

**REGISTERED MAIL**

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BN 886642396 RR0001  
REC# 0586883

September 14, 2004

**Subject: Charity Income Tax Audit**

Dear Sir:

I am writing to you further to an audit of the records and books of account of The Press Foundation (hereinafter, the "Charity") conducted by an auditor of the Canada Customs and Revenue Agency (hereinafter, the "CCRA").

The Charity and the CCRA had previously agreed that this audit would take place and that the outcome would determine if the Charity would be revoked.

The results of this audit are final. Based on this audit, we now intend to revoke the Charity. The present letter provides you with an opportunity to make representations. As agreed, if your representations are unsuccessful and we revoke the registration of the Charity, the latter expressly waved any rights of appeal that it might have which flow from this revocation.

The audit related to the operations of the Charity for the fiscal period ended June 30<sup>th</sup>, 2002.

The audit identified the issues of non-compliance described below.

**Activities outside Canada**

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

- It can make gifts to other organizations that are on the list of qualified donees set out in the Canadian Income Tax Act (hereinafter, the "*Act*").

Qualified donees include Canadian registered charities, certain universities outside Canada, the United Nations and its agencies, and a few foreign charities.

- It can carry on its own charitable 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.

The Charity's activities consist almost exclusively in providing scholarships for students outside Canada. It spent over 11 million dollars on charitable activities according to its financial statements for 1992.

The audit revealed the following derogations:

## 1) Support for the basis for granting scholarships

### Information on the application forms

The application forms for scholarship are completed by the dean/director of the educational institution seeking funds for one of its student. Such form come with fields relating to the applicant's coordinates, the number of family members, the husband's income, the wife's employer, the wife's income, the total family income, the apartment rental and approximate expenditure.

The Charity could not provide any supporting documentation for the information written on those forms. The Charity appears to rely entirely on the honesty of their agents completing the forms. There is no evidence that any forms were ever inquired by the Charity as to its content.

### Agency agreement

The Charity and its agent proceed with an agency agreement. This agreement spells out the role and obligations of the parties. This agreement comprises the requirement for the agent to keep and maintain the necessary documentation in order for the Charity to make informed decisions and to supervise and monitor the scholarship activity.

In spite of the agency agreements, no information was provided to support the information recorded on the forms. We were told that the agents kept a more detailed file relating to the applications and that the Charity would obtain this information in order to answer our queries. After more than 3 months of delay to obtain this information from outside Canada, little more helpful information than scholarship claims turned up. If such information existed, it should have been reviewed by the Charity to verify the legitimacy of the claim itself and kept in Canada in accordance with our policies.

We were told that a Charity's director had gone in Israel himself to meet the various deans/directors and monitor the activities. No report or any documentary evidence was provided that such monitoring took place.

### **Scholarship forms' deficiencies**

Our review of Scholarship forms has revealed the following shortcomings:

- forms showing no income at all not investigated;
- no field for the student's income;
- forms with no entry but for the coordinates of the student, the agent and school's name;
- forms with unsubstantiated information critical to granting scholarship (e.g., "7 kids").

Some forms used with a different format including "apartment rental and approximate expenditures".

### **Criteria used to grant scholarships**

No support was provided for the criteria used to determine the amount of the scholarships.

### **Support for school attendance**

No proof was provided that the scholarship's recipients attended school at any time (either before or after the scholarship payment).

### **Students from Toronto**

When asked if there were lots of scholarship applicants from Toronto, [REDACTED] (internal accountant) answered that he did not know because the agents picked the students. This statement appears to reveal that the Charity has relinquished its authority to grant scholarship to its agents and that the residence of the students is not verified as to its reliability.

## **2) Support for the use of the funds**

Cheques for payment of scholarships are issued to agents by the Charity. No documentary evidence is obtained to ensure that the funds received by the agent are transferred to a school or used to pay tuition fees. In some cases, the charity provided letters from the agent acknowledging receipt of the funds. The agent would issue such letter in his capacity as a dean/director of the school receiving the fund.

The charity does not appear to obtain any financial statements, reports, invoices or other documents that could support the use of its funds by the schools.

### **Payment to a student directly**

In some cases, the payment was made directly to the student. The Charity did not seek support for the use of the funds or school attendance in relation with these grants.

A review of the cheques issued for scholarship to the agents and their endorsement does not allow us to verify that the funds were in fact deposited in a bank account belonging to the educational institution. The charity does not verify the cheque's endorsement.

