



REGISTERED MAIL

Bette's Single Family & Seniors Food Bank
3455 Elliott Road
Westbank BC V4T 1N9

Attention: Bette Ladd

BN: 83888 4153

File #: 3037405

September 18, 2012

Subject: Revocation of Registration
Bette's Single Family & Seniors Food Bank

Dear Sir:

The purpose of this letter is to inform you that a notice revoking the registration of Bette's Single Family & Seniors Food Bank (the Organization) was published in the *Canada Gazette* on September 15, 2012. Effective on that date, the Organization ceased to be a registered charity.

Consequences of Revocation:

- a) The Organization is no longer exempt from Part I Tax as a registered charity and **is no longer permitted to issue official donation receipts**. This means that gifts made to the Organization are no longer allowable as tax credits to individual donors or as allowable deductions to corporate donors under subsection 118.1(3), or paragraph 110.1(1)(a), of the *Income Tax Act*, respectively.
- b) By virtue of section 188 of the Act, the Organization will be required to pay a tax within one year from the date of the Notice of Intention to Revoke. This revocation tax is calculated on prescribed form T-2046, *Tax Return Where Registration of a Charity is Revoked* (the Return). The Return must be filed, and the tax paid, on or before the day that is one year from the date of the Notice of Intention to Revoke. A copy of the Return is enclosed. The related Guide RC-4424, *Completing the Tax Return Where Registration of a Charity is Revoked*, is available on our website at www.cra-arc.gc.ca/E/pub/tg/rc4424.

Section 188(2) of the Act stipulates that a person (other than a qualified donee) who receives an amount from the Organization is jointly and severally

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liable with the Organization for the tax payable under section 188 of the Act by the Organization.

c) The Organization no longer qualifies as a charity for purposes of subsection 123(1) of the *Excise Tax Act* (ETA). As a result, the Organization may be subject to obligations and entitlements under the ETA that apply to organizations other than charities. If you have any questions about your GST/HST obligations and entitlements, please call GST/HST Rulings at 1-888-830-7747 (Quebec) or 1-800-959-8287 (rest of Canada).

In accordance with *Income Tax Regulation* 5800, the Organization is required to retain its books and records, including duplicate official donation receipts, for a minimum of two years after the Organization's effective date of revocation.

Finally, we wish to advise that subsection 150(1) of the Act requires that every corporation (other than a corporation that was a registered charity throughout the year) file a *Return of Income* with the Minister of National Revenue (the Minister) in the prescribed form, containing prescribed information, for each taxation year. The *Return of Income* must be filed without notice or demand.

If you have any questions or require further information or clarification, please do not hesitate to contact me at the numbers indicated below.

Yours sincerely,



Danie Huppé-Cranford
Director
Compliance Division
Charities Directorate
Telephone: 613-957-8682
Toll free: 1-800-267-2384

Enclosures

- Copy of the Return (form T-2046)
- Canada Gazette publication

c.c.: R.G. Allen



AUG 07 2012

REGISTERED MAIL

Bette's Single Family & Seniors Food Bank
3455 Elliott Road
Westbank BC V4T 1N9

BN: 838884153RR0001

Attention: Bette Ladd

File #:3037405

**Subject: Notice of Intention to Revoke
Bette's Single Family & Seniors Food Bank**

Dear Ms. Ladd:

I am writing further to our letter dated October 31, 2011 (copy enclosed), in which you were invited to submit representations as to why the registration of Bette's Single Family & Seniors Food Bank (the Organization) should not be revoked in accordance with subsection 168(1) of the *Income Tax Act*.

On December 14, 2011, we contacted your representative, R.G. Allen, as we had not yet received a reply to our letter, which was due on December 1, 2011. Mr. Allen verbally represented that an accounting firm would be amending the books and records of the Organization and, once amended, they would be submitting these to the Canada Revenue Agency (CRA), as a response to our letter. To date, no further information has been provided.

As such, as the Organization has not provided a reply to the concerns raised in our letter of October 31, 2011, we must base our conclusions on the facts contained therein.

Conclusion:

The Canada Revenue Agency's (CRA) audit has revealed that the Organization is not complying with the requirements set out in the *Income Tax Act*. In particular, it was found that the Organization failed to devote all of its resources to charitable purposes and charitable activities, conferred an unacceptable or undue private benefit, failed to meet its disbursement quota requirement, failed to maintain adequate books and records, issued receipts not in accordance with the Act and/or its Regulations, and made errors on form T3010, *Registered Charity Information Return*. For all of these reasons, and for each reason alone, it is the position of the CRA that the Organization no longer meets the requirements necessary for charitable registration and should be revoked in the manner described in subsection 168(1) of the Act.

Canada

Place de Ville, Tower A
320 Queen Street, 13th Floor R350 E (08)
Ottawa ON K1A 0L5

Consequently, for each of the reasons mentioned in our letter dated October 31, 2011, I wish to advise you that, pursuant to subsection 168(1), 149.1(2) of the Act, I propose to revoke the registration of the Organization. By virtue of subsection 168(2) of the Act, revocation will be effective on the date of publication of the following notice in the Canada Gazette:

Notice is hereby given, pursuant to paragraphs 168(1)(b), 168(1)(c), 168(1)(d), 168(1)(e), and subsection 149.1(2), and paragraph 149.1(2)(b), of the Income Tax Act, that I propose to revoke the registration of the organization listed below and that the revocation of registration is effective on the date of publication of this notice.

Business Number
838884153RR0001

Name
Bette's Single Family & Seniors
Food Bank
Westbank, BC

Should you wish to object to this notice of intention to revoke the Organization's registration in accordance with subsection 168(4) of the Act, a written Notice of Objection, which includes the reasons for objection and all relevant facts, must be filed within **90 days** from the day this letter was mailed. The Notice of Objection should be sent to:

Tax and Charities Appeals Directorate
Appeals Branch
Canada Revenue Agency
250 Albert Street
Ottawa ON K1A 0L5

A copy of the revocation notice, described above, will be published in the Canada Gazette after the expiration of 30 days from the date this letter was mailed. The Organization's registration will be revoked on the date of publication, unless the CRA receives an order, **within the next 30 days**, from the Federal Court of Appeal issued under paragraph 168(2)(b) of the Act extending that period.

