



CANADA REVENUE
AGENCY

AGENCE DU REVENU
DU CANADA

REGISTERED MAIL

New Hope Ministries Institute
292228 Butte Hills Lane RR2
Balzac AB T0M 0E0

BN: 134665876RR0001

Attention: Mr. Dan Reinhardt

File #:0935684

September 8, 2009

Subject: Revocation of Registration
New Hope Ministries Institute

Dear Mr. Reinhardt:

The purpose of this letter is to inform you that a notice revoking the registration of New Hope Ministries Institute (the Organization) was published in the *Canada Gazette* on September 5, 2009. 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* (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 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 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 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 the undersigned 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

Cc: Mr. Robert McMechan, LLB, LLM



REGISTERED MAIL

New Hope Ministries Institute
292228 Butte Hills Lane RR2
Balzac AB T0M 0E0

JUL 24 2009

BN: 13466 5876 RR0001
File: 0935684

Attention: Mr. Dan Reinhardt

**Subject: Notice of Intention to Revoke
New Hope Ministries Institute**

Dear Mr. Reinhardt:

I am writing further to our letter dated October 29, 2008 (copy enclosed), in which you were invited to submit representations as to why the Minister of National Revenue (the Minister) should not revoke the registration of New Hope Ministries Institute (the Charity) in accordance with subsection 168(1) of the *Income Tax Act* (the Act).

We have reviewed and considered the written response dated December 31, 2008 (copy enclosed without attachments) from your authorized representative Mr. Robert McMechan. However, notwithstanding your reply, our concerns with respect to the Charity's non-compliance with the requirements of the Act for registration as a charity have not been alleviated. Our position is fully described in Appendix "A" attached.

Conclusion:

Our audit has concluded that from January 1, 2005 to December 31, 2006, New Hope Ministries Institute issued receipts totalling in excess of \$100 million for pharmaceuticals received through the Canadian Humanitarian Trust (CHT) tax shelter arrangement. Once receipted, the Charity immediately directed the pharmaceuticals to another charity also participating in the CHT arrangement. The Charity's records; however, fail to substantiate that the values recorded on the receipts were accurate or that the property was distributed for charitable purposes.

For its participation and tax-receipting abilities, the Charity received a cash gift from another participating charity of \$1.5 million. Of this amount, the Charity paid \$1.0 million to the tax shelter promoters as fundraising fees. The Charity itself retained a meagre \$500,000 from the total tax-receipted amount for use in its own activities.

Based on the audit results, it is our position that the Charity has operated for the non-charitable purpose of promoting a tax shelter arrangement and for the private benefit of the tax shelter promoters. In addition, it is our position that the Charity has undertaken activities beyond its corporate mandate; issued receipts for transactions that do not qualify as gifts, issued receipts otherwise than in accordance with the *Income Tax Act* and its Regulations and has failed to maintain sufficient books and records to support its activities. For all of these reasons, and for each of these reasons alone, it is the position of the Canada Revenue Agency that the Charity's registration should be revoked.

Consequently, for each of the reasons mentioned in our letter dated October 29, 2008, I wish to advise you that, pursuant to the authority granted to the Minister in subsections 149.1(2) and 168(1) of the Act, which has been delegated to me, I propose to revoke the registration of the Charity. 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 under subsection 149.1(2), and paragraph 149.1(2)(b), of the Income Tax Act and that the revocation of registration is effective on the date of publication of this notice.

Business Number	Name
134665876RR0001	New Hope Ministries Institute Balzac AB

Should you wish to object to this Notice of Intention to Revoke the Charity'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 Charity's registration will be revoked on the date of publication, unless the Canada Revenue Agency 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 Charity 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 Charity 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 Charity 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 Charity 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 "B", 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 Charity will no longer qualify as a charity for purposes of subsection 123(1) of the *Excise Tax Act* (ETA). As a result, the Charity 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 prescribed form, containing prescribed information, for each taxation year. The *Return of Income* must be filed without notice or demand thereof.

Yours sincerely,


Terry de March
Director General
Charities Directorate

Attachments:

- CRA letter dated October 29, 2008;
- Your letter dated December 31, 2008 (without attachments);
- Appendix "A", Comments on Representations;
- Revised Appendices of CRA letter dated October 20, 2008; and
- Appendix "B", Relevant provisions of the Act

cc: Mr. Robert McMechan, LLB, LLM

[REDACTED]



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BY REGISTERED MAIL

New Hope Ministries Institute
292228 Butte Hills Lane RR2
Balzac, Alberta T0M 0E0

Attention: Mr. Dan Reinhardt

BN: 13466 5876 RR0001

File: 0935684

SUBJECT: Audit of New Hope Ministries Institute

October 29, 2008

Dear Mr. Reinhardt:

This letter is further to the audit of the books and records of New Hope Ministries Institute (the "Charity") by the Canada Revenue Agency (the "CRA"). The audit related to the operations of the registered charity for the period from January 1, 2005 to December 31, 2006.

The results of this audit indicate that the Charity appears to be in non-compliance of certain provisions of the *Income Tax Act* (the "ITA") or its Regulations. The CRA has identified specific areas of non-compliance with the provisions of the ITA or its Regulations in the following areas:

AREAS OF NON-COMPLIANCE:		
	Issue	Reference
1.	Failure to Devote Resources to Charitable Activities	149.1(2), 168(1)(b)
2.	Failure to Accept Valid Gifts in Accordance with the ITA	118.1
3.	Issuing Receipts Not in Accordance with the ITA	149.1(2), 168(1)(d), Regulation 3501
4.	Failure to Maintain Adequate Books and Records	149.1(2), 168(1)(e), 230(2)
5.	Failing to File an Accurate Information Return	149.1(2), 168(1)(c)
6.	Failure to Meet its Disbursement Quota	149.1(2)(b)

The purpose of this letter is to describe the areas of non-compliance identified by the CRA during the course of our audit as they relate to the legislative provisions applicable to registered charities and to provide the Charity with the opportunity to

address our concerns. In order for a registered charity to retain its registration, it is required to comply with the provisions of the ITA and Common Law applicable to registered charities. If these provisions are not complied with, the Minister of National Revenue (the "Minister") may revoke the Charity's registration in the manner prescribed in section 168 of the ITA.

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

Identified Areas of Non-Compliance:

The Charity was incorporated with the province of Alberta on July 7, 1992, and registered with the following objectives: "to fund, facilitate, promote and carry out activities and programs which provide Biblically based counselling [sic] and life training skills to individuals and families in a way the law regards as charitable; to receive gifts, bequests, funds and property and to hold, invest, administer and distribute funds and property for the purposes of the Society, for such other organizations as are "qualified donees" under the provisions of the *Income Tax Act* and for such other purposes and activities as are authorized for registered charities under the provisions of the *Income Tax Act*; and to do all other things as are incidental and ancillary to the attainment of the forgoing purposes and the exercise of the powers of the Society."

The Charity was registered with the understanding that it would provide churches of all denominations with qualified professional counsellors who will train lay-counsellors, supervise them and assist in the set up of support groups in conjunction with presenting seminars and workshops to the churches. The Charity also intended to provide spiritual, family and marital counselling services to the public.

1. Failure to Devote Resources to Charitable Activities

In order to satisfy the definition of a "charitable organization" pursuant to subsection 149.1(1) of the ITA, "charitable organization" means an organization, "all the resources of which are devoted to charitable activities".

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

Based on our audit findings, the Charity has demonstrated that it does not operate for purely charitable purposes. In fact, the evidence on the file, as outlined below, demonstrates that the preponderance of the effort and resources of the Charity are devoted to participating in a tax planning donation arrangement. Operating for the

purpose of promoting a tax planning donation arrangement is not a charitable purpose at law.

a) Non-Charitable Purpose

Tax Shelter Arrangements:

As noted, the Charity is primarily operating for the purpose of supporting, promoting and participating in an abusive tax shelter arrangement. The Charity is engaged in an artificial series of transactions that appears to have resulted in the Charity receipting over 100 million dollars of donations (in its first year of participation in the tax shelter) while actually receiving and devoting a comparatively insignificant amount of resources to actual charitable activities. As such, the Charity is engaging in activities beyond the scope of what it was registered to undertake and pursuing non-charitable purposes and activities.

The Charity participated in the Canadian Humanitarian Trust ("CHT") tax shelter (TS69310), promoted by World Health Initiatives Inc ("WHI"), for fiscal periods 2006, 2007 and 2008 by agreeing to accept cash and/or property from taxpayers and registered charities that were also participants in the tax shelter. The Charity entered into an agreement with WHI on May 24, 2006 whereby the Charity *"wishes to increase their donor base and to increase the donations which it receives in both monies and gifts-in-kind from the general population in donations; and ...wishes to increase the level of their support for humanitarian relief in the third world; and ...specifically wishes to provide support to the third world medical relief program of the Canadian Physicians and Aid Relief (CPAR)."*¹

Generally, the 2006 CHT donation program involves Canadian individual participants (the "donors") making a cash donation to a designated registered charity. The donor then makes application to become a capital beneficiary of the Canadian Humanitarian Trust(s) (the "Trust"). The donor indicates on the application the number of pharmaceutical units they wish to receive. The donor also acknowledges on the application that each of the pharmaceutical units is subject to a limited recourse lien. Upon acceptance as a beneficiary, the donor receives a capital distribution from the Trust in satisfaction of his capital interest in the Trust. The capital distribution is in the form of pharmaceutical units, which the donor then "donates" to a second designated Canadian registered charity, such as New Hope Ministries Institute, in transactions facilitated by the Promoter acting as agent for the donor. The donor receives two official donation receipts for the "gifts" made to both charities: one receipt for the cash "gift" and one receipt for the value of the pharmaceutical units less the lien amount. The purported value of the pharmaceutical units, on average, is three times the value of the cash "gift".²

¹ Fundraising agreement between the Charity and WHI dated May 24, 2006.

² The proportion of cash to purported value of the pharmaceuticals fluctuates throughout the calendar year as donor's participating earlier in a calendar year is rewarded with "cash discounts". As a result, donors contribute less cash yet receive the same purported value of pharmaceuticals as a donor who participates in the latter part of the year.

The CHT donation program also involves the participation of a third designated Canadian registered charity, such as Canadian Physicians for Aid and Relief ("CPAR"). This designated charity receives "donations" of pharmaceutical units from the second designated charity and also receives "donations" of cash from the first designated charity. The third charity is represented as being a distributor of the pharmaceutical units and as such, has purportedly "distributed" the pharmaceutical units to needy individuals in third world countries.

As noted above, the Charity's role in this donation arrangement is to accept and issue receipts for the participant donor's pharmaceutical units and to "gift" all pharmaceuticals received to the third designated Canadian registered charity. The Charity earns, for its participation, tax-receipting ability and registered charity status "a gift from CPAR equal to 1.57% of the receipted pharmaceuticals". The Charity also agrees to "pay WHI a fee equal to 1% (plus applicable GST) of the receipt value of all gifts WHI solicits on behalf of NEW HOPE [the Charity]." The net result is that the Charity receives, in cash "gifts", 0.5% of the receipted value pharmaceuticals.

For the years audited, the Charity has issued official donation receipts for "gifts" received from participant donors of over \$100 million (per its annual information return filed) and has accordingly "earned" over \$500,000 as a result of its participation in the CHT program. During this same period, the Charity received income over \$500,000 or 0.5% of total income reported from donations, gifts from other charities (excluding CPAR), gain on sale of assets and sales of goods and services. The Charity also paid fundraising fees to WHI in excess of \$1 million less any GST/HST rebate the Charity applied for, and "gifted" over \$91.4 million to CPAR. We note the Charity has reported the "gifts" made to CPAR as expenditures on its own charitable programming as per its annual information returns filed however the Charity has failed to show how the pharmaceutical units transferred to CPAR were in furtherance of the Charity's registered objects.³

Prior to its participation in the CHT donation program, the Charity reported gross average income of approximately \$95,000 and gross average expenses of approximately \$103,000.⁴

From the Charity's participation in the CHT program, it is our position the Charity is primarily operating as a tax-receipting conduit for the identified tax shelter. In the donation arrangement, the Charity agrees to accept the donations being promoted and sign official donation receipts prepared by WHI for the amounts determined by the tax shelter scheme promoter. Per correspondence obtained, "NEW HOPE [the Charity] agrees to prepare tax receipts for the donations in a form acceptable to the Canadian [sic] Revenue Agency, in a timely manner, and in no case later than 7 days from the

³ We note that the mandate of this CPAR has little, if anything, in common with the stated purposes of the Charity.

⁴ Average calculated based on Total Income and Total Expenditures reported by the Charity on its annual information returns for the periods ending December 31, 2002 to December 31, 2005.

date of notification of the gift, (such notification is to come from WHI along with all information necessary." In fact, the Charity was not involved in the actual physical receipt of the pharmaceutical unit "gifts" as the property was maintained at all times outside Canada and the Charity relied upon schedules presumably presented by WHI as to the type and amount of the donation.

The Charity did not appear to evaluate the program or the goods to be received prior to engaging in operations with the tax shelter. In the Charity's Board minutes dated November 29, 2007 – eighteen months after agreeing to participate – the Board records, *"Recognizing the large financial activity (\$100 million) of our involvement with the Canadian Humanitarian Trust program and our corresponding responsibility, the Directors initiated a process to further scrutinize the program and ensure that everything is in order."* Due to redaction of certain portions of the minutes, we are unable to confirm whether the Charity sought an independent review of the program from its legal representatives and/or valuers prior to its involvement in the program or at a later date. If an independent review was performed, the Charity has not indicated whether the recommendation was favourable or unfavourable. It appears the Board did not obtain an independent third party review of the program, or did not obtain a favourable recommendation to participate in the program, as the minutes further record the Charity will be *"seeking an additional third party legal opinion"* and Board minutes prior to this date merely mention the Charity has signed up with WHI to do fundraising and provide updates on amounts received from WHI. The minutes indicate the Board will *"further with [its] due diligence so that if questioned we could not only affirm the validity of the program, but could also say we had personally confirmed the distribution of pharmaceuticals"* and agreed to sending a representative on a due diligence trip in 2008 to *"personally verify the pharmaceutical distribution."* Copies of any independent third party opinions have not been provided by the Charity. It is evident, from the above and from the materials provided that the Charity did not evaluate the program prior to its May 24, 2006 engagement aside from meeting with the representatives who promote the tax shelter.

