

January 15, 2006

Mark W. Everson  
Commissioner  
Internal Revenue Service  
1111 Constitution Ave NW  
Washington, DC 20224

Dear Commissioner Everson:

We, the undersigned clergy, are writing to express our concern regarding a continuing pattern of political campaign activity by World Harvest Church of Canal Winchester, Ohio (“WHC”) and Fairfield Christian Church of Lancaster, Ohio (“FCC”) in clear violation of the Internal Revenue Code<sup>1</sup> and Treasury Regulations. We write as individual clergy and not as representatives of any congregation, judicatory or denomination. Among us are clergy standing within the following religious traditions: the American Baptist Churches/USA; the Christian Church (Disciples of Christ); the Episcopal Church in the USA; the Evangelical Lutheran Church in America; Judaism; the Presbyterian Church (USA), the United Church of Christ; the United Methodist Church; and the Unitarian Universalist Association.

WHC and FCC are not operating alone; the churches have tax-exempt affiliates that are also engaging in political campaign activity. Pastor Rod Parsley of WHC founded the Center for Moral Clarity, which has been described as an “Outreach” of WHC and is legally part of WHC. Pastor Parsley is also the founder of Reformation Ohio (“RO”), an Ohio nonprofit corporation registered as a church. Pastor Russell Johnson and other pastors of FCC have formed the Ohio Restoration Project (“ORP”), an Ohio nonprofit corporation that was previously known as the Fairfield Family Association. WHC, RO and FCC are granted tax-exemption automatically based on their status as “churches.” ORP, as Fairfield Family Association, received a ruling from the IRS recognizing tax-exempt status in 2000.

Over the past two years, the foregoing entities (collectively, the “Churches”) have sponsored, hosted and funded a variety of activities that appear to be designed to promote one particular political party and one specific candidate for statewide office. We are aware of the following examples to date:

- (1) featuring at church-sponsored events a single candidate (current Ohio Secretary of State J. Kenneth Blackwell) for election to the office of Governor of the State of Ohio in 2006;
- (2) launching partisan-oriented voter registration campaigns with the goal of registering 400,000 voters to support Blackwell’s candidacy; and

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<sup>1</sup> All section references herein are to the Internal Revenue Code of 1986, as amended (“IRC” or “Code”) or to the Treasury Regulations promulgated thereunder.

- (3) leading efforts to distribute biased voter “education” materials to solidify voter support for Blackwell.

Based on the facts and circumstances documented in this letter that illustrate a pattern of flagrant political campaign activity, we request that the IRS take the following actions:

- Initiate church tax inquiry proceedings under IRC section 7611 to determine whether the Churches’ tax-exempt status should be revoked;
- Determine whether the Churches and any of their managers should be assessed taxes under section 4955 based on the Churches’ political expenditures; and
- Notify the Churches of its intention to seek an injunction, pursuant to IRC section 7409, if these Churches’ flagrant political campaign activities do not cease immediately.

We note that in the case of ORP, which is a nonprofit corporation but is not a church, the provisions of section 7611 do not apply. For ORP, we request that the IRS initiate an examination regarding its political activities. Indeed, it is unclear to us why ORP qualified for exemption at all, given that organization’s Statement of Purpose (enclosed) includes no fewer than three purposes involving the support of legislative activity. These purposes prevent ORP from qualifying under the “organizational test” of section 501(c)(3) (which is discussed below).

After providing a brief overview of the applicable law and the extent to which these Churches have become significant “players” in Ohio and national politics, this letter will describe these Churches’ flagrant violations of the Internal Revenue Code and Treasury Regulations regarding participation and involvement in political campaign activity.

### **Applicable Law**

Section 501(c)(3) provides for exemption from federal income tax of organizations organized and operated exclusively for charitable and educational purposes. Section 1.501(c)(3)-1(a) of the Treasury Regulations provides that an organization cannot be exempt under section 501(c)(3) unless it meets both the “organizational” and the “operational” tests required by the Code and implementing regulations. While churches do not have to apply for recognition of exemption they are subject to the standards.<sup>2</sup>

To satisfy the “operational” test, an organization must engage primarily in activities that accomplish one or more purposes specified in section 501(c)(3), provided that no substantial part of its activities is carrying on propaganda or otherwise attempting to influence legislation and that it does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office. Moreover, an organization will not qualify if more than an insubstantial part of its activities is not in furtherance of an exempt

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<sup>2</sup> IRS Publication 1828 at 3.

purpose, or if its net earnings inure to the benefit of private shareholders or individuals.<sup>3</sup> If the IRS concludes there is a violation of any of the foregoing elements of the operational test (i.e., substantial lobbying, campaign intervention, or private inurement), the organization's exempt status may be revoked.

