



July 29, 2013

**VIA E-MAIL AND CERTIFIED MAIL**

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

**RE: Request for Investigation of Enroll America**

To Whom It May Concern:

I am writing to advise you that Enroll America, a section 501(c)(3) organization, is in violation of several provisions of the Internal Revenue Code (IRC), and that an immediate investigation is warranted to determine whether its tax exemption should be revoked. Enroll America is primarily organized to benefit the health insurers, pharmaceutical companies, and other for-profit commercial entities represented on its board of directors and advisory council, and is therefore *not* organized to achieve any of the lawful purposes listed under IRC § 501(c)(3). In short, insiders with substantial control over the organization and for-profit healthcare providers are unlawfully receiving a private benefit from its activities, and the earnings and assets of the organization are therefore inuring to their benefit.

**Enroll America Is Not a Section 501(c)(3) Charity, but a Trade Association for Healthcare Providers Seeking to Profit from the Affordable Care Act.**

As you know, an entity claiming tax exemption under section 501(c)(3) “must be both organized and operated exclusively for one or more of the purposes specified” therein.<sup>1</sup> Enroll America filed its application for tax exemption on April 22, 2010, and reported its exempt purpose as charitable and educational. More precisely, Enroll America’s application materials claim that its mission is “to maximize the number of lower- and moderate-income people either enrolled in Medicaid or certified for exchange-based subsidies.”<sup>2</sup>

<sup>1</sup> Treas. Reg. § 1.501(c)(3)-1(a)(1).

<sup>2</sup> Enroll America’s Form 1023 Attachment at 2 (Ex. 1).

As described more fully below, however, because its purpose is to facilitate the enrollment process for health insurance publicly sold on state health benefit exchanges created under section 1311(b) of the Patient Protection and Affordable Care Act<sup>3</sup> (Affordable Care Act), Enroll America is ultimately designed to confer a substantial private benefit on the for-profit commercial entities represented on its board of directors and advisory council. As Enroll America's purpose is so closely aligned with the commercial interests of these for-profit entities, its activities thus far demonstrate that it is little more than a trade association for the healthcare industry, employing marketing tactics and its high-level access to executive branch officials as a means to increase the sale of healthcare services.<sup>4</sup>

Enroll America's board of directors includes several individuals with significant ties to for-profit healthcare providers, most of whom have extensive experience lobbying executive branch officials regarding the Affordable Care Act. For example:

- **Debra Barrett** is the Vice President of Government Affairs for **Teva Pharmaceuticals USA**, a division of multinational drug manufacturer Teva Pharmaceuticals. In 2012, Teva Pharmaceuticals had net income of \$1.96 million<sup>5</sup> and spent \$3 million on lobbying, most of which was spent lobbying Congress on healthcare legislation.<sup>6</sup> Barrett also sits on Enroll America's board of directors.
- **Anthony Barrueta** is the Senior Vice President of Government Relations and a member of the National Leadership Team for **Kaiser Permanente**, one of the nation's largest health insurers. In 2012, Kaiser Permanente spent \$1,181,900 on lobbying.<sup>7</sup> Barrueta is also a member of Enroll America's board of directors.
- **Richard Umdenstock** is the President and CEO of the **American Hospital Association**, a section 501(c)(6) national organization that represents nearly 5,000 hospitals, health systems and other care providers, many of which are investor-owned and operated for profit.<sup>8</sup> The AHA spent \$19,230,200 lobbying

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<sup>3</sup> Pub. L. No. 111-148, 124 Stat. 119 (2010), as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029 (2010).

<sup>4</sup> Enroll America's 2010 Form 990 describes its mission as "[ensuring] uninsured people who will be eligible for health coverage in 2014 actually get enrolled." (Ex. 2). Its 2011 Form 990 similarly claims that its mission is "to ensure that all Americans are enrolled in and retain health coverage." (Ex. 3).

