



REGISTERED MAIL

Power Zone Outreach Ministries
24 Sable Street
Toronto ON M6M 3K6

Attention: George Chukwu

BN: 80807 4827

File #: 3041270

May 7, 2012

**Subject: Revocation of Registration
 Power Zone Outreach Ministries**

Dear Sir:

The purpose of this letter is to inform you that a notice revoking the registration of Power Zone Outreach Ministries (the Organization) was published in the *Canada Gazette* on May 5, 2012. Effective on that date, the Organization ceased to be a registered charity.

Consequences of Revocation:

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

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

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

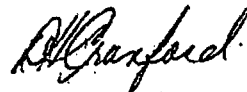
- c) The Organization no longer qualifies as a charity for purposes of subsection 123(1) of the *Excise Tax Act* (ETA). As a result, the Organization may be subject to obligations and entitlements under the ETA that apply to organizations other than charities. If you have any questions about your GST/HST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

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

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

If you have any questions or require further information or clarification, please do not hesitate to contact 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



Canada Revenue
Agency

Agence du revenu
du Canada

MAR 23 2012

REGISTERED MAIL

Power Zone Outreach Ministries
24 Sable Street
Toronto ON M6M 3K6

BN: 808074827RR0001

Attention: George Chukwu

File #:304 1270

**Subject: Notice of Intention to Revoke
 Power Zone Outreach Ministries**

Dear Mr. Chukwu:

I am writing further to our letter dated June 27, 2011 (copy enclosed), in which you were invited to submit representations as to why the registration of Power Zone Outreach Ministries (the Organization) should not be revoked in accordance with subsection 168(1) of the *Income Tax Act*.

As of this date, we still have not received any response to our letter.

Conclusion:

The Canada Revenue Agency's (CRA) audit has revealed that the Power Zone Outreach Ministries (the Organization) was not complying with the requirements set out in the *Income Tax Act*. In particular, it was found that the Organization failed to maintain proper books and records, did not devote all its resources to charitable purposes and activities as it acted as a conduit for a non-qualified donee, issued donation receipts on behalf of a non-qualified donee, and did not demonstrate that it maintained adequate direction and control over resources purportedly used in foreign programs that were not approved by the Charities Directorate. For each of these reasons and other concerns identified during the course of the audit, it is the CRA's view that the Organization no longer meets the requirements necessary for charitable registration.

Consequently, for each of the reasons mentioned in our letter dated June 27, 2011, I wish to advise you that, pursuant to subsection 168(1) of the Act, I propose to revoke the registration of the Organization. By virtue of subsection 168(2) of the Act, revocation will be effective on the date of publication of the following notice in the *Canada Gazette*:

Canada

Place de Ville, Tower A
320 Queen Street, 13th Floor
Ottawa ON K1A 0L5

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

Business Number
808074827RR0001

Name.
Power Zone Outreach Ministries
Toronto, ON

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

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

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

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

Consequences of Revocation

As of the effective date of revocation:

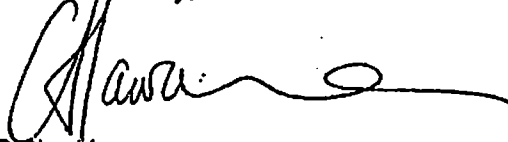
- a) the Organization will no longer be exempt from Part I Tax as a registered charity and will no longer be permitted to issue official donation receipts. This means that gifts made to the Organization would not be allowable as tax credits to individual donors or as allowable deductions to corporate donors under subsection 118.1(3), or paragraph 110.1(1)(a), of the Act, respectively;
- b) by virtue of section 188 of the Act, the Organization will be required to pay a tax within one year from the date of the Notice of Intention to Revoke. This revocation tax is calculated on prescribed form T-2046, *Tax Return Where Registration of a Charity is Revoked* (the Return). The Return must be filed,

and the tax paid, on or before the day that is one year from the date of the Notice of Intention to Revoke. A copy of the relevant provisions of the Act concerning revocation of registration, the tax applicable to revoked charities, and appeals against revocation, can be found in Appendix "A", attached. Form T-2046 and the related Guide RC-4424, *Completing the Tax Return Where Registration of a Charity is Revoked*, are available on our website at www.cra-arc.gc.ca/charities;

