to his problems. He did ask for tutoring through out those years on an as need basis.
  - The research results: Tool of the Blueberries: "Blueberries represent Angelic Kingdoms in an earthly function."
2. 4 businesses concerning buying and selling properties, building on lands, cleaning lands, and planting crops on lands. No documentation was maintained.
  3. 3 family pets with stress and physical problems. No documentation was maintained.
  4. Studied 4 plant types to begin gathering information of a healing and recuperative nature to earth and its inhabitants. ORG explained that a garden was begun in 20XX with bottle palms and yellow hibiscus planted on the president's personal property and that comments from all who "experience" the garden (postal carriers, children, neighbors, visitors, and landscape professionals) attest to the peaceful balance and rhythm. In 20XX and 20XX the project was expanded to include ORG's land (purchased in 20XX). Meditative cleansing of the land continues daily. ORG began research on aquaculture with meditative research and purchased two books to further study ponds in May of 20XX. Documentation of the two books purchased was provided. No further recordation was provided.
  5. According to need, several individuals were provided services at no charge and useful information is provided to the general public on the ORG website. No further recordation was provided.

No further documentation of the above activities was provided. In a telephone interview, President explained that documentation was not done because the counseling sessions were private matters. President compared the counseling sessions to those of a psychiatrist or doctor and; therefore, they were confidential and not recorded. President also stated ORG has conducted mostly education and less scientific research.

**Tax Year 20XX, Statement:**

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ORG conducts esoteric meditative and botanical research on the history and purpose of mankind as it relates to its basic relationships and problems of its origin and development. ORG provides tutorial services, based on its research, to individuals and organizations choosing to explore and correct physical, mental, and relationship problems. In 20XX, all activities were related to research. The interested general public contributed donations throughout the year to support this research. According to need, several individuals were provided tutorial services at no charge, and useful information is provided at no charge on the ORG website.

**Tax Year 20XX, Documentation:**

ORG did not maintain records of the content of structure of the counseling sessions. ORG explained that the matters discussed with clients were of a personal nature as explained earlier. The counseling sessions were not in a structured format because President's assistance to each client was based on the facts and circumstances of the client's individual situation. No recordation of research was maintained.

**Income and Expenses:**

The original returns (prior to the Service's examination) of 20XX and 20XX are shown below. Form 990 data for tax years 20XX and 20XX was obtained though publicly available internet data.

Forms 990 Tax Year	20XX	20XX	20XX	20XX
Program Service				
Consulting Fees				
Investment Inc.				
<b>Total Revenue</b>				
President MBA Tuition (Educational) <sup>1</sup>				
Occupancy				
Office Supplies				
Internet Expenses				
Botanical Supplies				
Legal Fees				
Miscellaneous				
<b>Total Expenses</b>				
Receivables				
Cash				
Savings				
Investments				
Land, buildings <sup>2</sup>				

<sup>1</sup> For 20XX, educational expenses of \$\$ were claimed the 20XX return, \$\$ were approved by the board May 30, 20XX, and \$\$ paid in 20XX were reported on Form 886 from an examination of President's return. Form 886 states President claimed the expenses were reimbursed by ORG as ORG decided it was beneficial for President to obtain a Masters in Business Administration.

<sup>2</sup> The \$\$ shown as ORG's land or buildings in 20XX was instead the amount ORG disbursed to President for her person purchase of residential rental property (explained later).

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ORG			20XX12-20XX12	
<b>Total Assets</b>				
<b>Total Liabilities</b>				

Form 990, Part IV, Line 50 provides for amounts receivable from officers. No entries were made here. Schedule A, Part III, Line 2, provides a section for disclosure of loans of money or extension of credit to officers, directors, creators, or family members. ORG claimed it had not engaged in these acts. ORG claimed no relationship between officers and related to ORG through common Control.

President's hours per week was reported as 30 hours for 20XX and 12 hours for 20XX. This claim was modified during the examination to 3 hours per week for each year.

**Analysis of ORG's Records of Income and Expenses:**

Tax Year	20XX	20XX
Program Service "donations":		
Consulting Fees:		
Investment Income:		
<b>Total Revenue (per bank statements copies of checks):</b>		
President MBA Tuition (apportioned from payment to President of \$ for 20XX)		
Occupancy (apportioned from payment to President of \$ for 20XX)		
Tax, Insurance, Fees		
Paid to IND-2 for "cart"		
Paid to DIR-5 for "Rainwater tea"		
Unexplained Legal Fees		
Misc. Supplies, Books on Ponds		
<b>Total Expenses</b>		
Receivables:		
Cash (Checking)		
Savings		
Investments:		
Land in City (Vacant parcel unadjusted for below liability to President)		
<b>Total Assets</b>		
<b>Total Liabilities</b>		

20XX Expenses:

On July 7, 20XX, check # for \$\$ was made out to President and signed by President. The purpose of this payment was less than clear. The original 20XX return claims \$\$ was paid for her occupancy expense and \$\$ for President's education. For 20XX, \$\$ for educational expense was approved by the board. As with the 20XX expenses paid to President, the board provided post approval of the 20XX expenses the following year (Unanimous Written Consent executed May 30, 20XX signed by President, DIR-5, and DIR-4).

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The 20XX "amended" return, submitted in 20XX during the Services' examination, shows \$\$ paid as occupancy, eliminated the educational expense, added investment expense, and office expense. ORG currently claims the rent was \$\$ per month (\$\$). ORG, general ledger shows \$\$ for furniture.

For 20XX, ORG's largest payment of \$\$, check # was made out to "Cash" and signed by President on August 29, 20XX. Although not reflected on the 20XX return this was later explained to have been a repayment to President to be applied to the purchase of ORG's land.

**20XX Expenses:**

For 20XX, the Service requested explanation of the largest expense: legal expense of \$\$ paid to ATTN. ORG refused to provide this information on grounds that the attorney client information was privileged.

**ORG's Website:**

Website Research or education:

ORG's website has sections for Purpose, Updates, Services, Research, and Contact Information that are described below.

Purpose: The "Purpose" page has remained unchanged from Years 20XX to April 20XX.

Updates: The "Updates" were added by 20XX and remained unchanged to April 20XX. The updates list blueberries, honey, butter and "The Rolling Pin". A short paragraph accompanies each item that generally recommends to include blueberries, honey and butter in one's diet and that bottle palms, yellow hibiscus are "good" an "significant" to have in your yard to fulfill a person's spiritual purpose. ORG calls these items "tools". The "tool" of the use of a mental rolling pin. is described in slightly more detail than the other "tools". This rolling pin "tool" "is a process as developed by IND-3 who founded CO-2, a separate organization.

Once the Service's examination was underway, by June, 8, 20XX, ORG added to its updates page additional "tools". These added tools include drinking hot chocolate, eating vanilla ice cream, using a down filled pillow and touching plants. Each tool included a general statement. For example: "Eating vanilla Ice Cream is a spiritual tool. It is the highest element of food and works to bring about Peace in our organic lives. The Peace will be positive to our health, wealth, and spiritual awareness."

Services:

Each "Service" was listed on a separate page, with a "Click to Order Online" feature. The Services were priced and described on ORG's website from 20XX through September 11, 20XX as follows.

