

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

SEPTEMBER 2012

SECTIONS

Recent Publications and News Releases	2
In the Press	11
Recent Events and Presentations	11
Upcoming Events and Presentations	13
Contributors	14
Acknowledgements, Errata and other Miscellaneous Items	16

HIGHLIGHTS

Implementation of ONCA Delayed to July 1, 2013
CRA News
Charitable Status of Charity Intelligence Canada Revoked
Due-Diligence of Directors Important to Prevent Penalty by CRA
Transfer of Ownership of a New Life Insurance Policy to a Charity
Ontario Court finds Domain Name Registration Amounts to Tort of Passing Off
Court Convicts Fundraiser Accused of Fraud
Request for Adjournment of the *Edwards* Appeal Denied
Fired B.C. Worker Awarded Over \$800,000 by Jury
Whose Income Is It Anyway??
Reminder to Plan Ahead for Continuance under CNCA
Canada Names Iran and Syria as State Sponsors of Terrorism
Charity Commission Provides Guidance on Avoiding Fraud

19th Annual Church & Charity Law™ Seminar

Hosted by Carters Professional Corporation in Mississauga, Ontario.

Thursday, November 15, 2012.

Details and online registration available at <http://www.charitylaw.ca>.

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

Implementation of ONCA Delayed to July 1, 2013

Theresa L.M. Man.

The Ministry of Consumer Services announced on September 26, 2012, that the implementation of the new Ontario *Not-for-Profit Corporations Act, 2010* (ONCA) will be delayed from January 1, 2013 to July 1, 2013. The Ministry indicates that the delay will allow the sector more time to ensure a smooth implementation of the new legislation. By way of background, although the ONCA received Royal Assent on October 25, 2010, it is still not in force. The administration of the ONCA will be shared by the Ministry of Consumer Services and the Ministry of Government Services. The announcement indicates that the Ministries are currently finalizing tools to assist not-for-profit corporations, including a plain language guide explaining the ONCA's most significant sections, a transition checklist to assist with compliance, and draft default by-laws. The Ministry expects to release these tools this fall.

CRA News

Karen J. Cooper.

GST/HST Information for Charities

Canada Revenue Agency (CRA) has recently published a new version of their publication "RC4082: GST/HST Information for Charities." The guide includes a number of changes and is an important tool for registered charities and registered Canadian amateur athletic associations for understanding their GST/HST obligations. It is important to note that the guide does not apply to registered charities that are public institutions such as school and hospital authorities, public colleges, universities and municipalities.

For more information see: <http://www.cra-arc.gc.ca/E/pub/gp/rc4082/README.html>

Completing the Registered Charity Information Return

CRA has released a new version of their guide "T4033-1: Completing the Registered Charity Information Return". Registered charities should follow this guide when completing Form T3010-1 for fiscal periods that have ended on or after March 4, 2010. New changes to the guide include legislative amendments from the 2010 Federal Budget relating to changes to disbursement quota calculations, specified gifts and enduring property. Form T1242, Registered Charity Information Return Summary,

has also been modified and Form T1259, Capital Gains and Disbursement Quota, is no longer applicable. Charities can access the guide at: <http://www.cra-arc.gc.ca/E/pub/tg/t4033-1/README.html>.

Charity Tax Law Scheme Results in Criminal Conviction

On September 17, 2012, Carrie-Anne Danso-Dapaah received an 18-month conditional sentence after pleading guilty to charges under section 239(1)(a) of the *Income Tax Act* (ITA) for acquiescing to her husband, Martin Danso-Dapaah, and others, in the making of false or deceptive statements in her tax returns. Between 2004 and 2008, Ms. Danso-Dapaah and her husband, Martin Danso-Dapaah, were alleged to have evaded taxes by providing over \$7.7 million in false charitable receipts to Canadian taxpayers, resulting in \$2.2 million in unpaid taxes. As a result of these false charitable receipts, hundreds of Canadian taxpayers had their 2004 to 2008 tax returns reassessed. Ms. Danso-Dapaah had assisted in the operation of CanAfrica International Foundation and Canadian Foundation for Child Development, whose charitable statuses were revoked in 2007 and 2008 respectively.

For more information see: <http://www.cra-arc.gc.ca/nwsrm/cnvctns/bc/bc120920-eng.html>.

