

Number: 201050037
Release Date: 12/17/2010

LEGEND

ORG = Organization name
XX = Date Address = address

501-03.00

Date: September 23, 2010

ORG
ADDRESS

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

Dear :

This is a Final Adverse Determination Letter as to the ORG exempt status under section 501(c)(3) of the Internal Revenue Code.

Our adverse determination was made for the following reasons:

The ORG has not been operating exclusively for exempt purposes within the meaning of Internal Revenue Code section 501(c)(3). You are also not a charitable organization within the meaning of Treasury Regulations section 1.501(c)(3)-1(d). You are not an organization which operates exclusively for one or more of the exempt purposes which would qualify it as an exempt organization. You operate substantially for a non-exempt purpose, for private benefit, and your earnings inure to the benefit of the officers of the organization.

Based upon these reasons, your IRC section 501(c)(3) tax exempt status is revoked effective January 1, 20XX. You have signed Form 6018, "Consent to Proposed Action", agreeing to the revocation of your exempt status under section 501(c)(3) of the Code.

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

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

If you decide to contest this determination in court, you must initiate a suit for declaratory judgment in the United States Tax Court, the United States Claim Court or the District Court of the United States for the District of Columbia before the 91st day after the date

this determination was mailed to you. Contact the clerk of the appropriate court for the rules for initiating suits for declaratory judgment.

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

You can call 1-877-777-4778 and ask for Taxpayer Advocate assistance. Or you can contact the Taxpayer Advocate from the site where the tax deficiency was determined by calling (412) 395-5987, or writing to: Internal Revenue Service, Taxpayer Advocates Office, 1000 Liberty Avenue, Room 1400, Pittsburgh, Pennsylvania 15222. Taxpayer Advocate assistance cannot be used as a substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determinations, nor extend the time fixed by law that you have to file a petition in the United States Tax Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling.

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

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

Sincerely yours,

Nanette M. Downing
Director, EO Examinations

Internal Revenue Service

Department of the Treasury
TE/GE Exempt Organizations Examinations
1000 Liberty Avenue, Room 711
Pittsburgh, Pennsylvania 15222

Date: March 12, 2010

ORG
ADDRESS

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Certified Mail - Return Receipt Requested

Dear

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

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

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

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

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

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

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

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

Thank you for your cooperation.

Sincerely,

Nanette M. Downing
Acting Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Report of Examination

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN	Year/Period ended 12/31/20XX

LEGEND

ORG = Organization name XX = Date Address = address City = city State = state
County = county Superintendent = superintendent Sheriff = sheriff
Judge = judge President = president VP = VP Treasurer = treasurer
Attorney = attorney BCI = BCI CO-1, CO-2, CO-3, CO-4, CO-5, CO-6, CO-7 & CO-8 =
1ST, 2ND, 3RD, 4TH, 5TH, 6TH, 7TH & 8TH COMPANIES RA-1 THRU RA-14 = 1ST THRU 14TH RA

Issue:

Whether or not ORG continues to qualify for exemption under Section 501(c)(3) of the Internal Revenue Code.

Facts:

The ORG filed the 20XX Form 990 with the Internal Revenue Service on May 19, 20XX. The stated purpose of the organization as shown on the 20XX Form 990 is to educate the public and police officers including the dissemination of information on the dangers of drug and alcohol abuse. President is listed as President of ORG on the 20XX Form 990, and VP is listed as Vice President. Treasurer is listed as Treasurer of the organization.

The ORG attached a brochure to its 20XX Form 990 describing its activities. The brochure states that the organization is recognized as a non-profit charitable organization whose general purpose is to educate the public and law enforcement officers on the dangers of drug and alcohol abuse. The brochure states that the ORG strives to ensure that its law enforcement membership receives the most advanced educational, physical, and professional training available to them. The brochure states that members of the ORG include local, state, and federal law enforcement officers from across the State of State. The brochure states that the organization is also a member of the CO-1 Coalition.

The brochure states that there are approximately \$ law enforcement officers in the State of State. The brochure states that the members of the ORG are initiating a campaign for drug awareness and to substitute sports and activities as a healthier addiction as opposed to drugs. The brochure states that the organization was formed in 20XX and has given monetary donations or volunteered time to many youth programs such as the YMCA and YWCA. The brochure states that the ORG has sponsored state and international police and fire games, and has provided education to State law enforcement officers, the Salvation Army, American Cancer Society, Red Cross, and the CO-2. The brochure states that the organization has responded by helping with the and Hurricane and Hurricane relief efforts. The brochure states that the organization is awarding financial aid for collegiate students from the State of State who are majoring in criminal justice or related fields.

