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CHARITY & NFP LAW UPDATE

JUNE 2023

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Updating Charities & Not-For-Profits on recent legal developments and risk management considerations

JUNE 2023

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PUBLICATIONS & NEWS RELEASES

1. Changes to Trust Reporting Rules Will Seriously Affect Charities, Clarity Needed

By Terrance S. Carter, Theresa L.M. Man, Jacqueline M. Demczur & Lynne M. Westerhof

It had been previously reported that changes to the new trust reporting provisions in the *Income Tax Act* ("ITA") introduced in late 2022 may affect charities, such that charities that hold internal trusts that are set up as express trusts (such as internal endowments) might be required to file an annual return of income for each trust. It was not clear at that time whether the legislation was intended to apply to internal trusts held by charities, and, if not, whether subsequent changes to the ITA might be made to clarify that intention.

However, following recent discussions and correspondence that two of the authors had with senior officials at the Department of Finance ("Finance") and the Canada Revenue Agency ("CRA"), it is now clear that the legislative intent of the new trust reporting requirements is to include express internal trusts held by charities. This is a significant development for the charitable sector. In response, this Bulletin reviews the new trust reporting requirements, how charities will be impacted, and the urgency for the CRA to provide clarity to the charitable sector before these rules come into force for trusts with taxation years that end after December 30, 2023. For the balance of this Bulletin, please see *Charity and NFP Law Bulletin No. 522*.

2. Amendments to Bill C-41 Facilitate Distribution of Humanitarian Aid, but Issues Remain

By Terrance S. Carter, Nancy E. Claridge, Sean S. Carter and Lynne M. Westerhof

After significant advocacy from Canadian non-governmental organizations ("NGOs") and the broader charitable sector, the federal government has adopted legislation to amend the anti-terrorist financing provisions in section 83.03 of the *Criminal Code* so that Canadian charities may provide humanitarian aid and other assistance to those in need. Bill C-41 "*An Act to amend the Criminal Code and to make consequential amendments to other Acts*" received Royal Assent on June 20, 2023, and both amends section 83.03 of the *Criminal Code* to provide a blanket exception allowing "humanitarian assistance activities", as well as introducing additional provisions relating to when organizations may apply for an authorization to carry out certain activities in a geographic area controlled by a terrorist group and processes related to this authorization.

This Bulletin outlines some of the key changes made to Bill C-41 in its third reading in the House of Commons which have now received Royal Assent and sets out ongoing issues with anti-terrorist financing legislation that the charitable sector and the federal government should consider going forward. For the balance of this Bulletin, please see *AML/ATF and Charity Law Alert No. 52*.

3. Government Launches Consultation on Key Budget 2023 Priorities

By Esther S.J. Oh

On June 6, 2023, the Government of Canada announced that it will be consulting Canadians on some of the measures introduced in the 2023 annual budget. Budget 2023 was introduced in March of this year (as discussed in *Charity & NFP Law Bulletin No. 521*). Canadians will be able to share their opinions on budgetary measures as Ottawa gears up to the implementation stage of these projects.

The issues which the consultation is to focus on include "Growing the Clean Economy", "Ensuring Fair Opportunities for Canadian Workers with Federal Reciprocal Procurement", "Reforming and Modernizing Canada's Transfer Pricing Rules", "Consolidating Canada Mortgage Bonds", and (most importantly to the charity sector) "Combatting Money Laundering and Terrorist Financing".

In this regard, Ottawa is seeking feedback on its plans to strengthen the Anti-Money Laundering and Terrorist Financing ("AML/ATF") Regime. Canadians will be able to share their views and concerns regarding the strengthening of the AML/ATF Regime, investigation/prosecution, information sharing, closing of regulatory gaps, and the role of the AML/ATF Regime in protecting national and economic security. To help Canadians understand the proposed changes to this complicated area of law, the government has provided a "consultation document" which explains the proposed changes.

