

e-document-é	A-245-24-ID 1
F	FEDERAL COURT
I	OF APPEAL
L	COUR D'APPEL
E	FÉDÉRALE
D	
	July 24, 2024
	24 juillet 2024
	Janelle Wong
TOR	1

Court File No.

FEDERAL COURT OF APPEAL

BETWEEN:

**JEWISH NATIONAL FUND OF CANADA INC.
FONDS NATIONAL JUIF DU CANADA INC.**

Appellant

and

MINISTER OF NATIONAL REVENUE

Respondent

NOTICE OF APPEAL

TO THE RESPONDENT:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the appellant. The relief claimed by the appellant appears on the following page.

THIS APPEAL will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court directs otherwise, the place of hearing will be as requested by the appellant. The appellant requests that this appeal be heard in Toronto, Ontario.

IF YOU WISH TO OPPOSE THIS APPEAL, to receive notice of any step in the appeal or to be served with any documents in the appeal, you or a solicitor acting for you must prepare a notice of appearance in Form 341A prescribed by the *Federal Courts Rules* and serve it on the appellant's solicitor, or where the appellant is self-represented, on the appellant, WITHIN 10 DAYS of being served with this notice of appeal.

IF YOU INTEND TO SEEK A DIFFERENT DISPOSITION of the order appealed from, you must serve and file a notice of cross-appeal in Form 341B prescribed by the *Federal Courts Rules* instead of serving and filing a notice of appearance.

Copies of the *Federal Courts Rules*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPEAL, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Date: _____

Issued by: _____

(Registry Officer)

Address of Principal office:

The Administrator
Federal Court of Appeal
Thomas D'Arcy McGee Building
90 Sparks Street, 5th Floor
Ottawa, ON
K1A 0H9

TO: Minister of National Revenue
c/o Canada Revenue Agency
Ottawa Tax Services Office
333 Laurier Avenue West
Ottawa ON K1A 0L9

AND TO: Deputy Attorney General of Canada
Office of the Deputy Attorney General of Canada
284 Wellington Street
Ottawa, ON K1A 0H8

APPEAL

THE APPELLANT APPEALS to the Federal Court of Appeal, pursuant to subsection 168(4) and paragraph 172(3)(a.1) of the *Income Tax Act*, RSC 1985, c 1 (5th Supp) as amended (the “Act”), from the Minister’s confirmation of its intention to revoke the registration of the Appellant as a charity dated June 26, 2024. The intention was originally evinced in the Minister’s Notice of Intention to Revoke (the “NITR”) dated August 20, 2019, under ss. 168(1) of the Act. The Appellant brings the Appeal pursuant to s. 3 of the *Federal Courts act*, RSC 1985, c F-7, as amended, Rule 300(b) of the Federal Courts Rules, SOR/98-106.

THE APPELLANT SEEKS the following relief:

1. That the NITR of the appellant as a charity under ss. 168(1) of the Act date stamped August 20, 2019, be quashed or vacated;
2. That the confirmation of the NITR the charity’s registration dated June 26, 2024, be quashed or vacated;
3. That the appellant be awarded its costs of this appeal; and
4. Such further and other relief as this Honourable Court may deem just.

THE GROUNDS OF APPEAL are as follows:

Reasonable Apprehension of Bias

1. The Respondent was under great public pressure to revoke the Appellant’s registered charity status. The weight of this pressure was actively considered by the Respondent’s decision makers and results in a reasonable apprehension of bias in the final decision to revoke the Appellant’s charitable status.
2. The NITR and its confirmation should be vacated or quashed on the basis that there is a reasonable apprehension of bias in the Minister’s decision.

Minister Erred

3. The NITR and its confirmation should be vacated or quashed on the basis that the Minister did not correctly apply the law in its determination of fact. These errors led to an incorrect legal determination that the Appellant:
 - a. failed to be constituted for exclusively charitable purposes;
 - b. lacked direction and control over the use of resources and provided resourcing to non-qualified donees;
 - c. conducted non-charitable activities; and
 - d. failed to maintain adequate books and records.

4. In all other ways relevant to the decision to revoke the Appellant's charitable status the Minister incorrectly applied the appropriate legal tests.

Procedural Arguments

5. The NITR and its confirmation should be vacated or quashed because the factual record upon which this Court must decide has never been tested. Under the common law rules of procedural fairness and natural justice the greater the severity of the consequences to the Appellant the greater the procedural protections afforded. There can be no greater denial of natural justice than a sanction of great severity based on facts unproven before a neutral body. Here the Appellant stands to lose its reputation, its assets and its ability to issue receipted income based upon facts decided by the Respondent's Charities Directorate but not proven to a body mandated to do so.

Request for the Record

The appellant requests that the Minister send to the appellant and to the Registry certified copies of the following material that is not in the possession of the appellant but is in the possession of the Minister pursuant to s. 317 of the *Federal Court Rules*. This is not a request that new material be created.

1. The complete unredacted record compiled by the Canada Revenue Agency which informed any aspect of its findings, decision or the confirmation of that decision; and all documents and records of all meetings and conversations related thereto including consideration of comments from the public and to the public about the Appellant's registration as a charity and its potential revocation as a charity .
2. All unredacted documents and records related to petitions, letters, emails, press releases and other communications from the public related to the appellant and discussed by any representatives of the Respondent at the Canada Revenue Agency prior to August 21, 2019.
3. All unredacted documents and records related to any communications from any office of the Canada Revenue Agency and the office of the Respondent to the head of the Charities Directorate and any other individuals with respect to the appellant's charitable status.
4. An unredacted written report on the audit of the appellant conducted by the Canada Revenue Agency and all unredacted documents and records of all meetings and conversations related thereto which formed part of the audit file.
5. Any other unredacted material prepared or considered by the Minister or others at the Canada Revenue Agency in the course of the decision to revoke the registration of the appellant as a charitable organization.

[Continued on following page for signatures]

July 25, 2024



Adam Aptowitzer

Adam Aptowitzer
150 Elgin Street
Suite 1800
Ottawa, Ontario
K2P 2P8

T: 613.350.1413
F: 613.212.2896
aaptowitzer@kpmg.ca

David Stevens
Neil McCormick
Gowling WLG (Canada) LLP
Suite 1600, 1 First Canadian Place
100 King Street West
Toronto ON M5X 1G5
Canada

T +1 416 862 3556
M +1 416 565 6629
F +1 416 862 7661
david.stevens@gowlingwlg.com

Solicitors for the Appellant