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Internal Revenue Service
IRS EO Classification
Mail Code 4910DAL
1100 Commerce Street Dallas, TX 75242-1198

via email at: eoclass@irs.gov, and first-class mail

RE: Tax-Exempt Organization Complaint: "Citizens Energizing Michigan's Economy"
EIN 46-4355362; Letter accompanying Form 13909

Dear Internal Revenue Service:

Please accept this letter and the accompanying form 13909 as a request for an investigation into the claimed 501(c)(4) tax exempt status of "Citizens for Energizing Michigan's Economy." This investigation is fulsomely warranted by the following:

1. The corporation (sometimes called "CEME") is operating in direct violation of its claimed purpose to "receive and administer funds for social welfare purposes." In particular, there is no evidence of any activities intended to improve social welfare of the people in the State of Michigan.
2. The *primary purpose* of CEME, as evidenced by its activities and expenditures, is to conduct political campaigns that support or oppose specific candidates for state offices in the State of Michigan.
In particular, the *primary* expenditure of funds for CEME, and perhaps the only significant expenditure of funds over the past 6 months, has been express advocacy for and against identified political candidates. I estimate that over \$1 million has been spent by CEME in campaign advertising in the last 3 months in just a handful of State of Michigan races, all expressly favoring or opposing identified candidates for legislative offices.
 - See Table 1, "Partial List of Known Campaign Activities of CEME and Related Entities in the State of Michigan, as of July 2018," on page 8.
3. The campaign advertisements listed in Table 1 on page 8 have all the following indicators of express advocacy:
 - They identify a *specific* candidate. (See Table 1 on page 8 for specific candidates identified in selected CEME campaign advertisements.)
 - They explicitly *support or oppose* the identified candidate's (alleged) position on (sometimes purported) issues.

- They *urge action* on the part of voters to support or oppose the candidate, including calling a phone number that appears (although may not actually be) an official manner of expressing such support or opposition to the government.
- They *occur in proximity* to an election involving the named candidate.
- They are *made in an area* where voters that can participate in the election with the named candidate live or work.

See examples of these campaign advertisements in the addendum, filed electronically.

4. They fulfill the legal requirements of “expenditure” under both federal and state law (for the State of Michigan). Furthermore, they fulfill the federal definition of “express advocacy.”
 - See “Exhibit 3: Definition of “Campaign Expenditures” and “Express Advocacy”” on page 7.
5. They are not expenditures for “social welfare,” or for the education of citizens on issues involving energy or the economy.

Unless one considers expenditures in favor or against a specific candidate for an impending election to be “social welfare” expenses—and ignores the many other requirements and restrictions on expenditures involving such express campaign advocacy—there is no salvaging these advertisements under the clear meaning of both state and federal laws. In particular, the studious omitting of the word “vote” in such advertisements does not except them from the definition of “express advocacy” in the federal law, nor “campaign expenditure” in state law.

- See “Exhibit 3: Definition of “Campaign Expenditures” and “Express Advocacy”” on page 7.
6. The corporation is operating in direct violation of the prohibition, expressed in its articles of incorporation, against “engaging in express advocacy for or against any identified candidate or ballot questions.”
 7. Further undermining any attempt to assert these advertisements provide a “social welfare” benefit is their content. For at least some of these advertisements, the alleged activities of the identified candidate are fictitious.
 - For example, the purported “plan” for one such candidate does not, in fact, exist.¹ No mention of such a “plan” is on the candidate’s “issues” web page, and a global search for the candidate’s name and the title of the alleged “plan” produces no results.²
 - In the same campaign mailer, the proposed voter action (to call a phone number) actually goes to an legislative body for which the candidate does not seek office, and does not have any role.³

1. This is the case with the Graham Filler campaign mailer, which is part of the expenditures listed in the table. Mr. Filler is not a legislator. The mailer, however, asserts he has a “plan” for “safe communities for a safe economy,” which even Mr. Filler’s campaign website does not mention, and for which there is no discernible indication anywhere else that can be found with a straightforward web search.

2. A copy of the search page results is included in the addendum, which is filed electronically.

Note that these search results would change if the web pages were updated. The results shown above were based on separate web searches conducted on two separate occasions, July 27 and July 30.