<sup>5</sup> Yahoo Finance, Teva Pharmaceutical Industries, *available at* <http://finance.yahoo.com/q/is?s=TEVA+Income+Statement&annual> (last visited July 26, 2013).

<sup>6</sup> Open Secrets.org, Teva Pharmaceutical Industries, *available at* <http://www.opensecrets.org/orgs/summary.php?cycle=2012&id=D000029389> (last visited July 26, 2013).

<sup>7</sup> Open Secrets.org, Kaiser Permanente, *available at* <http://www.opensecrets.org/orgs/summary.php?cycle=2012&id=D000034986> (last visited July 26, 2013).

<sup>8</sup> American Hospital Association, Research & Trends, *available at* <http://www.aha.org/research/policy/finfactsheets.shtml> (last visited July 26, 2013).

in 2012 and made \$1.5 million in contributions to political action committees (PAC's).<sup>9</sup>

In addition, Enroll America's advisory council includes several organizations that have a vested commercial interest in the sale of health insurance policies through the state health benefit exchanges, and which actively lobby the federal government on healthcare related issues:

- **Aetna**, one of the nation's leading providers of health insurance and other benefits, earned over \$1.6 billion net income in 2012.<sup>10</sup> Aetna spent \$4,108,884 in total lobbying expenditures in 2012.<sup>11</sup>
- **CareSource** is a leading non-profit managed-care company, and is the largest Medicaid managed-care plan in Ohio and one of the largest Medicaid managed healthcare plans in the country.<sup>12</sup> In 2011, CareSource settled allegations by the Inspector General of the U.S. Department of Health and Human Services that it caused Medicaid to make payments to special needs children and adults for healthcare services that were never provided.<sup>13</sup> CareSource spent \$160,000 on lobbying in 2012 alone.<sup>14</sup>
- **CVS Caremark** is the largest American pharmacy based on total prescription revenue and earned over \$3.875 billion in net income in FY 2012.<sup>15</sup> CVS Caremark spent \$10,015,000 on lobbying and made \$460,919 worth of political contributions in 2012.<sup>16</sup>
- **Express Scripts** provides pharmacy benefit management services and home delivery pharmacy services on behalf of clients, including health plans and plan

<sup>9</sup> Open Secrets.org, American Hospital Association, *available at* <http://www.opensecrets.org/lobby/clientsum.php?id=D000000116&year=2012> (follow "PACS" hyperlink; then follow "Search/PAC Lookup" hyperlink, enter "American Hospital Assn") (last visited July 26, 2013).

<sup>10</sup> News Hub Business Wire, Aetna, January 31, 2013, *available at* <http://newshub.aetna.com/press-release/corporate-and-financial/aetna-reports-fourth-quarter-and-full-year-2012-results> (last visited July 26, 2013).

<sup>11</sup> Open Secrets.org, Aetna, *available at* <http://www.opensecrets.org/orgs/summary.php?cycle=2012&type=P&id=D000000296> (last visited July 26, 2013).

<sup>12</sup> CareSource.com, *available at* <https://www.caresource.com/> (follow "Members" hyperlink; or follow "Providers" hyperlink) (last visited July 26, 2013).

<sup>13</sup> U.S. Department of Justice, Office of Public Affairs, *Ohio-Based Managed Care Plan Contractor CareSource & Entities to Pay \$26 Million to Resolve False Claims Allegations*, February 1, 2011, *available at* <http://www.justice.gov/opa/pr/2011/February/11-civ-138.html> (last visited July 26, 2013).

<sup>14</sup> Open Secrets.org, CareSource, *available at* <http://www.opensecrets.org/orgs/summary.php?cycle=2012&id=D000048316> (last visited July 26, 2013).

<sup>15</sup> Stock Analysis on Net, CVS Caremark Corp., *available at* <http://www.stock-analysis-on.net/NYSE/Company/CVS-Caremark-Corp/Financial-Statement/Income-Statement> (last visited July 26, 2012).

