



IRS, Private Letter Ruling, Section 501 - Exemption from Tax on Corporations,  
Certain Trusts, etc, PLR 202336025

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IRS, Private Letter Ruling, Section 501 - Exemption from Tax on Corporations, Certain Trusts, etc,  
PLR 202336025

Department of the Treasury  
Internal Revenue Service  
Private Letter Ruling

**PLR 202336025 - Section 501 - Exemption from Tax on Corporations, Certain Trusts, etc**

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

Number: **202336025**

Release Date: 9/8/2023

**UIL: 501.03-00**

**Date:**

**June 5, 2023**

**Taxpayer ID number (last 4 digits):**

**Form**

**Tax periods ended:**

**Person to contact:**

**Name:**

**ID number:**

**Telephone:**

**Fax:**

**Last day to file petition with United States Tax Court:**

**CERTIFIED MAIL - Return Receipt Requested**

Dear [redacted data]:

**Why we are sending you this letter**

**Bloomberg Law<sup>®</sup>**

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**// PAGE 1**

This is a final determination explaining why your organization doesn't qualify as an organization described in **Internal Revenue Code** (IRC) Section **501(c)(3)** for the tax periods above.

Our adverse determination as to your exempt status was made for the following reasons:

You did not respond to our requests for additional information regarding your finances and activities as required under **Treasury Regulation Section 1.6033-2(i)(2)** .

You have not demonstrated that you are both organized and operated exclusively for charitable, educational, or other exempt purposes within the meaning of IRC Section **501(c)(3)** . As such, you failed to meet the requirement of IRC Section **501(c)(3)** and **Treas. Reg. Sections 1.501(c)(3)-1(a)** .

Additionally, you have not demonstrated that you are operated exclusively for charitable, educational, or other exempt purposes within the meaning of IRC Section **501(c)(3)** because the organization's assets inure to the benefit of a private shareholders or individuals.

Organizations that are not exempt under IRC Section **501** generally are required to file federal income tax returns and pay tax, where applicable. For further instructions, forms and information please visit **IRS.gov**.

Contributions to your organization are no longer deductible under IRC Section **170** .

### **What you must do if you disagree with this determination**

If you want to contest our final determination, you have 90 days from the date this determination letter was mailed to you to file a petition or complaint in one of the three federal courts listed below.

### **How to file your action for declaratory judgment**

If you decide to contest this determination, you can file an action for declaratory judgment under the provisions of Section **7428** of the Code in either:

- The United States Tax Court,
- The United States Court of Federal Claims, or
- The United States District Court for the District of Columbia

You must file a petition or complaint in one of these three courts within 90 days from the date we mailed this determination letter to you. You can download a fillable petition or complaint form and get information about

filing at each respective court's website listed below or by contacting the Office of the Clerk of the Court at one of the addresses below. Be sure to include a copy of this letter and any attachments and the applicable filing fee with the petition or complaint.

You can eFile your completed U.S. Tax Court petition by following the instructions and user guides available on the Tax Court website at [ustaxcourt.gov/dawson.html](https://ustaxcourt.gov/dawson.html). You will need to register for a DAWSON account to do so. You may also file your petition at the address below:

**United States Tax Court**

400 Second Street, NW

Washington, DC 20217

[ustaxcourt.gov](https://ustaxcourt.gov)

The websites of the U.S. Court of Federal Claims and the U.S. District Court for the District of Columbia contain instructions about how to file your completed complaint electronically. You may also file your complaint at one of the addresses below:

**US Court of Federal Claims**

717 Madison Place, NW

Washington, DC 20439

[uscfc.uscourts.gov](https://uscfc.uscourts.gov)

**US District Court for the District of Columbia**

333 Constitution Avenue, NW

Washington, DC 20001

[dcd.uscourts.gov](https://dcd.uscourts.gov)

Processing of income tax returns and assessments of any taxes due will not be delayed if you file a petition for declaratory judgment under IRC Section [7428](#) .

We'll notify the appropriate state officials (as permitted by law) of our determination that you aren't an organization described in IRC Section [501\(c\)\(3\)](#) .

**Information about the IRS Taxpayer Advocate Service**

The IRS office whose phone number appears at the top of the notice can best address and access your tax information and help get you answers. However, you may be eligible for free help from the Taxpayer Advocate Service (TAS) if you can't resolve your tax problem with the IRS, or you believe an IRS procedure just isn't working as it should. TAS is an independent organization within the IRS that helps taxpayers and protects taxpayer rights. Contact your local Taxpayer Advocate Office at:

Or call TAS at 877-777-4778. For more information about TAS and your rights under the Taxpayer Bill of Rights, go to [taxpayeradvocate.irs.gov](https://taxpayeradvocate.irs.gov). Do not send your federal court pleading to the TAS address listed above. Use the applicable federal court address provided earlier in the letter. Contacting TAS does not extend the time to file an action for declaratory judgment.

### Where you can find more information

Enclosed are [Publication 1](#) , Your Rights as a Taxpayer, and [Publication 594](#) , The IRS Collection Process, for more comprehensive information.

Find tax forms or publications by visiting [IRS.gov/forms](https://irs.gov/forms) or calling 800-TAX-FORM (800-829-3676). If you have questions, you can call the person shown at the top of this letter.

If you prefer to write, use the address shown at the top of this letter. Include your telephone number, the best time to call, and a copy of this letter.

You may fax your documents to the fax number shown above, using either a fax machine or online fax service. Protect yourself when sending digital data by understanding the fax service's privacy and security policies.

Keep the original letter for your records.

Sincerely,

Lynn A. Brinkley  
Director, Exempt Organizations Examinations

Enclosures:

*Form 886-A*

*Form 4621-A*

[Publications 1](#) , [594](#) , and [892](#)

| <i>Form 886A</i>                   | <i>Department of the Treasury - Internal Revenue Service</i> | Schedule No. or Exhibit          |
|------------------------------------|--|----------------------------------|
| <b><i>Explanation of Items</i></b> |  |                                  |
| <b><i>Name of taxpayer:</i></b>    |  | <b><i>Year/Period Ended:</i></b> |

### ***Issues:***

Issue 1 — Does the [redacted data] ([redacted data]) qualify for exemption under [Internal Revenue Code](#)

section **501(c)(3)** ?

