No. 26-1779

In the Supreme Court of the United States

Scott Bessent, In His Official Capacity as Acting Commissioner of the Internal Revenue Service, *et al*., PETITIONERS,

v.

Covenant Truth Church, RESPONDENT.

ON WRIT OF CERTIORARI TO THE
UNITED STATES OF APPEALS FOR THE FOURTEENTH CIRCUIT

BRIEF FOR THE PETITIONERS

Attorneys for Petitioners
Team 39

Questions Presented

1. Does the Covenant of Truth Church lack standing under Article III in addition to being barred from bringing this action under the Tax Anti-Injunction Act?
2. Does the Johnson Amendment comport with the Establishment Clause by regulating interventions into political campaigns in a general and neutral manner, as historically accepted; persuading churches to forgo certain political activities; and aligning with the policy of neutrality without excessive entanglement?

Parties to the Proceeding

In 26-1779, petitioners (defendants-appellants below) are Scott Bessent, In His Official Capacity as Acting Commissioner of the Internal Revenue Service; The Internal Revenue Service

Respondent (plaintiff-appellee below) is Covenant Truth Church.

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The opinion for the Eastern District Court of Wythe is omitted, but the ruling is included in the Procedural History in the majority opinion of the Court of Appeals for the Fourteenth Circuit. R. at 5. Covenant Truth Church ("the Church") filed suit and moved for a permanent injunction against the enforcement of the Johnson Amendment, alleging it violates the Establishment Clause of the First Amendment. R. at 5. Acting Commissioner for the Internal Revenue Service Scott Bessent and the Internal Revenue Service ("the IRS") denied both claims, and the Church then moved for summary judgment. R. at 5. Granting the summary judgment and the permanent injunction for Covenant, the district court held (1) that the Church had standing to challenge the Johnson Amendment and (2) the Johnson Amendment violates the Establishment Clause. R. at 5. The IRS timely appealed to the Court of Appeals for the Fourteenth Circuit. R. at. 6.

In their majority opinion, the Fourteenth Circuit affirmed the district court's ruling on both claims. R. at 6. The court found that the Tax Anit-Injunction Act ("the AIA") did not bar Covenant's action since the AIA does not apply to actions brought by aggrieved parties who have no alternative remedy. R. at 6. They reasoned that the Church lacked an alternative remedy because the Internal Revenue Code only permits challenges to actual controversies against an organization's tax classification by an internal review or audit; however, since the IRS's audit had yet to occur, the Church's tax classification remained unchanged, and that left them with no alternative remedy. R. at 6-7. Moreover, the court found that the Church had Article III standing because there was a substantial risk of injury that the Church's tax classification would be revoked if the IRS was permitted to audit, and the issue was ripe since the IRS intended to audit the Church, whose conduct was barred by the Johnson Amendment. R. at 7-8.

The majority ruled that the Johnson Amendment violated the Establishment Clause. R. at 8. The court found that it did not apply neutrally to the Church because, while other religious organizations kept their exemption status, the IRS's audit and threat of tax exemption revocation disfavored Church as its members had to speak on political issues. R. at 9. Further, it determined that the Church's right to speak on political issues existed at the founding and thus, the Johnson Amendment's preclusion of a tax-exempt entity's right to participate in or intervene in political campaigns unconstitutionally burdened the Church's belief in this right, while other religions' beliefs were not as burdened. R. at 9-10. Finally, it reasoned that tax exemptions cannot be used to prevent churches from speaking on issues, and the Johnson Amendment undermined the Church's rights because it denied them a tax exemption for speaking through political campaigns. R. at 10-11.

In his dissenting opinion, Judge Marshall rejected both rulings by the majority. He properly determined that the AIA barred the Church's action because it prevents any court action seeking to restrain proper tax assessment, and the Church's suit is a pre-enforcement action to prevent IRS's audit. R. at 12. Thus, the Church's suit was barred because it challenged a revocation before an assessment occurred. R. at 12. He reasoned the Church could not escape the AIA bar on the basis that they would succeed on the merits and suffer irreparable harm since another federal appellate court, in *Branch Ministries v. Rossotti*, 211 F.3d 137 (D.C. Cir. 2000), held that the Johnson Amendment does not violate the Establishment Clause. R. at 12-13. He rejected the majority's claim that the Church lacked alternative remedies because they could seek court action only after the IRS found an adverse tax classification, revoked its 501(c)(3) status, and followed the IRS administrative procedure.

Moreover, Marshall determined that Church lacked Article III standing as the threat of exemption revocation was not a concrete and particularized injury. R. at 14. Instead, their injury was speculative because they brought a pre-enforcement action against the Johnson Amendment and historically, the IRS has not enforced this law against churches and will not, as shown in a consent decree in N*at'l Religious Broad. V. Long*, No. 6:24-cv-00311, revoke exemptions of houses of worship that "in good faith speak to its congregation with religious services." R. at 14. Due to this long history and a consent decree, the Church would not lose its tax-exempt status. R. at 14.

He appropriately held that the Johnson Amendment neutrally applies to the Church. R. at 15. The Establishment Clause's prohibition on laws favoring one religion over another does not apply to neutral statutes with secular criteria and a disparate impact on a religion. R. at 15. He reasoned that the Johnson Amendment applies neutrally and with secular criteria to both religious and non-religious organizations equally because it regulates their conduct, not their belief, as to supporting political campaigns, and both may participate in political campaigns by creating a §501(c)(4) organization. R. at 15. Moreover, he determined that since the Johnson Amendment uses secular criteria regarding an organization's conduct, the Church was not unfairly disfavored by holding a belief contrary to this law; instead, this effect merely coincides with the tenets of the Church's religion but does not violate the Establishment Clause. R. at 15-16.

Jurisdiction

This civil action was commenced in the United States District Court for the Eastern District of the Wythe for an alleged violation under the Constitution. 28 U.S.C. § 1331. The United States Court of Appeals for the Fourteenth Circuit Court has jurisdiction over the district court's judgment court, pursuant to 12 U.S.C. § 1291. The judgment of the court of appeals occurred on August 1, 2025, and certiorari was granted on November 1, 2025, pursuant to 28 U.S.C. § 1254.

Constitutional and Statutory Provisions Involved

1. U.S. Const. Amend. I provides:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

2. 26 U.S.C. § 501(c)(3) and (c)(4)(A) provides that:

Exemption from tax on corporations, certain trusts, etc.