<sup>16</sup> Open Secrets.org, CVS Caremark Corp., *available at* <http://www.opensecrets.org/orgs/summary.php?cycle=2012&id=D000025214> (last visited July 26, 2013).

sponsors.<sup>17</sup> In 2012, Express Scripts earned over \$93 billion in gross revenue and spent \$1,894,020 on lobbying.<sup>18</sup>

- The **Healthcare Leadership Council (HLC)** is a coalition of chief executives from all disciplines within America’s healthcare industry. HLC membership includes the chief executives of health insurance and pharmaceutical companies, medical device manufacturers, pharmacies, hospitals, and others.<sup>19</sup> HLC spent \$720,000 in lobbying in 2012.<sup>20</sup>
- **HMS**, a wholly owned subsidiary of HMS Holdings Corp., helps its clients ensure that healthcare claims are paid correctly and by the responsible party, and that those enrolled to receive program benefits meet qualifying criteria. In 2012, HMS Holdings had \$473.7 million in revenue.<sup>21</sup> HMS Holdings spent \$157,500 on lobbying expenses in 2012.<sup>22</sup>

All of these organizations—along with the other entities represented on the board of directors and advisory council—have a commercial interest in the sale of healthcare services and will substantially benefit from Enroll America’s marketing campaigns and influence within the U.S. Department of Health and Human Services (HHS). Enroll America recently announced a new marketing campaign, “Get Covered America,”<sup>23</sup> which will include a seven-figure television ad buy<sup>24</sup> intended to reach 78% of uninsured Americans -- a market of approximately 39.7 million potential new customers.<sup>25</sup> Enroll America has hired Lake Research Partners, a leading

<sup>17</sup> Express Scripts.com, available at <https://www.express-scripts.com/> (last visited July 26, 2013).

<sup>18</sup> PRNewsWire.com, *Express Scripts Reports Fourth Quarter and Full Year Results*, February 18, 2013, available at <http://www.prnewswire.com/news-releases/express-scripts-reports-fourth-quarter-and-full-year-results-191718941.html> (last visited July 26, 2013); Open Secrets.org, Express Scripts, available at <http://www.opensecrets.org/orgs/summary.php?cycle=2012&type=P&id=D000021977> (last visited July 26, 2013).

<sup>19</sup> Healthcare Leadership Council, HLC.org, Members, available at <http://www.hlc.org/about/hlc-members/> (last visited July 26, 2013).

<sup>20</sup> Open Secrets.org, Healthcare Leadership Council, available at <http://www.opensecrets.org/lobby/clientsum.php?id=D000051712&year=2012> (last visited July 26, 2013).

<sup>21</sup> MarketWatch, *HMS Holdings Corp. Announces Q4 and Full Year 2012 Results*, February 22, 2013, available at <http://www.marketwatch.com/story/hms-holdings-corp-announces-q4-and-full-year-2012-results-2013-02-22> (last visited July 26, 2013).

<sup>22</sup> Open Secrets.org, HMS Holdings, available at <http://www.opensecrets.org/orgs/summary.php?cycle=2012&type=P&id=D000026493> (last visited July 26, 2013).

<sup>23</sup> Tom Howell, Jr., *Obama’s army of supporters to man trenches in new healthcare push*, June 18, 2013, available at <http://www.washingtontimes.com/news/2013/jun/18/obamas-health-care-army-get-trenches-new-push/#ixzz2WgIILVeA> (last visited July 26, 2013).

<sup>24</sup> Sandya Somashekhar, *Groups launch multi-million dollar push to promote healthcare law, sign up the uninsured*, Wash. Post, June 18, 2013, available at [http://www.washingtonpost.com/national/health-science/groups-launch-multimillion-dollar-push-to-promote-health-care-law-sign-up-the-uninsured/2013/06/18/403f6682-d83a-11e2-a9f2-42ee3912ae0e\\_story.html](http://www.washingtonpost.com/national/health-science/groups-launch-multimillion-dollar-push-to-promote-health-care-law-sign-up-the-uninsured/2013/06/18/403f6682-d83a-11e2-a9f2-42ee3912ae0e_story.html) (last visited July 26, 2013).