Canadian Quadriplegic Association Charitable Status Revoked

On September 14, 2012, the Canadian Quadriplegic Association (CQA) had its charitable status revoked pursuant to subsection 168(1) of the ITA, for failing to comply with section 230 of the ITA (records and books). Following an audit, CRA determined that the organization failed to properly maintain their books and records, resulting in CQA being unable to support their reported revenue and expenditures and CRA being incapable of determining whether the organization's charitable activities were being properly funded. CQA was also charged with not maintaining duplicate copies of donation receipts for over \$419,000 worth of taxpayer claimed donations. Charities are reminded of the importance of maintaining proper documentation and complying with all of the provisions set out under the ITA.

For more information on this decision see: <http://www.cra-arc.gc.ca/nwsrm/rlss/2012/m09/nr120914-eng.html>

Charitable Status of Charity Intelligence Canada Revoked

Terrance S. Carter.

Charity Intelligence Canada, the self-appointed charity watch-dog had its charitable status revoked by CRA for failing to file its T3010 annual information return. CRA's online Charity Listings indicates that effective September 15, 2012, Charity Intelligence is no longer tax-exempt and cannot issue official donation receipts for tax credit and deduction purposes. It is also subject to a revocation tax. The *Globe*

and Mail reported on September 24, 2012, that Charity Intelligence intends to re-apply for charitable status. On the re-application, the organization will need to satisfy CRA that its program of scrutinizing charities and publishing findings of their analysis based upon their own methodology constitute an exclusively charitable purpose. Those within the sector who would like to monitor whether Charity Intelligence is reregistered as a charity can do so by checking the organization's status at the following CRA link: <http://www.cra-arc.gc.ca/chrts-gvng/lstngs/menu-eng.html>.

Due-Diligence of Directors Important to Prevent Penalty by CRA

Ryan M. Prendergast.

The Tax Court of Canada released their decision in *Martin, J. v. The Queen* on August 27, 2012, which discusses director liability in relation to GST/HST and payroll remittances owing under the *Excise Tax Act* (ETA) and ITA. The appellant in this case, James Martin, was appealing an assessment against him as the sole director/shareholder of a group of share capital corporations which was subcontracted in the Spring of 2000 by an American corporation for the development of a natural gas distribution system in New Brunswick. Mr. Martin was assessed as the director of these corporations for not having submitted payroll contributions, employee deductions and GST remittances.

The only issue before the court in this decision was whether or not the due diligence defence available under the both ITA and ETA to the statutory liability for remittances was available to the appellant. Briefly speaking, a director is not liable for remittances where he or she exercised the degree of care, diligence and skill to prevent the failure to remit that a reasonably prudent person would have exercised in comparable circumstances. The court applied the 2004 Supreme Court of Canada decision of *Peoples Department Stores Inc. (Trustee of) v. Wise*, which stated that an examination of the care, diligence and skill that a reasonably prudent person exercised requires an analysis of the circumstances. The court recognized that the appellant and his group of companies took on a contract much larger than they had experience with in the past, and that reasonable efforts were made through consulting with legal and financial advisors to address the liability for remittances. Accordingly, the court allowed the appeal of the assessments in part and referred them back to the Minister for reassessment.

Although the decision did not involve any not-for-profit or charitable corporations, the application of the ITA and ETA applies equally to directors of charities and not-for-profits. As such, the decision is a reminder that directors must prove that although they were aware of the financial difficulty that brought about the failure to make the remittances to the government, they exercised their duty of diligence, care and skill that a reasonably prudent person would in their circumstances. Directors of charities and not-

for-profits are reminded of the importance of paying CRA before any other liability. In this regard, it is recommended that the directors put safeguards in place through staff reminders or creating checklists to review at meetings in order to ensure that these statutory liabilities are being fulfilled.

To access the above case see: <http://www.canlii.org/en/ca/tcc/doc/2012/2012tcc239/2012tcc239.html>.

Transfer of Ownership of a New Life Insurance Policy to a Charity

Karen J. Cooper.

CRA recently released a technical interpretation (CRA Document #2012-0432601E5) regarding the tax implications of gifting a newly acquired life insurance policy to a registered charity. The tax implications of donating life insurance policies are complex and involve detailed calculations of the fair market value (FMV) and adjusted cost basis of the policies, calculations often provided by the insurers.

CRA notes that the method for determining the eligible amount of a gift is generally the difference between the FMV of the gift and the advantage provided. However, when a taxpayer acquires a life insurance policy less than three years before the day the gift of the policy is made, proposed subsection 248(35) of the ITA applies and the FMV of the gifted property is deemed to be the lesser of its FMV and its adjusted cost basis immediately before the gift was made. Therefore, unless the FMV is less than the adjusted cost basis, the eligible amount of the gift that the taxpayer may claim as a donation credit will likely be based on the amount of the adjusted cost basis, calculated in accordance with subsection 148(9).

