

Internal Revenue Service
Director, Exempt Organizations

Department of the Treasury
P.O. Box 2508
Cincinnati, Ohio 45201

Date: **JUN 23 2000**

PSI Chapter Diamond Association
Foundation, Inc.
C/o Thomas G. Byrum
7 Point View Terrace Mt. De Chantal Rd.
Wheeling, WV 26003

Person to Contact - ID#:
Terry Barker 31-03192

Contact Telephone Numbers:
513-263-3411 Phone
513-263-3413 FAX

Federal Identification Number:
25-1346247

Dear Sir or Madam:

In our letter dated March of 1997, we determined that you were exempt from Federal income tax under section 501(a) of the Internal Revenue Code of 1986 as an organization described in section 501(c)(3).

Because you were a newly created organization, we did not make a final determination of your private foundation status under section 509(a) of the Code. However, we determined that you could reasonably be expected to be a publicly supported organization described in section 509(a)(1) or 509(a)(2) of the Code. We also determined that you would be treated as other than a private foundation during your advance ruling period.

Based on the financial information you submitted covering your advance ruling period, we have determined that you are a private foundation as defined in section 509(a) of the Code. Your exempt status as an organization described in section 501(c)(3) remains in effect.

You do not constitute an organization described in section 509(a)(1), 509(a)(2), 509(a)(3) or 509(a)(4) of the Code for the following reasons:

1. You are not an organization described in section 509(a)(1) of the Code because you are not an organization described in sections 170(b)(1)(A)(i) through 170(b)(1)(A)(v) of the Code. Further, you are not an organization described in section 170(b)(1)(A)(vi) of the Code because you failed to meet either the 33-1/3 percent-of-support test or the 10 percent facts and circumstances test. In this regard, it is provided in section 1.170A-9(e)(6) of the Income Tax Regulations that in determining whether or not such tests are met, support from direct or indirect contributions from the general public includes contributions from an individual, trust, or corporation but only to the extent that the total contribution from a single such individual, trust, or corporation does not exceed 2 percent of the organization's total support. A review of the financial information you recently submitted indicates that you do not meet the 33-1/3 percent-of-support test for the reasons set forth on Enclosure I.

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Section 1.170A-9(e)(3) of the Regulations provides that if an organization fails to meet the 33-1/3 percent-of-support test, it will be treated as a publicly supported organization if it normally receives at least 10 percent of its support from governmental units, from contributions made directly or indirectly by the general public, or from a combination of these sources. An organization must also maintain a continuous and bona fide program for solicitation of funds from the general public and have a governing body representative of the broad interest of the public.

Additional factors considered include the percentage of financial support, sources of support, the availability of public facilities or services, and whether solicitations for members are aimed at a substantial number of persons. You do not meet the facts and circumstances test for the reasons set forth on Enclosure I.

2. You are not an organization described in section 509(a)(2) of the Code because you do not meet the support tests provided in sections 509(a)(2)(A) and 509(a)(2)(B) of the Code. In this regard, it is provided that in determining whether or not such tests are met, an organization must normally receive more than one-third of its support from any combination of gifts, grants, contributions, or membership fees; and gross receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities, in an activity which is not an unrelated trade or business (within the meaning of section 513 of the Code), not including such receipts from any person, or from any bureau or agency of a governmental unit, in excess of the greater of \$5000 or 1 percent of the organization's support in such taxable years, or from disqualified persons (as defined in section 4946 of the Code); and normally not more than one-third of its support from gross investment income. Section 4946 of the Code provides, in part, that the term "disqualified person" means, with respect to a private foundation, a person who is a substantial contributor to a foundation. The term "substantial contributor" as defined in section 507(d)(2) of the Code, means any person who contributed an aggregate amount of more than \$5,000 to the foundation, if such amount is more than 2 percent of the total contributions received by the foundation before the close of the taxable year in which the contribution is received. A review of the financial information you submitted indicates that you do not meet the support tests for the reasons set forth on Enclosure I.
3. You are not an organization described in section 509(a)(3) of the Code because you are not organized and operated solely for the benefit of, or in connection with one or more of the organizations described in sections 509(a)(1) or 509(a)(2) of the Code.

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4. You are not an organization described in section 509(a)(4) of the Code because you are not organized and operated exclusively for testing for public safety.

We have not considered whether you qualify as a private operating foundation under section 4942(j)(3) of the Code.

As a private foundation you are required to file Form 990-PF, Return of Private Foundation or Section 4947(a)(1) Trust Treated as a Private Foundation, by the 15th day of the fifth month following the close of your annual accounting period. There is a penalty of \$20 a day (\$100 a day for large organizations), up to a maximum of \$10,000 (\$50,000 for large organizations) or 5 percent of your gross receipts (whichever is less), for each return filed late, unless there is reasonable cause for the delay. (A large organization is one that has gross receipts exceeding \$1 million for the tax year.)

