



Department of the Treasury
Internal Revenue Service
Independent Office of Appeals

Date: **JUN 28 2022**

Person to contact:

Name:

Employee ID

Telephone:

Fax:

Hours:

Employer ID number:

Uniform issue list (UIL):

501.03-00

501.03-30

Number: **202238010**

Release Date: **9/23/2022**

Certified Mail

Dear :

This is a final adverse determination that you do not qualify for exemption from federal income tax under Internal Revenue Code (the "Code") Section 501(a) as an organization described in Section 501(c)(3) of the Code.

We made the adverse determination for the following reasons:

You failed to operate exclusively for exempt purposes as required under Section 501(c)(3) of the Code because your net earnings inured to the benefit of private shareholders or individuals. In addition, you were primarily for the benefit of the private interests of designated individuals rather than serving public interests.

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

You've agreed to waive your right to contest this determination under the declaratory judgment provisions of Section 1428 of the Code.

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

Letter 1371-A (Rev. 10-2021)

Catalog Number 62960H

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

Sincerely,

Enclosures:

cc:



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

Date:
April 20, 2021
Taxpayer ID number:

Form:

Tax periods ended:

Person to contact:
Name:
ID number:
Telephone:
Fax:
Address:

Manager's contact information:
Name:
ID number:
Telephone:
Response due date:

CERTIFIED MAIL – Return Receipt Requested

Dear _____ :

Why you're receiving this letter

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

If you agree

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

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

If you disagree

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

The IRS Appeals Office is independent of the Exempt Organizations division and resolves most disputes informally. If you file a protest, the auditing agent may ask you to sign a consent to extend the period of limitations for assessing tax. This is to allow the IRS Appeals Office enough time to consider your case. For your protest to be valid, it must contain certain specific information, including a statement of the facts, applicable law, and arguments in support of your position. For specific information needed for a valid protest, refer to Publication 892, How to Appeal an IRS Determination on Tax-Exempt Status.

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

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

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

If we don't hear from you

If you don't respond to this proposal within 30 calendar days from the date of this letter, we'll issue a final adverse determination letter.

Contacting the Taxpayer Advocate Office is a taxpayer right

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit www.taxpayeradvocate.irs.gov or call 877-777-4778.

For additional information

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

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

Sincerely,

John A Matias

John A Matias

Supervisory, Internal Revenue Agent for

Sean E. O'Reilly

Director, Exempt Organizations

Examinations

Enclosures:

Form 886-A

Form 6018

Exhibits #1, #2, and #3 to the Form 886-A

Copy of Determinations File for

Publications 892 and 3498

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number (last 4 digits)	Year/Period ended

Issues:

- Whether the tax-exempt status for (henceforth referred to as "organization", "the organization", or " ") should be revoked for failure to operate exclusively in furtherance of exempt purposes.
- Whether Organization's exempt status should be revoked retroactively to the first date that the organization failed to qualify for exemption.

Facts:

Form 1023:

The Form 1023-EZ, *Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*, was filed by the organization on . The application was signed by as the Secretary/CFO/Director. The Form 1023 provides that the organization was incorporated in on . The Form 1023 provides that the purpose of the organization is charitable.

Exemption Letter:

The Internal Revenue Service (IRS) issued L5436 to the organization on granting the organization tax-exemption under Internal Revenue Code (IRC) Section 501(c)(3) effective .

Board:

The board of directors for the organization is listed as follows on the Forms for the years ended and :

- President

The board of directors for the period is listed as follows:

- President
- Director
- Director

Forms :

The organization filed Forms for the tax years , , and with the following amounts reported:

Revenues			
Contributions	\$	\$	\$
Investment Income	\$	\$	\$
Total	\$	\$	\$
Expenses			
Grants	\$	\$	\$
Bank Fees	\$	\$	\$
Total	\$	\$	\$

Based on the expenses reported for grants for each year, charitable grants for the , , and years were %, % and % respectively when compared to the revenues reported by the organization.

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Assets			
Cash	\$	\$	\$
Other Assets	\$	\$	\$
Total	\$	\$	\$
Liabilities			
Total	\$0.00	\$0.00	\$0.00

Based on the assets reported on the return, other assets (donated LLC interests) accounted for % , % and % of all assets of the organization for the , , and years respectively.

Forms , and Schedules .

The organization provided Forms and Schedules for each LLC for which it owns donated interest. The documentation provided the following information:

LLC Name	Form Preparer	Profit and Loss Allocation (Per)	Ownership (Per F)

For all of the LLCs who donated interests to the organization, was the Form return preparer. In each instance, the LLCs reported that owned % of the interest in the LLCs and that % of the LLC profits and losses were allocated to .

Cash Inflows and Outflows.

The organization provided statements (Acct. #) in response to the Government's request for the banking statements of the organization. The statements provided the following cash inflows and outflows for the year of examination:

Month	Cash In	Cash Out
January	\$	\$
February	\$	\$
March	\$	\$
April	\$	\$
May	\$	\$
June	\$	\$
July	\$	\$
August	\$	\$
September	\$	\$
October	\$	\$
November	\$	\$
December	\$	\$
Totals	\$	\$

The ending balance in the account as of was \$

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The organization also provided statements from (Acct.#) and (Acct.#). The account showed an initial balance of with interest accrued for the year of \$ resulting in an ending balance of \$. The organization only provided statements for the account for the period beginning through .

The account showed the following inflows and outflows for the year:

Month	Cash In	Cash Out
July	\$	\$
August	\$	\$
September	\$	\$
October	\$	\$
November	\$	\$
December	\$	\$0.00
Totals		\$

The organization also provided copies of checks for the expenditures of \$. The checks were made out as follows:

- Check # . Made out to for \$. was included on the memo line.
- Check # . Made out to for \$. Tuition for , Student ID: was included on the memo line.
- Check # . Made out to for \$. Student ID: , Fall , was included on the memo line.

The total for all checks issued was \$ which matches the amount reported by the organization for grants on the Form and also matches the total expenditures of the organization for the year.

