



CITIZENS FOR
RESPONSIBILITY &
ETHICS IN WASHINGTON

February 17, 2021

The Honorable Charles P. Rettig
Commissioner
Internal Revenue Service
1111 Constitution Ave., N.W.
Washington, DC 20224

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

Re: Complaint against Foundation for a Safe Environment Inc. and Florida Consumer Awareness Fund

Dear Commissioner Rettig:

Citizens for Responsibility and Ethics in Washington (“CREW”) respectfully requests the Internal Revenue Service (“IRS”) investigate whether Foundation for a Safe Environment Inc. and Florida Consumer Awareness Fund, nonprofit organizations exempt from taxation pursuant to section 501(c)(4) of the Internal Revenue Code (“Code”), are operated primarily to influence political campaigns in violation of the Code.¹ CREW further requests the IRS investigate whether Foundation for a Safe Environment Inc., Florida Consumer Awareness Fund, and their chairman, William S. Jones, violated federal law by failing to properly disclose the organizations’ political contributions.

During its 2018 tax year, Foundation for a Safe Environment Inc contributed \$1,380,970 to political organizations. Those expenditures accounted for 94.3% of its total spending during the year. Similarly, Florida Consumer Awareness Fund contributed \$1,495,000 to political organizations during its 2018 tax year, accounting for 66.3% of its total spending that year. As a result, political activity appears to be the primary activity of both groups, a violation of their tax-exempt status.

In addition, both Foundation for a Safe Environment Inc. and Florida Consumer Awareness Fund falsely represented on their 2018 tax returns that they did not engage in any political activities and failed to disclose on the IRS form used to report political expenditures the more than a million dollars each contributed to political organizations.

¹ CREW submits this letter in lieu of Form 13909; a copy is being sent to the Dallas office.

The Organizations and Their Political Activity

Foundation for a Safe Environment Inc. is a nonprofit organization established in Florida on May 15, 2014.² The organization was granted tax-exempt status on July 18, 2014.³ Florida Consumer Awareness Fund is a nonprofit organization established in Florida on February 10, 2012.⁴ Both organizations share the same address.⁵

William S. Jones is the chairman of both Foundation for a Safe Environment Inc. and Florida Consumer Awareness Fund.⁶ Mr. Jones is the former chairman of the Alachua County Republican Party and has been listed on the paperwork of more than 85 political committees registered in Florida.⁷ According to *The Gainesville Sun*, political committees associated with Mr. Jones and his allies have been used to “funnel money to boost candidates’ chances of winning, while creating a mind-boggling maze of campaign funds that make it near-impossible to trace the initial donor.”⁸

Foundation for a Safe Environment Inc.’s Political Activity

In 2018, Foundation for a Safe Environment Inc. made seven contributions, totaling \$1,130,970, reported by political committees registered with either the Florida Department of State’s Division of Elections or the IRS. Foundation for a Safe Environment Inc. also appears to have made an additional \$250,000 contribution that was not accurately reported to the Division of Elections by the recipient political committee, making its total contributions \$1,380,970. Many of those contributions went to organizations controlled by Mr. Jones.

- Foundation for a Safe Environment Inc. contributed \$100,000 to Growing Florida’s Economy, a political action committee Mr. Jones chairs, on August 16, 2018.⁹ Growing Florida’s Economy is a section 527 political organization, and described itself on its Florida statement of organization as a “statewide committee to support or oppose candidates for state, multi-county, legislative, or local office.”¹⁰

Foundation for a Safe Environment Inc. appears to have contributed an additional \$250,000 to Growing Florida’s Economy on August 14, 2018 that the political committee inexplicably reported to the Division of Elections as coming from itself.¹¹ However, both groups reported on their 2018

² Foundation for a Safe Environment Inc., Articles of Incorporation, Division of Corporations, Florida Department of State, May 15, 2014, <https://bit.ly/3pA00rz>.

³ Foundation for a Safe Environment Inc., Tax Exemption Determination Letter from the IRS, Jul. 18, 2014, <https://bit.ly/3IDQdym>. The organization’s Employer Identification Number is 46-5701159. Foundation for a Safe Environment Inc., 2018 Form 990, at 1, <https://bit.ly/2CVTk3o>.

