

Registration decision: The Jedi Society Incorporated (JED49458)

Executive Summary

1. The Charities Registration Board (**the Board**) has determined to decline the application for registration of The Jedi Society Incorporated (**the Society**) under the Charities Act 2005 (**the Act**).¹
2. The Board considers that the Society does not meet the requirements for registration under the Act.² The Board is not satisfied that the Society is established and maintained for exclusively charitable purposes. Specifically, the Board considers that the Society does not advance religion or promote a moral or spiritual improvement in a manner consistent with the case law.
3. The Board's reasons are organised as follows:
 - A. Background
 - B. Legal Framework for Registration Decision
 - C. The Charities Registration Board's Analysis
 - D. Section 5(3)
 - E. Determination

A. Background

4. The society was incorporated under the Incorporated Societies Act 1908 on 16 April 2014.
5. The Society's purposes, as set out in clause 3.1 of the Rules are as follows:
 - 3.1 The purposes of the Society are to:
 - (a) To advance and teach the tenets, doctrines, and culture associated with the Jedi
 - (b) Advancement of the Jedi
 - (c) Promotion of the Jedi
 - (d) To promote and enable understanding and knowledge of the Force

¹ This decision is made under section 19 of the Charities Act 2005 [the Act].

² The essential requirements for registration are set out in section 13 of the Act.

- (e) To achieve formal legal recognition of self-identification as Jedi
 - (f) To be Guardians of the Peace
 - (g) To enable eternal vigilance of the Sith and their activities
6. The Society applied for registration under the Charities Act on 20 July 2014.
7. In August 2014, the Society provided further information to the Department of Internal Affairs – Charities Services (**Charities Services**) in support of its application. In October 2014, Charities Services completed an initial review of the application and sent a request for further information from the Society regarding the beliefs of the members and how the Society sought to advance Jediism. The Society provided the requested information on 10 November 2014.
8. In the course of correspondence, the Society submitted that:
- The universal belief of Jedi is a belief in the Force, that it “exists in every living thing, and binds everything together. The Force is interconnected, so all living things are interconnected”.³
 - The beliefs described by The Temple of the Jedi Order (an organisation based in Beaumont, Texas)⁴ are seen as the ideal expression of Jediism but no members of the Society are “of sufficient skill equal to the Jedi Order”.⁵
 - The Society describes a “very non-dogmatic, non-organized religion” which has a path that Jedi may choose to follow, including a “Jedi Code”, “33 Traits” Jedi may choose to exhibit, and “Code Keys” meant to “inspire and guide”.⁶
 - The Society’s activities are currently being administered at the residence of the Society’s Council members, although they hope to acquire a temple or other meeting space;⁷ they will not initially provide a place of “worship” as this is not necessary for Jedi adherents.⁸
 - The Society will help new converts to Jediism to grow and maintain their beliefs by “attracting new members to the Society and helping them to understand the Force and teach the Jedi path” through a website, Facebook page and distributing information at comic stores.⁹

³ Email from the Society dated 10 November 2014.

⁴ Available at Temple of the Jedi Order “Doctrine of the Order” (2014) <<http://www.templeofthejediorder.org/doctrine-of-the-order>> [accessed 31 August 2015].

⁵ Email from the Society dated 10 November 2014.

⁶ <http://www.nzjedi.org/the-jedi-code.php> [accessed 17 August 2015].

⁷ Email from the Society dated 30 April 2015.

⁸ Email from the Society dated 10 November 2014.

⁹ Email from the Society dated 10 November 2014 and 30 April 2015.

