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CHARITY & NFP LAW UPDATE

AUGUST 2024

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

AUGUST 2024

SECTIONS

HIGHLIGHTS

PUBLICATIONS & NEWS RELEASES

1. Finance Proposes Complicated Amendments to Trust Reporting Requirements

By Terrance S. Carter, Jacqueline M. Demczur and Adriel N. Clayton

As reported in earlier 2024 and 2023 editions of our *Charity & NFP Law Update*, trust reporting requirements under the *Income Tax Act* ("ITA") have been significantly expanded pursuant to detailed and complicated amendments introduced through Bill C-32, the *Fall Economic Statement Implementation Act, 2022* ("Bill C-32"). Following the introduction of Bill C-32, administrative exemptions were announced by the Canada Revenue Agency (the "CRA") on November 10, 2023 and March 28, 2024. Further complicated amendments to the trust reporting rules have now been proposed pursuant to draft legislation published by the Department of Finance Canada ("Finance") on August 12, 2024 as *Legislative Proposals Relating to the Income Tax Act and the Income Tax Regulations (Technical Amendments)* (the "Draft Legislation").

This is an exceedingly complex area of the law. As a result, what follows constitutes only a very general overview of certain select aspects of the Draft Legislation that will be of interest to charities and not-for-profits ("NFPs"). For a more in-depth consideration of the Draft Legislation and its implications for charities and NFPs, readers are strongly encouraged to obtain advice from their legal and/or tax professionals.

To read the remainder of the *Bulletin*, click here.

2. Corporate Update

By Theresa L.M. Man

Deadline for Ontario Not-For-Profit Corporations to Transition Under the ONCA is Fast Approaching

The deadline for Ontario not-for-profit corporations to transition under the Ontario *Not-for-Profit Corporations Act, 2010* ("ONCA") ends on October 18, 2024. This deadline is fast approaching.

The ONCA was proclaimed into force on October 19, 2021. As of its proclamation, the ONCA automatically applies to all non-share capital corporations under Part III of the Ontario *Corporations Act* ("OCA"). For the first three years after proclamation (*i.e.*, until October 18, 2024), any provisions in their letters patent, supplementary letters patent, by-laws or special resolutions that are inconsistent with the ONCA would continue to apply and take precedence over any inconsistent ONCA requirements.

During these three years, corporations may undertake an optional transition process to amend their letters patent (by adopting articles of amendment) and to adopt ONCA-compliant by-laws to bring them intro compliance with the rules in the ONCA.

If no transition process is undertaken during this three-year period, commencing on October 19, 2024, any provisions in their letters patent, supplementary letters patent, by-laws, or special resolutions that are inconsistent with the ONCA will be deemed (subject to a few exceptions listed in subsection 207(3) of the ONCA) to be amended to comply with the ONCA. The problem with this deeming approach is that it will be difficult and confusing to determine which provisions are deemed to be amended and in what way they are to be deemed to have been amended to comply with ONCA.

It is now the end of August 2024. For those corporations that have not started the transition process, there may not be sufficient time to complete the transition process in time by October 18, 2024. While the good news is that failure to undertake or complete the transition process by this date would not result in the dissolution of the corporations, it would likely be difficult to live with the automatic deeming mechanism in the long run going forward. It would therefore be prudent for these corporations to speak with their legal counsel on the appropriate action to be taken as soon as possible to ensure compliance with the ONCA.

However, it is important to note that the October 18, 2024 deadline does not apply to share capital social club corporations under Part II of the OCA. These corporations have 5 years (*i.e.*, until October 18, 2026) to continue out of the OCA and be continued under 3 options: (i) a non-share capital corporation under the ONCA, (ii) a co-operative under the Ontario *Co-operative Corporations Act*, or (iii) a share capital corporation under the Ontario *Business Corporations Act*. Although some social clubs have already completed their continuance, there are still many that have yet to do so. This continuance process is much more complicated than the transition process for non-share corporations explained above. With a little more than two years left, it would be prudent for these corporations to seek legal assistance to commence this process as soon as possible.

3. Legislation Update

By Terrance S. Carter and Urshita Grover

Draft Legislation Released to Amend the *Income Tax Act*

The Department of Finance Canada ("Finance") released draft legislation through *Legislative Proposals Relating to the Income Tax Act and the Income Tax Regulations (Technical Amendments)* (the "Draft

Legislation") on August 12, 2024. The Draft Legislation was accompanied by the *Explanatory Notes to Legislative Proposals Relating to the Income Tax Act and Regulations (Technical Amendments)*, released concurrently.

Among the many proposed changes to the *Income Tax Act* ("ITA") set out in the Draft Legislation is a proposal to amend paragraph 149.1(1.1)(d) to expand the exclusion of specified items from what constitutes a disbursement in meeting a charity's disbursement quota. Paragraph 149.1(1.1)(d) currently states that, for purposes of satisfying a charity's disbursement quota, "expenditures on administration and management of the charity" are not considered to have been expended on charitable activities carried on by the charity. The Draft Legislation proposes to include "fundraising" in the paragraph 149.1(1.1)(d) list of exclusions, such that expenditure on fundraising would not count towards satisfying the disbursement quota.

As well, the Draft Legislation proposes an amendment to subsection 188(1.1) of the ITA with respect to subsection 188(1.1), which imposes a revocation tax for charities. As a result of earlier amendments to subsection 188(1.2), which sets out provisions for a charity's wind-up period on revocation of the charity's registration, the Draft Legislation now proposes a consequential amendment to correct a cross-reference contained in subsection 188(1.1) referencing subsection 188(1.2).

Finally, of important note, the Draft Legislation proposes complicated amendments to the trust reporting rules. Further details on these amendments are discussed in *Charity & NFP Law Bulletin No. 528*.

4. CRA News

By Jennifer M. Leddy

In August 2024, the Canada Revenue Agency (CRA) released a number of updates on its News and events for charities page, including the following, discussed below.

Compliance within the charitable sector web page

The Compliance within the charitable sector page has been expanded to include more detail on various issues and processes regarding compliance with the *Income Tax Act*. The page features an explanation of the difference between lower risk and higher risk non-compliance, the various intervention methods to support the compliance program (including graduated compliance measures such as education letters, compliance agreements and sanctions), and various CRA services (website, outreach program and client services) which charitable organizations can use to find answers to their questions. The page also includes

an overview of the audit process for charities, including reasons why a charity could be selected for audit, how audits are conducted, what the post-audit process looks like, types of letters a charity may receive post-audit, and what recourse is available for charities regarding an ongoing or completed audit.

