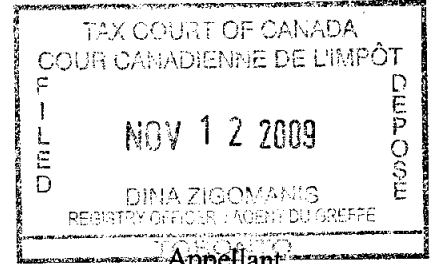


2009-3496(17)9

Court File



TAX COURT OF CANADA

BETWEEN:

LELIA A. BALL

and

HER MAJESTY THE QUEEN

Respondent,

NOTICE OF APPEAL

A. **NAME AND ADDRESS OF THE APPELLANT**

1. Lelia A. Ball (hereinafter referred to as the "Appellant") resides at 7485 Maple Crescent, Agassiz, BC. V0M 1A2.

B. **ASSESSMENT APPEALED FROM**

2. The Appellant appeals from Notices of Reassessment dated February 28, 2008 and January 19, 2009 in respect of the Appellant's 2004 and 2005 taxation years respectively (the "Reassessments") which were confirmed by Notifications of Confirmation by the Minister of National Revenue (the "Minister") dated August 14, 2009.

C. **STATEMENT OF FACTS**

3. At all material times, the Appellant was a Canadian resident.

CASH DONATION

4. During the 2005 taxation year ("2005 Taxation Year"), the Appellant made a cash donation of \$10 (the "Cash Donation") to the Millennium Charitable Foundation ("MCF").
5. MCF was a qualified donee, as defined in subsection 149.1(1) of the Income Tax Act (the "Act").
6. MCF was a registered charity, as defined in subsection 248(1) of the Act, as that term is used in the definition of "total charitable gifts" in subsection 118.1(1) of the Act throughout the Appellant's Taxation Year.

7. The Appellant did not receive any benefit or consideration from MCF, or any other person, in return for or in connection with the Cash Donation.
8. The Cash Donation was made by the Appellant, intentionally, voluntarily and without expectation of any benefit.
9. The Appellant did not impose, directly or indirectly, any restriction, direction or obligation on MCF relating to the use of her Cash Donation.
10. MCF issued an official receipt to the Appellant, in the total amount of the Cash Donation, in the form prescribed by the Act and relevant regulations made thereunder.

COURSEWARE DONATIONS

11. In 2004, a resident of the Bahamas (the "Settlor") settled the Global Learning Trust (the "Trust") with a gift of US\$100.
12. In accordance with the Deed of Trust, the Canadian Charity Association (the "Charity") was the income beneficiary of the Trust.
13. The Charity subsequently changed its name to the International Charity Association Network.
14. The Charity was a qualified donee under the Act, as defined in subsection 149.1(1) of the Act.
15. The Charity was a registered charity, as defined in subsection 248(1) of the Act, as that term is used in the definition of "total charitable gifts" in subsection 118.1(1) of the Act throughout the Appellant's 2004 and 2005 taxation years (the "Taxation Years").
16. In accordance with the Deed of Trust, a "Capital Beneficiary" at any time meant any *sui juris* individual, other than the Settlor and any individual who has at any time prior to that time contributed any property to the Trust Fund, and who
 - (i) made one or more charitable donations to one or more registered charities, within the meaning of the Act, in the calendar year in which the individual made an application for consideration for inclusion as a Capital Beneficiary or in the immediately preceding calendar year,
 - (ii) received from each of those registered charities a receipt in the form prescribed by the Act issued in the name of that individual or their spouse,

- (iii) made written application to the Trustee for consideration for inclusion as a Capital Beneficiary,
 - (iv) is a resident of Canada within the meaning of the Act; and
 - (v) whose application for consideration was approved by the trustee of the Trust.
17. The trustee of the Trust, Global Learning Trust Services Inc, an Ontario corporation (the "Trustee"), had the absolute discretion to accept or reject such application for inclusion as a Capital Beneficiary.
 18. InfoSource, Inc., a Florida corporation (the "Publisher") was and continues to be in the business of designing, creating, marketing and selling to the public various computer software programs (the "Courseware") that provide training solutions for those interested in learning about personal computer software applications, and obtaining advanced technical and business skills.
 19. The Trust owned a number of fully transferable, royalty-free, perpetual licenses of the Courseware (the "Trust's Courseware").
 20. The Appellant chose to participate in the Global Learning Gifting Initiative (the "Program").
 21. The Program is registered under the Act as a tax shelter. The tax shelter number is TS070003.
 22. The Appellant applied to become a Capital Beneficiary of the Trust.
 23. On December 31, 2004 and December 29, 2005, the Appellant received confirmation that she was approved by the Trustee to become a Capital Beneficiary of the Trust.
 24. As a Capital Beneficiary of the Trust, the Appellant received a distribution of capital property ("Capital Property") of the Trust in the Taxation Years from the Trustee in satisfaction of her capital interest in the Trust.
 25. The Capital Property received by the Appellant consisted of licences of the Trust's Courseware (the "Appellant's Courseware").

26. The fair market value of the Trust's Courseware was independently appraised by a qualified valuator, Michael Ozerkevich of EMC Partners ("EMC") (the "Appraised Value"). Another qualified appraiser, Richard M. Wise of Wise Blackman, Chartered Accountants ("Wise"), independently reviewed and confirmed the methodology that EMC used for its appraisal.
27. The Appellant intentionally and voluntarily chose not to keep but rather to donate the Appellant's Courseware in the Taxation Years to the Charity and the Charity accordingly issued donation receipts to the Appellant each based on their fair market value (the "Courseware Donations").
28. The Charity issued donation receipts to the Appellant in 2004 and 2005 totalling \$56,021 and \$53,058 respectively for the Courseware Donations.
29. The Appellant did not receive any benefit or consideration from the Charity or any other person in return for, or in connection with, the Courseware Donations. The Appellant did not attach any restriction, obligation or other limitation on the use by the Charity of the Courseware Donations.
30. In the case of both the Courseware Donations and the Cash Donation, the Appellant signed a written direction to Escrowagent Inc. (the "Escrow Agent") which afforded the Appellant a period of reflection during which time she was free to decide to keep or donate some or all of the Appellant's Courseware to any charity of her choice.
31. In the case of the Courseware Donations, the direction provided that the Appellant had forty-eight hours from the later of (a) the time the Appellant received notice that her application to become a beneficiary of the Trust had been accepted, and (b) the Subject Courseware was distributed by the Trustee to the Appellant (the "Initial Time") in which to make up her mind. She chose to make the gift to the Charity.
32. In the case of the Cash Donation, the Appellant had seventy-two hours from the Initial Time in which to make up her mind. She chose to make the gift to MCF.
33. In making the Courseware Donations to the Charity and the Cash Donation to MCF, neither the Appellant nor any person dealing not at arm's length with the Appellant received any property, service, compensation, accretion to wealth or other benefit of any kind whatsoever as consideration for, in gratitude for or as a direct or indirect consequence of making such gift of Appellant's Courseware to the Charity or Cash Donation to MCF.

