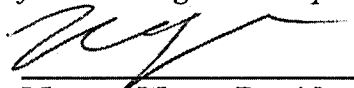


**ENCLOSED PAPERWORK MAP FOR BREAK DIVING, INC. APPLICATION FOR  
TAX EXEMPTION UNDER 501 (c) (3) OF THE INTERNAL REVENUE CODE;  
ENCLOSED DOCUMENTS ARE IN THE FOLLOWING ORDER:**

- IRS Checklist
- Expedite Request
- Form 1023
- Schedule H
- Delaware Certificate of Organization
- Bylaws
- Form 5768
- Narrative Description to Form 1023 with Int'l Activity Questionnaire & Schedule H responses
- Corporate Non-Discrimination Policy
- Corporate Conflict of Interest Policy
- Corporate Fundraising Policy Agreement
- Signed board member approval of:
  - Initial Organizational Minutes Enclosed
  - Hiring of Executive Director and Approval of Salary Enclosed
  - Guidestar Comparables
- EIN Paperwork
- Supporting IRS Rulings, Decisions, Guidance, and Publications
  - IRS Rev Ruling 2004-51
  - IRB 2004-22
  - Rev Ruling 71-460, 1971-2 C.B. 231
  - IRS Memorandum Number 200504031
  - Rev Ruling 63-252 Discussion
  - IRS 1983 EO CPE Text, Section O
  - Rev Ruling 68-165, 1968-1 C.B. 253
  - Rev. Proc. 92-59, 1992-2 C.B. 411
  - IRM Part 4, Chapter 76, Section 9
  - Publication 4221 PC (Rev. 7-2014) Page 4
  - IRC Section 4958
  - Rev Ruling 66-79
  - Rev Ruling Revenue Ruling 68-489, 1968-2 C.B. 210
  - Volunteer Best Practices for U.S. Based Charities

*Under penalties of perjury, I declare that I have examined this information, including accompanying documents, and, to the best of my knowledge, the information contains all relevant facts relating to the request for the information, and such facts are true, correct, and complete.*

  
 \_\_\_\_\_  
**Monroe Mann, President**  
 Break Diving, Inc.

10/1/16  
 \_\_\_\_\_  
**Date**

# Form 1023 Checklist

(Revised December 2013)

## Application for Recognition of Exemption under Section 501(c)(3) of the Internal Revenue Code

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**Note.** Retain a copy of the completed Form 1023 in your permanent records. Refer to the General Instructions regarding Public Inspection of approved applications.

**Check each box to finish your application (Form 1023). Send this completed Checklist with your filled-in application. If you have not answered all the items below, your application may be returned to you as incomplete.**

- Assemble the application and materials in this order:
- Form 1023 Checklist
  - Form 2848, *Power of Attorney and Declaration of Representative* (if filing)
  - Form 8821, *Tax Information Authorization* (if filing)
  - Expedite request (if requesting)
  - Application (Form 1023 and Schedules A through H, as required)
  - Articles of organization
  - Amendments to articles of organization in chronological order
  - Bylaws or other rules of operation and amendments
  - Documentation of nondiscriminatory policy for schools, as required by Schedule B
  - Form 5768, *Election/Revocation of Election by an Eligible Section 501(c)(3) Organization To Make Expenditures To Influence Legislation* (if filing)
  - All other attachments, including explanations, financial data, and printed materials or publications. Label each page with name and EIN.
- User fee payment placed in envelope on top of checklist. DO NOT STAPLE or otherwise attach your check or money order to your application. Instead, just place it in the envelope.
- Employer Identification Number (EIN)
- Completed Parts I through XI of the application, including any requested information and any required Schedules A through H.
- You must provide specific details about your past, present, and planned activities.
  - Generalizations or failure to answer questions in the Form 1023 application will prevent us from recognizing you as tax exempt.
  - Describe your purposes and proposed activities in specific easily understood terms.
  - Financial information should correspond with proposed activities.
- Schedules. Submit only those schedules that apply to you and check either "Yes" or "No" below.
- |            |                |            |  |
|------------|----------------|------------|--|
| Schedule A | Yes ___ No ___ | Schedule E | Yes ___ No ___                                 |
| Schedule B | Yes ___ No ___ | Schedule F | Yes ___ No ___                                 |
| Schedule C | Yes ___ No ___ | Schedule G | Yes ___ No ___                                 |
| Schedule D | Yes ___ No ___ | Schedule H | Yes <input checked="" type="checkbox"/> No ___ |

- 1
- An exact copy of your complete articles of organization (creating document). Absence of the proper purpose and dissolution clauses is the number one reason for delays in the issuance of determination letters.
    - Location of Purpose Clause from Part III, line 1 (Page, Article and Paragraph Number) Page 1, Article 3<sup>rd</sup>
    - Location of Dissolution Clause from Part III, line 2b or 2c (Page, Article and Paragraph Number) or by operation of state law Page 2, Article 10<sup>th</sup>
  - Signature of an officer, director, trustee, or other official who is authorized to sign the application.
    - Signature at Part XI of Form 1023.
  - Your name on the application must be the same as your legal name as it appears in your articles of organization.

Send completed Form 1023, user fee payment, and all other required information, to:

Internal Revenue Service  
P.O. Box 192  
Covington, KY 41012-0192

If you are using express mail or a delivery service, send Form 1023, user fee payment, and attachments to:

Internal Revenue Service  
201 West Rivercenter Blvd.  
Attn: Extracting Stop 312  
Covington, KY 41011



Internal Revenue Service  
P.O. Box 2508, Room 4024  
Cincinnati, OH 45201

DATE: 10/1/16

**RE: IRS Form 1023 Expedite Request**

To Whom It May Concern:

I write to you in request of expedited processing of our application for 501 (c) (3) tax exemption for the following reasons:

- We are an American not-for-profit with a mission designed to help people worldwide.
- One of the services we aim to provide is disaster relief.
- As noted on reliefweb.net and disaster-report.com, there are currently tens of thousands of people suffering from quite a few recent natural disasters both domestically and internationally, and unfortunately, the news does not appear to be doing enough to raise awareness of what has happened in these places.

If we are granted an expedited letter of exemption, although we project only raising a few thousand dollars to help the victims of the disasters this year, to one family, or one group of children who lost everything they owned, these few thousand dollars could bring desperately needed hope, relief, and most importantly, smiles.

We have attached two Form 1023 budgets to our Form 1023 application:

- 1) The first shows the good we could do with tax exemption *this year*;
- 2) The second shows that we will not be able to officially begin operations until winter 2017 or later.

We recognize that our operation is starting out small, but it's an earnest and heartfelt one. If you choose to grant our expedited application, we ask that you use the *first* budget; if this request is denied, we ask that you use the *second* budget.

Thank you sincerely for your consideration,

A handwritten signature in black ink, appearing to read "Monroe Mann", written in a cursive style.

Monroe Mann, President



**Application for Recognition of Exemption**  
**Under Section 501(c)(3) of the Internal Revenue Code**

(00)

OMB No. 1545-0056

Note: If exempt status is approved, this application will be open for public inspection.

► (Use with the June 2006 revision of the Instructions for Form 1023 and the current Notice 1382)

Use the instructions to complete this application and for a definition of all **bold** items. For additional help, call IRS Exempt Organizations Customer Account Services toll-free at 1-877-829-5500. Visit our website at [www.irs.gov](http://www.irs.gov) for forms and publications. If the required information and documents are not submitted with payment of the appropriate user fee, the application may be returned to you.

Attach additional sheets to this application if you need more space to answer fully. Put your name and EIN on each sheet and identify each answer by Part and line number. Complete Parts I - XI of Form 1023 and submit only those Schedules (A through H) that apply to you.

**Part I Identification of Applicant**

<b>1</b> Full name of organization (exactly as it appears in your organizing document)		<b>2</b> c/o Name (if applicable)	
Break Diving, Inc.		Dr. Monroe Mann, PhD, Esq, MBA	
<b>3</b> Mailing address (Number and street) (see instructions)	Room/Suite	<b>4</b> Employer Identification Number (EIN)	
12 Puritan Drive		81-3744910	
City or town, state or country, and ZIP + 4		<b>5</b> Month the annual accounting period ends (01 - 12)	
Port Chester, NY 10573-2504		12	
<b>6</b> Primary contact (officer, director, trustee, or authorized representative)		<b>b</b> Phone: 808-482-4136	
a Name: Monroe Mann		<b>c</b> Fax: (optional) n/a	
<b>7</b> Are you represented by an authorized representative, such as an attorney or accountant? If "Yes," provide the authorized representative's name, and the name and address of the authorized representative's firm. Include a completed Form 2848, <i>Power of Attorney and Declaration of Representative</i> , with your application if you would like us to communicate with your representative.			
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
<b>8</b> Was a person who is not one of your officers, directors, trustees, employees, or an authorized representative listed in line 7, paid, or promised payment, to help plan, manage, or advise you about the structure or activities of your organization, or about your financial or tax matters? If "Yes," provide the person's name, the name and address of the person's firm, the amounts paid or promised to be paid, and describe that person's role.			
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
<b>9a</b> Organization's website: <a href="http://www.BreakDiving.org">www.BreakDiving.org</a>			
<b>b</b> Organization's email: (optional) <a href="mailto:info@breakdiving.org">info@breakdiving.org</a>			
<b>10</b> Certain organizations are not required to file an information return (Form 990 or Form 990-EZ). If you are granted tax-exemption, are you claiming to be excused from filing Form 990 or Form 990-EZ? If "Yes," explain. See the instructions for a description of organizations not required to file Form 990 or Form 990-EZ.			
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
<b>11</b> Date incorporated if a corporation, or formed, if other than a corporation. (MM/DD/YYYY)		9 / 16 / 2016	
<b>12</b> Were you formed under the laws of a foreign country? If "Yes," state the country.			
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			

**Part II Organizational Structure**

You must be a corporation (including a limited liability company), an unincorporated association, or a trust to be tax exempt. (See instructions.) **DO NOT file this form unless you can check "Yes" on lines 1, 2, 3, or 4.**

- 1 Are you a **corporation**? If "Yes," attach a copy of your articles of incorporation showing **certification of filing** with the appropriate state agency. Include copies of any amendments to your articles and be sure they also show state filing certification.  Yes  No
- 2 Are you a **limited liability company (LLC)**? If "Yes," attach a copy of your articles of organization showing certification of filing with the appropriate state agency. Also, if you adopted an operating agreement, attach a copy. Include copies of any amendments to your articles and be sure they show state filing certification. Refer to the instructions for circumstances when an LLC should not file its own exemption application.  Yes  No
- 3 Are you an **unincorporated association**? If "Yes," attach a copy of your articles of association, constitution, or other similar organizing document that is dated and includes at least two signatures. Include signed and dated copies of any amendments.  Yes  No
- 4a Are you a **trust**? If "Yes," attach a signed and dated copy of your trust agreement. Include signed and dated copies of any amendments.  Yes  No
- b Have you been funded? If "No," explain how you are formed without anything of value placed in trust.  Yes  No
- 5 Have you adopted **bylaws**? If "Yes," attach a current copy showing date of adoption. If "No," explain how your officers, directors, or trustees are selected.  Yes  No

**Part III Required Provisions in Your Organizing Document**

The following questions are designed to ensure that when you file this application, your organizing document contains the required provisions to meet the organizational test under section 501(c)(3). Unless you can check the boxes in both lines 1 and 2, your organizing document does not meet the organizational test. **DO NOT file this application until you have amended your organizing document.** Submit your original and amended organizing documents (showing state filing certification if you are a corporation or an LLC) with your application.

- 1 Section 501(c)(3) requires that your organizing document state your exempt purpose(s), such as charitable, religious, educational, and/or scientific purposes. Check the box to confirm that your organizing document meets this requirement. Describe specifically where your organizing document meets this requirement, such as a reference to a particular article or section in your organizing document. Refer to the instructions for exempt purpose language. Location of Purpose Clause (Page, Article, and Paragraph): **Page 1, Article Third**
- 2a Section 501(c)(3) requires that upon dissolution of your organization, your remaining assets must be used exclusively for exempt purposes, such as charitable, religious, educational, and/or scientific purposes. Check the box on line 2a to confirm that your organizing document meets this requirement by express provision for the distribution of assets upon dissolution. If you rely on state law for your dissolution provision, do not check the box on line 2a and go to line 2c.
- 2b If you checked the box on line 2a, specify the location of your dissolution clause (Page, Article, and Paragraph). Do not complete line 2c if you checked box 2a. **Page 2, Article Tenth**
- 2c See the instructions for information about the operation of state law in your particular state. Check this box if you rely on operation of state law for your dissolution provision and indicate the state:

**Part IV Narrative Description of Your Activities**

Using an attachment, describe your *past, present, and planned* activities in a narrative. If you believe that you have already provided some of this information in response to other parts of this application, you may summarize that information here and refer to the specific parts of the application for supporting details. You may also attach representative copies of newsletters, brochures, or similar documents for supporting details to this narrative. Remember that if this application is approved, it will be open for public inspection. Therefore, your narrative description of activities should be thorough and accurate. Refer to the instructions for information that must be included in your description.

**Part V Compensation and Other Financial Arrangements With Your Officers, Directors, Trustees, Employees, and Independent Contractors**

- 1a List the names, titles, and mailing addresses of all of your officers, directors, and trustees. For each person listed, state their total annual **compensation**, or proposed compensation, for all services to the organization, whether as an officer, employee, or other position. Use actual figures, if available. Enter "none" if no compensation is or will be paid. If additional space is needed, attach a separate sheet. Refer to the instructions for information on what to include as compensation.

Name	Title	Mailing address	Compensation amount (annual actual or estimated)
See attached narrative			

**Part V Compensation and Other Financial Arrangements With Your Officers, Directors, Trustees, Employees, and Independent Contractors (Continued)**

**b** List the names, titles, and mailing addresses of each of your five highest compensated employees who receive or will receive compensation of more than \$50,000 per year. Use the actual figure, if available. Refer to the instructions for information on what to include as compensation. Do not include officers, directors, or trustees listed in line 1a.

Name	Title	Mailing address	Compensation amount (annual actual or estimated)
<b>Not applicable</b>			

**c** List the names, names of businesses, and mailing addresses of your five highest compensated independent contractors that receive or will receive compensation of more than \$50,000 per year. Use the actual figure, if available. Refer to the instructions for information on what to include as compensation.

Name	Title	Mailing address	Compensation amount (annual actual or estimated)
<b>Not applicable</b>			

The following "Yes" or "No" questions relate to *past, present, or planned* relationships, transactions, or agreements with your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed in lines 1a, 1b, and 1c.

- 2a** Are any of your officers, directors, or trustees **related to each other through family or business relationships?** If "Yes," identify the individuals and explain the relationship.  **Yes**  **No**
- b** Do you have a business relationship with any of your officers, directors, or trustees other than through their position as an officer, director, or trustee? If "Yes," identify the individuals and describe the business relationship with each of your officers, directors, or trustees.  **Yes**  **No**
- c** Are any of your officers, directors, or trustees related to your highest compensated employees or highest compensated independent contractors listed on lines 1b or 1c through family or business relationships? If "Yes," identify the individuals and explain the relationship.  **Yes**  **No**

**3a** For each of your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed on lines 1a, 1b, or 1c, attach a list showing their name, qualifications, average hours worked, and duties.

- b** Do any of your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed on lines 1a, 1b, or 1c receive compensation from any other organizations, whether tax exempt or taxable, that are related to you through **common control?** If "Yes," identify the individuals, explain the relationship between you and the other organization, and describe the compensation arrangement.  **Yes**  **No**

**4** In establishing the compensation for your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed on lines 1a, 1b, and 1c, the following practices are recommended, although they are not required to obtain exemption. Answer "Yes" to all the practices you use.

- a** Do you or will the individuals that approve compensation arrangements follow a conflict of interest policy?  **Yes**  **No**
- b** Do you or will you approve compensation arrangements in advance of paying compensation?  **Yes**  **No**
- c** Do you or will you document in writing the date and terms of approved compensation arrangements?  **Yes**  **No**

**Part V Compensation and Other Financial Arrangements With Your Officers, Directors, Trustees, Employees, and Independent Contractors (Continued)**

- d Do you or will you record in writing the decision made by each individual who decided or voted on compensation arrangements?  Yes  No
- e Do you or will you approve compensation arrangements based on information about compensation paid by **similarly situated** taxable or tax-exempt organizations for similar services, current compensation surveys compiled by independent firms, or actual written offers from similarly situated organizations? Refer to the instructions for Part V, lines 1a, 1b, and 1c, for information on what to include as compensation.  Yes  No
- f Do you or will you record in writing both the information on which you relied to base your decision and its source?  Yes  No
- g If you answered "No" to any item on lines 4a through 4f, describe how you set compensation that is **reasonable** for your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed in Part V, lines 1a, 1b, and 1c.

- 5a Have you adopted a **conflict of interest policy** consistent with the sample conflict of interest policy in Appendix A to the instructions? If "Yes," provide a copy of the policy and explain how the policy has been adopted, such as by resolution of your governing board. If "No," answer lines 5b and 5c.  Yes  No
- b What procedures will you follow to assure that persons who have a conflict of interest will not have influence over you for setting their own compensation?
- c What procedures will you follow to assure that persons who have a conflict of interest will not have influence over you regarding business deals with themselves?  
**Note:** A conflict of interest policy is recommended though it is not required to obtain exemption. Hospitals, see Schedule C, Section I, line 14.

- 6a Do you or will you compensate any of your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed in lines 1a, 1b, or 1c through **non-fixed payments**, such as discretionary bonuses or revenue-based payments? If "Yes," describe all non-fixed compensation arrangements, including how the amounts are determined, who is eligible for such arrangements, whether you place a limitation on total compensation, and how you determine or will determine that you pay no more than reasonable compensation for services. Refer to the instructions for Part V, lines 1a, 1b, and 1c, for information on what to include as compensation.  Yes  No
- b Do you or will you compensate any of your employees, other than your officers, directors, trustees, or your five highest compensated employees who receive or will receive compensation of more than \$50,000 per year, through non-fixed payments, such as discretionary bonuses or revenue-based payments? If "Yes," describe all non-fixed compensation arrangements, including how the amounts are or will be determined, who is or will be eligible for such arrangements, whether you place or will place a limitation on total compensation, and how you determine or will determine that you pay no more than reasonable compensation for services. Refer to the instructions for Part V, lines 1a, 1b, and 1c, for information on what to include as compensation.  Yes  No

- 7a Do you or will you purchase any goods, services, or assets from any of your officers, directors, trustees, highest compensated employees, or highest compensated independent contractors listed in lines 1a, 1b, or 1c? If "Yes," describe any such purchase that you made or intend to make, from whom you make or will make such purchases, how the terms are or will be negotiated at **arm's length**, and explain how you determine or will determine that you pay no more than **fair market value**. Attach copies of any written contracts or other agreements relating to such purchases.  Yes  No
- b Do you or will you sell any goods, services, or assets to any of your officers, directors, trustees, highest compensated employees, or highest compensated independent contractors listed in lines 1a, 1b, or 1c? If "Yes," describe any such sales that you made or intend to make, to whom you make or will make such sales, how the terms are or will be negotiated at **arm's length**, and explain how you determine or will determine you are or will be paid at least fair market value. Attach copies of any written contracts or other agreements relating to such sales.  Yes  No

- 8a Do you or will you have any leases, contracts, loans, or other agreements with your officers, directors, trustees, highest compensated employees, or highest compensated independent contractors listed in lines 1a, 1b, or 1c? If "Yes," provide the information requested in lines 8b through 8f.  Yes  No
- b Describe any written or oral arrangements that you made or intend to make.
- c Identify with whom you have or will have such arrangements.
- d Explain how the terms are or will be negotiated at **arm's length**.
- e Explain how you determine you pay no more than fair market value or you are paid at least fair market value.
- f Attach copies of any signed leases, contracts, loans, or other agreements relating to such arrangements.

- 9a Do you or will you have any leases, contracts, loans, or other agreements with any organization in which any of your officers, directors, or trustees are also officers, directors, or trustees, or in which any individual officer, director, or trustee owns more than a 35% interest? If "Yes," provide the information requested in lines 9b through 9f.  Yes  No

**Part V Compensation and Other Financial Arrangements With Your Officers, Directors, Trustees, Employees, and Independent Contractors (Continued)**

- b Describe any written or oral arrangements you made or intend to make.
- c Identify with whom you have or will have such arrangements.
- d Explain how the terms are or will be negotiated at arm's length.
- e Explain how you determine or will determine you pay no more than fair market value or that you are paid at least fair market value.
- f Attach a copy of any signed leases, contracts, loans, or other agreements relating to such arrangements.

**Part VI Your Members and Other Individuals and Organizations That Receive Benefits From You**

The following "Yes" or "No" questions relate to goods, services, and funds you provide to individuals and organizations as part of your activities. Your answers should pertain to *past*, *present*, and *planned* activities. (See instructions.)

- 1a In carrying out your exempt purposes, do you provide goods, services, or funds to individuals? If "Yes," describe each program that provides goods, services, or funds to individuals.  Yes  No
- b In carrying out your exempt purposes, do you provide goods, services, or funds to organizations? If "Yes," describe each program that provides goods, services, or funds to organizations.  Yes  No
- 2 Do any of your programs limit the provision of goods, services, or funds to a specific individual or group of specific individuals? For example, answer "Yes," if goods, services, or funds are provided only for a particular individual, your members, individuals who work for a particular employer, or graduates of a particular school. If "Yes," explain the limitation and how recipients are selected for each program.  Yes  No
- 3 Do any individuals who receive goods, services, or funds through your programs have a family or business relationship with any officer, director, trustee, or with any of your highest compensated employees or highest compensated independent contractors listed in Part V, lines 1a, 1b, and 1c? If "Yes," explain how these related individuals are eligible for goods, services, or funds.  Yes  No

**Part VII Your History**

The following "Yes" or "No" questions relate to your history. (See instructions.)

- 1 Are you a **successor** to another organization? Answer "Yes," if you have taken or will take over the activities of another organization; you took over 25% or more of the fair market value of the net assets of another organization; or you were established upon the conversion of an organization from for-profit to non-profit status. If "Yes," complete Schedule G.  Yes  No
- 2 Are you submitting this application more than 27 months after the end of the month in which you were legally formed? If "Yes," complete Schedule E.  Yes  No

**Part VIII Your Specific Activities**

The following "Yes" or "No" questions relate to specific activities that you may conduct. Check the appropriate box. Your answers should pertain to *past*, *present*, and *planned* activities. (See instructions.)

- 1 Do you support or oppose candidates in **political campaigns** in any way? If "Yes," explain.  Yes  No
- 2a Do you attempt to **influence legislation**? If "Yes," explain how you attempt to influence legislation and complete line 2b. If "No," go to line 3a.  Yes  No
- b Have you made or are you making an **election** to have your legislative activities measured by expenditures by filing Form 5768? If "Yes," attach a copy of the Form 5768 that was already filed or attach a completed Form 5768 that you are filing with this application. If "No," describe whether your attempts to influence legislation are a substantial part of your activities. Include the time and money spent on your attempts to influence legislation as compared to your total activities.  Yes  No
- 3a Do you or will you operate bingo or **gaming activities**? If "Yes," describe who conducts them, and list all revenue received or expected to be received and expenses paid or expected to be paid in operating these activities. **Revenue and expenses** should be provided for the time periods specified in Part IX, Financial Data.  Yes  No
- b Do you or will you enter into contracts or other agreements with individuals or organizations to conduct bingo or gaming for you? If "Yes," describe any written or oral arrangements that you made or intend to make, identify with whom you have or will have such arrangements, explain how the terms are or will be negotiated at arm's length, and explain how you determine or will determine you pay no more than fair market value or you will be paid at least fair market value. Attach copies or any written contracts or other agreements relating to such arrangements.  Yes  No
- c List the states and local jurisdictions, including Indian Reservations, in which you conduct or will conduct gaming or bingo.

**Part VIII Your Specific Activities (Continued)**

**4a** Do you or will you undertake **fundraising**? If "Yes," check all the fundraising programs you do or will conduct. (See instructions.)  **Yes**  **No**

- mail solicitations
- email solicitations
- personal solicitations
- vehicle, boat, plane, or similar donations
- foundation grant solicitations
- phone solicitations
- accept donations on your website
- receive donations from another organization's website
- government grant solicitations
- Other

Attach a description of each fundraising program.

**b** Do you or will you have written or oral contracts with any individuals or organizations to raise funds for you? If "Yes," describe these activities. Include all revenue and expenses from these activities and state who conducts them. Revenue and expenses should be provided for the time periods specified in Part IX, Financial Data. Also, attach a copy of any contracts or agreements.  **Yes**  **No**

**c** Do you or will you engage in fundraising activities for other organizations? If "Yes," describe these arrangements. Include a description of the organizations for which you raise funds and attach copies of all contracts or agreements.  **Yes**  **No**

**d** List all states and local jurisdictions in which you conduct fundraising. For each state or local jurisdiction listed, specify whether you fundraise for your own organization, you fundraise for another organization, or another organization fundraises for you.

**e** Do you or will you maintain separate accounts for any contributor under which the contributor has the right to advise on the use or distribution of funds? Answer "Yes" if the donor may provide advice on the types of investments, distributions from the types of investments, or the distribution from the donor's contribution account. If "Yes," describe this program, including the type of advice that may be provided and submit copies of any written materials provided to donors.  **Yes**  **No**

**5** Are you affiliated with a governmental unit? If "Yes," explain.  **Yes**  **No**

**6a** Do you or will you engage in **economic development**? If "Yes," describe your program.  **Yes**  **No**

**b** Describe in full who benefits from your economic development activities and how the activities promote exempt purposes.

**7a** Do or will persons other than your employees or volunteers **develop** your facilities? If "Yes," describe each facility, the role of the developer, and any business or family relationship(s) between the developer and your officers, directors, or trustees.  **Yes**  **No**

**b** Do or will persons other than your employees or volunteers **manage** your activities or facilities? If "Yes," describe each activity and facility, the role of the manager, and any business or family relationship(s) between the manager and your officers, directors, or trustees.  **Yes**  **No**

**c** If there is a business or family relationship between any manager or developer and your officers, directors, or trustees, identify the individuals, explain the relationship, describe how contracts are negotiated at arm's length so that you pay no more than fair market value, and submit a copy of any contracts or other agreements.

**8** Do you or will you enter into **joint ventures**, including partnerships or **limited liability companies** treated as partnerships, in which you share profits and losses with partners other than section 501(c)(3) organizations? If "Yes," describe the activities of these joint ventures in which you participate.  **Yes**  **No**

**9a** Are you applying for exemption as a childcare organization under section 501(k)? If "Yes," answer lines 9b through 9d. If "No," go to line 10.  **Yes**  **No**

**b** Do you provide child care so that parents or caretakers of children you care for can be **gainfully employed** (see instructions)? If "No," explain how you qualify as a childcare organization described in section 501(k).  **Yes**  **No**

**c** Of the children for whom you provide child care, are 85% or more of them cared for by you to enable their parents or caretakers to be gainfully employed (see instructions)? If "No," explain how you qualify as a childcare organization described in section 501(k).  **Yes**  **No**

**d** Are your services available to the general public? If "No," describe the specific group of people for whom your activities are available. Also, see the instructions and explain how you qualify as a childcare organization described in section 501(k).  **Yes**  **No**

**10** Do you or will you publish, own, or have rights in music, literature, tapes, artworks, choreography, scientific discoveries, or other **intellectual property**? If "Yes," explain. Describe who owns or will own any copyrights, patents, or trademarks, whether fees are or will be charged, how the fees are determined, and how any items are or will be produced, distributed, and marketed.  **Yes**  **No**

**Part VIII Your Specific Activities (Continued)**

- 11** Do you or will you accept contributions of: real property; conservation easements; closely held securities; intellectual property such as patents, trademarks, and copyrights; works of music or art; licenses; royalties; automobiles, boats, planes, or other vehicles; or collectibles of any type? If "Yes," describe each type of contribution, any conditions imposed by the donor on the contribution, and any agreements with the donor regarding the contribution.  **Yes**  **No**
- 
- 12a** Do you or will you operate in a foreign country or countries? If "Yes," answer lines 12b through 12d. If "No," go to line 13a.  **Yes**  **No**
- b** Name the foreign countries and regions within the countries in which you operate.
- c** Describe your operations in each country and region in which you operate.
- d** Describe how your operations in each country and region further your exempt purposes.
- 
- 13a** Do you or will you make grants, loans, or other distributions to organization(s)? If "Yes," answer lines 13b through 13g. If "No," go to line 14a.  **Yes**  **No**
- b** Describe how your grants, loans, or other distributions to organizations further your exempt purposes.
- c** Do you have written contracts with each of these organizations? If "Yes," attach a copy of each contract.  **Yes**  **No**
- d** Identify each recipient organization and any **relationship** between you and the recipient organization.
- e** Describe the records you keep with respect to the grants, loans, or other distributions you make.
- f** Describe your selection process, including whether you do any of the following:
- (i)** Do you require an application form? If "Yes," attach a copy of the form.  **Yes**  **No**
- (ii)** Do you require a grant proposal? If "Yes," describe whether the grant proposal specifies your responsibilities and those of the grantee, obligates the grantee to use the grant funds only for the purposes for which the grant was made, provides for periodic written reports concerning the use of grant funds, requires a final written report and an accounting of how grant funds were used, and acknowledges your authority to withhold and/or recover grant funds in case such funds are, or appear to be, misused.  **Yes**  **No**
- g** Describe your procedures for oversight of distributions that assure you the resources are used to further your exempt purposes, including whether you require periodic and final reports on the use of resources.
- 
- 14a** Do you or will you make grants, loans, or other distributions to foreign organizations? If "Yes," answer lines 14b through 14f. If "No," go to line 15.  **Yes**  **No**
- b** Provide the name of each foreign organization, the country and regions within a country in which each foreign organization operates, and describe any relationship you have with each foreign organization.
- c** Does any foreign organization listed in line 14b accept contributions earmarked for a specific country or specific organization? If "Yes," list all earmarked organizations or countries.  **Yes**  **No**
- d** Do your contributors know that you have ultimate authority to use contributions made to you at your discretion for purposes consistent with your exempt purposes? If "Yes," describe how you relay this information to contributors.  **Yes**  **No**
- e** Do you or will you make pre-grant inquiries about the recipient organization? If "Yes," describe these inquiries, including whether you inquire about the recipient's financial status, its tax-exempt status under the Internal Revenue Code, its ability to accomplish the purpose for which the resources are provided, and other relevant information.  **Yes**  **No**
- f** Do you or will you use any additional procedures to ensure that your distributions to foreign organizations are used in furtherance of your exempt purposes? If "Yes," describe these procedures, including site visits by your employees or compliance checks by impartial experts, to verify that grant funds are being used appropriately.  **Yes**  **No**

**Part VIII Your Specific Activities (Continued)**

- |           |  |   |
|-----------|--|---|
| <b>15</b> | Do you have a <b>close connection</b> with any organizations? If "Yes," explain.   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| <b>16</b> | Are you applying for exemption as a <b>cooperative hospital service organization</b> under section 501(e)? If "Yes," explain.  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| <b>17</b> | Are you applying for exemption as a <b>cooperative service organization of operating educational organizations</b> under section 501(f)? If "Yes," explain.  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| <b>18</b> | Are you applying for exemption as a <b>charitable risk pool</b> under section 501(n)? If "Yes," explain.   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| <b>19</b> | Do you or will you operate a <b>school</b> ? If "Yes," complete Schedule B. Answer "Yes," whether you operate a school as your main function or as a secondary activity.   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| <b>20</b> | Is your main function to provide <b>hospital or medical care</b> ? If "Yes," complete Schedule C.  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| <b>21</b> | Do you or will you provide <b>low-income housing</b> or housing for the <b>elderly</b> or <b>handicapped</b> ? If "Yes," complete Schedule F.  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| <b>22</b> | Do you or will you provide scholarships, fellowships, educational loans, or other educational grants to individuals, including grants for travel, study, or other similar purposes? If "Yes," complete Schedule H. | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

**Note:** Private foundations may use Schedule H to request advance approval of individual grant procedures.



**Part IX Financial Data**

For purposes of this schedule, years in existence refer to completed tax years. If in existence 4 or more years, complete the schedule for the most recent 4 tax years. If in existence more than 1 year but less than 4 years, complete the statements for each year in existence and provide projections of your likely revenues and expenses based on a reasonable and good faith estimate of your future finances for a total of 3 years of financial information. If in existence less than 1 year, provide projections of your likely revenues and expenses for the current year and the 2 following years, based on a reasonable and good faith estimate of your future finances for a total of 3 years of financial information. (See instructions.)

**A. Statement of Revenues and Expenses - EXEMPTED PROFESSIONAL GRANTED**

	Type of revenue or expense	Current tax year	3 prior tax years or 2 succeeding tax years			(e) Provide Total for (a) through (d)
		(a) From <u>9/16/16</u> To <u>12/31/16</u>	(b) From <u>1/1/17</u> To <u>12/31/17</u>	(c) From <u>1/1/18</u> To <u>12/31/18</u>	(d) From <u>n/a</u> To <u>n/a</u>	
<b>Revenues</b>	<b>1</b> Gifts, grants, and contributions received (do not include unusual grants)	5,000	10,000	50,000		65,000
	<b>2</b> Membership fees received	1,000	2,000	10,000		13,000
	<b>3</b> Gross investment income	0	0	0		0
	<b>4</b> Net unrelated business income	0	0	0		0
	<b>5</b> Taxes levied for your benefit	0	0	0		0
	<b>6</b> Value of services or facilities furnished by a governmental unit without charge (not including the value of services generally furnished to the public without charge)	0	0	0		0
	<b>7</b> Any revenue not otherwise listed above or in lines 9-12 below (attach an itemized list)	0	0	0		0
	<b>8</b> Total of lines 1 through 7	6,000	12,000	60,000		78,000
	<b>9</b> Gross receipts from admissions, merchandise sold or services performed, or furnishing of facilities in any activity that is related to your exempt purposes (attach itemized list)	2,500	5,000	20,000		27,500
	<b>10</b> Total of lines 8 and 9	8,500	17,000	80,000		105,500
	<b>11</b> Net gain or loss on sale of capital assets (attach schedule and see instructions)	0	0	0		0
	<b>12</b> Unusual grants	0	0	0		0
	<b>13</b> Total Revenue Add lines 10 through 12	8,500	17,000	100,000		125,500
<b>Expenses</b>	<b>14</b> Fundraising expenses	0	0	0		
	<b>15</b> Contributions, gifts, grants, and similar amounts paid out (attach an itemized list)	2,500	5,000	25,000		
	<b>16</b> Disbursements to or for the benefit of members (attach an itemized list)	0	0	0		
	<b>17</b> Compensation of officers, directors, and trustees	0	0	0		
	<b>18</b> Other salaries and wages	600	7,000	50,000		
	<b>19</b> Interest expense	0	0	0		
	<b>20</b> Occupancy (rent, utilities, etc.)	0	0	0		
	<b>21</b> Depreciation and depletion	0	0	0		
	<b>22</b> Professional fees	650	0	0		
	<b>23</b> Any expense not otherwise classified, such as program services (attach itemized list)	6,000	2,500	10,000		
	<b>24</b> Total Expenses Add lines 14 through 23	9,750	14,500	85,000		

**Part IX Financial Data**

For purposes of this schedule, years in existence refer to completed tax years. If in existence 4 or more years, complete the schedule for the most recent 4 tax years. If in existence more than 1 year but less than 4 years, complete the statements for each year in existence and provide projections of your likely revenues and expenses based on a reasonable and good faith estimate of your future finances for a total of 3 years of financial information. If in existence less than 1 year, provide projections of your likely revenues and expenses for the current year and the 2 following years, based on a reasonable and good faith estimate of your future finances for a total of 3 years of financial information. (See instructions.)

**A. Statement of Revenues and Expenses - ~~EXPENSES PROCESSED NOT GAARDED~~**

	Type of revenue or expense	3 prior tax years or 2 succeeding tax years				(e) Provide Total for (a) through (d)
		Current tax year	(a) From... To...	(b) From... To...	(c) From... To...	
		9/16/16 To 12/31/16	1/1/17 To 12/31/17	1/1/18 To 12/31/18	n/a To n/a	
Revenues	1 Gifts, grants, and contributions received (do not include unusual grants)	0	10,000	50,000		60,000
	2 Membership fees received	0	2,000	10,000		12,000
	3 Gross investment income	0	0	0		0
	4 Net unrelated business income	0	0	0		0
	5 Taxes levied for your benefit	0	0	0		0
	6 Value of services or facilities furnished by a governmental unit without charge (not including the value of services generally furnished to the public without charge)	0	0	0		0
	7 Any revenue not otherwise listed above or in lines 9-12 below (attach an itemized list)	0	0	0		0
	8 Total of lines 1 through 7	0	12,000	60,000		72,000
	9 Gross receipts from admissions, merchandise sold or services performed, or furnishing of facilities in any activity that is related to your exempt purposes (attach itemized list)	0	5,000	20,000		25,000
	10 Total of lines 8 and 9	0	17,000	80,000		97,000
	11 Net gain or loss on sale of capital assets (attach schedule and see instructions)	0	0	0		0
	12 Unusual grants	0	0	0		0
	13 Total Revenue Add lines 10 through 12	0	17,000	100,000		117,000
Expenses	14 Fundraising expenses	0	0	0		
	15 Contributions, gifts, grants, and similar amounts paid out (attach an itemized list)	0	5,000	25,000		
	16 Disbursements to or for the benefit of members (attach an itemized list)	0	0	0		
	17 Compensation of officers, directors, and trustees	0	0	0		
	18 Other salaries and wages	0	7,000	50,000		
	19 Interest expense	0	0	0		
	20 Occupancy (rent, utilities, etc.)	0	0	0		
	21 Depreciation and depletion	0	0	0		
	22 Professional fees	650	0	0		
	23 Any expense not otherwise classified, such as program services (attach itemized list)	6,000	2,500	10,000		
	24 Total Expenses Add lines 14 through 23	6,650	14,500	85,000		

**Part IX Financial Data (Continued)**

**B. Balance Sheet (for your most recently completed tax year)**

		Year End: <b>2015</b>
		(Whole dollars)
<b>Assets</b>		
1	Cash . . . . .	0
2	Accounts receivable, net . . . . .	0
3	Inventories . . . . .	0
4	Bonds and notes receivable (attach an itemized list)	0
5	Corporate stocks (attach an itemized list)	0
6	Loans receivable (attach an itemized list)	0
7	Other investments (attach an itemized list)	0
8	Depreciable and depletable assets (attach an itemized list)	0
9	Land	0
10	Other assets (attach an itemized list)	0
11	<b>Total Assets (add lines 1 through 10)</b>	<b>0</b>
<b>Liabilities</b>		
12	Accounts payable	0
13	Contributions, gifts, grants, etc. payable	0
14	Mortgages and notes payable (attach an itemized list)	0
15	Other liabilities (attach an itemized list)	0
16	<b>Total Liabilities (add lines 12 through 15)</b>	<b>0</b>
<b>Fund Balances or Net Assets</b>		
17	<b>Total fund balances or net assets</b>	<b>0</b>
18	<b>Total Liabilities and Fund Balances or Net Assets (add lines 16 and 17)</b>	<b>0</b>
19	Have there been any substantial changes in your assets or liabilities since the end of the period shown above? If "Yes," explain.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

**Part X Public Charity Status**

Part X is designed to classify you as an organization that is either a **private foundation** or a **public charity**. Public charity status is a more favorable tax status than private foundation status. If you are a private foundation, Part X is designed to further determine whether you are a **private operating foundation**. (See instructions.)

- 1a Are you a private foundation? If "Yes," go to line 1b. If "No," go to line 5 and proceed as instructed.  Yes  No  
If you are unsure, see the instructions.
- b As a private foundation, section 508(e) requires special provisions in your organizing document in addition to those that apply to all organizations described in section 501(c)(3). Check the box to confirm that your organizing document meets this requirement, whether by express provision or by reliance on operation of state law. Attach a statement that describes specifically where your organizing document meets this requirement, such as a reference to a particular article or section in your organizing document or by operation of state law. See the instructions, including Appendix B, for information about the special provisions that need to be contained in your organizing document. Go to line 2.
- 2 Are you a private operating foundation? To be a private operating foundation you must engage directly in the active conduct of charitable, religious, educational, and similar activities, as opposed to indirectly carrying out these activities by providing grants to individuals or other organizations. If "Yes," go to line 3. If "No," go to the signature section of Part XI.  Yes  No
- 3 Have you existed for one or more years? If "Yes," attach financial information showing that you are a private operating foundation; go to the signature section of Part XI. If "No," continue to line 4.  Yes  No
- 4 Have you attached either (1) an affidavit or opinion of counsel, (including a written affidavit or opinion from a certified public accountant or accounting firm with expertise regarding this tax law matter), that sets forth facts concerning your operations and support to demonstrate that you are likely to satisfy the requirements to be classified as a private operating foundation; or (2) a statement describing your proposed operations as a private operating foundation?  Yes  No
- 5 If you answered "No" to line 1a, indicate the type of public charity status you are requesting by checking one of the choices below. You may check only one box.
- The organization is not a private foundation because it is:
- a 509(a)(1) and 170(b)(1)(A)(i)—a church or a convention or association of churches. Complete and attach Schedule A.
  - b 509(a)(1) and 170(b)(1)(A)(ii)—a **school**. Complete and attach Schedule B.
  - c 509(a)(1) and 170(b)(1)(A)(iii)—a **hospital**, a cooperative hospital service organization, or a medical research organization operated in conjunction with a hospital. Complete and attach Schedule C.
  - d 509(a)(3)—an organization supporting either one or more organizations described in line 5a through c, f, g, or h or a publicly supported section 501(c)(4), (5), or (6) organization. Complete and attach Schedule D.

**Part X Public Charity Status (Continued)**

- e 509(a)(4)—an organization organized and operated exclusively for testing for public safety.
- f 509(a)(1) and 170(b)(1)(A)(iv)—an organization operated for the benefit of a college or university that is owned or operated by a governmental unit.
- g 509(a)(1) and 170(b)(1)(A)(vi)—an organization that receives a substantial part of its financial support in the form of contributions from publicly supported organizations, from a governmental unit, or from the general public.
- h 509(a)(2)—an organization that normally receives not more than one-third of its financial support from gross **investment income** and receives more than one-third of its financial support from contributions, membership fees, and gross receipts from activities related to its exempt functions (subject to certain exceptions).
- i A publicly supported organization, but unsure if it is described in 5g or 5h. The organization would like the IRS to decide the correct status.

6 If you checked box g, h, or i in question 5 above, you must request either an **advance** or a **definitive ruling** by selecting one of the boxes below. Refer to the instructions to determine which type of ruling you are eligible to receive.

**a Request for Advance Ruling:** By checking this box and signing the consent, pursuant to section 6501(c)(4) of the Code you request an advance ruling and agree to extend the statute of limitations on the assessment of excise tax under section 4940 of the Code. The tax will apply only if you do not establish public support status at the end of the 5-year advance ruling period. The assessment period will be extended for the 5 advance ruling years to 8 years, 4 months, and 15 days beyond the end of the first year. You have the right to refuse or limit the extension to a mutually agreed-upon period of time or issue(s). Publication 1035, *Extending the Tax Assessment Period*, provides a more detailed explanation of your rights and the consequences of the choices you make. You may obtain Publication 1035 free of charge from the IRS web site at [www.irs.gov](http://www.irs.gov) or by calling toll-free 1-800-829-3676. Signing this consent will not deprive you of any appeal rights to which you would otherwise be entitled. If you decide not to extend the statute of limitations, you are not eligible for an advance ruling.

**Consent Fixing Period of Limitations Upon Assessment of Tax Under Section 4940 of the Internal Revenue Code**

For Organization

.....  
(Signature of Officer, Director, Trustee, or other authorized official)

.....  
(Type or print name of signer)

.....  
(Date)

.....  
(Type or print title or authority of signer)

For IRS Use Only

IRS Director, Exempt Organizations

(Date)

**b Request for Definitive Ruling:** Check this box if you have completed one tax year of at least 8 full months and you are requesting a definitive ruling. To confirm your public support status, answer line 6b(i) if you checked box g in line 5 above. Answer line 6b(ii) if you checked box h in line 5 above. If you checked box i in line 5 above, answer both lines 6b(i) and (ii).

(i) (a) Enter 2% of line 8, column (e) on Part IX-A. Statement of Revenues and Expenses. \_\_\_\_\_

(b) Attach a list showing the name and amount contributed by each person, company, or organization whose gifts totaled more than the 2% amount. If the answer is "None," check this box.

(ii) (a) For each year amounts are included on lines 1, 2, and 9 of Part IX-A. Statement of Revenues and Expenses, attach a list showing the name of and amount received from each **disqualified person**. If the answer is "None," check this box.

(b) For each year amounts are included on line 9 of Part IX-A. Statement of Revenues and Expenses, attach a list showing the name of and amount received from each payer, other than a disqualified person, whose payments were more than the larger of (1) 1% of line 10, Part IX-A. Statement of Revenues and Expenses, or (2) \$5,000. If the answer is "None," check this box.

7 Did you receive any unusual grants during any of the years shown on Part IX-A. Statement of Revenues and Expenses? If "Yes," attach a list including the name of the contributor, the date and amount of the grant, a brief description of the grant, and explain why it is unusual.  Yes  No

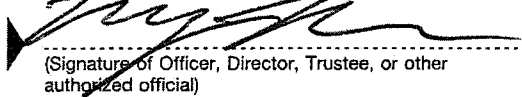
**Part XI User Fee Information**

You must include a user fee payment with this application. It will not be processed without your paid user fee. If your average annual gross receipts have exceeded or will exceed \$10,000 annually over a 4-year period, you must submit payment of \$850. If your gross receipts have not exceeded or will not exceed \$10,000 annually over a 4-year period, the required user fee payment is \$400. See instructions for Part XI, for a definition of **gross receipts** over a 4-year period. Your check or money order must be made payable to the United States Treasury. *User fees are subject to change. Check our website at [www.irs.gov](http://www.irs.gov) and type "User Fee" in the keyword box, or call Customer Account Services at 1-877-829-5500 for current information.*

- 1 Have your annual gross receipts averaged or are they expected to average not more than \$10,000?  Yes  No  
 If "Yes," check the box on line 2 and enclose a user fee payment of \$400 (Subject to change—see above).  
 If "No," check the box on line 3 and enclose a user fee payment of \$850 (Subject to change—see above).
- 2 Check the box if you have enclosed the reduced user fee payment of \$400 (Subject to change).
- 3 Check the box if you have enclosed the user fee payment of \$850 (Subject to change).

I declare under the penalties of perjury that I am authorized to sign this application on behalf of the above organization and that I have examined this application, including the accompanying schedules and attachments, and to the best of my knowledge it is true, correct, and complete.

Please Sign Here

  
(Signature of Officer, Director, Trustee, or other authorized official)

**Monroe Mann**  
(Type or print name of signer)

**Oct 1, 2016**  
(Date)

**President**  
(Type or print title or authority of signer)

**Reminder:** Send the completed Form 1023 Checklist with your filled-in-application.

**Schedule H. Organizations Providing Scholarships, Fellowships, Educational Loans, or Other Educational Grants to Individuals and Private Foundations Requesting Advance Approval of Individual Grant Procedures****Section I** *Names of individual recipients are not required to be listed in Schedule H.*

**Public charities and private foundations complete lines 1a through 7 of this section. See the instructions to Part X if you are not sure whether you are a public charity or a private foundation.**

- 1a** Describe the types of educational grants you provide to individuals, such as scholarships, fellowships, loans, etc.
- b** Describe the purpose and amount of your scholarships, fellowships, and other educational grants and loans that you award.
- c** If you award educational loans, explain the terms of the loans (interest rate, length, forgiveness, etc.).
- d** Specify how your program is publicized.
- e** Provide copies of any solicitation or announcement materials.
- f** Provide a sample copy of the application used.
- 2** Do you maintain case histories showing recipients of your scholarships, fellowships, educational loans, or other educational grants, including names, addresses, purposes of awards, amount of each grant, manner of selection, and relationship (if any) to officers, trustees, or donors of funds to you? If "No," refer to the instructions.  **Yes**  **No**
- 3** Describe the specific criteria you use to determine who is eligible for your program. (For example, eligibility selection criteria could consist of graduating high school students from a particular high school who will attend college, writers of scholarly works about American history, etc.)
- 4a** Describe the specific criteria you use to select recipients. (For example, specific selection criteria could consist of prior academic performance, financial need, etc.)
- b** Describe how you determine the number of grants that will be made annually.
- c** Describe how you determine the amount of each of your grants.
- d** Describe any requirement or condition that you impose on recipients to obtain, maintain, or qualify for renewal of a grant. (For example, specific requirements or conditions could consist of attendance at a four-year college, maintaining a certain grade point average, teaching in public school after graduation from college, etc.)
- 5** Describe your procedures for supervising the scholarships, fellowships, educational loans, or other educational grants. Describe whether you obtain reports and grade transcripts from recipients, or you pay grants directly to a school under an arrangement whereby the school will apply the grant funds only for enrolled students who are in good standing. Also, describe your procedures for taking action if the terms of the award are violated.
- 6** Who is on the selection committee for the awards made under your program, including names of current committee members, criteria for committee membership, and the method of replacing committee members?
- 7** Are relatives of members of the selection committee, or of your officers, directors, or **substantial contributors** eligible for awards made under your program? If "Yes," what measures are taken to ensure unbiased selections?  **Yes**  **No**

**Note.** If you are a private foundation, you are not permitted to provide educational grants to **disqualified persons**. Disqualified persons include your substantial contributors and foundation managers and certain family members of disqualified persons.

