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July 6, 2022

**VIA EMAIL**

Hon. O. Peter Sherwood, Special Master  
360 Lexington Avenue  
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Re: *People of the State of New York, by Letitia James, Attorney General of the State of New York v. The National Rifle Association of America, Inc. et al.*, Index No. 451625/2020

Dear Judge Sherwood:

On behalf of the Plaintiff, the People of the State of New York, the Office of the Attorney General of the State of New York ("OAG") respectfully submits this letter in support of the applications set forth below.

**General Ledgers:**

During its bankruptcy proceeding, the NRA included on its list of exhibits, and concurrently produced to the OAG, its full general ledgers in the form of spread sheets it maintains that showed cash flow to and from the NRA. The proceedings before the bankruptcy court concerned whether the NRA's bankruptcy petition was brought in good faith and involved discovery related to the NRA's finances, as this action does. Accordingly, in this action, Plaintiff again sought the general ledgers, both in the form of a request for documents produced during the bankruptcy to be re-produced in this action and in a specific request. *See* Exhibit A (Defendant NRA's objections and responses to the Plaintiff's first requests for production, Nos. 9 and 19(b), (c), and (e)). Although the NRA readily produced the ledgers in the bankruptcy as part of its production of proposed exhibits and readily re-produced almost all of the other bankruptcy production in this action, it did not produce the ledgers here. The parties conferred on this issue a number of times including most recently by email. *See* Exhibit B (email chain beginning June 30, 2022).

The NRA had previously objected to producing the general ledgers in this action, apparently believing that the names of donors are in the ledgers and the confidentiality order here, unlike that in the bankruptcy proceeding, is insufficient protect the same. It also asserted

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that redacting the names of individual donors would be unduly burdensome. In an effort to resolve this issue, Plaintiff proposed that the NRA produce the same general ledgers redacting all entries showing incoming monies, disclosing only NRA expenditures. The NRA has not indicated that this would be difficult to do.

Production of the ledgers limited to outgoing monies paid by the NRA will likely be sufficient to answer central questions regarding NRA funds paid to favored vendors and NRA insiders that are relevant to the allegations of waste and improper administration of the NRA's assets. This evidence is crucial and NRA witnesses and documents produced so far have not sufficiently addressed these matters.

For example, the general ledgers should demonstrate NRA funds paid to a group of related entities and individuals, through NRA Executive Vice President Wayne LaPierre's office's budget, and other budgets centers within the NRA, to a group of related entities and individuals owned by or affiliated with non-party David McKenzie. Evidence indicates that the NRA has paid the McKenzie entities thus far well over \$100 million, often with verbal approvals in excess of contracted amounts in violation of NRA policies. The evidence also indicates that payments to the McKenzie entities were internally allocated to various NRA cost centers and dispersed through payments to various affiliated business entities, some located within the same offices within the NRA headquarters, with the same staff, same leadership, and little to no division in their work. This internal accounting obfuscates the magnitude of the amounts paid by the NRA to these businesses. Indeed, there is evidence to suggest that the NRA paid monies to at least one of McKenzie's businesses, Associated Television Inc. ("ATI")<sup>1</sup>, without receiving promised services in return. Witnesses have been unable to testify as to what monies were paid to these entities and insiders and when such payments stopped, if they have. It was only *during* his testimony at the bankruptcy trial that Defendant LaPierre revealed for the first time his relationship with David McKenzie, including gratis use of McKenzie's luxury yachts. During his testimony in this action, Mr. LaPierre revealed previously undisclosed information that further establishes a conflict of interest. Mr. LaPierre testified to having received additional expensive gifts and favors from the McKenzies, including paid luxury vacations to numerous exotic locales around the globe for himself and his wife and his wife's use of McKenzie's yachts for "girls" and family trips.

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<sup>1</sup> Mr. LaPierre testified at his deposition on June 27 and 28, 2022, that ATI produced the Crime Strike television series for the NRA. He claims to have filmed segments of this show while in Monaco, the Bahamas or on board the McKenzie's yacht, thus making his receipt of such free luxury travel, at least in part, a business expense. Mr. LaPierre had not seen the episodes of Crime Strike he allegedly filmed since 2014 and does not know if they aired. Plaintiff asked for information relating to the Crime Strike show, including videos, from the NRA in Plaintiff's first request for production, no. 38. None were produced. Plaintiff has narrowed the request to episodes including the video filmed in Monaco, the Bahamas or on board a yacht and any evidence showing that such episodes were actually aired. While producing some correspondence with ATI, the NRA has refused to produce the limited video footage sought or to confirm that it does not have information regarding whether such episodes aired. *See* Ex. B. Plaintiff also asks for an order directing the NRA to produce the requested episodes and evidence, if it has any, of such episodes ever airing.