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

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

Yours sincerely,



Cathy Hawara
Director General
Charities Directorate

Attachments:

- CRA letter dated June 27, 2011
- Appendix "A", Relevant provisions of the Act

c.c.: Ashok Khandelwa

[Redacted]
[Redacted]



CANADA REVENUE
AGENCY

AGENCE DU REVENU
DU CANADA

REGISTERED MAIL

Power Zone Outreach Ministries
c/o George Chukwu
24 Sable Street
Toronto, ON M6M 3K6

BN: 808074827RR0001

Attention: Mr. George Chukwu

File #:3041270

June 27, 2011

Subject: Audit of Power Zone Outreach Ministries

Dear Mr. Chukwu:

This letter is further to the audit of the books and records of the Power Zone Outreach Ministries (the Organization) conducted by the Canada Revenue Agency (the CRA). The audit related to the operations of the Organization for the period from April 16, 2009 to December 31, 2009.

The CRA has identified specific areas of non-compliance with the provisions of the *Income Tax Act* (the Act) and/or its *Regulations* in the following areas:

AREAS OF NON-COMPLIANCE:		
	Issue	Reference
1.	Books and Records	149.1(2), 230(2), 230(4), 231.1(1), 168(1)(b), 168(1)(e)
2.	Charitable Purpose and Activities	149.1(2), 168(1)(b)
3.	Activities Outside of Canada	149.1(2), 168(1)(b)
4.	Official Donation Receipts	149.1(2), 168(1)(d), Regulation 3501
5.	Charity Information Return (T3010)	149.1(2), 149.1(14), 168(1)(c)

WP # 12-0

The purpose of this letter is to describe the areas of non-compliance identified by the CRA during the course of the audit as they relate to the legislative and common law requirements applicable to registered charities, and to provide the Organization with the opportunity to make additional representations or present additional information. Registered charities must comply with the law, failing which the Organization's registered status may be revoked in the manner described in section 168 of the Act.

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

Identified Areas of Non-Compliance:

1. Books & Records:

Legislation:

Pursuant to subsection 230(2) of the Act, every registered charity must keep records and books of account at an address in Canada recorded with the Minister or designated by the Minister containing (a) information in such form as will enable the Minister to determine whether there are any grounds for revocation of its registration under the Act; (b) a duplicate of each receipt containing prescribed information for a donation received by it; and (c) other information in such form as will enable the Minister to verify the donations to it for which a deduction or tax credit is available under the Act.

Audit Findings:

The audit had revealed that the Organization did not maintain adequate books and records to permit the verification of reported revenue and expenditures. In the course of the audit, the following deficiencies were noted:

- The Organization reported issuing donation receipts for the following amounts:

	2009
Total Issued Donation Receipts	\$772,022

The amount reported as tax-receipted gifts on the T3010 return as filed does not reconcile to the official donation receipts issued. While the T3010 reported total eligible tax receipts of \$772,022, the summary of donation receipts had totalled \$702,061.

The accuracy of the amounts recorded on the donation receipts issued and the completeness of the total tax-receipted revenue reported could not be verified.

During the review of the books and records, the Organization stated that they did not have their own bank account until November 2009 and had used the

bank account of Believers Full Gospel Vineyard in the interim. A review of both bank accounts showed deposits of \$86,580 in the Organization and \$92,092 in Believers Full Gospel Vineyard account, totalling \$178,672.

Assuming that funds deposited into both accounts belong to the Organization, this would result in a discrepancy of \$593,350 between total reported tax-receipted gifts and total bank deposits (\$772,022 less \$178,672).

When questioned about the lack of deposits into the bank accounts, the Organization explained that it paid for the expenditures with the cash donations.

- The Organization had reported expenditures of \$609,486. As noted above, the Organization had indicated that all donations not deposited into the bank accounts were used to pay for the expenses of the Organization.

Very little documentation was provided to support the reported expenditures, and much of the documentation provided was considered inadequate.