Those wishing to provide their feedback on the proposed changes to the AML/ATF Regime may do so by submitting comments to fcs-scf@fin.gc.ca. The subject line of the email should read "Consultation Submission" and the form should be submitted by August 1, 2023. Feedback will be used in Parliament's review of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA)*. Those wishing to provide feedback on other areas may view the announcement to find the corresponding email address to send their feedback.

4. Legislation Update

By Terrance S. Carter and Adriel N. Clayton

Ontario Bill 91 Receives Royal Assent

On June 8, 2023, Ontario's omnibus Bill 91, *Less Red Tape, Stronger Economy Act, 2023* received Royal Assent. As reported in the May 2023 *Charity & NFP Law Update*, Bill 91 amends section 27.2 of the *Trustee Act* to clarify that delegated investment managers will be permitted to invest in mutual funds, pooled funds and segregated funds under variable insurance contracts.

The Bill also proposes amendments to the *Not-for-Profit Corporations Act, 2010* and the *Corporations Act*, among other statutes, to generally facilitate certain virtual processes by replacing, in part, the temporary legislative framework for virtual processes, including virtual meetings. This will allow Ontario corporations to hold virtual or hybrid meetings, and to conduct votes virtually or in hybrid form, unless the corporation's governing documents provide otherwise. Bill 91 also facilitates the sending of notices or other documents by electronic means, and will permit affected corporations, businesses, and partnerships to store records electronically and facilitate the electronic examination of records remotely. These amendments to the corporate legislation will come into force on October 1, 2023.

New Lobbyist's Code of Conduct Published in Canada Gazette

A new, third edition of the federal Lobbyists' Code of Conduct ("Code") was published in the *Canada Gazette* on May 27, 2023 to replace the second edition of the Code, which has been in force since 2015. The Code, which sets out standards of behaviour for individuals required to register under the *Lobbying Act*, is a "non-statutory tool that complements the *Lobbying Act*'s registration requirements and serves to reinforce transparent and ethical lobbying", according to the Office of the Commissioner of Lobbying of Canada.

According to the publication, the new Code "sets out easy-to-understand rules that work to enhance transparent and ethical lobbying while contributing to public confidence in government institutions and officials." Broadly, changes to the Code include additional disclosure requirements for both consultant and in-house lobbyists; measures to enhance lobbyists' trustworthiness; provisions concerning the provision of gifts and hospitality to officials; and requirements to avoid lobbying officials that could reasonably be seen to have a sense of obligation towards the lobbyist arising out of close relationships or political work.

The new Code comes into effect on July 1, 2023. Lobbying activities and interactions prior to this date continue to be subject to the 2015 edition of the Code

5. Tax Shelter Arrangement Transferring Pharmaceutical Goods Found to Not Be a Gift

By Ryan M. Prendergast

On June 8, 2023, the Tax Court of Canada provided its reasons in the case of *Parker v. The King*. This case regarded a taxpayer seeking to appeal a reassessment of a taxation year in which he claimed a charitable tax credit on the basis he had made two donations to registered charities through the Canadian Humanitarian Trust Tax Shelter ("CHT Arrangement"). One of these was a cash donation while the other was a donation of pharmaceuticals. The Minister of National Revenue ("the Minister") subsequently allowed the cash donation after initially disallowing it, but maintained the challenge against the pharmaceutical donation.

Donations of pharmaceuticals under the CHT Arrangement were reviewed by the court in *Morrison v. The Queen*. Here, in a similar fact pattern, it was found that a donation of cash was allowed, while a donation of pharmaceuticals was not, as the plaintiff had not established that he had previously acquired the pharmaceuticals which he alleged to have donated.