Issue 2 — Does the available information indicate [redacted data] assets inure to the benefit of anyone?

**Facts:**

[redacted data] incorporated in [redacted data] on [redacted data] and Article II states [redacted data], see Attachment 1.

Article VI provides a dissolution clause and states *upon dissolution or winding up the Corporation, its assets remaining after payment, or provision for payment, of all debts and liabilities of this corporation shall be distributed to a nonprofit fund, foundation or corporation which is organized and operated exclusively for charitable, educational, and/or religious purposes and which has established its tax exempt status under **Internal Revenue Code** section **501(c)(3)*** .

Article VII states *The property of this corporation is irrevocably dedicated to religious purposes and no part of the net income or assets of this corporation shall ever inure to the benefit of any director, officer or member thereof or to the benefit of any private person.* The Articles of Incorporation are signed by [redacted data] as the incorporator.

On [redacted data] submitted **Form 1023** , *Application for Recognition of Exemption Under Section **501(c)(3)** of the **Internal Revenue Code*** , see Attachment 2. Part I, box 2 shows [redacted data], box 3 shows [redacted data], [redacted data], [redacted data], box 6a shows [redacted data] as the primary contact, and box 6b provides a contact phone number. Part V shows [redacted data] as president & director, [redacted data] as secretary & director, and [redacted data] as Treasurer & Director; and all show [redacted data], [redacted data], as their contact address. Part X Public Charity Status, question 5a shows the box 509(a)(1) and 170(b)(1)(A)(i) box is checked to indicate that the application is a church or a convention or association of churches and completed Schedule A Churches. [redacted data] attached *Attachment 4, Appendix to **Form 1023*** to provide additional information and states [redacted data] from [redacted data], [redacted data] is the authorized representative, but a **Form 2848** was not in the case file. Attachment 4 provides a narrative of [redacted data] activities and states [redacted data] will host Sunday church services and Bible study on Wednesday and Sunday evenings. Part XI is signed by [redacted data] as president.

On [redacted data] the Internal Revenue Service (IRS) issued Letter 1312, *Request for Additional Information*, to [redacted data] requesting resumes for all of officers, directors, and or trustees, see Attachment 3.

On [redacted data] the IRS issued Letter 1314, *EO Determination Request Closed — Failure to Establish*, to [redacted data] on which states the IRS did not receive the requested information and is closing the case without making a determination because the IRS does not have sufficient information to consider the request,

see Attachment 4.

On [redacted data] filed **Form 990-EZ**, *Short Form Return of Organization Exempt From Income Tax*, for the period ending [redacted data]. The heading of **Form 990-EZ** indicates initial return, an application is pending, shows [redacted data], [redacted data], [redacted data] address and provides a contact number. Part I and II show zeros. Part IV shows [redacted data] as president & director, [redacted data] as secretary & director, and [redacted data] as Treasurer & Director. Part V shows the books and records are in care of [redacted data], shows the [redacted data], [redacted data], [redacted data], and provides the same telephone number as the heading. Part VI shows [redacted data] as the Treasurer & Director but it is not signed. The paid preparer section shows [redacted data] from [redacted data], [redacted data] and shows a contact telephone number. Schedule A shows identified as a church. Schedule O states [redacted data] mission is to [redacted data].

The [redacted data] Secretary of State website shows [redacted data] status suspended, as of the date of this report, and references the [redacted data]. The website shows [redacted data] as the inactive date and shows a *Statement of Information* was due on [redacted data], and presumably not filed.

On [redacted data] the IRS began an inquiry into [redacted data] activities and the examining Revenue Agent (RA) mailed [redacted data] Letter 5307, *Church Tax Inquiry Notice*, via certified mail, with inquiry questions to the [redacted data], [redacted data], address, see Attachment 5. Letter 5307 provided a [redacted data] response date, but a response was not provided.

On [redacted data] the United States Postal Service (USPS) returned PS *Form 3811*, *Domestic Return Receipt*, to the RA. Box A of the receipt shows an illegible signature, box B shows an illegible name, and box C shows [redacted data] as the delivery date, see Attachment 6.

On [redacted data] the RA mailed Letter 5308, *Follow Up Church Tax Inquiry*, to [redacted data], via certified mail, as a follow up to Letter 5307, to the [redacted data], [redacted data], [redacted data] address, see Attachment 7. Letter 5308 included Letter 5307 and follow up questions. Letter 5308 provided [redacted data] as a response date, but a response was not provided.

On [redacted data] the RA initiated an exam of [redacted data] and mailed Letter 5309, *Notice of Church Examination*, via certified mail, to the [redacted data], [redacted data], [redacted data] address, see Attachment 8.

The USPS returned PS *Form 3811* to the RA. Box A of the receipt shows an illegible signature, box B shows an illegible name, and box C shows [redacted data] as the delivery date, see Attachment 9. Letter 5309 provided a [redacted data] response date, but a response was not provided.

On [redacted data] the RA mailed Letter 5464, *Information Document Request Cover Letter — Exempt*

Organization, and Form 4564 , Information Document Request (IDR), to [redacted data] to the [redacted data], [redacted data], [redacted data] address, see Attachment 10. The IDR provided a [redacted data] response date, but a response was not received.

On [redacted data] the RA mailed Letter 3164-E, *Third Party Contact*, to [redacted data] to the [redacted data], [redacted data], [redacted data] address to advising that the IRS plans to contact other individuals regarding [redacted data]. Letter 3164-E allowed [redacted data] to request a list of individuals the IRS plans to contact, a request was not received.

On [redacted data] the RA mailed *Forms 2039 , Summons*, to [redacted data], [redacted data], and [redacted data] requesting banking information, each responded and provided banking records related to [redacted data].