The Charity has also entered into a fundraising agreement with Funds for Canada Foundation ("FCF"). The agreement is between FCF and CREST Centre for Leadership Development, a program operated by the Charity, dated November 2, 2006. The agreement outlines that the Charity is to raise \$1.4 million in aggregate donations which will be donated to FCF for the benefit of the participating charity [the Charity] and FCF will issue income tax receipts. FCF is a recipient of cash donations from donors participating in the Donations for Canada tax shelter (TS070623) promoted by ParkLane Financial Group Ltd ("ParkLane"). From literature available to CRA, participating donors in the Donations for Canada tax shelter contribute \$2,500 in cash (per \$10,000 aggregate donation) to FCF and apply to become a beneficiary of a Canadian-resident trust. As an accepted beneficiary of the trust, donors are issued a beneficial interest in the trust and in satisfaction of such beneficial interest, receive sub-trust units valued at \$7,500 (per \$10,000 aggregate donation). The sub-trust units are then donated to FCF and receipts are issued for each donation. FCF purportedly redeems the sub-trust units received from donors for cash then the total tax-receipted funds, less any expense deductions, are paid to Trafalgar Trading Limited ("TTL") in consideration for variable

and contingent royalty payments based on trading of international futures contracts. FCF is entitled to an 80% share in profits generated from TTL's trading activity for twenty years.

Under the agreement, FCF will transfer 0.75% of the total donations raised by the Charity to the Charity while retaining 0.25% of the total donations for administration costs. The agreement also provides for the Charity to receive profit payments less a 5% administration cost deducted by FCF.

In the Board minutes dated August 28, 2006, the Charity records it has raised the \$350,000 necessary to qualify for the FCF program. As per above, cash contributions of \$350,000 afford participating donors to receive sub-trust units of the Canadian resident trust valued at \$1,050,000 thereby equating the \$1,400,000 required to be raised by the Charity in aggregate donations to participate in the program. The Charity in turn would have received \$10,500 from FCF in consideration for raising \$1,400,000 in aggregate donations. The Charity also reports receiving over \$170,000 in net profit payments from FCF in 2006.

The terms of the agreement are such that the Charity is engaged on behalf of FCF and ParkLane to solicit donations for the Donations for Canada tax shelter program and as a result, is compensated based on a percentage of total receipted donations. CRA audits have raised concerns that the tax-receipted funds purported to be paid to TTL for variable and contingent royalty payments based on trading of international futures contracts did not occur. Rather, a majority of the tax-receipted funds were transferred back to the same trust distributing sub-trust units to beneficiaries as software licensing fees and that remaining funds were used to pay fundraising and administrative costs associated with the tax shelter program. Accordingly, it is our position the Charity is compensated for its fundraising efforts from the same cash contributions it raised, including any annual profit payments received.

It is our view the Charity enthusiastically lent its physical, financial and human resources (particularly with respect to its tax receipting privileges) to support these tax shelter arrangements, with little regard for the legitimacy of the arrangement, interests of the Charity itself, or the donors it referred to the programs. As above, the overwhelming majority of the property received by the Charity during the years in question was received through such arrangements – property the Charity neither saw, valued, or distributed itself, but rather was paid to issue tax receipts for 0.5-0.75% of the amount receipted. It is our opinion that, during these years the collateral purpose, if not primary purpose of the organization was, in fact, to support and promote tax shelter arrangements. It is clear that the Charity had little to no actual involvement in controlling and operating these programs. Operating for the purpose of promoting a tax shelter arrangement is not charitable at law.

By pursuing the promotion of tax shelter arrangements, the Charity has failed to demonstrate that it meets the test for continued registration under 149.1(1), as it appears not all of its resources were devoted to charitable activities. For this reason, it appears to us that there may be grounds for revocation of the charitable status of New Hope Ministries Institute.

b) Operating Ultra Vires

As described earlier, registered charities are required to pursue activities in furtherance of the purposes for which they are established. There is some concern that the Charity is operating outside of its corporate mandate.

Per above, the Charity was essentially registered to provide Biblically based counselling, life training skills and to gift to qualified donees. A review of the file indicates that, of the activities conducted by the Charity, very few fall within this charitable mandate. The Charity appears to operate certain projects under the guidance of a Board and then upon dissolution or finalization of a project, it transfers the charitable registration number and name to another Board. This is seemingly confirmed by the present Board's opening statement of July 5, 2006, "*This is our new charity that we recently acquired.*"

In 1998 the Charity reported its activities as Grace on Tap Recovery Ministries. It operated a "Christian counselling service which provided subsidized counselling to referrals from pastors, psychologists, MD's, government agencies, etc."⁵ This activity was carried on until 2001.

In 2002, the Charity listed its activities as Rapha House. It offered emergency shelter for low income single women; employment preparation and training; crisis counselling; and financial help counselling. These activities were carried on until the Rapha House was sold in 2006.

In 2006, the annual information return reported that Rapha House ceased operations in 2006 and listed its new programs as: 1) Biblically based life and leadership training; 2) World humanitarian relief program - Assisting families with basic medicines; 3) Defending families and individuals for biblical and human rights; 4) Influencing aid to help poor families; and 5) Supporting other Canadian Charities. During the course of the audit, the Charity also provided information on the following activities undertaken:

- CREST Leadership Development Centre: A two-year, experimental learning journey designed for busy mid-life leaders.
- Kinderbaum: Partnership with an aid organization that raises funds for international orphanages.
- Alliance Defense Fund: Receipt of funds for the defense of conservative values in Canadian courts.
- TRACE AID: Interfacing with government and aid donors to encourage them to channel aid through NGOs which have demonstrated commitment.
- World Humanitarian Aid: CHT pharmaceutical program.

⁵ Per the Charity's Registered Charity Information Returns filed.

Each transition of activities corresponds with a complete change in the Board of Directors. While some of the activities identified as being carried on by the Charity fall within their registered objects, the majority do not. For example, operating an emergency shelter for low income single women, while it may be charitable, is outside the scope of the Charity's objectives.

We have examined the Charity's activities and whether the activities would be charitable in the legal sense under the four heads of charity.

Advancement of Education:

To advance education in the charitable sense means training the mind, advancing the knowledge or abilities of the recipient, raising the artistic taste of the community, or improving a useful branch of human knowledge through research. In addition to this definition, the Supreme Court of Canada set out a number of criteria to determine whether a purpose or activity is charitable:

- There must be structure and a genuinely educational purpose;
- There must be a teaching or learning component; and
- There must be a legitimate, targeted attempt to educate others.

The presentation of selected items of information and opinion cannot be regarded as charitable. Moreover, it is not sufficient to simply inform people on a particular subject, and making available an opportunity for people to educate themselves will not generally suffice.⁶ No matter how useful the provision of information, opinions or opportunities may be, it lacks the necessary element of well-rounded, structured, targeted instruction that characterizes education in the charitable context.

The Charity operates the CREST Leadership Development Centre ("CREST"). Our review of CREST does not convey how the program trains the mind or advances the knowledge or abilities of the learners. Rather, CREST appears to be a networking opportunity held at retreat centres in Alberta and Ontario whereby learners participate in seminars, discussions and creative learning experiences with a large focus on individual learning and peer support and discussions. The program, being experimental, fails to demonstrate how it is structured for a genuinely educational purpose given a substantial portion of the program appears to be focused on the learner's individual learning plan⁷ and on a model that is "*informational, transformational, memorable and creative*". The Charity's focus appears to be on providing "*retreat centres of high quality, a place with excellent comfort, food, and privacy*" where individuals can "*calibrate their life and fine tune their trajectory*."⁸ The Charity offers the opportunity for individuals to educate

⁶ See, for example, *Vancouver Society of Immigrant & Visible Minority Women v. Minister of National Revenue*, [1999] 1 S.C.R. 10

⁷ Per the curriculum, the learner "*takes advantage of various distributed learning possibilities to flesh out their individualized learning plan, such as: a reading schedule, attending seminars, personal retreats, watching videos, listening to tapes, internet research, taking on-line courses, observing other leaders, etc.*"

⁸ www.crestleadership.ca

themselves, converse and discuss with others and create a personal learning plan. Though the Charity indicates it offers four learning modules, we have not been provided with this information in order to determine its educational content.

It appears the Charity is providing the location and opportunity for people to educate themselves, rather than providing a structured, legitimate attempt to educate others. As such, we are unable to conclude CREST is advancing education in the charitable sense.

Charity's involvement with other programs:

The Charity has indicated it is involved with the Kinderbaum, Alliance Defense Fund, TRACE Aid and World Humanitarian Aid programs. Yet, the Charity has not provided sufficient information to establish precisely what the Charity's involvement is in each of these programs, or how it demonstrates on-going control and direction over the resources devoted to these programs. Further, the Charity has not provided us with sufficient information to determine if these programs are, in fact, charitable, and if they fall within the Charity's mandate.

Our audit revealed that the funding received from the Mennonite Foundation for the Kinderbaum program and from the Alliance Defense Fund in 2006 was used to pay for expenses incurred by the Charity, such as legal and salaries. We are unable to assess whether the expenses were related to the operation of these programs or were purely administrative. It is our understanding funds received from the Alliance Defense Fund are to be used to pay the legal bills of Canadian residents engaged in legal proceedings in the U.S. and would therefore fail to be charitable.

Additionally, the Charity has not shown how it conducts its World Humanitarian Aid programs aside from allegedly transferring title of the pharmaceutical goods received from participant donors in the CHT tax shelter to CPAR. As stated throughout this letter, the Charity had not undertaken actions of its own to confirm the pharmaceuticals it purports to distribute were, in fact, distributed and has not provided this evidence for our audit. Accordingly, we cannot conclude the Kinderbaum, Alliance Defense Fund, TRACE Aid and World Humanitarian Aid programs are charitable programs under the Charity's control and direction.

It is our view that by pursuing these activities, the Charity has failed to demonstrate that it meets the test for continued registration under 149.1(1) as a charitable organization "all the resources of which are devoted to charitable activities". For this reason, it appears to us that there may be grounds for revocation of the charitable status of New Hope Ministries Institute.

2. Failure to Accept Valid Gifts in Accordance with the ITA

It is our position that the cash donations received by the Charity from “donor” participants and the other participating charity are not valid gifts under section 118.1 of the ITA. We offer the following explanations to support our position.

a) No *Animus Donandi* -

At law, a gift is a voluntary transfer of property without consideration. In most cases, a gift is a voluntary transfer of property without valuable consideration to the donor. An essential element of a gift is that there be intent to give. It must be clear that the donor intends to enrich the donee, by giving away property, and to grow poorer as a result of making the gift. It is our view, based on the transactions described above that the primary motivation of the donor was not to enrich the Charity, but through a series of transactions and a minimal monetary investment, to make a profit through the tax credits so obtained.

In support of this position, we note the promotion materials primarily focus on the “donor’s” substantial return on investment as a result of participation with greater returns on investment offered to participants “donating” early within the calendar year. Minimal investment is required on the participant “donors”. “Donors” received units of World Health Organization Essential Medicines from a trust and transferred ownership of the property to the Charity without using or seeing the property. The goods are typically transferred from the donors to the Charity within a few days of purchase or trust distribution. Minimal information is provided to the prospective “donors” as to how the “donations” will benefit the charity, or to the activities of the charity they are supporting. Transactions are pre-arranged and handled entirely by promoters or other pre-arranged third parties. Participants in these arrangements are merely expected to put forward a minimal investment to receive generous tax receipts in return.

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 artificial manipulation of the tax incentives available rather than a desire to enrich the participating 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 transactions themselves lack the necessary elements to be considered gifts at law. The “donors” received some form of consideration or benefit that is linked to their cash donation(s) regardless if the cash donation was made to the Charity or another participating charity. It is clear, based upon our audit and the promotional materials of CHT that there was a clear expectation of return with respect to the donation made to the first designated charity. “Donors” received the benefit of becoming owners of medicine units and having the option to

distribute them, without cost, from the trust. The donor's entitlement to receiving the units from the trust was clearly linked to and proportionate to the amount of cash "donated".

In our view, the pharmaceutical units transferred to the Charity were not gifts in the sense understood at law. The Charity was not entitled to issue official donation receipts for the amounts that it received. In our findings, the Charity has issued in excess of \$100 million in donation receipts for transactions that did not qualify as gifts. It is clear from our audit and the promotional materials of CHT and WHI, which the Charity engaged as fundraisers that the Charity knew, or ought to have known, that there was a clear link between what was "donated" to it and the distribution of goods the donors purportedly would receive from the trust. The Charity knew, or ought to have known, that it was not entitled to issue donation receipt for these transactions.

c) Application of the Proposed Legislation

Even without reference to the common law definition of a gift, it is clear that proposed section 248(32) of the ITA applies to these transactions as well. While this legislation is still proposed, once passed into law, it applies to all transactions covered by the audit period under review. In our view, the distribution from the trust is an advantage which is in consideration for the gift⁹ or is otherwise related to the gift.¹⁰ The Charity was therefore required by the ITA to reduce the value reflected on the receipt by that of the advantage. There is no indication whatsoever that the Charity took these provisions into account when issuing receipts on behalf of the tax shelter arrangement.

