

SECOND AMENDMENT FOUNDATION

REPORT ON AUDIT OF FINANCIAL
STATEMENTS AND SUPPLEMENTAL DATA

for the years ended December 31, 2010 and 2009

GUNNING
STENSON
& PRICE

CERTIFIED PUBLIC ACCOUNTANTS

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& PRICE
CERTIFIED PUBLIC ACCOUNTANTS

REPORT OF INDEPENDENT ACCOUNTANTS

To the Board of Trustees
Second Amendment Foundation
Bellevue, Washington

We have audited the accompanying statement of financial position of the Second Amendment Foundation (the "Foundation") as of December 31, 2010 and 2009, and the related statements of activities and comprehensive changes in net assets, and cash flows for the years then ended. These financial statements are the responsibility of the Foundation's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As more fully described in Note 3 to the financial statements, the Foundation has elected to account for its investment in broadcast stations and internet media web site on the cost method. In our opinion, the investment should be consolidated in order to conform with generally accepted accounting principles. The effect on the financial statements of not consolidating the investments is not determinable.

In our opinion, except for the effects of not consolidating its investment in broadcast stations and internet media web site as discussed in the preceding paragraph, the financial statements referred to in the first paragraph above present fairly, in all material respects, the financial position of the Foundation as of December 31, 2010 and 2009, and the comprehensive changes in net assets and its cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America.

Gunning, Stenson & Price CPA PC

Bellevue, Washington
June 24, 2011

SECOND AMENDMENT FOUNDATION

STATEMENT OF FINANCIAL POSITION

December 31, 2010 and 2009

	ASSETS	2010	2009
Current assets:			
Cash:			
On deposit		\$1,219,516	\$1,221,323
Undeposited cash receipts		90,823	960
Short-term investments		1,368,222	1,343,216
Accounts receivable			
Trade		9,754	31,132
Prepaid expenses and other assets		15,093	30,607
Total current assets		2,703,408	2,627,238
Investment in marketable securities		274,777	303,377
Furniture and equipment, less accumulated depreciation of \$445,303 and \$435,280 in 2010 and 2009, respectively		10,794	17,394
Investment in broadcast stations		1,392,399	1,392,399
Investment in internet media web site		137,815	137,815
Other assets		14,583	14,583
Total assets		<u>\$4,533,776</u>	<u>\$4,492,806</u>
	LIABILITIES AND NET ASSETS		
Current liabilities:			
Accounts payable and accrued expenses:			
Trade		\$ 263,341	\$ 134,140
Affiliates		295,558	194,525
Deferred subscription revenue		96,230	93,852
Total current liabilities		655,129	422,517
Deferred subscription revenue		13,290	15,219
Total liabilities		668,419	437,736
Commitments			
Net assets:			
Accumulated comprehensive income		207,661	239,403
Net unrestricted assets		3,657,696	3,815,667
Total net assets		3,865,357	4,055,070
Total liabilities and net assets		<u>\$4,533,776</u>	<u>\$4,492,806</u>

The accompanying notes are an integral part of the financial statements

SECOND AMENDMENT FOUNDATION
STATEMENT OF ACTIVITIES AND
COMPREHENSIVE CHANGES IN NET ASSETS

for the year ended December 31, 2010 and 2009

	<u>2010</u>	<u>2009</u>
Revenues:		
Contributions	\$3,516,920	\$4,343,470
Subscription and advertising income	274,105	297,056
Interest and dividends	<u>23,510</u>	<u>44,244</u>
Total revenues	3,814,535	4,684,770
Expenses:		
Public education	2,283,837	2,466,997
Legal action	430,694	272,054
Fund raising	1,031,545	1,244,139
Management, general and administration	<u>226,430</u>	<u>256,572</u>
Total expenses	3,972,506	4,239,762
Realized loss on investment	<u> </u>	<u>(107,500)</u>
Change in net assets	(157,971)	337,508
Reclassification of unrealized losses on investments		107,500
Unrealized gain/(loss) on stock	<u>(31,742)</u>	<u>(19,259)</u>
Comprehensive change in net assets	(189,713)	425,749
Net assets, beginning of year	<u>4,055,070</u>	<u>3,629,321</u>
Net assets, end of year	<u>\$3,865,357</u>	<u>\$4,055,070</u>

The accompanying notes are an integral
part of the financial statements

SECOND AMENDMENT FOUNDATION

STATEMENT OF CASH FLOWS

for the year ended December 31, 2010 and 2009

	<u>2010</u>	<u>2009</u>
Cash flows from operating activities:		
Change in unrestricted net assets	\$ (157,971)	\$ 337,508
Adjustments to reconcile change in unrestricted net assets to net cash provided by operating activities:		
Realized loss on investment		107,500
Donation of stock	(3,142)	
Depreciation	9,228	10,580
Changes in:		
Accounts receivable	21,377	13,875
Prepaid expenses and other assets	15,514	(2,755)
Deferred subscription income	449	(1,535)
Accounts payable and accrued expenses	<u>230,235</u>	<u>24,880</u>
Total adjustments	273,661	152,545
Net cash provided by operating activities	115,690	490,053
Cash flows provided by investing activities:		
Purchase of radio investment		(544,000)
Additions to furniture and equipment	(2,628)	
Proceeds from sale of short-term investments	1,767,375	1,587,221
Purchase of short-term investments	<u>(1,792,381)</u>	<u>(1,617,315)</u>
Net cash used in investing activities	<u>(27,634)</u>	<u>(574,094)</u>
Net increase/(decrease) in cash	88,056	(84,041)
Cash (including undeposited cash receipts):		
Beginning of year	<u>1,222,283</u>	<u>1,306,324</u>
End of year	<u>\$1,310,339</u>	<u>\$1,222,283</u>
Cash paid for interest	\$ <u>-0-</u>	\$ <u>-0-</u>

The accompanying notes are an integral part of the financial statements

SECOND AMENDMENT FOUNDATION

NOTES TO FINANCIAL STATEMENTS

1. The Foundation and Significant Accounting Policies:

Second Amendment Foundation (the "Foundation") is a nonprofit organization incorporated in the State of Washington in 1974. The purpose of the Foundation is to engage in activities relating to the Second Amendment of the United States Constitution. These activities include dissemination of information regarding the historical antecedents of the Second Amendment and its contemporary application to American society; fostering research and study of issues related to the Second Amendment; and, as appropriate, appearing as a friend of the court or engaging in test cases in litigation affecting the Second Amendment. Additionally, the Foundation operates the following publications:

<u>GunWeek</u>	- A newspaper published twenty-four times a year, devoted to reporting on gun-related issues.
<u>Women & Guns</u>	- A bi-monthly magazine devoted to educating and reporting gun-related issues to women.
<u>Gottlieb-Tartaro Report</u>	- A monthly newsletter covering current events in the gun rights movement.

Since inception, the Foundation's activities have primarily related to public education concerning the preservation of the individual citizen's right to keep and bear firearms. Public education and fund raising have been conducted in conjunction with direct telephone and mail solicitations of contributions.

Investment in Marketable Securities

The Foundation has adopted FASB Accounting Standards Codification 958, Not for Profit Entities ("FASC 958"). Under the provisions of FASC 958, the investments are recorded at the fair market value at December 31, 2010 and 2009 and the unrealized gains or losses for the year are recorded in the comprehensive net change in assets and the statement of activities (Note 3). Realized gains and losses, if any, for the year ended December 31, 2010 and 2009 are recorded in Realized (gain)/loss on securities. At December 31, 2010 and 2009 the aggregate cost and market value of the investment in marketable securities are summarized as follows:

	<u>2010</u>	<u>2009</u>
Market Value	\$274,777	\$303,377
Cost	<u>67,116</u>	<u>63,974</u>
Cumulative unrealized gain	<u>\$207,661</u>	<u>\$239,403</u>

Cash and Cash Equivalents and Short-Term Investments

All highly liquid investments with an original maturity of three months or less are considered to be cash equivalents. Short-term investments consist of certificate of deposits with original maturities of six months to eighteen months. The aggregate amount of cash and cash equivalents and certificates of deposit with several banks exceeds the Federally insured limit.

Management Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Continued

SECOND AMENDMENT FOUNDATION
NOTES TO FINANCIAL STATEMENTS, Continued

1. The Foundation and Significant Accounting Policies, continued:

Property, Donated Assets, Depreciation and Amortization

Furniture and equipment, with the exception of donated assets, are stated at cost. Additions and improvements are capitalized; repairs and maintenance are charged to expense. Donated assets are recognized as income and are capitalized at their estimated fair market values when received. Depreciation is provided by the straight-line method over the estimated useful lives of the properties of three to five years.

The cost and related accumulated depreciation and amortization of assets sold are removed from the accounts and resulting gains or losses, if any, are reflected in other revenues.

The Foundation has been named the beneficiary of a charitable remainder trust. The Foundation will be the recipient of the remainder of the trust assets, if any, when the current beneficiary dies. The trustee may exhaust the corpus of the trust for the benefit of the beneficiary. Because the ultimate amount of the trust remainder is uncertain, and could potentially be zero, the Foundation has not recorded any contribution revenue for the split-interest bequest.

Contributions

The Foundation's practice is to record contributions as revenue when collected. Contributions are considered to be available for unrestricted use unless specifically restricted by the donor.

Subscription Income

Income from sales of magazine subscriptions is recognized over the term of the subscription. Deferred subscription income represents paid subscriptions for future issues.

Classification and Recognition of Expenses

The cost of providing various services or activities of the Foundation is reported on a functional basis. Costs that apply to more than one functional purpose are allocated among functions using an appropriate basis. For example, allocations of expenses, such as postage, envelopes, printed material and mailing fees, made to public education and fund raising functions are based upon the content of the material, reasons for the distribution and the audience of the mailing. Other allocation factors include office space occupied, employee time incurred and other pertinent criteria.

Fund-raising costs and costs of compiling mailing lists of prospective contributors are expensed as incurred.

Donated Services

No amounts are recorded in the financial statements for donated services, which includes but is not limited to legal services and media advertising, because no objective basis is available to measure the value of such services. A number of volunteers and businesses have donated their time or services to the program services and fund-raising activities of the Foundation.

Continued

SECOND AMENDMENT FOUNDATION
NOTES TO FINANCIAL STATEMENTS, Continued

1. The Foundation and Significant Accounting Policies, continued:

Income Tax Status

The Foundation is exempt from Federal income tax as a nonprofit organization as defined in Section 501(c)(3) of the Internal Revenue Code. Accordingly, no provision for income taxes is reflected in these financial statements.

As a nonprofit organization under Section 501(c)(3) of the Internal Revenue Code, contributions to the Foundation may be tax deductible.

2. Fair Value of Financial Instruments:

FASB Accounting Standards Codification 825, "Financial Instruments" ("FASC 825"), requires disclosure about fair value for all financial instruments whether or not recognized, for financial statement purposes. Disclosure about fair value of financial instruments is based on pertinent information available to management at December 31, 2010. Considerable judgment is necessary to interpret market data and develop estimated fair values. Accordingly, the estimates presented are not necessarily indicative of the amount which could be realized on disposition of the financial instruments. The use of different market assumptions and/or estimation methods may have a material effect on the estimated fair value amounts. Management believes that the fair value of cash and cash equivalents, accounts receivable and payable, investments and short term investments approximates carrying value based upon the high liquidity of the instruments.

FASC 825, provides the Foundation with an option to report selected financial assets and liabilities at fair value. This statement is effective for financial statements issued for fiscal years beginning after November 15, 2007. Management does not anticipate it will have a material effect on the Foundation's financial condition or results of operations. The Foundation did not elect the fair value option as allowed by FASC 825 for its financial assets and liabilities that were not previously carried at fair value. Therefore, material financial assets and liabilities that are not carried at fair value, such as short-term and long-term debt obligations (if any) and trade accounts receivable and payable are still reported at their historical carrying values.

FASB Accounting Standards Codification 820, "Fair Value Measurements and Disclosures" ("FASC 820"), defines fair value, establishes a framework for measuring fair value in accordance with generally accepted accounting principals, and expands disclosures about fair value measurements. This statement is effective for financial statements issued for fiscal years beginning after November 15, 2007 and interim periods within those fiscal years.

The Foundation adopted the methods of measuring fair value described in FASC 820. As defined in FASC 820, fair value is based on the prices that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. In order to increase consistency and comparability in fair value measurements, FASC 820 establishes a three-tier fair value hierarchy that prioritizes the inputs used to measure fair value. These tiers include:

- Level 1 – defined as observable inputs such as quoted market prices in active markets
- Level 2 – defined as inputs other than quoted prices in active markets that are either directly or indirectly observable
- Level 3 – defined as unobservable inputs for which little or no market data exists, thereby requiring an entity to develop its own assumptions.

Continued

SECOND AMENDMENT FOUNDATION
NOTES TO FINANCIAL STATEMENTS, Continued

2. Fair Value of Financial Instruments, continued:

At December 31, 2010 and 2009, the Foundation has certain assets that are required to be measured at fair value on a recurring basis. For certain broadcast company and internet media website investments, management has determined that those assets should be carried on the books of the Foundation at the cost basis (unless estimated fair value is less than cost) determined as discussed in the following footnotes. All other stock investments (included in Level 1) are recorded at fair value. Management has chosen to disclose the estimated fair value of all investments. The assets and the respective estimated fair values are classified in the table below in one of the three categories of the fair value hierarchy described above.

As of December 31, 2010:

<u>Description</u>	<u>Cost</u>	<u>Fair Value</u>	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>
Available for sale securities	\$67,116	\$274,777	\$274,777		
Radio Station KBNP stock	\$730,500	\$2,000,000		\$2,000,000	
Radio Station KSBN stock	\$237,000	\$500,000			\$500,000
Radio Station KITZ stock and KGTK stock (owned by KITZ)	\$424,899	\$950,000			\$950,000
Keep and Bear Arms Web stock	\$137,815	\$137,815			\$137,815

As of December 31, 2009:

<u>Description</u>	<u>Cost</u>	<u>Fair Value</u>	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>
Available for sale securities	\$63,974	\$303,377	\$303,377		
Radio Station KBNP stock	\$730,500	\$2,000,000		\$2,000,000	
Radio Station KSBN stock	\$237,000	\$500,000			\$500,000
Radio Station KITZ stock and KGTK stock (owned by KITZ)	\$424,899	\$950,000			\$950,000
Keep and Bear Arms Web stock	\$137,815	\$137,815			\$137,815

Level 1 - Level 1 inputs consist of the number of shares owned by the Foundation multiplied by the publically traded market price on December 31.

Level 2 - Level 2 inputs consist of an independent appraisal on the broadcast station used by the Board of Directors to determine the acquisition price of stock in the station from the Foundation's Vice President (See Note 3).

Continued

SECOND AMENDMENT FOUNDATION
NOTES TO FINANCIAL STATEMENTS, Continued

2. Fair Value of Financial Instruments, continued:

Level 3 - The fair values for all other investments in broadcast properties and web-site (Level 3) could not be determined without incurring excessive costs. The investments represent stock ownership of several broadcast properties including radio and television stations and a web-site (see Note 3). Ownership percentages range from 1% to 50%. Shares in the television stations carried a preferred return of 4% per year. All of the broadcast properties and web-site stock held by the Foundation is in untraded companies that are privately held. The estimated fair values noted in the table are based on managements experience in the field of broadcasting. Management considered such input values as daytime and nighttime broadcast wattage as provided by FCC regulation, audience size and demographics and potential for upgrade of transmitter and broadcast area, broadcast market and location. Based on the inputs, management estimated the fair values of each of the investments at December 31, 2010 and 2009. Considerable judgment is necessary to interpret market data and develop estimated fair values. Accordingly, the estimates presented are not necessarily indicative of the amount which could be realized on disposition of the financial instruments. The use of different market assumptions and/or estimation methods may have a material effect on the estimated fair value amounts.

There were no material changes in the input assumptions or estimated fair values for any of the Level 3 investments from December 31, 2009 to December 31, 2010. Since the Foundation carries the investments on the lower of fair value or cost basis, there is no change in the recorded unrealized loss for the year ended December 31, 2010 for the level 3 investments.

3. Investment in Broadcast Stations, Internet Media Web Site and Network:

Radio Stations

KBNP Radio – At December 31, 2009 the Foundation and an affiliated organization each own 50% of KBNP Radio, Inc. stock ("KBNP") (which broadcasts in Portland, Oregon). At December 31, 2008 the Foundation and an affiliated organization each owned 33%, and a director owned 34% of KBNP Radio Inc. stock. The investment is accounted for under the cost method. During the year ended December 31, 2008, the Board of Directors of the Foundation approved a purchase of 17% of the 34% ownership of the director. The Board of Directors obtained an appraisal to determine the fair market value of the station in December, 2008. Based on that appraisal, the Board approved a purchase of 17% of the directors 34% ownership at a 20% discount from the appraised value. Simultaneously an affiliated group purchased the other 17% of the directors 34% for the same amount. The purchase for the half of the directors 34% in the amount of \$544,000 was paid in April, 2009. The Foundation purchased approximately \$23,200 of advertising time on KBNP during 2010 and none in 2009.

The Foundation has a Multiple Advance Promissory Note receivable from KBNP Radio, Inc. (the "Borrower"). Under the terms of the note, the Foundation is obligated to advance up to \$50,000 to KBNP. Any amount outstanding under the note bears interest at 8% per year from the date advanced until paid. The Borrower agrees to pay principal and interest in full on demand. The Foundation had no advances outstanding as of December 31, 2010 and December 31, 2009.

KSBN Radio - The Foundation and an affiliate each own 50% of the stock of KSBN Radio, Inc. ("KSBN") (which broadcasts in Spokane, Washington). The investment is carried on the cost method.

Effective January 1, 2008 the Foundation converted the note receivable to a direct equity investment in the station and removed the accrued interest and related reserve account. The Foundation purchased no advertising time from KSBN during the years ended December 31, 2010 and 2009.

Continued

SECOND AMENDMENT FOUNDATION
NOTES TO FINANCIAL STATEMENTS, Continued

3. Investment in Broadcast Stations, Internet Media Web Site and Network, continued:

KITZ Radio - During 1999, the Foundation purchased \$40,000 of advertising time on KITZ, a radio station serving the Seattle, Washington market. In exchange for purchasing the advertising, the Foundation also received a 20% ownership interest in the radio station. The advertising time was expensed over the two year term of the contract. The stock acquired in exchange for the advertising is being carried on the books of the Foundation with no cost basis.

In December 2000 the Foundation and an affiliate organization purchased all of the outstanding shares (15,000 shares each) of KITZ radio station. The Foundation's portion of the purchase was \$238,750. Management of the Foundation believes that the purchase price reflects the distressed nature of KITZ and the existing ownership position of the Foundation at the time of purchase, and is not representative of the fair market value of the station at the date of purchase. An initial payment of \$75,000 was made at closing and a non-interest bearing note with a \$350,000 face value (\$175,000 attributable to the Foundation) was issued for the remainder of the purchase price. In accordance with Generally Accepted Accounting Principles the note was discounted using the Foundation's effective borrowing rate, estimated by management of the Foundation as 8%. The discounted value of the note is \$163,750. The investment is carried on the cost basis.

Effective January 1, 2008 the Foundation converted the note receivable from KITZ to a direct equity investment in the station and removed the accrued interest and related reserve account.

In November, 2003 KITZ entered into a purchase agreement to buy the assets of a radio station in Olympia, Washington for \$300,000. The purchase was completed in April, 2004 after the approval of the Federal Communication Commission. The call letters of the station were changed to KGTK. The stock was acquired with an initial payment of \$100,000 (\$50,000 attributable to the Foundation) at closing, and a non-interest bearing note with a \$200,000 face value (\$100,000 attributable to the Foundation's ownership in KITZ) was issued for the remainder of the purchase price. The note is collateralized by all of the assets, equipment, material and deposits of KGTK and personally guaranteed by the Chairman of the Board of the Foundation. Because the note payable was between KITZ and KGTK, the Foundation has not recorded a discounted liability on their books. The \$100,000 commitment attributable to the Foundation's ownership of KITZ has been recorded as a purchase commitment in the full amount at December 31, 2004. The purchase commitment was paid in full in March, 2008.

During 2010 and 2009, the Foundation purchased \$48,000 and \$52,000, respectively, of advertising time on KITZ and KGTK.

Continued

SECOND AMENDMENT FOUNDATION
NOTES TO FINANCIAL STATEMENTS, Continued

3. Investment in Broadcast Stations, Web-site and Network, continued:

Television Stations

At December 31, 2008 and 2007 the Foundation owned 205 shares of Class A stock in WBTR, a Louisiana television station ("WBTR"). WBTR is a shareholder in several other television stations in the Louisiana area. Two of the television stations in which WBTR has an ownership interest are WTNC and KTNC. The stock was recorded in investments in the amount of \$17,500, the original cost of 25 shares of Class B stock. In 1993, WBTR exchanged the 25 shares of Class B stock owned by the Foundation for 205 shares of Class A stock. During the year ended December 31, 2006, management of the Foundation took a charge to in the statement of change in net assets in the amount of \$17,500, reducing the carrying value of the stock to zero, which in the estimate of management of the Foundation approximates fair market value at December 31, 2008. As of December 31, 2009 management of the Foundation determined that the stock of WBTR should be written off. The Foundation recorded a realized loss in the Statement of Change in Net Assets for the year ended December 31, 2009.

At December 31, 2008 and 2007, the Foundation owned 300 shares of stock in WTNC, a Louisiana television station, with an initial recorded cost of \$60,000. The subscription agreement for the stock provides that in the event that the Foundation intends to sell the stock, the television station has the first right of refusal to repurchase the stock from the Foundation. The stock provided for a 4% annual dividend to be paid by July 31, of the following year. There were no dividends paid or accrued for the year ended December 31, 2008. At December 31, 2008, management of the Foundation estimated the value of the investment in WTNC was zero and is recorded on the books of the Foundation at zero value at December 31, 2008. At December 31, 2009 management of the Foundation determined that the stock should be written off. The Foundation recorded a realized loss on investments in the Statement of Change in Net Assets for the year ended December 31, 2009.

In 1999 and 1998 the Foundation acquired, either through purchase or donation, 150 shares of KTNC, a Louisiana television station with a cost of \$30,000. The subscription agreement for the stock provides that in the event that the Foundation intends to sell the stock, the television station has the first right of refusal to repurchase the stock from the Foundation. The stock provided for a 4% annual dividend to be paid by July 31, of the following year. There were no dividends accrued or paid for the year ended December 31, 2008. At December 31, 2008, management of the Foundation estimated that the value of the investment in KTNC was zero and is recorded on the books of the Foundation at zero value at December 31, 2008. During the year ended December 31, 2009 management of the Foundation determined that the stock should be written off. The Foundation recorded a realized loss on investments in the Statement of Change in Net Assets for the year ended December 31, 2009.

Internet Media Web Site

In September, 2004 the Foundation acquired 50% of the stock of KeepAndBearArms.com (a profit corporation). The remaining 50% was purchased by an affiliate of the Foundation. The Foundation's portion of the stock purchase was \$150,000. The purchase agreement required an initial down payment of \$30,000 and a non interest bearing note with payments of \$5,000 a month, for twenty four months. In accordance with Generally Accepted Accounting Principles the note was discounted using the Foundation's effective borrowing rate, estimated by management of the Foundation as 6%. The original discounted value of the note was \$112,815. The portion of the stock acquired through the purchase is carried on the cost basis.

Under the terms of the purchase agreement, the Foundation received a \$5,000 discount on the purchase price for accelerating the purchase note payments. The \$5,000 discount was recorded in the year ended December 31, 2006 as a reduction in the historical cost of the investment. The Foundation purchased \$1,000 of advertising time from KABA.com for the year ended December 31, 2010.

SECOND AMENDMENT FOUNDATION
NOTES TO FINANCIAL STATEMENTS, Continued

4. Related-Party Transactions:

Certain members of management of the Foundation are either principal owners or officers of various affiliated organizations that have transactions with the Foundation, and the Foundation is a member of the Service Bureau Association, Inc. (a nonprofit cooperative). These organizations and the Foundation conduct their operations in adjacent facilities. These organizations and the cost of services provided, goods received or (revenues earned) in 2010 and 2009 are as follows:

	<u>2010</u>	<u>2009</u>
Data processing, accounting and telemarketing:		
Service Bureau Association, Inc.		
(providing services at cost)	\$716,137	\$801,148
Mail, marketing and list rental:		
Merril Associates	\$341,028	\$478,784
Books:		
Merril Press/MMM, Inc.	\$75,136	\$47,880

5. Commitments:

Leases

The Foundation has entered into an agreement to lease a portion of an office building located in Bellevue, Washington, for its normal business operations from a Trustee. The Foundation along with another nonprofit organization has the right to acquire the land and related buildings at a fair market price should the property be offered for sale in the future. The lease agreement was extended to October, 2008 and the monthly rental at December 31, 2008 was \$4,700. After October, 2008 the rent was due on a month-to-month basis at the same rental rate of \$4,700 a month. The management of the Foundation is negotiating with the Trustee and director for a three year extension to the lease. The Foundation is responsible for operating costs associated with the property. Rental expense paid by the Foundation was \$56,400 in 2010 and 2009, under this lease agreement.

Until August 31, 2007 the Foundation had a month-to-month lease with a Trustee, who owned the publication office facilities, located in Buffalo, New York. The lease agreement required payments of \$600 per month plus other operating costs. Effective September 1, 2007, the Trustee sold the building to a third party and the Trustee entered into a one year lease for the same location. That lease requires monthly payments of \$975 plus other operating costs. The Trustee and the Foundation have an agreement that the Foundation will pay the Trustee the amount of the rent and other costs as prescribed under the terms of the Trustee's lease with the new building owner. The Trustee's lease with the building owner expired on August 31, 2008 and is a month-to-month agreement from that date forward. Rental expense paid by the Foundation for the year ended December 31, 2010 and 2009 for the agreement with the Trustee was approximately \$11,700 each year.

The Service Bureau Co-op, of which the Foundation is a member, has an operating lease that expires in 2012 for equipment at a monthly rate of \$290. The equipment is used for the benefit of the Foundation and an affiliate. Consequently the Foundation has been allocated one-half of the monthly payment obligation.

The Foundation had a thirty-six month lease agreement for computer equipment. The lease required monthly payments of \$173 and expired in 2009. The Foundation had a 60 month lease for a copy machine. The lease required monthly payments of \$129 and expired in 2010. The Foundation purchased the copy machine for the fair market value at the end of the lease term. The Foundation also has an equipment lease with an affiliate. The Foundation's portion of the monthly payment is approximately \$150, and expires 2014.

Total rental expense under these and other operating lease agreements was \$73,000 in 2010 and in 2009.

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SECOND AMENDMENT FOUNDATION
NOTES TO FINANCIAL STATEMENTS, Continued

5. Commitments, continued:

At December 31, 2010, future minimum annual payments under non cancelable operating lease agreements for the next five years are as follows:

2011	\$3,510
2012	\$2,205
2013	\$1,770
2014	\$590

6. Subsequent Events:

Subsequent events were evaluated through June 24, 2011, which is the date the financial statements were issued.

Continued

SUPPLEMENTAL INFORMATION

REPORT OF INDEPENDENT ACCOUNTANTS

To the Board of Trustees
Second Amendment Foundation
Bellevue, Washington

Our report on the audit of the financial statements of Second Amendment Foundation as of December 31, 2010 and 2009 and for the years then ended, which is qualified because the Foundation has elected to account for its investment in broadcast station and web-site on the cost method, appears on Page 1. This audit was conducted for the purpose of forming an opinion on the basic financial statements taken as a whole. The Schedules of Expenses for the year ended December 31, 2010 and 2009 on pages 15 through 17 are presented for purposes of additional analysis and are not a required part of the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and, in our opinion, is fairly stated, in all material respects, in relation to the basic financial statements taken as a whole.

