

**UNITED STATES DEPARTMENT OF TREASURY  
INTERNAL REVENUE SERVICE**

COMPLAINT TO:

Commissioner Charles Rossotti  
Internal Revenue Service  
1111 Constitution Avenue, N.W.  
Washington, D.C. 20224

Tax Exempt/Governmental Entities Division, Customer Service  
Internal Revenue Service  
P.O. Box 2508  
Cincinnati, Ohio 45201

COMPLAINANT:

National Legal and Policy Center  
1309 Vincent Place, Suite 1000  
McLean, Virginia 22101  
703-847-3088

RESPONDENT ORGANIZATION:

Citizenship Education Fund  
Employer Identification Number: 34-1447977  
930 East Fiftieth Street  
Chicago, Illinois 60615  
773-373-3366

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**NATURE OF COMPLAINT**

In order to protect and promote the integrity and fairness of the Internal Revenue Code ("Code"),<sup>1</sup> this Complaint requests that the Internal Revenue Service ("Service") initiate an investigation and/or audit of Respondent Organization Citizenship Education Fund ("CEF") because of apparent violations of the requirements for tax-exempt status under 26 U.S.C. § 501(c)(3) (2000).<sup>2</sup> The result of such investigation and/or audit may require the Service to revoke the tax-exempt status of Respondent Organization CEF and/or impose sanctions under 26 U.S.C. § 4958 (2000); if so, this Complaint requests that the Service take such action.

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**JURISDICTION**

Respondent Organization CEF is under the jurisdiction of the Service. Respondent Organization CEF is an organization exempt from income tax under 26 U.S.C. § 501(c)(3). See [CEF, IRS Form 990 \(1998\) \(Exhibit A\)](#). The stated primary exempt purpose of Respondent Organization CEF is "[e]ducating voters and promoting full participation in the electoral process on a non-partisan basis." *Id.* at p.III. As a tax-exempt organization under 26 U.S.C. § 501(c)(3), Respondent Organization CEF is under the authority of the Secretary of the Treasury. See 26 U.S.C. § 7801(a) (2000) ("Except as otherwise expressly provided by law, the administration and enforcement of this title[, Title 26, the Code,] shall be performed by or under the supervision of the Secretary of the Treasury."). The Secretary has delegated administration of the Code to the Commissioner of Internal Revenue and the Service. See 26 U.S.C. § 7803(a)(2) (2000) ("The Commissioner shall have such duties and powers as the Secretary may prescribe, including the power to--(A) administer, manage, conduct, direct, and supervise the execution and application of the internal revenue laws or related statutes."). Therefore, the Service has authority over Respondent Organization CEF.

This authority enables the Service to revoke the tax-exempt status of Respondent Organization CEF. See 26 U.S.C. 501(a) (2000). See e.g., *Bob Jones Univ. v. United States*, 461 U.S. 574 (1983); *United Cancer Council v. Comm'r*, 165 F.3d 1173, 1174 (7th Cir. 1999); *Canton Police Benevolent Ass'n. v United States*, 844 F.2d 1231, 1235-36 (6th Cir. 1988) (holding that IRS can revoke tax-exempt status even where the organization fails to meet a regulation that

was adopted after the original grant of tax-exempt status to the organization); *Colombo Club, Inc. v Comm'r*, 54 T.C. 100, 109 (1970), *aff'd*, 447 F.2d 1406 (9th Cir. 1971) (holding that IRS can revoke the tax-exempt status of an organization when an investigation showed that the organization was not operated exclusively for an exempt purpose, and such revocation can be retroactive to the date of the violation). Additionally, the Service can now impose up to a 25% tax on an individual for "any transaction in which an economic benefit is provided by an applicable tax-exempt organization directly or indirectly to or for the use of any disqualified person<sup>[3]</sup> if the value of the economic benefit provided exceeds the value of the consideration." 26 U.S.C. § 4958(c)(1)(A); see also 26 U.S.C. § 4958(a)(1). Therefore, if the investigation and/or audit requested by this Complaint uncovers violations of the Code law by Respondent Organization CEF and/or individuals, the Service has the power to take corrective action against Respondent Organization CEF and such individuals.

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## ARGUMENT

Respondent Organization CEF has engaged in conduct which appears to violate the Code. This apparent misconduct falls into three areas: non-exempt purpose, private inurement, and procedural non-compliance. The "red flags" raised by this apparent misconduct justify the Service initiating an investigation and/or audit of Respondent Organization

CEF that may lead to the revocation of tax-exempt status and/or individual sanctions under 26 U.S.C. § 4958.

### A. Substantial Non-Exempt Purpose

To qualify for tax-exempt status as a charitable organization, 26 U.S.C. § 501(c)(3) requires that an organization must be "organized and operated exclusively" for an exempt purpose.<sup>4</sup> See also 26 C.F.R. § 1.501(c)(3)-1(a). The United States Supreme Court has interpreted this exclusivity requirement to mean: "the presence of a single [non-exempt] purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly [exempt] purposes." *Better Bus. Bureau of Wash. v. United States*, 326 U.S. 279 (1945). Accordingly, the Service has found that 26 U.S.C. § 501(c)(3) mandates that "all the resources of the organization [are] to be applied to the pursuit of one or more of the exempt purposes therein specified. The presence of a single nonexempt purpose, if substantial in nature, will preclude exemption." *Rev. Rul 77-366, 1977-2 C.B. 192*. Similarly, 26 C.F.R. § 1.501(c)(3)-1(c)(1) states: "Operational test--(1) Primary activities. An organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose." See also *Rev. Rul. 72-369, 1972-2 C.B. 245*. Thus, a tax-exempt organization must operate primarily for its exempt purpose to remain exempt. See *Orange County Ag. Soc'y v. Comm'r*, 55 T.C.M. (C.C.H.) 1602 (1988), *aff'd*, 893 F.2d 647 (2d Cir. 1990).

Respondent Organization CEF may no longer satisfy this exclusivity requirement of 26 U.S.C. § 501(c)(3) because it has (is) arguably engaged in a substantial non-exempt purpose. In executing its Wall Street and La Salle Street Projects ("WSP"), Respondent Organization CEF may be involved in a substantial non-exempt purpose.

Respondent Organization CEF's stated purpose for the WSP is "[t]o redress the trade deficit that exists between large corporations and minority vendors and consumers. The project uses research, education, and negotiation to persuade companies to close the gap by hiring and promoting more minorities to corporate boards and award more contracts to minority businesses." [CEF, IRS Form 990, p.III.a](#). However, Respondent Organization CEF appears to have gone further. Respondent Organization CEF appears to be providing business services and facilitating transactions for a fee, which, if true, would seem to be a non-exempt purpose.

For several examples of such conduct, consider the following Chicago Sun-Times article from February 4, 2001, about Respondent Organization CEF's role in corporate mergers:

The Rev. Jesse L. Jackson, Sr. knows when corporations are at their most generous: when they are seeking federal approval for a merger. Faced with objections and protest threats from Jackson, American multinationals have pledged millions of dollars to Jackson's charities and multimillion-dollar deals for his designated minority businesses.

Some of those deals go to companies with business ties to Jackson's own family, including his son Jonathan, who serves as unpaid president of Jackson's Citizenship Education Fund -- the charity that encourages businesses to cut minority businessmen and women in on deals.

After first opposing the SBC-Ameritech merger, Jackson helped persuade Ameritech to sell a portion of its cellular business to Jackson colleague Chester Davenport. After Ameritech gave Davenport the contract, Jackson switched his position and blessed the merger. Then Jackson's son Jonathan, a consultant, represented Davenport's company, Georgetown Partners, in a Jackson trade mission to Africa last year. But

a Jackson spokesman said the Rainbow-PUSH Coalition mistakenly identified Jonathan as a representative of Georgetown.

...Jackson is lobbying CBS and Viacom to sell Viacom's UPN network to Davenport or to another minority businessman such as Jackson's close friend Percy Sutton.<sup>[5]</sup> Jackson brought both men and a Hispanic businessman to a meeting with CBS chairman Mel Karmazin.

Jackson and his wife were original investors in Sutton's Inner City Broadcasting. The shares, under his wife Jacqueline's name, were worth \$250,000 to \$1 million in 1988. She still owned them as recently as a year ago, but the Jackson family declined any comment on this.

Jackson also threatened protests against GTE and Bell Atlantic before their merger, and against AT&T and TCI before their merger. He likewise changed his tune after they agreed to his demands by giving contracts to minority business owners -- at least some of whom Jackson introduced to the corporate chiefs. They also donated to Jackson's nonprofit groups.

...Businessmen less enamored of Jackson's new strategy complain it serves mainly to make rich African-Americans richer and that Jackson leans on minority businesses that hope to benefit from the program to donate heavily, according to published reports.

Since Jackson started the Wall Street Project in 1997 as an outgrowth of his Citizenship Education Fund, he has been pulling in \$15 million or more a year in donations to his nonprofit groups, according to the most recent public figures available. And the dollar values of the contracts have grown astronomically.

The deal to sell Ameritech's cellular business to Davenport and GTE was worth \$3.3 billion. Davenport put up \$60 million for a 7 percent share of the new company co-owned with GTE. Despite his smaller share, Davenport was named "chairman," though a spokesman said he would have "no operational responsibility. None."

Davenport, who had known Jackson about 10 years, had no experience in telecommunications. He formerly owned a company called Envirotech, which tested auto emissions for state governments. Jackson weighed in on Envirotech's behalf with some elected officials, including former Connecticut Gov. Lowell Weicker, according to news accounts. Davenport sold the company in 1998, helping to boost his net worth to close to \$100 million.

Verizon (formerly GTE) representatives denied a New York Times story saying that GTE executives resented having to cut Davenport in on the deal. "Rainbow; PUSH introduced us to Chester Davenport," Verizon spokeswoman Bobbi Hennessey said. "But it's ultimately our decision who we involve in our business."

As CBS sought Federal Communications Commission permission to purchase Viacom, Jackson made loud noises about the snag the deal was headed for because federal law prohibits one company from owning two networks, and Viacom's UPN is considered a network. The rules also prohibit one company from serving more than 35 percent of the U.S. population. CBS and UPN would reach about 41 percent of the nation.

Jackson's prescription for relief was simple: CBS should sell UPN -- which aims much of its programming at African-American viewers -- to a minority owner. Jackson met with CBS' Karmazin to make his pitch and he brought along Davenport, Sutton and Spanish Broadcasting Systems Vice President Joe Garcia as examples of minority businessmen who could buy UPN. A week later, Jackson made the same pitch to then-FCC Chairman William Kennard.

Kennard has spoken at Jackson's Wall Street conferences and has backed Jackson's arguments that the FCC should consider the impact on minority customers and businesses in deciding whether to approve mergers. Kennard's critics have said that the former chairman, who left office in January, helped Jackson's strategy of holding companies' feet to the fire.