It is our view, as expressed above, that the cash expenditure required of all participants in the tax shelter arrangements is a payment made to acquire the property. As such, the FMV of the subsequent gift of that property is deemed, by virtue of proposed subsection 248(35), to be no more than the amount of the initial cash payment. Consequently the amount that the Charity was required under the *Income Tax Act* to record on its official donation receipts as the deemed FMV of the gift is significantly lower than what was actually recorded by the Charity.

Additionally, it appears that the Charity participated in an arrangement designed to avoid the application of proposed subsection 248(35). We would note that proposed subsection 248(38) states that where it can be reasonably concluded that the particular gift relates to a transaction or series of transactions one of the main purposes of which is to avoid the application of subsection 248(35) the eligible amount of the property so gifted is nil. As such, it is our view that even if the property received by the Charity is a "gift", which, as described above, given the motivation of the donors, is unlikely, the property so received by the Charity was not eligible for tax receipts reflecting a value greater than zero.

⁹ See proposed sub-paragraph 248(32)(a)(i)

¹⁰ See proposed sub-paragraph 248(32)(a)(iii)

d) Fair Market Value

"Fair market value" is not defined by the ITA, however, a standard definition generally accepted is, the highest price, expressed in dollars, obtainable in an open and unrestricted market between informed, prudent parties dealing at arm's length and under no compulsion to buy or sell¹¹.

As outlined by Rothstein, J.A. in *AG (Canada) v Tolley et al* 2005 FCA 386, in applying the Henderson definition of fair market value, the first step is to accurately define the asset whose fair market value is to be ascertained. Rothstein, J.A. discusses the relevance of donating a group of items versus an individual item and states that because the items were only acquired and donated in groups, the relevant asset was the group of items, and not the individual items in the group.

It is our position the conclusion made by Rothstein, J.A. also applies to the donation of pharmaceutical units. Based on the quantities donated, the relevant asset is considered to be the group of goods donated, not the individual items within each group. Rothstein, J.A. continues by stating it is wrong to assume that the fair market value of a group of items is necessarily the aggregate of the price that could be obtained for the individual items in the group.

The second step in applying the Henderson definition is to identify the market in which the merchandise was traded. Rothstein, J. A. identifies this group of items might not be sold in the same market as individual items, and highlights this distinction through a comparison of the wholesale versus retail markets.

In *Klotz v The Queen* 2004 TCC 147, Bowman, A.C.J. stated "It is an interesting questions that I need to consider here whether the price paid for something is truly indicative of fmrv [sic-fair market value] where the predominant component in the price paid is the tax advantage that the purchaser expects to receive from acquiring the object."

Based on our findings, the fair market value on the donation receipts issued is not indicative of the fair market value of the goods donated. The appraised value is based on suggested Ontario retail price. The valuations utilized are based firstly on the Direct Unit Cost in the Ontario Drug Benefit Formulary ("ODBF") which permits a 10% mark-up on the Direct Unit Cost and secondarily, if the item is not listed in the ODBF, based on the wholesale catalogue price. Based on the documentation provided, we are unable to identify any pharmaceuticals valued, if any, using the wholesale catalogue price rather than the ODBF calculated price. We are of the opinion the retail market is not the relevant market as the goods were acquired, sold and donated in blocks of goods and that the fair market value of the medicine units is the last known arm's length price paid for the goods.

¹¹ *Henderson Estate & Bank of New York v M.N.R.* 73 D.T.C. 5471 et 5476.

Under paragraphs 168(1)(d), 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 its Regulations. It is our position that the Charity has issued receipts otherwise than in accordance with the ITA and the Regulations. For each reason identified above, there may be grounds for revocation of New Hope Ministries Institute's charitable status.

3. 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 ITA 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 Charity do not comply with the requirements of Regulation 3501 of the ITA and IT-110R3 as follows:

- Receipts issued to acknowledge goods received as a result of the Charity's participation in the tax shelter were not valid gifts 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.
- Receipts issued to acknowledge goods received as a result of the Charity's participation in the tax shelter were not independently appraised by the Charity. Official donation receipts were issued based on the figures provided by the appraiser introduced by WHI to the Charity. It is our view the appraiser is not independent from the tax shelter and its promoter because the appraiser has personal relationships with the parties involved in the donation arrangement and agreed to provide valuation services to the gift-in-kind charities participating in the donation program. The services performed by the appraiser are guided by the tax shelter and its promoter and as such, the valuations are prepared using the information supplied by persons affiliated with the donation arrangement rather than information supplied by the Charity. The appraiser has not provided valuation services to any other organization prior to becoming involved with the donation program and is not a valuator by profession. As above, we are of the view that the amounts recorded on the tax receipts are not reflective of the FMV of the property donated.
- Receipts issued by the former Board of Directors for the Rapha House failed to record the BN number, address as recorded with the Minister, the web address - www.cra-arc.gc.ca/charities, maintain duplicate copies of all receipts issued and all serial numbers could not be accounted for.

Additionally, the Charity was unable to provide details concerning any cancellation and/or issuance of replacement receipts or safeguarding of unused and duplicate official donation receipts issued as all receipting functions for the pharmaceutical "gifts" were performed on the Charity's behalf by WHI. Regulation

3501(4) of the ITA stipulates that an official receipt issued to replace an official receipt previously issued shall clearly show that it replaces the original receipt and, in addition to its own serial number, shall show the serial number of the receipt originally issued. Regulation 3501(5) requires that a spoiled official receipt form shall be marked "cancelled" and such form, together with the duplicate thereof, shall be retained by the registered organization or the other recipient of a gift as part of its records.

Additionally, we would like to inform you 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-receipting 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 its Regulations. It is our position the Charity issued receipts for transactions that do not qualify as gifts at law. For this reason alone, there may be grounds for revocation of the charitable status of New Hope Ministries Institute under paragraph 168(1)(d) of the ITA.

4. 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:

- 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;
- A duplicate of each receipt containing prescribed information for a donation received by it; and
- 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".

The audit indicated the books and records kept by the Charity were inadequate for the purposes of the ITA. In the course of the audit, the following deficiencies were noted concerning the Charity's records recording the receipt and distribution of the pharmaceutical goods:

- MedPharm notifies the Charity via written correspondence when it has received notification from WHI that the Charity is the current owner of certain World Health Organization essential medicines. The correspondence includes the specific pharmaceuticals owned by the Charity in Schedule B.

A review and summarization of the type and quantity of pharmaceuticals listed in each Schedule B per fiscal period ending 2006 does not reconcile to the quantities recorded per Trust number in the NHMI and CHT 2006, Gifts in Kind summary (enclosed). Refer to Appendix "A" which concludes the Charity allegedly received 336,663 units of pharmaceuticals per Schedule B versus the 118,405 units recorded in the NHMI and CHT 2006, Gifts in Kind summary.

- Additionally, the Charity provided a summary entitled "2006 Rx Summary" (enclosed) which summarizes presumably the total quantity of pharmaceuticals received by the Charity by type of pharmaceutical. A reconciliation of the 2006 Rx Summary to the MedPharm Schedule B quantities and types identified discrepancies. Refer to Appendix "B".
- Reconciliations of the total quantity per type of pharmaceutical donated by the participating donors to the total quantity per type of pharmaceutical listed on the NHMI and CHT 2006, Gifts in Kind summary and 2006 Rx Summary also identify discrepancies. Refer to Appendix "C".

As a result, we are unable to confirm the exact quantity per type or precise value of pharmaceuticals "gifted" to the Charity. This is of crucial importance given the quantity, variety and purported fair market value of the pharmaceutical goods.

- The Charity notifies MedPharm via written correspondence it has gifted pharmaceuticals being held on behalf of the Charity to CPAR. The correspondence fails to contain a summary detailing the type of pharmaceutical or quantity gifted to CPAR which, in light of the discrepancies identified above concerning the precise quantity per type of pharmaceutical received, cannot be reconciled or traced to other source documents. This is of particular importance given the discrepancies identified throughout the course of our audit.
- The correspondence received from Mr. Jonathon Sommer, Trust lawyer, dated April 18, 2008, indicates the Charity received "Gross Pharma Receipts" of

\$99,706,677.07 and gifted the same amount to CPAR.¹² Per Mr. Sommer's letter, the information was based on "(1) my firm's accounting records of the funds; and (2) information we obtained from you and from BOSL [Back Office Systems Limited], your agent in these matters".

The Charity also provides correspondence from M. Rosen of Back Office Systems Ltd. dated March 16, 2007 summarizing the Charity issued receipts for \$100,033,627 and "all gifts were passed on to the Canadian Physicians for Aid and Relief."¹³ Both figures differ from the \$100,075,957 reported by the Charity on its 2006 Profit & Loss Statement. The Charity noted the Gross Pharma Receipts amount provided by Mr. Sommer differs from NHMI's and WHI records and have requested Mr. Sommer to clarify. Any response obtained by the Charity has not been provided to CRA.

- The Charity received valuation reports prepared by Mr. Wayne Marigold, Consultant Pharmacist. Mr. Marigold, in his correspondence to the Charity, writes that he examined and verified copies of certain certificates where appropriate and provided valuations for the specific pharmaceuticals received by the Charity as donations from individual Canadians.

A comparison of the valuation reports provided to the type of pharmaceuticals reported as received by the Charity indicated not all pharmaceuticals were valued.

For example, valuations were not provided for the following pharmaceuticals: Ciprofloxacin 250mg tabs (Ciplox 250mg); Diclofenac 15 mg; Doxycycline 100mg; Famotidine 40mg (Ulcimax 40 mg); Mebendazole 500mg in bottles of 500 tabs; Oral Rehydration Salts; Praziquantel 600 mg in bottles of 100 tabs; and Timolol Maleate 0.25% (Ocutim 25% W/V eye drop). We have not been able to ascertain whether the pharmaceuticals reported as received by the Charity were identified in Mr. Marigold's valuation reports under differing names as our summaries of pharmaceuticals received utilize the pharmaceutical names as identified on the summaries provided.

- A reconciliation of the Jonathon Sommer Trust Account 2006 CHT to the WHI invoices provided indicated the Charity incurred GST of \$19,385.77 on invoice number 06-0173 rather than the \$16,773.13 as recorded.

In the course of the audit, the following deficiencies were noted concerning the Charity's records:

¹² We assume Mr. Sommer's figure includes the \$8.6 million recorded by the Charity as pharmaceutical inventory at December 31, 2006. Note, the revised general ledger does not report any amount of pharmaceutical inventory at December 31, 2006.

¹³ We also assume Mr. Rosen's figure includes the \$8.6 million recorded by the Charity as pharmaceutical inventory at December 31, 2006. Note, the revised general ledger does not report any amount of pharmaceutical inventory at December 31, 2006.

- The Charity provided redacted Board minutes and trust account bank statements thereby limiting CRA's review of the Charity's operations and preventing CRA for ensuring all activities and transactions were accurately reported.
- Consulting Agreements provided failed to contain key specifics thereby restricting our ability to determine what activities are being undertaken by the consultants, if the activities are charitable and within the Charity's registered objects. At a minimum, written agreements should typically include at least the following information:
 - o names and addresses of all parties;
 - o the duration of the agreement or the deadline for project completion;
 - o a description of the specific activities for which the charity's funds or other resources will be used, in sufficient detail to clearly outline any limitations on authority granted to the agent/contractor acting on behalf of the charity;
 - o provision for written progress reports, or provision for the charity's right to inspect the project on reasonably short notice, or both;
 - o provision the charity will make installment payments based on confirmation of reasonable progress and that the resources provided to date have been applied to the specific activities outlined in the agreement or payments based on a pre-established schedule;
 - o provision for withdrawing or withholding funds or other resources at the charity's discretion;
 - o provision for maintaining adequate records at the charity's address; and
 - o the signature of all parties, along with the date.
- In the Memorandum of Understanding between the Charity and CPAR, CPAR *"will forward promptly all reports it receives pursuant to the Distribution Memorandum of Agreement"*. We have not been provided with nor had access to any reports the Charity received from CPAR regarding the distribution of the pharmaceutical units. The lack of documentation provides support for our position that the Charity was not distributing the pharmaceuticals goods received as part of its own programs but merely transferring the goods to the next charity participating in the donation arrangement as instructed or facilitated by WHI and had no interest in receiving or distributing the goods.
- Due to the Board transition in 2006, revenues and expenditures for Rapha House were not keyed into Quickbooks and were therefore not reported on the Charity's T3010 or financial statements except for the net gain on sale of the Rapha House. As a result, total revenue, expenditures, assets and liabilities were misrepresented on the T3010 and financial statements as filed. A summary of the amounts recorded by the Charity on the revised general ledger, general ledger used to prepare the T3010 and T3010 filed are contained in Appendix "D".
- During the change from manual to computerized accounting, the accountant failed to enter transactions for the period January to March 2007. As a result, the 2007 financial statements and T3010 fail to contain activity for this period.

Under paragraph 168(1)(e) of the ITA, the Minister may, by registered mail, give notice to the charity that the Minister proposes to revoke its registration because it fails to comply with or contravenes section 230 of the ITA dealing with books and records. It is our position New Hope Ministries Institute has failed to comply with and has contravened section 230 of the ITA. For this reason alone there may be grounds to revoke the registered status of New Hope Ministries Institute.

5. Failing to File an Accurate Information Return

Pursuant to subsection 149.1(14) of the ITA, every registered charity must, within six months from the end of the charity's fiscal period (taxation year), without notice or demand, file a T3010 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 requirement to file an Information Return if it fails to exercise due care with respect to ensuring the accuracy thereof.