<sup>25</sup> U.S. Department of Health and Human Services, Health Policy, Assistant Secretary for Planning and Evaluation, Susan R. Todd and Benjamin D. Sommers, *Overview of the Uninsured in the United States: A Summary of the 2012 Current Population Survey Report*, September 12, 2012, available at <http://aspe.hhs.gov/health/reports/2012/uninsuredintheus/ib.shtml> (last visited July 26, 2013).

public opinion and political strategy research firm, to develop the most effective messaging for healthcare providers seeking to reach potential consumers through the health benefit exchanges.<sup>26</sup> Lake Research Partners has also conducted branding research and public opinion polling on Enroll America's behalf.<sup>27</sup>

Enroll America has also made clear that it plans to use its extraordinary level of access to executive branch officials to represent the views of the healthcare industry on pending regulatory matters, and that its senior staff have the relationships necessary to do so. Anne Filipic, the President of Enroll America, is a former deputy director at the White House Office of Public Engagement, and was previously an aide to HHS Secretary Kathleen Sebelius.<sup>28</sup> In its application for tax exempt status, Enroll America explicitly stated that it “plans to have conversations with the U.S. Department of Health and Human Services and other relevant federal agencies . . . that are responsible for drafting numerous implementing regulations for the [Affordable Care Act].”<sup>29</sup> In a supplemental letter to the Service, Enroll America reiterated its intent to represent the views of the healthcare industry before HHS:

The most important work by government agencies to develop enrollment policies and practices is expected to occur during 2010-2011. . . . Enroll America and the national organizations that join with it will meet with these agencies periodically to discuss the enrollment process. Many of these meetings will involve the U.S. Department of Health and Human Services, which is the lead agency on the implementation of the health reform legislation.<sup>30</sup>

Enroll America's advocacy on behalf of the health insurers, pharmaceutical companies and other healthcare providers on its board of directors and advisory council have created an unlawful private benefit that is not shared by the general public, not to mention a conflict of interest for HHS officials and a troubling appearance of impropriety. Section 1321(c) of the Affordable Care Act mandates that HHS establish and operate health benefit exchanges in states that have failed to do so.<sup>31</sup> The Act further requires that the Secretary work with states to establish a “rate review”: a process to annually review unreasonable insurance premium increases. HHS recently issued regulations that establish a threshold for determining whether proposed rate increases are subject to review,<sup>32</sup> and has recently proposed regulations that require

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<sup>26</sup> Enroll America, Tresa Udem and Michael Perry, *Informing Enroll America's Campaign—Findings from a National Study*, January 2013, at 3, available at [http://files.www.enrollamerica.org/best-practices-institute/public-education-resources/EA\\_Final\\_Report.pdf](http://files.www.enrollamerica.org/best-practices-institute/public-education-resources/EA_Final_Report.pdf) (last visited July 26, 2013).

<sup>27</sup> *Id.* at 1-40.

<sup>28</sup> White House Profile, Anne Filipic, available at <http://www.whitehouse.gov/blog/author/Anne%20Filipic> (last visited July 26, 2013); see also Enroll America, Who We Are, Senior Leadership, Anne Filipic, President, available at <http://www.enrollamerica.org/about-us/who-we-are> (last visited July 26, 2013).

<sup>29</sup> Enroll America's Form 1023 Attachment at 7 (Ex. 1).

<sup>30</sup> Letter from Michael B. Trister, Lichtman, Trister & Ross to Justin Lowe, Internal Revenue Service at 2-3 (Oct. 20, 2010) (responding to questions from IRS regarding Enroll America's Form 1023 application) (emphasis added) (Ex. 4).

<sup>31</sup> 124 Stat. at 186.

