

REGISTERED MAIL

Ms. Jean Tracey, Pastor
The Lord's Evangelical Church of Deliverance
and Prayer of Toronto
18 Sufi Crescent
Toronto ON
M4A 2X3

File # 0900977
BN # 133218628 RR0001

May 28, 2003

Subject: Notice of Intent to Revoke The Lord's Evangelical
Church of Deliverance and Prayer of Toronto

Dear Ms. Tracey:

We invited you in our letter dated March 15, 2002 to submit representations as to why the Minister of National Revenue should not revoke the registration of The Lord's Evangelical Church of Deliverance and Prayer of Toronto (the "Church")

I am writing to you in response to your representative's letter dated April 17, 2003, and further to telephone conversations held with you.

We have carefully reviewed your representations and it is our conclusion that these representations do not provide sufficient reason why the Church's status as a registered charity should not be revoked. We offer the explanations below to help you understand our decision.

More than two years have gone by since we completed our audit and you were briefed about our concerns. It is more than one year since we wrote to you formally. Your representative's letter dated April 17, 2003 (over a year after our letter) did not address our concerns in a satisfactory manner: your actions have not demonstrated a willingness to rectify the problems observed during the audit. You failed to address our concerns with tangible actions within a reasonable timeframe.

1. Books and Records

You have failed to show us that you made the changes necessary to correct your books and records. Based on our telephone conversations and your letter, it appears

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that you still have yet to implement the procedures/systems that we identified for you in order to properly maintain your books and records (General Ledger, bank reconciliation, among others).

2. Official Donation Receipts

Among other problems, the audit revealed the Church lacked a listing of donations, which should reconcile with the donation receipts total in the T3010 return. We requested such a list from you in writing for your 2001 year-end. You failed to provide this list, nor did you establish that you rectified the situation.

3. Filing Statement of Remuneration

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The audit revealed the existence of taxable benefits that were not included on T4s. After the audit, the Church did not respond to our queries regarding personal benefits on the T4s it had issued.

4. Benefits to Members

The \$150,000 gift to [REDACTED] children and the corresponding loan have put the Church in financial difficulty. The loan was recalled and the Church has had to refinance its assets. The Church disposed of its church and this appears to have resulted from the financial problems. The Church's existence has been compromised by transactions that had nothing to do with charitable activities.

It appears that the intention of the parties involved in the transactions at issue was not to create a loan. An attachment to the return indicates unequivocally that "During the year, the organization made a gift of \$ 149,320 to [REDACTED] to enable her to assist her children financially in the purchase of family homes."

Anything short of an immediate reimbursement of the \$150,000 gift is unacceptable. The conversion of this gift into a loan would not constitute a proper devotion of resources by the Church and would, therefore, not be acceptable.

Conclusion

We therefore conclude that, for each of the reasons listed above, the Church does not meet the requirements of a charitable organization under subsection 149.1(1) of the *Income Tax Act* (the "Act").

Therefore, I wish to advise you that for each of the reasons outlined above and pursuant to the authority granted to the Minister in subsection 168(1) of the *Act* and delegated to me in subsection 900(8) of the Regulations to the *Act*, I propose to revoke

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the registration of The Lord's Evangelical Church of Deliverance and Prayer of Toronto. By virtue of subsection 168(2) of the *Act*, the revocation will be effective on the date of publication in the Canada Gazette of the following notice:

Notice is hereby given, pursuant to paragraphs 168(1)(b), 168(1)(c), 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.

Registration number	Business Number	Name
0900977	133218628 RR0001	The Lord's Evangelical Church of Deliverance and Prayer of Toronto Toronto, Ontario

Should you wish to appeal this notice of intention to revoke the charity registration in accordance with subsections 172(3) and 180(1) of the *Act*, you are advised to file a Notice of Appeal with the Federal Court of Appeal within 30 days from the mailing of this letter. The address of the Federal Court of Appeal is:

Supreme Court Building
Wellington Street
Ottawa, Ontario
K1A 0H9

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Please note that the Federal Court Rules impose particular obligations upon an appellant to be met within restricted time frames. In particular, the appellant is responsible for filing the documents that will form the case material for the Court's review. You can obtain information about these Rules from the Court.

