

# Group Sees Bias in IRS Audit

By Morton Mintz

The Internal Revenue Service, in a case with strong political overtones, has spent four weeks auditing the books of a small, non-profit, public-interest group after virtually strangling it with almost three years of bureaucratic procrastination.

Lawyers for the group said Friday in papers filed in U.S. District Court here that the audit is yet another example of "discriminatory" treatment of the Center for Corporate Responsibility, Inc. in its long struggle for a tax exemption.

They recalled that Judge Charles R. Richey had said in court two months ago that the center's books are "so minute that they could be audited and examined in a matter of an hour."

Yet, they said, one IRS agent and two representatives of its office of the chief counsel completed the fourth week of the examination Friday without indicating when it might end.

Initially, the IRS officials worked in the main conference room of the law firm of Caplin & Drysdale, which has been representing the center, without charge, since June, 1972.

The law firm expected the examination to last a couple of days. But at the end of the third week, with no end in sight, the officials were asked to relinquish the room.

They moved to 1712 N St. NW, where the center has a one-room, rent-free office. Its funds dried up by the prolonged failure of the IRS to rule on whether contributions would be deductible, the center had surrendered its lease on rented quarters in May.

By that time, its liabilities exceeded \$30,000 while its cash in the bank was down to several hundred dollars. Soon thereafter, the center had to cut off phone service and discharged its two remaining staff members. On July 31 it terminated "all operations."

Yesterday an IRS spokesman said the agency never comments on audits or pending court cases.

The political overtones were

first alleged in May by Susan Gross, former press spokesman for the center. She puts major blame for IRS inaction on the center's exemption application on "the White House man at the IRS," Deputy Chief Counsel Roger V. Barth. Barth, who campaigned for Richard Nixon in 1968, has denied the charge.

The possibility of White House involvement arose again on June 27, when former presidential counsel John W. Dean III testified before the

Senate selecte Watergate committee.

Dean presented memos, prepared at the request of White House chief of staff H. R. (Bob) Haldeman, on how the administration could use the IRS to advance certain ideological and political goals and to crack down on a "multitude of tax-exempt foundations that feed left-wing political causes." None of the memos specifically mentioned the center.

Watergate Special Prosecutor Archibald Cox is making an investigation of possible misuse of the IRS and other agencies for political purposes.

The Dean testimony and memos were injected into the pending lawsuit by the center, which seeks a court order forcing the IRS to qualify it as an exempt organization.

Judge Richey on July 5 ordered the Justice Department on "a crash or emergency basis" to find out if political pressure figured in the center case.

Assistant Attorney General Richard M. Roberts then indicated an intention to invoke executive privilege to withhold documents on a possible White House role in IRS actions on tax-exempt organizations. Later, however, the White House agreed to a limited file search.

But more than 40 days later, center lawyers Thomas A. Troyer and H. David Rosenbloom protested in Friday's court papers, there is "no

word on the outcome of that search."

They also filed affidavits in which the two IRS commissioners in the Kennedy and Johnson administrations, Mortimer M. Caplin, senior partner in Caplin & Drysdale, and

Sheldon S. Cohen, swore that the agency followed highly irregular procedures in processing the center's application.

Cohen termed it "particularly striking" that the IRS, in finally denying the application on May 16, reversed the unanimous recommendation of every technician involved.

The technicians were in two units of the Exempt Organizations Branch and in the Interpretative Division of the office of then Chief Counsel Lee H. Henkel Jr. The paper denying the application, which precipitated the lawsuit, was signed by J. A. Tedesco, chief of the branch.

On May 16, two weeks after being sued, the IRS ruled that the center had not proved it operated exclusively for educational purposes. The ruling relied in part on a document that the IRS received from an unidentified third party and that it did not reveal to the center before ruling.

Moreover, Deputy Chief Counsel Barth had a draft of the ruling prepared by June B. Norris, an IRS employee who admitted in a deposition that she had no official relationship to either Barth or his boss, Henkel. She prepared the draft on her own time at home where, she conceded, she had no facilities for legal research.

The center applied for exemption in September, 1970, after being spun-off by the Project on Corporate Responsibility. The project, for which no exemption was sought, tries to increase corporate responsiveness to public needs in areas including discrimination against blacks and women, pollution and drug

abuse. The center focuses entirely on education, research and other activities permitted exempt groups.

In June, 1972, IRS employees indicated informal approval of the exemption application to lawyer Rosenbloom, he said in a sworn affidavit. But formal approval did not come through despite repeated offers by the center to do anything necessary to obtain it, he said.

Last Jan. 16, after determining that a favorable ruling was contemplated by the exemptions unit, Chief Counsel Henkel asked for the file. From that date to May 2, when the center sued, the file is barren of any evidence of a "substantive review" by his office, the center said.