B. Legal Framework for Registration Decision

9. Section 13 of the Act sets out the essential requirements for registration. Under section 13(1)(b) of the Act, a society qualifies for registration if it is established and maintained for exclusively charitable purposes and not for private pecuniary profit.
10. Section 5(1) of the Act defines charitable purpose as including every charitable purpose “whether it relates to the relief of poverty, the advancement of education or religion, or any other matter beneficial to the community”. This statutory definition adopts the well-established fourfold classification of charitable purpose at general law.¹⁰
11. To be charitable at law a purpose must be for the public benefit.¹¹ In the context of the advancement of religion, public benefit is assumed.¹² Under the fourth head of charity, “any other benefit to the community”, public benefit must be expressly shown.¹³ Further, in every case, the benefit of the entity’s purposes must flow to the public or a sufficient sector of the public.
12. The assessment of whether a purpose provides a benefit focuses on the clearly identifiable consequences of the undertaking – benefits that are nebulous and remote, or simply ‘hoped for’, are excluded. If a purpose is to benefit a private group, the consequential downstream benefits to the public will not suffice.¹⁴ Any

¹⁰ This statutory definition adopts the general law classification of charitable purposes as stated in *Commissioner for Special Purposes of Income Tax v Pemsel* [1891] AC 531. See: *Re Greenpeace of New Zealand Incorporated* [2014] NZSC 105 (“Greenpeace SC” at [12],[15] and [17]); *In Re Education New Zealand Trust* HC Wellington CIV-2009-485-2301, 29 June 2010 (“Education New Zealand Trust”) at [13]; *In re Draco Foundation (NZ) Charitable Trust* HC WN CIV 2010-485-1275 [3 February 2011] at [11].

¹¹ Authorities include: *Oppenheimer v Tobacco Securities Trust Co Ltd* [1951] AC 297; *Verge v Somerville* [1924] AC 496; *Dingle v Turner* [1972] AC 601. See also: *New Zealand Society of Accountants v Commissioners of Inland Revenue* [1986] 1 NZLR 147 at 152-155; *Latimer v Commissioner of Inland Revenue* [2002] 3 NZLR 195 (“Latimer, CA” at [32]; *Travis Trust v Charities Commission* (2009) 24 NZTC 23,273 at [54]-[55] (Joseph Williams J); *Queenstown Lakes Community Housing Trust* HC WN CIV-2010-485-1818 [24 June 2011] (“Queenstown Lakes”) at [30]; *Education New Zealand Trust* at [23].

¹² *Liberty Trust v Charities Commission* [2011] NZHC 577 at [99].

¹³ *Canterbury Development Corporation v Charities Commission* HC WN CIV 2009-485-2133, 18 March 2010 (“CDC”) at [45].

¹⁴ See for example the discussion in *Latimer, CA* at [32] - [37]. The courts have held that the downstream benefits of an entity’s activities do not serve to characterise the purpose of the entity; *Queenstown Lakes* at [68] – [76] (held that the purpose of the Trust was to provide housing for individuals not to advance the overall welfare of the community by enabling workers to stay in the area); *CDC* at [67] (primary purpose is the assistance of individual businesses and the “hope and belief” that the success of those businesses would increase the economic wellbeing of the Canterbury region does not establish public benefit as a primary purpose).

private benefits arising from an entity's activities must be a means of achieving an ultimate public benefit only and therefore be ancillary or incidental to it.¹⁵

13. There is no presumption that if something is of benefit to the public, this will also mean that it is a charitable object.¹⁶ Rather, there is a two-stage test for finding charitable purposes 'beneficial to the community' under the fourth head. As well as the purpose needing to be for the public benefit, the second part of the test requires an analogy to objects that have already been found to be charitable.¹⁷
14. Finally, section 5(3) of the Act provides that the inclusion of a non-charitable purpose will not preclude registration if it is merely ancillary to a charitable purpose. Pursuant to section 5(4) of the Act, a non-charitable purpose is ancillary if the non-charitable purpose is:
 - (a) ancillary, secondary, subordinate, or incidental to a charitable purpose of the trust, society or institution; and
 - (b) not an independent purpose of the trust, society or institution.
15. Determining whether a non-charitable purpose is ancillary includes a qualitative assessment of whether it is a means to advance the charitable purpose.¹⁸ It also involves a quantitative assessment, focusing on the relative significance of the purpose as a proportion of the entity's overall endeavour.¹⁹

