

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE FEDERAL COURT OF APPEAL)

BETWEEN:

F. MAX E. MARÉCHAUX

Applicant (Appellant)

-and-

HER MAJESTY THE QUEEN

Respondent (Respondent)

AFFIDAVIT OF TERRANCE S. CARTER

I, THE UNDERSIGNED, TERRANCE S. CARTER, BARRISTER, SOLICITOR AND TRADE-MARK AGENT OF ORANGEVILLE, ONTARIO make oath and say as follows:

1. I am the Managing Partner of Carters Professional Corporation, which provides a full-range of legal services to charities and not-for-profits across Canada, as well as to individuals, corporations and businesses. I have been a member of the Ontario Bar since 1980. My areas of expertise include Charity and Not-for-Profit Law, Fundraising, Gift Planning, National and International Organizational Structures, Intellectual Property, and Charity Tax and Trusts.
2. Annexed hereto as Exhibit "A" to this Affidavit are true copies of my curriculum vitae and biographical summary.
3. I am currently Chair of the Charities and Not-for-Profit Law Section of the Canadian Bar Association ("CBA"), a member of the Technical Issues Working Group of Canada Revenue Agency's (hereinafter "CRA") Charities Directorate, a member of the Government Relations Committee of the Canadian Association of Gift Planners (CAGP), a past member of CRA's Charity Advisory Committee, a past member of the Imagine Canada Technical Advisory Committee, past member of the Uniform Law Conference of Canada Task Force on Uniform Fundraising Legislation, past Chair of the Charity and Not-for-Profit Law Section of the Ontario Bar Association (OBA), and was the 2002 recipient of the OBA/AMS - John Hodgson Award for Charity and Not-for-Profit law. I am also a member of the Society of Trust and Estates Practitioners Canada, the Intellectual Property Institute of Canada, the Association of Fundraising Professionals, and the American Bar Association Tax Exempt Law Section, the Charity Law Association of the United Kingdom, and have participated in consultations with the Public Guardian and Trustee of Ontario, the Charities Directorate of CRA, Finance Canada, and was a member of the Anti-

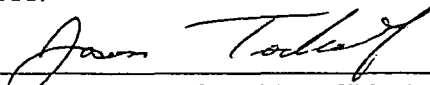
terrorism Committee and the Air India Inquiry Committee for the CBA, as well as appearing as an expert witness before the Air India Inquiry.

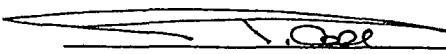
4. At the request of counsel for the Applicant, I have read the decision of the Federal Court of Appeal in *F. Max E. Maréchaux v. Her Majesty the Queen* and have thus informed myself of the principal issues involved in this litigation. I am confident in the national and public importance of the proposed appeal and the issues to be determined by it, particularly for Canadian registered charities and their donors and advisors.
5. The 2007 Survey of Giving, Volunteering and Participating, undertaken by Statistics Canada and published by Imagine Canada in 2010, found that in 2007 almost 23 million Canadians –84% of the population aged 15 and over – made a financial donation to a charitable or other nonprofit organization and that Canadians donated a total of \$10 billion during the same period. Canadians who donate to registered charitable organizations are eligible to receive income tax credits in return for their donations. Almost half (46%) of donors surveyed in 2007 said that they or someone in their household would be claiming a income tax credit and the survey found that the likelihood of intending to claim such a tax credit increases with the amount given. Attached hereto as Exhibit “B” to this Affidavit is a true copy of the pages of this survey report containing these statistics. I have not attached the entire report due to its length (94 pages), however, it is available on-line at the following website:
http://www.givingandvolunteering.ca/files/giving/en/csgvp_highlights_2007.pdf
6. An article in the Globe and Mail by Paul Waldie on September 15, 2010 titled “Gifting tax audits ensnare 170,000 Canadians” made reference to documents obtained under the *Access to Information Act* by an individual named Ken Rubin. My office obtained a copy of this material from Mr. Rubin, which is entitled “International and Large Business Directorate Issue List” (the “Report”). The Report appears to have been prepared by David Duff, who is currently the Manager of the Tax Shelter Audits Section of the Canada Revenue Agency. The Report’s statistics provide a summary of specific facts and figures involving Gifting Tax Shelters across Canada. Within this document, a statistical summary of the total number of taxpayers participating in donation tax shelters and claiming donations is provided, which demonstrates that by 2007, there were approximately 142,000 taxpayers involved in these tax shelter schemes, with approximately 4.3 billion dollars in donations claimed. Attached hereto as Exhibits “C” and “D”, respectively, are the Globe and Mail article and the Report.
7. As part of an ongoing series of CRA “Tax Alerts” and “Fact Sheets” dating back to 1998, CRA has been regularly posting information for the general public concerning donation tax shelter arrangements, which signifies its own concern about the increasing use of donation tax shelters. In this regard, in its most recent “Tax Alert”, released on December 23, 2010, (attached as Exhibit “E”) CRA advised that it had denied over \$4.5 billion in tax gifting donation arrangements as of the date of the Alert. Confusion surrounding issues of “tax shelters” and the term “gift” at common law had lead to over 130,000 taxpayers being reassessed by CRA. With such large amounts of money and so many taxpayers being

affected, the importance of resolving issues involving donation tax shelter schemes and the nature of a "gift" at common law cannot be overstated.

- 8. From the above, it is clearly evident that donation tax shelter schemes and the nature of a 'gift' at common law are relevant issues of national and public importance for many thousands of Canadians who have or will participate in similar donation plans.

Sworn before me at the Town of Orangeville)
 in the province of Ontario this 26 day of January)
 2011.)


 _____)
 A Commissioner for taking affidavits in and for)
 the Province of Ontario)


 _____)
 Terrance S. Carter)

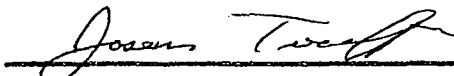
Jason Wayne Todoroff, a
 Commissioner, etc., Province
 of Ontario, while a Student-at-Law
 Expires August 10, 2013.

This is Exhibit "A"
to the Affidavit of

Terrance S. Carter

Terrance S. Carter
Carters Professional Corporation
211 Broadway, Orangeville, ON L9W 1K4
877-942-0001 x225, tcarter@carters.ca

Sworn before me
this 26 day of January 2011


A Commissioner for taking Affidavits, etc.

Jason Wayne Todoroff, a
Commissioner, etc., Province
of Ontario, while a Student-at-Law
Expires August 10, 2013.

EDUCATION

- 1980 Called to the Bar in Ontario
- 1975 B.A. (Joint Honours), McGill University, Montreal, Quebec
- 1978 LL.B., Osgoode Hall Law School, Toronto, Ontario

EXPERIENCE

- 2001 – present Carters Professional Corporation, Orangeville, Ontario
Managing Partner
Charity and Not-for-Profit Law, Fundraising, Gift Planning, National and International Organizational Structures, Intellectual Property, and Charity Tax and Trusts.
- 1986 – 2000 Wardlaw, Mullin, Carter, Thwaites & Ward, Orangeville, Ontario
Partner
Charity and Not-for-Profit Law, Fundraising, Gift Planning, National and International Strategic Planning, Intellectual Property, Charity Tax and Trusts and Real Estate.
- 1980 – 1985 Wardlaw, Mullin, Carter, Thwaites & Ward, Orangeville, Ontario
Associate
Charity and Not-for-Profit Law, Corporate and Real Estate Law.

