

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

JULY 2004 ISSUE

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New Issue Date: This newsletter has previously been dated according to the month preceding publication to reflect the time period being covered but will from now on be dated according to the month in which it is published. We feel this format is an improvement.

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NEW PUBLICATIONS

New Telemarketing Rules Will Have Onerous Impact on Charities

by Terrance S. Carter and assisted by Nancy E. Claridge in Charity Law Bulletin No.46 June 30, 2004.

The Canadian Radio-television and Telecommunications Commission ("the Commission") implemented new telemarketing rules, which went into effect June 21, 2004. In Telecom Decision CRTC 2004-35 ("Decision 2004-35"), the Commission implemented changes to the regulation of telemarketers with more specific identification procedures, constraints on the use of predictive dialling devices and mandatory reinforcement of do not call lists for all telemarketers. The new rules apply without exception or exemptions for volunteers, existing or past donors, or individuals with a previous relationship with the charity. This *Charity Law Bulletin* ("Bulletin") outlines these new rules that will prove onerous for many charities. The full text of the Commission's decision can be viewed at www.crtc.gc.ca.

Read More:

[PDF] www.carters.ca/pub/bulletin/charity/2004/chylb46.pdf

[WEB] www.carters.ca/pub/bulletin/charity/2004/chylb46.htm

Extra-Provincial Corporate and Fundraising Compliance for Charities

by Esther S. J. Oh and Jacqueline M. Conner and assisted by Nancy E. Claridge in Charity Law Bulletin No.45 June 28, 2004.

A provincially or federally incorporated charity that wishes to operate as an extra-provincial corporation in a province must consider the need for three primary corporate and fundraising registrations: extra-provincial registrations, business name registrations, and charitable fundraising registrations. Charities operating across Canada will also need to consider other compliance issues including, but not limited to, privacy, investment powers, and anti-terrorism legislation, which are beyond the scope of this *Charity Law Bulletin* ("Bulletin"). This *Bulletin* will focus on extra-provincial corporate and fundraising registrations applicable to charities.

Read More:

[PDF] www.carters.ca/pub/bulletin/charity/2004/chylb45.pdf

[WEB] www.carters.ca/pub/bulletin/charity/2004/chylb45.htm

Charities and Compliance with Anti-Terrorism Legislation in Canada: The Shadow of the Law
by Terrance S. Carter and recently published in The International Journal of Not-for-Profit Law, Vol. 6 No. 3, June 2004.

This article examines Canada's recent legislative initiatives to combat terrorism, with their international scope, and the impact on charities and those who advise them. Charities should be concerned with the new anti-terrorism legislation, as it has brought about a "new day" of increased regulatory regimes and unprecedented compliance requirements for charities operating in Canada and abroad. This article will assist charities, and those who advise them, to understand the basics of Canada's anti-terrorism legislation and outline what due diligence steps should be taken in order to avoid breaches of the legislation.

Read More:

[Link] http://icnl.org/JOURNAL/vol6iss3/ar_carter.htm

IN THE PRESS

Canadian Fundraiser eNews published the second instalment in a series of articles by Terrance S. Carter: “*Legal Liabilities in Fundraising II: Fundamental legal considerations involved in fundraising*”. These articles provide an overview of the legal risks related to charitable fundraising in Canada (June 30, 2004).

[Link] www.canadianfundraiser.com/newsletter/article.asp?ArticleID=1414&ClientID=1

Law Times Focus on Privacy Law Features an Interview with Mark J. Wong of Carter & Associates on recent Canadian legislation, PIPEDA, and their potential application to Charities and Not-for-Profit Organizations (June 21, 2004).

[Excerpt] www.carters.ca/news/2004/lawtimes/mjw0621.htm

Canadian Fundraiser eNews published the first instalment in a series of articles by Terrance S. Carter: “*Legal Liabilities in Fundraising I: Risk management needs to be proactive, planned*”. These articles provide an overview of the legal risks related to charitable fundraising in Canada (June 15, 2004).

[Link] www.canadianfundraiser.com/newsletter/article.asp?ArticleID=1125

Christian Week coverage of Bruce Long's presentation at the Law and Church Leadership Seminar in Moncton, NB – “*Passage of Bill-250 marks uncertain days for churches*”, by Diane Trail (June 8, 2004).

[Link] www.christianweek.org/Stories/vol18/no06/story4.html

The **Parliamentary Library of Australia** lists Carter & Associates as a key resource in its online reference tools under anti-terrorism law in Canada. (June 2004).

[Link] www.aph.gov.au/library/intguide/law/crimlaw.htm#terrcanada

NEW SERVICES FROM CARTER & ASSOCIATES

Anti-terrorism Due Diligence Search Service for Charities and Non-Profit Corporations

Carter & Associates is now providing a due diligence search service on the practices of your organization and involved individuals in relation to the facilitation, funding or association with identified entities in order to comply with anti-terrorism legislation in Canada and other jurisdictions (June 2004).

For more information please contact tcarter@carters.ca

Corporate Services for Charities and Non-Profit Corporations

New Corporate Service Packages for filings, annual corporate services and extra-provincial registrations (April 2004).

[PDF] www.carters.ca/charity/corpserv.pdf

RECENT EVENTS AND PRESENTATION MATERIALS

Schulich School of Business "Passport to Excellence" Breakfast Series was held at York University with Terrance S. Carter presenting "Looking A Gift Horse in the Mouth – Legal Liabilities Issues for Directors in Charitable Fundraising" (June 24, 2004).