Please note that the Organization must obtain a stay to suspend the revocation process, notwithstanding the fact that it may have filed a Notice of Objection.

Consequences of Revocation

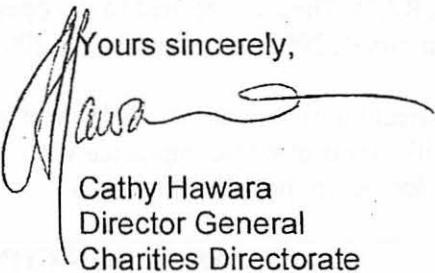
As of the effective date of revocation:

- a) the Organization will no longer be exempt from Part I Tax as a registered charity and will no longer be permitted to issue official donation

receipts. This means that gifts made to the Organization would not be allowable as tax credits to individual donors or as allowable deductions to corporate donors under subsection 118.1(3), or paragraph 110.1(1)(a), of the Act, respectively;

- b) by virtue of section 188 of the Act, the Organization will be required to pay a tax within one year from the date of the Notice of Intention to Revoke. This revocation tax is calculated on prescribed form T-2046, *Tax Return Where Registration of a Charity is Revoked* (the Return). The Return must be filed, and the tax paid, on or before the day that is one year from the date of the Notice of Intention to Revoke. A copy of the relevant provisions of the Act concerning revocation of registration, the tax applicable to revoked charities, and appeals against revocation, can be found in Appendix "A", attached. Form T-2046 and the related Guide RC-4424, *Completing the Tax Return Where Registration of a Charity is Revoked*, are available on our website at www.cra-arc.gc.ca/charities;
- c) the Organization will no longer qualify as a charity for purposes of subsection 123(1) of the *Excise Tax Act* (ETA). As a result, the Organization may be subject to obligations and entitlements under the ETA that apply to organizations other than charities. If you have any questions about your GST/HST obligations and entitlements, please call GST/HST Rulings at 1-888-830-7747 (Quebec) or 1-800-959-8287 (rest of Canada).

Finally, I wish to advise that subsection 150(1) of the Act requires that every corporation (other than a corporation that was a registered charity throughout the year) file a *Return of Income* with the Minister in the prescribed form, containing prescribed information, for each taxation year. The *Return of Income* must be filed without notice or demand.


Yours sincerely,
Cathy Hawara
Director General
Charities Directorate

Attachments:

- CRA letter dated October 31, 2011
- Appendix "A", Relevant provisions of the Act

c.c.: R.G. Allen





CANADA REVENUE AGENCY AGENCE DU REVENU
DU CANADA

REGISTERED MAIL

Bette's Single Family & Seniors Food Bank
3455 Elliott Road
Westbank BC V4T 1N9

BN: 838884153RR0001

Attention: Bette Ladd

File #: 3037405

October 31, 2011

Subject: Audit of Bette's Single Family & Seniors Food Bank

Dear Ms. Ladd:

This letter is further to the audit of the books and records of the Bette's Single Family & Seniors Food Bank (the "Organization") conducted by the Canada Revenue Agency (the "CRA"). The audit related to the operations of the Organization for the period from January 1, 2008 to December 31, 2009.

At our meeting of October 29, 2010, you were advised that the CRA has identified specific areas of non-compliance with the provisions of the *Income Tax Act*, and/or its *Regulations* in the following areas:

AREAS OF NON-COMPLIANCE:		
	Issue	Reference
1.	Failure to Devote its Resources to Charitable Purposes and Charitable Activities in Accordance with the Requirements of the Act/Conferring an Unacceptable or Undue Private Benefit	149.1(2), 168(1)(b)
2.	Failure to Meet its Disbursement Quota Requirement	149.1(2)(b), 168(1)(b)
3.	Failure to Maintain Adequate Books and Records	168(1)(e), 230(2)

4.	Issuing Receipts not in Accordance with the Act and/or its Regulations	168(1)(d); Regulation 3501
5.	Errors on Form T3010, <i>Registered Charity Information Return</i>	149.1(14), 168(1)(c)

The purpose of this letter is to describe the areas of non-compliance identified by the CRA during the course of the audit as they relate to the legislative and common law requirements applicable to registered charities, and to provide the Organization with the opportunity to make additional representations or present additional information.

Registered charities must comply with the law, failing which the Organization's registered status may be revoked in the manner described in section 168 of the Act.

The balance of this letter describes the identified areas of non-compliance in further detail.

Identified Areas of Non-Compliance:

1. Failure to Devote its Resources to Charitable Purposes and Charitable Activities in Accordance with the Requirements of the Act

As you are aware the Organization was registered as a charitable organization on January 1, 2008. In order to satisfy the definition of a "charitable organization" pursuant to subsection 149.1(1) of the Act, "charitable organization" means an organization..."All the resources of which are devoted to charitable activities".

To qualify for registration as a charity under the Act, an organization must be established for charitable purposes that oblige it to devote all its resources to its own charitable activities¹. This is a two-part test. First, the purposes it pursues must be wholly charitable and secondly, the activities that an organization undertakes on a day-to day basis must support its charitable purposes in a manner consistent with charity law. Charitable purposes are not defined in the Act and it is therefore necessary to refer to the principles of the common law governing charities. An organization that has one or more non-charitable purposes or devotes resources to activities undertaken in support of non-charitable purposes cannot continue to be registered as a charity.

Based upon the amounts reported on the Organization's T3010 returns, in 2008, 56.5% of the Organization's expenditures were allocated to its charitable programs. This amount was 48.8% in 2009. However, the Organization's records reveal that its resources are primarily devoted to providing an undue benefit to its President, Bette Ladd. The records further failed to substantiate the Organization's expenditures as being incurred for exclusively charitable purposes.