LLC Cash Distributions to Organization and Subsequent Charitable Donations:

The LLCs made cash distributions to the organization totaling \$ in the year of examination. Of the total amount, \$ was distributed to the organization for "grant making" purposes in the same year. The organization issued checks as outlined above totaling \$. The cash distributions and subsequent checks were received and issued as follows:

LLC Name	Amount Distributed to	Date of Distribution	Amount Paid Out by	Payee	Date of Payment	Difference
	\$		\$			\$
	\$		\$			\$
	\$		\$			\$
Totals	\$		\$			\$

The remaining distribution made to the organization of \$ was made by on . The related payment from the organization for "grant making" was not made during

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the year of examination. However, the amount distributed is very close to the amount distributed by the LLC on for tuition for .

of the "grants" paid out by the organization were paid to educational institutions. For both of the payments to educational institutions, the payments included:

- referenced student ID numbers,
- payments were made in the name of a specific student (and)
- Payment was issued for a specific semester (Fall).

The remaining "grant" was paid out to a church with the name in the memo line which is the same last name as the original donor for the LLC who made the distribution to for the grant.

Information Document Request #3:

The Government issued IDR #3 to the organization in order to determine the relationship, if any, between the LLC managers and grant recipients for the payments directed to the () and (). The organization provided the following information in response:

- Payment made to
 - is not aware of a relationship between and .
 - was not given any specific directions when giving and does not know how was selected as a grant recipient.
 - is a flowthrough charity. All does is ensure that the recipient entity is an IRC Section 501(c)(3) charity.
- Payment made to
 - Individual directed to make the grant
 - are not aware of a relationship between and .
 - was not given any specific directions when giving and does not know how was selected as a grant recipient.
 - is a flowthrough charity. All does is ensure that the recipient entity is an IRC Section 501(c)(3) charity.

and Filing Research:

In order to determine whether and are related to and respectively, the Government conducted research on as well as internal IRS systems (Form research). The research provided the following:

- and :
 - The research conducted on is attached to this report as Exhibit #1. The research shows that is listed as a relative of and vice versa on their respective reports.

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Name of taxpayer	Tax Identification Number (last 4 digits)	Year/Period ended

- Forms – The Form filed by for the period ended is attached as Exhibit #2 shows that listed as a dependent on the return.

and :

- - The research conducted on is attached to this report as Exhibit #1. The research shows that is listed as a relative of and vice versa on their respective reports.

- Forms – The Form filed by for the period ended is attached as Exhibit #3 and shows that listed as a dependent on the return.

and :

- - The research conducted on is attached to this report as Exhibit #1. The research shows that is listed as the manager of which is consistent with the documentation provided by the organization.

and the directed donation for :

- The research conducted at did not show any ties between any of the LLCs and
- The organization was questioned as to how was able to direct any disbursements to being that he is not listed as a manager for any of the LLCs. The organization was not able to provide a response as to how or why was able to direct to make the payment to in the name of .

Organizational Books and Records:

The government requested copies of the organizational books and records in the information document request (IDR) #1. The following records were requested.

- General Ledger
- Electronic records backup (request was for , , or)
- Schedules, worksheets, supporting documentation, or other documentation used to prepare Form

The organization did not provide any formal books and records in response to the document request. The lone item provided in response to the request was a list of contributions for the year for each LLC which donated interest to the organization.

As no formal books or records were provided, the detail behind all revenue, expense, asset, and liability reporting on the Form could not be traced to the books and records of the organization.

Donated LLC Interest:

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The organization provided operating agreements and assignment agreements for each LLC that donated LLC interests to the organization. The documentation provided the following information for each organization.

LLC Name	Original LLC Donor / LLC Manager	Donated Interest	Donated Percentage
		General Membership Units	%
		General Membership Units	%
		General Membership Units	%
		General Membership Units	%
		General Membership Units	%
		General Membership Units	%

How LLC Interest is Donated to Organization:

In all instances where LLC interest were donated to the organization as outlined above, the donors signed an assignment agreement. The assignment agreements provide the following:

"In consideration of love and affection, the undersigned, ENTER NAME OF DONOR does hereby, sell, assign, transfer, set over, and deliver, unto _____, a 501(c)(3) public Charity, _____ () units of LLC interest in the total LLC assets, in ENTER NAME OF LLC, an ENTER STATE LLC.

The acceptance of this LLC interest subjects _____, to all terms, conditions, and provisions of the LLC agreement executed by the members of the ENTER NAME OF LLC in ENTER DATE."

Review of Appraisals and Forms 8283:

The organization provided appraisals and Form 8283, Noncash Charitable Contributions, for the assets which were placed into the LLCs for which its claims own interests. The appraisals were reviewed to determine the appraiser and the methodology used for the appraisal. The Forms 8283 were reviewed to verify the appraisal amount was properly reported and to identify the individual who signed the F8283. The review provided the following information for each LLC:

LLC Name	Asset	Stated FMV	Appraiser	Date	Appraised Value	Form 8283 Prepared By	Date	F8283 Value
	LLC Interest	\$			\$			\$
	LLC Interest	\$			\$			\$
	LLC Interest	\$			\$			\$
	LLC Interest	\$			\$			\$
	LLC Interest	\$			\$			\$
	LLC Interest	\$			\$			\$

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Name of taxpayer	Tax Identification Number (last 4 digits)	Year/Period ended

	LLC Interest	\$			\$			\$
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The appraisals provided by the organization for the donated LLC interests were prepared by . The method of determining the value of the donated LLC interests is the same in all of the appraisals, the appraiser reduces the "FMV" of the assets for lack of control (initial value is reduced by %) and lack of marketability (remaining value is reduced by - %) in all instances.

It is important to note that the amounts determined for was used in reporting the value of the assets as reported on the Form of the organization for the period ended even though the appraisal was not completed until the year. As such, it appears as though the appraisal amounts were determined by prior to the preparation of the appraisal reports and provided to for preparation of the annual Form and reporting on the organizational books and records. Additionally, the F8283 for was completed on , full years before the appraisal was completed.

Promissory Notes:

The organization provided copies of promissory notes from the LLCs which detail loans made from the assets of each LLC to the original donors who placed the assets into each LLC and later "donated" their interest in the LLCs to the organization. The review of the promissory notes provided the following for each organization where a loan was present:

LLC	Borrower	Amount	Stated FMV of All LLC Assets	Date of Note	Interest Rate	Due Date
		\$	\$		% Per Annum	
		\$	\$		% Per Annum	
		\$	\$		% Per Annum	
		\$	\$		% Per Annum	

In out of the instances where LLC interests were donated to the organization, the original donor took out a loan from the LLC with repayment periods ranging from to years. In two instances (and) the loan amounts were % of the total assets placed into the LLCs.