Gunning, Stenson & Price CPA PC

Bellevue, Washington
June 24, 2011

GUNNING STENSON & PRICE
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SECOND AMENDMENT FOUNDATION

SCHEDULE OF EXPENSES

for the year ended December 31, 2010

	<u>Public Education</u>	<u>Legal Action</u>	<u>Fund Raising</u>	<u>Management, General and Administrative</u>	<u>Total</u>
Salaries, payroll					
taxes and employee benefits	\$ 204,801		\$ 20,761	\$ 51,753	\$ 277,315
Awards and grants	3,240				3,240
Printing	204,788		186,053		390,841
Telephone	15,433	\$ 2,910	6,971	2,388	27,702
Supplies	12,481	2,354	5,637	1,932	22,404
Conferences, conventions and trips	158,298			452	158,750
Professional fees and service contracts	124,693		100,219	88,411	313,323
Legal defense		417,056			417,056
Depreciation				9,228	9,228
Publicity and advertising	216,340				216,340
Postage and shipping	364,051		282,904		646,955
Repairs and maintenance				27,378	27,378
Interest and bank charges				14,693	14,693
Rent	44,458	8,384	20,080	6,880	79,802
Telephone marketing	291,516		291,516		583,032
Book program	89,603				89,603
Taxes				2,624	2,624
Mailing list	118,821		117,427		236,248
Miscellaneous				17,808	17,808
Publishing expenses (Page 17)	<u>435,365</u>				<u>435,365</u>
Total	<u>\$2,283,888</u>	<u>\$430,704</u>	<u>\$1,031,568</u>	<u>\$223,547</u>	<u>\$3,969,707</u>
Percentage of expenses	<u>57.53%</u>	<u>10.85%</u>	<u>25.99%</u>	<u>5.63%</u>	<u>100.00%</u>

SECOND AMENDMENT FOUNDATION

SCHEDULE OF EXPENSES

for the year ended December 31, 2009

	<u>Public Education</u>	<u>Legal Action</u>	<u>Fund Raising</u>	<u>Management, General and Administrative</u>	<u>Total</u>
Salaries, payroll taxes and employee benefits	\$ 193,845		\$ 22,922	\$ 61,069	\$ 277,836
Awards and grants	250				250
Printing	274,410		227,941		502,351
Telephone	12,749	\$ 1,406	6,430	1,928	22,513
Supplies	9,610	1,060	4,846	1,453	16,969
Conferences, conventions and trips	150,943			106	151,049
Professional fees and service contracts	144,216		150,624	97,259	392,099
Legal defense		264,781			264,781
Depreciation and amortization				10,580	10,580
Publicity and advertising	210,366				210,366
Postage and shipping	462,695		349,581		812,276
Repairs and maintenance				30,268	30,268
Research	4,603				4,603
Interest and bank charges				15,643	15,643
Rent	43,593	4,807	21,984	6,592	76,976
Telephone marketing	288,908		288,908		577,816
Book program	51,560				51,560
Taxes				2,165	2,165
Mailing list	170,933		170,903		341,836
Publishing expenses (Page 17)	448,316				448,316
Miscellaneous				<u>29,509</u>	<u>29,509</u>
Total	<u>\$2,466,997</u>	<u>\$272,054</u>	<u>\$1,244,139</u>	<u>\$256,572</u>	<u>\$4,239,762</u>
Percentage of expenses	<u>58.19%</u>	<u>6.42%</u>	<u>29.34%</u>	<u>6.05%</u>	<u>100.00%</u>

SECOND AMENDMENT FOUNDATION

SCHEDULE OF PUBLICATION EXPENSES

for the year ended December 31, 2010 and 2009

	<u>2010</u>	<u>2009</u>
Salaries, payroll taxes and employee benefits	\$139,091	\$140,302
Printing	126,587	149,232
Depreciation	795	
Telephone	4,425	3,936
Supplies	5,889	4,687
Conferences, conventions and trips	15,002	12,762
Professional fees and service contracts	42,925	42,771
Publicity and advertising	8,317	5,192
Postage and shipping	76,527	67,440
Interest and bank charges	2,571	1,992
Rent	11,171	13,974
Miscellaneous	<u>2,065</u>	<u>6,028</u>
Total	<u>\$435,365</u>	<u>\$448,316</u>

GUNNING STENSON & PRICE
Certified Public Accountants

Key Bank Building • 10055 NE 4th Street, Suite 611 • Bellevue, Washington 98004 • Phone: 425.462.1151 • Fax: 425.454.2691

A Professional Service Corporation



Dear SAF Supporter,

I've enclosed your copy of a CONFIDENTIAL Media Action Plan to fight rapidly growing anti-gun propaganda in the news media.

I'm sending you this numbered confidential report because we urgently need your help to put this important Plan into immediate action.

A limited number of these reports have been printed, numbered, and sent only to a select group of Second Amendment Foundation supporters.

IF FOR ANY REASON, YOU CANNOT SUPPORT THIS PLAN TO FIGHT THE ANTI-GUNNERS IN THE MEDIA, PLEASE RETURN THIS REPORT TO ME IMMEDIATELY.

I must choose another SAF supporter to send your copy of the report to right away.

But frankly, I don't think that will be at all necessary.

It's supporters like you who have made it possible for SAF to counter-attack every time the anti-gunners have tried to take our guns away.

And you are one of the select few people I feel we can count on in a crisis!

If SAF cannot raise the funds needed to at least get our Plan started within the next 30 days, it will be too late. The anti-gunners will win this new propaganda war.

The anti-gun groups like the gun ban Brady Center, Violence Policy Center and the National Coalition to Ban Handguns (now calls itself Coalition to Stop Gun Violence) have always been able to use the biased media very effectively to their advantage.

But this kind of anti-gun propaganda is nothing compared to what is being put out by new powerful well-funded groups like the Joyce Foundation, Million Mom March, Cease Fire and Americans for Gun Safety.

The anti-gun Joyce Foundation on whose board Barack Obama served for eight years, is giving the anti-gunners millions of dollars.

We are seeing a dramatic explosion of anti-gun propaganda in newspapers, magazines, radio, TV and even in movie theaters!

(Continue, please...)

In their usual way, the anti-gun crowd is cruelly exploiting a few recent tragic shootings to try once again to blame guns and gun owners for violent crime.

And because of the support of anti-gun media liberals, this new level of propaganda is beginning to have an effect.

* Prompted by this new media blitz scores of pro-gun rights bills in many state legislatures and even the Congress are stalled and a number of anti-gun bills might now become law.

The gun ban Brady Center crowd is pulling most of the strings behind the scenes with the help of gun grabber Senators Barbara Boxer, John Kerry, Chuck Schumer, Frank Lautenberg, Dianne Feinstein, House Minority Leader Nancy Pelosi and others.

The Violence Policy Center is behind the effort to stop many states from passing laws allowing people to carry a concealed firearm to protect themselves against violent criminals.

And thanks to the current media blitz by Chicago Mayor Rahm Emanuel and New York Mayor Mike Bloomberg's anti-gun mayor's group over 70 states, counties and cities across America are considering additional anti-gun laws and bans of guns and ammunition.

And all of this is because of the latest anti-gun media blitz carried out by well-financed, leftist-backed, anti-gun groups.

The anti-gunners have used the media to whip up unreasoned fear in the minds of those Americans who know nothing about guns.

It sounds so simple to say that the way to end crimes with guns is just to get rid of the guns.

But, naturally, these bleeding-heart anti-gunners don't bother to tell people what would really happen if all guns were banned.

Crime would explode! The criminals in America would like nothing better than for every home and every citizen to be disarmed. It would make their job so much easier.

It would take many, many pages to simply list the examples of the anti-gun crowd's recent media blitz. And even then, such a list would only be examples we know about.

Full-page anti-gun rights ads and articles in magazines like TIME, PEOPLE, ROLLING STONE, and newspapers from coast-to-coast. Editorials in papers all across the country. Not to mention hundreds of celebrity appearances on national and local radio and TV programs and Internet blogging and advertising. And these examples do not take into account the free propaganda the anti-gunners get from their media friends who always seem to cover "gun crimes" and "gun murders" and not "gun use for self-defense."

I ask you, when was the last time you heard, read, or saw a news piece that said anything positive about guns?

John Stewart lambasts gun owners on The Daily Show. Sam Donaldson hosted a Brady Center gala in Washington, D.C. where Rahm Emanuel, President Obama's former Chief of Staff and now mayor of Chicago, received an award. Will Ferrell, Whoopi Goldberg, and Oprah Winfrey are among the scores of anti-gun celebrities who lend their names to the assault on our right to keep and bear arms. Billionaire George Soros gives the gun banners millions of dollars.

The anti-gun group Cease Fire is backed by big bucks from Rolling Stones magazine publisher Jann Wenner and tons of anti-gun rock stars and Hollywood types like Michael Moore and Rosie O'Donnell.

Fighting the anti-gunners in the media has always been an uphill battle for us. They have so much help and support.

But we can't let that stop us. We've got to get in there on their "home turf" and fight tooth-and-nail ... and win!

Using the media, the anti-gunners are so effective in brainwashing people it scares me.

And it should scare you too!

The Brady Handgun Control group now boasts of itself that:

"We have found the key to breaking their (gun owners) stranglehold on our legislators."

"We are now more than one million strong."

"We were able to craft a skillful, hard-hitting media campaign that reached the public and rallied them to our side."

"We have also been beating the NRA." And "We elected Barack Obama!"

"These dramatic victories have prompted thousands of Americans to join our cause, and they have set the stage for a sweeping new legislative effort in Congress."

And when they make these statements they're not just bragging!

Also, it's now clear from my inside sources in Washington, D.C. (where the big anti-gun groups are located) that all of the anti-gun organizations are pushing hard and using the anti-gun media even more in 2012 than they did last year.

So we've got to push hard too. We must meet every new threat from the anti-gunners in the media with a bold counter attack of our own.

A few weeks ago, I asked our staff to prepare a detailed and confidential plan to launch a media blitz of our own.

We have just completed our study and written up a detailed proposal for a plan of action. That's what I've sent you in the CONFIDENTIAL report enclosed with this letter.

(Over, please...)

The funding needed to implement the entire Plan for 2012 is \$1,059,375.

Of course, we won't need all of the \$1,059,375 right now.

But we must raise at least one-fourth - \$264,843 by July 12th so we can start running ads in the media this fall. And also be ready for a big push in the beginning of 2013 (the best time for a media campaign).

Many preliminary steps have already been taken to get things started. But now we have reached the point where lack of funds is holding us back.

We can't delay any longer.

If we back down, or have to cut back our Media Action Plan, we will surely lose the propaganda war in 2012, a critical election year and just before important legislative battles.

And since we have already lost so much ground in the past, we cannot allow the gun grabbers to win. If we do allow them to beat us this year, we might as well shut our doors and get out of the business of protecting our firearms freedoms!

Please read your copy of our Media Action Plan and then write out a check for as much as you can afford to help SAF and to launch this desperately needed campaign.

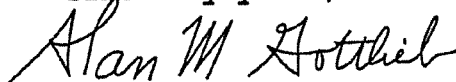
If we can't raise the \$264,843 needed to launch our Plan by July 12th, we'll miss our critical time line. And we'll lose the momentum we need to win.

And if we don't win this propaganda war now and in 2012, 2013 just might be the year SAF goes out of business and the year we all lose our firearms freedoms forever.

The anti-gunners have so much clout in the media, we have to fight them twice as hard as ever before.

But we can't fight without you!

Sincerely yours,



Alan M. Gottlieb
Founder

P.S. If you can't support our Media Action Plan, please fill out your report number in the space on your Reply Memo and return your Confidential report to me today. I must send it to another SAF supporter right away.

But, before you decide not to help I must tell you that anti-gun ads paid for by the Brady gang are flooding the internet and poisoning the minds of millions about our gun rights. You can't sit back now!

CONFIDENTIAL

Report # 2738

A DETAILED MEDIA ACTION PLAN TO COUNTERACT GROWING "ANTI-GUN" PROPAGANDA IN THE MASS MEDIA.

OVERVIEW

For the past four decades, the mass media in America—major newspaper, radio stations, magazines, and television—has been dominated by persons with a significantly "liberal" political and social philosophy.

One area of contemporary social/political controversy during this same period has been the issue of "gun control." It is not exaggeration to say that the majority of the news media in this country take the liberal, anti-Second Amendment view.

Most elements of the media approve of and actively advocate the proposition that private ownership of firearms should be severely curtailed, if not totally abolished, by the government.

In the years since John F. Kennedy was assassinated, there has grown up in America a strong and vocal minority of the citizenry that also advocates abolition of private firearm ownership.

As is inevitable in a free society, this vocal minority of "anti-gunners" began to organize and direct their efforts towards getting their private views a wide public hearing, with the goal of making their minority position a majority one.

Anti-gun groups organized and found natural allies in the liberal-oriented mass media. They have since used this alliance effectively to put forward their views on the volatile issue of gun control. This alliance has been aided by Bill and Hillary Clinton, Chuck Schumer, Dianne Feinstein, Mayor Michael Bloomberg and their friends in Hollywood like Michael Moore and Rosie O'Donnell.

In what amounts to a "propaganda" war, anti-gun groups have exploited their media connections to "brainwash" millions of Americans into believing that the major reason for violent crime is the proliferation of firearms and state concealed carry laws.

Since the SECOND AMENDMENT FOUNDATION was founded in 1974 to be the major pro-gun rights organization to "educate" those Americans who are unfamiliar with the gun control issue, it is only natural that the mass media must be one of the major instruments used by us to carry out the purpose for which we were founded.

As years have passed and the anti-gun groups have grown in number, size, power, and influence, it has become obvious that a half-hearted effort at utilizing the media to communicate the pro-gun message is doomed to failure. With anti-gun Barack Obama in the White House our job is now harder.

Consequently, a special 2011 Task Force For Media Action has prepared this comprehensive SECOND AMENDMENT FOUNDATION MEDIA ACTION PLAN designed to be our answer to the anti-gunners' extremely effective, and often uncontested, use of the media to "sell" their ideas to the American people.

O.K. FOR DISTRIBUTION TO KEY SUPPORTERS.

A.M.G.

CONFIDENTIAL

SECOND AMENDMENT FOUNDATION MEDIA ACTION PLAN

SECTION ONE: RADIO AND TELEVISION PUBLIC SERVICE ANNOUNCEMENTS.

The Second Amendment Foundation must produce and distribute public service announcements (PSAs) for airing on radio and television around the nation. While SAF must pay for the costs of production and distribution, air time is donated by most stations. Therefore literally millions of dollars of advertising can be had for relatively small cost.

There are over 11,000 radio stations and more than 1800 television stations in the United States. If just 5% of the radio stations donate air time, the entire country can be blanketed with our messages on the importance of the Second Amendment. In addition if 10% of the television stations donate air time, more than 75 million viewers can be reached. Past experiences have shown, however, that at least 1,650 radio stations (15%) and 540 television stations (30%) are willing to air this kind of public service announcement.

Clearly production and distribution costs can be expensive, but the chance to reach some 75 million Americans more than justifies the expenditure.

Creative and Production Budget (3 radio and 2 TV spots)

Concept, copy, creative direction	\$24,500
Talent fee	12,000
Director, cameraman, film crew	11,500
Work prints, editing, conforming	7,500
Music, recording, and assembly	4,500
Lab processing, special effects	<u>5,500</u>
Total Production Budget	\$65,500

Distribution Budget

Distribution of television PSAs	\$ 7,275
Duplication of DVDs for TV spots	8,750
Production of 6,000 CDs for radio	7,450
Shipping costs for 6,000 CDs	<u>9,000</u>
Total Distribution Budget	\$32,475

**TOTAL PUBLIC SERVICE ANNOUNCEMENT
BUDGET**

\$97,975

SECTION TWO: ACQUISITION OF MEDIA BROADCAST STUDIO AND STATION LICENSE.

The Second Amendment Foundation's board of trustees at the request of the delegates who attended past Gun Rights Policy Conferences have passed resolutions to acquire an interest in Broadcast Radio stations. SAF has acquired an interest in four radio stations to serve as its flagship production facilities

CONFIDENTIAL

and as anchor affiliates of a national radio network to offer even more timely programming to other radio stations. There is vital immediate need to upgrade the radio station studios and acquire a fifth radio station so that programming costs can be kept low and to facilitate timely programming and distribution.

Radio Studio and Station Acquisition Budget

Radio station project	\$285,000
Network programming production	28,500
Program distribution	<u>5,500</u>
TOTAL BUDGET	\$319,000

SECTION THREE: PRODUCTION AND DISTRIBUTION OF EDITORIAL RESPONSES.

The Second Amendment Foundation must have the capability to quickly respond to anti-gun editorials appearing on television news programs throughout the country.

Currently, SAF monitors such editorials, but lacks the ability to respond to them in an economical and timely manner. Hence, SAF proposes to construct a small television studio in conjunction with our radio facilities which allow us to videotape editorial responses and ship them to stations quickly following the airing of anti-gun editorials.

Television Editorial Responses Budget

1-year cost of operation and distribution	\$ 24,000
Television equipment purchase	<u>18,500</u>
TOTAL TELEVISION EDITORIAL BUDGET	\$42,500

SECTION FOUR: NEWSPAPER, MAGAZINE AND INTERNET AD CAMPAIGN

Second Amendment Foundation has created and placed outstanding print ads for newspaper and magazine and electronic ads for the internet and email. However, such advertising costs a great deal of money. For example, a single page advertisement in Newsweek costs more than \$165,000. Placement on DrudgeReport.com is \$5000 per day. And one page in the Washington Post can run as high as \$31,500.

Therefore, more funds are needed to place ads in major publications around the country and on the Internet.

Newspaper, Magazine and Internet Ad Budget

Concept, Copy, and Preparation	\$ 12,600
Internet Advertising	75,000
Purchase of advertising space (7 major papers and 3 national magazines)	<u>167,500</u>
TOTAL NEWSPAPER AND MAGAZINE ADVERTISING BUDGET	\$255,100

CONFIDENTIAL

SECTION FIVE: NATIONAL AND LOCAL RADIO AND TELEVISION APPEARANCES.

Reaching out to millions of Americans about the importance of our right to keep and bear arms is an important function to the Second Amendment Foundation. One media tour of 15 major cities can cost close to \$20,000. To reach the American people, numerous media tours must be made by the staff of SAF. A major advertising network campaign also costs an additional \$32,700.

National Media Tour Budget

40-city national tour	\$52,600
National Radio Network Ad	32,700
TOTAL RADIO AND TELEVISION APPEARANCE BUDGET	\$85,300

SECTION SIX: DIRECT MAIL CAMPAIGN

One of the most effective and personal methods used by SAF to carry out its mission of educating citizens who know nothing about or are confused about guns and gun control is direct mail.

Even with the rising costs of postage, printing and mailing, direct mail letters still have a strong, positive impact if sent to the right people.

Through effective use of mailing list technology, names and addresses of specific persons we need contact can readily be identified. SAF needs identify one million Americans to receive specially written and designed direct mail letters.

Direct Mail Letter Campaign Budget

Postage for 1 million letters (non-profit rate)	\$132,000
Printing and mailing 1 million letters	127,500
TOTAL DIRECT MAIL BUDGET	\$259,500

SECTION SEVEN: SECOND AMENDMENT FOUNDATION MEDIA ACTION PLAN TOTAL BUDGET

1) Public Service Announcements	\$97,975
2) Radio Station Studio Acquisition	319,000
3) Television Editorial Responses	42,500
4) Newspaper, Magazine and Internet Ads	255,100
5) Radio and Television Appearances	85,300
6) Direct Mail Letter Campaign	259,500

TOTAL MEDIA ACTION BUDGET **\$1,059,375**

A copy of the annual Financial Report and Registration filed by this organization may be obtained by sending a stamped self-addressed envelope to: The Second Amendment Foundation, 12500 N.E. 10th Place, Bellevue, WA 98005 (425) 454-7012; New York - Office of the Attorney General Department of Law, Charities Bureau, 120 Broadway, New York, NY 10271; Maryland - FOR THE COST OF COPIES AND POSTAGE, Office of the Secretary of State, State House, Annapolis, MD 21401; Washington - Charities Division, Office of the Secretary of State, Olympia, WA 98504-0422; (within Washington, 1(800)-332-7333; West Virginia - Secretary of State, State Capitol, Charleston, WV 25305; FLORIDA - A COPY OF THE OFFICIAL REGISTRATION AND FINANCIAL INFORMATION MAY BE OBTAINED FROM THE DIVISION OF CONSUMER SERVICES BY CALLING TOLL FREE 1(800)HELP-FLA 1(800-435-7352) WITHIN THE STATE OF FLORIDA; Pennsylvania - The official registration and financial information may be obtained from the Pennsylvania Department of State by calling toll-free, within the state, 1(800)732-8999. REGISTRATION DOES NOT IMPLY ENDORSEMENT, APPROVAL, OR RECOMMENDATION IN ANY STATE.

EXHIBIT “A”

Form **990**Department of the Treasury
Internal Revenue Service**Return of Organization Exempt From Income Tax**

Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except black lung benefit trust or private foundation)

▶ The organization may have to use a copy of this return to satisfy state reporting requirements.

OMB No 1545-0047

2010**Open to Public Inspection**

A For the 2010 calendar year, or tax year beginning		and ending	
B Check if applicable <input type="checkbox"/> Address change <input type="checkbox"/> Name change <input type="checkbox"/> Initial return <input type="checkbox"/> Terminated <input type="checkbox"/> Amended return <input type="checkbox"/> Application pending	C Name of organization		D Employer identification number
	SECOND AMENDMENT FOUNDATION		91-6184167
	Doing Business As		
	Number and street (or P O box if mail is not delivered to street address) Room/suite		E Telephone number
	12500 N.E. 10TH PLACE		(425) 454-7012
	City or town, state or country, and ZIP + 4		G Gross receipts \$
BELLEVUE, WA 98005		3,814,535.	
F Name and address of principal officer: ALAN M GOTTLIEB 12500 N.E. 10TH PLACE, BELLEVUE, WA 98005		H(a) Is this a group return for affiliates? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No H(b) Are all affiliates included? <input type="checkbox"/> Yes <input type="checkbox"/> No If "No," attach a list. (see instructions) H(c) Group exemption number ▶	
I Tax-exempt status: <input checked="" type="checkbox"/> 501(c)(3) <input type="checkbox"/> 501(c)() (insert no) <input type="checkbox"/> 4947(a)(1) or <input type="checkbox"/> 527			
J Website: WWW.SAF.ORG			
K Form of organization <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Trust <input type="checkbox"/> Association <input type="checkbox"/> Other ▶		L Year of formation 1974 M State of legal domicile WA	

Part I Summary

Activities & Governance	1 Briefly describe the organization's mission or most significant activities: <u>EDUCATION IN SUPPORT OF GUN RIGHTS</u>		
	2 Check this box <input type="checkbox"/> if the organization discontinued its operations or disposed of more than 25% of its net assets.		
	3 Number of voting members of the governing body (Part VI, line 1a)	3	7
	4 Number of independent voting members of the governing body (Part VI, line 1b)	4	4
	5 Total number of individuals employed in calendar year 2010 (Part V, line 2a)	5	24
	6 Total number of volunteers (estimate if necessary)	6	7
	7a Total unrelated business revenue from Part VIII, column (C), line 12	7a	84,057.
7b Net unrelated business taxable income from Form 990-T, line 34	7b	0.	
Revenue	8 Contributions and grants (Part VIII, line 1h)	Prior Year	Current Year
	9 Program service revenue (Part VIII, line 2g)	4,346,738.	3,519,586.
	10 Investment income (Part VIII, column (A), lines 3, 4, and 7d)	0.	0.
	11 Other revenue (Part VIII, column (A), lines 5, 6d, 8c, 9c, 10c, and 11e)	<63,256.>	23,510.
	12 Total revenue - add lines 8 through 11 (must equal Part VIII, column (A), line 12)	4,577,270.	3,814,535.
Expenses	13 Grants and similar amounts paid (Part IX, column (A), lines 1-3)	0.	0.
	14 Benefits paid to or for members (Part IX, column (A), line 4)	0.	0.
	15 Salaries, other compensation, employee benefits (Part IX, column (A), lines 5-10)	418,138.	416,406.
	16a Professional fundraising fees (Part IX, column (A), line 11e)	0.	0.
	b Total fundraising expenses (Part IX, column (D), line 25) ▶ 1,031,546.		
Net Assets or Fund Balances	17 Other expenses (Part IX, column (A), lines 11f-17)	3,821,624.	3,556,101.
	18 Total expenses. Add lines 13-17 (must equal Part IX, column (A), line 25)	4,239,762.	3,972,507.
	19 Revenue less expenses. Subtract line 18 from line 12	337,508.	<157,972.>
	20 Total assets (Part X, line 16)	Beginning of Current Year	End of Year
	21 Total liabilities (Part X, line 20)	4,492,805.	4,533,776.
22 Net assets or fund balances. Subtract line 21 from line 20	437,735.	668,420.	
		4,055,070.	3,865,356.

Part II Signature Block

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.

Sign Here	Signature of officer	<i>Alan M. Gottlieb</i>
	ALAN M GOTTLIEB, EXECUTIVE VICE PRESIDENT Type or print name and title	
Paid Preparer Use Only	Print/Type preparer's name	Preparer's signature
	JOHN C GUNNING	<i>John C Gunning</i>
	Firm's name ▶ GUNNING, STENSON & PRICE	
	Firm's address ▶ 10655 N.E. 4TH STREET, BELLEVUE, WA 98004	

May the IRS discuss this return with the preparer shown above? (see instructions)

SCANNED JUL 13 2011

Part III Statement of Program Service AccomplishmentsCheck if Schedule O contains a response to any question in this Part III ☐

1 Briefly describe the organization's mission:

EDUCATION IN SUPPORT OF GUN RIGHTS

2 Did the organization undertake any significant program services during the year which were not listed on the prior Form 990 or 990-EZ? ☐ Yes ☒ No

If "Yes," describe these new services on Schedule O.

3 Did the organization cease conducting, or make significant changes in how it conducts, any program services? ☐ Yes ☒ No

If "Yes," describe these changes on Schedule O.

4 Describe the exempt purpose achievements for each of the organization's three largest program services by expenses.

Section 501(c)(3) and 501(c)(4) organizations and section 4947(a)(1) trusts are required to report the amount of grants and allocations to others, the total expenses, and revenue, if any, for each program service reported.

4a (Code:) (Expenses \$ 2,283,837. including grants of \$) (Revenue \$)
 PUBLIC EDUCATION IN SUPPORT OF GUN RIGHTS, INCLUDING THE EDUCATION OF
 THE PUBLIC WITH REGARDS TO THE BILL OF RIGHTS, THE CONSTITUTION AND THE
 INVOLVEMENT OF FIRE ARMS IN CRIME PREVENTION.

4b (Code:) (Expenses \$ 430,694. including grants of \$) (Revenue \$)
 LEGAL ACTION IN DEFENSE OF GUN OWNERS, INCLUDING CONSTITUTIONAL
 CHALLENGE OF LEGISLATION IN THE COURTS. (EXCLUDING LEGAL SERVICE
 PERFORMED PRO BONO).

4c (Code:) (Expenses \$ including grants of \$) (Revenue \$)

4d Other program services. (Describe in Schedule O)

(Expenses \$ including grants of \$) (Revenue \$)

4e Total program service expenses 2,714,531.

