

**Decision No: 2020-2**

**Dated: 17 December 2020**

**Deregistration Decision: Samoan Independent Seventh Day Adventist Church (CC31057)**

**Executive Summary**

1. Te Rātā Atawhai, the Charities Registration Board (“the Board”), has decided that the Samoan Independent Seventh Day Adventist Church (“the entity”) meets the grounds for deregistration under section 32(1)(e) of the Charities Act 2005 (“the Act”), as the entity and its officers have engaged in serious wrongdoing as defined in section 4 of the Act.
2. The Board considers that two of the entity’s officers (Elizabeth Papu and Joseph Stowers) have engaged in serious wrongdoing involving an unlawful or corrupt use of the entity’s funds or resources, because:
  - Elizabeth Papu, the entity’s former financial administrator, was convicted for stealing over \$1.6 million of the entity’s funds; and
  - Joseph Stowers, the entity’s former treasurer, took \$498,997 of the entity’s funds as undeclared income, which he has admitted to [REDACTED] the Board.
3. The Board considers that the entity’s poor financial mismanagement gave the opportunity for Elizabeth Papu and Joseph Stowers to unlawfully or corruptly take the entity’s funds or resources. This is because the entity failed to keep proper or accurate financial records, did not have financial controls or other policies or processes in place, and had little to no oversight over individuals within the entity.
4. The Board considers that the entity and its officers have also engaged in conduct that constitutes gross mismanagement of the entity. This is because:
  - the entity and its officers repeatedly failed to invest the entity’s funds prudently, as they did not carry out adequate due diligence in relation to the entity’s proposed investments, and allowed Pastor Willie Papu and Sina Hunt, a member of the entity, to exercise an undue level of influence over the entity’s investment decisions. In addition, the entity’s officers breached their duties as officers of a charity because they failed to put themselves in a position where they could make decisions in the best interests of the entity. The entity’s poor investment decision-making has resulted in a significant loss of the entity’s funds; and
  - the entity and its officers’ poor financial management of the entity, as set out above, constitutes gross mismanagement of the entity. In addition, the Board considers that by failing to implement proper financial controls or procedures, the entity’s officers have breached their duties as officers of a charity.

5. Finally, the Board considers that the entity and its officers' significant, systemic and widespread conduct around poor investment decisions, lack of financial controls and theft of significant charitable funds is so serious as to constitute serious wrongdoing involving a serious risk to the public interest in the orderly and appropriate conduct of the affairs of the entity.
6. The Board is satisfied that it is in the public interest that the entity be removed from the Charities Register. The Board has taken into account the mitigating actions the entity has taken to address the serious wrongdoing involving the entity and its officers. On several occasions, however, the entity has failed to follow changes in processes that it claimed were already implemented. The Board considers that the entity's church members, who make large amounts of donations to the entity, have the right to expect that these donations are not lost because of serious wrongdoing by the entity and its officers. The Board considers that it would not be in the public interest if a charity which has engaged in serious wrongdoing of a significant, systemic and widespread nature remained registered as a charity.
7. The decision of the Board is therefore to remove the entity from the Charities Register, pursuant to section 31 of the Act, with effect from 5 February 2021.
8. The Board has also made the following orders under section 31(4) of the Act:
  - that an application for re-registration of the entity as a charitable entity must not be made for six months from the date of deregistration; and
  - that the following officers are disqualified from being an officer of a charitable entity for four years from the date of deregistration:
    - i. Pastor Willie Papu; and
    - ii. Joseph Stowers.
9. The Board has decided not to disqualify Pastor Meke Fesolai and Minister Faavae Gagamoe as officers of a registered charity. The Board has taken into account Minister Faavae Gagamoe's role in leading the changes the entity has made to its operations, and opposing and raising concerns about the WFE Capital investment. The Board has also taken into account that Pastor Meke Fesolai's leadership commenced after most of the entity's poor investments were approved.
10. The Board's decision is separated into the following sections:
  - Background
  - Legal framework for removal
  - Legislation: Grounds for removal – serious wrongdoing
  - Charities Services' investigation findings
  - Board decision on removal
  - Public interest
  - Board's re-registration and disqualification orders

## Background

11. The entity is a society that was incorporated as a board under the Charitable Trusts Act 1957 in September 1980.<sup>1</sup> The entity was established with a focus on running a church which would promote its religious teachings to the Samoan people in their own language.<sup>2</sup> In June 2008, the entity was registered as a charity by the then Charities Commission.<sup>3</sup>
12. The entity now oversees 10 churches within the Auckland region (known as the Northern New Zealand Division). The entity is part of the worldwide Samoan Independent Seventh Day Adventist Church (“SISDAC”), which has churches throughout New Zealand, Australia, Samoa, American Samoa and the United States. An informal governing body known as the World Committee provides advice and spiritual guidance to the regional or state divisions of the church around the world.
13. The entity was led by its Head Pastor and Chief Executive, Pastor Willie Papu, until November 2017, when he was replaced by Pastor Meki Fesolai.<sup>4</sup> Pastor Willie Papu continues to be the Executive Director of the World Committee.<sup>5</sup>
14. In October 2013 Charities Services proactively opened an investigation into the entity after identifying anomalies in the entity’s annual returns previously filed with Charities Services. During the investigation Charities Services identified a number of concerns with the entity’s operations, including possible criminal activity. In 2015, Charities Services formally referred the investigation to the Serious Fraud Office (“SFO”), specifically around the conduct of the entity’s officer and financial administrator, Elizabeth Papu. Charities Services closed its investigation in 2015, following the referral to the SFO.
15. The SFO investigation concluded in May 2017. In September 2017 Elizabeth Papu was convicted and sentenced to two years and nine months’ imprisonment for stealing over \$1.6 million of the entity’s funds.<sup>6</sup> In July 2017 Charities Services opened a new investigation into the entity to determine whether the entity’s officers were aware of Elizabeth Papu’s offending, whether any other officer had obtained a personal benefit from the entity, and what processes the entity had in place to prevent further loss of charitable funds.<sup>7</sup>
16. There followed a period of correspondence between Charities Services and the entity in which Charities Services sent notices under section 51 of the Act requiring information and documents

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<sup>1</sup> Section 8 of the Charitable Trusts Act 1957 sets out that any society which exists exclusively or principally for charitable purposes may apply for incorporation of the society as a board.

<sup>2</sup> Ngā Ratonga Kaupapa Atawhai, Charities Services’ meeting with the entity held on 21 January 2018.

<sup>3</sup> Te Rātā Atawhai, the Charities Registration Board and the Chief Executive of the Department of Internal Affairs took over the functions of the Act in 2012. The Chief Executive delegates most of their decision making to Charities Services.

<sup>4</sup> The entity’s email to Charities Services dated 17 November 2017.

<sup>5</sup> Pastor Willie Papu’s submission dated 30 June 2020.

