



Revenue Canada

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BY REGISTERED MAIL

Alliance for Life
81-90 Garry Street
Winnipeg, Manitoba
R3C 4H1

Your file Votre référence

Our file Notre référence

41863

Tel: [REDACTED]

Attention: Ms. Anna M. Desilets
Executive Director

November 30, 1995

Dear Ms. Desilets:

RE: CHARITY AUDIT

I refer to the Department's letters of April 27, 1994 and January 5, 1995, copies attached as Appendix "A" and Appendix "B", requesting your representations as to why the Minister of National Revenue should not revoke the registration of Alliance for Life (the "Charity") in accordance with subsection 168(2) of the Income Tax Act (the "Act"). I also refer to your representations made in your letter dated June 24, 1994 and to a letter written by BDO Dunwoody on your behalf dated April 17, 1995.

BACKGROUND

You indicated in your letter of June 24, 1994 that you believe the audit was conducted just one year after the reorganization of activities between the Charity and [REDACTED], a non-profit organization, and that this period should be considered a learning period. The audit was conducted seventeen months after the reorganization. We do not believe that the audit period should be considered a learning period and have determined that the Charity has not fulfilled its undertaking given to the Department on November 22, 1990.

The Department initially sent a letter to the Charity on October 30, 1989, respecting an audit of the April 30, 1985 and 1986 fiscal periods, outlining the reasons why the Department did not believe the Charity met the requirements for continued registered status. The results of the Department's audit showed that the Charity's activities were not educational in the charitable sense, but rather political.

Canada

Representatives of the Charities Division attended at your office in Winnipeg on May 7, 1990 to further clarify our concerns and receive your representations. The Department's position was once again stated in a letter to the Charity dated June 21, 1990. The Charity replied by letter dated November 22, 1990 that it would form a non-profit organization [REDACTED] to conduct those activities which the Department did not consider charitable.

You subsequently advised that [REDACTED] was incorporated on July 12, 1991. At your request, we accepted that the changeover of non-charitable activities from the Charity to [REDACTED] would take place May 1, 1992. We believe that the Charity was given a sufficient time-frame to implement its November 22, 1990 undertaking.

We have reviewed your representations made in letters dated June 14, 1994 and April 17, 1995 and must advise that the submissions did not alleviate our concerns. As a result, we have determined that the Charity does not satisfy the definition of a charitable organization in accordance with subsection 149.1(1) of the Act and does not meet the requirements of subsection 149.1(6.2) of the Act.

CHARITABLE ACTIVITIES

- Legal Cases

We accept that the Charity is not a single-issue organization. However, the point is whether its activities are educational in a charitable sense. In *Positive Action Against Pornography vs. M.N.R.*, 88 DTC 6186, the Federal Court concluded material which is aimed at generally changing public attitudes and beliefs is "political in the broad sense".

We do not consider the Charity to be like a university or college library. Generally speaking, universities and other similar institutes deal with a mix of ideas in order to train the mind or improve a useful branch of human knowledge, rather than to promote one side of controversial social issues in order to influence public attitudes and beliefs.

You have referred to *Everywoman's Health Centre Society v. HMTQ*, 92 DTC 6001, where the Federal Court of Appeal decided that the operation of an abortion clinic was charitable. However, in that case, there were health services provided to the community, namely abortion. Private, fee-charging hospitals would qualify as charities on the basis that the provision of medical care is beneficial to the public in the sense appreciated by the law of charities. This is different from the Charity's case, where its predominant purpose is to convince people of the correctness of particular viewpoints.

• Charitable Activities

We concur with you that activities which are intended to educate the public on controversial issues may be an acceptable charitable activity. However, the activity must be neutral and not intended to change public attitudes and beliefs.

However, we believe that charitable education is incompatible with promoting a predetermined view or seeking support for one side of controversial social issues. While it is recognized that "education" in its legal sense cannot always be limited to a purely objective presentation of the facts, the presence of a manifest bias will destroy an activity's otherwise charitable character.