Part IV Checklist of Required Schedules

	Yes	No
1 Is the organization described in section 501(c)(3) or 4947(a)(1) (other than a private foundation)? <i>If "Yes," complete Schedule A</i>	X	
2 Is the organization required to complete Schedule B, Schedule of Contributors?	X	
3 Did the organization engage in direct or indirect political campaign activities on behalf of or in opposition to candidates for public office? <i>If "Yes," complete Schedule C, Part I</i>		X
4 Section 501(c)(3) organizations. Did the organization engage in lobbying activities, or have a section 501(h) election in effect during the tax year? <i>If "Yes," complete Schedule C, Part II</i>		X
5 Is the organization a section 501(c)(4), 501(c)(5), or 501(c)(6) organization that receives membership dues, assessments, or similar amounts as defined in Revenue Procedure 98-19? <i>If "Yes," complete Schedule C, Part III</i>		
6 Did the organization maintain any donor advised funds or any similar funds or accounts where donors have the right to provide advice on the distribution or investment of amounts in such funds or accounts? <i>If "Yes," complete Schedule D, Part I</i>		X
7 Did the organization receive or hold a conservation easement, including easements to preserve open space, the environment, historic land areas, or historic structures? <i>If "Yes," complete Schedule D, Part II</i>		X
8 Did the organization maintain collections of works of art, historical treasures, or other similar assets? <i>If "Yes," complete Schedule D, Part III</i>		X
9 Did the organization report an amount in Part X, line 21; serve as a custodian for amounts not listed in Part X; or provide credit counseling, debt management, credit repair, or debt negotiation services? <i>If "Yes," complete Schedule D, Part IV</i>		X
10 Did the organization, directly or through a related organization, hold assets in term, permanent, or quasi-endowments? <i>If "Yes," complete Schedule D, Part V</i>		X
11 If the organization's answer to any of the following questions is "Yes," then complete Schedule D, Parts VI, VII, VIII, IX, or X as applicable.		
a Did the organization report an amount for land, buildings, and equipment in Part X, line 10? <i>If "Yes," complete Schedule D, Part VI</i>	X	
b Did the organization report an amount for investments - other securities in Part X, line 12 that is 5% or more of its total assets reported in Part X, line 16? <i>If "Yes," complete Schedule D, Part VII</i>		X
c Did the organization report an amount for investments - program related in Part X, line 13 that is 5% or more of its total assets reported in Part X, line 16? <i>If "Yes," complete Schedule D, Part VIII</i>		X
d Did the organization report an amount for other assets in Part X, line 15 that is 5% or more of its total assets reported in Part X, line 16? <i>If "Yes," complete Schedule D, Part IX</i>		X
e Did the organization report an amount for other liabilities in Part X, line 25? <i>If "Yes," complete Schedule D, Part X</i>		X
f Did the organization's separate or consolidated financial statements for the tax year include a footnote that addresses the organization's liability for uncertain tax positions under FIN 48 (ASC 740)? <i>If "Yes," complete Schedule D, Part X</i>		X
12a Did the organization obtain separate, independent audited financial statements for the tax year? <i>If "Yes," complete Schedule D, Parts XI, XII, and XIII</i>	X	
b Was the organization included in consolidated, independent audited financial statements for the tax year? <i>If "Yes," and if the organization answered "No" to line 12a, then completing Schedule D, Parts XI, XII, and XIII is optional</i>		X
13 Is the organization a school described in section 170(b)(1)(A)(ii)? <i>If "Yes," complete Schedule E</i>		X
14a Did the organization maintain an office, employees, or agents outside of the United States?		X
b Did the organization have aggregate revenues or expenses of more than \$10,000 from grantmaking, fundraising, business, and program service activities outside the United States? <i>If "Yes," complete Schedule F, Parts I and IV</i>		X
15 Did the organization report on Part IX, column (A), line 3, more than \$5,000 of grants or assistance to any organization or entity located outside the United States? <i>If "Yes," complete Schedule F, Parts II and IV</i>		X
16 Did the organization report on Part IX, column (A), line 3, more than \$5,000 of aggregate grants or assistance to individuals located outside the United States? <i>If "Yes," complete Schedule F, Parts III and IV</i>		X
17 Did the organization report a total of more than \$15,000 of expenses for professional fundraising services on Part IX, column (A), lines 6 and 11e? <i>If "Yes," complete Schedule G, Part I</i>		X
18 Did the organization report more than \$15,000 total of fundraising event gross income and contributions on Part VIII, lines 1c and 8a? <i>If "Yes," complete Schedule G, Part II</i>		X
19 Did the organization report more than \$15,000 of gross income from gaming activities on Part VIII, line 9a? <i>If "Yes," complete Schedule G, Part III</i>		X
20a Did the organization operate one or more hospitals? <i>If "Yes," complete Schedule H</i>		X
b If "Yes" to line 20a, did the organization attach its audited financial statements to this return? Note. Some Form 990 filers that operate one or more hospitals must attach audited financial statements (see instructions)		

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Part IV Checklist of Required Schedules (continued)

	Yes	No
21 Did the organization report more than \$5,000 of grants and other assistance to governments and organizations in the United States on Part IX, column (A), line 1? If "Yes," complete Schedule I, Parts I and II		X
22 Did the organization report more than \$5,000 of grants and other assistance to individuals in the United States on Part IX, column (A), line 2? If "Yes," complete Schedule I, Parts I and III		X
23 Did the organization answer "Yes" to Part VII, Section A, line 3, 4, or 5 about compensation of the organization's current and former officers, directors, trustees, key employees, and highest compensated employees? If "Yes," complete Schedule J		X
24a Did the organization have a tax-exempt bond issue with an outstanding principal amount of more than \$100,000 as of the last day of the year, that was issued after December 31, 2002? If "Yes," answer lines 24b through 24d and complete Schedule K. If "No," go to line 25		X
b Did the organization invest any proceeds of tax-exempt bonds beyond a temporary period exception?		
c Did the organization maintain an escrow account other than a refunding escrow at any time during the year to defease any tax-exempt bonds?		
d Did the organization act as an "on behalf of" issuer for bonds outstanding at any time during the year?		
25a Section 501(c)(3) and 501(c)(4) organizations. Did the organization engage in an excess benefit transaction with a disqualified person during the year? If "Yes," complete Schedule L, Part I		X
b Is the organization aware that it engaged in an excess benefit transaction with a disqualified person in a prior year, and that the transaction has not been reported on any of the organization's prior Forms 990 or 990-EZ? If "Yes," complete Schedule L, Part I		X
26 Was a loan to or by a current or former officer, director, trustee, key employee, highly compensated employee, or disqualified person outstanding as of the end of the organization's tax year? If "Yes," complete Schedule L, Part II		X
27 Did the organization provide a grant or other assistance to an officer, director, trustee, key employee, substantial contributor, or a grant selection committee member, or to a person related to such an individual? If "Yes," complete Schedule L, Part III		X
28 Was the organization a party to a business transaction with one of the following parties (see Schedule L, Part IV instructions for applicable filing thresholds, conditions, and exceptions):		
a A current or former officer, director, trustee, or key employee? If "Yes," complete Schedule L, Part IV		X
b A family member of a current or former officer, director, trustee, or key employee? If "Yes," complete Schedule L, Part IV		X
c An entity of which a current or former officer, director, trustee, or key employee (or a family member thereof) was an officer, director, trustee, or direct or indirect owner? If "Yes," complete Schedule L, Part IV	X	
29 Did the organization receive more than \$25,000 in non-cash contributions? If "Yes," complete Schedule M		X
30 Did the organization receive contributions of art, historical treasures, or other similar assets, or qualified conservation contributions? If "Yes," complete Schedule M		X
31 Did the organization liquidate, terminate, or dissolve and cease operations? If "Yes," complete Schedule N, Part I		X
32 Did the organization sell, exchange, dispose of, or transfer more than 25% of its net assets? If "Yes," complete Schedule N, Part II		X
33 Did the organization own 100% of an entity disregarded as separate from the organization under Regulations sections 301.7701-2 and 301.7701-3? If "Yes," complete Schedule R, Part I		X
34 Was the organization related to any tax-exempt or taxable entity? If "Yes," complete Schedule R, Parts II, III, IV, and V, line 1	X	
35 Is any related organization a controlled entity within the meaning of section 512(b)(13)?		X
a Did the organization receive any payment from or engage in any transaction with a controlled entity within the meaning of section 512(b)(13)? If "Yes," complete Schedule R, Part V, line 2	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
36 Section 501(c)(3) organizations. Did the organization make any transfers to an exempt non-charitable related organization? If "Yes," complete Schedule R, Part V, line 2		X
37 Did the organization conduct more than 5% of its activities through an entity that is not a related organization and that is treated as a partnership for federal income tax purposes? If "Yes," complete Schedule R, Part VI		X
38 Did the organization complete Schedule O and provide explanations in Schedule O for Part VI, lines 11 and 19?	X	

Note. All Form 990 filers are required to complete Schedule O

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Part V Statements Regarding Other IRS Filings and Tax ComplianceCheck if Schedule O contains a response to any question in this Part V ☐

		Yes	No
1a Enter the number reported in Box 3 of Form 1096. Enter -0- if not applicable	1a 10		
b Enter the number of Forms W-2G included in line 1a. Enter -0- if not applicable	1b 0		
c Did the organization comply with backup withholding rules for reportable payments to vendors and reportable gaming (gambling) winnings to prize winners?	1c	X	
2a Enter the number of employees reported on Form W-3, Transmittal of Wage and Tax Statements, filed for the calendar year ending with or within the year covered by this return	2a 24		
b If at least one is reported on line 2a, did the organization file all required federal employment tax returns? Note. If the sum of lines 1a and 2a is greater than 250, you may be required to e-file. (see instructions)	2b	X	
3a Did the organization have unrelated business gross income of \$1,000 or more during the year?	3a	X	
b If "Yes," has it filed a Form 990-T for this year? If "No," provide an explanation in Schedule O	3b	X	
4a At any time during the calendar year, did the organization have an interest in, or a signature or other authority over, a financial account in a foreign country (such as a bank account, securities account, or other financial account)?	4a		X
b If "Yes," enter the name of the foreign country: See instructions for filing requirements for Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts.			
5a Was the organization a party to a prohibited tax shelter transaction at any time during the tax year?	5a		X
b Did any taxable party notify the organization that it was or is a party to a prohibited tax shelter transaction?	5b		X
c If "Yes," to line 5a or 5b, did the organization file Form 8886-T?	5c		
6a Does the organization have annual gross receipts that are normally greater than \$100,000, and did the organization solicit any contributions that were not tax deductible?	6a		X
b If "Yes," did the organization include with every solicitation an express statement that such contributions or gifts were not tax deductible?	6b		
7 Organizations that may receive deductible contributions under section 170(c).			
a Did the organization receive a payment in excess of \$75 made partly as a contribution and partly for goods and services provided to the payor?	7a		X
b If "Yes," did the organization notify the donor of the value of the goods or services provided?	7b		
c Did the organization sell, exchange, or otherwise dispose of tangible personal property for which it was required to file Form 8282?	7c		X
d If "Yes," indicate the number of Forms 8282 filed during the year	7d		
e Did the organization receive any funds, directly or indirectly, to pay premiums on a personal benefit contract?	7e		
f Did the organization, during the year, pay premiums, directly or indirectly, on a personal benefit contract?	7f		
g If the organization received a contribution of qualified intellectual property, did the organization file Form 8899 as required?	7g		
h If the organization received a contribution of cars, boats, airplanes, or other vehicles, did the organization file a Form 1098-C?	7h		
8 Sponsoring organizations maintaining donor advised funds and section 509(a)(3) supporting organizations. Did the supporting organization, or a donor advised fund maintained by a sponsoring organization, have excess business holdings at any time during the year?	8		
9 Sponsoring organizations maintaining donor advised funds.			
a Did the organization make any taxable distributions under section 4966?	9a		
b Did the organization make a distribution to a donor, donor advisor, or related person?	9b		
10 Section 501(c)(7) organizations. Enter:			
a Initiation fees and capital contributions included on Part VIII, line 12	10a		
b Gross receipts, included on Form 990, Part VIII, line 12, for public use of club facilities	10b		
11 Section 501(c)(12) organizations. Enter:			
a Gross income from members or shareholders	11a		
b Gross income from other sources (Do not net amounts due or paid to other sources against amounts due or received from them.)	11b		
12a Section 4947(a)(1) non-exempt charitable trusts. Is the organization filing Form 990 in lieu of Form 1041?	12a		
b If "Yes," enter the amount of tax-exempt interest received or accrued during the year	12b		
13 Section 501(c)(29) qualified nonprofit health insurance issuers.			
a Is the organization licensed to issue qualified health plans in more than one state? Note. See the instructions for additional information the organization must report on Schedule O	13a		
b Enter the amount of reserves the organization is required to maintain by the states in which the organization is licensed to issue qualified health plans	13b		
c Enter the amount of reserves on hand	13c		
14a Did the organization receive any payments for indoor tanning services during the tax year?	14a		X
b If "Yes," has it filed a Form 720 to report these payments? If "No," provide an explanation in Schedule O	14b		

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Part VI Governance, Management, and Disclosure For each "Yes" response to lines 2 through 7b below, and for a "No" response to line 8a, 8b, or 10b below, describe the circumstances, processes, or changes in Schedule O. See instructions.

Check if Schedule O contains a response to any question in this Part VI

☒**Section A. Governing Body and Management**

	Yes	No
1a Enter the number of voting members of the governing body at the end of the tax year	7	
1b Enter the number of voting members included in line 1a, above, who are independent	4	
2 Did any officer, director, trustee, or key employee have a family relationship or a business relationship with any other officer, director, trustee, or key employee?		X
3 Did the organization delegate control over management duties customarily performed by or under the direct supervision of officers, directors or trustees, or key employees to a management company or other person?		X
4 Did the organization make any significant changes to its governing documents since the prior Form 990 was filed?		X
5 Did the organization become aware during the year of a significant diversion of the organization's assets?		X
6 Does the organization have members or stockholders?	X	
7a Does the organization have members, stockholders, or other persons who may elect one or more members of the governing body?		X
7b Are any decisions of the governing body subject to approval by members, stockholders, or other persons?		X
8 Did the organization contemporaneously document the meetings held or written actions undertaken during the year by the following:		
a The governing body?	X	
b Each committee with authority to act on behalf of the governing body?	X	
9 Is there any officer, director, trustee, or key employee listed in Part VII, Section A, who cannot be reached at the organization's mailing address? If "Yes," provide the names and addresses in Schedule O		X

Section B. Policies (This Section B requests information about policies not required by the Internal Revenue Code.)

	Yes	No
10a Does the organization have local chapters, branches, or affiliates?		X
b If "Yes," does the organization have written policies and procedures governing the activities of such chapters, affiliates, and branches to ensure their operations are consistent with those of the organization?		
11a Has the organization provided a copy of this Form 990 to all members of its governing body before filing the form?		X
b Describe in Schedule O the process, if any, used by the organization to review this Form 990		
12a Does the organization have a written conflict of interest policy? If "No," go to line 13	X	
b Are officers, directors or trustees, and key employees required to disclose annually interests that could give rise to conflicts?	X	
c Does the organization regularly and consistently monitor and enforce compliance with the policy? If "Yes," describe in Schedule O how this is done	X	
13 Does the organization have a written whistleblower policy?		X
14 Does the organization have a written document retention and destruction policy?		X
15 Did the process for determining compensation of the following persons include a review and approval by independent persons, comparability data, and contemporaneous substantiation of the deliberation and decision?		
a The organization's CEO, Executive Director, or top management official		X
b Other officers or key employees of the organization		X
If "Yes" to line 15a or 15b, describe the process in Schedule O. (See instructions.)		
16a Did the organization invest in, contribute assets to, or participate in a joint venture or similar arrangement with a taxable entity during the year?		X
b If "Yes," has the organization adopted a written policy or procedure requiring the organization to evaluate its participation in joint venture arrangements under applicable federal tax law, and taken steps to safeguard the organization's exempt status with respect to such arrangements?		

Section C. Disclosure

17 List the states with which a copy of this Form 990 is required to be filed ► WA, OR, PA, MN, OH, WV, UT, IL, FL, WI, MD, ME

18 Section 6104 requires an organization to make its Forms 1023 (or 1024 if applicable), 990, and 990-T (501(c)(3)s only) available for public inspection. Indicate how you make these available. Check all that apply.
☐ Own website ☐ Another's website ☒ Upon request

19 Describe in Schedule O whether (and if so, how), the organization makes its governing documents, conflict of interest policy, and financial statements available to the public.

20 State the name, physical address, and telephone number of the person who possesses the books and records of the organization: ►
 MR. ALAN GOTTLIEB - 425-454-7012
 12500 N.E. 10 PLACE, BELLEVUE, WA 98005

Part VII Compensation of Officers, Directors, Trustees, Key Employees, Highest Compensated Employees, and Independent Contractors

Check if Schedule O contains a response to any question in this Part VII

Section A. Officers, Directors, Trustees, Key Employees, and Highest Compensated Employees

1a Complete this table for all persons required to be listed. Report compensation for the calendar year ending with or within the organization's tax year.

- Enter -0- in columns (D), (E), and (F) if no compensation was paid.
- List all of the organization's **current** officers, directors, trustees (whether individuals or organizations), regardless of amount of compensation.
 - List all of the organization's **current** key employees, if any. See instructions for definition of "key employee."
 - List the organization's five **current** highest compensated employees (other than an officer, director, trustee, or key employee) who received reportable compensation (Box 5 of Form W-2 and/or Box 7 of Form 1099-MISC) of more than \$100,000 from the organization and any related organizations.
 - List all of the organization's **former** officers, key employees, and highest compensated employees who received more than \$100,000 of reportable compensation from the organization and any related organizations.
 - List all of the organization's **former directors or trustees** that received, in the capacity as a former director or trustee of the organization, more than \$10,000 of reportable compensation from the organization and any related organizations.

List persons in the following order: individual trustees or directors; institutional trustees; officers; key employees; highest compensated employees; and former such persons.

☐ Check this box if neither the organization nor any related organization compensated any current officer, director, or trustee.

[illegible]

Part VII Section A. Officers, Directors, Trustees, Key Employees, and Highest Compensated Employees (continued)

(A) Name and title	(B) Average hours per week (describe hours for related organizations in Schedule O)	(C) Position (check all that apply)						(D) Reportable compensation from the organization (W-2/1099-MISC)	(E) Reportable compensation from related organizations (W-2/1099-MISC)	(F) Estimated amount of other compensation from the organization and related organizations
		Individual trustee or director	Institutional trustee	Officer	Key employee	Highest compensated employee	Former			
1b Sub-total								81,000.	0.	24,012.
c Total from continuation sheets to Part VII, Section A								0.	0.	0.
d Total (add lines 1b and 1c)								81,000.	0.	24,012.

2 Total number of individuals (including but not limited to those listed above) who received more than \$100,000 in reportable compensation from the organization **0**

- 3** Did the organization list any **former** officer, director or trustee, key employee, or highest compensated employee on line 1a? If "Yes," complete Schedule J for such individual
- 4** For any individual listed on line 1a, is the sum of reportable compensation and other compensation from the organization and related organizations greater than \$150,000? If "Yes," complete Schedule J for such individual
- 5** Did any person listed on line 1a receive or accrue compensation from any unrelated organization or individual for services rendered to the organization? If "Yes," complete Schedule J for such person

	Yes	No
3		X
4		X
5		X

Section B. Independent Contractors

1 Complete this table for your five highest compensated independent contractors that received more than \$100,000 of compensation from the organization.

(A) Name and business address	(B) Description of services	(C) Compensation
MERRIL ASSOCIATES BELLEVUE, WA,	MAIL, MARKETING AND LIST RENTAL	341,028.

2 Total number of independent contractors (including but not limited to those listed above) who received more than \$100,000 in compensation from the organization **1**

Part VIII Statement of Revenue

				(A) Total revenue	(B) Related or exempt function revenue	(C) Unrelated business revenue	(D) Revenue excluded from tax under sections 512, 513, or 514
Contributions, gifts, grants and other similar amounts	1 a	Federated campaigns	1a	3,519,586.			
	b	Membership dues	1b				
	c	Fundraising events	1c				
	d	Related organizations	1d				
	e	Government grants (contributions)	1e				
	f	All other contributions, gifts, grants, and similar amounts not included above	1f				
	g	Noncash contributions included in lines 1a-1f \$					
	h	Total. Add lines 1a-1f		3,519,586.			
Program Service Revenue	Business Code						
	2 a						
	b						
	c						
	d						
	e						
	f	All other program service revenue					
g	Total. Add lines 2a-2f						
Other Revenue	3	Investment income (including dividends, interest, and other similar amounts)		23,510.			23,510.
	4	Income from investment of tax-exempt bond proceeds					
	5	Royalties					
	6 a	Gross Rents	(i) Real (ii) Personal				
	b	Less: rental expenses					
	c	Rental income or (loss)					
	d	Net rental income or (loss)					
	7 a	Gross amount from sales of assets other than inventory	(i) Securities (ii) Other				
	b	Less: cost or other basis and sales expenses					
	c	Gain or (loss)					
	d	Net gain or (loss)					
	8 a	Gross income from fundraising events (not including \$ _____ of contributions reported on line 1c). See Part IV, line 18	a				
	b	Less: direct expenses	b				
	c	Net income or (loss) from fundraising events					
	9 a	Gross income from gaming activities. See Part IV, line 19	a				
	b	Less: direct expenses	b				
	c	Net income or (loss) from gaming activities					
	10 a	Gross sales of inventory, less returns and allowances	a				
	b	Less: cost of goods sold	b				
	c	Net income or (loss) from sales of inventory					
	Miscellaneous Revenue			Business Code			
	11 a	SUBSCRIPTIONS	511120	187,382.	187,382.		
	b	ADVERTISING	541800	84,057.		84,057.	
c							
d	All other revenue						
e	Total. Add lines 11a-11d		271,439.				
12	Total revenue. See instructions		3,814,535.	187,382.	84,057.	23,510.	

Part IX Statement of Functional Expenses

Section 501(c)(3) and 501(c)(4) organizations must complete all columns.

All other organizations must complete column (A) but are not required to complete columns (B), (C), and (D).

Do not include amounts reported on lines 8b, 7b, 8b, 9b, and 10b of Part VIII.	(A) Total expenses	(B) Program service expenses	(C) Management and general expenses	(D) Fundraising expenses
1 Grants and other assistance to governments and organizations in the U.S. See Part IV, line 21				
2 Grants and other assistance to individuals in the U.S. See Part IV, line 22				
3 Grants and other assistance to governments, organizations, and individuals outside the U.S. See Part IV, lines 15 and 16				
4 Benefits paid to or for members				
5 Compensation of current officers, directors, trustees, and key employees	81,000.	63,000.	9,000.	9,000.
6 Compensation not included above, to disqualified persons (as defined under section 4958(f)(1)) and persons described in section 4958(c)(3)(B)				
7 Other salaries and wages	237,348.	226,433.		10,915.
8 Pension plan contributions (include section 401(k) and section 403(b) employer contributions)				
9 Other employee benefits	71,298.	31,041.	40,257.	
10 Payroll taxes	26,760.	23,418.	2,496.	846.
11 Fees for services (non-employees):				
a Management				
b Legal	417,056.	417,056.		
c Accounting				
d Lobbying				
e Professional fundraising services See Part IV, line 17				
f Investment management fees				
g Other	356,248.	167,618.	88,411.	100,219.
12 Advertising and promotion	224,657.	224,657.		
13 Office expenses	28,292.	20,713.	1,946.	5,633.
14 Information technology				
15 Royalties				
16 Occupancy	90,974.	63,976.	6,932.	20,066.
17 Travel				
18 Payments of travel or entertainment expenses for any federal, state, or local public officials				
19 Conferences, conventions, and meetings	173,752.	173,300.	452.	
20 Interest	17,264.	2,571.	14,693.	
21 Payments to affiliates				
22 Depreciation, depletion, and amortization	10,023.	795.	9,228.	
23 Insurance				
24 Other expenses. Itemize expenses not covered above. (List miscellaneous expenses in line 24f. If line 24f amount exceeds 10% of line 25, column (A) amount, list line 24f expenses on Schedule O.)				
a POSTAGE & SHIPPING	723,482.	440,578.		282,904.
b TELEPHONE MARKETING	583,032.	291,516.		291,516.
c PRINTING	517,430.	331,376.		186,054.
d MAILING LIST RENTAL	236,248.	118,821.		117,427.
e BOOK PROGRAM	89,603.	89,603.		
f All other expenses	88,040.	28,059.	53,015.	6,966.
25 Total functional expenses. Add lines 1 through 24f	3,972,507.	2,714,531.	226,430.	1,031,546.
26 Joint costs. Check here <input checked="" type="checkbox"/> if following SOP 98-2 (ASC 958-720). Complete this line only if the organization reported in column (B) joint costs from a combined educational campaign and fundraising solicitation				

Part X Balance Sheet

		(A) Beginning of year		(B) End of year
Assets	1 Cash - non-interest-bearing	566,173.	1	503,463.
	2 Savings and temporary cash investments	1,999,326.	2	2,175,099.
	3 Pledges and grants receivable, net		3	
	4 Accounts receivable, net	31,132.	4	9,754.
	5 Receivables from current and former officers, directors, trustees, key employees, and highest compensated employees. Complete Part II of Schedule L		5	
	6 Receivables from other disqualified persons (as defined under section 4958(f)(1)), persons described in section 4958(c)(3)(B), and contributing employers and sponsoring organizations of section 501(c)(9) voluntary employees' beneficiary organizations (see instructions)		6	
	7 Notes and loans receivable, net		7	
	8 Inventories for sale or use		8	
	9 Prepaid expenses and deferred charges	30,607.	9	15,093.
	10a Land, buildings, and equipment: cost or other basis. Complete Part VI of Schedule D	10a 456,097.		
	b Less: accumulated depreciation	10b 445,303.		
		17,394.	10c	10,794.
	11 Investments - publicly traded securities	303,377.	11	274,777.
	12 Investments - other securities. See Part IV, line 11	1,530,213.	12	1,530,213.
	13 Investments - program-related. See Part IV, line 11		13	
	14 Intangible assets		14	
15 Other assets. See Part IV, line 11	14,583.	15	14,583.	
16 Total assets. Add lines 1 through 15 (must equal line 34)	4,492,805.	16	4,533,776.	
Liabilities	17 Accounts payable and accrued expenses	328,664.	17	558,900.
	18 Grants payable		18	
	19 Deferred revenue		19	
	20 Tax-exempt bond liabilities		20	
	21 Escrow or custodial account liability. Complete Part IV of Schedule D		21	
	22 Payables to current and former officers, directors, trustees, key employees, highest compensated employees, and disqualified persons. Complete Part II of Schedule L		22	
	23 Secured mortgages and notes payable to unrelated third parties		23	
	24 Unsecured notes and loans payable to unrelated third parties		24	
	25 Other liabilities. Complete Part X of Schedule D	109,071.	25	109,520.
	26 Total liabilities. Add lines 17 through 25	437,735.	26	668,420.
	Net Assets or Fund Balances	Organizations that follow SFAS 117, check here <input checked="" type="checkbox"/> and complete lines 27 through 29, and lines 33 and 34.		
27 Unrestricted net assets		4,055,070.	27	3,865,356.
28 Temporarily restricted net assets			28	
29 Permanently restricted net assets			29	
Organizations that do not follow SFAS 117, check here <input type="checkbox"/> and complete lines 30 through 34.				
30 Capital stock or trust principal, or current funds			30	
31 Paid-in or capital surplus, or land, building, or equipment fund			31	
32 Retained earnings, endowment, accumulated income, or other funds			32	
33 Total net assets or fund balances		4,055,070.	33	3,865,356.
34 Total liabilities and net assets/fund balances	4,492,805.	34	4,533,776.	

Form 990 (2010)

Part XI Reconciliation of Net Assets

Check if Schedule O contains a response to any question in this Part XI

☒

1	Total revenue (must equal Part VIII, column (A), line 12)	1	3,814,535.
2	Total expenses (must equal Part IX, column (A), line 25)	2	3,972,507.
3	Revenue less expenses. Subtract line 2 from line 1	3	<157,972.>
4	Net assets or fund balances at beginning of year (must equal Part X, line 33, column (A))	4	4,055,070.
5	Other changes in net assets or fund balances (explain in Schedule O)	5	<31,742.>
6	Net assets or fund balances at end of year. Combine lines 3, 4, and 5 (must equal Part X, line 33, column (B))	6	3,865,356.

Part XII Financial Statements and Reporting

Check if Schedule O contains a response to any question in this Part XII

☒

- 1 Accounting method used to prepare the Form 990: ☐ Cash ☒ Accrual ☐ Other _____
If the organization changed its method of accounting from a prior year or checked "Other," explain in Schedule O.
- 2a Were the organization's financial statements compiled or reviewed by an independent accountant?
- b Were the organization's financial statements audited by an independent accountant?
- c If "Yes" to line 2a or 2b, does the organization have a committee that assumes responsibility for oversight of the audit, review, or compilation of its financial statements and selection of an independent accountant?
If the organization changed either its oversight process or selection process during the tax year, explain in Schedule O.
- d If "Yes" to line 2a or 2b, check a box below to indicate whether the financial statements for the year were issued on a separate basis, consolidated basis, or both:
☐ Separate basis ☒ Consolidated basis ☐ Both consolidated and separate basis
- 3a As a result of a federal award, was the organization required to undergo an audit or audits as set forth in the Single Audit Act and OMB Circular A-133?
- b If "Yes," did the organization undergo the required audit or audits? If the organization did not undergo the required audit or audits, explain why in Schedule O and describe any steps taken to undergo such audits.

	Yes	No
2a		X
2b	X	
2c	X	
3a		X
3b		

Form 990 (2010)

Part II Support Schedule for Organizations Described in Sections 170(b)(1)(A)(iv) and 170(b)(1)(A)(vi)

(Complete only if you checked the box on line 5, 7, or 8 of Part I or if the organization failed to qualify under Part III. If the organization fails to qualify under the tests listed below, please complete Part III.)

Section A. Public Support

Calendar year (or fiscal year beginning in) ►	(a) 2006	(b) 2007	(c) 2008	(d) 2009	(e) 2010	(f) Total
1 Gifts, grants, contributions, and membership fees received. (Do not include any "unusual grants.")	2997637.	3233467.	3180568.	4346737.	3519586.	17277995.
2 Tax revenues levied for the organization's benefit and either paid to or expended on its behalf						
3 The value of services or facilities furnished by a governmental unit to the organization without charge						
4 Total. Add lines 1 through 3	2997637.	3233467.	3180568.	4346737.	3519586.	17277995.
5 The portion of total contributions by each person (other than a governmental unit or publicly supported organization) included on line 1 that exceeds 2% of the amount shown on line 11, column (f)						
6 Public support. Subtract line 5 from line 4						17277995.

