



APPENDIX D

International Relief Fund for the Afflicted and Needy (Canada)

Correspondence Relating to JFHS' Application for Charitable Registration

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~~March 18, 1998~~

MAR 23 1998

Your file Votre référence

Our file Notre référence

92-0721

Jerusalem Fund for Human Services
P.O. Box 1628 station "B"
Mississauga, Ontario
L4Y 4G3

Attention: Mr. R. Abdel-Majid
Chairman

Dear Mr. Abdel-Majid:

Subject: Povrel Jerusalem Fund for Human Services

I am writing in reply to your letter dated September 15, 1997, faxed to Mr. Titch Dharamsi, Senior Policy Advisor to the Honourable Herb Dhaliwal, Minister of National Revenue, regarding the application for registration as a charity under the *Income Tax Act* submitted on behalf of the Povrel Jerusalem Fund for Human Services ("JFHS").

I have now reviewed all of the submissions and correspondence in regard to this matter, including the information provided to Mr. Dharamsi, and must advise you that, in my view, the JFHS has not yet met its onus to establish that it qualifies for such registration.

To be eligible for registration, an organization must demonstrate that it is established and operated exclusively for charitable purposes and activities, and complies with certain operational restrictions the *Act* sets as a matter of Canadian tax policy. Where there is any doubt as to whether a purpose is charitable, or where there is a mixture of charitable and non-charitable purposes, the courts have determined that an organization should not be recognized as charitable. Consequently, the Department is not in a position to approve an application for registration while sufficient doubt remains about an organization's actual purposes and intent that we cannot say with confidence that it is a charity within the meaning of 149.1(1) of the *Act*.

The statutory provisions governing the tax treatment of charitable gifts generally do not provide relief for gifts made to organizations in countries other than Canada, nor does the legislation permit Canadian charities to collect gifts and issue tax receipts on behalf of such organizations. In pursuing its charitable objectives, a registered charity must use its resources to carry on its

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Canada

own charitable activities, or make gifts only to "qualified donees". The term "qualified donees" refers collectively to registered charities and other organizations similarly able to provide donation receipts for tax purposes to Canadian donors. The only organizations outside Canada that are qualified donees are the United Nations and its agencies, certain universities outside Canada ordinarily attended by Canadian students, and charitable organizations outside Canada to which Her Majesty in Right of Canada has made a gift within the previous two years.

The incorporating documents of JFHS expressly provide that in pursuing its objects JFHS is empowered "(t)o co-operate with other societies and organizations whether incorporated or not, which have aims and objectives similar, in whole or in part, to the aims and objectives of the Corporation". JFHS's By-laws restate its objects as being to establish, operate and/or contribute to a relief fund...and to sponsor charitable activities benefiting and to make contributions or distributions to other organizations that qualify as tax exempt organizations (underlining added).

The statement of activities submitted with the application for registration in 1992 was vague and unspecific as to intent. It stated only that JFHS would undertake programs "to extend help to refugees and afflicted peoples", including the printing, publishing, and distribution of literature "...that highlights the conditions of refugees and afflicted peoples". Again, it referred to JFHS's intention "to co-operate with other societies and organizations...which have aims and objectives similar, in whole or in part, to the aims and objectives of the Corporation".

In response to the Department's request for more specific information in this regard, JFHS made a further submission in August, 1993. Included in this submission were several fund-raising brochures describing programs supported by JFHS. Several of these brochures seek pledges for the sponsorship of orphans and widows, and particular mention is made of support given to the families of the 416 Palestinians from the Gaza Strip and the West Bank expelled into southern Lebanon by the Israeli government in December 1992¹.

One of these brochures, entitled "Jerusalem Fund for Human Services (JFHS): A Step in the Right Direction", contains numerous examples of financial assistance provided to other organizations. Under the heading "Who Receives JFHS Aid", the brochure states:

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¹ According to media reports, this action was taken against Hamas leaders and activists in retaliation for the Hamas murder of an Israeli border guard.

"Recipients of JFHS funds are non-profit, non-political institutions such as: universities, schools, clinics, hospitals, community centers, charity committees and other charity organizations that provide relief work and humanitarian services. All of these organizations are registered with local authorities."

In particular, this brochure lists the following as organizations JFHS has aided in the last few years:

- Al-Iman school (Shufat, West Bank)
- Al-Wafaa Association for the Elderly (Gaza)
- Association Islamic Culture (Jerusalem, West Bank)
- Bethlehem Charity (Bethlehem, West Bank)
- Burqa Zakat² Committee (Nablus, West Bank)
- Islamic Relief Agency (Nazereth)
- Islamic Charity Organization (El-Bireh, West Bank)
- Jenin Zakat (Jenin, West Bank)
- National School for Blind Girls (El-Bireh, West Bank)
- Patien's Association for Gaza Strip (Gaza)
- Qibya Mosque (Qibya, West Bank)
- Ramallah Zakat Committee (Ramallah, West Bank)
- Salah Society (Deir Elbalah, Gaza)
- Scientific Medical Association (Jerusalem, West Bank)
- Society for the Care of Handicapped (Gaza)
- Tulkarm Zakat Committee (Tulkarm, West Bank)
- Shifa Hospital Project (Jenin, West Bank)

The brochure also refers to the fact that the Jerusalem Fund for Human Services joined with five other partners in supporting the operations of the Islamic Relief Committee (or Agency) in Nazareth. The other organizations named are The Holy Land Foundation for Relief and Development in the U.S.A., the Relief Fund for Palestine and Lebanon in London, England, the Al Aqsa Fund in Germany, Belgium, and Holland, The International Islamic Conference in London, England, and The Supporting Committee in France.

Copies of bank transfers were also provided showing a total of \$101,238 transferred on March 12 and May 5, 1993 from the CIBC account of JFHS to the following bank accounts and beneficiaries:

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² We note that the terms "zakat" and "zakah" are used interchangeably in referring to these committees.

- account
Arab Bank PLC, 118 Kensington High Street
London, England
beneficiary: The Hospital Account
- account
Arab Bank PLC, 118 Kensington High Street
London, England
beneficiary: Zakat Fund Committee,
The Hospital Account
- account
Barclays Discount Bank
Salah Eldeen St.
Jerusalem, Israel
beneficiary: Islamic Sciences and
Culture Society
P.O. Box 17367
Jerusalem
Bait Haninah Israel
- account
Hapoalim
Umm El Fahem, Israel
beneficiary: Islamic Relief Agency
- account
Bank One
150 El Beltline Road
Richardson, Texas
beneficiary: Holy Land Foundation
for Relief and
Development
- account
Hapoalim
Gaza, Israel
beneficiary: Alsalah Association
Deir Elbalah
Gaza, Israel

In addition, the August 1993 submission contained copies of two letters. One is from Mr. Shukri AbuBakr, Executive Director of the Holy Land Foundation for Relief and Development in Richardson, Texas, advising that \$32,140 received from JFHS on May 27 and August 22, 1992 had been used to

support Orphan Relief and Social Services Programs in the West Bank and Gaza Strip. The other is from the Zakah Committee in Jenin thanking JFHS for its past assistance and asking for continuing contributions to support its work.

