



November 3, 2022

REGISTERED MAIL

Moshe Gross
President
Chasdei Levy Yitzcok
[REDACTED]

BN: 817430614RR0001
File number: 3037743

Dear Moshe Gross:

Subject: Notice of intention to revoke

We are writing with respect to our letter dated October 19, 2018 (copy enclosed), in which Chasdei Levy Yitzcok (the Organization) was invited to respond to the findings of the audit conducted by the Canada Revenue Agency (CRA) for the period from January 1, 2015, to December 31, 2016. Specifically, the Organization was asked to explain why its registration should not be revoked in accordance with subsection 168(1) of the Income Tax Act.

We have reviewed and considered your written response dated December 19, 2018. Your reply has not alleviated our concerns with respect to the Organization's non-compliance during the audit period with the requirements of the Act for registration as a charity. Our analysis of your representations is detailed in Appendix A attached.

Conclusion

The audit by the CRA found that the Organization has not complied with the requirements set out in the Act. In particular, it was found that the Organization failed to maintain adequate books and records pursuant to subsection 230(2) of the Act, and therefore, failed to meet the requirements of subsection 149.1(1) of the Act as it could not demonstrate that it devoted substantially all of its resources to charitable activities carried on by the Organization itself. In addition, it issued receipts not in accordance with the Act. This non-compliance constitutes a serious breach of the requirements for registration. For these reasons, it is our position that the Organization no longer meets the requirements for charitable registration.

Consequently, for the reasons mentioned in our letter dated October 19, 2018, and pursuant to subsection 168(1) and 149.1(2) of the Act, we hereby notify you of our intention to revoke the registration of the Organization. By virtue of subsection 168(2) of the Act, the revocation will be effective on the date of publication of the following notice in the Canada Gazette:

Notice is hereby given, pursuant to paragraphs 168(1)(b), 168(1)(d), 168(1)(e) and subsection 149.1(2), of the Income Tax Act, of our intention to revoke the registration of the charity listed below and that by virtue of paragraph 168(2)(b) thereof, the revocation of registration will be effective on the date of publication of this notice in the Canada Gazette.

Business number	Name
817430614 RR0001	Chasdei Levy Yitzcok Montreal QC

Should the Organization choose to object to this notice of intention to revoke its 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 Intake Centre
Post Office Box 2006, Station Main
Newmarket ON L3Y 0E9

Should the Organization choose not to file an objection to this notice of intention to revoke with the CRA within this period, 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. As such, the Organization's registration will be revoked on the date of publication.

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) and 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. Form T2046 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 entities 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,

Sharmila P. Khare

Sharmila Khare
Director General
Charities Directorate

Enclosures

- Appendix A – CRA comments on representations
- Appendix B – Relevant provisions of the Act
- CRA letter dated October 19, 2018
- Organization's representations dated December 19, 2018

c.c.: Joel Samet

ITR Appendix "A"

Chasdei Levy Yitzcok

Comments on Representations of December 19, 2018

In our administrative fairness letter (AFL) of October 19, 2018, we explained that the audit conducted by the Canada Revenue Agency (CRA) for the period from January 1, 2015, to December 31, 2016, identified that Chasdei Levy Yitzcok (the Organization) had not operated in compliance with the provisions of the Income Tax Act (the Act).

As indicated in the AFL, the audit found non-compliance with the following requirements of the Act:

1. Failure to devote resources to charitable activities carried on by the Organization itself;
2. Failure to issue proper donation receipts; and
3. Failure to complete an accurate charity information return.

We reviewed and considered the Organization's representations dated December 19, 2018. The Organization's representations have not alleviated our concerns with respect to the Organization's non-compliance with the requirements of the Act for registration as a charity. The basis for our position, including our response to the Organization's representations is described below.