Section B. Total Support

Calendar year (or fiscal year beginning in) ►	(a) 2006	(b) 2007	(c) 2008	(d) 2009	(e) 2010	(f) Total
7 Amounts from line 4	2997637.	3233467.	3180568.	4346737.	3519586.	17277995.
8 Gross income from interest, dividends, payments received on securities loans, rents, royalties and income from similar sources	63,838.	59,998.	58,937.	44,244.	23,510.	250,527.
9 Net income from unrelated business activities, whether or not the business is regularly carried on						
10 Other income. Do not include gain or loss from the sale of capital assets (Explain in Part IV.)	322,447.	437,585.	322,216.	293,788.	271,438.	1647474.
11 Total support. Add lines 7 through 10						19175996.
12 Gross receipts from related activities, etc. (see instructions)					12	
13 First five years. If the Form 990 is for the organization's first, second, third, fourth, or fifth tax year as a section 501(c)(3) organization, check this box and stop here ► <input type="checkbox"/>						

Section C. Computation of Public Support Percentage

14 Public support percentage for 2010 (line 6, column (f) divided by line 11, column (f))	14	90.10	%
15 Public support percentage from 2009 Schedule A, Part II, line 14	15	89.22	%
16a 33 1/3% support test - 2010. If the organization did not check the box on line 13, and line 14 is 33 1/3% or more, check this box and stop here. The organization qualifies as a publicly supported organization ► <input checked="" type="checkbox"/>			
b 33 1/3% support test - 2009. If the organization did not check a box on line 13 or 16a, and line 15 is 33 1/3% or more, check this box and stop here. The organization qualifies as a publicly supported organization ► <input type="checkbox"/>			
17a 10% -facts-and-circumstances test - 2010. If the organization did not check a box on line 13, 16a, or 16b, and line 14 is 10% or more, and if the organization meets the "facts-and-circumstances" test, check this box and stop here. Explain in Part IV how the organization meets the "facts-and-circumstances" test. The organization qualifies as a publicly supported organization ► <input type="checkbox"/>			
b 10% -facts-and-circumstances test - 2009. If the organization did not check a box on line 13, 16a, 16b, or 17a, and line 15 is 10% or more, and if the organization meets the "facts-and-circumstances" test, check this box and stop here. Explain in Part IV how the organization meets the "facts-and-circumstances" test. The organization qualifies as a publicly supported organization ► <input type="checkbox"/>			
18 Private foundation. If the organization did not check a box on line 13, 16a, 16b, 17a, or 17b, check this box and see instructions ► <input type="checkbox"/>			

Schedule A (Form 990 or 990-EZ) 2010

Part III Support Schedule for Organizations Described in Section 509(a)(2)

(Complete only if you checked the box on line 9 of Part I or if the organization failed to qualify under Part II. If the organization fails to qualify under the tests listed below, please complete Part II.)

Section A. Public Support

Calendar year (or fiscal year beginning in) ►	(a) 2006	(b) 2007	(c) 2008	(d) 2009	(e) 2010	(f) Total
1 Gifts, grants, contributions, and membership fees received. (Do not include any "unusual grants.")						
2 Gross receipts from admissions, merchandise sold or services performed, or facilities furnished in any activity that is related to the organization's tax-exempt purpose						
3 Gross receipts from activities that are not an unrelated trade or business under section 513						
4 Tax revenues levied for the organization's benefit and either paid to or expended on its behalf						
5 The value of services or facilities furnished by a governmental unit to the organization without charge						
6 Total. Add lines 1 through 5						
7a Amounts included on lines 1, 2, and 3 received from disqualified persons						
b Amounts included on lines 2 and 3 received from other than disqualified persons that exceed the greater of \$5,000 or 1% of the amount on line 13 for the year						
c Add lines 7a and 7b						
8 Public support. (Subtract line 7c from line 6.)						

Section B. Total Support

Calendar year (or fiscal year beginning in) ►	(a) 2006	(b) 2007	(c) 2008	(d) 2009	(e) 2010	(f) Total
9 Amounts from line 6						
10a Gross income from interest, dividends, payments received on securities loans, rents, royalties and income from similar sources						
b Unrelated business taxable income (less section 511 taxes) from businesses acquired after June 30, 1975						
c Add lines 10a and 10b						
11 Net income from unrelated business activities not included in line 10b, whether or not the business is regularly carried on						
12 Other income. Do not include gain or loss from the sale of capital assets (Explain in Part IV.)						
13 Total support (Add lines 9, 10c, 11, and 12.)						
14 First five years. If the Form 990 is for the organization's first, second, third, fourth, or fifth tax year as a section 501(c)(3) organization, check this box and stop here <input type="checkbox"/>						

Section C. Computation of Public Support Percentage

15 Public support percentage for 2010 (line 8, column (f) divided by line 13, column (f))	15	%
16 Public support percentage from 2009 Schedule A, Part III, line 15	16	%

Section D. Computation of Investment Income Percentage

17 Investment income percentage for 2010 (line 10c, column (f) divided by line 13, column (f))	17	%
18 Investment income percentage from 2009 Schedule A, Part III, line 17	18	%

19a 33 1/3% support tests - 2010. If the organization did not check the box on line 14, and line 15 is more than 33 1/3%, and line 17 is not more than 33 1/3%, check this box and stop here. The organization qualifies as a publicly supported organization ☐

b 33 1/3% support tests - 2009. If the organization did not check a box on line 14 or line 19a, and line 16 is more than 33 1/3%, and line 18 is not more than 33 1/3%, check this box and stop here. The organization qualifies as a publicly supported organization ☐

20 Private foundation. If the organization did not check a box on line 14, 19a, or 19b, check this box and see instructions ☐

SCHEDULE D
(Form 990)

Department of the Treasury
Internal Revenue Service

Supplemental Financial Statements

▶ Complete if the organization answered "Yes," to Form 990,
Part IV, line 6, 7, 8, 9, 10, 11, or 12.
▶ Attach to Form 990. ▶ See separate instructions.

OMB No 1545-0047

2010

Open to Public
Inspection

Name of the organization

SECOND AMENDMENT FOUNDATION

Employer identification number
91-6184167

Part I Organizations Maintaining Donor Advised Funds or Other Similar Funds or Accounts. Complete if the organization answered "Yes" to Form 990, Part IV, line 6.

	(a) Donor advised funds	(b) Funds and other accounts
1 Total number at end of year		
2 Aggregate contributions to (during year)		
3 Aggregate grants from (during year)		
4 Aggregate value at end of year		
5 Did the organization inform all donors and donor advisors in writing that the assets held in donor advised funds are the organization's property, subject to the organization's exclusive legal control?		<input type="checkbox"/> Yes <input type="checkbox"/> No
6 Did the organization inform all grantees, donors, and donor advisors in writing that grant funds can be used only for charitable purposes and not for the benefit of the donor or donor advisor, or for any other purpose conferring impermissible private benefit?		<input type="checkbox"/> Yes <input type="checkbox"/> No

Part II Conservation Easements. Complete if the organization answered "Yes" to Form 990, Part IV, line 7.

1 Purpose(s) of conservation easements held by the organization (check all that apply).

<input type="checkbox"/> Preservation of land for public use (e.g., recreation or education)	<input type="checkbox"/> Preservation of an historically important land area
<input type="checkbox"/> Protection of natural habitat	<input type="checkbox"/> Preservation of a certified historic structure
<input type="checkbox"/> Preservation of open space	

2 Complete lines 2a through 2d if the organization held a qualified conservation contribution in the form of a conservation easement on the last day of the tax year.

	Held at the End of the Tax Year
a Total number of conservation easements	2a
b Total acreage restricted by conservation easements	2b
c Number of conservation easements on a certified historic structure included in (a)	2c
d Number of conservation easements included in (c) acquired after 8/17/06, and not on a historic structure listed in the National Register	2d

3 Number of conservation easements modified, transferred, released, extinguished, or terminated by the organization during the tax year ▶ _____

4 Number of states where property subject to conservation easement is located ▶ _____

5 Does the organization have a written policy regarding the periodic monitoring, inspection, handling of violations, and enforcement of the conservation easements it holds? ☐ Yes ☐ No

6 Staff and volunteer hours devoted to monitoring, inspecting, and enforcing conservation easements during the year ▶ _____

7 Amount of expenses incurred in monitoring, inspecting, and enforcing conservation easements during the year ▶ \$ _____

8 Does each conservation easement reported on line 2(d) above satisfy the requirements of section 170(h)(4)(B)(i) and section 170(h)(4)(B)(ii)? ☐ Yes ☐ No

9 In Part XIV, describe how the organization reports conservation easements in its revenue and expense statement, and balance sheet, and include, if applicable, the text of the footnote to the organization's financial statements that describes the organization's accounting for conservation easements.

Part III Organizations Maintaining Collections of Art, Historical Treasures, or Other Similar Assets.

Complete if the organization answered "Yes" to Form 990, Part IV, line 8.

1a If the organization elected, as permitted under SFAS 116 (ASC 958), not to report in its revenue statement and balance sheet works of art, historical treasures, or other similar assets held for public exhibition, education, or research in furtherance of public service, provide, in Part XIV, the text of the footnote to its financial statements that describes these items

b If the organization elected, as permitted under SFAS 116 (ASC 958), to report in its revenue statement and balance sheet works of art, historical treasures, or other similar assets held for public exhibition, education, or research in furtherance of public service, provide the following amounts relating to these items:

(i) Revenues included in Form 990, Part VIII, line 1	▶ \$ _____
(ii) Assets included in Form 990, Part X	▶ \$ _____

2 If the organization received or held works of art, historical treasures, or other similar assets for financial gain, provide the following amounts required to be reported under SFAS 116 (ASC 958) relating to these items:

a Revenues included in Form 990, Part VIII, line 1	▶ \$ _____
b Assets included in Form 990, Part X	▶ \$ _____

Part III Organizations Maintaining Collections of Art, Historical Treasures, or Other Similar Assets (continued)

3 Using the organization's acquisition, accession, and other records, check any of the following that are a significant use of its collection items (check all that apply)

a ☐ Public exhibition

b ☐ Scholarly research

c ☐ Preservation for future generations

d ☐ Loan or exchange programs

e ☐ Other _____

4 Provide a description of the organization's collections and explain how they further the organization's exempt purpose in Part XIV.

5 During the year, did the organization solicit or receive donations of art, historical treasures, or other similar assets to be sold to raise funds rather than to be maintained as part of the organization's collection? ☐ Yes ☐ No

Part IV Escrow and Custodial Arrangements. Complete if the organization answered "Yes" to Form 990, Part IV, line 9, or reported an amount on Form 990, Part X, line 21

1a Is the organization an agent, trustee, custodian or other intermediary for contributions or other assets not included on Form 990, Part X? ☐ Yes ☐ No

b If "Yes," explain the arrangement in Part XIV and complete the following table:

c Beginning balance

d Additions during the year

e Distributions during the year

f Ending balance

	Amount
1c	
1d	
1e	
1f	

2a Did the organization include an amount on Form 990, Part X, line 21? ☐ Yes ☐ No

b If "Yes," explain the arrangement in Part XIV.

Part V Endowment Funds. Complete if the organization answered "Yes" to Form 990, Part IV, line 10.

1a Beginning of year balance

b Contributions

c Net investment earnings, gains, and losses

d Grants or scholarships

e Other expenditures for facilities and programs

f Administrative expenses

g End of year balance

	(a) Current year	(b) Prior year	(c) Two years back	(d) Three years back	(e) Four years back
1a					
1b					
1c					
1d					
1e					
1f					
1g					

2 Provide the estimated percentage of the year end balance held as

a Board designated or quasi-endowment ► _____ %

b Permanent endowment ► _____ %

c Term endowment ► _____ %

3a Are there endowment funds not in the possession of the organization that are held and administered for the organization by:

(i) unrelated organizations

(ii) related organizations

	Yes	No
3a(i)		
3a(ii)		
3b		

b If "Yes" to 3a(ii), are the related organizations listed as required on Schedule R?

4 Describe in Part XIV the intended uses of the organization's endowment funds

Part VI Land, Buildings, and Equipment. See Form 990, Part X, line 10.

Description of investment	(a) Cost or other basis (investment)	(b) Cost or other basis (other)	(c) Accumulated depreciation	(d) Book value
1a Land				
b Buildings				
c Leasehold improvements				
d Equipment				
e Other		456,097.	445,303.	10,794.
Total. Add lines 1a through 1e. (Column (d) must equal Form 990, Part X, column (B), line 10(c).)				10,794.

Schedule D (Form 990) 2010

Part VII Investments - Other Securities. See Form 990, Part X, line 12.

(a) Description of security or category (including name of security)	(b) Book value	(c) Method of valuation: Cost or end-of-year market value
(1) Financial derivatives		
(2) Closely-held equity interests		
(3) Other		
(A) INVESTMENT IN RADIO AND		
(B) TV STATIONS	1,392,399.	COST
(C) INVESTMENT IN INTERNET		
(D) MEDIA WEB SITE	137,814.	COST
(E)		
(F)		
(G)		
(H)		
(I)		
Total. (Col (b) must equal Form 990, Part X, col (B) line 12.) ▶	1,530,213.	

Part VIII Investments - Program Related. See Form 990, Part X, line 13.

(a) Description of investment type	(b) Book value	(c) Method of valuation: Cost or end-of-year market value
(1)		
(2)		
(3)		
(4)		
(5)		
(6)		
(7)		
(8)		
(9)		
(10)		
Total. (Col (b) must equal Form 990, Part X, col (B) line 13.) ▶		

Part IX Other Assets. See Form 990, Part X, line 15.

(a) Description	(b) Book value
(1)	
(2)	
(3)	
(4)	
(5)	
(6)	
(7)	
(8)	
(9)	
(10)	
Total. (Column (b) must equal Form 990, Part X, col (B) line 15.) ▶	

Part X Other Liabilities. See Form 990, Part X, line 25.

1. (a) Description of liability	(b) Amount
(1) Federal income taxes	
(2) DEFERRED MAGAZINE SUBSCRIPTIONS	109,520.
(3)	
(4)	
(5)	
(6)	
(7)	
(8)	
(9)	
(10)	
(11)	
Total. (Column (b) must equal Form 990, Part X, col (B) line 25.) ▶	109,520.

FIN 48 (ASC 740) Footnote In Part XIV, provide the text of the footnote to the organization's financial statements that reports the organization's liability for uncertain tax positions under

FIN 48 (ASC 740)

032053
12-20-10

Part XI Reconciliation of Change in Net Assets from Form 990 to Audited Financial Statements

1	Total revenue (Form 990, Part VIII, column (A), line 12)	1	3,814,535.
2	Total expenses (Form 990, Part IX, column (A), line 25)	2	3,972,507.
3	Excess or (deficit) for the year. Subtract line 2 from line 1	3	<157,972.>
4	Net unrealized gains (losses) on investments	4	<31,742.>
5	Donated services and use of facilities	5	
6	Investment expenses	6	
7	Prior period adjustments	7	
8	Other (Describe in Part XIV.)	8	
9	Total adjustments (net). Add lines 4 through 8	9	<31,742.>
10	Excess or (deficit) for the year per audited financial statements. Combine lines 3 and 9	10	<189,714.>

Part XII Reconciliation of Revenue per Audited Financial Statements With Revenue per Return

1	Total revenue, gains, and other support per audited financial statements	1	3,782,793.
2	Amounts included on line 1 but not on Form 990, Part VIII, line 12:		
a	Net unrealized gains on investments	2a	<31,742.>
b	Donated services and use of facilities	2b	
c	Recoveries of prior year grants	2c	
d	Other (Describe in Part XIV.)	2d	
e	Add lines 2a through 2d	2e	<31,742.>
3	Subtract line 2e from line 1	3	3,814,535.
4	Amounts included on Form 990, Part VIII, line 12, but not on line 1:		
a	Investment expenses not included on Form 990, Part VIII, line 7b	4a	
b	Other (Describe in Part XIV.)	4b	
c	Add lines 4a and 4b	4c	0.
5	Total revenue. Add lines 3 and 4c. (This must equal Form 990, Part I, line 12.)	5	3,814,535.

Part XIII Reconciliation of Expenses per Audited Financial Statements With Expenses per Return

1	Total expenses and losses per audited financial statements	1	3,972,507.
2	Amounts included on line 1 but not on Form 990, Part IX, line 25:		
a	Donated services and use of facilities	2a	
b	Prior year adjustments	2b	
c	Other losses	2c	
d	Other (Describe in Part XIV.)	2d	
e	Add lines 2a through 2d	2e	0.
3	Subtract line 2e from line 1	3	3,972,507.
4	Amounts included on Form 990, Part IX, line 25, but not on line 1:		
a	Investment expenses not included on Form 990, Part VIII, line 7b	4a	
b	Other (Describe in Part XIV.)	4b	
c	Add lines 4a and 4b	4c	0.
5	Total expenses. Add lines 3 and 4c. (This must equal Form 990, Part I, line 18.)	5	3,972,507.

Part XIV Supplemental Information

Complete this part to provide the descriptions required for Part II, lines 3, 5, and 9; Part III, lines 1a and 4; Part IV, lines 1b and 2b; Part V, line 4; Part X, line 2; Part XI, line 8; Part XII, lines 2d and 4b; and Part XIII, lines 2d and 4b. Also complete this part to provide any additional information.

SCHEDULE L
(Form 990 or 990-EZ)

Department of the Treasury
Internal Revenue Service

Transactions With Interested Persons

▶ **Complete if the organization answered**
"Yes" on Form 990, Part IV, line 25a, 25b, 26, 27, 28a, 28b, or 28c,
or Form 990-EZ, Part V, line 38a or 40b.
▶ **Attach to Form 990 or Form 990-EZ. ▶ See separate instructions.**

OMB No 1545-0047

2010

**Open To Public
Inspection**

Name of the organization

SECOND AMENDMENT FOUNDATION

Employer identification number
91-6184167

Part I Excess Benefit Transactions (section 501(c)(3) and section 501(c)(4) organizations only).

Complete if the organization answered "Yes" on Form 990, Part IV, line 25a or 25b, or Form 990-EZ, Part V, line 40b.

1	(a) Name of disqualified person	(b) Description of transaction	(c) Corrected?	
			Yes	No

2 Enter the amount of tax imposed on the organization managers or disqualified persons during the year under section 4958

▶ \$

3 Enter the amount of tax, if any, on line 2, above, reimbursed by the organization

▶ \$

Part II Loans to and/or From Interested Persons.

Complete if the organization answered "Yes" on Form 990, Part IV, line 26, or Form 990-EZ, Part V, line 38a.

(a) Name of interested person and purpose	(b) Loan to or from the organization?		(c) Original principal amount	(d) Balance due	(e) In default?		(f) Approved by board or committee?		(g) Written agreement?	
	To	From			Yes	No	Yes	No	Yes	No

Total ▶ \$

Part III Grants or Assistance Benefiting Interested Persons.

Complete if the organization answered "Yes" on Form 990, Part IV, line 27.

(a) Name of interested person	(b) Relationship between interested person and the organization	(c) Amount and type of assistance

LHA For Paperwork Reduction Act Notice, see the Instructions for Form 990 or 990-EZ.

Schedule L (Form 990 or 990-EZ) 2010

Part IV Business Transactions Involving Interested Persons.

Complete if the organization answered "Yes" on Form 990, Part IV, line 28a, 28b, or 28c

(a) Name of interested person	(b) Relationship between interested person and the organization	(c) Amount of transaction	(d) Description of transaction	(e) Sharing of organization's revenues?	
				Yes	No
MERRIL ASSOCIATES	OWNED BY ALAN GOTTL	341,028.	GROSS PAYME		X

Part V Supplemental Information

Complete this part to provide additional information for responses to questions on Schedule L (see instructions).

SCH L, PART IV, BUSINESS TRANSACTIONS INVOLVING INTERESTED PERSONS:

(A) NAME OF PERSON: MERRIL ASSOCIATES

(B) RELATIONSHIP BETWEEN INTERESTED PERSON AND ORGANIZATION:

OWNED BY ALAN GOTTLIEB, VICE PRESIDENT

(C) AMOUNT OF TRANSACTION \$ 341,028.

(D) DESCRIPTION OF TRANSACTION: GROSS PAYMENTS FOR MAIL, MARKETING AND LIST RENTAL INCLUDES PASS THROUGH PAYMENTS TO OTHER VENDORS.

(E) SHARING OF ORGANIZATION REVENUES? = NO

SCHEDULE O
(Form 990 or 990-EZ)

Department of the Treasury
Internal Revenue Service

Supplemental Information to Form 990 or 990-EZ

Complete to provide information for responses to specific questions on
Form 990 or 990-EZ or to provide any additional information.
▶ Attach to Form 990 or 990-EZ.

OMB No. 1545-0047

2010

Open to Public
Inspection

Name of the organization

SECOND AMENDMENT FOUNDATION

Employer identification number
91-6184167

FORM 990, PART VI, SECTION A, LINE 6: INDIVIDUALS MAY BECOME CONTRIBUTING MEMBERS OF THE ORGANIZATION WITH NO VOTING RIGHTS.

FORM 990, PART VI, SECTION B, LINE 11: A COPY OF FORM 990 IS GIVEN TO EACH BOARD MEMBER FOR REVIEW AFTER FILING. THE FORM IS DISCUSSED AT THE NEXT BOARD MEETING AND APPROVED.

FORM 990, PART VI, SECTION B, LINE 12C: THE ORGANIZATION MONITORS ALL EXPENDITURES FOR POTENTIAL CONFLICTS OF INTEREST.

FORM 990 PART VI SECTION B QUESTION

15. ALL COMPENSATION DECISIONS ARE REVEIWD AND APPROVED BY THE BOARD.

FORM 990, PART VI, LINE 17, LIST OF STATES RECEIVING COPY OF FORM 990:
WA,OR,PA,MN,OH,WV,UT,IL,FL,WI,MD,ME,SC,KY,NM,NJ,NY,NC

FORM 990, PART VI, SECTION C, LINE 19: GOVERNING DOCUMENTS, CONFLICT OF INTEREST POLICY AND FINANCIAL STATEMENTS ARE AVAILABLE UPON WRITTEN REQUEST.

FORM 990, PART XI, LINE 5, CHANGES IN NET ASSETS:

NET UNREALIZED LOSSES ON INVESTMENTS:

-31,742.

INVESTMENT VALUATION ACCOUNT

FORM 990 PART XI QUESTION 2C. THERE HAS BEEN NO CHANGE IN HOW THE COMMITTEE THAT ASSUMES RESPONSIBILITY FOR OVERSIGHT OF THE AUDIT

LHA For Paperwork Reduction Act Notice, see the Instructions for Form 990 or 990-EZ.

Schedule O (Form 990 or 990-EZ) (2010)

032211
01-24-11

Name of the organization

SECOND AMENDMENT FOUNDATION

Employer identification number

91-6184167

CONDUCTS ITS ACTIVITIES.

FORM 990 PART IV AN IRS SECTION 501(H) ELECTION WAS MADE BY THE
FOUNDATION. NO LOBBYING EXPENDITURES HAVE BEEN MADE BY THE
CORPORATIONS.

Related Organizations and Unrelated Partnerships

▶ Complete if the organization answered "Yes" to Form 990, Part IV, line 33, 34, 35, 36, or 37.
▶ Attach to Form 990. ▶ See separate instructions.

OMB No. 1545-0047
2010.
Open to Public
Inspection

Name of the organization

SECOND AMENDMENT FOUNDATION

Employer identification number
91-6184167

Part I Identification of Disregarded Entities (Complete if the organization answered "Yes" to Form 990, Part IV, line 33.)

(a) Name, address, and EIN of disregarded entity	(b) Primary activity	(c) Legal domicile (state or foreign country)	(d) Total income	(e) End-of-year assets	(f) Direct controlling entity
N/A			0.	0.	

Part II Identification of Related Tax-Exempt Organizations (Complete if the organization answered "Yes" to Form 990, Part IV, line 34 because it had one or more related tax-exempt organizations during the tax year.)

(a) Name, address, and EIN of related organization	(b) Primary activity	(c) Legal domicile (state or foreign country)	(d) Exempt Code section	(e) Public charity status (if section 501(c)(3))	(f) Direct controlling entity	(g) Section 512(b)(13) controlled entity?	
						Yes	No
N/A							X

For Paperwork Reduction Act Notice, see the Instructions for Form 990.

Schedule R (Form 990) 2010

Part V Transactions With Related Organizations (Complete if the organization answered "Yes" to Form 990, Part IV, line 34, 35, 35a, or 36.)**Note.** Complete line 1 if any entity is listed in Parts II, III, or IV of this schedule.**1** During the tax year, did the organization engage in any of the following transactions with one or more related organizations listed in Parts II-IV?**a** Receipt of (i) interest (ii) annuities (iii) royalties or (iv) rent from a controlled entity**b** Gift, grant, or capital contribution to other organization(s)**c** Gift, grant, or capital contribution from other organization(s)**d** Loans or loan guarantees to or for other organization(s)**e** Loans or loan guarantees by other organization(s)**f** Sale of assets to other organization(s)**g** Purchase of assets from other organization(s)**h** Exchange of assets**i** Lease of facilities, equipment, or other assets to other organization(s)**j** Lease of facilities, equipment, or other assets from other organization(s)**k** Performance of services or membership or fundraising solicitations for other organization(s)**l** Performance of services or membership or fundraising solicitations by other organization(s)**m** Sharing of facilities, equipment, mailing lists, or other assets**n** Sharing of paid employees**o** Reimbursement paid to other organization for expenses**p** Reimbursement paid by other organization for expenses**q** Other transfer of cash or property to other organization(s)**r** Other transfer of cash or property from other organization(s)**2** If the answer to any of the above is "Yes," see the instructions for information on who must complete this line, including covered relationships and transaction thresholds.

	(a) Name of other organization	(b) Transaction type (a-r)	(c) Amount involved	(d) Method of determining amount involved	Yes		Nb
(1)							1a X
(2)							1b X
(3)							1c X
(4)							1d X
(5)							1e X
(6)							1f X
							1g X
							1h X
							1i X
							1j X
							1k X
						X	1l
							1m X
							1n X
							1o X
							1p X
						X	1q
							1r X

Part VII Supplemental Information

Complete this part to provide additional information for responses to questions on Schedule R (see instructions).

2010 DEPRECIATION AND AMORTIZATION REPORT

FORM 990 PAGE 10

990

Asset No	Description	Date Acquired	Method	Life	Line No	Unadjusted Cost Or Basis	Bus % Excl	* Reduction In Basis	Basis For Depreciation	Accumulated Depreciation	Current Sec 179	Current Year Deduction
19	COMPUTER EQUIPMENT	123109SL		5.00	16	5,374.			5,374.	5,374.		0.
21	GUN WEEK	110105SL		5.00	16	795.			795.	795.		0.
	* 990 PAGE 10 TOTAL					6,169.		0.	6,169.	6,169.	0.	0.
	OTHER											
	PROGRAM SERVICES											
1	GUNWEEK ASSETS	VARIESVAR		.000	16	151,300.			151,300.	151,300.		0.
	* 990 PAGE 10 TOTAL					151,300.		0.	151,300.	151,300.	0.	0.
	PROGRAM SERVICES											
	MANAGEMENT AND											
	GENERAL											
2	VARIOUS	VARIESVAR		.000	16	233,805.			233,805.	233,805.		0.
3	COMPUTER EQUIPMENT	051002SL		3.00	16	7,800.			7,800.	7,800.		0.
4	COMPUTER EQUIPMENT	02SL		5.00	16	2,282.			2,282.	2,282.		0.
5	COMPUTER EQUIPMENT	090203SL		5.00	16	1,536.			1,536.	1,536.		0.
6	COMPUTER EQUIPMENT	04SL		5.00	16	3,824.			3,824.	3,824.		0.
7	NETWORK EQUIPMENT	080104SL		3.00	16	4,401.			4,401.	4,401.		0.
9	COMPUTER SONY VGN	050105SL		5.00	16	2,394.			2,394.	2,235.		159.
	5 DESKTOP & 1											
10	LAPTOP	060105SL		5.00	16	4,177.			4,177.	3,827.		350.
11	DESKTOP COMPUTERS	060105SL		5.00	16	1,943.			1,943.	1,782.		161.
12	COMPUTER EQUIPMENT	050106SL		5.00	16	1,083.			1,083.	795.		217.
13	COMPUTER EQUIPMENT	040106SL		5.00	16	1,667.			1,667.	1,249.		333.

028102
05-01-10

(D) - Asset disposed

* ITC, Section 179, Salvage, Bonus, Commercial Revitalization Deduction

2010 DEPRECIATION AND AMORTIZATION REPORT

FORM 990 PAGE 10

990

Asset No	Description	Date Acquired	Method	Life	Line No	Unadjusted Cost Or Basis	Bus % Excl	* Reduction In Basis	Basis For Depreciation	Accumulated Depreciation	Current Sec 179	Current Year Deduction
14	LAPTOP COMPUTER	090107SL		5.00	16	7,011.			7,011.	3,272.		1,402.
15	COMPUTER EQUIPMENT	020108SL		3.00	16	12,772.			12,772.	8,160.		4,257.
16	COMPUTER EQUIPMENT	020108SL		5.00	16	5,869.			5,869.	2,250.		1,174.
17	COMPUTER EQUIPMENT	030108SL		5.00	16	1,806.			1,806.	662.		361.
18	COMPUTER EQUIPMENT	010109SL		5.00	16	3,630.			3,630.	726.		726.
20	COPIER	100110SL		5.00	16	2,628.			2,628.			88.
	* 990 PAGE 10 TOTAL					298,628.		0.	298,628.	278,606.	0.	9,228.
	MANAGEMENT AND GEN					456,097.		0.	456,097.	436,075.	0.	9,228.
	* GRAND TOTAL 990											
	PAGE 10 DEPR											

028102
05-01-10

(D) - Asset disposed

* ITC, Section 179, Salvage, Bonus, Commercial Revitalization Deduction

32.2

FOOTNOTES

STATEMENT 1

FORM 990 PART IV
AN IRS SECTION 501(H) ELECTION WAS MADE
BY THE FOUNDATION. NO LOBBYING
EXPENDITURES HAVE BEEN MADE BY THE
CORPORATIONS.