A significant update to the page is the inclusion of new compliance statistics. Now listed are the education and non-audit interventions per year from 2021-2024, as well as the outcome of completed audits.

Charities webinars – What you need to know about maintaining charitable registration

The CRA has announced an upcoming webinar, "What you need to know about maintaining charitable registration," with sessions on September 10 (two English sessions) and 12 (one English and one French session), 2024. The webinar will provide information and resources for maintaining charitable registration, with a particular aim to assist those new to charities or interested in CRA's digital services. The CRA encourages representatives of all registered charities and national arts service organizations to register soon, as space is limited.

For registration details, visit the CRA Charities webinars page.

Advisory Committee on the Charitable Sector

The CRA is inviting applications for the Advisory Committee on the Charitable Sector (ACCS), a forum where volunteers from the charitable sector provide advice to the Minister of National Revenue and the CRA Commissioner. New members, appointed for a two-year term starting January 2025, will help shape the regulatory environment for charities. The CRA encourages diverse applicants, and the call for applications closes on September 27, 2024.

For more details and to apply, visit the following link.

CRA Releases Updated Antiterrorism Checklist

On August 20, 2024, the CRA released a new, updated version of its longstanding antiterrorism checklist. For details on the new checklist, please see our AML/ATF Update.

5. Court Reinstates President of Not-for-Profit after Successful Oppression Application under Canada Not-for-profit Corporations Act

By Ryan M. Prendergast

In the case of *Carr v. O'Reilly* released on August 8, 2024, Jennifer Carr, the President of the Professional Institute of the Public Service of Canada ("PIPSC"), brought an application under section 253 of the

Canada Not-for-profit Corporations Act ("CNCA") alleging oppression. Ms. Carr was facing ongoing investigations by the Board into several complaints against her at the time of the application.

The Ontario Superior Court of Justice found that the "administrative leave" on which Ms. Carr was placed by the PIPSC's Board on April 10, 2024 was functionally equivalent to a suspension, which required the procedures set out in the governance documents of the not-for-profit corporation to be followed, including member authorization. The court held that the respondents' actions were oppressive and unfairly disregarded Ms. Carr's interests.

After reviewing the PIPSC's By-laws, Policies, and Ms. Carr's Service Agreement, the court found that the administrative leave imposed on Ms. Carr was equivalent to a suspension because it excluded her from all her duties and responsibilities as President for an indefinite time period. The suspension did not follow the necessary procedural protections outlined in PIPSC's governance documents, none of which made any reference to administrative leave. The court concluded that the respondents' actions were disciplinary in nature, despite being labeled as non-disciplinary, and were inconsistent with the required processes for suspension or removal of the President.

The court then reviewed the legal principles under section 253(1) of the CNCA, which provide the court wide discretion to grant an oppression remedy and are substantially the same as the oppression provision in the *Canada Business Corporations Act*. In accordance with the 2008 Supreme Court of Canada case, *BCE Inc. v. 1976 Debentureholders*, the court stated the following:

> [36] There is a two-part inquiry for oppression: (i) does the evidence support the reasonable expectation asserted by the claimant; and (ii) does the evidence establish that the reasonable expectation was violated by conduct falling within the terms "oppression", "unfair prejudice", or "unfair disregard" of a relevant interest.
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> […]
>
> [39] Oppression connotes conduct that is "coercive and abusive" and "a visible departure from standards of fair dealing". Unfair prejudice involves conduct that is less offensive that oppression and that may admit of a less culpable state of mind, but that nevertheless results in unfair consequences. Unfair disregard involves "ignoring an interest as being of no importance, contrary to the stakeholders' reasonable expectations" [*Citations omitted*]

The court found Ms. Carr's expectations to be reasonable, which expectations included that the respondents not suspend her without making submissions, providing her with a right of appeal, seeking authorization of members at a Special General Meeting, and conducting the complaints process and any discipline of Ms. Carr's consistent with PIPSC's By-laws, Policies and the CNCA.

The respondents invoked the business judgment rule, asserting that their actions were reasonable and justified. In this regard, the court found that the respondents' decision to place Ms. Carr on administrative leave, which was functionally equivalent to a suspension, was oppressive, unfairly prejudicial, and disregarded her interests as President. The process lacked procedural fairness, failed to follow PIPSC's governance documents, and deprived members of their right to vote on her suspension. The court concluded that this decision was unreasonable and did not meet the standards of fair dealing.

The court concluded that the appropriate remedy for Ms. Carr was to quash the Board's motion placing her on administrative leave and to reinstate her immediately as President with all associated duties and rights. The court also prohibited the respondents from excluding her from her position without member authorization at a Special General Meeting, ensuring that any future resolutions adhere to the court's findings.

This decision emphasizes the importance of adhering to procedural fairness and the governance framework in managing internal disputes within not-for-profits.

6. Supreme Court Denies Leave to Appeal in Ongoing Religious Dispute

By Esther S.J. Oh

On July 18, 2024, the Supreme Court of Canada denied leave to appeal from the decision of the Ontario Court of Appeal in *Birhane v. Medhanie Alem Eritrean Orthodox Tewahdo Church*.

As reported in our October 2022 *Charity and NFP Law Update* concerning the original case involving the Superior Court decision, members of the church ("Applicants"), sought a court order requiring that a general membership meeting and election of the board of directors of the Medhanie Alem Eritrean Orthodox Tewahdo Church (the "Church", with the Church as an entity and the individual members of the board of directors constituting the "Respondents") take place. While the background facts of the case are complex, the more cogent facts are summarized below.

The Church was incorporated as a not-for-profit corporation under the Ontario *Corporations Act* ("OCA") in 1997 (although the OCA was replaced by the Ontario *Not-for-Profit Corporations Act* ("ONCA") on October 19, 2021). From 2000 to 2018 the Church held annual general meetings ("AGMs") and board elections every three years. However, no AGMs or director elections occurred in 2019 and 2020, the last elected board (elected in 2016 to take office starting on January 1, 2017) continued in office and were named as individual respondents in the action. In July 2021, over 90 members signed a petition asking

that an AGM be called and that an election of directors be conducted, among other things. The board initially failed to respond. While the board later did call membership meetings, the manner and form in which the meetings were called and held were not in compliance with corporate law requirements, but instead reflected a number of irregularities and were not otherwise done in an orderly manner.

