

November 6, 2017

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

**Re: The Coalition of Immokalee Workers, Inc.
EIN: 65-0641010**

Gentlemen:

I'm writing to bring your attention to questionable practices by Coalition of Immokalee Workers, a Florida-based §501(c)(3) organization. CIW does not appear to serve a charitable purpose, but instead operates primarily for the private financial benefit of a group of workers located in Florida. In short, it is a labor union described in §501(c)(5), and does not qualify for exemption under §501(c)(3).

Additionally, a series of class-action lawsuits filed in 2011 also exposed CIW's main program for lack of transparency. The lawsuit alleged that CIW's efforts to secure higher wages for farm workers resulted in a pot of money collected over a three-year period that didn't go to the workers.

Lastly, CIW's Form 990 tax returns show a startling number of errors and red flags that needs to be examined. We urge you to open an examination of CIW's Forms 990 for 2014 and subsequent years.

Private Benefit and Extortive Activity

PBS reports that the CIW "began in 1993, when a small group of workers met to discuss how to improve their working conditions."¹ However, it was not incorporated until January, 1996, and it received its determination letter later that year.

According to the *Orlando Sentinel*, as of 2008, CIW had "about 2,500 members who work in Florida's produce fields and citrus groves."^{2 3}

¹ <http://www.pbs.org/now/society/ciw.html>

² CIW appears to control the Alliance for Fair Food a/k/a Interfaith Action of Southwest Florida, Inc., EIN 31-1681190; the Alliance is run by a CIW representative and its donation page leads to a donation page for CIW.

³ Stratton, Jim. "Migrants win tomato war with Burger King," *Orlando Sentinel*, May 24, 2008. Accessed via LexisNexis.

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Based on various news reports, CIW has primarily engaged in strikes, work stoppages, and hunger strikes to put economic pressure on employers to pay higher wages to farm workers.

On its 2015 Form 990, Part I, Line 1, CIW identifies itself and its activities:

The CIW is a community-based organization of mainly Latino, Mayan Indian and Haitian [sic] immigrants working in low-wage jobs throughout the State of Florida. We strive to fight for, among other things a fair wage for the work we do, more respect on the part of our bosses and the industries where we work, better and cheaper housing, stronger laws and stronger enforcement against those who would violate worker rights, the right to organize on our jobs without fear of retaliation, and an end to forced labor in the fields.

CIW did not disclose on its Form 1023 (copy attached) that it would be pressuring employers to pay higher wages to workers.

CIW's main program is the "Fair Food Program." In its activities, CIW attempts to gain higher wages for workers who pick tomatoes in Florida. CIW employs a number of tactics, including protests, media attacks, encouraging fasts, and boycotts.

In short, by CIW's own admission it does not serve the public at large but instead a group of workers seeking concessions from their employers.

As such, CIW should be considered a §501(c)(5) labor union and be subject to all disclosures and additional regulations to which unions are subject. CIW avoids those rules by maintaining its exemption under §501(c)(3).

The National Labor Relations Act prohibits unions from conducting secondary boycotts, i.e., pressuring companies that do business with an employer with whom the union has a dispute.⁴ Yet secondary boycotts are CIW's *modus operandi*.

CIW intimidates companies into giving higher wages to people who don't work for them. CIW's "Fair Food Program" demands that companies sign an agreement to set aside money for tomato pickers.

Companies that don't agree to these demands face boycotts, protests, and other pressure tactics. In 2016, CIW called for a boycott of Wendy's after the company refused to sign on to the Fair Food Program.⁵ Protestors picketed a Wendy's restaurant in Columbus, OH, near the company's corporate headquarters.⁶ Protestors also went to the home of Wendy's board chairman.

⁴ <https://www.nlrb.gov/rights-we-protect/whats-law/unions/secondary-boycotts-section-8b4>

⁵ <http://www.ciw-online.org/blog/tag/wendys-boycott/>

⁶ <http://www.uusc.org/uusc-uaa-endorse-wendys-boycott-led-by-the-coalition-of-immokalee-workers/>

In 2012, Trader Joe's was threatened with protests outside of 33 stores by "fair food" activists. The threat disappeared after the company agreed to sign on to CIW's Fair Food Program.⁷ CIW has also targeted Publix, Taco Bell, and McDonald's for harassment. Burger King raised legal concerns about the program—how the workers would get paid, whether they were here legally, and how taxes would be withheld—before eventually succumbing to protest pressure.

