

December 18, 2014

VIA EMAIL

IRS EO Classification
Mail Code 4910DAL
1100 Commerce Street
Dallas, TX 75242-1198
Email: eoclass@irs.gov

Re: Request for Audit/Investigation of Environmental Health Coalition

To Whom It May Concern:

I am writing to provide you with information regarding the Environmental Health Coalition (“EHC”), a section 501(c)(3) organization that may be in violation of the Internal Revenue Code (“IRC”). Specifically, and as set forth below in greater detail, by acting in concert with the Environmental Health & Justice Campaign (“EHJC”), a section 501(c)(4) entity,¹ EHC may have engaged in political activity in support of political candidates, in contravention of the law. Accordingly, we recommend an audit or investigation to determine whether EHC’s tax exemption should be rescinded or revoked.

EHC is Prohibited from Participating in Any Political Campaign.

As you know, tax-exempt entities under § 501(c)(3) are strictly prohibited from “participating in, or intervening in . . . any political campaign on behalf of (or in opposition to) any candidate for public office.”² As detailed below, the facts suggest that EHC may have participated in prohibited political campaign activity.

¹ EHJC IRS Form 990 (2012) (attached as Ex. 1). Although EHJC’s most recent Form 990 does not disclose that EHC is a related organization, an audit report for EHC discloses that “[t]he Organization, under an ‘Agreement for an allocation of costs and reimbursement of expenses’, provides management, facilities and accounting services for the Environmental Health and Justice Campaign, a California non-profit 501(c)(4) organization (EHJC). The agreement requires EHJC reimburse the Organization for these services. During the year ended June 30, 2013, EHJC reimbursed the organization \$53,224 for services rendered under the Agreement.” *See* Financial Report, Environmental Health Coalition (June 30, 2013) at 10 (attached as Ex. 2).

² 26 U.S.C. § 501(c)(3); *see also* Wiregard v. Comm’r, T.C.M. 2005-30 at 12-13 (2005) (enumerating statutory requirements for 501(c)(3) status); Rev. Rul. 2007-41, 2007-25 I.R.B. 1421 (June 18, 2007) (evaluating twenty-one different factual scenarios involving § 501(c)(3) charitable organizations for political campaign intervention). Treasury regulations define a candidate as “an individual who offers himself, or is proposed by others, as a contestant for an elective public office, whether such office be national, State, or local.” Treas. Reg. § 1.501(c)(3)-1(c)(3)(iii).

EHC, based in National City, California, describes its mission as: “dedicated to achieving environmental and social justice.”³ To achieve these goals, EHC states that it “supports broad efforts that create a just society and fosters a healthy and sustainable quality of life.”⁴

EHJC, headquartered in National City, California, describes its purpose as: “to advocate for public and private initiatives that protect public health and the environment by means of community education and community organizing, to monitor government and industry actions that cause pollution, and to engage in other activities that promote social and environmental justice.”⁵

EHC and EHJC are intertwined in many respects. All six EHJC board members are or have been either board members or employees of EHC:

- Diane Takvorian is the Executive Director of both EHJC and EHC;⁶
- Beatriz Barraza is the Chairperson of EHJC and a board member of EHC;⁷
- Sharon Kalemkiarian is the Vice Chairperson of EHJC and a board member of EHC;⁸
- Tony Pettina is the Secretary/Treasurer of EHJC and a former board member of EHC;⁹
- Ruth Heifetz is a board member of EHJC and EHC;¹⁰ and
- Clarice Gaylord is a board member of EHJC and Vice-President of EHC.¹¹

The entities also share the same business address, including the same suite number, telephone number, and facsimile number: 2727 Hoover Avenue, Suite 202, National City, CA 91950, (619) 474-0220 (tel.), (619) 474-1210 (facsimile).¹² Moreover – as described below – EHC was paid for its services by EHJC, potentially on behalf of political candidates.

³ EHC IRS Form 990, Pt. 1, Question 1 (2012) (attached as Ex. 3); *see also* ENVIRONMENTAL HEALTH COALITION, <http://www.environmentalhealth.org/index.php/en/who-we-are/mission> (last visited Nov. 20, 2014).

⁴ *Id.*

⁵ ENVIRONMENTAL HEALTH AND JUSTICE CAMPAIGN, <http://www.ehjc.org/> (last visited Nov. 20, 2014); *see also* EHJC IRS Form 990, Pt. III (2012) (identifying its primary exempt purpose as advocating for public and private initiatives that protect public health and the environment) (Ex. 1).

⁶ *See* EHJC IRS 990, Pt. IV (List of Officers, Directors, Trustees, and Key Employees) (Ex. 1); EHC IRS Form 990, Pt. II (Signature Block) (Ex. 3)

⁷ *See* EHJC IRS 990, Pt. IV (List of Officers, Directors, Trustees, and Key Employees) (Ex. 1); EHC IRS Form 990, Pt. VII, Sec. A (Officers, Directors, Trustees, Key Employees, and Highest Compensated Employees) (Ex. 3).