**Section II** **Private foundations complete lines 1a through 4f of this section. Public charities do not complete this section.**

- 1a** If we determine that you are a private foundation, do you want this application to be considered as a request for advance approval of grant making procedures?  **Yes**  **No**  **N/A**
- b** For which section(s) do you wish to be considered?
- 4945(g)(1)—Scholarship or fellowship grant to an individual for study at an educational institution
  - 4945(g)(3)—Other grants, including loans, to an individual for travel, study, or other similar purposes, to enhance a particular skill of the grantee or to produce a specific product
- 2** Do you represent that you will (1) arrange to receive and review grantee reports annually and upon completion of the purpose for which the grant was awarded, (2) investigate diversions of funds from their intended purposes, and (3) take all reasonable and appropriate steps to recover diverted funds, ensure other grant funds held by a grantee are used for their intended purposes, and withhold further payments to grantees until you obtain grantees' assurances that future diversions will not occur and that grantees will take extraordinary precautions to prevent future diversions from occurring?  **Yes**  **No**
- 3** Do you represent that you will maintain all records relating to individual grants, including information obtained to evaluate grantees, identify whether a grantee is a disqualified person, establish the amount and purpose of each grant, and establish that you undertook the supervision and investigation of grants described in line 2?  **Yes**  **No**

**Schedule H. Organizations Providing Scholarships, Fellowships, Educational Loans, or Other Educational Grants to Individuals and Private Foundations Requesting Advance Approval of Individual Grant Procedures (Continued)**

**Section II Private foundations complete lines 1a through 4f of this section. Public charities do not complete this section. (Continued)**

- 4a** Do you or will you award scholarships, fellowships, and educational loans to attend an educational institution based on the status of an individual being an *employee of a particular employer*? If "Yes," complete lines 4b through 4f.  Yes  No
- b** Will you comply with the seven conditions and either the percentage tests or facts and circumstances test for scholarships, fellowships, and educational loans to attend an educational institution as set forth in Revenue Procedures 76-47, 1976-2 C.B. 670, and 80-39, 1980-2 C.B. 772, which apply to inducement, selection committee, eligibility requirements, objective basis of selection, employment, course of study, and other objectives? (See lines 4c, 4d, and 4e, regarding the percentage tests.)  Yes  No
- c** Do you or will you provide scholarships, fellowships, or educational loans to attend an educational institution to employees of a particular employer?  Yes  No  N/A  
 If "Yes," will you award grants to 10% or fewer of the eligible applicants who were actually considered by the selection committee in selecting recipients of grants in that year as provided by Revenue Procedures 76-47 and 80-39?  Yes  No
- d** Do you provide scholarships, fellowships, or educational loans to attend an educational institution to children of employees of a particular employer?  Yes  No  N/A  
 If "Yes," will you award grants to 25% or fewer of the eligible applicants who were actually considered by the selection committee in selecting recipients of grants in that year as provided by Revenue Procedures 76-47 and 80-39? If "No," go to line 4e.  Yes  No
- e** If you provide scholarships, fellowships, or educational loans to attend an educational institution to children of employees of a particular employer, will you award grants to 10% or fewer of the number of employees' children who can be shown to be eligible for grants (whether or not they submitted an application) in that year, as provided by Revenue Procedures 76-47 and 80-39?  Yes  No  N/A  
 If "Yes," describe how you will determine who can be shown to be eligible for grants without submitting an application, such as by obtaining written statements or other information about the expectations of employees' children to attend an educational institution. If "No," go to line 4f.
- Note.** Statistical or sampling techniques are not acceptable. See Revenue Procedure 85-51, 1985-2 C.B. 717, for additional information.
- f** If you provide scholarships, fellowships, or educational loans to attend an educational institution to *children of employees of a particular employer* without regard to either the 25% limitation described in line 4d, or the 10% limitation described in line 4e, will you award grants based on facts and circumstances that demonstrate that the grants will not be considered compensation for past, present, or future services or otherwise provide a significant benefit to the particular employer? If "Yes," describe the facts and circumstances that you believe will demonstrate that the grants are neither compensatory nor a significant benefit to the particular employer. In your explanation, describe why you cannot satisfy either the 25% test described in line 4d or the 10% test described in line 4e.  Yes  No



# State of Delaware

SECRETARY OF STATE  
DIVISION OF CORPORATIONS  
P.O. BOX 898  
DOVER, DELAWARE 19903

8019663  
BREAK DIVING, INC.  
12 PURITAN DRIVE  
PORT CHESTER, NY 10573

09-16-2016

ATTN: MONROE MANN ESQ

DESCRIPTION	AMOUNT
6153205 - BREAK DIVING, INC. 0102 Non-Stock Corporation	
<i>Incorporation Fee</i>	\$15.00
<i>Receiving/Indexing</i>	\$25.00
<i>Surcharge Assessment-Kent County</i>	\$6.00
<i>Page Assessment-Kent County</i>	\$27.00
<i>Data Entry Fee</i>	\$5.00
<i>Court Municipality Fee, Dover</i>	\$20.00
<i>Expedite Fee, Same Day</i>	\$100.00
<b>TOTAL CHARGES</b>	\$198.00
<b>TOTAL PAYMENTS</b>	\$198.00
<b>BALANCE</b>	\$0.00



State of Delaware  
Secretary of State

Division of Corporations

Delivered 10:58 AM 09/16/2016

FILED 10:58 AM 09/16/2016

SR: 20165815306 - File Number 6153205

**STATE of DELAWARE**  
**CERTIFICATE OF INCORPORATION**  
**A NON-STOCK CORPORATION**

**First:** The name of the Corporation is Break Diving, Inc.

**Second:** Its Registered Office in the State of Delaware is to be located at 8 The Green, STE R, in the City of Dover, County of Kent, Zip Code 19901. The Corporation's registered agent is Resident Agents, Inc.

**Third:** The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware (GCLD); provided that this Corporation shall be a nonprofit corporation, and shall only carry on charitable, religious, educational, and scientific activities that are consistent with and in furtherance of its Internal Revenue Code 501 (c) (3) tax-exempt purposes, such purposes which are described in other provisions of this Certificate. These activities may include the making of distributions to organizations that qualify as exempt organizations under section 501 (c) (3) of the Internal Revenue Code, or the corresponding section of any future federal tax code.

**Fourth:** The Corporation shall not have any capital stock.

**Fifth:** The conditions of membership are contained in the Corporation bylaws.

**Sixth:** The name and mailing address of the incorporator are as follows:

Monroe Mann, Esq.  
12 Puritan Drive  
Port Chester, NY 10573

**Seventh:** Break Diving, Inc. is organized for charitable purposes under section 501 (c) (3) of the Internal Revenue Code to lead and inspire people worldwide at any stage of life to dream bigger, act more boldly, and discover, embrace, and successfully pursue their life purpose.... and then share that enthusiasm to excel with others.

Break Diving—through the creation of a worldwide community of winners that uses the latest in modern psychology and other techniques to effectuate positive and lasting change in people's lives—helps individuals find career and life success against all odds through the development of greater ambition; positive mental attitude and greater physical health; increased opportunities; enhanced business skills; stronger friendships, families, and communities; deeper world and cultural understanding; and less sadness, loneliness, depression, and self-doubt.

We accomplish our mission through mentoring, coaching, adult education, direct support and encouragement of others, cultural exchange and development, scientific research, and by changing the world for the better through individual and combined effort.

Specifically, Break Diving, Inc. creates and provides programs to enhance lives worldwide in the areas of access to education, animal protection, the arts, career development, child and animal adoption encouragement programs, Christianity, disaster relief, educational travel, entertainment,

entrepreneurship, environmental protection, health and fitness, individual psychological development, language acquisition and mastery, legal services, medical services, positive thinking, safety, sports, support of military, support of police, supporter of veterans, time management, and wish fulfilment.

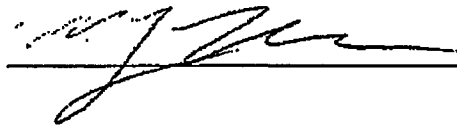
**Eighth:** No part of the net earnings of this corporation shall inure to the benefit of, or be distributable to, its members, directors, officers, or other private persons, except that this corporation shall be authorized and empowered to pay reasonable compensation for goods or services rendered and to make payments and distributions in furtherance of the purposes set forth in this certificate.

**Ninth:** No substantial part of the activities of this corporation shall consist of carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided by Section 501 (h) of the Internal Revenue Code), and this corporation shall not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of, or in opposition to, any candidate for public office.

**Tenth:** Upon the dissolution or winding up of the corporation, its assets remaining after payment—or provision for payment—of all debts and liabilities of this corporation shall be distributed for one or more similar exempt purposes within the meaning of Section 501 (c) (3) of the Internal Revenue Code, or the corresponding section of any future federal tax code.

**I, The Undersigned,** for the purpose of forming a corporation under the laws of the State of Delaware, do make, file and record this Certificate, and do certify that the facts herein stated are true, and I have accordingly set my hand this 16 day of September, A.D. 2016.

BY:



NAME:

Monroe Mann, Esq.

# BREAK DIVING, INC.

## NONPROFIT CORPORATE BYLAWS

(Delaware)

### ARTICLE I

#### Name & Office

##### 1.01 Name

The legal name of this corporation shall be Break Diving, Inc. The business of the corporation will be conducted as Break Diving, Inc.

##### 1.02 Legal & Principal Office

The legal address of the corporation shall be as stated on the Certificate of Organization filed with the Delaware Secretary of State.

The principal office of the corporation shall be located in Westchester County, in the state of New York, at the address of 12 Puritan Drive, Port Chester, NY 10573. The corporation shall be registered as a foreign corporation within the state of New York (and any other states in which it operates for which a foreign corporation registration is necessary).

##### 1.03 Change of Address

The designation of the county or state of the corporation's legal and/or principal office may be changed by amendment of these bylaws. The board of directors may, however, change the principal office from one location to another by noting the changed address and effective date below, and such changes of address shall not be deemed, nor require, an amendment of these bylaws:

New Principal Address: \_\_\_\_\_

Date: \_\_\_\_\_

New Principal Address: \_\_\_\_\_

Date:

New Principal Address: \_\_\_\_\_

Date:

New Principal Address: \_\_\_\_\_

Date:

1.04 Other Offices

This corporation may also have offices at such other places, within or without its state of incorporation, in the USA or outside its borders, where it is qualified to do business, as its business and activities may require, and as the board of directors may, from time to time, designate.

**ARTICLE II**

**Purposes, Objectives, & Powers**

2.01 Purpose

Break Diving, Inc. – hereafter referred to as “The Corporation” or “the corporation” is a non-profit corporation and shall be operated exclusively for charitable, religious, educational, and scientific purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations, under Section 501 (c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code.

The corporation is organized for charitable purposes under section 501 (c) (3) of the Internal Revenue Code to lead and inspire people worldwide at any stage of life to dream bigger, act more boldly, and discover, embrace, and successfully pursue their life purpose.... and then share that enthusiasm to excel with others.

Break Diving—through the creation of a worldwide community of winners that uses the latest in modern psychology and other techniques to effectuate positive and lasting change in people’s lives—helps individuals find career and life success against all odds through the development of greater ambition; positive mental attitude and greater physical health; increased opportunities; enhanced business skills; stronger friendships, families, and communities; deeper world and cultural understanding; and less sadness, loneliness, depression, and self-doubt.

We accomplish our mission through mentoring, coaching, adult education, direct support and encouragement of others, cultural exchange and development, scientific research, and by changing the world for the better through individual and combined effort.

Specifically, Break Diving, Inc. creates and provides programs to enhance lives worldwide in the areas of access to education, animal protection, the arts, career development, child and animal adoption encouragement programs, Christianity, disaster relief, educational travel, entertainment, entrepreneurship, environmental protection, health and fitness, individual psychological development, language acquisition and mastery, legal services, medical services, positive thinking, safety, sports, support of military, support of police, supporter of veterans, time management, and wish fulfilment. To maximize our impact on current efforts, we may seek to collaborate with other non-profit organizations which fall under the 501(c)(3) section of the internal revenue code and are operated exclusively for charitable, religious, educational and scientific purposes.

At times, per the discretion of the Board of Directors, we may provide internships or volunteer opportunities which shall provide opportunities for involvement in said activities and programs in order to have a greater impact for change.

## 2.02 Specific Objectives

The specific program objectives of the corporation include:

- (a) access to education.
  - a. To help individuals discover and act on educational opportunities that are available to them.
  - b. To provide scholarships to those who demonstrate need and potential.
  - c. To create and implement at or below-market cost educational programs to assist individuals in finding greater success in life.
- (b) animal protection
  - a. To encourage the humane treatment of animals.
  - b. To work with local animal shelters to increase their outreach.
  - c. To assist law enforcement and local officials in finding and reporting acts of suspected animal cruelty.
- (c) the arts
  - a. To assist and encourage those pursuing the arts as a career or hobby.
  - b. To produce culturally enriching artistic projects for the general public.
  - c. To provide scholarships to encourage success in the arts.
- (d) career development
  - a. To help individuals develop a career strategy.
  - b. To help individuals find (and succeed in) a career they love.
  - c. To inspire individuals to pursue their dream career.
  - d. To promote person to person business networking.
  - e. To provide career development scholarships.

- (e) child and animal adoption encouragement programs
  - a. To encourage individuals to adopt children of all ages, all ethnicities, and all backgrounds
  - b. To encourage individuals to adopt animals of all ages, all breeds, and all backgrounds.
  - c. To assist local orphanages and animal shelters in finding homes for their cherished residents.
  - d. To increase awareness and availability of adoption programs.
  - e. To promote the awareness of the many benefits of adoption.
  - f. To provide and/or make individuals aware of child and animal adoption scholarships that serve to make adoption easier.
- (f) Christianity
  - a. To encourage individuals to compare all religions and independently come to a conclusion about the veracity of each.
  - b. To promote the spread of Christianity.
  - c. To educate the public about the tenets of Christianity and why this faith can be used for good to create a better life and world for all mankind.
- (g) disaster relief
  - a. To raise funds for worldwide disaster reprieve.
  - b. To bring swift and necessary monetary and volunteer relief to disaster zones.
  - c. To responsibly ensure that funds designated for our disaster fund are (like the funds for all other programs) are carefully monitored and distributed.
- (h) educational travel
  - a. To help individuals see and learn about the world, its many cultures, and many languages at reduced or no cost.
  - b. To provide scholarships for educational travel.
- (i) entertainment
  - a. To produce and create entertaining artistic projects for the general public.
  - b. To encourage the patronage of the arts and entertainment.
- (j) entrepreneurship
  - a. To encourage individuals to start their own businesses.
  - b. To provide at-market and low-cost support to individuals who are starting their own businesses.
- (k) environmental protection
  - a. To encourage individuals to keep our bodies of water, air quality, and soil quality healthy.
  - b. To encourage individuals to support environmental programs that do not hurt the economy.
  - c. To create and implement local programs that help keep our communities clean.
  - d. To raise money to provide to other 501(c)(3) environmental protection groups.

- (l) health and fitness
  - a. To encourage healthy eating and exercise.
  - b. To help people quit smoking.
  - c. To help people lose weight.
  - d. To help people stop using drugs.
- (m) individual psychological development
  - a. To help individuals avoid depression, sadness, loneliness, and self-doubt.
  - b. To encourage individuals to believe in themselves and reach for their dreams.
  - c. To refer individuals to expert help (and help subsidize the cost, if necessary) for serious cases.
  - d. To help combat suicide through suicide prevention programs.
- (n) language acquisition and mastery
  - a. To encourage individuals to learn about other countries and cultures.
  - b. To help promote language learning.
  - c. To help individuals become fluent in their language(s) of choice at low or no cost.
- (o) legal services
  - a. To help individuals avoid legal troubles (both criminal and civil) through training and one-on-one assistance.
  - b. To help those in need pay for legal services, "need" as determined by the Board of Directors.
- (p) medical services
  - a. To help those in need pay for medical services, "need" as determined by the Board of Directors.
  - b. To conduct research on behalf of the general public.
  - c. To offer low-cost caregiver support.
- (q) positive thinking
  - a. To teach positive psychology, cognitive behavioral therapy, and other proven techniques for increasing one's positive thinking.
  - b. To help those afflicted by learned helplessness, battered woman's syndrome, and others.
- (r) safety
  - a. To help local and federal law enforcement through the creation of safe community programs.
  - b. To contribute in any ways possible to national security of the United States and the general safety of the world.
  - c. To help prevent injuries by reminding people of the daily dangers they face, and to promote the prevention of these dangers, e.g. drunk driving, texting while driving, unsafe or unlicensed gun use, unsafe swimming, failure to change internet passwords, etc.

- (s) sports
  - a. To help individuals find and participate in a sport they enjoy.
  - b. To provide scholarships for equipment and training for those in need, "need" to be determined by the Board of Directors.
  - c. To help amateur athletes progress towards a professional sports career and/or the Olympics.
- (t) support of military
  - a. To provide support to active members of the U.S Military who need help or assistance.
  - b. To encourage enlistment into the armed forces as a viable and honorable career.
  - c. To promote respect and honor for our military service members.
- (u) support of police
  - a. To provide support to active members of a U.S. law enforcement organization who need help or assistance.
  - b. To encourage enlistment into a law enforcement organization as a viable and honorable career.
  - c. To promote respect and honor for our police service members.
- (v) supporter of veterans
  - a. To provide support to veterans, their families, and their care-givers.
  - b. To offer vacations for veteran caregivers and their families, fully paid for.
  - c. To let veterans know of all of the various veterans' programs offered throughout the country.
- (w) time management
  - a. To help individuals become better at time management through at-market rate and low-cost programs.
- (x) wish fulfilment
  - a. To help individuals without resources or wherewithal to see their life's dream(s) come true.
  - b. To help provide opportunities to people who could never or could not find these opportunities through their own effort.
- (y) membership/supporter program
  - a. To help create a worldwide online community (with in person meetings) of Break Divers
- (z) other
  - a. To engage, both directly and indirectly, in other activities related to and in furtherance of our tax-exempt purpose as stated in section 2.01, above.
  - b. To engage, both directly and indirectly, in activities necessary or incidental to our main purpose and pursuits.



### 2.03 Powers

The corporation shall have the power, directly or indirectly, alone or in conjunction or cooperation with others, to do any and all lawful acts which may be necessary or convenient to affect the charitable purposes, for which the corporation is organized, and to aid or assist other organizations or persons whose activities further accomplish, foster, or attain such purposes. The powers of the corporation may include, but not be limited to, the acceptance of contributions from the public and private sectors, whether financial or in-kind contributions.

### 2.04 Nonprofit Status and Exempt Activities Limitation

(a) **Nonprofit Legal Status.** Break Diving, Inc. is a Delaware non-profit public benefit corporation, recognized as tax exempt under Section 501(c)(3) of the United States Internal Revenue Code

(b) **Exempt Activities Limitation.** Notwithstanding any other provision of these Bylaws, no Director, officer, employee, member, or representative of this corporation shall take any action or carry on any activity by or on behalf of the corporation not permitted to be taken or carried on by an organization exempt under Section 501(c)(3) of the Internal Revenue Code as it now exists or may be amended, or by any organization contributions to which are deductible under Section 170(c)(2) of such Code and Regulations as it now exists or may be amended. No part of the net earnings of the corporation shall inure to the benefit or be distributable to any Director, officer, member, or other private person, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in the Articles of Incorporation and these Bylaws.

(c) **Distribution Upon Dissolution.** Upon termination or dissolution of Break Diving, Inc., any assets lawfully available for distribution shall be distributed to one (1) or more qualifying organizations described in Section 501(c)(3) of the 1986 Internal Revenue Code (or described in any corresponding provision of any successor statute) which organization or organizations have a charitable purpose which, at least generally, includes a purpose similar to the terminating or dissolving corporation.

The organization to receive the assets of Break Diving, Inc. hereunder shall be selected in the discretion of a majority of the managing body of the corporation, and if its members cannot so agree, then the recipient organization shall be selected pursuant to a Verified Petition in equity, or such other court of appropriate jurisdiction, filed in a court of proper jurisdiction against Break Diving, Inc., by one (1) or more of its managing body, which Verified Petition shall contain such statements as reasonably indicate the applicability of this section. The court upon a finding that this section is applicable shall select the qualifying organization or organizations to receive the assets to be distributed, giving preference if practicable to organizations located within the State of Delaware.

In the event that the court shall find that this section is applicable but that there is no qualifying organization known to it which has a charitable purpose, which, at least generally, includes a purpose similar to Break Diving, Inc., then the court shall direct the distribution of its assets lawfully available for distribution to the Treasurer of the State of Delaware to be added to the general fund.

## **ARTICLE III**

### **Membership**

#### 3.01 No Membership Classes

The corporation shall have no members who have any right to vote or title or interest in or to the corporation, its properties, and franchises.

#### 3.02 Non-Voting Affiliates

The Board of Directors may approve classes of non-voting affiliates with rights, privileges, and obligations established by the Board. Affiliates may be individuals, businesses, and other organizations that seek to support the mission of the corporation. The Board, a designated committee of the Board, or any duly-elected officer in accordance with Board policy, shall have authority to admit any individual or organization as an affiliate, to recognize representatives of affiliates, and to make determinations as to affiliates' rights, privileges, and obligations. At no time shall affiliate information be shared with or sold to other organizations or groups without the affiliate's consent. At the discretion of the Board of Directors, affiliates may be given endorsement, recognition and media coverage at fundraising activities, clinics, other events or at the corporation website. Affiliates have no voting rights, and are not formal and legal members of the corporation.

#### 3.03 Dues

Any dues for affiliates shall be determined by the Board of Directors.

## **ARTICLE IV**

### **Board of Directors**

#### 4.01 Number of Directors

Break Diving, Inc. shall have a Board of Directors consisting of at least 3 and no more than 15 Directors. Within these limits, the Board may increase or decrease the number of Directors serving on the Board, including for the purpose of staggering the terms of Directors.

4.02 Powers

All corporate powers shall be exercised by or under the authority of the Board and the affairs of Break Diving, Inc. shall be managed under the direction of the Board, except as otherwise provided by law.

4.03 Duties

It shall be the duty of the directors to:

- (a) Perform any and all duties imposed on them collectively or individually by law, by the articles of incorporation, or by these bylaws;
- (b) Except as otherwise provided in these bylaws or any specific employment agreement, appoint and remove, employ and discharge, and prescribe the duties and fix the compensation, if any, of all officers, agents, and employees of the corporation;
- (c) Supervise all officers, agents, and employees of the corporation to assure that their duties are performed properly;
- (d) Meet as such times and places as required and permitted by these bylaws;
- (e) Register their addresses, email addresses, phone numbers, and other contact information with the secretary of the corporation, recognizing that notices of meetings mailed or telegraphed to them at such addresses shall be valid notices thereof in accordance with the prescriptions of these bylaws.

4.04 Terms

Directors terms of office shall be as follows:

- (a) All Directors shall be elected to serve a two-year term; however, the term may be extended until a successor has been elected.
- (b) Director terms shall be staggered so that approximately half the number of Directors will end their terms in any given year.
- (c) Directors may serve terms in succession.
- (d) The term of office shall be considered to begin January 1 and end December 31 of the second year in office, unless the term is extended until such time as a successor has been elected.

#### 4.05 Qualifications and Election of Directors

In order to be eligible to serve as a Director on the Board of Directors, the individual must be 18 years of age. Directors may be elected at any Board meeting by the majority vote of the existing Board of Directors. The election of Directors to replace those who have fulfilled their term of office shall take place in January of each year.

#### 4.06 Vacancies

Vacancies on the board of directors shall exist (1) on the death, resignation, or removal of any director, and (2) whenever the number of authorized directors is increased.

Any director may resign effective upon giving written notice to the president, the secretary, or the board of directors, unless the notice specifies a later time for the effectiveness of such resignation. No director may resign if the corporation would then be left without a duly elected director in charge of its affairs, except upon notice to the Office of the Attorney General or other appropriate agency.

The Board of Directors may fill vacancies due to the expiration of a Director's term of office, resignation, death, or removal, or may appoint new Directors to fill a previously unfilled Board position, subject to the maximum number of Directors under these Bylaws.

Unexpected vacancies in the Board of Directors due to resignation, death, or removal shall be filled by the Board for the balance of the term of the Director being replaced.

Unless otherwise prohibited by the Certificate of Incorporation, by these bylaws, or by provisions of law, vacancies on the board may be filled by approval of the board of directors. If the number of directors then in office is less than a quorum, a vacancy on the board may be filled by approval of a majority of the directors then in office or by a sole remaining director. A person elected to fill a vacancy on the board shall hold office until the next election of the board of directors, or until his or her death, resignation, or removal from office.

#### 4.07 Removal of Directors

A Director may be removed by a majority vote of the Board of Directors then in office, if:

- (a) the Director is absent and unexcused from two or more meetings of the Board of Directors in a twelve-month period. The Board President is empowered to excuse Directors from attendance for a reason deemed adequate by the Board President. The President shall not have the power to excuse him/herself from the Board meeting attendance, and in that case, the Board Vice President or Secretary shall excuse the President. Or:

- (b) for cause or no cause, if before any meeting of the Board at which a vote on removal will be made, the Director in question is given electronic or written notification of the Board's intention to discuss her/his case and is given the opportunity to be heard at a meeting of the Board.

#### 4.08 Board of Directors Meetings

- (a) **Regular Meetings.** The Board of Directors shall have a minimum of four (4) regular meetings each calendar year at times and places fixed by the Board. Board meetings shall be held upon four (4) days notice by first-class mail, electronic mail, or facsimile transmission or forty-eight (48) hours notice delivered personally or by telephone. If sent by mail, facsimile transmission, or electronic mail, the notice shall be deemed to be delivered upon its deposit in the mail or transmission system. Notice of meetings shall specify the place, day, and hour of meeting. The general purpose of the meeting should be specified.
- (b) **Special Meetings.** Special meetings of the Board may be called by the President, Vice President, Secretary, Treasurer, or any two (2) other Directors of the Board of Directors. A special meeting must be preceded by at least 2-days' notice to each Director of the date, time, and place, and the general purpose, of the meeting.
- (c) **Waiver of Notice.** Any Director may waive notice of any meeting, in accordance with Delaware statutes.

#### 4.09 Manner of Acting

- (a) **Quorum.** A majority of the Directors in office immediately before a meeting shall constitute a quorum for the transaction of business at that meeting of the Board. No business shall be considered by the Board at any meeting at which a quorum is not present—the only motion which the president shall entertain at such meeting is a motion to adjourn. Should a majority be present at the beginning of any meeting, but be lost during the meeting (because some Directors end up leaving), the quorum requirement shall still be met for any business or vote at that meeting, provided that for any vote, the minimum number of requisite votes is obtained.
- (b) **Majority Vote.** Except as otherwise required by law or by the Articles of Incorporation, the act of the majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board.
- (c) **Hung Board Decisions.** On the occasion that Directors of the Board are unable to make a decision based on a tied number of votes, the President or Treasurer in the order of

presence shall have the power to swing the vote based on his/her discretion.

- (d) **Participation.** Except as required otherwise by law, the Articles of Incorporation, or these Bylaws, Directors may participate in a regular or special meeting either in person at a physical location, or through the use of any means of communication by which all Directors participating may simultaneously hear each other during the meeting, including in person, internet video meeting or by telephonic conference call.
- (e) **In Person Meetings.** From time to time, the Board may be required to meet in person at a particular location, and in such cases, the notice period shall be reasonably extended in order for all parties to make arrangements to attend. Notice for these meetings must include a valid and justified explanation for the "in person" and "particular location" requirement, and as such, unlike other notice provisions elsewhere in these Articles, notice for any In Person meetings requires a clearly stated purpose.
- (f) **Conduct of Meetings.** Meetings of the board of directors shall be presided over by the chairperson of the board, or if not such person has been so designated, or in his or her absence, the president of the corporation, or in his or her absence, by the vice president of the corporation, or in the absence of each of these persons, by a chairperson chosen by a majority of the directors present in the meeting. The secretary of the corporation shall act as secretary of all meetings of the board, provide that, in his or her absence, the presiding officer shall appoint another person to act as secretary of the meeting. Meetings shall be governed by whichever "rules of order" are designated by the board of directors.

#### 4.10 Compensation for Board Service

Directors shall receive no compensation for carrying out their duties as Directors. The Board may, however, adopt policies providing for reasonable reimbursement of Directors for expenses incurred in conjunction with carrying out Board responsibilities, for attending regular and special meetings of the board, as well as reasonable advancement or reimbursement of expenses incurred in the performance of their duties, such as travel expenses to attend Board meetings. Any payments to directors shall be approved in advance in accordance with this corporation's conflict of interest policy, as set forth in the corporation's Conflict of Interest Policy.

#### 4.11 Compensation for Professional Services by Directors

Directors are not restricted from being remunerated for professional services or goods provided to the corporation, but only in accordance with:

- (a) the IRS publication entitled, "OVERVIEW OF INUREMENT/PRIVATE BENEFIT ISSUES IN IRC 501(c)(3)", available at <https://www.irs.gov/pub/irs-tege/eotopic90.pdf>;

- (b) IRS Publication 4221 PC (page 4);
- (c) IRC Section 4958; and
- (d) The corporation's Conflict of Interest Policy.

Such remuneration shall be reasonable and fair to the corporation, and whenever possible, sold to the corporation at a discount off of market rates. All such transactions must first be reviewed and approved in accordance with the company Conflict of Interest policy and any applicable state law of the U.S. territory.

#### 4.12 Nonliability of Directors

The directors shall not be personally liable for the debts, liabilities, or other obligations of the corporation.

#### 4.13 Indemnification by Corporate Directors and Officers

The directors and officers of the corporation shall be indemnified by the corporation to the fullest extent permissible under the laws of this state and those of the federal government.

#### 4.14 Insurance for Corporate Agents

Except as may be otherwise provided under provisions of law, the board of directors may adopt a resolution authorizing the purchase and maintenance of insurance on behalf of any agent of the corporation (including a director, officer, employee, or other agent of the corporation) against liabilities asserted against or incurred by the agent in such capacity or arising out of the agent's status as such, whether or not the corporation would have the power to indemnify the agent against such liability under the certificate of incorporation, these bylaws, or provisions of law.

### **ARTICLE V**

#### **Committees**

##### 5.01 Executive Committee

The board of directors may, by a majority vote of its members, designate an Executive Committee consisting of at least 3 board members and may delegate to such committee the powers and authority of the board in the management of the business and affairs of the corporation, to the extent permitted, and, except as may otherwise be provided, by provisions of law.

By a majority vote of its members, the board may at any time revoke or modify any or all of the executive committee authority so delegated, increase or decrease but not below two (2) the number of the members of the executive committee, and fill vacancies on the executive committee from the members of the board. The executive committee shall keep regular minutes of its proceedings, cause them to be filed with the corporate records, and report the same to the board from time to time as the board may require.

### 5.02 Other Committees

The Board of Directors may, by the resolution adopted by a majority of the Directors then in office, designate one or more other committees, each consisting of two or more Directors, to serve at the pleasure of the Board. Any committee, to the extent provided in the resolution of the Board, shall have all the authority of the Board, except that no committee, regardless of Board resolution, may:

- (a) take any final action on matters which also requires Board members' approval or approval of a majority of all members;
- (b) fill vacancies on the Board of Directors of in any committee which has the authority of the Board;
- (c) amend or repeal Bylaws or adopt new Bylaws;
- (d) amend or repeal any resolution of the Board of Directors which by its express terms is not so amendable or repealable;
- (e) appoint any other committees of the Board of Directors or the members of these committees;
- (f) expend corporate funds to support a nominee for Director; or
- (g) approve any transaction;
  - (i) to which the corporation is a party and one or more Directors have a material financial interest; or
  - (ii) between the corporation and one or more of its Directors or between the corporation or any person in which one or more of its Directors have a material financial interest.

### 5.03 Non-Board Advisory Committees

The corporation shall have such other committees as may from time to time be designated by resolution of the board of directors. These committees may consist of persons who are not also members of the board and shall act solely in an advisory capacity to the board.

### 5.04 Meetings and Action of Committees

Meetings and action of the committees shall be governed by, noticed, held and taken in accordance with the provisions of these bylaws concerning meetings of the Directors, with such changes in the context of such bylaw provisions as are necessary to substitute the committee and



its members for the Board of Directors and its members, except that the time for regular meetings of committees may be determined either by resolution of the Board of Directors or by resolution of the committee. Special meetings of the committee may also be called by resolution of the Board of Directors. Notice of special meetings of committees shall also be given to any and all alternate members, who shall have the right to attend all meetings of the committee. Minutes shall be kept of each meeting of any committee and shall be filed with the corporate records. The Board of Directors may also adopt rules for the governing of the committee not inconsistent with the provision of these Bylaws.

#### 5.05 Informal Action by the Board of Directors

Any action required or permitted to be taken by the Board of Directors at a meeting may be taken without a meeting if consent in valid writing, setting forth the action so taken, shall be agreed by the consensus of a quorum. For purposes of this section, an e-mail or message transmission from an e-mail address on record or via an online collaboration software program utilized by the board and that particular board member constitutes a valid writing. The intent of this provision is to allow the Board of Directors to use modern internet technology to approve actions, as long as a quorum of Board members gives consent. Note: any hiring of the Executive Director or voting regarding the status of a member of the board of directors must occur either via a general or special meeting, or through a unanimous informal written consent (excepting the participation of any interested parties).

### **ARTICLE VI**

#### **Officers**

#### 6.01 Designation of Board Officers

The officers of the corporation shall be a Board President, Vice President, Secretary, and Treasurer, all of whom shall be chosen by, and serve at the pleasure of, the Board of Directors. Each Board officer shall have the authority and shall perform the duties set forth in these Bylaws or by resolution of the Board or by direction of an officer authorized by the Board to prescribe the duties and authority of other officers. The Board may also appoint additional Vice Presidents and such other officers as it deems expedient for the proper conduct of the business of the corporation, each of whom shall have such authority and shall perform such duties as the Board of Directors may determine. One person may hold two or more Board offices, but no Board officer may act in more than one capacity where action of two or more officers is required.

#### 6.02 Term of Office

Each officer shall be elected by the Board of Directors, at any time, and each officer shall serve a two-year term of office and may serve consecutive terms. Unless unanimously elected by the Board at the end of his/her term or to fill a vacancy in an officer position, each Board officer's term of office shall begin upon the adjournment of the Board meeting at which elected and shall

end upon the adjournment of the Board meeting during which a successor is elected, upon resignation, upon death, or if otherwise disqualified to serve.

#### 6.03 Removal and Resignation

The Board of Directors may remove an officer at any time, with or without cause. Any officer may resign at any time by giving written notice to the corporation without prejudice to the rights, if any, of the corporation under any contract to which the officer is a party. Any resignation shall take effect at the date of the receipt of the notice or at any later time specified in the notice, unless otherwise specified in the notice. The acceptance of the resignation shall not be necessary to make it effective. The above provisions of this section shall be superseded by any conflicting terms of a contract which has been approved or ratified by the board of directors relating to the employment of any officer of the corporation.

#### 6.04 Vacancies

Any vacancy caused by the death, resignation, removal, disqualification, or otherwise, of any officer shall be filled by the board of directors. In the event of a vacancy in any office other than that of president, such vacancy may be filled temporarily by appointment by the president until such time as the board shall fill the vacancy. Vacancies occurring in offices of officers appointed at the discretion of the board may or may not be filled as the board shall determine.

#### 6.05 Duties of Board President

The Board President shall be the Chief Volunteer Officer of the corporation. The Board President shall, subject to the control of the Board of Directors, supervise and control the affairs of the corporation and the activities of the officers. The Board President shall lead the Board of Directors in performing its duties and responsibilities, including, if present, presiding at all meetings of the Board of Directors, and shall perform all other duties incident to the office or properly required by the Board of Directors. Except as otherwise expressly provided by law, by the certificate of incorporation, or by these bylaws, he or she shall, in the name of the corporation, execute such deeds, mortgages, bonds, contracts, or other instruments which may from time to time be authorized by the Board of Directors.

#### 6.06 Duties of Vice President

In the absence or disability of the Board President, the ranking Vice President or Vice President designated by the Board of Directors, shall perform the duties of the Board President. When so acting, the Vice President shall have all the powers of and be subject to all the restrictions upon the Board President. The Vice President shall have such other powers and perform such other duties prescribed for them by the Board of Directors or the Board President.

6.07 Secretary

The Secretary shall be the principal record-keeper of the corporation, and shall:

- (a) Certify and keep at the principal office of the corporation the original, or a copy, of these bylaws as amended or otherwise altered to date.
- (b) Keep or cause to be kept a book of minutes of all meetings and actions of Directors and committees of Directors, recording therein the time and place of holding, whether regular or special, how called, how notice thereof was given, the names of those present or represented at the meeting, and the proceedings thereof, and whether the meeting was held in accordance with the law and these Bylaws.
- (c) Ensure that the minutes of meetings of the corporation, any written consents approving action taken without a meeting, and any supporting documents pertaining to meetings, minutes, and consents shall be contemporaneously recorded in the corporate records of this corporation. "Contemporaneously" in this context means that the minutes, consents, and supporting documents shall be recorded in the records of this corporation by the later of (1) the next meeting of the board, committee, membership, or other body for which the minutes, consents, or supporting documents are being recorded, or (2) ninety (90) days after the date of the meeting or written consent.
- (d) Ensure that notice be duly given of all meetings of Directors and committees as required by the bylaws or as required law.
- (e) Be custodian of the records and of the seal of the corporation (should a seal be adopted and required by law), and affix the seal, as authorized by law or the provisions of these bylaws, to duly executed documents of the corporation.
- (f) Keep at the principal office an accurate list of all board members, officers, legal and mailing addresses, email addresses, and phone numbers.
- (g) Exhibit at all reasonable times to any director of the corporation, or to his or her agent or attorney, on request therefor, the certificate of incorporation, the bylaws, and the minutes of the proceedings of the directors of the corporation.
- (h) Perform, in general, all duties incident to the office of secretary and such other duties as may be required by law, by the articles of incorporation, or by these bylaws, or which may be assigned to him or her from time to time by the board of directors.

- (i) Appoint, with approval of the Board, another member of the Board of Directors to assist in performance of all or part of the duties of the Secretary, should he or she so require.

#### 6.08 Duties of Treasurer

The Treasurer shall be the lead Director for oversight of the financial condition and affairs of the corporation, and shall:

- (a) Have charge and custody of, and be responsible for, all funds and securities of the corporation, and deposit all such funds in the name of the corporation in such banks, trust companies, or other depositories as shall be selected by the board of directors.
- (b) Oversee and keep the Board informed of the financial condition of the corporation and of audit or financial review results.
- (c) Receive, and give receipt for, monies due and payable to the corporation from any source whatsoever.
- (d) Disburse, or cause to be disbursed, the funds of the corporation as may be directed by the board of directors, taking proper vouchers for such disbursements.
- (e) Keep and maintain adequate and correct accounts of the corporation's property, properties, and business transactions, including accounts of its assets, liabilities, receipts, disbursements, gains, and losses.
- (f) In conjunction with other Directors or officers, oversee budget preparation and ensure that appropriate financial reports, including an account of major transactions and the financial condition of the corporation.
- (g) Make available to the Board of Directors, or to any Director's agent or attorney, on a timely basis or as may be required by the Board of Directors, all corporate financial information.
- (h) Utilize an online accounting software package with a 100% audit trail.
- (i) Provide each Director with read-only access rights to the online corporate financial information, and provide basic training in how to access, read, and understand this corporate information.
- (j) Render promptly to the president, or through any request from any director, an account of any or all of his or her transactions and of the financial condition of the corporation.

- (k) Prepare, or cause to be prepared, and certify, or cause to be certified, the financial statements to be included in any required reports.
- (l) Perform all duties incident to the office of treasurer and such other duties as may be required by law, by the articles of incorporation, or by these bylaws, or which may be assigned to him or her from time to time by the board of directors.
- (m) Appoint, with approval of the Board, a qualified fiscal agent or member of the staff or other member of the Board of Directors, to assist in performance of all or part of the duties of the Treasurer, should he or she so require.

#### 6.09 Non-Director Officers

The Board of Directors may designate additional officer positions of the corporation and may appoint and assign duties to other non-Director officers of the corporation.

#### 6.10 Compensation

The salaries of the officers, if any, shall be fixed from time to time by resolution of the board of directors. In all cases, any salaries received by officers of this corporation shall be reasonable and given in return for services actually rendered to or for the corporation. All officer salaries shall be approved in advance in accordance with this corporation's Conflict of Interest Policy.

#### 6.11 Continuation

It is the responsibility of the board of directors, collectively and individually, to ensure the continuation of corporate business. The directors, collectively and individually, will make a concerted effort to keep the corporation active and healthily pursuing its tax-exempt mission, as outlined in the Certificate of Incorporation.

### **ARTICLE VII**

#### **Contracts, Checks, Loans, Indemnifications, & Related Matters**

##### 7.01 Contracts and other Writings

The board of directors, except as otherwise provided in these bylaws, may by resolution authorize any officer or agent of the corporation to enter into any contract or execute and deliver any instruments in the name of and on behalf of the corporation, and such authority may be general or confined to specific instances. Unless so authorized, no officer, agent, or employee shall have any power or authority to bind the corporation by any contract or engagement or to pledge its credit or to render it liable monetarily for any purpose or in any amount.

#### 7.02 Checks, Drafts, Notes

All checks, drafts, or other orders for payment of money, notes, or other evidence of indebtedness issued in the name of the corporation, shall be signed by such officer or officers, agent or agents, of the corporation and in such manner as shall from time to time be determined by resolution of the Board. Measures will be implemented by the board to prevent embezzlement and/or misuse of funds by any member of the corporation, including directors, officers, employees, independent contractors, and volunteers.

#### 7.03 Deposits

All funds of the corporation not otherwise employed shall be deposited from time to time to the credit of the corporation in such banks, trust companies, or other depository as the Board or a designated committee of the Board may select.

#### 7.04 Gifts

The board of directors may accept on behalf of the corporation any contribution, gift, bequest, or devise for the nonprofit purposes of this corporation.

#### 7.05 Receipts from Services

The board of directors may accept on behalf of the corporation any receipts for services offered by this corporation.

#### 7.06 Loans

No loans shall be contracted on behalf of the corporation and no evidence of indebtedness shall be issued in its name unless authorized by resolution of the Board. Such authority may be general or confined to specific instances.

#### 7.07 Indemnification

Indemnification is as follows:

- (a) **Mandatory Indemnification.** The corporation shall indemnify a Director or former Director, who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which he or she was a party because he or she is or was a Director of the corporation against reasonable expenses incurred by him or her in connection with the proceedings.

- (b) **Permissible Indemnification.** The corporation shall indemnify a Director or former Director made a party to a proceeding because he or she is or was a Director of the corporation, against liability incurred in the proceeding, if the determination to indemnify him or her has been made in the manner prescribed by the law and payment has been authorized in the manner prescribed by law.
- (c) **Advance for Expenses.** Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the corporation in advance of the final disposition of such action, suit or proceeding, as authorized by the Board of Directors in the specific case, upon receipt of (i) a written affirmation from the Director, officer, employee or agent of his or her good faith belief that he or she is entitled to indemnification as authorized in this Article, and (ii) an undertaking by or on behalf of the Director, officer, employee or agent to repay such amount, unless it shall ultimately be determined that he or she is entitled to be indemnified by the corporation in these Bylaws.
- (d) **Indemnification of Officers, Agents and Employees.** An officer of the corporation who is not a Director is entitled to mandatory indemnification under this Article to the same extent as a Director. The corporation may also indemnify and advance expenses to an employee or agent of the corporation who is not a Director, consistent with the law of the state in which the non-profit is incorporated and public policy, provided that such indemnification, and the scope of such indemnification, is set forth by the general or specific action of the Board or by contract.

## **ARTICLE VIII**

### **Miscellaneous**

#### **8.01 Books and Records**

The corporation shall keep at its corporate office:

- (a) Minutes of all meetings of directors and committees of the board indicating the time and place of holding such meetings, whether regular or special, how called, the notice given, and the names of those present and the proceedings thereof;
- (b) Record of all actions taken by the Board of Directors without a meeting;
- (c) Adequate and correct books and records of account, including accounts of its property, properties, and business transactions and accounts of its assets, liabilities, receipts, disbursements, gains, and losses;

- (d) A copy of the corporation's certificate of incorporation and bylaws as amended to date, which shall be open to inspection by the members, if any, of the corporation at all reasonable times during office hours.

#### 8.02 Fiscal Year

The fiscal year of the corporation shall be from January 1 to December 31 of each year.

#### 8.03 Conflict of Interest

The Board shall adopt and periodically review a Conflict of Interest Policy to protect the corporation's interest when it is contemplating any transaction or arrangement which may benefit any Director, officer, employee, affiliate, or member of a committee with Board-delegated powers.

#### 8.04 Nondiscrimination Policy

The officers, Directors, committee members, employees, and persons served by this corporation shall be selected entirely on a nondiscriminatory basis with respect to age, sex, race, religion, national origin, and sexual orientation. It is the policy of Break Diving, Inc. not to discriminate on the basis of race, creed, ancestry, marital status, gender, sexual orientation, age, physical disability, veteran's status, political service or affiliation, color, religion, or national origin.

#### 8.05 Corporate Seal

The board of directors may adopt, use, and at will alter, a corporate seal, even if not required by law. Such seal shall be kept at the principal office of the corporation, and at other specific locations as determined by the Board of Directors. While affixing the corporate seal to a document will be deemed a legal authority when accompanied by the signature of a valid authorized individual representative of the company, failure to affix the seal to corporate instruments that are signed by a valid authorized individual representative of the corporation, however, shall not affect the validity of any such instrument.

#### 8.06 Directors' Inspection Rights

Every director shall have the absolute right at any reasonable time to inspect and copy all books, records, and documents of every kind and to inspect the physical properties of the corporation, and shall have such other rights to inspect the books, records, and properties of the corporation as may be required under the certificate of incorporation, other provisions of these bylaws, and provisions of law.

#### 8.07 Right to Copy and Make Extracts

Any inspection under the provisions of this article may be made in person or by agent or by attorney and the right to inspection shall include the right to copy and make extracts.



### 8.08 Periodic Report

The board shall cause any annual or periodic report required under law to be prepared and delivered to an office of this state, to be so prepared and delivered within the time limits set by law.

### 8.09 Bylaw Amendment

These Bylaws may be amended, altered, repealed, or restated by a vote of two-thirds of the Board of Directors then in office at a meeting of the Board, provided, however,

- (a) that no amendment shall be made to these Bylaws which would cause the corporation to cease to qualify as an exempt corporation under Section 501 (c) (3) of the Internal Revenue Code of 1986, or the corresponding section of any future Federal tax code; and,
- (b) that an amendment does not affect the voting rights of Directors. An amendment that does affect the voting rights of Directors further requires ratification by a majority vote of a quorum of Directors at a Board meeting.
- (c) that all amendments be consistent with the Certificate of Incorporation.

### 8.09 Fundraising Policy

Anyone authorized by the corporation to solicit funds on behalf of the corporation, including board members and officers, shall first sign the Corporate Fundraising Policy Agreement that outlines legal and acceptable fundraising behavior. After signing this Agreement, those authorized individuals will receive a copy of the Corporate Fundraising Handbook.

## **ARTICLE IX**

### **Counterterrorism and Due Diligence Policy**

#### 9.01 Policy

In furtherance of its exemption by contributions to other organizations, domestic or foreign, Break Diving, Inc. shall stipulate how the funds will be used and shall require the recipient to provide the corporation with detailed records and financial proof of how the funds were utilized. Although adherence and compliance with the U.S. Department of the Treasury's publication entitled the "Voluntary Best Practice for U.S.-Based Charities," is not mandatory, Break Diving, Inc. willfully and voluntarily recognizes and puts to practice these guidelines and suggestions (attached) to reduce, develop, re-evaluate and strengthen a risk-based approach to guard against the threat of diversion of charitable funds or exploitation of charitable activity by terrorist organizations and their support networks.

## 9.02 OFAC and Other Programs

Break Diving, Inc. shall also comply and put into practice the federal guidelines, suggestion, laws and limitation set forth by pre-existing U.S. legal requirements related to combating terrorist financing, which include, but are not limited to, various sanctions programs administered by the Office of Foreign Assets Control (OFAC) in regard to its foreign activities.

## **ARTICLE X**

### **Document Retention Policy**

#### 10.01 Purpose

The purpose of this Document Retention Policy is to establish standards for document integrity, retention, and destruction, and to promote the proper treatment of records for Break Diving, Inc.

#### 10.02 Policy

Section 1. General Guidelines. Records should not be kept if they are no longer needed for the operation of the business or required by law. Unnecessary records should be eliminated from the files. The cost of maintaining records is an expense which can grow unreasonably if good housekeeping is not performed. A mass of records also makes it more difficult to find pertinent records. Where possible, the non-profit shall adopt a digital, non-paper filing and retention system.

From time to time, Break Diving, Inc. may establish retention or destruction policies or schedules for specific categories of records in order to ensure legal compliance, and also to accomplish other objectives, such as preserving intellectual property and cost management. Several categories of documents that warrant special consideration are identified below. While minimum retention periods are established, the retention of the documents identified below and of documents not included in the identified categories should be determined primarily by the application of the general guidelines affecting document retention, as well as the exception for litigation relevant documents and any other pertinent factors.

Section 2. Exception for Litigation Relevant Documents. Break Diving, Inc. expects all officers, Directors, and employees to comply fully with any published records retention or destruction policies and schedules, provided that all officers, Directors, and employees should note the following general exception to any stated destruction schedule: If you believe, or Break Diving, Inc. informs you, that corporate records are relevant to litigation, or potential litigation (i.e. a dispute that could result in litigation), then you must preserve those records until it is determined that the records are no longer needed. That exception supersedes any previously or subsequently established destruction schedule for those records.

Section 3. Minimum Retention Periods for Specific Categories

- (a) **Corporate Documents.** Corporate records include the corporation's Articles of Incorporation, Bylaws and IRS Form 1023 and Application for Exemption. Corporate records should be retained permanently. IRS regulations require that the Form 1023 be available for public inspection upon request.
- (b) **Tax Records.** Tax records include, but may not be limited to, documents concerning payroll, expenses, proof of contributions made by donors, accounting procedures, and other documents concerning the corporation's revenues. Tax records should be retained for at least seven (7) years from the date of filing the applicable return.
- (c) **Employment Records/Personnel Records.** State and federal statutes require the corporation to keep certain recruitment, employment and personnel information. The corporation should also keep personnel files that reflect performance reviews and any complaints brought against the corporation or individual employees under applicable state and federal statutes. The corporation should also keep in the employee's personnel file all final memoranda and correspondence reflecting performance reviews and actions taken by or against personnel. Employment applications should be retained for three (3) years. Retirement and pension records should be kept permanently. Other employment and personnel records should be retained for seven years.
- (d) **Board and Board Committee Materials.** Meeting minutes should be retained in perpetuity in the corporation's minute book. A clean copy of all other Board and Board Committee materials should be kept for no less than three (3) years by the corporation.
- (e) **Press Releases/Public Filings.** The corporation should retain permanent copies of all press releases and publicly filed documents under the theory that the corporation should have its own copy to test the accuracy of any document a member of the public can theoretically produce against the corporation.
- (f) **Legal Files.** Legal counsel should be consulted to determine the retention period of particular documents, but legal documents should generally be maintained for a period of ten (10) years.
- (g) **Marketing and Sales Documents.** The corporation should keep final copies of marketing and sales documents for the same period of time it keeps other corporate files, generally three (3) years. An exception to the three-year policy may be sales invoices, contracts, leases, licenses, and other legal documentation. These documents should be kept for at least three (3) years beyond the life of the agreement.

