

**PT 04-1**  
**Tax Type: Property Tax**  
**Issue: Religious Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPRINGFIELD, ILLINOIS**

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**3 ANGELS BROADCASTING NETWORK**

**v.**

**THE DEPARTMENT OF REVENUE  
OF THE STATE OF ILLINOIS**

**A.H. Docket # 01-PT-0027**  
**P. I. # 174-116-11**  
**Docket # 00-28-01**  
**Docket # 01-28-07**

**Barbara S. Rowe**  
**Administrative Law Judge**

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**RECOMMENDATION FOR DISPOSITION**

**Appearances:** Mr. Kent R. Steinkamp, Special Assistant Attorney General for the Illinois Department of Revenue; Mr. Nicholas P. Miller, Sidley, Austin, Brown, Wood, L.L.C., Mr. Lee Boothby, Boothby and Yingst, and Mr. D. Michael Riva for 3 Angels Broadcasting Network; Ms. Merry Rhodes and Ms. Joanne H. Petty, Robbins, Schwartz, Nicholas, Lifton and Taylor, Ltd. for Thompsonville Community High School District 112.

**Synopsis:**

The hearing in this matter was held to determine whether Franklin County Parcel Index No. 174-116-11 qualified for exemption during the 2000 and/or 2001 assessment years.

Danny Shelton, president of Three Angels Broadcasting, (hereinafter referred to as the "Applicant" or "3ABN"); Larry Ewing, director of finance in 2002 of applicant; Alan Lovejoy, CPA and accountant; Walter Thompson, chairman of the board in 2002 of applicant; Bill Bishop, minister in the Seventh-day Adventist Church and member of the pastoral staff of applicant; Kenneth Denslow, president of the Illinois Conference of the Seventh-day Adventist Church; Mollie Steenson, department coordinator of applicant; and Linda Shelton, vice president of

60. For 2001, applicant's total revenue and other support were \$13,935,318.64. Applicant's total expenses were \$11,940,167.11 for a net profit of \$1,995,151.53. Under the sub-category entitled "Schedule of Supporting Service Expenses," \$4,026,680.45 is listed; of that amount, \$1,219,639.23 is shown as wages. (Applicant's Ex. No. 15)

61. The Independent Auditor's Reports for 2000 and 2001 state:

Dowlink equipment acquired by gift is not recorded in the financial statements. In our opinion, generally accepted accounting principles require that such donated property be recorded at its fair value at the date of receipt. It was not practicable to determine the effects of the unrecorded equipment on the financial statements.

In connection with the recording of real estate revocable trusts, the fair values of the trusts were based on internal estimates performed by the organization. We were unable to obtain sufficient evidential matter in connection with the estimates of fair value.<sup>14</sup> (Applicant's Ex. Nos. 14, 15)<sup>15</sup>

62. Applicant's donations are broken into restricted and unrestricted funds.<sup>16</sup> Restricted funds are for a particular product or project. Applicant had restricted net assets of \$757,891.39 in the year ending December 31, 2000, and \$1,454,857.61 in the year ending December 31, 2001. (Intervenor's Ex. No. 10; Tr. pp. 343-350)

### **Religious Considerations**

63. Applicant is exempt from the payment of Illinois Retailers' Occupation Tax and related taxes pursuant to a finding by the Department of Revenue that applicant is a religious organization under those tax laws. (Applicant's Ex. Nos. 6, 7)

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<sup>14</sup> The financial report for 2000 contains additional concerns found by the independent auditors.

<sup>15</sup> Applicant's financial reports raise additional questions and concerns. For example, the unrecorded contribution revenue related to charitable gift annuity agreements were not recorded in conformance with generally accepted accounting principles. The "related party transactions" were acknowledged without identifying the parties. The notes refer to "split interest agreements," where applicant received the assets funding the trusts and applicant is to pay certain amounts for specified periods of time to the donors. There is nothing in the record to identify the donors or the assets. None of the trust agreements were supplied. (Applicant's Ex. Nos. 14, 15)

69. The General Conference of the Seventh-day Adventist Church purchased airtime from applicant during the 2000 and 2001 calendar years. (Tr. pp. 368-369)