Detail of Requests to Obtain Information Regarding ORG

On July 6, 20XX, the organization's Treasurer, Treasurer was contacted by phone. Treasurer confirmed that he is Treasurer of the ORG. Treasurer was advised by the Internal Revenue Service that the organization's 20XX Form 990 was selected for examination. Treasurer stated that the organization stopped operating at the end of 20XX due to the ongoing investigation by the State of State, but has not formally terminated through the state. Treasurer stated that he has a court hearing on July 15, 20XX and requested his attorney be contacted. Letter 3611 with an Information Document Request, Publication 1,

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and Form 2848 with instructions was mailed to Treasurer at Address in City, State which is the organization's address of record.

On July 13, 20XX at 4:28 p.m., a voicemail message was received from Treasurer. He stated that his attorney, Attorney, will work with the Internal Revenue Service regarding the examination of the organization's 20XX Form 990. Treasurer stated that he will provide Form 2848 to Attorney to complete and forward to the Internal Revenue Service. Treasurer stated that the sentencing date of July 15, 20XX will be rescheduled and that he will be on vacation from July 14, 20XX through July 19, 20XX.

On July 27, 20XX at 1:42 p.m., a voicemail message was received from Attorney who stated that he was calling on behalf of the ORG and Treasurer. Attorney provided his telephone number as #. On July 28, 20XX at 11:00 a.m., Attorney was contacted by phone. Attorney stated that he represents Treasurer and stated that Treasurer and the other officer are scheduled to appear in court on August 12, 20XX for sentencing. Attorney stated that the purpose of his call was to advise the Internal Revenue Service to void all further contact with Treasurer until after August 12, 20XX. Attorney stated that he is an attorney from , State and he is representing Treasurer and stated that there is an attorney from City, State who is representing President. Attorney stated that he would not be representing Treasurer in front of the Internal Revenue Service.

On October 6, 20XX, Letter 1995 with attachment was mailed to BCI, Special Agent with the Bureau of Criminal Identification and Investigation (BCI), Charitable Law Section located at Address, City, State. A response was requested within 10-days. On October 16, 20XX at 1:10 p.m., a voicemail message was received from BCI. He stated that he received the request from the Internal Revenue Service and was the Agent-in-Charge of the case. He provided his telephone number as #.

On October 19, 20XX at 10:45 am, BCI was contacted by phone. BCI inquired whether the request sent by the Internal Revenue Service was a subpoena. BCI was advised that the request was not a subpoena. Letter 1995 with attachment is a 3rd party request that is sent to individuals or organizations who the Internal Revenue Service believes may have information that may be helpful in an examination of an organization. BCI stated that the request is currently being reviewed by BCI's counsel. BCI stated that he identified \$ that was spent by the organization on non-charitable activities. BCI stated that RA-1 is a local fundraiser for police departments and appears to be the person that suggested to the ORG to engage in these activities.

On November 6, 20XX at 11:53 a.m., a voicemail message was received from RA-2, Senior Assistant Attorney General for the State Bureau of Criminal Identification and Investigation. RA-2 stated that she was requesting an extension to December 16, 20XX to provide the information requested by the Internal Revenue Service. She provided her telephone number as #. On November 9, 20XX, at 12:30 p.m., RA-2 was contacted by phone. RA-2 stated that she will review the information before disclosing it to the Internal Revenue Service.

On February 1, 20XX at 7:50 a.m., a voicemail message was left for RA-2 inquiring about the status of information requested to be provided by the State Bureau of Criminal Identification and Investigation regarding the ORG. At 9:30 a.m., RA-2 called and stated that her office is still working on compiling the information. She stated that there is a lot of information that she needs to review and verify that items are properly redacted. RA-2 advised the Internal Revenue Service that the information would be provided by the end of the month. On March 5, 20XX, the Internal Revenue Service received information from the State Bureau of Criminal Identification and Investigation regarding the ORG.

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Federal Return

Exhibit 1 illustrates the revenues and expenses of the ORG as reported on its 20XX Form 990 with the Internal Revenue Service. The ORG did not file the 20XX Form 990.

Exhibit 1:

20XX Form 990	Amount:	Percentage:
Revenue		
Indirect Public Support		
Total Revenue		
Expenses		
Professional Fundraising Fees		
Telephone		
Grants Paid from Donor Advised Funds		
Conferences, Conventions, and Meetings		
Travel		
Supplies		
Depreciation and Depletion		
Utility		
Accounting Fees		
Equipment Rental and Maintenance		
Postage and Shipping		
Legal Fees		
Printing and Publications		
Benefits Paid To or From Members		
Total Expenses		
Net Income (Loss)		

Online Newspaper Articles Related to Activities of ORG

Date: September 26, 20XX

Headline: " "

Author: RA-2

Link:

RA-3 – Two sheriff’s deputies involved with a charitable organization under investigation by the state apologized last week to their supervisor for “embarrassing the department,” a Sheriff’s Office administrator said Thursday. City Sheriff requested the State Bureau of Identification and Investigation to look into how money belonging to the State Narcotics Association was being spent, according to a letter he sent to the state bureau. Sheriff wanted the non-profit organization investigated “for alleged illegal fund-raising” after the Sheriff’s Office received complaints “regarding possible violations of State law,” the letter to BCI Deputy Superintendent states.