(h) **Development/Intellectual Property and Trade Secrets.** Development documents are often subject to intellectual property protection in their final form (e.g., patents, trademarks, service marks, and copyrights). The documents detailing the development process are often also of value to the corporation and are protected as a trade secret where the corporation:

- (i) derives independent economic value from the secrecy of the information; and
- (ii) has taken affirmative steps to keep the information confidential.

The corporation should keep all documents designated as containing trade secret information for at least the life of the trade secret.

- (i) **Contracts.** Final, execution copies of all contracts entered into by the corporation should be retained. The corporation should retain copies of the final contracts for at least three (3) years beyond the life of the agreement, and longer in the case of publicly filed contracts.
- (j) **Correspondence.** Unless correspondence falls under another category listed elsewhere in this policy, correspondence should generally be saved for two (2) years.
- (k) **Banking and Accounting.** Accounts payable ledgers and schedules should be kept for seven (7) years. Bank reconciliations, bank statements, deposit slips and checks (unless for important payments and purchases) should be kept for three (3) years. Any inventories of products, materials, and supplies and any invoices should be kept for seven (7) years.
- (l) **Insurance.** Expired insurance policies, insurance records, accident reports, claims, etc. should be kept permanently.
- (m) **Audit Records.** External audit reports should be kept permanently. Internal audit reports should be kept for three (3) years.

Section 4. Electronic Mail. E-mail that needs to be saved should be either:

- (a) printed in hard copy and kept in the appropriate file; or
- (b) downloaded to a computer file and kept electronically or on disk as a separate file.

The retention period depends upon the subject matter of the e-mail, as covered elsewhere in this policy.

## **ARTICLE XI**

### **Transparency and Accountability**

#### Disclosure of Financial Information with the General Public

##### 11.01 Purpose

By making full and accurate information about its mission, activities, finances, and governance publicly available, Break Diving, Inc. practices and encourages transparency and accountability to the general public. This Policy will:

- (a) indicate which documents and materials produced by the corporation are presumptively open to staff and/or the public,
- (b) indicate which documents and materials produced by the corporation are presumptively closed to staff and/or the public, and
- (c) specify the procedures whereby the open/closed status of documents and materials can be altered.

The details of this Policy are as follows:

11.02 Financial and IRS Documents (Form 1023 and the Form 990) Break Diving, Inc. shall provide its Internal Revenue forms 990, 990-T, 1023 and 5227, Bylaws, Conflict of Interest Policy, and financial statements to the general public for inspection free of charge.

##### 11.03 Means and Conditions of Disclosure

Break Diving, Inc. shall make "Widely Available" the aforementioned documents on its internet website to be viewed and inspected by the general public.

- (a) The documents shall be posted in a format that allows an individual using the Internet to access, download, view and print them in a manner that exactly reproduces the image of the original document filed with the IRS (except information exempt from public disclosure requirements, such as contributor lists).
- (b) The website shall clearly inform readers that the document is available and provide instructions for downloading it.
- (c) Break Diving, Inc. shall not charge a fee for downloading the information. Documents shall not be posted in a format that would require special computer hardware or software (other than software readily available to the public free of charge).

- (d) Break Diving, Inc. shall inform anyone requesting the information where this information can be found, including the web address. This information must be provided immediately for in-person requests and within seven (7) days for mailed requests.

#### 11.04 IRS Annual Information Returns (Form 990)

Break Diving, Inc. shall submit the Form 990 to its Board of Directors prior to the filing of the Form 990. While neither the approval of the Form 990 or a review of the 990 is required under federal law, the corporation's Form 990 shall be submitted to each member of the Board of Director's via hard copy or email at least ten (10) days before the Form 990 is filed with the IRS, and will be encouraged to provide feedback.

#### 11.05 Access to & Accountability of Financial Records

Break Diving, Inc. shall utilize a cloud-based accounting software that offers:

- (a) An uneditable 100% audit trail;
- (b) Linking and syncing to the corporations bank account;
- (c) Read only access for every member of the board to access *every* inflow and outflow of the company at any time, 24 hours a day, 7 days a week.

Break Diving, Inc. shall require a different member of the board (excepting the president and the treasurer) to informally verify and check the books each month, looking for any anomalies, discrepancies, or concerns, and reporting to the board the results of this informal verification at the next board meeting. Each board member (excepting the president and the treasurer) will participate in this informal verification on a rotating basis so that all board members participate in this responsibility on an equal and impartial basis.

As the finances become more complex, the Board may choose, at its discretion, to require two (2) board members during each of these informal verifications.

#### 11.05 Board Deliberations

Regarding board deliberations:

- (a) All Board deliberations shall be open to the public except where the Board passes a motion to make any specific portion confidential.
- (b) All Board minutes shall be open to the public once accepted by the Board, except where the Board passes a motion to make any specific portion confidential.

- (c) All papers and materials considered by the Board shall be open to the public following the meeting at which they are considered, except where the Board passes a motion to make any specific paper or material confidential.

#### 11.06 Staff Records

Regarding staff records:

- (a) All staff records shall be available for consultation by the staff member concerned or by their legal representatives.
- (b) No staff records shall be made available to any person outside the corporation except the authorized governmental agencies.
- (c) Within the corporation, staff records shall be made available only to those persons with managerial or personnel responsibilities for that staff member, except that staff records shall be made available to the Board when requested.

#### 11.07 Donor Records

Regarding donor records:

- (a) All donor records shall be available for consultation by the donors concerned or by their legal representatives.
- (b) No donor records shall be made available to any other person outside the corporation except the authorized governmental agencies, or through explicit written permission of donor.
- (c) Within the corporation, donor records shall be made available only to those persons with managerial or personnel responsibilities for dealing with those donors, except that donor records shall be made available to the Board when requested.

### **ARTICLE XII**

#### **Codes of Ethics & Whistleblower Policy**

##### 12.01 Purpose

Break Diving, Inc. requires and encourages Directors, officers and employees to observe and practice high standards of business and personal ethics in the conduct of their duties and responsibilities. The employees and representatives of the corporation must practice honesty and integrity in fulfilling their responsibilities and comply with all applicable laws and regulations. It is the intent of Break Diving, Inc. to adhere to all laws and regulations that apply to the corporation and the underlying purpose of this policy is to support the corporation's goal of legal

compliance. The support of all corporate staff is necessary to achieving compliance with various laws and regulations.

#### 12.02 Reporting Violations

If any Director, officer, staff member, employee, or volunteer reasonably believes that some policy, practice, or activity of Break Diving, Inc. is in violation of law, a written complaint must be filed by that person with the Board President.

#### 12.03 Acting in Good Faith

Anyone filing a complaint concerning a violation or suspected violation of a law or regulation must be acting in good faith and have reasonable grounds for believing the information disclosed indicates a violation. Any allegations that prove not to be substantiated and which prove to have been made maliciously or knowingly to be false shall be viewed as a serious disciplinary offense, and cause for immediate termination.

#### 12.04 Requirements for Protection from Retaliation

A person filing the aforesaid complaint is protected from retaliation only if:

- (a) he/she brings the alleged unlawful activity, policy, or practice to the attention of Break Diving, Inc;
- (b) does so based on reasonable suspicion;
- (c) does so without malice;
- (d) does so without knowingly using false information; and
- (e) provides Break Diving, Inc. with a reasonable opportunity to investigate and correct the alleged unlawful activity.

The protection described below is only available to individuals that comply with this requirement.

#### 12.05 Protection from Retaliation

Break Diving, Inc. shall not retaliate against any Director, officer, staff member, employee, or volunteer who in good faith, has made a protest or raised a complaint against some practice of Break Diving, Inc. or of another individual or entity with whom Break Diving, Inc. has a business relationship, on the basis of a reasonable belief that the practice is in violation of law, or a clear mandate of public policy.



Break Diving, Inc. shall not retaliate against any Director, officer, staff or employee who discloses or threatens to disclose to a supervisor or a public body, any activity, policy, or practice of Break Diving, Inc. that the individual reasonably believes is in violation of a law, or a rule, or regulation mandated pursuant to law or is in violation of a clear mandate of public policy concerning the health, safety, welfare, or protection of the environment.

#### 12.06 Confidentiality

Violations or suspected violations may be submitted on a confidential basis by the complainant or may be submitted anonymously. Reports of violations or suspected violations shall be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation.

#### 12.07 Handling of Reported Violations

The Board President or Vice President shall notify the sender and acknowledge receipt of the reported violation or suspected violation within five business days. All reports shall be promptly investigated by the Board and its appointed committee and appropriate corrective action shall be taken if warranted by the investigation.

This policy shall be made available to all Directors, officers, staff members, employees, volunteers, and independent contractors, and they shall all have the opportunity to ask questions about the policy.

### **ARTICLE XIII**

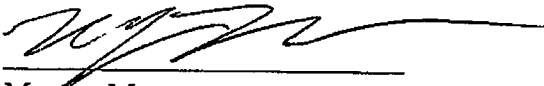
#### **Construction & Terms**

Regarding the construction and terms of these bylaws:

- (a) If there is any conflict between the provisions of these bylaws and the certificate of incorporation of this corporation, the provisions of the certificate of incorporation shall govern.
- (b) Should any of the provisions or portions of these bylaws be held unenforceable or invalid for any reason, the remaining provisions and portions of these bylaws shall be unaffected by such holding.
- (c) All references in these bylaws to the certificate of incorporation shall be to the certificate of incorporation, articles of organization, articles of incorporation, organizational charter, corporate charter, or other founding document of this corporation filed with an office of this state and used to establish the legal existence of this corporation.
- (d) All references in these bylaws to a section or sections of the Internal Revenue Code shall be to such sections of the Internal Revenue Code of 1986 as amended from time to time, or corresponding provisions of any future federal tax code.

## CERTIFICATE OF ADOPTION OF BYLAWS

I do hereby certify that the above stated Bylaws of Break Diving, Inc. were approved by Break Diving, Inc. Board of Directors on 9/25/16, and constitute a complete copy of the Bylaws of the corporation.

President   
Monfoe Mann

Date: 9/26/16

Form **5768**

(Rev. September 2016)

Department of the Treasury  
Internal Revenue Service**Election/Revocation of Election by an Eligible  
Section 501(c)(3) Organization To Make  
Expenditures To Influence Legislation**  
(Under Section 501(h) of the Internal Revenue Code)► Information about Form 5768 and its instructions is at [www.irs.gov/form5768](http://www.irs.gov/form5768).For IRS  
Use Only ►

Name of organization <b>Break Diving, Inc.</b>	Employer identification number <b>81-3744910</b>
Number and street (or P.O. box no., if mail is not delivered to street address) <b>12 Puritan Drive</b>	Room/suite <b>N/A</b>
City, town or post office, and state <b>Port Chester, NY</b>	ZIP + 4 <b>10573-2504</b>


- 1 Election**— As an eligible organization, we hereby elect to have the provisions of section 501(h) of the Code, relating to expenditures to influence legislation, apply to our tax year ending December 31, 2016 and all subsequent tax years until revoked.  
(Month, day, and year)

**Note:** This election must be signed and postmarked within the first taxable year to which it applies.

- 2 Revocation**— As an eligible organization, we hereby revoke our election to have the provisions of section 501(h) of the Code, relating to expenditures to influence legislation, apply to our tax year ending N/A and all subsequent tax years (until a new election is made).  
(Month, day, and year)

**Note:** This revocation must be signed and postmarked before the first day of the tax year to which it applies.

Under penalties of perjury, I declare that I am authorized to make this (check applicable box) ►  election  revocation on behalf of the above named organization.

 \_\_\_\_\_ **Monroe Mann, President** Oct 1, 2016  
(Signature of officer or trustee) (Type or print name and title) (Date)

**General Instructions**

Section references are to the Internal Revenue Code.

Section 501(c)(3) states that an organization exempt under that section will lose its tax-exempt status and its qualification to receive deductible charitable contributions if a substantial part of its activities are carried on to influence legislation. Section 501(h), however, permits certain eligible section 501(c)(3) organizations to elect to make limited expenditures to influence legislation. An organization making the election will, however, be subject to an excise tax under section 4911 if it spends more than the amounts permitted by that section. Also, the organization may lose its exempt status if its lobbying expenditures exceed the permitted amounts by more than 50% over a 4-year period. For any tax year in which an election under section 501(h) is in effect, an electing organization must report the actual and permitted amounts of its lobbying expenditures and grass roots expenditures (as defined in section 4911(c)) on its annual return required under section 6033. See Part II-A of Schedule C (Form 990 or Form 990-EZ). Each electing member of an affiliated group must report these amounts for both itself and the affiliated group as a whole.

To make or revoke the election, enter the ending date of the tax year to which

the election or revocation applies in item 1 or 2, as applicable, and sign and date the form in the spaces provided.

**Eligible organizations.** A section 501(c)(3) organization is permitted to make the election if it is not a disqualified organization (see below) and is described in:

- Section 170(b)(1)(A)(ii) (relating to educational institutions),
- Section 170(b)(1)(A)(iii) (relating to hospitals and medical research organizations),
- Section 170(b)(1)(A)(iv) (relating to organizations supporting government schools),
- Section 170(b)(1)(A)(vi) (relating to organizations publicly supported by charitable contributions),
- Section 170(b)(1)(A)(ix) (relating to agricultural research organizations),
- Section 509(a)(2) (relating to organizations publicly supported by admissions, sales, etc.), or
- Section 509(a)(3) (relating to organizations supporting certain types of public charities other than those section 509(a)(3) organizations that support section 501(c)(4), (5), or (6) organizations).

**Disqualified organizations.** The following types of organizations are not permitted to make the election:

- Section 170(b)(1)(A)(i) organizations (relating to churches),

- An integrated auxiliary of a church or of a convention or association of churches, or
- A member of an affiliated group of organizations if one or more members of such group is described in a or b of this paragraph.

**Affiliated organizations.** Organizations are members of an affiliated group of organizations only if (1) the governing instrument of one such organization requires it to be bound by the decisions of the other organization on legislative issues, or (2) the governing board of one such organization includes persons (i) who are specifically designated representatives of another such organization or are members of the governing board, officers, or paid executive staff members of such other organization, and (ii) who, by aggregating their votes, have sufficient voting power to cause or prevent action on legislative issues by the first such organization.

For more details, see section 4911 and section 501(h).

**Note:** A private foundation (including a private operating foundation) is not an eligible organization.

**Where to file.** Mail Form 5768 to:

Department of the Treasury  
Internal Revenue Service Center  
Ogden, UT 84201-0027



## Form 1023 Questions

### PART IV – Narrative Description of Our Activities

Break Diving, Inc. is organized for charitable purposes under section 501 (c) (3) of the Internal Revenue Code to lead and inspire people worldwide at any stage of life to dream bigger, act more boldly, and discover, embrace, and successfully pursue their life purpose.... and then share that enthusiasm to excel with others.

Break Diving—through the creation of a worldwide community of winners that uses the latest in modern psychology and other techniques to effectuate positive and lasting change in people's lives—helps individuals find career and life success against all odds through the development of greater ambition; positive mental attitude and greater physical health; increased opportunities; enhanced business skills; stronger friendships, families, and communities; deeper world and cultural understanding; and less sadness, loneliness, depression, and self-doubt.

We accomplish our mission through mentoring, coaching, adult education, direct support and encouragement of others, cultural exchange and development, scientific research, and by changing the world for the better through individual and combined effort.

Specifically, Break Diving, Inc. creates and provides programs to enhance lives worldwide in the areas of access to education, animal protection, the arts, career development, child and animal adoption encouragement programs, Christianity, disaster relief, educational travel, entertainment, entrepreneurship, environmental protection, health and fitness, individual psychological development, language acquisition and mastery, legal services, medical services, positive thinking, safety, sports, support of military, support of police, supporter of veterans, time management, and wish fulfilment.

To maximize our impact on current efforts, we may seek to collaborate with other non-profit organizations which fall under the 501(c) (3) section of the internal revenue code and are operated exclusively for charitable, religious, educational and scientific purposes.

At times, per the discretion of the Board of Directors, we may provide internships or volunteer opportunities which shall provide opportunities for involvement in said activities and programs in order to have a greater impact for change.

The specific program objectives of the corporation include:

<p>NOTE: the programs and activities below are broken down into three categories: A, B, &amp; C. Category A programs will collectively occupy 50% of our time. Category B programs will collectively occupy 40% of our time. Category C programs will collectively occupy 10% of our time.</p>
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## (a) access to education.

- a. To help individuals discover and act on educational opportunities that are available to them.
- b. To provide scholarships to those who demonstrate need and potential.
- c. To create and implement at or below-market cost educational programs to assist individuals in finding greater success in life.

	<b>ACCESS TO EDUCATION</b>
<b>The activity itself:</b>	This program will include pamphlets, flyers, seminars, speeches, free online networking groups, and one-on-one coaching and counseling.
<b>How it furthers an exempt purpose of the organization:</b>	By helping individuals find and pursue avenues to education, from GEDs to PhDs, we will be helping them to succeed and feel better about themselves.
<b>Percentage of time our group will devote to it:</b>	Category A
<b>When it will begin:</b>	Fourth Quarter 2016.
<b>Where it will be conducted:</b>	Our Website, In-Person, Phone, Skype First in Manhattan, New York, USA and via Skype, and then later in other cities nationwide and overseas.
<b>By whom it will be conducted:</b>	By those qualified, to include employees, independent contractors, and volunteers with something to offer and an eagerness to help.
<b>How it will be funded:</b>	We intend to offer these services for a fee, but also hope to subsidize the cost through contributions and grants. As such, we ultimately hope to offer these services either free, or at a significant discount off of market rates.

## (b) animal protection

- a. To encourage the humane treatment of animals.
- b. To work with local animal shelters to increase their outreach.
- c. To assist law enforcement and local officials in finding and reporting acts of suspected animal cruelty.

	<b>ANIMAL PROTECTION</b>
<b>The activity itself:</b>	This program will include pamphlets, flyers, seminars, speeches, free online networking groups, and partnerships with other exempt organizations.
<b>How it furthers an exempt purpose of the organization:</b>	By promoting the protection and humane treatment of animals, we help individuals to take responsibility for their world, and to instill within them the desire to help those who are unable to help themselves.
<b>Percentage of time our group will devote to it:</b>	Category C
<b>When it will begin:</b>	First or Second Quarter 2017.
<b>Where it will be conducted:</b>	Our Website, In-Person First in Manhattan, New York, USA and then later in other cities nationwide and overseas.
<b>By whom it will be conducted:</b>	By those qualified, to include employees, independent contractors, and volunteers with something to offer and an eagerness to help.
<b>How it will be funded:</b>	We intend to offer these services for free and therefore hope to subsidize the cost through contributions and grants.

(c) the arts

- a. To assist and encourage those pursuing the arts as a career or hobby.
- b. To produce culturally enriching artistic projects for the general public.
- c. To provide scholarships to encourage success in the arts.

	<b>THE ARTS</b>
<b>The activity itself:</b>	This program will include pamphlets, flyers, seminars, speeches, free online networking groups, and coaching. We also plan to produce plays, films, music productions, art shows, and other projects. Finally, we intend to offer scholarships to those who exhibit the right qualities.
<b>How it furthers an exempt purpose of the organization:</b>	By promoting the arts themselves, we help individuals understand the world better. By promoting the pursuit of active participation in the arts, we help individuals learn more about themselves, and develop skills and confidence to succeed in such a career. By providing scholarships, we aim to help promising individuals continue the pursuit despite lack of funds or support.
<b>Percentage of time our group will devote to it:</b>	Category A
<b>When it will begin:</b>	First Quarter 2017.
<b>Where it will be conducted:</b>	Our Website, In-Person, Phone, Skype First in Manhattan, New York, USA and via Skype, and then later in other cities nationwide and overseas.
<b>By whom it will be conducted:</b>	By those qualified, to include employees, independent contractors, and volunteers with something to offer and an eagerness to help.
<b>How it will be funded:</b>	We intend to offer these services for a fee, but also hope to subsidize the cost through contributions and grants. As such, we ultimately hope to offer these services either free, or at a significant discount off of market rates.



(d) career development

- a. To help individuals develop a career strategy
- b. To help individuals find (and succeed in) a career they love
- c. To inspire individuals to pursue their dream career.
- d. To promote person to person business networking.
- e. To provide career development scholarships.

	<b>CAREER DEVELOPMENT</b>
<b>The activity itself:</b>	This program will include pamphlets, flyers, seminars, speeches, free online networking groups, and coaching. We aim to assist people discover not only a career that they can do well, but also one that they will love.
<b>How it furthers an exempt purpose of the organization:</b>	By helping individuals discover what they do well, and what they love, we can help individuals find a career that they will truly enjoy pursuing. By providing scholarships, we aim to help promising individuals continue the pursuit despite lack of funds or support.
<b>Percentage of time our group will devote to it:</b>	Category A
<b>When it will begin:</b>	Fourth Quarter 2016.
<b>Where it will be conducted:</b>	Our Website, In-Person, Phone, Skype First in Manhattan, New York, USA and via Skype, and then later in other cities nationwide and overseas.
<b>By whom it will be conducted:</b>	By those qualified, to include employees, independent contractors, and volunteers with something to offer and an eagerness to help.
<b>How it will be funded:</b>	We intend to offer these services for a fee, but also hope to subsidize the cost through contributions and grants. As such, we ultimately hope to offer these services either free, or at a significant discount off of market rates.

(e) child and animal adoption encouragement programs

- a. To encourage individuals to adopt children of all ages, all ethnicities, and all backgrounds
- b. To encourage individuals to adopt animals of all ages, all breeds, and all backgrounds.
- c. To assist local orphanages and animal shelters in finding homes for their cherished residents.
- d. To increase awareness and availability of adoption programs.
- e. To promote the awareness of the many benefits of adoption.
- f. To provide and/or make individuals aware of child and animal adoption scholarships that serve to make adoption easier.

<b>CHILD &amp; ANIMAL ADOPTION ENCOURAGEMENT</b>	
<b>The activity itself:</b>	This program will include pamphlets, flyers, seminars, speeches, free online networking groups, and coaching. We aim to assist people discover not only the joys of adoption, but the many resources available to those who are interested. We intend to partner with other exempt organizations for this purpose.
<b>How it furthers an exempt purpose of the organization:</b>	By helping individuals discover the joys of adoption, we can help bring joy, hope, and family to children and animals without parents and without a home. The result is a win-win for everyone involved: the adoptors benefit from the joy they bring to the adoptees, and the adoptees benefit from the love shared by the adoptors.
<b>Percentage of time our group will devote to it:</b>	Category B
<b>When it will begin:</b>	Fourth Quarter 2016.
<b>Where it will be conducted:</b>	Our Website, In-Person, Phone, Skype First in Manhattan, New York, USA and via Skype, and then later in other cities nationwide and overseas.
<b>By whom it will be conducted:</b>	By those qualified, to include employees, independent contractors, and volunteers with something to offer and an eagerness to help.
<b>How it will be funded:</b>	We intend to offer these services for free, and therefore plan to fund this program through donations.

**(f) Christianity**

- a. To encourage individuals to compare all religions and independently come to a conclusion about the veracity of each.
- b. To promote the spread of Christianity.
- c. To educate the public about the tenets of Christianity and why this faith can be used for good to create a better life and world for all mankind.

	<b>CHRISTIANITY</b>
<b>The activity itself:</b>	This program will include pamphlets, flyers, seminars, speeches, free online networking groups, classes, and partnerships with other exempt organizations.
<b>How it furthers an exempt purpose of the organization:</b>	By promoting Christianity, and encouraging us to live more like Jesus Christ, individuals will feel better about themselves and find greater purpose in life.
<b>Percentage of time our group will devote to it:</b>	Category C
<b>When it will begin:</b>	First or Second Quarter 2017.
<b>Where it will be conducted:</b>	Our Website, In-Person First in Manhattan, New York, USA and then later in other cities nationwide and overseas.
<b>By whom it will be conducted:</b>	By those qualified, to include employees, independent contractors, and volunteers with something to offer and an eagerness to help.
<b>How it will be funded:</b>	We intend to offer these services for free and therefore hope to subsidize the cost through contributions and grants.

## (g) disaster relief

- a. To raise funds for worldwide disaster reprieve.
- b. To bring swift and necessary monetary and volunteer relief to disaster zones.
- c. To responsibly ensure that funds designated for our disaster fund are (like the funds for all other programs) are carefully monitored and distributed.

	<b>DISASTER RELIEF</b>
<b>The activity itself:</b>	This program will include pamphlets, flyers, seminars, speeches, free online networking groups, classes, coaching, and direct aid to those affected. We aim to assist those who have been negatively affected by a disaster, a war, or other debilitating event.
<b>How it furthers an exempt purpose of the organization:</b>	By helping individuals recover from a life disaster, we can bring hope and love to individuals worldwide.
<b>Percentage of time our group will devote to it:</b>	Category B
<b>When it will begin:</b>	Fourth Quarter 2016.
<b>Where it will be conducted:</b>	Our Website, In-Person, Phone, Skype First in Manhattan, New York, USA and via Skype, and then later in other cities nationwide and overseas.
<b>By whom it will be conducted:</b>	By those qualified, to include employees, independent contractors, and volunteers with something to offer and an eagerness to help.
<b>How it will be funded:</b>	We intend to offer these services for free, and therefore plan to fund this program through donations.

## (h) educational travel

- a. To help individuals see and learn about the world, its many cultures, and many languages at reduced or no cost.
- b. To provide scholarships for educational travel.

	<b>EDUCATIONAL TRAVEL</b>
<b>The activity itself:</b>	This program will include pamphlets, flyers, seminars, speeches, free online networking groups, and primarily: educational trips overseas. We aim to assist people discover the world they live in, the languages and cultures across our borders, and show them the great opportunities (and sometimes sad realities) of life outside their own countries. We intend to offer trips for individuals, and also organized group trips as well, and in all cases, the trips will be educational: historically, culturally, and linguistically. We will offer scholarships for this program.
<b>How it furthers an exempt purpose of the organization:</b>	By helping individuals learn more about the world through direct, foreign, in-country experience, individuals will learn about themselves, develop self-confidence, and make new friends overseas.
<b>Percentage of time our group will devote to it:</b>	Category A
<b>When it will begin:</b>	Second Quarter 2017.
<b>Where it will be conducted:</b>	Our Website, In-Person, Phone, Skype, WORLDWIDE The trips will be worldwide. Any necessary steps will be taken to screen applicants to ensure the safety of the participants, and also to ensure that there is no direct or indirect support of terrorism or espionage.
<b>By whom it will be conducted:</b>	By those qualified, to include employees, independent contractors, and volunteers with something to offer and an eagerness to help.
<b>How it will be funded:</b>	We intend to offer these services for a fee, but also hope to subsidize the cost through contributions and grants. As such, we ultimately hope to offer these services either free, or at a significant discount off of market rates.

## (i) entertainment

- a. To produce and create entertaining artistic projects for the general public.
- b. To encourage the patronage of the arts and entertainment.

	<b>ENTERTAINMENT</b>
<b>The activity itself:</b>	This program will include pamphlets, flyers, seminars, speeches, free online networking groups, coaching, and the production of entertainment programs for the public.
<b>How it furthers an exempt purpose of the organization:</b>	By helping bring emotions to people's lives, their lives are enriched. Whether it's a laugh or a cry, any time the emotions are influenced in some way, we learn something about ourselves or are reminded about something we forgot about ourselves.
<b>Percentage of time our group will devote to it:</b>	Category A
<b>When it will begin:</b>	Fourth Quarter 2016.
<b>Where it will be conducted:</b>	Our Website, In-Person, Phone, Skype First in Manhattan, New York, USA and via Skype, and then later in other cities nationwide and overseas.
<b>By whom it will be conducted:</b>	By those qualified, to include employees, independent contractors, and volunteers with something to offer and an eagerness to help.
<b>How it will be funded:</b>	We intend to offer some of these services for a fee, but also hope to subsidize the costs through contributions and grants. As such, we ultimately hope to offer these services either free, or at a significant discount off of market rates.

## (j) entrepreneurship

- a. To encourage individuals to start their own businesses.
- b. To provide at-market and low-cost support to individuals who are starting their own businesses.

	<b>ENTREPRENEURSHIP</b>
<b>The activity itself:</b>	This program will include pamphlets, flyers, seminars, speeches, free online networking groups, and coaching. We aim to assist people discover the joys of starting their own businesses, and provide them with the tools and guidance they need to continue to succeed. While the SBA SCORE program does help in this regard, in significant ways, our program is different, and therefore, fills a gap.
<b>How it furthers an exempt purpose of the organization:</b>	By helping individuals realize that they do not necessarily have to be an employee, and can also consider starting their own businesses, it creates options, hope, and other avenues to success for these individuals.
<b>Percentage of time our group will devote to it:</b>	Category A
<b>When it will begin:</b>	Fourth Quarter 2016.
<b>Where it will be conducted:</b>	Our Website, In-Person, Phone, Skype First in Manhattan, New York, USA and via Skype, and then later in other cities nationwide and overseas.
<b>By whom it will be conducted:</b>	By those qualified, to include employees, independent contractors, and volunteers with something to offer and an eagerness to help.
<b>How it will be funded:</b>	We intend to offer these services for a fee, but also hope to subsidize the cost through contributions and grants. As such, we ultimately hope to offer these services either free, or at a significant discount off of market rates.

## (k) environmental protection

- a. To encourage individuals to keep our bodies of water, air quality, and soil quality healthy.
- b. To encourage individuals to support environmental programs that do not hurt the economy.
- c. To create and implement local programs that help keep our communities clean.
- d. To raise money to provide to other 501(c)(3) environmental protection groups.

	<b>ENVIRONMENTAL PROTECTION</b>
<b>The activity itself:</b>	This program will include pamphlets, flyers, seminars, speeches, free online networking groups, and partnerships with other exempt organizations.
<b>How it furthers an exempt purpose of the organization:</b>	By promoting the protection of the environment in concert with economic development, we help individuals take responsibility for their world, while also recognizing the importance of a strong economy.
<b>Percentage of time our group will devote to it:</b>	Category C
<b>When it will begin:</b>	First or Second Quarter 2017.
<b>Where it will be conducted:</b>	Our Website, In-Person First in Manhattan, New York, USA and then later in other cities nationwide and overseas.
<b>By whom it will be conducted:</b>	By those qualified, to include employees, independent contractors, and volunteers with something to offer and an eagerness to help.
<b>How it will be funded:</b>	We intend to offer these services for free and therefore hope to subsidize the cost through contributions and grants.



- (l) health and fitness
- a. To encourage healthy eating and exercise.
  - b. To help people quit smoking.
  - c. To help people lose weight.
  - d. To help people stop using drugs.

	<b>HEALTH AND FITNESS</b>
<b>The activity itself:</b>	This program will include pamphlets, flyers, seminars, speeches, free online networking groups, classes, and coaching. We aim to assist people in losing weight, quitting smoking, stopping the use of drugs, eating right, and other positive interventions. We intend to partner with other exempt organizations to assist with this purpose.
<b>How it furthers an exempt purpose of the organization:</b>	By helping individuals live a healthier more active lives, they will be happier, more hopeful, and feel better about themselves.
<b>Percentage of time our group will devote to it:</b>	Category B
<b>When it will begin:</b>	Second Quarter 2016.
<b>Where it will be conducted:</b>	Our Website, In-Person, Phone, Skype First in Manhattan, New York, USA and via Skype, and then later in other cities nationwide and overseas.
<b>By whom it will be conducted:</b>	By those qualified, to include employees, independent contractors, and volunteers with something to offer and an eagerness to help.
<b>How it will be funded:</b>	We intend to offer these services at a cost, and if possible, for free, and therefore also plan to fund this program through donations.

## (m) individual psychological development

- a. To help individuals avoid depression, sadness, loneliness, and self-doubt.
- b. To encourage individuals to believe in themselves and reach for their dreams.
- c. To refer individuals to expert help (and help subsidize the cost, if necessary) for serious cases.
- d. To help combat suicide through suicide prevention programs.

	<b>INDIVIDUAL PSYCHOLOGICAL DEVELOPMENT</b>
<b>The activity itself:</b>	This program will include pamphlets, flyers, seminars, speeches, free online networking groups, and coaching. We aim to help combat four of the main reasons why people find life difficult and sometimes consider suicide: depression, sadness, loneliness, and self doubt. Further, we aim to use positive psychology to further help individuals believe in themselves and reach for their dreams.
<b>How it furthers an exempt purpose of the organization:</b>	By helping individuals find and maintain positive mental health, along with enthusiasm for living, they will feel better about themselves and find greater success in life.
<b>Percentage of time our group will devote to it:</b>	Category A
<b>When it will begin:</b>	Fourth Quarter 2016.
<b>Where it will be conducted:</b>	Our Website, In-Person, Phone, Skype First in Manhattan, New York, USA and via Skype, and then later in other cities nationwide and overseas.
<b>By whom it will be conducted:</b>	By those qualified, to include employees, independent contractors, and volunteers with something to offer and an eagerness to help.
<b>How it will be funded:</b>	We intend to offer these services for a fee, but also hope to subsidize the cost through contributions and grants. As such, we ultimately hope to offer these services either free, or at a significant discount off of market rates.

## (n) language acquisition and mastery

- a. To encourage individuals to learn about other countries and cultures.
- b. To help promote language learning.
- c. To help individuals become fluent in their language(s) of choice at low or no cost.

	<b>LANGUAGE ACQUISITION AND MASTERY</b>
<b>The activity itself:</b>	This program will include pamphlets, flyers, seminars, speeches, free online networking groups, classes, and coaching. We aim to assist people discover the joys of learning a foreign language, but more importantly, to encourage and help individuals become truly fluent in a foreign language.
<b>How it furthers an exempt purpose of the organization:</b>	By helping individuals realize that they have the capacity to learn and even master a foreign language, their self-confidence in life will soar. Further, language acquisition is a proven asset in the job market, and particularly the international job market.
<b>Percentage of time our group will devote to it:</b>	Category A
<b>When it will begin:</b>	Fourth Quarter 2016.
<b>Where it will be conducted:</b>	Our Website, In-Person, Phone, Skype First in Manhattan, New York, USA and via Skype, and then later in other cities nationwide and overseas.
<b>By whom it will be conducted:</b>	By those qualified, to include employees, independent contractors, and volunteers with something to offer and an eagerness to help.
<b>How it will be funded:</b>	We intend to offer these services for a fee, but also hope to subsidize the cost through contributions and grants. As such, we ultimately hope to offer these services either free, or at a significant discount off of market rates.

(o) legal services

- a. To help individuals avoid legal troubles (both criminal and civil) through training and one-on-one assistance.
- b. To help those in need pay for legal services, “need” as determined by the Board of Directors.

	<b>LEGAL SERVICES</b>
<b>The activity itself:</b>	This program will include pamphlets, flyers, seminars, speeches, free online networking groups, actual legal services, and partnerships with other exempt organizations. To begin, we intend to offer low-cost contract drafting and review services.
<b>How it furthers an exempt purpose of the organization:</b>	By providing legal education and services to individuals, we will help keep them out of legal trouble, thus giving them more time to focus on activities that will help them succeed in life.
<b>Percentage of time our group will devote to it:</b>	Category C
<b>When it will begin:</b>	Second Quarter 2017.
<b>Where it will be conducted:</b>	Our Website, In-Person, Email First in Manhattan, New York, USA and then later in other cities nationwide and overseas.
<b>By whom it will be conducted:</b>	By those qualified, to include employees, independent contractors, and volunteers with something to offer and an eagerness to help.
<b>How it will be funded:</b>	We intend to first offer these services at low-cost, and then later, for free. We therefore hope to subsidize the cost through contributions and grants.

**LEGAL SERVICES (Addendum)**

Because we plan to provide public service legal services at some point in the future, we would like to establish that we will adhere to the following:

- A. The organization's litigation must be designed to present a position on behalf of the public at large on matters of public interest.
- B. The organization can not attempt to achieve its objectives by illegal activity or through a program of disruption of the judicial system.
- C. The organization can not violate any canons of legal ethics.

In addition, Rev. Proc. 92-59, 1992-2 C.B. 411 requires the organization to file an attachment to its annual information return describing cases litigated and how the litigation serves a public interest. We will do so when the time comes.

With respect to compensation arrangements (which we will abide by), in Rev. Proc. 71-39 a two part qualification test is established. First, the organization must present a program designed to serve the public interest through litigation. Second, it must be operated in accordance with specified guidelines. These guidelines are summarized as follows:

- A. The policies and programs of the organization are the responsibility of a board or committee representative of the public interest, which is not controlled by employees or persons who litigate on behalf of the organization nor by any organization that is not itself an organization described in IRC § 501(c)(3).
- B. The organization is not operated, through sharing of office space or otherwise, in a manner so as to create identification or confusion with a particular private law firm. A tour of the facilities should disclose any sharing of space.
- C. There is no arrangement to provide, directly or indirectly, a deduction for the cost of litigation which is for the private benefit of the donor.
- D. A public interest law firm may accept reimbursement from clients or from opposing parties for direct out-of-pocket expenses incurred in the litigation. Out-of-pocket costs include filing fees, travel expenses, and expert witness fees.

## (p) medical services

- a. To help those in need pay for medical services, "need" as determined by the Board of Directors.
- b. To conduct research on behalf of the general public.
- c. To offer low-cost caregiver support.

	<b>MEDICAL SERVICES</b>
<b>The activity itself:</b>	This program will include pamphlets, flyers, seminars, speeches, free online networking groups, counseling, financial assistance, research, and partnerships with other exempt organizations.
<b>How it furthers an exempt purpose of the organization:</b>	By helping those in need pay for medical services and by conducting research on behalf of the general public, the health and well-being of the world will increase.
<b>Percentage of time our group will devote to it:</b>	Category C
<b>When it will begin:</b>	Third Quarter 2017.
<b>Where it will be conducted:</b>	Our Website, In-Person First in Manhattan, New York, USA and then later in other cities nationwide and overseas.
<b>By whom it will be conducted:</b>	By those qualified, to include employees, independent contractors, and volunteers with something to offer and an eagerness to help.
<b>How it will be funded:</b>	We intend to offer these services for free and therefore hope to subsidize the cost through contributions and grants.

## (q) positive thinking

- a. To teach positive psychology, cognitive behavioral therapy, and other proven techniques for increasing ones positive thinking.
- b. To help those afflicted by learned helplessness, battered woman's syndrome, and others

	<b>POSITIVE THINKING</b>
<b>The activity itself:</b>	This program will include pamphlets, flyers, seminars, speeches, free online networking groups, classes, and coaching. We aim to teach skills that everyone can use to feel better about themselves, smile more often, and find greater success.
<b>How it furthers an exempt purpose of the organization:</b>	By helping individuals develop positive thinking, their lives are changed immeasurably for the better.
<b>Percentage of time our group will devote to it:</b>	Category A
<b>When it will begin:</b>	Fourth Quarter 2016.
<b>Where it will be conducted:</b>	Our Website, In-Person, Phone, Skype First in Manhattan, New York, USA and via Skype, and then later in other cities nationwide and overseas.
<b>By whom it will be conducted:</b>	By those qualified, to include employees, independent contractors, and volunteers with something to offer and an eagerness to help.
<b>How it will be funded:</b>	We intend to offer these services for a fee, but also hope to subsidize the cost through contributions and grants. As such, we ultimately hope to offer these services either free, or at a significant discount off of market rates.

## (r) safety

- a. To help local and federal law enforcement through the creation of safe community programs.
- b. To contribute in any ways possible to national security of the United States and the world.
- c. To help prevent injuries by reminding people of the daily dangers they face, and to promote the prevention of these dangers, e.g. drunk driving, texting while driving, unsafe or unlicensed gun use, unsafe swimming, failure to change passwords, etc.

	<b>SAFETY</b>
<b>The activity itself:</b>	This program will include pamphlets, flyers, seminars, speeches, free online networking groups, classes, and partnerships with other exempt organizations.
<b>How it furthers an exempt purpose of the organization:</b>	By helping local and federal law enforcement agencies, by creating safe community programs, and by educating the public about the dangers of certain behaviors, we can make the country and the world a safer place.
<b>Percentage of time our group will devote to it:</b>	Category C
<b>When it will begin:</b>	Third Quarter 2017.
<b>Where it will be conducted:</b>	Our Website, In-Person First in Manhattan, New York, USA and then later in other cities nationwide and overseas.
<b>By whom it will be conducted:</b>	By those qualified, to include employees, independent contractors, and volunteers with something to offer and an eagerness to help.
<b>How it will be funded:</b>	We intend to offer these services for free and therefore hope to subsidize the cost through contributions and grants.



(s) sports

- a. To help individuals find and participate in a sport they enjoy.
- b. To provide scholarships for equipment and training for those in need, "need" to be determined by the Board of Directors.
- c. To help amateur athletes progress towards a professional sports career and/or the Olympics.

	<b>SPORTS</b>
<b>The activity itself:</b>	This program will include pamphlets, flyers, seminars, speeches, free online networking groups, classes, and coaching. We aim to assist those with athletic dreams (both big and small) find the support and resources they need to see them come true. We intend to provide scholarships for those in need.
<b>How it furthers an exempt purpose of the organization:</b>	By providing support, encouragement, and resources to athletes, we encourage them to continue the pursuit and attempt to see their dreams come true.
<b>Percentage of time our group will devote to it:</b>	Category A
<b>When it will begin:</b>	First Quarter 2016.
<b>Where it will be conducted:</b>	Our Website, In-Person, Phone, Skype First in Manhattan, New York, USA and via Skype, and then later in other cities nationwide and overseas.
<b>By whom it will be conducted:</b>	By those qualified, to include employees, independent contractors, and volunteers with something to offer and an eagerness to help.
<b>How it will be funded:</b>	We intend to offer these services for a fee, but also hope to subsidize the cost through contributions and grants. As such, we ultimately hope to offer these services either free, or at a significant discount off of market rates.

## (t) support of military

- a. To provide support to active members of the U.S Military who need help or assistance.
- b. To encourage enlistment into the armed forces as a viable and honorable career.
- c. To promote respect and honor for our military service members.

## (u) support of police

- a. To provide support to active members of a U.S. law enforcement organization who need help or assistance.
- b. To encourage enlistment into a law enforcement organization as a viable and honorable career.
- c. To promote respect and honor for our police service members.

## (v) supporter of veterans

- a. To provide support to veterans, their families, and their care-givers.
- b. To offer vacations for veteran caregivers and their families, fully paid for.
- c. To let veterans know of all of the various veterans' programs offered throughout the country.

	<b>SUPPORT OF MILITARY, POLICE, &amp; VETERANS</b>
<b>The activity itself:</b>	This program will include pamphlets, flyers, seminars, speeches, free online networking groups, classes, caregiver support, and partnerships with other exempt organizations.
<b>How it furthers an exempt purpose of the organization:</b>	By providing support to police, military, and vets, we will increase their self-confidence and reduce the likelihood of depression.
<b>Percentage of time our group will devote to it:</b>	Category C
<b>When it will begin:</b>	First or Second Quarter 2017.
<b>Where it will be conducted:</b>	Our Website, In-Person First in Manhattan, New York, USA and then later in other cities nationwide and overseas.
<b>By whom it will be conducted:</b>	By those qualified, to include employees, independent contractors, and volunteers with something to offer and an eagerness to help.
<b>How it will be funded:</b>	We intend to offer these services for free and therefore hope to subsidize the cost through contributions and grants.

## (w) time management

- a. To help individuals become better at time management through at-market rate and low-cost programs.

	<b>TIME MANAGEMENT</b>
<b>The activity itself:</b>	This program will include pamphlets, flyers, seminars, speeches, free online networking groups, classes, and coaching. We aim to assist people learn and implement tools of time management that will allow them to become more successful in life.
<b>How it furthers an exempt purpose of the organization:</b>	By helping individuals realize that they can accomplish a lot more each day than they think they are capable, a world of opportunity opens up to them.
<b>Percentage of time our group will devote to it:</b>	Category A
<b>When it will begin:</b>	Fourth Quarter 2016.
<b>Where it will be conducted:</b>	Our Website, In-Person, Phone, Skype First in Manhattan, New York, USA and via Skype, and then later in other cities nationwide and overseas.
<b>By whom it will be conducted:</b>	By those qualified, to include employees, independent contractors, and volunteers with something to offer and an eagerness to help.
<b>How it will be funded:</b>	We intend to offer these services for a fee, but also hope to subsidize the cost through contributions and grants. As such, we ultimately hope to offer these services either free, or at a significant discount off of market rates.

## (x) wish fulfilment

- a. To help individuals without resources or wherewithal to see their life's dream(s) come true.
- b. To help provide opportunities to people who could never or were not able to find these opportunities through their own effort.

	<b>WISH FULFILMENT</b>
<b>The activity itself:</b>	This program will include pamphlets, flyers, seminars, speeches, free online networking groups, the creation of opportunities, and partnerships with other exempt organizations.
<b>How it furthers an exempt purpose of the organization:</b>	By helping individuals to realize dreams that they could not accomplish on their own, we help bring smiles, optimism, and hope to people worldwide.
<b>Percentage of time our group will devote to it:</b>	Category C
<b>When it will begin:</b>	Third Quarter 2017.
<b>Where it will be conducted:</b>	Our Website, In-Person First in Manhattan, New York, USA and then later in other cities nationwide and overseas.
<b>By whom it will be conducted:</b>	By those qualified, to include employees, independent contractors, and volunteers with something to offer and an eagerness to help.
<b>How it will be funded:</b>	We intend to offer these services for free and therefore hope to subsidize the cost through contributions and grants.

## (y) Membership/Supporter program

- a. To help create a worldwide online community (with in person meetings) of Break Divers

	<b>MEMBERSHIP / SUPPORTER PROGRAM</b>
<b>The activity itself:</b>	Individuals will pay a nominal fee to be included in an online directory, to gain access to "members-only" message boards and resources, gain discounts on event admission, and receive a Break Diving "To-Do List" pad and other membership items.
<b>How it furthers an exempt purpose of the organization:</b>	By bringing together all members and supporters from around the world, it will allow a lively discourse that will create friendships, forge relationships, and ultimately lead to the success of members through mutual support.
<b>Percentage of time our group will devote to it:</b>	Category A
<b>When it will begin:</b>	Fourth Quarter 2016.
<b>Where it will be conducted:</b>	Our Website, In-Person, Phone, Skype First in Manhattan, New York, USA and via Skype, and then later in other cities nationwide and overseas.
<b>By whom it will be conducted:</b>	By those qualified, to include employees, independent contractors, and volunteers with something to offer and an eagerness to help.
<b>How it will be funded:</b>	We intend to use membership as a primary fund raising tool. Therefore, we intend to offer these services for a reasonable fee.

## (z) other

- a. To engage, both directly and indirectly, in other activities related to and in furtherance of our tax-exempt purpose as stated in section 2.01, above.
- b. To engage, both directly and indirectly, in activities necessary or incidental to its main purpose and pursuits.

**Part V, 1a – Compensation and Other Financial Arrangements with Your Officers, Directors, Trustees, Employees, and Independent Contractors. List the names, titles, and mailing addresses of all of your officers, directors, and trustees. For each person listed, state their total annual compensation, or proposed compensation, for all services to the organization, whether as an officer, employee, or other position. Use actual figures if available. Enter “None” if no compensation is or will be paid. If additional space is needed, attach a separate sheet.**

**BOARD MEMBERS:**

Board members will not be paid for their services as board members. When traveling on behalf of Break Diving, Inc., they will be reimbursed for necessary and reasonable expenses while on organization business.

IRS tax law allows a public charity 501(c)(3) to make payments to insiders as long as the amounts are reasonable and the goods and/or services are actually rendered. When considering the implications of the 1996 Congress-enacted Section 4958 of the Internal Revenue Code which imposed a tax on “excess benefit” transactions, we conclude that the payments for necessary and reasonable expenses to reimburse out of pocket expenses (with receipts provided) is appropriate as long as such expenses are not unreasonably high or excessive.

Dr. Monroe Mann, PhD, Esq, MBA, LLM

NY

President/ Treasurer  
No Compensation

Deborah Bordelon

IN

Vice President  
No Compensation

Dr. Jonathan Rich, PhD

CA

Secretary  
No Compensation

Jonathan Cheever

UT

Board Member  
No Compensation

Chad Kimball

[REDACTED]  
[REDACTED] NY [REDACTED]

Board Member

No Compensation

Merlên LaVoix Hoekstra

[REDACTED]  
[REDACTED] FL [REDACTED]

Board Member

No Compensation

Robert Joseph "RJ" Lewis

[REDACTED]  
[REDACTED] NJ [REDACTED]

Board Member

No Compensation

**We ask that you please, in accordance with IRS policies, designate the above street addresses as "not for public viewing" in order to protect the privacy of each board member. Most of these addresses are also residences. Thank you.**

## EMPLOYEES

The initial employee will be Monroe Mann, in the role of full-time Executive Director, with an initial salary of \$0/month.

However, in expectation that the company will grow, and given his extensive experience, qualifications, and education (see below bios of all board members), the Board (minus the interested person)—in consultation with and in accordance with the Guidestar 2016 Comparable Compensation Report (attached in pertinent part)—has hired Dr. Mann as Executive Director in accordance with the attached payment schematic, with said salary to automatically increase (without discretion of any party in accordance with IRS policies).

Note: For clarity, we have presented Part V, 3a, prior to 2a (which is below)

Part V, 3a - For each officer, director, trustee, highest compensated employees and highest compensated independent contractors listed on lines 1a, 1b, or 1c, attach a list showing their name, qualifications, hours worked and duties:

### Board Of Directors – Compensation, Duties, & Hours

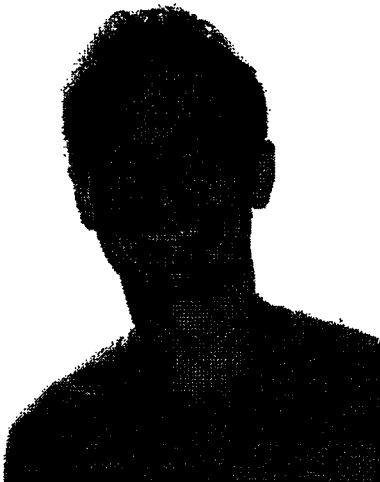
No officers, directors, or trustees will be compensated for serving on the board.

1. The duties of the President of the Board are found in the organization’s bylaws, Page 16, Paragraph 6, Section 6.05. Average 10 hours a week, or as is necessary.
2. The duties of the Vice President of the Board are found in the organization’s bylaws, Page 16, Paragraph 6, Section 6.06. Average 5 hours a week, or as is necessary.
3. The duties of the Secretary of the Board are found in the organization’s bylaws, Page 16, Paragraph 6, Section 6.07. Average 5 hours a week, or as is necessary.
4. The duties of the Treasurer of the Board are found in the organization’s bylaws, Page 17, Paragraph 6, Section 6.08. Average 5 hours a week, or as is necessary.