Name of Service:	Fee:	Description of Service:
Carousel,		Meditative Cleansing to release stress
Life Palmistry:		Involves reading of the hands
Cards,		Cards used to read a person/situation/place
Laser		Use mind to "clean" person/place/situation

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Land/facility,		Unblock land problems etc (also, fees determined individually )	
Business,		Cleansing to bring rhythm and balance in the business	
Inventory		Per month- to assist student with cleaning and introspection	

After the examination of ORG was well underway in 20XX, ORG changed its website to say to contact ORG for more details on services and the term "Service" was changed to "Tutorial Program" and fees for services were reduced.

Research:

The 20XX and 20XX archive web pages do not show research but have one inactive link to "4<sup>th</sup> QTR 20XX".

The statements on its research page remained constant from 20XX through 20XX and include multiple references to ORG research; yet no research was explained or provided. A sample paragraph of the Research page follows:

ORG is recording and cataloging this information for present and future benefit. This body of work hopes to further research and study of the Mind to aid in the unfolding of the evolution and purpose of mankind on earth and to contribute to the field of interspecies communication.

By April of 20XX, the "Research" pages included general statements similar to the items listed as the 20XX "Updates". Here, "The Ice Blue TOOL", of positive mental imagery, was added and is described in more detail than the other items. No research is delineated.

Contact Information:

The Contact page provides ORG's (President's home) address, email, and explains the ORG is a non-profit 501(c)(3) corporation that accepts tax deductible gifts of money, stocks, bonds and real-estate. ORG claims it can assist with Charitable Remainder Trusts, Gift Annuities and other forms of donations. The contact information has remained unchanged from 20XX to April of 20XX.

**Scientific Research:**

ORG provided a statement from DIR-5, ORG's director, stating DIR-5 had attended a lecture on botanical gardens.

**Service Provided**

Not-For-Profit Services Provided by ORG:

The primary activity of ORG is provision of one-on-one counseling services described on ORG's website. These services were performed by ORG's president, President, out of her home office. ORG neither created nor provided training materials, exams, or tests for its counseled clients.

Similar For-Profit Services Provided by President:

The president, President, provides services on the same subject matter through her for-profit businesses. She offers counseling assistance, tarot card and palm reading, massage and sells tea. President's services

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are sold on other businesses' website including DR. (CO-4) where President's personal and business consultation services are sold as one of the products offered. DR. is President of CO-4 and chairman emeritus of the CO-2. President's services sold on The CO-4 website, appear to include meditations, visualizations, decrees, cleansings, and spiritual healings for individuals at one price and at another price for businesses. On IND-4' website, that sells "Creative Solutions for your business problems", President is listed as a speaker in the seminars, downloads, and CD's offered for sale. DR and EMP-5 of –are also listed as speakers in the products for sale. The website states "IND-4 is an internationally acclaimed speaker, seminar leader, and consultant. She applies her knowledge, insights, experience, and skills to assisting businesses and individuals in becoming more productive, effective, and prosperous."

President is also a professional realtor, and owns real-estate management companies including CO-5, and CO-6, and CO-7 Per ORG's "amended" Form 990, President's compensation from CO-5 is \$ and is based on reasonable industry standard. President's family members (DIR-2 and DIR-1) are both directors of ORG as well as compensated individuals of CO-5. CO-5 manages ORG's real property purchased by President in 20XX. CO-5 receives income from rent of residential property, real estate commission, and services. In a letter from ORG, the examination report of President's personal returns states that the memo section of many of the checks deposited into President's bank accounts lists Carousels, Cleansings, Consultations and Inventory Services provided.

The president explained the difference between her for profit services, and the services offered through ORG, is that ORG clients are furthering their education though her tutoring.

President's businesses and ORG's services are run from the same home office.

**Revenue:**

President's services are the primary source of ORG's revenue. ORG's bank records were provided for years 20XX and 20XX. No other record was maintained to track or explain services sold by ORG. ORG's bank records show deposits that are primarily marked as payments for treatment, consultation, or inventory. None are marked as payments for tutoring or education. None of the 20XX payments are marked as a contribution or donation. None of the 20XX payments are marked as donation or contributing until December. Of those December 20XX, on some check payments the word "donation" written on the payments does not match the writing on the other areas of the checks. For example, the checks from DIR-5 DIR-5 (President's daughter and ORG's director), in the amount of \$ and from IND-5 (family member of EMP-6, CO-2 treasurer), for the amount of \$ are written in cursive hand, where "donation" is written in capital printing. Of the ninety two payments deposited in 20XX, twenty two were made out payable to President alone. Form 886 from an examination of President's return states the memo section of many of the deposit into President's personal account list the services listed on ORG's website (Carousel, Cleansing, Consultations, and Inventory Services).

Several of the payments were from officers of ORG or CO-2 or from their family members. Of the remaining payments, the majority of revenue was from real-estate development or construction businesses. See the Tables I & II below for an illustration of the payments from these parties.

For the tax year 20XX ORG bank records reflected 92 deposited client payments totaling \$. A sampling of those payments follows. The memo section notes on these payments are also included below.

<b>Table I</b>	<b>Samples of 20XX Bank Receipt Records</b>
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Form <b>886-A</b> (Rev. January 1994)	<b>EXPLANATIONS OF ITEMS</b>	Schedule number or exhibit
Name of taxpayer  ORG	Tax Identification Number	Year/Period ended  20XX12-20XX12

Name & Relationship	Number of Payments out of 92	Total Amount of Payments out of \$	Notes on Payment
DIR-4 (ORG director/treasurer )	4		cleansing, life palmistry
DIR-4 (ORG director's wife )	22		consultation, cleansing
EMP-5 (CO-2 coordinator )	22		treatment, blood pressure treatment, staffing, travel, Thanksgiving, anniversary, island trip
IND-2 (Conducted study on Ho'oponopono)	2		thank you
EMP-4 & EMP-3 (CO-2 staff)	4		thank you
CO-8 (Real-estate Development )	13		(none)

For the tax year 20XX ORG's bank records reflected 32 deposited payments totaling \$\$. Of these deposits, \$\$ of were from return of capital on investments and \$ from investment income. The remaining, from clients, totaled \$. Most were from individuals related to ORG or CO-2. A sampling of those payments follows.

<b>Table II</b>		<b>Samples of 20XX Bank Receipts Records</b>		
Name & Relationship	Number of Payments out of 32	Total Amount of Payments out of \$12,088	Notes on Payment	
DIR-5 DIR-5 (ORG and CO-2 officer, President's daughter)	1		donation	
DIR-4 (ORG director's wife )	8		consultation, cleansing	
EMP-5 (CO-2 coordinator )	8		treatment, trips and other	
IND-2 (Conducted study on Ho'oponopono)	1		donation	
EMP-4 & EMP-3 (CO-2 staff )	4		thank you	

CO-8 is a real estate development company that has purchased tutorial services from ORG. Based on Form 8734, Support Schedule for Advanced Ruling Period, and Forms 990, CO-8 paid \$ each year from 19XX to 20XX and \$ per year from 20XX to 20XX. From 19XX through 20XX ORG's gross receipts were \$, \$, \$\$, \$\$, \$, \$ respectively (based on publicly available 990 data). The payments from CO-8 from 19XX to 20XX represent 61%, 30%, 41%, 53%, 77%, 83%, and 65% of ORG's gross receipts.

