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Ban on Political Endorsements by Pastors Targeted

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CHICAGO -- Declaring that clergy have a constitutional right to endorse political candidates from their pulpits, the socially conservative Alliance Defense Fund is recruiting several dozen pastors to do just that on Sept. 28, in defiance of [Internal Revenue Service](#) rules.

The effort by the Arizona-based legal consortium is designed to trigger an IRS investigation that ADF lawyers would then challenge in federal court. The ultimate goal is to persuade the [U.S. Supreme Court](#) to throw out a 54-year-old ban on political endorsements by tax-exempt houses of worship.

"For so long, there has been this cloud of intimidation over the church," ADF attorney Erik Stanley said. "It is the job of the pastors of America to debate the proper role of church in society. It's not for the government to mandate the role of church in society."

Yet an opposing collection of Christian and Jewish clergy will petition the IRS today to stop the protest before it starts, calling the ADF's "Pulpit Initiative" an assault on the rule of law and the separation of church and state.

Backed by three former top IRS officials, the group also wants the IRS to determine whether the nonprofit ADF is risking its own tax-exempt status by organizing an "inappropriate, unethical and illegal" series of political endorsements.

"As religious leaders, we have grave concerns about the ethical implications of soliciting and organizing churches to violate core principles of our society," the clergy wrote in an advance copy of their claim obtained by [The Washington Post](#).

The battle over the clergy's privileges, rights and responsibilities in the political world is not new. Politicians of all stripes court the support -- explicit or otherwise -- of religious leaders. Allegations surface every political season of a preacher crossing the line.

What is different is the Alliance Defense Fund's direct challenge to the rules that govern tax-exempt organizations. Rather than wait for the IRS to investigate an alleged violation, the organization intends to create dozens of violations and take the U.S. government to court on First Amendment grounds.

"We're looking for churches that are serious-minded about this, churches that understand both the risks and the benefits," Stanley said, referring to the chance that they could lose their coveted tax-exempt status or could set a precedent.

Stanley said three dozen church leaders from more than 20 states have agreed to deliver a political sermon, naming political names.

"The sermon will be an evaluation of conditions for office in light of scripture and doctrine. They will make a specific recommendation from the pulpit about how the congregation would vote," he said.

"They could oppose a candidate. They could oppose both candidates. They could endorse a candidate. They could focus on a federal, state or local election."

Such endorsements are prohibited by a 1954 amendment to the Internal Revenue Code that says nonprofit, tax-exempt entities may not "participate in, or intervene in . . . any political campaign on behalf of any candidate for public office."

In a Sept. 3 letter to two [United Church of Christ](#) pastors in Ohio who are organizing the challenge to the ADF, Stanley appealed to them, "as one Christian brother to another," to abandon their criticism. He asserted a "constitutional right to speak freely from the pulpit" and said IRS rules "stifle religious expression."

Former IRS lawyer Marcus S. Owens, however, opposes the ADF's strategy and its legal reasoning. Working with the Ohio-based clergy, he contends that the Supreme Court would be unlikely to overturn appellate court rulings on the issue or a related precedent of its own.

Owens also criticizes ADF and its lawyers for "actively advising churches and pastors that they should violate the tax law and offering to explain how to do that. The tax system would be shut down if you allowed attorneys to counsel people on how to violate the tax law."

Owens, a former director of the IRS office that regulates tax-exempt organizations, will ask the tax agency to investigate ADF lawyers for "this flagrant disregard of the ethical rules." He is joined by former IRS commissioner Mortimer M. Caplin and Cono R. Namorato, who headed the office of professional responsibility at the IRS until 2006.

The two Ohio pastors, the Rev. Eric Williams and the Rev. Robert F. Molsberry, have called for hundreds of clergy to preach on Sept. 21 about the value of the separation of church and state.

Joe Conn, a spokesman for Americans United for Separation of Church and State, calls "Pulpit Freedom Sunday" a "stunt" that is part of an effort by the

religious right to build a church network that will "put their candidates into office. It's part of the overall game plan."

"This is an extraordinarily reckless scheme that they are promoting," Conn said. "The federal tax law is clear. Churches are charitable institutions that exist to do charitable things. That does not include politics. Political groups do politics."

The Alliance Defense Fund is a legal consortium that considers itself the antithesis of the [American Civil Liberties Union](#). It spends more than \$20 million a year to underwrite legal battles and train lawyers to push the country in socially conservative directions.

Founded in 1994 by Christian conservatives including [James C. Dobson](#) of [Focus on the Family](#) and William R. Bright, founder of Campus Crusade for Christ, the ADF has challenged same-sex marriage initiatives, stem cell research and rules that limit the distance protesters must keep from abortion patients. It helped the [Boy Scouts](#) ban gay Scout leaders.

Defining its latest mission, the ADF declared that pastors have "too long feared" the loss of tax exemptions.

"We're not encouraging any congregation to violate the law," Stanley said. "What we're encouraging them to do is exercise their constitutional right in the face of an unconstitutional law."

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