



## APPENDIX B

### **International Relief Fund for the Afflicted and Needy (Canada)**

#### **Correspondence relating to CRA's suspension of IRFAN-Canada's receipting privileges**

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Tab 3 CRA Suspension Notice letter dated April 6, 2010



**BY REGISTERED MAIL**

International Relief Fund for the Afflicted and Needy  
2465 Cawthra Road, Unit 111  
Mississauga, ON L5A 3P2

BN: 885408849 RR0001  
File: 3001490

Attention: Rasem Abdel-Majid  
General Manager

**JAN 18 2010**

**SUBJECT: Proposal to Suspend Receipting Privileges  
International Relief Fund for the Afflicted and Needy-Canada**

Dear Mr. Abdel-Majid:

This letter is in reference to the audit of the books and records of the International Relief Fund for the Afflicted and Needy-Canada (IRFAN-Canada) by the Canada Revenue Agency (CRA). The audit period under review relates to the operations of IRFAN-Canada from January 2005 to the present. We are writing further to the May 6, 2009 Requirement to Provide Information and Documents (hereinafter the "Requirement"), sent by the CRA requiring IRFAN-Canada to provide books and records required for audit and examination.

We have now finished our review of IRFAN-Canada's submissions<sup>1</sup> in response to the Requirement. While we acknowledge that IRFAN-Canada has now provided a number of records either not originally contained in the books and records it maintained in Canada or not originally disclosed to us, significant deficiencies remain. The books and records provided are not a complete record of what has transpired and the CRA is experiencing difficulty in completing its audit because of insufficient or poor documentation. As such, it is our view that IRFAN-Canada has not fully met the Requirement by failing to keep and/or provide books and records required for audit and examination and is in contravention of certain provisions of the *Income Tax Act* (ITA), specifically the requirements in sections 230(2), 231.1(1), and 231.2(1). Subsection 188.2(2) of the ITA provides for suspension of the charity's authority to issue official

<sup>1</sup> IRFAN-Canada's response to the May 6, 2009 Requirement included letters dated May 26, 2009, June 4, 2009, June 25, 2009, June 30, 2009 and July 23, 2009.

receipts referred to in Part XXXV of the *Income Tax Regulations* for one year if the charity contravenes any of sections 230 to 231.5 of the ITA.

This letter provides the reasons why the CRA believes it is necessary to propose suspension of IRFAN-Canada's receipting privileges. We would point out, however, that failure to comply with, or contravention of, any of sections of 230 to 231.5 of ITA are also grounds upon which the Minister of National Revenue may propose to revoke the registration of a registered charity under subsection 168(1) of the ITA.

## **Background**

The CRA's previous audit of IRFAN-Canada's 2002 fiscal year outlined a number of non-compliance issues. Of particular concern was that a significant number of foreign organizations with which IRFAN-Canada maintained partnerships were alleged to have direct ties to Hamas, an organization listed as a terrorist entity under the *Criminal Code of Canada* on November 27, 2002.<sup>2</sup>

On December 21, 2004, we advised IRFAN-Canada that the CRA would allow the organization to maintain its registration on the basis of the organization's written undertaking<sup>3</sup> that it would no longer operate in a way that would put its resources at the disposition of organizations linked to Hamas, or any other terrorist entity. In that regard, IRFAN-Canada represented to the CRA that "*it never knowingly dealt with Hamas, nor with organizations known or credibly alleged to be controlled or directed by Hamas*". It also gave the CRA assurance that to "*avoid future dealings and misapplication of resources to unlawful organizations*", it would implement strong due diligence procedures, such as conducting background checks, and monitoring on a regular basis for any news reports dealing with closures of NGOs or listings of unlawful associations.

A key component of the CRA's ability to ensure compliance is through audit verification of a charity's books and records. In our letter of December 21, 2004, we indicated that a follow-up audit to evaluate the organization's continued compliance with the ITA may be conducted. On March 6, 2008, the CRA's current audit of IRFAN-Canada's books and records started with a preliminary site visit.

The following summary highlights the actions of the CRA and IRFAN-Canada leading up to the May 6, 2009 Requirement.

- On February 29, 2008, the CRA advised IRFAN-Canada of our intent to conduct an audit of the organization's books and records.

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<sup>2</sup> For more information on the listing of Hamas (Harakat Al-Muqawama Al-Islamiya) as a terrorist entity please see <http://www.publicsafety.gc.ca>.

<sup>3</sup> As provided to the CRA on November 19, 2004.

- On March 6, 2008, the CRA's audit of IRFAN-Canada commenced with an on-site visit to the organization's Mississauga office in order to conduct a preliminary review of the organization's controls, operations and records. The preliminary visit is a standard auditing practice. During discussions with the auditor regarding scheduling for the next visit, IRFAN-Canada requested that the audit take place during July or August in order to accommodate its accountant's schedule.
- As a courtesy to IRFAN-Canada, from March 12, 2008 to July 8, 2008, in a series of telephone calls and one on-site visit, the CRA provided the organization with guidance and clarification on issues relating to proper receipting practices and reporting on the *Registered Charity Information Return* (T3010).
- Based on our preliminary review of IRFAN-Canada's record keeping and internal controls observed in our March 6, 2008 visit, and in consideration of IRFAN-Canada's request to delay the audit until July or August, the CRA sent a letter to IRFAN-Canada on August 26, 2008, advising the organization that we required "a complete copy of IRFAN-Canada's books and records, including wire transfers or other banking documents, with respect to all projects it has undertaken in 2005, 2006 and 2007". IRFAN-Canada was asked to provide the required documentation within 60 days.
- On October 20, 2008, in a telephone conversation, IRFAN-Canada requested more time to respond to our August 26, 2008 request for books and records, and requested that the CRA instead conduct another site visit. In order to accommodate IRFAN-Canada as far as was reasonable but not delay our audit further, the CRA suggested that the organization send the information compiled to date until another on-site visit could be scheduled.
- Between October 22, 2008 and November 26, 2008, IRFAN-Canada submitted information on its Vocational Training Project in Afghanistan.
- On December 11, 2008, the CRA conducted a site visit to IRFAN-Canada's Mississauga office. At that time, more documentation was collected on IRFAN-Canada's Vocational Training Project and the auditor identified 20 to 30 other projects for review.
- During January 13-15, the CRA conducted another site visit to IRFAN-Canada's Mississauga office and photocopied documents concerning a number of these projects.
- Due to unforeseen circumstances, our lead auditor was unavailable to conduct further on-site visits for a period of time. Accordingly, on February 2, 2009, the CRA sent a letter to IRFAN-Canada requesting that it provide our office with copies of standard books and records<sup>4</sup> we had identified as being essential to our audit. IRFAN-Canada was given 30 days to provide the required documentation.

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<sup>4</sup> IRFAN-Canada was requested to provide:

- Copies of all phone bills, both cellular and land line;
- Copies of all bank statements, cancelled cheques (front and back) and wire transfers;
- Names and addresses of volunteer/employees, with copies of T4 slips, if applicable;
- Copies of all fundraising materials; and
- Copies of all minutes of meetings.

- During a February 18, 2009 telephone conversation, the CRA granted IRFAN-Canada a two-week extension to submit the required information.
- On February 25, March 5, 13, 27 and April 21, 2009, IRFAN-Canada provided the CRA with some of the information and documentation requested in our letter of February 2, 2009. IRFAN-Canada's March 27, 2009 correspondence states that the enclosed material is the "*last of the requested documents*".

The CRA's analysis of the information provided by IRFAN-Canada in response to our February 2, 2009 correspondence revealed serious deficiencies. As a result, on May 6, 2009, in accordance with section 231.2(1) of the ITA, the CRA issued the Requirement in order to obtain copies of all outstanding records requested in our February 2, 2009 correspondence. IRFAN-Canada acknowledged receipt of the Requirement<sup>5</sup> on May 12, 2009 and had 15 days from the date of service to provide the information and documentation requested therein. In consideration of IRFAN-Canada's requests for more time to submit the documentation, the CRA further accommodated the organization by allowing IRFAN-Canada to submit four separate responses<sup>6</sup> to the Requirement past the deadline set out in our letter. In its last submission, dated July 23, 2009, IRFAN-Canada maintains that it has provided:

*"...reasonably complete submissions in five out of the six areas of deficiency listed in your letter dated May 6, 2009. In the sixth area, 'Bank Statements' and 'Cancelled Cheques', we have now provided all of the Bank Statements and a majority of the cancelled cheques from foreign accounts...We are still seeking additional cancelled cheques from the years 2005 and 2006 from the Arab Bank and the Housing Bank for Trade and Finance."*

### **Grounds for Suspension Proposal**

Section 230(2) of the ITA requires that every registered charity keep books and records of account at an address in Canada recorded with the Minister containing information in such form as will enable the Minister to determine whether there are any grounds for the revocation of its registration. This requirement has not been met by IRFAN-Canada, as evidenced by its own record of correspondence relating to compliance with the May 6, 2009 Requirement.

In addition, despite our repeated attempts to obtain copies of IRFAN-Canada's books and records, deficiencies remain in the documentation submitted by IRFAN-Canada in response to the Requirement. The following

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<sup>5</sup> The Requirement was sent via registered mail.

<sup>6</sup> IRFAN-Canada response to the May 6, 2009 Requirement includes letters dated May 26, 2009, June 4, 2009, June 25, 2009, June 30, 2009 and July 23, 2009.

paragraphs will detail these deficiencies and provide our comments regarding IRFAN–Canada’s representations relating to the deficiencies.

#### Canadian Phone Bills

While IRFAN–Canada has provided the majority of its telephone statements for its Canadian accounts, some statements for its Telus Mobility and Toll-Free accounts are missing.

- a) Telus Mobility number 613-282-3214 account statements for June 2006 and December 2008 have not been provided. IRFAN–Canada’s representation in this regard is that it is unable to obtain a copy of the December 2008 statement as this account was registered in the name of \_\_\_\_\_ and he is currently out of the country. According to information submitted in relation to its employees, \_\_\_\_\_ ceased being employed by IRFAN–Canada in December 2005. Therefore, it is unclear to us when or if \_\_\_\_\_ i stopped using this phone and why IRFAN–Canada has continued to pay for the service when the phone is registered in \_\_\_\_\_ name. We have not been provided with any representation regarding the missing June 2006 statement.
- b) Toll-free number 886-694-7326 account statements for June to September 2005 and October 2006 have not been provided. We have considered IRFAN–Canada’s representation that it believes statements for this account were issued only when the service was used. However, our analysis of the phone records indicates that the service appears to have been used between June and September 2005 and in October 2006. The October 2005 statement and the November 2006 statement both show a carry-forward amount from previous charges. The fact that the Bell Telephone statements do not contain a monthly user fee for this service would suggest that this phone line was used during these periods.

While we have considered IRFAN–Canada’s representations, it is a fundamental requirement that a registered charity maintain proper documentation to support expenses incurred in the conduct of its operations. In this regard, IRFAN–Canada should hold in its possession copies of all cellular bills paid by it.

#### Foreign Phone Bills

While IRFAN–Canada has provided some statements for its current and past foreign-based phone lines, it is missing statements for its current Al-Ram office fax number, the former Jerusalem office phone number, and the mobile number for former employee Khaled Abu Kaff, who was responsible for managing its operations in Jerusalem and throughout the region. Further, the majority of the statements that were provided are deficient in that they are missing pages or the photocopying is of such poor quality that we are unable to determine the total number of pages in the statement. This makes it impossible to verify the use of these accounts.

- a) Numerous account statements for IRFAN–Canada’s current Al-Ram office fax number 2409472 are deficient in that the statements appear to be missing page numbers and/or a summary of charges.<sup>7</sup> No admission of these deficiencies or explanation for them has been offered.
- b) Account statements for IRFAN–Canada’s current Al-Ram office phone number 2409471 are all deficient. Of the eight statements provided (covering the January 2008 to April 2009 timeframe) all are incomplete in that they are missing either page numbers or the summary of charges. IRFAN–Canada again has not provided any representation regarding the failure to provide complete statements for this account.
- c) Account statements for IRFAN–Canada’s former Jerusalem office phone number 26275408 are missing from January to March 2005. In addition, the two statements that were submitted for April and May 2005 are both missing a page. IRFAN–Canada’s representation regarding the outstanding statements was that they have been misplaced.
- d) Account statements for IRFAN–Canada’s former Jerusalem office phone number 2342836 from January 2005 to December 2007 are deficient in that all statements appear to be missing pages. IRFAN–Canada has not provided the CRA with any representation regarding the failure to provide complete statements for this account.
- e) Account statements for IRFAN–Canada’s former Jerusalem office fax number 2342826 from January 2005 to December 2007 are deficient in that all but one statement (May – June 2005) are missing pages. IRFAN–Canada has not provided any representation regarding the failure to provide complete statements for this account.
- f) Account statements for mobile phone number 52-639871, registered to IRFAN–Canada’s former Jerusalem office manager Khaled Abu Kaff, are deficient in that statements for January, February and October 2005 and July to September 2006 are missing. Further, all statements that were provided contain only the first page. IRFAN–Canada has not provided the CRA with any representation regarding the failure to provide complete statements for this account.

In summary, IRFAN–Canada has failed to provide complete records of its phone and fax account statements outside of Canada. In addition to the outstanding statements, the majority of the account statements provided were incomplete in that only partial statements were provided for all but six statements<sup>8</sup> for IRFAN–Canada’s current and past foreign phone and fax accounts covering the audit period from January 2005 to present. The absence of complete statements prevents the CRA from assessing whether

<sup>7</sup> Statements for April, June, August, October, November and December 2008 appear to be incomplete.

<sup>8</sup> A complete statement was provided for the May-June 2005 former Jerusalem Office fax number 02-2342826. Five complete statements were provided for IRFAN–Canada’s current Al-Ram office fax number 02-2409472 including September 2008 and January to April 2009.

IRFAN–Canada has complied with its undertaking not to conduct its operations in association with individuals and organizations linked to Hamas or other terrorist entities.

#### Canadian Bank Accounts

As detailed below, IRFAN–Canada failed to provide records pertaining to the closure of its accounts held at the TD Canada Trust Bank. In our May 6, 2009 Requirement, the CRA requested that IRFAN–Canada provide copies of missing bank statements and cancelled cheques from December 1, 2006 to the present for its TD Canada Trust Bank Account numbers . . . and

. . . In its May 26, 2009 correspondence, IRFAN–Canada’s representation in this regard was that its TD Canada Trust Bank accounts were “*closed December 13, 2006 and hence any ‘missing bank statements’ from December 1, 2006 to present’ is not applicable*”. Please refer to Appendix A for a complete listing of outstanding information pertaining to Canadian Bank accounts. In this respect, we note that:

- a) A third party Requirement issued by the CRA to the TD Canada Trust for bank account . . . revealed that account statements continued from December 1, 2006 to January 15, 2007. We also note that IRFAN–Canada issued 64 cheques totalling \$966,676.87 from this account after December 1, 2006. IRFAN–Canada’s representation regarding the closure of this account is inaccurate, as it failed to disclose any cancelled cheques or statements past December 1, 2006.
- b) A third party Requirement issued by the CRA to the TD Canada Trust for bank account . . . reveals that account statements continued from December 1, 2006 to January 15, 2007. While we note that this account was inactive except for the administrative transfers of funds to TD Canada Trust account . . . , IRFAN–Canada’s representation that this account was closed on December 13, 2006 was inaccurate.
- c) A third party Requirement issued by the CRA to the TD Canada Trust for bank account . . . reveals that account statements continued from December 1, 2006 to January 15, 2007. We also note that IRFAN–Canada wrote one cheque after December 1, 2006 from this account for \$6,375. IRFAN–Canada’s representation regarding the closure of this account is inaccurate, as it failed to disclose the cancelled cheque and statements past December 1, 2006.

IRFAN–Canada has failed to provide complete records for its TD Canada Trust bank accounts. Although the CRA was able to obtain missing information through a third party Requirement, IRFAN–Canada withheld information that was requested in the Requirement and that is an essential aspect of our current audit. We note that IRFAN–Canada made representations to us that “*any ‘missing bank statements’ from December 1, 2006 to present’ is not applicable*” despite having conducted nearly 1 million dollars in transactions on its TD Canada Trust accounts since that date, thereby disregarding the need to comply with the Requirement.



Moreover, IRFAN-Canada's representations regarding the closure of these accounts on December 13, 2006, contradict its own minutes of its December 19, 2006 Board of Directors' meeting. According to the minutes, IRFAN-Canada's accounts held at TD Canada Trust were to be closed, at the bank's request,<sup>9</sup> by December 13, 2006. However, after negotiations by IRFAN-Canada's Legal Counsel, TD Canada Trust extended the deadline to January 13, 2007.

### Foreign Bank Accounts

We note that, despite the fact that virtually all of IRFAN-Canada's operations other than fund-raising take place outside Canada, it did not disclose records related to any of its foreign bank accounts on its own accord.<sup>10</sup> The existence of these accounts became apparent only as a result of our analysis of the audit information compiled to that point and through our analysis of publicly available information. In addition, our audit has since revealed two additional accounts previously undisclosed to the CRA and for which IRFAN-Canada has failed to provide any information.

IRFAN-Canada has failed to provide complete information for 8 out of the 12 bank accounts that it disclosed in response to the Requirement and a significant number of known cancelled cheques are still outstanding.

We note, in particular, deficiencies with respect to Jordanian currency accounts. For example, IRFAN-Canada has not provided any statements for its

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<sup>9</sup> The following is an excerpt from the minutes of IRFAN-Canada's Board of Directors' meeting of December 19, 2006.

"TD-CT has taken a unilateral action by requesting that IRFAN-Canada close their accounts by December 13, 2006. The deadline was extended to January 13, 2007 through negotiations with our Legal Counsel. TD-CT reason for such action is that they do not retain accounts where source and destination of funds cannot be easily identified by the Bank. Our Legal Counsel expressed our concern and stated to the Bank that IRFAN-Canada is willing to sit down with the Bank and discuss the funds issue. The Bank refused to give IRFAN-Canada the opportunity to justify the acceptance of such funds and track the source and destination."

<sup>10</sup> The following summarizes the CRA's actions with regard to our attempts to gain access to records pertaining to IRFAN-Canada's foreign bank accounts.

- On February 2, 2009, the CRA requested IRFAN-Canada provide, in addition to other standard books and records, copies of all bank statements from January 2005 to present.
- IRFAN-Canada, in its response to our February 2, 2009 request for books and records, failed to provide any account statements for its foreign bank accounts or complete copies of bank statements for six out of its eight Canadian bank accounts.
- As a result of these deficiencies, the May 6, 2009 Requirement directed IRFAN-Canada to provide, without limiting the generality of the Requirement, copies of all outstanding bank statements and cancelled cheques. In the Requirement, we listed five foreign accounts that we were able to identify through our analysis of the audit information compiled to that point and through our analysis of publicly available information. Specifically, we noted that IRFAN-Canada had not provided any statements or cancelled cheques for its USD and NIS accounts with the Cairo-Amman Bank, the USD and NIS account with the Arab Bank and one account at the Housing Bank for Trade and Finance.
- In response to the May 6, 2009 Requirement, IRFAN-Canada advised the CRA in its May 27, 2009 letter, that in addition to the accounts outlined in the Requirement letter, it had three additional accounts at the Arab Finance House, one additional Jordanian currency account at the Arab Bank and one additional account at the Housing Bank for Trade and Finance.