<sup>32</sup> 45 C.F.R. § 154.200.

insurance providers to report information about proposed rate increases to the Center for Medicare Services.<sup>33</sup>

Several congressional committees have begun inquiring into the nature of Enroll America's relationship with HHS officials. In response to allegations that Secretary Sebelius has been fundraising on behalf of Enroll America,<sup>34</sup> the Senate Committee on Health, Education, Labor, & Pensions (HELP)<sup>35</sup> and the House Committee on Energy and Commerce<sup>36</sup> are looking into whether the Secretary's actions violated government ethics rules.<sup>37</sup> Senator Lamar Alexander, ranking member of the Senate HELP Committee, noted that Enroll America is "controlled significantly by entities that have a vested interest" in the implementation of the Affordable Care Act - including the health benefit exchange regulations and the rate review regulations promulgated thereunder.<sup>38</sup> Senator Orrin Hatch, the ranking member of the Senate Finance Committee, has asked HHS Inspector General Daniel Levinson to investigate the matter.<sup>39</sup>

Secretary Sebelius has admitted to soliciting financial support for Enroll America from the Robert Wood Johnson Foundation and H&R Block, as well as Kaiser Permanente, Johnson & Johnson, and Ascension Health -- the latter of which are regulated by HHS.<sup>40</sup> Two of these contacts were made at Enroll America's suggestion,<sup>41</sup> and Enroll America went so far as to provide talking points for the Secretary's use.<sup>42</sup> Given their enormous authority over the commercial interests of the healthcare providers under the Affordable Care Act, it is highly improbable the "conversations" and "meetings" between HHS officials and Enroll America have

<sup>33</sup> 78 Fed. Reg. 13,406, 13,440 (Feb. 27, 2013) (to be codified at 45 C.F.R. § 154.215).

<sup>34</sup> Robert Pear, *Sebelius Asked Companies to Support Health Care Law*, N.Y. TIMES, June 4, 2013, available at <http://www.nytimes.com/2013/06/05/us/politics/sebelius-asked-companies-to-support-health-care-law.html> (last visited July 26, 2013); see also Sarah Kliff, *Sebelius defends Obamacare fundraising*, WASH. POST, June 4, 2013, available at <http://www.washingtonpost.com/blogs/wonkblog/wp/2013/06/04/sebelius-defends-obamacare-fundraising/> (last visited July 26, 2013).

<sup>35</sup> Letter from Senator Lamar Alexander, U.S. Senate Committee on Health, Education, Labor and Pensions, to Health and Human Services Secretary Kathleen Sebelius, May 13, 2013 (Ex. 5).

<sup>36</sup> Letter from U.S. Representative Fred Upton to Health and Human Services Secretary Kathleen Sebelius, May 13, 2013 (Ex. 6).

<sup>37</sup> See, e.g., Office of Government Ethics Rule § 2635.808 (prohibiting a federal official's fundraising in a private capacity from any person or entity that is regulated by that official); see also 5 C.F.R. § 2635.203 (defining prohibited gifts to include money or other services given to "any other person, including charitable organizations on the basis of designation, recommendation, or other specification by the employee.").

<sup>38</sup> Letter from Senator Lamar Alexander to U.S. Comptroller General Gene Dodaro, General Accounting Office, May 16, 2013 (Ex. 7).

<sup>39</sup> U.S. Senate Committee on Health, Education, Labor and Pensions, Liz Wolgemuth, *Senate Republicans Call for Inspector General Review of Fundraising Activities at HHS*, May 30, 2013, available at <http://www.help.senate.gov/newsroom/press/release/?id=5ff0a78e-93cf-4a9a-87c9-9b4dd6e58e4f> (last visited July 26, 2013); see also Elise Viebeck, (May 30, 2013), available at <http://thehill.com/blogs/healthwatch/health-reform-implementation/302541-top-republicans-call-for-sebelius-investigation> (last visited July 26, 2013) (Ex. 8).

<sup>40</sup> Letter from Jim R. Esquea, U.S. Department of Health and Human Services, Assistant Secretary for Legislation, to Senator Lamar Alexander, Jun. 3, 2013, at 6 (Ex. 9).