<sup>6</sup> *Serious Fraud Office v Papu* [2017] NZDC 21687.

<sup>7</sup> Charities Services relied on its powers under section 50 of the Act to open this investigation into the entity.

from the entity and the entity provided its responses.<sup>8</sup> Charities Services also sent notices under section 51 of the Act requiring information and documents from the entity's banks and auditor, government agencies and other organisations.<sup>9</sup>

17. During the investigation, Charities Services met with the entity on two occasions. Charities Services' first meeting with the entity's representatives took place in January 2018. In June 2019 Charities Services conducted formal interviews with Pastor Willie Papu and the entity's officer and Head of Church Administration and Compliance, Minister Faavae Gagamoe. The entity was represented by counsel on these occasions.
18. In December 2019 Charities Services concluded its investigation into the entity. Charities Services provided its investigation report and recommendations to the Board for its consideration.
19. The Board is satisfied that the investigation carried out by Charities Services into the entity complied with the principles of natural justice, and that Charities Services acted within its powers under sections 50 and 51 of the Act.
20. Following its review of the investigation report the Board directed Charities Services to send notices to the entity and its officers Pastor Willie Papu, Joseph Stowers, Minister Faavae Gagamoe and Pastor Meki Fesolai, outlining the grounds on which the Board intended to remove the entity from the Charities Register. The notices were sent to the entity and its officers on 21 February 2020.
21. The notices also outlined the Board's proposed orders in relation to the entity and its officers. The Board intended to make an order that an application for re-registration of the entity must not be made for four years from the date of deregistration. The Board also intended to make orders disqualifying Pastor Willie Papu and Joseph Stowers as officers of a charity for four years, and disqualifying Minister Faavae Gagamoe and Pastor Meki Fesolai as officers of a charity for three years. The notices gave the entity and its officers the opportunity to make submissions in response. The notices were sent under section 33 of the Act.
22. On 29 and 30 June 2020, counsel for the entity, the entity's officers Pastor Willie Papu, Joseph Stowers and Pastor Meki Fesolai, and counsel for Minister Faavae Gagamoe filed submissions opposing the removal of the entity from the Charities Register. In addition, on 30 June 2020, Pastor Meki Fesolai and counsel for Minister Faavae Gagamoe filed submissions opposing their proposed disqualification from being officers of a charity for three years.

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<sup>8</sup> Charities Services' section 51 notices to the entity issued 2 August 2017, 1 November 2017, 21 February 2018, 18 October 2018, 16 November 2018, 5 February 2019, 30 August 2019, 23 September 2019, 17 October 2019, and the entity's responses received 15 September 2017, 5 October 2017, 9 October 2017, 28 November 2017, 19 March 2018, 1 November 2018, 19 November 2018, 6 March 2019, 12 September 2019, 30 September 2019, 11 October 2019 and 23 October 2019.

<sup>9</sup> Charities Services' extensive section 51 notices issued to ANZ, ASB, BNZ, The Cooperative Bank, Heartland, Kiwibank, TSB and Westpac between the period 2 August 2017 – 16 October 2019, as well as Charities Services' section 51 notices issued to the Serious Fraud Office dated 27 September 2017, Air New Zealand dated 21 November 2017, and the entity's auditor, William Buck Limited, dated 18 October 2018 and 9 April 2019. Charities Services also met with the entity's auditor on 27 March 2019.

## Legal framework for removal

23. Section 50 of the Act provides that Charities Services may examine and inquire into any registered charity or person who may have breached the Act or who is engaging in or has engaged in conduct that may constitute serious wrongdoing. Under section 51 of the Act, Charities Services can also compel an entity or person to provide it with information or documents. Charities Services can only exercise its powers under sections 50 and 51 if it considers it reasonably necessary for carrying out its functions and exercising its powers under the Act.

24. Under section 32(1) of the Act, the Board can direct that a charity be removed from the Charities Register if one or more of the grounds for removal have been satisfied. Section 32(1) provides:

### 32 Grounds for removal from register

(1) The Board may direct that an entity be removed from the register if –

- (a) the entity is not, or is no longer qualified for registration as a charitable entity; or
- (b) there has been a significant or persistent failure by the entity to meet its obligations under this Act or any other enactment;
- (c) there has been a significant or persistent failure by any 1 or more officers of the entity to meet their obligations under this Act; or
- (d) there has been a significant or persistent failure by any 1 or more collectors who act on behalf of the entity to meet their obligations under this Act; or
- (e) **the entity has engaged in serious wrongdoing or any person has engaged in serious wrongdoing in connection with the entity**; or *[emphasis added]*
- (f) the entity has sent or delivered to the chief executive a request to be removed from the register.

25. Under section 31(4), if the Board has removed a charity from the Charities Register, it can also make certain orders in relation to the charity and its officers. Section 31(4) provides:

- (4) The Board may, if it has removed an entity from the register, make either or both of the following orders:
- (a) an order that an application for the re-registration of the entity as a charitable entity must not be made before the expiry of a specified period:
  - (b) an order disqualifying an officer of the entity from being an officer of a charitable entity for a specified period that does not exceed 5 years.

26. In considering whether to remove a charity from the Charities Register, or make an order under section 31(4), the Board must observe the rules of natural justice and give the charity and its officers a reasonable opportunity to make objections.<sup>10</sup>

27. Charities Services must give a charity notice of the Board's intended removal of the charity from the Charities Register and the grounds for removal. If a charity and its officers take the opportunity to make objections, the Board must not remove the charity from the Charities Register unless it

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<sup>10</sup> Section 36 of the Act.

is satisfied that it is in the public interest to do so, and one or more of the grounds for removal have been satisfied.<sup>11</sup> In this case, the entity and its officers were given opportunities to make submissions in response to the notices of 21 February 2020. This included the entity and its officers being granted several extensions of time to provide their submissions.<sup>12</sup>

### **Legislation: Grounds for removal – serious wrongdoing**

28. Under section 32(1)(e) of the Act, the Board can direct that a charity be removed from the Charities Register if the charity or any person connected to the charity has engaged in serious wrongdoing.
29. Serious wrongdoing is defined at section 4 of the Act as:

In relation to an entity, includes any serious wrongdoing of any of the following types:

  - a) An unlawful or a corrupt use of funds or resources of the entity; or
  - b) An act, omission, or course of conduct that constitutes a serious risk to the public interest in the orderly and appropriate conduct of the affairs of the entity; or
  - c) An act, omission, or course of conduct that constitutes an offence; or
  - d) An act, omission, or course of conduct by a person that is oppressive, improperly discriminatory, or grossly negligent, or that constitutes gross mismanagement.
30. The assessment of whether a charity or any person connected to a charity has engaged in serious wrongdoing under section 4 is a matter of fact and degree. Relevant factors to consider may include the extent to which any conduct, omission or course of conduct would impact on the public's trust and confidence in the charitable sector and the effective use of charitable resources.<sup>13</sup>

### **Charities Services' investigation findings**

31. In December 2019 Charities Services completed its most recent investigation into the entity and its officers and presented its investigation findings and recommendations to the Board.
32. Charities Services' investigation report recommended that the Board direct Charities Services to issue a notice of the Board's intended removal of the entity from the Charities Register under section 33 of the Act, and the Board's proposed orders under section 31(4). Charities Services considered that the entity met the grounds for removal under section 32(1)(e) of the Act because

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<sup>11</sup> Sections 33 and 35 of the Act.

