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# LIBERTY COUNSEL

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Reply to: Virginia

June 1, 2009

The Honorable Sarah Hall Ingram  
Commissioner, Tax Exempt and Government Entities  
Internal Revenue Service  
1111 Constitution Avenue NW  
1750 Penn Building, Room 684  
Washington, D.C. 20224

Dear Ms. Ingram:

We are writing to express our concerns regarding the activities of *Americans United for Separation of Church and State* (“AU”).<sup>1</sup> We are requesting a full investigation to examine the abuses and politically partisan activity currently being carried out by AU, which appears to be in direct violation of its tax-exempt status.

A recent example of AU’s partisan activity, which is both libelous and slanderous, is the baseless letter AU sent to the Internal Revenue Service (“IRS”) within the last week regarding Liberty University. AU cited inaccurate hearsay misstatements contained in some media reports about official recognition of student clubs on campus. Had AU read the statements from Liberty University and the subsequent corrected media reports, it would have known the statements AU made to the IRS and to the media were false. Contrary to the AU allegation, Liberty University has not banned the student Democrat club and never said one cannot be a Christian and a Democrat. The Democrat club has never been banned. It can still meet on campus. Liberty University will not officially recognize (through use of its name or its funds) any student group, political or otherwise, that supports abortion or same-sex marriage in contravention to the core values and mission of the University. Such a position has nothing to do with political groups. Whether the student group is political or apolitical is irrelevant to official recognition. AU would have known, had it bothered to ask, that the University is undertaking a review of all student groups. AU would have known, had it bothered to inquire, that the club can still meet on campus. And, AU would have known, had it investigated or followed the

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<sup>1</sup> 518 C Street NE, Washington, DC 20002  
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story, that Liberty University has made all student groups aware of its policy, that University officials are working with student members of the groups, and that the club sponsor is working on a retraction, clarification, or apology for the misstatements that were carried by some of the early media reports.

But AU is not concerned with the truth. It is only concerned with getting its name in the media. Its statements are designed to intimidate, silence, and harm those with whom it disagrees. AU's activity is both reckless and partisan. It is reckless because AU never investigates the accuracy of its alleged complaints. Its pattern of reckless disregard of the truth, coupled with its malicious intent to injure those with whom AU disagrees, is patently obvious. While the IRS considers such complaints confidential and will not release information to the public pending such investigations, AU publicizes its baseless complaint because it is only interested in getting its name in the media.

AU's activity is politically partisan, as we will illustrate below. AU is guilty of violating the same 501(c)(3) tax-exempt status laws it purports to uphold. AU has engaged in a consistent pattern of filing complaints against conservative churches and nonprofit organizations. Despite its knowledge of partisan activity carried on by more left leaning nonprofit organizations, AU remains silent. AU has essentially become an arm of the Democratic Party. Churches or nonprofit organizations having anything to do with conservative causes or Republican policies or candidates are targeted by AU. But churches or nonprofit organizations having anything to do with liberal or Democratic policies or candidates go unnoticed. AU remains silent. In fact, as will be pointed out below, Barry Lynn, the Executive Director of AU, sat in Rev. Jeremiah Wright's church, where then-presidential candidate Barack Obama spoke and politicked from the pulpit in 2008, and Lynn said nothing.

We respectfully request that you take immediate action to: (1) enjoin AU from continuing its intolerable waste of tax dollars through its barrage of unwarranted IRS complaints and subsequent investigations; (2) enjoin AU from continuing its abusive attacks and selective harassment of conservative churches, groups and related organizations; (3) enjoin AU from continuing its campaign of misrepresentation to the public of the political climate in relation to the conservative church and related groups; and (4) investigate the partisan pattern of filing complaints and the partisan activities of AU to determine whether such abuses represent illegal activities that jeopardize its current tax-exempt 501(c)(3) incorporation.