Relevance of entity's activities in registration decision-making

16. Sections 18(3)(a)(i) and (ii) of the Act mandate that the Board and Charities Services take activities into consideration when determining whether an entity qualifies for registration under the Act.²⁰ The courts have confirmed that

¹⁵ See for example *Institution of Professional Engineers New Zealand Incorporated v Commissioner of Inland Revenue* [1992] 1 NZLR 570 ("Professional Engineers") at 578; *Re New Zealand Computer Society Inc* HC WN CIV-2010-485-924 [28 February 2011] ("Computer Society") at [42]; *Education New Zealand Trust* at [23]; *Queenstown Lakes* at [68]–[76]; *CDC* at [67]. Compare *Commissioners of Inland Revenue v Oldham Training and Enterprise Council* (1996) STC 1218 ("Oldham"); *Travel Just v Canada (Revenue Agency)* 2006 FCA 343, [2007] 1 CTC 294.

¹⁶ *Greenpeace* SC at [18], [31].

¹⁷ *Greenpeace* SC at [18], [30].

¹⁸ For recent judicial comment on the qualitative test see *Greenpeace of New Zealand Incorporated* [2012] NZCA 533 ("*Greenpeace, CA*") at [62], [83]–[91].

¹⁹ The quantitative requirement was applied by the High Court in *Re Greenpeace of New Zealand Incorporated* HC WN CIV 2010-485-829 [6 May 2011] ("*Greenpeace, HC*") at [68]; *Computer Society* at [16]; *Education New Zealand Trust* at [43]–[44]; *Re The Grand Lodge of Antient Free and Accepted Masons in New Zealand* [2011] 1 NZLR 277 (HC) ("*Grand Lodge*") at [49]–[51]. The Board notes the Court of Appeal's observation in *Greenpeace, CA* at [92], including footnote 95.

²⁰ See also section 50(2)(a) of the Act.

consideration of activities is a mandatory aspect of decision-making under the Act.²¹

17. While activities are not to be elevated to purposes,²² reference to activities may assist, for example, to make a finding about:
- the meaning of stated purposes that are capable of more than one interpretation;²³
 - whether the entity is acting for an inferred or unstated non-charitable purpose;²⁴
 - whether the entity's purposes are providing benefit to the public;²⁵ and
 - whether a non-charitable purpose is within the savings provision at section 5(3) of the Act.²⁶
18. In determining qualification for registration under the Act, substance must prevail over form, and an entity cannot qualify for registration, even if its stated purposes are exclusively charitable, if its activities belie its stated charitable purposes.²⁷

Characterisation of an entity's purposes

19. Once an entity's purposes are established as a matter of fact, the question of whether they are charitable is a question of law.²⁸ The Board is bound to apply the law as declared by the courts and legislature, and adopted by the Act.
20. Determining whether an entity's purposes are charitable involves an objective characterisation, and a declaration in an entity's rules document that the entity's purposes are charitable in law will not be determinative.²⁹ Similarly, the

²¹ *Greenpeace* SC at [14]. See also the approach taken in the High Court in *CDC* at [29], [32], [44], [45] - [57], [67], [84] - [92]; *QLCHT* at [57] - [67]; *Grand Lodge* at [59], [71]; *Computer Society* at [35] - [39], [60] and [68]; *Greenpeace, HC* at [75].

²² See: *McGovern* at 340 and 343; *Latimer v Commissioner of Inland Revenue* [2004] 3 NZLR 157 ("*Latimer, PC*") at [36]. Compare *Public Trustee v Attorney-General* (1997) 42 NSWLR 600 at 616; *Vancouver Society of Immigrant and Visible Minority Women v the Minister of National Revenue* [1999] 1 SCR 10 ("*Vancouver Society*").

