

**Internal Revenue Service**  
**Appeals Office**  
 300 North Los Angeles Street  
 MS LA-8000 Room 3054  
 LOS ANGELES, CA 90012

**Department of the Treasury**

**Person to Contact:**

Date: 3-27-06

SET:EO

UR: 501.00-00

**Refer Reply to:**

**In Re:**

**Tax Period(s) Ended:**

**Form Number**

**Employer Identification Number**

This is a final adverse determination as to your exempt status under section 501(c)(3) of the Internal Revenue Code. It is determined that you are no longer recognized as exempt from Federal income tax under Section 501(c)(3) of the Internal Revenue code, effective \_\_\_\_\_.

Our adverse determination was made for the following reason(s):

You are not operated exclusively for charitable, educational, or other exempt purposes. You did not engage primarily in activities which accomplish one or more of the exempt purposes specified in section 501(c)(3). More than an insubstantial part of your activities were in furtherance of a non-exempt purpose and you were operated for the purpose of serving a private benefit rather than public interests.

You have signed a Closing Agreement agreeing to this determination and waiving your rights under section 7428 to contest this determination by filing a petition to the United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia.

Contributions to your organization are not deductible under code section 170.

You are required to file Federal income tax returns on the form indicated above.

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

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

Sincerely,

CHARLES FISHER  
TEAM MANAGER

Internal Revenue Service

Department of the Treasury

Date:

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

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.

200625043

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,

  
R. C. Johnson  
Director, EO Examinations

Enclosures:  
Publication 892  
Publication 3498  
Report of Examination

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer	Tax Identification Number	Year/Period ended

Whether \_\_\_\_\_ was operated exclusively for exempt purposes described within Internal Revenue Code section 501(c)(3):

- a. Whether \_\_\_\_\_ engaged primarily in activities that accomplish an exempt purpose?
- b. Whether more than an insubstantial part of \_\_\_\_\_ activities is in furtherance of a non-exempt purpose?
- c. Whether \_\_\_\_\_ was operated for the purpose of serving a private benefit rather than public interests?

**FACTS**

Background of \_\_\_\_\_

\_\_\_\_\_, Incorporated, with Employer Identification Number ("EIN") \_\_\_\_\_ was incorporated on \_\_\_\_\_ as a nonprofit corporation in the State of \_\_\_\_\_. The primary purpose was,

"to help minimize the economic stress of individuals due to the excessive incurrance of consumer debt."

\_\_\_\_\_ filed Form 1023, *Application for Recognition of Exemption under Section 501(c)(3) of the Internal Revenue Code*, on \_\_\_\_\_ for a publicly supported organization described under Internal Revenue Code sections 509(a)(2). \_\_\_\_\_ was listed on the Form 1023 as president, treasurer, and secretary. Another individual named \_\_\_\_\_ was listed as vice president. \_\_\_\_\_ has been the principal individual throughout the existence of \_\_\_\_\_.

The activities and operational information as described in the Form 1023 were:

\_\_\_\_\_ is a corporation whose purpose is to help minimize the economic stress of individuals due to the excessive incurrance of consumer debt. By developing a debt adjustment schedule for each client to pay its clients' existing creditors, \_\_\_\_\_ hopes to help reduce the number of personal bankruptcies traceable to economic difficulties and at the same time decrease the economic losses not only to those individuals who would normally file bankruptcy but also the creditors and the community who are affected by the filing of personal bankruptcies.

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer	Tax Identification Number	Year/Period ended

vill contract with attorney-run servicing corporations who will develop the clients' repayment schedules and be responsible for the disbursement of the clients' funds to their creditors. In addition to retiring the debt, the attorneys will be available to provide legal assistance and counseling to the clients regarding their rights under the Fair Debt Collection Practices Act, the Fair Credit Reporting Act and all other consumer protection laws.

intends to devote 70% of its time to promoting its program to creditors and lenders and will seek their cooperation in cutting interest rates, eliminating service fees, waiving late and over the limit fees and stop collection activity. It also intends to develop a network with these organizations to receive early referrals of delinquent debtors which will enable to take control of the situation prior to severe economic hardship sets in.

intends to devote the remainder of its time providing its clients with specialized counseling, teaching them financial literacy and providing them with free preventive education on money management topics.

The IRS recognized as a publicly supported organization described under Internal Revenue Code sections 509(a)(2) on

Minutes

conducted its annual meetings via phone in and :

The minutes on listed the following as directors and officers:  
 Chairman of the Board and President; Vice President and Treasurer;  
 Vice President and Secretary; and , Vice President. This  
 minutes indicated have counseled many people on a gratis basis and referred  
 others to for their legal services and debt management services.

The minutes on indicated had negotiated a  
 business arrangement to carry out mission with a group that would take the  
 place of and to supply capital to assist  
 until was self-sufficient financially. (See below for discussion of the  
 relationship between and .) Also, they had another firm that they  
 were associated with that had unlimited referrals for counseling services.

On received resignations from the other board members  
 and officers and the new directors were:

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer	Tax Identification Number	Year/Period ended

From its inception, [redacted] had been affiliated with [redacted]. [redacted] was a for-profit entity and had been offering a lawyer-supervised debt management legal services. [redacted] incorporated [redacted] because [redacted] was informed by some of their clients' creditors that they were unwilling to waive or reduce interest charges or suspend any late charges and over-the-limit fees because [redacted] was not a non-profit organization. [redacted] decided to establish [redacted] in order to maximize the benefits offered to [redacted] clients in their debt management program.