### **Background Information Regarding AU**

Americans United for Separation of Church and State is a 501(c)(3) nonprofit educational organization, founded in 1947:

AU's leaders wanted a group with a nationwide focus that would be active on several fronts. The organization worked to educate members of Congress, as well as state and local lawmakers, about the importance of maintaining church-state separation. At the same time, state and local chapters of Americans United were formed, and the organization began publishing *Church & State* magazine and other materials in support of church-state separation to educate members of the general public. These activities continue today and form the core of Americans United's operations.<sup>2</sup>

### **AU's ATTACK AGAINST THE SO-CALLED "RELIGIOUS RIGHT"**

In spite of its stated purposes, it is evident from the record that AU has launched a thinly veiled systematic attack targeting what it calls the "Religious Right," conservative groups and churches along with any political activity related to the conservative agenda. On its home page, AU has prominently displayed:

#### **Religious Right Research**

The single greatest threat to church-state separation in America is the movement known as the Religious Right. Organizations and leaders representing this religio-political crusade seek to impose a fundamentalist viewpoint on all Americans through government.<sup>3</sup>

Through its targeted efforts and obvious disregard for its stated mission and purpose, AU has intentionally and deliberately misrepresented the American people in general and the Internal Revenue Service in particular, by presenting a distorted and purposefully biased image of "church politicking," electioneering and political activity in this country as it relates to the church. Through its insidious campaign, AU has coordinated a massive attack against conservative groups, churches and related organizations through the propagation of misinformation and through its abuse of the Internal Revenue Service.

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<sup>2</sup> [http://www.au.org/site/PageServer?pagename=about\\_auhistory](http://www.au.org/site/PageServer?pagename=about_auhistory) (last viewed on June 1, 2009).

<sup>3</sup> [http://www.au.org/site/PageServer?pagename=resources\\_religiousright](http://www.au.org/site/PageServer?pagename=resources_religiousright) (last viewed on June 1, 2009).

A review of AU activity<sup>4</sup> over the past four years reveals a consistent and familiar pattern of an insidious political agenda masquerading as “an effort to work on a wide range of pressing political and social issues in an effort to protect religious liberty in America,” all the while concealed in a cloak of 501(c)(3) tax-exempt status and protection:

- [Americans United Urges IRS To Investigate Two \*\*Religious Right\*\* Groups For Biased Voter Guides](#)  
*January 31, 2008*  
American Family Association, WallBuilders Touted Presidential Candidate **Huckabee**, Church-State Watchdog Group Charges
- [Americans United Cautions Southern Baptist Convention About Partisan Politicking](#)  
*January 24, 2008*  
SBC President’s Call For United Evangelical Front Against **Giuliani** Raises Tax Law Issues, Says Church-State Watchdog Group
- [\*\*Religious Right\*\* Newspaper Ad Misinterprets Church Politicking Ban, Says Americans United](#)  
*January 16, 2008*  
Wisconsin Church, Becket Fund Give Misleading Advice On Pulpit Endorsement Of Candidates, Says Church-State Watchdog Group
- [Americans United Commends IRS For Investigation Into Partisan Politicking By California Church](#)  
*February 13, 2008*  
Federal Inquiry Into Controversial **Southern Baptist Pastor’s** Electioneering Shows IRS Is Serious About Enforcing Tax Law, Says AU’s Lynn
- [AU Asks IRS To Investigate Houston Church That Endorsed Congressional Candidate](#)  
*March 6, 2008*  
Grace Community Church Pastor Issued Endorsement For **Shelley Sekula Gibbs** (Conservative **Republican** candidate for Congress)

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<sup>4</sup> See Exhibit A

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- [Americans United Condemns \*\*Religious Right\*\* Plot To Politicize Pulpits](#)  
*May 9, 2008*  
Asking Churches To Violate Federal Tax Law Is Deplorable, Says AU's Lynn
- [AU Urges IRS To Investigate Religious Group's Fund-Raising For Washington State Gubernatorial Candidate](#)  
*May 28, 2008*  
Church-State Watchdog Files Complaint About Political Event Sponsored By **Christian Businessmen's Group**
- [IRS Should Investigate Minnesota Church For Electioneering, Says Americans United](#)  
*June 11, 2008*  
Warroad Community Church Pastor's Partisan Preaching Violates Federal Tax Law, Says AU's Lynn (Pastor Gus Booth of Warroad Community Church in northern Minnesota delivered a sermon May 18 in which he said, "**If you are a Christian, you cannot support Hillary Clinton or Barack Obama....**")
- [IRS Should Investigate Tennessee Church For Pulpit Politicking, Says Americans United](#)  
*August 7, 2008*  
Watchdog Group's Complaint Says **Cornerstone Church Pastor** Endorsed School Board Candidates From Pulpit
- [IRS Should Investigate Florida Religious Group For Political Intervention, Says Americans United](#)  
*May 31, 2007*  
Bill Keller Ministries Said Vote For **Republican** Presidential Candidate **Mitt Romney** Is **Vote For Satan**
- [IRS Should Investigate Partisan Political Activity Of Southern Baptist Church In Calif., Says Americans United](#)  
*August 14, 2007*  
Pastor Used Church Resources To Endorse GOP Hopeful **Huckabee** As God's Candidate In Violation Of Federal Tax Law, Says Church-State Watchdog Group
- [\*\*Religious Right\*\* Offers Misleading Advice About Church Politicking, Says Americans United](#)  
*Wednesday, October 3, 2007*