Jordanian currency accounts held at the Cairo-Amman Bank and the Housing Bank for Trade and Finance. This is especially troubling and presents a serious obstacle to the CRA's audit of IRFAN-Canada's operations. In this regard, there is no indication from IRFAN-Canada's 2006 to 2008 annual information returns that it undertook any programs in Jordan. Importantly, however, Jordan is the location of the political headquarters of Hamas, which is reported to oversee the activities of the rest of the movement's various component parts.<sup>11</sup>

IRFAN-Canada did not disclose, or provide any bank statements or cancelled cheques for, account                      held at the Hapoalim Bank. Our previous audit of IRFAN-Canada's 2002 fiscal year found that this account, under the name of Jerusalem Fund for Human Services,<sup>12</sup> was used by IRFAN-Canada on a regular basis to transfer funds to its Jerusalem office and to issue cheques for its projects. This was, in fact, the account associated with the majority of the transfers and cheques provided to partner organizations designated as "unlawful organizations" in 2002 or otherwise alleged to have direct links to Hamas. It would appear that this account was still active and under the control of IRFAN-Canada during the current audit period, given that IRFAN-Canada transferred funds into this account from its Arab Bank NIS account<sup>13</sup> on at least two occasions in 2005.<sup>14</sup> We also note that IRFAN-Canada's former office manager, Khaled Abu Kaff, had signing authority over both of these accounts.

IRFAN-Canada submitted an account statement for Arab Bank account                      <sup>15</sup> in which the last three digits of the account number, representing a particular sub-account, were crossed out by hand and replaced with 510.

Our analysis<sup>16</sup> of the account statements for                      indicates that all statements for this sub-account were provided by IRFAN-Canada and that this single page statement does not belong to that sub-account. We suspect, therefore, that this statement relates to an additional undisclosed IRFAN-Canada account held at the Arab Bank.

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<sup>11</sup> Levitt, Matthew, *"Hamas: Politics, Charity and Terrorism in the Service of Jihad"*, Harrisonburg: Yale Press and the Washington Institute for Near East Policy, (2006).pages 10-11.

<sup>12</sup> On February 24, 2001, IRFAN-Canada's Board of Directors passed a resolution that it would enter into an agreement with Jerusalem Fund for Human Services to "assume and carry out all the current pursuits and activities" of that organization.

<sup>13</sup> Account number

<sup>14</sup> Cheque number 30030185 on February 2, 2005 and cheque number 30030341 on March 9, 2005.

<sup>15</sup> The account statement is dated 23/06/2005 and contains only one page.

<sup>16</sup> Our analysis is based on the statement of account date, the first transaction recorded on each statement (as indicated in the Particulars section of the statement by the letters B.C.F.) and the balance from the previous statement of account. In this regard, we note that the statement of account date 25-05-2005 for sub-account                      is carried forward to the B.C.F. entry on the following statement of account date 31-07-2005. According to this sequencing pattern the insertion of the altered sub-account statement dated 23-06-2005 between these two above-noted statements does not fit in the identified pattern as being part of the                      sub-account.

As detailed in Appendix B,<sup>17</sup> we note the following deficiencies in information provided for the foreign bank accounts that we have so far been able to identify.

#### Arab Bank

- a) Arab Bank account (USD) is missing cheque number 20854782 in the amount of 3,750.00 USD.
- b) The Arab Bank account (NIS) is missing eight cheques totalling NIS 179,660.47.

IRFAN–Canada’s representations regarding these outstanding cheques was that it was still seeking cancelled cheques and that the bank is providing their best efforts to produce the balance of the cancelled cheques. We would point out, however, that section 230(2) of the ITA requires that all such records be maintained at an address in Canada so that they are readily available for audit and verification of the organization’s continued eligibility for registration.

#### Housing Bank for Trade and Finance

- a) The Housing Bank for Trade and Finance account (NIS) is missing 40 cheques totalling NIS 162,779. IRFAN–Canada advised the CRA that it was missing 39<sup>18</sup> cheques and that the Housing Bank for Trade and Finance has so far refused to cooperate in providing these cancelled cheques.
- b) The Housing Bank for Trade and Finance account (USD) is missing 11 cheques totalling 32,046.00 USD. IRFAN–Canada advised the CRA that it was missing the 11 cheques and that the Housing Bank for Trade and Finance has so far refused to cooperate in providing them.
- c) The Housing Bank for Trade and Finance account (JOD) is missing all account statements from January 1, 2005 to present and at least four cheques totalling JOD 8,395.00. While IRFAN–Canada provided seven cheques for this account, and acknowledged that four cheques are still outstanding, no representation was provided for cheque numbers 1004, 1008, 1009 and 1010. IRFAN–Canada has not provided any representation as to why it has not submitted any statements for this account. Further, the lack of bank statements for this account makes it impossible to verify IRFAN–Canada’s representations regarding outstanding cheques.

#### Cairo Amman Bank

- a) The Cairo Amman Bank account (USD) is missing 21 cancelled cheques totalling USD 37,335.00. IRFAN–Canada advised the CRA that only eight cheques were still outstanding and that any remaining cheques “*were either rejected or not negotiated*”. We find

<sup>17</sup> Appendix B does not include the Arab Bank account ).

<sup>18</sup> IRFAN–Canada did not disclose any information on cheque number 30001097 for 415.00 NIS.

IRFAN–Canada’s representations that any remaining cheques were either rejected or not negotiated difficult to accept as all of the outstanding cheques have cleared the bank and, according to bank statements provided by IRFAN–Canada, have not been cancelled or rejected. Thus IRFAN–Canada’s representation in this regard appears to be inaccurate and misleading.

- b) The Cairo Amman Bank account (NIS) is missing 22 cancelled cheques totalling NIS 53,760.00. IRFAN–Canada advised the CRA that only 11 cheques were still outstanding and that any remaining cheques “*were either rejected or not negotiated*”. However, according to our analysis of the bank account statements provided by IRFAN–Canada, all of the 22 missing cheques have been negotiated by the bank. While we considered IRFAN–Canada’s representation that the remaining cheques were either rejected or not negotiated, we were only able to accept this reasoning for two cheques which were not included in the 22 missing cheques noted above.<sup>19</sup> Again, IRFAN–Canada’s representation in this regard appears to be inaccurate and misleading.
- c) The Cairo Amman Bank account (JOD) is missing all account statements from January 1, 2005 to present and two cheques totalling JOD 1,003.00. IRFAN–Canada advised the CRA that only two cheques were still outstanding and that any remaining cheques “*were either rejected or not negotiated*”. We are unable to assess IRFAN–Canada’s representation in this regard, as the organization has not provided any statements for this account. No representations were given as to why we have not been provided with any statements for this account.

The failure to provide all foreign cancelled cheques raises serious concerns as we are unable to verify the nature and recipients of these payments. We find it difficult to understand IRFAN–Canada’s representation that it is unable to produce copies of certain cancelled cheques because foreign banks are not cooperating given that IRFAN–Canada was, in fact, able to provide a number of cancelled cheques for the institutions it claims are not cooperating. Moreover, it is IRFAN–Canada’s responsibility to maintain proper books and records to allow verification of its operations outside Canada.

#### Foreign Volunteers and Employees

IRFAN-Canada’s representation to the CRA regarding its foreign volunteers was that “*we do not solicit for nor do we have any foreign volunteers that we direct or control*”. We note, however, that IRFAN-Canada advised the CRA in November 2004 that its Advisory Committee at its Jerusalem office consisted of its Office Manager (Mr. Khaled Abu Kaff) and three volunteers,<sup>20</sup> and that the role of this Committee “is to provide IRFAN with recommendations for projects”. IRFAN-Canada has not provided any information as to the current members of its Advisory Committee.

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<sup>19</sup> We would agree that cheque number 322 and 382 were not negotiated by the bank.

<sup>20</sup> As noted in IRFAN-Canada’s November 19, 2004 letter to the CRA.

However, we note that Dr. Raed Nassri Hamadah, one of the previously appointed members to the Advisory Committee, still appears to be actively involved with IRFAN-Canada in that he co-signs cheques issued from IRFAN-Canada's foreign bank accounts. IRFAN-Canada's representation that it does not have any foreign volunteers does not appear to be accurate in view of the description given of the role of its Advisory Committee in November 2004.

IRFAN-Canada provided limited information concerning its foreign employees Khaled Abu Kaff and Fahad A. F. R. Sheikh. Although IRFAN-Canada notes that the information appears to contain "*at least one error in address*", it failed to provide the correct information. IRFAN-Canada has also failed to disclose any information regarding seven additional persons outside of Canada for whom it has made salary expenditures. As outlined in Appendix C, our analysis of IRFAN-Canada's wire transfers and foreign cancelled cheques provided to date indicates that IRFAN-Canada made salary payments to at least four full-time employees and three part-time employees from January 1, 2005 to present.

IRFAN-Canada's representation regarding its foreign employees was that it "*only had two foreign employees during this period, of which only one is currently employed*" and "*direct wire transfers to other individuals were for short term contracted services or casual [sic] labour such as for distribution of food packages. These persons would not be considered employees or volunteers*".

The *Registered Charity Annual Information Return, Form T3010*, requires a registered charity to fully disclose compensation paid to all full and part-time employees, including all forms of salaries, wages, commissions, bonuses, fees honoraria, etc.<sup>21</sup> Consistent with this reporting requirement, it is our view that the information submitted by IRFAN-Canada in response to the Requirement should have included all of the people for whom it incurred salary expenses, including the four full-time employees and the three part-time employees named in Appendix C. It appears to us that IRFAN-Canada's representation that it only had two foreign employees during the audit period is not valid and that IRFAN-Canada withheld information from the CRA regarding persons in its employ for the conduct of its activities outside Canada.

#### Meeting Minutes

An essential component of a charity audit is the ability to review and analyze an organization's meeting minutes in order to gain a proper understanding of the conduct of the organization's affairs. These records provide important information that is necessary to document matters such as the organization's operational focus and

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<sup>21</sup> Reference is made to the CRA publication *T4033A – Completing the Registered Charity Information Return* and section D of the *Registered Charity Information Return -T3010*, where a registered charity is required to provide information on compensation for persons (employees) working full-time or part-time for a registered charity including all forms of salaries, wages, commissions, bonuses, fees honoraria, etc., plus the value of taxable and non-taxable benefits.

who exercises decision-making power over the use of its human, physical, and financial resources. Recognizing the importance of maintaining records that reflect decision-making in an organization, *Income Tax Regulation* 5800(1) requires that a registered charity retain copies of any record of the minutes of meetings of its executive or members for at least two years beyond the date on which its registration is revoked.<sup>22</sup>

IRFAN-Canada has reported expenditures in excess of 27 million dollars in resources for the 2005 to 2008 timeframe alone,<sup>23</sup> and operates more than 30 projects outside of Canada, yet our analysis of the minutes submitted by IRFAN-Canada for its Board of Directors' meetings indicates that board meetings are held only sporadically. In fact, there have been only seven<sup>24</sup> such meetings held since January 2005. In this regard, we have very little in the way of documentation to reflect how and by whom key operational decisions are being made. The lack of regular board meetings and cursory nature of the record of discussions strongly suggest that the directors of the corporation do not exercise meaningful control over its affairs. We note, for example, that there is little if any discussion of the recommendations for project funding and no record of discussion of any due diligence process relating to new projects/partners.

According to IRFAN-Canada's November 19, 2004 letter to the CRA, it is its foreign Advisory Committee that provides the Board of Directors with recommendations for projects in the West Bank. However, IRFAN-Canada has not provided any minutes for its Advisory Committee meetings. In this regard, it would appear to us that in order to provide IRFAN-Canada's Board of Directors with recommendations, the Advisory Committee would have to conduct meetings to discuss potential partners and projects. We would expect that these discussions would play a major part in how the Advisory Committee decides which projects and/or potential partners to recommend to IRFAN-Canada, including background information on the projects/partners and discussions relating to due diligence checks on potential partners that IRFAN-Canada undertook to perform as a result of our previous audit.

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<sup>22</sup> Regulation 5800 (1) requires a registered charity to maintain copies of meeting minutes.

For the purposes of paragraph 230(4)(a) of the Act, the required retention period for records and books of account of a person are prescribed as follows:

(d) in respect of

- i) Any record of the minutes of meetings of the executive of a registered charity or a registered Canadian amateur athletic association,
- ii) Any record of the minutes of meetings of the members of a registered charity or a registered Canadian amateur athletic association...

The period ending on the day that is two years after the date on which the registration of the registered charity... under the Act is revoked.

<sup>23</sup> This amount includes gifts in kind and revenue for the fiscal years 2005 to 2008 as reported in IRFAN-Canada's *Registered Charity Annual Information Return* and financial statements.

<sup>24</sup> Board of Director Meetings were held on April 6, 2005, December 19, 2006, December 21, 2006, March 31, 2007, September 8, 2007, August 17, 2008 and April 19, 2009. We note that IRFAN-Canada has not yet provided the CRA with a copy of the April 19, 2009 minutes.

IRFAN–Canada has also failed to provide any information or explanation for five teleconference meetings held on March 14, 2005, December 21, 2006, June 26, 2007, August 20, 2007 and August 27, 2007. Although IRFAN–Canada provided its representations for its July 9, 2007 teleconference meeting, no representations were provided for the remaining meetings other than to note that the service was used to connect people for business purposes.

The absence of regular board meetings points to the operational importance of the five teleconference meetings. According to IRFAN-Canada, the teleconference meetings, all moderated by its General Manager, Rasem Abdel-Majid, were held to “*connect people for business purposes*”. The minutes from these meetings would represent important matters of business and would have given a more accurate picture of how the affairs of the organization are transacted. They would, for example, have reflected the nature and intended purpose of IRFAN-Canada’s business dealings, what relationships have been developed, and who, effectively, exercises ultimate control over the arrangements or transactions.

The lack of documentation with respect to IRFAN-Canada’s Advisory Committee meetings and its teleconference meetings limits the CRA’s ability to fully assess the organization’s operations. It is our view that these records should have been kept and made available to us in accordance with the requirement under paragraph 230(2)(a) of the ITA that a registered charity keep “information in such form as will enable the Minister to determine whether there are any grounds for the revocation of its registration under this Act”.

### **Seriousness of Concerns Regarding Non-Compliance**

#### Protecting the Integrity of the Tax System and Public Confidence in the Charitable Sector

Ensuring that registered charities continue to merit registration under the ITA is essential to maintaining the confidence of Canadians in the fairness and integrity of the registration system for charities under the ITA and of our tax system overall. Audits are conducted as a means to verify ongoing compliance with the ITA and whether an organization continues to meet registration requirements. The ability to conduct a meaningful audit is particularly important when there are concerns that an organization that is registered as a charity may be operating in a manner that lends support to terrorism.

It is well established at law<sup>25</sup> that purposes that offend public policy are not charitable. In this regard, it is very clear that Canada’s commitment to combating terrorism extends to preventing organizations with ties to terrorism from benefiting from the tax advantages of charitable registration.

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<sup>25</sup> See *Everywomen’s Health Centre Society (1988) v. (Minister of National Revenue)* [1992] 2 F.C. 52 and *Canadian Magen David Adom for Israel v. Canada (Minister of Revenue)* 2002 FCA 323

### Canada's Public Policy Commitment to Combat Terrorism

Canada, as a Member State of the United Nations and State Party to the United Nations Charter, is legally obliged to give effect to measures imposed by binding resolutions of the Security Council. On September 28, 2001, the United Nations Security Council passed Resolution 1373, binding all UN members to take action against those who commit terrorist acts and their supporters.

Under Resolution 1373, States are called upon to:

1(d) Prohibit their nationals or any persons and entities within their territories from making any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts, of entities owned or controlled, directly or indirectly, by such persons and of persons and entities acting on behalf of or at the direction of such persons; [and]

2(a) Refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts...

The *Regulations Implementing the United Nations Resolutions on the Suppression of Terrorism* (RIUNRST)<sup>26</sup>, made in 2001 under the *United Nations Act*, and amendments to the *Criminal Code* made under the *Anti Terrorism Act* (ATA),<sup>27</sup> represent Canada's implementation of Resolution 1373. The RIUNRST creates a Canadian list of terrorist individuals and entities, provides for an assets freeze of those listed, and makes it illegal to raise funds on their behalf. The *Criminal Code* provides a process to list and apply appropriate criminal measures to entities listed as terrorists (or associated to terrorism).

Canada further committed to introducing measures to prevent the financing and support of terrorism when it ratified the United Nations *International Convention for the Suppression of the Financing of Terrorism*<sup>28</sup> on February 19, 2002. The Convention emphasized the need to cut off all means of financial support for terrorists and specifically referred to the need to address the role played by charities in the international support network of some terrorist groups. In this regard, the preamble to the Convention recalls General Assembly Resolution 51/210<sup>29</sup>, which calls upon all States:

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<sup>26</sup> October 2, 2001

<sup>27</sup> December 18, 2001

<sup>28</sup> The *International Convention for the Suppression of the Financing of Terrorism* was adopted by the United Nations General Assembly on December 10, 1999.

<sup>29</sup> December 17, 1996



3 (d) To investigate, when sufficient justification exists according to national laws, and acting within their jurisdiction...the abuse of organizations, groups or associations, including those with charitable, social or cultural goals, by terrorists who use them as a cover for their own activities; and

3(f) to take steps to prevent, and counteract, through appropriate domestic measures, the financing of terrorists and terrorist organizations, whether such financing is direct or indirect through organizations which also have or claim to have charitable, social or cultural goals...

The passage of the ATA enabled Canada to fully implement these international obligations and introduced measures aimed at suppressing terrorism and support for terrorism in Canada. As mentioned above, a central feature of the ATA is the ability of the Government of Canada to list terrorist entities under the *Criminal Code*. The listing of an entity is a very public means of identifying a group or individual as being associated with terrorism.<sup>30</sup> Under this process, Hamas was listed as a terrorist entity on November 27, 2002. The ATA also recognized the role and importance of protecting the integrity of the registration system for charities under the ITA in a concerted government effort to deny support to terrorism.<sup>31</sup>

Canada is also a member of the Financial Action Task Force (FATF).<sup>32</sup> FATF has made a number of recommendations on combating the financing of terrorism,

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<sup>30</sup> Section 83.05

<sup>31</sup> Part 6 of the ATA enacted the *Charities Registration (Security Information) Act*. The purpose and principle of this Act are stated as:

**Purpose**

2(1) The purpose of the Act is to demonstrate Canada's commitment to participating in concerted international efforts to deny support to those who engage in terrorist activities, to protect the integrity of the registration system for charities under the *Income Tax Act* and to maintain the confidence of Canadian taxpayers that the benefits of charitable registration are made available only to organizations that operate exclusively for charitable purposes.

**Principles**

(2) This Act shall be carried out in recognition of, and in accordance with, the following principles;

(a) maintaining the confidence of taxpayers may require reliance on information that, if disclosed, would injure national security or endanger the safety of persons; and

(b) the process for relying on the information referred to in paragraph (a) in determining eligibility to become or remain a registered charity must be as fair and transparent as possible having regard to national security and the safety of persons.

