EXHIBIT 3

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courtney dethom as @dwt.com

September 22, 2020

VIA FEDERAL EXPRESS

IRS Appeals

Attn: FOIA Appeals 5045 E. Butler Ave. M/Stop 55202

Fresno, CA 93727-5136

Re:

FOIA Appeal: FOIA Case No. 2020-03038

Requester: Center for Media and Democracy, 520 University Ave, Suite 305, Madison,

WI 53703

Dear Sir or Madam:

This firm represents the Center for Media and Democracy ("CMD") in connection with the above-referenced Freedom of Information Act ("FOIA") request to the Internal Revenue Service ("IRS"). I am writing to appeal the IRS's response and determination under the FOIA.

On June 18, 2020, CMD submitted a FOIA request seeking copies of all attachments to Part XV, "Grants and Contributions Paid During the Year or Approved for Future Payment," for the following Form 990 series returns:

- 1. Asness Family Foundation (2016 990 Form, 2017 990 Form, 2018 990 Form);
- 2. Barbara and Barre Seid Foundation (2016 990-PF Form, 2017 990-PF Form, 2018 990-PF Form);
- 3. Diana Davis Spencer Foundation (2016 990-PF Form);
- 4. Dunn Foundation (2014-PF Form);
- 5. Fidelity Charitable Gift Fund (2013 990 Form, 2014 990 Form, 2015 990 Form);
- 6. Jack Miller Family Foundation (2015-PF Form, 2016 990-PF Form, 2017 990-PF Form, 2018 990-PF Form);
- 7. JM Foundation (2014-PF Form, 2015-PF Form, 2016-PF Form, 2017-PF Form);
- 8. The Randolph Foundation (2016 990-PF Form, 2017 990-PF Form, 2018 990-PF Form); and
- 9. The Snider Foundation (2016 990-PF Form).

September 22, 2020 Page 2

CMD's FOIA request explicitly stated that the requested attachments to the specified Form 990 series returns "are not currently included with publicly available versions of these forms." CMD indicated that it was willing to pay fees for this request up to a maximum of \$20. A copy of CMD's request is attached hereto as **Exhibit 1**.

On June 30, 2020, the IRS sent a letter confirming that CMD's request was received on June 18, 2020. In it, the IRS stated that records requests that can be processed in accordance with routine, established agency procedures are excluded from disclosure in response to a written FOIA request. The IRS directed CMD to request the records sought using IRS Form 4506-A. As an alternative, the IRS suggested that CMD could visit the organization to inspect the return instead of requesting it from the IRS. A copy of the IRS's letter is attached hereto as **Exhibit 2**.

The notion that the IRS is absolved from responding to CMD's FOIA request by directing it to Form 4506-A is not supported by the law. Courts have explicitly rejected the very argument that the IRS is trying to make; i.e., that FOIA is superseded by the agency's statutory scheme governing disclosure of Forms 990. See Public.Resource.Org v. United States Internal Revenue Serv., 50 F. Supp. 3d 1212, 1216-17 (N.D. Cal. 2014) ("Absent express language or a procedural scheme ostensibly displacing FOIA procedures, section 6104 [which provides that Forms 990 should generally be made available for disclosure] cannot be held to supersede FOIA."). In other words, the IRS is not relieved from producing the requested attachments to Forms 990 in response to CMD's FOIA request simply because there may exist another avenue for obtaining them.

Likewise, the IRS is not absolved from responding to CMD's FOIA request by suggesting that CMD could obtain them directly from the organizations themselves. FOIA requires federal agencies to release all non-exempt agency records responsive to a request for production, including IRS Form 990s. 5 U.S.C. § 552(a)(3)(A) (stating the agency "shall make the records promptly available"); see also Public.Resource.Org, 50 F. Supp. 3d at 1215 (no dispute that IRS Form 990s are agency records subject to FOIA).

