

## Registration decision: Truth Honesty Ethics Trust

### The facts

1. The Truth Honesty Ethics Trust (the trust) was created by a deed of trust dated 11 March 2008. The trustees were incorporated as a board under the Charitable Trusts Act 1957 on 17 March 2008.
2. The Board (the Applicant) applied to the Charities Commission (the Commission) for registration as a charitable entity under the Charities Act 2005 (the Act) on 16 May 2008. The application also included a request that the names of the Applicant's two founding trustees be withheld from the public.
3. The Applicant's purposes are set out in clauses 1 to 10 of Appendix 'A' of the Applicant's Trust Deed:
  1. *To promote, sponsor, teach, facilitate self awareness of good health, good judgment, productive yet respectful attitudes, and self care of good health to the public in general.*
  2. *To promote, teach, sponsor, facilitate sound education, logic and truthful understandings of events, due processes, legal practices, domestic and international rights, and fundamental justice.*
  3. *To generally focus on improving the health, welfare, and productivity of the general public.*
  4. *To manufacture, publish, edit, compose, design, borrow, lend, and trade in any practice, skill, or trade-able commodity of benefit to the trust.*
  5. *Generally to promote, support or establish any policy or method which will enhance clean, honest, truthful, healthy, harmonious, supportive abundant lifestyles for all occupants of this planet.*
  6. *To seek government, corporate, or private funding with media assistance if necessary to undertake these objectives.*
  7. *To work in co-operation not competition with any organisation or body trying to achieve the same objectives without compromising those objectives the Trust has.*
  8. *To hold the assets of the Trust and manage the same to provide income for the Trust.*
  9. *To carry on any other charitable object which may seem to the Board to be capable of being conveniently carried on in connection with the above objects or calculated directly or indirectly to advance the objects of the Board or any of them.*
  10. *All the above objects and operations shall be restricted to New Zealand.*
4. The Commission analysed the application for registration and on 2 June 2009 sent the Applicant a notice advising that its application may be declined. The basis for the notice was that while some of the Applicant's stated purposes appeared to be charitable, the material set out on the Applicant's website ([www.youbethejudge.org](http://www.youbethejudge.org)) indicated that it was engaged in promoting a particular point of view which is not a charitable purpose.

The Commission also sought further information in relation to the request to withhold information.

5. On 20 July 2009, the Applicant responded to the notice, making the following submissions:

- *"... the web site is of poor layout design and is not very user friendly. The Trust does not yet have sufficient funding available to employ a professional to upgrade it so it is possible the informative value of material on site at this stage may not be fully appreciated by those with limited time to fully explore the content, in order to keep it in it's [sic] context."*
- *"Nowhere is there a specific theory or political view expressed or promoted intentionally by the Trust but facts are made available in various formats including books, from which others are clearly at liberty to form their views/opinions should they be so inclined. You will note that any implied personal views end with question marks. That strategy is to encourage readers to do their own research for the greater good rather than be content being robotically compliant."*
- *"The activities of the trustees include but have not been limited to assisting victims of unreasonable Child Youth and Family interference, assemble their evidence and assist them with Court procedures. Such people are those who could not find an available lawyer in the time of need as is often the case. Evidence of such activity is on the 'YouBeTheJudge.org website and the trustees do not see that as a 'political opinion or viewpoint' but awareness education helping people to identify unprofessional conduct on the part of a few, to the detriment of the service as a whole, and to the detriment of family stability on such occasions. Such examples and explanations are to be found in;*
  - (a) *The fully referenced book to be found there entitled 'You Be The Judge';*
  - (b) *The Court of Appeal judgment [dated 18 October 2007, NZ CA 453]; found at the same site, which cost the trustees \$12,000 in travel and costs in assisting that particular family with the advocacy in pursuit of that judgment. ...*

*There are many other instances where charitable activities have been demonstrated by the Trustees, such as a letter to the NZ Law Commission with reference to the use of habeas corpus writs, reporting of unsavoury social workers, unlawful activity of a Social Services Area Manager, Police misconduct, etc ..."*

- *"In addition to such direct activity as described above there have been countless occasions since 2000 where families have been given honourable and honorary guidance in their pursuit of justice in Family Court matters. Such matters fall under the guidelines of S(5)(1) in that the charitable purpose of the voluntary help, both advanced the learning and understanding (education) of members of communities, and the lawful pursuit of justice in emergencies, where lawyers have not been readily available."*

6. The Applicant also stated that it wished to withdraw its withholding request on the basis that it had nothing to hide.