<sup>32</sup> The Financial Action Task Force (FATF) is an inter-governmental body that develops and promotes national and international policies to combat money laundering and terrorist financing. Some 31 countries and territories and two regional organizations currently are FATF members. FATF plays a key role in setting uniform financial standards to combat terrorist financing. It has issued nine Special Recommendations to combat terrorist financing, which Canada has implemented.

including Special Recommendation VIII which states that countries should take measures to ensure that charities cannot be misused:

- by terrorist organizations posing as legitimate entities;
- to exploit legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset freezing measures; and
- to conceal or obscure the clandestine diversion of funds intended for legitimate purposes to terrorist organizations.

#### IRFAN-Canada's Non-Compliance

IRFAN-Canada's failure to maintain and to make available standard books and records requested in our May 6, 2009 Requirement presents serious obstacles to the CRA's current audit of IRFAN-Canada and our ability to verify compliance with the requirements for its continued registration as a charity. This is of crucial concern given our 2002 audit of IRFAN-Canada, which indicated that a significant number of foreign organizations with which the organization maintained partnerships had direct ties to Hamas. IRFAN-Canada's failure to maintain complete books and records in Canada and its non-compliance with the May 6, 2009 Requirement seriously inhibits our ability to determine whether the organization's resources continue to be used in a manner that lends support to Hamas or other organizations engaged in terrorism.

The following matters underscore the need for the CRA to address this question in a serious and comprehensive manner.

#### IRFAN-Canada listed as an Unindicted Co-Conspirator in the Holy Land Foundation for Relief and Development trial

On November 24, 2008, five former officials of the Holy Land Foundation for Relief and Development (HLF) were convicted on all counts of the terror financing case by the United States government. The federal prosecution's Second Supplemental Trial brief provides the following description of the HLF:

*The defendant Holy Land Foundation (HLF)... was an integral part of the Hamas social infrastructure. Not only did HLF operate to support the Hamas agenda, but it was created for that purpose...The defendant HLF's role was to subsidize Hamas' vital social recruitments and rewards program designed to win the hearts and minds of the Palestinian population and solidify loyalty to Hamas. In order for Hamas to achieve its objectives, it had to win the broad support of the Palestinian population, and it needed a way to bring in large amounts of cash from abroad. The defendant HLF set out to do both. Moreover, the HLF did not embark on this mission alone. Throughout the world, organizations similar*

*to the HLF were being established to achieve the same mission of supporting Hamas.*<sup>33</sup>

Evidence submitted by federal prosecutors in support of their case against the HLF included a List of Unindicted Co-conspirators and/or Joint Venturers.<sup>34</sup> Among the list of Unindicted Co-Conspirators, IRFAN-Canada is listed as an “individual/entities that are and/or were part of the Global HAMAS financing mechanism”.

It is striking to us that we can find no reference in any of the minutes from the Board of Directors’ meetings pertaining to the listing of IRFAN-Canada as an Unindicted Co-Conspirator in the HLF trial.

#### Actions by the Israeli Government

Our recent research has revealed that on December 30, 2004, immediately following the closure of our previous audit, IRFAN–Canada was itself declared an “unlawful association”<sup>35</sup> by the Israeli Minister of Defence, pursuant to the *Defence (Emergency) Regulations (State of Emergency) 1945*. Despite its November 19, 2004 undertaking to us, the matter of its declaration as an “unlawful association” by the Israeli Minister of Defence has never been disclosed to us by IRFAN-Canada, either at the time of this declaration, or during the course of our current audit.

We also note that since the December 2004 listing of IRFAN–Canada as an unlawful association, the Israeli Minister of Defence has also issued a Seizure Order against IRFAN–Canada on October 25, 2007 and, as recently as April 15, 2008, a Confiscation Order. IRFAN-Canada has offered us no information in this regard.

Again, it is striking to us that we can find no reference in any of the minutes from the Board of Directors meetings pertaining to the Israeli government’s declaration of IRFAN-Canada as an unlawful association or the subsequent Seizure and Confiscations Orders.

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<sup>33</sup> United States of America v. Holy Land Foundation for Relief and Development, et al., CR NO 3:04 – CR 240 P, filed 2008-09-12.

<sup>34</sup> United States of America v. Holy Land Foundation for Relief and Development et al, CR NO. 3:04-CR-240-G, Appendix A – List of Unindicted Co-Conspirators and/or Joint Venturers, filed on May 21, 2007.

<sup>35</sup> The Hebrew version of the declarations and orders is available at <http://www.justice.gov.il/pages/general/pdfs/terror.pdf>. In addition, reference is also made to an informal English version of the declarations and orders available at <http://www.justice.gov.il/MOJEng/Halbanat+Hon/TerroristOrganizations.htm>.

## Conclusion

In summary, on the basis of the information reviewed, it is our view that IRFAN-Canada has:

- failed to maintain proper books and records in Canada;
- failed to make available for audit and examination documents that should have been in the books and records of the organization in Canada; and
- failed to comply with the May 6, 2009 Requirement.

As such, it is our view that IRFAN-Canada is in breach of subsections 230(2), 231.1(1), and 231.2(1) of the ITA and, therefore, that its authority to issue official donation receipts should be suspended under section 188.2(2) of the ITA for a period of one year. It should be noted that a suspension under this provision renders the organization ineligible to receive gifts from other Canadian registered charities as a “qualified donee” while the suspension is in effect.<sup>36</sup> During this period of suspension, the CRA would continue its review of IRFAN-Canada’s operations to determine whether its registration under the ITA should be maintained or revoked.

Should IRFAN-Canada wish to make representations as to why it should not be subject to this proposed sanction, please address your comments to the writer within **30 days** of the date of this letter. Your response must indicate how IRFAN-Canada is not in breach of subsections 230(2), 231.1(1) and/or 231.2(1) and how it has fully complied with the Requirement sent on May 6, 2009. Should IRFAN-Canada fail to respond by that date, or if we do not accept its representations, you will receive notification that the sanction of suspension under section 188.2(2) of the ITA is being imposed. Details as to the recourse that would then be available to you can be found on the CRA’s website.<sup>37</sup>

Yours sincerely,

  
Cathy Hawara  
A/Director General  
Charities Directorate

## Attachments

Appendix A - Bank Accounts Listed in Canada

Appendix B - Bank Accounts Listed Outside of Canada

Appendix C – Foreign Employees

<sup>36</sup> For more information please see our website [www.cra-arc.gc.ca/tx/chrts/plcy](http://www.cra-arc.gc.ca/tx/chrts/plcy).

<sup>37</sup> Under the ITA, a charity can appeal a decision to impose sanctions by filing a notice of objection within 90-days after the day on which the notice was mailed. A charity that has filed a notice of objection to a suspension can also file an application to the Tax Court of Canada for a postponement of that portion of the period of suspension that has not elapsed. For further information please see our website [www.cra-arc.gc.ca/tx/chrts/plcy](http://www.cra-arc.gc.ca/tx/chrts/plcy).

## Appendix A - Bank Accounts listed in Canada

<b>Bank:</b>		<b>TD Canada Trust</b>	
<b>Account Number:</b>			
<b>Information not disclosed or provided:</b>			
Failed to provide bank statements from December 1, 2006 to January 15, 2007.			
Failed to provide 64 cancelled cheques totalling CAN \$966,676.87.			
<b>Cheque Number</b>	<b>Amount</b>	<b>Cheque Number</b>	<b>Amount</b>
1501	184.51	1542	74.33
1502	23.32	1543	44.98
1504	26.78	1544	432.00
1505	258.89	1545	28.00
1506	23.32	1546	2,087.74
1507	107.60	1547	1,500.00
1513	1,625.85	1548	4,137.78
1514	2,155.67	1549	2,485.86
1516	4,137.78	1550	2,155.67
1517	74.33	1551	1,625.85
1518	482.30	1552	482.30
1519	740.68	1553	740.68
1520	1,547.71	1554	1,547.71
1521	401.98	1555	100,000.00
1522	1,000.00	1556	100,000.00
1523	159.00	1557	2,000.00
1524	80.78	1558	2,000.00
1525	205.87	1559	150,000.00
1526	50,000.00	1560	150,000.00
1527	50,000.00	1561	492.65
1529	3,373.23	1562	378.00
1530	1,731.30	1563	181.09
1531	3,000.00	1564	7,403.16
1532	50,000.00	1565	64.51
1533	50,000.00	1566	51.66
1534	100,000.00	1567	11.66
1535	50,000.00	1568	1,195.86
1536	50,000.00	1569	530.00
1537	196.80	1570	63.95
1538	201.19	1571	68.32
1539	2,700.00	1572	138.88
1541	251.39	1573	63.95

<b>Bank:</b>	<b>TD Canada Trust</b>
<b>Account Number:</b>	
<b>Information not disclosed or provided:</b> Failed to provide bank statements from December 1, 2006 to January 15, 2007.	

<b>Bank:</b>	<b>TD Canada Trust</b>
<b>Account Number:</b>	
<b>Information not disclosed or provided:</b> Failed to provide bank statements from December 1, 2006 to January 15, 2007. Failed to provide cancelled cheque number 19 for CAN \$6,375.00.	

## Appendix B - Bank Accounts listed Outside of Canada

<b>Bank:</b>	<b>Hapoalim Bank</b>
<b>Account Number:</b>	<b>(NIS)</b>
<b>Information not disclosed or provided:</b> Failed to provide all bank statements and cancelled cheques from January 2005 to present.	

<b>Bank:</b>	<b>Arab Bank</b>
<b>Account Number:</b>	<b>(USD)</b>
<b>Information not disclosed or provided:</b> Failed to provide cancelled cheque number 20854782 totalling USD \$3,750.00.	

<b>Bank:</b>	<b>Arab Bank</b>
<b>Account Number:</b>	<b>(NIS)</b>
<b>Information not disclosed or provided:</b> Failed to provide eight cancelled cheques totalling NIS 179,660.47.	
<b>Cheque Number</b>	<b>Amount</b>
30030182	725.00
30030187	2,785.00
30030189	45,905.00
30030192	42,570.00
30030193	15,000.00
30030190	42,632.00
30030353	30,000.00
30854887	43.47

<b>Bank:</b>		<b>Housing Bank for Trade and Finance</b>	
<b>Account Number:</b>		<b>(NIS)</b>	
<b>Information not disclosed or provided:</b>			
Failed to provide 40 cancelled cheques totalling NIS 162,779.			
<b>Cheque Number</b>	<b>Amount</b>	<b>Cheque Number</b>	<b>Amount</b>
30001001	1,080.00	30001051	1,500.00
30001002	1,046.00	30001052	6,000.00
30001003	818.00	30001054	420.00
30001004	1,000.00	30001055	350.00
30001007	5,000.00	30001056	10,000.00
30001009	2,500.00	30001057	2,000.00
30001010	2,500.00	30001058	5,000.00
30001011	28,380.00	30001059	5,000.00
30001033	1,000.00	30001060	3,000.00
30001034	2,800.00	30001061	1,200.00
30001035	10,000.00	30001062	1,000.00
30001036	10,000.00	30001063	10,000.00
30001037	10,000.00	30001065	5,000.00
30001038	3,000.00	30001066	5,000.00
30001040	5,000.00	30001067	300.00
30001042	920.00	30001069	4,400.00
30001043	1,300.00	30001073	500.00
30001045	5,000.00	30001074	1,500.00
30001049	350.00	30001091	950.00
30001050	7,550.00	30001097	415.00

<b>Bank:</b>	<b>Housing Bank for Trade and Finance</b> <b>(USD)</b>
<b>Account Number:</b>	
<b>Information not disclosed or provided:</b> Failed to provide 11 cancelled cheques totalling USD \$32,046.00.	
<b>Cheque Number</b>	<b>Amount</b>
20001002	3,600.00
20001001	5,000.00
20001004	6,000.00
20001007	1,000.00
20001011	5,396.00
20001816	1,000.00
20001018	3,000.00
20001026	550.00
20001091	4,400.00
20001101	1,500.00
20001104	600.00



<b>Bank:</b>		<b>Housing Bank for Trade and Finance</b>
<b>Account Number:</b>		<b>(JOD)</b>
<b>Information not disclosed or provided:</b> Failed to provide all account statements from January 1, 2005 to present. Failed to provide four known cancelled cheques totalling JOD 8,395.00. Failed to provide any representation regarding gaps in cheque numbers 1004, and 1008, 1009 and 1010.		
<b>Cheque Number</b>	<b>Amount</b>	<b>Status</b>
10001001	700.00	Provided
10001002	250.00	Provided
10001003	1,728.00	Provided
10001004		Unknown- no representation
10001005	2,000.00	Failed to provide
10001006	140.00	Provided
10001007	70.00	Provided
10001008		Unknown- no representation
10001009		Unknown- no representation
10001010		Unknown- no representation
10001011	3,000.00	Failed to provide
10001012	1,800.00	Failed to provide
10001013	1,595.00	Failed to provide
10001014	1,500.00	Provided
10001015	340.00	Provided

<b>Bank:</b>		<b>Cairo Amman Bank</b>	
<b>Account Number:</b>		<b>(USD)</b>	
<b>Information not disclosed or provided:</b>			
Failed to provide 21 cancelled cheques totalling USD \$37,335.00.			
<b>Cheque Number</b>	<b>Amount</b>	<b>Cheque Number</b>	<b>Amount</b>
2	600.00	44	1,500.00
3	430.00	46	1,100.00
7	1,000.00	48	240.00
10	1,100.00	49	1,000.00
36	50.00	50	5,000.00
37	20,000.00	51	60.00
38	2,000.00	52	300.00
39	300.00	53	280.00
40	1,000.00	60	40.00
41	1,000.00	152	85.00
43	250.00		

<b>Bank:</b>		<b>Cairo Amman Bank</b>	
<b>Account Number:</b>		<b>(NIS)</b>	
<b>Information not disclosed or provided:</b>			
Failed to provide 22 cancelled cheques totalling NIS 53,760.00			
<b>Cheque Number</b>	<b>Amount</b>	<b>Cheque Number</b>	<b>Amount</b>
8	1,634.00	326	252.00
9	443.00	328	1,500.00
206	495.00	339	600.00
243	1,500.00	341	5,000.00
254	2,216.00	342	264.00
295	2,000.00	354	225.00
298	4,500.00	364	7,000.00
301	2,925.00	365	15,000.00
309	3,700.00	384	700.00
314	1,200.00	608	900.00
325	706.00	689	1,000.00

<b>Bank:</b>	<b>Cairo Amman Bank</b>
<b>Account Number:</b>	<b>(JOD)</b>
<b>Information not disclosed or provided:</b>	
Failed to provide any account statements from January 1, 2005 to present.	
Failed to provide two known cancelled cheques totalling JOD 1,003.00	
<b>Cheque Number</b>	<b>Amount</b>
13	780.00
15	223.00

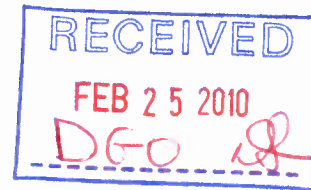
## **Appendix C - Foreign Employees**

[illegible]

February 24, 2010

LETTER SENT BY FAX [1-613-954-2586]  
ORIGINALS AND ATTACHMENTS BY COURIER

**Cathy Hawara**  
Director General  
Canada Revenue Agency  
Director General's Office  
320 Queen Street  
Ottawa, Ontario  
K1A 0L5



***"PRIVATE & CONFIDENTIAL"***

Dear Madam:

Re: International Relief Fund for the Afflicted and Needy (Canada)  
Re: Our File # 10-0096  
Re: Your File # 03001490  
Re: BN: 885408849RR0001

As indicated in our earlier correspondence, we have been retained by International Relief Fund for the Afflicted and Needy (Canada) (the "Charity" or "IRFAN-Canada"), to act on their behalf in relation to your letter proposing to suspend the Charity's receipting privileges, dated January 18, 2010 (the "Proposal Letter"), which our client only received on January 22, 2010. At the outset, we wish to indicate that the Charity has been severely prejudiced by Canada Revenue Agency's ("CRA") refusal to grant an extension of time within which to respond to the Proposal Letter and that your refusal in your letter of February 11, 2010 to provide a copy of the audit file for our review demonstrates unfairness by CRA in the circumstances. Nonetheless, our client has once again attempted to the best of its ability in the circumstances to respond to the various allegations in the Proposal Letter, many of which are completely new to the client. It is anticipated that further submissions will be provided to CRA as additional information becomes available.

In the Proposal Letter, CRA expresses concerns arising from CRA's audit of the Charity's fiscal years beginning January 1, 2005 to the present. We understand that the concerns of CRA relate to the organization's alleged involvement with terrorist organizations and alleged deficiencies in the Charity's books and records. At no time during the audit was the Charity made aware by CRA that it continued to have "serious concerns" about its alleged involvement with terrorist organizations and believed that the audit was being conducted in the normal course to confirm that the Charity had implemented the

procedures it undertook to implement as a result of the previous audit. It is noteworthy that the Proposal Letter contains no suggestion that the Charity failed to abide by its previous undertakings, nor that it is not devoting its resources to charitable activities. As such, our submission does not address these issues based on the Charity's assumption that CRA has no concerns in this regard at this time. The purpose of this correspondence is to address the concerns identified in the Proposal Letter related to alleged ties to terrorist organizations and alleged deficiencies in the Charity's books and records. Should CRA raise other concerns related to the operations of the Charity, it would be pleased to address them in further submissions.

#### **A. CONCERNS REGARDING ALLEGED TIES TO TERRORIST ORGANIZATIONS**

It is respectfully submitted that the course of action currently being pursued by CRA is an attempt to do indirectly what the government cannot or chooses not to do directly under the *Anti-terrorism Act*, S.C. 2001, c. 41. Suspending the Charity's ability to issue donation tax receipts and releasing to the public the basis for the suspension, as set out in the Proposal Letter will, in turn, tarnish the reputation of the Charity and place in peril the lives of thousands of vulnerable persons who are supported by the charitable works of the Charity and its partners. It will, in effect, cut the Charity off from the funds it requires to carry on its charitable activities and make continuing to operate impossible, effectively shutting down the Charity without ever having to submit any evidence of alleged terrorist support to any independent scrutiny. The Charity shares Canada's commitment to combating terrorism and has diligently sought to improve its due diligence procedures and policies in this regard in order to protect the Charity's assets and programs from abuse by terrorists since its first audit in 2004 (see below for a detailed discussion regarding of this commitment).

Further, the Charity and its counsel have actively cooperated with and provided assistance to CSIS in its efforts to investigate terrorist activity by providing information on the Charity and external matters..

It is our client's position that there is no legitimate government or public interest to be served in pursuing the suspension of the Charity's receipting privileges as a purported means of maintaining public confidence in the fairness and integrity of the registration system for charities under the *Income Tax Act* ("ITA"), as well as maintaining donor confidence in the causes. Acting prematurely on the basis of incomplete evidence and information, and therefore unnecessarily prejudicing the reputation of a charitable organization with objects to alleviate the suffering of vulnerable persons, is a disservice to the Charity and to the public interest. If CRA had valid concerns based on credible evidence regarding the Charity's alleged links to terrorist organizations, it should put those concerns to the test in a more appropriate forum.

