



**American Civil Liberties Union Foundation of Massachusetts, Inc.  
Financial Statements  
For the Years Ended  
March 31, 2021 and 2020**

**American Civil Liberties Union Foundation of Massachusetts, Inc.**

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**Independent Auditor's Report**

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## Independent Auditor's Report

To the Board of Directors of  
American Civil Liberties Union Foundation of Massachusetts, Inc.  
Boston, MA

I have audited the accompanying financial statements of American Civil Liberties Union Foundation of Massachusetts, Inc. (a nonprofit Corporation), which comprise the statement of financial position as of March 31, 2021 and 2020, and the related statements of activities, functional expenses, and cash flows for the years then ended, and the related notes to the financial statements.

### **Management's Responsibility for the Financial Statements**

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

### **Auditor's Responsibility**

My responsibility is to express an opinion on these financial statements based on my audit. I conducted my audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that I plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, I express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

### **Opinion**

In my opinion, the financial statements referred to above present fairly, in all material respects, the financial position of American Civil Liberties Union Foundation of Massachusetts, Inc. as of March 31, 2021 and 2020 and the changes in its net assets and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

A handwritten signature in black ink that reads 'Melissa Gilroy'.

Melissa Gilroy, Certified Public Accountant  
Westwood, Massachusetts  
November 10, 2021

## American Civil Liberties Union Foundation of Massachusetts, Inc.

### Statements of Financial Position

As of March 31, 2021 and 2020

#### Assets

	<u>2021</u>		<u>2020</u>
<b>Current Assets</b>			
Cash and cash equivalents	\$ 2,737,811	\$	1,469,648
Investments	18,410,870		13,683,830
Pledge receivables	85,871		112,500
Grant and donation receivables	165,203		866
Due from ACLU Union of MA	263,997		688,648
Due from ACLU National	23,648		357,672
Prepaid expenses and other current assets	90,692		48,892
Total current assets	<u>21,778,092</u>		<u>16,362,056</u>
<b>Non-Current Assets</b>			
Pledge receivables	50,000		116,754
Beneficial interest in trusts	1,312,620		960,033
Bill of Rights Trust	1,769,239		1,272,044
Pichey endowment	24,226		17,558
Property and equipment, net	186,392		225,106
Total non-current assets	<u>3,342,477</u>		<u>2,591,495</u>
<b>Total Assets</b>	<u>\$ 25,120,569</u>	<u>\$</u>	<u>18,953,551</u>

#### Liabilities and Net Assets

<b>Current Liabilities</b>			
Accounts payable and accrued expenses	\$ 401,402	\$	424,752
Deferred revenue	-		186,250
<b>Total Liabilities</b>	<u>401,402</u>		<u>611,002</u>
<b>Net Assets</b>			
Without donor restrictions	13,122,095		6,649,859
With donor restrictions	11,597,072		11,692,690
<b>Total net assets</b>	<u>24,719,167</u>		<u>18,342,549</u>
<b>Total Liabilities and Net Assets</b>	<u>\$ 25,120,569</u>	<u>\$</u>	<u>18,953,551</u>

The accompanying notes are an integral part of these financial statements.