No bank statement was provided showing a bank account number matching the number in the back of these cheques. No letter from the bank was obtained to confirm the account holder of the recipient of the funds.

We have not seen conclusive evidence that the agents were in fact acting as persons of authority with the schools. The only evidence to that effect was the letters from some dean/director using the letterhead of a school.

### **3) Acting as a conduit**

The Charity has accepted from other charities gifts with a direction to transfer to a specific school (a non-qualified donee). It appears that the same procedure (as the one used for non-directed gifts) is used by the Charity to grant such gifts. The Charity has not supported reviewing these scholarships for possible personal benefit. The Charity does not appear to verify if the original donor has ties with students benefiting from scholarships. Since agents are recommending and screening applicants, it would be easy for an agent to make arrangements with an individual (e.g. the parent of a student) to funnel funds through the Charity. The Charity should not act as a mere conduit this way.

The Charity receives funds that come with a list of entities to which the donation is intended. Therefore, the Charity cannot purport to be using its own criteria to grant these scholarships. By leaving the granting decision to the donor, the Charity opens the door to bias. Furthermore, this activity cannot be considered like an activity conducted by the Charity itself since it does not play a determining role.

One list of beneficiary shows: "████████ - re: Twelve person family with financial crisis". The charity does not appear to have verified the veracity of this assertion.

#### 4) Devotion of resources to charitable activities

A charitable organisation means an organization, all the resources of which are devoted to charitable activities carried out by the organization itself, in accordance with section 149.1 (1).

The Charity paid \$ 2,052 in June 2000 related to the [REDACTED] [REDACTED]. No explanation or support was provided to justify this expense. This expense does not represent a devotion of resources to charitable activities carried out by the organization itself.

#### 5) Payment to a specific student tax-receipted

A letter written in June 5, 2001 by [REDACTED] to the Charity shows the following instruction:

"I understand my father gave some money for me and I am enclosing sheets for disbursement."

This appears (and this was verbally confirmed by [REDACTED]) to be a request from a student to funnel funds to him. [REDACTED] assured us that these instructions were not followed and the funds were sent back to the contributor. Evidence that these funds were sent back was not provided. The full name of the contributor and evidence that a donation tax-receipt was not issued were not provided.

This document highlights the risk for schemes where an amount disguised as a donation would be directed to a specific student, which might be related to the contributor.

The Charity does not seem to have the control in place to mitigate such risk. It accepts gifts with a list of educational institution – where the donor might target a specific student. It appears to leave the discretion to the agents to select the students without reviewing for possibility of potential schemes with the agents. The Charity information system does not allow it to verify if a given donor is linked to a potential beneficiary of scholarship.

[REDACTED] wrote another letter seen during the audit to [REDACTED] who is acting as an agent for an educational institution in Israel according to [REDACTED]

This letter goes this way:

Re: [REDACTED]

"Further to our telephone conversation and the arrangements I have made with the Press Foundation, I am writing to confirm the following instalment arrangements for the payment of the balance of \$10,750 re fees for 2001-2002. Twelve payments will be made through the Press Foundation beginning June 15<sup>th</sup> and ending May 15<sup>th</sup> as follows:

- 1 cheque for \$550 dated June 15<sup>th</sup>
- 2 cheques for \$600 each dated July and August 15<sup>th</sup>
- 9 cheques for \$1,000 each dated September through May

The first payment has already been remitted to the Press Foundation. All figures are in US \$.

I trust this arrangement will be acceptable to you and thank-you for your assistance."

This letter appears to expose an arrangement done between a payer [REDACTED] and the Charity to direct some funds to a specific student [REDACTED] that is likely related to the donor.

The Charity has not provided any information to dispel our concerns regarding this letter. We have not been able to identify the corresponding deposits, which might reveal that these funds were diverted. The letter does state, "Twelve payments were made through the Press Foundation".

The Charity has not supported if donation receipts were issued for these payments. No explanation was given by the Charity in relation with this letter.

Another letter dated May 27, 2002 written to Press Foundation states:

"I understand that the Press Foundation facilitates payments to [REDACTED]. Our daughter will be attending [REDACTED] at the end of August & we are very interested in discussing payments options via the Press Foundation."

Asked about this letter, [REDACTED] answered that this was not done. However, the Charity did not offer any specific information to support its statement. The Charity could not demonstrate that no scholarship had been paid to a person bearing the same family name as the author of this letter. A donation receipt could have been issued to an individual other than the author of the letter.