**President's Use of ORG's funds:**

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President's Use of funds:

A "Joint Purchase and Nominee Agreement", dated June 15, 20XX (in a letter from President, signed by DIR-5), shows ORG's intent to pool funds with President to purchase two adjacent real estate parcels; instead, President used ORG's funds to purchase her real estate parcel. President purchased residential rental property that borders the parcel of vacant land intended for ORG.

The seller of the two properties would not agree to sell the two parcels separately as ORG's vacant land was land locked by President's rental property. ORG claims it intended to utilize the vacant land as educational and meditative research. According to the assessor's records; the vacant parcel is zoned as unimproved residential. The joint sale of both properties was prevented by necessary clean up of the vacant land and the seller agreed to sell President's property separately.

The June 15, 20XX agreement was amended September 24, 20XX. The amendment included agreement that ORG will disburse to President \$\$ for President's purchase of rental real-estate for her personal use. This was to be repaid by President's purchase of real-estate for ORG. The amendment states "ORG will deposit up to \$\$ into the escrow to close the purchase of Parcel 1 (the "Deposit"). On or before the closing of the purchase of Parcel 2, I will deposit up to the entire purchase price for Parcel 2, but not less than the amount of the Deposit, into the escrow for ORG's purchase of Parcel 2." The amendment establishes how and when President will be repaid once she purchased parcel 2.

ORG issued a check to escrow for \$50,000 and a check to "cash" for \$\$ on October 20, 20XX. On October 27, 20XX President used \$\$ of ORG's funds as a down payment to purchase a \$ parcel of rental real estate for her use under the name of CO-6.

No promissory note was created to document the use of ORG's funds. The disbursement of funds was not disclosed on Form 990 on the line provided for "Receivables from Officers, Directors, Trustees, And Key Employees" nor on any section of Form 990 for 20XX.

The relevant information obtained from ORG included the following (President is abbreviated as "IND-6:" in the distributions and transaction explanation below):

ORG 's distributions in 20XX:

• ORG check to escrow:	07/12/20XX	\$
• Check to "cash", signed by IND-6:	10/20/20XX	\$ \$ .00
• Total escrow and cash paid by ORG:	10/20/20XX	\$ \$ .00

President used the total of \$\$ of ORG's funds as a deposit to purchase her residential rental real estate on October 27, 20XX. Of the purchase price of \$\$, President borrowed \$\$.

• IND-6 purchased real estate:	10/27/20XX	\$
• ORG escrow and cash used by IND-6:	10/27/20XX	\$ \$ .00
• ORG purchased real estate	--	\$ 0.00

ORG's purchase in 20XX:



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August 15, 20XX, ORG, under the name of CO-9 (a company managed by President, under her real-estate investment corporation, CO-5, Inc.), purchased the parcel of vacant land for a total cost, (including taxes and fees), of \$\$.

The cost of \$\$ of ORG's land includes a charge of \$\$ for President's credited realtor commissions. President paid funds totaling \$\$\$. On August 29, 20XX, ORG paid President \$\$ to be credited toward the purchase of ORG's land. After subtracting from the sales price (of \$\$) \$\$ (considered repayment to ORG) and \$\$ (paid by ORG to President), the parties agree ORG owed President \$\$\$. ORG and President created a promissory note, dated August 12, 20XX, to record a principal amount of \$\$ to be paid by ORG to President. This promissory note is signed by President, DIR-4, and DIR-5 M. DIR-5. No interest on the use of ORG's \$\$ was computed or paid.

The amount actually paid by President was \$\$\$. After subtracting the \$\$ (President owed to ORG) and \$\$ (ORG paid) the amount paid by President for the purchase of ORG's property is \$\$; yet, the parties considered \$\$ owed to President by inclusion of President's realtor commission to the sales price.

(President is abbreviated as "IND-6:" in the distributions and transaction explanation below):

ORG Land Purchase: Amounts and Credits Applied:

• Two Payments from IND-6:	\$ \$
• Two Cashier checks (from IND-6):	\$ \$
• <u>Included in sales price as Commission Credit:</u>	\$ \$0.00
• Total Credits of Purchase Cost for ORG land:	\$ \$
• ORG real estate cost: 08/15/20XX	\$ \$
• Less: Disbursements to IND-6 in 20XX: 08/15/20XX	\$ \$0.00
• Less: Amount paid to IND-6 for land: 08/29/20XX	\$ \$
• Promissory note to IND-6: 08/12/20XX	\$ \$0.00

Amounts paid by President less ORG's payments to President:

• Paid by IND-6:	\$ \$
• Less: Amount disbursed to IND-6 in 20XX:	\$ \$0.00
• Less: Amount paid to IND-6 for 20XX land purchase:	\$ \$
• Remaining amount paid by IND-6:	\$

The purchase of ORG's land though CO-5, President's real estate investment company managed by President closed on August 12, 20XX. On August 12, 20XX President deposited into her personal bank account \$ from CO-10 as a real estate commission check.

President opened a bank account for CO-9 with a deposit of \$\$ March 20, 20XX. In August 20XX, three payments made from the account for property taxes, insurance, and bank charges totaled \$\$\$. September 20XX ORG transferred \$\$ into the CO-9 bank account and the account was closed by issuance of the remainder, of \$\$\$, to President. This included \$\$ of ORG's funds.

Adjacent rental properties owned by President:

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Through her real-estate company, CO-7, President purchased a second residential rental parcel, August 11, 20XX. This parcel and the rental parcel President purchased with \$\$ of ORG's funds in 20XX are physically connected to the parcel of land purchased for ORG in 20XX.

ORG's parcel of vacant land (Parcel # of 1.775 acres), and President's residential rental properties (Parcels # of 7.587 acres and # of 2.146 acres ) purchased through her real estate businesses. The total acreage of all three parcels is 11.5.

On July 21, 20XX, President contacted IND-7, of CO-11 (CO-11) for assistance in the development of President's three properties. President states "We were looking at forming the 1.75 A lot with the land from the larger lot to make a flag. If the grandfathered houses were not able to be kept perhaps it would be best to make the two lots one and thereby getting to keep the 9 existing homes". President asks "Are my three lots possibly able to be rezoned? The total acreage will be 11.5A". CO-11 was to determine if the "EU" houses could be identified and to keep the grandfathered houses in sort of an "overlay" treatment". President asks about rules for a person not being able to develop more than 2 pieces of land. "The larger property is not held in an LLC". "All pieces will be held and worked with via LLC and a managing agent of a corporation. Each final CPR unit will be held by its own LLC". This would this alleviate restrictions don't you think?" and "The commercial area is of interest to me. The commercial area would be a boon to the whole project." A follow up email message was sent by CO-5 on September 14, 20XX was titled "TMK 166 021 009 EU project."

**LAW:**

**Internal Revenue Code (IRC)**

Exempt Purpose:

IRC §170(b)(1)(A)(ii) defines an educational organization as one "which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on."

IRC 501(a) of the IRC provides that an organization described in section 501(c)(3) is exempt from income tax. Section 501(c)(3) of the Code exempts from federal income tax corporations organized and operated exclusively for charitable, educational, and other purposes, provided that no part of the net earnings inure to the benefit of any private shareholder or individual. The term charitable includes relief of the poor and distressed. Section 1.501(c) (3)-1(d) (2), Income Tax Regulations.