¹*Vancouver Society of Immigrant & Visible Minority Women v. Minister of National Revenue*, [1999] 1 S.C.R. 10. (paragraph 159)

Conferring an Unacceptable or Undue Private Benefit

A fundamental tenant of common law stipulates that a charity shall operate exclusively for charitable purposes and that no assets shall be used for the private benefit of any individual other than the intended charitable beneficiaries. The Act stipulates that no part of a registered charity's income can be payable or otherwise available to personally benefit any proprietor, member, shareholder, trustee, or settler of the organization.

A review of the Organization's bank account determined that Ms. Ladd made a total of \$9,060 in cash withdrawals throughout the period under audit. Additionally, the Organization pays for all of the expenses for Ms. Ladd's two motor vehicles, including fuel, repairs and maintenance, and also pays for her cellular telephone.

During our review, it was determined the Organization paid or incurred expenses on behalf of Ms. Ladd as follows:

	2008	2009
Wages/Salaries	\$33,997	\$28,318
100% Personal Vehicles	\$ 9,051	\$ 6,927
100% Personal Cell Phone	<u>\$ 2,400</u>	<u>\$ 2,400</u>
Total	\$45,448	\$37,645

In contrast, during 2008, only \$17,731 of the total cash donations of \$78,023 was spent on food purchases. During 2009, only \$16,268 was spent on food purchases of the \$84,000 in cash donations received, as detailed below:

	2008	2009
Amount (cash) spent on food:	\$17,731	\$16,268
Gift In Kind Donations (food only)	<u>\$ 1,895*</u>	<u>\$ 8,839*</u>
Total	\$19,626	\$25,107

*From general ledger

During the audit, it was determined Ms. Ladd makes all decisions relating to both the operations and finances of the Organization. We observed that Ms. Ladd has signing authority for donation receipts, expenses, and the bank account. Ms. Ladd is paid as a fundraiser, as well as an administrator. She signs all cheques, including those made out to herself, and has access to deposits and withdrawals from the bank account.

Furthermore, the Organization pays its fundraisers 25% of all donations received, including gift in kind donations (for example, non-perishable food items, used household furniture/appliances, and used clothing). The banking records indicated only Ms. Ladd was compensated, as all fundraising cheques were written in her name. Ms. Ladd explained she would pay casual labourers and other fundraisers with cash through her own bank account or withdrawals of cash from the Organization's bank account. As a result, there is no record indicating payments to other individuals. Ms. Ladd also paid for various expenses by issuing a cheque to herself which included her fundraising commission. No expense reimbursement forms were prepared or approved. Ms. Ladd has complete control over all expenses incurred within the Organization, including her own personal amounts for motor vehicle and personal cellular telephone.

Given the Organization is a food bank, the amounts spent on food are significantly low, representing only 20% of total revenue for 2008 and 23% of the total revenue for 2009. In comparison, the amounts paid to or on behalf of Ms. Ladd far exceed the amounts expended on food. The expense receipts of the Organization for the period of the audit were not kept organized, but simply maintained loosely in a box. It was impossible to determine whether the expenses related to the Organization or to Ms. Ladd. Many receipts contained items that would not be typical of a food bank, such as shampoo, dog food, and single item food purchases.

In addition, no benefits paid to a director and/or employee has been included as salaries and wages, and no acceptable T4/T4A/T4NR payroll summary has been submitted. As the benefits have not been quantified, the Organization has not made an attempt to determine whether the benefit was justifiable and relative to the work received by the Organization – accordingly it is an undue benefit.

It is our position that the amounts paid or made available to Ms. Ladd are unreasonable in light of the fact that the Organization has devoted only a portion of its income to its charitable activity (providing food for singles and seniors). The majority income to the Organization has supported the fundraiser's income and personal expenses of the President, Bette Ladd, resulting in the resources not being devoted to the charitable purposes for which the Organization was registered.

It is also our position that the Organization has structured its financial affairs for the personal benefit of its directors to the detriment of its charitable purpose. It is further our view that by operating for the private gain of its director, the Organization has failed to demonstrate that it meets the test for continued registration under subsection 149.1(1) of the Act as a charitable organization that "no part of the income of which is payable to, or is otherwise available for, the personal benefit of any proprietor, member, shareholder, trustee or settler thereof". For this reason, there are grounds for revocation of the Organization.

2. Failure to Meet its Disbursement Quota Requirement

In order to maintain its status as a charitable organization within the meaning of paragraph 149.1(2)(b) of the Act, a registered charity must, in any taxation year, expend amounts on charitable activities and/or transfers to qualified donees.

For fiscal years prior to March 4, 2010, this amount, in general is comprised of two components. The first component is equal to at least 80% of the aggregate amounts for which it issued donation receipts in its immediately preceding taxation year and amounts received from other registered charities. The second component is 3.5% of the Organization's average assets owned at any time in the immediately preceding 24 months, which were not used directly in charitable activities or administration, if the average value of assets is greater than \$25,000.

Although the first component of the calculation may no longer apply in future years, a registered charity has always had to, and still must, devote its resources to charitable purposes to maintain its charitable registration.

The disbursement quota is a specific amount that a registered charity must spend each year on its charitable activities, including gifts to qualified donees. The disbursement quota requirement is designed to ensure that a registered charity:

- Uses its tax-assisted donations to further its charitable purposes and activities;
- Does not accumulate excessive funds; and,
- Keeps non-charitable expenses to a minimum.

A disbursement excess is created when a charity spends more on charitable activities, including gifts to qualified donees, than its disbursement quota requires it to for that year. An excess can be carried back one year to offset a shortfall in that period. A registered charity can also draw on an excess for up to five of its following fiscal periods to help it meet its disbursement quota.

A disbursement shortfall is created when a registered charity spends less on charitable activities, including gifts to qualified donees, than its disbursement quota for that year. A registered charity can draw on previous years' excesses to cover a shortfall. If no excesses are available to draw on, a charity can spend enough the following year to create an excess that will make up for the shortfall. However, continuous shortfalls can lead to revocation of the charity's registered status.