**Religious Right** Promotion Of Church Electioneering May Be Part Of Third-Party Presidential Plan, Says AU's Lynn

- [Americans United Asks IRS To Investigate Falwell's Liberty University For Endorsement Of Mike Huckabee](#)  
*December 4, 2007*  
**Liberty Chancellor** Used School Resources To Promote Presidential Candidate, Church-State Watchdog Group Says<sup>5</sup>

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- [Pennsylvania Churches Must Avoid Becoming Entangled In Partisan Political Machine, Says Americans United](#)  
*March 21, 2006*  
Under-The-Radar Organizing Drive For Incumbent Senator Rick **Santorum** Jeopardizes Churches' Tax Exemption, Church-State Watchdog Group Charges
- [IRS Should Investigate Texas Church That Gave Donations To \*\*GOP\*\*, Says Americans United](#)  
*July 19, 2006*  
Church-State Watchdog Group Files IRS Complaint Against Calvary Temple Church In Kerrville
- [IRS Should Investigate North Carolina Church That \*\*Expelled Democrats\*\*, Says Americans United](#) *May 9, 2005*  
East Waynesville Baptist Church Immersed In Partisan Activity, Church-State Watchdog Group Charges
- [IRS Urged To Investigate Austin Church For Holding \*\*Republican Fund-Raiser\*\*](#)  
*March 12, 2004*  
Watchdog Group Seeks Action From Federal Tax Agency Against Westover Hills Church Of Christ
- [IRS Should Investigate Electioneering By Colorado Springs \*\*Catholic Diocese\*\*, Says Americans United](#)  
*May 26, 2004*  
Bishop Michael Sheridan's Pastoral Letter Designed To **Endorse Bush** And Other **Republican Candidates**, Watchdog Group Asserts
- [Americans United And Triangle Foundation Ask IRS To Investigate Michigan Church That Endorsed School Board Candidates](#)

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<sup>5</sup> Liberty University does not endorse candidates. This complaint was resolved without incident.

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*June 15, 2004*

Pastor's Endorsement Letter Is A Clear Violation Of Federal Tax Law, Groups Say ("I believe," Combs asserted, "that the 'sleeping giant', known as the body of Christ, the church, must wake up and reclaim the Waterford Schools for the glory of God.")

- [IRS Should Investigate Partisan Political Activity By Jerry Falwell Ministries, Says Americans United](#)

*July 15, 2004*

Use Of Ministry Resources To **Endorse Bush**, Raise Funds For Conservative PAC, Violates Tax Law, Watchdog Group Charges

- [Arkansas Church's Partisan Politicking Needs an IRS Investigation, Says AU](#)

*July 20, 2004*

Baptist Pastor **Promotes Bush** in Nationally Televised Sunday Sermon

Research into the activities of AU within the identical timeframe reveals that only four IRS investigations were requested and a total of six press releases were posted within those same four years involving democratic/liberal candidates for office. These were done in response to Dr. Jerry Falwell publically pointing out the partisan pattern of AU's activities at that time. In response to cover itself, AU filed a handful of complaints against nonprofit organizations where Democratic candidates appeared. AU then quickly returned to its typical partisan behavior of filing partisan complaints against nonprofit organizations where Republican candidates appeared, but not those where Democratic candidates appeared. The most blatant example is when Barry Lynn of AU was in Rev. Jeremiah Wright's church when then-presidential candidate Barack Obama spoke. Lynn remained silent.

### **THE ACTIVITY AU IS NOT REPORTING**

In spite of its mission to "work on a wide range of pressing political and social issues" and its supposed commitment to "educate members of the general public," AU chooses to ignore political activity and blatant "church politicking" beyond those activities it has associated with the purported "religious right." In doing so, AU presents an intentionally distorted account of the political climate to an unsuspecting public. It is particularly disturbing to discover that AU has deliberately underreported and/or ignored blatant church politicking on the part of highly visible political candidates.