IRC §501(c)(3) states "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." Treas. Reg. § 1.501(a)-1(c).

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The inurement prohibition provision of 501(c)(3) "is designed to prevent the siphoning of charitable receipts to insiders of the charity . . . ." United Cancer Council v. Commissioner, 165 F.3d 1173 (7<sup>th</sup> Cir. 1999). Reasonable compensation does not constitute inurement. Birmingham Business College v. Commissioner, 276 F.2d 476, 480 (5<sup>th</sup> Cir. 1960).

Excess Benefits:

IRC §4958 was added to the Internal Revenue Code by §1311 of the Taxpayer Bill of Rights 2, P.L. 104-168, 110 Stat. 1452, enacted July 30, 1996. The §4958 excise taxes generally apply to excess benefit transactions occurring on or after September 14, 1995. The report from the Committee on Ways and Means on the Taxpayer Bill of Rights 2, H.R. 2337, was submitted March 28, 1996. H. Rep. No. 506, 104<sup>th</sup> Cong., 2d Sess. (1996) 53. Proposed regulations were published in the Federal Register August 4, 1998, 63 F.R. 41486. The proposed regulations were replaced by temporary regulations that were published in the Federal Register January 23, 2002, 67 F.R. 3076. The final regulations, which apply as of January 23, 2002, represent a fair and reasonable interpretation of IRC §4958, based on the intent of Congress as expressed in the Report from the Ways and Means Committee submitted March 30, 1996.

Recordkeeping:

IRC §6001 provides that every person liable for any tax imposed by the IRC, or for the collection thereof, shall keep adequate records as the Secretary of the Treasury or his delegate may from time to time prescribe.

IRC §6033(a)(1) provides, except as provided in IRC § 6033(a)(2), every organization exempt from tax under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts and disbursements, and such other information for the purposes of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

In accordance with the above cited provisions of the Code and regulations under IRC §§ 6001 and 6033, organizations recognized as exempt from federal income tax must meet certain reporting requirements. These requirements relate to the filing of a complete and accurate annual information (and other required federal tax forms) and the retention of records sufficient to determine whether such entity is operated for the purposes for which it was granted tax-exempt status and to determine its liability for any unrelated business income tax.

IRC §7603 provides that for the purposes of ascertaining the correctness of any return, making a return where none has been made, determining the liability of any person for any internal revenue tax, the Secretary is authorized to examine any books, papers, records or other data which may be relevant to such inquiry.

**Regulations and Revenue Rulings:**

Exempt Purpose, Private Benefit and Inurement:

Section 1.501(c)(3)-1(a)(1) of the regulations 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

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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.

Section 1.501(c)(3)-1(d)(3) of the Income Tax Regulations defines the term "educational" as the instruction or training of the individual for the purpose of improving or developing his capabilities.

The statute imposes no limitation on the subject matter of instruction given by a school for purposes of the exemptions. See Revenue Rulings. 73-434, 1973-2 C.B. 71, and 75-215, 1975-1 C.B. 335, which hold certain organizations that provide survival and field study courses, respectively, qualify under section 170(b)(1)(A)(ii). However, the mere fact that an organization has a training program does not, of itself, mean that the program qualifies as a "school" operated as an activity of an exempt organization within the meaning of the term nonprofit educational organization. See Revenue Ruling 74-366, 1974-2 C.B. 345.

In National Alliance v. United States, 710 F. 2<sup>nd</sup> 868 (D.C. Cir. 1983), the court found that the organization was not educational. While looking at other issues, the court noted that the methodology test used by the Service when applying the regulations "tend[s] toward ensuring that the educational exemption be restricted to material which substantially helps a reader or listener in a learning process." Individual counseling has, in a number of instances, been held to be a tax-exempt charitable activity.

Revenue Ruling 78-99, 1978-1 C.B. 152 (free individual and group counseling of widows); Revenue Ruling 76-205, 1976-1 C.B. 154 (free counseling and English instruction for immigrants); Revenue Ruling 73-569, 1973-2 C.B. 179 (free counseling to pregnant women); Revenue Ruling 70-590, 1970-2 C.B. 116 (clinic to help users of mind-altering drugs); Revenue Ruling 70-640, 1970-2 C.B. 117 (free marriage counseling); Revenue Ruling 68-71, 1968-1 C.B.249 (career planning education through free vocational counseling and publications sold at a nominal charge). Overwhelmingly, the counseling activities described in these rulings were provided free, and the organizations were supported by contributions from the public.

Revenue Ruling 62-6, 1962-1 CB 198, holds that a "nonprofit organization which was established for the training, educating, and rehabilitating of mentally handicapped children and which meets the prescribed requirements concerning formal instruction, faculty, curriculum, and student body enrollment comes within the scope of the term 'nonprofit educational organization'. However, another nonprofit organization which is operated primarily as a residential facility for handicapped children does not come within the scope of the term 'nonprofit educational organization.'"

Revenue Ruling 70-534, 1970-2 C.B. 113, (Jan. 01, 1970) concerns a nonprofit organization whose primary activity is conducting travel study tours, which are conducted by teachers and other personnel certified by a State board of education, normally last for several weeks. The study program consists of junior college level courses related to the area being visited by the tour. Five to six hours per day are devoted to organized study, preparation of required reports, lectures, instruction, and recitation by the students. A library of books, pamphlets, and material related to the courses being taught are carried on the tour. Examinations are administered at the end of the tour and each student is graded for the course. The State board of education allows school credit for participation in the organization's program. Since the courses, which are conducted by certified teachers, consist of lectures, instruction, preparation of reports, recitation, examinations, and the issuance of grades, the organization is performing the instruction or training of the individual for the purpose of improving or developing his capabilities. Accordingly, it is held that the organization is exempt from Federal income tax under section 501(c)(3) of the Code

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Revenue Ruling 76-237, 1976-1 CB 330 concerns an organization whose stated purpose is to promote world-wide understanding and to improve relations between people. It conducts guided tours for small groups of young people, who experience different life styles and cultures in various countries and places. The tours are chaperoned by instructor-counselors who teach the participants certain skills and crafts appropriate to the activities involved in their particular trip, such as camping, mountain climbing, and kayaking. In this case, the organization does not qualify as an educational organization described in section 170(b)(1)(A)(ii) of the Code since the primary function of the organization is not the presentation of formal instruction within the meaning of the regulations but rather the operation of guided tours that include social, cultural, and educational activities. In addition, the incidental instruction and training provided are so intertwined with the other activities that they cannot stand alone to function as a school operated as an activity of an exempt organization.