[redacted data] responded and provided records for account ending with [redacted data]. The records show [redacted data] as the account owner and the [redacted data], [redacted data], [redacted data] address. The signature card for the account shows [redacted data] and [redacted data] as account holders. Check images show [redacted data] and/or signature.

Bank records show [redacted data] utilized [redacted data] in the [redacted data] and [redacted data] years, the table below shows the total incoming and outgoing funds:

| <b>Account Ending</b> |  |                                      |                                      |                  |
|-----------------------|--|--------------------------------------|--------------------------------------|------------------|
| <b>Year</b>           | <b>Deposits</b>  | <b>Debits</b>                        | <b>Checks</b>                        | <b>Fees</b>      |
| [redacted data]       | [redacted data],<br>[redacted data],<br>[redacted data]. | [redacted data],<br>[redacted data]. | [redacted data],<br>[redacted data]. | [redacted data]. |
| [redacted data]       | [redacted data],<br>[redacted data].                     | [redacted data],<br>[redacted data]. | [redacted data],<br>[redacted data]. | [redacted data]. |
| Sub Totals:           | [redacted data],<br>[redacted data],<br>[redacted data]. | [redacted data],<br>[redacted data]. | [redacted data],<br>[redacted data]. | [redacted data]. |
|                       | Total Deposits:  | [redacted data],<br>[redacted data], |                                      |                  |

| Account Ending |                     |                                      |        |      |
|----------------|---------------------|--------------------------------------|--------|------|
| Year           | Deposits            | Debits                               | Checks | Fees |
|                |                     | [redacted data].                     |        |      |
|                | Total Expenditures: | [redacted data],<br>[redacted data]. |        |      |

The [redacted data] statements were reviewed and the description provided in the *withdraws and other debits* section show debit purchases from commercial establishments such as [redacted data], [redacted data], [redacted data], [redacted data], [redacted data], [redacted data], [redacted data], [redacted data], [redacted data], [redacted data], [redacted data], [redacted data], [redacted data], and [redacted data]. The [redacted data] purchases alone total [redacted data], [redacted data]. [redacted data]. The statements show at least 16 bank withdraws totaling \$ [redacted data],[redacted data]. including a \$ [redacted data], withdraw on [redacted data] to close out the account.

[redacted data] provided [redacted data] check images and [redacted data] of the checks were signed by [redacted data] and total \$ [redacted data], [redacted data]. [redacted data]. Some of the payee names indicate individuals and some indicate a commercial business but most of the images show the memo line is blank.

[redacted data] check images show [redacted data] signed [redacted data] checks totaling \$ [redacted data], [redacted data]. [redacted data]. Payees were individuals and commercial businesses but most of the images show the memo line is blank. Three check images show the payee is [redacted data] and total \$ [redacted data],[redacted data],[redacted data].

[redacted data]: [redacted data] responded and provided records for account ending with [redacted data]. The records show [redacted data] as the account owner and the [redacted data], [redacted data], [redacted data] address. The signature card for the account shows [redacted data] as the president and account holder. Check images show [redacted data] and/or [redacted data] signature.

Bank records show [redacted data] utilized [redacted data] in the [redacted data] and [redacted data] years, the table below shows the total incoming and outgoing funds:

| <b>Account Ending</b> |  |  |                                      |                                      |                                      |                  |
|-----------------------|--|--|--------------------------------------|--------------------------------------|--------------------------------------|------------------|
| <b>Year</b>           | <b>Deposits</b>  | <b>Checks</b>  | <b>Debits</b>                        | <b>E<br/>Withdraws</b>               | <b>Other<br/>Withdraws</b>           | <b>Fees</b>      |
| [redacted data]       | [redacted data],<br>[redacted data].                     | [redacted data].   | [redacted data],<br>[redacted data]. | [redacted data].                     | [redacted data].                     | [redacted data]. |
| [redacted data]       | [redacted data],<br>[redacted data],<br>[redacted data]. | [redacted data],<br>[redacted data],<br>[redacted data]. | [redacted data],<br>[redacted data]. | [redacted data],<br>[redacted data]. | [redacted data],<br>[redacted data]. | [redacted data]. |
| Sub Totals:           | [redacted data],<br>[redacted data],<br>[redacted data]. | [redacted data],<br>[redacted data],<br>[redacted data]. | [redacted data],<br>[redacted data]. | [redacted data],<br>[redacted data]. | [redacted data],<br>[redacted data]. | [redacted data]. |
| Total Deposits:       |  | [redacted data],<br>[redacted data],<br>[redacted data]. |                                      |                                      |                                      |                  |
| Total Expenditures:   |  | [redacted data],<br>[redacted data],<br>[redacted data]. |                                      |                                      |                                      |                  |

The [redacted data] statements were reviewed and the description provided in the *ATM & DEBIT CARE WITHDRAWALS* section show debit purchases from commercial establishments such as [redacted data], [redacted data], [redacted data], [redacted data], [redacted data], [redacted data], [redacted data], [redacted data], [redacted data], and [redacted data]. The bank statements also show nine bank withdrawals totaling \$ [redacted data]. including a \$ [redacted data]. withdrawal on [redacted data] to close out the account.

Chase Bank provided [redacted data] check images and [redacted data] checks were signed by [redacted data]. Payees were individuals and commercial businesses but most of the images show the memo line is

blank. Two checks made out [redacted data] total \$ [redacted data],[redacted data]. [redacted data], two check made out to [redacted data] total \$ [redacted data],[redacted data]. [redacted data], seven checks made out to [redacted data] total \$ [redacted data],[redacted data]. [redacted data], five checks made out to [redacted data] totaling \$ [redacted data],[redacted data]. [redacted data], and two check made out to [redacted data] total \$ [redacted data],[redacted data]. [redacted data]. The [redacted data] payments to [redacted data] and [redacted data] are discussed later in this report.

