

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

MAY 2011 ISSUE

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Healthcare Philanthropy: Check-Up 2011

Hosted by Carters Professional Corporation and Fasken Martineau DuMoulin LLP in Toronto, Ontario.

Tuesday, May 31, 2011.

Details and online registration available [here](#).

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

Jane Burke-Robertson to Receive AMS/John Hodgson Award

The lawyers and staff at Carters would like to congratulate Jane Burke-Robertson, a partner with the firm, who will be receiving the AMS/John Hodgson Award of Excellence in Charity and Not-for-Profit Law from the Ontario Bar Association on Wednesday, June 15, 2011.

To attend the award dinner, with Marcel Lauziere from IMAGINE Canada speaking, register online at http://www.cba.org/pd/details.aspx?id=ON_11CHA0615T.

2011 Federal Budget Expected to be Re-introduced in Early June

Terrance S. Carter

The federal government announced May 25, 2011, that it will re-introduce the March 2011 federal Budget (“Budget”) on June 6, 2011. The Budget had died on the order paper when there was a vote of non-confidence on March 25, 2011 that resulted in the dissolution of Parliament and the calling of a federal general election in May, 2011. The government has indicated that the Budget that will be re-introduced on June 6, 2011 will be basically the same as the Budget first introduced in March 2011. As such, it is expected that the proposals in the Budget involving substantive changes to the regulation of charities and other qualified donees, in particular, registered Canadian amateur athletic associations, will proceed as planned. For an overview of the content of the March 2011 Federal Budget as it affects charities and other qualified donees, reference can be made to *Charity Law Bulletin* No.245, entitled “Budget 2011 Will Have Broad Impact on the Charitable Sector,” available at <http://www.carters.ca/pub/bulletin/charity/2011/chylb245.pdf>.

CRA News

Karen J. Cooper.

Tax Preparer Found Guilty Of Fraud in Charitable Donations Scheme

CRA released information concerning Eric Armah of Brampton, who pleaded guilty in the Ontario Court of Justice in Brampton on April 29, 2011, to one count of fraud over \$5,000. Armah was a partner in a tax preparation business in Toronto, known as E & F Tax Associates, and also known as Bankay Financial Services Inc. Armah was involved in submitting false charitable donations claims to CRA on behalf of clients during the years of 2004 and 2006. These false claims were in excess of \$34 million and resulted in \$9 million worth of income tax refunds or uncollected taxes payable. Armah operated this fraudulent scheme

by telling his clients that they could obtain a larger refund or reduced taxes if they made charitable donations to specific charities, many of which he was personally involved in, at an amount that was less than what was actually appearing on the tax return. The false charitable donation receipts that Armah provided to his clients to support the donation credits being reported were eventually discovered by CRA on his computer at home. CRA warns donors providing charitable donations to registered Canadian charities that they should be cautious when faced with these kinds of schemes. For more details please see the CRA News Release available at <http://www.cra-arc.gc.ca/nwsrm/cnvctns/on/on110517-eng.html>.

Registration for Information Webinar on T3010-1

The registration for the next Charities Directorate Information Webinar topic, “T3010-1: Line by Line Review,” to be held on June 8, 2011, is now open. 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/wbns/rgstrtn-eng.html>.

CRA Releases its Sixth Charities Connection

On May 24, 2011, CRA released its sixth Charities Connection. CRA’s focus in this issue is on filing the new form T3010-1 Registered Charity Information Return, which has recently undergone several changes. Guide T4033-1 was also updated on the CRA website in order to help charities complete the new Information Return and to ensure a complete return is filed with CRA no later than six months after the end of its fiscal period. CRA also provided an update on the Policies and Guidance section of the CRA website, which has undergone several changes. Some of these changes include a reduction of the total online guidance products, and a removal of outdated policies and guidance which have now been included in the recently published guidance. Also, a new standardized format for referencing new Charities Guidance (CG) has been developed, however the existing reference numbers (CSP) will remain and will be phased out gradually as CRA’s guidance products are updated.