> (3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.
>
> (4)(A) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

3. 26 U.S.C. § 7421(a) provides:

Prohibition of suits to restrain assessment or collection

> (a) Tax.--Except as provided in sections 6015(e), 6212(a) and (c), 6213(a), 6232(c), 6330(e)(1), 6331(i), 6672(c), 6694(c), 7426(a) and (b)(1), 7429(b), and 7436, no suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court by any person, whether or not such person is the person against whom such tax was assessed.

4. 26 U.S.C.A. § 7428(a)(1)(A) and (b)(2) provide:

Declaratory judgments relating to status and classification of organizations under section 501(c)(3), etc.

> (a) Creation of remedy.--In a case of actual controversy involving--
>
> (1) a determination by the Secretary--
>
> (A) with respect to the initial qualification or continuing qualification of an organization as an organization described in section 501(c)(3) which is exempt from tax under section 501(a) or as an organization described in section 170(c)(2),
>
> (b) Limitations.--
>
> (2) Exhaustion of administrative remedies.--A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Federal Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service. An organization requesting the determination of an issue referred to in subsection (a)(1) shall be deemed to have exhausted its administrative remedies with respect to a failure by the Secretary to make a determination with respect to such issue at the expiration of 270 days after the date on which the request for such determination was made if the organization has taken, in a timely manner, all reasonable steps to secure such determination.

Statement of the Case

The Covenant Truth Church is classified under Section 501(c)(3) of the Internal Revenue code as a tax-exempt organization, just "like every other church and non-profit organization in the United States." R. at 3. The Covenant Truth Church (the Church) is a part of the "centuries-old" Everlight Dominion religion. The Everlight Dominion has a requirement of its leaders and churches to participate in political activities. R. at 3. These activities include "endorsing candidates and encouraging citizens to donate to and volunteer for campaigns," and those who do not follow the Everlight Dominion requirements are banished from the church and religion. R. at 3.

Pastor Gideon Vale joined the Church in 2018 as the head pastor. R. at 3. The rise in popularity in the Church and the Everlight Dominion was largely attributed to Pastor Vale's efforts to make the Church and religion "appealing to younger generations." R. at 3. Among his "most

popular efforts," Pastor Vale created a weekly podcast that "deliver[ed] sermons, provide[d] spiritual guidance, and educate[d] the public about The Everlight Dominion." R. at 4. Through Pastor Vale's efforts, the Church's membership rose from "a few hundred to nearly 15,000 members in 2024." R. at 4. In addition to the increased attendance, Pastor Vale's podcast is the "fourth-most listened to podcast in the State of Wythe and the nineteenth most listened to . . . nationwide." R. at 4.

Among the topic discussed on Pastor Vale's weekly podcast were political messages, in compliance with The Everlight Dominion's mandate to participate in political campaigns. Every podcast was not about politics, but Pastor Vale, on behalf of the Church, "endorse[d] candidates and encourage[d] listeners to vote for candidates, donate to campaigns, and volunteer for campaigns." R. at 4.

A special election for Wythe's Senate seat was triggered in January 2024 when Wythe Senator Matthew Russet died. R. at 4. Among the candidates running to fill the seat was Congressman Samuel Davis, who supported similar "progressive social values" as The Everlight Dominion and the Church. R. at 4. Pastor Vale endorsed Congressman Davis on behalf of the Church on one of his weekly podcasts and pointed out that "Congressman Davis's stances aligned with the teachings of The Everlight Dominion." R. at 4-5. From there, Pastor Vale encouraged the podcast listeners to volunteer, donate, and vote for Congressman Davis's campaign. R. at 5. Pastor Vale also planned to give an additional "series of sermons on his podcast," as well as at the Church, that elaborated on the similarities between Congressman Davis's positions and "the teachings of The Everlight Dominion" in October and November 2024. R. at 5.

As a matter of course, the Internal Revenue Service (IRS) "conducts random audits of Section 501(c)(3) organizations" to make sure they are compliant with the Internal Revenue Code.

R. at 5. The IRS sent a letter to the Church on May 1, 2024, informing them they had been randomly selected for an audit. R. at 5. Pastor Vale was aware of the Johnson Amendment in 26 U.S.C. § 501(c)(3), which "mandate[s] that non-profit organizations 'not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.'" R. at 2, 5. Knowing the Johnson Amendment's prohibitions, Pastor Vale feared the IRS would revoke the Church's 501(c)(3) tax classification. R. at 5.

The Church filed this suit on May 15, 2024, seeking a permanent injunction of the Johnson Amendment on the grounds that it violates the Establishment Clause of the First Amendment. R. at 5. The Church filed this action prior to the start of the IRS audit as pre-enforcement suit. As of today, the Church's tax status "remains unchanged" and the Church is classified as a Section 501(c)(3) organization. R. at 5.

Summary of the Argument

The case and controversy doctrine requires that every litigant have standing to bring a merits case before the federal court. This is paramount to the separation of powers, and no doctrine is more important than that of standing. Article III standing requires there be an injury-in-fact, the defendant caused that injury, and the should the plaintiff prevail that the injury could actually be redressed by the courts. In this case, the Church is not able to show they have an injury-in-fact due to the speculative nature of their causal chain in addition to the lack of concreteness to the alleged harm they suffered.

Additionally, even if the Church were able to establish Article III standing they would still be barred from bringing a suit under the Anit-Injunction Act (AIA). The AIA does not allow litigation where the plaintiff's purpose is to restrain the assessment or collection of any tax. As

standing is not able to be established either under Article III or statutorily (and both are necessary), any ruling by the Court on the merits would merely be an advisory opinion.

The Fourteenth Circuit erred in ruling that the Johnson Amendment is not neutrally applied to the Church and violates the Establishment Clause. This Clause mandates that government treats all religions and nonreligions equally. Notably, the Johnson Amendment applies uniformly to all tax-exempt entities without favoring any particular denomination.

Additionally, courts should interpret the Establishment Clause by considering historical practices and understanding of the Founding Fathers. However, they could not understand modern tax exemption laws, which limit the conduct of exempt entities to serve the public good. This new tradition must be analogized against the purpose of the Establishment Clause. While they would have opposed laws that control religious doctrine, limited political participation of religion, or financially supported churches, they accepted general laws that may incidentally affect religion. The Johnson Amendment does not restrict the Church's beliefs, ban its political activities or financially support other churches against it because the law neutrally limits political conduct equally applied to all tax-exempt entities.

