



Canada Revenue
Agency

Agence du revenu
du Canada

REGISTERED MAIL

Canadian Bipolar Foundation
300-1835 Lonsdale Ave
North Vancouver BC V7M 2J8

MAR 21 2017

Attention: [REDACTED]

BN: 855889713RR0001

File #: 3045145

**Subject: Notice of Intention to Revoke
 Canadian Bipolar Foundation**

Dear [REDACTED]:

We are writing further to our letter dated September 7, 2016 (copy enclosed), in which you were invited to submit representations as to why the registration of Canadian Bipolar Foundation (the Organization) should not be revoked in accordance with subsection 168(1) of the Income Tax Act (Act).

We have now reviewed and considered your written response dated September 30, 2016. However, notwithstanding your reply, our concerns with respect to the Organization's non-compliance with the requirements of the Act for registration as a charity have not been alleviated. Our position is fully described in Appendix "A" attached.

Conclusion

The audit by the Canada Revenue Agency (CRA) has revealed that the Organization is not complying with the requirements set out in the Income Tax Act. In particular, it was found that the Organization failed to devote resources to charitable activities, demonstrated a lack of direction and control, failed to maintain adequate books and records, delivered non-incidental private benefits, and failed to issue receipts in accordance with the Act and its Regulations. For all of these reasons, and for each reason alone, it is the position of the CRA that the Organization no longer meets the requirements necessary for charitable registration and should be revoked in the manner described in subsection 168(1) of the Act.

Consequently, for each of the reasons mentioned in our letter dated September 7, 2016, we wish to advise you that, pursuant to subsection 168(1) of the Act, we propose to revoke the registration of the Organization. By virtue of subsection 168(2) of the Act, revocation will be effective on the date of publication of the following notice in the Canada Gazette:

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

| Business number | Name |
|------------------------|---|
| 855889713RR0001 | Canadian Bipolar Foundation North Vancouver BC |

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

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

A copy of the revocation notice, described above, will be published in the Canada Gazette after the expiration of 90 days from the date this letter was mailed. The Organization's registration will be revoked on the date of publication, unless the CRA receives an objection to this notice of intention to revoke within this timeframe.

A copy of the relevant provisions of the Act concerning revocation of registration, including appeals from a notice of intent to revoke registration can be found in Appendix "B", attached.

Consequences of revocation

As of the effective date of revocation:

- a) the Organization will no longer be exempt from Part I tax as a registered charity and **will no longer be permitted to issue official donation receipts**. This means that gifts made to the Organization would not be allowable as tax credits to individual donors or as allowable deductions to corporate donors under subsection 118.1(3), or paragraph 110.1(1)(a), of the Act, respectively;

- b) by virtue of section 188 of the Act, the Organization will be required to pay a tax within one year from the date of the notice of intention to revoke. This revocation tax is calculated on prescribed Form T2046, 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. The relevant provisions of the Act concerning the tax applicable to revoked charities can also be found in Appendix "B". Form T2046 and the related Guide RC4424, Completing the Tax Return Where Registration of a Charity is Revoked, are available on our website at cra.gc.ca/charities;
- c) the Organization will no longer qualify as a charity for purposes of subsection 123(1) of the Excise Tax Act. As a result, the Organization may be subject to obligations and entitlements under the Excise Tax Act that apply to organizations other than charities. If you have any questions about your Goods and Services Tax/Harmonized Sales Tax (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, we wish to advise that subsection 150(1) of the Income Tax 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,



Tony Manconi
Director General
Charities Directorate

Attachments:

- Appendix A
- Appendix B Relevant provisions of the Act
- CRA letter dated September 7, 2016
- Response dated September 30, 2016

c.c.: Gregory Banwell, [REDACTED]
[REDACTED]

Place de Ville, Tower A
320 Queen Street, 5th Floor
Ottawa ON K1A 0L5

Canadian Bipolar Foundation

Comments on Representations of September 30, 2016

Based on the Canada Revenue Agency's (CRA) audit of Canadian Bipolar Foundation (the Organization), and after careful consideration of the representations, it remains our position that the identified areas of non-compliance with the provisions of the Income Tax Act (Act) and or its Regulations are sufficiently serious to warrant revocation of the Organization's registration. The Organization has failed to provide additional information or a reasonable explanation to support its position.

Below please find:

- 1) A summary of the issues raised by the CRA in our letter to Canadian Bipolar Foundation (the Organization) dated September 7, 2016;
- 2) The Organization's representations provided by [REDACTED] dated September 30, 2016; and
- 3) The CRA's conclusion.

Stated Purpose

The Organization was incorporated under the British Columbia Society Act on July 27, 2010, with the name Pacific Bipolar Foundation. The Organization amended its stated purposes on September 9, 2011, which remain the same today. These are:

- a) to educate health care professionals, persons with bipolar disorder and their families and the public about bipolar disorders; and
- b) to gift funds to "qualified donees", as defined in subsection 149.1(1) of the Income Tax Act (Canada), for education on bipolar disorders or for research or treatment of bipolar disorders.

Organization's Response:

The Organization provided that the mission of the Organization has changed from its original stated purpose at registration to the following:

"To initiate, develop and facilitate programs, services and projects to promote wellness, education and empowerment for people with bipolar disorders and for their supporters."

CRA's Response:

Although the Organization has stated that its original purpose at registration has now changed and it is implementing a new mission, CRA has not received any written request or documentation to this effect. The Organization has also not provided any further details or explanation as to how this is an exclusively charitable purpose and what activities would be carried out in pursuit of this purpose.

Identified areas of non-compliance

1. Failure of the Organization to devote resources to charitable activities/lack of direction and control

During the audit period, the CRA identified the following non-charitable activities conducted by the Organization.

a) Gifts to non-qualified donees

Joy Hair Salon

During the audit period, the Organization provided \$95,000 to Joy Hair Salon, owned by [REDACTED]. It appears that the board did not exercise its due diligence before becoming involved with the establishment of the hair salon and has not demonstrated that the hair salon is its own activity. The audit determined that the Organization failed to devote resources to charitable activities by gifting to a non-qualified donee.

Organization's Response:

The Organization explained that it was the board's intention to use the hair salon to provide a face to the Foundation in the community and disseminate information about bipolar disorder. Also, the location was intended to be used for bipolar group activities for social interaction and therapeutic purposes. The venture brought a great deal of publicity to the Foundation and was very positive.

The Organization stated that at the time the board felt the activities of the salon were linked to the charity's purpose and subordinate to that purpose and it was not the board's intention to gift funds to a non-qualified donee. It had consulted with board members of other foundations and was advised the venture was a legitimate charitable activity. In hindsight, the board was not as diligent in looking at this issue as it could have been.

The board is committed to ensuring that other registered non-profit organizations are the beneficiaries of grants, in compliance with the Act and the board intends to hire staff who have a full understanding of the requirements for running a charitable organization.

CRA's Response:

The Organization has explained the board's intentions both during the audit period and potentially moving forward; however, it has not provided adequate assurance to the CRA that this will not happen again. It failed to demonstrate how the board "felt the activities of the salon were linked to the charity's purposes," nor has it detailed what steps the board would take to ensure this activity is not repeated other than to hire staff that has an understanding of the requirements for running a charitable organization. This failure, coupled with the Organization's desire to hire more informed staff members, shows a lack of understanding of the function of a board of directors in a charitable organization. A board of directors does not simply approve the actions of staff members after the fact; the board sets parameters, directs and guides staff and volunteers in carrying out an organization's activities. The Organization's response in this regard leaves doubt as to the capacity of the Organization to implement an adequate governance structure.