[redacted] entered into an agreement with [redacted] on [redacted]. The contract provided that [redacted] agrees to refer to [redacted] clients of [redacted] "who are near hopeless in the financial situation in an effort to avoid filing bankruptcy." [redacted] agreed to perform the following non-inclusive list of services to [redacted] debtor clients:

- Send Retainer Agreement to potential clients;
- Prepare payment plans for debtor clients of [redacted];
- Implement payment plans for debtor clients of [redacted] by payment of debtor clients' bills from [redacted] escrow account for debtor clients' funds at [redacted];
- Control creditor harassment; and
- Provide legal assistance for matters dealing with the debtor clients' creditors.

The contract provided that [redacted] was not required to pay [redacted] for the above described services. From the beginning, it was understood that [redacted] clients were not clients of [redacted] but clients of [redacted]. [redacted] was to use the fair share money received to educate consumers and refer prospective clients to [redacted]. At the same time, [redacted] owed [redacted] around \$18,000 as of [redacted] for the legal work performed to incorporate [redacted].

[redacted] Inc.

For the first several years of operation, [redacted] had been receiving fair share money paid by [redacted] clients' creditors. The fair share applications were processed by [redacted]; and it acted as an independent contractor responsible for making payments to creditors of [redacted] clients.

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer	Tax Identification Number	Year/Period ended

entered into an agreement with \_\_\_\_\_ ) on \_\_\_\_\_. The contract provided that \_\_\_\_\_ would process fair share revenues received from the creditors of \_\_\_\_\_ clients. A non-inclusive list of services to be performed by \_\_\_\_\_ included the following services:

- Process the fair share paperwork needed with individual creditors;
- Prepare and mail invoices for those creditors who require an invoice with letterhead prior to disbursing the fair share portion of payments rendered. Payments are to be sent to a lock-box established for this purpose at \_\_\_\_\_;
- Process and deduct the fair share amount from the accounts of \_\_\_\_\_ clients who require the fair share amount to come directly from the payments being sent to the creditor;
- Deposit any fair share money received directly from the creditors to the \_\_\_\_\_ account located at \_\_\_\_\_ will provide deposit slips and postage paid envelopes to \_\_\_\_\_ for this purpose, and
- Compute the total amount of fair share money either deducted directly from the payments or received by the creditors on behalf of \_\_\_\_\_.

In the contract, \_\_\_\_\_ would be required to contact the creditors of its clients to determine whether they paid fair share amounts. (Fair share are the payments made by creditors, particularly credit card companies, to non-profit consumer credit counseling agencies for placing consumers into debt management plans. These funds then become a source of revenue for the agencies.) \_\_\_\_\_ would also be provided by \_\_\_\_\_ each month with an accounting of which creditors have paid the fair share revenue for the month and which creditors have not.

With the services provided by \_\_\_\_\_ was obligated to pay 40% of the amount of the fair share revenue received each month. This payment also included the cost to \_\_\_\_\_ for postage and the mailing of the invoices. In effect, the fair share payments were split 60/40 between \_\_\_\_\_ and \_\_\_\_\_, respectively.

Effective \_\_\_\_\_ and \_\_\_\_\_ terminated their services with \_\_\_\_\_. The severance of the relationship was acrimonious.



Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer	Tax Identification Number	Year/Period ended

From \_\_\_\_\_ through \_\_\_\_\_ : did not conduct any activities.

Starting \_\_\_\_\_ started a relationship with \_\_\_\_\_ ) and its related entities. \_\_\_\_\_ claims that it entered into this relationship with \_\_\_\_\_ on the basis of a handshake and that no written understandings of the relationship between the two entities were executed. The purpose of the arrangement was for \_\_\_\_\_ who in conjunction with \_\_\_\_\_ and related entities operated a novel debt negotiation service, to utilize \_\_\_\_\_ for debtors who had smaller amounts of debt to enroll such debtors in more traditional debt management plans under the auspices of \_\_\_\_\_. Under this new operation, \_\_\_\_\_ purportedly had its employees in \_\_\_\_\_ using the office space provided by \_\_\_\_\_. These employees ran the total backroom operations from \_\_\_\_\_ office. \_\_\_\_\_ who resided in \_\_\_\_\_ did not handle the daily operation of \_\_\_\_\_ took over \_\_\_\_\_ and integrated \_\_\_\_\_ operation into its overall operation.

The entire operation was discontinued in \_\_\_\_\_ when the Federal Trade Commission filed a complaint against \_\_\_\_\_ and its related entities.

On \_\_\_\_\_, the Federal Trade Commission ("FTC") filed an ex-parte Complaint for Permanent Injunction and Other Equitable Relief in the United States District Court, Central District of \_\_\_\_\_ alleging that several other entities and individuals operated a common business enterprise in violation of federal laws enforced by the FTC. In response to the Complaint, the District Court issued a Temporary Restraining Order on \_\_\_\_\_ against the defendants wherein a Temporary Receiver was appointed. Later, the parties filed stipulated preliminary injunction which included the appointment of a Permanent Receiver. The firm \_\_\_\_\_ was appointed to serve as the Temporary and Permanent Receiver. Since \_\_\_\_\_ all authority and control with respect to \_\_\_\_\_ and the other entities listed below is vested in \_\_\_\_\_ first as Temporary Receiver and later as Permanent Receiver.

The FTC Complaint identifies the following entities and individuals as defendants:

- 1.
- 2.
- 3.
- 4.

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer	Tax Identification Number	Year/Period ended

- 5.
- 6.
- 7.
- 8.
- 9.
- 1.
- 1.
- 1.
- 1.
- 1.
- 15.
- 16.
- 17.
- 18.
- 19.

was not listed as a defendant even though its operations were essentially conducted by those connected with the defendants or by the defendants themselves.