TAX CREDIT CLAIMED

34. The Appellant reported, in her 2004 and 2005 tax returns, dispositions of the Appellant's Courseware. Both the adjusted cost base and proceeds of disposition were \$56,021 and \$53,058 in 2004 and 2005 respectively, based on the Appraised Value and on the amount of the donation receipts in respect of the Courseware Donations.
35. In computing her tax payable for the 2004 and 2005 Taxation Years, the Appellant claimed charitable donations in the amounts of \$56,021 and \$53,068 respectively and the corresponding tax credits (the "Tax Credits").
36. The Appellant filed prescribed T5003 forms with her tax returns for the 2004 and 2005 Taxation Years in respect of her charitable donations.
37. By way of the Reassessments, the Minister denied the Appellant's claim for the Tax Credits.

D. ISSUES TO BE DECIDED

38. Whether the Appellant was entitled to a charitable donation tax credit on account of the full amount of the Cash Donation in computing her tax payable for the Taxation Years.
39. Whether the Appellant was entitled to a charitable donation tax credit on account of the appraised fair market value of the Courseware Donations in computing her tax payable for the Taxation Years.

E. STATUTORY PROVISIONS RELIED ON

40. The Appellant relies on sections 3, 69, 107, 108, 118.1 and 248(1) of the Act.

F. REASONS WHICH THE APPELLANT INTENDS TO SUBMIT

41. The Appellant was deemed to acquire the Courseware for a cost amount equal to the cost amount of the Trust's Courseware to the Trust.
42. The cost amount of the Trust's Courseware to the Trust was the Appraised Value of \$56,021 and \$53,058 respectively.
43. The Appellant is entitled to the deductions equal to the Tax Credits from tax payable claimed by her under subsection 118.1(3) for the Taxation Years.

44. The Courseware Donation and Cash Donation amounts, as stated on the official receipts issued to the Appellant, properly reflect amounts that were gifts, in law, made by the Appellant to the relevant charity as stated on the face of each such official receipt.
45. The Appellant was the legal and beneficial owner of the Appellant's Courseware at the time she donated it to the Charity
46. The fair market value of the Appellant's Courseware was no less than the Courseware Donation amounts.
47. The Appellant correctly computed her Tax Credits using the formula provided in subsection 118.1(3) of the Act.
48. In making the Courseware Donations to the Charity and the Cash Donation to MCF, neither the Appellant nor any person dealing not at arm's length with the Appellant received any property, service, compensation, accretion to wealth or other benefit of any kind whatsoever as consideration for, in gratitude for or as a direct or indirect consequence of making such a gift of the Appellant's Courseware to the Charity or Cash Donation to MCF.
49. The Appellant submits that she is entitled to the Tax Credits claimed for her donations to MCF and the Charity.

G. RELIEF SOUGHT

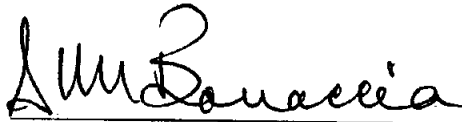
50. The Appellant respectfully requests that:
 - (i) this appeal be allowed;
 - (ii) the Reassessments be varied, vacated, or referred back to the Minister for reconsideration or reassessment;
 - (iii) the costs of this appeal be awarded in the Appellant's favour; and

(iv) such other relief as this Honourable Court deems just.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this th 12 day of November 2009.

By her Solicitors
Baker & McKenzie LLP

Per:



Salvador M. Borraccia
Brookfield Place, Suite 2100
181 Bay Street, P.O. Box 874
Toronto, Ontario, Canada M5J 2T3

Tel: 416 865 6904

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TORDMS #395390-v4

Court File:

TAX COURT OF CANADA

BETWEEN:

LELIA BALL

Appellant

and

HER MAJESTY THE QUEEN

Respondent

NOTICE OF APPEAL

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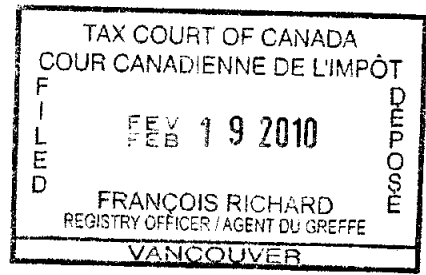
SERVICE OF A TRUE COPY HERE OF SIGNIFICATION DE COPIE CONFORME	
Admitted the _____	24 day
Acceptée le _____	jour
of _____	20 09
de _____	
for _____	John H. Sims, Q.C.
pour _____	Deputy Attorney General of Canada Sous-procureur général du Canada

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TAX COURT OF CANADA



BETWEEN:

LELIA A. BALL

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

AMENDED REPLY

In reply to the Appellant's Notice of Appeal with respect to the 2004 and 2005 taxation years, the Deputy Attorney General of Canada says:

Overview

- A. The issue in these appeal concerns the Minister's disallowance of the Appellant's claim for a donation credit in her 2004 and 2005 taxation years based on donation receipts she received in the course of her participation in the Global Learning Gifting Initiative (2004) (the "Donation Program").
- B. The Donation Program was formed in October 2004. It was registered as a gifting arrangement tax shelter with the stated purpose of raising funds for the benefit of two registered Canadian charities. The Donation Program was promoted to Canadian taxpayers on the basis

that they would receive tax credits far in excess of any cash amounts actually paid based on donation receipts received from two specified charities. This tax credit would result in a positive return to participants, ranging from 56% to 89%, depending on the tax rates in effect in the taxpayers' province of residence. In some provinces, in return for every cash payment of \$1,000, taxpayers would receive a tax credit of up to \$1,894 for a net cash flow advantage to them of \$894.

- C. The Donation Program operated from 2004 through 2008 with the participation of approximately 2,200, 12,000, 20,000, 14,000 and 4,000 Canadian taxpayers in the 2004, 2005, 2006, 2007 and 2008 taxation years, respectively. In 2004 alone, Canadian taxpayers who participated in the Donation Program filed donation receipts received from the two specified charities totalling over \$40,000,000. In 2005, the amount was \$297,626,670.
- D. To participate in the Donation Program taxpayers would:
- i) determine the amount of the desired donation credit;
 - ii) apply to and be accepted as a capital beneficiary of a trust;
 - iii) execute a Deed of Gift accompanied by a payment to a specified registered Canadian charity representing 20-25% of desired donation tax credit;
 - iv) execute a Deed of Gift of Property to another specified registered Canadian charity in an amount representing three times the cash paid to the first charity in 2004 and up to five times the cash paid to the first charity in 2005; and
 - v) execute two directions to an escrow agent: the first directing the escrow agent to forward the above listed documents to

the trust, and the second, to deliver the two charitable donation receipts issued by the two charities to the taxpayer.

- F. Pursuant to these arrangements, together, the two registered Canadian charities involved in the Donation Program, retained less than 10% of the cash amounts paid by Donation Program participants. The cash raised from the amounts paid by Donation Program participants flowed in a circle with approximately 90% ending up in the hands of Donation Program promoters.