AWARDS

- 2002 AMS - John Hodgson Award for charity and not-for-profit law by the Ontario Bar Association
- 1975 McGill University Scholar, Montreal, Quebec

PROFESSIONAL MEMBERSHIPS

- Canada Revenue Agency's Charities Advisory Committee, past member
- Canadian Bar Association (CBA) National Charities and Not-for-Profit Law Section, Chair

Terrance S. Carter

- Technical Issues Committee of CRA's Charities Directorate on behalf of the CBA National Charities and Not-for-Profit Law Section, member
- Canadian Association of Gift Planners, member
- CBA Disbursement Quota Reform Working Group, member 2008 and 2009
- Canadian Tax Foundation, member
- CBA's Legislation and Law Reform Committee reviewing Canada's Anti-terrorism Legislation, member
- Ontario Bar Association Charities and Not-for-Profit Law Sector, member and past chair
- Imagine Canada Technical Advisory Committee, past member
- Society of Trust and Estates Practitioners, member
- Charity Law Association (UK), member
- American Bar Association (Tax Exempt Section), member
- Association of Fundraising Professionals, member
- Christian Legal Society, Springfield, VA, U.S.A., member
- Government Relations Committee of the Canadian Association of Gift Planners, member
- Intellectual Property Institute of Canada, member
- International Center for Not-for-Profit Law, Washington, D.C., member
- International Civil Liberties Monitoring Group (ICLMG), member
- Uniform Law Conference of Canada's Task Force on Uniform Fundraising Legislation, member
- Dufferin County Law Association, member and former president
- Christian Legal Fellowship, past director and founding member

OTHER EXPERIENCE

- Participated in consultations with the Public Guardian and Trustee of Ontario, the Charities Directorate of CRA, and Finance Canada
- Member of the Anti-terrorism Committee for the CBA (2001-2002)
- Member of the Air India Inquiry Committee for the CBA (2008)
- Expert witness before the Commission of Inquiry into the Investigation of the Bombing of Air India Flight 182
- Court appointed arbitrator for two charities referenced in a 2008 reported decision
- Past member of numerous boards of charitable and not-for-profit organizations

PUBLICATIONS

PUBLISHED BOOKS AND CHAPTERS:

- Parachin, Adam M., Terrance S. Carter and Maria Elena Hoffstein, eds. *Charities Legislation & Commentary*, 2011 ed. (Markham: LexisNexis Butterworths, 2010).
- Hoffstein, Maria Elena, Terrance S. Carter and Adam M. Parachin, eds. *Charities Legislation & Commentary*, 2006-2010 eds. (Markham: LexisNexis Butterworths, 2010).
- Carter, Terrance S. and Karen J. Cooper, "The Legal Context of Nonprofit Management" in *The Management of Non-Profit and Charitable Organizations in Canada*, 2nd edition, ed. Vic Murray (Markham: LexisNexis Butterworths, 2009).
- Carter, Terrance S. and U. Shen Goh, *Branding & Trade-Marks Handbook for Charitable and Not-For-Profit Organizations* (Markham: LexisNexis, 2006).
- Carter, Terrance S. and Karen J. Cooper, "The Legal Context of Nonprofit Management" in *The Management of Non-Profit and Charitable Organizations in Canada*, ed. Vic Murray (Markham: LexisNexis Butterworths, 2005).
- Hoffstein, Maria Elena, Terrance S. Carter and Adam M. Parachin, eds. *Charities Law*, 2003/2004 ed. (Markham: LexisNexis Butterworths, 2003).
- Carter, Terrance S. and Jacqueline M. Connor, "Rights and Powers" in *Primer for Directors of Not-for-Profit Corporations* (Industry Canada, 2002).
- Carter, Terrance S., "Risk Protection" in *Primer for Directors of Not-for-Profit Corporations* (Industry Canada, 2002).

SELECTED OTHER RELEVANT PUBLICATIONS

- Charities/Not-for-Profit Law by Terrance S. Carter and M. Elena. The Canadian Legal Lexpert Directory 2010, Thomson Reuters, 2010.
- Introduction of Bill 65, the Ontario Not-For-Profit Corporations Act by Jane Burke-Robertson and Terrance S. Carter. Charitable Thoughts, OBA, Vol. 13 No. 4, June 2010.
- "Towards a New Paradigm" in The Canadian Donors Guide to Fundraising Organizations in Canada 25th Edition by Terrance Carter and Theresa Man (Canadian Bar Association, Imagine Canada and Canadian Association of Gift Planners (2010).
- Inside Internal Control refers readers to Charity Law Bulletin No. 210 on "Introduction of Bill 65, The Ontario Not-For-Profit Corporations Act" by Jane Burke-Robertson and Terrance S. Carter. Inside Internal Control, Vol. 3 Iss. 5, June 2010.
- Non-Profit Groups Wary of CRA Stance by Donalee Moulton includes quotes from an interview with Terrance S. Carter. The Bottom Line, Volume 26, No. 6, May 15, 2010.
- Good news for charities in federal budget by Karen J. Cooper and Terrance S. Carter. Law Times, Volume 20, No 2, March 15, 2010.
- Proposed Changes to the Donation Tax Credit System by Terrance S. Carter. OBA Charitable Thoughts, Vol. 13, No. 3, March 2010.

