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COMMITTEE ON FINANCE
WASHINGTON, DC 20510-6200

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April 3, 2019

The Honorable Charles P. Rettig
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, D.C. 20224

Dear Commissioner Rettig:

This letter concerns the recent, widely reported college-admissions scandal, which is now being prosecuted by the U.S. Attorney in Boston, Massachusetts.¹ As you are surely aware, this scandal involves the parents of college-bound children allegedly paying for fraudulent SAT and ACT test scores, allegedly bribing college administrators, and committing other fraud to help their children attain preferential admissions. As alleged in various Department of Justice charging documents, those payments often took the form of fraudulent tax-deductible donations to a charity known as the Key Worldwide Foundation (“KWF”). KWF claimed on a recent Form 990 that it “endeavors to provide education that would normally be unattainable to underprivileged students,”² but it apparently acted simply as a conduit for high-net-worth parents to pay bribes to college administrators for bogus college admissions.³ If these allegations are true, such payments to KWF obviously should not be treated as legitimate charitable deductions, and we expect the IRS will enforce the law accordingly in this regard, both as to KWF as well as to the parents who may have claimed such payments as deductions on their personal income tax returns.

This scandal, however, appears to implicate further violations of the tax code, and we expect the IRS to be vigorous in enforcing the applicable tax laws. First, it appears that several of the parents involved in the scandal may have misappropriated funds from private foundations over which they have financial control in order to make illicit payments to KWF. For example, according to the FBI’s *Affidavit in Support of Criminal Complaint* (“Affidavit”), “\$50,000 was wired [by a defendant father] from a brokerage account in the name of the [private foundation

¹ Will Thorne, Felicity Huffman, Lori Loughlin Indicted in College Admissions Scam, BOSTON HERALD (March 12, 2019), <https://www.bostonherald.com/2019/03/12/felicity-huffman-lori-loughlin-indicted-in-college-admissions-scam-2/>.

² Available at http://990s.foundationcenter.org/990_pdf_archive/461/461603030/461603030_201612_990.pdf.

³ See generally United States Department of Justice, Investigations of College Admissions and Test Bribery, <https://www.justice.gov/usao-ma/investigations-college-admissions-and-testing-bribery-scheme>.

associated with the defendant father] to a bank account in the name of the KWF charity,” and “[o]n or about September 13, 2018, [that foundation] made a purported donation of \$75,000 to the KWF charity.”⁴ In another example, the Affidavit states that, “[o]n or about April 15, 2013, ... a family foundation on which [a defendant mother] and her spouse serve as officers, issued a check, payable to KWF, in the amount of \$100,000,” and then goes on to describe similar misappropriations from that foundation.⁵ As you know, the tax laws allow for stiff sanctions on private foundations and their managers for self-dealing payments, and we expect the IRS will fully enforce the law in imposing such sanctions where appropriate.

Second, the Affidavit alleges that some of the parents involved in this scandal paid bribes and other illicit payments from accounts associated with their businesses. For example, the Affidavit describes one defendant father asking the scandal’s ringleader,

“What are the options for the payment? Can we make it for consulting or whatever from the [K]ey so that I can pay it from the corporate account? [Ringleader] replied that he could make the invoice for business consulting fees, so that [father] could ‘write off as an expense.’ [Father] replied, ‘Awesome!’”⁶

Shortly thereafter, the defendant father’s company allegedly wired \$100,000 to KWF as well as other large amounts to the ringleader and an entity associated with him. This evidence strongly suggests such payments were not proper business deductions, and, if the evidence proves these were improper deductions, we expect the IRS will fully enforce the law.

Finally, based on the Affidavit, it would appear that some parents made illicit payments by transferring portions of their stock holdings to KWF. Such circumstances would make it likely that these parents did not incur realization events on these stock holdings because they were purported donations to KWF. For example, the Affidavit alleges that a defendant father, “[o]n or about July 15, 2016, ... transferred 2,150 shares of Facebook, Inc. stock, having a value of approximately \$251,249, to KWF,” and “[o]n or about June 21, 2017, ... caused shares of stock having a value of approximately \$101,272 to be transferred to KWF.”⁷ However, if these transfers of stock are found to be in exchange for illicit services and not qualified as charitable contributions, we expect the IRS will fully enforce the law with regard to any resulting gain recognition.

⁴ Laura Smith, Special Agent Federal Bureau of Investigation *Affidavit in Support of Criminal Complaint*, at 37, 40, available at <https://www.justice.gov/file/1142876/download>.

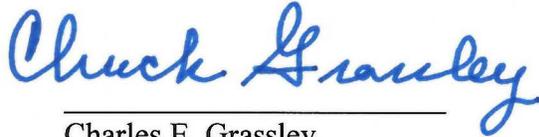
⁵ *Id.* at 144.

⁶ *Id.* at 124-25.

⁷ *Id.* at 109-10.

Should you have any questions, please contact John Schoenecker of the Chairman's staff and Dan Goshorn of the Ranking Member's staff at 202-224-4515. Thank you for your attention to this important matter.

Sincerely,



Charles E. Grassley
Chairman
Senate Committee on Finance



Ron Wyden
Ranking Member
Senate Committee on Finance