1. STATEMENT OF FACTS:

- 1.1 All facts not expressly admitted are denied.
- 1.2 He admits the facts alleged at paragraphs 3, 13, 20, 21, 22, 23, 36 and 37 and of the Notice of Appeal.
- 1.3 He denies the facts alleged at paragraphs 4, 5, 7, 8, 9, 11, 14, 17, 19, 24, 25, 27, 29 and 33 of the Notice of Appeal.
- 1.4 He admits the facts alleged at paragraph 6 of the Notice of Appeal and states that by April 2008 Millennium Charitable Foundation ("Millennium") had been put on notice by the Minister of National Revenue (the "Minister") that its status as a registered charity was going to be revoked. Millennium's status as a registered charity was in fact revoked on January 10, 2009.
- 1.5 With respect to the facts alleged at paragraphs 10 and 28 of the Notice of Appeal he admits only that Millennium and the Canadian Charity Association ("CCA"), which later became International Charity Association Network ("ICAN"), gave the Appellant receipts purporting to attest to gifts she purportedly made to them in 2004 and 2005.

- 1.6 With respect to the facts alleged at paragraph 11 of the Notice of Appeal he admits only that the Global Learning Trust (2004) (the "Trust") was purportedly settled in 2004 by a Bahamas resident with a gift of \$100 US. He denies that the Trust was validly constituted or settled.
- 1.7 With respect to the facts alleged at paragraphs 12 and 16 of the Notice of Appeal he admits only that the Appellant has accurately reproduced the gist of some of the provisions in the Deed of Trust. He denies that any of the requirements set out in 16(i) or 16(ii) were actually met.
- 1.8 He admits the facts alleged at paragraph 15 of the Notice of Appeal and states that by December 2007 CCA, was put on notice by the Minister that its status as a registered charity was going to be revoked. Its status as a registered charity was revoked on April 12, 2008.
- 1.9 With respect to the facts alleged at paragraph 18 of the Notice of Appeal he admits only that InfoSource Inc. is a Floridian corporation. He states that it holds itself out as being the owner or otherwise having all rights to licence certain computer based learning and testing software products.
- 1.10 With respect to the facts alleged at paragraph 26 of the Notice of Appeal he admits only that EMC Partners and Wise, Blackman LLP performed valuations at the behest of the Global Learning Group Inc. (the "Promoter") of the Donation Program. He states that EMC Partners is not a designated valuator. He states further that the valuations grossly overstate the value of the licences. The valuations were fatally flawed as they were based on incorrect assumptions and cannot be relied on as an indicator of value.

- 1.11 With respect to the facts alleged at paragraph 30 of the Notice of Appeal he admits only that the directions to Escrowagent Inc. included a reference to a period of reflection. He states that this was done merely to give the impression that the purported donations of cash and courseware to Millennium and CCA, respectively, were not preordained, when in fact they were preordained steps in the Donation Program.
- 1.12 With respect to the facts alleged at paragraphs 31 and 32 he admits only that the Appellant has accurately paraphrased the provisions respecting the period of reflection contained in the directions. He states that these provisions were merely intended to give the impression that the purported donations of cash and courseware to Millennium and CCA, respectively, were not preordained, when in fact they were steps in the Donation Program. He denies that the Appellant made any gifts to Millennium or CCA.
- 1.13 With respect to the facts alleged at paragraph 34 of the Notice of Appeal, he admits only that the Appellant reported the amounts pleaded.
- 1.14 With respect to the facts alleged at paragraph 35 of the Notice of Appeal, he admits that the Appellant claimed charitable donations in the amount of \$53,068 with respect to the Donation Program and states that in her return for the 2005 taxation year, the Appellant claimed total charitable donations in the amount of \$53,113.
- 1.15 In her tax return for the 2004 taxation year, the Appellant claimed she made a total charitable donation of \$56,021. That amount represented the purported value of property purportedly gifted to CCA.
- 1.16 In her tax return for the 2005 taxation year, the Appellant claimed she made a total charitable donation of \$53,113. That amount was

comprised of \$10 cash purportedly gifted to Millennium, \$53,058, the purported value of property purportedly gifted to CCA and \$45 in respect of another donation that was allowed by the Minister and not under dispute.

1.17 In determining the Appellant's tax liability for the 2004 and 2005 taxation years, the Minister assumed the following facts:

1.17.1 the facts stated and admitted above;

The Players

Global Learning Group Inc.

1.17.2 the Donation Program was promoted by Promoter;

1.17.3 Robert Lewis ("Mr. Lewis") is the principal of Promoter;

Global Learning Systems

1.17.4 in 2002 and 2003, Mr. Lewis had promoted a donation program called Global Learning Systems ("GLS") which involved a cash purchase of in-kind property at an inflated value;

1.17.5 in 2004, Promoter introduced a trust into the Donation Program to avoid the application of amendments to the *Income Tax Act* announced in late 2003 that would have severely restricted the amount of charitable donation claim participants would be eligible for with respect to the gift in-kind portion of their purported gift, thereby rendering the GLS donation program far less marketable and less profitable to Promoter;

Global Learning Gifting Initiative (2004)

- 1.17.6 the "Donation Program" was formed on October 18, 2004 and registered as a tax shelter for the stated purpose of raising funds for the benefit of two specified registered Canadian charities;

IDI Strategies

- 1.17.7 IDI Strategies Inc., acted as the consultant ("Consultant") for Promoter;
- 1.17.8 Consultant is owned 45% by Amber Financial, 45% by Jodrick Investments and 10% by 1444610 Ontario Ltd.;
- 1.17.9 Amber Financial is owned 100% by CS Skyld Holdings whose shareholder is John Penturn and Son Ltd;
- 1.17.10 Edith Penturn owns 100% of John Penturn and Son Ltd;
- 1.17.11 Jodrick Investments is 100% owned by Richard Glatt;
- 1.17.12 1444610 Ontario Ltd. is 100% owned by Jack Keslassy ("Mr. Keslassy") who is the president of Consultant;

JDS Corporation Inc.

- 1.17.13 JDS Corporation Inc. ("Service Provider") is an entity acting as the service provider to Promoter;

Global Learning Trust

- 1.17.14 in order to facilitate the Donation Program, effective November 19, 2004, the "Trust"¹ was settled in Ontario;

¹ The Respondent does not admit and did not assume that the Trust was valid or validly settled.

Morris

- 1.17.15 the Trust was purportedly settled² by Michael Morris ("Mr. Morris"), a resident of the Bahamas;

Global Learning Trust Services Inc.

