

January 16, 2013

Steven T. Miller
Acting Commissioner
Internal Revenue Service
Room 3000 IR
1111 Constitution Avenue, N.W.
Washington, DC 20224

Lois Lerner
Director of the Exempt Organizations Division
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, DC 20224

Re: Application for section 501(c)(4) status by American Tradition Partnership

Dear Acting Commissioner Miller and Director Lerner:

Democracy 21 and the Campaign Legal Center are writing to request the IRS to conduct an investigation into whether American Tradition Partnership (ATP), formerly known as Western Tradition Partnership (WTP), obtained its section 501(c)(4) tax-exempt status based on false information submitted to the IRS.

According to published reports, the apparently false information included misrepresentations made to the IRS by WTP in urging expedited approval of its application and misrepresentations in its application to the IRS, asserting that it would not participate or intervene in elections.

WTP submitted its Form 1024, Application for Recognition of Exemption under Section 501(a), to the IRS on July 21, 2008. A copy of the application is publicly available.

According to a news report by *ProPublica* and *Frontline*, WTP submitted a letter to the IRS on September 29, 2008, while their IRS application was still pending, requesting that the IRS expedite processing of its application.¹ According to the *ProPublica/Frontline* report, the

¹ Kim Barker, ProPublica, and Rick Young and Emma Schwartz, Frontline, "Did the Dark Money Group that Spurred a Landmark Ruling Mislead the IRS?" *ProPublica and Frontline*, Oct. 22, 2012, <<http://www.propublica.org/article/did-the-dark-money-group-that-spurred-a-landmark-ruling-mislead-the-irs>>.

request for expedition stated that Jacob Jabs, who was described as the organization's "primary donor," had promised to make a \$300,000 donation to the group, but only if WTP received recognition from the IRS for tax-exempt status by September 29, 2008. *Id.*

The letter further said, however, that Jabs had extended his deadline, and said he "will give us the grant if we receive our tax exempt status by October 15, 2008. If we have not received our tax exempt status by this date, Mr. Jabs has assured us that he will no longer contribute said amount and instead will direct his donation to other organizations." *Id.*

According to the *ProPublica/Frontline* report, the IRS responded to WTP the next day, September 30, 2008, and said that the request for expedited consideration would be granted. Tax-exempt status as a section 501(c)(4) "social welfare" organization was granted to WTP two days later on October 2, 2008. *Id.*

According to a report published by *ProPublica* and *Frontline* on October 30 2012, Jabs has subsequently said "he had never pledged money to the group, and never even been in contract with them until press stories appeared naming him."² The *ProPublica/Frontline* report states:

"I think they just grabbed my name out of a hat to forward their agenda," Jabs told us. "I know nothing about the group, never heard of them, never have heard of them until the last few days, and I did not, absolutely did not, commit \$300,000 to start this company." (Jabs also spoke with the Bozeman Daily Chronicle, again denying any connection to the group.)

According to *ProPublica* and *Frontline*, a subsequent release of WTP's bank records as a result of state court litigation in Montana "show[ed] no money came in from the man WTP claimed as its primary donor when it asked the IRS to expedite the approval of its application."³

Assuming the *ProPublica/Frontline* reports are correct, the IRS apparently agreed to expedited processing of WTP's application for tax-exempt status that resulted in its approval, based on apparent material fraudulent information that WTP provided to the IRS and that WTP had to know was false.

² Kim Barker, ProPublica, and Rick Young and Emma Schwartz, Frontline, "More Evidence Key Dark Money Group May Have Misled IRS," *ProPublica and Frontline*, Oct. 30, 2012, <<http://www.propublica.org/article/more-evidence-key-dark-money-group-may-have-misled-irs>>.

³ Kim Barker, ProPublica, and Rick Young and Emma Schwartz, Frontline, "Dark Money Group's Donors Revealed," *ProPublica and Frontline*, Nov. 5, 2012, <<http://www.propublica.org/article/dark-money-groups-donors-revealed>>.

On these grounds alone, the section 501(c)(4) tax-exempt status of WTP should be revoked and the IRS should consider what, if any, other actions it should take against WTP. The IRS should also forward any relevant information in this case to the Department of Justice so the Department can determine what, if any, action it should take against WTP for apparently submitting material false information to a federal agency in order to obtain action by the agency.

Furthermore, according to its initial application for tax-exempt status, WTP stated that “[t]he organization will not directly or indirectly participate or intervene on behalf of or in opposition to a candidate for public office.” Application at 2. It reiterated its intention to engage in no campaign related activities in response to a separate question on page 4 of the application.

However, according to a report by *ProPublica* and *Frontline* published on October 22, 2012, shortly before WTP submitted its IRS application in 2008, the organization “and a related political committee sent out fliers weighing in on candidates for Montana state office” in the days before the Republican primary in the state.⁴

ProPublica and *Frontline* reported that “the group sponsored mailers that criticized politicians in the 2008 Republican primary.”⁵ According to the *ProPublica/Frontline* report, WTP has continued to participate or intervene in campaigns, in contravention of the representation it made to the IRS that it would engage in no campaign activity:

Western Tradition Partnership is now known as American Tradition Partnership. So far this election season [in 2012], the group has advocated for candidates in Montana’s Republican primary, putting out a press release announcing that 12 of those candidates won.⁶

Furthermore, according to *ProPublica* and *Frontline*, WTP “raised money specifically by telling people and corporations that they could give unlimited amounts in secret” to be spent to influence elections:

“The only thing we plan on reporting is our success to contributors like you who can see the benefits of a program like this,” said one document, a 2010 election briefing to read to potential donors. “You can just sit back on election night and see what a difference you’ve made.”⁷

⁴ Kim Barker, *ProPublica*, and Rick Young and Emma Schwartz, *Frontline*, “Did the Dark Money Group that Spurred a Landmark Ruling Mislead the IRS?” *ProPublica and Frontline*, Oct. 22, 2012, <<http://www.propublica.org/article/did-the-dark-money-group-that-spurred-a-landmark-ruling-mislead-the-irs>>.

⁵ Kim Barker, *ProPublica*, and Rick Young and Emma Schwartz, *Frontline*, “More Evidence Key Dark Money Group May Have Misled IRS,” *Pro Publica and Frontline*, Oct. 30, 2012, <<http://www.propublica.org/article/more-evidence-key-dark-money-group-may-have-misled-irs>>.

⁶ *Id.*

⁷ Kim Barker, *ProPublica*, and Rick Young and Emma Schwartz, *Frontline*, “Documents Found in Meth House Bare Inner Workings of Dark Money Group,” *ProPublica and Frontline*, Oct. 29, 2012,

The reported campaign activities by WTP and its successor, ATP, raise serious questions about whether WTP knowingly misrepresented its planned activities to the IRS in its initial application for tax-exempt status and whether it continued this misrepresentation over the years. This matter also warrants an investigation by the IRS to determine whether the organization's tax-exempt status should be revoked on these grounds and what, if any, other action should be taken against the organization.

The *ProPublica/Frontline* reports also raise serious questions about whether WTP has as its primary purpose intervening and participating in campaigns and is improperly claiming tax-exempt status in order to serve as a vehicle for secret contributions to be injected into state and federal elections. The IRS should also investigate this matter to determine what, if any, action should be taken against WTP based on these circumstances.

The IRS is responsible for enforcing the tax laws and preventing the tax laws from being misused to keep secret from the American people the sources of money spent to influence elections.

We strongly urge the IRS to investigate WTP/ATP and to take appropriate action against the organization for any violations of the tax laws and other federal laws that may have occurred.

Sincerely,

/s/ Gerald Hebert

/s/ Fred Wertheimer

J. Gerald Hebert
Executive Director
Campaign Legal Center

Fred Wertheimer
President
Democracy 21