

October 6, 2009

By Electronic Mail and
U.S. Certified Mail/Return Receipt Requested

The Honorable Lois G. Lerner
Director, Exempt Organizations
Internal Revenue Service, United States Department of the Treasury
1111 Constitution Avenue, N.W., SE:T:EO PE-341
Washington, D.C. 20224-0002

Subject: Request for Investigation of Center for Responsible Lending
(EIN 74-3043913) and Center for Community Self-Help (EIN 56-1271685)

Madam Director:

We are writing to advise you of serious violations of the Lobbying Disclosure Act (LDA) and the Honest Leadership in Government Act (HLOGA) by the Center for Responsible Lending (CRL) and Center for Community Self-Help (CCSH). These violations are set forth in great detail in a separate complaint letter we are sending today to the Secretary of the Senate and the Clerk of the House of Representatives. A copy of our LDA/HLOGA Complaint is enclosed and we respectfully request that you review the letter and its attachments for further details beyond the brief summary provided below. We bring these LDA and HLOGA violations to your attention due to the particular sensitivity and severe limits on lobbying activities by Section 501(c)(3) organizations like CRL and CCSH as well as the general obligation that all nonprofit organizations have to obey the laws applicable to their lobbying and political activities.

The primary purpose of this letter is to ask you to conduct a thorough investigation whether CRL and CCSH may have also violated the tax laws by improperly aggregating and calculating the limits on their lobbying activities; by exceeding the applicable lobbying limits under their Section 501(h) election; by abusing the status of CRL as a supporting organization by using it to receive the great bulk of their combined support from two donors; and by possibly allowing their lobbying and advocacy activities to be improperly influenced and providing private benefits that inured to the benefit of their major donors. Although we lack sufficient information to determine whether these violations may have actually occurred, we believe that the track record of CRL and CCSH in violating the lobbying disclosure laws plus the information set forth in this letter warrant your thorough investigation.

If Congress or the Department of Justice determine that CCSH and CRL have violated the LDA and HLOGA, or if you have determine through your investigation that CCSH and CRL have violated the tax laws, then we request that appropriate sanctions be imposed and that their Section 501(c)(3) tax exempt status be revoked.

Before detailing the specific violations that should be investigated, it is important to understand the background and history of these two organizations and their relationship to their major donors.

Background

CCSH was founded in North Carolina in 1980. According to its website at <http://www.self-help.org/>, the mission of CCSH is to create and protect “ownership and economic opportunity for people of color, women, rural residents and low-wealth families and communities.” Together with its numerous affiliates (see LDA/HLOGA Complaint, Attachment 1), CCSH provides “financing, technical support and advocacy for those left out of the economic mainstream” including “female, rural and minority borrowers across North Carolina, in Washington, D.C., California, and many other states.” CCSH was granted Section 501(c)(3) public charity status on the basis that it is a organization that normally receives a substantial part of its support from a government unit or from the general public

As described at the About Us page on CRL’s website, CCSH established CRL in 2002 following its successful efforts to help pass legislation in North Carolina to stop what it called predatory lending practices. CRL was established “to build on initial successes and expand our focus to include practices outside of mortgage lending, such as payday lending.” Since then, the number of issues and the extent of CRL’s advocacy activities have grown tremendously as can be seen by reviewing its website at <http://www.responsiblelending.org/about-us/mission-history/> and particularly its Take Action page at <http://www.responsiblelending.org/take-action/current-campaigns/> CRL was granted Section 501(c)(3) on the basis that it supports CCSH, which is a public charity.

According to the public versions of the Schedule B filings for these two organizations for the past few years that we have been able to obtain, and based on news reports and the IRS Form 990s filed by one of these donors, CRL receives the vast majority of its support from two donors. The support these donors have provided to CRL has dwarfed the public support received by CCSH, which brings into question the continued qualification of both organizations as public charities if the structure was established or has the effect of evading the rules that require substantial public support.