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The general ledgers are essential for establishing expenditures to a myriad of vendors that the OAG believes, based on testimony and other evidence in this litigation, plainly constitute corporate waste. Now the NRA objects to the demand for general ledgers as “untimely”, although the Plaintiff has been seeking the general ledgers since its first request for production, and “overbroad”, although it has not set out any specifics as to how again producing these discrete spread sheets for the relevant time period when the NRA’s expenditures during this time period are at the heart of most of the Plaintiff’s allegations, would be overbroad.

In light of the fact that the general ledgers were demanded by the Plaintiff in a timely manner, can be readily produced, and are material and necessary to the claims in this action, we ask for an order directing that general ledgers from 2015 to the present be produced with the redactions proposed above.

### **Documents Relating to Relevant Whistleblower Complaint to Board**

During the deposition of NRA Vice-President, long time Board member and Audit Committee Vice Chair David Coy on June 15, 2022, Mr. Coy testified that he drafted a document relating to an “anonymous letter that BOD members received prior to the April 2007 NRA Annual Meeting.” The document purports to be a “series of questions derived from the letter.” *See* Exhibit C (Coy’s questions for the Audit Committee). The document indicates that in 2007, a whistleblower raised some of the identical claims of corruption, waste and lack of adequate internal controls to the entire NRA Board that the Plaintiff is alleging has more recently occurred and in some instances is still occurring within the NRA. As such, this letter and any response thereto is highly relevant to the present litigation, as well as responsive to, without limitation, Requests No. 2, 4, 15,16, 17, 26, 38 (including 38(h)), and 62 of the Request for Production dated June 25, 2021.

Metadata produced in connection with the documents indicates a creation date in 2017. Mr. Coy testified that he didn’t know why the metadata would show 2017, and further testified that he did in fact receive a letter, mailed to his home, in or around 2007. However, he explained that in order to testify truthfully as to the anonymous letter and the Audit Committee’s response thereto, he would need to see if he still had the letter and review other information he may have. *See* Deposition of David Coy, Exhibit D, pp. 211-235, at pp. 211 (“Beyond that, I -- in order to appropriately answer, because I did swear an oath to tell the truth and I will do that, but I need to see -- I -- I have to reconstruct this.”); 215 (not recalling if he was in possession of the anonymous letter); 215-216 (“I need to look at the documents, if we can find them, if they are able to be found, so I can answer the questions truthfully. That is what – that is the oath I swore to do”).<sup>2</sup>

Accordingly, Plaintiff served demands for relevant information relating to the letter and the Audit Committee’s response thereto. *See* Exhibit E (June 22, 2022 demand). The NRA did not initially respond to the demand. Follow up efforts to resolve this issue were unsuccessful.

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<sup>2</sup> Mr. Coy’s deposition, as well as other depositions, have included improper assertions of privilege and speaking objections. Those will be the subject of a separate application.

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*See* Exhibit B (email chain beginning June 30, 2022). The NRA stated that it had tried to chase down “a rumored, fifteen-year-old letter at the NYAG’s request” but did not specify what efforts it made, whether it had inquired of Mr. Coy (who was represented at his deposition by NRA counsel), regarding the documents he indicated he would need to check to testify truthfully, whether it had identified any of the documents sought and didn’t respond to the related requests at all.

The NRA itself is the primary source of documents relevant to this case. Testimony by some individual NRA witnesses, like David Coy and Wayne LaPierre, has revealed the existence of documents that are material and necessary to the action but which have not been produced. If the NRA refuses to produce such documents, the Plaintiff will seek curative instructions but hopes that the same is not necessary. To the extent that any Defendant will attempt to use documents or evidence that the NRA appropriately responded to the whistleblower complaint received by anonymous letter in 2007, we reserve all rights to seek preclusion.

Plaintiff asks for an order directing the NRA to produce documents responsive to the demands set forth in Exhibit E by a date certain and do confirm that it sought the same from Audit Committee members, the Board Secretary, and from NRA records.

#### **An Extension of the Seven Hour Limitation for the 11-f Notice of the NRA**

Plaintiff has noticed the corporate representative deposition of the NRA. *See* Exhibit F (Plaintiff’s 11-f Notice to the NRA). Under Rule 11-d of the Commercial Division rules, there is a 7-hour limitation for depositions, but that limit may be altered by the court upon a showing of good cause. Good cause exists here. Plaintiff’s 11-f Notice has 24 topics.<sup>3</sup> The parties have met and conferred and the NRA has agreed to produce a witness(es) knowledgeable and prepared to testify on every topic. However, the NRA has indicated that it will only produce its corporate representative for one day of deposition.