Even if a corresponding donation tax-receipt had not been issued, an arrangement where the Charity would strictly facilitate the payments to a school would

not likely be considered to be a charitable activity.

These findings are especially concerning considering that there seems to be many students from Toronto, the area where the Charity does its fundraising, attending schools in Israel, the area where the Charity sends the most scholarship.

## 6) Registration number lending

A charity should issue a donation receipt only in relation with a gift destined to it.

A letter dated July 5, 2000 from [REDACTED] to the Charity shows the following statement:

"We are now looking into expanding our fundraising options in Canada. It would be a great help to us if we could get our own Canadian Tax Exemption Number, so we can process all donations in our own office, thereby saving you the trouble."

This letter suggests that the Charity lends its charity number to the other organisation. The Charity did not provide support as to how the donation was solicited.

[REDACTED] issued a US donation receipt for \$1,160.86 on June 3, 2000 to the Charity. Based on the aforementioned letter, this receipt appears to relate to a payment directed by a donor to [REDACTED]. A charity should not act as a mere conduit this way.

Furthermore, [REDACTED] is not a qualified donee. No support was provided for the charitable use of the funds.

A letter dated 2001 from [REDACTED] shows the following paragraph:

"The Press foundation is able to receive and process a donation on our behalf and provide you with a Canadian Tax-deductible receipt. (...) Please indicate that the funds are to be distributed to [REDACTED] (...)."

\$ 4,000 of gifts (during 1998 and 1999) has been processed this way.

## 7) Personal benefit

In accordance with the definition of charitable organisation in section 149.1(1) (b), no income of the organization should be payable or otherwise available for the personal benefit of any proprietor, member, shareholder trustee or settler thereof.

The audit revealed that 5 invoices for administrative services were

supported by the Charity for 2000 and 2001. The invoices states that these services were rendered by [REDACTED] all of who reside at [REDACTED] (the Charity's office) according to the same invoices.

Our review of the books and records has not allowed us to see anything that would confirm that these individuals rendered services to the Charity.

These people appear related to [REDACTED] who is residing at [REDACTED] and provides services of accounting to the Charity in these premises.

Similarly, a review of the wages paid reveals that [REDACTED] [REDACTED] received a salary for \$ 32,788 in 2003. We have not seen any evidence of services rendered in this regard.

Therefore, in accordance with the agreement signed on September 11, 2003, copy of which is attached, the Minister proposes to revoke the Charity's registration.

## 8) Books and records

In accordance with section 230(2), every registered charity shall keep records and books or account at an address in Canada recorded with the Minister or designated by the Minister containing

- (a) Information in such form as will enable the Minister to determine whether there are any grounds for the revocation of its registration under the Act;
- (b) A duplicate of each receipt containing prescribed information for a donation received by it; and
- (c) Other information in such form as will enable the Minister to verify the donations to it for which a deduction or tax credit is available under the Act.

In addition to substantiating all costs or expenses paid out of its funds, the Charity's books and records should provide documentary evidence that monies it has transferred to an agent have been applied to the conduct of activities that are charitable under Canadian law and for which the Charity itself is directly and legally responsible.

The audit revealed the following:

- Supplier's invoices were not segregated in any order with a fiscal year;
- Student application for scholarship forms were not filed in any order;
- No minutes of decisions of the trustees were provided;
- No documentation supporting the information recorded on the application for scholarship forms was provided;

- Student application for scholarship forms provided in support of a sample of cheques queried were not provided for the most part with the means and tie in those forms with the corresponding payments;
- No evidence of defined criteria for granting scholarships was provided;
- No evidence of a reviewing procedure of the student application for scholarship forms was furnished;
- No logbooks were maintained to support the use of the Charity's vehicle.;
- No lists of names of students for whom scholarship assistance is being requested were provided;
- No reports concerning the activities of the Charity's agents;
- No reports for the trustee's visit to Israel to evaluate scholarship programs and meet with the Charity's agents were provided.

The absence of a record of the scholarship granted (filed by student's name) could lead to situations where scholarships are granted to the same student more than once. The Charity could not support having the control in place to prevent this occurrence.

Therefore, in accordance with the agreement signed on September 11, 2003, copy of which is attached, the Minister proposes to revoke the Charity's registration.