The prohibition against participation or intervention in a political campaign is absolute. Therefore, it is not material that the intervention is an insubstantial part of an organization's activities or that the other activities of the organization would, by themselves, support exemption under section 501(c)(3).<sup>4</sup> Section 1.501(c)(3)-1(c)(3) of the Treasury Regulations provides that if an organization participates or intervenes, directly or indirectly, in any political campaign, it is an "action" organization and therefore cannot be exempt under IRC section 501(c)(3). Activities which constitute participation or intervention in a political campaign include (but are not limited to) publication or distribution of written statements or making oral statements on behalf of, or in opposition to, a candidate in race for public office.<sup>5</sup> In this case, activities that would constitute campaign intervention might include endorsements of a candidate and use of a church's funds, facilities or resources (including facilities and staff) in support of a candidate. Individuals that work for tax-exempt entities are, of course, free to participate in political campaigns as private citizens.

In addition to the threat of revocation of exempt status, Section 4955(a)(1) of the Code imposes on each political expenditure by a section 501(c)(3) organization an excise tax equal to 10 percent of the amount thereof. This tax is to be paid by the organization. Section 4955(a)(2) of the Code imposes a separate 2 1/2 percent tax on the manager of any organization who knowingly agrees to the making of a political expenditure, unless such agreement is not willful and is due to reasonable cause. This tax is to be paid by the manager and not the organization. For purposes of these taxes, the term "political expenditure" means any amount paid or incurred by the organization in any participation in, or intervention in (including the publication or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

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<sup>3</sup> Treas. Reg. § 1.501(c)(3)-1(c).

<sup>4</sup> See United States v. Dykema, 666 F.2d 1096, 1101 (7th Cir. 1981), cert. denied, 456 U.S. 983 (1982) (Exemption is lost by participation in any political campaign on behalf of any candidate for public office. It need not form a substantial part of the organization's activities.); and Association of the Bar of the City of New York v. Commissioner, 858 F.2d 876 (2nd Cir. 1988), cert. denied, 490 U.S. 1030 (1989) (Court noted that section 501(c)(3) prohibits any "degree of support for an individual's candidacy for public office" and that "exemption is lost by participation in any political campaign on behalf of any candidate for public office.").

<sup>5</sup> See Developments Relating to Churches, 1984 IRS Continuing Professional Education Text.

Tax-exempt entities may engage in voter education activities, including the provision of public fora, in which candidates may express their views directly to the voting public, voter registration drives and the publication of “voter guides.”

1. Public Fora

In guidance regarding the provision of public fora to political candidates, the IRS has explained that “a forum held for the purpose of educating and informing the voters, which provides fair and impartial treatment of candidates, and which does not promote or advance one candidate over another, would not constitute participation or intervention in any political campaign on behalf of or in opposition to any candidate for public office.”<sup>6</sup> One factor that the IRS considers in determining whether the forum does not advance one candidate over another is if all candidates were invited to participate in the forum.

2. Voter Registration

Charities (including churches) are also permitted to register people to vote and to engage in get-out-the vote activities, as long as such activities are strictly non-partisan.<sup>7</sup> In its internal guidance material used to train revenue agents, the IRS has set forth criteria for assessing whether an organization voter registration activities will be considered partisan and therefore impermissible under (c)(3). First, such activities will be partisan if the charity selects the people who are encouraged to register or to vote based on their party affiliation or whether they favor or oppose a particular candidate. A charity that engages in voter registration therefore must register and encourage to vote all persons, without inquiring as to the person’s candidate preferences or treating persons differently depending on the person’s political views. Second, such activities will be partisan if they are targeted to particular individuals based on a desire to affect a particular election. For example, a statewide charity cannot choose to focus its voter registration efforts only on one congressional district because there is a candidate running in that district who is strong supporter of the charity’s positions. Third, such activities will be partisan if as part of these efforts the charity expresses support of or opposition to any candidate or party.