In addition to regulations on protest activity, unions are required to file Forms LM-2 and other financial disclosures that CIW does not file. This is particularly important considering allegations leveled at CIW in recent litigation.

Further, the very premise of the program—that supermarkets and restaurants have to pay more to people who are not in their employ, or else face protests and boycotts—is more akin to blackmail and extortion than charitable activity.

Class-Action Lawsuits

In 2011, Greg Schell of the Migrant Farmworker Justice Project filed four lawsuits in Florida against companies that CIW had pressured into joining its Fair Food Program. The lawsuits alleged that from 2007-2010 money that was supposed to be given to the workers did not in fact go to these workers who earned them.⁸

CIW defended its program, arguing that current (i.e., as of 2011) field workers should be given the money. In other words, the workers who the money was meant for—those who worked between 2007 and 2010—wouldn't get it. (The agricultural worker community is transient.)

The lead attorney on the case, Greg Schell, has worked for immigrant workers for decades. He places the blame at the feet of CIW. Schell has also reportedly said of CIW: "Their primary motivation is less improving farmworkers' lives than generating publicity, power, influence and notoriety for the Coalition."

Forms 990

We are also concerned by a number of errors and omissions in CIW's recent Forms 990:

In 2013, Part VII, Section A, Julia Perkins is reported as working 40 hours per week as the office manager, without pay. While not impossible, this seems unusual, particularly in light of her reported compensation in 2014 and 2015 of \$25,278 and \$31,080,

⁷ http://www.philly.com/philly/columnists/dianna_marder/20120223_Prodding_Trader_Joe_s_to_act.html

⁸ See: Velasquez Bahena, Benite v. Burger King Corp. 2011-030346-CA-01, Miami-Dade County Circuit Court.

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respectively. In addition, in both 2014 and 2015, her compensation (as an officer) is not properly reported on Part IX, Line 5.

In 2013, Part IX and Schedule I, CIW reports a \$341,000 grant to its in-house “Fair Food Program,” yet reports no grants in Part III. The same error occurs in 2014 and 2015.

In 2013, Schedule D, Part IX, CIW reports a \$300,000 loan as an asset, which is improperly reported as an “other asset” on its balance sheet in Form 990, Part X.

In Part I of its 2014 and 2015 Forms 990, the “prior year” amounts on lines 8, 11, 17, 18, and 20-22 are substantially different from the “current year” amounts reported in Part I of CIW’s 2013 and 2014 Forms 990. There are also discrepancies between the 2014 prior year amounts on lines 13 and 15, and the 2013 current year amounts on those lines. In all cases, no explanation is provided.

CIW reports receiving \$1,037,049 in contributions in Part I, Line 8 of its 2015 Form 990. However, Schedule B of the same document (filed by CIW with the Florida Department of Agriculture and Consumer Services, and accessed on the Department’s website on August 11, 2017) shows CIW receiving (only from donors of at least \$5,000) donations of \$1,539,235.

In 2015, CIW paid accounting fees of \$11,850, apparently to an LLC (the return preparer), and reports that it did not issue any Forms 1099-MISC.

CIW website

Additional information about CIW’s campaigns to win higher wages and better working conditions for workers is on its own website, at <http://www.ciw-online.org/about/>, and in the “Archives” on its website.

Conclusion

We respectfully request that the IRS examine CIW’s Forms 990 for 2013, 2014, and 2015, and, if appropriate, revoke its tax-exempt status under §501(c)(3).

Sincerely,



Rick Berman
Executive Director

Exhibits



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Enclosures

The Coalition of Immokalee Workers Form 990 – 2013
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The Coalition of Immokalee Workers Form 990 – 2015
The Coalition of Immokalee Workers Form 1023