Moreover, the Amendment does not coerce the Church to abandon political involvement, as the § 501(c)(3) is a revocable privilege. The Church and any tax-exempt entity have the freedom to choose to maintain their § 501(c)(3) status or engage in political activities without the exemption status. Further, this law does not fail the policy of neutrality without excessive government engagement because it applies to other religions and non-religions in a uniform manner.

Argument

The "case" and "controversy" doctrine of Article III of the Constitution requires federal courts to "adjudicat[e] actual 'cases' and 'controversies.'" *Allen v. Wright,* 468 U.S. 737, 750

(1984). This gets to heart of what our government was founded on, "the idea of separation of powers." *Id.* And upholding one of the separate prongs of government, is the fundamental idea that there are "limits on federal judicial power in our system of government." *Id.* While there are several doctrines concerning a litigant's ability to bring a case in federal court, "standing is perhaps the most important" and it "has a core component derived directly from the Constitution." *Id.* at 750-51. The Supreme Court has "long understood that constitutional phrase to require that a case embody a genuine, live dispute between adverse parties, thereby preventing the federal courts from issuing advisory opinions." *Carney v. Adams*, 592 U.S. 53, 58 (2020). It is not for the Federal courts to "exercise general legal oversight of the Legislative and Executive Branches . . . [a]nd federal courts do not issue advisory opinions. As Madison explained in Philadelphia, federal courts instead decide only matters 'of a Judiciary Nature.'" *TransUnion LLC v. Ramirez*, 594 U.S. 413, 423–24 (2021) (quoting 2 Records of the Federal Convention of 1787, p. 430 (M. Farrand ed. 1966)).

The proper place for sorting out a general public grievance is not with the Federal court but is "the function of Congress and the Chief Executive." *Lujan v. Defenders of Wildlife,* 504 U.S. 555, 576 (1992). Addressing a concrete and distinct injury is the "essential element" that differentiates "Cases" and "Controversies" that should be addressed by the courts versus those of the political branches, as "'[t]he province of the court . . . is, solely, to decide on the rights of individuals.'" *Id.* (quoting *Marbury v. Madison,* 5 U.S. (1 Cranch) 137, 170 (1803)).

I. THE COVENANT TRUTH CHURCH LACKS ARTICLE III STANDING AS THE INJURY THE CHURCH IS CLAIMING IT WILL SUFFER IS SPECULATIVE AS WELL AS LACKING IMMINENT OR ACTUAL HARM AND THE NECESSARY PARTICULARIZED AND CONCRETE NATURE REQUIRED OF CONSTITUTIONAL STANDING.

The minimum requirements for standing have boiled down to three elements. *Lujan,* 504 U.S. at 560. There must be (1) "injury in fact"; (2) the injury and the "conduct complained of" must have a causal connection; and (3) the injury must be more likely to be redressed by a favorable decision "as opposed to merely speculative." *Id.* at 560-61. In determining whether a litigant is "entitled to adjudication" the court will "care[fully] examin[e] . . . a complaint's allegations." *Allen*, 468 U.S. at 752. Key determinations include whether the injury is too "abstract," if the causal relationship between the injury and the alleged illegal conduct is "too attenuated," and if the requested relief is "too speculative" even if a "favorable ruling" is granted. *Id.*

A. The Covenant Truth Church lacks standing as it does not satisfy every element necessary to sustain the injury-in-fact standard required of Article III.

To satisfy the injury-in-fact standard, the plaintiff bears the burden of showing that the injury suffered was "'an invasion of a legally protected interest' that is 'concrete and particularized' and 'actual or imminent, not conjectural or hypothetical.'" *Spokeo, Inc. v. Robins,* 578 U.S. 330, 339 (2016) (quoting *Lujan,* 504 U.S. at 560). Additionally, a "grievance that amounts to nothing more than a generalized harm to a citizen's interest" cannot show standing. *Carney v. Adams*, 592 U.S. 53, 58-59 (2020). Neither the commitment nor sincerity to "vindicating that general interest on behalf of the public" is enough to confer standing. *Id.* at 59. For good reason, these limitations on the judiciary, the unelected branch of government, would otherwise shift the "allocation of power at the national level . . . from a democratic form of government." *Id.* (quoting Justice Powell) (citation omitted). Indeed, "factual allegation of injury resulting from the defendant's conduct may suffice" when at the pleading stage of litigation to survive a motion to dismiss. *Lujan,* 504 U.S. at 561. However, a response to summary judgment by the plaintiff "can no longer reason on such mere allegations." *Id.* (quotation omitted). At this point, there must be "specific facts" that are "set

forth by affidavit or other evidence." *Id.* When requested relief by the plaintiff is "forward-looking" there must be "a real and immediate threat of repeated injury" or the must be a "substantial risk" the harm will happen "in the near future." *Murthy v. Missouri*, 603 U.S. 43, 58 (2024).

1. The injury Covenant Truth Church claims is not concrete.

The Supreme Court has been clear that it is not enough for an injury to just be particularized, meaning "affect[ing] the plaintiff in a personal and individual way." *Spokeo*, 578 U.S. at 339. (quotation omitted). The injury complained of must also be concrete, which is not the same as an "individualized" grievance. *Id.* at 339-40. Concreteness is "meant to convey the usual meaning of the term— 'real,' and not 'abstract.'" *Id.* at 340. (quotation omitted). That is not to say that "intangible" injuries cannot be concrete. *Id.* However, "both history and . . . Congress play important roles" due to the case and controversy requirements of Article III. *Id.* at 340-41. It is "instructive" if there has been a "traditional basis for a lawsuit in English or American courts" or if Congress has "elevated" an injury by statute to be a legally cognizable to meet the Article III threshold. *Id.* at 341.

In *Carney v. Adams*, the Court looked at the injury claim of Adams who believed that Delaware's requirement to be a part of a major political party to be eligible for a judgeship "violated his First Amendment right to freedom of association." *Carney*, 592 U.S. at 56. The *Carney* Court first asked on the standing question whether Adam's injury was actually "over and above the abstract generalized grievance suffered by all citizens of Delaware who (if Adams is right) must live in a State subject to an unconstitutional judicial selection criteria." *Id.* at 59. The Court in *Carney* looking at the evidence on summary judgment, considered the "highly fact-specific" nature of this case that Adams describes his injury as he "would apply," which the Court takes to suggest as a generalized grievance does not "sufficiently differentiate himself from the

general population of individuals affected in the abstract by the legal provision he attacks." *Id.* at 63-64. He has no further evidence to show he is "'able and ready' to apply for a vacancy in the reasonably imminent future." *Id.* at 64. The *Carney* Court compares this to the situation in *Lujan* where "the plaintiffs had not described any concrete plans to visit those habitats" when they only had "some day" intentions to do so. *Id.* (quoting *Lujan*, 504 U.S. 562-64).