On November 30, 1993, we wrote to the Fund advising that it was unlikely to qualify for registration in that it did not appear to us to be operating in compliance with the statutory requirement that it devote its resources to charitable activities it carries on itself.

Mr. Hassen El-Falou's letter dated February 28, 1994 disputed this interpretation of the material provided to us and, in November, 1994, the law firm of Roach, Schwartz and Associates submitted a further package of information concerning the various projects being sponsored by JFHS. The package contained correspondence exchanged with Mr. Fawaz Hamad (also spelled Hammad), who is referred to as a representative to JFHS, during the period from November 5, 1993 to March 1, 1994, concerning the rental of office space and the hiring of an office manager. A copy of an advertisement for this position placed in the Al-Quds Daily Newspaper, and related invoice dated April 20, 1994, were also enclosed. The advertisement directs that applications be sent to Mr. Fawaz Hamad, P.O. Box 100, Jenin, West Bank. I note that this is also the address provided to us for the Jenin Zakat Committee.

The package also contained project summaries identifying individuals and organizations under whose supervision, as arranged by the manager of the then newly established East Jerusalem office of JFHS, funds provided by JFHS had been expended. In most cases, funds were distributed for the support of particular families and children selected by the Zakah Committee or other local organization in charge of the distribution program, or were provided to subsidize existing programs and projects being carried out under the auspices of these organizations. The majority of these projects were carried out under the direction of Mr. Fawaz Hamad, Communication Officer for the Jenin and Kabatia Zakah Committees, and Mr. Ahmad Alkurd (also spelled Ahmed El-Kurd or Kurd), Communications Officer for the El-Salah Islamic Association in Deir El-Balah, the Gaza Strip. Also named as organizations responsible for the selection of beneficiaries and the distribution of aid funded by JFHS were Zakah Committees in Ramallah, Qalqeliah, Nables, and Tulkarm, the Islamic Relief Committee (or Agency) in Nazareth, and the Islamic Charitable Society in Al-Khalil (Hebron).

Copies of bank transfers previously submitted were again provided, this time with notations attached indicating the intended use of funds transferred. For example, the May 5, 1993 transfer of \$26,111 (\$20,350 U.S.) to the account of the Alsalah Association in Deir El-balah, Gaza, was annotated "\$5,000 Women's Youth Association (Sewing Factory), \$5,000 Al-Wafa (Elderly), and \$10,350 Needy Families and Orphans". The transfer that same day of \$12,831 (\$10,000 U.S.) to the Islamic Relief Agency account in Umm El Fahem was

annotated as "Families and Orphans, Um El Fahem (Deportees' Families)". Another \$17,700 (\$13794 U.S.) transfer made the same day to the Holy Land Foundation for Relief and Development in Richardson, Texas was annotated "Orphans".

Annotated copies of bank transfers not previously provided were also included in this submission. For example, a June 3, 1993 transfer of \$53,035 to the Alabrar Association in Shtoura El Bekaa, Lebanon, was annotated as being sent for "Deportees' families". A transfer of \$8000 to the "The Hospital Account", maintained at the Kensington High Street branch of the Arab Bank in London, England, on July 14, 1993 was annotated "Meat Slaughter". A \$7004 transfer to this same account on August 4, 1994 was annotated "Office Costs". Also on July 14, 1993, a bank transfer of \$22,055 was made to the account of the Alsalah Association in Deir Elbalah, Gaza. This transfer was annotated "\$13,000 Zabeehah³; \$2,500 Needy Families; \$2,000 Islamic Society, Gaza; \$4,500 Deportees' Families".

While these annotations may be taken to reflect an allocation by JFHS of funds transferred to other organizations, they do not, in my view, provide evidence that the funds in question have been devoted to activities "carried on" by JFHS.

I note, in this regard, that some of the documentation supplied with this submission was in Arabic, including several letters of thanks from organizations who had received JFHS funds. We have had this material translated into English. While it acknowledges JFHS as a sponsor or contributor to various programs, in my view it corroborates that the programs are actually run under the auspices of the local Zakah (charity) committees and other organizations.

A third submission, dated May 16, 1995, confirmed that the projects financed by JFHS in 1994 and 1995 were carried out in substantially the same manner as outlined in the Project Questionnaires provided to the Department in November, 1993. Details provided regarding the Ramadan Breakfast Program indicate that foodstuffs purchased by JFHS were allocated under the direction of Mr. Ahmed Kurd, chairman of the Islamic Salah Society in Gaza, to "the Islamic Centre and all its tributaries, The Islamic Association, The Islamic Salah Association, The (wafa) Society for old people, and the young Moslems Women Association".

The information summary sent with your letter of September 15, 1997 to Mr. Titch Dharamsi, Senior Policy Advisor to the

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³ The term "Zabeehah" appears to refer to pledges made to cover the costs of slaughtering animals and distributing the meat for religious feast days.

Honourable Herb Dhaliwal, Minister of National Revenue, reinforces the impression conveyed in all previous submissions that JFHS operates as a grant-making agency providing support to organizations in the West Bank and Gaza that are not qualified donees for Canadian tax purposes. For example, this summary states:

- that JFHS "...concentrates its efforts on selecting programs with well-defined aims and goals..."
- that "...funding decisions..." are made in Canada
- that JFHS is committed to improving employment opportunities in the region by supporting community projects such as land development, dairy farming...
- that JFHS has provided funds to schools, kindergartens, universities, and special education institutions, and
- that JFHS has been supporting the building and maintenance of community centres, youth clubs, and charity committees.

In summary, the documentation JFHS has provided does not, in my view, substantiate that activities supported by payments to the parties named above were activities carried on by The Jerusalem Fund for Human Services in its own right. Rather, it suggests that these organizations and institutions make use of funds sent as operating subsidies for their own purposes and activities. The role of the JFHS office in Jerusalem in this regard appears to be mainly that of liaising with representatives of organizations assisted by JFHS funding, and overseeing the distribution of funds to these organizations. This interpretation is supported, in my view, by the somewhat unusual provisions of JFHS's by-laws specifying that the corporation shall have no members of any class or designation, that it shall be managed solely by a very small Board of Directors, and that these Directors need not be residents of the Province of Ontario.

Consequently, on full review of the facts represented by the information provided, I find it difficult to conclude that JFHS is operated in compliance with the statutory requirement that it devote its resources to charitable activities it has carried on itself.