In this regard, the federal government has significant legislative tools available to it to combat terrorism, including the ability to revoke the charitable status of an organization that is found, on *reasonable* grounds, to make resources available to terrorist organizations. Part VI of the *Anti-terrorism Act* introduced the *Charities Registration (Security Information) Act*, S.C. 2001, c. 41, s. 113 (the "Act"), which sets out the process for the Minister of Public Safety and Emergency Preparedness (the "Minister") and the Minister of Revenue to issue a security certificate and for the Federal Court to review the reasonableness of the certificate based on the information and evidence available. The determination of

the judge is final and is not subject to appeal or judicial review.<sup>1</sup> In many respects, the process to be followed under the Act strips an organization of many fundamental due process rights that are generally afforded an organization facing serious allegations, such as the ability for the judge to hear evidence in the absence of the registered charity or its legal counsel,<sup>2</sup> the ability for the judge to receive and base its decision on evidence that would otherwise be inadmissible in a court of law,<sup>3</sup> and limiting the registered charity’s access to evidence used against it to a “summary” of the information or evidence the judge determines is necessary to enable the registered charity to be “reasonably informed of the circumstances giving rise to the certificate”.<sup>4</sup> Arguably, this results in the registered charity being denied the ability to fully answer the charge under the Act. Notwithstanding the serious lack of due process contained in the Act, it is at least an opportunity for an independent third party to assess the reasonableness of the government’s actions in labelling a registered charity as a supporter of terrorism. The Charity is being dispossessed of such fundamental rights in the current process whereby CRA is able to allege ties to terrorism, while suspending the Charity’s receipting privileges based on record keeping deficiencies. In the absence of evidence to the contrary, inadequate record-keeping (as determined by an unreasonably high CRA standard) does not equate with indirect support of terrorism.

It is our respectful submission that, given sufficient time as has been requested from CRA, the Charity would be able to provide satisfactory evidence to CRA that it has implemented prudent measures in order to safeguard the charitable assets from abuse by terrorist organizations, and that notwithstanding the allegations of terrorist associations, the Charity is providing essential services to some of the world’s most disadvantaged persons in areas that are unfortunately wrought with political problems and unfavourable infrastructure, considering the current political climate. In this regard, the Charity has provided relief in many troubled areas, including Palestine, Lebanon, Afghanistan, Iraq, Guyana, Sudan, Pakistan, South Asia, Bosnia, Jordan and Sierra Leone.

CRA’s “serious concerns” relating to the Charity’s alleged ties to terrorism are stated as being based on two sources: (1) the Charity being listed as an unindicted co-conspirator in the Holy Land Foundation for Relief and Development trial in the United States of America (“HLF Trial”); and (2) the listing of the Charity by the Israeli Government as an “unlawful association” and the subsequent issuance of a seizure order. As is explained below, neither the U.S., nor the Israeli actions constitute *bona fide* evidence of the Charity’s alleged ties to terrorism.

#### 1. Listing as an Unindicted Co-conspirator

The Proposal Letter is the first indication that the Charity has ever received from CRA that it had a concern about the listing of the Charity in the HLF Trial documents and it is patently unfair for CRA to propose suspending the Charity’s receipting privileges without first giving it an adequate opportunity to respond. In relation to the issue of the Charity being listed as an unindicted co-conspirator in the HLF Trial in the U.S., it is the Charity’s position that it has been unjustly designated as such. Since this issue

<sup>1</sup> *Charities Registration (Security Information) Act*, S.C. 2001, c. 41, s. 113, s. 7(2).

<sup>2</sup> *Ibid.*, s. 6(e).

<sup>3</sup> *Ibid.*, s. 6(j).

<sup>4</sup> *Ibid.*, s. 6(h).



first came to the Charity's attention, it has pursued every opportunity available to it under the law to correct the record, even though this may not be reflected in Board minutes.

Concerns with linkages to the HLF Trial were known as early as 2006 as a result of two publications:

- a) a book by Matthew Levitt entitled "*Hamas – Politics, Charity and Terrorism in the Service of Jihad*" (the "Book") (which is cited in CRA's letter at note 11); and
- b) the publication of an article in the June 19, 2006 issue of the *Western Standard* (the "Article") (enclosed as **TAB 1**).

The Charity first became aware of the Book and its contents on or about March 2006 and noted that it appeared that the Book repeated the erroneous allegations set out in the publication from the "Intelligence and Terrorism Information Center at the Center for Special Studies" dated November, 2004 (the "Report"). On April 24, 2006, through its legal counsel, the Charity sent a notice of libel to the publisher and distributor advising that not only were the allegations and conclusions in the Report false, the Book's allegations went much further and were false because according to the knowledge of the Charity and its counsel at that time, neither the Canadian, American, or Israeli authorities had alleged IRFAN Canada to be a "front" for Hamas. The notice requested a halt in the dissemination of the defamatory material and that steps be taken to correct the false information that had spread to date. On April 28, 2006, the publisher, Yale University Press, wrote back to counsel advising that they took quite seriously the Charity's claims of defamation and that they had initiated further investigation and would respond to the Charity as soon as that investigation had been completed to their satisfaction. Despite some attempts to follow-up with the publisher, no further response was obtained and the Charity chose not to proceed with further action at the time because of the costs involved and the further attention legal action would bring to the defamatory statements.

Counsel for the Charity was later contacted by a reporter for the *Western Standard* for an interview, which resulted in the Article. The Article begins with a description of a November 22, 2004 incident, prior to the end of the first CRA audit of the Charity, in which then-opposition Member of Parliament, Stockwell Day, with an organization known as the Canadian Coalition for Democracies ("CCD"), made defamatory statements in conjunction with the distribution of the Report by an Israeli non-governmental organization, purporting to prove that the Charity was a front for Hamas. Other than pointing to some similarities in operations relating to dealings with associations alleged to be linked to Hamas, there was no indication at the time that the United States government had made any allegations of wrong-doing against the Charity. Also in that article, Ofir Gendelman, a spokesperson for Israeli Embassy in Ottawa, is quoted in the context of supporting Mr. Day and CCD as providing his personal opinion that the Charity is connected to Hamas. Mr. Gendelman did not provide any evidence to support his opinion, nor did he state that the Israeli government had made any official declaration that would parallel that opinion. The Charity commenced a lawsuit in September 2005 against Mr. Day and CCD.

Sometime in or about the summer of 2007, the Charity's legal counsel learned of the naming of the Charity as an unindicted co-conspirator in the HLF trial, together with approximately 250 other

individuals and organizations, some of which were well-known and respected persons in the United States. Some initial enquiries were made by counsel with U.S. counterparts, but little information was available as the circumstances appeared to be very unusual. With a mistrial declared in the first HLF trial and the comments of some jurors, counsel for the Charity felt confident that the case was politically motivated and it would be vindicated if it ever had an opportunity to see any evidence offered, face its accusers and answer their allegations.

Although the second HLF trial resulted in convictions, which are now under appeal, the Charity learned of no new information to justify the listing. However, in response to the Proposal Letter of January 18, 2010, the Charity has recently obtained a legal opinion, dated February 18, 2010, from U.S. counsel concerning its listing as an unindicted co-conspirator (the "HLF Opinion"). The HLF Opinion, enclosed herein at **TAB 2**, concludes that the U.S. government had no legally cognizable justification for publicly naming the Charity as an unindicted co-conspirator, and that such naming violated the Charity's rights under the Fifth Amendment to the United States Constitution, was contrary to binding Fifth Circuit precedent, and violated the policies of the United States Department of Justice.<sup>5</sup>

The HLF Opinion notes that despite the listing of "Jersulem [*sic*] Fund, aka IRFAN" in an appendix to the U.S. Attorney's trial brief (along with 246 other individuals and organizations), the government provided no explanation or evidence, either in its sixty-three page brief, or in any public statement, for its inclusion of the Charity as an unindicted co-conspirator. According to the HLF Opinion, neither the Jerusalem Fund nor the Charity are mentioned in the trial brief, and the government never introduced any statements involving or naming the Charity during the two trials of the HLF defendants. Thus, no evidence exists that the Charity was a conspirator or committed any criminal act. In fact, it has been suggested that by publicly listing the Charity with 246 other entities and individuals, the government made it appear that these individuals and entities were part of a vast conspiracy without ever having to prove anything. By naming the Charity as an unindicted co-conspirator and failing to advance any evidence supporting this serious allegation, the Charity has been denied the ability to face its accuser, defend its name and have a court determine the validity of the allegation based on well-established tests. As the U.S. courts have concluded, "there is ordinarily 'no legitimate governmental interest served' by the government's public allegations of wrongdoing by an uncharged party, and this is true '[r]egardless of what criminal charges may ... [b]e contemplated by the Assistant United States Attorney against the 'third-part[y] for the future.'"<sup>6</sup>

## 2. Actions by the Israeli Government

In relation to the Israeli Government's actions against the Charity, CRA has criticized the Charity for failing to disclose its designation by the Israeli Government as an unlawful association, as well as the seizure order made against it. It is important to note, however, that the Charity was unaware of these actions against the organization until it was brought to its attention by CRA by its letter dated January 18,

<sup>5</sup> Memorandum re Unindicted Co-Conspirator status of the International Relief Fund for the Afflicted and Needy (Canada) from Nancy Hollander of Freedman Boyd Hollander Goldberg Ives & Duncan P.A., dated February 18, 2010, at p. 2.

<sup>6</sup> *United States v. Briggs*, 514 F.2d 794 as cited in Memorandum re Unindicted Co-Conspirator status of the International Relief Fund for the Afflicted and Needy (Canada) from Nancy Hollander of Freedman Boyd Hollander Goldberg Ives & Duncan P.A., dated February 18, 2010, at p. 6.



2010. Indeed, it is noteworthy that neither the Book nor the Article described above, nor the comments of the Israeli spokesperson in the Article, nor Mr. Day or CCD in their Statements of Defence delivered to the Charity in March 2006, or in their respective Lists and Affidavits of Documents delivered subsequently, or in subsequent interlocutory motions in 2008 or discussions or communications with respective legal counsel to date, ever mention these purported Israeli actions. As such, the Charity emphatically denies that it knowingly failed to disclose this information or knowingly attempted to conceal this information from CRA. However, since the disclosure of this information by CRA, the Charity has taken steps to investigate the listing by the Israeli Government and determine if there are any steps available to it in order to challenge the listing and seizure order, as it is clearly unfair that such listing has been able to stand unchallenged for such a lengthy time period without any notice having apparently been given to the Charity.

In this regard, the Charity is in the process of obtaining Israeli legal counsel. However, based upon preliminary information received from an Israeli lawyer, this will not be a quick process. In this regard, the Charity cannot obtain legal representation in Israel until the government issues a permit authorizing the representation. Kenneth Mann of Libai, Mann & Co., Advocates, has applied to the Israeli government for such a permit. In the meantime, in a letter dated February 20, 2010, addressed to the Charity legal counsel and attached at **TAB 3**, Mr. Mann has outlined the process for obtaining information concerning the designation as an unlawful association, as well as the process for removing such a designation. Mr. Mann has warned that the authorities may not disclose the source or basis for the designation, and the organization must rely on its own assessment of its activities in order to attempt to identify where a problem may lie and what to do about it. If the information upon which the decision is based is inaccurate, it will be necessary for the organization to provide detailed explanations of the organization's activities, demonstrating the *bona fides* of the organization. Mr. Mann warns that once the permit is obtained, it will still take many weeks to provide the necessary legal services. Nonetheless, the Charity is committed to clearing its name.

The failure by CRA to provide the Charity with sufficient time to investigate the allegations of ties to terrorist organizations and, where necessary, rectify matters with foreign governments is severely prejudicial to the Charity and fails to serve any legitimate interest of the state in regulating registered charities. As the attached documentation demonstrates, the Charity provides aid to thousands of orphans, refugees and other vulnerable persons every year by providing medical and nutritional assistance, as well as education and community development assistance. Notwithstanding the listing by the Israeli Government, and despite its work in many troubled areas, including Palestine, Lebanon, Afghanistan, Iraq, Guyana, Sudan, Pakistan, South Asia, Bosnia, Jordan and Sierra Leone, neither the Charity, its program partners, nor its board of directors are listed by the United States, the United Nations, the United Kingdom or Canada on their public lists of terrorists or terrorist organizations. This can only be interpreted as a testament to the Charity's commitment to protect its charitable assets from terrorist abuse. Accordingly, it is not only in the interest of the Charity, but also those vulnerable persons whom they serve, to enable the Charity sufficient time and guidance to address the allegations and ensure full compliance with regulations.

**B. ALLEGED DEFICIENCIES OF BOOKS AND RECORDS**

Rather than deal directly with the allegations regarding the Charity's purported ties to terrorist organizations, CRA has chosen a collateral attack founded upon alleged deficiencies in the books and records maintained by the Charity. In addition, rather than accepting the Charity's reasons for any deficiencies in the records, which can generally be summarised as a combination of inadvertence, honest mistakes and circumstances in the Middle East (in particular, the war in Gaza – the centre of many of the Charity's activities – occurred at a key point during the audit, from December 2008 through to January 2009), which make obtaining these documents difficult, CRA has chosen to set an unreasonably high standard for compliance with the requirement in subsection 230(2) of the ITA and assumed that any failure to meet that standard is based on a wilful attempt by the Charity to suppress records that demonstrate alleged support for terrorist organizations. The Charity acknowledges that there may have been weaknesses in its books and records, as identified by this current CRA audit. However, the Charity categorically rejects that the weaknesses implied any attempt to hide or disguise any illicit associations and further asserts that it continues to maintain procedures to ensure that its resources are not used in a manner that lends support to Hamas or other illegal organizations.

Nonetheless, the Charity continues to attempt to correct any remaining deficiencies in its books and records. Appendix 1, and related documents attached at **TAB 4**, provides a detailed submission with respect to the deficiencies identified in the proposal letter. In summary:

1. Substantially all of the records related to Canadian and foreign telephone accounts have been obtained and are supplemented by an electronic call log obtained from the phone company, which lists in detail the calls made through the foreign accounts. Further, the Charity has instituted procedures to ensure copies of all telephone bills paid by it are delivered and retained in its possession.
2. Despite perceived weaknesses in its overseas standard banking practises and internal deficiencies identified during the audit, the Charity has made commercially reasonable best efforts to obtain all missing bank statements and cancelled cheques and most of the deficiencies have been remedied. However, the Charity has been severely limited in its efforts by the lack of co-operation by foreign banks. These foreign banks are operating in a vastly different cultural milieu compounded by the effects of military occupation and security operations. It appears that some cancelled cheques remain at the payee's bank, while others get returned to the payor's bank, some records may be poorly filed and difficult to retrieve, others may be lost, or bank employees may be obstinate for their own sake. There may also be additional reasons that are not currently known or knowable. Enclosed at **TAB S** is a brief letter from the local Palestinian lawyer retained by the Charity to bolster the efforts that Mr. Fahed El-Sheikh has been making over the course of this CRA audit. The letter briefly outlines this lawyer's own efforts and some of the issues he also faces. The Charity has instituted procedures such that all cheques written will be photocopied or a duplicate kept and copies of all bank statements and cancelled cheques will be obtained and transmitted to the Charity's head office on a more frequent, regular basis to prevent recurrence of the types of deficiencies identified in the CRA audit.

3. The Charity categorically denies that it deliberately withheld information it was required to disclose to CRA regarding persons in its employ for the conduct of its activities outside of Canada. Any errors in the information provided have been corrected and were due to honest mistake and inadvertence.
4. The Charity is committed to improving its board and committee meeting minutes. In this regard, **Tab U** sets out details of board and committee meetings authorizing various programs and operational activities of the charity.

The characterization by CRA in the Proposal Letter of the alleged deficiencies in the books and records appear to unfairly impute the Charity with nefarious motives and evidences that CRA has pre-judged the Charity in relation to alleged involvement and support of terrorist organizations. Further, without being provided with access to the audit file, the Charity may not determine whether this apparent bias is borne out by the internal records of CRA. This failure to disclose also lends credence to the Charity's continuing concern that the suspension may be motivated by political interference given that parties to the litigation involving the Charity are now part of the government and in a position to influence CRA's decision-making.

The Charity remains committed in the circumstances to remedying whatever perceived deficiencies remain and instituting rigorous procedures to ensure that its books and records are appropriately maintained in the future. Further, as additional records are provided to the Charity in response to its various requests, they will be forwarded in due course.

### **C. IRFAN-CANADA'S ONGOING COMMITMENT TO AVOID ASSOCIATION WITH TERRORISM-LINKED ENTITIES**

Our client remains committed to follow the procedures it undertook to implement in its letter to CRA on November 19, 2004, with additional safeguards to be put in place as a result of our review and development and implementation of a comprehensive Anti-Terrorism Policy, which will take into account the best practice guidelines that are promoted both in Canada and abroad and the difficulties that charities working in the Middle East face in ensuring compliance with the same, some of which is reflected in the Charity's current practices outlined below. We note that the Charity takes this process very seriously because of its own and CRA's concerns regarding possible support for terrorism.

#### **1. Verification of submissions by Ramallah Office**

Upon receipt of a project or program proposals, the Ramallah Office has in the past and will continue to take the following steps:

- a) Review the project/program, identify the name of the Non-Government Organization(s)(NGO) or Charitable Organization sponsoring the programs/projects, other Agencies (such as USAID, UNICEF, CIDA European Countries) that may have funded any previous programs and who is the benefiting sector(s) of the community.



- b) Conduct a background check to determine (i) whether the NGO(s) are licensed by the local authorities such as the Ministry of Interior, NGO(s) Department for the Palestinian Authority and the Israeli Government and (ii) that the personnel involved in running the NGO or implementing the project(s)/programs are not related to any of the alleged terrorist organizations.
- c) If unable to obtain information in b), due to non-availability or difficulty in procuring such information, it would search the internet by starting with the following websites:  
[www.ustras.gov](http://www.ustras.gov)  
[www.un.org](http://www.un.org)
- d) Request from the Palestinian National Authority (PNA), and now where possible from the Israeli Government, to confirm the status of any New Organization or Committees that may have applied for resource allocation and prior to any commitment made from IRFAN-Canada. If "clean", send proposal to IRFAN-Canada, otherwise discard "unclean" proposal after briefing same on the situation.
- e) Monitor and review on a regular basis the local Arabic and Hebrew Newspapers for any news dealing with closures of NGOs or Committees.
- f) Confirm whether any closure(s) in (e) are either on a temporary or permanent basis, the effective dates of closures and whether any specified allegations are stated.

2. Verification of proposals submission by IRFAN-Canada head office in Mississauga

IRFAN-Canada has maintained and will continue to maintain due diligence procedures to ensure that all aid goes to provide relief and to alleviate the suffering of the sick and poor. Upon receipt of a reviewed proposal or request for aid from IRFAN-Ramallah, IRFAN-Canada has and will continue to take the following steps:

- a) Verify through the use of websites mentioned in c) above in addition to those stated below for updated lists of banned Organizations:  
<http://www.publicsafety.gc.ca/>  
<http://www.osfi-bsif.gc.ca/>
- b) Monitor and review on a frequent basis the local and cross-border newspapers for any news dealing with the banning and closures of NGOs in Canada and branch offices overseas.
- c) Transmit to IRFAN-Ramallah any findings regarding the banning of Organizations and directives to cease dealings with such Organizations. Otherwise, reviewed Programs/Projects will be approved for financing and execution.

The Charity has in the past and will continue to take the necessary steps and follow procedures set out above to ensure that the allocation of financial support and relief aid will be directed to organizations that do not support terrorism as part of the Charity's shared commitment to combating terrorism.

