



Commissioner Douglas Shulman  
Internal Revenue Service  
1111 Constitution Avenue NW  
Washington DC 20224

Tuesday, June 15, 2010

Dear Sir:

We are writing to express our concern regarding potential tax abuse by the following organization.

Hawaii Family Forum  
6301 Pali Highway  
Kaneohe, Hawaii 96744  
Phone: (808) 203-6704  
Fax: (808) 261-7022  
E-Mail: [info@hawaiiifamilyforum.org](mailto:info@hawaiiifamilyforum.org)  
Website: [www.hawaiiifamilyforum.org](http://www.hawaiiifamilyforum.org)

The Hawaii Family Forum (hereafter "HFF") is registered with the IRS as a 501(c)(3) tax-exempt organization.

HFF is also registered with the Department of Commerce and Consumer Affairs in Hawaii as a domestic non-profit corporation. HFF's current officers are:

FRANCIS S. ODA, President  
AUSTIN IMAMURA, Vice President/Treasurer  
GILL BERGER, Secretary  
MARY LOU BROGAN, Director  
H MITCHELL DOLIER, Director  
BILL PATY, Director  
NANCY PACE, Director  
NANCY PFLUEGER, Director  
SANDRA YOUNG, Director  
BRIAN R TSUJIMURA, Director  
ERNEST LUM, Director

This is an official complaint regarding suspected violations of the IRS code, the Hawaii Revised Statutes, and potentially other laws, administrative rules, and regulations concerning lobbying activities and funding irregularities by HFF.

A recent article and an editorial in the Honolulu Star-Advertiser support these claims. (EXHIBITS 1A & 1B)

HFF was founded in 1998 to advocate and lobby for a constitutional amendment banning same-sex marriage in the State of Hawaii. The HFF brochure, which can be downloaded from their website, describes the organization as follows: (EXHIBIT 2)

**About HFF**

Hawaii Family Forum (HFF) (established in 1998) is a nonprofit, pro-family research and education organization, dedicated to protecting, preserving and strengthening Hawaii's families. We are not involved with political candidates or political parties; however, we are actively involved in the public policy concerns that impact our families, neighborhoods and communities.

**Our Vision**

Our vision is to see every Christian congregation in Hawaii equipped and united to strengthen and defend Hawaii's families and disadvantaged.

**Influence Legislation**

Within the limits allowed by the IRS, we provide factual and legal information to policy makers to help inform their decisions from a family friendly perspective. We also educate and involve Hawaii residents – the faces and voices of the community – to actively join us in this effort.

HFF's website is the organization's primary means of disseminating information. HFF newsletters are published online, as are legislative alerts, announcements, tracking reports, testimony, calendars, and directories for each legislative session. The site archive details HFF's activities since 2000. (EXHIBITS 3A & 3B)

HFF's copious information regarding bills before the Hawaii State Legislature always includes the position of the organization, detailing HFF's efforts to influence lawmakers on their votes. Frequently HFF instructs its members to contact elected officials directly and urge them to pass or vote down a particular bill.

The HFF website does not contain similar reports of any research or education activities that could not be considered political advocacy. Reviewing ten years of publications, there are virtually no programs to offset HFF's considerable lobbying activity. Even HFF's educational and voter-registration activity is conducted with references to their positions on actual

legislation (not issues) or at public rallies held to influence legislators' votes on specific bills.

After a thorough review of all materials (web pages, downloads, links, etc.) published on the HFF website, we were unable to find any evidence that HFF is engaged in any programs that would qualify the organization for 501(c)(3) status.

From their own publications, it appears that HFF is engaged in virtually 100% lobbying and political advocacy.