### Board Of Directors – Names & Experience

The Board of Directors is made up of talented and skilled people who have combined decades of expertise in this mission through graduate and post-graduate level education, and through job training and work experience.

#### President/Treasurer: Dr. Monroe Mann, PhD, Esq, MBA



Monroe Mann is the definition of a Break Diver. He should know: He founded the concept over 15 years ago and has been encouraging others to embrace his philosophy ever since.

As a musician, motivational speaker, book author, attorney, actor, filmmaker, consultant, teacher, world-traveling expat, and bronze-star nominated Iraq War veteran, Monroe has managed to pack what some say “three lifetimes of accomplishments into just one life.”

Mann is the author of 8 books, including the Barnes & Noble.com # 1 bestseller *Guerrilla Networking* with Jay



Conrad Levinson; *Start Your Own Coaching Business* with Entrepreneur Press; the shortest time management handbook ever written, *Time Zen*, and a book that today remains one of the top how-to-become-a-successful-actor books on the market, *The Theatrical Juggernaut – The Psyche of the Star*, to name a few.

Mann holds a PhD in psychology from Capella University; a JD and an LLM from Pace Law School; an MBA in finance from Lubin School of Business; a Masters of Entrepreneurship from Western Carolina University; and a Bachelors in International Economics (minor in French) from Franklin College in Lugano, Switzerland (now Franklin University). Mann also holds a collegiate level Certificate in Financial Planning from Boston University/Boston Institute of Finance.

Via his production company, Loco Dawn Films, Mann has written, produced, directed, and acted in a number of films, including the widely released feature-length horror comedy, *You Can't Kill Stephen King* (which was sold at Cannes Film Festival in France to tens of countries), the comedy film, *Origami Deathmatch*, and a large number of short films. He is currently editing the world's first comedy documentary about the war in Iraq with footage he shot himself. He is also the former lead producer and host of the celebrity talk-show, "Before the Big Break" and the founder of Actors Film School, a Manhattan-based film school for actors that operated from 2008 – 2010.

Mann's PhD dissertation research took two and a half years to complete, and studied the decision-making process of successful entertainers. His original research, a grounded-theory study, discovered a surprising three-phase process of success along 12 dimensions. Mann has recently partnered up with Dr. Jonathan Rich (the co-creator of the famed test at Chemistry.com) to turn these research results into a validated practical test that individuals (from all types of high-risk careers) can use to determine whether they are on the right track towards financial success in their chosen endeavor(s).

Mann is also the lead singer and rhythm guitarist of the RahRahk band "Monroe Mann," whose first full-length 15-song album was released in January 2011, and is available at iTunes, CD Baby, Amazon, etc. Three music videos (which he produced and edited) can be seen on his YouTube channel.

He is a member of the Screen Actors Guild (SAG)/American Federation of Radio and Television Artists (AFTRA), and Actors Equity, and over the years has been a regularly featured speaker at SAG/AFTRA and acting schools on topics such as "Producing Your Own Projects" and "Financial Management for Actors." Mann has also been flown in to speak at various colleges including Lee College, Tarant County College, and Pace Law School on the subjects of "Guerrilla Networking" and "Leadership Lessons from Iraq." Recently, he has been teaching a number of continuing legal education programs for AttorneyCredits.com on subjects related to entertainment law. He will be launching his first Udemy.com 4-hour video course in fall 2016 on the subject of time management.

Mann is a bronze-star-nominated Iraq War combat veteran intelligence officer, who spent one year in Iraq in 2005 as an intelligence officer, training and advising the 4th Iraqi Army. He also navigated a convoy of over 15 vehicles on a 550-mile mission from Kuwait to Tikrit through Baghdad with zero wrong turns and zero casualties and acted as patrol leader on over 75 14-man patrols throughout northern Iraq. While in Iraq, he became certified as a combat lifesaver and upon his return home, became a nationally certified EMT-B (Emergency Medical Technician), WEMT (Wilderness Emergency Medical Technician), and PADI Rescue SCUBA Diver and Divemaster. After the earthquake in Haiti in 2010, Mann worked as a volunteer EMT for two weeks in Port-au-Prince.

As an attorney, Mann has worked as a public defender for two years for the Westchester County Legal Aid Society. He now works as an entertainment and contract attorney, and is also a tutor. His recent cases include copyright defense in federal court in Manhattan, a lawsuit against a major New York company for breach of contract, and numerous business contracts.

As a linguaphile, Mann speaks French, Chinese, and Italian, and studies many more. He spent two years studying in Switzerland, six months living in France, and a year working as a TEFL English teacher in China, teaching at Wall Street English in Shanghai, and studying Chinese. He regularly returns to China, and has to-date passed the 4<sup>th</sup> highest (out of 6) Chinese language proficiency tests offered by the Chinese government.

Finally, Mann has currently launched a new endeavor entitled Break Diving, Inc., a soon-to-be 501(c)(3) corporation with a mission of helping people worldwide succeed in discovering and attaining their dreams. Instead of waiting for opportunities to float to the surface, Break Divers dive right in and create their own opportunities and big breaks. The mission of the corporation is to help encourage others to embrace and live by the Break Diver's Creed: "No Rules, No Excuses, No Regrets" or as it says on the tattoo on Mann's right arm, 无拘束, 没借口, 不后悔! To date, Mann has assembled an eclectic and accomplished board of directors and is excited to share his enthusiasm for success with the world.

The board is pleased, honored, and grateful that Monroe has started this endeavor, and appreciates all of his insight and expertise on psychology, showbiz, entertainment, entrepreneurship and business, military and public service, emergency medicine, language study, expat living, the law, publishing, success, and general break diving awesomeness.

## Vice President: Debbie Bordelon



Debbie Bordelon is a café supervisor, real estate property flipper, film producer, and... Break Diver.

Debbie currently works as the Supervisor of Grinders Café, a coffee shop for Valparaiso University Dining Services in Valparaiso, Indiana. She's had the pleasure of working for VU for 19+ years. She loves the diversity of the University and strives to help people in anyway she can. Over the years, she has volunteered for several student events including the Student Union as Staff Advisor to oversee student concerts.

She loved being involved in Girl Scouting for 10+ years as leader for up to 4 troops at one time and hosted many activities for the Girl Scout Council, including overnights, weekly day camps, talent shows, and parades.

Debbie is an avid bowler who has served as secretary/treasurer for 13 years on the Sunday Odd Couples Bowling League and was recognized by the Northwest Indiana Bowling Association in 1997 as Secretary of the Year.

Debbie is also an artist and producer. For starters, Debbie is a long-time DJ at the Valparaiso University Student Radio Station WVUR. She was recently recognized as Staff DJ of the Year for 2015 -2016 and Most Dedicated DJ for 2015-2016. In addition, she has a page on the Internet Movie Data Base IMDB as an actress in *Kyla's Law* and as an assistant producer on the movie *You Can't Kill Stephen King*. She also has a story published in the book *Guerrilla Networking*. Further, she was associate producer for the Monroe Mann music videos, "The Sun is Always Shining Somewhere" and "Life is Tough", and continues this day to act as the volunteer promoter for Monroe Mann Music. Finally, Debbie was also promoter and talent coordinator for the online web series, "Before the Big Break". In this capacity, she traveled to Long Island, New York to successfully secure an interview with the popular rock band LUDO.

As a side gig, Debbie and her husband together purchase (and have for years) distressed properties in the Chicago-land area, rehabilitate them singlehandedly, and then resell them to buyers looking for a new home sweet home.

She met Monroe in 2005 while he was deployed in Iraq, supporting him through the internet. She sent him care packages but for some reason, refused to come visit him there! Weird!

We are pleased, honored, and grateful that Debbie is a member of our board of directors, and appreciate all of her insight and expertise on management, education, showbiz, entertainment, real estate, parenting, success, association management, and general break diving awesomeness.

## Secretary: Dr. Jonathan Rich, PhD



Dr. Rich is a Licensed Psychologist and... Break Diver.

Dr. Rich practiced clinically until 2010, specializing in psychological testing and currently does consulting work, designing psychological tests and providing data analytics. Dr. Rich was the co-creator of the test used by the online dating service, Chemistry.com, a test which has been completed by tens of millions worldwide.

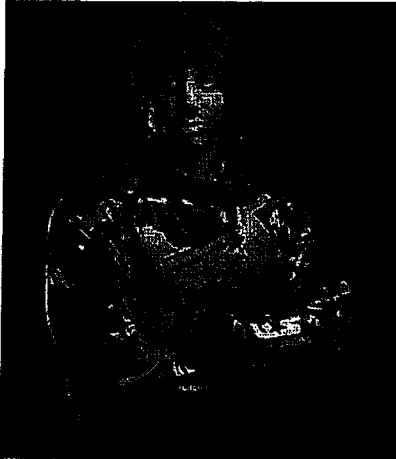
He is a member of the American Psychological Association, and has been licensed as a psychologist since 1987. He is currently employed by the Orange County Health Care Agency, where he provides quality improvement services.

Dr. Rich was a lecturer in the Counseling Department at California State University, Fullerton from 1990 to 1997. He currently teaches for two online universities: California Southern and Capella. His acclaimed book, *The Couple's Guide to Love and Money*, has been featured in a wide variety of magazines, radio shows, and on national TV.

Dr. Rich met Monroe as his first PhD instructor at Capella University, teaching him the history and development of psychology. They both hope that through Break Diving, they can add a new chapter to the history and development of psychology!

We are pleased, honored, and grateful that Jonathan is a member of our board of directors, and appreciate all of his insight and expertise on psychology, education, success, publishing, relationship building, and general break diving awesomeness.

## Board Member: Jonathan Cheever



Jonathan Cheever is a professional snowboarder... and Break Diver.

An 11 year Vet on the US Snowboard Team, business owner, licensed plumber, and producer of a feature- length documentary - Jonathan Cheever has been deeply involved in every aspect of all industries he is part of. From marketing, streamlining work, to project managing, Cheever uses skills he has acquired from all walks of life to help others succeed.

**Professional Athlete, US Snowboarding Team.** June 2005 – Present. Park City, Utah. Full time on-snow athlete at all elite-level snowboard events globally. Full time off-snow athlete, training physically and mentally to be in the best position to win those events.

**Co Owner, D & J Mechanical.** April 2015 – Present. Greater Boston Area. Licensed Plumber.

**Coach, BK Pro** March 2015 – Present (1 year 6 months) National. Part time snowboard coach dedicated to the success of promising, young, snowboard athletes.

**CEO, Team Cheever LLC,** 2009 – Present. Park City, Utah. Small SBX snowboard distribution business that meets the needs of a niche market.

**Producer, SBX The Movie.** March 2012 – November 2015. Global. Producer for the snowboardcross documentary SBX the Movie. Available for free at [Vimeo.com/sbxthemovie](http://Vimeo.com/sbxthemovie)

Amazing snowboarder Cheever met so-so snowboarder Monroe many years ago through a mutual snowboarding friend, Todd, who is a better snowboarder than Monroe but not as good as Cheever. Networking baby!

We are pleased, honored, and grateful that Cheever is a member of our board of directors, and appreciate all of his insight and expertise on sports, the Olympics and other high-level competitive athletics, peak performance training, filmmaking, entrepreneurship, success, and general break diving awesomeness.

## Board Member: Chad Kimball



Chad Kimball is a Tony Nominee, Best Leading Actor in a Musical for creating the role of Huey Calhoun in the Tony Award winning *Broadway Musical Memphis* (The Shubert). Mr. Kimball also received nominations for the Drama Desk and Outer Critics Circle Awards for Best Actor as well. He is also... a Break Diver.

He will be seen on Broadway in 2017 in *Come From Away* in February after tryout runs at La Jolla Playhouse, Seattle Repertory Theatre, and Ford's Theatre.

Mr. Kimball was also seen on Broadway as John Lennon in *Lennon* (The Broadhurst). He donned the guise of Milky-White in the Broadway revival of *Into the Woods* (also at the Broadhurst) with Vanessa Williams.

Other Broadway credits include *The Civil War* (The St. James) and *Good Vibrations* (The Eugene O'Neill). Off-Broadway: *Finian's Rainbow* (Irish Repertory Theatre), *My Life With Albertine* (Playwright's Horizons) *Godspell* (York Theatre) and *Murder in the First* (The Director's Company).

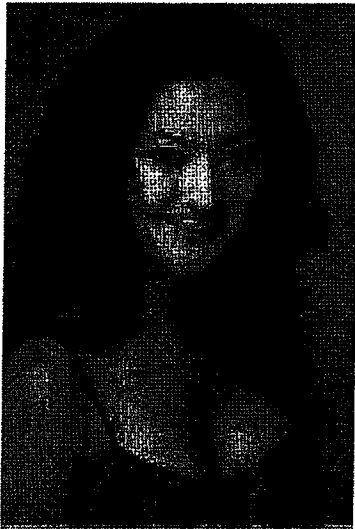
Regional theatre includes *Sweeney Todd* (Signature Theatre), *Baby* (Papermill Playhouse) *Chess In Concert* and *Little Fish* (The Blank) and *Come From Away* (La Jolla Playhouse and Seattle Repertory Theatre), among others. Mr. Kimball won a Bistro Award for his solo concert, which he reprised at Joe's Pub. He is a graduate of the Boston Conservatory.

Kimball is also a fashion designer and marketer, and the co-owner of the west coast fashion brand, Lolly: <http://lollyclothing.com>, currently available in over 500 boutiques nationwide.

Chad met Monroe while they both were working at Morgan Stanley creating powerpoint presentations for fancy businessmen. Yes, this was waaaaaay back in the day when they first began trying to figure out this thing called life. They still both affectionately (or not-so-affectionately?) refer to Morgan Stanley as, "The Firm".

We are pleased, honored, and grateful that Chad is a member of our board of directors, and appreciate all of his insight and expertise on showbiz, entertainment, entrepreneurship, success, fashion, and general break diving awesomeness.

## Board Member: Merlên LaVoix



Merlên has lived (for six months or more) in over thirty major world cities including Bangkok, Los Angeles, Seoul, Paris, Rome, Tokyo, Moscow, Sydney, and the list goes on. She is also... a Break Diver.

More than anyone we know, Merlên truly is a citizen of the world. Not surprisingly, her language skills are second to none. She considers herself advanced in English, French, and Russian; intermediate in Japanese, Tagalog, and Italian; conversational in German; and beginner in Arabic, Farsi, Mandarin, Euskara, Portuguese, and Spanish.

While other people may enjoy playing golf or watching movies, mastering languages has always been Merlên's number one passion.

She learned long ago that connecting with people on a genuine level (and that often means through their native tongue) is the key to how to make things work optimally. In that regard, her ability to pay close attention to the humanity of whatever project she finds herself involved with has been and continues to be crucial. To this end, she has been called a magician at bringing people together and bringing out the best in them. One of her favorite jobs using her language skills was as the personal on-call interpreter (Russian-Tagalog-English) for the Philippine Ambassador to Russia (His Excellency Romualdo Ong) from 1993-1994.

When Merlên is not assisting with Break Diving, Inc., she runs her own private tourism business as a Global Travel Director and Certified International Tour Manager. She got her feet wet initially at World Photo Press (WPP-Media, Inc.) in Tokyo in 1989. This company publishes travel guide books and maps, and her job was to fly in helicopters and videotape the terrain for the cartographers to create 3D maps. In this capacity as Director of Travel and Marketing, she led a 4-member research team over numerous trips to Taiwan, Saipan, Micronesia, Guam, and the Philippines. The maps were trilingual or bilingual and had landmark images of buildings, which in 1989 was revolutionary.

In addition, Merlên also works as an in-demand voiceover artist and actress, having first trained with such luminaries as Emmy award winner James Alburger, as well as Peter Rofe, Andrew Carlton, and Ben Oxenbould, who have all become her friends over the years. Some of her favorite credits include working as the live on-air TV announcer for an international news program called "The World Today" at JCTV (the English-language subsidiary of TV-Asahi in Japan) where she worked without any teleprompters—she had to memorize the "lead-ins" to every story, then speak over the video images and graphics that were on screen, and it was all live. She also worked as a cartoon voiceover actor in Tokyo, voicing Japanese cartoons and Japanese dramas dubbed into English for JAL. Finally, she was also the voice of Kentucky Fried Chicken in Japan, and also sang the jingle for Fujitsu Pocket Bell, which aired regularly on national television. She continues to work as a voiceover actor while traveling through use of her portable studio.

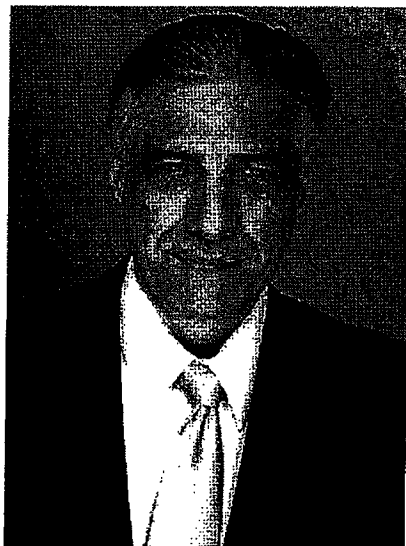
As impressive as all this is, it's really just the tip of the iceberg. The list of adventures that Merlên has enjoyed is rather long, and also includes work as a classically trained dancer, choreographer, stage actor, pianist, translator, massage therapist, DJ and language teacher. Perhaps her most daring accomplishment was obtaining her pilot's license which came via an assist from Australian philanthropist Kevin Weldon, for whom she had expertly served as his Japanese language interpreter during his OceanMan competitions. He hired her first flight instructor: the legendary Phil Unicomb (3x world aerobics champion). Merlên completed her first cross-county solo navigation under the founder and owner of Whitworth Aviation himself, Bill Whitworth.

She first "met" Monroe by stumbling upon one of his books while she was living in Australia. She got in touch, and over fifteen years later, Monroe got in touch, and asked her to become a part of the board!

We are pleased, honored, and grateful that Merlên is a member of our board of directors, and appreciate all of her insight and expertise in language study, world travel, expat living, showbiz, entertainment, flying airplanes, and general break diving awesomeness. Oh, she also has a motorcycle license, and three passports: USA, Australia, and Tajikistan.



## Board Member: R J Lewis



R.J. Lewis is professional actor, magician, and performer. He is also... a Break Diver.

R.J. started his professional career as a street performer in the 1970s. His skills led him to compete and win the International Beaux Arts Society Award for Magic for 1979 and 1980.

Seen passing the hat in Schubert Alley, R.J. was hired for the Broadway show *Barnum* where he did magic, sang, danced, and juggled from 1980-1982.

He was invited to perform at the White House in 1982 as part of the *Easter at the White House* festivities for President Reagan. He went on to perform in Atlantic City as the comedy act in a revue show, Roger Minami's *Heatwave* (1983-1985).

He then went on to produce and appear as part of the Castle Character program at Trump's Castle Casino and Hotel in Atlantic City from 1985-1993. He worked at many casinos as a magician, juggler, and stilt-walker until 2000.

In 1997, he was hired for the Broadway Company of *Busker Alley* which starred Tommy Tune. His appearances include The Today Show, The New York International Fringe Festival, and in season three of *The Apprentice*.

In 2013, He played the lead in the short film *Beyond Belief* for which he won "Best Actor In A Short Film" at two film festivals. In 2014, he then co-produced, co-wrote, and starred in the film *Down in Flames: the True Story of Tony 'Volcano' Vaenci*, which has won six best film awards at festivals through the country and the world. He currently is performing as the "Magic Maker" in the new Stephen Schwartz Musical, *Magic to Do*, with the Princess Cruise Line.

R.J. first "met" Monroe after reading one of his books. R.J. got in touch, and then, like magic, they became friends. Over fifteen years later, the last thing either wants is for the magic to disappear.

We are pleased, honored, and grateful that RJ is a member of our board of directors, and appreciate all of his insight and expertise on showbiz, entertainment, magic, entrepreneurship, parenting and family life, success, not-for-profit management, and general break diving awesomeness.

NOTE: Executive Director salary and hours is discussed later in this application.

**Part V. 2a. Are any of your officers, directors, or trustees related to each other through family or business relationships? If "Yes," identify the individuals and explain the relationship.**

1. Debbie Bordelon was an associate producer on a film Monroe Mann produced in 2010, which still receives income of about \$500/year, all of which goes to the main investor as interest on return of principal. Monroe and Debbie no longer discuss the film or her role in its production. No money is owed to Ms. Bordelon.
2. Jonathan Rich and Monroe Mann are working together as partners to create a psychological test based on Monroe Mann's PhD dissertation research which they hope to publish in a psychological journal. It is unclear whether they will attempt to exploit the finalized test for profit. Any use of such test in association with Break Diving, Inc. will be in full disclosure to and approval by the board, and only if deemed not to be a conflict of interest.

**Part V. 2b. Do you have a business relationship with any of your officers, directors, or trustees other than through their position as an officer, director, or trustee? If "Yes," identify the individuals and describe the business relationship with each of your officers, directors, or trustees.**

See above answer, Part V. 2a.

**Part V, 5a – Have you adopted a conflict of interest policy consistent with sample conflict of interest policy in Appendix A to the instructions? If yes, provide a copy and explain how the policy has been adopted such as by resolution of your governing body.**

Yes. The board of directors for this organization has adopted a Conflict of Interest Policy, which is attached to this Form 1023 Exemption Application. This policy is based on the sample conflict of interest policy contained in Appendix A of the official instructions to IRS Form 1023, and augmented with additional organization-specific requirements.

Our Conflict of Interest Policy requires each interested party to annually sign a statement that affirms that such person received a copy of the conflict of interest policy, has read and understood it, agrees to follow it, and understands that the organization is charitable and in order to maintain its federal tax exemption, it must engage primarily in activities which accomplish one or more of its tax exempt purposes. A copy of the Conflict of Interest Statement is attached, and all members of the board have already signed such form for 2016.

**Part V, 7a – Do you or will you purchase any goods, services, or assets from any of your officers, directors, trustees, highest compensated independent contractors listed in lines 1a, 1b, or 1c? If “Yes,” describe any such purchase that you made or intend to make from whom you make or will make purchases, how the terms are or will be negotiated at arm’s length, and explain how you determine or will determine that you pay no more than fair market value. Attach copies of any written contracts or other agreements related to such purchases.**

See bylaws and conflict of interest policy for more details.

It is possible that the corporation (through disinterested board vote) may purchase professional services or goods from a board member, but only in accordance with:

- the IRS publication entitled, "OVERVIEW OF INUREMENT/PRIVATE BENEFIT ISSUES IN IRC 501(c)(3)" located at [www.irs.gov/pub/irs-tege/eotopic90.pdf](http://www.irs.gov/pub/irs-tege/eotopic90.pdf)
- IRS Publication 4221 PC (page 4), and
- IRC Section 4958.

Any remuneration for goods or services shall therefore be reasonable and fair to the corporation and must be reviewed and approved in accordance with the Board Conflict of Interest Policy.

IRS Publication 4221 PC states that, “No part of an organization’s net earnings may inure to the benefit of an insider. An insider is a person who has a personal or private interest in the activities of the organization such as an officer, director, or a key employee. This means that an organization is prohibited from allowing its income or assets to accrue to insiders. An example of prohibited inurement would include payment of *unreasonable* compensation to an insider. Any amount of inurement may be grounds for loss of tax-exempt status.”

However, any products or services would be purchased through gross earnings, and the books or other items would be procured at a reasonable (and in fact, discounted) market rate, and only if no suitable alternative equivalent exists. There would, therefore, be no inurement.

Not for Profit Attorney Don Kramer writes, "It is an obvious conflict of interest when an organization contracts with members of the board or their family members to provide goods or services to the organization. It is not necessarily illegal, however, if the cost is fair to the organization."

Attorney Kramer further states on his website, [www.nonprofitissues.com](http://www.nonprofitissues.com), “You are right to be concerned about the IRS looking for private inurement from a charity purchasing the founder's books. They fought for years with L. Ron Hubbard about his book Dianetics that was the basis for the Church of Scientology. It doesn't sound as though you are in the same position (yet), and I agree that you should treat the purchase as you would any other potential excess benefit transaction. While private inurement is not exactly the same as an excess benefit, the excess benefit rules were created to give the IRS an intermediate sanction to avoid having to remove the exempt status of the organization because of inurement. In addition to the items you mention, you also need to consider whether the charity's use of your books will turn you into a best selling

author from unrelated purchasers. That could be considered private inurement. But I would worry about that only if it ever seemed to be happening. There are a lot of things you can do to minimize the risk of IRS trouble at that time. In the meantime, you seem to be on the right track.”

For the above reasons, Break Diving, Inc. has added a section to their Conflict of Interest Policy to address this issue, and specifically to avoid conflict of interest and excess benefit issues that could potentially arise from purchasing intellectual property or other useful services from board members.

**Part VI, 1a. In carrying out your exempt purposes, do you provide goods, services, or funds to individuals? If “Yes,” describe each program that provides goods, services, or funds to individuals.**

Please see Page 1 of this Attachment for a full description of each of our proposed goods, services, and fund allocations. See also the attached Break Diving scholarship application questions, as well as the Break Diving Non-Discrimination Policy.

**Part VI, 1b. In carrying out your exempt purposes, do you provide goods, services, or funds to organizations? If “Yes,” describe each program that provides goods, services, or funds to organizations.**

Please see Page 1 of this Attachment for a full description of each of our proposed goods, services, and fund allocations. See also the Break Diving scholarship application questions below, as well as the Break Diving Non-Discrimination Policy.

**Part VIII, 2a – Do you attempt to influence legislation?**

Yes. We may attempt to influence legislation that furthers our tax exempt purpose, but in no way that would jeopardize our tax-exempt status. We have elected to utilize Form 5768 to track whatever influence of legislation we may undertake.

**Part VIII, 3a – Do you or will you operate bingo or gaming activities?**

Yes, we may host all-volunteer bingo or gaming nights, conducted as a fund-raising tool, in accordance with IRS Publication 3079 (Rev. 8-2013). All staff utilized to run these games will be volunteers. All bingo and gaming shall only be conducted in accordance with federal, state, and local laws, and only after securing proper permits or licenses (if necessary). Break Diving, Inc. projects the following income and expenses from bingo and gaming this year and in the next two:

TAX YEAR	INCOME	EXPENSES
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2016	\$0	\$0
2017	\$1000	\$0
2018	\$3000	\$0

**Part VIII, 4a – Attach a description of each fundraising program:**

Mail Solicitations: We plan to have a large mailing list and invite individuals on that list to support our tax-exempt activities.

Email Solicitations: We plan to have a large mailing list and invite individuals on that list to support our tax-exempt activities.

Personal Solicitations: We intend to raise funds from individuals, groups, and organizations including faith-based organizations and businesses by direct contact. We will invite individuals and groups with commitment to our purpose and efforts to contribute to our organization. We do not have printed materials or brochures at this time. All donations will be solicited and recorded according to IRS codes.

Vehicle, Boat, Plane, or similar donation: We will gladly accept donations of these types of in-kind goods.

Foundation Grant Solicitations: Break Diving, Inc. will research applicable grant opportunities and prepare grant solicitations for projects and operations to the extent that they serve our mission and vision and to the extent that we are eligible.

Phone Solicitations: When we have a project that would benefit from phone solicitation, volunteers and board members may contact potential donors by phone to support our efforts.

Government and Foundation Grants: Break Diving, Inc. will research applicable grant opportunities and prepare grant solicitations for projects and operations to the extent that they serve our mission and vision and to the extent that we are eligible.

Website Donations: We will accept donations on our website.

**Part VIII, 4b – Do you or will you have written or oral contracts with any individuals or organizations to raise funds for you?**

Anyone authorized by the corporation to solicit funds on behalf of the corporation, including board members and officers, shall first sign the Corporate Fundraising Policy Agreement (attached) that outlines legal and acceptable fundraising behavior. After signing this Agreement, those authorized individuals will be guided in their fundraising activities via the Corporate Fundraising Handbook.

At this time, all fundraisers shall be either a board member, officer, employee, staff member, or volunteer. We have no plans at this time to hire a professional fundraising team.

**Part VIII, 4d – List all states and local jurisdictions in which you will conduct fundraising. For each state or local jurisdiction listed, specify whether you fundraise for your own organization, you fundraise for another organization, or another organization fundraises for you.**

Break Diving, Inc. would be involved in fundraising for our own organization throughout Delaware and New York, and other states in which we have completed the proper fundraising paperwork, but because of our global mission and because potential donors live across the globe, funds could potentially come from any state and any country. Funds raised would be used for tax-exempt purposes only, and every step will be taken by the Board to ensure that funds are not knowingly accepted from any terrorist organization. With respect to deductibility of contributions to the organization under section 170 of the Code, see Revenue Ruling 63-252, C.B. 1963-2, 101 and Revenue Ruling 66-79, C.B. 1966-1, 48 (both attached in substantial part).

**Part VIII, 6a & 6b – Describe in full who benefits from your economic development activities and how the activities promote your exempt purpose.**

Break Diving, Inc. hopes to build schools and orphanages, provide job and career training, and assist with entrepreneurial projects in third world or developing countries. We do not have specific plans or locations at this time, but once we do, their planning and implementation will be in full accord with United States law and those laws of the countries in which we may operate.

**Part VIII, 8 – Do you or will you enter into joint ventures, including partnerships or limited liability companies treated as partnerships, in which you share profits or losses with partners other than section 501(c)(3) organizations? If “Yes,” describe the activities of these joint ventures in which you will participate.**

Break Diving, Inc. may, in the future, engage in joint ventures, but if so, always and only in accordance with Internal Revenue Bulletin 2004-22, June 1, 2004 (attached) as well as Revenue Ruling 2004-51 (attached). Therefore, any such partnerships would in no way jeopardize the corporation's 501 (c) (3) exemption. In no way would any partnership activity be entertained or permitted by the board that would allow Break Diving, Inc. to engage in activities beyond its stated tax-exempt mission.

**Part VIII, 10 – Do you or will you publish, own, or have rights in music, literature, tapes, artworks, choreography, scientific discoveries, or other intellectual property? If “Yes,” explain. Describe who owns or will own any copyrights, patents, or trademarks, whether fees are or will be charged, how the fees are determined, and how any items are or will be produced, distributed, and marketed.**

Yes, Break Diving, Inc. itself may hold intellectual property in the future. For example:

- certain program names may at some point be officially trademarked
- some artistic or entertainment programs produced by the corporation may be created as a charitable joint effort, in which case the corporation would own said rights
- the corporation may enlist the talents of its members to create a book, a work of art, a song, or some other copyrightable work as a work-for-hire (even if the work is of a volunteer nature)
- the corporation may create a jingle that represents the company at some point in the future
- the corporation intends to finance scientific and psychological research, and as such, any such research results would be owned by the corporation and available to the public

**Part VIII, 12a – Do you or will you accept contributions of: real property; conservation easements; closely held securities; intellectual properties such as patents, trademarks, and copyrights; works of music or art; licenses; royalties; automobiles; boats, planes, or other vehicles; or collectibles of any type?**

While the board currently does not own any such property, and has no specific plans to accept any of these contributions in the near future, we recognize that each of these types of contributions may ultimately be of value to the corporation. Should any of these contribution opportunities arise, the board will ensure that all state and federal laws are followed during and after the transaction.

**Part VIII, 12b – Name the foreign countries and regions within the countries in which you operate:**

Revenue Ruling 71-460, 1971-2 C.B. 231 states that a domestic corporation that conducts a part or all of its charitable activities in a foreign country is not precluded from exemption under section 501(c)(3) of the Code. When we are ready to expand our programs overseas in furtherance of our general tax-exempt mission, we will select countries in which the board determines we can have the greatest impact while utilizing our current resources. When we are ready to expand our programs overseas in furtherance of economic development and/or disaster relief, we will select countries based on where the most need is at the time or where there is devastation based on natural or man-made disasters (for example, hurricanes, floods, terrorism, etc.)

**Part VIII, 12c - Describe your operation in each country and region in which you operate:**

We specifically plan to start operations in the state of New York, and online, via our website(s). Our online presence will soon attract interest from individuals in other countries.

We project that the first foreign area we will expand operations to is the Shanghai region of China, the Tokyo region of Japan, and the Seoul region of South Korea. These are all areas in which board members have lived and/or worked.

Soon thereafter (or concurrently) we project that we will expand to the Paris region of France, the Hamburg region of Germany, the Rome region of Italy, and the Lugano region of Switzerland. These again are all areas in which board members have lived and/or worked.

Thereafter, Break Diving, Inc. will continue to expand wherever there is interest or need, pursuing the same mission wherever it goes, but only if permitted by local laws within that country.

We ultimately plan to provide assistance to individuals and organizations in the USA and overseas (including third world countries when we have the funding) in areas of access to education, animal protection, the arts, career development, child and animal adoption encouragement programs, Christianity, disaster relief, educational travel, entertainment, entrepreneurship, environmental protection, health and fitness, individual psychological development, language acquisition and mastery, legal services, medical services, positive thinking, safety, sports, support of military, support of police, supporter of veterans, time management, and wish fulfilment.

**Part VIII, 12d – Describe how your operation in each country and region further your exempt purpose:**

Break Diving—through the creation of a worldwide community of winners that uses the latest in modern psychology and other techniques to effectuate positive and lasting change in people's lives—helps individuals find career and life success against all odds through the development of greater ambition; positive mental attitude and greater physical health; increased opportunities; enhanced business skills; stronger friendships, families, and communities; deeper world and cultural understanding; and less sadness, loneliness, depression, and self-doubt.

We accomplish our mission through mentoring, coaching, adult education, direct support and encouragement of others, cultural exchange and development, scientific research, and by changing the world for the better through individual and combined effort.

**Part VIII, 13b – Describe how your grants, loans, or other distributions to organizations further your exempt purposes.** While we do not currently have any funds, in the future, any grants, loans, or other distributions to foreign organizations will be to organizations that—through our helping them—help us further our exempt purposes.



**Part VIII, 13c – Do you have written contracts with each of these organizations?**

We currently do not have any relationship with any of these organizations, but when we do, we will have a written contract with each prior to disbursement of any funds.

**Part VIII, 13d – Identify each recipient organization and any relationship between you and the recipient organization.**

See above answer.

**Part VIII, 13e – Describe the records you keep with respect to grants, loans, or other distributions you make.**

We plan to keep records in accordance with the policies outlined in our bylaws.

**Part VIII, 13f – Do you require an application form? Do you require a grant proposal?**

Yes to both questions. The application form will be similar to the scholarship application form, as listed below. For any grants, we would require a formal written proposal that outlines our responsibilities and those of the grantee, that obligates the grantee to use the funds only for the purposes for which the grant was made, provides for periodic written reports concerning the use of grant funds, requires a final written report and an accounting of how grant funds were used, and acknowledges our authority to withhold and/or recover grant funds in case such funds are or appear to be misused.

**Part VIII, 13g – Describe your procedures for oversight or distributions that assure your resources are used to further your exempt purposes, including whether you require periodic and final reports on the use of resources.**

See above answer.

**Part VIII, 14b – Provide the name of each foreign organization.**

We currently do not have any relationship with any such foreign organizations.

**Part VIII, 14d – Do your contributors know that you have ultimate authority to use contributions made to you at your discretion for purposes consistent with your exempt purposes?**

Yes, we plan to make that clear to all contributors at the time any donation is made. We also will post this information on our website.

**Part VIII, 14e – Do you or will you make pre-grant inquiries about the recipient organization?**

Yes, we will inquire about the recipient's financial status, its tax-exempt status under the Internal Revenue Code, its ability to accomplish the purpose for which the resources are provided, and other relevant information, to include a proposed use-of-funds breakdown.

**Part VIII, 14f – Do you or will you use any additional procedures to ensure your distributions to foreign organizations are used in furtherance of your exempt purposes?**

We plan to have sporadic site visits by our employees or board members and/or compliance checks by impartial experts, to verify that grant funds are being used appropriately.

**Part IX, 23 –Any expense not otherwise classified, such as program services (attach an itemize list).**

These 2016 figures are *actual*

These 2017 and 2018 figures are all *projected, NOT actual*

**IF WE RECEIVE EXPEDITED PROCESSING OF OUR APPLICATION:**

**2016:** Line 23: Program services: \$2,000; Corporation Founding Fees: \$4,000

**2017:** Line 23: Program services: \$2,500

**2018:** Line 23: Program Services: \$10,000.

**IF WE DO *NOT* RECEIVE EXPEDITED PROCESSING OF OUR APPLICATION:**

**2016:** Line 23: Program services: \$0; Corporation Founding Fees: \$4,000

**2017:** Line 23: Program services: \$2,500

**2018:** Line 23: Program Services: \$10,000.

## International Activities Questions

*Although not required, as a proactive attempt to reduce workload on the part of the IRS agent who processes this application, we are providing answers to your international activities questionnaire as part of our 501c3 application.*

**1. Your application indicates that you operate (or will operate) in a foreign country, but did not clearly describe the activity. Please provide the following:**

**a. Identify the specific countries (and regions within the countries) in which you operate.**

We will begin in the Shanghai region of China initially, but plan to expand to other countries as funds become available.

**b. Describe your operations in each country.**

These are the programs we would like to start offering worldwide in the future to assist individuals in reaching their fullest potential:

- (a) access to education.
  - a. To help individuals discover and act on educational opportunities that are available to them.
  - b. To provide scholarships to those who demonstrate need and potential.
  - c. To create and implement at or below-market cost educational programs to assist individuals in finding greater success in life.
- (b) animal protection
  - a. To encourage the humane treatment of animals.
  - b. To work with local animal shelters to increase their outreach.
  - c. To assist law enforcement and local officials in finding and reporting acts of suspected animal cruelty.
- (c) the arts
  - a. To assist and encourage those pursuing the arts as a career or hobby.
  - b. To produce culturally enriching artistic projects for the general public.
  - c. To provide scholarships to encourage success in the arts.
- (d) career development
  - a. To help individuals develop a career strategy
  - b. To help individuals find (and succeed in) a career they love
  - c. To inspire individuals to pursue their dream career.
  - d. To promote person to person business networking.
  - e. To provide career development scholarships.

- (e) child and animal adoption encouragement programs
  - a. To encourage individuals to adopt children of all ages, all ethnicities, and all backgrounds
  - b. To encourage individuals to adopt animals of all ages, all breeds, and all backgrounds.
  - c. To assist local orphanages and animal shelters in finding homes for their cherished residents.
  - d. To increase awareness and availability of adoption programs.
  - e. To promote the awareness of the many benefits of adoption.
  - f. To provide and/or make individuals aware of child and animal adoption scholarships that serve to make adoption easier.
- (f) Christianity
  - a. To encourage individuals to compare all religions and independently come to a conclusion about the veracity of each.
  - b. To promote the spread of Christianity.
  - c. To educate the public about the tenets of Christianity and why this faith can be used for good to create a better life and world for all mankind.
- (g) disaster relief
  - a. To raise funds for worldwide disaster reprieve.
  - b. To bring swift and necessary monetary and volunteer relief to disaster zones.
  - c. To responsibly ensure that funds designated for our disaster fund are (like the funds for all other programs) are carefully monitored and distributed.
- (h) educational travel
  - a. To help individuals see and learn about the world, its many cultures, and many languages at reduced or no cost.
  - b. To provide scholarships for educational travel.
- (i) entertainment
  - a. To produce and create entertaining artistic projects for the general public.
  - b. To encourage the patronage of the arts and entertainment.
- (j) entrepreneurship
  - a. To encourage individuals to start their own businesses.
  - b. To provide at-market and low-cost support to individuals who are starting their own businesses.
- (k) environmental protection
  - a. To encourage individuals to keep our bodies of water, air quality, and soil quality healthy.
  - b. To encourage individuals to support environmental programs that do not hurt the economy.
  - c. To create and implement local programs that help keep our communities clean.

- d. To raise money to provide to other 501(c)(3) environmental protection groups.
- (l) health and fitness
  - a. To encourage healthy eating and exercise.
  - b. To help people quit smoking.
  - c. To help people lose weight.
  - d. To help people stop using drugs.
- (m) individual psychological development
  - a. To help individuals avoid depression, sadness, loneliness, and self-doubt.
  - b. To encourage individuals to believe in themselves and reach for their dreams.
  - c. To refer individuals to expert help (and help subsidize the cost, if necessary) for serious cases.
  - d. To help combat suicide through suicide prevention programs.
- (n) language acquisition and mastery
  - a. To encourage individuals to learn about other countries and cultures.
  - b. To help promote language learning.
  - c. To help individuals become fluent in their language(s) of choice at low or no cost.
- (o) legal services
  - a. To help individuals avoid legal troubles (both criminal and civil) through training and one-on-one assistance.
  - b. To help those in need pay for legal services, "need" as determined by the Board of Directors.
- (p) medical services
  - a. To help those in need pay for medical services, "need" as determined by the Board of Directors.
  - b. To conduct research on behalf of the general public.
  - c. To offer low-cost caregiver support.
- (q) positive thinking
  - a. To teach positive psychology, cognitive behavioral therapy, and other proven techniques for increasing one's positive thinking.
  - b. To help those afflicted by learned helplessness, battered woman's syndrome, and others
- (r) safety
  - a. To help local and federal law enforcement through the creation of safe community programs.
  - b. To contribute in any ways possible to national security of the United States and the general safety of the world.
  - c. To help prevent injuries by reminding people of the daily dangers they face, and to promote the prevention of these dangers, e.g. drunk driving, texting while driving, unsafe or unlicensed gun use, unsafe swimming, not changing passwords, etc.
- (s) sports

- a. To help individuals find and participate in a sport they enjoy.
  - b. To provide scholarships for equipment and training for those in need, "need" to be determined by the Board of Directors.
  - c. To help amateur athletes progress towards a professional sports career and/or the Olympics.
- (t) support of military
- a. To provide support to active members of the U.S Military who need help or assistance.
  - b. To encourage enlistment into the armed forces as a viable and honorable career.
  - c. To promote respect and honor for our military service members.
- (u) support of police
- a. To provide support to active members of a U.S. law enforcement organization who need help or assistance.
  - b. To encourage enlistment into a law enforcement organization as a viable and honorable career.
  - c. To promote respect and honor for our police service members.
- (v) support of veterans
- a. To provide support to veterans, their families, and their care-givers.
  - b. To offer vacations for veteran caregivers and their families, fully paid for.
  - c. To let veterans know of all of the various veterans' programs offered throughout the country.
- (w) time management
- a. To help individuals become better at time management through at-market rate and low-cost programs.
- (x) wish fulfilment
- a. To help individuals without resources or wherewithal to see their life's dream(s) come true.
  - b. To help provide opportunities to people who could never or could not find these opportunities through their own effort.
- (y) other
- a. To engage, both directly and indirectly, in other activities related to and in furtherance of our tax-exempt purpose
  - b. To engage, both directly and indirectly, in activities necessary or incidental to our main purpose and pursuits.

**2. Please answer the following in regard to Office of Foreign Assets Control (OFAC) compliance:**

- a. When you conduct activities in foreign countries, will you check the OFAC List of Specially Designated Nationals and Blocked Persons for names of individuals and entities with whom you are dealing to determine if they are included on the list?**

Yes, we will.

**b. What other practices will you engage in to ensure that foreign expenditures or grants are not diverted to support terrorism or other non-charitable activities?**

On-site visits, including unannounced visits will be performed periodically, and receipts will be required for all funds expended on behalf of our tax exempt purposes. Board members will periodically be in countries we operate in when operations begin as well as volunteers who want to be part of the economic and other development programs.

**c. Will you comply with all United States statutes, executive orders, and regulations that restrict or prohibit U.S. persons from engaging in transactions and dealings with designated countries, entities, or individuals, or otherwise engaging in activities in violation of economic sanctions administered by OFAC?**

Yes, we will comply with all United States statutes, executive orders, and regulations that restrict or prohibit U.S. persons from engaging in transactions and dealings with designated countries, entities, or individuals, or otherwise engaging in activities in violation of economic sanctions administered by OFAC.

Although adherence and compliance with the U. S. Department of the Treasury's publication the "Voluntary Best Practices for U. S. Based Charities" is not mandatory, we the directors of Break Diving, Inc. willfully and voluntarily recognize and put into practice these guidelines and suggestions to reduce, develop, re-evaluate, and strengthen a risk-based approach to guard against the threat of diversion of charitable funds or exploitation of charitable activity by terrorist organizations and their support networks.

We also comply and put into practice the federal guidelines, suggestions, laws, and limitations set forth by pre-existing U. S. legal requirements related to combatting terrorist financing, which include, but are not limited to, various sanctions programs administered by the Office of Foreign Assets Control (OFAC) in regard to our foreign activities.

**d. Will you acquire from OFAC the appropriate license and registration where necessary?**

Yes, we will.

**3. Please answer the following about grants you will make to organizations or individuals located in foreign countries:**

**a. State the organizations to which you do (or will) distribute funds or goods, and if they have been recognized as tax-exempt by the IRS, state their exempt status.**

We do not currently have established relationships with other organizations. It is our intent that if we distribute through organizations, that they would be 501(c)(3) eligible if they were located in the United States, however Revenue Ruling 68-489, 1968-2 C.B. 210 (attached) states that an organization will not jeopardize its exemption under Section 501(c)(3) of the code, even though it distributes funds to nonexempt organizations, provided it retains control and discretion over use of the funds for Section 501(c)(3) purposes.

**b. List any distributions (in funds or goods) you made to date, including the recipient, what and how much was disbursed, and how the distribution furthered your exempt purposes.**

Not applicable. No distributions to date since we are just getting set up.

**c. Describe your process for reviewing and approving requests for funds or goods, including the pre-grant inquiries you conduct on potential grantees, and how you determine grant amounts.**

We will use the same procedures we use for the granting of funds here in the USA, however, with additional oversight to take into consideration OFAC restrictions, the prevention of terrorist funding, and other national security issues.

**d. If you enter into a written grant agreement with grantees, submit representative copies of the grant agreements.**

At this time, we do not make grants and therefore have not yet created such agreement. When the time comes, the board will create an appropriate grant agreement in accordance with the answer to paragraph (c) above.

**e. If a grant recipient is eligible for repeated grants, explain whether they must reapply and continue to provide information regarding how funds or goods are used.**

At this time, we do not make grants, however, if we offer repeated grants, each applicant absolutely must reapply each time, and must provide to the corporation ongoing and timely information regarding how funds or goods are used.

**f. Explain whether you accept donations earmarked for particular organizations or individuals.**

No, we do not and we will not.

**g. Specify how you will exercise control and responsibility over the use of any funds or goods granted to foreign organizations or individuals to ensure they are used properly (e.g., requiring grantees to submit periodic reports, or accountings, engaging accountants to audit grantees, sending representatives or agents for field investigations, etc.).**



Receipts will be required for all funds expended on behalf of our tax-exempt purposes. Board members will be in other countries we operate in periodically to provide oversight when operations begin as well as volunteers who want to be part of the economic and other development programs.

**h. Specify to what extent, if any, you share board members or other key personnel with recipient organizations.**

Not Applicable. We do not share board members or other key personnel.

## Schedule H Questions

**1(a) Describe the types of educational grants you provide to individuals such as scholarships, fellowships, loans, etc.**

To begin, and once funds are available, we plan to offer the following types of educational grants:

- a) arts career scholarship
- b) athletics scholarship
- c) career scholarship
- d) flying scholarship
- e) school scholarship
- f) Christianity scholarship
- g) educational travel scholarship
- h) language study scholarship
- i) entrepreneurship scholarship

**1(b) Describe the purpose and amount of your scholarships, fellowships, and other educational grants and loans that you award.**

a) arts career scholarship: we hope to offer scholarships that will help subsidize the costs of the pursuit of an arts career, to include funds for training, equipment, tools, food, and housing. We plan to offer such scholarships in the amounts of \$500, \$1000, \$2500, \$5000, \$10,000, and \$25,000. Some of the scholarships may include reduced or no-cost training at Break Diving.

b) athletics scholarship: we hope to offer scholarships that will help subsidize the costs of the pursuit of an athletics career, to include funds for training, equipment, tools, food, and housing. We plan to offer such scholarships in the amounts of \$500, \$1000, \$2500, \$5000, \$10,000, and \$25,000. Some of the scholarships may include reduced or no-cost training at Break Diving.

c) career scholarship: we hope to offer scholarships that will help individuals discover and pursue a life calling, to include funds for training, equipment, tools, food, and housing. We plan to offer such scholarships in the amounts of \$500, \$1000, \$2500, \$5000, \$10,000, and \$25,000. Some of the scholarships may include reduced or no-cost training at Break Diving.

d) flying scholarship: we hope to offer scholarships that will help individuals secure pilot training, in either a helicopter or an airplane, to include funds for training, equipment, and tools. We plan to offer such scholarships in the amounts of \$500, \$1000, \$2500, \$5000, \$10,000, and \$25,000. Some of the scholarships may include reduced or no-cost training at Break Diving.

e) school scholarship: we hope to offer scholarships that will help individuals attend a higher education institution. We plan to offer such scholarships in the amounts of \$500, \$1000, \$2500, \$5000, \$10,000, \$25,000, and \$50,000.

f) Christian ministry scholarship: we hope to offer scholarships that will help individuals pursue a Christian calling that directly helps spread the good word, to include funds for training, equipment, tools, food, and housing. We plan to offer such scholarships in the amounts of \$500, \$1000, \$2500, \$5000, and \$10,000. Some of the scholarships may include reduced or no-cost training at Break Diving.

g) educational travel scholarship: we hope to offer scholarships that will help individuals discover and learn about the world in which they live, to include funds for airfare, hotels, ground transportation, food, and educational activities. We plan to offer such scholarships in the amounts of \$500, \$1000, \$2500, \$5000, and \$10,000. Some of the scholarships may include reduced or no-cost training at Break Diving.

h) language study scholarship: we hope to offer scholarships that will help individuals become fluent in foreign languages, to include funds for training, equipment, tools, airfare, food, and housing. We plan to offer such scholarships in the amounts of \$500, \$1000, \$2500, and \$5000. Some of the scholarships may include reduced or no-cost training at Break Diving.

i) entrepreneurship scholarship: we hope to offer scholarships that will help individuals learn by doing, by helping individuals start or expand their own small community businesses, to include funds for training, associated equipment, associated tools, food, and housing. We plan to offer such scholarships in the amounts of \$500, \$1000, \$2500, \$5000, and \$10,000. Some of the scholarships may include reduced or no-cost training at Break Diving.

For all scholarships, we will inform the recipient of the law regarding the taxable nature of the scholarship.

**1(c) If you award educational loans, explain the terms of the loans (interest rate, length, forgiveness, etc.)**

We have no current plans to offer loans, but may in the future. Should we do so, the interest rate will be at or below market rates, the length of time to repay the loan shall be reasonable, and we will offer forgiveness in certain situations to be determined by the board, for example, by creating a program similar to the Public Service Loan Forgiveness program.