• Purpose

The Letters Patent were amended to read:

- "1. To educate Canadians on human development, human experimentation, reproductive technologies, adoption, abortion, chastity, euthanasia and similar issues affecting human life;
2. To provide counselling referral services to the public with respect to unforeseen pregnancies and post abortion trauma;
3. To provide education services and materials for member groups."

We believe that the mission statement included in your most recent publication submitted to our office, is one indicator that the Charity's predominant purpose is to promote its viewpoint on pro-life issues in order to influence public attitudes and beliefs. It is our view that your goal remains one of advocacy.

The April 17, 1995 letter from BDO Dunwoody states that you fail to see what is offensive in the August, 1993 President's Report. The quote from the Report that we referred to in our January 5, 1995 letter shows that the Charity's job is to encourage only those individuals who support the pro-life viewpoint to stand for and act on their convictions. This statement is inconsistent with a charitable purpose of educating individuals in order to allow them to draw an independent conclusion on the basis of a reasonably full and unbiased presentation of the facts.

We enclose a copy of the editorial in the *Western Report* which was published in May, 1993. The reference in our January 5, 1995 letter to May, 1992, was a typographical error.

1-800 Number

You stated in your June 24, 1994 letter that you believe the Department has given insufficient attention to, or credit for, the charitable work that is carried out and made specific reference to the resources devoted to the helpline. We replied and remain of the view that the operation of the helpline for charitable activities is not significant in relation to your total activities. Your most recent submission states that even if the helpline is not functioning at the level Alliance had hoped, its progress is appreciable and you believe the issue has no bearing on whether Alliance is a charity or not. In response to your specific comments:

- You state that it is normal that 2-3 years are required to bring any new venture to an acceptable level of activity. Our file shows that the helpline was operating in 1988 and 1989 in connection with approximately \$500,000 spent on the Charity's *Feel the Heartbeat* video presentation. Based on the information submitted to our office (the video, the publication *A Practical Guide to Telephone Counselling* respecting listening techniques, and related information) the Department advised you that this activity was charitable.
- At the time of the audit, the auditor was advised by Anna Desilets that a formal training package or literature was currently not being used; she personally provided volunteers approximately 2 hours training on listening techniques.
- The consolidated monthly reports included counselling during both business hours and counselling on call forward. Our letter of January 5, 1995 stated that organizations on the referral list are referred by affiliated pro-life organizations. If the counselling service and compilation of the referral list constituted a significant activity of the Charity, we believe that the function would specifically have been shown in the job descriptions.
- In your 1990 submissions to the Department, the Charity provided documentation stating that its toll free number across Canada provides a referral service to organizations which ...

"offer positive assistance and guidance to anyone involved in a problem pregnancy. Services include pregnancy testing and counseling, comprehensive prenatal and postnatal care,

housing assistance, family support, adoption information and post-abortion counselling."

While counselling which is intended to aid and assist a woman who wishes to bring her child to term is considered a charitable activity, counselling intended to persuade a woman against considering abortion is not. Therefore, in order to qualify as a charitable activity, the counselling services must not seek to persuade an individual to adopt the Charity's position against abortion.

However, the audit evidence shows that in addition to acting as a referral service, the helpline also exhorts against considering abortion.

Catalogue Materials

Our fundamental concern with the catalogue materials is that they are not being used to support a charitable purpose. Of particular concern are the materials which were submitted for approval in 1991 and were rejected and materials which are similar in content to those rejected. These materials include "Death in the Nursery", "The Pornography Hook", pro-life buttons, the posters "This is a Child" and "No matter how small", and the T.V. Ads which are still lent to affiliated organizations.

We also believe that the French publication "Actualité Vie" is significantly similar to the Pro Life News and that the Charity should have known that it should not have been distributed. You have stated that the "Alliance for Life Resource Manual for the 90's" was produced prior to the 1992 audit and is no longer a relevant document. We believe the manual is relevant in that it is listed in the current catalogue and continued to be sold in 1993. Nor do we consider that the distribution of the Articles and Research Materials (except for any briefs which may meet the criteria of paragraph 9 of IC 87-1) support a charitable purpose.