In alerting consumers regarding its actions, the made its Complaint for Permanent Injunction and Other Equitable Relief available to the public via the internet on . In connection therewith, the FTC issued a press release, providing in part:

**FTC: Bogus "Nonprofit" Debt Negotiation Companies Misled Consumers in Financial Trouble and Violated Do Not Call Registry**

The Federal Trade Commission has filed a complaint against a group of defendants masquerading as a nonprofit debt negotiation organization that has made millions of dollars deceiving consumers into enrolling in their debt negotiation program by promising to reduce their debts. The FTC alleges that ) business practices violate the FTC Act, which bars deceptive practices, and have harmed consumers throughout the country. The FTC also charges that the defendants violated the Telemarketing Sales Rule (TSR) by calling consumers who placed their phone numbers on the National Do Not Call Registry. At the FTC's request, a U.S. district court judge has issued a temporary restraining order barring the defendants' illegal activities.

"These defendants demonstrate contempt for consumer privacy and the law," said FTC Chairman . "The National Do Not Call Registry

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer	Tax Identification Number	Year/Period ended

empowers American consumers to control the volume of calls they receive at home. We're pleased that the overwhelming majority of legitimate companies are complying with the Do Not Call Registry. Nonetheless, we will continue to pursue those that ignore consumers' wishes not to be called."

The FTC alleges that the defendants, operating a complex web of companies advertised as \_\_\_\_\_ leave pre-recorded messages on consumers' home answering machines claiming \_\_\_\_\_ is a nonprofit organization that will stop creditors' collection efforts and significantly reduce consumers' debt. Consumers responding to these solicitations allegedly are encouraged to enroll in a debt negotiation program. In reality, the FTC contends, the defendants' "program" is, in many cases, ineffective in reducing consumers' debt and has inflicted severe harm on consumers. According to papers filed with the court, the defendants' program worsened the financial situation of many consumers so that they had little choice but to file for bankruptcy.

According to the FTC, the defendants fail to tell consumers that in the debt negotiation program, defendants often will not begin negotiating a consumer's debts for six months or longer, and that creditors' collection efforts not only do not stop, but often become more aggressive. The FTC also alleges that the defendants fail to disclose other negative consequences, including that: a) consumers' accounts will become delinquent; b) late fees, penalties, and interest may accrue on their debt; c) consumers' creditors may sue to collect on debts, and if a judgment is obtained, may garnish consumers' wages; d) creditors may raise the interest rates applicable to accounts because no one is making minimum monthly payments on the accounts; e) in those instances where defendants negotiate a reduced debt amount, consumers may be liable for federal and state taxes on the amount their debt is reduced; and f) in those instances when defendants negotiate a reduced debt amount, a negative "settled for less than full amount" notation may appear on their credit reports.

The FTC further alleges that the defendants take hundreds of dollars from consumers' monthly payments as fees, which they do not always disclose, and that consumers' monthly payments will not be applied to their trust accounts until these fees are paid in full. As a consequence, many consumers are shocked to see that after making hundreds of dollars in monthly payments to defendants, their debts actually have *increased*.

\_\_\_\_\_ was calling people they shouldn't have been calling, and claiming things they shouldn't have been claiming," said \_\_\_\_\_ Director of the FTC's Bureau of Consumer Protection. "These defendants lied about their nonprofit status, and intentionally put consumers in harm's way financially. Stopping this kind of illegal activity is what the FTC is all about."

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer	Tax Identification Number	Year/Period ended

According to the FTC, the defendants also violated the TSR by calling consumers who have registered their telephone numbers on the National Do Not Call Registry and by continuing to call consumers who previously have stated that they do not wish to receive calls from the defendants. The FTC also alleges that the defendants have called phone numbers in area codes throughout the country without first paying the access fee for the Registry and without removing from their call lists those phone numbers that appear on the Registry. This is the FTC's first case alleging violations involving the Do Not Call Registry.

The Do Not Call Registry was launched on \_\_\_\_\_, and currently contains nearly 60 million phone numbers. The FTC staff had predicted that the Registry would reach 60 million registrations in June 2004.

Finally, the FTC's complaint alleges that four corporate defendants,

\_\_\_\_\_, violated the Gramm-Leach-Bliley Act by failing to provide consumers with required written privacy notices.

Information from \_\_\_\_\_ Council)

The receiver of National Consumer

On \_\_\_\_\_, the Service issued a Summons to the receiver of National Consumer Council for records maintained by \_\_\_\_\_ for \_\_\_\_\_ had advised the Service that the receiver had custody of such records. As noted earlier, \_\_\_\_\_ resided in \_\_\_\_\_ and did not conduct or manage the daily operations of \_\_\_\_\_ following \_\_\_\_\_'s hand shake agreement with \_\_\_\_\_. Essentially, \_\_\_\_\_ had integrated \_\_\_\_\_'s operation into \_\_\_\_\_ overall operation.

The types of clients that were referred to \_\_\_\_\_ from the \_\_\_\_\_ call center and \_\_\_\_\_ were individuals who had debts in the amounts of \$5,000 to \$7,500. If the individual had more than \$7,500 but less than \$10,000, the employees of \_\_\_\_\_ or \_\_\_\_\_ had the options to either refer them to \_\_\_\_\_ for debt management program or to Debt recovery program which was maintained by \_\_\_\_\_ related for profit entities.

The documents received from the \_\_\_\_\_ receiver were quite elaborate in describing \_\_\_\_\_ functions. What follows is a description of some of the documents received by the IRS in response to the summons issued to the \_\_\_\_\_ receiver. These descriptions are contained in the following headings: \_\_\_\_\_ or \_\_\_\_\_ Starting Organizational Chart for \_\_\_\_\_ Enrollment Programs; and Scripts.

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer	Tax Identification Number	Year/Period ended

The mission of \_\_\_\_\_ associated with \_\_\_\_\_ and its related entities was to provide free debt counseling to consumers who requested assistance in handling excessive debt. \_\_\_\_\_ provides solutions based on each consumer situation and provided a beneficial program that would relieve the burden of excessive debt.