In the Superior Court case (decision released October 11, 2022), the Respondents took the position that the Court did not have the jurisdiction to determine the issues before it, claiming that the Applicants were members of a voluntary religious association (i.e. an unincorporated congregation) and were not members of the Church (a corporation incorporated under the OCA). Among other things, the Respondents argued that since voluntary religious associations are not governed by corporate statutes, the ONCA does not apply to the Church as a congregation. The Superior Court found these arguments did not make any sense when reviewing the background facts and history of the Church. The corporate records of the Church clearly reflected elections of directors by members of the Church corporation, with no evidence indicating there was ever any intention to distinguish between the Church (as a corporation) and an alleged unincorporated association.

At the Court of Appeal (decision released December 8, 2023), the Church and directors (now the "Appellants") raised four issues they alleged were errors in the Superior Court decision:

1. The Application Judge's finding that the Church members (now the "Respondents"), by virtue of their membership in the Church congregation were also members of the incorporated Church entity and therefore had justiciable legal rights under the ONCA.
2. The holding that the interpretation of the Canon Law Promulgation (which were canon law rules governing the AGM reflected in specific resolutions from the Church's governing diocese) was justiciable.
3. The holding that the Respondents were not required to exhaust alternative remedies available within the Eritrean Orthodox Church, and that the Respondents nevertheless satisfied this requirement.
4. Finding that the Appellant directors failed to satisfy their obligations as volunteer directors of the Church.

Regarding the first issue, the Court of Appeal found that the Superior Court reasonably inferred from the evidence that the Church is a single incorporated entity and that the Respondents are members of that entity (as there was an absence of evidence to support the claim there were two separate organizations, an unincorporated congregation and a corporation).

Regarding the second issue, the Court of Appeal acknowledged that while the local church is incorporated as a single entity and is subject to civil law obligations, canon law can still apply. The Court of Appeal highlighted the importance of respecting canon law in matters of church governance and the need for courts to avoid encroaching upon non-justiciable matters of religious doctrine.

The Court of Appeal found that the Superior Court's order conflicted with canon law in that it required the local church to hold the AGM in accordance with bylaws which may not be in line with applicable canon law requirements set out in the Canon Law Promulgation. The Court of Appeal therefore struck this condition and allowed the Church to hold a special or emergency meeting to vote on amending the bylaws to conform to canon law.

On the third issue, the Court of Appeal found that the Appellants had a legal obligation to hold an AGM in 2019 and conduct director elections, but they neglected this responsibility. As a result, the Respondents were within their rights to seek legal recourse through the civil courts. While it is generally expected that individuals aggrieved by decisions within self-governing organizations, particularly religious ones, should seek resolution through internal dispute mechanisms, the Appellants failed to provide sufficient evidence of such a mechanism. In the absence of this evidence, the Superior Court's order for an AGM was justified.

On the final issue, the Appellants argued that the Superior Court held them to an overly strict standard and should have been more lenient due to technical deficiencies reflected in the corporate records. They claimed they should be judged based on historical practices rather than strict administrative requirements. However, the Court of Appeal disagreed, stating that the Superior Court was entitled to draw adverse inferences against the Appellants for failing to provide evidence for their defences when such evidence, such as corporate records, if it existed, would have been in their control. The Court of Appeal stated that it was reasonable for the Superior Court to determine that corporate bylaws and canon law required an AGM to be held.

The appeal was partially allowed. The court-ordered AGM was ordered to proceed, but the conditions requiring compliance with the bylaws were removed. Instead, the Church was ordered to hold a special or emergency meeting to vote on amending the bylaws in accordance with canon law requirements. This meeting was to have a court-appointed neutral chair, agreed upon by the parties or appointed by the court if no agreement is reached. The Church was then ordered to hold an AGM in accordance with whatever bylaws result from the meeting.

The Court of Appeal decision confirms that courts must avoid "straying into non-justiciable matters of church doctrine when addressing matters of church governance." However, as Court of Appeal noted, it is settled law that the civil law "will nevertheless require religious organizations to uphold their obligations to their members in property and governance disputes".

In light of the Supreme Court of Canada's decision to deny the Church's leave to appeal, the Court of Appeal's decision remains unchallenged and is the law in Ontario. Although the decision is not binding outside of Ontario, it could provide persuasive value for parties in similar situations in other provinces and territories.

7. CRA Releases View on Impact of Renting Common Areas on Housing Co-Op's NPO Status

By Esther Shainblum and Urshita Grover

The Canada Revenue Agency ("CRA") released CRA View 2022-0944461E5, dated May 13, 2024 ("View") , a technical interpretation in which it considered whether a residential housing co-operative ("Co-op") would continue to qualify for its income tax exemption as a tax-exempt non-profit organization ("NPO") under paragraph 149(1)(l) of the *Income Tax Act* (Canada) ("ITA") if it generated profits by renting its common areas to third parties, such as film companies. Additionally, the CRA considered the Co-op's tax-exempt status if these profits were instead earned through a wholly-owned taxable subsidiary.

The View provides a useful overview of CRA's current thinking on the generation and accumulation of profit by NPOs.

On the issue of whether the Co-op can generate income directly by renting out common areas to third parties, the CRA stated that generally, to qualify as an NPO under paragraph 149(1)(l) of the ITA, the organization must satisfy four criteria, namely, (1) it must be a club, society, or association; (2) it must not be a charity; (3) it must be organized and operated exclusively for social welfare, civic improvement, pleasure, recreation or any other purpose except profit; and (4) no income earned by the organization can be available for the personal benefit of its members or shareholders.

The View cited Tax Court of Canada's decision in *Tourbec* in stating that the word "exclusively" in criteria (3) above must be given its full effect. It is not sufficient that an organization be organized and operated mainly or primarily or chiefly for any purpose other than profit, it must be organized and operated "exclusively" for a non-profit purpose. Thus, while an organization may have many purposes, none of those purposes can be to earn a profit. The View does however affirm CRA's current position that an NPO

can earn a profit, as long as it is incidental, i.e. the profit is not significant and arises from activities directly connected to the organization's not-for-profit objectives, without affecting its status as an NPO. In the View, CRA also rejected the "destination of funds argument", which would allow an organization to be an NPO if it uses its profits to support its non-profit objectives, stating that this argument has been rejected by CRA and the courts many times.