8. It is possible—but not known to this author—that contributors to CEME deducted their contributions as ordinary business expenses.
The IRS states that “contributions to civic leagues or other 501c4 organizations... may be deductible as trade or business expenses, if the expenditures are ordinary and necessary in the conduct of the taxpayer’s business.”¹ In this case, CEME asserts it is a 501c4, and MPSC records confirm that at least one large Michigan utility company contributed \$20,000,000.
(See also the discussion under “proxy tax,” below.)
9. The CEME organization is well aware that it behaves in a manner that involves prohibited activities for organizations that accept contributions that may be deducted as a trade or business expense. This is clear from their payment (as indicated in their Form 990, part XI, page 10) of a “proxy tax” of \$1.51 million in 2016.
This obscure tax, imposed by IRC section 6033(e), applies only to certain tax-exempt organizations that incur non-deductible lobbying and political expenses, *but fail to inform their members of that fact.*²
We can use the rate indicated in the Form 990 instructions for the proxy tax (for line 37 in the 2017 form), which is 35%, to estimate such explicitly non-deductible lobbying and political activities conducted by CEME. The rate and tax amount imply that these expenditures were approximately \$4.32 million for the time period, which may be the prior calendar year 2015.³
10. The subterfuge of claiming 501c4 status and asserting that the organization pursues a “social welfare” mission allows for other violations of federal and state laws. These include:
 - Michigan Campaign Finance Act disclosure requirements, and prohibitions on funding by certain entities, are both bypassed. Numerous sections of the Act require registration of committees, reporting of contributions and expenditures, and contain prohibitions on certain expenditures. Section 41 requires reporting of contributions over \$20 by name and in writing, and prohibits anonymous contributions and contributions recorded under

3. The phone number listed on the mailer, to which voters are urged to call in order to express support for Mr. Filler’s “plan,” goes to the Michigan Senate.

In some cases, it is at least plausible that the named candidate (if he or she was a sitting legislator, or a community leader actively involved in public advocacy) had a plan of some kind.

I do not attempt to determine whether assertions in the negative advertisements listed in the table also reach the depths of fictitiousness of the ephemeral “plans” that are asserted in the positive advertisements.

1. IRS guidance for charities and non-profits, found at IRS.gov and updated June 2018.

2. IRS guidance describes nondeductible lobbying and political expenditures as those including “influencing legislation; participating or intervening in any political campaign on behalf of (or in opposition to) any candidate for political office; attempting to influence the general public with respect to elections, legislative matters, or referendums; and any direct communication with a covered executive branch official in an attempt to influence the person’s official actions or positions.”

[IRS guidance on “non-deductible lobbying and political expenditures,” found at IRS.gov, and updated May 2018.]

3. As the organization does not list expenditures totalling \$4.3 million in 2016, it appears this proxy tax is for activities that occurred in the prior year or years. However, Form 990 for this organization was not available for 2014 or 2015. See the discussion below under “Note on Unavoidable Lack of Precise Information on Campaign Expenditures” on page 9, regarding the self-reporting of the proxy tax, and the lack of information allowing a precise estimate.

assumed names.

However, a search of the Michigan Secretary of State Campaign Finance Committee database for “Citizens Energizing Michigan’s Economy” in late July 2018 found no results.¹ Thus, an organization whose campaign expenditures in a short time period exceed \$1 million has, apparently, avoided even registering their name with the election officials in Michigan.

- Michigan Campaign Finance Act limits on expenditures are bypassed. Section 67 limits expenditures by a candidate committee in any one election cycle to \$2 million. As estimated in Table 1, “Partial List of Known Campaign Activities of CEME and Related Entities in the State of Michigan, as of July 2018,” on page 8, expenditures from this entity appear to exceed \$1 million for just a handful of races and only a short time period.
- Reporting requirements imposed by the FCC on political advertising are similarly avoided. For example, some of the advertising campaigns listed in the table are conducted via radio and tv advertising placed with stations that maintain FCC “public inspection files.” For several of such ad placements on two different stations (WILX and WJIM), the files related to these placements were included as “Non-Candidate Issue Ads.” As evidenced by the text of the advertisements included in the addendum to this letter, as well as by numerous news media accounts of their content, the *primary* purpose of these ads is to identify a candidate for office and urge voters to support or oppose that candidate.