The CHT Arrangement was a gift giving arrangement tax shelter which was established with a stated purpose to provide support for charities in their relief of international poverty. Part of this mission was the donation of pharmaceuticals to developing countries. The scheme of the CHT Arrangement was that a donation would submit an application to become a beneficiary of a trust which would entitle them to "World Health Organization Essential Medicine units" ("WHOEM units"), subject to a lien. These WHOEM units were from a foreign pharmaceutical distribution company and would never enter Canada at any point. This lien listed the purported value of the WHOEM units. The taxpayer would then execute a deed of gift of the pharmaceuticals to a third-party charity (the "In-Kind charity"), which would then transfer them to a distributing charity. At no point did the taxpayer ever have physical possession of the pharmaceuticals.

The Crown argued that, as the appellant never acquired the pharmaceuticals in question, there was no transfer of property and therefore no gift. The appellant agreed that he never had possession, but relied on certificates from CHT to demonstrate that he was the owner. However, these were missing pages and signatures/dates in some spots. The court found that these errors prevented them from finding that the

certificates were valid as proof of his ownership over the pharmaceuticals. Also, the court in *Morrison* found similar certificates to be "worthless pieces of paper" as they did not provide any solid evidence that the pharmaceuticals were transferred from CHT to the taxpayers.

Also, as in *Morrison*, there was not sufficient evidence to prove that the pharmaceutical distribution company ever acquired the WHOEM units from the manufacturer. Without this step in the transaction, the chain of transfers could not be established. There was no evidence that the distribution company had ever distributed the pharmaceuticals to the intended charity. A CRA investigation found that the manufacturer of the drugs had no knowledge of the distributor and had never done business with it. The bank documents submitted as evidence did not reflect cash flow from the distributor to the charity.

Based on these facts, the court found that there was no gift and consequently did not allow the receipt concerning the pharmaceutical donation. CRA routinely audits these kinds of gifting arrangements and tax shelters. The fact situation in *Parker* is not dissimilar from increasingly complicated schemes to obtain donation tax credits through these arrangements. Donors and charities should be aware that they can have severe consequences from participating in these schemes once they are eventually audited, and charities that participate in these schemes may also face penalties or revocation. Donors and charities need to be extremely cautious of gifting arrangements that sound too good to be true.

6. CRA: Tax Treaty Does Not Deem US Charities to be Qualified Donees

By Lynne Westerhof

While many Canadian charities may wish to make gifts to US charities, there are several complex rules which limit the situations in which such gifts can be made. Before June 23, 2022, Canadian charities could only make gifts to qualified donees, and, with only a few exceptions, US charities did not meet the definition of "qualified donee" set out in section 149.1(1) of the *Income Tax Act* ("ITA"). If a Canadian charity were to make a gift to a non-qualified donee, then its charitable status could be revoked under subsections 149.1(2), (3), or (4) of the ITA.

It is in this context that CRA Views Interpretation 2022-0925731I7, dated February 15, 2023, considered whether paragraph 7 of Article XXI of the Canada-US Tax Treaty deems a US 501(c)(3) organization ("US Charity") to be a qualified donee for the purposes of subsections 149.1(2), (3), and (4) of the ITA. If a US Charity were to be deemed to be a qualified donee, this would mean that a Canadian charity that made gifts to such an organization would not be at risk of having its charitable status revoked under

subsections 149.1(2), (3), or (4) of the ITA. However, if a US Charity were not to be deemed to be a qualified donee by the Canada-US Tax Treaty and did not otherwise meet the definition of qualified donee, then revocation of charitable status would remain a possibility when Canadian charities made a gift to such an entity.

The CRA concluded that paragraph 7 of Article XXI of the Canada-US Tax Treaty did not deem a US Charity to be a qualified donee. This is because the Canada-US Tax Treaty is focused on providing "limited tax relief to residents of Canada and the U.S. who may be subject to double taxation on income and on capital imposed on behalf of each country." While the CRA accepts that the tax relief measures in paragraph 7 allow a Canadian resident to claim a deduction against taxable income from US sources for an eligible gift to a US Charity, this does not mean that a Canadian charity can make gifts to a US Charity and claim a deduction. Canadian charities are exempt from tax (by virtue of paragraph 149(1)(f) of the ITA) and therefore would not be seeking relief from double taxation on income. Because subsections 149.1(2), (3) and (4) "govern the revocation of a Canadian charity's registered status, and not the imposition of taxes," the Canada-U.S. Tax Treaty does not apply to those provisions, and a US Charity is not deemed to be a "qualified donee" by that treaty.