There is, moreover, a further concern with respect to the purposes and activities supported through the use of JFHS's resources. There are indications from a variety of publications, documentaries, and media reports that the character of JFHS's operations is substantially similar to that of organizations affiliated with the Islamic Resistance Movement, Hamas and, in fact, that JFHS affiliates and many of the organizations in the West Bank and the Gaza Strip

receiving funding from JFHS function as part of a support network for Hamas. If this concern is well-founded, the Department will be obliged to refuse registration to JFHS on public policy grounds.

Information provided by these articles, books, and documentaries which corresponds either in general terms or in specific details with the submissions you have made to us regarding the use of JFHS funds is outlined below:

- An article entitled "*Hamas: A Historical and Political Background*" written by Ziad Abu-Amr, an associate professor of political science at Birzeit University⁴, highlights the role of zakat committees in providing financial support for Hamas. A copy of this article is attached in Appendix A.
- Newspaper articles concerning Hamas claim that monies allocated for the social services sponsored by Hamas are also used to provide financial support for the families of Hamas activists and suicide bombers, and that Hamas military cells recruit from its network of schools and mosques. They also document Hamas's use of the term "martyr" to refer to suicide bombers. Copies of these articles are also attached in Appendix A.
- The documentary "Shaheed: the Making of a Suicide Bomber", recently shown on CBC's *The Passionate Eye*, examines the recruitment of suicide bombers, known as "shaheed", or martyrs for Allah. (See Appendix B.) It confirms that Hamas promises these men that their families will receive financial support. The solicitation material provided in support of JFHS's application for registration contains direct references to martyrdom and Jihad, and to the support of the widows and orphans of martyrs. Donations are sought for the "Cause of Allah", and for the families of martyrs through appeals such as "He who supports the Widow and the Poor is as the Mujahid⁵ and as the one praying by night and never exhausted, and the fasting who never breaks his fast", and "The Sponsor of the Orphan will be with me in Paradise". JFHS's commitment to providing support for the families of orphans and detainees is also evident in the submissions previously detailed regarding the allocation of funds transferred by JFHS to the Holy Land Foundation for Relief and Development, and to various zakat committees and other organizations.

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⁴ *Journal of Palestine Studies* XXII, no. 4 (Summer 1993), pp. 5-19.

⁵ We understand the term "mujahid" to mean fighter for the cause of Jihad, the Holy War.

- News reports of raids by Israeli and Palestinian security forces on organizations in the West Bank and the Gaza Strip suspected of providing operational and financial support to Hamas are contained in Appendix C. Named in these articles are the following organizations which appear to be among those identified in the application documents as having received funds from JFHS:
 - Islamic Scientific and Cultural Association, East Jerusalem
 - Islamic Association in Gaza City
 - Ramallah Zakat Committee
 - Islamic Relief Committee (also referred to as the Islamic Salvation Committee), Nazareth
 - Holy Land Foundation, East Jerusalem (agent for the Holy Land Foundation for Relief and Development, Richardson, Texas)
 - Tulkarm Zakat Committee
 - Moslem Women's Society
- *The Jerusalem Post* reported on March 18, 1996 that the Islamic Relief Committee in Nazareth had been closed down by Israeli authorities "...on suspicion that it was transferring funds to Hamas under the guise of humanitarian aid." The report states that this action was taken following investigations into the activities of the Committee lasting over a year, and leading to the arrest of deputy Umm el-Fahm Mayor Dr. Suleiman Agbariah on allegations of providing funds to families of Hamas activists. It also refers to the closure of the Jerusalem office of the Holy Land Foundation for Relief and Development. The material you have provided regarding JFHS's support for the Islamic Relief Committee in Nazareth specifically refers to its "Sponsorship Program for Orphans and Families of Martyrs", and to its "Family Sponsorship Program" under which prisoner's families are given financial support.
- The Relief Fund for Palestine and Lebanon based in London, England, and the Al Aqsa (also spelled Aksa) Fund based in Germany, Belgium and Holland, are identified in a *Jerusalem Post* report (August 8, 1997) as having been named by Israeli officials as "front" organizations for Hamas. These organizations are named in JFHS literature as its partners with the Holy Land Foundation for Relief and Development in supporting the activities of the Islamic Relief Committee in Nazareth.
- The names of two individuals identified as Hamas leaders in the news reports attached in Appendix C appear to correspond to those named by

JFHS as key figures in the distribution of JFHS monies in the West Bank and Gaza. A report from *Deutsche Presse-Agentur* on March 14, 1996, on fund-raising ties between Hamas and organizations in the U.S. identifies Fawaz Hamid, a Hamas military leader at that time incarcerated in an Israeli prison, as having received monies from The Holy Land Foundation for Relief and Development. The documentation you have provided indicates that Fawaz Hamad, Communication Officer for the Jenin and Kabatia Zakah Committees, has been responsible for overseeing a number of projects financially sponsored by JFHS. Mr. Hamad is also named in the documentation provided as having been responsible for locating office space and hiring an office manager for JFHS. Many other projects financed by JFHS have been carried out under the direction of Ahmad Alkurd, Communication Officer for the El-Salah Islamic Association in Deir el-Balah, Gaza. An *Agence France Presse* report of arrests of Hamas militants in Deir el-Balah in August, 1994, refers to the fact that a senior Hamas figure named Ahmad al-Kurd was detained for questioning by the Palestinian security forces.

- *The New York Times International* (August 16, 1995) identified the Holy Land Foundation for Relief and Development as an off-shoot of the Islamic Association for Palestine, also located in Richardson, Texas. Your September 15th submission confirms JFHS's continuing affiliation with the Holy Land Foundation for Relief and Development based in Richardson, Texas. Although it is not mentioned in any of the submissions you have made, it is evident from information found on the Internet Website for the Islamic Association for Palestine (IAP)⁶ that there is also an organizational link between the IAP and JFHS. For example, those who wish to subscribe to *Al-Akhbar*, a newsletter published by the IAP, or to make donations to support the work of the IAP, are directed to send their contributions to the IAP office in Richardson, Texas, or to the Jerusalem Fund for Human Services, P.O. Box 1628 Stn. "B", Mississauga, Ontario, L4Y 4G3.
- *The Jerusalem Post* reported May 20, 1996 on proceedings in the High Court of Justice resulting in a decree by the Israeli government shutting down the Holy Land Foundation's Jerusalem office and authorizing confiscation of all its property. Evidence was given by Israel's General Security Service that the vast majority of the funds administered by the Foundation's Jerusalem branch were made available to the families of well-known Hamas activists who had been killed, deported or imprisoned.

