

September 15, 2015

The Honorable John A. Koskinen
Commissioner
Internal Revenue Service
1111 Constitution Ave., N.W.
Washington, DC 20224

By electronic mail (IRS.Commissioner@IRS.gov) and First Class mail

Re: Supplement to Complaint Against The Center for Medical Progress

Dear Commissioner Koskinen:

Citizens for Responsibility and Ethics in Washington (“CREW”) writes to supplement its July 23, 2015 request that the Internal Revenue Service (“IRS”) investigate whether the Center for Medical Progress (“Center”) violated federal law by misrepresenting its planned activities in its application for tax-exempt status under section 501(c)(3) of the Internal Revenue Code.¹ Additional information regarding the Center and its application demonstrates the Center knowingly misled the IRS about its fundamental purpose and planned activities: to infiltrate Planned Parenthood and obtain undercover video in an effort to disparage that organization.

As CREW explained in our initial complaint, in 2013 the Center embarked on a series of deceptive activities in an attempt to make it appear that “Planned Parenthood sells the body parts of aborted fetuses” in violation of federal law.² Those activities included establishing a phony company that represented it procured biological tissue for bioscience researchers, having employees or agents of the Center pretend to be buyers for the company and secretly videotaping their meetings with representatives of Planned Parenthood, and deceptively editing those videotapes before releasing them to the public.³

CREW’s complaint alleged the Center’s Form 1023 application for tax-exempt status, filed under penalty of perjury, likely misrepresented the Center’s planned activities to the IRS in violation of federal tax and criminal law.⁴ CREW writes to provide additional information supporting this allegation, and demonstrating that the Center made representations with the knowledge they were false and misleading.

In recent interviews with the Fox News Network, the Center’s leaders admitted they established the organization with the specific purpose of infiltrating Planned Parenthood, secretly videotaping conversations, and broadcasting those videos. Troy Newman sits on the Center’s

¹ The complaint, without exhibits, is attached as Exhibit A (“CREW Complaint”).

² *Id.* at 2-3.

³ *Id.*

⁴ *Id.* at 3-5

board of directors and helped create it,⁵ and David Daleiden founded and heads the organization.⁶ During their interviews, Newman and Daleiden discussed the Center's formation. After Daleiden worked with another anti-abortion group in a failed attempt to infiltrate Planned Parenthood, he came up with "a new idea, a covert operation looking into the buying and selling of fetal tissue," Fox News reported.⁷ "One of the people he called was Troy Newman, the controversial leader of anti-abortion group Operation Rescue," and, Newman said, Daleiden began "mapping out this idea."⁸

According to Newman, "we began discussing all the various techniques that he would have to use in order to infiltrate Planned Parenthood."⁹ Asked about these "planning sessions," Newman said that what "[w]e wanted to do was to catch them off script. . . . So alternative identities had to be set up. Alternative companies had to be set up."¹⁰ As part of the operation, "Daleiden founded the Center for Medical Progress, or CMP," Fox News reported.¹¹ Apparently acknowledging that even the name was selected to be deceptive, Newman said the Center is "one of these vague-sounding names, but it could mean many things."¹²

The Center's Form 1023, obtained by CREW from the IRS, failed to tell the IRS about any of these detailed and definite planned activities.¹³ Instead, the application, including additional information about the Center it referenced in the application, presented a misleading picture of the Center's planned activities. In providing the IRS a narrative description of its activities, the Center claimed it

develops special educational projects to raise awareness about the medical ethics implicated in medical advances, such as stem cell research, and other bioethical issues. These projects are frequently journalistic and multi-media in format. They include, but are not limited to, printed publications, documentary videos, speaking tours, multi-media presentations, articles, reports, and various new media.¹⁴

⁵ Transcript, *Planned Parenthood: The Hidden Harvest*, Fox News Network, September 4, 2015 (excerpts attached as Exhibit B); Rachana Pradhan, *Experienced Foe Behind Planned Parenthood Videos*, *Politico*, July 21, 2015, available at <http://www.politico.com/story/2015/07/experienced-foe-behind-planned-parenthood-videos-120439>.

⁶ The Center for Medical Progress website, "Speakers" page, available at <http://www.centerformedicalprogress.org/speakers/>.

⁷ Transcript, *Planned Parenthood: The Hidden Harvest*, Fox News Network, at 2.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ Center for Medical Progress, Form 1023 Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code, filed April 12, 2013 (attached as Exhibit C) ("Center Form 1023").

¹⁴ *Id.*, Part IV (description in attachment to application).

Clearly, this description did not disclose the Center's actual, specific, and concrete plans to create a fake company, use false identities to infiltrate Planned Parenthood, videotape interactions with Planned Parenthood employees and others, and publicly release those videotapes.

The Center further provided the IRS with the address for its website, but that website presented information supposedly about the Center that was even more false and misleading.¹⁵ The Center filed its application for tax-exempt status in April 2013, and the IRS granted it in December 2013.¹⁶ An archived version of the Center's website shows a series of at least 19 posts between April and June 2013 on topics related to regenerative medicine and therapies associated with it.¹⁷ For example, a post dated April 23, 2013 and titled "'Transdifferentiation': Bone Marrow to Neural Progenitor" discussed a scientific discovery that was "noteworthy not only because it is a stunning application of direct lineage conversion, but also because it was achieved through the introduction of just one trigger."¹⁸ Correspondingly, in an archived version of the Center's web page describing itself from this period or soon thereafter, the Center deceptively claimed it "is a non-profit organization dedicated to informing and educating both the lay public and the scientific community about the latest advances in regenerative medicine, cell-based therapies, and related disciplines," and takes "a special interest in the lab-to-clinic translational dynamic and tracking its implications for academics, advocacy, private sector players, and the individual patient."¹⁹

Here, too, the Center's representations about its activities were false. The Center again failed to disclose its concrete plans to infiltrate Planned Parenthood, and instead led any readers to believe it was involved in education about "regenerative medicine, cell-based therapies, and related disciplines."