⁴ Florida Consumer Awareness Fund, Application for Registration of Fictitious Name, Florida Department of State, Feb. 10, 2012, <https://bit.ly/3gTx7kl>; Florida Consumer Awareness Fund, 2012 Form 990, at 1, <https://bit.ly/2YU1WiV>. The organization’s Employer Identification Number is 45-4338410. Florida Consumer Awareness Fund, 2018 Form 990, at 1, <https://bit.ly/2EKIJJu>.

⁵ See Foundation for a Safe Environment Inc., 2018 Form 990, at 1 (reporting most recent mailing address as 115 East Park Avenue Suite 1, Tallahassee, FL 32301); Florida Consumer Awareness Fund, 2018 Form 990, at 1 (same).

⁶ *Id.*

⁷ Andrew Caplan, *Behind the scenes, Bainter pulls strings*, *Gainesville Sun*, Jan. 12, 2019, <https://bit.ly/3ieUzds>.

⁸ *Id.*

⁹ Growing Florida’s Economy, Campaign Contributions, Division of Elections, Florida Department of State, <https://bit.ly/3f3xCt5>; Growing Florida’s Economy, Statement of Organization of Political Committee, Division of Elections, Florida Department of State, Aug. 17, 2018, <https://bit.ly/3noOXJo>.

¹⁰ *Id.*; Growing Florida’s Economy, Form 8871, Notice of Section 527 Status, Aug. 13, 2018, <http://bit.ly/3r1XpXp>.

¹¹ Growing Florida’s Economy, Campaign Contributions, Division of Elections, Florida Department of State.

Form 990s that Foundation for a Safe Environment Inc. gave Growing Florida's Economy a "[g]ift, grant, or capital contribution" of \$350,000.¹² The \$250,000 that Growing Florida's Economy reported to Florida as receiving from itself, combined with the \$100,000 the political committee reported receiving from Foundation for a Safe Environment Inc., adds up to \$350,000, indicating that \$250,000 also was a contribution from Foundation for a Safe Environment Inc.

Foundation for a Safe Environment Inc.'s contributions to Growing Florida's Economy were likely used for political purposes. Within a week of receiving the \$350,000 in contributions, Growing Florida's Economy paid \$400,800 to Data Targeting, Inc. for "advertising."¹³ Though the Division of Elections' campaign expenditure database does not describe the specific purpose of the advertising, Data Targeting, Inc. is a political consulting firm that describes its mission as developing "effective, data-driven strategies and equip[ing] like-minded candidates and organizations with the most sophisticated political advocacy tools to win elections, influence policy, and effect change within the political arena."¹⁴ The company, which is run by a longtime friend of Mr. Jones named Patrick Bainter, was described by *The Gainesville Sun* as "a must-have campaign team for Republicans, often securing victories for candidates at all levels of government, sometimes with the help of associates and questionable tactics."¹⁵

- Foundation for a Safe Environment Inc. contributed \$101,000 to Good Government for Florida, Inc., a political action committee Mr. Jones both chairs and serves as treasurer for, on August 23, 2018.¹⁶ Good Government for Florida, Inc. is a section 527 political organization, and described itself on its Florida statement of organization as a "statewide committee to support or oppose candidates for state, multi-county, legislative, county and municipal office."¹⁷ Good Government for Florida, Inc. subsequently contributed \$101,000 back to Foundation for a Safe Environment Inc. on August 30, 2018.¹⁸
- On August 29, 2018, Foundation for a Safe Environment Inc. contributed \$75,000 to Citizens First and \$25,000 to Free Speech PAC, which are both registered with the IRS as section 527 political organizations.¹⁹ On their Notices of Section 527 Status, Citizens First said its purpose is to "protect and enhance the rights and privileges of citizens through sound government policies" while Free

¹² Growing Florida's Economy, 2018 Form 990, Schedule R, Part V, <https://bit.ly/3lQcqcj>; Foundation for a Safe Environment Inc., 2018 Form 990, Schedule R, Part V.

¹³ Growing Florida's Economy, Campaign Expenditures, Division of Elections, Florida Department of State, <https://bit.ly/38MYU5E>.

¹⁴ Data Targeting, About Us, <http://bit.ly/2MOYCSO>.

¹⁵ Caplan, *Gainesville Sun*, Jan. 12, 2019.

¹⁶ Good Government for Florida, Inc., Campaign Contributions, Division of Elections, Florida Department of State, <https://bit.ly/36FS7ly>; Good Government for Florida, Inc., Statement of Organization of Political Committee, Division of Elections, Florida Department of State, Aug. 8, 2014, <https://bit.ly/2lNi14w>.

