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11	Fax: 858-623-4299	
12	Attorneys for Plaintiffs	
13	UNITED STATES	DISTRICT COURT
14	SOUTHERN DISTR	ICT OF CALIFORNIA
15	FREE SACRED TRINITY CHURCH,	Case No.: '21CV1756 GPC DEB
16	a California nonprofit religious	
17	corporation; and OPTIMUM HEALTH INSTITUTE - SAN DIEGO, a	IMAGED FILE
18	California nonprofit religious	COMPLAINT FOR VIOLATION
19	corporation,	OF FREEDOM OF INFORMATION ACT [5 U.S.C. § 552]
20	Plaintiffs,	1101 [5 0.5.0. \$ 552]
21	V.	
22	INTERNAL REVENUE SERVICE,	
23	Defendant.	
24	Defendant.	
25	Plaintiffs Free Sacred Trinity Chur	ch ("FSTC") and Optimum Health Institute
26		ion against the Internal Revenue Service
27		reedom of Information Act, 5 U.S.C. § 552
28	("FOIA").	
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JURISDICTION AND VENUE

- 1. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331, because this is an action to enforce FOIA by complainants who have their principal place of business in this district.
- 2. Venue is proper in this district pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

PARTIES

- 3. Plaintiff FSTC is a nonprofit, religious corporation organized under the laws of the State of California and has its principal place of business at 6970 Central Avenue, Lemon Grove, California 91945. Plaintiff FSTC is operated to serve humankind as a church which teaches and trains followers in a distinct religious creed based upon Judeo-Christian beliefs and holistic healing and nutrition practices.
- 4. Plaintiff OHI-SD is a nonprofit, religious corporation organized under the laws of the State of California and has its principal place of business at 6970 Central Avenue, Lemon Grove, California 91945. Plaintiff OHI-SD is affiliated with and subject to the general supervision and control of Plaintiff FSTC. Plaintiff OHI-SD is organized and operated to be a church engaged in the indoctrination of devotees and potential devotees in the teachings and doctrine of Plaintiff FSTC, a church.
- 5. Defendant, the IRS, is a component entity of the Department of the Treasury, which is a Department of the Executive Branch of the United States Government. The IRS is headquartered at 1111 Constitution Avenue, NW, Washington, D.C. 20224. Defendant has possession, custody, and control of the records requested by Plaintiffs.

STATEMENT OF FACTS

The Basis for the FOIA Requests

6. By a letter dated October 29, 2018, David W. Horton, then Acting Commissioner, Tax Exempt and Government Entities Division, IRS, informed

Plaintiff FSTC that the Commissioner had questions and concerns regarding FSTC's tax-exempt status as a church under 26 U.S.C. § 501(a). A true and correct copy of that letter is attached hereto as Exhibit 1. The October 29, 2018 letter confirmed that an audit was a possible outcome of the inquiries (the "IRS Inquiries") initiated by such letter.

- 7. In a 105-page response (including a 23-page letter and 82 pages of attachments) dated November 20, 2018, Plaintiffs informed the Commissioner, among other things, that Plaintiff FSTC has not substantively changed the way in which it operates since it was formed approximately 42 years ago. Since its inception, Plaintiff FSTC has been audited by the IRS, has applied for and received a 501(c)(3) / 170(b)(1)(A)(i) Determination Letter, and has been issued a Group Exemption Number. In each of those instances, the IRS undertook an in-depth review of Plaintiff FSTC's activities and those of its then-existing missions, and consistently determined that Plaintiff FSTC is properly recognized by the IRS as a church within the meaning of 26 U.S.C. § 170(b)(1)(A)(i).
- 8. Notwithstanding Plaintiffs' substantive response to the IRS Inquiries and the numerous instances in which the IRS has previously reviewed Plaintiff FSTC's activities and those of its missions and found them to be those of a church, the IRS has commenced an audit of FSTC for the tax period ended December 31, 2016.

The 2019 FOIA Request and FOIA Action

- 9. In order to fully address and provide responses to the IRS's concerns, Plaintiffs would like to understand what caused the IRS to begin the IRS Inquiries. On March 5, 2019, Plaintiffs submitted to Defendant by certified mail a FOIA request dated March 4, 2019 (the "2019 FOIA Request"), seeking access to:
 - a. The IRS's entire file (including, without limitation, its administrative file), that may or does relate to the IRS Inquiries, including, without limitation:
 - i. All intra-IRS correspondence and referrals;

and

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All inter-agency correspondence and referrals;

All inter-governmental entity (for example, state

governmental entity) correspondence and referrals;

5 All whistleblower filings or public complaints iv. howsoever documented and regardless of whether on 6 Form 211, Form 13909, or otherwise; 7 8 b. All other documents in the IRS's possession that may or do relate 9 to the IRS Inquiries, including any documents showing how the IRS reached a decision, or contributed to the IRS's decision, to 10 raise the IRS Inquiries; and 11 All documents provided to, made available to, seen by, referred 12 c. 13 to, or otherwise provided for use or used, in any manner by the applicable high-level Treasury official (as that phrase is used in 14 26 U.S.C. § 7611(a)(2)), in forming a reasonable belief on the 15 basis of facts and circumstances recorded in writing to justify the 16 IRS examination of any, some, or all of Plaintiff FSTC, 17 Plaintiff OHI-SD, and/or their affiliate, OHI-A [Optimum Health 18 19 Institute - Austin]. A true and correct copy of the 2019 FOIA Request is attached hereto as Exhibit 2. 20 21 10. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), Defendant was required to determine whether to comply with Plaintiffs' request within twenty (20) working days 22 23 after Defendant's receipt of Plaintiffs' 2019 FOIA Request (i.e., by April 8, 2019), and to notify Plaintiffs immediately of its determination, the reasons therefor, and the 24 right to appeal any adverse determination. In a letter dated April 8, 2019, Defendant 25 acknowledged receipt of Plaintiffs' 2019 FOIA Request and assigned it case number 26 27 F19071 0040. After four extensions of the statutory response deadline (by letters dated April 8, 2019; June 21, 2019; and September 25, 2019) extending the deadline 28 COMPLAINT

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- 11. In light of the above, on December 9, 2019, Plaintiffs filed a Complaint for Violation of Freedom of Information Act [5 U.S.C. § 552] which initiated the action entitled Free Sacred Trinity Church, et al. v. IRS, No. 3:19-cv-02358-W-JLB (S.D. Cal.) (the "2019 FOIA Action").
- 12. In the 2019 FOIA Action, the IRS agreed to release all non-exempt, responsive records to Plaintiffs in response to the 2019 FOIA Request and released the first set of records on December 20, 2019; transferred the FOIA request from the agency's Disclosure Office to the IRS Office of Chief Counsel in order to assist the Department of Justice in that case; and informed the Court that the Office of Chief Counsel would "(1) conduct a separate search of the records released in December 2019 and [] release accordingly and (2) conduct a supplemental search for responsive records and release any responsive, non-exempt records." Status Report, Free Sacred Trinity Church, et al. v. IRS, No. 3:19-cv-02358-W-JLB (S.D. Cal. May 15, 2020), ECF No. 13 at ¶¶ 2-3.
- 13. The IRS Office of Chief Counsel completed its supplemental search of the records released in December 2019 and, beginning in March 2020, commenced a supplemental search of responsive records. Status Report, Free Sacred Trinity Church, et al. v. IRS, No. 3:19-cv-02358-W-JLB (S.D. Cal. May 15, 2020), ECF No. 13 at ¶ 8. Beginning May 11, 2020, the IRS began releasing responsive, non-exempt records as they became available and continues to release such records on a monthly rolling basis. Id.; Order, Free Sacred Trinity Church, et al. v. IRS, No. 3:19-cv-02358-W-JLB (S.D. Cal. Sept. 20, 2020), ECF No. 20 at ¶ 2. The Court also ordered the IRS to file a Status Report every sixty days to update the Court on the progress of the document review and release of records. Order, ECF No. 20 at ¶ 1.

14. In a Status Report filed by the IRS on July 12, 2021, the IRS stated that it expects to complete its document review regarding the 2019 FOIA Request sometime between October and December 2021. Status Report, *Free Sacred Trinity Church, et al. v. IRS*, No. 3:19-cv-02358-W-JLB (S.D. Cal. July 12, 2021), ECF No. 25 at ¶¶ 3, 5. The IRS also confirmed that it will continue to release all non-exempt, responsive records in response to the 2019 FOIA Request to Plaintiffs on a monthly basis. *Id.* at ¶ 6. This confirmation was reiterated in the IRS's latest Status Report filed on September 10, 2021. Status Report, *Free Sacred Trinity Church, et al. v. IRS*, No. 3:19-cv-02358-W-JLB (S.D. Cal. September 10, 2021), ECF No. 26 at ¶ 3.