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

Failure to maintain adequate books and records related to its activities outside of Canada

The audit found that the Organization did not maintain adequate documentation to support that the disbursement of funds was for the purposes of conducting its own charitable activities outside of Canada. The following were noted as deficiencies in this area:

- While the Organization maintained signed written agreements with its agents outside of Canada, it could not provide any supporting documentation to confirm that the terms of the agreements were actually implemented or that the agents performed any activities. Items such as agent bank statements, progress reports, board level discussions of progress by the agents and correspondence between the Organization and its agents are all items the Organization did not maintain that could have demonstrated adequate direction and control over its agents such that the Organization could be found to be conducting its own charitable activities outside of Canada;
- The Organization did not maintain documentation to support that it assessed the eligibility of its beneficiaries. While application forms of beneficiaries are maintained, the Organization could not provide documentation as to what its selection criteria was for potential charitable beneficiaries or documentation demonstrating evaluation the eligibility of these potential beneficiaries; and,

- As described below, the Organization did not maintain documentation to confirm if funds were disbursed for activities that furthered a charitable purpose.

Gifts to non-qualified donees

The audit found that for the fiscal year 2016, the Organization made disbursements directly to foreign residents in the form of cheques, and the Organization stated that these were made in the course of carrying out an activity that directly achieved their charitable object of relieving poverty. The Organization also stated that these individuals submitted an application for financial assistance directly to the Organization (as opposed to its agents) and then would come to Canada expressly to collect their cheques. During this period, the Organization issued over 600 cheques to multiple beneficiaries for over \$2,700,000.

Audit work found these cheques were cashed within Canada and there were significant concerns with regard to the existence of the beneficiaries. A sample of 15 cashed cheques uncovered:

- All the cheques were cashed at a business that offered cheque cashing services (the Business);
- Identification supplied to the Business was sometimes faxed or emailed after the cheques were cashed;
- There were instances where a representative of the Organization would cash the cheques; and,
- Using identification records provided by the Business, a request was made to the Canada Border Services Agency (CBSA) to confirm entry to Canada of the 15 individuals identified as part of the sample. The CBSA provided that none of these individuals had entered Canada during a 5-year period.

Based on these findings, the CRA cannot confirm whether the individuals who cashed cheques issued by the Organization were eligible for financial aid, whether they actually received financial aid or how the funds were allocated once the cheques were cashed. As noted above, over \$2,700,000 of the Organization's charitable resources were converted to cash without any documentary evidence to show that the funds were used in a charitable manner. Therefore, it is our position that these payments are, in fact, disbursements to non-qualified donees.

2. Failure to issue proper donations receipts

Issuing official donation receipts not in accordance with the Act and/or its Regulations

The audit found the following instances of non-compliance with regard to the issuance of official donation receipts:

- Receipts were issued in a name other than the donor's;
- Receipts were issued bearing duplicate receipt numbers;
- Receipts contained the signature of an unauthorized person; and,
- Not all serially numbered receipts were accounted for.

3. Failure to complete an accurate charity information return

With regard to the third area of non-compliance identified by the audit, the degree of non-compliance in relation to the inaccuracy of Form T1235 that was filed with the Organization's 2016 T3010 Charity Information Return, may not be sufficient to warrant revocation in and of itself. However, in conjunction with the other areas of non-compliance found in the audit, this remains a finding of non-compliance and a reason for revocation.

Organization's representations:

The Organization did not specifically address each area of non-compliance discussed in our letter of October 19, 2018; however, it agreed that serious non-compliance had occurred during the 2015-2016 years and understood that the Minister is within her rights to revoke a charity based on such issues. At the same time, the Organization explained that the management of the Organization has entirely changed since then and that they have made changes to rectify the mistakes of the previous administration, changes that had begun before the commencement of the audit.

The Organization also noted that "the CRA's stated policy is one of education, and believe that this is the exact kind of situation this policy was meant to address."

CRA's response:

As mentioned on the CRA's website, audits of charities help to maintain public confidence in the fairness and integrity of the registration system for charities and are a key part of the compliance program. While generally we approach compliance through education first, the approach we take depends on the severity of the non-compliance.