<sup>41</sup> *Id.* at 7 (Ex. 9).

<sup>42</sup> *Id.*

not included industry views about rate review and health benefit exchange regulations. Assuming that is the case, Enroll America’s present classification as a section 501(c)(3) public charity allows the organizations who contribute to it—at the urging of the Secretary of HHS—to take a tax deduction for lobbying, in violation of established law.<sup>43</sup>

**Enroll America Provides a Private Benefit to the Board of Directors and Advisory Council.**

The for-profit healthcare providers represented on Enroll America’s board of directors and advisory council stand to reap a substantial private benefit from Enroll America that is not shared by its intended beneficiaries: an increased demand for healthcare services and extraordinary access to the highest level of executive branch officials charged with regulating health benefit exchanges. Consequently, Enroll America does not satisfy the requirements for tax exemption under IRC § 501(c)(3).

A tax-exempt nonprofit organized as a charity must demonstrate that it is operated exclusively for charitable purposes and that it engages primarily in activities that further such purpose.<sup>44</sup> The U.S. Supreme Court has explained that “the presence of a single non-exempt purpose, if substantial in nature, will disqualify an organization from tax-exempt status, even if the organization also conducts charitable activities.”<sup>45</sup> An organization cannot retain its tax-exempt status if “more than an insubstantial part of its activities is not in furtherance of [its] exempt purpose.”<sup>46</sup>

The regulations further specify that an organization is not operated exclusively for an exempt purpose if it serves a private, rather than a public, interest.<sup>47</sup> To meet this requirement, the organization must demonstrate that it is not organized or operated for the benefit of private interests.<sup>48</sup> A benefit is private when it flows “to anyone other than the intended public beneficiary.”<sup>49</sup> In other words, the so-called “private benefit doctrine” prohibits any more than an insubstantial part of the activities of a section 501(c)(3) organization from conferring a non-incident benefit upon a private interest.<sup>50</sup> “[W]here an organization is serving both public and private interests, the private benefit must be clearly incidental to the overriding public interest.”<sup>51</sup>

An exempt organization, therefore, runs afoul of the private benefit doctrine if any more than an insubstantial part of its activities confers a private, non-incident benefit on a non-

<sup>43</sup> See IRC § 162(e) (Denial of deduction for certain lobbying and political expenditures).

<sup>44</sup> See Treas. Reg. § 1.501(c)(3)-1(c)(1).

<sup>45</sup> Better Business Bureau v. United States, 326 U.S. 279, 283 (1945).

<sup>46</sup> Treas. Reg. § 1.501(c)(3)-1(c)(1).

<sup>47</sup> See Treas. Reg. § 1.501(c)(3)-1(d)(1)(ii).

<sup>48</sup> *Id.*

<sup>49</sup> Andrew Megosh, Larry Scollick, Mary Jo Salins & Cheryl Chassin, *Private Benefits Under 501(c)(3)*, at 143, (2001), available at <http://www.irs.gov/pub/irs-tege/eotopich01.pdf>.

<sup>50</sup> Am. Campaign Acad. v. Comm’r, 92 T.C. 1053, 1069 (1989); Rev. Rul. 2006-27, 2006-21 I.R.B. 915.

<sup>51</sup> Rev. Rul. 76-206, 1971-1 C.B. 154 (nonprofit organization formed by a local for-profit radio station to promote classical music was not exempt because its activities tended to increase the for-profit station’s total revenues).

exempt entity.<sup>52</sup> The Tax Court has repeatedly held that an organization operated for the benefit of a for-profit business does not qualify for tax-exempt status.<sup>53</sup> For example, the Court affirmed denial of tax exemption for an organization operated primarily as an “instrument to subsidize” the related for-profit corporations which were the ultimate beneficiaries of its activities.<sup>54</sup> More recently, the Court denied exemption to a charity that was operated in such a way as to promote a for-profit nightclub owned by two of its directors,<sup>55</sup> and to a foundation that ran medical seminars because it was used to market the services offered by its chief executive officer’s travel business.<sup>56</sup>

