

Updating Charities and Not-For-Profit Organizations on recent legal developments and risk management considerations.

FEBRUARY 2011 ISSUE

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Get on Our Mailing List: To automatically receive the free monthly *Charity Law Update*, send an email to info@carters.ca with "Subscribe" in the subject line. Please feel free to forward this Update to anyone (internal or external to your organization) who may be interested in being put on our monthly mailing list.

RECENT PUBLICATIONS AND NEWS RELEASES

Carters Celebrates 10 Years

In January, 2011, Carters Professional Corporation celebrated its 10th year. Thanks to all of the firm's clients and readers for your support over the last ten years. As part of the celebration, the firm is launching a new look for the firm and its websites, as well as launching the following social media sites so you can follow us more easily.

Facebook: www.Facebook.com/CharityLawUpdate

Twitter: www.Twitter.com/CharityUpdate

LinkedIn: www.Linkedin.com/company/carters-professional-corporation

Industry Canada Publishes Regulations under *Canada Not-For-Profit Corporations Act*

Jane Burke-Robertson and Theresa L.M. Man.

The *Canada Not-for-profit Corporations Act* received Royal Assent on June 23, 2009 to replace the *Canada Corporations Act*, which currently regulates federal not-for-profit corporations. As part of the process of the new Act coming into force, regulations which set out the detailed rules required by the Act must be published in the Canada Gazette. On February 26, 2011, the Regulations were published by Industry Canada in Part 1 of the Canada Gazette. These Regulations set out certain details referred to in the Act, such as time periods, options for providing notice of members' meetings and absentee voting, and user fees. The proposed Regulations are nearly identical to the previous draft Regulations that were released for consultation in June 2010. Final approval of these proposed Regulations will be accompanied by the documents for the Order in Council to bring the Act into force. For more information surrounding these Regulations, please visit: <http://canadagazette.gc.ca/rp-pr/p1/2011/2011-02-26/html/reg7-eng.html>.

CRA News

Karen J. Cooper.

CRA Announces that the Charities Listings are now displaying Form T3010-1

As a result of the new changes affecting charities that were introduced in the 2010 Federal Budget, CRA developed and released on January 18, 2011, a new Form T3010-1, *Registered Charity Information Return* and also made amendments to Guide T4033-1, *Completing the Registered Charity Information Return*. For

more information concerning the budget changes, please see Charity Law Bulletin No. 221 available at <http://www.carters.ca/pub/bulletin/charity/2010/chylb221.htm>. CRA announced on January 26, 2011 that the Charities Listings are now displaying the T3010-1, *Registered Charity Information Return*. For those charities that have filed their T3010 returns, in order to access the returns, CRA instructs charities or other donees to select the Return icon once they have received search results with the Basic Search or Advanced Search. For more information, please go to the CRA website at <http://www.cra-arc.gc.ca/chrts-gvng/chrts/whtsnw/menu-eng.html>.

IC84-3R – Gifts to Certain Charitable Organizations Outside Canada

On December 20, 2010, a revised attachment was added to CRA Publication IC84-3R, Gifts to Certain Charitable Organizations Outside of Canada. This attachment provides an updated list of all of the gifts made to organizations outside of Canada that Her Majesty in right of Canada has made since January 1, 2000. A few organizations mentioned on the list include The American Assembly (America), Education Africa (Africa) and The State Hermitage Museum (Russia). The updated list can be accessed on the CRA website at <http://www.cra-arc.gc.ca/E/pub/tp/ic84-3r-attach/ic84-3r-attachment-10e.pdf>.

Registration for the Charities Directorate Information Webinar Registration Opens

The Charities Directorate is presenting a variety of topics on charities in 2011. The webinar on T3010-1: Line by Line Review was completed on February 2, 2011, the webinar on Charities Information Webinar on Activities Outside of Canada was completed on February 23, 2011, and registration for the final webinar on Political Activities on March 16, 2011 will open on February 28, 2011. More questions and answers about Charities Directorate webinars and registration are available on CRA's website at <http://www.cra-arc.gc.ca/chrts-gvng/chrts/cmmnctn/wbnrs/rgstrtn-eng.html>.

CRA Continues Collaboration with Federal and Provincial Governments

On January 21, 2011, Canada Revenue Agency ("CRA") announced that they have made a commitment to improve jurisdictional collaboration and educate the public about making informed decisions when they make charitable donations. CRA's Charities Directorate decided to contribute "Donate wisely" to the January page in the Government of Ontario's [2011 Smart Consumer Calendar](#), and the December page in the Government of Manitoba's [2011 Protect Yourself Calendar](#). Both calendars provide advice designed to protect the public against fraud and scams.