The Charity improperly completed the T3010 for the fiscal period ending December 31, 2006 in that items reported were omitted or inaccurate. Specifically the following items:

FPE December 31, 2006

- The Charity failed to report six months of transactions due Board transition therefore all financial information reported is incorrect. Refer to Appendix "D".
- Based on a reconciliation of the financial statements and T3010 filed, at Line 4500, the Charity understated Total eligible amount of tax-receipted gifts by \$192,846.
- Per above, the Charity has provided two summaries of total tax-receipted gifts indicating either \$99,706,677.07 or \$100,033,627 was received. Both figures differ from the \$100,075,957 reported by the Charity on its 2006 Profit & Loss Statement.

Under paragraph 168(1)(c) of the ITA, the Minister may, by registered mail, give notice to the charity that the Minister proposes to revoke its registration because the charity fails to file an Information Return as and when required under the ITA or a Regulation. For this reason, it appears to us that there may be grounds for revocation of the charitable status of New Hope Ministries Institute.

6. Failure to Meet its Disbursement Quota

In the CHT arrangement, all pharmaceutical "gifts" donated to the Charity are transferred to CPAR with the Charity recording the expenditure as a charitable expenditure. As outlined above, we do not view these "gifts" as valid gifts under section 118.1 of the ITA. First, the "gifts" fail to meet the definition of a gift as they lack an

element of voluntariness and second, **the Charity has not established that the goods were in fact received or distributed as part of their charitable programs.** Therefore, the Charity is not spending sufficient funds towards its disbursement quota.

The Charity's Options:

a) No Response

You may choose not to respond. In that case, the Director General of the Charities Directorate may issue a Notice of Intention to Revoke the registration of the Charity in the manner described in subsection 168(1) of the ITA.

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 Charity, the Director General of the Charities Directorate will decide on the appropriate course of action, which may include the issuance of a Notice of Intention to Revoke the registration of the Charity in the manner described in subsection 168(1) of the ITA.

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

If you require further information, clarification, or assistance, I may be reached at (613) 957-2212 or by facsimile at (613) 946-7646.

Sincerely,

Holly Brant
Senior Audit Advisor
Charities Directorate
Charities Directorate
Canada Revenue Agency
320 Queen St. 7th Floor
Ottawa, Ontario K1A 0L5

Enclosures

Summary of Pharmaceuticals Received per MedPharm Correspondence & Gifts in Kind summary records:

Date	Description of Correspondence	Pharmaceuticals Received/Gifted	Quantity / Schedule B	Total / Schedule B	Total / GIK Summary	Discrepancy
13-04-2006	Letter from MedPharm to Charity - WHI has notified MedPharm on 11-04-2006 Charity is current owner of pharmaceuticals	Mebendazole 500 mg 50 tab	26,550			
		Mebendazole 500 mg 500 tab	1,017			
		Oral Rehydration Salts	4,046			
		Praziquantel 600 mg 100 tabs	4,903			
		Rifampicin 150 mg	270			
		Salbutamol 4 mg	793	37,579	21,343	16,236
17-04-2006	Letter from Charity to MedPharm - Charity's pharmaceuticals being held by MedPharm have been gifted to Canadian Physicians for Aid and Relief (CPAR)	Details of amounts gifted not provided/attached to correspondence				
05-07-2006	Letter from Charity to MedPharm - Charity's pharmaceuticals being held by MedPharm have been gifted to Canadian Physicians for Aid and Relief (CPAR)	Details of amounts gifted not provided/attached to correspondence				
05-07-2006	Letter from MedPharm to Charity - WHI has notified MedPharm on 03-07-2006 Charity is current owner of pharmaceuticals	Diclofenac 15 mg	68			
		Diclofenac 50 mg	162			
		Doxycycline 100 mg (Doxiclip 100 mg)	399			
		Indomethacin 15 mg	12			
		Loperamide 2 mg	11			
		Mebendazole 500 mg 50 tabs	13,970			
		Mebendazole 500 mg in bottles of 500 tabs	25			
		Praziquantel 600 mg 100 tabs	7,803			
		Ranitidine 150 mg	399			
		Rifampicin 150 mg	94			
		Salbutamol 4 mg	166			
		Timolol Maleate 0.25%	109	23,218	10,215	13,003
28-08-2006	Letter from MedPharm to Charity - WHI has notified MedPharm on 24-08-2006 Charity is current owner of pharmaceuticals	Diclofenac 50 mg	26			
		Loperamide 2 mg	424			
		Mebendazole 500 mg 50 tabs	38,007			
		Mebendazole 500 mg 500 tab	2			
		Oral Rehydration Salts 20.5g	3,466			
		Praziquantel 600 mg 100 tabs	17,153	59,078	25,834	33,244

31-08-2006	Letter from Charity to MedPharm - Charity's pharmaceuticals being held by MedPharm have been gifted to Canadian Physicians for Aid and Relief (CPAR)	Details of amounts gifted not provided/attached to correspondence				
03-10-2006	Letter from MedPharm to Charity - WHI has notified MedPharm on 29-09-2006 Charity is current owner of pharmaceuticals	Atenolol 100 mg	238			
		Beclometasone dipropionate 50 mcg inhaler	1,568			
		Ciprofloxacin 250 mg tabs (Ciplox 250 mg)	2,422			
		Diclofenac 25 mg	1,806			
		Doxycycline 100 mg (Doxicip 100 mg)	3,990			
		Famotidine 40 mg	1,568			
		Loperamide 2 mg	239			
		Mebendazole 500 mg 50 tabs	17,732			
		MMR single dose	25,186			
		Oral Rehydration Salts 20.5g	1,568			
		Praziquantel 600 mg 100 tabs	16,396			
		Timolol Maleate 0.25%	714	73,427	17,729	55,698
04-10-2006	Letter from Charity to MedPharm - Charity's pharmaceuticals being held by MedPharm have been gifted to Canadian Physicians for Aid and Relief (CPAR)	Details of amounts gifted not provided/attached to correspondence				
08-11-2006	Letter from MedPharm to Charity - WHI has notified MedPharm on 06-11-2006 Charity is current owner of pharmaceuticals	Beclometasone dipropionate 50 mcg inhaler	964			
		Ciprofloxacin 250 mg tabs (Ciplox 250 mg)	1,928			
		Doxycycline 100 mg (Doxicip 100 mg)	1,036			
		DUOVIR (Zidovudine 300 mg + Lamivudine 150 mg)	9			
		EFAVIR (Efavirenz 600 mg)	9			
		Famotidine 20 mg bge	2,482			
		Famotidine 40 mg	7,108			
		Mebendazole 500 mg 50 tabs	20,226			
		Mebendazole 500 mg 500 tab	147			
		Metformin 500 mg film coated	441			
		MMR single dose	735			
		NEVIMUNE 200 (Nevirapine 200 mg)	9			
		Omeprazol 20 mg caps	5,915			
		Praziquantel 600 mg 100 tabs	5,180			
		Timolol Maleate 0.25%	2,410	48,599	11,577	37,022
09-11-2006	Letter from Charity to MedPharm - Charity's pharmaceuticals being held by MedPharm have been gifted to Canadian Physicians for Aid and Relief (CPAR)	Details of amounts gifted not provided/attached to correspondence				

13-12-2006	Letter from MedPharm to Charity - WHI has notified MedPharm on 11-12-2006 Charity is current owner of pharmaceuticals	Atenolol 100 mg	534			
		Beclometasone dipropionate 50 mcg inhaler	8			
		Ciprofloxacin 250 mg tabs (Ciplox 250 mg)	283			
		Doxycycline 100 mg (Doxicip 100 mg)	538			
		DUOVIR (Zidovudine 300 mg + Lamivudine 150 mg)	6			
		EFAVIR (Efavirenz 600 mg)	6			
		Famotidine 20 mg bge	1,034			
		Famotidine 40 mg	4,165			
		Mebendazole 500 mg 50 tabs	44,952			
		Mebendazole 500 mg 500 tab	72			
		Metformin 500 mg film coated	216			
		MMR single dose	360			
		NEVIMUNE 200 (Nevirapine 200 mg)	6			
		Omeprazol 20 mg caps	6,502			
		Oral Rehydration Salts 20.5g	525			
		Praziquantel 600 mg 100 tabs	6,434			
		Timolol Maleate 0.25%	20	65,661	21,503	44,158
14-12-2006	Letter from Charity to MedPharm - Charity's pharmaceuticals being held by MedPharm have been gifted to Canadian Physicians for Aid and Relief (CPAR)	Details of amounts gifted not provided/attached to correspondence				
02-01-2007	Letter from MedPharm to Charity - WHI has notified MedPharm on 31-12-2006 Charity is current owner of pharmaceuticals	Atenolol 100 mg	135			
		Acyclovir 800 mg	4			
		Ciprofloxacin 250 mg tabs (Ciplox 250 mg)	2			
		Doxycycline 100 mg (Doxicip 100 mg)	4			
		DUOVIR (Zidovudine 300 mg + Lamivudine 150 mg)	895			
		EFAVIR (Efavirenz 600 mg)	135			
		Famotidine 20 mg bge	718			
		Famotidine 40 mg	191			
		LAMIVIR S30 (Lamivudine 150mg + Stavudine 30mg)	135			
		Mebendazole 500 mg 50 tabs	19,728			
		NEVIMUNE 200 (Nevirapine 200 mg)	563			
		Omeprazol 20 mg caps	49			
		Oral Rehydration Salts 20.5g	1			
		Praziquantel 600 mg 100 tabs	5,415			
		Timolol Maleate 0.25%	428			
		TRIOMUNE 30 (Lamivudine 150mg + Stavudine 30mg +	270			
		TRIOMUNE 40 (Lamivudine 150mg + Stavudine 40mg +	428	29,101	10,204	18,897

05-01-2007

Letter from Charity to MedPharm - Charity's
pharmaceuticals being held by MedPharm have been
gifted to Canadian Physicians for Aid and Relief
(CPAR)

Details of amounts gifted not provided/attached to
correspondence

Totals

336,663

118,405

218,258

Appendix "B"

Summary of Pharmaceuticals Received per MedPharm Correspondence & 2006 Rx Summary:

Pharmaceutical Description	Quantity Per		
	MedPharm Sch B	2006 Rx Summary	Discrepancy
Acyclovir 800 mg	4	135 -	131
Atenolol 100 mg	907	776	131
Beclometasone dipropionate 50 mcg inhaler	2,540	2,484	56
Ciprofloxacin 250 mg tabs (Ciplox 250 mg)	4,635	4,523	112
Diclofenac 15 mg	68		68
Diclofenac 25 mg	1,806	1,874 -	68
Diclofenac 50 mg	188	188	-
Doxycycline 100 mg (Doxicip 100 mg)	5,967	5,924	43
DUOVIR (Zidovudine 300 mg + Lamivudine 150 mg)	910	910	-
EFAVIR (Efavirenz 600 mg)	150	150	-
Famotidine 20 mg bge	4,234	4,107	127
Famotidine 40 mg	13,032	12,705	327
Indomethacin 15 mg	12	12	-
LAMIVIR S30 (Lamivudine 150mg + Stavudine 30mg)	135	135	-
Loperamide 2 mg	674	674	-
Mebendazole 500 mg 50 tab	181,165	180,320	845
Mebendazole 500 mg 500 tab	1,238	1,257 -	19
Mebendazole 500 mg in bottles of 500 tabs	25		25
Metformin 500 mg film coated	657	639	18
MMR single dose	26,281	26,251	30
NEVIMUNE 200 (Nevirapine 200 mg)	578	578	-
Omeprazol 20 mg caps	12,466	12,221	245
Oral Rehydration Salts	9,606	9,606	-
Praziquantel 600 mg 100 tabs	63,284	63,069	215
Ranitidine 150 mg	399	399	-
Rifampacin 150 mg	364	364	-
Salbutamol 4 mg	959	959	-
Timolol Maleate 0.25%	3,681	3,541	140
TRIOMUNE 30 (Lamivudine 150mg + Stavudine 30mg + Nevirapine 200 mg)	270	270	-
TRIOMUNE 40 (Lamivudine 150mg + Stavudine 40mg + Nevirapine 200 mg)	428	428	-
	336,663	334,499	2,164

Appendix "C"

Summary of Pharmaceuticals per Donor Summary, MedPharm Correspondence and 2006 Rx Summary Provided:

Description	Total Donor Data	Quantity 2006 Rx Summary	MedPharm Sch B
Acyclovir 800mg	135	135	4
Atenolol 100 mg	776	776	907
Beclometasone dipropionate 50mcg inhaler	2,540	2,484	2,540
Ciprofloxacin 250mg tabs	2,422	-	4,635
Ciprofloxacin 250mg tabs (Ciplox 250mg)	2,213	4,523	-
Diclofenac 15 mg	-	-	68
Diclofenac 25 mg	1,874	1,874	1,806
Diclofenac 50 mg	188	188	188
Doxycycline 100mg	3,990	-	-
Doxycycline 100mg (Doxicip 100mg)	1,977	5,924	5,967
DUOVIR (Zidovudine 300mg+Lamivudine 150mg)	910	910	910
EFAVIR 600 (Efavirenz 600mg)	150	150	150
Famotidine 20 mg bge	4,234	4,107	4,234
Famotidine 40mg	1,568	12,705	13,032
Famotidine 40mg (Ulcimax 40 mg)	11,464	-	-
Indomethacin 25 mg	12	12	12
LAMIVIR S30 (Lamivudine 150mg+Stavudine 30mg)	135	135	135
Loperamide 2 mg	674	674	674
Mebendazole 500 mg 50 tabs	181,165	180,320	181,165
Mebendazole 500 mg 500 tabs	1,017	1,257	1,238
Mebendazole 500mg in bottles of 500 tabs	246	-	25
Metformin 500 mg film coated	657	639	657
MMR single dose	26,281	26,251	26,281
NEVIMUNE 200 (Nevirapine 200mg)	578	578	578
Omeprazol 20 mg caps	12,466	12,221	12,466
Oral Rehydration Salts	4,046	9,606	9,606
Oral Rehydration Salts 20.5g	5,560	-	-
Praziquantel 600 mg 100 tabs	38,177	63,069	63,284
Praziquantel 600 mg in bottles of 100 tabs	25,107	-	-
Ranitidine 150 mg	399	399	399
Rifampacin 150 mg	364	364	364
Salbutamol 4 mg	959	959	959
Timolol Maleate 0.25%	823	3,541	3,681
Timolol Maleate 0.25% (Ocutim 25% W/V eye drop)	2,858	-	-
TRIOMUNE 30	270	270	270
TRIOMUNE 40	428	428	428
Totals	336,663	334,499	336,663
Total/NHMI & CHT 2006, GIK Summary	118,405		
Discrepancy	218,258		
Total/2006 Pharmaceutical Summary	334,499		
Discrepancy	2,164		
Total/MedPharm Schedule "B"	336,663		
Discrepancy	-		