## **The issues**

7. The Commission must consider whether the Applicant meets all of the essential requirements for registration under the Act. In this case, the key issue for consideration is whether the trust is of a kind in relation to which an amount of income is derived by the trustees in trust for charitable purposes, as required by section 13(1)(a) of the Act.

## **The law on charitable purpose**

8. Under section 13(1)(a) of the Act, a trust qualifies for registration if it is of a kind in relation to which an amount of income is derived by the trustees in trust for charitable purposes.
9. Section 5(1) of the Act defines charitable purpose as including every charitable purpose, whether it relates to the relief of poverty, the advancement of education, the advancement of religion, or any other matter beneficial to the community. In addition, to be charitable at law, a purpose must be for the public benefit.<sup>1</sup> This means that the purpose must be directed at benefitting the public or a sufficient section of the public.
10. Section 5(3) of the Act provides that for an entity to have charitable purposes, any non-charitable purpose must be ancillary to a charitable purpose.
11. In considering an application for registration, section 18(3)(a) of the Act requires the Commission to have regard to the activities of the entity at the time the application was made, the proposed activities of the entity, and any other information that the Commission considers relevant.

## **Charities Commission's analysis**

12. The Commission considers that the purposes set out in clauses 4, and 6 to 10 are powers. The remaining purposes, set out in clauses 1, 2, 3, and 5, do not indicate an intention to relieve poverty or advance religion, they have therefore been considered in relation to the advancement of education and other matters beneficial to the community.

### **Advancement of education**

13. In order for a purpose to advance education, it must provide some form of education and ensure that learning is advanced. Education does not include advertisements for particular goods or services or the promotion of a particular point of view.<sup>2</sup>
14. In *Re Collier (deceased)*, Hammond J set out the test for determining whether the dissemination of information qualified as charitable under the head of advancement of education:

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<sup>1</sup> See *Latimer v Commissioner of Inland Revenue* [2002] 3 NZLR 195.

<sup>2</sup> *In Re Shaw (deceased)* [1957] 1 WLR 729.

*"It must first confer a public benefit, in that it somehow assists with the training of the mind, or the advancement of research. Second, propaganda or cause under the guise of education will not suffice. Third, the work must reach some minimal standard. For instance, in Re Elmore [1968] VR 390 the testator's manuscripts were held to be literally of no merit or educational value."<sup>3</sup>*

15. In that case, the judge held that the bequest in question (for publication of a book) did not qualify as charitable under the test:

*"In my view, the minimal threshold test is not met. There is no educative value, or public utility in the 'book'. Further, it is no more than an attempt to perpetuate a private view held by Mrs Collier."*

16. The Applicant's purposes in clauses 1, 2, 3, and 5 are set out in vague terms and it has therefore been necessary for the Commission to consider additional material such as the written responses provided to the Commission and information set out on the Applicant's website ([www.youbethejudge.org](http://www.youbethejudge.org)). Although the Applicant indicated in its letter of 20 July 2009 that "the web site is of poor layout design and not very user friendly", the same letter also states that the "contents of the web site contain many references and historic facts to assist readers to do their own research".

17. The Applicant's website includes statements that:

- there is a plan to reduce the population of the world by 80% by means such as the development and administration of the spread of AIDS by the World Health Organisation and the US Department of Defense.<sup>4</sup>
- there are satanically influenced soldiers of the state employed by or associated with Child Youth and Family Services, "the system is satanic by design, to break families up".<sup>5</sup>
- the 1979 Mt Erebus crash was deliberately engineered to prevent tourists on Antarctic flights from discovering a secret American space travel base located at the South Pole.<sup>6</sup>

18. The website's home page gives prominence to:

- A DVD, *The Endgame*, which gives details of the plot to reduce the world's population by 80%. It states "such a plan is being implemented now and your heads of government know about it."
- A book, *2008-2012 Rights & Freedom Gone!*, which explains that the responsibility for depopulation "lies with most people in high places allowing their souls to be purchased and their minds to be controlled through fear and shame."
- Comments on a 2007 Court of Appeal judgment which state that:

<sup>3</sup> [1998] 1 NZLR 81, 91-92.

<sup>4</sup> [http://www.youbethejudge.org/resources/books/Rights\\_Gone\\_I\\_17\\_May\\_08\\_FINAL\\_MINUS\\_SOLUTION\\_.pdf](http://www.youbethejudge.org/resources/books/Rights_Gone_I_17_May_08_FINAL_MINUS_SOLUTION_.pdf), pages 16-17.