Terrance S. Carter

- New Act Signals Fresh Start for Federal Not-for-Profits by Terrance Carter and Jane Burke-Robertson. *Lawyers Weekly*, Volume 7, Issue 2, March 5, 2010.
- Improved CRA fundraising guidance still poses challenges by Terrance S. Carter. *Charity Talk*, January 2010.
- Civil Society Under Strain references "Canadian Charities: The forgotten victims of Canada's anti-terrorism legislation" by Terrance S. Carter in *Civil Society Under Strain: Counter-Terrorism Policy, Civil Society and Aid Post-9/11*. *International Journal of Civil Society* 4: 10-16, Ed. Jude Howell and Jeremy Lind. Kumarian Press. Sterling, VA, 2010.
- Fundraising Guidance Poses Challenges for Charities by Terrance S. Carter. *Lawyers Weekly*, Volume 29, No. 29, December 4, 2009.
- Ontario Legislation: Bill 212 Reforms Ontario Charities Regulation by Terrance Carter. *Canadian Fundraising & Philanthropy eNews*, Volume 19, No. 23, December 15, 2009.
- Omnibus Bill Introduces Changes for Charities in Ontario includes a link to *Charity Law Bulletin* No. 181 entitled "Bill 212 Brings Significant Reform to the Regulation of Charities in Ontario" by Terrance S. Carter. *Inside Internal Control*, Volume 2, Issue 11, December 11, 2009.
- Bill 212 Introduces Significant Reform to Charities Regulation by Terrance S. Carter. *Law Times*, Volume 20, No. 38, November 30, 2009.
- Improved CRA Fundraising Guidance Still Poses Challenges by Terrance Carter. *Charitable Thoughts*, Volume 13, No. 1, October 2009.
- Proposed Consumer Product Safety Act Raises Concerns for Charities by Nancy E. Claridge and Terrance S. Carter. *Charitable Thoughts*, Volume 13, No. 1, October 2009.
- Fundraising Guidance Still has Challenges by Terrance Carter. *The Bottom Line*, Vol. 25, No. 11, Mid-September, 2009.
- CRA Draft Guidance on the Protection of Human Rights & Charitable Registration by Terrance S. Carter. *Christian Legal Journal*, Summer 2009.
- Operations outside Canada? New rules are in the works for you by Terrance S. Carter and Karen J. Cooper. *Canadian Fundraising & Philanthropy eNews*, Vol. 19, No. 16, August 31, 2009.
- CRA Draft Guidance Clarifies the Rules for Human Rights Charities Operation Abroad by Terrance Carter. *The Lawyers Weekly*, Vol. 29, No. 14, August 21, 2009.
- Proposed Consumer Product Safety Act raises concerns for charities by Nancy E. Claridge and Terrance S. Carter. *Canadian Fundraising & Philanthropy eNews*, Vol. 19, No. 15, August 15, 2009.
- Managing Endowments in Difficult Times by Terrance S. Carter appeared in the Greater Toronto Area Leave a Legacy charitable giving supplement "Your Guide to Giving Back," which was included in the *Globe and Mail* and *Good Times* magazine. *Leave a Legacy GTA: Your Guide to Giving Back*, *Globe & Mail* Insert, Saturday, May 23, 2009, *Good Times Magazine* Insert, June 2009.
- Business Activities and Social Enterprise: Towards a New Paradigm by Terrance S. Carter and Theresa L.M. Man, *The 2009 National Charity Law Symposium*, CBA and OBA Charity and Not-for-Profit Law Sections and Continuing Legal Education Committee, May 2009.

Terrance S. Carter

- Managing Endowments During Difficult Financial Times by Terrance S. Carter. *Charitable Thoughts*, Vol. 12, No. 5, May 2009.
- Charities / Not-for-Profit Law: Recent Developments of Importance by Terrance S. Carter and M. Elena Hoffstein. *The Canadian Legal Lexpert Directory* 2009.
- Endowment Management by Terrance Carter. *Canadian Fundraising & Philanthropy eNews*, Vol. 19, No. 7, April 15, 2009.
- In Brief - Canada's charities vulnerable to abuse, says OECD references a contribution in the March 2009 Charity Law Update by Terrance S. Carter and Sean S. Carter. *Canadian Fundraising & Philanthropy eNews*, Vol. 19, No. 7, April 15, 2009.
- Managing Endowments During Difficult Financial Times by Terrance S. Carter. *CharityVillage.com*, April 13, 2009.
- Motorcycle Helmets and Religion: A Case Comment on the Badesha Decision by Terrance S. Carter, assisted by Jeremy I. Tam. *Charitable Thoughts*, Vol. 12, No. 4, March 2009.
- Federal Budget Analysis: Grants, contributions, earmarks, but no new tax incentives by Karen Cooper and Terrance Carter. *Canadian FundRaiser*, Vol. 19, No. 3, February 15, 2009.
- 2009 Federal Budget: No New Tax Incentive for Charitable Giving by Karen J. Cooper and Terrance S. Carter. *Law Times*, February 2, 2009.
- The Impact of Anti-Terrorism Legislation on Charities in Canada: The Need for Balance was presented by Terrance S. Carter at the University of Iowa Provost's Forum on International Affairs held on the University campus in Iowa City, April 19, 2008.
- Looking a Gift Horse in the Mouth: Legal Liabilities in Fundraising" was presented by Terrance S. Carter at the 11th National CAGP Conference in Toronto, April 16, 2004.
- Donor-Restricted Charitable Gifts: A Practical Overview Revisited II by Terrance S. Carter. *The Philanthropist* Vol 18 No. 1 & 2, Fall 2003.
- U.S. Tax Exempt Organizations Commencing Charitable Operations in Canada and International Structuring by Terrance S. Carter for *The Journal of Taxation of Exempt Organizations*, New York. September 24, 1999.
- To Be or Not To Be: Incorporation of Autonomous Churches in Ontario by Terrance S. Carter, *Law Society of Upper Canada*, 1994.

SELECTED RECENT SEMINARS AND CONFERENCES

- The New York University School of Law National Centre on Philanthropy and the Law annual conference "Nonprofit Speech in the 21st Century: Time for a Change?" included Terrance S. Carter in the Comparative Panel: 21st Century Nonprofit Speech Around the World presenting a paper entitled "Charities Speaking Out: The Evolution of Advocacy and Political Activities by Charities In Canada" on October 29, 2010.
- Considerations When Drafting Restricted Charitable Purpose Trusts was presented by Terrance S. Carter at the Ontario Bar Association CLE Program Trusts, Trustees, Trusteeships 2010, held in Toronto, Ontario, on October 1, 2010.
- The Implications of the New CRA Fundraising Guidance for Charities was presented by Terrance S. Carter as part of the Regional Municipality of Halton's free seminar series