Of course, CCSH and CRL as well as these two donors state publicly that their gifts were charitable in nature. However, one donor, who is publicly described as the “founder” of CRL, made billions of dollars as the owner of a bank that wrote what are now called subprime mortgages for the low-income beneficiaries of CRL’s various advocacy efforts. See LDA/HLOGA Complaint, Attachment 5. The other donor reportedly made billions of dollars from betting that bank stocks and other financial assets would fall in value if mortgage/bankruptcy relief was granted for the low-income beneficiaries of CRL’s various advocacy efforts. See LDA/HLOGA Complaint, Attachment 2.

With these fortunes at stake, it seems appropriate for you to investigate whether these donors improperly influenced the lobbying policies of CCSH and CRL. Moreover, it seems appropriate to question whether the benefits that inured to them were so substantial as to justify the revocation of the tax exempt status of CCSH and CRL regardless of any secondary charitable intent they may have fostered.

We proceed now to a discussion of the specific violations to be investigated.

Discussion

1. The IRS should take appropriate action against CCSH and CRL if Congress and/or the Department of Justice determine that they have violated the LDA and HLOGA.

We will not repeat here the extensive facts and legal analysis that we have presented to Congress for its investigation and possible referral to the Department of Justice (DOJ). Once again, we refer you to the detailed information provided in our LDA/HLOGA Complaint and the attachments thereto. If Congress and/or the DOJ should confirm these violations, the IRS should impose appropriate sanctions against CCSH and CRL, including possible revocation of their Section 501(c)(3) public charity status.

Without repeating the details, the following is a brief summary of the principal LDA and HLOGA violations that are the subject of our LDA/HLOGA Complaint.

- We believe that CCSH and CRL have improperly filed on a group or consolidated basis that is not authorized by the law or by the official LDA Guidance instructions published by Congress. It is therefore impossible for the public to know what issues and lobbying activities are being conducted by each corporate entity or which corporate entity employs and controls the individuals who were listed as lobbyists. Likewise, some of the outside lobbying firms have failed to correctly describe which corporate entity was their client. CCSH, CRL and some of their outside lobbying firms also have failed to provide adequate descriptions of the issues they lobbied as required by the official LDA Guidance instructions so that it is impossible to tell exactly what issues were lobbied.
- CCSH, CRL and some of their listed lobbyists have made late filings and in some cases have flagrantly failed to file reports that list their campaign contributions and other payments as well as to certify their compliance with Congressional lobbying and ethics rules. These reports and certifications implement key changes to the lobbying disclosure and ethics rules that were included in the sweeping ethics reform initiated by the last Congress and enacted as part of HLOGA. There is no excuse for any registrants or lobbyists like CCSH, CRL and their employees to fail to file these reports of their contributions and to certify their compliance with Congressional lobbying and ethics rules.
- Another key ethics reform instituted by HLOGA was to reinforce the requirement for organizations to identify their major donors who help formulate their lobbying strategy. The constitutionality of this provision was recently upheld in *National Association of Manufacturers v. Taylor*, No. 08-5085 (D.C. Cir. Sept. 12, 2009) (relying on the Supreme Court's prior rulings that the public disclosure of "who is being hired, who is putting up the money, and how much" they are spending to influence legislation is "a vital national interest"). Published news reports indicate that the two major donors to CCSH and CRL helped plan their lobbying activities over the years. In one of these reports, the lawyer for one of the donors is quoted as stating that the donor was able to "exploit" what he referred to as "loopholes in the law" apparently to avoid this long-standing disclosure requirement. In our LDA/HLOGA Complaint, we have suggested that it would be

appropriate to examine whether these “loopholes” are valid and, if so, whether these organizations have strictly accounted for all of their funds from all of their major donors in accordance with this scheme in order to avoid this critical disclosure requirement. If use of these “loopholes” is not validated, then CCSH and CRL should be required to list their major donors who helped plan their lobbying activities as required by the law and they should be appropriately sanctioned for their failure to abide by their disclosure requirements.

- Finally, given the demonstrated failure of CCSH and CRL to properly report their activities, we have suggested that Congress should investigate whether CCSH and CRL have properly computed and reported the totality of lobbying activities given the number of employees, issues, research reports, outside lobbying firms, and website activities that are dedicated to their direct and grassroots lobbying.

