



E. SCOTT PRUITT  
ATTORNEY GENERAL

August 5, 2014

John Koskinen  
Commissioner  
Internal Revenue Service  
1111 Constitution Avenue, NW  
Washington, DC 20224

Re: *Freedom From Religion Foundation, Inc. v. Koskinen*, No. 12-CV-818, U.S. District Court for the Western District of Wisconsin

Dear Mr. Koskinen,

It has come to my attention that on July 17, 2014, the Internal Revenue Service settled the above-referenced lawsuit, due to “an agreement [reached] (July 17) that resolves for the time being an ongoing federal lawsuit over non-enforcement of restrictions on political activity by tax-exempt religious organizations and churches.” See <http://ffrf.org/news/news-releases/item/20968-ffrf-irs-settle-suit-over-church-politicking#sthash.8UYVSj7m.bG0tty5l.dpuf>.

According to the Freedom From Religion Foundation, the counterparty to this agreement with your agency, “the IRS...now has in place a protocol to enforce its own anti-electioneering provisions.” *Id.* More specifically, “[t]he IRS has now resolved the signature authority issue necessary to initiate church examinations. The IRS...has adopted procedures for reviewing, evaluating and determining whether to initiate church investigations.” *Id.*

As Attorney General of Oklahoma, I care deeply about the religious freedom of the citizens of my state, as did the Founders of our country, as evidenced by their devoting the *First* Amendment to our Constitution to ensuring the right of citizens to exercise their faith. Unsurprisingly, the First Amendment is also where our Founders chose to enshrine the right of free speech—a right that at its core protects our citizens’ ability to engage in the political process. At the intersection of those two fundamental rights lies the right of religious organizations to encourage their members to engage in the political process in a manner consistent with the core tenets of their religions. The Freedom From Religion Foundation is unabashed in its desire to destroy that right, and the fact that this organization has now entered into an agreement with your agency—an agreement that they call “a victory” for their cause—is alarming.

Additionally, Oklahoma tax law in many instances cross-references federal law, and makes the application of state law contingent upon an organization’s status as a 501(c)(3)

entity under federal law. If federal policy regarding religious organizations' eligibility for tax-exempt status as a 501(c)(3) has changed, so as to make it more difficult for religious organizations to maintain such status, the State of Oklahoma needs to be made aware of such changes, so that it can ensure that state law adequately represents the State's longstanding policy of vigorously protecting freedom of religion and freedom of speech.

Also, the Oklahoma Solicitation of Charitable Contributions Act, whose purpose is to promote "integrity and accountability in the charitable solicitation process," 18 O.S. § 552.1a, and which authorizes my office to prosecute those that violate its terms, hinges its application in many instances on an organization's status as a 501(c)(3). Thus, any change in federal policy with regard to a religious organization's ability to maintain its status as a 501(c)(3) affects my enforcement of the Oklahoma Act.

As such, it is imperative that you provide me with the agreement you entered into with the Freedom From Religion Foundation. If no written agreement exists, provide me with your understanding of the terms of the agreement. Additionally, provide me any documents and communications describing the agreement, including but not limited to those shared with, or sent to, the Freedom From Religion Foundation. Additionally, provide me all documents outlining your agency's policies and procedures for reviewing, evaluating and determining whether to initiate church investigations, including, but not limited to, those provided to the Freedom From Religion Foundation during the discovery process in the above-referenced litigation. In addition, if these policies and procedures complied with the requirements of the Administrative Procedures Act, point me to the Federal Register volume evidencing such compliance. If these policies and procedures were not subjected to the Administrative Procedures Act's requirements, provide me with your basis for having not complied with those requirements.

Sincerely,

A handwritten signature in black ink, appearing to read "E. Scott Pruitt", with a long horizontal line extending to the right.

E. Scott Pruitt  
Attorney General of Oklahoma