Application for Extension of Time To File an Exempt Organization Return

OMB No. 1545-1709

► **File a separate application for each return.**

- If you are filing for an **Automatic 3-Month Extension**, complete only **Part I** and check this box ☒
- If you are filing for an **Additional (Not Automatic) 3-Month Extension**, complete only **Part II** (on page 2 of this form).

Do not complete Part II unless you have already been granted an automatic 3-month extension on a previously filed Form 8868.

Electronic filing (e-file). You can electronically file Form 8868 if you need a 3-month automatic extension of time to file (6 months for a corporation required to file Form 990-T), or an additional (not automatic) 3-month extension of time. You can electronically file Form 8868 to request an extension of time to file any of the forms listed in Part I or Part II with the exception of Form 8870, Information Return for Transfers Associated With Certain Personal Benefit Contracts, which must be sent to the IRS in paper format (see instructions). For more details on the electronic filing of this form, visit www.irs.gov/efile and click on **e-file for Charities & Nonprofits**.

Part I Automatic 3-Month Extension of Time. Only submit original (no copies needed)

A corporation required to file Form 990-T and requesting an automatic 6-month extension - check this box and complete Part I only ☐

All other corporations (including 1120-C filers), partnerships, REMICs, and trusts must use Form 7004 to request an extension of time to file income tax returns

Type or print	Name of exempt organization	Employer identification number
	SECOND AMENDMENT FOUNDATION	91-6184167
	Number, street, and room or suite no. If a P.O. box, see instructions. 12500 N.E. 10TH PLACE	
File by the due date for filing your return. See instructions	City, town or post office, state, and ZIP code. For a foreign address, see instructions. BELLEVUE, WA 98005	

Enter the Return code for the return that this application is for (file a separate application for each return)

01

Application Is For	Return Code	Application Is For	Return Code
Form 990	01	Form 990-T (corporation)	07
Form 990-BL	02	Form 1041-A	08
Form 990-EZ	03	Form 4720	09
Form 990-PF	04	Form 5227	10
Form 990-T (sec. 401(a) or 408(a) trust)	05	Form 6069	11
Form 990-T (trust other than above)	06	Form 8870	12

MR. ALAN GOTTLIEB

- The books are in the care of ► 12500 N.E. 10 PLACE, BELLEVUE, WA - 98005
Telephone No ► 425-454-7012 FAX No. ►

- If the organization does not have an office or place of business in the United States, check this box ☐
- If this is for a Group Return, enter the organization's four digit Group Exemption Number (GEN) . If this is for the whole group, check this box ☐. If it is for part of the group, check this box ☐ and attach a list with the names and EINs of all members the extension is for.

- 1 I request an automatic 3-month (6 months for a corporation required to file Form 990-T) extension of time until AUGUST 15, 2011, to file the exempt organization return for the organization named above. The extension is for the organization's return for:
► ☒ calendar year 2010 or
► ☐ tax year beginning , and ending .

- 2 If the tax year entered in line 1 is for less than 12 months, check reason ☐ Initial return ☐ Final return
☐ Change in accounting period

3a If this application is for Form 990-BL, 990-PF, 990-T, 4720, or 6069, enter the tentative tax, less any nonrefundable credits. See instructions.	3a	\$	0.
b If this application is for Form 990-PF, 990-T, 4720, or 6069, enter any refundable credits and estimated tax payments made. Include any prior year overpayment allowed as a credit.	3b	\$	0.
c Balance due. Subtract line 3b from line 3a. Include your payment with this form, if required, by using EFTPS (Electronic Federal Tax Payment System). See instructions.	3c	\$	0.

Caution. If you are going to make an electronic fund withdrawal with this Form 8868, see Form 8453-EO and Form 8879-EO for payment instructions.

LHA For Paperwork Reduction Act Notice, see Instructions.

Form 8868 (Rev. 1-2011)

FILED
U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
SEATTLE

MAIL

AUG 25 2005

United States District Court
For the Western District of Washington, Seattle Division
700 Stewart Street, Seattle, WA 98101

U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
SEATTLE
CLERK

DON HARRICK, pro se
(U.S. Merchant Seaman)
5860 Wilburn Road
Wilburn, AR 72179
PETITIONER

v.

ALAN GOTTLIEB,
Home Address Refused
Business Address:
Second Amendment Foundation
James Madison Building
12500 NE 10th Place
Bellevue, WA 98005
AlanGottlieb@KeepAndBearArms.com
Phone: (425) 454-7012
FAX: (425) 451-3959

NICKI FELLENER
Home Address Refused

ANGEL SHAMAYA
Home Address Refused

RESPONDENTS

C05-1505 RSM

JUDGE: _____

DECK TYPE: _____

DATE STAMP: _____

CASE NUMBER: _____



05-CV-01505-CMP

COMPLAINT OF
DEFAMATION & RITUAL DEFAMATION
AND
VIOLATIONS OF STATE & FEDERAL ANTITRUST LAWS

Jones Act

No. 155

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<i>Logan v. United States</i> 144 US 263, 12 S.Ct. 617, 36 L.Ed. 429	5
<i>Mountain Timber Co. v. Washington</i> , 243 US 219, 37 S.Ct. 260, 61 L.Ed. 685	5
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LAW REVIEWS

Brannon P. Denning's law review, <i>GUN SHY: THE SECOND AMENDMENT AS AN "UNDERENFORCED CONSTITUTIONAL NORM,"</i> 21 Harv. J.L. & Pub. Pol'y 719 (Summer, 1998)	9
Laird Wilcox, <i>THE PRACTICE OF RITUAL DEFAMATION: HOW VALUES, OPINIONS AND BELIEFS ARE CONTROLLED IN DEMOCRATIC SOCIETIES</i> , 1990	25
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United States District Court For Seattle

DON HAMRICK, pro se)
(U.S. Merchant Seaman))
5860 Wilburn Road)
Wilburn, AR 72179)
PETITIONER)

v.)

ALAN GOTTLIEB,)
Home Address Refused)
Business Address:)
Second Amendment Foundation)
James Madison Building)
12500 NE 10th Place)
Bellevue, WA 98005)
AlanGottlieb@KeepAndBearArms.com)
Phone: (425) 454-7012)
FAX: (425) 451-3959)

NICKI FELLENER)
Home Address Refused)

ANGEL SHAMAYA)
Home Address Refused)

RESPONDENTS)
_____)

JUDGE: _____

DECK TYPE: _____

DATE STAMP: _____

CASE NUMBER: _____

COMPLAINT OF
DEFAMATION & RITUAL DEFAMATION
AND
VIOLATIONS OF STATE & FEDERAL ANTITRUST LAWS

BASIS FOR JURISDICTION

The U.S. District Court for the Western District of Washington (Seattle) has original jurisdiction in this civil action arising under the United States Constitution, laws, or treaties of the United States in accordance with 28 U.S.C. § 1331; The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person under 28 U.S.C. § 1343(a); To recover damages for injury . . . because of the deprivation of any right or privilege of a citizen of the United States, by any act done in furtherance of any conspiracy in section 1985 of Title 42 under 28 U.S.C. § 1343(a)(1); To recover damages from any person who fails to prevent or to aid in preventing any wrongs mentioned in 42 U.S.C. § 1985(2) and/or (3) of Title 42 which he had knowledge were about to occur and power to prevent under 28 U.S.C. § 1343(a)(2); To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States in accordance with 28 U.S.C. § 1343(a)(3) and 42 U.S.C. § 1985(2) and/or (3); as Washington, DC is the seat of the national government in accordance with 28 U.S.C. § 1402(a)(1); for deprivation Plaintiff his right to petition the government for "substantial" redress of grievances under the First Amendment in pursuit of Second Amendment rights; for deprivation of Second Amendment rights and other rights under the Bill of Rights for the Common Defense as stipulated in the Preamble to the United States Constitution and in the Preamble to the Bill of Rights in accordance with 42 U.S.C. § 1983; without regard to whether the aggrieved parties shall have exhausted any administrative or other remedies that may be provided by law in accordance with 42 U.S.C. § 2000a-6(a).

REPRESENTATIONS TO THE COURT

In accordance with Rule 11(b) Plaintiff hereby certifies that by presenting to the U.S. District Court for the District of Columbia this civil action that it is Plaintiff's affirmation it is the best of his knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:

(1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(2) the claims, defenses, and other legal contentions herein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(3) the allegations and other factual contentions have evidentiary support (i.e., the related case as noted above) or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

RELATED CASES

● **RICO ACT CASE FOR THE SECOND AMENDMENT RIGHTS OF AMERICAN MERCHANT SEAMEN**
Hamrick v. President Bush, et al, U.S. District Court for DC, No. 03-2160, denied with prejudice, August 16, 2004, appealed September 9, 2004, DC Circuit, No. 04-5316, **Pending**.

● **MISCELLANEOUS CASE MOTION SPECIAL GRAND JURY TO INVESTIGATE JUDICIAL BIAS**
Hamrick v. United States, U.S. District Court for DC, No. 04-MC-422, filed September 1, 2004, **Pending**.

● **SEAMEN'S RIGHTS CASE OF HARASSMENT, BULLYING, MALICIOUS FIRING ABOARD SHIP AT SEA**
Hamrick v. David Michael George, et al, U.S. District Court for the Western District of North Carolina, Charlotte Division, filed July 19, 2004. (Unsafe Working Conditions case) **Pending**.

● **SECOND AMENDMENT CASE FOR AMERICAN MERCHANT SEAMEN**
Hamrick v. President Bush, et al, U.S. District Court for DC, No. 02-1435, filed July 18, 2002; dismissed with prejudice, October 10, 2002; appeal denied May 14, 2003, DC Circuit, No. 02-5334. Appealed via Rule 11 on December 27, 2002. Cert. denied October 6, 2003.

● **CONSTITUTIONAL TORT CASE FOR DAMAGES**
Hamrick v. Adm. Thomas H. Collins USCG, et al, U.S. District Court for DC, No. 02-1434, filed July 18, 2002; dismissed with prejudice January 24, 2003; appeal denied DC Circuit, No. 03-5021.

PLAINTIFFS' STANDING TO BRING SUIT

"In order to have standing to sue under RICO civil liability provisions, plaintiff must show a violation of RICO, injury to business or property, and causation of the injury by the violation." *Heckt v. Commerce Clearing House, Inc.*, C.A.2(N.Y.) 1990, 897 F.2d 21, 100A.L.R. Fed. 655. "Private litigant recovery for racketeering injuries but injury must flow from commission of predicate acts which means that private plaintiff who wants to recover under civil [RICO] must show some injury flowing from one or more predicate acts; plaintiff cannot allege merely that act of racketeering occurred and that he lost money." *Pelletier v. Zweifel*, C.A.11 (Ga.) 1991, 921 F.2d 1465, rehearing denied 931 F.2d 901, certiorari denied 112 S.Ct. 167, 502 U.S. 855.

Fraud by Wire, Radio, or Television under 18 U.S.C. § 1343 is a predicate act of racketeering under 18 U.S.C. § 1961(1)(B):

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, shall be fined under this title or imprisoned not more than 20 years, or both. If the violation affects a financial institution, such person shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both.

Plaintiff, Don Hamrick, is a United States citizen and a U.S. Merchant Seaman, (a.k.a. Able Seaman for purposes of the U.S. Code). Plaintiff Don Hamrick reported aboard a U.S. government vessel as a new crew member. He was required to attend a small arms recertification course as a job-related requirement for the position of Able Seaman aboard that ship. Upon successful completion of that small arms training Plaintiff Don Hamrick applied to the U.S. Coast Guard to have that extra training recognized by the Coast Guard in the form of an endorsement on his Merchant Mariner's Document to read "National Open Carry Handgun" in accordance with 46 U.S.C. § 7306(a)(3), *General Requirements and Classifications for Able Seamen Is Qualified Professionally as Demonstrated by an Applicable Examination or Educational Requirements*. The Coast Guard denied that application with their final agency action denial under 46 CFR § 1.03-15(j). Plaintiff initiated of federal civil rights case on Second Amendment grounds at the U.S. District Court for DC on July 18, 2002.

Plaintiff pushed his cases without an attorney, representing himself, *pro se*, while seeking recognition and assistance from the NRA, KeepAndBearArms.com (KABA), the Second Amendment Foundation and other Second Amendment gun rights groups. Plaintiff has received, at best, the scant barest of assistance as to be rated as insignificant in the 2 years the Plaintiff has been pushing his Second Amendment cases.

REPRESENTATIONS TO COURT

By presenting to the court, in accordance with Rule 11 of the Federal Rules of Civil Procedure, (whether by signing, filing, submitting, or later advocating) a pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances,—

(1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(2) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(3) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

SEAMAN'S SUIT UNDER 28 U.S.C. § 1916

"The due process clause forbids arbitrary deprivations of liberty; where a person's good name, reputation, honor, or integrity is at stake because of what the government is doing to him, the minimal requirements of the clause must be satisfied." *Goss v. Lopez*, 419 US 565, 95 S.Ct. 729, 42 L.Ed. 725.

"When those fundamental rights which are recognized and declared, but not granted or created, by the Constitution, are thereby guaranteed only against violation or abridgment by the United States or by the states, and cannot therefore be affirmatively enforced by Congress against unlawful acts of individuals, yet every right created by, arising under, or dependent upon, the Constitution of the United States, may be protected and enforced by Congress by such means and in such manner as it may deem best." *Logan v. United States* 144 US 263, 12 S.Ct. 617, 36 L.Ed. 429. "If not warranted by any just occasion, the least imposition is oppressive." *Mountain Timber Co. v. Washington*, 243 US 219, 37 S.Ct. 260, 61 L.Ed. 685. "The constitutional guaranty of rights and immunities to the citizen insures to him the privilege of having those rights and immunities judicially declared and protected." *Lawrence v. State Tax Commission*, 286 US 276, 52 S.Ct. 556, 87 ALR 374, 76 L.Ed. 1102.

PLAINTIFF IS EXEMPT FROM FILING FEE & COURT COSTS

Citing 28 U.S.C. § 1916, "In all courts of the United States, seamen may institute and prosecute suits and appeals in their own names and for their own benefit for wages or salvage or the enforcement of laws enacted for their health or safety without prepaying fees or costs or furnishing security therefor."

Plaintiff's case is undeniably about *safety* for the U.S. Merchant Seaman in the maritime environment and in open society. The legislative history of the Seamen's Suit Law does not subject the fee exemption to conditions of indigency or the filing of in forma pauperis. To impose such conditions is an unconstitutional act of prior restraint of a statutory right. It cannot be sustained that Congress gave a statutory right and the Courts has taken that right away by judicial fiat. That fiat invokes the Doctrine of Unconstitutional Conditions.

HISTORICAL AND REVISION NOTES ON THE SEAMAN'S SUIT LAW

- **June 12, 1917, ch. 27, Sec. 1, 40 Stat. 157** (H.R. 11; Pub.L.No. 21: An Act Making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and eighteen, and for other purposes.) — *Provided further*, That

courts of the United States shall be open to seamen, without furnishing bonds or prepayment of or making deposits to secure fees or costs, for the purpose of entering and prosecuting suit or suits in their own name and for the own benefit for wages or salvage and to enforce laws made for their health and safety.

- **July 1, 1918, ch. 113, Sec. 1, 40 Stat. 683** (H.R. 12441; Pub.L.No. 181: An Act Making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirteenth, nineteen hundred and nineteen, and for other purposes.) — *Provided*, That courts of the United States, including appellate courts, hereafter shall be open to seamen, without furnishing bonds or prepayment of or making deposit to secure fees or costs, for the purpose of entering and prosecuting suit or suits in their own name and for their own benefit for wages or salvage and to enforce laws made for their health and safety.
- **June 25, 1948, ch. 646, 62 Stat. 955** (H.R. 3214; Pub.L.No. 773: An Act: To revise, codify, and enact into law title 28 of the United States Code entitled "Judicial Code and Judiciary") — 28 U.S. 1916: In all courts of the United States, seamen may institute and prosecute suits and appeals in their own names and for their own benefit for wages or salvage or the enforcement of laws enacted for their health or safety without prepaying fees or costs or furnishing security therefor.

VENUE AND PROCESS 18 U.S.C. § 1965

(a) Any civil action or proceeding under this chapter against any person may be instituted in the district court of the United States for any district in which such person resides, is found, has an agent, or transacts his affairs.

(b) In any action under section 1964 of this chapter in any district court of the United States in which it is shown that the ends of justice require that other parties residing in any other district be brought before the court, the court may cause such parties to be summoned, and process for that purpose may be served in any judicial district of the United States by the marshal thereof.

(c) In any civil or criminal action or proceeding instituted by the United States under this chapter in the district court of the United States for any judicial district, subpoenas issued by such court to compel the attendance of witnesses may be served in any other judicial district, except that in any civil action or proceeding no such subpoena shall be issued for service upon any individual who resides in another district at a place more than one hundred miles from the place at which such court is held without approval given by a judge of such court upon a showing of good cause.

(d) All other process in any action or proceeding under this chapter may be served on any person in any judicial district in which such person resides, is found, has an agent, or transacts his affairs.

**IMPLIED WAIVER OF VENUE AND JURISDICTION
BASED ON DIVERSITY OF STATE CITIZENSHIP
BY THE RESPONDENTS' REFUSAL TO PROVIDE THE PLAINTIFF
WITH THEIR MAILING ADDRESSES FOR THE PURPOSE OF
SERVICE OF SUMMONS WITH THE COMPLAINT**

Respondents' hostile and uncooperative refusal to provide to the Plaintiff the address of their residence, or their agent, or their attorney, or the person who transacts their affairs in order to reduce the cost of service of Summons and Complaint is construed to be a waiver of their right to object on diversity grounds or other grounds to jurisdiction and venue of the U.S. District Court for the Western District of Washington (Seattle) or to object to being served by a court appointed U.S. Marshal in accordance with Rule 4(c)(2) of the Federal Rules of Civil Procedure.

PROLOGUE

The Plaintiff previously filed this complaint with the U.S. District Court for the District of Columbia. The Plaintiff emailed the contents of Rule 4 of the Federal Rules of Civil Procedure specifically advising them of their obligation under Rule 4(d)(2) to provide the Plaintiff with their mailing address so that Service of Process could be sufficiently performed. The Respondents flouted that Rule refusing to provide their mailing addresses for the purpose of Service of Complaint with the Summons as required under Rule 4.

As a presumed substitute the Plaintiff FedEx'd the complaint and summons to Alan Gottlieb's place of business, the Second Amendment Foundation, James Madison Building, 12500 NE 10th Place, Bellevue, WA 98005 on chance they would forward to complaint and summons to their intended recipients. This FedEx'd package was refused and returned to the Plaintiff.

The Judge Leon's Memorandum Opinion failed to address the Respondents refusal to provide the mailing address of their usual place of abode under Rule 4 and under Wash. Rev. Code § 4.28.080(15)-(16). Moreover, Judge Leon misconstrued that facts of the case to allege that *"the Plaintiff tried to serve defendants Shamaya, Fellenzer, and Gottlieb by delivering the complaint and three Summonses, via Federal Express, to a business that is located on a different floor but in the same building as the Second Amendment Foundation."*

The Plaintiff used the mailing address of the Second Amendment Foundation as displayed on their Internet Web site for the FedEx delivery. If any error of delivery is to be alleged the allegation does not fall on the Plaintiff's shoulders. This presents two probabilities: (1) the FedEx delivery was careless

or negligent in delivering the FedEx package to the correct address; or (2) the Second Amendment Foundation's Web site displayed the wrong address.

The Respondents successfully abused the Rules by persuading the judge to dismiss Plaintiff's case only for *insufficient service of process* and not on the merits of the case. Furthermore, the judge dismissed Plaintiff's case without prejudice. The Plaintiff is free to refile his case in the proper jurisdiction and venue.

However, because the Respondent's are continuing with their refusal to provide their addresses for their *usual place of abode* for the purpose of service of complaint with the Summons the Plaintiff must now motion the Court under Rule 4(c)(2) (2) to . . . *direct that service be effected by a United States marshal, deputy United States marshal, or other person or officer specially appointed by the court for that purpose. Such an appointment must be made when the plaintiff is . . . authorized to proceed as a seaman under 28 U.S.C. § 1916.*

The Plaintiff is a U.S. merchant seaman and this case is for the enforcement of laws enacted for his safety under 28 U.S.C. § 1916. The Plaintiff advises the Court that the term "*safety*" under 28 U.S.C. § 1916 is, by definition, inclusive of the term "personal security" and that term, by definition, is inclusive of for one's own "*reputation*" as described in 16A Corpus Juris Secundum § 511 :

PERSONAL SECURITY

(16A C.J.S. § 511)

The right of personal security is one of the natural rights, and is guarded by various provisions of the state and federal constitutions, derived in part from Magna Carta and other charters of English liberty, and reinforced by additional and more specific injunctions. The constitution does not require the sacrifice of personal security, and constitutional provisions for the security of the person are to be **liberally construed**. The guaranties included in the right of personal security are secured against abridgment by the states by the Fourteenth Amendment.

The right of the people to be secure in their homes is a basic right guaranteed by a state constitution. No right is held more sacred, or is more carefully guarded, by common law, than the right of every individual to possession and control of his own person, free from all restraint or interference unless by the clear and unquestionable authority of the law. Each individual is entitled to be secure in his person, to be free from unjustified violation by others, and to be guarded by law against any unwarranted intrusion upon his tranquility.

...Rights included in personal security. The right of personal security consists in a person's legal and uninterrupted enjoyment of his life, his limbs, his body, his health, and his **reputation**. It includes the right to exist, and the right to the enjoyment of life while existing, **and it is invaded not only by a deprivation of life, but also by**

a deprivation of those things which are necessary to the enjoyment of life according to the nature, temperament, and lawful desires of the individual.

REPUTATION. The right to the enjoyment of a good reputation is of ancient origin and necessary to human society, as discussed in C.J.S. Libel and Slander § 4, and is with the constitutional guaranty of personal security; it is a fundamental right to be protected regardless of allegation of special or economic damage.

The origin of this case which thrust the Plaintiff into the same political circles as the Respondents as litigious violation of First Amendment rights by the U.S. Coast Guard. The circumstances of this incident are described in two articles written by the Plaintiff and posted at KeepAndBearArms.com when Angel Shamaya was the director of that Web sight. The articles were posted on June 20, 2002 and are still available on line. They are *MY SECOND AMENDMENT FIGHT WITH THE COAST GUARD*¹ and *COAST GUARD INITIATES CRIMINAL INVESTIGATION AGAINST AN INNOCENT MERCHANT SEAMAN EXERCISING FIRST AMENDMENT RIGHTS PURSUING SECOND AMENDMENT RIGHTS*²

Brannon P. Denning's law review, *GUN SHY: THE SECOND AMENDMENT AS AN "UNDERENFORCED CONSTITUTIONAL NORM,"* 21 Harv. J.L. & Pub. Pol'y 719 (Summer, 1998), is the driving force for this cause of action against the Respondents and for the protection of Plaintiff's related Second Amendment cases. The following cited text from that law review provides a fair description of how Second Amendment organization's with all inclusive Mission Statements fail to live up to their full throttle proclamations of "defending" and "fighting for" the Second Amendment as an individual right by caving to political hostilities through appeasements.

According to Northwestern University law professor Dan Polsby, "The fact that the Second Amendment found no champion among policy-making elites surely tells more about the social psychology of the class from which lawyers and social scientists are drawn than it does about the Constitution's text and structure."³ In his groundbreaking article, Sanford Levinson expressed similar suspicions about attitudes towards the "embarrassing" Second Amendment.

I cannot help but suspect that the best explanation for the absence of the Second Amendment from the legal consciousness of the elite bar, including that component found in the legal academy, is derived from a mixture of sheer opposition to the idea of private ownership of guns and the perhaps subconscious fear that altogether plausible, perhaps

¹ www.keepandbeararms.com/information/XclBViewItem.asp?ID=3461

² www.keepandbeararms.com/information/XclBViewItem.asp?ID=3460

³ Dan Polsby, *Treating the Second Amendment Like Normal Constitutional Law*, REASON, March 1996, at 33.

even "winning" interpretations of the Second [Page 749] Amendment would present real hurdles to those of us supporting prohibitory regulations.⁴

At the Second Amendment Foundation's 19th Annual Gun Rights Policy Conference, (hereinafter referred to as "the Conference"), at the Marriott Crystal City Hotel in Arlington, Virginia, on the first day of their 3 day conference, September 24, 2004, Alan Gottlieb said:

"While we must maintain an energized base of our supporters and *keep it secure from defection*⁵ it is just as important to reach out to those in the middle and convert them to *our point of view*."⁶

Does **defection** impliedly include the exclusion dissenting opinions? Their agenda is nationwide reciprocity for concealed carry. Plaintiff's case for the Second Amendment is for open carry nationwide, whether licensed or not. The right of open carry is a constitutional norm as the literal and common reading of the Constitution and the Bill of Rights is understood by the Plaintiff. The original meaning doesn't change through the passage of time or by the change of social or judicial ideologies. This originalist or constructionist view is shared most recently by Justice Antonin Scalia:

"In the last 40 years, ... we've become fond of the phrase that we have a living document," Scalia said. "But if something is wrong, then change the law or change the Constitution, but don't reinterpret the Constitution." He said proponents of the living document concept and flexibility regarding the Constitution are "dead wrong."⁷

⁴ Sanford Levinson, The Embarrassing Second Amendment, 99 YALE L.J. 637 (1989) at 642. Levinson's title may have been influenced by an earlier article by Nelson Lund, a Professor at the George Mason School of Law. See Lund, The Second Amendment, Political Liberty and the Right to Self-Preservation, 39 ALA. L. REV. 103 (1987) at 103. ("The Second Amendment to the United States Constitution has become the most embarrassing of the Bill of Rights.").

⁵ Plaintiff's emphasis.

⁶ Plaintiff's emphasis.

⁷ U.S. Supreme Court Justice Antonin Scalia speaking to a full house at the University of Michigan on Tuesday, November 16, 2004

"A good argument diluted to avoid criticism is not nearly as good as the undiluted argument, because we best arrive at truth through a process of honest and vigorous debate. Arguments should not sneak around in disguise, as if dissent were somehow sinister...For it is bravery that is required to secure freedom." Clarence Thomas, U. S. Supreme Court Justice, Lecture, 13 February 2001.

"Political censorship is necessarily based on fear of what will happen if those whose work is censored get their way, or if they are effecting in persuading a large number of readers to share their point of view. The nature of political censorship at any given time depends on the censor's answer to the simple question, "What are you afraid of?"" Donald Thompson, *A LONG TIME BURNING: THE HISTORY OF LITERARY CENSORSHIP IN ENGLAND*.

The academic debate is slowly coming toward Plaintiff's constitutional and legal argument presented in his related court cases for open carry for American merchant seamen. Evidence of this convergence is seen in Randy E. Barnett's book review in the November 2004 edition of the Texas Law Review:

STATING A CLAIM

PERSONAL MESSAGE TO THE RESPONDENTS ON DISSENT

"The oppression of any people for opinion's sake has rarely had any other effect than to fix those opinions deeper, and render them more important." Hosea Ballou (1771-1852).

"Men in authority will always think that criticism of their policies is dangerous. They will always equate their policies with patriotism, and find criticism subversive." Henry Steele Commager (1902-1998), FREEDOM AND ORDER, 1966.

"Protection, therefore, against the tyranny of the magistrate is not enough; there needs protection against the tyranny of the prevailing opinion and feeling, against the tendency of society to impose, by other means than civil penalties, its own ideas and practices as rules of conduct on those who dissent from them." John Stuart Mill (1806-1873), ON LIBERTY, 1859.

"There are men - now in power in this country - who do not respect dissent, who cannot cope with turmoil, and who believe that the people of America are ready to support repression as long as it is done with a quiet voice and a business suit." John V. Lindsay, Speech, University of California, 2 April 1970.

1. The Respondents through an apparent double standard of publicizing criticisms of other individuals and organizations retaliated against the respondent's criticisms of them and their organization known as KeepAndBearArms.com. This retaliation consisted of false and defamatory remarks against the Plaintiff and a conspiratorial action by placing and maintaining a Domain Name Block against FedEx/Kinkos so that the Plaintiff would be prevented from directly accessing KeepAndBearArms.com Web site for Second Amendment news and commentary as the Plaintiff travels about the United States and the world as a U.S. merchant seaman.
2. The Plaintiff further states a claim that the combination of the defamatory emails from the Respondents and the imposed Domain Name Block against FedEx/Kinkos for the purpose of preventing the Plaintiff from visiting online the web site of www.KeepAndBearArms.com constitutes violations of federal antitrust laws as well as the laws of the State of Washington as explained in the Antitrust section of this complaint.
3. The Plaintiff further states a claim that the organized and conspiratorial nature of the defamation is construed as *Ritual Defamation* and is or should become part of the normative tort of defamation. The Appendixes compared with the following outlines for Defamation and Ritual Defamation will prove Plaintiff's case warrants the award of damages.