⁸ *See* EHJC IRS 990, Pt. IV (List of Officers, Directors, Trustees, and Key Employees) (Ex. 1); EHC IRS Form 990, Pt. VII, Sec. A (Officers, Directors, Trustees, Key Employees, and Highest Compensated Employees) (Ex. 3).

⁹ *See* EHJC IRS 990, Pt. IV (List of Officers, Directors, Trustees, and Key Employees) (Ex. 1); EHC IRS Form 990, Pt. IV (Business Transactions Involving Interested Persons) (Ex. 3).

¹⁰ *See* EHJC IRS 990, Pt. IV (List of Officers, Directors, Trustees, and Key Employees) (Ex. 1); EHC IRS Form 990, Pt. VII, Sec. A (Officers, Directors, Trustees, Key Employees, and Highest Compensated Employees) (Ex. 3).

¹¹ *See* EHJC IRS 990, Pt. IV (List of Officers, Directors, Trustees, and Key Employees) (Ex. 1); EHC IRS Form 990, Pt. VII, Sec. A (Officers, Directors, Trustees, Key Employees, and Highest Compensated Employees) (Ex. 3).

¹² *See* ENVIRONMENTAL HEALTH COALITION, <http://www.environmentalhealth.org/index.php/en/contact> (last visited Nov. 20, 2014); ENVIRONMENTAL HEALTH AND JUSTICE CAMPAIGN, <http://www.ehjc.org/> (last visited Nov. 20, 2014).

In September 2012, EHJC established a campaign committee with the purpose of electing Bob Filner as the Mayor of San Diego.¹³ The principal officer of EHJC's campaign committee was Diane Takvorian, EHC's Executive Director.¹⁴ According to independent expenditure reports filed with the City of San Diego, EHJC's campaign committee paid EHC a total of approximately \$22,000 from October 20, 2012 to November 15, 2012.¹⁵ According to the documents, these payments were for the salaries of EHC's employees who worked on Bob Filner's election campaign.¹⁶

Shortly after Bob Filner resigned as Mayor of San Diego in August 2013, EHJC established a new committee to support David Alvarez's campaign for that position.¹⁷ Once again, EHC's Executive Director, Diane Takvorian, was listed as the committee's principal officer.¹⁸ According to independent expenditure reports filed with the City of San Diego, EHJC's campaign committee paid EHC a total of approximately \$16,000 from October 31, 2013 through December 16, 2013.¹⁹ According to the documents, these payments were for various activities conducted in support of David Alvarez's election campaign, such as campaign worker salaries and meals, consulting, and office expenses.²⁰

In 2014, EHJC continued to make payments to EHC for its political support of mayoral candidate David Alvarez, who had qualified in 2013 for a run-off election. According to independent expenditure reports filed with the City of San Diego, EHJC's campaign committee

¹³ See California Form 410, Statement of Organization Recipient Committee, ENVIRONMENTAL HEALTH AND JUSTICE CAMPAIGN FUND WORKING TO ELECT BOB FILNER FOR MAYOR (Sept. 18, 2012) (attached as Ex. 4).

¹⁴ *Id.*

¹⁵ See California Form 460, Schedule F, ENVIRONMENTAL HEALTH AND JUSTICE CAMPAIGN FUND WORKING TO ELECT BOB FILNER FOR MAYOR (Oct. 29, 2012) (reporting payment of \$5,017.50 on Oct. 20, 2012, for "campaign workers salary to support Bob Filner") (attached as Ex. 5); California Form 465, Supplemental Independent Expenditure Report, Section IV, ENVIRONMENTAL HEALTH AND JUSTICE CAMPAIGN FUND WORKING TO ELECT BOB FILNER FOR MAYOR (Jan. 30, 2013) (reporting payment of \$10,733.86 on Nov. 1, 2012, for "campaign workers salary") (attached as Ex. 6); California Form 460, Schedules D & E, ENVIRONMENTAL HEALTH AND JUSTICE CAMPAIGN FUND WORKING TO ELECT BOB FILNER FOR MAYOR (Jan. 30, 2013) (reporting payments of \$2,436.14 and \$3,789.39 on November 9 and November 15, 2012, respectively, for "campaign workers salary to support Bob Filner") (attached as Ex. 7).

¹⁶ See California Forms, *supra* note 15.

¹⁷ See California Form 410, Statement of Organization Recipient Committee, ENVIRONMENTAL HEALTH AND JUSTICE CAMPAIGN FUND WORKING TO ELECT DAVID ALVAREZ FOR MAYOR (Sept. 30, 2013) (attached as Ex. 8).

¹⁸ *Id.*

¹⁹ See California Form 465, Supplemental Independent Expenditure Report, Section 3, ENVIRONMENTAL HEALTH AND JUSTICE CAMPAIGN FUND WORKING TO ELECT DAVID ALVAREZ FOR MAYOR (Nov. 6, 2013) (reporting payment of \$2,941.61 on October 31, 2014 for campaign worker salaries) (attached as Ex. 9); California Form 465, Supplemental Independent Expenditure Report, Section 3, ENVIRONMENTAL HEALTH AND JUSTICE CAMPAIGN FUND WORKING TO ELECT DAVID ALVAREZ FOR MAYOR (Jan. 9, 2014) (for November and December 2013, reporting payments of \$144 and \$463.98 for "consulting," \$3,137.51 and \$5,328.98 for employee salaries, and \$209.96 and \$10.43 for meals for campaign workers) (attached as Ex. 10); California Form 460, Schedule E, ENVIRONMENTAL HEALTH AND JUSTICE CAMPAIGN FUND WORKING TO ELECT DAVID ALVAREZ FOR MAYOR (Jan. 8, 2014) (reporting payment of \$3,353 for office expenses) (attached as Ex. 11).