Recent Decision of the Tax Court of Canada May Affect Religious Schools

Theresa L.M. Man.

Canada Revenue Agency's ("CRA") Information Circular IC75-23 dated September 29, 1975 currently permits schools that offer religious education to issue official donation receipts for a portion of the tuition paid. This is an administrative exception by CRA to the general rule that tuition fees are not charitable donations even though the educational institution may be a registered charity. In a recent decision of the Tax Court of Canada (*Fluevog v. The Queen*, October 12, 2010), the Appellant sought a motion for leave to amend the Amended Notice of Appeal to permit the Appellant to advance a s. 15 Charter argument that the extension of the administrative exception to religious education but not non-religious education received by his children discriminated against him on religious grounds. The Appellant's children took swimming lessons at the Vancouver Pacific Swim Club and the Appellant claimed and was denied a charitable deduction for amounts paid to Swim Canada, 95% of which flowed from Swim Canada through Swim B.C. and were credited to his children's swim club account there. At issue in the decision was whether the payments made to Swim Canada were valid gifts at common law or whether the consideration received in the form of swim lessons for his children vitiated the purported gift. The Appellant's motion to amend the Amended Notice of Appeal to advance the Charter argument was granted by the Court and was found to be an arguable case for appeal. Depending on the outcome of the appeal, the ability of religious schools to issue receipts for donations may be affected.

Draft CRA Guidance on Promotion of Animal Welfare and Charitable Registration

Terrance S. Carter and Jacqueline M. Demczur in *Charity Law Bulletin* No. 243, February 24, 2011.

The Canada Revenue Agency ("CRA") has released a draft consultation paper entitled "*Consultation on Proposed Guidance for The Promotion of Animal Welfare and Charitable Registration*" (the "Proposed Guidance"). CRA is accepting comments from charities, individuals involved in charitable work, government departments and agencies, and the general public on the Proposed Guidance until March 31, 2011. This *Charity Law Bulletin* provides an overview of the key aspects of the Proposed Guidance concerning promotion of animal welfare as a charitable purpose.

Read More:

[PDF] <http://www.carters.ca/pub/bulletin/charity/2011/chylb243.pdf>

[WEB] <http://www.carters.ca/pub/bulletin/charity/2011/chylb243.htm>

CRA Comments on Non-arm's Length Relationship between NPO's and Registered Charities

Karen J. Cooper.

Canada Revenue Agency ("CRA") released a technical interpretation (Document #2010-0373181C6) on October 8, 2010, to clarify the issue of whether a non-profit organization and a registered charity deal at arm's length with each other where persons are members of the board of directors of both corporations. According to CRA, it is a question of fact whether two entities are dealing with each other at arm's length at a particular time, except where paragraph 25(1)(a) or (b) of the ("ITA") applies. The criteria for determining whether parties to a transaction are not factually dealing at 'arm's length' include the following: was there a common mind which directs the bargaining for both parties to a transaction, where the parties to a transaction acting in concert without separate interests, and was there a 'de facto' control. More information about these criteria can be accessed in CRA's Interpretation Bulletin IT-419R2. In a situation where a non-profit and a registered charity have individuals that sit on the board of directors of both entities, CRA has taken the view that it is a question of fact whether the organizations are dealing at arm's length with each other and that they will take all of the facts and context of the situation into consideration. Technical interpretations are available through commercial subscription services or a direct request to CRA.

Federal Court of Appeal Disallowed Pastoral Agent to Claim Clergy Residence Deduction

Theresa L.M. Man

In the recent decision of *Proulx, D. v. The Queen*, (2010 FCA 261), the Federal Court of Appeal (FCA) allowed an appeal of a decision of the Tax Court of Canada (2008 TCC 545) and disallowed the Respondent's (Ms. Proulx) claim for a clergy residence deduction under the *Income Tax Act* for the 2005 taxation year.

