



May 12, 2021

REGISTERED MAIL

Sherril Downer
Executive Director
Single Mothers in Progress
44 Elnathan Crescent
Toronto ON M9L 2G1

BN: 806662805RR0001
File #: 3048629

Dear Sherril Downer:

**Subject: Notice of intention to revoke
Single Mothers in Progress**

We are writing with respect to our letter dated August 28, 2018 (copy enclosed), in which Single Mothers in Progress (the Organization) was invited to respond to the findings of the audit conducted by the Canada Revenue Agency (CRA) for the period from July 1, 2014 to June 30, 2016, 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 dated September 23, 2018. Your reply has not alleviated our concerns with respect to the Organization's non-compliance with the requirements of the Act for registration as a charity. Our concerns are explained in Appendix A attached.

We also reviewed your letter of May 24, 2018, in which you requested permission to undertake new programs. Due to the fact that the Organization has been unable to demonstrate that it has direction and control over its existing programs, we are unable to conclude that the proposed programs would meet this requirement.

Conclusion

The audit by the CRA found that the Organization was not complying with the requirements set out in the Act. In particular, it was found that the Organization failed to maintain adequate books and records, did not devote all its resources to charitable activities, failed to file a charity information return as and when required, and failed to issue proper donation receipts. 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 for charitable registration and should be revoked in the manner described in subsection 168(1) of the Act.

For each of the reasons mentioned in our letter dated August 28, 2016, pursuant to subsection 168(1) and 149.1(2) of the Act, we propose to revoke the registration of the Organization. By virtue of subsection 168(2) of the Act, revocation will be effective on the date of publication of the following notice in the Canada Gazette:

Notice is hereby given, pursuant to paragraphs 168(1)(b), 168(1)(c), 168(1)(e), and subsection 149.1(2) 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 |
|------------------------|--|
| 806662805RR0001 | Single Mothers in Progress 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

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 (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

- CRA letter dated August 28, 2018
- Appendix A, Comments on representations of September 23, 2018
- Appendix B, Relevant provisions of the Act

c.c.: Nicole Jones
President
Single Mothers in Progress



August 28, 2018

Ms. Sherril Downer
Executive Director
Single Mothers in Progress
44 Elnathan Crescent
Toronto ON M9L 2G1

BN: 806662805RR0001
File #: 3048269

Dear Ms. Downer:

Subject: Audit of Single Mothers in Progress

This letter results from the audit of the Single Mothers in Progress (the Organization) conducted by the Canada Revenue Agency (CRA). The audit related to the operations of the Organization for the period from July 1, 2014 to June 30, 2016.

On July 20, 2017, 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 maintain adequate books and records as required | 149.1(2), 230(2), 168(1)(b), 168(1)(c) |
| 2. | Failure to devote resources to charitable activities | 149.1(1), 149.1(2), 168(1)(b) |
| 3. | Failure to file a charity information return as and when required | 149.1(2), 149.1(14), 168(1)(c) |
| 4. | Failure to issue proper donation receipts | 149.1(2), 168(1)(d), Regulation 3500, 3501 |

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 maintain adequate books and records as required

Legislation:

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

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.

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

Audit findings:

At the time of the audit, the Organization provided limited records. To date, we have not received any of the following:

- bank statements for the 2015 and 2016 fiscal years;
- financial statements for the 2015 and 2016 fiscal years;
- general ledger for the 2015 and 2016 fiscal years;
- copies of official donation receipts for the 2015 fiscal year (these were purportedly lost in a flood);
- copies of official donation receipts for the 2016 fiscal year;
- expenditure receipts/invoices for the 2016 fiscal year;
- expense report for the 2016 fiscal year;
- revenue information for the 2016 fiscal year;
- minute book containing minutes of board meetings;
- payroll information for the 2015 and 2016 fiscal years;
- emails or other documentation showing direction and control of the activities in Jamaica; and,
- information and documentation as to how the money sent to Jamaica was being spent.

Conclusion:

As limited source documents or accounting ledgers were provided for the audit review, it was not possible to trace revenues, expenses, or liabilities reported on the T3010 Registered Charity Information Return through to an accounting record and/or source document to substantiate the reported figures. Furthermore it did not allow for verification of existence, completeness, accuracy, and reasonability of revenues received and expenditures incurred in furtherance of charitable purposes.

It is our view that the Organization failed to maintain adequate books and records and to provide complete access to its records for our inspection. 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.

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

2. Failure to devote resources to charitable activities, specifically lack of direction and control over the use of resources

Legislation:

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.

Audit findings:

Lines 5000 and 5100 of the 2015 T3010 Charity Information Return indicate that the Organization spent \$35,704 on charitable activities and \$23,631 on administrative activities. As previously stated, the CRA is unable to verify the accuracy of the amounts reported by the Organization due to its lack of books and record keeping. However, using the numbers reported by the Organization, 40% of its expenditures are spent on administrative and management functions. For an Organization to be charitable, it must devote all of its resources to charitable activities.

