



March 1, 2021

REGISTERED MAIL

Moe Wortzman
Director
The Azamra Institute (Canada)
Suite # 501
80 Richmond Street West
Toronto ON M5H 2A4

BN: 874392160RR0001
File #: 3003444

Dear Moe Wortzman:

**Subject: Notice of intention to revoke
The Azamra Institute (Canada)**

We are writing following our letter dated October 18, 2017, (copy enclosed), in which The Azamra Institute (Canada) (the Organization) was invited to respond to the findings of the audit conducted by the Canada Revenue Agency (CRA), and explain why the registration of the Organization should not be revoked in accordance with subsection 168(1) of the Income Tax Act.

We have reviewed and considered your written response of November 16, 2017. It is our position that, notwithstanding your reply, the Organization failed to demonstrate that it had implemented the corrective measures included in the Compliance Agreement signed with the CRA on July 31, 2007. Therefore, our concerns as stated in our letter of October 18, 2017, with respect to the Organization's non-compliance with the requirements of the Act for the registration as a charity have not been alleviated. Our position is described in Appendix A, attached.

Conclusion

The audit found that the Organization is not complying with the requirements set out in the Act. In particular, it was found that the Organization failed to:

- devote resources to charitable activities carried on by the Organization itself by gifting resources to a non-qualified donee;
- issue official donation receipts in accordance with the Act and receipted for gifts of services;
- maintain adequate books and records; and
- file an accurate T3010 Registered Charity Information Return.

For all of these reasons, and for each reason alone, it is the position of the CRA that the Organization no longer meets the requirements necessary for charitable registration and should be revoked in the manner described in subsection 168(1) of the Act.

Consequently, for each of the reasons mentioned in our letter dated October 18, 2017, we wish to advise you that, pursuant to subsection 168(1), 149.1(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), 168(1)(c), 168(1)(d), 168(1)(e), subsection 149.1(2) and paragraph 149.1(2)(c) of the Income Tax Act, that I propose to revoke the registration of the charity listed below and that by virtue of paragraph 168(2)(b) thereof, the revocation of registration is effective on the date of publication of this notice in the Canada Gazette.

Business number	Name
874392160RR0001	The Azamra Institute (Canada) Toronto, ON

Should the Organization choose 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, with 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:

Assistant Commissioner
Appeals Branch
Canada Revenue Agency
13th Floor
250 Albert Street
Ottawa ON K1A 0L5

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

A copy of the relevant provisions of the Act concerning revocation of registration, including appeals from a notice of intention 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 Form T2046, Tax Return Where Registration of a Charity is Revoked (the Return). The Return must be filed, and the tax paid, on or before the day that is one year from the date of the notice of intention to revoke. The relevant provisions of the Act concerning the tax applicable to revoked charities can also be found in Appendix B. Form T2046 and the related Guide RC4424, Completing the Tax Return Where Registration of a Charity is Revoked, are available on our website at canada.ca/charities-giving;
- 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 advise that subsection 150(1) of the Act requires that every corporation (other than a corporation that was a registered charity throughout the year) file a return of income with the Minister in the prescribed form, containing prescribed information, for each taxation year. The return of income must be filed without notice or demand.

Yours sincerely,



Tony Manconi
Director General
Charities Directorate

Enclosures

- Appendix A, Comments on representations
- Appendix B, Relevant provisions of the Act
- CRA letter dated October 18, 2017
- Organization's response letter dated November 16, 2017
- Compliance agreement signed on July 31, 2007

c.c.:  Allan Bortnick
Director
The Azamra Institute (Canada)

The Azamra Institute (Canada)**Comments on Representations**

The audit conducted by the Canada Revenue Agency (CRA) for the period from January 1, 2013 to December 31, 2014, revealed that The Azamra Institute (Canada) (the Organization) was not operating in compliance with the provisions of the Income Tax Act (Act). In our letter of October 18, 2017, the CRA provided the Organization with the opportunity to demonstrate why its charitable registration should not be revoked by responding to our concerns in the following areas:

- failure to devote its resources to charitable activities that it carried on itself - lack of direction and control over the use of resources/resourcing non-qualified donees;
- failure to issue donation receipts in accordance with the Income Tax Act (Act) and/or its Regulations;
- failure to maintain adequate books and records; and,
- failure to file an accurate T3010 Registered Charity Information Return.

We have reviewed and considered the Organization's representations of November 16, 2017. However, our concerns with respect to the areas of non-compliance stated above were not alleviated. As such, we maintain our position articulated in our letter of October 18, 2017, that the Organization's registration should be revoked.

The basis for our position is described below, including our responses to the Organization's representations.

Repeated non-compliance

This current audit is the Organization's second one, which is a follow-up of the Compliance Agreement (CA) resulting from the previous audit. The current audit found the same or similar issues of non-compliance as in the previous audit. During the previous audit, the CRA provided the Organization with the opportunity to address the identified areas of non-compliance by entering into a CA with the CRA. In the CA, which was signed on July 31, 2007, the Organization had agreed to implement the corrective measures set out therein January 1, 2008. Nonetheless, the current audit has demonstrated that the Organization has not implemented all the necessary corrective measures and continues to be non-compliant.

The findings of both audits have demonstrated a pattern of non-compliance, in which the Organization has continually gifted funds to a non-qualified donee, and failed to issue official donation receipts in accordance with the Act and/or its Regulations. Its failure and continued contravention of the rules and regulations of the Act constitute grounds for the revocation of its charitable status.

1) **Failure to devote resources to charitable activities carried on by the Organization itself: Lack of direction and control over the use of resources/resourcing non-qualified donees**

As indicated above, following a previous audit, the Organization entered into a CA with the CRA, dated July 31, 2007. During that audit, it was noted that the Organization had provided funds to The Azamra Institute (Israel), a non-qualified donee. As a corrective measure, set out in the CA, the Organization had agreed that it would enter into a written agency agreement with this organization if it wished to continue to support the organization in Israel.

The current audit found that the Organization failed to implement the written agreement or any other measures to establish appropriate direction and control over the use of resources sent abroad. While it continued to send funds to The Azamra Institute (Israel), the Organization did not provide the CRA with any documentation to demonstrate that it has had direction and control over the use of these funds. This finding illustrates an ongoing pattern of non-compliance by the Organization in this regard.