4. The Respondents are in the profession of writing and publishing opinion-editorial pieces on a wide variety of subjects concerning the Second Amendment rights of the American people. They give praise where it is due so long as it apparently corresponds with their agenda. They berate, condemn, and brutally criticize those who they disagree with. This is a case of people who can dish out criticism of varying degrees of severity but who are apparently not equipped to take the same type of criticism when it is directed against them. So they lash out with insults and character assassinations so severe as to be defamatory. Such is the present case now before the court.

5. Not disputed here is that all parties engaged in an exchange of criticism between the Plaintiff and the Respondents. What is disputed is the Respondents' criticism of the Plaintiff is defamatory. Citing from Marc O. DeGirolami, *CONGRESSIONAL THREATS OF REMOVAL AGAINST FEDERAL JUDGES*, 10 Texas Journal on Civil Liberties & Civil Rights 111 (Spring 2005):

Hypersensitivity to criticism is counterproductive. As everyone understands, thin skin is a characteristic of the insecure.^{8, 9}

There are, of course, numerous generally accepted truths about the value of criticism: that one should be willing to listen to criticism; that criticism, properly understood and assessed, stimulates and promotes self-improvement; that those who are unwilling to hear criticism do themselves a disservice, and so on. Criticism is also rightly valued from the perspective of the speaker. The freedom to criticize at will is a hallmark of an open society. We value uninhibited criticism for what it represents about our capacity to tolerate differing views, even if we recognize that those views vary greatly in worth. . . .¹⁰ In fact, superabundant criticism is not an unmitigated good; to argue otherwise is not to take a realistic and complete view of criticism's power. Alongside the bevy of social virtues should be listed criticism's negative qualities and consequences: criticism is destabilizing; criticism can corrode institutional and social foundations; criticism can be self-serving, mean-spirited, lacking in depth, and motivated by something quite other

⁸ Carl T. Bogus, *CULTURE OF QUIESCENCE*, 9 Roger Williams U. L. Rev. 351, 392-93 (2004).

⁹ The Plaintiff contends that the Respondents are quite capable of dishing out criticism but are *thin skinned* and cannot take criticism when it is directed at them.

¹⁰ The Plaintiff contends that his criticism of whether KeepAndBearArms.com was not living up to its Mission Statement was and is legitimate criticism for the sake of public discourse without any malicious harm intended. It is the Respondents who were *thin skinned* when they retaliated with their defamatory insults.

than the improvement of the criticized.¹¹ These darker sides to criticism are just as germane as its legitimate benefits to a full understanding of criticism's social impact.¹²

6. All of the libelous and defamatory emails that the Respondents sent to or cc:'d the Plaintiff are including in the Appendixes as evidentiary exhibits to this complaint.

"[I]t is recognized that punishment for the abuse of the liberty accorded to the press is essential to the protection of the public, and that the common-law rules that subject the libeler to responsibility for the public offense, as well as for the private injury, are *not abolished by the protection extended in our Constitutions.*" *Near v. State of Minnesota Ex Rel. Olson*, 283 U.S. 697 (1931).

"The most stringent protection of free speech would not protect a man in falsely shouting fire in a theatre and causing a panic." *Schenck v. United States*, 249 U.S. 47 (1919).

The U.S. Supreme Court held that the First Amendment does not protect "fighting words -- those which by their very utterance inflict injury or tend to incite an immediate breach of the peace." *Chaplinsky v. New Hampshire*, 315 U.S. 568 (1942).

Defamation is the uttering of words that "expose one to public hatred, shame,...contempt, ridicule, aversion, ostracism, degradation or disgrace, or...deprive one of their confidence and friendly intercourse in society."¹³ Essential to tort liability is communication of the defamation to someone other than the person defamed.¹⁴

7. In Appendix 14 email to Nicki/Newslink Director - Plaintiff attempted to persuade Nicki of the importance of Second Amendment rights of America seamen at sea.
8. In Appendix 15 Nicki denigrates Plaintiff's submitted article.
9. In Appendix 16 Plaintiff refutes Nicki's attitude and prejudiced judgment against his submitted articles.

¹¹ See James Boyd White, *FREE SPEECH AND VALUABLE SPEECH: SILENCE, DANTE, AND THE "MARKETPLACE OF IDEAS,"* 51 UCLA L. Rev. 799, 813 (2004):

The standard ideology of free speech assumes as its model an independent-minded individual who is speaking unwelcome truths to the world, resisting power, and competing with others in an open market that will test both fact and value. It is with such speakers that we easily identify; it is they whose right to say what we detest we would die to defend. But very little of the speech that makes up our shared world takes this form. Rather, the bulk of our public speech is commercially and politically driven ...

¹² The Plaintiff contends that the criticisms from the Respondents against him are of *negative qualities and consequences, self-serving, mean-spirited, lacking in depth, and motivated by something quite other than the improvement of the criticized.* These darker sides to criticism are just as germane as its legitimate benefits to a full understanding of criticism's social impact. The social impact is defamation and ritual defamation.

¹³ *Kimmerle v. New York Evening Journal*, 186 N.E. 217 (N.Y. 1933).

¹⁴ W. Page Keeton et al., *PROSSER AND KEETON ON THE LAW OF TORTS* 113, at 797 (5th ed. 1984).

10. In Appendix 17 Plaintiff issues dissenting opinion to claim that KABA is not living up to their Mission Statement.

11. In Appendix 18 Alan Gottlieb denigrates the Plaintiff with remarks like, "crude behavior," "does not know how to play with others," "My suggestion is that we all ignore him and let him make a fool out of himself. Giving him any attention is a waste of our time. He will never get it."

12. In Appendix 19 is Plaintiff's rebuttal to Alan Gottlieb's remarks in Appendix 18. Alan Gottlieb subsequently imposed the Domain Name Block against FedEx/Kinkos to prevent the Plaintiff from visiting the Web site online.

13. In Appendix 20 and 21 is Plaintiff's rebuttal to Alan Gottlieb's Domain Name Block.

14. In Appendix 22 is Nicki Fellenzer's reply to Alan Gottlieb's remarks. Her defamatory remarks included "what his malfunction is," "his demented rantings," "Time to just deposit his demented rantings into the circular file. Like I don't have enough to deal with! GEEZ!"

15. In Appendix 23 is Plaintiff's rebuttal to Nicki's reply to Alan Gottlieb's remarks.

16. In Appendix 24 is Plaintiff's reply/rebuttal to Alan Gottlieb's email request the Plaintiff to cease all contact.

17. In Appendix 25 is Respondent's Alan Gottlieb's rebuttal to Plaintiff's reply.

18. In Appendix 26 is Plaintiff's offer to Alan Gottlieb to meet and discuss the misunderstanding developing between the parties by the Plaintiff traveling to the Second Amendment Foundations' offices in Bellevue, Washington. This offer was never answered and was later withdrawn by the Plaintiff due to his circumstances as a merchant seaman.

19. In Appendix 27 is Plaintiff's email to Respondent Alan Gottlieb notifying him of unresolved matters. Included is Alan Gottlieb's remark advising him that he was advised to emailing him (Alan Gottlieb).

20. In Appendix 28 is an exchange of emails between the Plaintiff and Respondent Alan Gottlieb extending from Appendix 27.

21. In Appendix 29 is an exchange of emails between the Plaintiff and Respondent Angel Shamaya. Angel Shamaya takes a remarked out of context about Plaintiff's self-description in Appendix 21. Angel Shamaya employed a character assassination technique by accusing the Plaintiff of being a "stalker" in Appendix 29. This extends from the Plaintiff's attempt to obtain mailing address from the Respondents in accordance with Rule 4 of the Federal Rules of Civil Procedure to properly effect service of summons with complaint.. Excerpt from Appendix 21:

"God Help Me, I don't won't a court fight you people. But you people don't really know me. I can be one stubborn asshole when push comes to shove. I "pushed" by issuing my dissenting opinion in the hope I could spark an open debate about my case.

Mr. Gottlieb "shoved" back by blocking the Kinkos Domain Name to keep my from KABA.COM."

22. Appendix 30 is Plaintiff email advising the Respondents to cease and desist with defamatory remarks.

DEFAMATION¹⁵

I. GENERAL PRINCIPLES

A. MEANING OF "DEFAMATION": The tort called "defamation" is actually two sub-torts, "libel" and "slander." These both protect a person's interest in his reputation. A state's freedom to define these torts as it wishes is sharply curtailed by the First Amendment.

B. PRIMA FACIE CASE: To establish a prima facie case for either libel or slander, Plaintiff must prove:

1. DEFAMATORY STATEMENT:

A false and defamatory statement concerning him;

2. PUBLICATION:

A communicating of that statement to a person other than the plaintiff (a "publication");

3. FAULT:

Fault on the part of Defendant, amounting to at least negligence, and in some instances a greater degree of fault;

4. SPECIAL HARM:

Either "special harm" of a pecuniary nature, or the actionability of the statement despite the non-existence of such special harm.

II. DEFAMATORY COMMUNICATION

A. INJURY TO REPUTATION:

To be defamatory, a statement must have a tendency to harm the reputation of the plaintiff.

1. REPUTATION NOT ACTUALLY INJURED:

For the statement to be defamatory, it need not have actually harmed Plaintiff's reputation. It must simply be the case that, if the statement had been believed, it would have injured Plaintiff's reputation. (But in most cases of slander, and in cases of libel where the defamatory meaning is not apparent from the face of the statement, Plaintiff has to prove "special damage," i.e., that his reputation was in fact damaged and caused him pecuniary harm — this is not part of the definition of "defamatory," however.)

B. MEANING ATTACHED:

Many statements can be interpreted in more than one way. Where this is the case, the statement is defamatory if any one of the interpretations which a reasonable person might make would tend to injure Plaintiff's reputation, and Plaintiff shows that at least one of the recipients did in fact make that interpretation.

1. MEANING NOT APPARENT FROM FACE:

The defamatory nature of the statement need not be apparent on its face. Some statements become defamatory when certain extrinsic facts are known. (Example: A newspaper runs a story saying that Plaintiff gave birth on May 1. This becomes

¹⁵ <http://lawschool.lexis.com/emanuel/torts/epc-tort-chapter17.htm>

defamatory if the reader knows that Plaintiff only got married on Feb. 1 of the same year.)

C. REFERENCE TO PLAINTIFF:

Plaintiff must show that the statement was reasonably interpreted by at least one recipient as referring to Plaintiff.

1. INTENT IRRELEVANT:

But Plaintiff does not necessarily have to show that Defendant intended to refer to him, rather than to someone else. As a common-law matter (putting aside constitutional decisions), even if Defendant behaved non-negligently and intended to refer to someone else entirely, Plaintiff can still sue.

2. GROUPS:

If Defendant's statement concerns a group, and Plaintiff is a member of that group, Plaintiff can recover only if the group is a relatively small one. (Example: The statement, "All lawyers are shysters," would not be defamatory as to any particular lawyer, assuming there was no evidence indicating that the statement was intended to refer to Plaintiff in particular.)

3. REFERENCE NEED NOT BE BY NAME:

If a non-explicit reference to Plaintiff is reasonably understood as in fact referring to Plaintiff, it does not matter that Plaintiff is referred to by a different name or characterization. This is true even if the publication is labeled a "novel."

D. TRUTH:

A statement is not defamatory if it is true. At common law, it is always the defendant who has had the burden of proving truth.

1. MATTERS OF PUBLIC INTEREST:

Today, as the result of constitutional decisions, the plaintiff must bear the burden of proving falsity, if: (1) Defendant is a media organization; and (2) the statement involves a matter of "public interest" (whether Plaintiff is a public figure or a private figure).

2. PRIVATE FIGURE, NO PUBLIC INTEREST OR NON-MEDIA DEFENDANT:

It is probably the case that the states may still require the defendant to bear the burden of proving truth if: (1) the defendant is not a media organization; or (2) the plaintiff is a private figure and the statement is not of public interest.

3. SUBSTANTIAL TRUTH:

For truth to be a barrier to recovery, it is not necessary that the statement be literally true in all respects. Instead, the statement must merely be "substantially" true.

E. OPINION

1. PURE OPINION:

A statement of pure opinion can never be defamatory. (Example: "I think Smith is a disgusting person," without any factual basis for this statement either expressed or implied.)

2. IMPLIED FACTS:

But if a statement of opinion implies undisclosed facts, and a statement of those facts would be defamatory, then the statement will be itself treated as defamatory. (Example: "I think Plaintiff must be an alcoholic" is probably actionable, because it implies that the speaker knows precise facts about Plaintiff's alcohol consumption which would justify an opinion of alcoholism.)

III. LIBEL vs. SLANDER

A. SIGNIFICANCE OF DISTINCTION:

Distinguish between "libel" and "slander." It makes a difference only with respect to the requirement of special harm: to establish slander, Plaintiff must show that he suffered pecuniary harm (unless the statement falls into one of four special categories). To prove libel, by contrast, Plaintiff does not have to show such special harm (except, in some courts, if the defamatory nature of the statement is not evident on its face).

B. LIBEL:

Libel consists mainly of all written or printed matter.

1. EMBODIED IN PHYSICAL FORM:

Most states hold that it also includes any communication embodied in "physical form." (Examples: A phonograph record, or a computer tape, would be libel in most courts.)

2. RADIO AND TV:

Where a program is broadcast on radio or TV:

a. WRITTEN SCRIPT:

If it originated with a written script, all courts treat it as libel.

b. NO SCRIPT:

If the program is "ad libbed" rather than coming from a written script, courts are split as to whether it is libel or slander.

C. SLANDER:

All other statements are slander. An ordinary oral statement, for instance, is slander.

D. SPECIAL HARM:

Plaintiff may generally establish slander only if he can show that he has sustained some "special harm." This harm generally must be of a pecuniary nature. (Example: Plaintiff shows only that his friends believed Defendant's defamatory statements, and the friends now socially reject Plaintiff. If the statement is slander, and does not fall within one of the four "slander per se" categories, Plaintiff cannot recover.)

1. "SLANDER PER SE":

There are four kinds of utterances which, even though they are slander rather than libel, require no showing of special harm:

a. CRIME:

Statements imputing morally culpable criminal behavior to Plaintiff.

b. LOATHSOME DISEASE:

Statements alleging that Plaintiff currently suffers from a venereal or other loathsome and communicable disease.

c. BUSINESS, PROFESSION, TRADE OR OFFICE:

An allegation that adversely reflects on Plaintiff's fitness to conduct her business, trade, profession or office. (Example: "Plaintiff cheats his customers.")

~~Plaintiff's business, trade, profession or office.~~

Statement imputing serious sexual misconduct to Plaintiff.

2. LIBEL:

In the case of libel, at common law courts do not require proof of actual harm, and can award "presumed" damages even without a showing of harm. However, recent Supreme Court decisions cut back on the states' ability to do this:

a. MATTERS OF PUBLIC CONCERN:

If the statement involves a matter of public concern or a public figure, and recovery is allowed without proof of "actual malice," presumed damages may not constitutionally be awarded.

b. MATTER OF PRIVATE CONCERN:

But if the defamatory statement does not involve a matter of "public concern," presumed damages may be allowed, even without a showing of "actual malice." (Example: Defendant, a credit reporting agency, sends a subscriber a written report falsely stating that Plaintiff is insolvent. Since the statement is not of "public interest," Plaintiff may recover \$50,000 presumed damages without showing any financial loss, and without showing that Defendant knew of the falsity or recklessly disregarded the truth. [*Dun & Bradstreet v. Greenmoss Builders*])

c. ACTUAL MALICE:

If Plaintiff does show "actual malice" (that Defendant either knew of the falsity or recklessly disregarded the truth), presumed damages may probably be constitutionally awarded, even if Plaintiff is a public figure and the matter is one of public interest.

IV. PUBLICATION

A. REQUIREMENT OF PUBLICATION GENERALLY:

Plaintiff must show that the defamation was "published." "Publication" means merely "seen or heard by someone other than the plaintiff."

1. MUST BE INTENTIONAL OR NEGLIGENT: Defendant's publication must have been either intentional or negligent. Thus there is no "strict liability" as to the publication requirement. (Example: Defendant makes a defamatory statement to Plaintiff himself; Defendant does not realize that X may overhear the statement, but X does overhear it. Defendant has no liability for defamation.)

B. REPEATER'S LIABILITY:

One who repeats a defamatory statement made by another is held to have published it, and is liable as if he were the first person to make the statement. This is true even if he indicates the source, and indicates that he himself does not believe the statement. (Example: Defendant says, "X told me that Plaintiff is a thief who steals from his customers, though I doubt it." Technically, Defendant has published the defamatory statement, and can be liable.)

V. INTENT

A. COMMON-LAW STRICT LIABILITY:

At common law, libel and slander were essentially strict liability torts. Plaintiff had to show that the publication occurred due to Defendant's intent or negligence, but did not have to show intent or negligence as to any of the other aspects. For instance, it was irrelevant that Defendant had every reason to believe that the statement was true.

B. CONSTITUTIONAL DECISIONS:

But recent Supreme Court decisions on the First Amendment have eliminated courts' right to impose strict liability for defamation. The precise mental state which Defendant must be shown to have met depends on whether Plaintiff is a public figure:

1. PUBLIC FIGURE:

If Plaintiff is a "public figure," he can recover only if he shows that Defendant made the statement with either: (1) knowledge that it was false; or (2) "reckless disregard" of whether it was true or false. [*New York Times v. Sullivan*] (These two alternate states of mind are collectively called "actual malice," which is a term of art.)

a. MEANING OF "RECKLESS DISREGARD":

For Plaintiff to show that Defendant "recklessly disregarded" the truth, is not enough to show that a "reasonably prudent person" would not have published, or would have done further investigation. Instead, Plaintiff must show that Defendant in fact entertained serious doubts about the truth of the statement.

2. PRIVATE FIGURES:

But if Plaintiff is neither a public official nor a public figure, he is not constitutionally required to prove that Defendant knew his statement was false or recklessly disregarded whether it was true or false. [*Gertz v. Robert Welch, Inc.*]

a. NO STRICT LIABILITY:

However, the First Amendment prohibits a state from applying strict liability, even in the "private figure" situation, at least if the suit is against a media defendant. In other words, even in suits brought by private figure plaintiffs, Plaintiff must prove that Defendant was at least negligent in not ascertaining the statement's falsity. (In suits by a private-figure plaintiff against a private individual or other non-media defendant, the Supreme Court has never said whether strict liability is allowable, so it may be.)

b. NEGLIGENCE, RECKLESSNESS OR INTENT:

Thus in suits brought by private figures against media defendants, the states are free to decide whether they wish to use negligence, recklessness or intent as the standard.

VI. PRIVILEGES

A. ABSOLUTE PRIVILEGES:

An "absolute" privilege applies even if Defendant was motivated solely by malice or other bad motives. The following classes of absolute privilege are usually recognized:

1. JUDICIAL PROCEEDINGS:

Judges, lawyers, parties and witnesses are all absolutely privileged in what they say during the course of judicial proceedings, regardless of the motives for their statements. (Example: D, in a pleading in a civil lawsuit between him and P, calls Plaintiff a crook. Plaintiff cannot recover from Defendant for defamation, even if Plaintiff shows that Defendant knew Defendant's statement was a lie.)

2. LEGISLATIVE PROCEEDINGS:

Legislators acting in furtherance of their legislative functions are absolutely privileged.

3. GOVERNMENT OFFICIALS:

Many government officials have absolute immunity for statements issued in the course of their jobs. Thus all federal officials, and all high state officials, have this privilege.

4. HUSBAND AND WIFE:

Any communication between a husband and wife is absolutely privileged.

5. CONSENT:

Any publication that occurs with the consent of the plaintiff is absolutely privileged.

B. QUALIFIED PRIVILEGE:

Other privileges are merely "qualified" or "conditional" ones. A qualified privilege will be lost if Defendant is acting primarily from malice, or from some other purpose not protected by the privilege.

1. PROTECTION OF PUBLISHER'S INTERESTS:

Defendant is conditionally privileged to protect his own interests, if these are sufficiently important, and the defamation is directly enough related to those interests. (Example: If Defendant reasonably believes that his property has been stolen by Plaintiff, he may tell the police of his suspicions. If Defendant's belief is reasonable, he is protected against a slander action by Plaintiff, even if his suspicions are wrong.)

2. INTEREST OF OTHERS:

Similarly, Defendant may be qualifiedly privileged to act for the protection of the recipient of his statement, or some other third person. The issue is whether Defendant's statement is "within the generally accepted standards of decent conduct."

a. OLD BOSS TO NEW BOSS:

Thus an ex-employer generally has the right to give information about his ex-employee to a new, prospective, employer if asked by the latter.

3. PUBLIC INTEREST:

Defendant may be conditionally privileged to act in the public interest. (Example: A private citizen's reasonable but mistaken accusation made to the police that Plaintiff committed a crime would be covered.)

4. REPORT OF PUBLIC PROCEEDINGS:

There is a conditional privilege to report on public proceedings, such as court cases, legislative hearings, etc. (Example: Defendant, a newspaper, accurately reports that in a lawsuit, X has called Plaintiff a crook and a liar. Even if X's statement is completely untrue and was made with malice, Defendant has a qualified privilege to make the report of the public proceeding, and therefore may not be sued for libel.)

5. NEUTRAL REPORTAGE:

A few cases have recognized a "neutral reportage" privilege. Under this privilege, one who correctly and neutrally reports charges made by one person against another will be protected if the charges are a matter of public interest, even if the charges are false. (Example: D, a newspaper, runs a story saying, "Citizen said at a press conference that he saw Mayor Brown take a bribe from a developer." If Citizen really made these charges, Defendant would be protected under the "neutral reportage" privilege even if Defendant had serious doubts about the truth of the charges. This is so even though Defendant's doubts would cause Defendant's conduct to constitute "actual malice" under *New York Times v. Sullivan*.)

C. ABUSE OF QUALIFIED PRIVILEGE:

Even where a qualified privilege exists, it may be abused (and therefore forfeited) in a number of ways.

1. ACTUAL MALICE:

Most importantly, the privilege will be lost if Defendant knew that his statement was false, or acted in reckless disregard of whether it was true. (Example: Defendant, Plaintiff's ex-employer, is asked for information by X, Plaintiff's new prospective employer, concerning Plaintiff's work. Defendant's clerk negligently misreads the file, and asserts that Plaintiff was fired for dishonesty, when in fact Plaintiff quit voluntarily. If the clerk is shown to have behaved recklessly, Defendant's qualified privilege — to protect the interest of a third person by commenting on an employee's fitness — will be deemed abused and thus forfeited. But if the clerk was only negligent, the privilege will probably not be lost.)

2. EXCESSIVE PUBLICATION:

The privilege is abused if the statement is made to persons to whom publication is not reasonably necessary to protect the interest in question, or if more damaging information is stated than is reasonably needed.

VII. REMEDIES

A. DAMAGES:

A successful defamation plaintiff may recover various sorts of damages:

1. COMPENSATORY DAMAGES:

First, of course, Plaintiff may recover compensatory damages. These can include:

a. PECUNIARY:

Items of pecuniary loss (e.g., Plaintiff's lost earnings from being fired from her job, due to Defendant's statement to Plaintiff's boss that Defendant was dishonest in the last job).

b. HUMILIATION, LOST FRIENDSHIP:

Compensation for humiliation, lost friendship, illness, etc. (even though these items would not count as "special harm" for purposes of slander).

2. PUNITIVE DAMAGES:

Also, under some circumstances punitive damages may be awarded:

a. PUBLIC FIGURE OR MATTER OF PUBLIC INTEREST:

If Plaintiff is a public figure, or the case involves a matter of public interest, punitive damages may be awarded only on a showing that Defendant knew his statements were false or recklessly disregarded the truth. (That is, the "actual malice" requirement of *New York Times v. Sullivan* extends, as far as punitive damages go, not only to public figures but also to private figures suing on matters of public interest.) [*Gertz v. Robert Welch*]

b. PRIVATE FIGURE/PRIVATE MATTER:

But if Plaintiff is a private figure and Defendant's statement relates to a private matter, then punitive damages may be awarded even if Plaintiff shows only that Defendant was negligent. (Example: Defendant, a credit reporting agency, falsely reports to a few subscribers that Plaintiff, a corporation, is insolvent. Because Plaintiff is a private figure and the report did not involve any matter of public concern, punitive damages can be awarded, as a constitutional matter. [*Dun & Bradstreet v. Greenmoss Builders*])

3. NOMINAL DAMAGES:

Even a plaintiff who has suffered no direct loss may recover nominal damages, to "clear his name." Certainly if Plaintiff shows knowledge of falsehood or reckless disregard of the truth on the part of Defendant, Plaintiff may recover nominal damages. It is not clear whether or when a plaintiff who shows less than this may recover nominal damages.

B. RETRACTION:

Most states have enacted "retraction" statutes. Some of these statutes hold that if Defendant publishes a retraction within a certain period, this bars Plaintiff from recovery. Other statutes merely require news organizations to grant a right of response to P, without providing that this eliminates Plaintiff's defamation action.

THE PRACTICE OF RITUAL DEFAMATION

HOW VALUES, OPINIONS AND BELIEFS ARE CONTROLLED IN DEMOCRATIC SOCIETIES.

Laird Wilcox,¹⁶ 1990

Defamation is the destruction or attempted destruction of the reputation, status, character or standing in the community of a person or group of persons by unfair, wrongful, or malicious speech or publication.

For the purposes of this essay, the central element is defamation in retaliation for the real or imagined attitudes, opinions or beliefs of the victim, with the intention of silencing or neutralizing his or her influence, and/or making an example of them so as to discourage similar independence and "insensitivity" or non-observance of taboos.

It is different in nature and degree from simple criticism or disagreement in that it is aggressive, organized and skillfully applied, often by an organization or representative of a special interest group, and in that it consists of several characteristic elements.

Ritual Defamation is not ritualistic because it follows any prescribed religious or mystical doctrine, nor is it embraced in any particular document or scripture. Rather, it is ritualistic because it follows a predictable, stereotyped pattern which embraces a number of elements, as in a ritual.

THE ELEMENTS OF A RITUAL DEFAMATION ARE THESE:

PLAINTIFF'S COMMENTARY

1. In a ritual defamation the victim must have violated a particular taboo in some way, usually by expressing or identifying with a forbidden attitude, opinion or belief. It is not necessary that he "do" anything about it or undertake any particular course of action, only that he engage in some form of communication or expression.
2. The method of attack in a ritual defamation is to assail the character of the victim, and never to offer more than a perfunctory challenge to the particular attitudes, opinions or beliefs expressed or implied. Character assassination is its primary tool.

Because of the Respondents' apparent aversion to the Plaintiff and his case over the previous 3 years the Plaintiff dared to question whether KeepAndBearArms.com was living up to its Mission Statement. This act of questioning their activities was the "particular taboo" necessary to trigger ritual defamation.

Appendixes 6 through 16 represent an exchange of emails between KABA and the Plaintiff criticizing KABA for their obvious indifference to Plaintiff's Second Amendment case. Appendix 17 is Plaintiff's dissenting opinion on their Mission Statement. Appendixes 18 through 30 represent the escalation of the criticisms to flaming defamatory insults from the Respondents which can be construed as character assassination because they had no logical explanation to disprove Plaintiff's criticisms.

¹⁶ The author apparently issued two versions of this article, on longer than the other. There article presented herein is a combined version of those two different versions. The two versions are available online at: [http://www.lairdwilcox.com/Ritual Defamation_files/defame.htm](http://www.lairdwilcox.com/Ritual%20Defamation_files/defame.htm), - and at: <http://www.talkabouttaxes.com/group/can.taxes/messages/80711.html>

3. An important rule in ritual defamation is to avoid engaging in any kind of debate over the truthfulness or reasonableness of what has been expressed, only condemn it. To debate opens the issue up for examination and discussion of its merits, and to consider the evidence that may support it, which is just what the ritual defamer is trying to avoid. The primary goal of a ritual defamation is censorship and repression.
4. The victim is often somebody in the public eye - someone who is vulnerable to public opinion - although perhaps in a very modest way. It could be a schoolteacher, writer, businessman, minor official, or merely an outspoken citizen. Visibility enhances vulnerability to ritual defamation.
5. An attempt, often successful, is made to involve others in the defamation. In the case of a public official, other public officials will be urged to denounce the offender. In the case of a student, other students will be called upon, and so on.
6. In order for a ritual defamation to be effective, the victim must be dehumanized to the extent that he becomes identical with the offending attitude, opinion or belief, and in a manner which distorts it to the point where it appears at its most extreme. For example, a victim who is defamed as a "subversive" will be identified with the worst images of subversion, such as espionage, terrorism or treason. A victim defamed as a "pervert" will be identified with the worst images of perversion, including child molestation and rape. A victim defamed as a "racist" or "anti-Semitic" will be identified with the worst images of racism or anti-Semitism, such as lynchings or gas chambers.