It is important to note, however, that subsection 148(1) still requires the taxpayer to include in income any taxable capital gain arising from the gift. This will occur when the proceeds of disposition of the interest in the policy, which is deemed to be the cash surrender value of the policy at disposition, exceeds the adjusted cost basis of the policy at the time of disposition. These are complex calculations and charities should encourage donors to obtain professional advice in this regard.

For more information see:

<http://www.westlawecarswell.com/etsource/crabulletins/2012-0432601E5.html>.

Ontario Court finds Domain Name Registration Amounts to Tort of Passing Off

Colin J. Thurston.

On August 16, 2012 the Ontario Superior Court of Justice released its decision in *Dentec Safety Specialists Inc. v. Degil Safety Products*, in which Justice Kenneth L. Campbell found that the defendant had committed the common law tort of “passing off” by registering a domain name similar to a

competitor's in order to redirect internet traffic to his own company's website. The plaintiff in this case was the owner of the domain name *dentecsafety.com* which sold industrial safety products. The defendant operated a similar business using the website *degilsafety.com*. Justice Campbell found that the tort of passing off was committed when the defendant registered the additional domain name *dentecsafety.ca* and for a period of 5 and half months directed all internet traffic from *dentecsafety.ca* to his website at *degilsafety.com*.

The Court's decision is encouraging for brand owners in its application of the common law tort of passing off to allow an action against a bad faith domain name registrant who was clearly intending to mislead and misdirect potential customers to the website of a competing business. The tort of passing off requires the plaintiff to prove three elements to be entitled to compensation, which are 1) the existence of goodwill, 2) deception of the public due to a misrepresentation, and 3) actual or potential damage to the plaintiff. With regard to the second element, the Court in *Dentec* gave significant weight to the defendant's own admission that his intention was to redirect potential customers to his own website. Also significant in this case was the Court's award to the plaintiff of \$10,000.00 in compensatory damages, notwithstanding that no direct evidence of pecuniary loss was provided.

The case is important for business owners, charities and non-profits alike, as organizations attempt to find ways to protect their brands, trade-marks and domain names on the internet. Internet domain names are available for sale on a worldwide first-come, first-served basis and unless an organization has taken steps to secure all available domains which might be confusing with its branding, any member of the public may register a similar or confusing domain name. The *Dentec* case, which can be accessed online at <http://www.canlii.org/en/on/onsc/doc/2012/2012onsc4721/2012onsc4721.pdf>, is another example of how the courts can be used as a means to protect an organization's identity and branding on the internet.

Court Convicts Fundraiser Accused of Fraud

Terrance S. Carter and Ryan M. Prendergast.

On June 28, 2012, Adam Gour was convicted of fraud over \$5,000 by Justice John McIsaac of the Ontario Superior Court of Justice in Barrie, Ontario. Gour had been accused of defrauding the public in relation to a fundraising business he operated which raised funds for a registered charity by hiring canvassers and setting up collection booths. In order to raise funds, Gour used images of sick children without the consent of their families and represented that the funds would be going to these children, rather than to the charity. In addition, Gour also employed commission-based fundraisers who solicited donations from the public and received commissions in the range of 14% to 35%. Certain of the

fundraisers testified for the Crown that they were instructed by Gour to tell donors that they were “volunteers” and that they were not to disclose the fact that they received a commission. The court was satisfied beyond a reasonable doubt that when asked about the commission arrangement by donors the fundraisers lied about the fact that they were receiving a commission. However, the court found that the record did not disclose how many people were actively deceived in this manner, and therefore concluded that the bulk of the donations were raised through non-disclosure as opposed to active deceit. As a result, Justice McIsaac found that the failure to disclose these commissions constituted the hiding of a “fundamental and essential” element of the fundraiser-contributor relationship. Justice McIsaac found that failure to disclose the commission arrangement mislead the “reasonable contributor” and therefore convicted Gour. The decision has neither been appealed, nor has sentencing submissions for Gour concluded. The sentence hearing is scheduled to resume in November 2012.

While the decision may cause some concern for commission-based fundraisers, it should be noted that the decision did not reference local media coverage that several parents had felt victimized by the fundraisers’ use of pictures of their sick or disabled child without their consent. In addition, the credibility of several of the witnesses called by the Crown was called into question, particularly given that one canvasser himself had a criminal record for fraud. As such, it would appear that the court was struggling to reach a decision based on the record, supported by the law, in light of a particularly difficult set of facts and the obviously odious nature of the fundraising campaign in question. As a result, it is unclear whether this decision will have any long term impact as a precedent. It will be important, though, for the charitable sector to carefully monitor what future courts may do with regard to this decision.