**D. CONCLUSION**

This letter has attempted to address the concerns identified in the Proposal Letter in the short-time frame provided and further submissions may follow as additional information becomes available. Our client is prepared to take any remedial action required to address the concerns expressed in the Proposal Letter and any other concerns CRA might have with respect to its operations in the interest of avoiding suspension of its receipting privileges and having to pursue this matter further in the court. We would be pleased to discuss possible terms for a Compliance Agreement with CRA, which could include improvements to its record-keeping or changes to the Charity's practices with respect to its foreign activities.

Should CRA decide to pursue suspension of the Charity's receipting privileges, we are hereby formally requesting that we be provided with a facsimile copy of the Notice of Suspension on the day the notice is issued and that CRA consider not issuing a press release to accompany the Notice of Suspension. It is our client's position that the suspension of the Charity's receipting privileges by CRA is an attempt to accomplish what it cannot or chooses not to do directly and that proceeding with a press release outlining the basis for the suspension will have the effect of severely prejudicing the Charity by shutting down its operations without proceeding to revocation through more direct means. Further, as discussed above, the Charity takes very seriously any repetition of the unfounded statements related to alleged ties to terrorism and will seek any remedies legally available to it to correct such statements.

We look forward to discussing this matter further and/or receiving confirmation from CRA that the Charity's receipting privileges will not be suspended. If you have any questions, please do not hesitate to contact me.

Yours truly,  
**Carters Professional Corporation**

Per: 

TSC:kjc

**Terrance S. Carter**

cc: International Relief Fund for the Afflicted and Needy (Canada)

## APPENDIX 1

The following provides our client's detailed submissions regarding the Charity's books and records:

### 1. Canadian Phone Bills

#### a) Telus Mobility number 613-282-3214

The missing statements for June '06 and Dec. '08 have now been obtained and are enclosed at **TAB A.**

This number relates to a cell phone that IRFAN-Canada's former Ottawa manager, Mr. Jamal El-Dameiri, arranged for soon after the Ottawa office first opened in 2002. IRFAN-Canada had originally permitted him to obtain the phone in his name out of administrative convenience and little thought was given to transfer of the number to IRFAN-Canada during the course of his employment until well after his departure from employment. Attempts were then made to transfer this number, but were frustrated by Telus' refusal to deal with anyone other than Mr. El-Dameiri, who has been out of the country for the last several years, and only if Mr. El-Dameiri provides his password. During the course of this audit IRFAN-Canada made many attempts to reach Mr. El-Dameiri in Kuwait where he currently resides, and when finally spoken with, advised that he has forgotten the password. Therefore, it is not possible to change the user information at this time. Though IRFAN-Canada retained the phone number because of the goodwill associated with it, going forward, the only possible solution to transfer the number appears to be that proposed by Telus, namely, not pay the phone bills until the account is terminated and the number disconnected. Thereafter, IRFAN-Canada could apply for a new cell service in Ottawa under its own name, or attempt to recover the disconnected number after some interval of time.

#### b) Toll-free number 866-694-7326

IRFAN-Canada ordered duplicate statements for the missing periods from Bell Canada, but this phone company provided the incorrect line information. The required statements have been re-ordered and are expected to be received by the end of this week. Thereafter IRFAN-Canada will be able to reconcile its earlier representation with your analysis.

IRFAN-Canada has now instituted procedures to ensure copies of all cellular bill paid by it are delivered and retained in its possession.

### 2. Foreign Phone Bills

For an overview of the foreign phone numbers which have been the subject of the audit, the following chart summarizes some key information based on IRFAN-Canada's best estimates at this time that will assist in reviewing our response:

Tel #	Type	Location	Start	End
52-639871	Khaled Abu Kaff Cell	Jerusalem	April 2001	March 2007
26275408	Phone line	Jerusalem	April 2001	Feb. 2004
2409471	Phone line	Ar-Ram	Feb. 2004	Jan. 2008
2409472	Fax Line	Ar-Ram	Feb. 2004	Jan. 2008
2342836	Phone line	Ramallah	Jan. 2008	Present
2342826	Fax line	Ramallah	Jan. 2008	Present

Obtaining replacement invoice statements or pages has proven challenging as Mr. Abu Kaff is no longer employed by IRFAN-Canada and difficulties in dealing with the Israeli and Palestinian phone companies. IRFAN-Canada believes that in some instances the original pages were discarded after payment was made as only the payment verification page marking receipt of payment was kept. As it appears to IRFAN-Canada that a missing 2<sup>nd</sup> or 3<sup>rd</sup> page contains price breakdowns of international calls only, IRFAN-Canada has compensated for these deficiencies by obtaining outgoing call log spreadsheets from the phone company (hardcopy and electronic version on CD enclosed) for all calls originating from the former Ar-Ram office and current Ramallah office phone and fax numbers: 2409472, 2409471, 2342836, and 2342826. Therefore, while we have identified missing pages the deficiency is compensated for by the call log provided by the phone company.

- **TAB B** - contains some additional documents obtained by IRFAN-Canada to address the deficiencies for fax number 2409472.
- **TAB C** - contains some additional documents obtained by IRFAN-Canada to address deficiencies for phone number 2409471.
- **TAB D** - contains some additional documents obtained by IRFAN-Canada to address deficiencies for phone number 6275408.
- **TAB E** - contains some additional documents obtained by IRFAN-Canada to address the deficiencies for phone number 2342836.
- **TAB F** - contains some additional documents obtained by IRFAN-Canada to address the deficiencies for fax number 2342826.
- **TAB G** - contains documents with some notations obtained by IRFAN-Canada to address the deficiencies for Mr. Abu Kaff's personal cell phone number 52-639871, which he used while he was employed with IRFAN-Canada. Mr. Abu Kaff's employment ended in March 2007 and, for the purposes of this audit, attempts have been made to obtain documents that Mr. Abu Kaff may still have or to obtain replacement statements, but with little success. Although Mr. Abu Kaff retained this cell phone number for some time after his employment with IRFAN-Canada ended, it was eventually discontinued (see also **TAB S**).

In summary, IRFAN-Canada has provided additional invoices for the first 5 items and believes some materials relating to the last number previously provided to you contain much of the missing information. Further, despite there being pages missing, IRFAN-Canada believes that the provision of information (the call log provided by the phone company) for all outgoing telephone numbers (except for Mr. Abu Kaff's cell phone) will address the concerns raised. In addition, IRFAN-Canada may be able to obtain the



duplicate statements for the balance of the deficiencies, subject to a lawyer in Israel being permitted by the Israeli government to act for it.

### 3. Canadian Bank Accounts

For an overview of the Canadian bank accounts which have been the subject of the audit, the following chart summarizes some key information based on IRFAN-Canada's best estimates at this time that will assist in reviewing our response:

BANK	LOCATION	ACCOUNT#	TYPE	CURRENCY	OPENED	STATUS
CIBC	Mississauga	02722-48-06913	Current Chequing	CDN	Pre-2003	Active
CIBC	Mississauga	02-08914	Current Chequing	USD	Pre-2003	Active
TD CANADA TRUST	Mississauga	7904-5002290	Current Chequing	CDN	Nov 2002	Closed Jan. '07
TD CANADA TRUST	Mississauga	7904-5201684	Savings/Investment	CDN	Nov 2002	Closed Jan. '07
TD CANADA TRUST	Mississauga	7904-7200321	Current Chequing	USD	Nov 2002	Closed Jan. '07
RBC	Mississauga	03132-1080-795	Current Chequing	CDN	Nov 2006	Active
RBC	Mississauga	03132-1080-837	Current Savings	CDN	Nov 2006	Active
RBC	Mississauga	03132-401-3975	US Business Deposit	USD	Nov 2006	Active
RBC	Mississauga	108-4706	Donations From Overseas	CDN	Oct 2008	Active

In its letter of May 26, 2009, IRFAN-Canada incorrectly indicated that the TD Canada Trust Bank accounts were closed December 13, 2006. This occurred through the inadvertence and/or honest mistake of the person who assisted with the reply to your requisition which mistake was not caught by IRFAN-Canada. This mistake was unintentional and not of any significance, despite the number and aggregate total of the transactions during the undeclared period. The items relating to the actual final period ending January 15, 2007 were out of IRFAN-Canada's office for bookkeeping or audit at the time and through miscommunication an incorrect conclusion was reached. Although the mistake was realized upon review of your last letter, not all the originals have been returned to IRFAN-Canada possession for this final period. IRFAN-Canada has ordered duplicates from TD Canada Trust.

IRFAN-Canada also notes that in reviewing alternate records, the records of the bank wire transfers which were previously provided to you, would have also covered this period and accounts. Also in reviewing alternate records, IRFAN-Canada advises that of the 64 cheques totalling \$966,676.87 cited in your letter, 11 were transfers from the organization's TD Canada Trust accounts to its Royal Bank and CIBC accounts totalling approximately \$900,000. The balance of the cheques were used to pay regular office expenses and overhead in Canada, such as telephone, utilities, and payroll, some advertisement/promotion



expenses, and \$12,700 (by cheque 1539, which is incorrectly described by CRA in its letter) to HPIC for donation-in-kind administration fees. Enclosed in **Tab H** is your **Appendix A** with some corrections made by IRFAN-Canada regarding the description of the cheques.

#### 4. Foreign Bank Accounts

For an overview of the foreign bank accounts which have been the subject of the audit, the following chart summarizes some key information based on IRFAN-Canada's best estimates at this time that may assist in reviewing the reply further below:

BANK	LOCATION	ACCOUNT#	TYPE	CURRENCY	OPENED	STATUS
Hapoalim Bank	Jerusalem	279746	Current Chequing	NIS		Inactive
Arab Bank	Ramallah	9090-671155-510	Current Chequing	USD	June 2004	Closed June 2005
Arab Bank	Ramallah	9090-671155-570	Current Chequing	NIS	June 2004	Closed June 2005
Arab Bank	Ramallah	9090-671155-500	Current Chequing	JOD	July 2004	Closed June 2005
Housing Bank For Trade And Finance	Ramallah	000/ 3000 /042/ 0057201-6	Current Chequing	NIS	May 2005	Inactive Since July 2008
Housing Bank For Trade And Finance	Ramallah	000/ 3000 /002/ 0057201-6	Current Chequing	USD	May 2005	Inactive Since July 2008
Housing Bank For Trade And Finance	Ramallah	401/ 3000 /010/ 0057201/00	Current Chequing	JOD	May 2005	Inactive Since Nov. 2005
Cairo Amman Bank	Ramallah	02/500/400528/00	Current Chequing	USD	May 2005	Active
Cairo Amman Bank	Ramallah	33/500/400528/00	Current Chequing	NIS	May 2005	Active
Cairo Amman Bank	Ramallah	01/500/400528/00	Current Chequing	JOD	May 2005	Active
Arab Finance House	Beirut	101-100000014380	Current Chequing	USD	August 2008	Active
Arab Finance House	Beirut	101-100000015289	Current Chequing	EUROS	August 2008	Active
Arab Finance House	Beirut	101-100000015245	Current Chequing	SAR (SAUDI RIYALS)	October 2008	Active

IRFAN-Canada initially disclosed its foreign banking history by advising only on its regular active foreign accounts, through the inadvertence and/or honest mistake of the employee or volunteer who

helped reply to CRA's initial requisition in relation to the foreign bank accounts. We note, however, that new accounts were opened in a Lebanese bank during the course of the audit and were fully disclosed.

a) Hapoalim Bank

IRFAN-Canada had not been sending money directly into Hapoalim Bank for quite some time, so did not consider it active and so simply forgot to disclose it. It has no direct knowledge or recollection of transfers from Arab Bank to Hapoalim Bank, however, Mr. Abu Kaff may have transferred these monies from Arab Bank to Hapoalim Bank for his own compensation.

Obtaining information for this inactive account at a bank located in Jerusalem is a challenge for IRFAN-Canada as its current Officer Manager in Ramallah, Mr. Fahed El-Sheikh, is generally not able to travel there from the West Bank. However, a local Palestinian lawyer with better ability to travel has been retained by the organization to seek to obtain the requisite information (See also **TAB S**). At the present time, the 2005 bank statements have been obtained and these are enclosed at **TAB I**.

b) Arab Bank - 9090-671155-510

A copy of the missing cancelled cheque number 20854728 for \$3,750 is enclosed at **TAB J**.

c) Arab Bank - 9090-671155-570

At the present time, only 1 of the missing 8 cancelled cheques has been obtained and enclosed at **TAB K**. This appears to be for a transfer to Hapoalim Bank as discussed above.

IRFAN-Canada believes that branches of the Arab Bank were raided by Israeli authorities at one or more times in the past that may have disrupted their operations and records; so may not be able to provide the copies of the missing 2005 cheques. IRFAN-Canada has been unable to obtain any written confirmation of any such reasons and no longer has dealings with the Arab Bank.

To the best knowledge of IRFAN-Canada's current employees and volunteers, it has no knowledge of other Arab Bank sub-accounts. It speculates that the Arab Bank may have made a mistake with the account statement for 9090-671155-810 when these statements were printed as they appear to be reprinted copies.

d) Housing Bank for Trade and Finance - 000/ 3000 /042/ 0057201-6

Of the previously missing 40 cancelled cheques, all except 2 or 3 have been obtained and copies are enclosed at **TAB L**. Note that we believe cheque number 30001034 for NIS 2,800 was obtained, but unable to confirm as the copy is difficult to read.

- e) Housing Bank for Trade and Finance - 000/ 3000 /002/ 0057201-6

All 11 of the previously missing cancelled cheques have been obtained and copies are enclosed at **TAB M**.

- f) Housing Bank for Trade and Finance - 401/ 3000 /010/ 0057201-00

All of the previously missing account statements have been obtained and copies are enclosed at **TAB N** together with copies of the four (4) known cancelled cheques. With respect to the unknown cheques, IRFAN-Canada believes that either they were not issued, voided or spoiled as they do not appear in the account statements as being cashed.

- g) Cairo Amman Bank - 02/500/400528/00

At the present time, 12 out of 21 previously missing cancelled cheques have been obtained and copies are enclosed at **TAB O**.

- h) Cairo Amman Bank - 33/500/400528/00

At the present time, 14 out of 22 previously missing cancelled cheques have been obtained and copies are enclosed at **TAB P**.

- i) Cairo Amman Bank - 01/500/400528/00

At the present time, all the previously missing account statements have been obtained and copies are enclosed at **TAB Q**. However, the 2 missing cancelled cheques still have not been obtained.

- j) Palestine Bank

In the course of IRFAN-Canada's internal examinations to reply to your audit, it recollected that that accounts were briefly opened at the Palestine Bank on or about July 28<sup>th</sup> 2006. However, the account was closed only a few days later on or about August 1, 2006 by the Bank without fully explaining its reasons. IRFAN-Canada persisted in seeking some type of explanation in writing; however it was not until September 2007 that this Bank provided a brief confirmation letter of the closing, a copy of which is enclosed with all the account statements, transfers and orders at **TAB R**.

IRFAN-Canada recalls that the only transactions were in the USD account with a transfer in of \$61,219 from its account at the Cairo-Amman Bank and a transfers out in NIS, including for Ministry of Telecommunications for sending money to sponsored orphans; another \$9,000 to In'ash Al-Usra another organization for orphans; then \$905 to the accountant for three months' pay. IRFAN-Canada believes it moved the funds out of the Cairo-Amman Bank until the signing authority could be changed to remove Mr. Khalid Abu Kaff, and that these monies could be used by Mr. Fahed El-Sheikh to pay some bills and orphans account.

In summary, despite the standard banking practises and internal deficiencies identified in the course of this CRA audit, IRFAN-Canada has been making commercially reasonable best efforts to obtain all missing bank statements and cancelled cheques but it has been limited in its efforts by the lack of co-operation of foreign banks. These foreign banks are operating in a vastly different cultural milieu from Canada, compounded by the effects of military occupation and security operations. Enclosed at **TAB S** is a brief letter from the local Palestinian lawyer retained by IRFAN-Canada to bolster the efforts that Mr. Fahed El-Sheikh has been making over the course of this CRA audit. The letter briefly outlines this lawyer's own efforts and some of the issues he also faces. On a go-forward basis, IRFAN-Canada has instructed Mr. El-Sheikh to not only photocopy all cheques written, but to obtain and transmit copies of bank statements and cancelled cheques to IRFAN-Canada's head office on a more frequent, regular basis to prevent recurrence of the types of perceived deficiencies identified in this CRA audit.

5. Foreign Volunteers and Employees

IRFAN-Canada advises that Advisory Committee that existed for its Jerusalem office was disbanded sometime time ago, during the period when the office was in Ar-Ram, to which it had moved to in 2004, and prior to the office relocating to Ramallah in 2008.

Attached at **TAB T** is detailed information provided by IRFAN-Canada correcting and expanding upon the employee information listed in the Appendix C of the Proposal Letter. Any errors or mistakes in the information previously provided are the result of inadvertence and/or honest mistake of its staff and volunteers at the head office. Some of the mistakes may be attributed to internal confusion over categorization of short-term, casual, temporary, or probationary employees or independent contractors. The mistake was not caught by perhaps insufficiently attentive professionals upon whom IRFAN-Canada relied for preparation of its T3010 returns which in the current light now appear to be incorrect.

6. Board and Committee Meeting Minutes

Enclosed at **TAB U** are minutes of a Board Meeting held on April 19, 2009, which could not have been previously provided to CRA as the minutes had not yet been reviewed by the subsequent meeting of the Board and approved.

With respect to the subject matter of the five teleconference meetings, IRFAN-Canada in reviewing the context of the dates and parties involved, believes the following respective descriptions of the purposes is reasonably correct to supplement what has previously described as "business purposes":

March 14, 2005 – discussion relating to IRFAN-Canada's website with staff and the ISP host.

December 21, 2006 – in reference to a Board of Director meeting held by teleconference call (See note 22 of Proposal Letter which references minutes already being provided)

June 26, 2007 – Discussion relating to website

August 20, 2007 – Discussion relating to website

August 27, 2007 – Discussion relating to with website



Most of the teleconferences involved the ISP host in Ottawa, speaking with IRFAN-Canada's Montreal and Mississauga offices. Again, the relatively minor nature of the teleconferences explains the limited record-keeping.

As previously indicated, the Advisory Committee which existed at the time of the Jerusalem Office, ceased to exist some time ago. IRFAN-Canada's outline of typical current decision-making processes is as follows:

- A. IRFAN-Canada's head office in Mississauga usually receives proposals in January/February of each year from the Office Manager in its Ramallah office and from its project partner, Ard El-Insan in Gaza, for Projects/Programs for that year. Project proposals may also come from other past or potential partners from other regions in the world. These proposals are generated by them on their own initiatives or based on ideas or suggestions from communities in specific areas based on needs and importance.
- B. IRFAN-Canada in Mississauga then processes the proposals as follows:
  1. Projects/Programs are classified after an initial review into categories such as:
    - (a) Health Care/Nutritional Services;
    - (b) Sustainable Development & Construction;
    - (c) Education, Training and Sponsorship;
    - (d) Donation-in-Kind; and
    - (e) Seasonal Programs.The proposals are then further evaluated by Mr. Rasem Abdel-Majid as to availability of funding and an initial recommendation is put forward by him and/or Mr. Sami Kaoud, the Vice-President, who is a director and a full-time volunteer for consideration by the Board of Directors.
  2. A Board of Directors meeting is called (see for example the April 19, 2009 Minutes referred to above which are enclosed with this letter) to consider and discuss each and every project/program on its own merit and other issues. This includes, but not limited to, funding availability, budgeting and other pertinent questions. The Board in such a meeting has the power to approve or disapprove or defer such proposal(s).
- C. Other Business is also discussed by the Board (see again for example the April 19, 2009 minutes of the meeting where opening of an office in the Gaza Strip was approved).
- D. Upon the approval of a proposal by the Board, the foreign office or partners in the field are informed about the decision, and responsibilities for implementation are now transferred to the General Manager who will co-ordinate with the foreign office and/or partners in the field.



