

---

## **FIRST CANADIAN NON-PROFIT ADDED TO TERRORISM LIST**

---

*By Terrance S. Carter, B.A., LL.B. and Trade-Mark Agent  
and Sean S. Carter, B.A., LL.B.*

### **A. INTRODUCTION**

A growing aspect of the federal government's anti-terrorism initiative is the designation of organizations to a list established under the terrorism provisions of the *Criminal Code*. Until now, the entities on this list have primarily included widely-recognized foreign organizations, such as Hezbollah and Al-Qaeda. However, for the first time since the list was established in 2002, a Canadian non-profit organization has been added to the list of over forty entities deemed to have facilitated or been associated with terrorist activities. Both not-for-profit organizations and registered charities, therefore, should take note of the federal government and its regulatory agencies increasing scrutiny of fundraising activities and their willingness to utilize the considerable enforcement powers afforded to them by Canada's extensive anti-terrorism legislation.

### **B. WORLD TAMIL MOVEMENT PLACED ON TERRORISM "LIST OF ENTITIES"**

In this regard, on June 16, 2008, the World Tamil Movement ("WTM") was added to the roll of the "List of Entities" established under section 85.05 of the *Criminal Code*. The WTM, a registered Ontario non-profit association, is the first Canadian non-profit organization to be added as a listed entity under section 85.05.<sup>1</sup> The WTM, which describes itself as an ethno-cultural community association engaged in humanitarian work,

---

<sup>1</sup> Stewart Bell, "Ottawa outlaws Tamil group" *National Post*. June 17, 2008.

is alleged to have raised funds for the Liberation Tigers of Tamil Eelam ("LTTE"). The LTTE was itself added as a listed entity in April 2006. During the spring of 2008, the WTM was the subject of significant scrutiny by law enforcement agencies which culminated in police raids of several of its offices during a Canada wide investigation into LTTE operations. The designation of the WTM as a listed entity comes shortly after the arrest of the first person in Canada to be charged under Canada's anti-terrorism financing laws in March 2008. That individual is alleged to have solicited donations in British Columbia for the WTM, which the police publicly claimed to be a leading "front" for the LTTE in Canada when he was arrested.<sup>2</sup>

### C. LISTING PROCESS

The process of designating an organization as a listed entity is contained in section 85.05 and 85.06 of the *Criminal Code*. On the recommendation of the Minister of Public Safety, the Governor in Council can add an organization to the list if there are reasonable grounds to believe that:

- (a) the entity has knowingly carried out, attempted to carry out, participated in or facilitated a terrorist activity; or
- (b) the entity is knowingly acting on behalf of, at the direction of or in association with an entity referred to in paragraph (a).

The designation is accomplished through regulation and the listing process is not subject to legislative or judicial oversight. In addition, the organization is not notified until it has already been added to the list. Subsequent to the designation, the operations of the entity are essentially shut down because all Canadian financial institutions are required to freeze the listed entity's assets immediately and no one can have any financial dealings with the organization.

The appeal process under section 85.05 and 85.06 is very limited. The limitations include, amongst others, the possible introduction of secret evidence by foreign governmental agencies, which may not be disclosed to the applicant organization. As well, the listing process shares some distinct similarities to the controversial security certificate process under the *Immigration and Refugee Protection Act*, which was successfully challenged under the *Canadian Charter of Rights and Freedoms* before the Supreme Court of Canada in

---

<sup>2</sup> Robert Matas and Colin Freeze, "Accused in terror-funding case gets bail" *Globe and Mail*. March 19, 2008.

*Charkaoui v. Canada (Minister of Citizenship and Immigration)*.<sup>3</sup> The WTM announced on June 19, 2008 that it will appeal its designation as a listed entity, the first such appeal since the list was established in 2002.<sup>4</sup>

#### D. CONCLUSION

It is difficult to know with any certainty the specific course of action and enforcement measures the federal government's anti-terrorism initiatives will involve in the future. However, what is clear is that over the past seven years, charities and non-profit organizations have been a primary focus of the anti-terrorism legislative regime that has been put into place. Ranging from a broad definition of "facilitation" of terrorism provisions of the *Criminal Code* to an extreme, though as yet unused, deregistration process under the *Charities Registration and Security Information Act*, the anti-terror regime has created a large shadow over the entire not-for-profit and charitable sector in Canada. Although many of these provisions have remained dormant up until 2008, already the first terrorist financing charge has been laid and the first Canadian non-profit organization has been designated as a listed entity. At the very least, this signals an increasing willingness by the authorities to publicly draw on the considerable base of power afforded to them by Canada's anti-terrorism legislation.

<sup>3</sup> *Charkaoui v. Canada (Minister of Citizenship and Immigration)*, 2007 SCC 9

<sup>4</sup> Craig Offman, "Tamil group to appeal terror listing" *National Post*, June 20, 2008.