**1(d) Specify how your program is publicized.**

We will promote our scholarship programs through email and mail marketing, as well as online advertisements.

**1(e) Provide copies of any solicitation or announcement materials.**

We currently have no solicitation or announcement materials.

**1(f) Provide a sample copy of the application used.**

Our application for all scholarship shall be as follows:

1. Name of scholarship (or grant) program applying for.
2. Name and contact info.
3. Why are you applying for this scholarship?
4. How will this scholarship help you in your life, specifically?
5. Please explain in detail everything you have already done to secure funds for this endeavor from other sources.
6. Why should we fund your endeavor?
7. What have you already done to show dedication to achieving your goal?
8. How can we trust that you are going to take full advantage of any funds we provide to you?

**3 Describe the specific criteria you use to determine who is eligible for your program.**

Anyone may apply to our scholarship programs, without restriction. If anyone answers the above questions and submits them in full, we will consider that application as eligible.

**4(a) Describe the specific criteria you use to select recipients.**

1. The board or committee (minus any interested persons) will make all selection decisions without considering an individual's name, age, race, or sex.
2. The board or committee will read all applications and rate them using a 1 – 10 rating scale on the following factors (subject to slight revision):
  - a. Sincerity & Conviction
  - b. Enthusiasm & Purpose
  - c. Prior Proven Dedication
  - d. The Applicant's Need
  - e. Why We Should Support This Person (Based on Answers)
  - f. Likelihood of Success Based on Answers

3. The board or committee will then provide scholarships from top to bottom, with those closest to scores of 60 receiving the most amount. The board will award the scholarships in descending score order.

**4(b) Describe how you determine the number of grants that will be made annually.**

This will be solely based on funding, and at the sole discretion of the board, based on the prior year's financials. Once a baseline is established, the board plans to set an annual 'minimum' that can always be offered, with additional scholarships offered above the minimum when possible.

**4(c) Describe how you determine the amount of each of your grants.**

We plan to offer grants in various amounts, from \$500 on up. We will start with the \$500 grants and as funding increases, and becomes more stable, we will begin to offer grants in higher amounts. All grant amounts offered will be determined by board vote.

**4(d) Describe any requirement or condition you impose on recipients to obtain, maintain, or qualify for renewal of a grant.**

Whenever possible and convenient, Break Diving will make payments on behalf of recipients. When not possible or convenient, Break Diving will provide funding to the individual on an 'as-needed' basis. In all cases, recipients must share their progress with Break Diving, Inc. on a regular basis, and may have to prove proper use of funds through receipts and/or 'participation forms', signed by an authorized party, such party authorized by Break Diving, Inc. If any scholarships allow for renewal, Break Diving management will look at the recipient's progress tracking form, and such tracking form will be consulted when making any additional granting allocations.

**5 Describe your procedures for supervising the scholarships, fellowships, educational loans, or other educational grants. Describe whether you obtain reports and grade transcripts from recipients, or you pay grants directly to a school under an arrangement whereby the school will apply the grant funds only for enrolled students who are in good standing. Also, describe your procedures for taking action if the terms of the award are violated.**

Whenever possible, reports from instructors, grade transcripts, etc. will be used. Each recipient will be assigned an "award monitor" from Break Diving, Inc. who will track the use of the funds. All recipients will sign a contract that any misuse of funds will require full repayment to Break Diving. Further, any misuse of funds, or non-participation in paid-for programs, will result in an immediate stop payment on any and all still-available funds for that particular recipient's scholarship. See also Answer 4(d) above.

**6 Who is on the selection committee for the awards made under your program, including names of current committee members, criteria for committee membership, and the method of replacing committee members?**

The entire current board of directors is the selection committee at present: Monroe Mann, Debbie Bordeon, Jonathan Rich, Jonathan Cheever, Chad Kimball, RJ Lewis, and Merlen LaVoix.

Anyone who is on the board of directors is also a part of this scholarship selection committee. The method for replacing committee members is the same as for replacing board members.

**7 Are relatives of members of the selection committee, or of your officers, directors, or substantial contributors eligible for awards made under your program? If "Yes" what measures are taken to ensure unbiased selections.**

Yes. Anyone is eligible because our not-for-profit is designed to be of service to any individual worldwide.

#### FAMILY MEMBERS

A family member of an interested person, i.e. a family member of the selection committee, an officer, director, employee, staff member, volunteer, or substantial contributor, is eligible to apply for any scholarship, as follows:

1. The interested person may not participate in ANY of the voting for that particular scholarship.
2. All identifying information will always be removed from all scholarship applications prior to presentation to the board. As such, identifying whose application is whose will become more difficult, thus encouraging a fair and unbiased selection process for all parties.
3. No more than 10% of the entire annual scholarship fund may be used for interested family members in any given year.



**NON-DISCRIMINATION POLICY, V3**

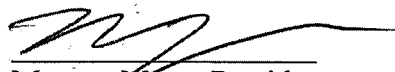
**Date: September, 2016**

*Whereas* one of the fundamental core values of Break Diving, Inc. is to treat all persons with respect and dignity; and whereas Break Diving, Inc. values people and recognizes the strength in their diversity and inclusiveness in all its activities and functions with employees, volunteers, staff, and community institutions; and

*Whereas* Break Diving, Inc. will not discriminate in the provision of services, employment practices, or engagement of volunteers on the basis of race, color, religious creed, age, marital status, familial status, national origin, ancestry, sex, mental disability, learning disability, sexual orientation, or physical disability;

*Therefore Be It Resolved* that Break Diving, Inc. will provide its ongoing programs to the public in accordance with this policy and will reflect this policy in all of its services. Break Diving will reinforce through all of its programs that all individuals offer unique gifts to this world.

Approved by a quorum of the board of directors  
on September 30, 2016.

  
Monroe Mann, President

**PERSONAL AND CONFIDENTIAL**

**BREAK DIVING, INC.**

**Conflict of Interest Statement**

1. As a(n) \_\_\_\_\_ of this Organization, I acknowledge that I:
  - a. Received a copy of the Organization’s Conflict of Interest Policy dated \_\_\_\_\_, 20\_\_\_\_;
  - b. Read and understood the policy;
  - c. Agree to comply with the spirit and intent of the policy and will disclose any potential conflicts, other than those stated on next page, as they may arise before completion of my next conflict of interest statement; and
  - d. Understand that the Organization is a charitable organization and in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.
  
2. Based on a review of the Organization’s Conflict of Interest Policy, are you aware of any interest that you or a related person may have that could give rise to a conflict of interest? If yes, please complete Attachment A to this form.

\_\_\_\_\_ Yes

\_\_\_\_\_ No

My answers above are accurately stated to the best of my knowledge and belief.

Dated \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name



**PERSONAL AND CONFIDENTIAL**

**BREAK DIVING, INC.**

**Conflict of Interest Statement**

**Attachment A**

1. Please list all relationships (if any) between you and a “related party” (as defined below) with the Organization that involve an actual or potential financial benefit to your or the related party or that otherwise may represent a conflict of interest within the spirit and intent of the policy. Include an estimate of the related actual or potential financial benefit. Use as much space as necessary:

2. Please list any business dealings during the past year (or, as applicable, since your last submission of this Conflict of Interest Statement) of which you are aware in which you or a “related party” (as defined below) have received a salary, gifts, or loans from any source from which the Organization obtains goods or services or otherwise has business dealings. Use as much space as necessary:

3. Please list any potential or pending transaction to which the Organization is a party and in which you or a “related party” (as defined below) has a direct or indirect interest. Use as much space as necessary:

Note: A “related party” (as defined in this policy) is a family member; a business or organization of which the person signing this statement or a family member owns or expects to own, directly or indirectly, more than a 5% interest; has a beneficial interest in a trust that owns directly or indirectly more than a 5% interest; or is a director, officer, or employee. A “family member” is a parent (or more remote ancestor), spouse, brother, sister, spouse of a brother or sister, child, step-child, grandchild, great-grandchild or spouse of a child, step-child, grandchild, or great-grandchild of the person signing this statement.

**BREAK DIVING, INC.**  
**CONFLICT OF INTEREST POLICY**

Adopted on: 9/25/16

**ARTICLE I****Purpose**1.01 Purpose

The purpose of the conflict of interest policy is to protect the interest of Break Diving, Inc. (the "Organization") when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or director of the Organization, or any "disqualified person" as defined in Section 4958(f)(1) of the Internal Revenue Code as amplified by Section 53.4958-3 of the IRS Regulations, and which might result in a possible "excess benefit transaction" as defined in Section 4958(c)(1)(A) of the Internal Revenue Code and as amplified by Section 53.4958 of the IRS Regulations. This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to nonprofit and charitable organizations.

**ARTICLE II****Definitions**2.01 Interested Person

Any director, principal officer, or member of a committee with governing board delegated powers, or any other person who is a "disqualified person" as defined in Section 4958(f)(1) of the Internal Revenue Code as amplified by Section 53.4958-3 of the IRS Regulations, who has a direct or indirect financial interest, as defined below, is an interested person.

2.02 Financial Interest

A person has a financial interest if the person has, directly or indirectly, through business, investment, or family:

- (a) An ownership or investment interest in any entity with which the Organization has a transaction or arrangement;
- (b) A compensation arrangement with the Organization or with any entity or individual with which the Organization has a transaction or arrangement, or

- (c) A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Organization is negotiating a transaction or arrangement.

### 2.03 Conflict of Interest

A financial interest is not necessarily a conflict of interest. A person who has a financial interest may have a conflict of interest only if the appropriate governing board or committee decides that a conflict of interest exists.

### 2.04 Compensation

Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial.

### 2.05 Vendor Relationships

A vendor relationship is either a direct provider of good or services to the corporation or someone who is affiliated with any vendor of goods or services to the corporation.

## **ARTICLE III**

### **Conflict of Interest Avoidance Procedures**

#### 3.01 Duty to Disclose

In connection with any actual or possible conflict of interest, an interested person must disclose the existence of the financial interest and be given the opportunity to disclose all material facts to the directors and members of committees with governing board delegated powers considering the proposed transaction or arrangement.

- (a) **Determining Whether a Conflict of Interest Exists:** After disclosure of the financial interest and all material facts, and after any discussion with the interested person, s/he shall leave the governing board or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining board or committee members shall decide if a conflict of interest exists.
- (b) **Procedures for Addressing the Conflict of Interest:**
  - (1) An interested person may make a presentation at the governing board or committee meeting, but after the presentation, s/he shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest.
  - (2) The chairperson of the governing board or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.

- (3) After exercising due diligence, the governing board or committee shall determine whether the Organization can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.
- (4) If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a potential conflict of interest, the governing board or committee shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in the Organization's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination, it shall make its decision as to whether to enter into the transaction or arrangement.

(c) Violations of the Conflicts of Interest Policy:

- (1) If the governing board or committee has reasonable cause to believe a member has failed to disclose actual or possible conflicts of interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.
- (2) If, after hearing the member's response and after making further investigation as warranted by the circumstances, the governing board or committee determines the member has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

## ARTICLE IV

### Vendor Relationships

#### 4.01 No Participation

No member of the Board who is a vendor of goods or services to the Organization or is affiliated with any vendor of goods or services to the Organization shall vote on, or participate on behalf of the Organization in the administration of, any contract with such vendor.

#### 4.02 Interested Person Vendors

Further, the corporation recognizes that many of its board members, officers, staff members, employees, and volunteers have unique talents, gifts, and abilities that may be of use to the corporation. These board members, officers, staff members, employees, and volunteers can often provide goods, products, and/or services **at a lower rate than can be found in the marketplace.** As such, it would be irresponsible for the board to spend extra money paying more expensive vendors outside the corporation when less expensive and equally (or more) appropriate vendors might be found within the corporation, all other things being equal.

Therefore, any board member or officer who wishes him or herself to become a vendor to the corporation ("the interested person"), believing the use of a good, product, or service that he or she owns, controls, or offers would benefit the corporation and/or a class of people the company was formed to help shall follow these procedures:

(a) The interested person shall submit a petition to the board of directors:

- (1) explaining the value of the good, product, or service in itself;
- (2) arguing the unique nature of this particular good, product, or service as compared to other such products or services currently available;
- (3) imparting the unique benefit that the company or its intended class will receive from use of the good, product, or service; and
- (4) offering the good, product, or service at a price at a discount off standard list price of that item, or at a discount off the average market price of similar products, goods, or services, whichever is lower or more appropriate.
- (5) The corporation shall convene a quorum of disinterested board members, who will then conduct a market survey of at least three potentially comparable products or services, focusing on price, quality, relevance, and appropriateness;

(b) This quorum shall then determine:

- (1) What is the standard list price of the product, good, or service and/or the average market price of similar products, goods, or services (if they in fact exist);
- (2) Whether such a purchase will be a useful tool for the company's intended class(es) and/or whether such a purchase will serve to help fulfill the company's mission;
- (3) Whether the product or service is of the quality necessary for the task at hand;
- (4) Whether an equally (or more) suitable alternative exists that could be procured at the same or lower price with *the exact same result*;
- (5) Whether the proposed product, good, or service is the most relevant and appropriate, given all other alternatives; and finally,

- (6) What below market-rate price the corporation will offer to the interested person for the product, good, or service.
- (c) If no other equally beneficial or superior product, good, or service can be obtained at the same or a lower price, the board may determine that the corporation's purchase from the interested person is not a conflict of interest and not an excess benefit transaction, and therefore proceed with the transaction.
- (d) Upon voting to purchase a product or service from the interested party:
  - (1) in the case of a good or product, the company will only purchase the bare minimum amount of stock for immediate future operations;
  - (2) In the case of a service, the company will only pay for the bare minimum amount of services needed for immediate future operations;
  - (3) In no situation shall the corporation purchase a large excess stock that cannot be used in a three-month period, or provide a large advance for any services not to be rendered within a three month period, unless extreme mission circumstances dictate otherwise, and unless approved by the board.

## **ARTICLE IV**

### **Records of Proceedings**

#### 4.01 Minutes

The minutes of the governing board and all committees with board delegated powers shall contain:

- (a) The names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the governing board's or committee's decision as to whether a conflict of interest in fact existed.
- (b) The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

**ARTICLE V****Compensation Approval Policies**

The corporation shall employ the following compensation approval policies :

- (a) A voting member of the governing board who receives compensation, directly or indirectly, from the Organization for services is precluded from voting on matters pertaining to that member's compensation.
- (b) A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Organization for services is precluded from voting on matters pertaining to that member's compensation.
- (c) No voting member of the governing board or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Organization, either individually or collectively, is prohibited from providing information to any committee regarding compensation
- (d) When approving compensation for directors, officers and employees, contractors, and any other compensation contract or arrangement, in addition complying with the conflict of interest requirements and policies contained in the preceding and following sections of this article as well as the preceding paragraphs of this section of this article, the board or a duly constituted compensation committee of the board shall also comply with the following additional requirements and procedures:
  - (1) the terms of compensation shall be approved by the board or compensation committee prior to the first payment of compensation;
  - (2) all members of the board or compensation committee who approve compensation arrangements must not have a conflict of interest with respect to the compensation arrangement as specified in IRS Regulation Section 53.4958-6(c)(iii), which generally requires that each board member or committee member approving a compensation arrangement between this organization and a "disqualified person" (as defined in Section 4958(f)(1) of the Internal Revenue Code and as amplified by Section 53.4958-3 of the IRS Regulations):
    - i. is not the person who is the subject of the compensation arrangement, or a family member of such person;
    - ii. is not in an employment relationship subject to the direction or control of the person who is the subject of the compensation arrangement;

- iii. does not receive compensation or other payments subject to approval by the person who is the subject of the compensation arrangement;
  - iv. has no material financial interest affected by the compensation arrangement; and
  - v. does not approve a transaction providing economic benefits to the person who is the subject of the compensation arrangement, who in turn has approved or will approve a transaction providing benefits to the board or committee member.
- (3) The board or compensation committee shall obtain and rely upon appropriate data as to comparability prior to approving the terms of compensation. Appropriate data may include the following:
- i. Compensation levels paid by similarly situated organizations, both taxable and tax-exempt, for functionally comparable positions. "Similarly situated" organizations are those of a similar size, purpose, and with similar resources;
  - ii. The availability of similar services in the geographic area of this organization;
  - iii. Current compensation surveys compiled by independent firms;
  - iv. Actual written offers from similar institutions competing for the services of the person who is the subject of the compensation arrangement.
  - v. As allowed by IRS Regulation 4958-6, if this organization has average gross receipts (including contributions) for its three prior tax years of less than \$1 million, the board or compensation committee will have obtained and relied upon appropriate data as to comparability if it obtains and relies upon data on compensation paid by three comparable organizations in the same or similar communities for similar services.
- (4) The terms of compensation and the basis for approving them shall be recorded in written minutes of the meeting of the board or compensation committee that approved the compensation. Such documentation shall include:



- i. The terms of the compensation arrangement and the date it was approved;
- ii. The members of the board or compensation committee who were present during debate on the transaction, those who voted on it, and the votes cast by each board or committee member;
- iii. The comparability data obtained and relied upon and how the data was obtained;
- iv. If the board or compensation committee determines that reasonable compensation for a specific position in this organization or for providing services under any other compensation arrangement with this organization is higher or lower than the range of comparability data obtained, the board or committee shall record in the minutes of the meeting the basis for its determination;
- v. If the board or committee makes adjustments to comparability data due to geographic area or other specific conditions, these adjustments and the reasons for them shall be recorded in the minutes of the board or committee meeting;
- vi. Any actions taken with respect to determining if a board or committee member had a conflict of interest with respect to the compensation arrangement, and if so, actions taken to make sure the member with the conflict of interest did not affect or participate in the approval of the transaction (for example, a notation in the records that after a finding of conflict of interest by a member, the member with the conflict of interest was asked to, and did, leave the meeting prior to a discussion of the compensation arrangement and a taking of the votes to approve the arrangement);
- vii. The minutes of the board or committee meetings at which compensation arrangements are approved must be prepared before the later of the date of the next board or committee meeting or 60 days after the final actions of the board or committee are taken with respect to the approval of the compensation arrangements. The minutes must be reviewed and approved by the board and committee as reasonable, accurate, and complete within a reasonable period thereafter, normally prior to or at the next board or committee meeting following final action on the arrangement by the board or committee.

## **ARTICLE VI**

### **Annual Statements**

#### **6.01 Annual Statements**

Each director, principal officer and member of a committee with governing board delegated powers shall annually sign a statement which affirms such person:

- (a) Has received a copy of the conflicts of interest policy;
- (b) Has read and understands the policy;
- (c) Has agreed to comply with the policy; and
- (d) Understands the corporation is charitable and in order to maintain its federal tax exemption, it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

## **ARTICLE VII**

### **Periodic Reviews**

#### **7.01 Periodic Reviews**

To ensure the Organization operates in a manner consistent with charitable purposes and does not engage in activities that could jeopardize its tax-exempt status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:

- (a) Whether compensation arrangements and benefits are reasonable, based on competent survey information, and the result of arm's length bargaining; and
- (b) Whether partnerships, joint ventures, and arrangements with management organizations conform to the Organization's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes and do not result in inurement, impermissible private benefit, or in an excess benefit transaction.

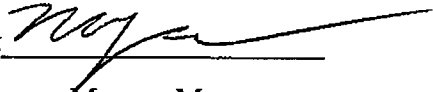
**ARTICLE VIII****Use of Outside Experts****8.01 Use of Outside Experts**

When conducting the periodic reviews as provided for in Article VII, the Organization may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the governing board of its responsibility for ensuring periodic reviews are conducted.

**CERTIFICATE OF ADOPTION OF  
CONFLICT OF INTEREST POLICY**

I do hereby that the above stated Conflict of Interest Policy of Break Diving, Inc., was approved by Break Diving, Inc. Board of Directors on 9/25/16.

President

  
\_\_\_\_\_  
Monroe Mann

Date:



**CORPORATE FUNDRAISING POLICY AGREEMENT**

I, \_\_\_\_\_, have received a copy of the Break Diving Fundraising Handbook and agree to read it and abide by its guidelines both prior and during any fundraising activities.

As a representative of the corporation, during any and all fundraising activity, I agree to be courteous and respectful, and not to use any contact information I may gain access to for any personal financial gain except as may otherwise be permitted by law, or as may be permitted by any particular and applicable corporate handbook.

I agree to abide by any and all state and federal laws while engaged in any fundraising activities on behalf of Break Diving, Inc.

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**INITIAL ORGANIZATIONAL MEETING  
BY UNANIMOUS WRITTEN CONSENT  
OF THE BOARD OF DIRECTORS  
OF BREAK DIVING, INC.**

The undersigned, being all the directors of Break Diving, Inc. (the "Corporation"), a Delaware nonprofit corporation, hereby adopt the following resolutions by unanimous written consent in accordance with all state laws:

1. **CERTIFICATE OF INCORPORATION.** The Certificate of Incorporation, a copy of which shall be filed with records of this Corporation, is hereby approved.
2. **BYLAWS.** The attached bylaws are hereby adopted as and for the Bylaws of the Corporation
3. **BOARD OF DIRECTORS.** The minimum number of directors of the corporation shall be in accordance with the Bylaws. The following persons accept their appointment as directors of the Corporation to serve in accordance with the Bylaws until their respective successors are elected and qualified or until their earlier resignation or removal:
  - a. Dr. Monroe Mann
  - b. Mr. Chad Kimball
  - c. Ms. Debbie Bordelon
  - d. Mr. Jonathan Cheever
  - e. Dr. Jonathan Rich
  - f. Ms. Merlên LaVoix
  - g. Mr. R. J. Lewis
4. **BOARD OFFICERS:** The following persons are elected to the offices of this Corporation set opposite their respective names, to serve in accordance with the Bylaws of this Corporation, and at the discretion of the Board until their respective successors are elected and qualify or until their earlier resignation or removal:
  - a. President: Dr. Monroe Mann
  - b. Vice President: Ms. Debbie Bordelon
  - c. Secretary: Dr. Jonathan Rich
  - d. Treasurer: Dr. Monroe Mann

5. **BOARD HANDBOOK.** The attached board handbook is hereby adopted as and for the Break Diving, Inc. Board Handbook of the Corporation. Any and all changes to this handbook shall adhere to the following procedures:
- a. The board shall first vote to make changes to the handbook in accordance with the procedures outlines in the bylaws, to include the creation of a board handbook committee, if deemed necessary
  - b. All board members (and anyone else deemed qualified by the board, subject to board vote) will be given the opportunity to be polled on the proposed changes and offered an opportunity to provide feedback to the other members of the board
  - c. The board will discuss all feedback and then vote on final changes to the board handbook, taking into consideration:
    - (i) First and foremost, the spirit and intent of the original board handbook, v1, dated September, 2016
    - (ii) The feedback from other board members on the proposed changes
    - (iii) The feedback from board discussion on the proposed changes
    - (iv) The current financial state of the company
    - (v) The Conflict of Interest Policy of the Corporation
    - (vi) All applicable local, state, and federal laws
6. **EMPLOYEE HANDBOOK.** The attached employee handbook is hereby adopted as and for the Break Diving, Inc. Employee Handbook of the Corporation. Any and all changes to this handbook shall adhere to the following procedures:
- a. The board shall first vote to make changes to the handbook, in accordance with the procedures outlines in the bylaws, to include the creation of an employee handbook committee, if deemed necessary
  - b. All employees (and anyone else deemed qualified by the board, subject to board vote) will be given the opportunity to be polled on the proposed changes and offered an opportunity to provide feedback to the board
  - c. The board will discuss all feedback and then vote on final changes to the employee handbook, taking into consideration:

- (i) First and foremost, the spirit and intent of the original employee handbook, v1, dated September, 2016
  - (ii) The feedback from employees on the proposed changes
  - (iii) The feedback from board discussion on the proposed changes
  - (iv) The current financial state of the company
  - (v) All applicable local, state, and federal laws
7. **VOLUNTEER HANDBOOK.** The attached volunteer handbook is hereby adopted as and for the Break Diving, Inc. Volunteer Handbook of the Corporation. Any and all changes to this handbook shall adhere to the following procedures:
- a. The board shall first vote to make changes to the handbook, in accordance with the procedures outlines in the bylaws, to include the creation of an volunteer handbook committee, if deemed necessary
  - b. All employees and volunteers with at least 100 logged hours for the current year (and anyone else deemed qualified by the board, subject to board vote) will be given the opportunity to be polled on the proposed changes and offered an opportunity to provide feedback to the board
  - c. The board will discuss all feedback and then vote on final changes to the volunteer handbook, taking into consideration:
    - (i) First and foremost, the spirit and intent of the original volunteer handbook, v1, dated September, 2016
    - (ii) The feedback from employees and eligible volunteers on the proposed changes
    - (iii) The feedback from board discussion on the proposed changes
    - (iv) The current financial state of the company
    - (v) All applicable local, state, and federal laws

8. **CONFLICT OF INTEREST POLICY.** The attached Conflict of Interest Policy is hereby adopted as and for the Conflict of Interest Policy of the Corporation. The attached Annual Conflict of Interest Statement is hereby adopted as and for the Conflict of Interest Policy of the Corporation. All board members agree to read this policy and complete the attached Annual Conflict of Interest Statement within one month of the adoption of these resolutions.
9. **AUTHORITY TO TAKE ACTION:** For the purpose of authorizing the Corporation to carry on its exempt purpose under the laws of any state as to which the officers of the Corporation determine such authorization is necessary or desirable, the proper officers of the Corporation are hereby authorized in the name and on behalf of the Corporation to take such action as may be necessary or advisable to effect the qualification of the Corporation to carry on its exempt purpose as a foreign corporation in such state or states.
10. **BANKING AUTHORITY:** The officers of this Corporation, acting for and on behalf of this Corporation, and unless otherwise restricted by the bylaws, be and each is, authorized:
  - a. to designate such bank or banks as depositories (the "Depository") for the funds of the Corporation as such officers deem necessary or advisable;
  - b. to open, keep and close general and special bank accounts and safe deposit boxes with any Depository;
  - c. to cause to be deposited in accounts with any Depository from time to time such funds of the Corporation as the officer(s) may deem necessary or advisable;
  - d. to designate from time to time officers and agents of the Corporation authorized to sign or countersign checks, drafts or other orders for the payment of money issued in the name of the Corporation against any such account;
  - e. to make such general and special rules and regulations with respect to such accounts (including without limitation authorization for use of facsimile signatures) as the officer(s) may deem necessary or advisable.



11. **PREAMBLES & RESOLUTIONS:** If any Depository requires a prescribed form of preamble, preambles, resolution, resolutions, agreement, agreements, contract, or contracts ["preamble(s)"] relating to such accounts or borrowing or to any application, statement, instrument or other documents connected therewith, each such preamble, shall be deemed adopted by the Board of Directors of the Corporation, and the secretary of the Corporation shall be, and hereby is, authorized to certify the adoption of any such preamble as though it were presented to the Board of Directors at the time of adopting this resolution, and to insert all such preambles in the minute book of the Corporation immediately following any such adoption.
12. **FEE AUTHORIZATION.** The officers of the Corporation be and they hereby are authorized to pay all fees and expenses incident to and necessary for the organization, qualification, and running of the Corporation out of the funds of the Corporation.
13. **FEE REIMBURSEMENT.** The incorporator and founder Monroe Mann is entitled to receive the reimbursement of the following fees from the funds of the corporation as soon as is practical. Receipts and invoices are provided for each.

**FIXED COSTS**

a. Incorporation Fees:	\$198	= \$198.00
b. Not For Profit Consultant Fee:	\$650 flat fee	= \$650.00
c. Legal Work at no cost:	\$200/hour x 50 hours	= \$0
d. Wild Apricot Software:	\$210	= \$210.00
e. Logo design / Notepads:		=\$149.34
f. Purchase of Legal Books:		=\$217.89
g. Internet GoDaddy hosting:	\$24.99/month	=\$74.97
h. Bing Ads:		=\$100
i. Registered Agent Fee:	1 year at \$45	=\$45
j. Guidestar Comparables 2016		=\$375
k. Proboards for WYSEguidance	\$10/month	=\$80
l. Language testing and setup fees		=\$210
m. IRS Form 1023 submission fee		=\$850
n. GoDaddy URL Purchases		=\$21.71
		<hr/>
		\$3,181.91

**VARIABLE COSTS**

- a. Basecamp Fees: \$29/month from July 1
- b. Wild Apricot Fees: \$40/month from September 1
- c. GoDaddy Hosting: \$24.99/month from September 1
- d. Proboards for WYSEguidance \$10/month from September 1
- e. Pipedrive CRM software \$15/month from October 1


**OTHER COSTS**

- a. Any other reasonable fees expended in support of the mission and that are deemed necessary in order to successfully launch and operate the company until the corporation is self-sustaining. Such expenditures must be supported by receipts and a written reasonable explanation for why such fee was incurred, reimbursement of said expenses to be presented and voted on at the next board meeting.
14. **AUTHORITY TO SEEK INCOME TAX EXEMPTION.** The officers of the Corporation be and they hereby are, authorized, empowered and directed to execute and file for, in the name of and on behalf of the Corporation, any and all documents, certificates and instruments necessary to obtain and evidence exemptions for the corporation from Federal and Delaware income tax and any other tax deemed appropriate by such officer or officers.
15. **AUTHORITY TO ACCEPT.** The officers of the Corporation be and they hereby are, delegated the power to accept, on behalf of the Corporation, any contribution, gift, bequest or devise, whether outright or in trust, as a current or future interest, as real or personal property, or as tangible or intangible property, for the general purposes or any special purpose of the Corporation upon such terms and conditions as such officer(s) determine are necessary or appropriate.
16. **AUTHORITY TO CARRY ON CORPORATE AFFAIRS.** The officers of the Corporation shall be, and they hereby are, granted full power and authority to execute and deliver all such instruments, agreements, and documents, to pay all such fees and expenses, and to perform such other acts as such officer may determine to be necessary or convenient, and in the best interests of the Corporation, from time to time hereafter, to carry on the affairs of the Corporation, with the power of delegation, all in the name of the Corporation and on the Corporation's behalf and in compliance with all applicable laws and regulations.
17. **NEXT BOARD MEETING.** The undersigned parties agree to decide together, with leadership from the President, on a date for the first formal regular board meeting, to be held in the month of October, 2016, in accordance with the Board Handbook, and at a day, time, and place of mutual convenience to as many board members as can attend. Each board member agrees to make every reasonable effort to find the time to schedule and attend every board meeting of the corporation.

18. **EFFECTIVE DATE:** The above resolutions are dated and effective as of the latest date signed by the below individuals. Each party may sign and send back separately. Collectively, all of the signatures, seven in total, will merge to form a final unanimous document.

	Signature	Date
Monroe Mann – Board President/Treasurer	_____	_____
Debbie Bordelon – Board Vice President	_____	_____
Jonathan Rich – Board Secretary	_____	_____
Jonathan Cheever – Board Member	_____	_____
Merlên LaVoix – Board Member	_____	_____
Chad Kimball – Board Member	_____	_____
R.J. Lewis – Board Member	_____	_____

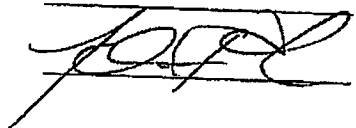
18. **EFFECTIVE DATE:** The above resolutions are dated and effective as of the latest date signed by the below individuals. Each party may sign and send back separately. Collectively, all of the signatures, seven in total, will merge to form a final unanimous document.

	Signature	Date
Monroe Mann – Board President/Treasurer		9/25/16
Debbie Bordelon – Board Vice President	_____	_____
Jonathan Rich – Board Secretary	_____	_____
Jonathan Cheever – Board Member	_____	_____
Merl�en LaVoix – Board Member	_____	_____
Chad Kimball – Board Member	_____	_____
R.J. Lewis – Board Member	_____	_____


18. **EFFECTIVE DATE:** The above resolutions are dated and effective as of the latest date signed by the below individuals. Each party may sign and send back separately. Collectively, all of the signatures, seven in total, will merge to form a final unanimous document.

	Signature	Date
Monroe Mann – Board President/Treasurer		
Debbie Bordelon – Board Vice President	<i>Debbie Bordelon</i>	9/25/2016
Jonathan Rich – Board Secretary		
Jonathan Cheever – Board Member		
Merlên LaVoix – Board Member		
Chad Kimball – Board Member		
R.J. Lewis – Board Member		

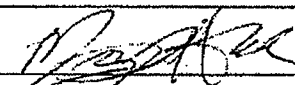
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	Signature	Date
Monroe Mann – Board President/Treasurer	_____	_____
Debbie Bordelon – Board Vice President	_____	_____
Jonathan Rich – Board Secretary		9/25/2016
Jonathan Cheever – Board Member	_____	_____
Merlén LaVoix – Board Member	_____	_____
Chad Kimball – Board Member	_____	_____
R.J. Lewis – Board Member	_____	_____

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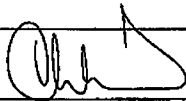
	Signature	Date
Monroe Mann – Board President/Treasurer	_____	_____
Debbie Bordelon – Board Vice President	_____	_____
Jonathan Rich – Board Secretary	_____	_____
Jonathan Cheever – Board Member		9/25/16
Merlên LaVoix – Board Member	_____	_____
Chad Kimball – Board Member	_____	_____
R.J. Lewis – Board Member	_____	_____

18. EFFECTIVE DATE: The above resolutions are dated and effective as of the latest date signed by the below individuals. Each party may sign and send back separately. Collectively, all of the signatures, seven in total, will merge to form a final unanimous document.

	Signature	Date
Monroe Mann – Board President/Treasurer	_____	_____
Debbie Bordelon – Board Vice President	_____	_____
Jonathan Rich – Board Secretary	_____	_____
Jonathan Cheever – Board Member	_____	_____
Merlên LaVoix – Board Member		26/9/2016
Chad Kimball – Board Member	_____	_____
R.J. Lewis – Board Member	_____	_____



18. **EFFECTIVE DATE:** The above resolutions are dated and effective as of the latest date signed by the below individuals. Each party may sign and send back separately. Collectively, all of the signatures, seven in total, will merge to form a final unanimous document.

	Signature	Date
Monroe Mann – Board President/Treasurer	_____	_____
Debbie Bordelon – Board Vice President	_____	_____
Jonathan Rich – Board Secretary	_____	_____
Jonathan Cheever – Board Member	_____	_____
Merlên LaVoix – Board Member	_____	_____
Chad Kimball – Board Member		09/25/16
R.J. Lewis – Board Member	_____	_____

18. **EFFECTIVE DATE:** The above resolutions are dated and effective as of the latest date signed by the below individuals. Each party may sign and send back separately. Collectively, all of the signatures, seven in total, will merge to form a final unanimous document.

	Signature	Date
Monroe Mann – Board President/Treasurer	_____	_____
Debbie Bordelon – Board Vice President	_____	_____
Jonathan Rich – Board Secretary	_____	_____
Jonathan Cheever – Board Member	_____	_____
Merlèn LaVoix – Board Member	_____	_____
Chad Kimball – Board Member	_____	_____
R.J. Lewis – Board Member	<u>R.J. Lewis</u>	<u>9/25/16</u>

**ORGANIZATIONAL MEETING  
BY UNANIMOUS WRITTEN CONSENT  
OF THE BOARD OF DIRECTORS  
OF BREAK DIVING, INC.**

The undersigned, being all the directors of Break Diving, Inc. (the "Corporation"), a Delaware nonprofit corporation, excepting the interested person Monroe Mann, hereby adopt the following resolutions by unanimous written consent in accordance with all state laws:

1. **HIRING OF EXECUTIVE DIRECTOR.** The six disinterested members of the board of directors hereby nominate and unanimously vote Monroe Mann as the first Executive Director of the corporation with an initial salary of **\$0/month**.
2. **FIXED SALARY SCHEMATIC:** In expectation that the company will grow, and given his extensive experience, qualifications, and education, the Board (minus the interested person)—in consultation with and in consultation with the Guidestar 2016 Comparable Compensation Report (attached in part)—has hired Dr. Mann in accordance with the following fixed payment schematic, with said salary to automatically increase (without discretion of any party in accordance with IRS policies) as follows:

Salary Schematic – Monroe Mann as Break Diving, Inc. Executive Director – Full Time	
Upon startup, salary will be \$0/year (\$0/month)	
For purposes of the below schematic, the term "budget" shall be defined as the sum total in the corporate bank account of gross receipts from all sources, to include donations, grants, membership fees, income from goods and services sold, etc.	
Once and if budget surpasses	Pre-tax salary will begin to be paid at
\$5,000	\$2,000/year (\$166.66/month) = 40% of budget
\$10,000	\$4,000/year (\$333.3/month) = 40% of budget
\$25,000	\$10,000/year (\$833.3/month) = 40% of budget
\$50,000	\$20,000/year (\$1,666.6/month) = 40% of budget
\$75,000	\$30,000/year (\$2,500/month) = 40% of budget
\$100,000	\$40,000/year (\$3,333/month) = 40% of budget
\$125,000	\$50,000/year = \$4,166/month) 40% of budget
\$150,000	\$55,000/year = 36% of budget
\$175,000	\$60,000/year = 34% of budget
\$200,000	\$65,000/year = 32.5% of budget
\$250,000	\$70,000/year = 28% of budget

\$300,000	\$75,000/year = 25% of budget
\$350,000	\$80,000/year = 22.8% of budget
\$400,000	\$85,000/year = 21.25% of budget
\$500,000	\$90,000/year = 18% of budget
\$600,000	\$100,000/year = 16% of budget
\$700,000	\$110,000/year = 15.7% of budget
\$800,000	\$120,000/year = 15% of budget
\$900,000	\$130,000/year = 14.4% of budget
\$1,000,000+	\$140,000/year = 14% of budget

3. **SALARY REVIEW:** Dr. Mann's salary will initially be reviewed every quarter, and updated according to the above schematic. No later than every two years, a renewed analysis will be conducted based on the most recent salary comparables of similar corporations at similar budget sizes, for similar positions, with employees of similar experience, expertise, and education.
4. **PUBLIC SERVICE LOAN FORGIVENESS PROGRAM:** We are aware that Dr. Mann is currently repaying his student loans, the degrees resulting therefrom acknowledged to be of immeasurable benefit to this corporation. We understand that Dr. Mann became aware of the federal government's Public Service Loan Forgiveness Program while employed as an associate attorney public defender for the Westchester County Legal Aid Society.
  - a. The eligibility guidelines for participation in this program, as outlined at <https://studentaid.ed.gov/sa/repay-loans/forgiveness-cancellation/public-service>, state:
    - i. "Qualifying employment for the PSLF Program is not about the specific job that you do for your employer. Rather, it is about who your employer is. Employment with the following types of organizations qualifies for PSLF:
      - (i) Government organizations at any level (federal, state, local, or tribal)
      - (ii) Not-for-profit organizations that are tax-exempt under Section 501(c)(3) of the Internal Revenue Code
      - (iii) Other types of not-for-profit organizations that provide certain types of qualifying public service"
    - ii. "For PSLF, you are generally considered to work full-time if you meet your employer's definition of full-time or work at least 30 hours per week, whichever is greater. If you are employed in more than one qualifying part-time job at the same time, you may meet the full-time employment

requirement if you work a combined average of at least 30 hours per week with your employers. For borrowers who are employed by not-for-profit organizations, time spent on religious instruction, worship services, or any form of proselytizing may not be counted toward meeting the full-time employment requirement.”

- b. As such, and in consultation with the corporation’s Conflict of Interest Policy, we determine that because Dr. Mann will be a full-time employee at a tax-exempt 501 (c) (3), working at least 30 hours per week, *and*:
- i. because any other employee of the company would similarly be approved for participation in this program, *and*
  - ii. because no portion of those minimum 30 hours will be spent on religious instruction, worship services, or any form of proselytizing, *and*
  - iii. because the entire purpose of the PSLF is to encourage individuals with higher education to work in the public sector, *and*
  - iv. because this not for profit and its extraordinary vision would not exist were it not for Dr. Mann, *and*
  - v. because we do not believe any other individual is better suited to lead the company to success than Dr. Mann, *and*
  - vi. because we know that Dr. Mann’s participation in the PSLF program is merely an ancillary benefit to seeing his vision for this not-for-profit endeavor come to fruition,

*we therefore find that there is NO conflict of interest, and permit Dr. Mann to so participate, should he choose, in the federal government’s Public Service Loan Forgiveness Program, in return for his full-time efforts as Executive Director of the Corporation.*

5. FORMAL CONTRACT: Upon approval of this resolution by the board, a formal offer of employment will be presented to Dr. Mann, to be signed by all members of the board, including the interested party.
6. EFFECTIVE DATE: Dated and effective as of the latest date signed by the below individuals. Each party may sign and send back separately. Collectively, all of the signatures will merge to form a final document.

	<u>Interested Party – NO VOTE</u>	<u>DATE</u>
Monroe Mann – Board President/Treasurer		
Debbie Bordelon – Board Vice President	_____	_____
Jonathan Rich – Board Secretary	_____	_____
Jonathan Cheever – Board Member	_____	_____
Merlén LaVoix – Board Member	_____	_____
Chad Kimball – Board Member	_____	_____
R.J. Lewis – Board Member	_____	_____

ALL THE DIRECTORS MINUS THE  
ONE INTERESTED PARTY.

Monroe Mann – Board President/Treasurer

Interested Party – NO VOTE      DATE

Debbie Bordelon – Board Vice President

*Allyson Boeh*      9/25/2016

Jonathan Rich – Board Secretary

\_\_\_\_\_

Jonathan Cheever – Board Member

\_\_\_\_\_

Merlén LaVoix – Board Member

\_\_\_\_\_

Chad Kimball – Board Member

\_\_\_\_\_

R.J. Lewis – Board Member

\_\_\_\_\_

ALL THE DIRECTORS MINUS THE  
ONE INTERESTED PARTY.

- Monroe Mann – Board President/Treasurer
- Debbie Bordelon – Board Vice President
- Jonathan Rich – Board Secretary
- Jonathan Cheever – Board Member
- Merlén LaVoix – Board Member
- Chad Kimball – Board Member
- R.J. Lewis – Board Member

<u>Interested Party – NO VOTE</u>	<u>DATE</u>
<i>[Signature]</i>	9/25/16

*[Signature]* 9/25/16

ALL THE DIRECTORS MINUS THE ONE INTERESTED PARTY.



Monroe Mann – Board President/Treasurer

Interested Party – NO VOTE      DATE

Debbie Bordelon – Board Vice President

\_\_\_\_\_

Jonathan Rich – Board Secretary

\_\_\_\_\_

Jonathan Cheever – Board Member

 9/25/16

Merlên LaVoix – Board Member

\_\_\_\_\_

Chad Kimball – Board Member

\_\_\_\_\_

R.J. Lewis – Board Member

\_\_\_\_\_

ALL THE DIRECTORS MINUS THE  
ONE INTERESTED PARTY.



Monroe Mann – Board President/Treasurer

Interested Party – NO VOTE      DATE

Debbie Bordelon – Board Vice President

\_\_\_\_\_

Jonathan Rich – Board Secretary

\_\_\_\_\_

Jonathan Cheever – Board Member

\_\_\_\_\_

Merlèn LaVoix – Board Member

*Merlèn LaVoix*      26/9/16

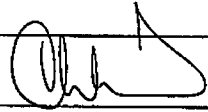
Chad Kimball – Board Member

\_\_\_\_\_

R.J. Lewis – Board Member

\_\_\_\_\_

ALL THE DIRECTORS MINUS THE  
ONE INTERESTED PARTY.

	<u>Interested Party – NO VOTE</u>	<u>DATE</u>
Monroe Mann – Board President/Treasurer		
Debbie Bordelon – Board Vice President		
Jonathan Rich – Board Secretary		
Jonathan Cheever – Board Member		
Merlên LaVoix – Board Member		
Chad Kimball – Board Member		09/25/16
R.J. Lewis – Board Member		

ALL THE DIRECTORS MINUS THE ONE INTERESTED PARTY.

	<u>Interested Party – NO VOTE</u>	<u>DATE</u>
Monroe Mann – Board President/Treasurer	_____	_____
Debbie Bordelon – Board Vice President	_____	_____
Jonathan Rich – Board Secretary	_____	_____
Jonathan Cheever – Board Member	_____	_____
Merlên LaVoix – Board Member	_____	_____
Chad Kimball – Board Member	_____	_____
R.J. Lewis – Board Member	<u>R.J. Lewis</u>	<u>9/25/16</u>

ALL THE DIRECTORS MINUS THE  
ONE INTERESTED PARTY.

### Geography

The Washington, D.C., metropolitan statistical area (MSA) had the highest overall median compensation. This finding is not surprising, given the high concentration of national organizations headquartered there. The chart below shows actual median compensation for the top 20 MSAs (as ranked by number of nonprofits in the study), and compensation adjusted for the Washington, D.C., cost of living.

#### Median CEO Compensation for the Top Twenty MSAs, FY 2014

Metropolitan Statistical Area	Median Compensation	Adjusted for DC Cost of Living
Washington, DC-MD-VA	\$166,667	\$166,667
New York, NY-NJ	\$147,075	\$129,498
Chicago, IL	\$114,445	\$111,900
Los Angeles-Long Beach, CA	\$115,658	\$105,446
Boston, MA	\$121,094	\$153,679
Philadelphia, PA-NJ	\$113,305	\$131,883
Minneapolis-St. Paul, MN-WI	\$95,607	\$94,497
San Francisco-Oakland, CA	\$116,367	\$133,061
Atlanta, GA	\$94,612	\$86,258
Seattle-Everett, WA	\$99,959	\$102,981
Denver-Boulder, CO	\$94,967	\$144,626
Portland, OR-WA	\$86,343	\$105,358
Dallas-Fort Worth, TX	\$93,359	\$134,087
Oakland, CA	\$107,751	\$139,738
Baltimore, MD	\$110,098	\$154,864
Detroit, MI	\$100,000	\$145,309
Pittsburgh, PA	\$97,478	\$141,644
Phoenix-Mesa, AZ	\$99,304	\$148,412
Houston, TX	\$103,193	\$149,630
San Diego, CA	\$100,598	\$140,487

# Compensation by Budget Size

	Count	Average	10th Percentile	25th Percentile	Median	75th Percentile	90th Percentile
<b>\$250 thousand or less</b>							
✓ CEO/Executive Director	8,979	\$50,914	\$23,875	\$33,151	\$45,924	\$61,575	\$81,164
Top Administrative Position	296	\$36,785	\$18,231	\$24,379	\$33,872	\$44,979	\$56,685
✓ Top Business Position	69	\$68,071	\$24,279	\$36,000	\$64,125	\$91,894	\$109,272
Top Development Position	27	\$47,503	\$19,181	\$23,553	\$33,386	\$53,423	\$83,782
Top Education Position	20	\$57,281	\$32,107	\$36,330	\$58,199	\$72,788	\$82,305
Top Facilities Position	10	\$36,849		\$30,159	\$35,269	\$39,069	
Top Finance Position	399	\$44,198	\$18,096	\$23,712	\$34,500	\$50,367	\$70,708
✓ Top Human Resources Position	5	\$124,044			\$126,517		
✓ Top Legal Position	8	\$81,442			\$83,396		
Top Marketing Position	6	\$67,894			\$30,926		
Top Operations Position	90	\$44,504	\$18,888	\$25,662	\$36,565	\$47,296	\$71,795
Top PR/Communications Position	5	\$36,631			\$39,934		
Top Program Position	133	-\$40,546	\$21,558	\$28,834	\$38,012	\$48,238	\$58,472
Top Technology Position	5	\$106,653			\$34,749		
<b>Between \$250 thousand and \$500 thousand</b>							
✓ CEO/Executive Director	14,283	\$66,757	\$32,500	\$45,024	\$60,424	\$80,389	\$105,887
Top Administrative Position	512	\$45,509	\$21,753	\$29,925	\$40,178	\$54,348	\$73,385
✓ Top Business Position	199	\$81,414	\$31,871	\$55,130	\$77,615	\$104,975	\$129,380
Top Development Position	38	\$58,769	\$31,265	\$39,368	\$46,723	\$60,886	\$131,262
Top Education Position	63	\$81,027	\$28,077	\$46,081	\$77,670	\$103,357	\$129,422
Top Facilities Position	13	\$39,559		\$30,819	\$40,000	\$47,135	
Top Finance Position	716	\$51,027	\$22,000	\$30,088	\$43,383	\$64,801	\$87,558
✓ Top Legal Position	11	\$94,827		\$50,274	\$94,318	\$142,962	
Top Marketing Position	8	\$47,485			\$43,006		
Top Operations Position	223	\$51,303	\$25,843	\$35,460	\$45,750	\$59,975	\$77,715
Top PR/Communications Position	13	\$37,802		\$30,180	\$35,750	\$46,141	
Top Program Position	186	\$47,397	\$24,066	\$34,770	\$43,033	\$57,119	\$71,459

BREAK DURING MEET 81-3744910

# Compensation by Budget Size

	Count	Average	10th Percentile	25th Percentile	Median	75th Percentile	90th Percentile
<b>Between \$500 thousand and \$1 million</b>							
✓ CEO/Executive Director	15,608	\$86,000	\$42,228	\$57,027	\$75,520	\$102,138	\$140,170
Top Administrative Position	586	\$64,646	\$32,123	\$41,617	\$57,607	\$77,614	\$102,816
✓ Top Business Position	390	\$104,080	\$43,168	\$69,605	\$101,335	\$134,713	\$163,365
Top Development Position	71	\$72,637	\$29,482	\$42,000	\$56,650	\$92,312	\$131,974
Top Education Position	82	\$91,460	\$43,378	\$58,913	\$90,041	\$117,250	\$148,647
Top Facilities Position	26	\$49,013	\$28,937	\$35,378	\$43,910	\$57,613	\$71,024
Top Finance Position	1,117	\$67,075	\$27,216	\$39,999	\$57,463	\$83,888	\$120,442
✓ Top Legal Position	25	\$126,224	\$76,848	\$102,415	\$116,485	\$148,840	\$186,890
Top Marketing Position	9	\$90,754			\$46,800		
Top Operations Position	328	\$71,162	\$31,105	\$44,014	\$61,140	\$85,848	\$124,018
Top PR/Communications Position	10	\$76,297		\$52,033	\$64,617	\$94,793	
Top Program Position	160	\$65,082	\$32,308	\$44,136	\$57,515	\$77,761	\$109,233
Top Technology Position	16	\$115,471		\$59,075	\$133,750	\$146,614	
<b>Between \$1 million and \$2.5 million</b>							
✓ CEO/Executive Director	17,968	\$114,282	\$55,636	\$74,098	\$98,513	\$135,526	\$190,107
Top Administrative Position	913	\$91,487	\$43,016	\$58,846	\$81,257	\$112,470	\$149,647
✓ Top Business Position	597	\$120,584	\$47,666	\$72,831	\$118,075	\$155,799	\$201,518
Top Development Position	182	\$104,778	\$47,043	\$65,299	\$106,156	\$134,966	\$154,419
Top Education Position	95	\$112,084	\$47,104	\$66,873	\$109,975	\$149,590	\$179,425
Top Facilities Position	18	\$98,896		\$59,087	\$108,364	\$123,697	
Top Finance Position	2,414	\$84,202	\$36,684	\$51,842	\$72,945	\$103,461	\$147,315
✓ Top Human Resources Position	20	\$108,478	\$48,197	\$62,731	\$97,616	\$123,107	\$134,445
✓ Top Legal Position	84	\$146,885	\$100,552	\$117,235	\$143,508	\$166,177	\$196,142
Top Marketing Position	32	\$123,129	\$45,200	\$69,706	\$118,437	\$151,859	\$206,110
Top Operations Position	747	\$99,857	\$45,763	\$64,876	\$87,000	\$122,666	\$169,665
Top PR/Communications Position	33	\$124,451	\$68,739	\$110,293	\$123,816	\$149,216	\$173,508
Top Program Position	219	\$91,130	\$43,633	\$60,872	\$82,246	\$118,149	\$144,429

BREAK DURING INC. EIN 81-3744910

# Compensation by State and Budget Size

## New Mexico

	Count	Average	10th Percentile	25th Percentile	Median	75th Percentile	90th Percentile
<b>Between \$2.5 million and \$5 million</b>							
CEO/Executive Director	79	\$129,531	\$74,057	\$85,118	\$117,111	\$163,499	\$195,867
Top Administrative Position	5	\$100,660			\$108,826		
Top Finance Position	27	\$92,888	\$53,396	\$72,441	\$84,584	\$116,217	\$129,834
Top Operations Position	11	\$98,286		\$67,601	\$90,519	\$122,606	
<b>Between \$5 million and \$10 million</b>							
CEO/Executive Director	39	\$129,395	\$59,913	\$89,612	\$125,149	\$162,846	\$196,577
Top Administrative Position	6	\$144,732			\$132,492		
Top Finance Position	12	\$95,864		\$83,882	\$103,581	\$110,331	
<b>Between \$10 million and \$25 million</b>							
CEO/Executive Director	37	\$208,358	\$91,910	\$137,055	\$179,204	\$259,861	\$311,793
Top Administrative Position	10	\$156,596		\$69,433	\$124,558	\$187,609	
Top Finance Position	20	\$114,872	\$60,268	\$81,374	\$112,054	\$144,430	\$177,627
Top Operations Position	14	\$153,017		\$100,732	\$131,585	\$184,594	
<b>Between \$25 million and \$50 million</b>							
CEO/Executive Director	10	\$248,373		\$186,390	\$236,330	\$270,632	
Top Finance Position	9	\$163,379			\$129,228		
Top Operations Position	5	\$166,898			\$148,405		
<b>Greater than \$50 million</b>							
CEO/Executive Director	9	\$328,282			\$332,660		
<b>New York</b>							
<b>\$250 thousand or less</b>							
CEO/Executive Director	481	\$52,127	\$22,717	\$34,680	\$49,808	\$63,222	\$84,000
Top Administrative Position	11	\$33,092		\$27,176	\$33,048	\$38,633	
Top Business Position	6	\$90,290			\$91,940		
Top Finance Position	28	\$40,262	\$16,870	\$25,389	\$35,861	\$41,180	\$65,588

BRCAK DIVING, INC.

