



DEPARTMENT OF THE TREASURY

Internal Revenue Service
TE/GE EO Examinations
1100 Commerce Street MS 4920 DAL
Dallas, TX 75424

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: OCT-2 2017

Release Number: **201816012**
Release Date: 4/20/2018

Person to Contact:
Identification Number:
Contact Telephone Number:
In Reply Refer to:

LAST DATE FOR FILING A PETITION
WITH THE TAX COURT:

UIL: 501.03-00

CERTIFIED MAIL – Return Receipt Requested

Dear :

This is a Final Adverse Determination Letter as to your exempt status under section 501(c)(3) of the Internal Revenue Code. Your exemption from Federal income tax under section 501(c)(3) of the code is hereby revoked effective January 1, 20xx.

Our adverse determination was made for the following reasons:

Treas. Reg. section 1.501(c)(3)-1(d)(1)(ii) provides that an organization is not operated exclusively for exempt purposes unless it serves a public rather than a private interest. You operated for the benefit of private interests of a particular and specified individual.

As such, you failed to meet the requirements of I.R.C. section 501(c)(3) and Treasury Regulations section 1.501(c)(3)-1(d)(1)(ii) in that you have not demonstrated that you are operated exclusively for exempt purposes within the meaning of Internal Revenue Code section 501(c)(3).

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

You are required to file Federal income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for the year ending December 31, 20xx and for all years thereafter.

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.

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. We can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for our assistance, which is always free, we will do everything possible to help you. Visit taxpayeradvocate.irs.gov or call 1-877-777-4778.

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,

Maria Hooke
Director, EO Examinations

Enclosures:
Publication 892



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

Date:

March 28, 2017

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Manager's Name/ID Number:

Manager's Contact Number:

Response due date:

Certified Mail – Return Receipt Requested

Dear :

Why you are receiving this letter

We propose to revoke your status as an organization described in section 501(c)(3) of the Internal Revenue Code (Code). Enclosed is our report of examination explaining the proposed action.

What you need to do if you agree

If you agree with our proposal, please sign the enclosed Form 6018, *Consent to Proposed Action – Section 7428*, and return it to the contact person at the address listed above (unless you have already provided us a signed Form 6018). We'll issue a final revocation letter determining that you aren't an organization described in section 501(c)(3).

After we issue the final revocation letter, we'll announce that your organization is no longer eligible for contributions deductible under section 170 of the Code.

If we don't hear from you

If you don't respond to this proposal within 30 calendar days from the date of this letter, we'll issue a final revocation letter. Failing to respond to this proposal will adversely impact your legal standing to seek a declaratory judgment because you failed to exhaust your administrative remedies.

Effect of revocation status

If you receive a final revocation letter, you'll be required to file federal income tax returns for the tax year(s) shown above as well as for subsequent tax years.

What you need to do if you disagree with the proposed revocation

If you disagree with our proposed revocation, you may request a meeting or telephone conference with the supervisor of the IRS contact identified in the heading of this letter. You also may file a protest with the IRS Appeals office by submitting a written request to the contact person at the address listed above within 30 calendar days from the date of this letter. The Appeals office is independent of the Exempt Organizations division and resolves most disputes informally.

For your protest to be valid, it must contain certain specific information including a statement of the facts, the applicable law, and arguments in support of your position. For specific information needed for a valid protest, please refer to page one of the enclosed Publication 892, *How to Appeal an IRS Decision on Tax-Exempt Status*, and page six of the enclosed Publication 3498, *The Examination Process*. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process. Please note that Fast Track Mediation referred to in Publication 3498 generally doesn't apply after we issue this letter.

You also may request that we refer this matter for technical advice as explained in Publication 892. Please contact the individual identified on the first page of this letter if you are considering requesting technical advice. If we issue a determination letter to you based on a technical advice memorandum issued by the Exempt Organizations Rulings and Agreements office, no further IRS administrative appeal will be available to you.

