



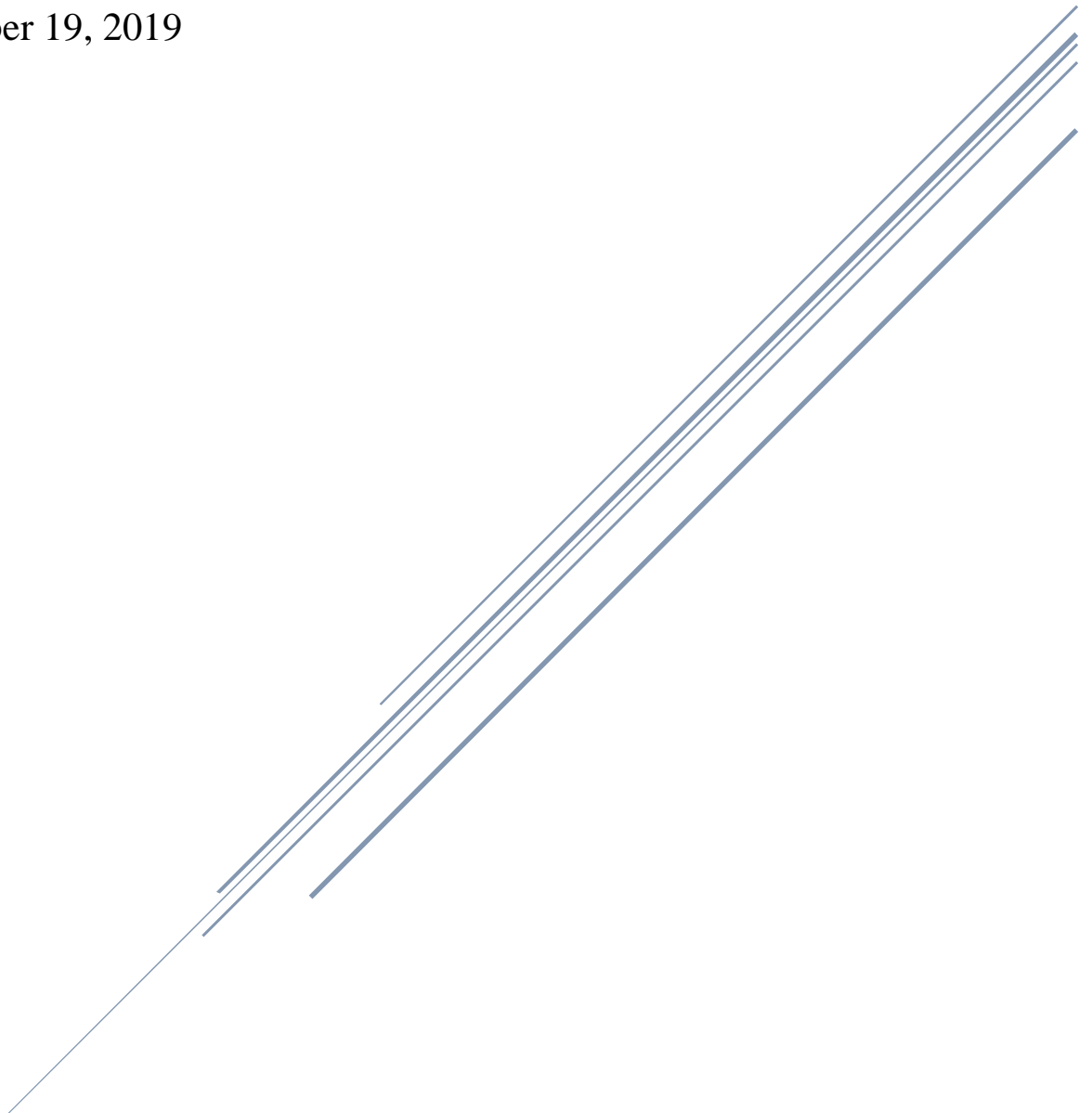
Auditor's Office

Carolyn Fundingsland

COWLITZ COUNTY AUDITOR

Response to Request for Audit by Christen Ellis and Christina Wood

December 19, 2019



INVESTIGATION REPORT

Summary:

We have thoroughly reviewed your collected data and have responded to your concerns below. Please take into consideration that the contract between Cowlitz County and Love Overwhelming does not require Cowlitz County to audit LO's specific filings with the state. We only audit their specific operations that pertain to the funding that we may provide them. Although they do require an active status with the state to receive any type of funding from Cowlitz County, we do not audit their information given to the state to receive that status. We trust that our State audits Love Overwhelming appropriately.

