

# EXHIBIT “51”



company). I am familiar with the perception of the NRA and its Second Amendment advocacy among the Association's many constituents.

4. NRA-ILA is the "lobbying" arm of the NRA. Established in 1975, NRA-ILA is committed to preserving the right of all law-abiding individuals to purchase, possess and use firearms as guaranteed by the Second Amendment to the U.S. Constitution. NRA-ILA also celebrates the freedoms of speech and association through political advocacy.

5. Beginning in the summer of 2018, a then-candidate for the office of New York Attorney General (NYAG), Letitia James, made a series of highly publicized statements vowing, *if elected*, to investigate the NRA.<sup>1</sup> She called the NRA a "organ of deadly propaganda," a "criminal enterprise" and a "terrorist organization."<sup>2</sup> These statements generated a wave of negative publicity about the NRA.

6. As if to establish herself as an anti-NRA warrior, James, in early 2018, joined New York government officials to condemn a fundraising event benefitting the NRA Foundation,<sup>3</sup> applauded retailers for stopping the sale of certain types of firearms and magazines,<sup>4</sup> and celebrated banks that cut financial ties to firearms companies.<sup>5</sup>

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<sup>1</sup> See *New York Daily News* article, "Letitia James Says She'd Investigate NRA's Not-For-Profit Status if Elected Attorney General," dated July 12, 2018 (Exhibit 1).

<sup>2</sup> See Tish James for Attorney General Press release, "Tish James Announces Attorney General Platform to Protect New Yorkers from Gun Violence," dated July 12, 2018 (Exhibit 2); *Our Time Press* news article, "Attorney General Candidate, Public Advocate Letitia James," dated September 6, 2018 (Exhibits 3 and 3a); and the *Ebony* magazine article, "Letitia 'Tish' James on Becoming New York's Next Attorney General," dated October 31, 2018 (Exhibits 4 and 4a).

<sup>3</sup> See *New York Daily News* article, "Coney Island Restaurant Ripped by State and City Pols for Hosting NRA Fund-raiser," dated February 26, 2018 (Exhibits 5 and 5a).

<sup>4</sup> See social media post, dated February 28, 2018 (Exhibit 6).

<sup>5</sup> See social media post, dated March 6, 2018 (Exhibits 7 and 7a).

7. James has used social media to assail “NRA-backed politicians”<sup>6</sup> and tout her willingness to “take on the NRA, gun manufacturers, retailers & banks that fund these weapons of death [firearms].”<sup>7</sup> Most obvious to me as a political advocate is that James uses her “anti-NRA” message as a campaign platform.

8. In September 2018, U.S. Rep. Maxine Waters (D-CA) taped an audio recording endorsing the James candidacy for NYAG and pointed to her efforts to “stand up to the NRA.” Under the banner of “big endorsement news,” James disseminated a tweet quoting the congresswoman.<sup>8</sup>

9. As a *candidate* for NYAG, James should not have had factual evidence of misconduct sufficient to warrant dissolution, or evidence that the Association was a “criminal enterprise.” In fact, she would not have possessed evidence that the NRA was not in compliance with the laws governing nonprofit organizations in New York.

10. Upon being elected NYAG, James made good on her campaign promise to investigate the NRA. On April 27, 2019, her office notified the NRA that it launched an investigation into the organization and issued document preservation notices to the NRA and some of its affiliates. This generated a burst of negative media coverage.<sup>9</sup>

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<sup>6</sup> See social media post, dated May 18, 2018 (Exhibit 8).

<sup>7</sup> See social media post, dated July 12, 2018 (Exhibits 9 and 9a).

<sup>8</sup> See tweet from Letitia James, dated September 13, 2018 (Exhibit 10).

<sup>9</sup> See *Associated Press* news report, “Letitia James, New York AG, Launches Investigation into NRA,” dated April 27, 2019 (Exhibit 11).

11. On August 5, 2020, James issued a media advisory trumpeting a “major national announcement.”<sup>10</sup> The following day, on August 6, 2020, she held a national press conference where she announced the filing of a lawsuit to dissolve the NRA – to shut us down forever.<sup>11</sup>

12. Simultaneously, the NYAG’s office escalated its public relations campaign – featuring media statements, tweets and other public communications. This resulted in widespread negative media attention for the Association. Her lawsuit generated coverage from *The Wall Street Journal*, *The New York Times*, *The Washington Post*, *The New York Daily News*, CNN, and MSNBC, to name just a few.<sup>12</sup>

13. The same day she announced her “dissolution” lawsuit, Attorney General James sent out a fundraising appeal celebrating her efforts to confront “abuses of trust and unchecked greed run amok.”<sup>13</sup>

14. As someone experienced in politics and campaigns, I believe this publicity was engineered to create reputational harm for the NRA and help the NYAG politically. Many editorial writers concluded the same.<sup>14</sup>

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<sup>10</sup> See media advisory, “Attorney General James to Make a Major National Announcement,” dated August 5, 2020 (Exhibit 12).