From the information provided to the CRA during the initial interview, it appears that the Organization undertakes charitable activities. Many of the expenditures listed in the expense summary may be for charitable activities; however, the descriptions associated with the expenditures are broad and vague. The CRA cannot determine from the limited records that were provided which purchases were in relation to charitable activities. For example, many of the transportation expenditures are for taxis, but there are no descriptions or explanations as to why the taxis were used, where they went from or to, or how the expenditures relate to the Organization. There is nothing in the records that would suggest that the taxi fares are associated with charitable activities.

The internal controls of the Organization were not adequate in that there was inadequate segregation of duties, inadequate authorization of transactions, and inadequate access restriction to resources and records of the Organization. The operations of the Organization were conducted by the Executive Director. The Executive Director receives donations, prepares the donation spreadsheet, and then deposits the funds. Funds not deposited in the bank are kept in the office safe, located in the Executive Director's home, for everyday use or to pay bills. All board members, including the Executive Director, have the authority to sign for the official donation receipts and bank account. Only one signature from the board is required on disbursement cheques up to \$1,000. This lack of control, and review by a non-arm's length board of directors, contributes to

our concern over the lack of direction and control over the use of resources for non-charitable activities.

The Organization has an office in Jamaica which is managed by the Organization's Agent. The Jamaican office relies on local (Jamaican) donations of goods for its activities, but relies on funds from Canada to pay for expenses incurred in carrying out those activities. The Agent purportedly keeps track of the expenditures and sends expense reports to the Canadian organization every three months. One of the Organization's directors purportedly goes to Jamaica once every three months to ensure that the programs are being run correctly and that the money is being managed correctly. There is also purportedly daily contact between the Executive Director in Canada and the Agent in Jamaica.

Based on the limited records we were provided with, we were unable to determine the frequency or the nature of the communication between the Toronto office and the Jamaican office. We were also unable to verify whether any of the directors travelled to Jamaica every three months. There were no meeting minutes provided that might have substantiated quarterly visits, neither were we provided with any of the quarterly expense reports from Jamaica. Furthermore, the Organization does not have an agency agreement in place with its Agent. We therefore conclude that the Organization does not have any direction or control of the funds that it sends to Jamaica.

Conclusion:

It is our position that the Organization is not able to show that it devotes its resources to charitable activities carried on by the Organization itself. While it appears that the Organization undertakes some charitable activities, they cannot be verified from the books and records provided to us. Due to inadequate internal controls, it is possible that funds could easily be appropriated from the Organization for other than charitable purposes. Furthermore, expenditures on non-charitable activities could be made by any of the directors with signing authority on the Organization's bank account. Finally, the Organization has not been able to demonstrate that it has direction and control over the funds it sends outside Canada.

Accordingly, it is our position that the Organization has failed to meet the requirements of subsection 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.

3. Failure to file a charity information return as and when required

Legislation:

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.⁴ It is also the responsibility of the Organization to ensure that its T3010 return, schedules and statements are filed within six months from the end of each taxation year.

Audit findings:

The Organization has filed its T3010 returns late for the last four years. In 2013, the return was 118 days late; in 2014, it was 69 days late; in 2015, it was 141 days late, and in 2016, it was 233 days late. In addition, the Organization failed to provide its financial statements with its 2015 return.

We noted the following errors and/or omissions on the 2015 T3010 return:

- a. On line 1510, the Organization indicated that it was subordinate to a parent organization when in fact it is not; thus it should have selected "No" instead.
- b. On line 1600, the Organization indicated it is a public or private foundation when in fact it registered as a charitable organization. Line 1600 should have been marked "no."
- c. Line 4200, total assets, was left blank.
- d. Line 4350, total liabilities, was left blank.
- e. Line 4400 was left blank; however, the charity borrowed funds from several of the directors.
- f. Line 4500 indicated that the Organization received gifts of \$2,165 for which it issued official donation receipts. However, the Organization's donation summary stated that it issued official donation receipts totalling \$8,729.88.
- g. Line 4510 indicated that the Organization did not receive any gifts from other registered charities; however the Organization receives funds from CanadaHelps, the Salvation Army, and the United Way.
- h. Line 4530 indicated that the Organization received \$2,200 in gifts for which it did not issue official donation receipts; however, during the initial interview, the Executive Director indicated that most of what is included on line 4650 (other revenue) was actually donations for which no receipt was issued. Line 4530 is therefore understated by approximately \$20,000. Line 4650 is also overstated by the same amount.

⁴ *Opportunities for the Disabled Foundation v MNR*, 2016 FCA 94 at paras 48-51.