You make reference to catalogue materials which were approved in the Department's letter of December 23, 1991. The publication of these materials and more recent publications such as "Hospice-Loving and Caring Till Death", "Have Your Heard?" and "Savais-Tu Que?", and "It's Your future...Make Informed Decisions" have currently been reviewed with legal counsel. We believe that most of these materials are not charitable as they promote only the pro-life view and acknowledge that the Department erred in approving them in 1991.

However, the approved catalogue materials and more recent publications constitute only 45% of the total catalogue materials and their removal from the catalogue would not effect our belief that the Charity's activities are not charitable.

Devotion of Resources to [REDACTED]

We acknowledge that [REDACTED] has been incorporated as a separate entity and has separate bank accounts, invoices, receipts, telephone line (in addition to its use of the Charity's 1-800 line), and payroll. However, the purpose of this separation has been to separate funds received which require an official donation receipt for tax purposes from those that do not require a receipt, rather than to transfer the non-charitable activities from the Charity to [REDACTED]. The following points are made with respect to your specific comments:

A) Literature

Our concern respecting the catalogue materials is that the charity's resources have continued to be used to support non-charitable activities, either by way of the loan to [REDACTED] or direct distribution of these materials by the Charity.

You state that where the resources of the Charity were used to pay for [REDACTED] literature, this was either a temporary, transitional occurrence or the costs were reimbursed to the Charity. You also believe that a prior period adjustment should be made to reduce the charge of \$19,724, as per the accounting records, made to [REDACTED] for the literature in May, 1992, as a large portion of this inventory was outdated, obsolete, or unsaleable.

We do not agree for the following reasons:

- 1) The Charity's April 30, 1992 audited financial statements reported a value of the inventory at cost in order to facilitate the sale of such inventory to [REDACTED]. If the material was outdated, obsolete or unsaleable at the point of sale, we believe that the respective audited financial statements should have reflected this downward adjustment.
- 2) All inter-company transactions, including reimbursements to the Charity, were made through the loan receivable account. However, on June 28, 1993 the Charity paid \$3,002.81 for 2415 Pro-Life Catalogues. Our review of the account does not show a reimbursement to the Charity for [REDACTED] portion of the catalogue.
- 3) The balance owing to the Charity on April 30, 1993 was \$41,295.43, as per the monthly account listing file. In addition, we have estimated that the Charity advanced an additional \$55,851 to [REDACTED] due to receipts of the Charity which did not require an official donation receipt, including the MasterCard receipts, which were given directly to [REDACTED] and operating costs not charged to [REDACTED].

As a result, should the Charity allow [REDACTED] a prior period adjustment, it would not change the fact that it has allowed its resources to be used by [REDACTED].

4) The Charity continued to distribute or sell some of this literature in 1993, one year after the sale. Even if the Charity allowed [REDACTED] a downward adjustment to the loan receivable account, the Charity continued to be involved in non-charitable activities.

B) Adjustments to Loan Receivable Account

The loan receivable account required numerous adjusting entries each month. The effect of these entries has been to give the Charity's resources to [REDACTED]: we believe that the cost allocations charged to [REDACTED] were too low and that the Charity diverted its unreported income to [REDACTED].

Please refer to Appendix C which supports our conclusion that the cost allocations between the Charity and [REDACTED] adjusted through this account are not reasonable.

The bookkeeping directions respecting the allocation of revenues between the two organizations included a direction that as of May, 1993 all donations to the Charity which did not need an official donation receipt, in addition to donations received from joint fundraising activities with [REDACTED], were to be used to reduce the loan receivable from [REDACTED]. These instructions stated that they were applicable to donations received from "individuals, other charities, organizations and corporations that need NO tax receipts."

For example, on July 27, 1993 the Charity received a donation from the [REDACTED], a registered charity, in the amount of \$10,000. As this organization did not need an official donation receipt, the Charity reduced the loan receivable account by \$10,000 and did not report the amount in its income.