Review of Operating Agreements:

The organization provided LLC operating agreements for each of the LLCs which donated interests to . The operating agreements were reviewed for form and content. Overall, there were two types of operating agreements provided. Type 1 were provided for , and . Type 2 agreements were provided for , and .

Noteworthy Language from Type 1 Operating Agreements:

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The operating agreements do not include any noteworthy language with respect to limitations or prohibitions on in the operation of the LLCs. The operating agreements also have little or no specific language with respect to the operation of the LLCs, their purpose, activities, or interactions with their members.

The operating agreements provided for these LLCs appear to be Articles of Incorporation where a title was added to the Articles for "Operating Agreement of NAME OF LLC". These agreements provide only the following information related to the organization of the LLCs:

- Offices
- Meetings
- Committees
- Officers
- Resignations
- Certificates Representing Membership
- Statutory Notices
- Fiscal Year
- Company Seal
- Books and Records
- Indemnification of Officers, Employees, and Agents; and
- Amendments

The sole pertinent section contained in the operating agreements is Article VI, Certificates Representing Membership. The Article contains the following language:

Section 1. Form of Certificates - Each Member shall be entitled to a certificate or certificates in such form as prescribed by the Members and by any, applicable statutes, which Certificate shall certify the interest of the Member in the Company. The Certificates shall be numbered and registered in the order in which they are issued and upon issuance the name in which each Certificate has been issued together with the interest in the Company represented thereby and the date of issuance shall be entered in the Membership book of the Company by the Secretary or by the transfer agent of the Company. Each certificate shall be signed by the Operating Manager and countersigned by the Secretary and shall be sealed with the Company Seal or a facsimile thereof. The signatures of the officers upon a certificate may also be facsimiles if the certificate is countersigned by a transfer agent or registered by a registrar other than the Company itself or an employee of the Company. In case any officer who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer before the certificate is issued, such certificate may be issued by the Company with the same effect as if the officer had not ceased to be such at the time of its issue.

Section 2. Record Date for Members - For the purpose of determining the Members entitled to notice of or to vote at any meeting of Members or any adjournment thereof or to express consent or dissent from any proposal without a meeting, or for the purpose of determining the Members entitled to receive payment of any dividend or the allotment of any rights, or for the purpose of any

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- Payments due to the LLCs for notes payable
- Payments due to the LLCs for past due note balances not made in prior years
- Minimum payments due to for support of charitable missions based on cash flows from the LLCs
- Payments due to the LLCs for interest on notes payable
- Payments due to the LLCs for past year interest on notes payable
- Payments due to for legal fees (\$ per annum)
- Payments due to for accounting fees and tax preparation (\$ per annum)

Specific Items of note in the

- was notified by the organization that no charitable distributions were required by the LLC as the asset placed in the LLC was land which was awaiting sale.
- was notified of its payment requirements for notes payable where only note instrument was provided in response to the information document requests.
- and were informed in that payments to were still being requested (at \$ per annum) for legal work but that was unsure as to whether would be able to fulfill that obligation going forward. stated that the LLCs should use their own discretion as to whether to remit payments for .

Initial Interview:

An initial interview was conducted with (Director) and (POA). The following information was provided by the organization during the interview:

- The organization was originally started in . In , started working with and decided to use the organization as a way for his clients (from) to give to charity
- That the organization serves as a flow-through for - % of LLCs earnings each year.
- That serves as a conduit for charitable giving which allows flexibility for its donors
- That the organization does not maintain books as there are usually less than total transactions per year
- and (Board Members) are employees of .
- That has no involvement in the determination of selection of grantees as long as the grantee is a 501(c)(3)
- That assets placed into the LLCs can be sold but the proceeds from the sales must remain in the LLC
- That the assets placed into the LLCs only become the sole property of after years.

About

On the , Plaintiff, filed a Complaint for Permanent Injunction and Other Relief against , Defendant. Per the complaint:

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number (last 4 digits)	Year/Period ended

1. From to the present, (" ") has organized, promoted, and operated an elaborate-and bogus-charitable giving tax scheme throughout the United States. Through this scheme, creates an entity for each scheme participant and advises them to transfer assets to the new entity. then causes the participants to purportedly "donate" or "assign" an interest in these entities to charities that controls. then "appraises" the purportedly donated interests in a manner that fails to comply with the law and generally accepted appraisal standards. Finally, prepares the federal income tax return documents to claim the bogus charitable contribution deductions
2. This entire tax scheme occurs only on paper. Participants never actually transfer or donate anything to purported charities. In some egregious instances, participants claim bogus charitable deductions for nonexistent, fictional assets that fabricates.
3. Regardless of the purported form, advises scheme participants to take unwarranted tax deductions for charitable donations that knows were never made, and, in some instances, for assets that did not exist. sells this scheme to the clients of financial planners and Certified Public Accountants by misrepresenting his experience, his credentials, and the merits of his charitable giving tax scheme. In return, scheme participants pay substantial fees to based on the purported value of the assets initially transferred to the entities.
4. charitable giving tax scheme has harmed the United States by depriving the government of tax revenue. The IRS has identified specific transactions that, through cost the United States Treasury more than \$ million in lost tax revenue. And while the IRS has assessed and will continue to assess scheme participants with significant tax liabilities, it will likely never fully recover the monies bilked from the Treasury.
5. The United States brings this Complaint pursuant to 26 U.S.C. §§ 7402, 7407, and 7408 to enjoin and all persons and entities in active concert or participation with from, among other things, directly or indirectly:
 - a. Making or furnishing or causing another person to make or furnish a statement with respect to the allowability of any deduction or credit, the excludability of any income, or the securing of any other tax benefit, or otherwise providing tax advice, in exchange for compensation;
 - b. Preparing (or assisting others in preparing) appraisals in connection with any federal tax matter;
 - c. Acting as federal tax return preparers, or filing, assisting in, or directing the preparation or filing of federal tax returns, amended returns, or other related documents or forms for any person or entity other than his own tax returns; and
 - d. Organizing or assisting in the organization of a partnership or other entity, any investment plan or arrangement, or any other plan or arrangement concerning charitable contribution deductions.