The CRA explained that the modest revenues generated from the Co-op providing laundry machines for use by residents appears to be directly connected to the Co-op's not-for-profit objectives and would be considered incidental and would not impact its tax-exempt status. However, the View stated that the expected profits from renting the Co-op's common areas to third parties are anticipated to be considerable and do not appear to be incidental, as they are intended to fund significant expenses, such as major repairs and maintenance and to build a reserve fund. Moreover, the common areas are owned by the Co-op and not by the resident shareholders, and therefore the rental of the common areas indicates a for-profit purpose, which would jeopardize its tax-exempt status.

On the issue of whether the Co-op could generate such revenue through a wholly-owned taxable subsidiary, the CRA clarified that if the Co-op earns profits from renting common areas through a wholly-owned taxable subsidiary, this alone would not automatically disqualify the Co-op from being a tax-exempt NPO. However, the Co-op would be owning shares in the taxable subsidiary in order to earn a profit and the significant income likely to be generated, such as dividends, suggests a for-profit purpose. Since this income is likely to be significant and would not arise through the Co-op's not-for-profit objectives, it would not be incidental and could jeopardize the Co-op's tax-exempt status, even if the dividends are used to further the Co-op's not-for-profit objectives.

Therefore, even if the Co-op was determined to be a tax-exempt NPO before renting (directly or indirectly) its common areas to third parties, it could lose its tax-exempt status afterwards because substantial profits from activities like renting common areas would not be considered incidental and could demonstrate that the Co-op had a profit purpose. Whether the Co-op was a tax-exempt NPO for any particular time period is a question of fact that would only be determined at the end of the fiscal year.

8. CRA Addresses Trust Reporting Questions Concerning Bare Trusts

By Terrance S. Carter and Adriel N. Clayton

The Canada Revenue Agency (the "CRA") released Document 2024-1005851C6 (the "Document"), addressing three questions concerning trust reporting involving bare trusts posed on May 7, 2024 at the

2024 Conference for Advanced Life Underwriting (CALU) Roundtable. By way of background, subsection 150(1.3) of the *Income Tax Act* ("ITA") provides that for the purposes of section 150, a trust includes "an arrangement under which a trust can reasonably be considered to act as agent for all the beneficiaries under the trust with respect to all dealings with all of the trust's property" (*i.e.* commonly referred to as a "bare trust"). However, the background forming the basis of the Document explains that pursuant to subsection 104(1), except for the purposes of certain provisions set out in that subsection, a trust is deemed not to include a bare trust unless the trust is described in any of paragraphs (a) to (e.1) of the definition of "trust" in subsection 108(1).

The specific questions posed to the CRA relate to determining the calendar year of bare trusts for purposes of filing T3 trust returns for bare trusts in different situations.

Before addressing those questions, the CRA provided a reminder that, in accordance with its announcement on March 28, 2024, bare trusts are exempt from filing a T3, *Income Tax and Information Return* ("T3"), including Schedule 15 (Beneficial Ownership Information of a Trust) for the 2023 tax year, unless the CRA makes a direct request for a T3 to be filed. For details on the March 28, 2024 announcement, reference can be made to our *April 2024 Charity & NFP Law Update*. For details on the recent proposed extension of the T3 filing exemption for bare trusts for the 2024 taxation year by the Department of Finance on August 12, 2024, reference can be made to our *Charity & NFP Law Bulletin 528*.

The first question posed to the CRA was whether a bare trust would have a calendar year end for purposes of complying with section 150 of the ITA, despite not being considered a trust in most other provisions of the ITA. In response, the CRA referenced subsection 249(1) of the ITA, stating that except whether expressly otherwise provided, "a taxation year is […] (c) in any other case, a calendar year," and that for the purposes of complying with section 150, bare trusts therefore will have a calendar year end.

The second question posed concerned whether a bare trust arrangement that is wound up during the year would have a taxation year end on December 31st of that year. To this, the CRA stated that with the exception of graduated rate estates, in the year that a trust is wound up and assets are distributed, "there is no provision that would cause the taxation year to be a period other than a calendar year." On this basis, the CRA stated that bare trusts wound up during the year would have a taxation year end on December 31st of that year. The filing deadline for bare trusts following a wind-up would then be 90 days following calendar year-end.

The final question considered a scenario where a corporation was created solely to act as the legal titleholder of a property (the "Nominee Corp"), where both the legal and beneficial ownership was sold early in the calendar year and the Nominee Corp was liquidated and dissolved. The CRA was asked, in this scenario where the Nominee Corp no longer existed, whether the Nominee Corp was responsible for filing a T3 with Schedule 15 in the following year. The CRA responded, stating that the Nominee Corp appeared to be the trustee of a bare trust regarding the sold property. As the trustee is responsible for filing a T3 required under paragraph 150(1)(c) of the ITA for the taxation year of the trust, the Nominee Corp would therefore be responsible for filing the T3.

9. CRA Discusses Policy Gains Under Gifts of Life Insurance

By Ryan M. Prendergast

Following the 2024 Conference for Advanced Life Underwriting (CALU) Roundtable, the Canada Revenue Agency (the "CRA") released Document 2024-1007081C6 (the "Document"), dated May 7, 2024, addressing transfers of life insurance policies. The Document explores how policy gains under subsection 148(1) of the *Income Tax Act* ("ITA") are determined on the transfer of a life insurance policy, as well as how the eligible amount of a subsequent charitable gift is to be determined in certain circumstances.

As a matter of background, the Document states that charities can issue official donation receipts for the eligible amount of the gift of an interest in a life insurance policy. In these circumstances, the eligible amount is generally computed as "the [fair market value (FMV)] of the interest in the policy less any advantage received by the donor in respect of the gift."

Where the FMV of the policy is greater than its cash surrender value, additional factors will need to be considered when determining FMV for the eligible amount of the gift. Conversely, FMV of the policy may be reduced where the policy was acquired less than three years before the gift was made, or less than 10 years before the gift was made provided that one of the main reasons the donor acquired the policy was to gift it to a qualified donee. Other rules apply where the policy was previously acquired by a person or partnership that is not at arm's length from the donor.

In exploring the matter, the Document sets out four scenarios involving gifts of life insurance policies. In the first scenario, the CRA explores distribution of policies from partnerships and subsequent gifts to charities. It states that the period during which a partnership holds a life insurance policy is not included in determining the period a partner owns the policy for the purposes of the deemed fair market rules under

subsection 248(35) of the ITA. When the policy is donated to a registered charity, the FMV for calculating the eligible donation amount is deemed to be the lesser of its adjusted cost base ("ACB") and FMV. This results in a reduced eligible donation amount if the policy was recently transferred to the donor.