[redacted data]: [redacted data] responded and provided records for account ending with [redacted data]. The records show [redacted data] as the account owner and the [redacted data], [redacted data], [redacted data] address. A signature card was not available, all available paid check images show [redacted data] signature and the account was opened on [redacted data] and closed on [redacted data].

| Account Ending      |                                      |                                      |                                      |                  |
|---------------------|--------------------------------------|--------------------------------------|--------------------------------------|------------------|
| Year                | Deposits                             | Debits                               | Checks                               | Fees             |
| [redacted data]     | [redacted data],<br>[redacted data]. | [redacted data].                     | [redacted data],<br>[redacted data]. | [redacted data]. |
| Total Deposits:     |                                      | [redacted data],<br>[redacted data]. |                                      |                  |
| Total Expenditures: |                                      | [redacted data],<br>[redacted data]. |                                      |                  |

The [redacted data] statements *ATM/Debit Card transaction this statement period* section shows six transactions including a \$ [redacted data], [redacted data] withdraw on [redacted data] closing the account. The debit transaction show purchases from restaurants and gas stations.

[redacted data] provided [redacted data] check images and [redacted data] of those images show the checks were signed by [redacted data]. Payees were individuals and commercial businesses but most of the images show the memo line is blank.

The table below shows the total deposit and expenditure amounts:

| <b>Total Deposits and Expenditures</b> |  |   |
|--|--|---|
|  | <b>Deposits</b>                                      | <b>Expenditures</b>                                   |
| [redacted data]                        | [redacted data], [redacted data],<br>[redacted data] | [redacted data], [redacted data].                     |
| [redacted data]                        | [redacted data], [redacted data],<br>[redacted data] | [redacted data], [redacted data],<br>[redacted data]. |
| [redacted data]                        | [redacted data], [redacted data]                     | [redacted data], [redacted data].                     |
| Totals:                                | [redacted data], [redacted data],<br>[redacted data] | [redacted data], [redacted data],<br>[redacted data]. |

On [redacted data] the RA mailed Letters 1995, *Third Party Contact Letters to Request Information*, to the [redacted data], [redacted data], [redacted data], and [redacted data]. The [redacted data], [redacted data] and [redacted data] responded and their responses are discussed later in this report.

On [redacted data] the RA mailed Letters 1995 to [redacted data], [redacted data], and [redacted data], but they did not respond.

[redacted data]: [redacted data] response states they funded a private loan to a company called [redacted data] to purchase a property at [redacted data], [redacted data], [redacted data] and received four payments totaling \$ [redacted data], [redacted data], see Attachment 11. A property search revealed that the transaction was conducted by [redacted data] and a summons was provided to [redacted data] on [redacted data]. [redacted data] and [redacted data] check images show \$ [redacted data], [redacted data]. was paid to [redacted data], see attachment 12.

[redacted data]: [redacted data] responded to the summons with [redacted data], [redacted data] documents. The documents were reviewed and they show the property was purchased by [redacted data] ([redacted data]). The Order Sheet is dated [redacted data], shows [redacted data] as the buyer, shows Attention [redacted data], and shows [redacted data], [redacted data], [redacted data], [redacted data] as address. The documents contained an *ACTION BY WRITTEN CONSENT OF THE SOLE INCORPORATORS OF [redacted data], A [redacted data] Limited Liability Company* dated [redacted data] and states that [redacted data], [redacted data], and [redacted data] were elected to serve as Directors of [redacted data]. The *FINAL BUYER'S STATEMENT* shows the contract sales price is \$ [redacted data].[redacted data] M. The documents contained

a *Limited Liability Company Agreement* [redacted data], a [redacted data] *Limited Liability Company* document executed by [redacted data] and on [redacted data]. Exhibit A to that documents provides a list of member and shows [redacted data] and [redacted data] and both list [redacted data], [redacted data], [redacted data] as their address, see Attachment 13.

[redacted data] : [redacted data] ([redacted data]) filed Limited Liability Company Articles of Organization on [redacted data] with the [redacted data] Secretary of State and state [redacted data] purpose is to engage in any lawful act or activity for which a limited liability company may be organized under the [redacted data] Limited Liability Act.

IRS records show [redacted data] filed **Forms 1065** , *U.S. Return of Partnership Income*, for the tax years ending [redacted data] to [redacted data] and issued a Schedule K to [redacted data] and [redacted data] both years. All Schedule K show [redacted data] and [redacted data] each had a 50% interest in [redacted data]. [redacted data] check images show [redacted data] as the payee on seven checks totaling \$ [redacted data], [redacted data]. [redacted data], see attachment 14.

[redacted data]: [redacted data] On [redacted data] a [redacted data] ([redacted data]) attorney initially responded to Letter 1995 with a telephone call to the RA and said the [redacted data] was able to shut down [redacted data] because it was operating as a marijuana dispensary without proper approval. The attorney later provided documents related to the [redacted data] legal action to shut down [redacted data], see Attachment 15.

The Complaint, Case Number [redacted data], was filed by the [redacted data] Attorney on [redacted data] with the [redacted data], [redacted data] ([redacted data]) and lists [redacted data], [redacted data], [redacted data], [redacted data], [redacted data], [redacted data], [redacted data], [redacted data], and [redacted data] as the defendants.

The Complaint enumerated three causes of action. The first cause is a *Public Nuisance Based Upon Distribution of Marijuana* at real property and business commonly known as [redacted data], located at [redacted data], [redacted data], [redacted data]. The Complaint states in part [redacted data] is owner/operator, manager of [redacted data], [redacted data] is the secretary/operator/owner/member of [redacted data].

The second cause is "*Public Nuisance*" and "*Nuisance Per Se*" Based Upon Violations of the [redacted data] *Municipal Code* at [redacted data], [redacted data], [redacted data]. address. The Complaint states [redacted data] is violating the [redacted data] Zoning Code, Title [redacted data] of the [redacted data] ([redacted data]). [redacted data] Title [redacted data] marijuana [redacted data] and [redacted data] is located in a [redacted data] and the [redacted data] of marijuana [redacted data].