- 1.17.16 an Ontario corporation, Global Learning Trust Services Inc. acts as the trustee of the Trust (the "Trustee");
- 1.17.17 Ronald Knechtel ("Mr. Knechtel"), an Ontario resident, is the sole shareholder of the Trustee;

Escrowagent

- 1.17.18 Escrowagent Inc. ("Escrowagent") was incorporated in the Province of Ontario on November 4, 2004;
- 1.17.19 Escrowagent acted as the escrow agent for the Donation Program;
- 1.17.20 Allen Beach, a lawyer with Fasken Martineau, is the sole director of Escrowagent;
- 1.17.21 it was Escrowagent's responsibility to deliver documents from Donation Program participants to the specified registered charities, to date or amend the date of certain documents, to deliver donation receipts from the charities to participants and to deal with situations where a participant may wish to cancel their involvement in the Donation Program;
- 1.17.22 for these services Escrowagent receives \$10.70 from each Donation Program participant;

² See above footnote.

Millennium Foundation and Canadian Charity Association

- 1.17.23 in 2004 and 2005 Millennium and CCA were registered Canadian charities;
- 1.17.24 Thomas A. Koger ("Mr. Koger") was the appointed Executive Director of Millennium;

InfoSource Inc.

- 1.17.25 InfoSource Inc. ("InfoSource") is a Floridian corporation, holding itself out as the owner or otherwise having all rights to licence certain computer based learning and testing software products, namely: Office 2000 Seminar-on-a-Disk, How-to-Master Office XP, How-to-Master Office 2003, IC3, A+2003 and MCSE 2000 (the "Educational Courseware");

Phoenix Learning Corporation

- 1.17.26 Phoenix Learning Corporation ("Phoenix"), is an entity registered in the Bahamas;
- 1.17.27 Mr. Morris is the president of Phoenix;

Canadian International Technology Training Inc.

- 1.17.28 Canadian International Technology Training Inc. ("CITTI") is a management entity of Promoter;

Robert Kepes

- 1.17.29 Robert Kepes ("Mr. Kepes") is a lawyer with the law firm Morris & Morris, who acted for Promoter in the application of the Donation Program for a tax shelter number and in subsequent matters pertaining to the Donation Program on

behalf of Promoter and Settlor and other players in the Donation Program;

- 1.17.30 Morris & Morris held the books and records of the Trust until the commencement of the Minister's audit of the Donation Program;

Agreement between players

- 1.17.31 Service Provider and Promoter entered into an agreement dated October 1, 2004, pursuant to which, in return for a monthly fee of \$5,000, Service Provider was to design, develop, host and maintain a database management program and register to keep records of all Donation Program participants;
- 1.17.32 the database created by Service Provider facilitated Promoter's control of the Donation Program;
- 1.17.33 on October 19, 2004, Millennium and Promoter entered into an agreement whereby:
- i) Millennium is to pay Promoter a fundraising fee equal to 20% of the gross amount of cash donations raised by Promoter;
 - ii) Millennium is to pay Consultant \$100,000 from the first cash donations plus a variable fee equal to 7.2% of the first \$5,000,000 raised and 15.7% of the balance; and,
 - iii) Millennium is authorized to pay Consultant's fee out of the amounts otherwise payable to Promoter;

- 1.17.34 on October 18, 2004, the Donation Program applied for registration as a tax shelter;
- 1.17.35 on October 20, 2004, InfoSource and Phoenix entered into a licence agreement (the "Licence Agreement") whereby InfoSource granted Phoenix a maximum of 250,000 single user perpetual royalty free licences in each of the six Education Courseware titles, for a total of 1.5 million licences, for a one time fee of \$400,000USD;
- 1.17.36 for each licence, Phoenix was authorized to make one CD ROM copy of each of the products comprising the Educational Courseware;
- 1.17.37 English Lake Group LLP was the entity stipulated in the Licence Agreement as authorized to duplicate the CD ROMs;
- 1.17.38 pursuant to the Licence Agreement, Phoenix was limited to creating a maximum total of 1.5 million licences;
- 1.17.39 the payment of the fee to InfoSource from Phoenix was financed in part by the cash amounts paid by participants in GLS in the 2003 taxation year and the remainder from cash raised from the Donation Program in 2004 and 2005;
- 1.17.40 before entering into their roles in the Donation Program, Millennium and CCA were each required to enter into agreements with Promoter;
- 1.17.41 Mr. Koger of Millennium purported to have authority to accept the Donation Program based on the direction of Mr. Keslassy of Consultant, who introduced the Donation Program to him as a kind of turn-key arrangement. Mr.

Koger was informed that Consultant would raise money for a fee and 80% or more of the money raised would be donated to CCA;

- 1.17.42 on October 28, 2004, Promoter and Consultant entered into an agreement whereby Consultant would provide general administrative, record-keeping and support services in connection with the processing of applications by prospective participants in the Donation Program, as well as develop and maintain an electronic database to keep the records of the Donation Program and other communications;
- 1.17.43 according to their agreement, for its services to Promoter, Consultant was to be paid a lump sum fee of \$100,000 and a variable fee equal to 7.2% of the first \$5,000,000 raised by the Donation Program and equal to 15.7% of the balance of all cash payments made by participants;
- 1.17.44 on November 10, 2004, the law firm Cassels Brock & Blackwell LLP provided a legal opinion, paid for by Promoter, regarding the proposed donation of licences to CCA;
- 1.17.45 on November 19, 2004:
- i) CCA entered into an agreement with Promoter whereby CCA was to pay Promoter a fundraising fee equal to approximately 18% of the gross amount of both the cash donations raised and the fair market value of the in-kind donations delivered to CCA;

- ii) the Trust was purportedly settled with \$100 US dollars; and
 - iii) Phoenix purported to gift the Trust with 200,000 single user perpetual royalty free licences for each of the six Educational Courseware titles, for a total of 1.2 million of the maximum 1.5 million licences;
- 1.17.46 in an undated amendment to their November 19, 2004 agreement, CCA agreed to pay Promoter a fundraising fee equal to approximately 17.78% of the gross amount of both the cash donations raised and the fair market value of the in-kind donations delivered to CCA with the proviso that in no case would the fee exceed 88% of the cash received into the Donation Program;
- 1.17.47 Service Provider and the Trust entered into an agreement dated December 1, 2004, pursuant to which, in return for a monthly fee of \$2,000 plus a start up fee of \$6,000, Service Provider would design, develop, host and maintain a database management program and register to keep records of all capital beneficiaries, as well as the receipt, acquisition and distribution of all Trust property;
- 1.17.48 on November 19, 2004, at Promoter's behest EMC Partners, provided an appraisal of the licences gifted to the Trust (the "EMC Opinion");
- 1.17.49 on December 27, 2004, Wise, Blackman LLP, at Promoter's behest, prepared a report reviewing the EMC Opinion;
- 1.17.50 Service Provider and Millennium entered into an agreement dated December 29, 2004, pursuant to which Service

Provider was to be an agent responsible for receiving and accepting cash donations on behalf of Millennium as well as informing Millennium of the amounts of the payments and the identity of Donation Program participants in exchange for a fee of \$1 per participant to be paid by Millennium;