Once again, these violations should be the primary responsibility of Congress to investigate, but the IRS should impose its own sanctions against these Section 501(c)(3) organizations if Congress and/or the Department of Justice determine that they have violated LDA and HLOGA lobbying registration and disclosure requirements. The demonstrated failure of CCSH and CRL to meeting their Congressional registration and reporting requirements suggests that a careful examination of their compliance with the tax rules also should be conducted as outlined in the following paragraphs.

2. The IRS should examine whether CCSH and CRL have properly reported their lobbying activities as affiliates on a consolidated basis for tax purposes.

It is unclear from the IRS Form 990s filed by CCSH and CRL whether they were allowed to report and calculate their lobbying expenses as affiliates and to include the program expenses of their far flung nonprofit organizations in determining whether they stayed within the lobbying limits authorized by their Section 501(h) election. Under IRS rules, such aggregation is only allowed if all of the organizations are bound by the other organization’s decisions on legislative issues or if one organization controls the governing body of the other. We don’t have sufficient information to make this evaluation, but note that neither CCSH nor CRL has followed your instructions for Schedule C of their 2008 IRS Form 990, since they have failed to list in Part IV of Schedule C the name, address, EIN, and expenses of the other organizations that they claim are affiliated for these purposes and to indicate whether or not each such organization has made its own election under Section 501(h). See LDA/HLOGA Complaint, Attachment 8. If aggregation was not appropriate, then CRL had excess lobbying expenditures in excess of its Section 501(h) limits.

3. Regardless of whether filing on an aggregate basis was appropriate, the IRS should require CCSH and CRL to demonstrate that they properly reported all of their relevant lobbying expenses.

Given the massive nature of the federal and state lobbying activities conducted primarily by CRL, it seems appropriate to question whether CCSH and CRL have properly calculated and reported their total lobbying expenditures. As a single example, a review of CRL’s website

shows the breadth of direct and grassroots lobbying activities that are conducted by CRL, which all utilize CRL's website and are backed up by research reports and extensive staff activities. In 2008, however, CRL only reported grassroots lobbying activities of \$12,185, which defies imagination. Also, there is no way to determine whether CRL has included all its proper direct and indirect expenses in the amounts it has reported over the years. Once again, for 2008, CRL reported total lobbying expenses of \$867,000, but its LDA filings indicate that it spent almost \$390,000 on outside lobbyists alone in Washington, DC (presumably focused on federal matters). Given the size of CRL's Washington, DC office with its own lobbyist employees, and numerous employees registered as lobbyists at the state level for its activities at the state level (with as many as ten registered lobbyists in North Carolina alone), CRL's figures and calculations should be carefully scrutinized.

There also seem to be discrepancies between the dollar amount of its lobbying activities reported to the IRS and Congress, even though it has elected an LDA reporting where it is supposed to be using the amount calculated for IRS purposes for its LDA reports. For example, in 2006, CRL and CCSH reported what appears to be combined lobbying expenses of \$520,000 to Congress while only \$443,706 was reported to the IRS. See LDA/HLOGA Complaint, Attachment 7. This discrepancy was even greater in 2007, when CRL and CCSH reported what appears to be combined lobbying expenses of \$640,000 to Congress, while only \$390,968 was reported to the IRS. See LDA/HLOGA Complaint, Attachment 8. These discrepancies should be investigated to determine if CRL and CCSH have been substantially underreporting their lobbying expenditures to the IRS over the years and also to discover if CRL and CCSH may have failed to report any other lobbying expenses.

4. The IRS should investigate whether there has been inappropriate direction of the lobbying activities of CCSH and CRL by its major donors.

As explained in the background section above and recited in the news reports that were included with our LDA/HLOGA Complaint, Attachments 2 and 5, the two major donors are described as having been extremely involved in directing CRL's lobbying activities with respect to the items that were reported. Given that these two donors supplied the vast majority of the combined support received by CCSH and CRL, and reportedly earned billions of dollars from the regulatory climate favoring low-income borrowers that is the core of the lobbying activities pursued by CCSH and CRL, it seems appropriate to examine the depth of their involvement in determining the issues to be lobbied as well as their involvement in directing the research, studies and reports that formed the basis for the public advocacy positions of CCSH and CRL on legislative, regulatory and business matters that broadly affected the national economy.