In its letter of November 16, 2017, the Organization indicated that it was unable to locate the signed copy of the agency agreement but assured the CRA that there was a verbal agreement. The Organization also indicated that, if required by the CRA, it would have a new agency agreement signed and executed between the Organization and The Azamra Institute (Israel). However, the Organization did not provide the CRA with a description of the terms of the verbal agreement in place, nor documentary evidence that the terms were being executed in the required manner to show that adequate direction and control of resources had been maintained.

Furthermore, in the same letter of November 16, 2017, the Organization indicated that during the 2013 fiscal period it had gifted funds in the amount of \$2,500 (cheque no. [REDACTED]) to [REDACTED] [REDACTED] on behalf of the Israeli branch of The Azamra Institute, which is located in Jerusalem, Israel. However, no supporting documentation or information was provided to the CRA to demonstrate that these funds were given to [REDACTED] to conduct the Organization's activities.

The Organization has not provided the CRA with additional details of its activities such as copies of brochures, pamphlets, publications, membership and fundraising correspondence, newsletters, press releases, media-related materials, or other related literature.

Based on the information provided to date to the CRA, the Organization's only activity during the audit period was the provision of funds to the above mentioned non-qualified donee. By financially supporting a non-qualified donee without appropriate direction and control, the Organization has failed to devote its resources to charitable activities as required by subsection 149.1(1) of the Act.

Consequently and notwithstanding the Organization's representation, it remains our position that this reason constitutes ground for revocation of the charitable status of the Organization under paragraph 168(1)(b) of the Act.

2) Failure to issue donation receipts in accordance with the Act and/or its Regulations

In the 2007 Compliance Agreement, the Organization agreed to implement corrective measures to issue donation receipts in accordance with the requirements of Regulation 3501 of the Act, and to refrain from issuing donation receipts for services rendered.

However, the current audit revealed that the official donation receipts issued by the Organization did not comply with the requirements of Regulation 3501 of the Act. In particular, the donation receipts were missing the following elements:

- a statement that it is an official receipt for income tax purposes;
- the address in Canada of the organization as recorded with the Minister;
- the place or locality where the receipt was issued;
- where the gift is a cash gift, the date on which or the year during which the gift was received;
- the signature of a responsible individual who has been authorized by the Organization to acknowledge gifts; and,
- the name and internet website of the Canada Revenue Agency.

In addition, the current audit found that the Organization issued receipts for services rendered. Specifically, during the 2013 fiscal period, receipt # [REDACTED] in the amount of \$2,000 was issued to [REDACTED] "in lieu of accounting fees"; similarly receipt # [REDACTED] in the amount of \$2,000 was issued to [REDACTED] "in lieu of accounting fees" during the 2014 fiscal period.

At law, a gift is a voluntary transfer of property. Gifts of services (donated time, skills, or efforts) provided to a charity are not property, and therefore, do not qualify as gifts for the purposes of issuing official donation receipts. The onus is with the Organization to ensure all official donation receipts are issued in accordance with the Act.

In its letter of November 16, 2017, the Organization indicated that it would make corrections to its official donation receipts to ensure compliance with Regulation 3501 of the Act. While the Organization may take steps to correct the future issuance of donation receipts to ensure compliance with the Act, it did not provide any representation as to why this repeated issue was not corrected as agreed upon in the Compliance Agreement.

Notwithstanding the Organization's response, our concern has not been alleviated. Consequently, it remains our position that the Organization issued receipts not in accordance with the Act and due to the fact that the Organization has shown a pattern of receipting errors and deficiencies throughout its history, there are grounds for revocation of the charitable status of the Organization under paragraph 168(1)(d) of the Act.

3) Failure to maintain adequate books and records

The current audit revealed that the Organization failed to maintain adequate books and records to permit the verification of the reported financial information. As such, we are unable to verify whether the Organization is satisfying its legal obligations under the Act or whether it is operating for charitable purposes.

In our letter of October 18, 2017, we provided three examples of non-compliance in this regard. Below we have discussed the examples, along with both the Organization's response regarding the non-compliance and our position after reviewing the Organization's response.

Artwork

On Line 4140, Long-term investments, of Schedule 6 of Form T3010, Registered Charity Information Return, the Organization reported a balance of \$10,342,266 for both the fiscal period ended on December 31, 2013, and the fiscal period ended on December 31, 2014. Per the Organization's financial statements for each of these periods, this amount consists exclusively of paintings (i.e., artwork).

During the previous audit, it was determined that the Organization acquired the artwork via donations, and that the value had been overstated. While the Organization was not instructed to amend the T3010, it was aware of the overvaluation of the paintings. During the current audit, we noted that no corrections were made to the T3010 and that the Organization has reported the same amount on Line 4140 on all T3010's filed subsequent to the previous audit. Furthermore, we were unclear as to whether the Organization was still in possession of the artwork at the time our October 18, 2017, letter was written.

In its response of November 16, 2017, the Organization confirmed that it was still in possession of the artwork. The Organization also stated that, to the best of its knowledge, it was never advised by the CRA of how the CRA determined that the artwork was overvalued; nor was it provided with a proper valuation of the artwork.

We acknowledge the confirmation from the Organization that it is still in possession of the artwork. On the other hand, the Organization sustained in its representation that it was never informed by CRA that the artwork "was overvalued nor was it provided a current evaluation". While the valuation of the artwork was mentioned in the CA, the Organization was not explicitly required to make any adjustments nor was it required to update subsequent T3010s. As such, this issue is not included in decision to proceed with revocation.

Accounts payable and accrued liabilities

On Line 4300, Accounts payable and accrued liabilities, of Schedule 6 of the T3010 for the periods ended December 31, 2013, and December 31, 2014, the Organization reported a balance of \$3,338. This amount was also reported in the Organization's financial statements for each of these fiscal periods. During the current audit, the Organization did not provide any documentation or information to support this balance, and as such we could not confirm the validity of the liability or what it was related to.

In the Organization's response of November 16, 2017, it explained that the reported amount dated back to 2004. However, the Organization did not have any documentation or information as to what the amount was for and that an adjustment to zero would be made.

Though the Organization did not have information or records to support the above identified liability, it continued to report the amount in both its T3010 and its financial statements. While the Organization's responded to our concerns regarding this liability, it was unable to identify the source or explain the purpose of the liability. Therefore, it remains our position that the Organization failed to maintain adequate books and records to support the requirements of subsection 230(2) of the Act.

Meeting Minutes

In our letter of October 18, 2017, we informed the Organization of our concern that it did not provide us with its meeting minutes as requested at the commencement of the audit. Consequently, we were not able to gain an understanding of the Organization's operations and internal control.

