



REGISTERED MAIL

Satnam Trust
6933 – 124th Street
Surrey, BC
V3W 3W6

BN: 11914 1521 RR0001
File #: 0595124

Attention: Paul Singh, Accountant

JUL 27 2011

**Subject: Notice of Intention to Revoke
Satnam Trust**

Dear Mr. Singh:

I am writing further to our letter dated December 17, 2009 (copy enclosed), in which you were invited to submit representations as to why the registration of Satnam Trust (the Trust) should not be revoked in accordance with subsection 168(1) of the *Income Tax Act*.

We have now reviewed and considered the written responses dated February 18 and 19, 2010 received from Trustee Balwant Singh Bhandher. For the reasons set out in Appendix A, these representations do not overcome the issues raised by our audit findings.

Conclusion:

On the basis of our audit, we have concluded that the Trust has ceased to comply with the requirements of the Act for its continued registration in the following areas: failed to maintain adequate books and records; provided funding to non-qualified donees outside Canada; and issued donation receipts not in accordance with the Act.

Consequently, and for each of the reasons set out in this letter, I wish to advise you that, pursuant to subsection 168(1) of the Act, I propose to revoke the registration of the Trust. 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

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
119141521 RR0001	Satnam Trust Surrey BC

Should you wish to object to this notice of intention to revoke the Trust'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

Consequences of Revocation

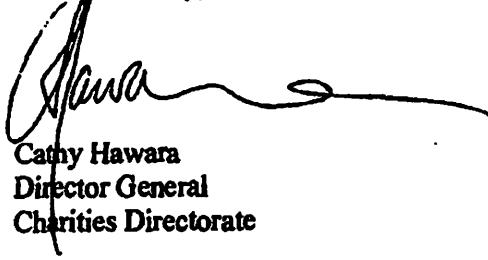
As of the effective date of revocation:

- a) the Trust 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 Trust 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 Trust may 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 <http://www.cra-arc.gc.ca/charities>; and
- c) the Trust will no longer qualify as a charity for purposes of subsection 123(1) of the *Excise Tax Act* (ETA). As a result, the Trust may be subject to obligations and entitlements under the ETA that apply to organizations other

than registered 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:

- Appendix A - CRA Position on Representations
- Appendix B - Relevant Provisions of the Act
- CRA letter dated December 17, 2009

APPENDIX A

SATNAM TRUST

CRA POSITION ON REPRESENTATIONS

Following our review of the Trust's representations, the CRA maintains the position that the Trust is in serious non-compliance with core requirements of the *Income Tax Act* in the following areas:

Issue 1: Inadequate Books and Records

The audit revealed that the Trust did not maintain adequate books and records. The audit also established that internal controls for the administration of the Trust's funds were inadequate, making it difficult for the CRA to establish, as a matter of fact, the actual use of the Trust's resources. Thus, the CRA was prevented from determining whether the Trust's resources were exclusively devoted to charitable purposes and activities.

Meeting Minutes

The Trust's meeting minutes were not provided to the auditor during the on-site visit of December 6, 2006, or at anytime prior to our letter of December 17, 2009. As a result, the CRA was unable to fully understand the decision-making process of the Trust, or to determine (in combination with other books and records) whether the Trust's resources are being used for exclusively charitable purposes in compliance with the provisions of the Act. In addition, the lack of meeting minutes has prevented the CRA from determining whether the Trust exercised any direction and control over the use of its resources outside Canada.

Foreign Activities

The CRA's audit observations indicated that more than half of the Trust's resources were distributed in India to Satnam Trust Jalwana, Guru Nanak Nishkam Sewak Jatha (GNNSJ), Harkrishan Public School, Provincial Government Secondary School, and Amarjit S. Sangha. However, no documentation, correspondence or books and records from either the Trust or from the principal foreign recipient of the Trust's funds, Satnam Trust Jalwana, were provided in support of the activities represented by the Trust. Without this supporting documentation, the CRA indicated to the Trust that it was impossible to confirm that the foreign funding was employed for charitable purposes under the direction and control of the Trust, pursuant to the Act.

Trust's Representations

The Trust provided minutes for one meeting in 2000 and for two meetings in each year from 2003 to 2006. However, it has still not provided any meeting minutes for the years 1999, 2001 and 2002. The Trust gave two reasons for not providing the meeting minutes: "First Hardial

Singh Johal died on Nov. 15th, 2002. For that reason, only one record is available from 1998 to 2002 in Punjab (attached) with translation. Second, Balwant Singh Bhandher the director who was keeping these minutes had written them down in Punjabi in his notebook. Not realizing that the minutes in Punjabi were proper minutes, he did not provide them during the audit. – He found it easier to say we can't find the copies of the minutes.”

The Trust also informed the CRA that “The documentation for funding overseas is attached. You can see since 2007, we have agency agreements and reports from our overseas partners”. The documents provided by the Trust include an agency agreement dated April 1, 2007, with Satnam Trust Jalwana; five expenditure reports for the period from April 1, 2007 to September 30, 2009 for a project with Satnam Trust Jalwana; and a partially readable 1995 Memorandum of Association.

CRA's Response

As explained in our letter dated December 17, 2009, subsection 230(2) of the Act sets out requirements pertaining to records and books of account for registered charities. Paragraph 230(2)(a) of the Act specifies that a registered charity's records and books of account must include information in such form as will enable the CRA to determine whether there are any grounds for revocation of registration.¹ This would normally include records demonstrating the charity's internal decision-making mechanisms, such as copies of minutes of meetings, as well as all relevant source documentation in support of bank and cash transactions, such as invoices and receipts, and all records and books of account related to any activity carried on outside Canada. Subsection 230(4) of the Act requires a charity to maintain records and books of account together with every supporting account and voucher.² In addition, regulation 5800(1) states that minutes of meetings of the directors of a corporation are required to be kept for two years after the date the charity is dissolved. The purpose of these requirements is to enable the charity to accurately provide the CRA with the information required by the Act, as well as to enable the CRA to verify the accuracy of reported information through the audit function.

