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February 17, 2012

Susan Brown – 0904966
Internal Revenue Service
TE/GE Exempt Organizations
N14 W24200 Tower Place Suite 202
Waukehsa, WI 53188

via fax

Re: Letter of February 8, 2012

Dear Ms. Brown:

This is response to your February 8, 2012, letter.

First, it is possible I will be convinced otherwise, but I don't believe there was anything improper with the payments to my lawyers. You spoke with me briefly, but I did not have much of a chance to present my view of the payments. It is my understanding that no action has yet been taken, so I do not need to appeal yet to preserve my rights. Unless we come to an agreement, I would intend to appeal.

The facts are this. In connection with my *pro bono* representation of William Bigley for the public interest law firm, Law Project for Psychiatric Rights (PsychRights®), I subpoenaed documents from Dr. David Egilman, an expert witness in the multidistrict federal litigation over Eli Lilly (Lilly) hiding from doctors and the public that Zyprexa causes diabetes and other metabolic problems, and that Lilly had engaged in illegal "off-label" promotion. Under the terms of the protective order, Dr. Egilman was not to produce the documents until after Lilly had a reasonable opportunity to object. I fully expected Lilly to object in time, in which event, I would be arguing to the court that Mr. Bigley was entitled to these documents because he needed them to demonstrate to the court why being drugged against his will was not in his best interests. When almost a week went by without an objection, Dr. Egilman determined Lilly had had a reasonable opportunity to object and produced the documents to me. I released them to the public, including the New York Times. This resulted in a series of New York Times articles, starting on December 17, 2006, which in turn reportedly caused the government's investigation into Lilly's actions around Zyprexa to "gain momentum," concluding in civil False Claims Act and criminal penalties of \$1.4 Billion.

I received none of this money, but instead had to incur legal costs to defend myself against the legal onslaught of Lilly's army of lawyers. The initial payment of \$10,000 was paid by PsychRights, which was quite appropriate since I had undertaken the representation under its auspices, but I realized that PsychRights would be quickly bankrupted by the legal costs and started trying to pay them myself. The legal costs were so high, however, that there was no way I was going to be able to pay them all myself.

PsychRights could have set up a legal defense fund, but when the Center for the Study of Psychiatry and Psychology (CSPP) offered to do so, I accepted that. Except for what I think was a \$1,000 contribution from CSPP, all of the funds paid to my lawyers were from directed

donations by other individuals to the Jim Gottstein Legal Defense Fund. In other words, people donated money specifically to pay for my legal defense. Again, with the possible exception a \$1,000 donation from CSPP, the money in questions was donated specifically to pay my lawyers. I received no funds personally. The mission of CSPP is closely aligned with that of PsychRights and I believe they considered that I had provided a hugely valuable service in furtherance of its mission as well.

It does not seem to me that in light of these facts, there was anything improper in the payments to my lawyers, which technically, could be considered to have been working for PsychRights, since the costs incurred were as a result of my work through PsychRights. I am open to being convinced otherwise, but in the absence of that, I must protest that any charge that I received any excess benefits is unwarranted.

With respect to your information/document request, I enclose herewith copies of the checks I have that were written to attorneys from ISEPP during the time period of the request. I do not believe I was given copies of the other checks you list. Therefore, I am requesting that you provide me with copies. However, as I have previously informed you, a spreadsheet I have kept regarding these fees reflect a 4/28/2009 payment to Berkman Henoch in the amount of \$20,000. I haven't located a copy of such a check and Berkman Henoch indicates it has not received any such payment. I inquired of Mr. McKay as well and he also could find no record of such a payment. At this point, it appears my record of such a payment is incorrect.

It is my hope that the Service will recognize that there has been no excess benefit payment and no tax due. However, I am willing to accept that the \$1,000 that came from CSPP funds was an excess benefit. Other than that, unless convinced otherwise, I will vigorously contest a determination that I received any excess benefits.

Sincerely,

James B. (Jim) Gottstein, Esq.

Cc: Steven Vogler, CPA

Enc.

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Beckman, Hansch, Pichon + Paddy, LLC
 for Gottstein
 Legal Defense 7287.00

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