Terrance S. Carter

- "Leadership Matters: Building Your Legal Know How" in Milton, Ontario. June 15, 2010
- Healthcare Philanthropy: Check-Up 2010, hosted by Carters Professional Corporation and Fasken Martineau DuMoulin LLP, was held at The Estates of Sunnybrook in Toronto, Ontario, included a presentation on "The Practical Implications of CRA's Fundraising Guidance: One Year Later" by Terrance S. Carter of Carters; June 10, 2010
 - The 2010 Christian Legal Intervention Academy hosted by Faith and Freedom Alliance at St. Michael's College in Toronto, Ontario, included the following presentations: "Human Rights Concerns: What Churches And Religious Organizations Can Do In Response" by Terrance S. Carter. June 5, 2010
 - Hamilton Law Association's CLE Round Table Session on Charity Law included a presentation by Terrance S. Carter entitled "Advising the Charitable Client." June 2, 2010
 - Fundraising Activities and CRA Guidelines was presented by Terrance S. Carter as part of Imagine Canada's Charity Tax Tuesdays, a webinar series for Canadian charities. June 1, 2010
 - Owen Sound Regional Hospital Foundation Workshop for Professional Advisors included a presentation by Terrance S. Carter entitled "Implications of Disbursement Quota Reform." May 27, 2010
 - Advising the Charitable Client: Risk Management Strategies was presented by Terrance Carter as part of a panel discussion with Bill Pashby entitled Lawyers on Non-Profit & Charity Boards: Prestige, Reward, Pro Bono, Anxiety, Conflicts of Interest and other Pitfalls at the OBA Institute. February 16, 2010
 - Understanding CRA's New Guidance on Fundraising was presented by Terrance S. Carter as part of the Catholic Archdiocese of Toronto - ShareLife Agencies session. January 28, 2010
 - The Association of Fundraising Professionals (AFP) Congress 2009 - Enhancing Philanthropy Around the World in Toronto, Ontario, included the following presentations by Terrance S. Carter and Elena M. Hoffstein: "Essential Charity Law Update:", "New CRA Policy on Foreign Activities:" and "Maximizing a Charitable Gift" November 30, 2009
 - The Canadian Association of Gift Planners (CAGP) Ottawa Roundtable included Terrance S. Carter and Karen J. Cooper speaking on "Essential Charity Law Update: What Every Gift Planner Needs to Know." November 19, 2009
 - The 12th Annual Estates and Trusts Summit hosted by the Law Society of Upper Canada, held in Toronto, Ontario, included a presentation by Terrance S. Carter entitled "Charity Law Update for Estates and Trusts Practitioners: The Past Year in Review." November 12, 2009
 - The University of Ottawa Introduction to the Law of Charities and Non-Profit Organizations, included a talk by Terrance S. Carter entitled "Related Business and Social Enterprise." October 19, 2009
 - Humber College Graduate Course on Fundraising, included a presentation by Terrance S. Carter entitled "Understanding CRA New Guidance on Fundraising and How it Impacts What Fundraisers Do." October 13, 2009

Terrance S. Carter

- Institute of Advanced Financial Planners' Symposium 2009, held in London, Ontario, included a presentation by Terrance S. Carter entitled "Effectively Structuring Endowment Agreements." October 1, 2009
- The Canadian Council of Christian Charities Annual Conference, held in Mississauga, Ontario, included the following presentations: "CRA's New Policy on Canadian Charities Operating Outside of Canada" by Terrance S. Carter, and "CRA's Proposed New Guidance on Advancement of Religion as a Charitable Purpose" by Terrance S. Carter and Jennifer M. Leddy, September 29, 2009
- Association of Treasurers of Religious Institute's Conference 2009, held in Ottawa, Ontario, included the following presentation: "Recent CRA Developments Affecting Religious Charities" by Terrance S. Carter, September 26 and 27, 2009
- Understanding CRA's New Guidance on Fundraising & How it Impacts Your Fundraising, a free webinar hosted by the Association of Fundraising Professionals was presented by Terrance Carter with Ken Mayhew as moderator. September 23, 2009
- Healthcare Philanthropy: Check-Up 2009, hosted by Fasken Martineau DuMoulin LLP and Carters Professional Corporation, was held at The Estates of Sunnybrook in Toronto, Ontario, and included the following presentations: "Highlights in Charity Law: The Year in Review" by M. Elena Hoffstein of Fasken Martineau and Terrance S. Carter of Carters; June 11, 2009
- The 16th Annual National CAGP-ACDP Conference "Planned Giving: Harnessing the Power," held in Niagara Falls, Ontario, included the following presentations: and "Essential Charity Law Update: What Every Gift Planner Needs to Know" by Terrance S. Carter and Karen J. Cooper of Carters. April 23 & 24, 2009
- Modernizing Charity Law Conference, hosted by Queensland University of Technology in Brisbane, Australia, included a presentation by Terrance S. Carter on "Tax Credits and Capital Gains Strategies." Mr. Carter also participated as a discussant in a session on "Religion" and as part of an international panel discussing "Overview of the Main Policies Used to Encourage Philanthropy." "Tax Credits and Capital Gains Strategies" by Terrance S. Carter. April 16-18, 2009
- Niagara Estate Planning Council Meeting included a presentation by Terrance S. Carter entitled "Recent Legal Developments Affecting Charities." March 3, 2009
- Directors' and Officers' Liability: The Essentials and Beyond for Your Nonprofit was presented by Terrance S. Carter for a workshop hosted by Canadian Fundraiser in Toronto, Ontario. February 19, 2009
- C.D. Howe Institute Policy Conference - Strengthening Canada's Charities: Examining Challenges to Canada's 'Third Sector' included a session from Terrance S. Carter in Toronto, Ontario. November 28, 2008
- Institute of Chartered Accountants hosted professional development sessions in Toronto, Ontario, which included the following presentations: "Directors and Officers Liability: The Essentials and Beyond" by Terrance S. Carter, and "Current Issues Under the Income Tax Act Affecting Charities" by Terrance S. Carter and Theresa L.M. Man. November 20, 2008
- Canadian Registered Charities: Business Activities and Social Enterprise - Thinking Outside the Box was presented by Terrance S. Carter at the twentieth annual conference hosted by The National Center on Philanthropy and the Law of New York University's

Terrance S. Carter

School of Law. Mr. Carter participated as a panelist in the session entitled "Comparative Panel: A View of Other Landscapes" to provide the Canadian perspective. October 24, 2008

- Advancing Religion as a Head of Charity: What Are the Boundaries? was presented by Terrance S. Carter for the University of Ottawa Law School course "Introduction to the Law of Charities and Non-Profit Organizations" October 6, 2008
- Canadian Council of Christian Charities Annual Christian Leadership/Stewardship Conference was held in Calgary, Alberta, and included a workshop by Terrance S. Carter entitled "Strategies for Protecting Charitable Assets Through Multiple Corporate Structures". September 23, 2008
- Update on Income Tax Issues Affecting Charities was presented by Terrance S. Carter and Theresa L.M. Man for this workshop hosted by Canadian Fundraiser in Toronto, Ontario. September 18, 2008
- For seminars and conferences prior to September 2008, see www.charitylaw.ca



Catalogue no. 71-542-XIE

Highlights from the 2007 Canada Survey of Giving, Volunteering and Participating

CARING Canadians

INVOLVED

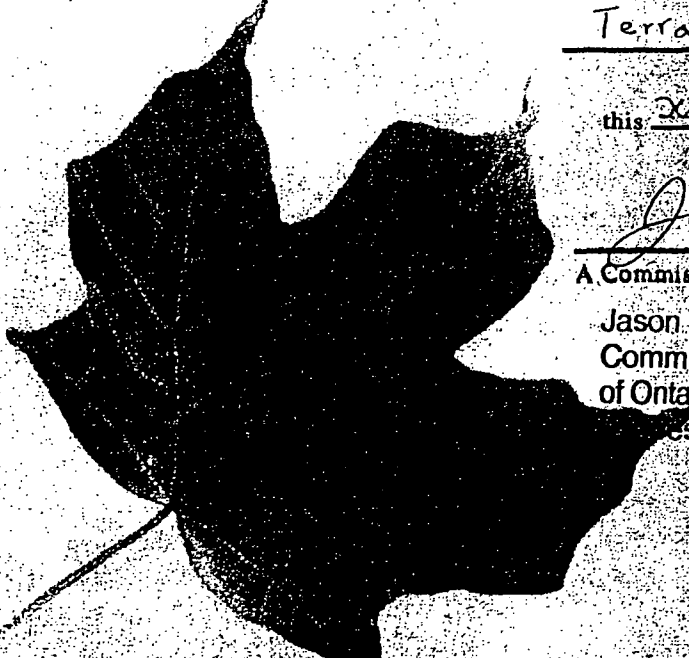
This is Exhibit B.
to the Affidavit of S
Terrance S. Carter

Sworn before me
this 20 day of January 2011

Jason Todoroff

A Commissioner for taking Affidavits, etc.