The Trust failed in its obligation as a registered charity to keep, maintain, retain and safeguard meeting minutes.³ It is worth noting that the Trust did not provide meeting minutes, as requested by the CRA, during three prior audits.⁴ This history of aggravated non-compliance is troubling since Mr. Balwant Singh Bhandher himself undertook in a 1994 letter to the CRA that the Trust

¹ Subsection 248(1) of the Act defines a record as an account, an agreement, a book, a chart or table, a diagram, a form, an image, an invoice, a letter, a map, a memorandum, a plan, a return, a statement, a telegram, a voucher, and any other thing containing information, whether in writing or in any other form.

² See also Information Circular: IC 78-10R5 – Books and Records Retention/Destruction. Online: <http://www.cra-arc.gc.ca/E/pub/tp/ic78-10r5/ic78-10r5-10e.pdf>. Accessed on 2011-02-14.

³ Regulation 5800(1) sets out the requirement pertaining to the retention of books and records, including meeting minutes. This is one of the responsibilities for record keeping pursuant to CRA publication RC4409: Keeping Records. Online: <http://www.cra-arc.gc.ca/E/pub/tg/rc4409/rc4409-09e.pdf>. Accessed on 2011-01-14.

⁴ With regard to the audit of the 1995, 1996, and 1997 fiscal years, minute books were not initially made available for review, but were provided several months after the audit field work had been completed. At that time, then-Trustee Ripudaman Singh Malik provided the CRA with a set of minute books covering eight meetings over a six-year period (specifically, December 8, 1993; June 19, 1994; July 17, 1994; May 31, 1995; June 17, 1996; April 19, 1997; January 4, 1998; and February 15, 1998). The authenticity of these minutes was uncertain due to the identical formatting and type-setting used, suggesting that they were all prepared at one time and not over the six-year period they were said to represent. Moreover, the minutes appeared to have been prepared to provide a defence against issues raised during the audit.

would “. . . ensure that in future the Board Minutes are available for the audit.” Given the fact that Mr. Bhandher has acted continuously as a Trustee from 1989 to 2008⁵, the CRA does not accept the Trust’s reasons for not having the meeting minutes readily available at the time of the audit.⁶ The few meeting minutes provided in response to CRA’s December 17, 2009 letter, purporting to represent the period in question, do not allow the CRA to fully understand the decision-making process of the Trust, do not alleviate the CRA’s concerns as to whether the Trust’s resources were used exclusively for charitable purposes, and fail to demonstrate that the Trust maintained direction and control over the use of its foreign disbursements.

The Trust has not provided valid source documents to demonstrate that its foreign funding was being used in furtherance of its own activities and that it was exercising direction and control over the use of its resources.⁷ The documents that the Trust did provide to demonstrate that it maintained direction and control for funds were insufficient to allow the CRA to determine if the Trust was operating in accordance with the Act.⁸ In carrying out its activities through an agent, a charity must ensure that adequate books and records be kept by the charity and that the records in support of these disbursements be maintained by the charity at an address in Canada in order to account for how the funds were spent on its behalf by the agent.⁹ The lack of documentary evidence provided by the Trust regarding how those funds were spent further suggests that the Trust was merely acting as a conduit for Canadian donors to overseas donees.¹⁰

It is CRA’s position that for each of the reasons described above, the Trust did not maintain adequate books and records, and for each of these reasons alone, the Trust has failed to comply with, and has contravened, section 230 of the Act and regulation 5800(1). Therefore, pursuant to paragraph 168(1)(e) of the Act, the Minister may revoke the registered status of the Trust.

Issue 2: Gifts to Non-Qualified Donees

Our audit revealed that monies sent outside Canada by the Trust constituted gifts to non-qualified donees. These observations were made apparent by the lack of ongoing direction and control by the Trust over the use of its resources outside Canada, further evidenced by the absence of adequate books and records. The audit revealed that the Trust disbursed a total of \$338,965 to non-qualified donees in India during the 2003, 2004 and 2005 taxation years, as follows:

⁵ The exception is the 2000 fiscal year when Mr. Bhandher was not a Trustee.

⁶ Subsection 230(1) of the Act requires that records be made available to CRA officials in order for the records to be inspected, audited or examined. This examination also requires supporting documentation to be made available at the time of the audit. See also *Canadian Committee for the Tel Aviv Foundation v. Canada*, 2002 FCA 72 at para. 39 [hereinafter *Tel Aviv Foundation*].

⁷ As described in CRA’s letter and Information Circular 78-10R5: Books and Records Retention/Destruction, source documents that the Trust should have provided to the CRA include sales invoices, purchase invoices, cash register receipts, formal contracts, credit card receipts, delivery slips, deposit slips, work orders, dockets, cheques, bank statements, tax returns, and general correspondence, whether written or in any other form to demonstrate any type of direction or control of its overseas funding.

⁸ Satnam Trust Jalwana’s 1995 Memorandum of Association is illegible, and the expenditure reports for, and agency agreement with, Satnam Trust Jalwana for the period from 2007 onward may not be applied retroactively.

⁹ *Canadian Magen David Adom for Israel v. Canada (Minister of National Revenue)*, 2002 FCA 323 at para. 23 [hereinafter *CAMD*].

¹⁰ *Tel Aviv Foundation* at para 30.