In the Organization's response dated November 16, 2017, it indicated that it did not recall the CRA's request for meeting minutes, and that authorization was provided to the CRA to speak with [REDACTED] to obtain an understanding of the Organization's operations and internal control.

Firstly, we did ask the Organization to provide us with its meeting minutes in a questionnaire sent along with our initial contact letter of April 7, 2016. In that questionnaire, we asked the Organization to "Provide a list of the names of each committee with their functional responsibilities including a list of members. Provide a copy of each committee's minutes for both fiscal periods under audit."

Secondly, though the Organization provided the CRA with authorization to speak with [REDACTED], it is the Organization's responsibility to provide the CRA with the required documentation to support that the Organization took all necessary measures to direct and control the use of its resources when carrying out activities through an intermediary. By not

providing us with any of its meeting minutes, the Organization was unable to illustrate how its decisions regarding foreign aid were made and how it had planned to maintain direction and control over the funds sent abroad. As a result, the Organization has failed to meet this requirement.

Furthermore, as stated above the Organization indicated that some of its records are kept in Israel by [REDACTED]. In doing so, the Organization has not complied with the requirement to keep all records and books of account at an address in Canada, as outlined in subsection 230(2) of the Act.

In conclusion, the Organization's response has not alleviated our concerns. Therefore, our position remains that the Organization has failed to maintain adequate books and records. As such, the Organization's registered status as a charity should be revoked under paragraph 168(1)(e) of the Act.

4) Failure to file an accurate T3010 Registered Charity Information Return

The audit revealed that the Organization improperly completed the T3010 for both fiscal periods under audit. In our letter of October 18, 2017, we informed the Organization of the following reporting errors (in its T3010s):

- completed both Section D: Financial Information and Schedule 6 (2013 & 2014);
- reported an asset at an overstated value after being informed of the asset's proper fair market value (2014);
- reported a gift to a non-qualified donee as though it were a gift to a qualified donee after being informed in a prior audit that the entity was not a qualified donee (2013); and,
- reported NIL on lines 5000 and 5010 (2013 & 2014).

In the Organization's response of November 16, 2017, it indicated that the errors made on the T3010 for each fiscal period under audit may be a result of the "oversight and sloppiness" by the accountant, [REDACTED]. However, with respect to gifting funds to The Azamra Institute (Israel), which is not a qualified donee, the Organization acknowledged the gifts made but stated that it understood The Azamra Institute (Israel) to be a qualified donee.

Regarding The Azamra Institute (Israel)'s status, the CRA advised the Organization that The Azamra Institute (Israel) was not a qualified donee. Furthermore, the Organization was informed that should it wish to continue its financial support of The Azamra Institute (Israel), or any other non-qualified donee (to work for the Organization as an intermediary), the Organization would be required to substantiate that it has direction and control over the resources it made available to the intermediary.

During the current audit, the Organization did not provide documentation to support that The Azamra Institute (Israel) was conducting activities on behalf of the Organization. Therefore, it remains our view that the transfers made to the Azamra Institute (Israel constitute gifts to a non-qualified donee, which is a contravention of the Act.

As the Organization's response has not alleviated our concerns, it remains our position that the Organization has failed to file an accurate T3010 Registered Charity Information Return. As such, it is our opinion that the Organization's registered status as a charity should be revoked under paragraph 168(1)(c) of the Act.

Qualified Donees

149.1 (1) Definitions

charitable foundation means a corporation or trust that is constituted and operated exclusively for charitable purposes, no part of the income of which is payable to, or is otherwise available for, the personal benefit of any proprietor, member, shareholder, trustee or settlor thereof, and that is not a charitable organization

charitable organization, at any particular time, means an organization, whether or not incorporated,

(a) constituted and operated exclusively for charitable purposes,

(a.1) all the resources of which are devoted to charitable activities carried on by the organization itself,

(b) no part of the income of which is payable to, or is otherwise available for, the personal benefit of any proprietor, member, shareholder, trustee or settlor thereof,

(c) more than 50% of the directors, trustees, officers or like officials of which deal at arm's length with each other and with

(i) each of the other directors, trustees, officers and like officials of the organization,

(ii) each person described by subparagraph (d)(i) or (ii), and

(iii) each member of a group of persons (other than Her Majesty in right of Canada or of a province, a municipality, another registered charity that is not a private foundation, and any club, society or association described in paragraph 149(1)(l)) who do not deal with each other at arm's length, if the group would, if it were a person, be a person described by subparagraph (d)(i), and

(d) that is not, at the particular time, and would not at the particular time be, if the organization were a corporation, controlled directly or indirectly in any manner whatever

(i) by a person (other than Her Majesty in right of Canada or of a province, a municipality, another registered charity that is not a private foundation, and any club, society or association described in paragraph 149(1)(l)),

(A) who immediately after the particular time, has contributed to the organization amounts that are, in total, greater than 50% of the capital of the organization immediately after the particular time, and

(B) who immediately after the person's last contribution at or before the particular time, had contributed to the organization amounts that were, in total, greater than 50% of the capital of the organization immediately after the making of that last contribution, or

(ii) by a person, or by a group of persons that do not deal at arm's length with each other, if the person or any member of the group does not deal at arm's length with a person described in subparagraph (i)

qualified donee, at any time, means a person that is

- (a) registered by the Minister and that is
 - (i) a housing corporation resident in Canada and exempt from tax under this Part because of paragraph 149(1)(i) that has applied for registration,
 - (ii) a municipality in Canada,
 - (iii) a municipal or public body performing a function of government in Canada that has applied for registration,
 - (iv) a university outside Canada, the student body of which ordinarily includes students from Canada, that has applied for registration, or
 - (v) a foreign charity that has applied to the Minister for registration under subsection (26),
- (b) a registered charity,
- (b.1) a registered journalism organization,
- (c) a registered Canadian amateur athletic association, or
- (d) Her Majesty in right of Canada or a province, the United Nations or an agency of the United Nations.

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;
- (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; and
- (f) of a registered charity, if it accepts a gift from a foreign state, as defined in section 2 of the State Immunity Act, that is set out on the list referred to in subsection 6.1(2) of that Act.

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.

Tax and Penalties in Respect of Qualified Donees**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) a registered charity

- (i) 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,
- (ii) that is not the subject of a suspension under subsection 188.2(1),
- (iii) that has no unpaid liabilities under this Act or under the Excise Tax Act,
- (iv) that has filed all information returns required by subsection 149.1(14), and
- (v) 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; or

(b) a municipality in Canada that is approved by the Minister in respect of a transfer of property from the particular charity.