- 1.17.51 on September 14, 2005, InfoSource attached "Exhibit B" to the Licence Agreement which granted Phoenix the right to duplicate a further 250,000 CD ROMs of each of the six Educational Courseware titles, at its own expense, for the price of \$200,000USD;
- 1.17.52 on December 22, 2005, Phoenix purportedly gifted the Trust with another 200,000 single user perpetual royalty free licences to use the six Educational Courseware titles for a total of 1.2 million licences assigned, although the number of licences actually assigned was only 510,000;
- 1.17.53 on September 20, 2005, at Promoter's behest, EMC Partners provided an appraisal report regarding the purported fair market value of 250,000 single user perpetual royalty free licences;
- 1.17.54 according to bank statements, in 2004, Millennium paid Promoter \$683,819 and paid Consultant \$735,192, but in fact Millennium paid Promoter \$833,137 and paid Consultant \$1,273,372 as set out in the attached Schedule 1;
- 1.17.55 according to bank statements, in 2005, Millennium paid Promoter \$1,927,686 and paid Consultant \$6,531,596 but in fact Millennium paid Promoter \$2,385,700 and paid

Consultant \$8,210,885 as set out in the attached Schedule 3;

Becoming a participant in the Donation Program

- 1.17.56 in the fall of 2004 and in 2005, Promoter and Consultant actively marketed the Donation Program to prospective participants either directly or through the use of agents and sub-agents;
- 1.17.57 agents and sub-agents were paid a commission ranging from 4 to 5% of the cash collected from Donation Program participants;
- 1.17.58 typically, the Donation Program was promoted on the basis that for every \$1,000 cash paid to Millennium, a taxpayer would make a \$3,000 to \$5,000 gift of property to CCA at no cost to themselves, avoid any capital gain and receive a tax credit in excess of any payment to Millennium;
- 1.17.59 typically, in order to participate in the Donation Program, it was expected that the amount of the cash donation to Millennium would be one-fifth (20%) to one-third (33.3%) of the purported fair market value of the property the taxpayer would receive as a capital beneficiary of the Trust;
- 1.17.60 either because the Appellant was an agent or subagent, or for other reasons unknown to the Minister, the Appellant received the material benefit of becoming a beneficiary of the Trust at \$nil cost or outlay of funds;
- 1.17.61 the Appellant enjoyed the benefit of participating in the Donation Program and obtaining receipts for purported donations of property to CCA without making any payment

to Millennium in 2004 and only a nominal \$10 payment to Millennium in 2005;

1.17.62 the Appellant made the \$10 payment to Millennium in 2005 merely to satisfy the purported requirement that she demonstrate a history of making charitable donations;

1.17.63 the Appellant entered into the Donation Program in the full knowledge that she would enjoy this material benefit;

1.17.64 in order to participate in the Donation Program, the Appellant executed the following documents dated December 28, 2004 and December 15, 2005 in respect of each of the 2004 and 2005 taxation years, respectively:

- i) a "Deed of Gift of Property" addressed to CCA stating that the Appellant is the legal and beneficial owner in possession and control of so called "educational software" specified in Schedule "A" to the Deed;
- iii) a cheque payable to Escrowagent in the amount of \$10.70;
- iv) an "Application for Consideration as a Capital Beneficiary of the Trust" (the "Application") addressed to Trustee in which the Appellant specifies the maximum amount of so-called "educational software" she wishes to receive as a capital distribution and which the Trust is directed to deliver to the Donation Program as the Appellant's agent; and,

- v) a direction addressed to Escrowagent giving Escrowagent the right to arrange for the delivery of the "Deed of Gift of Property" to CCA and allowing Escrowagent to arrange to deliver the charitable donation receipts to her;
- 1.17.65 Schedule "A" did not exist at the time when the Appellant signed the Deeds of Gift of Property and no property was described there or in the Application at the time they were executed by the Appellant;
- 1.17.66 Schedule "A" was created only when Service Provider processed the Appellant's Application, after they had been executed by the Appellant;
- 1.17.67 the Appellant and not the Trustee determined the total value of the property which the Trust should provide to her in her capacity as capital beneficiary;
- 1.17.68 the Appellant undertook no independent valuation of the licence or the Educational Courseware;
- 1.17.69 Mr. Kepes instructed Service Provider to administer the Donation Program on behalf of Promoter;
- 1.17.70 Service Provider kept the database of the Donation Program and following the Appellant's completion of the documents outlined above:
- i) recorded the transactions;
 - ii) issued Schedule "A";
 - iii) provided details of the Educational Courseware to the Appellant;

- iv) provided the serial number of the licence, the name of the Educational Courseware and its value;
- v) issued the donation receipts for both Millennium and CCA;
- vi) sent the donation receipts pertaining to the purported in-kind donation to the Donation Program who in 2004 arranged for the Chairman of CCA to sign them and who in 2005 utilized a facsimile signature;
- vii) produced the receipts pertaining to the cash paid to Millennium, using a facsimile signature of a Millennium trustee;
- viii) used Mr. Knechtel's facsimile signature given to it by Morris & Morris so that the Service Provider could use it on all the documents that Trustee was obliged to execute, in order to satisfy the Trust's obligation under the November 19, 2004 Deed of Gift between Phoenix and the Trust, to advise Phoenix of the name and address of every licensee;
- ix) processed the licences in eight separate batches from November to December 2004 and similar batches in 2005;
- x) produced for each batch, a "Notice of Transfer of Licences" and a "Resolution of the Sole Trustee of the Global Learning Trust (2004)" in order to satisfy the Trust's obligation to advise

Phoenix of the names of licencees, utilizing Mr. Knechtel's facsimile signature; and

xi) again using Mr. Knechtel's facsimile signature, produced "Assignment of Licence" documents for each Donation Program participant, including the Appellant;

1.17.71 attached as Exhibit "A" to the "Assignment of Licence" was a listing of the Educational Courseware titles and serial numbers of the licences purportedly distributed to the participant;

1.17.72 Exhibit "B" referenced in the "Assignment of Licence", which purported to be a copy of the Deed of Gift between Phoenix and the Trust, was not attached to the document or provided to the participant;

1.17.73 participants were invited by Escrowagent to view a copy of their Assignment of Licence and Exhibit "A" at the website address of the Donation Program;

Trust deficiencies

1.17.74 purportedly formed for the purpose of fundraising for the benefit of Millennium and CCA, the Trust was actually a vehicle used to raise funds for Promoter and to entice Canadian taxpayers to make minimal investments and receive generous tax receipts in return;

1.17.75 although it was the Trustee's responsibility to determine who would be a capital beneficiary of the Trust, the Trustee did not exercise its responsibility of determining who would be a capital beneficiary of the Trust and performed no

selection process to establish which applicants would become capital beneficiaries of the Trust;

- 1.17.76 no one, other than the Trustee, was authorized to assume any of the responsibilities of the Trustee, including determining who the Trust's capital beneficiaries would be;
- 1.17.77 it was understood by the Appellant that her Application would be accepted by the Trust in order to implement her participation in the Donation Program;
- 1.17.78 in fact, the Appellant received email confirmations from Escrowagent that she had been accepted as a capital beneficiary of the Trust shortly after executing the Application;