CRA also announced the delivery of Charities Information Sessions in 2011. These sessions are usually hosted at free venues that are provided by a charity. CRA is currently seeking charities that would like to host a session, subject to certain requirements. All charities that are interested must fill out a registration form that is provided on the CRA website at <http://www.cra-arc.gc.ca/chrts-gvng/chrts/cmmnctn/ssns/frm-eng.html>.

CRA also noted that the Bureau de normalisation du Québec (BNQ) has recently launched an initiative concerning the governance and good management practices of charities. Through this initiative, a proposed

standard for charities to adhere to voluntarily has been established. For those interested in reading about this standard and to submit comments, please visit the BNQ website at <http://www.bnq.qc.ca/en/index.html>.

For more information on the sixth issue of Charities Connection, please see <http://www.cra-arc.gc.ca/chrts-gvng/chrts/cmmnctn/nwslttrs/cnnctn/cnnctn06-eng.html>.

CRA Provides Samples of T3010-1, Registered Charity Information Return

The Charities Directorate, in an effort to help small and rural charities meet their annual reporting obligations, has created a completed sample T3010-1, Registered Charity Information Return, along with certain samples of accompanying forms and sample financial statements. The statements are meant to help small and rural charities understand how to complete their returns and what information should be provided in their financial statements. For more information on these samples, please visit: <http://www.cra-arc.gc.ca/chrts-gvng/chrts/prtng/rtrn/smpls-eng.html>.

CRA Comments on the Requirements for NPO Status

Theresa L.M. Man.

Canada Revenue Agency (“CRA”) released a technical interpretation (Document #2010-0380581I7) on April 7, 2011 to clarify three issues regarding non-profit organization (NPO) status under paragraph 149(1)(l) of the *Income Tax Act* (Act).

First, CRA confirmed that an organization with exclusively charitable purposes does not qualify as an NPO, even if it is not a registered charity. The NPO status of an organization must generally be reviewed on a year by year basis. CRA also indicated that it is possible for an organization to qualify for exemption as an NPO for a period shorter than its fiscal year. For example, subsection 149(6) of the Act allocates income between exempt and taxable periods within a taxation year for organizations that are not incorporated.

Second, CRA confirmed that NPOs may be established to further any purpose other than for a profit purpose. There is no requirement that an NPO must have a “benevolent” or “social” purpose.

Third, CRA commented whether an organization would be denied this exemption if the purpose of the organization was to fundraise. CRA confirmed that an NPO must operate “exclusively” for purposes other than profit (incidental profits do not amount to a profit purpose). As such, an NPO is permitted to receive incidental profits through basic fundraising (lotteries, bake sales, chocolate bar sales etc.) and soliciting gifts and grants. In this regard, CRA clarified its position on the requirement that NPOs must be operated for any purpose except profit as follows:

- An organization can earn profits, but the profits should be incidental and arise from activities that are undertaken to meet the organization's not-for-profit objectives (these profits are referred to below as “incidental profits”).
- Earning profits to fund not-for-profit objectives is not considered to be itself a not-for-profit objective.
- An organization should fund capital projects and establish (reasonable) operating reserves from capital contributed by members, from gifts and grants, or from accumulated, incidental profits.
- Capital contributions, gifts and grants, and incidental profits should generally be accumulated solely for use in the operations of the organization (including funding capital projects or setting up operating reserves) and should not be used to establish long-term reserves designed primarily to generate investment income.
- Maintaining reasonable operating reserves or bank accounts required for ordinary operations will generally be considered to be an activity undertaken to meet the not-for-profit objectives of an organization. Consequently, incidental income arising from these reserves or accounts will not affect the status of an organization.
- Limited fundraising activities involving games of chance (e.g., lotteries, draws), or sales of donated or inexpensive goods (e.g., bake sales or plant sales, chocolate bar sales), generally do not indicate that the organization as a whole is operating for a profit purpose.
- In determining whether an organization has any profit purpose, the activities of the organization must be reviewed both independently and in the context of the organization as a whole.