Appendix "D"

	2006-12-31 Amount per Revised General Ledger	2006-12-31 Amount per General Ledger	2006-12-31 per Revised T3010
<u>Income:</u>			
Total Received Gifts	\$ 100,113,928	\$ 100,149,394	\$ 100,084,857
Gifts from Other Charities	\$ 192,846	\$ 192,846	\$ 192,846
Total Other Gifts	\$ -	\$ -	\$ 64,538
Interest & Investment Income	\$ 917	\$ 17	\$ 17
Proceeds of Disposition	\$ 210,000	\$ 210,000	\$ 210,000
Total Fundraising Revenue	\$ 1,565,395	\$ 1,565,395	\$ 1,565,395
Sale of Goods/Services	\$ 40,457	\$ 40,457	\$ 40,457
Total Revenue	<u>\$ 102,123,544</u>	<u>\$ 102,158,110</u>	<u>\$ 102,158,110</u>
<u>Expenses:</u>			
Advertising & Promotion	\$ 1,328	\$ 1,328	\$ 1,328
Travel & Vehicle	\$ 1,971	\$ 1,971	\$ 3,220
Office Supplies & Expenses	\$ -	\$ 8,149	\$ 32,461
Occupancy Costs	\$ 4,920	\$ 4,920	\$ 4,920
Interest Expense	\$ 5,733	\$ 4,832	\$ 4,832
Professional Fees & Consulting Fees	\$ 272,929	\$ 228,788	\$ 204,145
Amortization	\$ -	\$ -	\$ -
Salaries	\$ 79,020	\$ 60,857	\$ 60,857
Gifts to Qualified Donees	\$ 139,161	\$ 139,161	\$ 139,161
Donated/Purchased Supplies	\$ 101,081,745	\$ 92,560,981	\$ 92,627,367
Other Expenditures	\$ 79,724	\$ 66,907	\$ -
Total Expenses	<u>\$ 101,666,531</u>	<u>\$ 93,077,893</u>	<u>\$ 93,078,291</u>
<u>Assets:</u>			
Cash on Hand & In Bank Accounts	\$ 388,614	\$ 365,648	\$ 389,985
A/R from Non-Arm's Length Parties	\$ -	\$ -	\$ -
Amounts Receivable from Others	\$ 41,792	\$ 38,523	\$ 38,523
Inventories	\$ -	\$ 8,600,770	\$ 8,600,770
Capital Assets	\$ 3,000	\$ -	\$ -
	<u>\$ 433,407</u>	<u>\$ 9,004,941</u>	<u>\$ 9,029,278</u>
<u>Liabilities:</u>			
Amounts Payable to Founders, etc	\$ -	\$ -	\$ -
Amounts Payable to Others	\$ 57,015	\$ 8,006	\$ 8,006
Other Liabilities	\$ 1,500	\$ 2,258	\$ 2,258
	<u>\$ 58,515</u>	<u>\$ 10,264</u>	<u>\$ 10,264</u>

NEW HOPE MINISTRIES INSTITUTE

COMMENTS ON REPRESENTATIONS OF DECEMBER 31, 2008

Failure to Devote Resources to Charitable Activities:

Based on the Canada Revenue Agency's (CRA) audit of New Hope Ministries Institute (the Charity), the Charity primarily operates for the purpose of furthering the Canadian Humanitarian Trust (CHT) tax shelter by agreeing, for a fee, to act as a receipting agent in the tax shelter. *Per* our previous letter, it is CRA's position that the Charity is operating as a conduit for the tax shelter. In operating as such, the Charity has entered into agreements with persons associated with the tax shelter program to facilitate the Charity's acceptance, and subsequent receipting, of pharmaceuticals contributed by participating donors. The Charity also agreed to "immediately upon receipt" transfer 100% of all pharmaceuticals received from participating donors to another participating charity. For its role in the entire tax shelter, the Charity retains a cash gift received from another participating charity equivalent to 1.57% of the pharmaceuticals purported value. The Charity then pays fundraising fees equivalent to 1% + GST of the pharmaceuticals alleged value donated to World Health Initiatives (WHI), to the promoter of the tax shelter. As a result, the Charity retains 0.5% of the cash gift received for its own purposes.

The submissions of December 31, 2008 argue that "[t]here is no prohibition in the *Income Tax Act* (Canada) (the "Act") against a charity participating in, that is receiving donations in the course of, a charitable donation program that is registered as a "tax shelter"... The participation by the [Charity] in the CHT Program, a registered "tax shelter", by receiving donations of pharmaceuticals from individual participants in the CHT Program, was part of the [Charity's] charitable activities." The Charity does not expressly deny its involvement in the promotion of the Donations for Canada tax shelter but rather states independent agents solicited donations for this program to create a funding stream for the Charity. The submissions are correct that there is no explicit prohibition in the Act against a charity participating in a tax shelter. However, at law, where an activity becomes so predominant it becomes an end in and of itself, it may cause an organization to cease to qualify as an organization operating for exclusively charitable purposes. As described in our letter of October 29, 2008, it is clear that, from our audit, the Charity has operated for the purpose of furthering tax shelter arrangements by agreeing, for a fee, to act as the receipting agent in the arrangement or as a promoter of the arrangement. In the CHT program, the Charity issues official donation receipts to participants in amounts predetermined by the promoter and immediately assigns the pharmaceuticals to another registered charity participating in the tax shelter arrangement. In return, the Charity is paid an amount equal to approximately 1.57% of the tax-receipted amounts issued. In the Donations for Canada program, the Charity refers individuals to participate in the program. In return, it is compensated 0.75% of the total donations raised by the Charity plus 95% of future profit payments.

From a purely financial standpoint, an overwhelming majority of the Charity's resources are devoted to and received from its participation in tax shelter arrangements and the manner in which the Charity has structured itself to accommodate these tax shelters, has become an

end in itself. Operating for the purpose of promoting a tax shelter donation arrangement is not a charitable purpose at law and, for this reason alone, we are of the position that the Charity does not operate for exclusively charitable purposes as required by subsection 149.1(1) of the Act.

In support of this we note, that based on the Charity's annual information returns, the CHT tax shelter is the Charity's primary activity. The Charity issued official donation receipts for \$100 million in pharmaceuticals in the CHT tax shelter and had at least \$500,000¹ contributed to its own programs in 2006. During the same fiscal period, the Charity received non-tax shelter related income of \$516,000 of which \$210,000 was the gain on sale of the Rapha House property and \$181,000 received from the Mennonite Foundation to undertake the Kinderbaum program (discussed below). It remains our position that, rather than fundraising to pursue its own charitable activities, the Charity's involvement and promotion of the CHT tax shelter has become its primary purpose.

The representations find that statements made in our previous letter "manifestly distort the nature of the [Charity's] participation in the CHT Program, a registered tax shelter, and are wrong in fact and law." The Directors' involvement in, and promotion of the CHT Program, as well as the Charity's undertaking to raise donations in support of the Donations for Canada program, provide the facts supporting our statements that:

- "the Charity is engaging in activities beyond the scope of what it was registered to undertake and pursuing non-charitable purposes and activities;
- is primarily operating as a tax-receipting conduit for the identified tax shelter;
- enthusiastically lent its physical, financial and human resources (particularly with respect to its tax receipting privileges) to support these tax shelter arrangements with little regard for the legitimacy of the arrangement, interests of the Charity itself, or the donors it referred to the programs;
- the Charity had little to no actual involvement in controlling and operating these programs; and
- operating for the purpose of promoting tax shelters is not a charitable purpose at law."

Once the Charity had divested itself from its previous activities and substantially all the previous board members resigned, the first actions of the new board of directors was to enter into contracts for participation in the CHT tax shelter. On March 27, 2006, the Charity underwent its transformation from an emergency shelter for low income single women to its current operations, the promotion and support of tax shelter arrangements and CREST Leadership Development Centre. On May 24, 2006, the Charity entered into its contracts for participation in the CHT tax shelter². On November 6, 2006, the Charity entered into its letter of understanding with Funds for Canada Foundation to raise donations through the ParkLane Donations for Canada tax shelter. Findings such as these, in our opinion, do not distort the nature of the Charity's activities as they were occurring during the audit nor distort the fact that the Charity continues to participate in the tax shelters.

¹ The net 0.5% received after paying fundraising fees to WHI as reported at line 5470 of the 2006 T3010A. Charity receives "gift" of 1.57% from another participating charity in the CHT program and pays WHI 1% + GST to WHI.

² The first board meeting recorded occurred July 5, 2006.

The submissions further state, “[t]he Act contains no prohibition against the [Charity] entering into such a services agreement with WHI [World Health Initiatives], or against the [Charity] paying WHI the said services fee, and [the Charity] paid such fee in the course of its charitable activities. And, the disbursement by [the Charity] to CPAR [Canadian Physicians for Aid and Relief] of all of the pharmaceuticals donated to it was ... properly part of its charitable activities.” We do not disagree that the Act permits a charity to engage in fundraising contracts, to undertake activities similar to those operated by or in support of other registered charities and to transfer funds to qualified donees. However, it is our conclusion that the Charity's primary purpose for making these transfers to CPAR was merely an orchestrated step in the overall CHT tax shelter arrangement and were not intended to be used for charitable purposes of the Charity. We also disagree that the transfers to CPAR were part of the Charity's own charitable activities. The transfer of pharmaceuticals from one participating charity to another CHT participating charity, such as CPAR, was established prior to the Charity's involvement in the tax shelter, thereby making it difficult for the CRA to concur the Charity's actions were of their own design and in furtherance of their own charitable activities. The Charity's purpose “to fund, facilitate, promote and carry out activities and programs which provide Biblically based counselling [sic] and life training skills to individuals and families in a way the law regards as charitable” fail to convince the CRA that transfers of funds to CPAR, and participation in the CHT tax shelter, was part of its own charitable activities and done in furtherance of its own charitable purposes.

The Charity made distributions of pharmaceuticals to a predetermined registered Canadian charity regularly and consistently upon notification pharmaceuticals were “gifted” by participants pursuant to its participation in the CHT tax shelter. This is clear from the selection of CPAR, which is named in the tax shelter's promotional materials, as well as the pattern of participant “gifts” and subsequent transfers to this other registered and participating charity. In fact, it appears the Charity only made gifts to CPAR as directed to do so by the tax shelter promoter. The Charity states it agreed to participate in the CHT Program in support of the “extraordinary humanitarian aims and accomplishments of the CHT Program”. The Charity may have been motivated to participate in a humanitarian endeavour, such as the one proposed by CHT; however it is our position the Charity operated as conduit for the tax shelter program. By operating as such, the Charity has failed to demonstrate its involvement, direction and control over the distribution and delivery of the pharmaceuticals. The Charity has submitted, as evidence confirming the pharmaceuticals alleged distributions, copies of acknowledgement letters contained within the CHT promotional materials rather than copies of reports it was to receive from CPAR supporting the use of their funds and distribution of goods “for the purposes of humanitarian aid overseas”.

Per our previous letter, the Charity received pharmaceuticals from participant donors as per its role in the tax shelter and simply received and transferred the pharmaceuticals, as per the arrangements entered into, to another participating registered charity, CPAR. It is further our position, as stated in our earlier letter, that the Charity has failed to demonstrate that CPAR distributed the pharmaceuticals on the Charity's behalf. The Charity has submitted information obtained by CPAR regarding the alleged distribution of the pharmaceuticals; however, the information fails to convince us that the pharmaceuticals were actually entirely distributed and distributed as part of the Charity's own programs.

In this regard, it is difficult to see how the Charity's participation can be characterized in any other way but as being paid to act as the receipt issuing entity in a tax shelter arrangement. The overwhelming financial activity of the Charity; lack of due diligence; and lack of continued control and monitoring of the activities undertaken by the Charity's third party agents (including WHI, Mr. Sommer and CPAR) demonstrate the Charity's willingness to lend its name and tax receipting privileges to the CHT tax shelter in exchange for monetary compensation. It is the CRA's position that the Charity has participated in a tax shelter designed to abuse the charitable gift incentive provisions of the Act and that the Charity's participation in this tax shelter has become an end in and of itself. Accordingly, it is our position that the Charity has operated for the non-charitable purpose of promoting and participating in tax shelter arrangement and, therefore cannot be considered to be a charitable foundation *operated exclusively for charitable purposes*.

Therefore under paragraph 168(1)(b) of the Act, the Minister may, by registered mail, give notice to the organization that the Minister proposes to revoke its registration because it ceases to comply with the requirements of the Act related to its registration as such. For this reason, there are grounds for revocation of the charitable status of New Hope Ministries Institute.

