

Green-Peace, Dirty Money: Tax Violations in the World of Non-Profits

1.0 Overview

The American public recently has been inundated with media tales of greedy corporations manipulating or break the law for their own financial gain. The names Enron, Tyco and WorldCom have become synonymous with corruption, and legislators and regulators from both sides of the political aisle have called for corporate heads to roll in the name of protecting the public from harm.

But precious little has been said about the equally murky depths of the world of non-profits. Despite the fact that charities, foundations, and other tax-exempt groups often boast multi-million dollar operating budgets or endowments, non-profits thus far have escaped the same level of scrutiny given their corporate counterparts.

Public Interest Watch (PIW) examined the financial records of a number of non-profit organizations and uncovered the same sort of corruption and illegality that prompted the fall of the house of Enron.

This report focuses on Greenpeace, arguably the most recognizable and visible name in the non-profit world and the most egregious offender we reviewed.

Greenpeace's organizational structure consists of multiple corporate entities that engage in blatant self-dealing, laundering funds through Greenpeace's tax-exempt corporation. These funds are then passed to other Greenpeace corporations that use them for non-exempt – and often illegal – purposes. Such actions carry severe legal implications, specifically in the context of federal tax law that governs non-profits.

This report details what Greenpeace is doing and why it is illegal. And perhaps more importantly, it serves as a wake-up call for legislators, regulators, and any person or organization that contributes to or supports non-profits.

Non-profits are actively engaged in financial misdeeds as serious as the worst of the corporate world. They therefore deserve the same level of scrutiny and criticism as well.

2.0 Background on Tax-Exempt Organizations

Of interest in this report are two types of tax-exempt organizations, designated by the Internal Revenue Service as 501(c)(3) and 501(c)(4) tax-exempt organizations.

2.1 501(c)(3) Organizations

The IRS sets requirements for 501(c)(3) organizations as follows:

An organization must be organized and operated exclusively for one or more of the purposes set forth in IRC Section 501(c)(3). The exempt purposes set forth in IRC Section 501(c)(3) are charitable, religious, educational, scientific, literary, testing for public safety, fostering national or international amateur sports competition, and the prevention of cruelty to children or animals. None of the

earnings of the organization may inure to any private shareholder or individual. In addition, it may not attempt to influence legislation as a substantial part of its activities and it may not participate at all in campaign activity for or against political candidates.¹

In essence, this means that donors to a 501(c)(3) organization can deduct their donations from their personal income taxes, and a 501(c)(3) organization can collect such tax-exempt contributions to fund educational program activities, but cannot legally spend a significant amount of its time or funds engaging in lobbying or issue advocacy.

2.2 501(c)(4) Organizations

The IRS sets requirements for 501(c)(4) organizations as follows:

An organization must not be organized for profit and must be operated exclusively to promote social welfare. An organization must operate primarily to further the common good and general welfare of the people of the community (such as by bringing about civic betterment and social improvements). Pursuant to changes enacted as part of the Taxpayer Bill of Rights 2, the earnings of a 501(c)(4) organization may not inure to the benefit of any private shareholder or individual. If the organization engages in an excess benefit transaction with a person having substantial influence over the organization, an excise tax may be imposed on the person and any managers agreeing to the transaction.

Seeking legislation germane to the organization's programs is a permissible means of attaining social welfare purposes. Thus, a 501(c)(4) social welfare organization may further its exempt purposes through lobbying as its primary activity without jeopardizing its exempt status. The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office. However, a 501(c)(4) social welfare organization may engage in some political activities, so long as that is not its primary activity.²

This means that unlike contributions to 501(c)(3) organizations, contributions to 501(c)(4) organizations may not be deducted from a donor's income taxes, but the funds can be used for lobbying and issue advocacy program activities. While significantly fewer operational restrictions are placed on 501(c)(4) organizations, it is difficult to raise money for such groups because donors cannot write off their contributions.

3.0 Greenpeace Structure Enables Tax Violations

PIW research reveals that, in the simplest of terms, Greenpeace is engaging in a form of money laundering.