Jason Wayne Todoroff, a
Commissioner, etc., Province
of Ontario, while a Student-at-Law
as of August 10, 2013.



Statistics Canada
Canadian Heritage
Health Canada
Human Resources and
Skills Development Canada
Public Health Agency
of Canada

Statistique Canada
Patrimoine canadien
Santé Canada
Ressources humaines et
Développement des compétences Canada
Agence de santé publique
du Canada

Canada

How to obtain more information

For information about this product or the wide range of services and data available from Statistics Canada, visit our website at www.statcan.gc.ca, e-mail us at infostats@statcan.gc.ca, or telephone us, Monday to Friday from 8:30 a.m. to 4:30 p.m., at the following numbers:

Statistics Canada's National Contact Centre

Toll-free telephone (Canada and United States):

Inquiries line	1-800-263-1136
National telecommunications device for the hearing impaired	1-800-363-7629
Fax line	1-877-287-4369

Local or international calls:

Inquiries line	1-613-951-8116
Fax line	1-613-951-0581

Depository Services Program

Inquiries line	1-800-635-7943
Fax line	1-800-565-7757

To access this product

This product, Catalogue no. 71-542-X, is available for free in electronic format. To obtain a single issue, visit our website at www.statcan.gc.ca and select "Publications."

Standards of service to the public

Statistics Canada is committed to serving its clients in a prompt, reliable and courteous manner. To this end, Statistics Canada has developed standards of service that its employees observe. To obtain a copy of these service standards, please contact Statistics Canada toll-free at 1-800-263-1136. The service standards are also published on www.statcan.gc.ca under "About us" > "Providing services to Canadians."

Caring Canadians, Involved Canadians: Highlights from the 2007 Canada Survey of Giving, Volunteering and Participating

Michael Hall, Imagine Canada
David Lasby, Imagine Canada
Steven Ayer, Imagine Canada
William David Gibbons, Statistics Canada

Published by authority of the Minister responsible for Statistics Canada

© Minister of Industry, 2009

All rights reserved. The content of this electronic publication may be reproduced, in whole or in part, and by any means, without further permission from Statistics Canada, subject to the following conditions: that it be done solely for the purposes of private study, research, criticism, review or newspaper summary, and/or for non-commercial purposes; and that Statistics Canada be fully acknowledged as follows: Source (or "Adapted from", if appropriate): Statistics Canada, year of publication, name of product, catalogue number, volume and issue numbers, reference period and page(s). Otherwise, no part of this publication may be reproduced, stored in a retrieval system or transmitted in any form, by any means—electronic, mechanical or photocopy—or for any purposes without prior written permission of Licensing Services, Client Services Division, Statistics Canada, Ottawa, Ontario, Canada K1A 0T6.

June 2009

Catalogue no. 71-542-XPE
ISBN 978-1-100-11869-7

Catalogue no. 71-542-XIE
ISBN 978-1-100-11864-2

Frequency: Occasional
Ottawa

La version française de cette publication est disponible sur demande (n° 71-542-XPF et 71-542-XIF au catalogue).

000048

Cataloguing in Publication Data

**Caring Canadians, involved Canadians :
highlights from the 2007 Canada Survey of
Giving, Volunteering and Participating**

Available also via Internet.

Issued also in French under title: **Canadiens dévoués,
canadiens engagés : points saillants de l'Enquête
canadienne de 2007 sur le don, le bénévolat et la
participation.**

ISBN 978-1-100-11869-7 (paper)

ISBN 978-1-100-11864-2 (Internet)

CS71-542-XPE

CS71-542-XIE

**1. Voluntarism - Canada - Statistics. 2. Charitable contributions -
Canada - Statistics. 3. Social participation - Canada
— Statistics. I. Hall, Michael H. , 1955- . II. Statistics Canada.
III. Title.**

HV40.8 C3 C37 2009

361.3

Summary of main findings

Giving to charitable and nonprofit organizations

Almost 23 million Canadians – 84% of the population aged 15 and over – made a financial donation to a charitable or other nonprofit organization in the 12-month period covered by the 2007 CSGVP.³ While the donation rate is virtually the same as that reported in 2004 (85%), the number of donors increased by approximately 2.9%, in part due to a 3.7% increase in the population of Canadians aged 15 and older.

Canadians donated a total of \$10 billion in 2007, which represents an increase of 12% in donations from the \$8.9 billion reported in 2004.⁴ Religious organizations were the biggest beneficiaries, receiving 46% of all donated dollars followed by health organizations (15%) and social services organizations (10%). The average annual donation increased by 9% (from \$400 in 2004 to \$437 in 2007). Although the average value of donations increased, the average number of donations decreased from 4.3 in 2004 to 3.8 in 2007.

While the vast majority of Canadians make financial donations, a minority account for most of the dollars donated. The top 25% of donors (who contributed \$364 or more annually) accounted for 82% of the total value of donations.

3. The term *Canadians* is used throughout this publication to refer to the population targeted by the survey; Residents of Canada who were not Canadian citizens may have been respondents to this survey. For a complete definition of the target population, please refer to Appendix 1, *Glossary of terms*.

4. Dollar figures in this report do not adjust for the effects of inflation between 2004 and 2007.

The top 10% (who contributed \$1,002 or more annually) accounted for 62% of the total value.

Those who give the most are more likely than others to be older, to have higher household incomes and more formal education, to be married or widowed, and to be religiously active. Although donors with higher household incomes tend to donate larger amounts in absolute terms, those with lower incomes give more when their donations are expressed as a percentage of total income.

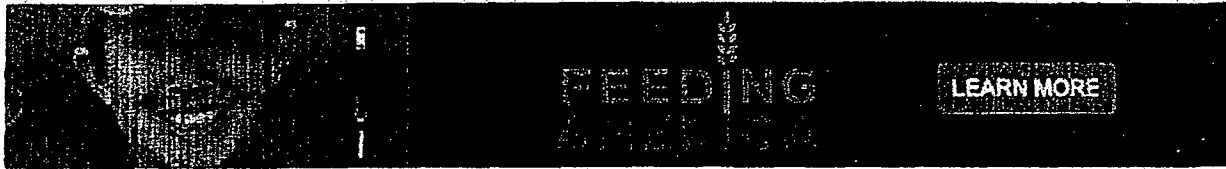
Canadians make donations most frequently in response to a request through the mail, when asked by someone in a public place such as on the street or in a shopping centre, or in response to door-to-door canvassing. In terms of the amounts donated, however, 42% of the total value of donations is collected in places of worship while 16% is donated in response to requests through the mail. Donors who planned their donations in advance and supported the same organizations repeatedly over time give significantly more than those who do not.