The 2021 FOIA Request

- 15. Because of the amount of time that has elapsed since Plaintiffs' 2019 FOIA Request and to ensure that Plaintiffs receive all relevant records, on March 12, 2021, Plaintiffs submitted to Defendant by certified mail a renewed FOIA request, which expanded the 2019 FOIA Request to include all documents prepared or dated from March 4, 2019 to and including the date on which the IRS provides its last batch of documents to Plaintiffs regarding the request and which includes additional categories of documents (the "2021 FOIA Request"). The 2021 FOIA Request seeks access to:
 - a. The IRS's entire file (including, without limitation, its administrative file), that may or does relate to the IRS Inquiries (as defined below), including, without limitation:
 - i. All intra-IRS correspondence and referrals;
 - ii. All inter-agency correspondence and referrals;
 - iii. All inter-governmental entity (e.g., state governmental entity) correspondence and referrals; and

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All whistleblower filings or public complaints iv. 1 howsoever documented and regardless of whether on 2 3 Form 211, Form 13909, or otherwise; All other documents in the IRS's possession that may or do relate 4 b. 5 to the IRS Inquiries, including any documents showing how the IRS reached a decision, or contributed to the IRS's decision, to 6 raise the IRS Inquiries; 7 All documents provided to, made available to, seen by, referred 8 c. 9 to, or otherwise provided for use or used, in any manner by the applicable high-level Treasury official (as that phrase is used in 10 IRC section 7611(a)(2)), in forming a reasonable belief on the 11 basis of facts and circumstances recorded in writing to justify the 12 13 IRS examination of any, some, or all of FSTC, OHI-SD, and/or OHI-A [Optimum Health Institute - Austin]; 14 All other documents in the IRS's possession that may or do relate 15 d. to or show how the IRS reached a decision, or contributed to the 16 17 IRS's decision, to issue the two initial reports of examination 18 issued to me under cover of letter dated January 21, 2021; All documents that relate to the Treasury Inspector General for 19 e. Tax Administration ("TIGTA") inquiry or investigation of Paul J. 20 Dostart, and/or which relate to the interview of Paul J. Dostart by 21 22 TIGTA agents on May 14, 2020, and which were created on or 23 after January 1, 2020, and extend up until the present; and If you determine that there exist documents which are described 24 f. 25 in this FOIA request but which you decide to not disclose, a description of such document(s), the reasons for your non-26 27 disclosure decision, and any documents relied upon or that may be relied upon to make that decision. 28

- 16. As noted above, Plaintiffs' 2021 FOIA Request seeks additional categories of documents including those outlined in subsections "d" through "f" of paragraph 15 above. These documents are necessary so that Plaintiffs may adequately address and respond to the IRS's concerns and inquiries. In response to subsection "e" of paragraph 15 above, in a letter dated April 23, 2021, Defendant, on behalf of TIGTA, requested a 10-business-day extension to respond to that request. A true and correct copy of that letter is attached hereto as Exhibit 4. On May 25, 2021, Defendant produced approximately 250 pages of documents in response to subsection "e" of paragraph 15 above; however, these are the only documents that Plaintiffs have received, and Plaintiffs do not believe that this production includes all documents responsive the request.
- 17. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), Defendant was required to determine whether to comply with Plaintiffs' request within twenty (20) working days after Defendant's receipt of Plaintiffs' FOIA request (i.e., by April 21, 2021), and to notify Plaintiffs immediately of its determination, the reasons therefor, and the right to appeal any adverse determination.
- 18. In a letter dated April 21, 2021, Defendant acknowledged receipt of Plaintiffs' 2021 FOIA Request and assigned it case number 2021-11216. A true and correct copy of that letter is attached hereto as Exhibit 5. In its April 21, 2021 letter, Defendant notified Plaintiffs that it had extended the statutory response deadline date to May 5, 2021, and also requested a further extension until June 22, 2021.
- 19. In a letter dated June 21, 2021, Defendant requested a third extension until September 21, 2021 to respond to Plaintiffs' 2021 FOIA Request. A true and correct copy of that letter is attached hereto as Exhibit 6.
- 20. In a letter dated September 17, 2021, Defendant requested a fourth extension until December 21, 2021 to respond to Plaintiffs' 2021 FOIA Request. A true and correct copy of that letter is attached hereto as Exhibit 7.

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- 21. In addition to the requests for extensions of time by letter, Defendant has called Plaintiffs' counsel no less than two times to request extensions.
- 22. As of the date of this Complaint, Defendant has failed to produce all of the requested records in response to the 2021 FOIA Request or otherwise demonstrate that the requested records are exempt from production.
- 23. Because Defendant has failed to comply with the time limit set forth in 5 U.S.C. § 552(a)(6)(A)(i), Plaintiffs are deemed to have exhausted any and all administrative remedies with respect to Plaintiffs' 2021 FOIA Request, pursuant to 5 U.S.C. § 552(a)(6)(C).

COUNT 1

(Violation of FOIA, 5 U.S.C. § 552)

- 24. Plaintiffs reallege paragraphs 1 through 22 as if fully stated herein. Defendant is unlawfully withholding records requested by Plaintiffs pursuant to 5 U.S.C. § 552.
- 25. Plaintiffs are being irreparably harmed by reason of Defendant's unlawful withholding of records responsive to Plaintiffs' 2021 FOIA Request, and will continue to be irreparably harmed unless Defendant is compelled to conform its conduct to the requirements of the law.

PRAYER

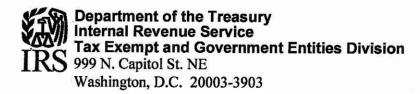
WHEREFORE, Plaintiffs respectfully request that the Court:

- 1. Order Defendant to conduct searches for any and all records responsive to Plaintiffs' 2021 FOIA Request and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to Plaintiffs' 2021 FOIA Request;
- 2. Provide for expeditious proceedings in this action, including an order that Defendant produce, by a date certain, any and all records responsive to Plaintiffs' 2021 FOIA Request;

1	3.	Award Plaintiffs t	their atto	orney's fees and other costs reasonably incurred				
2		n, pursuant to 5 U.						
3	4. Grant Plaintiffs such other relief as the Court deems just and proper.							
4				, , , , , , , , , , , , , , , , , , , 				
5				Respectfully submitted,				
6				LiMANDRI & JONNA LLP				
7								
8	Dated: Octo	ober 8, 2021	Bv:					
9				Paul J. Dostart Paul M. Jonna				
10				Mark D. Myers Attorneys for Plaintiffs				
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TABLE OF EXHIBITS Page Exhibit 1 – Letter from David W. Horton, then Acting Commissioner, to Fee Sacred Trinity Church dated October 29, 20181 Exhibit 4 – Internal Revenue Service letter dated April 23, 202135 Exhibit 6 – Internal Revenue Service letter dated June 21, 2021.......42 Exhibit 7 – Internal Revenue Service letter dated September 17, 2021.......45

EXHIBIT 1



Free Sacred Trinity Church Attn: Robert Nees, Jr., Chairman 2305 Historic Decatur Rd., Ste. 101 San Diego, CA 92106-6071

Certified Mail

Dear Mr. Nees:

Date: 10/29/2018

Person to contact:

Name: E. Lowrey ID number: 1000902602 Telephone: 415-837-6665

Fax: 855-813-2583 Taxpayer ID number:

Form: 990

Tax periods ended: December 31, 2016

Manager's contact information: Name: Greg Wooten

ID number: 1000072202 Telephone: 206-946-3482

Response due date:

15 days from date of this letter

Why we're sending you this letter

We have some questions about your tax-exempt status as a church under Internal Revenue Code Section 501(a).

Our concerns are based on documentary information obtained from our review of your website and other sources. A search for your website directs the user directly to Optimum Health Institute (www.optimumhealth. org). This website presents the details of a residential body-mind-spirit program conducted at sites near San Diego, California and Austin, Texas. In 2011, a Federal district court judge found that your San Diego program constituted a business establishment and public accommodation. Our concern is that your program is being operated more than insubstantially for commercial purposes, which raises concerns about our continuing recognition of you as an organization described in section 501(c)(3). In addition, through comparing your exemption application correspondence of August 18, 2000 and your website, we are concerned whether to continue to recognize you as a church without a requirement to file annual Forms 990.

We can conduct inquiries and examinations to determine the accuracy of any tax return, create a return when a taxpayer doesn't file one, and determine the tax liability of any person or organization (Internal Revenue Code (IRC) Section 7602). However, IRC Section 7611 restricts us in conducting tax inquiries and examinations of churches and conventions or associations of churches. IRC Section 7611 protects the rights of churches, and provides a framework for us to resolve questions about their tax liability and tax-exempt status and to enforce the internal revenue laws.

As Tax Exempt and Government Entities Commissioner, I have a reasonable belief that you may not be tax-exempt as a church under IRC Section 501(a) or that you may be liable for tax. I'm approving this church tax inquiry as described in IRC Section 7611(a).