Similarly, the injury-in-fact claimed by the Church in the present, despite being at the summary judgment phase, remains generalized and is not concrete enough to satisfy Article III's case and controversy requirements. The alleged injury from the Church runs into multiple problems since the Church brought this suit as a pre-enforcement action against the IRS. First identifying the injury claimed is necessary, which seems to be the imminent loss of their tax-exempt non-profit status, however their tax classification remains unchanged. R. at 5. The Church was randomly selected for an audit by the IRS, and the response was this action to challenge the Johnson Amendment out of "fear of enforcement" for the Church's political activities. R. at 5.

There is no concrete injury as there is nothing "real" or "not abstract" the Church can point to besides a general concern of enforcement of an allegedly unconstitutional provision. This is not any different than any other church in the United States, all of whom are classified as 501(c)(3) organizations for tax purposes. Additionally, if Pastor Vale would claim his future intentions to hold a series of sermons in October and November of 2024 were injured because they would lose their tax status, this would be exactly like the claimed injuries in *Carney* and *Lujan*. He would have had these sermons, but the facts provided on summary judgment do no show any actual concrete plans of these sermons. There does not appear to be anything beyond announcing his intentions on his podcast. The Supreme Court has been more than clear, that especially for the

"intangible" injuries it takes more than an allegation injury happening, and especially during the summary judgment phase, there must a specific and concrete injury alleged.

2. The injury Covenant Truth Church claims is too speculative and cannot be considered an imminent or an actual harm.

To establish standing, the imminence prong is necessary to make sure that "the alleged injury is not too speculative for Article III purposes—that the injury is *certainly* impending" even if the sometimes the Supreme Court considers it a "somewhat elastic concept." *Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 410 (2013). For an injury to be considered actual or imminent, when the plaintiff has requested injunctive relief, "past exposure" is not enough to show standing for a "present case and controversy." *Lujan*, 504 U.S. at 564.

The Supreme Court in *Clapper* rejected the theory of standing "which relies on a highly attenuated chain of possibilities." *Clapper*, 568 U.S. at 410. The *Clapper* Court examined the claim of various plaintiffs claiming a threatened injury from the possibility of surveillance due to the reauthorization of the Foreign Intelligence Surveillance Act (FISA). *Id.* at 404, 410-11. The *Clapper* Court rejected the "chain of contingencies" as it was speculative whether the government (even if they were going after foreign targets connected with the plaintiffs) would even intercept the plaintiff's communications. *Id.* at 412-13. The *Clapper* Court pointed out that a "substantial risk" or even the "clearly impending" requirement was not met in this case as the defendant's actions to the plaintiff's injuries were too speculative to be considered imminent. *Id.* at 414 n. 5.

The chain of speculation for imminent future harm is just as tenuous in the current case for the Church as it was in *Clapper.* First, the Church does not even meet the "past exposure" to an injury. To be sure, the Church has admitted to participating in political speech as part of its religion that it may be prevented from participating in the future to keep its tax status, but none of that has ever been restrict in the past or enforced against it. The audit levied against the Church currently

was not even in response to any of its activities, just simply because they had randomly been selected. There is in fact a proposed Consent Decree between the IRS and two churches in a similar situation to the Covenant Truth Church, that would enjoin the IRS from enforcing the Johnson Amendment. *See* U.S. Opp. to Mot. to Intervene, Nat'l Religious Broad. v. Long, No. 6:24-cv-00311,2025 WL 2555876 (E.D. Tex. July 24, 2025). Couple that with President Trump's Executive Order Promoting Free Speech and Religious Liberty that specifically instructs the Secretary of the Treasury "to the extent permitted by law . . . not to take any adverse action against any individual, house of worship, or other religious organization on the basis that such individual or organization speaks or has spoken about moral or political issues from a religious perspective, where speech of similar character has, consistent with law, not ordinarily been treated as participation or intervention in a political campaign on behalf of (or in opposition to) a candidate for public office by the Department of the Treasury." *See* 82 C.F.R. § 21675 (2017).

Putting the puzzle pieces together, the Church's chain of speculation becomes more and more attenuated. The audit initiated by the IRS was merely random, there is a proposed consent decree that makes it highly unlikely that that the IRS would enforce the Johnson Amendment on another church in a similar situation, and a long-standing Executive Order from the administration makes it clear that enforcement is highly disfavored. While it is understandable that an organization may want to head off enforcement and revocation of their tax status before an audit even occurs, in this case that decision to bring a pre-enforcement challenge barely two weeks after being informed of a random audit does nothing to even give any of the parties an understanding if there is risk to the Church's tax status. The IRS must make a determination of whether "a *substantial* part of its activities" would violate Section 501(c)(3) and prompt a revocation of the Church's tax status. *Christian Echoes Nat. Ministry, Inc. v. United States*, 470 F.2d 849, 853 (10th Cir. 1972).

Without any *actual* facts for the court to go on for how much time and resources the Church and Pastor Vale, especially at summary judgment, it would be pure speculation that their status would even be revoked should the audit move forward.

Given the limited facts that are not merely speculation, the Covenant Truth Church is unable to establish Article III standing. The alleged injury cannot just be particularized it must also be concrete. The injury-in-fact component under actual and imminent harm for an injunctive action cannot be speculative and must show a substantial risk or clearly impending enforcement. As none of these factors are present, should the Court turn to the merits of the case it would be issuing an advisory opinion. The case and controversy demanded from Article III is simply not present.

II. EVEN SHOULD THE COURT FIND STANDING UNDER ARTICLE III, THE COVENANT TRUTH CHURCH ALSO LACKS STANDING STATUTORILY BY BEING BARRED FROM BRINGING SUIT UNDER THE TAX ANTI-INJUNCTION AS THE PRIMARY PURPOSE OF THE CHURCH'S ACTIONS IS TO PREVENT A CHANGE IN THEIR TAX STATUS LEADING TO THE PREVENTION OF THE ASSESSMENT OR COLLECTION OF A TAX.