¹⁷ *Id.*; Good Government for Florida, Inc., Form 8871, Notice of Section 527 Status, Amended, Sept. 24, 2012, <http://bit.ly/3chVBp2>.

¹⁸ Good Government for Florida, Inc., Campaign Expenditures, Division of Elections, Florida Department of State, <https://bit.ly/3kwCKXG>. Both Foundation for a Safe Environment Inc. and Good Government for Florida Inc. listed the exchange of contributions as transactions with a related organization on their 2018 tax returns. Foundation for a Safe Environment Inc., 2018 Form 990, Schedule R, Part V; Good Government for Florida, Inc., 2018 Form 990, Schedule R, Part V, <https://bit.ly/3lDT3Dw>. The purpose of these exchanged contributions, and several others described below, is unknown. However, because the political committees reported receiving funds from Foundation for a Safe Environment Inc. as contributions, CREW is treating the full amounts donated as political activity for this complaint.

¹⁹ Citizens First, Form 8872, 2018 Third Quarterly Report, Oct. 15, 2018, <https://bit.ly/3ky1Kh7>; Free Speech PAC, Form 8872, 2018 Third Quarterly Report, Oct. 15, 2018, <https://bit.ly/2UvOTBt>; Citizens First, Form 8871, Notice of Section 527 Status, Amended, Jan. 31, 2018, <https://bit.ly/2KeufEj>; Free Speech PAC, Form 8871, Notice of Section 527 Status, Amended, Jan. 31, 2018, <https://bit.ly/3nvafeN>.

Speech PAC said its purpose was “to promote free speech in a manner consistent with Section 527.”²⁰ In reporting the contributions they received from Foundation for a Safe Environment Inc., both organizations described the nonprofit’s occupation as a “Political Committee.”²¹ As with Good Government for Florida, Inc., Foundation for a Safe Environment Inc. appears to have also exchanged contributions with both Citizens First and Free Speech PAC. Citizens First reported giving Foundation for a Safe Environment Inc. \$75,000 on September 23, 2018 while Free Speech PAC reported giving Foundation for a Safe Environment Inc. \$25,000 on August 23, 2018.²²

- In September and October 2018, Foundation for a Safe Environment Inc. contributed a total of \$629,970 to Floridians for Sustainable Agriculture Inc., a section 527 political organization.²³ Foundation for a Safe Environment Inc. contributed \$249,985 to the political organization on September 4, 2018, and gave another \$379,985 on October 22, 2018.²⁴ Mr. Jones is the chairman of Floridians for Sustainable Agriculture Inc.²⁵ On its Notice of 527 Status, Floridians for Sustainable Agriculture Inc. described its purpose promoting “responsible government policies that support political and economic freedom and innovation.”²⁶

As with Growing Florida’s Economy, Foundation for a Safe Environment Inc.’s contributions to Floridians for Sustainable Agriculture were likely used for political purposes. On October 26, 2018, Floridians for Sustainable Agriculture paid \$470,000 to Data Targeting, Inc. for “advertising.”²⁷ As with some of the other groups Foundation for a Safe Environment Inc. provided funds, Floridians for Sustainable Agriculture also contributed back to Foundation for a Safe Environment Inc., giving it \$30,000 on September 13, 2018, \$100,000 on October 22, 2018, and \$27,000 on November 14, 2018.²⁸

- Finally, on November 1, 2018, Foundation for a Safe Environment Inc. contributed \$200,000 to the Florida Republican Senatorial Campaign Committee, an affiliated party committee under Florida law.²⁹ The committee plays “a key role in trying to elect Senate Republicans” in Florida and spent significant sums on advertising and consulting during the period when Foundation for a Safe Environment Inc. contributed to it.³⁰

²⁰ *Id.*

²¹ Citizens First, Form 8872, 2018 Third Quarterly Report, Oct. 15, 2018; Free Speech PAC, Form 8872, 2018 Third Quarterly Report, Oct. 15, 2018.

²² *Id.*

²³ Floridians for Sustainable Agriculture Inc, Form 8871, Notice of Section 527 Status, Amended, Apr. 24, 2012, <https://bit.ly/3pvJCbH>.