3. Voter Guides

Charities may likewise publish nonpartisan “voter guides.”<sup>8</sup> Generally, the publication of voter guides is not campaign intervention provided that the guide is unbiased, reflects candidates’ views on a variety of subjects and is not structured in a way to suggest approval or disapproval of certain candidates.

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<sup>6</sup> See e.g., Rev. Rul. 86-95, 1986-2 C.B. 73.

<sup>7</sup> See, e.g., Judith E. Kindell & John F. Reilly, Election Year Issues, 1993 IRS Continuing Professional Education Text at 426.

<sup>8</sup> See e.g., Rev. Rul. 80-282, 1980-2 C.B. 178; Rev. Rul. 78-248, 1978-1 C.B. 154.

#### 4. Issue Advocacy

The undersigned clergy recognize and rely on the federal tax law's longstanding respect for a church's right to conduct issue advocacy, without regard to the political/election calendar. There are countless moral, ethical and spiritual issues which at times become the province of both the pulpit and the policymaker's podium. Issues such as abortion, the death penalty, poverty, war, marriage and civil rights/civil liberties weigh on our consciences, and on our congregation's minds, and it is our duty to listen and provide guidance in accordance with our diverse doctrines and faiths. Recognizing this tension, we vigorously defend every religious leader's right to profess the teachings and values of his or her faith without regard to the political winds. That said, we also recognize that the tax law distinguishes between permissible issue advocacy and prohibited electioneering. Section 7611 of the Code permits the IRS to inquire when a church appears to have crossed that line while protecting the church from unreasonable or unnecessary audit.

#### **Involvement in Political Campaigns**

The Churches, through a variety of tactics, have repeatedly and flagrantly overstepped these legal boundaries and intentionally intervened in numerous political campaigns. For this reason, the IRS should investigate the churches' activities through a Code section 7611 church tax inquiry.

FCC's involvement in political campaigns dates back at least to 2000, when it recruited FCC member Dave Phalen for a successful run for county sheriff. "In the last five years, a half dozen of its congregants have been elected to local offices, including a judge, several Lancaster city councilmen" and Sheriff Phalen.<sup>9</sup> "These people turn out to vote," Phalen said of Christian conservatives. "They give money and will become active. And there will always be issues to keep people mobilized."<sup>10</sup> While church members are certainly permitted to run for public office, FCC used its influence over its congregation to assist its members in being elected.

As part of a campaign to bring conservative voters to the polls in Ohio for the 2004 Presidential election, in the months leading up to the election, FCC pastor Russell Johnson kept issues of concern to conservative Christian voters in the forefront by speaking out against such perceived social ills as public schools bans on Bible reading, prayer and the teaching of creationism. In his view, the "pagan left" was waging war against the very definition of marriage, and he warned that "a flood of demonic oppression" would come with any recognition of "homosexual rights."<sup>11</sup> Johnson's use

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<sup>9</sup> James Dao, "Movement in the Pews Tries to Jolt Ohio," The New York Times, March 27, 2005 (hereinafter "Appendix A"), at 3.

<sup>10</sup> Appendix A, at 3.

<sup>11</sup> Marilyn H. Karfeld, "Patriot Pastors," Cleveland Jewish News, September 14, 2005 (hereinafter "Appendix B"), pp. 1-2.

of code words, such as “pagan left,” evidences his intent to convey disapproval against the Democratic agenda. By continually reminding his congregation of the enormous stakes of election day, Pastor Johnson ensured that they would mobilize the conservative vote.

Three years prior to the 2004 presidential election, WHC pastor Rod Parsley began hosting annual meetings of Christian pastors with the goal of galvanizing Christian leaders to get involved in politics.<sup>12</sup> Parsley “is considered to be a rising star in the religious broadcasting world” and is viewed as one who has the potential to be “an inspirational speaker” on behalf of conservative Christian political efforts.<sup>13</sup> While Parsley, as a private citizen, is permitted to engage in political activity, it is impermissible to use WHC and his position as Pastor as a platform for electioneering. Numerous reports suggest that Pastor Parsley used WHCs facilities, funds and resources in prohibited campaign intervention.