Plaintiff intends to take a focused and efficient deposition, but we reasonably anticipate needing more than 7 hours to cover the almost two dozen key areas in the 11-f notice, all drawn from Plaintiff’s Complaint. These topics include, for example, the NRA’s procedures for preparation, review (especially Board Review), authorization and signing of the NRA’s annual regulatory filing, including IRS Forms 990 and supporting schedules, misstatements on the NRA’s Form 990s and amendments to the 990s (Topic 3); excess benefits paid to and private inurement received by the individual Defendants and others within the NRA, including the NRA’s calculations where it has admitted the same occurred (Topic 5); and the use of vendors to disguise payments to or on behalf of NRA insiders (Topic 8). Seven hours does not permit sufficient time for even the most focused examination of these and other complex topics.

In addition, the NRA has indicated that it may produce more than one deponent to testify as a corporate representative, one of whom will be its General Counsel, Defendant John Frazer. The NRA is entitled to do so, but we must factor in additional time to inquire of the preparation of

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<sup>3</sup> Plaintiff has withdrawn Topic 2, with limitations noted in a separate submission filed today.

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different witnesses. Mr. Frazer appeared as the NRA's corporate representative for deposition during the bankruptcy proceeding and based on that deposition, we also reasonably anticipate that privilege issues may arise in his deposition as an NRA representative.. This will likely increase the time needed for the 11-f deposition. Accordingly, we ask that the Court permit 14 hours to depose the NRA.

**CONCLUSION**

In light of the foregoing, it is respectfully that Your Honor grant the relief sought in this application in its entirety.

Respectfully,

*/s/ Monica Connell*

Monica Connell

Assistant Attorney General

cc: All Counsel of Record

## **EXHIBIT C**

### Audit Committee Meeting – Questions for Staff

The Audit Committee is charged with reviewing and making appropriate inquiry regarding the anonymous letter that BOD members received prior to the April 2007 NRA Annual Meeting. Pursuant to this charge, following is a series of questions derived from the letter. These inquiries are arranged in paragraph-by-paragraph order, starting at the beginning of the letter.

Paragraph 1: This paragraph alleges that the whistle-blowing procedures currently in place are inadequate. Please review the policy for the committee, and the protection contained in the policy for whistleblowers. Has the policy been adequately publicized to NRA employees? How has it been publicized? What are the pros-and cons of establishing a whistle-blowing “hotline” administered by an outside third party? What would the out-of-pocket costs be for NRA to contract for such a service?

Paragraph 2: Does NRA have appropriate personnel policies in place regarding employee terminations and resignations? Are these policies being followed? Are personnel situations properly documented in accordance with these policies? Are the financial assets of NRA at risk due to any improper terminations of employees?

Paragraph 3: Have NRA’s expenditures for promotional activities and for consultants been properly documented and approved in accordance with NRA policies? Have prior expenditures for promotional activities and consultants been properly budgeted, and subjected to review during this process? Have the results derived from the use of these monies been discussed with the Finance Committee?

Paragraph 4: What are the financial arrangements associated with the annual cruises? Are all expenditures for such activities properly budgeted for and approved in accordance with NRA policies? What is the business purpose behind these events? Is NRA in compliance with IRS regulations concerning the expenditure of funds on such events?

Paragraph 5: What is the reference to “I.I. and I.S.”? Have the vendors NRA uses to book travel arrangements and rental cars been properly approved? Have all travel expenditures been properly documented and approved? Have expenditures for entertainment expenses been properly documented in accordance with NRA policies and IRS regulations? Have such expenditures been properly budgeted and reviewed with the Finance Committee? Have these expenditures been within NRA and IRS limits?

Paragraph 6: Please review the findings of Jacob Frenkel’s report on these expenditures, and the disposition of the several aspects of this situation. Please advise the committee regarding the procedures NRA put into place subsequent to this report. Are these procedures being followed? Have there been any recent modifications or enhancements to these procedures? Did the anonymous letter of complaint identify any expenditures of monies that were not reviewed by Jacob Frenkel? If so, what were these items?

Paragraph 7: Are salaries and wages to NRA employees being paid in accordance with NRA policies? Is NRA's wage and salary scale being followed? Are the wages being paid by NRA for various positions in the organization appropriate? Does NRA have sufficient and proper documentation in employee files for all payroll related activities?

Paragraph 8: Who is "Survival Inc.?" What is the business purpose for expenditures to them? Has this vendor been properly approved in accordance with NRA policies? In general, are all vendors and suppliers to NRA properly approved? Is the business case analysis process and the RFP schedule being followed for all vendors? Are exceptions to these policies properly documented? Are the procedures established by NRA's Purchasing Procedures Manual being followed with all of our vendors?

Paragraph 9: The matter of salaries and wages and related documentation was asked with regard to paragraph 7 of the letter. Regarding NRA's American Express accounts, in whose name were these accounts established? What was the business purpose for this choice? Is this arrangement subject to the RFP process? Are there any benefits (frequent flyer miles, etc.) for the NRA American Express accounts? If so, what use is made of these benefits?