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The State Secretary of State's Office lists City Sergeant Treasurer and Sergeant President as the organization's initial directors, and Treasurer is listed as its statutory agent. Sheriff said the investigation does not involve the Sheriff's Office and no charges have been filed. Sheriff declined to elaborate further, saying the matter is a state investigation. Sheriff's Office Chief of Operations RA-4 said he met with President on September 19, 20XX and spoke with Treasurer by telephone a day later. He said the men apologized, in his opinion, because they were aware of the BCI investigation. "President came down to the office and apologized for embarrassing the department and letting me down", RA-4 said. "Treasurer called and apologized for embarrassing the department and letting me down also. If their private lives were as good as their law enforcement lives, we wouldn't be having this conversation. It has nothing to do with the sheriff's office," RA-4 said, but declined to offer further explanation.

Incorporation papers for the narcotics organization indicate the corporation was incorporated in 20XX specifically to educate the public and distribute information on the dangers of drug and alcohol abuse. President and Treasurer, who have been on sick leave from the Sheriff's Office for about a week, according to the sheriff, could not be reached for comment. A message seeking comment was left on President's sheriff's office issued cell phone. A message seeking comment with Treasurer was left on his home answering machine. The two have frequently found themselves in the public eye. In 20XX, President and Treasurer were charged in connection to a brawl outside CO-3, a City bar. The charges were later dropped due to inconsistencies among the parties, but an internal investigation at the sheriff's office resulted in the two receiving written reprimands for violating policy. President also has been convicted of lying on an affidavit for a search warrant. In 20XX, the two traveling to City to collect a prisoner rescued two women from a burning vehicle. The women were trapped in the vehicle, which caught on fire after a crash. They pried open a door to free the women before the truck was full of flames. They were recognized by the State Senate for their actions.

Date: October 14, 20XX

Headline: " "

Author:

Link:

The City County Sheriff has recommended termination for two sergeants accused of using a non-profit narcotics organization for their personal gain. RA-6, Chief Deputy Sheriff, said Sergeant RA-5 and Sergeant Treasurer were informed of administrative charges to that effect October 3, 20XX. The letter notifying them of the decision says they improperly converted donations to their personal use, RA-6 said. Both men are exercising their contractual right to appeal the recommendation, RA-6 said, adding that Sheriff is likely to be the hearing officer who handles the matter this morning at the Sheriff's office. RA-6 said the scheduled hearing will be closed to the public.

If the hearing officer agrees with the recommended firing, the men could take the matter to an arbitrator, RA-6 said. That is the last of the two appeals outlined in the officers' contract, RA-6 said. A couple of options for the hearing officer today are affirming termination of their employment or suspending them without pay until the matter is fully resolved, RA-6 noted. President and Treasurer have been on sick leave since September 22, 20XX.

President is a detective and member of the City County Homicide Task Force, and Treasurer is Chief of the Sheriff's Civil Division, which serves documents such as subpoenas and criminal paperwork. The two men founded the ORG in 20XX to solicit money for charitable organizations, especially those that educate the public and distribute information on the dangers of drug and alcohol abuse. The organization, through

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a professional fund-raising company, collected more than \$ statewide – much of it over the telephone, RA-6 said.

Some of the money was paid to the fund-raising company, RA-6 said. The amount President and Treasurer allegedly converted to personal use is not yet determined, RA-6 said, adding that no criminal charges have been filed against either man. After complaints were received about the organization, Sheriff asked the State Bureau of Criminal Identification and Investigation to look into the matter. BCI's investigation continues, RA-6 added. County prosecutor RA-7 has asked for a special prosecutor to be appointed to the case, RA-6 said, but he doesn't know if one has been appointed.

Date: October 15, 20XX

Headline: "

Author: RA-8

Link:

RA-3 – Two sergeants in the City County Sheriff's Department accused of taking charitable donations for their personal use have resigned. Sergeant President and Sergeant Treasurer notified Sheriff through their attorneys Tuesday that they will resign effective November 3, 20XX. Sheriff accepted the resignations, said RA-6, Chief Deputy Sheriff. The resignations eliminated the need for a hearing set for Tuesday morning that would have allowed the men to fight the sheriff's recommendation that they be fired. They would have had the opportunity to appeal the sheriff's decision to an arbitrator. President and Treasurer have been on sick leave since September 22, 20XX.