What you need to do

Respond to the enclosed Church Tax Inquiry Questions by the response due date above. Answer each question completely. If your responses resolve our concerns about your exempt status and tax liability, we'll close our inquiry.

Send your response to:

Evangeline Lowrey
Internal Revenue Agent
Internal Revenue Service
Mail Stop 7401
450 Golden Gate Avenue
San Francisco, CA 94102

If we don't hear from you by the response due date above, we may issue you Letter 5309, Notice of Church Examination, and begin an examination of your records or religious activities.

Where you can go for more information

The enclosed statement explains your administrative and constitutional rights during a tax inquiry and examination. You're entitled to a conference with us to discuss our concerns before we begin an examination. If we send you a Notice of Church Examination, we'll offer you the opportunity for a conference.

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit taxpayeradvocate.irs.gov or call 877-777-4778.

If you have questions, you can contact the person at the top of this letter.

Sincerely,

Digitally signed by David W Horton Date: 2018.10.29 09:58:57

David W. Horton Acting Commissioner

Tax Exempt and Government Entities Division

Enclosures:

Church Tax Inquiry Questions
Statement of Administrative and Constitutional Rights

Free Sacred Trinity Church

Questions

We have concerns about continuing to recognize you as a tax-exempt church. Our concerns are based on documentary information obtained from our review of your website and other sources. A search for your website directs the user directly to Optimum Health Institute ("OHI") (www.optimumhealth.org). This website presents the details of a residential body-mind-spirit program conducted at sites near San Diego, California and Austin, Texas. In 2011, a Federal district court judge found that your San Diego program constituted a business establishment and public accommodation. Our concern is that your program is being operated more than insubstantially for commercial purposes, which raises concerns about our continuing recognition of you as an organization described in section 501(c)(3). In addition, through comparing your exemption application correspondence of August 18, 2000 and your website, we are concerned whether to continue to recognize you as a church without a requirement to file annual Forms 990.

Please answer the following questions:

- 1. Please identify the number of individuals who enrolled in your program at your San Diego, California and Austin, Texas locations ("guests") in the year 2016.
- 2. How many of these guests paid the full program fee/tuition? Please describe how you administer collecting program fee/tuition and room fees from guests. For example, is full payment expected before a Sunday arrival? Are payment plans permitted? If yes, what is the frequency of such?
- 3. How many of these guests were not required to pay the full program fee/tuition? Please explain the conditions necessary or presented to you for guests to avoid paying the full program fee/tuition? If some guests paid only part of the full program fee/tuition, please describe those circumstances.
- 4. How much revenue did you derive from guests paying program fee/tuition in 2016?
- 5. How much revenue did you derive from guests paying room fees in 2016?
- 6. Describe, categorize, and quantify any revenue other than program fee/tuition and room fees derived in 2016, including identifying and quantifying any amounts considered as charitable contributions.
- 7. Describe the considerations and processes you use in determining the amount to charge guests for program fees/tuition and room fees.
- 8. Who do you consider to be the competitors to your program? Have you conducted any market research either internally or through hiring a consultant or

independent contractor? If yes, please describe when such market research was conducted and the extent it was used or relied upon in operation of you program.

- 9. Do you prepare an annual budget? If yes, please describe the process you employ.
- 10. Please explain the Church's programs as carried out through OHI. How much did it cost to operate your San Diego, California and Austin, Texas programs in 2016?
- 11. Describe the processes you use in deciding how much to pay your employees for their services. How much total compensation inclusive of wages, taxable and non-taxable fringe benefits (e.g., parsonage and car allowances) did you pay each of your top five employees in 2016?
- 12. Do you have any financial reserves? If yes, how much did you have at the end of 2016? What are you plans for any reserves?
- 13. Do you advertise your San Diego, California and Austin Texas programs? If yes, please describe the content and distribution of such advertisements.
- 14. Have there been any changes in your religious beliefs and creed since your correspondence of August 18, 2000, wherein you articulated such? If yes, please describe.
- 15. In your correspondence of August 18, 2000, you stated that you conduct Sunday services, which are more extensive than your daily services. In 2016, did you conduct religious worship services as you previously described? Please explain. Are any of these services available for attendance by individuals from the general public without charge? On average, how many individuals attended any such services in 2016?
- 16. Did the Church have a congregation that includes a body of believers or communicants who assemble regularly for communal worship? Please describe the makeup of this congregation. How many individuals are in the Church's congregation that regularly assembles for communal worship? Is your communal worship open to the public? What days of the week/month does the congregation assemble for communal worship?
- 17. Does the Church have an established place of worship where the congregation of the Church assembles for communal worship? Please provide the location of this facility.
- 18. Is the Church associated with any other churches or denominations? Please describe these associations.
- 19. Does the Church have an organization of ordained ministers? Please describe the makeup of the organization of these ordained ministers. What are the qualifications to become an ordained minister in the Church?

- 20. Does the Church provide schools for the preparation of its ministers? Please provide a description of lessons taught during these classes.
- 21. Are the programs carried out through OHI administered by ordained ministers?
- 22. Please provide a list of the Church's current officers, directors, trustees and key employees.
- 23. Do you have any policies regarding your San Diego program with respect to compliance with California state laws known as the California Unruh Civil Rights Act, Cal. Civ. Code § 51, et. seq and the California Disabled Persons Act, Cal. Civ. Code § 54, et. seq? If yes, please describe such policies. If you dispute application of these laws to your San Diego program, please explain.
- 24. Please provide any additional information or explanations that the Church would like to provide to us relating to the subject matter of the above questions.



Your Rights as a Taxpayer

Publication 1

This publication explains your rights as a taxpayer and the processes for examination, appeal, collection, and refunds. Also available in Spanish.

The Taxpayer Bill of Rights

1. The Right to Be Informed

Taxpayers have the right to know what they need to do to comply with the tax laws. They are entitled to clear explanations of the laws and IRS procedures in all tax forms, instructions, publications, notices, and correspondence. They have the right to be informed of IRS decisions about their tax accounts and to receive clear explanations of the outcomes.

2. The Right to Quality Service

Taxpayers have the right to receive prompt, courteous, and professional assistance in their dealings with the IRS, to be spoken to in a way they can easily understand, to receive clear and easily understandable communications from the IRS, and to speak to a supervisor about inadequate service.

3. The Right to Pay No More than the Correct Amount of Tax

Taxpayers have the right to pay only the amount of tax legally due, including interest and penalties, and to have the IRS apply all tax payments properly.

4. The Right to Challenge the IRS's Position and Be Heard

Taxpayers have the right to raise objections and provide additional documentation in response to formal IRS actions or proposed actions, to expect that the IRS will consider their timely objections and documentation promptly and fairly, and to receive a response if the IRS does not agree with their position.

5. The Right to Appeal an IRS Decision in an Independent Forum

Taxpayers are entitled to a fair and impartial administrative appeal of most IRS decisions, including many penalties, and have the right to receive a written response regarding the Office of Appeals' decision. Taxpayers generally have the right to take their cases to court.

6. The Right to Finality

Taxpayers have the right to know the maximum amount of time they have to challenge the IRS's position as well as the maximum amount of time the IRS has to audit a particular tax year or collect a tax debt. Taxpayers have the right to know when the IRS has finished an audit.

7. The Right to Privacy

Taxpayers have the right to expect that any IRS inquiry, examination, or enforcement action will comply with the law and be no more intrusive than necessary, and will respect all due process rights, including search and seizure protections, and will provide, where applicable, a collection due process hearing.

8. The Right to Confidentiality

Taxpayers have the right to expect that any information they provide to the IRS will not be disclosed unless authorized by the taxpayer or by law. Taxpayers have the right to expect appropriate action will be taken against employees, return preparers, and others who wrongfully use or disclose taxpayer return information.

9. The Right to Retain Representation

Taxpayers have the right to retain an authorized representative of their choice to represent them in their dealings with the IRS. Taxpayers have the right to seek assistance from a Low Income Taxpayer Clinic if they cannot afford representation.

10. The Right to a Fair and Just Tax System

Taxpayers have the right to expect the tax system to consider facts and circumstances that might affect their underlying liabilities, ability to pay, or ability to provide information timely. Taxpayers have the right to receive assistance from the Taxpayer Advocate Service if they are experiencing financial difficulty or if the IRS has not resolved their tax issues properly and timely through its normal channels.

The IRS Mission

Provide America's taxpayers top-quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness to all.

Examinations, Appeals, Collections, and Refunds

Examinations (Audits)

We accept most taxpayers' returns as filed. If we inquire about your return or select it for examination, it does not suggest that you are dishonest. The inquiry or examination may or may not result in more tax. We may close your case without change; or, you may receive a refund.