Request for Adjournment of the *Edwards* Appeal Denied

Theresa L.M. Man.

On July 23, 2012, the Tax Court of Canada released its decision in *Edwards v. Canada*, 2012 TCC 264. In 2003, Edwards made a \$10,000 donation to a leveraged donation program marketed as the “ParkLane Charitable Donation Program”. Approximately 18,000 taxpayers had participated in this program making a total of approximately \$500,000,000 in donations. This is the lead case for nine appeals that have been filed. Edwards requested an order adjourning the hearing of the appeal for one year, in order to take advantage of the enactment of the proposed split receipting rules put forward by the government in 2002. Although CRA has been implementing the rules since that time, the rules had yet to be

legislated. Edwards argued that he would be seriously prejudiced if he was to be prevented from proceeding with the appeal based on these rules.

The Court denied the request for an adjournment of the appeal because the interest the appellant has in the adjournment was greatly outweighed by the public interest in having this matter resolved as soon as practicable. The Court noted that Edwards had already requested, and procured, a previous adjournment in 2010 in order to hear the outcome in *Maréchaux v The Queen*, 2010 FCA 28 (leave to appeal to SCC denied in 2011). At that time, Edward had advised the Court that he would proceed expeditiously after the hearing of that case. The Court held that in the administration of justice, the matter should be adjudicated as soon as possible. The Court noted that although the outcome of this appeal was not binding on the other 8 appeals, the other appeals have been held in abeyance pending this case and that it would appear that thousands of other taxpayers were waiting in the wings. The Court agreed that a denial of the appeal to adjourn would be prejudicial to Edwards and the other taxpayers involved, but given the importance of timely tax litigation and the size of the donation involved, a postponement should not be allowed.

To read the decision, see online at: <http://decision.tcc-cci.gc.ca/en/2012/2012tcc264/2012tcc264.html>.

Fired B.C. Worker Awarded Over \$800,000 by Jury

Barry W. Kwasniewski in *Charity Law Bulletin* No. 289, September 27, 2012.

In the recently decided wrongful dismissal case of *Higginson v. Babine Forest Products Ltd.* (“*Higginson*”), a Prince George, British Columbia jury awarded a long-time employee damages of approximately \$809,000, of which \$573,000 were punitive damages, for what the jury considered to be improper conduct by the employer leading up to the termination. The punitive damages award is the largest in an employment law case in Canada to date. As employers, charities and not-for-profits need to be aware of the obligation to treat employees fairly and respectfully in the termination process. This Bulletin discusses how a failure to do so may result in substantial claims by terminated employees, including claims for punitive damages.

Read More:

[PDF] <http://www.carters.ca/pub/bulletin/charity/2012/chylb289.pdf>

[WEB] <http://www.carters.ca/pub/bulletin/charity/2012/chylb289.htm>

Whose Income Is It Anyway??

Jennifer M. Leddy.

On July 26, 2012 CRA released a technical interpretation concerning the tax treatment of funds transferred to a charity, in compliance with the rules of the charity, by an employee of a charity who had earned the income providing teaching services for a second entity. The issues were whether: 1) the funds transferred should be included in the income of the employee or the charity and 2) if the charity could issue a tax receipt to the employee for making a donation of the funds transferred.

CRA affirmed that the first issue was a question of fact and depended on the terms of the contract of employment with the charity. If it is found that the contract provides that the employee is essentially working on behalf of the charity, even while providing services to a second entity, then it may follow that the funds are the employer's and need not be included in the income of the employee. In this respect, CRA noted that in general all funds received by an employee for work done in the course of his or her employment belong to the employer. If, however, the terms of the contract show that the employee was acting on his or her own behalf while working for the second entity, the opposite conclusion could be reached.

If the income belongs to the employer, CRA was quite clear that the amount of funds transferred by the employee could not be considered a charitable gift because the funds were not transferred voluntarily but pursuant to the Guiding Rules of the charity. One would think that the same result would apply even if it were determined that the funds belonged to the employee given the requirement to transfer the funds. This could be an onerous result for the employee who would have to pay tax on income that he or she did not receive.

This fact scenario concerned work that was being done for a charity overseas but would be of interest to employers and employees irrespective of where the work is being done. Employees will want to ensure that they understand when income earned with other entities must be transferred to their employers and charities will want to consider carefully the implications of providing tax receipts to employees for income that is not voluntarily transferred.