The most frequently reported motivations for making donations were feeling compassion for those in need, wanting to help a cause in which the donor personally believes, and wanting to make a contribution to the community. Donors also give because they or someone they know has been personally affected by the cause of the organization or because of religious obligations or beliefs.

When asked why they do not give more money to charities and nonprofit organizations, donors most frequently reported that they could not afford to give more, they were happy with what they had already given, or that they had

cc: All Charity Lawyers

Pg B1



This is Exhibit "C" to the Affidavit of

THE GLOBE AND MAIL * Terrance S. Carter

Sworn before me this 26 day of January 2011

September 15, 2010

Gifting tax audits ensnare 170,000 Canadians

By Paul Waldie
From Wednesday's Globe and Mail

Jason Todoroff
A Commissioner for taking Affidavits, etc.

**Jason Wayne Todoroff, a
Commissioner, etc., Province
of Ontario, while a Student-at-Law
Expires August 10, 2013.**

Every donation using controversial program has been disallowed, while a \$2.5-billion to be repaid

The Canada Revenue Agency has targeted roughly 170,000 Canadians who have allegedly claimed \$5-billion in bogus charitable donations since 2003 by using controversial tax shelter programs.

The CRA has been concerned about so called "gifting tax shelters" for years and it launched a special audit project in 2003. The audit is one of the largest in the agency's history and it involves a small army of officials who track thousands of contributions.

Since 2003, the CRA has reassessed more than 140,000 taxpayers and officials plan to reassess 30,000 more in the next few months, according to documents obtained under access to information by Ottawa research Ken Rubin. In each audit, the CRA has disallowed all donations, hitting the taxpayer with thousands of dollars in charges. Based on current estimates, the taxpayers who have contributed to these shelters could end up paying as much as \$2.5-billion in total to the CRA.

"We've been pretty blunt in saying we will audit you," said David Duff, the manager of the Tax Shelter Audit Section at the CRA. "We are methodically going through them."

Tax shelters tied to charitable donations have been around since the 1990s. They grew in popularity because while traditional tax shelters have been largely aimed at high-income individuals, most gifting tax shelters targeted middle-income earners.

Mr. Duff said the premise behind bogus gifting tax shelters is simple - investors receive a charitable tax receipt for an amount that exceeds the investor's actual donation. Here's an example of how it works: An investor pays \$30 to the tax shelter promoter who turns that into a charitable tax receipt for a \$100 donation. Depending on the investor's income, that receipt can translate into a tax refund worth as much as \$45. Mr. Duff said little if any of the investor's "gift" actually goes to any registered charity, making the program disallowable under CRA rules.

By the early 2000s, the number of these shelters had soared. For example, in 2007 the CRA found 33,000 taxpayers had claimed nearly \$1-billion worth of charitable donations through various shelters.

Changes to tax laws in 2003 made it easier for the CRA to track investors in these shelters and Mr. Duff said his operation has already met with some success. Thanks to the audits and assorted CRA warnings, the number of taxpayers claiming gifts through these shelters has been dropping. Last year, according to CRA figures, 10,500 taxpayers claimed \$285-million in donations through shelters. That was down from 17,000 taxpayers in 2008 who claimed \$480-million.

The hit to taxpayers can be hefty. Take the example of an investor who contributed \$15,000 to a shelter and received a \$50,000 charitable tax receipt. That receipt would be worth about a \$23,000 tax refund. The CRA's audit will disallow the refund, meaning the investor would have to pay the \$23,000 back to CRA. "And the \$15,000 that's gone to the promoter, that's just gone," Mr. Duff said.

Many charities and non-profit organizations tied even indirectly to these shelters have also felt the impact of the audit program. Last June, for example, the CRA stripped the Canadian Lacrosse Association of its charitable status over allegations it issued more than \$60-million worth of improper receipts connected to a tax shelter. The association has insisted that it believed the tax shelter program, run by an unrelated promoter, was legitimate and would have generated about \$20-million for the association over 20 years. It could appeal the CRA's decision or re-apply for charitable status.

Mr. Duff makes no apologies for the audit program. "We've made it very clear that with the gifting tax shelter we will audit every one of them," he said.

CTVglobemedia Publishing, Inc



CTVglobemedia Publishing Inc. All Rights Reserved.. Permission granted for up to 5 copies. All rights reserved.
You may forward this article or get additional permissions by typing http://license.icopyright.net/3.84251?cx_id=iCopyright/1artid=1707673 into any web browser. CTVglobemedia Publishing, Inc and Globe and Mail logos are registered trademarks of CTVglobemedia Publishing, Inc. The iCopyright logo is a registered trademark of iCopyright, Inc

FROM :

PHONE: This is Exhibit "D" to the Affidavit of

F02

Terrance S. Carter.

Sworn before me this 26 day of January 20 11

Notarized by Ken Rubin

[Signature]

A Commissioner for taking Affidavits, etc.

Jason Wayne Toporoff, a Commissioner, etc., Province of Ontario, while a Student-at-Law Expires August 1st 2013.

David Dyer 957-4328

CRA under the Access Act

000000

Protected

February 2009

INTERNATIONAL AND LARGE BUSINESS DIRECTORATE ISSUE LIST



Issue: Gifting Tax Shelters (previously Donation Tax Shelters)

Updated-February 2009

- The 2007 gifting tax shelter numbers filed by the promoters show 33,800 taxpayers participating and claiming donations of \$944 million. This being these totals from 2003 to 2007 inclusive to about 142,000 taxpayers and donations claimed of \$4.3 billion. We are continuing to audit and reassess participants in these schemes. Most of the schemes up to the end of 2006 have been completed along with some of the 2006. Currently we are auditing the balance of the 2006 and some of the 2007 schemes. The 2009 amounts will be known by March of 2009. Our audit position is to deny the gift entirely.
- The December 5, 2003 legislation has still not passed and has again been terminated with the election in the fall of 2008. We are reassessing on other positions, usually that there is no gift.
- We continue to issue warnings through Fact Sheets and Taxpayer Alerts with the latest one issued in December 2008. As part of the audit of the taxpayers we have started including these alerts in our letters to them. The Alerts are very blunt, warning them to avoid these schemes and informing them that we intend on auditing every gifting tax shelter and everyone audited has resulted in reassessments. CRA is also taking action against charities and promoters involved in these schemes with a number of charities having had their registered status revoked and with promoters being referred for third party penalties and other sanctions.

DISCLOSURE

Protected

February 2009

INTERNATIONAL AND LARGE BUSINESS DIRECTORATE
ISSUE LIST

- Issues/initiatives that may require the AC's attention/approval within the next 60 days.
- Issues/initiatives that may have potential for media/political/Commissioner/ Ministerial interest.
- Issues/initiatives that may have a significant impact on key branch priorities.