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⁶ Found at internet website address <http://www.iap.org/>

- Judith Miller's recent book, *God Has Ninety-Nine Names: Reporting From A Militant Middle East*⁷, recounts information given to Israeli officials by Nasser Issa Jalal al-Hidmi, a Palestinian from Jerusalem who pleaded guilty in an Israeli court to membership in Hamas. Al-Hidmi is reported to have identified both the Holy Land Foundation for Relief and Development and the Islamic Association for Palestine as providing military training for Hamas in U.S. training camps and to have named Muhammad Salah as his Hamas contact in Chicago. Ms. Miller's book also reports her direct observation, by television monitor, of Muhammad Salah's interrogation by Israeli authorities on February 11, 1993⁸. Mr. Salah provided an account of his involvement in distributing funds sent by Mousa Abu Marzook and other leaders of Hamas's political wing in the United States to its military commanders in the West Bank and Gaza. One of the details he provided was the importance to Hamas of his American citizenship. He is quoted as saying that he was chosen for this task in large part because as an American citizen he had greater freedom to move about the territories. The translation we have obtained of the qualifications for the office manager advertised by Fawaz Hamad on behalf of JFHS states that preference will be given to candidates holding Canadian or American citizenship.
- News reports concerning Mousa Abu Marzook's role in the leadership of Hamas also document his financial ties to the Holy Land Foundation in Richardson, Texas. Copies of these articles are attached in Appendix D.
- The documentary "Jihad in America", broadcast on PBS on November 21, 1994, and "The Notebook" segment of CBS's *60 Minutes* program aired November 13, 1994, both contain film footage and other information linking the Islamic Association for Palestine to Hamas. Transcripts of these programs are attached in Appendix B.
- An article published by Steven Emerson, the executive producer of the PBS documentary, provides a more detailed account of information related to Nassar Issa Jalal al-Hidmi's conviction⁹, again implicating the Holy Land Foundation for Relief and Development in recruitment and weapons training sessions for Hamas. (See Appendix D).

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⁷ Simon & Schuster, New York, N.Y., 1996, at p. 385-6.

⁸ *Supra*, footnote 7, at p. 379-85.

⁹ "The Other Fundamentalists", *The New Republic*, June 12, 1995, p 21.

Taking all of this information into account, it appears to me that there is reason for the Department to be concerned that JFHS is operating as part of a network providing organizational and financial support to Hamas, and to ask you to show that this concern is unwarranted before any further consideration is given to the application for charitable registration that has been filed.

I hope that the foregoing fully explains the concerns JFHS would have to overcome in any further submission you wish to make in this matter.

Yours sincerely,

ORIGINAL SIGNED BY
ORIGINAL SIGNÉ PAR
NEIL BARCLAY

Neil Barclay
Director
Charities Division

Attachments

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92-0721

Mr. R. Abdel-Majid
Chairman
Jerusalem Fund for Human Services
P.O. Box 1628, Station "B"
Mississauga, Ontario
L4Y 4G3

Dear Mr. Abdel-Majid:

Subject: Povrel Jerusalem Fund for Human Services (JFHS)

I am writing in response to the representations and submissions made during and after your meeting on August 14, 1998, with Mr. Bill McCloskey, Assistant Deputy Minister, Policy and Legislation Branch. These meetings and submissions were made in reply to concerns raised by our letter dated March 23, 1998, regarding your organization's application for registration as a charity. These concerns were also discussed with your representatives, Mr. Steve Dover and Mr. David Angus of the Capital Hill Group, in an earlier meeting with Mr. McCloskey on June 26, 1998.

As agreed, we have requested and received confirmation that the Israeli Ministry of the Interior granted official recognition to the Jerusalem Fund for Human Services as a registered non-profit organization on July 3, 1995, under certificate number 58-025-902-6. That fact alone, however, does not conclusively address all of the matters discussed in our previous correspondence. We note, in fact, what appear to be significant inconsistencies in your August 14th submission, as well as incongruities between these representations and other information, including information previously submitted to us in support of JFHS's application for registration.

Transfers of Funds to Other Organizations

Eligibility for registration as a charity under the *Income Tax Act* is limited to organizations that are both resident in and either created or established

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in Canada. As explained in our letter dated March 23, 1998, the statutory provisions governing the tax treatment of charitable gifts generally do not provide relief for gifts made to charities in countries other than Canada. The scheme of the *Act* allows a Canadian charity to operate abroad. However, it does not allow Canadian charities to act as intermediaries providing tax receipts to Canadian donors for gifts intended for the use of organizations in other countries, even where a Canadian charity considers the programs and activities being carried out by another organization to be consistent with its own purposes. As a matter of Canadian tax policy, an organization granted status as a registered charity must use its resources to carry on its own charitable activities, or gift funds only to certain organizations that are considered "qualified donees" under the *Act*.

I note that following their discussion of this requirement on June 26, 1998, Mr. David Angus of the Capital Hill Group wrote a memorandum to Mr. McCloskey dated July 15, 1998, stating that JFHS "...does not financially deal with any non-Canadian organizations ...(and) does not transfer cash money to any other organizations". This is reiterated in the following statements from your letter of August 14th:

"...Since 1993, JFHS has not contributed funds to any organization. JFHS funding flows directly from the organization through Israeli financial institutions to the company that is providing the goods and services....Since 1993, JFHS has never transferred funds to any other organization..."

To substantiate this, you have provided copies of a total of 8 bank transfers made during 1997 and 1998: 4 were transfers to accounts of various individuals or businesses in Gaza, Jerusalem, and the U.A.E., and 4 were transfers to the account of the Jerusalem Fund for Human Services in East Jerusalem. The latter 4 transfers represented \$37,050 (U.S.) in 1997 and \$39,180.67 (U.S.) in 1998.

You have also provided audited financial statements for the Jerusalem-based Jerusalem Fund for Human Services for the year ended December 31, 1997. The auditor's notes to these financial statements indicate that this is the entity registered by the Israeli Ministry of the Interior in 1995, that this entity did not begin operations until 1996, and that it is supported by foreign donations. These financial statements do not reflect the operations of JFHS in Canada.

According to these financial statements, the Jerusalem Fund for Human Services in Jerusalem received \$115,819 in donations in 1996, and \$241,237 in donations in 1997. The financial statements show total expenditures of \$87,735 and \$165,800, respectively, in these years for "Donations Given and Direct Expenses". These amounts are broken down in Note 6 into four categories of expenditure: Product Donations (\$57,150 in 1996 and \$92,000 in 1997); Donations to Orphans (\$30,335 in 1996 and \$31,500 in 1997); Donations to non profit organizations (\$42,300 in 1997); and Other Donations (\$250 in 1996).

This information points to several inconsistencies in your representations to us. Originally, you advised that JFHS Canada did not provide financial assistance directly to individuals, instead wiring funds to "...charitable committees and organizations that are official and registered in the involved countries and areas..." (ref. Mr. Hassen El-Falou's letter dated August 19, 1993). When we advised that this would disqualify JFHS from registration, you advised that JFHS was establishing its own office in Jerusalem, and that, in fact, "...the resources of our organization are devoted to our own activities that are directly supervised and controlled by us through our workers..." (ref. Mr. Hassen El-Falou's letter dated February 28, 1994). However, the documentation you have now provided indicates that JFHS in Jerusalem is a separate legal entity, that this separate entity is not a "qualified donee" for Canadian tax purposes and, moreover, that it turns a significant portion of the funds it receives over to other organizations.