The CRA briefly noted that as of June 23, 2022, the ITA has been amended so that Canadian charities may make "qualifying disbursements" to "grantee organizations" and that a grantee organization may "include a person, club, society, association or organization or prescribed entity, but does not include a qualified donee." However, the CRA Views did not provide any comments about whether a US Charity could be considered a grantee organization to which a Canadian charity could make qualifying disbursements. Canadian charities that wish to work with charities in the US are encouraged to consult legal counsel regarding the situations in which funds can be provided to a US Charity.

7. CRA Releases View Concerning Non-Profit Organization Status

By Theresa L.M. Man

The Canada Revenue Agency (CRA) released CRA View 2018-0776681E5, dated March 30, 2023, concerning tax implications of distributions made by a strata/condo corporation that claims tax exemption as a non-profit organization (NPO) under paragraph 149(1)(l) of the *Income Tax Act* (ITA). The condo corporation has a wholly-owned subsidiary that only owns one piece of real estate and is not a bare trustee. The subsidiary plans to sell the real estate and distribute its large capital gain to the condo corporation by

paying a capital dividend and taxable dividend. The CRA was asked whether the condo corporation could distribute the said capital dividend or a taxable dividend to its members without losing its NPO status.

Under paragraph 149(1)(l), an NPO is exempt from Part I tax provided that it meets all of the following requirements: (1) it is a club, society or association; (2) it is not a charity; (3) it is organized and operated exclusively for social welfare, civic improvement, pleasure, recreation or any other purpose except profit; and (4) its income is not available for the personal benefit of a proprietor, member, or shareholder, unless that proprietor, member, or shareholder was a club, society, or association which has as its primary purpose and function the promotion of amateur athletics in Canada.

The CRA indicated that residential condominiums are required to be organized under the applicable provincial legislation for condominiums and they normally are not operated as a business. Therefore, they are usually considered to be organized and operated for other than commercial or financial reasons, thereby meeting requirement #3 in the ITA. Provided that the other three requirements in paragraph 149(1)(l) are also met, they would generally qualify for tax-exempt NPO status.

However, where an organization holds shares to earn income from property, it may be considered to have a profit purpose, even if the income is used to further the organization's not-for-profit objectives. In that case, it is a question of fact whether or not the corporation has a profit purpose if it holds shares in a wholly-owned subsidiary and consequently receives dividends.

In relation to requirement #4, for purpose of paragraph 149(1)(l), "income" is determined in accordance with the rules in section 3 of the ITA, while taking into account that taxable capital gains are excluded from the computation of income under subsection 149(2). NPOs may therefore distribute the amount of taxable capital gains to their members, as this is not considered a distribution of income.

Since a capital dividend received by a shareholder is not included in income under paragraph 83(2)(b) of the ITA, the capital dividend received from its subsidiary would not be included in the condo corporation's income. Therefore, any distributions of such amounts to the corporation's members would not affect the corporation's NPO status. The CRA indicated adequate records must be maintained to verify that the source of the distribution to its members was the capital dividend it received. On the other hand, since taxable dividends received from the subsidiary would be included in the condo corporation's income pursuant to subsection 82(1) of the ITA, the condominium would lose its NPO status if it distributes these funds to its members.

If a condominium loses its NPO status, it would cease to be exempt from Part 1 tax and becomes a taxable entity. The rules in subsection 149(10) would apply, so that the corporation's taxation year is deemed to end and a new one begins. There is a deemed disposition of all of its property at fair market value immediately before the exempt status is lost, and then it would have to re-acquire all property at fair market value at that time. Whether the condominium could later qualify for NPO status is a question of fact to be determined based on the corporation's activities during that year. However, the condominium likely will not meet paragraph 149(1)(l) conditions for its new taxation year, since it includes the distribution of its income to its members.

