



REGISTERED MAIL

The Canadian Don't Do Drugs Society

JUN - 2 2017

[REDACTED]

BN: 868879685RR0001
File #:0988600

Attention: Mr. Robert O'Reilly

**Subject: Notice of Intention to Revoke
The Canadian Don't Do Drugs Society**

Dear Mr. O'Reilly:

We are writing further to our letter dated July 27, 2015 (copy enclosed), in which you were invited to submit representations as to why the registration of The Canadian Don't Do Drugs Society (the Organization) should not be revoked in accordance with subsection 168(1) of the *Income Tax Act* (Act).

We apologize for the delay in responding. We have now reviewed and considered your written responses dated September 8, 2015, and May 4, 2017, as well as your additional statements from our telephone conversation on April 28, 2017. 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

A previous audit was conducted by the Canada Revenue Agency (CRA) for the fiscal period of January 1, 2001, to December 31, 2001. This audit revealed that the activities of the Organization were limited to the production and distribution of literature and carrying out fundraising activities via a third party organization, Key Fundraising Ltd. (KFL). These concerns were noted in correspondence to the Organization dated January 17, 2006.

The current audit by the CRA, for the fiscal period January 1, 2013 to December 31, 2013, has revealed that the Organization has continued to fail to comply with the requirements set out in the Act. In particular, it was found that the Organization failed to devote all of its resources to its own charitable activities or by way of gifts to

qualified donees. In addition, the resources of the Organization have benefitted both non-arm's length and arm's length individuals in a manner constituting a non-charitable use of its resources.

For these reasons, 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 July 27, 2015, we wish to advise you that, pursuant to subsection 168(1) and 149.1(2) 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), and subsection 149.1(2), 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
868879685RR0001	The Canadian Don't Do Drugs Society Toronto, Ontario

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 Canada Revenue Agency 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 Web site 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:

- CRA letter dated July 27, 2015
- Appendix "A", Comments on Representations of September 8, 2015
- Appendix "B", Relevant provisions of the Act

c.c.: Juanita Barrett

[REDACTED]

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



CANADA REVENUE
AGENCY AGENCE DU REVENU
DU CANADA

THE CANADIAN DON'T DO DRUGS SOCIETY
[REDACTED]

Attention: Robert O'Reilly

BN: 868879685RR0001

File #:988600

July 27, 2015

Subject: Audit of The Canadian Don't Do Drugs Society

Dear Mr. O'Reilly:

This letter is further to the audit of the books and records of the The Canadian Don't Do Drugs Society (the "Organization") conducted by the Canada Revenue Agency (the "CRA"). The audit related to the operations of the Organization for the period from January 1, 2012 to December 31, 2013.

The audit review identified specific areas of non-compliance with the provisions of the Income Tax Act (the "Act") and/or its Regulations in the following areas:

AREAS OF NON-COMPLIANCE		
	Issue	Reference
1.	Failure to devote resources in furtherance of charitable purposes / Failure to carry out its own charitable activities	149.1 (1), 149.1(2), 168(1)(b)
2.	Providing personal benefit to a proprietor, member, shareholder, trustee or settlor	149.1(1), 168(1)(b), 188.1(5)

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. Registered charities must comply with the law, failing which the Organization's registered status may be revoked in the manner described in section 168 of the Act.

Overview of the Organization

The Organization was registered effective January 24, 1994, as a charitable organization. At the time of registration the Organization's object was "to undertake public information, dissemination and publication of information about substance abuse". On October 24, 2008, the object was amended by Supplementary Letters Patent to the following:

"The object of the Society is to promote an awareness throughout the Canadian public, including individuals, organizations, institutions and other legal groups and entities, about drug abuse and its avoidance among young people and toward these ends:

- a) To prepare, publish and distribute information relating to adolescent drug abuse and its prevention; this undertaking will include an expanded media relations plan;
- b) To develop and initiate programs and projects either alone or in alliance or conjunction with other organizations to provide outreach programs for and with young people who may be using, have used, or are likely to use drugs;
- c) To enter into alliances and to provide assistance and resources, both financial and otherwise, where considered appropriate by the Society, to other organizations having similar or compatible objectives to that of the Society, including but not limited to camps and off-street and sport programs; this would include establishing a connection with and at some juncture within the aboriginal community;
- d) To cooperate with and seek advice from medical and related professions, educators, pharmaceutical manufacturers and distributors, and other government and non-government agencies and other persons or bodies to promote in any manner and publicize the non-use of drugs among youths;
- e) To engage in effective and streamlined fundraising for the benefit of the Society. This fundraising should also be tailored to comply with the Society's objectives;
- f) To establish regional and other offices and facilities in Canada from and through which the activities of the Society may be furthered; and
- g) To engage in such activities as may be consistent with, or ancillary to the objects of the Society ad to deal with governance practices consistent with appropriate government policy directives which will be guided by the Broadbent Report."

An audit review was conducted on the Organization's books and records by the CRA for the fiscal period of January 1, 2001 to December 31, 2001. The audit revealed that the activities were limited to the production and distribution of literature and carrying out fundraising activities via a third party organization, Key Fundraising Ltd. (KFL). The fundraising agreement with KFL, dated March 3, 2001, was for the provision of door-to-door canvassing services. The agreement specified that KFL would collect proceeds in cash or cheque and deposit to the Organization's bank account with detailed listings, prepare and provide receipts and pamphlets, and provide a 1-800 telephone contact number. The agreement stipulated 70% of gross proceeds payable to KFL as commission.

Further, as part of the fundraising campaign KFL contacted potential donors and summarized the Organization's mission statement from a script provided. These activities did not represent a furthering or advancing of education other than making information available.

The concerns raised by the audit were noted in correspondence to the Organization dated January 17, 2006, "the use of a professional fundraiser by the Society has led to concerns about whether the Society will be able to meet its disbursement quota in the future due to the large commission fees charged by the fundraiser. These fees are not considered to be expenditures on a charitable activity".

From the information revealed during the most recent audit it does not appear as though the Organization took note of these concerns and to make changes to the manner in which it conducted its fundraising. The results and identified areas of non-compliance are detailed in the balance of this letter.

Identified areas of non-compliance

1. Failure to devote resources in furtherance of charitable purposes / Failure to carry out its own charitable activities

Objects and Activities

The term "charitable" is not defined in the Act, whether or not an organization qualifies as such is determined by reference to the common law; that is court decisions. The courts have recognized four general categories of charitable purposes: (1) the relief of poverty; (2) the advancement of religion; (3) the advancement of education; and (4) other purposes beneficial to the community as a whole (or a sufficient section thereof) in a way that the law regards as charitable. This last category identifies an additional group of purposes that have been held charitable at law rather than qualifying any and all purposes that provide a public benefit as charitable.

In order for an organization to be recognized as a charity, it must be constituted exclusively for charitable purposes, and devote its resources to charitable activities in furtherance thereof.¹ Therefore, our review and assessment of an organization's purposes is not limited to those that are formally stated in its governing documents. The Supreme Court of Canada held that the question of whether an organization is constituted exclusively for charitable purposes cannot be determined solely by reference to its stated purposes, but must take into account the activities in which the organization engages.

The objects of the Organization, as found in its Supplementary Letters Patent, appear to indicate that the Organization intends to carry out activities to fulfill the charitable purpose of the advancement of education. However, the information revealed during the audit indicates that the activities carried out by the Organization appear to simply involve the provision of information related to substance abuse through its website, printed materials and direct contact with potential donors. Activities such as these are not considered charitable.

In the charitable sense, activities carried out in furtherance of the advancement of education means formal training of the mind, advancing the knowledge or abilities of the recipient, improving a useful branch of human knowledge through research, and raising the artistic taste of the community. A charity focused on the advancement of education must make a targeted attempt to educate others, whether through formal or informal, training, plans of self-study, or otherwise. Instruction or training must be provided in a structured manner.

When determining whether the activities undertaken are in furtherance of the advancement of education specific criteria must be met, including a process to ensure participation. An activity that provides information to the public must satisfy all the following criteria:

- Content – the information provided enables the audience to take specific actions or adopt specific behaviours that will directly further a charitable purpose;
- Audience – the information targets an audience that can reasonably be expected to take action to directly further the purpose
- Distribution – the information can reasonably be expected to reach the target audience. Simply making the information available to the public is not sufficient. There must be an active dissemination to ensure audiences receive the information.²

¹ *Vancouver Society of Immigrant & Visible Minority Women v. Minister of National Revenue*, [1999] 1 S.C.R. 10

² *The provision or dissemination of information is not a charitable purpose. D'aguire V Guana Commissioner of Inland Revenue*, (1970) 49 A.T.C.33, (1970) T.R. 31 P.C

fundraising activities appear to have become a collateral non-charitable purpose of the Organization.

Further, when evaluating the Organization's fundraising activities the following indicators and factors were considered:

1. Resources devoted to fundraising are disproportionate to resources devoted to charitable activities

The audit revealed that in the fiscal period ending December 31, 2013, the total charitable expenditures were \$10,185.20, which represents 4% of the total fundraising expenditures of \$253,761.12. When the resources devoted to fundraising exceeds the resources devoted to charitable activities, it strongly indicates that fundraising has become a collateral non-charitable purpose. This may happen whether fundraising is done internally through staff or externally through a contractual arrangement. Further, merely showing that the costs of using a third party fundraiser are at reasonable or market rates will not alleviate our concerns.

2. Fundraising without an identifiable use of need for the proceeds

A registered charity can only raise funds that are necessary to carry out its charitable activities in furtherance of its charitable purpose there must be an identified use or need for the money, such as funds required for current and ongoing charitable activities or funds to be maintained as reserves. It should have specific plans for the funds and the ability to implement these plans. From the information provided during the audit it appears that the Organization's activities were limited to the maintenance of its website and the printing and distribution of information relating to substance abuse, which as stated above are not charitable activities. Further, it does not appear as though the Organization has plans in place to undertake charitable activities in furtherance of its charitable purposes. As such, the Organization does not appear to have a use or a need for the funds raised.

3. Activities where most of the gross revenues go to contracted non-charitable parties

While it is reasonable to expect a cost for the work involved in fundraising, it is also reasonable to expect such costs to be proportionate to the funds expected to be raised, and/or used, for charitable purposes. Otherwise, the charity is likely providing an unacceptable private benefit to the contracted non-charitable party. That is, if most of the gross revenues of a charity's fundraising activities go to a contracted person or organization that is not also a registered charity, this may deliver a more than incidental private benefit. Relating this to the Organization,

In other words, simply providing an opportunity for people to educate themselves by making available materials, such as a website or pamphlets, which constitutes the Organization's activities, is insufficient for the activities to be regarded as charitable within the legal accepted definition of charity under the advancement of education. No matter how useful the provision of information may be on occasion, it lacks the necessary element that characterizes education in the charitable sense.