<sup>5</sup> [http://www.youbethejudge.org/resources/books/You\\_Be\\_The\\_Judge\\_full\\_version.pdf](http://www.youbethejudge.org/resources/books/You_Be_The_Judge_full_version.pdf)

<sup>6</sup> [http://www.youbethejudge.org/resources/books/Rights\\_Gone\\_I\\_17\\_May\\_08\\_FINAL\\_MINUS\\_SOLUTION\\_.pdf](http://www.youbethejudge.org/resources/books/Rights_Gone_I_17_May_08_FINAL_MINUS_SOLUTION_.pdf), pages 73-74, 132-133.

*"There still remain some deceptively hidden pathways upon which the hidden sinister and real social service agenda still functions behind the backs of politicians, local authorities, and the general public. . . .*

*If you rely on younger lawyers nowadays, you will predictably be cheated of your desired outcome as the younger lawyers focus on the business and self gain aspect, choosing to ignore the underlying banking elitist's agenda of breaking up families and having the State raise children in line with depopulation now and the objective of genetically selected sperm and eggs with which to continue the human species.*

*We advise all reasonably educated folk to consider representing themselves in today's Courts, as of right. We offer assistance and encouragement to this end."*

- A book, *You Be The Judge*, which describes "one family's court battles over children, falsified files, big brother bullying and intimidation, Family Court deception and the games Family Court Lawyers and Social Services are playing."

- An article entitled, *Silo Mentality (robotic compliance)*, which outlines why government servants

*"don't seem to understand facts and circumstances, why they can't seem to think for themselves and make responsible decisions, and why they appear to have no concern for your situation. Most are sincere people with good hearts but are unaware of the hidden agendas behind the departmental policies they have been asked to implement, enforce or abide by."*

- Other tabs which

*"all hopefully contribute to the rapid understanding for those who have been kept too busy or otherwise distracted from the sinister reality of the last century of evil scheming and which we must now address by understanding 'silo mentality,' 'ego,' and knowing that we are 'within our rights' to invoke the seven laws of the universal and live by them. In so doing we will not consent to being part of the elite's game of "long term low dose amphetamine induced mental madness." for those who are caught in the web and now wish to change direction."*

19. The Applicant's letter of 22 April 2008 stated "The nature of the Trust's proposed activities has appeal for a selective envelope of citizens" and the "About us" webpage states:

*"If you would like to support or be part of a drive to restore discipline, respect, honesty, to curb the rampant spread of disruptive activities, then we need your support. We welcome your help. Please email us if your are able to assist the Truth, Honesty, Ethics Group, in any way.*

*The trustees of the Truth, Honesty and Ethics Group look forward to hearing from you AND your like minded friends, in due course. "*

20. In accordance with the court's decision in *Commissioner of Inland Revenue v New Zealand Council of Law Reporting*<sup>7</sup>, the Commission considers that publishing extracts from a 2007 Court of Appeal judgment on the

<sup>7</sup> [1983] 1 NZLR 682 (see also *Incorporated Council of Law Reporting (Qld) v Federal Commissioner of Taxation* (1971) 125 CLR 659).

Applicant's website may amount to advancing education. The remainder of the information on the website, however, appears to amount to dissemination of a particular point of view which has no educative value. This does not meet the legal criteria for advancing education as set out in *Re Collier*.

#### Other matters beneficial to the community

21. In order for a purpose to qualify as "any other matter beneficial to the community", the purpose must be beneficial to the community and must be within the spirit and intendment of the purposes set out in the Preamble to the Charitable Uses Act 1601 (the Statute of Elizabeth).<sup>8</sup> The purposes set out in the Preamble are as follows:
- relief of aged, impotent, and poor people
  - maintenance of sick and maimed soldiers and mariners
  - schools of learning
  - free schools and scholars in universities
  - repair of bridges, ports, havens, causeways, churches, sea banks, and highways
  - education and preferment of orphans
  - relief, stock or maintenance of houses of correction
  - marriage of poor maids
  - supportation, aid and help of young tradesmen, handicraftsmen, and persons decayed
  - relief or redemption of prisoners or captives and
  - aid or ease of any poor inhabitants concerning payment of fifteens, setting out of soldiers and other taxes.
22. The Applicant's purposes set out in clauses 1, 3, and 5 could amount to the promotion of moral or spiritual improvement, which has been held to be charitable in cases such as *Re South Place Ethical Society*.<sup>9</sup> In its response to the Commission, however, the Applicant has not provided any evidence that it is actually undertaking such charitable purposes.
23. Instead, in its letter of 20 July 2009, the Applicant indicates that it considers itself charitable because it provides assistance in the pursuit of justice. It also lists activities that have been undertaken since 2000, including assisting a family to pursue a Court of Appeal judgment (dated 18 October 2007) "which cost the trustees \$12,000 in travel and costs".
24. The Commission does not consider that promoting the view that qualified legal counsel have a sinister agenda is a matter which the courts have held to be charitable under other matters beneficial to the community.