<sup>11</sup> See media advisory, “Attorney General James Files Lawsuit to Dissolve NRA,” dated August 6, 2020 (Exhibit 13).

<sup>12</sup> See *The Wall Street Journal* article, “New York Attorney General Seeks to Dissolve National Rifle Association,” dated August 7, 2020 (Exhibit 14); *The New York Times* article, “New York Attorney General Sues N.R.A. and Seeks Its Closure,” dated August 6, 2020 (Exhibit 15); *The Washington Post* article, “New York Attorney General Seeks to Dissolve NRA,” dated August 6, 2020 (Exhibit 16); *New York Daily News* article, “NRA’s Non-Profit Status in the Cross-Hairs of State Attorney General James Amid Allegations of Multi-Million Dollar Fraud,” dated August 6, 2020 (Exhibits 17 and 17a); CNN report, “New York Attorney General Files Lawsuit to Dissolve the National Rifle Association, dated August 6, 2020 (Exhibit 18); and MSNBC report, “NY Attorney General Sues to ‘Dissolve’ the NRA ‘In Its Entirety’,” dated August 6, 2020 (Exhibit 19).

<sup>13</sup> See fundraising appeal, dated August 6, 2020 (Exhibit 20).

<sup>14</sup> See editorial published in *The Hill*, “Turley: The Tragic Irony of the New York State Lawsuit Against the NRA,” dated August 8, 2020 (Exhibit 21); and editorial published in *Issues &*

15. Later that year, in December 2020, James proudly touted her pursuit of the NRA in her “2020 Year In Review.” Under the banner of “Stopping Self-Dealing and Fraud at the NRA,” the report features colorful pictures, TV screen shots, and front-page images from national newspapers – all chronicling the NYAG’s campaign against the NRA.<sup>15</sup>

16. On October 29, 2021, James announced her campaign for governor – with a launch video that touted her work to “eliminate the NRA.”<sup>16</sup>

17. The NYAG’s public relations onslaught harmed the NRA by creating a “cloud” over its future and negatively impacted its relationships with donors.

18. For example, gross revenues for the NRA declined dramatically since the NYAG expanded her messaging campaign against the NRA. Since 2018, approximate revenues are as follows:

- |         |                             |
|---------|-----------------------------|
| a. 2018 | \$360 million <sup>17</sup> |
| b. 2019 | \$296 million <sup>18</sup> |
| c. 2020 | \$284 million <sup>19</sup> |
| d. 2021 | \$233 million <sup>20</sup> |

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*Insights*, “NY Tries To ‘Dissolve’ The NRA: Far Left’s War Against the Constitution Never Ends,” dated August 7, 2020 (Exhibit 22).

<sup>15</sup> See New York Attorney General “2020 Year In Review,” dated December 31, 2020 (Exhibit 23).

<sup>16</sup> See *The Washington Post* news article, “New York Attorney General Letitia James Announces Run for Governor,” dated October 29, 2021 (Exhibit 24).

<sup>17</sup> See the audited financial statements of the National Rifle Association of America for 2019 and 2018 (Exhibit 27).

<sup>18</sup> *Id.*

<sup>19</sup> See the audited financial statements of the National Rifle Association of America for 2020 and 2021 (Exhibit 28).

<sup>20</sup> *Id.*

19. This decline is due, in part, to the sustained negative publicity generated by the NYAG and her vow to “eliminate the NRA.”

20. This has put the NRA in a defensive fundraising posture. A decline in revenue is a factor in the reduction of certain programs, declining political expenditures, and a reduction in the total number of NRA-ILA personnel.

21. The NRA was able to instill a measure of confidence in its donors and supporters when the NYAG’s dissolution claims were struck down in March 2022. However, this was followed by the NYAG filing an amended complaint on May 2, 2022, which seeks the appointment of an independent compliance monitor to oversee the NRA’s management of its assets.<sup>21</sup>

22. The invective against the NRA continued to be used by James as she neared her 2022 reelection for NYAG. At that time, she again used social media to admonish the NRA for trying to “evade the law and avoid the consequences of their actions.”<sup>22</sup>

23. I know from my significant contact with members, donors and supporters that the appointment of a compliance monitor would inflict further reputational and financial harm to the NRA – creating a stigma around the Association and casting doubt on its ability to effectively advocate for its mission.

24. Attached hereto are copies of the following aforementioned documents:

- a) A *New York Daily News* article, “Letitia James Says She'd Investigate NRA's Not-For-Profit Status if Elected Attorney General,” dated July 12, 2018, is attached as **Exhibit 1**.