<sup>12</sup> Counsel for the entity's requests for extensions of time dated 2 March 2020, 24 March 2020, 21 April 2020, 15 May 2020 and 27 May 2020, and Charities Services' responses (at the direction of the Board) dated 3 March 2020, 25 March 2020, 22 April 2020, 25 May 2020 and 3 June 2020. See also Pastor Willie Papu, Pastor Meki Fesolai and Faavae Gagamoe's requests for extensions of time dated 9 March 2020 and 7 April 2020, and Charities Services' response dated 13 March 2020. Finally, see counsel for Faavae Gagamoe's requests for extensions of time dated 12 March 2020, 4 April 2020 and 8 April 2020 and Charities Services' responses dated 13 March 2020 and 15 April 2020.

<sup>13</sup> Section 3 of the Act. See also *Greenpeace of New Zealand Incorporated* [2014] NZSC 105 at [107], [108] and [111].

the entity, its officers and two of its members had engaged in serious wrongdoing, as defined in section 4 of the Act.

33. Charities Services' investigation found that several of the entity's officers (Elizabeth Papu, Joseph Stowers and Pastor Willie Papu), and two of the entity's members (Sina Hunt and Pastor Willie Junior Papu) had engaged in serious wrongdoing involving an unlawful or corrupt use of the entity's funds.<sup>14</sup>
34. The investigation found that Elizabeth Papu had engaged in serious wrongdoing because she was convicted for stealing over \$1.6 million of the entity's funds. In addition, the investigation concluded in the course of Charities Services' investigation that Elizabeth Papu had misappropriated a further \$766,895.<sup>15</sup> Pastor Willie Papu's submissions dispute the latter finding. He submits that Elizabeth Papu received the \$766,895 from legitimate sources, such as the sale of her house, and that Charities Services' investigation report was inconsistent with the SFO's previous investigation into her conduct.<sup>16</sup>
35. The investigation also found that Joseph Stowers had engaged in serious wrongdoing because he took \$498,997 of the entity's funds as undeclared income [REDACTED]<sup>17</sup>
36. The investigation also found that Pastor Willie Papu had engaged in serious wrongdoing because he took \$84,031.32 of the entity's funds for the personal benefit of himself and his family, and influenced the entity to pay \$63,309.88 of his [REDACTED] expenses.<sup>18</sup> Pastor Willie Papu disputes both of these findings. First, Pastor Willie Papu submits that his use of the entity's bank cards was consistent with the entity's charitable purposes, and that he never took funds from the entity's accounts for his personal benefit. Pastor Willie Papu also submits that he requested the entity to pay his [REDACTED] expenses as this was in line with the entity's policies for ministers, and that he had no involvement in determining how this transaction was recorded in the entity's financial statements.<sup>19</sup>
37. The investigation also found that Sina Hunt had engaged in serious wrongdoing because she had taken over \$200,000 of the entity's investment funds for her personal benefit.<sup>20</sup> The entity has submitted that it intends to commence an internal investigation into Sina Hunt's conduct and the allegations in the investigation report. The entity states that it has also invited Sina Hunt to provide a response to the investigation report's allegations.<sup>21</sup>

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<sup>14</sup> Charities Services' investigation report dated 16 December 2019 ("Investigation report"), at [6.244]–[6.314].

<sup>15</sup> Investigation report, at [6.253]–[6.262].

<sup>16</sup> Pastor Willie Papu's submission dated 30 June 2020.

<sup>17</sup> Investigation report, at [6.286]–[6.289]; see also [6.29]–[6.31].

<sup>18</sup> Investigation report, at [6.263]–[6.285].

<sup>19</sup> Pastor Willie Papu's submission dated 30 June 2020.

<sup>20</sup> Investigation report, at [6.303]–[6.311].

<sup>21</sup> The entity's submission dated 29 June 2020, at [62.12]–[61.15]. Where the entity does not accept the investigation report's findings, it refers to those findings as "allegations".

38. Finally, the investigation found that Pastor Willie Papu Junior had engaged in serious wrongdoing because he received over \$316,000 from both the entity's investment funds and its World Committee bank account for his own personal benefit.<sup>22</sup> Pastor Willie Papu Junior has submitted that the funds were used either in support of the entity's charitable purposes, or were personal income for which he had paid tax.<sup>23</sup>
39. Charities Services' investigation also found that the entity and its officers had engaged in serious wrongdoing involving gross mismanagement. Charities Services considered the evidence showed that the entity's officers had failed to meet their legal duties as officers of a registered charity, such as acting in the best interests of the entity, and had failed to invest funds prudently. Charities Services concluded that the entity's ongoing pattern of poor investments, without any due diligence, had resulted in a significant loss of charitable funds.<sup>24</sup> Charities Services' investigation also found that the poor financial management of the entity, specifically its lack of processes and policies, had contributed to the unlawful or corrupt use of the entity's funds or resources.<sup>25</sup>
40. Charities Services' investigation found that the entity's ongoing pattern of behaviour around theft, poor investment decisions and lack of financial controls was so serious as to constitute serious wrongdoing involving a serious risk to the public interest in the orderly and appropriate conduct of the affairs of the entity.<sup>26</sup>
41. Charities Services' investigation recommended to the Board that the entity be removed from the Charities Register because the grounds for removal of the entity under section 32(1)(e) of the Act had been met. This is because the entity or any person had engaged in serious wrongdoing, as defined under section 4. Charities Services' investigation also recommended that the entity should not be re-registered for a period of four to five years.
42. Charities Services further recommended that several officers of the entity be disqualified from being an officer for the following periods:
- Pastor Willie Papu – four to five years;
  - Joseph Stowers – four to five years;
  - Pastor Meki Fesolai – three to four years; and
  - Minister Faavae Gagamoe – two to three years.

### **Board decision on removal**

#### ***Unlawful or corrupt use of funds of the entity***

43. The Board has considered whether the entity has met one or more of the grounds for removal from the Charities Register, as set out in section 32(1) of the Act.

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<sup>22</sup> Investigation report, at [6.290]–[6.302].

<sup>23</sup> Letter of Explanation from Pastor Willie Papu Junior, attached to Pastor Willie Papu's submission dated 30 June 2020.

<sup>24</sup> Investigation report, at [6.36]–[6.175] and [6.237]–[6.243].

