

Exhibit C

Confidential



**REBUTTAL COMMENTS OF ALAN A. NADEL
WITH RESPECT TO THE EXPERT REPORT OF
PROFESSOR ERICA HARRIS**

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IN THE MATTER OF

**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, SUPREME COURT OF
THE STATE OF NEW YORK, COUNTY OF NEW YORK)**

SUBMITTED, OCTOBER 7, 2022

Introduction

I was asked by counsel for The National Rifle Association of America (NRA) in this action for my opinions in connection with allegations presented by the Attorney General of the State of New York (NYAG, or Attorney General) concerning various compensation and related matters. My opinions were presented in my report dated September 16, 2022.

I have also been requested to present my opinions and observations with respect to the report submitted by Erica Harris.

Opinion

Prof. Harris purports to report on the frequency of self-reporting excess benefit transactions on IRS Form 990 by nonprofit organizations. This analysis is irrelevant to the New York Attorney General's causes of action against the NRA.

Prof. Harris' calculations are flawed and unreliable:

- In her calculation of the NRA's excess benefits, she includes expenditures that are not excess benefits, specifically executive compensation which was determined by the NRA Board to be reasonable.
- She compares data based on the above-noted NRA expenditures and compares it to data for other nonprofits that are not similarly situated.

Discussion

My conclusion concerning Prof. Harris' report is based on a number of factors, including:

- On page 2, #1 of her report, Prof. Harris presents her credentials. I note that all of Prof. Harris' experience is in Accounting. She does not assert that her credentials include meaningful tax experience. Although organizations satisfying the rules of Sections 501(c)(3) and 501(c)(4) generally are not subject to income tax, there is a body of tax law, income and excise tax regulations and court cases dealing with the complex tax rules associated with these entities. It is not clear that Prof. Harris is qualified to evaluate the numerous tax rules surrounding nonprofit organizations.
- On page 4, #11b of her report, Prof. Harris states that "organizations with good governance are able to mitigate the probability of the organization sustaining a significant diversion of assets." The term "mitigate the probability" means there is a smaller likelihood of a diversion occurring. Prof. Harris has not addressed the NRA's bylaws, policy manual, employee handbook, compliance seminars, and testimony from Audit Committee members, General Counsel, and the Treasurer, nor has she considered the improvements made in control processes surrounding expenses. It is clear that the NRA took steps to prevent diversion of assets.
- On page 4, #11c, Prof. Harris indicates that her "...study finds that, consistent with a loss in trust, donors reduce their support for organizations reporting a significant diversion of assets..." The NRA's net assets reported on Form 990 increased, however, notwithstanding its reporting of excess benefits.
- In her Summary of Opinions on page 7, IV, paragraphs 2-4, and in Table 2 on page 11, Prof. Harris fails to recognize that Mr. LaPierre and Mr. Frazer repaid identified excess benefit transactions with interest.

- In Table 2 on page 11, Prof. Harris states that Mr. Frazer's compensation was not reasonable. I disagree. As discussed in detail in my report, the NRA Board and the Officers' Compensation Committee have a deliberate process for setting executive pay, whereby they utilize the services of independent compensation consultants, receive extensive support materials prior to their meetings and have a number of discussions throughout the year prior to their annual meetings each September. Also, my own analysis, as presented in my report, confirms that the NRA executives did not receive excessive compensation. Furthermore, the reasonableness of Mr. Frazer's compensation has been confirmed by the expert report submitted by compensation consultant James Reda. In sum, I believe Mr. Frazer's compensation is not an excess benefit and does not constitute inurement.
- In Table 3 on Page 14, the items noted for Mr. and Mrs. LaPierre and for Mr. Frazer were repaid with interest.
- I challenge Prof. Harris' statement on page 17, #5 where she states, "As the table above demonstrates, the NRA is one of 2 large, 501(c)4 nonprofit organizations reporting current period excess benefit transactions between 2010-2020. And the 2 years of excess benefit transactions reported by the NRA account for 75% (2/3) of all excess benefit transactions reported by large, 501(c)4 nonprofit organizations between 2010-2010." (I assume she meant 2010-2020). I have added Exhibit A (attached to this report) noting a number of financial scandals at large nonprofit organizations in recent years. Prof. Harris made no effort to test the Form 990 data that she includes in her analysis. Therefore, she has no basis for concluding that all excess benefit violations have been reported.
- While Prof. Harris may be correct about the small number of charitable organizations that report excess benefits (see Page 24, #1), my experience as a consultant and a former IRS agent is that some nonprofit organizations do not report excess benefits properly, whether wittingly or unwittingly. (Again, see Exhibit A).