- Satnam Trust Jalwana (India): \$327,937;
- GNNSJ: \$3,150;
- Amarjit S. Sangha: \$2,000;
- Harkrishan Public School: \$5,340; and
- Provincial Government Secondary School: \$538.

Trust's Representations

The Trust admits that it was unable to provide the following: detailed banking information supported by relevant documentation; correspondence between the Trust and the foreign recipients to support the nature of the activities undertaken by them; source documents, such as invoices and other documentation that specifically identify the expenditures made by the recipient to support the activities being funded by the Trust; and progress reports to demonstrate how its foreign projects were being managed on behalf of the Trust.

In an attempt to reassure the CRA of its ongoing direction and control over its foreign funding, the Trust represented that "these activities are given direction by the directors of the TRUST by telephone. As well Jarnail Singh Manhas – a Director goes to India every year to provide direction and oversee all activities." and "We do provide complete direction and control as to how the funds are to be used." The Trust further indicates that the issue regarding the segregation of the Trust's funding to Satnam Trust Jalwana was "... never raised with us as a concern".

The Trust also provided the name and address of one of its foreign recipients and a copy of the letter sent to Satnam Trust Jalwana dated February 7, 2010, requesting that organization to open a separate account for the money received from the Trust.

The Trust directs the CRA once again to the agency agreement, expenditure reports, and Memorandum of Association to address CRA's concerns about direction and control over the activities being performed on behalf of the Trust.

CRA's Response

As explained in our letter dated December 17, 2009, a registered charity is not permitted to make gifts to non-qualified donees.¹¹ Subsection 149.1(1) of the Act requires that a charitable organization devote all of its resources to "charitable activities carried on by the organization itself."¹²

¹¹ The term qualified donee is defined in subsection 149.1(1) of the Act to mean an organization to which Canadian taxpayers may directly make charitable gifts, or gifts to the Crown, which can be claimed when filing their income tax returns. Within Canada, the term "qualified donee" generally refers to other Canadian registered charities and municipalities. Outside Canada, the only organizations that are qualified donees under the Act are the United Nations and its agencies, certain universities outside Canada ordinarily attended by Canadian students, and charitable organizations outside Canada to which Her Majesty in Right of Canada has made a gift within the previous two years.

¹² Subsection 149.1(6) provides that a charitable organization shall be considered to be devoting its resources to charitable activities carried on by it to the extent that in any taxation year it disburses not more than 50 per cent of its income for that year to qualified donees.

Except where a charity gifts its funds to a qualified donee, the CRA requires the charity to show that it effectively directs and actually controls its own activities on an ongoing basis, including situations in which a charity carries out its activities through an intermediary, such as an agent. When a registered charity merely transfers its resources to another entity that is not a qualified donee, and fails to maintain effective direction and actual control over the use of those resources, the charity has, in effect, made a gift to a non-qualified donee. This contravenes the purpose and intent of the charitable registration provisions of the Act. The Federal Court of Appeal has confirmed that a charity working with an intermediary must have control over the activities carried out on its behalf, as well as over the use of its resources.¹³

The Trust's representations, combined by its lack of supporting documentation, have not alleviated the CRA's concerns regarding its funding of non-qualified donees. The concept of maintaining direction and control over the use of an organization's resources must amount to more than the exercise of preparing documentation post-facto if there is to be any meaning to the statutory requirement that a charitable organization is to devote its resources to charitable activities carried on by it. Furthermore, the telephone conversations along with travels to India to oversee and direct the agent's activities cannot be used as evidence to demonstrate effective direction and control where there is little evidence on record to allow the CRA to make, as a matter of fact, those same conclusions.¹⁴

In addition to the above contraventions of the Act, the agency agreement with Satnam Trust Jalwana does not provide for sufficient direction and control by the Trust over the use of its resources to satisfy the requirements of the Act.¹⁵ As per *Bayit Lepletot v. Canada (Minister of National Revenue)*, an agency relationship is not sufficient in itself to demonstrate that the Trust had control over the activities being carried out by its agent.¹⁶ The Trust must be able to illustrate that its resources are devoted to charitable activities carried on by the Trust itself. For example, the agreement allows the Trust to operate as a conduit by issuing tax receipts for donations intended to support the existing operations of Satnam Trust Jalwana, an organization that is not a qualified donee.

It is CRA's position that the Trust provided funding to non-qualified donees, and for this reason alone, the Trust has failed to comply with, and has contravened, subsection 149.1(1) of the Act. Therefore, pursuant to paragraph 168(1)(b) of the Act, the Minister may revoke the registered status of the Trust.

¹³ *Tel Aviv Foundation; CAMDI; and Bayit Lepletot v. Canada (Minister of National Revenue)*, 2006 FCA 128 [hereinafter *Bayit Lepletot*].

¹⁴ *Tel Aviv Foundation* at paras. 30 and 31.

¹⁵ CRA Guidance: Canadian Registered Charities Carrying Out Activities Outside Canada", 2010-07-08. Replaced Form RC4106 Registered Charities: Operating Outside Canada.

Online: <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/tsd-cnd-eng.html>. Accessed on 2010-12-22.

¹⁶ *Bayit Lepletot* at para. 5.