The overview of \_\_\_\_\_ was to help the debtors return to financial stability. It intended to help consumers with financial "hardships". First, \_\_\_\_\_ would determine what a hardship was, then, a "financial profile" would be completed to establish a monthly budget and determined the term of the program. The "financial profile" would help \_\_\_\_\_ to communicate with creditors, collection agencies, attorneys, etc in order to settle outstanding balances. \_\_\_\_\_ would also provide relief from the collection calls for the debtors.

#### s Activities Starting

\_\_\_\_\_ the call center- received call and set appointment. If the call center representative believed that the caller was suffering a major financial hardship, the representative would write a referral for that caller, and arranged a consultation between the caller, and a financial consultant from \_\_\_\_\_. The representatives from \_\_\_\_\_ and from \_\_\_\_\_ had the ability to refer consumers to \_\_\_\_\_. The person who was referred to \_\_\_\_\_ would receive a free consultation, which included a household budget and a credit review. If the person qualified (minimum of \$4,000 in debt) for the debt management program, \_\_\_\_\_ would offer a program that lowered the interest on the accounts, and reduced the number of payments to one payment per month. \_\_\_\_\_ would provide all the accounting needs of \_\_\_\_\_ which included payment disbursement and payroll.

#### Organization Chart for \_\_\_\_\_

\_\_\_\_\_ had employees who held different positions. The positions were:

- General Manager
- Creditor Services Manager and Client Services Supervisor
- Shift Leader Creditor Services
- Client Services and Creditor Services Processor
- Disbursement and Fair share

The job function for Client Services employees was to verify the clients' contracts were signed, sent welcome kit to clients, made sure the account statements were attached to the contract, and then forwarded contracts to Creditor Services.

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer	Tax Identification Number	Year/Period ended
		2

The job function for Creditor Services employees was to follow up clients' calls, checked pending proposals, checked mail and disbursed them, coded new contracts, respond to incoming and outgoing calls and sent proposals.

The job function for Disbursement employees was to go through each account and made adjustments as necessary.

The job function for Fair share employees was to contact creditors, making adjustments as necessary.

The Creditor Services Manager spent 55% of the day working on the Disbursement accounts, 25% on Creditors and Fair Share and 20% with Client Service Supervisor.

The Client Service Supervisor spent 40% of the day with Client Services, 40% of the day with Creditor Services, and 20% with the Creditor Services Manager and Projects.

**Enrollment programs:**

In the training manual provided three types of enrollment programs for its clients. They were:

- **Full Enrollment:**
  - The establishment fee would be \$225 and the monthly payment (ACH-Automatic Check Handling) were withdrawn in full in the first month.
  - First payment was disbursed in the first month when ACH cleared.
  - Proposals were sent out in the first month when ACH cleared.
  - Regular monthly payments started the second month.
- **Partial Enrollment:**
  - The establishment fee would be \$225 and split in half between the first and second month and the monthly payment was withdrawn in full.
  - First payment was disbursed in the first month when ACH cleared.
  - Proposals was sent out in the first month when ACH cleared.
  - Regular monthly payments started the third month.
- **Establishment fee Enrollment:**
  - The establishment fee would be \$225 and was withdrawn in full in the first month.
  - Regular monthly payments started in the second month.
  - First payment was disbursed in the second month when ACH cleared.

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer	Tax Identification Number	Year/Period ended

- o Proposals were sent out in the second month when ACH cleared.

Under the Frequently Asked Questions in the training manual, the employees were told if the client asked about the establishment fee of \$225, they would let the client know that the \$225 was for their counseling session, administrative costs and the recommendations the counselor suggested during the counseling session. The Monthly fee of \$40 was a state regulated fee.

Scripts:

employees were given different "phone scripts" to use when contacted clients. One of the scripts was Orientation Script. This script provided two scenarios for employees to use when calling the clients. If there was no answer, the employee would leave the 800 number to call back and the individual's name but not s name. If the client answered, the employee would explain the purpose of the call is to go over an orientation with the client. The orientation would take over a few minutes. The employee would need to verify the client's address, credit card accounts and asked the client to send in the account statements along with the contract. The employee would also explain the proposals that would send to the client's creditors. If the creditors were constantly calling the client, the employee asked the client to refer the creditors to ; Creditor Services phone number. The employee would then go on to explain that handles all of the ACH payments. Once the employee had everything s/he needs through the conversation, s/he would be able to begin processing the client's file. The employee also let the client know that the client would hear from ; creditor services representative who would make contact with the client's creditors. Lastly, the employee mentioned to the client that s/he would receive a monthly statement from for the details of his or her account.

Other scripts used by the employees were as follows:

"Attempt to Contact Appointment- Hi this is \_\_\_ from following up on your request for help with your credit card bills. You can call me at ext. \_\_\_. As your "Financial Counselor" I have been able to help many others who were in similar situations. Please call me so that I can review with you the options that can help you finally put overwhelming debt behind you. Please call me at \_\_\_\_\_"

"Application Script - Hi this \_\_\_ from we spoke regarding your credit cards and the difficulties you might have in paying them off. I'm currently assigned to your file and I'm sure I'll be able to assist you no matter what your current situation might be. Please feel comfortable calling me back regarding any questions you might have. Remember we are help to help you. Again my name is \_\_\_, your Financial Counselor at ext. \_\_\_\_\_. Thank you."

200625043

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer	Tax Identification Number	Year/Period ended

"Contract Sent Script- Hi this is \_\_\_ from \_\_\_\_\_ and I am calling because I recently sent you an enrollment package for your Debt Management Plan and I was following up to see if you read the information and returned the signed portion, so I can get you started on your plan as soon as possible.

Let me remind you that the Federal Express package you receive will also include the return information so you could arrange to have the package picked up or you could drop it off at any local Federal Express office.