- I disagree with Prof. Harris' conclusion on page 24, #4 that NRA operations are "abnormal." Exhibit A lists just a few other large nonprofit organizations that have incurred significant excess benefit transactions. These contrast significantly with the NRA in which the expenses incurred by Mr. LaPierre and Mr. Frazer and were identified as excess benefits have already been repaid with interest.

For all the reasons noted above, I conclude that Prof. Harris' conclusions are flawed and unreliable. Further, her conclusions are irrelevant to the NYAG claims.



Alan A. Nadel
Strategic Apex Group LLC
531 Main Street Suite 421
New York, NY 10044
alan.nadel@strategicapex.com
212.888.7747

See Exhibit A on next page

Exhibit A

Nonprofits That Have Terminated Officers and Others
Selected Press Comments

1. Wounded Warrior Project

(<https://www.nytimes.com/2016/01/28/us/wounded-warrior-project-spends-lavishly-on-itself-ex-employees-say.html> and <https://www.foxnews.com/us/wounded-warrior-projects-top-execs-fired-amid-lavish-spending-scandal>)

- “All staff members flying to the charity’s office at a military hospital in Germany traveled in **business class, employees said. One current employee said her last-minute ticket cost \$7,000.**”
- “People could spend money on the most ridiculous thing and no one batted an eye,” said Connie Chapman, who was in charge of the charity’s Seattle office for two years. **“I would fly to New York for less than a day to report to my supervisor.”**
- “By 2014, the group was **spending \$7.5 million per year on travel**, according to tax forms.”
- “The Wounded Warrior Project asserts that it spends 80 percent of donations on programs, but former employees and charity watchdogs say the charity **inflates its number** by using practices such as counting some marketing materials as educational.”

- “It has **spent millions a year on travel, dinners, hotels and conferences that often seemed more lavish than appropriate**, more than four dozen current and former employees said in interviews.”
- “Former workers recounted buying business-class seats and regularly jetting around the country for minor meetings, or **staying in \$500-per-night hotel rooms.**”
- “About **40 percent of the organization’s donations in 2014 were spent on its overhead**, or about **\$124 million**, according to the charity-rating group Charity Navigator.
- “At least half a dozen former employees said they **were let go** after raising questions about ineffective programs or **spending.**”
- “The organization has yet to recover fully from a hemorrhage that saw **fundraising drop** from a peak of **\$373 million in 2015 to just \$211 million in 2017.**”
- “Erick Millette, 41, who still lives in Jacksonville, Florida, where Wounded Warrior Project is headquartered, told Military.com he stands by all the claims he made about the organization -- **\$2,500 bar tabs and other prodigal spending at staff-only team-building events**, a permissive "good old boys" atmosphere among leadership.”
- “According to the charity's tax forms obtained by CBS News, spending on conferences and meetings **went from \$1.7 million in 2010, to \$26 million in 2014,**

which is the same amount the group spends on combat stress recovery.”

- “Millette said he witnessed **lavish spending** on staff, with big “catered” parties.”
- "Going to a nice **fancy restaurant** is not team building. Staying at a **lavish hotel at the beach** here in Jacksonville, and requiring staff that lives in the area to stay at the hotel is not team building," he told CBS News.”
- “Two former employees, who were so fearful of retaliation they asked that CBS News not show their faces on camera, said **spending has skyrocketed** since Steven Nardizzi took over as CEO in 2009, pointing to the **2014 annual meeting at a luxury** resort in Colorado Springs.”
- "He **rappelled down the side of a building** at one of the all-hands events. He's **come in on a Segway**, he's **come in on a horse**,” one employee told CBS News.”
- “About 500 staff members attended the **four-day conference** in Colorado, which CBS News reported **cost about \$3 million**.”

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2. American University

(<https://www.philanthropy.com/article/american-university-faces-scrutiny-over-presidents-pay-spending/>)

- “Ladner said most of the **thousands of dollars that his wife charged to AU for household furnishings, food and beverages** and that was questioned by the companies hired to do the audit was consistent with the terms of his contract.”
- “Three years after he came to the school, in 1997, he signed another contract that **gave him dramatically better benefits**, but that was unknown to many on the board.”
- “**Did I use some bad judgment?** Sure. I’m the first one to say **I’ve made mistakes**, he said. But there’s a new climate of oversight in the post-Enron, post-WorldCom America, he said, and board members got worried about their responsibilities.”
- “His own CFO was in the dark concerning some elements of his pay; and the reporting of **Ben’s compensation on [the IRS] Form 990 was incomplete . . .**”
- “Tensions with the board began last year, two trustees said, when Ladner asked for a **\$1 million bonus and several millions more in other compensation**. The audit began last spring after an anonymous letter was sent to the board alleging **expense violations**.”
- “University president to spend money on **first-class travel, multi-course meals and the best hotels**, Ladner said he did not always do so, and **he never knew**

anybody thought it was unacceptable because no one on the board ever told him. "The trustees knew because the **trustees flew with me**. We stayed at the same hotels," he said."