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The United States also seeks to disgorge the ill-gotten gains that derived from this bogus charitable giving tax scheme.

Bogus Charities:

Since , has established at least purported charities in : () (" "); () (" "); and (3) (" ") (collectively, the " "). controlled all purported charities and operated them in the same manner.

According to their respective Articles of Incorporation, the were purportedly organized for charitable purposes. submitted a Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code ("Tax Exempt Status Application"), on behalf of each of the . The IRS granted the tax exempt status based on the Tax-Exempt Status Applications that submitted.

Over the years, is listed on documents filed with the Secretary of State's Office as an officer, treasurer, director, incorporator, or registered agent for the . has also attempted to avoid IRS scrutiny by affiliating his parents or other individuals with the on filings with the Secretary of State's Office. At all times, however, controlled the and was the only true officer and director. The had no employees.

On , executed an agreement with the IRS on behalf of retroactively revoking tax-exempt status as of . The IRS concluded, and did not dispute, that was not engaged primarily in activities for exempt purposes, and its net earnings inured to the benefit of private individuals i.e., him and his family.

On , on behalf of , stipulated to an entry of judgment against it in U.S. Tax Court for past due taxes for and . owed taxes on its income because it was not a tax-exempt entity.

On , executed agreements with the IRS on behalf of and retroactively revoking and tax exempt status as of and , respectively, because used and as tools for promoting, organizing, and executing his charitable giving tax scheme.

Bogus Charitable Transactions:

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Under the first step in _____ scheme, _____ creates a partnership or limited liability company (the "Entity" or "Entities") for scheme participants. Regardless of their form, the Entities are holding companies that exist solely to facilitate _____ scheme. _____ prepares and files all paperwork necessary to create the Entities, including the partnership or LLC agreements.

Next, the scheme participants transfer "property" to the newly formed Entities using contractual documents prepared by _____. Some participants, at _____ direction, claim to transfer cash or real property to the Entities while others purportedly transfer backdated promissory notes and fabricated intellectual property. Over time, _____ varied how he executed this scheme step, but the variations were meaningless from both economic and federal income tax perspectives.

_____ then drafts the paperwork necessary to cause the scheme participants to "donate" or "assign" an interest in the newly created Entities to one of the _____.

Some participants purport to donate a _____ % non-controlling interest in their Entity, while others a _____ % interest. In some cases, _____ misrepresents the "transaction" to the participants, telling such participants that they were "contributing" a _____ % non-controlling interest, when, in fact, _____ completed the transactional paperwork to show a _____ % "contribution."

_____ then causes the _____ to send contemporaneous written acknowledgments of the purported contributions to the scheme participants.

_____ appraises each "contribution" to facilitate the bogus charitable deductions. Not only are the appraisals baseless, but _____ is prohibited by law from providing them.

_____ completes, signs, and provides to each scheme participant IRS Forms 8283, Noncash Charitable Contributions ("Form 8283"), which are necessary to claim a non-cash charitable contribution of more than \$ _____. _____ sends the scheme participants the following instructions: "Please find IRS Form 8283 which has been completed and signed. Please attach the Form 8283 with your [tax year] Form _____. After you have done this, then simply file the Return Use the value of the gift on Form 8283 (page 2 Part I) as a DEDUCTION on SCHEDULE A-ITEMIZED DEDUCTION -CHARITABLE CONTRIBUTION."

In following _____ instructions, the scheme participants then attach the _____ prepared Form 8283 to their personal federal income tax returns to claim unwarranted charitable deductions. The Forms 8283 are based entirely on the bogus appraisals that _____ prepares to facilitate this scheme.

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On paper, it appears that the participants donate something of value to the repeatedly advises the scheme participants to take actions to give his scheme substance. This was mere window dressing, however, designed to disguise tax shelter. In reality, the scheme participants retain complete control over their Entities and their Entities' assets and continue to use the purportedly donated assets as if nothing ever happened.

After executing the "transaction," the do not take dominion or control over the Entities or their assets. The are simply vehicles through which executes his elaborate charitable giving tax scheme.

Misrepresentation of Structure by

told potential participants that they could establish Donor Advised Funds ("DAFs") through the , but this was a false statement.

The Internal Revenue Code defines DAFs as a fund or account "(i) which is separately identified by reference to contributions of a donor or donors, (ii) which is owned and controlled by a sponsoring organization, and (iii) with respect to which a donor ... has ... advisory privileges with respect to the distribution or investment of amounts held in such fund or account by reason of the donor's status as a donor."

DAFs are not standalone entities. Each DAF is established by a sponsoring organization, which must be an Internal Revenue Code § 501(c)(3) tax exempt organization. The sponsoring organization creates a separate DAF for each donor. The donor then makes a tax-deductible charitable contribution to the donor's DAF. The donor cannot use or otherwise access the donated property because the sponsoring organization maintains complete control over the DAF and its property. The donor retains "advisory privileges" regarding future DAF distributions, but the sponsoring organization is not required to honor the donor's requests and may only distribute DAF property to other Code § 501(c)(3) tax exempt entities. After a donor makes a distribution request to a DAF, the DAF will make a distribution from the assets that the DAF controls after performing due diligence to ensure the intended recipient is a qualified charity.

By advising potential participants that they could establish DAFs through the misrepresented the structure of his illegal tax shelter. The did not qualify or operate as sponsoring organizations, and the Entities established did not qualify or operate as DAFs.

To be a sponsoring organization, the were required to inform the IRS that they intended to be sponsoring organizations on their Tax Exempt Status Applications. They did not. To be a sponsoring organization, the were also required to

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describe its DAF program and the written materials provided to donors on the Tax Exempt Status Applications. They did not.

To be a sponsoring organization, the were required to report certain information on the annual "tax return" for tax exempt entities-Form , (" "). They did not. Indeed, on the Forms 990, Part IV, Question 6, stated that the did not "maintain any donor advised funds or any similar funds or accounts for which donors have the right to provide advice on the distribution or investment of amounts in such funds or accounts."

completed the Tax Exempt Status Applications and Forms and knew that the did not report the required information to be a lawful sponsoring organization. Therefore, knew that the were not sponsoring organizations.

