

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

PEOPLE OF THE STATE OF NEW YORK, BY
LETITIA JAMES, ATTORNEY GENERAL OF
THE STATE OF NEW YORK,

Plaintiff,

v.

THE NATIONAL RIFLE ASSOCIATION OF
AMERICA, WAYNE LAPIERRE, WILSON
PHILLIPS, JOHN FRAZER, and JOSHUA
POWELL,

Defendants.

Index No. 451625/2020

Motion Sequence No. 46

**AFFIRMATION OF
ALEXANDER MENDELSON
IN SUPPORT OF
PLAINTIFF'S OPPOSITION
TO DEFENDANT JOSHUA
POWELL'S MOTION FOR
SUMMARY JUDGMENT**

Alexander Mendelson, an attorney duly admitted to practice before the Courts of this State, hereby affirms the following under the penalty of perjury pursuant to Civil Practice Law and Rules CPLR § 2106:

1. I am an Assistant Attorney General in the Enforcement Section of the Charities Bureau of the Office of the New York State Attorney General ("OAG" or "Attorney General").

2. I submit this affirmation in support of Plaintiff's opposition to Defendant Joshua Powell's motion for summary judgment, Mot. Seq. 46.

3. I am familiar with the facts and circumstances set forth in this affirmation, which are based upon my personal knowledge and information contained in the files of the OAG.

4. Attached as **Exhibit A** to this affirmation is a true and correct copy of excerpts from the transcript of the January 14, 2022 deposition of former NRA Chief Financial Officer and Treasurer Craig Spray ("1/14/22 Craig Spray Depo. Tr.").

5. Attached as **Exhibit B** to this affirmation is a true and correct copy of excerpts of the transcript from the May 5, 2022 deposition of NRA employee Lisa Supernaugh (“5/5/22 Lisa Supernaugh Depo. Tr.”).

6. Attached as **Exhibit C** to this affirmation is a true and correct copy of excerpts from the transcript from the June 9, 2022 deposition of former NRA Chief of Staff, Executive Director of General Operations, and Senior Strategist, Joshua Powell (“6/9/22 Powell Depo. Tr.”).

7. Attached as **Exhibit D** to this affirmation is a true and correct PDF version of a Microsoft Excel spreadsheet, maintained and produced by the NRA, containing Powell’s residential rent expenses for August through October 2016. (NYAG-00088665) (Aug.-Oct. 2016 Rental Expense Report).

8. Attached as **Exhibit E** to this affirmation is a true and correct PDF version of a Microsoft Excel spreadsheet, maintained and produced by the NRA, containing Powell’s residential rent expenses for October through November 2016. (NYAG-00083883) (Oct.–Nov. 2016 Rental Expense Report).

9. Attached as **Exhibit F** to this affirmation is a true and correct PDF version of a Microsoft Excel spreadsheet, maintained and produced by the NRA, containing Powell’s residential rent expenses for December 2016 (NYAG-00040035) (Dec. 2016 Rental Expense Report).

10. Attached as **Exhibit G** to this affirmation is a true and correct excerpt of a document, maintained and produced by the NRA, identifying vendor payments made by the NRA in 2017, and containing a payment to Powell’s landlord, David Poole (Vendor #10016906) (NYAG-00052268).

11. Attached as **Exhibit H** to this affirmation is a true and correct excerpt of a document, maintained and produced by the NRA, identifying vendor payments made by the NRA in 2018, and containing a payment to Powell's landlord, David Poole (Vendor #10016906) (NYAG-00052562).

12. Attached as **Exhibit I** to this affirmation is a true and correct excerpt of a document, maintained and produced by the NRA, identifying year-to-date vendor payments made by the NRA as of June 27, 2019, and containing a payment to Powell's landlord, David Poole (Vendor #10016906) (NYAG-00053972).

13. Attached as **Exhibit J** to this affirmation is a true and correct copy of the 2018 NRA Employee Handbook, as maintained and produced by the NRA. (NYAG-00029627) ("2018 Employee Handbook").

14. Attached as **Exhibit K** to this affirmation is a true and correct copy of documents, marked as Exhibit 3 in the June 9, 2022 deposition of Joshua Powell and maintained and produced by the NRA, containing information regarding Powell's purported relocation expenses from December 2018 through October 2019. (NRA-NYAGCOMMDIV-00011250) (December 2018 – October 2019 Relocation Expenses)

15. Attached as **Exhibit L** to this affirmation is a true and correct copy of the [REDACTED] [REDACTED] maintained and produced by the NRA. (NRA-NYAGCOMMDIV-00008897)

16. Attached as **Exhibit M** to this affirmation is a true and correct copy of an email, maintained and produced by the NRA, dated April 2, 2019 and sent from NRA Accounts Payable Manager Portia Padilla to Sonya Rowling regarding "FW: AMEX for Period ending March 15, 2019." (NYAG-00073360).