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) Joint and several, or solidary, liability – tax transfer

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 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 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 described in paragraph 188(1.3)(a) 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.



****REGISTERED****

The Azamra Institute (Canada)

BN: 87439 2160RR0001

File #: 3003444

October 18th, 2017

Subject: Audit of The Azamra Institute (Canada)

Dear [REDACTED] Bortnick:

This letter is further to the audit of the books and records of The Azamra Institute (the Organization) conducted by the Canada Revenue Agency (CRA). The audit related to the operations of the Organization for the period from January 1, 2013 to December 31, 2014. We acknowledge receipt of Mr. Wortzman's letter of April 20, 2017, in which he indicates he has resigned as director. However formal notification has not been provided to CRA. Therefore it is CRA's opinion that Mr. Wortzman is still acting in his fiduciary capacity as director and as such he has been provided with a copy of this letter.

Further to your submission on May 11th, 2017, we are advising that the CRA has 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 All of Its Resources to its Charitable Purposes & Activities	149.1(1), 149.1(2)(c), 168 (1)(b)
2.	Issuing Receipts Not in Accordance with the Act and/or its Regulations	149.1(2) 168(1)(d), Reg. 3501
3.	Failure to Maintain Adequate Books and Records	149.1(2), 168(1)(e), 230(2)
4.	Failure to File an Accurate T3010 Registered Charity Information Return	149.1(1), 168(1)(c)

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.

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

Identified areas of non-compliance

1. Failure to devote resources to charitable activities carried on by the Organization itself:

Lack of direction and control over the use of resources / resourcing non-qualified donees

Subsection 149.1(1) of the Act defines a charitable organization, which reads in part as:

“charitable organization”, at any particular time, means an organization, whether or not incorporated,

(a) all the resources of which are devoted to charitable activities carried on by the organization itself [...]

Accordingly, a charitable organization must be careful about how it carries on its activities and it must ensure that it keeps sufficient direction and control over its resources, or it could possibly be transferring money to non-qualified donees, which is not a charitable activity.

Though made in reference to an agency relationship, the underlying principles enunciated by the Federal Court of Appeal in *Canadian Committee for the Tel Aviv Foundation v Canada* are applicable to most intermediary arrangements:

Under the scheme of the Act, it is open to a charity to conduct its overseas activities either using its own personnel or through an agent. However, it cannot merely be a conduit to funnel donations Overseas.¹

And

Pursuant to subsection 149.1(1) of the Act, a charity must devote all its resources to charitable activities carried on by the organization itself. While a charity may carry on its charitable activities through an agent, the charity must be prepared to satisfy the Minister that it is at all times both in control of the agent, and in a position to report on the agent's activities.²

¹ *Canadian Committee for the Tel Aviv Foundation v Canada*, 2002 FCA 72 at para 30, [2002] 2 CTC 93.

² *Canadian Committee for the Tel Aviv Foundation v Canada*, 2002 FCA 72 at para 40, [2002] 2 CTC 93.

As re-iterated by the Court in *Lepletot v MNR*³, an organization may carry on charitable activities through an agent if the activities are conducted on behalf of the organization. However, it is not enough for an organization to fund an intermediary that carries on certain activities. The Act requires that the intermediary actually conduct those activities on the organization's behalf. Likewise, the Court in *Canadian Magen David Adom for Israel* mentions the importance of monitoring the activities when it stated that:

[A] charity that chooses to carry out its activities in a foreign country through an agent or otherwise must be in a position to establish that any acts that purport to be those of the charity are effectively authorized, controlled and monitored by the charity.⁴

Consequently, where a registered charity undertakes an activity through an intermediary, it must be able to substantiate that it has actually arranged for the conduct of that specific activity on its behalf and has not simply made a transfer of funds to a non-qualified donee. It must be able to demonstrate that it maintains direction and control over, and is fully accountable for, the use of its resources. To this end, a charity would be expected to:

- select the activity that it will conduct with or through an intermediary based on the fact that it will further the charity's charitable purposes, and after being satisfied that the intermediary is capable of conducting the activity on the charity's behalf; and,
- supervise/direct, and make significant decisions in regard to the conduct of, the activity on an ongoing basis.

To this end, the Organization is required to establish that it maintains continued direction and control over the substantive charitable activities that are ostensibly being carried out on its behalf. In this regard, the existence of an arrangement with an intermediary, written or otherwise, is not enough to prove that a charity meets the own activities test. The Organization must be able to show that the terms of any arrangement establish a real, ongoing, active relationship with the intermediary,⁵ and are actually implemented. For instance, the documentation should include:

- a clear, complete, and detailed description of the activity that is to be conducted, how it furthers the charitable purposes of the Organization and how it is to be carried out by the project participant on the Organization's behalf, including parameters, deliverables, milestones or goals;
- provision for real and effective monitoring and supervision of the activity, and the project participant carrying on the activity, with mechanisms for someone

³ *Lepletot v MNR*, 2006 FCA 128 at para 5, [2006] 3 CTC 252.

⁴ *Canadian Magen David Adom for Israel v MNR*, 2002 FCA 323 at para 66, [2002] FCJ no 1260.

⁵ See notably *Canadian Committee for the Tel Aviv Foundation v Canada*, 2002 FCA 72 at para 40, [2002] 2 CTC 93.

accountable to the Organization to give instructions about, have input into, and modify the nature or scope of, the activity on an on-going basis; and

- a requirement for the Organization to receive regular, meaningful reports as the activity progresses. To be meaningful, reporting requirements must specify issues to be covered, and when they must be submitted, to ensure the Organization has the opportunity to make significant decisions in regard to the conduct of the activity on a timely and ongoing basis.

Audit Findings

It is our opinion that during the audit period, the Organization has made its resources available to the Azamra Institute (Israel), which is a non-qualified donee under the Act.

The Organization had entered into a compliance agreement, dated July 31, 2007, as a result of the previous audit conducted by CRA. During that audit, it was noted that the Organization had gifted funds to a non-qualified donee (The Azamra Institute, Jerusalem, Israel), and the Organization agreed to enter into an agency agreement in the future as it wished to continue to support the organization in Israel. To date we have not been provided with an agency agreement between The Azamra Institute (Canada) and The Azamra Institute (Israel). However, the Organization gifted \$2,500 (chq #: [REDACTED]) in the 2013 fiscal period to [REDACTED] on behalf of the Israeli branch of The Azamra Institute located in Jerusalem, Israel.

