



NOV 23 2010

REGISTERED MAIL

Operation Save Canada's Teenagers
2357 Finch Ave. West, Suite 217
Toronto ON M9M 2W6

BN: 843619677RR0001

Attention: Daniel Mokwe

File #:3031571

Subject: Notice of Intention to Revoke
Operation Save Canada's Teenagers

Dear Mr. Mokwe:

I am writing further to our letter dated April 14, 2010 (copy enclosed), in which you were invited to submit representations as to why the charitable status of Operation Save Canada's Teenagers should not be revoked in accordance with subsection 168(1) of the *Income Tax Act*.

We have now reviewed and considered your written response dated May 28, 2010 (copy enclosed) that was faxed to our office on May 31, 2010. However, notwithstanding your reply, our concerns with respect to Operation Save Canada's Teenagers 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 of Operation Save Canada's Teenagers (the Organization) has identified serious non-compliance with the requirements of the Act. In particular, throughout the course of the audit significant receipting discrepancies were discovered and the Organization provided falsified bank statements to substantiate revenues and expenditures of the Organization.

The Organization was unable to provide a complete record of donation receipts issued. A large number of duplicate copies of receipts were either missing or not maintained. Of the receipts provided by the Organization, serious discrepancies were noted including receipts for gifts of services such as car rentals, musical instrument rentals and facility rentals.

The Organization reported, for the 2006 and 2007 fiscal years, charitable expenditures of \$654,043 and \$1,057,707 respectively. However, our audit was unable to confirm that any amounts were devoted to their charitable activities.

It is the view of the Canada Revenue Agency that the Organization has improperly issued receipts for amounts greater than the amounts donated, issued receipts for transactions that do not qualify as gifts or are otherwise not in accordance with the Act and its Regulations; has failed to maintain and provide adequate records to support its activities and has provided falsified bank statements to the CRA. For all of these reasons, and for each of these reasons alone, it is the position of the CRA that the Organization's registration should be revoked.

Consequently, for each of the reasons mentioned in our letter dated April 14, 2010, I wish to advise you that, pursuant to subsection 168(1) of the Act, I propose to revoke the registration of the Organization. By virtue of subsection 168(2) of the Act, revocation will be effective on the date of publication of the following notice in the *Canada Gazette*:

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

Business Number	Name
843619677RR0001	Operation Save Canada's Teenagers 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.

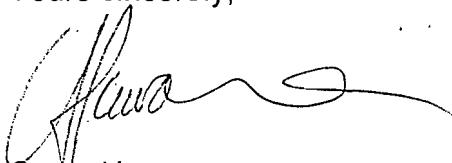
Consequences of Revocation

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 "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 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 April 14, 2010
- Your representation dated May 28, 2010
- ITR Appendix "A", Comments on Representations; and
- ITR Appendix "B", Relevant provisions of the Act

c.c. Daniel Mokwe



Juliet Mokwe





REGISTERED MAIL

Operation Save Canada's Teenagers
2357 Finch Ave West, Suite 217
Toronto ON M9M 2W8

BN: 843619677RR0001
File No: 03031571

Attention: Daniel Mokwe

April 14, 2010

Subject: Audit of Operation Save Canada's Teenagers

Dear Mr. Mokwe:

This letter is further to the audit of the books and records of Operation Save Canada's Teenagers (the Organization) by the Canada Revenue Agency (the CRA). The audit related to the operations of the Organization for 2006 and 2007 fiscal years.

At our meeting of July 9, 2009, you were advised that the CRA has identified specific areas of non-compliance with the provisions of the *Income Tax Act* (the ITA) and/or its *Regulations*. The specific areas of non-compliance identified are:

AREAS OF NON-COMPLIANCE:	
Issue	ITA References
1. Failure to Maintain Adequate Books and Records	149.1(2), 168(1)(e), 230(2)
2. Failure to Devote Resources to Charitable Activities	149.1(1)
3. Issuing Receipts Not in Accordance with the ITA	Regulation 3501, 118.1, 149.1(2), 168(1)(d)

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. In order for a registered charity to retain its registration, legislative and common law compliance is mandatory, absent which the Minister of National Revenue (the Minister) may apply penalties and/or suspensions provided for in subsections 188.1 and/or 188.2 of the Act. The Minister may also give notice of its intention to revoke the

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registration of the Organization by issuing a Notice of Intention in the manner described in subsection 168(1) 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 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”.