The disbursement quota is administered through a registered charity's annual information return (T3010). The information required in computing the disbursement quota and resulting excess/shortfall for a registered charity is taken on the return. Commencing in 2003, the CRA has made these calculations for registered charities, and

reported these amounts back to the charity on Form T1242, "Registered Charity Information Return Summary". Regardless of the amount on this form, it is a registered charity's responsibility to review its calculations to ensure they are in compliance with the Act.

The Organization's T3010 for fiscal year 2009 has a large disbursement quota shortfall due to excessive resources spent on fundraising compared to its charitable programs. A review of the expense allocations between lines 5000 and 5020 was undertaken to determine accuracy of these allocations. Generally, charitable expenses (line 5000) consist of all direct expenses incurred to carry out the activities of a charity. Management and Administration expenses (line 5010) consist of indirect expenses (bookkeeping, accounting and legal fees, bank interest, etc.), and fundraising expenses (line 5020) include all expenses incurred for a solicitation of funds (both cash and in-kind donations), not including funds provided by government bodies. The original and revised amounts are summarized as follows:

2008

	Per T3010	Recalculated
Total Donations:	\$100,204	\$100,204
Charitable programs (line 5000):	\$ 55,850	\$ 48,166
Management & Admin (line 5010):	\$ 7,486	\$ 7,719
Fundraising (line 5020):	<u>\$ 35,540</u>	<u>\$ 46,534</u>
Total	\$ 98,876	\$102,419

2009

Total Donations:	\$ 99,500	\$109,995*
Charitable programs (line 5000):	\$ 47,585	\$ 58,413**
Management & Admin (line 5010):	\$ 13,468	\$ 3,632***
Fundraising (line 5020):	<u>\$ 36,424</u>	<u>\$ 46,402****</u>
Total	\$97,477	\$108,447

* Based on bank deposits plus gift in kind donations

** Per the revised 2009 Trial Balance prepared by the bookkeeper, line 5000 expenses includes: purchases, food purchases, household purchases, gift cards, purchase returns, gift in kind donations, casual labour, miscellaneous, 50% of motor vehicle expenses, rent, repairs, and 25% of telephone expense.

*** Per the revised 2009 Trial Balance as prepared by the bookkeeper, line 5010 expenses include: accounting and legal fees, interest and bank charges, and office expenses.

****Per the revised 2009 Trial Balance as prepared by the bookkeeper, line 5020 expenses includes: wages/salaries, administration costs, advertising, 50% of motor vehicle expenses, and 75% of telephone expenses.

Based on the revised allocation as detailed above, the disbursement quota requirement for 2009 is \$80,163 (calculated as the 2008 tax receipted donations of \$100,204 x 80%). As the Organization only spent \$58,413 on its charitable programs, it has a 2009 disbursement quota shortfall of \$21,750 (calculated as \$80,163 - \$58,413). Therefore, the Organization is not meeting its disbursement quota requirement.

3. Failure to Maintain Adequate Books and Records

The requirement for the proper maintenance of books and records is specified in subsection 230(2) of the Act. Every registered charity shall keep records and books of account at an address in Canada recorded with the Minister or designated by the Minister containing:

- a) Information in such form as will enable the Minister to determine whether there are any grounds for revocation of its registration under this Act;
- b) A duplicate of every receipt containing prescribed information for a donation received by it; and
- c) Other information in such form as will enable the Minister to verify the donations to it for which deduction or tax credit is available under the Act.

The policy of the CRA relating to the maintenance of books and records, and books of account, is based on several judicial determinations, which have held that:

- it is the responsibility of the registered charity to prove that its charitable status should not be revoked²;
- a registered charity must maintain and make available to the CRA *at the time of an audit*, meaningful books and records, regardless of its size or resources. It is not sufficient to supply the required documentation and records subsequent thereto³ ; and
- the failure to maintain proper books, records and records of account in accordance with the requirements of the Act is itself sufficient reason to revoke an organization's charitable status⁴.

The audit revealed that a substantial portion of the Organization's books and records with relation to income and expense disbursements were not adequately

² *Canadian Committee for the Tel Aviv Foundation vs. Her Majesty the Queen*, 2002 FCA 72 (FCA)

³ *Canadian Committee for the Tel Aviv Foundation v. Canada*, supra footnote 2; *The Lord's Evangelical Church of Deliverance and Prayer of Toronto v. Canada*, (2004) FCA 397

⁴ *College Rabbinique de Montreal Oir Hachaim D'Tash v. Canada (Minister of the Customs and Revenue Agency)*, (2004) FCA 101; section 168(1) of the Act

maintained. The original income journal for 2009 calculated total income as \$106,759, consisting of tax received cash donations as well as gift in kind donations. The amount of reported revenue per the 2009 charity return was \$99,500. Many of the donations received could not be matched to bank deposits, resulting in decreased assurance regarding reported revenue. A bank deposit analysis was performed for 2009 resulting in total deposits of \$84,381 (net of NSF and returned items). With the addition of gift in kind donations of \$25,614, total income is calculated at \$109,995. As a result of the large variance (\$10,495), the records are unreliable. Because the Organization also failed to maintain a donor listing, total tax receipts issued cannot be determined or reconciled to any accounting records.

The Organization's books and records and the internal accounting controls supporting them are considered to be inadequate. For example, expense receipts were kept haphazardly in a box in no particular order either by date or expense category making it impossible to match expense disbursements from the journal to individual receipts, without searching through the hundreds of receipts all mixed together. The Organization also failed to maintain a minute book in support of approved budgets, expenses and overall activities. As a result, the auditor was unable to confirm revenue and expenditures as recorded, the accounting of receipts and the charitable nature of expenditures as reported on the T3010 Information Return.