A year ago, Jackson led a delegation of African-American businessmen, including Sutton and Jackson's son Jonathan, on a trip to three African countries to promote telecommunications partnerships. Rainbow-PUSH passed out brochures introducing Jackson's friend Sutton as an owner of radio stations interested in starting cellular telephone businesses in Africa. The brochures introduced Jonathan Jackson as the representative of Davenport's company, Georgetown Partners.

Asked what his relationship to Georgetown Partners was, Jonathan would say only, "Look it up." A receptionist at Georgetown offered to take a message for Jonathan, though Davenport later said Jackson did not work for him.

A Jackson family spokesman said late Friday that Jackson does not work for Georgetown and the PUSH brochure with Jonathan Jackson's photo introducing him as Georgetown's representative on the trip and listing the vital stats for Jackson and Georgetown must have been in error.

Sutton, a former Manhattan borough president, is a longtime friend of the Jackson family. Sutton's Inner City Broadcasting owns radio stations in New York City and around the country, and he was finance chairman of Jackson's 1988 run for president. At that time, Jackson said his wife's shares in Inner City Broadcasting were worth more than \$250,000. Sutton said the shares were worth \$1 million.

Jackson has not disclosed his holdings since. As recently as 1996, the Suttons told the Associated Press that Mrs. Jackson owned the stock, and other stock owners said last week she still owns stock. The Rev. Jackson and Sutton declined to answer questions about how much the Jacksons stand to gain if Inner City lands UPN or if the company, as expected, goes public soon.

Inner City benefited after Jackson raised questions about the merger of Clear Channel Communications and AMFM Inc. Jackson said minorities should have a chance to buy the radio stations in major cities that would become available if the merger went through. Sutton's Inner City bought nine of those stations.

[Chuck Neubauer & Abdon M. Pallasch, "Jackson's Protests Benefit His Family, Friends," Chi. Sun-Times, Feb. 4, 2001, at 2 \(emphasis added\) \(hereinafter Neubauer & Pallasch "Jackson's Protests"\) \(Exhibit B\).](#)

Consider further a similar article from the New York Post, which appeared on the same day:

[A]n interesting tale is told by the most recent tax returns of the Rainbow/PUSH-affiliated Citizenship Education Fund, whose tax-free 501(c)(3) status forces the organization to make its tax documents public. [Jesse] Jackson's tax-exempt charity nearly quintupled its revenue in one year, going from a reported \$2 million in 1998 to \$9.7 million in 1999. Huge contributions came from corporations that depended on Jackson's imprimatur for their multibillion-dollar mergers to pass regulatory muster. A review of federal and Illinois state tax documents from 1999 show that telephone companies SBC and Ameritech donated \$500,000 tax-deductible dollars to CEF that year, while GTE gave \$625,000 and Bell Atlantic forked over \$375,000.

Were these corporate giants simply being altruistic? Hardly. Without the approval of America's No. 1 civil-rights leader, who had a habit of criticizing proposed mega-mergers on racial grounds, it is unclear that they would have made it through an FCC headed by then-Chairman William Kennard, an outspoken proponent of "diversity."

Corporate America saw in the 1998 Citibank-Travelers merger how useful Jackson could be in winning over federal regulators despite fervent opposition from activists. Many civil-rights and community organizations opposed the Citibank-Travelers union. But when Rainbow/PUSH came to shove before Clinton-appointed regulators, Jackson's backing carried more clout. It escaped no one's notice that Citicorp donated \$50,000 to Jackson-controlled CEF in 1998, and Travelers, whose CEO Sandy Weill courted Jackson personally, gave \$100,000. Grass-roots activists complained in the deal's aftermath that Jesse Jackson could be rented, that he was putting his unique moral stature up for bid. They were not the only ones to notice.

In 1998, Jackson called a press conference to announce his opposition to the merger of telecom giants SBC and Ameritech - which he endorsed a year later. Did the promise of a \$500,000 donation have something to

do with the flip-flop? The deal could not have gone through regulators without either SBC or Ameritech selling off half of their wireless business. Ameritech announced it would sell its portion for \$3.3 billion to a GTE-led venture. Then Jesse had a closed-door meeting with executives of SBC and Ameritech. He told reporters he was there to help execs draft a list of black-owned firms that ought to be cut in on the GTE deal.

GTE selected Georgetown Partners, a black-owned investment firm with no prior telecom experience, as its partner in the lucrative deal. It set up Georgetown Partners executive Chester Davenport as head of the former Ameritech operation. This is the same Chester Davenport who is a close Jackson friend and a big donor to Jackson causes, particularly his Wall Street Project [that is part of CEF]. Did Jesse make winning his valuable endorsement of the controversial merger contingent upon his buddy getting a cut of the \$3 billion pie?

When GTE and Bell Atlantic merged in 1999, they became Verizon. Many activist groups opposed that deal too. But not Rainbow/PUSH, which came out for the mega-merger - and saw its CEF division take in \$1 million from the two corporations that year. Verizon was a lead sponsor of this year's Wall Street Project conference, and has pledged \$300,000 through the year 2002 to help pay for Rainbow/PUSH conventions.

Now, it is entirely possible that these corporations paid this money to Jesse out of conviction that his organizations do good work. Maybe they do, and maybe Jackson really is selflessly looking out for poor black folks. Maybe corporate quid never got entangled with Jesse's pro quo. Maybe CEOs really believe the embarrassing flattery they lavish on Jackson and his Rainbow/PUSH Coalition. Maybe the media know something I don't, and are right to ignore what appears to me to be a big corruption story. Maybe.

[Rod Dreher, "How Jesse's PUSH is Pulling in \\$\\$\\$," N.Y. Post, Feb. 4, 2001, at 8 \(emphasis added\) \(hereinafter Dreher, "How Jesse's PUSH"\) \(Exhibit C\).](#)

These two articles about Respondent Organization CEF's role in corporate mergers indicate that Respondent Organization CEF may be more like a fee-for-service consulting business rather than a charitable/educational organization. To summarize the two articles, Respondent Organization CEF appears to provide six business services. First, minority entrepreneurs/corporations transfer funds to Respondent Organization CEF, and in return, Respondent Organization CEF provides the minority entrepreneurs/corporations with access to business opportunities with large international corporations (e.g., networking meetings and contracts). See [Neubauer & Pallasch, "Jackson's Protests," supra; Dreher, "How Jesse's PUSH," supra.](#) Two, minority entrepreneurs/corporations transfer funds to Respondent Organization CEF, and in return, Respondent Organization CEF provides the minority entrepreneurs/corporations with public relations services to promote individual minority entrepreneurs/corporations and minority entrepreneurs/corporations in general. See [Neubauer & Pallasch, "Jackson's Protests," supra; Dreher, "How Jesse's PUSH," supra.](#) Three, minority entrepreneurs/corporations transfer funds to Respondent Organization CEF, and in return, Respondent Organization CEF provides the minority entrepreneurs/corporations with government relations/lobbying services to promote pro-minority policies (e.g., regulators should consider the impact on minority entrepreneurs/corporations in deciding whether to approve corporate mergers) to government entities, such as the Federal Communications Commission. See [Neubauer & Pallasch, "Jackson's Protests," supra; Dreher, "How Jesse's PUSH," supra.](#) Note that the *Chicago Sun-Times* article's statement, supra: "minority businesses that hope to benefit from the program to donate heavily." For additional support for these first three business service arguments, consider the following paragraph from the *New York Times*:

The [Wall Street] project's main office is in New York. Each of its new regional outposts -- in Chicago, Detroit and Los Angeles -- is expected to be self-sustaining through local fund-raising, Ms. Mathis said. These offices, in most cases, are built around "trade bureaus," the local minority business clubs that have been run for years by the Rainbow/PUSH Coalition. Trade bureau members contribute a minimum of \$250 to join; their dues now entitle them to receive the Wall Street Project's monthly newsletter, which says it has 3,500 subscribers.

[Diana B. Henriques, "Project for Minorities Aims to Show Its Broader Mandate," N.Y. Times, Jan. 14, 1999, at C3 \(emphasis added\) \(Exhibit D\).](#)

Thus, Respondent Organization CEF appears to be engaged in business services for minority entrepreneurs/corporations.

Four, large international corporations transfer funds to Respondent Organization CEF, and in return, Respondent Organization CEF provides the large international corporations with access to business opportunities with minority entrepreneurs/corporations. See [Neubauer & Pallasch, "Jackson's Protests," supra](#); [Dreher, "How Jesse's PUSH," supra](#). Five, large international corporations transfer funds to Respondent Organization CEF, and in return, Respondent Organization CEF provides the large international corporations with public relations services that enhance the ability of the large international corporations to conduct their business, such as completing corporate mergers. See [Neubauer & Pallasch, "Jackson's Protests," supra](#); [Dreher, "How Jesse's PUSH," supra](#). Six, large international corporations transfer funds to Respondent Organization CEF, and in return, Respondent Organization CEF provides the large international corporations with government relations/lobbying services that enhance the ability of the large international corporations to achieve regulatory approval for matters, such as corporate mergers, before government entities, such as the Federal Communications Commission. See [Neubauer & Pallasch, "Jackson's Protests," supra](#); [Dreher, "How Jesse's PUSH," supra](#).

One individual, who identified himself only as a former supporter, told the New York Post in a conversation about Respondent Organization CEF: "Jesse came to Wall Street with some great ideas and principles. Along the way, Jesse found greed, and found that it was easier to make money on a transactional basis." [Rod Dreher, "Jackson's Stock Dropping on Wall St. Like a Failed Dot-Com," N.Y. Post, Jan. 23, 2001, at 16 \(emphasis added\) \(hereinafter Dreher, "Jackson's Stock Dropping"\) \(Exhibit E\)](#). Moreover, the facts presented in the Chicago Sun-Times article, supra, led a New Republic journalist to state that Respondent Organization CEF "endures and thrives" by "raking in vast fortunes from corporate America." [Andrew Sullivan, "Endgame," New Republic, Feb. 19, 2001, at 6 \(Exhibit F\)](#). Further, in addition to corporate merger activities, Respondent Organization CEF "take[s] partial credit for such accomplishments as: Sara Lee hiring a minority firm to help handle a \$3 billion stock repurchase plan in 1999; AT&T hiring a minority broker/dealer[, Blaylock & Partners LP,] to co-manage a \$450 million bond offering." [Abdon M. Pallasch, Tim Novak & Chuck Neubauer, "Jackson and PUSH Pull Funds from all Over," Chi. Sun-Times, Jan. 21, 2001, at 20 \(emphasis added\) \(hereinafter Pallasch, Novak & Neubauer, "Jackson and PUSH"\) \(Exhibit G\)](#); [Steve Miller & Jerry Seper, "Jackson's Income Triggers Questions: Minister says Money not his Objective," Wash. Times, Feb. 26, 2001, at A1, A10-11 \(emphasis added\) \(hereinafter Miller & Seper, "Jackson's Income"\) \(Exhibit H\)](#); see also [Henriques, supra](#) (discussing dealings with General Motors and MCI WorldCom). Thus, Respondent Organization CEF appears to be engaged in business services for large international corporations. If Respondent Organization CEF is engaged in business services and such services are deemed to be a non-exempt purpose, such purpose appears to be substantial. In addition to the sources reproduced and cited supra, consider the following chart that accompanied *Chicago Sun-Times* articles on Respondent Organization CEF on January 21, 2001:

The Citizenship Education Fund, a not-for-profit group the Rev. Jesse Jackson Sr. created in 1984, has raised millions of dollars as part of its Wall Street/LaSalle Street project to encourage corporate hiring of minorities. These are some of the donations CEF got in 1999, according to the most current records the group has filed with Illinois Attorney General Jim Ryan:

Robert Knowling Jr. Atherbor, Calif. \$250,000  
Wells Fargo Corp. Los Angeles \$200,000  
Ford Motor Co. Dearborn, Mich. \$75,000  
Don H. Barden Los Angeles \$65,000  
Courtney Sale Ross Chicago \$50,000  
Daimler Chrysler Highland Park, Mich. \$50,000  
Gordy Foundation Los Angeles \$50,000  
Kevin Ingram Jersey City, N.J. \$50,000  
United Paramount Network Los Angeles \$50,000  
Viacom Corp. New York City \$35,000  
Blaylock & Partners Inc. New York City \$30,000  
Applied Materials Corp. Chicago \$27,000  
American Honda Motors Torrance, Calif. \$25,000  
Arista Development Co. Chicago \$25,000  
Lear Family Foundation New York City \$25,000  
McDonalds Oak Brook [Ill.] \$25,000  
Merrill Lynch New York City \$25,000

Microsoft Corp. Redwood, Calif. \$25,000  
Nissan Corp. Detroit \$25,000  
Prudential Securities Chicago \$25,000  
Shoneys Corp. Nashville, Tenn. \$25,000  
Slim Fast Industries Los Angeles \$25,000  
Solomon Smith Barney Chicago \$25,000  
Loop Capital Market Inc. Chicago \$20,000  
Utendahl Corp. New York City \$20,000  
Securities Industry Chicago \$15,000  
Donald A. Coleman Detroit \$10,000  
Democratic Congress Washington, D.C. \$10,000  
Quincy Jones Los Angeles \$10,000  
Lehman Brothers Co. New York City \$10,000  
Madison Square Gardens New York City \$10,000  
Saban Entertainment Co. New York City \$10,000  
Shaw Pittman Chicago \$10,000  
Sprint Westbrook, Kan. \$10,000  
USA Networks Foundation Los Angeles \$10,000  
Viacom International New York City \$10,000  
Walt Disney Co. Los Angeles \$10,000  
American Oil Co. Dallas \$5,000  
Boeing Co. Seattle \$5,000  
HBO New York City \$5,000  
Interior Music Corp. Los Angeles \$5,000  
Kroger Foods Co. Cincinnati, Ohio \$5,000  
Sara Lee Corp. Chicago \$5,000  
Shienberg Foundation Chicago \$5,000  
Tanya Van Court Sunnyside, Calif. \$5,000  
Toren Peterson Chicago \$5,000  
Walgreens Deerfield [Ill.] \$5,000

"Education Fund Donors," Chi. Sun-Times, Jan. 21, 2001, at 20.

This list seems to indicate activity that is substantial. (This list also indicates potential sources of investigation if the Services initiates the action requested by this Complaint.) Note further, that, as of two years ago, the WSP's newsletter had 3,500 "subscribers." See [Henriques, supra](#). This large number may indicate substantial activity with respect to the alleged business services provided to minority entrepreneurs/corporations. Thus, if Respondent Organization CEF's activities described above are found to constitute a non-exempt purpose, that non-exempt purpose also appears to be substantial.

Case law seems to indicate that Respondent Organization CEF's aforementioned conduct should be considered a substantial non-exempt purpose. For example, an organization that was founded by the American Association of Publishers and was almost completely funded by commercial publishers, was found to have a substantial non-exempt purpose because "the potential for a substantial private profit was the driving force behind the organization and operation of the [organization]." *Copyright Clearance Ctr., Inc. v. Comm'r*, 79 T.C. 793, 805, 807 (1982). The Tax Court held that the organization's non-exempt purpose -- operating a clearinghouse for licensing photocopying and transferring license fees to copyright holders -- "represented the dominant and overriding concern of those who organized, sponsored, and promoted [the organization]" and denied the organization tax-exempt status. *Id.* at 808. Similarly, the sources reproduced and cited *supra*, seem to indicate that substantial private profit is the driving force behind Respondent Organization CEF.

Respondent Organization CEF's activities also seem to reflect those of another organization denied tax-exempt status by the Tax Court because the organization, despite "rendering assistance to prison inmates or prison authorities," functioned "commercially" and in the same manner as "sales representatives or brokers or business consulting organizations operating in the private sector. *Public Indus., Inc. v. Comm'r*, 61 T.C.M. (C.C.H.) 1626, (1991) (citing *Fed'n Pharmacy Servs., Inc. v. Comm'r*, 72 T.C. 687 (1979), *aff'd.*, 625 F.2d 804 (8th Cir. 1980)). In a similar "commercial purpose" case, an organization, which performed "nonformal consulting [that] consist[ed] of bringing [parties] with like interests together," was denied tax-exempt status by the Tax Court. *B.S.W. Group, Inc. v. Comm'r*, 70 T.C. 352, 354 (1978). Bringing parties with like interests together appears very similar to the

activities of Respondent Organization CEF. *See, inter alia*, [Neubauer & Pallasch, "Jackson's Protests," supra](#); [Dreher, "How Jesse's PUSH," supra](#). The Tax Court held that "[p]roviding managerial and consulting services on a regular basis for a fee is trade or business ordinarily carried on for profit. The fact that the services in this case are provided . . . solely for exempt organizations is not sufficient to characterize this activity as charitable within the meaning of section 501(c)(3) of the Code." B.S.W. Group, 70 T.C. at 356. The court added: the organization's "only role is that of a conduit linking" parties seeking to do business with each other. *Id.* at 359. "This aspect of [the organization's] service is not inherently charitable, educational, or scientific" (i.e., not exempt). *Id.* The court stated that the organization's "activity constitutes the conduct of a consulting business of the sort which is ordinarily carried on by commercial ventures organized for profit" and concluded that the organization was "not an organization described in section 501(c)(3) because its primary purpose is neither educational, scientific, nor charitable, but rather commercial." *Id.* at 358, 360. But see *Monterey Pub. Parking Corp. v. United States*, 321 F. Supp. 972, 977 (N.D. Cal. 1970), *aff'd*, 481 F.2d 175 (9th Cir. 1973) ("The business activity itself is similar to that which others engage in for private profit, but it is not carried on in the same manner; it is carried on only because it is necessary for the attainment of an undeniably public end."); but see Rev. Rul. 78-86, 1978-1 C.B. 151 ("The Internal Revenue Service will not follow the Ninth Circuit's decision entered in *Monterey Public Parking* . . . affirming the decision of the District Court . . . that the [organization] qualified for exemption from Federal income tax as either a charitable corporation under section 501(c)(3) of the Internal Revenue Code . . ."). Thus, Respondent Organization CEF appears to have a substantial non-exempt purpose in violation of 26 U.S.C. § 501(c)(3) which could require the Service to take corrective action such as revocation of tax-exempt status and/or individual sanctions under 26 U.S.C. § 4958. Therefore, this strong appearance of substantial non-exempt purpose justifies the Service initiating an investigation and/or audit of Respondent Organization CEF to determine if in fact a substantial non-exempt purpose exists.

### **B. Private Inurement / Private Benefit**

Private "[i]nurement is likely to arise where the financial benefit represents a transfer of the organization's financial resources to an individual solely by virtue of the individual's relationship with the organization, and without regard to accomplishing exempt purposes." IRS, G.C.M. 38459 (1980). "The inurement prohibition serves to prevent anyone in a position to do so from siphoning off any of a charity's income or assets for personal use." IRS, G.C.M. 39862 (1991). The purpose of the private inurement doctrine is to ensure that an organization "is serving exempt interests and not private interests." *Hopkins*, *supra*, at § 19.1, at 429. Therefore, an organization must "not [be] organized and operated for the benefit of private persons, such as the creators of the organization, trustees, directors, officers, members of their families, persons controlled by these individuals, or any other persons having a personal and private interest in the activities of the organization." *Id.* (citing 26 C.F.R. §§ 1.501(c)(3)-1(c), 1.501(c)(3)-1(c)(1)(ii), 1.501(c)(3)-1(c)(2); *Ginsburg v. Comm'r*, 46 T.C. 47 (1966)); see also *Hopkins*, *supra*, at § 19.3, at 431 (citing *Am. Campaign Academy v. Comm'r*, 92 T.C. 1053, 1066 (1989)). To determine if any private inurement is present, the purpose of the organization is at issue: "If its basic purpose is to benefit individuals in their private capacity (without thereby serving exempt purposes), then it cannot be tax-exempt, even though exempt activities may also be performed." *Hopkins*, *supra*, at § 19.1, at 429 (citation omitted). The doctrine does not ban transactions between an organization and its insiders. See *id.* "Rather, the doctrine requires that these transactions be tested against a standard of reasonableness. The reasonableness standard focuses on essentially comparisons, that is, on how similar organizations, acting prudently, transact their affairs in comparable circumstances. Usually, the terms of one or more of these transactions are tested against ordinary commercial practices; an overarching test is whether these transactions were negotiated on an arm's length basis." *Id.* (emphasis original). Finally, note that "[e]ven if the benefit inuring to the members is small, it is still impermissible." *McGahan v. Comm'r*, 76 T.C. 468, 482 (1981) (citing *Unitary Mission Church of Long Island v. Comm'r*, 74 T.C. 507, 513 (1980), *aff'd*, 647 F.2d 163 (2d Cir. 1981). That is, "any element of private inurement can cause an organization to lose or to be deprived of tax exemption." *Hopkins*, *supra*, §19.9, at 460.