Hoping to capitalize on the “newfound evangelical political fervor,”<sup>14</sup> FCC and WHC have now set their sights on the 2006 election in Ohio, which Russell describes as “a battle between the forces of righteousness and the hordes of hell.”<sup>15</sup> FCC has taken its political involvement to a new level by revitalizing ORP, which plans “to identify and train 2,000 so-called ‘Patriot Pastors’ to get out the evangelical vote for the Ohio primary in May 2006.”<sup>16</sup> Moreover, “there will be Patriot Pastor policy briefings in eight targeted cities.... The pastors are expected to host voter-registration drives in their churches. They will distribute voter guides provided by the Christian Coalition and the Center for Moral Clarity,<sup>17</sup> to ‘clarify the positions of various candidates, who at times, would like to remain vague and noncommittal.’”<sup>18</sup> ORP’s goal “is to register 500,000 new conservative voters, spreading the church’s view from the pulpit on ‘values’ issues. Ohio for Jesus advertising in 30-second radio spots would feature Secretary of State Kenneth Blackwell, Republican candidate for governor.”<sup>19</sup> In addition, 100,000 “like-minded Christian ... 21<sup>st</sup>-century Minutemen” are being recruited to “help transport the elderly to the polls, provide childcare so parents can vote, and assist with voter registration drives and rallies.”<sup>20</sup> Voter registration and education activities are permissible activities for tax-exempt entities; however, ORP appears well-aware that “the voters recruited by conservative churches are likely to support Republicans by overwhelming margins.” Once again, employing the use of “code words” conveys the underlying partisan message.<sup>21</sup> It is this intent, to intervene in the 2006 gubernatorial election, that causes ORP’s activities to be impermissible.

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<sup>12</sup> Appendix B, at 6.

<sup>13</sup> Appendix A, at 2.

<sup>14</sup> Appendix B, at 2.

<sup>15</sup> Appendix B, at 1.

<sup>16</sup> Appendix B, at 1.

<sup>17</sup> As mentioned above, the Center for Moral Clarity is an Outreach of WHC.

<sup>18</sup> Appendix B, at 2 (quoting the ORP Plan (hereinafter “Appendix E”).

<sup>19</sup> Appendix B, at 2.

<sup>20</sup> Appendix B, at 3.

<sup>21</sup> Appendix D, at 4.

In fact, ORP's "immediate goal is to elect conservative Blackwell as Ohio's next governor in 2006."<sup>22</sup> Blackwell will be a featured speaker at a statewide Ohio for Jesus rally in late February to mid-March 2006.<sup>23</sup> To fund this effort, "ORP hopes to raise \$1 million for a campaign war chest."<sup>24</sup> ORP featured gubernatorial candidate Blackwell at a "Patriot Pastor" luncheon meeting in Mason, Ohio, in late August 2005, the first of six such gatherings scheduled for around the state.<sup>25</sup> While all three Republican candidates were present at the luncheon, the Democratic candidates were not. Moreover, the three Republican candidates were not presented in an unbiased fashion: Blackwell was clearly the favored candidate. This favoritism is not appropriate at an educational voter forum.

WHC, for its part, followed up on the 2004 election with its third annual gathering of conservative Ohio pastors. Approximately 1,100 pastors attended, in addition to gubernatorial candidate Blackwell.<sup>26</sup> In July, 2005, WHC formed its Center for Moral Clarity, to instruct "pastors and individuals in how to arrange church voter registration drives, legislative contacts, and petition initiatives."<sup>27</sup> Then in August 2005, 1,320 pastors attended WHC's fourth annual meeting, which again featured candidate Blackwell, who, while seated in the front pew, was endorsed by another speaker, former U.S. Senator and prominent figure on the Republican campaign trail Zell Miller. WHC's Parsley "hailed the large gathering ... as evidence of momentum from the successful 2004 general-election campaign to constitutionally ban same-sex marriage in Ohio."<sup>28</sup> These events all provide additional evidence that WHC has been a forum for partisan political activity.

