



November 29, 2012

VIA CERTIFIED MAIL

The Honorable Steven Miller
Acting Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

RE: Request for Investigation of AARP

Dear Commissioner Miller:

We write on behalf of Cause of Action, a nonprofit, nonpartisan organization that uses investigative, legal and communications tools to educate the public on how government accountability and transparency protects taxpayer interests and economic opportunity.

We are concerned that AARP, Inc. (AARP) may be inappropriately using its 501(c)(4) tax-exempt status to financially benefit the organization and violate lobbying restrictions. AARP is a purported 501(c)(4) entity dedicated “to promoting independence, dignity and purpose for older Americans; enhancing their quality of life; and, perhaps most prominently, to encourage older Americans “[t]o serve, not to be served.”¹

It appears that AARP has engaged in lobbying activities that do not further the organization’s self-identified goals.² Pursuant to Internal Revenue Service regulations, an organization whose primary purpose is promoting social welfare may influence legislation so long as the legislation is germane to the organization’s social welfare purpose.³

AARP has lobbied on a wide range of issues, from wireless communications to climate change and transportation, which do not appear to be closely connected to its social welfare purpose. For example, in 2011 AARP lobbied Congress, the Federal Communications Commission (FCC) and the Obama Administration regarding the FCC’s interest in consumer

¹ AARP, *AARP History* (last visited Nov. 14, 2012), <http://www.aarp.org/about-aarp/info-2009/History.html> .

² *Id.*

³ I.R.S., *Internal Revenue Manual*, 4.76.13.4.2.1 (Mar. 1, 2003), http://www.irs.gov/irm/part4/irm_04-076-013.html#d0e101.

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protections for “unexpected wireless charges as a result of [the] lack of transparency by wireless providers in fine print.”⁴ AARP also apparently lobbied regarding FCC proposals relating to wireless telephone service, smart grid development and national broadband plan affordability.⁵ The White House was urged by AARP to “provide swift action to establish an inter-agency task force to oversee the transition to digital television.”⁶ On transportation issues, AARP lobbied for the extension of the deadline for implementing minimum standards for the retro-reflectivity of traffic signs.⁷ During the 111th Congress, AARP took a large role in advocating for legislation to reduce greenhouse gases.⁸ These substantial efforts AARP expended on influencing legislation do not appear to further the AARP’s missions regarding older Americans.

As demonstrated by its audited financial statement, AARP is profiting from its charitable purpose. As a tax-exempt, 501 (c)(4) organization, it is prohibited from carrying on business with the general public in a manner similar to that of for-profit organizations.⁹ AARP receives significant royalties from UnitedHealth Group for the right to use AARP’s name, logo and mailing list in marketing its products. In 2011 alone, AARP earned \$704 million in royalties. Half of those royalties were derived from an AARP Insurance Plan marketed by UnitedHealth. The income earned from such royalties creates the impression that AARP is operating as a for-profit entity.¹⁰

Executives at AARP receive compensation packages that exceed those of similar organizations, and therefore AARP should pay an excess benefit transaction tax. An excess benefit transaction takes place when executive compensation exceeds the fair market value for an executive at a 501(c)(4).¹¹ For example, AARP Chief Executive Officer (CEO) Addison Rand earned \$939,000 in total compensation for 2011.¹² By comparison, the CEO of the American Red Cross earned \$561,000, a 67% difference.¹³ Addison Rand’s compensation thus exceeds the fair market value for his services and therefore AARP should pay an excess benefit transaction tax.

⁴ *AARP Lobbying Report 2011*, AARP, 42 (last visited Nov. 16, 2012), <http://soprweb.senate.gov/index.cfm?event=getFilingDetails&filingID=e632aba7-02aa-46ca-8911-18a76d706b02>.

⁵ *AARP Lobbying Report 2012*, AARP, 35 (last visited Nov. 16, 2012), <http://soprweb.senate.gov/index.cfm?event=getFilingDetails&filingID=ba929ed3-bb94-42c7-bafc-3e1ddeb96599>.