Contacting the Taxpayer Advocate Office is a taxpayer right

You have the right to contact the office of the Taxpayer Advocate. Their assistance isn't a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate can't reverse a legally correct tax determination or extend the time you have (fixed by law) to file a petition in a United States court. They can, however, see that a tax matter that hasn't 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:

Internal Revenue Service
Office of the Taxpayer Advocate

For additional information

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,

For Maria Hooke
Director, EO Examinations

Enclosures:
Report of Examination
Form 6018
Publication 892
Publication 3498

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended June 30, 20XX	

ISSUE

Whether tax exempt status under Internal Revenue Code (IRC) §501(c)(3) should be revoked on the ground of inurement.

FACT

Background

(Foundation) was incorporated in in July 20xx for the purpose of providing counseling to individuals seeking recovery from alcohol and drug addiction. In September 20xx, the Foundation applied for tax exempt status under IRC §501(c)(3). In a letter dated April 26, 20xx, the IRS recognized the Foundation as a tax exempt entity described in IRC §501(c)(3). The Foundation was further classified as a public charity described in IRC §170(b)(1)(A)(vi) and §509(a)(1). The Foundation's tax exempt status remains in effect to the present day. Although no longer operating, the Foundation's corporate status remains active at the writing of this report.

The Foundation operates on a fiscal year basis ended on June 30. Prior to the FY June 30, 20xx, the Foundation's main source of revenue came from state government. The Foundation disclosed on its June 30, 20xx Form 990-EZ that its government contract was suspended; thus causing the Foundation to suspend services and use assets to pay outstanding liabilities and recurring debt during period of suspension.

The Foundation filed a Form 990-EZ for the tax years ended June 30, 20xx and 20xx reporting zero revenue, expenses, assets, and liabilities. The Foundation filed a Form 990-N, *e-Postcard*, for the tax years ended June 30, 20xx and 20xx. The Foundation has not filed a Form 990 or 990-N for the tax years ended June 30, 20xx and 20xx.

Per the most recently filed and properly processed Form 990-N, the Foundation's address was

Board Members, Officers, and Employees

Form 1023, *Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*, listed the following officers:

1. , CEO
2. , COO (no longer with the Foundation during the audited year)
3. (formerly known as), CFO

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
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had continuously served as the Foundation's CEO. oversaw
the Foundation's operations and was responsible for its success. had the
authority to bind the Foundation into legal contracts.

In a letter dated April 11, 20xx to the IRS, provided the following narrative
regarding

Chief Financial Officer is held by education
was completed in . She has x years experience working in
Health Care Services. [sic] those years experience have been in
administrative management, x of which were in finance, accounts
receivable/payable and payroll. This is her first year in Social Recovery
Model, however, her in depth experience in the health care field bring
valuable insight and experience.

Per , has not been involved with the Foundation since 20xx.
and got married in 20xx.

Per , there were x board members on the Foundation's board of directors.
However, they were not involved in the Foundation's operations. stated
that there were board meetings, but for the most part there was not much to discuss.
The examining requested the minutes of board meetings but was not provided.
claim the minutes along with other records were destroyed by a former
employee. provided an one-page police report for this incident, which
involved a former employee making verbal threats against and others.
The police report makes no reference to records being destructed or stolen.

Foundation Activities

Per verbal explanation, despite the loss of contract, the Foundation
continued to provide services on a smaller scale. The services included referring
people to job searching, signing up for health insurance, and help for domestic issues.
During this period, the Foundation moved several times. The Foundation's returns
Form 990, 990-EZ, and 990-N shows several address. One of the addresses is
. This is house, which he owned.
During the audit, information document requests were mailed to this address.

claimed to have used his own money to pay the rent and other expenses
and provided a schedule listing approximated out of pocket expenses he paid on behalf
of the Foundation. However, provided no evidence to support his claim.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
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Starting in November 20xx, the Foundation began providing transitional housing service to substance abuse clients. The Foundation leased a house located at _____ in _____. The lease payment was \$x,xxx/mo.

In February 20xx, the Foundation resumed providing counseling services to individuals with alcohol and drug addiction. In April 20xx, the Foundation opened two additional facilities located at _____ in _____ to provide transitional living. The rent for all facilities was paid out of the Foundation's bank account.

The Foundation ceased providing services in June 20xx, due to billing issues with the insurer. _____ alleged that the Foundation overbilled for its services and demanded refunds. The Foundation was unable to repay the fees and stopped providing services in June 20xx. _____ kept the _____ facilities opened until April 20xx because the lease has not expired. Clients were required to pay rent.