Relating this to the Organization, the audit found that it did not maintain documentation that demonstrated it assessed the eligibility of its beneficiaries, nor did it maintain documentation confirming it implemented the terms of its written agreements with its agents. The Organization was also unable to substantiate that over \$2,700,000 of its resources reached persons in need or furthered any charitable purpose. And finally, the Organization did not demonstrate adequate official donation receipting practices given the deficiencies noted above. All of these factors demonstrate a disregard for meeting the obligations associated with charitable registration and amount to serious non-compliance.

We considered the Organization's explanation that it has changed its administration, and indicates that it will operate in compliance under this new management. However, we note that Moshe Gross has been the President of the Organization since inception, as well as the person who signed the official donation receipts that were issued in 2016 and remains the President of the Organization at present. It is our position that the seriousness of the non-compliance identified in the audit cannot be disregarded based on a partial change in management, given that over \$2,700,000 in charitable resources were not substantiated to have been disbursed for charitable purposes during the audit period while the Organization was under Moshe Gross' leadership.

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 (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

$$\mathbf{A - B}$$

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),
- (ii) 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

$$\mathbf{A - B}$$

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

$$\mathbf{A - B}$$

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
 - (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.



October 19, 2018

REGISTERED MAIL

Mr. Moshe Gross
President
Chasdei Levy Yitzcok
[REDACTED]

BN: 817430614RR0001

File #: 3037743

Dear Mr. Gross:

Subject: Audit of Chasdei Levy Yitzcok

This letter results from the audit of the Chasdei Levy Yitzcok (the Organization) conducted by the Canada Revenue Agency (CRA). The audit related to the operations of the Organization for the period from 2015-01-01 to 2016-12-31.

On August 2, 2018, the Organization was advised that the CRA identified specific areas of non-compliance with the provisions of the Income Tax Act and its Regulations in the following areas.

AREAS OF NON-COMPLIANCE		
	Issue	Reference
1.	Failure to devote resources to charitable activities carried on outside of Canada by the Organization itself	149.1(1), 168(1)(b), 230(2), 230(4)
2.	Failure to issue proper donation receipts	168(1)(d), 230(2), Regulations 3500 and 3501
3.	Failure to complete an accurate charity information return	149.1(14), 168(1)(c)

This letter describes the areas of non-compliance identified by the CRA relating to the legislative and common law requirements that apply to registered charities, and offers the Organization an opportunity to respond and present additional information. The Organization must comply with the law; if it does not, its registered status may be revoked in the manner described in section 168 of the Act.

Identified areas of non-compliance

1. Failure to devote resources to charitable activities carried on outside of Canada by the Organization itself

Failure to maintain adequate books and records related to its activities outside of Canada

Pursuant to subsection 230(2) of the Act, every registered charity "shall keep records and books of account [...] at an address in Canada recorded with the Minister or designated by the Minister containing:

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

In addition, subsection 230(4) also states "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 a period as is prescribed;
- 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 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 and the law, which have held that:

- i. it is the responsibility of the registered charity to prove that its charitable status should not be revoked;¹
- ii. 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;² and
- iii. 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

¹ See Canadian Committee for the Tel Aviv Foundation, 2002 FCA 72 at paras 26-27, [2002] 2 CTC 93.

² Canadian Committee for the Tel Aviv Foundation, 2002 FCA 72 at para 39, [2002] 2 CTC 93.

Furthermore, failing to comply with the requirements of section 230 of the Act by refusing to make documents available can lead to a fine and imprisonment, in addition to the penalty otherwise provided. See subsection 238(1) of the Act.

organization's charitable status in the case of material or repeated non-compliance.³

The audit conducted indicated that the Organization did not maintain adequate documentation to support the disbursement of funds for the purpose of conducting charitable activities outside of Canada.

During the audit period, the Organization's activities consisted of the relief of poverty in Israel. Funds were disbursed in two ways:

- Funds were sent overseas to an agent in Israel; and,
- Purported foreign beneficiaries from Israel came to Canada to collect cheques.

The Organization did not provide relevant documentary evidence that funds transferred to agents were applied to activities that directly furthered the charitable purpose of the Organization. Due to the lack of pertinent documentation, the Organization has not been able to demonstrate appropriate direction and control over the use of its resources.