8. Employment Update

By Barry W. Kwasniewski

Alberta Court Finds Independent Tort of Harassment

In a significant decision, the Court of the King's Bench of Alberta has established harassment as a freestanding common law tort. On April 12, 2023, the court released its decision in *Alberta Health Services v Johnston*. This decision reviewed a campaign of alleged harassment by an online political commentator and 2021 Calgary mayoral candidate, Keven J. Johnston, against the Alberta Health Services ("AHS") and its employees (Sarah Nunn and Dave Brown), in response to their enforcement of COVID lockdown measures.

The plaintiffs brought claims of defamation and what they described as "tortious harassment" against Johnston. Tortious harassment, the plaintiffs claimed, constituted threats and abuse stemming from invasion of privacy and assault. The court sought to answer if a public authority could maintain an action for defamation and if a tort of harassment exists in Alberta (which is the focus of this article).

Johnston, on his online talk show, singled out Ms. Nunn, who was employed as an AHS public health inspector, and made personal and insulting comments against her and her families. He referred to the individual using the terms "terrorist", "alcoholic", "communist", "Nazi" and alluded to violent outcomes to the individual being inevitable for their role in the enforcement of COVID lockdown measures. Johnston broadcast images of the employee and her family on his programs and social media.

In consideration of the finding of a potential new tort of harassment, the court noted that the Ontario Court of Appeal in *Merrifield v. Canada (Attorney General)*, ruled that in that province, the existing caselaw were "not authority for recognizing the existence of a tort of harassment in Ontario, still less for

establishing either a new tort or its requisite elements." While the court in *Merrifield* did state that such a tort was possible and could be found at some point in the future, it was not prepared to make a ruling which would so dramatically shift the landscape of civil law. However, lower Ontario courts have made reference to a tort of harassment in the context of online abuse since *Merrifield*.

The court in *Alberta Health Services* referred to Alberta caselaw which criticized *Merrifield*; if online harassment was a category of tort, this necessitated the existence of a category of "low tech" harassment as well. Further, the court noted that the development of tort law has often ignored social factors affecting women and other marginalized groups, who it stated are often disproportionately affected by harassment.

The *Criminal Code* provisions regarding harassment provided a legal basis that "harassment is wrongful." Further, the court regularly grants restraining orders to prevent harassment, both online and in-person. This demonstrated that harassment is a "justiciable issue" (para 97) and that giving the court the power to award damages where it once was only able to provide restraining order was "long overdue" (para 98).

In the opinion of the court, a tort of harassment "fills a gap in the law". Existing torts which would be applicable, such as defamation and assault, were not sufficient as they "are limited to false statements causing reputational harm in the case of defamation and imminent threats of physical harm in the case of assault." (para 99). Privacy torts were not sufficient as they were only applicable if there was reasonable expectation of privacy. Private nuisance, a tort which originated in Alberta was not sufficient as it requires a connection to property and intimidation fell short of addressing a behavior of harassment as it required threats. Intentional infliction of mental suffering was also inadequate, as it required the victim to suffer a visible or provable illness.

Careful to ensure that a clear definition of the new tort was established, the court outlined necessary elements required for harassment to be found. It compared harassment to negligence, stating that there is no "bright line" test, and that determination must be made on a case-by-case basis. Using prior case law and restraining order proceedings as a basis, the court found that harassment can be found when a defendant has:

1. engaged in repeated communications, threats, insults, stalking, or other harassing behaviour in person or through or other means;
2. that he knew or ought to have known was unwelcome;

3. which impugn the dignity of the plaintiff, would cause a reasonable person to fear for her safety or the safety of her loved ones, or could foreseeably cause emotional distress; and
4. caused harm.