Sheriff recommended that President and Treasurer be fired for converting donations collected in the name of the State Narcotics Officers Association for their personal use. The men started the organization in 20XX and paid a fund-raising organization to solicit contributions by telephone and other means for the purpose of giving money to charitable organizations, especially those that educate on the dangers of drug and alcohol abuse. The sheriff referred the matter to the State Bureau of Criminal Identification and Investigation to determine whether any crimes were committed. RA-6 said that he's not aware of any charges being filed against the men.

The organization collected more than \$ across the state since it began, RA-6 said, adding that he doesn't know how much the men are accused of taking for themselves. City County Prosecutor RA-7 said he is aware that a criminal investigation has been started, and it's possible that prosecution will occur in another county. If a case is brought to him to be prosecuted in City County, RA-7 said, he will ask that a special prosecutor be appointed because of the working relationship the prosecutor's office has with the men. President is a detective and member of the Homicide Task Force. He was the lead investigator on the 20XX RA-9 double murder case in City. Treasurer is Chief of the Sheriff's Civil Division, which serves documents such as subpoenas and criminal paperwork.

Date: May 6, 20XX

Headline: "

Author: RA-8

Link:

RA-3 – RA-10, County prosecutor, will be sworn in today as special prosecutor handling the investigation into allegations that two top employees of the City County Sheriff's Department stole money from a charity they ran and conducted illegal fundraising.

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their benefit and that of their family and friends. In all, though, the two are charged with theft of between \$ and \$, which carries potential sentences of 6 to 18 months in prison and a \$ fine. However, they could be eligible for probation, when they would be ordered to make full restitution.

Among the overt acts outlined in the report are:

- Both deputies used 62 checks drawn on an account for "ORG" to pay for \$ in cell phones and cell phone services for themselves, family, and friends about a year ago.
- Treasurer used \$ as a buy-in for a poker tournament and other money for dance or karate lessons and Christmas gifts for his kids.
- President bought countless tools and supplies at CO-5 and used a credit card from the organization to have rotors installed on his father's vehicle.
- President used \$ to send his daughter to summer camp at CO-6 in State.
- President paid \$ to transport his step-daughter's horse to the State State Fair, and another \$\$ in eight purCO-8s for items needed for the trip.
- Treasurer bought \$ in sheriff's department uniforms and was then reimbursed by the county for the clothing.
- Treasurer bought a \$ TV-treadmill with donations and then gave the equipment to a local gym when he found out that the organization was under investigation.
- Treasurer wrote nine checks totaling \$ for entrance and sponsorship fees for sporting activities for his children.
- Treasurer wrote 34 checks totaling \$ to pay for home internet and his monthly cable television bill.
- Treasurer charge \$ at Sam's Club for personal items.
- President charged \$ for mostly alcoholic drinks at CO-7 restaurant.
- President spent \$ for clothing for himself from

On Friday, the two former deputies stood with their attorneys before City Common Pleas Judge and pleaded no contest to bills of information charging them each with fourth-degree felony charges of grand theft. They were found guilty and ordered to undergo a pre-sentence investigation by Adult Probation Officers, who will set a precise amount of restitution to be made to a Charitable Trust Organization of the State Attorney General's Office. Defense Attorney was successful in convincing Judge to forgo the use of any handcuffs when both men were taken to City County Jail for formal booking.

Special Prosecutor RA-10, from County, pointed out the two former detectives, who resigned November 3, 20XX, still have about \$ in their possession – an amount Judge ordered forfeited and forwarded to the Attorney General as well. Both Attorney and RA-10 lashed out at charitable telephone solicitation firms in general and in particular a similar telemarketing company called RA-14 that Attorney said recruited the two deputies and convinced them to start and incorporate the State Narcotics Officers Association. "These companies can rake in up to 90-percent of the donations. It doesn't go to benefit any kids," Attorney said. RA-10 pointed out the companies are completely legal, but are allowed to charge as RA-14 did, 85-percent of the donations brought in.

Under an agreement, the ORG got 14 percent and 1 percent went to RA-1. RA-1 is a professional fundraiser, who was one of the men that suggested Treasurer and President start the State Narcotics Officers Association, according to the BCI report. A detailed report compiled by Special Agent BCI of the State Bureau of Criminal Identification and Investigation says RA-14, which operates out of State and

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State, was paid \$ between July 20XX and April 20XX. "It is difficult to calculate the total amount raised by RA-14 due to the changing agreement," the report states.