CMD respectfully requests that the IRS respond to this appeal within 20 business days, as required by FOIA and its implementing regulations. See 5 U.S.C. §552(a)(6)(A)(ii), 34 C.F.R. § 5.40(c). If the appeal is denied, CMD intends to initiate a lawsuit in order to compel disclosure. Please note that CMD is currently involved in a FOIA lawsuit with the IRS involving a request for the very same types of Form 990 series returns that it seeks here. See Center for Media and Democracy v. United States Internal Revenue Service, Case No. 1:20-cv-01010 (D.D.C. Apr. 17, 2020). In that case, the IRS agreed that CMD was entitled to the records requested and subsequently released them to CMD. CMD sincerely hopes to avoid having to file another lawsuit in order to obtain the same types of records the agency itself recently agreed it must produce under the FOIA.

September 22, 2020 Page 3

Thank you for your time and attention to this appeal. Please feel free to contact me if there is anything we can do to work with you and help facilitate the process of production.

Sincerely,

Courtney DeThomas

cc: David Armiak, Center for Media and Democracy

EXHIBIT 1

David Armiak
Research Director
The Center for Media and Democracy
520 University Ave, Suite 305
Madison, WI 53703
david@prwatch.org
608-229-6801

June 18, 2020

Dear Disclosure Manager:

This is a request under the Freedom of Information Act.

For the following IRS 990 filings, I request a copy of all attachments to Part XV, "Grants and Contributions Paid During the Year or Approved for Future Payment":

- Asness Family Foundation (81-4745940): 2016 990 Form, 2017 990 Form, 2018 990
 Form
- Barbara and Barre Seid Foundation (36-3342443): 2016 990-PF Form, 2017 990-PF Form,
 2018 990-PF Form
- Diana Davis Spencer Foundation (20-3672969): 2016 990-PF Form
- Dunn Foundation (65-0415977): 2014-PF Form
- Fidelity Charitable Gift Fund (11-0303001): 2013 990 Form, 2014 990 Form, 2015 990
 Form
- Jack Miller Family Foundation (20-1930514): 2015-PF Form, 2016 990-PF Form, 2017 990-PF Form, 2018 990-PF Form
- J M Foundation (13-6068340): 2014-PF Form, 2015-PF Form, 2016-PF Form, 2017-PF
- The Randolph Foundation (47-0892971): 2016 990-PF Form, 2017 990-PF Form, 2018
 990-PF Form
- The Snider Foundation (23-2047668): 2016 990-PF Form

The requested attachments are not currently included with publicly available versions of these forms.

I do not wish to inspect the documents first. In order to determine my status for the applicability of fees, you should know that I am a member of the media with the Center for Media and Democracy. The Center for Media & Democracy is a non-profit public-interest organization, and the disclosure of the materials requested here would be in the public interest, greatly benefiting public understanding of the workings of non-profits.

I am willing to pay fees for this request up to a maximum of \$20. If you estimate that the fees

will exceed this limit, please inform me first.

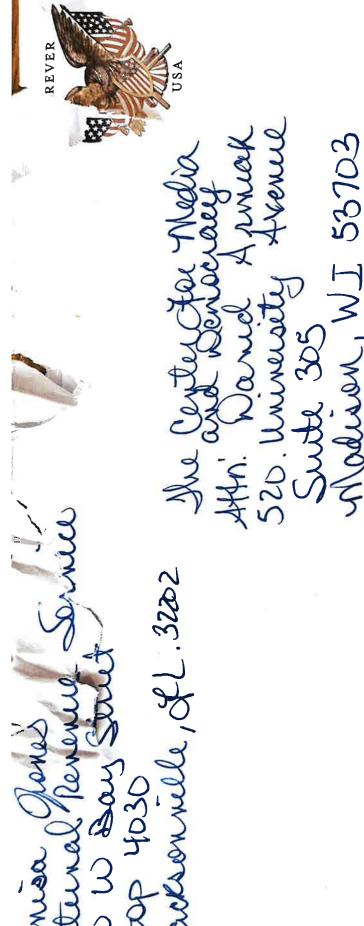
Thank you for your consideration of this request.

Sincerely,

David Armiak

Drail

EXHIBIT 2





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

Stop 93A PO Box 621506 Atlanta, GA 30362

David Armiak
The Center for Media and Democracy
520 University Ave., Ste. 305
Madison, WI 53703

Date:

June 30, 2020 Employee name:

T. Jones

Employee 1D number:

0571420

Telephone number:

904-661-3211--

Fax number: 855-203-7004 Case number: 2020-03038

Re: Your Freedom of Information Act

Request

Dear David Armiak

This is in response to your Freedom of Information Act (FOIA) request dated June 18, 2020, received in our office on June 18, 2020.