Ms. Proulx is a pastoral agent with the Roman Catholic Church, in the diocese of St-Jérôme. The claim for clergy residence deduction was denied by CRA. Ms. Proulx's appeal to the Tax Court of Canada was allowed, having found that Ms. Proulx has the status and role of a regular minister with the Church. On appeal to the FCA, however, the Tax Court decision was set aside. The FCA found that pastoral agents were not regular ministers of the Roman Catholic Church and are therefore not entitled to a clergy residence deduction. The FCA relied on the analysis in *Lefebvre v. Canada* (2009 FAC 307), which held that only ordained ministers [can be said to be permanent](#) or "ad vitam aut culpam" and are thus awarded a special status. Pastoral agents do not possess this status because of their temporary mandates, which the Church may terminate at any time.

The decision can be accessed at

<http://www.canlii.org/eliisa/highlight.do?text=Proulx%2C+D.+v.+The+Queen&language=en&searchTitle=Search+all+CanLII+Databases&path=/en/ca/fca/doc/2010/2010fca261/2010fca261.html>.

Public Officials and Freedom of Religion: The Marriage Commissioners Reference

Jennifer M. Leddy in *Church Law Bulletin* No. 32, February 14, 2011.

On January 10, 2011 the Saskatchewan Court of Appeal (“the Court of Appeal”) released its decision in the *Marriage Commissioners Reference*. A Reference is the legal term for questions referred to the Court by the Provincial Government for hearing and consideration. The Saskatchewan Government appointed legal counsel to argue both sides of the questions, and there were also many intervenors. While decisions rendered on a Reference are advisory only and not binding on other Provinces, they are persuasive in framing future legislation.

This *Church Law Bulletin* provides an overview of the decision, along with the impact it may have on the *Charter* right to Freedom of Religion limitations for public servants and in other contexts.

Read More:

[PDF] <http://www.carters.ca/pub/bulletin/church/2011/chchlb32.pdf>

[WEB] <http://www.carters.ca/pub/bulletin/church/2011/chchlb32.htm>

Bill To Prevent Gender Identity and Expression Discrimination Passed By House of Commons

Barry W. Kwasniewski in *Charity Law Bulletin* No. 242, February 24, 2011.

On February 9, 2011, the House of Commons passed Bill C-389, which will amend the *Canadian Human Rights Act* and the *Criminal Code* extend protection from discrimination on the basis of gender identity and gender expression. A copy of Bill C-389 can be found online at www.2parl.gc.ca. Introduced as a private member’s bill by NDP MP Bill Siksay in 2009, the bill was passed by a vote of 143 for and 135 against. The bill will now proceed to the Senate for review. If passed by the Senate, the bill will become law on a date to be proclaimed. This *Charity Law Bulletin* provides an overview of Bill C-389 and an explanation of practical implications for charities and not-for-profit organizations.

Read More:

[PDF] <http://www.carters.ca/pub/bulletin/charity/2011/chylb242.pdf>

[WEB] <http://www.carters.ca/pub/bulletin/charity/2011/chylb242.htm>

CRTC Imposes Big Fines for Do Not Call List Infraction

Nancy E. Claridge.

The Canadian Radio-television and Telecommunications Commission (CRTC) reached settlement with two telemarketers in December 2010, imposing significant fines for violating Canada's National Do Not Call List rules.

In the biggest penalty ever imposed by the regulator, Bell Canada paid an administrative monetary penalty of \$1.3 million for improperly making calls to some of the millions of Canadians who had registered their numbers with the National Do Not Call List or who were on the company's internal do-not-call list. Although the calls were made by third parties, the CRTC confirmed that Bell Canada "must ultimately ensure that the rules are followed." Bell Canada voluntarily undertook to immediately cease making these types of calls and to make a monetary payment of \$266,000 to the Institute for Information and Systems Engineering at Concordia University. In addition, the company has undertaken to review its compliance policies to ensure ongoing adherence with the rules.

The Bell Canada announcement came just mere days after the CRTC announced it reached a settlement with Xentel DM Inc. over the company's misuse of the charity exemption to the National Do Not Call List rules. A CRTC investigation found that Xentel made calls to consumers who had registered their numbers on the DNCL and promoted events on its own behalf or on behalf of organizations that were not registered as charities with the Canada Revenue Agency. The National DNCL rules provide an exemption for registered charities. For more information on the rules and this exemption, see *Charity Law Bulletin* No. 119, available at <http://www.carters.ca/pub/bulletin/charity/2007/chylb119.pdf> and the February 2009 *Charity Law Update* available at <http://www.carters.ca/pub/update/charity/09/feb09.pdf>.

The December 2010 announcements indicate the regulator is beginning to take steps to provide serious enforcement of the National DNCL rules.