- i. Line 4920 (other expenditures) was left blank. When an Organization uses Section D to report its financial information, all expenditures that are not professional and consulting fees or travel and vehicle expenses should be reported on line 4920.
- j. Line 4950 indicated that the Organization had \$2,818 in total expenditures before gifts to qualified donees, however the totals for lines 5000 and 5010 added up to \$59,335. Lines 5000, 5010, and any money the Organization spent on fundraising activities should add up to what is reported on line 4950.
- k. Line 5100 also indicated that the Organization had \$2,818 in total expenditures. If lines 5000 and 5010 total \$59,335, then line 5100 should be no less than that amount.
- l. The Organization incorrectly completed Schedule 1 as it is not a foundation.
- m. Line 200 of Schedule 2 indicated that the Organization spent \$980 on activities outside of Canada, but the expense summary provided by the Organization indicates it spent \$1,337.94 on activities outside Canada.
- n. The Organization failed to complete Section 3 of Schedule 2 which identifies the country (by code) outside of Canada in which the charity carried on its programs or devoted resources.
- o. Line 580 of Schedule 5 indicated that the Organization received gifts in kind for which it issued official donation receipts totalling \$32,875. The gifts in kind (according to Schedule 5) included clothing/furniture/food, vehicles, machinery/equipment/computers/software, and services. In fact, the official donation receipts for all gifts (cash and non-cash) totalled \$8,729.88. During the initial interview, the Executive Director indicated that she put the value of all gifts in kind on line 580, whether or not she issued official donation receipts for them.
- p. The Organization failed to complete Form T1235, Directors/ Trustees and Like Officials Worksheet.

Conclusion:

Under paragraph 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 or timely T3010. For this reason, there may be grounds to revoke the registered status of the Organization under paragraph 168(1)(c) of the Act.

4. Failure to issue proper donation receipts

Legislation:

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 duplicate⁵ 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.

Audit findings:

During the course of the audit, we noted the following deficiencies regarding the official donation receipts:

- a. The receipts did not include the name, Canada Revenue Agency, and the website address, **canada.ca/charities-giving**.
- b. The receipts did not include the locality from where they were issued.
- c. The official donation receipts did not specify that they are donations receipts for income tax purposes.
- d. The Organization failed to retain a duplicate copy of the official donation receipts, as they were purportedly lost in a flood in 2015.
- e. Of the two donation receipts provided to us, only one included the donor's address.

Conclusion:

It is our position that the Organization has failed to meet the requirements of sections 3500 and 3501 of the Regulations about ensuring all the required information is present. For this reason, it appears there may be grounds for revocation of the charitable status of the Organization under paragraph 168(1)(d) of the Act.

The Organization's options:

a) 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

⁵ The definitions found in general language dictionaries and in law dictionaries are sufficiently broad to include a "duplicate of a receipt" in almost any form.

- issuing a notice of intention to revoke the registration of the Organization in the manner described in subsection 168(1) of the Act.

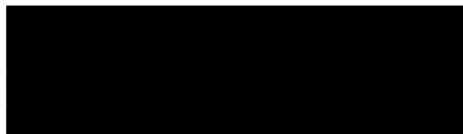
b) Do not respond

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, Mr. Francis Yu, may also be reached at 587-489-2402.

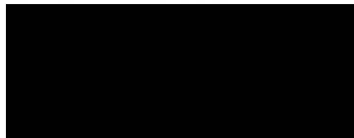
Yours sincerely,



Jason Letkemann
Audit Division
Edmonton Tax Services Office

Telephone: 587-489-2399
Toll Free: 1-800-267-2384 (Charities Directorate)
Facsimile: 780-495-2873
Address: Suite 10, 9700 Jasper Avenue NW
Edmonton AB T5J 4C8

c.c.: Nicole Jones, President



SINGLE MOTHERS IN PROGRESS

Comments on representations of September 23, 2018

Based on the Canada Revenue Agency's (CRA) audit of Single Mothers in Progress (the Organization) for the period from July 1, 2014 to June 30, 2016, and after careful consideration of the representations submitted to us, it remains our position that the Organization's registration should be revoked. Notwithstanding its reply, the Organization has failed to provide additional documentation or sufficient explanations to address the areas of non-compliance identified in our letter dated August 28, 2018.

The balance of this letter explains the basis for our decision by analysing each area of non-compliance in the following order:

- (1) a summary of the issues raised by the CRA in our letter dated August 28, 2018;
- (2) the Organization's representations provided in its letter dated September 23, 2018, and;
- (3) the CRA's analysis of the representations, and conclusion.

1. Failure to maintain adequate books and records

In our letter dated August 28, 2018, the Organization was invited to respond to our concerns, identified during the audit, with respect to its lack of/or limited source documents and accounting ledgers. The records provided to us during the audit did not enable us to trace revenues, expenses, or liabilities reported on form T3010, Registered Charity Information Return, nor to substantiate the amounts reported in the Organization's accounting books. Furthermore, the lack of source documents has compromised the verification of the existence, completeness, accuracy, and reasonability of revenues received and expenditures incurred in furtherance of charitable purposes.