Greenpeace is organized as a series of related entities not dissimilar from the various subsidiaries of the Enron empire. But in this case, the related entities are not used to conceal losses; instead, they are used to illegally funnel tax-exempt contributions into taxable program activities.

¹ See <http://www.irs.gov/charities/article/0,,id=96099,00.html>

² See <http://www.irs.gov/charities/welfare/article/0,,id=96178,00.html>

The two primary entities, Greenpeace, Inc., and Greenpeace Fund, Inc., both are organized as non-profits, but as different classes of non-profits. The difference in organization, according to U.S. tax law, corresponds with a difference in the types activities each can conduct.

3.1 Descriptions of the Entities

3.1.1 Greenpeace, Inc.

This is the main entity conducting Greenpeace operations in the U.S. It is a 501(c)(4) tax-exempt organization, which means it is free to lobby and engage in other advocacy activities but may not accept tax-deductible contributions.

Although headquartered in Washington, D.C., Greenpeace, Inc., is a California-chartered corporation, and thus subject to fairly stringent California law and regulation governing non-profits, in addition to federal IRS oversight.

For public purposes, Greenpeace, Inc., uses the name Greenpeace USA, which it shares with Greenpeace Fund, Inc., a related 501(c)(3) organization (described below). The activities of Greenpeace, Inc. are comprised almost exclusively of pressure campaigns aimed at forcing companies to change practices or governments to change policies. Many of these activities involve the sort of illegal banner-hangings and trespassing for which Greenpeace is famous.

Greenpeace, Inc., is funded by contributions from individuals and grants from Greenpeace Fund, Inc., a related organization discussed below. (*That Greenpeace, Inc., receives funding from Greenpeace Fund, Inc., is extremely significant and a major driver of this report.*) Total revenues for Greenpeace, Inc., in 1999, the last year for which tax returns are publicly available, amounted to \$14.2 million. Of this amount, \$4.25 million (or 30%) came from Greenpeace Fund, Inc. Expenditures by Greenpeace, Inc. for 1999 totaled \$13.6 million, with 40% going to pay for fundraising.³

3.1.2 Greenpeace Fund, Inc.

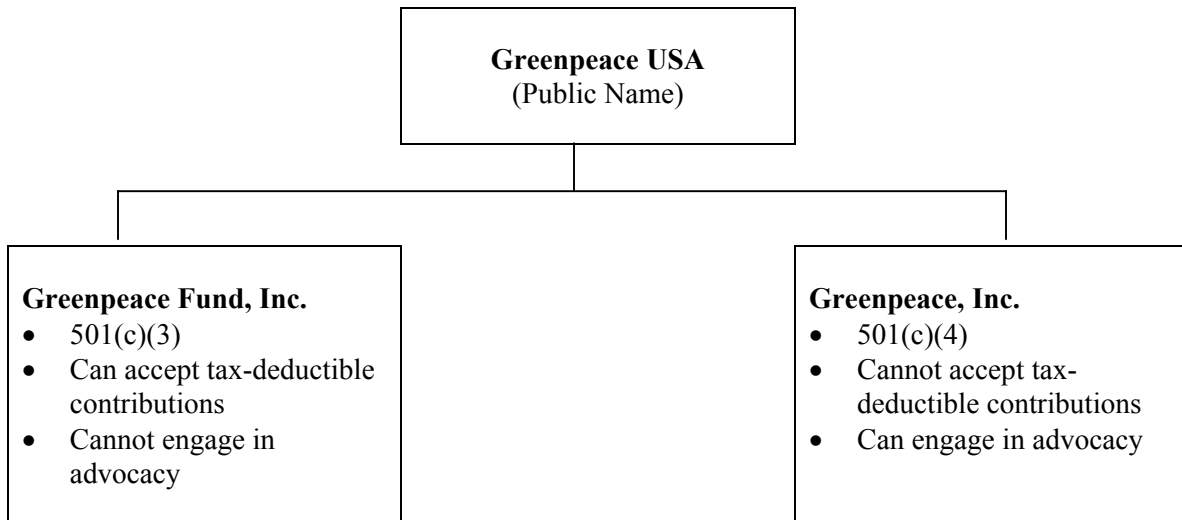
Greenpeace Fund, Inc., is a 501(c)(3) tax-exempt organization, meaning that it can accept tax-deductible contributions, but that it cannot engage in lobbying or advocacy activities.