Complaint:

Violations of Articles of Incorporation – Exhibits A & B-I

Response:

Although we are in agreeance with your perception of Love Overwhelming not being transparent enough when it comes to their documents filed with the State of Washington not stating their Board members, with further review and research if you see the attached **Exhibit A** (Annual Report) for a Nonprofit, the Secretary of State only requires Love Overwhelming to provide 'at least one' Governor and it is acceptable for a member of the Board to be an employee of the Nonprofit. I have also confirmed this with a phone call to the Secretary of State to ensure these activities are acceptable by LO.

Love Overwhelming's Board Members was also acquired by a single phone call. The Secretary of State only requiring one member to be listed pushed us to question LO on whether they are hiding their members (or lack thereof) or if they are just simply listing the minimum requirement. Per a 5 min phone conversation requesting this information from Love Overwhelming, my request for a list of members shown in **Exhibit B**, was granted which leads us to the conclusion that LO is not withholding information from the public but are simply reporting the minimum requirements.

Complaint:

Establishing a Board / Executive Pay / Board of Directors

Response:

In Washington, nonprofit corporations must have at least one director. See RCW 24.03.100. Many other states require a minimum of three directors. While federal law does not set a minimum number of directors, the I.R.S. has in recent years occasionally denied tax-exempt status to organizations lacking what the I.R.S. considered good governance practices. This includes several cases where the I.R.S. noted small board sizes and boards that were composed primarily of family

members. To avoid these issues, a nonprofit should be governed by several nonrelated directors. For example, the Better Business Bureau's Standards for Charity Accountability recommends a minimum of five voting members, and a 2004 U.S. Senate Finance Committee discussion draft on tax-exempt organizations recommended that boards have no fewer than three members.

Per RCW 24.03.025 the only person they are required to list with names is the initial directors and in this case it would be Charles Hendrickson. Per RCW 24.03.127 "A director shall perform the duties of a director, including the duties as a member of any committee of the board upon which the director may serve, in good faith, in a manner such director believes to be in the best interests of the corporation, and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances." This speaks specifically to Mr. Hendrickson being allowed to not only be the Director of LO but to also be a board member, this has also been confirmed with the Secretary of State that it is allowed.

Another reference, the officers of a nonprofit organization do not need to be members of the board. See RCW 24.03.125. In practice, many organizations have directors serve as the corporate officers, while others (usually larger organizations) have senior employees, who report to the board of directors, serve as the corporate officers.

Complaint:

Unusual Activities

Response:

Parcels- the parcels that were received by LO, though they may be conveniently placed next to Charles Hendrickson's personal property, they cannot benefit him personally. This is outside of our offices monitoring and auditing authority.

Hearth Coffee- this coffee shop was acquired by Love Overwhelming in 2018 and was made into a registered trade name of LO. Although this operation does need to be broken out on their 990 filing, this will not be available until their 2018 tax return is published. Hearth Coffee is not a separate entity from LO, it is an extension. They are using Hearth Coffee for employment opportunities for those who are homeless and possibly hold charges against them that prevent them from acquiring employment. This would fall under their mission statement that states "Supporter Employment". Hearth Coffee would be considered an extension of LO just like the rest of the registered trade names listed below.

| Registered Trade Names | | | |
|------------------------|--------|--|--------------|
| Registered trade names | Status | | First issued |
| HEARTH COFFEE INC | Active | | Jun-12-2018 |
| LAUNDRY LOVE COWLITZ | Active | | Apr-16-2018 |
| LOVE OVERWHELMING | Active | | Nov-20-2017 |
| LOVE YOUR NEIGHBOR | Active | | Nov-20-2017 |

Complaint:

Non-Profit Status

Response:

The County was aware that Love Overwhelming had a lapse in time where they had not been approved yet of exempt status from Federal Income tax under Internal Revenue Code Section 501 (c) (3). Love Overwhelming applied for Exempt status in May of 2014, it took over a year for the IRS to process this and approved their request in October of 2015. According to the letter the IRS approved their request for reinstatement under Revenue Procedure 2014-11 and made their effective date retroactive to May 15, 2014 as you can see in **Exhibit C**. Another component to this is that Love Overwhelming is not required to be Exempt, they can operate as a nonprofit who has to pay federal taxes.

We have also pulled our accounts payable with Love Overwhelming and they did not receive funding from Cowlitz County under their own Vendor number until November of 2015. In **Exhibit D** you can see that their first payment was 11/10/2015. Before that they were still operating under the New Hope City Church, dba Love Overwhelming. Also shown in **Exhibit D** you can see that the remit to address was the address associated with New Hope City Church, this changed in November 2015 when the approval was given to Love Overwhelming and they could operate under their own entity.