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 Registered Charity Information Return (T3010) with financial statements and the applicable schedules. It is the responsibility of the charity to ensure the information recorded on the T3010, financial statements and schedules, is factual and complete in every respect. A charity is not meeting its requirement to file a T3010 if it fails to exercise due care with respect to ensuring the accuracy thereof.

The CRA requested the Organization to make available its records for the audit period; however, the CRA was not provided with complete or accurate records to support the activities and amounts reported on the T3010 and financial statements filed. The CRA began requesting the Organization's records on September 10, 2008 and issued three more follow-up requests for the records yet to be provided over a course of 12 months¹. The Organization repeatedly stated the records were forthcoming or with its accountant; however, during this timeframe and to date, complete and accurate records were not provided. The Organization subsequently represented that all of its records, for 2006 and 2007 were stored in a warehouse, of which the contents were sold when the Organization failed to

¹ In addition to written requests, the CRA also requested the documents while working at the Organization and in numerous telephone conversations.

pay arrears rent. We acknowledge that the Organization has provided some documents supporting the rental of a warehouse, yet the Organization has not demonstrated that it attempted to replace the records that were purportedly sold². We also find this subsequent submission contradictory to previous statements made in that the Organization's records were stored on a computer and lost due to a computer malfunction and note that the submission of the records being sold came only after our repeated attempts to obtain the Organization's records.

Included in the records not provided by the Organization were its bank statements. The Organization provided copies of some bank statements purportedly issued by the TD Bank of Canada, Royal Bank of Canada (RBC) and Scotiabank yet a review of the statements provided revealed serious discrepancies. We also have serious and legitimate concerns that the bank statements provided were manufactured for the purpose of our audit.

During our meetings with the Organization, it stated it had bank accounts with TD Canada Trust, RBC and Scotiabank; that its Finance Committee counted all weekly deposits; that it received, on average, \$80,000/week in cash; that its accountant maintained copies of the donation envelopes; and that a portion of the cash collected was used for petty cash with the remainder deposited into the Organization's bank accounts. The Organization provided copies of some bank statements for each of the accounts and we have identified, via third party confirmation, the following extremely serious concerns:

- A Scotiabank statement provided by the Organization for August 2006 shows total deposits (revenue) \$234,486 and total payments (expenses) \$189,418, including \$80,000 paid to Jamaica Reggae Band. Also, the August 2006 bank statement provided by the Organization showed a closing balance of \$65,116.67 as of July 31, 2006.
- The Organization provided Scotiabank statements for 5 month period from August to December 2006. In September 2006, the account recorded \$130,000 transferred to the USA and the other statements recorded similar large transfers in the following months. Information obtained via third party confirmation reveals the Organization did not have a Scotiabank account.
- The Organization provided Royal Bank statements for nine months starting from April 2007 with an opening balance of \$26,258 to December 2007 with a closing balance of \$0.81. There were many large deposits, wire transfers and cheques each month. Third party verification reveals the Organization did not have an account with RBC.

The Organization has stated that it sent a substantial amount of money outside Canada and provided documents purported to be money transfer slips to support the amounts purportedly transferred outside Canada. The documentation provided also purportedly reconciles to the bank statements provided by the Organization. In 2006 and 2007, the Organization reports activities outside of Canada of \$536,957 and \$274,000 respectively. The Organization failed to provide any other documentation supporting the transfer of funds such as the programs it was funding outside Canada, reports confirming the receipt of funds and use of funds in programs conducted by the Organization or by an agent of the Organization.

² Records such as bank statements, copies of cancelled cheques/money orders/wire transfers and the like could have been obtained from the Organization's financial institution.