Consequences of a Revocation

As of the date of revocation of the registration of the Church, which is the date upon which the above-noted notice is published in the Canada Gazette, the Church will no longer be exempt from Part I Tax as a registered charity and will no longer be permitted to issue official donation receipts.

Additionally, the Church may be subject to tax exigible pursuant to Part V, section 188 of the *Act*. For your reference, I have attached a copy of the relevant provisions of the *Act* concerning revocation of registration and the tax applicable to revoked charities as well as appeals against revocation (Appendix 1).

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I wish to advise you that pursuant to subsection 150(1) of the *Act*, a return of income for each taxation year in the case of a corporation (other than a corporation that was a registered charity throughout the year) shall, without notice or demand therefore, be filed with the Minister in prescribed form containing prescribed information. Also, we draw your attention to paragraph 149(1)(l) of the *Act*, which states the definition of a non-profit organization and subsection 149(12), which states the filing requirements of a non-profit organization.

The Church might be eligible for non-profit organization status under paragraph 149(1)(l) of the *Act*. Determination of such status is the responsibility of our Tax Services Offices. If you need further clarification in this respect, you may contact the local Tax Services Office. I would stress, however, that such recognition does not convey authority to issue official donation receipts for income tax purposes.

Yours sincerely,

Maureen Kidd
Director General
Charities Directorate

Attachment

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Canada Customs
and Revenue Agency

Agence des douanes
et du revenu du Canada

REGISTERED MAIL

Ms. Jean Tracey, Pastor
The Lord's Evangelical Church of Deliverance
and Prayer of Toronto
185 Bartley Drive
North York ON
M4A 1E6

File # 0900977
BN # 133218628 RR0001

March 15, 2002

Dear Ms. Tracey:

Subject: Charity Tax Audit

This is further to an audit of the books and records of account of The Lord's Evangelical Church of Deliverance (the "Church") conducted by a representative of the Canada Customs and Revenue Agency (the "CCRA"). The audit related to the operations of the Church for its fiscal period ended December 31, 1999. The Auditor, Mr. Steven Bui, discussed certain non-compliance issues with you, during the final meeting. However, due to their importance, he referred his concerns for our review.

Our audit findings and our review suggest serious contraventions of the *Income Tax Act* (the "Act") and we are considering whether we should revoke the registration of the Church. The balance of this letter addresses issues identified during the audit and our review of the Church's file.

1. Books and records

Subsection 230(2) of the *Act* requires registered charities to maintain adequate books and records of account and a duplicate of each receipt for donation. The purpose of this requirement is to enable the CCRA to determine whether there are any grounds for revocation. It also enables the CCRA to verify the accuracy of reported information and donations.

The audit reported that the Church had inadequate accounting records during its financial year 1999. The auditor was unable to confirm expenditures and donations as recorded. He could not verify the accounting of those expenses and donations and their charitable nature as reported in the T3010 Information Return. Here are some examples:

- a) There were no general ledger records;
- b) Minutes of directors' meetings were not provided;
- c) No summary listing of the official donation receipts issued was prepared;
- d) Many cheques were made payable to "cash" with little or no support (e.g. page 4 of the disbursement journal relating to one month of activity comprises 7 payments totalling \$3,660 paid to cash);
- e) Deposit slips did not contain details on the source of the donations (i.e. the name of the donors, amount/donor, cheque number);
- f) Bank reconciliations were not consistently performed;
- g) The Church did not maintain sufficient information on personal loans received from individual congregants. Loan repayments were not supported by adequate records showing a currently repayable amount;
- h) Offerings that were not deposited were not recorded;
- i) No appropriate records were held to complete T4 slips (see Item 3 of the present letter);
- j) No travel logbooks were kept to support use of the vehicles.