The particulars are as follows:

- a) Administration/Ministers Allowance – The amount of \$26,880 was reported as a payment to Rev. Don Ifepe. There was no T4/T4A/T4A-NR issued for this amount. Also, there was no documentation to support this expenditure.
- b) Vehicle Maintenance – The amount of \$9,210 was reported as a reimbursement of transportation. A summary of disbursements was provided. But this could not be verified with source documents to substantiate this amount.
- c) Rent – The amount of \$33,105 was reported for the leased property at 1375 Weston Rd, Toronto, the tenant of this property being Believers Full Gospel Vineyard.
- d) Hydro – The amount of \$24,641 was reported, source documentation of \$1,686 was verified. There is a discrepancy of \$22,955.
- e) Fundraising – The amount of \$8,600 reported could not be verified with source documents.
- f) Television – The amount of \$150,220 was reported and was purportedly paid to four stations. A total of \$41,300 was substantiated with source documents. There was an agency agreement between Believers Full Gospel Vineyard, Power Zone and Global Media Agency for \$82,680 (less amounts paid to Vision Television of \$26,000) but this amount was not supported by source documents to show the payments had been made. The result is a discrepancy of \$108,920. Also, it is not clear if this is the programming of Power Zone.

- g) Production – The amount of \$68,580.86 was reported as expenditures for production costs in Canada and in Nigeria.
 - i) The LG invoice for \$19,761 is disallowed as the Organization as the invoices are not in the name of the Organization.
 - ii) The Alliance Media Corporation invoices for \$14,261 are disallowed as they are not invoiced to the Organization but to Hour of Devine Wisdom.
 - iii) Misc. Expenditures – There are source documents to support some of the production costs but there was no clear indication as to the use of the equipment and the nature in which it is used or if it is used to further the charitable programming.
 - h) Missions – The amount of \$106,200 was reported on the T3010 and the Organization indicated that \$170,600 was disbursed when source documents were requested and a summary was provided. This summary could not be supported by source documents (see section 3. Activities Outside of Canada for details).
 - i) Outreach – The amount of \$64,740 was reported. Some of the receipts claimed are made out to Believers Full Gospel Vineyard (see section 3. Activities Outside of Canada for details).
 - j) Miscellaneous Expenditures - Several expenditures were not supported by source documentation.
- The audit revealed that amounts were paid to guest speakers and other individuals in 2009. In the absence of a contract or an invoice which stipulates the goods or services provided, Regulation 200(2) of the Act requires that where an amount has been paid that is required to be included in determining a taxpayer's income from an office or employment, an information slip in respect of such payment shall be issued to that individual or contractor.

Pursuant to subsection 153(1) of the Act, every person paying salary or wages or other remuneration shall deduct or withhold there from such amount as may be determined in accordance with prescribed rules and at such time as may be prescribed, remit that amount to the Receiver General of Canada. Regulation 200(1) further requires that the person prepare Information Returns such as T4's at the end of the year. In the absence of a contract or invoice, the Organization failed to issue such Information Slips for the individuals paid to complete services for the Organization.

Pursuant to IC75-6R, all individuals, corporations or partnerships making payments to non-residents for independent services in Canada, are required to withhold taxes under Paragraph 153(1)(g) and Regulation 105 of the *Income Tax Act*. The Organization failed to withhold taxes from non-residents for services provided to the Organization in Canada. In addition, the Organization failed to issue an Information Slip (T4A-NR) to report these payments. Amounts paid to non-residents along with its withholding tax should be stated

on a T4A-NR or Statement of Fees, Commissions or Other Amounts Paid to Non-Residents of Canada and filed with the CRA. See Guide RC4445 T4A-NR for more information.

Conclusion:

The audit revealed that the books and records maintained by the Organization are not adequate to meet the requirements under subsection 230(2) of the Act.

Under subsection 149.1(2) of the Act, the Minister may revoke the registration of the Organization, because it has failed to comply with or contravened any section of 230 to 230.5 as described at paragraph 168(1)(b) and 168(1)(e) of the Act.

2. Charitable Purpose and Activities:

Legislation:

The Organization is registered as a charitable organization. In order to satisfy the definition of a "charitable organization" pursuant to subsection 149.1(1) of the Act, "charitable organization" means an organization.... "All the resources of which are devoted to charitable activities".