In addition, during the audit period, the Organization carried out fundraising activities and solicitation campaigns throughout the year via a third party fundraising company, [REDACTED] As part of the fundraising activities and solicitation campaigns [REDACTED] followed a pre-approved script identifying the Organization and its mission and purposes. Direct contact with donors through solicitation of financial contributions to raise awareness about a charity or a charity's programs, services or facilities does not represent advancement of education related to the issues of substance abuse. The third party fundraiser is not a specialized, knowledgeable instructor and the recipients are not targeted based upon message delivery.

Therefore, these activities cannot be considered as furthering the charitable purpose of the advancement of education relating to substance abuse.

Further, the Organization's objects state that it will carry out activities that relate to developing and initiating programs and projects, entering into alliances with other organizations, cooperating with and seeking advice from medical and related professionals, and establishing regional offices and facilities. However, the audit revealed that it does not appear as though the Organization has undertaken, or has any plans to undertake, any of these activities in the near future. As a result, it appears that the Organization focuses all of its resources towards fundraising rather than carrying out activities in furtherance of its charitable purpose.

Fundraising by Registered Charities

All charities registered under the Act are required by law to devote their resources to exclusively charitable purposes and activities. Although a charity can use some of its resources for fundraising to support the charitable activities that further its charitable purposes, it is the CRA's position that fundraising is not a charitable purpose in itself or a charitable activity that directly furthers a charitable purpose. As stated in CG-013 Fundraising by Registered Charities (a copy is enclosed for reference), "where fundraising is a focus of the organization – being more than ancillary and incidental – it may be a collateral non-charitable purpose in and of itself".

Relating the above to the Organization and based upon the observed disproportionate ratios of resources expended in the carrying out of fundraising activities in contrast to total expenditures directed towards charitable activities, the Organization's

in the fiscal period ending December 31, 2013, the total revenues received in the course of fundraising activities were \$428,193.34. The total fundraising expenditures for that period were \$253,761.12 and represent 59.26% of the total proceeds. Further, for the previous fiscal years of 2009, 2010, 2011, and 2012 the Organization reported higher than acceptable ratios, again demonstrating that this is an ongoing concern. For these fiscal periods the ratios are as follows:

	<u>Total Revenue</u>	<u>Fundraising Exp.</u>	<u>%</u>
2012	364,879.00	220,017.00	60.30
2011	361,434.00	191,145.00	52.89
2010	458,943.00	296,818.00	64.67
2009	605,390.00	395,338.00	65.30

Therefore, it appears that the Organization is using the majority of its gross revenues as payment to contracted non-charitable parties for fundraising activities carried out on behalf of the Organization, thereby providing an unacceptable private benefit to a third party fundraiser.

4. High fundraising cost ratio

The fundraising cost ratio observed in the course of the audit, specifically the ratio of fundraising expenses to total expenditures reported by the Organization during the audit period of January 1, 2012 to December 31, 2013, exceeded acceptable thresholds. Further, for the three previous fiscal periods of 2009, 2010, and 2011, the Organization also reported higher than acceptable ratios of fundraising expenses to total expenditures, thus demonstrating that it is an ongoing concern. For these fiscal periods the ratios are as follows:

	<u>Fundraising Exp.</u>	<u>Total Exp.</u>	<u>%</u>
2013	250,689.00	387,112.00	64.76
2012	220,017.00	321,813.00	68.37
2011	191,145.00	344,919.00	55.42
2010	296,818.00	440,348.00	67.41
2009	395,338.00	593,368.00	66.63

Therefore, it is our view The Organization has not carried out fundraising activities within the parameters described in guidance CG-013 Fundraising by Registered Charities, and as such the Organization has not devoted all of its resources to its own charitable activities or by way of gifts to qualified donees. As a result, the Organization has failed to meet the definitional requirement subsection 149.1(1) of the Act.

The Minister may revoke the registration of the registered charity in the manner as described at paragraph 168(1)(b) of the Act because the registered charity has failed to comply with the requirements of the Act for its registration as such. For this reason, it appears to us that there are grounds for revocation of the charitable status of the Organization.

2. Providing personal benefit to a proprietor, member, shareholder, trustee or settlor

Subsection 149.1(1) of the Act, states that a charitable organization is one of which "...no part of its income is payable, or otherwise available for the personal benefit of any proprietor, member, shareholder, trustee or settlor thereof". Under the Act, a registered charity cannot confer on a person an undue benefit (e.g. a transfer of property or other resources of the charity to a person who does not deal with the charity at arm's length or who is the beneficiary of a transfer because of a special relationship with a donor or charity). In other words, a registered charity cannot pay its directors/trustees simply for occupying their positions nor can the resources of a registered charity be used for the personal use of its directors/trustees. A registered charity that contravenes or continues to contravene the Act could have its registration revoked.

The Organization appears to have had numerous transactions in the fiscal period ending December 31, 2013, which appear to represent personal benefits conferred upon representatives of the Organization. A sampling of these transactions is listed below:

\$ 100.00 – Feb 28 to Director Rod McPherson
1,000.00 – April 1 to Director Juanita Barrett
1,500.00 – Sept 11 to Director Juanita Barrett
100.00 – Dec 5 to Director Rod McPherson
511.50 – (culmination of 6 separate payments) to [REDACTED]
2,140.03 – (culmination of 33 separate payments) to Executive Director Robert O'Reilly for personal items including physiotherapy and car washes

The above amounts do not appear to relate to the operation of the Organization's charitable programs and represent personal benefits conferred upon the directors/trustee of the Organization.

Therefore, it is our view that resources of the Organization have benefitted private individuals and that the Organization has not otherwise shown that the support given to the above individuals constitutes a charitable use of its resources.

Conclusion

Accordingly, it appears that the Organization may not be devoting its resources to charitable activities in furtherance of its charitable purposes of the advancement of education relating to substance abuse. Rather, it appears that the Organization's resources are being expended towards the carrying out of fundraising activities and the personal benefit of its directors/trustees.

As such, there may be grounds for the Minister to revoke the registration of the registered charity in the manner as described at paragraph 168(1)(e) of the Act because the registered charity has failed to comply with or contravenes any of sections 149.1 and 168(1)(b) 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.

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.

- 10 -

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 the numbers indicated below. My team leader, Mike Wilson, may also be reached at [REDACTED].

Yours sincerely,

[REDACTED]

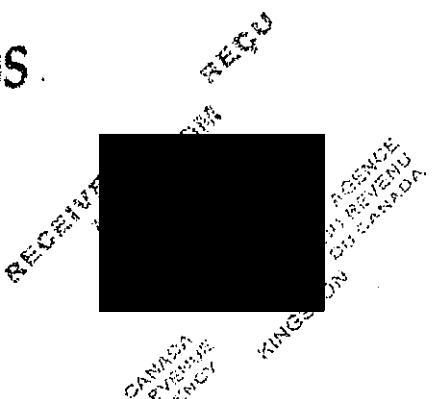
Ted Dubien
Audit Division
East Central Ontario TSO - Kingston

Telephone: [REDACTED]
Facsimile: 613 - 536-4629
Address: 31 Hyperion Court, Kingston, ON K7L 9Z9

Enc.: CG-013 Fundraising by Registered Charities



Smart Kids Don't Do Drugs.



September 08, 2015

Mr Ted Dubien
Audit Division
East Central Ontario Tax Services Office(Kingston)
31 Hyperion Crt, P O Box 2600
Kingston, ON K7L 5P3.

Dear Ted:

This will serve as cover letter re your correspondence:

Audit of the Canadian Don't Do Drugs Society dated July 27 2015

Sincere thanks for granting the extension to September 11, 2015. Your report was received on September 02, 2015 (your correspondence went to the [REDACTED] office on a day when I wasn't present and from there to a postal facility creating difficulties re collection. On this note, please forward all future correspondence to the address at the base of this letter) and [REDACTED] and I [REDACTED] from [REDACTED] so there was insufficient time to devote to prepare a response.

There is an accompanying 6-page document titled Response to Audit of the Canadian Don't Do Drugs Society in which I comment on the questions raised in your audit report.

As I suspect you are aware, there is a gestalt about any organization such that its totality is other than the sum of its parts. Analyzing cold data does not always present a focused image. In this letter I would like to familiarize you with an aspect of my involvement with Smart Kids, an involvement not apparent in a review of the Society's accounting records. I will also address the matter of Smart Kids' funds used personally.

When I arrived at Smart Kids in [REDACTED] I had [REDACTED] (see attached [REDACTED]). In January 2012 I had accrued almost [REDACTED]. I mention this for several reasons. Most of that [REDACTED] was accrued over the years 1998-2012 by using said [REDACTED] to pay myself or purchase items because Smart Kids wasn't in a position to compensate me adequately. I am also attaching [REDACTED] over the years so you can appreciate how little I was compensated for what was an extremely difficult task to execute, and also how much Smart Kids is in arrears to Robert O'Reilly. Documented proof is available for all assertions outlined in this letter. On average I worked a [REDACTED]. I was even obliged to work when [REDACTED] (all the bucks stopped on my desk). At an hourly rate(discounting a probable overtime factor) I averaged [REDACTED] per hour. This is just [REDACTED]. In a board meeting July 2009, in recognition of my situation the directors proposed an agreement where my stated annual salary of [REDACTED] per year (even though I never received this amount in one year)be raised retroactively from [REDACTED] to accumulate to [REDACTED] per year in 2016 (I am currently owed [REDACTED] plus over a twelve year period and accumulated almost [REDACTED] that otherwise I would not have incurred). In addition I last paid (on September 02, 2015) Robert O'Reilly for week ending Octoher 18, 2013. Directors stipulated, initially in 2009, the arrears to Robert O'Reilly, would be paid when

Smart Kids' financial situation permitted (I can forwarded a copy of the meeting minutes for this incident and a copy of all other signed meeting minutes' documents where this was subsequently ratified). It was further stipulated that, in lieu of salary, I could on occasion avail of small loans which would be repaid when conditions permitted. We are getting to the point you raised in your report re fund allocation to Robert O'Reilly.