The Organization's response:

The Organization's representations in its letter of September 23, 2018, included:

- bank statements
- [REDACTED] spreadsheets showing the expenditures
- meeting minutes
- a revised template of an official donation receipt
- limited receipts in support of expenditures
- payroll information

The Organization also states in its letter that its "policies and procedures have now changed and will continue to be upgraded over the next 2 years in order to ensure this organization is functioning at the best level possible to provide help to the communities." The letter also states

that “after going through documents sent to past accountants via email, as well as documents stored on databases we were able to ensure that our new systems [sic] ... is now able to show records for 6 years and we will continue to show full responsibility, accountability, and transparency going forward.” The letter further states that contact with the Jamaican office takes place daily via [REDACTED] [sic], telephone, and email.

Our analysis and conclusion:

While the Organization provided some records which were previously unavailable to us, it failed to provide the following:

- financial statements
- complete receipts in support of expenditures
- copies of official donation receipts issued
- emails between the Organization and its agent in Jamaica
- documentation showing the transfer of funds from Canada to Jamaica
- Agency agreement between the Organization and its agent in Jamaica

The Organization provided bank statements to support its revenue. However, the audit found the Organization would not deposit its funds into the bank account due to the fact that the bank account was garnished by the Ministry of Labour for unpaid debts (wages) and by the Canada Revenue Agency (CRA) as a result of amounts owing from a payroll audit. Furthermore, the Organization did not disclose the debts owing to the Ministry of Labour and the CRA on its financial statements or the T3010. As such, the revenues as well as the donations made to the Organization could not be verified using the bank account.

The receipts provided by the Organization in support of its expenditures contain, in most cases, only the total amount spent. The receipts do not contain a detailed listing of the items or services purchased. As such, we were unable to verify if these expenditures were for charitable purposes.

As a result, it remains our opinion that the Organization has failed to keep and maintain its books and records in accordance with the Act. Concurrently, it has failed to demonstrate that its resources were used exclusively in activities that further its charitable purposes. For these reasons, the Organization’s charitable status should be revoked under paragraph 168(1)(2) of the Act.

2. Failure to devote resources to charitable activities- lack of direction and control over the use of resources

In our letter of August 28, 2018, the Organization was provided the opportunity to provide representations to our concerns with respect to how the Organization has directed and exerted control over its resources. In particular, we raised concerns about the Organization’s lack of control over its activities in Jamaica, inadequate segregation of duties and authorization of transactions, director’s trips to Jamaica, and the nature of the activities carried out in Jamaica.

The Organization's response:

In its letter of September 23, 2018, the Organization indicated that it had received incorrect information from accountants throughout the years, but has learned to file its taxes correctly and will continue to do so until such time that it can pay a third party. It also states that the majority of its expenses such as rent, wages, and the programs it runs, were funded personally by Sherrill Downer.

Our analysis and conclusion:

Although the Organization did provide some additional records which were previously unavailable to us, it failed to demonstrate that it devoted all of its resources to charitable activities.

In the fiscal year 2016, the Organization stated that \$8,513 was spent on programs in Canada. Of this amount, we were unable to determine if the amount of \$2,763 or 32.5% was spent on charitable activities. For example, grocery receipts submitted contain items such as chicken feet, chicken gizzards, and chicken livers. Taxi receipts submitted did not contain any mention of the purpose, destination, or who was transported in the taxi. Receipts for meals at restaurants were submitted without mention of the purpose of the meal or who was in attendance. Receipts for gasoline were submitted yet the Organization does not own a vehicle nor did it stipulate whose vehicle was used, for what purpose or provide any detailed logs of the vehicle.

Furthermore, the Organization has also failed to demonstrate that it has direction and control over the funds it sent to Jamaica. There is no documentation showing the purpose the funds were to be used for, nor is there documentation showing how the funds were actually used once they reached their destination. There is no documentation showing the extent of the Organization's programs in Jamaica, or what the programs are exactly. The Organization has stated that it has had daily contact with the office in Jamaica; however, without any records of those conversations, we are unable to determine if the Organization has direction and control of resources sent to Jamaica.

Due to inadequate internal controls, lack of direction over foreign activities, and insufficient documentation, we cannot conclude that the Organization's resources were used in furtherance of its charitable purposes.

Accordingly, it is our position that the Organization has failed to meet the requirements of subsection 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, the Organization's charitable status should be revoked under paragraph 168(1)(b) of the Act.

3. Failure to file a charity information return as and when required

The audit revealed many areas of non-compliance with the filing of the Form T3010, Registered Charity information return.

The Organization's response:

The Organization admitted that it has repeatedly filed its Forms T3010 late, however, they are "now currently up to date and include all the necessary financial statements required." The Organization further stated that it rarely receives cash donations. The Executive Director uses her own money and the other board members' money to pay for the Organization's expenses. Finally, the Organization stated that "all necessary amendments will be corrected immediately."

Our analysis and conclusion:

The Organization has filed its T3010 returns for 2017 and 2018, but failed to include the related financial statements. It has also failed to include the Form T1235, Directors/Trustees and Like Officials Worksheet, for each of those years.