Reminder to Plan Ahead for Continuance under CNCA

Terrance S. Carter.

Many federal corporations incorporated under the *Canada Corporations Act* have yet to apply for continuance under the new *Canada Not-for-profit Corporations Act* (CNCA), which came into effect on October 17, 2011. In order to avoid being dissolved for failure to continue under the CNCA before the

deadline of October 17, 2014, federal corporations that are still under the *Canada Corporations Act* should take proactive steps to plan ahead and apply for continuance well in advance. For practical resource materials concerning what is involved in continuance under the CNCA, reference can be made to <http://www.carters.ca/nfp/index.htm>.

Canada Names Iran and Syria as State Sponsors of Terrorism

Nancy E. Claridge.

As was widely reported in the national news, the federal government took the notable step September 7, 2012, to strip the Islamic Republic of Iran and the Syrian Arab Republic of each state's immunity from jurisdiction of the Canadian courts, opening the doors for victims of terrorism to sue these foreign states for loss or damage as a result of actions punishable under the Canadian *Criminal Code*.

The *State Immunity Act*, which enshrines the general rule of international law that prevents foreign states from being sued in domestic courts, was amended by the *Safe Streets and Communities Act* to allow the federal government to create a list of states for which there are reasonable grounds to believe that they have supported terrorism since January 1, 1985, and permit victims of terrorism to sue those states under the *Justice for Victims of Terrorism Act*. The *State Immunity Act* also allows otherwise immune property of a state (subject to specific exceptions) to be seized in connection with a judgment against it. This includes financial assets of the listed state that are held in Canada, and any other property owned by the listed state in Canada, but excludes such items as military or cultural property. The diplomatic and consular property of a listed state remains inviolable.

The *Justice for Victims of Terrorism Act*, which was enacted in early 2012, creates a cause of action for any person who has suffered loss or damage in or outside of Canada since January 1, 1985, as a result of terrorism, but remains a concern for charities operating in conflict areas, as they could potentially be drawn into such claims as a result of Canada's broad anti-terrorism provisions in the *Criminal Code*.

Charity Commission Provides Guidance on Avoiding Fraud

Esther S.J. Oh.

The Charity Commission for England and Wales has collaborated with 14 other public law enforcement and charity sector organizations to publish "Charity Fraud – A guide for the trustees and managers of Charities". The Guide cites a study that estimates fraud will cost charities in England and Wales £1.1 billion in 2012. The Guide reports that fraud can happen internally by employees or volunteers stealing donations or claiming false expenses, or externally by a fraudster hijacking the charity's bank

account, acquiring donors' confidential information or using the charity's name in a fundraising scam. Charities are particularly vulnerable because they have high levels of public trust that may be taken advantage of by fraudsters. Furthermore, the fluctuating income of most charities makes it hard to identify irregularities and the reliance of many charities on a small number of employees results in inadequate monitoring mechanisms.

The Guide reminds trustees (another term used to describe directors) they have a legal duty to act prudently in safeguarding their charity's money and assets. The Guide outlines eight practical steps trustees should take to fulfill their obligation and help prevent fraud: (1) instill a culture of ethical behaviour throughout your charity; (2) develop an anti-fraud policy; (3) understand your risks; (4) implement robust financial controls; (5) ensure there are robust recruitment procedures; (6) encourage awareness throughout the charity; (7) develop a whistle blowing policy; (8) keep records of suspected and confirmed fraud. In addition, the Guide provides warning signs of fraud and information on dealing with reputational damage caused by fraud. While the Guide has been prepared within the context of England and Wales, Canadian charities can also benefit from the practical suggestions outlined in the Guide since directors of Canadian charities also have a legal duty to protect their charity's assets.

The Guide is available online at:

http://www.cfg.org.uk/resources/Publications/~//media/Files/Resources/CFDG%20Publications/charity_fraud_guide_full.ashx

IN THE PRESS

Reimbursements, receipts and split receipting for fundraising events by Theresa L.M. Man.

Hilborn eNews, September 20, 2012.

[Link] <http://charityinfo.ca/articles/Reimbursements-receipts-and-split-receipting-for-fundraising-events>

Charities can still get political despite new rules by Terrance Carter and Karen Cooper.

Law Times, Vol. 23, No. 27, September 3, 2012.

[Link] <http://www.carters.ca/news/2012/tsckjc0903.pdf>

Lawyers Weekly article on charities and political activities by Valerie Mutton quotes Terrance S. Carter as saying "Charities can still do political activities, but they have to be smart and careful."

Lawyers Weekly, Vol. 32, No. 17, September 7, 2012.