Paragraph 10: Have Ackerman and PM Consulting been properly approved as vendors? Are expenditures to these firms properly documented in all respects? Is business with these vendors at "arms length"? Are the procedures established by NRA's Purchasing Procedures Manual being followed with all of our consultants?

Paragraph 11: Please review for the committee the Palladium Press situation (in brief, but also from its inception up to its current status). Please also speak to the aggregate (cumulative) net cash flow from this situation.

Paragraph 12: Final paragraph – nothing in this section raises any issues for the Audit Committee.



## Exhibit D

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1                   CONFIDENTIAL ~ DAVID COY  
2           circulated to all Board of Directors  
3           Members.

4                   As a result of this letter, I  
5           created a series of questions and this  
6           wasn't -- this was not 2017. This was  
7           2007. It was a long time ago.

8                   (Witness reviews document.)

9           A.       Do I recognize the document?

10                   (Witness reviews document.)

11           A.       I had forgotten about this. It  
12           clearly looks like my writing.

13                   Beyond that, I -- in order to  
14           appropriately answer, because I did swear  
15           an oath to tell the truth and I will do  
16           that, but I need to see -- I -- I have to  
17           reconstruct this.

18                   So I -- I -- I beg your  
19           indulgence, you know, give me an  
20           opportunity somehow to regroup and I can  
21           respond, and then, I will be better  
22           equipped to respond to this because this  
23           goes back to -- you know, this is 15 years  
24           ago.

25                   MS. EISENBERG: And I just need

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2                   to respond to the accusation that you  
3                   made about me speaking to Professor  
4                   Coy when you opened the door. I did  
5                   speak to Professor Coy to inform my  
6                   decision on whether or not to claw  
7                   back the document or permit you to  
8                   question the witness about it.

9                   It is expressly permitted by  
10                  the rules for the lawyer to speak to  
11                  the witness in order to make a  
12                  privilege call. And I don't see it  
13                  in the record, so just -- I just want  
14                  to confirm once again.

15                 I am permitting you to question  
16                 the witness on the document, but  
17                 reserve the right to claw it back and  
18                 produce it back in redacted form.

19                 Is that agreeable to your  
20                 office?

21                 MS. FUCHS: Yes. Reserving the  
22                 right to object to any redactions  
23                 that we deem to be inappropriate.

24                 Q.       What do you recall about a  
25                 letter sent to the Board on or around April

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2 2007?

3 (Witness reviews document.)

4 A. There was a letter mailed to  
5 Board Members at that time. I don't -- I  
6 can't specifically say what the verbiage  
7 was in it. It caused me -- it clearly  
8 caused me to write this organized letter.

9 They were areas of concern. I  
10 did that. Beyond that, I can't offer  
11 anything more at this point in time. As I  
12 mentioned, I -- I -- I swore an oath to  
13 tell the truth, I will do that. I -- I've  
14 got to look at this document to totally  
15 refresh my memory before I can begin to  
16 respond.

17 Q. I appreciate that. So you said  
18 it was mailed?

19 A. As I recall, yes.

20 Q. Do -- did you receive it at  
21 home or at the NRA?

22 A. I would have received it at  
23 home.

24 Q. And do you know if other Board  
25 Members received it?

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2 (Witness reviews document.)

3 A. That is what I say in the first  
4 paragraph of this.

5 MS. EISENBERG: But independent  
6 of the document, do you recall  
7 whether or not other Board Members  
8 received this?

9 MS. FUCHS: Please don't ask  
10 questions.

11 That is not appropriate.

12 A. Do I recall that other Board  
13 Members received it? No.

14 Q. Do you recall how long it was?  
15 How many pages?

16 A. No.

17 Q. Was it typed or handwritten?

18 A. I don't recall.

19 Q. Do you think that you are still  
20 in possession of a copy of the letter?

21 A. I don't know.

22 Q. What happened after you  
23 received the letter?

24 A. I wrote this list of concerns.

25 Q. Did you speak with anybody

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2 about it?

3 A. I have no clear memory of that.  
4 I don't even remember who I circulated this  
5 to.

6 Q. Do you think that you did  
7 circulate it?

8 A. Quite likely, yes. Do I think  
9 I circulated it? It would have been to the  
10 Audit Committee at the time, in 2007, that  
11 I would have circulated it. That would  
12 have been my practice.

13 But do I -- do I have a clear  
14 memory of doing that? No.

15 Q. Do you think -- would you  
16 expect that it would be reflected in any  
17 Audit Committee meeting minutes or reports?

