



MARCUS S. OWENS
Partner

901 New York Avenue NW
3rd Floor East
Washington, DC 20001-4432

Direct 202.618.5014
Main 202.618.5000
Fax 202.618.6308
mowens@loeb.com

October 1, 2015

Mr. John Wong
Appeals Officer
Internal Revenue Service
MS 8000
300 N. Los Angeles Street
Los Angeles, CA 90012

Re: Interreligious Foundation for Community Organization (EIN: 13-2590548)

Dear Mr. Wong:

On behalf of the Interreligious Foundation for Community Organization, also known as Pastors for Peace ("Pastors"), which is currently recognized as exempt under section 501(c)(3) of the Internal Revenue Code, I request a referral for technical advice to the Office of Associate Chief Counsel (Tax Exempt and Government Entities) concerning the legality of enforcement actions against my client pursuant to Revenue Procedure 2015-2, Section 5.02, 2015-1 IRB 105.

Specifically, the authority of the Internal Revenue Service ("IRS") to take enforcement action against the Pastors' provision of religiously-motivated humanitarian assistance is questionable, given the restrictions imposed on the IRS pursuant to its appropriations legislation¹ and the agency's ability to enforce non-tax federal law. There is no clear guidance on either issue, and both issues are material to the proposed revocation of Pastors' tax-exempt status.

The founder of Pastors, the late Rev. Lucius Walker, set forth the religious mission of the organization in his Pastoral Letter entitled *When Should the Churches Say "No?"*, regarding the theological conflict between the U.S. embargo on the provision of medicine and other humanitarian supplies to Cuba and the teachings of Christian love and care for the unfortunate. A copy of the Pastoral Letter was provided to you earlier.

Under Rev. Walker's leadership, Pastors began collecting medicine, food, school supplies, bicycles and Bibles and taking them to Cuba for distribution through Cuban charities and religious organizations, essentially presaging by several decades the recent efforts of Pope Francis to achieve reconciliation between the U.S. and Cuba. The "Cuba Caravans," as they are known, took the humanitarian assistance to Cuba with the full knowledge of the U.S. government, but without making application to the Treasury Department's Office of Foreign

¹ See 2014 Appropriations Act, Division E, Title I, Section 107 ("None of the funds made available under this Act may be used by the Internal Revenue Service to target citizens of the United States for exercising any right guaranteed under the First Amendment to the Constitution of the United States.").



Assets Control (“OFAC”) for licenses. At no point did OFAC sanction Pastors, or otherwise prevent it from fulfilling its religious mission to help the suffering. In fact, on several occasions, OFAC attempted, on its own initiative, to issue licenses to Pastors. Pastors, however, declined to accept the licenses on the grounds that its actions were in fulfillment of its religious mission and thus were not an appropriate matter for government approval or disapproval.

The IRS conducted an examination of Pastors resulting in a proposed revocation of tax-exempt status, based, in part,² on a unilateral determination by the IRS revenue agent that Pastors had violated the Cuba embargo³ and thus the Trading With The Enemy Act,⁴ even though none of the due process procedures that OFAC is required to follow in its enforcement actions have been undertaken by either OFAC or the IRS.⁵ An appeal from the revenue agent’s preliminary conclusion is before you. You recently informed me that you plan to confirm the proposed revocation, and action that implicates the following two issues:

1. The impact of Division E, Section 107 of the 2014 Appropriations Act, regarding the targeting of U.S. citizens for the exercise of First Amendment rights, and the Religious Freedom Restoration Act⁶ which provides that the exercise of religion may only be burdened by the federal government by the “least restrictive means” available to achieve a compelling government interest.
2. Whether the IRS may base revocation of tax-exempt status on an administrative finding by the IRS that a violation of the Cuba embargo and the Trading With The Enemy Act⁷ has occurred even though jurisdiction to enforce the Cuba embargo and the Trading With the Enemy Act lies with another federal agency.⁸

As noted, we believe that precedential guidance on the preceding two issues is inadequate to guide your analysis of Pastors’ appeal of the proposed revocation of tax-exempt status and we hereby request that you seek technical advice from the Office of Chief Counsel. If you do not grant this request for a referral for technical advice, Pastors will appeal, pursuant to section 5.03 of Rev. Proc. 2015-2.

² The other ground on which you propose to sustain the proposed revocation concerns the adequacy of Pastors’ records regarding its humanitarian assistance and grant making, a factual matter not the subject of this request.

³ Embargo on All Trade with Cuba, Proclamation No. 3447, 76 Stat. 1446 (1962), available at <http://www.gpo.gov/fdsys/pkg/STATUTE-76/pdf/STATUTE-76-Pg1446.pdf>.

⁴ Trading With The Enemy Act of 1917, Act of Oct. 6, 1917, ch. 106, 40 Stat. 411.

⁵ Cuban Democracy Act of 1992, 22 U.S.C. §§ 6001 *et seq.*

⁶ 42 U.S.C. § 2000bb *et seq.*

⁷ An alleged violation of the Trading With The Enemy Act is a felony charge that requires due process.

⁸ It is relevant to note that IRS Chief Counsel’s office has taken the position that the agency does not have the requisite technical knowledge to evaluate compliance with non-tax statutes or to accord the taxpayer appropriate due process of law in such situations. GCM 37111 (May 4, 1977).



Please do not hesitate to call me if you have any additional questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'MSO', written over a horizontal line.

Marcus S. Owens
Partner