WIN 81-3744910



# Compensation by State and Budget Size

## New York

	Count	Average	10th Percentile	25th Percentile	Median	75th Percentile	90th Percentile
<b>\$250 thousand or less</b>							
Top Program Position	5	\$42,042			\$39,996		
<b>Between \$250 thousand and \$500 thousand</b>							
CEO/Executive Director	833	\$69,357	\$30,000	\$45,323	\$63,466	\$83,278	\$110,532
Top Administrative Position	26	\$61,003	\$25,593	\$34,418	\$53,797	\$78,128	\$106,739
Top Business Position	18	\$111,044		\$68,349	\$98,985	\$151,599	
Top Development Position	5	\$85,436			\$68,074		
Top Finance Position	41	\$55,281	\$21,946	\$38,750	\$45,820	\$59,699	\$107,212
Top Operations Position	10	\$67,302		\$55,303	\$60,975	\$70,625	
Top Program Position	14	\$53,733		\$43,503	\$53,089	\$65,541	
<b>Between \$500 thousand and \$1 million</b>							
CEO/Executive Director	1,114	\$91,922	\$45,000	\$60,802	\$82,070	\$110,950	\$150,000
Top Administrative Position	39	\$74,483	\$35,259	\$45,580	\$69,233	\$92,285	\$125,059
Top Business Position	28	\$125,099	\$52,253	\$103,597	\$125,691	\$143,274	\$171,457
Top Development Position	5	\$60,202			\$50,004		
Top Education Position	9	\$105,332			\$124,453		
Top Finance Position	95	\$73,861	\$32,784	\$45,244	\$64,077	\$96,392	\$128,607
Top Operations Position	32	\$75,849	\$37,696	\$49,696	\$66,548	\$92,071	\$108,396
Top Program Position	10	\$86,306		\$61,719	\$64,849	\$86,657	
<b>Between \$1 million and \$2.5 million</b>							
CEO/Executive Director	1,333	\$126,419	\$58,781	\$80,428	\$109,954	\$152,827	\$207,938
Top Administrative Position	63	\$118,253	\$56,224	\$75,842	\$102,615	\$136,477	\$182,877
Top Business Position	53	\$154,846	\$67,122	\$105,685	\$147,478	\$197,405	\$259,197
Top Development Position	26	\$128,921	\$73,132	\$110,073	\$125,204	\$152,749	\$161,807
Top Education Position	7	\$101,334			\$107,091		
Top Finance Position	199	\$97,920	\$43,842	\$63,042	\$87,000	\$122,992	\$165,959
Top Legal Position	11	\$131,547		\$107,186	\$140,000	\$159,693	

BREAK DIVING, PNC EIN 81-3744910

# Compensation by State, NTEE Major Group and Budget Size

## New York

### Animal-Related

	Count	Average	10th Percentile	25th Percentile	Median	75th Percentile	90th Percentile
<b>\$500 thousand or less</b>							
CEO/Executive Director	12	\$39,865		\$31,335	\$39,409	\$50,762	
Between \$500 thousand and \$1 million							
CEO/Executive Director	12	\$69,563		\$54,441	\$68,075	\$87,194	
Between \$1 million and \$5 million							
CEO/Executive Director	21	\$88,308	\$45,616	\$56,302	\$88,325	\$112,216	\$143,543
Greater than \$5 million							
CEO/Executive Director	17	\$337,246		\$149,908	\$233,371	\$372,055	
Top Finance Position	8	\$221,182			\$179,911		
<b>Arts, Culture and Humanities</b>							
<b>\$500 thousand or less</b>							
CEO/Executive Director	239	\$52,818	\$22,672	\$32,458	\$49,808	\$65,250	\$84,139
Top Finance Position	11	\$43,775		\$32,000	\$40,484	\$46,561	
Between \$500 thousand and \$1 million							
CEO/Executive Director	163	\$78,805	\$36,100	\$50,926	\$70,324	\$92,623	\$137,296
Top Administrative Position	6	\$80,520			\$75,591		
Top Finance Position	6	\$47,219			\$44,185		
Between \$1 million and \$5 million							
CEO/Executive Director	261	\$133,229	\$64,561	\$85,320	\$120,000	\$169,926	\$225,000
Top Administrative Position	10	\$111,784		\$71,919	\$97,581	\$151,367	
Top Development Position	11	\$131,726		\$114,970	\$140,257	\$158,437	
Top Finance Position	48	\$96,672	\$62,202	\$75,769	\$93,885	\$119,444	\$140,131
Top Operations Position	10	\$136,320		\$109,674	\$120,686	\$145,555	

BREAK DIVING INC. EIN 81-3744910

# Compensation by State, NTEE Major Group and Budget Size

## New York

### Educational Institutions and Related Activities

	Count	Average	10th Percentile	25th Percentile	Median	75th Percentile	90th Percentile
Between \$1 million and \$5 million							
✓ CEO/Executive Director	323	\$141,750	\$70,253	\$93,133	\$131,223	\$167,518	\$223,308
Top Administrative Position	13	\$80,981		\$53,258	\$81,000	\$89,827	
Top Business Position	9	\$88,705			\$76,445		
Top Development Position	11	\$122,824			\$86,340	\$138,400	
Top Education Position	11	\$144,832		\$113,888	\$150,594	\$172,046	
Top Finance Position	61	\$97,278	\$43,211	\$60,304	\$77,020	\$117,234	\$156,000
Top Operations Position	34	\$115,235	\$68,112	\$76,484	\$112,244	\$147,808	\$175,169
Top Program Position	6	\$142,382			\$137,679		
Greater than \$5 million							
CEO/Executive Director	400	\$378,448	\$123,637	\$161,234	\$239,291	\$396,976	\$656,808
Top Administrative Position	53	\$183,906	\$113,784	\$132,030	\$170,431	\$328,050	\$253,786
Top Business Position	36	\$158,151	\$89,000	\$103,182	\$137,757	\$205,434	\$259,850
Top Development Position	83	\$207,476	\$126,587	\$157,815	\$199,542	\$234,907	\$283,289
Top Education Position	22	\$169,611	\$123,223	\$133,404	\$156,326	\$192,758	\$238,604
Top Facilities Position	18	\$214,706		\$181,595	\$198,777	\$237,785	
Top Finance Position	210	\$199,741	\$95,343	\$119,819	\$173,126	\$236,751	\$333,699
Top Human Resources Position	15	\$220,232		\$139,807	\$180,220	\$278,033	
Top Legal Position	22	\$370,054	\$201,840	\$234,989	\$353,672	\$488,334	\$526,554
Top Marketing Position	12	\$205,307		\$135,057	\$186,410	\$202,322	
Top Operations Position	55	\$178,877	\$108,799	\$124,636	\$168,555	\$221,850	\$279,588
Top PR/Communications Position	8	\$212,271			\$204,860		
Top Program Position	20	\$171,621	\$123,442	\$129,760	\$170,342	\$191,570	\$232,562
Top Technology Position	51	\$211,418	\$122,719	\$141,139	\$196,552	\$245,121	\$351,947

BREAK DIVING, D.N.C.

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# Compensation by State, NTEE Major Group and Budget Size

## New York

### Employment, Job-Related

	Count	Average	10th Percentile	25th Percentile	Median	75th Percentile	90th Percentile
<b>✓ \$500 thousand or less</b>							
CEO/Executive Director	40	\$80,186	\$30,325	\$51,875	\$72,849	\$94,897	\$118,276
Top Business Position	16	\$118,148		\$72,039	\$108,184	\$142,302	
Top Finance Position	12	\$64,152		\$28,334	\$47,537	\$87,551	
<b>✓ Between \$500 thousand and \$1 million</b>							
CEO/Executive Director	53	\$97,877	\$28,606	\$72,211	\$89,179	\$127,598	\$154,552
Top Business Position	20	\$124,299	\$83,713	\$107,823	\$131,666	\$143,274	\$157,187
Top Finance Position	22	\$92,674	\$41,677	\$61,363	\$89,263	\$127,937	\$140,052
<b>✓ Between \$1 million and \$5 million</b>							
CEO/Executive Director	104	\$129,885	\$49,803	\$85,803	\$116,372	\$164,876	\$237,310
Top Administrative Position	8	\$129,644		\$144,483			
Top Business Position	64	\$186,051	\$106,739	\$134,273	\$168,200	\$233,093	\$299,431
Top Finance Position	71	\$133,411	\$63,821	\$86,844	\$118,873	\$161,276	\$238,905
<b>Greater than \$5 million</b>							
CEO/Executive Director	78	\$224,221	\$97,901	\$138,102	\$200,626	\$297,427	\$376,759
Top Administrative Position	6	\$170,378		\$177,123			
Top Business Position	19	\$278,616		\$162,500	\$285,801	\$378,069	
Top Finance Position	64	\$168,799	\$66,040	\$95,569	\$152,718	\$222,802	\$302,551
Top Legal Position	7	\$206,799		\$174,993			
Top Operations Position	10	\$156,125		\$119,506	\$157,492	\$193,053	
<b>Environmental Quality, Protection and Beautification</b>							
<b>✓ \$500 thousand or less</b>							
CEO/Executive Director	41	\$66,347	\$41,803	\$52,708	\$62,727	\$76,900	\$104,000
<b>✓ Between \$500 thousand and \$1 million</b>							
CEO/Executive Director	28	\$81,929	\$56,288	\$59,890	\$81,750	\$94,243	\$108,900

BREAK DURING, INC

EX 81-3744910

# Compensation by State, NTEE Major Group and Budget Size

## New York

### Housing, Shelter

	Count	Average	10th Percentile	25th Percentile	Median	75th Percentile	90th Percentile
<b>Between \$1 million and \$5 million</b>							
CEO/Executive Director	92	\$112,099	\$61,423	\$77,350	\$99,500	\$125,498	\$172,321
Top Administrative Position	5	\$95,836			\$75,770		
Top Finance Position	22	\$85,690	\$49,230	\$62,267	\$84,670	\$106,937	\$127,026
Top Operations Position	5	\$104,836			\$120,531		
<b>Greater than \$5 million</b>							
CEO/Executive Director	55	\$216,159	\$105,842	\$138,018	\$192,255	\$249,714	\$341,807
Top Administrative Position	6	\$199,073			\$201,328		
Top Development Position	5	\$154,983			\$150,648		
Top Finance Position	34	\$140,703	\$94,460	\$104,017	\$128,415	\$162,575	\$223,171
Top Human Resources Position	5	\$127,519			\$140,607		
Top Operations Position	12	\$147,334		\$97,642	\$135,108		\$160,626
Top Program Position	5	\$127,675			\$140,713		
<b>Human Services – Multipurpose and Other</b>							
<b>\$500 thousand or less</b>							
CEO/Executive Director	172	\$56,004	\$26,914	\$40,000	\$50,356	\$68,386	\$88,798
Top Finance Position	5	\$44,853			\$39,500		
Top Program Position	9	\$52,567			\$51,768		
<b>Between \$500 thousand and \$1 million</b>							
CEO/Executive Director	167	\$75,337	\$42,437	\$57,094	\$73,130	\$90,000	\$112,825
Top Administrative Position	5	\$74,590			\$39,270		
Top Finance Position	10	\$62,360		\$46,288	\$57,816	\$64,116	

BREAK DIVING, DNC. EIN 81-3744910

# Compensation by State, NTEE Major Group and Budget Size

## New York

### Human Services – Multipurpose and Other

	Count	Average	10th Percentile	25th Percentile	Median	75th Percentile	90th Percentile
<b>Between \$1 million and \$5 million</b>							
✓ CEO/Executive Director	328	\$118,984	\$57,854	\$78,261	\$104,978	\$135,500	\$192,323
Top Administrative Position	13	\$89,916		\$69,484	\$85,539	\$106,496	
Top Development Position	11	\$149,602		\$118,438	\$150,275	\$166,001	
Top Finance Position	69	\$90,411	\$51,496	\$60,259	\$77,000	\$97,022	\$136,770
Top Operations Position	14	\$111,231		\$70,321	\$81,213	\$99,144	
Top Program Position	10	\$110,274		\$76,785	\$101,043	\$126,422	
<b>Greater than \$5 million</b>							
CEO/Executive Director	367	\$225,021	\$111,062	\$142,676	\$192,385	\$261,487	\$365,423
Top Administrative Position	21	\$147,453	\$66,772	\$120,398	\$142,422	\$188,344	\$221,004
Top Development Position	36	\$168,146	\$118,680	\$127,074	\$146,700	\$187,750	\$235,328
Top Facilities Position	5	\$138,725		\$147,999			
Top Finance Position	246	\$141,099	\$70,623	\$98,402	\$128,222	\$180,535	\$220,324
Top Human Resources Position	31	\$156,053	\$111,234	\$123,108	\$138,991	\$174,910	\$215,778
Top Legal Position	13	\$154,577		\$139,793	\$153,064	\$166,448	
Top Operations Position	86	\$178,835	\$103,988	\$130,276	\$164,943	\$207,393	\$271,314
Top Program Position	36	\$162,343	\$112,482	\$128,282	\$161,968	\$183,744	\$220,808
Top Technology Position	12	\$148,001		\$137,602	\$141,367	\$150,239	
<b>International, Foreign Affairs and National Security</b>							
<b>\$500 thousand or less</b>							
✓ CEO/Executive Director	33	\$71,614	\$26,918	\$36,000	\$56,274	\$103,000	\$125,797
Top Finance Position	5	\$73,590			\$35,700		
✓ Between \$500 thousand and \$1 million							
CEO/Executive Director	38	\$102,740	\$49,950	\$59,399	\$84,175	\$115,338	\$184,183

BREAC DIVING, INC. EIN 81-3744910

# Compensation by State, NTEE Major Group and Budget Size

## New York

### Mutual/Membership Benefit Organizations, Other

	Count	Average	10th Percentile	25th Percentile	Median	75th Percentile	90th Percentile
✓ Between \$1 million and \$5 million	22	\$212,807	\$91,594	\$121,278	\$139,632	\$219,902	\$283,730
CEO/Executive Director							
Top Administrative Position	7	\$117,136			\$122,344		
Greater than \$5 million							
CEO/Executive Director	16	\$360,549		\$249,241	\$336,358	\$410,866	
Top Finance Position	13	\$229,334		\$194,541	\$203,830	\$268,639	
Top Operations Position	5	\$266,010			\$316,411		
<b>Philanthropy, Voluntarism and Grantmaking Foundations</b>							
\$500 thousand or less							
✓ CEO/Executive Director	34	\$63,624	\$33,045	\$39,993	\$51,139	\$78,944	\$107,148
Between \$500 thousand and \$1 million							
✓ CEO/Executive Director	32	\$90,686	\$38,681	\$54,499	\$81,401	\$117,807	\$140,632
Between \$1 million and \$5 million							
✓ CEO/Executive Director	63	\$154,186	\$70,365	\$105,029	\$150,000	\$181,663	\$244,389
Top Finance Position	11	\$97,326		\$73,844	\$91,471	\$117,471	
Greater than \$5 million							
CEO/Executive Director	48	\$317,102	\$139,424	\$222,377	\$272,377	\$358,807	\$511,846
Top Development Position	9	\$200,026			\$186,497		
Top Finance Position	31	\$164,264	\$92,316	\$95,977	\$141,953	\$217,802	\$297,552
Top Operations Position	12	\$206,177		\$134,697	\$155,848	\$243,598	
Top Program Position	5	\$158,394			\$158,471		
<b>Public Safety, Disaster Preparedness and Relief</b>							
Between \$1 million and \$5 million							
✓ CEO/Executive Director	5	\$100,038			\$115,135		

BREAK DURING, PNC

EIN 81-3744910

# Compensation by State, NTEE Major Group and Budget Size

	Count	Average	10th Percentile	25th Percentile	Median	75th Percentile	90th Percentile
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## New York

### Public Safety, Disaster Preparedness and Relief

Greater than \$5 million	6	\$298,686			\$217,352		
CEO/Executive Director							

### Public, Society Benefit – Multipurpose and Other

#### \$500 thousand or less

CEO/Executive Director	16	\$80,811		\$46,836	\$73,256	\$90,037	
Between \$500 thousand and \$1 million							
CEO/Executive Director	9	\$91,298			\$86,847		

#### Between \$1 million and \$5 million

CEO/Executive Director	28	\$164,976	\$77,820	\$117,614	\$151,746	\$229,024	\$256,155
Greater than \$5 million							

#### CEO/Executive Director

#### Top Finance Position

#### Top Human Resources Position

#### Top Legal Position

#### Top Operations Position

### Recreation, Sports, Leisure, Athletics

#### \$500 thousand or less

CEO/Executive Director	42	\$56,778	\$20,645	\$32,150	\$59,040	\$79,711	\$92,165
Between \$500 thousand and \$1 million							

#### CEO/Executive Director

#### Between \$1 million and \$5 million

CEO/Executive Director	30	\$91,289	\$39,957	\$68,546	\$78,886	\$111,036	\$149,135
CEO/Executive Director	66	\$149,032	\$77,399	\$104,966	\$144,545	\$174,997	\$225,828
Top Administrative Position	19	\$159,926		\$118,187	\$149,620	\$176,740	
Top Facilities Position	6	\$113,631			\$121,042		

BREAR DIVING, DNC

81 N

81 - 3744910



# Break Diving, Inc.

FEIN 81-3744910



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
CINCINNATI OH 45999-0023

Date of this notice: 09-02-2016

Employer Identification Number:  
81-3744910

Form: SS-4

Number of this notice: CP 575 E

BREAK DIVING INC  
† MONROE MANN  
12 PURITAN DR  
PORT CHESTER, NY 10573

For assistance you may call us at:  
1-800-829-4933

IF YOU WRITE, ATTACH THE  
STUB AT THE END OF THIS NOTICE.

## WE ASSIGNED YOU AN EMPLOYER IDENTIFICATION NUMBER

Thank you for applying for an Employer Identification Number (EIN). We assigned you EIN 81-3744910. This EIN will identify you, your business accounts, tax returns, and documents, even if you have no employees. Please keep this notice in your permanent records.

When filing tax documents, payments, and related correspondence, it is very important that you use your EIN and complete name and address exactly as shown above. Any variation may cause a delay in processing, result in incorrect information in your account, or even cause you to be assigned more than one EIN. If the information is not correct as shown above, please make the correction using the attached tear-off stub and return it to us.

When you submitted your application for an EIN, you checked the box indicating you are a non-profit organization. Assigning an EIN does not grant tax-exempt status to non-profit organizations. Publication 557, Tax-Exempt Status for Your Organization, has details on the application process, as well as information on returns you may need to file. To apply for recognition of tax-exempt status under Internal Revenue Code Section 501(c)(3), organizations must complete a Form 1023-series application for recognition. All other entities should file Form 1024 if they want to request recognition under Section 501(a).

Nearly all organizations claiming tax-exempt status must file a Form 990-series annual information return (Form 990, 990-EZ, or 990-PF) or notice (Form 990-N) beginning with the year they legally form, even if they have not yet applied for or received recognition of tax-exempt status.

Unless a filing exception applies to you (search [www.irs.gov](http://www.irs.gov) for Annual Exempt Organization Return: Who Must File), you will lose your tax-exempt status if you fail to file a required return or notice for three consecutive years. We start calculating this three-year period from the tax year we assigned the EIN to you. If that first tax year isn't a full twelve months, you're still responsible for submitting a return for that year. If you didn't legally form in the same tax year in which you obtained your EIN, contact us at the phone number or address listed at the top of this letter.

For the most current information on your filing requirements and other important information, visit [www.irs.gov/charities](http://www.irs.gov/charities).





BREAK DURING, UNL. EIN. 81-3744910

**Internal Revenue Bulletin: 2004-22**

**June 1, 2004**

**Rev. Rul. 2004-51**

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**Joint ventures.** This ruling illustrates the tax consequences for a section 501(c)(3) organization that enters into a joint venture with a for-profit organization as an insubstantial part of its activities.

**ISSUES**

1. Whether, under the facts described below, an organization continues to qualify for exemption from federal income tax as an organization described in § 501(c)(3) of the Internal Revenue Code when it contributes a portion of its assets to and conducts a portion of its activities through a limited liability company (LLC) formed with a for-profit corporation.
2. Whether, under the same facts, the organization is subject to unrelated business income tax under § 511 on its distributive share of the LLC's income.

**FACTS**

*M* is a university that has been recognized as exempt from federal income tax under § 501(a) as an organization described in § 501(c)(3). As a part of its educational programs, *M* offers summer seminars to enhance the skill level of elementary and secondary school teachers.

To expand the reach of its teacher training seminars, *M* forms a domestic LLC, *L*, with *O*, a company that specializes in conducting interactive video training programs. *L*'s Articles of Organization and Operating Agreement ("governing documents") provide that the sole purpose of *L* is to offer teacher training seminars at off-campus locations using interactive video technology. *M* and *O* each hold a 50 percent ownership interest in *L*, which is proportionate to the value of their respective capital contributions to *L*. The governing documents provide that all returns of capital, allocations and distributions shall be made in proportion to the members' respective ownership interests.

The governing documents provide that *L* will be managed by a governing board comprised of three directors chosen by *M* and three directors chosen by *O*. Under the governing documents, *L* will arrange and conduct all aspects of the video teacher training seminars, including advertising, enrolling participants, arranging for the necessary facilities, distributing the course materials and broadcasting the seminars to various locations. *L*'s teacher training seminars will cover the same content covered in the seminars *M* conducts on *M*'s campus. However, school teachers will participate through an interactive video link at various locations rather than in person. The governing documents grant *M* the exclusive right to

APPROVE THE CONTINUING, VARIOUS MATERIALS, AND IN ADDITION, ALSO TO DETERMINE THE STATUTES NOT SUCCESSFUL COMPLETION OF THE SEMINARS. THE GOVERNING DOCUMENTS GRANT O THE EXCLUSIVE RIGHT TO SELECT THE LOCATIONS WHERE PARTICIPANTS CAN RECEIVE A VIDEO LINK TO THE SEMINARS AND TO APPROVE OTHER PERSONNEL (SUCH AS CAMERA OPERATORS) NECESSARY TO CONDUCT THE VIDEO TEACHER TRAINING SEMINARS. ALL OTHER ACTIONS REQUIRE THE MUTUAL CONSENT OF M AND O.

The governing documents require that the terms of all contracts and transactions entered into by L with M, O and any other parties be at arm's length and that all contract and transaction prices be at fair market value determined by reference to the prices for comparable goods or services. The governing documents limit L's activities to conducting the teacher training seminars and also require that L not engage in any activities that would jeopardize M's exemption under § 501(c)(3). L does in fact operate in accordance with the governing documents in all respects.

M's participation in L will be an insubstantial part of M's activities within the meaning of § 501(c)(3)-1(c)(1) of the Income Tax Regulations.

Because L does not elect under § 301.7701-3(c) of the Procedure and Administration Regulations to be classified as an association, L is classified as a partnership for federal tax purposes pursuant to § 301.7701-3(b).

**LAW**

**Exemption under § 501(c)(3)**

Section 501(c)(3) provides, in part, for the exemption from federal income tax of corporations organized and operated exclusively for charitable, scientific, or educational purposes, provided no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(c)(1) provides that an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities that accomplish one or more of the exempt purposes specified in § 501(c)(3). Activities that do not further exempt purposes must be an insubstantial part of the organization's activities. In *Better Business Bureau of Washington, D.C. v. United States*, 326 U.S. 279, 283 (1945), the Supreme Court held that "the presence of a single . . . [non-exempt] purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly . . . [exempt] purposes."

Section 1.501(c)(3)-1(d)(1)(ii) provides that an organization is not organized or operated exclusively for exempt purposes unless it serves a public rather than a private interest. To meet this requirement, an organization must "establish that it is not organized or operated for the benefit of private interests...."

Section 1.501(c)(3)-1(d)(2) defines the term "charitable" as used in § 501(c)(3) as including the advancement of education.

Section 1.501(c)(3)-1(d)(3)(i) provides, in part, that the term "educational" as used in § 501(c)(3) relates to the instruction or training of the individual for the purpose of improving or developing his capabilities.

Section 1.501(c)(3)-1(d)(3)(ii) provides examples of educational organizations including a college that has a regularly scheduled curriculum, a regular faculty, and a regularly enrolled body of students in attendance at a place where the educational activities are regularly carried on and an organization that presents a course of instruction by means of correspondence or through the utilization of television or radio.

**Joint Ventures**

Rev. Rul. 98-15, 1998-1 C.B. 718, provides that for purposes of determining exemption under § 501(c)(3), the activities of a partnership, including an LLC treated as a partnership for federal tax purposes, are considered to be the activities of the partners. A § 501(c)(3) organization may form and participate in a partnership and meet the operational test if 1) participation in the partnership furthers a charitable purpose, and 2) the partnership arrangement permits the exempt organization to act exclusively in furtherance of its exempt purpose and only incidentally for the benefit of the for-profit partners.

*Redlands Surgical Services*, 113 T.C. 47, 92-93 (1999), *aff'd* 242 F.3d 904 (9th Cir. 2001), provides that a nonprofit organization may form partnerships, or enter into contracts, with private parties to further its charitable purposes on mutually beneficial terms, "so long as the nonprofit organization does not thereby impermissibly serve private interests." The Tax Court held that the operational standard is not satisfied merely by establishing "whatever charitable benefits [the partnership] may produce," finding that the nonprofit partner lacked "formal or informal control sufficient to ensure furtherance of charitable purposes." Affirming the Tax Court, the Ninth Circuit held that ceding "effective control" of partnership activities impermissibly serves private interests. 242 F.3d at 904.

*St. David's Health Care System v. United States*, 349 F.3d 232, 236-237 (5th Cir. 2003), held that the determination of whether a nonprofit organization that enters into a partnership operates exclusively for exempt purposes is not limited to "whether the partnership provides some (or even an extensive amount of) charitable services." The nonprofit partner also must have the "capacity to ensure that the partnership's operations further charitable purposes." *Id.* at 243. "[T]he non-profit should lose its tax-exempt status if it cedes control to the for-profit entity," *Id.* at 239.

**Tax on Unrelated Business Income**

(2) When are credit card annual fees includible in gross income by the card issuer?

#### FACTS

X, a taxpayer that uses an overall accrual method of accounting for federal income tax purposes, issues credit cards. Each card allows the cardholder to access a revolving line of credit to make purchases of goods and services and, if otherwise provided for under the applicable cardholder agreement, to obtain cash advances.

Credit card issuers, including X, charge certain cardholders an annual fee. These credit card issuers make various benefits and services available to their cardholders during the year, regardless of whether the cardholder actually utilizes them. Further, although they provide these benefits and services to cardholders, no part of the annual fee that is charged to any cardholder is for a specific benefit or service provided by a credit card issuer to that cardholder.

Each cardholder's credit card agreement sets forth the applicable terms and conditions under which X may charge that cardholder an annual fee. X charges some cardholders a nonrefundable annual fee. X charges other cardholders an annual fee that is refundable on a *pro rata* basis if the cardholder closes the account during the period covered by the fee.

Under the applicable cardholder agreement, no annual fee becomes due and payable until X posts an annual fee charge to the cardholder's credit card account. X reflects this posting in the cardholder's credit card statement. X generally posts the full amount of the annual fee in a single charge unless the terms of the agreement require X to post the annual fee charge in installments.

#### LAW AND ANALYSIS

For federal income tax purposes, interest is an amount that is paid in compensation for the use or forbearance of money. *Deputy v. DuPont*, 308 U.S. 488 (1940), 1940-1 C.B. 118; *Old Colony Railroad Co. v. Commissioner*, 284 U.S. 552 (1932), 1932-1 C.B. 274. Neither the label used for the fee nor a taxpayer's treatment of the fee for financial or regulatory reporting purposes is determinative of the proper federal income tax charac-

terization of that fee. See *Thor Power Tool Co. v. Commissioner*, 439 U.S. 522, 542-43 (1979), 1979-1 C.B. 167, 174-75; Rev. Rul. 72-315, 1972-1 C.B. 49.

The annual fee that credit card issuers, including X, charge any cardholder is not for any specific benefit provided by the credit card issuer to that cardholder. Rather, it is charged for all of the benefits and services that are available to the cardholder under the applicable cardholder agreement. Because cardholders pay annual fees to credit card issuers, including X, in return for all of the benefits and services available under the applicable credit card agreement, annual fees are not compensation for the use or forbearance of money. Thus, X's annual fee income is not interest income for federal income tax purposes.

Under § 451(a) of the Internal Revenue Code, the amount of any item of gross income is includible in gross income for the taxable year in which it is received by the taxpayer, unless that amount is to be properly accounted for in a different period under the method of accounting used by the taxpayer in computing taxable income.

Under § 1.451-1(a) of the Income Tax Regulations, income is includible in gross income by a taxpayer that uses an accrual method of accounting when all events have occurred that fix the taxpayer's right to receive that income and the amount of that income can be determined with reasonable accuracy. See also § 1.446-1(c)(1)(ii)(A). Generally, all the events that fix the right to receive income occur when either the required performance takes place, payment is due, or payment is made, whichever occurs first (the all events test). See Rev. Rul. 2003-10, 2003-1 C.B. 288; Rev. Rul. 80-308, 1980-2 C.B. 162.

X is required to include these annual fees in gross income under § 1.451-1(a) when the fee income becomes due and payable under its agreements, because X's right to the income is fixed at that point and the amount of the income can be determined with reasonable accuracy. Thus, the all events test is satisfied when X posts an annual fee charge to a cardholder's credit card account even if X later is required to refund a portion of a previously posted refundable annual fee charge because the cardholder closes the account during the period covered by that fee.

Notwithstanding the holding of this revenue ruling, Rev. Proc. 2004-32, 2004-22 I.R.B. 988, dated June 1, 2004, this Bulletin, allows card issuers to account for annual fee income using the Ratable Inclusion Method for Credit Card Annual Fees, which is described in section 4 of that revenue procedure. Rev. Proc. 2004-32 also provides automatic consent for a taxpayer described in this revenue ruling to change its method of accounting for annual fee income.

#### HOLDINGS

(1) Credit card annual fees are not interest for federal income tax purposes.

(2) Credit card annual fees are includible in gross income by the card issuer when they become due and payable by cardholders under the terms of the credit card agreements.

#### DRAFTING INFORMATION

The principal authors of this revenue ruling are Rebecca E. Asta, Alexa Dubert, and Tina Jannotta of the Office of Chief Counsel (Financial Institutions and Products). For further information regarding this revenue ruling, contact the principal authors at (202) 622-3930 (not a toll-free call).

### Section 481.—Adjustments Required by Changes in Method of Accounting

← START HERE

Taxpayers changing a method of accounting for certain transfers to trusts to satisfy contested liabilities under section 461(f) may be required to take into account a positive adjustment under section 481(a) entirely in one year. See Rev. Proc. 2004-31, page 986.

### Section 501.—Exemption From Tax on Corporations, Certain Trusts, etc.

26 CFR 1.501(c)(3)-1: Organizations organized and operated for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals. (Also sections 511-513.)

**Joint ventures.** This ruling illustrates the tax consequences for a section 501(c)(3) organization that enters into a joint venture with a for-profit organization as an insubstantial part of its activities.

**Rev. Rul. 2004-51**

## ISSUES

1. Whether, under the facts described below, an organization continues to qualify for exemption from federal income tax as an organization described in § 501(c)(3) of the Internal Revenue Code when it contributes a portion of its assets to and conducts a portion of its activities through a limited liability company (LLC) formed with a for-profit corporation.

2. Whether, under the same facts, the organization is subject to unrelated business income tax under § 511 on its distributive share of the LLC's income.

## FACTS

*M* is a university that has been recognized as exempt from federal income tax under § 501(a) as an organization described in § 501(c)(3). As a part of its educational programs, *M* offers summer seminars to enhance the skill level of elementary and secondary school teachers.

To expand the reach of its teacher training seminars, *M* forms a domestic LLC, *L*, with *O*, a company that specializes in conducting interactive video training programs. *L*'s Articles of Organization and Operating Agreement ("governing documents") provide that the sole purpose of *L* is to offer teacher training seminars at off-campus locations using interactive video technology. *M* and *O* each hold a 50 percent ownership interest in *L*, which is proportionate to the value of their respective capital contributions to *L*. The governing documents provide that all returns of capital, allocations and distributions shall be made in proportion to the members' respective ownership interests.

The governing documents provide that *L* will be managed by a governing board comprised of three directors chosen by *M* and three directors chosen by *O*. Under the governing documents, *L* will arrange and conduct all aspects of the video teacher training seminars, including advertising, enrolling participants, arranging for the necessary facilities, distributing the course materials and broadcasting the seminars to various locations. *L*'s teacher training seminars will cover the same content covered in the seminars *M* conducts on *M*'s campus. However, school teachers will participate through an interactive video

link at various locations rather than in person. The governing documents grant *M* the exclusive right to approve the curriculum, training materials, and instructors, and to determine the standards for successful completion of the seminars. The governing documents grant *O* the exclusive right to select the locations where participants can receive a video link to the seminars and to approve other personnel (such as camera operators) necessary to conduct the video teacher training seminars. All other actions require the mutual consent of *M* and *O*.

The governing documents require that the terms of all contracts and transactions entered into by *L* with *M*, *O* and any other parties be at arm's length and that all contract and transaction prices be at fair market value determined by reference to the prices for comparable goods or services. The governing documents limit *L*'s activities to conducting the teacher training seminars and also require that *L* not engage in any activities that would jeopardize *M*'s exemption under § 501(c)(3). *L* does in fact operate in accordance with the governing documents in all respects.

*M*'s participation in *L* will be an insubstantial part of *M*'s activities within the meaning of § 501(c)(3) and § 1.501(c)(3)-1(c)(1) of the Income Tax Regulations.

Because *L* does not elect under § 301.7701-3(c) of the Procedure and Administration Regulations to be classified as an association, *L* is classified as a partnership for federal tax purposes pursuant to § 301.7701-3(b).

## LAW

*Exemption under § 501(c)(3)*

Section 501(c)(3) provides, in part, for the exemption from federal income tax of corporations organized and operated exclusively for charitable, scientific, or educational purposes, provided no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(c)(1) provides that an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities that accomplish one or more of the exempt purposes specified in § 501(c)(3).

Activities that do not further exempt purposes must be an insubstantial part of the organization's activities. In *Better Business Bureau of Washington, D.C. v. United States*, 326 U.S. 279, 283 (1945), the Supreme Court held that "the presence of a single . . . [non-exempt] purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly . . . [exempt] purposes."

Section 1.501(c)(3)-1(d)(1)(ii) provides that an organization is not organized or operated exclusively for exempt purposes unless it serves a public rather than a private interest. To meet this requirement, an organization must "establish that it is not organized or operated for the benefit of private interests...."

Section 1.501(c)(3)-1(d)(2) defines the term "charitable" as used in § 501(c)(3) as including the advancement of education.

Section 1.501(c)(3)-1(d)(3)(i) provides, in part, that the term "educational" as used in § 501(c)(3) relates to the instruction or training of the individual for the purpose of improving or developing his capabilities.

Section 1.501(c)(3)-1(d)(3)(ii) provides examples of educational organizations including a college that has a regularly scheduled curriculum, a regular faculty, and a regularly enrolled body of students in attendance at a place where the educational activities are regularly carried on and an organization that presents a course of instruction by means of correspondence or through the utilization of television or radio.

*Joint Ventures*

Rev. Rul. 98-15, 1998-1 C.B. 718, provides that for purposes of determining exemption under § 501(c)(3), the activities of a partnership, including an LLC treated as a partnership for federal tax purposes, are considered to be the activities of the partners. A § 501(c)(3) organization may form and participate in a partnership and meet the operational test if 1) participation in the partnership furthers a charitable purpose, and 2) the partnership arrangement permits the exempt organization to act exclusively in furtherance of its exempt purpose and only incidentally for the benefit of the for-profit partners.

*Redlands Surgical Services*, 113 T.C. 47, 92-93 (1999), *aff'd* 242 F.3d 904 (9th

Cir. 2001), provides that a nonprofit organization may form partnerships, or enter into contracts, with private parties to further its charitable purposes on mutually beneficial terms, "so long as the nonprofit organization does not thereby impermissibly serve private interests." The Tax Court held that the operational standard is not satisfied merely by establishing "whatever charitable benefits [the partnership] may produce," finding that the nonprofit partner lacked "formal or informal control sufficient to ensure furtherance of charitable purposes." Affirming the Tax Court, the Ninth Circuit held that ceding "effective control" of partnership activities impermissibly serves private interests. 242 F.3d at 904.

*St. David's Health Care System v. United States*, 349 F.3d 232, 236-237 (5th Cir. 2003), held that the determination of whether a nonprofit organization that enters into a partnership operates exclusively for exempt purposes is not limited to "whether the partnership provides some (or even an extensive amount of) charitable services." The nonprofit partner also must have the "capacity to ensure that the partnership's operations further charitable purposes." *Id.* at 243. "[T]he non-profit should lose its tax-exempt status if it cedes control to the for-profit entity." *Id.* at 239.

#### *Tax on Unrelated Business Income*

Section 511(a), in part, provides for the imposition of tax on the unrelated business taxable income (as defined in § 512) of organizations described in § 501(c)(3).

Section 512(a)(1) defines "unrelated business taxable income" as the gross income derived by any organization from any unrelated trade or business (as defined in § 513) regularly carried on by it less the deductions allowed, both computed with the modifications provided in § 512(b).

Section 512(c) provides that, if a trade or business regularly carried on by a partnership of which an organization is a member is an unrelated trade or business with respect to the organization, in computing its unrelated business taxable income, the organization shall, subject to the exceptions, additions, and limitations contained in § 512(b), include its share (whether or not distributed) of the gross income of the partnership from the unrelated trade or business and its share of the partner-

ship deductions directly connected with the gross income.

Section 513(a) defines the term "unrelated trade or business" as any trade or business the conduct of which is not substantially related (aside from the need of the organization for income or funds or the use it makes of the profits derived) to the exercise or performance by the organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under § 501.

Section 1.513-1(d)(2) provides that a trade or business is "related" to an organization's exempt purposes only if the conduct of the business activities has a causal relationship to the achievement of exempt purposes (other than through the production of income). A trade or business is "substantially related" for purposes of § 513, only if the causal relationship is a substantial one. Thus, to be substantially related, the activity "must contribute importantly to the accomplishment of [exempt] purposes." Section 1.513-1(d)(2). Section 513, therefore, focuses on "the manner in which the exempt organization operates its business" to determine whether it contributes importantly to the organization's charitable or educational function. *United States v. American College of Physicians*, 475 U.S. 834, 849 (1986).

#### ANALYSIS

*L* is a partnership for federal tax purposes. Therefore, *L*'s activities are attributed to *M* for purposes of determining both whether *M* operates exclusively for educational purposes and therefore continues to qualify for exemption under § 501(c)(3) and whether *M* has engaged in an unrelated trade or business and therefore may be subject to the unrelated business income tax on its distributive share of *L*'s income.

The activities *M* is treated as conducting through *L* are not a substantial part of *M*'s activities within the meaning of § 501(c)(3) and § 1.501(c)(3)-1(c)(1). Therefore, based on all the facts and circumstances, *M*'s participation in *L*, taken alone, will not affect *M*'s continued qualification for exemption as an organization described in § 501(c)(3).

Although *M* continues to qualify as an exempt organization described in

§ 501(c)(3), *M* may be subject to unrelated business income tax under § 511 if *L* conducts a trade or business that is not substantially related to the exercise or performance of *M*'s exempt purposes or functions.

The facts establish that *M*'s activities conducted through *L* constitute a trade or business that is substantially related to the exercise and performance of *M*'s exempt purposes and functions. Even though *L* arranges and conducts all aspects of the teacher training seminars, *M* alone approves the curriculum, training materials and instructors, and determines the standards for successfully completing the seminars. All contracts and transactions entered into by *L* are at arm's length and for fair market value, *M*'s and *O*'s ownership interests in *L* are proportional to their respective capital contributions, and all returns of capital, allocations and distributions by *L* are proportional to *M*'s and *O*'s ownership interests. The fact that *O* selects the locations and approves the other personnel necessary to conduct the seminars does not affect whether the seminars are substantially related to *M*'s educational purposes. Moreover, the teacher training seminars *L* conducts using interactive video technology cover the same content as the seminars *M* conducts on *M*'s campus. Finally, *L*'s activities have expanded the reach of *M*'s teacher training seminars, for example, to individuals who otherwise could not be accommodated at, or conveniently travel to, *M*'s campus. Therefore, the manner in which *L* conducts the teacher training seminars contributes importantly to the accomplishment of *M*'s educational purposes, and the activities of *L* are substantially related to *M*'s educational purposes. Section 1.513-1(d)(2). Accordingly, based on all the facts and circumstances, *M* is not subject to unrelated business income tax under § 511 on its distributive share of *L*'s income.

#### HOLDINGS

1. *M* continues to qualify for exemption under § 501(c)(3) when it contributes a portion of its assets to and conducts a portion of its activities through *L*.

2. *M* is not subject to unrelated business income tax under § 511 on its distributive share of *L*'s income.

DRAFTING INFORMATION

The principal author of this revenue ruling is Virginia G. Richardson of Exempt Organizations, Tax Exempt and Government Entities Division. For further information regarding this revenue ruling, contact Virginia G. Richardson at (202) 283-8938 (not a toll-free call).

**Section 511.—Imposition of Tax on Unrelated Business Income of Charitable, etc., Organizations**

Unrelated business income tax consequences for a section 501(c)(3) organization that enters into a joint venture with a for-profit organization as an insubstantial part of its activities. See Rev. Rul. 2004-51, page 974.

**Section 512.—Unrelated Business Taxable Income**

Unrelated business income tax consequences for a section 501(c)(3) organization that enters into a joint venture with a for-profit organization as an insubstantial part of its activities. See Rev. Rul. 2004-51, page 974.

**Section 513.—Unrelated Trade or Business**

Unrelated business income tax consequences for a section 501(c)(3) organization that enters into a joint venture with a for-profit organization as an insubstantial part of its activities. See Rev. Rul. 2004-51, page 974.

**Section 1272.—Current Inclusion in Income of Original Issue Discount**

Rev. Proc. 2004-33 provides automatic procedures for taxpayers to change their method of accounting for credit card late fee income to treat these fees as interest that creates or increases the amount of OID on a pool of credit card loans to which the fees relate. This revenue procedure also sets forth the conditions under which the Commissioner will not challenge a taxpayer's treatment of these fees as interest or as OID on a pool of credit card loans to which the fees relate. See Rev. Proc. 2004-33, page 989.

—END HERE—

**Section 1361.—S Corporation Defined**

26 CFR 1.1361(b): Small business corporation defined. (Also: §§ 401, 501, 1362, 7701, 7871, 305.7871-1.)

**Indian tribal government.** This ruling provides clarification with regard to an Indian tribal government's ability to qualify as an eligible shareholder under section 1361 of the Code. Specifically, the ruling explains that a federally recognized Indian tribal government does not qualify as a permissible S corporation shareholder under section 1361(b)(1)(B) because it is not treated as an individual subject to individual income taxes under section 1 of the Code. The ruling also explains that a federally recognized Indian Tribe cannot qualify as a permissible S corporation shareholder under section 1361(c)(6) because it is neither a section 501(c)(3) organization, nor a section 401(a) qualified plan, profit-sharing, or stock bonus plan organization.

**Rev. Rul. 2004-50**

ISSUE

Is a federally recognized Indian tribal government, as described in § 7701(a)(40)(A) of the Internal Revenue Code, an eligible S corporation shareholder under § 1361?

FACTS

X is a federally recognized Indian tribal government (Indian tribal government) and a shareholder in Corporation, a domestic entity, formed in accordance with the laws of State. Corporation wants to make an election to be an S corporation.

LAW AND ANALYSIS

Section 1361(a) provides that for purposes of this title, the term "S corporation" means, with respect to any taxable year, a small business corporation for which an election under § 1362(a) is in effect for the year.

Section 1361(b)(1) provides that for purposes of this subchapter, the term "small business corporation" means a domestic corporation which is not an ineligible corporation and which does not (A) have more than 75 shareholders, (B) have

as a shareholder a person (other than an estate, a trust described in subsection (c)(2), or an organization described in subsection (c)(6)) who is not an individual, (C) have a nonresident alien as a shareholder, and (D) have more than one class of stock.

Section 1361(c)(6) provides that for purposes of subsection (b)(1)(B), an organization which is (A) described in §§ 401(a) or 501(c)(3), and (B) exempt from taxation under § 501(a), may be a shareholder in an S corporation.

Section 401(a) provides the definition of a qualified pension, profit-sharing, and stock bonus plans that qualifies under § 1361(b) as an eligible S corporation shareholder.

Section 501(a) provides that an organization described in subsection (c) or (d) or § 401(a) shall be exempt from taxation under this subtitle unless that exemption is denied under § 502 or § 503.

Section 501(c)(3) describes corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literacy, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in section (h)), and which does not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

Section 7701(a)(40)(A) states that the term "Indian tribal government" refers to the governing body of any tribe, band, community, village, or group of Indians, or (if applicable) Alaska Natives, which is determined by the Secretary of the Treasury, after consultation with the Secretary of the Interior, to exercise governmental functions.

Section 7871(a) and § 305.7871-1 of the Income Tax Regulations provide that Indian tribal governments will be treated as states for certain enumerated federal tax purposes.



Rev. Rul. 71-460, 1971-2 C.B. 231

A domestic corporation that conducts a part or all of its charitable activities in a foreign country is not precluded from exemption under section 501(c)(3) of the Code.

A domestic corporation that is otherwise exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954 carries on part of its charitable activities in foreign countries. Held, since its activities are charitable within the meaning of section 501(c)(3) of the Code when carried on within the United States, the conduct of such activities elsewhere does not preclude the organization from qualifying as an exempt organization under that section. The same conclusion applies if all of its charitable activities are carried on in foreign countries. With respect to deductibility of contributions to the organization under section 170 of the Code, see Revenue Ruling 63-252, C.B. 1963-2, 101 and Revenue Ruling 66-79, C.B. 1966-1, 48.

Office of Chief Counsel  
Internal Revenue Service  
**Memorandum**

Number: 200504031

Release Date: 1/28/05

CC:TEGE:EOEG:E01:  
PRESP-106008-03

FROM:

[irs.gov/pub/irs-wd/0504031.pdf](http://irs.gov/pub/irs-wd/0504031.pdf)

UILC: 501.00-00, 501.03-15

date: January 26, 2004

to: Foreign Grants and Dispositions Project Leader

from: CC:TEGE:EOEG:E01

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subject: International Grants and Activities

### Introduction

There presently are few rules that pertain solely to U.S. charities (i.e., section 501(c)(3) organizations<sup>1</sup>, also referred to herein as 'domestic charitable organizations') for engaging in international grant making and activities. Nonetheless, because of increased focus on terrorist activities after 9/11, we have been asked to study past compliance, practice, and due diligence efforts of charities making grants to international organizations and individuals. This international spotlight arises because nearly all of these terrorist activities have or have had an international component.

First, this discussion sets forth the standards governing the charitable aspects of international grant making and activities by U.S. charities. The standards are largely the same as those that apply to domestic grant making and activities. To understand the rules it is, therefore, necessary to understand when and how a charity can make a grant to an individual, another charity, and a non-exempt organization. Second, the

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<sup>1</sup> All section references are to the Internal Revenue Code.

discussion sets forth the standards applicable to private foundations engaging in the same funding or activities.