JFHS in Jerusalem has received substantially more in donations for 1997 than can be reconciled with the bank transfer statements provided to us as representing JFHS Canada remittances to JFHS Jerusalem. Consequently, we are unable to verify that JFHS Canada provides all of the operating revenue for JFHS Jerusalem. Clearly, however, the financial statements provided document that JFHS Jerusalem makes donations to other organizations and does not expend all of the funds is receives on programs it administers directly. Accordingly, even if we were to accept the as yet unsubstantiated proposition that JFHS Jerusalem operates wholly under the direction and control of JFHS Canada and not as a legally distinct and operationally separate entity, this documentation stands in direct contradiction to your statement that JFHS Canada has not, since 1993, contributed funds to other organizations.

We again note that JFHS's constituting documents expressly provide that in pursuing its objects JFHS is empowered "(t)o co-operate with other societies and organizations whether incorporated or not, which have aims and objectives similar, in whole or in part, to the aims and objectives of the Corporation". JFHS's By-laws restate its objects as being to establish, operate and/or contribute to a relief fund...and to sponsor charitable activities benefiting and to make contributions or distributions to other organizations that qualify as tax exempt organizations (underlining added). In our view, the various submissions made to us have consistently demonstrated that these objects accurately reflect JFHS's mode of operation.

JFHS Assistance to Families of Military Activists and Suicide Bombers

Your letter of August 14th asserts that JFHS has never focused on sponsoring the families of military activists or suicide bombers, and that Revenue Canada has not provided any substantive evidence that JFHS was active in its literature to call for the sponsoring of the orphans of suicide bombers or Hamas activists.

Our letter of March 23, 1998, referred on page 8 to the fact that several of the fund-raising leaflets you have provided to us make what we consider to be clear references to Hamas activists, to martyrdom and to Jihad. As also detailed on pages 5, 6, and 9 of that letter, bank records and project materials submitted to us concerning JFHS's allocation of funds to various zakat committees and other organizations specifically refer to sponsorship programs for orphans and families of martyrs, and for the families of prisoners and deportees.

In addition to the various research materials referenced in our previous correspondence, the following sources (copies attached) provide a contextual basis for our analysis of these documents:

- an article entitled "The Islamic Legitimacy of The "Martyrdom Operations", originally published in the 16th issue of *Nida'ul Magazine* (December-January 1996-97), presenting justification within the framework of Islamic thought and scholarship for "Al-Shahada" (martyrdom) in "the cause of Allah";¹

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¹ Translation found at internet website address <http://www.ict.org.il/articles/articledet.cfm?articleid=16>.
[See Annex A]

- *The Covenant of the Islamic Resistance Movement (HAMAS) - Palestine*², and in particular, references throughout to “Jihad”, to the concept of “mutual social responsibility”, and to the Hadith cited in Article 30: “Whosoever mobilises a fighter for the sake of Allah is himself a fighter. Whosoever supports the relatives of a fighter, he himself is a fighter”;
- information published on the Hamas website acknowledging the deportation of Hamas activists to South Lebanon in December 1992³ and “The Glory Record” of Hamas martyrdom missions.⁴
- characterization, by Hamas activists and supporters, of Hamas military operations as “good deeds”⁵ or “positive works”.⁶

Specifically, based on our research, we consider the following references from the limited sample of JFHS's fund-raising materials sent to us to be solicitations in support of Hamas activists and their families:

December 24, 1992 leaflet captioned “Urgent Message”

“...You are surely aware now that 416 men were deported to Lebanon, leaving behind their families and homeland...The Jerusalem Fund for Human Services has committed to help as fast as possible...Your greatly appreciated donation will reach the needy very soon and without any delay.”

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² Found at internet website address <http://www.library.cornell.edu/colldev/mideast/hamas.htm> [See Annex B]

³ Found at internet website addresses <http://www.palestine-info.net/hamas/leaders/index.htm> and <http://www.palestine-info.net/hamas/about/index.htm>. [See Annex C]

⁴ Found at internet website address <http://www.palestine-info.net/hamas/glory/index.htm>. [See Annex D]

⁵ Quotation attributed to Bassam al-Amoush, a leader of the Jordanian Islamic Action Front, during a speech made to the 1994 MAYA conference in Chicago, as reported in the *Journal of Counterterrorism & Security International* (Summer 1998). Found at internet website address <http://www.antiterrorism.org/islam.htm>. [See Annex E]

⁶ Judith Millar's eyewitness account of Muhammad Abdel-Hamid Salah's interrogation by Israeli officials on February 11, 1993, following his arrest for distributing funds on behalf of the Holy Land Foundation for Relief and Development to organizations considered by Israeli officials to be front organizations for Hamas, as reported in *God Has Ninety-Nine Names: Reporting from a Militant Middle-East*, Simon & Shuster, New York, N.Y., 1996, at p.383. [See Annex F]

Leaflet captioned "Ramadan is the Month of Charity...Please Help your Brothers & Sisters in Palestine"

"...Ramadan is the month of good deeds...The latest scene in the tragedy of the Palestinian people is the expulsion of about 400 men from Gaza Strip and the West Bank...They are in urgent need of food, clothes, aids, and medical supplies to survive the severe weather. The hidden image of this tragedy is the situation of the families the deportees have left behind. About 2600 dependents are now without any support. They are in great need of financial assistance in order to survive the hardship they live in...With your donation, you can sponsor an Orphan or a Family..."

He who supports the Widow and the Poor is as the Mujahid and as the one praying by night and never exhausted, and the fasting who never breaks his fast. (An Authentic Hadith)..."

Brochure entitled "Jerusalem Fund for Human Services (JFHS): A Step in the Right Direction"

"...When the Israeli government expelled 416 Palestinians to southern Lebanon in December 92, the JFHS was the first Canadian relief organization to dispatch an envoy to Lebanon with emergency funds to meet the immediate needs of those expelled. At the same time emergency funds were dispersed to the occupied territories to help the 3000 dependents they were forced to leave behind..."

Leaflet captioned "Orphans Sponsorship"

"...The Prophet Muhammad (Peace Be Upon Him) said: *"The Sponsor of the Orphan will be with me in Paradise."*

The misery of the Orphan can be wiped out by a gesture of generosity made by You...Your donation is indeed for a blessed cause because it is for the Cause of Allah..."