Thank you very much for you time, if you have any questions please call me at :

"Contract Received Script- Hi this is \_\_\_ from \_\_\_\_\_ and I am calling because I received your package and will activate it on your withdrawal date. If you should have any questions our number is \_\_\_\_\_

"Active Script- Hi, this is \_\_\_\_, your Financial  
 Your information has been transferred to our client services department and they will be in contact with your creditors. If you should have any questions our number is \_\_\_\_\_. It's been a pleasure working with you and congratulations on your journey to becoming debt free! Thank you very much, and have a great day."

Counselor Opening Script – Hi this is \_\_\_\_\_(Your Name) calling on behalf of \_\_\_\_\_. I understand that you are having concerns with your creditors. Are you familiar with our program and how it works?

If YES: "Great", I will need a little information from you, so let's begin.

If NO: Ok, let me explain what we do and how we are able to help. Our Debt Management Plan is designed to help lower the payments and your interest rates for people who show a hardship. We can, in most cases, stop collection calls, late fees and over limit fees. You will have 1 payment to us and we will distribute the money to your creditors for you. How does it sound?

Clients who are interested  
 Gather the information from client and go over program.

Clients who are "not" interested  
 Probe to find out why the client is not interested in getting out of debt.

What's your goal? / what are you trying to accomplish?  
 Compare time of paying creditors on own – vs-



Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer	Tax Identification Number	Year/Period ended

Compare \$ they will save on  
 One payment for convenience (save \$ on checks, postage, etc.)  
 Collection call stop  
 Lower monthly payment  
 Avoid bankruptcy

Still "not" interested

Thank you for your time and if your situation changes or if you have any questions, please give us a call and we will be happy to help assist you in your interest to becoming debt free. (Ask for a referral)

Closing

Summarize the session with the client: monthly payments, creditors on , type of enrollment, signatures on Documents, fax documents and schedule a Federal Express (drop off and pick up)."

operation in office was terminated in when the Federal Trade Commission had filed a complaint against and its related entities and the court assigned a permanent receiver to shut down operation.

Counseling

During the course of examination, was asked to provide a list or questionnaire used in any initial or subsequent counseling sessions with clients. was further requested to provide any documentation that maintained with regard to counseling of clients. No documents were not provided by in response to these requests. s explained that this was due to the failure of the disk drive and all records were lost. further explained that he did not need any list of questions due to his extensive years of experience in the financial industry.

Community Seminars

For the years under examination, was asked to provide data indicating how many seminars were conducted and brochures, pamphlets or any other publications used for the seminars. mentioned a group talk that was held in to The . The handout used for the seminars was "All Credit Counseling Companies are not the same." s also provided a Thank you letter from Homeowners Association dated about his presentation to the group. was the treasurer for Homeowners Association.

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer	Tax Identification Number	Year/Period ended

**Financial Information on Form 990 and its filing**

... filed Form 990EZ for its fiscal year ended ...  
 ... filed its Form 990EZ for its fiscal year ended ... in ...

The following financial information was reported on the Form 990 returns:

Year		
Revenue	\$	0
Expenses		
Professional fees	\$	
Rents	\$	
Other Expenses	\$	
Total expenses	\$	0
Net Income	\$	0

In ... the Service issued Summons to the ... receiver to obtain records. From the bank statements the Service received, it indicated that ... had three accounts with the account address in ... They were:

Bank Name	Account #	Acct Name	Acct Address
		Trust Acct Settlement	
		Acct	

The balance of these accounts as of ... was as follows:

Acct. #	Balance as of

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer	Tax Identification Number	Year/Period ended

The records obtained also indicated \_\_\_\_\_ received the following deposits in \_\_\_\_\_  
 Account, Account Number \_\_\_\_\_ from \_\_\_\_\_ through \_\_\_\_\_  
 :

Bank Stmt dated	Deposit amount
	\$
	\$
	\$
	\$
<b>Total</b>	\$

From \_\_\_\_\_; balance sheet, the above deposits were long term loans from \_\_\_\_\_, which is one of the defendants associated with \_\_\_\_\_ and \_\_\_\_\_

From \_\_\_\_\_, through \_\_\_\_\_; received \$ \_\_\_\_\_ fair share from various credit card companies.

The total expenses from \_\_\_\_\_ to \_\_\_\_\_ from \_\_\_\_\_ monthly reconciliation detail reports were as follows:

Expense Category	Amount
Payment to	\$
	\$
Bank fees	\$
Supplies expenses	\$
Meals	\$
Filing Fees	\$
<b>Total</b>	\$

\_\_\_\_\_ did not file any employment tax returns, Form 941, for the first two quarters of \_\_\_\_\_ year. However, it filed its employment tax return for the third and fourth quarters of \_\_\_\_\_ year. The amounts were reported as follows:

<b>F941s</b>		
<b>Total Compensation</b>		\$

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer	Tax Identification Number	Year/Period ended

Customers' complaints

From the Summons issued to the Receiver, the Service received some customers' complaints regarding services. Some of the clients complaint about services such as not making payments to creditors; having to need extra payments to creditors; the high initial fee.

One of the customers stated that, "I am canceling the contract with you because although you debit my acct. at my bank each month, you are not making payment to my creditors (3 payments - in 6 months period) I want my money back as you provided no services effective I is terminated."

Another customer stated that, "I am requesting your company to close out my account and refund my September payment of \$193.00. For reasons being, my creditors have been calling me to inform me of not being able to accept the payment being made on my behalf by your company. They want me to pay an extra cost on top of me paying your company the amount of \$193.00. In order for me to keep up my payments in good faith I will be sending my creditors the money I have been sending you. I have been very inconvenienced because of this. Please give me your full cooperation and refund Septembers payment. I would also appreciate this to be taken care of as soon as possible to avoid delaying any payments due my creditors. Please send my refund of \$193.00 to...."