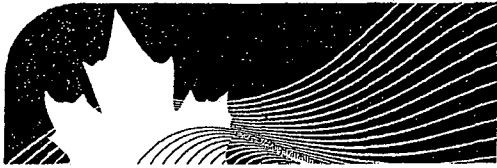
INTERNATIONAL and LARGE BUSINESS DIRECTORATE

February 2009

Jean-Jacques Lefebvre - Director General

DISCLOSED PURSUANT TO THE ATIA

source
for
gifting
TAX
entry



Tax alert

Warning: If you donate to a gifting tax shelter, expect to be audited

Each year, Canadian taxpayers participate in gifting arrangements that result in donation receipts worth three or four times the actual amount donated by the taxpayer. The Canada Revenue Agency (CRA) continues to warn Canadians against these gifting arrangements and audits those who participate.

To date, the CRA has denied over \$4.5 billion in tax shelter gifting arrangement donations and reassessed over 130,000 taxpayers who have made donation claims through a gifting scheme.

For most claims, the CRA has denied the gift entirely. The CRA audits gifting arrangement tax shelters that provide donation receipts three or four times the out-of-pocket cost.

Decisions in recent court cases have concluded that the "donation" made by the taxpayer was not a gift or, where it was a gift, the amount did not exceed the out-of-pocket cost to the taxpayer. In the Maréchaux case, the Federal Court of Appeal upheld the Tax Court of Canada (TCC) decision that no gift was given as a result of the defendant's participation in a leveraged cash donation scheme. In the Student article case, the TCC concluded that the gift in a buy-low-donate-high scheme was the amount paid by the taxpayer.

Tax shelter identification numbers

The CRA reminds taxpayers that tax shelter numbers are used for identification purposes only. Just because a tax shelter has an identification number does not mean that donations made to it will result in tax benefits.

Independent professional advice

Anyone thinking of investing in a tax shelter gifting arrangement should get independent legal and tax advice from a tax professional who is not connected to the arrangement or the promoter.

Packages from promoters will often claim to have legal or tax opinions from a law firm. You may find that these opinions contain very general comments and do not provide unconditional support for the scheme. Ask to see the opinions, and have them reviewed by an independent professional.

If the CRA has reassessed you for participating in a tax shelter donation scheme in the past, you may also wish to obtain independent tax advice to determine your best options.

Current promotions

Some promoters of gifting arrangements are acknowledging that you, the taxpayer, will be audited and reassessed as a result of participating in these arrangements, but they contend that they have a defence fund to challenge a CRA reassessment.

As well, some promoters claim that even if you lose when you challenge the CRA, you can consider your tax refund a low interest loan from the CRA. In fact, any cash paid to the promoter or charity is gone for



good and, when the entire donation claim is denied, you will have to repay the full tax refund plus interest. These cases can take years to get to court.

Previous tax alerts

For more information on previous tax alerts, go to www.cra.gc.ca/alert on the CRA Web site.

000270

THE JOHN MCKELLAR CHARITABLE FOUNDATION

SCHEDULE OF DONATION FUNDS RECEIVED

Loan \$1,405,200 80%

FOR THE YEAR ENDED 31ST DECEMBER, 2001

Received From	Deposited To	For Credit of	Amount
Capital Structures	Weir & Foulds Trust a/c (per Direction from the Foundation dated 31st Dec 2001) - Attached	The Foundation	\$12,295,500.00
Fraser Milner Casgrain	Weir & Foulds Trust a/c (per Direction from the Foundation dated 31st Dec 2001) - Attached	The Foundation	\$5,269,500.00
			\$17,565,000.00
Fraser Milner Casgrain	The Foundation Bank a/c	The Foundation	\$740,000.00
	Total Donations Received for the y/e 31st December, 2001		\$18,305,000.00
	Donations Paid (refer Schedule) given to Mackenzie + Cornell		(\$18,122,024.00)
	John McK Foundation Receipt Paid to the Foundation		(\$175,650.00)
	Balance Remaining from Donations Received		\$7,328.00

70%

30% cash

100%

✓

• LAITLATOR Marina Quintiliani
 DATE 22/01/2003
 SOURCE MR. J. MCKELLAR
 I.P. JOHN MCKELLAR FAW.

10-6a

000271

THE JOHN MCKELLAR CHARITABLE FOUNDATION

1 of 1

SCHEDULE OF GIFTS TO ALL QUALIFIED DONEES

FOR THE YEAR ENDED 31ST DECEMBER, 2001

Name of Donee	Location	BN Reg # of Donee if a Charity	Amount of Gift
Tapeslry New Opera Works (same as Tapestry Music Theatre)		11920-8619-RR0001	\$1,000.00
Canadian Stage Company (R # 13906)		11922-0028-RR0001	\$10,000.00
Dancemakers (R # CT01/02-05)		11-888-1929-RR0001	\$5,000.00
Textile Museum of Canada (R # 853)		3306	\$5,000.00
National Youth Orchestra (R # 11941)		10776-4557-RR0001-0185108C	\$5,000.00
Opera Atelier (Recpt # 3782)		128-55555-90817-RR0001	\$5,000.00
Tapestry Music Theatre (Rcpt # 1162)		11920-8619-RR0001	\$5,000.00
Theatre Passe Muraille (R # 7061)		11921-4344-RR0001	\$5,000.00
Toronto Dance Theatre (Recpt # 137)		11926-6351-RR0001	\$5,000.00
Toronto Mendelssohn Choir (Rcpt # 8645)		11925-9604-RR0001	\$5,000.00
Lorraine Kimsa Theatre for Young People		11930-7254-RR0001	\$5,000.00
Prologue to the Performing Arts (R# ?)		11910-5476-RR0001	\$5,000.00
Toronto Children's Chorus		11925-9406-RR0001	\$5,000.00
Baann Theatre Centre (Recpt # 1111)		11879-8024-RR0001	\$5,000.00
Total Amounts Given to Qualified Donees	Local		\$71,000.00
The Mackenzie Institute		10808-7636-RR0001	\$7,400.00
William Baleman in Trust for Mackenzie		10808-7636-RR0001	\$725,274.00
Total Amounts Given to Qualified Donees (ex Foundation a/c)	Local		\$803,674.00
The Mackenzie Institute (Certified Chq from W & F direct)		10808-7636-RR0001	\$117,463.00
Total to Charterbridge Holdings obo Cornell University (paid to Charterbridge Holdings per Direction)	Outside Canada		\$5,643,000.00
Charterbridge Holdings obo The Mackenzie Institute (paid to Charterbridge Holdings per Direction)	Local	10808-7636-RR0001	\$11,628,887.00
Total paid to Charterbridge Holdings per above Directions Then further Direction from CH to pay W.Baleman in Trust			\$17,271,887.00
Total Amounts Given to Mackenzie & Cornell University			\$18,122,024.00
Grand Total Amounts Given to all Qualified Donees			\$18,193,024.00
Re T3010 Question C5	Field Code		% of Emphasis
Most Important Field (Mackenzie)	041	C11	045 68.59%
2nd Most Important Field (Cornell)	042	C3	046 31.02%
3rd Most Important Field (Arts etc)	043	D2	047 0.39%
4th Most Important Field	044	n/a	048 0.00%
			100.00%

AUDITOR Marina Quintilian
 VERIK ATELUM
 DATE 22/01/2003
 SOURCE Mr. J. McKellar
 J. McKellar Foundation
 C-T

10-4

000272

Marina
Quintiliani
June 25, 2004
D. Brian Hay
The Mackenzie
Institute

FUNDRAISING AGREEMENT

THIS AGREEMENT made as of the 25th day of September, 2001.