Additionally, "[a]n organization cannot qualify as a charitable organization where it transgresses the private benefit doctrine . . . [which is] a derivative of the operational test" *supra*. *Id.* at § 19.10, at 460 (emphasis removed). "[W]hile the prohibitions against private inurement and private benefits share common and often overlapping elements, the two are distinct requirements which must independently be satisfied." *Am. Campaign Academy*, 92 T.C. at 1068 (citing *Church of Ethereal Joy v. Comm'r*, 83 T.C. 20, 21 (1984), *Goldsboro Art League, Inc. v. Comm'r*, 75 T.C. 337, 345 n.10 (1980); *Canada v. Comm'r*, 82 T.C. 973, 981 (1984); *Aid to Artisans, Inc. v. Comm'r*, 71 T.C. 202, 215 (1978)).<sup>6</sup> "Prohibited private benefits may include an 'advantage; profit; fruit; privilege; gain; [or] interest.'" *Am. Campaign Academy*, 92 T.C. at 1065-66 (quoting *Ret. Teachers Legal Fund v. Comm'r*, 78 T.C. 280, 286 (1982)). The rule is: If an organization is "shown to benefit private interests, it will be deemed to

further a nonexempt purpose under [26 C.F.R. §] 1.501(c)(3)-1(d)(1)(ii). . . This nonexempt purpose will prevent [the organization] from operating primarily for exempt purposes absent a showing that no more than an insubstantial part of its activities further the private interests or any other nonexempt purposes." Am. Campaign Academy, 92 T.C. at 1066 (citing 26 C.F.R. § 1.501(c)(3)-1(c)(1)). "Moreover, an organization's conferral of benefits on disinterested persons may cause it to serve 'a private interest' within the meaning of [26 C.F.R. §] 1.501(c)(3)-1(d)(1)(ii). . . '[D]isinterested' [means] persons who are not private shareholders or individuals having a personal and private interest in the activities of the organization within the meaning of [26 C.F.R. §] 1.501(a)-1(c)." Am. Campaign Academy, 92 T.C. at 1069 (citing *Christian Stewardship Assist., Inc. v. Comm'r*, 70 T.C. 1037 (1978); *Ky. Bar Fdn. v. Comm'r*, 78 T.C. 921 (1982); *Aid to Artisans*, 71 T.C. 202; *Martin S. Ackerman Fdn. v. Comm'r*, 52 T.C.M. (C.C.H.) 152 (1986)). Thus, "nonincidental benefits conferred on disinterested persons may serve private interests." Am. Campaign Academy, 92 T.C. at 1069.

## 1. Business Relationships

In addition to suggesting a substantial non-exempt purpose, the Chicago Sun-Times and New York Post articles reproduced in Argument Section A, *supra*, suggest that Respondent Organization CEF may be operated for the private interests of individuals closely associated with Respondent Organization CEF. See [Neubauer & Pallasch, "Jackson's Protests," \*supra\*](#); [Dreher, "How Jesse's PUSH," \*supra\*](#). Such private interests appear to include: 1) Respondent Organization CEF President Jonathan Jackson's aforementioned relationship with Georgetown Partners and its relationship with GTE; and 2) Jesse Jackson, Sr., Jacqueline Jackson, and Percy Sutton's aforementioned relationship with Inner City Broadcasting and its relationship with CBS, Viacom, Clear Channel Communications, and AMFM, Inc. See [Neubauer & Pallasch, "Jackson's Protests," \*supra\*](#); [Dreher, "How Jesse's PUSH," \*supra\*](#); see also [Pallasch, Novak & Neubauer, "Jackson and PUSH," \*supra\*](#). Others have noted the apparent private interests furthered by such relationships. See, e.g., [Sullivan, \*supra\*](#) (Jesse Jackson, Sr., is "inveigling his offspring in the corrupt and corrupting operation he laughably calls the Citizenship Education Fund."); [Cragg Hines, "Jackson and His Postpartum Depression," \*Houston Chron., Feb. 7, 2001, at A28\*](#) ("Jackson's efforts have too often had the whiff of a shakedown about them, a bid aimed at much as helping family and friends as benefiting blacks more broadly." (emphasis added)) ([Exhibit I](#)); [Dreher, "Jackson's Stock Dropping," \*supra\*](#) (describing Jesse Jackson, Sr., and Respondent Organization CEF as a "lucrative franchise" and "Jesse Inc.;" and reporting that the WSP is "a shakedown operation designed not to help black people, but to enrich Jesse Jackson." (emphasis added)); [Deroy Murdock, "When It's Time to Exit," \*Wash. Times, Feb. 12, 2001, at A15\*](#) ("In 1999, Mr. Jackson received \$142,000 from AT&T, \$375,000 from Bell Atlantic, \$377,000 from Viacom, \$500,000 from SBC and Ameritech and \$625,000 from GTE, among other corporate patrons. . . . Mr. Jackson reversed his opposition to these companies' merger plans after they donated to CEF and agreed to conduct joint ventures with minority-owned firms, including some tied to Mr. Jackson's family." (emphasis added)) ([Exhibit J](#)).

An additional example of Respondent Organization CEF being used to possibly further private interests is the relationship between Respondent Organization CEF President Jonathan Jackson, his brother Yusef Jackson (reportedly a Respondent Organization CEF board member and attorney, see *infra*), River North Sales & Service, and Anheuser-Busch, Inc. Consider the following Chicago Sun-Times article from February 4, 2001:

For decades, the Rev. Jesse L. Jackson Sr. has threatened companies with boycotts for failing to have minority employees, but Jackson's sons refuse to say how many minority employees work at their Chicago beer distributorship. It's one of many questions Jackson's sons Yusef and Jonathan refuse to answer about the lucrative deal they got from Anheuser-Busch Inc. in 1998. The deal came 16 years after their father boycotted the world's largest brewer because only three of its 900 distributorships were owned by minorities.

. . . The Jackson brothers own River North Sales & Service, which annually distributes between \$30 million and \$40 million worth of Budweiser and other products between Lake Michigan and Harlem Avenue, Irving Park and Roosevelt Roads. No bar or restaurant in that area can buy Anheuser-Busch products from anyone but the Jacksons. This includes hotels, nightclubs and Wrigley Field.

. . . "River North Sales and Services is . . . a private business," according to a statement from Yusef Jackson, the company's president. "All of our actions in acquiring and operating this business have been ethical and proper. As for your questions, much of the information involved is either proprietary or personal. Our choice is to keep it private."

. . . Under laws dating back to Prohibition, most states, including Illinois, generally forbid alcohol manufacturers from selling directly to consumers. The manufacturers must sell their products to distributors, who then sell it to bars, restaurants and stores. Anheuser-Busch, like many brewers, has enormous control over who can distribute its products.

When Anheuser-Busch sold the River North distributorship to Jackson's sons, they had no experience selling beer or running a mid-size company. Yusef, River North's president, was 28 and working at Mayer Brown & Platt, a major Chicago law firm. Jonathan, River North's vice president, was 32 with a master's degree in business from Northwestern University. He had worked as a consultant and developer.

Jonathan Jackson also is president of the Citizenship Education Fund, the group his father uses to encourage corporations, such as AT&T, to do business with minorities. Yusef Jackson is a board member and attorney for the group.

Yusef owns 67 percent of River North and Jonathan owns 23 percent. The remaining 10 percent is owned by Donald Niestrom Jr. He and his father were longtime Anheuser-Busch employees who worked at the River North distributorship before the Jacksons bought it. Niestrom Jr. is now River North's vice president of operations, according to state records.

Chicago is a major focus for Anheuser-Busch. The company sells 47 percent of the nation's beer, dominating most markets, but in Chicago, the company runs second to Miller Brewing Co. Anheuser-Busch's goal is to become the dominant brand in Chicago, and the Jacksons will play a key role if that is to happen.

An Anheuser-Busch distributorship is a gold mine, industry experts say. It gives the owner a monopoly to sell the brewery's products in a specific area. Anheuser-Busch has 700 distributorships nationwide. Several are owned by Busch family relatives, including Anheuser-Busch Chairman August Busch III's daughter and son-in-law, his half brother Peter Busch and cousins, according to reports the company filed with the U.S. Securities and Exchange Commission. Others are owned by the children of Anheuser-Busch directors.

"Most distributorships are family owned and have been for generations," according to a distributor who asked to remain anonymous so he could keep selling Anheuser-Busch products. "Because they're family-held businesses, they don't turn over that frequently."

The Jacksons bought the distributorship in late 1998 from Anheuser-Busch. Neither the Jacksons nor Anheuser-Busch officials would discuss details of the Jackson brothers' purchase. "We negotiated a straightforward deal and paid a competitive price for the company along with its property," Yusef Jackson said in a written statement. Anheuser-Busch, according to the Jacksons, calls the Jackson brothers and Niestrom "exactly the kind of people we look for to be wholesalers representing our company in the community. . . . They have the added advantage of being in the age demographic we describe as 'contemporary adults,' the key beer-purchasing segment. . . . This is a very strong management team." Anheuser-Busch said in a statement to the Chicago Sun-Times that it has "several minority owners" of distributorships, but it refused to say how many. "The wholesalerships are independently owned and operated and don't change hands frequently. When they do, we work to recruit qualified minority owners."

Anheuser-Busch created a \$5 million program to help minorities buy distributorships in September 1982 amid Jackson's threats that Operation PUSH would boycott the company. The brewer had three distributorships owned by minorities at that time. A black-owned paper in St. Louis, where Anheuser-Busch is based, reported that Jackson had demanded \$500 each from black businessmen to support the boycott. Jackson sued the paper, but he dropped the suit after a judge ruled that the newspaper could inspect Operation PUSH's financial records.

Jackson went ahead with the boycott in October 1982, proclaiming, "This Bud's a dud." A year later, Anheuser-Busch added another \$5 million to the minority financing program, one of several moves that Jackson endorsed.

Yusef Jackson said in his statement that he, his brother and Niestrom bought the River North distributorship without any financial help from Anheuser-Busch. Yusef Jackson refused to divulge the price his company paid for River North, but public records show his company got a \$6.7 million loan from NationsBank to pay Anheuser-Busch for the assets, equipment and the distributorship's building and warehouse on Goose Island. Anheuser-Busch, however, had spent \$10.5 million, including \$2.6 million from the City of Chicago, seven years earlier to buy the land and build the 79,000 square-foot-building.

[Tim Novak & Chuck Neubauer, "Jackson Sons Quiet on Hiring," \*Chi. Sun-Times\*, Feb. 4, 2001, at 4 \(emphasis added\) \(Exhibit K\).](#) See also [Jerry Seper & Steve Miller, "Jackson Sons Enjoy Success with Suds: Father's Bane becomes their Business," \*Wash. Times\*, Feb. 26, 2001, at A11 \(Exhibit L\); Pallasch, Novak & Neubauer, "Jackson and PUSH," \*supra\*](#); Andrew Zajac, "PUSH's Loyalty to Jackson Fills Forum: Civil Rights Leader's Financial Arrangement with Aide Still Unclear," *Chi. Trib.*, Jan., 21, 2001, at C1.

While this article does not detail the exact role, if any, Respondent Organization CEF played in the River North/Anheuser-Busch relationship, given 1) Respondent Organization CEF's apparent role as facilitator in other business transactions (see, e.g., *supra*, Georgetown Partners and GTE; Inner City Broadcasting, CBS, Viacom, Clear Channel Communications, and AMFM) and 2) that Respondent Organization CEF's President (Jonathan Jackson) and his brother who is also reported to be a board member and the attorney of Respondent Organization CEF (Yusef Jackson) are majority shareholders in River North, it appears that Respondent Organization CEF may have played a role in the River North/Anheuser-Busch relationship. If true, it appears that Respondent Organization CEF may have been used (is being used) to further private interests of Jonathan Jackson, Yusef Jackson, and possibly others.