The Organization made some changes to its T3010 in 2017 and 2018 after our visit in early 2017; however, there are still numerous errors on the T3010 returns. The returns fail to accurately portray the Organization's financial position for they do not mention substantial liabilities with the Ministry of Labour or the CRA. The changes that the Organization said it has already implemented have not yet taken place.

For these reasons, it is our position that the Organization has continued to fail to comply with subsection 149.1(14) of the Act, which requires an Organization to file a T3010 return accurately and on time. For this reason, the Organization's charitable status should be revoked under paragraph 168(1)(c) of the Act.

4. Failure to issue proper donation receipts

Our audit revealed the following concerns:

- a. The receipts did not include the name, Canada Revenue Agency, and the website address, canada.ca/charities-giving.
- b. The receipts did not include the locality from where they were issued.
- c. The official donation receipts did not specify that they are donations receipts for income tax purposes.
- d. The Organization failed to retain a duplicate copy of the official donation receipts, as they were purportedly lost in a flood in 2015.
- e. Of the two donation receipts provided to us, only one included the donor's address.

The Organization's response:

The Organization sent its new receipt book, in which it has implemented all of the required elements. It also indicated in its letter that many of its documents, including its official donation

receipts, were lost in the building flood, but that it has taken precautions so that this will not happen again. It also stated that the lack of the donor's address on the donation receipt has been corrected.

Conclusion:

The representations indicate that steps have been taken to correct the information contained on the official donation receipts.

Section 149.1 Qualified Donees

149.1(2) Revocation of registration of charitable organization

The Minister may, in the manner described in section 168, revoke the registration of a charitable organization for any reason described in subsection 168(1) or where the organization

- (a) carries on a business that is not a related business of that charity;
- (b) fails to expend in any taxation year, on charitable activities carried on by it and by way of gifts made by it to qualified donees, amounts the total of which is at least equal to the organization's disbursement quota for that year; or
- (c) makes a disbursement by way of a gift, other than a gift made
 - (i) in the course of charitable activities carried on by it, or
 - (ii) to a donee that is a qualified donee at the time of the gift.

149.1(3) Revocation of registration of public foundation

The Minister may, in the manner described in section 168, revoke the registration of a public foundation for any reason described in subsection 168(1) or where the foundation

- (a) carries on a business that is not a related business of that charity;
- (b) fails to expend in any taxation year, on charitable activities carried on by it and by way of gifts made by it to qualified donees, amounts the total of which is at least equal to the foundation's disbursement quota for that year;
- (b.1) makes a disbursement by way of a gift, other than a gift made
 - (i) in the course of charitable activities carried on by it, or
 - (ii) to a donee that is a qualified donee at the time of the gift;
- (c) since June 1, 1950, acquired control of any corporation;
- (d) since June 1, 1950, incurred debts, other than debts for current operating expenses, debts incurred in connection with the purchase and sale of investments and debts incurred in the course of administering charitable activities; or
- (e) at any time within the 24 month period preceding the day on which notice is given to the foundation by the Minister pursuant to subsection 168(1) and at a time when the foundation was a private foundation, took any action or failed to expend amounts such that the Minister was entitled, pursuant to subsection 149.1(4), to revoke its registration as a private foundation.

149.1(4) Revocation of registration of private foundation

The Minister may, in the manner described in section 168, revoke the registration of a private foundation for any reason described in subsection 168(1) or where the foundation

(a) carries on any business;

(b) fails to expend in any taxation year, on charitable activities carried on by it and by way of gifts made by it to qualified donees, amounts the total of which is at least equal to the foundation's disbursement quota for that year;

(b.1) makes a disbursement by way of a gift, other than a gift made

(i) in the course of charitable activities carried on by it, or

(ii) to a donee that is a qualified donee at the time of the gift;

(c) has, in respect of a class of shares of the capital stock of a corporation, a divestment obligation percentage at the end of any taxation year;

(d) since June 1, 1950, incurred debts, other than debts for current operating expenses, debts incurred in connection with the purchase and sale of investments and debts incurred in the course of administering charitable activities.

149.1(4.1) Revocation of registration of registered charity

The Minister may, in the manner described in section 168, revoke the registration

(a) of a registered charity, if it has entered into a transaction (including a gift to another registered charity) and it may reasonably be considered that a purpose of the transaction was to avoid or unduly delay the expenditure of amounts on charitable activities;

(b) of a registered charity, if it may reasonably be considered that a purpose of entering into a transaction (including the acceptance of a gift) with another registered charity to which paragraph (a) applies was to assist the other registered charity in avoiding or unduly delaying the expenditure of amounts on charitable activities;

(c) of a registered charity, if a false statement, within the meaning assigned by subsection 163.2(1), was made in circumstances amounting to culpable conduct, within the meaning assigned by that subsection, in the furnishing of information for the purpose of obtaining registration of the charity;

(d) of a registered charity, if it has in a taxation year received a gift of property (other than a designated gift) from another registered charity with which it does not deal at arm's length and it has expended, before the end of the next taxation year, in addition to its disbursement quota for each of those taxation years, an amount that is less than the fair market value of the property, on charitable activities carried on by it or by way of gifts made to qualified donees with which it deals at arm's length; and

(e) of a registered charity, if an ineligible individual is a director, trustee, officer or like official of the charity, or controls or manages the charity, directly or indirectly, in any manner whatever.