The trust objects are uncertain

- 1.17.79 the capital beneficiaries of the Trust were not ascertainable at the time the Trust Deed of Settlement was executed;
- 1.17.80 any taxpayer who executed the Application and other forms and who paid Millennium and Escrowagent, would automatically become a capital beneficiary of the Trust;
- 1.17.81 it was a foregone conclusion that the Appellant's Application would be accepted as part of her participation in the Donation Program;
- 1.17.82 although taxpayers, including the Appellant, who applied to be capital beneficiaries of the Trust were supposed to provide evidence of their previous charitable donations, no such documentation was provided;

- 1.17.83 in 2005 approximately 12,000 taxpayers applied to be capital beneficiaries of the Trust;
- 1.17.84 the Donation Program operated also in 2006, 2007 and 2008;
- 1.17.85 in 2006 approximately 20,000 taxpayers applied to be capital beneficiaries of the Trust;
- 1.17.86 there were 14,000 participants in the 2007 Donation Program and 4,000 in the 2008 Donation Program although to date the number of possible capital beneficiaries of the Trust is unknown as Promoter continues to promote the Donation Program;

The trust property is uncertain

- 1.17.87 the Appellant did not acquire any interests under the licence or own the Educational Courseware that she purportedly gifted to CCA;
- 1.17.88 the Appellant did not take possession of any licence or the Educational Courseware;
- 1.17.89 none of the licences granted under the Licence Agreement were converted into CD ROMs;
- 1.17.90 no CD ROMs of any of the Educational Courseware products were created by English Lake Group LLP or anyone else;
- 1.17.91 Escrowagent did not deliver any Educational Courseware or licences to CCA;

- 1.17.92 CCA did not receive any Educational Courseware or licences pursuant to the Donation Program;
- 1.17.93 Promoter did not receive any Educational Courseware or licences from the Trust;
- 1.17.94 Phoenix did not acquire the interests of the licensee of Educational Courseware under any agreement with InfoSource and did not acquire or have legal ownership of the Educational Courseware;
- 1.17.95 the Appellant had no specific knowledge of what property she was purportedly gifting to CCA, whether it was Educational Courseware, a licence or a sub-licence to use Educational Courseware or even what the Educational Courseware was allegedly comprised of;
- 1.17.96 at no time did the Trustee have ownership, possession or control of the Educational Courseware or any licences pertaining to the Educational Courseware that allegedly formed part of the Trust property;
- 1.17.97 Promoter, not Phoenix or Settlor, paid the \$400,000 and the \$200,000 fees stipulated in the Licence Agreement;
- 1.17.98 Settlor did not acquire ownership of any property under the Licence Agreement and could not gift any such property to the Trust;
- 1.17.99 neither the licences nor any Educational Courseware formed part of the capital of the Trust;
- 1.17.100 the Trustee was not in possession of a copy of the Deed of Gift to the Trust or the Licence Agreement between InfoSource and Phoenix until October 2006 when it was

requested by the auditor and then provided by Mr. Kepes to the Trustee;

- 1.17.101 Service Provider used the Licence Agreement to generate Schedule "A" for Donation Program participants;
- 1.17.102 no licences or sub-licences in respect of Educational Courseware were ever assigned to CCA;

The Donation Program is a sham

- 1.17.103 all steps in the Donation Program were predetermined;
- 1.17.104 once the Appellant made the decision to participate in the Donation Program, all subsequent transactions followed a predetermined series;
- 1.17.105 in 2004, Millennium received cash or cheques totalling \$9,604,034 from the Donation Program and CCA allegedly received gifts in-kind valued at \$30,222,298 for a total donation amount of \$39,826,332 (the "Total 2004 Donation Amount");
- 1.17.106 in 2005, Millennium received cash or cheques totalling \$50,665,206 from the Donation Program and CCA allegedly received gifts in-kind in the amount of \$246,961,464 for a total purported donation amount of \$297,626,670 (the "Total 2005 Donation Amount");
- 1.17.107 according to bank statements, from the Total 2004 Donation Amount, CCA paid Promoter a fundraising fee of \$6,775,016 and Millennium paid Promoter a fundraising fee of \$683,819 for total fundraising fees paid of \$7,458,835, but in fact, CCA paid Promoter \$6,775,016 and Millennium paid Promoter \$833,137 for a total of \$7,608,153;

- 1.17.108 according to bank statements, from the Total 2005 Donation Amount, CCA paid Promoter a fundraising fee of \$28,056,889 and Millennium paid Promoter fundraising fees of \$1,927,686, for total fundraising fees paid to Promoter of \$29,984,575 but in fact, CCA paid Promoter \$35,425,418 and Millennium paid Promoter \$2,385,700 for a total of \$37,811,118;
- 1.17.109 CCA and Millennium retained less than 10% of the total cash donations;
- 1.17.110 the Appellant's motivation in participating in the Donation Program was not to enrich either Millennium or CCA but was to participate in a series of transactions the net result of which was to receive a tax credit in excess of any cash outlay;
- 1.17.111 the Trust, CCA and Millennium are mere conduits used by Promoter in the Donation Program;
- 1.17.112 on April 2, 2008, the Minister issued Millennium a Notice of Intention to revoke its status as a registered charity given irregularities in its operations;
- 1.17.113 the Minister revoked CCA's (renamed ICAN by that time) status as a registered charity on April 12, 2008, having sent it a notice of its intention to do so on December 3, 2007, also by reason of irregularities in its operations;
- 1.17.114 the Appellant's cash donation to Millennium was made with the expectation that she would receive a charitable donation receipt for the value of any cash payments, she would receive so called Educational Courseware at no cost and would transfer that property to CCA and receive a

second charitable donation receipt far in excess of any cash outlay made by her;

- 1.17.115 the Educational Courseware was to be distributed to the Appellant in consideration for her cash payment to Millennium and her agreement to donate the courseware to CCA;
- 1.17.116 the Trustee did not make a capital distribution of any licence or Educational Courseware to the Appellant and did not transfer ownership of any property to her;
- 1.17.117 even if the Appellant had an interest in a licence relating to the Educational Courseware or owned any Educational Courseware, she did not voluntarily transfer any such property to CCA or to anyone else;
- 1.17.118 although the Appellant could allegedly opt to keep the Educational Courseware rather than donate it to CCA, a CD ROM was necessary for the use of the licence;
- 1.17.119 the Appellant could not use the Educational Courseware as she was never provided with the necessary CD ROM or with any instructions on how to create it;
- 1.17.120 the Appellant never saw the licence, the CD ROM or any Educational Courseware that allegedly formed the basis of her donation in-kind to CCA;
- 1.17.121 the only practical option the Appellant had was to donate the Educational Courseware as preordained by the Donation Program;