Consistent with its politically partisan bias, AU has consistently ignored Democratic politicking. Then-Presidential hopeful, Hillary Clinton, with the support of her husband, former President Bill Clinton, made numerous campaign stops in churches across this country, <sup>6</sup> some as recently as February of 2008, but AU remained silent. Some examples are listed below:

- Democratic presidential hopeful Sen. Hillary Rodham Clinton, D-N.Y., speaks at the Greater Mount Carmel Missionary Baptist Church in St. Louis, Mo., Sunday, Feb. 3, 2008.
- Former President Bill Clinton speaks at the Brookins Community A.M.E. Church in Los Angeles, Calif., Sunday, Feb. 3, 2008.
- Democratic presidential hopeful, Sen. Hillary Rodham Clinton, D-N.Y., speaks at the Zion Missionary Baptist Church in Compton, Calif., Thursday, Jan. 17, 2008.
- Democratic presidential candidate U.S. Senator Hillary Clinton (D-NY) speaks during a Sunday morning service at Northminster Presbyterian Church in Columbia, South Carolina, January 13, 2008.
- Former U.S. President Bill Clinton (C) takes off his tie to give to Reverend Frantz Whitfield (R) as Democratic presidential candidate U.S. Senator Hillary Clinton (D-NY) looks on during a church service at Mt. Carmel Missionary Baptist Church in Waterloo, Iowa, December 23, 2007.
- Former President Bill Clinton speaks during church services at The Temple of Praise in southeast Washington on Sunday, Feb. 10, 2008. Clinton is campaigning for his wife, Democratic presidential hopeful Sen. Hillary Rodham Clinton, D-N.Y.
- Democratic presidential candidate U.S. Senator Hillary Clinton (D-NY) (L) and Black Entertainment Television (BET) founder Robert Johnson (R) smile during a Sunday morning service at Northminster Presbyterian Church in Columbia, South Carolina, January 13, 2008.
- Democratic presidential hopeful Sen. Hillary Rodham Clinton, D-N.Y., speaks as Rev. Dr. Calvin O. Butts listens, left at the Abyssinian Baptist Church in New York City Sunday, Jan. 20, 2008.

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<sup>6</sup> See Exhibit B

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- U.S. Democratic presidential candidate Senator Hillary Clinton (D-NY) speaks during the 11am worship service at the Abyssinian Baptist Church in the Harlem neighborhood of New York, January 20, 2008.

The campaigning activities of then-Presidential hopeful Hillary Clinton were highly publicized and could easily have been discovered by any “watchdog” group through a simple “Google” search on any computer. AU failed to respond: no press releases concerning the event and no requests for a formal investigation by the IRS. AU’s unwillingness to report this activity demonstrates a flagrant disregard for their declared mission and purpose, as stated under its 501(c)(3) tax-exempt incorporation.

In yet another recent example, then-Senator Barack Obama created much controversy over a highly publicized speech made from the pulpit of Trinity United Church in Connecticut (UCC).<sup>7</sup> On June 23, 2007, Obama spoke to a national gathering of over 10,000 UCC members. In his speech Senator Obama unashamedly politicked<sup>8</sup> from the pulpit. This activity was highly publicized and criticized, was captured by multiple media outlets, and was easily “discoverable” by any “watchdog” group expending any effort to do so. Once again AU took no action: no press releases and no requests for a formal investigation by the IRS. This deliberate illustration of politicking *presumably* went unnoticed by AU and was without consequence by them.

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<sup>7</sup> **Trinity United Church of Christ**  
400 West 95th Street Chicago, Illinois 60628  
Phone: (773) 962-5650  
E-mail: [info@TrinityChicago.org](mailto:info@TrinityChicago.org)

<sup>8</sup> *...It's been several months now since I announced I was running for president. In that time, I've had the chance to talk with Americans all across this country. And I've found that no matter where I am, or who I'm talking to, there's a common theme that emerges. It's that folks are hungry for change – they're hungry for something new. They're ready to turn the page on the old politics and the old policies – whether it's the war in Iraq or the health care crisis we're in, or a school system that's leaving too many kids behind despite the slogans....*