CRA gave the following examples of acceptable activities that result in incidental profit - the operation of a canteen at a hockey arena or charging admission above direct cost for a children's concert (where the not-for-profit purpose of the organization was to organize and promote youth participation in music).

For a more detailed explanation, this technical interpretation is available through commercial subscription services or a direct request to CRA.

Payments to Members for Non-Profit Organizations

Karen J. Cooper.

Canada Revenue Agency (“CRA”) released a technical interpretation (Document # 2010- 0389161E5) on May 16, 2011 regarding the reporting requirements under the *Income Tax Act* for payments made to

members of an organization exempt from tax under paragraph 149(1)(l) and the effect of these payments on the tax status of the organization. These payments were being made to certain student members of the organization through a project which is designed to assist members in financial difficulty with child care expenses. The potential recipients had to apply for the assistance and provide proof of membership, income levels and child care expenses. CRA found that that the payments made by the organization were most likely ‘social assistance’ payments. Social assistance payments are made on the basis of a means, needs or income test and are included in income under paragraph 56(1)(u) of the Act, and then deducted when calculating taxable income. According to subsection 233(1) of the Regulations, payers of social assistance amounts must file a T5007 information return and report the amounts on T5007 slips. CRA also stated that if an organization is making income available for the personal benefit of members under the project, it will not qualify for the tax exemption under paragraph 149(1)(l), but did not specifically comment on the status of the Society.

Technical interpretations are available through commercial subscription services or a direct request to CRA.

Superior Court of Ontario upholds Agency Agreement of Charity

Ryan M. Prendergast

On April 27, 2011, the Ontario Superior Court of Justice released its decision in a motion involving *Student Vote v. Learning Support Council of Canada*. In this matter, a two person, for-profit partnership operating as Student Vote, had raised monies on behalf of Learning Support Council of Canada, a registered charity (the “Charity”). Student Vote raised donations for the Charity initially without a written agreement, but then entered into an agency agreement with the Charity in 2005.

The Charity terminated the agency agreement with Student Vote two months before it was to expire, with undistributed monies amounting to \$95,408 being held in a segregated bank account. Student Vote alleged that those funds were held in trust for the partnership, and that any undistributed funds were to be returned by the Charity to Student Vote pursuant to an oral agreement which preceded the agency agreement.

The Charity was granted a motion for summary judgment, dismissing Student Vote’s claims with respect to the undistributed funds, but permitting the action to proceed on the partnership’s alternative grounds of seeking damages for breach of contract. In dismissing the claim of Student Vote, the court cited affidavit evidence from the president of the Charity, which noted that the Charity, as fiduciary of the monies donated to it, is responsible to account to the public for all such monies raised, and consequently would not have agreed to hold in trust such donations on behalf of Student Vote.

The decision can be read online

at: <http://www.canlii.org/en/on/onsc/doc/2011/2011onsc2482/2011onsc2482.html>.

CRA Extends Position Regarding Compliance Refund Exemptions

Theresa L.M. Man.

Under subsections 164(2.01) of the *Income Tax Act*, and 229(2) of the *Excise Tax Act*, payment of rebates and refunds are withheld until all required returns have been filed. This has led to an administrative burden on organizations that are exempt from paying income tax under section 149 of the *Income Tax Act*.

In response to this problem Canada Revenue Agency (“CRA”), in 2008, adopted an administrative position that they would not withhold rebates or refunds to the following tax exempt entities:

- tax-exempt incorporated municipalities;
- universities;
- schools;
- hospitals;
- non-profit organizations;
- crown corporations;
- Indian band councils

This administrative position has now been extended for all tax years up to and including 2010. This will allow CRA time to review its position. CRA has committed itself to not enforcing the requirement to file T2 returns for the above listed entities.