### **In General**

A section 501(c)(3) organization may conduct part or all of its charitable activities in a foreign country. Rev. Rul. 71-460, 1971-2 C.B. 231. See also Rev. Rul. 68-117, 1968-1 C.B. 251 (organization assists needy families in developing countries by facilitating access to markets, arranging credit, teaching modern farming methods and home economics, and furnishing other technical assistance); Rev. Rul. 68-165, 1968-1 C.B. 253 (organization promotes student and cultural exchanges and provides technical and material assistance to improve living conditions of underprivileged people in Latin America).

A section 501(c)(3) organization may make grants to another section 501(c)(3) organization. Rev. Rul. 67-149, 1967-1 C.B. 149. There is no geographic or other limitation.

A section 501(c)(3) organization will not jeopardize its exemption even though it distributes funds to organizations that are not themselves charities. The exempt organization must "ensure" use of the funds for permitted purposes by limiting distributions to specific projects that further its own purposes. The exempt organization also needs to retain control and discretion as to the use of the funds and maintain records establishing that the funds were used for section 501(c)(3) purposes. Rev. Rul. 68-489, 1968-2 C.B. 210. These procedures do not make any distinction regarding the geographic location of the non-exempt organizations.

Similarly, a section 501(c)(3) organization will not jeopardize its exemption even though it distributes funds to individuals, provided the distribution is on a charitable basis in furtherance of the organization's purpose. Again, there is no distinction regarding the geographic location of individual distributees. In order to substantiate that individual distributions are appropriate, the organization needs to maintain records and case histories showing the name and address of each recipient, the amount distributed to each, the purpose for which the aid was given, the manner in which the recipient was selected and the relationship, if any, between the recipient and members, officers, or trustees of the organization. Rev. Rul. 56-304, 1956-2 C.B. 306.

A deduction is not allowable under section 2055 (estate tax) with respect to a transfer of property to a foreign government or political subdivision thereof unless it is used for exclusively charitable purposes. Rev. Rul. 74-523 1974-2 C.B. 304. In contrast, a deduction is allowed for a transfer of property to a domestic government or political subdivision if it is to be used exclusively for public purposes. Section 2055(a)(1); see also section 170(c)(1).

In The Church in Boston v. Commissioner, 71 T.C. 102 (November 1, 1978), the Tax Court considered, for purposes of the definition of charitable under section 501(c)(3), the inadequacy of the Church's records of its grants to individuals where: "The only documentation contained in the administrative record is a list of grants made during 1975 which included the name of the recipient, the amount of the grant, and the 'reason' for the grant which was specified as either unemployment, moving expenses, school scholarship, or medical expense." Id. at 107. The Tax Court concluded that this stated documentation failed to establish whether exempt charitable purposes were served in fact, and the Court noted that failure "to keep adequate records of each recipient can result in abuse." Id. at 107.

When providing relief for disasters there is an issue regarding the determination of eligibility for charitable assistance. There is a tension between the requirements of Rev. Rul. 56-304, supra, and the practicalities of providing relief to individuals. Most recently, the IRS provided in Notice 2001-78, 2001-2 C.B. 576 a relaxed standard for charities that were making payments due to the death, injury or wounding of an individual incurred because of the September 11, 2001 terrorist attacks. The Internal Revenue Service stated that it would treat such payments made by a charity to individuals and their families as related to the charity's exempt purpose if the payments were made in good faith using objective standards. Congress subsequently enacted a special statutory rule to allow charitable organizations to disburse aid to victims of these attacks and their families without the charity making a specific assessment of need. Victims of Terrorism Relief Act of 2001, Pub. L. 107-134, § 104(a)(2), 115 Stat. 2427. The special statutory rule applies if the organization makes the payments in good faith using a reasonable and objective formula that is consistently applied.

### **Deductibility – Control Rules**

Contributions to a section 501(c)(3) organization that transmits the funds to a foreign charitable organization are deductible only if it can be shown that the contribution is in fact to or for the use of the domestic organization, and that the domestic organization is not serving as an agent for, or conduit of, a foreign charitable organization. Rev. Rul. 63-252, 1963-2 C.B. 101.

Rev. Rul. 63-252 provides examples to illustrate what is and is not permissible. In each example, the "foreign organization" is an organization chartered in a foreign country, and is organized so that it meets all of the requirements of section 170(c)(2) except that it is not a domestic organization as required by section 170(c)(2)(A). Rev. Rul. 63-252 demonstrates that the requirements of section 170(c)(2)(A) would be nullified if contributions inevitably committed to go to a foreign organization were held to be deductible solely because, in the course of transmittal to a foreign organization, they came to rest momentarily in a qualifying domestic organization. In such cases, the domestic organization is only nominally the donee. The real donee is the foreign recipient.

Rev. Rul. 63-252 also provides an example of a domestic charitable organization that furthers its own purposes by granting funds to foreign charitable organizations and makes such grants for purposes which it (the domestic charitable organization) has reviewed and approved. The grants are paid from the domestic charitable organization's general funds and are subject to control by the domestic organization. No special funds are raised by a solicitation on behalf of the foreign organization nor are contributions earmarked in any manner. In this example, the contributions by individuals to the domestic charitable organizations are considered to be deductible.

Rev. Rul. 66-79, 1966-1 C.B. 48, amplifying Rev. Rul. 63-252, provides rules for determining whether a domestic charitable organization has and exercises sufficient control as to the use of contributions for the purposes of applying section 170(c). Contributions to a foreign charity generally are not deductible. While a domestic charity can use the contributions abroad, it cannot merely transfer them to a foreign charity. The domestic charitable organization in Rev. Rul. 66-79 is organized by individuals who have become interested in furthering the work of a foreign organization which was organized and operated exclusively for charitable, scientific, and educational purposes. The name of the domestic organization suggests a purpose to assist the named foreign organization. The domestic charitable organization is interested in raising funds for specific projects to be carried out by the foreign organization.

In determining whether a grant should be made, the bylaws of the domestic charitable organization in Rev. Rul. 66-79 provide, in part, that: (1) The making of grants and contributions and otherwise rendering financial assistance for purposes expressed in the charter of the organization shall be within the exclusive power of the board of directors; (2) in furtherance of the organization's purposes, the board of directors shall have power to make grants to any organization organized and operated exclusively for charitable, scientific, or educational purposes within the meaning of section 501(c)(3); (3) the board of directors shall review all requests for funds from other organizations, shall require that such requests specify the use to which the funds will be put, and if the board of directors approves the request, shall authorize payment of such funds to the approved grantee; (4) the board of directors shall require that the grantees furnish periodic accounting to show that the funds were expended for the purposes which were approved by the board of directors; and (5) the board of directors may, in its absolute discretion, refuse to make any grants or contributions or otherwise render financial assistance to or for any or all purposes for which funds are requested. The bylaws also provide that after the board of directors approves a grant to another organization for a specific project or purpose, the domestic charitable organization may solicit funds for that particular grant; however, at all times, the board has the right of withdraw approval of the grant. The domestic charitable organization also refuses to accept contributions so earmarked that they must in any event go to the foreign organization.

Rev. Rul 66-79 summarizes that the domestic charitable organization may only solicit for specific grants that are viewed and approved by it as being in furtherance of its purposes. Further, the domestic charitable organization solicits only on the condition

that it has control and discretion as to the use of contributions received by it. Therefore, contributions received by the domestic charitable organization from such solicitations are regarded as for the use of the domestic organization and not for the organization receiving the grant. Because of these controls, the contributor is permitted a deduction under section 170.

## **Special Rules Applicable to Private Foundations**

### **Grants to Individuals**

Section 4945 imposes a tax on the taxable expenditures of private foundations. A taxable expenditure, defined in section 4945(d), includes any amount paid or incurred by a private foundation as a grant to an individual for travel, study, or similar purposes unless the grant satisfies the requirements of section 4945(g). Special rules applicable to satisfying the requirements for private foundations making grants to individuals are found generally in Treas. Reg. 53.4945-4.

Any grant to an individual for travel, study, or similar purposes is not a taxable expenditure if the grant was awarded on an objective and nondiscriminatory basis, and was made pursuant to a procedure approved in advance by the Internal Revenue Service. The private foundation must also demonstrate to the satisfaction of the Commissioner that (1) the grant constituted a scholarship or fellowship grant not includible as gross income pursuant to section 117(a) and was used to study at an educational organization described in section 170(B)(1)(a)(ii); (2) the grant constituted a prize or award not includible as gross income pursuant to section 74(b)(1) and (2) (but disregarding (3)) and the recipient is selected from the general public; or (3) the grant had the purpose of achieving a specific objective, producing a report or other similar product, or improving or enhancing a literary, artistic, musical, scientific, teaching, or other similar capacity, skill, or talent of the grantee. See section 4945(g)(1), (2) and (3).

In order to secure advance approval by the Internal Revenue Service of its procedure for making grants to individuals, the private foundation must demonstrate that (1) its grant procedure includes an objective and non-discriminatory selection process; (2) its grant procedure is reasonably calculated to result in the performance by grantees of the activities intended to be financed; and, (3) the private foundation will obtain reports from the grantees to determine whether they have performed the activities that the grants are intended to finance.

No single procedure or set of procedures is required and variant factual situations will determine what precautions are appropriate in each case. Nevertheless, a procedure (or set of procedures) must include methods to supervise the use of scholarships, fellowships, and other types of grants to individuals; to investigate jeopardized or diverted grants; and, to retain records of scholarships, fellowships and grants made.

### **Grants to Non-exempt Organizations**

Section 4945(d) states that the term taxable expenditure includes any amount that a private foundation pays or incurs as a grant to an organization *other than* a public charity described in section 509(a)(1), (2), or (3), *unless* the grantor foundation exercises 'expenditure responsibility' with respect to the grants.

Section 4945(h) states that 'expenditure responsibility' means that the private foundation is responsible to exert all reasonable efforts and to establish adequate procedures to (1) see that the grant is spent solely for the purpose for which made, (2) obtain full and complete reports from the grantee on how the funds are spent, and (3) make full and detailed reports with respect to such expenditures to the Internal Revenue Service. Special rules applicable to satisfying the requirements for ensuring 'expenditure responsibility' are found generally in Treas. Reg. 53.4945-5(b), (c), (d) and (e).

### **Grants to Foreign Organizations**

Many foreign organizations do not have rulings or determination letters to show that they are described in section 501(c)(3) or 509(a)(1), (2), or (3). Hence, grants they received from private foundations may be taxable expenditures. These grants are not taxable expenditures if a foreign organization meets two tests.

The first test, in Treas. Reg. 53.4945-6(c)(2)(ii), concerns foreign grantee organizations that do not have section 501(c)(3) rulings. Generally, a foreign organization will be treated as akin to a section 501(c)(3) organization if in the reasonable judgment of a foundation manager of the grantor private foundation, the grantee foreign organization is organized and operated as a section 501(c)(3) organization. Reasonable judgment is defined by its generally accepted legal sense within the outlines developed by judicial decisions in the law of trusts. This test does not apply to testing for public safety organizations.

The second test, in Treas. Reg. 53.4945-5(a)(5), provides that if a grantor private foundation makes a good faith determination that the foreign grantee organization is described in section 509(a)(1), (2), (3), such grants made to that foreign organization are considered to have been made to an organization described in the aforementioned Code sections. The good faith determination must be based upon an affidavit of the grantee foreign organization or an opinion of counsel (of the grantor or grantee), either of which must set forth sufficient facts concerning the operations and support of the grantee foreign organization for the Internal Revenue Service to determine that it would be likely to qualify as an organization described in section 509(a)(1), (2) or (3).

Rev. Proc. 92-94, 1992-2 C.B. 507, provides that a private foundation may base its reasonable judgment and good faith determination, as required by the tests above, upon an affidavit of the foreign grantee, which was prepared for another foundation.

Thus, under the revenue procedure, a foreign grantee does not have to prepare a new affidavit for each grant. The affidavit must be currently qualified. An affidavit is considered to be currently qualified if its facts are up to date.

### **Review and Supervision of Grants to Non-exempt Organizations**

A private foundation must maintain expenditure responsibility over grants it makes to organizations (other than section 509(a)(1), (2) and (3)) for the grants not to be taxable expenditures. That private foundation will be considered to be exercising expenditure responsibility under if it meets three requirements. First, the private foundation must take certain precautions to ensure that the grant funds will be spent for proper purposes (in connection with this requirement the foundation must conduct a pre-grant inquiry concerning potential grantees and make all its grants subject to a certain type of written agreement with the grantee). Second, the private foundation must obtain full and complete reports from the grantee concerning the use of funds. Third, the private foundation must submit full and detail reports describing its expenditures to the Internal Revenue Service. Treas. Reg. 53.4945-5(b)(1). A private foundation must strictly comply with these requirements.

### **Pre-Grant Inquiry Requirement**

Before a private foundation makes a grant to an organization subject to expenditure responsibility, the private foundation should conduct a limited pre-grant inquiry to ensure that the grant will be used for proper purposes. Special rules applicable to satisfying the requirements for pre-grant inquiries and examples illustrating the rules are found generally in Treas. Reg. 53.4945-5(b)(2).

The pre-grant inquiry should concern itself with matters such as (1) the identity, prior history, and experience of the grantee organization and its managers; and (2) whether the grantee has a history of compliance or noncompliance with the terms of previous grants, and any knowledge concerning the management, activities, and practices of the grantee organization.

The scope of the pre-grant inquiry will vary in each case depending on the size and purpose of the grant; the period over which it will be paid; and any prior experience the grantor has had with the grantee. Ordinarily, no further pre-grant inquiry is necessary where a grantee has properly used all prior grants and filed the required reports.

### **Terms of Grant Agreements**

Compliance with the expenditure responsibility provisions will also require the grantor organization to make all such grants subject to a written commitment signed by an appropriate officer, director, or trustee of the grantee organization.

The commitment must include provisions that:



- a. clearly state the purposes of the grant. Such purposes may include contributing to capital endowment, purchase of capital equipment, specific program or series of programs, or general support of the grantee organization, provided that neither the grants nor the income thereof may be used for non-section 170(c)(2)(B) purposes;
- b. indicate that the grantee organization must repay any funds not used for grant purposes;
- c. indicate that the grantee organization must submit annual reports on the use of funds (unless the grant is to a private foundation for endowment or other capital purposes (see Treas. Reg. 53.4945-5(c)(2)), and in which case the reports on use of principal and income will be made the first year and the immediately succeeding two years if it is apparent that funds will be used appropriately.
- d. indicate that complete records of receipts and expenditures must be maintained, and to make such records available to the grantor. The grantee organization must also agree not to use funds in a manner inconsistent with the provisions of section 4945(d)(1) through (5). See Treas. Reg. 53.4945-5(b)(3).

### **Written Agreements for Grants to Foreign Organizations**

If the grant is to a foreign organization, the written grant agreement must impose restrictions that are substantially equivalent to the limitations placed on domestic private foundations. Such restrictions may be phrased in appropriate terms under foreign law or custom and ordinarily will be considered sufficient if an affidavit or opinion of counsel (of the grantor or grantee) is obtained stating that, under foreign law or custom, the agreement imposes restrictions on the use of the grant substantially equivalent to the restrictions imposed on a domestic private foundation. See Treas. Reg. 53.4945-5(b)(5).

### **Conclusion Based on Current Published Precedents**

Special international or foreign rules provide overlays only in a few areas.

It is not a charitable activity merely to support a foreign government; however, a deduction is allowable with respect to a transfer of property to a foreign government or political subdivision thereof if the transfer is used for exclusively charitable purposes.

For private foundation grants to foreign organizations, a recipient will be treated as akin to a section 501(c)(3) entity if in the reasonable belief of a foundation manager the grantee is organized and operated as a section 501(c)(3) organization and the grantor foundation makes a good faith determination that the foreign grantee is described in 509(a)(1), (2) or (3) based upon an affidavit of the grantee or an opinion of counsel. In addition, written expenditure responsibility agreements for international organizations

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must impose restrictions that are substantially equivalent to those used for similar kinds of domestic grants.

As a general matter, these rules consider whether the requisite degree of control and oversight is exercised by the grant making U.S. charity. The deductibility of a charitable contribution or the determination that a grant is not a taxable expenditure depends upon the U.S. charity's ability to satisfy these requirements.



FROM:

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## Tax Reduction Letter

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### Revenue Ruling 63-252

Section 170 – Charitable, Etc., Contributions And Gifts.

Deductibility of contributions by individuals to a charity organized in the United States which thereafter transmits some or all of its funds to a foreign charitable organization.

Advice has been requested as to the deductibility, under *section 170 of the Internal Revenue Code of 1954*, of contributions by individuals to a charity organized in the United States which thereafter transmits some or all of its funds to a foreign charitable organization.

*Section 170 of the Code* provides, in material part, as follows:

#### (a) ALLOWANCE OF DEDUCTION.-

(1) GENERAL RULE.-There shall be allowed as a deduction any charitable contribution (as defined in subsection (c)) payment of which is made within the taxable year. A charitable contribution shall be allowable as a deduction only if verified under regulations prescribed by the Secretary or his delegate.

\*\*\*

(c) CHARITABLE CONTRIBUTION DEFINED.-For purposes of this section, the term "charitable contribution" means a contribution or gift to or for the use of-

\*\*\*

#### (2) A corporation, trust, or community chest, fund, or foundation-

- (A) created or [\*2] organized in the United States or in any possession thereof, or under the law of the United States, any State or Territory, the District of Columbia, or any possession of the United States;
- (B) organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes or for the prevention of cruelty to children or animals;
- (C) no part of the net earnings of which inures to the benefit of any private shareholder or individual; and

- (D) no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation.

A contribution or gift by a corporation to a trust, chest, fund, or foundation shall be deductible by reason of this paragraph only if it is to be used within the United States or any of its possessions exclusively for purposes specified in subparagraph (B).

In determining whether contributions to or for the use of a particular corporation, trust, community chest, fund, or foundation are deductible, it must first be determined that the recipient organization was validly created or organized in the United States, a state or territory, the District of Columbia or a possession of the United States, as required [\*3] by *section 170 (c) (2) (A) of the Code*. If the organization does not qualify under *section 170 (c) (2) (A) of the Code*-that is, it was not created or organized in the United States, etc.-a contribution thereto is not deductible under *section 170* of the Code. *Dora F. Welti v. Commissioner, 1 T.C. 905 (1943)*; *Muzaffer ErSelcuk et al. v. Commissioner, 30 T.C. 962 (1958)*. It must further be found that the recipient was organized and operated exclusively for one of the purposes stated in *section 170 (c) (2) (B) of the Code*, namely, religious, charitable, scientific, literary, or educational purposes or for the prevention of cruelty to children or animals, and that it meets the remaining requirements of *section 170 (c) (2) of the Code*.

Assuming that an organization otherwise meets the requirements set forth in *section 170 (c) (2) of the Code*, a further problem arises where that organization is required to turn all or part of its funds over to a foreign charitable organization. As noted above, contributions directly to the foreign organization would not be deductible. The question presented here is whether the result should differ when funds are contributed to a domestic charity which then [\*4] transmits those funds to a foreign charitable organization.

Prior to the passage of the Revenue Act of 1938 there were no restrictions as to the place of creation of charitable organizations to which individuals might make deductible contributions. (*Section 102 (c) of the Revenue Act of 1935*, which first permitted a deduction for *corporate* charitable contributions, limited that deduction to contributions to "domestic" organizations which used such contributions within the United States.) The rule as to individual contributions was changed with the passage of the *Revenue Act of 1938*. *Section 23 (o)* of that Act provided that contributions by individuals were deductible only if the recipient was a "domestic" organization. See discussion of that section in Ways and Means Committee Report, H.R. Report No. 1860, Seventy-fifth Congress, Third Session, C.B. 1939-1 (Part 2), 728, at 742. *Section 224 of the Revenue Act of 1939* substituted for the requirement that a qualifying organization be "domestic," the requirement that it have been "created or organized in the United States or in any possession thereof," etc. In substantially the same form, this requirement was re-enacted as *section 170 (c) (2) (A) [\*5]* of the 1954 Code.

At the outset, it should be noted that *section 170 (c) (2) (A) of the Code* relates only to the place of creation of the charitable organization to which deductible contributions may be made and does not restrict the area in which deductible contributions may be used. Compare the last sentence in *section 170 (c) (2) of the Code*, which requires that certain *corporate* contributions be used within the United States. Accordingly, the following discussion should not be construed as limiting in any way the geographical areas in which deductible contributions by individuals may be used.

The deductibility of the contributions here at issue will be discussed in connection with five illustrative examples set out below. The "foreign organization" referred to in each of the examples is an organization which is chartered in a foreign country and is so organized and operated that it meets all the requirements of *section 170 (c) (2) of the Code* excepting the requirement set forth in *section 170 (c) (2) (A) of the Code*. The "domestic organization" in each example is assumed to meet all the requirements in *section 170 (c) (2) of the Code*. In each case, the question to be decided is whether [\*6] the amounts paid to the domestic organization are deductible under *section 170 (a) of the Code*.

(1) In pursuance of a plan to solicit funds in this country, a foreign organization caused a domestic organization to be formed. At the time of formation, it was proposed that the domestic organization would conduct a fund-raising campaign, pay the administrative expenses from the collected fund and remit any balance to the foreign organization.

(2) Certain persons in this country, desirous of furthering a foreign organization's work, formed a charitable organization within the United States. The charter of the domestic organization provides that it will receive contributions and send them, at convenient intervals, to the foreign organization.

(3) A foreign organization entered into an agreement with a domestic organization which provides that the domestic organization will conduct a fund-raising campaign on behalf of the foreign organization. The domestic organization has previously received a ruling that contributions to it are deductible under *section 170 of the Code*. In conducting the campaign, the domestic organization represents to prospective contributors that the raised funds will go [\*7] to the foreign organization.

(4) A domestic organization conducts a variety of charitable activities in a foreign country. Where its purposes can be furthered by granting funds to charitable groups organized in the foreign country, the domestic organization makes such grants for purposes which it has reviewed and approved. The grants are paid from its general funds and although the organization solicits from the public, no special fund is raised by a solicitation on behalf of particular foreign organizations.

(5) A domestic organization, which does charitable work in a foreign country, formed a subsidiary in that country to facilitate its operations there. The foreign organization was formed for purposes of administrative convenience and the domestic organization controls every facet of its operations. In the past the domestic organization solicited contributions for the specific purpose of carrying out its charitable activities in the foreign country and it will continue to do so in the future. However, following the formation of the foreign subsidiary, the domestic organization will transmit funds it receives for its foreign charitable activities directly to that organization.

It is [\*8] recognized that special earmarking of the use or destination of funds paid to a qualifying charitable organization may deprive the donor of a deduction. In *S. E. Thomason v. Commissioner, 2 T.C. 441 (1943)*, the court held that amounts paid to a charitable organization were not deductible where the contributions were earmarked for the benefit of a particular ward of the organization. Similarly, see *Revenue Ruling 54-580, C.B. 1954-2, 97*. These cases indicate that an inquiry as to the deductibility of a contribution need not stop once it is determined that an amount has been paid to a qualifying organization; if the amount is earmarked, then it is appropriate to look beyond the fact that the immediate recipient is a qualifying organization to determine whether the payment constitutes a deductible contribution.

Similarly, if an organization is required for other reasons, such as a specific provision in its charter, to turn contributions, or any particular contribution it receives, over to another organization, then in determining whether such contributions are deductible it is appropriate to determine whether the ultimate recipient of the contribution is a qualifying organization. It is [\*9] well established in the law of taxation that "A given result at the end of a straight path is not made a different result because reached by following a devious path." *Minnesota Tea Co. v. Helvering*, 302 U.S. 609, at 613, Ct. D. 1305, C.B. 1938-1, 288; *George W. Griffiths v. Helvering*, 308 U.S. 355, at 358, Ct. D. 1431, C.B. 1940-1, 136. Moreover, it seems clear that the requirements of *section 170 (c) (2) (A) of the Code* would be nullified if contributions inevitably committed to go to a foreign organization were held to be deductible solely because, in the course of transmittal to the foreign organization, they came to rest momentarily in a qualifying domestic organization. In such cases the domestic organization is only nominally the donee; the real donee is the ultimate foreign recipient.

Accordingly, the Service holds that contributions to the domestic organizations described in the first and second examples set forth above are not deductible. Similarly, those contributions to the domestic organization described in the third example which are given for the specific purpose of being turned over to the foreign organization are held to be nondeductible.

On the other hand, contributions [\*10] received by the domestic organization described in the fourth example will not be earmarked in any manner, and use of such contributions will be subject to control by the domestic organization. Consequently, the domestic organization is considered to be the recipient of such contributions for purposes of applying *section 170 (c) of the Code*. Similarly, the domestic organization described in the fifth example is considered to be the real beneficiary of contributions it receives for transmission to the foreign organization. Since the foreign organization is merely an administrative arm of the domestic organization, the fact that contributions are ultimately paid over to the foreign organization does not require a conclusion that the domestic organization is not the real recipient of those contributions. Accordingly, contributions by individuals to the domestic organizations described in the fourth and fifth examples are considered to be deductible.

Pursuant to the authority contained in *section 7805 (b) of the Code*, the principles stated herein will not be applied to disallow deductions for contributions made to a charitable organization prior to December 9, 1963, the date of publication [\*11] of this Revenue Ruling, if those contributions otherwise would have been deductible under an outstanding ruling or determination letter.

FROM: irs.gov/pub/irs-regs/eotopic083.pdf

## O. DOMESTIC ORGANIZATIONS WITH FOREIGN OPERATIONS

### 1. Introduction

This article discusses the treatment of domestic charitable organizations with foreign operations. It focuses on exemption under IRC 501(c)(3); foundation status under IRC 509; deductibility of contributions, bequests and gifts under IRC 170, 2055, and 2522; and the treatment of domestic foundations making grants to foreign organizations.

### 2. Exemption and Foundation Status Issues

Historically, the Internal Revenue Code has implicitly sanctioned the operations of U.S. charities in foreign countries. IRC 170(c) provides that a contribution by a corporation to a qualifying IRC 170(c)(2)(B) organization is deductible but only if the contribution is used within the United States or any of its possessions exclusively for IRC 170(c)(2)(B) purposes. There is no similar restriction imposed upon the use of an individual's contributions under IRC 170. Also, the exemption and foundation provisions do not contain limiting language.

The Service confirmed this position in 1971 with the publication of Rev. Rul. 71-460, 1971-2 C.B. 231. Rev. Rul. 71-460 held that a domestic charity qualified for exemption under IRC 501(c)(3) even though it carried on some of its activities abroad. The revenue ruling was not intended to limit the extent of a domestic organization's foreign activities. In fact, 71-460 states that exemption will not be jeopardized even if the domestic organization carries on all of its activities in foreign countries. Grants to foreign organizations were clearly contemplated by Rev. Rul. 71-460. Although the Service had not published specifically on the point, the revenue ruling did not place any restrictions on foreign operations. (Further, the two revenue rulings -- Rev. Rul. 63-252, 1963-2 C.B. 101 and Rev. Rul. 66-79, 1966-1 C.B. 48 -- that discussed the deductibility of contributions to domestic organizations making grants to foreign organizations had already been published.)

Organizations making grants to foreign organizations have one procedural problem that is not usually encountered with grants to domestic organizations. Since most foreign organizations have not been recognized under IRC 501(c)(3), the domestic organization in this situation is required to exercise supervision and control over the use of the funds as provided for in Rev. Rul. 68-489, 1968-2 C.B. 210. Rev. Rul. 68-489 also requires sufficient records that grants have been used

for IRC 501(c)(3) purposes. In some respects these requirements parallel the requirements organizations must meet in order to assure the deductibility of contributions by domestic donors. (This topic will be discussed later in this paper.)

The central exemption issue in these cases, as with any other exemption case, is whether an organization is organized and operated for charitable purposes under IRC 501(c)(3). Generally, the characterization of a particular activity under foreign law is not controlling. It should be noted, however, that the Service has not yet ruled in a situation where an organization's activity is illegal under foreign law. If a case contains this issue, technical advice should be sought from the National Office.

One further issue involves grants to foreign governmental organizations. The Service has ruled in several specific circumstances, that direct grants to foreign governments do not serve IRC 501(c)(3) purposes. This position has not been published, however. Further, the Service may have to address the situation where a domestic charity makes a grant to a foreign organization that is a governmental entity but does not have governmental powers, i.e., hospitals, schools, etc. These kinds of issues should be referred to the National Office for consideration.

It is clear that domestic organizations can be involved in programs with foreign governments. For example, in Rev. Rul. 68-117, 1968-1 C.B. 251, the Service held that an organization assisting needy families in "developing" countries may be exempt. The organization participated in self-help programs for social and economic development and worked in cooperation with the U. S. and foreign governments.

There are several additional rulings that deal with foreign activities. Rev. Rul. 68-165, 1968-1 C.B. 253, held that a domestic organization that joins with a counterpart group in Latin America to provide assistance for self-help projects qualifies for exemption under IRC 501(c)(3). Also, Rev. Rul. 73-440, 1973-2 C.B. 177, held that an organization that attempts to influence and advocates changes in the laws of a foreign country does not qualify for exemption. For purposes of IRC 501(c)(3) the term "legislation" includes foreign as well as domestic laws.

Generally, there are no special IRC 509 rules for domestic organizations with foreign operations. There is one published revenue ruling that relates to this issue. Rev. Rul. 74-229, 1974-1 C.B. 142, holds that a domestic organization, organized and operated in support of a foreign organization meeting the requirements of IRC 509(a)(1) or (2), that otherwise meets the requirements of IRC



509(a)(3) qualifies as a supporting organization. (Reg. 1.509(a)-2(a) provides that an organization may qualify as an IRC 509(a)(1) or (2) organization regardless of the fact that it does not satisfy IRC 170(c)(2) because it was created or organized other than in or under the law of the United States, any state or territory, the District of Columbia, or any possession of the United States.)

### 3. Contributions to Domestic Organizations for Foreign Operations

IRC 170(c)(2)(A) provides that a charitable contribution to be deductible must be made to an organization "created or organized in the United States or in any possession thereof, or under the law of the United States, any state, the District of Columbia, or any possession of the United States."

In S. E. Thomason v. Commissioner, 2 T.C. 441 (1943), the court held that amounts paid to provide special advantages for a particular child in the Illinois Childrens' Home and Aid Society were not deductible when earmarked for the benefit of that child. This case, and Rev. Rul. 54-580, 1954-2 C.B. 97, established the principle that "an inquiry as to the deductibility of a contribution need not stop once it is determined that an amount has been paid to a qualifying organization; if the amount is earmarked, then it is appropriate to look beyond the fact that the immediate recipient is a qualifying organization to determine whether the payment constitutes a deductible contribution." (Rev. Rul. 63-252.)

Rev. Rul. 63-252 applied these principles to the question of deductibility of contributions to foreign organizations and concluded:

"A given result at the end of a straight path is not made a different result because reached by following a devious path."  
Minnesota Tea Co. v. Helvering, 302 U.S. 609, at 613, Ct. D. 1305, C.B. 1938-1, 288; George W. Griffiths v. Helvering, 308 U.S. 355, at 358, Ct. D. 1431, C.B. 1940-1, 136. Moreover, it seems clear that the requirements of section 170(c)(2)(A) of the Code would be nullified if contributions inevitably committed to go to a foreign organization were held to be deductible solely because, in the course of transmittal to the foreign organization, they came to rest momentarily in a qualifying domestic organization. In such case the domestic organization is only nominally the donee; the real donee is the ultimate foreign recipient."

Rev. Rul. 63-252 illustrated the point with the following five examples:

- (1) In pursuance of a plan to solicit funds in this country, a foreign organization caused a domestic organization to be formed. At the time of formation, it was proposed that the domestic organization would conduct a fund-raising campaign, pay the administrative expenses from the collected fund and remit any balance to the foreign organization.
- (2) Certain persons in this country, desirous of furthering a foreign organization's work, formed a charitable organization within the United States. The charter of the domestic organization provides that it will receive contributions and send them, at convenient intervals, to the foreign organization.
- (3) A foreign organization entered into an agreement with a domestic organization which provides that the domestic organization will conduct a fund-raising campaign on behalf of the foreign organization. The domestic organization has previously received a ruling that contributions to it are deductible under section 170 of the Code. In conducting the campaign, the domestic organization represents to prospective contributors that the raised funds will go to the foreign organization.
- (4) A domestic organization conducts a variety of charitable activities in a foreign country. Where its purposes can be furthered by granting funds to charitable groups organized in the foreign country, the domestic organization makes such grants for purposes which it has reviewed and approved. The grants are paid from its general funds and although the organization solicits from the public, no special fund is raised by a solicitation on behalf of particular foreign organizations.
- (5) A domestic organization, which does charitable work in a foreign country, formed a subsidiary in that country to facilitate its operations there. The foreign organization was formed for purposes of administrative convenience

and the domestic organization controls every facet of its operations. In the past the domestic organization solicited contributions for the specific purpose of carrying out its charitable activities in the foreign country and it will continue to do so in the future. However, following the formation of the foreign subsidiary, the domestic organization will transmit funds it receives for its foreign charitable activities directly to that organization.

Rev. Rul. 63-252 held that contributions to organizations described in the first, second, and third examples were not deductible but that contributions to the organizations described in examples four and five were. In examples four and five the contributions were not earmarked for use in a foreign country and the contributions were subject to control by the domestic organization.

Rev. Rul. 66-79, clarified an ambiguity contained in examples three and four of Rev. Rul. 63-252. Rev. Rul. 66-79 provided that contributions to a domestic charity solicited for a specific project of a foreign charity are deductible under IRC 170 where the domestic organization has approved the project as being in furtherance of its own exempt purposes and has control and discretion as to the use of the contributions. In this case the bylaws of the domestic organization provided among other things that the Board of Directors would require that grantees furnish a periodic accounting to show that the funds were expended for purposes for which they were approved and the Board might, in its absolute discretion, refuse to make grants for which any funds were requested. The revenue ruling concluded that "the test in each case is whether the organization has full control of the donated funds, and discretion as to their use, so as to insure that they will be used to carry out [the domestic organization's] function and purposes."

Rev. Rul. 75-65, 1975-1 C.B. 79, provided another example of contributions to a domestic organization that made grants to foreign organizations. The domestic organization was formed to deal with the problem of plants and wildlife ecology in a foreign country. Among other things, it made grants to foreign organizations for this purpose. The domestic organization maintained control over the use of funds by making a field investigation of the purpose to which the funds would be put, by entering into a written agreement with the recipient organization, and by making continuous field investigations to see that the money was expended in accordance with the agreement. The revenue ruling concluded that in this case contributions by individual donors were deductible.

The principle enunciated in Rev. Rul. 63-252 -- that deductibility of contributions would be judged by the substance rather than form of the transaction -- was tested in Bilingual Montessori School of Paris v. Commissioner, 75 T.C. 480 (1980), acq. 1981-1 C.B. 1. The organization was incorporated in Delaware in 1978 for purposes which included the operation of a Montessori school in Paris, France. Its registered office was in Wilmington, Delaware where its registered agent was located. The organization had no employees in the United States and conducted no activities in this country other than some fund-raising. The Service recognized the organization's exemption under IRC 501(c)(3) but determined that contributions were not deductible under IRC 170. Relying on Rev. Rul. 63-252 the Service argued that the domestic organization was a corporate shell without assets or employees in the United States and was used solely to funnel contributions overseas. The school argued and the Tax Court held that the legislative history of the restriction in IRC 170(c)(2)(A) indicated that the restriction was merely a restriction on foreign incorporation. Thus, Rev. Rul. 63-252 does not require an organization to have domestic operations in the U. S.

IRC 170(c)(2) defines charitable contributions to include a contribution to "A corporation, trust, or community chest, fund or foundation..." (Emphasis added.) IRC 170(c) limits contributions by a corporation as follows: "A contribution or gift by a corporation to a trust, chest, fund, or foundation shall be deductible by reason of this paragraph only if it is to be used within the United States...." The Service has ruled that since the language in IRC 170(c) does not specifically prohibit gifts to corporations, a contribution by a taxable corporation to a domestic charitable corporation to be used abroad is deductible. (Rev. Rul. 69-80, 1969-1 C.B. 65).

The treatment of gifts and bequests under the estate and gift tax provisions does not limit the use of funds overseas. In fact, IRC 2055(a)(2) (the estate tax deduction), and IRC 2522(a)(2) (the gift tax deduction), permit bequests and gifts to foreign organizations for charitable purposes. In the case of a non-resident who is not a citizen, gifts will be subject to the gift tax if they are not made to a domestic charitable corporation. If the gift is made to any charitable trust, community chest, fund or foundation, the gift must be used exclusively within the United States. (IRC 2522(b)(2) and (3)).

#### 4. Foundation Grants to Foreign Charities

Generally, domestic private foundations may make grants to foreign charities for the same purposes that they make grants to domestic charities. There are, however, limitations on grants to foreign governments. These limitations are the same as those discussed earlier in this paper. The primary issue under Chapter 42 has to do with how grantees are chosen and how the grants are administered.

IRC 4945(d)(4) provides that a grant to an organization other than a public charity is a taxable expenditure unless the foundation exercises expenditure responsibility with respect to the grant. Expenditure responsibility is defined in IRC 4945(h). The regulations under IRC 4945(d)(4) provide that where a foreign organization does not have a ruling or determination letter that it is a public charity, a grant will not be treated as a taxable expenditure under IRC 4945(d)(4) if the grantor foundation has made a "good faith determination" that the grantee organization is an organization described in IRC 509. The "good faith determination" can be made on the basis of an affidavit of the grantee organization or an opinion of counsel that the grantee is a publicly supported organization. The affidavit or opinion must contain sufficient facts to permit the Service to determine that the grantee would be likely to qualify as a public charity. (Reg. 53.4945-5(a)(5).) Similarly, if foreign law imposes restrictions on the use of the grant substantially equivalent to the restrictions imposed on domestic foundation with respect to the handling and use of funds under IRC 4945, a domestic organization need not exercise expenditure responsibility with respect to that grant. An affidavit or an opinion of counsel to this effect is also sufficient to satisfy this requirement.

IRC 4945(d)(5) provides that grants for purposes other than those specified in IRC 170(c)(2)(B) will result in taxable expenditures. Thus, an unrestricted grant to an organization that is not described in IRC 501(c)(3) will normally be a taxable expenditure. Reg. 4945-6(c) provides that a grantor must be "reasonably assured" that the grant will be used for IRC 170(c)(2)(B) purposes to avoid imposition of the tax. If, in the "reasonable judgment" of a foundation manager of the grantor organization, the grantee organization is described in IRC 501(c)(3); this requirement will be satisfied.

Rev. Rul. 68-165, 1968-1 C.B. 253

A domestic nonprofit corporation (composed of educational, civic, business, and other groups) that joins with a counterpart group in a country in Latin America to promote student and cultural exchanges and to provide technical and material assistance for self-help projects designed to improve the living conditions of underprivileged people in Latin America may be exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954.

Advice has been requested whether the nonprofit corporation described below qualifies for exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954.

The organization was formed by civic and professional organizations, businesses, schools, churches, and private individuals of a particular state of the United States to work directly with village groups, jungle colonies, and other groups in a specific country in Latin America for the purpose of assisting underprivileged people to improve their living conditions through educational and self-help programs. Partners of the Alliance, an office within the United States Agency for International Development, provides coordination for this nongovernment, private sector program.

The organization's activities include furnishing tools, educational materials, and other supplies; providing agricultural assistance; giving advice and training necessary to administer health and welfare programs; promoting student and cultural exchange programs; and undertaking studies of educational needs, transportation problems, and water resources. These activities, which are encouraged and supervised by Peace Corps and Agency for International Development volunteers, are essentially self-help projects instituted on the local level. The governments of the Latin American countries receive no direct financial aid through these activities.

This is a two-way program in that citizens of the United States also benefit by participation in the student and cultural exchange programs.

Income is derived from contributions, and no charges are made for services rendered by the organization.

Section 501(c)(3) of the Code provides that an organization organized and operated exclusively for charitable or educational purposes is exempt from Federal income tax.

Section 1.501(c)(3)-1(d)(2) of the Income Tax Regulations provides that the term 'charitable' as used in section 501(c)(3) of the Code includes the relief of the poor and distressed or of the underprivileged and promotion of social welfare by organizations designed to accomplish such purposes.

Section 1.501(c)(3)-1(d)(3) of the regulations defines the term 'educational' as relating to the instruction or training of the individual for the purpose of improving or developing his capabilities or the instruction of the public on subjects useful to the individual and beneficial to the community.

Promoting student and cultural exchanges; providing advice and training in administering various social welfare programs; and undertaking studies of, and water solutions to, agricultural, educational, transportation, and water resource problems improve the capabilities of the individual and instruct the public on subjects beneficial to the community. Therefore, these activities are educational. Furnishing the tools and material to help improve living conditions of the underprivileged is charitable within the meaning of section 501(c)(3) of the Code. Accordingly, the organization qualifies for exemption from Federal income tax under section 501(c)(3) of the Code.

Even though an organization considers itself within the scope of this Revenue Ruling, it must (in order to establish exemption under section 501(c)(3) of the Code) file an application on Form 1023, Exemption Application, with the District Director of Internal Revenue for the internal revenue district in which is located the principal place of business or principal office of the organization. See section 1.501(a)-1 of the regulations.

Rev. Proc. 92-59, 1992-2 C.B. 411

## SECTION 1. PURPOSE

The purpose of this revenue procedure is to supersede Rev. Proc. 71-39, 1971-2 C.B. 575, to modify and supersede Rev. Proc. 75-13, 1975-1 C.B. 662, to revoke Rev. Rul. 75-75, 1975-1 C.B. 154, and to amplify Rev. Rul. 75-76, 1975-1 C.B. 154, by setting forth guidelines for public interest law firms, including procedures under which a public interest law firm may accept fees for its services. The Internal Revenue Service will issue rulings and determinations regarding exemption to new public interest law firms and test the charitable character of such organizations already holding such rulings based on the guidelines set forth in this revenue procedure. These guidelines are not inflexible and an organization will be given the opportunity to demonstrate that under the facts and circumstances of its particular program, adherence to the guidelines is not required in certain respects in order to ensure that the operations are totally charitable.

## SEC. 2. BACKGROUND

01 In Rev. Proc. 71-39, the Service announced guidelines pursuant to which it would recognize public interest law firms as exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code. Section 3.02 of Rev. Proc. 71-39 provides that the public interest law firm does not accept fees for its services except in accordance with procedures approved by the Service.

02 Rev. Rul. 73-74, 1975-1 C.B. 152, provides that the recognition of public interest law firms as charitable is based on their provision of legal representation for the resolution of issues of broad public importance where such representation is not ordinarily provided by private law firms because the cases are not economically feasible.

03 Rev. Rul. 75-75 holds that charging or accepting fees from clients makes the organization indistinguishable from a private law firm. The revenue ruling indicates that the expectation of fees for services might influence which cases are accepted.

04 Rev. Rul. 75-76 holds that the acceptance of fees awarded by a court or an administrative agency and paid by opposing parties does not preclude a public interest law firm that derives most of its support from grants and contributions from exemption under section 501(c)(3) of the Code. However, exemption would only be justified if it is clear that neither the expectation nor the possibility, however remote, of an award of fees is a substantial motivating factor in the selection of cases. In addition, the firm must cease to handle issues with a strong possibility of a fee award if these become economically feasible for private litigants.

05 Rev. Proc. 75-13 sets forth procedures under which a public interest law firm may accept fees for its services. Under these procedures, the organization may not receive or request fees from its clients for the provision of legal services. Attorney fees paid by opposing parties, however, are permissible if awarded by a court or administrative



agency in a case or settlement agreement.

06 The procedures of Rev. Proc. 75-13 were published to eliminate the possibility that a decision to litigate might rest on the payment the firm receives instead of the economic feasibility for the litigants and thus render a public interest law firm's practice indistinguishable from a private firm's. The Service has reconsidered these procedures and concluded that safeguards sufficient to distinguish a public interest law firm's practice from the private practice of law can be implemented without absolutely prohibiting public interest law firms from receiving client-paid fees.

07 Section 3 below sets forth general guidelines under which the Service will determine whether a public interest law firm meets the test of being exclusively charitable and thus is entitled to recognition of exemption as an organization described in section 501(c)(3) of the Code. Section 4 below sets forth approved procedures for the acceptance of court awarded attorneys' fees. Section 5 below sets forth additional procedures to apply in the case of client-paid fees to assure that the public interest law firm that accepts client-paid fees remains distinguishable from a private law firm. The procedures in Section 5 are not applicable to out-of-pocket costs incurred in litigation.

### SEC. 3. GENERAL GUIDELINES

01 The engagement of the organization in litigation can reasonably be said to be in representation of a broad public interest rather than a private interest. Litigation will be considered to be in representation of a broad public interest if it is designed to present a position on behalf of the public at large on matters of public interest. Typical of such litigation may be class actions in which the resolution of the dispute is in the public interest; suits for injunction against action by government or private interests broadly affecting the public; similar representation before administrative boards and agencies; test suits where the private interest is small; and the like.

02 The litigation activity does not normally extend to direct representation of litigants in actions between private persons where the financial interests at stake would warrant representation from private legal sources. In such cases, however, where the issue in litigation affects a broad public interest or will have an impact on the broad public interest, the organization may serve as a friend of the court.

03 The organization does not attempt to achieve its objectives through a program of disruption of the judicial system, illegal activity, or violation of applicable canons of ethics.

04 The organization files with its annual information return a description of cases litigated and the rationale for the determination that they would benefit the public generally.

05 The policies and programs of the organization (including compensation arrangements) are the responsibility of a board or committee representative of the public

interest, which is not controlled by employees or persons who litigate on behalf of the organization nor by any organization that is not itself an organization described in section 501(c)(3) of the Code.

06 The organization is not operated, through sharing of office space or otherwise, in a manner so as to create identification or confusion with a particular private law firm.

07 There is no arrangement to provide, directly or indirectly, a deduction for the cost of litigation that is for the private benefit of the donor.

08 The organization does not accept fees for its service except in accordance with the procedures set forth in Sections 4 and 5 below.

09 The organization must otherwise comply with the provisions of section 501(c)(3) of the Code, that is, it may not participate in, or intervene in, any political campaign on behalf of (or in opposition to) any candidate for public office, no part of its net earnings may inure to the benefit of any private shareholder or individual, and no substantial part of its activities may consist of carrying on propaganda or otherwise attempting to influence legislation, (except as otherwise provided in section 501(h)).

10 A public interest law firm may accept reimbursement from clients or from opposing parties for direct out-of-pocket expenses incurred in the litigation. Courts have traditionally distinguished out-of-pocket costs such as filing fees, travel expenses, and expert witness fees from attorneys' fees. These expenses are usually nominal in comparison to the amount of attorneys' fees.

#### SEC. 4. ACCEPTANCE OF ATTORNEYS' FEES

01 The organization may accept attorneys' fees in public interest cases if such fees are paid by opposing parties and are awarded by a court or administrative agency or approved by such a body in a settlement agreement.

02 The organization may accept attorneys' fees in public interest cases if such fees are paid directly by its clients provided it adopts additional procedures as set forth in Section 5 of this revenue procedure.

03 The likelihood or probability of a fee, whether court awarded or client-paid, may not be a consideration in the organization's selection of cases. The selection of cases should be made in accordance with the procedures set forth in Section 3 of this revenue procedure.

04 Cases in which a court awarded or client-paid fee is possible may not be accepted if the organization believes the litigants have a sufficient commercial or financial interest in the outcome of the litigation to justify retention of a private law firm. The organization may, in cases of sufficient broad public interest, represent the public interest as amicus curiae or intervenor in such cases.

05 The total amount of all attorneys' fees (court awarded and received from clients) must not exceed 50 percent of the total cost of operation of the organization's legal functions. This percentage will be calculated over a five-year period, including the taxable year in which any fees are received and the four preceding taxable years (or any lesser period of existence). Costs of legal functions include: attorneys' salaries, nonprofessional salaries, overhead, and other costs directly attributable to the performance of the organization's legal functions. An organization may submit a ruling request where an exception to the above 50 percent limitation appears warranted.

06 The organization will not seek or accept attorneys' fees in any circumstances that would result in a conflict with state statutes or professional canons of ethics.

07 All attorneys' fees will be paid to the organization, rather than to individual staff attorneys. All staff attorneys and other employees will be compensated on a straight salary basis, not exceeding reasonable salary levels and not established by reference to any fees received in connection with the cases they have handled.

08 In addition to the information required by Section 3.04 of this revenue procedure, the organization will file with its annual information return a report of all attorneys' fees sought and recovered in each case.

#### SEC. 5. ADDITIONAL RULES APPLICABLE TO CLIENT-PAID FEES

01 Client-paid fees may not exceed the actual cost incurred in each case, viz., the salaries, overhead, and other costs fairly allocable to the litigation in question. Costs may be charged against a retainer, with any balance remaining after the conclusion of the litigation refunded to the litigant.

02 Once having undertaken a representation, a public interest law firm may not withdraw from the case because the litigant is unable to pay the contemplated fee.

#### SEC. 6. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 71-39 is hereby superseded. Rev. Proc. 75-13 is hereby modified and superseded. Rev. Rul. 75-75 is hereby revoked. Rev. Rul. 75-76 is hereby amplified to reflect the position taken in Section 4.05 of this revenue procedure that a public interest law firm is allowed to receive attorneys' fees in an amount not exceeding 50 percent of its expenditures attributable to its legal functions.

#### SEC. 7. EFFECTIVE DATE

This revenue procedure is effective for taxable years beginning after December 31, 1987.

#### DRAFTING INFORMATION

BREAX DMING, INC 81-3744910

The principal author of this revenue procedure is Debra Cowen of the Exempt Organizations Technical Division. For further information regarding this revenue procedure contact Ms. Cowen on (202) 566-3586 (not a toll-free call.)



## Part 4. Examining Process

### Chapter 76. Exempt Organizations Examination Guidelines

#### Section 9. Public Interest Law Firms

##### 4.76.9 Public Interest Law Firms

- 4.76.9.1 Overview
- 4.76.9.2 Public vs Private Interests
- 4.76.9.3 Public Interest Criteria
- 4.76.9.4 Disclosures on the Annual Return
- 4.76.9.5 Public Control and Compensation Arrangements
- 4.76.9.6 Miscellaneous Concerns

##### 4.76.9.1 (04-01-2003)

###### Overview

1. The following procedures are applicable to all organizations which directly engage in litigation as a substantial part of their activities, for what they determine is in the public good in some chosen area of public interest. Such as, the preservation of the environment and protection of consumer interests.

