

Internal Revenue Service

District
Director

Department of the Treasury

230 South Dearborn Street
Chicago, Illinois 60604

Person to Contact: [REDACTED]
Telephone Number: [REDACTED]

Refer Reply to:
Internal Revenue Service
P.O. Box A-3290 DPN 22-3
Attn: Chief, EP/EO Review Staff
Chicago, Illinois 60690

Date: FEB 16 1994

CERTIFIED
7219 342 942

Dear Applicant,

We have considered your application for recognition of exemption from Federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986.

The information submitted discloses that you were incorporated on [REDACTED] under the nonprofit corporation laws of the State of [REDACTED].

The following purpose appears in your Articles of Incorporation:

This is a charitable and benevolent organization to fund Osteopathic manipulative treatment for [REDACTED] who is a [REDACTED] citizen and can only obtain this treatment for her severe physical condition in the United States.

According to your Form 1023 application, your only activity is to raise \$[REDACTED] to pay for the medical treatment of [REDACTED]. [REDACTED] has been receiving treatments since [REDACTED], and is expected to continue these treatments until [REDACTED]. The financial information you submitted states you expect to raise the needed \$[REDACTED] by [REDACTED], at which time you plan to cease all fundraising. No further activity is planned for [REDACTED] or [REDACTED]. Your organization was formed by [REDACTED] and [REDACTED] who are president and secretary, respectively.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of corporations organized and operated exclusively for religious, charitable, literary, scientific, and educational purposes; no part of the net earnings of which inures to any private shareholder or individual.

EP/EO:RS
2-9-94

Section 1.501(c)(3)-1 of the Income Tax Regulations relates to the definition of the organization and operation of organizations described in Section 501(c)(3). It is quoted, in part, as follows:

"(a) Organizational and operational tests. (1) 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. (2) The term "exempt purpose or purposes", as used in this section, means any purpose or purposes specified in Section 501(c)(3)...."

"(c) Operational test. (1) Primary activities. An organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in Section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. (2) Distribution of earnings. An organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals...."

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations provides that an organization is not organized and operated exclusively for exempt purposes unless it serves a public rather than a private interest. Thus, it is necessary for an organization seeking exemption under Section 501(c)(3) to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Revenue Ruling 67-367, 1967-2 C.B. 188, states that a nonprofit organization whose sole activity is the operation of a "scholarship" plan for making payments to preselect, specifically named individuals does not qualify for exemption from Federal income tax under section 501(c)(3) of the Code.

In Wendy L. Parker Rehabilitation Foundation, Inc. v. Commissioner, T.C. Memo. 1986-348, the Tax Court concluded that a foundation formed to aid coma victims, including a family member of the founders, was not entitled to recognition of exemption. Thirty percent of the Foundation's income was expected to be distributed to aid a member of the family controlling the Foundation. The Court found that such distributions relieved the family of the economic burden of providing medical and rehabilitation care for their family member and, therefore, constituted inurement to the benefit of private individuals.

By stating your organization plans to provide financial assistance to a specifically named individual, [REDACTED], the organization is

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serving private, rather than public interest. Your organization is similar to the organization mentioned in the above named revenue ruling as the recipient of your payments is preselected and specifically named. You are also similar to the above named court case in that 100% of your income will be used to pay for the medical treatment of the secretary of the organization.

The organization has been established by the ██████████ family, is controlled by the family, financially to benefit the ██████████ family. Incurrence precludes exemption under Section 501(c)(3) of the Code.

We have concluded, based upon the facts and evidence on file, that you are not operated exclusively as a charitable or educational organization described in Section 501(c)(3) of the Code because a substantial amount of your activities and operations serve private rather than public interest.

You are required to file Federal Income Tax Returns.

Contributions made to you are not deductible by the donors as charitable contributions as defined in Section 170(c) of the Code.

If you do not agree with these conclusions, you may within 30 days from the date of this letter, file a brief of the facts, law and arguments (in duplicate) which clearly sets forth your position. In the event you desire an oral discussion of the issues, you should so indicate in your submission. A conference will be arranged in the Regional Office after we have had an opportunity to consider the brief and it appears that the conclusions reached are still unfavorable to you. Any submission must be signed by one of your principal officers. If the matter is to be handled by a representative, the Conference and Practice Requirements regarding the filing of a power of attorney and evidence of enrollment to practice must be met. We have enclosed Publication 892, Exempt Organization Appeal Procedures for Adverse Determinations, which explains in detail your rights and procedures.

If you do not protest this determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal

[REDACTED]
Revenue Service".

Please keep this determination letter in your permanent records.

If you agree with this determination, please sign and return the enclosed Form 6018.

If we do not hear from you within 30 days from the date of this letter, this determination will become final. In accordance with Code Section 6104(c), we will notify the appropriate State officials of this action.

Sincerely yours,
[REDACTED]

District Director

Enclosures:
Publication 892
Form 6018

Form **6018**
(Rev. August 1983)

Department of the Treasury-Internal Revenue Service
Consent to Proposed Adverse Action
(All references are to the Internal Revenue Code)

Prepare In
Duplicate

Case Number

Date of Latest Determination Letter

Employer Identification Number

Date of Proposed Adverse Action Letter

Name and Address of Organization

I consent to the proposed adverse action relative to the above organization as shown by the box(es) checked below. I understand that if Section 7428, Declaratory Judgments Relating to Status and Classification of Organizations under Section 501(c)(3), etc. applies, I have the right to protest the proposed adverse action.

NATURE OF ADVERSE ACTION

- ☒ Denial of exemption
- ☐ Revocation of exemption, effective
- ☐ Modification of exempt status from section 501(c)() to 501(c)(), effective
- ☐ Classification as a private foundation (section 509(a)), effective
- ☐ Classification as a non-operating foundation (section 4942(j)(3)), effective
- ☐ Classification as an organization described in section 509(a)(), effective
- ☐ Classification as an organization described in section 170(b)(1)(A)(), effective

If you agree to the adverse action shown above, please sign and return this consent. You should keep a copy for your records.

If you sign this consent before you have exhausted your administrative appeal rights, you may lose your rights to a declaratory judgment under section 7428.

(Signature instructions are on the back of this form.)

Name of Organization

Signature and Title

Date

Signature and Title

Date

Form 6018 (Rev. 8-83)