17. Attached as **Exhibit N** to this affirmation is a true and correct copy of an email, maintained and produced by the NRA, dated October 7, 2019 and sent from Powell to Craig Spray regarding “RE: Discuss,” in which Powell offers to assist in preparing the Annual IRS Form 990. (NRA-NYAGCOMMDIV-00202518).

18. Attached as **Exhibit O** to this affirmation is a true and correct copy of an email, marked as Exhibit 9 at the June 9, 2022 deposition of Joshua Powell and maintained and produced by McKenna and Associates LLC (“McKenna”), dated March 5, 2018 and sent from Andrew McKenna to Seth Downing regarding “FW: McKenna Contract,” stating that Powell and McKenna representatives “had agreed on . . . business terms.” (NYAG-00300982).

19. Attached as **Exhibit P** to this affirmation is a true and correct PDF version of a Microsoft Excel spreadsheet, maintained and produced by the NRA, containing a summary of invoices received by McKenna & Associates LLC (NYAG-00285736) (Summary of McKenna Invoices).

20. Attached as **Exhibit Q** to this affirmation is a true and correct copy of an email, marked as Exhibit 8 at the June 9, 2022 deposition of Joshua Powell and maintained and produced by the NRA, dated January 10, 2018 and sent from NRA employee Lisa Supernaugh to NRA Assistant General Counsel Morgan Shields regarding “FW: McKenna Contract” (NYAG-00033485).

21. Attached as **Exhibit R** to this affirmation is a true and correct copy of agreements dated July 2016, July 2017, and January 2018 between the NRA and McKenna. (NYAG-00292981) (“2016-2018 Signed McKenna Agreements”)

22. Attached as **Exhibit S** to this affirmation is a true and correct copy of a February 27, 2012 Policy Statement from NRA Executive Vice President Wayne LaPierre to All Staff

regarding “Approval Procedures for Purchase Agreements and Contracts in Excess of \$100,000,” maintained and produced by the NRA. (NYAG-0030077).

23. Attached as **Exhibit T** to this affirmation is a true and correct copy of excerpts from the transcript from the June 10, 2022 deposition of Joshua Powell (“6/10/2022 Powell Depo. Tr.)

24. Attached as **Exhibit U** to this affirmation is a true and correct copy of an email, maintained and produced by McKenna, dated June 29, 2018 and sent from NRA Assistant General Counsel Sarah Gervase to McKenna employee Seth Downing regarding “FW: Looking Glass Contract.” (NYAG-00301733).

25. Attached as **Exhibit V** to this affirmation is a true and correct copy of a draft work order between the NRA and McKenna dated June 1, 2018, maintained and produced by McKenna, contemplating cyber security services to be provided by subcontractor LookingGlass Cyber Solutions (NYAG-00301758).

26. Attached as **Exhibit W** to this affirmation is a true and correct copy of an email, maintained and produced by Defendant Powell, dated June 28, 2018 and sent from McKenna employee Seth Downing to Powell regarding “Looking Glass contract” (JP-0001504).

27. Attached as **Exhibit X** to this affirmation is a true and correct copy of an email, maintained and produced by McKenna, dated August 31, 2018 and sent from Looking Glass CEO Chris Coleman to McKenna employee Seth Downing regarding “Fwd: Contract Status.” (NYAG-00299247).

28. Attached as **Exhibit Y** to this affirmation is a true and correct copy of an email, maintained and produced by the NRA, dated September 1, 2018, and sent from Craig Spray to John Frazer and Tony Hayes regarding “Fwd: Contract Status” (NRA-NYAGCOMMDIV-00583745).

29. Attached as **Exhibit Z** to this affirmation is a true and correct copy of an email, maintained and produced by the NRA, dated September 1, 2018 and sent from Craig Spray to Josh Powell, Tony Hayes, and John Frazer regarding “Re: Contract Status” (NYAG-00041189).

30. Attached as **Exhibit AA** to this affirmation is a true and correct copy of an email, maintained and produced by the NRA, dated September 5, 2018 and sent from Craig Spray to John Frazer and Tony Hayes regarding “Re: McKenna Cyber Invoice” (NYAGCOMMDIV-00845653).

31. Attached as **Exhibit AB** to this affirmation is a true and correct copy of excerpts from the transcript from the June 12, 2020 Examination of former NRA Chief Financial Officer and Treasurer Craig Spray (“6/12/20 Craig Spray Examination Tr.”).

32. Attached as **Exhibit AC** to this affirmation is a true and correct copy of excerpts from the transcript from the June 16, 2022 deposition of NRA Employee Michael Erstling (“6/16/22 Michael Erstling Depo. Tr.”).