Research Projects

The audit revealed that since registration, the Organization has funded several research projects conducted by individuals without maintaining continued direction and control of the activity. Besides periodic updates and acknowledgement of the Organization's fund contribution, there was no direction and control over the use of its resources, and the Organization did not own the materials at the end of the study. The Organization merely transferred its resources to fund research conducted and controlled by a non-qualified donee. In the absence of information and documentation to support the position that the research studies are the Organization's own activities, the provision of funds for research conducted by others amount to gifts to non-qualified donees.

Organization's Response:

The board's intention was to donate to an important research project that would potentially improve the lives of those living with bipolar disorder. The funds donated for the SPECT research were directed towards a project at the University of California and Los Angeles (UCLA) and represented a small portion compared to the overall project budget. The Organization would not have the broad raw data, or qualified personnel to analyze the data, or the ability to control this project in the way that UCLA had. The board thought that the donation was going to a qualified donee, however, if this was a non-qualified donee, the board takes responsibility for this action.

The board is committed to ensuring that these issues are thoroughly researched for compliance with the Act and all future research findings are owned by the Foundation with oversight in place to facilitate the Foundation's responsibility to oversee the activities funded by its donors.

CRA's Response:

We note that the funds donated for the SPECT research project was just one example of several research projects the Organization supported during the audit period. In this case, since the project was conducted at UCLA, the funds could have gone directly to UCLA as that university is a qualified donee under the Act. The CRA is not necessarily questioning the validity of the research that was funded during the audit period, but rather how it was done. Further, the Organization has not provided any additional representations stating how it would structure any future funding of research such as selection criteria and draft documents. In the absence of this, the CRA has serious reservations as to the capacity of the Organization to carry on such an activity in the future.

With regard to both the research projects and Joy Hair Salon, the Organization's representations have not alleviated the CRA's concerns that the Organization funded non-qualified donees during the audit period, nor have they satisfactorily assured us that the same acts will not be repeated.

*b) Conducting non-charitable activities*Video Production

The Organization spent more than \$40,000 on the production of a series of videos with no clear purpose or use for them. The Organization could not provide information or documentation to

show that it directed and controlled the production of the videos. The Organization could not explain how the videos would be used in the conduct of its charitable activities or programs.

Given the Organization's position that it was unsure what it would do with the videos, it is our view that these videos lack the necessary element of structured, targeted instruction that characterizes educational advancement.

As the Organization has failed to demonstrate how the videos advance charitable purposes, it is our view that the production of the video series is a non-charitable activity.

Organization's Response:

The Organization explained that it was clear to the board at the time of deciding to produce the videos that the intent was to:

- advance knowledge and abilities to those diagnosed with bipolar disorder, their families, mental health professionals, and the broader community
- the videos would encompass a teaching and learning component
- the videos would involve a legitimate, targeted attempt to educate

It explained that the videos were intended to educate the public about bipolar disorder and the importance of early and accurate diagnosis. The Organization also intended for them to be used in clinics and had planned to show the videos at several screenings, lectures, on YouTube, on their website, and with other organizations in the mental health community.

The Organization explained that the board strongly believed that the video production was a legitimate function of the Foundation as a charitable organization and an appropriate use of funds. The board believes the purpose of the videos is within its charitable mandate and did not see the necessity to have an in-depth roll out plan for distribution in advance of production. If this was a non-charitable activity, then the board accepts responsibility for this action.

The board is committed to ensuring that these issues are thoroughly researched for compliance with the Act and Regulations before proceeding with such ventures.

CRA's Response:

The Organization's representations explained the board's intention and plans at the time of producing the videos; however, it has not demonstrated or provided any documentation to support how the production of the videos advances education. As previously addressed, to advance education means training of the mind, advancing the knowledge or abilities of the recipient, raising the artistic taste of the community, or improving a useful branch of human knowledge through research. To further educational advancement, an activity must be sufficiently structured to encompass a teaching or learning component and involve a legitimate, targeted attempt to educate.

The Organization explained that it had planned to have the videos shown through several outlets which does not demonstrate how the production advances education and how it meets its charitable purposes.

Conclusion:

We have reviewed the Organization's commitments as stated in its representations; however, it is the CRA's position that the Organization has not alleviated our concerns with its non-compliance. Given that the board discussed and approved to undertake these activities at the time, the materiality of the resources used in these non-charitable activities, and that the representations do not address the substantial steps required to ensure this non-compliance will not occur again, it has failed to meet the requirements of subsections 149.1(1) of the Act that it devote substantially all of its resources to charitable activities carried on by the Organization itself. For this reason there are grounds for revocation of the charitable status of the Organization under paragraph 168(1)(b) of the Act.

2. Failure to maintain adequate books and records

Our audit revealed the following deficiencies in the Organization's books and records:

- The Organization could not confirm whether the records were complete, where some of its records were located and how the Organization's daily bookkeeping was conducted. It was unclear what the process was and whether there was any oversight of the responsible individual(s).
- Contracts and agreements to support the various funding projects were not available so the Organization could not substantiate that its resources were devoted to its own charitable activities.
- The electronic records were incomplete as they did not correspond with the Organization's financial reporting period ending November 1; therefore, reconciliation could not be completed.
- Donation receipts issued could not be reconciled to the general ledger.
- A listing of donors and official donation receipts issued did not exist.
- The Organization did not maintain exact duplicates of all official donation receipts issued.
- The Organization offered counselling services and peer support sessions for a nominal fee; however, any revenue earned for these services was not reported by the Organization.

Other areas of concern include:

Remuneration and Non-resident

Payments to individuals were not properly reported on the applicable T4A or T4A-NR slip as required. All payments to residents of Canada must be issued a T4A or T4 slip that includes the correct Social Insurance Number. All payments to non-residents must be issued a T4A-NR slip and the applicable withholding remitted to CRA. The review showed that the Organization paid amounts not supported by adequate documentation.

Lack of internal controls

The Organization lacks sufficient internal controls and segregation of duties, as demonstrated by the inadequacy of the books and records. There are no checks and balances to detect errors or misappropriation thus putting the Organization's assets at risk of loss. The segregation of duties was inadequate because the president and chairman, Paul Termansen, along with the secretary,

Jennifer Welch, carried out most operations of the Organization. Both had authorization, banking and signing authority for all the Organization's resources. There was little to no oversight over the control and the maintenance of the books and records as well as the issuance and the general supervision of donation receipting.

Organization's Response:

The Organization acknowledged responsibility for not ensuring there was an adequate donor record, failing to issue T4As or T4s, failing to maintain agreements with funded organizations and contractors, failing to issue tax receipts in compliance with the Act, failure to withhold taxes, and failure to implement board controls over the Foundation's financial administration.

The Organization had hired staff, a bookkeeper, and an accountant to manage these matters but it was not properly advised. The accountants continued to sign off on the audited financial statements and records, leading the board to believe the financial and record keeping practices were in line with the Act and its Regulations.

