



REGISTERED MAIL

New Flame Deliverance Ministries
130 Industry Street, Unit #5
Toronto, ON M6M 5G3

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Attention: Monica Lewars

File #:950683

January 18, 2012

Subject: Audit of New Flame Deliverance Ministries

Dear Ms. Lewars:

This letter is further to the audit of the books and records of New Flame Deliverance Ministries (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, 2009 to December 31, 2010.

At our meeting of December 31, 2011, 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.	Issuing Receipts Not in Accordance with the ITA	118.1, 149.1(2), 168(1)(d)
2.	Failure to Maintain Adequate Books and Records	149.1(2), 168(1)(e), 230(2)
3.	Charity Information Returns - Incorrect Filing	Paragraph 168(1)(c) Subsection 149.1(14)

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. Issuing Receipts not in Accordance with the ITA:

The law provides various requirements with respect to the issuing of official donation receipts by registered charities. These requirements are contained in Regulations 3500 and 3501 of the Act and are described in some detail in Interpretation Bulletin IT-110R3 Gifts and Official Donation Receipts.

The audit reveals that the donation receipts issued by the Organization do not comply with the requirements of Regulation 3501 of the ITA and IT-110R3 as follows:

- Donation receipts issued without receiving "gifts" were not valid gifts and donations under section 118.1 of the ITA. Under the *Income Tax Act*, a registered charity can issue official donation receipts for income tax purposes for donations that legally qualify as gifts.
- A serial number (Regulation 3501(1)(c))
- The name the Canada Revenue Agency should be on all official donation receipts. (Regulation 3501(1)(j)).
- The statement "Official Receipt for Income Tax Purposes" should be located on each receipt (Regulation 3501(1))
- An exact copy of all official donation receipts should be maintained by the organization (ITA 230(2)(b)).

During our audit, we found that the bank deposits were significantly lower than the total of the official donation receipts issued. In 2009, the official donation receipts that were provided by the Organization for review totalled \$222,287.00. The total bank deposits for the fiscal year were \$23,815.92 resulting in a difference of \$198,471.08. The total revenues reported on the 2009 T3010 totalled \$241,692 which also increased the discrepancy. In 2009 it was alleged by the Organization that their computer crashed, consequently serial numbers were not used and a proper donor database was not maintained and we were unable to determine the total quantity of receipts issued by the organization. The donation book summary of members that was maintained by the organization totalled \$17,817.71 for the year; however the summary was not complete.

The 2010 official donation receipts provided for review by the organization, totalled \$45,753.19 however the total bank deposits were \$40,618.12 resulting in a difference of \$5,135.07. In

addition, the donation book summary of members totalled \$13,039.00 for the year. CRA obtained additional donation receipts for 2010 that were included in individual's tax returns. These donation receipts totalled \$162,178 (21 donors), and the receipts were all signed by Ms Lewars as being received by the organization. These receipts were not part of the books and records of the Organization. We are unaware if others exist. The total revenues reported on the T3010 for 2010 totalled \$44,279. The 2010 T3010 was prepared by a different accountant than the 2009 T3010 which resulted in the decrease in revenues reported at line 4500. The 2009 Total received gifts per the T3010 include donation receipts purportedly issued by the organization but no funds were ever deposited.

During the initial interview of October 17, 2011, Ms. Lewars provided the auditor her ledger books and copies of some of the official receipts that she had. She noted that she did not have them all as her computer crashed and was completely wiped out. We reviewed the amounts of the official donation receipts and compared them to the total bank deposits. We then contacted 23 of the donors and requested information to support their donations. Each of the donors provided a weekly summary of total donations made which was stamped by the organization and signed by Ms. Lewars, along with a copy of the receipt and the letter we sent them.

We contacted Ms. Lewars on December 13, 2011 by telephone, and asked if she had been contacted by any of her donors to ask for supporting information for their donations. She noted that she had and confirmed that she provided excel summaries to all of them, but could not remember how many she provided, but said she would forward copies to the auditor.

During an interview with Ms. Lewars of December 21, 2011, we discussed the above variances. She noted that for the 2009 return, she was working with two accountants, while in 2010 she was just working with one accountant. She explained that the accountant that prepared her 2010 T3010 return prepared the donation receipts, and she signed them. Ms. Lewars also said that the accountant did prepare the excel summaries that were provided to donors, and she signed them. It was then further explained that the Organization did not receive the money for the receipts for the larger amounts, as confirmed by the small total deposits for the year. She did confirm that an amount was received from the accountant of \$12,000 as payment for the purchase of donation receipts. The payment was to go toward the Organization's building fund. She provided a signed statement noting that the receipts were not a valid gift.