The process of selecting a return for examination usually begins in one of two ways. First, we use computer programs to identify returns that may have incorrect amounts. These programs may be based on information returns, such as Forms 1099 and W-2, on studies of past examinations, or on certain issues identified by compliance projects. Second, we use information from outside sources that indicates that a return may have incorrect amounts. These sources may include newspapers, public records, and individuals. If we determine that the information is accurate and reliable, we may use it to select a return for examination.

Publication 556, Examination of Returns, Appeal Rights, and Claims for Refund, explains the rules and procedures that we follow in examinations. The following sections give an overview of how we conduct examinations.

By Mail

We handle many examinations and inquiries by mail. We will send you a letter with either a request for more information or a reason why we believe a change to your return may be needed. You can respond by mail or you can request a personal interview with an examiner. If you mail us the requested information or provide an explanation, we may or may not agree with you, and we will explain the reasons for any changes. Please do not hesitate to write to us about anything you do not understand.

By Interview

If we notify you that we will conduct your examination through a personal interview, or you request such an interview, you have the right to ask that the examination take place at a reasonable time and place that is convenient for both you and the IRS. If our examiner proposes any changes to your return, he or she will explain the reasons for the changes. If you do not agree with these changes, you can meet with the examiner's supervisor.

Repeat Examinations

If we examined your return for the same items in either of the 2 previous years and proposed no change to your tax liability, please contact us as soon as possible so we can see if we should discontinue the examination.

Appeals

If you do not agree with the examiner's proposed changes, you can appeal them to

the Appeals Office of the IRS. Most differences can be settled without expensive and time-consuming court trials. Your appeal rights are explained in detail in both Publication 5, Your Appeal Rights and How To Prepare a Protest If You Don't Agree, and Publication 556, Examination of Returns, Appeal Rights, and Claims for Refund.

If you do not wish to use the Appeals Office or disagree with its findings, you may be able to take your case to the U.S. Tax Court, U.S. Court of Federal Claims, or the U.S. District Court where you live. If you take your case to court, the IRS will have the burden of proving certain facts if you kept adequate records to show your tax liability, cooperated with the IRS, and meet certain other conditions. If the court agrees with you on most issues in your case and finds that our position was largely unjustified, you may be able to recover some of your administrative and litigation costs. You will not be eligible to recover these costs unless you tried to resolve your case administratively, including going through the appeals system, and you gave us the information necessary to resolve the case.

Collections

Publication 594, The IRS Collection Process, explains your rights and responsibilities regarding payment of federal taxes. It describes:

- What to do when you owe taxes. It describes what to do if you get a tax bill and what to do if you think your bill is wrong. It also covers making installment payments, delaying collection action, and submitting an offer in compromise.
- IRS collection actions. It covers liens, releasing a lien, levies, releasing a levy, seizures and sales, and release of property.
- IRS certification to the State Department of a seriously delinquent tax debt, which will generally result in denial of a passport application and may lead to revocation of a passport.

Your collection appeal rights are explained in detail in Publication 1660, Collection Appeal Rights.

Innocent Spouse Relief

Generally, both you and your spouse are each responsible for paying the full amount of tax, interest, and penalties due on your joint return. However, if you qualify for innocent spouse relief, you may be relieved of part or all of the joint liability. To request relief, you must file Form 8857, Request for Innocent Spouse Relief. For more information on innocent spouse relief, see Publication 971, Innocent Spouse Relief, and Form 8857.

Potential Third Party Contacts

Generally, the IRS will deal directly with you or your duly authorized representative.

However, we sometimes talk with other persons if we need information that you have been unable to provide, or to verify information we have received. If we do contact other persons, such as a neighbor, bank, employer, or employees, we will generally need to tell them limited information, such as your name. The law prohibits us from disclosing any more information than is necessary to obtain or verify the information we are seeking. Our need to contact other persons may continue as long as there is activity in your case. If we do contact other persons, you have a right to request a list of those contacted. Your request can be made by telephone, in writing, or during a personal interview.

Refunds

You may file a claim for refund if you think you paid too much tax. You must generally file the claim within 3 years from the date you filed your original return or 2 years from the date you paid the tax, whichever is later. The law generally provides for interest on your refund if it is not paid within 45 days of the date you filed your return or claim for refund. Publication 556, Examination of Returns, Appeal Rights, and Claims for Refund, has more information on refunds.

If you were due a refund but you did not file a return, you generally must file your return within 3 years from the date the return was due (including extensions) to get that refund.

Taxpayer Advocate Service

TAS is an *independent* organization within the IRS that can help protect your taxpayer rights. We can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for our assistance, which is always free, we will do everything possible to help you. Visit www.taxpayeradvocate.irs.gov or call 1-877-777-4778.

Tax Information

The IRS provides the following sources for forms, publications, and additional information.

- Tax Questions: 1-800-829-1040 (1-800-829-4059 for TTY/TDD)
- Forms and Publications: 1-800-829-3676 (1-800-829-4059 for TTY/TDD)
- Internet: www.irs.gov
- Small Business Ombudsman: A small business entity can participate in the regulatory process and comment on enforcement actions of the IRS by calling 1-888-REG-FAIR.
- Treasury Inspector General for Tax Administration: You can confidentially report misconduct, waste, fraud, or abuse by an IRS employee by calling 1-800-366-4484 (1-800-877-8339 for TTY/TDD). You can remain anonymous.

Statement of Administrative and Constitutional Rights

The First Amendment of the Constitution provides that "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof." The first clause is referred to as the Establishment Clause: the second is the Free Exercise Clause. The Establishment Clause prohibits government sponsorship of religion. Central to this prohibition are the concepts of government neutrality and the separation between church and state. The Supreme Court has held that the Free Exercise Clause of the First Amendment is an absolute prohibition against the regulation of religious beliefs. The First Amendment provides substantial protection for lawful conduct grounded on religious beliefs. However, the government may limit religiously motivated conduct when the limitation is essential to accomplish an overriding governmental interest. Section 7611 of the Internal Revenue Code (IRC) provides the following protections to organizations claiming to be churches or conventions or associations of churches:

- 1. The IRS may begin a church tax inquiry only if an appropriate high-level Treasury official reasonably believes, on the basis of facts and circumstances recorded in writing, that an organization claiming to be a church or convention or association of churches may not qualify for exemption, may be carrying on an unrelated trade or business (within the meaning of IRC § 513), may otherwise be engaged in taxable activities or may have entered into an IRC § 4958 excess benefit transaction with a disqualified person.
- 2. If the IRS begins a tax inquiry, it is required to provide the church written notice at the beginning of the inquiry. The Notice of Church Tax Inquiry must contain an explanation of the concerns that gave rise to the inquiry and the general subject matter of the inquiry. It must also contain an explanation of the provisions of the IRC that authorize the inquiry and a general explanation of applicable administrative and constitutional provisions with respect to the inquiry.
- 3. If the IRS wishes to examine a church's records or religious activities, the Secretary of the Treasury, or his or her delegate, must personally approve the examination and must provide an additional written notice (Notice of Church Examination) to the church at least 15 calendar days prior to the examination. At the same time the IRS gives notice to the church, the IRS must notify IRS Counsel of the proposed examination. IRS Counsel is then

allowed 15 days to file a non-binding advisory opinion about the examination.

The Notice of Church Examination is required to include the following: a copy of the Notice of Church Tax Inquiry previously provided: a description of the church records and activities which the IRS wishes to examine; a copy of all documents collected or prepared by the IRS for use in the examination that are required to be disclosed under the Freedom of Information Act (5 U.S.C. 552) as supplemented by IRC § 6103; and an offer of a conference with the IRS to discuss the concerns which gave rise to the inquiry and the general subject matter of the inquiry prior to the examination. The IRS may send the Notice of Church Examination to the church no less than 15 days after the Notice of Church Tax Inquiry. However, the IRS must generally mail the Notice of Church Examination, within 90 days after the Notice of Church Tax Inquiry or the IRS is required to end the inquiry without change to the church's tax status.

- 4. Failure of the IRS to substantially comply with the above requirements may result in a stay of summons enforcement proceedings to gain access to church records until the requirements are satisfied.
- 5. The IRS is generally required to complete any church tax inquiry or examination no later than two years after the date on which the Notice of Church Examination was mailed to the church. The two-year period may be extended by mutual agreement between the church and the IRS. It is also suspended during certain judicial proceedings and during any period in excess of 20 days but not in excess of six months, during which a church or its agents fail to comply with any reasonable IRS request for church records or other information. However, in the case of a church tax inquiry in which there is no Notice of Church Examination, the IRS is generally required to complete the inquiry within 90 days after the date on which the Notice of Church Tax Inquiry was mailed to the church.
- 6. The IRS is limited initially to an examination of church records relevant to the church's tax-exempt status for the three most recently completed tax years preceding the date of the Notice of Church Examination. If the church is not exempt for any of those three years, the IRS may examine relevant records for the six completed tax years immediately preceding the Notice of Church Examination. The IRS may examine church records of a year earlier than the third or sixth completed taxable

years if material to a determination of taxexempt status during the three or six-year period. For examinations relating to unrelated business taxable income, when no return is filed, the IRS may assess tax for the six most recently completed taxable years preceding the date of the Notice of Church Examination. The IRS may examine church records of a year earlier than the sixth year if material to a determination of unrelated business income tax liability during the six-year period. For examinations involving issues other than determination of exempt status or unrelated business income tax liability, there is no limit on the taxable periods that may be examined if no return has been filed. If a church has filed a tax return, the normal rules for determining tax liability or assessing tax apply.