Ontario Legislature Passes Bill 122, the *Broader Public Sector Accountability Act*

Terrance S. Carter.

On December 8, 2010, Bill 122 the *Broader Public Sector Accountability Act*, received Royal Assent after being passed by the Ontario Legislature on December 2, 2010. The Bill introduces new rules for organizations funded by taxpayers in Ontario in order to prevent certain organizations from using public funds to hire external lobbyists for the purpose of asking for more funding.

The new rules will apply to hospitals, Local Health Integration Networks (LHINs), school boards, colleges, universities, hydro entities, community care access centres, Children's Aid Societies and other broader public sector organizations that receive more than \$10 million in funding from the provincial government, including charities.

In addition to other remedies, one unique aspect of the legislation which applies to hospitals and LHINs is the possibility that those employed in senior management positions could have their compensation reduced should their respective organizations fail to meet a requirement under the new legislation. Bill 122 will also expand Freedom of Information legislation to include hospitals, and will require hospitals and LHINs to post expenses of senior executives online. In addition, the Bill will require hospitals and LHINs to report annually on their use of consultants.

More information about Bill 122 the *Broader Public Sector Accountability Act*, can be found online at the Ontario Ministry of Health and Long Term Care website at:

<http://www.health.gov.on.ca/en/legislation/bpsa/default.aspx>.

The Bill can also be viewed in its entirety at:

http://www.ontla.on.ca/web/bills/bills_detail.do?locale=en&BillID=2420&detailPage=bills_detail_the_bill&Intranet.

New Procedures to Apply to Criminal Background Checks May Speed Up Wait Times

Esther S.J. Oh.

Public Safety Minister Vic Toews announced on February 15, 2011 that new technology is being implemented to allow nearly instantaneous fingerprint verification when ordering a criminal record background check. Under the new procedure, local police agencies that have the appropriate technology can send a fingerprint digitally to the RCMP, which would then be checked against the RCMP's database with a response being sent back to the local police station in minutes where an individual's fingerprints do not match a criminal holding. Toews advised that the new technology is expected to dramatically improve processing times for Canadians applying for criminal records background checks.

Criminal record checks are commonly obtained in order to support an application for an employment or a volunteer position involving interaction with children or other vulnerable persons. However, in accordance with the directives under the new Dissemination of Criminal Record Information Policy that were released in

December 2009, the Ontario Provincial Police had to modify the procedures that apply to requests for criminal record checks.

Prior to the implementation of the Policy, criminal background checks would normally take one to two weeks to obtain. However, under the revised procedure under the Policy, applicants are now required to submit fingerprints in support of their request for a criminal record check where the applicant has an identical name to another person who has a criminal record. In those cases, the fingerprints are needed in order to verify that the person receiving the clear background check is not the same person who has a criminal record. In addition, police are now checking the local police databases in areas where an applicant has lived within the past five years. The additional requirements have resulted in a drastic increase in the number of fingerprints being processed by the RCMP to skyrocket from 130 to 8,000 per month, resulting in delays of weeks or months. The delays arose due to the lengthier process of having local police stations mail in the prints, and having them cross-checked against the RCMP's database and mailed back to the local police. Further details regarding the new procedure under the Policy were provided in the *October 2010 Charity Law Update* available at www.charitylaw.ca.

Toews advised that the new technology has been implemented by Halton Regional Police in Ontario, and that the Ottawa police and several other jurisdictions would follow. In total, approximately 20 other jurisdictions across Canada currently have the technology, but have not yet fully implemented it as part of their background check process. The federal government is encouraging local police departments to purchase the print scan machines, although the federal government has no plans to help pay for the technology.

Motion to File Leave Application for *Bentley V. Anglican Synod of the Diocese of New Westminster* at the Supreme Court of Canada Granted

Ryan M. Prendergast.

In the December 2009 *Charity Law Update* available at www.charitylaw.ca, a report was provided on the lower court B.C. Supreme Court ruling that the properties of four incorporated parishes, which had voted to leave the Anglican Church of Canada ("ACC"), remained within the Anglican Diocese of New Westminster. The court based its decision on the statute under which the parishes were incorporated, *An Act to Incorporate the Anglican Synod of the Diocese of New Westminster* ("the Act"). The court disposed of the matter based on restrictions within the Act requiring the consent of the Executive Committee and Bishop of ACC for the use of the property. For this reason, the trial judge did not address the plaintiff's assertion that the parish

properties were held in trust for “historical, orthodox, Anglican doctrine and practice.” While the lower court did not have to decide the issue, the trial judge concluded that the parish properties were held in trust for Anglican ministry as defined by the ACC.