Additionally, the organization should be aware that certain amendments to the ITA were introduced as part of Bill C-33 tabled in Parliament on March 23, 2004, that came into force May 13, 2005. As part of the amendments, a registered charity that issues an official donation receipt that includes incorrect information is liable to a penalty equal to 5% of the eligible amount stated on the receipt. This penalty increases to 10% for a repeat infraction within 5 years.

A registered charity that issues an official donation receipt that includes false information is liable to a penalty equal to 125% of the eligible amount stated on the receipt, where the total does not exceed \$25,000. Where the total exceeds \$25,000, the charity is liable to a penalty equal

to 125% and the suspension of tax-receiving privileges. We do not believe that this is an appropriate alternative, given the serious nature of the matter of non-compliance.

Under paragraphs 168(1)(d) of the ITA, the Minister may, by registered mail, give notice to the registered charity that the Minister proposes to revoke its registration if it issues a receipt otherwise than in accordance with the ITA and the Regulations. It is our position the Organization issued receipts for transactions that do not qualify as gifts at law. For this reason alone there are grounds for revocation of the charitable status of New Flame Ministries under paragraph 168(1)(d) of the ITA.

In addition, it should be noted that the organization failed to accept valid gifts in accordance with the ITA by accepting and issuing receipts for transactions that do not qualify as gifts. This can be supported as follows:

a) No *Animus Donandi*

Under the common law, a gift is a voluntary transfer of property without consideration. However, an additional essential element of a gift is *animus donandi* - that the donor must be motivated by an intention to give. It must be clear that the donor intends to enrich the donee, by giving away property, and to generally grow poorer as a result of making the gift.

It is our view that the transactions involving the Organization fail to meet this latter element. The common theme, found throughout all of these transactions, is that through an artificial series of transactions "donors" profit through the donation tax credits so obtained. It was confirmed that many of the individuals in which tax receipts were provided to, were not members of the church, nor had attended a service at this organization. They did not give the money directly to the organization, rather to the accountant who provided them with a copy of the donation receipt. It is clear that the primary motivation of the donors is intent to profit, and, as such, these transactions fail to qualify as gifts at law. Participants in these arrangements are merely expected to pay a portion of the total tax received amount from the Organization after their personal tax return has been assessed by CRA.

As such, it is our position that there is no intention to make a "gift" within the meaning assigned at 118.1 of the ITA. Participants in these donation arrangements are primarily motivated by the desire to profit from the artificial manipulation of the tax incentives available from donations rather than a desire to enrich the charity. In our view, these transactions, given the combination of the tax credits and other benefits received, lack the requisite *animus donandi* to be considered gifts.

b) Transfers not gifts - Benefit received

Additionally, we are of the opinion that the donation transactions themselves lack the necessary elements to be considered gifts at law. The "donors" received donation receipts or benefit without making gifts. It is clear, based upon our conversation and the books and records that recipients of the donation receipts had a clear expectation of return and benefit for the payment

of only a portion of the received amount after they receive their tax refunds. In our view, given that the Organization is responsible for the issuance of improper tax receipts, this represents an extremely serious abuse of the Charity's tax receipting privileges.

c) Property Transferred

We are greatly concerned that the "gifts" the Organization received was only a small percentage of the total tax receipted amount. The Organization at no time is entitled to issue receipts for an amount more than the fair market value of the property donated to it. Based on the books and records of the Organization, it issued official donation receipts for far more than the amounts received from the donor. For this reason, it appears to us that there are grounds for revocation of the charitable status of New Flame Deliverance Ministries under paragraph 168(1)(d) of the ITA.

2. Failure to Maintain Adequate Books and Records:

The ITA, per subsection 230(2), requires that 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 the revocation of its registration under the Act;
- b) A duplicate of each 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 a deduction or tax credit is available under the ITA.

In addition, subsection 230(4) also states "every person required by this section to keep books of account shall retain:

- a) The records and books of account referred to in this section in respect of which a period is prescribed, together with every account and voucher necessary to verify the information contained therein, for such period as is prescribed; and
- b) All other records and books of account referred to in this section, together with every account and voucher necessary to verify the information contained therein, until the expiration of six years from the date of the last taxation year to which the records and books relate".

Audit results indicate that the Organization's books and records were inadequate and the Organization failed to comply with subsection 230(2) of the Act to maintain adequate books and records.