In 2012 and 2013 I would on occasion employ Director sanctioned permission and use funds to purchase items and or services due to [REDACTED]. This would include [REDACTED] at \$60 each, totalling \$1,260. There were a number of other items and if you wish I can fax you copies of the documents which record all such activity on a daily basis in 2012-2013. There is also a record where I commenced repayment on same in January 2015 and there is no outstanding balance for 2012-2013 (banking statements can be forwarded to corroborate this).

Also, you made note of payments to Director Juanita Barrett of:

April 01 2013	\$1,000.00
September 11, 2013	\$1,500.00

Juanita Barrett serves as [REDACTED] and these payments are [REDACTED] [REDACTED] which were transferred on-line to her account to be allocated in one case (\$1,000.0) as my share of [REDACTED] for that year (\$1,000.00- my share was a little less than this but I made it an even number) and the other (\$1,500) was for reparations to the residence basement [REDACTED] These are personal debts and have been repaid. I will attach copies of emails , billings and bank transactions and if you wish I will forward you a bank record of my repayments.

As I mentioned in the audit response document Mr. MacPherson is forwarded \$100 yearly during Xmas more as a [REDACTED] than anything else. If this is somehow against Revenue Canada regulations please inform me and I will personally repay these amounts.

[REDACTED] has been engaged by Smart Kids on a number of occasions doing trivial chores, at times years ago doing data entry and the like and until recently has been engaged in very limited capacity, due to aggravated [REDACTED] . Most recently he was [REDACTED] and is [REDACTED] [REDACTED] to address same. A letter signed by [REDACTED] is attached attesting to this.

So, there is a picture that emerges upon closer examination that is not apparent from the examination of a corporation's accounting. This is not to suggest that I, nor anyone at Smart Kids, will in any measure countenance the current situation with regard for not totally furthering charitable purposes nor carrying out charitable activities. It is embarrassing to be currently tied to a fundraising method where such a large percentage is assigned to an outside party. Under separate cover I have attempted respond to your inquiry as to Smart Kids' intentions with regard to the current situation. The world of registered charities is today very competitive and very difficult but it is our goal, with the approval of Revenue Canada Charities to "heat on, boats against the current...", if you will. I have poured a lot of my life into this project and I would like to see that what I set out to do will become a reality. We want to resume activity as outlined in our Three Year Strategic Plan and have all aspects of our operation conform to the Revenue Canada's standard as outlined in your report. We recognize that we have to put more effort into educational activity and to cut back on

fundraising costs and henceforth this will be our mission. When the current contract expires with [REDACTED], unless a contract is proposed that more approximates your guidelines, activity with [REDACTED] will cease.

We hope we have your approval to proceed with our proposed work as outlined in our response to your audit report and as delineated in our Three Year Strategic Plan.

If anything further is required in the way of supporting documents, bank statements, etc. we will be happy to oblige you.

Kind regards,

[REDACTED]

Robert O'Reilly
Executive Director
Smart Kids



Smart Kids Don't Do Drugs

Response to : Audit of The Canadian Don't Do Drugs Society
Documents relating to any of the following is available upon request

1. Re 2001 Audit and KFL

Response 1: The Charity Audit report for 2011 was not received until January 2006 (a copy is attached) but all association with KFB ceased in late 2003 and Smart Kids (The Canadian Don't Do Drugs Society) engaged selected individuals throughout Canada to engage in door-to-door canvassing activity. Subsequently fees paid to these individual canvassers were much less (and with an increased work factor picked up by Smart Kids) than that assigned to KFL. We recognize that these activities still may not represent a furthering or advancing of education, a moot point, but it was the only fund-raising (with corporate funding averaging roughly \$15,000 per year) resource available at this juncture

2. Re failure to devote resources in furtherance of charitable purpose.... However, the information revealed during the audit indicates that the activities carried out by the Organization appear to simply involve the provision of information related to substance abuse through its website, printed materials and direct contact with potential donors. Activities such as these are not considered charitable.

Response 2: Since 2013 we have developed an association with The Council on Drug Abuse(CODA) and have extended tens of thousands of dollars to their In Class Education and Drug Abuse Prevention for Youth. A copy of a current CODA manual is being provided for you to ascertain if it fits with your guidelines. CODA is extensively funded by Health Canada so we suspect that it does conform. Smart Kids' continued funding (as well as any potential partnership/alliance) of this organization (CODA) will be reviewed at the next general meeting which will be scheduled once we have the final report from your recent audit. Whatever the results re CODA it is our goal and commitment to align, associate or partner with organizations as such (CODA) which have a similar purpose. For example, in the past we have had discussions of Pine River Institute, and it is our intention to resume these discussions with an aim to developing an alliance/funding relationship with this organization as well as others. Our relationship with Youth Assisting Youth is on-going. I would like to emphasize throughout this response to your audit that until recently (2013) Smart Kids has been in a Net Deficiency (see attached graph) capacity so this placed difficulty on resource allocations to drug education. But this situation is appearing to reverse itself

3. The third party fundraiser is not a specialized, knowledgeable

instructor and the recipients are not targeted based upon message delivery. Therefore, these activities cannot be considered as furthering the charitable purpose of the advancement of education relating to substance abuse.

Response 3: see 3 above

4. Further, the Organization's objects state that it will carry out activities that relate to developing and initiating programs and projects, entering into alliances with other organizations, cooperating with and seeking advice from medical and related professionals, and establishing regional offices and facilities. However, the audit revealed that it does not appear as though the Organization has undertaken, or has any plans to undertake, any of these activities in the near future. As a result, it appears that the Organization focuses all of its resources towards fundraising rather than carrying out activities in furtherance of its charitable purpose.

4(a) To develop and initiate programs and projects either alone or in alliance or in conjunction with other organizations to provide outreach programs for and with young people who may be using, have used, or are likely to use drugs

Response 4(a): We have developed an active association with the Council On Drug Abuse to whom we have assigned thousands of funds for their in class drug education programs for teens and now that we are somewhat secure financially we will be expanding our associations/partnerships with other organizations having similar objectives, as for example Pine River Institute and similar entities; we marginally assist Youth Assisting Youth on a yearly basis and were instrumental with YAY in the construction of a teen playground in Toronto with tens of thousands of dollars of Smart Kids' funds

(4)b To enter into alliances and to provide assistance and resources, both financial and otherwise, where considered appropriate by the Society, to other organizations having similar or compatible objectives to that of the Society, including but not limited to camps and off-street and sport programs; this would include establishing a connection with and at some juncture within the aboriginal community;

See Response 4(a) above

4(c) To cooperate with and seek advice from medical and related professions, educators, pharmaceutical manufacturers and distributors, and other government and non-government agencies and other persons or bodies to promote in any manner and publicize the non-use of drugs among youths

Response 4(c): We have an active relationship with The Council On drug Abuse; the Centre For Addiction & Mental Health(CMH) survey Ontario Drug Student Drug Use and Health Survey (a copy is being forwarded) serves as a bible as trustworthy data with which we constantly update all our available literature and website; [REDACTED]

[REDACTED], [REDACTED], has been a speaker at our School Forums

and we are considering him as a potential Director. As far as publicizing the non-use of drugs we are forwarding(on a computer stick) copies of advertising run T.V. ([REDACTED] and radio([REDACTED] which addresses the problem of teens and drugs. We also find it difficult to believe that you do not consider various aspects of our website (social media) actively educational. We realize the site is in a formative stage but with proper attendance and monitoring this may prove to be an exceptional tool. Social media , in various forms, is revolutionizing behavioural and learning approaches globally

(4)d To establish regional and other offices and facilities in Canada from and through which the activities of the Society may be furthered

Response 4(d): Pending the results of our efforts over the next year or so we expect that increased funding and activity will necessitate the acquirement of additional staff and other offices. A portion of our current reserve fund is being held in anticipation of this contingency. Additional staff and offices will obviously entail more effort being assigned to getting our message out and educating teens on the perils associated with drug use

5. Fundraising by registered Charities

Resources devoted to fundraising are disproportionate to resources devoted to charitable activities

Response 5: One must bear in mind that until 2012 (see attached) Smart Kids (except for 2000 when we were a +42) operated at a Net Deficiency, sometimes in excess of \$50,000. It is difficult to engage in charitable, educational activity when the funds are not available. We have generally been in the paradoxical situation of the actor who cannot get a role until he gets an agent; he cannot get an agent until he gets a role. This, of course, is not a situation that is tenable to Revenue Canada nor Smart Kids. Now that modest funding is available Smart Kids has the time and can devote the necessary efforts to approaching corporations and foundations, align itself with various crowd-funding organizations such as Canada Helps, [REDACTED], [REDACTED], CHIMP etc.; also within the next six months efforts will be made at organizing Charity Balls, Golf tournaments, etc. It is our expectation, given an extra year or so, that we can reverse this current situation so that a major portion of our dollars are applied to their intended purpose. There are numerous other activities that we intend to engage in and these are outlined in our 3-Year Strategic Plan (a copy is being forwarded). With your indulgence, over the next few years, a protracted, proactive effort will be assigned to:

- The solicitation of alternate, regular funding from corporations and foundations as well as procuring funding and gaining recognition from charity balls and golf tournaments and other activity as outlined in our 3-Year Strategic Plan
- Once regular funding from alternate sources this has been established we intend

to cease activity with telemarketing; it will cease within a year in any event

- The allocation of raised funds to causes as outlined in our mandate

We cannot adequately challenge your contention that the resources devoted to fundraising are disproportionate to resources devoted to charitable activities(the December 31, 2103 charitable expenditures as quoted in your report[\$10,185.20] were incorrect as there was a cheque for \$2000 issued to Youth Assisting Youth in July of that year that was not accounted for) but we can make a commitment to ensure that this situation will reverse itself within a year. You will counter that we were advised in 2006 that our fundraising expenses were extensive. We proceeded with dismissing the canvasser KFL we had engaged at the time and struggled with various other methods of funding procurement. Economic conditions since 2008 with the economic collapse have been very difficult in all areas of society in general and this prompted our use of [REDACTED] in 2009 We feel that the periods subsequent to 2009 (a disproportionately high cost period that you referred to from various angles in your analysis) can be viewed as an investment period (at the end of the day a charity is a business - how many companies can operate with more than a five per cent profit margin?) which initially incurs high costs but will ultimately place Smart Kids in a more stable financial situation and permit the execution of its mandate. We are forwarding a graph which explicitly demonstrates the transition of Smart Kids from a Net Deficiency position to one where there is an excess of revenue available for charitable ends or for reserve. This has allowed us to finally dispense with door-to-door canvassing, mall set-ups, etc . Other than a few corporate sponsors ([REDACTED], [REDACTED]) [REDACTED] is our only current fundraiser. Over the last year this has permitted more time and energy to be devoted to focusing on corporate and foundation funding and we have acquired expensive software to facilitate this process. Again, this will take a little time and we hope that you will grant us a period of grace to follow through on our plans as outlined in the 3-Year Strategic Plan that we are forwarding