Operating Ultra Vires:

Per our previous letter, an organization must be established for charitable purposes that oblige it to devote all its resources to its own charitable activities and must demonstrate through its activities and records that it is operating as a charitable organization. Our determination is based on the objects (or purposes) of the organization, as contained in its governing documents, and on its activities. An organization must, therefore, provide sufficient information and documentation in regard to both. The information supplied is subject to a two-part test, each component of which is equally important. The organization is required to demonstrate that it has been established for exclusively charitable objects, and that it is focused on charitable activities that further these objects. An organization with a mix of charitable and non-charitable objects and/or activities will not qualify for registration.

The requirement that a charity's *objects* be exclusively charitable was described as follows by the Supreme Court of Canada in *Vancouver Society of Immigrant & Visible Minority Women v. Minister of National Revenue*³ (*Vancouver Society*):

It is not sufficient that the society should be instituted "mainly" or "primarily" or "chiefly" for the purposes of science, literature or the fine arts. It must be instituted "exclusively" for those purposes. The only qualification -- which, indeed, is not really a qualification at all -- is that other purposes which are merely incidental to the purposes of science and literature or the fine arts, that is, *merely a means to the fulfillment of those purposes*, do not deprive a society of the exemption. Once however, the other purposes cease to be merely incidental but become collateral; that is, cease to be a means to an end, but become an end in themselves; that is, become additional purposes of the society; then, whether they be main

² *Vancouver Society of Immigrant & Visible Minority Women v. Minister of National Revenue*, [1999] 1 S.R.C. 10, at page 110 (paragraph 156)

or subsidiary, whether they exist jointly with or separately from the purposes of science, literature or the fine arts, the society cannot claim the exemption.

Our review and assessment of an organization's objects is not limited to what is formally stated in its governing document(s). The question of whether an organization is constituted exclusively for charitable objects cannot be determined solely by reference to its stated objects, but must take into account the *activities* in which the organization currently engages. We have applied these principles when reviewing the objects and activities of the Charity.

Your submission states "[the Charity] has had three significant shifts in focus and distinct governing bodies since it was first incorporated in 1992. As the community responded to programs/services being provided, [the Charity's] focus changed and shifted to meet client demands and adjusted to those willing to give governing and operating leadership to the cause." We concur that the Charity has had three significant shifts in focus since incorporation; however, as outlined in our October 29, 2008 letter, the Charity is operating outside its corporate mandate. The Charity was registered with a defined purpose of providing biblically based counselling and professes that "[a]ll [of the Charity's] programs are constructed and delivered to provide a biblical perspective". We disagree that the Charity's activities are delivered with a biblical perspective and fall within its corporate mandate. Examples of which are outlined below.

The Charity's submission also states that its registered "objects are very broad in scope and permit a broad spectrum of charity." Broad and vague objects, which fail to define and confine the scope of activities in accordance with the requirements of the Act, are not charitable at law⁵. Rather, objects must be precisely stated, and framed in a language that is not overly *broad*, meaning they fail to confine the organization to charitable activities, and/or *vague*, which is to say it is difficult to determine the exact meaning. It is our position the Charity's objects are not broad and therefore clearly confine the Charity to the activities for which it was registered. An organization with such broad objects as the Charity envisions it has, would not be registered as a charitable organization.

i. CREST Leadership Program

Based on the Charity's submissions, we believe the Charity's primary activity, apart from the tax shelter arrangements, is the CREST Leadership Program (CREST). Our letter of October 29, 2008 outlined how we examined this activity under the four recognized heads of charity and criteria set out by the Supreme Court of Canada to determine whether a purpose or activity is charitable under the charitable head of advancing education. Our letter stated that CREST does not qualify under the advancement of education and your submission does not alter our position.

Your submissions of December 31, 2008, indicated that CREST was a "bona fide educational program" with ties to the Harrison School of Graduate Studies, and possibly a Canadian University. In support, the Charity provided us with an online course syllabus.

⁴ *Vancouver Society*, supra, footnote 1 at p. 131 (paragraph 194)

⁵ See, for example, *Travel Just v. Canada Revenue Agency*, 2006 FCA 343

It is our understanding that CREST was originally established in 2002⁶ and originally designed as a Masters Degree program at a private college in Calgary. In 2006, CREST was approached by the Charity. This is confirmed in a letter dated February 28, 2006 (copy enclosed), from then president of the Charity, Mr. Jim Elliot, to the director of CREST, Dr. Dan Reinhardt, "having completed the mandate for which the Rapha House board was formed, we are now in a position to turn over the charity to another Christian organization". It appears that around July 2006, the Charity changed its focus, including a complete change in board of directors, and assumed the CREST program. The CRA was never advised or informed of this change in the Charity's focus nor were its registered objects amended to reflect this change.

Per our previous letter, to qualify under the advancement of education, it is not sufficient to simply inform people on a particular subject, and making available an opportunity for people to educate themselves does not generally suffice⁷. Neither the CREST website nor the syllabus provided in your submission has provided sufficient information that would alleviate our concerns.

Further, we are unaware of the Charity's exact involvement in the operation of the CREST program. It appears that CREST is a stand alone organization, and its website makes no reference to the Charity. It appears its only relation to the Charity is Dr. Dan Reinhardt, director of CREST and president of the Charity⁸.

ii. Charity's involvement with other programs:

Our letter of October 29, 2008 indicated that the Charity had not provided sufficient information on its involvement with other programs such as Kinderbaum, Alliance Defense Fund, TRACE Aid and World Humanitarian Aid program. We have now reviewed the information provided by the Charity in your submission of December 31, 2008, and must advise that our concerns have not been alleviated.

a) TRACE Aid:

Your submission states "This program was established to bring accountability and effectiveness to international aid." Our review of TRACE Aid's website⁹ and information provided does not provide sufficient information to help us determine if it could qualify under the advancement of education or any of the other heads of charity. To "monitor", "document" and "compile statistics" are not activities that would qualify under the advancement of education. "Research" may qualify this program under the advancement of education. However, your submissions have not provided sufficient information to permit us to make this determination. As such, it is our position the TRACE Aid project is a non-charitable activity and is not conducted in furtherance of or ancillary to the Charity's registered objects.

Further, the Charity contracted with Mr. Clement Mugala to "provide assistance and leadership in facilitating the [Charity] Project (TRACE Aid)" but has failed to demonstrate its ongoing direction and control over the project. You state the President reviews annual reports

⁶ <http://www.crestleadership.ca/pages/home/the-crest-team.php>

⁷ *Vancouver Society*, supra

⁸ Charity and CREST now share an address.

⁹ www.traceaid.com

yet our review of the annual reports reveals they are a summary of Mr. Mugala's activities for the year. The reports do not contain the activities Mr. Mugala has conducted on behalf of and upon direction of the Charity.¹⁰

b) World Humanitarian Aid Program:

The Charity's World Humanitarian Aid Program is its promotion and involvement in the CHT tax shelter. Our position regarding the Charity's involvement in this program is outlined above.

c) Kinderbaum:

Your submission states that the Kinderbaum program was "to facilitate research and examine possible mechanisms of Canadian support for the establishment and operation of orphanages in South Africa." The Charity has submitted a summary of the works performed by the Charity's legal representative; however the summary fails to substantiate the Charity's involvement and operation of this program and claims solicitor-client privilege. The Charity has not submitted any other evidence in support of its establishment and operation of housing for Aids Orphans such as meeting minutes, agreements with Kinderbaum Foundation (the Swiss organization) or business plans. As such, we cannot establish whether this project is charitable at law or ancillary to the Charity's corporate mandate. The summary provided indicates caring for Aid Orphans is charitable and consistent with the Charity's stated objects. Despite the Charity's belief that its objects are "broad in scope and permit a broad spectrum of charity", we not believe the Charity's stated objects permit this activity nor does the activity appear to be ancillary to its stated objects.

d) Alliance Defense Fund:

The Alliance Defense Fund receives and uses funds to pay the legal bills of Canadian residents engaged in legal proceedings in Canada. The Charity claims it cannot provide evidence supporting the services allegedly provided due to solicitor-client privilege. However, if the cases referred to in your submission existed, we believe the cases could have been provided. Furthermore, it appears the nature of this fund is such that the Charity is operating as a conduit – receiving funds to pay the legal bills of pre-determined individuals. We also disagree with your argument that representing Christians in a legal proceeding would be in line with the Charity's mandate of providing biblical counseling and life skills to individuals. As such, we remain of the position that the Alliance Defense Fund program is not charitable and falls beyond the scope of the Charity's mandate.

It remains our position that by pursuing programs and activities such as CREST, TRACE Aid, World Humanitarian Aid, Kinderbaum and Alliance Defense Fund, the Charity has failed to demonstrate that it meets the test for continued registration under 149.1(1) as a charitable organization. Therefore under paragraph 168(1)(b) of the Act, the Minister may, by registered mail, give notice to the organization that the Minister proposes to revoke its registration because it ceases to comply with the requirements of the Act related to its registration as such. For this reason, there are grounds for revocation of the charitable status of New Hope Ministries Institute.

¹⁰ Funding from Charity to TRACE Aid ceased in July 2008.

Failure to Accept and Issue Receipts for Valid Gifts:

Animus Donandi

Our position remains that the pharmaceuticals received by the Charity from participant donors are not valid gifts under section 118.1 of the Act. Our position is based on the fact that the primary motivation of the participant donor was not to enrich the Charity, but through a series of artificial transactions and a minimal monetary investment, to enrich themselves from the aggregate tax credits so obtained. The representations are correct in stating that there are two conditions¹¹ which must be satisfied in order for a transfer of property to be considered a gift. However, it is our position the representations erroneously consider the only benefit received by a participating donor in the CHT tax shelter to be the charitable tax credit.

We agree that the charitable tax credit available with respect to a donation is not usually an advantage or benefit that would affect whether a gift is made. However, it is our position that mass-marketed donation arrangements promising participant donors that they will be able to claim tax credits for charitable donations far in excess of the expenditures actually made (i.e. the actual cash outlay and subsequent reduction in the donor's net worth), lack the requisite *animus donandi* for the transactions to be considered gifts.

It remains our position that the participant donors entered into the CHT tax shelter arrangement as a result of the estimated income tax saving benefits and positive return on investment promoted. The income tax savings and return on investment are based on the participant donor's aggregate "gift" of cash and pharmaceuticals units which have been valued at amounts many times higher than the participant donor's cost to participate in the arrangement. The participant donors fully intend to recoup their out-of-pocket cash outlay and to profit from the tax shelter through the artificial manipulation of the charitable gifting provisions. The Charity's role in the donation arrangement was to facilitate this by accepting the pharmaceuticals and nearly immediately transferring them to another participating charity as instructed by the tax shelter's promoters. Your submissions erroneously assume CRA's definition of "profit" is limited to the charitable tax credit available. As it applies to these transactions, "profit" is defined as the financial gains a participant receives as a result of participating in the tax shelter program. The financial gains are based on the fact that a participant makes minimal cash investment, receives goods valued at four times the cash investment and receives a refund/reduction in taxes payable in excess of the cash investment¹².

Accordingly, it is our position the cash contributions lack *animus donandi*; participating donors did not necessarily enrich, or intend to enrich the Charity¹³ but rather enriched themselves through artificial transactions and the income tax saved. As such, it is our position the Charity was not entitled to issue an official donation receipt in these circumstances.

¹¹ The two conditions are: 1) a voluntary transfer of property by the donor, and 2) no benefit or consideration flowing in return to the donor.

¹² Per the promotional materials, a cash contribution of \$2,460 equates to receiving pharmaceuticals of \$10,000. By claiming charitable tax credits of \$12,460, an individual in Ontario would receive a refund/reduction in taxes payable of \$5,105. The Ontario individual would realize a profit or financial gain of \$2,645 (\$5,105 – 2,460).

¹³ We do recognize the 1% retained by the Charity is an enrichment beyond what the Charity would have received otherwise however it is preposterous that the Charity is satisfied retaining a mere 1% of the \$41.6 million flowed through its bank accounts.

Benefit Received

Per our previous letter, the CHT donation program involves Canadian participant donors making a cash donation to a participating charity then applying to become a capital beneficiary of the Canadian Humanitarian Trust(s) (the Trust). The participant indicates on the application form, the number of pharmaceutical units they wish to receive and acknowledges that each of the pharmaceutical units is subject to a limited recourse lien. Upon acceptance as a beneficiary, the participant receives a capital distribution from the Trust in satisfaction of his capital interest in the Trust. The capital distribution is in the form of pharmaceutical units, which the participant then “donates” to the Charity in transactions facilitated by the promoter acting as agent for the participant. The purported value of the pharmaceutical units, on average, is three to four times the value of the cash “gift”.¹⁴

Your letter states that “[a]t no time did participants in the CHT Program who applied to become beneficiaries of an as-yet-to-be-settled trust have any “entitlement”, that is any enforceable right, to: (1) require the settlement of the trust; (2) become a beneficiary of the trust; or (3) receive a distribution of any of the trust’s property. The receipt by a taxpayer of a gift of property from an unrelated third party, in the participants’ case a distribution without consideration of pharmaceuticals from a resident Canadian trust, after making a cash donation to another charity does not, in and of itself, constitute a “benefit” or “consideration” in return for the subsequent gift of the property to a second charity which would render the subsequent gift of property invalid.” We make no comment on whether participants had an “enforceable right” to receive pharmaceuticals but we disagree with the Charity’s submission that the pharmaceuticals so received by the participating donors is not a “benefit” or “consideration” received as a result of the cash gift. It is clear that there is a direct link between the “donation” to the Charity and the participants’ eligibility to receive some form of property from the Trust. This is clear both from the promotional materials and the pattern of transactions of the participants.