## **9) Gifts to non-qualified donees**

According to section 149.1(1), a charitable organization can either devote its resources to its own charitable activities or give to qualified donees.

The audit revealed that \$3,000 was paid in 1997 to [REDACTED] [REDACTED], which is not a qualified donee. The Charity was asked to provide evidence that the funds paid to this organization were used for charitable activities. This information was not provided.

The Charity made many payments to [REDACTED] We were told that this was a qualified donee. We have not been able to confirm this information.

See also the heading "Registration number lending" in the present letter for another instance of gift to non-qualified donee.

## **10) Loan 1**

The bank statements for the CIBC account for January 2002 show the mention "re: loan" next to cheques 2259 and 2261 issued to [REDACTED] and [REDACTED] for \$8,100 and \$12,500.

Inquired about the reference to the loan note, [REDACTED] answered that these payments were not loaned but really gifts to qualified donees.

We did get any explanations as to how the references to loans were inadvertently written on the statement. Those payments were not recorded as loans in the books. This raises the concern that such payments were really loans disguised as gifts and that the recipient might have paid back these "loans" to a third party.

[REDACTED] is not a qualified donee we could trace.

#### 11) Loan 2

Providing interest free loans to the poor can be considered charitable under the following category of charitable purposes: relief of poverty.

We recognize start-up loans to hard-to-employ persons as a charitable activity.

Start-up loans (or loan guarantees) can be offered to those who cannot effectively finance even the smallest business venture. This happens when regular financial institutions refuse either to handle the small amount involved or to lend in the absence of collateral. Amounts loaned by the charity are typically under \$10,000. Loans that exceed \$25,000, or that are consistently larger than \$10,000, suggest the crossing of the threshold between the relief of poverty and the non-charitable support of small business.

Loans are justifiable until the business is viable.

You could refer to RC4143 Community Economic Development Program for additional information.

The Balance sheet for 2002 shows the item "loans receivable" for \$516,029. These loans were conferred before 1995. No interest appears to be charged and the Charity did not indicate to us the name of the holders of these loans.

We did not receive any explanation as to why these loans are not repaid to the Charity. It was not established if there are any provisions for repayments. We have not seen any evidence supporting that those loans are bad or that legal action was used to recover these funds.

A charity is supposed to devote its assets to charitable activities. The Charity did not support the charitable nature of these loans.

A loan was conferred to [REDACTED] for \$35,000 in 2001. We were told that this loan was repaid quickly. This loan meant to help the business weather through financial difficulties. The business would be operating in the United States.

No information was provided to support the charitable nature of this loan. The business appears to be an established one and would, consequently, not be entitled to receive charitable loans that should be limited to new businesses.

We have not seen in the books a clear segregation of the various loans. This might lead to confusion between a loan repayment and a donation.

Therefore, in accordance with the agreement signed on September 11, 2003, copy of which is attached, the Minister proposes to revoke the Charity's registration.

## 12) Repeat derogations

The audit revealed the presence of the following repeat derogations, which had already been pointed out during three previous audits:

- 1) The pro-forma agency agreements and Institution Scholarship Request forms provided to our auditor as supporting documentation for transfers made to the various individuals and institutions named on these agency agreements do not satisfy our accountability tests. These documents do not provide *verifiable evidence as to the actual use of funds* sent to individuals or organizations named as agents and are not sufficient to establish that activities supported the payments made to these parties were activities of the Charity.
- 2) The Charity has not maintained minutes reporting meetings of the trustees.
- 3) There was insufficient detail about the selection process.
- 4) Some of the appellant's books and records were not kept in Canada.
- 5) Gifts may have been made to non-qualified donees that were not agents.

Therefore, in accordance with the agreement signed on September 11, 2003, copy of which is attached, the Minister proposes to revoke the Charity's registration.

## Conclusion:

Each of the reasons stated above, would in its own right suggest that there are grounds for revocation of the Charity's registration.

If you do not agree with the facts outlined above, or if you wish to present any reasons why the Minister of National Revenue should not revoke the registration of the Charity in accordance with subsection 168(2) of the Act, you are invited to submit your representations, within 30 days from the date of this letter.

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

Should you have any questions regarding these matters, I may be contacted at [REDACTED] or write to Charities Directorate, Compliance Section, 320 Queen Street, 6<sup>th</sup> Floor, Ottawa, Ontario, K1A 0L5.

Yours sincerely,



Michel Godbout  
Compliance Section  
Charities Directorate