BETWEEN: TRINITY CAPITAL CORPORATION
55 University Avenue, Suite 1100
Toronto, Ontario M5H 3L5
("Trinity")

AND: THE MACKENZIE INSTITUTE
P.O. Box 388
Adelaide Station
Toronto, Ontario
M5C 2J4
("Institute")

WHEREAS the Institute has ongoing needs for donations of money to support the Institute's activities;

AND WHEREAS Trinity has agreed to provide fundraising services to the Institute on the terms and conditions contained herein;

NOW THEREFORE the parties agree as follows:

Section 1 - Fundraising Activities

Trinity agrees to provide fund raising services to the Institute on the terms and conditions contained herein ("Services"). The Institute authorizes and directs Trinity to, wherever possible, raise funds that can be paid to the Institute through another Canadian registered charity.

Section 2 - Period of Services

The Services will be provided by Trinity from the date hereof to December 31, 2001 ("Termination Date"). For any funds raised by Trinity herein prior to the Termination Date, but received by the Institute after the Termination Date, Trinity will receive the same compensation as set out below.

000273

Marina
Quintilian
June 25, 2004
D. Brian Hay
The Mackenzie
Institute

Section 3 - Assignment of Trinity Staff

Trinity will advise the Institute of all Trinity staff assigned to the Services from time to time, all of which assignments shall be subject to the approval of the Institute. If at any time and for any reason the Institute is not satisfied with any such personnel, upon written notice from the Institute, such personnel will be removed and replaced by personnel satisfactory to the Institute. Trinity will not change its assigned personnel without first obtaining the consent of the Institute.

Section 4 - Trinity Compensation

The Institute will pay to Trinity compensation equal to six percent (6%) of all funds raised by Trinity, payable upon receipt of funds by the Institute.

Section 5 - Financial Objective

The financial objective that the Institute wishes Trinity to obtain is \$200 million, subject to review by the parties.

Section 6 - Scope of Services

The scope of Services to be provided by Trinity will include:

- Designing overall fund raising plan
- Supervising Trinity personnel and sub-agents.
- Preparing all essential written materials, including pledges and brochures, at Trinity's expense.
- Reporting to the Institute on the status of the campaign (as requested).
- Planning and coordinating the selection of fund raising personnel.
- Organizing the personnel and directing their activities.
- Instructing all personnel in solicitation techniques.
- Providing the Institute with written progress reports on a monthly basis.

Section 7 - Confidential Information

Except as the Institute may otherwise consent in writing, such consent not to be unreasonably withheld, the personnel assigned by Trinity will not use other than for the Institute's benefit and will not directly or indirectly publish or otherwise disclose at any time either during or subsequent to the performance of the Services any Confidential Information acquired by them from the Institute in the performance of the Services. For the purpose hereof, Confidential Information means:

- (i) information or material which relates to the Institute, lists and records of donations to the Institute, and financial and fund raising information, reports or plans produced by or for the Institute, other than information already known to such personnel or in the public domain;
- (ii) secrets of the Institute or materials marked as confidential.

000274

Marina
Quintilian

June 25, 2004

D. Brian Hay
The Mackenzie
Institute

Section 8 - General

9.1 All notices, requests or other communications required or permitted to be given hereunder or for the purposes hereof to any party shall be in writing and shall be sufficiently given if delivered personally at the addresses indicated at the beginning of this Agreement.

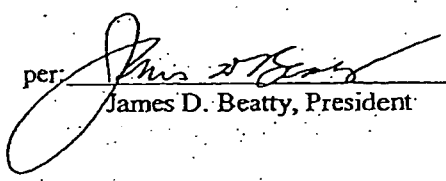
9.2 This Agreement will be governed by, interpreted and enforced exclusively in accordance with the laws and courts of the Province of Ontario.

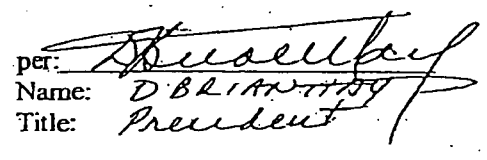
9.3 Neither party may assign any of its rights and obligations herein without the prior written consent of the other party, which consent may be unreasonably withheld.

IN WITNESS WHEREOF the parties have executed this Agreement by their duly authorized officers as of the date first above written.

TRINITY CAPITAL CORPORATION

THE MACKENZIE INSTITUTE

per: 
James D. Beatty, President

per: 
Name: D. BRIAN HAY
Title: President

000307

DIRECTION

TO: THE JOHN MCKELLAR CHARITABLE FOUNDATION
Suite 1600, 130 King Street West, Toronto, Ontario M5X 1J5

AND TO: WEIRFOULDS LLP
Suite 1600, 130 King Street West, Toronto, Ontario M5X 1J5

WHEREAS The Mackenzie Institute ("Mackenzie") has entered into an Agreement of Purchase and Sale with Charterbridge Holdings International Ltd. ("Charterbridge") related to the acquisition by Mackenzie of certain royalty interests in the commercial exploitation of certain medical technologies from Charterbridge;

AND WHEREAS Mackenzie has requested the financial support of The John McKellar Charitable Foundation ("the Foundation") for the provision of CDN \$11,628,887 (the "Purchase Amount") to Mackenzie for the purpose of acquiring the aforesaid royalty interests;

AND WHEREAS the Foundation has agreed to provide the Purchase Amount to Mackenzie provided that it has received sufficient charitable donations to effect such funding;

AND WHEREAS the Foundation has advised Mackenzie that it has received sufficient charitable donations to effect such funding;


NOW THEREFORE you are hereby irrevocably and unconditionally authorized and directed to make payment of the Purchase Amount to Charterbridge Holdings International Ltd., or as it may in writing otherwise direct.

AND THIS SHALL BE your good, sufficient, irrevocable and unconditional authority for so doing.

THIS DIRECTION and the actions contemplated herein shall be governed by, construed and enforced exclusively by the laws and courts of the Province of Ontario.

DATED at Toronto, Ontario this 31 day of December, 2001.

THE MACKENZIE INSTITUTE

Per:  c/s

Marina
Quintiliani
June 25, 2004
D. Brian Hay
The Mackellar
Institute