- 7. IRS Counsel must approve, in writing, an adverse determination concerning the tax-exempt status of an organization claiming to be a church, an adverse determination concerning the right of an organization claiming to be a church to receive tax deductible contributions, or the issuance of a notice of tax deficiency to a church or disqualified person subject to IRC § 4958 tax following a church tax examination.
- 8. An organization claiming to be a church is entitled to bring a declaratory judgment action under IRC § 7428 once the IRS issues a revenue agent's final report revoking or denying the church's tax exempt status.
- 9. An inquiry or examination begun within five years of the date of the Notice of Church Examination (or if no Notice of Church Examination is sent, a Notice of Church Tax Inquiry), must be approved by the Secretary of the Treasury, or his or her delegate. This approval is not required if the second examination does not involve the same or similar issues as the preceding inquiry or examination or if the first inquiry or examination resulted in a change to the organization's exempt status, an assessment of unrelated business income tax or other tax, or a recommendation for a substantive change in the church's operations, including accounting practices.

EXHIBIT 2



4180 LA JOLLA VILLAGE DRIVE, SUITE 530 LA JOLLA, CALIFORNIA 92037-1474 TELEPHONE: 858-623-4200 FAX: 858-623-4299

> PAUL J. DOSTART DIRECT DIAL 858-623-4210

DIRECT DIAL 858-623-4210 E-MAIL: PAUL.DOSTART@SDLAW.COM

March 4, 2019

VIA U.S. CERTIFIED MAIL

Tracking Number: 7017 1450 0002 0046 8829

Internal Revenue Service
Disclosure Scanning Operation – Stop 93A
PO Box 621506
Atlanta, GA 30362

Re: Freedom of Information Act Request (2nd version)

Case Number: F19036-0048 Your Reference – TEGE EO 7982

Free Sacred Trinity Church (EIN:

Optimum Health Institute – San Diego (EIN: Optimum Health Institute – Austin (EIN:

Dear Disclosure Manager:

This is a request under the Freedom of Information Act ("FOIA"). This is materially the same as my FOIA request dated February 3, 2019, copies of which were sent to Internal Revenue Agent Evangeline Lowrey and Acting Commissioner Tax Exempt and Government Entities Division David W. Horton. This letter includes an original, wet-ink signature in response to your letter dated February 14, 2019 (which was post-marked February 25, 2019), a copy of which is enclosed for your ease of reference. Please confirm by fax (858-623-4299) or telephone (to me at 858-623-4210, or to my paralegal at 858-623-4260) that this signature is sufficient to process this FOIA request.

Pursuant to FOIA, I respectfully request that copies of all documents¹ falling within the description below and relating to my clients, Free Sacred Trinity Church ("FSTC"), and to FSTC's two subordinate organizations (Optimum Health Institute – San Diego (EIN: ("OHI-SD") and Optimum Health Institute – Austin (EIN: ("OHI-A")), be provided to me. I do not wish to inspect the documents first. The documents I am requesting include:

¹ For the purposes of this request, "document" is intended to have the broadest possible meaning and includes any writing or recorded matter of every kind or description, however produced or reproduced, including but not limited to: letters, correspondence, memoranda, notes, emails, spreadsheets, summaries, reports, electronic data, discs or other magnetic storage devices, faxes, and electronic file notes.



Internal Revenue Service Re: Freedom of Information Act Request (2nd version)

Case Number: F19036-0048 Your Reference – TEGE EO 7982

Free Sacred Trinity Church (EIN:

Optimum Health Institute – San Diego (EIN: Optimum Health Institute – Austin (EIN:



March 4, 2019

Page 2

- 1. The IRS's entire file (including, without limitation, its administrative file), that may or does relate to the IRS Inquiries (as defined below), including, without limitation:
 - a. All intra-IRS correspondence and referrals;
 - b. All inter-agency correspondence and referrals;
 - c. All inter-governmental entity (e.g., state governmental entity) correspondence and referrals; and
 - d. All whistleblower filings or public complaints howsoever documented and regardless of whether on Form 211, Form 13909, or otherwise;
- 2. All other documents in the IRS's possession that may or do relate to the IRS Inquiries, including any documents showing how the IRS reached a decision, or contributed to the IRS's decision, to raise the IRS Inquiries;
- 3. All documents provided to, made available to, seen by, referred to, or otherwise provided for use or used, in any manner by the applicable high-level Treasury official (as that phrase is used in IRC section 7611(a)(2)), in forming a reasonable belief on the basis of facts and circumstances recorded in writing to justify the IRS examination of any, some, or all of FSTC, OHI-SD, and/or OHI-A; and
- 4. If you determine that there exist documents which are described in this FOIA request but which you decide to not disclose, a description of such document(s), the reasons for your non-disclosure decision, and any documents relied upon or that may be relied upon to make that decision.

If a USB stick or DVD is more convenient for you, that is satisfactory to me; if possible, I would prefer to receive the documents in an electronic format.

In order to determine my status for the applicability of fees, I am an attorney representing FSTC and its two integrated auxiliaries in relation to the IRS's recent line of inquiries ("IRS Inquiries") regarding FSTC's tax-exempt status. The IRS Inquiries came to my attention by a letter dated October 29, 2018, with a description of the IRS's concerns regarding FSTC's status, including the following: "Our concern is that your program is being operated more than insubstantially for commercial purposes, which raises concerns about [the IRS's] continuing recognition of [FSTC] as an organization described in section

Case 3:21-cv-01756-GPC-DEB Document 1 Filed 10/11/21 PageID.24 Page 24 of 61



Internal Revenue Service Re: Freedom of Information Act Request (2nd version)

Case Number: F19036-0048

Your Reference - TEGE EO 7982

Free Sacred Trinity Church (EIN:

Optimum Health Institute – San Diego (EIN: Optimum Health Institute – Austin (EIN:

EIN: () EIN: ()

March 4, 2019

Page 3

501(c)(3)..." In order to fully address and provide responses to the IRS's concerns, we would like to understand what caused the IRS to begin the IRS Inquiries.

As proof of identity I am including copies of the Form 2848 powers of attorney for FSTC, OHI-SD, and OHI-A. I am also attaching a copy of my California State Bar membership page and a copy of my California driver's license.

I am willing to pay document production fees for this request up to a maximum of \$2,500, if there are fees payable even though I am the authorized representative of FSTC (and of its two integrated auxiliaries), the church that is being harassed by the IRS Inquiries. If you estimate that the fees you propose to assess will exceed this limit, please inform me first (858-623-4210). Please also contact me as necessary to resolve any issues, clarify the scope of this request, or help identify a specific document containing the information sought.

Very truly yours,

DOSTART HANNING & COVENEY LLP

Paul J. Dostari

cc: Robert P. Nees, Ecclesiastical Superior

876567.1



DEPARTMENT OF THE TREASURY INTERNAL REVENUE SERVICE WASHINGTON, DC 20224



February 14, 2019

Dostart, Hannink & Coveney, LLP Attn: Mr. Paul Dostart 4180 La Jolla Village Drive, Suite 530 La Jolla, CA 92037-1474

RE: Free Sacred Trinity Church
Optimum Health Institute – San Diego
Optimum Health Institute - Austin

Dear Mr. Dostart:

This is our final response to your Freedom of Information Act (FOIA) request dated February 4, 2019 that we received on February 4, 2019.

We need the items checked below before we can process your FOIA request.

- Describe the records in reasonably sufficient detail to enable us to find them. This may include [indicate additional information needed to clarify request].
- Provide proof of your right to access the requested records. Acceptable proof may include [describe examples of acceptable proof].
- F Establish your identity by submitting:
 - Your signature, address, and one other identifier (such as a copy of a driver's license) bearing your signature if you make the request by mail; or
 - b. A notarized statement swearing to or affirming your identity. The notary seal must be on the same page as your signature; or
 - c. A statement made under penalty of perjury in accordance with <u>28 U.S.C.</u>

 <u>1746</u>, swearing to or affirming your identity. If the declaration is sworn within the United States, its territories, possessions, or commonwealths, the sworn statement must include the following language: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date)."