Receipts and Disbursements From _____ Bank Accounts

In January 20xx, the Foundation opened a checking account (#xxxxxxxxxx) and a savings account (#xxxxxxxxxx) with _____ Bank. Only _____ and his wife _____, even though she was no longer involved with the Foundation, had access to the Foundation's bank accounts.

Bank statements from January through June 20xx, shows total deposits (excluding transfers between accounts) of \$xxx,xxx. \$xxx,xxx of the deposits was a donation from board member _____. Fee payments from _____ totaled \$xxx,xxx. Deposits from clients and other sources totaled \$xx,xxx. Disbursements, excluding transfers between accounts, totaled \$xxx,xxx.

Debit Card Purchases (Exhibit 1)

The Foundation had a debit card issued by _____ Bank in connection with the checking account. _____ was the only person who had access to the debit card. Bank statements show debit card was used to pay/purchase utilities, household supplies, groceries, etc. for clients who lived at the Foundation's transitional homes.

Debit card was also used to pay for cellphone bills, airline tickets, hotels, car rental, cigars. _____ claimed that the travel expenses were for trips to _____ and _____ (_____ was from _____) to explore new business opportunities. However, _____ provided no evidence for such claim. Debit cards purchases for these items totaled \$xx,xxx.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
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Cash Withdrawals and Online Transfers (Exhibit 2)

Bank statements shows \$xxx,xxx cash withdrawals and online transfers to bank account maintained at Credit Union.

claims the ATM withdrawals below were used to fill van with gas, purchase lunch for clients, and cash supplies, etc., but provided no evidence to support his claim. Note that one of the ATM withdrawal was made in

<u>Date</u>	<u>Acct.</u>	<u>Description</u>	<u>Amount</u>
3/23/xx	Checking	ATM withdrawal in	xxx.xx
3/23/xx	Checking	ATM withdrawal in	xxx.xx
3/24/xx	Checking	ATM withdrawal in	xxx.xx
3/25/xx	Checking	ATM withdrawal in	xxx.xx
3/31/xx	Checking	ATM withdrawal in	xxx.xx
4/23/xx	Checking	ATM withdrawal in	xxx.xx
2/4/xx	Checking	ATM withdrawal	xxx.xx
3/27/xx	Checking	ATM withdrawal	xxx.xx

claims the x withdrawals below were for security deposit and rent for the facilities. The lease agreements for the facilities called for monthly rent payment of \$x,xxx and security deposit of \$x,xxx. Neither the Foundation nor provided the lessor's acknowledgment of receipt of the security deposit and that the Foundation received the security deposit back at the expiration of the lease. The bank statement showed that the Foundation had been paying for rent with checks.

<u>Date</u>	<u>Acct.</u>	<u>Description</u>	<u>Amount</u>
3/17/xx	Checking	Withdrawal in branch/store	xx,xxx.xx
4/9/xx	Checking	Withdrawal in branch/store	x,xxx.xx
5/28/xx	Checking	Withdrawal in branch/store	x,xxx.xx

claims the \$x,xxx withdrawals made on June 16, 20xx (see Exhibit 2) was for purchase of a new van but provided no evidence such as title and registration to support his claims. The \$x,xxx was described in the general ledger as rent payment for the facility. The balance sheets show no vehicle or van as assets.

claimed the \$xx,xxx withdrawal made on February 26, 20xx (see Exhibit 2) was used to repay cash debt but provided no evidence that the Foundation actually received this loan. The \$xx,xxx withdrawal was described in the general ledger as a transfer from savings to checking account.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended June 30, 20XX

Neither the Foundation nor _____ offered explanations or substantiations for the remaining withdrawals listed on Exhibit 2.

Checks Payable to

_____ made the following checks to himself. _____ verbally explained that the checks represented his salary and reimbursements for out of pocket expenses, but provided no proofs to show that he actually paid for any expenses.