²³ See *Professional Engineers* at 575 (Tipping J).

²⁴ For recent judicial comment see *Greenpeace* SC at [14] "The purposes of an entity may be expressed in its statement of objects or may be inferred from the activities it undertakes, as s 18(3) of the Charities Act now makes clear".

²⁵ See for example *Glasgow Police Athletic Association*; *CDC* at [29], [32], [44], [45] - [57], [67], [84] - [92]; *QLCHT* at [57] - [67]; *Grand Lodge* at [59], [71]; *Computer Society* at [35] - [39], [60] and [68].

²⁶ See for example *Greenpeace, CA* at [40], [48], [87] - [92], [99] and [102], [103]. Earlier authorities to same effect include *Molloy* at 693 and the authorities cited there.

²⁷ G E Dal Pont *Law of Charity* (LexisNexis Butterworth, Australia, 2010) ("*Dal Pont*") at [2.12], [13.19], [13.20].

²⁸ *Molloy* at 693.

²⁹ *M K Hunt Foundation Ltd v Commissioner of Inland Revenue* [1961] NZLR 405 at 407; *CDC* at [56].

subjective intentions of the individuals involved in a charity do not establish its charitable status.³⁰

C. The Charities Registration Board's Analysis

21. The Board considers that the Society is not established and maintained exclusively for charitable purposes. Specifically, Jediism is not sufficiently structured, cogent or serious to advance religion; nor to advance moral or spiritual improvement in a charitable manner.

C.1. Background to Jediism

22. The language and some elements of Jediism are based on the *Star Wars* series of films, conceived by George Lucas and first released in 1977. However, elements of the doctrines of Jediism can be seen in a variety of other world religions.³¹
23. The Board notes that Jediism as a possible religion entered the public eye after a campaign in 2001 encouraged Australian, New Zealand and British citizens to indicate their religious affiliation as "Jedi Knight".³² The Board notes that although there is an indication an officer had involvement in the campaign, there is no evidence the Society itself is linked with the census campaigns.³³ Therefore the Board does not consider the census campaign is material in considering whether Jediism meets the test of advancing religion under charity law.

³⁰ *Dal Pont* at [13.18], and see also the discussion at [2.8] – [2.11]. See for example *Latimer, PC* "whether the purposes of the trust are charitable does not depend on the subjective intentions or motives of the settlor, but on the legal effect of the language he has used. The question is not, what was the settlor's purpose in establishing the trust? But, what are the purposes for which trust money may be applied?"; *Molloy* at 693; *Keren Kayemeth Le Jisroel Ltd v Inland Revenue Commissioners* [1932] AC 650 at 657 (Lord Tomlin), 661 (Lord Macmillan); *Oldham* at 251 (Lightman J).

³¹ For a discussion of Jediism and other "Invented Religions" see, for example, Carole M Cusack *Invented religions: Imagination, fiction and faith* (Farnham and Burlington, Ashgate, 2010); and the special issue of *Culture and Religion: An Interdisciplinary Journal* (2013) Volume 14, Issue 4 "Invented Religions: Creating New Religions through Fiction, Parody and Play".

³² Statistical bureaus have treated the Jedi differently: The Australian Bureau of Statistics stated "If your belief system is "Jedi" then answer as such on the census form," however noted answers such as "Jedi" and others which have not to this point in time been identified as a religion in the classification will be coded to the one category "not defined": Australian Bureau of Statistics, *Census of Population and Housing – The 2001 Census, Religion and the Jedi* (2 May 2001) <http://www.abs.gov.au/websitedbs/D3110124.NSF/24e5997b9bf2ef35ca2567fb00299c59/86429d11c45d4e73ca256a400006af80!OpenDocument> [accessed 17 August 2015]; in contrast the British Office for National Statistics released statistics on the breakdown of Jedi in the community noting "The campaign may well have encouraged people to complete their forms and help us get the best possible overall response." Office for National Statistics, <http://www.ons.gov.uk/ons/rel/census/census-2001-summary-theme-figures-and-rankings/390-000-jedis-there-are/jedi.html> [accessed 17 August 2015]

³³ <http://www.gonmad.co.uk/jedicensus/howitstarted.php> [accessed 5 August 2015].