To establish a DAF, the were required to take control of the purportedly contributed Entity interests. As explained throughout this Complaint, the scheme participants never gave up control of the purportedly contributed assets, which knew. If scheme participants actually wanted to make a donation to a charity through a (which many participants did not do) required them to send to him a "Disbursement Request Form" along with a check made out to one of the . These "Disbursement Request Forms" merely gave the appearance of a valid DAF, but a valid DAF would never have required an additional check from the participant. This process shows that the never had dominion or control over any of the purported contributions.

Scheme Flagrantly Violates Internal Revenue Laws:

Some participants in tax scheme, upon advice and with his assistance, have taken out substantial loans from their respective Entities even after transferring their ownership interest to one of the . These loans are made on beneficial terms and sometimes go unpaid. testified in a deposition that most participants borrowed their Entities' assets or used the assets as collateral for some other purpose.

Consequently, participants in scheme receive a large income tax deduction and still get the use and enjoyment of the assets that generated the deduction.

Because each of scheme participants claimed non-cash charitable contributions of over \$ on their tax returns based on the purported donation of their Entity interests to the , they were required to obtain qualified appraisals of the purportedly donated Entity interests from "qualified appraisers."

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In reality, _____ performs the appraisals for the scheme participants. _____ does not tell scheme participants that he is the appraiser prior to performing the appraisals. _____ completed and signed the Form 8283 for each of the participants, which _____ based entirely on the bogus appraisals he prepared. _____ often listed the following credentials on the Form 8283 after his signature:

_____ claims that he "implemented and consulted on over _____ charitable plans in _____ States encompassing \$ _____ since _____ [and] performed over _____ qualified appraisals of closely-held businesses since _____."

The appraisals _____ uses in his tax scheme are bogus because _____ is excluded by law from preparing appraisals in connection with this scheme, the appraisals are not qualified appraisals within the definition of the Internal Revenue Code, and the appraisals are based on unreliable methods.

_____ profits from his scheme by charging a percentage fee based on the value of the purportedly donated assets. His standard fee is " _____ % of net assets transferred (to the _____) up to but not in excess of \$ _____, plus _____ % of net assets transferred which exceed \$ _____."

Example of _____ Charitable Giving Scheme:

_____ sold his charitable giving tax scheme to _____ Participant 1 through Participant 1's financial planner. Participant 1 claimed a \$ _____ charitable contribution deduction on his _____ federal income tax return. _____ charged \$ _____ for Participant 1 to participate in this scheme.

Participant 1 decided to participate in _____ charitable giving tax scheme in _____. _____ used an existing LLC and illegally backdated every document he prepared for Participant 1 so that Participant 1 could claim a charitable deduction on his _____ federal income tax return.

On _____, _____ and Participant 1 completed an LLC Agreement to transfer an LLC that _____ had previously established in _____ to Participant 1. _____ backdated the LLC Agreement to _____. Then, _____ drafted a promissory note through which Participant 1 promised to pay his LLC \$ _____. _____ backdated the promissory note to _____. The promissory note was not secured by any collateral and charged a _____ % interest rate on outstanding balances in _____ and _____ % on any outstanding balances thereafter.

_____ also drafted an assignment agreement through which Participant 1 purported to assign _____ % of his LLC to _____. _____ backdated the assignment agreement as well to _____.

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based on . Despite executing the assignment agreement, Participant 1 believed, misrepresentations, that Participant 1 only assigned a non-controlling LLC interest to .

(On , Participant 1 opened a bank account in the LLC's name. Participant 1 was the only person with signature authority over this account. Participant 1 never gave or anyone at control over the account.

Later in , Participant 1 transferred \$ to the LLC's bank account to "repay" the bogus note's principal. Participant 1 did not pay any interest.

Then prepared an appraisal report backdated to —more than months prior to the transfer of the LLC to Participant 1—in which "appraised" Participant 1's purported gift of LLC units to at \$.

backdated appraisal does not describe or analyze the LLC's only asset—the promissory note. Rather, applied his standard % discount for lack of control, despite stating that owned % of Participant 1's LLC, and a % discount for lack of marketability. provided no meaningful explanation for these discounts.

then prepared an IRS Form 8283 so that Participant 1 could claim a \$ charitable contribution for the purported donation to on his federal income tax return.

The IRS audited Participant 1's tax return and disallowed the \$ charitable contribution.

In , after the IRS initiated the audit of Participant 1's tax return, Participant 1 made four charitable distributions totaling \$ to . In order to do so, Participant 1 completed "Disbursement Request Form," but also sent a check to in that amount.

Additional information can be found at United States , Plaintiff, v. , Defendant. Case No.: .

Permanent Injunction:

On , the United States District Court Judge () issued a permanent injunction against permanently barring him from directly or indirectly:

- Organizing (or assisting in the organization of), promoting, marketing, or selling the or any plan or arrangement that is substantially similar, or participating (directly or indirectly) in the sale of any interest in the or any plan or arrangement that is substantially similar;

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- b. Making or furnishing, or causing another to make or furnish, any statements about the tax benefits of the _____ or any plan or arrangement that is substantially similar;
- c. Organizing (or assisting in the organization of), promoting, marketing, or selling any entity, plan, or arrangement involving charitable giving, or participating (directly or indirectly) in the sale of any interest in an entity, plan, or arrangement involving charitable contributions;
- d. Furnishing, or causing another to furnish, tax advice regarding charitable contributions;
- e. Organizing (or assisting in the organization of), promoting, marketing, or selling any entity, plan, or arrangement involving federal taxes that relies upon, requires customers to execute, or uses a standard set (or substantially similar version or set) of transaction documents;
- f. Making or furnishing, or causing another to make or furnish, any statements about the tax benefits of entities, plans, or arrangements that rely upon, require customers to execute, or use a standard set (or substantially similar version or set) of transaction documents;
- g. Making or furnishing, or causing another to make or furnish, any statements in connection with the organization or marketing of a transaction having a significant purpose of avoidance or evasion of federal taxes;
- h. Preparing (or assisting others in preparing) appraisals in connection with any federal tax matter;
- i. Representing anyone other than himself before the IRS;
- j. Acting as a federal tax return preparer, or filing, assisting in, or directing the preparation or filing of federal tax returns, amended tax returns, or other related documents or forms for any person or entity other than his own individual tax returns (or his joint tax return);
- k. Assisting or advising individuals or entities in seeking tax-exempt status from the IRS,
- l. Advising, performing work for, or receiving compensation from _____, or _____;
- m. Advising, performing work for, or receiving compensation for work performed for individuals in connection with making assignments, donations, contributions, or transfers to _____, or _____;
- n. Referring individuals to make assignments, donations, contributions, or transfers to _____, or _____;

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Law:

IRC Section 501(c)(3) provides for an exemption from tax for corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

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

Treas. Regs. Section 1.501(c)(3)-1(a)(2) provides that, the term exempt purpose or purposes, as used in this section, means any purpose or purposes specified in section 501(c)(3), as defined and elaborated in paragraph (d) of this section.