Extending the search to Hawaii newspapers and other media, verifies that HFF's activity is exclusively related to specific bills in the Hawaii State Legislature. We can find no reporting of ongoing charitable or community service provided by HFF. (EXHIBIT 4)

According to HFF's Form 990 filings with the IRS from 2002 to 2008, the organization's "primary exempt purpose" and mission is: (EXHIBITS 5A, 5B, 5C, 5D, 5E, 5F & 5G)

To identify and support policies and programs that will ensure the preservation and strengthening of traditional Judeo-Christian family values.

This is the only description of "Program Service Accomplishments" HFF has ever provided to the IRS.

IRS Form 990 also requires a detailed accounting of programs and expenses:

All organizations must describe their exempt purpose achievements in a clear and concise manner. State the number of clients served, publications issued, etc. Discuss achievements that are not measurable.

HFF left this section blank every year, from 2002 to 2008.

The annual attached statements/schedules do little to expand on this significant omission. Each year HFF lists the same two items - "Community Educational Events" and "Disemination [sic] of Educational Material" - with HFF's total expenses split evenly between them.

Either HFF has no primary program services or achievements to report - except for lobbying activity - or they are deceptive in their filings with the IRS. The same two generic items (with the same typo) are listed every year with the total expenditures equally allocated between them. This indicates that HFF is

failing to keep adequate records of their finances as required by law.

The IRS has definitive guidelines for lobbying by 501(c)(3) organizations.

### **Lobbying**

In general, no organization may qualify for section 501(c)(3) status if a substantial part of its activities is attempting to influence legislation (commonly known as lobbying). A 501(c)(3) organization may engage in some lobbying, but too much lobbying activity risks loss of tax-exempt status.

The actions of HFF, as described on their website and in media reports, are considered "lobbying" as defined by the IRS:

An organization will be regarded as attempting to influence legislation if it contacts, or urges the public to contact, members or employees of a legislative body for the purpose of proposing, supporting, or opposing legislation, or if the organization advocates the adoption or rejection of legislation.

Virtually all of HFF's activities and expenditures are focused - not on education - but on influencing legislation, urging the public to contact their elected representatives regarding particular bills, and advocating the defeat or passage of specific legislation. (EXHIBIT 6)

The IRS limits HFF to spending 20% of their "exempt purpose expenditures" on lobbying.

HFF's filings from 2002 to 2008 indicate that the organization fell well within the 20% threshold. However it appears HFF has repeatedly under-reported lobbying expenditures and has allocated no payroll costs (e.g., salary for lobbyist) as lobbying expense.

<b>HFF IRS 990</b>	<b>Lobbying Expenses</b>	<b>Payroll Expenses</b>
2002	\$ 540	\$ 97,459
2003	\$ 700	\$ 107,251
2004	\$ 0	\$ 70,538
2005	\$ 0	\$ 106,277
2006	\$ 2,580	\$ 127,632
2007	\$ 2,020	\$ 133,828
2008	\$ 0	\$ 75,413
<b>TOTAL</b>	<b>\$ 5,840</b>	<b>\$ 718,398</b>

HFF has been very active at the Hawaii State Legislature, as described in detail on their website. Each year, from 2002 to 2008, HFF reported lobbying on numerous bills. HFF summarized their lobbying activity in an annual report. HFF sent numerous "Legislative Alerts" to supporters requesting they contact lawmakers directly to influence their votes.

From 2002 to 2005, HFF followed a number of bills at the legislature, submitted testimony, appeared at hearings, and sent emails to supporters requesting their direct participation. (EXHIBITS 7A, 7B & 7C)

HFF reported tracking the status of over 30 bills and resolutions and providing testimony more than 50 times during the 2006 legislative session. (EXHIBIT 8)

In 2007, HFF claimed to have "testified on over 50 different pieces of legislation." HFF also provided 94 pieces of testimony on bills before the Hawaii State House and Senate. (EXHIBIT 9)

HFF's End of Session Report reads, "2008 was a very successful legislative session for the Hawaii Family Forum (HFF)." The website lists at least 19 bills with PDF downloads of HFF's written testimony. This contradicts HFF's "No" response to the 2008 IRS Form 990 question: "Did the organization engage in lobbying activities?" (EXHIBITS 10A, 10B & 10C)

This much lobbying activity would require at least two people working full time.