18 MS. EISENBERG: Objection.

19 A. I don't know.

20 Q. Do you recall any follow-up to  
21 your list of questions?

22 A. I don't -- it was 15 years ago.  
23 I don't recall.

24 Q. You said that you would like  
25 time to reconstruct. Is that a fair

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2 statement?

3 MS. EISENBERG: Objection.

4 A. I don't know that I used the  
5 word "reconstruct." I need to look at the  
6 documents, if we can find them, if they are  
7 able to be found, so I can answer the  
8 questions truthfully. That is what -- that  
9 is the oath I swore to do.

10 I can't do that right now. I  
11 would be -- would be guessing, I would be  
12 filling in, and -- and I don't want to do  
13 that.

14 Q. So what would you do in order  
15 to help remember?

16 MS. EISENBERG: Objection. He  
17 just said --

18 MR. FLEMING: Objection.

19 MS. EISENBERG: -- what he  
20 would want to do to remember.

21 A. Again, find the anonymous  
22 letter, attempt to determine who I  
23 circulated it to, and see where that leads.

24 Q. Anything else that you can do?

25 MS. EISENBERG: Objection.

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2 A. If -- if there is, I will do  
3 it.

4 Q. If there was anybody that you  
5 could talk to, who would -- who would that  
6 be?

7 MR. FLEMING: Objection.

8 A. Specific names, I can't give  
9 you right now. I would have to see who was  
10 on the Audit Committee at that time. I  
11 would see -- it does identify questions for  
12 staff. I would ask staff, do they recall  
13 this, please help me. I mean, that is --  
14 that is what I would do.

15 Q. Do you think Charles Cotton  
16 might know anything about it?

17 MS. EISENBERG: Objection.

18 A. You will have to ask him -- I  
19 -- I don't know. I don't -- I don't recall  
20 when he came on the Audit Committee.

21 Q. Okay.

22 A. I am -- I'm sorry. I can't --  
23 there's no way that I can answer that  
24 question.

25 Q. So the metadata to the document



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2 notes that it was accessed October 19th,  
3 2017.

4 MS. EISENBERG: Where does it  
5 say that?

6 MS. FUCHS: In the exhibit.

7 MS. EISENBERG: Where in the  
8 exhibit does it say that? The access  
9 date/time is blank.

10 MS. FUCHS: The created date  
11 and the last modified date.

12 MS. EISENBERG: Well, that is  
13 not what you're representing.

14 Q. So, Mr. Coy, the metadata  
15 indicates a created date of October 19th,  
16 2017, and a last modified date of October  
17 19th, 217 -- 2017.

18 Do you see that?

19 (Witness reviews document.)

20 A. Yes, I do.

21 Q. Do you have any recollection of  
22 accessing this document in 2017?

23 A. No.

24 MS. EISENBERG: Objection.

25 A. No, I have no --

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2 THE WITNESS: I'm sorry.

3 A. I have no recollection of  
4 accessing this document in 2017.

5 Q. Does the name -- do you know  
6 who Jacob Frenkel is?

7 A. Yes.

8 Q. Who is Jacob Frenkel?

9 A. Jacob Frenkel is an attorney  
10 that Mr. Schulman engaged to examine the --  
11 in Washington, D.C., that Mr. Schulman  
12 engaged regarding a matter that came before  
13 the Audit Committee in 2002.

14 Q. Who is Mr. Schulman?

15 A. Mr. Schulman is the former  
16 deceased -- he is deceased and former  
17 counsel to the NRA Board of Directors.

18 Q. And do you have any  
19 recollection of a report by Jacob Frenkel  
20 on expenditures?

21 A. Yes.

22 Q. What do you recall?

23 MS. EISENBERG: I instruct you  
24 not to answer on privilege grounds.

25 A. This most definitely involved

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2 legal counsel. It was privileged.

3 And as counsel has directed me,  
4 I am not going to answer that question.

5 Q. And that was from 2002?

6 A. Yes.

7 Q. Did Jacob Frenkel provide any  
8 services to the NRA other than those that  
9 you just testified to?

10 MS. EISENBERG: Objection.

11 A. To my knowledge, no.

12 Q. I direct your attention to  
13 where it says Paragraph 5. What is the  
14 reference to II and IS? Do you see that?

15 A. Yes.

16 Q. Sitting here today, do you know  
17 what II and IS is?

18 A. I don't recall.

19 Q. Do you recall references in the  
20 Attorney General's complaint to II and IS?

21 MS. EISENBERG: Objection.

22 (Witness reviews document.)

23 A. Yes, I do.

24 Q. And do you recall the context  
25 of those references?

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2 MS. EISENBERG: Objection.