Revenue Ruling 78-43, 1978-1 CB 164 concerns a travel tour program operated by a university alumni association for members and their families, under which the association, working with various travel agencies, schedules several tours annually to destinations around the world, mails out promotional material, accepts reservations, and is paid a fee by the travel agencies on a per person basis. The purpose of the association and, the basis for its exemption under section 501(d)(3) of the Code, is the promotion of education by assisting a given university, both financially and otherwise. There is no formal educational program conducted in connection with these tours, and they differ in no substantial way from regular commercially operated tours. The association provides an employee to accompany each tour to serve as a tour leader. Because there is no causal relationship between this activity and the achievement of the association's exempt purposes, the activity does not contribute importantly to the accomplishment of the association's purposes that are the basis for its exemption under section 501(c)(3) of the Code.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities that accomplish one or more of such exempt purposes specified in 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. The existence of a substantial nonexempt purpose, regardless of the number or importance of exempt purposes, will cause failure of the operational test. In Better Business Bureau of Washington, D.C. v. U.S., 326 U.S. 279 (1945), the Court found that the trade association had an "underlying commercial motive" that distinguished its educational program from that carried out by a university.

In American Institute for Economic Research v. United States, 302 F. 2d 934 (Ct. Cl. 1962), the Court considered the status of an organization that provided analyses of securities and industries and of the economic climate in general. The organization sold subscriptions to various periodicals and services providing advice for purchases of individual securities. Although the court noted that education is a broad concept, and assumed for the sake of argument that the organization had an educational purpose, it held that the organization had a significant non-exempt commercial purpose that was not incidental to the educational purpose and was not entitled to be regarded as exempt.

An organization must establish that it serves a public rather than a private interest and "that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests." Treas. Reg. § 1.501(c)(3)-1(d)(1)(ii). Prohibited private interests include those of unrelated third parties as well as insiders. Christian Stewardship Assistance, Inc. v. Commissioner, 70 T.C. 1037 (1978); American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989). Private benefits include an

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"advantage; profit; fruit; privilege; gain; [or] interest." Retired Teachers Legal Fund v. Commissioner, 78 T.C. 280, 286 (1982).

In KJ's Fund Raisers v. Commissioner, T.C. Memo 1997-424 (1997), aff'd, 1998 U.S. App. LEXIS 27982 (2d Cir. 1998), the Tax Court held, and the Second Circuit affirmed, that an organization formed to raise funds for distribution to charitable causes did not qualify for exemption under § 501(c)(3) because its activities resulted in a substantial private benefit to its founders. The founders of the organization were the sole owners of KJ's Place, a lounge at which alcoholic beverages were served. The founders served as officers of the organization and, at times, also controlled the organization's board. The Court found, and that the founders exercised substantial influence over the affairs of the organization. The organization's business consisted of selling "Lucky 7" or similar instant win lottery tickets to patrons of KJ's Place. The organization derived most of its funds from its lottery ticket sales. The organization solicited no public donations. The lottery tickets were sold during regular business hours by the owners of the lounge and their employees. From the proceeds of the sales of the lottery tickets, the organization made grants to a variety of charitable organizations. Although supporting charitable organizations may be a charitable activity, the Tax Court nevertheless upheld the Commissioner's denial of exemption to the organization on the ground that the organization's operation resulted in more than incidental private benefit. The Tax Court held, and the Second Circuit affirmed, that a substantial purpose of KJ's activities was to benefit KJ's place and its owners by attracting new patrons, by way of lottery ticket sales, to KJ's Place, and by discouraging existing customers from abandoning KJ's Place in favor of other lounges where such tickets were available. Thus, the organization was not operated exclusively for exempt purposes within the meaning of § 501(c)(3).

An organization formed to educate people in Hawaii in the theory and practice of "est" was determined by the Tax Court to a part of a "franchise system which is operated for private benefit," and, therefore, should not be recognized as exempt under section 501(c)(3) of the Code. est of Hawaii v. Commissioner, 71 T.C. 1067, 1080 (1979). Although the organization was not formally controlled by the same individuals who controlled the for-profit entity that owned the license to the "est" body of knowledge, publications, and methods, the for-profit entity exerted considerable control over the applicant's activities by setting pricing, the number and frequency of different kinds of seminars and training, and providing the trainers and management personnel who are responsible to it in addition to setting price for the training. The court stated that the fact that the organization's rights were dependent upon its tax-exempt status showed the likelihood that the for-profit entities were trading on that status. The question for the court was not whether the payments made to the for-profit were excessive, but whether the for-profit entity benefited substantially from the operation of the organization. The court determined that there was a substantial private benefit because the organization "was simply the instrument to subsidize the for-profit corporations and not vice versa and had no life independent of those corporations."

Where an organization provided a source of credit to companies of which a private shareholder was either an employee or an owner, the court found that a portion of the organization's net earnings inured to the benefit of that private shareholder. Easter House v. United States, 12 Cl. Ct. 476 (1987). That such loans were made showed that the companies controlled by the private shareholder had a "source of loan credit" in the organization.

Recordkeeping:

Regulations § 1.6001-1(a) in conjunction with Treas. Reg. § 1.6001-1(c) provides that every organization exempt from tax under IRC § 501(a) and subject to the tax imposed by IRC § 511 on its unrelated business

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income must keep such permanent books or accounts or records, including inventories, as are sufficient to establish the amount of gross income, deduction, credits, or other matters required to be shown by such person in any return of such tax. Such organization shall also keep such books and records as are required to substantiate the information required by IRC § 6033.

Regulations § 1.6001-1(e) states that the books or records required by this section shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be retained as long as the contents thereof may be material in the administration of any internal revenue law.

Regulations § 1.6033-1(h)(2) provides that every organization which has established its right to exemption from tax, whether or not it is required to file an annual return of information, shall submit such additional information as may be required by the district director for the purpose of enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (section 501 and the following), chapter 1 of the Code and IRC § 6033.

*Revenue Ruling 59-95, 1959-1 C.B. 627*, concerns an exempt organization that was requested to produce a financial statement and statement of its operations for a certain year. However, its records were so incomplete that the organization was unable to furnish such statements. The Service held that the failure or inability to file the required information return or otherwise to comply with the provisions of IRC § 6033 and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of exempt status.

**GOVERNMENT’S POSITION:**

**Facts Summary:**

1. ORG received recognition of exemption from federal income tax based on its claims of scientific and educational purposes. ORG described its activities as researching, recording, and cataloging information, providing consultative services, and cataloging the case studies of the consultations.
2. ORG's primary activity is to provide, for a fee, consultation services through its president, President, out of her home office. ORG explains that the consultation services were educational.
3. The consultation services provided by the president include tutoring on meditative cleansing, palm reading, card reading, mind cleansing, real-estate land and business (spiritual) cleansing. Pricing for the consultation services is listed on ORG's website and ranges from \$ to \$\$.
4. ORG's president (President) provides services similar to those provided by ORG through her for-profit businesses. The president explained that the services of her for-profit businesses are not provided on a tutorial basis where the services of ORG are.
5. ORG did not maintain records to document or explain the activities of the consultation services the president provided or for use in research as they were of confidential nature.
6. ORG's website information remained virtually unchanged from the year 20XX to the date of examination.

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7. For several years, the overwhelming majority of expenses consist of direct payments to the founder and president for use of her home office and payment of her MBA expenses.
8. In 20XX ORG disbursed \$\$ to President to purchase a real estate rental property for her personal use. President is a professional realtor and real-estate manager. ORG and President claim this disbursement was an unsecured loan to be repaid at a time of President's discretion by the purchase of real-estate property. The disbursement was not reported on ORG's Form 990. No promissory note was created to reflect debt to or terms and no receivables were reported to the Service.
9. In 20XX, President funded the purchase of vacant land attached to her rental properties. President purchased this land in ORG's name and the land which is managed through President's real-estate company. ORG and President considered this transaction President's repayment of the \$\$\$. Because the purchase price of ORG's vacant land exceeded \$\$\$, the excess was considered owed to President. The amount owed to President includes commissions credited to President. A promissory note was created reflecting a debt to President. No interest was paid to ORG for the use of its money.