Another customer stated that, "I am canceling the the agreement with . . . . It was never told to me that there would be initial charge of \$225 besides the \$40 monthly. I could have paid off 2 credit cards with this. This has caused my mortgage payment to bounce. I never would have authorized a \$309 withdrawal. I do not have have that extra if I did I wouldn't need you people."

Transactions with the officer

For the tax year ended . . . . 2, prior to involvement with  
 maintained two bank accounts in . . . . oth were from  
 Account Number . . . . and . . . . From  
 through . . . . s had been writing checks to himself with the  
 following amounts from Account Number

Check #	Dated	Payable to	Amount
1128			
1129			
1132			
1134			

Form 886A		Department of the Treasury - Internal Revenue Service		Schedule No. or Exhibit
Name of Taxpayer		Explanation of Items		Year/Period ended
		Tax Identification Number		
1135				
1136				
1137				
1142				
1143				
1144				
1145				
1146				
1148				
1149				
<b>Total</b>				

During the month of September of \_\_\_\_\_ the other account, Account Number \_\_\_\_\_ had a balance of \$ \_\_\_\_\_ and was closed. The money was not deposited to the other account and the general ledger indicated the money went to \_\_\_\_\_

From all the checks mentioned above and the closed account, the total payments made to \_\_\_\_\_ were \$ \_\_\_\_\_ treated \$ \_\_\_\_\_ as rental payments to himself. Consistent with this approach, \_\_\_\_\_ issued a Form 1099 miscellaneous to \_\_\_\_\_ in \_\_\_\_\_ charged \_\_\_\_\_ per month rental for a 121 square foot room of his residence in \_\_\_\_\_ . \_\_\_\_\_ claimed that \_\_\_\_\_ used that room to conduct its activities. \_\_\_\_\_ asked an agent of Century 21 Money World to determine the fair market value of the property. The real estate agent claimed that the property was worth around \$ \_\_\_\_\_ if \_\_\_\_\_ put the property on the market for sale. \_\_\_\_\_ claims that he calculated the fair rental value of the room by taking the value of the property dividing it by the total square footage of the property to derive a value for each square foot, and finally multiplying that figure by 121. According to \_\_\_\_\_ this yielded the \$ \_\_\_\_\_ per month rental value for 121 square foot room.

\_\_\_\_\_ then treated the remaining \$ \_\_\_\_\_ as a loan to himself. \_\_\_\_\_ did not present any contemporaneous documents memorializing such a loan. On Form 990EZ for tax year ended \_\_\_\_\_ filed the return with an attachment indicating the existence of a loan of \$ \_\_\_\_\_ from \_\_\_\_\_ with an interest rate of 5%. The statement also indicated that the full repayment from \_\_\_\_\_ to \_\_\_\_\_ occurred on \_\_\_\_\_. In fact, no actual payment occurred from \_\_\_\_\_ to \_\_\_\_\_. Rather, \_\_\_\_\_ purports to have paid this back by renting the 121 square foot room to \_\_\_\_\_ at the \$1,000 per month rate. \_\_\_\_\_ reported this rental income on \$ \_\_\_\_\_ as rental payments to him for the \_\_\_\_\_ year on his personal tax return.

The actual rental value of homes in \_\_\_\_\_ neighborhood available for rent ranged in value from 80 cents to one dollar per square foot. Four houses available for

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer	Tax Identification Number	Year/Period ended

rent near residence were examined. The first house was 1.2 miles away from residence; the second house was 3.2 miles away; the third house was 4.4 miles away and the fourth house was 4.5 miles away. For each house, information was publicly available regarding each house's total square footage and the asking rental price for the house. The "per square foot rental value" for these houses was from eighty cents per square foot to one dollar per square foot. In light of these facts, the Service is determine that the fair rental value of the 121 square foot room in residence did not exceed \$350.

### APPLICABLE LEGAL PRINCIPLES

Section 501(a) of the Internal Revenue Code 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.

The term educational includes (a) instruction or training of the individual for the purpose of improving or developing his capabilities and (b) instruction of the public on subjects useful to the individual and beneficial to the community. Treas. Reg. § 1.501(c)(3)-1(d)(3). In other words, the two components of education are public education and individual training.

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 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(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. Better Business Bureau of Washington, D.C. v. U.S., 326 U.S. 279 (1945).

Educational purposes include instruction or training of the individual for the purpose of improving or developing his capabilities and instruction of the public on useful and beneficial subjects. Treas. Reg. § 1.501(c)(3)-1(d)(3). In Better Business

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer	Tax Identification Number	Year/Period ended
		---
		---

Bureau of Washington D.C., Inc. v. United States, 326 U.S. 279 (1945), the Supreme Court held that the presence of a single non-exempt purposes, if substantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes. 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 "advantage; profit; fruit; privilege; gain; [or] interest." Retired Teachers Legal Fund v. Commissioner, 78 T.C. 280, 286 (1982).

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."

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer	Tax Identification Number	Year/Period ended

The Service has issued two rulings holding credit counseling organizations to be tax exempt. Rev. Rul. 65-299, 1965-2 C.B. 165, granted exemption to a 501(c)(4) organization whose purpose was to assist families and individuals with financial problems and to help reduce the incidence of personal bankruptcy. Its primary activity appears to have been meeting with people in financial difficulties to "analyze the specific problems involved and counsel on the payment of their debts." The organization also advised applicants on proration and payment of debts, negotiated with creditors and set up debt repayment plans. It did not restrict its services to the needy. It made no charge for the counseling services, indicating they were separate from the debt repayment arrangements. It made "a nominal charge" for monthly prorating services to cover postage and supplies. For financial support, it relied upon voluntary contributions from local businesses, lending agencies, and labor unions.