This organization conducts no program activities of its own; it is a shell corporation established for the purpose of enabling tax-deductible contributions from big donors and from foundations to flow illegally to Greenpeace, Inc and Greenpeace International. In fact, Greenpeace Fund, Inc. passes all of the money it raises (net of its own fundraising and management costs) on to Greenpeace, Inc., and Greenpeace International.

In 2000, which is the latest year for which tax returns are available for this organization, Greenpeace Fund, Inc., raised \$7.5 million and disbursed \$4.5 million to Greenpeace, Inc., \$3.7

³ See attached Form 990 – 1999 for Greenpeace, Inc. The \$4.3 million grant from the 501(c)(3) affiliate is noted on page 1, line 1b, as “indirect public support.” The attached Form 990 – 1999 for Greenpeace Fund, Inc., shows the transfer (broken down by project) as a grant to Greenpeace, Inc., on Statement 5.

million to Greenpeace International, and \$0.8 million to Greenpeace organizations in selected other countries.⁴



3.1.3 Stichting Greenpeace Council (Greenpeace International)

Headquartered in Amsterdam, Greenpeace International is the largest organization in the Greenpeace empire, with a budget of \$34 million for 2000.⁵ Virtually all of the funding of Greenpeace International comes from the National Organizations (described below). Because the issues this organization works on are almost identical to the agenda of Greenpeace USA, it's clear that there is a close relationship between the two. Those issues are:

- Climate change;
- Oceans;
- Old growth forests;
- Genetic engineering;
- Toxics, and
- Nuclear power and disarmament.

3.1.4 Greenpeace National Organizations

There are about 40 Greenpeace organizations scattered around the world. Some of these are independent corporate entities, such as Greenpeace, Inc. and Greenpeace Fund, Inc. in the USA, and others are simply satellite offices of Greenpeace International. In 2000, the total budget for all Greenpeace organizations, including Greenpeace International, was \$143 million.⁶

3.1.5 Greenpeace Foundation, Inc.

⁴ See attached Form 990 – 2000 for Greenpeace Fund, Inc, page 1 and Statement of Organization's Primary Exempt Purpose (located about three-quarters of the way through the form).

⁵ See http://archive.greenpeace.org/Annualreport_2001/report_more3.html

⁶ See http://archive.greenpeace.org/Annualreport_2001/report.html

Greenpeace Foundation, Inc., was one of the original Greenpeace organizations in the U.S. But unlike the others, it refused to go along with the consolidation of all the organizations into Greenpeace USA. This small group, based in Hawaii, is openly critical of Greenpeace USA and Greenpeace International, and has blasted them for deceptive fundraising practices, anti-Americanism and insufficient devotion to the cause of wildlife preservation (dolphins, especially), which they believe is what the “Greenpeace movement” is all about.⁷

Greenpeace Foundation, Inc., is a 501(c)(3). The organization has no tax returns on file, which could mean simply that it spends no more than \$25,000 annually and is therefore exempt from filing.

3.2 Illegality of Greenpeace Cash Flow

Greenpeace’s operating structure is illegal because it violates the laws governing the conduct of tax-exempt organizations.

Greenpeace, Inc., quite clearly, is not permitted to use tax-exempt money to fund its advocacy and corporate pressure campaigns.

Greenpeace Fund, Inc. is not permitted to make grants that are used to fund non-exempt activities, as set for the I.R.S. code. In fact, when 501(c)(3) organizations like Greenpeace Fund, Inc. make grants to 501(c)(4) organizations, like Greenpeace, Inc., they have a legal obligation to earmark such grants for tax-exempt purposes and to ensure that the funds in question are, in fact, used for their designated purpose. This is not happening with the wholesale transfer of funds from Greenpeace Fund, Inc. to Greenpeace, Inc.