- "Ladner was **not paying those expenses** -- such things as **extended layovers in some of the best hotels in Paris and London, chauffeurs waiting outside private events, meals at expensive restaurants in New York with his wife -- himself.**"
- "Ladner said he has written a **check for \$21,000 to pay the university for some of the events in question**, including more than **\$1,000 in limousine bills for his wife, Nancy Ladner.**"
- "A recent audit of Mr. Ladner, resulted in [questions regarding] excessive spending... [of] **\$614,117 in expenses over the past three years.**"
- "Mr. Ladner had billed the university **\$43,892 for expenses such as private parties featuring 13-course meals, and \$22,345 for a first-class plane ticket to Nigeria.**"

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3. Texas Southern University

(<https://www.diverseeducation.com/home/article/15087391/spending-scandal-at-texas-southern-ends-quietly>)

- “School’s now former president, Dr. Priscilla Slade, **dressed in Gucci and Dolce & Gabbana. Her 25-place dinner set cost \$40,000. Her couch cost \$17,800.**”
- “The former accounting professor was **using university money to dress, decorate and landscape her house, take spa treatments and exercise classes.**”
- “After a mistrial, Slade agreed to **pay back \$127,000** of the **more than \$500,000 she misspent from the university.** Former TSU vice president Bruce Wilson agreed to **pay back \$12,000.** Charges were dropped against another defendant.”
- “Wiggins was sentenced to **10 years in prison**, but after **little more than a year in prison**, he was approved for parole earlier this month.”
- “Her record will be cleared if she completes 10 years of probation.”
- “The school also kept \$200,000 worth of furniture Slade bought, but Goode acknowledged that if TSU tried to sell it, it would probably only get “**pennies on the dollar if that.**”

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4. United Way

(<https://charity.lovetoknow.com/charitable-organizations/facts-about-past-united-way-corruption-scandals>)

- “Aramony was accused of **taking money** from UWA, the group that oversaw thousands of local United Ways, by **siphoning money** to companies he helped create. “
- “Aramony was **convicted on 25 felony counts** related to the **corruption** scandal in 1995 and sentenced to **seven years in prison.**”
- “All three were found guilty of **taking over \$1 million from UWA.**”
- “Witness testimony and evidence showed Aramony used some of this **stolen money** to **woo and court** a 17-year-old girlfriend.
- “the former CEO of the United Way of the National Capital Area, pled guilty on charges of **fraud.**”
- “ Suer admitted to defrauding the United Way of **half a million dollars.**”
- “He says **he used some money for personal trips and bowling equipment, paid himself for leave he never took,** and took more from the charity's pension plan than he was supposed to.”
- “Suer was convicted of his crimes and sentenced to serve approximately **two years in jail.**”

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2006 United Way of New York City Scandal

- **“Former CEO, Ralph Dickerson Jr., had used approximately \$230,000 in funds and assets for personal use.”**
- **“He was accused of getting reimbursed about \$40,000 for things like parking tickets and dry cleaning and using about \$200,000 worth of donated points to stay in hotels for non-business related trips.”**
- **“Dickerson was not charged with any crimes and agreed to pay back the \$227,000 that was misused.”**

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2008 Charlotte United Way Scandal

- **“Gloria King had made \$1.2 million in 2007 alone, the highest salary and benefits package of any United Way CEO at the time, it didn't seem right.”**
- **“While King was at the center of the scandal, the issue was really with the Board of Directors who had authorized all these payments.”**

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2018 United Way of Santa Rosa County Scandal

- “County Executive Director Guy Thompson embezzled over **half a million dollars** from the agency for personal use.”
 - “Thompson had an elaborate scheme of **hiding donation checks and falsifying documents** that allowed him to periodically pocket cash without anyone knowing.”
 - “In 2019 Thompson pled guilty on counts of **wire fraud, along with tax evasion**, and was ordered to pay restitution in the amount that he stole.”
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2019 Massachusetts United Way Scandal

- “Vice President of Information Technology, Imran Alrai, was accused of **stealing \$6.7 million from 2012 to 2018.** “
 - “Alrai created a company and passed it off as a good vendor for the United Way to work with. He falsified documents and details about this vendor, and the **money paid to the vendor ultimately went directly to him.**”
 - “Alrai was fired and indicted for **wire fraud.**”
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5. Black Lives Matter