- Request must be signed. A stamped signature is not sufficient to establish a requester's identity or right to obtain access to records the disclosure of which is restricted by statute or other authority. A FOIA request for such records under 5 USC §552(a)(3) must, therefore, be physically signed by the requester.
- Provide your social security number.
- State your agreement to pay for search and copying fees or request that they be reduced or waived. Fees may be reduced or waived only if you can show that disclosure of the requested information is in the public interest rather than the commercial interest of the requester.

Please send us the indicated information within 35 days, along with a copy of this letter and your original request with the information requested. The 20 days we are allowed to comply with your request will begin when we receive the requested information.

You may contact me, the FOIA Public Liaison, Jeffrey V. Austin, to discuss your request at:

600Arch St. Room 7214, Philadelphia, PA 19105 Tel. 267-941-2464

The FOIA Public Liaison responds to FOIA and Privacy Act requests for copies of documents maintained by the IRS. There is no provision in either Act to resolve tax, collection, or processing issues and our staff is not trained to answer questions regarding those issues. If you need assistance with tax related issues you may call the IRS toll free number at 1-800-829-1040.

If you have any questions please call Senior Disclosure Specialist L. Fontanez ID # 0314097, at 954-991-4151 or write to: Internal Revenue Service, Disclosure Scanning Operation – Stop 93A, PO Box 621506, Atlanta, GA 30362. Please refer to case number F19036-0048.

Sincerely,

Jeffrey V Austin Disclosure Manager

Disclosure Office 07

Jeffrey V. austin

OMB No. 1545-0150

Form Z	848	Power of	f Attorney	For IRS Use Only
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For Privacy Act and Paperwork Reduction Act Notice, see the instructions.

Other acts authorized:

Form 2848 (Rev 1-2018)

Specific acts not authorized. My representative(s) is (are) not authorized to endorse or otherwise negotiate any check (including directing accepting payment by any means, electronic or otherwise, into an account owned or controlled by the representative(s) or any firm or othe entity with whom the representative(s) is (are) associated) issued by the government in respect of a federal tax liability. List any other specific deletions to the acts otherwise authorized in this power of attorney (see instructions for line 5b):							r any firm or other	
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Form 2848 (Rev 1-2018)

OMB No. 1545-0150

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	Caution:	A separate Form 2848 must be completed f	or each	taxpa	yer. Form 2846	will not be ho	nored	Function	
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For Privacy Act and Paperwork Reduction Act Notice, see the Instructions.

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Form 2848 (Rev. 1-2018)

Form **2848**

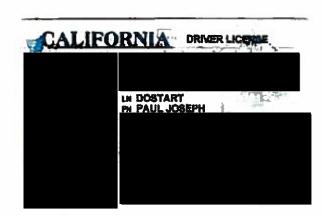
Power of Attorney

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Form 2848 (Rev. 1-2018)





Select Language ▼

Paul Joseph Dostart #81841

License Status: Active

Address Dostart Hannink & Coveney LLP, 4180 La Jolla Village Dr, Ste 530, La Jolla, CA 92037-1474

County San Diego County Phone Number: (858) 623-4210 Fax Number: (858) 623-4299

Email pdostart@sdlaw.com

Law School Univ of Houston Law Center; Houston TX

Below you will find all changes of license status due to both non-disciplinary administrative matters and disciplinary actions.

Date

License Status

Discipline

Administrative Action

Present

Active

11/29/1978

Admitted to The State Bar of California

CLA Sections:

Business Law

Trusts & Estates

California Lawyers Association (CLA) is an independent organization and is not part of The State Bar of California.

Additional Information:

- · Explanation of licensee status
- · Explanation of disciplinary system
- Explanation of disciplinary actions
- · Copies of official licensee discipline records are available upon request

2019 The State Bar of California

EXHIBIT 3



4180 LA JOLLA VILLAGE DRIVE, SUITE 530 LA JOLLA, CALIFORNIA 92037-1474 TELEPHONE: 858-623-4200 FAX: 858-623-4299

PAUL J. DOSTART
DIRECT DIAL 858-623-4210
E-MAIL: PAUL.DOSTART@SDLAW.COM

March 12, 2021

<u>VIA FACSIMILE AND U.S.P.S. PRIORITY</u> TRACKED MAIL

Tracking Number: 9405 5036 9930 0316 5250 43

Fax: 877-891-6035

Internal Revenue Service Central Processing Unit Stop 93A Post Office Box 621506 Atlanta, GA 30362

With Copies by Email to:

Email: Stephanie.A.Sasarak@usdoj.gov Email: Evangeline.Lowrey@irs.gov

Stephanie Sasarak
Trial Attorney
U.S. Department of Justice, Tax Division
Eastern Region
P.O. Box 227, Ben Franklin Station
Washington, DC 20044

Evangeline Lowrey, Revenue Agent Tax Exempt & Government Entities Internal Revenue Service 450 Golden Gate Avenue, MS 7401 San Francisco, CA 94102

Re: Freedom of Information Act Request (Renewal and Expansion)

Case Number: F19071-0040

Tax Court Case Number: 3:19-cv-02358-W-JLB

Free Sacred Trinity Church (EIN: 31-1720683)

Optimum Health Institute – San Diego (EIN: 71-0895144) Optimum Health Institute – Austin (EIN: 74-2945511)

Dear Disclosure Manager:

This letter renews and expands upon my previous request under the Freedom of Information Act ("FOIA") dated March 4, 2019 (Case Number F19071-0040). The documents outlined in this FOIA request are similar to (and in some cases materially the same as) the documents outlined in my previous FOIA request, except with respect to the period covered.

Case 3:21-cv-01756-GPC-DEB Document 1 Filed 10/11/21 PageID.38 Page 38 of 61



Internal Revenue Service

Re: Freedom of Information Act Request (Renewal and Expansion)

Case Number: F19071-0040

Free Sacred Trinity Church v. IRS (S.D. Ca.) 3:19-cv-02358-W-JLB

Free Sacred Trinity Church (EIN: 31-1720683)

Optimum Health Institute – San Diego (EIN: 71-0895144)

Optimum Health Institute – Austin (EIN: 74-2945511)

March 12, 2021

Page 2

Pursuant to FOIA, I respectfully request that copies of all documents¹ falling within the description below and relating to my clients, Free Sacred Trinity Church ("FSTC"), and to FSTC's two subordinate organizations (Optimum Health Institute – San Diego (EIN: 71-0895144) ("OHI-SD") and Optimum Health Institute – Austin (EIN: 74-2945511) ("OHI-A")), be provided to me if such documents (as to items 1 to 4, inclusive) were prepared or are dated during the period beginning March 4, 2019, up until the date on which you provide your final batch of documents to me relating to this request. I do not wish to inspect the documents first. The documents I am requesting include:

- 1. The IRS's entire file (including, without limitation, its administrative file), that may or does relate to the IRS Inquiries (as defined below), including, without limitation:
 - a. All intra-IRS correspondence and referrals;
 - b. All inter-agency correspondence and referrals;
 - c. All inter-governmental entity (e.g., state governmental entity) correspondence and referrals; and
 - d. All whistleblower filings or public complaints howsoever documented and regardless of whether on Form 211, Form 13909, or otherwise;
- All other documents in the IRS's possession that may or do relate to the IRS
 Inquiries, including any documents showing how the IRS reached a decision,
 or contributed to the IRS's decision, to raise the IRS Inquiries;
- 3. All documents provided to, made available to, seen by, referred to, or otherwise provided for use or used, in any manner by the applicable high-level Treasury official (as that phrase is used in IRC section 7611(a)(2)), in forming a reasonable belief on the basis of facts and circumstances recorded in writing to justify the IRS examination of any, some, or all of FSTC, OHI-SD, and/or OHI-A;

¹ For the purposes of this request, "document" is intended to have the broadest possible meaning and includes any writing or recorded matter of every kind or description, however produced or reproduced, including but not limited to: letters, correspondence, memoranda, notes, emails, spreadsheets, summaries, reports, electronic data, discs or other magnetic storage devices, faxes, and electronic file notes.