**BY REGISTERED MAIL**

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Our File: 3001490  
Your File: 10-0096

Attention: Mr. Terrance S. Carter

April 6, 2010

**SUBJECT: Notice of Suspension of Receipting Privileges  
International Relief Fund for the Afflicted and Needy-Canada**

Dear Mr. Carter:

We are writing further to your February 24, 2010 submission responding to the Proposal to Suspend Receipting Privileges (copy enclosed) sent to the International Relief Fund for the Afflicted and Needy-Canada (IRFAN-Canada) on January 18, 2010. That letter invited IRFAN-Canada to submit representations as to why the Minister of National Revenue (Minister) should not suspend its receipting privileges in accordance with paragraph 188.2(2)(a) of the *Income Tax Act* (ITA).

The Canada Revenue Agency (CRA) has a responsibility to ensure that organizations which have been granted the receipting privileges of a registered charity are operating in a manner that complies with the requirements for such registration. To carry out this responsibility, it must be in a position to verify the use of an organization's resources, whether the organization's activities are carried on in Canada or abroad. This is essential to maintaining the confidence of Canadians in the fairness and integrity of our tax system overall.

The suspension sanction under paragraph 188.2(2)(a) of the ITA was introduced to the provisions of the Act dealing with registered charities to address situations where books and records:

- have not been adequately maintained in Canada (emphasis added),
- have not been provided to the CRA for inspection, audit or examination, or
- have not been provided with such reasonable time as is stipulated in a formal Requirement notice,

precisely because these circumstances interfere with CRA's ability to carry out its audit and review responsibilities under the ITA.

You have indicated that your client, IRFAN-Canada, has been severely prejudiced by our refusal to grant an extension of time within which to respond to the January 18, 2010 Proposal letter. I would point out that, in consideration of your request, I agreed in our telephone conversation of February 11, 2010 to accept your representations by February 24, 2010, one week beyond the date for response indicated in our letter of January 18, 2010. Right from the very start of this audit, now over two years ago, we have been more than fair in granting accommodations and extensions to this organization. By the time of our January 18<sup>th</sup> Proposal letter, our need for the information to which it referred had been well and thoroughly detailed on numerous occasions.

Your February 24, 2010 letter also suggests that the suspension action proposed by our letter of January 18, 2010, is not justified because your client was not made aware that the CRA continued to have serious concerns about its alleged involvement with terrorist organizations. From our perspective, IRFAN-Canada had been put on warning that the results of the audit conducted in 2004 raised concerns of a serious nature that required better record-keeping and a higher level of due diligence in future, and that the organization could expect follow-up action at some future point because of the very seriousness of those concerns.

We have carefully considered all of your representations responding to our January 18, 2010 Proposal letter. It is our view, however, that the representations you have provided do not sufficiently explain or justify why the information requested was not made available to us before our Proposal letter was sent. IRFAN-Canada has continuously disregarded the need to respond to our requests for information in a timely manner, including deadlines for the production of information issued under a formal Requirement to produce documents and information, and the records that have been provided by IRFAN-Canada are still incomplete. In addition, the record of IRFAN-Canada's representations indicates that it had not maintained a significant portion of its books and records in Canada as required by the ITA. As such, and as detailed in this letter and the attached Appendices, it remains our view that IRFAN-Canada has:

- failed to maintain books and records in Canada in accordance with subsection 230(2) of the ITA,<sup>1</sup>
- failed to provide books and records for audit and examination in accordance with subsection 231.1(1) of the ITA,<sup>2</sup> and
- failed to comply with a Requirement to provide documents or information in accordance with subsection 231.2(1) of the ITA.<sup>3</sup>

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<sup>1</sup> See Appendix A

<sup>2</sup> See Appendix B

<sup>3</sup> See Appendix C

Consequently, for the reasons set out in this letter and its Appendices, and these reasons alone, in accordance with paragraph 188.2(2)(a) of the ITA, IRFAN-Canada's authority to issue official receipts referred to in Part XXXV of the *Income Tax Act Regulations* is hereby suspended for one year beginning on April 13, 2010.

### **Previous Non-Compliance Issues and IRFAN-Canada's Undertakings**

The CRA's 2004 audit of IRFAN-Canada's operations<sup>4</sup> raised a number of non-compliance issues, such as whether it was funding non-qualified donees<sup>5</sup> rather than conducting its own charitable activities. Of particular concern, however, was that a significant number of organizations with which IRFAN-Canada maintained partnerships in program delivery were alleged to have direct ties to Hamas, a listed entity under the *Criminal Code of Canada*.<sup>6</sup> IRFAN-Canada represented<sup>7</sup> to the CRA at that time that "...it never knowingly dealt with Hamas, nor with organizations known or credibly alleged to be controlled or directed by Hamas...". IRFAN-Canada also maintained that it "...was not aware of credible allegations of connections by any of the organizations with which it worked to Hamas nor did it have prior knowledge of the materials containing such allegations until provided by the CRA...", but did not dispute the evidence the CRA provided to it from publicly available records alleging that many of the organizations which received its funds had close ties to Hamas.

The agreement for IRFAN-Canada's continued registration was premised on these representations and on its assurance<sup>8</sup> that to "...avoid future dealings and misapplication of resources to unlawful organizations...", it would implement strong due diligence procedures, such as conducting background checks, and monitoring on a regular basis for any news reports dealing with closures of NGOs or listings of unlawful associations. It specifically undertook that "...due diligence and legal counsel will be taken prior to entering into further agreements with foreign organizations and existing arrangements will be reviewed and possibly amended..." In order to comply with subsection 230(2) of the ITA, this information should be available for examination in IRFAN-Canada's books and records. To this end, IRFAN-Canada also agreed to ensure that its books and records would be improved to "follow proper corporate procedures and create the necessary documentation to reflect the same" and to institute

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<sup>4</sup> Our 2004 audit was limited to the 2002 fiscal year.

<sup>5</sup> The term "qualified donee" is defined in subsection 149.1(1) as meaning a donee described in any of paragraphs 110.1(1)(a) and (b), and subsection 118.1(1) of the ITA. Within Canada, the term "qualified donee" generally refers to other Canadian registered charities or other organizations that are similarly able to provide donation receipts for income tax purposes to Canadian donors. Outside Canada, the only organizations that are qualified donees under the ITA are the United Nations and its agencies, certain universities outside Canada ordinarily attended by Canadian students, and charitable organizations outside of Canada to which Her Majesty in Right of Canada has made a gift within the previous two years.

<sup>6</sup> Hamas (Harakat al-Muqawama Al-Islamiya) was listed as a terrorist entity effective November 27, 2002. For more information please see <http://www.publicsafety.gc.ca>

<sup>7</sup> IRFAN-Canada's November 19, 2004 letter.

<sup>8</sup> IRFAN-Canada's November 19, 2004 letter.



*“...improved communication and accounting procedures to better reflect the actual activities that it carries on itself and how it co-operates with other Canadian registered charities, including the transfer of assets.”*

It should be noted that the CRA’s December 21, 2004 audit closure letter directed IRFAN-Canada to the record-keeping requirements set out in Information Circular 78-10R3<sup>9</sup> and specifically advised IRFAN-Canada that it could expect a future audit to follow up on its continued compliance with the requirements for registration. It was our expectation therefore, that IRFAN-Canada would abide by its undertakings and be in a ready position to make available books and records necessary for the CRA to conduct a proper audit of its operations. This was not the case. As your February 24, 2010 letter acknowledges, weaknesses in IRFAN-Canada’s books and records have been identified by our current audit, most seriously that documentation essential to audit such as bank statements and source documents in support of receipts and disbursements have not been maintained in Canada.

### **Extensions and Delays to our current audit**

1. On February 29, 2008 the CRA advised IRFAN-Canada of our intent to conduct a follow-up audit to commence on March 6, 2008. At this time, the CRA provided IRFAN-Canada with an extensive list of documents that it should have ready for audit and examination.
  - IRFAN-Canada requested that the CRA delay its audit until July or August and the CRA made this accommodation.
2. On August 26, 2008, the CRA sent IRFAN-Canada a letter requesting a complete copy of its books and records, including wire transfers or other banking documents, with respect to all projects it had undertaken in 2005, 2006 and 2007. IRFAN-Canada was asked to provide the information, in either paper or electronic format, within 60 days.
  - Five days before the end of this sixty day period (on October 20, 2008) IRFAN-Canada requested more time to provide these documents and asked that CRA instead obtain the documents requested through a site visit.
  - In order to accommodate IRFAN-Canada as far as was reasonable but not delay our audit any further, the CRA asked that IRFAN-Canada send all of the documentation that it had prepared to date pending a future on-site visit. IRFAN-Canada was again advised that the CRA would accept this documentation in paper or electronic form.
  - Between October 22 and November 26, 2008, the only information provided by IRFAN-Canada related to a single project.<sup>10</sup>

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<sup>9</sup> IC78-10R3 was replaced in June 2005 by IC78-10R4.

<sup>10</sup> We note that the CRA audit had identified at least 20-30 additional projects for review.

- In accordance with IRFAN-Canada's request, the CRA made arrangements to travel to IRFAN-Canada's Mississauga office on December 11, 2008 and between January 13 and 15, 2009 in order to photocopy documents on a number of its projects.<sup>11</sup>
3. On February 2, 2009, the CRA again sent IRFAN-Canada a letter requesting that it provide copies of books and records that had been identified as being essential to our audit review, such as phone bills, bank statements, cancelled cheques, wire transfers, and copies of all minutes of meetings. All of these records should have been ready for examination in accordance with the Charity Pre-Audit list sent to IRFAN-Canada in February 2008 (i.e. a full year earlier) and some had again been specified in our August 26, 2008 letter. IRFAN-Canada was given 30 days to provide this documentation.
    - On February 18, 2009, IRFAN-Canada was granted an extension to March 20, 2009.
    - On February 25, March 5, 13, and 27, 2009, IRFAN-Canada provided the CRA with some of the information requested in our February 2, 2009 letter, but significant records were omitted.
    - IRFAN-Canada's March 27, 2009 letter, submitted seven days beyond the extended deadline, states that the enclosed material is the "*last of the requested documents*".
  4. Our analysis of the information submitted by IRFAN-Canada in response to our February 2, 2009 request for information revealed serious deficiencies. Consequently, on May 6, 2009 the CRA issued IRFAN-Canada a Requirement under subsection 231.2(1) of the ITA in order to obtain copies of the outstanding books and records requested in our February 2, 2009 letter. IRFAN-Canada was given 15 days from the date of service to provide this information.
    - IRFAN-Canada accepted service of the Requirement on May 12, 2009. On May 20, 2009, it provided the CRA with a "*preliminary reply*" to the Requirement advising that because certain of the documents, such as its foreign bank statements and cancelled cheques, were not kept in Canada, it expected to encounter significant delays in obtaining the required information.
    - In a May 27, 2009 telephone conversation, the CRA provided IRFAN-Canada with an extension until May 29, 2009 to provide the Requirement information. We also advised IRFAN-Canada to contact us on May 29, 2009 if it encountered problems meeting this extended deadline.
    - IRFAN-Canada failed to meet this deadline and failed to renegotiate a new deadline. Four out of the five submissions made were received past the extended deadline.

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<sup>11</sup> It was agreed that the CRA would continue its review of the projects at a later date. At no time has the CRA advised IRFAN-Canada that the remaining records, including project records, were no longer required for audit and examination.

- IRFAN-Canada's last response to the Requirement, dated July 23, 2009 advised that it had now provided "*reasonably complete submissions in five out of the six areas of deficiency*", but it was "*still seeking additional cancelled cheques*".
5. After a further six months had elapsed without additional documentation being provided, and in view of the fact that significant deficiencies remained in the information sought by the Requirement letter, the decision was taken to send the January 18, 2010 Proposal to suspend receipting privileges.

### **IRFAN-Canada's Omissions and Inaccurate Representations**

We are troubled by what we see as a pattern of omissions and inaccurate representations in IRFAN-Canada's dealings with the CRA relating to our current audit. IRFAN-Canada not only failed to provide records when requested to do so but in key instances admitted their existence only after their discovery by the CRA became apparent. IRFAN-Canada's representations regarding outstanding records were misleading, in some cases inaccurate, and changed as our analysis of the information contradicted some of its original representations.

#### **1. Foreign Bank Accounts**

- Our analysis of the banking information voluntarily provided by IRFAN-Canada revealed that it had failed to disclose the existence of 13 foreign bank accounts under its control and failed to provide any bank statements or cancelled cheques for these accounts. These accounts were extensively used to conduct business outside of Canada and were essential to show the full extent of IRFAN-Canada's operations.
- The existence of these foreign bank accounts was only admitted to the CRA as a result of our May 6, 2009 Requirement, where we disclosed that we had knowledge of five of its foreign accounts, and in response to our January 18, 2010 Proposal letter where we identified an additional account.
- IRFAN-Canada's representations that it "*... initially disclosed its foreign banking history by advising only on its regular active foreign accounts*" is inaccurate. IRFAN-Canada failed to disclose any information on its foreign bank accounts until after it had received our May 6, 2009 Requirement letter.
- IRFAN-Canada's representations are that the failure to initially disclose its foreign accounts was "*...through the inadvertence and/or honest mistake of the employee or volunteer who helped reply to the CRA's initial requisition ...*". The information disclosed in response to our initial requests was provided by Rasem Abdel-Majid, IRFAN-Canada's General Manager since 2001. Mr. Abdel-Majid was also one of the three co-founders and General Manager of Povrel Jerusalem Fund for Human Services (JFHS), whose operations were assumed by IRFAN-Canada in February 2001.<sup>12</sup> Mr. Abdel-Majid has clearly had a very central role in running the organization and it strains credulity to

<sup>12</sup> Resolutions dated February 24, 2001 of both IRFAN-Canada and JFHS.

suggest that he would not be aware of the existence and status of its bank accounts. We note that the minutes of the Board of Directors meeting on December 19, 2006 record that “[a]ny cheque issued by the Ar-Ram office needs to be countersigned by Rasem Abdel Majid in Canada”.<sup>13</sup>

- IRFAN-Canada’s representations regarding the outstanding cancelled cheques for its Cairo Amman bank accounts have been misleading and inaccurate. In response to our Proposal letter of January 18, 2010, IRFAN-Canada was able to disclose another 26 cancelled cheques which it had previously maintained “were either rejected or not negotiated.”
- Some of the missing account statements and cancelled cheques are still outstanding and remain outside of Canada.

## 2. Canadian Bank Accounts

- Our analysis of the information submitted in response to our February 2, 2009 letter revealed that IRFAN-Canada had failed to provide complete bank statements and cancelled cheques for six of its eight Canadian bank accounts.
- Our May 6, 2009 Requirement directed IRFAN-Canada to provide the outstanding records including those pertaining to the closure of its three TD Canada Trust bank accounts, which contained nearly 1 million dollars.
- IRFAN-Canada’s original representation regarding the closure of these accounts was that they were “closed December 13, 2006 and hence ‘any missing bank statement from December 1, 2006 to present’ is not applicable”.
- Because IRFAN-Canada failed to provide complete records for its TD Canada Trust bank accounts, the CRA was forced to obtain the missing information through a third party requirement. The information obtained showed that IRFAN-Canada’s representations were inaccurate because these accounts were not closed until January 13, 2007. Moreover, IRFAN-Canada conducted nearly 1 million dollars in transactions from these accounts, including issuing over 60 cheques, from the time IRFAN-Canada originally represented the account closure (December 13, 2006) until the actual date of closure on January 13, 2007.
- IRFAN-Canada’s response to this evidence, conveyed in your letter of February 24, 2010, is that it “...incorrectly indicated that the TD Canada Trust Bank accounts were closed December 13, 2006... through the inadvertence and/or honest mistake of the person who assisted with the reply.”
- Once again, we find it difficult to accept this representation as being valid. The original information we received about the closure of these accounts was provided by Mr. Sami Kaoud, the same person who prepared and approved the minutes of the December 19, 2006 Board meeting which discuss the January 13, 2007 extension for closure of the accounts. Moreover, as Treasurer of IRFAN-Canada, Mr. Kaoud was arguably the person in the best position to know the status of its Canadian bank accounts.

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<sup>13</sup> Ar-Ram appears to be a reference to be IRFAN-Canada’s West Bank office in Ramallah.

### 3. Telephone Statements

- IRFAN-Canada failed to disclose any information regarding its foreign telephone statements (and two of its Canadian mobile statements) until after the CRA disclosed that we had knowledge of these accounts in our May 6, 2009 Requirement letter.
- Our January 18, 2010 Proposal letter detailed significant gaps in IRFAN-Canada's foreign telephone statements such as omissions of the pages which contain the record of phone numbers called by its employees in the West Bank.
- Your February 24, 2010 letter states that IRFAN-Canada has now compensated for these deficiencies with the provision of "...an *electronic call log provided by the phone company...*", which was submitted with your letter in the form of an Excel spreadsheet.
- We cannot verify the authenticity of this call log as there is nothing by way of any inscription, mark, letterhead, stamp, or other means of identification or authenticity to show that the information provided originates from a telephone company. Further, our analysis indicates numerous irregularities and discrepancies between information contained in the call log and information found on the foreign statements submitted by IRFAN-Canada. For example, our analysis of the call log and the partial statements provided by IRFAN-Canada indicates that the call log does not include all of the phone numbers that appear on the actual telephone account statements. Further, some sheets contained in the call log are not in chronological order and skip from one year to the next in the middle of the log.
- IRFAN-Canada's foreign telephone statements remain deficient.

### 4. Employees

- IRFAN-Canada failed to disclose any information regarding its foreign employees until after our May 6, 2009 Requirement letter which revealed to IRFAN-Canada that our review of the audit material provided to date had identified numerous foreign employees.
- On May 20 and 26, 2009 IRFAN-Canada represented that it "*only had two foreign employees during this period, of which only one is currently employed*", and enclosed copies of wire transfer as supporting documentation for salary payments.
- Our January 18, 2010 Proposal letter refuted IRFAN-Canada's representation regarding its foreign employees and provided a list of seven additional employees identified through analysis of IRFAN-Canada's wire transfers and cancelled cheques.
- Your February 24, 2010 letter acknowledged that IRFAN-Canada had omitted this information, but again asks us to accept that "*any errors or mistakes in the information previously provided are the result of inadvertence or an honest mistake*".

- Despite these representations, IRFAN-Canada's records pertaining to its foreign employees remain deficient as it has yet to provide complete information originally requested in our February 2, 2009 letter and again in our May 6, 2009 Requirement letter.