These campaign efforts resulted in a rally at the Ohio Statehouse in October, 2005, more than a year before the 2006 election, to announce the launching of RO.<sup>29</sup> With gubernatorial candidate Blackwell seated with other dignitaries, WHC's Parsley proclaimed, "Man your battle stations, ready your weapons, lock and load. Let the reformation begin."<sup>30</sup> With a goal of registering 400,000 politically conservative Christian voters, the organization has received a pledge of \$10 million, and it hopes to raise \$10 million more.<sup>31</sup>

In addition to their campaign activity, the Churches have demonstrated their design to affect the legislative agenda: ORP and RO have expressed that they want to overturn the provisions in the U.S. tax code that prohibit churches from endorsing

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<sup>22</sup> Appendix B, at 3.

<sup>23</sup> Appendix B, at 3.

<sup>24</sup> Appendix B, at 3.

<sup>25</sup> Appendix C, at 2.

<sup>26</sup> Appendix B, at 6.

<sup>27</sup> Appendix B, at 6.

<sup>28</sup> Joe Hallett, "Pastors Urged to Recruit 400,000 Voters," The Columbus Dispatch, August 30, 2005 (hereinafter "Appendix G"), at D5.

<sup>29</sup> Mark Niquette, "A Call for Converts, Voters," The Columbus Dispatch, October 15, 2005 (hereinafter "Appendix H"), at B1.

<sup>30</sup> Appendix H, at B1.

<sup>31</sup> Appendix H, at B1-B2.

candidates.<sup>32</sup> The church in America is under oppression,” Parsley thunders. “Our founders never intended a secular state.”<sup>33</sup> Apparently, ORP and RO have concluded that the quickest way to get these provisions overturned is to engage in a series of blatant, flagrant violations of the Internal Revenue Code and the Treasury Regulations that are calculated to bring their activities under public scrutiny.

FCC’s Johnson reveals that the Churches are aware of the influence that they are wielding with the Republican candidates: “They understand what happens when 100,000 people committed to our views are on the same page. In their little political gatherings and cocktail meetings at the country club, they can’t build that kind of loyalty. They can’t spend millions to buy what our people will give for free.”<sup>34</sup> While the Republican party may well benefit from any increasingly active conservative Christian base, churches should not be permitted to use their tax-advantaged status to wield political influence.

### **Apparent FCC and WHC Violations of IRS Campaign Activity Restrictions**

As the forgoing summary indicates, the involvement of the Churches in political campaign activity extends beyond a private individual’s campaign support and a church’s issue advocacy. The activity rises to the level of three types of tax law violations: (i) endorsing a gubernatorial candidate at Church events, (ii) conducting voter registration drives designed to promote one party and a specific candidate; and (iii) coordinating and finding the distribution of biased voter education guides.

#### **1. The Churches have endorsed Ohio gubernatorial candidate J. Kenneth Blackwell at events they have sponsored or hosted by featuring him at these events.**

First, the Churches have endorsed a single candidate (current Ohio Secretary of State J. Kenneth Blackwell) for election to the office of Governor of the State of Ohio in 2006 by repeatedly featuring him as events on church grounds, presumably organized and funded using church resources. IRS Publication 1828 clearly indicates that “when a candidate is invited to speak at a church or religious organization event as a political candidate, the church or religious organization must take steps to ensure” that “it provides an equal opportunity to the political candidates seeking the same office.”<sup>35</sup> The Churches have repeatedly featured candidate Blackwell at events they sponsor, including the following:

- August 26, 2005: Blackwell addresses FCC Ohio Restoration Project luncheon in Mason (near Cincinnati), Ohio;<sup>36</sup>
- August 29, 2005: Blackwell, seated in front pew, endorsed for Ohio Governor by former U.S. Senator and Republican campaign figure Zell Miller at RO’s project meeting;<sup>37</sup>

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<sup>32</sup> Appendix G, at D5.

<sup>33</sup> Appendix G, at D5.

<sup>34</sup> Appendix C, at 2.

<sup>35</sup> IRS Publication 1828, at 8

<sup>36</sup> Appendix C, at 1.