1. Similar searches for variations, such as “CEME” and “energizing Michigan” also found no result. The Michigan Secretary of State home page is <https://www.michigan.gov/sos>, and the searchable database can be found at: <https://cfrsearch.nictusa.com>.

Section 51 of Michigan’s Campaign Finance Act requires disclosure of “independent expenditures” made by organizations that spend more than \$100 in a year “to support or oppose the nomination or election of a state level candidate” as well as ballot issues. A separate search for “Independent Expenditure Reports” in late July 2018 produced no filings in 2018, or in 2017, for CEME or an organization with a similar name.

Exhibit 1: Company Information

Company Identity:

Citizens Energizing Michigan's Economy
2145 Commons Parkway, Okemos, Michigan 48864
Principal officer: Howard Edelson (same address)
Registered agent with State of Michigan: Eric Doster (same address)
Listed phone number: 517 483 2296
EIN: 46-4355362; State of Michigan identification number 71472G

Available Company Filings:

- Return of Organization Exempt from Income Tax (Form 990) filed with the IRS, for calendar year 2016, signed by "Howard Edelson, President" on May 9, 2017.
- Michigan Dept. of Licensing and Regulatory Affairs, Articles of Incorporation, Dec. 2013.
- Annual report with the State of Michigan, for the year 2017, Sept. 2017. (See listed officers and directors, and claimed purpose, below.)

Claimed Purpose, from Article II of the articles of incorporation:

- "The Corporation is organized exclusively for the purposes set forth in Section 510(c) (4)... The purposes shall include:
 1. To receive and administer funds and property for social welfare purposes.
 - ...
 6. To develop a public education program to raise public consciousness: (a) about the importance of the social and economic values that the Corporation favors; or (b) about issues related to candidates of ballot questions - - all without engaging in express advocacy for or against any identified candidate or ballot questions.
- "The Corporation is intended to be an organization which is exempt from Federal income taxation under Section 510(c) (4)... Notwithstanding any other provision of these Articles, the Corporation shall not carry on any other activities not permitted to be carried on by a corporation exempt from federal income tax under section 501(c)(4) of the Code..."

Claimed Purpose, from the 2017 annual filing with the State of Michigan, dated September 13, 2017:

"To receive and administer funds and property for social welfare purposes."

Claimed Tax Status:

501(c) 4, as indicated on Form 990, and as indicated in the Articles of Incorporation.

Listed Officers and Directors, from the 2017 annual filing with the State of Michigan, dated September 13, 2017:

- Howard Edelson (President, and Director)
- Ronn Rasmussen (Secretary, Treasurer, and Director)
- David Mengebier (Director)

Exhibit 2: Possibly related entities with similar or identical addresses and activities

- Alliance for Michigan Power,
2145 Commons Parkway, Okemos, Michigan 48864
- Michigan Energy First,
2145 Commons Parkway, Okemos, Michigan 48864
- Conservative Leadership and Values Coalition
PO Box 13272, Lansing, Michigan 48901
- Faithful Conservatives for Michigan
2145 Commons Parkway, Okemos, Michigan 48864

Note: Some campaign advertisements provide ambiguous information on the sponsoring entity. For example, one mailer (for Brett Roberts) lists as “Alliance for Michigan Power” twice on one side, but states that the advertisement was “paid for by Michigan Energy First” on the other.

Exhibit 3: Definition of “Campaign Expenditures” and “Express Advocacy”

“Express advocacy,” federal definition, at 11 CFR 100.22:

Expressly advocating means any communication that -

a. Uses phrases such as “vote for the President,”...
or

b. When taken as a whole and with limited reference to external events, such as the proximity to the election, could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate(s) because—

1. The electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning; and

2. Reasonable minds could not differ as to whether it encourages actions to elect or defeat one or more clearly identified candidate(s) or encourages some other kind of action.

“Expenditure,” for purposes of federal elections, at 52 U.S.C. 30101(17).

(9)(A) The term “expenditure” includes-

(i) any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office; and

(ii) a written contract, promise, or agreement to make an expenditure.

“Expenditure,” for the purposes of the Michigan Campaign Finance Act, at MCL 169.206.