6. Fundraising without an identifiable use of need for the proceeds ... as such, the Organization does not appear to have a use or a need for the funds raised:

Response 6: As mentioned earlier, since 2013, we have developed an association with The Council ON Drug Abuse(CODA) and have extended thousands of dollars to their In Class Education and Drug Abuse Prevention for Youth and a copy of a current (CODA)manual is being provided for you to ascertain if it fits with your guidelines. CODA is extensively funded by Health Canada so we suspect that it does conform. Smart Kids' continued funding of this organization will be reviewed at the next general meeting which will be scheduled once we have final report from your recent audit. Whatever the results re CODA it is our goal and commitment to align, associate or partner with organizations as such which have a similar purpose. For example, in the past we have had discussions with Pine River Institute, and it is our intention to resume these discussions with an aim to developing an alliance with this organization as well as others. Our relationship with Youth Assisting Youth is on-going

7. High fundraising ratio... thus demonstrating that it is an ongoing concern.

Response 7: As mentioned above it is Smart Kids' intention to adopt measures of fundraising that are not cost-prohibitive; we intend to pursue activity that will include crowd fundraising and events like charity balls and golf tournaments. We feel that within a year or so we will be in a position to execute the goals as outlined in our Three Year Strategic Plan. For years we have been stymied by time/cost prohibitive engagements that, frankly, constrained the exercising our mandate. With a sufficient financial base to operate from, a goal we are nearing, all efforts can be devoted to exercises of fundraising where costs are minimal, the rewards of financial gain more propitious. This will allow us to engage in the educational activity, either directly or through an organization with a similar objective, and realize the goals of Smart Kids as outlined in our Three Year Strategy. The original is some fifty pages in length and was done with the assistance of top level professionals from many different fields. We also have an abbreviated version which we use when approaching corporations and foundations (this edition is updated regularly with all the latest CAMH/OSDUHS data).

With regard to aligning Smart Kids with other organizations with similar objectives, your field auditor, Mr. Ted Dubien, suggested when we last spoke that we mention that we have applied for a change of status from a charity to a foundation. This status will not in any manner change the focus of our mandate as initially assigned nor in our supplementary letters patent. It will allow us more time to focus on our goals as outlined in our Strategic Plan and to assist other organizations (like The Counsel on Drug Abuse and Youth Assisting Youth whom we currently fund, the former much more extensively than the latter) and to soliciting and raising funds to facilitate the exercising of our mandate of raising teen (and younger) awareness on the perils of drug use.

8. Providing personal benefit to a proprietor, member, shareholder, trustee or settlor

The Organization appears to have had numerous transactions in the fiscal period ending December 31, 2013, which appear to represent personal benefits conferred upon representatives of the Organization. These amounts do not appear to relate to the operation of the Organization's charitable programs and represent personal benefits conferred upon the directors/trustee of the Organization. A sampling of these transactions is listed below:

\$ 100.00 - Feb 28 to Director Rod McPherson
\$1,000.00 - April 1 to Director Juanita Barrett
\$1,500.00 - Sept 11 to Director Juanita Barrett
\$100.00 - Dec 5 to Director Rod McPherson

\$511.50 -(culmination of 6 separate payments) to
[REDACTED]

\$2,140.03 - (culmination of 33 separate payments) to Executive Director Robert O'Reilly for personal items including physiotherapy and car washes

Response 8. The cheque dated Feb 28 (a copy is being forwarded) to Mr MacPherson was a Xmas gift; we have no record of a Dec 5 cheque which would have been a Xmas item in any event

Ms Juanita Barrett is the [REDACTED] and those cheques were not to her benefit; they are personal debts(this is elaborated on in my accompanying cover letter

[REDACTED] is a former employee and during 2012 , 2013 did minor chores for which he was paid (a signed letter is attached in reference to his association with Smart Kids)

The payments to Robert O'Reilly are addressed in the cover letter

THE CANADIAN DON'T DO DRUGS SOCIETY
SMART KIDS DON'T DO DRUGS
7-B-Pleasant Blvd.; P O Box 1053; Toronto, ON; M4T 1K2
[REDACTED] FAX: (416) 926-3986
www.swmartkidz.org



Smart Kids Don't Do Drugs

September 05, 2015

Mr. Ted Dubien
Audit Division
Tax Services Office
31 Hyperion Crt
Kingston, ON K7L 9Z9

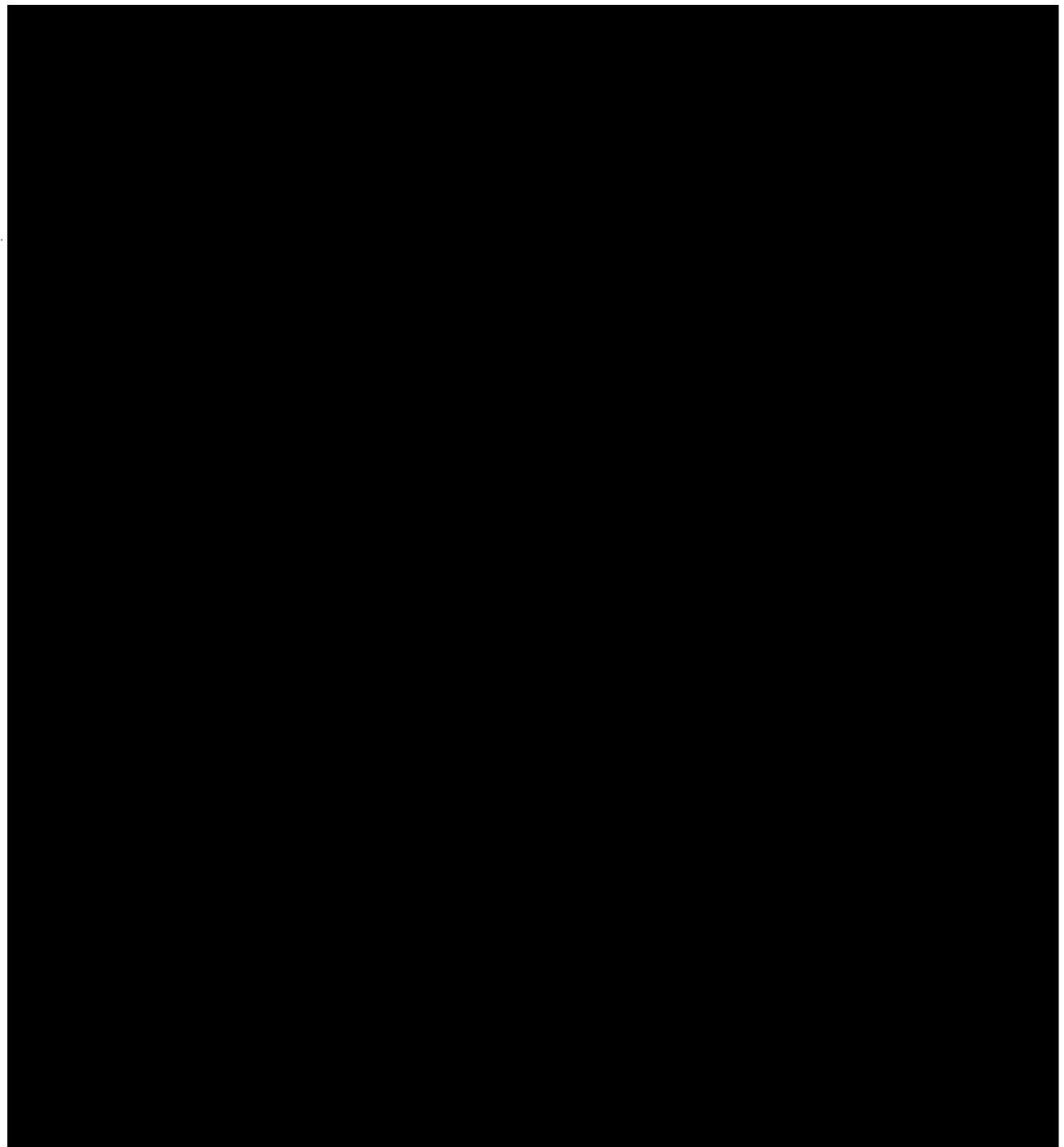
Mr Dubien:

This is to advise you that I have been in the employ of The Canadian Don't Do Drugs Society on a [REDACTED] in varying capacities over the past ten years. This activity has been of a very limited basis since 2013 when I was [REDACTED] [REDACTED]

[REDACTED] for which I am [REDACTED].

Sincerely,

[REDACTED]



Net Deficiencies 2009 - 2014 September 07 2015



Canada Customs
and Revenue Agency

Agence des douanes
et du revenu du Canada

The Canadian Don't Do Drugs Society of Canada
7-B Pleasant Blvd
Toronto Ontario M4T 1K2

Your file / Votre référence

Our file / Notre référence
868879685RR0001

Attention: Mr. Robert O'Reilly

Dear Sir:

Re: Charity Audit

We wish to apologize for our delay in responding to you. We also wish to inform you that the audit of The Canadian Don't Do Drugs Society of Canada ("the Society") for the period ended December 31, 2001 is now complete and there will be no change to your present status based on the results of the audit.

The audit raised concerns about the Society's compliance with certain provisions of the *Income Tax Act* (the "Act"). Full compliance with these provisions is necessary for continued registered status. The balance of this letter describes the Canada Revenue Agency's concerns.

The use of a professional fund-raiser by the society has led to concerns about whether the society will be able to meet its disbursement quota in the future due to the large commission fees charged by the fund-raiser. These fees are not considered to be expenditures on a charitable activity and therefore cannot be used in calculating the charity's disbursement quota.

The amount of money spent by charitable organizations on fundraising should be reasonable. Although reasonable cannot be defined as a specific percentage of a charity's resources (financial, human and physical); the charity must keep in mind that it must be operated exclusively for charitable purposes and that the *Act* requires a minimum 80% of the prior years' received donations to be spent on charitable activities, which does not include expenditures on items such as general and administrative costs, and fundraising.

Conclusion

We bring the above item to your attention to assist the Charity in complying with the applicable requirements of the *Act*.