C.2. Advancement of Religion

24. The courts have considered the definition of religion under charity law and how religion can be advanced as a charitable purpose on a number of occasions. The cases suggest that there are three separate questions to be asked:

- Is the system of beliefs of the entity capable of advancing religion?
- Do the entity's activities advance religion?
- Does the purpose advance a charitable public benefit in law?

25. If an entity does not have a system of beliefs capable of advancing religion, the Board does not consider the questions of whether it advances religion and whether it advances charitable public benefit need to be addressed.

Is the system of beliefs of the entity capable of advancing religion?

26. The leading case in New Zealand dealing with the definition of religion in connection to charity law is *Centrepoin Community Growth Trust v Commissioner of Inland Revenue (Centrepoin (1985))*.³⁴ In that case, Tompkins J accepted the factors to be taken into account in determining whether a body of beliefs and practices is a religion at law as set out in the Australian case of *Church of the New Faith v Commissioner for Pay-roll Tax (Church of the New Faith)*.³⁵ A passage from Mason ACJ and Brennan J's judgment has been cited with approval in a number of cases dealing with the "indicia" of religion. This passage held that:³⁶

"...for the purposes of the law, the criteria of religion are twofold: first, belief in a supernatural Being, Thing or Principle; and second, the acceptance of canons of conduct in order to give effect to that belief, though canons of conduct which offend against the ordinary laws are outside the area of any immunity, privilege or right conferred on the grounds of religion."

27. In 2013, these passages from *Church of the New Faith* were approved by the United Kingdom Supreme Court in the case of *R (on the application of Hodkin and another) v Registrar General of Births, Deaths and Marriages (Re Hodkin)*.³⁷

³⁴ *Centrepoin Community Growth Trust v Commissioner of Inland Revenue* [1985] 1 NZLR 673 ("*Centrepoin (1985)*").

³⁵ *Church of the New Faith v Commissioner for Pay-roll Tax (Vic)* (1983) 49 ALR 65 ("*Church of the New Faith*").

³⁶ *Church of the New Faith* at 136.

³⁷ *R (on the application of Hodkin and another) v Registrar General of Births, Deaths and Marriages* [2013] UKSC 77 ("*Re Hodkin*").

Re Hodkin overruled the earlier case of *R v Registrar General, ex parte Segerdal*³⁸ and determined that Scientology is a religion in the United Kingdom.

28. While this case is not binding in New Zealand, it provides a useful modern reading of *Church of the New Faith* and confirms that this case is still current in terms of the law's definition of religion.
29. In line with the case law and decisions of the Charities Commission of England and Wales,³⁹ when determining whether a novel set of beliefs is a religion, the Board considers that the following characteristics demonstrate a religion:
- A body of doctrines that:
 - concerns the place of humankind in the universe and its relationship with the infinite;
 - goes beyond that which can be perceived by the senses or ascertained through the scientific method; and
 - contains canons of conduct around which adherents are to structure their lives.
 - The doctrines and canons of conduct must also be sufficiently structured, cogent and serious so as to be capable of advancing religion.
30. While the case law suggests that these are merely indicia, the Board considers that it would be difficult for a system of beliefs to qualify as capable of advancing religion unless all of the characteristics were met by a belief system.
31. The Board accepts that Jediism has a body of doctrines⁴⁰ that; (1) concerns the place of humankind in the universe and its relationship with the infinite;⁴¹ (2) goes beyond that which can be perceived by the senses or ascertained through the

³⁸ *R v Registrar General, ex parte Segerdal* [1970] 2 QB 697. This case determined that Scientology was not a religion in the United Kingdom and while it was considered by the Court, ultimately it was not followed in *Church of the New Faith*.