Enroll America is primarily engaged in activities that further the commercial, for-profit business interests of the health insurers, pharmaceutical companies, and other healthcare providers on its board of directors and advisory council.<sup>57</sup> Further investigation will likely reveal that it has advanced the commercial objectives of these corporate insiders both through marketing activities and by using its access to high-level HHS officials to promote the views of the healthcare industry. Because the organizations represented on Enroll America’s board of directors and advisory council stand to reap a non-incidental economic benefit from the primary focus of its activities, Enroll America’s section 501(c)(3) tax exemption should be revoked.

#### **Activities of Enroll America Inure to the Benefit of its Directors and Insiders.**

Relatedly, the regulations prohibit the net earnings of any section 501(c)(3) tax exempt organization from inuring to certain insiders of the organization.<sup>58</sup> The Service has explained that for purposes of the “private inurement doctrine,” an insider is an individual or organization closely related to the tax exempt section 501(c)(3), though it need not have the ability to control it.<sup>59</sup> Members of the board of directors, trustees, owners, and managers are the most typical examples of insiders because of the significant control their position affords them within the organization.<sup>60</sup>

All the members of Enroll America’s board of directors are insiders for purposes of private inurement doctrine, and the activities of Enroll America unlawfully inure to their benefit. As noted above, the registered lobbyists of a major health insurer (Kaiser Permanente) and a

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<sup>52</sup> See, e.g., *Int’l Postgraduate Med. Found. v. Comm’r*, 56 T.C.M. (CCH) 1140 (1989); *KJ’s Fund Raisers Inc. v. Comm’r*, 74 T.C.M. (CCH) 669 (1997); *Rev. Rul. 76-206*, 1976-1 C.B. 154.

<sup>53</sup> See *KJ’s Fund Raisers Inc. v. Comm’r*, 74 T.C.M. (CCH) 669 (1997); *est of Hawaii v. Comm’r*, 71 T.C. 1067, 1080-1082 (1979).

<sup>54</sup> *est of Hawaii v. Comm’r*, 71 T.C. 1067, 1082 (1979).

<sup>55</sup> *KJ’s Fund Raisers Inc.*, 74 T.C.M. at 669.

<sup>56</sup> *Int’l Postgraduate Med. Found. v. Comm’r*, 56 T.C.M. (CCH) 1140.

<sup>57</sup> *Treas. Reg. § 1.501(c)(1)-1(a)(1)* (requiring exempt entities to operate exclusively for exempt purposes).

<sup>58</sup> *Treas. Reg. § 1.501(c)(3)-1(c)(2)*.

<sup>59</sup> See, e.g., *I.R.S. Gen. Couns. Mem. 39,498* (Jan. 28, 1986) (“In our opinion, the recruited physicians as employees or as individuals with a close professional working relationship with the Hospital are persons who have a personal and private interest in the activities of the Hospital. Thus, such physicians are subject to the inurement proscription.”)

<sup>60</sup> See *United Cancer Council v. Comm’r*, 165 F.3d 1173, 1176 (7th Cir. 1999).



multinational pharmaceutical company (Teva Pharmaceuticals USA) serve on Enroll America's board of directors. Because more than a non-substantial part of Enroll America's activities are furthering a non-exempt, commercial purpose, further investigation will likely reveal that the earnings and assets of Enroll America have inured to the benefit of these for-profit insiders and its section 501(c)(3) status must therefore be revoked.

If you have any questions, please feel free to contact me by e-mail at [daniel.epstein@causeofaction.org](mailto:daniel.epstein@causeofaction.org) or by telephone at (202) 499-4232. Thank you for your attention to this matter.



DANIEL Z. EPSTEIN  
EXECUTIVE DIRECTOR

Encl. – Exhibits