Furthermore, the segregation of duties within the Organization was poorly defined. Delegation of responsibility, controls over the issuance of official tax receipts, and the general supervision of the receipting process, was inadequate. Fundraisers prepare their own donation receipts, often without a signature. Additionally, the Organization does not have an authorized individual as its signing officer for donation receipts.

During the interview, no other board members were present. Moreover, the Organization does not conduct and /or produce board meeting minutes. The absence of documentary evidence in relation to the Organization's programs would seem to be indicative of a lack of involvement in the operation/implementation from other directors.

Ms. Ladd prepares and signs all cheques, including those she issued to herself. She is the authorized individual on the bank account and often makes cash withdrawals without any form of expense or budget approval.

The audit also discovered the Organization did not prepare and issue T4 Summaries and Statements of Remuneration Paid for its employees. Where salaries or wages are paid, the Act requires annual T4 Summaries and T4 Statements of Remuneration Paid to be prepared by the employer [Regulation 200(1)]. In addition to the salaries and wages actually paid, the T4 Summaries and T4 Statements of Remuneration Paid must also include the value of all taxable benefits conferred on employees in the year [paragraph 6(1)(a)].

In addition to the foregoing annual reporting requirements, where an employer pays an amount in respect of an individual's salary, that employer is required to withhold certain amounts from such payments [subsection 153(1)]. These amounts are in respect of income tax, Canada Pension Plan, Unemployment Insurance, etc., and the withholdings must be remitted to the Receiver General of Canada.

Furthermore, since the time the audit was conducted, the CRA has obtained, from other sources, copies of receipts issued by the Organization that indicate discrepancies between the actual amounts of tax receipts for gift in kind donations issued for 2009 and the amount of tax-receipted gifts in kind reported on line 580, schedule 5, of the Organization's 2009 T3010 return, as indicated below. The individual who received these receipts claims that they are true receipts issued by the Organization.

2009 Gift In Kind Receipts Claimed Individual:	\$34,000
2009 Tax-receipted amounts, line 580:	\$25,614
Discrepancy:	\$8,386

A registered charity is not meeting its requirements to maintain adequate books and records if it fails to exercise due care with respect to ensuring the accuracy thereof. A registered charity must ensure adequate stewardship over the resources it has been given, and it must be able to prove that stewardship to the CRA.

4. Issuing Receipts not in Accordance with the Act and/or its Regulations

The Act provides various requirements with respect to the issuance of official donation receipts, which are issued by registered charities. These requirements are contained in Regulations 3500 and 3501 of the Act. The audit revealed that the official donation receipts issued by the Organization did not comply with the requirements of Regulation 3501 of the Act as follows:

- in some instances, the full name and address of the donor was missing on the donation receipts;
- the appraiser's name and address was not included on receipts for non-cash gifts over \$1,000;
- receipts were signed by fundraisers, not the authorized designated signatory and in some instances, receipts were missing a signature;
- receipts were not afforded appropriate security or locked in a cabinet accessible only to the authorized signatories; and
- donation receipts did not contain the name **Canada Revenue Agency** and the Web site address www.cra-arc.gc.ca/charities.

Gift in Kind

Donations of gifts other than cash (gift in kind) did not have supporting documentation to verify the fair market value of the gift. The receipts did not contain adequate information describing the non-cash gift, but simply stated "Food" or "Misc" without any further description or back up. For example, receipt # 3173 issued August 2009, simply contained the donors' name [REDACTED] and the product received as "carpet" with a value of \$1,200. There was no supporting documentation describing the carpet or how the value of \$1,200 was obtained.

As a result, the Organization failed to meet the requirements pertaining to the issuance of official donation receipts.

5. Errors on Form T3010

It is the responsibility of the Organization to ensure that the information provided in its returns, schedules and statements is factual and complete in every aspect. A registered charity is not meeting its requirements to file an Information Return if it fails to exercise due care with respect to ensuring the accuracy thereof.

It was determined during the CRA audit that the Organization had incorrectly completed its T3010 Charity Information Returns for the fiscal years ended December 31, 2008, and December 31, 2009, as follows:

Revenue

Tax receipted donation income was reported as fundraising income (line 4630) when it should have been included as total tax receipted income (line 4500).

Tax receipted donation income was reported on line 4620 (Membership dues and fees) for 2009. This amount should have been included on line 4500 (Total tax receipted gifts).

As a result, tax receipted income was underreported for both years, resulting in an inaccurate disbursement quota calculation.

Expenses

The Organization incurred salaries and wages expenses which were reported as Other expenses on line 4920. Salaries and wages must be reported on line 4880 (Salaries, Wages & benefits) of the T3010.

Conclusion

The Organization was given an opportunity to revise its books and records; however, they continue to lead the CRA to have concerns about the Organization and the extent of its charitable activity. The books and records maintained are poor, donation receipting is incomplete and the controls over the stewardship of resources are less than adequate. A review of expenses presented significant personal benefits accruing to the President, Ms. Ladd, with no corresponding benefits being submitted on the T4A. The personal use of the Organization's assets and lack of books and records are serious issues of non-compliance which may lead to the revocation of charitable registration.

The Organization's Options:

a) No Response

You may choose not to respond. In that case, the Director General of the Charities Directorate may give notice of its intention to revoke the registration of the Organization by issuing a Notice of Intention in the manner described in subsection 168(1) of the Act.

b) Response

Should you choose to respond, please provide your written representations and any additional information regarding the findings outlined above **within 30 days** from the date of this letter. After considering the representations submitted by the Organization, the Director General of the Charities Directorate will decide on the appropriate course of action, which may include:

- no compliance action necessary;
- the issuance of an educational letter;
- resolving these issues through the implementation of a Compliance Agreement; or
- giving notice of its intention to revoke the registration of the Organization by issuing a Notice of Intention in the manner described in subsection 168(1) of the Act.

If you appoint a third party to represent you in this matter, please send us a written authorization naming the individual and explicitly authorizing that individual to discuss your file with us.