Issue 3: Issued a Receipt For a Gift or Donation Otherwise Than In Accordance With the Act and its Regulations

The audit revealed that the Trust issued donation receipts in contravention of the Act and regulation 3501, as follows:

- the receipts indicated that the Trust's address was [REDACTED] while its address, as recorded with CRA, was 6933-124th Street, Surrey, BC;
- the Trust used multiple receipt books simultaneously with varying numbering systems;
- the full names and/or addresses of the donors were frequently missing or incomplete on the Trust's donation receipts;
- no formal authority was in place with regard to the signing of the Trust's donation receipts; instead, the secretarial staff performed this function;
- an analysis of the donation receipt inventory indicated that from 2003 to 2005, 27 receipt books containing 1,350 donation receipts were unaccounted for, representing slightly over 50 per cent of the total receipts issued by the Trust during that period;
- no log system was maintained for the issuance of the donation receipts;
- in 2005, the Trust allowed an unregistered organization, the West Coast Sikh Youth Alliance (WCSYA), to issue donation receipts in the amount of \$14,290, pre-printed under the name of WCSYA, using the registration number of the Trust. The received funds were never provided to the Trust nor were the actual funds collected ever used for the Trust's own activities; and
- in December 2006, the Trust promoted, advertised, and issued donation receipts to individuals and businesses totalling in excess of \$32,000 for ticket sales to attend a commercial feature film entitled, *Amu*. By viewing the film, patrons received a benefit in return for their donation. It appears that the film was not shown for educational purposes, but to cover the costs of distribution.

Trust's Representations

In its representations, the Trust offered some explanations for contraventions concerning the administration of its donation receipts, and provided information on measures it had taken to correct the address on donation receipts, the numbering order, the log systems, and the incomplete donor information on donation receipts. The Trust did not, however, offer any explanation regarding the 1,350 missing donation receipts, but confirmed that "many books were being used at a time – with different varying numbers."

The Trust also acknowledged that it allowed a non-profit organization, the West Coast Sikh Youth Alliance, to use its registration number in order to issue donation receipts for income tax

purposes. "For the amount of \$14,290, We (sic) replied no receipts were issued. We would like to correct this statement by responding: The receipts issued in the amount of \$14,290 are those receipts that WCSYA printed . . ." and "This error was corrected in 2007 by having any agency agreement between the TRUST and WCSYA. As well, the funds are being deposited into the TRUST's bank account and then later forwarded to WCSYA as per the expense statement."

The Trust represented to the CRA that the showing of the film, *Amu*, was targeted at educating the Sikh community, but did not provide any information to demonstrate that the Trust made any attempt to educate. Moreover, the Trust did not deny that donation receipts were issued for ticket sales to attend the commercial film.

CRA's Response

As explained in our letter dated December 17, 2009, the Act and regulation 3501 set out the requirements for registered charities with respect to the issuing of official donation receipts. The purpose of the registration scheme for charities under the Act is to ensure that only those organizations that are registered may issue official donation receipts. The integrity of the scheme is seriously breached when an unregistered organization arranges with a registered charity for the use of the registered charity's registration number to provide tax relief for donations that are not gifted to that registered charity. A registered charity may not issue receipts for gifts intended for an unregistered organization, or allow a non-registered organization to use its charitable registration number.

Having reviewed the Trust's representations, it remains the CRA's position that the Trust contravened the Act with regard to the issuance of donation receipts. This lack of control, apparent from the 27 missing donation receipt books, hinders the CRA from completing a proper verification of the Trust's resources.

The Trust's attempt to remedy some of its contraventions after our observations does not satisfy the requirements of the Act, particularly when considering previous audit findings by the CRA in this regard. For example, in 1989, the CRA advised the Trust that the content of its donation receipts did not comply with the Act and provided the Trust with a copy of Interpretation Bulletin IT-110R2 - Gifts and Official Donation Receipts.¹⁷ During the audit of the 1995, 1996 and 1997 fiscal years, the CRA also noted that donation receipts were being improperly issued for school activities operated by the Satnam Education Society of British Columbia, an organization that is co-located and operated in conjunction with the Trust.

Moreover, the integrity of the registration scheme for charities was seriously breached when the Trust allowed WCSYA to use its registration number to issue donation receipts. In this case, the received funds in the name of the WCSYA were never provided to the Trust, nor were the actual funds collected ever used for the Trust's own activities. This third party receipting scheme is, in and of itself, grounds for revocation and cannot be remedied by entering into any type of agreement with WCSYA after the fact.¹⁸

¹⁷ Replaced by CRA Interpretation Bulletin IT-110R3, 1997-06-20.

¹⁸ *Ibid.*

Apart from the fact that the Trust failed to provide evidence that the viewing of *Amu* was in furtherance of its objects, a charity may not issue official donation receipts for the price of admission to an event, regardless of whether or not the fee was voluntary.¹⁹

Therefore, it remains the CRA's position that the Trust issued donation receipts in contravention of the Act, and for this reason alone, the Trust has failed to comply with regulation 3501 and the requirements for continued registration under the Act. Thus, pursuant to paragraph 168(1)(d) of the Act, the Minister may revoke the registered status of the Trust.

¹⁹ Pursuant to Interpretation Bulletin IT-110R3 – Gifts and Official Donation Receipts, a gift is generally comprised of three conditions: (1) some property – usually cash – is transferred by a donor to a registered charity; (2) the transfer is voluntary; and (3) the transfer is made without expectation of return. Online: <http://www.cra-arc.gc.ca/E/pub/tp/it110r3/it110r3-e.pdf>.

APPENDIX B

RELEVANT PROVISIONS OF THE ACT

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.



REGISTERED MAIL

Satnam Trust
6933 – 124th Street
Surrey BC V8W 3W6

BN Number
11914 1521 RR0001
File Number
0595124

Attention: Paul Singh, Accountant

DEC 17 2009

Dear Mr. Singh:

**SUBJECT: Audit of Satnam Trust for the Fiscal Years Ended
December 31, 1998, 1999, 2000, 2001, 2002, 2003, 2004, and 2005**

This letter is further to the field audit of Satnam Trust (the Trust) conducted by the Canada Revenue Agency (CRA) commencing December 2006. The CRA audit related to the operations of the Trust for the period from January 1, 1998, to December 31, 2005, extending to the field audit commencement date.