"The State Narcotics Officers Association used (a CO-8 Bank account) to receive and distribute the funds raised by the charity. From July 20XX to April 20XX, a total of \$ was deposited in the account and \$ in checks were written on the account," BCI's report states. Another \$ was charged to credit cards and was paid from the same State Narcotics Officers Association account. Sheriff terminated both men following an internal review that turned up allegations of "conflict of interest, dishonesty, untruthfulness and failure to observe laws." Last October, Sheriff asked BCI to investigate the deputies' involvement with the ORG.

In 20XX, President and Treasurer were charged in connection with a brawl outside CO-3, a City bar. The charges were later dropped due to inconsistencies among the parties, but an internal investigation at the sheriff's office resulted in the two receiving written reprimands for violating policy. President also has been convicted of lying on an affidavit for a search warrant when he worked for the Bookfield Police Department. In 20XX, the two traveling to City to collect a prisoner, rescued two women from a burning vehicle. The women were trapped in the vehicle, which caught fire after a crash. They pried open a door to free the women before the truck was full of flames. They were recognized by the State Senate for their actions. Both men also received commendations as crime scene investigators with the City County Homicide Task Force, formed by City Prosecutor RA-7. RA-7 had asked that RA-10 be called in as a special prosecutor after the conflict of interest arose.

Date: October 1, 20XX

Headline: "

Author: RA-8

Link:

RA-3 – Treasurer, a former sergeant in the City County Sheriff's Department, said a gambling problem led him to steal \$ from a charitable organization he and a fellow sheriff's sergeant formed in 20XX. Treasurer was ordered Wednesday to repay the money and spend 90-days in the County Jail as part of his five-year probation for the thefts. His co-defendant, President, who was lead detective in a high-profile 20XX murder case, was ordered to pay back the \$ he stole and spend 30 days in the County Jail during his five-year probation.

Both men are never allowed to work in law enforcement or security again, ordered to have no further contact with each other and complete 100 hours each of community service. Both men said they never intended to do anything illegal when they formed the State Narcotics Officers Association. "I took advice from someone I shouldn't have," President said, adding that he believes he "did a lot of good for City County" during his years in law enforcement. His attorney, Attorney, said President, 47 "didn't have the purse strings over these accounts" and intended to pay back the stolen money but knew it was too late once an investigation began.

An investigation by the State Bureau of Criminal Identification and Investigation showed that the men used the organization's money to take trips to City as early as 20XX and pay for cell phones, dance lessons, and summer camps for other family members, as well as handguns and other items for their personal use. Treasurer, 41, was Chief of the Sheriff's Civil Division, which serves documents such as subpoenas and criminal paperwork. Both men resigned in November after Sheriff threatened to fire them. "Neither one of you [is a bad person]. Quite to the contrary, you are both very good people [who] used very

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poor judgment and most definitely lost your ethical compass to divert these well-intended funds for your personal use," Judge of City County Common Pleas Court told Treasurer and President.

Both sergeants worked in Judge's courtroom – Treasurer as a deputy who escorted prisoners to the courthouse from the City County Jail and President as lead detective in the aggravated murder trial of RA-9 in 20XX. "Both defendants have already paid a tremendous price for their ill-gotten gains. You have been summarily dismissed from your chosen career of law enforcement and have relinquished your peace officer certificates," Judge said. "You have both been humiliated and suffered from the embarrassment of pleading guilty to a bill of information charging you with grand theft in the very court that processed your charges against others that violated the law." Judge said he was sentencing both men to jail for their fourth-degree felony convictions because their conduct was "egregious," they diverted charitable contributions for their own use, and they used their position as police officers to "gain the trust of those that donated their hard-earned money."

The men started the organization in 20XX at the urging of RA-14, a City, State based fundraising company, and RA-1 of the State Narcotics Officers Association. RA-14 would take percent to percent of the profits, and the narcotics association would use the rest to educate police officers and the public on drug abuse, Treasurer and President told investigators from BCI last September. Among the "questionable" ways Treasurer and President spent the proceeds from the organization was a trip to City to meet with RA-14 in which \$\$ of narcotics association's money was used, BCI said. There also were monthly charges to an American Express card, trips to City in 20XX and 20XX, and charges for cell phones used by Treasurer's wife and stepson and by President, his daughter and his father.

Judge allowed President to report to the City County Jail on October 16 to be transported to the County Jail and Treasurer to report on November 7. RA-10, County prosecutor, who served as special prosecutor in the case, said RA-14 raised about \$ since 20XX, most of it in State. Very little of the money went to its intended purpose, RA-10 said. Treasurer and President forfeited about \$\$ of the organization's proceeds to the trust organization division of the State Attorney General's Office earlier. That is also where the restitution money will go as Treasurer and President pay it back in monthly installments, Judge said. If Treasurer and President fail to abide by the conditions of their probation, each could go to prison for 17 months.