To qualify for registration as a charity under the Act, an organization must be established for charitable purposes that oblige it to devote all its resources to its own charitable activities. This is a two-part test. First, the purposes it pursues must be wholly charitable and second, the activities that an organization 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 Act and it is therefore necessary to refer, in this respect, to the principles of the common law governing charities. An organization that has one or more non-charitable purposes or devotes resources to activities undertaken in support of non-charitable purposes cannot be registered as a charity.

Audit Findings:

The Organization was registered "To preach and advance the teachings of the Christian Faith and the religious tenets, doctrines, observances and culture associated with that faith; To receive and maintain fund or funds and to apply all or part of the principal and income therefrom, from time to time, to registered charities under the Income Tax Act (Canada)" on its Letters Patent dated April 9, 2009.

The Organization's ongoing programs reported on the T3010 are:

- Church Services
- Mission of Hope
- Community Feeding Programs

- Television Preaching and Teaching Ministry
- Outreach

The audit revealed that the Organization purportedly provided a significant portion of its resources to fund programs already established by the Believers Full Gospel Vineyard, a non-qualified donee, which were reported as the Organization's own ongoing programs. These had included the Church Services, Community Feeding Programs and Television Preaching and Teaching Ministry.

This Organization acted as a conduit for the organization Believers Full Gospel Vineyard. For the purposes of this letter, a conduit is a registered charity that receives donations from Canadians, issues tax-deductible receipts, and funnels money without direction or control to an organization to which a Canadian taxpayer could not make a gift and acquire tax relief. Acting as a conduit violates the *Income Tax Act*.

The location where the services are provided is leased to the Believers Full Gospel Vineyard and the only signage or information present is with the name of this other organization.

On the donation envelopes provided to individuals, the name of the Believers Full Gospel Vineyard is the only name present even though this other organization is not eligible to issue donation receipts.

When the Organization did make deposits into a bank account, the Organization used their bank account as well as the bank account in the name of Believers Full Gospel Vineyard. The Organization did not have any control over the use of those funds.

In regards to the programs that it may itself undertake, the Organization lacked supporting documentation to substantiate that resources were used on any charitable programs. This would include some of the Church Services, the Mission of Hope, some of the Community Feeding Programs and the Outreach.

Conclusion:

The Organization is issuing donation receipts for gifts being made to a non-qualified donee and then purportedly transferring the funds to this other organization to fund its established programs and claiming these programs as its own.

The Minister may under subsection 149.1(2) of the Act, revoke the registration of the Organization, because it has failed as described at paragraph 168(1)(b) of the Act to comply with the requirements of the Act for its registration as such.

3. Activities Outside of Canada

Legislation:

The Act permits a registered charity to carry out its charitable purposes both inside and outside Canada if it has registered to do so and in only two ways:

- It can make gifts to other organizations that are on the list of qualified donees set out in the Act. Qualified donees include Canadian registered charities, certain universities outside Canada, the United Nations and its agencies and a few foreign charities.
- It can carry on its own activities. In contrast to the relatively passive transfer of money or other resources involved in making gifts to qualified donees, carrying on one's own activities implies that the Canadian charity is an active and controlling participant in a program or project that directly achieves a charitable purpose.

In order to give meaning and effect to the Act, an organization must continue to meet all of its obligations whether the activities are undertaken directly, through agency agreements or through any other arrangements. While we have never insisted on the absolute need for a written instrument, we recommend it as a means of meeting the requirements of the Act. Notwithstanding the manner by which a charity chooses to meet its obligations, it must provide documentation or other tangible evidence to substantiate that it met the requirements of the Act with respect to the direction and control of its resources.

Since the Act requires an organization to show that it effectively directs and actually controls its own activities, the agency agreement that an organization puts in place and the manner in which the charity implements that agreement must allow the organization to discharge its statutory obligations.

From time to time the Charities Directorate has suggested certain guidelines for agency agreements in order to help charities understand all the requirements of the Act. For a number of years, we discussed these guidelines with individual organizations on a case-by-case basis. As we identified a growing need in the charities sector for more information on this subject, guidelines have been made available to the public and the sector as a whole through our Internet site.