- 1.17.122 Millennium did not have unfettered use of the any cash paid to it by the Appellant and did not benefit from any such payment;
- 1.17.123 90% of all cash payments to Millennium actually ended up in the hands of Promoter;
- 1.17.124 neither Millennium nor CCA benefited from or ever had unfettered use or control over the use of the cash payments received from the Appellant or from other Donation Program participants;
- 1.17.125 the Appellant did not make any gifts to either Millennium or CCA in her 2004 or her 2005 taxation years;
- 1.17.126 the only cash the Appellant paid to Millennium was an attempt to establish that she had a history of making charitable donations;
- 1.17.127 the Donation Program was predicated on a preordained circular flow of funds with the intended result that neither Millennium nor CCA ever have use of any funds for any charitable activities;
- 1.17.128 the flow of the funds raised in the Donation Program for 2004 and 2005 is summarized in Schedules 1 and 3, respectively, attached hereto;
- 1.17.129 Millennium and CCA were merely conduits through which the cash generated by the Donation Program was flowed in order to generate the donation tax credit and enrich Promoter and Consultant;
- 1.17.130 the Donation Program and all the transactions comprising it are a sham and were intended to deceive the Minister into

allowing taxpayers to realize donation tax credits greater than any amount they were actually out of pocket;

- 1.17.131 the series of documents executed by the Appellant enabled her to participate in the sham orchestrated by Promoter;
- 1.17.132 the Appellant's purpose in entering into the Donation Program was not to make any charitable gifts but was to obtain a donation tax credit in excess of any amount she was out of pocket;
- 1.17.133 Promoter controlled the entire Donation Program with the intention of obtaining as many participants as possible with the intended net result that the majority of the cash provided by Donation Program participants would end up in Promoter's hands;
- 1.17.134 Promoter:
 - i) claims that the \$400,000 fee Phoenix paid InfoSource for the grant of licence was borrowed from Promoter's own management entity, CITTI when they were actually raised in part by GLS in 2003 and the remainder from the 2004 and 2005 Donation Program;
 - ii) pays sub-promoters to promote the Donation Program to taxpayers;
 - iii) approves beneficiaries of the Trust through Service Provider;
 - iv) acts as agent for the Appellant in his purported receipt of Educational Courseware from the Trust;

- v) pays the Trustee fees;
- vi) pays for all appraisal reports, and legal and accounting opinions;
- vii) controls CCA and Millennium through Consultant;
- viii) pays Consultant to keep records for the Donation Program;
- ix) controls CCA's database and maintains and controls CCA's inventory records with the assistance of Service Provider;
- x) pays for the recording of the CCA inventory and donation receipts; and,
- xi) with Consultant, directs and allocates funds received by Millennium;

1.17.135 the Promoter's use of the funds raised in the Donation Program for 2004 and 2005 is summarized in Schedules 2 and 4, respectively, attached hereto;

Fair market value of the Licences

- 1.17.136 the Trustee valued the licences at \$nil;
- 1.17.137 the Trustee did not record 1,029,679 licences in the Trust's financial statements as at December 31, 2004;
- 1.17.138 the cost to InfoSource of each of the 1,500,000 licences was no more than \$0.30 in 2004 and \$0.32 in 2005;
- 1.17.139 unless converted into CD ROMS the licences are useless;

1.17.140 as at December 31, 2005 none of the licences had been converted into CD ROMs;

1.17.141 the fair market value of each licence was not greater than \$0.30 in 2004 and \$0.32 in 2005; and

The Appellant's donative history:

1.17.142 prior to her 2004 and 2005 participation in the Donation Program the Appellant claimed to have made charitable donations in the following amounts for each of the 1999 through 2003 taxation years, respectively: \$10.00, \$nil, \$nil, \$nil and \$nil;

2. ISSUE TO BE DECIDED

2.1 At issue in the Appellant's 2004 and 2005 taxation years is whether the Appellant made any charitable gifts to Millennium or to CCA in accordance with subsection 118.1(1) of the *Act* with respect to the Donation Program.

3. STATUTORY PROVISIONS RELIED ON

3.1 He relies, inter alia, on sections 3, and 69, 104, 118.1, paragraphs and 248(1) and 149.1, of the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.), as amended (the "Act") and sections 3500 and 3501 of the *Income Tax Regulations*.

4. GROUNDS RELIED ON AND RELIEF SOUGHT

4.1 He submits that:

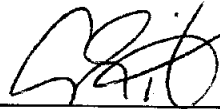
- 4.1.1 the Appellant did not make any charitable gifts in accordance with subsection 118.1(1) of the Act in those years with respect to the Donation Program;
- 4.1.2 the Trust was not valid;
- 4.1.3 the licences were not property of the Trust;
- 4.1.4 the Donation Program and all the transactions involved in it are a sham;
- 4.1.5 any cash the Appellant paid to Millennium in 2004 and 2005 was merely the fee the Appellant had to pay to participate in the Donation Program;
- 4.1.6 the Appellant did not make any gift of property to CCA since she had no legal title in any Educational Courseware or any licences purportedly forming the basis of that gift; and
- 4.1.7 further, even if the Appellant did have an ownership interest in the licences, which is denied, he submits that the fair market value of each licence was no more than \$0.30 in 2004 and \$0.32 in 2005.

He requests that the appeals be dismissed, with costs.

DATED at the City of Vancouver, the Province of British Columbia, this 9th 16th day of February, 2010.

John H. Sims, Q.C.
Deputy Attorney General of Canada
Solicitor for the Respondent

Per:



Lynn M. Burch
Selena Sit
Matthew W. Turnell
Counsel for the Respondent

Department of Justice
B.C. Regional Office
900 - 840 Howe Street
Vancouver, British Columbia
V6Z 2S9

Telephone: (604) 666-2061
Facsimile: (604) 666-2214

TO: The Registrar
Tax Court of Canada
200 Kent Street
Ottawa, Ontario
K1A 0M1

AND TO: Salvador M. Borraccia
Baker & McKenzie
Brookfield Place, Suite 2100
181 Bay Street, P.O. Box 874
Toronto, Ontario
M5J 2T3

SCHEDULE 1

FLOW OF FUNDS FROM THE DONATION PROGRAM - 2004

Total cash from donation program paid to Millennium 9,604,034.00

RE: Payments by Millennium

To CCA

Payments up to December 2004	-3,426,844.00	
Payable (cheques cleared in January 2005)	<u>-4,062,302.00</u>	-7,489,146.00

To Promoter (Global Learning Group Inc.)	-683,819.00	
additional amount paid in January 2005	<u>-149,318.00</u>	-833,137.00

To Promoter for Consultant (IDI Strategies Inc.)	-735,193.00	
additional amount paid in January 2005	<u>-538,179.00</u>	-1,273,372.00

Balance of funds (Millennium)		<u>8,379.00</u>
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RE: Payments by CCA

Received from Millennium up to December 2004	3,426,844.00	
Receivable (cheques cleared in January 2005)	<u>4,062,302.00</u>	7,489,146.00

To Promoter (Global Learning Group Inc.)		
Payments up to December 2004	-3,100,088.00	
Payable (cheques cleared in January 2005)	<u>-3,674,928.00</u>	-6,775,016.00

Others:

Wages & Salaries	-207,811.00	
Rent	-127,170.00	
Management fees	<u>-23,764.00</u>	-358,745.00