Case 3:21-cv-01756-GPC-DEB Document 1 Filed 10/11/21 PageID.39 Page 39 of 61



Internal Revenue Service

Re: Freedom of Information Act Request (Renewal and Expansion)

Case Number: F19071-0040

Free Sacred Trinity Church v. IRS (S.D. Ca.) 3:19-cv-02358-W-JLB

Free Sacred Trinity Church (EIN: 31-1720683)

Optimum Health Institute – San Diego (EIN: 71-0895144)

Optimum Health Institute – Austin (EIN: 74-2945511)

March 12, 2021

Page 3

- 4. All other documents in the IRS's possession that may or do relate to or show how the IRS reached a decision, or contributed to the IRS's decision, to issue the two initial reports of examination issued to me under cover of letter dated January 21, 2021;
- 5. Independently, I am also requesting all documents that relate to the inquiry or investigation of Paul J. Dostart by the Office of Treasury Inspector General for Tax Administration ("TIGTA"), and/or which relate in any manner to the interview of Paul J. Dostart by TIGTA agents on May 14, 2020, and which documents were created on or after January 1, 2020, and extend up until the present. For the avoidance of doubt, we are of the view that such inquiry or investigation, and interview, manifested an abuse of authority by IRS representatives and were a blatant attempt to intimidate taxpayer counsel using extortion or willful oppression in order to unlawfully secure a concession from the taxpayer (FSTC, OHI-San Diego and OHI-Austin), and in that regard, our request for documents expressly includes all documents which evidence any other actions or follow-up that was identified or recommended by TIGTA, regardless of whether IRC § 7214 was expressly identified in any such follow-up documentation; and
- 6. If you determine that there exist documents which are described in this FOIA request but which you decide to not disclose, a description of such document(s), the reasons for your non-disclosure decision, and any documents relied upon or that may be relied upon to make that decision.

My preference is to download these documents from a secure electronic document repository system. If a USB stick or DVD is more convenient for you, that is satisfactory to me; if possible, I would prefer to receive the documents in an electronic format.

In order to determine my status for the applicability of fees, I am an attorney representing FSTC and its two integrated auxiliaries in relation to the IRS's line of inquiries ("IRS Inquiries") regarding FSTC's tax-exempt status. The IRS Inquiries came to my attention by a letter dated October 29, 2018, with a description of the IRS's concerns regarding FSTC's status, including the following: "Our concern is that your program is being operated more than insubstantially for commercial purposes, which raises concerns about [the IRS's] continuing recognition of [FSTC] as an organization described in section

² The TIGTA Special Agents who conducted such interview were Cindy Niu and Salvador Correa. For the avoidance of doubt, Ms. Niu and Mr. Correa acted with professionalism at all times.

Case 3:21-cv-01756-GPC-DEB Document 1 Filed 10/11/21 PageID.40 Page 40 of 61



Internal Revenue Service

Re: Freedom of Information Act Request (Renewal and Expansion)

Case Number: F19071-0040

Free Sacred Trinity Church v. IRS (S.D. Ca.) 3:19-cv-02358-W-JLB

Free Sacred Trinity Church (EIN: 31-1720683)

Optimum Health Institute – San Diego (EIN: 71-0895144)

Optimum Health Institute – Austin (EIN: 74-2945511)

March 12, 2021

Page 4

501(c)(3)..." In order to fully address and provide responses to the IRS's concerns, we would like to understand what caused the IRS to begin the IRS Inquiries.

In addition, I am the attorney of record in Southern District of California Case Number 3:19-cv-02358-W-JLB, which case was filed after the IRS failed to timely respond to my March 4, 2019, FOIA request. I represent plaintiffs FSTC and OHI-SD in that case. Documents that are in the district court's document index are exempt from this request and do not need to be provided.

As proof of identity I am including copies of the Form 2848 powers of attorney for FSTC, OHI-SD, and OHI-A. I am also attaching a copy of my California State Bar membership page and a copy of my California driver's license.

I am willing to pay document production fees for this request up to a maximum of \$2,500, if there are fees payable even though I am the authorized representative of FSTC (and of its two integrated auxiliaries), the church that is being harassed by the IRS Inquiries, and of course, I am personally the attorney who was illegally harassed by the TIGTA interview. If you estimate that the fees you propose to assess will exceed this limit, please inform me first (858-623-4210). Please also contact me as necessary to resolve any issues, clarify the scope of this request, or help identify a specific document containing the information sought.

Very truly yours,

DOSTART HANNINK & COVENEY LLP

Paul J. Dostart

cc: R

Robert P. Nees, Ecclesiastical Superior

Christopher Rizek, Esq.

Meghan Biss, Esq.

943060.1

(Rev. January 2018)

Power of Attorney and Declaration of Representative

OMB No. 1645-0150
For IRS Use Only
Received by:
Name
Telephone

	Mame ■ Go to www.irs.gov/Form2848 for instructions and the latest information. Name						
Pari	art I. Power of Attorney					Telephone	
	Caution: A separate Form 2848 must be completed for each taxpayer. Form 2848 will not be honored						
	for any pu	urpose other than representation before the IRS	i			Function Date	
1	Taxpayer inform	nation. Taxpayer must sign and date this form on	page 2, lir	ne 7.			
Taxpa	yer name and add	ress		Taxpayer identification num	iber(s)		
	acred Trinity C			31-1720683			
2305 .	Historic Decatu iego, CA 92106	r Kd., Ste 101		Daytime telephone number	Plan r	number (if applicable)	
San D	1ego, CA 32100	7-0071		(858) 634-5507			
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2	Representative	(s) must sign and date this form on page 2, Part II.					
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Paul J	. Dostart			PTIN P01224339	444-444		
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3	Acts authorized (you are required to complete this line 3). With the exce	eption of the	acts described in line 5b. I auth	orize my repre	sentative(s) to receive and	
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Form 2848 (Rev. 1-	2018)				Page 2
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even if the represent on behalf	ney are appointing the tative, executor, received of the taxpayer.	e same representative(s). If signer, administrator, or trustee on t	ned by a corpora behalf of the taxp	was filed, each spouse must file a separa ate officer, partner, guardian, tax matters ayer, I certify that I have the legal authority	partner, partnership to execute this form
John	A Signature	- ly	12/19 Date	CEO & Ecclesiastical S Title (if applicable)	
	Rev. Robert P. Ne	ees	Print na	Free Sacred Trinity Church me of taxpayer from line 1 if other than ind	ividual
Part II De	claration of Repr	esentative		•	
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-	-	yer identified in Part I for the ma			
lam one of the	following:				
a Attorney—a	member in good stand	ing of the bar of the highest cou	irt of the jurisdict	ion shown below,	
b Certified Pub	olic Accountant—a holo	der of an active license to practi	ce as a certified	public accountant in the jurisdiction shown	below.
c Enrolled Age	ntenrolled as an age	nt by the Internal Revenue Serv	ice per the requi	rements of Circular 230.	
d Officer—a bo	ona fide officer of the ta	axpayer organization.			
e Full-Time Em	nployee—a full-time em	iployee of the taxpayer.			
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Power of Attorney

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hereby	appoints the folk	owing representative(s) as attorney(s)-in-fac	ot;		((0)0)00 000)					
2	Representative	(s) must sign and date this form on page 2,	Part II.							
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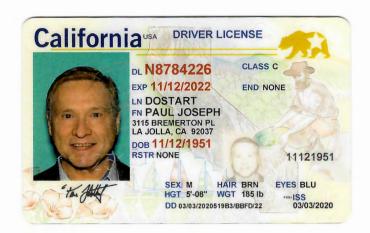
Form 2848 (Rev. 1-)	2018)				Page 2
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Form 2848	(Rev. 1-2018)				Page 2
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	Rev. Robert P. Ne	es		otimum Health Institute - Au	
Part II	Print Name Declaration of Representation		Print name	of taxpayer from line 1 if other t	nan individual
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Designa Insert a letter (Licensing jurisdiction (State) or other	Bar, license, certification, registration, or enrollment number (if applicable).		Signature	Date
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CA

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Paul Joseph Dostart #81841

License Status: Active

Address: Dostart Hannink & Coveney LLP, 4180 La Jolla Village Dr, Ste 530, La Jolla, CA 92037-1474

County: San Diego County Phone Number: (858) 623-4210 Fax Number: (858) 623-4299 Email: pdostart@sdlaw.com

Law School: Univ of Houston Law Center; Houston TX

Below you will find all changes of license status due to both non-disciplinary administrative matters and disciplinary actions.

Date License Status Discipline Administrative Action

Present Active

11/29/1978 Admitted to The State Bar of California

Additional Information:

- · Explanation of licensee status
- · Explanation of disciplinary system
- · Explanation of disciplinary actions
- Copies of official licensee discipline records are available upon request

CLA Sections: Business Law

Taxation

California Lawyers Association (CLA) is an independent organization and is not part of The State Bar of California.

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EXHIBIT 4

04/21/2021 6:02:52 PM -0400 IRS

PAGE 1 Case 3:21-cv-01756-GPC-DEB Document 1 Filed 10/11/21 PageID.50 Page 50 of 61

INTERNAL REVENUE SERVICE

Date: April 21, 2021



FAX TRANSMISSION Cover Sheet

Address/Organization:					
Fax Number: Office Number:					
From: Merriam Fatim	<u>a</u>				
Address/Organization:					
Fax Number:	Office Number:				
Nur	nber of pages: 5 Including cover page				
Subject: FOIA Request					

Good Afternoon!

Attached is an extension letter.