33. Attached as **Exhibit AD** to this affirmation is a true and correct copy of excerpts from the transcript from the August 9, 2022 deposition of NRA Secretary and General Counsel, John Frazer, in his capacity as the NRA’s Corporate Representative (“8/9/2022 Corp. Rep. Depo. Tr.”).

34. Attached as **Exhibit AE** to this affirmation is a true and correct copy of excerpts from the transcript of the June 28, 2022 deposition of NRA Executive Vice President Wayne LaPierre (“6/28/22 Wayne LaPierre Depo. Tr.”).

35. Attached as **Exhibit AF** to this affirmation is a true and correct copy of excerpts from the NRA’s IRS Form 990 for the year 2019, which was filed with the OAG as part of the NRA’s CHAR500 filing.

36. Attached as **Exhibit AG** to this affirmation is a true and correct copy of excerpts from the transcript from the October 24, 2022 deposition of the NRA's proffered executive compensation expert, Alan Nadel ("10/24/22 Alan Nadel Depo. Tr.").

37. Attached as **Exhibit AH** to this affirmation is a true and correct copy of excerpts of the transcript from the July 14, 2022 Deposition of NRA Employee Sonya Rowling ("7/14/22 Sonya Rowling Depo. Tr.").

38. Attached as **Exhibit AI** to this affirmation is a true and correct copy of an email, maintained and produced by the NRA, dated April 16, 2018 and sent from Sonya Rowling to Portia Padilla regarding "Re: Payment of Invoices and Expense Reimbursements with Incomplete Support." (NYAG-00042592).

39. Attached as **Exhibit AJ** to this affirmation is a true and correct copy of excerpts from the transcript of the August 10, 2021 deposition of former NRA Chief Financial Officer and Treasurer Wilson H. Phillips, Jr. ("8/10/21 Wilson Phillips Depo. Tr.").

40. Attached as **Exhibit AK** to this affirmation is a true and correct copy of an email, marked as Exhibit 10 in the June 9, 2022 deposition of Joshua Powell, maintained and produced by McKenna, dated January 19, 2018, [REDACTED] (NYAG-00302670).

41. Attached as **Exhibit AL** to this affirmation is a true and correct copy of excerpts from the transcript from the July 12, 2022 deposition of NRA Secretary and General Counsel John Frazer ("7/12/22 John Frazer Depo. Tr.").

42. Attached as **Exhibit AM** to this affirmation is a true and correct copy of excerpts of the transcript from the June 17, 2022 deposition of current NRA President, Board Member and Audit Committee member Charles Cotton ("6/17/22 Charles Cotton Depo. Tr.").

43. Attached as **Exhibit AN** to this affirmation is a true and correct copy of a document, maintained and produced by the NRA, containing a June 2018 purchase order for photography services from Jim Powell Advertising Photography, Inc. (NYAG-00032851).

44. Attached as **Exhibit AO** to this affirmation is a true and correct copy of an email, maintained and produced by the NRA, dated July 9, 2018 and sent from Lisa Supernaugh to Steve Hart, regarding "FW: Competitive Shooting Invoices," and the attached invoices referenced therein. (NYAG-00032906).

45. Attached as **Exhibit AP** to this affirmation is a true and correct copy of an email, maintained and produced by Defendant Powell, dated February 3, 2017 [REDACTED]
[REDACTED]
[REDACTED] (JP-0004889).

46. Attached as **Exhibit AQ** to this affirmation is a true and correct copy of an email, maintained and produced by the NRA, dated September 6, 2017 and sent from NRA employee Lisa Supernaugh to NRA employees Cole McCulloch and Lisa Supernaugh regarding "Re: Invoice for photo shoot at the Carry Guard Convention" (NYAG-00031583).

47. Attached as **Exhibit AR** to this affirmation is a true and correct copy of an email, maintained and produced by the NRA, dated August 2, 2018 and sent from NRA employee Lisa George to NRA employee Sonya Rowling, regarding "Re: Powell Photography" (NYAG-00032426).

48. Attached as **Exhibit AS** to this affirmation is a true and correct copy [REDACTED]
[REDACTED], and as maintained and produced by the NRA at NRA-NYAGCOMMDIV-00102890 [REDACTED]

49. Attached as **Exhibit AT** to this affirmation is a true and correct copy of the NRA's Bylaws, as amended in September 2016 and April 2017, and as maintained and produced by the NRA. (NYAG-00046529) ("NRA Bylaws 2016/2017").

50. Attached as **Exhibit AU** to this affirmation is a true and correct copy of excerpts from the transcript of the April 8, 2021 afternoon session of the hearing in the NRA's bankruptcy proceeding, *In re National Rifle Association of America and Sea Girt LLC*, No. 21-30085 (Bankr. N.D. Tex.) ("4/8/2021 Bankr. Trial Tr.").