The third cause is *Unlawful and Unfair Businesses Practices Based Upon Violations of Law and Acts/*

*Omissions:* [redacted data] at [redacted data] address. The Complaint states [redacted data] is illegally distributing marijuana from its location because it does not have a permit to distribute marijuana.

The [redacted data] filed a Declaration from the [redacted data] for the [redacted data] on [redacted data] with the Court in support of the Complaint and states *the facts set forth herein are within my personal knowledge and, if sworn as a witness, I could and would testify competently to such facts.* The Supervisor states that based on his own investigation and review of [redacted data] and proceedings he is familiar with the property at [redacted data] being used to sell and distribute marijuana, which is a violation of [redacted data], see Attachment 16.

The Supervisor states that he is familiar with the provision of the Permanent Injunction filed with the Court on [redacted data] which prohibits the property at [redacted data], [redacted data], [redacted data] from being used to make medical marijuana available. The Permanent Injunction lists [redacted data], [redacted data], [redacted data], and [redacted data] as the defendants, see Attachment 16, Exhibit A.

The Supervisor states that on [redacted data] he reviewed [redacted data] page and he is informed and believes that [redacted data] is a website that allows businesses to set up a free account and post photos and message their customers. [redacted data] indicates its located at [redacted data], [redacted data], and its website is [redacted data], see Attachment 16, Exhibit E.

The Supervisor states that on [redacted data] he reviewed [redacted data] page, [redacted data] is a website that claims to be the most reliable online resource to find cannabis storefronts, doctors, and deals. [redacted data] page indicates [redacted data] is located at [redacted data], [redacted data], [redacted data], and includes a menu of different marijuana products and pricing. The products include different strains of marijuana, such as [redacted data], [redacted data], [redacted data], as well as extracts, edibles and topicals, see Attachment 16, Exhibit F.

The Supervisor states that he executed an [redacted data] at [redacted data] property on [redacted data] and he took photographs of the first and second floors. He also inspected the basement floor and took pictures of two packages addressed to [redacted data], see Attachment 16, Exhibits G,H, I, and J.

[redacted data] filed a [redacted data] page response to the Complaint on [redacted data] with the Court and [redacted data] *objects to Plaintiff's Request in its entirety to the extent that it does not specify a reasonable time and place for inspection and copying,* see Attachment 17. Page [redacted data] and page [redacted data] are a copy of [redacted data] Application for Membership. The Application states [redacted data].

Page [redacted data] of [redacted data] response is titled [redacted data] and provides: [redacted data].

Page provides: [redacted data].

[redacted data] also filed a [redacted data] page Declaration of [redacted data] in support of [redacted data] with the Court on [redacted data], see Attachment 18. The Declaration states in part: I, [redacted data], declare as follows:

1. I am a [redacted data] at the [redacted data] and have been since it opened in [redacted data].
2. I provide weekly [redacted data] on [redacted data] at [redacted data]: [redacted data] pm.
3. Recently the [redacted data] has requested an additional [redacted data] at [redacted data]: [redacted data] pm to accommodate additional [redacted data] members.
4. My [redacted data] are [redacted data] based and focus on helping the members of the [redacted data] achieve a greater appreciation of the [redacted data] based on [redacted data] utilization of cannabis as [redacted data].
5. [redacted data] provides for greater plasticity of thought in [redacted data] analysis and [redacted data] with [redacted data]

The [redacted data] provided a [redacted data] for [redacted data] to [redacted data], [redacted data], [redacted data] and [redacted data] responded. Some of the records are redacted for employee information and sensitive proprietary business information including pricing information. Some of the documents were redacted completely, other documents were printed emails exchanged between [redacted data] and [redacted data] and are not attached to this report. The response contains approximately invoices that show [redacted data] at [redacted data], [redacted data], [redacted data] as the customer, have a date range from [redacted data] to [redacted data], and appear to be issued on the [redacted data]<sup>th</sup> of the month, see Attachment 19.

The [redacted data] response contains [redacted data] copies of what [redacted data] refers to Marketing Agreements. The copy on pages [redacted data] and [redacted data] show the same date [redacted data], show [redacted data] as the name of the dispensary, and is signed by [redacted data] as the manager. Pages [redacted data] and [redacted data] show the same date [redacted data], show [redacted data] as the name of the dispensary, and is signed by [redacted data] as the manager. Page [redacted data] shows [redacted data] as the date, shows [redacted data] as the name of the dispensary, and is signed by [redacted data] as the manager. Page [redacted data] shows as the date, shows [redacted data] as the name of the dispensary, and is signed by [redacted data] as the manager.

[redacted data] provided a [redacted data] page response to the [redacted data] of [redacted data] related to [redacted data] on [redacted data] and among the documents [redacted data] provided a copy of the [redacted data] Marketing Agreement with [redacted data] executed on [redacted data], see Attachment 20. [redacted data] is listed as the dispensary at the [redacted data], [redacted data], [redacted data], address.

[redacted data] provided an eight page response on [redacted data] to the [redacted data] Request for the identity of all persons who serve on the [redacted data] Board of Directors and the names of all employees and volunteers from [redacted data] to present, see Attachment 21. [redacted data] provided information on

[redacted data] individuals.

[redacted data]: [redacted data] page response contained a [redacted data] REPORT conducted on the property located at [redacted data], [redacted data], [redacted data] on [redacted data]. The report shows the inspection was ordered by [redacted data], the property owner is listed as unknown, and the report was sent to [redacted data], see Attachment 22.

On [redacted data] the RA called [redacted data], this is the number for [redacted data] and for [redacted data], records custodian, given on the [redacted data] F990-EZ. The call went right to voice mail, no greeting other than leave a message was provided, RA left a message, but did not get a call back.

On [redacted data] the RA called [redacted data], this number was secured from the [redacted data] business signature card for [redacted data], listed as the president. The person who answered, presumably a male, said he was not [redacted data] nor was he [redacted data] associated with [redacted data]. He did say that [redacted data] must have had this number because the person who answered has received numerous calls looking for [redacted data].