You asked for copies of exempt organization tax returns.

We have a routine agency procedure that should be used to request copies of exempt organization returns. I'm enclosing Form 4506-A, Request for Public Inspection or Copy of Exempt Organization IRS Form. As an alternative, you can visit the organization to inspect the return instead of requesting it from the IRS. Exempt organizations must make their returns available for public inspection.

26 CFR 601.702(d) provides that requests for records processed in accordance with routine agency procedures are specifically excluded from the processing requirements of FOIA.

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 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 isn't trained to answer questions regarding those issues. If you need assistance with tax-related issues, you can call the IRS at 800-829-1040.

You can access forms and publications by calling 800-TAX-FORM (800-829-3676) or visiting www.irs.gov/formspubs.

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

Sincerely, Phillip H. Hatchen

Hatcher Phillip Disclosure Manager

Disclosure Office 07

Enclosure: Form 4506-A

Instructions for Form 4506-A



(Revised October 2018)

Request for Public Inspection or Copy of Exempt or Political Organization IRS Form

Section references are to the Internal Revenue Code unless otherwise noted

Future Developments

For the latest information about developments related to Form 4506-A and its instructions, such as legislation enacted after this form and instructions were published, go to www.irs.gov/form4506.

What's New

Beginning December 2017, the Digital Data Request will use (USBs instead of DVDs)

General Instructions

Purpose of Form

Use Form 4506-A to request under section 6104:

- A copy of an exempt or political organization's return, report, notice, or exemption application, or
- An inspection of a return, report, notice, or exemption application at an IRS office.

You do not have to complete Form 4506-A to get copies of the following forms

- Form 8871, Political Organization Notice of Section 527 Status, and Form 8872. Political Organization Report of Contributions and Expenditures, are available for inspection and printing from the Internet. The website address for both forms is www.irs.gov/polorgs.
- Exempt or political organizations must make their returns, reports, notices, and exempt applications available for public inspection. You can visit the organization to inspect the material instead of requesting it from the IRS. The organization may be able to mail the copies to you
- You may request images of Form 990-N (e-Postcard), for Tax-Exempt Organizations Not Required to File Form 990 or 990-EZ, filings at www.irs.gov/app/ePostcard
- The machine readable data for the efiled Forms 990, 990-EZ and 990-PF are available for download from Amazon Web Services (AWS). The website is www aws amazon com/publicdatasets/irs-990/.
- If you want to determine if charitable contributions are deductible, use Tax Exempt Organization Search, www.irs.gov/ charities-non-profits/tax-exempt-organization-search



To see an organization's current activities or financial data, you can use www.guidestar.org



An organization, or its officers may request a copy of the organization's own return on Form 4506-A However, they will only receive the copy that is "Open for Public Inspection." The publicly available copy will not

include for example, information that may identify a contributor and documents that were filed with the return, but are not open to public inspection. An organization, or its officers, may request a complete copy of the organization's own return by completing Form 4506, Request for Copy of Tax Return, and paying the applicable fee.

Digital Data Request

The IRS can provide copies of exempt organization returns on USB. Requesters can order the complete set (for example, all Forms 990 and 990-EZ or all Forms 990-PF filed for a year) or a partial set by state. If you are ordering a partial set on USB, indicate the state(s), and month(s) you are ordering. Sample digital data requests are not available for individual states. Digital data and sample digital data requests are not available for individual exempt organizations. Complete information, including the cost, is available on the IRS website. Search Copies of Scanned EO Returns Available at www.irs.gov/Charities-&-Non-Profits/Copies-of-Scanned-EQ-Returns-Available.

Format

Raw. The digital data contain image files in Tag Image File (TIF) format for returns selected for the month or quarter requested This format is best for users who intend to process the image files through their data software

How Much Will It Cost?

You may inspect a return, report, notice, or exemption application at an IRS office free of charge.

If you want a photocopy of a return, report, notice, or an exemption application, see the chart below.

Note. The IRS will send you a bill for the photocopy cost. If your cost is over \$250, we will ask for payment in advance.