Based on the information you submitted with your application, we approved your request for reinstatement under Revenue Procedure 2014-11. Your effective date of exemption, as listed at the top of this letter, is retroactive to your date of revocation.

Complaint:

Filing Requirements

Response:

Per my conversation with the Secretary of State, the renewal form shown in **Exhibit A** only requires they provide at least one board member when they file their renewal application. It is unclear when LO holds meetings and makes decision on who becomes new board members. Washington State law does not require the board minutes of nonprofit corporations to be open to the public. See RCW 24.03.135. Nonprofit corporations must keep records of their board minutes on site, along with other records such as articles, bylaws, accounting and financial statements, and lists of members, board members and officers. These records must be kept reasonably available for inspection by any legal member of more than three months standing, or by a representative of more than five percent of all legal members. See RCW 24.03.135. Finally, board minutes are frequently requested in government audits and investigations. Failure to maintain them may have negative consequences in those situations, but the county does not require these minutes as part of

their documentation to us. The county does not require any information about LO's board members or their minutes from board meetings.

We do acknowledge that they did not provide titles on their 2017 990 filing, but the IRS accepted their return. For transparency purposes this is not acceptable, but it does not disqualify them from receiving funding. That is an issue that the IRS would need to address if they feel their 990 was not completed appropriately.


Complaint:

Kelso Longview Ministerial Association

Response:

Please refer to **Exhibit E**, the state does not require registration from churches, they are encouraged to register. Which, as you have attached in your documentation shows the registration submitted by KLMA. We would also like to recognize that it is not a requirement of Cowlitz County that an entity in contract with us is a 501 (c) (3).

Exhibit A



SOS

Office of the Secretary of State
Corporations & Charities Division
(360) 725 - 0377 | www.sos.wa.gov/corps
801 Capitol Way S, Olympia, WA 98504-0234

This Box For Office Use Only

☐ Expedite Services \$50
☐ Nonprofit \$10
☐ All Other Entity Types \$60
☐ Delinquency Fee \$25

ANNUAL REPORT
[RCW 23.95.255](#)

Failure to file this annual report by your expiration date will result in a \$25 delinquency fee and may result in administrative dissolution.
**Delinquency fee does not apply to nonprofit entity types*

All fields required unless otherwise specified

Entity Name: _____

UBI: _____

Has your registered agent changed? ☐ YES ☐ NO If Yes, please be sure to complete page 2

| Principal Office Street Address <small>(Must be a physical address; No PO Box or PMB)</small> | Mailing Address (optional) <small><input type="checkbox"/> Check if mailing address is the same as street address.</small> |
|--|---|
| Address: _____ | Address: _____ |
| Zip: _____ City: _____ | Zip: _____ City: _____ |
| State: _____ Country: _____ | State: _____ Country: _____ |

Phone: (optional) _____

Email: (optional) _____

Governor(s) (list at least one, attach additional pages if necessary) **An entity cannot serve as its own Governor*

Name: _____

Name: _____

Name: _____

Name: _____

Name: _____

Name: _____

Nature of Business (briefly describe the type of business your entity conducts in the state of Washington):

Controlling Interest (answer all three questions below)

- Does your company own real property (including leasehold interests) in Washington? ☐ YES ☐ NO
- Has there been a transfer of stock, other financial interest change, or an option agreement exercised during the last 12 months that resulted in a transfer of controlling interest? ☐ YES ☐ NO
- Has an option agreement been executed in the last 12 months allowing for the future purchase or acquisition of the entity, that, if exercised would result in a transfer of controlling interest? ☐ YES ☐ NO

This document is hereby executed under penalty of law and is to the best of my knowledge, true and correct.

Signature of Authorized Person: _____

Date: _____

Print Name and Title (if applicable): _____

Phone: (optional) _____

Email: (optional) _____

Annual Report
 Pg 1 | Revised 7.2018

NEW REGISTERED AGENT:

Is the Registered Agent a Commercial Registered Agent? ☐ Yes ☐ No

If Yes, provide the name of the Commercial Registered Agent: _____

A Commercial Registered Agent is an entity or individual that is registered with the Office of the Secretary of State to receive legal documents on behalf of a corporation. A Commercial Registered Agent has the entities/individual's address on record with the office.

A Registered Agent consent is still required for a Commercial Registered Agent located below.

If No, please continue below

Please complete ONE type of Registered Agent below, be sure to include the name below the checked box.
Then continue to provide the required street address. Mailing address if needed.