On [redacted data] the RA called [redacted data] because this number was found in a search for [redacted data]. The search indicated this number belonged to [redacted data]. The first time the RA called the number was busy, the number was called again on [redacted data] and numerous other times but the number was busy.

On [redacted data] the RA conducted a search on [redacted data] and found that [redacted data], [redacted data], [redacted data], [redacted data], and [redacted data] work for [redacted data] at [redacted data] in [redacted data], [redacted data]. The search showed [redacted data] as the chief executive officer. A [redacted data] Secretary of State search found [redacted data] as the Agent at [redacted data] in [redacted data]. On [redacted data] the RA conducted a search for [redacted data] with the [redacted data] address, as shown on the [redacted data] F990EZ and a hit provided the [redacted data], [redacted data], [redacted data], this is the same address as the address for [redacted data].

On [redacted data] the RA spoke to [redacted data] at [redacted data] and he provided two [redacted data] different numbers, [redacted data] and [redacted data], associated with [redacted data] but was not sure who they belonged to. [redacted data] also provided two possible email addresses [redacted data] and [redacted data]. The [redacted data] number is the number shown on the [redacted data] signature card. The [redacted data] number was called and it sounded as if the call was answered but no one responded to the RA. The RA called a second time and left a voice message, the greeting did not reveal anything about the owner. An email was sent to both email addresses [redacted data] and [redacted data]., but a response was not received.

On [redacted data] the RA conducted a name search for [redacted data] with the [redacted data] address and

no hits were found. RA conducted another search with the [redacted data] as the resident city and did not identify any individual associated with the [redacted data].

[redacted data] the RA conducted a name search for [redacted data] with the [redacted data] address and no hits were found. RA conducted another search with the [redacted data] as the resident city and did not identify any individual associated with the [redacted data].

On [redacted data] the RA conducted a name search for [redacted data] with the [redacted data] address, as shown on the [redacted data] F990EZ and no hits were found. RA conducted another search with the [redacted data] as the resident city and did not identify any individual associated with the [redacted data].

On [redacted data] the RA conducted a name search for [redacted data] with [redacted data] address and a hit found. The hit showed [redacted data], [redacted data]. The hit also provided [redacted data], [redacted data], and [redacted data] phone numbers. The [redacted data] was previously provided by [redacted data], the [redacted data] number was called various time but no one ever answered, and the [redacted data] number was called various times but the phone was always busy.

On [redacted data] the RA conducted a name search for [redacted data] with the [redacted data] address and no hits were found.

On [redacted data] the RA conducted a driver's license search for [redacted data]. The search was conducted with and without [redacted data] as the state of residence, but no hits were found.

[redacted data] the RA conducted an address search for [redacted data] and [redacted data] in IRS records. The search for [redacted data] showed [redacted data], [redacted data], [redacted data], [redacted data], [redacted data], [redacted data], [redacted data], [redacted data], and [redacted data], [redacted data], [redacted data], [redacted data]. The search for [redacted data] showed [redacted data], [redacted data], [redacted data], [redacted data], and [redacted data], [redacted data], [redacted data], [redacted data].

On [redacted data] the RA sent a drafted letter to [redacted data] at the [redacted data], [redacted data], [redacted data], [redacted data] requesting his assistance with a tax matter, a response was not received, and the letter was later returned by the USPS, see Attachment 23.

On [redacted data] the RA sent a drafted letter to [redacted data] at the [redacted data], [redacted data], [redacted data], [redacted data] requesting his assistance with a tax matter, a response was not received, and the letter was later returned by the USPS, see Attachment 24.

On [redacted data] the RA sent a drafted letter to [redacted data] at the [redacted data], [redacted data],

requesting his assistance with a tax matter, a response was not received, and the letter was later returned by the USPS, see Attachment 25.

On [redacted data] the RA sent Letter 5464 and three *Forms 4564* to [redacted data] to the [redacted data], [redacted data], [redacted data] address, see Attachment 26. The *Forms 4564* provided a listing of bank transactions that give rise to potential excess benefit transactions and requested contemporaneous substantiation and documentation for the transactions. *Forms 4564* provide a [redacted data] response due date, but a response was not provided.

On [redacted data] the RA sent Letter 5464 and three *Forms 4564* to [redacted data] to the [redacted data], [redacted data], [redacted data], [redacted data] address, see Attachment 27. The *Forms 4564* provided a listing of bank transactions that give rise to potential excess benefit transactions and requested contemporaneous substantiation and documentation for the transactions. *Forms 4564* provide a [redacted data] response due date, the letter was returned by the USPS on [redacted data].

On [redacted data] the RA sent Letter 5464 and three *Forms 4564* to [redacted data] to the [redacted data], [redacted data], [redacted data], [redacted data] address, see Attachment 28. The *Forms 4564* provided a listing of bank transactions that give rise to potential excess benefit transactions and requested contemporaneous substantiation and documentation for the transactions. *Forms 4564* provide a [redacted data] response due date, but a [redacted data] response was not provided and the letter was returned by the USPS on [redacted data].

On [redacted data] the RA sent Letter 5464 and three *Forms 4564* to [redacted data] to the [redacted data], [redacted data], [redacted data], [redacted data], see Attachment 29. The *Forms 4564* provided a listing of bank transactions that give rise to potential excess benefit transactions and requested contemporaneous substantiation and documentation for the transactions. *Forms 4564* provide a [redacted data] response due date, but a response was not provided.

On [redacted data] the RA sent a drafted letter to [redacted data] to the [redacted data], [redacted data], [redacted data], [redacted data] address requesting assistance regarding seven checks paid to [redacted data] by [redacted data] totaling \$ [redacted data], [redacted data]. [redacted data], see Attachment 30. The drafted letter provides a [redacted data] response due date; the letter was returned by the USPS on [redacted data].