<u>Date</u>	<u>Check #</u>	<u>Payee</u>	<u>Description on Checks</u>	<u>Amount</u>
3/2/xx	xxxx			x,xxx
3/2/xx	xxxx			x,xxx
3/11/xx	xxxx			x,xxx
3/11/xx	xxxx			x,xxx
3/12/xx	xxxx			x,xxx
3/13/xx	xxxx		Salary	x,xxx
3/13/xx	xxxx		Salary	x,xxx
3/13/xx	xxxx			x,xxx
3/18/xx	xxxx		Salary	x,xxx
3/18/xx	xxxx		Salary	x,xxx
3/19/xx	xxxx			xx,xxx
3/19/xx	xxxx			xx,xxx
3/19/xx	xxxx		Salary	x,xxx
3/19/xx	xxxx		Salary	<u>x,xxx</u>
				xxx,xxx

An inspection of _____ tax return filed for the tax year 20xx revealed a Form W-2 from the Foundation to _____. The Form W-2 reports the following:

- o Wages: \$xxx,xxx
- o Federal income tax withholding: \$xx,xxx
- o Social security tax withholding: \$x,xxx
- o Medicare tax withholding: \$x,xxx

The IRS has no records of the Foundation paying the \$xx,xxx (xx,xxx + x,xxx + x,xxx) federal taxes withheld on _____ wages. The Foundation's records and bank statements neither showed the withholding nor the payments of the taxes above.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended June 30, 20XX

Checks Payable to Other Individuals

made the following checks to other individuals.

Date	Check #	Payee	Description on Checks	Amount
2/26/xx	xxxx		Feb 20xx salary	x,xxx
2/28/xx	xxxx		Feb	x,xxx.xx
2/28/xx	xxxx		March	x,xxx.xx
3/11/xx	xxxx		Partial loan repayment	x,xxx
3/11/xx	xxxx		None	x,xxx
			For loan 12/31/xx \$xx,xxx	
			final payment balance paid	
16/xx	xxxx		in full	xx,xxx
3/18/xx	xxxx		March 20xx salary	x,xxx
4/23/xx	xxxx		April contractual services	x,xxx
				xx,xxx

and are parents. Neither the Foundation nor provided evidence to establish business connection for the above payments, or that the Foundation received the loans, which warranted repayments.

Publicly available property deed records obtained from revealed that in December 20xx, appeared to refinance his house located at . The loan amount was \$xx,xxx, the same as description on check. The lender was , the same payee listed above. See Exhibit 3.

Payments for Personal Credit Cards Bills

Bank statements show the following credit card payments for and his wife personal credit cards. Neither the Foundation nor provided evidence to establish business connection for the above credit card payments.

Date	Check #	Description	Amount
2/17/xx		online payment xxxxxxxxxx	xxx.xx
3/11/xx		online payment xxxxxxxxxx	xxx.xx
3/30/xx		online payment xxxxxxxxxx	xxx.xx
5/11/xx		online payment xxxxxxxxxx	xxx.xx
6/11/xx		online payment xxxxxxxxxx	xxx.xx
2/17/xx		online payment xxxxxxxxxx	xxx.xx
3/11/xx		online payment xxxxxxxxxx	xxx.xx
6/11/xx		online payment xxxxxxxxxx	xxx.xx

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended June 30, 20XX

4/2/xx	Bank payment	xxx.xx
4/20/xx	Bank payment	xxx.xx
6/12/xx	Bank payment	xxx.xx
2/18/xx	Bank payment	xxx.xx
3/12/xx	Bank payment	xxx.xx
3/2/xx xxxx Check -		x,xxx.xx
3/2/xx xxxx Check -		<u>x,xxx.xx</u>
		x,xxx

LAW

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

Treasury Regulations (Regs.) §1.501(c)(3)-1(a)(1) provides that, in order to be exempt as an organization described in §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.

Regs. §1.501(c)(3)-1(c)(2) provides that 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.

Regs. 1.501(a)-1(c) defines the words private shareholder or individual in section 501 as persons having a personal and private interest in the activities of the organization.

Regs. §1.501(c)(3)-1(f)(2)(i) states that, regardless of whether a particular transaction is subject to excise taxes under §4958, the substantive requirements for tax exemption under §501(c)(3) still apply to an applicable tax-exempt organization described in §501(c)(3) whose disqualified persons or organization managers are subject to excise taxes under §4958. Accordingly, an organization will no longer meet the requirements

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended June 30, 20XX

for tax-exempt status under §501(c)(3) if it fails to satisfy the requirements of paragraph (b), (c) or (d) of this section.