Sec. 6. (1) “Expenditure” means a payment, donation, loan, or promise of payment of money or anything of ascertainable monetary value for goods, materials, services, or facilities in assistance of, or in opposition to, the nomination or election of a candidate, the qualification, passage, or defeat of a ballot question, or the qualification of a new political party. Expenditure includes, but is not limited to, any of the following:

(a) A contribution or a transfer of anything of ascertainable monetary value for purposes of influencing the nomination or election of a candidate, the qualification, passage, or defeat of a ballot question, or the qualification of a new political party.

...

(2) Expenditure does not include any of the following:

(a) An expenditure for communication by a person with the person's paid members or shareholders and those individuals who can be solicited for contributions to a separate segregated fund under section 55.

(b) An expenditure for communication on a subject or issue if the communication does not support or oppose a ballot question or candidate by name or clear inference.

TABLE 1. Partial List of Known Campaign Activities of CEME and Related Entities in the State of Michigan, as of July 2018

Activity	Identified Candidate	Pro or Con for identified candidate	Estimated Expenditures, May-July 2018
Campaign expenditures for Brett Roberts, including campaign mailers identifying a “plan” that voters are asked to support.	Brett Roberts, candidate for Michigan Senate (24th district)	Pro	\$300,000 +
Campaign expenditures against Tom Barrett, including criticizing his purported votes on vaccination, auto insurance, and education issues.	Tom Barrett, candidate for Michigan Senate (24th district)	Con	\$200,000 +
Campaign expenditures for Graham Filler, including mailers, phone calls, and television ads identifying a purported “plan” that voters are asked to support.	Graham Filler, candidate for Michigan House (93rd district)	Pro	\$150,000+
Campaign expenditures against Gary Glenn including criticizing his purported votes on vaccination, auto insurance, and education issues.	Gary Glenn, candidate for Michigan Senate (34th district)	Con	\$1,000,000 +

Sources: Campaign mailers for Brett Roberts, against Tom Barrett, and for Graham Filler; WILX political advertising disclosures from the FCC, listing CEME advertising; WJIM political advertising disclosures from the FCC; Gongwer News Service post from August 31, 2017; WCMU report from May 21, 2018; Michigan Public Radio report from June 12, 2018; Michigan Public Radio report from June 12, 2018, including statement from Consumers Energy spokesman; reports from Michigan Campaign Finance Network (including May 10, 2018); Consumers Energy filing with the MPSC for year 2017, noting contribution of \$20,000,000 to CEME; Energy & Policy Institute report of June 7, 2018, after verifying separately the Form 990, MPSC, and LARA filings cited within it; Crain’s Detroit Business article of May 25, 2018.

All cited documents are included in the addendum to this letter.

Note: estimated expenditures cannot be confirmed, for the reasons stated in the letter. Also note that there are multiple entities that share the same address and have similar activities; see Exhibit 2 to this letter.

The Danger of Shrouding and Hiding Campaign Expenditures

There is a clear and present danger of allowing the abuse of 510c4 tax exempt entities to shroud and hide campaign expenditures. The primary purpose of campaign finance laws, such as those in Michigan, is to disclose to the public the identity of those attempting to influence elections and laws. A secondary purpose is to limit or regulate these expenditures. Both of these are undermined, if not completely violated, by the abuses listed in this letter.

First, the use of the 501c4 device makes it especially difficult to determine the identity of those making campaign expenditures. As illustrated here:

- The only identifiable person for CEME is the “registered agent” listed in a state filing. A person that tracks down such an agent cannot demand that the agent even state the names of the current officers and directors of the entity. This is close to anonymity.
- The primary government filings that an entity such as CEME are required to make are annual form 990 filings, and a state filing. The form 990 is publicly available, but only after a significant delay. The state filing in Michigan does not include current officer and director identities, or addresses.
- Even the annual form 990 filings are difficult to find, despite being in the public domain. For example, repeated searches on the IRS website, using both EIN and name, retrieved only the year 2013 postcard filing by CEME. (The year 2016 return, cited in this letter, was obtained from a different source.)
- As demonstrated with CEME, a well-funded organization can quickly create new entities and run them with a singular purpose. See “Exhibit 2: Possibly related entities with similar or identical addresses and activities” on page 6.

Second, the use of the 501c4 device and the assertion of a “social welfare” purpose is being used to avoid any limits on total contributions or expenditures for offices in State elections.