⁶ *AARP Lobbying Report 2008*, AARP, 43 (last visited Nov. 16, 2012), <http://soprweb.senate.gov/index.cfm?event=getFilingDetails&filingID=e42182fa-b102-4c90-8473-fb6b55bf8dd8>.

⁷ *AARP Lobbying Report 2011*, AARP, 42 (last visited Nov. 16, 2012), <http://soprweb.senate.gov/index.cfm?event=getFilingDetails&filingID=e632aba7-02aa-46ca-8911-18a76d706b02>.

⁸ *AARP Lobbying Report 2008*, AARP, 9 (last visited Nov. 16, 2012), <http://soprweb.senate.gov/index.cfm?event=getFilingDetails&filingID=e42182fa-b102-4c90-8473-fb6b55bf8dd8>.

⁹ Treas. Reg. § 1.501(c)(4)-1(a)(2)(ii).

¹⁰ See I.R.C. § 501 (c)(4).

¹¹ I.R.S., *Intermediate Sanctions – Excess Benefit Transactions*, <http://www.irs.gov/Charities-&-Non-Profits/Charitable-Organizations/Intermediate-Sanctions---Excess-Benefit-Transactions> (last visited Nov. 15, 2012).

¹² AARP, *I.R.S. Form 990*, Schedule J, Part II, Officers, Directors, Trustees, Key Employees, and Highest Compensated Employees, http://www.aarp.org/content/dam/aarp/about_aarp/annual_reports/2011-AARP-Form-990.pdf.

¹³ American Red Cross, *I.R.S. Form 990*, Schedule K, Part II, Officers, Directors, Trustees, Key Employees, and Highest Compensated Employees (last visited Nov. 15, 2012) http://www.redcross.org/images/MEDIA_CustomProductCatalog/m6340460_ARC_990_2011.pdf.

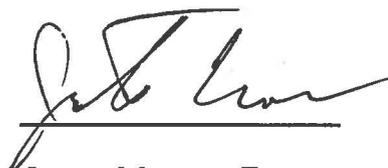
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AARP board members and executives also receive generous travel accommodations. Board members, officers and key employees travel first-class on flights exceeding five hours if business-class accommodations are not available (presumably coach-class is available but not considered a suitable option).¹⁴ Additionally, CEO Addison Rand is provided first-class seats on flights exceeding only ninety minutes.¹⁵ As a result of these excessive benefits, AARP executives may need to pay an excess benefit transaction tax.

In light of these findings and facts, we encourage you to investigate whether AARP has violated the Internal Revenue Code, and if so, to take appropriate action, including the assessment of any appropriate penalties and/or revocation of tax-exempt status.

Should you have any questions, comments, or concerns, please do not hesitate to contact Justin Meyers (Justin.Meyers@CauseofAction.org) at (202) 499-4232. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Justin Meyers", written over a horizontal line.

JUSTIN MEYERS, ESQ.
STAFF ATTORNEY

¹⁴ AARP, I.R.S. Form 990, Schedule K, Part II, Supplemental Info. (last visited Nov. 15, 2012)
http://www.aarp.org/content/dam/aarp/about_aarp/annual_reports/2011-AARP-Form-990.pdf.

¹⁵ *Id.*

Tax-Exempt Organization Complaint (Referral) Form

1. NAME OF REFERRED ORGANIZATION: AARP, Inc.

Street Address: 601 E Street, NW

City/State/Zip Code: Washington, DC 20049

Date of Referral: November 29, 2012

2. ORGANIZATION'S EMPLOYER IDENTIFICATION NUMBER (EIN): 95-1985500

3. NATURE OF VIOLATION:

- Directors/officers/persons are using income/assets for personal gain
- Organization is engaged in commercial, for-profit business activities
- Income/assets are being used to support illegal or terrorist activities
- Organization is involved in a political campaign
- Organization is engaged in excessive lobbying activities
- Organization refused to disclose or provide a copy of Form 990
- Organization failed to report employment, income, or excise tax liability properly
- Organization failed to file required federal tax returns and forms
- Organization engaged in deceptive or improper fundraising practices
- Other (describe):

4. DETAILS OF VIOLATION:

Name(s) of Person(s) Involved: Officers, directors, managing employees and/or agents of the Referred Organization.