The CRA audit identified specific areas of serious non-compliance with core requirements of the *Income Tax Act* (the Act) and its Regulations (the Regulations) for maintaining charitable status.

1. Maintaining Charitable Status

In order for a registered charity to retain its registration, it is required to comply with the provisions of the Act applicable to registered charities. If these provisions are not complied with by a particular registered charity, the Minister of National Revenue (the Minister) may revoke its registration in the manner described in subsection 168(2) of the Act.

The provisions of the Act concerning registered charities were enacted to ensure that the privilege of charitable status and the right to issue official donation receipts for tax purposes, are available only to those organizations that meet the requirements of the registration process and otherwise continue to satisfy the requirements of charitable status. The CRA's role is to ensure that charities are complying with the law and devoting their resources to charitable purposes. The CRA performs this role by monitoring the operations of charities to ensure continued compliance with registration requirements.

Audit is an important element of this process. A CRA charity audit is not limited to examining a charity's financial books and records. The audit will also review the

charity's activities, as well as any evidence that might indicate whether or not a charity is satisfying its legal obligations under the Act.

Revocation of registered status pursuant to subsection 168(1) of the Act may take place in serious cases of non-compliance, such as breach of the core requirements of the Act, a previous record of serious non-compliance, and non-charitable activities.

2. Overview of Audit Observations – Satnam Trust

The CRA audit has identified specific areas of non-compliance involving core requirements of the Act and the Regulations, as follows:

AREAS OF NON-COMPLIANCE	
Issue	Reference
1. Inadequate Books and Records	168(1)(e)
2. Gifts to Non-Qualified Donees	168(1)(b)
3. Issuance of Donation Receipts not in accordance with the <i>Act</i>	168(1)(d)

More specifically, the CRA's concerns relate to the Trust's history of serious non-compliance with regard to the retention and maintenance of proper records and books of account, evidence of improper receipting practices, and evidence of improper use of the Trust's resources to support foreign activities carried out by organizations that are not qualified donees.

3. Opportunity to Respond to the CRA's Concerns

The balance of this letter elaborates on the areas of non-compliance identified during the field audit and in-depth review of the Trust's file, as they relate to the legislative provisions applicable to registered charities. This is done in order to provide the Trust with an opportunity to respond to our concerns, provide any additional information regarding the issues outlined in this letter, and submit written representations as to why the Trust's charitable registered status should not be revoked.

4. Books and Records Requirements: Legislation and Policy

Subsection 230(2) of the Act sets out requirements pertaining to records and books of account for registered charities. Paragraph 230(2)(a) of the Act specifies that a registered charity's records and books of account must include information in such form as will enable the CRA to determine whether there are any grounds for revocation of registration. This would normally include records demonstrating the charity's internal decision-making mechanisms, such as copies of minutes of meetings, as well as all relevant source documentation in support of bank and cash transactions, such as invoices and receipts, and all records and books of account related to any activity carried on outside Canada. Subsection 230(4) of the Act requires a charity to maintain records and books of account together with every supporting account and voucher. The purpose of

these requirements is to enable the charity to accurately provide the CRA with the information required by the Act, as well as to enable the CRA to verify the accuracy of reported information through the audit function.

The advantages associated with registered charity status (namely, tax exempt income and the issuance of receipts to donors for income tax purposes) may be forfeited where:

- under paragraph 168(1)(b), the registered charity "...ceases to comply with the requirements of the Act for its registration"; and/or
- under paragraph 168(1)(e), the registered charity "...fails to comply with or contravenes any of section...230...".

Where these requirements of the Act are not met, section 168 provides for revocation of a charity's registration.

Recent case law has emphasized the importance of adhering to the Act's provisions relating to the maintenance of books and records. Rip A.C.J.T.C. stated in *International Charity Association Network v. Canada* [2008] T.C.J. No.1, at paragraph 61:

...even a charity with the most altruistic and humanitarian activities is subject to the Act's requirements to maintain proper books and records and permit the CRA to examine these documents to ensure that such activities are being carried out properly and within the confines of the Act. The quality, quantity or nature of charitable activities of a registered charity do not trump the requirements of the Act. Status as a registered charity is conditional on the charity observing statutory requirements granting its status.

Furthermore, in *Canadian Magen David Adom for Israel v. The Queen*, [2002] D.T.C. 7353 (F.C.A.) at paragraph 7, Sharlow J.A. of the Federal Court of Appeal stated:

Any charity that ceases to meet the statutory requirements for registration may have its registration revoked, in which event the charity must be shut down.

4.1 Audit Observations: Books and Records

The audit established that internal controls for administration of the Trust's funds are inadequate, that financial statements and copies of the Form T3010, *Registered Charity Information Return*, produced by the Trust for the years under review are unreliable, and that there are serious inadequacies in the records and books of account maintained which make it difficult for the CRA to establish, as a matter of fact, the actual use of significant amounts of the Trust's resources. Thus, the CRA is prevented from determining whether the Trust's resources are exclusively devoted to charitable purposes and activities.