For more information, see <http://www.cra-arc.gc.ca/nwsrm/fctshts/2009/m07/fs090716-eng.html>.

Here Comes The CNCA: Are You Ready To Advise Your Clients?

Presented by Jane Burke-Robertson of Carters and Linda J. Godel of Torkin Manes LLP at the CBA/OBA 2011 National Charity Law Symposium, May 6, 2011.

The *Canada Not-for-profit Corporations Act* (the “CNCA”) received Royal Assent on June 23, 2009 and will replace Part II of the CCA. Until recently, it was anticipated that the CNCA would be proclaimed in force in late spring of 2011. However, with the impending federal election, the unofficial best estimate regarding proclamation is the fall of 2011.

This paper provides practitioners with practical advice and tools to assist them in advising clients wishing to continue under the CNCA. While most of the paper applies to CCA corporations continuing under the CNCA, many of the observations in this paper apply equally to those seeking incorporation under the CNCA. This paper examines the different approaches to by-law drafting, articles of continuance and a number of issues and considerations that are likely to arise with respect to these topics when the CNCA is proclaimed in force.

Read More:

[PDF] <http://www.carters.ca/pub/article/charity/2011/jbrlg0506.pdf>

Revenu Quebec Provides Translation for Returns

Karen J. Cooper.

Charities and non-profits established or operating in Québec are required to communicate with Revenu Québec in French and English versions of the forms used for this purpose have not been produced. However, Revenu Québec provides translations of the content of the forms for information purposes. For information on how to complete the Income Tax Return forms for Non-Profit Corporations in Quebec, see guide CO-17.SP, G-T, at <http://www.revenuquebec.ca/en/entreprise/impot/osbl/contribuable/societes.aspx>.

Update on the New Ontario *Not-for-Profit Corporations Act, 2010*

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

On October 25, 2010, the Ontario *Not-for-Profit Corporations Act, 2010* (ONCA) received Royal Assent. It is anticipated that the ONCA will be proclaimed into force in late 2012. In the interim, a number of documents will be prepared by the government, including plain language guides, default by-laws, regulations, and other instructional tools. The Consumer Policy and Liaison Branch of the Ontario Ministry of Consumer Services is now inviting interested individuals to form an advisory committee to provide input on these materials as they are being developed.

The plain language guide is intended to be a high-level guide to help users understand their rights and obligations under the ONCA, including topics such as the incorporation process, duties and powers of directors/officers, as well as duties and rights of members. The default by-laws, as provided for in the ONCA, will also be prepared. The by-laws are intended to provide for initial procedural items such as how to call a meeting, who the directors or officers are, etc. These two documents are intended to be available for comments by January 2012.

There will be two Ministers' regulations. The Ministry of Consumer Services will be developing regulations relating to technical matters such as audit thresholds, form of proxies and establishing the accounting standard. The Ministry of Government Services will be developing regulations relating to the detailed filing and search requirements to operationalize the ONCA (e.g., name rules to file articles of incorporation). Draft regulations are expected to be available for comments from January to March 2012. Lastly, by late 2011 to 2012, the Ministry of Government Services will be updating the Not-for-Profit Incorporator's Handbook and developing other communications materials, such as information sheets.

Manitoba Budget Proposes Tax Cut For Corporations That Work With Social Enterprises

Ryan M. Prendergast.

On April 12, 2011, Manitoba Minister of Finance Rosann Wochuk released the 2011 Manitoba Budget (the "2011 Budget"). The 2011 Budget proposes a new provincial charitable tax credit, which would encourage corporations established in Manitoba to contribute to registered charities in the province to help found social enterprises.

In this regard, corporations in Manitoba would be eligible for a 30% "Neighborhoods Alive!" provincial tax credit after April 12, 2011 for donations given in the year prior to the formation of the social enterprise and during the first three years of its operation. The "Neighborhoods Alive!" tax credit would be applied to offset provincial corporate income tax that would otherwise be payable. The corporation must offer in-kind services in the development and operations of the social enterprise to be eligible.