C) Fundraising

We concur with you that a Charity may conduct a joint fund-raising activity with a non-charity. However, the content of any activity funded by the Charity's resources must support its charitable purpose. We have concluded that the joint fundraising activities supported political activities. For instance, the costs of the May to August, 1993 campaign entitled "Morgentaler" were approximately 75% paid by the Charity.

In addition, the second page editorials in the "ProLife News" written by the Charity's staff (contained in six out of twelve publications for the period October/92 to November/93) show that the Charity is supporting the advocacy activities of [REDACTED]

As a result, we have determined that the Charity has failed to devote all its resources to charitable activities, and therefore does not meet the definition of a charitable organization pursuant to subsection 149.1(1) of the Act.

Paragraph 168(1)(b) of the Act provides that for a registered charity to be entitled to retain its registered status, it is required to comply with the requirements of the Act relating to its registration as such. If a registered charity ceases to comply with these requirements, the Minister may give notice to the charity that he proposes to revoke its registration.

POLITICAL ACTIVITIES

We refer you to our previous correspondence explaining the requirements of the Act respecting the extent to which a charity may engage in non-partisan political activities. We believe that the Charity has exceeded these limitations and are unable to accept your representations that the devotion of resources to political activities is substantially less than 10% of the activities of the Charity.

Specifically, fundraising expenditures and costs for the translation and publication of Actualité Vie for the year ending April 30, 1993 total \$46,309, which represents 15% of total reported revenues. Other resources devoted to political activities include the activities of the board and staff regarding the co-sponsorship of the annual conference with [REDACTED], news releases, various editorials, including those in the ProLife News, and advertisements such as "Scary Stuff".

In addition to the interest foregone on the loan receivable, we estimate that an additional \$55,851 has been given to [REDACTED], a political advocacy organization.

Based on this analysis, we believe that the Charity has not devoted substantially all of its resources to charitable activities, and therefore has failed to meet the prerequisite of subsection 149.1(6.2) of the Act.

Once again, pursuant to paragraph 168(1)(b) of the Act, failure to comply with the provisions of the Act relating to a charity's registration may cause the Minister to propose revocation.

Conclusion

I wish to advise you that for the reasons outlined above and pursuant to the authority granted to the Minister in subsection 168(1) of the Act and delegated to me in subsection 900(8) of the Regulations to the Act, I propose to revoke the registration of Alliance for Life. By virtue of subsection 168(2) of the Act, the revocation will be effective on the date of publication in the Canada Gazette of the following notice:

Notice is hereby given, pursuant to paragraph 168(1)(b) of the Income Tax Act, that I propose to revoke the registration of the charity listed below and that the revocation of registration is effective on the date of publication of this notice.

0418632-09 Alliance for Life
 Winnipeg, Manitoba

Should you wish to appeal this notice of intention to revoke the charity registration in accordance with subsections 172(3) and 180(1) of the Act, you are advised to file a notice of appeal with the Federal Court of Appeal within 30 days from the mailing of this letter. The address of the Federal Court of Appeal is:

Supreme Court Building
Wellington Street
Ottawa, Ontario
K1A 0H9

As of the date of revocation of the registration of the charity, which is the date upon which the above-noted notice is published in the Canada Gazette, the charity will no longer be exempt from Part 1 Tax as a registered charity and will no longer be permitted to issue official donation receipts.

Additionally, the charity may be subject to tax exigible pursuant to Part V, section 188 of the Act. For your reference, I have attached a copy of the relevant provisions of the Income Tax Act concerning revocation of registration and the tax applicable to revoked charities as well as appeals against revocation.

I wish to advise you that pursuant to subsection 150(1) of the Act a return of income for each taxation year in the case of a corporation (other than a corporation that was a registered charity throughout the year) shall without notice or demand therefor, be filed with the Minister in prescribed form containing prescribed information. Also we draw your attention to paragraph 149(1)(l) which states the definition

of a non-profit organization and subsection 149(12) which states the filing requirements of a non-profit organization.

Yours truly,



R.A. Davis, CGA
Director
Charities Division

Attachments