51. Attached as **Exhibit AV** to this affirmation is a true and correct copy of an email, , marked as Exhibit 1 in the June 9, 2022 deposition of Joshua Powell, and maintained and produced by Defendant Powell, dated September 10, 2020 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] (JP-0037522-25) [REDACTED]

52. Attached as **Exhibit AW** to this affirmation is a true and correct copy of excerpts from the transcript of the March 23, 2021 deposition of NRA Executive Vice President Wayne LaPierre in the bankruptcy proceeding, *In re National Rifle Association of America and Sea Girt LLC*, No. 21-30085 (Bankr. N.D. Tex.). ("3/23/21 Wayne LaPierre Bankr. Depo. Tr.").

53. Attached as **Exhibit AX** to this affirmation is a true and correct copy of excerpts of Ackerman McQueen Employee Expense Reports, maintained and produced by Ackerman McQueen, [REDACTED] (NYAG-00122496)

[REDACTED]

54. Attached as **Exhibit AY** to this affirmation is a true and correct copy of excerpts of Ackerman McQueen Employee Expense Reports, maintained and produced by Ackerman

McQueen [REDACTED] (NYAG-00123368)

[REDACTED]

55. Attached as **Exhibit AZ** to this affirmation is a true and correct copy of excerpts of Ackerman McQueen Employee Expense Reports, maintained and produced by Ackerman McQueen, [REDACTED] (NYAG-00122901)

[REDACTED]

56. Attached as **Exhibit BA** to this affirmation is a true and correct PDF version of a Microsoft Excel Spreadsheet, marked as Exhibit 4 in the June 14, 2022 deposition of the Corporate Representative of Forensic Risk Alliance, Michael Trahar ("FRA Depo. Ex. 4").

57. Attached as **Exhibit BB** to this affirmation is a true and correct copy of excerpts from the transcript from the June 14, 2022 deposition of the Corporate Representative of Forensic Risk Alliance, Michael Trahar ("6/14/2022 Trahar Depo. Tr.").

58. Attached as **Exhibit BC** to this affirmation is a true and correct copy of a document, maintained and produced by McKenna, containing [REDACTED]

[REDACTED]

(NYAG-00292854) ([REDACTED])

59. Attached as **Exhibit BD** to this affirmation is a true and correct copy of excerpts from the transcript of the August 11, 2021 deposition of former NRA Chief Financial Officer and Treasurer Wilson H. Phillips, Jr. ("8/11/2021 Phillips Depo. Tr.").

60. Attached as **Exhibit BE** to this affirmation is a true and correct copy of an email, marked as Exhibit 6 in the June 9, 2022 deposition of Joshua Powell, maintained and produced by Defendant Powell, dated November 8, 2020 and [REDACTED]

[REDACTED]

[REDACTED] (JP0008561) ([REDACTED]).

61. Attached as **Exhibit BF** to this affirmation is a true and correct copy of [REDACTED]

[REDACTED]

[REDACTED] marked as Exhibit 4 in the June 9, 2022 deposition of Joshua Powell, and maintained and produced by Defendant Powell (JP-0016545) ([REDACTED] [REDACTED]).

62. Attached as **Exhibit BG** to this affirmation is a true and correct copy of a document

[REDACTED] dated December 15, 2017, marked as Exhibit 5 in the June 9, 2022 deposition of Joshua Powell, and maintained and produced by Defendant Powell (JP-0002560) ([REDACTED]).

63. Attached as **Exhibit BH** to this affirmation is a true and correct copy of a document, produced and maintained by McKenna, containing [REDACTED]

[REDACTED] (NYAG-00292837) [REDACTED]

[REDACTED]

64. Pursuant to paragraph 14 of the So ordered Stipulation and Order for the Production and Exchange of Confidential Information filed October 25, 2022 (NYSCEF 869 (“Protective Order”)), certain of the foregoing documents attached to this affirmation will be filed in redacted or sealed form, and will be replaced with their corresponding unredacted versions absent a timely motion to seal.

Dated: New York, New York
March 20, 2023

/s/ Alexander Mendelson

Alexander Mendelson

Attorney Certification Pursuant to Commercial Division Rule 17

I, Alexander Mendelson, an attorney duly admitted to practice law before the courts of the State of New York, certify that the Affirmation of Alexander Mendelson in Support of Plaintiff's Opposition to Defendant Joshua Powell's Motion for Summary Judgment complies with the word count limit set forth in Rule 17 of the Commercial Division of the Supreme Court (22 NYCRR 202.70(g)) because the affirmation contains 2910 words, excluding the parts exempted by Rule 17. In preparing this certification, I have relied on the word count of the word-processing system used to prepare this affirmation.

Dated: New York, New York
March 20, 2023

/s/ Alexander Mendelson
Alexander Mendelson