FYI:

I have transferred a portion of your request to TIGTA as per our conversation on 4/9. I am in contact with TEGE regarding your document request and is waiting for an update on the progress.

Please call me if you have any questions.

Try to be a rainbow in someone's cloud. -Maya Angelu Fate Merriam Senior Disclosure Specialist DO 10 (206)946-3528 (Phone) (855)205-9333 (E-Fax) Internal Revenue Service

This communication is intended for the sole use of the individual to whom it is addressed and may contain confidential information that is privileged, confidential and exempt from disclosure under applicable law. If you are not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited by the provisions of the Internal Revenue code. If you have received this communication in error, please contact the sender immediately by telephone. Thank you.

04/21/2021 6:02:52 PM -0400 IRS PAGE 2 OF 5
Case 3:21-cv-01756-GPC-DEB Document 1 Filed 10/11/21 PageID.51 Page 51 of 61
M/S W625

M/S W625 915 2nd Avenue Seattle, WA 98174



Department of the Treasury Internal Revenue Service Privacy, Governmental Liaison and Disclosure **Centralized Processing Unit**

Stop 93A PO Box 621506 Atlanta, GA 30362

Paul J. Dostart Dostart Hannink & Coveney LLP 4180 La Jolla Village Dr., Ste. 530 La Jolla, CA 92037-1474

Date:

April 21, 2021 Employee name: Fatima Merriam Employee ID number: 1000226048 Telephone number:

206-946-3528 Fax number: 855-205-9333 Case number: 2021-11216

Re: Free Sacred Trinity Church. Optimum Health Institute-San Diego, Optimum Health Institute-Austin

Dear Paul J. Dostart:

I need additional time to:

This is in response to your Freedom of Information Act (FOIA) request dated March 19, 2021, received in our office on March 24, 2021.

You asked for examination administrative files dated after response from FOIA request F19071-0040 dated December 20, 2019 for Free Sacred Trinity Church, Optimum Health Institute-San Diego and Optimum Health Institute- Austin.

I'm unable to provide the information you requested by April 21, 2021, which is the 20 businessday period allowed by law. In certain circumstances, the FOIA allows for an additional 10-day statutory extension.

\boxtimes	Search for and collect the requested records from other locations
	Search for, collect, and review a large volume of records
	Consult with another agency or Treasury component
	Consult with another IRS office

As part of this extension, the statutory response date will be extended to May 5, 2021. Unfortunately, I will still be unable to respond to you by the extended statutory response date. Case 3:21-cv-01756-GPC-DEB Document 1 Filed 10/11/21 PageID.53 Page 53 of 61

I need additional time to search for records and review records and expect to complete your request by June 22, 2021. You don't need to reply to this letter if you agree to the extended response date. Please consider contacting me to arrange an alternative time frame for processing the request or limiting the scope of your FOIA request, which may reduce the time in processing your request.

Please be aware that extending the time for responding to your request will not delay or postpone any administrative, examination, investigation, or collection action.

Pursuant to 26 CFR § 601.702, there is no right to an administrative appeal for failure to meet the statutory 20 business day, or additional 10 business day, time limits for response.

However, you do have the right to file suit for a judicial review. You can file suit after May 5, 2021. File your suit in the U.S. District Court:

> Where you reside or have your principal place of business Where the records are located, or In the District of Columbia

Rule 4(i)(1)(C), of the Federal Rules of Civil Procedure, requires you to send the IRS a copy of the summons and complaint as well as to the Attorney General and the United States Attorney for the district in which the action is brought. You must send the IRS copies, by registered or certified mail, to:

> Attention: CC: PA: Br 6/7 Commissioner of Internal Revenue 1111 Constitution Avenue, NW Washington, D.C. 20224

I apologize for any inconvenience this delay may cause.

If you would like to discuss our response, you have the right to contact the FOIA Public Liaison, Summer Sutherland, at 801-620-2149.

The FOIA Public Liaison responds to FOIA requests for copies of documents maintained by the IRS. There is no provision in the FOIA to resolve tax, collection, or processing issues. If you need assistance with tax-related issues, you can call the IRS at 800-829-1040.

You also have the right to contact the Office of Government Information Services (OGIS). The Office of Government Information Services, the Federal FOIA Ombudsman's office, offers mediation services to help resolve disputes between FOIA requesters and federal agencies. The contact information for OGIS is:

04/21/2021 6:02:52 PM -0400 IRS PAGE 5 OF 5
Case 3:21-cv-01756-GPC-DEB Document 1 Filed 10/11/21 PageID.54 Page 54 of 61

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road--OGIS
College Park, MD 20740-6001
202-741-5770
877-684-6448
ogis@nara.gov
ogis.archives.gov

If you have questions, you can contact me at the telephone number shown at the top of this letter.

Sincerely,

Fate Merriam

Senior Disclosure Specialist

Disclosure Office 10



DEPARTMENT OF THE TREASURY WASHINGTON, D.C. 20005

April 23, 2021

SENT VIA E-MAIL: paul.dostart@sdlaw.com

Paul J. Dostart 4180 La Jolla Village Drive, Suite 530 La Jolla, California 92037-1474

Dear Mr. Dostart:

This is in response to your Freedom of Information Act (FOIA) request, dated March 12, 2021, seeking access to records maintained by the Treasury Inspector General for Tax Administration (TIGTA). We received your request on March 26, 2021.

We are requesting an extension of 10 business days from the date of this letter due to unusual circumstances. These circumstances include:

	The need to search for and/or collect the requested records from TIGTA field offices or other functional areas.
\boxtimes	The need to consult with another agency or office having a substantial interest in the determination of the request or among two or more Treasury components having a substantial subject-matter interest.

We estimate that given the extension of time requested, we will issue a final response to your FOIA request on or before May 7, 2021. If you agree to this voluntary extension, no reply to this letter is necessary. If you wish to consider limiting the scope of your request or agree to an alternative time frame for processing, should records be located, please contact us as soon as possible.

If you do not agree to the extension of time nor want to modify the scope of your request, you may contact our FOIA Public Liaison at (202) 557-5616 or by e-mail at amy.jones@tigta.treas.gov. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001; e-mail at ogis@nara.gov; telephone at (202) 741-5770; toll free at (877) 684-6448; or fax at (202) 741-5769.

If you have any questions, please contact Government Information Specialist David Greek at (202) 878-9194 or david.greek@tigta.treas.gov and reference case #2021-FOI-00136.

Sincerely,

David Greek (For) Amy P. Jones Disclosure Officer and FOIA Public Liaison

EXHIBIT 6

06/21/2021 6:44:24 PM -0400 IRS PAGE 1 OF 3 Case 3:21-cv-01756-GPC-DEB Document 1 Filed 10/11/21 PageID.59 Page 59 of 61

INTERNAL REVENUE SERVICE



FAX TRANSMISSION Cover Sheet

Subject: FOIA Request

We are working on interim documents that were received.

Try to be a rainbow in someone's cloud. -Maya Angelu Fate Merriam
Senior Disclosure Specialist
DO 10
(206)946-3528 (Phone)
(855)205-9333 (E-Fax)
Internal Revenue Service
M/S W625
915 2nd Avenue
Seattle, WA 98174

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Department of the Treasury Internal Revenue Service Privacy, Governmental Liaison and Disclosure Centralized Processing Unit

Stop 93A PO Box 621506 Atlanta, GA 30362

Paul J. Dostart Dostart Hannink & Coveney LLP 4180 La Jolla Village Dr., Ste. 530 La Jolla, CA 92037-1474 Date:

June 21, 2021
Employee name:
Fatima Merriam
Employee ID number:
1000226048
Telephone number:

206-946-3528 Fax number: 855-205-9333 Case number: 2021-11216

Re: Free Sacred Trinity Church, Optimum Health Institute-San Diego, Optimum Health Institute-Austin

Dear Paul J. Dostart:

This is in response to your Freedom of Information Act (FOIA) request dated March 19, 2021, received in our office on March 24, 2021.

On April 21, 2021 I asked for more time to obtain the records you requested. I am still working on your request and need additional time to obtain and review records requested. I will contact you by September 21, 2021 if I am still unable to complete your request.

Once again, I apologize for any inconvenience this delay may cause.

If you would like to discuss our response, you have the right to contact the FOIA Public Liaison, Summer Sutherland, at 801-620-2149.

The FOIA Public Liaison responds to FOIA requests for copies of documents maintained by the IRS. There is no provision in the FOIA to resolve tax, collection, or processing issues. If you need assistance with tax-related issues, you can call the IRS at 800-829-1040.

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Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road--OGIS
College Park, MD 20740-6001
202-741-5770
877-684-6448
ogis@nara.gov
ogis.archives.gov

If you have questions, you can contact me at the telephone number shown at the top of this letter.

Sincerely,

Fate Merriam

Senior Disclosure Specialist

Disclosure Office 10