Playing by the Rules: Political Activities Fair Game for Charities by Terrance S. Carter and Karen J. Cooper.

Charity Talk, Canadian Bar Association, September 2012.

[Link] http://www.cba.org/CBA/sections_charities/articles2012/political_activities.aspx

Sports organizations and tax-exempt status by Theresa L.M. Man.

Charity Talk, Canadian Bar Association, September 2012.

[Link] http://www.cba.org/CBA/sections_charities/articles2012/sports_orgs.aspx

Playing by the Rules: Political Activities Fair Game for Charities by Terrance S. Carter and Karen J. Cooper.

International Journal of Civil Society Law, Vol. X, Iss. III, August 2012.

[Link] http://www.iccsl.org/pubs/12-08_IJCSL.pdf

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

The Canadian Legal Lexpert® Directory 2012, Thomson Reuters.

[Link] <http://www.carters.ca/news/2012/lexpert.pdf>

July/August Charity Law Update Listed as a Resource.

IJCLS Newsletter, Vol. 9, Iss. 9, September 2012.

[Link] http://www.iccsl.org/pubs/12-09_IJCSL-N.pdf

RECENT EVENTS AND PRESENTATIONS

Government Relations Institute of Canada Seminar: Non-Profit Organizations and Advocacy held at the University of Toronto on September 19, 2012, included a presentation by Terrance S. Carter entitled “New Rules for Charities Engaged in Advocacy.”

[Web] <http://www.carters.ca/pub/seminar/charity/2012/tsc0919.htm>

[PDF] <http://www.carters.ca/pub/seminar/charity/2012/tsc0919.pdf>

Canadian Council of Christian Charities (CCCC) Conference 2012 included the following presentations on September 25, 2012:

“Foreign Activities: How to Get Ready for a CRA Audit” by Terrance S. Carter, and

[Web] <http://www.carters.ca/pub/seminar/charity/2012/tsc0925.htm>

[PDF] <http://www.carters.ca/pub/seminar/charity/2012/tsc0925.pdf>

“Mission Drift and Corporate Objects” by Terrance S. Carter with Barry Bussey.

[Web] <http://www.carters.ca/pub/seminar/charity/2012/tscbb0925.htm>

[PDF] <http://www.carters.ca/pub/seminar/charity/2012/tscbb0925.pdf>

UPCOMING EVENTS AND PRESENTATIONS

The 19th Annual Church & Charity Law™ Seminar will be held at Portico Community Church in Mississauga, Ontario, on Thursday, November 15, 2012.

Details and online registration are available at <http://www.charitylaw.ca>.

Association of Treasurers of Religious Institutes 25th Anniversary will include a presentation by Karen J. Cooper on September 30, 2012, entitled "Updates on the CNCA."

Details at <http://www.atri.on.ca/index.cfm?i=13913&mid=5&id=149088>.

CIBC Wood Gundy National Business Conference will include a presentation by Theresa L. Man on October 11, 2012, entitled "The Use of Private Foundations for Planned Giving."

Joint Estate Planning Seminar will include a presentation by Karen J. Cooper and Barry W. Kwasniewski on October 12, 2012, entitled "Crafting Your Will to Secure Your Family and Charity."

Pillar Nonprofit Network "Foundation Investment Forum: Philosophy, Process and People" will include a presentation by Theresa L.M. Man on October 16, 2012, entitled "Emerging Issues for Foundation Directors."

Details at http://www.pillarnonprofit.ca/news_and_events/foundation_investment_forum_2012/.

Imagine Canada's Charity Tax Tools Webinar will be a presentation by Terrance S. Carter on October 16, 2012, entitled "Directors' and Officers' Duties and Liabilities."

Register at <http://www.imaginecanada.ca/civcrm/event/info?reset=1&id=153>.

Kenora Rainy River DVCCC Community Capacity Training 2012 on October 18, 2012, will include a presentation by Ryan M. Prendergast entitled "Legal Solution for Non-profits."

<http://events.r20.constantcontact.com/register/event?llr=f4u8onkab&oeidk=a07e69adkvkea2213a2&oseq=a0111h68de506>.

Ontario Land Trust Alliance (OLTA) seminar on October 19, 2012, will include the following presentations by Karen J. Cooper:

"Update on Continuing Under the Canada and Ontario Not-for-Profit Corporation Acts," and

"Demystifying Tax Changes for Land Trusts."

Details at http://olta.ca/What_We_Do.Education_Training.Gathering2012_Home.gk.