³⁹ Decision of the Charity Commissioners for England and Wales, Application for registration of the Gnostic Centre (16 December 2009) ("Gnostic Centre Decision"): https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/324274/gnosticdec.pdf.

⁴⁰ The Society submitted that the [<http://www.templeofthejediorder.org/doctrine-of-the-order>] is a comprehensive outline of the Jedi Path, which includes five components of the Jedi Way "the Three Tenants", "The Code", "The Creed", "The 16 Teachings" and "The 21 Maxims"; Email from the Society dated 20 November 2014 (the doctrines are summarised at Appendix A); moreover, based on those resources, the Society's website lists 33 Jedi Traits and a Jedi Code; <http://www.nzjedi.org/> [accessed 5 August 2015].

⁴¹ For example: the statement of Jedi's beliefs state that Jedi believe in "the Force, and in the inherent worth of all life within it"; the 21 Maxims state that "[a]lthough the ways of the Force may seem strange at times, a Jedi always knows their place and their role within it" ; the 16 Teachings state that "Jedi believe in eternal life through the Force. We do not become obsessed in mourning those who pass. We may grieve at the passing but we are content, knowing that they will forever be a part of the Force and so always a part of us"

scientific method;⁴² and (3) contain canons of conduct around which adherents are to structure their lives.⁴³

32. However, the Board does not consider the doctrines and canons of conduct are sufficiently structured, cogent and serious to advance religion in law.

Sufficient structure, cogency and seriousness to advance religion

33. In assessing whether a belief system is capable of advancing religion in charities law, a religion must be a sincere belief system of substance or significance, capable of benefiting society, and having a certain level of cogency, coherence, seriousness and importance.⁴⁴

34. This is not a question of the founder's motive⁴⁵ or whether the religion is true or false,⁴⁶ but rather whether the religion is sufficiently structured to advance religion in a charitable manner. Belief systems that are loosely interrelated collections of ideas will not constitute a "religion" in charities law. The Board considers there must be an organised or integrated system of beliefs for it to recognise a religion.⁴⁷

35. The most extreme case of a lack of seriousness is where the religion is a "parody" or "sham". Although, never addressed directly in Commonwealth case law, this is evident in the American case of *United States v Kuch*⁴⁸ (**Kuch**) referred to in both *Church of the New Faith* and *Re Hodkin*.

36. In *Kuch*, District Judge Gesell ultimately determined that while⁴⁹

"there may well be and probably are some members of the Neo-American Church who have had mystical and even religious experiences from the use of psychedelic drugs, there is little evidence in this record to support the view that the Church and its members as a body are motivated by or associated because of any common religious concern."

⁴² For example: "Jediism is a religion based on the observance of the Force, a ubiquitous and metaphysical power that a Jedi (a follower of Jediism) believes to be the underlying, fundamental nature of the universe... Jedi Believe... In the Force, and in the inherent worth of all life within it." (see Appendix A).

⁴³ For example: the 33 Jedi Traits include the practise of meditation (Trait 8); the importance of protecting and defending the helpless (Trait 11); the centrality of compassion to a Jedi's life (Trait 19); all indicating instructional material on how to live life.

⁴⁴ Annex A of *The Advancement of Religion for Public Benefit* (CCEW); Gnostic Centre Decision at [34].

⁴⁵ *Church of the New Faith* at 141.

⁴⁶ *Church of the New Faith* at 150. See also Mason ACJ and Brennan J's statement at 132.

⁴⁷ Annex A of *The Advancement of Religion for Public Benefit* (CCEW); Gnostic Centre Decision at [34].

⁴⁸ *United States v Kuch* 288 F Supp (DC 1968) ("*Kuch*").

⁴⁹ *Kuch* at 444.