Treas. Regs. Section 1.501(c)(3)-1(c)(1) provides that an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Treas. Regs. Section 1.501(c)(3)-1(c)(2) states that an organization is not exclusively operated for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.

Treas. Regs. Section 1.501(c)(3)-1(d)(1) provides that in general:

- i. An organization may be exempt as an organization described in section 501(c)(3) if it is organized and operated exclusively for one or more of the following purposes:
 - a. Religious,
 - b. Charitable,
 - c. Scientific,
 - d. Testing for public safety,
 - e. Literary,
 - f. Educational, or
 - g. Prevention of cruelty to children or animals

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- ii. An organization is not organized or operated exclusively for one or more of the purposes specified in subdivision (i) of this subparagraph unless it serves a public rather than a private interest. Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish 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.

In *Better Business Bureau of Washington D.C. v. U.S.*, 326 U.S. 279 (1945), the court found that the existence of a substantial nonexempt purpose, regardless of the number or importance of exempt purposes, will cause failure of the operational test.

Notice 2004-30

The Internal Revenue Service and the Treasury Department are aware of a type of transaction, described below, in which S corporation shareholders attempt to transfer the incidence of taxation on S corporation income by purportedly donating S corporation nonvoting stock to an exempt organization, while retaining the economic benefits associated with that stock. This notice alerts taxpayers and their representatives that these transactions are tax avoidance transactions and identifies these transactions, and substantially similar transactions, as listed transactions for purposes of § 1.6011-4(b)(2) of the Income Tax Regulations and §§ 301.6111-2(b)(2) and 301.6112-1(b)(2) of the Procedure and Administration Regulations. This notice also alerts parties involved with these transactions to certain responsibilities that may arise from their involvement with these transactions.

FACTS

In a typical transaction, an S corporation, its shareholders, and an organization exempt from tax under § 501(a) and described in either § 501(c)(3) or § 401(a) of the Internal Revenue Code (such as a tax-qualified retirement plan maintained by a state or local government) (the exempt party) undertake the following steps. An S corporation issues, pro rata to each of its shareholders (the original shareholders), nonvoting stock and warrants that are exercisable into nonvoting stock. For example, the S corporation issues nonvoting stock in a ratio of 9 shares for every share of voting stock and warrants in a ratio of 10 warrants for every share of nonvoting stock. Thus, if the S corporation has 1,000 shares of voting stock outstanding, the S corporation would issue 9,000 shares of nonvoting stock and warrants exercisable into 90,000 shares of nonvoting stock to the original shareholders. The warrants may be exercised at any time over a period of years. The strike price on the warrants is set at a price that is at least equal to 90 percent of the purported fair market value of the newly issued nonvoting stock on the date the warrants are granted. For this purpose, the fair market value of the nonvoting stock is claimed to be substantially reduced because of the existence of the warrants.

Shortly after the issuance of the nonvoting stock and the warrants, the original shareholders donate the nonvoting stock to the exempt party. The parties to the transaction claim that, after the

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donation of the nonvoting stock, the exempt party owns 90 percent of the stock of the S corporation. The parties further claim that any taxable income allocated on the nonvoting stock to the exempt party is not subject to tax on unrelated business income (UBIT) under §§ 511 through 514 (or the exempt party has offsetting UBIT net operating losses). The original shareholders might also claim a charitable contribution deduction under § 170 for the donation of the nonvoting stock to the exempt party. In some variations of this transaction, the S corporation may issue nonvoting stock directly to the exempt party.

Pursuant to one or more agreements (typically redemption agreements, rights of first refusal, put agreements, or pledge agreements) entered into as part of the transaction, the exempt party can require the S corporation or the original shareholders to purchase the exempt party's nonvoting stock for an amount equal to the fair market value of the stock as of the date the shares are presented for repurchase. In some cases, the S corporation or the original shareholders guarantee that the exempt party will receive the fair market value of the nonvoting stock as of the date the stock was given to the exempt party if that amount is greater than the fair market value on the repurchase date.

Because they own 100 percent of the voting stock of the S corporation, the original shareholders have the power to determine the amount and timing of any distributions made with respect to the voting and nonvoting stock. The original shareholders exercise that power to cause the S corporation to limit or suspend distributions to its shareholders while the exempt party purportedly owns the nonvoting stock. For tax purposes, however, during that period, 90 percent of the S corporation's income is allocated to the exempt party and 10 percent of the S corporation's income is allocated to the original shareholders. The transaction is structured for the original shareholders to exercise the warrants and dilute the shares of nonvoting stock held by the exempt party, or for the S corporation or the original shareholders to purchase the nonvoting stock from the exempt party at a value that is substantially reduced by reason of the existence of the warrants. In either event, the exempt party will receive a share of the total economic benefit of stock ownership that is substantially lower than the share of the S corporation income allocated to the exempt party.

DISCUSSION

The transaction described in this notice is designed to artificially shift the incidence of taxation on S corporation income away from taxable shareholders to the exempt party. In this manner, the original shareholders attempt to avoid paying income tax on most of the S corporation's income over a period of time. The Service intends to challenge the purported tax benefits from this transaction based on the application of various theories, including judicial doctrines such as substance over form. Under appropriate facts and circumstances, the Service also may argue that the existence of the warrants results in a violation of the single class of stock requirement of § 1361(b)(1)(D), thus terminating the corporation's status as an S corporation. See, e.g., §§ 1.1361-1(l)(4)(ii) and (iii).