As explained below, ORG supplied no hard evidence that its primary purpose is other than to 1) market the president's services, 2) pay for personal and business expenses of the president, and 3) utilize ORG's funds interest free to purchase rental property for her personal use and garner commission payments on the purchase of property purportedly for ORG's use.

**Issue # 1: ORG has more than an insubstantial part of its activities not furthering exempt purposes. A substantial part of its activities further a commercial purpose.**

IRC §501(c)(3) provides for the exemption from Federal income tax of organizations organized and operated exclusively for educational purposes. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. (See Section 1.501(c)(3)-1(c)(1).)

The primary beneficiary here is President. This is evidenced by the fact that President created and controls ORG and ORG's primary activity is the promotion and sale of President's individual counseling services, counseling services that mirror her own and other for-profit businesses.

The purpose of ORG's activities differs substantially from those of the organizations in Revenue Ruling 78-99, 1978-1 C.B. 152 ; Revenue Ruling 76-205, 1976-1 C.B. 154; Revenue Ruling 73-569, 1973-2 C.B. 179; Revenue Ruling 70-590, 1970-2 C.B. 116; Revenue Ruling 70-640, 1970-2 C.B. 117; Revenue Ruling 68-71, 1968-1 C.B.2 \$. Overwhelmingly, the counseling activities described in these rulings were provided free, and the organizations were supported by contributions from the public. ORG is unlike the organization in Revenue Ruling 62-6, 1962-1 CB 198, in that there are no requirements concerning formal instruction, faculty, curriculum, and student body enrollment within the scope of the term "non-profit educational organization". ORG is similar to the organization described in Revenue Ruling 78-43, 1978-1 CB 164, where there is no formal educational program conducted in connection with the consulting services.

ORG's website lists the counseling services offered and the price for each. No mention is made of a waiver of fees for persons who are unable to afford the services of ORG.

Scientific Research:



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By its own admission, ORG has done virtually no scientific research.

Education and Recordation:

ORG's counseling services were amorphous:

- No instructional material was provided by ORG.
- No structured classes or curriculum or regular enrolled student body existed.
- No evidence of the content or skills taught.

ORG provided no convincing proof that meaningful and intentional education transpired for the purpose of learning the skills used by ORG's president in her for profit businesses. The Service is unconvinced that ORG's primary motive was intentional education of the public.

ORG's application for recognition of exemption were based on its claims of educational and scientific. ORG claimed its activities were researching, recording and cataloging its research to provide consultative services, and the recording and cataloging of the (consultative services) case studies. Yet, ORG provided no significant evidence that it had accomplished any actual research or recordation. The organization failed to maintain records of:

- who was tutored,
- what was taught,
- when activities took place,
- what activities took place, or
- the results of activities.

ORG explained that documentation of sessions was not done because the issues discussed were private and personal matters of the individuals. Not only does this position provide zero substantiation of an exempt activity but entirely precludes the research and recordation purpose repeatedly claimed on ORG's application for recognition of exemption.

Website:

ORG claimed an on-going health education program will be available to the general public through the internet. The health care program was to feature self care utilizing communication with the subconscious, meditation, and herbal therapy. However, ORG's website offers little more than general information and an indiscernible amount of educational material. Virtually no updates, research, or education were added to the website for at least 4 years. By 20XX, the website had "Updates". Even these are vague and general statements that eating blueberries, honey, bottle palms, and yellow hibiscus in the yard, are "good" and "significant". Its "Research" page remained relatively unaffected from 20XX through 20XX with multiple references to ORG's research, yet, no actual research was posted or explained. No reference is made to any studies or research conducted by ORG. While the educational information has been vague and general, the sale of the president's counseling services have been clearly and consistently delineated and remained the predominate feature of the website. The services as listed on ORG's website match the services noted on multiple receipts deposited in her personal business accounts.

Form 990 Claims Unsupported:

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ORG's activities claimed on its Federal returns were unsupported by documentation. ORG claimed to have engaged in educational outreach activity in a variety of forms to hundreds of individuals. Much of the activity alleged had not actually taken place. ORG included in the number of people it claimed it helped, people who were associated with or merely mentioned by the client during the counseling session and people who attended classes presented by a separate organization, CO-2. This vastly inflated the number of people ORG assisted.

In assisting in DR.'s study, ORG's primary documented activity was where she supplied instructions for making tea with a picture of a shrimp and lemon on the tea label and submitted her own blood pressure readings. The Service does not dispute that ORG participated in DR.'s study; yet, the study was completed by DR. A minimal amount ORG's activity was verified and this activity contained no research. That this level of participation in DR.'s study would comprise education is dubious but clearly does not rise to the level of education needed to substantiate recognition under §501(c)(3) as an educational organization.

**Commercial Motive:**

As with American Institute for Economic Research v. United States, ORG had a significant non-exempt purpose that was not incidental to the educational purpose.

The organization's activities compete with for-profit organizations. ORG operates in a manner indistinguishable from other commercial enterprises available to the public that also, for a fee, teach tarot card and palm reading, spiritual and mental aids, and spiritual healing sessions. Similarly, many for-profit enterprises offer to the public methods to assist and improve real-estate purchases and business management. Included are those of her associates ( and CO-4) in which President, herself is listed as a presenter in the products for sale. ORG's primary goal is to maximize the fees from the president's services sold by ORG.

The subject matters (real-estate sales and management, palm reading, card reading and meditative counseling) of President's consultation services provided through ORG duplicate those she provides through her for-profit businesses. The services are so intertwined that it is improbable to claim without careful contemporaneous recordkeeping that the for-profit services offered by the President are distinct from the same "exempt purpose" services offered by President through ORG's tutoring services. The counseling services for all President's businesses are run out of the same home office for which ORG pays President for the use of. This intermingling of services is compounded by multiple receipts made out not to ORG, but solely to President, conversely her receipts for her for-profit are for services named exactly as those on ORG's website and at least one receipt made out to ORG was deposited into President's personal business account.

The arrangement provides an obvious opportunity for abuse of the claimed tax-exempt status and ORG has clearly not shown that abuse of the exemption is absent. ORG has a substantial non exempt purpose of selling the president's services, thereby providing business to the president.

**Issues # 2 & # 3: ORG has not established that it operates to serve public interests, but rather service the private purposes of its president, President. ORG's net earnings have inured to its president, President.**

As with Better Business Bureau of Washington D.C, Inc, ORG has an underlying commercial motive based on the president's benefit to her for-profit businesses.

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Alliances are built with the clients that include real-estate developers and real-estate construction companies to assure future business for the benefit of the president's for profit tarot card and palm reading and real-estate management businesses. This is illustrated by one real-estate developer's (CO-8's) payments for tutoring that constitute 65% of ORG's total receipts for 20XX. The same real-estate developer has paid \$ per year from 19XX to 20XX and \$ per year from 20XX to 20XX representing over 48% (/) of ORG receipts since ORG's inception to 20XX.