Since its founding, HFF has employed an Executive Director, Kelly M. Rosati, and an Office Administrator, Eva Andrade. A long-time employee of the Roman Catholic Church of Hawaii, Andrade's HFF duties include communications and bookkeeping. Rosati is a lawyer and HFF's registered lobbyist, providing the bulk of HFF's testimony and editing the organization's publications.

From 2002 to 2006, HFF incorrectly reported employee salaries and wages by lumping them into one sum on their tax filings. The IRS requires nonprofits to detail compensation of "key employees", namely chief management and administrative officials. HFF did not comply with this requirement so we are unable to determine the salaries paid to Rosati and Andrade. (EXHIBITS 5A, 5B, 5C, 5D & 5E)

On its 2007 IRS 990 form, HFF itemized Rosati's Executive Director salary as \$68,865. HFF's 2008 IRS filing itemized

salary and wages as \$18,000 paid to Rosati and \$44,917 paid to Andrade. (EXHIBITS 5F & 5G)

In March 2008, Rosati left her position at HFF to take a job with James Dobson's Focus on the Family, a national Christian organization that makes financial contributions to HFF.

As a lobbyist, HFF is required to file spending reports with the Hawaii State Ethics Commission. HFF claimed spending just \$2,020 in 2007 and only \$450 in 2008. Both expenditures were categorized as "compensation paid to lobbyists," namely Rosati. (EXHIBITS 11A, 11B, 11C, 11D, 11E & 11F)

As the IRS filings show, Rosati was paid considerably more by HFF than the amount claimed for lobbying. HFF's lobbying expenditures have been grossly underreported. It is difficult to believe that so much political advocacy can be conducted for so little cost.

Significant funding is required to research and monitor so many bills; to compose, submit and present copious pages of testimony; and to write and send out numerous calls for action. Yet in seven years, HFF claimed spending less than \$6,000 for lobbying. This is absurd!

HFF's IRS filings also omit expenses for grassroots lobbying. Nonprofits are required to classify lobbying expenditures as "direct - to influence a legislative body" or "grassroots - to influence public opinion."

HFF reported spending no money on grassroots lobbying in seven years, however their own website hosts a "Grassroots Action Center" where supporters are encouraged to sign up for legislative alerts sent from "Grassroots@hawaiifamilyforum.org". Currently most of these emails are generated by, Voter Voice, a company that charges organizations for providing this service.

Under the heading "Get Involved in the Process" the HFF brochure reads: (EXHIBIT 2)

Simply contact us by phone, fax, e\_mail, or U.S. Postal service and you will be given detailed information on how you can become part of our grass-roots team.

The many "Hawaii Family Forum Legislative Updates" instruct people to contact their elected officials regarding specific bills. One flier is for a constitutional amendment: "Vote Yes on 4 - for our Keiki." Another posting urges supporters to contact the Governor to veto a bill, "urge your family and friends to do the same" and "Let us know that you made contact. It helps us do

our job at the capitol." This is a just a sampling of the many grassroots lobbying campaigns carried out by HFF without any associated cost reported. (EXHIBITS 12A & 12B)

HFF lobbies extensively at the Hawaii State Legislature yet reports little or no expenses for doing so. There are significant discrepancies and contradictions between HFF's actual activities and what they report to the IRS and the Hawaii State Ethics Commission. If expenses for lobbying were allocated properly, it is likely that HFF has consistently exceeded the 20% threshold allowed for lobbying by a 501(c)(3) from 2002 to 2008.