IF you are	THEN the charge for paper copies is						
A commercial user	\$ 20 per page						
An educational institution, media, non-commercial scientific institution, or all other requesters	First 100 pages free, \$ 20 per page thereafter						

Digital data requests and sample digital data requests must be prepaid. Please include your payment with your request. Search-Copies of Scanned EO Returns Available at www.irs.gov/Charities-&-Non-Profits/Copies-of-Scanned-EO-Returns-Available for the cost of digital data and sample digital data. A check or money order for the fee should be payable to "United States Treasury."

Reminder. Fees for digital data are updated in January of each processing year. Refer to IRS gov to determine the required fee related to the processing year the request is submitted for. For example – Processing year 2018 DVD fees are updated January 2018.

Where To File

Use the following chart to determine where to fax or mail (depending on the service needed) Form 4506-A. **Note**: To avoid delays, do not combine requests sent to different address on one Form 4506-A.

F you want	THEN file Form 4606-A with the						
To inspect a return, report inolice, or exemption application at an IRS office*	Internal Revenue Service Centralized Processing Unit (CPU) – Stop 93A PO Box 621506 Atlanta, GA 30362-3006 Fax no 877-891-6036 Note Only one request per Fax						
A copy of an exemption application, Form 1023. Form 1023-EZ, Form 1024, Determination Letter, or updated Determination Letter (includes all supporting documents)	Internal Revenue Service Attn: Correspondence Unit P.O. Box 2508, Room 4024 Cincinnati, OH 45201 Fax no 855-204-6184						
A copy of a return, report, or notice	Internal Revenue Service RAIVS Unit MS 6716 Ogden, UT 84201 Fax no. 855-653-9144						

^{*}The office handling your request will contact you to schedule an appointment when the item is available for inspection.

How Long Will It Take?

Generally, it may take up to 60 days for us to process your request.

Specific Instructions

Line 1

Exempt or political organization. Enter the organization's official name under which exempt status was approved, address, and employer identification number. If you do not enter the official name, we may not be able to locate the requested form. Complete a separate Form 4506-A for each organization.

Line 2

Requester. Enter the requester's name, address, phone number, and the name of a contact person.

Line 3

Category of requester. Check the appropriate category of the requester. You must check a box.

Line 4

Reason for request. To avoid being charged the commercial rate, all requesters except commercial users must provide a reason for requesting the records and explain how the records will be used.

Lines 5-8

For each applicable form, check the box(es) for the item(s) you are requesting. You may request more than one form. For each form requested, check either the copy, inspection, DVD, or sample DVD box and enter the specific tax year(s) or period(s)

as indicated. If ordering a partial set on DVD or sample DVD, indicate the format, state(s), and month(s) requested. If ordering a sample DVD, check the sample DVD box, indicate the format, and write in the calendar year(s). Sample DVD requests are not available for individual states. Individual state DVDs are only available in Alchemy format.

Line 9

Check the box(es) for the item(s) you are requesting. You may request more than one item

What we will send you

IF you check	A copy of the most recently approved application for exemption submitted by the organization along with all supporting documentation and the determination letter. This includes Form 1023, 1023-EZ, 1024, etc.						
Exemption application							
	Note if the organization previously filed for exemption under a different subsection or was previously granted exemption revoked and then filed for reinstatement, you will only receive the most recent application by checking this box. If you would like previous applications, you must check the "other" box and indicate this in the space provided.						
Determination letter only	Only the determination letter that was issued as a result of the most recently approved exemption application (e.g. Form 1023, Form 1023-EZ. Form 1024, etc.)						
Affirmation letter	A letter with the current date affirming the current exempt status of the organization						
Olher	The specific items you request on the line provided or on an attachment. Use this box to request any other item(s) that is/are publicly disclosable. Examples include, but are not limited to group exemption requests some requests made on Form 8940, and pnor exemption applications.						
	Note Requests for these other documents take longer to process and could result in significant delays						



Incomplete requests will be rejected

Note. Tax returns are generally available only for 7 years from filing before they are destroyed in accordance with applicable provisions of law.

Privacy Act and Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. We need the information to gain access to the return or other exempt or political organization IRS form you requested in our files and properly respond to your request.