It was explained that the overall administration of the organization had become a mess, due in large part to the guidance of the accountant, the lack of experience of the bookkeeper, and the fact that the Executive Director, who had a passion for the cause but did not have the in-depth knowledge required for non-profit administration.

The Organization indicated that individual board members did not knowingly violate the Act and its Regulations in these areas as they trusted those who were taking care of the finances and who they thought knew the requirements of the Act that govern charities.

The board has discontinued doing any business with the accountant and commits to finding an accountant who understands the financial reporting requirements for a charity in relationship to the Act. The Executive Director has also left the organization and the board plans to engage a new Executive Director with the necessary non-profit administrative experience related to charity organizations.

The Organization has not had a finance committee in the past. Moving forward, it commits to initiating a finance committee whose role is to provide oversight and require reporting on financial administration of the Foundation on a monthly basis to ensure compliance with the Act. The Organization would look to finding appropriate education for the board and committee members in this area and would appreciate any assistance the CRA may be able to provide.

CRA's Response:

While the Organization has accepted responsibility for not keeping adequate books and records during the audit period, the non-compliance identified was of such a serious nature that the Organization should have identified and addressed it sooner. In addition, the Organization's representations do not specifically detail steps it will take to address this area of non-compliance other than to hire a new accountant and executive director. It has not presented, for example, any internal systems it would implement or how it would direct these new individuals to ensure compliance.

Conclusion:

Under paragraph 168(1)(e) of the Act, the Minister may, by registered mail, give notice to the charity that the Minister proposes to revoke the registration because it fails to comply with or contravenes section 230 of the Act dealing with books and records. It is our position that the present case consists of material non-compliance and the Organization's representations have not alleviated CRA's concerns. Therefore, the Organization has failed to comply with and contravened section 230 of the Act. For this reason, there are grounds for revocation of the charitable status of the Organization under paragraph 168(1)(e) of the Act.

3. Delivery of non-incidental private benefit

During the audit period, the Organization provided several private benefits to individuals: Paul Termansen, [REDACTED], Jennifer Welch and [REDACTED]. In doing so, the Organization failed to meet the requirements of subsections 149.1(1) of the Act that it be constituted for exclusively charitable purposes.

Organization's Response:

The Organization stated that the past board allowed non-incidental private benefits to be acquired by staff and board members. The Organization's intentions were in the right place as the board felt individuals like [REDACTED] received this benefit to reflect the in-kind subsidy she provided to the individuals she counselled with bipolar disorder. Similarly, Dr. Paul Termansen, who was the founder of the Foundation, worked tirelessly for the Foundation and those diagnosed with bipolar disorder both in his professional capacity and by serving as the unpaid Executive Director for a very long time. The Organization indicated that he was truly unaware that some of the benefits awarded to him were not in line with the Act. If he had been aware, the offenses never would have been committed.

Additional information was provided:

- The [REDACTED] car was purchased to promote the Foundation. It visibly had the logo and name of the Foundation all over the vehicle. It became part of the remuneration for the Executive Director as part of her contract. It was not used by Dr. Paul Termansen. When the car was returned by the Executive Director, Dr. Termansen ensured someone took over the lease. The lease was not the responsibility of the Foundation.
- The airline and hotel expenses were related to a convention on Bipolar Disorders and Foundations that supported research and education. The Organization's participation in this convention resulted in a firmer commitment to educate professionals and the community.
- The event at the [REDACTED] was an educational meeting with professionals involved in the treatment and diagnosis of bipolar disorder. [REDACTED] was the main speaker.

With knowledge of the offenses in this area listed in the letter, the board will commit to ensure due diligence in this area so this does not occur in the future.

CRA's Response:

The Organization stated that the smart car was purchased to promote the Foundation and became part of the remuneration for the Executive Director as part of her contract. According to the

insurance documents for the vehicle, the principal operator of the vehicle was [REDACTED], owner of Joy Hair Salon, which does not support the explanation that the Executive Director used the vehicle. Furthermore, the Executive Director's contract did not address or include the use of the vehicle as part of her remuneration. The Organization also indicated that the leased vehicle was not the responsibility of the Organization; hence, we maintain that the vehicle expenses paid by the Organization are a private benefit.

The representations also addressed that the expenses related to hotel and airfare were to attend a convention and that the event which took place at the [REDACTED] was an educational meeting; however, additional documentation was not provided to substantiate that the expenses were incurred for charitable purposes and we must conclude that these expenses were indeed a private benefit.

Finally, the Organization did not address the fact that it did not collect funds from Paul Termansen for use of its resources (invoices for rent and reception services). Again, without being provided documentation to the contrary, we must conclude that the Organization conferred a non-incidental private benefit in this regard.

Conclusion:

Under paragraph 168(1)(b) of the Act, the Minister may, by registered mail, give notice to the charity that the Minister proposes to revoke the registration because it ceases to comply with the requirements of the Act for its registration. Given that the Organization's representations have not alleviated CRA's position with respect to conferring non-incidental private benefits, the Organization has failed to meet the requirements of subsection 149.1 of the Act that it be constituted for exclusively charitable purposes. For this reason there are grounds for revocation of the charitable status of the Organization under paragraph 168(1)(b) of the Act.

4. Issuing receipts not in accordance with the Act and/or its Regulations

The audit revealed that there were several serious areas of non-compliance with the issuance of donation receipts and there was little to no control over the storage and the issuance of official donation receipts. In addition, the Organization failed to meet the requirements of sections 3500 and 3501 of the Regulations about issuing receipts only when allowed and ensuring all the required information is present.

Organization's Response:

The Organization referred to its response under the section "Failure to maintain adequate books and records" and that it believes that this will not be an issue in the future with the commitments of the board.

CRA's Response:

The Organization failed to demonstrate what changes it would make to address this issue moving forward. There were several instances of non-compliance in this category and the Organization failed to specifically address any of them.

Conclusion:

Under paragraph 168(1)(d) of the Act, the Minister may, by registered mail, give notice to the charity that the Minister proposes to revoke the registration because it issued a receipt for a gift otherwise than in accordance with the Act and the regulations. As the Organization has not demonstrated or provided how it would alleviate the concerns identified and considering the seriousness of non-compliance, it remains our position that the Organization has issued receipts otherwise than in accordance with the Act and there are grounds for revocation under paragraph 168(1)(d) of the Act.

Section 149.1 Qualified Donees

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;
- (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; or
- (c) makes a disbursement by way of a gift, other than a gift made
 - (i) in the course of charitable activities carried on by it, or
 - (ii) to a donee that is a qualified donee at the time of the gift.

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;
- (b.1) makes a disbursement by way of a gift, other than a gift made
 - (i) in the course of charitable activities carried on by it, or
 - (ii) to a donee that is a qualified donee at the time of the gift;
- (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 149.1(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;
- (b.1) makes a disbursement by way of a gift, other than a gift made
 - (i) in the course of charitable activities carried on by it, or
 - (ii) to a donee that is a qualified donee at the time of the gift;
- (c) has, in respect of a class of shares of the capital stock of a corporation, a divestment obligation percentage at the end of any taxation year;
- (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 it has entered into a transaction (including a gift to another registered charity) and it may reasonably be considered that a purpose of the transaction was to avoid or unduly delay the expenditure of amounts on charitable activities;
- (b) of a registered charity, if it may reasonably be considered that a purpose of entering into a transaction (including the acceptance of a gift) with another registered charity to which paragraph (a) applies was to assist the other registered charity in avoiding or unduly delaying the expenditure of amounts on charitable activities;
- (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;
- (d) of a registered charity, if it has in a taxation year received a gift of property (other than a designated gift) from another registered charity with which it does not deal at arm's length and it has expended, before the end of the next taxation year, in addition to its disbursement quota for each of those taxation years, an amount that is less than the fair market value of the property, on charitable activities carried on by it or by way of gifts made to qualified donees with which it deals at arm's length; and
- (e) of a registered charity, if an ineligible individual is a director, trustee, officer or like official of the charity, or controls or manages the charity, directly or indirectly, in any manner whatever.