Section 168:

Revocation of Registration of Certain Organizations and Associations

168(1) Notice of intention to revoke registration

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

- (a) applies to the Minister in writing for revocation of its registration;
- (b) ceases to comply with the requirements of this Act for its registration;
- (c) in the case of a registered charity or registered Canadian amateur athletic association, fails to file an information return as and when required under this Act or a regulation;
- (d) issues a receipt for a gift otherwise than in accordance with this Act and the regulations or that contains false information;
- (e) fails to comply with or contravenes any of sections 230 to 231.5; or
- (f) in the case of a registered Canadian amateur athletic association, accepts a gift the granting of which was expressly or implicitly conditional on the association making a gift to another person, club, society or association.

168(2) Revocation of Registration

Where the Minister gives notice under subsection 168(1) to a registered charity or to a registered Canadian amateur athletic association,

- (a) if the charity or association has applied to the Minister in writing for the revocation of its registration, the Minister shall, forthwith after the mailing of the notice, publish a copy of the notice in the Canada Gazette, and
- (b) in any other case, the Minister may, after the expiration of 30 days from the day of mailing of the notice, or after the expiration of such extended period from the day of mailing of the notice as the Federal Court of Appeal or a judge of that Court, on application made at any time before the determination of any appeal pursuant to subsection 172(3) from the giving of the notice, may fix or allow, publish a copy of the notice in the Canada Gazette,

and on that publication of a copy of the notice, the registration of the charity or association is revoked.

168(4) Objection to proposal or designation

A person may, on or before the day that is 90 days after the day on which the notice was mailed, serve on the Minister a written notice of objection in the manner authorized by the Minister, setting out the reasons for the objection and all the relevant facts, and the provisions of subsections 165(1), (1.1) and (3) to (7) and sections 166, 166.1 and 166.2 apply, with any modifications that the circumstances require, as if the notice were a notice of assessment made under section 152, if

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

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

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

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

Where the Minister

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

(a.1) confirms a proposal, decision or designation in respect of which a notice was issued by the Minister to a person that is or was registered as a registered charity, or is an applicant for registration as a registered charity, under any of subsections 149.1(2) to (4.1), (6.3), (22) and (23) and 168(1), or does not confirm or vacate that proposal, decision or designation within 90 days after service of a notice of objection by the person under subsection 168(4) in respect of that proposal, decision or designation,

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

(b) refuses to accept for registration for the purposes of this Act any retirement savings plan,

(c) refuses to accept for registration for the purposes of this Act any profit sharing plan or revokes the registration of such a plan,

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

(e) refuses to accept for registration for the purposes of this Act an education savings plan,

(e.1) sends notice under subsection 146.1(12.1) to a promoter that the Minister proposes to revoke the registration of an education savings plan,

(f) refuses to register for the purposes of this Act any pension plan or gives notice under subsection 147.1(11) to the administrator of a registered pension plan that the Minister proposes to revoke its registration,

(f.1) refuses to accept an amendment to a registered pension plan,

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

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

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

the person described in paragraph (a), (a.1) or (a.2), the applicant in a case described in paragraph (b), (e) or (g), a trustee under the plan or an employer of employees who are beneficiaries under the plan, in a case described in paragraph (c), the promoter in a case described in paragraph (e.1), the administrator of the plan or an employer who participates in the plan, in a case described in paragraph (f) or (f.1), or the administrator of the plan in a case described in paragraph (h) or (i), may appeal from the Minister's decision, or from the giving of the notice by the Minister, to the Federal Court of Appeal.

180(1) Appeals to Federal Court of Appeal

An appeal to the Federal Court of Appeal pursuant to subsection 172(3) may be instituted by filing a notice of appeal in the Court within 30 days from

(a) the day on which the Minister notifies a person under subsection 165(3) of the Minister's action in respect of a notice of objection filed under subsection 168(4),

(b) [Repealed, 2011, c. 24, s. 55]

(c) the mailing of notice to the administrator of the registered pension plan under subsection 147.1(11),

(c.1) the sending of a notice to a promoter of a registered education savings plan under subsection 146.1(12.1),

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

(d) the time the decision of the Minister to refuse the application for acceptance of the amendment to the registered pension plan or pooled registered pension plan was mailed, or otherwise communicated in writing, by the Minister to any person,

as the case may be, or within such further time as the Court of Appeal or a judge thereof may, either before or after the expiration of those 30 days, fix or allow.