(<https://www.latimes.com/california/story/2022-09-02/black-lives-matter-leader-accused-of-stealing-10-million-from-organization> , [Black Lives Matter executive accused of 'syphoning' \\$10M from BLM donors, suit says - CBS Sacramento \(cbsnews.com\)](https://www.cbsacramento.com/news/black-lives-matter-executive-accused-of-syphoning-10-million-from-bl-m-donors-suit-says) and <https://www.nbcnews.com/news/nbcblk/black-lives-matter-leaders-condemn-allegations-mismanaged-funds-rcna23882>)

- The leader of the Black Lives Matter Global Network Foundation has been accused by former colleagues of **stealing more than \$10 million in donations from the organization for personal use**, according to a lawsuit filed in court this week.
- **Internal Revenue Service** and various state attorneys general, “blazing a path of **irreparable harm to BLM** in less than eighteen months,” the suit claims.
- “While BLM leaders and movement workers were on the street risking their lives, Mr. Bowers remained in his cushy offices devising a scheme of **fraud and misrepresentation to break the implied-in-fact contract between donors and BLM.**”
- “Mr. Bowers, who made \$2,167,894 million dollars from GNF in less than eight months, decided he wanted to keep the ‘piggy bank’ that GNF had become to him and his company.”
- “Within months, Bowers had run these well-respected advocates out of the organization,” the suit alleges. “Through a series of **misrepresentations and unauthorized backroom dealings**, Mr. Bowers managed to steal control over GNF as the sole Board member and officer.”

- The BLM grassroots organization said in the suit that Bowers has **siphoned money.**
- The grassroots organization arm of the organization is asking for a **jury trial and accuses Bowers of unfair businesses practices, fraud and intentional misrepresentation, among other claims.**
- Leaders of the Black Lives Matter movement are dismissing allegations that they mismanaged millions of dollars after a scathing New York Magazine report revealed that they **had purchased a \$6 million home in Southern California with donated funds.** “
- “Almost immediately upon closing, the attacks on me, and BLM, which also means Melina and others, escalated,” Cullors said, adding that she stayed at the home for four nights while the FBI investigated a **death threat** against her. “So we did use the campus as a haven, **as a safe place.**”
- “The report revealed that the group **secretly bought the 6,500-square-foot house in October 2020** as a hub and headquarters for its members to create content promoting social justice.”
- “Along with questions about the remainder of the \$90 million, leaders from local chapters who said they’ve received little to no funding from the organization said they’ve wondered where money raised before 2020 has gone. Cullors said the organization did not receive much money until 2020 and denied any claims to the contrary.”

EXHIBIT B

ADDITIONAL MATERIALS CONSIDERED

BATES NUMBER (if applicable)	DESCRIPTION
NRA-NYAGCOMMDIV-00013553	Documentation regarding flights with Susan Lapierre (II & IS Travel)
NRA-NYAGCOMMDIV-00013554	Documentation regarding additional Flights with Wayne Lapierre and guests
N/A	NRA 2020 CHAR500 + 990 + Financial
ATI00004791 - ATI00004797	ATI House Rental
NRA- NYAG-00021379 - NRA-NYAG-00021380; NYAG-00040357 - NYAG-00040358	Top Concerns memo
Amc-042230 - Amc-037071; AM 00045390 - AM 00040231; NYAG-00166045 - NYAG-00160895	OOP Sample Ackerman Invoices
MMP0000395 - MMP0000409	MMP contracts
NRA-NYAGCOMMDIV-01538646	Check for Wayne and Susan Lapierre
NRA-NYAGCOMMDIV-01538604 - NRA-NYAGCOMMDIV-01538608	MMP Entities email and invoice attachments
RSM-NYAG-0048598	2005 Workpaper
NRA-NYAGCOMMDIV-01539222	2021.11.30 WLP Expense Reimbursement Check
NRA-NYAGCOMMDIV-01538816 - NRA-NYAGCOMMDIV-01538817	Email from S. Rowling to D. Cheney re Support for WLP Check for Excess Benefits
NRA-NYAGCOMMDIV-01539995	\$317,971 Excess benefit check
NRA-NYAGCOMMDIV-01539996 - NRA-NYAGCOMMDIV-01539998	Jeep Excess benefit check
NRA-NYAGCOMMDIV-01540050	July 2022 Report of the Audit Committee
NRA-NYAGCOMMDIV-01540057-01540058	September 2022 Report of the Audit Committee
NRA-NYAGCOMMDIV-01535934-01535936	May 2022 Report of the Audit Committee