<sup>8</sup> *Re Jones* [1907] SALR 190, 201; *Williams Trustees v Inland Revenue Commissioners* [1947] AC 447, 455; *Scottish Burial Reform and Cremation Society v Glasgow Corporation* [1968] AC 138, 146-48; *Incorporated Council of Law Reporting (QLD) v Federal Commissioner of Taxation* (1971) 125 CLR 659, 667, 669; *Royal National Agricultural and Industrial Association v Chester* (1974) 48 ALJR 304, 305; *New Zealand Society of Accountants v Commissioner of Inland Revenue* [1986] 1 NZLR 147, 157; *Re Tennant* [1996] 2 NZLR 633, 638.

<sup>9</sup> [1980] 1 WLR 1565.

25. The Commission notes that as the trust was not created until March 2008, some of the activities listed in the Applicant's letter, such as assistance in the 2007 Court of Appeal case, must have either been undertaken by the trustees as individuals or as the trustees of another trust.

### Conclusion

26. The Commission concludes that, having regard to the Applicant's activities, the Applicant's purposes set out in clauses 1, 2, 3, and 5 do not fall within the category of purposes that are beneficial to the community. In addition, as noted above, the purposes are not considered to fall within any of the other three categories of charitable purpose. Accordingly, the Commission considers that the Applicant's purposes are not charitable.

### Section 61B of the Charitable Trusts Act

27. In order to be a valid trust at law, a trust for charitable purposes must be exclusively charitable or it will be void for uncertainty. Section 61B of the Charitable Trusts Act 1957 however, can operate in two situations to "save" a trust that has both charitable and "non-charitable and invalid" purposes.
28. The first is where the entity's **stated purposes** include charitable and non-charitable purposes (in which case the non-charitable purposes may be "blue pencilled out"). The second is where the stated purposes are capable of both a charitable and a non-charitable **interpretation** and the primary thrust of the gift is considered to be charitable (in which case the purposes could be deemed to apply only in terms of the charitable interpretation).<sup>10</sup>
29. The Commission considers that the purposes set out in clauses 4, and 6 to 10 are powers, and the purposes stated in clauses 1, 2, 3, and 5 are non-charitable for the reasons given above. If the purposes in clauses 1, 2, 3, and 5 were "blue-pencilled out", the Applicant would be left with no specific purposes. The Commission therefore concludes that the Applicant does not have substantially charitable purposes.
30. In *Re Beckbessinger Tipping J* held:

*"In the case of designated and identifiable organisations it may well be necessary to have evidence as to whether or not they are charitable to determine the flavour of the gift. The Court cannot in my judgment say, ... that because a gift might have been applied for charitable purposes, s61B can be used to save it. The testator must be shown to have had a substantially charitable mind but to have fallen foul of the law of uncertainty by including either actually or potentially a non-charitable element or purpose."*<sup>11</sup>

31. The Commission has analysed the wording of the Applicant's purposes, surrounding context, and activities (as directed by section 18 of the Charities Act). The Commission does not consider that these provide evidence of "a substantially charitable mind" with an intention to create a

<sup>10</sup> *Re Beckbessinger* [1993] 2 NZLR 362, 373.

<sup>11</sup> *Re Beckbessinger* [1993] 2 NZLR 362, 376.

charitable trust, but which was not conveyed by the drafting. The Commission does not consider that the purposes indicate an intention to create a substantially charitable trust.

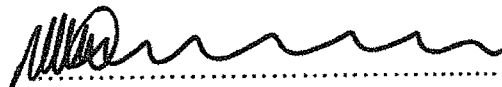
32. On these bases, the Commission considers that the Applicant's purposes are not substantially charitable and therefore section 61B of the Charitable Trusts Act cannot operate to validate the trust.

### **Charities Commission's determination**

33. The Commission therefore determines that the Applicant has failed to meet an essential requirement for registration as a charitable entity in that the trust is not of a kind in relation to which an amount of income is derived by the trustees in trust for charitable purposes, as required by section 13(1)(a) of the Act.

**For the above reasons, the Commission declines the Applicant's application for registration as a charitable entity.**

Signed for and on behalf of the Charities Commission



Trevor Garrett  
Chief Executive

19/10/09  
Date