With Appendix 17 representing the escalation where defamatory remarks were transmitted by email to people who were not the parties in this case the Plaintiff's attempt to discuss the matter (Appendixes 19, 20, 21, 23, 24, 26, 27) in face of the Respondents belligerence: KABA News Director (Appendixes 18, 22). Gottlieb (Appendix 25); and Shamaya (Appendix 29)

The Plaintiff is in the public eye with his Second Amendment court cases. Especially so when he is attempting to get authentic news coverage from the Respondents. Alan Gottlieb himself, through his CCRKBA and the Second Amendment Foundation continuously issues press releases through U.S. Newswire linkable through the Drudge Report.

The Plaintiff witnessed no evidence of a recruitment drive by the Respondents. But that doesn't mean they did not attempt a recruitment drive in the defamation. If evidence of this exist it will come out in the discovery phase.

In Appendixes 5, 15, 16, and 22 are the exchanges of emails between the Plaintiff and Nicki Fellenzer regarding the Plaintiff's Second Amendment case as a merchant seaman. The Plaintiff was dehumanized by being told that his articles must be "relevant to Second Amendment rights" as though piracy at sea has no Second Amendment implications.

7. Also to be successful, a ritual defamation must bring pressure and humiliation on the victim from every quarter, including family and friends. If the victim has school children, they may be taunted and ridiculed as a consequence of adverse publicity. If they are employed, they may be fired from their job. If the victim belongs to clubs or associations, other members may be urged to expel them.

David Codrea, a contributing columnist for KABA was an advocate for the Plaintiff early on. But because of this case David Codrea has disassociated himself from the Plaintiff. See Appendix 4.
8. Anyone who defends a victim runs the risk of being associated with him and similarly defamed. Even if their own reputation is beyond question, their judgment and involvement with the victim may become an issue. Often, the victim of a ritual defamation becomes isolated and abandoned.

This could be an explanation for why David Codrea disassociated himself from the Plaintiff.
9. Any explanation the victim may offer, including the claim of being misunderstood, is considered irrelevant. To claim truth as a defense for a politically incorrect value, opinion or belief is interpreted as defiance and only compounds the problem. Ritual defamation is often not necessarily an issue of being wrong or incorrect but rather of "insensitivity" and failing to observe social taboos.

This is clearly evident in the exchange of emails shown in the appendixes.
10. Many victims succumb early and go through a "confessional" stage complete with apologies and even remorse. They may even denounce friends associated with the forbidden attitudes, opinions and beliefs, or claim they were "duped", as was the case with many suspected "subversives" during the McCarthy era. If the charges against them involve "morals", they may claim stress or mental illness as a defence.

The Plaintiff refused to succumb to this coerced confessional stage of ritual defamation. The Plaintiff stands for principal and doing the right thing in all things. The Plaintiff lives by the Biblical Golden Rule as best he can but will stand up against abuse and defamation preferring to be treated with dignity that he deserves.
11. The viciousness of ritual defamation is inspired not merely by revenge - although that is an important factor - but also to create an example so others will know of the savaging they can expect for stepping out of line. Ritual defamation is an important means of social control.

Since the Respondents are propagandists for national reciprocity for licensed concealed carry and the Plaintiff's case concerns national open carry handgun, whether licensed or not this conflict of agendas is the exact provocation needed for the Respondents to censor and suppress the Plaintiff's case from public awareness by denying press coverage.

12. An interesting aspect of ritual defamation is its universality. It is not specific to any particular value, opinion or belief or to any group or sub-culture. It may be used for or against any political, ethnic, or religious minority and also by any political, ethnic or religious minority.

So it is perfectly adaptable for stating a claim in the present case.

13. The power of ritual defamation lies entirely in its capacity to intimidate. It embraces some elements of primitive superstitious belief, as in a "curse" or "hex". It also plays on the subconscious fear most people have of being rejected by the "tribe" and being cut off from social and psychological support systems.

It is because the Plaintiff has studied various forms of harassment, bullying, and defamation that he was able to stand up against the psychological badgering committed by the Respondents.

Only the truly courageous and independent person can withstand the full force of a ritual defamation, and occasionally they may even survive such an attempt relatively unscathed.

14. The weak points of ritual defamation lie in its tendency toward over-kill and in its rather transparent maliciousness.

Occasionally, a ritual defamation will fail because of inadequate planning and failure to correctly estimate the vulnerability of the victim.

Ritual defamers often exhibit extensive projective mechanisms and delusions of persecution themselves. Although it may appear to be an offensive maneuver, it's actually quite defensive in nature.

Eric Hoffer said, *"You can discover what your enemy fears most by observing the means he uses to frighten you."* The True Believer, 1951

Because Alan Gottlieb use of threats of litigation against the Plaintiff and refusing to state the grounds for such litigation the Plaintiff saw through Alan Gottlieb's belligerent rants as over-kill in the use of his so-called logical persuasion.

Hence the Plaintiff's use of the following quote: *Hypersensitivity to criticism is counterproductive. As everyone understands, thin skin is a characteristic of the insecure.* See page 7.

15. Paradoxically, a ritual defamation often brings about the very attitudes, opinions and beliefs that it condemns, as in a self-fulfilling prophecy. It enhances paranoia and hatred and generally serves to divide and alienate. It hardens positions and polarizes a situation as nothing else can.

The more that the Respondents libelously attacked the Plaintiff the more determined the Plaintiff became in seeking resolution of the dispute, either politically or litigiously.

A person accused of supporting a particular belief may find them selves propelled into that position. **Politically, for example, it's quite effective in creating rebels and dissidents.**

It has been used in various forms by dictatorships and totalitarian systems all throughout history. In democratic societies it has become a favourite tool of special interest groups to vilify and neutralize their critics and opponents.

So it is that the Plaintiff has rebelled against the Second Amendment Foundation and the National Rifle Association (NRA) for their aversion of Second Amendment rights of American merchant seamen whether ashore or at sea. The Plaintiff is now pursuing the creation and establishing of a new Second Amendment organization, *American Common Defence Review*, focusing on the Second Amendment through the Common Defence clause of the Preamble to the U.S. Constitution.

An interesting aspect of ritual defamation as a practice is its universality. It is not specific to any value, opinion or belief or to any group or subculture. It may be used for or against any political, ethnic, national or religious group. It may, for example, be by anti-Semites against Jews, or by Jews against anti-Semites; by rightists against leftists or by leftists against rightists, and so on.

The power of ritual defamation lies entirely in its capacity to intimidate and terrorize. It embraces some elements of primitive superstitious belief, as in a "curse" or "hex." It plays into the subconscious fear most people have of being abandoned or rejected by the tribe or by society and being cut off from social and psychological support systems.

The weakness of ritual defamation lies in its tendency toward overkill and in its obvious maliciousness. Occasionally a ritual defamation will fail because of poor planning and failure to correctly judge the vulnerability of the victim or because its viciousness inadvertently generates sympathy.

It's important to recognize and identify the patterns of a ritual defamation. Like all propaganda and disinformation campaigns it is accomplished primarily through the manipulation of words and symbols. It is not used to persuade, but to punish. Although it may have cognitive elements, its thrust is primarily emotional. Ritual Defamation is used to hurt, to intimidate, to destroy, and to persecute, and to avoid the dialogue, debate and discussion upon which a free society depends. On those grounds it must be opposed no matter who tries to justify its use.

PERMANENCY OF CONSTITUTIONAL RIGHTS

"Making constitutional rights inalienable because citizens may undervalue the worth of those rights to themselves would be classic paternalism overruling individuals' choices for their own good. Individuals' choices may diverge from their "best" interests for many reasons: for example, because they under-assess risk or under-value their long-term interests. Choices to waive constitutional rights are no exceptions; invalidating such choices, even if perfectly voluntary, compels citizens to hang onto their rights for their own good." Kathleen M. Sullivan's, UNCONSTITUTIONAL CONDITIONS, 10 Harv.L.Rev. 1413 at 1480 (May 1989).

QUOTATIONS ON CENSORSHIP

"It is the characteristic of the most stringent censorships that they give credibility to the opinions they attack." VOLTAIRE (1694-1778), *Poeme sur le desastre de Lisbonne*, 1958.

"It is an ancient truth that freedom cannot be legislated into existence, so it is no less obvious that freedom cannot be censored into existence. And any who act as if freedom's defenses are found in suppression and suspicion and fear confess a doctrine that is alien to America." Dwight D. Eisenhower (1890-1969), U. S. President, Letter, 24 June 1953.

"It is our attitude toward free thought and free expression that will determine our fate. There must be no limit on the range of temperate discussion, no limits on thought. No subject must be taboo. No censor must preside at our assemblies." William O. Douglas (1898-1980), U. S. Supreme Court Justice, Address, Author's Guild, 1952.

"In order to get the truth, conflicting arguments and expression must be allowed. There can be no freedom without choice, no sound choice without knowledge." David K. Berninghausen, *ARROGANCE OF THE CENSOR*, 1982.

"The censor believes that he can hold back the mighty traffic of life with a tin whistle and a raised right hand. For after all, it is life with which he quarrels." Heywood Broun (1888-1939), in *THE FIFTY YEAR DECLINE OF HOLLYWOOD* (E. Goodman), 1961.

"From a comparative perspective, the United States is unusual if not unique in the lack of restraints on freedom of expression. It is also unusual in the range and effectiveness of methods employed to restrain freedom of thought... Where the voice of the people is heard, elite groups must insure their voice says the right things." Noam Chomsky, *INDEX ON CENSORSHIP*, July/August 1986.

"Censorship is never over for those who have experienced it. It is a brand on the imagination that affects the individual who has suffered it, forever." Noam Chomsky, *American Linguist*.

"Censorship always defeats its own purpose, for it creates, in the end, the kind of society that is incapable of exercising real discretion... In the long run it will create a generation incapable of appreciating the difference between independence of thought and subservience." Henry Steele Commager (1902-1998), *FREEDOM, LOYALTY AND DISSENT*, 1954.

"Censorship is contagious, and experience with this culture of regulation teaches us that regulatory enthusiasts herald each new medium of communications as another opportunity to spread the disease." Robert Corn-Revere, *RATIONALES AND RATIONALIZATIONS: REGULATING THE ELECTRONIC MEDIA*, 1997.

"What censorship accomplishes, creating an unreal and hypocritical mythology, fomenting an attraction for forbidden fruit, inhibiting the creative minds among us and fostering an illicit trade. Above all, it curtails the right of the individual, be he creator or consumer, to satisfy his intellect and his interest without harm. In our law-rooted society, we are not the keeper of our brother's morals - only of his rights." Judith Crist, *CENSORSHIP: FOR AND AGAINST*, 1971.hem. RONALD DWORKIN, *Index on Censorship*, March 1997.

"When there is official censorship it is a sign that speech is serious. Where there is none, it is pretty certain that the official spokesmen have all the loud-speakers." Paul Goodman, *GROWING UP ABSURD*, 1960.

LAW

"I shall not counsel or maintain any suit or proceeding which shall appear to me to be unjust, nor any defense except such as I believe to be honestly debatable under the law of the land." American Bar Association, *OATH FOR CANDIDATES SEEKING ADMISSION TO THE BAR*, 1925.

"It is a part of the function of 'law' to give recognition to ideas representing the exact opposite of established conduct. Most of the complications arise from the necessity of pretending to do one thing, while actually doing another." Thurman Arnold (1891-1969), *THE SYMBOLS OF GOVERNMENT*, 1935.

"Persecution in intellectual countries produces a superficial conformity, but also underneath an intense, incessant, implacable doubt." Walter Bagehot (1826-1877), *CONTEMPORARY REVIEW*, April 1874.

QUOTATIONS ON DISSENT

"It is the mark of an educated man to be able to entertain a thought without accepting it." Aristotle (384-322 B.C.).

"The dissenting opinion has continued since 1792 as a great American tradition. It is as true to the character of our democracy as of speech itself." William Orville Douglas

"I here in America we are descended in blood and in spirit from revolutionists and rebels -- men and women who dare to dissent from accepted doctrine. As their heirs, may we never confuse honest dissent with disloyal subversion." Dwight D. Eisenhower

"In a number of cases dissenting opinions have in time become the law" - Charles Evans Hughes quotes (American jurist and statesman. 1862-1948)

"Acceptance of dissent is the fundamental requirement of a free society." Anonymous

"No matter that patriotism is too often the refuge of scoundrels. Dissent, rebellion, and all-around hell-raising remain the true duty of patriots." Barbara Ehrenreich

"Has there ever been a society which has died of dissent? Several have died of conformity in our lifetime." Jacob Bronowski

"Find more pleasure in intelligent dissent rather than passive agreement; for if you value intelligence as you should, the former implies a deeper agreement than the latter." Bertrand Russell (English logician and philosopher 1872-1970)

"The dissenter is every human being at those moments of his life when he resigns momentarily from the herd and thinks for himself." Archibald Macleish

"In a time of universal deceit, telling the truth becomes a revolutionary act." George Orwell

"Assent -- and you are sane --, demur -- you're straightway dangerous --, and handled with a Chain --." Emily Dickinson

"You do not become a 'dissident' just because you decide one day to take up this most unusual career. You are thrown into it by your personal sense of responsibility, combined with a complex set of external circumstances. You are cast out of the existing structures and placed in a position of conflict with them. It begins as an attempt to do your work well, and ends with being branded an enemy of society." Vaclav Havel

LAW AND ORDER

"Procedure is the bone structure of a democratic society. Our scheme of law affords great latitude for dissent and opposition. It compels wide tolerance not only for their expression but also for the organization of people and forces to bring about the acceptance of the dissenter's claim....We have alternatives to violence." Abe Fortas, U. S. Supreme Court Justice, *CONCERNING DISSENT AND CIVIL DISOBEDIENCE*, 1968.

"I believe that the community is already in process of dissolution where each man begins to eye his neighbor as a possible enemy, where non-conformity with the accepted creed, political as well as religious, is a mark of disaffection; where denunciation, without specification or backing, takes the place of evidence, where orthodoxy chokes freedom of dissent; where faith in the eventual supremacy of reason has become so timid that we dare not enter our convictions in the open lists, to win or lose." Learned Hand (1872-1961), Judge, U. S. Court of Appeals, Speech, New York University, 24 October 1952.

"Those who begin coercive elimination of dissent soon find themselves exterminating dissenters. Compulsory unification of opinion achieves only a unanimity at the graveyard." ROBERT H. JACKSON (1892-1954), U. S. Supreme Court Justice.

THE HEGELIAN DIALECTIC

<http://www.mega.nu:8080/ampp/intro2.html>

The dialectical method of Georg Wilhelm Friedrich Hegel (1770-1831) consists of two main steps: the invention of artificial extremes ("thesis" and "antithesis") which superficially conflict with each other, and the synthesis from that conflict of a goal, which is made to appear to be the product of consensus. The artificial extremes are chosen and propagandized (marginalizing the population) in such a way that the goal is naturally synthesized from them. It is, essentially, a trick - a fraud. It is a strategy of ideological divide-and-conquer. The dialectic ruse dissipates the energy and coherency of its targets - unless they recognize the ruse as such.

Hegel was a fountain of awful ideas, liberally cribbed by Marx and Engels, by the sickly and neurologically defective Mary Baker Eddy (founder of the Church of Christ, Scientist, which - as evidenced by its concept of "Malicious Animal Magnetism" - is in fact similar to Scientology), and by the Unitarians (who are historical proponents of universal government schooling in pursuit of socialist indoctrination). Hegel was an influence on famed phenomenologist Martin Heidegger (1889-1978) (NSDAP#3125894, 1933-May-1) (author of *Being and Time* (1927) and a critic of Hegel's methods), on French existentialist phenomenologist and Marxist Jean-Paul Sartre (1905-1980) (author of *The Transcendence of the Ego* (1937) and *Being and Nothingness* (1943)), and on "spiritualist" utopian Marxist philosopher Ernst Bloch (*Das Prinzip Hoffnung* (The Principle of Hope)).

A central precept of the Hegelian ethic is that people are principally motivated by the desire to receive the approval and recognition of others, and to avoid their disapproval. Since this motivation is not predicated on the reasonableness of that approval or disapproval, the principle is a mechanism by which an individual delegates arbitrary control to others. This is, obviously, an enabling principle of collectivism. By encouraging people to embrace this tendency, and amplify it into a preeminent mechanism of decision making, Hegelianism works directly to subvert the individual.

Here is a telling excerpt from *Critical Theory and the Limits of Sociological Positivism*, an essay by Marxists George N. Katsiaficas (UCSD) and Mary Lou Emery (Stanford):

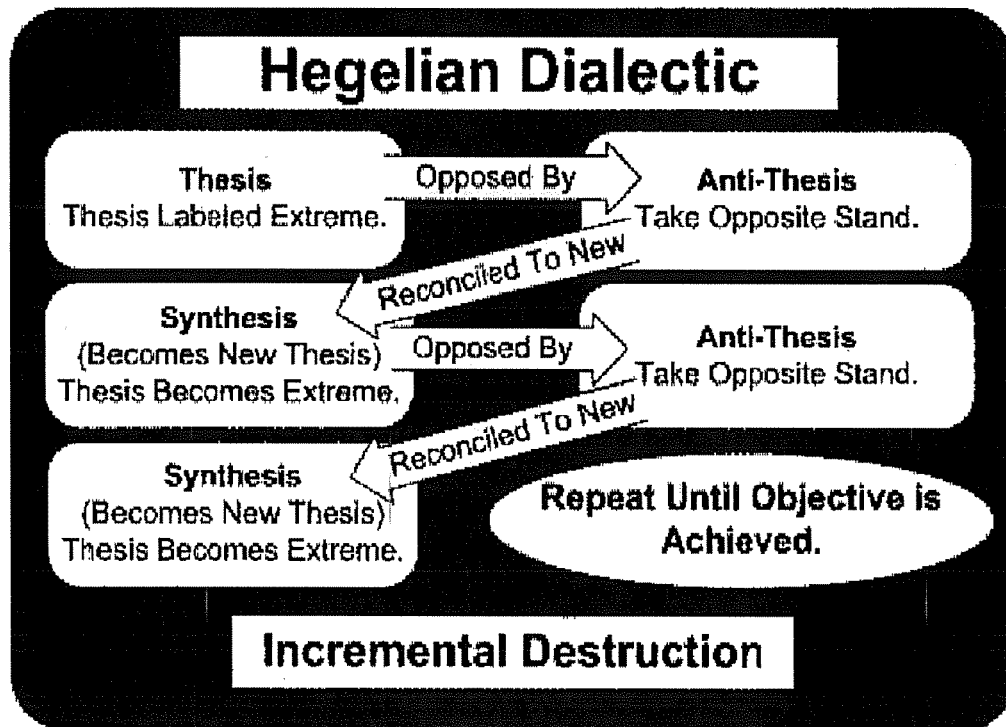
The methodological basis of the critical theory of society is the dialectical logic of George F. Hegel (1956). According to the principles of dialectical logic, "That which is cannot be true," (Marcuse, 1941).

[...]

Other scholars have referred to the critical theory of society as Hegelian/Marxism, or dialectical Marxism (Klare and Howard, 1971).

In the above, one can already recognize the denial of facts, the general relativism, the very rejection of reality, that is the hallmark of the cryptomarxist liberal.

A Hegelian dialectic can be called a "triple-false dichotomy" - three lies that jail. A triple-false dichotomy is an ostensible dichotomy between two artificial, i.e. false, extremes, which are not in fact diametric in consequence (that is, the third falsehood is the precept that the extremes are related dichotomously). Each extreme is nonsensical or otherwise morally void, and by causing rhetoric to be dominated by ostensible adherents of these extremes, those exposed lose some or most of their capacity to reason about the topic. The most frightening, insidious way that reason is subverted is this: a dialectical environment is one in which the synthesis is something like a geometric bisection of the positions of two roughly equally extreme (and irrational) poles. In this environment, people at the poles (most people) fear to venture toward forthright support of a rational middle ground (solution, as distinct from synthesis) because they expect the synthesis to then be skewed in the direction of their polar



opponents. People are locked at the poles and unwilling to openly discuss the domain of the solution, expecting such discussion to be interpreted as weakness, with the result that the synthesis has free reign and the solution has little chance to be realized.

Sometimes one of the two dialectic extremes is sufficiently absurd in the present cultural context that it has no adherents, and is employed only as a rhetorical tool.

A very familiar example of a dialectic is the Mac vs. Windows question. Amusingly, there is even an evident liberal loyalty to the Mac and conservative loyalty to Windows. Both of these operating system families are essentially bad. If you synthesize the two, producing an operating system exhibiting characteristics of both parent operating system families, you still have an essentially bad operating system. If you want to solve the problem and enjoy operating system reliability, security, performance, flexibility, and versatility, you run Unix - the nominally unpopular, nominally esoteric, largely unsupported third option. The sheer number of people who have rejected the Mac-Windows dialectic and adopted Linux (7.5m-10m according to the Economist 1999-Feb-20) is producing a demand many software houses can't and don't ignore. The establishment cannot enforce dialectics on software because of its ethereal mobility, and because of first amendment protection in the US and similar protections in other countries. Also observe that Microsoft has now invested in Apple, yet Apple's next generation operating system ("Darwin" a.k.a. MacOS X) is a dialect of Unix (based on BSD 4.4) - with systems software, Hegelian synthesis does not work, and only that which works can survive.

In the realm of public elections, however, the situation is quite the opposite. The establishment can and does enforce dialectics, shredding morale and integrity. In popular voting and in legislatures, there is a 50% threshold for approval, an artificially low threshold subject to fluttering and hysteresis, ideally suited to manipulation by the dialectical method and by the mass media. The winner-take-all model is an obviously corrupt principle, in which the intent of those voters who voted against the victor are ostensibly represented by the victor, who then claims to command the authority not just of those who voted for him, but of all those who were eligible to vote for him. Since most of any large population

- 60%, 70%, or higher - consists of people of ordinary intelligence, preoccupied with the mechanics of making a living in a specialty disconnected from politics, centralized control of a mass media apparatus can always be translated into dictation of who is elected (this centralization of control is detailed in the media chapter of my compilation). Finally, the two-party system is a *prima facie* dialectic, perpetuated by the mass media apparatus, and permitting a second major form of centralized electoral control by controlling who is eligible to run under the banner of one of the two politically subsidized perpetual parties. In short, this is a tyrannical oligarchy, masquerading as a tyranny of the majority, masquerading as a democracy, masquerading as a representative republic.

After the Plaintiff educationally learned of the Hegelian Dialectic as a tactic of the gun control movement in the United States he decided to employ that dialectic in reverse to restore the now functionally non-existent Second Amendment by examining the Second Amendment through the Common Defence clause of the Preamble arriving at the conclusion that the Second Amendment ought to be treated as a near-absolute right of the individual subject to a minimum of infringement through state and federal laws.

WAS THE RIGHT TO KEEP AND BEAR ARMS CONDITIONED ON SERVICE IN AN ORGANIZED MILITIA?

Book Review Essay on *THE MILITIA AND THE RIGHT TO ARMS, OR, HOW THE SECOND AMENDMENT FELL SILENT*. By H. Richard Uviller¹⁷ and William G. Merkel.¹⁸ Durham: Duke University Press, 2002. Pp. xii, 340.

Reviewed by Randy E. Barnett¹⁹

Texas Law Review, Vol. 83, Issue 1, November 2004

Those who deny that the original meaning of the Second Amendment protected an individual right to keep and bear arms on a par with the rights of freedom of speech, press, and assembly no longer claim that the amendment refers only to a "collective right" of states to maintain their militias. Instead, they now claim that the right, although belonging to individuals, was conditioned on service in an organized militia. With the demise of organized militias, they contend, the right lost any relevance to constitutional adjudication. In this Essay, I evaluate the case made for this historical claim by Richard

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¹⁹ Austin B. Fletcher Professor, Boston University School of Law. This paper was originally presented at a symposium at the William & Mary School of Law in January of 2003. I thank Joseph Olson and Jim Lindgren for their helpful suggestions. I am also grateful for helpful comments made during faculty workshops at Seton Hall University and George Mason University law schools. Permission to photocopy for classroom use is hereby granted.

Uviller and William Merkel in their book, *The Militia and the Right to Arms, or, How the Second Amendment Fell Silent*. I also evaluate their denial that the original meaning of the Fourteenth Amendment protected an individual right to arms unconditioned on militia service. I find both claims inconsistent with the available evidence of original meaning and also, perhaps surprisingly, with existing federal law.

Who says that even heated conflicts over constitutional meaning can never progress? Over the past ten years, the intellectual clash between those who claimed that, at the time of the founding, the "right to keep and bear arms" protected by the Second Amendment was a "collective right" of the states to preserve their militia and those who maintain instead that it originally referred to an individual right akin to the others protected in the Bill of Rights has been resolved. That the individual right view prevailed definitively is evidenced by the fact that no Second Amendment scholar, no matter how inimical to gun rights, makes the "collective right" claim any more. All now agree that the Second Amendment originally referred to the right of the individual.¹

Indeed, the fact that the collective right theory was once so confidently advanced by gun control enthusiasts² is on its way down the collective memory hole as though it had never been asserted. With its demise, the intellectual debate over the original meaning of the Second Amendment has turned in a different direction. Although now conceding that the right to keep and bear arms indeed belongs to individuals rather than to states, almost without missing a beat, gun control enthusiasts now claim with equal assurance that the individual right to bear arms was somehow "conditioned" in its exercise on participation in an organized militia.

The "militia-conditioned individual right" theory represents an advance for the anti-gun-rights position. It obviates (a) the copious evidence, both direct and circumstantial, that "the right to keep and bear arms" belonged to individuals³ and (b) the lack of any direct evidence that the Second

Amendment protected some sort of a never-very-well-specified power of states, while (c) allowing opponents of gun rights to maintain, as they did with the "collective right" theory, that the Second Amendment is irrelevant to the constitutionality of modern gun laws. But is the theory supported by the available evidence?

The Plaintiff asserts that the academics are slowly converging on the individual right of open carry nationwide but have yet to acknowledge this specific right as being a vital component of the Common Defense clause and the Domestic Tranquility clause of the Preamble to the Constitution. Plaintiff hopes to propel that argument into the forefront of the academics for their consideration by this litigious cause of action.

The Second Amendment right to keep and bear arms includes the First Amendment right to peaceably assemble and the Ninth Amendment right to travel Interstate and intrastate while armed, and the duty to be armed at all times for the security of a free state is the intent of the Common Defense clause and the Domestic Tranquility clause of the Preamble to the Constitution, and is a vital function of the guarantee of a Republican form of government in Article IV, Section 4 of the Constitution.

***State v. Burnett*, 93 Ohio St.3d 419 (2001)**

I. FREEDOM OF ASSOCIATION

The First Amendment provides, "Congress shall make no law * * * abridging * * * the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." From these words, the United States Supreme Court has recognized a right of association. *Roberts v. United States Jaycees* (1984), 468 U.S. 609, 617-618, 104 S.Ct. 3244, 3249, 82 L.Ed.2d 462, 471. This right of association encompasses two distinct types of freedoms.

The first type of freedom of association includes the choice to enter into and to maintain certain intimate human relationships. *Dallas v. Stanglin* (1989), 490 U.S. 19, 23-24, 109 S.Ct. 1591, 1594, 104 L.Ed.2d 18, 25; *Roberts*, 468 U.S. at 617-618, 104 S.Ct. at 3249, 82 L.Ed.2d at 470. These types of associations are those traditional personal bonds that have " 'played a critical role in the culture and traditions of the Nation by cultivating and transmitting shared ideals and beliefs.' " *FW/PBS, Inc. v. Dallas* (1990), 493 U.S. 215, 237, 110 S.Ct. 596, 611, 107 L.Ed.2d 603, 626, quoting *Roberts*, 468 U.S. at 618-619, 104 S.Ct. at 3249-3250, 82 L.Ed.2d at 472. Accordingly, these relationships are protected as fundamental, personal liberties. *Roberts*, 468 U.S. at 618, 104 S.Ct. at 3249, 82 L.Ed.2d at 471.

The second type of freedom is the right to associate for the purpose of engaging in expressive activity protected by the First Amendment. *Stanglin*, 490 U.S. at 24, 109 S.Ct. at 1595, 104 L.Ed.2d at 25. This includes rights of free speech, assembly, petition for the redress of grievances, and the exercise of religion. *Id.*

II. THE RIGHT TO TRAVEL

In all the cases addressing the right to travel, the United States Supreme Court has examined only the right to travel from one state to another.²⁰ To date, the court has not expressly recognized a constitutional right of travel within a state. Burnett argues, however, that a right of intrastate travel exists and that the Cincinnati ordinance has impermissibly burdened this right. Precedent of the United States Supreme Court and federal courts of appeals, and our own precedent cause us to conclude that such a constitutional right of travel within a state exists and that the Cincinnati ordinance has unconstitutionally burdened that right.