Case law seems to indicate that Respondent Organization CEF's aforementioned conduct should be considered a violation of the private inurement doctrine and private benefit doctrine. For example, under the private inurement doctrine the Tax Court denied an organization tax-exempt status because of its activities that furthered private interests. See *Best Lock Corp. v. Comm'r*, 31 T.C. 1217 (1959). The organization made research expenditures in advance of its founder's hobby; made loans that benefited its founder and his family; and purchased stock in a corporation owned by its founder's friend. See *id.* at 1236. The court found that the organization "was organized in such a fashion that [its founder] held control of its activities and expenditures; it was operated to carry out projects in which [its founder] was interested and some of its funds were expended for the benefit of [its founder] or members of his family." *Id.* This quotation from *Best Lock* appears to be an apt description of Respondent Organization CEF and individuals closely associated with it.

Similarly, the Tax Court found private inurement when the assets of the organization were used to benefit its founder. See *Cranley v. Comm'r*, 20 T.C.M. (C.C.H.) 20 (1961). This finding rested on the fact that the founder/physician's practice and income "were materially enhanced" by the organization's assets -- in this case a laboratory. *Id.* In the case of Respondent Organization CEF, assets, such as its brand and/or its alleged business services, *supra*, may have been used to materially enhance the careers and incomes of individuals closely associated with it. Likewise, private inurement was found where members (homeowners) of an organization were found to have a private interest in the activities of the organization because they were the "intended beneficiaries" of the organization's facilities and services. See *Columbia Park & Recreation Ass'n, Inc. v. Comm'r*, 88 T.C. 1, 24, 26 (1987), *aff'd* without opinion, 838 F.2d 465 (4th Cir. 1988).

Further, "[a]n organization, the primary purpose of which is to render services to individuals in their private capacity, generally cannot qualify as a charitable entity." *Hopkins, supra*, § 19.4(g), at 455. Thus, an organization (art gallery) that exhibited and sold only its member's art work was found to be serving a private interest -- "a vehicle for advancing [the members'] careers and promoting the sale of their work." *Rev. Rul. 71-395, 1971-2 C.B. 228*; cf. *Nat'l Chiropractor Ass'n v. Birmingham*, 96 F. Supp 874 (N.D. Iowa 1951) (private inurement found where legal services were provided to business league members); *Wholesale Grocers Exch. v. Comm'r*, 3 T.C.M. (C.C.H.) 699 (1944) (private inurement found where royalty distributions services were provided to business league members). Likewise, an organization that provided low-income housing assistance but gave preference to individuals who worked on a farm owned by an individual who controlled the organization was found to benefit a private interest. See *Rev. Rul. 72-147, 1972-1 C.B. 147*. "When a group of individuals associate to provide a cooperative service for themselves, they are serving a private interest." *Rev. Rul. 69-175, 1969-1 C.B. 149*; cf. *Christian Stewardship Assist., Inc. v. Comm'r*, 70 T.C. 1037 (1978) (financial counseling service found to further private interests). Given the conduct outlined in articles, *supra*, it appears that Respondent Organization CEF could be classified as a group of individuals associated to provide cooperative services for themselves.

Additionally, the seminal case on private benefit doctrine, *Am. Campaign Academy*, 92 T.C. 1053 (1989), tends to indicate that Respondent Organization CEF may have advanced (be advancing) private interests. The American Campaign Academy trained individuals to be political campaign professionals, and the issue was whether private

benefits that accrued to third parties -- the Republican Party entities and candidates -- were more than insubstantial. Id. at 1055. The Tax Court found that they were and held that the organization violated the private benefit doctrine. Id. at 1070, 1072, 1078. "At the heart of the opinion is the analysis of the concept of primary private benefit and secondary private benefit. In this setting, the beneficiaries of primary private benefit were the students and the beneficiaries of secondary private benefit were the employers of the graduates. It was the secondary private benefit that caused the school to fail to acquire tax exemption." Hopkins, supra, § 19.10, at 461 (emphasis original). Thus, where the secondary benefit is targeted to a "select group" it "ceases to be incidental," and the private benefit doctrine is violated. Am. Campaign Academy, 92 T.C. at 1074, 1076. Therefore, although Respondent Organization CEF may provide primary charitable/education benefits to the public generally, the articles reproduced and cited supra indicate that Respondent Organization CEF may provide substantial secondary private benefits to a select group of third parties, such as minority entrepreneurs/corporations (e.g., Georgetown Partners, Inner City Broadcasting, Blaylock & Partners LP) and large international corporations (e.g., SBC-Ameritech, GTE, AT&T, CBS, Viacom), in violation of the private benefit doctrine. Thus, Respondent Organization CEF may have violated (be violating) the private inurement doctrine and/or the private benefit doctrine which could require the Service to take corrective action such as revocation of 26 U.S.C. § 501(c)(3) tax-exempt status and/or individual sanctions under 26 U.S.C. § 4958. Therefore, this strong appearance of private inurement and private benefit justifies the Service initiating an investigation and/or audit of Respondent Organization CEF to determine if such violations exist.

## **2. Personal Relationships**

Additionally, Respondent Organization CEF may have violated (be violating) the private inurement doctrine insofar as its funds may have been (are being) used for private personal ends. Consider the following Washington Post article from February 1, 2001:

A woman with whom Jesse L. Jackson fathered a child during an extramarital affair had approval to use funds from one of Jackson's tax-exempt charitable organizations to buy a house in Los Angeles, according to correspondence confirmed by a Jackson aide today.

According to a Sept. 10, 1999, letter from a top Jackson aide to Karin Stanford, former head of the Washington office of the Rainbow/PUSH Coalition, Jackson's Citizenship Education Fund (CEF) approved a "draw" of \$40,000 for Stanford against future consulting fees "for the purpose of acquiring residential real estate financing." Stanford, 39, gave birth to a daughter in May 1999 . . . A copy of the letter, signed by Janice L. Mathis, CEF board member and Rainbow/PUSH general counsel, appears in the upcoming edition of the National Enquirer, due out Friday. . . .

Previously, spokespersons for Jackson had offered various explanations for the payment, describing it as moving expenses, an advance on contracted work and as severance pay. But none of the explanations included assistance in buying a house as a reason, and Jackson aides have consistently and emphatically denied that Stanford bought a \$365,000 house in Los Angeles with money from Rainbow/PUSH-affiliated charities.

Mathis did not return phone calls today, but John Scanlon, a Jackson spokesman in New York, confirmed that Mathis wrote the Sept. 10 letter. But he said the amount was changed from \$40,000 to \$35,000 and "therefore the letter was never acted upon." In addition, Jackson is paying Stanford \$3,000 monthly of his own money in child support, aides say.

Scanlon provided a copy of a CEF disbursement record showing an "employee reimbursement" of \$15,000 to Stanford and another \$20,000 payment for "consulting services." With some other expense reimbursements, the total for that pay period was \$36,181.30. Scanlon said the \$15,000 was for moving expenses and the \$20,000 was payment for contracted research work, which he said has been completed by Stanford. The work, he said, included writing papers on the digital divide between whites and blacks and on Federal Communications Commission licensing in minority communities. Scanlon said the question of how Stanford spent the money was irrelevant because she was free to dispose of it as she wished. However, he said she insists she did not use the money on the house.

. . . The Enquirer article includes a reproduction of another letter from Mathis to Stanford, dated November 1999, which is almost identical to the Sept. 10 letter except that it omits the reference to an advance against consulting fees and simply says the money is for securing house financing.

Scanlon said that letter was never sent because it was "redundant" and that in any case the issue had been resolved in the meantime with the agreement to change the \$40,000 payout to \$35,000. He said there had been a disagreement over the amount to be paid to Stanford, but he did not provide details of the dispute.

Rainbow/PUSH tonight also released a copy of a consulting contract between CEF and Stanford, dated Dec. 15, 1999, calling for \$20,000 in compensation for research work on a "media and telecommunications project."

[William Claiborne, "Jackson's Group Paid Ex-Aide: \\$35,000 Allocation Spent on L.A. House," \*Wash. Post\*, Feb. 1, 2001, at A3 \(emphasis added\) \(Exhibit M\).](#)

Additional details are provided in this *Washington Times* article from February 26, 2001:

. . . After a stint with the Congressional Black Caucus and a 1996 bout with breast cancer, [Karin Stanford] joined [Jesse] Jackson at the Rainbow/PUSH Coalition in Washington at a salary of \$120,000 a year. The two soon began a romantic relationship.

Miss Stanford, 39, served as director of the Washington bureau and headed the coalition's public policy division for two years. She moved in late 1999 to California, where she now lives with her daughter in a five-bedroom house with a pool in upscale Baldwin Hills, south of Los Angeles. She bought the house for \$365,000 after securing a \$291,950 loan.

. . . Miss Stanford still works for the coalition as a research consultant. She reportedly also serves as a \$10,000-a-month consultant to Yucaipa Companies in Los Angeles. Yucaipa's managing partner, California supermarket magnate Ron Burkle, has been a longtime financial supporter of Rainbow/PUSH and other Jackson projects. Officials at Yucaipa say it was Mr. Jackson who had proposed Miss Stanford's employment as a consultant.

Records show that officials affiliated with Rainbow/PUSH assisted Miss Stanford financially with her purchase of the California home. Mr. Jackson has said he is providing her with \$3,000 a month from his own pocket to support his young daughter.

The records, obtained by The Washington Times, show Miss Stanford was paid \$36,181 in employee reimbursements and consulting fees over an eight-month period beginning in May 1999, the same month her and Mr. Jackson's daughter was born. The money came from the tax-exempt Citizenship Education Fund (CEF), a \$9 million offshoot of the Rainbow/PUSH Coalition that researches voter registration issues.

Miss Stanford's pay, described as a "draw" against future consulting fees, was proposed in a Sept. 10, 1999, letter to Miss Stanford from Janice L. Mathis, a member of the education fund's board of directors who also serves as the Rainbow/PUSH general counsel. The letter said a proposed \$40,000 draw was "for the purpose of acquiring residential real estate financing."

While the letter was never formally approved, payments totaling \$36,181 are listed in the education fund's ledger. They include \$15,181 in employee reimbursements in three checks issued in May and October 1999. Another \$21,000 for consulting services on a research project was issued in three payments in December 1999 and April 2000. In a three-page contract she signed with CEF, Miss Stanford was identified as an "independent contractor."

The CEF board that approved the payments is headed by Mr. Jackson's son, Jonathan. Another son, Yusef, also serves on the board, as does Mr. Jackson's wife, Jacqueline.

Rainbow/PUSH's financial officer, Billy Owens, said extensive financial reviews have been conducted since he was hired eight months ago, and he has found no evidence of fraud or financial mismanagement involving the Stanford contract.

"If it was there, I would have found it," said Mr. Owens. He added that the only wrongdoing he discovered was that someone had stolen a copy of the Mathis letter outlining the initial proposal of \$40,000 for Miss Stanford. "I assume that's how it found its way into the media," he said.

Prior to the letter's surfacing in the media, first in the National Enquirer, aides to Mr. Jackson had offered a variety of explanations for the Stanford payments, including severance pay and moving expenses.