In addition, funds distributed in the form of cheques without the necessary or relevant supporting documentation to prove that these funds were provided to poor individuals or to actual individuals cannot be considered to be resources used in the conduct of charitable activities. Therefore, cheques issued directly to foreign beneficiaries are considered gifts to non-qualified donees.

Lack of direction and control over the use of resources

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:

³ See *Prescient Foundation v MNR*, 2013 FCA 120 at para 51, [2013] FCJ no 512.

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.⁴

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.⁵

As re-iterated by the Court in *Lepletot v MNR*⁶, 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.⁷

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

⁴ Canadian Committee for the Tel Aviv Foundation v Canada, 2002 FCA 72 at para 30, [2002] 2 CTC 93.

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

⁶ *Lepletot v MNR*, 2006 FCA 128 at para 5, [2006] 3 CTC 252.

⁷ *Canadian Magen David Adom for Israel v MNR*, 2002 FCA 323 at para 66, [2002] FCJ no 1260.

Organization must be able to show that the terms of any arrangement establish a real, ongoing, active relationship with the intermediary,⁸ 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 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.

The audit has revealed the following concerns and deficiencies with respect to the Organization's foreign activities conducted by the agents:

- The Organization has not demonstrated adequate direction and control over its foreign activities. Although written agreements were signed between the Organization and the agents, it is not sufficient to demonstrate that the Organization maintained an appropriate level of control and accountability over the use of its funds. The Organization could not provide us with the documentation proving the agency agreements were actually implemented or if the agents performed any work for the Organization. Specifically, the Organization lacked the following documentation:
 - Agents appointed through an agency agreement are required to keep separate financial records. Copies of the bank statements must also be regularly forwarded to the Organization. No such bank statements were provided since the Organization has acknowledged to not keeping such records.
 - Agents must regularly report on the specific details of the activities carried out. Progress reports were not supplied to the CRA and neither were any board meetings or recorded minutes that included discussions of the agents' progress. Furthermore, no documentation confirming any interaction

⁸ See notably Canadian Committee for the Tel Aviv Foundation v Canada, 2002 FCA 72 at para 40, [2002] 2 CTC 93.

between the agents and the Organization was provided. The Organization has acknowledged to not keeping such records

- o The Organization must assess the eligibility of a beneficiary before providing any financial assistance; however, even though the Organization did provide the CRA with the application forms of each beneficiary, it did not provide any documentation indicating that an assessment on the eligibility of each recipient was conducted nor was any specific selection criteria provided.
- Audit evidence shows that the agent and the Organization failed to perform according to the obligations agreed upon by both parties in the signed agency agreement. The agreement between Moshe Zvi Minzberg and the Organization, signed on September 24, 2014, and in effect until January 14, 2016, at which time it was replaced with a new agency agreement, stated that:

“The provision of assistance with payment of rent, purchase of clothing, food and or medicine. All of these to be paid by the Agent. There is no monies given to the recipient of the assistance. The Agent will pay for the rent, clothing, food and or medicines. The person receiving assistance will have rent paid by the Agent and he will receive clothing, food and or medicine paid directly by the Agent.”

As per the 2015 fiscal year (FY2015) Agent's General Ledger provided by the Organization, the agent distributed monetary assistance directly to the beneficiaries. The Organization has also acknowledged throughout the audit that assistance to beneficiaries in Israel was monetary in nature. The Organization did not exercise control and direction over the activities that the agent was to carry out on their behalf. Therefore, the Organization did not actively engage in its own charitable activities as they did not enforce the conditions laid out in their own agreement

Hence, it is our position that the Organization has failed to establish compliance with the requirement that it maintain direction and control over its resources.

Gifts to non-qualified donees

The Act permits a registered charity to carry out its charitable purposes both inside and outside Canada in only two ways: it can make gifts to other organizations that are on the list of qualified donees set out in the Act, and it can carry on its own charitable activities under its own direction and control. In contrast to the relatively passive transfer of money or other resources involved in making gifts to qualified donees, carrying on one's own activities implies that the charity is an active and controlling participant in a program or project that directly achieves a charitable purpose.