*Our conscience can't rest so long as 37 million Americans are poor and forgotten by their leaders in Washington and by the media elites. We need to heed the biblical call to care for “the least of these” and lift the poor out of despair. That's why I've been fighting to expand the Earned Income Tax Credit and the minimum wage. If you're working forty hours a week, you shouldn't be living in poverty. But we also know that government initiatives are not enough. Each of us in our own lives needs to do what we can to help the poor. And until we do, our conscience cannot rest. Our conscience cannot rest so long as nearly 45 million Americans don't have health insurance and the millions more who do are going bankrupt trying to pay for it. **I have made a solemn pledge that I will sign a universal health care bill into law by the end of my first term as president that will cover every American and cut the cost of a typical family's premiums by up to \$2500 a year. That's not simply a matter of policy or ideology – it's a moral commitment.***

But this particular speech of Senator Obama did not go by unnoticed by AU. In fact, in the congregation that day was the Rev. Barry Lynn.<sup>9</sup> Lynn, the executive director of AU, is a member of UCC.

Barry Lynn, the executive director of Americans United for Separation of Church and State, which frequently alerts the IRS to violations by liberal and conservative churches, said it had looked into the situation and “**saw no evidence of UCC officials seeking to appear to endorse [Obama’s] candidacy.**”<sup>10</sup>

In marked contrast to Lynn’s comments, an anonymous IRS complaint alleges that the UCC “violated every single point outlined in the IRS guidelines,” in sponsoring the Illinois Senator’s appearance at the church’s biannual national gathering, which this year was held in the Hartford Civic Center in the Connecticut capital. It charges:

\* “The United Church of Christ selectively provided the convention facilities for Sen. Obama to speak in support of his campaign.”

\* “The United Church of Christ and Sen. Obama referenced his candidacy before and during the speech.”

\* “Clear and deliberate campaign activity occurred in connection with the [sic] Sen. Obama’s attendance and speech.”<sup>11</sup>

Immediately following Obama’s appearance, Lynn was quick to issue a pass for his own church, saying neither Obama nor the UCC had “run afoul of federal tax law.” Senator Obama’s speech at UCC on June 23, 2007, was the epitome of inappropriate “pulpit politicking,” and yet once again, AU has demonstrated a blatant disregard for the integrity of its work and its responsibility to adhere to its declared purpose and mission as stated under its 501(c)(3) incorporation.

### Conclusion

Based on the totality of the facts and circumstances as contained herein, we respectfully request that the IRS conduct a thorough investigation to enjoin AU from any continued activity that: (1) targets and harasses churches, groups and related organizations that support a conservative agenda, (2) provides biased and misleading

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<sup>9</sup> <http://www.au.org/site/PageServer?pagename=aboutau> (last viewed on June 1, 2009).

<sup>10</sup> See Exhibit C

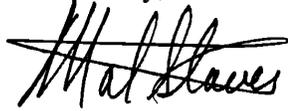
<sup>11</sup> <http://www.au.org/site/PageServer?pagename=aboutau> (last viewed on June 1, 2009).

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information to the public, and (3) creates an undue financial tax burden on the citizens of this country through the abuse and misuse of the Internal Revenue Service complaint and investigation systems. Further, we respectfully request that a thorough investigation is conducted into the activities of AU to determine whether such abuses represent illegal activities that jeopardize its current tax-exempt 501(c)(3) status.

Thank you for your consideration in this critical matter.

Sincerely,

A handwritten signature in black ink that reads "Mathew D. Staver". The signature is written in a cursive style and is positioned above the printed name.

Mathew D. Staver

Attachments/Enclosures

## EXHIBIT A

AU Website <a href="http://www.au.org/site/PageServer?pagename=press">http://www.au.org/site/PageServer?pagename=press</a>			
Complaints			
<i>Year</i>	Democrat/Liberal	Republican/Conservative	Unknown/Unclear
2008	1	4	X
2007	X	4	X
2006	X	1	1
2005	X	X	X
2004	3	5	X

AU Website <a href="http://www.au.org/site/PageServer?pagename=press">http://www.au.org/site/PageServer?pagename=press</a>			
Press Releases			
<i>Year</i>	Democrat/Liberal	Republican/Conservative	Unknown/Unclear
2008	2 <sup>12</sup>	9	X
2007	1	4	X
2006	X	2	1
2005	X	1	X
2004	4 <sup>13</sup>	5	X

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<sup>12</sup> Obama complaint not openly claimed by AU; complainant is blacked out and unknown.

<sup>13</sup> All complaints are against John Kerry.