Under paragraph 168(1)(e) of the *Act*, the Minister may, by registered mail, give notice to the Church that he proposes to revoke its registration if it failed to comply with section 230 of the *Act* dealing with books and records.

2. Official Donation Receipts

Regulation 3501 of the *Act* provides various requirements in respect of official donation receipts issued by registered charities. Interpretation Bulletin IT-110R3, *Gifts and Official Donation Receipts*, sets out CCRA's policy regarding other requirements.

The audit revealed the following non-conformities:

- a) Copies of official receipts were not maintained in sequential order;
- b) Cash received as donations could not be traced to deposits in the account. Amounts recorded as donations could not be verified to bank deposits;
- c) Receipts did not show the address and business number of the Church as recorded with CCRA.

Interpretation Bulletin IT-110R3, *Gifts and Official Donation Receipts*, is available on the Internet at www.rc.gc.ca/charities.

Under paragraph 168(1)(d) of the *Act*, the Minister may, by registered mail, give notice to the Church that he proposes to revoke its registration if it issued a receipt for a gift or donation otherwise than in accordance with the *Act* and the regulations.

3. Filing statement of remuneration

Regulation 200 of the *Act* stipulates that salaries, honorariums and other taxable benefits should be reported on prescribed information returns (forms T4-T4A). When required by the *Act*, the Church must make source deductions on these payments.

The auditor reported the presence of many payments made to or on behalf of the employees and other benefits that were not included on T4 slips in 1999 and 2000:

[REDACTED]

- a) Offerings taken on the first Sunday of each month;
- b) Personal telephone and long distance charges;
- c) Rent for the personal residence;
- d) Car lease payments on a Geo Tracker 2000 acquired personally on November 3, 1999;
- e) Car lease payments on a Chevrolet G-Van 1989 acquired personally on April 7, 2000;
- f) Car payments on an Oldsmobile Intrigue 1998 acquired personally on September 13, 1998 for over \$ 41,000;
- g) Operating expenses for vehicles owned personally (gas, insurance).

[REDACTED]

- a) Monthly mortgage payments on a personal residence;
- b) Car payments on a vehicle acquired personally;
- c) Operating expenses for a vehicle owned personally (gas, insurance).

4. Benefits to Members

Paragraph 149.1(1)(b) of the *Act* defines a charitable organization, in part, as an organization, no part of the income of which is payable to, or is otherwise available for, the personal benefit of any proprietor, member, shareholder, trustee or settlor thereof.

Audit evidence indicates that the church has conferred certain benefits on its members/directors as detailed below.

The documentation examined revealed that the Church had contracted a second mortgage on its building located on [REDACTED] for \$150,000. This loan proceed was then used to pay the down payment for the purchase of houses for [REDACTED] three children. The Church supported the corresponding loan payments. The funds disbursed on behalf of [REDACTED] children were not recorded as loans. There is no evidence that these amounts would have to be reimbursed.

The T3010 for 1999 confirms on line 311 that the charity transferred directly or indirectly some income or assets to its founders. The statement attached to the return refers to a gift of \$149,320 to [REDACTED]. The 1999 financial statements show an expense of \$149,320 entitled "gifts for residential purchases".

Based on the reported amount of gifts received in 1999, the Church devoted 47% of its gifts towards the donation to [REDACTED].

Our review indicated as well that contracting a second mortgage has resulted in the primary mortgager to [REDACTED] all its line of credit, thereby threatening the viability of the Church.

In addition, [REDACTED] stated during the audit that she had in the past received personal amounts from congregants. No recording of these amounts exists. Such gifts handed to a representative of a charitable organization should be considered as property of the Church.

Under paragraph 168(1)(b) of the *Act*, the Minister may, by registered mail, give notice to the registered charity that he proposes to revoke its registration if it ceases to comply with the requirements for its registration.