A “qualified donee” means a donee defined in subsection 149.1(1). Qualified donees are as follows:

- a registered charity (including a registered national arts service organization);
- a registered Canadian amateur athletic association;
- a listed housing corporation resident in Canada constituted exclusively to provide low-cost housing for the aged;
- a listed Canadian municipality;
- a listed municipal or public body performing a function of government in Canada;
- a listed university outside Canada that is prescribed to be a university, the student body of which ordinarily includes students from Canada;
- a listed charitable organization outside Canada to which Her Majesty in right of Canada has made a gift;
- Her Majesty in right of Canada or a province; and
- the United Nations and its agencies.

As the Act specifically states what constitutes a qualified donee, applying the maxim “expressio unius est exclusio alterius” means that entities not expressly stated in this list are not considered qualified donees.

Gifts to non-qualified donees are not considered charitable expenditures for the purposes of the Act. For the fiscal year 2016 (FY2016), the Organization made disbursements directly to foreign residents in the form of cheques. The Organization claimed the disbursements were made in the course of carrying out an activity that directly achieved their charitable objective of relieving poverty. As per the Organization, these individuals were foreign residents who submitted their application for financial assistance directly to the Organization and without the involvement of the Agent. These beneficiaries then would come to Canada expressly to collect the cheques. This information was provided and verified repeatedly with [REDACTED] the representative of the Organization. It was also confirmed by Mr. Gross on March 14, 2018, during a field audit at the Organization’s premises.

The Organization has not been able to demonstrate that these expenditures were charitable in nature. The only documentation that the Organization maintained to corroborate that the distribution of funds to these individuals were for the relief of poverty were cancelled cheques and signed application forms.

In FY2016, the Organization allocated a substantial amount of its resources to this type of financial assistance:

Month	Bank account	Bank account	
January 2016	\$ -	\$ -	
February 2016	\$ -	\$ -	
March 2016	\$ -	\$ -	
April 2016	\$ 99,994.00	\$ 196,025.00	
May 2016	\$ -	\$ 430,215.55	
June 2016	\$ -	\$ 361,597.00	
July 2016	\$ -	\$ 527,154.00	
August 2016	\$ -	\$ 42,817.00	
September 2016	\$ -	\$ 221,184.00	
October 2016	\$ -	\$ 40,450.00	
November 2016	\$ -	\$ 260,987.00	
December 2016	\$ -	\$ 578,615.00	
Total	\$ 99,994.00	\$ 2,659,044.55	\$2,759,038.55

The Organization issued 632 cheques for a total of \$ \$2,903,484. During FY2016, 30 of the cheques issued were dishonoured due to insufficient funds in the Organization's bank accounts. The total amount that was returned due to insufficient funds was \$144,446. Therefore, the net amount disbursed through cheque payments to foreign beneficiaries was \$2,759,038.

Cheques issued to foreign beneficiaries (the Payees) only contained their names. In addition, these cheques were cashed at businesses that offered cheque cashing services in Canada.

The Organization was not able to provide identification or any other supporting document confirming the existence of the Payees. Therefore, a sample of 15 cheques cashed at one of the cheque cashing businesses (the Business) frequently used was selected for a third party verification. The result of the verification revealed the following:

- As per their standard procedure, the Business kept copies of the IDs of the Payees of the cheques. The Business provided copies to the CRA and as the IDs were in Hebrew, the Business provided and paid to have the IDs translated on their own volition.
- With the information obtained from the IDs provided by the Business, a request was put to the Canada Border Services Agency (CBSA) to validate entry into Canada of the 15 Payees. The time period requested for verification was over 5 years.

- The result of the CBSA enquiry showed negative results. Therefore, none of the 15 Payees had entered Canada during the 5 year period.
- According to a later discussion with the Business, we found out that:
 - Sometimes a representative of the Organization would cash the cheques by himself
 - The IDs provided to the Business would be sometimes faxed or emailed after the cheques were cashed

On August 2, 2018, the above findings were largely discussed with the representative at the Organization's premises. The representative later acknowledged that the Organization did not know what happened during that year. On August 14, 2018, the representative provided a written explanation that during 2017, cheques were sent directly to recipients or given to agents acting on behalf of the recipients.