On November 15, 2010, the B.C. Court of Appeal released two judgments concerning the *Bentley* decision. The main judgment, an appeal by the four incorporated churches, was dismissed. Justice Newbury, writing for the court, disagreed with the lower court’s interpretation of the Act and was critical of its conclusions. The Court of Appeal addressed the trust argument of the plaintiffs, that is, that the trusts on which the properties were held were no longer practicable due to the decision of the ACC to allow same-sex marriage and therefore required a *cy-prés* order. While the Court agreed that even if the parish properties were held on trust for “the purpose of Anglican ministry,” the Court was “not convinced that Anglican worship or ‘Anglicanism’ can be separated in Canada from the notion of the ACC’s Episcopal authority.” The Court therefore agreed with the trial judge that Anglican ministry in Canada is defined by the ACC. Consequently, the court found there was no impracticability for the four parishes to carry out the trust, and therefore no grounds for a *cy-prés* order.

On January 27, 2011, a motion allowing the applicants to file a leave application with the Supreme Court of Canada from the two judgments of the British Columbia Court of Appeal was granted.

The lengthy decision of the Court of Appeal is available online at:

<http://www.canlii.org/en/bc/bcca/doc/2010/2010bcca506/2010bcca506.html>

UK Charities Encouraged to be More ‘Fraud Aware’ by Charity Commission

Terrance S. Carter.

In response to a January 27, 2011 report published by the UK National Fraud Authority regarding fraud across many sectors, the Charity Commission for England and Wales has encouraged charities to be more ‘fraud aware’. According to the Charity Commission, fraud in the UK is under reported in the charitable sector, yet the total amount of fraud and theft reported to the Charity Commission through serious incident reporting was still £21m last year.

In order to help charity trustees protect their charities from fraud, the Charity Commission has produced, in addition to detailed guidance available on the Commission website, the following simple tips for trustees of smaller charities, which tips would have similar application for charities in Canada:

1. Make sure you have access to accurate and up to date financial information and monitor the charity's financial performance against its budget.
2. Make sure that cheques and cash are kept securely, banked promptly and recorded in the accounting records.
3. Ensure cheque books are kept in a secure place - do not sign blank cheques.
4. Make sure there are proper controls in place to protect income received by post and bank it as soon as possible.
5. Make sure there are proper controls in place in relation to fundraising events, such as making sure two people handle and record the money received, that money is banked as soon as possible and that collection boxes are numbered and recorded.
6. Keep proper records when claiming gift aid - HMRC give advice on what should be recorded.
7. Make sure you have a clear policy on paying expenses to staff and volunteers and make sure they are authorized by someone other than the claimant.
8. Make sure you have controls to ensure that all income from trading is recorded and received.
9. Have monitoring procedures in place to make sure grants have been used for the agreed purposes.
10. Report any suspected fraud to the police and to the Charity Commission.

Additional information and links to detailed guidance documents can be found on the UK Charity Commission website at: http://www.charitycommission.gov.uk/RSS/News/pr_nfa.aspx.

Updated Checklist and Reference Guide: Trade-Mark and Domain Name Protection for Charities

by Terrance S. Carter and U. Shen Goh, updated February 2011.

The popular *Checklist and Reference Guide: Trade-Mark and Domain Name Protection for Charities*, available free of charge through our websites, has been updated as of February 2011.

Read More:

[PDF] <http://www.carters.ca/pub/checklst/trdmrk.pdf>

Countdown to the Canada Not-for-Profit Corporations Act Client Seminar

The New *Canada Not-for-Profit Corporations Act* (CNCA) is expected to come into effect in June, 2011, and will have a significant impact on charitable and not-for-profit organizations incorporated under the *Canada Corporations Act*.

To Get a Closer Look at the CNCA, clients of Carters can attend in depth practical breakfast seminars being offered in Toronto, Thursday, April 7, 2011, or Ottawa, Wednesday, April 13, 2011, to help those organizations understand the process of continuing under the CNCA. Registration details are available at www.carters.ca.

IN THE PRESS

IJCSL Newsletter listed Carters' January 2011 *Charity Law Update* under Miscellaneous Matters.
IJCSL Newsletter, Vol. 8, Iss. 2, February 2011.