<sup>25</sup> Investigation report at [6.176]–[6.243].

<sup>26</sup> Investigation report at [6.315]–[6.322].



44. The Board has first considered whether the entity or any persons connected with the entity have engaged in serious wrongdoing involving an unlawful or corrupt use of funds of the entity, as defined in section 4 of the Act. This is a ground for removal of an entity under section 32(1)(e) of the Act.

*Elizabeth Papu*

45. Elizabeth Papu is the daughter of Pastor Willie Papu and was an officer and financial administrator of the entity until September 2017.
46. In September 2017 Elizabeth Papu was convicted and sentenced in the District Court to two years and nine months' imprisonment for two charges of theft by person in a special relationship under section 220 of the Crimes Act 1961, for stealing over \$1.6 million of the entity's funds.<sup>27</sup> Judge S Moala's sentencing notes outline that Elizabeth Papu took money from the entity's accounts that she knew she was not authorised to take, in order to fund a gambling habit. Judge S Moala also noted that the victim in this case was the church, as the funds were taken from contributions made by the members of the church, and were intended for the good of that community.<sup>28</sup> Elizabeth Papu is therefore disqualified from being an officer of a charity under section 16(2) of the Act for having a conviction for dishonesty within the last seven years.
47. The Board considers that Elizabeth Papu's conviction for theft constitutes serious wrongdoing involving an unlawful or corrupt use of the entity's funds or resources.
48. The entity's counsel has acknowledged that the entity's funds were unlawfully taken by Elizabeth Papu. Pastor Willie Papu's submissions also accept that his daughter committed a crime in relation to her conviction.<sup>29</sup>

*Joseph Stowers*

49. Joseph Stowers was an officer and treasurer of the entity until November 2017, and was responsible for collecting and banking cash donations and tithes from the entity's churches.
50. In November 2017 Joseph Stowers admitted [REDACTED] to taking \$498,997 of the entity's funds as undeclared income.<sup>30</sup> Joseph Stowers has also made submissions which acknowledge this past conduct. Joseph Stowers supports his proposed disqualification from being an officer of a registered charity for four years.<sup>31</sup>
51. The Board considers that Joseph Stowers' use of the entity's funds as undeclared income constitutes an unlawful or corrupt use of the entity's funds.

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<sup>27</sup> *Serious Fraud Office v Papu* [2017] NZDC 21687.

<sup>28</sup> *Serious Fraud Office v Papu* [2017] NZDC 21687 at [20] – [21].

<sup>29</sup> The entity's submission dated 29 June 2020, at [19] and [23]; see also Pastor Willie Papu's submission dated 30 June 2020.

<sup>30</sup> Williams Chartered Accountants' letter [REDACTED] dated 15 August 2017. See also Joseph Stowers' submission dated 30 June 2020.

<sup>31</sup> Joseph Stowers' submission dated 30 June 2020.

52. The entity's counsel has also acknowledged that the entity's funds were unlawfully taken by Joseph Stowers.<sup>32</sup>

*The entity's role*

53. The Board considers that the entity's poor financial mismanagement, as discussed at paragraphs [80]–[94] of this decision, gave Elizabeth Papu and Joseph Stowers the opportunity to unlawfully or corruptly take the entity's funds or resources. This is because the entity failed to keep proper or accurate financial records, did not have financial controls or other policies or processes in place, and had little to no oversight over individuals within the entity.

**Gross mismanagement**

54. The Board has next considered whether the entity or any persons connected with the entity have engaged in serious wrongdoing that constitutes gross mismanagement, as defined in section 4 of the Act.
55. Gross mismanagement can involve management or governance that falls significantly below the standard required of a registered charity. Gross mismanagement can also include a breach of an officer's duties to a charity, where the officer's conduct is significantly different from ordinary standards of care.<sup>33</sup>
56. Officers of charities have a range of specific duties, including ensuring that a charity's funds are only being used to support a charity's purposes, acting in the best interests of a charity, and understanding and complying with a charity's rules.<sup>34</sup>
57. The assessment of whether an entity or its officers have engaged in an act, omission or course of conduct that constitutes gross mismanagement is a question of fact and degree in each case. Deciding whether conduct constitutes gross mismanagement is likely to be influenced by a range of factors, such as whether there is a high risk of loss or damage, whether the risk could be foreseen, the seriousness of the loss, and whether the entity took steps to avoid or reduce the risk.<sup>35</sup>

*Failure to invest prudently*

58. The entity has made a number of investments over the years with the aim of raising funds for the entity's charitable purposes. Some of these investments have failed, resulting in significant loss of charitable funds.
59. The entity's counsel has acknowledged that certain financial decisions it made had "undesirable outcomes," and that the entity now understands the need for much greater rigour and oversight

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<sup>32</sup> The entity's submissions dated 29 June 2020, at [19], [23] and [62].

<sup>33</sup> See, for example, *Australian Securities and Investments Commission v PFS Business Development Group Pty Ltd* [2006] VSC 192, (2006) 57 ACSR 553; Investigation report, at [6.5]–[6.7].

<sup>34</sup> Section 13 of the Act, which sets out the essential requirements for an entity to be registered as a charity; Investigation report, at [6.7].

<sup>35</sup> See, for example, *Red Sea Tankers Ltd v Papachristidis (The Ardent)* [1997] 2 Lloyd's Rep 547 (Comm). See also Investigation report, at [6.5].

in its financial management and decision making.<sup>36</sup> The entity also acknowledges the level of inappropriate influence that Pastor Willie Papu and Sina Hunt had over the entity's investment decisions.<sup>37</sup>

60. The entity's submissions dispute, however, that its investment decisions show a repeated pattern of imprudent decision making from which the entity as a whole has failed to learn. The entity submits that most of its allegedly imprudent financial decisions were due to the actions of a small number of individuals, who in some cases breached a position of trust, and whose actions could not have been reasonably contemplated by the entity.<sup>38</sup>
61. The Board has carefully considered the submissions of the entity and its officers, as well as Charities Services' investigation report and its recommendations.
62. The Board considers that the entity and its officers have repeatedly failed to invest the entity's funds prudently, as they did not carry out adequate due diligence in relation to the entity's proposed investments, and allowed Pastor Willie Papu and Sina Hunt to exercise an inappropriate level of influence over the entity's investment decisions.
63. In addition, the entity's officers breached their duties to act in the best interest of the charity by failing to put themselves in a position where they could invest the entity's funds prudently.
64. The entity's approach to investments has consistently involved little or no due diligence by the entity or its officers, as acknowledged by Pastor Willie Papu in relation to the entity's investment into WFE Capital in 2019.<sup>39</sup> The entity has provided no evidence that it sought independent investment advice prior to making any of its investments, or of any formal processes around conducting due diligence into the prudence of investments. The entity's investment decisions have not involved any consideration of expected returns, risks, or how much the entity should invest. In addition, the entity has generally not been able to provide documents such as prospectuses, investment certificates, or investment statements from the companies in which it has invested.
65. The Board considers that most of the entity's investments have been of a poor quality and in highly risky ventures. For example:
  - from 2016, the entity invested almost \$1 million of its funds into the OneCoin Cryptocurrency scheme ("OneCoin"). OneCoin has been determined to be an unlawful Ponzi or pyramid scheme by several agencies in New Zealand, such as the Police and the Commerce Commission.<sup>40</sup> In 2018, the entity continued to promote the OneCoin scheme

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<sup>36</sup> The entity's submission dated 29 June 2020, at [59] and [80].