It should be noted that the common law does not require there to be a legally enforceable right to receive property, but rather that a payment be made in expectation of return.¹⁵ We note that the promotional materials describe, in detail, how the tax shelter works, including the requisite “donation” to the specified charities. We note that the distribution of pharmaceuticals from the Trust is proportionate to the amount of cash “donated” to the specified charities and that substantially all participant donors making the requisite cash contribution to the Charity did receive, as a result of an application to a Trust, distributions of pharmaceuticals in amounts equivalent to the formulas outlined in the CHT promotional materials. It is as a result of these findings, that the CRA considers the pharmaceutical units received by the participating donors to be the advantage, benefit or consideration received by a donor directly linked to the donors’ cash contribution. As such, the Charity was not entitled to issue a receipt to the participants given that the purported value of the pharmaceuticals exceeded the participant’s cash outlay.

¹⁴ The proportion of cash to purported value of the pharmaceuticals fluctuates throughout the calendar year as donor’s participating earlier in a calendar year is rewarded with “cash discounts”. As a result, donors contribute less cash yet receive the same purported value of pharmaceuticals as a donor who participates in the latter part of the year.

¹⁵ See, for example, *McPherson v. the Queen* (2007) DTC 326

Application of Proposed Subsections

Per our previous letter, proposed subsections 248(32), (35) and (38) of the Act apply to the transactions described in our October 29, 2008 letter. Regardless that the legislation remains proposed, once passed into law it will apply to all transactions covered by the audit period under review. The CRA's expectation of these provisions is that, once announced, donors and charities alike should have begun to follow this legislation as, when passed, would be applied retroactively and therefore provides grounds for the revocation of a registered charity.

The representations state "the Auditor is incorrect in suggesting that distribution by a trust of pharmaceuticals to a participant in the CHT Program, who had previously donated cash to another participating charity, is an "advantage" to be deducted from the amount of the subsequent gift of the pharmaceuticals by the participant to the [Charity] for the purpose of determining the eligible amount of the gift of pharmaceuticals under proposed subsection 248(31) of the Act" and goes on to further conclude there must be an enforceable contract between the donor, Charity and third parties involved. The representations consider the cash contribution and distribution of pharmaceuticals as two distinct separate transactions.

With respect, it is simply not sufficient to state that there is no link between the cash payment and the distribution from the Trust where the audit evidence has revealed a clear link. From the information provided, it is evident that the pharmaceuticals received by the participant donors were received as a result of the donor's cash contribution to the Charity. We refer you to the CHT promotional packages whereby the donor indicates the number of pharmaceutical units he wishes to receive at the same time he contributes a cash amount equivalent to one-third (or another portion) of the pharmaceuticals purported fair market value to a participating charity. Our audits have revealed participant donors do not become beneficiaries of the Trust unless a cash contribution is made to a participating charity and, if they do make this contribution, receive a distribution from the Trust proportionate to the amount of cash contributed. In our view, the distribution from the Trust is clearly an advantage in "consideration"¹⁶, "gratitude"¹⁷ or "in any other way related to the gift or monetary contribution"¹⁸.

Our position remains that the Charity was required by the Act to reduce the value reflected on the official donation receipt by that of the advantage received regardless if the advantage was received directly from the Charity or from another third party.

Fair Market Value

It remains our position that the value recorded on the official donation receipts is not indicative of the fair market value of the units donated. Your submission and statements that "(1) the Auditor is not a qualified, independent valuator; and (2) the Auditor has not obtained from a qualified, independent valuator an opinion of the fair market value of pharmaceuticals" are, in fact, wrong. Our letter of October 29, 2008 does not make mention of these two issues. Rather, these appear to be misunderstandings of the Charity and its representative.

¹⁶ Ss. 248(32)(a)(i)

¹⁷ Ss. 248(32)(a)(ii)

¹⁸ Ss. 248(32)(a)(iii)

Per our previous letter, it remains our position that the fair-market value of the property has been inaccurately assessed. The appraised values are based on a suggested *retail* price that is not the relevant market. In our view, especially considering the way in which the gifting arrangement is marketed (i.e. on a national scale and allowing almost unlimited purchases), the fair market value is reflected by the last known arm's length price paid for the goods — i.e. the participant's price to participate in the tax shelter arrangement.

Further, your representations have not altered our position as to the valuation of the pharmaceutical units donated. The valuator's method of reviewing the pharmaceutical units does not provide assurance the pharmaceuticals were actually inspected to attest to their existence, quality and quantity. Mr. Marigold merely reviewed the inventory list of pharmaceuticals being offered for donation. The valuations provided by Mr. Marigold were also based on Ontario suggested retail values of the individual pharmaceuticals in the package being offered for donation. Our findings, as outlined in our October 29, 2008 letter, state the relevant asset to be valued is the group of items rather than the individual items within the group. Additionally, CRA has been advised the pharmaceutical units were manufactured outside of Canada and were never imported or used in Canada due to Regulations and, as such, the relevant market *cannot* be the Ontario retail market.

As such, for the reasons set out herein and in our previous letter we remain of the position that the appraised values relied upon by the Charity are not accurate reflections of the fair market value of the property.

Under paragraphs 168(1)(d), 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 Act and the Regulations. For this reason, there are grounds for revocation of the charitable status of New Hope Ministries Institute under paragraph 168(1)(d) of the Act.

Failure to Issue Receipts in Accordance with the Act:

The representations of December 31, 2008 do not alter our findings and our position that the official donation receipts issued by the Charity to acknowledge pharmaceuticals received from participants in the Canadian Humanitarian Trust tax shelter are not valid gifts under section 118.1 of the Act. We have fully discussed our position on this subject above.

We accept the Charity's initiative to revise its official donation receipts in order to comply with the content requirements outlined in *Regulation* 3501.

Under paragraph 168(1)(d) of the Act, 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 Act and the Regulations. It is the CRA's position that the Charity issued receipts for transactions that do not qualify as gifts at law and breached Regulation 3501(3). For these reasons alone there are grounds for revocation of the charitable status of New Hope Ministries Institute under paragraph 168(1)(d) of the Act.

Failure to Maintain Adequate Books and Records:

Your representations have clarified the difference between inventory units (single pharmaceuticals) and trust units (multiples of pharmaceuticals). We also concur with your submission that the Charity did not receive Diclofenac 15mg but rather received Diclofenac 25mg. As such we have revised the appendices included in our October 29, 2008 letter to reflect these changes. The appendices do not reflect a change in our reconciliation between the MedPharm Schedule B information and the 2006 Rx Summary information as the representations inquire as to the source of the 2006 Rx Summary. The 2006 Rx Summary was provided to CRA by the Charity and included with reports prepared by the Charity's appraiser, Mr. Marigold.

The Charity was able to provide limited records supporting the alleged distribution of the pharmaceuticals. Our reviews of the records fail to reveal the Charity's direction and control over the distribution of the pharmaceuticals and the records provided contain significant gaps. For example, the records fail to contain shipping documents, delivery and distribution reports to establish that the pharmaceuticals, as made available by the Charity to CPAR, were actually shipped from the warehouses. This, in and of itself, demonstrates a lack of due diligence on the part of the directors to take an active interest in the operations of the Charity and to operate in the best interests of the Charity.

Accordingly, the Minister may, by registered mail, give notice to the Charity that the Minister proposes to revoke its registration because it fails to comply with or contravenes section 230 of the Act dealing with books and records under paragraph 168(1)(e) of the Act. It is our position the Charity has contravened section 230 of the Act for failing to maintain complete records to verify the information contained within its Registered Charity Information Returns and financial statements. For this reason, there are grounds for revocation of the charitable status of New Hope Ministries Institute.

Failing to File an Accurate Information Return:

Per our previous letter, we noted the Charity's source ledgers (general ledger) failed to contain all of the Charity's operations. We accept the Charity's admission of the errors and the actions taken to date to rectify omissions. We concur that column three of Appendix D, of our October 29, 2008 letter, relates to an unfiled T3010A provided by the Charity to a prior auditor. The Charity noted, at that time and currently, it would be filing an amended T3010A when it was certain the data would be correct. The revised T3010A was submitted on January 19, 2009; a revised Appendix D is attached.

The Charity's representations demonstrate its lack of due diligence regarding the maintenance of its records. Whereas the Charity admitted to the errors identified by CRA, the Charity took no actions, or was required to wait until late 2008, to obtain clarification and confirmation of the 2006 figures supplied by Mr. Sommer and/or Back Office Systems Limited. The fact that the Charity did not know, for nearly two years, that it had \$8.6 million in inventory at year-end is concerning.¹⁹

¹⁹ Further, inventory reported on the revised T3010A submitted on January 19, 2009 increases to \$10,233,410 from \$8,600,770 without any representations clarifying the increase.

Disbursement Quota:

Per our previous letter, and *per* our discussion above, we remain of the position that the Charity failed to meet its annual disbursement quota. It is our position the vast quantities of pharmaceuticals bestowed upon participants, and immediately “gifted” to the Charity, are not valid gifts within section 118.1 of the Act. As *per* above, it remains our position that the primary motivation of the participants was not to enrich the Charity, but to enrich themselves from the aggregate tax credits available. It is also our position that the Charity’s motivation was to enrich itself by agreeing to the pre-established terms of the tax shelter arrangement and not to retain the pharmaceuticals bestowed upon it for use in its own charitable programs.

We do not consider the pharmaceuticals transferred to CPAR, pursuant to the agreements signed, to be valid gifts made to a qualified donee. The representations state “The [Charity] is not aware that the CPAR used the pharmaceuticals for anything other than carrying on its charitable activities” and “the distributions by [the Charity] of pharmaceuticals to CPAR, another qualified donee under the Act, were both permitted by the Act and identified by the Act as part of the proper charitable activities of [the Charity]. As such, the disbursements were properly included in determining that [the Charity] met its disbursement quota.” As *per* above, the Charity’s transfers to CPAR was an orchestrated step in the donation arrangement and fail to demonstrate that the Charity distributed the pharmaceuticals as part of their own programs (*per* T3010A originally filed) or made unfettered gifts to a qualified donee (*per* revised T3010A). It is our position that the Charity was not distributing the pharmaceuticals goods received as part of its own programs but merely transferring the goods to the next charity participating in the donation arrangement as instructed or facilitated by WHI and had no interest in receiving or distributing the goods.

Accordingly, it remains our position that the Charity has not met its disbursement quota as *per* paragraph 149.1(2)(b) of the Act. Therefore under paragraph 168(1)(b), the Minister may, by registered mail, give notice to the Charity that the Minister proposes to revoke its registration because it ceases to comply with the requirements of the Act related to its registration as such. For this reason, there are grounds for revocation of the charitable status of New Hope Ministries Institute under paragraph 168(1)(d) of the Act.

Appropriateness of Revocation:

Finally, we note that Mr. McMechan argues in the representations of December 31, 2008 that, “without registered charitable status [the Charity] would be forced [to] cease to operate and would no longer exist to support its charitable programs.” We disagree. As stated above, the Charity has not restricted itself to pursue the charitable activities for which it was registered and has merely operated as a conduit for the CHT tax shelter. The Charity also has not provided sufficient evidence to convince us that the projects the Charity does support are charitable in nature and are projects operated under the direction and control of the Charity.

We concur with the Charity’s statement that the ability to raise funds is a struggle for charities; however, it is our position that the Charity’s participation in the CHT program has diverted millions of dollars away from the charitable sector and away from charities carrying on actual charitable activities. In 2006 alone, the Charity’s issuance of over \$100 million in official donation receipts, for a 0.5% fee, resulted in a loss to the Federal Government of at least \$29 million. The Charity has also failed to demonstrate how this \$100 million of pharmaceuticals

were used in its charitable programs and has breached numerous other requirements of the Act. It is the CRA's position that these are serious contraventions of the *Income Tax Act* and warrant the revocation of the Charity's registered status.