OACAO Annual Conference 2012 (Older Adults Centre's Association of Ontario) on October 23, 2012, will include a presentation by Terrance S. Carter entitled "The In's and Out's of the Canada Not-for-Profit Corporations Act (CNCA) and the Ontario Not-for-Profit Corporations Act (ONCA)."

Details at <http://www.oacao.org/images/OACAO%202012%20Conference%20Brochure.pdf>.

Canadian Construction Association (CCA) Conference being held in Montreal on October 25, 2012, will include a presentation by Karen J. Cooper.

Imagine Canada's Charity Tax Tools Webinar will be a presentation by Theresa L.M. Man on October 31, 2012, entitled "CNCA: Continuance and More."

Register at <http://www.imaginecanada.ca/civicism/event/info?reset=1&id=154>.

Canadian Society of Association Executives (CSAE) National Conference & Showcase on November 3, 2012, will include a presentation by Karen J. Cooper entitled “Update and Maintaining Your NPO Status.”

Details at <http://www.csae.com/CoursesEvents/Details/tabid/176/ArticleId/1424/CSAE-2012-National-Conference-Showcase.aspx>.

Institute of Corporate Directors – Breakfast Seminar on November 14, 2012, will include a presentation by Terrance S. Carter on the ONCA and CNCA.

CONTRIBUTORS

Editor: Terrance S. Carter

Assistant Editor: Nancy E. Claridge



Dean E. Blachford – Mr. Blachford graduated from McGill University in 2012 with degrees in civil and common law. During his legal studies, Mr. Blachford coordinated McGill’s High School Outreach Program which provides legal and civic education to underprivileged youth. He also proudly served on the board of directors for Montreal’s Mile End Community Mission. Prior to his legal studies, he spent two years teaching grade four in Inukjuak, Nunavik. Before leaving the North, he co-founded a summer program, called Proud Reunions, for children and youth in the region. Mr. Blachford continues to oversee the program, which has affected hundreds of young people.



Tanya L. Carlton – Ms. Carlton graduated from the University of Ottawa, Faculty of Law in 2011. Prior to attending law school, Tanya earned a B.Sc. (Hons.) in Biochemistry from Bishops University and a B.Ed. from the University of Western Ontario. After teaching high school math and chemistry for several years, she took a hiatus and started a family. Throughout this time, she maintained her status as an Ontario Certified Teacher and served as an elected Municipal Councillor. Before articling with Carters, Ms. Carlton gained legal experience during the summers as a research assistant for several Ottawa-based teaching lawyers.



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, Past Chair of the CBA National Charities and Not-for-Profit Section, and is recognized as a leading expert by *Expert* and *The Best Lawyers in Canada*. He is also consulting editor of *Charities Legislation and Commentary* (LexisNexis, 2012), and editor of www.charitylaw.ca, www.churchlaw.ca and www.anti-terrorismlaw.ca.



Nancy E. Claridge – Called to the Ontario Bar in 2006, Ms. Claridge is a partner 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 is recognized as a leading expert by *Lexpert* and *Best Lawyers* practicing 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).



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 charity and not-for-profit law and is recognized as a leading expert by *Lexpert* and *Best Lawyers*. She is an Executive Member of both the Charity and Not-for-Profit Sections of the Ontario Bar Association (OBA) and the Canadian Bar Association (CBA). In addition to being a frequent speaker at seminars hosted by Carters, the CBA and the OBA, Ms. Man has also written articles for numerous publications, including *The Lawyers Weekly*, *The Philanthropist*, *Planned Giving Pulse*, *International Journal of Civil Society Law*, *The Bottom Line*, *Canadian Fundraiser*, 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, and is recognized as a leading expert in charity and not-for-profit law by *Lexpert*. Ms. Oh is a frequent contributor to www.charitylaw.ca and the *Charity Law Bulletin*, and has spoken at the annual Church & Charity Law™ 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 board member and corporate secretary of a national umbrella organization, and a director at a local community organization.



Ryan Prendergast –Called to the Ontario Bar in 2010, Mr. Prendergast 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, Mr. Prendergast was a 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, he acquired experience in charity and not-for-profit law, and contributed to several *Charity Law Bulletins* and other publications.



Colin Thurston – Called to the Ontario Bar in 2011, Mr. Thurston joined Carters to practice in the area of intellectual property. A graduate of Queen’s University, Faculty of Law, Mr. Thurston volunteered at the Queen’s Legal Aid clinic throughout his 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. Mr. Thurston has litigation experience before numerous courts and tribunals and received numerous awards, including the Sabbath Prize in Wills and Estate Planning from Queen’s Faculty of Law.