Furthermore, the Organization has not provided the CRA with any additional details of the Organization's activities such as copies of brochures, pamphlets, publications, membership and fundraising correspondence, newsletters, press releases, media-related materials, and other related literature. Based on the information we obtained for purposes of the audit, it appears that the Organization's only activity during the audit period was the gifting of funds to the above mentioned non-qualified donee. As such, it is our position that the Organization does not devote its resources to charitable activities carried on by the Organization itself.

Conclusion

Accordingly, it is our position that the Organization has failed to meet the requirements of subsections 149.1(1) and 149.1(6.2) of the Act that it devote substantially all its resources to charitable activities carried on by the Organization itself. For this reason, it appears there may be grounds for revocation of the charitable status of the Organization under paragraph 168(1)(b) of the Act.

2. Failure to issue donation receipts in accordance with the Act and/or its Regulations

The law provides various requirements with respect to the issuing of official donation receipts by registered charitable organizations. These requirements are contained in *Regulations 3500 and 3501 of the Act*.

Audit Findings

Missing Elements

The official donation receipts issued by the Organization were missing the following elements:

- a statement that it is an *official receipt for income tax purposes*;
- the address in Canada of the organization as recorded with the Minister;
- the place or locality where the receipt was issued;
- where the gift is a cash gift, the date on which or the year during which the gift was received;
- the signature of a responsible individual who has been authorized by the organization to acknowledge gifts; and,
- the name and Internet website of the Canada Revenue Agency.

Receipting for Gifts of Services

Policy Commentary CPC-017 states: contributions of services, that is, of time, skills or efforts, are not property, and therefore they do not qualify as gifts for purposes of issuing official donation receipts. Accordingly, a charity cannot issue an official donation receipt for services rendered free of charge. Conversely, a charity may issue an official donation receipt if a person provides a service to the charity, the charity pays for the service, and the person then returns the payment to the charity as a gift. In such circumstances, two transactions have taken place, the first being the provision of a service and the payment flowing therefrom, and the second being a gift proper.

The parties should be advised to proceed by way of an exchange of cheques. This ensures the presence of an audit trail, as the donor must account for the taxable income that would be realized either as remuneration (in which case the charity may also be required to issue a T4 slip) or as business income.

The audit revealed there were two receipts issued during the audit period for services. Receipt #: [REDACTED] to [REDACTED] in the amount of \$2,000.00 for fiscal period ending December 31, 2013 was issued "in lieu of accounting fees". Receipt #: [REDACTED] to [REDACTED] in the amount of \$2,000.00 for fiscal period ending December 31, 2014 was

issued "in lieu of accounting fees". A review of the bank account did not reveal any cheques being written to cover these expenses.

Conclusion

Under paragraph 168(1)(d) of the Act, the Minister may, by registered mail, give notice to the registered charity that the Minister proposes to revoke its registration if it issues a receipt otherwise than in accordance with the Act and its *Regulations*. It is our position that the Organization has issued receipts otherwise than in accordance with the Act and the *Regulations*. For each reason identified above (i.e., missing required elements on official receipts, and receipting for gifts of services), it appears to us that there may be grounds for revocation of the charitable status of the Organization under paragraph 168(1)(d) of the Act.

3. Failure to Maintain Adequate Books and Records:

Subsection 230(2) of the Act requires that every registered charity maintain adequate books and records, and books of account, at an address in Canada recorded with the Minister. In addition to retaining copies of donation receipts, as explicitly required by subsection 230(2), subsection 230(4) provides that,

"Every person required by this section to keep records and books of account shall retain

- (a) the records and books of account referred to in this section in respect of which a period is prescribed, together with every account and voucher necessary to verify the information contained therein, for such period as is prescribed; and
- (b) all other records and books of account referred to in this section, together with every account and voucher necessary to verify the information contained therein, until the expiration of six years from the date of the end of the last taxation year to which the records and books of account relate."

The policy of the CRA relating to the maintenance of books and records, and books of account, is based on several judicial determinations, which have held that:

- it is the responsibility of the registered charity to prove that its charitable status should not be revoked⁶;

⁶ *The Canadian Committee for the Tel Aviv Foundation vs. Her Majesty the Queen*, 2002 FCA 72 (FCA)

- the failure to maintain proper books, records and records of account in accordance with the requirements of the Act is itself sufficient reason to revoke an organization's charitable status⁷, and
- a registered charity must maintain, and make available to the CRA at the time of an audit, meaningful books and records, regardless of its size or resources. It is not sufficient to supply the required documentation and records subsequent thereto.⁸

Audit Findings

The audit revealed that the Organization failed to maintain adequate books and records to permit the verification of the reported financial information, that the Organization is satisfying its legal obligations under the Act and that it is operating for charitable purposes.

The Organization reports assets on Schedule 6 on Line 4140, Long-term investments, valued at \$10,342,266.00 which per the accompanying financial statements are paintings (i.e., artwork). During the previous audit, it was determined the Organization had acquired the paintings from [REDACTED], the agent, and that the value had been overstated.⁹ While the Organization was not instructed to amend the T3010, it was aware of the overvaluation of the paintings. No corrections were made to the T3010 and the Organization has reported the same amount on Line 4140 on all T3010's filed subsequent to the audit period. It is unclear if the Organization is still in possession of the paintings.

In addition, the Organization reports an amount on Line 4300 – Accounts Payable and accrued liabilities of \$3,338.00 for both the 2013 and 2014 fiscal periods. Neither supporting documentation nor information were provided to explain the nature of the liability. As such, CRA could not verify if the liability actually (legally) existed, and if so, what it is related to.

Furthermore, the Organization did not provide the CRA with its meeting minutes. As such, during the course of the audit, we were not able to gain an understanding of the Organization's operations and internal controls. While CRA was provided with authorization to speak with [REDACTED] in Israel, it is the responsibility of the Organization to provide CRA with the required documentation to support that the Organization took all necessary measures to direct and control the use of its resources when carrying out activities through an intermediary. As the Organization is clearly not

⁷ *(College Rabbinique de Montreal Oir Hachaim D'Tash v. Canada (Minister of the Customs and Revenue Agency, (2004) FCA 101; ITA section 168(1)*

⁸ *Supra, footnote 3; The Lord's Evangelical Church of Deliverance and Prayer of Toronto v. Canada, (2004) FCA 397*

⁹ The actual fair market value of the artwork was determined to be equal to the actual amount paid by the agent, [REDACTED]

keeping all of their records in Canada (i.e., [REDACTED] has some of the Organization's records with him in Israel), it is not complying with subsection 230(2) of the Act.