[Jerry Seper & Steve Miller, "Mistress was Jackson Disciple Since her College Days," \*Wash. Times\*, Feb. 26, 2001, at A10 \(emphasis added\) \(hereinafter Seper & Miller, "Mistress was Jackson Disciple"\) \(Exhibit N\).](#) See also [Monica Davey & Ray Gibson, "Rich Pal Comes Through for Jackson," \*Chi. Trib.\*, Feb. 4, 2001, at M1 \(Exhibit O\); Lynn Sweet, "Who Paid for Mistress' Move? Jackson's Organization Doled Out \\$36,000 in Fees," \*Chi. Sun-Times\*, Feb. 2, 2001, at 3 \(Exhibit P\); "Are Jesse Jackson's Tax-Exempt Organizations Breaking the Law?" Fox News Network, "The O'Reilly Factor," Feb. 1, 2001, \(Transcript #020101cb.256\) \(hereinafter "Are Jesse Jackson's Tax-Exempt Organizations Breaking the Law?" Fox News Network\) \(hereinafter \(Exhibit Q\); "Jackson Charity Reportedly Gave Lover Money for House," \*L.A. Times\*, Feb. 1, 2001, at A12; William Neuman, "Did Jesse Pals OK 40G for Mistress?" \*N.Y. Post\*, Feb. 1, 2001. See also \[Hines, supra\]\(#\) \("his paternity peccadillo, given the payments to the mother of the child, has reawakened interest in the long-murky financing of his web of civil rights and economic development organizations. . . . Jackson's tax-exempt CEF appears to be the reverend's cash cow. It's the group that paid \\$ 35,000 to Karin Stanford, the former aide who had Jackson's child in 1999. At least one CEF memo reported by the Washington Post states specifically that the money was to help Stanford buy a house. Such private use of tax-exempt funds could raise legal questions."\) \(emphasis added\); "Jackson: L.A. Confidential," \*Hotline\*, Feb. 5, 2001 \("MSNBC's \[Chris\] Matthews on the money Stanford received from the Citizenship Education Fund: 'It wasn't listed as payment or expenses, it was listed as a draw on future consulting fees, which has the sound of an amorphous cover-up\('Hardball,' 2/2\)".\).](#)

The explanations of Respondent Organization CEF's payments to Karin Stanford given by Respondent Organization CEF's outside media spokesman, John Scanlon, may adequately describe why there is no private inurement in this situation. However, given the size of the payments to Stanford, the personal relationship between Jesse Jackson, Sr., and Stanford that may have prompted these payments, the letter of Janice Mathis, and the multiple and conflicting public explanations offered by Respondent Organization CEF spokespeople prior to Scanlon's explanations, Scanlon's explanations should not preclude a inquiry by the Service.

Further, beyond the payments to Stanford, another *Washington Times* article from February 26, 2001, raise additional private inurement concerns:

The Rev. Jesse L. Jackson's opulent lifestyle has prompted many of his critics here to ask the obvious question: Where does the 59-year-old activist get the money to pay for three homes, first-class travel and a \$3,000 monthly child-support payment to a former mistress?

. . . "That's a good question," added Don Beachem, vice chairman of the Illinois Minority Community Alliance, a Cook County sheriff's deputy who claims to have his finger on the pulse of Chicago's sizable black community. "The only thing I can tell you is what I hear from other people," said Mr. Beachem. What he hears is that Mr. Jackson's financial support comes from "his organizations, from PUSH, the Rainbow Coalition, from the Citizenship Education Fund. I'd imagine there is some grant money in there, too."

The conglomerate of eight nonprofit and public organizations<sup>7</sup> that Mr. Jackson is affiliated with are for the most part financed by the generosity of corporate America and a multitude of loyal followers. The organizations include the 30-year-old People United to Serve Humanity (PUSH), the Citizenship Education Fund (CEF) - both of which are tax-exempt and nonprofit - and the Rainbow/PUSH Coalition, formed in 1996 as a for-profit corporation.

The complaints among many of his critics in Chicago are loud and clear: Mr. Jackson, under the guise of selflessly promoting social change, has lined his pockets. He has an estimated annual income of about \$300,000. Mr. Jackson's home, a large two-story white stucco located a half-mile from the Rainbow/PUSH Coalition headquarters on this city's south side, sits in the upscale Jackson Park Highlands. It's an old section of town that, despite the high levels of crime which forces homeowners to put up barred windows, is also given to beautifully baroque houses that are valued on tax rolls between \$100,000 and \$125,000. At

various times, Mr. Jackson also owned two other homes, one in Washington purchased for \$100,000 in 1985 and another in Greenville, S.C., purchased in 1984 for \$40,000.

Steve Taylor, publisher of a regional black newspaper, the Kankakee City News, recently wrote an editorial accusing Mr. Jackson of playing the race card to make himself one of the wealthiest black ministers in the nation.

. . . Mr. Jackson's benefactors [have taken] advantage of the tax-exempt status that some of his organizations enjoy. His Rainbow/PUSH and Push for Excellence had incomes of more than \$4 million in 1998, and the affiliate tax-exempt CEF declared revenue of \$9 million in 1999.

Mr. Jackson draws a \$120,000 annual salary from PUSH, a nonprofit group formed in 1971 and incorporated in 1977. Spokesman John Scanlon, a New York-based public relations agent, said Mr. Jackson also earns close to \$150,000 annually in speaking fees as well as an undisclosed sum of income from CNN, where he has hosted a public affairs show, "Both Sides With Jesse Jackson," since 1992. The show, however, was taken off the air last month.

. . . In 1982, the St. Louis Sentinel, a black newspaper, reported that Mr. Jackson had asked a local coalition of businessmen for \$500 each to lead a boycott of Anheuser-Busch Co., a business with deep roots in the community and a stellar record of minority employment. In an editorial headlined "Minister or Charlatan?" the paper accused him of running a game to extract monetary contributions from local businesses. Mr. Jackson, unaccustomed to such treatment, filed a \$3 million libel suit against the paper.

"Anheuser-Busch was a good corporate citizen," said Michael Williams, co-publisher of the Sentinel. "We questioned his motives. We had black business owners who were really offended that Mr. Jackson would want money to go after this company." But when a judge asked Mr. Jackson to produce his financial records during the trial, the civil rights leader declined. The case was dismissed.

Since then, critics have consistently questioned - including the recent revelation of an illegitimate daughter and lavish child-support payments - the nature and source of Mr. Jackson's finances. The mishandled federal grants, for example, dogged Mr. Jackson for years.

His presidential runs in 1984 and 1988 also cast him as a man with a reputation for being a spendthrift. An FEC audit of the 1984 campaign found that the Jackson committee underreported its receipts by \$826,000 and its expenditures by more than \$1 million. The 1988 campaign committee found itself initially ineligible for federal matching funds because of bounced checks.

Mr. Jackson's inability to curtail his spending habits has left some critics wondering whether the activist's crusade for social justice and economic parity comes with overhead costs that are too high.

"Any time Jesse shows up now, it's going to cost you," said Hurley Green Sr., publisher of a conservative black newspaper in Chicago. Mr. Green said he used to ghostwrite a column for Mr. Jackson, which ran in another local black newspaper, the Chicago Defender. "I did it until I found out that Jesse was getting paid for it," Mr. Green said in an interview last week. "I thought he was doing it for the community, and I never saw a dime."

In his interview with The Washington Times last week, Mr. Jackson played down these instances of questionable financial dealings. . .

[Miller & Seper, "Jackson's Income" \(emphasis added\) \(Exhibit H\)](#)

Thus, while Jackson's "opulent lifestyle" may be attributable to other sources, the large amount of funds available within Respondent Organization CEF raise concerns of personal inurement.

Case law offers several examples of private inurement that appear similar to the Stanford and Jackson situations. The Tax Court upheld the Service's revocation of an organization's tax-exempt status on private inurement grounds stating that an "indicia" of private inurement included, inter alia, payments in support of the founder's family as well as the "unfettered control over millions of dollars in funds purportedly belonging to" the affiliated entities of the organization. *Church of Scientology of Cal. v. Comm'r*, 83 T.C. 381, 492 (1984), *aff'd*, 823 F.2d 1310 (9th Cir.

1987). The payments to Stanford from Respondent Organization CEF and the apparent control of Jackson over Respondent Organization CEF may also be indicia of private inurement. Likewise, another organization was found to be "serving the private interests of its creator and his family" in part because of a provision in a "covenant" that obligated the organization to provide "housing, food, transportation, clothing, education & other proper needs as may from time to time arise." *Parshall Christian Order v. Comm'r*, 45 T.C.M. (C.C.H.) 488 (1983) (emphasis added). If further research by the Service finds that Respondent Organization CEF's payments to Stanford were in fact for housing, private inurement may have occurred. Further, the Tax Court denied tax exemption to an organization that paid for the medical and rehabilitative care of an individual who was related to each of the trustees of the organization. See *Wendy L. Parker Rehabilitation Found. v. Comm'r*, 52 T.C.M. (C.C.H.) 51 (1986). Note that Respondent Organization CEF's payments to Stanford were approved by a board on which two of Stanford's daughter's half-brothers sit. See *Seper & Miller, "Mistress was Jackson Disciple," supra* ("The CEF board that approved the payments is headed by Mr. Jackson's son, Jonathan. Another son, Yusef, also serves on the board, as does Mr. Jackson's wife, Jacqueline."). Alternatively, if the payments to Stanford did include compensation for consulting services, there is a concern about whether such compensation is reasonable or excessive. Allegedly, the portion of the payments to Stanford for consulting services was \$20,000 or \$21,000. See [Claiborne, supra; Seper & Miller, "Mistress was Jackson Disciple," supra](#). "[E]xcessive compensation can result in private inurement[, and] whether the compensation paid is reasonable is a question of fact, to be decided in the context of each case." *Hopkins, supra*, § 19.4(a), at 436 (citing *Harding Hosp., Inc. v. United States*, 505 F.2d 1068 (6th Cir. 1974); *Birmingham Bus. Coll., Inc. v. Comm'r*, 276 F.2d 476 (5th Cir. 1976); *Mabee Petro. Corp. v. United States*, 203 F.2d 872 (5th Cir. 1953); *Jones Bros. Bakery, Inc. v. United States*, 411 F.2d 1282 (Ct. Cl. 1969); *Home Oil Mill v. Willingham*, 68 F. Supp 525 (N.D. Ala. 1945); *Tex. Trade School v. Comm'r*, 30 T.C. 642 (1958); *N. Ill. Coll. of Optometry v. Comm'r*, 2 T.C.M. (C.C.H.) 664 (1943)). In Stanford case, the issue may be "the amount of time [she] devotes to the task . . . An amount of compensation may be reasonable when paid to a full-time employee, yet be unreasonable when the employee is providing services on a part-time basis." *Hopkins, supra*, § 19.4(a), at 437. Note that in addition to the reported consulting services for Respondent Organization CEF, Stanford is a single mother and a "10,000-a-month [(\$120,000-a-year)] consultant to Yucaipa Companies in Los Angeles." [Seper & Miller, "Mistress was Jackson Disciple," supra \(Exhibit N\)](#). Therefore, there is a possibility that Stanford's reported compensation that is not only compensation and is excessive given her other time and work commitments. Thus, Respondent Organization CEF may have violated (be violating) the private inurement doctrine which could require the Service to corrective action such as revocation of 26 U.S.C. § 501(c)(3) tax-exempt status and/or individual sanctions under 26 U.S.C. § 4958. Therefore, this strong appearance of private inurement justifies the Service initiating an investigation and/or audit of Respondent Organization CEF to determine if such violations exist.