Rev. Rul. 69-441, 1969-2 C.B. 115, granted 501(c)(3) status to an organization with two functions: it educated the public on personal money management, using films, speakers, and publications, and provided individual counseling to "low-income individuals and families." As part of its counseling, it established budget plans, *i.e.*, debt management plans, for some of its clients. The debt management services were provided without charge. The organization was supported by contributions primarily from creditors. By virtue of aiding low income people, without charge, as well as providing education to the public, the organization qualified for section 501(c)(3) status.

In the case of Consumer Credit Counseling Service of Alabama, Inc. v. U.S., 44 A.F.T.R.2d 78-5052 (D.D.C. 1978), the District Court for the District of Columbia held that a credit counseling organization qualified as charitable and educational under section 501(c)(3). It fulfilled charitable purposes by educating the public on subjects useful to the individual and beneficial to the community. Treas. Reg. § 1.501(c)(3)-1(d)(3)(i)(b). For this, it charged no fee. The court found that the counseling programs were also educational and charitable; the debt management and creditor intercession activities were "an integral part" of the agencies' counseling function and thus were charitable and educational. Even if this were not the case, the court viewed the debt management and creditor intercession activities as incidental to the agencies' principal functions, as only approximately 12 percent of the counselors' time was applied to debt management programs and the charge for the service was "nominal." The court also considered the facts that the agency was publicly supported and that it had a board dominated by members of the general public as factors indicating a charitable operation. See also, Credit Counseling Centers of Oklahoma, Inc. v. United States, 79-2 U.S.T.C. 9468 (D.D.C. 1979), in which the facts and legal analysis were virtually identical to those in Consumer Credit Counseling Centers of Alabama, Inc. v. United States, discussed immediately above.



Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer	Tax Identification Number	Year/Period ended

The organizations included in the above decision waived the monthly fees when the payments would work a financial hardship. The professional counselors employed by the organizations spent about 88 percent of their time in activities such as information dissemination and counseling assistance rather than those connected with the debt management programs. The primary sources of revenue for these organizations were provided by government and private foundation grants, contributions, and assistance from labor agencies and United Way.

Outside the context of credit counseling, individual counseling has, in a number of instances, been held to be a tax-exempt charitable activity. Rev. Rul. 78-99, 1978-1 C.B. 152 (free individual and group counseling of widows); Rev. Rul. 76-205, 1976-1 C.B. 154 (free counseling and English instruction for immigrants); Rev. Rul. 73-569, 1973-2 C.B. 179 (free counseling to pregnant women); Rev. Rul. 70-590, 1970-2 C.B. 116 (clinic to help users of mind-altering drugs); Rev. Rul. 70-640, 1970-2 C.B. 117 (free marriage counseling); Rev. Rul. 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.

Internal Revenue Code section 501(c)(3) specifies that an exempt organization described therein is one in which "no part of the net of earnings inures to the benefit of any private shareholder or individual." The words "private shareholder or individual" in section 501 to refer to persons having a personal and private interest in the activities of the organization. Treas. Reg. Section 1.501(a)-1(c). The inurement prohibition provision "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).

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.

The Credit Repair Organizations Act (CROA), 15 U.S.C. § 1679 *et seq.*, effective April 1, 1997, imposes restrictions on credit repair organizations, including forbidding the making of untrue or misleading statements and forbidding advance payment, before services are fully performed. 15 U.S.C. § 1679b. Significantly, section 501(c)(3) organizations are excluded from regulation under the CROA.

The CROA defines a credit repair organization as:

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer	Tax Identification Number	Year/Period ended

(A) any person who uses any instrumentality of interstate commerce or the mails to sell, provide, or perform (or represent that such person can or will sell, provide, or perform) any service, in return for the payment of money or other valuable consideration, for the express or implied purpose of—

- (i) improving any consumer's credit record, credit history, or credit rating, or
- (ii) providing advice or assistance to any consumer with regard to any activity or service described in clause (i).

15 U.S.C. § 1679a(3). The courts have interpreted this definition broadly to apply to credit counseling agencies. The Federal Trade Commission's policy is that if an entity communicates with consumers in any way about the consumers' credit situation, it is providing a service covered by the CROA. In Re National Credit Management Group, LLC, 21 F. Supp. 2d 424, 458 (N.D.N.J. 1998).

Businesses are prohibited from cold-calling consumers who have put their phone numbers on the National Do-Not-Call Registry, which is maintained by the Federal Trade Commission. 16 C.F.R. § 310.4(b)(1)(iii)(B); 47 C.F.R. § 64.1200(c)(2). Telemarketers calling to solicit charitable contributions are not covered by the registry. However, if a request is made to not call again, the telemarketers are required to honor such request. If they subsequently call again, they may be subject to a fine of up to \$11,000.

In Plumstead Theatre Society, Inc. v. Commissioner, 74 T.C. 1324 (1980), *aff'd*, 675 F.2d 244 (9th Cir. 1982), the Tax Court held that a charitable organization's participation as a general partner in a limited partnership did not jeopardize its exempt status. The organization co-produced a play as one of its charitable activities. Prior to the opening of the play, the organization encountered financial difficulties in raising its share of costs. In order to meet its funding obligations, the organization formed a limited partnership in which it served as general partner, and two individuals and a for-profit corporation were the limited partners. One of the significant factors supporting the Tax Court's holding was its finding that the limited partners had no control over the organization's operations.

In Revenue Ruling 98-15, the Service ruled that an important factor in evaluating joint ventures between exempt organizations and for-profit entities is the degree of control retained by the exempt entity in operating the joint venture.

Section 501(c)(3) of the Internal Revenue Code prohibits an organization from participating in, or intervening in any political campaign on behalf of (or in opposition to) any candidate for public office.