#### 5. Meeting Minutes

- In November 2004, as part of its undertakings to the CRA, IRFAN-Canada undertook to restructure its former ten-member Advisory Committee with "*... a four (4) member Advisory Committee to better represent the Governorates in the West Bank, Palestine...*" to undertake due diligence measures and provide IRFAN-Canada's Board of Directors with recommendations for projects. The members of the Committee were selected by Mr. Abdul Majid and/or Mr. Khaled Abu Kaff.
- Our January 18, 2010 Proposal noted that IRFAN-Canada had not provided any meeting minutes for its foreign Advisory Committee, nor were any of the due diligence measures behind the recommendations of the Advisory Committee documented in any of IRFAN-Canada's Board of Director Meeting minutes.
- In its February 24, 2010 letter, IRFAN-Canada represented to the CRA that the Advisory Committee "*was disbanded sometime time [sic] ago, during the period when the office was in Ar-Ram, to which it had moved to in 2004, and prior to the office relocating to Ramallah in 2008*".
- This does not adequately address the issue. The time-frame provided is very broad and obscures the facts. We find it difficult to comprehend how IRFAN-Canada cannot pinpoint precisely when it disbanded its Advisory Committee. Our own analysis suggests that this Committee would have been active until at least late 2007 given that Dr. Raed Nassri Hamadah, an appointed member of the Advisory Committee, was co-signing IRFAN-Canada's cheques until this point in time. As IRFAN-Canada has not included Dr. Raed Nassri Hamadah as an employee, we assume that he exercised this authority in his capacity as a member of the Advisory Committee.
- Despite evidence to suggest that its foreign Advisory Committee continued to function until late 2007, IRFAN-Canada has failed to provide the CRA with any meeting minutes or other documentary evidence to support decisions made or advice provided by this Committee.

#### **Additional Issues Raised in the February 24, 2010 Letter**

Much of your February 24, 2010 letter takes issue with, or makes assertions in regard to, matters that are outside the scope of paragraph 188.2(2)(a) of the ITA and are relevant, instead, to the question of whether IRFAN-Canada's registration as a charity should be maintained or revoked. It is for this reason that our Proposal letter did not deal with other possible matters of concern, notably whether IRFAN-

Canada has devoted its resources to charitable activities or has failed to abide by certain of its previous undertakings in this regard. In particular, the need to follow up on findings from our earlier audit concerning IRFAN-Canada's involvement at that time with organizations associated with Hamas explains why our difficulty in obtaining the books and records that are necessary to conduct a thorough and comprehensive audit presents such a serious concern, but is not the matter at issue for purposes of our decision to proceed with suspension action.

Your representations with regard to all matters bearing on any possible grounds for revocation of registration, including whether, on a balance of probabilities, the CRA has "...*valid concerns based on credible evidence regarding the Charity's alleged links to terrorist organizations...*", will be considered in the context of our ongoing audit of IRFAN-Canada. IRFAN-Canada will be given the opportunity to address any concerns arising from the audit findings should the CRA believe that there may be grounds for revocation of its registration under the ITA.

However, certain assertions made in your February 24, 2010 letter, such as the accusation that the CRA's actions in this matter are politically motivated, need to be addressed. We would direct you to Appendix D in this regard.

### **Effects of the Suspension Sanction**

Please be advised that in accordance with subsection 188.2(3)<sup>14</sup> of the ITA, IRFAN-Canada, for the duration of its suspension:

- may not issue official donation receipts for gifts it may receive;
- must, before accepting a gift, inform the donor that it has received a Notice of Suspension and no official donation receipt may be issued for gifts received; and
- is no longer a qualified donee as defined by the ITA, and must inform other registered charities before receiving a gift that the charity is not a qualified donee.

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<sup>14</sup> Effect of suspension

If the Minister has issued a notice to a registered charity under subsection (1) or (2)

(a) the charity is deemed, in respect of gifts made and property transferred to the charity within the one year period that begins on the day that is seven days after the notice is mailed, not to be a donee, described in paragraph 110.1(1)(a) or in the definition of 'total charitable gifts' in subsection 118.1(1) for the purposes of

- i. subsections 110.1(1) and 188.1(1),
- ii. the definitions 'qualified donee' and 'registered charity' in subsection 248(1), and
- iii. Part XXXV of the Income Tax Act Regulations; and

(b) if the charity is, during that period, offered a gift from any person, the charity shall, before accepting the gift, inform that person that

- i. it has received the notice,
- ii. no deduction under subsection 110.1(1) or credit under subsection 118.1(3) may be claimed in respect of a gift made to it in the period, and
- iii. a gift made in the period is not a gift to a qualified donee.

Failure to comply with, or contravention of, any of sections of 230 to 231.5 of ITA are also grounds upon which the Minister may propose to revoke the registration of a registered charity under subsection 168(1) of the ITA. During this period of suspension, the CRA will continue its audit of IRFAN-Canada's operations to determine whether the organization's registration under the ITA should be maintained or revoked.

IRFAN-Canada has **seven (7) days**, from the date of this letter, to issue donation receipts for gifts it received prior to the effective date of the suspension.

We should also draw to your attention that if it may reasonably be considered that IRFAN-Canada acts in concert with another registered charity to accept a gift or transfer of property intended for IRFAN-Canada, then in accordance with paragraph 188.2(2)(b) of the ITA, that registered charity may also have its receipting privileges suspended for a period of one year.

It is important to note that this suspension does not mean that IRFAN-Canada is prohibited from receiving donations or continuing to conduct its affairs. We note, in this regard, that as of July 2009, IRFAN-Canada maintained in excess of 3.8 million dollars in its Royal Bank of Canada accounts. We also note that IRFAN-Canada is receiving funds deposited into its three accounts (US dollar, Euro and Saudi Riyal) at the Beirut branch of the Arab Finance House. Our analysis of these deposits indicates that these transactions consist primarily of cash deposits (in Beirut) and transfers from various foreign banks, none of which appear to originate from any of IRFAN-Canada's domestic or foreign bank accounts. The continued collection of these funds would not be affected by IRFAN-Canada's inability to issue tax receipts in Canada. Thus, while this one-year suspension may mean that IRFAN-Canada's operations would be reduced, it is unlikely, in our view, that it would "...*make continuing to operate impossible...*" as your letter suggests.

Your February 24, 2010 letter also maintains that suspension of IRFAN-Canada's receipting privileges will "...*place in peril the lives of thousands of vulnerable persons who are supported by the charitable works of the Charity and its partners...*"

According to IRFAN-Canada's *Registered Charity Information Returns* (T3010), it operates principally in the West Bank and Gaza, but also carries out activities in Pakistan, Sudan, Lebanon, Sierra Leone, Guyana, and Afghanistan. Based on T3010 information available on the CRA website, there are at least 86 Canadian registered charities who report that they provide relief and development programs in these countries. For example, we note that well-known charities such as the Canadian Red Cross Society,<sup>15</sup> World Vision Canada,<sup>16</sup> OXFAM,<sup>17</sup> and CARE Canada,<sup>18</sup> carry

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<sup>15</sup> Canadian Red Cross Society BN 119219814 RR0001

<sup>16</sup> World Vision Canada BN 119304855 RR0001

<sup>17</sup> OXFAM BN 129716866 RR0001



out relief and development services in these countries, providing viable options for Canadian donors wishing to target their charitable giving to the needy in those regions. We note, in particular, that other registered Canadian charities such as World Vision Canada and SOS Children's Villages Canada<sup>19</sup> also have child sponsorship programs which include children from the West Bank and Gaza.

It is our understanding that the nature of IRFAN-Canada's relationships with its partners in program delivery is that they are independent organizations engaged on a project basis to carry out certain activities. For example, IRFAN-Canada's major partner in Gaza, Ard El Insan Palestinian Benevolent Association (Ard El Insan), is a large and long-established organization. According to its website,<sup>20</sup> Ard El Insan "*was established in 1984 as an affiliate of the Swiss agency 'Terre Des Hommes', then it was localized in 1997 to be a Palestinian non governmental organization, registered with the Palestinian National Authority, ... and over the years became the leading health community and nutrition services provider in the Gaza Strip.*" Ard El Insan's website also states that it has 20 partner and supporting organizations other than IRFAN-Canada.

Another major partner receiving funds for projects from IRFAN-Canada is the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). As an agency of the United Nations, UNRWA is clearly in a position to obtain funding from a wide variety of sources.

For this reason, it seems unlikely that Ard El Insan or other of IRFAN-Canada's operating partners would be dependent on its funding alone for their continued existence.

If, on the other hand, any of these partner organizations is fully dependent on IRFAN-Canada for its existence, this would draw into question whether IRFAN-Canada is retaining proper control over its resources outside of Canada and funding non-qualified donees rather than devoting its resources to its own charitable activities as required under the ITA.

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<sup>18</sup> CARE Canada BN 118838333 RR0001

<sup>19</sup> SOS Children's Villages Canada BN 138247259 RR0001

<sup>20</sup> Ard El Insan website [www.ardelinsan.org](http://www.ardelinsan.org)

## Public Notice

By virtue of paragraph 241(3.2)(g) of the ITA, the following information relating to IRFAN-Canada's suspension of receipting privileges and qualified donee status will be posted on the Charities Directorate website.<sup>21</sup>

Name of Charity:	International Relief Fund for the Afflicted and Needy Canada (IRFAN)
Registration Number:	885408849 RR0001
Effective Date of Suspension:	April 13, 2010
Reason for Suspension:	<ol style="list-style-type: none"><li>1. Failure to maintain books and records in Canada in accordance with subsection 230(2) of the ITA.</li><li>2. Failure to provide books and records for audit and examination in accordance with subsection 231.1(1) of the ITA.</li><li>3. Failure to comply with a requirement to provide documents or information in accordance with subsection 231.2(1) of the ITA.</li></ol>
ITA Reference:	188.2(2)(a)
End of Suspension Date:	April 12, 2011

## Appeal Process

Should you wish to appeal this Notice of Suspension of Receipting Privileges in accordance with subsection 168(4) of the ITA, a written Notice of Objection, which includes the reasons for the objection and all relevant facts, must be filed within **90 days** from the date of this letter. The Notice of Objection should be sent to:

Tax and Charities Appeals Directorate  
Appeals Branch  
Canada Revenue Agency  
Nicholas Street  
Ottawa ON, K1A 0L5

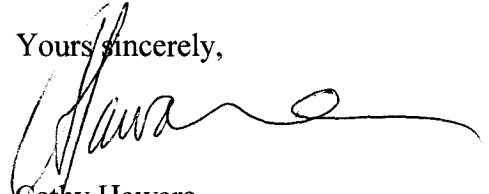
In accordance with subsection 188.2(4) of the ITA, an application to the Tax Court of Canada may be filed for a postponement of the portion of the suspension period that has not elapsed. The application can only be filed once the Notice of Objection to a suspension under subsection 188.2(2) has been filed by the organization.

The foregoing fully explains our position.

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<sup>21</sup> [www.cra-arc.gc.ca/charities](http://www.cra-arc.gc.ca/charities)

Yours sincerely,



Cathy Hawara  
A/Director General  
Charities Directorate

Attachments

- Appendix A – Failure to Comply with subsection 230(2) of the ITA
- Appendix B – Failure to Comply with subsection 231.1(1) of the ITA
- Appendix C – Failure to Comply with subsection 231.2(1)
- Appendix D – Additional Issues Raised in the February 24, 2010 Letter
- Proposal to Suspend Receipting Privileges of IRFAN-Canada,  
dated January 18, 2010

## Appendix A -Failure to comply with subsection 230(2) of the ITA

Subsection 230(2) of the ITA requires that “*every registered charity...shall keep records and books of account at an address in Canada recorded with the Minister containing information in such form as will enable the Minister to determine whether there are any grounds for the revocation of its registration*”. This requirement has been recognized by the courts<sup>1</sup> and is extensively documented in CRA publications which are available on our website.<sup>2</sup> These publications discuss the requirement to keep proper books and records and point out that failure to do so may result in the suspension of a registered charity’s tax receipting privileges and/or revocation of its registration under the ITA. IRFAN-Canada was also notified in our December 21, 2004 audit closure letter of the requirements for its continued registration under the ITA, including the requirement to maintain proper books and records in Canada.

On February 29, 2008, the CRA advised IRFAN-Canada of our intent to conduct a follow-up audit to examine the organization’s compliance with the requirements for its continued registration. At that time, the CRA provided IRFAN-Canada with a detailed list of documentation that it should have available for the commencement of the audit on March 6, 2008. At the organization’s request, the audit was delayed several months, providing more than sufficient time for the organization to ensure that all financial records and supporting documentation were available in Canada. We note that our letter of August 26, 2008, again specified that we required a complete copy of its books and records, including wire transfers or other banking documents, with respect to all projects it had undertaken in 2005, 2006 and 2007. Several extensions of time to produce this information were given to IRFAN-Canada.

In order to continue our audit, on February 2, 2009, the CRA requested<sup>3</sup> that IRFAN-Canada provide our office with copies of books and records that we had identified as being essential to our review such as phone bills, bank statements, cancelled cheques, wire transfers, and copies of all minutes of meetings. It is fundamental to any audit of a registered charity that the CRA be able to determine with precision how funds

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<sup>1</sup> *Canadian Committee for the Tel Aviv Foundation v. Canada* (2002 FCA 72), *College rabbinique de Montreal Oir Hachaim D’Tash v. Canada (Minister of the Customs and Revenue Agency)* (2004 FCA 101) and *The Lord’s Evangelical Church of Deliverance and Prayer of Toronto v. Canada* (2004 FCA 397).

<sup>2</sup> Publications available on our website

- RC4409 - Keeping Records [www.cra-arc.gc.ca/E/pub/tg/rc4409/README.html](http://www.cra-arc.gc.ca/E/pub/tg/rc4409/README.html)
- Information Circular IC78-10R4 - Books and Records Retention/Destruction [www.cra-arc.gc.ca/E/pub/tp/ic78-10r4/README.html](http://www.cra-arc.gc.ca/E/pub/tp/ic78-10r4/README.html)
- Summary Policy CSP-B01 - Books and Records [www.cra-arc.gc.ca/tx/chrts/plcy/csp-b01-eng.html](http://www.cra-arc.gc.ca/tx/chrts/plcy/csp-b01-eng.html)
- Operating a Registered Charity - Books and Records [www.cra-arc.gc.ca/tx/chrts/prtng/bks-eng.html](http://www.cra-arc.gc.ca/tx/chrts/prtng/bks-eng.html)
- Registered Charities Newsletter No. 26, Winter 2006 [www.cra-arc.gc.ca/E/pub/tg/charitiesnews-26/README.html](http://www.cra-arc.gc.ca/E/pub/tg/charitiesnews-26/README.html)
- Checklist for Keeping Adequate Books and Records <http://www.cra-arc.gc.ca/tx/chrts/chcklsts/bks-eng.html>
- Penalties and Suspensions <http://www.cra-arc.gc.ca/tx/chrts/plcy/csp/pnlts-eng.html>

<sup>3</sup> We note that the documentation requested in our February 2, 2009 letter was included on the list of books and records that IRFAN-Canada was to have ready for audit and examination in February 2008, and some of the information, such as the banking documents and wire transfers, should have been provided in response to our August 26, 2008 letter.

are being used, including to whom they are being made available. This is of crucial importance in this case because of the nature of the concerns documented by our 2004 audit and subsequent events.<sup>4</sup>

IRFAN-Canada was given 30 days to provide the documentation requested in our February 2, 2009 letter. Again, IRFAN-Canada requested additional time to produce the documents and the CRA granted an extension. Despite these accommodations, it was evident from IRFAN-Canada's submissions that the books and records it maintained in Canada were insufficient for audit and therefore did not comply with the requirements under subsection 230(2) of the ITA. For example, IRFAN-Canada failed to provide the CRA with complete copies of:

- wire transfers;
- any statements for its three mobile telephones;
- complete copies of bank statements and cancelled cheques for six of its eight Canadian bank accounts; and

failed to disclose

- any information in relation to its thirteen foreign bank accounts;
- information on foreign employees; and
- foreign telephone statements.

The absence<sup>5</sup> of foreign bank statements and cancelled cheques in the books and records maintained in Canada made it impossible for the CRA to verify all revenues and/or determine the destination of all monetary transactions.

As noted in our Proposal letter, the inadequacy of IRFAN-Canada's books and records also extends to a lack of documentation relating to its meeting minutes and key operational decisions. IRFAN-Canada has reported expenditures in excess of 27 million dollars in resources for the 2005 to 2008 timeframe alone,<sup>6</sup> and operates more than 30 projects outside of Canada, yet our analysis of the minutes submitted by IRFAN-

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<sup>4</sup> In the course of conducting the current audit, we discovered information contained on the Israeli Ministry of Defence website indicating that, nine days after the closure of our 2004 audit, IRFAN-Canada was itself declared an "unlawful association" in Israel. As it did in 2004, IRFAN-Canada has again represented to us that it has only become aware of this designation as a result of our correspondence.

- The Hebrew version of the declarations and orders is available at:  
<http://www.justice.gov.il/pages/general/pdfs/terror.pdf>
- An informal English version of the declarations and orders is available at  
<http://www.justice.gov.il/MOEng/Halanat+Hon/TerroristOrganizations.htm>

Also following our 2004 audit, IRFAN-Canada was listed as an unindicted co-conspirator in the successful terrorist financing prosecution of Holy Land Foundation for Relief and Development in the United States in November 2008.

- *United States of America v. Holy Land Foundation for Relief and Development et al*, CR NO. 3:04-CR-240-G, Appendix A – List of Unindicted Co-Conspirators and/or Joint Venturers, filed on May 21, 2007.

As our Proposal letter states, these events underscore the need for the CRA to be in a position to determine whether IRFAN-Canada's resources continue to be used in a manner that lends support to Hamas or other organizations engaged in terrorism.

<sup>5</sup> As admitted by IRFAN-Canada's letter of May 20, 2009.

<sup>6</sup> This amount includes gifts in kind and revenue for the fiscal years 2005 to 2008 as reported in IRFAN-Canada's *Registered Charity Annual Information Return* and financial statements.

Canada for its Board of Directors meetings indicates that board meetings are held only sporadically. In fact, there have been only seven<sup>7</sup> such meetings held since January 2005 providing very little in the way of such documentation to reflect how and by whom key operational decisions are being made.

We note, in particular, that despite IRFAN-Canada's unsubstantiated assertion that it "...continues to maintain procedures to ensure that its resources are not used in a manner that lends support to Hamas or other illegal organizations..." and your statement that your client "...remains committed to follow the procedures it undertook to implement in its letter to CRA on November 19, 2004...", there is little if any discussion of recommendations for project funding and no record of discussion of any due diligence process relating to new projects/partners in the meeting records provided.

According to IRFAN-Canada's November 19, 2004 letter to the CRA, such decisions were to be made on the basis of recommendations provided to the Board of Directors from its foreign Advisory Committee operating in the West Bank. However, IRFAN-Canada has not provided any minutes for its Advisory Committee meetings or any record of its decisions or advice to IRFAN-Canada's Board of Directors. Your letter states that "*IRFAN-Canada advises that (the) Advisory Committee that existed for its Jerusalem office was disbanded sometime time [sic] ago, during the period when the office was in Ar-Ram, to which it had moved in 2004, and prior to the office relocating to Ramallah in 2008.*" This does not adequately address the issue. The timeframe provided is very broad and obscures whether the committee operated during the period under audit and for which we requested copies of meeting minutes. Moreover, this begs the question of who, then, was seized with responsibility for exercising the necessary due diligence measures behind recommendations approved by the Board, and why these records have not been provided to us.