The Organization cannot confirm what events actually transpired during FY2016.

Based on these findings, we cannot confirm whether the Payees were eligible for financial aid, whether they actually received financial aid and how the funds were delivered.

In FY2016, nearly \$2.8 million of the Organization's resources were converted to cash and is therefore untraceable. Since we cannot validate these expenditures, we cannot classify them as being charitable in nature. Thus, these payments are viewed as disbursements to non-qualified donees.

Summary

In summary, it is our position that the Organization did not devote its resources to charitable activities carried on by the Organization itself, based on its:

- a. Failure to maintain adequate books and records related to its activities outside of Canada,
- b. Lack of direction and control over the use of resources, and
- c. Gifts to non-qualified donees

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

2. Failure to issue proper donation receipts:

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

The Act allows for the issuance of computer-generated official donation receipts provided that said receipts are readable and the reliability of the computer data is sufficiently protected. A computer-stored copy of an electronically issued receipt does not require a signature to be considered a duplicate.⁹

Paragraph 230(2)(b) of the Act provides that every registered charity shall “keep records and books of account [...] at an address in Canada recorded with the Minister [...] [including] a duplicate¹⁰ of each receipt containing prescribed information for a donation received by it”

Subsection 3501(1) of the Regulations provides that each official donation receipt that a registered charity issues must include, in a manner that cannot be readily altered, the prescribed contents of a receipt.

Subsection 3501(3) of the Regulations provides that official donation receipts can bear a facsimile signature under the following conditions, “(a) distinctively imprinted with the name, address in Canada and registration number of the organization, (b) serially numbered by a printing press or numbering machine, and (c) kept at the place referred to in subsection 230(2) of the Act until completed as an official receipt.”

Section 30 of the Canada Evidence Act and common law¹¹ sources suggest that a court would favourably consider the argument that a duplicate receipt includes computer-generated copies, that is, the subsequent printed receipt of a computer recording, or soft copy, is a duplicate of the original receipt.

The result of the audit indicates that the Organization has issued receipts otherwise than in accordance with the Act. For the period under audit, we have identified the following issues:

- Issuing a receipt in a name other than the donor's

In FY2015, the Organization received cheque# [REDACTED] for \$15,000 from a corporation. The Organization issued 2 official donation receipts:

- ODR# [REDACTED] dated July 3, 2015, to the corporation for \$7,500
- ODR# [REDACTED] dated July 3, 2015, to an individual for \$7,500

⁹ Policy Statement CPS-014, Computer-Generated Official Donation Receipts.

¹⁰ The definitions found in general language dictionaries and in law dictionaries are sufficiently broad to include a "duplicate of each receipt" in almost any form.

¹¹ Linden, J in *R v McMullen* (1978), 5 CR (3d) 218 at p 29 (Ont HC): "[i]n my view, a computer print-out is a copy of what is contained within the computer, whether it be on tape or disc, though it is in different form than the original record. Though the technology changes, the underlying principles are the same."

In FY2015, the Organization received cheque# [REDACTED] for \$10,000 from a corporation. The Organization issued 2 official donation receipts:

- o ODR# [REDACTED] dated October 29, 2015, to the corporation for \$10,000
- o ODR# [REDACTED] dated October 29, 2015, to an individual for \$10,000

As per policy commentary CPC-010, "Where a registered charity receives a cheque from a corporation and is subsequently asked to issue the official donation receipt in the name of an individual who controls the corporation, the charity must refuse to issue the receipt to the individual. The charity may only issue a receipt to the individual if there is evidence to show that the individual is the true donor".

The written requests provided by the Organization did not provide sufficient evidence to justify issuing the receipt in a name other than the donor's. As such, the receipts issued to individuals are not valid receipts.

- Receipts were issued bearing duplicated receipt numbers.

With respect to the receipts noted above, and without regard to our position that the receipts to the individuals are not valid, the receipt numbers were duplicated.