In the second scenario, the CRA discusses the tax implications of an individual shareholder transferring a policy to a corporation (Part A), followed by the corporation subsequently donating the policy to a charity (Part B). Broadly speaking, the document states that the individual would be deemed to be entitled to proceeds of the disposition equal to nil on the transfer of the interest in the policy to the corporation; that the corporation would be deemed to acquire the interest in the policy at no cost. Subsection 148(7) of the ITA dealing with dispositions at non-arm's length would then apply to the gift of the interest in the policy by corporation to the registered charity.

The third scenario involves a parent with a life insurance policy on their child's life while the child was 8 years old, pays the premium, and subsequently transfers the policy to the now 21-year-old child, who later donates the policy to a registered charity within three years. The CRA explains that subsection 148(7) of the ITA applies to the gift from the child to the registered charity of the interest in the Policy by the child to the charity, resulting in a policy gain under subsection 148(1) of the Act. As well, subsection 248(35) applies to determining the child's eligible amount of the gift of the interest in the policy. The policy gain is calculated based on the difference between the cash surrender value and adjusted cost base, and subsection 248(36) does not apply because the policy was originally acquired more than ten years before the gift.

In the fourth scenario, the CRA addresses situations where a life insurance policy is transferred from one spouse to another and is subsequently donated to a charity. Depending on whether the policy was acquired more than ten years before the donation, subsection 248(35) or 248(36) may apply, affecting the eligible donation amount. The policy gain upon donation is attributed to the original owner under the spousal attribution rules in subsection 74.1(1) of the ITA.

10. Superior Court of Ontario Applies Cy-près Doctrine to Testamentary Gift

By Jacqueline M. Demczur

In situations where fulfilling the donative intent of a will becomes difficult, courts can apply the doctrine of *cy-près* to rectify the situation. The doctrine of *cy-près* is a legal principle used in the context of charitable trusts. When the original purpose of a charitable trust becomes impossible, impracticable, or illegal to fulfill, the doctrine allows the court to amend the terms of the trust so that the funds can be

applied to a purpose as close as possible to the original intent of the donor. This ensures that the charitable intention of the donor is honored even if the original objective cannot be achieved exactly as intended. A recent example of the application of the doctrine of *cy-près* occurred in the Ontario case *Allan et al. v. Thunder Bay Regional et al.*, decided on June 6, 2024.

The Applicants, Sandra Allan and Marilyn Inga Foster, sought the opinion of the court on the validity of a handwritten codicil to the will of Lawrence Richard Iwachewski and the identification of the residuary beneficiary under the will and codicil. The codicil, though not properly executed, was found to be valid and fully effective as a testamentary document. The court applied the doctrine of *cy-près* to determine the residuary beneficiary, finding that the Thunder Bay Regional Health Sciences Foundation was the intended recipient based on the testator's expressed intentions and the circumstances surrounding the drafting of the will and codicil.

The testator, Lawrence Richard Iwachewski, made a properly executed will in 2001 and a handwritten codicil dated December 10, 2019. He passed away on December 19, 2022, unmarried and without children.

The testator's will directed the residue of his estate to be held in trust for his mother's lifetime if she survived him for 30 days, and then to service organizations caring for his mother. However, the testator's mother predeceased him in 2004 and was not alive when he drafted the codicil.

The codicil in question included provisions for charitable donations to the Thunder Bay Regional Hospital, referencing the care provided by that Hospital to the testator's mother including during her final days. However, by the time the codicil was created in 2019, the Thunder Bay Regional Health Sciences Centre had replaced the city's older hospitals, including the Thunder Bay Regional Hospital. During his lifetime, the testator expressed his intent to leave his estate to this Hospital, desiring recognition through a plaque. This intent was supported by the discovery of his mother's Thunder Bay Regional Hospital bracelets among his belongings.

The court considered whether the handwritten codicil of the testator, which was not properly executed, was a valid codicil to his will. The court applied the doctrine of substantial compliance to determine that the handwritten codicil was valid and fully effective. This led to the secondary question regarding the charitable donation to the Thunder Bay Regional Hospital, which no longer existed. On this issue, the court acknowledged that it would be an "onerous task" to determine exactly which organizations had provided care to the testator's mother in her final years. The court considered if the doctrine of *cy-près*

could be applied to remedy the impossibility of respecting the testator's original wish, and the impracticability of respecting the terms of the codicil.

The court applied the *cy-près* doctrine because it was impossible to carry out the testator's specific intention to benefit the Thunder Bay Regional Hospital which no longer existed, and impracticable to identify the exact organizations that had provided care to his mother during her lifetime given that she was no longer alive. However, the court found that the testator had a general charitable intent to benefit the Thunder Bay Regional Hospital, as evidenced by his specific reference to it by name in the codicil and his desire to have his gift recognized by a plaque on its wall. The court therefore held that the Thunder Bay Regional Health Sciences Foundation was the residuary beneficiary of the Thunder Bay Regional Hospital in the testator's will and codicil.

Allan serves as a reminder that complications in executing the donative intent of a will does not automatically invalidate gifting made to registered charities. As seen in this case, estate trustees can apply to the court for the application of the *cy-près* doctrine to have to original intent of the will respected as closely as possible.

11. Employment Update

By Barry W. Kwasniewski and Martin U. Wissmath

Court of Appeal Upholds That There Was Valid Consideration for New Contract

When providing new contracts for their current employees to sign, employers must provide fresh consideration, such as a signing bonus, pay increase, increased paid vacation time, or some other benefit, for the new contract to be valid and its terms legally binding. Whether a second employment contract was valid was the key issue in the wrongful dismissal appeal of *Giacomodonato v. PearTree Securities Inc.*, published June 3, 2024. The Ontario Court of Appeal (the "court") upheld the trial judge's decision to award the employee plaintiff and appellant, Davide Giacomodonato (the "Employee"), $671,765 in compensatory and punitive damages, along with legal costs in the amount of $830,761.75, against his former employer, PearTree Securities Inc. (the "Employer"). The key issue for the Employee's appeal was whether the trial judge had erred in finding the second employment contract valid and binding, and calculating wrongful dismissal damages based on the terms of that second employment contract, rather than the first. The court affirmed the trial judge's findings, noting that the second contract included fresh consideration, such as a $40,000 payment and extra vacation time, and that the power imbalance between the parties had been mitigated. The Employer's cross-appeal seeking to alter the costs award was

dismissed, with the court finding insufficient grounds to overturn the decision, which had been influenced by the Employer's conduct during litigation.