Inurement is prohibited by the code. In general, this is the unjust payment of money as in the case of disbursements of ORG's funds to the president for her personal gain, and the absence of compensation for her use of ORG's funds. The use of ORG's funds provided President with a deposit allowing her to purchase residential real-estate she unlikely could have otherwise have obtained. The repayment to ORG was made in the form of real-estate that increases the value of the president's connected real-estate properties thereby benefiting the president. President also profited from the commission charged to ORG on her purchase of ORG's property and non payment of interest for use of ORG's funds.

Disbursement:

President had use of \$\$ of ORG's funds from October 27, 20XX through August 12, 20XX. ORG claims this was an unsecured personal "loan" to President. The amount disbursed to President represents a substantial amount of ORG's assets and activities for 20XX. The amount disbursed is 69% of ORG's total beginning year assets of 20XX, 55% of year end assets, over three times its annual revenue, and over 13 times its annual expenditures.

The parties established no terms for the unsecured "loan" other than the agreement for President to purchase real-estate for ORG at an unspecified date. No interest was charged for the use of ORG's funds, no security or collateral provided, no fixed maturity date established, no demand for repayment made, and neither the 20XX year nor 20XX federal tax return reflected a loan or receivable of any type. The value of interest on the use of ORG's funds was not reported as income on either Form W-2 or 1099 to the president.

Both the loan, the unpaid interest on the loan constitute inurement in contravention of section 501(c)(3).

On Form 990, Part III, Line 2b ORG claimed that ORG did not lend money or extend credit to officers yet President is both a founder and officer received a disbursement described to the Service as a loan. ORG neglected to reflect any receivable on its balance sheet and claimed it owned assets of \$\$ where it was actually President, who owned the residential rental property purchased for her personal use and profit. Only after examination inquiries by the Service did ORG amend its return to reflect the disbursement of \$\$ funds to President.

The "loan" was recorded in the amended "Joint Purchase and Nominee Agreement". This manner of documentation of the disbursement of over half of ORG's funds appeared informal in contrast to the documentation in standard Promissory Note created to show debt to President of lesser amount.

The beneficiary of the land purchase is President as an enhancement of her real-estate development with her adjacent rental properties. The purchase does not support that this arrangement held ORG's exempt purpose paramount to President's personal profit motives. The land is 1) virtually surrounded by the

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president's residential rental properties, 2) unimproved residential and 3) managed by one of President's real estate companies.

No facts support that the intended use is agricultural research for ORG's benefit; to the contrary, President's intent to utilize ORG's vacant land for her personal profit is further evidenced by the email President sent to another real-estate developer. In this, President refers to ORG's vacant land as her property with the intent to combine it with her rental properties to create a housing and commercial development. The Service is unconvinced that, as claimed by ORG "at no time was such a transaction under consideration: the statements in the report stating otherwise are false." (See ORG's comments below). The Service's intention is not to misconstrue President's words. However, to read President's actual words written to a developer, particularly in combination with the facts surrounding the connected land purchases and President's multiple for-profit real-estate activities (and as touted on CO-2 website, that she is the principle broker for her real estate company and is involved in sales and property management), does not allow for the Service to turn away from a reasonable conclusion based on the facts and circumstances at hand.

Of additional concern is the calculation of repayment where President is credited with amounts in the form of realtor commission credit of \$\$ that she did not pay yet was added as an amount that ORG now owes to President. This effectively allowed President to purchase the land with ORG's funds while she develops, controls, and financially benefits from the land while creating sales commission income for herself on the purchase.

**Expenses:**

The overwhelming majority of expenses were not applied to educational and scientific purposes or for public benefit but were in fact paid directly to the president for use of her home office and her educational expenses to obtain her personal MBA tuition.

For the years 20XX through 20XX, ORG 's Forms 990 reported a total of \$ for her education and \$ for her home office. The total paid for President's education and occupancy for these years is \$ while the total of all expenses is \$.

Based on Forms 990, the percentage of expenses spent on President's occupancy and MBA tuition is 0.95 for 20XX, 0.94 for 20XX, 0.996 for 20XX, and. The pattern of spending shows remaining percentage of expenses is miniscule: for 20XX is 0.05, for 20XX 0.06, for 20XX 0.00. For 20XX the percentage paid to President dropped to 0.23 and 0.77 was spent on other activities. This anomaly in spending on other than President was only because of the large and unusual legal expense which was unexplained.

The percentage spent on unexplained legal fees for 20XX is 0.63. It is impossible to assign an exempt purpose to the unexplained expenses.

President's home office was also used to produce income from her home businesses thereby supplementing her personal business expenses and increasing her business income profit.

Although a MBA in Business may be beneficial to President, ORG has not shown that the education expenses were needed or reasonable. In fact, President's pursuit of education in business administration was established prior to application for recognition of exemption. This supports that President intended to pay for her educational expenses prior to formation of ORG. The post approval of the expenses supports

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that President, and not board determination, controlled whether President's educational expenses were paid by ORG.

**President's Control:**

The organization's board was initially comprised solely of President's family members. Because this was challenged by the Service during the application process, ORG changed the board to a small group of founders on its application to the Service then simply added the family members back on the board. The control has remained predominately with its president and treasurer, President. There appears to be little or no oversight from the board of President's actions and internal controls are entirely absent. The board regularly gave post approval of expenditures. Although the board approved amounts for educational expenses, ORG now claims it was for occupancy and furniture. Approval was even given in excess of payments actually made providing clear evidence that no oversight or accountability of disbursements was required of President for spending ORG's monies. Assuming the deposit of \$\$ into CO-9's bank account was President's money, she was issued \$\$ of ORG's money when the CO-9 bank account was closed. Although a small amount, it represents another illustration in a pattern of President's casual and unfettered control over ORG's funds to herself devoid of any accountability. The payments were made out directly to President. All checks issued from ORG were signed by President including those made out to President and those made out to cash (for example, the \$\$ paid to "CASH" in 20XX).

There is a quantitative meaning to the term 'incidental' private benefit. If the organization's activity provides a substantial benefit to private interests, even indirectly, it will negate charitability and exemption under IRC 501(c)(3). The substantiality of the private benefit is measured in the context of the overall public benefit conferred by the activity. In ORG's situation, there is evidence of clear and intentional substantial benefit to the private interests of those involved with the management and sale of real-estate services and other spiritualist counseling services such as those offered by the president. This is further supported by the lack of structured, intentional education and of educational materials and services provided to the public.

While the large distribution of ORG's funds occurred from 20XX though 20XX, described by ORG as a loan to President, a consistent pattern was established since 20XX where President has not only benefited from the non-payment of taxes on her counseling receipts but also from unfettered and tax free distributions of ORG's profits to herself.

**Issue #3: ORG did not maintained adequate records as provided by IRC § 6001.**

ORG's application touted that President, president, had completed graduate work in business administration and that DIR-4, director, had knowledge of the legal, financial and bookkeeping requirements for a tax exempt organization, as well as a strong business background. Yet, ORG maintained virtually no recordkeeping and claims made on its Federal return were not proven. ORG maintained no records to substantiation its exempt activities. ORG did not establish that the sessions for land/facility were isolated from ORG director's real-estate broker and company management skills. Nor did it establish what education occurred during the other tutoring sessions on palm reading, card reading, and meditative techniques, nor that ORG's services differed from those of the presidents for-profit services.