²⁴ Floridians for Sustainable Agriculture Inc; Form 8872, 2018 Third Quarterly Report, Oct. 4, 2018, <https://bit.ly/2IGOKJi>; Floridians for Sustainable Agriculture Inc; Form 8872, 2018 Year End Report, Jan. 5, 2019, <https://bit.ly/38NT0kR>.

²⁵ Floridians for Sustainable Agriculture Inc, Form 8871, Notice of Section 527 Status, Amended, Apr. 24, 2012.

²⁶ *Id.*

²⁷ *Id.*

²⁸ Floridians for Sustainable Agriculture Inc; Form 8872, 2018 Third Quarterly Report, Oct. 4, 2018; Floridians for Sustainable Agriculture Inc; Form 8872, 2018 Year End Report, Jan. 5, 2019. Both Foundation for a Safe Environment Inc. and Floridians for Sustainable Agriculture listed the exchange of contributions as transactions with a related organization on their 2018 tax returns. Foundation for a Safe Environment Inc., 2018 Form 990, Schedule R, Part V; Floridians for Sustainable Agriculture, 2018 Form 990, Schedule R, Part V, <https://bit.ly/3f59J4g>.

²⁹ Florida Republican Senatorial Campaign Committee, Campaign Contributions, Division of Elections, Florida Department of State, <https://bit.ly/35zVlxf>; Florida Republican Senatorial Campaign Committee, By-Laws of the Florida Republican Senatorial Campaign Committee, Division of Elections, Florida Department of State, Oct. 10, 2014, <https://bit.ly/2IHjcTD>.

³⁰ Senate GOP committee raises more than \$19 million, *Florida Politics*, Nov. 5, 2018, <https://bit.ly/2YJbljC>.

Florida Consumer Awareness Fund's Political Activity

In 2018, Florida Consumer Awareness Fund made three contributions, totaling \$1,470,000, reported by political committees registered with the Florida Department of State's Division of Elections. Florida Consumer Awareness Fund also appears to have made an additional \$25,000 contribution that was not accurately reported to the Division of Elections by the recipient political committee, making its total contributions \$1,495,000.

- Florida Consumer Awareness Fund contributed \$250,000 to Committee for Responsible Representation Inc., a political action committee Mr. Jones chairs, on August 10, 2018.³¹ Committee for Responsible Representation Inc. is a section 527 political organization, and described itself on its Florida statement of organization as a "statewide committee to support or oppose candidates for state, multi-county, legislative, county and municipal office."³²

Florida Consumer Awareness Fund's contribution to Committee for Responsible Representation Inc. was likely used for political purposes. On the same day as the \$250,000 contribution, Committee for Responsible Representation Inc. paid \$243,577 to Data Targeting, Inc. for "advertising."³³ As discussed above, Data Targeting, Inc. is a political consulting firm run by a longtime friend of Mr. Jones. In addition, on its 2018 tax return Committee for Responsible Representation Inc. disclosed spending \$631,077 on direct and indirect campaign activities, accounting for nearly all of the group's spending in 2018.³⁴

- In October and November 2018, Florida Consumer Awareness Fund contributed a total of \$1,220,000 to the Florida Republican Senatorial Campaign Committee: \$920,000 on October 18, 2018 and an additional \$300,000 on November 1, 2018.³⁵ As discussed above, the committee is an affiliated party committee under Florida law, and it spent significant sums on advertising and consulting during the period when Florida Consumer Awareness Fund contributed to it.³⁶
- Florida Consumer Awareness Fund appears to have also contributed to a political action committee called Moms Speak Out.³⁷ Moms Speak Out, which ran attack ads and sent direct mail targeting Democratic Florida state Senate candidates in a primary race, inexplicably reported to the Division of Elections that it received all of the money it raised, \$850,000, from itself.³⁸ Though Florida

³¹ Committee for Responsible Representation Inc., Campaign Contributions, Division of Elections, Florida Department of State, <https://bit.ly/3f6wCnU>; Committee for Responsible Representation Inc., Statement of Organization of Political Committee, Division of Elections, Florida Department of State, Feb. 26, 2015, <https://bit.ly/35FVIMA>.

³² *Id.*; Committee for Responsible Representation Inc., Form 8871, Notice of Section 527 Status, Apr. 24, 2012, <https://bit.ly/2M49Ymh>.

³³ Committee for Responsible Representation Inc., Campaign Expenditures, Division of Elections, Florida Department of State, <https://bit.ly/38VtWbF>.