## American Civil Liberties Union Foundation of Massachusetts, Inc.

### Statement of Activities and Changes in Net Assets

For the years ended March 31, 2021 and March 31, 2020

	Without Donor Restrictions	With Donor Restrictions	Total 2021	Without Donor Restrictions	With Donor Restrictions	2020
<b>Operating</b>						
<b>Revenue and Support</b>						
Contributions	\$ 5,183,513	554,102	<b>5,737,615</b>	\$ 3,536,312	932,500	4,468,812
Special events	367,902	-	<b>367,902</b>	688,112	-	688,112
Bequests	289,616	175,000	<b>464,616</b>	256,466	175,000	431,466
Grants	215,000	297,500	<b>512,500</b>	36,000	270,000	306,000
Interest and dividends	291,879	-	<b>291,879</b>	382,188	16,320	398,508
Legal awards	31,803	-	<b>31,803</b>	83,654	-	83,654
Donated services	231,782	-	<b>231,782</b>	34,451	-	34,451
Other income	22,146	-	<b>22,146</b>	16,382	-	16,382
Net assets released from restriction	1,964,559	(1,964,559)	-	1,916,099	(1,916,099)	-
Total revenue and support	<u>8,598,200</u>	<u>(937,957)</u>	<u><b>7,660,243</b></u>	<u>6,949,664</u>	<u>(522,279)</u>	<u>6,427,385</u>
<b>Expenses</b>						
Program services	4,032,425	-	<b>4,032,425</b>	3,861,097	-	3,861,097
Management, general and administrative	764,603	-	<b>764,603</b>	626,539	-	626,539
Fundraising	653,785	-	<b>653,785</b>	837,178	-	837,178
Total expenses	<u>5,450,813</u>	<u>-</u>	<u><b>5,450,813</b></u>	<u>5,324,814</u>	<u>-</u>	<u>5,324,814</u>
<b>Changes in net assets from operations</b>	<b>3,147,387</b>	<b>(937,957)</b>	<b>2,209,430</b>	<b>1,624,850</b>	<b>(522,279)</b>	<b>1,102,571</b>
<b>Non-operating</b>						
Net unrealized gains / (losses)	3,235,614	489,752	<b>3,725,366</b>	(1,595,887)	(195,499)	(1,791,386)
Net realized gains / (losses)	49,235	-	<b>49,235</b>	514,799	-	514,799
Change in value of beneficial interest in tru	40,000	352,587	<b>392,587</b>	39,500	(138,529)	(99,029)
Total	<u>3,324,849</u>	<u>842,339</u>	<u><b>4,167,188</b></u>	<u>(1,041,588)</u>	<u>(334,028)</u>	<u>(1,375,616)</u>
<b>Changes in Net Assets</b>	<b>6,472,236</b>	<b>(95,618)</b>	<b>6,376,618</b>	<b>583,262</b>	<b>(856,307)</b>	<b>(273,045)</b>
<b>Net Assets at Beginning of Year</b>	<u>6,649,859</u>	<u>11,692,690</u>	<u><b>18,342,549</b></u>	<u>6,066,597</u>	<u>12,548,997</u>	<u>18,615,594</u>
<b>Net Assets at End of Year</b>	<u>\$ 13,122,095</u>	<u>11,597,072</u>	<u><b>24,719,167</b></u>	<u>\$ 6,649,859</u>	<u>11,692,690</u>	<u>18,342,549</u>

The accompanying notes are an integral part of these financial statements.

