

Delivered-To: 186-rlang@fabriquecosmetique.com
Subject: Questions regarding private foundation spending restrictions and L3Cs
Date: Thu, 25 Jun 2009 13:01:58 -0700
Thread-Topic: Questions regarding private foundation spending restrictions and L3Cs
Thread-Index: Acn1z8yNR2WAY4MDRtSqwwqEA5lv+pw==
From: "Grant Elizabeth" <Elizabeth.Grant@doj.state.or.us>
To: <MSO@Capdale.com>
Cc: <rlang@fabriquecosmetique.com>
X-Proofpoint-Virus-Version: vendor=fsecure
engine=1.12.8161:2.4.5,1.2.40,4.0.166 definitions=2009-06-25_13:2009-06-01,2009-06-25,2009-06-25 signatures=0
X-Proofpoint-Spam-Details: rule=notspam policy=default score=0
spamscore=0 ipscore=0 phishscore=0 bulkscore=0 adultscore=0
classifier=spam adjust=0 reason=mlx engine=5.0.0-0811170000
definitions=main-0906250147
X-CanItPRO-Stream: rlang@fabriquecosmetique.com
X-CanIt-Stats-ID: Bayes signature not available

Mr. Owens,

I am sorry we didn't have a chance to connect in person at the meeting at the Urban Institute this week. I had a couple of questions I wanted to raise with you, but there wasn't really an opportunity, so I will ask them via email instead. I am not raising these questions on behalf of NASCO, but for my own edification in attempting to better understand the L3C proponents' positions on the appropriate uses of private foundation funds. However, I would be happy to share any information you provide with members of NASCO that have expressed an interest in the L3C concept.

It is my understanding the private foundations are essentially prohibited from funding lobbying efforts. I believe the L3C legislative concept incorporates recognition of these restrictions. I located the following description of the lobbying restriction on the IRS website:

<<http://www.irs.gov/charities/foundations/article/0,,id=175254,00.html>
><http://www.irs.gov/charities/foundations/article/0,,id=175254,00.html>

As that page notes, private foundations that spend money on lobbying are subject to excise taxes. It is also my understanding that foundations that spend substantial amounts on lobbying risk the loss of their tax exempt status.

However, perhaps the regulations pertaining to private foundation legislative activity are less restrictive than I understand them to be. In an April 13, 2009 email from Mr. Lang to Chris Cash on which you were copied, there is an implication that the Mannweiler Foundation is funding the L3C proponents lobbying efforts. That is suggested even more clearly by the Mannweiler Foundation's 2007 990-PF. The Foundation's 2007 return indicates at Attachment E that approximately \$164,000 out of roughly \$182,000 in total expenditures was spent promoting the L3C legislation. On the other hand, in response to specific 990 PF questions about lobbying activities (Part VII-A(1a), and Part VII-B (1)), the foundation responded that it had not attempted, or paid any amount, to influence legislation during 2007.

I am not sure I understand the Foundation's distinction between "promoting" legislation and "attempting to influence" legislation. I am hoping you can provide more detail about the nature of the Foundation's expenditures in support of the L3C legislation and clarification as to how Foundation's expenditures to promote legislation are consistent with IRS restrictions limiting lobbying activity. What types of legislation can private foundations promote consistent with their charitable purposes and where is the line between "promoting" legislation and impermissible attempts to "influence" legislation?

I am also wondering if you could address the application of private foundation prohibitions against self-dealing to the L3C concept. Would it be appropriate for a private foundation to invest in an L3C in which an officer or director had an ownership or other financial interest?. To what extent, for example, could the Mannweiler Foundation invest or support the efforts of L3C Advisors?

As the L3C concept moves forward, it will be increasingly important for L3Cs and their private foundation investors to have an understanding as to where lines are drawn with respect to foundation restrictions such as prohibitions on lobbying and self-dealing, so I hope that you might be willing to clarify these issues for me, using the Mannweiler Foundation as a starting point for such a discussion.

Thank you for your thoughts on the matter and I appreciate whatever perspective you are able to provide.

Elizabeth Grant

Attorney-in-Charge
Charitable Activities Section
Oregon Department of Justice
971.673.1919 (phone)

*****CONFIDENTIALITY NOTICE*****

This e-mail may contain information that is privileged, confidential, or otherwise exempt from disclosure under applicable law. If you are not the addressee or it appears from the context or otherwise that you have received this e-mail in error, please advise me immediately by reply e-mail, keep the contents confidential, and immediately delete the message and any attachments from your system.