**Law:**

**Internal Revenue Code** (IRC) section **501(c)(3)** exempts from federal income tax organizations organized and operated exclusively for charitable, educational, and other exempt purposes, provided that no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

IRC section **511** imposes a tax at corporate rates under section **11** on the unrelated business taxable income of certain tax-exempt organizations.

IRC section **6001** provides that every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary 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 if such person is liable for tax under this title.

IRC section **6033(a)(1)** , except as provided in section **6033(a)(2)** , provides in part that 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 (Regulations) section **1.501(c)(3)-1(a)** states in part that in order to be exempt as an organization described in Code section **501(c)(3)** , the 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. The term "exempt purpose or purposes", as used in this section, means any purpose or purposes specified in section **501(c)(3)** .

Regulations section **1.501(c)(3)-1(b)(4)** states in part that an organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose, for example, if, upon dissolution, such assets would, by reason of a provision in the organization's articles or by operation of law, be distributed for one or more exempt purposes, or to the Federal government, or to a State or local government, for a public purpose, or would be distributed by a court to another organization to be used in such manner as in the judgment of the court will best accomplish the general purposes for which the dissolved organization was organized. However, an organization does not meet the organizational test if its articles or the law of the State in which it was created provide that its assets would, upon dissolution, be distributed to its members or shareholders.

Regulations section **1.501(c)(3)-1(c)(1)** provides that an organization will not be regarded as operated exclusively for exempt purposes if more than an insubstantial part of its activities is not in furtherance of exempt purposes.

**United States Code (USC), Title 21, Section 802(16)** defines marijuana as "all parts of the plant Cannabis sativa L. whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin."

**USC Title 21, Section 821(c)** , Sch. I(c)(10) lists marijuana as a hallucinogenic substance and includes it on schedule I of the Schedules of Controlled Substances. A schedule I substance is a substance that (1) has a high potential for abuse; (2) has no currently accepted medical use in treatment in the United States; and (3) there is a lack of accepted safety for use of the drug under medical supervision.

**USC Title 21, Section 841(a)** , known as The Controlled Substances Act, states that it is illegal for anyone to knowingly or intentionally manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense a controlled substance.

Revenue Ruling **75-384** , 1975-2 C.B. 204, holds that a nonprofit organization, whose purpose was to promote world peace, disarmament, and nonviolent direct action, did not qualify for exemption under IRC Section **501(c)(3)** or **(c)(4)** . The organization's primary activity was to sponsor antiwar protest demonstrations in which demonstrators were urged to violate local ordinances and commit acts of civil disobedience. Citing the law of trusts, the ruling stated that all charitable organizations are subject to the requirement that their purposes cannot be illegal or contrary to public policy.

In *Ould v. Washington Hospital for Foundlings*, **95 U.S. 303, 311** , **24 L. Ed. 450** (1877). the Court noted that "[a] charitable use, where neither law nor public policy forbids, may be applied to almost anything that tends to promote the well-doing and well-being of social man."

In *Better Business Bureau of Washington, D.C., Inc. v. United States*, **326 U.S. 279, 283** , **66 S. Ct. 112** , **90 L. Ed. 67** , 1945 C.B. 375 (1945), the Supreme Court held that the "presence of a single.. [nonexempt] purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly... [exempt] purposes."

In *Harding Hospital, Inc. v. United States*, **505 F.2d 1068, 1071** (6th Cir. 1974), the court held that an organization has the burden of proving that it satisfies the requirements of the particular exemption statute. The court noted that whether an organization has satisfied the operational test is a question of fact.

In *Mysteryboy Inc. v. Commissioner*, T.C. Memo **2010-13** (2010), the Tax Court held that the organization failed the operational test partly because the organization proposed to promote illegal activities.

#### ***Taxpayer's Position:***

[redacted data] did not respond to any of the IRS correspondence and as such position to either issue is not known.

#### **Government's Position:**

**Issue 1** — [redacted data] should not be recognized as an organization described in IRC section **501(c)(3)** because it failed to demonstrate that it qualified for such recognition, the information uncovered by the IRS shows [redacted data] distributes cannabis, and [redacted data] members consume cannabis.

Based on the above facts, [redacted data] has not demonstrated that it is organized and operated exclusively for religious purposes or more of the purposes specified in IRC section **501(c)(3)** . If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Based on the information we have uncovered, we determined that [redacted data] is not organized and operated exclusively for exempt purposes under IRC section **501(c)(3)** . An organization can be recognized as exempt under IRC section **501(c)(3)** only if it shows that it is both organized and operated exclusively for charitable, educational, or other exempt purposes. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Federal law classifies cannabis as a controlled substance, as detailed in **USC Title 21, Sections 802 and 821(c)** , Schedule I(c)(10). Federal law, under **USC Title 21, Section 841** , prohibits the manufacture, distribution, possession, or dispensing of a controlled substance. The consumption of cannabis is a substantial part of [redacted data] activity and [redacted data]. The consumption and distribution of cannabis is an illegal activity - current federal law prohibits the use of cannabis. Because [redacted data] engages in activities that contravene federal law, [redacted data] does not serve a substantial exempt purpose.

[redacted data] does not satisfy the operational test of Regulations section **1.501(c)(3)-1(c)(1)** . Whether an organization operates exclusively in furtherance of an exempt purpose is a question of fact. An organization seeking tax-exempt status under IRC section **501(c)(3)** carries the burden of proving that it satisfies the requirements of the statute, see *Harding Hospital*, **505 F.2d at 1071** . Only an insubstantial portion of the activity of an exempt organization may further a nonexempt purpose. Because [redacted data] is engaged in activities that contravene federal law, [redacted data] serves a substantial nonexempt purpose. As the Supreme Court held in *Better Business Bureau of Washington, D.C., Inc. v. United States* , the presence of a single nonexempt purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes.