Canada

The books and records examined should be retained in accordance with the policy described in Information Circular 78-10R3 entitled "*Books and Records Retention/Destruction*". Our publications are available on our website at: www.cra-adrc.gc.ca/tax/charities.

Thank you for the assistance and cooperation provided during the audit.

Yours truly,

Heather Keen

Verification and Enforcement Division

Tax Services Office:

Telephone:

Faxsmile:

Address:

Internet:

416-984-6016
1 Front Street West, Suite 100
Toronto, ON M5J 2X6
www.cra.gc.ca

April 01 2013 \$1,000.00

Robert O'Reilly

Sent: March-31-13 1:47 PM
To: [REDACTED]; Smart Kids; [REDACTED]
Cc: Juanita Barrett
Subject: Happy Easter & Annual E-Mail re House
Attachments: O'Reilly's March. 2013 .doc; nfld power issue 3.05.07 PM.pdf

Hi there

Happy Easter to all.

Please see attached annual overview of expenses.... note that I have included a one-time only bill for \$\$ paid by [REDACTED] in 2011 for electrical changes requested by [REDACTED]. Appreciate your follow up at your earliest convenience.

Have a great day and talk over next while.... love y'all

Cheers

Hi there

Please see revised overview of expenses for the house (minor changes from last year **plus** bill from 2011 repairs to electrical based on direction from [REDACTED] would have included in last year but did not get bill from [REDACTED] til after sent out information).

The bank and transit numbers (which I understand are required to deposit the \$\$):
[REDACTED]

My understanding of what we had agreed to was to divide the following expenses 6 ways:

Town Taxes	\$836.40 in March, 2013	(\$139.40 each)
House Insurance	\$121.92- 1463/yr (pd. monthly)	(\$243.83 each)
Light & Power	\$177/ month (2124/yr) (pd. monthly)	(\$354.00 each)
Phone	\$31.80/ month (381.60 /yr) (pd. monthly)	(\$63.60 each)
Electrical Bill	Repairs secondary to recommendation	(\$166.67 each)
	L&P 2011 –see attached bill	(\$1000)

Based on the above, your amounts owing to this account on an annual basis would be:

Town Taxes	\$139.40
House Insurance	\$243.83
L&P	\$354.00
Phone	\$63.60
Electrical Bill	\$166.67
Total	\$967.50 (or \$80.63/ month if wish to deposit monthly)

It would be great if you would please let me know how you would like to arrange payment of your share, or contribution. For you guys that pay annually please note that the payment of the town taxes will deplete the account when it is cashed so would appreciate your \$\$ sooner.

Many thanks...and lots of love

Juanita

[REDACTED]
ST. LAWRENCE, NL

DATE July 27/11

NOM.

NAME [REDACTED]

ADRESSE:

ADDRESS [REDACTED]

*paid
\$100.00*

REPLACE 200 AMP
SERVICE, INSTALL
3 GROUND. RODS
SUPPORT METER BASE

MATERIAL & LABOUR \$914.36
ELECTRICAL PERMIT 50.00

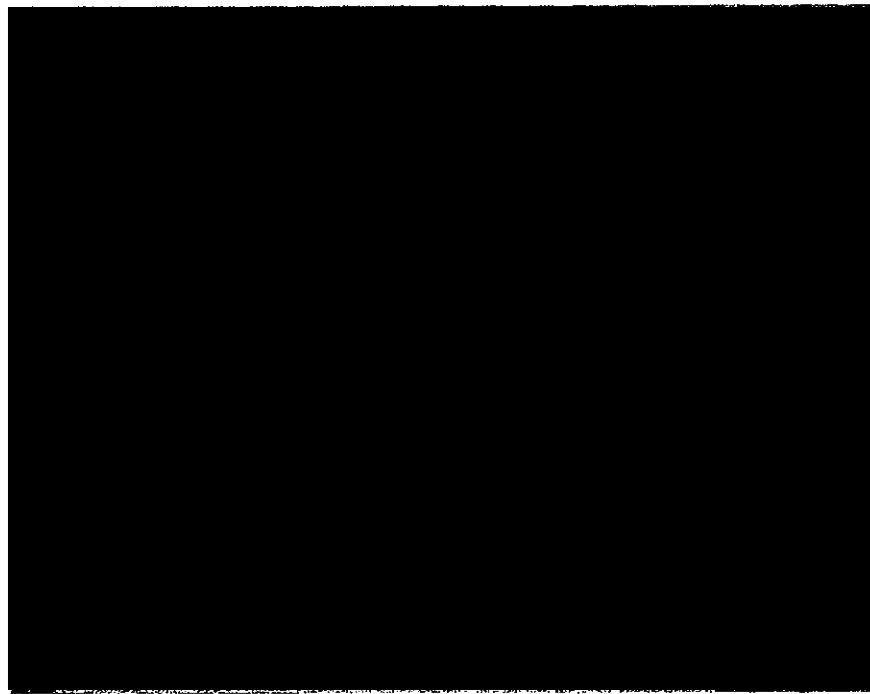
TPS/GST

NO. ENRIG. TAXE
TAX REG. NO.

TVP/PST

42

TOTAL \$964.36



Robert O'Reilly

Sept 11, 2013 - \$1,500.-

Sent: September-10-13 6:14 AM
To: [REDACTED] Smart Kids; [REDACTED]
Cc: Juanita Barrett
Subject: Basement Issues- Resolution
Attachments: [REDACTED] Quote.xlsx; ATT00197.txt

Hi everyone

As you are aware we have been having troubles with water (frequently substantial) in the basement at [REDACTED], and we have frequently spoken of getting it fixed (digging up around the house, installing drainage, etc.) as it creates problems for the house and its infrastructure.

[REDACTED] has gotten a person to do this and he will start on September 16.

Please see the attached invoice for 8815.26. This works out to 1469.21 each (this includes [REDACTED] as it is divided 6 ways). Assuming everyone is good to go with getting this work done, it would be great if you can forward your share ASAP.... obviously they will expect payment at the end of the job.

Cheers

1	Obtain all necessary Permitting
2	Supply Labour & Equipment to Remove existing Patios
3	Supply Labour & Equipment to Excavate around full perimeter of house
4	Repair any obvious damage on basement exterior walls
5	Supply Labour & Materials to Seal basement exterior walls with Cement, Foundation Coating, and membrane
6	Supply and Install Rigid Perforated Weeping Tile
7	Supply and Install [REDACTED] Stone
8	Remove Existing Piping& Other Debris (includes Waste Disposal Trip to [REDACTED])
9	Install Cement Retaining Wall on basement Entrance side of House
10	Install Underground Independent Piping to carry water away from downpipes already installed on Building
11	Remove Water Damaged Building Supports in Basement & Replace with Steel Adjustable Jack Posts
12	Supply Labour & Equipment to Back Fill full perimeter of house
13	Move Existing Patios back in Place
Estimated days to Complete 7 - 10 days	
\$8,815.26	
Not Included in Price	
Repairs -TBD- if identified after excavating is completed	
Reestablishing Landscaping -Including but not limited to items such as, reconfiguring area, Class A, Topsoil, Sod, grass seed, Etc.	

ATT00197.txt

Juanita Barrett. [REDACTED]

[REDACTED]

Online Banking[My Accounts](#)[Pay Bills](#)[Transfers](#)[INTERAC e-Transfer](#)

- [• Status](#)
- [Send Money](#)
- [• Receive Money](#)
- [• Recipient List](#)
- [• Edit My Profile](#)

[Pay & file taxes](#)[Customer Services](#)[News and Announcements](#)[Contact Us](#)**INTERAC e-Transfer - Send Money****Step: 1 • 2 • 3 • 4****From: INTERAC e-Transfer™ - Sent****From:**

[REDACTED]

Sent To:Juanita Barrett
[REDACTED]**Amount:**

\$1,500.00

From Account:Chequing
[REDACTED]**Account Balance:**

[REDACTED]

Security Question:

Response:

Oct. 10, 2013

Expiry Date:

[REDACTED]

Reference Number:

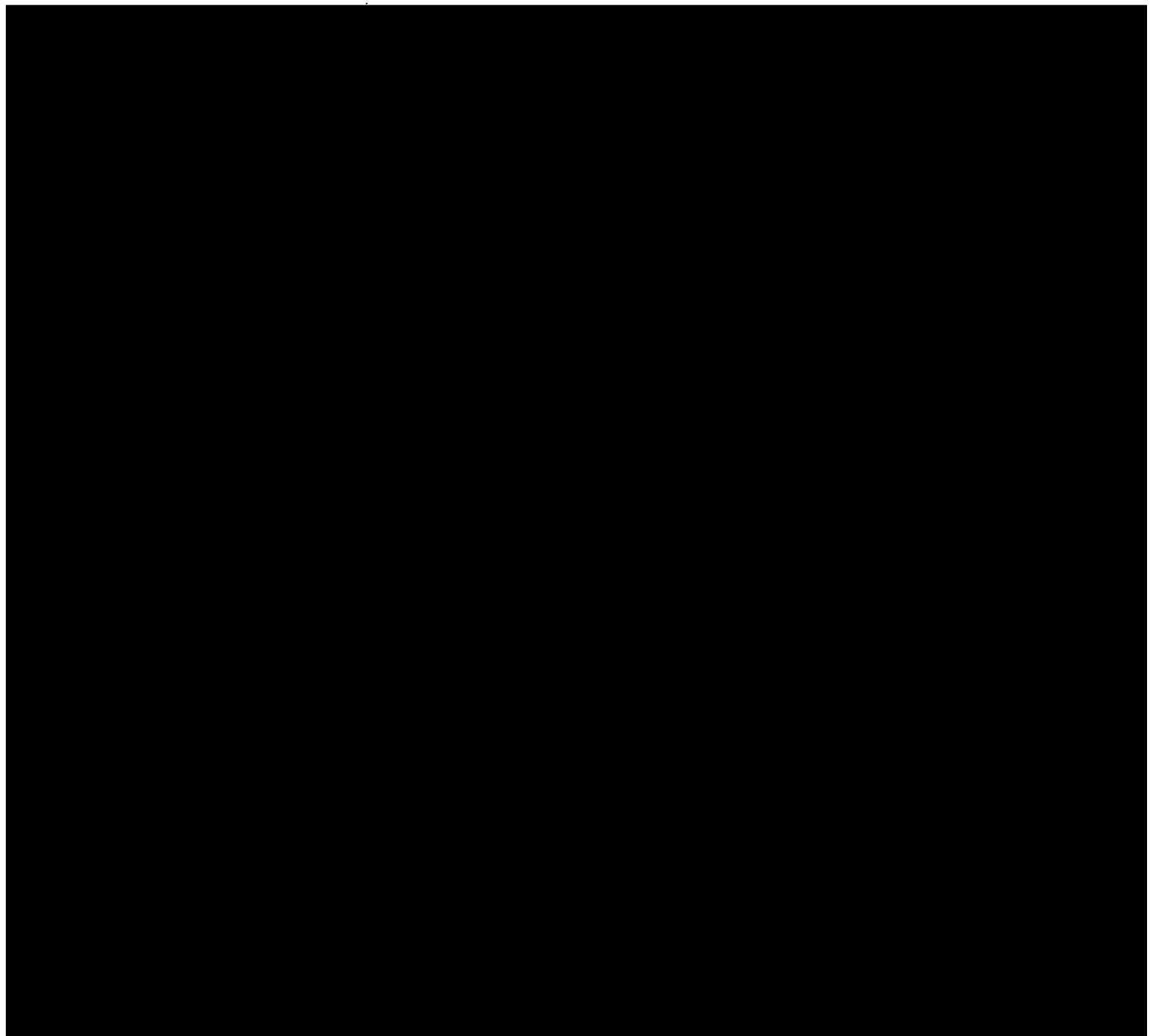
Your INTERAC e-Transfer notice was submitted on September 11, 2013 at 08:11am Eastern time