The 2011 Budget states that the maximum credit a corporation in Manitoba can earn in a given year is \$15,000, based on a minimum \$50,000 donation made to a registered charity in the previous year. Unused provincial tax credits can be carried forward up to ten years, and can be carried back up to 3 years, but not before a tax year ending after April 12, 2011.

The social enterprise developed by a Manitoba corporation and a registered charity must be entirely owned and controlled by the registered charity. The new social enterprise must also have charitable purposes similar to the controlling charity, and include in its mandate hiring hard-to-hire Manitobans.

The relevant passages from the 2011 Budget can be found online:

<http://www.gov.mb.ca/finance/budget11/papers/taxation.pdf>

Interim Report of the Special Senate Committee on Anti-Terrorism

Terrance S. Carter and Nancy E. Claridge in *Anti-terrorism and Charity Law Alert* No. 24, May 26, 2011.

The Special Senate Committee on Anti-Terrorism (“the Committee”) released its Interim Report entitled *Security, Freedom and the Complex Terrorist Threat: Positive Steps Ahead* (“the Report”) in March, 2011. The Committee was created and authorized on May 27, 2010 by Order of Reference from the Senate “to examine and report on matters relating to anti-terrorism.” In preparing this report the Committee held 11 hearings between May 13, 2010 and February 14, 2011 and heard from 32 witnesses. This *Anti-Terrorism and Charity Law Alert* provides a brief summary of the Report’s recommendations.

Read More:

[PDF] <http://www.carters.ca/pub/alert/ATCLA/ATCLA24.pdf>

Release of Liability Found To Be Enforceable In Recent B.C. Decision

Barry W. Kwasniewski in *Charity Law Bulletin* No. 251, May 25, 2011.

Many organizations require an individual to sign a waiver of liability as a condition of participating in certain activities, such as sports or recreational activities, where there is the risk of injury. In these kinds of circumstances, a waiver is often used to protect the organization from potential legal liability. When a charity or not-for-profit is organizing events that may entail risks of injury, it is important to consider the benefits of a waiver of liability. The British Columbia Supreme Court decision in *Loychuck v. Cougar Mountain Adventures Ltd.* illustrates the importance of securing waivers as a liability shield in cases of serious personal injury. This *Charity Law Bulletin* outlines this recent decision, which upheld a waiver releasing a zip-line operator from liability.

Read More:

[PDF] <http://www.carters.ca/pub/bulletin/charity/2011/chylb251.pdf>

[WEB] <http://www.carters.ca/pub/bulletin/charity/2011/chylb251.htm>

Human Rights Tribunal Finds Social Organization Discriminated In Expelling Falun Gong Practitioner

Terrance S. Carter and Ryan M. Prendergast in *Church Law Bulletin* No. 33, May 26, 2011.

The Human Rights Tribunal of Ontario (the “Tribunal”) released its decision on April 27, 2011, in *Huang v. 1233065 Ontario*. The decision concerned whether or not the practice of Falun Gong was a “creed” within the meaning of the Ontario *Human Rights Code* (the “Code”), as well as whether or not the cultural association discriminated against the complainant in the provision of a “service” under the Code by revoking her membership on the basis of her being a Falun Gong practitioner.

The decision affirms that the Tribunal has no authority to determine whether or not a belief system is reasonable, whether it would withstand scientific scrutiny, or whether its beliefs are consistent with the values contained in the *Canadian Charter of Rights and Freedoms* (the “Charter”). This *Church Law Bulletin* provides an overview of the facts of the case, together with a brief commentary on the Tribunal’s analysis of the Code and Charter contained therein.

Read More:

[PDF] <http://www.carters.ca/pub/bulletin/church/2011/chchlb33.pdf>

[WEB] <http://www.carters.ca/pub/bulletin/church/2011/chchlb33.htm>

Top Court Hears Case on Freedom of Religion

Jennifer M. Leddy.