According to IRS filings, HFF spent most of its funds on employee salaries, benefits, payroll taxes and independent contractors, and virtually nothing on program services. (EXHIBITS 5A, 5B, 5C, 5D, 5E, 5F & 5G)

When a nonprofit spends most of its money on staff - as much as 91% - it calls into question the actions of those paid. Evidence shows HFF employees, Rosati and Andrade, spent much of their time working specifically on lobbying activities. There is no evidence that these employees engaged in any tangible programs or services as defined under IRS rules. HFF is allocating most employee expenses to program services that either do not exist or are performed by other organizations.

<b>HFF IRS Form 990</b>	<b>Total Expenditures</b>	<b>Employee &amp; Contract Expenses</b>	<b>Office &amp; Program Expenses</b>
<b>2002</b>	\$ 105,998	\$ 97,459	\$ 8,539
<b>2003</b>	\$ 133,676	\$ 107,251	\$ 26,425
<b>2004</b>	\$ 87,034	\$ 70,538	\$ 16,496
<b>2005</b>	\$ 124,971	\$ 106,277	\$ 18,694
<b>2006</b>	\$ 177,259	\$ 157,632	\$ 19,627
<b>2007</b>	\$ 170,822	\$ 147,793	\$ 23,029
<b>2008</b>	\$ 89,254	\$ 75,413	\$ 13,841

If you take HFF's total annual expenditures and deduct salaries & wages, employee benefits, payroll taxes and contract services, the remainder is a small portion of funding available for office expenses and programs (see right-hand column above).

Normal office expenses - even for a modest 2-person office - would require the bulk of these remaining funds. In 2002, HFF reported spending only \$8,539 on office and program services. This is insufficient for a year's rent, utilities, and general office expenses.

In fact, it appears that HFF did not pay rent or utilities in seven years nor claim any such expenditures to the IRS.

The HFF offices are located at a property owned and occupied by the Roman Catholic Church of Hawaii. This property, Saint Stephen Diocesan Center, is under currently investigation by the IRS for failure to report income from "unrelated business activity."

It appears that HFF received free rent and utilities from the Roman Catholic Church of Hawaii. However there is no disclosure by HFF on their IRS 990 forms that such a substantial contribution was received. The IRS requires nonprofits to report the value of "donated services or the use of materials, equipment or facilities at no charge or at substantially less than fair rental value."

On Form 990 the IRS also asks:

Is the organization related (other than by association with a statewide or nationwide organization) through common membership, governing bodies, trustees, officers, etc, to any other exempt or nonexempt organization?

For seven years, HFF has responded "No," repeatedly failing to comply with IRS requirements to disclose affiliations with other groups.

By their own admission, HFF is a paid lobbyist for the Roman Catholic Church of Hawaii. (EXHIBIT 13)

In 2003, HFF established an official partnership with the Hawaii Catholic Conference to lobby on behalf of the Diocese of Honolulu.

The Roman Catholic Church of Hawaii website lists HFF as one of the "Catholic Entities in the Diocese."

Many HFF publications and emails state: "This notice is also an official public policy announcement of the Roman Catholic Church in the State of Hawaii."

The HFF letterhead, used for public testimony at the Hawaii State Legislature, splits the masthead between HFF and the Hawaii Catholic Conference claiming: "A Joint Legislative Effort." The HFF letterhead also prominently lists board members of both HFF and the Hawaii Catholic Conference. (EXHIBITS 14A & 14B)

The HFF's Executive Director has submitted testimony with the additional title of either "Lobbyist, Hawaii Catholic Conference" or "Executive Director, Hawaii Catholic Conference."

The Hawaii Catholic Conference (HCC), shares the same address as HFF: 6301 Pali Highway, Kaneohe, HI 96744.

The groups also share employees. Rosati was the Executive Director of HFF at the same time she was the Director of HCC and a lobbyist for the Diocese of Honolulu. Andrade is simultaneously employed as HFF's Office Administrator and HCC's Communications Director. This raises serious questions regarding revenue sharing, allocation of funds and potential conflicts of interest.