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<sup>21</sup> See *City & State New York* article, “New York AG Letitia James Seeks NRA Babysitter,” dated May 4, 2022 (Exhibit 25).

<sup>22</sup> See social media, dated September 30, 2022 (Exhibit 26).

- b) A press release posted on the <https://ag.ny.gov/> website, “Tish James Announces Attorney General Platform to Protect New Yorkers from Gun Violence,” dated July 12, 2018, is attached as **Exhibit 2**.
- c) An *Our Time Press* news article, “Attorney General Candidate, Public Advocate Letitia James,” dated September 6, 2018, (URL: <https://ourtimepress.com/attorney-general-candidate-public-advocate-letitia-james/> (accessed on or about January 18, 2019)), is attached as **Exhibit 3**. Because the article is no longer posted on the *Our Time Press* web site, the copy appended hereto as **Exhibit 3a** was downloaded from WayBack Machine website (URL: <https://web.archive.org> (accessed on or about March 7, 2023)).<sup>23</sup>
- d) An *Ebony* magazine article, “Letitia ‘Tish’ James on Becoming New York’s Next Attorney General,” dated October 31, 2018, is attached as **Exhibit 4**. A copy of the same article with the related photographs (URL: <https://www.ebony.com/letitia-tish-james-on-becoming-new-yorks-next-attorney-general/> (accessed on or about March 6, 2023)) is attached as **Exhibit 4a**.
- e) A *New York Daily News* article, “Coney Island Restaurant Ripped by State and City Pols for Hosting NRA Fund-raiser,” dated February 26, 2018, is attached as **Exhibit 5**. A copy of the same article with the related photographs (URL: <https://www.nydailynews.com/new-york/brooklyn/coney-island-restaurant-blasted-hosting-nra-fund-raiser-article-1.3843345> (accessed on or about March 6, 2023)) is attached as **Exhibit 5a**.

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<sup>23</sup> The *WayBack Machine* is an internet archive website.



- f) A February 28, 2018 Facebook post by Attorney General James, which states:

There is simply no excuse for any retailer to sell military-grade weapons or high-capacity magazines to civilians. I have been leading the fight in New York City to divest all public money from gun and ammunition retailers like Dick's and we will continue this public pressure until all weapons of death are removed from our store shelves. Dick's Sporting Goods is taking a critical step to make all Americans safer and I implore other retailers to follow suit. Every individual and corporation in this country has a moral and ethical responsibility to take a hard look at the actions they can take to address this public health crisis.

The Facebook post is attached as **Exhibit 6** and includes a February 28, 2018 *The New York Times* article, "Walmart and Dick's Raise Minimum Age for Gun Buyers to 21."

- g) A twitter post by Attorney General James, which states, "After the devastation that occurred at #Pulse in Orlando, I called on six banks to end their financial support of Sig Sauer, the maker of the assault weapon used at Pulse. I am pleased that Berkshire Bank heeded our call. Now the others must follow," dated March 6, 2018. The twitter post which also includes a March 5, 2018 *ThinkProgress* news article, "Berkshire Bank no longer providing financing for assault weapons manufacturer," are attached as **Exhibit 7**. A copy of the same twitter post and article with the related photographs and legible text (URL: <https://twitter.com/NYCPAJames/status/971043727522258944> (accessed on or about March 2, 2023) and URL: <https://thinkprogress.org/berkshire-bank-cuts-ties-with-gun-maker-sig-sauer-c7d38aedc4f5/> (accessed on or about March 6, 2023)) are attached as **Exhibit 7a**.

- h) A twitter post by Attorney General James, which states, "Today we grieve with the students, teachers and families at Santa Fe High School. 'Thoughts and

Payers' will never be enough. Only gun reform laws can do what NRA-backed politicians can't—keep guns out of the hands of those who seek to harm innocent people,” dated May 18, 2018, is attached as **Exhibit 8**.

- i) A twitter post by Attorney General James which states: “Strong gun laws in NY haven’t been enough to stop the gun violence that rips communities of color apart every day. Today, I’m announcing my plans as Attorney General to stop gun violence & take on the NRA, gun manufacturers, retailers & banks that fund these weapons of death,” dated July 12, 2018, is attached as **Exhibit 9**. A copy of the same twitter post and article with the related photographs and legible text (URL: <https://twitter.com/TishJames/status/1017430252971347968> (accessed on or about March 2, 2023)) is attached as **Exhibit 9a**.
- j) A twitter post by Attorney General James, which states: “BIG ENDORSEMENT NEWS @MaxineWaters has endorsed our campaign!” and quoting Maxine Waters, ‘While we’re righting @realDonaldTrump in Washington, D.C., New York has a chance to elect an attorney general who will investigate Trump, stand up to the NRA, and make sure that our rights are protected,’ dated September 31, 2018, is attached as **Exhibit 10**.
- k) An *Associated Press News* article, “Letitia James, New York AG, launches investigation into NRA,” dated April 27, 2019, is attached as **Exhibit 11**.
- l) An August 5, 2020 twitter post by Stephen Gandel, which states: “NY AG Letitia James just announced she will make a major national announcement tomorrow at 11:30. Here’s the release” is attached as **Exhibit 12**.