[Link] http://www.iccsl.org/pubs/11-02_IJCSL-N.pdf

New Procedures to Apply to Criminal Background Checks Expected to Result In Delays by Esther S.J. Oh.

Charitable Thoughts, Vol. 14, No. 2, February 2011.

[Link] http://www.oba.org/En/cha_en/Newsletter_EN/v14n2.aspx#Article_4

Veiled Testimony: Reconciling Competing Charter Rights by Jennifer M. Leddy.

Charitable Thoughts, Vol. 14, No. 2, February 2011.

[Link] http://www.oba.org/En/cha_en/Newsletter_EN/v14n2.aspx#Article_6

Estate Law: CRA Says Survivor May Claim Tax Credits For Spouse's Bequests by Jacqueline M. Demczur.

Canadian Fundraising & Philanthropy eNews, Vol. 21, No. 2, January 31, 2011.

[Link] <http://www.canadianfundraiser.com/newsletter/article.asp?ArticleID=3571>

British Columbia Supreme Court Rules Employee Critical of Management Properly Dismissed for Cause by Barry Kwasniewski.

Civil Litigation Practice Portal, County of Carleton Law Association, January 2011.

[Link] <http://www.ccla-abcc.ca/en/practice-resources/civil-litigation/>

Recent Ontario Decisions Highlight Risks of Terminating Disabled Employees by Barry Kwasniewski.

Civil Litigation Practice Portal, County of Carleton Law Association, January 2011.

[Link] <http://www.ccla-abcc.ca/en/practice-resources/civil-litigation/>

Air India Report Recommends Charity Consultations by Terrance Carter and Nancy Claridge.

The Lawyers Weekly, Vol. 30, No. 29, December 3, 2011.

[Link] <http://www.carters.ca/news/2010/lwyrswkly/tscnec1203.pdf>

RECENT EVENTS AND PRESENTATIONS

Canadian Association of Gift Planners Ottawa Roundtable on January 26, 2011, included a presentation by Karen J. Cooper with Michelle Osborne from the University of Toronto entitled “Endowments – Bird in the Hand or Two in the Bush?”

[Web] <http://www.carters.ca/pub/seminar/charity/2011/kjcmo0126.htm>

[PDF] <http://www.carters.ca/pub/seminar/charity/2011/kjcmo0126.pdf>

Risk Management Directors’ and Officers’ Liability Workshop hosted by Volunteer Ottawa at the C3 Centre in Ottawa was presented by Karen J. Cooper on February 9, 2011.

[Web] <http://www.carters.ca/pub/seminar/charity/2011/kjc0209.htm>

[PDF] <http://www.carters.ca/pub/seminar/charity/2011/kjc0209.pdf>

Ottawa Region Charity & Not-for-Profit Law Seminar was held on Wednesday, February 16, 2011, at the Arlington Woods Free Methodist Church in Nepean, Ontario, with several guest speakers. This seminar is designed to provide practical information on current legal issues to assist charities and not-for-profit organizations understand developing trends in the law and avoid unnecessary exposure to legal liability.

Materials available soon at <http://www.charitylaw.ca>.

The Canadian Society of Association Executives (CSAE) Ottawa-Gatineau Chapter February Luncheon will have Barry W. Kwasniewski as guest speaker on the topic of Social Networking Risk Management at the RA Centre in Ottawa on February 23, 2011.

[Web] <http://www.carters.ca/pub/seminar/charity/2011/bwk0223.htm>

[PDF] <http://www.carters.ca/pub/seminar/charity/2011/bwk0223.pdf>

First Annual Canadian Society of Association Executives (CSAE) Trillium Chapter Winter Summit held in Hamilton, Ontario included the following presentations in the “Legal Update 101: What You Need to Know” session on February 25, 2011.

Essential Charity & Not-for-Profit Law Update by Terrance S. Carter, and

Key Legal Compliance Issues for Charities and Not-for-Profits by Theresa L.M. Man.

UPCOMING EVENTS AND PRESENTATIONS

Hiring to Firing: How to Avoid Employer Liability Workshop hosted by Volunteer Ottawa will be presented by Barry W. Kwasniewski on March 1, 2011.

Details and registration at http://www.volunteerottawa.ca/vo-clean/index.php?eng/events_workshops_1/workshops_training/risk_mgmt_hiring_to_firing

C.D. Howe Conference “Strengthening Charity Finance in Canada” will include a presentation by Terrance S. Carter entitled “Financing Charities: Thinking Outside of the Box” on March 8, 2011.