Conclusion

Under paragraph 168(1)(e) of the Act, the Minister may, by registered mail, give notice to the charity that the Minister proposes to revoke its registration because it fails to comply with or contravenes section 230 of the Act dealing with books and records. It is our position the Organization has failed to comply with and has contravened section 230 of the Act. For this reason alone there may be grounds to revoke the registered status of the Organization under paragraph 168(1)(e) of the Act.

4. Failure to File an Accurate T3010 Registered Charity Information Return

Pursuant to subsection 149.1(14) of the Act, every registered charity must, within six months from the end of the charity's fiscal period (taxation year), without notice or demand, file a *Registered Charity Information Return* (T3010) with the applicable schedules.

It is the responsibility of the Organization to ensure that the information that is provided in its T3010, schedules and statements, is factual and complete in every respect. A charity is not meeting its requirement to file an information return if it fails to exercise due care with respect to ensuring the accuracy thereof.

Audit Findings

The Organization improperly completed the T3010 for the fiscal period ending December 31, 2014 in that items reported were omitted or inaccurate.

Specifically:

- Section D: Financial Information was completed as well as Schedule 6;
- the Organization was advised with the previous audit that the amount of \$10,342,266.00 reported as a long-term investment may have been overstated; however, no corrections were made; and
- Lines 5000 and 5010 were left blank.

The Organization improperly completed the T3010 for the fiscal period ending December 31, 2013 in that items reported were omitted or inaccurate.

Specifically:

- Section D: Financial Information was completed as well as Schedule 6;
- the Organization indicated it gifted funds to a qualified donee or other organization; however the funds were gifted to The Azamra Institute (Israel), which is in fact not a qualified donee;
- Lines 5000 and 5010 were left blank.

Conclusion

Under paragraph 168(1)(c) of the Act, the Minister may, by registered mail, give notice to the registered charity that the Minister proposes to revoke its registration if it fails to file an information return as and when required under the Act. It is our position the Organization has failed to comply with the Act by failing to file an accurate T3010. For this reason there may be grounds to revoke the registered status of the Organization under paragraph 168(1)(c) 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.

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, Maria Grieco, may also be reached at 519-584-3974.

Yours sincerely,

A solid black rectangular box used to redact a signature.

Sherry Head, Auditor
Audit Division - Charities

c.c.: Moe Wortzman, 501-80 Richmond Street West, Toronto, ON M5H 2A4

THE AZAMRA INSTITUTE (CANADA)
80 RICHMOND STREET WEST, SUITE 501
TORONTO, ONTARIO M5H 2A4

DATE: November 16, 2017

TO: **CANADA REVENUE AGENCY**
166 Frederick Street
Kitchener, Ontario N2H 0A9

ATT: Sherry Head, Auditor, Compliance Programs Branch

FAX: 519-585-2803

NUMBER OF PAGES (incl cover page):

Attached is our response to your registered letter of October 18, 2017 addressed to [REDACTED] Allan Bortnick.

Moe Wortzman

THE AZAMRA INSTITUTE (CANADA)
80 RICHMOND STREET WEST, SUITE 501
TORONTO, ONTARIO M5H 2A4

November 16, 2017

CANADA REVENUE AGENCY
166 Frederick Street
Kitchener, Ontario N2H 0A9

SENT VIA FAX: 519-585-2803

ATTENTION: Sherry Head, Auditor, Compliance Programs Branch

Dear Sherry,

RE: Audit of Registered Charity – Business Number: 87439 2160RR0001

This letter is in response to your registered letter of October 18th, 2017 addressed to [REDACTED] Allan Bortnick, Director of THE AZAMRA INSTITUTE (CANADA).

For the record, I, Moe Wortzman was the Secretary/Treasurer for THE AZAMRA INSTITUTE (CANADA) and as a result, have been asked to respond to your questions in connection with your recent audit.

[REDACTED]

[REDACTED] was the Accountant for THE AZAMRA INSTITUTE (CANADA). Due to his expertise on financial matters, we relied on him to accurately prepare financial documents/filings and maintain financial records. As a result, when I was presented with any documents to sign, I reviewed them from a general perspective without attention to detail as I relied on [REDACTED] to accurately reflect the information.

Background

THE AZAMRA INSTITUTE (CANADA) was originally incorporated on February 25, 1999 under the Ontario Corporation Number (OCN) 001333145 with the registered office address as [REDACTED]

[REDACTED]

Since inception, including the audit period of January 1, 2013 to December 31, 2014, [REDACTED] [REDACTED] was responsible for providing Accounting and Income Tax Services to THE AZAMRA INSTITUTE (CANADA). At all material times, [REDACTED] was fully licensed as a Certified Management Accountant. He received the designation from [REDACTED] [REDACTED] [REDACTED] on [REDACTED] after completing a [REDACTED] [REDACTED]. In 2014, all of Canada's Chartered Accountants (CAs), Certified Management Accountants (CMAs) and Certified General Accountants (CGAs) agreed to merge under a new Chartered Professional Accountants (CPA) banner.

Since December 1, 2015, THE AZAMRA INSTITUTE (CANADA) severed its relationship with [REDACTED]. [REDACTED]; therefore, our ability to obtain clarification on matters during the period of this audit is limited as we have had no further contact with [REDACTED]. As a result, our ability to definitively respond to all questions/queries in your letter is limited to our access to hard copy and electronic files available.

Responses

1. Failure to devote resources to charitable activities carried on by the Organization itself
Agency Agreement between THE AZAMRA INSTITUTE (CANADA) and THE AZAMRA INSTITUTE (ISRAEL) entered into in July 31, 2007 is still in effect today. We have not been able to locate the actual signed document with THE AZAMRA INSTITUTE (ISRAEL). However, there certainly was an oral agreement between the parties. I discussed this extensively with [REDACTED]. If a written agreement is a requirement from the CRA, THE AZAMRA INSTITUTE (CANADA) will endeavour to have a new agreement duly signed and executed between the two parties (Canada and Israel).

The Organization gifted \$2,500 (cheque # [REDACTED]) in the 2013 fiscal period to [REDACTED] [REDACTED] on behalf of the Israeli branch of THE AZAMRA INSTITUTE located in Jerusalem, Israel.

