



February 19, 2010

Internal Revenue Service
Service Center Penalty Appeals Coordinator
Attn: Penalty Appeals Coordinator MS6276
1973 N. Rulon White Blvd.
Ogden, UT 84404

Dear Appeals Coordinator,

This letter is in reference to case 0441830259.
Cougar Band Aides, Inc.
Taxpayer identification 68-0191884

We are writing to appeal the tax penalty of \$1960 levied for the tax year ending January 31, 2009, against Cougar Band Aides, Inc. (CBA), in the IRS notice CP141L dated November 9, 2009 (tab #20). This penalty was originally appealed by our tax preparer Elizabeth Dixon, EA, in a letter dated November 18, 2009 (tab #21). This appeal was, however, declined by IRS Accounts Manager Rita Leete as of December 31, 2009 (tab #22).

The accompanying evidence includes meeting minutes and records of communication that clearly document

1. a series of unfortunate extenuating circumstances that were beyond the control of CBA and which impeded the timely filing of the tax forms for January 31, 2009;
2. a record of good faith by the current officers of CBA to ensure that appropriate tax forms were completed and filed to properly meet established tax filing deadlines; and
3. a pattern of due diligence by current CBA officers to prepare and file the correct forms for January 31, 2009, once it was determined a request for extension had not been filed by our tax preparer, Mrs. Dolores Garcia.

The circumstances described herein and supported by the enclosed documentation clearly justify the rescinding of the tax penalty charged to CBA

and the refund of said penalty and all subsequent interest. Several key factors further our case for abatement of the penalty.

First, CBA is a non-profit organization dedicated to the support and maintenance of the music programs at El Dorado High School in Placerville, California (tab #27). The organization is comprised entirely of parents of music students. Those parents volunteer their time, energy, and resources to raise funds and provide logistical assistance to the music director and students. Without their support, the music director would have neither the fiscal resources nor the manpower to manage the high quality program families expect and students deserve.

While parent volunteers may have leadership and organizational experience in other venues, *they are, by no means, trained professionals in tax preparation.* Hence, CPA Dolores Garcia has prepared taxes for CBA since approximately 1997. Because her work has been provided at no charge, and she did not wish her *gratis* work to interfere with her paid work during tax season, CBA has historically and annually assembled proper documents and records after April 14 (tab #1). Being untrained in tax preparation for a non-profit such as ours, *we relied upon the professional judgment and expertise of Mrs. Garcia to file our taxes in a timely manner.*

Second, we fully recognize and respect the IRS determination that our “account history shows that [the IRS has] charged similar penalties in the past” (tab #22). While we do not debate the accuracy of that statement, we believe *it is imperative that the IRS consider the very nature of non-profit organizations like CBA when reviewing our account history.* Because CBA supports a high school program in which students participate for, at most, four years, leadership changes nearly every year. For example, neither President Jay Chopp nor Treasurer Lynn Akin were part of the CBA Board during 2007-2008 or 2008-2009. (Mr. Chopp’s son is now a junior, while Mrs. Akin’s son is a sophomore.) Mr. Chopp was elected President in May 2009 (tab # 2), for a one-year term. Mrs. Akin was elected in June 2009 (tab #4), after the previous Treasurer suddenly resigned (tab #3). While there is an obvious organizational link between current CBA officers and those of previous years, holding current leaders accountable for the action or inaction of leaders of several years ago seems unreasonable. While we do not argue the history of similar penalties, *we consider our current history of good faith and due diligence to be the more pertinent facts.*

The following outline highlights the primary events which lead to the failure to file CBA’s taxes for January 31, 2009, and the good faith and due diligence demonstrated by current leaders to address the situation in a timely fashion:

1. CBA Treasurer:

The CBA's previous Treasurer, Annette Moore, was re-elected for 2009-2010 (tab #2). On May 27, 2009, Mrs. Moore resigned her position (tab #3) for personal reasons. Lynn Akin was recommended by the outgoing President; she was then contacted and subsequently elected Treasurer on June 3, 2009 (tab #4). During the Treasurer transition from Mrs. Moore to Mrs. Akin, Mrs. Moore indicated that CBA was current with all tax preparation concerns.

2. Good Faith Effort:

On June 23, Mrs. Akin contacted CPA Dolores Garcia (tab #5) to further ensure that CBA was current. Mrs. Garcia returned email June 25 (tab #7) indicating that *she had "written for an extension"*. Mrs. Akin responded that she would gather necessary paperwork to complete tax preparation to follow the instructions for filing based upon receiving an extension. As of July 8 (tab #10), CBA was still under the impression that a request for extension had been filed.

3. Extenuating Circumstances:

On July 15, 2009, we received word (tabs #11 and #12) from Mrs. Garcia's office manager, William Stevens, that there was no record of an extension filed by Mrs. Garcia. Compounding the problem, Mrs. Garcia had suffered *a medical condition and hospitalization that prevented her from furthering our tax preparation.*

4. Due Diligence:

On July 20 (tab #12), Mrs. Akin sent out word to CBA Board members that we would need another tax preparer to assist us to file properly. On August 4 (tab #13), knowing the tax situation had to be addressed immediately, the CBA Board authorized Mrs. Akin to spend up to \$500 for professional assistance if *pro bono* assistance was not found. By August 17, Mr. Chopp had contacted Elizabeth Dixon seeking assistance with CBA tax issues. On August 25, Mrs. Akin met with Mrs. Dixon, who determined (tab # 17) she could help us to meet the filing deadline of September 15, as if there had been a request for extension actually filed. Tax forms were prepared; they were sent by certified U.S. mail and postmarked September 14 (tab #19), and they were received at the IRS Ogden office at 4:03 p.m. on September 16, 2009.

As you can see, Cougar Band Aides relies upon local professionals to assist us with tax preparation. In good faith, we expected and were told that a request for extension had been filed. When we were, however, told that it had not been filed, we acted with due diligence to find another tax preparer who then

prepared and filed the proper tax forms by the extension deadline, as if an extension had been filed and granted.

In all, while we fully recognize and accept that the CBA tax preparation was not completed by the correct filing date for January 31, 2009, we ask that the IRS acknowledge the extenuating circumstances which prevented us from proper filing. In addition, we ask that the IRS accept that CBA acted in good faith to expect that an extension had been filed and that CBA acted with due diligence to file, once it learned that we had, in fact, not received an extension.

During the process of preparing this appeal, CBA has sought to rectify its guidelines and procedures for preparing and filing required annual tax forms. As you can see from tab #28, *the necessary records for January 31, 2010, have already been delivered to the office of Elizabeth Dixon*. In the coming months, CBA Board members will also review any and all relevant by-laws and job descriptions and change them to reflect the tax deadlines without necessitating an extension.

Finally, given the extenuating circumstances, good faith, and due diligence demonstrated by the current CBA officers, we ask that the IRS return the tax penalty of \$1960 and all accompanying interest.

Under penalties of perjury, we declare that the facts presented in our written protest, which are set out in the accompanying statement of facts, schedules, and other statements are, to the best of our knowledge and belief, true, correct and complete.

Respectfully submitted,

Jay Chopp, President
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Enclosed: Table of Contents
 Tabs 1-28 of supporting documents

cc: Chopp
 Akin
 Dixon