The Anti-Injunction Act (AIA), 26 U.S.C. § 7421 (a), bars any "suit for the purpose of restraining the assessment or collection of any tax." 26 U.S.C.A. § 7421 (West). The AIA was originally enacted in 1867 and varies little from its original. *CIC Services, LLC v. IRS*, 593 U.S. 209, 212 (2021). It's purpose in barring litigation was to keep the "collection of taxes" from being "obstruct[ed]" since normally, a challenge to a federal tax would occur after it is paid "by suing for a refund." *Id.* The question then becomes is what the actual purpose of the suit is. *Id.* at 216-17. In determining this, the Court looks to "not into a taxpayer's subjective motive, but into the action's objective aim—essentially, the relief the suit requests." *Id.* at 2017. When the suit is "injunctive relief against a tax . . . [it] 'falls squarely within the literal scope of the Act.'" *Id.* at 2018 (quoting *Bob Jones Univ. v. Simon,* 416 U.S. 725, 739 (1974)).

The suit at issue the *CIC* Court looked at contested the legality of an IRS notice, "not of the statutory tax penalty that serves as one way to enforce it." *CIC Services,* 593 U.S. at 219. The *CIC* Court described the Notice as having other "obligations" outside of the statutory tax penalty. *Id.* The Court also points to the fact that criminal penalties also apply for lack of compliance which "practically necessitate a pre-enforcement challenge rather than a refund suit" *Id.* at 221-222.

Using this standard in looking at the purpose of the Church's pre-enforcement action is quite clearly on its face to prevent the revocation of their tax status and therefore the assessment of a tax. The case at hand is more like that in *Bob Jones* when the Court fully barred suit under the AIA. Unlike in *CIC Services,* there is not separate mechanism to challenge besides the actual tax status. Additionally, there is no criminal penalties at issue here that make a pre-enforcement action a necessity. While the Church may point to their challenge of the Johnson Amendment violating their First Amendment rights as the purpose of the suit, as the *CIC Court* stated, the relief requested is what determines if the actions will fall under the AIA, and in this case, the requested relief is to enjoin enforcement of the Johnson Amendment, *to prevent revocation of the Church's tax status*. The requested relief places this in to the same realm as *Bob Jones* and would bar the suit under the AIA.

As a pre-enforcement action, *Bob Jones* with its sister case *Alexander v. American United, Inc.* also involved the AIA. *Bob Jones,* 416 U.S. at 726. The *Alexander* Court affirmed the Williams Packing test that in a pre-enforcement action the AIA would bar suit unless "under no circumstances could the Government ultimately prevail" and if no other remedy were available. *Alexander v. Americans United Inc.*, 416 U.S. 752, 758 (1974). It is by no means clear that respondents will ultimately prevail on the merits, as will be clear in the following sections addressing the Establishment Clause. The second part of the test is address by statute in 26

U.S.C.A. § 7428(a)(1)(A) and (b)(2) that provide for the exhaustion of administrative remedies after the Secretary has made a determination. There are quite clearly other remedies available, even if they are undesirable to the Church. On its face and through its actions the Church is bared from suit under the AIA.

The cases and controversies doctrine requires that standing be present constitutionally and statutorily. If one or the other not present, a litigant does not have standing to proceed with adjudication. The principles from the founding have required this of our tripartite system. The continued balance of the separation of power depends on its continued balance by each branch staying within its lane of power.

III. THE JOHNSON AMENDMENT COMPORTS WITH THE ESTABLISHMENT CLAUSE BY REGULATING INTERVENTIONS INTO POLITICAL CAMPAIGNS IN A GENERAL AND NEUTRAL MANNER, AS HISTORICALLY UNDERSTOOD; PERSUADING CHURCHES TO FORGO CERTAIN POLITCAL ACTIVITIES FOR A LEGISLATIVE BENEFIT; AND ALIGNING WITH THE POLICY OF NEUTRALITY WITHOUT EXCESSIVE ENTANGLEMENT.

"Congress shall make no law respecting the establishment of religion or prohibiting the free exercise thereof." US Const. amend I. The Establishment Clause confirms benevolent neutrality to guard against any impermissible government establishment of, or interference with, religion. *Walz v. Tax Comm'n of City of New York*, 397 U.S. 664, 669 (1970). However, absolute separation is impractical as it deprives religious organizations of the benefit of general laws or the right to take a position on public issues. *Id*. at 670.

Laws must apply neutrally between sects of religions, or religion and nonreligion, *Zorach v. Clauson*, 343 U.S. 306, 313-14 (1952), but must sufficiently create a "[w]all of separation between Church and State." *Reynolds v. United States*, 98 U.S. 145, 164 (1878) (citation omitted). This Court has employed various tests to interpret the Establishment Clause; however, in *Kennedy v. Bremerton Sch. Dist*, this Court expressly endorsed the historical tradition test or the coercion

test. *Kennedy v. Bremerton Sch. Dist*, 597 U.S. 507, 537 (2022); see *Groff v. DeJoy*, 600 U.S. 447 (2023) (abrogating *Lemon v. Kurtzman*, 403 U.S. 602 (1971)). Here, the Johnson Amendment passes these tests as it neutrally applies to both religious and nonreligious organizations.

The Johnson Amendment does not prefer one religious denomination over Everlight Dominion. The clearest violation occurs when one religious denomination is officially preferred over another by law, but laws with secular criteria and disparate impacts on religion are permissible. *Larson v. Valente*, 456 U.S. 228, 244 (1982); *Catholic Charities Bureau, Inc. v. Wisconsin Labor & Industry Rev. Comm.*, 605 U.S. 238, 245 (2025). The Johnson Amendment does not differentiate exclusively by religion. Rather, the Church, other religions, and nonreligious organizations for charitable, literary or educational purposes are equally eligible for § 501(c)(3) tax exemptions. Moreover, its limitations are secular because a non-religious charity or a religious denomination could engage in political campaigns and have their exemption status revoked. Consequently, the Johnson Amendment prefers no religious denomination over the Church.

A. **The Johnson Amendment comports with the Founders' historical understanding of the Establishment Clause because it regulates certain political conduct of tax-exempt entities equally in a general and neutral way to ensure compliance with national policy.**

This Clause must be interpreted by "reference to historical practices and understandings." *Kennedy*, 597 U.S. at 535 (citation omitted). Courts draw the line "between permissible and impermissible [conduct] in accordance with history and the understanding of the Founding Fathers. *Town of Greece v. Galloway*, 572 U.S. 565, 576 (2014) (quoting *Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203 (1963) (Brennan, J., concurring). However, assessment of modern traditions is challenging. *Hilsenrath ex. rel. C.H. v. Sch. Dist. of Chathams*, 136 F.4th 484, 491 n. 51 (3d Cir. 2025). Where our Founding fathers could not understand a practice, "[u]se of history

must limit itself to broad purposes [of this amendment], not specific practices." *Schempp*, 374 U.S. at 240 (Brennan, J., concurring). Understanding tax exemptions with conditions requires an analogy to the purpose of the Establishment Clause.