5. Devotion of Resources to Non-Charitable Activities

The Church is registered as a charitable organization. In order to satisfy the definition of a charitable organization pursuant to subsection 149.1(1) of the *Act*, a charity must devote all of its resources to "charitable activities carried on by the organization itself".

Your T3010 return for 1999 shows an amount of \$167,588 for Management and general administration. Due to the lack of proper records, we were unable to determine the nature of the expenses included in this amount.

Similarly, we were unable to establish the amounts shown in your return as "expenditures on charitable work the charity itself carried out".

Since the Church has not demonstrated that its resources were used for charitable activities, we therefore conclude that your charity does not meet the requirements of a charitable organization under subsection 149.1(1) of the *Act*.

Under paragraph 168(1)(b) of the *Act*, the Minister may, by registered mail, give notice to the registered charity that he proposes to revoke its registration if it ceases to comply with the requirements for its registration.

6. Disbursement Quota

Registered charities are required in each year of operation to meet or exceed a disbursement quota. This quota relates to expenditures that must be made during the year and that are of a charitable nature. In the case of a charitable organization, the *Act* stipulates that this minimum annual disbursement quota is equal to eighty percent of the prior year's officially received donations less certain types of gifts received (paragraph 149.1(2)(b) of the *Act*). For further explanations in this regard, please refer to the T3010 guide and T3010 Schedule C.

Due to the lack of proper books and records, we were unable to verify if you met the disbursement quota for 1999. Based on the amount of tax-receipted gifts the Church reported as received the previous year, you should have spent \$271,943 on charitable work during 1999.

Furthermore, you reported a disbursement excess carry forward of \$102,234 in 1999. This disbursement excess could have been used to make up for any disbursement shortfall in 1999. However, since your books and records could not be relied on, we don't know if this balance is genuine.

Consequently, the Church has failed to show that it met the requirements of paragraph 149.1(2)(b) of the *Act* for the fiscal period ended December 31, 1999.

Paragraphs 168(1)(b) and 149.1(2)(b) of the *Act* provide that for a registered charity to be entitled to retain its registered status, it is required to comply with the requirements of the *Act* relating to its registration as such. If a registered charity ceases to comply with these requirements, the Minister may give notice to the charity that he proposes to revoke its registration.

7. Charitable Activities Outside Canada

The *Act* permits a registered Charity to carry out its charitable purposes, both inside and outside Canada, in two ways. First, it can fund other organizations that are qualified donees as defined in the *Act*. Second, it can carry on its own charitable activities. In contrast to the relatively passive transfer of money or other resources involved in making contributions to qualified donees, carrying on one's own activities implies active participation on the part of the Canadian Church in a program or project that directly achieves a charitable purpose.

The *Act* clearly does not allow a Canadian Charity to carry out its mandate by handing over its resources to another organization unless it is a qualified donee. However, a registered Charity can work with other organizations or persons and still meet the "own activities" test provided it employs certain arrangements which enable it to retain direction and control over its resources. Such can be accomplished through agents, contractors or other intermediaries under structured arrangements set out in written agreements that allow it to retain direction and control of its resources.

Where a registered Charity chooses to administer one or more of its activities through agents, contractors or other intermediaries, it must be able to substantiate, by documentary evidence, that it has arranged for the conduct of certain specific activities on its behalf. The Charity must also be able to demonstrate to our satisfaction that it at all times maintains control and full accountability over use of its resources transferred to the agent.

In order for such arrangements to be considered acceptable devotion of the Church's resources to its "own" charitable activities, the following criteria should be met:

1. The Church has obtained reasonable assurance before entering into agreements with individuals or other organizations that they are able to deliver the services required by the Church (by virtue of their reputation, expertise, years of experience, etc.);
2. All expenditures will further the Canadian Church's formal purposes and constitutes charitable activities that the Canadian Church carries on itself;
3. An adequate written agreement is in place;
4. The Church provides periodic, specific instructions to individuals or organizations as when appropriate;
5. The Church regularly monitors the progress of the project or program and can provide satisfactory evidence of this to the CCRA; and
6. Where appropriate, the Church makes periodic payments on the basis of this monitoring and maintains the right to discontinue payments at any time if it is not satisfied.