Emerging Issues in Directors' and Officers' Liability 2011, a professional development course from the Law Society of Upper Canada, will include a presentation on Directors' and Officers' Liability for Charities and Not-for-Profit Organizations by Terrance S. Carter on March 29, 2011.

<http://ecom.lsuc.on.ca/cpd/product.jsp?id=CLE11-0030701>

Client Breakfast Seminar – Get a Closer Look at Continuance Under the *Canada Not-for-Profit Corporations Act (CNCA)* hosted by Carters for clients in Toronto on Thursday, April 7, or in Ottawa on Wednesday, April 13, will provide in depth practical information to help charitable and not-for-profit organizations incorporated under the *Canada Corporations Act* understand the process of continuing under the CNCA.

Registration details will be available soon at www.carters.ca.

Canadian Association of Gift Planners (CAGP) 2011 National Conference being held in Toronto on April 13-15, 2011, will include the following presentations:

“Why the T3010B Matters to Gift Planners and What You Need to Know” by Theresa L. M. Man and Mark Climie-Elliott CFRE, Climie-Elliott,

“Essential Charity Law Update: What Every Gift Planner Needs to Know” by Terrance S. Carter, and

“Considerations in Developing Gift Acceptance Policies” by Karen J. Cooper and Bruce R. Hill CFRE, Consultant.

Details and registration available at <http://www.cagp-acpdp.org/en/education/2011conf.aspx>.

CONTRIBUTORS

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Assistant Editor: Nancy E. Claridge



Jane Burke-Robertson – A partner with Carters’ Ottawa office, Ms. Burke-Robertson practices in the area of charity and not-for-profit law and has been ranked by *Lexpert* and *The Best Lawyers in Canada* as a leader in her field. She is co-author of *Non-Share Capital Corporations* published by Carswell, and a contributor to Industry Canada’s *Primer for Directors of Not-for-Profit Corporations*. Ms. Burke-Robertson is a frequent speaker and lecturer on charitable and not-for-profit matters and recently taught an advanced seminar on the law of charities and non-profit organizations at the Faculty of Law, University of Ottawa.



Terrance S. Carter – Managing Partner of Carters, Mr. Carter practices in the area of charity and not-for-profit law, is counsel to Fasken Martineau DuMoulin LLP on charitable matters, is a member of the Technical Issues Group of Canada Revenue Agency’s (CRA) Charities Directorate representing the Canadian Bar Association (CBA), a past member of CRA’s Charity Advisory Committee, Chair of the CBA National Charities and Not-for-Profit Section, and is recognized as a leading expert by *Lexpert* and *The Best Lawyers in Canada*. He is also consulting editor of *Charities Legislation and Commentary* (LexisNexis Butterworths, 2010), and editor of www.charitylaw.ca, www.churchlaw.ca and www.antiterrorismlaw.ca.



Nancy E. Claridge – Called to the Ontario Bar in 2006, Ms. Claridge is an associate with Carters practicing in the areas of charity, anti-terrorism, real estate, corporate and commercial law, and wills and estates, in addition to being the firm’s research lawyer and assistant editor of *Charity Law Update*. After obtaining a Masters degree, she spent several years developing legal databases for LexisNexis Canada, before attending Osgoode Hall Law School where she was a Senior Editor of the *Osgoode Hall Law Journal*, Editor-in-Chief of the *Obiter Dicta* newspaper, and was awarded the Dean’s Gold Key Award and Student Honour Award.



Karen J. Cooper – A partner with the firm, Ms. Cooper practices charity and not-for-profit law with an emphasis on tax issues at Carters’ Ottawa office, having formerly been a Senior Rulings Officer with the Income Tax Rulings Directorate of Canada Revenue Agency, as well as former counsel for the Department of Justice in tax litigation. Ms. Cooper also has considerable teaching experience, including as part-time professor at the University of Ottawa, Faculty of Common Law, and is a contributing author to *The Management of Charitable and Not-for-Profit Organizations in Canada* (LexisNexis Butterworths).



Jacqueline M. Demczur – A partner with the firm, Ms. Demczur practices in charity and not-for-profit law, including incorporation, corporate restructuring, and legal risk management reviews, as well as wills, estate planning and estate administration. She is a contributing author to Industry Canada’s *Primer for Directors of Not-For-Profit Corporations*, and has written numerous articles on charity and not-for-profit issues for the *Lawyers Weekly*, *The Philanthropist* and *Charity Law Bulletin*, among others. Ms. Demczur is also a regular speaker at the annual *Church & Charity Law*™ Seminar.



