



November 22, 2013

VIA CERTIFIED MAIL

Internal Revenue Service
Whistleblower Office
SE: WO
1111 Constitution Ave., NW
Washington, DC 20224

Re: Form 211 Application for Award of Original Information (Enroll America)

To Whom It May Concern:

We 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. The purpose of this letter is to inform the Internal Revenue Service (IRS) that Enroll America, a section 501(c)(3) organization, is in violation of the Internal Revenue Code (IRC).

In filing its Form 1023, Enroll America claimed its charitable and educational mission was to engage in public education activities and “ensure that lower- and moderate- income people receive the new benefits established by the health reform legislation.”¹ Similarly, in its 2011 Form 990, Enroll America stated that it was a nonpartisan organization working to support “an easy, accessible, and widely available enrollment process.”² In furtherance of its mission, Enroll America receives a sizeable amount of donor contributions. In fact, it received a total of \$3,872,200 in contributions in its 2011 reporting year.³ In contributing to Enroll America, individuals ostensibly rely on Enroll America’s asserted charitable purpose in order to make contributions for which a tax-deduction may be claimed.

Despite Enroll America’s claims of engaging in only charitable activities, it appears that Enroll America has abused its tax-exempt status by using donor contributions for political and other impermissible purposes. For instance, a recent video by the organization Project Veritas revealed that Enroll America is engaging in political activity by impermissibly coordinating with Organizing for Action, a section 501(c)(4) social welfare organization, and Battleground Texas,

¹ Ex. 1 (copy of Enroll America’s 2010 Form 990); See Ex. 2 (copy of Enroll America’s Form 1023).

² See Ex. 3 (copy of Enroll America’s 2011 Form 990).

³ *Id.*

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a section 527 political action committee.⁴ During questioning revealed on the video, Chris Tarango, Enroll America's Communications Director in Texas, made statements that undermine Enroll America's purported compliance with applicable tax laws governing section 501(c)(3) organizations.

Tarango Admits to Engaging in Non-Exempt Activities

In the video (see footnote 4), Mr. Tarango discusses how, following the 2012 presidential election, members of Organizing for America funneled into other organizations including Battleground Texas, a political action committee:

Tarango: So then after the campaign ended we all went in three directions. The majority, 75% of the tower went to Battleground Texas, they got first dibs on everybody. So uh, so Battleground Texas took the organizing talent, Organizing for Action took a lot of the volunteers and another chunk of the organizing talent. And then Enroll America on the other end, the organization I work for took the other remaining parts of the talent. ...

Tarango: So those are the - These three organizations they're all grassroots oriented, they all operate the exact same way, but and they're all Obama 2012 people.

Such coordination among these organizations certainly appears to run afoul of Enroll America's tax-exempt status, considering that a 501(c)(3) organization cannot establish a section 527 to conduct political intervention activities that it could not directly conduct.⁵ Similarly, activities conducted by a 501(c)(4) must be kept separate from those conducted by a 501(c)(3).⁶

Mr. Tarango acknowledges that coordination among these various groups is inappropriate, but that he nonetheless engages in such activities despite the IRC's restrictions:

Tarango: With Organizing for Action we actually work together because we're both 501(c)(3)s but there is no unifier. In fact if there is a unifier it's somebody like me. . . . It's me that have - ...

Tarango: So the good thing is that you know and I'm the kind of person that has my hands on all the different pies. . . . So no there is no official unifier, and I wouldn't expect to ever see a connection between Battleground and Enroll, or Battleground and OFA just because we're not allowed to . . .

Investigator: Oh okay, okay. So it's not really any division it's just -

Tarango: No it's a legal thing. . . . But it's important to understand that we're all working on the same model and that we're all the same people.

⁴ *Enroll America Director Conspires to Release Private Data*, PROJECT VERITAS, <http://www.projectveritas.com/enroll-america-director-conspires-to-release-private-health-care-data/> (last visited Nov. 21, 2013).

⁵ 26 C.F.R. § 1.527-6(g).

⁶ *See Moline Properties, Inc. v. Commissioner*, 319 U.S. 436 (1943).

Mr. Tarango next advises on how to mobilize Democratic voters:

Tarango: And in the meanwhile we need to win elections and we do that by getting Democrats to go out and vote for our Democratic candidates.

And where to acquire good voter data:

Tarango: Well if you're interested in getting a list and you're willing to pay for it I'm telling you the place to go is [Organizing for Action], [Organizing for Action] is the Obama records. ...

Tarango: Okay so what you need from there, once you have the voter file you need a good person on data, I've got those people too. We need a person that knows how to interpret that data and break it down by double Ds and triple Ds and all of your different Ds.

The investigator then asked Mr. Tarango if he is willing to help the investigator's faux political action committee obtain a private list of potential Obamacare enrollee data for election/political purposes:

Tarango: Okay I will talk to one person that I think might be open to having this conversation behind closed doors. And I'll get back to you on that.

Tarango discusses drawing a third party into the potential tax code violations:

Tarango: I don't know if he's willing to play ball. . . . But I'm willing to have that conversation with him. Yes. ...

Tarango: So, so the best thing I can promise you as far as that list goes [Obamacare enrollee data for political purposes] is I can promise you that I can have that conversation with a person that might be able to help us...

Enroll America's Activities Violate the Tax Code

Mr. Tarango's statements strongly suggest that Enroll America engages in political activity in contravention of the IRC's explicit limitations on 501(c)(3) organizations. Expenditures for a non-exempt or non-charitable purpose are subject to inurement or other taxable events for which Enroll America did not pay taxes or other qualified penalties. *See* Treas. Reg. § 1.170A-1(h)(5) (no deduction shall be allowed for amounts paid to an organization which is disqualified for tax exemption under I.R.C. § 501(c)(3) by reason of attempting to influence legislation or engaging in political activities).

Enroll America received \$3,872,200 in contributions in 2011 -- all of which may be subject to taxes and penalties given Enroll America's impermissible coordination activities. We re-new our request that the IRS investigate Enroll America to determine whether it has violated IRC tax laws.⁷

⁷ We note that this is our second request that the IRS investigate Enroll America's purported tax-exempt status. On July 29, 2013, Cause of Action submitted a Form 13909 complaint with the IRS. *See* Ex. 4.

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



DANIEL Z. EPSTEIN
EXECUTIVE DIRECTOR

Enclosures

- Ex. 1 – Enroll America’s 2010 Form 990
- Ex. 2 – Enroll America’s 2010 Form 1023
- Ex. 3 – Enroll America’s 2011 Form 990
- Ex. 4 – Cause of Action’s 2013 Form 13909 Complaint