By observing these guidelines and by keeping proper books and records, an organization should be able to discharge its evidentiary burden of establishing that its principal-agent relationship existed in fact, and that it maintained effective direction and actual control over its resources at all times. In the final analysis, the true test of whether an organization was responsible in a direct, effectual, and constant manner over its resources and activities is not shown by how well it has crafted an agreement but rather, how well it has implemented it through time. Therefore, it is incumbent upon

the organization to show that it has properly implemented any agreement it claims is in place.

The existence of either a written or verbal agency agreement is only one example of evidence required to show that a sufficient principal-agent relationship truly exists. The organization through documented evidence, must demonstrate that actual events transpired which prove the continued existence of the principal-agent relationship. Thus, the organization must provide the CRA with a means of examining the internal decision making mechanisms within the charity's own structure through records, such as: minutes of board meetings; internal communications (i.e., memoranda); as well as, policies and procedures that show that the organization, by directing and controlling each of its activities, acted as the guiding-mind in the principal-agent relationship. In addition, the organization must provide source documentation, reports, and the various other instruments it received from its agent showing that throughout the life of the principal-agent relationship, the agent reported back to the principal in such a manner and frequency as to allow the principal to make informed decisions about the resources and projects for which the principal was responsible.

It is the CRA's view that this type of reporting mechanism is necessary for the organization to clearly demonstrate that it maintains an adequate level of control and accountability over the use of its funds. These reports would have to be kept with the organization's other records and books of account at the address recorded with the CRA.

For purposes of the Act, when a registered charity merely transfers its resources to another entity (assuming the entity is a non-qualified donee), but fails to maintain effective direction and actual control over those resources, the result is the same as a gift to a non-qualified donee. Allowing a non-qualified donee to take near total control of the resources of a registered charity nullifies the purpose and intent of the Act.

Please see our website for a copy of our Guide CG-002 "*Canadian Registered Charities Carrying Out Activities Outside Canada*" which includes a set of guidelines that we use to help us assess how much effective direction and actual control a registered Canadian charity exercises in greater detail.

Where an agreement exists only in verbal form, or where some of the elements outlined in the aforementioned guidelines are not explicitly expounded in a written agreement, the CRA will look at all supporting documentation as well as the conduct of both parties to ascertain whether or not the registered Canadian charity maintained effective direction and actual control through its relationship with the other organization. The registered Canadian charity must not only show that an appropriate agreement existed (written or otherwise), it must also show that the agreement was implemented in a manner that clearly demonstrates that the registered Canadian charity exercised direct, effectual, and constant responsibility for undertaking the charitable activities to

which its resources were applied. In effect, the registered Canadian charity must show that it acted as the principal through the implementation of the agreement.

Audit Findings:

An organization must show through documented evidence and proper books and records that it undertook charitable activities in furtherance of charitable purposes and must demonstrate that it operated in compliance with the Act at all times. This requires, among other things, an organization to show that the activities it undertakes benefit only proper objects of charity considering the relief offered.

The undertaking of foreign programs was not one of the approved activities at the time of registration and there is no indication that the Organization had requested approval from the Charities Directorate with respect to any new programs. Notwithstanding this, the Organization has not demonstrated adequate direction and control over its purported foreign activities.

During the initial interview and subsequent meetings, the Organization stated that the foreign activities consisted of the funding of an orphanage in Nigeria. The total funding reported on the T3010 was \$106,200. A summary provided by the Organization during the review on March 1, 2011 indicated that the funding had totalled \$170,600 (when all amounts are added, the total is \$160,600) on the following programs:

The Rural People Support Initiative	\$6,000
Mums and Widows Association	6,300
Merciful House	14,000
Rhema Prophetic Ministries	10,300
Fire Women Global Conference for the Empowerment of Women	16,000
The Almighty God Ministries	14,000
Royal Jopal Educational Mission	50,000
Ramola Home for the Needy	12,000
Young Orphanage Home	12,000
Olubusola Motherless Home	20,000
Total	<u>\$160,600</u>

Attached to this summary was a summary of invoices. These invoices were not segregated by the programs listed above but were the supporting documentation for these programs. The total of these source documents was \$115,612. There is a discrepancy of \$54,988 between what the Organization stated it spent (\$170,600) and the source documents it provided (\$115,612). Although the amount of disbursements was purportedly higher based on the source documents than what was originally filed, the receipts do not adequately support the charitable programs.