The Employee, an accomplished investment banker with notable expertise in the mining industry, was hired by the Employer in early 2016 to assume the role of President and co-head of banking. The trial judge determined that the parties entered into a binding employment agreement (the "First Contract") in April 2016, followed by a new employment agreement (the "Second Contract") in July 2016. The Employer terminated the Employee's employment without cause in January 2018. The Employee argued that the trial judge mistakenly based the wrongful dismissal damages on the terms of the Second Contract rather than the First Contract. To prevail on this appeal, the court noted the Employee would have needed to demonstrate that the trial judge "made a series of errors of law and mixed law and fact in finding that the second contract was valid, binding, and enforceable".

However, the court found that the trial judge correctly determined there was fresh consideration for the Second Contract. The Employee received a $40,000 payment from the Employer (PearTree) to cover his costs of leaving his previous employer, and an additional two weeks of paid vacation. The court was not convinced by the Employee's argument that the trial judge erred in concluding that the $40,000 payment was part of the negotiations for the Second Contract. Although the trial judge incorrectly stated that the Employer made the $40,000 payment in 2016 rather than 2017, the conclusion was based primarily on the fact that this payment was discussed in relation to the Second Contract. Additionally, the trial judge found that the extra vacation time alone constituted "fresh and non *de minimis* consideration."

The court also rejected the Employee's argument that the trial judge should have conducted a comparative analysis of the benefits and drawbacks of the First Contract and Second Contract to determine whether there was fresh consideration for the Second Contract; the Employee provided no legal authority to support the requirement for such an analysis. Additionally, the court dismissed the Employee's argument that the trial judge ignored the power imbalance between the parties. The trial judge had acknowledged the significance of consideration in employment contracts, specifically recognizing the inherent power disparity and the vulnerability of employees who rely on their compensation. The court found that the power imbalance typically present in employment contracts was mitigated in this case due to several factors. These included the Employee's access to detailed information about the Employer's operations, his extensive experience in negotiating contracts, and the fact that he was represented by legal counsel throughout the month-long negotiation process of the Second Contract.

This case is a reminder for charities and not-for-profits of the importance of the legal requirement for new consideration in any replacement employment contract for current employees. When requiring existing employees to sign new contracts, it is recommended that a lawyer review the matter to provide advice on whether there is legally recognized consideration for the terms of the new contract to be valid and legally enforceable.

12. AML/ATF Update

By Terrance S. Carter, Sean S. Carter, and Nancy E. Claridge

CRA Releases Updated Antiterrorism Checklist

On August 20, 2024, the Canada Revenue Agency ("CRA") released a new, updated version of its longstanding antiterrorism checklist. The checklist links to numerous other web pages on the topic, which CRA states as intending to assist charities reduce their risk of exposure to terrorist abuse and money laundering ("Updated Checklist") The links to the various parts of the Updated Checklist is as follows:

- Checklist: How to protect your charity against terrorist abuse
- Educating charities about the risks of terrorist abuse
- Framework to safeguard the charitable sector
- Assessing and reducing terrorist risks to charities
- Reporting terrorism or charity non-compliance

The Updated Checklist is a completely revised and significantly expanded CRA resource tool and contains much more extensive recommended protocols for compliance than the previous checklist, as well as including more comprehensive warnings of consequences if a charity fails to comply. For any charity that is directly or indirectly involved in charitable programmes where there might be the possibility of some type of intersection with terrorist groups or terrorist activities for whatever reason, whether it be in Canada or abroad, the Updated Checklist will be essential reading for senior management and all members of the charities' board of directors.

For those charities either operating in or considering operating in an area controlled by a terrorist group, like in Afghanistan, it will also be essential to review the Guidelines published by Public Safety Canada in June, 2024 concerning Criminal Code exceptions when providing aid in areas controlled by terrorist

groups. The following is a link to our *AML/ATF and Charity Law Alert No. 54*, on the Guidelines dated June 27, 2024.

Recent NGO Report Criticizes UN Counterterrorism Efforts as Stifling Civil Society Organizations

A report by the Global Center on Cooperative Security and Rights & Security International ("Report") highlights that despite the potential benefits of engagement with UN counterterrorism efforts, many civil society organisations ("CSOs") find the risks too high. These risks include government reprisals, increased regulation, and the possibility of being used as a token gesture rather than being meaningfully involved in decision-making processes.

The Report underscores the need for the UN to take actionable steps to protect civil society and ensure that its counterterrorism measures do not erode civic space and human rights. This includes addressing the widespread misuse of counterterrorism policies by member countries, which often leads to violence, repression, and the silencing of dissent.

The Report also calls on the UN to recognize civil society as equal partners and agents of change rather than passive participants in the global counterterrorism agenda. The engagement between the UN and civil society should not only meet the needs of the UN and its member states but also align with the interests and concerns of CSOs. This requires a shift in the UN's approach, moving away from tokenism and instead towards genuine collaboration that allows civil society to influence the formulation, implementation, and evaluation of counterterrorism policies.

The Report concludes that while the challenge is significant, even incremental progress could improve the situation, advancing the mutual goals of civil society and the UN in addressing the negative impacts of counterterrorism measures on human rights and civic space. However, achieving this will require a serious commitment from the UN and member countries to prioritize civil society engagement and address the power imbalances that currently exist.

In summary, the Report presents a sobering view of the current state of civil society engagement with the UN on counterterrorism, emphasizing the urgent need for reform to ensure that civil society can operate without fear of repression and that their voices will be heard in global counterterrorism efforts.

13. Privacy Update

By Esther Shainblum and Martin U. Wissmath

Ontario's IPC Endorses Statement on Transparency and Access to Information

Ontario's Information and Privacy Commissioner (the "IPC"), Patricia Kosseim, has endorsed a global statement on access to information ("ATI"). The Public Statement from the 15th International Conference of Information Commissioners ("ICIC"), held virtually in Tirana, Albania, on June 5, 2024, is titled "Transparency and digital age: the information commissioner's role and citizen empowerment" (the "ICIC Statement"). A media release published on the IPC website on June 13, 2024 announced the endorsement.