Date: October 21, 20XX

Headline: "

Author: Unknown

Link:

A former City policeman and City County sheriff's deputy started a 30-day jail sentence Friday on a charge of grand theft. RA-5, 46, of City, pleaded no contest to the charge for allegedly starting a fundraising organization to teach the dangers of drugs and alcohol, and then pocketing most of the money. President was a sergeant with the City County Sheriff's Department prior to his resignation in November. President was granted work release to maintain his construction job. He must pay \$ restitution and is not allowed to work in law enforcement or security.

Sheriff asked the State Bureau of Criminal Identification and Investigation to investigate President and another deputy, Treasurer, after he determined they had converted funds to personal use. Treasurer, 41, of City, State, pleaded guilty to the same offense, and will serve his 30-day jail term in November. President was found guilty August 19, 19XX, by Judge for including a false statement in an affidavit used to

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search a Address, , home for drugs. He was a City detective at the time the warrant was obtained but had left for the sheriff's department by the time of the trial. Judge sentenced President to a \$ fine, and Sheriff suspended him for 60 days as a result of the conviction.

Law:

Internal Revenue Code

Section 501 of the Internal Revenue Code provides for the exemption from federal income tax of corporations organized and operated exclusively for charitable or educational purposes, provided that no part of the net earnings of such corporations inures to the benefit of any private shareholder or individual.

Section 6001 of the Code provides that every person liable for any tax imposed by the Code, or for the collection thereof, shall keep adequate records as the Secretary of the Treasury or his delegate may from time to time prescribe. Whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for tax under this title.

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

Federal Tax Regulations

Section 1.501(c)(3)-1(a)(1) of the Federal Tax 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(a)-1(a)(2) of the regulations states that an organization may ordinarily rely on a favorable determination letter received from the Internal Revenue Service. However, the Commissioner may revoke a favorable determination letter for good cause.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization operates exclusively for exempt purposes only if it engages primarily in activities that accomplish exempt purposes specified in Section 501(c)(3) of the Code. An organization must not engage in substantial activities that fail to further an exempt purpose.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization is not organized or operated exclusively for exempt purposes unless it serves a public rather than a private interest. To meet this requirement, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests.

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Section 1.501(c)(3)-1(d)(2) of the regulations defines the term "charitable" as used in Section 501(c)(3) of the Code as including the relief of the poor and distressed or underprivileged, and the promotion of social welfare by organizations designed to lessen neighborhood tensions, eliminate prejudice and discrimination, or combat community deterioration. The term "charitable" also includes the advancement of education.

Section 1.501(c)(3)-1(d)(3)(i) of the regulations provides, in part, that the term "educational" for Section 501(c)(3) purposes relates to the instruction of the public on subjects useful to the individual and beneficial to the community.

Section 1.501(c)(3)-1(e) of the regulations provides that an organization that operates a trade or business as a substantial part of its activities may meet the requirements of Section 501(c)(3) if the trade or business furthers an exempt purpose, and if the organization's primary purpose does not consist of carrying on an unrelated trade or business.

Treasury Regulation Section 1.6001-1(a) in conjunction with Treasury Regulation Section 1.6001-1(c), provides that every organization exempt from tax under Internal Revenue Code Section 501(a) and subject to the tax imposed by Internal Revenue Code Section 511 on its unrelated business income, must keep such permanent books of accounts or records, including inventories, as are sufficient to establish the amount of gross income, deduction, credits, or other matters required to be shown by such person in any return of such tax. Such organization shall also keep such books and records as are required to substantiate the information required by Section 6033 of the Internal Revenue Code.

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

Section 1.6033-2(a)(1) of the regulations states that every organization exempt from taxation under Section 501(a) shall file an annual information return specifically setting forth its items of gross income, gross receipts and disbursements, and such other information as may be prescribed in the instructions issued with respect to the return. Such return shall be filed annually regardless of whether such organization is chartered by, or affiliated or associated with, any central, parent, or other organization.

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

Court Case

In the case of New Dynamics Foundation v. The United States, 70 Fed. Cl. 782, the United States Court of Federal Claims held that the organization does not qualify for federal tax exemption under Section 501(c)(3) of the Internal Revenue Code. The Court stated that New Dynamics Foundation and related donor foundations were not "operated exclusively" for exempt purposes, and therefore the organization was not entitled to federal income tax exemption. The Court stated that New Dynamics Foundation's promotional materials revealed that the organization was designed to "warehouse wealth", that is, to allow

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donors to "contribute" property and cash to their foundations, control the investment of those resources, and then have the income and appreciation on the principal accrue or be realized tax-free.