The authority to ask for the information requested on this form is section 6104 and its regulations. You are not required to provide the information requested on this form. However, if you do not furnish the information, we may not be able to fulfil your request. Providing willfully false or fraudulent information may subject you to criminal penalties. Routine uses include disclosing the information to the Department of Justice for civil or criminal litigation. We may also disclose this information to federal and state agencies to enforce federal nontax criminal laws and to federal law enforcement and intelligence agencies to combat terrorism.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103. The time needed to complete and file Form 4506-A will vary depending on individual circumstances. The estimated average time is:

Recordkeeping												9	9	•	6 min
Learning about the law or the form									*1		•		ige.		10 min.
Preparing the form									2	•			4	ř.	21 min
Copying, assembling, and sending	the	e f	on	n i	to	the	e II	RS	*			-		*	20 min

If you have comments concerning the accuracy of these time estimates or suggestions for making Form 4506-A simpler, we would be happy to hear from you. You can send us comments by going to www.irs.gov/formspubs/. clicking on "More Information," and then clicking on "Give us feedback." You can also send your comments to:

Internal Revenue Service Tax Forms and Publications Division 1111 Constitution Ave. NW, IR-6526 Washington, DC 20224

Do not send Form 4506-A to this address. Instead, see Where To File

Form 4506-A

(October 2018)

Department of the Treasury Internal Revenue Service

Request for Public Inspection or Copy of Exempt or Political Organization IRS Form

Type or print clearly. Request may be rejected if the form is incomplete or illegible.
 Information about Form 4506-A and its separate instructions is at www.irs.gov/form4506.

OMB No.: 1545-0495



You may not have to complete Form 4506-A to get the copies you need.

- Internet. Form 8871, Polltical Organization Notice of Section 527 Status, and Form 8872, Political Organization Report of Contributions and Expenditures, are available for inspection from the Internet. The website address for both forms is www.irs.gov/polorgs.
- Public disclosure by the organization. Exempt or political organizations must make their returns, reports, notices, and exempt applications available for public inspection. You can visit the organization to inspect the material instead of requesting it from the IRS. The organization may be able to mail the copies to you.
- Form 990-N (e-Postcard) annual electronic notice is available for Inspection on IRS.gov using Tax Exempt Organization Search (see instructions).
- Amazon Web Services (AWS). Efiled Forms 990, 990-EZ and 990-PF are available on AWS in a machine readable format.

_	Amazon web Services (Aws). Linear onnis	330, 330-LZ al	10 330-	ri are avaliable on	AWO III a	a machine readable format.							
1		xempt or political organization. Complete a separate Form 4506-A for each organization.											
	Name				Er	mployer identification number							
	Address												
	City or town, state or province, country, and ZIP or fo	reign postal code											
2	Requester												
	Name	Co	Contact person										
	Address		Phone										
	City or town, state or province, country, and ZIP or fo	oreign postal code		Date									
3	Category of requester: Commercial us	er N	mercial scientific inst	Media									
	You must check a box.	titution	l others			Name of Media Outlet							
4	Reason for request. All requesters except the charged the commercial rate. Attach additional	I sheets if necess		ust provide an explar	nation of	how the records will be used to avoid being							
Not	te. DVD and Sample DVD are not available for in Form 990, Form 990-EZ: a Paper request: Copy Inspection	sper request: Copy Inspection				Digital data request: Yearly Sample State(s):							
	Tax year(s) or period(s) requested: YYYYMM	YYYYMM YY	YYMM										
6	Form 990-PF: a Paper request: Copy Inspection Tax year(s) or period(s) requested: YYYYMM	;;;	YYMM	b		lata request: Yearly Sample							
7	a Paper request: Copy Inspection Tax year(s) or period(s) requested:					lata request: Yearly Sample							
8	Form 5227 (for tax years beginning after Deci Paper request: Copy Inspection Tax year(s) or period(s) requested: YYYYMM		8	9	Form Exem	ication for exemption (Form 1023, 1023-EZ, n 1024, etc.) ption determination letter only nation letter r							
		ī	RS Us	se Only									
	The form requested above was inspected by (n			IRS office where in	spection	was made							
	Signature of employee present at inspection			Date									