On May 18 2011, the Supreme Court of Canada heard a significant appeal from a decision of the Quebec Court of Appeal concerning the implications of freedom of religion and conscience under the *Canadian Charter of Rights and Freedoms* and the *Quebec Charter of Human Rights and Freedoms* (S.L., et al. v. Commission scolaire des Chênes). The case concerns whether parents in a public school can exempt their children from participation in Quebec’s “Ethics and Religious Culture” course (the “ERC”), which is mandatory for all elementary and secondary students and required to be taught from a neutral perspective.

The issue in the case is whether the mandatory nature of the EPC course interferes with the freedom of religion of the Catholic parents who asked that their children be exempted from the course because it forced them to have premature contact with beliefs that were incompatible with those of the family. It is widely anticipated that the case will have repercussions on freedom of religion and the rights of parents to direct the religious education of their children far beyond the province of Quebec, as evidenced by the number of interveners in the case: Christian Legal Fellowship, Canadian Civil Liberties Association, Coalition pour la liberté en éducation, Evangelical Fellowship of Canada, Regroupement Chrétien pour le droit parental en éducation, Canadian Council of Christian Charities, Fédération des commissions scolaires du Québec, and the Canadian Catholic School Trustees. The Supreme Court is not expected to render its decision for a few months.

In another related case, last summer a Catholic private school successfully challenged Quebec’s attempt to impose the ERC course on private religious schools, receiving a decision from the Quebec Superior Court that allowed them to teach the course from a Catholic perspective. The Province has appealed the case to the Quebec Court of Appeal.

Enforcement of Trade-Mark Rights Puts Large and Small Infringers at Risk

Terrance S. Carter in *Charity Law Bulletin* No. 252, May 26, 2011.

Two recent intellectual property disputes illustrate the risks associated with the infringement of another organization's registered trade-mark rights. These disputes highlight the potential consequences of using registered trade-marks belonging to another organization without a license to do so, and serve as a warning that such consequences may be brought upon infringers even where no bad faith was intended. This *Charity Law Bulletin* describes these disputes and explains the consequences that can result from trademark infringement.

Read More:

[PDF] <http://www.carters.ca/pub/bulletin/charity/2011/chylb252.pdf>

[WEB] <http://www.carters.ca/pub/bulletin/charity/2011/chylb252.htm>

New UK Bribery Act will Impact UK Charities

Jacqueline M. Demczur.

On July 1, 2011, the newly enacted *Bribery Act, 2010* (“*Act*”) comes into force in the United Kingdom and it will impact, among others, UK charitable organizations. There are four major offense categories outlined in this *Act*: section 1: bribing another person; section 2: being bribed; section 6: bribing a foreign public official; and section 7: failure by a commercial organization to prevent bribery. The focus of this article will be on the section of the *Act* that concerns charities, being section 7.

It is important to be aware that the *Act* will impact any UK organization which commits bribery in any part of the world. In relation to charitable organizations, they will need to be mindful of the following statement set out in the *Act*; “it does not matter if [the organization] pursues primarily charitable or educational aims or purely public functions.” This means that any organization found to be taking bribes will be prosecuted regardless of its purpose and/or whether or not its motivation is to make or not make a profit in a particular field.

Defences to bribery allegations are set forth in section 7, and they serve to provide guidance to organizations which seek to prevent bribery taking place. These guidelines are explained in detail in the *Act* and it is expected that organizations will follow the guidelines that relate to expectations of other organizations of similar size and financial capabilities. Alternatively, an organization may set up its own internal policies to prevent bribery and may then present such policies to the court as a valid defence.

Compliance with the *Act* is mandatory for UK organizations. As a result, it is an absolute requirement that all UK organizations ensure that they have an adequate and effective system in place to preclude any form of bribery in any part of the world taking place within its organization. This legislation will also be of interest to other charities, including Canadian charities, that operate in the UK or work in conjunction with UK charities.