3.2.1 Misuse of Charitable Funds

The activities of the Greenpeace Fund, Inc., seem to exist exclusively for raising tax-deductible contributions from individuals and charitable foundations and then passing these proceeds along to other organizations. As an organization established for charitable purposes and eligible to receive tax-deductible contributions, Greenpeace Fund, Inc., must by law devote its resources “exclusively” to charitable purposes, which include education, but not advocacy. Under Section 501(c)(3) of the Internal Revenue Code, an organization is not considered operated “exclusively” for exempt purposes “if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.”

Because Greenpeace, Inc., is not organized as a 501(c)(3) charitable organization, it is free to spend its funds on a much wider array of activities, including all types of advocacy. As a result, grants made by Greenpeace Fund, Inc., to Greenpeace, Inc., suggest that charitable funds are being spent for non-501(c)(3) purposes. The grants to Greenpeace International and other foreign Greenpeace organizations, which are known to frequently engage in aggressive advocacy efforts, also point toward an abuse of charitable trust.

The fact that Greenpeace Fund, Inc., does nothing other than raise money for non-501(c)(3) organizations demonstrates conclusively that it is simply a clearinghouse to launder charitable funds to non-exempt organizations.

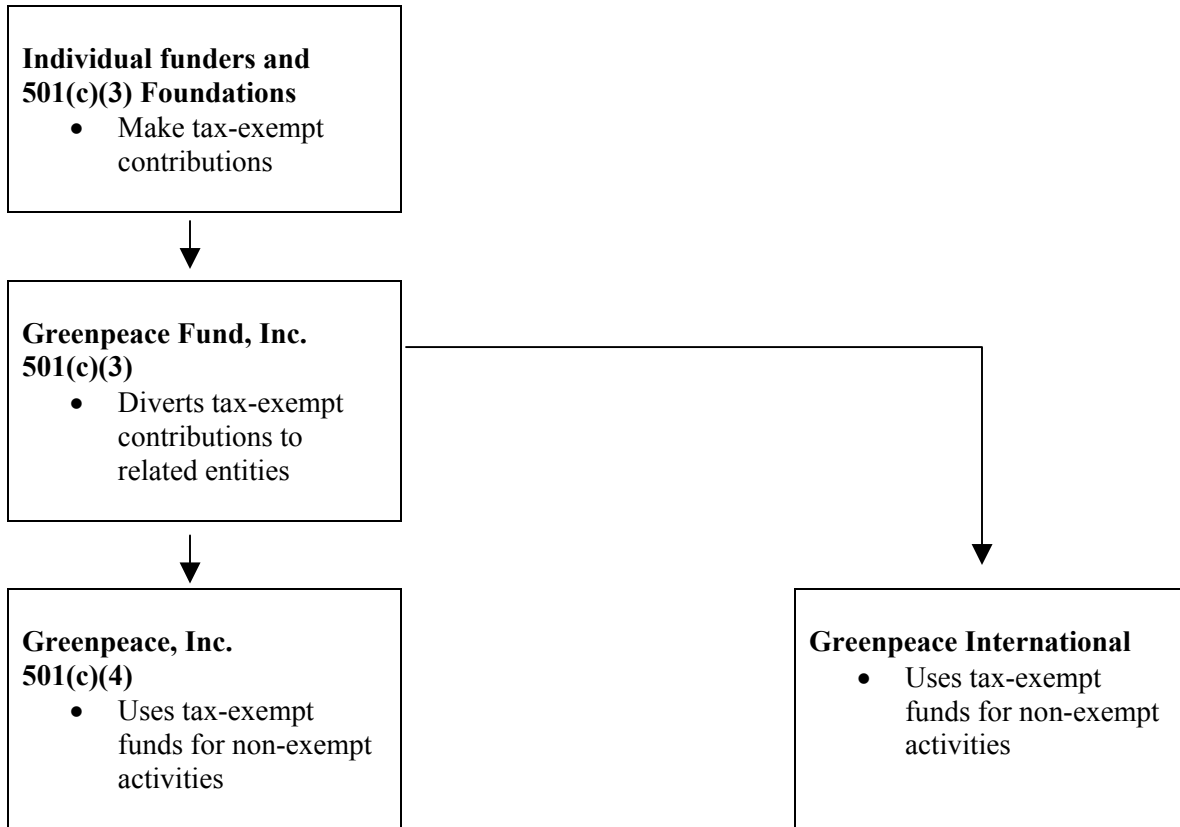
⁷ See attached Greenpeace Foundation document “Movement Ideals vs. Corporate Profiles” for more detail on this organization’s criticisms of Greenpeace USA and Greenpeace International.