The ICIC Statement reaffirms the ICIC's foundational principles, including inclusivity, universality, transparency, responsibility, ethics, accessibility, and accountability. The ICIC Statement emphasizes the importance of ATI as a "fundamental right" and "pillar to social, economic and democratic governance", recognized in various international and regional human rights treaties, including the Universal Declaration of Human Rights, the Charter of Fundamental Rights of the European Union, the American Convention on Human Rights, and the Association of Southeast Asian Nations Human Rights Declaration, among others.

The ICIC Statement aligns ATI with the United Nations' 2030 Agenda for Sustainable Development, particularly target 16.10, which advocates for public access to information and the protection of fundamental freedoms. It highlights the role of the Open Government Partnership (OGP) in fostering transparency and citizen engagement in governance.

Included in the ICIC Statement is a list of commitments by ICIC members, including "promoting innovation by recognizing the potential of digital technologies to enhance transparency" while emphasizing the need to protect privacy, data security, and ethical standards. Another commitment is promoting the concept of "transparency by design," advocating for the integration of transparency principles into the early stages of designing systems and procedures. The ICIC members also commit to "advocating for the implementation of ATI laws and policies", ensuring government accountability, and fostering a culture of transparency through collaboration and public awareness efforts.

The IPC noted the ICIC Statement's acknowledgment of "the pivotal role of civil society and the media in advocating for ATI", and "the transformative potential of digital technologies in enhancing transparency while prioritizing privacy and ethical considerations."

Charities and not-for-profits that collect personal information of donors and members should note the importance of ATI in their own privacy practices and policies. The privacy principles listed in Schedule 1 of the *Personal Information Protection and Electronic Documents Act* include ATI principles and provide charities and not for profits with a guide for best practices in compliance with privacy requirements in Canada in the private sector. These principles include openness and transparency about an organization's collection, use and disclosure of personal information, and providing individuals with access to their own personal information.

14. Carters Annual Charity & Not-for-Profit Law Webinar

Carters Annual Charity & Not-for-Profit Law Webinar hosted by Carters Professional Corporation will be held on **Thursday, November 14, 2024**. Special Guest Speakers will be The Honourable Ratna Omidvar, C.M., O.Ont., Senator for Ontario & Mr. Bruce MacDonald, President and CEO of Imagine Canada. Details are available here.

15. Best Lawyers® Rankings

Six lawyers of Carters Professional Corporation have been ranked as leaders in their practice areas by *Best Lawyers in Canada*® for 2025. Theresa L.M. Man, Jacqueline M. Demczur, Esther S.J. Oh, Ryan M. Prendergast, and Terrance S. Carter have been ranked as leaders in the area of Charity and Non-Profit Law. Sean S. Carter has been ranked as a leader in the area of Corporate and Commercial Litigation. In addition, Esther S.J. Oh has been named "Lawyer of the Year" in the practice area of Charities and Non-Profit Law in Toronto.

IN THE PRESS

Charity & NFP Law Update – June 2024 (Carters Professional Corporation) was featured on Taxnet Pro™ and is available online to those who have OnePass subscription privileges.

Highlights from Carters Charity Law Bulletin was published in the Guardian Endowment Services Magazine in the July 2024 issue.

RECENT EVENTS & PRESENTATIONS

CSAE Summer Summit 2024 was held July 10-12 in Kingston, Ontario, hosted by Trillium Network. Esther Shainblum and Terrance S. Carter, from Carters Professional Corporation co-presented on the topic of "Living with the ONCA – Lessons Learned to Date".

UPCOMING EVENTS

Philanthropic Foundations Canada is hosting their 25th Anniversary Conference from Monday Sept. 23 – Wednesday Sept. 25th in Ottawa at the Westin. Mr. Terrance S. Carter will be speaking on the topic of Granting to Non-qualified Donees: What You Need To Know. This event is sold out at this time.

Association of Treasurers of Religious Institutes will host the ATRI 2024 Conference in Ottawa, Ontario. Terrance S. Carter will be presenting on Saturday, September 30, 2024, on the topic of The CRA's New Regime of Qualifying Disbursements.

LEGAL TEAM

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

Cameron A. Axford, B.A. (Hons), J.D. - Cameron is an associate whose practice focuses on Carter's knowledge management, research, and publications division. He articled with Carters from 2022 to 2023 and joined the firm as an associate following his call to the Ontario Bar in June 2023. Cameron graduated from the University of Western Ontario in 2022 with a Juris Doctor, where he was involved with Pro Bono Students Canada and participated in the BLG/Cavalluzzo Labour Law Moot. Prior to law school, Cameron studied journalism at the University of Toronto, receiving an Honours BA with High Distinction. He has worked for a major Canadian daily newspaper as a writer.

Sepal Bonni, B.Sc., M.Sc., J.D., Trademark Agent - Sepal Bonni is a partner at Carters Professional Corporation, 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*, 2024 Edition (LexisNexis Butterworths), a contributing author to *The Management of Nonprofit and Charitable Organizations in Canada*, 5th Edition (2023 LexisNexis Butterworths), and co-author of *Branding and Copyright for Charities and Non-Profit Organizations* 3rd Edition (2019 LexisNexis Butterworths) and a Primer for Directors of Not-for-Profit Corporations (Industry Canada). 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.

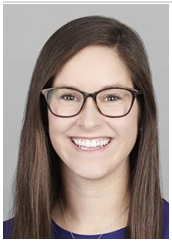
Nancy E. Claridge, B.A., M.A., LL.B. – Called to the Ontario Bar in 2006, Nancy Claridge is a partner with Carters practicing in the areas of corporate and commercial law, anti-terrorism, charity, real estate, and wills and estates, in addition to being the assistant editor of *Charity & NFP Law Update*.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

Adriel N. Clayton, B.A. (Hons), J.D. - Called to the Ontario Bar in 2014, Adriel Clayton is a partner at Carters Professional Corporation, manages Carters' knowledge management and research division, and practices in commercial leasing and real estate. Before joining Carters, Adriel practiced real estate, corporate/commercial and charity law in the GTA, where he focused on commercial leasing and refinancing transactions. Adriel worked for the City of Toronto negotiating, drafting and interpreting commercial leases and enforcing compliance. Adriel has provided in-depth research and writing for the *Corporate and Practice Manual for Charitable and Not-for-Profit Corporations*.