The Hawaii Catholic Herald described the relationship in an April 2008 article: (EXHIBIT 15)

The collaboration between the evangelical-based Hawaii Family Forum and the Hawaii Catholic Conference is somewhat unique, and more so with Rosati, a Protestant, as the official voice of the Catholic Church.

In 2009, the Roman Catholic Church of Hawaii hired Dennis Arakaki to succeed Rosati, according to a February 2009 article in the Hawaii Catholic Herald. (EXHIBIT 16)

Former 10-term state legislator Dennis A. Arakaki has been appointed interim executive director of the Hawaii Family Forum and the Hawaii Catholic Conference for six months, to cover the present state legislative session which began on Jan. 21.

Arakaki will represent the two organizations at the state capitol and will lobby on their behalf. The Hawaii Family Forum is a pro-family educational and advocacy group that is made up of evangelical churches and the Hawaii Catholic Conference is the public policy voice of the Diocese of Honolulu. They work as partners on many public issues.

This lobbying partnership with HCC, which HFF did not disclose to the IRS, raises many, many issues. Because HCC is an entity of the Roman Catholic Church of Hawaii, no IRS 990 forms are available. It is thus impossible for the public to determine whether HCC paid salaries to employees it shared with HFF. Nor can we discover how much funding, direct or indirect, HCC provided to HFF for lobbying activities.

After joining with HFF, HCC stopped registering with the State of Hawaii as a lobbyist and ceased to report lobbying expenses.

That is until HFF became aware of our investigation. On April 30th, just two weeks after we requested HFF's 2009 IRS Form 990, HCC filed a retro-active lobbyist registration form with the Hawaii State Ethics Commission. In May, HCC filed five lobbyist expense declaration reports, some were more than one year overdue, for 2009 and 2010.

HFF has also failed to disclose to the IRS its relationship with many other organizations: (EXHIBIT 17)

Focus on the Family  
Hope In the Name of Christ (Hope Inc)  
Transformation Hawaii [Chairman Francis Oda]  
members of the "Pastors Advisory Board (PAB)"  
New Life Church [Senior Pastor Francis Oda]  
Calvary Chapel Honolulu  
Calvary Central  
Calvary Pearl Harbor  
First Presbyterian Church of Honolulu  
Hope Chapel Kapolei  
Hope Chapel Mililani  
Hope Chapel North Shore  
Kailua Community Church  
Kaimuki Christian Church  
Kings Cathedral  
Moanalua Gardens Missionary Church  
New Hope Christian Fellowship  
North Shore Christian Fellowship  
Nuuanu Baptist  
OlaNui  
Waianae Assembly of God  
Word of Life and First Assembly of God (Red Hill)  
Hawaii Council of Christian Churches

HFF's Pastor Advisory Board (PAB) is listed as both a governing board, whom HFF represents when lobbying at the Hawaii State Legislature, and a source of funding, "we are supported by the generous tax-deductible contributions of churches (PAB above)."

HFF has failed to report any of these affiliations as required.

In 2006, Hope In the Name of Christ (hereafter "Hope INC") reported on its IRS Form 990 that it paid HFF \$50,000 for contract services, described as: "Locating and screening people considering being foster or adoptive parents." Hope INC received these funds as part of a \$135,815 government grant administered through the Hawaii State Department of Health and Human Services. (EXHIBIT 18)

At the time the \$50,000 was paid to HFF by Hope INC, Rosati concurrently served as President of Hope INC and Executive Director of HFF. On its 2006 IRS Form 990, Hope INC listed Kelly Rosati as President and her husband, John Rosati, as Secretary/Treasurer. This entanglement suggests the possibility of self-dealing. Neither HFF nor Hope INC reported these obvious conflicts of interest to the IRS.