During the course of the audit, the CRA observed the following deficiencies:

- a) The Trust failed to produce any records or minutes of trustees meetings. In the absence of such critical and fundamental information, the CRA has been unable to fully understand the decision-making process of the Trust, or to determine (in combination with other books and records) whether the Trust's resources have been/are being used for exclusively charitable purposes in compliance with the provisions of the Act. In addition, the lack of meeting minutes has prevented the CRA from determining whether the Trust exercised any direction and control over the use of its resources outside of Canada. (See Section 5 below).
- b) We note that the Trust has failed to provide minute books during three prior CRA audits relating to the 1989, 1992,¹ 1995, 1996, and 1997² fiscal years and this history of serious non-compliance has continued despite a March 12, 1994, written undertaking³ by Trustee Balwant Singh Bhandher⁴ to the CRA to the effect that the Trust would ".... ensure that in future the Board Minutes are available for the audit." The past and ongoing failure by the Trust to provide such critical and fundamental information, despite repeated requests by the CRA culminating in a written undertaking by the Trust constitutes, in our view, aggravated non-compliance.

¹ In both the 1989 and 1992 audits, the Trust's representatives contended that the minute books had been lost.

² With regard to the audit of the 1995, 1996, and 1997 fiscal years, minute books were not initially made available for review, but were provided several months after the audit field work had been completed. At that time, then-Trustee Ripudaman Singh Malik provided the CRA with a set of minute books covering eight meetings over a six-year period (specifically, December 8, 1993; June 19, 1994; July 17, 1994; May 31, 1995; June 17, 1996; April 19, 1997; January 4, 1998; and February 15, 1998). The authenticity of these minutes was uncertain, due to the identical formatting and type-setting used, suggesting that they were all prepared at one time and not over the six-year period they were said to represent. Moreover, the minutes appeared to have been prepared to provide a defence against issues raised during the audit review.

We note the similarity of concerns over the accuracy and completeness of board minutes in the case of *Khalsa Credit Union v. British Columbia* [2000] B.C.C.O. No 12, which involved the Khalsa Credit Union, another organization where Mr. Malik served as Chairman of the Board. Amongst the evidence presented in the case was testimony from Mr. Karnail Singh Manhas (a Khalsa Credit Union director and current director of Satnam Trust) relating to an instance where two sets of minutes were produced by the Khalsa Credit Union for two different audiences (one of them being FICOM, the regulator). As a result of this and other adverse evidence relating to the preparation of minutes, the British Columbia Commercial Appeals Commission required the Board of Directors of the Khalsa Credit Union to develop a clear protocol for the taking and content of minutes.

³ The undertaking pertained to the audit of the 1992 fiscal year.

⁴ Except for the 2000 fiscal year, Mr. Bhandher has continuously acted as a Trustee from 1989 to 2008.

- c) Overall, more than half of the Trust's expenditures relate to activities outside of Canada. However, no documentation, correspondence or books and records from either the Trust or from the principal foreign recipient of the Trust's funds has been provided in support of the activities represented by the Trust. Without this supporting documentation, it is impossible for the CRA to confirm that the foreign funding was employed for charitable purposes under the direction and control of the Trust, pursuant to the Act.
- d) The CRA has been unable to reconcile the total amounts of the Trust's donation receipts to the amounts reported on the Form T3010s and the Trust's financial statements. For example, the Trust reported donation revenue of \$236,227 in both its Form T3010 and financial statements for the fiscal year 2005.⁵ However, the sum of the donation receipts for that year reviewed by the CRA totalled \$126,967, indicating a significant shortfall in donation receipts in the amount of \$109,260.⁶ The amount in donation receipts not available for audit represents 46% of the dollar value of total donations reported as revenue in 2005. The number of missing receipts is material, from an audit perspective, as these missing source documents form an integral part of the books and records that the Trust is required by law to maintain. Missing books and records also may suggest that not all revenue received has been reported.

Consequently, the accuracy of the revenue and expenditures, as recorded, and the charitable nature of expenditures, as reported in the Form T3010, could not be verified. Furthermore, similar deficiencies occurred in all prior audits of the Trust. The potential for misuse of donations and/or unreported donations is present, given the observed lack of internal controls and key missing donation receipt books of the Trust.

As a result of the deficiencies detailed above, the CRA cannot conclusively determine that the information made available for our review accurately reflects the true state of the Trust's income and expenditures during the periods under audit, thereby preventing verification of the Trust's compliance with the provisions of the Act.

5. Activities and Gifts to Non-Qualified Donees: Legislation and Policy

The Act permits a registered charity to carry out its charitable purposes both inside and outside Canada, in only two ways:

- i) It can make gifts to other organizations described as "qualified donees" in subsection 149.1(1) and listed in paragraphs 110.1(1)(a) and (b), and subsection 118.1(1) and of the Act. Qualified donees include Canadian registered charities,

⁵ It appears that the donation amounts reported by the Trust on its Form T3010s and its financial statements were derived from the sum of the Trust's bank deposit slips, because the bank deposit analyses performed by the CRA were found not to be materially different from the donation revenue amount reported in the former documentation.

⁶ The discrepancies may be accounted for by the fact that a significant number of donation receipts were missing and/or unaccounted for. See Sec 6.1.1.

certain universities outside Canada, the United Nations and its agencies, and a few foreign charities. When a registered charity merely transfers its resources to another entity that is not a qualified donee, but fails to maintain effective direction and actual control over those resources, the charity has, in effect, made a gift to a non-qualified donee. This contravenes the purpose and intent of the charitable registration provisions of the Act.

- ii) 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.

Except where a charity gifts its funds to a qualified donee, the CRA requires a charity to show that it effectively directs and actually controls its own activities.