70. Applicant is not part of the Seventh-day Adventist Church. (Tr. p. 368)

71. Applicant is not a Seventh-day Adventist institution. (Tr. p. 97)

72. Applicant was established, organized and is operated by lay people. (Intervenor's Ex. No. 8 p. 400033)

73. Applicant is not owned by or controlled by the Seventh-day Adventist Church. (Tr. p. 99)

74. Applicant's staff includes four Seventh-day Adventist ministers that answer telephones and pray with people in the two 14' x 18' offices. The pastors lead daily worship services and view the videotapes for content that is consistent with applicant's purposes.<sup>17</sup> Sabbath services, foot washings, marriages, and baptisms are not held on the property in question. (Tr. pp. 531-541)

#### **Charitable Considerations**

75. Applicant is not required to pay federal income tax pursuant to a finding by the Internal Revenue Service that applicant is an exempt organization under Section 501(c)(3) of the Internal Revenue Code. (Applicant's Ex. Nos. 4, 5)

76. Applicant's board has no written policy to give away or donate its satellite systems. If an individual were unable to pay the cost of the system, applicant's secretary would contact Danny Shelton who would determine, with the board's guidance, whether the product should be given away. "Applicant has no policy that says give away." (Tr. pp. 295-303)

77. Applicant has no records of materials given away in 2000 or 2001. Applicant has no specific written policy that outlines what factors are used or what direction is given by

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<sup>17</sup> See Finding of Fact No. 7.

its satellite systems, nor was a clear policy even articulated through oral testimony. Rather, if an individual were unable to pay the cost of the system, applicant's secretary would contact Danny Shelton who would determine, with the board's guidance, whether the product should be given away. "Applicant has no policy that says give away." (Tr. pp. 295-303).

In fact, applicant has no records of materials given away in 2000 or 2001. Applicant has no specific written policy that outlines what factors are used or what direction is given by applicant's board or president that allows applicant to distribute items at a reduced rate or free of charge. (Tr. pp. 586-589, 614-616). Applicant has, therefore, failed to establish that the facts relied upon by the Inter-Varsity court to grant the exemption therein are present in this case.

Finally, in Evangelical Teacher Training Ass'n v. Novak, 118 Ill. App.3d 21 (1983) a nonprofit association of religious educational institutions promoted Christian education by sending its officers to lecture at religious colleges, advising religious educators on training seminary students, preparing materials for Bible courses that were written by faculty at member schools, and distributing its publications, often free, to libraries and schools. In affirming the entitlement to a property tax exemption, the appellate court distinguished Scripture Press Foundation in several respects. First the training association constituents were religious organizations and its officers were ministers. Second, upon dissolution, the training association's assets would go to a charitable purpose. Third, the training association did far more than distribute religious materials to others; its officers were deeply involved in religious teaching, which served "to directly accomplish its corporate purpose, the promotion of Christian education, in a manner which could not be achieved through the mere sale or distribution of its books and religious materials." Evangelical Teacher Training 118 Ill. App. 3d at 26. Similar to the circumstances in Scripture Press Foundation and its distinction expressed in Evangelical Teacher Training, 3ABN's officers are not ministers and its constituents are not religious

religious video tapes, audio tapes, and books for Christian organizations world-wide. Those sections of the house qualified for a property tax exemption. The areas of the house used primarily for residential purposes did not qualify for exemption.

In Muhammad's Holy Temple of Islam, an Islamic organization owned a three-story building that was used for training in the Islamic religion. At hearing, Muhammad's Holy Temple established that it was, in fact, a religious Islamic organization and that the training was an essential part of its religious purposes.

The Department, as shown by these cases, grants exemptions for religious organizations that use property for exempt religious purposes and not with a view to profit. As discussed above, applicant is not only not a religious organization, but, more importantly, does not primarily use the property for religious purposes without a view to profit.

For the aforementioned reasons it is recommended that Franklin County Parcel Index No. 174-116-11 remain on the tax rolls for the 2000 and 2001 assessment years and be assessed to the applicant, the owner thereof, except for the two pastor's offices, each measuring 14 feet by 18 feet, on the second floor of the administrative production center building, and a corresponding amount of land. That area, I recommend, be granted a property tax exemption as used for religious purposes without a view to profit.

Respectfully Submitted,

Barbara S. Rowe  
Administrative Law Judge  
January 28, 2004