If you have any questions or require further information or clarification, please do not hesitate to contact the undersigned at the numbers indicated below.

Yours sincerely,



Aimee Van Pelt
Verification and Enforcement Division
Vancouver Island Tax Services

Telephone: [REDACTED]

Facsimile: [REDACTED]

Address: c/o 9755 King George Blvd
Surrey, BC V3T 5E1

ITR APPENDIX "A"

Section 149.1: [Charities]

149.1(2) Revocation of registration of charitable organization

The Minister may, in the manner described in section 168, revoke the registration of a charitable organization for any reason described in subsection 168(1) or where the organization

- (a) carries on a business that is not a related business of that charity; or
- (b) fails to expend in any taxation year, on charitable activities carried on by it and by way of gifts made by it to qualified donees, amounts the total of which is at least equal to the organization's disbursement quota for that year.

149.1(3) Revocation of registration of public foundation

The Minister may, in the manner described in section 168, revoke the registration of a public foundation for any reason described in subsection 168(1) or where the foundation

- (a) carries on a business that is not a related business of that charity;
- (b) fails to expend in any taxation year, on charitable activities carried on by it and by way of gifts made by it to qualified donees, amounts the total of which is at least equal to the foundation's disbursement quota for that year;
- (c) since June 1, 1950, acquired control of any corporation;
- (d) since June 1, 1950, incurred debts, other than debts for current operating expenses, debts incurred in connection with the purchase and sale of investments and debts incurred in the course of administering charitable activities; or
- (e) at any time within the 24 month period preceding the day on which notice is given to the foundation by the minister pursuant to subsection 168(1) and at a time when the foundation was a private foundation, took any action or failed to expend amounts such that the Minister was entitled, pursuant to subsection (4), to revoke its registration as a private foundation.

149.1(4) Revocation of registration of private foundation

The Minister may, in the manner described in section 168, revoke the registration of a private foundation for any reason described in subsection 168(1) or where the foundation

- (a) carries on any business;
- (b) fails to expend in any taxation year, on charitable activities carried on by it and by way of gifts made by it to qualified donees, amounts the total of which is at least equal to the foundation's disbursement quota for that year;
- (c) since June 1, 1950, acquired control of any corporation; or
- (d) since June 1, 1950, incurred debts, other than debts for current operating expenses, debts incurred in connection with the purchase and sale of investments and debts incurred in the course of administering charitable activities.

149.1(4.1) Revocation of registration of registered charity

The Minister may, in the manner described in section 168, revoke the registration

- (a) of a registered charity, if the registered charity has made a gift to another registered charity and it can reasonably be considered that one of the main purposes of making the gift was to unduly delay the expenditure of amounts on charitable activities;
- (b) of the other charity referred to in paragraph (a), if it can reasonably be considered that, by accepting the gift, it acted in concert with the registered charity to which paragraph (a) applies; and
- (c) of a registered charity, if a false statement, within the meaning assigned by subsection 163.2(1), was made in circumstances amounting to culpable conduct, within the meaning assigned by that subsection, in the furnishing of information for the purpose of obtaining registration of the charity.

Section 168: Notice of intention to revoke registration

168(1) Where a registered charity or a registered Canadian amateur athletic association

- (a) applies to the Minister in writing for revocation of its registration,
- (b) ceases to comply with the requirements of this Act for its registration as such,
- (c) fails to file an information return as and when required under this Act or a regulation,
- (d) issues a receipt for a gift or donation otherwise than in accordance with this Act and the regulations or that contains false information,
- (e) fails to comply with or contravenes any of sections 230 to 231.5, or
- (f) in the case of a registered Canadian amateur athletic association, accepts a gift or donation the granting of which was expressly or impliedly conditional on the association making a gift or donation to another person, club, society or association, the Minister may, by registered mail, give notice to the registered charity or registered Canadian amateur athletic association that the Minister proposes to revoke its registration.

168(2) Revocation of Registration

Where the Minister gives notice under subsection (1) to a registered charity or to a registered Canadian amateur athletic association,

- (a) if the charity or association has applied to the Minister in writing for the revocation of its registration, the Minister shall, forthwith after the mailing of the notice, publish a copy of the notice in the *Canada Gazette*, and
- (b) in any other case, the Minister may, after the expiration of 30 days from the day of mailing of the notice, or after the expiration of such extended period from the day of mailing of the notice as the Federal Court of Appeal or a judge of that Court, on application made at any time before the determination of any appeal pursuant to subsection 172(3) from the giving of the notice, may fix or allow, publish a copy of the notice in the *Canada Gazette*,

and on that publication of a copy of the notice, the registration of the charity or association is revoked.

168(4) Objection to proposal or designation

A person that is or was registered as a registered charity or is an applicant for registration as a registered charity that objects to a notice under subsection (1) or any of subsections 149.1(2) to (4.1), (6.3), (22) and (23) may, on or before the day that is 90 days after the day on which the notice was mailed, serve on the Minister a written notice of objection in the manner authorized by the Minister, setting out the reasons for the objection and all the relevant facts, and the provisions of subsections 165(1), (1.1) and (3) to (7) and sections 166, 166.1 and 166.2 apply, with any modifications that the circumstances require, as if the notice were a notice of assessment made under section 152.

Section 172: Appeal from refusal to register, revocation of registration, etc.

172(3) Appeal from refusal to register, revocation of registration, etc.