Appendix "A" - Revised

Summary of Pharmaceuticals Received per MedPharm Correspondence & Gifts in Kind summary records:

Date	Description of Correspondence	Pharmaceuticals Received/Gifted	Quantity / Schedule B	Total / Schedule B	Total / GIK Summary	Discrepancy
13-04-2006	Letter from MedPharm to Charity - WHI has notified MedPharm on 11-04-2006 Charity is current owner of pharmaceuticals	Mebendazole 500 mg 50 tab	26,550			
		Mebendazole 500 mg 500 tab	1,017			
		Oral Rehydration Salts	4,046			
		Praziquantel 600 mg 100 tabs	4,903			
		Rifampicin 150 mg	270			
		Salbutamol 4 mg	793	37,579	21,343	16,236
17-04-2006	Letter from Charity to MedPharm - Charity's pharmaceuticals being held by MedPharm have been gifted to Canadian Physicians for Aid and Relief (CPAR)	Details of amounts gifted not provided/attached to correspondence				
05-07-2006	Letter from Charity to MedPharm - Charity's pharmaceuticals being held by MedPharm have been gifted to Canadian Physicians for Aid and Relief (CPAR)	Details of amounts gifted not provided/attached to correspondence				
05-07-2006	Letter from MedPharm to Charity - WHI has notified MedPharm on 03-07-2006 Charity is current owner of pharmaceuticals	Diclofenac 25 mg	68			
		Diclofenac 50 mg	162			
		Doxycycline 100 mg (Doxiclip 100 mg)	399			
		Indomethacin 15 mg	12			
		Loperamide 2 mg	11			
		Mebendazole 500 mg 50 tabs	13,970			
		Mebendazole 500 mg in bottles of 500 tabs	25			
		Praziquantel 600 mg 100 tabs	7,803			
		Ranitidine 150 mg	399			
		Rifampacin 150 mg	94			
		Salbutamol 4 mg	166			
		Timolol Maleate 0.25%	109	23,218	10,215	13,003
28-08-2006	Letter from MedPharm to Charity - WHI has notified MedPharm on 24-08-2006 Charity is current owner of pharmaceuticals	Diclofenac 50 mg	26			
		Loperamide 2 mg	424			
		Mebendazole 500 mg 50 tabs	38,007			
		Mebendazole 500 mg 500 tab	2			
		Oral Rehydration Salts 20.5g	3,466			
		Praziquantel 600 mg 100 tabs	17,153	59,078	25,834	33,244

31-08-2006	Letter from Charity to MedPharm - Charity's pharmaceuticals being held by MedPharm have been gifted to Canadian Physicians for Aid and Relief (CPAR)	Details of amounts gifted not provided/attached to correspondence				
03-10-2006	Letter from MedPharm to Charity - WHI has notified MedPharm on 29-09-2006 Charity is current owner of pharmaceuticals	Atenolol 100 mg	238			
		Beclometasone dipropionate 50 mcg inhaler	1,568			
		Ciprofloxacin 250 mg tabs (Ciplox 250 mg)	2,422			
		Diclofenac 25 mg	1,806			
		Doxycycline 100 mg (Doxicip 100 mg)	3,990			
		Famotidine 40 mg	1,568			
		Loperamide 2 mg	239			
		Mebendazole 500 mg 50 tabs	17,732			
		MMR single dose	25,186			
		Oral Rehydration Salts 20.5g	1,568			
		Praziquantel 600 mg 100 tabs	16,396			
		Timolol Maleate 0.25%	714	73,427	17,729	55,698
04-10-2006	Letter from Charity to MedPharm - Charity's pharmaceuticals being held by MedPharm have been gifted to Canadian Physicians for Aid and Relief (CPAR)	Details of amounts gifted not provided/attached to correspondence				
08-11-2006	Letter from MedPharm to Charity - WHI has notified MedPharm on 06-11-2006 Charity is current owner of pharmaceuticals	Beclometasone dipropionate 50 mcg inhaler	964			
		Ciprofloxacin 250 mg tabs (Ciplox 250 mg)	1,928			
		Doxycycline 100 mg (Doxicip 100 mg)	1,036			
		DUOVIR (Zidovudine 300 mg + Lamivudine 150 mg)	9			
		EFAVIR (Efavirenz 600 mg)	9			
		Famotidine 20 mg bge	2,482			
		Famotidine 40 mg	7,108			
		Mebendazole 500 mg 50 tabs	20,226			
		Mebendazole 500 mg 500 tab	147			
		Metformin 500 mg film coated	441			
		MMR single dose	735			
		NEVIMUNE 200 (Nevirapine 200 mg)	9			
		Omeprazol 20 mg caps	5,915			
		Praziquantel 600 mg 100 tabs	5,180			
		Timolol Maleate 0.25%	2,410	48,599	11,577	37,022
09-11-2006	Letter from Charity to MedPharm - Charity's pharmaceuticals being held by MedPharm have been gifted to Canadian Physicians for Aid and Relief (CPAR)	Details of amounts gifted not provided/attached to correspondence				

13-12-2006	Letter from MedPharm to Charity - WHI has notified MedPharm on 11-12-2006 Charity is current owner of pharmaceuticals	Atenolol 100 mg	534			
		Beclometasone dipropionate 50 mcg inhaler	8			
		Ciprofloxacin 250 mg tabs (Ciplox 250 mg)	283			
		Doxycycline 100 mg (Doxicil 100 mg)	538			
		DUOVIR (Zidovudine 300 mg + Lamivudine 150 mg)	6			
		EFAVIR (Efavirenz 600 mg)	6			
		Famotidine 20 mg bge	1,034			
		Famotidine 40 mg	4,165			
		Mebendazole 500 mg 50 tabs	44,952			
		Mebendazole 500 mg 500 tab	72			
		Metformin 500 mg film coated	216			
		MMR single dose	360			
		NEVIMUNE 200 (Nevirapine 200 mg)	6			
		Omeprazol 20 mg caps	6,502			
		Oral Rehydration Salts 20.5g	525			
		Praziquantel 600 mg 100 tabs	6,434			
		Timolol Maleate 0.25%	20	65,661	21,503	44,158
14-12-2006	Letter from Charity to MedPharm - Charity's pharmaceuticals being held by MedPharm have been gifted to Canadian Physicians for Aid and Relief (CPAR)	Details of amounts gifted not provided/attached to correspondence				
02-01-2007	Letter from MedPharm to Charity - WHI has notified MedPharm on 31-12-2006 Charity is current owner of pharmaceuticals	Atenolol 100 mg	4			
		Acyclovir 800 mg	135			
		Ciprofloxacin 250 mg tabs (Ciplox 250 mg)	2			
		Doxycycline 100 mg (Doxicil 100 mg)	4			
		DUOVIR (Zidovudine 300 mg + Lamivudine 150 mg)	895			
		EFAVIR (Efavirenz 600 mg)	135			
		Famotidine 20 mg bge	718			
		Famotidine 40 mg	191			
		LAMIVIR S30 (Lamivudine 150mg + Stavudine 30mg)	135			
		Mebendazole 500 mg 50 tabs	19,728			
		NEVIMUNE 200 (Nevirapine 200 mg)	563			
		Omeprazol 20 mg caps	49			
		Oral Rehydration Salts 20.5g	1			
		Praziquantel 600 mg 100 tabs	5,415			
		Timolol Maleate 0.25%	428			
		TRIOMUNE 30 (Lamivudine 150mg + Stavudine 30mg +	270			
		TRIOMUNE 40 (Lamivudine 150mg + Stavudine 40mg +	428	29,101	10,204	18,897

05-01-2007	Letter from Charity to MedPharm - Charity's pharmaceuticals being held by MedPharm have been gifted to Canadian Physicians for Aid and Relief (CPAR)	Details of amounts gifted not provided/attached to correspondence	336,663	118,405	218,258
Totals					

Appendix "B" - Revised

Summary of Pharmaceuticals Received per MedPharm Correspondence & 2006 Rx Summary:

Pharmaceutical Description	Quantity Per		Discrepancy
	MedPharm Sch B	2006 Rx Summary	
Acyclovir 800 mg	135	135	-
Atenolol 100 mg	776	776	-
Beclometasone dipropionate 50 mcg inhaler	2,540	2,484	56
Ciprofloxacin 250 mg tabs (Ciplox 250 mg)	4,635	4,523	112
Diclofenac 25 mg	1,874	1,874	-
Diclofenac 50 mg	188	188	-
Doxycycline 100 mg (Doxicil 100 mg)	5,967	5,924	43
DUOVIR (Zidovudine 300 mg + Lamivudine 150 mg)	910	910	-
EFAVIR (Efavirenz 600 mg)	150	150	-
Famotidine 20 mg bge	4,234	4,107	127
Famotidine 40 mg	13,032	12,705	327
Indomethacin 15 mg	12	12	-
LAMIVIR S30 (Lamivudine 150mg + Stavudine 30mg)	135	135	-
Loperamide 2 mg	674	674	-
Mebendazole 500 mg 50 tab	181,165	180,320	845
Mebendazole 500 mg 500 tab	1,238	1,257	- 19
Mebendazole 500 mg in bottles of 500 tabs	25		25
Metformin 500 mg film coated	657	639	18
MMR single dose	26,281	26,251	30
NEVIMUNE 200 (Nevirapine 200 mg)	578	578	-
Omeprazol 20 mg caps	12,466	12,221	245
Oral Rehydration Salts	9,606	9,606	-
Praziquantel 600 mg 100 tabs	63,284	63,069	215
Ranitidine 150 mg	399	399	-
Rifampacin 150 mg	364	364	-
Salbutamol 4 mg	959	959	-
Timolol Maleate 0.25%	3,681	3,541	140
TRIOMUNE 30 (Lamivudine 150mg + Stavudine 30mg + Nevirapine 200 mg)	270	270	-
TRIOMUNE 40 (Lamivudine 150mg + Stavudine 40mg + Nevirapine 200 mg)	428	428	-
	336,663	334,499	2,164

Appendix "C" - Revised

Summary of Pharmaceuticals per Donor Summary, MedPharm Correspondence and 2006 Rx Summary Provided:

Description	Total Donor Data	Quantity 2006 Rx Summary	MedPharm Sch B
Acyclovir 800mg	135	135	135
Atenolol 100 mg	776	776	776
Beclometasone dipropionate 50mcg inhaler	2,540	2,484	2,540
Ciprofloxacin 250mg tabs	2,422	-	4,635
Ciprofloxacin 250mg tabs (Ciplox 250mg)	2,213	4,523	-
Diclofenac 25 mg	1,874	1,874	1,874
Diclofenac 50 mg	188	188	188
Doxycycline 100mg	3,990	-	-
Doxycycline 100mg (Doxicip 100mg)	1,977	5,924	5,967
DUOVIR (Zidovudine 300mg+Lamivudine 150mg)	910	910	910
EFAVIR 600 (Efavirenz 600mg)	150	150	150
Famotidine 20 mg bge	4,234	4,107	4,234
Famotidine 40mg	1,568	12,705	13,032
Famotidine 40mg (Ulcimax 40 mg)	11,464	-	-
Indomethacin 25 mg	12	12	12
LAMIVIR S30 (Lamivudine 150mg+Stavudine 30mg)	135	135	135
Loperamide 2 mg	674	674	674
Mebendazole 500 mg 50 tabs	181,165	180,320	181,165
Mebendazole 500 mg 500 tabs	1,017	1,257	1,238
Mebendazole 500mg in bottles of 500 tabs	246	-	25
Metformin 500 mg film coated	657	639	657
MMR single dose	26,281	26,251	26,281
NEVIMUNE 200 (Nevirapine 200mg)	578	578	578
Omeprazol 20 mg caps	12,466	12,221	12,466
Oral Rehydration Salts	4,046	9,606	9,606
Oral Rehydration Salts 20.5g	5,560	-	-
Praziquantel 600 mg 100 tabs	38,177	63,069	63,284
Praziquantel 600 mg in bottles of 100 tabs	25,107	-	-
Ranitidine 150 mg	399	399	399
Rifampacin 150 mg	364	364	364
Salbutamol 4 mg	959	959	959
Timolol Maleate 0.25%	823	3,541	3,681
Timolol Maleate 0.25% (Ocutim 25% W/V eye drop)	2,858	-	-
TRIOMUNE 30	270	270	270
TRIOMUNE 40	428	428	428
Totals	336,663	334,499	336,663
Total/NHMI & CHT 2006, GIK Summary	118,405		
Discrepancy	218,258		
Total/2006 Pharmaceutical Summary	334,499		
Discrepancy	2,164		
Total/MedPharm Schedule "B"	336,663		
Discrepancy	-		

Appendix "D" - Revised

	2006-12-31 T3010 As Revised	2006-12-31 Amount per General Ledger	2006-12-31 T3010 As Filed
<u>Income:</u>			
Total Receipted Gifts	\$ 100,086,641	\$ 100,149,394	\$ 99,892,011
Gifts from Other Charities	\$ 1,771,362	\$ 192,846	\$ 192,846
Total Other Gifts	\$ 27,288	\$ -	\$ 257,384
Interest & Investment Income	\$ 917	\$ 17	\$ 17
Proceeds of Disposition	\$ 210,000	\$ 210,000	\$ 210,000
Total Fundraising Revenue	\$ -	\$ 1,565,395	\$ 1,565,395
Sale of Goods/Services	\$ 41,957	\$ 40,457	\$ 40,457
Total Revenue	<u>\$ 102,138,165</u>	<u>\$ 102,158,110</u>	<u>\$ 102,158,110</u>

<u>Expenses:</u>			
Advertising & Promotion	\$ 1,869	\$ 1,328	\$ 1,328
Travel & Vehicle	\$ 1,059	\$ 1,971	\$ 3,220
Office Supplies & Expenses	\$ 10,883	\$ 8,149	\$ 32,461
Occupancy Costs	\$ 9,232	\$ 4,920	\$ 4,920
Interest Expense	\$ 5,733	\$ 4,832	\$ 4,832
Professional Fees & Consulting Fees	\$ 1,273,805	\$ 228,788	\$ 240,145
Amortization	\$ -	\$ -	\$ -
Salaries	\$ 79,020	\$ 60,857	\$ 60,857
Gifts to Qualified Donees	\$ -	\$ 139,161	\$ -
Donated/Purchased Supplies	\$ 68,734	\$ 92,560,981	\$ 92,591,367
Other Expenditures	\$ -	\$ 66,907	\$ -
Total Expenses	<u>\$ 1,450,335</u>	<u>\$ 93,077,893</u>	<u>\$ 92,939,130</u>

<u>Assets:</u>			
Cash on Hand & In Bank Accounts	\$ 398,997	\$ 365,648	\$ 389,985
A/R from Non-Arm's Length Parties	\$ -	\$ -	\$ -
Amounts Receivable from Others	\$ 331,992	\$ 38,523	\$ 38,523
Inventories	\$ 10,233,410	\$ 8,600,770	\$ 8,600,770
Capital Assets	\$ -	\$ -	\$ -
	<u>\$ 10,964,399</u>	<u>\$ 9,004,941</u>	<u>\$ 9,029,278</u>

<u>Liabilities:</u>			
Amounts Payable to Founders, etc	\$ -	\$ -	\$ -
Amounts Payable to Others	\$ 1,972,809	\$ 8,006	\$ 8,006
Other Liabilities	\$ 1,500	\$ 2,258	\$ 2,258
	<u>\$ 1,974,309</u>	<u>\$ 10,264</u>	<u>\$ 10,264</u>