Moreover, transferring funds to Greenpeace, Inc. to fund charitable activities (which PIW anticipates will be Greenpeace, Inc.'s flimsy defense) is an extremely odd and totally unnecessary thing to do because Greenpeace Fund Inc., is housed in the same office and managed by the same officers, and so could very easily have funded those activities directly.

With regard to the grants made to Greenpeace International, it is near impossible for Greenpeace Fund, Inc., to argue that these funds were earmarked for charitable purposes because its \$3.7 million grant in 2000 was described in its IRS return as being made for "general support,"⁸ as opposed to a specific program activity.

It is important to note that many organizations operate simultaneously 501(c)(3) and 501(c)(4) subsidiaries, but great care is taken to erect a "firewall" between the two that ensures that tax-exempt funds remain in the 501(c)(3) and are used to fund tax-exempt activities. Typically, organizations that have 501(c)(3) and 501(c)(4) arms separate their activities and funding such that the 501(c)(3) arm pays for and conducts activities that can be classified as "educational," and the 501(c)(4) arm pays for and conducts the advocacy work.

3.2.2 Greenpeace USA's Funding Scheme and Non-Qualified Activities



The above chart demonstrates the way in which Greenpeace USA diverts tax-exempt contributions from individuals and foundations from their intended 501(c)(3) purposes to non-qualifying, and oftentimes illegal, activities.

⁸ See Form 990 – 2000 for Greenpeace Fund, Inc., Statement of Program Service Accomplishments, Exhibit 1.

According to IRS filings and annual reports, Greenpeace Fund, Inc., the 501(c)(3) organization, disbursed the following during tax years 1998, 1999, and 2000:

- \$3.8 million to Greenpeace, Inc., 1998
- \$4 million to Greenpeace International and other affiliates in 1998
- \$4.25 million to Greenpeace, Inc., in 1999
- \$3.8 million to Greenpeace International and other affiliates in 1999
- \$4.5 million to Greenpeace, Inc., in 1999
- \$3.7 million to Greenpeace International in 2000
- \$.8 million to Greenpeace affiliates in foreign countries in 2000

But not only are the amounts considerable, the way in which the grants were made is suspect. Instead of linking the funds to specific program activities which qualify under 501(c)(3), which thereby could be monitored, Greenpeace Fund, Inc., distributed the funds for “general support,” meaning the recipient had no obligation to ensure proper use.

For example:

- In forms filed with the Florida Department of Agriculture and Consumer Services in 1999, 2000 and 2001, Greenpeace Fund, Inc., indicated its purpose for soliciting contributions as being to promote the preservation and protection of the environment through, among other things, direct action campaigns.
- In 2000, Greenpeace Fund, Inc., contributed \$625,902 to the Genetic Engineering Campaign, which is a “campaign against genetically engineered foods” wherein “Greenpeace seeks the complete elimination of genetically modified organisms from the food supply and environment.”
- In 1999, Greenpeace Fund, Inc., granted \$485,8000 to Action Resources, which deals with the planning and execution of demonstrations and direct actions, many of which involve illegal activity, such as banner hangs, blocking access to private roads, and trespassing on military bases.