Since you are classified as a private foundation as of January 1, 1997, all parts of the Form 990-PF for the year ended December 31, 1997, should be completed. However, the figures for column (c) of Part I, all of Part IX through Part XIV, and Part XV (if applicable), and your answers to the questions in Part VII should reflect only the period beginning on the above date and ending on the last day of your tax year.

Forms 990-PF for subsequent years should be completed and filed according to the instructions for those forms.

Forms 990-PF for subsequent years must be filed by the 15th day of the fifth month after the end of your annual accounting period.

If you become supported by the public in the future, or expect to become supported by the public, you may request that your private foundation status be terminated under section 507 of the Code.

If you are in agreement with our proposed determination, please sign and return one copy of the enclosed Form 6018, Consent to Proposed Adverse Action.

If you do not agree with our determination, you have the right to protest it. To protest, you should file a written appeal as explained in the enclosed Publication 892, "Exempt Organizations Appeal Procedures for Unagreed Issues." Your appeal should give the facts, law, and any other information to support your position. The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You may request a hearing with a member of the Office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The

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hearing may be held at the regional office, or, if you request, at any mutually convenient district office. If you will be represented by someone who is not one of your principal officers, that person will need to file a power of attorney or tax information authorization with us.

If you do not protest this determination within 30 days from the date of this letter, this letter will become our final determination in this matter. Further, if you do not appeal this determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Because this letter could help resolve any questions about your private foundation status, please keep it with your permanent records.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Steven T. Miller

Director, Exempt Organizations

Enclosures: Enclosure I
Publication 892
Form 6018

PSI Chapter Diamond Association
Charitable Foundation, Inc.
25-1346247

Enclosure I.

Reasons For Proposed Adverse Action

509(a) (1) and 170(b) (1) (A) (vi) / One-Third Support Test

During your advance ruling period your total support was \$125,608.95. In determining your support from the general public, each contributor is limited to the extent that they do not exceed 2 percent of your total support which is \$2,512.00. Income from interest, dividends, and other investments totaling \$54,777.33 would not count as public support. Public support under this section is \$4,512.00 or 3.6 percent. The \$65,750.00 contribution from Forest Kirkpatrick is limited to the 2 percent limitation of \$2,512.00. Your organization does not pass the minimum of 33 1/3 percent public support under this section. Please see the attached Exhibit A for computation of your public support under this section.

509(a) (2) / One-Third Support Test

Under this section all contributions from Forest Kirkpatrick would be excluded from the public support computation because they would be considered contributions from a disqualified person. A disqualified person is a contributor who is a substantial contributor contributing more than \$5,000.00 or more than two percent of the total contributions. Over fifty-two percent of your total support was received from Forest Kirkpatrick. The only support that would qualify as public support under this section is \$2,000.00 or 1.6 percent of the total support. Please see the attached Exhibit B for computation of your public support under this section.

Ten percent Facts and Circumstances Test

Since your organization only received 3.6 percent of your support from the general public, you do not qualify for the ten percent facts and circumstances test under sections 509(a)(1) and 170(b)(1)(A)(vi) of the Code.

Name: PSI Chapter Diamond Association Charitable Foundation, Inc.
 EIN: 25-1346247
 Period: 1993-'98

SUPPORT TEST COMPUTATION FOR IRC 509(a)(1) ORGANIZATIONS

Public Support Test results: TEST FAILED

PUBLIC SUPPORT TEST

1 .	Gifts, grants, and contributions received.....	\$	67,750
	(DO NOT INCLUDE UNUSUAL GRANTS)		
2 .	Membership fees received.....		
3 .	Exempt function income.....		
4 .	Interest, dividends, etc.....	\$	54,777
5 .	Net income from Unrelated Business activity (UBI).....		
6 .	Tax revenues levied for organization benefit.....		
7 .	Value of services or facilities furnished by governmental unit.....		
8 .	Other income (Do not include gain/loss from sale..... of capital assets)	\$	3,082
9 .	Total of lines 1 through 8.....	\$	125,609
10 .	Total support revenue for 509(a)(1) calculation (Denominator): Line 9 - line 3.....	\$	125,609
11 .	Total of lines 1, 2, 6, and 7.....	\$	67,750
12 .	2% of Total support revenue for 509(a)(1), (line 10 x 2%).....	\$	2,512
13 .	Amount disallowed by contributors who gave in excess of 2%.....	\$	63,238
14 .	Public support (Numerator): Line 11 - line 13.....	\$	4,512
15 .	Percentage of public support (line 14 / line 10).....		3.6%

Contributors exceeding 2% of Line 10 Total Support

	Name(s) of Contributors	Amount Contributed
1 .	Forest Kirkpatrick	\$ 65,750
2 .		
3 .		
4 .		
5 .		
6 .		
7 .		
8 .		
9 .		
10 .		
	Total	\$ 65,750

NOTE: If there are more than 10 contributors exceeding 2% of total support, continue on next sheet.