NRA-NYAGCOMMDIV-01540051-01540052	August 2021 Report of Audit Committee
N/A	2021-10-18-Phillips, Wilson Deposition and related transcripts
N/A	2022-01-14- Spray, Craig Deposition and related transcripts
N/A	2022-01-20-Hallow, Millie Deposition and related transcripts
N/A	2022-01-26- Staples, Jim Deposition and related transcripts
N/A	2022-02-28- Stanford, Gayle Deposition and related transcripts
N/A	2022-03-22- Plotts, Greg (Aronson) Deposition and related transcripts
N/A	2022-04-18 - Plotts, Greg (Aronson) Deposition and related transcripts
N/A	2022-04-26- Grable, Todd Deposition and related transcripts
N/A	2022-04-28- Tedrick, Rick Deposition and related transcripts
N/A	2022-05-03- Schropp, Tyler Deposition and related transcripts
N/A	2022-05-05 -Supernaugh, Lisa Deposition and related transcripts
N/A	2022-06-06- Sloan, Gurney Deposition and related transcripts
N/A	2022-06-07- Lee, Willes Deposition and related transcripts
N/A	2022-06-09-Powell, Joshua Day 1 Deposition and related transcripts
N/A	2022-06-10- Powell, Joshua Day 2 Deposition and related transcripts
N/A	2022-06-14- FRA 30B6 (Trahar) Deposition and related transcripts
N/A	2022-06-15-Coy, David Deposition and related transcripts
N/A	2022-06-16- Erstling, Michael Deposition and related transcripts
N/A	2022-06-17-Cotton, Charles Deposition and related transcripts
N/A	2022-06-21- Friedman, Joel Deposition and related transcripts
N/A	2022-06-27- LaPierre, Wayne Day 1 Deposition and related transcripts

N/A	2022-06-28-LaPierre, Wayne Day 2 Deposition and related transcripts
N/A	2022-07-08- Journey, Phillip Deposition and related transcripts
N/A	2022-07-12 Frazer, John Deposition and related transcripts
N/A	2022-07-14- Rowling, Sonya Deposition and related transcripts
N/A	2022-07-21 Susan LaPierre Deposition and related transcripts
N/A	2022-07-29 NRA Corporate Rep (J. Frazer) Day 1 Deposition and related transcripts
N/A	2022-08-09 NRA Corporate Rep (J. Frazer) Day 2 Deposition and related transcripts
N/A	2022-08-10 Murray Drechsler Deposition and related transcripts
N/A	2022-08-31 Carolyn Meadows Day 1 Deposition and related transcripts
N/A	2022-09-01 Carolyn Meadows Day 2 Deposition and related transcripts
N/A	2022-09-07 Carolyn Meadows Day 3 Deposition and related transcripts
N/A	2022-09-08 NRA Corporate Rep (J. Frazer) Day 3 Deposition and related transcripts
N/A	2021-08-10- Phillips, Wilson Deposition and related transcripts
N/A	2021-08-11- Phillips, Wilson Deposition and related transcripts
N/A	2021-10-01- Brownell, Pete Deposition and related transcripts
N/A	https://www.nytimes.com/2016/01/28/us/wounded-warrior-project-spends-lavishly-on-itself-ex-employees-say.html
N/A	https://www.foxnews.com/us/wounded-warrior-projects-top-execs-fired-amid-lavish-spending-scandal
N/A	https://www.philanthropy.com/article/american-university-faces-scrutiny-over-presidents-pay-spending/
N/A	https://www.diverseeducation.com/home/article/15087391/spending-scandal-at-texas-southern-ends-quietly
N/A	https://www.history.com/this-day-in-history/larry-nassar-usa-gymnastics-doctor-sentenced-prison-sexual-assault
N/A	https://charity.lovetoknow.com/charitable-organizations/facts-about-past-united-way-corruption-scandals

N/A	https://www.nbcnews.com/news/nbcblk/black-lives-matter-leaders-condemn-allegations-mismanaged-funds-rcna23882
N/A	https://www.latimes.com/california/story/2022-09-02/black-lives-matter-leader-accused-of-stealing-10-million-from-organization
NRA-NYAGCOMMDIV-01540023-01540049	September 2022 Compliance Seminar Deck
N/A	I have considered or will consider any documents, data, or other materials relied upon by Mr. Tenenbaum in reaching the opinions I discuss in this report.
N/A	I have considered or will consider any documents, data, or other materials relied upon by Ms. Harris in reaching the opinions I discuss in this report.