Exhibit B



Democratic presidential hopeful Sen. Hillary Rodham Clinton, D-N.Y., speaks at the Greater Mount Carmel Missionary Baptist Church in St. Louis, Mo., Sunday, Feb. 3, 2008.



Former President Bill Clinton speaks at the Brookins Community A.M.E. Church in Los Angeles, Calif., Sunday, Feb. 3, 2008.

Exhibit B



Democratic presidential hopeful, Sen. Hillary Rodham Clinton, D-N.Y., speaks at the Zion Missionary Baptist Church in Compton, Calif., Thursday, Jan. 17, 2008.



Democratic presidential candidate US Senator Hillary Clinton (D-NY) speaks during a Sunday morning service at Northminster Presbyterian Church in Columbia, South Carolina, January 13, 2008.

## Exhibit B



Former U.S. President Bill Clinton (C) takes off his tie to give to Reverend Frantz Whitfield (R) as Democratic presidential candidate U.S. Senator Hillary Clinton (D-NY) looks on during a church service at Mt. Carmel Missionary Baptist Church in Waterloo, Iowa, December 23, 2007.



Former President Bill Clinton speaks during church services at The Temple of Praise in southeast Washington on Sunday, Feb. 10, 2008. Clinton is campaigning for his wife, Democratic presidential hopeful Sen. Hillary Rodham Clinton, D-N.Y.

## Exhibit B



Democratic presidential candidate US Senator Hillary Clinton (D-NY) (L) and Black Entertainment Television (BET) founder Robert Johnson (R) smile during a Sunday morning service at Northminster Presbyterian Church in Columbia, South Carolina, January 13, 2008.



Democratic presidential hopeful Sen. Hillary Rodham Clinton, D-N.Y., speaks as Rev. Dr. Calvin O. Butts listens, left at the Abyssinian Baptist Church in New York City Sunday, Jan. 20, 2008. “You’ve come to Harlem to steal the black vote!” a small but boisterous group of Obama protesters shouted as Clinton stood outside the Abyssinian Baptist Church to receive the endorsement of its influential pastor, the Rev. Calvin O. Butts III. He took a lower road during services. After Clinton addressed parishioners, Butts said slyly: “Uh-huh! No teleprompter here. Isn’t that something? A little scrap of paper but that’s all.” Obama has used a teleprompter in some speeches.

## Exhibit B



US Democratic presidential candidate Senator Hillary Clinton (D-NY) speaks during the 11am worship service at the Abyssinian Baptist Church in the Harlem neighborhood of New York January 20, 2008.

## Exhibit C

### **IRS probes appearance by Obama at UCC convention (Barry Lynn, UCC member!, says NO PROBLEM)**

**The Christian Century Magazine** ^ | March 25, 2008

Posted on **Saturday, March 22, 2008 2:45:58 PM** by **GodGunsGuts**

The Christian Century Magazine

News

March 25, 2008

IRS probes appearance by Obama at UCC convention

The Internal Revenue Service has notified the United Church of Christ that it has opened an investigation into possible "political activities" connected with Senator Barack Obama's speech at the denomination's national convention last year.

UCC president John H. Thomas termed the investigation "disturbing," but said that church officials took great care to see that Obama's appearance at the UCC General Synod meeting last June in Hartford, Connecticut, "met appropriate legal and moral standards."

Engaging in partisan political acts can endanger a church body's tax-exempt status. Thomas expressed confidence that no violations occurred at the convention. The UCC announced February 26 that it has received the IRS letter.

**Barry Lynn, the executive director of Americans United for Separation of Church and State, which frequently alerts the IRS to violations by liberal and conservative churches, said it had looked into the situation and "saw no evidence of UCC officials seeking to appear to endorse [Obama's] candidacy."**

Lynn, who is a UCC minister, added that "public officials can appear at religious gathering to address issues even if they are candidates. However, the sponsoring group may not use the occasion" to endorse or support the candidate's campaign.

Obama, an active member of the UCC, addressed 10,000 people attending the 50th anniversary meeting on June 23. Before the Illinois senator spoke, a UCC official admonished the crowd that leaflets, signs, placards or other forms of electioneering would not be tolerated. Activity by Obama campaign supporters was barred inside the Hartford Civic Center, according to an article on the UCC Web site.

Don Clark, a Chicago attorney who is the church's special counsel, said the IRS investigation will give the UCC a chance to correct inaccuracies. "It's disconcerting," Clark said, "since the IRS did not communicate with us, or seek any facts from us, in advance."