The Organization reports 27 transfers of funds totalling \$787,180 between August 2006 and December 2007 and provided documents for the transfers. The transfers ranged from \$5,600 to \$100,000. The transfer documents record Mr. Daniel M. Mokwe as the ordering customer on all of them. Our review of the documents provided reveal that the bank's name and logo were missing; that most transfers were done at branch number 0335 of the Toronto-Dominion Bank (TD Bank); and that the name of the bank, Toronto-Dominion Bank, was recorded as the bank despite the fact that the bank is known as and operates under the name of TD Canada Trust. The financial institutions noted above have confirmed that no such transfers existed. As such, it appears these documents were manufactured for the purposes of our audit and to possibly support the amount reported on the T3010 filed. The Organization has not substantiated that it has distributed cash and property overseas.

The Organization also provided some invoices to support some of the expenditures reported on its T3010; however, as per above, we have serious concerns about the legitimacy of these documents. The invoices provided are undated, unsigned, contain the name of other entities, appear altered and so forth. As such, we cannot accept these invoices as support for the expenditures reported on the T3010. The Organization also provided a cash flow summary statement in electronic and paper format which allegedly ties into the T3010 and financial statements filed but also the bank statement and wire transfer documents provided. Our review of the cash flow statements indicate they were prepared for the purposes of our audit and are unsupported by other verifiable source documentation.

We find the above serious violations of the ITA warranting revocation of the Organization's registered charity status. We have also considered issuing a Notice of Suspension to the Organization under paragraph 188.2(2)(a); however, given the seriousness of the non-compliance identified, we feel revocation is warranted. Registered charities and their directors may also be subject to third party civil penalties. Effective June 29, 2000, third parties are subject to civil penalties for making misrepresentations with respect to tax matters that could result in their clients making false statements or omissions on their returns which include overstating the fair market value of a property donated.

As per above, our third party verification has revealed that the bank statements and money transfer slips provided appear to have been manufactured for the purposes of our audit to support the amounts reported on the T3010 and financial statements. It appears the Organization has issued official donation receipts for cash and in-kind goods received, yet the Organization is unable to substantiate that this property was used by the Organization. In the absence of such information, we are lead to believe the property either did not exist or was appropriated.

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 Operation Save Canada's Teenagers has failed to comply with and has contravened section 230 of the ITA. For this reason, it appears to us there may be grounds for revocation of the charitable status of Operation Save Canada's Teenagers.

2. 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.

The Organization was registered effective July 6, 2006 "to rescue Canada Teens from failing in life". The activities of the Organization include:

1. Counselling
2. Peer Counselling
3. Outreach Programs
4. Opportunities to promote training of young artists to address problems of delinquency, substance abuse, violence, abuse, suicide, anger management, truancy STDS and pregnancy in youth teens.

During the course of our audit, we recognized that the Organization has devoted some of its resources to charitable activities such as seminars and conferences; however due to the inadequate and contradictory records provided, we are unable to establish what resources have been devoted to the charitable activities. Of the \$654,043 and \$1,057,707 reported as total charitable expenditures in 2006 and 2007 respectively, our audit was unable to determine the amounts spent on charitable activities or the percentage of resources devoted to such activities in furtherance of the purposes for which the Organization was registered. Per above, the Organization has failed to provide sufficient documents to support the \$536,957 and \$274,000 in expenditures incurred outside Canada. Furthermore, the Organization has also been unable to substantiate its direction and control over the distribution of funds transferred overseas.

The Act permits registered charities to carry out its charitable purposes both inside and outside Canada 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; and
- It can carry on its own activities. In contrast to the relatively passive transfer of money and other resources involved in the making of 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 program that directly achieves a charitable purpose.

In order to give meaning and effect to the Act, a charity must continue to meet all of its obligations whether the activities are undertaking directly, through an agency agreement or through any other arrangement. Notwithstanding the manner in 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 direction and control of its resources.