ORG has not met the reporting requirements in accordance with provisions of the IRC and regulations under IRC §§6001 and 6003, to the retention of records sufficient to determine whether the entity is operated for the purposes for which it was granted tax-exempt status. EO has failed to establish that it was operated for purposes exempt under IRC §501(c)(3).

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Further, in response to the Services requests, under IRC §7603, for records to explain unprecedented legal expense that represent 63% (\$/) of total expenses and 53% (\$/) of total revenue, ORG was unwilling to provide the explanation on the grounds of confidentiality. ORG's claims that reasons or records of the large and unusual legal expenses of 20XX were confidential information provided the Service with no confidence that the legal expenses were appropriately recorded as expenses of ORG. This is particularly true in light of ORG's blatant pattern of payments to the president that constitutes inurement as explained above.

**TAXPAYER'S POSITION:**

The taxpayer has signed Form 6018, Consent to Propose Action – Section 7428, agreeing with the government's proposition of revocation of exemption effective January 1, 20XX. See Attachment #1.

Although the taxpayer agreed with the revocation, the taxpayer also provided comments regarding statements made in the RAR Draft previously issued by the Service. The comments are included as Attachment #2. Please see Attachment #2 for a copy of the taxpayer's letter dated May 28, 20XX.

Note: The following was noted in this section in the Draft RAR previously issued to ORG:

In a letter to the Service regarding the disbursement to President and a revenue agent report regarding President's income tax returns, ORG explained the following.

ORG explained the real estate was located by President for ORG however, the sellers would not sell unless someone bought the adjacent parcel (7.59 acres) and this was to be done by President. President agreed to loan \$\$ to ORG, unsecured, interest free, and due in five years. This intent was memorialized on June 15, 20XX. Because of abandoned automobiles on ORG's property, the sale of ORG's parcel could not proceed. Rather than cancel the contract, the seller requested the transactions to be separated. President expected the purchase of President's property to close soon (15 days) after. As a matter of convenience the board of directors agreed for President to use ORG's funds on the condition that President would provide all of the funds to close ORG's later purchase. On October 20, 20XX ORG deposited \$\$ in escrow bringing ORG's deposits to \$\$\$. As of October 20, 20XX, President was able to close the purchase of her parcel without the use of ORG funds and provide the remaining funds for ORG's parcel. ORG's directors did not understand the transactions to be a problem, since, economically, ORG would be better off in that the loan interest free loan to President was short term and the anticipated interest free loan from President was for five years. The issues with ORG's parcel were not resolved within a short time. On August 4, 20XX Danapoint was formed. August 12, ORG purchased property w/ President proving all of the funds. August 12, 20XX, CO-9 acknowledged its liability to President with a promissory note due August 11, 20XX. May 30, 20XX, ORG ratified the transaction and the borrowing from President.

ORG also explained that had ORG's directors sought counsel on the transactions, the loan to President would not have been made. If it had been made, interest would have been charged and a second mortgage would have been secured. The transactions do not appear to involve inurement. Further the transactions do not seem to fall within the ambient of the excess benefit transaction rules. President was given a short term interest free loan on \$\$ on which was repaid within nine months in exchange for a five year interest free loan on \$\$\$. To be an excess benefit transaction, the benefit provided to the disqualified person must exceed the value of consideration received. Such is not the case with the transactions described above.

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Now that ORG has the funds to pay off the amount owned to IND-8, the Board is capable of paying the loan in full and will do so upon the Service's request.

ORG included excerpts of a Revenue Agent Report (RAR) issued February 25, 20XX from a Service employee, Service EMP, Revenue Agent and comments related to the RAR.

ORG stated the RAR contains misleading and inaccurate statements that should be corrected:

- Where the RAR states "The examiner asked President how she was able to purchase a property worth \$ with the income reflected on her tax returns. She said the mortgage on the property was a stated income/non-qualifying loan. She said she used money from her personal savings and borrowed money from her non-profit organization, ORG."
  - ORG clarified that President does not own ORG, and is one of three directors, and
  - President's commitment to loan funds to ORG and that the sale was held up due to clean up issues should have been addressed.
- Where the RAR states near the end of the closing date, the seller informed President that the clean up required additional time, the sale went ahead because President wanted to expedite the sale, the parcels were to be purchased separately
  - ORG clarifies that it was in fact the seller who wanted to close the sale separately
- The RAR states President explained ORG's practice of \_\_\_\_\_ is the restoration of the earth and the land was acquired to restore it to its natural state, restore the fish ponds and plant.
  - ORG clarifies that the purpose of the land is educational and meditative research, and
  - President is not the director of ORG but is one of three.
- The RAR states the purpose of ORG purchase of the land is educational and scientific. However, in a letter dated 07/21/20XX to IND-7 of CO-11, she discussed combining the vacant land lot with her 7.59 acre lot with ORG's 1.775 acre lot to make a flag shaped lot. In the letter, she discusses the possibility of combining "her" three lots and rezoning as R-5.
  - The report states that by hiring EMP-7 to discuss the available options regarding zoning issues and easement issues, President somehow intended to combine the properties. "At no time was such a transaction under consideration: the statements in the report stating otherwise are false."

Beyond this position, the taxpayer is being presented with these issues for the first time. The IRS is awaiting the taxpayer response.

**CONCLUSION:**

ORG does not qualify for exemption under IRC § 501(c)(3) because it failed to establish that it was organized and operated exclusively to achieve a purpose that is described under that Code section, its net

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earnings inured to the benefit of private individuals, and that more than an insubstantial part of its activities furthered private purposes rather than purposes described in section 501(c)(3). ORG's president provides a service, purportedly in the form of a spiritual educational counseling, to individuals on subjects ranging from reading tarot card and palms, to assistance in business and real-estate matters, without documentation of the content or structured educational curriculum. ORG offers its services at a cost to interested clients without regard to the clients' income levels or need.

IRC §170(b)(1)(A)(ii) defines an educational organization as one "which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on." ORG does not meet this definition.

ORG was unable to demonstrate the claims it made on its application for exemption. ORG has not established that its primary benefits are to the public. In fact, all substantiated activities show the primary benefit is intended toward the president who provides her services for a fee while receiving payment for use of her home business office, for her personal education, and for purchasing real estate for her personal use while benefiting from sales commissions on transactions she orchestrates that benefit her financially. ORG operates in a manner indistinguishable from commercial enterprises available to the public.

Accordingly, it is determined that ORG is not an organization described in section 501(c)(3), and is not exempt from income tax under section 501, effective January 1, 20XX.

It is the IRS's position that the organization failed to meet the reporting requirements under IRC §§ 6001 and 6033 to be recognized as exempt from federal income tax under IRC § 501(c)(3).

For the foregoing reasons, revocation of exempt status is proposed. Because the facts show that for years 20XX and 20XX ORG operated in a manner materially different from that represented in its Form 1023 application the government proposes that the revocation be effective retroactively to January 1, 20XX.

Form 1120 returns should be filed for the tax periods ending on or after January 1, 20XX.