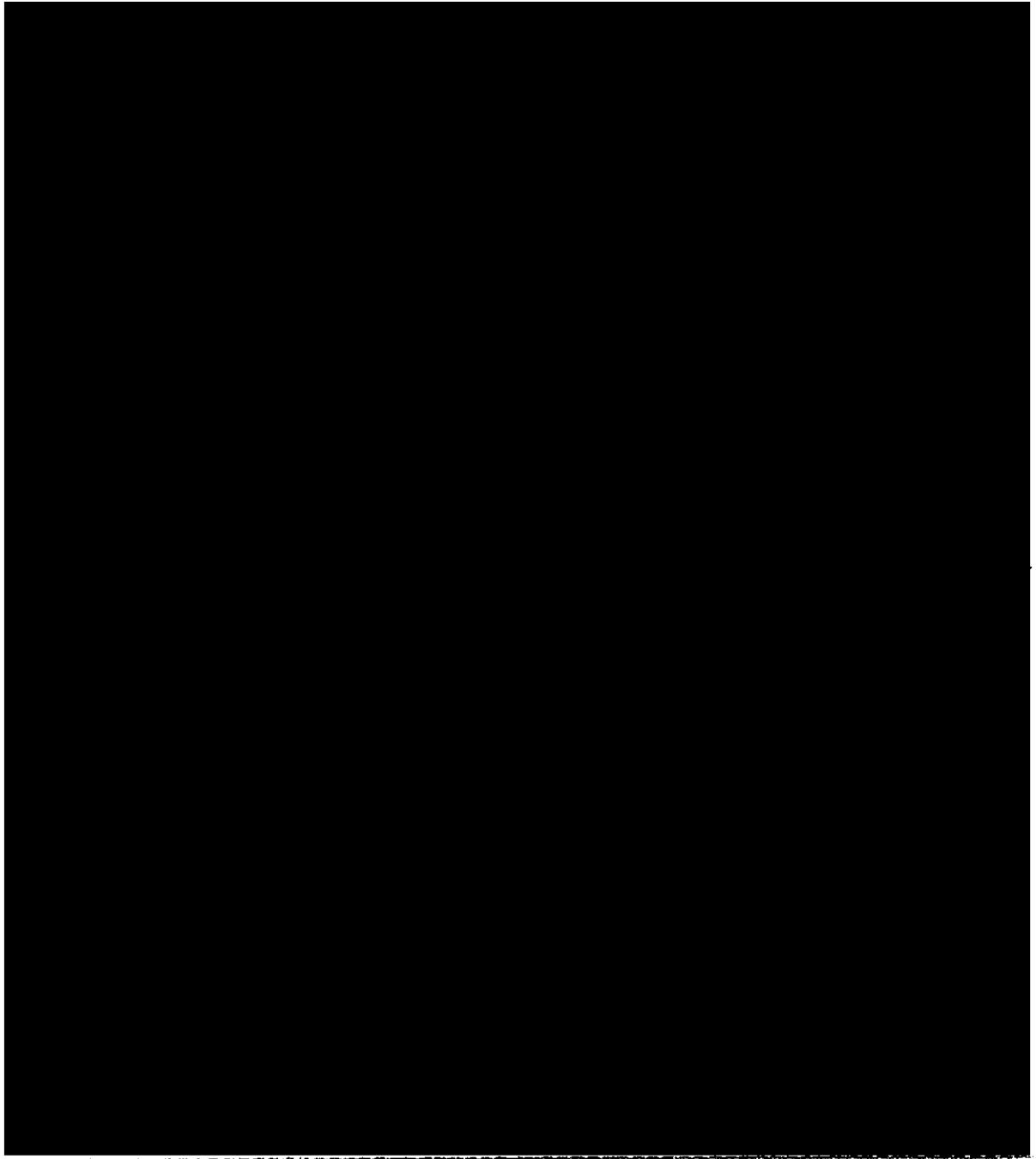
Return to Status**Please note:**

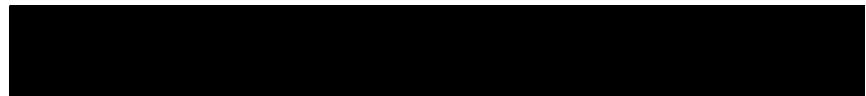
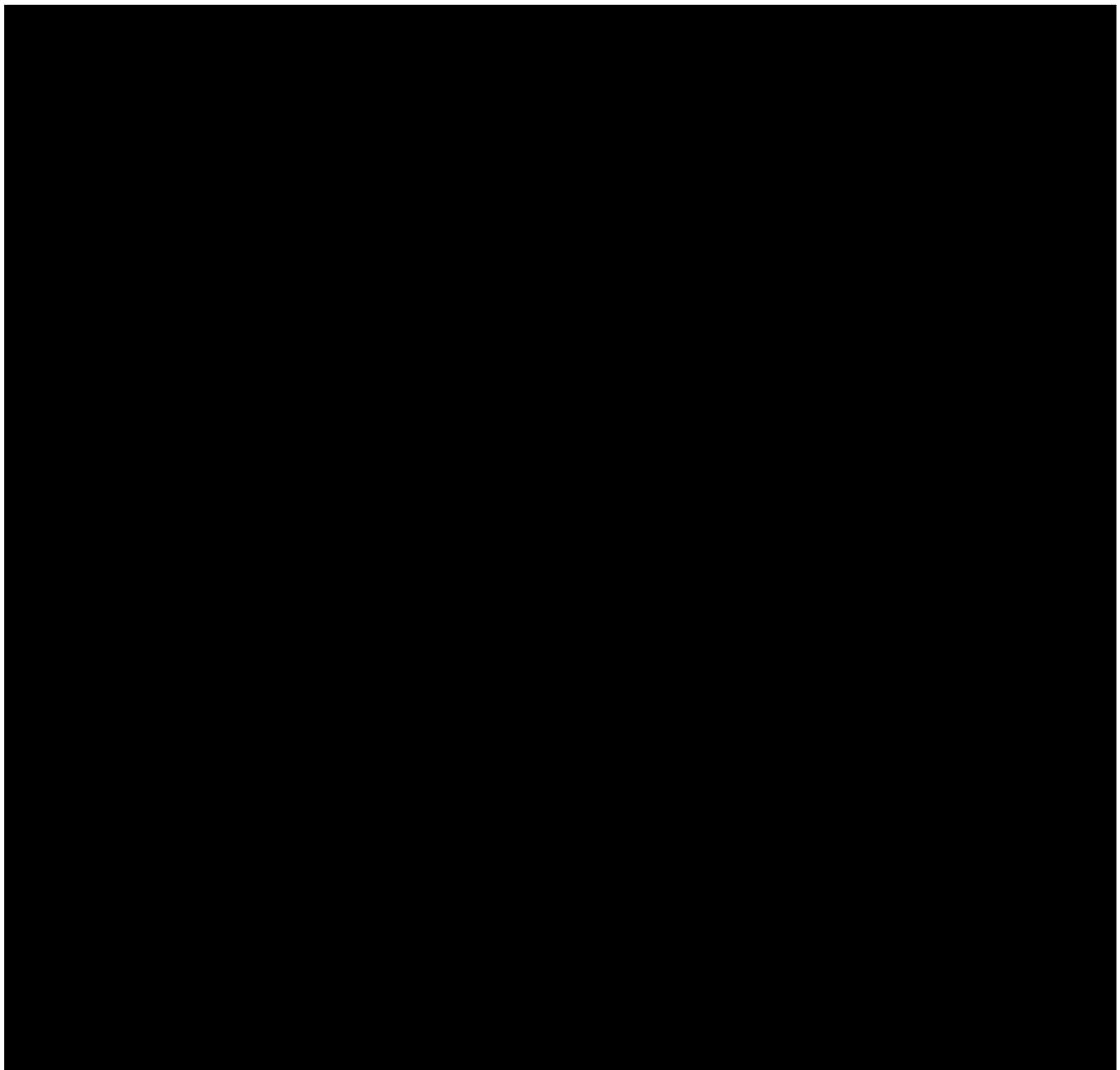
- Record the reference number above for your records.
- An e-mail notice will be sent to the recipient within approximately 30 minutes after you complete this step.
- It is up to you to communicate the security question and exact answer to the recipient.
- You can also view information about your INTERAC e-Transfer in the "Account History" and "I page".

[My Accounts](#)

88









Smart Kids Don't Do Drugs

May 04, 2017

Mr Robert Delaney
Director
Charity Compliance
Canada Revenue Agency
320 Queen St
Ottawa, ON K1A 0L5

Mr. Delaney:

There are many reasons why I'm following up subsequent to our teleconference call dated April 28, 2017 with principals Ms. Jennifer Fraser and [REDACTED] who is legal counsel for The Canadian Don't Do Drugs Society.

With this letter, and attached related letters, I am requesting that you give us sufficient time to show that we continue our turnaround efforts to conform to your guidelines.