☐ Individual

☐ Entity

☐ Office or Position

First and last name of a Non-commercial
Registered Agent. (Any person not registered
as a Commercial Registered Agent.)

Name of a Non-commercial Registered Agent.
(Any business not registered as a Commercial
Registered Agent.)

List the Office or Position serves as agent. (Only
if using the specific office or position as the
registered agent, no matter who holds the
position like: Secretary, Member or Treasurer.)

Phone: _____

Email: _____

Registered Agent Street Address (required)
(Must be a physical address No PO Box or PMB)

Registered Agent Mailing Address (optional)
☐ Check if mailing address is the same as street address

Country: United States State: Washington

Country: United States State: Washington

Address : _____

Address : _____

Zip: _____ City: _____

Zip: _____ City: _____

CONSENT TO SERVE AS REGISTERED AGENT -REQUIRED FOR ALL TYPES

I hereby consent to serve as Registered Agent in the State of Washington for the named entity. I understand it will be my responsibility to accept service of process, notices, and demands on behalf of the entity; to forward mail to the entity; and to immediately notify the Office of the Secretary of State if I resign or change the Registered Office Address.

Signature of Registered Agent

Printed Name/Title

Date

Exhibit B

McKay, KayLee

From: Shannon McLain <smclain@loveoverwhelming.org>
Sent: Tuesday, December 17, 2019 9:40 AM
To: McKay, KayLee
Subject: Re: Cowlitz County Auditor - Question

Hello KayLee,
Here is the information requested.

| | 2017 | 2018 | 2019 |
|--------------------|------------------|------------------|-------------|
| Brewer, Jo | | x | |
| Cavaness, Kari | x | Secretary | Secretary |
| Clauson, Barbara | Vice Chairperson | | |
| Hertig, Marilee | | Chairperson | Chairperson |
| Iverson, Don | x | Vice Chairperson | |
| Kennedy, Maggie Jo | x | x | |
| Kielwitz, Luke | | x | |
| Nyman, Shawn | | Treasurer | Treasurer |
| Russell, Larry | Chairperson | x | |
| Scattergood, Adam | x | x | x |
| Spears, Paul | | | x |

Exhibit C

INTERNAL REVENUE SERVICE
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: **OCT 14 2015**

LOVE OVERWHELMING
PO BOX 42
KELSO, WA 98626

Employer Identification Number:
46-4721592
DLN:
17053197302015
Contact Person:
ROGER W VANCE ID# 31173
Contact Telephone Number:
(877) 829-5500
Accounting Period Ending:
December 31
Public Charity Status:
170(b)(1)(A)(vi)
Form 990/990-EZ/990-N Required:
Yes
Effective Date of Exemption:
May 15, 2014
Contribution Deductibility:
Yes
Addendum Applies:
No

Dear Applicant:

We're pleased to tell you we determined you're exempt from federal income tax under Internal Revenue Code (IRC) Section 501(c)(3). Donors can deduct contributions they make to you under IRC Section 170. You're also qualified to receive tax deductible bequests, devises, transfers or gifts under Section 2055, 2106, or 2522. This letter could help resolve questions on your exempt status. Please keep it for your records.

Organizations exempt under IRC Section 501(c)(3) are further classified as either public charities or private foundations. We determined you're a public charity under the IRC Section listed at the top of this letter.

Based on the information you submitted with your application, we approved your request for reinstatement under Revenue Procedure 2014-11. Your effective date of exemption, as listed at the top of this letter, is retroactive to your date of revocation.

If we indicated at the top of this letter that you're required to file Form 990/990-EZ/990-N, our records show you're required to file an annual information return (Form 990 or Form 990-EZ) or electronic notice (Form 990-N, the e-Postcard). If you don't file a required return or notice for three consecutive years, your exempt status will be automatically revoked.

If we indicated at the top of this letter that an addendum applies, the enclosed addendum is an integral part of this letter.

For important information about your responsibilities as a tax-exempt organization, go to www.irs.gov/charities. Enter "4221-PC" in the search bar

Letter 947

LOVE OVERWHELMING

to view Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities, which describes your recordkeeping, reporting, and disclosure requirements.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey I. Cooper".