<sup>37</sup> The entity's submission dated 29 June 2020, at [57] and [62.13] and [68].

<sup>38</sup> The entity's submission dated 29 June 2020, at [67] and [68].

<sup>39</sup> Pastor Willie Papu's submission dated 30 June 2020.

<sup>40</sup> See also the Financial Market Authority's ("FMA") warning dated 12 December 2018 in relation to OneCoin available at: <https://www.fma.govt.nz/news-and-resources/warnings-and-alerts/onelife-network-limited-and-onecoin-limited/> [last accessed 29 July 2020].

to potential investors, and made further investments of the entity's funds, even after becoming aware that a return of its original investment was unlikely;<sup>41</sup> and

- in 2019, the entity invested \$1.7 million of the entity's funds in WFE Capital, an offshore company based in Hong Kong. In September 2019 (after the entity's investment decision), the Financial Markets Authority issued a warning setting out its concerns that WFE Capital was involved in a scam.<sup>42</sup>

66. The Board considers that most of the entity's investments have been of a poor quality and in highly risky ventures. For example, the entity's pattern of poor investments has resulted in significant loss of charitable funds, as certain investments made by the entity have failed. To date, the entity has impaired a total of \$1,678,526 of funds that it has invested, in addition to the entity's funds unlawfully used by Elizabeth Papu and Joseph Stowers. The Board also has concerns that further losses are possible from the \$1.7 million the entity has invested in WFE Capital.
67. The Board considers that the repeated failure of the entity and its officers to invest funds prudently is in part because of the level of influence Pastor Willie Papu and Sina Hunt were allowed to have over the entity's investment decisions. This is because the entity and its officers relied on the recommendations of Pastor Willie Papu and Sina Hunt rather than carrying out adequate due diligence into proposed investments. This is discussed below.

#### *Pastor Willie Papu's influence*

68. The Board considers that Pastor Willie Papu has held and continues to hold significant influence over the entity, its officers, and decisions around how to use the entity's funds. In particular, the Board considers that Pastor Willie Papu had considerable influence over the entity's decisions to invest funds in WFE Capital.
69. Pastor Willie Papu has acknowledged his role in recommending the WFE Capital investment, and takes full responsibility for the loss of charitable funds in this investment.<sup>43</sup> The entity made the decision to invest a further US\$790,000 in WFE Capital in September 2019 after being requested to do so by Pastor Willie Papu. The entity's meeting minutes show that legitimate concerns being raised by some officers over the prudence of the investment were overridden by Pastor Papu, and the entity voted in favour of the investment.<sup>44</sup>
70. The Board considers that if the entity and its officers had carried out sufficient due diligence around the prudence of the WFE Capital investment, it is likely that the entity would have seen enough warning signs not to have proceeded with the investment. For example, the WFE Capital venture shared many of the common traits seen in investment scams, such as promising

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<sup>41</sup> The entity's general ledger 2018.

<sup>42</sup> FMA's warning dated 20 September 2019 in relation to WFE Capital available at: [www.fma.govt.nz/news-and-resources/warnings-and-alerts/wfe-capital/#:~:text=REASON%20FOR%20WARNING%3A,to%20invest%20in%20Genisis%20Biotech](http://www.fma.govt.nz/news-and-resources/warnings-and-alerts/wfe-capital/#:~:text=REASON%20FOR%20WARNING%3A,to%20invest%20in%20Genisis%20Biotech) [last accessed 29 July 2020].

<sup>43</sup> Pastor Willie Papu's submission dated 30 June 2020.

<sup>44</sup> The entity's Board meeting minutes (undated, but estimated to have taken place in September 2019). See also Minister Favaae Gagamoe's submission dated 30 June 2020.

unrealistic returns, providing very little information or documents explaining the investment, and withholding client funds.<sup>45</sup>

71. The Board considers that Pastor Willie Papu continues to hold significant influence over the entity through his continued role as Executive Director of the SISDAC World Committee. This is discussed in more detail in the Board's consideration of the entity's financial management at paragraphs [80] to [94] of this decision.

#### *Sina Hunt's influence*

72. The Board considers that Sina Hunt also held considerable influence over the entity's investments. In particular, the entity's investments into the Healthy Coffee, Organo Gold,<sup>46</sup> and OneCoin schemes were all introduced to the entity by Sina Hunt. The entity lost all of the funds it invested in each scheme.
73. The entity made the decision to invest in the OneCoin scheme when it was aware of Sina Hunt's previous poor investment track record, and her potential conflict of interest as a "Diamond Onelife Member". Despite this, the entity carried out little to no due diligence into the investment, and allowed Sina Hunt to have significant influence over the investment.<sup>47</sup>

#### *Entity's submissions – recovery of funds*

74. The entity has submitted that it is trying to recover the entity's funds lost through investments. The entity has received \$355,097 in reparations from Pastor Willie Papu towards the funds lost on the entity's WFE Capital investment. Most of this money has been gifted to Pastor Willie Papu by members of SISDAC's overseas churches.<sup>48</sup> Pastor Willie Papu has agreed to continue making reparations for as long as he is able to, as he considers that he bears full responsibility for the funds impaired in the WFE Capital investment.<sup>49</sup>
75. The entity has also received around \$500,000 from members of SISDAC's overseas churches towards the funds lost on the OneCoin and WFE Capital investments. The entity received these funds after Pastor Willie Papu discussed the entity's funding issues with SISDAC's overseas churches.<sup>50</sup> The Board considers that this shows Pastor Willie Papu's continued significant influence over the entity.

#### *The entity's proposed changes in investment approach*

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<sup>45</sup> Sees FMA's guidance "How to spot an investment scam" available at [www.fma.govt.nz/investors/resources/how-to-spot-an-investment-scam/](http://www.fma.govt.nz/investors/resources/how-to-spot-an-investment-scam/) [last accessed 30 July 2020].

<sup>46</sup> The entity invested \$150,025 in the multi-level marketing programmes Healthy Coffee between 2011–2015, and \$57,826 in Organo Gold in 2013.

<sup>47</sup> For example, Sina Hunt was the only person in the entity with access to information about the entity's investment into OneCoin. Sina Hunt was also the entity's only point of contact with the OneCoin organisation.