As outlined in the attached letter to Mr. Jeff Zander we have \$100,000 assigned to various organizations with whom we have developed partnerships subsequent to Mr. Dubien's field audit (I'm attaching letters confirming partnerships with Portage, Pine River and Youth Assisting Youth) These donations represent roughly fifteen kids who were assigned yearly placements at either Portage in [REDACTED] (www.portage.ca) or The Pine River Institute [REDACTED] (www.pineriverinstitute.com). These placements were assigned to afflicted teens who otherwise may not have benefited from the professional help offered by these institutions and helped considerably on their road to recovery. According to the latest health survey OSDUHS (Ontario Student Drug Use and Health Survey) released by CAMH (Centre for Addiction & Mental Health) 16.1 % of secondary school students meet the criterion for drug use problems. This represents about 114,660 high school students in Ontario alone; Ontario has just in excess of 150 beds to accommodate this problem.

Re your other concerns with developing programs and reducing our funding costs directors have advised and principals at both Portage and The Pine River Institute have confirmed that engaging [REDACTED] for their professional counselling and guidance on all aspects of the charity's engagements would help considerably to resolve most of the issues outlined in Mr. Dubien's audit report of 2015. They (Pine River & Portage) were contacted roughly a year after your 2015 field audit during which year we developed partnerships with these organizations in keeping

with recommendations of this audit that insufficient measures of our activities were being devoted to the matter of kids experiencing problems with drugs.

All we are asking is your forbearance and a little extra time to turn around our organization and reach our objectives. Please allow us this time.

Sincerely,

Robert O'Reilly
Executive Director
Smart Kids

cc: [REDACTED]

cc: [REDACTED]

THE CANADIAN DON'T DO DRUGS SOCIETY
SMART KIDS DON'T DO DRUGS
7-B Pleasant Blvd., P O Box 1053, Toronto, Ontario M4T 1K2
[REDACTED] FAX: (416) 650-5220
www.smartkidz.org



Smart Kids Don't Do Drugs

February 22, 2017

By Fax to

Canada Revenue Agency
Charities Directorate
Ottawa, Ontario
K1A 0L5

Attention: Mr. Jeff Zander, Manager

Dear Sir:

Re: The Canadian Don't Do Drugs Society
Registered Charity Number 86887 9685 RR0001
Your File 0988600

At the conclusion of his field audit Mr. Ted Dubien strongly recommended that we should seek to change our status from charitable organization to public foundation. This was consistent with advice which we received from our solicitors.

The Society immediately applied for that change in status. Our application seems to be making no progress whatever and we understand that this is because the audit file is still "open". On January 31, 2017 Mr. Dubien confirmed by phone message that his audit performed March 5 - 6, 2015 for the years 2012-2013 has not been finalized, and remains open.

On February 03, 2017 counsel to the Society and this writer spoke by conference telephone with Mr. Ted Dubien. He suggested that I should bring to your attention that the operations of the Society have changed considerably since the time of the audit. The Society is continuing with and expanding its various activities on social media, and has become very active in distributing funds to charitable organizations. In about the last 15 months or so we have distributed more than \$100,000 to charitable organizations, notably The Pine River Institute, which operates a refuge at [REDACTED] for youth recovering from drug addiction, and also to Portage which operates a similar facility at [REDACTED].

You will remember Mr. Dubien's report of August 2015. The Society took careful note of the comments and recommendations in that report and, in June 2016, retained [REDACTED], the prominent public relations agency, which is assisting us in improving all aspects of our organization, including increasing direct funding from corporations and foundations, and in particular providing advice re adhering to measures that will assist us with conforming to requirements of all regulatory authorities especially as indicated in Mr. Dubien's audit review.

You may confirm all of this with Mr. Dubien, and by copy of this to him we advise that he may reach you on your direct dial at 1 800 267 2384.

We would appreciate it very much if the Society's application for change of status could now be expedited.

If you or Mr. Dubien have questions or enquiries of any kind you may reach me at my direct dial telephone [REDACTED], and you may be assured that I shall return your calls promptly. Please confirm receipt.

Sincerely,

[REDACTED]
Robert O'Reilly
Executive Director

cc: [REDACTED]

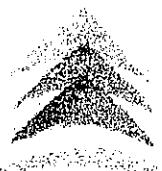
By email to [REDACTED]

cc: [REDACTED]

By email to [REDACTED]

cc: Ted Dubien
CRA Kingston
[REDACTED]

By fax to 613 541-7161



PINE RIVER
Foundation

January 26, 2017

Robert O'Reilly
The Canadians Don't Do Drugs Society | Smart Kids Don't Do Drugs
7-B Pleasant Blvd.
Toronto, ON M4T 1K2

Dear Robert,

This letter is to confirm that The Canadian Don't Do Drugs Society | Smart Kids Don't Do Drugs has agreed to support Pine River's 2017 Parent Workshop and Webinar series. As agreed upon, your organization will issue four cheques, allocating \$7,500 each to Pine River Foundation. Your first cheque of \$7,500 was received on November 2016, for which we thank you. The remaining funds are expected in February 2017, May 2017 and August 2017, completing your total dedication of \$30,000 towards this initiative.

Pine River's Family Program, which runs parallel to the residential treatment we provide youth ages 13-19, will serve as the foundation for the content of this new workshop series to teach parents important interpersonal skills including how to become better attuned to the needs of their children and how to set healthy boundaries, along with strategies to help their adolescent avoid problematic substance use. The series will be delivered face-to-face in collaboration with middle school and high schools in the Greater Toronto Area, as well as online via a webinar.

Pine River plans to partner with schools, school boards, and community agencies to share practical insights based on evidence-based treatment programming for youth addictive behaviours and mental illness with parents and families of elementary and high school aged youth. Information shared will empower parents to talk openly with their children and apply tested strategies to reduce the likelihood of problematic behaviours that can lead to substance abuse. The Parent Workshop Series will take place as early as April 2017 and run through to August 2017, with the potential for additional workshops depending on demand and funding.

In recognition of your support, The Canadian Don't Do Drugs Society | Smart Kids Don't Do Drugs will be listed as a sponsor of Pine River's workshops and webinar in all related promotional materials. Your organization will also be recognized, along with other donors, as appropriate in annual and cumulative donor lists that are published from time to time by the Pine River Foundation.

In addition, The Canadian Don't Do Drugs Society | Smart Kids Don't Do Drugs will have permission to share content developed by Pine River in conjunction with the workshops and webinars on its website and social media channels provided that content and materials are not altered and that credit is given to Pine River Institute. The Canadian Don't Do Drugs Society | Smart Kids Don't Do Drugs will be granted the right to use these materials for a period of one year after the date of the first workshop.

As a supporter of our ongoing efforts with regard to addressing the problems associated with teens and drug related activity, we thank you for your continued support and partnership in addressing a cause of great concern for many parents.

To indicate your acceptance of this sponsorship, please sign and return a copy of this letter to my attention at your earliest convenience.

Sincerely,

Accepted by:

Pine River Foundation

Mr. Robert O'Reilly, Executive Director
The Canadian Don't Do Drugs Society | Smart Kids Don't Do Drugs



PINE RIVER
Foundation

January 30, 2017

To Whom It May Concern:

This letter affirms Pine River Foundation's partnership and mutually supportive relationship with The Canadian Don't Do Drugs Society | Smart Kids Don't Do Drugs (CDDDS).

Pine River Foundation recognizes and appreciates CDDDS' efforts to raise awareness about youth substance abuse and its prevention. We share CDDDS's desire and commitment to collaborate in helping to reduce demand for addiction treatment services. With more than 200 youth, and families, awaiting treatment at Pine River and the impending legalization of marijuana, we believe there is a real need for more awareness and prevention initiatives.

To this end, we are grateful for major funding from CDDDS as well as their collaboration and support in delivering information and practical strategies to better equip parents and educators to prevent or mitigate the destructive impact of addictive behaviours and substance abuse on the health and quality of life of young people in Canada.

Should further information be required about our mutually supportive partnership with CDDDS, please contact me directly at (416) 955-1453 or [REDACTED]

Sincerely,

Pine River Foundation



Portage Ontario

February 6, 2017

Mr. Robert O'Reilly
Executive Director
Canadian Don't Do Drugs Society
[REDACTED]
[REDACTED]

Dear Mr. O'Reilly,

On behalf of the Portage Ontario Board, volunteers, staff and those whom we serve, please accept our sincerest appreciation for your support of the Portage Ontario Youth Treatment Fund.

The mandate of The Canadian Don't Do Drugs Society, to build awareness and disseminate information on drug abuse is well reflected in its in-depth information published as a resource for parents, and past projects, such as Playground for Kids.

Portage is a non-profit organization that helps people suffering from substance abuse-related problems to overcome their dependencies and lead healthy, happy and productive lives. Its centre for adolescents in [REDACTED] was established in 1985 and has since treated more than 4,000 young people from every region of Ontario.

We wish The Canadian Don't Do Drugs Society the best in its future endeavours.

Sincerely,

[REDACTED]
Director of Development - Ontario

It has been over 10 years since I went through therapy at the adolescent centre. Today, as a full member of society striving to help my neighbour, I'm passing on the message of hope Portage gave me. Thank you from the bottom of my heart.

- Myriam





5734 Yonge Street, Suite 401
Toronto, ON M2M 4E7
Tel: 416-932-1919 Fax: 416-932-1924
Toll Free: 877-932-1919
Charitable # 11930 7478 RR0001
www.thepeerproject.com

January 23, 2017

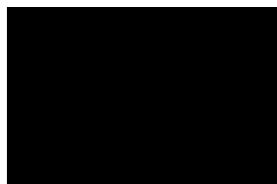
To Whom It May Concern,

Please accept this letter of support on behalf of **Smart Kids Don't Do Drugs**, a registered Toronto charity founded in 1994.

The Peer Project | Youth Assisting Youth (YAY) is committed to promoting the healthy growth and development of youth people, through the power of peer-to-peer mentoring and consistent, specialized support. The youth that we serve are coping with a myriad of complex issues, including mental health, delinquency and drug use. We've worked closely with the **Smart Kids Don't Do Drugs** program for more than 15 years, raising awareness and distributing important information on drug use to youth across Toronto. We look forward to continue working with them in 2017.

Please contact me directly at the number below with any question.