37. In assessing the doctrines in *Kuch*, District Judge Gesell said that “one gains the inescapable impression that the membership is mocking established institutions, playing with words and totally irreverent in any sense of the term”⁵⁰; that they are “full of goofy nonsense, contradictions, and irreverent expressions”⁵¹ and that there appears to be “a conscious effort to assert in passing the attributes of religion but obviously only for tactical purposes.”⁵² Should an organisation be made up of people who genuinely believe a set of doctrines and order their lives around these doctrines, the “gullibility of those adherents or the motives of those responsible for the content of current writings and the form of current practices” is irrelevant.⁵³
38. One of the most significant factors of Jediism is that it takes its mythological content from the *Star Wars* series of films, and not any form of divine revelation or inspiration, which is similar to the *Kuch* entity. However, there is sufficient information provided within the doctrines which distinguish the Society from *Kuch*—there is no indication of ulterior motive in the doctrines, or sense of insincerity.⁵⁴ The doctrines state that taking their beliefs from a fictional source is “a sometimes more practical means of conveying philosophies applicable to real life.”⁵⁵
39. However, the Society is self professedly “non-dogmatic and non-organised.”⁵⁶ Its website indicates the “33 Jedi Traits” are for believers to “study, accept or reject as they see fit”.⁵⁷ The Jedi Code is a “mantra”, which expresses “the Jedi aspiration”, rather than any obligatory codes of conduct. The language utilised is indicative of a collection of ideas that may be adopted voluntarily by adherents where they deem it is appropriate, whose main common feature is affiliation with the *Star Wars* movies. The Facebook page features a number of pictures from the movies and other related media, rather than identifiable formal content of faith.
40. Although the Society seeks to advance its faith through “the website to share the Jedi path with members, enabling them to become better Jedi” and eventually “financially assist” Jedi masters to “teach other Jedi”, the formal structure of the learning has not been elaborated.⁵⁸ The Society hopes to eventually start a Jedi school and Jedi temple, although it is unclear from the information presented what would be conveyed in such institutions. The Board considers that at the time of its decision, the information presented on the quality of Jediism and how it is to be advanced indicates the belief system is merely a collection of

50 *Kuch* at 444.

51 *Kuch* at 444-445.

52 *Kuch* at 445.

53 *Church of the New Faith* at 171.

54 This can also be contrasted with the motives of the proponents of the census campaign mentioned at paragraph 23 above.

55 <http://www.templeofthejediorder.org/doctrine-of-the-order> [accessed 17 August 2015]

56 <http://www.nzjedi.org/33-jedi-traits.php> [accessed 5 August 2015]

57 <http://www.nzjedi.org/33-jedi-traits.php> [accessed 5 August 2015]

58 Letter of 30 April 2015.

interconnected ideas based on the *Star Wars* universe, rather than structured, cogent and serious religion.

41. The Board notes that in time it considers Jediism may develop the level of seriousness and structure necessary to advance religion; however at the time of application the information presented by the Society is insufficient to consider it is capable of advancing a religion in charities law.

C.3. Promotion of moral or spiritual improvement

42. Although an entity may not meet the test of religion in law, in some cases they may qualify as promoting moral and spiritual improvement.⁵⁹ The Scottish charities legislation expressly states the “advancement of any philosophic belief” as analogous to the advancement of religion.⁶⁰ However, unlike religion, although it is clear the promotion of moral or spiritual improvement is capable of falling under the fourth head, the courts have given inconsistent guidance on the characteristics that need to be demonstrated to qualify.⁶¹
43. It is clear from the authorities that “not all objects which tend to promote the moral improvement of the community are charitable.”⁶² Moreover, the Supreme Court of New Zealand confirmed “it will be difficult to show that the promotion of an idea is itself charitable.”⁶³ Following an objective, analogical approach, it is appropriate to consider similar characteristics to those which are assessed in relation to religion. This follows the approach of both the Charities Commission of England and Wales⁶⁴ and the Office of the Scottish Charities Regulator.⁶⁵
44. The Board considers the following are characteristics of an entity that promotes moral and spiritual improvement in a charitable manner:
 - Identifiable formal content that:
 - addresses weighty and substantial aspects of human life and behaviour;
 - relates to moral or spiritual systems, and their application to human life;
 - can be accessed and applied within the community according to individual choice and judgement; and

⁵⁹ Gnostic Centre Decision at [50-57]; and Church of Scientology Decision at 26-36.