Section 188: Revocation tax

188(1) Deemed year-end on notice of revocation

If on a particular day the Minister issues a notice of intention to revoke the registration of a taxpayer as a registered charity under any of subsections 149.1(2) to (4.1) and 168(1) or it is determined, under subsection 7(1) of the Charities Registration (Security Information) Act, that a certificate served in respect of the charity under subsection 5(1) of that Act is reasonable on the basis of information and evidence available,

(a) the taxation year of the charity that would otherwise have included that day is deemed to end at the end of that day;

(b) a new taxation year of the charity is deemed to begin immediately after that day; and

(c) for the purpose of determining the charity's fiscal period after that day, the charity is deemed not to have established a fiscal period before that day.

188(1.1) Revocation tax

A charity referred to in subsection (1) is liable to a tax, for its taxation year that is deemed to have ended, equal to the amount determined by the formula

$$A - B$$

where

A

is the total of all amounts, each of which is

(a) the fair market value of a property of the charity at the end of that taxation year,

(b) the amount of an appropriation (within the meaning assigned by subsection (2)) in respect of a property transferred to another person in the 120-day period that ended at the end of that taxation year, or

(c) the income of the charity for its winding-up period, including gifts received by the charity in that period from any source and any income that would be computed under section 3 as if that period were a taxation year; and

B

is the total of all amounts (other than the amount of an expenditure in respect of which a deduction has been made in computing income for the winding-up period under paragraph (c) of the description of A), each of which is

- (a) a debt of the charity that is outstanding at the end of that taxation year,
- (b) an expenditure made by the charity during the winding-up period on charitable activities carried on by it, or
- (c) an amount in respect of a property transferred by the charity during the winding-up period and not later than the latter of one year from the end of the taxation year and the day, if any, referred to in paragraph (1.2)(c), to a person that was at the time of the transfer an eligible donee in respect of the charity, equal to the amount, if any, by which the fair market value of the property, when transferred, exceeds the consideration given by the person for the transfer.

188(1.2) Winding-up period

In this Part, the winding-up period of a charity is the period that begins immediately after the day on which the Minister issues a notice of intention to revoke the registration of a taxpayer as a registered charity under any of subsections 149.1(2) to (4.1) and 168(1) (or, if earlier, immediately after the day on which it is determined, under subsection 7(1) of the *Charities Registration (Security Information) Act*, that a certificate served in respect of the charity under subsection 5(1) of that Act is reasonable on the basis of information and evidence available), and that ends on the day that is the latest of

- (a) the day, if any, on which the charity files a return under subsection 189(6.1) for the taxation year deemed by subsection (1) to have ended, but not later than the day on which the charity is required to file that return,
- (b) the day on which the Minister last issues a notice of assessment of tax payable under subsection (1.1) for that taxation year by the charity, and
- (c) if the charity has filed a notice of objection or appeal in respect of that assessment, the day on which the Minister may take a collection action under section 225.1 in respect of that tax payable.

188(1.3) Eligible donee

In this Part, an eligible donee in respect of a particular charity is a registered charity

- (a) of which more than 50% of the members of the board of directors or trustees of the registered charity deal at arm's length with each member of the board of directors or trustees of the particular charity;
- (b) that is not the subject of a suspension under subsection 188.2(1);
- (c) that has no unpaid liabilities under this Act or under the *Excise Tax Act*;

- (d) that has filed all information returns required by subsection 149.1(14); and
- (e) that is not the subject of a certificate under subsection 5(1) of the Charities Registration (Security Information) Act or, if it is the subject of such a certificate, the certificate has been determined under subsection 7(1) of that Act not to be reasonable.

188(2) Shared liability — revocation tax

A person who, after the time that is 120 days before the end of the taxation year of a charity that is deemed by subsection (1) to have ended, receives property from the charity, is jointly and severally, or solidarily, liable with the charity for the tax payable under subsection (1.1) by the charity for that taxation year for an amount not exceeding the total of all appropriations, each of which is the amount by which the fair market value of such a property at the time it was so received by the person exceeds the consideration given by the person in respect of the property.

188(2.1) Non-application of revocation tax

Subsections (1) and (1.1) do not apply to a charity in respect of a notice of intention to revoke given under any of subsections 149.1(2) to (4.1) and 168(1) if the Minister abandons the intention and so notifies the charity or if

- (a) within the one-year period that begins immediately after the taxation year of the charity otherwise deemed by subsection (1) to have ended, the Minister has registered the charity as a charitable organization, private foundation or public foundation; and
- (b) the charity has, before the time that the Minister has so registered the charity,
 - (i) paid all amounts, each of which is an amount for which the charity is liable under this Act (other than subsection (1.1)) or the Excise Tax Act in respect of taxes, penalties and interest, and
 - (ii) filed all information returns required by or under this Act to be filed on or before that time.