- October 15, 2005: Blackwell is a featured speaker at the kickoff rally for RO, Ohio Capitol Square, Columbus;<sup>38</sup>
- October 25, 2005: Blackwell is a speaker at FCC’s Ohio Restoration Project luncheon, Findlay, Ohio;<sup>39</sup>
- October 27, 2005: Blackwell is speaker at FCC’s Ohio Restoration Project luncheon, Canton, Ohio;<sup>40</sup>
- November 7, 2005: Blackwell is a member of the host committee for an ORP fundraiser, Cincinnati, Ohio;<sup>41</sup>
- November 15, 2005: Blackwell is a speaker at ORP luncheon, Dayton, Ohio;<sup>42</sup>
- February 23, 2006: Blackwell is scheduled to be speaker at an ORP dinner, Portsmouth, Ohio;<sup>43</sup>
- Late-February/mid-March 2006: Blackwell is scheduled to be speaker at “Ohio for Jesus” rally being organized by WHC and FCC.<sup>44</sup>

Despite the fact there are three other mainstream candidates in the gubernatorial race (two Republicans and one Democrat), we are not aware of any FCC or Church event involving any of the other candidates for Ohio governor in 2006.

While it may be permissible under certain circumstances for a church or religious organization to invite a candidate to its events as a “non-candidate,” the IRS, in informal guidance, has provided that:

the church or religious organization must ensure that:

- the individual speaks only in a non-candidate capacity,
- neither the individual nor any representative of the church makes any mention of his or her candidacy or the election, and
- no campaign activity occurs in connection with the candidate’s attendance.

In addition, the church or religious organization should clearly indicate the capacity in which the candidate is appearing and should not mention the individual’s political candidacy or the upcoming election in the communications announcing the candidate’s attendance at the event.<sup>45</sup>

In the media reports of Church events featuring Mr. Blackwell, we have found no indication that Mr. Blackwell was appearing at any of these events as a non-candidate as Publication 1828 requires. To our knowledge, Mr. Blackwell is not a member of any of

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<sup>37</sup>Appendix G, at D5.

<sup>38</sup>Appendix H, at B2.

<sup>39</sup>ORP “Events” web page (hereinafter “Appendix I”), at 1.

<sup>40</sup>Appendix I, at 2.

<sup>41</sup>Appendix I, at 1.

<sup>42</sup>Appendix I, at 1.

<sup>43</sup>Appendix I, at 2.

<sup>44</sup>Appendix B, at 3.

<sup>45</sup>IRS Publication 1828, at 9.

the churches, and it seems odd that he would make so many courtesy visits to a church in his capacity as a government official (Secretary of State.) To the contrary—Blackwell’s presence was part of an orchestrated partisan plan. According to reports about WHC’s fourth statewide gathering of 1,320 conservative Ohio pastors, “Blackwell was endorsed by [former U.S. Senator and Republican campaign-trail operative Zell] Miller.... ‘You are the kind of leader this state—any state—needs,’ Miller said to Blackwell, who was seated in a front-row pew [in WHC’s sanctuary].”<sup>46</sup> This endorsement was so significant that Candidate Blackwell later acknowledged his appreciation for it and his belief that it was part of a series of endorsements that proved he was the “only genuine conservative in the race.”<sup>47</sup>

The national media is taking note of the church’s support for Blackwell. The New York Times has reported that the “initial goal” of Johnson’s ORP “is to elect Secretary of State J. Kenneth Blackwell, a conservative Republican, governor in 2006.”<sup>48</sup> The Columbus Dispatch reports that although WHC’s Parsley and FCC’s Johnson “have been careful not to endorse Ohio Secretary of State J. Kenneth Blackwell’s Republican candidacy for governor,” at least not overtly, “Blackwell has become a regular at their events and often is asked to speak.”<sup>49</sup> As a result, according to one observer, “I think it’s pretty clear in this case that Rev. Parsley is supporting Ken Blackwell for governor.”<sup>50</sup> While a pastor is entitled to support any candidate he chooses in his private capacity, the endorsement of Blackwell has extended to church events.