3 A. No, I do not.

4 Q. Going back to Jacob Frenkel,  
5 did you say that he was retained by counsel  
6 for the Board?

7 MS. EISENBERG: Objection.

8 A. Mr. Schulman is the one who  
9 brought him in to perform this service for  
10 us.

11 Q. And Mr. Schulman was counsel  
12 for the Board?

13 A. Yes.

14 Q. Not counsel for the  
15 organization as a whole?

16 MS. EISENBERG: Objection.

17 A. My understanding is  
18 Mr. Schulman was counsel for the Board.

19 Q. And was there a written report?

20 MS. EISENBERG: Objection.

21 A. From Mr. Frenkel?

22 Q. Yes.

23 A. Yes, there was.

24 Q. Did the Audit Committee take  
25 any action in response to Mr. Frankel's

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2 report?

3 MS. EISENBERG: I instruct you  
4 to be careful to not reveal the  
5 substance of any privileged  
6 communications, but to the extent you  
7 can answer the question without doing  
8 so, please go ahead.

9 A. This was a privileged  
10 communication.

11 Q. I wasn't asking about a  
12 communication, sir. I was asking about  
13 action.

14 MS. EISENBERG: Objection.  
15 Please don't argue with the  
16 witness.

17 MS. FUCHS: I was not arguing.

18 MS. EISENBERG: Ask your  
19 question again.

20 Q. Did the Audit Committee take  
21 any action in response to Mr. Frankel's  
22 report?

23 MS. EISENBERG: Same  
24 instruction, Professor Coy.

25 A. Whatever was said regarding

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2 action may well have been a privileged  
3 communication.

4 Q. Sir, I wasn't asking about what  
5 was said regarding action. I am asking  
6 about the action itself.

7 MS. EISENBERG: I am --

8 MR. FLEMING: This is Bill  
9 Fleming. It's argumentative. I  
10 think he was not finished. Can we  
11 just calm the tone down a bit?

12 A. I believe the conversation to  
13 be privileged and on that basis, I want to  
14 protect that situation, so I decline to  
15 answer.

16 Q. Sir, once again, I am not  
17 asking about any conversations. I am  
18 asking about actions taken by the Audit  
19 Committee. Did the Audit Committee take  
20 any action in fulfillment of its fiduciary  
21 duties?

22 MS. EISENBERG: Is there  
23 another part of that question?

24 MR. FLEMING: Objection.

25 MS. EISENBERG: Are you done?

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2 Is your question completed?

3 MS. FUCHS: It is.

4 MS. EISENBERG: I object to the  
5 question.

6 And, Professor Coy, again,  
7 instruct you to answer it only to the  
8 extent you can without revealing  
9 privileges, but to the extent  
10 whatever actions you took were in the  
11 context of a privileged conversation,  
12 clearly you can't waive privileges on  
13 behalf of the NRA. So -- so don't  
14 answer that if that is the only way  
15 you can answer it.

16 A. In my view, that is the correct  
17 situation and I will have to go back and  
18 review the action we took. But at this  
19 point in time, I believe it related  
20 directly to the report, the privilege, and  
21 I decline to answer.

22 MS. FUCHS: So, Ms. Eisenberg,  
23 for the record, are you instructing  
24 the witness not to testify as to  
25 actions taken by the Audit Committee?

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MS. EISENBERG: No. What I am instructing the witness to do is that if, hypothetically speaking, the action was to instruct lawyers to give advice on various topics or to instruct lawyers to otherwise perform legal services or to seek advice from lawyers, that would be an action, and that would be privileged.

So to the extent there were actions that are recalled that would not reveal the substance of a privileged conversation, Professor Coy is free to provide that information to the extent he recalls it.

But to the extent that the action itself that was described would reveal the substance of a privileged conversation, that is the extent of my instruction.

Q. So, Mr. Coy, did the Audit Committee take any action in response to Frankel's report other than seeking legal



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2 advice or instructing counsel?

3 MR. CORRELL: Objection.

4 A. The Audit Committee was  
5 satisfied with the conclusion reached by  
6 Mr. Frenkel in his report and that action  
7 was implemented. I think that's the best  
8 way I can answer that question.

9 We did respond, the  
10 organization responded to the  
11 recommendation contained in this report.

12 Q. What did it do?

13 A. I am -- I'm sorry. I don't --

14 Q. What did the organization do?

15 MS. EISENBERG: I know you're  
16 trying to be careful not to reveal  
17 privileged communications. Would it  
18 be helpful to confer with me to see  
19 if there's a portion of the answer  
20 that you can provide without  
21 breaching privileges?

22 THE WITNESS: Yes, it would.

23 MS. EISENBERG: Do you have any  
24 objection to us taking a break?

25 MS. FUCHS: No. Go ahead.

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2 I would request that we make it  
3 expeditious.

4 Let's go off the record.

5 THE VIDEOGRAPHER: The time is  
6 3:56 P.M.

7 And we are off the record.

8 (Whereupon, a short recess was  
9 taken.)