Anticipating potential criticism of the decision, the court stated the following:

"Taking this step does not create indeterminate liability nor does it open floodgates; to the contrary, it defines the tort of harassment in a measured way that will guide courts in the future."

Using this analysis matrix, the court concluded that Johnston had engaged in tortious harassment of the specific AHS employee.

This decision is limited to the province of Alberta, and does not change the state of the law in other provinces or territories. The court ruled that while the AHS could not succeed in its claims of defamation and harassment as it was a governmental authority, the main target of the defendant's campaign, Ms. Nunn, had proved her case. In the result the court awarded Ms. Nunn:

1. $300,000 in general damages for defamation, $100,000 in general damages for harassment, and a further $250,000 in aggravated damages.
2. Permanent injunctions restraining Mr. Johnston's activities in relation to AHS and Ms. Nunn.
3. Costs of the proceeding, multiplied by three, in accordance with the *Rules of Court*.

9. Privacy Update

By Esther Shainblum

OPC Announces Guidance on Workplace Privacy

As privacy in the workplace continues to be a significant topic in the sphere of privacy law, the Office of the Privacy Commissioner of Canada (OPC) has released a guidance on Privacy in the Workplace (Guidance) of interest to employers governed by the federal *Privacy Act* and the *Personal Information Protection and Electronic Documents Act* ("PIPEDA"). Employers who are not governed by federal privacy legislation can also refer to the Guidance as reflecting privacy best practices in the workplace. The Guidance is summarized briefly below.

Employee information can encompass various types of data, including pay and benefit records, attendance reports, personnel files, and electronic records. Privacy obligations extend to current, prospective, and former employees.

Employers have legitimate needs to collect, use, and disclose personal information about their employees, including information necessary for hiring decisions, addressing performance issues, ensuring workplace security, and implementing electronic monitoring and surveillance measures. These needs of employers must be balanced against the privacy interests of employees. In general, among other principles, employers must limit the collection of employee information to what is necessary, obtain meaningful consent when required, and provide transparent notice and policies. Personal information should only be collected, used and disclosed for the purposes for which it was originally collected, and employees have the right to access their personal information, challenge its accuracy, and receive information about its use. Access to employee information should be restricted to those with a legitimate need, and it should be safeguarded with physical, organizational and technological safeguards to protect it from inappropriate access or disclosure, such as "employee snooping". Measures should be implemented to ensure data accuracy, completeness, and security. Employers should have comprehensive policies and procedures in place, addressing employee monitoring reasonably and proportionately.

Employers should not mislead employees by suggesting that they have no privacy rights in the workplace, as this contradicts the need for clear and voluntary consent. Instead, employers should seek explicit consent from employees for limited and justified collection, use, and disclosure of personal information, while transparently explaining the consequences of not providing such information. It is important to remember that consent does not override an organization's other privacy obligations, and individuals cannot consent to their personal information being handled in violation of legal requirements.

When considering employee monitoring, employers must respect privacy rights and ensure that monitoring is limited to specific and appropriate purposes. Privacy risks should be assessed, and measures should be taken to mitigate those risks, such as collecting only necessary information and using the least invasive methods available. Employers should carefully choose monitoring technologies that are effective and suitable for the intended purpose, and establish measures to enforce compliance and monitor adherence to monitoring practices. Transparency is crucial, and employees should be informed about the nature, extent, and reasons for monitoring, as well as any potential consequences. Employers should also

establish procedures for addressing employee access requests, privacy compliance challenges, and potential complaints related to monitoring practices.