Note on Unavoidable Lack of Precise Information on Campaign Expenditures

I identify specific campaign expenditures, specific campaign advertising, and the sponsors of these activities in this letter. However, there is an inherent and unavoidable lack of precise information on these, including on amounts and sponsoring entities.

This is, of course, *one of the intended purposes* of the creation of the CEME entity and other 501c4 entities engaged in express advocacy in campaigns. They were created to avoid disclosing, reporting, and paying taxes. They will succeed in doing so until the law is enforced to prevent it.

Request for Investigation, and for Administrative Action

The activities of CEME are not unique, in that numerous other organizations claim 501c4 status and engage in election activities. Some of these organizations, like CEME, clearly cross the line into prohibited activities. Others fall in an unacceptably-large grey area. Others scrupulously follow the law. However, the activities of CEME are particularly egregious, both in the audacity of the advocacy for and against specific candidates, and the sheer dollar amount. They demand investigation, for the following reasons:

1. It is patently unfair that well-funded organizations like CEME, with access to well-trained professionals, are able to flout the law, while so many others attempt to follow it.

2. It is also damaging to public trust in elections that a single organization, operating in violation of tax laws (and probably also state campaign finance laws) can dominate local electoral races in a fairly large area within the State.
3. The amounts that an organization like CEME, funded by sources that could include corporations, labor unions, and other entities can swamp the recorded, disclosed, and legal expenditures of campaign committees. It is informative to observe the following:
 - A typical first-time candidate for State House of Representatives will have to raise at least \$40,000 to run a successful primary election campaign covering about 8 months of activity. Recently-filed campaign finance reports from numerous candidates in both major parties underscore this.
 - However, CEME has spent over \$1 million in just 3 months in just 3 races, including over \$100,000 in a single House race within approximately a two-week period. The estimates, which are supported by FCC filings by one television station and observation of campaign mailers and phone calls, cannot be precisely determined for the reasons stated in “Note on Unavoidable Lack of Precise Information on Campaign Expenditures” on page 9.
4. The example set by CEME in Michigan, which is currently on track to be the dominant campaign spender in primary elections for the state legislature in mid-Michigan, will surely be followed by others if there is no action on the part of the IRS.
5. The potential for tax evasion using this method is very large. As suggested by the payment of the “proxy tax” by CEME in 2016, this one entity has already admitted that approximately \$4.32 million in contributions from taxable corporations have been spent on prohibited activities, perhaps in a single non-election year.
Note that this estimate comes from CEME’s legally-required, but difficult to enforce, self-identification and self-payment of the tax. In this respect, CEME has fulfilled the requirements of the law and they should be credited for this action. One cannot assume that other entities pursuing an aggressive political agenda will be similarly forthcoming.

For all these reasons, I urge you to act quickly to investigate this and other entities using tax-exempt status to avoid disclosure and evade taxes.

Sincerely,



Patrick L. Anderson

Attachments: Items listed by category in Addendum, and filed electronically

Addendum: Materials in Support of this Request

I have submitted, in electronic form, the following materials in support of this request.

Document Set 1:

- Copies of articles in the general press, including those used as sources for the information in Table 1, “Partial List of Known Campaign Activities of CEME and Related Entities in the State of Michigan, as of July 2018,” on page 8.
- CEME filings with state and federal authorities, including those referenced in “Exhibit 1: Company Information” on page 5.
- The result of a nonprofit entity search on the IRS website.
- The results of searches on Michigan’s Campaign Finance Committee database.
- The results of an example web search confirming the facetious nature of one of the “plans” of an identified candidate, for which CEME campaign ads ask for citizen support; and the related “issues” page on the identified candidate’s web site, which does not include any mention of the fictitious “plan.”
- FCC “political file” reports from one television station currently airing CEME campaign ads, WILX-TV (channel 10, and NBC affiliate) and WJIM (radio) in Lansing, Michigan.
- Text of tax and campaign finance statutes, including those excerpted in Table , “Exhibit 3: Definition of “Campaign Expenditures” and “Express Advocacy”,” on page 7.
- Text of sections of the Michigan Campaign Finance Act.
- Text on online IRS guidance on issues, as cited in the text of this letter.
- Form 13909

Document Set 2:

- Scanned copies of multiple printed campaign advertisements, from CEME and from actual campaign committees. These files are very large and exceed in aggregate the 20Mb limit on electronic submission. As a result, they are being submitted separately.