HFF did not report receiving the \$50,000 payment as "Program Service Revenue" and the funding was not disclosed elsewhere on their 2006 tax forms. HFF has never listed adoptive services as one of its programs. Nor has HFF ever listed any expenditures for such a program. (EXHIBIT 5E)

In 2006, HFF reported only \$19,627 for office expenses and program services; 89% of their funds were spent on salaries & wages, employee benefits, payroll taxes and contract services. According to their IRS filings, HFF reported \$30,000 in 2006 and \$13,965 in 2007 for "contract services." However HFF failed to disclose the recipients of these payments or describe their purposes as required by the IRS. (EXHIBITS 5E & 5F)

HFF's IRS filings are riddled with omissions and errors that bring their accuracy into question. In 2004, HFF reported spending \$17,276 on "Miscellaneous," far more than they spent on anything else. Nonprofits are required by law to keep accurate records of their finances and HFF has obviously failed to do so. (EXHIBIT 5C)

This complaint is being made prior to the availability of HFF's 2009 IRS Form 990. The 2009 filing was requested (under IRS section 6104d) in person by a visit to the HFF office, located at 6301 Pali Highway. HFF did not provide the requested form. The following day, HFF hired attorney James Hochberg who responded to our request with a demand that we not contact HFF and to direct all further inquiries to his office. Hochberg later said that HFF filed for an extension and would not be providing a copy as requested.

This extension request may be nothing more than a delay tactic. Which begs the question: what more does HFF have to hide?

Although HFF's 2009 IRS Form 990 is not yet available, we have reviewed HFF's 2009 lobbyist expense reports filed with the Hawaii State Ethics Commission. HFF missed a number of filing deadlines and recently filed amended returns to correct inaccuracies on their initial 2009 reports. (EXHIBITS 19A, 19B, 19C, 19D & 19E)

HFF's amended 2009 filings report a total of \$76,008 in lobbying expenditures – a huge increase in the amount reported over previous years. In order for this lobbying expense to fall within the allowed 20% (for a 501(c)(3)) HFF must also report at least \$380,040 in exempt program expenses (the remaining 80%).

In other words, HFF's IRS Form 990 for 2009 must show a total expenditure of at least \$456,048 in order for the organization to retain its 501(c)(3) tax-exempt status.

The HFF newsletters for 2009 do not report any charitable or social service programs. HFF's website and publications focus exclusively on the organization's lobbying efforts. In 2009, over 30 bills were monitored with HFF providing testimony for each scheduled hearing. HFF also sent out at least 17 alerts to supporters for grassroots lobbying efforts. (EXHIBITS 20A & 20B)

Based on the information provided in this letter, we call for an audit of all HFF's IRS 990 filings, including the pending 2009 form, to determine if HFF meets the IRS guidelines for a 501(c)(3) tax-exempt organization.

IRS section 501(h) states: (EXHIBIT 21)

an organization that engages in excessive lobbying activity over a four-year period may lose its tax-exempt status, making all of its income for that period subject to tax. Should the organization exceed its lobbying expenditure dollar limit in a particular year, it must pay an excise tax equal to 25 percent of the excess.

When the HFF 2009 IRS Form 990 becomes available, we will review it carefully and forward our findings to the IRS. We will also continue to monitor HFF's activities, including ongoing solicitation of donations under the auspices of a 501(c)(3) tax-exempt organization and reports to the Hawaii State Ethics Commission.

All of the information contained in this complaint comes directly from HFF through its publications, IRS Form 990s and Hawaii State Ethics Commission filings.

Our review of this information raises many important concerns regarding HFF's tax-exempt status that require examination by the IRS, Hawaii State Attorney General, Hawaii State Department of Taxation, and the Hawaii State Ethics Commission.

Sincerely,

Holly J. Huber

Attachments: Exhibits 1A - 21

CC:

Governor Linda Lingle  
Attorney General Mark Bennett  
Hawaii State Tax Director  
Hawaii Dept of Health & Human Services  
Hawaii State Ethics Commission  
Aloha United Way  
ACLU of Hawaii