Leaflet captioned "Yes! I Would like to support the Needy Families Project"

"...The misery of your Brothers and Sisters can be wiped out by a gesture of generosity made by You. You can help a Needy Family celebrate the Eid. Your donation can buy the members of the family food and clothes. Your donation is indeed for a blessed cause because it is for the Cause of Allah..."

Organizational Links to Hamas

Your August 14th letter states that JFHS has absolutely no ties to Hamas, and in this regard denies any affiliation with either the Holy Land Foundation for Relief and Development, located in Richardson, Texas, or the Islamic Association for Palestine, based in Dallas.

With respect to the Holy Land Foundation for Relief and Development (HLF), we find it troubling that your denial of any organizational relationship or affiliation has come only after evidence of that organization's ties to Hamas was presented in our letter of March 23, 1998. Although you advised Mr. McCloskey on August 14th that all ties with Holy Land Foundation had been severed in 1993, we note that as recently as September 15, 1997, when you sent a summary of JFHS's programs and activities to Mr. Titch Dharamsi, Special Assistant to the Honourable Herb Dhaliwal, Minister of National Revenue, you highlighted the "Holy Land Foundation for Relief and Development from Richardson, Texas" as an organization JFHS works with in related areas of interest.

There are, in addition, several other indications that JFHS and HLF are operationally affiliated. We note, for example, that JFHS's leaflet captioned "Eid Message from Palestine" refers to the fact that JFHS was formerly called "Occupied Land Fund". According to news reports, the Holy Land Foundation was called the Occupied Land Fund until 1992, when it renamed itself and moved from California to Richardson, Texas.⁷ We also note that one of the photographs provided to us of your visit in August, 1994 to projects in the West Bank and Gaza sponsored by JFHS shows a wallposter acknowledging a summer school for girls as being carried out with assistance from the "Holy Land Foundation - Canada".

JFHS and Holy Land Foundation conduct parallel fund-raising campaigns, as evidenced by the striking similarity between JFHS fund-raising appeals and those of the Holy Land Foundation. For example, both organizations claim in their fund-raising materials to have been first in providing assistance to the Hamas activists deported from Israel in 1992.⁸ Both seek pledges to support orphans and widows.⁹ Both operate a school-bag

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⁷ *The Dallas Morning News*, April 8, 1996; *The New Republic*, June 12, 1995. [See Annex G]

⁸ JFHS's brochure *A Step in the Right Direction* [See Annex H]; *The Dallas Morning News*, April 8, 1996. [See Annex G]

⁹ Interview with Ibrahim Samena, Social Services Officer of the Holy Land Foundation, as translated from 1997 IAP conference material posted in Arabic on its internet website [See Annex I]

program providing children in the West Bank and Gaza with a Student's Bag consisting of new clothes, shoes, a backpack and school supplies.¹⁰ Indeed, Holy Land Foundation for Relief and Development uses the term "Human Services" on its website expressly to refer to its sponsorship programs for Orphans, Needy Children and Family Aid.

We note that this similarity of expression extends even to statements by both organizations refuting any involvement in supporting Hamas. Several submissions made on behalf of JFHS, including your letter of August 14, 1998, stress that JFHS associates only with "...organizations they are affiliated with are recognized as registered charities by the Israeli Government...". You have also pointed out that "...funds are openly transferred through Israeli banks". These comments are virtually identical to statements made by HLF officials disavowing any ties to Hamas. Linda Miller reports that "...in March 23, 1995, Shukri A. Baker, executive director of the Holy Land Foundation, stated in a letter to me that the fund supports only charities and institutions in Israel and the territories licensed by Israel...".¹¹ Le Figaro's report of an interview with Mr. Baker notes that he countered allegations that HFL provides support to Hamas by asking, "If the Israeli Government suspected us of funding Hamas, do you really think it would let us use Israeli banks?"¹² Your letter objects to our suggestion that JFHS is linked to Hamas on the basis of the information provided in our March 23, 1998 letter indicating its association to HLF and the Islamic Association for Palestine, characterizing this information as "...guilty by association" accusations that are not well-founded...". Shortly before Israel's High Court of Justice upheld administrative orders shutting down the operations of the Holy Land Foundation as being part of the communications and economic infrastructure of Hamas¹³, Ghassan El-Ashi, one of the founders of the Holy Land Foundation and an incorporator of the Islamic Association for Palestine, labelled accusations that these organizations are linked to Hamas as "guilt by association" and as based on "very old and shabby" evidence.¹⁴

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¹⁰ JFHS appeal captioned "School Bag Project in Palestine" [See Annex J]; HLF solicitation found at internet website address <http://www.weblifepro.com/holyland/CURRPBAG.HTM>. [See Annex K]

¹¹ *Supra*, footnote 6, footnote 20 at 529. [See Annex F]

¹² March 13, 1996. Translated from original text. [See Annex L]

¹³ *The Dallas Morning News*, June 21, 1997. On March 2, 1998, *The Jerusalem Post* reported that Mohammed Othman had been arrested in December, 1997, on charges that he continued to run the local operations of the Richardson, Texas-based Holy Land Foundation, funneling funds to families of dead and jailed Hamas activists. [See Annex M]

¹⁴ *The Dallas Morning News*, April 8, 1996, Home Final Edition. [See Annex G]

Of particular note is that the following information regarding HLF's mode of operation¹⁵ corresponds closely with the project information given to us under cover of Mr. Roach's letter dated November 30, 1994, describing JFHS's role in sponsoring orphans and needy families identified by various zakat committees:

"...The Holy Land Foundation operates here as the agent of the US-based Holy Land Foundation for Relief and Development...The Jerusalem organization collects aid requests from various Arab charities and sends them to the American organization, which approves or rejects the request and decides how much aid to give to each family."

You have rejected the evidence presented in our letter dated March 23, 1998, of a link between JFHS and the Islamic Association for Palestine (IAP) on the basis that JFHS cannot control the IAP asking people, through its website, to donate to JFHS. You have also suggested that JFHS is well-known within the Muslim community, and that many organizations make similar recommendations that people direct donations to JFHS without any prior consultation with JFHS.

This does not explain why the following notice advertising JFHS's 1995 summer picnic in Toronto would be posted to the IAP website:

"The Jerusalem Funds for Human Services in Canada invites you and your family in Toronto to attend a SUMMER PICNIC. Date: Saturday - September 2, 1995, Time: 12 pm, Place: Centennial Park - Picnic Area #3. All profit from food sales will go to support charitable projects in the Holy Land. For more information please call JFHS' office at (905) 897-8772..."

We also note, in this regard, that the IAP internet advertisement for its annual convention held in Chicago on December 25 - 29, 1997, featured a picture of four men, seated together, in a manner which indicates that these are individuals who would be widely recognized as having some status within the IAP or some significant connection to it. A comparison with the pictures you have sent to us from your trip to the West Bank and Gaza in August, 1994, indicates to us that you are one of the four men in this photograph, suggesting a recognized organizational relationship between JFHS and the IAP.