For example, CRL's June 30, 2008 report, "Indymac: What Went Wrong?" was the first time of which we are aware that CRL targeted a single company for an investigative report. See <http://www.responsiblelending.org/media-center/press-releases/archives/crl-reports-indymac-what-went-wrong.html> Perhaps it was all just a coincidence, but this highly critical report was followed by a negative letter from a Senator to federal regulators that raised many of the same issues as contained in the CRL report, which shook public confidence and led to the collapse of the bank, only for it then to be rescued and recapitalized by none other than the largest donor to CRL. Once again, this all may just be a coincidence, but it certainly seems appropriate for the

IRS to question whether CRL's largest donor was in any way involved in directing or leading CRL's role in this remarkable chain of events, which started with CRL's somewhat unusual report criticizing Indymac Bank and ended with CRL's major donor serving as lead investor in recapitalizing the bank after its collapse.

In summary, given their relatively narrow base of support, it would seem reasonable for the IRS to inquire whether CCSH and CRL have acted appropriately like nonprofits or have been selling their lobbying and public relations services like their for-profit counterparts. If the latter, then they should be stripped of the tax exempt status.

5. Given that the major donors to CRL have provided the vast majority of the support received by CCSH and CRL on a consolidated basis, the IRS should investigate whether CRL and CCSH are truly publicly supported.

Also as explained in the background section and as evidenced by the IRS Form 990s and Schedule B filed by each organization the past few years, it is apparent that the vast majority of the support received by CCSH and CRL on a combined basis was from two donors. Viewed together, these organizations do not appear to meet the public support requirement for Section 501(c)(3) public charities.

For example, in 2008, as reflected in their IRS Form 990s and Schedule B, one donor supplied 80% of CRL's funding and 60% of the combined funding for both CRL and CCSH. Furthermore, 100% of CRL's funding came from 6 donors, which accounted for 76% of the combined funding for both CRL and CCSH. If any of these CRL donors were also the major donors for CCSH, then these percentages would be even higher.

As a further example, in 2007, more than 114% of the public support reported for CRL was contributed by two donors, which represented almost 100% of the combined funding for both CRL and CCSH. Although we are unable to explain why the amounts reported in CRL's Schedule B exceed the direct public support listed in Part I, it makes the point that the \$21 million of contributions received from CRL's two biggest donors equaled almost the entire \$21.8 million combined support that was reported by the two organizations.

Once again, we lack the information to understand the true connection between the organization and the reasons why CRL was set up as an independent supporting organization. However, if that structure was established in order to avoid the public support requirements that otherwise would have been applicable to CCSH, then the IRS should consider the substance over the form of these organizations to consider whether they should truly be classified as public charities at all. Their business relationship with numerous for-profit entities also seems worthy of investigation. See LDA/HLOGA Complaint, Attachment 1.

6. The IRS should consider whether there have been substantial benefits that have inured to the major donors that warrant the revocation of the tax exempt status of CCSH and CRL.

If upon investigation, it should be determined that the major donors participated and helped direct the lobbying and research activities of CCSH and CRL to favor positions that

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helped them earn billions of dollars in profits from the initial subprime mortgage boom and later national economic meltdown, then the IRS should consider whether these benefits are so enormous that they warrant the revocation of the tax exempt status of CCSH and CRL. Moreover if giving by these donors was motivated primarily by their business interests rather than charitable intent, the manner in which they characterized these contributions for their own tax purposes should be examined.

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For the reasons discussed above, we hereby respectfully request that you initiate a thorough investigation into the possible violations of the tax rules described in this letter and also to take appropriate action if Congress and/or the Department of Justice should determine that there were violations of the LDA and HLOGA.

We would appreciate your acknowledgement of this complaint. We are also glad to provide any additional information or assistance you may require.

Respectfully submitted,

Mike Flynn, President