³⁴ Committee for Responsible Representation Inc., 2018 Form 990, Schedule C, <https://bit.ly/3IJ56zl>.

³⁵ Florida Republican Senatorial Campaign Committee, Campaign Contributions, Division of Elections, Florida Department of State, <https://bit.ly/35zVlxF>.

³⁶ Florida Republican Senatorial Campaign Committee, By-Laws of the Florida Republican Senatorial Campaign Committee, Division of Elections, Florida Department of State, Oct. 10, 2014; Senate GOP committee raises more than \$19 million, *Florida Politics*, Nov. 5, 2018.

³⁷ Moms Speak Out, Statement of Organization of Political Committee, Division of Elections, Florida Department of State, July 25, 2018, <https://bit.ly/3kDhZJV>.

³⁸ Caplan, *Gainesville Sun*, Aug. 23, 2018, <https://bit.ly/3gQITgK>; Dan Sweeney, Shadowy groups target Farmer in Broward state Senate race, *South Florida Sun Sentinel*, Aug. 6, 2018, <https://bit.ly/3beO6N4>; Moms Speak Out, Campaign Contributions, Division of Elections, Florida Department of State, <https://bit.ly/3kFqaWa>.

Consumer Awareness Fund did not report making any contributions to Moms Speak Out on its 2018 Form 990, it did identify Moms Speak Out as a related organization to which it made a \$25,000 “[g]ift, grant, or capital contribution.”³⁹ Florida Consumer Awareness Fund also reported Moms Speak Out as a related organization from which it received a “[g]ift, grant, or capital contribution” of \$269,491.⁴⁰ Moms Speak Out’s chairwoman, Leiann McInnis, is affiliated with a company owned by Mr. Jones, according to *The Gainesville Sun*.⁴¹

The Organizations’ Representations to the IRS

As section 501(c)(4) tax-exempt organizations, Foundation for a Safe Environment Inc. and Florida Consumer Awareness Fund are required to file annual Form 990 tax returns. Tax-exempt organizations engaged in any “direct or indirect political campaign activities on behalf of or in opposition to candidates for public office” also must file a Schedule C with their tax returns, which requires disclosure of the amount spent on “political expenditures.”⁴² Among other things, Schedule C is used by the IRS to track political activity and ensure section 501(c)(4) organizations pay tax on those activities.⁴³ “Political expenditures” include all “political campaign activities” – defined as “[a]ll activities that support or oppose candidates for elective federal, state, or local public office.”⁴⁴ Political contributions by tax-exempt organizations to political committees and organizations should be disclosed in Schedule C forms filed by the tax-exempt organization along with its Form 990 tax returns.⁴⁵

Foundation for a Safe Environment, Inc.

On its 2018 Form 990, Foundation for a Safe Environment Inc. asserted the group did not engage in any “direct or indirect political campaign activities on behalf of or in opposition to candidates for public office.”⁴⁶ It also failed to file a Schedule C reporting the amount it spent on political expenditures with its tax return,⁴⁷ though it did disclose most of the contributions on Schedule I, which is used to disclose grants to other organizations, not political contributions.⁴⁸ Even this misplaced reporting was flawed and apparently incorrect. First, Foundation for a Safe Environment Inc. did not disclose its \$100,000 in contributions to Citizens First or Free Speech PAC at all.⁴⁹ In addition, it did not identify in Schedule I the Code section of the recipients of its contributions, which would have provided the IRS and the public with notice that it had made transfers to political committees.⁵⁰

³⁹ Florida Consumer Awareness Fund, 2018 Form 990, Schedule I and Schedule R, Part V.

⁴⁰ *Id.* Oddly, Moms Speak Out did not report Florida Consumer Awareness Fund as a related organization on its own 2018 tax return, but it did report giving \$269,491 to Florida Consumer Awareness Fund as part of its “Liquidation, Termination or Dissolution.” Moms Speak Out, 2018 Form 990, Schedule N, <https://bit.ly/2KdWuTr>.

⁴¹ Caplan, *Gainesville Sun*, Aug. 23, 2018. As with Foundation for a Safe Environment Inc., CREW is treating the full amount Florida Consumer Awareness Fund gave to Moms Speak Out as political activity.

⁴² Form 990, Part IV, Question 3; 2017 Instructions for Form 990, at 12; 2017 Instructions for Schedule C, at 1, 3.