The common law of trusts specifies that a charitable trust cannot be created for an illegal purpose. See Restatement (Second) of Trusts, Section 377. Similarly, the Supreme Court noted in *Ould v. Washington Hospital for Foundlings* , that "[a] charitable use, where neither law nor public policy forbids, may be applied to almost anything that tends to promote the well-doing and well-being of social man.' Like a trust, an IRC Section **501(c)(3)** organization cannot be created for a purpose that is illegal. The literature uncovered by the IRS and [redacted data] response to the [redacted data] complaint show [redacted data] specific purposes is the consumption and distribution of cannabis supposedly during and after religious services. Because [redacted data] engages in activities that contravene federal law, [redacted data] serves a substantial nonexempt purpose. See Rev. Rul. **75-384** , supra; *Mysteryboy, Inc. v. Comm'r*.

[redacted data] is not described in Regulations section **1.501(c)(3)-1(d)(2)** which provides that the term "charitable" as used in IRC section **501(c)(3)** in its generally accepted legal sense. Advancement of religion has long been recognized as a charitable purpose. However, a trust is invalid if its purpose is illegal. The common law of trusts specifies that a charitable trust cannot be created for an illegal purpose. Because [redacted data] engages in activities that contravene federal law, [redacted data] serves a substantial nonexempt purpose.

**Issue 2** — Based on the information in the fact section, [redacted data] funds inured to the benefit of [redacted data] and [redacted data]. Both individuals have authority over [redacted data] finances and both have a personal and private interests in [redacted data] activities.

The [redacted data], [redacted data], and [redacted data] expenditures indicate a personal use by [redacted data] and [redacted data] and did not establish the purchases furthered an exempt purpose.

[redacted data] is owned and operated by [redacted data] and [redacted data] and as such any payments to [redacted data] are indistinguishable from payment to [redacted data] and [redacted data]. Any payments to [redacted data] that are not substantiated to further charitable purposes constitute inurement and in this case [redacted data] did not establish the payments furthered an exempt purpose.

The [redacted data] incorporating document dated [redacted data] (Attachment 12) shows [redacted data] and [redacted data] are two of the directors. The agreement dated [redacted data] (Attachment 12) shows [redacted data] as one of the founders. Any payments to [redacted data] that are not substantiated to further a charitable purposes constitute inurement because the payments are in effect being made to [redacted data] and in this case [redacted data] did not establish the payments furthered an exempt purpose.

The [redacted data] debits purchases and withdraws total \$ [redacted data], [redacted data]. [redacted data] for both years under examination, most indicate a personal benefit, [redacted data] did not provide any support to show the purchases further a charitable purpose, and thus the debit purchases constitute inurement to [redacted data] and [redacted data].

[redacted data] check payments total \$ [redacted data], [redacted data]. [redacted data] for both years under examination, the payee's name does not indicate the payment further a charitable purpose, [redacted data] did not provide any support to show the payments purpose, and thus the check payments constitute inurement to [redacted data] and [redacted data].

The existence of inurement is exemplified by the \$ [redacted data], [redacted data] payment to [redacted data] because they ordered a pest inspection of the [redacted data] property, clearly indicating they were doing work on the property; the property was purchased with [redacted data] funds but lists [redacted data] as the owner, which is controlled by [redacted data] and [redacted data].

The [redacted data] debits purchases total \$ [redacted data], [redacted data]. [redacted data] for both years under examination, most indicate a personal benefit, [redacted data] did not provide any support to show the purchases serve a charitable purpose, and thus the debit purchase constitute inurement to [redacted data].

The [redacted data] withdrawals totaling \$ [redacted data], [redacted data]. [redacted data] were made by the account holder, did not serve a charitable purpose, and [redacted data] did not establish that the funds furthered a charitable purpose.

The two [redacted data] checks paid to [redacted data] totaling \$ [redacted data], [redacted data] and the two check paid to [redacted data] totaling \$ [redacted data], [redacted data]. [redacted data] are examples of [redacted data] assets inuring to the benefit of [redacted data] and [redacted data] because no support was provided to show the payments furthered a charitable purpose. The seven checks paid to [redacted data] totaling \$ [redacted data], [redacted data]. [redacted data] are examples of [redacted data] assets inuring to the benefit of [redacted data] and [redacted data] because [redacted data] and [redacted data] are the only [redacted data] partners in [redacted data] and because no support was provided to show the payments furthered a charitable purpose. The five checks paid to [redacted data] totaling \$ [redacted data], [redacted data]. [redacted data] is another example of [redacted data] assets inuring to the benefit of [redacted data] and [redacted data] because [redacted data] provided service to the [redacted data], which is owned by the [redacted data], which is controlled by [redacted data] and [redacted data].

The \$ [redacted data], [redacted data]. [redacted data] payment to [redacted data] were used to purchase the [redacted data] by [redacted data], which is operated by [redacted data] and [redacted data], constitutes prohibited inurement because no support was provided to show the purchase furthered a charitable purpose. The RA identified \$ [redacted data], [redacted data]. [redacted data] payments to [redacted data] for the purchase of the [redacted data] property owned by [redacted data]. The memo section of the checks shows [redacted data], which is the loan number referenced in the Final Buyer's Statement obtained from [redacted data]. The statement further identifies [redacted data] as the buyer of the property and [redacted data] as the lender.

The [redacted data] debits purchases and withdraws total \$ [redacted data], [redacted data]. [redacted data] for the [redacted data] year, none indicate a charitable purpose, [redacted data] did not provide any support to show the purchases serve a charitable purpose, and thus the expenditures constitute inurement.

**Conclusion:**

**Issue 1** - [redacted data] should not be recognized as a tax exempt organizations as [redacted data]' described in IRC section **501(c)(3)** . An organization claiming to be a [redacted data] is not required to submit a recognition request and is considered to be exempt under IRC **501(c)(3)** based on their assertion. Therefore the effective date of revocation is [redacted data].

**Issue 2** - Inurement exists because [redacted data] did not demonstrate that any of its expenditures totaling \$ [redacted data], [redacted data], [redacted data]. [redacted data] furthered a charitable purpose.