Receipt Number	Amount	Date
[REDACTED]	\$ 7,500.00	July 03, 2015
[REDACTED]	\$ 7,500.00	July 03, 2015
[REDACTED]	\$ 10,000.00	October 29, 2015
[REDACTED]	\$ 10,000.00	October 29, 2015

Original electronic copies of all donation receipts were provided by the Organization on August 2, 2018. Our review of the receipts showed no indication that any of these duplicated receipts were voided as the notation "Void" did not appear and the full amount still showed on the receipts.

Subsequent to the documents that were provided on August 2, the Organization provided a voided copy of the receipt # [REDACTED] issued to the corporation on August 22, 2018. However, there was no voided receipt provided for receipt # [REDACTED].

As noted in the above bullet, a donation receipt is issued in the name of the person (corporation or individual) who gave the donation. In addition, a donation cannot be split into two receipts. Therefore, the receipt # [REDACTED] that was issued to an individual is not valid.

- The signature of an unauthorized person.

On August 2, 2018, after discussion with the representative of the Organization, we confirmed that the signature on the official donation receipts issued for the FY2016 was that of Mr. Gross. However, Mr. Gross was not on the board of directors of the Organization during that year and the electronic signature used for

- donation receipts was not updated after the change of administration. Therefore, donation receipts issued during these period were signed by an unauthorized person.
- Serially numbered receipts are not all accounted for.

On August 2, 2018, we confirmed that missing receipt numbers were the result of deleted erroneous records. During the audit period, we have identified the following gaps (of 10 and over) in the sequential numbering of the receipts:

- o [REDACTED] : missing 21 receipts or records
- o [REDACTED] : missing 17 receipts or records
- o [REDACTED] : missing 44 receipts or records

Summary

In summary, it is our position that the Organization does not issue receipts according to the Act and its Regulations.

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

3. Failure to complete an accurate charity information return

Subsection 149.1(14) of the Act states that:

Every registered charity and registered Canadian amateur athletic association shall, within six months from the end of each taxation year of the charity or association and without notice or demand, file with the Minister both an information return and a public information return for the year in prescribed form and containing prescribed information.

It is the responsibility of the Organization to ensure that the information provided in its T3010 returns, schedules and statements, is factual and complete in every respect. A charity is not meeting its requirements to file an information return in prescribed form if it fails to exercise due care with respect to ensuring the accuracy thereof. The Federal Court of Appeal has confirmed that major inaccuracies in a T3010 are a sufficient basis for revocation.

The result of the audit indicates that the T3010 return of the Organization for the January 1, 2016 to December 31, 2016 fiscal period contained the following error:

- Form T1235 Directors/Trustees and Like Officials Worksheet
This form was not completed accurately as the Organization failed to provide complete information for each director/official who, at any time during the fiscal period of the return, was a member of its board of directors. The information that was missed was that the Organization did not report a change of the members of the board of directors for that year.

Under subsection 168(1)(c) of the Act, the registration of a charity may be revoked if it fails to file a charity information return 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) Respond

If the Organization chooses to respond, send written representations and any additional information regarding the findings outlined above **within 30 days** from the date of this letter to the address below. After considering the response, the Director General of the Charities Directorate will decide on the appropriate course of action. The possible actions include:

- no compliance action;
- issuing an educational letter;
- resolving the issues through a Compliance Agreement;
- applying penalties or suspensions or both, as described in sections 188.1 and 188.2 of the Act; or
- issuing a notice of intention to revoke the registration of the Organization in the manner described in subsection 168(1) of the Act.

b) Do not respond

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

If the Organization appoints a third party to represent it in this matter, send us a written request with the individual's name, the individual's contact information, and explicit authorization that the individual can discuss the file with us.

If you have any questions or require further information or clarification, do not hesitate to contact me at the numbers indicated below. My team leader, Robert Bill, may also be reached at (514) 229-0589.