As suggested by the United States Supreme Court, the right of travel is most likely protected from state interference by the Due Process Clause of the Fourteenth Amendment. See, e.g., *Kent v. Dulles* (1958), 357 U.S. 116, 125, 78 S.Ct. 1113, 1118, 2 L.Ed.2d 1204, 1210 ("The right to travel is a part of the 'liberty' of which the citizen cannot be deprived without the due process of law under the Fifth Amendment"); *Williams v. Fears* (1900), 179 U.S. 270, 274, 21 S.Ct. 128, 129, 45 L.Ed. 186, 188 ("the right to remove from one place to another according to inclination, is an attribute of *** liberty *** secured by the Fourteenth Amendment"). When evaluating whether substantive due process protects unenumerated rights, the question, as articulated by Justice Scalia, is whether the asserted right is "so rooted in the traditions and conscience of our people as to be ranked fundamental." *Michael H. v. Gerald D.* (1989), 491 U.S. 110, 122, 109 S.Ct. 2333, 2342, 105 L.Ed.2d 91, 105, quoting *Snyder v. Massachusetts* (1934), 291 U.S. 97, 105, 54 S.Ct. 330, 332, 78 L.Ed. 674, 677 (Cardozo, J.).

We therefore look to those rights that are so deeply rooted in this Nation's history and tradition and implicit in the concept of ordered liberty that neither liberty nor justice would exist if they were surrendered. *Moore v. E. Cleveland* (1977), 431 U.S. 494, 503, 97 S.Ct. 1932, 1938, 52 L.Ed.2d 531, 540. In affording protection to unenumerated

²⁰ In its latest case addressing the right to travel, the United States Supreme Court identified three components of the right to travel:

- (1) it protects the right of a citizen of one state to enter and leave another state,
- (2) it protects the right to be treated as a welcome visitor rather than as a hostile visitor when temporarily in the second state, and
- (3) it protects the right to be treated like other citizens of a state when the traveler decides to become a permanent resident.

Saenz v. Roe (1999), 526 U.S. 489, 500, 119 S.Ct. 1518, 1525, 143 L.Ed.2d 689, 702.

The court stated that the second component is protected by the Privileges or Immunities Clause of Section 2, Article IV of the United States Constitution. *Id.* at 501, 119 S.Ct. at 1525, 143 L.Ed.2d at 703. Likewise, protection of the third component is grounded in the Privileges or Immunities Clause of the Fourteenth Amendment. *Id.* at 502-503, 119 S.Ct. at 1526, 143 L.Ed.2d at 702-703. Cf. *The Slaughter-House Cases* (1873), 83 U.S. (16 Wall.) 36, 21 L.Ed. 394 (the Privileges or Immunities Clause of the Fourteenth Amendment protects only those rights of citizenship that owe their existence to the federal government, its national character, its Constitution, or its laws, but it is not a source of protection for unenumerated rights). As *Roe* involved only the second and third components of the right to travel, however, the court declined any further discussion of the first component. 526 U.S. at 501, 119 S.Ct. at 1525, 143 L.Ed.2d at 702.

rights, however, we must be mindful that a “ ‘careful description’ of the asserted fundamental liberty interest” is required. *Washington v. Glucksberg* (1997), 521 U.S. 702, 721, 117 S.Ct. 2258, 2268, 138 L.Ed.2d 772, 788, quoting *Reno v. Flores* (1993), 507 U.S. 292, 302, 113 S.Ct. 1439, 1447, 123 L.Ed.2d 1, 16; see, also, *Michael H.*, 491 U.S. at 127, 109 S.Ct. at 2344, 105 L.Ed.2d at 108, fn. 6. (the relevant traditions must be identified and evaluated at the most specific level of generality possible.) The sole purpose of this limiting function is to provide fundamental protection only to those traditions deeply woven into this Nation’s historical fabric without overextending the Due Process Clause.

The right to travel is a liberty interest long enjoyed by every citizen residing within this Nation. As stated by Chief Justice Taney, “For all the great purposes for which the Federal government was formed, we are one people, with one common country. We are all citizens of the United States; and, as members of the same community, must have the right to pass and repass through every part of it without interruption, as freely as in our own States.” (Emphasis added.) *Smith v. Turner* (1849), 48 U.S. (7 How.) 283, 492, 12 L.Ed. 702, 790 (Taney, C.J., dissenting). The freedom to travel between states and throughout the Nation is one long enjoyed and wholeheartedly cherished. *United States v. Guest* (1966), 383 U.S. 745, 758, 86 S.Ct. 1170, 1178, 16 L.Ed.2d 239, 249; *Williams v. Fears* (1900), 179 U.S. 270, 274, 21 S.Ct. 128, 129, 45 L.Ed. 186, 188. The word “travel” is not mentioned within the text of the Constitution. “Yet the ‘constitutional right to travel from one State to another’ is firmly embedded in our jurisprudence,” *Saenz v. Roe* (1999), 526 U.S. 489, 498, 119 S.Ct. 1518, 1524, 143 L.Ed.2d 689, 701, quoting *Guest*, 383 U.S. at 757, 86 S.Ct. at 1178, 16 L.Ed.2d at 249. Indeed, “the right is so important that it is ‘assertable against private interference as well as governmental action * * * a virtually unconditional personal right, guaranteed by the Constitution to us all.’” *Id.*, quoting *Shapiro v. Thompson* (1969), 394 U.S. 618, 643, 89 S.Ct. 1322, 1336, 22 L.Ed.2d 600, 620 (Stewart, J., concurring). Stated succinctly, “[t]he constitutional right to travel from one State to another * * * occupies a position fundamental to the concept of our Federal Union. It is a right that has been firmly established and repeatedly recognized.” (Emphasis added.) *Guest*, 383 U.S. at 757, 86 S.Ct. at 1178, 16 L.Ed.2d at 249.

In its most specific, careful description, the right of intrastate travel we contemplate is the right to travel locally through public spaces and roadways of this state. Historically, it is beyond contention that being able to travel innocently throughout the country has been an aspect of our national freedom. Likewise, the right to travel within a state is no less fundamental than the right to travel between the states. Every citizen of this state, much like the citizens of this Nation, enjoys the freedom of mobility not only to cross our borders into our sister states, but also to roam about innocently in the wide-open spaces of our state parks or through the streets and sidewalks of our most populous cities. This freedom of mobility is a tradition extending back to when the first settler crossed into what would eventually become this great state, and it is a tradition no Ohioan would freely relinquish.

The United States Supreme Court has stated that in addressing matters of substantive due process, the utmost care must be taken when being asked to break new ground in Fourteenth Amendment jurisprudence. *Collins v. Harker Hts.* (1992), 503 U.S. 115, 125, 112 S.Ct. 1061, 1068, 117 L.Ed.2d 261, 273. Unlike the asserted right evaluated in *Glucksberg* (assisted suicide), for example, recognizing a right of intrastate travel is hardly groundbreaking. Much like the right to interstate travel, the right to intrastate

travel has a long, historical recognition in the conscience and traditions of our people. As further observed by the Second Circuit, "[i]t would be meaningless to describe the right to travel between states as a fundamental precept of personal liberty and not to acknowledge a correlative constitutional right to travel within a state." *King v. New Rochelle Mun. Hous. Auth.* (C.A.2, 1971), 442 F.2d 646, 648. Without the one, there would never be the other.

As a fundamental right, the right to intrastate travel "is a part of the 'liberty' of which the citizen cannot be deprived without the due process of law." *Kent v. Dulles* (1958), 357 U.S. 116, 125, 78 S.Ct. 1113, 1118, 2 L.Ed.2d 1204, 1210. Any deprivation of the right to travel, therefore, must be evaluated under a compelling-interest test. See *Shapiro v. Thompson* (1969), 394 U.S. 618, 89 S.Ct. 1322, 22 L.Ed.2d 600, overruled in part on other grounds by *Edelman v. Jordan* (1974), 415 U.S. 651, 94 S.Ct. 1347, 39 L.Ed.2d 662. Accordingly, the legislation must be narrowly tailored to serve a compelling governmental interest. *Reno v. Flores* (1993), 507 U.S. 292, 301-302, 113 S.Ct. 1439, 1447, 123 L.Ed.2d 1, 16.

Patricia Johnson, et al v. City of Cincinnati

6th Circuit, No. 00-4477, Sept. 26, 2002

[2002 FED App. 0332P (6th Cir.)]

C.

"The constitutional right to travel from one State to another . . . occupies a position fundamental to the concept of our Federal Union. It is a right that has been firmly established and repeatedly recognized." *United States v. Guest*, 383 U.S. 745, 757, 86 S.Ct. 1170, 16 L.Ed.2d 239 (1966); see also *Saenz*, 526 U.S. at 498 (describing the constitutional right to travel as "firmly embedded" in the Supreme Court's jurisprudence). It is "assertable against private interference as well as government action . . . a virtually unconditional personal right, guaranteed by the Constitution to us all." *Shapiro*, 394 U.S. at 643 (Stewart, J., concurring). The right to interstate travel embraces three different components:

- (1) "the right of a citizen of one State to enter and to leave another state";
- (2) "the right to be treated as a welcome visitor rather than an unfriendly alien when temporarily present in the second State"; and
- (3) "for those travelers who elect to become permanent residents, the right to be treated like other citizens of that State."

Saenz, 526 U.S. at 500.

The Supreme Court has not yet identified the source of the first travel right, but the latter two components are expressly protected by the Privileges and Immunities Clause. *Id.* at 501-03.

The Supreme Court has not yet addressed whether the Constitution also protects a right to intrastate travel. *Mem'l Hosp.*, 415 U.S. at 255-56. Both the district court in this case, 119 F. Supp. 2d at 745-46, and the Ohio Supreme Court in *Burnett*, 755 N.E.2d at 865-66, recognized a limited constitutional right to intrastate travel and concluded that the Ordinance impermissibly infringed on this right. See also *Spencer v. Casavilla*, 903

F.2d 171, 174 (2d Cir. 1990) (recognizing that the Constitution "protects the right to travel freely within a single state"); *Lutz*, 899 F.2d at 268 (holding that "the right to move freely about one's own neighborhood or town" is a fundamental liberty interest protected by the Due Process Clause); *Hutchins v. District of Columbia*, 188 F.3d 531, 561-62 (D.C. Cir. 1999) (Rogers, J., dissenting in part, concurring in part, joined by Tatel and Wald, JJ.) ("[P]recedents recognize a fundamental right to walk through public streets without thereby subjecting oneself to police custody."); see also *id.* at 538 (plurality) (Silberman, J.) (accepting that a "draconian curfew" might implicate substantive due process); *Pottinger v. City of Miami*, 810 F. Supp. 1551, 1578-81 (S.D. Fla. 1992)(2); *City of Seattle v. McConahy*, 937 P.2d 1133, 1141 (Wash. App. 1997).(3)

Although the Supreme Court has not expressly recognized a fundamental right to intrastate travel, as early as the Articles of Confederation, state citizens "possessed the fundamental right, inherent in citizens of all free governments, peacefully to dwell within the limits of their respective states, to move at will from place to place therein, and to have free ingress thereto and egress therefrom." *United States v. Wheeler*, 254 U.S. 281, 293, 41 S.Ct. 133, 65 L.E. 270 (1920). As Chief Justice Taney observed:

For all the great purposes for which the Federal government was formed, we are one people, with one common country. We are all citizens of the United States; and as members of the same community, must have the right to pass and repass through every part of it without interruption, as freely as in our own States.

Smith v. Turner, 48 U.S. (7 How.) 283, 492, 12 L.Ed. 702, 790 (1849) (Taney, C.J., dissenting) (emphasis added); see also *Civil Rights Cases*, 109 U.S. 3, 39, 3 S.Ct. 18, 27 L.E.2d 835 (1883) (Harlan, J., dissenting) (noting that "personal liberty consists, says Blackstone, in the power of locomotion, of changing situation, or removing one's person to whatever place one's own inclination may direct, without restraint, unless by due course of law") (internal quotations omitted). Or as the Supreme Court noted at the turn of the twentieth century: "[T]he right to remove from one place to another according to inclination, is an attribute of . . . liberty . . . secured by the Fourteenth Amendment and by other provisions of the Constitution." *Williams v. Fears*, 179 U.S. 270, 274, 21 S.Ct. 128 (1900). More recently, Justice Stevens, joined by Justice Souter and Justice Ginsburg, observed:

[I]t is apparent that an individual's decision to remain in a public place of his choice is as much a part of his liberty as the freedom of movement inside frontiers that is "a part of our heritage" *Kent v. Dulles*, 337 U.S. 116, 126, 78 S.Ct. 1113, 2 L.Ed.2d 1204 (1958), or the right to move "to whatsoever place one's own inclination may direct" identified in Blackstone's Commentaries. 1 W. Blackstone, Commentaries on the Laws of England 130 (1765).

City of Chicago v. Morales, 527 U.S. 41, 54, 119 S.Ct. 1849, 144 L.Ed.2d 67 (1999); see also *Kolender v. Lawson*, 461 U.S. 352, 358, 103 S.Ct. 1855, 75 L.Ed.2d 903 (1983) (noting that anti-loitering statute, which required individuals to provide "credible and reliable" identification, "implicated consideration of the constitutional right to freedom of movement"); *Papachristou v. City of Jacksonville*, 405 U.S. 156, 164, 92 S.Ct. 839, 31 L.Ed.2d 110 (1972) (describing walking, loitering, and wandering as "historically part of the amenities of life as we have known them."); *Guest*, 383 U.S. at 759

("[F]reedom to travel throughout the United States has long been recognized as a basic right under the Constitution."); *Nunez v. City of San Diego*, 114 F.3d 935, 944 (9th Cir. 1997) ("Citizens have a fundamental right of free movement, 'historically part of the amenities of life as we have known them.'") (citation omitted); *Burnett*, 755 N.E.2d at 865 ("This freedom of mobility is a tradition extending back to when the first settler crossed into what would eventually become this great state, and it is a tradition no Ohioan would freely relinquish."); *Gomez v. Turner*, 672 F.2d 134, 143-44 n. 18 (D.C. Cir. 1982) (noting that the ability to "walk the streets, without explanation or formal papers is surely among the cherished liberties that distinguish this nation from so many others."); (4) In light of these cases, we find that the right to travel locally through public spaces and roadways enjoys a unique and protected place in our national heritage.

In addition to its solid historical foundation, the tremendous practical significance of a right to localized travel also strongly suggests that such a right is secured by substantive due process. The right to travel locally through public spaces and roadways - perhaps more than any other right secured by substantive due process - is an everyday right, a right we depend on to carry out our daily life activities. It is, at its core, a right of function. In the words of Justice Douglas:

Freedom of movement, at home and abroad, is important for job and business opportunities - for cultural, political, and social activities - for all the commingling which gregarious man enjoys. Those with the right of free movement use it at times for mischievous purposes. But that is true of many liberties we enjoy. We nevertheless place our faith in them, and against restraint, knowing that the risk of abusing liberty so as to give rise to punishable conduct is part of the price we pay for this free society.

Aptheker v. Secretary of State, 378 U.S. 500, 519-20, 184 S.Ct. 1659, 12 L.Ed.2d 992 (1964) (Douglas, J., concurring); see also *Hutchins*, 188 F.3d at 561 (Rogers, J.) (dissenting in part, concurring in part). The Ordinance itself references an individual's "significant private interest in being able to travel and associate freely in all areas of the City." In view of the historical endorsement of a right to intrastate travel and the practical necessity of such a right, we hold that the Constitution protects a right to travel locally through public spaces and roadways.

The Plaintiff was on a legitimate pursuit of Second Amendment advocacy in combination of his litigious pursuit for his own Second Amendment rights. In the moral and political sense the Plaintiff is on equal standing with the Respondents as all parties to this case are pursuing the same goals. However, because the Plaintiff is taking a distinctly different approach to the Second Amendment for national open carry from a U.S. merchant seaman's point of view calling for the need of every law abiding citizen to be openly armed for the Common Defence (refer to the Preamble of the U.S. Constitution) in opposition to the Respondents' agenda for national reciprocity for concealed carry. The actions taken by the Respondents are construed to be in violation of state and federal antitrust laws.

ANTITRUST VIOLATIONS

STATE OF WASHINGTON REVISED CODE

- 19 W.Rev.C. § 86.020 - UNFAIR COMPETITION, PRACTICES, DECLARED UNLAWFUL.** Unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful.
- 19 W.Rev.C. § 86.040 - MONOPOLIES AND ATTEMPTED MONOPOLIES DECLARED UNLAWFUL.** It shall be unlawful for any person to monopolize, or attempt to monopolize or combine or conspire with any other person or persons to monopolize any part of trade or commerce.
- 4 W.Rev.C. § 24.464 - BOARDS OF DIRECTORS OR OFFICERS OF NONPROFIT CORPORATIONS -- LIABILITY -- LIMITATIONS.** (1) Except as provided in subsection (2) of this section, a member of the board of directors or an officer of any nonprofit corporation is not individually liable for any discretionary decision or failure to make a discretionary decision within his or her official capacity as director or officer unless the decision or failure to decide constitutes gross negligence.

U.S. CODE

- 15 U.S.C. § 1. TRUSTS, ETC., IN RESTRAINT OF TRADE ILLEGAL; PENALTY** - Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is declared to be illegal. Every person who shall make any contract or engage in any combination or conspiracy hereby declared to be illegal shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding \$10,000,000 if a corporation, or, if any other person, \$350,000, or by imprisonment not exceeding three years, or by both said punishments, in the discretion of the court.
- 15 U.S.C. § 2. MONOPOLIZING TRADE A FELONY; PENALTY** - Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding \$10,000,000 if a corporation, or, if any other person, \$350,000, or by imprisonment not exceeding three years, or by both said punishments, in the discretion of the court.
- 15 U.S.C. § 4. JURISDICTION OF COURTS; DUTY OF UNITED STATES ATTORNEYS; PROCEDURE** - The several district courts of the United States are invested with jurisdiction to prevent and restrain violations of sections 1 to 7 of this title; and it shall be the duty of the several United States attorneys, in their respective districts, under the direction of the Attorney General, to institute proceedings in equity to prevent and restrain such violations. Such proceedings may be by way of petition setting forth the case and praying that such violation shall be enjoined or otherwise prohibited. When the parties complained of shall have been duly notified of such petition the court shall proceed, as soon as may be, to the hearing and determination of the case; and pending such petition and before final decree, the court may at any time make such temporary restraining order or prohibition as shall be deemed just in the premises.
- 15 U.S.C. § 7. "PERSON" OR "PERSONS" DEFINED** - The word "person", or "persons", wherever used in sections 1 to 7 of this title shall be deemed to include corporations and associations

existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country.

15 U.S.C. § 9. JURISDICTION OF COURTS; DUTY OF UNITED STATES ATTORNEYS; PROCEDURE -

The several district courts of the United States are invested with jurisdiction to prevent and restrain violations of section 8 of this title; and it shall be the duty of the several United States attorneys, in their respective districts, under the direction of the Attorney General, to institute proceedings in equity to prevent and restrain such violations. Such proceedings may be by way of petitions setting forth the case and praying that such violations shall be enjoined or otherwise prohibited. When the parties complained of shall have been duly notified of such petition the court shall proceed, as soon as may be, to the hearing and determination of the case; and pending such petition and before final decree, the court may at any time make such temporary restraining order or prohibition as shall be deemed just in the premises

15 U.S.C. § 12. DEFINITIONS; SHORT TITLE- (a) "Antitrust laws," as used herein, includes the Act entitled "*AN ACT TO PROTECT TRADE AND COMMERCE AGAINST UNLAWFUL RESTRAINTS AND MONOPOLIES*," approved July 2nd, 1890; sections seventy-three to seventy-six, inclusive, of an Act entitled "*AN ACT TO REDUCE TAXATION, TO PROVIDE REVENUE FOR THE GOVERNMENT, AND FOR OTHER PURPOSES*," of August 27th, 1894; an Act entitled "*AN ACT TO AMEND SECTIONS SEVENTY-THREE AND SEVENTY-SIX OF THE ACT OF AUGUST 27th, 1894, ENTITLED 'AN ACT TO REDUCE TAXATION, TO PROVIDE REVENUE FOR THE GOVERNMENT, AND FOR OTHER PURPOSES,'*" approved February 12th, 1913; and also this Act.

"Commerce," as used herein, means trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States: Provided, That nothing in this Act contained shall apply to the Philippine Islands.

The word "person" or "persons" wherever used in this Act shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country.

(b) This Act may be cited as the "Clayton Act".

15 U.S.C. § 15. SUITS BY PERSONS INJURED -

(a) Amount of Recovery; Prejudgment Interest

Except as provided in subsection (b) of this section, any person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefor in any district court of the United States in the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the cost of suit, including a reasonable attorney's fee. The court may award under this section, pursuant to a motion by such person promptly made, simple interest on actual damages for the period beginning on the date of service of such person's pleading setting forth a claim under the antitrust laws and ending on the date of judgment, or for any shorter period therein, if the court finds that the award of such interest for such period

is just in the circumstances. In determining whether an award of interest under this section for any period is just in the circumstances, the court shall consider only—

(1) whether such person or the opposing party, or either party's representative, made motions or asserted claims or defenses so lacking in merit as to show that such party or representative acted intentionally for delay, or otherwise acted in bad faith;

(2) whether, in the course of the action involved, such person or the opposing party, or either party's representative, **violated any applicable rule**, statute, or court order providing for sanctions for dilatory behavior or otherwise providing for expeditious proceedings; and

(3) whether such person or the opposing party, or either party's representative, engaged in conduct primarily for the purpose of delaying the litigation or increasing the cost thereof.

15 U.S.C. § 25. RESTRAINING VIOLATIONS; PROCEDURE - The several district courts of the United States are invested with jurisdiction to prevent and restrain violations of this Act, and it shall be the duty of the several United States attorneys, in their respective districts, under the direction of the Attorney General, to institute proceedings in equity to prevent and restrain such violations. Such proceedings may be by way of petition setting forth the case and praying that such violation shall be enjoined or otherwise prohibited. When the parties complained of shall have been duly notified of such petition, the court shall proceed, as soon as may be, to the hearing and determination of the case; and pending such petition, and before final decree, the court may at any time make such temporary restraining order or prohibition as shall be deemed just in the premises. Whenever it shall appear to the court before which any such proceeding may be pending that the ends of justice require that other parties should be brought before the court, the court may cause them to be summoned whether they reside in the district in which the court is held or not, and subpoenas to that end may be served in any district by the marshal thereof.

15 U.S.C. § 26. INJUNCTIVE RELIEF FOR PRIVATE PARTIES; EXCEPTION; COSTS - Any person, firm, corporation, or association shall be entitled to sue for and have injunctive relief, in any court of the United States having jurisdiction over the parties, against threatened loss or damage by a violation of the antitrust laws, including sections 13, 14, 18, and 19 of this title, when and under the same conditions and principles as injunctive relief against threatened conduct that will cause loss or damage is granted by courts of equity, under the rules governing such proceedings, and upon the execution of proper bond against damages for an injunction improvidently granted and a showing that the danger of irreparable loss or damage is immediate, a preliminary injunction may issue: Provided, That nothing herein contained shall be construed to entitle any person, firm, corporation, or association, except the United States, to bring suit for injunctive relief against any common carrier subject to the jurisdiction of the Surface Transportation Board under subtitle IV of title 49. In any action under this section in which the plaintiff substantially prevails, the court shall award the cost of suit, including a reasonable attorney's fee, to such plaintiff.

You may not access KeepAndBearArms.Com . If you think there's been some mistake, please email alangottlieb@KeepAndBearArms.com and inquire.

The result of the FedEx/Kinkos Domain Name Block: An all white screen on the monitor with the above text advising the Internet visitor that access to KeepAndBearArms.com is denied. This applies to every American citizen visiting FedEx/Kinkos not just the Plaintiff! This is an intentional act of limiting competition and an unfair business practice.

The defamatory emails themselves in the Appendixes may not rise to the level of violations of state or federal antitrust laws. But the Plaintiff alleges that the moment when Alan Gottlieb or person or persons unknown imposed the FedEx/Kinkos Domain Name Block against the Plaintiff the Respondents directly or indirectly violated antitrust laws of the United States and of the State of Washington.

The above box represent what is displayed on a computer's monitor when someone at a FedEx/Kinkos Copy Center attempts to visit www.KeepAndbearArms.com online. This is, by definition, an illegal act of antitrust against the competitive activities of the Plaintiff seeking news coverage of his Second Amendment case.

Antitrust or competition laws, legislate against trade practices that undermine competitiveness or are considered to be unfair. The term antitrust derives from the U.S. law that was originally formulated to combat business trusts - now commonly known as cartels. The Plaintiff alleges that the

National Rifle Association (NRA), and the Second Amendment Foundation (SAF) and their affiliated Concerned Citizens for the Right to Keep and Bear Arms (CCRKBA) are cartels.

Trusts and monopolies are concentrations of wealth in the hands of a few. Such conglomerations of economic resources are thought to be injurious to the public and individuals because such trusts minimize, if not obliterate normal marketplace competition, and yield undesirable controls of information in the media. These, in turn, cause markets to stagnate and sap the free flow of information and individual initiative.

To prevent trusts from creating restraints on trade or commerce and reducing competition, Congress passed the Sherman Antitrust Act in 1890. The Sherman Act was designed to maintain economic liberty, and to eliminate restraints on trade and competition. The Sherman Act is the main source of Antitrust law.

The Sherman Act is a Federal statute and as such has a scope limited by Constitutional constraints on the Federal government. The commerce clause, however, allows for a very wide interpretation and application of this act. The Act applies to all transactions and business involved in interstate commerce. If the activities are local, the act applies to transactions affecting interstate commerce. The latter phrase has been interpreted to allow broad application of the Sherman Act. Therefore the Sherman Act is applicable to Internet Web sites involved in interstate commerce such as the NRA, the SAF, the CCRKBA, and KeepAndBearArms.com.

Most if not all states have comparable statutes prohibiting monopolistic conduct, price fixing agreements, and other acts in restraint of trade having strictly local impact. Since the Respondents' attorney invoked the laws of the State of Washington to allege insufficient service in Plaintiff's previous case against the Respondents, U.S. District Court for the District of Columbia, Case No. 04-2040, dismissed without prejudice May 2, 2005 the Plaintiff refiles in the U.S. District Court for the Western District of Washington (Seattle) and cites the antitrust laws of the State of Washington as well as the antitrust laws of the United States.

RELIEF SOUGHT

Because the Plaintiff has suffered 2 years and 4 months of civil litigation as a pro se Plaintiff in the federal partly because the NRA specifically declined to assist when their charter and mission statement compelled them to assist, and because Plaintiff has suffered severely damaging words of defamation irreparably harming Plaintiff's reputation the Plaintiff seeks \$100,000 total from the combined Defendants.

Plaintiff is uncertain whether the Court has the authority to order the Defendants to report on Plaintiff's case or to even compel Op-Eds to be published as might be tending to violate their First Amendment rights to freedom of the press. But Plaintiff asserts that he has for himself a First Amendment right to freedom of access to the press and assembly to be interviewed by the Defendants for news reportage and Op-Ed publicize his case, or request the privilege to submit his own press releases to the Defendants for their editing and approval to be transmitted over their newswire subscription services with fees charged for such service, if they so determine in the act of conducting business.

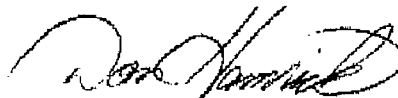
Plaintiff further seeks relief by the Court Order removal of the Domain Name Block at KeepAndBearArms.com preventing the Plaintiff from visiting their Web site.

Plaintiff further seeks a public apology from the Defendants to be posted prominently on each of their Web sites, Second Amendment Foundation, KeepAndBearArms.com to remain online for a 30-day period.

Plaintiff further seeks such other relief as determined appropriate by the Court.

Plaintiff requests trial by jury.

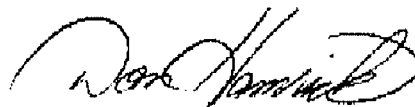
Respectfully submitted

A handwritten signature in dark ink, appearing to read 'Don Hamrick', written in a cursive style.

Don Hamrick

CERTIFICATE OF SERVICE SUBVERTED BY RESPONDENTS

On Monday, August 9, 2005, I, Don Hamrick, motioned the Court to appoint a U.S. Marshal, deputy U.S. Marshal, or other person or officer specially appointed by the court for the service of Summons with the Complaint in accordance with Rule 4(c)(2) because the Plaintiff is a U.S. merchant seaman under 28 U.S.C. § 1916 in addition to the fact that the Respondents refuse to provide their mailing address in violation of Rule 4(d) and (e) of the Federal Rules of Civil Procedure.



Don Hamrick, U.S. Merchant Seaman, Pro Se
5860 Wilburn Road
Wilburn, AR 72179