Name: PSI Chapter Diamond Association Charitable Foundation, Inc.
 EIN: 25-1346247
 Period: 1993-'98

SUPPORT TEST COMPUTATION FOR IRC 509(a)(2) ORGANIZATIONS

Public Support Test results: TEST FAILED

Gross Investment Test results: TEST FAILED

Both tests must be passed to qualify for IRC 509(a)(2).

PUBLIC SUPPORT TEST

1 .	Gifts, grants, and contributions received.....	\$	67,750
	(DO NOT INCLUDE UNUSUAL GRANTS)		
2 .	Membership fees received.....		
3 .	Exempt function income.....		
4 .	Interest, dividends, etc.....		54,777
5 .	Net income from Unrelated Business activity (UBI).....		
6 .	Tax revenues levied for organization benefit.....		
7 .	Value of services or facilities furnished by governmental unit.....		
8 .	Other income (Do not include gain/loss from sale..... of capital assets)		3,082
9 .	Total of lines 1 through 8.....	\$	125,609
10 .	Add lines 1,2,3,6 and 7.....	\$	67,750
11 .	Deduct: a. Income from disqualified persons See details on Schedule A.....		65,750
	b. Excess exempt function income See details on Schedule B.....		
12 .	Line 10 less lines 11a & 11b = public support (numerator).....	\$	2,000
13 .	Total support from line 9 (denominator).....	\$	125,609
14 .	Public support percentage (line 12/13).....		1.6%

Gross Investment Test

15 .	Investment Income from line 4.....		54,777
16 .	Unrelated business income on line 5 less tax paid.....		-
17 .	Total of lines 15 and 16 (numerator).....		54,777
18 .	Total support from line 9 (denominator).....		125,609
19 .	Gross investment percentage (line 17/line 18).....		43.6%

Name: PSI Chapter Diamond Association Charitable Foundation, Inc.
 EIN: 25-1346247
 Period: 1993-'98

Schedule A, Exclusion of Disqualified Persons' Support

	Name	Year 1	Year 2	Year 3	Year 4	Year 5	Total
1 .	Forest Kirkpatrick	65,750					\$ 65,750
2 .							
3 .							
4 .							
5 .							
6 .							
7 .							
8 .							
9 .							
10 .							
Total (Report on page 1, line 11a)		65,750					\$ 65,750

Schedule B, Exclusion of Excess Exempt Function Income

	Year 1	Year 2	Year 3	Year 4	Year 5
Total support					
1% of total support	0	0	0	0	0
Greater amount \$5000 or 1%	\$ 5,000	\$ 5,000	\$ 5,000	\$ 5,000	\$ 5,000

Exempt function income, payers exceeding the greater of \$5000 or 1%

	Name	Year 1	Year 2	Year 3	Year 4	Year 5
1 .						
2 .						
3 .						
4 .						
5 .						
6 .						
7 .						
8 .						
9 .						
10 .						
Total		\$	\$	\$	\$	\$

Total disqualified exempt
 function income - (report on page 1, line 11b).

\$

Form 6018
(Rev. Aug. 1983)

Department of the Treasury - Internal Revenue Service
Consent to Proposed Adverse Action
(All references are to the Internal Revenue Code)

Case Number
310005179

Date of Latest Determination Letter
March of 1979

Employer Identification Number
25-1346247

Date of Proposed Adverse Action Letter
JUN 23 2000

Name and Address of Organization

PSI Chapter Diamond Association Charitable Foundation, Inc.
7 Point View Terrace Mt. De Chantal Rd.
Wheeling, WV 26003

I consent to the proposed adverse action relative to the above organization as shown below. I understand that if Section 7428, Declaratory Judgements Relating to Status and Classification of Organizations under Section 501(c)(3), etc. applies, I have the right to protest the proposed adverse action.

NATURE OF ADVERSE ACTION

Denial of exemption

Revocation of exemption, effective.

Modification of exemption from section 501(c)() to section 501 (), effective

Classification as a private foundation described in section 509(a), effective January 1, 1997.

Classification as an private operating foundation described in sections 509(a) and 4942(j)(3), effective for

Classification as an organization described in section 509(a)(), effective

Classification as an organization described in section 170(b)(1)(A)(), effective

If you agree to the adverse action shown above, please sign and return this consent. You should keep a copy for your records.

If you sign this consent before you have exhausted your administrative appeal rights, you may lose your rights to a declaratory judgement under section 7428.

(Signature instructions on Back)

Name of Organization:

PSI Chapter Diamond Association Charitable Foundation, Inc.

Signature and Title

Date

Signature and Title

Date

Form 6018 Instructions

Do not use this consent if the organization is subject to the declaratory provisions of section 7428 and has submitted a protest of adverse action.

This consent should be signed by hand (do not type, stamp or print) with the name of the organization, followed by the signature(s) and titles(s) of the person(s) authorized to sign on behalf of the organization. An attorney or agent may sign provided the action is specifically authorized by a power of attorney. If the power of attorney was not previously filed, please include it with this form.

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- Classification as an organization described in section 509(a)(), effective
- Classification as an organization described in section 170(b)(1)(A)(), effective

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