Don Kramer's An Electronic Newsletter of "Nonprofit Law You Need to Know"
NONPROFIT ISSUES
www.nonprofitissues.com

Volume XXVIII, No. 1

Charity CEO must pay excess benefit taxes

The Tax Court has imposed first and second tier excess benefit taxes on the CEO of The Association for Honest Attorneys, who used the organization's money for personal purchases over a three-year period. The total amount for the three-year period is more than $88,000.

Joan Farr, (formerly known as Joan Heffington) was the CEO of the Association operating from her home. During the three years, she spent more than $39,000 with vendors such as Dillard's, Walmart, Kwik Shop, Kohl's, Walgreens, Dillons, A&A Auto Salvage, T&S Tree Service and other real estate related firms. She filed the annual Form 990-N stating the organization was operational, but filed no tax returns showing income and expenditures.

She did not report any personal income from the organization on her personal income tax return, but claimed the expenditures were in lieu of compensation when the IRS inquired. The organization filed no employee tax information for those years and had no record of receiving loans from her.

The Court had no trouble agreeing with the IRS that Farr was a disqualified person because she was both CEO and a member of the board of directors. But it disregarded her testimony that the purchases were for a business purpose, or were compensation, or were repayments of loans she had made to the organization. It found her documentation "questionable, not reliable, not credible, and/or otherwise not persuasive." It said that she had failed to carry her burden of establishing error in the IRS's determinations of deficiencies.

Since it was not disputed that she had failed to "correct" the improper payments, it imposed the 200% penalty tax in addition to the first tier tax of 25% of the excess. (*Farr v. Commissioner*, T.C. Memo 2018-2, 1/9/18.)

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