Section 168:**Revocation of Registration of Certain Organizations and Associations****168(1) Notice of intention to revoke registration**

The Minister may, by registered mail, give notice to a person described in any of paragraphs (a) to (c) of the definition “qualified donee” in subsection 149.1(1) that the Minister proposes to revoke its registration if the person

- (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;
- (c) in the case of a registered charity or registered Canadian amateur athletic association, fails to file an information return as and when required under this Act or a regulation;
- (d) issues a receipt for a gift 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 the granting of which was expressly or implicitly conditional on the association making a gift to another person, club, society or association.

168(2) Revocation of Registration

Where the Minister gives notice under subsection 168(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 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, if

(a) in the case of a person that is or was registered as a registered charity or is an applicant for such registration, it objects to a notice under any of subsections (1) and 149.1(2) to (4.1), (6.3), (22) and (23);

(b) in the case of a person that is or was registered as a registered Canadian amateur athletic association or is an applicant for such registration, it objects to a notice under any of subsections (1) and 149.1(4.2) and (22); or

(c) in the case of a person described in any of subparagraphs (a)(i) to (v) of the definition “qualified donee” in subsection 149.1(1), that is or was registered by the Minister as a qualified donee or is an applicant for such registration, it objects to a notice under any of subsections (1) and 149.1(4.3) and (22).

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

Where the Minister

(a) confirms a proposal or decision in respect of which a notice was issued under any of subsections 149.1(4.2) and (22) and 168(1) by the Minister, to a person that is or was registered as a registered Canadian amateur athletic association or is an applicant for registration as a registered Canadian amateur athletic association, or does not confirm or vacate that proposal or decision within 90 days after service of a notice of objection by the person under subsection 168(4) in respect of that proposal or decision,

(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,

(a.2) confirms a proposal or decision in respect of which a notice was issued under any of subsections 149.1(4.3), (22) and 168(1) by the Minister, to a person that is a person described in any of subparagraphs (a)(i) to (v) of the definition “qualified donee” in subsection 149.1(1) that is or was registered by the Minister as a qualified donee or is an applicant for such registration, or does not confirm or vacate that proposal or decision within 90 days after service of a notice of objection by the person under subsection 168(4) in respect of that proposal or decision,

(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) [Repealed, 2011, c. 24, s. 54]

(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,

(*g*) refuses to accept for registration for the purposes of this Act any retirement income fund,

(*h*) refuses to accept for registration for the purposes of this Act any pooled pension plan or gives notice under subsection 147.5(24) to the administrator of a pooled registered pension plan that the Minister proposes to revoke its registration, or

(*i*) refuses to accept an amendment to a pooled registered pension plan,

the person described in paragraph (*a*), (*a.1*) or (*a.2*), the applicant in a case described in paragraph (*b*), (*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*), the administrator of the plan or an employer who participates in the plan, in a case described in paragraph (*f*) or (*f.1*), or the administrator of the plan in a case described in paragraph (*h*) or (*i*), may appeal from the Minister's decision, or from the giving of the notice by the Minister, to the 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*) [Repealed, 2011, c. 24, s. 55]

(*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),

(*c.2*) the mailing of notice to the administrator of the pooled registered pension plan under subsection 147.5(24), or

(*d*) the time the decision of the Minister to refuse the application for acceptance of the amendment to the registered pension plan or pooled 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
- (c) 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) or (12) applies

188(4) Transfer of property tax

If 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, or solidarily, 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”

« *montant de l'actif net* »

“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”

« *valeur nette* »

“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.

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 sent 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 particular person in respect of the particular person'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 particular person after the day on which the Minister first assessed that liability and before the particular time to another person that was at the time of the transfer an eligible donee in respect of the particular person, 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 other 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 or registered Canadian amateur athletic association, 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.



CANADA REVENUE AGENCY
AGENCE DU REVENU DU CANADA

REGISTERED MAIL

Canadian Bipolar Foundation
300-1835 Lonsdale Ave
North Vancouver BC V7M 2J8

Attention: [REDACTED]

BN: 855889713RR0001

File #:3045145

September 7, 2016

Subject: Audit of Canadian Bipolar Foundation

Dear [REDACTED]

This letter is further to the audit of the books and records of the Canadian Bipolar Foundation (the Organization) conducted by the Canada Revenue Agency (CRA) for the period from November 2, 2012 to November 1, 2014.¹

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

| AREAS OF NON-COMPLIANCE | | |
|-------------------------|--|--|
| | Issue | Reference |
| 1. | Failure of the Organization to devote resources to charitable activities/ lack of direction and control a) Gifting to non-qualified donees b) Conducting non-charitable activities | 149.1(1), 149.1(2), 168(1)(b) |
| 2. | Failure to maintain adequate books and records | 149.1(2), 168(1)(b), 168(1)(e), 188.2(2), 230(2) |
| 3. | Delivery of non-incidental private benefit | 149.1(1), 149.1(2), 188.1(4), 168(1)(b) |
| 4. | Issuing receipts not in accordance with the Act and/or its Regulations | 149.1(2), 168(1)(d), 188.1(7), Regulations 3500, 3501(1) |

¹ The audit encompassed an enquiry into all aspects of the Organization's operations. Activities conducted after the audit period may have also been considered to assess ongoing and current legal compliance.

The purpose of this letter is to describe the areas of non-compliance identified by the CRA during the course of the audit as they relate to the legislative and common law requirements applicable to registered charities, and to provide the Organization with the opportunity to make additional representations or present additional information.

As a registered charity, the Organization must comply with the law, failing which its registered status may be revoked in the manner described in section 168 of the Act. Each separate area of non-compliance outlined in this letter would provide grounds for revocation.

Background of the Organization

The Organization was incorporated under the British Columbia *Society Act* on July 27, 2010, with the name Pacific Bipolar Foundation. The Organization amended its stated purposes on September 9, 2011, which remain the same today. These are:

- a) to educate health care professionals, persons with bipolar disorder and their families and the public about bipolar disorders; and
- b) to gift funds to "qualified donees", as defined in subsection 149.1(1) of the Income Tax Act (Canada), for education on bipolar disorders or for research or treatment of bipolar disorders."

The CRA granted registration effective September 9, 2011, based on the understanding that the Organization would limit its activities to conducting a series of seminars on bipolar disorders throughout the province of British Columbia. The seminars would be targeted at health care professionals, medical practitioners, research scientists and persons with bipolar disorders and their families.²

On August 15, 2015, the CRA received a request from the Organization to change its name to the Canadian Bipolar Foundation.

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

² Activities as explained in the Organization's Form T2050, *Application to Register a Charity Under the Income Tax Act*.