## American Civil Liberties Union Foundation of Massachusetts, Inc.

### Statement of Functional Expenses

For the years ended March 31, 2021 and 2020

	Program			2021 Total	Support			2020 Total
	Program	Management and General	Fundraising		Program	Management and General	Fundraising	
Salaries	\$ 2,347,311	447,414	338,811	\$ 3,133,536	\$ 2,112,227	315,481	404,532	\$ 2,832,240
Employee benefits	517,255	165,094	67,816	750,165	467,434	100,869	89,398	657,701
Payroll taxes	198,972	38,034	29,379	266,385	159,627	23,455	29,801	212,883
Subtotal	3,063,538	650,542	436,006	4,150,086	2,739,288	439,805	523,731	3,702,824
Occupancy	271,773	36,877	37,508	346,158	272,144	40,553	42,903	355,600
Professional fees	146,580	36,040	52,749	235,369	287,735	86,982	49,350	424,067
Professional fees - donated	219,351	6,691	5,740	231,782	15,256	16,985	2,209	34,450
Event expense	12,195	25	11,194	23,414	113,665	8,910	104,231	226,806
Printing and publishing	25,333	-	32,573	57,906	57,021	829	29,735	87,585
Technology	61,717	8,709	12,346	82,772	60,038	9,027	19,328	88,393
Dues and fees	32,074	5,645	15,357	53,076	16,111	3,287	6,922	26,320
Travel	1,652	636	118	2,406	54,574	4,175	16,457	75,206
Books, subscriptions	34,489	1,821	1,629	37,939	37,674	1,660	5,071	44,405
Postage	10,588	469	17,911	28,968	20,141	716	9,351	30,208
Depreciation	73,716	8,831	10,647	93,194	68,758	6,403	9,755	84,916
Insurance	24,145	1,655	1,514	27,314	20,775	1,369	1,430	23,574
Telephone	19,298	3,011	2,489	24,798	14,791	1,399	2,397	18,587
Office expenses and supplies	17,300	2,439	1,606	21,345	13,016	2,501	2,110	17,627
Equipment lease & maintenance	3,023	370	381	3,774	6,803	1,426	989	9,218
Focus groups	-	-	-	-	53,235	-	-	53,235
Miscellaneous	15,653	842	14,017	30,512	10,072	512	11,209	21,793
<b>Total Functional Expenses</b>	<b>\$ 4,032,425</b>	<b>764,603</b>	<b>653,785</b>	<b>\$ 5,450,813</b>	<b>\$ 3,861,097</b>	<b>626,539</b>	<b>837,178</b>	<b>\$ 5,324,814</b>

The accompanying notes are an integral part to these financial statements.

## American Civil Liberties Union Foundation of Massachusetts, Inc.

### Statements of Cash Flows

For the years ended March 31, 2021 and 2020

Cash Flows from Operating Activities	2021	2020
<b>Changes in Net Assets</b>	\$ <b>6,376,618</b>	\$ (273,045)
<b>Adjustments to reconcile change in net assets to cash provided by operations</b>		
Depreciation	93,194	84,916
Donated securities	(729,895)	(371,797)
Net unrealized (gains) / losses on investments	(3,726,393)	1,791,752
Net realized (gains) / losses on investments	(48,208)	(507,202)
Change in value of beneficial interest in trust	(392,587)	99,029
Interest and dividends reinvested	(289,661)	(398,509)
Increase (decrease) in cash resulting from a change in:		
Pledge receivables	93,383	(140,176)
Grant and donation receivables	(164,337)	(866)
Interest income receivable	-	57,611
Due from ACLU Union of MA	424,651	(688,648)
Due from National	334,024	(313,661)
Prepaid expenses and other current assets	(41,800)	16,538
Accounts payable and accrued expenses	(23,350)	91,279
Due to ACLU National	-	-
Due to ACLU Union of MA	-	(189,527)
Deferred revenue	(186,250)	33,835
<b>Net Cash Provided by / (Used in) Operating Activities</b>	<b>1,719,389</b>	<b>(708,471)</b>
<b>Cash Flows from Investing Activities</b>		
Purchase of investments	(3,511,573)	(25,364,229)
Proceeds from the sale of investments	3,009,374	26,851,758
Purchases of property and equipment	(54,480)	(105,648)
<b>Net Cash Provided by / (Used in) Investing Activities</b>	<b>(556,679)</b>	<b>1,381,881</b>
<b>Cash Flows from Financing Activities</b>		
Distributions from endowments	105,453	99,064
<b>Net Cash Provided by (Used in) Financing Activities</b>	<b>105,453</b>	<b>99,064</b>
<b>Net (Decrease) Increase in Cash and Cash Equivalents</b>	<b>1,268,163</b>	<b>772,474</b>
<b>Cash and Cash Equivalents - Beginning</b>	<b>1,469,648</b>	<b>697,174</b>
<b>Cash and Cash Equivalents - Ending</b>	<b>\$ 2,737,811</b>	<b>\$ 1,469,648</b>

The accompanying notes are an integral part to these financial statements.

# American Civil Liberties Union Foundation of Massachusetts, Inc.

## Notes to Financial Statements

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### 1. Nature of the Business

American Civil Liberties Union Foundation of Massachusetts, Inc. (the "Foundation" or the "Organization") is a non-profit corporation whose mission is to defend freedoms guaranteed in the United States Constitution and Bill of Rights. The Foundation is affiliated with the American Civil Liberties Union Foundation, Inc. (the "National Foundation"), the American Civil Liberties Union, Inc. (the "National Union") and the American Civil Liberties Union of Massachusetts, Inc. (the "Union").