For further information on this *Act*, please see:

<http://www.bwbllp.com/Files/Updates/CharityUpdateSummer2011.pdf>.

Lexpert Rankings

Several partners of Carters Professional Corporation were recognized as leaders in the areas of charity and not-for-profit law, as well as Trusts and Estates Law in Canada by *The 2011 Canadian Legal Lexpert® Directory*. [Jane Burke-Robertson](#) has been recognized as a consistently recommended practitioner since 2004. [Terrance S. Carter](#), Managing Partner of the firm, has been recognized as one of the most frequently recommended practitioners in the area of charities and not-for-profits in Canada since 2004. [Karen J. Cooper](#) and [Theresa L.M. Man](#) have now also been recognized as consistently recommended practitioners in charity & not-for-profit law, while [Jacqueline M. Demczur](#) and [Esther S.J. Oh](#) have been recognized as regularly recommended practitioners in charity & not-for-profit law. In addition, Terrance co-authored the Directory's section summary for Charity & Not-for-Profit Law with [M. Elena Hoffstein](#) of Fasken Martineau DuMoulin LLP, who was also recognized by Lexpert as one of the most frequently recommended lawyers in Canada.

Read More:

[PDF] <http://www.carters.ca/news/2011/lexpert.pdf>

[WEB] <http://www.lexpert.ca>

IN THE PRESS

Charities/Not-for-Profits: Recent Developments of Importance by Terrance S. Carter and M. Elena Hoffstein.

The Canadian Legal Lexpert® Directory 2011.

[Link] <http://www.carters.ca/news/2011/lexpert.pdf>

Employee right to privacy on work computers by Barry Kwasniewski.

Hillborn eNews, May 7, 2011.

[Link] <http://www.charityinfo.ca/articles/employee-right-to-privacy-on-work-computers>

Building a Legacy with Endowed Gifts by Karen J. Cooper.

How to Leave a Legacy, Canadian Association of Gift Planners, May 2011.

[Link] http://www.carters.ca/news/2011/CAGP_Legacy2011.pdf

Bill C-470 (Disclosure of compensation) dies on the order paper by Terrance S. Carter.

Charity Talk, Canadian Bar Association, May 2011.

[Link] <http://listserver.cba.org/t/2842645/18582894/8449/0/>

CRA News by Karen J. Cooper.

Charity Talk, Canadian Bar Association, May 2011.

[Link] <http://listserver.cba.org/t/2842645/18582894/8450/0/>

RECENT EVENTS AND PRESENTATIONS

2011 National Charity Law Symposium hosted by the Canadian Bar Association and the Ontario Bar Association at the Hyatt Regency in Toronto on May 6, 2011, will include the following presentations:

“Disbursement Quota Reform: The Ins and Outs of What You Need to Know” by Theresa L. M. Man, and

“Here Comes the CNCA: Are You Ready to Advise Your Clients?” by Jane Burke-Robertson and Linda J. Godel, Torkin Manes LLP.

UPCOMING EVENTS AND PRESENTATIONS

Healthcare Philanthropy: Check-Up 2011, hosted by Carters Professional Corporation and Fasken Martineau DuMoulin LLP, is being held at the offices of Fasken Martineau in Toronto, Ontario, on May 31, 2011, and will include the following presentations:

“Essential Charity Law Update (including the 2011 Federal Budget)” by Terrance S. Carter of Carters;

“Broader Public Sector Accountability Act, 2010 - Implications for Ontario Hospital Foundations” by Laura West of Fasken Martineau;

“The In's and Out's of the New Canada Not-for-Profit Corporations Act (CNCA) and the New Ontario Not-for-Profit Corporations Act (ONCA)” by Theresa L.M. Man of Carters; and

“Intercharity-Transfers Between Hospitals and Foundations - What You Need to Know” by M. Elena Hoffstein of Fasken Martineau.

Details and registration available at <http://www.fasken.com/en/check-up-2011/>.