Identified areas of non-compliance

1. Failure of the Organization to devote resources to charitable activities/ lack of direction and control

Pursuant to subsection 149.1(1) of the Act, a registered charity is required to devote all of its resources to charitable activities carried on by the organization. To comply with this requirement, a registered charity may use its resources (funds, personnel and/or property) in two ways: for charitable activities undertaken by the charity itself under its continued supervision, direction and control, and for gifting to "qualified donees" as defined in the Act.³

Gifting to "qualified donees" involves the relatively passive transfer of money or other resources to qualified donees. For the most part, "qualified donees" are other registered Canadian charities.

A charitable activity is one that directly furthers a charitable purpose, which requires a clear relationship and link between the activity and the purpose it purports to further. If an activity is, or becomes, a substantial focus of an organization, it may no longer be in furtherance of a stated purpose. Rather, the activity may further, or even form, a separate or collateral purpose. An organization with a collateral non-charitable purpose is ineligible for registration under the Act.

The CRA must be satisfied that the Organization's purposes are exclusively charitable in law, and that its activities directly further these charitable purposes in a manner permitted under the Act. To ascertain this, the current audit included a review of all the aspects of the Organization's activities, programs, books, records, and financial affairs.

The Board of Directors are the stewards of the organization, and as such are responsible to direct the organization in accordance with all applicable laws as well as develop and maintain systems of internal control for accounting and financial reporting. The board is responsible for safeguarding the organization's charitable assets from undue risk of loss, detecting or preventing fraud, minimizing excessive administrative expenses and the risks of any misstatement in the financial reporting.

Based on the information provided, we identified the following non-charitable activities conducted by the Organization.

³ A "qualified donee" means a donee as described in subsection 149.1(1) of the Act.

a) Gifts to non-qualified donees

Joy Hair Salon

In 2013, the Organization provided \$70,000 to Joy Hair Salon, owned by [REDACTED].⁴ The funds were provided to cover start-up, development and leased space costs with the intention that it would generate income for the Organization.

Within a year after opening, the salon faced bankruptcy and in 2014, the Organization provided an additional \$25,000 grant to the salon to provide closure of all responsibilities of the Organization even though the Organization was not legally responsible for the salon.

Despite providing money and classifying the funds advanced as a loan, there was no record of discussion surrounding the details of the transaction. No documentation was maintained that a loan contract existed between the Organization and [REDACTED] outlining the terms and conditions⁵ and the rights and obligations of both parties.

The only supporting documentation appears to be board meeting minutes detailing regular updates and discussions relating to the start-up, progress and operating costs of the hair salon. It appears that the board did not exercise its due diligence before becoming involved with the establishment of the hair salon; thus, putting the Organization's assets and charitable status at risk.

We acknowledge that under the Act, charitable organizations may carry on related businesses, provided that these are related businesses that are run substantially by volunteers, or linked to a charity's purpose and subordinate to that purpose.⁶ We would advise that even if the Organization is able to demonstrate that the Joy Hair Salon was its own activity, operating a hair salon would not appear to qualify as a related business. However, based on the information the Organization provided about the funds it provided to Joy Hair Salon, it is our view that the Organization gifted funds to a non-qualified donee.

⁴ The Organization described Joy Hair Salon as a proprietorship owned by [REDACTED], which was established with a purpose to raise public awareness of bipolar disorders. As stated in the meeting minutes, the board recorded that it could not own a salon but believed that it may sponsor, lend money, or finance it as a separate entity. The minutes recorded "Agreement is all proceeds to go to Foundation."

⁵ Such as repayment terms or interest rate.

⁶ As described in the court decision, *Earth Fund v. Canada (MNR)*, 2002 FCA 498, and explained in CRA Policy Statement CPS-019, *What is a Related Business?*, the fact that the profits from a business are applied to a charitable purpose is not sufficient to constitute the necessary linkage.

Research Projects

The CRA recognizes that charities may carry out activities such as research through intermediaries. Should a charity act through an intermediary, the charity must establish that the activity will further its charitable purposes, and that it maintains continued direction and control over the activity and over the resources it provides to the intermediary.⁷

The audit revealed that since registration, the Organization has funded several research projects by individuals to conduct research without maintaining continued direction and control of the activity. For example, the Organization provided \$15,000 towards [REDACTED] research project titled "SPECT analysis in mood disorders." Besides periodic updates and acknowledgement of the Organization's fund contribution, there was no direction and control over the use of its resources, and the Organization did not own the materials at the end of the study. The Organization merely transferred its resources to fund research conducted and controlled by a non-qualified donee. In the absence of information and documentation to support the position that these research studies are the Organization's own activities, the provision of funds for research conducted by others amount to gifts to non-qualified donees.

b) Conducting non-charitable activities

Video Production

To advance education under the second category of charity means training the mind, advancing the knowledge or abilities of the recipient, raising the artistic taste of the community, or improving a useful branch of human knowledge through research. To further educational advancement, an activity must be sufficiently structured to encompass a teaching or learning component and involve a legitimate, targeted attempt to educate.

In 2014, the Organization spent more than \$40,000⁸ on the production of a series of videos with no clear purpose or associated use for them. The Organization could not provide information or documentation to show that it directed and controlled the production of the videos. The Organization could not explain how the videos would be used in the conduct of its charitable activities or programs.

⁷ For more information, see CRA Guidance, CG-004, *Using an Intermediary to Carry out a Charity's Activities within Canada*.

⁸ Representing 17% total expenditures in the period.

Given the Organization's position that it was unsure what it would do with the videos,⁹ it is our view that these videos lack the necessary element of structured, targeted instruction that characterizes educational advancement.

As the Organization has failed to demonstrate how the videos advance charitable purposes, it is our view the production of the video series is a non-charitable activity.

In summary, it is our position that more than 60% of the Organization's total reported expenditures in 2013 and 31% of its total reported expenditures in 2014 consisted of gifts to non-qualified donees and undertaking non-charitable activities.

Additionally, the board may have neglected to meet its fiducial duties to safeguard the Organization's assets, by engaging in, and expending its resources on these activities.

Accordingly, it is our position that the Organization has failed to meet the requirements of subsections 149.1(1) of the Act that it devote substantially all of its resources to charitable activities carried on by the Organization itself. For this reason it appears there may be grounds for revocation of the charitable status of the Organization under paragraph 168(1)(b) of the Act.

2. Failure to maintain adequate books and records

Pursuant to paragraph 230(2)(a) of the Act, every registered charity shall keep records and books of account at an address in Canada recorded with the Minister containing information in such form as will enable the Minister to determine whether there are any grounds for revocation of its registration. The Organization's books and records must substantiate that it is devoting all of its resources to its own charitable activities, as per subsection 149.1(1) of the Act.

Our audit revealed the following deficiencies in the Organization's books and records:

- The Organization could not confirm whether the records were complete, where some of its records were located and how the Organization's daily bookkeeping was conducted. It was unclear what the process was and whether there was any oversight of the responsible individual(s).
- Contracts and agreements to support the various funding projects were not available so the Organization could not substantiate that its resources were devoted to its own charitable activities.

⁹ The Organization explained in our final interview in February of 2016, it was unsure what it would do with the videos even though production was completed.