### **C. Procedural Non-Compliance**

Media reports have highlighted areas of apparent procedural non-compliance on Respondent Organization CEF's Form 990 for 1999 (see also [Form 990 1998 \(Exhibit A\)](#)). For example, consider the following article from the *New York Post* on February 7, 2001:

It has been 18 years since the IRS has audited any of Jesse Jackson's organizations. So at my request, an expert examined the 1998 and 1999 IRS filings of the Citizenship Education Fund, a tax-exempt arm of his Chicago-based Rainbow/PUSH Coalition, as well as supplemental forms submitted by the charity. The papers are public record.

"There are red flags all over this," said Cleta Mitchell, a Washington lawyer who specializes in tax laws regulating nonprofit organizations.

"You can't help but be struck by the fact that, reading those tax returns, there's a lot of money being spent in ways that aren't clear," said Mitchell, a registered independent voter whose clients are predominantly Republican.

Among the biggest questions suggested by the documents:

\* The 1999 filing says CEF, whose president is Jackson, spent \$1.3 million for travel. But it does not itemize. "Was any of that travel paying for Jesse Jackson to go speak for candidates?" Mitchell asked. "If so, that is illegal, and they should lose their tax-exempt status."

\* More than \$1 million was spent by CEF in 1999 on consulting fees. Who were these consultants? What did they do for the money? "The law says you have to list your five biggest independent contractors. They list none," said Mitchell. "You don't have \$1 million in consulting fees without having contractors."

\* CEF spent \$1.1 million on conferences and meetings in 1999, according to its tax filing. What were these events?

\* The 1999 return states that CEF spent nothing on lobbying and "grass-roots communications." But elsewhere on the form it "suggests" that \$2.3 million went for grass-roots lobbying related to the charity's tax-exempt purpose, Mitchell said.

There are also discrepancies among various forms submitted to the feds and the state of Illinois. Some list key employees and officers whose names are not on other documents.

A meaningless technical oversight? Could be. But sloppiness like this gives ammunition to those who suspect that Jackson uses creative accounting to treat CEF like a slush fund.

"Because the IRS doesn't look very carefully at these [filings], and nonprofits know that, they don't tend to fill them out completely and accurately," says Stacy Palmer, editor of the Chronicle of Philanthropy, a journal that covers charities.

There's lots more to ask, but it all comes down to one thing. "The overall question we're facing here is whether or not tax-deductible dollars are being spent for political purposes and personal inurement" - a legal term meaning "benefit" - "both of which are forbidden to a [tax exempt] charity," says Mitchell. It's fair to pose these questions, and fair to expect a complete and credible answer from this and any honestly run charity - particularly a tax-exempt one.

On Monday, I spoke with Billy Owens, the chief financial officer of CEF and the Rainbow/PUSH Coalition, who asked me to put these and other questions in written form and submit them via e-mail. He promised to respond by 10 a.m. yesterday. He neither called nor e-mailed, nor did he respond to another phone message I left for him yesterday afternoon.

Owens and Jackson may not have a thing to worry about, if a former U.S. Justice Department official who worked in the tax-fraud division knows his stuff. "They hate going after religious organizations, and it's extremely unlikely that they're going to go after an African-American organization led by a clergyman," said the ex-official, who asked that his name not be printed.

Does the IRS care? Do stockholders in the big companies - Verizon, AT&T, Viacom, SBC/Ameritech and others - who donate heavily to CEF have any regard for how Jesse Jackson spends their money? Will treasurer Billy Owens ever give an explanation?

If you submitted tax returns like these, don't think for a minute you wouldn't be asked to give an accounting. Why should Jesse Jackson get special treatment?

[Rod Dreher, "Does IRS Let Jesse's Group Violate Tax Law?" \*N.Y. Post\*, Feb. 7, 2001, at 26 \(emphasis added\) \(Exhibit R\).](#)

The following transcript excerpts from the February 1, 2001, edition on the Fox News Network's "The O'Reilly Factor" also raises procedural non-compliance concerns and places such concerns in context of facts and issues set forth in Argument Sections A and B of this Complaint:

BILL O'REILLY, HOST: . . . As you may know, THE FACTOR has been trying to get financial information from [Jesse] Jackson for more than a year. We are not accusing him of anything. We just want to know where Jackson's tax-exempt money is going. By law, the public has a right to know that. Jackson has set up four organizations. Two are tax-exempt, and two are not. Millions of dollars annually pour into these concerns. Where that money goes is very difficult to figure out.

THE FACTOR has obtained tax returns from the . . . Citizenship Education Fund from 1998 and '99. In those years, the fund took in nearly 12 million tax-exempt dollars but paid out only \$1.5 million in salaries

and wages and spent -- get this -- only \$47,000 on education. Let me repeat that. Out of the \$12 million the Citizenship Education Fund received, just \$47,000 went for actual education.

Also remaining a mystery are Jackson's travel expenses for the Rainbow/PUSH Coalition in 1998. He has listed \$1,242,854 for travel and conference fees, but the specific charges -- that is where the travel was to -- are not provided.

Another major question is: Why hasn't the IRS looked into Jackson's finances, considering he has reportedly had a history of financial problems in this area?

Here are examples. One, in 1983, the Chicago office of the Department of Education Rainbow/PUSH. Two, in 1984, a Federal Election Commission audit of Jackson's presidential campaign showed it under-reported donations of \$826,000. Three, in 1998, PUSH Excel agreed to pay the federal government \$550,000 in undocumented expenses of federal grant money! That's tax money from you and me. Also in '88, an audit of Jackson's presidential campaign in that year resulted in a record \$150,000 fine for accepting excessive campaign contributions. Once again, Jackson's finances have not been investigated for 12 years, since '88. The question for the IRS is: Why not?

In 1999, THE FACTOR has learned that Jesse Jackson had a huge year. He accepted the following donations: \$500,000 from SBC Ameritech, \$375,000 from Bell Atlantic, \$625,000 from GTE, \$377,000 from Viacom, and \$142,000 from AT&T. There are many, many more. It is obvious to anyone, including our federal government, that there is big money coming in to Jesse Jackson's organizations, and it is obvious that he has had past problems accounting for some of the money. Once again, THE FACTOR is stunned that there is not more oversight. We'll continue our investigation. . . . Now for the top story tonight. Reaction to the Jesse Jackson situation. Joining us from Washington is tax attorney Cleta Mitchell and William Lash, a law professor at George Mason University.

Ms. Mitchell, you've heard the evidence, and you have seen the tax returns for the Citizenship Education Fund for '98-'99. What say you?

CLETA MITCHELL, TAX-EXEMPT ORGANIZATION ATTORNEY: Well, let's understand some basic principles. When you look at the tax return for a tax-exempt organization, like the Citizenship Education Fund, and that is - - there are a couple of things to keep in mind.

Number one, the government requires a charity -- and that's what this is. This is a charity, and contributions to this charity are deductible to the donor and, therefore, there are very stringent rules on what the money can and cannot be spent for. There are specific line items in the tax return that are supposed to be identified, and you are -- the charity is supposed to tell us who received -- anybody who received more than \$50,000 in compensation, if there were consultants -- they list \$1.7 million in consulting fees.

. . .  
O'REILLY: We're talking about the Citizenship Education Fund . . . lists \$1.2 million in consulting fees. Now remember . . . this education fund only spent in two years \$47,000 on education.

MITCHELL: Right.

O'REILLY: So your problem with the consulting fees is what?

MITCHELL: There's a specific requirement and a schedule in the tax return, in the form, where the IRS requires that you identify by name professional services. On that part of their tax return, they write "none." So which is it -- \$1.3 million...

O'REILLY: They didn't . . .

MITCHELL: ... or none?

O'REILLY: They didn't identify it as IRS rules state, but -- look.. . .

MITCHELL: Exactly.

O'REILLY: . . . we made this point for a year. The IRS simply is not going to investigate this man. They know what's going on. They have to know. Am I right?

MITCHELL: Well, I think that they need to conduct an audit. I think that if you compare the tax return to the audit that's filed with the State of Illinois, there are a number of discrepancies. And I think there's another issue . . . [the] organization frankly borders on political campaigning, which is strictly forbidden for a charity, and there are a lot of red flags . . .

O'REILLY: All right. I don't want to get into the politics of it now. Mr. Lash, Professor, you -- when you hear this and -- and you see what we've uncovered here on THE FACTOR, what do you say?

WILLIAM LASH, GEORGE MASON UNIVERSITY: Well, I see three different stories, Bill. The first story is \$40,000 as an advance to a consultant. But looking at the records of Operation PUSH and CEF, she was never claimed as one of the top three employees, so, therefore, her salary had to be under \$50,000. Now how many consultants -- you have former employees -- get a year's salary up front? That's suspicious.

Second story that comes up as well: It was reimbursement for moving and consulting fees. Fifteen thousand dollars to move away from your employer? That's also very unusual. I've had a lot of clients who get paid to move to the employer -- to -- to the work, to the employer, but never \$15,000 to go away from work, plus getting fees in advance.

And this final story of -- of, well, this is a severance package because that -- if we look at what is the standard practice for severance packages for non-profits, particularly for this organization, because if it looks like it's a special benefit given to her because of her status with . . .

O'REILLY: Why...

LASH: You cannot have a personal benefit.

...

O'REILLY: All right. Now you're a . . . teacher, Professor, and you see \$47,000 out of \$12 million going for educational expenses, and what does that tell you?

LASH: Well, it's funny. It gets back to Cleta's point. They are supposed to be engaged in education, not lobbying. So the fact that the money is going -- not going for pure education, it's going for advocacy, other programs, again, which may be well and good, but not to entitle them to tax-exempt status, that the donors could lose . . . the tax-exempt status.

O'REILLY: . . . Ms. Mitchell, let's go back to you. We have \$1,307,393 for consultants for the Citizenship Education Fund, once again, a tax-exempt concern. Some people believe that this money has been used to help this is a big pile of dough for consultants. I've never seen anything quite like it, have you?

[MITCHELL:] . . . There's nothing illegal about that, but one cannot on the one hand say, "We spent \$1.3 million for consultants," and then fail to itemize, as required by law, exactly who's receiving those...contracts.

O'REILLY: And, once again, we want to tell the audience just joining us that, when they said "Who were these consultants?" on the tax return, they put down "none." Is . . .

MITCHELL: They put -- that's exactly right. There's a form, and you contractor contracts.