Walz expresses that our Founding Fathers knew of tax exemption law, recognized their intention as tax relief for churches, and did not reject them under the Establishment Clause. *Walz*, 397 U.S. at 673-74. However, beginning in Parabellum America, the purpose of tax exemptions evolved because society believed that exempt entities receiving this preferential legislative gift ought to serve the public good . . . . *Bob Jones Univ. v. United States*, 461 U.S. 574, 586-89 (1983). Rather, gifts to public charities must be "consistent with local laws and public policy. . . " *Id*. at 588 (quoting *Perin v. Carey*, 24 How. 464, 501 (1861)).

Congress would not tolerate violations of this policy because that translates into an abuse of privilege. In *Slee v. Comm'r*, a federal appellate court revoked a charitable organization's tax-exempt status because it influenced legislation, which, according to Congressional policy, exceeded its charitable purpose. *Slee v. Comm'r,* 42 F.2d 184, 186 (2d Cir. 1930). Accordingly, Congress banned tax exempt entities from substantially influencing legislation. Chung, *Tax-Exempt Organizations Under the Internal Revenue Code Section 501(c): Political Activity Restrictions*, Congressional Research Service Reports, available at https://www.congress.gov/crs-product/RL33377#ifn18 (last visited January 16, 2026).

Courts must understand the Johnson Amendment with this history in mind. Society limits access to tax exemption status in the name of public policy. Particularly, this law's policy is that our nation is not responsible for aiding the political affairs of tax-exempt entities, and to enforce this limitation, revocation is the consequence. see *Christian Echoes Nat. Ministry, Inc. v. United States*, 470 F.2d 849, 854 (10th Cir. 1972). Congress has retained this policy since 1954 with over

seventy years to repeal, or exempt churches from, this law – but it has chosen not too. Therefore, its connection with the founding era can only be explored by analogy to the Establishment Clause's purpose and history.

The Establishment Clause was our nation's response to Protestant England's oppression of other religious beliefs in colonial America, and it prohibits government assistance of religion or interfere with religious beliefs. *Everson v. Bd. of Educ. of Ewing Twp*., 330 U.S. 1, 11 (1947). This historical principle can be understood through the hallmarks of government regulation of religion including, *inter alia*, (1) control over religious doctrine, (2) restriction of political participation by dissenting religions, or (3) provided financial support to an established church. *Hilsenrath ex. rel. C.H.,* 136 F.4th at 492 n. 53 (quoting *Shurtleff v. City of Boston*, 596 U.S. 243, 286 (2022) (Gorsuch, J., concurring)).[1]

Notably, laws, that merely coincide with the tenets of a religion, may regulate conduct for societal benefit. See *McGowan v. Maryland*, 366 U.S. 420, 442 (1961) (Blue laws promote rest). This equally applies to practices which were unknown to our Founders. *Everson,* 330 U.S. at 16 (public good legislation benefits schools). Our Founders understood that general laws must reach actions directly and not opinions or beliefs. *Thomas Jefferson to Danbury Baptist Association, 1 January 1802,* available at https://founders.archives.gov/documents/Jefferson/01-36-02-0152-0006 (last visited January 16, 2026). Hence, general laws that provide a social benefit, incidentally impacting religion, are accepted unless they are analogous to a hallmark.

[1] See also *Kennedy*, 597 U.S. at 537 n.5; McConnell, *Establishment and Disestablishment at the Founding Part I: Establishment of Religion*, 44 Wm. & Mary L. Rev. 2105 (2003).

The Church contends the Johnson Amendment violates its belief in engaging in the political process. However, this law limits interventions into political campaigns generally, in contrast to hallmarks of government overreach.

The Johnson Amendment does not infringe upon the Church's doctrinal belief that people must participate in the political process. Its purpose is to avoid societal sponsorship of tax-exempt entities' political affairs. Similar to *Bob Jones*, where this Court recognized that religious universities discriminating on race in admissions are ineligible for 501(c)(3) status, *Bob Jones,* 461 U.S. at 603-04, the Church is equally restricted from participating in political campaigns and supporting candidates for 501(c)(3) status. Both advance a national policy that Congress finds reprehensible for tax-exempt entities. The Church does not cross this line when it generally encourages members to participate in the political process in accordance with their own political views. Rather, its purpose precludes the Church's direct endorsement of specific candidates, Pastor Vale's endorsements of Congressman Davis, and either's direct donation or vocal support for campaigns. This particular conduct violates Congressional policy because it is impermissible political conduct of tax-exempt entities.

Further, this limitation does not turn on belief, but on political conduct. It restricts political campaigning, candidate endorsements, or the publication of political statements by churches. Only when a religious or nonreligious entity involves itself in limited conduct is tax exemption revocable. For example, in *Branch Ministries v. Rossotti*, a church violated the Johnson Amendment by publishing an advertisement advocating Christians to oppose candidate Bill Clinton due to his support for abortion, homosexuality, and other moral issues. *Branch Ministries v. Rossotti,* 211 F.3d 137, 142-43 (D.C. Cir. 2000).

This did not preclude Branch Ministries from believing that abortions and homosexuality to be morally wrong and opposing those activities in its religious halls. Evidently, the Church may express its socially progressive values. Pastor Vale may continue his weekly podcasts where he delivers sermons, spiritual guidance, and education about Everlight Dominion. Moreover, the Church may continue to believe that religious entities should be involved in politics. Only where these activities are connected to interventions into political campaigns will their tax exemption be revoked. Similarly, nonreligious entities must comply with the Johnson Amendment's restriction and can have their exemption status revoked. see *Ass'n of the Bar of the City of New York v. Comm'r of Int. Rev.*, 858 F.2d 876 (2d Cir. 1988). Therefore, the Johnson Amendment properly regulates in a neutral manner the Church's political conduct, not religious belief.