- The electronic records were incomplete as they did not correspond with the Organization's financial reporting period ending November 1; therefore, reconciliation could not be completed.
- Donation receipts issued could not be reconciled to the general ledger.
- A listing of donors and official donation receipts issued did not exist.
- The Organization did not maintain exact duplicates of all official donation receipts issued.¹⁰
- The Organization offered counselling services and peer support sessions for a nominal fee; however, any revenue earned for these services was not reported by the Organization.

Other areas of concern include:

Remuneration

Any individual who works for a charity and receives money for such work under any heading whatsoever, including paid services provided by a volunteer, is taxable on the income received in the year of receipt. Thus, the Organization is required to fill out a T4A slip for fees or other amounts for services and other income paid and if the total of all payments in the calendar year was more than \$500.¹¹

Our review identified that although several individuals were remunerated for contract services that totalled more than \$500 a year, there were no records that a T4A slip was prepared and issued. Although we could not identify all the individuals paid for services provided to the Organization, the following individuals received more than \$500 and should have been issued a T4A in each calendar year: [REDACTED]

¹⁰ Receipt numbers 1, 3-6, 40, 56, 57, 111, 147, 153-158, 160, 169, 170, 177, 179 and 181 were missing and could not be accounted for.

¹¹ Regulation 200(2) of the Act states that an information return be prepared in prescribed form with respect to a payment for any amount of benefit required by paragraph 6(1)(a) of the Act. These payments include any contracts, invoices, bursaries, bonuses, grants or other taxable benefits to employees or contracted individuals. It also requires that where an amount has been paid that is required to be included in determining a taxpayer's income from an office or employment, an information slip in respect of such payment shall be issued to that individual or contractor.

Furthermore, the review shows that the Organization paid amounts that were not supported by adequate documentation.¹²

Non-resident

Organizations may occasionally host non-resident guest speakers and payments made for services provided in Canada are subject to a 15% non-resident withholding tax, which the payer is responsible to deduct and remit.¹³ An organization must maintain supplier invoices and other documentation to substantiate that payments were for charitable activities.

Our review showed that the Organization paid \$5,500 to [REDACTED] in 2014 and no deductions for withholding tax were made from the payments.¹⁴ The invoice provided did not contain sufficient information to determine whether the Organization received the services.

In 2015 the Organization also paid [REDACTED] another \$6,114 and did not deduct the withholding tax, as required by the Act.

Lack of internal controls

The Organization lacks sufficient internal controls and segregation of duties as demonstrated by the inadequacy of the books and records. There are no checks and balances to detect errors or misappropriation thus putting the Organization's assets at risk of loss. The segregation of duties was inadequate because the president and chairman, Paul Termansen along with the secretary, Jennifer Welch, carried out most operations of the Organization as both had authorization, banking and signing authority for all the Organization's resources. There was little to no oversight over the control and the maintenance of the books and records as well as the issuance and the general supervision of donation receipting.

In the absence of adequate books and records, we cannot determine the accuracy or reliability of the information reported. Under paragraph 168(1)(e) of the Act, the registration of a charity may be revoked if it fails to comply with or contravenes subsection 230(2) of the Act dealing with

¹² Payments were made based on hand written, photocopied or computer generated documents that did not contain sufficient information such as date, details of the vendor/supplier, what services were provided and the identity of the addressee.

¹³ The required deduction for non-resident withholding tax is contained in Regulation 105 of the Act.

¹⁴ This includes an invoice for \$4,000 charged for his time presenting, teaching and consulting from June 9 to 13, 2014. The difference of \$1,500 paid to [REDACTED] could not be reconciled with the documents provided as several handwritten summaries were submitted that contained different totals relating to dates that do not correspond with the above noted period.

books and records. It is our position that the present case consists of material non-compliance.¹⁵ For this reason, it appears to us that there are grounds for revocation of the charitable status of the Organization under paragraph 168(1)(e) of the Act.

3. Delivery of non-incidental private benefit

A charity may not provide private benefits as it advances and furthers a charitable purpose, except within legally acceptable boundaries. The charity is responsible for establishing that any private benefit that may be delivered is acceptable.

Generally, a private benefit is a benefit or advantage provided to a person or organization that is not a charitable beneficiary, or a benefit provided to a charitable beneficiary that exceeds the bounds of charity. An acceptable private benefit is one that is incidental to achieving a charitable purpose. A private benefit will usually be incidental where it is necessary, reasonable, and proportionate to the resulting public benefit¹⁶.

It is our position that the Organization provided the following private benefits to the individuals identified below:

Private benefits provided to Paul Termansen

- 2013 [REDACTED] car lease and insurance costs of \$3,292 and \$4,519 for 2013 and 2014 respectively
- Motor vehicle expenses of \$2,420 and \$5,109 for 2014 and 2015 respectively
- Airline and hotel expenses of \$1,534 in 2013 charged on the [REDACTED] card. There was no documentation or explanation to support whether the charges were incurred for charitable purposes.
- A reimbursement of \$1,443 was paid based on a credit card receipt from [REDACTED]. The receipt does not provide sufficient information to determine its charitable purpose.
- Two invoices were prepared in May and June 2015 addressed to Paul Termansen for the use of the Organization's office space to conduct his own personal practice; however, neither billing was collected. The invoices were for rent and medical reception duties in the amount of \$9,237.24 for the period July to December 2014 and \$11,947.83 for the period January to July 2015.

¹⁵ The failure to maintain proper books, records, and records of account in accordance with the requirements of the Act is itself sufficient reason to revoke an organization's charitable status in the case of material or repeated non-compliance. See *Prescient Foundation v MNR*, 2013 FCA 120 at para 51, [2013] FCJ no 512.

¹⁶ For more information, see CRA Policy Statement CPS-024, *Guidelines for Registering a Charity: Meeting the Public Benefit Test*.

Private benefit provided to [REDACTED]

- The Organization made payments to [REDACTED] for hours worked for Paul Termansen's professional practice. In addition, she was also reimbursed for office expenses and supplies.

Private benefit provide to Jennifer Welch

- Received payment for monthly office expenses of \$150 plus another \$32 for a phone bill. Documentation was not provided to support the monthly amounts, which appear to be an arbitrary value.

Private benefit provide to [REDACTED]

- The Organization allowed [REDACTED] to use its office space free of charge for her own personal practice.

Accordingly, it is our position that the Organization has failed to meet the requirements of subsections 149.1(1) of the Act that it be constituted for exclusively charitable purposes. For this reason, it appears there may be grounds for revocation of the charitable status of the Organization under paragraph 168(1)(b) of the Act.

4. Issuing receipts not in accordance with the Act and/or its Regulations

The Act stipulates various requirements pertaining to official donation receipts issued by registered charities. These requirements are contained in Regulations 3500 and 3501 of the Act and are described in some detail in the Interpretation Bulletin IT-110R3 entitled "Gifts and Official Donation Receipts." You can get this publication at www.cra-arc.gc.ca/E/pub/tp/it110r3/ or by calling 1-800-959-5525.

Issuing official donation receipts other than in accordance with the Act can have severe consequences for registered charities that may result in penalties, suspension or revocation.

Samples of the Organization's donation receipts were reviewed and the following areas of non-compliance were identified:

- A donation receipt for \$100,000 was issued on September 28, 2015 to [REDACTED] for funds received January 2011. The Organization became a registered charitable organization effective September 9, 2011; therefore, the receipt issued for a period prior to its registration is ineligible.