Here are 8 practical tips for employers to consider when managing employee information:

1. Understand relevant legal obligations and authorities, including privacy laws, collective agreements, and other applicable laws.
2. Identify and evaluate the employee information being collected, used, and disclosed, considering its sensitivity and potential privacy risks.
3. Conduct Privacy Impact Assessments (PIAs) to assess privacy risks and develop risk management strategies.
4. Test proposed employee management information practices, ensuring that the collection, use, and disclosure of personal information are appropriate and proportional to the purposes.
5. Limit the collection of personal information to what is necessary and collect it by fair and lawful means.
6. Be transparent and open with employees about the personal information being collected, used, and disclosed, and develop clear policies to communicate privacy practices.
7. Respect key privacy principles, including accountability, accuracy of personal information, limiting collection and retention, implementing security safeguards, and providing individuals with access and the ability to challenge compliance.
8. Be aware of inappropriate practices and "no-go zones" that may infringe on employee privacy, such as requesting access to password-protected social media accounts or engaging in unfair profiling or discriminatory treatment.

Following these tips can help employers navigate privacy obligations and foster a respectful and compliant approach to managing employee information.

Even though charities and not-for-profits may not be subject to PIPEDA or other privacy legislation, they should look to the Guidance as reflecting privacy best practices.

Strict Privacy Provisions Come into Effect in Quebec this September

Law 25, previously Bill 64 *"An Act to Modernize Legislative Provisions as Regards the Protection of Personal Information"* was sanctioned (akin to Royal Assent) by the Quebec legislature on September 21,

2021. While some provisions came into effect in September of last year, the bulk of the new law will come become active on September 22, 2023. Unlike the federal *Personal Information Protection and Electronic Documents Act* ("PIPEDA"), which only applies to charities and not for profits to the extent that they are engaged in "commercial activities", Law 25 applies to governments, for-profit and non-for-profit entities. Law 25 will impact not only Quebec based organizations, but any organization that processes the personal information of Quebec residents.

Law 25 will impose a series of new obligations on organizations processing the personal information of people in Quebec, including obligatory personal information policies, mandatory privacy impact assessments when personal information is communicated outside of Quebec, required provisions within outsourcing agreements and other changes that charities and not for profits that accept donations from Quebec residents, communicate with or provide services to stakeholders in Quebec will need to comply with or face potentially severe financial penalties.

The upcoming second wave of Law 25 are the most stringent privacy laws in Canada, and charities and not-for-profits that operate in Quebec should be reviewing and revising their privacy practices and privacy policies to ensure that they are compliant with Law 25 in order to avoid the risks of incurring substantial monetary penalties.

10. OBA's AMS – John Hodgson Award 2022

Theresa L.M. Man was presented with the 2022 Ontario Bar Association's AMS - John Hodgson Award for Excellence in Charity and Not-for-Profit Law on June 22, 2023. Theresa has been a key player in the charity and not-for-profit sector for over 21 years and has been the past chair of both the CBA and the OBA Charity and Not-for-Profit Law Sections. As a partner at Carters, Theresa practices exclusively in charity and not-for-profit law as well as being a prolific author and speaker on charity law.

11. Carters is Pleased to Welcome Cameron A. Axford as a New Associate

Carters is pleased to welcome Cameron A. Axford, B.A., J.D., as an associate. Cameron joins Carters after completing his articles with the firm and being called to the Ontario Bar in June 2023. Cameron is an associate whose practice focuses on Carters' knowledge management, research, and publications division.

IN THE PRESS

Charity & NFP Law Update – May 2023 (Carters Professional Corporation) was featured on Taxnet Pro™ and is available online to those who have OnePass subscription privileges.

RECENT EVENTS & PRESENTATIONS

Interaction Between Canon Law and Civil Law was the topic presented jointly by Sister Bonnie MacLellan, CSJ. and Terrance S. Carter at the Saint Paul University, Faculty of Canon Law, Legal Education Seminar on June 13, 2023.

Being A Responsible Director was presented by Esther Shainblum at Volunteer Ottawa's Board Volunteering Series on June 14, 2023.

A panel discussion entitled **The Modernization of Charitable Planning: Bringing Old Supports into a New World** was presented at STEP Canada's 25th National Conference in Toronto on June 20, 2023. The panelists included Terrance S. Carter (Moderator), Malcolm Burrows, Head of Philanthropic Advisory Services, Scotia Wealth Management, and Karen Cooper, KPMG Law.