Furthermore, the *Act* lays down standards for the books and records that registered charities must keep. Among other things, these books and records must contain sufficient information to permit the CCRA to determine from their inspection whether the Church is continuing to operate in accordance with the provisions of the *Act*.

A registered Charity operating abroad through structured arrangements with others should take steps to obtain reasonable reports on the progress of its projects and programs. This serves as evidence for itself, its donors, the public, and the CCRA that its resources have been properly applied, directed, and controlled.

These reports should be supported with documentary evidence such as:

- copies of written agreements;
- deeds;
- financial statements;

- invoices;
- photos;
- minutes of meetings, and;
- any other materials which reflect the Church's ongoing participation and which show how the Church's funds are put to use.

A review of our files shows that we approved a draft Agency agreement that you submitted to us in 1992. The agreement involved the Church and a church in Guyana.

The Church reported supporting charitable activities in Guyana from 1990 to 1995. Based on the records available, amounts transferred to Guyana amounted to over \$51,000. The 1998 return displays an amount of \$3,450 spent on programs outside Canada.

Yet, the audit revealed that the Church did not comply with the terms of the agreement submitted. The Church failed to demonstrate to our satisfaction that it at all times maintained control and full accountability over use of its resources transferred to the agent.

The Church was unaware as to the ownership of the premises in Guyana. No evidence was provided that invoices were reviewed and payments approved.

Filing of complete Information Return (T3010) containing the prescribed information

Subsection 149.1(14) of the *Act* requires every registered Charity to file a Registered Charity Information and Public Information Return (form T3010) without notice or demand within six months from the end of each fiscal period. This return must be in prescribed form and contain prescribed information.

Our records show that you filed your returns late for fiscal periods ended 1994, 1997, 1998 and 1999.

The auditor reported that, for the fiscal period ended December 31, 2000, the Church had improperly completed the Information Return:

You indicated 6 as the number of directors and the same as the number of directors that were non-arm's length. Information collected indicated that Ms. Jean Tracey and Mr. Carlisle A. London (both directors) are related. Related persons are deemed not to deal with each other at arm's length.

Under paragraph 168(1)(c) of the *Act*, the Minister may, by registered mail, give notice to the registered charity that he proposes to revoke its registration if it fails to file an information return as and when required to do so.

Conclusion

For all of the reasons indicated above, it appears to us that there are grounds for revocation of the Church's status as a registered charity.

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

1. The loss of its tax exempt status as a registered charity which means that the Church 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*;
2. The loss of the right to issue official donation receipts for income tax purposes which means that gifts made to the Church would not be allowable as a tax credit to individual donors as provided at 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
3. The possibility of a tax payable under Part V, subsection 188(1) of the *Act*

For your reference, we have attached a copy of the relevant provisions of the *Act* concerning revocation of registration and the tax applicable to revoked charities as well as appeals against revocation.

If you do not agree with the facts outlined above, or if you wish to present any reasons why the Minister should not revoke the registration of the Church in accordance with subsection 168(2) of the *Act*, we invite you to submit your representations **within 30 days from the date of this letter**. Subsequent to this date, the Director General of the Charities Directorate will decide whether or not to proceed with the issuance of a notice of intention to revoke the registration of the Church in the manner described in subsection 168(1) of the *Act*.

If you wish to appoint a third party to represent your interests, please notify us in writing.

Should you have any questions on these matters, please phone Michel Godbout at (613) 946-7504 or write to Place de Ville, 320 Queen Street, Tower A, 6th Floor, Ottawa, Ontario, K1A 0L5. Our fax number is (613) 946-2423.

Yours sincerely,



Michel Godbout
Audit Advisor
Charities Directorate