Yours sincerely,

[REDACTED]

Marisa Chen, CPA,CGA
Audit Division
Montreal Tax Services Office (TSO)
Telephone: (514) 229-0449
Facsimile: (514) 283-2769
Address: 305 René-Lévesque west
Montreal, QC H2Z 1A6

c.c.:

[REDACTED]

A facsimile from

To: Marisa Chen
Audit Division
Montreal Tax Services Office (TSO)
Fax number: (514) 283-2769

Date: 2018-12-19

Regarding: CHASDEI LEVY YITZCOK

Comments:

There are three (3) pages enclosed including this cover. In the event of a transmission problem, please contact [REDACTED]

December 19, 2018

By fax

Marisa Chen
Audit Division
Montreal Tax Services Office

Re: Audit of Chasdei Levy Yitzcok
Your file no. 3037743
Our file [REDACTED]

We are writing as legal representatives of the Charity in reply to your letter of October 19, 2018 regarding the Charity's audit. Thank you for providing us with some additional time in which to reply.

We understand that the Charity has already admitted during the course of the audit that there were serious compliance issues during the 2015-2016 years of the Charity's operations. We understand the Minister's position that he would be within his rights to revoke a charity based on such issues.

However, as has been explained during the audit, the management of the Charity has entirely turned over since that period. New individuals took over in 2017 and 2018 and immediately began making changes to rectify the mistakes of the previous administration. These changes include replacing the uncooperative Israeli agent, ensuring that the agent has a discrete bank account for moneys from the Charity and is properly accounting for their expenditure, and properly screening and documenting the beneficiaries. In short, the new management has been hard at work to fix all of the deficiencies your audit found. In fact, this overhaul began *before* the charity was audited, as the new management had already identified some of these previous problems and had in fact taken over the management of the Charity for the express purpose of cleaning it up before the CRA even identified a need to audit it. We understand that the changes and improvements were explained to you during the audit and that you approved of them.

As a result, we ask that the Minister deal with this situation not by revoking the charity and destroying the work that has been put into rescuing it, but rather by way of a sanction or educational measure such as a compliance agreement. The Charity is fully prepared to sign a comprehensive agreement acknowledging all past problems and all current and future remedies, as

[REDACTED]

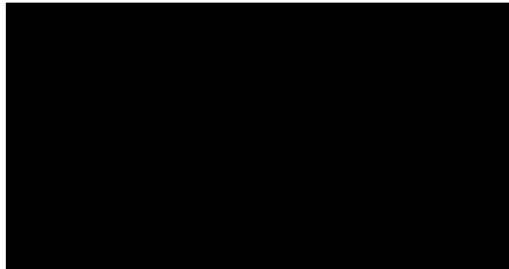
their goal all along has been to rectify those problems and get the Charity functioning properly so that it can fulfill its mission.

That mission is to assist people in dire financial straits. There is a large number of religious orthodox Jews in Israel who are not able to comply with the Israeli army's draft requirements because of their religious beliefs. This leaves them in a situation where they have difficulty finding lucrative work, while at the same time they struggle to support large families as their religious teachings lead them to have many children. These families rely on support from orthodox Jews outside of Israel, via organizations like the Charity, just to survive. The beneficiaries of the Charity are not in a financial grey area; they are impoverished to the point of risking starvation. The high stakes of revoking the Charity's ability to aid this impoverished religious minority argues strongly in favour of finding a constructive way forward for the Charity rather than writing it off.

There is nothing to be gained, and much time and expense to be lost on all sides, by forcing the shut-down of the existing Charity and creating the need to go through the registration process all over again in order to carry out these charitable aims properly and in compliance with the law. The present directors and officials are not the individuals who were managing the Charity during the time of its noncompliance, and we believe they have demonstrated at every turn that their goal is to return the Charity to proper functioning. Their work on this began before the audit was even commenced, and has continued throughout. The end result of a revocation would just be a new charity operating for the same purposes as the Charity that already exists, but with much time, money, and effort wasted by the community and by the Minister in the process, and many desperate beneficiaries deprived for no reason.

We note that the CRA's stated policy is one of education, and believe that this is the exact kind of situation this policy was meant to address. If there is any specific documentation or further information that would help you in making this decision we would be pleased to provide it without delay. We would also appreciate the opportunity to discuss this further with you before a final decision is made.

Yours very truly,

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