The following are examples of these expense receipts:

- 1) A quotation (not a receipt) for Kitchen Cabinets for 2008 made out to Mr. Kasoleri
- 2) Miles Magazine for computers – not a receipt made out to the Organization
- 3) Full purchase of a vehicle made out to Miles Magazine,
- 4) Place of worship receipt made out Pastor Ben Peters
- 5) Plots of Land in October and November of 2009
- 6) Charitable Funding given to Mr. Boniface at Olubusola Motherless Home
- 7) Charitable Funding given to Benevolence Pacelli School of Blind
- 8) Several invoices for the Royal Japal School blocks from Pastor Peters

While the nature of some of these transactions might be considered charitable, the Organization lacked the supporting documentation to substantiate that the funds were actually used by the Organization and for the intended purpose of running an orphanage. Based on the documentation provided, it appears that the receipts were paid by individuals other than the Organization and for other intended purposes, such as places of worship, accommodations and charitable funding of other organizations in Nigeria.

Also, there is no indication as to how all of the expenditures were paid for even if they were allowed. The Organization provided a list of individuals that helped take the money to Nigeria which totalled \$79,650. If all of these funds were in fact taken to Nigeria, a shortfall of \$90,950 would exist between what the Organization reported disbursed and what was sent overseas.

Conclusion:

The Organization has been unable to provide adequate documentation to support its purported foreign program, the funding of an orphanage. If the Organization does establish that it funds such an operation, it has not established that it retains direction and control over the resources purportedly transferred to support the program.

Given the above, the Minister may revoke the registration of the Organization, because it has failed as described at paragraph 168(1)(b) of the Act to comply with the requirements of the Act for its registration as such.

4. Official Donation Receipts:

Legislation:

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

Audit Findings

The audit revealed that the Organization issued official donation receipts on behalf of Believers Full Gospel Vineyard, an unregistered organization.

The official donation receipts issued by the Organization did not comply with the requirements of Regulation 3501 of the Act and IT-110R3 as follows:

- The receipts had the following deficiencies:
 - Does not have a unique serial number, are not all accounted for and are not issued in a reasonable serial manner.
 - The computer system could not be verified as safeguarded or controlled only by the appropriate individuals.
 - Receipt # 9039-9041 had the receipt numbers hand written versus computerized like the rest
 - Receipt # 90107 did not contain the date when the receipt was issued
 - Receipt # 90210 did not have a signature of an authorized individual

Conclusion:

The audit revealed the official donation receipts issued by the Organization did not meet the requirements as set out in Regulation 3501 of the Act. In addition, the Organization issued donations on behalf of another organization.

The Minister may revoke the registration of the Organization, because it issued a receipt for a gift or donation otherwise than in accordance with the Act as described at paragraph 168(1)(d) of the Act.

5. Information Return (Form T3010):

Legislation:

Pursuant to subsection 149.1(14) of the Act, every registered charity must, within six months from the end of each of its fiscal period (taxation year), without notice or demand, file a Registered Charity Information Return containing prescribed information. 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.

Audit Findings:

The Organization did not file its T3010 within six months of its fiscal period ending as summarized below:

<u>Fiscal Period End</u>	<u>Due Date</u>	<u>Date Filed</u>
2009-12-31	2010-06-30	2010-07-05

The Charity improperly completed the Information Return for the fiscal periods ending December 31, 2009 as follows:

- Section C3 – The Organization indicated that it did not make gifts or transfer funds to qualified donees or other organizations when in fact it did.
- Section C4 – The Organization did not check off if it operated outside of Canada, when it made representation that it did operate in Nigeria.
- Section C6 – The Organization did not indicate that it operates through Television solicitation.
- Section C14 – The Organization indicated that it did not issue tax receipts on behalf of another organization when in fact it issued receipts on behalf of Believers Full Gospel Vineyard.
- Schedule 2 – This was not completed.
- The amounts reported as bank account balances on the T3010 return were incorrect when compared to the bank statements.
- The amounts reported as expenditures on the T3010 return as filed were also inaccurate and were not completely supported with documentation (see Books and Records section for specific discrepancies)

Conclusion:

While these issues of non-compliance would not necessarily result in revocation on their own, we have included these issues for completeness.