10 THE VIDEOGRAPHER: The time is  
11 4:04 P.M.

12 We are back on the record.

13 You may proceed.

14 MS. EISENBERG: So I appreciate  
15 the opportunity to confer with the  
16 witness. The witness can answer the  
17 question in part without revealing  
18 privileged information. If we can  
19 have the question read back, that  
20 would be great.

21 THE COURT REPORTER: Hold,  
22 please.

23 (Whereupon, the referred-to  
24 question was read back by the  
25 Reporter.)

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2 A. The organization issued -- the  
3 situation was an employee misused a credit  
4 card. The employee was required to -- was  
5 1099ed for the abuse, as I recall, and paid  
6 the tax on it and credit card privileges  
7 were restricted, as I recall.

8 Q. Thank you.

9 MS. FUCHS: For the record,  
10 that is exactly the type of action  
11 that is not privileged that I was  
12 talking about, and I would think -- I  
13 would hope going forward we can draw  
14 that distinction so that Mr. Coy has  
15 sufficient clarity as to what he can  
16 and can't say and we don't waste  
17 additional time on the record,  
18 because I think we all understand the  
19 distinctions.

20 MS. EISENBERG: On the record I  
21 think your comment is not  
22 appropriate, but you can go ahead and  
23 ask your next question.

24 Q. Take a look A at the bullet  
25 point that's at Paragraph 4 and it says,

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2 "What are the financial arrangements  
3 associated with the annual cruises"?

4 A. I see Bullet Point 4.

5 Q. Okay. Does that refresh your  
6 recollection about concerns regarding  
7 annual cruises?

8 A. These were annual cruises that  
9 were fund-raising activities for the  
10 foundation and -- and I believe primarily  
11 for the NRA foundation.

12 Q. And do you recall that there  
13 were concerns about whether expenditures  
14 for such activities were properly budgeted  
15 for and approved?

16 MR. CORRELL: Objection.

17 A. As I stated, that would have  
18 been in the letter and I -- I appreciate  
19 the opportunity. We can find the letter, I  
20 would like to look at that and then I can  
21 answer that question.

22 Q. Okay. I am just asking if  
23 looking at this reference now refreshes  
24 your recollection?

25 MS. EISENBERG: Which specific

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2 reference?

3 MS. FUCHS: To the annual  
4 cruises and to concerns regarding  
5 expenditures therefore.

6 MS. EISENBERG: Objection.

7 You can answer.

8 (Witness reviews document.)

9 A. As I understand your question,  
10 was I concerned about this? Clearly, yes,  
11 because I wrote it down here.

12 Q. Going back to Paragraph 6, was  
13 the employee in question Mildred Hallow?

14 A. Yes.

15 Q. So, back in 2002, there were  
16 findings of improper expenditures by  
17 Mildred Hallow?

18 A. Yes.

19 Q. Was there any consideration of  
20 firing Ms. Hallow?

21 MS. EISENBERG: Objection. Not  
22 to reveal the substance of any  
23 privileged communications.

24 I'm sorry. I should have said,  
25 objection. I instruct you not to

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2 reveal the substance of any

3 privileged communications.

4 A. The question on the table is, I  
5 believe, was there discussion regarding  
6 terminating her employment at that time?

7 Q. (Indicating.)

8 A. All -- not with me. Um, that's  
9 what I can speak to definitively. No such  
10 discussion was -- was held with me.

11 Q. Do you know if it was held with  
12 anyone else?

13 A. I don't know.

14 Q. Did Ms. Hallow have any role in  
15 organizing the annual cruises?

16 A. I don't know.

17 Q. Do you know who was involved in  
18 arranging the annual cruises?

19 MS. EISENBERG: Objection.

20 A. I don't know specifically, no.

21 Q. If you can turn to the next  
22 page where it says Paragraph 8, "Who is  
23 Survival, Inc.?" Do you see that?

24 A. Yes, I do.

25 Q. Sitting here, do you know who

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2 or what is Survival, Inc.?

3 A. I have no recollection of that.

4 Q. Any recollections regarding  
5 what the concerns were about Survival,  
6 Inc.?

7 MS. EISENBERG: Objection.

8 A. I don't remember.

9 Q. And one of the concerns that  
10 you wrote is: "Is the business case  
11 analysis process and the RFP scheduled  
12 being followed for all vendors?"

13 Do you see that?

14 A. Yes.

15 MS. EISENBERG: Objection.

16 Q. So back in or around 2007, you  
17 raised concerns regarding whether or not  
18 the business case analysis process was  
19 followed?

20 MS. EISENBERG: Objection.

21 A. I need to look at that letter.  
22 If we can find it to refresh my memory on  
23 that. Many of these questions really --  
24 not really -- many of these questions do  
25 reflect policy and procedures that were

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2 supposed to be followed. And, again, I  
3 want to look at the letter in order to --  
4 to be certain of the context in which I'm  
5 speaking. I -- I don't want -- I don't  
6 want to speculate on this again.