Regs. §1.501(c)(3)-1(f)(2)(ii) provides that, in determining whether to continue to recognize the tax-exempt status of an applicable tax-exempt organization (as defined in §4958(e) and §53.4958-2) described in §501(c)(3) that engages in one or more excess benefit transactions that violate the prohibition on inurement under §501(c)(3), the Commissioner will consider all relevant facts and circumstances, including, but not limited to, the following -

- A. The size and scope of the organization's regular and ongoing activities that further exempt purposes before and after the excess benefit transaction(s) occurred;
- B. The size and scope of the excess benefit transaction(s) (collectively, if more than one) in relation to the size and scope of the organization's regular and ongoing activities that further exempt purposes;
- C. Whether the organization has been involved in multiple excess benefit transactions with one or more persons;
- D. Whether the organization has implemented safeguards that are reasonably calculated to prevent excess benefit transactions; and
- E. Whether the excess benefit transaction has been corrected (within the meaning of §4958(f)(6) and §53.4958-7), or the organization has made good faith efforts to seek correction from the disqualified person(s) who benefited from the excess benefit transaction.

IRC §4958(c) defines the term "excess benefit transaction" as any transaction in which an economic benefit is provided by an applicable tax-exempt organization directly or indirectly to or for the use of any disqualified person if the value of the economic benefit provided exceeds the value of the consideration (including the performance of services) received for providing such benefit. For purposes of the preceding sentence, an economic benefit shall not be treated as consideration for performance of services unless such organization clearly indicated its intent to so treat such benefit.

IRC §4958(e) defines "applicable tax-exempt organization" as an organization described in either IRC §501(c)(3) or §501(c)(4) or an organization which was so described at any time during the five-year period ending on the date of the excess benefit transaction.

IRC §4958(f)(1) defines a "disqualified person" as (A) any person who was, at any time during the five-year period ending on the date of such transaction, in a position to exercise substantial influence over the affairs of the organization, (B) a member of the family of a disqualified person, and (C) a 35% controlled entity.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended June 30, 20XX

The taxpayers have the burden of proofs that they are entitled to deductions. See Hradesky v. Commission, 540 F.2d 821 (5th Cir. 1976), and Welch v. Helvering, 290 U.S. 111, 115 (1933).

In Founding Church of Scientology v. United States, 412 F.2d 1197 (Ct. Cl. 1969), cert. den., 397 U.S. 1009 (1970), an organization argued that it had paid its founder for expenses incurred in connection with his services, made reimbursements to him for expenditures on its behalf, and made some payments to him as repayments on a loan. The organization could produce no evidence of contractual agreements for services, or documents evidencing indebtedness for which expenses had been incurred. The Court concluded that

nothing we have found in the record dispels the substantial doubts the court entertains concerning the receipt of benefit by the Hubbards from plaintiff's net earnings. Since plaintiff has failed to meet its burden of proof, we hold therefore that a part of the corporate net earnings was a source of benefit to private individuals. *Supra*, at 1202.

TAXPAYER'S POSITION

The Foundation's position is not known.

GOVERNMENT'S POSITION

It's the Foundation and burden to establish that the debit car purchases, checks, withdrawals and transfers of fund, personal credit card payments, described in this report were connected to the Foundation's activities, thus furthering its exempt purpose. See Hradesky v. Commission and Welch v. Helvering.

Despite numerous written requests and follow-up phone calls, neither the Foundation nor provided proofs establishing how these transactions were connected to the Foundation's activities, thus furthering its exempt purpose.

The transactions were personal in nature. For example, the purchase of cigar, the trips to and , the unsubstantiated cash withdrawals, the uses of Foundation's fund to repay personal home loan, and credit cards, etc. Therefore, it's determined that these transactions were not connected to the Foundation's activities.

 claimed some of the payments represented reimbursements for approximated out of pocket expenses, but provided no proofs that he actually paid for these expenses.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended June 30, 20XX

claimed some of the payments represented repayment of loans but provided no proofs that the Foundation actually received the loans. One of the loans (from) was actually for the house which owns.

