



January 28, 2016

Carolina D. Ciraolo,
Acting Assistant Attorney General
Tax Division
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Ms. Ciraolo:

On behalf of the Center for Media and Democracy and Citizens for Responsibility and Ethics in Washington, we are writing to request that the Department of Justice investigate possible violations of federal law by Trees of Liberty, Inc.

We believe the evidence shows that Trees of Liberty, a group organized under section 501(c)(4) of the Internal Revenue Code, may have violated 18 U.S.C. § 1001 and 26 U.S.C. § 7206(1) by making false statements on its tax return.

Trees of Liberty spent at least \$257,000 directly on political campaign intervention by way of television advertisements in the 2014 Republican primary for U.S. Senate in Iowa. As explained in the attached complaint, filed today with the Internal Revenue Service ("IRS"), the facts and circumstances demonstrate that those ads constituted political campaign intervention, according to IRS factors.

Yet in its 2014 Form 990 filing, Trees of Liberty answered "no" to the question, "Did the organization engage in direct or indirect political campaign activities on behalf of or in opposition to candidates for public office?"

Under the tax 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.¹ By falsely reporting that it engaged in no political activity in 2014, Trees of Liberty appears to have violated 26 U.S.C. § 6652.

The tax code further provides that 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 \$100,000.² The money spent on political campaign activities that a tax-exempt

¹ 26 U.S.C. §§ 6652(c)(1)(A)(ii), 6652(c)(4); *see also* 2012 Instructions for Form 990, at 7.

² 26 U.S.C. § 7206(1).

organization must report to the IRS on its Schedule C is material, and Trees of Liberty's tax return was signed under penalty of perjury. As a result, if Trees of Liberty's misrepresentations were voluntary and intentional, it violated 26 U.S.C. § 7206.

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.¹ The prohibition also includes anyone who "falsifies, conceals, or covers up by any trick, scheme, or device a material fact."² Violations are punishable by up to five years in prison.³ If Trees of Liberty's false representation about its spending on political campaign activity on its 2014 tax return was made knowingly and willfully, the group violated 18 U.S.C. § 1001.

In addition to misleading the IRS as to its expenditures on political campaign activities in 2014, Trees of Liberty engaged in such a degree of political intervention during those years that all facts and circumstances suggest it was primarily engaged in non-exempt political activities, and thus ineligible for section 501(c)(4) tax-exempt status.

Section 501(c)(4) organizations are required to primarily engage in the promotion of social welfare; these organizations cannot engage in more than an insubstantial amount of non-exempt activity, such as direct or indirect political intervention.

We believe that Trees of Liberty was primarily engaged in political campaign activity during 2014, and is therefore ineligible for tax-exempt status under section 501(c)(4).

The evidence indicates that Trees of Liberty may have violated 18 U.S.C. § 1001, 26 U.S.C. § 6652, 26 U.S.C. § 7206, and its tax-exempt status under section 501(c)(4) of the tax code. We therefore request the Department of Justice commence an immediate investigation of these possible violations.

Sincerely,



Brendan Fischer
General Counsel
Center for Media and Democracy



Noah Bookbinder
Executive Director
Citizens for Responsibility and Ethics in
Washington

Encl.

¹ 18 U.S.C. § 1001(a)(2).

² 18 U.S.C. § 1001(a)(1).

³ 18 U.S.C. § 1001(a).