O'REILLY: This is what I don't get, though. You saw that, I saw that, and I don't know anything about tax returns. I mean, I hire my guys to do mine, but you're an expert. That should have been a red flag immediately, and this is 1999. It's now 2001. So I think the authorities are derelict here. I think they're not doing what they should do. Am I wrong?

MITCHELL: Well, no, you're not wrong, but let me tell you that one of the things that has been of great concern to conservatives over the past eight years during the Clinton administration was not only something like this where the IRS is not reviewing and asking the questions it needs to about an

organization such as this one, but that, instead, there have been a number of targeted conservative organizations which have been through extensive . . .

O'REILLY: OK, but, again, I want to stay out of politics. . . . We've got \$222,000 in miscellaneous. Miscellaneous for \$222,000? . . . What's that?

MITCHELL: Well, we don't know, and they're supposed to tell us. Again, the rule of law is the IRS requires that charities -- that's what this is, a charitable organization -- is supposed to itemize. There are very specific line items, and they are supposed to tell us exactly how much it is.

O'REILLY: All right. So we've got a -- we've got a tax return here for the Citizenship Education Fund that's totally out of control. I'm going to give Professor Lash the last two minutes here.

Now, Professor, I think the audience knows that I'm . . . placing the . . . blame for this on the government at anything wrong at this point, but we certainly can prove that the IRS and the State of Illinois and the State of New York have been derelict in their duty to really look at these tax returns because there are so many red flags. Do you see it that way?

LASH: Absolutely. Again, you can't have \$1.37 million saying consultants. Why write down -- take out consultant work. We've got \$1.37 office supplies. It doesn't matter if I don't itemize what's happening. But we're saying if you're coming up with a number, show your work, like they say in grammar school. Show where the money went. Follow the money. When you're dealing with the -- you know, with the people's trust, when you're dealing with charities, you're getting tax-exempt authority, you have to -- it comes with the contract. You've got to do your part of the work and be accountable, and the state government and the federal government have looked the other way, frankly, for political reasons.

O'REILLY: Yes, they have. They flat out have looked the other way. It's . . . the most disgraceful thing I've seen in 25 years of investigative reporting. I've never seen anything this blatant with so much money -- so much money -- and we didn't even tally up all the money that goes to the Wall Street Project. All right. Thank you very much, Professor. And, Ms. Mitchell, we appreciate your time. And we are going to stay on this investigation. We have other stuff that's going to come out, and we'll continue to keep you informed.

["Are Jesse Jackson's Tax-Exempt Organizations Breaking the Law?" Fox News Network, supra \(emphasis added\) \(Exhibit Q\); See also "U.S. Attorney to Investigate Rich Pardon," Fox News Network, "The O'Reilly Factor," Feb. 14, 2001 \(Transcript # 021401cb.256\) \(Exhibit S\).](#)

Note further, that the next day on the same program, in responding to a question from the Host, Bill O'Reilly, about Respondent Organization CEF and the issues raised in the previous day's transcript, supra, former Commissioner of Internal Revenue, Sheldon Cohen, said that Respondent Organization CEF "ought to be audited." ["Is the IRS Afraid of Jesse Jackson?" Fox News Network, "The O'Reilly Factor," Feb. 2, 2001 \(Transcript # 020202cb.256\) \(Exhibit T\).](#)

Thus, there are enough "red flags" raised by Respondent Organization CEF's apparent procedural non-compliance to justify the Service initiating an investigation and/or audit of Respondent Organization CEF.

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### **CONCLUSION**

The Service should initiate an investigation and/or audit of Respondent Organization CEF because of apparent violations of the requirements for tax-exempt status under 26 U.S.C. § 501(c)(3) -- substantial non-exempt purpose, private inurement and private benefits, and procedural non-compliance. The result of such investigation and/or audit may require the Service to revoke the tax-exempt status of Respondent Organization CEF and/or impose sanctions under 26 U.S.C. § 4958 (2000); if so, the Service should take such action.

Kenneth F. Boehm  
Chairman  
National Legal and Policy Center  
1309 Vincent Place, Suite 1000  
McLean, Virginia 22101  
703-847-3088; 703-847-6969 (fax)

#### FOOTNOTES

1 See Internal Revenue Service, Internal Revenue Manual, § 1.1.1.1 IRS Mission and Basic Organization, Feb. 26, 1999, <[http://www.irs.gov/prod/bus\\_info/tax\\_pro/irm-part/part01/30376.html](http://www.irs.gov/prod/bus_info/tax_pro/irm-part/part01/30376.html)> ("The IRS Mission: Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all.").

2 26 U.S.C. § 501(c)(3): "Corporations . . . fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes . . . no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation . . . and which does not participate in, or intervene in . . . any political campaign on behalf of . . . any candidate for public office."

3 The term "disqualified person" includes: "(A) any person who was, at any time during the 5-year period ending on the date of such transaction, in a position to exercise substantial influence over the affairs of the organization, (B) a member of the family of an individual described in subparagraph (A)." 26 U.S.C. § 4958(f)(1).

4 This exclusivity requirement has been broken down into, inter alia, the operational test, the primary purpose test, and the exclusivity test. See Bruce R. Hopkins, *The Law of Tax-Exempt Organizations*, §§ 4.4-4.6, at 61-74 (7th ed. 1998). Hopkins argues the difference in the tests is the difference between activities and purpose: "[The] important distinction between activities and purpose is frequently overlooked by the IRS and the courts." *Id.* at § 4.5, at 67.

5 As of 1998, Sutton was on the Board of Directors of Respondent Organization CEF. See [CEF, IRS Form 990, p.V.](#)

6 "The absence of private inurement of earnings to the benefit of a private shareholder or individual does not, however, establish that the organization is operated exclusively for exempt purposes. Therefore, while the private inurement prohibition may arguably be subsumed within the private benefit analysis of the operational test, the reverse is not true. Accordingly, when the Court concludes that no prohibited inurement of earnings exists, it cannot stop there but must inquire further and determine whether a prohibited private benefit is conferred." Am. Campaign Academy, 92 T.C. at 1068-69 (citing Aid to Artisans, 71 T.C. at 215; Ret. Teachers Legal Fund v. Comm'r, 78 T.C. 280, 287 (1982)).

7 "JESSE JACKSON INC. Organizations and revenue affiliated with Jesse Jackson: PEOPLE UNITED TO SERVE HUMANITY (PUSH): Formed in 1971 with a stated purpose of fostering minority business development[;] it is a nonprofit corporation from which Mr. Jackson draws \$120,000 a year, a spokesman said. RAINBOW/PUSH COALITION: Mr. Jackson is president and chief executive officer of this for-profit group with nine offices nationwide. It was formed in 1996. PUSH FOR EXCELLENCE: A motivational education program, is nonprofit. PUSH FOUNDATION: This nonprofit group funds the social service activities of PUSH. NATIONAL RAINBOW COALITION: This for-profit group is headquartered in Chicago. KEEP HOPE ALIVE: A Washington-based political action committee. CITIZENSHIP EDUCATION FUND: This nonprofit offshoot of the Rainbow Coalition declared \$2 million in revenue in 1998 and \$9 million in 1999. It researches voter registration issues and gave \$30,000 in scholarships in 1997 and zero in 1998, according to tax returns. CNN: Since 1992, Mr. Jackson has hosted 'Both Sides with Jesse Jackson.' Taping was halted in January at Mr. Jackson's request. CNN explained: "He asked to take some time out of the public eye. The show will be waiting for him when he is ready to return." CNN would not say how much Mr. Jackson is paid or if he continues to draw his pay during the time off. JACQUELINE INC.: This for-profit company was formed by his wife, Jacqueline, and headed by son Jonathan to collect public speaking fees. A spokesman said Mr. Jackson earned roughly \$150,000 in such fees in 2000." Chart, *Wash. Times*, Feb. 26, 2001, at A10 (attached to bottom of [Exhibit H](#)). This list may provide additional sources for the Service to investigate and/or audit.

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#### EXHIBITS

A [Citizenship Education Fund, IRS Form 990 \(1998\)](#). (pdf)

B [Chuck Neubauer & Abdon M. Pallasch, "Jackson's Protests Benefit His Family, Friends," \*Chi. Sun-Times\*, Feb. 4, 2001, at 2.](#)

C [Rod Dreher, "How Jesse's PUSH is Pulling in \\$\\$\\$," \*N.Y. Post\*, Feb. 4, 2001, at 8.](#)

D [Diana B. Henriques, "Project for Minorities Aims to Show Its Broader Mandate," \*N.Y. Times\*, Jan. 14, 1999, at C3.](#)

E [Rod Dreher, "Jackson's Stock Dropping on Wall St. Like a Failed Dot-Com," \*N.Y. Post\*, Jan. 23, 2001, at 16.](#)

F [Andrew Sullivan, "Endgame," \*New Republic\*, Feb. 19, 2001, at 6.](#)

G [Abdon M. Pallasch, Tim Novak & Chuck Neubauer, "Jackson and PUSH Pull Funds from all Over," \*Chi. Sun-Times\*, Jan. 21, 2001, at 20.](#)

H [Steve Miller & Jerry Seper, "Jackson's Income Triggers Questions: Minister says Money not his Objective," \*Wash. Times\*, Feb. 26, 2001, at A1, A10-11.](#)

I [Cragg Hines, "Jackson and His Postpartum Depression," \*Houston Chron.\*, Feb. 7, 2001, at A28.](#)

J [Deroy Murdock, "When It's Time to Exit," \*Wash. Times\*, Feb. 12, 2001, at A15.](#)

K [Tim Novak & Chuck Neubauer, "Jackson Sons Quiet on Hiring," \*Chi. Sun-Times\*, Feb. 4, 2001, at 4.](#)

L [Jerry Seper & Steve Miller, "Jackson Sons Enjoy Success with Suds: Father's Bane becomes their Business," \*Wash. Times\*, Feb. 26, 2001, at A11.](#)

M [William Claiborne, "Jackson's Group Paid Ex-Aide: \\$35,000 Allocation Spent on L.A. House," \*Wash. Post\*, Feb. 1, 2001, at A3.](#)

N [Jerry Seper & Steve Miller, "Mistress was Jackson Disciple Since her College Days," \*Wash. Times\*, Feb. 26, 2001, at A10.](#)

O [Monica Davey & Ray Gibson, "Rich Pal Comes Through for Jackson," \*Chi. Trib.\*, Feb. 4, 2001, at M1.](#)

P [Lynn Sweet, "Who Paid for Mistress' Move? Jackson's Organization Doled Out \\$36,000 in Fees," \*Chi. Sun-Times\*, Feb. 2, 2001, at 3.](#)

Q ["Are Jesse Jackson's Tax-Exempt Organizations Breaking the Law?" Fox News Network, "The O'Reilly Factor," Feb. 1, 2001, \(Transcript #020101cb.256\).](#)

R [Rod Dreher, "Does IRS Let Jesse's Group Violate Tax Law?" \*N.Y. Post\*, Feb. 7, 2001, at 26.](#)

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