##### 4.76.9.2 (04-01-2003)

###### Public vs Private Interests

1. In addition to verifying compliance with the usual requirements of an IRC § 501(c)(3) organization, examiners of public interest law firms need to fully analyze the organization's litigation activities to determine whether such activities serve a public rather than private interest. See News Release IR-1078, issued November 12, 1970. The guidelines provided are intended to aid the examiner and adherence is not required in certain respects in order to ensure that the operations are totally charitable. The facts and circumstances of an organization should be applied. Area offices should not be reluctant to request technical advice if some doubt exists as to the propriety of the organization's litigation activities.

##### 4.76.9.3 (04-01-2003)

###### Public Interest Criteria

1. To qualify for exemption, public interest law firms must adhere to the following:
  - A. The organization's litigation must be designed to present a position on behalf of the public at large on matters of public interest.
  - B. The organization can not attempt to achieve its objectives by illegal activity or through a program of disruption of the judicial system.
  - C. The organization can not violate any canons of legal ethics.

##### 4.76.9.4 (04-01-2003)

###### Disclosures on the Annual Return

1. Rev. Proc. 92-59, 1992-2 C.B. 411 requires the organization to file an attachment to its annual information return describing cases litigated and how the public interest was served. Examples of documents to review include:

- A. Internal memoranda, minutes of board meetings, and other internal documents that discuss the firms activities;
- B. Copies of briefs filed with the courts;
- C. Newspaper or magazine articles concerning the litigation;
- D. Copies of newsletters; and
- E. Transcripts of radio and television broadcasts of attorneys working with the organization.

**Caution:**

§ section 7525 provides that with respect to tax advice, the same common law protections of confidentiality which apply to a communication between a taxpayer and an attorney shall also apply to a communication between a taxpayer and any federally authorized tax practitioner to the extent the communication would be considered a privileged communication if it were between a taxpayer and an attorney. Therefore, care should be taken when requesting information from a taxpayer or its representative. See IRM 4.75.11.

**4.76.9.5 (04-01-2003)  
Public Control and Compensation Arrangements**

1. In Rev. Proc. 71-39 a two part qualification test is established. First, the organization must present a program designed to serve the public interest through litigation. Second, it must be operated in accordance with specified guidelines. These guidelines are summarized as follows:
  - A. The policies and programs of the organization are the responsibility of a board or committee representative of the public interest, which is not controlled by employees or persons who litigate on behalf of the organization nor by any organization that is not itself an organization described in IRC § 501(c)(3).
  - B. The organization is not operated, through sharing of office space or otherwise, in a manner so as to create identification or confusion with a particular private law firm. A tour of the facilities should disclose any sharing of space.
  - C. There is no arrangement to provide, directly or indirectly, a deduction for the cost of litigation which is for the private benefit of the donor.
  - D. A public interest law firm may accept reimbursement from clients or from opposing parties for direct out-of-pocket expenses incurred in the litigation. Out-of-pocket costs include filing fees, travel expenses, and expert witness fees.
2. The organization's receipts meet the requirements of Rev. Proc. 92-59, 1992-2 C.B. 11 with respect to fees received. The requirements are as follows:
  - A. The organization may accept attorneys' fees if such fees are paid by the opposing parties and are awarded by a court or administrative agency or approved by such a body in a settlement agreement.
  - B. The organization may accept attorneys' fees if such fees are paid directly by its clients provided the fees do not exceed the actual cost incurred in the case, for example, the salaries, overhead, and other costs fairly allocable to the litigation in question. Costs may be charged against a retainer, with any remaining balance refunded to the litigant. Once agreeing to undertake a representation, an organization may not withdraw from the case because the litigant is unable to pay the contemplated fee.
  - C. The organization may not consider the likelihood or probability of a fee, court awarded or client paid, in the selection of cases.
  - D. The organization may not accept cases in which a court awarded or client-paid fee is possible and the organization believes the litigants have a sufficient commercial or financial interest in the outcome of the litigation to justify retention of a private law firm. The organization may, in cases of sufficient broad public interest, represent the public interest as amicus curiae or intervenor in such cases.
  - E. The total amount of all attorneys' fees, both court awarded and from clients, must not exceed 50 percent of the total cost of the organization's legal function operations. The percentage is calculated over a five year period which included the taxable year in which the fees are received and the four preceding taxable years or lessor period of existence. The costs of the legal function include attorneys' salaries, nonprofessional salaries, overhead and other direct costs.

**Note:**

An organization may submit a ruling request where an exception to the 50 percent limitation appears warranted.

- F. The organization will not seek or accept attorneys' fees that would result in a conflict with state statutes or professional canons of ethics.
- G. Attorney fees must be paid to the organization not to individual staff attorneys. Staff attorneys and employees must be compensated by a straight salary that does not exceed reasonable amounts and is not established in connection with case fees received for cases handled.
- H. The organization's annual information return must include a report of all attorneys' fees sought and recovered in each case.

**4.76.9.6 (04-01-2003)  
Miscellaneous Concerns**

1. Review litigation in which litigants made payments to the firm. Analyze and review corporate minutes, correspondence and contracts to determine if there are any direct or indirect arrangements to allow a charitable contribution deduction for the cost of litigation that is for the private benefit of the donor. If such an arrangement is found, the examiner should consider making a discrepancy adjustment to the donor's income tax return or making a referral to SBSE or LMSB on Form 5666, TEGE Information Report.
2. Review financial records for evidence of fee splitting with private law firms. See Rev. Rul. 76-5, 1976-1 C.B. 146.
3. Legal work or litigation performed for a fee that is not performed for a public interest does not further IRC § 501(c)(3) purposes even if done for another exempt organization. This type of fee income is subject to unrelated business income tax.

More Internal Revenue Manual

## What Activities May Jeopardize a Public Charity's Tax-Exempt Status?

Once a public charity has completed the application process and has established that it is exempt under section 501(c)(3), the charity's officers, directors, trustees and employees must ensure that the organization maintains its tax-exempt status and meets its ongoing compliance responsibilities.

A 501(c)(3) public charity that does not restrict its participation in certain activities and does not absolutely refrain from others, risks failing the operational test and jeopardizing its tax-exempt status. The following summarizes the limitations on the activities of public charities.

### Private Benefit and Inurement

A public charity is prohibited from allowing more than an insubstantial accrual of private benefit to individuals or organizations. This restriction is to ensure that a tax-exempt organization serves a public interest, not a private one. If a private benefit is more than incidental, it could jeopardize the organization's tax-exempt status.

No part of an organization's net earnings may inure to the benefit of an insider. An insider is a person who has a personal or private interest in the activities of the organization such as an officer, director, or a key employee. This means that an organization is prohibited from allowing its income or assets to accrue to insiders. An example of prohibited inurement would include payment of unreasonable compensation to an insider. Any amount of inurement may be grounds for loss of tax-exempt status.

If a public charity provides an economic benefit to any person who is in a position to exercise substantial influence over its affairs (that exceeds the value of any goods or services provided in consideration), the organization has engaged in an excess benefit transaction. A public charity that engages in such a transaction must report it to the IRS. Excise taxes are imposed on any person who engages in an excess benefit transaction with a public charity, and on any organization manager who knowingly approves such a transaction. (See **Reporting Excess Benefit Transactions** on page 12).

A public charity that becomes aware that it may have engaged in an excess benefit transaction should consult a tax advisor and take appropriate action to avoid any potential impact it could have on the organization's continued exempt status. Go to [www.irs.gov/eo](http://www.irs.gov/eo) for details about inurement, private benefit, and excess benefit transactions.



## Internal Revenue Code Section 4958. Taxes on excess benefit transactions

### (a) Initial taxes

#### (1) On the disqualified person

There is hereby imposed on each excess benefit transaction a tax equal to 25 percent of the excess benefit. The tax imposed by this paragraph shall be paid by any disqualified person referred to in subsection (f)(1) with respect to such transaction.

#### (2) On the management

In any case in which a tax is imposed by paragraph (1), there is hereby imposed on the participation of any organization manager in the excess benefit transaction, knowing that it is such a transaction, a tax equal to 10 percent of the excess benefit, unless such participation is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any organization manager who participated in the excess benefit transaction.

### (b) Additional tax on the disqualified person

In any case in which an initial tax is imposed by subsection (a)(1) on an excess benefit transaction and the excess benefit involved in such transaction is not corrected within the taxable period, there is hereby imposed a tax equal to 200 percent of the excess benefit involved. The tax imposed by this subsection shall be paid by any disqualified person referred to in subsection (f)(1) with respect to such transaction.

### (c) Excess benefit transaction; excess benefit. For purposes of this section -

#### (1) Excess benefit transaction

##### (A) In general

The term "excess benefit transaction" means any transaction in which an economic benefit is provided by an applicable tax-exempt organization directly or indirectly to or for the use of any disqualified person if the value of the economic benefit provided exceeds the value of the consideration (including the performance of services) received for providing such benefit. For purposes of the preceding sentence, an economic benefit shall not be treated as consideration for the performance of services unless such organization clearly indicated its intent to so treat such benefit.

#### (B) Excess benefit

The term "excess benefit" means the excess referred to in subparagraph (A).

#### (2) Authority to include certain other private inurement.

To the extent provided in regulations prescribed by the Secretary, the term "excess benefit transaction" includes any transaction in which the amount of any economic benefit provided to or for the use of a disqualified person is determined in whole or in part by the revenues of 1 or more activities of the organization but only if such transaction results in inurement not permitted under paragraph (3) or (4) of section 501(c), as the case may be. In the case of any such transaction, the excess benefit shall be the amount of the inurement not so permitted.

### (d) Special rules. For purposes of this section -

#### (1) Joint and several liability

If more than 1 person is liable for any tax imposed by subsection (a) or subsection (b), all such persons shall be jointly and severally liable for such tax.

#### (2) Limit for management

With respect to any 1 excess benefit transaction, the maximum amount of the tax imposed by subsection (a)(2) shall not exceed \$10,000.

### (e) Applicable tax-exempt organization

For purposes of this subchapter, the term "applicable tax-exempt organization" means -

(1) any organization which (without regard to any excess benefit) would be described in paragraph (3) or (4) of section

501(c) and exempt from tax under section 501(a), and (2) any organization which was described in paragraph (1) at any time during the 5-year period

ending on the date of the transaction. Such term shall not include a private foundation (as defined in section 509(a)).

(f) Other definitions

For purposes of this section -

(1) Disqualified person

The term "disqualified person" means, with respect to any transaction -

(A) any person who was, at any time during the 5-year period ending on the date of such transaction, in a position to exercise substantial influence over the affairs of the organization,

(B) a member of the family of an individual described in subparagraph (A), and

(C) a 35-percent controlled entity.

(2) Organization manager

The term "organization manager" means, with respect to any applicable tax-exempt organization, any officer, director, or trustee of such organization (or any individual having powers or responsibilities similar to those of officers, directors, or trustees of the organization).

(3) 35-percent controlled entity

(A) In general

The term "35-percent controlled entity" means -

(i) a corporation in which persons described in subparagraph (A) or (B) of paragraph (1) own more than 35 percent of the total combined voting power,

(ii) a partnership in which such persons own more than 35 percent of the profits interest, and

(iii) a trust or estate in which such persons own more than 35 percent of the beneficial interest.

(B) Constructive ownership rules

Rules similar to the rules of paragraphs (3) and (4) of section 4946(a) shall apply for purposes of this paragraph.

(4) Family members

The members of an individual's family shall be determined under section 4946(d); except that such members also shall include the brothers and sisters (whether by the whole or half blood) of the individual and their spouses.

(5) Taxable period

The term "taxable period" means, with respect to any excess benefit transaction, the period beginning with the date on which the transaction occurs and ending on the earliest of -

(A) the date of mailing a notice of deficiency under section 6212 with respect to the tax imposed by subsection (a)(1), or

(B) the date on which the tax imposed by subsection (a)(1) is assessed.

(6) Correction

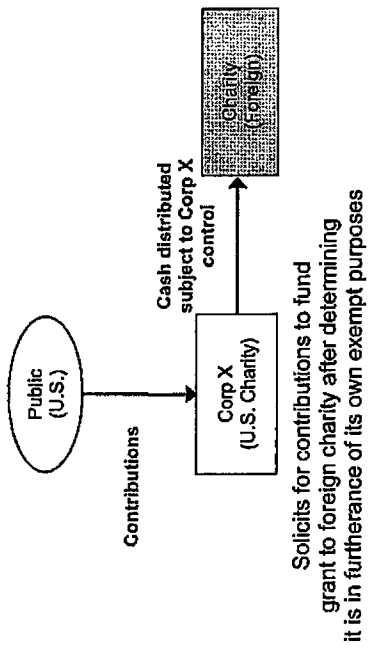
The terms "correction" and "correct" mean, with respect to any excess benefit transaction, undoing the excess benefit to the extent possible, and taking any additional measures necessary to place the organization in a financial position not worse than that in which it would be if the disqualified person were dealing under the highest fiduciary standards.

**Revenue Ruling 66-79**

**Deductibility of Contributions to Foreign Feeder Charity**

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Corp X is a domestic charitable organization and is exempt from Federal income tax as due to being organized and operated exclusively for charitable, educational, and scientific purposes described in section 501(c)(3). Contributions to it are deductible since it is an organization described in section 170(c)(2). From time to time, Corp X will solicit for donations for a specific project of a foreign charitable organization. Corp X only solicits for such donations after reviewing and approving the project as being in furtherance of its own exempt purposes, and retains control and discretion as to the use of the contributions.



Revenue Ruling 63-252 discusses the deductibility of contributions by individuals to a charity organized in the United States which thereafter transmits some or all of its funds to a foreign charitable organization. Example (4) of that ruling concerns a domestic organization described in section 170(c) which makes grants to a foreign organization for purposes which the domestic organization has reviewed and approved as in furtherance of its purposes. Contributions to the domestic organization are not earmarked in any manner for a foreign organization and the use of such contributions is subject to control by the domestic organization. For these reasons, the domestic organization is considered to be the recipient of such contributions within the meaning of section 170(c)(2).

Under the provisions of its charter and bylaws, Corp X may make grants to any organization organized and operated exclusively for charitable, scientific, or educational purposes within the meaning of section 501(c)(3). An organization described in that section can be either a domestic or a foreign organization. The operations of Corp X bring it within the purview of example (4) of Revenue Ruling 63-252 except for the manner in which it may solicit contributions for its foreign grants. This raises a question as to whether the contributions are earmarked for the foreign organization so as to prohibit a deduction under section 170.

Revenue Ruling 62-113 holds that where gifts to an organization described in section 170(c) are not earmarked by the donor for a particular individual, the deduction will be allowable where it is established that a gift is intended by the donor for the use of the organization and not as a gift to an individual for whose benefit the amount given may be used by the donee organization. The test in each case is whether the organization has full control of the donated funds, and discretion as to their use, so as to insure that they will be used to carry out its functions and purposes.

In the ruling the domestic corporation could only solicit for specific grants when it had reviewed and approved them as being in furtherance of its purposes. Furthermore, under the terms of its bylaws the domestic corporation may make such solicitations only on the condition that it shall have control and discretion as to the use of the contributions received by it. Therefore, contributions received by the domestic organization from such solicitations were regarded as for the use of the domestic corporation and not for the organization receiving the grant from the domestic organization. Accordingly, contributions paid to the domestic organization under the circumstances described above were deductible, for Federal income tax purposes, in the manner and to the extent provided

Rev. Rul. 68-489, 1968-2 C.B. 210

An organization will not jeopardize its exemption under section 501(c)(3) of the Code, even though it distributes funds to nonexempt organizations, provided it retains control and discretion over use of the funds for section 501(c)(3) purposes.

An organization exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954 distributed part of its funds to organizations not themselves exempt under that provision. The exempt organization ensured use of the funds for section 501(c)(3) purposes by limiting distributions to specific projects that are in furtherance of its own exempt purposes. It retains control and discretion as to the use of the funds and maintains records establishing that the funds were used for section 501(c)(3) purposes. Held, the distributions did not jeopardize the organization's exemption under section 501(c)(3) of the Code.

See also Revenue Ruling 67-149, C.B. 1967-1, 133, holding a charitable organization exempt under section 501(c)(3) where it provides financial assistance to other charitable organizations that are also exempt under section 501(c)(3); and Revenue Ruling 63-252, C.B. 1963-2, 101, and Revenue Ruling 66-79, C.B. 1966-1, 48, for requirements with respect to deductibility under section 170 of the Code of contributions by individuals to a charity organized in the United States that thereafter transmits some or all of its funds to a foreign charitable organization.

U.S. DEPARTMENT OF THE TREASURY ANTI-TERRORIST FINANCING GUIDELINES:  
VOLUNTARY BEST PRACTICES FOR U.S.-BASED CHARITIES<sup>1</sup>

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<sup>1</sup> This document is a revised version of the original *Anti-Terrorist Financing Guidelines: Voluntary Best Practices for U.S.-Based Charities* released by the U.S. Department of the Treasury in November 2002. This revised version incorporates comments received in response to the issuance of the draft revised Guidelines released for public comment in December 2005.

These Guidelines are designed to assist charities that attempt in good faith to protect themselves from terrorist abuse and are not intended to address the problem of organizations that use the cover of charitable work, whether real or perceived, to provide support to terrorist groups or fronts operating on behalf of terrorist groups. Non-adherence to these Guidelines, in and of itself, does not constitute a violation of existing U.S. law. Conversely, adherence to these Guidelines does not excuse any person (individual or entity) from compliance with any local, state, or federal law or regulation, nor does it release any person from or constitute a legal defense against any civil or criminal liability for violating any such law or regulation. In particular, adherence to these Guidelines shall not be construed to preclude any criminal charge, civil fine, or other action by Treasury or the Department of Justice against persons who engage in prohibited transactions with persons designated pursuant to the Antiterrorism and Effective Death Penalty Act of 1996, as amended, or with those that are designated under the criteria defining prohibited persons in the relevant Executive orders issued pursuant to statute, such as the International Emergency Economic Powers Act, as amended. Please see Footnote 12 for an explanation of the master list of Specially Designated Nationals (the "SDN List"), which includes all such designated persons. These Guidelines are also separate and apart from requirements that apply to charitable organizations under the Internal Revenue Code ("IRC").

## I. Introduction

Upon issuance of Executive Order 13224, President George W. Bush directed the U.S. Department of the Treasury ("Treasury") to work with other elements of the federal government and the international community to develop a comprehensive and sustained campaign against the sources and conduits of terrorist financing. Investigations have revealed terrorist abuse of charitable organizations, both in the United States and worldwide, to raise and move funds, provide logistical support, encourage terrorist recruitment or otherwise cultivate support for terrorist organizations and operations. This abuse threatens to undermine donor confidence and jeopardizes the integrity of the charitable sector, whose services are indispensable to both national and world communities.

In response to this threat, Treasury first released the *Anti-Terrorist Financing Guidelines: Voluntary Best Practices for U.S.-Based Charities* ("Guidelines") in November 2002. In December 2005, based on extensive review and comment by public and private sector interested parties, Treasury revised and released the Guidelines in draft form for further public comment. Based on the comments received, Treasury has further amended the Guidelines to improve their utility to the charitable sector in adopting practices that can better protect it from terrorists and their support networks.

The Guidelines are designed to enhance awareness in the donor and charitable communities of the kinds of practices that charities may adopt to reduce the risk of terrorist financing or abuse. These Guidelines are voluntary and do not create, supersede, or modify current or future legal requirements applicable to U.S. persons, including U.S. non-profit institutions. Adherence to these guidelines does not constitute a legal defense against any civil or criminal liability for violating any local, state, or federal law or regulations. In addition, these Guidelines do not represent an exhaustive or comprehensive compilation of best practices. Many charities, through their extensive experience and expertise in delivering international aid, have already developed effective internal controls and practices that lessen the risk of terrorist financing or abuse. In view of this fact, Treasury does not want charities to abandon proven internal controls and practices. Rather, the Guidelines are intended to assist charities in developing, re-evaluating, or strengthening a risk-based approach to guard against the threat of diversion of charitable funds or exploitation of charitable activity by terrorist organizations and their support networks.

In addition, these Guidelines are intended to assist charities in understanding and facilitating compliance with preexisting U.S. legal requirements related to combating terrorist financing, which include, but are not limited to, various sanctions programs administered by the Office of Foreign Assets Control ("OFAC"). These preexisting legal requirements are clearly marked in the text of the Guidelines.

The risk-based nature of these Guidelines reflects Treasury's recognition that a "one-size-fits-all" approach is untenable and inappropriate due to the diversity of the charitable sector and its operations. Accordingly, certain aspects of the Guidelines will not be applicable to every charity, charitable activity, or circumstance. Moreover, Treasury acknowledges that certain exigent circumstances (such as catastrophic disasters) may make application of the Guidelines difficult. In such cases, charities should maintain a risk-based approach that includes all prudent and reasonable measures that are feasible under the circumstances. Charities and

donors are encouraged to consult these Guidelines when considering protective measures to prevent infiltration, exploitation, or abuse by terrorists. Although adherence to these Guidelines does not guarantee protection from terrorist abuse, effective internal controls which incorporate the principles and practices set forth in these Guidelines can prevent the diversion of charitable resources from their proper uses, as well as identify situations involving terrorist financing or abuse.

Treasury recognizes the vital importance of the charitable community in providing essential services around the world. Treasury also understands the difficulty of providing assistance to those in need, often in remote and inaccessible regions, and applauds the efforts of the charitable community to meet such needs. The goal of these Guidelines is to facilitate legitimate charitable efforts and protect the integrity of the charitable sector and good faith donors by offering the sector ways to prevent terrorist organizations from exploiting charitable activities for their own benefit.

## II. Fundamental Principles of Good Charitable Practice

- A. Charities are independent entities and are not part of the U.S. Government. Like all U.S. persons, charitable organizations must comply with the laws of the United States, which include, but are not limited to, all OFAC-administered sanctions programs.<sup>2</sup>

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<sup>2</sup> OFAC sanctions programs include those relating to particular countries or regimes (country-based programs), as well as those relating to groups, individuals, or entities engaged in specific activities (list-based programs). Sanctions programs normally: (i) prohibit U.S. persons from engaging in certain transactions, such as trade in goods and services and financial transactions, and/or (ii) require U.S. persons to block the assets and property of persons designated under the relevant Executive order or law. The particular prohibitions and/or obligations of U.S. persons vary by program. OFAC can issue licenses to U.S. persons to engage in transactions that would otherwise be prohibited, if there is a policy-permissible reason to do so, and if permitted by statute. Further information on how to apply for specific licenses is available at <http://www.treas.gov/offices/enforcement/ofac/faq/index.shtml#license>.

For further information on OFAC-administered sanctions programs and general licensing under these programs, please see <http://www.treas.gov/offices/enforcement/ofac>.

OFAC guidelines for non-governmental organizations wishing to undertake humanitarian activities in sanctioned countries are available at [http://www.treas.gov/offices/enforcement/ofac/regulations/ngo\\_reg.pdf](http://www.treas.gov/offices/enforcement/ofac/regulations/ngo_reg.pdf).

Other helpful guidance materials for charities relating to protection from terrorist abuse may be found at <http://www.treas.gov/offices/enforcement/key-issues/protecting/index.shtml>.

The United States relies on a wide array of federal criminal statutes in fighting the threat of terrorist financing. Charities should be particularly aware that in its efforts against the financing of terrorism, the U.S. relies on, among others, the federal statutes that prohibit:

- the financing of terrorism (18 U.S.C. § 2339C),
- providing material support or resources to terrorists (18 U.S.C. § 2339A), and
- providing material support or resources to designated terrorist organizations (18 U.S.C. § 2339B).

In that effort, the U.S. also particularly relies upon the federal statutes which criminalize:

- B. Charitable organizations are encouraged to adopt practices in addition to those required by law that provide additional assurances that all assets<sup>3</sup> are used exclusively for charitable or other legitimate purposes.<sup>4</sup>
- C. Individuals acting in a fiduciary capacity for any charitable organization should exercise due care in the performance of their responsibilities, consistent with applicable common law as well as local, state, and federal statutes and regulations.
- D. Governance, fiscal and programmatic responsibility and accountability are essential components of charitable work and must be reflected at every level of a charitable organization and its operations.

### III. Governance Accountability and Transparency

- A. **Governing Instruments:** Charitable organizations should operate in accordance with governing instruments, *e.g.*, charter, articles of incorporation, bylaws, *etc.* The governing instruments should:
1. delineate the charity's basic goal(s) and purpose(s);
  2. define the structure of the charity, including the composition of its governing body, how such body is selected and replaced, and the authority and responsibilities of the body;
  3. set forth requirements concerning financial reporting, accountability, and practices for solicitation and distribution of funds; and
  4. state that the charity shall comply with all applicable local, state, and federal laws and regulations.
- B. **Independent Oversight:** It is important for charitable organizations to have independent oversight of charitable operations, and each charitable organization should determine what oversight structure best suits that organization and will provide for unbiased scrutiny of its operations. The following provisions set forth

- 
- the laundering of monetary instruments (18 U.S.C. § 1956), and
  - engaging in monetary transactions in property derived from specified unlawful activity (18 U.S.C. § 1957).

<sup>3</sup> An asset is any item of value, including, but not limited to, services, resources, business, equitable holdings, real estate, stocks, bonds, mutual funds, currency, certificates of deposit, bank accounts, trust funds, and the property and investments placed therein.

<sup>4</sup> A charitable organization may never use charitable assets for illegal purposes; however, a charitable organization may accrue unrelated business taxable income in the course of legitimately doing business as a charitable organization. Even though an organization is recognized as tax exempt, it still may be liable for tax on its unrelated business taxable income.



basic principles for the creation of a transparent and accountable oversight body (the “governing board”).

1. Members of the governing board ordinarily should not have an active role in the day-to-day management of the charitable organization.<sup>5</sup> The charity should establish a conflict of interest policy for both members of the governing board and employees. That policy should establish procedures to be followed if a member of the governing board or employee has a conflict of interest or a perceived conflict of interest relating to the management or operations of the charity.
2. The governing board should be responsible for the charitable organization’s compliance with relevant laws, its finances and accounting practices and for the adoption, implementation, and oversight of practices, including financial recordkeeping that will safeguard charitable assets effectively.
3. The governing board should maintain records of its decisions.
4. Charities should maintain and make publicly available a current list of members of the governing board, their salaries and their affiliation with any subsidiary or affiliate of the charitable organization.
5. While fully respecting individual privacy rights, charities should maintain records of additional identifying information about the members of the governing board, such as available home, email and URL addresses, social security number, citizenship, *etc.*
6. While fully respecting individual privacy rights, charities should maintain records of identifying information for the members of the governing boards of any subsidiaries or affiliates<sup>6</sup> receiving funds from them.
7. When served with process or when other appropriate authorization exists, charities should produce requested records maintained in accordance with these Guidelines to the appropriate regulatory/supervisory and law enforcement authorities in a timely fashion.

### C. Key Employees<sup>7</sup>

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<sup>5</sup> Certain charitable organizations, such as houses of worship, certain trusts, and corporations sole, may not be able to apply this practice due to their varying organizational and operational structures.

<sup>6</sup> Subsidiaries or affiliates are organizations that are subject to the general supervision or control of a parent or central organization.

<sup>7</sup> Key employees include not only highly compensated employees but employees who have responsibilities, powers, or influence similar to those of officials, directors, or trustees. Key employees also include chief management and administrative officials of a charitable organization, including those involved in the disbursement of funds.

1. Charities should maintain and make publicly available a current list of their five highest paid or most influential employees (the key employees) and the salaries and direct or indirect benefits they receive.
2. While fully respecting individual privacy rights, charities should maintain records containing identifying information (such as available home, email and URL addresses, social security or other identification number – *e.g.*, taxpayer identification number, national identity, or passport number – citizenship, *etc.*) about their key, non-U.S. employees working abroad. Such information should be similar to that maintained by charities in the normal course of operations about all U.S. employees, wherever employed, and foreign employees working in the United States.
3. While fully respecting individual privacy rights, charities should maintain records containing identifying information for the key employees of any subsidiaries or affiliates receiving funds from them.

#### **IV. Financial Accountability and Transparency**

- A. The charity should have a budget, adopted in advance on an annual basis and approved and overseen by the governing board.
- B. The governing board should appoint one individual to serve as the financial/accounting officer who should be responsible for day-to-day control over the charity's assets.
- C. If the charity's total annual gross income exceeds \$250,000,<sup>8</sup> the governing board should select an independent certified public accounting firm to audit the finances of the charity and to issue a publicly available, audited financial statement on an annual basis.
- D. **Solicitations for Funds**
  1. The charity should clearly state its goals for and purposes of soliciting funds so that anyone examining the charity's disbursement of funds can determine whether the charity is adhering to those goals.
  2. Solicitations for donations should accurately and transparently tell donors how and where their donations are going to be expended.
  3. The charity should substantiate on request that solicitations and

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<sup>8</sup> The \$250,000 figure is drawn from the June 2005 final report to Congress of the Panel on the Nonprofit Sector, convened by Independent Sector. This report, which offers a comprehensive approach to improving oversight and governance of charitable organizations, recommends independent financial audits for charities that have more than \$250,000 in total annual revenue. This report is available at <http://www.nonprofitpanel.org/final/>.

informational materials, distributed by any means, are accurate, truthful, and not misleading, in whole or in part.

4. The charity should fully, immediately, and publicly disclose if it makes a determination that circumstances justify applying funds for a charitable purpose different from the purpose for which such funds were contributed or solicited.

#### E. Receipt and Disbursement of Funds

1. The charity should account for all funds received and disbursed in accordance with generally accepted accounting principles and the requirements of the Internal Revenue Code. The charity should maintain records of the salaries it pays and the expenses it incurs (domestically and internationally).
2. The charity should include in its accounting of all charitable disbursements the name of each grantee,<sup>9</sup> the amount disbursed, the date, and form of payment for each disbursement.
3. The charity, after recording, should promptly deposit all received funds into an account maintained by the charity at a financial institution. In particular, all currency donated should be promptly deposited into the charity's financial institution account.
4. The charity should make disbursements by check or wire transfer rather than in currency whenever such financial arrangements are reasonably available. Where these financial services do not exist or other exigencies require making disbursements in currency (as in the case of humanitarian assistance provided in rural areas of many developing countries, or in remote areas afflicted by natural disasters), the charity should disburse the currency in the smallest increments sufficient to meet immediate and short-term needs or specific projects/initiatives rather than in large sums intended to cover needs over an extended time frame, and it should exercise oversight regarding the use of the currency for the intended charitable purposes, including keeping detailed internal records of such currency disbursements.

#### F. Mechanisms for Public Disclosure of Distribution of Resources and Services

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<sup>9</sup> The term "grantee," as it is used throughout these Guidelines, means an immediate grantee of charitable resources or services. To the extent reasonably practicable, charitable organizations should also apply or ensure the existence of applicable safeguards (as described in Sections III, IV, V, and VI) in any downstream sub-grantees or recipients to protect charitable resources from exploitation by terrorists, terrorist organizations, or terrorist supporters. Charities should not enter into a relationship with a grantee where any doubts exist about the grantee's ability to ensure safe delivery of charitable resources independent of influence by or association with any terrorist organization.

1. The charity should maintain and make publicly available a current list of any branches, subsidiaries, and/or affiliates that receive resources and/or services from the charity.
2. The charity should make publicly available or provide to any member of the general public, upon request, an annual report. The annual report should describe the charity's purpose(s), programs, activities, tax exempt status, the structure and responsibility of the governing board of the charity, and financial information.
3. The charity should make publicly available or provide to any member of the general public, upon request, complete annual financial statements, including a summary of the results of the charity's most recent audit. The financial statements should present the overall financial condition of the charity and its financial activities in accordance with generally accepted accounting principles and reporting practices.

## V. Programmatic Verification

### A. Supplying Resources

When supplying charitable *resources* (monetary and in-kind contributions), fiscal responsibility on the part of a charity should include:

1. determining that the potential grantee of monetary or in-kind contributions has the ability to both accomplish the charitable purpose of the grant and protect the resources from diversion to non-charitable purposes or exploitation by terrorist organizations and/or their support networks;
2. reducing the terms of the grant to a written agreement signed by both the charity and the grantee;
3. ongoing monitoring of the grantee and the activities funded under the grant for the term of the grant; and
4. correcting any misuse of resources by the grantee and terminating the relationship should misuse continue.

### B. Supplying Services

When supplying charitable *services*, fiscal responsibility on the part of a charity should include:

1. appropriate measures to reduce the risk that its assets would be used for non-charitable purposes or exploitation by terrorist organizations and/or their support networks; and

2. sufficient auditing or accounting controls to trace services or commodities between delivery by the charity and/or service provider and use by the grantee.

C. Programmatic Review

The charity should review the programmatic and financial operations of each grantee as follows:

1. The charity should require periodic reports from grantees on their operational activities and their use of the disbursed funds;
2. The charity should require grantees to take reasonable steps to ensure that funds provided by the charity are neither distributed to terrorists or their support networks nor used for activities that support terrorism or terrorist organizations. Periodically, a grantee should apprise the charity of the steps it has taken to meet this goal; and
3. The charity should perform routine, on-site audits of grantees to the extent reasonable – consistent with the size of the disbursement, the cost of the audit, and the risks of diversion or abuse of charitable resources – to ensure that the grantee has taken adequate measures to protect its charitable resources from diversion to, or abuse or influence by, terrorists or their support networks.

**VI. Anti-Terrorist Financing Best Practices**

Charities should consider taking the following steps before distributing any charitable funds (and in-kind contributions). As explained in Section I, these suggested steps are voluntary. The purpose of these steps is to enable charities to better protect themselves from the risk of terrorist abuse and to facilitate compliance with U.S. laws, statutes, and regulations, with which all U.S. persons, including U.S. charities, must comply. Depending upon the risk profile of an individual charitable organization, adopting all of these steps may not be applicable or appropriate. When taking these steps, charities should apply a risk-based approach, particularly with respect to engagement with foreign grantees due to the increased risks associated with overseas charitable activity.

- A. The charity should collect the following basic information about grantees:
1. The grantee's name in English, in the language of origin, and any acronym or other names used to identify the grantee;<sup>10</sup>

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<sup>10</sup> Charities should also be mindful of the possibility that a grantee may have changed its name or transformed its organizational structure to avoid being associated with prior questionable activity. If a charity has any reason to believe that the grantee is operating under a different identity or has used a different name in the past, the charity should undertake reasonable efforts to uncover any such prior identity or name.

2. The jurisdictions in which a grantee maintains a physical presence;
3. Any reasonably available historical information about the grantee that assures the charity of the grantee's identity and integrity, including: (i) the jurisdiction in which a grantee organization is incorporated or formed; (ii) copies of incorporating or other governing instruments; (iii) information on the individuals who formed and operate the organization; and (iv) information relating to the grantee's operating history;
4. The available postal, email and URL addresses and phone number of each place of business of a grantee;
5. A statement of the principal purpose of the grantee, including a detailed report of the grantee's projects and goals;
6. The names and available postal, email and URL addresses of individuals, entities, or organizations to which the grantee currently provides or proposes to provide funding, services, or material support, to the extent reasonably discoverable;
7. The names and available postal, email and URL addresses of any subcontracting organizations utilized by the grantee;
8. Copies of any public filings or releases made by the grantee, including the most recent official registry documents, annual reports, and annual filings with the pertinent government, as applicable; and
9. The grantee's sources of income, such as official grants, private endowments, and commercial activities.

B. The charity should conduct basic vetting of grantees as follows:

1. The charity should conduct a reasonable search of publicly available information to determine whether the grantee is suspected of activity relating to terrorism, including terrorist financing or other support. Charities should not enter into a relationship with a grantee where any terrorist-related suspicions exist;<sup>11</sup>

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<sup>11</sup> List-checking alone (as described throughout this section) does not guarantee the safe and secure delivery of charitable funds and services in high-risk areas. For this reason, the Guidelines encourage charities to employ all reasonably available resources both when determining the level of risk in a particular charitable operation and when engaging in appropriate vetting procedures. One example of publicly available information of which charities should be aware is the Terrorist Exclusion List (the "TEL"). The TEL was created pursuant to the USA PATRIOT Act, which authorizes the Secretary of State to designate organizations or groups for inclusion on the TEL in consultation with or upon the request of the Attorney General. Inclusion on the TEL allows the U.S. Government to exclude or deport aliens who provide material assistance to, or solicit assistance for, designated TEL organizations. Although many of the organizations included on the TEL are also included on the Office of Foreign Assets Control ("OFAC") SDN List, several TEL organizations are not listed on the SDN List because of the different purposes and legal criteria associated with these lists.

2. The charity should assure itself that grantees do not appear on OFAC's master list of Specially Designated Nationals (the "SDN List"), maintained on OFAC's website at [www.treas.gov/offices/enforcement/ofac/sdn/](http://www.treas.gov/offices/enforcement/ofac/sdn/),<sup>12</sup> and are not otherwise subject to OFAC sanctions.<sup>13</sup>
3. With respect to key employees, members of the governing board, or other senior management at a grantee's principal place of business, and for key employees at the grantee's other business locations, the charity should, to the extent reasonable, obtain the full name in English, in the language of origin, and any acronym or other names used; nationality; citizenship;

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TEL designations do not trigger any legal obligations for U.S. persons; however, the TEL does provide charities with additional terrorist-related information that may assist charities in making well-informed decisions on how best to protect themselves from terrorist abuse or association. For further information regarding the TEL, including access to the list containing all TEL designees, please refer to the U.S. Department of State's website at <http://www.state.gov/s/ct/rls/fs/2004/32678.htm>.

<sup>12</sup> The master SDN List is an integrated listing of designated parties with whom U.S. persons are prohibited from providing services or conducting transactions and whose assets are blocked. OFAC's designations are available in a variety of formats and can easily be broken down into subsets of the master list by program, by country of residency, individuals vs. entities, and other variations for appropriate use in a charity's risk-based approach. Each charity should determine which OFAC listings align with the specific risks the charity faces in its operations and should check grantees accordingly.

OFAC routinely updates information on its targets, including persons designated under country-based and list-based economic sanctions programs, such as individuals and entities designated under the various Executive orders and statutes aimed at terrorism. OFAC offers a free email subscription service that enables subscribers to keep current with these updates. With respect to terrorism-related OFAC sanctions programs, SDN listings include persons designated under Executive Order 13224, Executive Order 12947, or the Antiterrorism and Effective Death Penalty Act of 1996, as amended; such persons are called "Specially Designated Global Terrorists" or "SDGTs", "Specially Designated Terrorists" or "SDTs", or "Foreign Terrorist Organizations" or "FTOs", respectively. SDN listings also include parties subject to OFAC sanctions pursuant to other list-based programs (such as counter-WMD proliferation and counter-narcotics) and country-based programs.

In addition to checking appropriate SDN listings, charities should consult OFAC's website for other information relating to sanctioned activities or countries that may implicate their operations.

<sup>13</sup> As discussed in Footnote 12, the SDN List is an integrated list of individuals, organizations, and entities that the U.S. Government has designated pursuant to both country-based and list-based OFAC administered sanctions programs. U.S. persons, including U.S.-based charities, are prohibited from dealing with any of the parties included on the SDN List. A charity wishing to engage in activity in a country subject to economic sanctions should contact OFAC directly about any authorizations necessary to engage in such activity. Although the SDN List includes persons meeting the criteria established in the authorities or Executive orders that define certain OFAC sanctions programs, transactions with actors not named on the SDN List may nevertheless violate U.S. sanctions due to interests of designated parties in such transactions or prohibitions owing to country-based OFAC administered sanctions programs. For example, if a charity engages in a particular transaction with a party not on the SDN List that involves the property or interests in property of a designated actor, the transaction may be subject to OFAC sanctions. This underscores the importance of charities knowing their grantees and monitoring their programs and transactions through the use of appropriate due diligence measures. Therefore, while the SDN List is a critically important compliance tool that can assist charities in meeting their legal obligations under the variety of sanctions programs that OFAC administers, it should only form one part of a charitable organization's broader risk-based approach to protect against the risks of terrorist abuse.

current country of residence; and place and date of birth. The charity should assure itself that none of these individuals is subject to OFAC sanctions.

4. Charities should be aware that other nations may have their own lists of designated terrorist-related individuals, entities, or organizations pursuant to national obligations arising from United Nations Security Council Resolution 1373 (2001).<sup>14</sup>
5. With respect to the key employees, members of the governing board, or other senior management described in the preceding paragraph, the charity should also consider consulting publicly available information to ensure that such parties are not reasonably suspected of activity relating to terrorism, including terrorist financing or other support; and
6. As a pre-condition to the issuance of a charitable grant, the charity should require grantees to certify that they are in compliance with all laws, statutes, and regulations restricting U.S. persons from dealing with any individuals, entities, or groups subject to OFAC sanctions, or, in the case of foreign grantees, that they do not deal with any individuals, entities, or groups subject to OFAC sanctions or any other persons known to the foreign grantee to support terrorism or to have violated OFAC sanctions.

C. The charity should conduct basic vetting of its own key employees as follows:

1. The charity should conduct a reasonable search of publicly available information to determine whether any of its key employees is suspected of activity relating to terrorism, including terrorist financing or other support. Charities should not employ a person where any terrorist-related suspicions exist; and

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<sup>14</sup> Under United Nations Security Council Resolution 1373 (2001) (UNSCR 1373), UN Member States must generally freeze without delay the funds and other financial assets or economic resources of persons financing or otherwise supporting terrorist activity or terrorist-related individuals, entities, or organizations. In addition, UN Member States must generally prohibit their nationals from engaging in transactions with such parties. In order to implement these obligations under UNSCR 1373, each UN member state should, as a practical matter, develop its own list of parties sanctioned under the criteria of UNSCR 1373. For example, the SDN List incorporates those parties designated by the United States pursuant to its national obligations under UNSCR 1373.

The Guidelines do not legitimize or endorse the UNSCR 1373 lists adopted by foreign jurisdictions. Rather, this information is intended to assist charities in developing their own risk-based programs based upon a full understanding of the law in those jurisdictions in which they may operate. Charities operating in a foreign jurisdiction may choose to take the additional precautionary measures of determining whether that jurisdiction maintains a national list under UNSCR 1373 and screening the identities of grantee organizations (including their directors and key employees) against any such list. Such precautionary measures may protect charities from potential sanctions or other consequences to which they might be subject from foreign jurisdictions as a result of engaging in transactions with individuals, entities, or organizations deemed to be financing or otherwise supportive of terrorist activity under the laws of those jurisdictions.



2. The charity should assure itself that none of its key employees is subject to OFAC sanctions or have violated OFAC sanctions.
- D. Should a charity's vetting practices lead to a finding that any of its own key employees, any of its grantees, or any of the key employees, members of the governing board, or other senior management of its grantees is suspected of activity relating to terrorism, including terrorist financing or other support, there are a number of available mechanisms and resources that a charity may utilize:
1. If the charity believes there is a match between the name of one of the individuals or organizations listed above and a name on the SDN List, the charity should take appropriate due diligence steps to ascertain whether the match is valid. These steps and further guidance are available on OFAC's Web site at <http://www.treas.gov/offices/enforcement/ofac/faq/answer.shtml#hotline>; and
  2. The charity should provide information on any suspicious activity relating to terrorism, including terrorist financing or other support, which does not directly involve an OFAC match, through a referral form available on Treasury's Web site at <http://www.treas.gov/offices/enforcement/key-issues/protecting/index.shtml>. In addition, the Federal Bureau of Investigation maintains local field offices to which charities should provide such suspicious information. A list of the locations and phone numbers of the FBI's field offices is available at <http://www.fbi.gov/contact/fo/fo.htm>.

### ANNEX TO GUIDELINES

The risk of terrorist abuse facing charitable organizations is ongoing and significant and cannot be measured from the important but relatively narrow perspective of terrorist diversion of charitable funds to support terrorist acts. Rather, terrorist abuse also includes the exploitation of charitable services and activities to radicalize vulnerable populations and cultivate support for terrorist organizations and activities. As reported through a wide range of media sources, terrorist organizations deliberately establish, infiltrate, or otherwise exploit charitable organizations to build terrorist support networks.<sup>15</sup> Recent developments – such as the exploitation by Lashkar e Tayyiba (a.k.a. Jamaat-ud-Dawa) and other terrorist entities/charitable fronts of relief efforts following the October 2005 earthquake in South Asia, the critical role of Hamas-associated charities in building popular support in the Palestinian territories for the terrorist organization, and Hezbollah’s substantial control of charitable distribution networks in southern Lebanon – demonstrate the ongoing intent and effectiveness of terrorist organizations in exploiting charitable organizations and relief efforts.

Treasury, together with other Departments across the U.S. Government, is continuing to combat such terrorist abuse of the charitable sector by: (i) administratively sanctioning terrorist-related charities and charitable officials through terrorist financing designations; (ii) contributing financial information and investigative resources and expertise to advance criminal investigations and prosecutions of charities and charitable officials providing material support for designated terrorist organizations or activities; (iii) facilitating international action to address these abuses; and (iv) conducting comprehensive outreach to the charitable sector to raise awareness of terrorist exploitation and the steps charities can take protect themselves from such abuse.

U.S. designations of charities and charitable officials demonstrate the breadth of the problem of terrorist infiltration and exploitation of the charitable sector. To date, the United States has designated forty-three charities worldwide and twenty-nine associated individuals for their support of terrorist organizations and operations. These seventy-two charities and individuals

<sup>15</sup> See, e.g., Matthew Levitt, HAMAS: Politics, Charity and Terrorism in the Service of Jihad; New Haven, CT: Yale Univ. Press, 2006 (documenting the logistical and financial support Hamas charities provide for the group’s political and terrorist activities); Heather Timmons, *British Study Charitable Organizations for Links to Plot*, N.Y. TIMES, Aug. 25, 2006 (describing the risks inherent in delivering charitable aid and resources to high-risk areas where terrorist organizations are known to operate); Robert F. Worth & Hassan M. Fattah, *Relief Agencies Find Hezbollah Hard to Avoid*, N.Y. TIMES, Aug. 23, 2006 (describing Hezbollah’s efforts to cultivate support by controlling the provision of charitable resources and services across southern Lebanon); Laila Bokhair, *Political Struggle Over Earthquake Victims*, Norwegian Defense Research Establishment, Nov. 23, 2005 (documenting terrorist organizations such as Lashkar-e-Taiba and Jaish-e-Mohammed efforts to provide humanitarian aid to affected areas in the months following the earthquake in South Asia); Christopher Kremmer, *Charities Linked to Extremists Lead Quake Relief*, Age, Nov. 21, 2005 (reporting that in addition to providing relief in South Asia, terrorist organizations are recruiting and indoctrinating orphan children in their extensive network of orphanages); Evan Kohlmann, *The Role of Islamic Charities in International Terrorist Recruitment and Financing* (2006), Danish Institute for International Studies: available at <http://www.diis.dk/graphics/Publications/WP2006/DIIS%20WP%202006-7.web.pdf> (tracing the historical link between charitable organizations and terrorist activities from the Soviet-Afghan war through to the present); BBC News, *Faith, hate and charity: Transcript*, BBC One, Recorded from Transmission, July 30, 2006 (reporting on one of Britain’s leading Islamic charities, Interpal, and illustrating Interpal’s use of a network of charities in Gaza and the West Bank to support and fund Hamas, a terrorist organization designated by the U.S. Government and the European Union).

comprise over fifteen percent of all U.S.-designated terrorist supporters or financiers, indicating the primary importance of charities as a critical means of support for terrorist organizations and activities. Treasury maintains a summary of all designated charities, including unclassified background information summarizing the basis of each designation, to assist the donor and charitable communities in identifying those charities associated with terrorist financing and support. Further information and press releases relating to these designations are available on the Treasury Web site at [http://www.treas.gov/offices/enforcement/key-issues/protecting/charities\\_exec-orders.shtml](http://www.treas.gov/offices/enforcement/key-issues/protecting/charities_exec-orders.shtml).

In addition to these ongoing efforts by Treasury and the U.S. Government, other countries and organizations from around the world have recognized and helped curb abuse of the charitable sector by terrorist organizations. The Financial Action Task Force (FATF) – the premier inter-governmental organization responsible for developing and promoting global policies to combat money laundering and terrorist financing – has studied the problem of terrorist financing and abuse across the charitable sector globally and has published typologies of such abuse. The FATF has also published Best Practices for Non-Profit Organizations and more recently issued interpretive guidance strengthening the international standard for combating terrorist abuse of non-profit organizations. Additionally, FATF style regional bodies (FSRBs) such as the Asia Pacific Group (APG), Eurasian Group (EAG) and the Middle East and North Africa Financial Action Task Force (MENA FATF) are developing typologies and studies on the active threat of terrorist financing and support through charities that operate within their regions.<sup>16</sup> These organizations and their member countries are implementing measures to actively combat this threat through the development and application of supervisory, investigative, and financial authorities to identify and dismantle charities engaged in terrorist financing or support. Many of these documents, which underscore the threat that terrorist organizations and operations pose to the charitable sector, are available on the Treasury Web site at <http://www.treas.gov/offices/enforcement/key-issues/protecting/index.shtml>.

Treasury continually engages in outreach and updates its Web site to communicate useful information regarding: (i) the ongoing risks of terrorist abuse in the charitable sector; (ii) ongoing U.S. and other governmental efforts to mitigate these risks and combat terrorist abuse, and (iii) steps the sector can take to protect against such abuse. Treasury’s Guidelines represent one essential component and product of the ongoing outreach that Treasury is conducting with the charitable sector to empower and protect the sector from terrorist abuse. Another example of available resources is Treasury’s December 2005 advisory paper, which provides information to charities delivering relief in areas affected by the 2005 South Asia earthquake by detailing typologies of terrorist abuse of charities and reports on activity by militant and terrorist groups in those areas. This paper also shows, through media reports, the extent to which terrorist organizations pose a risk to charities trying to deliver aid in unstable areas, where terrorist

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<sup>16</sup> The efforts of the MENA FATF are particularly exemplary of international efforts to combat terrorist abuse of charities. MENA FATF Member States have issued a best practices paper, based on the FATF’s international standard for combating terrorist abuse of the non-profit sector, tailored to the specific religious, social, and economic values of the region. The comprehensive framework, crafted by the MENA FATF, outlines legislative, regulatory, and procedural measures to ensure that the charitable sector is not misused or abused by terrorist financiers. The MENA FATF charities best practices paper is an indispensable tool for the Middle East and North Africa region in helping to protect against terrorist abuse of charities by offering guidance to promote transparency and accountability in the charitable sector.

organizations themselves and/or their charitable fronts are often engaged in delivering relief as an effective recruitment mechanism in building broader support for their organizations.

Treasury will continue its outreach and informational efforts as part of its larger mission to combat terrorist financing and safeguard the charitable sector from terrorist abuse.