The Foundation was incorporated on March 19, 2015. On April 1, 2017 the Foundation entered into a General Bill of Sale and Assignment and Assumption Agreement pursuant to which it acquired all of the assets and succeeded to all of the liabilities of the American Civil Liberties Foundation of Massachusetts, a Massachusetts charitable trust organized under a Declaration of Trust dated December 29, 1969, as amended (the "Trust"). As a result of this transaction, the Foundation is the legal successor to the Trust.

The Foundation is exempt from Federal income taxes under section 501(c)(3) of the Internal Revenue Code. The Foundation is also exempt from state income taxes under the general laws of Massachusetts.

### 2. Summary of Significant Accounting Policies

#### Basis of Presentation

The accompanying financial statements have been prepared on the accrual basis with net assets, revenues, expenses, gains, and losses classified in two categories based on the existence or absence of externally imposed restrictions. Operating revenues consist of those monies received and contributions attributable to the Foundation's ongoing efforts. Nonoperating activities are limited to resources that generate return from investments and other activities considered to be of a more unusual or nonrecurring nature. The net assets of the Foundation are classified and defined as follows:

#### ***Net Assets without Donor Restrictions***

Net assets that are not subject to donor-imposed stipulations are considered unrestricted. The Board has designated approximately \$2,051,314 and \$1,173,280 to be held to support the longevity of the Foundation for the years ended March 31, 2021 and 2020, respectively.

#### ***Net Assets with Donor Restrictions***

Net assets subject to stipulations imposed by donors and grantors. Some donor restrictions are temporary in nature; those restrictions will be met by actions of the Foundation or by the passage of time. Other donor restrictions are perpetual in nature, whereby the donor has stipulated the funds be maintained in perpetuity. Donor restricted contributions are reported as increases in net assets with donor restrictions. When a restriction expires, net assets are reclassified from net assets with donor restrictions to net assets without donor restrictions in the statements of activities.

#### Use of Estimates

The financial statements are prepared in conformity with generally accepted accounting principles in the United States of America ("GAAP") which require management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.



## American Civil Liberties Union Foundation of Massachusetts, Inc.

### Notes to the Financial Statements

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#### 2. Summary of Significant Accounting Policies (continued)

##### **Cash and Cash Equivalents**

The Foundation considers all highly liquid investments with an original maturity of three months or less, when acquired, to be cash equivalents.

##### **Concentrations of Credit Risk**

Financial instruments that potentially subject the Foundation to concentrations of credit risk consist principally of cash and cash equivalents and investments. The Foundation maintains its cash and cash equivalents in various bank accounts that, at times, may exceed federally insured limits. The Foundation's cash and cash equivalent accounts have been placed with high credit quality financial institutions. The Foundation has not experienced, nor does it anticipate, any losses with respect to such accounts.

##### **Pledge Receivables**

We record unconditional promises to give that are expected to be collected within one year at net realizable value. Unconditional promises to give expected to be collected in future years are initially recorded at fair value using present value techniques incorporating risk-adjusted discount rates designed to reflect the assumptions market participants would use in pricing the asset. In subsequent years, amortization of the discounts is included in contribution revenue in the statements of activities. We determine the allowance for uncollectable promises to give based on historical experience, an assessment of economic conditions, and a review of subsequent collections. Promises to give are written off when deemed uncollectable.

##### **Property and Equipment**

Property and equipment are stated at cost at the time of acquisition or fair market value at the time of donation. Donated assets are considered unrestricted support unless the donor has restricted the donated asset for a specific purpose. Expenditures for maintenance and repairs are charged to expenses as incurred; major renewals, additions and betterments are capitalized. When assets are sold or retired, the related costs and accumulated depreciation are removed from the respective accounts and any resulting gain or loss is credited or charged to operations. Depreciation is recorded on a straight-line basis over the respective asset's estimated useful lives.

