

Scotia aid Sierra Leone, Scottish Charity Number SC041617: Interim report on the inquiry conducted by the Scottish Charity Regulator

Background

Scotia Aid Sierra Leone (the charity) is a Scottish registered charity. It was entered on to the Scottish Charity Register on 30 June 2010.

We opened an inquiry into the charity following receipt of concerns about the management of the charity.

Progress of inquiry

Our initial inquiries gave us concerns about the activities and financial management of the charity. It appeared that the trustees were not acting in the interests of the charity and with the care and diligence that it is reasonable to expect of a person who is managing the affairs of another person, which is a legal duty of a charity trustee.

We were contacted by a number of local authorities in Scotland and in England with concerns about the mechanism used by the charity to raise funds. Full business rates are due on empty commercial premises that remain unoccupied after three months. However, charities occupying commercial premises qualify for a mandatory 80% discount on business rates, provided the property is used wholly or mainly for charitable purposes. In addition the local authority has the discretion to grant the remaining 20% as a further discount.

The charity has been raising funds by entering into numerous leases with landlords, which relieve the landlords of the requirement to pay full business rates, in return for a donation from the landlords to the charity. Local authorities are concerned that a number of the commercial premises leased by the charity have not been used for charitable purposes but have been left empty and, should that be the case, the charity would have no entitlement to the rates relief claimed.

Concerns have been raised with us about the contract entered into between Scotia Aid Sierra Leone and the Italian charity FHM Italia Onlus for the construction of a primary care hospital. FHM Italia Onlus transferred significant sums of money to Scotia Aid Sierra Leone, for which Scotia Aid Sierra Leone has failed to account properly to FHM Italia Onlus.

In addition, we identified significant payments made by the charity to consultancy companies that were connected with one or more of the current and/or former charity trustees. There were no written contracts in place between each company and the charity for the services provided by the consultancy companies. These payments appear to be excessive and have not been sufficiently explained.

While our inquiries are still ongoing, on the basis of the information we have gathered so far, we are concerned that there is misconduct in the administration of the charity, and it is necessary for us to take action to protect its assets.

Regulator's action

We have taken the following action:

We have petitioned the Court of Session for the appointment of a Judicial Factor to the charity. In order to protect the charity's assets in the interim we obtained the following orders from the Court of Session on 15 July 2016:

1. The appointment of Emma Porter of Aver Chartered Accountants as interim Judicial Factor
2. An interim interdict against the charity from selling, leasing or otherwise disposing of any of its property
3. Interim suspension of the two remaining charity trustees, Kieran Gerard Kelly and Alan Johnston, from the management and control of the charity
4. An interim order freezing the charity's bank accounts

19 July 2016

UPDATE

On 23 December 2016, the Court of Session granted our motion to remove Kieran Gerard Kelly and Alan Johnston from any role in the management and control of the charity and appoint Emma Porter of Aver Chartered Accountants as permanent Judicial Factor. The order for removal has the effect of permanently disqualifying Kieran Gerard Kelly and Alan Johnston from acting as charity trustees of any charity.

FURTHER UPDATE

On 15 June 2017 the charity was sequestrated and Emma Porter of Aver Chartered Accountants was appointed as the trustee in bankruptcy to wind up the charity.

On 16 January 2018 Emma Porter of Aver Chartered Accountants was formally discharged as Judicial Factor by the Court of Session.