- All supporting documentation to verify and substantiate the expenses claimed by the organization was not available for review. Specifically, the organization provided copies

of all of the source documentation for 2010. We reviewed the invoices provided and they totalled \$16,898.08. Per the 2010 T3010 filed, a total of \$44,056 in expenditures were claimed. In addition, please note that debit and credit card receipts do not adequately support expenses. Original documentation must be available.

The ledger books maintained could not be reconciled to source documents or the T3010. They were not complete for either year in the audit period.

- All bank statements were not available for review. Specifically, the March 2010 and October 2009 statements.

- Copies of all official donation receipts were not provided. It was noted that the 2009 receipts were saved on a computer which crashed sometime in 2010. Many of the 2010 receipts were also unavailable. As the official donation receipts did not have a serial number, it could not be determined how many receipts were issued. In many cases, a copy of a receipt with one donor's information would be scratched out and another donor's information would be handwritten on that copy of the receipt.

3. T3010 Information Return:

Pursuant to subsection 149.1(14) of the Act, every registered charity must, within six months from the end of the charity's fiscal year end, file a Registered Charity Information Return (T3010A) with the applicable schedules.

It is the responsibility of the charity to ensure that the information that is provided in its return, schedules and statements, is factual and complete in every respect. A 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.

The Organization has improperly completed the T3010A return for the December 31, 2009 and December 31, 2010 fiscal periods, as there were several errors and omissions.

(1) *Line 4500 to 4700 - Revenues*

We could not reconcile the revenues reported to the bank deposits, general ledger accounts or supporting documentation. For example, in 2009 the organization reported revenues of \$241,692. The bank deposits totaled \$23,815.92, while the general ledger book indicates receipted revenues of \$17,817.71.

(2) *Line 4800 to 4950 - Expenditures*

The expenditures claimed by the organization could not be verified to adequate supporting documentation. In addition, we were not able to reconcile the amounts from the T3010's as filed to the general ledger.

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,

Megan O'Hara
for
Megan O'Hara
Audit Division
Kitchener Tax Services Office

[REDACTED] [REDACTED]

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(11) 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.



OCT 30 2012

REGISTERED MAIL

New Flame Deliverance Ministries
130 Industry Street, Unit #5
Toronto ON M6M 5G3

BN: 84586 8751 RR0001
File #:0950683

Attention: Ms. Monica Lewars

**Subject: Notice of Intention to Revoke
New Flame Deliverance Ministries**

Dear Ms. Lewars:

I am writing further to our letter dated January 18, 2012 (copy enclosed), in which you were invited to submit representations as to why the registration of New Flame Deliverance Ministries (the Organization) should not be revoked in accordance with subsection 168(1) of the *Income Tax Act*.

We have now reviewed and considered your written response of March 1, 2012 (copy enclosed). However, notwithstanding your reply, our concerns with respect to the Organization issuing official donation receipts that are not in accordance with the Act, failure to maintain adequate books and records, and not filing an accurate information return have not been alleviated. The basis for our concerns is explained below.

1. Issuing Tax Receipts Not In Accordance with the Act

The Organization reported revenues of \$241,692 in 2009 and \$44,279 in 2010. Based on the information reviewed during the audit, the Organization issued official donation receipts for \$222,287 in 2009 and \$207,931 in 2010 while bank deposits were \$23,815.92 and \$40,618.12, respectively. Of note was that the Organization had only provided donation receipts totalling \$45,753 for 2010 with the balance being obtained from the tax returns of individuals.

During the meeting of December 21, 2011, the President of the Organization admitted to signing and issuing donation receipts for monies which were not received. She also confirmed that she received \$12,000 from her accountant as a payment for the purchase of donation receipts.

Canada

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

In addition, the official donation receipts did not contain all the information specified in Regulation 3501 of the Act. They did not have a serial number, the name of the Canada Revenue Agency (CRA), or the statement that it was an official receipt for income tax purposes.

The Organization's response acknowledges the deficiencies of their official donation receipts with respect to the requirements of Regulation 3501 of the Act and openly admits to issuing false donation receipts for the payment of \$12,000.

The fact that the Organization issued donation receipts for gifts that were not received, the CRA is of the position that this particular issue by itself is sufficient basis for the revocation of the Organization's registered status.

2. Failure to Maintain Adequate Books and Records

The Organization did not maintain adequate books and records. This included, but was not limited to, the lack of supporting documentation to substantiate expenditures, general ledgers that could not be reconciled to the T3010, and all copies of official donation receipts not maintained by the Organization. In addition, the auditor noted that the information on many donation receipts was altered. One donor's information was scratched out to replace it by another donor's name.