- m) An August 6, 2020 press release posted on the <https://ag.ny.gov> website, “Attorney General James Files Lawsuit to Dissolve NRA” is attached as **Exhibit 13**.
- n) A *Wall Street Journal* article, “New York Attorney General Seeks to Dissolve National Rifle Association,” dated August 6, 2020, is attached as **Exhibit 14**.
- o) A *The New York Times* article, “New York Attorney General Sues N.R.A. and Seeks Its Closure,” dated August 6, 2020, is attached as **Exhibit 15**.
- p) A *The Washington Post* article, “New York Attorney General Seeks to Dissolve NRA,” dated August 6, 2020, is attached as **Exhibit 16**.
- q) A *New York Daily News* article, “NRA’s Non-Profit Status in the Cross-Hairs of State Attorney General James Amid Allegations of Multi-Million Dollar Fraud,” dated August 6, 2020, is attached as **Exhibit 17**. Because Exhibit 17 might not be entirely legible, for the Court’s convenience, a legible copy of the same article (Text pasted into Word from URL: <https://www.nydailynews.com/news/politics/ny-tish-james-nra-announcement-lawsuit-20200806-ysdpxhgkufeznhgozyfz6degu-story.html> (accessed on or about March 2, 2023)), is attached as **Exhibit 17a**.
- r) A *CNN* report, “New York Attorney General Files Lawsuit to Dissolve the National Rifle Association,” dated August 6, 2020, is attached as **Exhibit 18**.
- s) An *MSNBC* report, “NY Attorney General Sues to ‘Dissolve’ the NRA ‘In Its Entirety’,” dated August 6, 2020, is attached as **Exhibit 19**.
- t) A twitter post on August 6, 2020 by Maggie Haberman is attached as **Exhibit 20**. It among other things states: “Tish James started fundraising about

fighting powerful forces with \$\$ running amok about an hour ago. No explicit NRA references.”

- u) An editorial in *The Hill*, “Turley: The Tragic Irony of the New York State Lawsuit Against the NRA,” dated August 8, 2020, is attached as **Exhibit 21**.
- v) An editorial in *Issues & Insights*, “NY Tries To ‘Dissolve’ The NRA: Far Left’s War Against the Constitution Never Ends,” dated August 7, 2020, is attached as **Exhibit 22**.
- w) A December 31, 2020 press release posted on the <https://ag.ny.gov/> website, “Attorney General James Releases Annual Report Highlighting Key Actions Undertaken in 2020” and the annual report referenced in the press release are attached as **Exhibit 23**. The press release is available at URL: <https://ag.ny.gov/press-release/2020/attorney-general-james-releases-annual-report-highlighting-key-actions-undertaken>. The annual report is available at URL: <https://annualreport.ag.ny.gov/>.
- x) A *Washington Post* article, “New York Attorney General Letitia James Announces Run for Governor,” dated October 29, 2021, is attached as **Exhibit 24**.
- y) A *City & State New York* article, “New York AG Letitia James Seeks NRA Babysitter,” dated May 4, 2022, is attached as **Exhibit 25**.
- z) A September 30, 2022 twitter post by Attorney General James, which states: “Once again, a judge dismissed attempts by the @NRA and its senior management to evade the law and avoid the consequences of their actions.

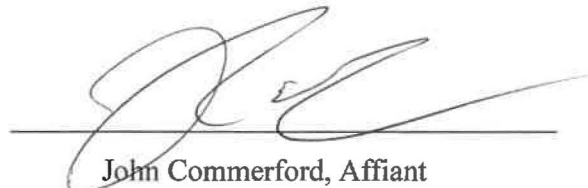
Everyone must play by the same rules.” The twitter post is attached as

**Exhibit 26**, which also includes a media report linked in the tweet.

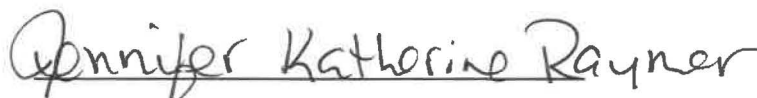
aa) Audited financial statements for the National Rifle Association of America reflect total revenues for 2018-2021 and are attached at **Exhibits 27 & 28**.

25. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 8 day of March 2023.

  
John Commerford, Affiant

SUBSCRIBED AND SWORN to, on this 8<sup>th</sup> day of March 2023.

  
NOTARY PUBLIC

My commission expires: 6-30-26