Canada and Ontario Not-for-Profit Law – How Will the Historical Changes Impact Not-for-Profit Corporations?, an Ontario Bar Association legal education program being held in Toronto on June 7, 2011, will include a presentation by Theresa Man entitled “How CCA Corporations Continue Under the CNCA.”

Details at <http://www.softconference.com/oba/eventdetails.aspx?&isCLE=yes&code=11CHA0607J>.

Imagine Canada and Volunteer Canada’s 2011 Business & Community Partnership Forum & Awards, being held at the Fairmont Le Chateau Montebello in Montebello, Quebec, will include the following presentations on June 9, 2011.

“Donation or Sponsorship? Know the Rules Reap the Rewards” *Terrance S. Carter*

“Is a Corporate Foundation for You?” *Karen J. Cooper*

Details at <https://vws2.magma.ca/30397.vws.magma.ca/ERS/online-registration-conference.cfm?event=226>.

Environment, Gift Planning and Cutting Edge Technology. On June 9th, Karen Cooper will share her experience on the topic of Environment Canada's Ecological Gifts Program at an experimental 90-minute session being organized across the country by Give Green Canada / Patrimoine Vert using innovative technology. The Ecological Gifts Program enables individual and corporate landowners to protect special areas in perpetuity by donating ecologically-sensitive lands to environmental charities or government bodies. The *Income Tax Act* provides favourable tax treatment for eligible gifts of ecologically sensitive land and partial interests in land. Ecological gifts receive tax treatment superior to most other charitable gifts. The gathering, on June 9th, utilizes CISCO "Telepresence" technology and will include professional advisors in Vancouver, Toronto and Ottawa. David Suzuki Foundation is kindly making available to Give Green Canada their new "Telepresence" facilities in each of these cities. Due to space limitations, this session is by invitation only.

Canadian Association of Gift Planners (CAGP) London Roundtable will host a talk by Terrance S. Carter entitled “Charity Law Highlights” on June 10, 2011.

Details at http://www.cagp-acpdp.org/uploads/final%20london_june11.pdf

OBA Charity and Not-for-Profit Law: AMS/John Hodgson Award Dinner will honour Jane Burke-Robertson, a partner with Carters, with the AMS/John Hodgson Award of Excellence in Charity and Not-for-Profit Law on Wednesday, June 15, 2011

Details at http://www.cba.org/pd/details.aspx?id=ON_11CHA0615T.

Not-For-Profit Law Seminar being hosted by RLB LLP – Chartered Accountants and Business Advisors in Guelph, Ontario, on June 22, 2011, will include the following presentations:

“Update on Tax Exempt Status for Not-for-Profits” by Theresa L.M. Man, and

“Directors’ & Officers’ Liability – The Essentials and Beyond for Charities and Not-for-Profits” by Terrance S. Carter.

Details can be obtained from RLB LLP with contact information at <http://www.rlb.ca/>

Canadian Society of Association Executives (CSAE) Trillium Chapter – 6th Annual Summer Summit will include a presentation by Theresa L.M. Man and Terrance S. Carter entitled “The Top Five Legal Issues That Association CEO’s Need to Know and Why” on July 14, 2011.

<http://www.csaecanada.com/CoursesEvents/Details/tabid/176/ArticleId/1264/6th-Annual-Summer-Summit.aspx>

CONTRIBUTORS

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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*TM Seminar.



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.



Jennifer Leddy – Ms. Leddy joined Carters’ Ottawa office in March 2009 to practice charity and not-for-profit law following a career in both private practice and public policy. Ms. Leddy practiced with the Toronto office of Lang Michener prior to joining the staff of the Canadian Conference of Catholic Bishops (CCCB). In 2005, she returned to private practice until she went to the Charities Directorate of the Canada Revenue Agency in 2008 as part of a one year Interchange program, to work on the proposed “Guidelines on the Meaning of Advancement of Religion as a Charitable Purpose.”



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*.



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

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