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**On 60 Minutes, LDS Church admits “bailout” of *for-profit* business by Ensign Peak – which shows Ensign Peak cannot be tax-exempt.**

Since ordinary citizens must obey the law, should the IRS and Department of Justice permit politically powerful Church organizations to *flout the law*?

This week, *60 Minutes* broadcast a bombshell admission by an LDS Church representative. He confirmed our whistleblower client David Nielsen’s contention that the supposedly *nonprofit* Ensign Peak Advisors, Inc. “bailed out” a *for-profit* insurance company owned by the Church. The amount? \$600 million.

A leading tax expert told *60 Minutes* that “it is a problem if they have moved money from a non-profit to a for-profit.” The expert, Prof. Phil Hackney, also warned, “There’s a real risk to the rule of law if the IRS does not come in and enforce those rules.”

Under U.S. law, this \$600 million insurance company “bailout”—a “private benefit” to its policyholders—means that Ensign Peak cannot be tax-exempt, and thus owes billions in taxes. The “bailout” was but one of several ways Ensign Peak disregarded our tax laws, according to Mr. Nielsen’s sworn reports.

But Ensign Peak’s two decades of violations went beyond the tax laws:

**20 years of deception by “misstatements” to the SEC**

Mr. Nielsen made whistleblower reports to both the IRS and SEC about violations by Ensign Peak. The cases are linked: Mr. Nielsen showed the SEC how Ensign Peak’s unlawful SEC “misstatements” were calculated to conceal its tax violations.

The SEC recently found almost two decades of “misstatements” involving Ensign Peak and the Church, in violation of the Securities Exchange Act of 1934. Congress made a willful violation of this law a felony.

The SEC’s action is but the first of many steps in essential government scrutiny, and next are the IRS and the Department of Justice.

Why would an organization violate the law and “misstate”—for almost twenty years—facts it was legally required to disclose? As Mr. Nielsen has reported and attested under oath, the

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organization's Chief Investment Officer explained it: making these disclosures in Ensign Peak's name would "risk the firm" by endangering its tax-exempt status.

### **Facts negating tax-exempt status**

What facts was this official referring to that threatened Ensign Peak's tax-exempt status? While a thorough audit and investigation by the IRS and Department of Justice must answer that question fully, Mr. Nielsen has revealed plenty:

Mr. Nielsen states, "As Ensign Peak's investment fund amassed billions of dollars derived from tithing funds, large assets were deleted from its books, a practice I pointed out was improper, but was shocked to learn continued. And instead of using these billions in its investment fund for religious, charitable, or educational purposes, it used its funds to build a luxury shopping mall (about \$1.4 billion), and to bail out a for-profit insurance company (about \$600 million)." These are clearly prohibited "private benefit" transactions—which are enough to negate tax-exempt status.

And what policyholders personally profited from this bailout of \$600 million? Didn't the bailout benefit any Ensign Peak and Church leaders who held policies—with *money that should instead have been used for charitable, religious, or educational purposes?* (Church leaders such as Thomas S. Monson promoted those policies and approved the bailout.) Any such "private inurement" would also disqualify Ensign Peak from tax-exempt status. So does the deletion of large assets from Ensign Peak's books.

### **Fake numbers and false responses to IRS**

And what about fake numbers and false responses on IRS returns? Like its "misstated" SEC filings, Ensign Peak filed IRS returns that listed the book value of its *billions* in assets as only "\$1,000,000." Ensign Peak's returns also attested under oath that it had no foreign accounts.

Only once detected did Ensign Peak stop this deception. Only after Mr. Nielsen's original IRS submission was leaked (against his wishes) in late 2019, Ensign Peak admitted in its recent IRS returns that it owns foreign accounts. And only then did Ensign Peak begin to make its SEC filings in its own name, as the SEC found.

### **Recent change in tactics designed to confuse**

In Ensign Peak's public statements over the past three years, to our knowledge Ensign Peak never disputed that its investment fund was *not* used for religious, charitable, or educational purposes through 2019.

Now, three years later, the Church has attempted to dispute Mr. Nielsen's sworn statement that Ensign Peak never used its \$100 billion investment fund for religious, charitable, or educational purposes. But when *60 Minutes* challenged the Church to provide documents disproving Mr. Nielsen's statement, the Church apparently declined.

**This \$100 billion investment firm is not tax-exempt and owes billions in taxes**

Ensign Peak has failed to come close to being tax-exempt. The reasons are many:

Our laws require that, for an entity such as Ensign Peak to be tax-exempt under IRC § 501(c)(3), it must be “operated exclusively for religious, charitable ... or educational purposes.” Ensign Peak has consistently failed to operate in this way.

It also cannot engage in “private benefit” transactions, such as the \$600 million bailout of a private, for-profit insurance company. Ensign Peak has failed to abide by this limitation.

Nor can it engage in any “private inurement” transactions. That would include benefits to any leaders of Ensign Peak or the Church who had policies with the bailed-out insurance company.

Moreover, Mr. Nielsen’s reporting the deletion of large assets from its books warrants a full IRS and DOJ audit and investigation—to determine where these assets are now, and to identify anyone who has benefitted from deleting these accounting records. Deleting accounting records strongly suggests private inurement.

**Risk to the rule of law requires IRS and Department of Justice action**

To quote Prof. Hackney again, “There’s a real risk to the rule of law if the IRS does not come in and enforce those rules.”

The evidence provided by Mr. Nielsen, including the bailout now admitted by the Church, should be fully investigated by the IRS and Department of Justice. They must not shrink from the responsibility of enforcing the rule of law. Otherwise, a powerful, well-connected organization will be seen as escaping the equal application of our laws.