The existence of an agreement is only one example of evidence required to show that a sufficient principal-agent relationship truly exists. Through documented evidence, the charity must

demonstrate that actual events transpired which prove the existence of a principal-agent relationship. Thus, the charity must maintain and provide the CRA with a means of examining the internal decision making mechanisms within the charity's own structure through records such as board meeting minutes, internal communications, policies, procedures, and so forth that demonstrate the charity is the directing and controlling mind behind the activities. In addition, the charity must be able to provide documentation it received from its agent showing, that throughout the term of the agreement, the agent reported back to the charity in a manner and frequency that allows the charity to make informed decisions about the activities the agent is conducting on its behalf.

Under paragraph 168(1)(b) of the ITA, 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 ITA for its registration as such. It is our position Operation Save Canada's Teenagers has failed to comply with and has contravened section 149.1(1) of the ITA. For this reason, it appears to us there may be grounds for revocation of the charitable status of Operation Save Canada's Teenagers.

3. Official Donation Receipts:

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

- Receipts issued for gifts appear to have been issued in excess of the cash actually received and in excess of the in-kind property's factual fair market value [IT-10R3 Paragraph 15(e)]. Our audit revealed that the donation receipts issued note only cash was received yet additional information was presented that in-kind property was also donated.
- Regulation 3501 of the ITA requires receipts to bear a unique serial number, receipts to be issued in sequential order and for the Organization to account for all the serial numbers issued. Charities are expected to guard against the unauthorized use, loss or theft of official donation receipts. We reviewed the duplicate donation receipts provided and found that the Organization failed to comply with Regulation 3501 as receipts were not issued in sequential order and duplicate receipts were missing.
- The Organization has issued receipts in lieu of payment or reimbursement of expenses and for services purportedly rendered to it. During the audit period, the Organization issued over \$17,600 in car rental expenses, \$16,155 for facility rentals, \$34,295 for musical equipment rentals, \$5,326 for awards and gifts and \$8,960 for food/drinks expenses to various individuals. While it is acceptable for a registered charity to reimburse volunteers for expenses incurred on behalf of the charity, a charity cannot simply issue an official donation receipt to a volunteer *in lieu* of reimbursing the expenses nor can a charity issue a donation receipt to acknowledge services contributed by a volunteer. Contributions of services, that is, of time, skills or efforts, are not property, and therefore they do not qualify as gifts for purposes of issuing official donation receipts. Accordingly, a charity cannot issue an official donation receipt for services rendered free of charge. Additionally, a charity cannot issue an official donation receipt for the payment of expenditures.

In our view, the Organization has failed to exercise any control over or demonstrate its on-going due diligence to ensure receipts issued complied with the ITA and as such, receipts were not issued for valid gifts. As a result of the incomplete, inadequate and possibly manufactured records provided to support the donations reported it has been determined that the resulted donations receipts were overstated and they are misrepresented in that they showed that cash was received whereas the books and records failed to support the donations reported.

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

The Organization's Options:

a) No Response

You may choose not to respond. In that case, the A/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 ITA.

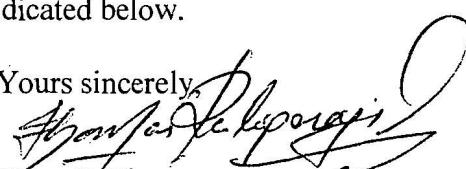
b) Response

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 Organization, the A/Director General of the Charities Directorate will decide on the appropriate course of action.

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,


Tony P. Thomas
Verification and Enforcement Division
Kitchener Tax Services Office

Address: 166 Frederick Street
Kitchener, ON N2G 4N1

OPERATION SAVE CANADA'S TEENAGERS

COMMENTS ON REPRESENTATIONS DATED MAY 28, 2010

1. Books and Records:

In the representations of Operation Save Canada's Teenagers dated May 28, 2010, George Obeng of Nananom Financial Services states, "*The organization is surprise to note that we did not provide him with all and inadequate documents or information where as we have a copy of the list of documents we provided and each time we provide him with such document or information he will place a tick mark indicating that he has receive the requested document or information.*"

We respectfully disagree with this statement. As set out below, Operation Save Canada's Teenagers (the Organization) has been provided by Canada Revenue Agency (CRA) with sufficient time to provide a complete set of books and records and to date has not fulfilled this request.