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Transactions that are the same as, or substantially similar to, the transaction described in this notice are identified as “listed transactions” for purposes of §§ 1.6011-4(b)(2), 301.6111-2(b)(2), and 301.6112-1(b)(2) effective April 1, 2004, the date this notice was released to the public. Independent of their classification as listed transactions, transactions that are the same as, or substantially similar to, the transaction described in this notice may already be subject to the disclosure requirements of § 6011 (§ 1.6011-4), the tax shelter registration requirements of § 6111 (§ 301.6111-1T and § 301.6111-2), or the list maintenance requirements of § 6112 (§ 301.6112-1). Under the authority of § 1.6011-4(c)(3)(i)(A), the exempt party in the listed transaction described in this notice will also be treated as a participant in the transaction (whether or not otherwise a participant). The exempt party will be treated as participating in the transaction for the taxable year of the purported donation, the taxable year of the reacquisition, and all intervening taxable years. Pending further review and possible additional guidance, this notice does not apply to any investment in employer securities, as defined in § 409(l), by an employee stock ownership plan subject to the requirements of § 409(p).

Persons who are required to register these tax shelters under § 6111 but have failed to do so may be subject to the penalty under § 6707(a). Persons who are required to maintain lists of investors under § 6112 but have failed to do so (or who fail to provide those lists when requested by the Service) may be subject to the penalty under § 6708(a). In addition, the Service may impose penalties on parties involved in these transactions or substantially similar transactions, including the accuracy-related penalty under § 6662.

The Service and the Treasury Department recognize that some taxpayers may have filed tax returns taking the position that they were entitled to the purported tax benefits of the type of transaction described in this notice. These taxpayers should take appropriate corrective action and ensure that their transactions are disclosed properly.

Taxpayer's Position:

1. The Taxpayer has not provided a position on the issue.
2. The Taxpayer has not provided a position on the issue.

Government's Position:

1. That the tax-exempt status for _____ should be revoked for failure to operate exclusively in furtherance of exempt purposes.

Under IRC Section 501(c)(3) an exemption from tax is provided for organizations, 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, 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, and which does not participate in, or intervene in, any political campaign on behalf of (or in opposition to) any candidate for public office.

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

Treas. Regs. Section 1.501(c)(3)-1(c)(1) provides that an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Here the facts show that more than an insubstantial part of the organization's activities are not in furtherance of an exempt purpose. These activities include:

1. Participating in the S Corporation Tax Shelter Scheme
2. Operating as a vehicle to assist the promoter of the scheme () in carrying out his abusive charitable scheme
3. Allowing the net earnings of to inure to the benefit of private shareholders.

These two activities disqualify the organization from exempt status under IRC Section 501(c)(3).

Discussion on the disqualifying activities

1. The organization is a participant in the S Corporation Tax Shelter Scheme.

Transactions that are the same or substantially similar to those described in Notice 2004-30 are designed to artificially shift the incidence of taxation on S corporation income away from taxable shareholders to the exempt party. In this manner, the original shareholders attempt to avoid paying income tax on most of the S corporation's income over a period of time. The shifting of taxation away from the taxable shareholders is possible due to the exempt party generally does not pay tax on its income. Since inception, has not paid any tax on its income. Notice 2004-30 designated these type of transactions as listed transactions.

In determining whether the donations of LLC membership units to the organization are the same or substantially similar to Notice 2004-30, the provisions in the Operating Agreements and other relevant facts are examined. These provisions include:

- The original shareholders donated membership units to the organization.
- The original shareholders retain control of the LLC via their holdings of exclusive management rights.

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- The original shareholders have the power to determine the amount and timing of any distributions. Although the Operating Agreement requires annual distributions, in practice, some LLCs have not made a distribution to the organization in certain years.
- The organization is allocated percent or more of the profit, while the original shareholders are allocated percent of the loss.
- The LLCs have the first right to purchase the organizations membership units. With the original shareholders having exclusive management right, they can issue additional shares to dilute the shares held by the organization

Discussion of the above factors

- The original shareholders donated membership units to the organization.

Similar to Notice 2004-30, the original shareholders donated membership units to the organization, while retaining complete and total control over the LLC units. As the holder of membership units, the organization has no voting rights or consent rights.

- The original shareholders retain control of the LLC via their exclusive management rights.

In this case, Similar to Notice 2004-30, after the original shareholders donated membership units to the organization, they still maintain complete control over the assets of the LLC.

In out of the instances where LLC interests were donated to the organization, the original donor subsequently took out a loan from the LLCs. These loans ranged in length from to years and the loan amounts taken were in some cases (and) in excess of % of the total value of the assets originally placed into the LLC.

In these instances, the original donors were able to take a contribution deduction on their personal tax returns for the amount of the appraised donations to the organization, while at the same time, maintaining full control of the assets. In some instances, the donors took substantial portions of the assets out of the LLC by issuing themselves a note with favorable interest rates.

Furthermore, the organization stated (in response to question posed in the initial interview) that the assets originally placed into the LLCs do not become the sole property of for a period of years from the date of the donation.

Lastly, Articles 5.2, 5.3, and 8.1 for the Type 2 operating Agreements give the managers of the LLCs total control of all aspects and finances of the LLCs and their related assets. Being the manager of the LLC allows the original shareholder to retain control of the assets originally placed in the LLCs.

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- iii. The original shareholders have the power to determine the amount and timing of any distributions.

In Notice 2004-30, because they are the sole managers of the S Corporations, the original shareholders have the power to determine the amount, payee, and timing of any distributions.

In this case, the original shareholders, also Manager of the LLCs, have the power to determine the amount and timing of distributions. The organization does send annual to each LLC detailing the amount of distributions that each LLC is required to make for charitable purposes, note payments, legal payments to , and payments to for accounting fees and tax preparation.

The include the following statement with respect to charitable distributions:

"Based on our analysis of the cash flows from LLC NAME in , please have LLC NAME write a check for AMOUNT to at a minimum in support of its charitable mission, remember you can always do more! Please also indicate the charities you would like the funds to support in the attached donation form."