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Barry W. Kwasniewski - Mr. Kwasniewski joined Carters' Ottawa office in October 2008 to practice in the areas of employment law, charity related litigation, and risk management. Called to the Ontario Bar in 1990, Barry has a wide range of litigation experience, including in commercial disputes, personal injury, long-term disability, employment, insurance defence, and professional liability. Barry is a volunteer lawyer at Reach Canada, is on the Board of directors of the Vista Centre, and has assisted in several United Way campaigns.



Theresa L.M. Man – A partner with Carters, Ms. Man practices in the area of charity and not-for-profit law, with particular emphasis on tax issues. She is an Executive Member of both the Charity and Not-for-Profit Sections of the Ontario Bar Association and the Canadian Bar Association. In addition to being a frequent speaker at the annual *Church & Charity Law*TM Seminar, seminars hosted by the Canadian Bar Association and the Ontario Tax Foundation, Ms. Man has also written articles for *The Lawyers Weekly*, *The Philanthropist*, *Planned Giving Pulse*, *International Journal of Civil Society Law*, *The Bottom Line*, *Canadian Fundraiser eNews*, and *Charity Law Bulletin*.



Esther S.J. Oh – A partner with the firm, Ms. Oh practices in charity and not-for-profit at Carters' Mississauga office. Ms. Oh is a frequent contributor to www.charitylaw.ca and the *Charity Law Bulletin*, and has spoken at the annual *Church & Charity Law*TM Seminar as well as at the Canadian Bar Association/Ontario Bar Association's 2nd National Symposium on Charity Law. Ms. Oh's volunteer experience includes formerly serving as director and corporate secretary of the Evangelical Fellowship of Canada, and involvement with speaking engagements to various university student groups across Ontario.



Ryan Prendergast - Ryan was called to the Ontario Bar in 2010 and joined Carters to practice in the areas of charity and not-for-profit law, corporate and commercial law, and human rights law. A graduate of the University of Ottawa, Faculty of Law, Ryan was a student caseworker for the Criminal Division at the University of Ottawa Community Legal Aid Clinic, completed a research project for Ecology Ottawa on municipal by-laws, and worked for the Crown Attorney's Office in Toronto as a summer student. During his articles, Ryan acquired experience in charity and not-for-profit law, and contributed to several *Charity Law Bulletins* and other publications.



Kate Robertson - Kate graduated from the University of Ottawa, Faculty of Law, in 2010, and obtained her Bachelor of Arts (*cum laude*) in Philosophy, Politics and Law from Binghamton University. During her studies, Kate was recognized by the National College Athlete Honour Society, the East Coast Athletic Academic Award of Merit, and elected as a Vice President for the Common Law student council. She also has experience as a Policy Analyst and Charities Officer for the Charities Directorate of the Canada Revenue Agency where she reviewed charitable applications and assisted with legal research and writing.



Colin Thurston - A graduate of Queen's University, Faculty of Law, in 2010, Colin volunteered at the Queen's Legal Aid clinic throughout his three years at Queen's and his responsibilities grew from hands-on legal research, writing, and litigation, to supervision and training of his fellow law students, to input on clinic operations from a policy level. Colin has gained litigation experience before numerous courts and tribunals and received numerous awards recognizing his work, including the Sabbath Prize in Wills and Estate Planning from Queen's University, Faculty of Law.



Jason Todoroff - Jason graduated from the University of Western Ontario Faculty of Law with a Juris Doctorate after having completed a B.A. (Hons.) in Political Science and History from the University of Waterloo. Jason also holds an Airline Transport Pilot Licence and worked in the aviation industry as a commercial pilot and flight instructor. Before his articling term at Carters, Jason worked for the firm as a summer student for two years and gained experience in a number of practice areas at Carters, and contributed to articles published in the *Charity Law Bulletin* and the 2008 and 2009 editions of *Charities Legislation and Commentary* (LexisNexis).

ACKNOWLEDGEMENTS, ERRATA AND OTHER MISCELLANEOUS ITEMS

Errata: The January 2011 Update, on p.3., cited the release date of the new Form T3010-1 as being on January 18, 2010; the correct date was January 18, 2011.

The January 2011 Update, on p. 5, cited the number of dollars in tax shelter gifting arrangement donations denied to date as being over 4.5 million; the correct amount was over 4.5 billion.

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