UPCOMING EVENTS & PRESENTATIONS

Christian Legal Fellowship National Conference will be held in Mississauga from September 29 to 30, 2023. Terrance S. Carter will be presenting on the topic of Essential Update on Charity Law on Friday September 29.

Association of Treasurers of Religious Institutes will host the ATRI 2023 Conference in Montreal, QC. Terrance S. Carter will be presenting on Saturday, September 30, 2023, on the topic of The CRA's New Regime of Qualifying Disbursements.

Save the Date - Carters Fall Charity & Not-for-Profit Law Webinar hosted by Carters Professional Corporation on Thursday, **November 9, 2023**. Details will be posted soon at www.carters.ca

LEGAL TEAM

Editor: Terrance S. Carter
Assistant Editors: Nancy E. Claridge, Ryan M. Prendergast, and Adriel N. Clayton

Sepal Bonni, B.Sc., M.Sc., J.D., Trademark Agent - Sepal Bonni is a registered trademark agent and practices in all aspects of brand protection. Her trademark practice includes domestic and foreign trademark prosecution, providing registrability opinions, assisting clients with the acquisition, management, protection, and enforcement of their domestic and international trademark portfolios, and representing clients in infringement, opposition, expungement, and domain name dispute proceedings. She also assists clients with trademark licensing, sponsorship, and co-branding agreements. Sepal also advises clients on copyright and technology law related issues.

Terrance S. Carter, B.A., LL.B, TEP, Trademark Agent – Managing Partner of Carters, Mr. Carter practices in the area of charity and not-for-profit law, and is counsel to Fasken on charitable matters. Mr. Carter is a co-author of *Corporate and Practice Manual for Charitable and Not-for-Profit Corporations* (Thomson Reuters), a co-editor of *Charities Legislation and Commentary* (LexisNexis, 2022), and co-author of *Branding and Copyright for Charities and Non-Profit Organizations* (2019 LexisNexis). He is recognized as a leading expert by *Lexpert*, *The Best Lawyers in Canada* and *Chambers and Partners*. Mr. Carter is a former member of CRA Advisory Committee on the Charitable Sector, and is a Past Chair of the Canadian Bar Association and Ontario Bar Association Charities and Not-for-Profit Law Sections.

Sean S. Carter, B.A., LL.B. – Sean Carter is a partner with Carters and the head of the litigation practice group at Carters. Sean has broad experience in civil litigation and joined Carters in 2012 after having articled with and been an associate with Fasken (Toronto office) for three years. He is ranked as a leading expert by *The Best Lawyers in Canada*. Sean has published extensively, co-authoring several articles and papers on anti-terrorism law, including publications in *The International Journal of Not-for-Profit Law*, *The Lawyers Weekly*, *Charity & NFP Law Bulletin* and the *Anti-Terrorism and Charity Law Alert*, as well as presentations to the Law Society of Ontario and Ontario Bar Association CLE learning programs.

Nancy E. Claridge, B.A., M.A., LL.B. – Called to the Ontario Bar in 2006, Nancy Claridge is a partner with Carters practicing in the areas of corporate and commercial law, anti-terrorism, charity, real estate, and wills and estates, in addition to being the assistant editor of *Charity & NFP Law Update*. After obtaining a Master's 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. Nancy is recognized as a leading expert by *Lexpert*.

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Lynne Westerhof, B.A., J.D. – Lynne is a charity and not-for-profit law associate whose practice focusses on tax law, charitable status applications, corporate governance matters, legal risk management, and counter-terrorism financing law as it applies to the provision of humanitarian aid. She articled with Carters from 2021 to 2022 and joined the firm as an associate following her call to the Ontario Bar in June 2022. In addition to her work assisting charities and not-for-profits, Lynne assists with Carter's knowledge management, research, and publications division.

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