Under subsection 149.1(2) of the Act, the Minister may revoke the registration of the Organization because it has failed to file an information return as and when required by subsection 149.1(14) of the Act or a Regulation as described at paragraph 168(1)(c) of the Act.

The Organization's Options:

a) No Response

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

b) Response

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

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

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

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

Yours sincerely,

[Redacted Signature]

[Redacted Name]
Audit Division
Kitchener/Waterloo TSO

Telephone: [Redacted]
Facsimile: [Redacted]
Address: 166 Frederick St., Kitchener, ON
N2G 4N1

cc: Ashok Khandelwa
Emile Kemayou
Robin Edoh

Section 149.1: [Charities]

149.1(2) Revocation of registration of charitable organization

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

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

149.1(3) Revocation of registration of public foundation

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

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

149.1(4) Revocation of registration of private foundation

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

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

149.1(4.1) Revocation of registration of registered charity

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

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

Section 168: Notice of intention to revoke registration

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

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

168(2) Revocation of Registration

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

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

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

168(4) Objection to proposal or designation

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

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

Where the Minister

- (a) refuses to register an applicant for registration as a Canadian amateur athletic association,
- (a.1) confirms a proposal, decision or designation in respect of which a notice was issued by the Minister to a person that is or was registered as a registered charity, or is an applicant for registration as a registered charity, under any of subsections 149.1(2) to (4.1), (6.3), (22) and (23) and 168(1), or does not confirm or vacate that proposal, decision or designation within 90 days after service of a notice of objection by the person under subsection 168(4) in respect of that proposal, decision or designation,
- (b) refuses to accept for registration for the purposes of this Act any retirement savings plan,
- (c) refuses to accept for registration for the purposes of this Act any profit sharing plan or revokes the registration of such a plan,
- (d) refuses to issue a certificate of exemption under subsection 212(14),
- (e) refuses to accept for registration for the purposes of this Act an education savings plan,
- (e.1) sends notice under subsection 146.1(12.1) to a promoter that the Minister proposes to revoke the registration of an education savings plan,
- (f) refuses to register for the purposes of this Act any pension plan or gives notice under subsection 147.1(11) to the administrator of a registered pension plan that the Minister proposes to revoke its registration,
- (f.1) refuses to accept an amendment to a registered pension plan, or
- (g) refuses to accept for registration for the purposes of this Act any retirement income fund, the applicant or the organization, foundation, association or registered charity, as the case may be, in a case described in paragraph (a) or (a.1), the applicant in a case described in paragraph (b), (d), (e) or (g), a trustee under the plan or an employer of employees who are beneficiaries under the plan, in a case described in paragraph (c), the promoter in a case described in paragraph (e.1), or the administrator of the plan or an employer who participates in the plan, in a case described in paragraph (f) or (f.1), may appeal from the Minister's decision, or from the giving of the notice by the Minister, to the Federal Court of Appeal.

Section 180: Appeals to Federal Court of Appeal

180(1) Appeals to Federal Court of Appeal

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

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

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

Section 188: Revocation tax

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

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

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

188(1.1) Revocation tax

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

$$A - B$$

where

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

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

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

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

188(1.2) Winding-up period

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

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

188(1.3) Eligible donee

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

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

188(2) Shared liability — revocation tax

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

188(2.1) Non-application of revocation tax

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

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

188(3) Transfer of property tax

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

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

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

188(4) Idem

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

188(5) Definitions

In this section,

"net asset amount"

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

$A - B$

where

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

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

"net value"

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

$A - B$

where

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

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

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

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

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

189(6.1) Revoked charity to file returns

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

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

189 (6.2) Reduction of revocation tax liability

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

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

189(6.3) Reduction of liability for penalties

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

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

189 (7) Minister may assess

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