<sup>48</sup> The entity's submission dated 29 June 2020, at [19] and [62.10].

<sup>49</sup> The entity's submission dated 29 June 2020, at [62.10] and Pastor Willie Papu's submissions dated 30 June 2020.

<sup>50</sup> The entity's submissions dated 29 June 2020, at [62.10], and Pastor Willie Papu's submission dated 30 June 2020.

76. The entity submits that it has now, in 2020, made changes to the way it invests its funds to ensure that robust scrutiny and appropriate due diligence takes place in all of the entity's future investments.<sup>51</sup>
77. For example, the entity states that it has established a new investment committee that will consider and approve all the entity's investment proposals. This committee must include members who are independent from the church. The entity submits that the initial committee members have been selected to achieve a balance of relevant expertise.<sup>52</sup> The entity states that it has changed its investment strategy so that it will now only invest in property and cash assets.<sup>53</sup> Further, the entity submits that Pastor Willie Papu and Sina Hunt no longer have any influence over the entity's investment decisions.<sup>54</sup>
78. The Board notes, however, that the entity has previously claimed on several occasions to have implemented changes to its approach to investments, but has failed to follow these processes in subsequent investment decisions.
79. For example, at the entity's meeting with Charities Services on 21 January 2018, the entity made claims that it would seek professional advice before making any further investments. In the entity's letter to Charities Services dated 19 March 2018, the entity claimed that it had established a new committee to oversee investments and ensure they were vetted by specialist external consultants. In Charities Services' formal interview on 11 June 2019, Minister Faavae Gagamoe claimed that the entity now referred investments to experts before taking them to the entity's officers for approval. Despite the entity's assurances, the entity has failed to follow these processes, and has continued its pattern of poor investments. For example, the entity did not change its approach to investments in relation to its decision to invest in WFE Capital, or to make further investments in OneCoin.

#### *Financial management*

80. The Board has also considered whether the entity and its officers' financial management of the entity constitutes serious wrongdoing involving gross mismanagement of the entity.
81. The entity has acknowledged that its systems and processes were not "gold standard" at the time of Elizabeth Papu and Joseph Stowers' thefts. The entity accepts that good quality systems and processes can reduce the opportunity for fraud or unintentional mismanagement of resources.<sup>55</sup>
82. The Board considers that the poor financial management of the entity contributed to the unlawful or corrupt use of the entity's funds, as discussed at paragraphs [43] to [53] of this decision. This is because at the time of the thefts by Joseph Stowers and Elizabeth Papu, the entity failed to keep

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<sup>51</sup> The entity's submission dated 29 June 2020, at [34]–[36]. See also Pastor Meki Fesolai's submission dated 30 June 2020.

<sup>52</sup> The entity's submission dated 29 June 2020, at [35]. See also the entity's Policy Handbook at clause 3.

<sup>53</sup> The entity's submission dated 29 June 2020, at [64.1].

<sup>54</sup> The entity's submission dated 29 June 2020, at [62.10] and [69].

<sup>55</sup> The entity's submission dated 29 June 2020, at [23]–[25].

proper or accurate financial records, did not have financial controls or other policies or processes in place, and had little to no oversight over individuals within the entity.

83. The entity's lack of policies or procedures led to only a few people in the entity having almost complete control of the finances, with little to no oversight.<sup>56</sup> This is seen in Judge S Moala's sentencing of Elizabeth Papu, where he noted that in her role as financial administrator, Elizabeth Papu had unfettered access to the entity's finances, including full access to the entity's bank accounts, and responsibility for recording transactions in the financial records and reconciling the bank statements.<sup>57</sup> Judge S Moala considered that Elizabeth Papu's deception was not discovered because her work was never reviewed, and because the accountant who prepared the entity's financial statements relied only on information provided by Elizabeth Papu.<sup>58</sup>
84. The entity's poor financial management is also seen in the entity's decision to pay Pastor Willie Papu's [REDACTED] expenses after he asked the entity for assistance, and to then record the payment in the entity's financial statements as an advance, but impair the advance in the next year.<sup>59</sup>
85. The Board notes that after the entity became aware of Elizabeth Papu and Joseph Stowers' thefts, it did not immediately remove them as officers or take any steps to complete an independent internal audit which could have identified the control failures within the entity which led to the thefts. The entity only removed Elizabeth Papu and Joseph Stowers as signatories of the entity's bank accounts in 2017.
86. The entity has submitted that it disciplined Joseph Stowers through the church's disciplinary processes, and intends to commence an internal investigation into Elizabeth Papu's conduct. The entity has chosen, however, not to formally discipline Elizabeth Papu. The Board acknowledges that the entity has taken steps to recover some of the funds stolen by Elizabeth Papu and Joseph Stowers.<sup>60</sup>

#### *Improvement to the entity's operations*

87. Over the course of Charities Services' investigation, the entity made a number of improvements to the financial management of the entity. These included implementing financial controls, keeping financial records, eventually removing officers of concern, appointing new officers and staff, and increasing the transparency of the entity's decision making.
88. Both the entity and Minister Faavae Gagamoe's submissions acknowledge that the speed of changes to the entity's operations have not been ideal. They submit, however, that there was no clear indication from Charities Services that certain changes were required to be made within a

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<sup>56</sup> The Serious Fraud Office's interview with Elizabeth Papu on 21 November 2016, and Charities Services' meeting with the Society on 21 January 2018.

<sup>57</sup> *Serious Fraud Office v Papu* [2017] NZDC 21687 at [2].

<sup>58</sup> *Serious Fraud Office v Papu* [2017] NZDC 21687 at [6].

<sup>59</sup> The entity's financial statements for the years ending 31 December 2016 and 2017. See also Pastor Willie Papu's submission dated 30 June 2020.

<sup>60</sup> The entity's submission dated 29 June 2020, at [62.3]. See also Pastor Willie Papu's submission dated 30 June 2020.

specified timeframe.<sup>61</sup> The entity has also submitted that Charities Services' investigation report did not have regard to the entity's cultural, language and religious elements, or the resources available to the entity to effect change from a Western/Pākehā standpoint.

89. Since receiving the notice of intention to remove on 21 February 2020, the entity has made further changes to the entity's operations. This includes the development of a new policy handbook, appointing an independent, experienced office manager, introducing greater separation and transparency of financial duties, appointing a new investment committee, and reducing the number of bank accounts. The entity also intends to prioritise developing new systems and processes in its workplan.<sup>62</sup>
90. The Board acknowledges the changes the entity has made or is intending to make to its operations. The Board continues, however, to have concerns about Pastor Willie Papu's continued involvement and influence over the entity's operations, as discussed below.