5.1 Audit Observations – Activities Outside Canada and Gifts To Non-Qualified Donees

The audit has raised serious concerns with respect to the Trust's foreign expenditures. The Trust has reported that the majority of its foreign expenditures have been to individuals/organizations in India that are non-qualified donees. The foreign recipients of the Trust's funds and the breakdown of funding for the 1998-2005 fiscal years is provided below:

Satnam Trust (Jalwana) – India

2003	\$ 54,924
2004	122,345
2005	<u>150,668</u>
	<u>\$327,937</u>

The Trust also reported a distribution of funds outside Canada to the following four organizations/individuals:

G.N.N.S.J, Harkrishan Public School, Provincial Government Secondary School, Amarjit S. Sangha

2004	G.N.N.S.J	\$ 2,150
2005	G.N.N.S.J	<u>1,000</u>
		<u>3,150</u>
2004	Amarjit S. Sangha	2,000

2005 Harkrishan Public School	5,340
2005 Provincial Government Secondary School	<u>538</u> <u>\$11,028</u>

The primary distribution of foreign funding, as noted above, was to Satnam Trust (Jalwana), an organization which, according to the Trust, provides school books, instruments, religious teachers, and related religious supplies and services to schools in India. However, aside from a brochure published by the Trust, no other documentation, correspondence, or books and records from either the Trust or Satnam Trust Jalwana has been provided in support of the activities represented by the Trust. Consequently, the CRA is unable to conclusively determine whether the Trust's resources were expended on charitable activities.

Although the Trust has represented that all of these foreign expenditures were administered by the Trust's own employees or volunteers, no evidence was provided in support of this assertion. The following documentation, which might have collectively supported a claim that the transferred funds were used for the Trust's charitable activities, was not provided to the CRA:

- a) names and addresses of the authorized individual(s) of the foreign organization that received and/or distributed the funding provided by the Trust;
- b) supporting documentation indicating whether or not the funding provided to the foreign organization by the Trust was segregated from the funds of the recipient through the use of separate bank accounts;
- c) detailed banking information supported by relevant documentation;
- d) correspondence (such as letters, e-mails, agreements) between the Trust and the foreign recipients that supports and/or discusses the nature of the activities that were undertaken by them;
- e) financial statements and schedules prepared by the recipients identifying the contributions made by the Trust and the use of those funds; and
- f) copies of invoicing, expense summaries, or other documentation that specifically identify the expenditures made by the recipients of the funding, minutes from meetings held by the recipients outlining the use of that funding, and any other material that reflects the Trust's ongoing administrative control over the use of its funds.

Following the auditor's observations on this issue during the current audit, the Trust provided a proposed agency agreement purporting to have retroactive effect. This draft agreement, however, cannot be used to retroactively correct the Trust's failure to exercise control and direction over amounts transferred outside Canada. The audit

observations demonstrated that the requirements of an agency relationship, as described in the CRA publication RC4106, *Registered Charities: Operating Outside Canada*, were not, in fact, ever in place during the relevant periods.

On the basis of the audit observations, it is open to the CRA to conclude that monies sent outside Canada by the Trust constituted gifts to non-qualified donees.

6. Official Donation Receipts: Legislation and Policy

The purpose of the registration scheme for charities under the Act is to ensure that only those organizations that are registered may provide official donation receipts. A registered charity may only issue official donation receipts for gifts made to it for its own use. The integrity of the scheme is seriously breached when an unregistered organization arranges with a registered organization for the use of the registered organization's registration number to provide tax relief for donations that are not made to it. A registered charity may not issue receipts for gifts intended for another unregistered organization, or allow non-registered organizations to use its charitable registration number.

Regulation 3501(1) of the Act lists the conditions under which official donation receipts must be issued by a registered organization.

A registered charity that contravenes the receipting requirements of the Act by issuing receipts that contain incorrect, incomplete, or deliberately false information is liable, under subsections 188.1(7) to 188.1(10) of the Act, to penalties up to 125% of the eligible amount stated on the receipt. In addition, under paragraph 168.1(d) a registered charity could also have its registration revoked if it "...issues a receipt for a gift or donation otherwise than in accordance with this Act and its Regulations or that contains false information."

6.1. Audit Observations: Official Donation Receipts

The audit findings indicate that the Trust has contravened the Act and the Regulations with regard to the issuance of official donation receipts. Moreover, there is significant evidence suggesting that the Trust has improperly used its tax privileges as a registered charity by making its official donation receipts available for gifts made to individuals and/or other organizations not themselves authorized to offer tax relief to donors. There is also evidence suggesting that the Trust improperly issued donation receipts in relation to a non-charitable activity pursued by it. These matters are detailed below.

6.1.1 Receipting Deficiencies

A review of the Trust's official donation receipts revealed numerous, and in some cases, serious contraventions of the Act and the Regulations, as follows:

- a) Regulation 3501(1)(a) of the Act states that the name and address in Canada of the Charity, as recorded with the Minister, must appear on each donation receipt issued.

The Trust's receipts indicate that its address was [REDACTED]
[REDACTED], while the Trust's address, as recorded with the CRA, is
6933 – 124th Street, Surrey, BC.

- b) Regulation 3501(1)(c) of the Act states that the donation receipts should be serially numbered.

The Trust used multiple books simultaneously with varying numbering systems. Within each book, however, the receipts were numbered sequentially.

- c) Regulation 3501(1)(g) of the Act requires that the name and address of the donor including, in the case of an individual, first name and initial, be listed on each donation receipt issued.

The full name and/or address of the donors were frequently missed or incomplete on the donation receipts issued by the Trust.

- d) Regulation 3501(1)(i) of the Act indicates that the signature of a responsible individual who has been authorized by the Trust to acknowledge donations must be provided on each donation receipt issued.

No formal authority was in place with regard to the signing of donation receipts at the Trust. The secretaries usually performed this role.

- e) An analysis of the donation receipt inventory for the 2003-2005 fiscal years revealed that an alarming number of twenty-seven receipt books, containing 1,350 receipts, were missing and/or unaccounted for. The number of missing receipts is highly material, in that they account for slightly over half of all of the receipts issued by the Trust during that period.

