

WORLD SERVICE BOARD OF TRUSTEES OF NARCOTICS ANONYMOUS

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April 10, 1990

To: The Board of Trustees
From: Jack B., Chairperson
Re: WSO vs. Creative Arts Ltd., N.A. and Taxes

Enclosed you will find the latest information concerning the WSO lawsuit for trademark infringement, against Creative Arts Ltd., of Oakland, CA. Also included is a draft response to Dr. Holder (Hebrew translation), and the summary information which will be attached to a much longer report, to be given to the WSC, concerning N.A.'s tax status.

The information about the lawsuit includes two different settlement agreements offered by the WSO last summer, but turned down by Creative Arts, Ltd. The other material is made up of communication from the WSO attorney, copies of a precedent case in the Ninth District Court, of which we are assigned, regarding Ford Motor Company. The precedent decisions by that district will be of great interest to you and give you a better understanding of some of the obstacles we face in protecting the fellowship's properties. There is also a transcript of a conference between attorneys in front of the judge about the case.

Stu T. has kept me informed of the ongoing development of the lawsuit and has requested that I appoint several WSB members to an Ad Hoc Committee to participate on a conference call with members of the WSO Board, later this week. On the call we will discuss some of the details of the case, the advice from counsel, and the different options available at this juncture of the proceedings. I do not expect any firm decisions to be made about the case until we have all fully discussed it with the WSC at the upcoming meeting.

I have appointed Becky M., Donna M., Greg P., Stretch G., and myself to participate on the scheduled call. The call is scheduled for Friday, April 13th at 1 p.m. PDT. Please contact the office to verify your correct telephone number. A full report of the discussions will take place at our next meeting preceding the WSC. If you have any questions about the matter please contact me as soon as possible. Thank you.

N.A. AND TAXES

This section is the long awaited report on N.A. tax matters and bank accounts for our groups and committees. For years, these matters have been discussed and studied. We are now able to offer reasonable advice on both subjects.

For the last year the WSO has had an attorney researching these problems. This memorandum is a synopsis of that research. Although this memorandum pertains to the Fellowship in the United States, similar research is being done in other countries. As that information becomes available, it will be distributed to those it affects.

There is a requirement for the Fellowship; its groups and service committees, to abide by laws and regulations pertaining to taxes and banking. Simply because N.A. is "non-profit" or "tax exempt" does not excuse us from compliance with appropriate laws and regulations. We must comply with those laws and regulations while remaining faithful to our Traditions. We believe that is possible.

The first issue can be handled quite easily. Every group or committee that wants to open a bank account through which it manages N.A. money, can and should do so. Before doing so, the group or committee should obtain a taxpayer identification number for the exclusive use by that group or committee. The form required to accomplish this is a one-half page, easy to fill out item. A copy is attached.

Does this mean the group or committee is "non-profit" or "tax exempt"? No. Submitting the form simply gets a number the group or committee then uses when it opens a bank account.

Does this then require the group or committee to complete tax returns? There is a yes and a no answer.

NO - For those groups and committees that handle less than \$5,000.00 the Internal Revenue Service Code provides for an exemption from filing tax returns if the group or committee in all other respects complies with the regulations. In order to prepare groups and committees that will or can comply with this provision, a sample (revised draft) group treasurers workbook is enclosed.

YES - For those groups and committees that handle more than \$5,000.00 per year a tax report is required.

In either case, does the group or committee have to apply for tax exempt status? An application for tax exempt status could be made, but that is not necessary. As long as the group or committee handles its affairs within the guidelines in the draft Treasurers Handbook, applying for tax exempt status does not appear necessary.

There appears no immediate alternative to the requirement for groups and committee handling over \$5,000.00 to make yearly reports to the IRS. There may however, be several alternative ways the reporting requirement can be satisfied.

The first alternative is for each group or committee collecting over \$5,000.00 per year to file its own tax return (an IRS Form 990)(and the appropriate state tax form). The group or committee would not need to incorporate. It could submit its reports in the name of the group or committee as an unincorporated association of individuals. The group or committee could incorporate if it was decided that was a preferred choice. A handbook on that alternative can be developed, but is not available at this time.

The second alternative would be to consolidate the financial reporting of nearby groups and/or committees into a system called "parent - subsidiary organization" reporting. However, from our investigation of this alternative, we are of the opinion the IRS has written this alternative in a way that seems inappropriate for N.A. groups. It was written for organizations that have a central administrative unit and has smaller units under its control and authority. Because our groups are autonomous according to our Traditions, this alternative may not be spiritually acceptable for groups.

However, this second alternative is a way for area committees or regional committees to handle their accounts and reporting requirements. If an area committee or region chose this alternative would it have to incorporate? No. The area or region could operate and file its returns as an unincorporated association of individuals. Incorporation could be done if that was considered the best decision.

How would this work? It is fairly easy, but requires attention and full participation. The area committee (region) obtains the tax identification number. All subcommittees operate out of a single account managed by the area treasurer. This single account forms the basis of a consolidated tax report at the end of the year. Separate accounts for each committee can be maintained, but all of the financial data (bank statements, checks, records of receipts and expenditures) would have to be turned over to the treasurer for inclusion in the consolidated report.

There is a third alternative, but it would take a while to obtain. There is the possibility that an application could be made to the Commissioner of the Internal Revenue Service to receive a special letter of determination about how N.A. groups (and/or committees) should comply

with the IRS reporting requirements. These special determinations can be made by the Commissioner if an organization believes an exemption from the IRS regulations is in the best interests of the community and (in the judgment of the Commissioner) is not prejudicial to the responsibilities of the IRS. Approval is entirely at the discretion of the IRS Commissioner.

Consideration has been given to having world services make such an application so as to relieve groups of the reporting requirement that collect over \$5,000.00. Consideration has not been given to inclusion of committees in such an application. While discussions on this point have been sympathetic to the difficulties imposed on committees if they are excluded from such an application, our research suggests that including the committees would not be approved. Clearly, a group is a group regardless of how much money it collects. It is only the IRS code that makes a distinction at the \$5,000.00 income level. There is reason to believe an application pertaining to all N.A. groups could be successful.

The issue of preparing and making a request for a special ruling requires additional consideration and discussion. Filing an application could affect all of N.A. within the U.S. by attracting attention from the IRS to all of N.A.'s individual groups and activities. The WSO does not have the authority to make such a far reaching decision.