

Tamils Rehabilitation Organisation

Registered Charity No. 1010029

Introduction

1. This report is the statement of the results of an Inquiry under Section 8 of the Charities Act 1993 ("the Act") into the affairs of The Tamils Rehabilitation Organisation ("the Charity").

2. The Charity was registered with the Charity Commission on 25 March 1992. Its objects were: - "to relieve poverty distress and suffering amongst Tamil speaking people and primarily when arising from any public calamity including famine pestilence war or civil disturbance and/or oppression and to relieve and/or assist the Tamil part of the world." The Charity was a company with company registration number 02688299.

3. The Charity operated by transferring money to the Tamils Rehabilitation Organisation in Sri Lanka ("TRO SL") to be applied by that organisation on relief and rehabilitation projects. The Charity also promoted the welfare and needs of Tamils through its cultural programme; sent aid directly to Sri Lanka, most notably in the form of second hand prosthetic devices for victims of the war; and helped and advised Tamil refugees arriving in the UK. The Charity's income in the year ending 28 February 2000 was £1,489,726.

Issues

4. In September 2000, the Commission received allegations that the Charity was supporting terrorist activity by transferring funds to Sri Lanka in support of the Liberation of Tamil Tigers of Elam ("LTTE"). The LTTE is a proscribed organisation under the Terrorism Act 2000. After an initial evaluation of the allegations, the Commission opened an Inquiry under section 8 of the Act on 26 October 2000. The aims of the Inquiry were to:-

- Investigate the allegations that the Charity was providing financial support to the LTTE;
- Assess the ability of the Charity to operate lawfully in its provision of charitable relief in Sri Lanka in circumstances of civil unrest;
- Take any necessary action to protect the property of the Charity.

Actions Taken and Findings

5. Information concerning the Charity's bank accounts was obtained by Orders made under section 9 of the Act. This indicated that the Charity's funds might be at risk and accordingly, as a temporary and protective measure, on 26 October 2000 the Commission served on the banks restricting Orders made under section 18 of the Act so that payments from the Charity's accounts could be made only with the Commission's prior approval.

6. The Commission served Orders made under section 9 of the Act on the trustees of the Charity, its solicitors and accountants requiring them to hand over to the Commission all the Charity's books, records and audit papers.

7. The Commission found evidence of mismanagement. It was established that the Charity's financial controls were inadequate and that there was a lack of transparency in its operations. The Charity operated by the withdrawal of large cash sums from the Charity's bank accounts. The Trustees exercised little or no control over the application of funds in Sri Lanka and failed to demonstrate a clear audit trail relating to expenditure. They also failed to provide the Commission with any explanation as to the provenance of some of the funds received from the US and Canada. The Commission therefore concluded that the Charity's property was at risk.

8. Accordingly, on 21 May 2002, as a temporary and protective measure and following a tendering process, the Commission appointed [REDACTED] of BDO Stoy Hayward, as Interim Manager for the Charity pursuant to s18(1)(vii) of the Act. By the Commission's Order, this Interim Manager was given all the powers and duties of the trustees of the Charity to the exclusion of the trustees and was required to take control of the Charity's affairs and property. However, the Order allowed the trustees to continue to raise funds for the charity with the prior consent of the Interim Manager.

The Interim Manager

9. The Interim Manager was tasked with administering the Charity and establishing whether it was able to operate lawfully, in the manner intended by the Trustees, in providing charitable relief in Sri Lanka in circumstances of civil unrest. [REDACTED] was required to ascertain the extent of the risk that funds had been, or would in the future be, received by any organisation proscribed under The Terrorism Act 2000. [REDACTED] was also tasked with making recommendations for the Charity's future.

10. The Interim Manager took control of the Charity's bank accounts and on confirmation of this, the Commission determined the Orders restricting payments.

11. The Interim Manager's initial evaluation of the Charity's state of affairs found that the Trustees had not been able to account satisfactorily for the application of charitable funds of the Charity and also concluded that the trustees were not administering the charity to an acceptable standard. The Interim Manager appointed BDO Burah Hathy in Sri Lanka to undertake a review of the systems operated by TRO SL, tracing specific transactions from the Charity. This review concluded that financial record keeping was adequate. However, the results of the review suggested that the TRO SL liaised with the LTTE in determining where funds could be applied. It also found that once funds had been received by TRO SL, they were used for a variety of projects which appeared to be generally humanitarian, but not necessarily charitable in English law nor in line with the Charity's objects.

12. The Interim Manager explored improving governance by introducing changes to the trustee body and advertised for suitable trustees in various media including Tamil outlets. With regard to addressing the operation of the charity within Sri Lanka, the Interim Manager undertook lengthy work to try to find a partner from a non-governmental organisation willing to work with the Charity in the UK or Sri Lanka in identifying various projects that could be supported in Sri Lanka and which would enable open and transparent record keeping regarding the application of funds.

13. As no suitable partner was found, in November 2003, the Interim Manager decided to set up a new charitable company ("the Tamil Support Foundation") with a new trustee body, independent of TRO SL and with objects similar to those of the Charity to which ■■■ would transfer its funds. ■■■ then intended to wind up the Charity. Throughout this process which involved the recruitment and vetting of potential trustees, the Charity continued to operate its major annual fundraising event, collect donations and send more artificial limbs and also a health consultant to Sri Lanka.

Outcome of the Inquiry

14. Immediately following the Tsunami in South East Asia in December 2004, the Interim Manager decided to apply a significant proportion of the Charity's funds by making donations to a number of registered charities undertaking relief work in the affected area of North East Sri Lanka.

15. The Interim Manager also awarded grants to the new charitable company, the Tamil Support Foundation (registered charity number 1107609), after it had been set up in January 2005.

16. In August 2005 the Interim Manager confirmed that the Charity had no assets and had ceased to operate. Accordingly, on 10 August 2005 the Commission discharged the Interim Manager and removed the Charity from the Register of Charities under section 3(4) of the Act as having ceased to operate. The Commission informed Companies House that the company was defunct. The Registrar of Companies has exercised her powers under section 652 of the Companies Act to strike it off the Companies' Register.

17. The Inquiry was closed on 10 August 2005.

18. The costs of the Interim Manager were £81,662, plus disbursements of £16,018 to cover incidental expenses. In addition, the Interim Manager authorised the Charity to pay £26,663 to obtain legal and accountancy advice.

19. The appointment of the Interim Manager protected the Charity's funds at the time when he took control of its bank accounts, by preventing them from being applied in a manner that was unaccountable. These equated to £575,500. Through the setting up of the Tamil Support Foundation, the Interim Manager secured another vehicle for those wishing to support the Tamil speaking people.

Wider lessons

20. It is the fundamental duty of all charity trustees to protect the property of their charity and to secure its application for the objects of the charity. In order to discharge this duty it is essential that there are adequate internal financial and administrative controls over the charity's assets and their use.

21. Under section 3(4) of the Act, any institution which does not operate shall be removed from the Register.