- f) No log system was maintained for the donation receipt books.
- g) The lack of receipt book inventory controls observed during the audit makes the receipting system susceptible to abuse and lack of verifiability.
- h) The official donation receipts were not sufficiently organized so that they could be adequately reconciled to the bank or financial statements of the Trust.

6.1.2 Issuance of Donation Receipts on Behalf of a Third Party

Pursuant to paragraph 168(1)(d) of the Act, a registered charity faces potential revocation if it issues a donation receipt for a gift that contains false information. The

Trust appeared to have breached this provision when it allowed an unregistered organization, West Coast Sikh Youth Alliance (WCSYA), to issue donation receipts using the registration number of Satnam Trust. In 2005, official donation receipts were issued in the amount of \$14,290 and pre-printed under the name of WCSYA, using the registration number of the Trust. The received funds were never provided to Satnam Trust, nor were the actual funds collected ever used for the Trust's own activities.

The Trust has responded to this concern by submitting that the activities at WCSYA camp were under the direction and control of the Trust by virtue of the dual involvement of Jaspreet Singh Malik on the Boards of Directors of both organizations. According to this submission, although Mr. Malik "wore two director hats", it was in his capacity as director of the Trust that he exercised direction and control on behalf of the Trust over the activities at the camp. However, beyond the evidence of Mr. Malik's involvement on both boards, no additional documentary evidence was provided by the Trust to support this submission.

6.1.3. Promotion of Commercial Film, *Amu*

Pursuant to paragraph 168(1)(d) of the Act, a registered charity faces potential revocation if it issues a donation receipt for a gift or donation otherwise than in accordance with this Act and the Regulations. In 2006, the audit determined that in December, 2006, the Trust promoted, advertised, and issued donation receipts totalling at least \$32,000⁷ to individuals and businesses for ticket sales to attend a commercial feature film entitled, *Amu*. We understand that representations were made to prospective donors that the "donated" proceeds would be used to support the costs for the film's Canadian distribution.

It is not evident that the presentation of *Amu* represented a charitable activity on the part of the Trust, despite representations made to the CRA that it was directed to a charitable purpose. One representation made was that it was consistent with the Trust's educational purposes. However, Canadian courts have held that simply providing an opportunity for people to educate themselves, by making available materials such as literature, brochures or websites, without a structured program to train the public, would not meet the requirements of an educational activity in the charitable sense. In *Vancouver Society of Immigrant and Visible Minority Women v. The Minister of National Revenue*,⁸ the Supreme Court of Canada determined that in order to qualify as a charitable purpose under the charitable head of 'advancement of education', there must be a targeted, structured attempt to educate others. The Trust has not submitted any evidence, documentary or otherwise, to support that there was any targeted, structured attempt by the Trust, in its presentation of *Amu*, to educate others.

⁷ The Trust may have issued additional donation receipts. Approximately 35 receipts relating to the December 2006 period in which the film was screened by the Trust are missing and/or unaccounted for.

⁸ [1999] 1 S.C.R. 10

The Trust has submitted, in the alternative, that its presentation of the film constituted an activity in conformance with the CRA's policy entitled, *Registering Charities that Promote Racial Equality*.⁹ However, that policy applies to charitable organizations that have been established to eliminate racial discrimination as well as those established to foster positive race relations within Canada. Our review of the Deed of Settlement establishing Satnam Trust and the Statement of Activities submitted by the Trust in support of its application for charitable registration, does not indicate that the Trust was established for purposes consistent with the above-noted policy.

7. Summary of Concerns

On the basis of the audit findings discussed above, it is our preliminary view that there are sufficient grounds for revocation of Satnam Trust's registration under paragraphs 168(1)(b), (d), and/or (e) of the Act, because it has failed to comply with the requirements of the Act for its registration by continuing to fail to keep proper books and records of account, by failing to demonstrate direction and control over the use of its funds sufficient to show that its resources were used in the conduct of its own charitable activities, by funding non-qualified donees, and by issuing tax receipts on behalf of a third party.

The consequences to a registered charity of losing its registration include:

- a) The loss of its tax exempt status as a registered charity which means that the Charity would become a taxable entity under Part I of the Act unless, in the opinion of the Director of the applicable Tax Services Office, it qualifies as a non-profit organization as described in paragraph 149(1)(l) of the Act;
- b) Loss of the right to issue official donation receipts for income tax purposes which means that gifts made to the Charity would not be allowable as a tax credit to individual donors as provided in subsection 118.1(3) of the Act, or as a deduction allowable to corporate donors under paragraph 110.1(1)(a) of the Act; and
- c) The possibility of a tax payable under Part V, subsection 188(1) of the Act.

If the Trust wishes to present evidence to show that any of the information outlined above is incorrect, or to provide any other reasons the CRA should consider as to why the Minister's authority to revoke the registration of Satnam Trust on these grounds should not be exercised, it is invited to submit representations **within 30 days from the date of this letter** in accordance with subsection 168(2) of the Act. Subsequent to that time, the Director General of the Charities Directorate will decide whether to issue a notice of intention to revoke the registration of Satnam Trust in the manner described in subsection 168(1) of the Act. Recourse to appeal against a notice of intention to revoke registration is provided by subsection 172(3) of the Act.

⁹ CPS-021

If the Trust appoints a third party to represent it in this matter, please send us a written authorization naming the individual.

If you have any questions on these matters, please do not hesitate to contact us at [REDACTED]

Yours sincerely,



for Cathy Hawara
A/ Director General
Charities Directorate

Enclosures