## Exhibit C

### **Obama, UCC Draw IRS Complaint**

By Jeffrey Lord

Published 9/7/2007 12:08:08 AM

A June 23 appearance by Democratic presidential candidate Senator Barack Obama at the General Synod of the United Church of Christ is now the subject of a formal complaint filed with the Internal Revenue Service on August 2.

1

Portions of the redacted documents obtained by the website [UCC Truths](#), a growing online gathering for dissenters from the church leadership's rigid left-wing political orthodoxy, were published August 27. Those redacted documents have now been obtained by *The American Spectator*.

The complaint, addressed to Lois Lerner, the Director of the Exempt Organizations Division of the Internal Revenue Service, formally asks the IRS to "investigate the United Church of Christ," identified in the complaint as "a 501 (3) (c) non-profit religious entity" for violating "federal tax law banning political campaign intervention." **The redaction has blacked out the name of the filer.**

The complaint alleges the UCC "violated every single point outlined in the IRS guidelines," in sponsoring the Illinois Senator's appearance at the church's bi-annual national gathering, which this year was held in the Hartford Civic Center in the Connecticut capital. It charges:

\* "The United Church of Christ selectively provided the convention facilities for Sen. Obama to speak in support of his campaign."

\* "The United Church of Christ and Sen. Obama referenced his candidacy before and during the speech."

\* "Clear and deliberate campaign activity occurred in connection with the [sic] Sen. Obama's attendance and speech."

Specifically the complaint references guidelines that an individual addressing the church does so "only in a non-candidate capacity," that the individual makes no "mention of his or her candidacy or the election," and that "no campaign activity occurs in connection with the candidate's attendance." The complaint also cites a guideline that prohibits a church from mentioning an individual's political candidacy or the upcoming election in "the communications announcing the candidate's attendance at the event." Both a video and a transcript of Obama's speech are available on the UCC website and apparently will be present throughout the election.

The complaint is replete with citations and links directly to both the IRS guidelines themselves as well as the transcript of Obama's speech as presented on the UCC website. Also linked are communications from the UCC in the run-up to the event that focus on Obama's role not as a Senator but in his capacity as a presidential candidate.

## Exhibit C

Included with the complaint are photographs of tables set up by campaign volunteers for Obama at the entrance to the Civic Center. The tables are decorated with Obama campaign signs and literature. To further back up the charge of an IRS violation, the complaint links to stories covering the General Synod that were aired by New Haven's news channel WTNH-TV and written in *Christian Century* magazine. The news stories described Obama's UCC-sponsored appearance as a "political convention" and "political rally."

Now, as the comedienne Joan Rivers liked to say, "Can we talk???" This exact possibility was bearing down on both Obama and the church hierarchy with all the subtlety of a B-52 over Baghdad from the moment Obama announced his presidential candidacy. A UCC member, the Senator had already accepted the church's invitation to speak, according to the church leadership, well before he changed his mind and entered the race for the White House. At that moment Obama and the UCC had two viable options: cancel Obama's appearance entirely, or have him appear but talk about something other than his presidential campaign. Effectively thumbing their noses at the IRS, neither option was taken.

AT THE TIME OF THIS INCIDENT I predicted in that Obama's in-your-face decision would doubtless run the risk of just this sort of complaint being filed. As a (politically dissenting) member of the UCC myself, it seemed obvious that drawing the attention of the IRS through a filed complaint would be the inevitable result of mixing a rookie candidate with an arrogant church leadership determined to shut out all dissent. Now, rank-and-file members must endure the public relations black eye of an IRS investigation -- and the legal costs to fight it -- along with the accompanying threat of the denomination losing its tax-exempt status.

The irony is that IRS complaints of this nature have been lovingly crafted into a science by left-wing activist -- and UCC minister -- Barry Lynn, the head of Americans United for Separation of Church and State. Lynn, quite famously, has made much of his tangles with conservative Christians, filing numerous IRS complaints designed to effectively shut down conservative religious activists such as the late Jerry Falwell. The goal, and a very serious goal it is, is to remove the tax-exempt status that the IRS gives to churches.