- Donation receipts were issued for services provided¹⁷
- Donation receipts were issued to other entities other than to an individual or a corporation
- Official donation receipts issued were not issued in sequential order
- Receipts were issued bearing duplicated receipt numbers

The donation receipts did not contain the following information:

- The Organization's address was not indicated on all the receipts
- The donor's full name, including middle initial and address did not appear on the donation receipts
- Receipts were issued without a brief description of the advantage received by the donor¹⁸

The audit revealed that there was little to no control over the storage and the issuance of official donation receipts. The following deficiencies were identified:

- There were several gaps in serial numbers that the Organization could not explain.
- No log system was maintained for the official donation receipts issued and total donations received in the period. We could not reconcile or determine the accuracy of the duplicate copies on file.

Accordingly, it is our position that the Organization has failed to meet the requirements of sections 3500 and 3501 of the Regulations about issuing receipts only when allowed and ensuring all the required information is present. For these reasons, and each of these reasons, it appears there may be grounds for revocation of the charitable status of the Organization under paragraph 168(1)(d) of the Act.

The Organization's options:

a) No response

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

¹⁷ Contributions of services for time, skills or efforts, are not property and do not qualify as gifts for issuing official donation receipts. Accordingly, a charity cannot issue an official donation receipt for services rendered free of charge.

¹⁸ An advantage is the total value, at the time the gift is made, of all property, services, compensation, or other benefits that a person is entitled to receive in relation to the gift.

b) Response

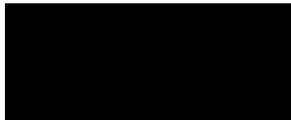
Should you choose to respond, please provide your written representations and any additional information regarding the findings outlined above **within 30 days** from the date of this letter. After considering the representations submitted by the Organization, the Director General of the Charities Directorate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

- no compliance action necessary;
- the issuance of an educational letter;
- resolving these issues through the implementation of a Compliance Agreement;
- the application of penalties and/or suspensions provided for in sections 188.1 and/or 188.2 of the Act; or
- giving notice of its intention to revoke the registration of the Organization by issuing a notice of intention to revoke in the manner described in subsection 168(1) of the Act.

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

If you have any questions or require further information or clarification, please do not hesitate to contact me at 250-363-8670. My team leader, Ross Thackray, may also be reached at 250-363-3141.

Yours sincerely,



Thuy Le, CPA, CGA
Audit Division
Vancouver Island Tax Services Office

Telephone: (250) 363-8670
Fax: (250) 363-3000
Vancouver Island Tax Services
1415 Vancouver Street
Victoria BC

Mailing Address:
Vancouver Island Tax Services Office
c/o 9755 King George Boulevard
Surrey BC V3T 5E1

Internet : www.cra-arc.gc.ca

Services fiscaux de l'Île de Vancouver
1415, rue Vancouver
Victoria, C-B

L'adresse postale :
Services fiscaux de l'Île de Vancouver,
A/S 9755 Aut. King George
Surrey, C-B V3T 5E1



CANADIAN BIPOLAR
ASSOCIATION

300-1835 Lonsdale Avenue, North Vancouver, BC, V7M 2J8

CRA
Surrey Tax Centre

ARC
Centre fiscal de Surrey

September 30, 2016

Thuy Le, CPA, CGA
Audit Division
Vancouver Island Tax Services Office
c/o 9733 King George Boulevard
Surrey, BC
V3T 5E1

Dear Ms. Le:

Re: Audit of the Canadian Bipolar Foundation

This letter is in response to the letter of September 7, 2016 from the Canada Revenue Agency outlining the findings of the audit conducted on our organization and the areas of non-compliance that were listed in the letter. I apologize for the activities of the Canadian Bipolar Foundation that have been in contravention of the Income Tax Act. I feel our Board has been misguided and ill-informed about the procedures for running and overseeing a charity in Canada.

Our Board is respectfully requesting the CRA not proceed with revocation of the charitable status of our organization and instead issue an education letter, provide our Board with education, and resolve these issues through the implementation of a Compliance Agreement.

I have been on the Board since early 2015 and took over as Chairperson of the Board in June 2015. While I haven't been involved in the Board for most of the audit period, I have consulted with other Board members and staff to compose this reply.

I would like to thank you on behalf of our Board for bringing the various areas of non-compliance to our attention through the audit. Our Board is deeply concerned with the findings of the audit and potentially losing our charitable status, however, the Board is unanimous in viewing this as an opportunity to learn from our errors and attempt to move forward with the goal of continuing to support those diagnosed with bipolar disorder and build broader awareness in the community.

The following constitutes our Board's additional representations and is a presentation of additional information. The Board's reply includes some explanation for some of the actions and further information on certain issues, as well as the Board's commitments to comply with the Act and Regulations on a go forward basis.

1. Stated Purpose

The mission of the Canadian Bipolar Foundation has changed from the original stated purpose provided when the CRA registered our Foundation as charitable organization on September 9, 2011. It is not the same mission and purpose as outlined on page 2 of your letter. I apologize that we have not amended the documents of incorporation with BC Registries to reflect this and we are currently in the process of updating our registration documents. The mission we are currently implementing is:

"To initiate, develop and facilitate programs, services and projects to promote wellness, education and empowerment for people with bipolar disorders and for their supporters."

2. Failure of the Organization to devote resources to charitable activities/lack of direction and control

The Board acknowledges that many decisions made in this area were made without procedures for oversight and agreements outlining ownership to the foundation and its end products. These decisions were made by former Boards who incorrectly interpreted what organizations are eligible to receive grants from a charity and the oversight required to fund charitable activities implemented by third parties. The decisions always had the Foundation's purpose and mission in mind and needs of those we were trying to assist.

a. Gifts to non-qualified donees

Joy Hair Salon

I'm advised, at the time, the Foundation had received a request from an individual [REDACTED] who had been volunteering for the Foundation for several months. The individual requested funding to start up a hair salon. The Board's intent was to provide a face of the Foundation in the community and disseminate information about bipolar disorder. It was also intended to be a location for bipolar group activities for social interaction and therapeutic purposes. This venture initially brought a great deal of publicity to the Foundation and was very positive. [REDACTED]

[REDACTED] One of the Foundation's Board members assisted in the situation and invested their own funds to bring the salon around. I'm advised the salon continues to operate today and promotes the Foundation in the community.

The Board at the time felt the activities of the salon were linked to the charity's purpose and subordinate to that purpose as required by the Act. It was not the Board's intention to gift funds to a non-qualified donee. At the time, the Board

members had consulted with Board members of other Foundations and were advised the venture was a legitimate charitable activity. In hindsight, it appears the Board wasn't as diligent in looking at this issue as they could have been.

Should the Foundation continue its activities, the Board is committed to ensure that other registered non-profit organizations are the beneficiaries of grants, in compliance with the Income Tax Act.

The Board has hired staff and an Executive Director in the past with passion for our cause but little experience in dealing with charitable organizations. Should the Board continue its activities, the Board intends to hire staff who have a full understanding of the requirements in running a charitable organization.

Research Projects

The funds donated for SPECT research were directed towards a research project operating at the University of California and Los Angeles. The Foundation's donation was very small compared to the budget of the overall project. The donation was made as the Board strongly believes that SPECT scanning (a relatively new phenomena) will be of great assistance in the early and accurate diagnosis of bipolar disorder. Early diagnosis will help to decrease the toll that untreated and undiagnosed bipolar disorders exact and could mean a difference of life or death for some people. The Foundation would not have the broad raw data, or qualified personnel to analyze the data, or ability to control this project that UCLA had in conducting this research.