An initial meeting was scheduled for September 19, 2008 with Daniel Mokwe. On January 8, 2009 a two page audit query sheet was provided by the auditor to the organization. A list of documents was requested and during subsequent meetings on June 5, 2009, and July 8, 2009 these documents were again requested. To date, CRA still has not received the books and records for 2006 and 2007 including bank statements, cancelled cheques, deposit books and other supporting documentation. Subsequent to our requests, the Organization alleges that all of the information was stored in a rented warehouse and was sold when the Organization failed to pay the rent. We have received no creditable evidence to support this assertion and note that many of these records could have been obtained through the Organization's financial institution if desired.

The Administrative Fairness Letter (AFL) was issued to the Organization on April 14, 2010 providing 19 months between the commencement of the audit and the AFL to provide the necessary information.

The *Income Tax Act*, 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 Act.

In addition, subsection 230(4) also states, "[E]very 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 Organization were inadequate for the purposes of the Act as explained in our letter dated April 14, 2010. It is our position that the Organization has failed to comply with and has contravened section 230 of the Act. For this reason alone there are grounds to revoke the registered status of the Organization. Under the *Income Tax Act*, failure to comply with keeping proper books and records may result in the suspension of a registered charity's tax receipting privileges or in the revocation of their registered status.

2. False Documents:

In the representations of the Organization dated May 28, 2010, George Obeng of Nananom Financial Services states, "*Paragraph four, five and six of page three contain information about banking and information received from third party. You might be right but like we mentioned above the treasurer who is at the run would have been the best person to provide explanations about the concerns we all have in the paragraphs mentioned. We can only provide banking information as from December 31 2008.*"

It is apparent from the Organization's statement above that the books and records provided by the Organization are inadequate. It appears that the bank statements provided have been altered and did not reflect the actual transactions made by the Organization. Clearly this is an egregious non-compliance issue which has not been satisfactorily explained by the Organization.

Our concerns, with respect to the false documents provided by the Organization have not been alleviated. As explained in our letter dated April 14, 2010, the Act, as per subsection 230(2), requires every registered charity to keep information in such form as will enable CRA to verify the donations to it.

It is our position that the Organization has failed to comply with and has contravened section 230 of the Act. For this reason, there are grounds for revocation of the charitable status of the Organization.

3. Official Donation Receipts:

In the representations of the Organization dated May 28, 2010, George Obeng of Nananom Financial Services states, *"Paragraph 5 of page 6 states that the organization issued receipts to pay for expenses incurred by volunteers on behalf of the organization. This is not true as the receipts issued are or were for individual or organizations who contributed cash or kind to the organization."*

Our concerns with respect to the Organization's donation receipts including the issuance of false receipts have not been alleviated. The law provides various requirements with respect to the issuing of official donation receipts by registered charities. These requirements are contained in Regulations 3500 and 3501 of the Act and are described in some detail in Interpretation Bulletin IT-110R3, *Gifts and Official Donation Receipts*.

The audit revealed that donation receipts issued by the Organization do not comply with the requirements of Regulation 3501 of the Act and IT-110R3 as explained in our letter dated April 14, 2010. It is our position that the Organization has failed to exercise any control over or demonstrate its on-going due diligence to ensure receipts issued complied with the Act and as such, were issued for valid gifts. As noted in our letter of April 14, 2010, charitable donation receipts were issued for car rental expenses, facility rentals, musical equipment rentals, awards and gifts and food/drinks with no documentation to support the issuance of these receipts. It is also apparent that there are large discrepancies between the information on the donation receipts and the information within the books and records. The donation receipts indicate that only cash was received whereas the books and records show a combination of cash and gifts-in-kind with no corresponding support.

It is our position that the Organization issued receipts for transactions that do not qualify as gifts at law. For this reason alone there are grounds for revocation of the charitable status of the Organization under paragraph 168(1)(d) of the Act.

ITR APPENDIX "B"

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.