[PDF] www.carters.ca/pub/seminar/charity/2004/tsc0624.pdf

[WEB] www.carters.ca/pub/seminar/charity/2004/tsc0624.htm

Baptist Convention of Ontario and Quebec Assembly Workshop was held in Etobicoke with Carter & Associates lawyers presenting on the following topics (June 10, 2004);

“Privacy Legislation” by Mark J. Wong,

“Bill C-250 (Hate Propaganda)” by Bruce W. Long, and

“Same Sex Marriage” by Terrance S. Carter and Mervyn F. White.

[PDF] www.carters.ca/pub/seminar/church/2004/bapc0610.pdf

Investment Management Consultants Association Conference was held in Toronto with Terrance S. Carter presenting "Recent Changes to the Income Tax Act and Policies Relating to Charities and Charitable Gifts" (June 7-8, 2004).

[PDF] www.carters.ca/pub/seminar/charity/2004/tsc0607.pdf

[WEB] www.carters.ca/pub/seminar/charity/2004/tsc0607.htm

UPCOMING EVENTS AND PRESENTATIONS

Congregational Christian Churches in Canada Workshop is being held in Brantford, Ontario, on July 8, 2004, with presentations by Carter & Associates lawyers on the following topics;

- “Bill C-250 (Hate Propaganda)” by Bruce W. Long, and
- “Same Sex Marriage” by Terrance S. Carter and Mervyn F. White.

Association of Treasurers of Religious Institutes (ATRI) 17th Annual Conference is being held on September 25, 2004 in Toronto with Mark J. Wong presenting on “Wrongful Dismissal and other Employment Issues”.

Trent Valley Association is hosting a seminar being held in Uxbridge, Ontario, on September 25, 2004, with presentations by Carter & Associates lawyers on the following topics;

- “Bill C-250 (Hate Propaganda)” by Bruce W. Long,
- “Same Sex Marriage and Privacy” by Mervyn F. White, and
- “The Constitutional Response” by Terrance S. Carter

Christian Legal Fellowship and the Evangelical Fellowship of Canada “Law & Church Leadership” will be held on September 30, 2004 in Vancouver, BC, with presentations by Carter & Associates lawyers on the following topics;

- “Privacy Legislation” by Mervyn F. White
- “Bill C-250 (Hate Propaganda)” by Bruce W. Long
- “Same Sex Marriage” by Terrance S. Carter and Mervyn F. White
- “Changes under the Income Tax Act” by Terrance S. Carter
- “Investigating Sexual Abuse” by Bruce W. Long, and
- “Bill C-45” by Mervyn F. White and Bruce W. Long

2004 Annual Church & Charity Law Seminar will be held on November 10, 2004, at the Young-Nak Korean Presbyterian Church of Toronto, and will include a presentation by the Director General, Charities Directorate of the Canada Revenue Agency. Registration details to follow.

CONTRIBUTORS



Terrance S. Carter – Practices primarily in the area of Charity and Not-for-Profit Law, Mr. Carter is member of the Charities Advisory Committee and the Technical Issues Committee advising Canada Revenue Agency, as well as a consulting editor of *Charities Law, 2003/2004 Ed.* published by Butterworths, contributing author to Industry Canada's *Primer for Directors of Not-For-Profit Corporations*, and editor of www.carters.ca, www.charitylaw.ca and www.antiterrorism.ca.



Bruce W. Long – Counsel to Carter & Associates, Mr. Long practices out of his office in London, Ontario, on Hearings, Tribunals, Inquests and Enforcement Matters, and is the former Regional Director of Crown Attorneys for South-western Ontario and Assistant Deputy Attorney General (Acting), as well as the author of "Prosecutors Handbook" published by the Attorney General of Ontario.



Mervyn F. White – Practices primarily in litigation and dispute resolution in areas of the law including charity and not-for-profit law, Human Rights complaints, and risk management assessments relating to insurance law and Human Rights. Mr. White is a contributing author to *Charity Law Bulletin* and *Church Law Bulletin*, and a regular speaker at the annual *Church & the Law*™ Seminar and guest speaker for organizations such as the Association of Fundraising Professionals, and the Christian Legal Intervention Academy.



Jacqueline M. Connor – Practices in Charity and Not-for-Profit Law, including Incorporation and Corporate Restructuring, 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 *Charity Law Bulletin*. Ms. Connor is also a regular speaker at the annual *Church & the Law*™ Seminar.



Mark J. Wong – Practices in Intellectual Property, focusing on Trade-Marks, Copyrights, and Privacy and Information Protection, Employment law and General Litigation. Mr. Wong has been an invited speaker for charitable organizations and also contributes regularly to www.charitylaw.ca and the *Charity Law Bulletin*, having written articles on legal issues including Employment Law, Privacy Law and Trade-Mark Law.



Esther S.J. Oh – Practices primarily in Charity and Not-for-Profit Law, as well as in Immigration Law. Ms. Oh is a frequent contributor to www.charitylaw.ca and the *Charity Law Bulletin*, and has spoken at the annual *Church & the Law*™ Seminar as well as at the Canadian Bar Association/Ontario Bar Association's 2nd National Symposium on Charity Law.

ACKNOWLEDGEMENTS, ERRATA AND OTHER MISCELLANEOUS ITEMS

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