Sincerely,



Chief Executive Officer

416-932-1919

ITR Appendix "A"

The Canadian Don't Do Drugs Society

Comments on Representations of September 8, 2015

The audit conducted by the Canada Revenue Agency (CRA) identified that The Canadian Don't Do Drugs Society (the Organization) is not operating in compliance with provisions of the Income Tax Act (Act) in the following areas:

1. Failure to devote resources in furtherance of charitable purposes/Failure to carry out its own charitable activities
2. Providing personal benefit to a proprietor, member, shareholder, trustee or settlor

We have reviewed the Organization's representations dated September 8, 2015, and we maintain our position that the non-compliance issues identified during the audit represent a serious breach of the requirements of the Act and that, as a result of this non-compliance, the Organization's registration should be revoked.

These reasons are described in greater detail in this Appendix, which addresses the CRA's responses to the Organization's representations regarding the non-compliance issues identified in our Administrative Fairness Letter (AFL), sent on July 27, 2015. Please find, below:

- A summary of the issues raised by the CRA in our AFL dated July 27, 2015;
- A summary of the responses provided by the Organization's representative, Robert O'Reilly, dated September 8, 2015, and May 4, 2017, as well as our telephone conversation on April 28, 2017; and
- The CRA's conclusions.

1. Failure to operate in furtherance of charitable purposes/Failure to devote resources to its own charitable activities

All charities registered under the Act are required by law to devote their resources to exclusively charitable purposes and activities. Although a charity can use some of its resources for fundraising to support the charitable activities that further its charitable purposes, fundraising is not a charitable purpose in itself.

As explained in our AFL dated July 27, 2015, the CRA audit of the Organization's 2013 fiscal period identified that it failed to devote its resources to charitable purposes and activities. Instead, it devoted the majority of its resources to fundraising. In this regard, the ratio of fundraising expenses to total expenditures reported by the Organization was

64%,¹ and it used the majority of its fundraising revenues as payment to a third party fundraiser, [REDACTED].²

The audit determined some of the Organization's expenditures towards administration and compensation might be considered charitable,³ however, even when added to the amounts it reported as gifts to qualified donees, at most the Organization devoted only 7% of its expenditures to charitable activities.⁴ Based upon its disproportionate ratios of resource expenditures, the CRA took the position that fundraising was the Organization's collateral non-charitable purpose.

Our AFL further noted that this represented a repeated and ongoing non-compliance issue for the Organization. A previous CRA audit of its 2001 fiscal period identified the Organization was operating in the same manner at that time,⁵ and our current audit reviewed similar patterns of expenditures on fundraising for fiscal years 2009-2012.

Response

In its response, the Organization acknowledged it was not devoting its resources to charitable activities, its resources were primarily devoted to fundraising, and it had tied itself to a fundraising method where a large percentage of revenue was assigned to the third party fundraiser, [REDACTED], but proposed to continue working with [REDACTED] until its current contract expired, and to extend this relationship if it were able to establish a contract that approximated the CRA's guidelines. The response stated the Organization would commit to approaching corporations and foundations, align itself with various crowd-funding organizations such as Canada Helps, [REDACTED], CHIMP, etc., organize Charity Balls, Golf tournaments, etc., and it had acquired expensive software to facilitate this process.

The Organization's representations included a Three Year Strategic Marketing Plan, which described how it proposed to target sources of funding, including government funding, private sector, and corporate sponsorships, and described other fundraising efforts. This included a goal of amassing \$6,200,000 over three years to build a drug treatment centre for youth and deliver other drug awareness related activities. In an

¹ The Organization expended \$253,761 on fundraising expenditures for only \$428,193 in fundraising revenue.

² The audit found the Organization received \$441,827 in donations and had \$373,327 in expenditures. Of its expenditures, it paid [REDACTED] \$246,545, it allocated \$92,380.92 to management, administration, and compensation, and it gifted \$17,000 to qualified donees, which is a charitable activity. Of the remaining \$68,500, there was an increase to cash on hand held in the Organization's various bank accounts, and \$13,784 could not be reconciled.

³ i.e., \$10,185; however, the audit observed that disseminating information to raise drug awareness via a website, printed materials, and direct contact with potential donors by a third party fundraiser, did not appear to satisfy the legal requirements applicable to the advancement of education in the charitable sense.

⁴ i.e., \$27,185 of \$373,327

⁵ The CRA's concerns with the Organization's excessive devotion of resources to fundraising activities through the use of another third party fundraiser, Key Fundraising Ltd. (KFL) were also addressed with the Organization at that time.

April 28, 2017, telephone conversation with CRA representatives, the Organization's representatives added the intention to engage the public affairs and communications firm, [REDACTED]⁶ to build its capacity to be able to carry out the charitable activities described in its three year plan.

The response also stated that the Organization had implemented changes since the audit period, such as gifting "tens of thousands of dollars" to other registered charities and associating with organizations and individuals such as the Council on Drug Abuse (CODA), Pine River Institute, Youth Assisting Youth, the Centre for Addiction & Mental Health (CAMH), and [REDACTED], to undertake charitable activities. Regarding its intentions to align the Organization with other organizations with similar objectives, the response noted that the Organization applied for a change in status from a charitable organization to a foundation, to allow the Organization to focus on assisting other organizations and fundraising and facilitate its mandate of raising drug use awareness. In this regard, we note the Organization's May 4, 2017, submission included the statement that the Organization had "\$100,000 assigned to various organizations with (which it has) developed partnerships (since the audit)," and three letters of support from the Peer Project, Portage Ontario, and Pine River Foundation. The first two letters stated the organizations' support of the Organization, and the third acknowledged funds received from the Organization - \$7500 as of its January 26, 2017, letter.

The representations stated the Organization found it difficult to believe that the CRA did not consider various aspects of its website educational, that it had publicized the non-use of drugs through television and radio,⁷ and that it had devoted \$2000 to an organization named "Youth Assisting Youth" in July of 2013, which should be added to the calculation of its charitable expenditures for 2013. The representations included additional examples of past activities that fell outside the Organization's audit period, such as a past project called Playground for Kids, purportedly undertaken in conjunction with the organization Youth Assisting Youth, and two community forums on kids and drug use. However, the representations did not provide details concerning what resources it devoted to these activities or when the activities occurred.

Conclusion

We have reviewed all of the Organization's representations, and they do not alleviate our concern that the Organization has not devoted its resources to charitable purposes and activities. The representations failed to demonstrate the Organization would stop devoting the majority of its resources to fundraising and other non-charitable activities, or even endeavour to resolve the non-compliance observed by our audit. In this regard,

⁶ [REDACTED]

⁷ While the Organization stated it would forward a "computer stick" copy of these advertisements to the CRA, these were never received by the CRA.

we note that the Organization's three year plan submitted with its current representations is largely the same as the three year plan it previously submitted to the CRA in 2006 following the previous audit, and the representations did not identify any progress made since that time.

The Organization's representations proposed it would continue primarily devoting its resources towards fundraising, including by continuing to work with the third party fundraiser that claimed the majority of its fundraising revenues as payment during the audit period - [REDACTED], and engaging an additional third party, privately-held firm to help build its capacity to collect funds - [REDACTED]

While the Organization devoted very little of its resources to non-fundraising activity, its response also did not alleviate our concerns that its other activities failed to advance education in the charitable sense. As previously stated, a charity focused on the advancement of education must make a targeted attempt to educate others, and its activities must include structured instruction or training. Maintaining a website, disseminating printed materials, and advertising on television and radio is not sufficient to advance education in the charitable sense.

Regarding the Organization's representations concerning partnering with and gifting funds to other registered charities and qualified donees, such as the Council on Drug Abuse (CODA), Pine River Institute, and Youth Assisting Youth, the Organization has not substantiated these relationships or identified the amounts gifted to qualified donees relative to its fundraising expenditures since the audit period. While we concur that making gifts to qualified donees is charitable, our audit identified that this represented a relatively minor focus of the Organization. Of its \$373,327 in expenditures in 2013, only \$17,000 was reported as gifts to qualified donees.

Regarding its request for a change of designation, our audit found that the Organization failed to demonstrate that it meets the requirements of either a charitable organization or a charitable foundation under the Act. Even adding the \$2000 the Organization's response stated that it made to "Youth Assisting Youth" in July of 2013, the Organization devoted 5% of its 2013 expenditures to gifts to qualified donees. While the May 4, 2017, submission also broadly stated that more of its resources would be devoted to "the matter of kids experiencing problems with drugs" via partnerships with other organizations, it did not include any information on its current fundraising and other non-charitable expenditures relative to its commitment to fund a qualified donee in 2017.⁸ Overall, the Organization's representations did not contradict the CRA audit findings that the majority of its resources were devoted to fundraising and other non-charitable activities.

⁸ We note the Organization's May 4, 2017, submission to the CRA included a January 26, 2017, letter from Pine River Foundation, acknowledging receipt of a gift of \$7500 in November 2016, and that it expected additional cheques in February, May, and August 2017.

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 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 subsection 149.1(2) and paragraph 168(1)(b) of the Act.

2. Providing personal benefit to a proprietor, member, shareholder, trustee or settlor

Our July 27, 2015, AFL stated that the audit revealed the Organization had conferred personal benefits totalling \$5,351 upon its representatives, including physiotherapy and car washes.

Response

The Organization's representations stated that amounts provided to its Executive Director, Robert O'Reilly, were small loans in lieu of salary that he had since commenced repayment on, but which were permitted by the other directors.

Payment to others included amounts to be used by a director [REDACTED] including a share of the [REDACTED] property maintenance and reparations to the residence's basement; an annual amount to an individual gifted as relief from a constrained financial situation; and compensation for chores, such as data entry. Documentation provided with the representations included emails, receipts, and itemized lists of expensed [REDACTED] screenshots of email money transfers, and summary pages of Robert O'Reilly's credit card statements from 1998 and 2015.

Conclusion

Under the Act, registered charities are required to devote all of their resources to charitable activities. While a charity may compensate employees for their work or reimburse individuals for expenses incurred performing the duties of the charity, these expenses must be reasonable and must be shown to be necessary for the operations of the charity.

Compensation for employees of a registered charity includes salaries, wages, commissions, allowances, bonuses, fees, and honoraria, plus the value of taxable and non-taxable benefits and the onus is on the Organization to demonstrate, through documentary evidence maintained with its books and records, that these payments are reasonable and necessary for the operations of the charity (i.e., reflecting actual out-of-pocket disbursements).

In the case at hand, absent evidence to contrary, it is our position that the representations submitted did not negate our findings. While this represents a relatively minor amount of the Organization's overall expenditures (approximately 1%), added to its primary devotion of resources to fundraising and other non-charitable activities, as outlined above, 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 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 subsection 149.1(2) and paragraph 168(1)(b) 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.