⁴³ See, e.g., Letter from Steven T. Miller, Deputy Commissioner for Services and Enforcement, to Sen. Carl Levin, Aug. 24, 2012, reprinted in 158 Cong. Rec. S.6431 (daily ed. Sept. 19, 2012) and available at <https://www.congress.gov/112/crec/2012/09/19/CREC-2012-09-19-pt1-PgS6428.pdf> and https://www.governmentattic.org/13docs/IRSresponsesToCongress_2012-2013U.pdf (beginning at 260); 26 U.S.C. 527(f).

⁴⁴ 2018 Instructions for Schedule C, at 1; 2018 Instructions for Form 990, at 68.

⁴⁵ 2018 Instructions for Schedule C, at 3-4.

⁴⁶ Foundation for a Safe Environment Inc., 2018 Form 990, Part IV, Question 3.

⁴⁷ *Id.*

⁴⁸ *Id.*, Schedule I.

⁴⁹ *Id.*

⁵⁰ This is not the first time Foundation for a Safe Environment Inc. failed to report its political activity to the IRS. On its 2016 tax return, Foundation for a Safe Environment Inc. also asserted that the group did not engage in any “direct or indirect political

In its 2018 tax year, Foundation for a Safe Environment Inc. reported spending a total of \$1,463,903.⁵¹ Including both its reported contributions to all political committees and organizations registered with either the Florida Division of Elections or the IRS, and the \$100,000 it failed to report, Foundation for a Safe Environment Inc. made a total of \$1,380,970 in political contributions. That amounts to 94.3% of the group's total spending.

Florida Consumer Awareness Fund

Although Florida Consumer Awareness Fund did assert on its 2018 Form 990 that the group engaged in "direct or indirect political campaign activities on behalf of or in opposition to candidates for public office," the organization filed a blank Schedule C, and thus failed to report the amount it spent on political expenditures on its tax return.⁵² Like Foundation for a Safe Environment Inc., Florida Consumer Awareness Fund only disclosed its contributions on Schedule I, which is used to disclose grants to other organizations, not political contributions, and failed to identify the Code section of the recipients of its contributions.⁵³ Florida Consumer Awareness Fund also disclosed its \$25,000 contribution to Moms Speak Out on Schedule R.⁵⁴

In its 2018 tax year, Florida Consumer Awareness Fund spent a total of \$2,256,343.⁵⁵ The group's reported contributions to all political committees and organizations registered with either the Florida Division of Elections or the IRS total \$1,495,000, constituting 66.3% of its spending.

Political Activity Under Section 501(c)(4)

Section 501(c)(4) provides tax-exempt status to organizations "not organized for profit but operated exclusively for the promotion of social welfare."⁵⁶ IRS regulations interpret the statute to mean a section 501(c)(4) organization must be "primarily engaged in promoting in some way the common good and general welfare of the people of the community."⁵⁷ The regulations further provide that "direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office" does not promote social welfare.⁵⁸

campaign activities on behalf of or in opposition to candidates for public office" and failed to file a Schedule C reporting the amount it spent on political expenditures with its tax return. Foundation for a Safe Environment, Inc., 2016 Form 990-EZ, Part V, Line 46, <https://bit.ly/3lu7iLv>. In fact, in 2016, Foundation for a Safe Environment Inc., contributed to two political action committees registered with the Florida Division of Elections, giving \$11,985 to Sun Coast Patriots and \$20,000 to Citizens Speaking Out Committee, Inc. Foundation for a Safe Environment, Inc., Campaign Contributions, Division of Elections, Florida Department of State, <https://bit.ly/3kBB0Bi>; Sun Coast Patriots, Statement of Organization of Political Committee, Division of Elections, Florida Department of State, June 17, 2014; Citizens Speaking Out Committee, Inc., Statement of Organization of Political Committee, Division of Elections, Florida Department of State, May 3, 2016, <https://bit.ly/3kC13ng>.

⁵¹ Foundation for a Safe Environment Inc., 2018 Form 990, Part I, Line 18.

⁵² Florida Consumer Awareness Fund, 2018 Form 990, Part IV, Question 3, and Schedule C.

⁵³ *Id.*, Schedule I.

⁵⁴ *Id.*, Schedule R.

⁵⁵ *Id.*, at 1.

⁵⁶ 26 U.S.C. § 501(c)(4).