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¹⁵ *The Jerusalem Post*, May 20, 1996. [See Annex N]

Particularly in view of the widely reported links between HLF and IAP¹⁶, we find it unlikely that mere chance accounts for the fact that donation appeals made through the IAP's website specifically and exclusively direct contributors to make donations for various projects or causes endorsed by the IAP to either the Holy Land Foundation in the U.S. or JFHS in Canada. In fact, using a number of different online search engines to search for references to the Jerusalem Fund for Human Services, we can find no instance where internet solicitations for JFHS originate from any website other than the IAP's.

Finally, you have commented that the "...general media reports provided as evidence by Revenue Canada do not once mention JFHS, and these reports do not provide concrete evidence of a link between JFHS and any political organization." This overlooks the fact that in addition to showing how the operations of JFHS are generally consistent with those of organizations operating in support of Hamas (e.g. the use of zakat committees), the newspaper reports attached to our March 23rd letter document that several of the organizations identified to us through JFHS's own banking records and representations as being in receipt of funds from JFHS are alleged to have links to Hamas.

I again note, for instance, that the Islamic Relief Committee (or Agency) in Nazareth, which was closed by Israeli police in March, 1996, on the basis that it was providing financial support to the families of Hamas activists,¹⁷ was one of the charity committees named in the project descriptions you provided outlining JFHS's involvement with partner organizations in sponsoring orphans. Your project questionnaire indicates that JFHS relied on reports from this and other local organizations administering these programs to determine which families would receive sponsorship assistance. The materials you provided with regard to this particular organization specifically refer to the Committee's "Sponsorship Program for Orphans and Families of Martyrs".

According to this material, "monthly salaries were allocated to these families through the sponsorship of the orphans, and these salaries were sufficient to meet the needs of the family". The material also refers to the Committee's "Family Sponsorship Program", under which prisoner's families are given financial support.

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¹⁶ In addition to various news reports (see, for example, *The Dallas Morning News*, April 8, 1996), we note that HLF is referred to as "our Foundation" in translations we have obtained of 1997 IAP conference materials posted in Arabic on its internet website. [See Annex I]

¹⁷ *The Jerusalem Post*, March 18, 1996. [See Annex O]

Also in this regard, our letter of March 23, 1998, referred to the fact that one of JFHS's fund-raising brochures names The Holy Land Foundation for Relief and Development - U.S.A, The Relief Fund for Palestine and Lebanon - London, The Jerusalem Fund for Human Services - Canada, the Al Aqsa Fund - Germany, Belguim (sic), and Holand (sic), The International Islamic Conference - London, and The Supporting Committee - France as "...sharing together in the Islamic Relief Committee in Nazareth". Information concerning Hamas published by The Interdisciplinary Center, Herzliya¹⁸, notes that, in May [1996], the "... (Israeli) Minister of Defense declared four major foundations operating in the West to be illegal associations, as part of the Hamas activity outlawed in Israel...". The four foundations named are The Palestine Relief and Development Fund (Interpal) in Great Britain, the Holy Land Foundation in the U.S.A., the Al Aqsa Foundation in Germany with branches in Belgium and Holland, and the Comite de Bienfaisance et Solidarite avec la Palestine in France.¹⁹ These appear to be the same organizations as JFHS's fund-raising brochure acknowledges as its partners in funding the Islamic Relief Committee in Nazareth.

Similarly, your submissions to us regarding JFHS's involvement in sponsoring the Ramadan Breakfast Program indicate that it undertook this project in cooperation with the Islamic Centre in Gaza. It is well documented that the leadership of the Centre, including current Hamas leaders Sheikh Ahmad Yasin and Dr. Abdel Aziz Rantisi, was instrumental in founding Hamas.²⁰

In all, our letter of March 23, 1998 identified seven organizations in receipt of financial assistance from JFHS that were named in media reports as being closed or investigated by Palestinian and Israeli security forces as having links to Hamas.

Corporate Governance

Finally, your letter of August 14, 1998 suggests that JFHS believes that its activities and objectives are similar to other registered charities in Canada. As indicated in our March 23, 1998 letter, it is highly unusual for a corporation seeking registration as a charitable organization to adopt By-Laws specifying that it "...shall have no members, of any class or designation".

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¹⁸ Found at internet website address http://www.ict.org.il/inter_ter/orgdet.cfm?orgid+13. [See Annex P]

¹⁹ See, also, *The Jerusalem Post*, August 8, 1997. [See Annex Q]

²⁰ See, for example, Ziad Abu-Amr, *Islamic "Fundamentalism in the West Bank and Gaza: Muslim Brotherhood and Islamic Jihad*, Indiana University Press, Bloomington and Indianapolis, 1994, and Dilip Hiro, *Sharing the Promised Land: An Interwoven Tale of Israelis and Palestinians*, Coronet Books, Hodder and Stoughton, 1996.

Clearly, this puts the affairs and the resources of the organization under the exclusive command of a very closely-controlled group and does not allow for the sorts of checks and balances on the operations of an organization ensured by the membership structure usually seen in registered charities. This, together with the fact that the By-Laws specify that directors need not be residents of Ontario, adds to our concerns regarding the nature of JFHS's operations.

We will be pleased to receive any further submission you wish to make providing evidence that these concerns are unwarranted. In this regard, we note that the only record you have provided of meetings held by JFHS is that of a meeting held in Jerusalem on September 21, 1995. The only information these minutes provide is that approval had been given, presumably by the three other individuals named, to add four new members to the Jerusalem organization. We have no evidence, financial or otherwise, to substantiate that the actions of the non-profit organization registered as the "Jerusalem Fund for Human Services" in Jerusalem are directed and controlled by JFHS in Canada, or to provide any other insight into decision-making with regard to the use of funds raised in Canada. We note, also, that the unaudited financial statements previously provided as reflecting JFHS's operations in 1993 and 1994 do not allow us to verify to whom disbursements of \$189,285 in 1993 and \$104,626 in 1994 recorded as "Transfers for Projects" were sent.

If we are to consider this matter further, we would ask that your submission include copies of JFHS's corporate minutes books and any other record that substantiates decisions taken by the Canadian corporation, copies of all fund-raising materials distributed in Canada by JFHS, and financial statements reflecting the full extent of transactions and operations over which the Ontario corporation "Povrel Jerusalem Fund for Human Services" has assumed legal responsibility since its incorporation on September 23, 1991, together with all supporting bank transfer statements.