It's therefore determined that the Foundation's net earnings have inured, in substantial part, to the benefit of , the Foundation's insider as defined by Regs. 1.501(a)-1(c). This violates Regs. §1.501(c)(3)-1(c)(2) and warrants revocation of the Foundation's 501(c)(3) status. Attempting after the fact to demonstrate that an undocumented transaction is a typical business arrangement is not likely to prevent a finding of inurement. See Founding Church of Scientology v. United States.

Interaction with IRC §4958

In determining whether to continue to recognize the tax-exempt status of an applicable tax exempt organization that engages in one or more excess benefit transactions that violate the prohibition on inurement under IRC §501(c)(3), all relevant facts and circumstances, including, but not limited to, the following are taken into account:

1. The size and scope of the organization's regular and ongoing activities that further exempt purposes before and after the excess benefit transaction(s) occurred;
2. The size and scope of the excess benefit transaction or transactions (collectively, if more than one) in relation to the size and scope of the organization's regular and ongoing activities that further exempt purposes;
3. Whether the organization has been involved in multiple excess benefit transactions with one or more persons;
4. Whether the organization has implemented safeguards that are reasonably calculated to prevent excess benefit transactions; and
5. Whether the excess benefit transaction has been corrected, or the organization has made good faith efforts to seek correction from the disqualified person(s) who benefited from the excess benefit transaction.

All factors should be considered in combination with each other. Depending on the particular situation, greater or lesser weight may be assigned to some factors than to others. The safeguard and correction factors will weigh more heavily in favor of continuing to recognize exemption where the organization discovers the excess benefit transactions and takes action before the IRS discovers the excess benefit transactions. Further, with respect to the correction factor, correction after excess benefit transactions are discovered by the IRS, by itself, is never a sufficient basis for continuing exemption. Regs. §1.501(c)(3)-1(f)(2)(ii).

Discussion of the 5 factors

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended June 30, 20XX

1. The size and scope of the organization's regular and ongoing activities that further exempt purposes before and after the excess benefit transaction(s) occurred.

There's no ascertainable evidence of the Foundation's activities since losing its contract in 20xx. The Foundation disclosed on its Form 990 that its operations were suspended.

claimed the Foundation continued to provide services during the period of suspension but provided no evidence to support this claim. The Foundation resumed operation for a brief few months from January to June 20xx. Due to the inability to repay the over-charged fees owed to , it is doubtful that the Foundation would be able to operate again.

2. The size and scope of the excess benefit transaction or transactions (collectively, if more than one) in relation to the size and scope of the organization's regular and ongoing activities that further exempt purposes.

Disbursements totaled \$xxx,xxx. Of \$xxx,xxx, excess benefit transactions accounted for \$xxx,xxx, or xx% of total disbursements:

Cash withdrawals:	\$xxx,xxx
Checks to :	\$ xx,xxx (xxx,xxx - xxx,xxx reported on W-2)
Checks to others:	\$ xx,xxx
Personal credit cards payments:	\$ x,xxx
Debit card purchases:	\$ xx,xxx
Travel:	\$ x,xxx
Total:	\$xxx,xxx

As shown above, the size, xx%, of the excess benefit transactions in relation to the size of the Foundation's activities that further its exempt purpose is substantial. It's reasonable to argue that the excess benefit transactions directly contributed to the Foundation's inability to repay the over-charged fees to causing it to cease operations. It's not know how much of the \$xxx,xxx fees from was over-billed. Regardless, such over-billed amount was substantially less than the excess benefit transactions amount of \$xxx,xxx.

3. Whether the organization has been involved in multiple excess benefit transactions with one or more persons.

As illustrated above, the Foundation has been involved in multiple excess benefit transactions. cut checks to himself, some of which were unsubstantiated. wrote checks to others, presumably for his own benefits as he has not provided evidence of business connection. used the Foundation's fund to pay personal credit card bills, personal travels, cigars, and home loan.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
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withdrew money from the Foundation's bank and accounts but provided no evidence how the withdrawals benefited the Foundation.

4. Whether the organization has implemented safeguards that are reasonably calculated to prevent excess benefit transactions.