2. Failure to issue donation receipts in accordance with the Act and/or its Regulations
As referenced above, [REDACTED] [REDACTED] was responsible for keeping and recording all of the financial records of THE AZAMRA INSTITUTE (CANADA) including issuing the official tax receipts. We cannot speak to why the tax receipts issued did not include the following elements as outlined in your letter:

- A statement that it is an *official receipt for income tax purposes*;
- The address in Canada of the organization as recorded with the Minister;
- The place or locality where the receipt was issued;
- Where the gift is a cash gift, the date on which or the year during which the gift was received;
- The signature of a responsible individual who has been authorized by the organization to acknowledge gifts; and
- The name and Internet website of the Canada Revenue Agency.

With respect to bullet 2 above, the address shown on the tax receipts is [REDACTED]. We are unable to confirm why this change was made to the tax receipts; however, moving forward, we will ensure the address reflects the location of the head office on record with the Minister. The former accountant may have made the change without anyone's knowledge.

With respect to bullet 4 above, the donation receipt sent to the donator did have an official signature from one of the Directors, namely, Moe Wortzman. (See attached for a sample of a donation receipt issued during the audit period and signed).

Now that we understand ALL of the elements required to appear on the tax receipt, we will modify and adjust our records accordingly in order to properly issue receipts in the future.

With respect to the two receipts issued during the audit period for services provided by [REDACTED] [REDACTED] issued "in lieu of accounting fees" each in the amount of \$2,000 (receipt # [REDACTED] for fiscal period ending December 31, 2013 and receipt # [REDACTED] for the fiscal period ending December 31, 2014), these receipts were agreed to by the Directors on the advice of [REDACTED], [REDACTED], who was a Certified Management Accountant during the period of review, advised the directors that remuneration for his accounting and tax services provided to THE AZAMRA INSTITUTE (CANADA) should be handled through providing income tax/donation receipts. We understand now, that this information provided by [REDACTED] was improper and we have amended our procedures accordingly. At that time, THE AZAMRA INSTITUTE (CANADA) was not aware of the requirement that they were to receive and pay an invoice for the service and if the service provider wanted to donate these fees back to the organization, a tax receipt would be issued.

Moving forward, THE AZAMRA INSTITUTE (CANADA) will ensure the two step process is used to ensure the presence of an audit trail.

3. Failure to Maintain Adequate Books and Records

The Long-Term Investments which are paintings (i.e. artwork) acquired through the clients of [REDACTED], donated to THE AZAMRA INSTITUTE (CANADA), are still in the possession of the Organization. During the previous audit CRA claimed the value of these paintings per the financial statements was overvalued at \$10,342,266. To the best of our knowledge, THE AZAMRA INSTITUTE (CANADA) was not advised how the CRA determined this asset was overvalued nor was it provided a current evaluation.

The Accounts Payable and Accrued Liabilities in the amount of \$3,338, appearing for both the 2013 and 2014 fiscal periods, dates back to 2004 with the same amount. In 2003, the accounts payable was \$2,571. We have no information to explain what this amount is for and will be adjusting this amount down to zero since there are no expenses outstanding.

At no time do we recall the request by the CRA for meeting minutes. The CRA was provided with authorization to speak with [REDACTED] in Israel to obtain an understanding of the Organization's operations and internal controls. If the CRA wishes, we will reach out to

[REDACTED] to receive a statement in writing from him to address THE AZAMRA INSTITUTE (CANADA)'s operations and internal controls and provide same to the CRA in due course.

4. Failure to File an Accurate T3010 Registered Charity Information Return

As mentioned previously, [REDACTED] completed the T3010 *Registered Charity Information Return* for each of the fiscal period ending December 31, 2014 and December 31, 2013. Therefore, we cannot speak to why for 2014 the long-term investments are still overstated nor why lines 5000 and 5010 were left blank. We presume the lines left blank was an oversight and sloppiness by [REDACTED] who has been replaced as the accountant.

Similarly, for the 2013 return, THE AZAMRA INSTITUTE (ISRAEL) was gifted funds as a qualified donee. In the *Registered Charity Information Returns* for the fiscal year ended December 31, 2010 THE AZAMRA INSTITUTE (ISRAEL) is shown as a qualified donee. Therefore, since THE AZAMRA INSTITUTE (CANADA) had an oral agreement and emails which are extant with THE AZAMRA INSTITUTE (ISRAEL) it was our understanding THE AZAMRA INSTITUTE (ISRAEL) continues to be a qualified donee, therefore they continued to receive gifted funds in 2013. As well, we have to presume lines 5000 and 5010 were left blank inadvertently because of the oversight and sloppiness by the former accountant.

We trust the above is sufficient to address the CRA's questions/queries outlined in your registered letter of October 18, 2017.

Thank you [REDACTED]

Moe Wortzman

Cc: [REDACTED] Allan Bortnick, [REDACTED]

"Compliance Agreement"

Between:

THE AZAMRA INSTITUTE (CANADA) (the "Charity")
BN # 874392160RR0001

And

Canada Revenue Agency (the "CRA")

During an audit of the Charity's books and records, the following areas of non-compliance with the provisions of the *Income Tax Act* (the "ITA") or its Regulations were identified.

Information Return

Subsection 149.1 (14) of the Act provides that every registered charity shall, within six (6) months from the end of each taxation year of the charity, file with the Minister both an Information Return and Public Information Return for the year, each in prescribed form and containing prescribed information, without notice or demand therefore.

Pursuant to paragraph 168 (1) (c) of the Act, where a registered charity fails to file an information return as and when required by the Act, the Minister may give it notice that he proposes to revoke its registration or apply penalties provided for in 188.1 and/or 188.2 of the ITA.

Errors in Completion of the Information Return:

- a) Gifts from other Registered Charities not reported on Line #4510
- b) Other revenues not reported separately (i.e. books sales)
- c) Expenditures not reported on Lines # 4800 to # 4920
- d) Management & Administration expenses not report on Line #5010
- e) Gifts to Qualified Donees (Line #5050) completed in error

Gifting to Non-Qualified Donees (The Azamra Institute, Jerusalem, Israel)/under the Income Tax Act, qualified donees are organizations that can issue official donation receipts for gifts that individuals and corporations make to them.

They are as follows: a registered charity; a registered Canadian amateur athletic association; a housing corporation resident in Canada constituted exclusively to provide low-cost housing for the aged; a Canadian municipality; the United Nations and its agencies; a university that is outside Canada that is prescribed to be a university the student body of which ordinarily includes students; charitable organization outside Canada to which Her Majesty in right of Canada has made a gift during the fiscal period or in the 12 months immediately preceding the period and Her Majesty in right of Canada or a province.