⁵⁷ Treas. Reg. § 1.501(c)(4)-1(a)(2)(i). By allowing section 501(c)(4) organizations to be only "primarily" engaged in social welfare, the regulation misinterprets the plain meaning of the word "exclusively" in the statute. This complaint analyzes Foundation for a Safe Environment Inc.'s conduct using the "primarily" standard. Under a correct interpretation of the statute, Foundation for a Safe Environment Inc.'s political spending unquestionably would violate its tax-exempt status.

⁵⁸ Treas. Reg. § 1.501(c)(4)-1(a)(2)(ii).

The IRS has not further defined the “primary activity” standard, and provides only that all the facts and circumstances are to be taken into account in determining the “primary activity” of a section 501(c)(4) organization.⁵⁹ Internal IRS training materials, however, assert section 501(c) organizations (other than section 501(c)(3) charities) “may generally make expenditures for political activities as long as such activities, in conjunction with any other non-qualifying activities, do not constitute the organization’s *primary activity* (51%).”⁶⁰

Contributions to political organizations are direct or indirect participation or intervention in political campaigns. “Contributions to political campaign funds . . . clearly violate the prohibition on political campaign intervention” for section 501(c)(3) organizations,⁶¹ and prohibited political intervention for section 501(c)(3) organizations constitutes political activity for section 501(c)(4) groups like Foundation for a Safe Environment Inc.⁶²

As explained above, political contributions accounted for 94.3% of Foundation for a Safe Environment Inc.’s expenditures in 2018, and 66.3% of Florida Consumer Awareness Fund expenditures that year.⁶³

Violations

26 U.S.C. § 501(c)(4)

Even under the IRS’s misinterpretation of section 501(c)(4), and certainly under the plain language of the statute, Foundation for a Safe Environment Inc.’s political activity in its 2018 tax year exceeded the amount permitted. Foundation for a Safe Environment Inc. spent 94.3% of its total expenditures on political activity in 2018, clearly violating the organization’s tax-exempt status. Similarly, Florida Consumer Awareness Fund violated its tax-exempt status by spending 66.3% of its expenditures on political activity in 2018.

26 U.S.C. § 6652

Under the Code, a tax-exempt organization that, without reasonable cause, fails to include any of the information required on a Form 990 tax return or fails to provide the correct information, is liable for civil penalties.⁶⁴ By falsely representing on its 2018 Form 990 that it did not engage in any political

⁵⁹ Rev. Rul. 68-45, 1968-1 C.B. 259.

⁶⁰ Exempt Organizations Determinations Unit 2, Student Guide, Training 29450-002 (Rev. 9-2009), at 7-19 (emphasis added), <https://bit.ly/2F0srGl>.

⁶¹ IRS, Election Year Activities and the Prohibition on Political Campaign Intervention for Section 501(c)(3) Organizations, FS-2006-17, February 2006; *see also, e.g.*, IRS website, The Restriction of Political Campaign Intervention by Section 501(c)(3) Tax-Exempt Organizations, Mar. 5, 2014, <https://bit.ly/1ev87z2>.

⁶² *See, e.g.*, Notice of Proposed Rulemaking, Guidance for Tax-Exempt Social Welfare Organizations on Candidate-Related Political Activities, 78 Fed. Reg. 71535, 71536 (proposed Nov. 29, 2013) (“the IRS generally applies the same facts and circumstances analysis under section 501(c)(4)” as it does under section 501(c)(3)); Rev. Rul. 81-95 (citing examples of political intervention prohibited under section 501(c)(3) in determining political activity for section 501(c)(4) organizations); Priv. Ltr. Rul. 9652026 (Oct. 1, 1996) (“[A]ny activities constituting prohibited political intervention by a section 501(c)(3) organization are activities that must be less than the primary activities of a section 501(c)(4) organization.”).

⁶³ As noted above, CREW is treating the full amounts Foundation for a Safe Environment Inc. and Florida Consumer Awareness Fund contributed to political committees as political activity without regard for any exchanged contributions. Even if the exchanged contributions were used to offset some of the two organizations’ political spending, political activity would still be far more than half of their total expenditures in 2018.