²⁰ See California Forms, *supra* note 19.

paid EHC approximately \$12,500 from January 31, 2014 to February 28, 2014.²¹ According to the documents, these payments were for campaign support for David Alvarez, which included salaries and meals for EHC campaign workers, consulting, and EHC office supplies.²²

The Internal Revenue Service (“IRS”) prohibits § 501(c)(3) entities from, among other activities, contributing to campaign funds, making public statements in favor of or in opposition to any candidate, and other activities with evidence of bias that would favor one candidate over another.²³ As discussed above, the documents suggest that EHC was paid for various activities on behalf of the political campaigns of Bob Filner and David Alvarez.²⁴ Moreover, EHC’s support in favor of these candidates was public and open, including internet postings of pictures in support of then-Mayor-elect Bob Filner (on Facebook) and written statements in support of David Alvarez (on EHJC’s website).

To illustrate the risks, EHJC’s 2012 Form 990 discloses total revenue of \$76,459 solely from contributions, gifts, grants and similar amounts received.²⁵ During that tax year, EHJC made \$25,000 in grants.²⁶ EHJC’s Schedule C disclosed that the grant was made to the “Environmental Health & Justice Campaign Fund” as “a contribution to the 527 organization for the purpose of supporting a San Diego mayoral candidate in the November 2012 elections” and the Schedule O further describes the purpose of the grant “to support/oppose state and local candidates for public office in California [] Monetary Environmental Health & Justice Campaign Fund affiliated 527 Organization [] 25000[.]”²⁷ In contrast, EHC’s most recent financial audit reflects that in 2012, EHC received \$77,595 in grants.²⁸ Additionally, EHC’s financial report discloses that EHC charges “Fiscal Agency Fees”²⁹ and is a related party to EHJC,³⁰ which raises the possibility that EHC accepts contributions on behalf of its fiscally sponsored project, EHJC.³¹ In other words, these documents suggest that nearly 99 percent of the grants that EHC, a 501(c)(3) entity, received in 2012 were passed through to EHJC. As previously noted, of those contributions, \$25,000, or nearly 33 percent, was used for campaign purposes. These facts raise the risk that tax-deductible contributions were used to support political activity.³²

²¹ See California Form 465, Supplemental Independent Expenditure Report, Section IV, ENVIRONMENTAL HEALTH AND JUSTICE CAMPAIGN FUND WORKING TO ELECT DAVID ALVAREZ FOR MAYOR (July 18, 2014) (attached as Ex. 12).

²² See California Forms, *supra* note 21.

²³ See *supra* note 2; see also I.R.S. Priv. Ltr. Rul. 20146011 (Dec. 30, 2013) (revoking 501(c)(3) status of group publishing statements in support of and against candidates for public office).

²⁴ It is unclear from the filings whether these payments were fees for EHC services or reimbursements to EHC. See Exs. 4-12.

²⁵ See EHJC IRS Form 990 (2012), *supra* note 1.

²⁶ See EHJC IRS Form 990 (2012), *supra* note 1, at Schedule C.

²⁷ See EHJC IRS Form 990 (2012), *supra* note 1, at Schedule O.

²⁸ See Financial Report, Environmental Health Coalition (June 30, 2013), *supra* note 1, at 3.

²⁹ See Financial Report, Environmental Health Coalition (June 30, 2013), *supra* note 1, at 4.

³⁰ See Financial Report, Environmental Health Coalition (June 30, 2013), *supra* note 1, at 10.

³¹ Public statements by EHC indicate that EHC and EHJC are affiliates. See Press Release, Environmental Health Coalition (Oct. 23, 2012), available at <http://www.environmentalhealth.org/index.php/en/media-center/press-releases/271-poll-shows-san-diego-latino-voters-hold-high-regard-for-the-environment> (“In addition to the regular education efforts of EHC, its affiliate organization, the Environmental Health and Justice Campaign, is out in South San Diego communities mobilizing 35,000 voters to support Proposition 39 and other initiatives[.]”).

³² These facts also raise the concern that EHC may have made material misstatements or omissions in its Form 990 regarding the amount of grants received by EHC, as well as whether there is a relationship with EHJC.

December 18, 2014

Page 5

Given the above, we believe that EHC's 501(c)(3) tax-exempt status should be audited or investigated. If you have any questions, please feel free to contact me by email at prashant.khetan@causeofaction.org or by telephone at (202) 350-4944. Thank you for your attention to this matter.

Sincerely,

CAUSE OF ACTION

Prashant K. Khetan, Esq.
Chief Counsel

Encls.