There were no safeguards or checks and balances. had complete control over the Foundation's bank accounts, which allowed him to use the Foundation's bank accounts as if they were his personal bank accounts.

5. Whether the excess benefit transaction has been corrected, or the organization has made good faith efforts to seek correction from the disqualified person who benefited from the excess benefit transaction.

No corrections have been made.

Considering the 5 factors above, the excess benefit transactions resulted in inurement. Therefore, revocation is warranted.

CONCLUSION

The Foundation's tax exempt status under IRC §501(c)(3) should be revoked effective July 1, 20xx, on the ground of inurement. The Foundation is required to file a Form 1120, *U.S. Corporation Income Tax Return*, for the tax ended year June 30, 20xx and all future years.

EXHIBIT 1

Date	Description	Amount	Total
3/3/xx	Card purchase	x,xxx.xx	x,xxx.xx
3/17/xx	Card purchase	xx.xx	
5/13/xx	Card purchase	xx.xx	
6/10/xx	Card purchase	xx.xx	xxx.xx
3/17/xx	Card purchase	xxx.xx	
3/30/xx	Card purchase	xx.xx	
3/30/xx	Card purchase	xxx.xx	x,xxx.xx
2/18/xx	Card purchase	xx.xx	
2/18/xx	Card purchase	xxx.xx	
5/18/xx	Card purchase	xx.xx	
6/9/xx	Card purchase	xxx.xx	
6/12/xx	Card purchase	xxx.xx	
6/16/xx	Card purchase	xx.xx	
6/29/xx	Card purchase	xxx.xx	
2/19/xx	Card purchase	xxx.xx	
4/1/xx	Card purchase	xxx.xx	
4/1/xx	Card purchase	xx.xx	
4/27/xx	Card purchase	xxx.xx	
5/11/xx	Card purchase	xxx.xx	x,xxx.xx
4/15/xx	Card purchase	xxx.xx	
6/1/xx	Card purchase	xxx.xx	xxx.xx
3/30/xx	Card purchase	xxx.xx	xxx.xx
4/1/xx	Card purchase	xxx.xx	
4/10/xx	Card purchase	xxx.xx	
5/11/xx	Card purchase	xxx.xx	
5/14/xx	Card purchase	xxx.xx	
6/17/xx	Card purchase	xxx.xx	x,xxx.xx
3/20/xx	Card purchase	x,xxx.xx	x,xxx.xx
3/2/xx	Card purchase	x.xx	x.xx
6/15/xx	Card purchase	xxx.xx	xxx.xx
3/17/xx	Card purchase	xxx.xx	xxx.xx
6/15/xx	Card purchase	xxx.xx	xxx.xx
3/13/xx	Card purchase	xxx.xx	xxx.xx
3/24/xx	Card purchase	xxx.xx	xxx.xx
3/17/xx	Card purchase	xxx.xx	xxx.xx
3/16/xx	Card purchase	x,xxx.xx	x,xxx.xx
3/31/xx	Card purchase	xxx.xx	xxx.xx
6/8/xx	Card purchase	xxx.xx	xxx.xx
3/3/xx	Card purchase	x,xxx.xx	
2/27/xx	Card purchase	x,xxx.xx	x,xxx.xx
3/13/xx	Card purchase	xxx.xx	
6/22/xx	Card purchase	xxx.xx	xxx.xx
6/25/xx	Card purchase	xxx.xx	xxx.xx
5/26/xx	Card purchase	xxx.xx	xxx.xx
3/10/xx	Card purchase	xx.xx	

EXHIBIT 1

Date	Description	Amount	Total
3/10/xx	Card purchase	xx.xx	
3/10/xx	Card purchase	xxx.xx	
6/12/xx	Card purchase	xxx.xx	
2/18/xx	Card purchase	xxx.xx	x,xxx.xx
5/18/xx	Card purchase	xx.xx	
5/22/xx	Card purchase	xx.xx	
6/8/xx	Card purchase	xx.xx	
6/12/xx	Card purchase	xx.xx	
6/17/xx	Card purchase	xx.xx	xxx.xx
4/10/xx	Card purchase	xxx.xx	
4/10/xx	Card purchase	xxx.xx	xxx.xx
		xx,xxx	xx,xxx