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer	Tax Identification Number	Year/Period ended

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**EXEMPT ORGANIZATION'S POSITION**

... position has not been determined. ... has explained that he understands the Service is examining credit counseling organizations in response to Congressional investigations. However, he has explained that he does not believe he is similar to the organizations that are not in compliance with section 501(c)(3) operational requirements.

**GOVERNMENT'S POSITION**

The Service contends that ... has a more than insubstantial nonexempt purpose. In addition, the net earnings of ... have inured to ... Both of these reasons are grounds for revoking the section 501(c)(3) exempt status of ...

At its inception, ... was affiliated with ... a for-profit debtor attorney entity. The purpose of setting up ... was to provide maximum benefits to ... s clients so they could receive the benefits of having waived or reduce interest charges or suspend any late charges and over-the-limit fees since ... was established as a nonprofit organization.

... ever had any clients that it claimed it had provided counseling. As ... principal, put in his response, "From the very beginning it was understood that ... clients were not clients of ... but clients of ... It was clearly understood that any fair share money paid by creditors to ... would be used by ... to educate consumers and refer prospective clients to ... " When the Service requested a list of individuals that ... provided counseling, ... was unable to substantiate through documentary evidence that it performed any counseling, having claimed that the records were lost due to its computer's disk drive failure. ... was essentially used as a conduit to further the private interests of ... and its services to its clients.

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer	Tax Identification Number	Year/Period ended

relationship with [redacted] and [redacted] was eventually terminated when [redacted] discovered [redacted] was not using the fair share money to educate the public and refer clients to [redacted]

Subsequently, when [redacted] started the relationship with [redacted] and its related entities, [redacted] initially, did not generate any debt management program at all. For the first six months of [redacted] year, [redacted] received \$ [redacted] 34 fair share from various credit card companies. The majority of its gross revenue was loans from [redacted] an [redacted] related entity. Upon reviewing the bank statements obtained from the receiver, there were no activities for the [redacted] Trust Account and [redacted] Settlement Account for the first six months of [redacted] year. As for the remaining [redacted] Account, approximately seventy percent of the loans were used to pay [redacted] and [redacted]. The remaining was used to pay for the filing fees and supplies.

In the later months of [redacted] year and into the [redacted] year until the [redacted] closed down the operation, [redacted] has a more than insubstantial nonexempt purpose of providing debt management plan to its clients. The overall operation was as follows: [redacted] acted as a call center, referred clients to [redacted] or consultation. Both [redacted] and [redacted] could refer customers to [redacted]. These customers would receive a free consultation which included both a household budget and a credit review. If the caller qualified, s/he would be offered a program that lowered the interest on the accounts, and reduced the number of payments to one payment per month. The call centers had a graph which indicated if the individual had debt of about \$5,000 to \$7,500, the individual would be referred to [redacted]. If the individual had debt of about \$7,500 to \$10,000, the call center representatives had the discretion to refer him or her to [redacted] or [redacted] for Debt Recovery Program which run by [redacted] related entities. [redacted] then provided the accounting services for [redacted] had three enrollment programs and none of the programs mentioned counseling sessions for the clients. The purpose of [redacted] had become to be an arm of [redacted] s enterprise. [redacted] was used for clients who did not have enough debt to warrant the use of debt negotiation or debt settlement services.

From the [redacted] different job descriptions for its employees, there was no description of counseling services performed by these employees. The employees' duties were to verify contracts, verify clients' credit card information, check pending proposals, contact creditors and disburse payments. With the different scripts used by the employees, the scripts mainly clarified what the clients need to provide in order to start the processing. The scripts did not mention any counseling sessions that would be provided to the clients. Hence, there was no education being provided. [redacted] was simply placing clients into debt management plans.

[redacted] did not ever personally manage the daily operations of [redacted] for the years under examination. When [redacted] entered into a business relationship with [redacted]

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer	Tax Identification Number	Year/Period ended

all of purported client records resided in offices. When asked for financial statements from I he stated that, "...All statements, cancelled checks, general ledger, etc. reside at When started the relationship with , all the clients' records and financial records were with I indicated on his response dated I he total backroom operations of were initiated as an outsourcing operation on to All accounting records of including bank accounts, operational data base, etc. are unavailable until the receiver releases them to start up the operations again."

When questioned about the community outreach, stated that he did speak to many people at lunches, etc. and mentioned the speech he did at the retirement government group at the senior citizen center in in When asked whether had any flyers for its outreach, the only handout used by was "All Credit Counseling Companies are not the same." For the years under examination, only established that he had made a single community presentation. Even that presentation was to an organization on which he was a board member.

From July through December of : had been writing checks to himself from the bank account. The total payments for the checks were \$ assigned \$ of the payments as rents charged to for the year There was no rental agreement. He did not provide sufficient information to justify the rental value of \$1,000 per month. He charged \$1,000 per month for a 121 square footage room used by him. The Service did a rental price comparison online and determined that the fair market rental value should only be \$350 per month. The remaining of \$ was treated as a loan to himself with no documentation. He provided an amortization schedule for the loan but none of the scheduled payments was made. again, in year reported the other \$ as rental payments to him. At least \$650 per month over a two-year period constitutes inurement to I

During the first six months of year, did not perform any services for I but did receive a total of \$ (Total payments to were \$ and total payments to were \$ from the loans made by This amount was never reported on s personal income tax return for year. Since did not perform any services for the years under examination, the payments made to him constitute inurement under section 501(c)(3).

**CONCLUSION**

In summary, was not operated exclusively for exempt purposes, because it did not engage primarily in activities that accomplish an exempt purpose, more than an

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer	Tax Identification Number	Year/Period ended

insubstantial part of activities are in furtherance of a non-exempt purpose, was operated for the purpose of serving a private benefit rather than public interest, and a part of the net earnings of inured to the benefit of a private shareholder or individual. Accordingly, it is determined that is not an organization described in section 501(c)(3), and is not exempt from income tax under section 501, effective .