The endorsement of Blackwell, made explicit by Republican campaign fixture and former Senator Zell Miller, clearly warrants an IRS church tax inquiry of the intervention in Ohio’s 2006 gubernatorial campaign. Unless FCC and WHC can establish to the IRS’s satisfaction that they have ensured that Mr. Blackwell has spoken at their events “only in a non-candidate capacity;” that neither Mr. Blackwell “nor any representative of the church” has made “any mention” of his “candidacy or the election” at church events; that “no campaign activity” has occurred at church events “in connection with the candidate’s attendance;” and that they have clearly indicated “the capacity in which the candidate is appearing” and have not mentioned “the individual’s political candidacy or the upcoming election in the communications announcing the candidate’s attendance at the event,”<sup>51</sup> the tax-exempt status of the Churches should be revoked and the Churches and their managers should be assessed taxes under IRC Section 4955 based on their political campaign expenditures. Further, in view of the flagrant abuses, further participation by candidate Blackwell in events sponsored by the Churches, such as the upcoming “Ohio for Jesus” rally, should be enjoined.

2. The Churches have conducted and facilitated partisan voter registration campaigns.

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<sup>46</sup> Appendix G, at D5.

<sup>47</sup> Appendix G, at D5.

<sup>48</sup> Appendix A, at 1.

<sup>49</sup> Appendix G, at D5.

<sup>50</sup> Appendix G, at D5.

<sup>51</sup> IRS Publication 1828, at 9.

Second, the Churches have violated restrictions on political campaign activity by leading an effort to register hundreds of thousands of members of Churches that have become a part of the ORP and RO projects. Tax-exempt organizations may engage in “activities intended to encourage people to participate in the electoral process, such as voter registration and get-out-the-vote drives, ... if conducted in a non-partisan manner.”<sup>52</sup> Such activities “constitute prohibited political campaign activity,” however, if there is “evidence of bias that: (a) would favor one candidate over another; (b) oppose a candidate in some manner; or (c) have the effect of favoring a candidate or group of candidates.”<sup>53</sup> The Churches have developed a multifaceted voter registration plan that is calculated to yield increased votes for Blackwell (and, going forward, any other candidates who support their political agenda) by targeting their voter registration efforts at churches whose members are likely to be politically conservative.

The evidence that the Churches are engaging in biased voter registration activities includes the following:

- The ORP web-site asks each “Patriot Pastor” to “covenant” to registering 300 new voters who will be “able to shine a light for Godly candidates in the 2006 election cycle;”<sup>54</sup>
- ORP’s documents call upon “Patriot Pastors” to host voter registration drives in their churches;<sup>55</sup>
- ORP’s Plan announces that Blackwell will be featured in “Ohio for Jesus” advertising (“30-second radio spots featuring Secretary of State Ken Blackwell on ‘The Stewardship of our Citizenship’”);<sup>56</sup>
- August 29, 2005: at a RO meeting, 1,320 pastors “vowed” to “sign up new voters in their churches for next year’s elections;”<sup>57</sup>
- September, 2005: ORP announces plan to recruit 2,000 “Patriot Pastors” who are to help build a voter registration database of 300,000 postal addresses and 100,000 e-mail addresses of “values voters;”
- October 15, 2005: WHC announced a goal of registering 400,000 voters statewide as part of RO effort; and <sup>58</sup>
- Christian Coalition of Ohio “Sponsor a Church Voter Registration Drive” mailing, also distributed by WHC, thanks pastors for hosting a voter registration drive “in your church during your God and Country Service. This is a great opportunity to ensure that church members are registered to vote.... Our goal is to register Christians to vote.... If we simply register our church members to vote” then “it is a fact we can win 80% of all elections.”<sup>59</sup>

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<sup>52</sup> IRS Publication 1828, at 7.

<sup>53</sup> *Id.*

<sup>54</sup> See ORP “Patriot Pastors” web page (hereinafter “Appendix J”), at 1.

<sup>55</sup> Appendix E, at 2.

<sup>56</sup> Appendix E, at 2.

<sup>57</sup> Appendix G, at D5 (emphasis added).

<sup>58</sup> Appendix E, at 2.

<sup>59</sup> Appendix L (emphasis of italicized portions in original).