Balance of funds (CCA)		<u>355,385.00</u>
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Summary of payments to Global Learning Group Inc.(Promoter) & IDI Strategies Inc.(Consultant):

by Millennium, as above	2,106,509.00	
(833,137+1,273,372)		
by CCA, as above	<u>6,775,016.00</u>	8,881,525.00

SCHEDULE 2

RE: Payments to Global Learning Group Inc. (Promoter)

(SOURCES OF FUNDS)

Total funds received and receivable

From CCA - see Schedule 1

6,775,016.00

From Foundation including payment for Consultant - see Schedule 1

2,106,509.00

TOTAL

8,881,525.00

(USES OF FUNDS)

Commissions to sub-promoters/agents

First Internet Financial

2,532,141.00

2,532,141.00

Payments to shareholder/ shareholder's entities

Shareholder loan

166,201.00

CITTI - management fees

1,456,275.00

*(owned 25% by Robert Lewis who is a
100% shareholder of Promoter)*

CITTI - management fees

1,400,000.00

(paid in January 2005)

Windermere Tech

100,000.00

(100% owned by shareholder of Promoter)

3,122,476.00

Consultant fees (IDI Strategies Inc.)

Consulting fees

797,692.39

on behalf of Millenium, as above

735,193.00

on behalf of Millenium, as above

538,179.00

2,071,064.39

Professional fees

Cassels Brock- Defence Fund

275,000.00

Cassels Brock - other bills

132,775.00

Morris & Morris - Licence Adv

36,136.45

Morris & Morris - Other Bills

155,628.00

Fasken Martineau

79,410.00

Ken Williams - CD ROM duplicator

36,136.00

M. Ozerkevich (EMC)

43,350.00

Wise Blackman

18,725.00

JDS - CCA A/C

16,050.00

793,210.45

Payments to Charities

Donations to CCA

60,000.00

Millennium for JDS

9,630.00

69,630.00

Other

Management fee- J.Lee

30,000.00

Computer Equipment

18,597.83

Rent

29,716.00

Marketing

8,000.00

Glen Wall - web designer

20,000.00

Printing - MEBS

72,945.00

Sub-contractor fees and bonuses

43,467.00

Marketing

14,957.70

Accounting fee

9,085.00

General office expenses

13,121.00

259,889.53

TOTAL

8,848,411.37

8,848,411.37

(Net funds retained by Promoter)

33,113.63

SCHEDULE 3

FLOW OF FUNDS FROM THE DONATION PROGRAM - 2005

	\$	
<i>Total cash from donation program paid to Millennium</i>		50,665,207.99

RE: Payments by Millennium

To CCA:

Payments up to December 2005	-28,793,676.00	
Payable (cheques cleared in January 2006)	-10,375,170.00	-39,168,846.00

To Promoter (Global Learning Group Inc.)	-1,778,368.00	
additional amount paid in January 2006	-607,332.00	-2,385,700.00

To Promoter for Consultant (IDI Strategies Inc.)	-5,993,417.00	
additional amount paid in January 2006	-2,217,468.00	-8,210,885.00

Other internal payments of Millennium

Trustee Fees	-39000	
Legal fees (Miller Thomson)	-23824	
Consulting and Director Fees (Koger Valuations)	-93500	
Book-keeping (L. Hancock)	-14497	
Computing Consulting (JDS Corp.)	-43680	
David McAngus	-10000	-224,501.00

Not sufficient funds cheques returned to taxpayers	-470159	-470,159.00
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Balance of funds of Millennium		205,116.99
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RE: Payments by CCA

Received from Millennium up to December 2005	28,793,676.00	
Receivable (cheques cleared in January 2006)	10,375,170.00	39,168,846.00

To Promoter (Global Learning Group Inc.)		
Payments up to December 2005	-26,035,816.00	
Payable (cheques cleared in January 2006)	-9,389,602.00	-35,425,418.00

Other internal payments ICAN

Premier Trading Group	-343,800.00	
Top Consulting	-169,250.00	
Wages	-222,605.00	
Merkes Holding	-57,271.00	
DGP Consulting	-30,000.00	
Rent	-156,407.00	
Blog Program	-370,000.00	
English Lake	-250,998.00	
Programs-other	-452,393.00	
Fundraising Programs	-242,340.00	
Certiport	-51,743.00	

Repair and maintenance	-65,185.00	
Management and professional	-110,497.00	
Other payments	-127,023.00	
Motor vehicle expense	-79,025.00	
Office & general	-96,235.00	
	<u>-2,824,772.00</u>	
Balance of funds (CCA)		<u><u>918,656.00</u></u>

Summary of payments to Global Learning Group Inc.(Promoter) & IDI Strategies Inc.(Consultant):		
by Millennium, as above	10,596,585.00	
(2,385,700+8,210,885)		
by CCA, as above	<u>35,425,418.00</u>	46,022,003.00

SCHEDULE 4

RE: Payments to Global Learning Group Inc. (Promoter)

(SOURCES OF FUNDS)

Total funds received and receivable

From CCA - see page 1		35,425,418.00
From Foundation including payment for Consultant - see page 1		10,596,585.00
TOTAL		<u>46,022,003.00</u>

(USES OF FUNDS)

Commissions to sub-promoters/agents

First Internet Financial	13,205,330.00	
Pace Management	3,951,496.00	
Flexiable Capital Managemen	647,769.00	
Kevin Lee	76,185.00	
Solution 21 Financial	516,657.00	
Symmetry Lifestyles Strategie	727,003.00	
Irene Liu	3,468,975.00	
Joseph Lee	1,227,986.00	
Creative Money Strategies	196,539.00	
KCIT Solutions	73,545.00	
Richard Dolan	62,786.00	
Other sub-contractors	1,385,611.00	25,539,882.00

Payments to shareholder/ shareholder's entities

Shareholder loan	3,245,533.00	
Wendy Lewis	3,172,309.00	
CITTI - management fees <i>(owned 25% by Robert Lewis who is a 100% shareholder of Promoter)</i>	800,000.00	
Windermere Tech <i>(100% owned by shareholder of Promoter)</i>	50,000.00	7,267,842.00

Consultant fees (IDI Strategies Inc.)

Consulting fees on behalf of Millenium, as above	8,210,885.00	8,210,885.00
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Professional fees

Cassels Brock - other bills	719,550.00	
Morris & Morris - Other Bills	728,357.00	
Ken Williams - CD ROM dupli	21,490.00	
M. Ozerkevich (EMC)	183,358.00	
JDS - CCA A/C	80,397.00	
BG/Barry & Associates	77,015.00	
MER Services	91,868.00	
Asiva Consulting Inc.	128,500.00	2,030,535.00

Payments to Charities

Donations to CCA	41,040.00	41,040.00
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Other

Rent	97,513.00	
Glen Wall - web designer	98,698.00	
Printing - MEBS	535,242.00	
Sub-contractor fees and bonuses		731,453.00

TOTAL

	43,821,637.00	43,821,637.00
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(Net funds retained by Promoter)

	2,200,366.00	
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