⁶⁴ 26 U.S.C. §§ 6652(c)(1)(A)(ii), 6652(c)(4); *see also* 2018 Instructions for Form 990, at 6.

campaign activity, failing to report those activities on Schedule C, and failing to report \$100,000 the group contributed to Citizens First and Free Speech PAC, Foundation for a Safe Environment Inc. appears to have violated 26 U.S.C. § 6652 and should be subject to monetary penalties. Florida Consumer Awareness Fund also appears to have violated 26 U.S.C. § 6652 by failing to report its political campaign activities on Schedule C of its 2018 Form 990, and should also be subject to monetary penalties.

26 U.S.C. § 7206

Under the Code, any person who “[w]illfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter,” is guilty of a felony and subject to up to three years in prison and a fine of up to \$100,000.⁶⁵ The money spent on political campaign activities a tax-exempt organization reports to the IRS on its Schedule C is material for several reasons, including: (1) the amounts reported can be used by the IRS to determine whether the organization is complying with its tax-exempt status; (2) the amount an organization expended on section 527 exempt activities in part determines exempt function taxes the organization must pay;⁶⁶ and (3) accurate public disclosure of the amount of political activity conducted by tax-exempt organizations is critical to the objective of transparency that underlies the reporting required on Form 990.⁶⁷

Both Foundation for a Safe Environment Inc.’s and Florida Consumer Awareness Fund’s 2018 Form 990s were signed by Mr. Jones under written declarations that they was made under penalty of perjury, and that Mr. Jones had examined the returns and they were true, correct, and complete to the best of his knowledge.⁶⁸ The tax returns, however, appear to be false and incorrect as to the material matters of the amount Foundation for a Safe Environment Inc. and Florida Consumer Awareness Fund spent on political campaign activities in fiscal year 2018.

The importance to Foundation for a Safe Environment Inc. and Florida Consumer Awareness Fund of treating their contributions to political organizations as not being political activity suggests both organizations and Mr. Jones’s representation may have been willful. Classifying that spending as political means political expenditures accounted for more than 50% of both Foundation for a Safe Environment Inc.’s and Florida Consumer Awareness Fund’s overall spending in 2018, a violation of their tax-exempt status. As a result, the amount Foundation for a Safe Environment Inc. and Florida Consumer Awareness Fund reported spending on political activity may have been willfully false.

18 U.S.C. § 1001

Federal law further prohibits anyone from “knowingly and willfully” making “any materially false, fictitious, or fraudulent statement or representation” in any matter within the jurisdiction of the executive, legislative, or judicial branch.⁶⁹ The prohibition also includes anyone who “falsifies, conceals, or covers up by any trick, scheme, or device a material fact.”⁷⁰ Violations are punishable by up to five years in prison.⁷¹ By falsely stating that amount Foundation for a Safe Environment Inc. and Florida Consumer Awareness

⁶⁵ 26 U.S.C. § 7206(1).

⁶⁶ 26 U.S.C. § 527(f)(1).

⁶⁷ IRS, Background Paper, Summary of Form 990 Redesign Process, Aug. 19, 2008, at 1.

⁶⁸ Foundation for a Safe Environment Inc., 2018 Form 990, Part II.

⁶⁹ 18 U.S.C. § 1001(a)(2).

⁷⁰ 18 U.S.C. § 1001(a)(1).

⁷¹ *Id.*

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Fund spent on political campaign activities in 2018, Mr. Jones and both organizations appear to have violated 18 U.S.C. § 1001.

Conclusion

Based on the publicly available information, Foundation for a Safe Environment Inc.'s and Florida Consumer Awareness Fund's activities do not comport with each organization's claimed status as a section 501(c)(4) tax-exempt organization. Therefore, the IRS should investigate Foundation for a Safe Environment Inc. and Florida Consumer Awareness Fund, and should it find that the groups have violated their tax-exempt status, take appropriate action, which may include revoking their section 501(c)(4) status, imposing any applicable excise taxes under section 4958 for excess benefit transactions, and treating them as taxable corporations or section 527 political organizations. Further, it appears that Foundation for a Safe Environment Inc. falsely represented that it did not engage in any political activity in its 2018 tax year and that each group omitted more than a million dollars in spending on political activity from their 2018 tax returns. The IRS should investigate Foundation for a Safe Environment Inc. and Florida Consumer Awareness Fund, and should it find they made false or incomplete statements on their tax returns, take appropriate action.

Thank you for your prompt attention to this matter.

Sincerely,



Noah Bookbinder
President



Matthew Corley
Chief Investigator

cc: IRS-EO Classification