Your submission that "*given sufficient time...the Charity would be able to provide satisfactory evidence to CRA that it has implemented prudent measures in order to safeguard the charitable assets from abuse by terrorist organizations...*" admits that there continues to be a deficiency in the books and records in this regard. These are the kinds of records that IRFAN-Canada, in 2004, committed to maintain for audit review. However, our preliminary review conducted during our January 2009 site visit determined that IRFAN-Canada's project records did not include due diligence documentation pertaining to its project partners. We also note with interest that the minutes for the April 21, 2009 Board meeting submitted with your February 24, 2010 response, are the only minutes that provide any mention of IRFAN-Canada's due diligence procedures.

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<sup>7</sup> Board of Directors meetings were held on April 6, 2005, December 19, 2006, December 21, 2006, March 31, 2007, September 8, 2007, August 17, 2008 and April 19, 2009. We note that IRFAN-Canada provided the CRA with a copy of the April 19, 2009 minutes on February 24, 2010.

Your February 24, 2010 letter provides IRFAN-Canada's representations regarding deficiencies in the records provided relating to its foreign employees. The importance of this information should be obvious in that these are the key personnel charged with delivering IRFAN-Canada's programs in the region. Their bona fides are, therefore, a matter of crucial importance in adhering to any due diligence process. Your February 24, 2010 letter also advises that IRFAN-Canada has provided detailed information *"correcting and expanding upon the employee information listed in Appendix C of the Proposal Letter. Any errors or mistakes in the information previously provided are the result of inadvertence and/or honest mistake of its staff and volunteers at the head office"*. We must advise that IRFAN-Canada's response in this regard continues to be deficient as the information provided essentially reiterates what was detailed in our Proposal Letter and still does not disclose the addresses of its foreign employees as required in our May 6, 2009 Requirement.

In our view, the inadequacies in books and records detailed in our Proposal letter cannot, as your letter suggests, be adequately explained or excused on the basis of *"...a combination of inadvertence, honest mistakes and circumstances in the Middle East (in particular, the war in Gaza – the centre of many of the Charity's activities – occurred at a key point during the audit, from December 2008 through to January 2009), which make obtaining these documents difficult..."*. We note, in particular, that the offices of IRFAN-Canada were not located in Gaza at that time, and that none of its bank accounts were held in Gaza.

IRFAN-Canada's failure to maintain adequate books and records in Canada in accordance with subsection 230(2) of the ITA has prevented the CRA from evaluating IRFAN-Canada's operations in an effective and timely manner and has seriously inhibited our ability to determine whether the organization is operating overseas in accordance with the requirements for its continued registration as a charity.

Your February 24, 2010 letter, advises that IRFAN-Canada *"...acknowledges that there may have been weaknesses in its books and records, as identified by this current audit..."* and advises that it has now implemented new procedures to *"...ensure that its books and records are appropriately maintained in the future..."*. This representation will be considered during the continuation of our audit and our deliberations as to whether IRFAN-Canada's registration as a charity under the ITA should be maintained or revoked.

## **Appendix B - Failure to comply with subsection 231.1(1) of the ITA**

Section 231.1 of the ITA permits the Minister to “*inspect, audit or examine the books and records of a taxpayer and any document of the taxpayer or of any other person that relates or may relate to the information that is or should be in the books and records of the taxpayer*” for any purpose related to the administration or enforcement of the ITA.

As our Proposal letter of January 18, 2010 documents, IRFAN-Canada has repeatedly failed to provide access to books and records that were requested by the CRA for audit and examination in accordance with subsection 231.1(1) of the ITA. Your February 24, 2010 response does not sufficiently justify IRFAN-Canada’s actions in this regard.

IRFAN–Canada failed to provide complete records for its TD Canada Trust bank accounts, forcing the CRA to obtain missing information that is an essential aspect of our current audit through a third party Requirement. The explanation conveyed by your letter in this regard is that:

*“IRFAN-Canada incorrectly indicated that the TD Canada Trust Bank accounts were closed December 13, 2006. This occurred through the inadvertence and/or honest mistake of the person who assisted with the reply to your requisition which mistake was not caught by IRFAN-Canada. This mistake was unintentional and not of any significance, despite the number and aggregate total of the transactions during the undeclared period.”*

On the contrary, failure to disclose these bank statements was of clear significance as this information was required in order to verify revenue and expenditures. For example, bank statements are a starting point for verification of revenues and expenditures against T3010<sup>1</sup> reporting. Moreover, our May 6, 2009 Requirement letter was very specific in listing the outstanding balances and statements for these accounts, clearly indicating the importance of this information to our audit. IRFAN-Canada’s representation as conveyed in your February 24, 2010 letter was that its failure to provide the information requested for these accounts “...occurred through the inadvertence and/or honest mistake of the person who assisted with the reply...”. We note that the incorrect information regarding the closure of these accounts was originally provided by Mr. Sami Kaoud,<sup>2</sup> who is the same person who prepared and approved the minutes of the December 19, 2006 Board of Directors meeting during which the extension to January 13, 2007 for closing the accounts was discussed. As Treasurer of IRFAN-Canada, Mr. Kaoud was arguably the person in the best position to know the status of its bank accounts.

It is of particular note and importance that IRFAN–Canada did not disclose records related to any of its 13 foreign bank accounts on its own accord prior to

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<sup>1</sup> Registered Charity Information Return

<sup>2</sup> IRFAN-Canada’s May 26, 2009 letter signed by Mr. Sami Kaoud



our May 6, 2009 Requirement. Your representation in this regard was that IRFAN-Canada “... *initially disclosed its foreign banking history by advising only on its regular active foreign accounts, through the inadvertence and/or honest mistake of the employee or volunteer who helped reply to the CRA’s initial requisition in relation to the foreign bank accounts. We note, however, that new accounts were opened in a Lebanese bank during the course of the audit and were fully disclosed...*”.

This is inaccurate. As the record of correspondence<sup>3</sup> indicates, IRFAN-Canada failed to disclose the existence of and any records relating to its foreign bank accounts until after it had received our May 6, 2009 Requirement letter, where we identified the five foreign accounts we had discovered to that point through publicly available information and our audit analysis. It was only at that point, and not in response to our letter of February 2, 2009, that IRFAN-Canada disclosed its Arab Finance House accounts in Beirut, which had been opened in August and October of 2008. In addition, IRFAN-Canada did not provide any information on its active Jordanian currency account held at the Cairo Amman Bank until February 24, 2010, when your office responded to our Proposal letter.

With regard to non-disclosure of its Hapoalim Bank account in East Jerusalem, IRFAN-Canada has represented that it “...*had not been sending money directly into Hapoalim Bank for quite some time, so did not consider it active and so simply forgot to disclose it. It has no direct knowledge or recollection of transfers from Arab Bank to Hapoalim Bank...*”. We would point out that information IRFAN-Canada provided to the CRA as a result of our May 6, 2009 Requirement letter included documentation showing that its former office manager, Mr. Khaled Abu Kaff, deposited funds into the Hapoalim Bank from one of its Arab Bank accounts. We are concerned, therefore, that IRFAN-Canada had no knowledge of these transactions, particularly as Mr. Abu Kaff had signing authority over both accounts. This points to a lack of oversight and due diligence practice that raises concerns as to the extent of IRFAN-Canada’s control and direction over its resources.

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<sup>3</sup> The following summarizes the CRA’s actions with regard to our attempts to gain access to records pertaining to IRFAN-Canada’s foreign bank accounts.

- On February 2, 2009, the CRA requested that IRFAN-Canada provide, in addition to other standard books and records, copies of all bank statements from January 2005 to present.
- IRFAN-Canada, in its response to our February 2, 2009 request for books and records, failed to provide any account statements for its foreign bank accounts or complete copies of bank statements for six out of its eight Canadian bank accounts.
- As a result of these deficiencies, the May 6, 2009 Requirement directed IRFAN-Canada to provide, without limiting the generality of the Requirement, copies of all outstanding bank statements and cancelled cheques. In the Requirement, we listed five foreign accounts that we were able to identify through our analysis of the audit information compiled to that point and through our analysis of publicly available information. Specifically, we noted that IRFAN-Canada had not provided any statements or cancelled cheques for its USD and NIS accounts with the Cairo-Amman Bank, the USD and NIS account with the Arab Bank and one account at the Housing Bank for Trade and Finance.
- IRFAN-Canada’s May 26, 2009 letter to the CRA acknowledged the existence of the foreign bank accounts identified by the CRA and advised that, in addition to these account, it had three more accounts at the Arab Finance House, another Jordanian currency account at the Arab Bank and a further account at the Housing Bank for Trade and Finance.

With regard generally to the matter of accounts that are not currently active, we would point out that IRFAN-Canada was still under an obligation to make these books and records available to the CRA for inspection, audit, and examination.

Our January 18, 2010 letter also outlined deficiencies with respect to IRFAN-Canada's foreign telephone statements. Your February 24, 2010 letter conveys IRFAN-Canada's representations that it has now compensated for these deficiencies with the provision of a "...*call log provided by the phone company...*", which was submitted with your letter in the form of an Excel spreadsheet. There is, however, nothing by way of any inscription, mark, letterhead, stamp, or other means of identification or authenticity to show that the information provided originates from a telephone company. This documentation therefore cannot be accepted as meeting the outstanding deficiency.

The CRA provided IRFAN-Canada with more than ample notice that its books and records were required for audit purposes. IRFAN-Canada's failure to provide the books and records requested by the CRA for audit and examination has seriously inhibited our ability to conduct our audit responsibilities in a timely and effective manner. For this reason, it is our view that IRFAN-Canada has breached subsection 231.1(1) of the ITA and, consequently, that its receipting privileges as a registered charity should be suspended in accordance with paragraph 188.2(2)(a) of the ITA.

## **Appendix C - Failure to comply with subsection 231.2(1) of the ITA**

In accordance with subsection 231.2(1) of the ITA, “*the Minister may...for any purpose related to the administration or enforcement of this Act...require that any person provide, within such reasonable time as it stipulated in the notice...any information...or any document*”. The issuance of a formal requirement under this provision is a serious matter, as evidenced by the fact that non-compliance can attract criminal penalty.

Because of the significant difficulty the CRA encountered in obtaining books and records essential to our audit, and since the information provided by IRFAN-Canada in response to our letter of February 2, 2009 revealed serious deficiencies, a requirement to provide information and documents was sent to IRFAN-Canada on May 6, 2009. IRFAN-Canada was given 15 days from the date of service to provide the outstanding information and documentation requested in our February 2, 2009 correspondence. In a May 27, 2009 telephone conversation, the CRA provided your client with an extension until May 29, 2009 to provide the information. We also advised IRFAN-Canada to contact us on May 29, 2009 if problems were encountered in meeting this extended deadline.

Despite the fact that IRFAN-Canada failed to negotiate a new deadline, the CRA received four separate responses<sup>1</sup> to the Requirement past the deadline set out in our letter and in our May 27, 2009 telephone conversation. IRFAN-Canada’s last response, dated July 23, 2009, advised that it had now provided “...*reasonably complete submissions in five out the six areas of deficiency...*”, but it was “...*still seeking additional cancelled cheques...*”. When, after six months time, the CRA had not received any further response from IRFAN-Canada past its July 23, 2009 letter, or any request to negotiate a new deadline, notice was given by our letter of January 18, 2010 that the CRA proposed the sanction permitted under paragraph 188.2(2)(a) of the ITA to suspend IRFAN-Canada’s receipting privileges. It should be noted that our review of the information received in response to this requirement again revealed significant deficiencies despite IRFAN-Canada’s delayed submissions. IRFAN-Canada appears to have turned a blind eye to the Requirement deadline.

Your February 24, 2010 letter advises that IRFAN-Canada has implemented new changes to its record-keeping procedures as a result of the deficiencies outlined in our Proposal letter. We will consider your revised procedures and assurances in the context of our continued assessment of IRFAN-Canada’s eligibility for registration. However, they do not change the fact that the information requested in our May 6, 2009, Requirement letter was not provided within the original time-limit, the extended time-limit, or an acceptable period of time thereafter. For example, we see no reason why the minutes of the April 19, 2009 Board meeting, certified as having been prepared, written and issued by Sami A. Kaoud on Tuesday, April 21, 2009, could not have been provided until your letter of February 24, 2010. We note with interest that these are the only

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<sup>1</sup> IRFAN-Canada’s response to the May 6, 2009 Requirement includes letters dated May 26, 2009, June 4, 2009, June 25, 2009, June 30, 2009 and July 23, 2009.

minutes provided that address the deficiency with respect to project approvals documented in our letter of Proposal letter of January 18, 2010, but that information as to any due diligence measures undertaken in relation to these projects has not been included.

IRFAN-Canada's failure to comply in an appropriate manner with the formal Requirement letter sent to it on May 9, 2009 has significantly delayed our audit review of its operations. For this reason, it is our view that IRFAN-Canada has breached subsection 231.2(1) of the ITA and, consequently, that its receipting privileges as a registered charity should be suspended in accordance with paragraph 188.2(2)(a) of the ITA.

## Appendix D- Additional Issues Raised in the February 24, 2010 Letter

This appendix addresses certain assertions made in your letter that are invalid.

First, we wish to address the warning in your February 24, 2010 letter that “*the Charity takes very seriously any repetition of the unfounded statements related to the alleged ties to terrorism and will seek any remedies legally available to it to correct such statements.*” What our Proposal letter said, in fact, was:

IRFAN-Canada’s failure to maintain and to make available standard books and records requested in our May 6, 2009 Requirement presents serious obstacles to the CRA’s current audit of IRFAN-Canada and our ability to verify compliance with the requirements for its continued registration as a charity. This is of crucial concern given our 2002 audit of IRFAN-Canada, which indicated that a significant number of foreign organizations with which the organization maintained partnerships had direct ties to Hamas. IRFAN-Canada’s failure to maintain complete books and records in Canada and its non-compliance with the May 6, 2009 Requirement seriously inhibits our ability to determine whether the organization’s resources continue to be used in a manner that lends support to Hamas or other organizations engaged in terrorism.

It must be noted that when, in 2004,<sup>1</sup> we provided IRFAN-Canada with the evidence we had gathered from publicly available records linking organizations with which it maintained partnerships in program delivery to Hamas, IRFAN-Canada did not dispute that evidence.<sup>2</sup> Instead, it represented<sup>3</sup> to the CRA that:

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<sup>1</sup> The audit conducted in 2004 focussed on IRFAN-Canada’s 2002 fiscal year.

<sup>2</sup> Reference is made to Schedule F in IRFAN-Canada’s November 19, 2004 letter to the CRA. Here IRFAN-Canada acknowledged that it worked with the eleven organizations listed below that were, at that time, alleged to be controlled by Hamas. We have subsequently learned that six out of the eleven organizations had been listed as Unlawful Associations in Israel for their support and affiliation to Hamas by the time of our 2004 audit, and one of these has since been listed as a terrorist entity in the United States. A seventh was designated as an Unlawful Association in Israel in 2006. Of the eleven organizations, eight were also named as Hamas controlled organizations in the evidence upon which the Holy Land Foundation for Relief and Development was convicted in the United States on terrorism financing charges in November 2008. These organizations are identified below with an asterix (\*).

1. Medical Scientific Society (Scientific Medical Society)
2. Orphan Care Society Bethlehem (Orphan Care Charity, Orphan Care Committee)\* - Listed as an unlawful association in Israel on February 25, 2002
3. Orphans & Needy Care Charity, Jericho
4. Jenin Zakat Committee (Charity Committee)\* - Listed as an unlawful association in Israel on February 25, 2002
5. Ramallah Zakat Committee\* - Listed as an unlawful association in Israel on February 25, 2002
6. Al-Salah Association Gaza\* - Listed as an unlawful association in Israel on February 25, 2002 and Listed by the United States Treasury on August 7, 2007 under Executive Order 13224

*“...it never knowingly dealt with Hamas, nor with organizations known or credibly alleged to be controlled or directed by Hamas. IRFAN also was not aware of credible allegations of connections by any of the organizations with which it worked to Hamas, nor did it have prior knowledge of the materials containing such allegations until provided by the CRA...”*

IRFAN-Canada also gave the CRA assurance<sup>4</sup> that to “*avoid future dealings and misapplication of resources to unlawful organizations*”, it would implement strong due diligence procedures, such as conducting background checks of employees and potential operating partners, and monitoring on a regular basis for any news reports dealing with closures of NGOs or listings of unlawful associations. Based on these assurances, on December 21, 2004, we advised IRFAN-Canada that the CRA would allow the organization to maintain its registration.

You have also conveyed the allegation that the CRA’s actions in this matter are motivated by political interference as a consequence of the lawsuit filed by IRFAN-Canada in 2005 against then-opposition Member of Parliament, Stockwell Day, and that since Mr. Day is now part of the government, he is in a position to influence the CRA’s decision-making. This unsubstantiated allegation is completely unfounded. The CRA’s actions in relation to this suspension decision have been handled completely within the public service and have not been the subject of any directive from any political level of government.

You also contend that the CRA has chosen a “*collateral attack*” founded upon alleged deficiencies in the books and records maintained by the charity rather than deal directly with allegations regarding its “*purported ties to terrorist organizations*” through provisions of the *Anti-terrorism Act*. You suggest that the course of action currently being pursued by the CRA is an attempt to do indirectly what the government cannot or chooses not to do directly under the *Anti-terrorism Act*, in particular Part VI of that Act, the *Charities Registration (Security Information) Act* (the CRSIA).

As explained in our letter of February 11, 2010, the suspension power which the Minister can exercise under paragraph 188.2(2)(a) of the ITA is confined to a limited set of issues and grounds related to the proper maintenance and production for

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- a. Al-Salah’s director, Ahmad Al-Kurd, who served as IRFAN-Canada’s agent in relation to Al-Salah, was also listed by the United States Treasury under Executive Order 13224.

7. Toulkarim Zakat Committee (Charity Society)\* - Listed as an unlawful association in Israel on February 25, 2002
8. Qalqilia Zakat Committee (Charity Committee)\*
9. Nabulus Zakat Committee\* – Listed as an unlawful association in Israel on June 9, 2006
10. Al-Islah Society Bethlehem
11. Islamic Charitable Society, Hebron (Hebron Charitable Society)\* - Listed as an unlawful association in Israel on February 25, 2002

<sup>3</sup> IRFAN-Canada’s November 19, 2004 letter to the CRA

<sup>4</sup> IRFAN-Canada’s November 19, 2004 letter.

audit of books, records, and other information. Parliament clearly intended that the Minister should have recourse to this sanction to deal with contraventions of these matters by way of suspension without either requiring or precluding subsequent revocation action under subsection 168(2) of the ITA or, for that matter, under the provisions of the CRSIA.

Finally, we would draw to your attention that the Minister is not obliged to proceed under the CRSIA to resolve the question of whether an organization should be registered as a charity where there are concerns about its possible ties to terrorism. That Act governs the use and protection of sensitive information where that information must be relied upon to show that there are reasonable grounds to believe that an organization's resources are available, directly or indirectly, to a listed entity, or to an entity that engages in terrorist activities or activities in support of them. Section 2 of the CRSIA clearly reflects this purpose in stating that "*this Act shall be carried out in recognition of, and in accordance with the following principles; (a) maintaining the confidence of taxpayers may require reliance on information that, if disclosed, would injure national security or endanger the safety of persons*" (underlining added). In other words, it is open to the Minister to proceed under the CRSIA where the circumstances necessitate the use and protection of sensitive information, but it is equally valid to address such concerns under the provisions of the ITA where there is no need to rely on information that, if disclosed, would injure national security or endanger the safety of persons.