Making gifts to a donee (other than a qualified donee, as defined pursuant to paragraph 149.1(1) (h) of the Act) who does not qualify as an object of the charity is not regarded as charitable purposes. Hence, the charity may be seen as not being operated for charitable purposes, and may be subject to sanctions or financial penalty in the future.

Agency Agreements: (The Azamra Institute, Jerusalem, Israel)

Audit evidence indicates that the Charity did not maintain proper "Agency Agreements" in accordance with RC4106(E) Registered Charities: Operating Outside Canada.

Under the Income Tax Act, a registered charity can carry on its charitable activities, both inside and outside Canada, in only two (2) ways: it can make gifts to other organizations that are qualified donees or it can carry on its own charitable activities through intermediaries (e.g., employees, missionaries, agent or contractor).

When carrying on its charitable activities outside Canada, a registered charity must put in place a formal agreement with the intermediary and must be able to demonstrate that it retains direction and control over the use of its resources.

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

These reports should be supported with documentary evidence such as: copies of written agreements, financial statements, invoices, pictures, minutes of meetings, or any other materials that reflect the charity's ongoing participation and that show how the charity's funds are used.

Disbursement Quota

Disbursement quota for 2003, 2004 and 2005 adjusted due to Gifts to Non-Qualified Donees.

Legislation:

In order to maintain its status as a charitable organization within the meaning of paragraph 149.1(2)(b) of the Act, a registered charity must, in any taxation year, expend amounts that are equal to at least 80% of the aggregate amounts for which it issued donation receipts in its immediately preceding taxation year. A charity is allowed by virtue of 149.1(20) of the Act to offset any shortfalls in its disbursement quota by applying any excesses in its disbursement quota from its immediately preceding taxation year and 5 or less of its immediately subsequent taxation years.

In considering the application of expenditures used to meet the disbursement quota a charity must ensure that it is expensed directly on charitable activities and/or programs. This would include such payments as salaries to persons performing duties directly related to a charitable program, but would not include amounts paid for purely administrative expenses such as fund-raising costs, legal or accounting fees and the like.

Donation Receipts

All donation receipts will be issued in accordance with Regulation 3501 and IT-110R3.

Specifically:

- Each official donation receipt will contain the Charity's registration number, name and address as recorded with the CRA.
- Each official donation receipt will include the statement "Official Receipt for Income Tax Purposes."
- A unique serial number
- The day on which or the year during which the donation was received or where property other than cash is received, the actual date, and details of the property, and name and address of the appraiser.
- Amount of the gift
- Name and address of the donor
- The signature of an authorized person
- The name Canada Revenue Agency and the website address
www.cra.arc.gc.ca/charities

Tax-Shelter Program

Tax-receipt Donation issued for more than the Fair Market Value:

The Canada Revenue Agency (CRA) has completed the review of your tax receipted donation issued for artwork resulting from your participation in the [REDACTED] in 2000, 2001, 2002 and 2003.

Based on our review of the circumstances under which you reported donation. It is our position that the value of the signed art prints ("Artwork) indicated on your donation receipt were overstated. It is not the fair market value ("FMV") of the donated Artwork as required by Section 118.1 of the Income Tax Act.

In the case of the [REDACTED], all the Artwork was acquired in bulk by [REDACTED] for individuals that donated them to charities. This was the normal course of business for [REDACTED]. These acquisitions indicate that there was a market for the groups of Artwork, and this market in which [REDACTED] acquired the Artwork is the relevant market for purposes of determining the fair market value of the Artwork.

Our position is that the true fair market value of the Artwork is equal to 50% of the total cost before any discount. We arrived at this determination after conducting a review of your agent - [REDACTED]. During this review we discovered that 50% of your receipt amount less any discount was kept as a commission or fee by [REDACTED] for acting as your "Agent" for the purpose of acquiring the Artwork from one or more dealers. The remaining 50% of the receipt amount receipt before discount was paid to the "Vendor", [REDACTED] for the purchase of the Artwork. Therefore, as a result of this review, we have determined that the actual fair market value of the Artwork is equal to the actual amount paid by your "Agent" to the "Vendor" for the Artwork.

Goods & Services Tax

During the period from 2000 to 2004 the Charity received GST on invoices from [REDACTED] but was not a GST registrant. The funds received are reported on their Balance Sheet as Tax Payable (\$3337). As the Charity would have been entitled to GST rebates of \$3,050, if registered. We requested the Charity's accountant clear the amounts from the Balance Sheet, and not collect GST in the future. The Charity did not received Public Service Rebates for the period from 2000 to 2006

221. (1) Collection of tax - Every person who makes a taxable supply shall, as agent of Her Majesty in right of Canada, collect the tax under Division II payable by the recipient in respect of the supply.

(2) Remittance - Where the net tax for a reporting period of a person is a positive amount, the person shall, except where subsection (2.1) or (2.3) applies in respect of the reporting period, remit that amount to the Receiver General,

- (a) where the person is an individual to whom subparagraph 238(1)(a)(ii) applies in respect of the reporting period, on or before April 30 of the year following the end of the reporting period; and
- (b) in any other case, on or before the day on or before which the return for that period is required to be filed.

Given the Charity wishes to remain voluntarily compliant and that the CRA wishes to resolve the issues between itself and the Charity, both parties have come to an agreement for the issues noted above.

The Charity undertakes to implement the following corrective action by January 01, 2008, for the 2007 T3010A return:

- *The Registered Charity Information Return will be correctly filed with the Minister by June 30th of each year in the future.*
- *The Charity will ensure charitable revenues, operating expenses and administrative expenditures are properly reported on the annual T3010 report*
- *The Charity will not fund further projects or programs outside of Canada until an Agency Agreement with the intermediary is in place (as explained above).*
- *The Charity will obtain annual intermediary reports, with supportive documents (ledgers, invoices, receipts, pictures, etc) in support of its charitable activities.*
- *All donation receipts will be issued in accordance with Regulation 3501 and IT-110R3*
- *The Charity will no longer accept Gifts-in Kind, unless the Fair Market Value of the goods can be properly established.*
- *The Charity will no longer collect GST on invoices, unless it has taxable supply and is a GST registrant.*

By signing below, the parties certify that they have read and agree to the terms of this agreement.

For the Charity

Secretary Mac Wartzman
Name & Title

Signature

Date

C. J. (CERRY) VETCH, AUDITOR
Name & Title

Signature

Date