7 What this really -- I guess if  
8 I step back and -- and comment on the  
9 entire letter, I was doing my best to be  
10 duly diligent and asking questions that  
11 really would apply to all activities across  
12 the Board because I'm very -- you know, I  
13 have -- we're always concerned that  
14 policies and procedures are followed. And  
15 in today's environment, as I mentioned  
16 previously, they're going to be followed or  
17 people are gone. It's just that simple, it  
18 applies to everyone.

19 Q. But at the time, they didn't  
20 apply to Millie Hallow; right?

21 MS. EISENBERG: Objection.

22 A. As far as I was concerned, they  
23 did.

24 Q. You just said you follow them  
25 or you're gone; right? She's still with



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2 the NRA.

3 MS. EISENBERG: Objection.

4 MR. CORRELL: Objection.

5 A. I don't have the authority make  
6 that decision.

7 Q. Do you think that Ms. Hallow  
8 should be terminated?

9 MR. CORRELL: Objection to the  
10 extent that it calls for a legal  
11 conclusion.

12 A. The question is asking my  
13 personal opinion?

14 Q. Yes, sir.

15 A. If she's breaking the rules,  
16 then, yes.

17 Q. Do you recall whether you  
18 shared any of these concerns with the NRA's  
19 external auditors at the time?

20 MS. EISENBERG: Objection.

21 A. I don't recall.

22 Q. So RSM comes on as the external  
23 auditors in 2008. Did you share with them  
24 that the Board had received an anonymous  
25 letter?

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2 MS. EISENBERG: Objection.

3 MR. FLEMING: Object to form.

4 A. I don't recall.

5 Q. Do you recall directing that  
6 any actions be taken with respect to any of  
7 the concerns reflected in this document?

8 MS. EISENBERG: Objection.

9 (Witness reviews document.)

10 A. I don't want to speculate on  
11 this. I would like to go back and look at  
12 the minutes from that time and see what we  
13 did. I'd like -- again, as I stated, I'd  
14 like to look at that letter and then I'm in  
15 a position to answer your question. But  
16 right now I can't respond. It would be,  
17 you know --

18 Q. You can't respond because you  
19 don't remember?

20 MR. FLEMING: Object to form.

21 A. I have no clear memory of that  
22 at this time, yes. It's 15 years ago.

23 Q. I'll direct your attention to  
24 where it says Paragraph 10. The last  
25 sentence says, "Are the procedures

## **EXHIBIT E**

**From:** [Fuchs, Yael](#)  
**To:** [Svetlana Eisenberg](#); [Sarah Rogers](#)  
**Cc:** [Connell, Monica](#); [Stern, Emily](#)  
**Subject:** NRA- Additional Documents  
**Date:** Tuesday, June 21, 2022 2:15:06 PM  
**Attachments:** [06 NRA-NYAG-COMMDIV-00686689.pdf](#)

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Svetlana, Sarah:

As you are aware, the deposition of NRA board member and Audit Committee Vice Chair David Coy on June 15, 2022, Mr. Coy testified that he drafted the attached document, which relates to an “anonymous letter that BOD members received prior to the April 2007 NRA Annual Meeting.” The document purports to be a “series of questions derived from the letter.” The nature of the questions suggests that the letter raised issues related to those raised in the present litigation, including the adequacy of and compliance with numerous NRA policies and procedures, and the expenses generated by particular vendors, including I.I. & I.S. and Ackerman McQueen. As such, this letter and any response thereto is highly relevant to the present litigation, as well as responsive to, without limitation, Requests No. 2, 4, 15,16, 17, 26, 38 (including 38(h)), and 62 of the Request for Production dated June 25, 2021.

**We request that you please produce the following Document, no later than Friday June 24, and reserve all rights with respect thereto:**

**All documents relating to the anonymous letter (“the Letter”) referenced in the document bearing bates number NRA-NYAG-CPOMMDIV-00686689, including without limitation:**

- a. **The Letter received by NRA board members;**
- b. **Any board minutes or reports relating to the Letter;**
- c. **All Communications relating to the Letter;**
- d. **All documents consisting of or relating to any response to the Letter;**
- e. **The report from Jacob Frenkel referenced in Paragraph 6 of NRA-NYAG-CPOMMDIV-00686689, and all Documents related thereto.**

For your reference, as was shown at the deposition, the metadata for the document shows a creation date of 2017. Mr. Coy testified that he didn’t know why the metadata would show 2017, and further testified that he did in fact receive a letter, mailed to his home, in or around 2007.

Please let me know if you have any questions regarding the above.

Regards,  
Yael

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