In accord with the IRS's instructions for applying for tax-exempt status, the IRS may have been one of the readers of the Center's false representations on its website. The IRS requires applicants for tax-exempt status to provide the organization's website address, and the instructions for application specify that "[t]he information on your website should be consistent with the information in your Form 1023."²⁰ Moreover, the IRS regularly reviews the websites of organizations in determining tax-exempt status, and compares the content of an organization's

¹⁵ *Id.*, Part I, Line 9a.

¹⁶ *Id.*, Part XI; Letter from IRS to Center for Medical Progress, December 30, 2013 (granting tax-exempt status) (attached as Exhibit D).

¹⁷ Center for Medical Progress website, version archived on July 13, 2013 *available at* <https://web.archive.org/web/20130713062844/http://centerformedicalprogress.org> and attached as Exhibit E.

¹⁸ Center for Medical Progress website, "'Transdifferentiation': Bone Marrow to Neural Progenitor, April 23, 2013, version archived on September 9, 2014 *available at* <https://web.archive.org/web/20140909060649/http://centerformedicalprogress.org/2013/04/23/transdifferentiation-bone-marrow-to-neural-progenitor/> and attached as Exhibit F.

¹⁹ Center for Medical Progress website, "About Us" page, version archived on September 9, 2014 and *available at* <https://web.archive.org/web/20140909012926/http://centerformedicalprogress.org/about-us/> and attached as Exhibit G.

²⁰ IRS, Instructions for Form 1023, June 2006, at 6, *available at* <http://www.irs.gov/pub/irs-pdf/i1023.pdf>.

website with its representations on its Form 1023 application.²¹ As a result, the IRS may have reviewed the Center's grossly misleading website while its application was pending. The website, however, was far from consistent with the information in its Form 1023, or with the Center's actual activities.

In fact, the Center's deceptive website may account for the IRS assigning the Center its National Taxonomy of Exempt Entities ("NTEE") classification code.²² As CREW explained in our initial complaint, the IRS assigned the Center the NTEE code G92.²³ The "G" code represents the broad "Diseases, Disorders, Medical Disciplines" category, and "G92" is specifically for "Biomedicine, Bioengineering."²⁴ The IRS may have reached this conclusion after reviewing the Center's website, which contained content related to regenerative medicine.

Separate from these misrepresentations about its planned activities, the Center's Form 1023 application also conflicts with its subsequent activities with regard to lobbying. On its application, the Center represented it would not attempt to influence legislation.²⁵ However, the Center's current website encourages members of the public to contact their congressional representatives and urge them to defund Planned Parenthood²⁶ – something which would require legislation – and Daleiden similarly has advocated for congressional action in media appearances.²⁷ As a result, the Center appears to be engaged in grassroots lobbying, contradicting its representations on its application.

Making material false statements on an application for tax-exempt status violates both federal tax law, 26 U.S.C. § 7206, and criminal law, 18 U.S.C. § 1001. As the Center's leaders admitted, the organization was formed with specific and concrete plans to establish a phony company and fake identities in an effort to infiltrate Planned Parenthood, make videos of those interactions, and release the videos to the public. By failing to disclose those planned activities to the IRS, and instead leading the IRS to believe the Center would be involved other activities,

²¹ See, e.g., Priv. Ltr. Rul. 201526023 (representations on Form 1023 different from website); Priv. Ltr. Rul. 201430014 (reviewing website in denying tax-exempt status); Priv. Ltr. Rul. 201420021 (same); Priv. Ltr. Rul. 201410044 (same).

²² CREW Complaint at 3-4.

²³ *Id.*

²⁴ *Id.*

²⁵ Center Form 1023, Part VIII, Line 2a.

²⁶ Center for Medical Progress website, "Take Action" page, available at <http://www.centerformedicalprogress.org/cmp/take-action/>.

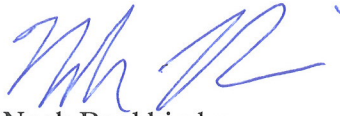
²⁷ See, e.g., Deena Zaru, *Planned Parenthood VP Calls Defunding Efforts 'Political Games'*, CNN, August 4, 2015, available at <http://www.cnn.com/2015/08/04/politics/planned-parenthood-defunding-efforts-laguens-dalciden/>.

Julie Rovner, *Calls To Cut Off Planned Parenthood Are Nothing New*, NPR, August 3, 2015, available at <http://www.npr.org/sections/health-shots/2015/08/03/429026760/the-attack-on-planned-parenthood-funding-is-the-latest-of-many>.

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the Center appears to have violated the law. Accordingly, CREW again requests the IRS commence an investigation of the Center.

Sincerely,



Noah Bookbinder
Executive Director
Citizens for Responsibility and Ethics in Washington

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