Jeffrey I. Cooper
Director, Exempt Organizations
Rulings and Agreements

Exhibit D

| Unit | Voucher | Supplier | Invoice Dt | Invoice | Supplier | PO No. | Line | Fund | Dept | Account | BARS | Amount |
|-------|----------|------------|------------|-----------------|-------------------|--------|------|---------|--------|---------|---------|--------------|
| COWLZ | 30000440 | 1000001373 | 11/10/2015 | 201510LOVE-CEAS | LOVE OVERWHELMING | | | 1 18401 | 075100 | 5410100 | 5654200 | 11378.840 |
| COWLZ | 30000441 | 1000001373 | 11/10/2015 | 201510LOVE-JIT | LOVE OVERWHELMING | | | 1 18401 | 075100 | 5410100 | 5654200 | 4887.710 |
| COWLZ | 30000442 | 1000001373 | 11/10/2015 | 201510LOVE-LBS | LOVE OVERWHELMING | | | 1 18401 | 075100 | 5410100 | 5654200 | 13397.530 |
| COWLZ | 30000443 | 1000001373 | 11/10/2015 | 201510LOVE-PSH | LOVE OVERWHELMING | | | 1 18401 | 075100 | 5410100 | 5654200 | 8705.850 |
| COWLZ | 30000444 | 1000001373 | 11/10/2015 | 201510LOVE-URS | LOVE OVERWHELMING | | | 1 18401 | 075100 | 5410100 | 5654200 | 13788.950 |
| COWLZ | 30001914 | 1000001373 | 12/9/2015 | 201511LOVE-CEAS | LOVE OVERWHELMING | | | 1 18401 | 075100 | 5410100 | 5654200 | 13870.060 |
| COWLZ | 30001915 | 1000001373 | 12/9/2015 | 201511LOVE-JIT | LOVE OVERWHELMING | | | 1 18401 | 075100 | 5410100 | 5654200 | 7116.790 |
| COWLZ | 30001916 | 1000001373 | 12/9/2015 | 201511LOVE-LBS | LOVE OVERWHELMING | | | 1 18401 | 075100 | 5410100 | 5654200 | 15701.070 |
| COWLZ | 30001917 | 1000001373 | 12/9/2015 | 201511LOVE-PSH | LOVE OVERWHELMING | | | 1 18401 | 075100 | 5410100 | 5654200 | 10474.190 |
| COWLZ | 30001918 | 1000001373 | 12/9/2015 | 201511LOVE-URS | LOVE OVERWHELMING | | | 1 18401 | 075100 | 5410100 | 5654200 | 17177.390 |
| COWLZ | 30003959 | 1000001373 | 12/31/2015 | 201512LOVE-CEAS | LOVE OVERWHELMING | | | 1 18401 | 075100 | 5410100 | 5654200 | 15851.400 |
| COWLZ | 30003960 | 1000001373 | 12/31/2015 | 201512LOVE-JIT | LOVE OVERWHELMING | | | 1 18401 | 075100 | 5410100 | 5654200 | 5718.330 |
| COWLZ | 30003961 | 1000001373 | 12/31/2015 | 201512LOVE-LBS | LOVE OVERWHELMING | | | 1 18401 | 075100 | 5410100 | 5654200 | 13338.760 |
| COWLZ | 30003962 | 1000001373 | 12/31/2015 | 201512LOVE-PSH | LOVE OVERWHELMING | | | 1 18401 | 075100 | 5410100 | 5654200 | 10456.970 |
| COWLZ | 30003963 | 1000001373 | 12/31/2015 | 201512LOVE-URS | LOVE OVERWHELMING | | | 1 18401 | 075100 | 5410100 | 5654200 | 14289.110 |
| | | | | | | | | | | | | \$176,152.95 |

2013-2015

| VENDOR_ID | EFFDT | EFF_STATUS | COUNTRY | ADDRESS1 | CITY | STATE | POSTAL |
|-----------|-----------|------------|---------|-----------------|-------|-------|--------|
| 8590 | 5/29/2013 | A | USA | P. O. Box 42 | Kelso | WA | 98626 |

2015-Present

| | |
|----------------------|--------------------|
| Supplier Name | LOVE OVERWHELMING |
| | PO BOX 1670 |
| | LONGVIEW, WA 98632 |

Exhibit E

Who is not required to register?

While most charities must register, there are some activities exempt from the state registration requirements. In Washington State, any organization that is one of the following is not required to register:

1. Charitable organizations raising less than \$50,000 from the public, in any accounting year when all the activities, including fundraising, are carried out by persons who are unpaid for their services; or
2. Entitled to receive tax exempt status from the Internal Revenue Service as a church; or
3. Political Organizations
4. Fundraising to benefit specific individual, but only if all proceeds is given to that individual.

Organizations exempt from registration requirements are encouraged to file an "Optional Registration" with the Charities Program. The Optional Registration allows the Office of the Secretary of State to respond to customer inquiries.