#### *Pastor Willie Papu's involvement*

91. The entity has submitted that Pastor Willie Papu has resigned (faamavae) from all leadership roles within the entity and that he is no longer able to influence the entity's finances.
92. Pastor Willie Papu is no longer a signatory on any of the entity's bank accounts, and will no longer attend the entity's Board meetings (even as an invited guest). He will, however, stay involved with the entity for a period to help pass on his spiritual knowledge, and assist with the entity's international outreach.<sup>63</sup>
93. The Board acknowledges Pastor Willie Papu's reduced involvement and influence over the entity. The Board notes, however, that Pastor Willie Papu remains in his role as Executive Director of the SISDAC World Committee. The Board considers that Pastor Willie Papu retains the ability to influence the operations of the entity due to the interwoven nature of the entity and the World Committee. For example, the World Committee is a subsidiary division or department of the entity, rather than a separate legal entity. Its bank accounts are owned by the entity, and its headquarters are located at the same premises as the entity's offices. The role of Executive Director of the World Committee is described as "the connection" between the entity and the World Committee.
94. Further, Pastor Willie Papu has submitted that he continues to exercise influence in raising funds for the entity's proposed new church building, and in international spiritual outreach. He submits that:<sup>64</sup>

I know that Charities Services would love to kill my influence. But influence is not something you can kill. It is a Legacy, built upon a lifetime of service and compassion. And now more than ever, I need that influence to ... not only complete our current building

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<sup>61</sup> Minister Faavae Gagamoe's submission dated 30 June 2020, at [25], The entity's submission dated 29 June 2020, at [8] and [101]–[105].

<sup>62</sup> The entity's submission dated 29 June 2020.

<sup>63</sup> The entity's submission dated 29 June 2020, at [80]. See also Pastor Meki Fesolai's submission dated 30 June 2020.

<sup>64</sup> Pastor Willie Papu's submission dated 30 June 2020.



project with the worship Centre complex, but to reach out to the world with our current spiritual concept of a “church without walls.”

*Conclusion – gross mismanagement*

95. The Board has determined that the entity and its officers have engaged in serious wrongdoing involving gross mismanagement of the entity. This is because the entity and its officers repeatedly failed to invest the entity’s funds prudently, as they did not carry out adequate due diligence. This resulted in a significant loss of the entity’s funds.
96. The Board also considers that the management of the entity (such as its failure to keep records or have financial controls in place), fell significantly below the standard required of any registered charity. The Board considers that the entity’s poor financial management gave the opportunity for individuals within the entity to unlawfully take the entity’s funds.
97. The Board acknowledges the improvements the entity has made to its processes and policies to date. The Board continues, however, to have concerns about Pastor Willie Papu’s continued influence over the entity’s operations, and the potential for this influence to lead to financial mismanagement in the future.

***Serious risk to public interest***

98. The Board considers that the entity and its officers have engaged in serious wrongdoing constituting a serious risk to the public interest in the orderly and appropriate conduct of the entity’s affairs.<sup>65</sup>
99. The Board considers that the entity’s ongoing pattern of poor investment decision making, its lack of effective governance or financial controls, the failure of officers to meet their legal duties, and the theft of significant charitable funds is so serious as to constitute a risk to the public interest in charities operating effectively, in the best interests of a charity, and in compliance with the Act.
100. The Board considers that the significant, systemic and widespread nature of the entity’s non-compliance with the Act constitutes a serious risk to the public interest in charities behaving appropriately, and, in turn, this conduct has the ability to impact negatively on public trust and confidence.

***Grounds for removal***

101. The Board has decided that the entity meets the grounds for deregistration under section 32(1)(e) of the Act because the entity and its officers have engaged in serious wrongdoing, as defined in section 4 of the Act.
102. The Board considers that two of the entity’s officers (Elizabeth Papu and Joseph Stowers) have engaged in wrongdoing involving an unlawful or corrupt use of the entity’s funds or resources, because:

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<sup>65</sup> Section 4(b) of the Act.

- Elizabeth Papu, the entity’s former financial administrator, was convicted for stealing over \$1.6 million of the entity’s funds; and
  - Joseph Stowers, the entity’s former treasurer, unlawfully took \$498,997 of the entity’s funds as undeclared income, which he has admitted to ██████████ the Board.
103. The Board considers that the entity’s poor financial mismanagement gave Elizabeth Papu and Joseph Stowers the opportunity to unlawfully or corruptly take the entity’s funds or resources. This is because the entity failed to keep proper or accurate financial records, did not have financial controls or other policies or processes in place, and had little to no oversight over individuals within the entity.
104. The Board considers that the entity and its officers have also engaged in conduct that constitutes gross mismanagement of the entity. This is because:
- the entity and its officers repeatedly failed to invest the entity’s funds prudently because they did not carry out adequate due diligence in relation to the entity’s proposed investments, and allowed Pastor Willie Papu and Sina Hunt to exercise an undue level of influence over the entity’s investment decisions. In addition, the entity’s officers breached their duties as officers of a charity because they failed to put themselves in a position where they could make decisions in the best interests of the entity. The entity’s poor investment decision making has resulted in a significant loss of the entity’s funds; and
  - the entity and its officers’ poor financial mismanagement of the entity, as set out above, constitutes gross mismanagement of the entity. In addition, the Board considers that by failing to implement financial proper financial controls or procedures, the entity’s officers have breached their duties as officers of a charity.
105. Finally, the Board considers that the entity and its officers’ significant, systemic and widespread conduct around poor investment decisions, lack of financial controls and theft of significant of charitable funds, is so serious as to constitute serious wrongdoing involving a serious risk to the public interest in the orderly and appropriate conduct of the affairs of the entity.

***Public interest***

106. Under section 35 of the Act, if a charity and its officers make submissions contesting the removal of a charity, the Board must not remove the charity unless it is satisfied that it is in the public interest to do so.<sup>66</sup>
107. The entity and several of its officers (Pastor Willie Papu, Joseph Stowers, Pastor Meki Fesolai and Minister Faavae Gagamoe) have made submissions that it is not in the public interest for the entity to be removed as a charity.

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<sup>66</sup> Section 35 of the Act.