The Churches have designed programs to ensure that their voter registration drives target only conservative Christians likely to support a Republican agenda. Moreover, there are intricate control mechanisms in the drives to ensure maximum impact. Churches allied with ORP and RO are to complete a “Liaison Reporting Form” that is to be faxed to the Christian Coalition State Office on Monday following “Citizenship Sunday,” with contact information for the church and its voter registration liaison.<sup>60</sup> These liaisons are then to “collect all Voter Registration Forms” completed during “Citizenship Sunday” worship services and “*hand deliver them to the County Board of Elections on Monday* morning after Citizenship Sunday.”<sup>61</sup>

It appears, based on the foregoing activities, that the Churches engaged in partisan efforts to register only Christians to vote; in particular members of churches that are allied with the ORP and RO projects are targeted by this highly biased voter education drive. The IRS should conduct a church tax inquiry to determine the severity of then violations. Any further involvement by the Churches in voter registration drives should immediately be enjoined, the tax-exempt status of the Churches should be revoked and the Churches and their managers should be assessed a tax based on their political campaign expenditures.

3. The Churches have engaged and are orchestrating the distribution of biased voter education materials.

Third, the Churches are to lead an effort to distribute biased voter “education” materials using a network of churches that are allied with ORP and RO. Tax-exempt organizations may “undertake voter education activities by distributing *voter guides*... These guides may be distributed with the purpose of educating voters; however, they may not be used to attempt to favor or oppose candidates for public office.”<sup>62</sup> The Churches are attempting to capitalize on their voter registration efforts within “like-minded” churches by providing these churches with biased voter “education” materials that will seek to reinforce the likelihood that voters belonging to the churches will disproportionately support Blackwell and other candidates whom the Churches support.

The Churches’ current voter “education” efforts include the following:

- According to ORP’s Plan, “Patriot Pastors” are to “Include Voter Guides and inserts provided from Christian Coalition, American Family Association, and Center for Moral Clarity. Informed voters appreciate these tools in discovering where candidates stand on the issues.... These guides help clarify the positions of various candidates who, at times, would like to remain vague and noncommittal;”<sup>63</sup> and

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<sup>60</sup> Appendix M.

<sup>61</sup> Appendix K (emphasis in original).

<sup>62</sup> IRS Publication 1828, at 10.

<sup>63</sup> Appendix E, at 2

- ORP’s Plan indicates a goal of “4 Million Voter Guides distributed in the fall of 2005 for first the May Primaries in 2006 and then for November 2006.”<sup>64</sup>

A Christian Coalition of Ohio mailing recently distributed by WHC reveals that these plans include the distribution of voter “guides” that compare the positions of various candidates on “key moral issues such as abortion, homosexual marriage, judicial tyranny, taxes on families, educational choice, and gambling. We achieve this by surveying candidates about their positions on these vital issues, and we publish the results in a Voter Guide.... *Please let us know how we can serve you* with this vital education service by contacting us and letting us know how many Voter Guides you would like to have for your church and community.”<sup>65</sup> Allied churches are asked to “[d]esignate a church volunteer who will help to distribute” these guides to the candidates’ positions on issues of importance to conservative Christians.<sup>66</sup>

Voter guides “may not be used to attempt to favor or oppose candidates for elected public office.”<sup>67</sup> Voter guides are likely to be prohibited political campaign activity if “the candidates’ positions are compared to the organization’s position.” The Christian Coalition of Ohio voter guides intend to compare candidate positions to the positions of the churches allied with ORP and RO on “key moral issues.” The Churches should be enjoined from carrying out their plans to distribute millions of voter “guides.” The IRS, through a church tax inquiry, must determine if, due to their involvement thus far in planning this biased voter “education” effort, the tax-exempt status of the Churches should be revoked, and the Churches and their managers should be assessed a tax based on expenditures made in support of this activity.

We believe that the foregoing conclusively demonstrates that the Churches have violated the prohibitions the Internal Revenue Code and Treasury Regulations regarding participation by tax-exempt organizations in political campaign activity. Accordingly, we request that the IRS initiate church tax inquiry proceedings (or in the case of ORP, an examination) immediately and that the IRS pursue all appropriate remedies.

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<sup>64</sup> Appendix E, at 2.

<sup>65</sup> Appendix N (emphasis in original).

<sup>66</sup> Appendix N (emphasis in original).

<sup>67</sup> Publication 1828, at 10.

I have read the attached letter to the Internal Revenue Service and I am hereby joining as a co-signatory in support of its request that the IRS address the concerns it sets forth.

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

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

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