The Organization's response states that it has maintained its books and records in the same manner for 24 years and was not aware of any problems until it started issuing donation receipts. The Organization realized the deficiency was their fault only after attending a seminar in November where the requirements of subsection 230(2) of the Act were passed on to the attendees.

The Organization denies that the supporting documentation provided during the audit did not substantiate all the expenditures claimed. These expenditures included rent. The Organization states that it never received receipts from their landlord for the rent paid. The Organization also states that there was no alteration of information on donation receipts. The original donor information was traced over to make it legible after there was an ink issue with a printer. According to the Organization, all donation receipts for 2010 kept by the Organization were provided to the auditor including copies prepared by their accountant.

The Organization admits that it under-reported the amount for which it issued official donation receipts in 2010 without providing an explanation. In addition, the Organization states it cannot confirm if there were other donation receipts issued that are not accounted for as there were no serial numbers on a particular set of donation receipts issued. These donation receipts were prepared based on information provided by the accountant and signed by Monica Lewars.

A registered charity must keep adequate books and records at a Canadian address it has on file with us, so that we can verify official donation receipts issued, as

well as its revenue and expenditures. A charity must also keep source documents that support the information in the records and books of account.

While the Organization disagrees with the auditor's reconciliation of the expenditures for 2010, no further source documentation was provided with the response. In addition, the Organization admits it did possess donation receipts it issued that were not reported on the 2010 Information Return. These particular donation receipts did not meet the requirements of Regulation 3501 of the Act and were based solely upon information provided by the accountant.

Based upon the above, it is evident the Organization did not maintain adequate books and records with respect to its revenue and expenditures.

3. Failure to File an Accurate Information Return

The Organization failed to report \$117,899 in additional official donation receipts it had issued in 2010. The expenditures claimed could not be supported by adequate supporting documentation.

The Organization's response acknowledges the information returns contained errors and omissions but only with respect to the donations received. The additional donation receipts were signed by the President, but prepared with information from their accountant. As noted previously, the Organization denies the audit finding that supporting documentation provided during the audit did not substantiate the expenditures claimed.

Conclusion:

The Canada Revenue Agency's (CRA) audit has revealed that New Flame Deliverance Ministries (the Organization) is not complying with the requirements set out in the *Income Tax Act* (the Act). In particular, it was found that the Organization issued official donation receipts not in accordance with the Act, failed to maintain adequate books and records, and failed to file an accurate information return.

The Organization reported revenues of \$241,692 in 2009 and \$44,279 in 2010. An analysis of the Organization's bank accounts revealed deposits of \$23,815.92 in 2009 and \$40,618.12 in 2010 while the Organization had issued official donation receipts for \$222,287 and \$207,931, respectively. As previously noted, the Organization had only provided donation receipts totalling \$45,753 for 2010 with the balance being obtained from the tax returns of individuals. When questioned about the discrepancy between the deposits and the tax-receipted amounts, the Organization's President admitted to signing and issuing donation receipts for monies which were not received. The President also confirmed she received \$12,000 from the Organization's accountant as payment for the purchase of donation receipts.

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 section 168(1) of the Act.

Consequently, for each of the reasons mentioned in our letter dated January 18, 2012, I wish to advise you that, pursuant to subsection 168(1) 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)(d) and 168(1)(e) 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
84586 8751RR0001

Name
New Flame Deliverance Ministries
Toronto ON

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.

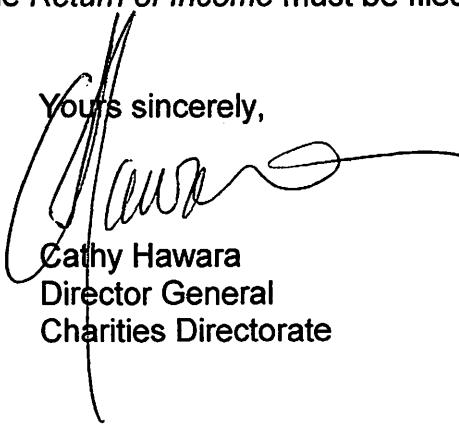
Consequences of Revocation

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 1-800-959-8287 (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 January 18, 2012
- Representation dated March 1, 2012
- Appendix "A", Relevant provisions of the Act

c.c.: Jennifer Klotz, B.A. (Hons.) J.D. and Sidney Klotz B.A. LL.B..
1177 Weston Road
Toronto ON M6M 4P5