For the year ended , of the LLCs which donated interest to failed to make distributions of any kind. For all LLCs where distributions were made, the Manager, who is also the original donor or his/her representative, had the sole discretion in determining the amount and timing of distributions.

As a result of this arrangement, of the checks issued for "charitable grants" were issued to educational institutions where a specific student was identified. In one instance, the specific student shared the same last name as the original donor to the LLC (, last name). Both of these acts constitute private benefit and do not fulfill a charitable purpose.

Lastly, the issued to each LLC show that LLCs receive direction from on amounts due for notes and charitable distributions each year. In several instances, the same amounts were requested for distribution on the following years Direction Letter. In these instances, the LLCs failed to make any of the requested note payments or charitable distributions. This demonstrates that the LLC managers, not , have the ultimate power when making distributions of any kind.

- iv. The organization is allocated percent or more of the profit, while the original shareholders are allocated percent of the loss. The Special Allocation Provisions

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further allocate all passive income to the organization and all active income and deductions to the original shareholders.

In this case, % of profits and losses are allocated to the exempt party and none are allocated to the original shareholders.

- v. With the original shareholders having exclusive management right, they can issue additional shares to dilute the shares held by the organization

In these LLCs, the donors, their spouse and/or family members are the sole managers of the LLCs. They have the power to issue additional shares to the LLC or increase the authorized shares so they can issue additional shares. Such issuance of additional shares may dilute the value of those share already held by the organization. Given the organization has no consent rights, there's nothing it can do to prevent the issuance of additional shares.

In summary, the facts show the transactions in this case are the same or substantially similar to those described in Notice 2004-30. Therefore, it is concluded that was a participant in the S-Corporation Tax Shelter scheme as described in Notice 2004-30.

2. acts as a vehicle to assist the promoter of the scheme () in carrying out his abusive charitable scheme.

As stipulated in United States

v. , charitable giving scheme is designed to assist his wealthy clients improperly reducing their tax liability by taking unwarranted charitable contribution deductions. scheme has harmed the United States by depriving the government of tax revenue. The IRS has identified specific transactions that, through , cost the United States Treasury more than \$ In lost tax revenue

To facilitate his scheme, needed a charity described under IRC § 501(c)(3) to take the bogus contributions, as contributions to such charity is tax deductible. In the beginning, created his , and so he could facilitate his scheme. Once scheme was exposed, the IRS revoked , and tax exempt status, which agreed to.

Facts connecting to scheme included, but are not limited to:

- (through) prepared state returns for the LLCs where the returns were provided by the organization. is the president of .
- appraised the value of ownership interest for donors who donated their interest to the organization. signed Forms 8283 and completed all appraisals for each of the LLCs.

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- acting in his capacity as the President of accepted all gifts of donated LLC interests through receipt of the Forms 8283.
- worked with and the original donors/managers of the LLCs to set up each LLC, to obtain appraisals, and to ensure that received payment from each LLC every year as outlined in the Issued to each LLC each year.
- receives monetary recompense from the financial planning for the charitable giving arrangement through
- Is the President of which is named in the injunction against . It is clear from the injunction that and worked together to perpetrate the tax scheme concocted by and that is a promoter of the scheme.
- A review of cash inflows and outflows for the organization shows that like the , acts as a passthrough for charitable activities determined and carried out by the LLCs. has no meaningful control or input into the process.

3. allowed its net earnings to inure to the benefit of private shareholders which is absolutely prohibited under IRC Section 501(c)(3).

made distributions in the year of examination. Of these distributions, (or %) were directed disbursements from individuals at the LLC level to their relatives. These payments amounted to \$ out of the total \$ (or % of the total expenditures) expended by the organization in the year of examination. As such, approximately % of the activities conducted by the organization constituted prohibited inurement transactions.

made payments to:

- a. The as directed by his relative
- b. of totaling \$ as directed by his relative totaling \$

of these payments constitute inurement as the payments were directed by insiders of the organization (substantial contributors) to their relatives. In its response to IDR #3, makes the assertion that it does not know whether and are related or whether and are related. The Government would contend that it is the duty of (or those acting on behalf of the organization) to inquire as to relationship between donors and rant recipients.

The Government conducted a review of the filings of Forms for and noted that the preparer for the Form is listed as , the President of . is required under IRC Section 501(c)(3) and the related regulations to ensure that the net earnings of do not inure to the benefit or private shareholders. In the immediate instance, should have been aware of the family relationship between and as the President of () is the return preparer for Form . IRC Section 501(c)(3) and the

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related regulations make no qualms about the absolute prohibition against inurement as follows:

"IRC Section 501(c)(3) provides for an exemption from tax for corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, **no part of the net earnings of which inures to the benefit of any private shareholder or individual**, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office."

"Treas. Regs. 1.501(c)(3)-1(c)(2) states that **an organization is not exclusively operated for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.**"

The presence of inurement in this case alone is grounds for the revocation of the exempt status of the organization.

In conclusion, the facts show that the organization is operated as a vehicle of bogus charitable scheme which is being promoted and carried out by . Additionally, the net earnings of the organization inured to private individuals and shareholders of the organization.

The activities discussed above were more than an insubstantial part of activities. These activities did not further one or more exempt purposes described in IRC § 501(c)(3) and in the case of the inurement activities, were absolutely prohibited under IRC Section 501(c)(3) and the related regulations. Therefore, exempt status under IRC § 501(c)(3) should be revoked.

2. That the Organization's exempt status should be revoked retroactively to , the date that the organization failed to qualify for exemption.

activities remain the same in the year of examination as they were at the inception of the federal tax exemption on . The organization began accepting LLC interest donations in the tax year but did not have any activities prior to . This demonstrates that planned to use as a participant in the tax avoidance scheme in when it was established.

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Name of taxpayer	Tax Identification Number (last 4 digits)	Year/Period ended

Therefore, it is warranted to revoke the exempt status of the organization retroactively to the first date it is determined that the organization was not operated exclusively for exempt purposes.

Conclusion:

is not operated exclusively in furtherance of an exempt purpose as outlined in IRC Section 501(c)(3) and has conducted prohibited inurement transactions which alone are grounds for revocation. As such, its tax-exempt status should be revoked retroactively to is required to file Form 1120, U.S. Corporation Income Tax Return, for the tax years , , , , , and all future years.