Yours sincerely,
Original signed by
Original signé par
Neil Barclay

Neil Barclay
Director, Charities Division

Attachments

c.c. Mr. David Angus
The Capital Hill Group



Your file Votre référence

Our file Notre référence

92-0721

Mr. David Angus
The Capital Hill Group
300 - 66 Queen Street
Ottawa, Ontario
K1P 5C6

July 17, 2000

Dear Mr. Angus:

Subject: Povrel Jerusalem Fund for Human Services (JFHS Canada)

This is further to our meeting on July 6, 2000, during which we presented to you and your clients, Mr. Rasem Abdel-Majid and Mr. Mohamed Alkoka, conclusions as to our audit findings relating to certain previously identified concerns that remain at issue with regard to JFHS Canada's eligibility for registration as a charity under the *Income Tax Act*.

In the course of our discussions, Mr. Alkoka asked that we produce a copy of particular documentation which we had referred to as indicating to us that JFHS Canada's ties to the Holy Land Foundation for Relief and Development were not severed in 1993 as we had been told during your previous meeting with Mr. McCloskey on August 14, 1998. I enclose for your reference a copy of a letter found in JFHS Canada's records, together with the translation of this document obtained from the Multilingual Translation Directorate, Translation Bureau, Public Works and Government Services Canada.

As indicated during our meeting, the translated version of this document indicates that Mr. Abdel Majid wrote to the President of the Sanabil Association in Lebanon on April 27, 1996 to say that JFHS had decided to transfer funds to the

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Association to assist it in meeting the expenses of its Al Adahi project on the recommendation of Mr. Haytham Megawri of the Holy Land Foundation for Relief and Development. We note, in particular, that the letter advises that contact with JFHS Canada may be made directly, or through Mr. Megawri.

We also agreed to provide guidelines to assist your clients in understanding our requirements for compliance with the stipulation in paragraph 149.1(1)(a) of the *Act* that a charitable organization devote all of its resources (other than gifts made to qualified donees) to charitable activities "...carried on by the organization itself".

In our view, the legislative intent conveyed by the expression "carried on by the organization itself" in subsection 149.1(1)(a) is that an applicant organization is to be actively engaged in its own charitable activities rather than acting as an intermediary to provide tax receipts to donors for amounts transferred to other organizations or to sponsor the activities of another entity. In other words, if an applicant is to come within the meaning of paragraph 149.1(1)(a), it must have direct, effectual, and constant responsibility for undertaking the charitable activities to which its resources are applied, except in the case where a gift of those resources is made to a qualified donee as permitted by subsection 149.1(6). As we have previously explained, an arrangement whereby an applicant for charitable registration agrees to provide funding to supplement or cover the costs of programs and activities administered by another organization will not satisfy this operational test unless the organization receiving that financial support is a "qualified donee". The fact that the activities being undertaken by another organization may be consistent with the goals and objectives of the applicant is not sufficient to meet the operational requirements of section 149.1 of the *Act*.

I would draw your attention to the following publications which discuss these requirements:

- *Registered charities and the Income Tax Act* (See sections entitled "What are qualified donees?" and "Charitable Activities Outside Canada")
- *Completing the Registered Charity Information Return* (See "Lines 617 to 623")

As these publications indicate, it is possible for a registered charity to enter into structured arrangements with other parties as a means of satisfying the *Act*'s "own activities" test. These arrangements may take the form of agency agreements, contracts, or even joint ventures. Whatever the form of agreement chosen, however, the charity must be able to substantiate as a matter of fact that it has maintained on-going legal and operational responsibility for the conduct of its own activities. In other words,

it is the manner in which such an agreement has been implemented, and not simply the existence of a written agreement, that will determine whether the operational test has been met.

Written agreements should typically include **at least** the following information:

- names and addresses of all parties
- the duration of the agreement or the deadline by which the project must be completed
- a description of the **specific** activities for which funds or other resources have been transferred, in sufficient detail to outline clearly the limits of the authority given to the recipient to act for the Canadian charity or on its behalf
- provision for written progress reports from the recipient of the Canadian charity's funds or other resources, and provision for the charity's right to inspect the project on reasonably short notice
- provision that the Canadian charity will make payments by installments based on confirmation of reasonable progress and that the resources provided to date have been applied to the specific activities outlined in the agreement
- provision for withdrawing or withholding funds or other resources at the Canadian charity's discretion
- provision for maintaining adequate records at the charity's address in Canada
- in the case of agency agreements, provision for the Canadian charity's funds and property to be segregated from those of the agent and for the agent to keep separate books and records
- the signature of all parties, along with the date

Where a Canadian charity wishes to engage in a joint venture, the following are the type of factors we look for when determining whether a charity exercises on-going control over the use of its resources.

- the presence of members of the Canadian charity on the governing body of the joint venture
- presence in the field of members of the Canadian charity
- joint control by the Canadian charity over the hiring and firing of personnel involved in the venture
- joint ownership by the Canadian charity of foreign assets and property

- input by the Canadian charity into the venture's initiation and follow-through, including the charity's ability to direct or modify the venture and to establish deadlines or other performance benchmarks
- signature of the Canadian charity on loans, contracts, and other agreements arising from the venture
- review and approval of the venture's budget by the Canadian charity, availability of an independent audit of the venture and the option to discontinue funding
- authorship of procedures manuals, training guides, standards of conduct, etc. by the Canadian charity
- on-site identification of the venture as being the work, at least in part, of the Canadian charity

In order to discharge their evidentiary burden of establishing that they have met the operational requirements of the *Act*, registered charities must keep books and records that will provide a means of verifying that their resources have been devoted to charitable activities "carried on by the organization itself". In addition to copies of operating agreements and project reports, this includes all records demonstrating the charity's internal decision-making mechanisms, such as minutes of board meetings, internal communications (e.g. memoranda, facsimile transmissions), policies and procedures, as well as all relevant source documentation such as invoices and receipts. We would draw to your attention that failure to keep adequate books and records constitutes, in itself, grounds for revocation of a charity's registration.

With regard specifically to the evidence your client has provided to date concerning the legal and operational relationship between JFHS Jerusalem and JFHS Canada, we must reiterate that the fact that the Jerusalem office's operating expenses are financially subsidized by JFHS Canada does not, in and of itself, demonstrate that JFHS Jerusalem operates wholly under the corporate direction and control of JFHS Canada. As a separate and legally distinct entity, JFHS Jerusalem is presumed for Canadian tax purposes to operate under its own corporate authority and responsibility. While it is acceptable for JFHS Canada to appoint JFHS Jerusalem to act as its agent in the conduct of specific charitable activities, we would not otherwise regard the two entities as being interchangeable for purposes of implementing other forms of operating agreements.

We would add that the operational requirements of the *Act* will not be satisfied by an administrative arrangement which effectively results in JFHS Jerusalem being used to accomplish indirectly what JFHS Canada is not permitted to do directly (i.e. provide funding to non-qualified donees).

I trust that the foregoing information will assist your clients in providing a formal response to all of the issues and concerns discussed during our July 6th meeting.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'E. Vermes', with a stylized, cursive script.

Eniko Vermes
A/Director-General
Charities Directorate