Jacqueline M. Demczur, B.A., LL.B. – A partner with the firm, Ms. Demczur practices in charity and not-for-profit law, including incorporation, corporate restructuring, and legal risk management reviews. Ms. Demczur has been recognized as a leading expert in charity and not-for-profit law by *Lexpert*, *The Best Lawyers in Canada* and *Chambers and Partners*. She is a contributing author to Industry Canada's *Primer for Directors of Not-For-Profit Corporations*, and has written numerous articles on charity and not-for-profit issues for the *Lawyers Weekly*, *The Philanthropist* and *Charity & NFP Law Bulletin*, among others. Ms. Demczur is also a regular speaker at the annual *Church & Charity Law Seminar™*.

Urshita Grover, H.B.Sc., J.D. – Urshita was called to the Ontario Bar in June 2020 after completing her articles with Carters. Urshita worked as a research intern for a diversity and inclusion firm. Urshita has volunteered with Pro Bono Students Canada, and was an Executive Member of the U of T Law First Generation Network. Urshita was able to gain considerable experience in both corporate commercial law as well as civil litigation. Building on this background, Urshita is able to integrate her wide range of experience into a diverse and practical approach to the practice of charity and not-for-profit law for her clients.

Barry W. Kwasniewski, B.B.A., LL.B. – Mr. Kwasniewski is a partner with the firm and joined Carters' Ottawa office in 2008 to practice in the areas of employment law, charity related litigation, and risk management. After practicing for many years as a litigation lawyer in Ottawa, Barry's focus is now on providing advice to charities and not-for-profits with respect to their employment and legal risk management issues. Barry has developed an expertise in insurance law, and has been retained by charities, not-for-profits and law firms to provide legal advice pertaining to insurance coverage matters.



Heidi N. LeBlanc, J.D. – Heidi is a litigation associate practicing out of Carters' Toronto office. Called to the Bar in 2016, Heidi has a broad range of civil and commercial litigation experience, including matters pertaining to breach of contract, construction related disputes, defamation, real estate claims, shareholders' disputes and directors'/officers' liability matters, estate disputes, and debt recovery. Her experience also includes litigating employment-related matters, including wrongful dismissal, sexual harassment, and human rights claims. Heidi has represented clients before all levels of court in Ontario, and specialized tribunals, including the Ontario Labour Relations Board and the Human Rights Tribunal of Ontario.

Jennifer M. Leddy, B.A., LL.B. – Ms. Leddy joined Carters' Ottawa office in 2009, becoming a partner in 2014, to practice charity and not-for-profit law following a career in both private practice and public policy. Ms. Leddy practiced with the Toronto office of Lang Michener prior to joining the staff of the Canadian Conference of Catholic Bishops (CCCB). In 2005, she returned to private practice until she went to the Charities Directorate of the Canada Revenue Agency in 2008 as part of a one-year Interchange program, to work on the proposed "Guidelines on the Meaning of Advancement of Religion as a Charitable Purpose."

Theresa L.M. Man, B.Sc., M.Mus., LL.B., LL.M. – A partner with Carters, Ms. Man practices in the area of charity and not-for-profit law, is ranked by *Lexpert*, *Best Lawyers in Canada*, and *Chambers and Partners*, and received the 2022 OBA AMS/John Hodgson Award of Excellence in Charity and Not-For-Profit Law. She is a co-author of *Corporate and Practice Manual for Charitable and Not-for-Profit Corporations* published by Thomson Reuters. She is a former member of the Technical Issues Working Group of the CRA Charities Directorate, a member and former chair of the CBA Charities and Not-for-Profit Law Section and the OBA Charities and Not-for-Profit Law Section. Ms. Man has also written on charity and taxation issues for various publications.

Esther S.J. Oh, B.A., LL.B. – A partner with Carters, Ms. Oh practices in charity and not-for-profit law, and is recognized as a leading expert in charity and not-for-profit law by *Lexpert* and *The Best Lawyers in Canada*. Ms. Oh has written numerous articles on charity and not-for-profit legal issues, including incorporation and risk management. Ms. Oh has written articles for *The Lawyer's Daily*, www.carters.ca and the *Charity & NFP Law Bulletin*. Ms. Oh is a regular speaker at the annual *Church & Charity Law Seminar*™ and has been an invited speaker to the Canadian Bar Association, Imagine Canada and various other organizations.

Ryan M. Prendergast, B.A., LL.B. - Mr. Prendergast joined Carters in 2010, becoming a partner in 2018, with a practice focus of providing corporate and tax advice to charities and non-profit organizations. Ryan has co-authored papers for the Law Society of Ontario, and has written articles for *The Lawyers Weekly*, *Hilborn:ECS*, Ontario Bar Association *Charity & Not-for-Profit Law Section Newsletter*, *Charity & NFP Law Bulletins* and publications on www.carters.ca. Ryan has been a regular presenter at the annual *Church & Charity Law Seminar*™, Healthcare Philanthropy: Check-Up, Ontario Bar Association and Imagine Canada Sector Source. Ryan is recognized as a leading expert by *Lexpert* and *The Best Lawyers in Canada*.

Esther Shainblum, B.A., LL.B., LL.M., CRM – Ms. Shainblum is a partner with Carters Professional Corporation, and practices in the areas of charity and not-for-profit law, privacy law and health law. She has been ranked by *Chambers and Partners.* Ms. Shainblum was General Counsel and Chief Privacy Officer for Victorian Order of Nurses for Canada, a national, not-for-profit, charitable home and community care organization. Before joining VON Canada, Ms. Shainblum was the Senior Policy Advisor to the Ontario Minister of Health. Earlier in her career, Ms. Shainblum practiced health law and corporate/commercial law at McMillan Binch and spent a number of years working in policy development at Queen's Park.

Martin U. Wissmath, B.A., J.D. – Called to the Ontario Bar in 2021, Martin joined Carters after finishing his articling year with the firm. In addition to his legal practice, he assists the firm's knowledge management and research division, providing in-depth support for informative publications and client files, covering a range of legal issues in charity and not-for-profit law. His practice focuses on employment law, privacy law, corporate and information technology law, as well as the developing fields of social enterprise and social finance. Martin provides clients with legal advice and services for their social-purpose business needs, including for-profit and not-for-profit organizations, online or off-line risk and compliance issues.

ACKNOWLEDGEMENTS, ERRATA AND OTHER MISCELLANEOUS ITEMS

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