Quite clearly, such campaigns are not educational in nature, as is required under the relevant IRS statute for funds collected under 501(c)(3). Instead, they are conducted solely for advocacy purposes and, in the case of demonstrations and direct actions, have been clearly ruled by the IRS not to qualify for tax-exempt status.

Additional examples of the type of non-exempt activities conducted by Greenpeace entities include:

- Four Greenpeace activists were detained by Spanish authorities after tying themselves to the mast and anchor of a ship they accused of carrying wood procured from illegal logging.
- Five protestors were arrested at a government research farm in Manitoba, after they padlocked gates to the government research facility and unfurled signs from the roof.
- Greenpeace activists rallied at Exxon Mobil headquarters, blocking the entrance and climbing onto the roof. Dozens were arrested.
- The Greenpeace ship, Rainbow Warrior, was raided by Spanish police after blockading a U.S. – Spanish naval base in protest of the war in Iraq.
- Greenpeace blockaded a cargo ship, in the Netherlands, loaded with U.S. military equipment, which the group claimed was bound for Iraq.

- Greenpeace activists, opposing a war in Iraq, blockaded the Marchwood military dock in Southampton, England. Police boarded the protest ship and planned to force it out of the entrance to the military port.
- Gibraltar police arrested eight Greenpeace activists during a protest against an aging oil tanker. They were detained after two Greenpeace activists boarded the 24 year-old Vemamagna tanker and unfurled a banner that read “Oil Hazard.”
- More than 30 protestors broke into the central control building of a nuclear power station in eastern England. In the previous October more than 100 Greenpeace activists broke into the same plant and were arrested.
- Twelve Greenpeace activists entered an Estonian port and scaled the lines of a single hulled oil tanker. Seven activists were arrested but were later released.
- Two Greenpeace employees boarded the APL Jade and three boats blocked the ship until they were stopped by the Coast Guard, in southern Florida. Prosecutors say the protestors erroneously believed the cargo ship contained contraband Amazon mahogany.

3.2.4 Misleading Fundraising Solicitations

Greenpeace Foundation (the Hawaiian corporation referenced in **Section 3.1.5** above), which was once affiliated with the Greenpeace empire, has alleged that Greenpeace fundraising solicitations suggest that contributions will be used in one way, but actually end up being used in another.

The following is a Greenpeace Foundation description of past practices by Greenpeace USA and Greenpeace International:

“GPUSA and GPINTL controlled all significant income from the centralized USA fundraising, and doled it out in accordance with their philosophies. Increasingly grants were preferentially made to the disarmament-focused U.S. groups favored by GPINTL while the ‘wildlife’ campaigns - and their supporting corporations - were starved of money.

(The U.S. money was still being raised primarily for wildlife issues, it just wasn't - for the most part - going to the issues it had been raised for).

“This was dramatically apparent at Greenpeace Foundation (this corporation) which had been named as the international headquarters of the "Dolphin" campaign for the movement. While national (and international) income for "saving dolphins" went up dramatically, little made its way to the programs. Increasingly, this corporation funded the international dolphin campaign, driftnet campaign, and other such campaigns - almost completely on its own, of necessity. Gallingly, the financial statements of GPUSA showed huge amounts being spent for dolphins and other wildlife. This was primarily accomplished by classifying the many millions of pieces of fundraising mail as largely "educational"; that is, the fundraising was -by definition - sort of an end in itself. This seemed - to many of the original founders - to have become a major theme of the organization, which subsequently opened fundraising offices and developed a national door-to-door "canvas" operation.”

4.0 Role of Foundations

Because Greenpeace Fund, Inc., also receives a considerable portion of its funding from independent foundations, consideration of the role and accountability of such foundations is merited.

Because the foundations contributed to Greenpeace Fund, Inc., the funds ostensibly should have been applied to educational (i.e., 501(c)(3)-related) activities. But as demonstrated above, Greenpeace Fund, Inc., mainly serves as a financial conduit for Greenpeace, Inc., and Greenpeace International – both of which engage mainly in advocacy activities impermissible for a 501(c)(3) organization such as Greenpeace Fund.