⁶⁰ *Charities and Trustee Investment (Scotland) Act 2005*, Section 7(2)(p).

⁶¹ *Centrepont Community Growth Trust v Commissioner of Inland Revenue* [1985] 1 NZLR 673 at 697-698; *Re Grand Lodge of Antient Free Masons* High Court, Wellington Registry, CIV-2009-485-2633, 22 September 2010 at [56] per Simon France J; *Re Family First New Zealand* [2015] NZHC 1493 at [89] per Collins J.

⁶² *Barralet v Attorney General* [1980] 3 All ER 918 at 926 per Dillon J.

⁶³ *Greenpeace of New Zealand Incorporated* [2014] NZSC, at [116].

⁶⁴ Gnostic Paper Decision at [50-57].

⁶⁵ Office of the Scottish Charity Regulator, *Meeting the Charity Test: Guidance for applicants and for existing charities*, 10; <http://www.oscr.org.uk/media/1568/meeting-the-charity-test-full-guidance.pdf> [accessed 7 August 2015].

- the beneficial nature of the content should be shown (and demonstrated to be accepted) on the basis of a consensus of opinion amongst people who are informed, fair-minded and free from prejudice or bias.⁶⁶
45. The content must also be sufficiently structured, cogent and serious to be capable of improving the moral or spiritual welfare of the community. Mere opinions will not qualify. However the promotion of narrower ideas may be charitable if they are directed to advancing a charitable end, through charitable means.⁶⁷ Public benefit must also be present as a matter of fact in any case. Unlike in the advancement of religion where public benefit is presumed, an entity must demonstrate public benefit as a matter of fact.
 46. As determined in part C.3., the Board considers Jediism is a loosely connected collection of ideas connecting to the *Star Wars* universe. Jediism addresses (1) weighty and substantial aspects of human life; (2) relates to the application of a spiritual system to life; and (3) could be accessed by the public and applied to the community. However, for the reasons outlined above, the system is not sufficiently serious, structured or cogent to demonstrate it can improve the moral or spiritual welfare of the public.⁶⁸

C.4. Conclusion

47. In the light of the above, the Board considers that the Society does not advance religion, or promote moral and spiritual improvement in a charitable manner.

D. Section 5(3)

48. As discussed above, we consider that the Society has a purpose to promote a belief system that does not advance religion, or promote moral and spiritual improvement in a charitable manner.
49. The Society's non-charitable purpose is the current focus of the Society. This non-charitable purpose is a pervasive purpose of the Society and cannot realistically be considered ancillary, subordinate, or incidental to the Society's current charitable purposes or future intended charitable purposes.

⁶⁶ The Charities Commission of England and Wales specifically refer to: *National Anti-Vivisection Society v Inland Revenue Commission* [1948] AC 31, citing Lord Wright at 49. This issue is given particular weight in the Gnostic Centre decision at [50-57].

⁶⁷ *Greenpeace SC* at [114-116].

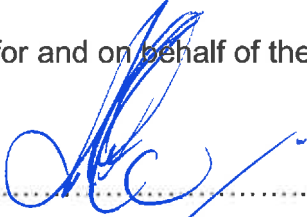
⁶⁸ See above at [39] to [41].

E. Determination

- 50. Accordingly, the Board's determination is that the Society does not qualify for registration under the Act and the application for registration should be declined.

For the above reasons, the Board declines the Society's application for registration as a charitable entity.

Signed for and on behalf of the Board



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Roger Holmes Miller

14th SEPTEMBER 2015

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Date