Organizational Title(s): Unknown

Date(s): On or about January 1, 2011 through the present.

Dollar Amount(s) (if known): _____

Description of activities: Referred organization is abusing its tax-exempt status by lobbying on issues that are beyond the social welfare purpose for which it was formed, in violation of applicable law.

5. SUBMITTER INFORMATION:

Name: Justin Meyers, Esq.

Occupation or Business: Cause of Action

Street Address: 1919 Pennsylvania Ave. NW, Suite 650

City/State/Zip Code: Washington, DC 20006

Telephone: (202) 499-4232

I am concerned that I might face retaliation or retribution if my identity is disclosed.

6. SUBMISSION AND DOCUMENTATION: The completed form, along with any supporting documentation, may be mailed to IRS EO Classification, Mail Code 4910DAL, 1100 Commerce Street Dallas, TX 75242-1198, faxed to 214-413-5415 or emailed to eoaclass@irs.gov.

TAX EXEMPT ORGANIZATION COMPLAINT (REFERRAL) INSTRUCTIONS

General Information

The information provided on this form will help the Internal Revenue Service (IRS) determine if there has been a violation of federal tax law. Submission of this form is voluntary.

Upon receipt of this form, the IRS will send you a letter acknowledging receipt of the information you submitted. If at a later date you wish to submit additional information regarding the organization, please attach a copy of the form initially submitted, and send it to the address shown above.

Specific Instructions

- 1. ORGANIZATION NAME AND ADDRESS:** Provide the current name and address of the organization. If the organization has used prior or multiple name(s) or address(es), also provide that information.
- 2. EMPLOYER IDENTIFICATION NUMBER:** Provide the organization's employer identification number (EIN). The EIN is a nine-digit number, issued by the IRS, that the organization uses for tax purposes (like a Social Security Number (SSN) for an individual). If the EIN is unavailable, include a state nonprofit corporation registration number, if available.
- 3. NATURE OF VIOLATION:** Mark the description that describes the organization's alleged violation. More than one line may apply. If none of the descriptions appear to apply, briefly state the issue on the Other line.
- 4. DETAILS OF THE VIOLATION:** Provide specific details of the alleged violation including names, actions, places, amounts, dates, and the nature of any evidence or documentation (who, what, where, when, how). Include the names of other organizations, entities, or persons that may be involved with the organization, providing EINs or SSNs, if available.
- 5. YOUR INFORMATION:** Provide your name, address, and business or occupation. Include your daytime telephone number, in case we wish to contact you. The acknowledgement letter will be sent to the address you provide.

If you are concerned that you may face retribution if your identity is disclosed, check the appropriate box. You may enter "Anonymous" for Submitter's Name if you do not want to be identified.

- 6. SUBMISSION AND DOCUMENTATION:** Mail the completed form, including any supporting documentation that you would like for us to review, to the address provided on the form. You may also fax or email the completed form and any supporting documentation to the fax number and email address provided on the form. Include a cover letter describing the documentation or evidence you are providing. If you have already received an acknowledgment letter, include a copy of that letter. If possible, please try to submit all documentation at the same time.

If your referral relates to a church please be aware that Congress has imposed special limitations, found in IRC section 7611, on how and when the IRS may conduct civil tax inquiries and examinations of churches. You can find out more about these special limitations in Pub. 1828, Tax Guide for Churches and Religious Organizations, in the section on Special Rules Limiting IRS Authority to Audit a Church.

- 7. CLAIM FOR REWARD:** To claim a reward for providing this information to the IRS, file Form 211, Application for Reward for Original Information.
 - 8. NOTE:** Federal law prohibits the IRS from providing you with status updates or information about specific actions taken in response to the information you submit.
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