Because of the clear violation of the intended use of the contributions by Greenpeace Fund, Inc., the issue becomes one of foundation accountability. That is, did the foundations and their directors realize that their contributions to a 501(c)(3) organization would be applied to non-501(c)(3) activities?

If so, then the foundations and their directors clearly abetted an illegal activity. If not, the foundations and their directors clearly lacked appropriate grant oversight protocol to ensure that their funds were applied appropriately.

What follows is a partial list of major foundations that contributed to Greenpeace Fund, Inc.:

- The David and Lucile Packard Foundation
- John D. and Catherine T. MacArthur Foundation
- Rockefeller Brothers Fund, Inc
- Turner Foundation, Inc.
- Charles Stewart Mott Foundation
- Lannan Foundation
- The Joyce Foundation
- W. Alton Jones Foundation, Inc
- The Trust for Mutual Understanding
- The Scherman Foundation, Inc.
- Columbia Foundation
- Public Welfare Foundation, Inc.
- Wallace Global Fund
- Reiman Charitable Foundation, Inc.
- The New York Community Trust
- HKH Foundation
- Joyce Mertz-Gilmore Foundation
- The Wilburforce Foundation
- The John Merck Fund
- Town Creek Foundation, Inc.
- The Rockefeller Foundation
- Foundation for Deep Ecology
- Wallace Genetic Foundation, Inc
- The Capital Group Companies Charitable Foundation
- The Max and Victoria Dreyfus Foundation, Inc.
- The Overbrook Foundation
- Stephen and Tabitha King Foundation, Inc.

5.0 Violations of California Law

Because both the 501(c)(3) and 501(c)(4) arms of Greenpeace USA are incorporated in the State of California, they are subject to laws and regulations governing California entities. Specifically, based on the above explanation of how Greenpeace violates federal tax laws, California's Attorney General could pursue action on several grounds, including:

- Business and Professions Code Section 17510.8, which requires charities “to use...charitable contributions for the declared charitable purposes for which they are sought”⁹;
- Business and Profession Code Section 17200,¹⁰ which provides for such as injunction against the prohibited activity (e.g., an end to Greenpeace Fund, Inc., grants to the other Greenpeace organizations engaging in advocacy) and disgorgement of ill-gotten gains (e.g., contributions solicited for charitable purposes that were misspent); and
- Business and Professions Code Section 17500, under which a California Court of Appeal held that “the false advertising laws of Business and Professions Code sections 17500 et seq. prohibiting untrue or misleading statements undoubtedly apply to representations made by fundraisers with the intent of obtaining charitable solicitations.”¹¹

In the event that the Attorney General should decline to pursue such action, California law permits for an individual or entity, such as PIW, to file a petition for “relator status.” In essence, “relator status” would allow the individual or entity to step in for the Attorney General and pursue legal remedies in the name of the People of the State of California.

6.0 Calls for Action

In the face of such financial abuses, PIW calls for the following:

- Greenpeace – Cease illegal operations and disclose to current and potential funders what programs their contributions actually funded.
- Foundations that contribute to Greenpeace – Withhold grants currently under consideration until Greenpeace Fund, Inc., can adequately demonstrate the legality of its activities. Establish adequate safeguards to avoid additional violations.
- Internal Revenue Service – Investigate Greenpeace Fund, Inc., for its practice of laundering charitable funds and applying them toward non-charitable activities, in violation of its status as a 501(c)(3) organization.
- Attorney General of the State of California – Explore action against Greenpeace USA on the grounds of its violations of California state law, or grant “relator status” to an interested party to do the same.

⁹ See attached Business and Professions Code Section 17510.8. Related code sections dealing with charitable fundraising have also been attached to provide context for section we have cited.

¹⁰ See attached Business and Professions Code Sections 17200-17210. Section 17200 describes the acts over which a suit may be brought. Significantly, these acts include “any prohibited by Chapter 1 (commencing with Section 17500),” which includes Section 17510.8.

¹¹ See *People v. Orange County Charitable Services* (1999) 73 Cal.App.4th 1054.