188(3) Transfer of property tax

Where, as a result of a transaction or series of transactions, property owned by a registered charity that is a charitable foundation and having a net value greater than 50% of the net asset amount of the charitable foundation immediately before the transaction or series of transactions, as the case may be, is transferred before the end of a taxation year, directly or indirectly, to one or more charitable organizations and it may reasonably be considered that the main purpose of the transfer is to effect a reduction in the disbursement quota of the foundation, the foundation shall pay a tax under this Part for the year equal to the amount by which 25% of the net value of that property determined as of the day of its transfer exceeds the total of all amounts each of which is its tax payable under this subsection for a preceding taxation year in respect of the transaction or series of transactions.

188(3.1) Non-application of subsection (3)

Subsection (3) does not apply to a transfer that is a gift to which subsection 188.1(11) or (12) applies

188(4) Transfer of property tax

If property has been transferred to a charitable organization in circumstances described in subsection (3) and it may reasonably be considered that the organization acted in concert with a charitable foundation for the purpose of reducing the disbursement quota of the foundation, the organization is jointly and severally, or solidarily, liable with the foundation for the tax imposed on the foundation by that subsection in an amount not exceeding the net value of the property.

188(5) Definitions

In this section,

“net asset amount”

« *montant de l'actif net* »

“net asset amount” of a charitable foundation at any time means the amount determined by the formula

$$A - B$$

where

A

is the fair market value at that time of all the property owned by the foundation at that time, and

B

is the total of all amounts each of which is the amount of a debt owing by or any other obligation of the foundation at that time;

“net value”

« *valeur nette* »

“net value” of property owned by a charitable foundation, as of the day of its transfer, means the amount determined by the formula

$$A - B$$

where

A

is the fair market value of the property on that day, and

B

is the amount of any consideration given to the foundation for the transfer.

189(6) Taxpayer to file return and pay tax

Every taxpayer who is liable to pay tax under this Part (except a charity that is liable to pay tax under section 188(1)) for a taxation year shall, on or before the day on or before which the taxpayer is, or would be if tax were payable by the taxpayer under Part I for the year, required to file a return of income or an information return under Part I for the year,

- (a) file with the Minister a return for the year in prescribed form and containing prescribed information, without notice or demand therefor;
- (b) estimate in the return the amount of tax payable by the taxpayer under this Part for the year; and
- (c) pay to the Receiver General the amount of tax payable by the taxpayer under this Part for the year.

189(6.1) Revoked charity to file returns

Every taxpayer who is liable to pay tax under subsection 188(1.1) for a taxation year shall, on or before the day that is one year from the end of the taxation year, and without notice or demand,

- (a) file with the Minister
 - (i) a return for the taxation year, in prescribed form and containing prescribed information, and
 - (ii) both an information return and a public information return for the taxation year, each in the form prescribed for the purpose of subsection 149.1(14); and
- (b) estimate in the return referred to in subparagraph (a)(i) the amount of tax payable by the taxpayer under subsection 188(1.1) for the taxation year; and
- (c) pay to the Receiver General the amount of tax payable by the taxpayer under subsection 188(1.1) for the taxation year.

189 (6.2) Reduction of revocation tax liability

If the Minister has, during the one-year period beginning immediately after the end of a taxation year of a person, assessed the person in respect of the person's liability for tax under subsection 188(1.1) for that taxation year, has not after that period reassessed the tax liability of the person, and that liability exceeds \$1,000, that liability is, at any particular time, reduced by the total of

(a) the amount, if any, by which

(i) the total of all amounts, each of which is an expenditure made by the charity, on charitable activities carried on by it, before the particular time and during the period (referred to in this subsection as the "post-assessment period") that begins immediately after a notice of the latest such assessment was sent and ends at the end of the one-year period

exceeds

(ii) the income of the charity for the post-assessment period, including gifts received by the charity in that period from any source and any income that would be computed under section 3 if that period were a taxation year, and

(b) all amounts, each of which is an amount, in respect of a property transferred by the charity before the particular time and during the post-assessment period to a person that was at the time of the transfer an eligible donee in respect of the charity, equal to the amount, if any, by which the fair market value of the property, when transferred, exceeds the consideration given by the person for the transfer.

189(6.3) Reduction of liability for penalties

If the Minister has assessed a particular person in respect of the particular person's liability for penalties under section 188.1 for a taxation year, and that liability exceeds \$1,000, that liability is, at any particular time, reduced by the total of all amounts, each of which is an amount, in respect of a property transferred by the particular person after the day on which the Minister first assessed that liability and before the particular time to another person that was at the time of the transfer an eligible donee in respect of the particular person, equal to the amount, if any, by which the fair market value of the property, when transferred, exceeds the total of

(a) the consideration given by the other person for the transfer, and

(b) the part of the amount in respect of the transfer that has resulted in a reduction of an amount otherwise payable under subsection 188(1.1).

189 (7) Minister may assess

Without limiting the authority of the Minister to revoke the registration of a registered charity or registered Canadian amateur athletic association, the Minister may also at any time assess a taxpayer in respect of any amount that a taxpayer is liable to pay under this Part.