Exhibit 2

Date	Acct.	Description	Amount	
3/23/xx	Checking	ATM withdrawal in	xxx.xx	1
3/23/xx	Checking	ATM withdrawal in	xxx.xx	1
3/24/xx	Checking	ATM withdrawal in	xxx.xx	1
3/25/xx	Checking	ATM withdrawal in	xxx.xx	1
3/31/xx	Checking	ATM withdrawal in	xxx.xx	1
4/23/xx	Checking	ATM withdrawal in	xxx.xx	1
2/4/xx	Checking	ATM withdrawal	xxx.xx	1
3/27/xx	Checking	ATM withdrawal	xxx.xx	1
2/4/xx	Checking	ATM transaction fee	x.xx	
3/27/xx	Checking	ATM transaction fee	x.xx	
4/14/xx	Checking	Cash in branch/store	x,xxx.xx	
4/23/xx	Checking	Cash in branch/store	x,xxx.xx	
4/23/xx	Checking	Cash in branch/store	x,xxx.xx	
2/27/xx	Checking	Fee for transfer to	x.xx	
6/15/xx	Checking	Fee for transfer to	xx.xx	
2/27/xx	Checking	Online transfer to	x,xxx.xx	
6/15/xx	Checking	Online transfer to	x,xxx.xx	
2/3/xx	Checking	Withdrawal in branch/store	x,xxx.xx	
2/17/xx	Checking	Withdrawal in branch/store	x,xxx.xx	
2/19/xx	Checking	Withdrawal in branch/store	x,xxx.xx	
3/9/xx	Checking	Withdrawal in branch/store	x,xxx.xx	
3/17/xx	Checking	Withdrawal in branch/store	xx.xx	
3/17/xx	Checking	Withdrawal in branch/store	xx,xxx.xx	2
4/9/xx	Checking	Withdrawal in branch/store	x,xxx.xx	3
5/21/xx	Checking	Withdrawal in branch/store	x,xxx.xx	
5/28/xx	Checking	Withdrawal in branch/store	x,xxx.xx	4
6/2/xx	Checking	Withdrawal in branch/store	x,xxx.xx	
6/11/xx	Checking	Withdrawal in branch/store	x,xxx.xx	
6/11/xx	Checking	Withdrawal in branch/store	x,xxx.xx	
6/16/xx	Checking	Withdrawal in branch/store	x,xxx.xx	5
2/26/xx	Savings	Withdrawal in branch/store	xx,xxx.xx	6
4/14/xx	Savings	Cash withdrawal in branch/store	<u>x,xxx.xx</u>	7
			xxx,xxx	

explanation

- 1 Money for gas, lunch for clients, supplies, etc.
- 2 deposit and last month rent.
- 3 rent
- 4 rent
- 5 Purchase new van.
- 6 Repay debt.
- 7 Unknown.

EXHIBIT 3

(Deed 3 of 44)

Property Address:

Name Owner:

County:

Data Source:

Sales Information

Document Type: DEED OF TRUST

Sale Price:

Loan Amount: \$xx,xxx

Sale Date: 12/04/20xx

Recording Date: 01/06/20xx

Parcel Number: xxxx-xxx-xxx

Book:

Page:

Mortgage Information

Document Type: DEED OF TRUST

Lender Name:

Transaction Type: REFINANCE

Title Company:

Loan Type: PRIVATE PARTY LENDER

Document Number: xxxxx

Interest Rate:

Interest Rate Type:

(Deed 4 of 44)

Property Address:

Name Owner:

Owner Address:

County:

Data Source:

Sales Information

Document Type: DEED OF TRUST

Sale Price:

Loan Amount: \$xxx,xxx

Terms: 30 Years

Sale Date: 08/13/20xx

Recording Date: 10/01/20xx

Parcel Number: xxxx-xxx-xxx

Book:

Page:

Mortgage Information

Document Type: MORTGAGE MODIFICATION
AGREEMENT

Lender Name:

Transaction Type:

Title Company:

Loan Type:

Document Number:

Interest Rate:

Interest Rate Type:

(Deed 5 of 44)

Property Address:

Name Owner: