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Thursday, October 28, 2004

Steven T. Miller, Commissioner
Martha Sullivan, Director, Exempt Organizations
Lois G. Lerner, Director, Rulings and Agreements
Tax Exempt and Government Entities Division
Internal Revenue Service
Department of the Treasury
Washington, DC 20224

re: Prohibition on Participation by Charities in Political Campaigns
subj: Prayers and Admonitions to Pray During Church Services

Dear Commissioner Miller and Directors Sullivan and Lerner:

Thank you for directing Ms. Lerner to reply to my inquiry dated September 8, 2004.

After reading Ms. Lerner's reply, I considered the possibility that my prior letter to you had been misunderstood. I requested information related to the effect on the status of a church's tax exempt status if my client prayed, in the pulpit during a service, that God would retain President George Bush in office for an additional term of years. Ms. Lerner's terse response summarized my letter as inquiring "whether a church could jeopardize its exemption when it invites someone to speak at its services about a political campaign." Was this a deliberate obfuscation of my actual inquiry, I pondered. Or, perhaps, my request for information was to obliquely directed. Before I could further advise my client, I concluded I would require some clarification.

Fortunately, Ms. Lerner included a telephone number and contact name for my additional questions. So I called and spoke with Ms. Judith Kindell. I am writing this letter, with a copy to Ms. Kindell, to confirm in writing the essence of that conversation.

After introducing myself and the purpose of my call, I asked Ms. Kindell to explain the difference between the purpose of my letter as explained in that letter and the purpose of my letter as interpreted in Ms. Lerner's response. I explained that it seemed to me that either my

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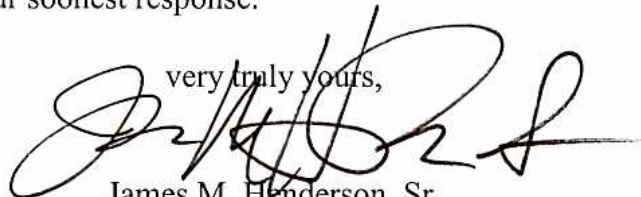
letter had not been understood, or that Ms. Lerner was indicating, by her choice of phrases, that the IRS equates prayers directed to God seeking His intervention in an election when offered from the pulpit during a church service with speeches about political campaigns from the pulpit.

Ms. Kindell confirmed that the IRS had, in fact, understood that I was differentiating between other forms of communication in the pulpit and prayers. She also confirmed that the IRS equated the two in Ms. Lerner's letter to me because the IRS equated them in fact. She also noted that a more definitive response, based upon facts and circumstances could only be gotten through such a device as a request by a church for private letter ruling.

Of course, if the Internal Revenue Service *does not* equate prayers that God retain an office holder in office with campaigning in the pulpit, then the conversation with Ms. Kindell clarified nothing at all. Hence, I am affording you the opportunity to respond with any further clarification or correction that you deem appropriate. Otherwise, I am confident that I may fairly describe the IRS response to our inquiry letter as treating such prayers as the equivalent of campaigning, and therefore subject to the absolute prohibition provided in the Code.

I look forward to your soonest response.

very truly yours,

A handwritten signature in black ink, appearing to read 'J. M. Henderson, Sr.', written in a cursive style.

James M. Henderson, Sr.
Senior Counsel

Copy to Ms. Judith Kindell