With the news of the filing of this complaint, both Lynn's previous actions and his language are turning around to take a bite out of both Obama and the UCC, Lynn's own denomination. "Falwell is thumbing his nose at the IRS," Lynn said in September of 2004 as the Bush-Kerry race was heating up. Falwell, Lynn said, "must not be permitted to use a tax-exempt ministry to engage in partisan politics. The vast majority of America's institutions play by the rules. He should too." When charges arose that this time it was the liberal UCC and Obama which ran the risk of an IRS complaint, Lynn dismissed the possibility

Strikingly, the language in a Lynn complaint to the IRS against Falwell is close to that in the complaint filed against the UCC.

Lynn complaint language: "I believe this is intervention in a political campaign on behalf of a candidate in clear violation of federal tax law. I urge you to take appropriate action to correct this abuse of law."

## Exhibit C

UCC complaint language: "The evidence that the United Church of Christ violated IRS guidelines is clear and plain....I urge you to take action promptly to address this issue."

IMMEDIATELY FOLLOWING OBAMA'S appearance, Lynn was quick to issue a pass for his own church, saying neither Obama nor the UCC had "run afoul of federal tax law." Obviously, the filing of an official complaint signals there is a different opinion about the issue, and unfortunately for UCC members it is their offering dollars that must now be used to fight the complaint. To make matters more interesting, Lynn has issued a public defense of the liberal Episcopal Bishop Gene Robinson, who drew attention when he publicly endorsed Obama. Robinson, Lynn stressed of the Bishop who ignited controversy by becoming the first openly gay bishop in that denomination's history, was doing so as an individual. He approvingly quotes Robinson as saying: "I will not be speaking about the campaign from the pulpit or at any church function. That is completely inappropriate."

But allow Obama to speak "at any church function" and "from the pulpit" is precisely what UCC President John Thomas did. By refusing either to cancel Obama's appearance as a candidate at the General Synod ("any church function") or to insist that Obama refrain from discussing his campaign, Thomas did what Lynn praises Robinson for not doing. As the complaint against the UCC also specifically says, the UCC-owned website, clearly an Internet pulpit that is every bit as much church property as a physical pulpit, deliberately headlined a story from the Religion News Service trumpeting Obama's speech to the UCC as Obama's "first major address on faith and politics as presidential candidate." There too, Lynn praised Robinson for not doing exactly this kind of thing.

As Lynn is the first to say, the results of this kind of complaint can indeed be serious. Lynn's website cites his seemingly endless chase after Falwell as proof. After much televised back and forth with Falwell over whether the IRS had indeed punished the conservative religious leader and his church for their political activity, Lynn came across a May 1993 issue of a publication called the *Exempt Organization Tax Review*. In it he found this statement by Jerry Falwell: "The Old Time Gospel Hour...today announced that the IRS has revoked its tax exempt status for 1986 and 1987 for improper political activities....As a condition of reinstatement of Federal tax-exempt status, OTGH said it agreed to pay \$50,000 in tax for two years and to change its organizational structure to ensure that no future political campaign intervention activities will occur." In an August, 2004 joint appearance on Fox News Live, with Lynn waving the report on air, Falwell angrily put his experience this way: "We went through four and a half years of audits and our attorneys and the IRS attorneys agreed that they would settle if we would pay \$50,000 in taxes rather than a million dollars continuing legal fees."

Predictably, a search of the UCC website for "IRS" reveals nothing about the IRS being asked to investigate the UCC. (Nor has Obama's website commented on his role in bringing the attention of the IRS to his own denomination.) No wonder. What the search for "IRS" on the UCC site does retrieve is a March 2006 speech by UCC President Thomas complaining of the kind of tactics used by Barry Lynn. But surprise, surprise, the UCC's Reverend Lynn is not even mentioned. No, the filing of an IRS complaint is not about shutting down conservatives, it is the

## Exhibit C

other way around. And who is to blame for these kind of tactics? According to Thomas -- are you ready? -- filing IRS complaints against liberal churches "reeks of Karl Rove."

Sure. And Sponge Bob is gay.

THIS IS ONE UCC MEMBER who believes that churches should be able to invite anybody they wish to address their members. Candidate or not. (And opening up UCC forums to the apparently terrifying idea of intellectual and political diversity by inviting non-liberals would surely help a denominational leadership seemingly determined to drive the church into oblivion.) But in considerable measure because of the activities of one of the UCC's own ministers, we are where we are.

"Complaints to the IRS are not lodged on a whim," the UCC's Rev. Karl Rove -- uh -- Barry Lynn - sniffed when dismissing the importance of Obama's UCC appearance.

Just so.