



November 13, 2013

VIA FIRST CLASS MAIL AND E-MAIL

The Honorable Greg Abbott
Attorney General, State of Texas
Office of the Attorney General
Capitol Station, P.O. Box 12548
Austin, TX 78711-2548
E-mail: greg.abbott@texasattorneygeneral.gov

RE: Potential Violations of the Internal Revenue Code by Tax-Exempt Entities in Texas¹

Dear Mr. Attorney General:

I write on behalf of Cause of Action, a non-profit, nonpartisan government accountability organization that uses investigative, legal and communications tools to educate the public on how government transparency and accountability protect economic opportunity for American taxpayers.

On August 27, 2013, we notified both you and Governor Perry of potential abuses of federal grant funds made available by the Affordable Care Act (ACA). Prior to our letter, you, along with twelve other state attorneys general, wrote a letter to U.S. Health and Human Services Secretary Kathleen Sebelius identifying the lack of programmatic safeguards to protect consumers' personally identifiable information on the enrollment assistance programs utilized by the ACA. The concerns, involving both functionality and oversight, have come to pass in the form of unauthorized and potentially illegal activities in Texas involving ACA "Navigators" and associated entities. These activities directly concern Enroll America, a 501(c)(3) nonprofit

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ostensibly designed to provide information about the ACA, and Battleground Texas, a 527 political action committee whose apparent mission is to turn Texas “blue.”

Recent press reports have detailed how Enroll America, as part of a coordinated initiative called “Health Care from the Pulpit,” has “asked church members to fill out help cards with basic information for themselves or someone they knew.”² Problematically, there are signs that the “Health Care from the Pulpit” campaign may be misusing information for political purposes. On November 11, 2013, a video was released featuring the Reverend Clarence P. Landry Jr., organizer with Enroll America in Texas, stating “. . . **Battleground Texas** . . . we have networked with them, we work with them. . . . We have local tools. At your leisure I would love you to **fill that out and put your name on that**. . . . County and **cross-pollinate work with Battleground Texas** . . . The **same data** that . . . won the election night, I can say this is the same brainchild with **Enroll America**.”³

This statement indicates that Enroll America, a tax-exempt entity, may be improperly coordinating with and making in-kind contributions of data to Battleground Texas, a political action committee. This conduct is problematic under sections 501(c)(3) and 527 of the Internal Revenue Code.

On July 29, 2013, Cause of Action filed a Form 13909 tax-exempt organization complaint, requesting that the IRS audit whether Enroll America is abusing its tax-exempt status.⁴ On August 5, 2013, the IRS informed Cause of Action that the “information you submitted will be considered in [the IRS’s ongoing examination] program.”⁵ However, Enroll America remains an approved tax-exempt entity.⁶

In Cause of Action’s August 27, 2013 letter, we informed the State of Texas, as well as entities, contractors, subgrantees, subrecipients, and subcontractors who are utilized in furtherance of federally-facilitated exchanges, regarding potential liabilities that may apply if any of these entities or their agents misuses the taxpayer funds they receive. This would include but not be limited to any federal grants for Navigators, in-person assisters, certified application counselors, and any federal funding relating to groups such as the National Urban League in Irving, and Navigators and in-person assisters in Dallas-Fort Worth, Austin, San Antonio,

² Kumasi Aaron, *Churches help spread word on health care law*, News 4 Jacksonville, (Oct. 27, 2013), available at <http://www.news4jax.com/news/churches-helping-to-inform-about-health-care-law/-/475880/22662990/-/tiqnah/-/index.html>.

³ Project Veritas, *Caught on Tape: Obamacare Navigators Counsel Applications to “Lie”*, YouTube.com, (Nov. 11, 2013), available at <http://www.youtube.com/watch?v=BUuUWFANPS8> [emphasis added].

⁴ See 13909 Complaint against Enroll America, available at <http://causeofaction.org/wp-content/uploads/2013/07/13909-complaint.pdf?e129f2>.

⁵ Letter, Nanette M. Downing, Director, EO Examinations, to Cause of Action (Aug. 5, 2013), available at <http://causeofaction.org/assets/uploads/2013/09/2013-8-5-IRS-Reply-Enroll-America.pdf>.

⁶ See Exempt Organizations Select Check, Organizations Eligible to Receive Tax-Deductible Contributions (Pub. 78 data), available at [http://apps.irs.gov/app/eos/pub78Search.do?ein1=&names="Enroll+America"&city=&state=All...&country=US&deductibility=all&dispatchMethod=searchCharities&submitName=Search](http://apps.irs.gov/app/eos/pub78Search.do?ein1=&names=).

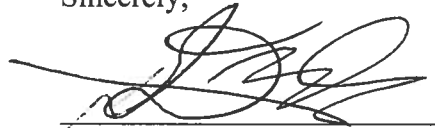
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Houston, and El Paso. **There may be violations of Texas law as well, including but not limited to: the state False Claims Act; conspiracy to commit Medicaid fraud; and, consumer fraud.**

You may wish to evaluate whether entities such as Enroll America and Battleground Texas are adhering to both state and federal law regarding 501(c)(3) nonprofits and 527 political action committees. Any violations of the Internal Revenue Code may be referred to the Department of Justice or the Internal Revenue Service. Moreover, Texas has the oversight capability to ensure that federal funds are used in a transparent, accountable, and legally compliant manner. You must promptly refer to the HHS Office of Inspector General any credible evidence that a principal, employee, agent, contractor, subrecipient, subcontractor or other person or entity has submitted a false claim under the False Claims Act, or has committed a criminal or civil violation pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds. The HHS Office of Inspector General can be reached at <http://www.oig.hhs.gov/fraud/hotline>.

If you have any questions regarding this letter, please contact me at 202-499-4232.

Sincerely,



Daniel Z. Epstein
Executive Director

cc: Hon. Darrell Issa, Chairman, House Committee on Oversight and Government Reform
Hon. Elijah Cummings, Ranking Member, House Committee on Oversight and Government Reform
Hon. Rick Perry, Governor, State of Texas
Hon. Julia Rathgeber, Insurance Commissioner, State of Texas
Hon. John Steen, Secretary of State, State of Texas