

Keep this for discussion

5/1/78 Conversation with Marshall Swartz; June & Jean

June: What we were interested in was basically the first and second letters that came from the IRS - we remembered, and we had talked to Mr. Chaikin overseas about it also, we kind of conferred on it with Mr. Bentzman, the attorney up here. One of the original ideas that came out from all the discussion on this was that it might be better off if we just did not comply at all in the beginning, from the beginning on.

S: We had discussed several alternatives.

J: What do you think - I think in the discussion last week we had reached kind of a consensus on responding to the point of sending them our Articles and our Bylaws, and not going along with the financial statement, but going halfway so far. We were a little bit worried about even complying in the slightest, considering the pattern of harassment that's been going down, and we wondered what would be your opinion about if we just simply refused to comply based on that idea of harassment. Does that make any sense?

S: What you're saying to me makes sense. We had discussed two alternative solutions. We could take the hardline approach and not comply with this letter, which would force them to subpoena the documents, or we could in effect censor their request to decide what we felt was an appropriate request and what was not an appropriate request for the normal purposes of the Internal Revenue Service. When Jean called me last week, I assumed that everyone had discussed it and come to the conclusion that they wanted to comply with at least this letter, which seemed to request appropriate materials for an IRS purpose of examining the purposes of your organization to determine whether you qualify as a 501(c)(3) organization.

J: Okay, I think we had also reached that point, but then we're a little bit worried about complying, basically because there was an article in a newspaper one of our members saw, it was in the Boston Globe, about an ex-IRS agent who had said from his own personal experience that the worst mistake is to cooperate and rather you should not comply from the getgo because if the IRS is looking into you at all, they do have a case, or they're assuming they have a case; it was that and some other discussions we had

S: Well, wait a minute, I think we have to distinguish several different types of things. Now there's one situation where you definitely do not want to comply at all, and that is where a special agent is involved which means from the beginning that they are looking to charge you with fraud or some criminal activity. At that point it immediately becomes a criminal matter, and you exercise your right granted under the Fifth Amendment. If possible, you do not disclose anything. Corporations do not have Fifth Amendment rights, first of all. Second of all, this does not have any indication that there is any type of criminal activity suspected.

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J: I think our hesitation is that if we comply in the beginning like this, and show a willingness to comply, does that somewhat open the door so that it just gets wider and wider and they keep on getting more and more into it?

S: Was this the 2nd letter?

J: The second letter is basically the same as the first letter.

S: Does it say you didnt respond to our earlier letter?

J: Right. The questions are basically the same. In preparing a formal response; I mean we can send in delaying responses so that we they know we're responding but we're not actually supplying them with anything, but when we come down to the point of determining whether we want to supply or not, we're hesitant to even send them the Articles, because for one thing, Tim Stoen has apparently gone to our denomination and made accusations as usual, but then he's also told them he's gone to the IRS and they will be publically exposed if they do not, they will be embarrassed if they keep us in the denomination.

S: I get the point that you're making. Let me consider what you're saying. Last few times I've given the alternatives but I haven't been asked for my recommendation necessarily. Let me consider this overnight and I'll give you a call tomorrow.

J: I'm wondering possibly if we had our attorney up here, maybe he could call you and talk back and forth about it. Would that be okay with you?

S: That would be no problem with me. Okay, let me think about it overnight and I'll get back to you tomorrow.

J: We're mostly in favor of not complying but we don't want to get in a fix where if we don't comply we end up in more trouble than we need to be, and also we're wondering if we do comply to the point of just giving our Articles and Bylaws, would that head off the national level audit?

S: There's no guarantee. I can't guarantee it will. It could if they're satisfied with the material you're submitting. I do know that there are areas of charitable organizations they are auditing so to speak more. Now whether this came up in a routine manner or through some other means, we can only speculate.

J: I rather doubt it's normal.

S: Okay, let me consider it overnight and I'll give you call back tomorrow.

J: Okay, I think Jean has a question...

Jean: If we do give some documents, does that give us less credence later if we want to maintain the request was based on harassment, that their inquiry is based on harassment? If we do comply to some

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certain extent and then say, I'm sorry, no then why didn't we maintain that from the onset.

S: I thought from the first time that we talked when you were down here, you were going to write them a letter requesting the reason for the audit. Did you do that?

Jean: We've had some verbal communications back and forth; we haven't done that formally in writing, no.

S: What was the response:

Jean: Offhand, the response was publicity.

S: What do you mean by publicity?

Jean: Well, we've been in the newspapers a lot, say from about June, or July

S: So the IRS responded that you've reached the public limelight and now we're going to look at you?

Jean; Yeah, that's what our attorney here, Marshall Bentzman; he talked to the guy whose name is on the second letter. He told them that we really decided not to comply because we thought that the inquiry is based on an informant. He kind of pressed him a bit, and finally the guy said, no it's just on publicity. That's what the IRS agent told our attorney here over the phone. That's never been formulated in writing. But we haven't pushed it in writing. I would think that would be something we would want to do, demand that kind of response.

S: Let me think about this overnight. I may talk to Mr. Karno about this.

Jean: Maybe you could call back and give your answer to Mr. Bentzman, maybe that would be the thing to do. What time do you think you'd be calling, I'll try to be on hand

S: I really couldn't pin it down to an exact time. Why don't I give him a call

Jean: We could make an appointment and meet there, that might be the best thing to do, to have us there in the office when you call.

S: Why don't you let me talk to him and if he feels the 3 or 4 of us have to get together in a conference, we'll set that up.

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I feel our best bet is to send the Articles, Bylaws
to I.R.'s & revised minutes (approved by Secretary) provided
we get an opinion from counsel that this will in no
way be a waiver of any right we may have to submit
further data based upon harassment. E.D.

I'd say make them do the work & not give it.
(But I don't know what the legal ramifications
would be.) ~~the first~~ Sarah