The final ruling stated that New Dynamics Foundation did not qualify as an exempt organization because it failed to establish (i) that it was operated exclusively for purposes described in Section 501(c)(3) of the Code; (ii) that its net earnings would not inure to the benefit of private individuals; and (iii) that more than an insubstantial part of its activities would further private purposes rather than purposes described in Section 501(c)(3) of the Code. On April 5, 1999, New Dynamics Foundation filed suit in the United States Court of Federal Claims seeking a declaratory judgment that it is exempt from federal income tax under Section 501(a) of the Code, as an organization described in Section 501(c)(3) of the Code.

The Court stated that Article II of New Dynamics Foundation's Articles of Incorporation set forth the purposes of the organization, among which was "to promote and or contribute to charitable causes which serve the public good... as defined in Section 170(c) of the Code, adding that "such objectives may be met independently and by working with other tax exempt organizations since many 501(c)(3) organizations have similar objectives as ours under Section 501(c)(3) of the Code". The Court stated that the articles, in terms later echoed by New Dynamics Foundation's bylaws, further provided that "no part of the net income or assets of the organization shall ever inure to the benefit of any director, officer, or member thereof or to the benefit of any private person." They concluded by indicating that "the property of this corporation is irrevocably dedicated to charitable purposes," indicating that upon dissolution, the corporation's remaining assets would be distributed to a tax-exempt organization.

The Court stated that according to an August 25, 1996 letter submitted to the Internal Revenue Service, the Board of Directors of New Dynamics Foundation initially identified "as areas of activity and focus" during its first year of operation as (i) promoting the education of students in computers and in entrepreneurship; (ii) providing support to prison ministries and to groups that provide drug and alcohol abuse education; and (iii) providing support to animal rights organizations and groups and organizations that work for the conservation and preservation of forest lands and wildlife management. The Court stated that other documents indicate that New Dynamics Foundation planned to work with financial and tax professionals to establish accounts for individuals, who, over time, could direct the use of those funds for alleged charitable purposes. The Court noted that in various promotional materials, New Dynamics Foundation stated that "money, investments, and other property within a public charity grow tax-free, not tax deferred," and that "since growth within a public charity is tax-free, not tax deferred, effort should be made to earn a fair return within prudent risk parameters."

On January 29, 1998, the Internal Revenue Service issued a proposed final adverse determination letter denying New Dynamics Foundation application for tax-exempt status. The ruling began with a summary of what the Internal Revenue Service believed were the facts surrounding New Dynamics Foundation formation and operation. The ruling made the various findings, as follows: "While your Articles of Incorporation provide that you are organized for charitable purposes, your activities have demonstrated that you are not operated exclusively for charitable purposes. You aggressively market, and have permitted others to aggressively market, your services as part of a classic tax scheme. You have provided information to your "contributors" which clearly misstates settled principles of law. In particular, you have advised your "contributors" that money placed in one of your sub-accounts can and should be used for the "contributors" personal benefit. You have gone beyond mere advice, you have set up the sub-accounts in a way that provides the donor with control over the funds. While you stated to the Internal Revenue Service that all funds belong to you and that you have control over their use for charitable purposes, in operation this is not the case. Your "contributors" control their individual accounts. In many cases, such as

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expenditures for personal medical costs, for entertainment expenses, for personal educational expenses, our "contributors" directors have not resulted in a bona fide charitable contribution.

The information submitted in the file indicates that you are operating for the private benefit of your donors, your directors, and the agents of the for-profit organizations aggressively marketing your services. Evidence that you are operating for your donors private interests is based upon the aggressive marketing of your subaccounts. The for-profit organizations induce owners to establish sub-accounts by presenting benefits of an income tax deduction, a lower estate for determination of estate tax, the right to retain control over their contribution by being able to recommend how funds are to be invested, and the right to "appoint" who will be able to make advisory decisions in the event of a donor's death."

The Court stated that under Section 501(c)(3) of the Code, an organization is entitled to federal tax exemption if, it is "organized and operated exclusively for religious, charitable...or educational purposes...no part of the net earnings of which inures to the benefit of any private shareholders or individuals." The Court stated that failure to satisfy any of these requirements results in an organization being disqualified from tax exemption. The burden is on the applicant to establish that it meets these statutory requirements. 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) of the Code, but will not be so regarded if more than an insubstantial part of its activities is not in furtherance of exempt purposes. When an organization operates 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, the organization by definition does not operate exclusively for exempt purposes. The Court held that New Dynamics Foundation failed to operate exclusively for exempt purposes and denied that it was operating in accordance with the stated exempt purposes under Section 501(c)(3) of the Code.

Revenue Ruling

Revenue Ruling 59-95, 1959-1 CB 627, held that an organization's failure or inability to file the required information return or otherwise to comply with the provision of Section 6033 of the Code and regulations which implement it, may result in the termination of its exempt status, on the grounds that the organization has not established that it is observing the conditions required for the continuation of an exempt status.

Taxpayer's Position:

ORG's position with respect to the issues, facts, applicable law, and government's position as discussed in this report is unknown. The organization will be allowed 30-days to review this report and respond with a rebuttal if considered necessary.

Government's Position:

In order to qualify for exemption under Internal Revenue Code Section 501(c)(3), an organization must be both organized and operated exclusively for charitable or educational purposes, provided that no part of the net earnings of such corporation inures to the benefit of any private shareholder or individual. Section 1.501(c)(3)-1(d)(2) of the regulations defines the term "charitable" as used in Section 501(c)(3) of the Code as including the relief of the poor and distressed or underprivileged, and the promotion of social welfare by organizations designed to lessen neighborhood tensions, eliminate prejudice and discrimination, or combat

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community deterioration. The term "charitable" also includes the advancement of education. Section 501(c)(3)-1(d)(3)(i) of the regulations provides, in part, that the term "educational" for Section 501(c)(3) purposes relates to the instruction of the public on subjects useful to the individual and beneficial to the community. An organization is not exempt under Section 501(c)(3) of the Code if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

ORG is operating in a manner similar to the case considered in New Dynamics Foundation v. The United States, 70 Fed. Cl. 782, in which the United States Court of Federal Claims held that the organization does not qualify for federal tax exemption under Section 501(c)(3) of the Internal Revenue Code. The Court stated 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) of the Code, but will not be so regarded if more than an insubstantial part of its activities is not in furtherance of exempt purposes. The Court stated that the burden is on the organization to establish that it meets the statutory requirements under Section 501(c)(3) of the Code. The Court stated that when an organization operates 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, the organization by definition does not operate exclusively for exempt purposes.

The primary purpose of ORG as stated in its 20XX Form 990 is "educating the public and police officers including the dissemination of information on the dangers of drug and alcohol abuse." Section 501(c)(3) of the Internal Revenue Code provides for the exemption from federal income tax to corporations organized and operated exclusively for charitable or educational purposes, provided no part of the net earnings of such corporations inures to the benefit of any private shareholder or individual. The officers of ORG failed to safeguard the public charity's assets and allowed the organization's income to inure to the benefit of its President and Treasurer. The use of a public charity's assets in this manner is a direct violation of the requirements under Section 501(c)(3) of the Internal Revenue Code. This is clearly evident in the investigative report compiled by the State Bureau of Criminal Identification and Investigation that was identified in the May 16, 20XX article written by RA-13 entitled " " identified at <http://www.> The investigative report listed the following diversion of assets of ORG between August 20XX and April 20XX:

- Both deputies used 62 checks drawn on an account for "ORG" to pay for \$ in cell phones and cell phone services for themselves, family, and friends about a year ago.
- Treasurer used \$ as a buy-in for a poker tournament and other money for dance or karate lessons and Christmas gifts for his kids.
- President bought countless tools and supplies at CO-5 and used a credit card from the organization to have rotors installed on his father's vehicle.
- President used \$ to send his daughter to summer camp at CO-6 in State.
- President paid \$ to transport his step-daughter's horse to the State State Fair, and another \$\$ in eight purCO-8s for items needed for the trip.
- Treasurer bought \$ in sheriff's department uniforms and was then reimbursed by the county for the clothing.
- Treasurer bought a \$ TV-treadmill with donations and then gave the equipment to a local gym when he found out that the organization was under investigation.
- Treasurer wrote nine checks totaling \$ for entrance and sponsorship fees for sporting activities for his children.

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- Treasurer wrote 34 checks totaling \$ to pay for home internet and his monthly cable television bill.
- Treasurer charged \$ at Sam's Club for personal items.
- President charged \$ for mostly alcoholic drinks at CO-7 restaurant.
- President spent \$ for clothing for himself from Dillard's Department Store.

Conclusion:

The ORG is not operating to further tax-exempt purposes under Section 501(c)(3) of the Internal Revenue Code. The organization operated for the primary benefit of its President and Treasurer. The exempt status of ORG under Section 501(c)(3) of the Internal Revenue Code is to be revoked effective January 1, 20XX, which is the first day of the tax year under examination. Forms 1120 returns should be filed for the tax years 20XX and future years until the organization files Articles of Dissolution with the State of State.