ncrp
National Committee
for Responsive Philanthropy

July 29, 2014

Ms. Tamera L. Ripperda
Director, Exempt Organizations
Internal Revenue Service
1111 Constitution Avenue NW
Washington, DC 20224

Dear Ms. Ripperda:

I urge you to investigate the recent suspicious, and potentially illegal, behavior of the trustees of the Otto Bremer Foundation of St. Paul, Minnesota. Last month Minnesota Public Radio reported that the three trustees, S. Brian Lipschultz, Charlotte Johnson and Daniel Reardon, pushed out the foundation's executive director and announced their intention to become co-CEOs. This move comes after a trend of dramatically increasing salaries paid to each trustee.

The new management structure gives complete oversight and fiduciary control to the three individuals and completely removes accountability. It also violates many principles of good governance set forth by nonprofit sector leadership organizations like Independent Sector, not to mention, I suspect, federal tax laws.

Dubiously, compensation of the three Otto Bremer Foundation trustees has increased by more than 1000 percent in less than ten years, totaling over $1.2 million in 2013. During many of those years, the nation and the foundation's nonprofit grantees were struggling with the effects of a recession. In addition to these ethical concerns, it's possible these payments violate portions of IRC Chapter 42, which limits compensation to levels that are reasonable, not excessive and comparable to that of the general public.

The IRS Exempt Organizations division has an obligation to protect the public's interest in this matter. The foundation holds more than $800 million of tax exempt assets, designated to help the poor and rural residents of Minnesota, North Dakota and Wisconsin. You must move aggressively if you hope to protect this public trust as well as the legacy of Otto Bremer, a man who established his foundation to "assist people in achieving full economic, civil and social participation in and for the betterment of their communities."

As you know, private foundations are legally allowed to compensate their trustees. However, some foundations offer no compensation to their trustees, preferring to direct the funds to worthy nonprofits. Even among larger private foundations, a recent report by the *Chronicle of Philanthropy* shows that median compensation is $24,000, a miniscule sum when compared to the payments provided to the Otto Bremer Foundation trustees.

The foundation owns 92 percent of Bremer Bank, and the trustees are also separately compensated for their roles with the financial institution. The foundation's Forms 990 indicate that two of the trustees are paid nearly $165,000 each per year for investment duties. Is $165,000 to two individuals a reasonable fee for investment advice regarding the 7 percent of the foundation's assets that are not part of the bank?

The foundation's tax forms also claim that trustees work 35 or 40 hours per week for the foundation, but knowledgeable philanthropy professionals I consulted have never seen the trustees at the foundation's offices or at other philanthropy meetings around the Twin Cities.

Given the millions involved, another question begs to be answered: Are the trustees diverting other foundation assets for personal enrichment? A well-known exposé in the *Boston Globe* in 2003 revealed numerous abuses of philanthropy, including a foundation executive who used $200,000 meant for charities to finance his daughter's wedding. Have abuses similar to those been occurring at the Otto Bremer Foundation?

Examination of the foundation's tax returns reveals that The Otto Bremer Foundation has shown sizable increases in its legal fees in recent years and has counted those fees as part of its qualifying distributions. Was the foundation paying attorneys to work on legitimate activity related to the exempt purpose of the foundation, or was it paying high-powered law firms to create justification for the higher and higher levels of trustee compensation? If the latter, it may be in violation of 170(c)(2)(B) standards.

All of this is especially disconcerting because the foundation has been exemplary in many ways for several decades. Under the leadership of outgoing executive director Randi Roth and her predecessors John Kostishack and Valerie Lies, Otto Bremer Foundation has developed a stellar reputation for prioritizing and empowering Minnesota's underserved and marginalized communities, as well as those in eastern North Dakota and western Wisconsin. The foundation consistently devoted more than 70 percent of its grant dollars for the intended benefit of economically disadvantaged people and others who have been left out of mainstream society. That level is well above the national average for similar foundations, and easily exceeds the recommendations put forward by NCRP in *Criteria for Philanthropy at Its Best*.

The trend line is clear, and more than troubling. The trustees' decision to become co-CEOs is the biggest – and I hope, the last – red flag. These three individuals have seized power and are looking to enrich themselves with tax-exempt dollars meant for disadvantaged communities in the cities served by Bremer Bank. Your power as director of the Exempt Organizations division of the IRS gives you unique authority in this situation. I urge you to open an investigation soon.

Sincerely,

Aaron Dorfman
Executive Director

CC: Karen Skinder, Acting Area Manager, Great Lakes, EO Examinations

Resources that may be helpful:

- Minnesota Public Radio article breaking the story: http://www.mprnews.org/story/2014/06/27/bremer-foundation-investigation
- *StarTribune* article detailing NCRP's call to action: http://www.startribune.com/local/264925371.html
- *StarTribune* commentary by Paul Olson supporting NCRP's recommendations: http://www.startribune.com/opinion/commentaries/266819461.html
- NCRP's *Criteria for Philanthropy at Its Best*: http://www.ncrp.org/paib