The Johnson Amendment permits the Church to express opinions on public issues and members to participate in the political process. At the founding, restrictions on a religious dissenter's political participation meant limitations on voting rights or requiring an affirmation of a religious belief for public office. *Torcaso v. Watkins*, 367 U.S. 488, 495 (1961); McConnell, 44 Wm. & Mary L. Rev. at 2176-2181. This contrasts with the Church's argument that it may engage in the political process, as they cited documents from 1878 and 1957, respectively. R. at 9-10. Thus, this right originates when tax exemptions had to be consistent with local law and public policy.

While churches may address public issues, *Walz,* 397 U.S. at 670, this does not necessarily translate to church intervention into political campaigns under congressional policy. Addressing public issues may occur through nonpartisan means. For instance, people can advocate for legislation. The Church properly does not argue that it is harmed by § 501(c)(3)'s limitation on substantial influence on legislation. It recognizes that Congress may limit its choice as to how to

influence legislation, similar to other religious or non-religious organizations. Further, courts have recognized that churches are subject to the policy of the Johnson Amendment. *Branch Ministries,* 211 F.3d at 142-43.

Under this policy, the IRS provides guidance as to the means in which exempt entities may express views without violating the Johnson Amendment. The Church may engage in issue advocacy and encourage people to vote. Rev. Rul 2007-41, 2007-1 C.B. 1421. Subsequently, the Church could support or oppose an issue, but its position may not tell people whom to vote for. *Id.* The Church and other religious organizations may invite candidates for public office to speak without church endorsement. *Id*. Specifically, the Church complies with this guidance by discussing political issues. It could invite Congressman Davis to speak on Pastor Vale's podcast. But it fails to comply with the law when it endorses candidates, donates to campaigns, and encourages people to vote for candidates, e.g., Pastor Vale's endorsement of Congressman Davis near the special election. Numerous other examples show how the Church may engage in the political process without an appearance of political campaign intervention.

Similarly, this restriction on political affairs does not undermine the Church's free speech right because, as expressed in *Christian Echoes*, limitations on speech may be imposed on churches or charities because society has interest in having "separation and neutrality principles, [so] government shall not subsidize directly or indirectly, organizations whose substantial activities are directed toward the accomplishment of legislative goals or the elections . . . of particular candidates." *Christian Echoes*, 470 F.2d at 857. While it is free speech, the Church's support of Congressman Davis's campaign may be regulated by the government because it ensures separation of church and state. *Id*. at 855.

The Church may address public issues, as other religions and charities may, through other alternative avenues. As expressed in *Branch Ministries*, churches are free to create a separate § 501(c)(4) organization with an exemption status where it may engage in political campaign activities as long as that is not the entity's primary purpose. *Branch Ministries,* 211 F.3d at 143; Chung, Congressional Research Service Reports. Alternatively, the Church is free to create a Political Action Committee (PAC) where the Church would be free to engage in political campaigns and kept its §501(c)(3). *Branch Ministries,* 211 F.3d at 143.

Under either approach, the Church and Pastor Vale could freely endorse Congressman Davis, express the church's political views, and advocate for Congressman Davis's campaign with progressive social values. If a church or charity does not prefer these options, they may forgo their § 501(c)(3) status and engage in political campaigns. The Church only receives this privilege because society believes it can provide a social benefit. But like a privilege, it can be revoked. If they were all otherwise eligible for it, § 501(c)(3) would become a guarantee for many organizations. Society would be burdened by sponsoring these organizations' particular political affairs. Such a burden does not comport with the recent national policy of tax exemptions. Therefore, the Johnson Amendment may regulate the Church's particular political conduct without undermining their right to address public issues.

The Johnson Amendment does not reduce § 501(c)(3)'s financial support of the Church in an unequal manner compared to other religions and nonreligious organizations. A tax exemption operates as passive aid because it does not direct money to churches like a subsidy. *Walz,* 397 U.S. at 673, 690. However, case law provides that a tax exemption may be a subsidy where it promotes religious beliefs. *Texas Monthly Inc., v. Bullock*, 489 U.S. 1, 13-14 (1989) (plurality opinion). In *Texas Monthly*, this court found that a state exemption from publication taxes, exclusively for

religious publishers, to teach faith was an impermissible subsidy. *Id*. at 14-16. The court reasoned that the government favored religious faith because non-religious publications were excluded from the exemption benefit, providing no neutrality between religious and non-religious entities. *Id*.

Here, other religions and charities are not excessively benefited from the 501(c)(3) and the Johnson Amendment. The tax exemption is offered for religious and non-religious organizations, in distinction to *Texas Monthly* where it provided an exclusive tax exemption for religious organizations. While in *Texas Monthly*, religious publications received a subsidy for faith publications, the Johnson Amendment does not convey a benefit. This law removes the benefit of exemption status if any church or charity participates or intervenes in political campaigns. If the Johnson Amendment required only religious entities to follow its conditions, the Establishment Clause would be violated. The government would be favoring non-religious entities because they would receive a legislative privilege without conditions and could intervene in political campaigns. Just like in *Texas Monthly,* the government would be subsidizing the practice of one entity over another. The Johnson Amendment seeks to avoid this form of subsidy. It limitations apply equally to the Church, other religious organizations, and charities. It does not favor a particular sect. Therefore, since all are subject to the restrictions, no church or charity is subsidized.

Therefore, the Johnson Amendment lawfully regulates the conduct of tax-exempt entities equally in accordance with our founders' historical understanding. While conditions on tax exemptions are a modern concept, our Founding Fathers would accept the application of general and neutral on religious and nonreligious, with limitations that do not control religious doctrine, unfairly regulate its political participation, or provide exclusive financial support to a church or charity.

B. The Johnson Amendment does not coerce Everlight Dominion from exercising its religious beliefs in political participation.

Courts have long held that the government may not "make religious observance compulsory" or force citizens to engage in "a formal religious practice." *Kennedy*, 597 U.S. at 537 (citation omitted). While indirect coercion exists, *Lee v. Weisman*, 505 U.S. 577, 592 (2022), the *Kennedy* Court has moved towards direct coercion for violations of the Establishment Clause. *Kennedy*, 597 U.S. at 537. There, no direct coercion existed when a public-school football coach prayed mid-field after games with his students. *Id*. at 537-38. The court reasoned that no evidence showed Coach Kennedy directly told students to participate in prayer, but in fact, students freely joined him during prayers. *Id*. Now, coercion properly assesses if government mandates involvement – not if a person, free to leave, feels required to remain. See *Town of Greece*, 572 U.S. at 590 (townspeople are free to leave the room during legislative prayer).