ACKNOWLEDGEMENTS, ERRATA AND OTHER MISCELLANEOUS ITEMS

Links not Working: If the above links do not work from your mail program, simply copy the link text and paste it into the address field of your internet browser.

Get on Our E-Mailing List: If you would like to be added to our electronic mailing list and receive regular updates when new materials are added to our site, send an email to info@carters.ca with “Subscribe” in the subject line. Feel free to forward this email to anyone (internal or external to your organization) who might be interested.

To be Removed: If you wish to be removed from our mailing list, please reply to this message with Remove in the subject line.

Privacy: We at Carters know how important your privacy is to you. Our relationship with you is founded on trust and we are committed to maintaining that trust. Personal information is collected solely for the purposes of establishing and maintaining client lists; representing our clients; and to establish and maintain mailing lists for the distribution of publications as an information service. Your personal information will never be sold to or shared with another party or organization. For more information, please refer to our Privacy Policy at <http://www.carters.ca/privacy.pdf>.

Copyright: All materials from Carters are copyrighted and all rights are reserved. Please contact us for permission to reproduce any of our materials. All rights reserved.

Disclaimer: This is a summary of current legal issues provided as an information service by Carters Professional Corporation. It is current only as of the date of the summary and does not reflect subsequent changes in the law. The summary is distributed with the understanding that it does not constitute legal advice or establish the solicitor/client relationship by way of any information contained herein. The contents are intended for general information purposes only and under no circumstances can be relied upon for legal decision-making. Readers are advised to consult with a qualified lawyer and obtain a written opinion concerning the specifics of their particular situation.

CARTERS PROFESSIONAL CORPORATION SOCIÉTÉ PROFESSIONNELLE CARTERS

PARTNERS:

Terrance S. Carter B.A., LL.B. (Counsel to Fasken Martineau DuMoulin LLP)	tcarter@carters.ca
Jane Burke-Robertson B.Soc.Sci., LL.B.	janebr@carters.ca
Mervyn F. White B.A., LL.B.	mwhite@carters.ca
Karen Cooper B.Soc.Sci., LL.B., LL.L., TEP	kcooper@carters.ca
Theresa L.M. Man B.Sc., M.Mus., LL.B., LL.M.	tman@carters.ca
Jacqueline M. Demczur B.A., LL.B.	jdemczur@carters.ca
Esther S.J. Oh B.A., LL.B.	estheroh@carters.ca
Nancy E. Claridge B.A., M.A., LL.B.	nclaridge@carters.ca

ASSOCIATES:

Jennifer M. Leddy B.A., LL.B.	jleddy@carters.ca
Barry W. Kwasniewski B.B.A., LL.B.	bwk@carters.ca
Sean S. Carter B.A., LL.B.	scarter@carters.ca
Ryan Prendergast B.A., LL.B.	rprendergast@carters.ca
Colin J. Thurston B.A., J.D.	cthurston@carters.ca

COUNSEL:

Bruce W. Long B.A., LL.B.	blong@carters.ca
---------------------------	------------------

211 Broadway, P.O. Box 440
Orangeville, Ontario, Canada L9W 1K4
Tel: (519) 942-0001
Fax: (519) 942-0300

117 Centrepointe Drive, Suite 124
Ottawa, Ontario, Canada K2G 5X3
Tel: (613) 235-4774
Fax: (613) 235-9838

2 Robert Speck Parkway, Suite 750
Mississauga, Ontario, Canada, L4Z 1H8
Tel: (905) 306-2791
Fax: (905) 306-3434

TD Canada Trust Tower
161 Bay Street, 27th Floor, PO Box 508
Toronto, Ontario, Canada M5J 2S1
Tel: 416-675-3766
Fax: 416-576-3765



Carters Professional Corporation / Société professionnelle Carters

Barristers · Solicitors · Trade-mark Agents / Avocats et agents de marques de commerce

www.carters.ca www.charitylaw.ca www.antiterrorismlaw.ca

Ottawa · Toronto
Mississauga · Orangeville
Toll Free: 1-877-942-0001

DISCLAIMER: This is a summary of current legal issues provided as an information service by Carters Professional Corporation. It is current only as of the date of the summary and does not reflect subsequent changes in the law. The summary is distributed with the understanding that it does not constitute legal advice or establish a solicitor/client relationship by way of any information contained herein. The contents are intended for general information purposes only and under no circumstances can be relied upon for legal decision-making. Readers are advised to consult with a qualified lawyer and obtain a written opinion concerning the specifics of their particular situation. © 2012 Carters Professional Corporation