108. The entity submits that its continued registration as a charity is in the public interest, and that it has remedied the concerns at the heart of Charities Services' investigation report.<sup>67</sup> The entity further submits that it would not be in the public interest to remove the entity as a charity given the changes the entity has made to its operations, the steps it has taken to address the conduct of a small number of individuals within the entity, and its commitment to ongoing, positive change. The entity argues that the general public and the charitable sector as a whole can have confidence that the entity will not repeat its financial missteps of the past, and that the risk of any funds being misappropriated is very low.<sup>68</sup> The entity also submits that many of its activities provide important public benefit for the community.<sup>69</sup>
109. The entity's officers have made similar submissions to the entity. For example, Joseph Stowers submits that the entity should not be removed from the Charities Register, as his actions (together with those of a small number of people) should not mean that other innocent people lose their place of worship and source of strength. Joseph Stowers submits that the entity provides a benefit to the community, and that he believes the community needs the entity to continue.<sup>70</sup>
110. The Board has carefully considered the submissions received by counsel for the entity, the entity's officers Pastor Willie Papu, Joseph Stowers and Pastor Meki Fesolai, and counsel for the entity's officer, Minister Faavae Gagamoe. The Board has taken into account the mitigating actions the entity has taken, or intends to take, to address the serious wrongdoing involving the entity and its officers. The Board notes, however, that on several occasions the entity has failed to follow changes to its processes that it claimed were already implemented. This is discussed in the Board's consideration of gross mismanagement at paragraphs [87]–[90].
111. The Board is satisfied that it is in the public interest that the entity be removed from the Charities Register. The purposes of the Act include purposes to promote public trust and confidence in the charitable sector, and the effective use of charitable resources.<sup>71</sup> The Board considers that it would not be in the public interest if a charity which has engaged in serious wrongdoing of a significant, systemic and widespread nature remained registered as a charity.
112. The Board also considers that the entity's church members, who make large amounts of donations to the entity, have a right to expect that their donations will not be taken by theft, or lost because of imprudent investment decisions of a charity and its officers. In order for the public to have trust and confidence in the charities sector, it needs to be confident that registered charities comply with the applicable legislation, that officers of charities meet their legal duties, and that charities have effective governance in place. The entity has failed to meet these requirements.
113. The decision of the Board is therefore to remove the entity from the Charities Register, pursuant to section 31 of the Act, with effect from 5 February 2021.

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<sup>67</sup> The Society's submission dated 29 June 2020, at [23], [90], and [119]–[120].

<sup>68</sup> The Society's submission dated 29 June 2020, at [118].

<sup>69</sup> The Society's submission dated 29 June 2020, at [118].

<sup>70</sup> Joseph Stowers' submission dated 30 June 2020.

<sup>71</sup> Section 3 of the Act.

### ***The Board's re-registration and disqualification orders***

114. The Board has considered whether it is appropriate to make orders under section 31(4) of the Act in relation to the entity and its officers.
115. In the notice of 21 February 2020, the Board proposed that an application for re-registration of the entity as a charitable entity must not be made for four years from the date of deregistration. In light of the entity's submissions about the improvements it has made to its operations, the Board has decided to reduce this period to six months. The Board notes that the entity will be able to reapply for registration after this period. The Board anticipates that as part of the re-registration process, the entity will be able to demonstrate that it is following the improvements it has made to its processes, as outlined in the entity's submissions.
116. In the notice of 21 February 2020, the Board also proposed that Minister Faavae Gagamoe and Pastor Meki Fesolai would be disqualified as officers of a charity for three years. Pastor Meki Fesolai and Minister Faavae Gagamoe have made submissions opposing their disqualification as officers of a charity. Pastor Meki Fesolai submits that Charities Services' investigation report "seems to have lumped me together with all other officers", despite the fact that he did not take over the leadership of the entity until November 2017.<sup>72</sup> Pastor Meki Fesolai submits that all of the entity's investments, with the exception of WFE Capital, were approved before he was made leader, and that he has never received a personal benefit from any investment.<sup>73</sup>
117. In relation to the WFE Capital investment, Pastor Meki Fesolai disputes Charities Services' position that he "at no point gave an opinion on the viability of the investment, nor did he address the concerns held by some of the officers around the investment", and argues that the entity's meeting minutes do not record the discussions held before the decision was made to invest.<sup>74</sup> Pastor Meki Fesolai also considers that Charities Services' investigation report took his prayer at that meeting out of context, and the investigation report did not understand the entity's religious customs.<sup>75</sup>
118. Minister Faavae Gagamoe joined the entity in a compliance role in 2017. He submits that he has been in the difficult position of trying to bring about compliance in an organisation "that had clearly been run under the guise of certain individuals", and that "[t]his was not a society that could be changed overnight."<sup>76</sup> In relation to the WFE Capital investment, Minister Faavae Gagamoe submits that he tried to stop the entity's investments, including by voting against the entity's first two investments, contacting the entity's bank in an attempt to slow down the investment, and raising his concerns about the investment with the entity's then counsel.<sup>77</sup>
119. Minister Faavae Gagamoe submits that he has been instrumental in gradually improving the entity's governance, including leading the changes the entity has made to its operations since the

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<sup>72</sup> Pastor Meki Fesolai's submission dated 30 June 2020, at [11(a) – [11(b)].

<sup>73</sup> Pastor Meki Fesolai's submission dated 30 June 2020, at [11(b) – 11(c)]

<sup>74</sup> Pastor Meki Fesolai's submission dated 30 June 2020, at [11(d)], referencing the Investigation Report at [6.143].

<sup>75</sup> Pastor Meki Fesolai's submission dated 30 June 2020, at [11(d)].

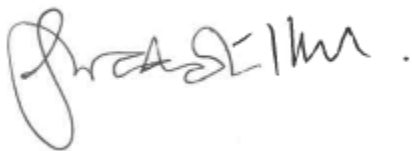
<sup>76</sup> Minister Faavae Gagamoe's submission dated 30 June 2020, at [9] and [22].

<sup>77</sup> Minister Faavae Gagamoe's submission dated 30 June 2020 at [15] – [21].

notice of intention to remove.<sup>78</sup> Minister Faavae Gagamoe also submits that given his core role in improving the entity's governance, there will be considerably more risk to the entity if he can no longer be involved with the entity, and that it would not be in the public interest to disqualify him as an officer.<sup>79</sup>

120. In light of Minister Faavae Gagamoe and Pastor Meki Fesolai's submissions, the Board has decided not to disqualify these officers. In particular, the Board has taken into account Minister Faavae Gagamoe's role in leading the changes the entity has made to its operations, voting against the WFE Capital investment, and raising concerns about this investment with the entity's bank and its then counsel. The entity has also taken into account Minister Meki Fesolai's submission that he did not take over the leadership of the entity until after most of the entity's investments were approved.
121. The Board continues to consider that it is appropriate to disqualify Pastor Willie Papu and Joseph Stowers as officers of a charity for four years, given their engagement in serious wrongdoing in connection to the entity, as discussed above.
122. The Board has therefore made the following orders under section 31(4) of the Act:
  - that an application for re-registration of the entity as a charitable entity must not be made for six months from the date of deregistration; and
  - that the following officers are disqualified from being an officer of a charitable entity for four years from the date of deregistration:
    - i. Pastor Willie Papu; and
    - ii. Joseph Stowers.

Signed for and on behalf of the Board:



Gwendoline Keel

17 December 2020

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<sup>78</sup> Minister Faavae Gagamoe's submission dated 30 June 2020 at [24], [27] and [31].

<sup>79</sup> Minister Faavae Gagamoe's submission dated 30 June 2020 at [31] and [33].