I'm advised by Board members the SPECT research project has been completed and the research has produced very significant and positive findings for the use of SPECT in the diagnosis and treatment of bipolar disorders. If needed, we could obtain the necessary documentation to verify our funds went to UCLA and the projects results.

The Board's intention was to donate to an important research project that would potentially improve the lives of those living with bipolar disorder and thought the donation was going to a qualified donee, however, if this was a non-qualified donee, the Board takes responsibility for this action.

Should the Foundation continue its activities, the Board is committed to ensure these issues are thoroughly researched for compliance with the Act and all future research findings are owned by the Foundation with oversight in place to facilitated the Foundation's responsibility to oversee the activities funded by the Foundation's donors.

b. Conducting non-charitable activities

Video Production

It was clear to the Board, at the time of deciding to produce the videos, the Board's intent was to produce videos for the following:

- Advance knowledge and abilities to those diagnosed with bipolar, their families, mental health professionals, and the broader community.
- The videos would encompass a teaching and learning component.
- The videos would involve a legitimate, targeted attempt to educate.

The videos were intended from the outset to educate the public about bipolar disorder and the importance of early and accurate diagnosis. They were also intended to be used with clinicians. The Foundation had planned to have the videos shown at several screenings, at lectures, posted on Youtube and our website, and shared with other organizations in the mental health community. There was an initial public screening of the videos in the spring of this year at the HOPE Centre at Lions Gate Hospital and the videos have been viewed by our Peer Support Workers. The videos were well received. Due to various circumstances including getting the final edited versions of the videos, the Board has been unable to roll out the videos further at this point.

The Board strongly believes this was a legitimate function of the Foundation as a charitable organization and an appropriate use of funds. The Board believes the purpose of the videos is within our charitable mandate, and did not see the necessity to have an in-depth roll-out plan for distribution as necessary in advance of their production. If this was a non-charitable activity, then the Board accepts responsibility for this action.

Should the Foundation continue its activities, the Board is committed to ensure these issues are thoroughly researched for compliance with the Act and Regulations before proceeding with such ventures.

3. Failure to maintain adequate books

The Board acknowledges responsibility for not ensuring there was an adequate donor record, failing to issue T4A's, failing to maintain agreements with funded organizations and contractors, failing to issue tax receipts in compliance with the Act, failure to withhold taxes, and failure to implement Board controls over the Foundations financial administration.

The Foundation hired staff, a bookkeeper, and an accountant to manage these matters. Unfortunately, it appears we were ill advised. Our accountants continued to sign off on

our audited financial statements and records leading the Board to believe our financial and record keeping practices were in line with the Act and Regulations.

The overall administration of our organization has become a mess, in large part, due to the guidance of our accountant, lack of experience of our book keeper, and the fact we employed an Executive Director who had passion for our cause but did not have the in depth knowledge required for non-profit administration.

Individual Board members did not knowingly violate the Act and Regulations in these areas. We trusted those who were taking care of the finances and who we thought knew the requirements of the Act and Regulations that govern charities.

The Board has now discontinued doing any business with our accountant and commit to finding an accountant who understands the financial reporting requirements for a charity in relationship to the Act and Regulations. Our Executive Director has also left the organization and we plan to engage a new Executive Director with the necessary non-profit administrative experience related to charity organizations.

The Foundation has not had a finance committee in the past. Moving forward, we would commit to initiating a finance committee whose role is to provide oversight and require reporting on financial administration of the Foundation on a monthly basis to ensure compliance with the Act and Regulations. The Foundation would look to finding appropriate education for the Board and committee members in this area and would appreciate any assistance the CRA may be able to provide.

4. Delivery of non-incidental private benefit

The past Board has allowed non-incidental private benefits to be acquired by staff and Board members. Again, our intentions were in the right place as the Board felt individuals like [REDACTED] received this benefit to reflect the in-kind subsidy she provided to the individuals she counselled with bipolar disorder that our Foundation was trying to help. Similarly, Dr. Paul Termansen, who was a founder of the Foundation, worked tirelessly for the Foundation and those diagnosed with bipolar disorder both in his professional capacity and by serving as an unpaid Executive Director for a very long time. He was truly unaware that some of the benefits awarded to him were not in line with the Act or Regulations. If he had been, those offenses never would have been committed.

I can also provide the following information in relation to some of the areas of non-compliance raised in the CRA letter:

- I'm advised the [REDACTED] Car was purchased to promote the Foundation. It visibly had the logo and name of the Foundation all over the vehicle. It became part of the remuneration for the Executive Director as part of her

contract. It was not used by Dr. Paul Termansen. When the car was returned by the Executive Director, Dr. Termansen ensured someone took over the lease. The lease was not the responsibility of the Foundation.

- I'm advised the airline and hotel expenses were related to a convention on Bipolar Disorders and Foundations that supported research and education. The result was a firmer commitment to educate professionals and the community.
- I'm advised the event at the [REDACTED] was an educational meeting with professionals involved in the treatment and diagnosis of bipolar disorder. [REDACTED] was the main speaker.

With knowledge of the offenses in this area listed in the letter, the Board will commit to ensure due diligence in this area so this does not occur in the future.

5. Issuing receipts not in accordance with the Act and/or its Regulations

Please see the points related to this in point #3 of this letter. With the commitments of the Board in point #3, the Board believes this will not be an issue in the future.

In summary, I wish to again apologize for the activities of the Canadian Bipolar Foundation that have been in contravention of the Income Tax Act.

Our Board requests the CRA not proceed with revocation of the charitable status of our organization and instead issue an education letter and resolve these issues through the implementation of a Compliance Agreement. We would commit to the following in a Compliance Agreement and anything else the CRA may deem as necessary:

1. The Board is committed to hiring staff who have a full understanding of the requirements in running a charitable organization.
 - a. We commit to finding an accountant who understands the financial reporting requirements for a charity in relationship to the Act and Regulations.
 - b. We commit to engaging a new Executive Director with the necessary administrative experience related to charity organizations.
2. The Board commits to initiating a finance committee who would provide oversight and require reporting on financial administration of the Foundation on a regular basis to ensure compliance with the Act and Regulations. The Foundation would look to finding appropriate education for the Board and committee members in this area.
3. The Board is committed to ensure, in making decisions, to ensure that all funded charitable activities have oversight mechanisms in place providing proper stewardship of the Foundation's donor's funds, as well as ensuring all future grants are only provided to qualified donees; ie. other charities. Further, the Board will ensure the Board and staff conduct thorough research so there is compliance with the Act and Regulations before proceeding with any future charitable activities.

4. The Board will commit to due diligence in the area of delivery of a private non-incidental benefit so there is an understanding amongst the Board and staff of what this constitutes. The Board will develop a policy in line with the Act and Regulations that will be revisited by staff and Board members in a bi-annual basis. The Board commits to ensure this error does not occur in the future.

If you wish to discuss any of the foregoing further or have any questions, please contact me.
We look forward to your reply.

All of which is respectfully submitted,



(Chairperson
Canadian Bipolar Association

Cc Board Members
Staff