Where the Minister

- (a) refuses to register an applicant for registration as a Canadian amateur athletic association,
- (a.1) confirms a proposal, decision or designation in respect of which a notice was issued by the Minister to a person that is or was registered as a registered charity, or is an applicant for registration as a registered charity, under any of subsections 149.1(2) to (4.1), (6.3), (22) and (23) and 168(1), or does not confirm or vacate that proposal, decision or designation within 90 days after service of a notice of objection by the person under subsection 168(4) in respect of that proposal, decision or designation,
- (b) refuses to accept for registration for the purposes of this Act any retirement savings plan,
- (c) refuses to accept for registration for the purposes of this Act any profit sharing plan or revokes the registration of such a plan,
- (d) refuses to issue a certificate of exemption under subsection 212(14),
- (e) refuses to accept for registration for the purposes of this Act an education savings plan,
- (e.1) sends notice under subsection 146.1(12.1) to a promoter that the Minister proposes to revoke the registration of an education savings plan,
- (f) refuses to register for the purposes of this Act any pension plan or gives notice under subsection 147.1(1.1) to the administrator of a registered pension plan that the Minister proposes to revoke its registration,
- (f.1) refuses to accept an amendment to a registered pension plan, or
- (g) refuses to accept for registration for the purposes of this Act any retirement income fund, the applicant or the organization, foundation, association or registered charity, as the case may be, in a case described in paragraph (a) or (a.1), the applicant in a case described in paragraph (b), (d), (e) or (g), a trustee under the plan or an employer of employees who are beneficiaries under the plan, in a case described in paragraph (c), the promoter in a case described in paragraph (e.1), or the administrator of the plan or an employer who participates in the plan, in a case described in paragraph (f) or (f.1), may appeal from the Minister's decision, or from the giving of the notice by the Minister, to the Federal Court of Appeal.

Section 180: Appeals to Federal Court of Appeal

180(1) Appeals to Federal Court of Appeal

An appeal to the Federal Court of Appeal pursuant to subsection 172(3) may be instituted by filing a notice of appeal in the Court within 30 days from

- (a) the day on which the Minister notifies a person under subsection 165(3) of the Minister's action in respect of a notice of objection filed under subsection 168(4),
- (b) the mailing of notice to a registered Canadian amateur athletic association under subsection 168(1),
- (c) the mailing of notice to the administrator of the registered pension plan under subsection 147.1(11),
- (c.1) the sending of a notice to a promoter of a registered education savings plan under subsection 146.1(12.1), or
- (c) the time the decision of the Minister to refuse the application for acceptance of the amendment to the registered pension plan was mailed, or otherwise communicated in writing, by the Minister to any person,

as the case may be, or within such further time as the Court of Appeal or a judge thereof may, either before or after the expiration of those 30 days, fix or allow.

Section 188: Revocation tax

188(1) Deemed year-end on notice of revocation

If on a particular day the Minister issues a notice of intention to revoke the registration of a taxpayer as a registered charity under any of subsections 149.1(2) to (4.1) and 168(1) or it is determined, under subsection 7(1) of the Charities Registration (Security Information) Act, that a certificate served in respect of the charity under subsection 5(1) of that Act is reasonable on the basis of information and evidence available,

- (a) the taxation year of the charity that would otherwise have included that day is deemed to end at the end of that day;
- (b) a new taxation year of the charity is deemed to begin immediately after that day; and
- (c) for the purpose of determining the charity's fiscal period after that day, the charity is deemed not to have established a fiscal period before that day.

188(1.1) Revocation tax

A charity referred to in subsection (1) is liable to a tax, for its taxation year that is deemed to have ended, equal to the amount determined by the formula

A – B

where

A is the total of all amounts, each of which is

- (a) the fair market value of a property of the charity at the end of that taxation year,
- (b) the amount of an appropriation (within the meaning assigned by subsection (2) in respect of a property transferred to another person in the 120-day period that ended at the end of that taxation year, or
- (d) the income of the charity for its winding-up period, including gifts received by the charity in that period from any source and any income that would be computed under section 3 as if that period were a taxation year; and

B is the total of all amounts (other than the amount of an expenditure in respect of which a deduction has been made in computing income for the winding-up period under paragraph (c) of the description of A, each of which is

- (a) a debt of the charity that is outstanding at the end of that taxation year,
- (b) an expenditure made by the charity during the winding-up period on charitable activities carried on by it, or
- (c) an amount in respect of a property transferred by the charity during the winding-up period and not later than the latter of one year from the end of the taxation year and the day, if any, referred to in paragraph (1.2)(c) to a person that was at the time of the transfer an eligible donee in respect of the charity, equal to the amount, if any, by which the fair market value of the property, when transferred, exceeds the consideration given by the person for the transfer.

188(1.2) Winding-up period

In this Part, the winding-up period of a charity is the period, that begins immediately after the day on which the Minister issues a notice of intention to revoke the registration of a taxpayer as a registered charity under any of subsections 149.1(2) to (4.1) and 168(1) (or, if earlier, immediately after the day on which it is determined, under subsection 7(1) of the Charities Registration (Security Information) Act, that a certificate served in respect of the charity under subsection 5(1) of that Act is reasonable on the basis of information and evidence available), and that ends on the day that is the latest of

- (a) the day, if any, on which the charity files a return under subsection 189(6.1) for the taxation year deemed by subsection (1) to have ended, but not later than the day on which the charity is required to file that return,
- (b) the day on which the Minister last issues a notice of assessment of tax payable under subsection (1.1) for that taxation year by the charity, and
- (c) if the charity has filed a notice of objection or appeal in respect of that assessment, the day on which the Minister may take a collection action under section 225.1 in respect of that tax payable.

188(1.3) Eligible donee

In this Part, an eligible donee in respect of a particular charity is a registered charity

- (a) of which more than 50% of the members of the board of directors or trustees of the registered charity deal at arm's length with each member of the board of directors or trustees of the particular charity;
- (b) that is not the subject of a suspension under subsection 188.2(1);
- (c) that has no unpaid liabilities under this Act or under the Excise Tax Act;
- (d) that has filed all information returns required by subsection 149.1(14); and
- (e) that is not the subject of a certificate under subsection 5(1) of the Charities Registration (Security Information) Act or, if it is the subject of such a certificate, the certificate has been determined under subsection 7(1) of that Act not to be reasonable.