§ 501(c)(3) with the Johnson Amendment is a government program, offering tax relief for approved entities. Eligibility under this government action only requires churches and charities not to participate in political campaigns. It operates as a condition for a government privilege.

While the Church believes its members must participate in political campaigns, their exposure to the Johnson Amendments is not coercive. The Church is not required to be tax exempt and forced to comply with the Johnson Amendment to exist, operate, and share its progressive religious beliefs with people in the state of Wythe or the nation. Similar to *Kennedy*, their participation in § 501(c)(3) is voluntary. In exchange for a tax exemption, they voluntarily agree to forgo the practice of participating in political campaigns - just like other religions and charities. If either would like to express their political campaign participation, they are free to walk away from their exemption status, similar to students walking away from a prayer circle, people leaving a room during a legislative prayer, or charities forgoing their exemption to influence legislation or endorse candidates.

The Johnson Amendment is not indirectly coercive. The Church would argue it pressures them not to express their political views. However, the Church may address public and political issues through alternative means. As provided in IRS guidance, the Church may raise awareness of particular issues, invite candidates to public office to speak, or encourage people to vote. For example, Pastor Vale may invite Congressman Davis to speak on his weekly podcast without explaining for Davis, why its platform aligns with the Church's beliefs. Additionally, the Church may create a §501(c)(4) entity or a PAC and allow Pastor Vale to endorse Congressman Davis for the Senate seat, explain why the Church supports him, and how the Church's beliefs align with Davis's platform. As long as these activities are disconnected from the intervention of political campaigns, the Church does not violate the Johnson Amendment.

Finding the Johnson Amendment coercive will turn legislative privileges into guaranteed entitlement. Congress would be unable to focus restrictions on its legislative privileges where a religion, which freely applied for this privilege, claimed they were forced to observe the restriction in contrast with their belief. This unduly restricts Congress's ability to enforce violations of its privileges. Therefore, the Johnson Amendment does not coerce the Church from observing its practices because they may forgo its exemption status and exercise its beliefs freely.

C. The Johnson Amendment does not violate the neutrality principle where it creates execessive government.

According to *Walz*, benevolent neutrality in law requires that the government not "aid to one religion, aid all religions, or preference to one religion over another." *Walz*, 397 U.S. at 670 (citation omitted). To resolve the constitutionality of tax exemptions, the court considered whether a law was aimed at establishing or supporting religion and whether its effect created an excessive government entanglement. *Id*. at 672-74.

The Courts traditionally recognized formal and substantive neutrality of law. Formal neutrality meant laws expressed "bare neutrality towards religion (e.g., prohibiting generally the use of peyote), and substantive neutrality meant laws incentivized for or against a religious belief. Gunaratnama and Schultz, *The Roberts Court and Religion: Hail Mary Goes Mainstream*, 19 Charleston L. Rev. 581, 591-592 (2025). In *Walz*, the court found that the New York tax exemption was constitutional and recognized the law's purpose is to relieve the tax burden off a broad class of entities, including houses of worship, nonprofits, and quasi-public corporations that "foster moral or mental improvement" for society. *Walz*, 397 U.S. at 672-74. Since it had not singled out a church or religious group in this class, it was not trying to establish a religion. *Id*. This law operated with formal neutrality.

Regarding excessive entanglement, the court found that tax exemptions created little government involvement, not excessive entanglement, because its economic benefit from taxes is passive, in contrast to taxing church property, where the government must assess its property value, may place tax liens on property, consider tax foreclosure, and directly confront churches in the legal process. *Id*. at 675-78. However, the *Bob Jones* Court found that entanglement is not present when a secular law is applied uniformly to all class entities in a class. *Bob Jones*, 461 U.S. at 604 n. 30.

Just as in *Walz*, section 501(c)(3) applies to a large group of entities that operate for the purposes of religion, charity, scientific, public safety, literary, or education. Any charitable work, good, or activities to "foster moral or mental improvement" would fall into this category and justify their tax-exempt status. This is formal neutrality because it does not expressly mention religion. Moreover, the Johnson Amendment expresses the same formal neutrality as section 501(c)(3) because all eligible tax-exempt entities are prohibited from intervention into political campaigns.

The Church is not particularly excluded from political campaigns due to its faith, any different from any other religion or nonreligion. Meaning, if a nonprofit endorsed Congressman Davis for the Senate seat, donated to campaigns, endorsed people to vote for Davis, or claimed that Davis represents their values, they as well would lose their 501(c)(3) status.

The only difference here is that the Johnson Amendment enforces national policy. Congress must have some mechanism to terminate the tax exemption status of violators of that policy because society should not be burdened by a particular exempt entity's political affairs. Since it advances this policy neutrally, the mere coincidence that it affects some tenets of the Church's religion is not an attempt by the government to establish or disestablish religion.

Further, the Johnson Amendment provides no excessive government entanglement when it prohibits intervention into political campaigns, or the IRS audits a tax-exempt entity for compliance. As required in *Bob Jones*, the Johnson Amendment applies uniformly to the Church, any other religious or non-religious entity, to ensure compliance. Each may not engage in political campaigns or endorse candidates, and all are subject to an IRS audit of tax assessment. No evidence exhibits that the IRS targeted the Church for its particular conduct more than other religions or charities.

Under this law, the IRS compliance research does not inquire into the progressive social views but is rather ascertaining if the Church has endorsed Congressman Davis around the time of the special election, suggested to people to vote for him, or inquired into their financial records to find possible political donations. While revocation would make the Church liable for income tax, churches are not categorically exempt from all taxes. Further, such application makes tax exemptions an entitlement, instead of a privilege, for churches. Therefore, the Johnson Amendment's entanglement in the Church's conduct is no more than required by Congress. Thus,

the Johnson Amendment complies with the policy of neutrality because it ensures compliance with congressional policy of tax exemption laws and is uniformly applied to all exempt entities, creating no excessive government entanglement.

The Johnson Amendment treats the Church equally with other religious and nonreligious organizations because it regulates its intervention into political campaign on all entities in a neutral and general manner, as historically permitted, to advance a national policy without coercion or excessive entanglement into religious doctrine.

Conclusion

For the forgoing reasons, Petitioners respectfully request this Honorable Court reverse the lower courts' decisions to grant standing to Respondents and to reverse the permanent injunction leaving the Johnson Amendment in place.

Respectfully Submitted,

/s/ Team 39
Attorneys for the Petitioners