188(2) Shared liability — revocation tax

A person who, after the time that is 120 days before the end of the taxation year of a charity that is deemed by subsection (1) to have ended, receives property from the charity, is jointly and severally, or solidarily, liable with the charity for the tax payable under subsection (1.1) by the charity for that taxation year for an amount not exceeding the total of all appropriations, each of which is the amount by which the fair market value of such a property at the time it was so received by the person exceeds the consideration given by the person in respect of the property.

188(2.1) Non-application of revocation tax

Subsections (1) and (1.1) do not apply to a charity in respect of a notice of intention to revoke given under any of subsections 149.1(2) to (4.1) and 168(1) if the Minister abandons the intention and so notifies the charity or if

- (a) within the one-year period that begins immediately after the taxation year of the charity otherwise deemed by subsection (1) to have ended, the Minister has registered the charity as a charitable organization, private foundation or public foundation; and
- (b) the charity has, before the time that the Minister has so registered the charity,
 - (i) paid all amounts, each of which is an amount for which the charity is liable under this Act (other than subsection (1.1)) or the Excise Tax Act in respect of taxes, penalties and interest, and
 - (ii) filed all information returns required by or under this Act to be filed on or before that time.

188(3) Transfer of property tax

Where, as a result of a transaction or series of transactions, property owned by a registered charity that is a charitable foundation and having a net value greater than 50% of the net asset amount of the charitable foundation immediately before the transaction or series of transactions, as the case may be, is transferred before the end of a taxation year, directly or indirectly, to one or more charitable organizations and it may reasonably be considered that the main purpose of the transfer is to effect a reduction in the disbursement quota of the foundation, the foundation shall pay a tax under this Part for the year equal to the amount by which 25% of the net value of that property determined as of the day of its transfer exceeds the total of all amounts each of which is its tax payable under this subsection for a preceding taxation year in respect of the transaction or series of transactions.

188(3.1) Non-application of subsection (3)

Subsection (3) does not apply to a transfer that is a gift to which subsection 188.1(11) applies.

188(4) Idem

Where property has been transferred to a charitable organization in circumstances described in subsection (3) and it may reasonably be considered that the organization acted in concert with a charitable foundation for the purpose of reducing the disbursement quota of the foundation, the organization is jointly and severally liable with the foundation for the tax imposed on the foundation by that subsection in an amount not exceeding the net value of the property.

188(5) Definitions

In this section,

“net asset amount”

“net asset amount” of a charitable foundation at any time means the amount determined by the formula

A - B

where

A is the fair market value at that time of all the property owned by the foundation at that time, and

B is the total of all amounts each of which is the amount of a debt owing by or any other obligation of the foundation at that time;

“net value”

“net value” of property owned by a charitable foundation, as of the day of its transfer, means the amount determined by the formula

A - B

where

A is the fair market value of the property on that day, and

B is the amount of any consideration given to the foundation for the transfer.

Section 189**189(6) Taxpayer to file return and pay tax**

Every taxpayer who is liable to pay tax under this Part (except a charity that is liable to pay tax under section 188(1)) for a taxation year shall, on or before the day on or before which the taxpayer is, or would be if tax were payable by the taxpayer under Part I for the year, required to file a return of income or an information return under Part I for the year,

- (a) file with the Minister a return for the year in prescribed form and containing prescribed information, without notice or demand therefor;
- (b) estimate in the return the amount of tax payable by the taxpayer under this Part for the year; and
- (c) pay to the Receiver General the amount of tax payable by the taxpayer under this Part for the year.

189(6.1) Revoked charity to file returns

Every taxpayer who is liable to pay tax under subsection 188(1.1) for a taxation year shall, on or before the day that is one year from the end of the taxation year, and without notice or demand,

- (a) file with the Minister
 - (i) a return for the taxation year, in prescribed form and containing prescribed information, and
 - (ii) both an information return and a public information return for the taxation year, each in the form prescribed for the purpose of subsection 149.1(14); and
- (b) estimate in the return referred to in subparagraph (a)(i) the amount of tax payable by the taxpayer under subsection 188(1.1) for the taxation year; and
- (c) pay to the Receiver General the amount of tax payable by the taxpayer under subsection 188(1.1) for the taxation year.

189 (6.2) Reduction of revocation tax liability

If the Minister has, during the one-year period beginning immediately after the end of a taxation year of a person, assessed the person in respect of the person's liability for tax under subsection 188(1.1) for that taxation year, has not after that period reassessed the tax liability of the person, and that liability exceeds \$1,000, that liability is, at any particular time, reduced by the total of

- (a) the amount, if any, by which
 - (i) the total of all amounts, each of which is an expenditure made by the charity, on charitable activities carried on by it, before the particular time and during the period (referred to in this subsection as the "post-assessment period") that begins immediately after a notice of the latest such assessment was mailed and ends at the end of the one-year period exceeds
 - (ii) the income of the charity for the post-assessment period, including gifts received by the charity in that period from any source and any income that would be computed under section 3 if that period were a taxation year, and
- (b) all amounts, each of which is an amount, in respect of a property transferred by the charity before the particular time and during the post-assessment period to a person that was at the time of the transfer an eligible donee in respect of the charity, equal to the amount, if any, by which the fair market value of the property, when transferred, exceeds the consideration given by the person for the transfer.

189(6.3) Reduction of liability for penalties

If the Minister has assessed a registered charity in respect of the charity's liability for penalties under section 188.1 for a taxation year, and that liability exceeds \$1,000, that liability is, at any particular time, reduced by the total of all amounts, each of which is an amount, in respect of a property transferred by the charity after the day on which the Minister first assessed that liability and before the particular time to a person that was at the time of the transfer an eligible donee in respect of the charity, equal to the amount, if any, by which the fair market value of the property, when transferred, exceeds the total of

- (a) the consideration given by the person for the transfer, and
- (b) the part of the amount in respect of the transfer that has resulted in a reduction of an amount otherwise payable under subsection 188(1.1).

189 (7) Minister may assess

Without limiting the authority of the Minister to revoke the registration of a registered charity, the Minister may also at any time assess a taxpayer in respect of any amount that a taxpayer is liable to pay under this Part.