##### **Beneficial Interests**

The Foundation is at times named a beneficiary under the terms of various wills and trusts agreements, the total realizable amounts of which may not be determinable. The Foundation's share of such interests is recorded when the proceeds are known and measurable.

The Foundation was named beneficiary of a perpetual trust ("the trust") held and administered by third-party trustees with a readily determinable fair value. Perpetual trusts provide for the distribution of the net income of the trusts to us; however, we will never receive the assets of the trusts. At the date we receive notice of a beneficial interest, a contribution with donor restrictions of a perpetual nature is recorded in the statements of activities, and a beneficial interest in perpetual trust is recorded in the statements of financial position at the fair value of the underlying trust assets. Thereafter, beneficial interests in the trusts are reported at the fair value of the trusts' assets in the statements of financial position, with trust distributions and changes in fair value recognized in the statements of activities. Due to the inactive market and unobservable inputs related to the trust, it is considered to be Level 3 in the fair value measurement hierarchy.

As stipulated by the donor, the principal balance of the trust plus any gains and losses is restricted in perpetuity. As such, the balance of the trust as of March 31, 2021 and 2020 has been classified as net assets with donor restrictions in the accompanying financial statements. The Foundation receives quarterly distributions of interest and dividends which are considered net assets without donor restrictions according to the donor's stipulations which have been recorded in the accompanying financial statements.

## American Civil Liberties Union Foundation of Massachusetts, Inc.

### Notes to the Financial Statements

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#### 2. Summary of Significant Accounting Policies (continued)

##### **Bill of Rights Trust**

The Bill of Rights Trust represents the Foundation's unit holdings in the National Endowment held by the National Foundation. The National Endowment's underlying investments are comprised of cash and cash equivalents and publicly traded securities. Due to the inactive market and unobservable inputs available, the Foundation's shares in the Bill of Rights Trust is considered a Level 3 input on the fair value measurement hierarchy.

##### **Pichey Endowment**

The Pichey endowment represents the Foundation's holdings in an endowment held by the National Foundation. The endowment's underlying investments are comprised of cash and cash equivalents and publicly traded securities. Due to the inactive market and unobservable inputs available, the Foundation's shares in the Pichey endowment is considered a Level 3 input on the fair value measurement hierarchy.

##### **Investments**

The Foundation investments are carried at fair value as determined by quoted market prices. Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. Gains and losses on investments resulting from market fluctuations are recorded in the accompanying statement of activities in the period that such fluctuations occur. Dividend and interest income is recorded as earned.

##### **Fair Value Measurements**

Fair value is defined as the price that would be received to sell an asset in the principal or most advantageous market for the asset in an orderly transaction between market participants on the measurement date. Fair value should be based on the assumptions market participants would use when pricing an asset. GAAP establishes a fair value hierarchy that prioritizes investments based on those assumptions. The fair value hierarchy gives the highest priority to quoted prices in active markets (observable inputs) and the lowest priority to an entity's assumptions (unobservable inputs). The Foundation groups assets at fair value in three levels, based on the markets in which the assets and liabilities are traded and the reliability of the assumptions used to determine fair value. These levels are:

**Level 1:** Inputs that reflect unadjusted quoted market prices in active markets for identical assets or liabilities that the Foundation has the ability to access at the measurement date.

**Level 2:** Inputs other than quoted prices in active markets that are observable for the asset or liability either directly or indirectly, including inputs in markets that are considered active.

**Level 3:** Inputs that are unobservable for the asset or liability and that include situations where there is little, if any, market activity for the asset or liability. The inputs into the determination of fair value are based upon the best information in the circumstances and may require significant management judgment or estimates.

## American Civil Liberties Union Foundation of Massachusetts, Inc.

### Notes to the Financial Statements

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#### 2. Summary of Significant Accounting Policies (continued)

##### **Revenue Recognition and Receivables**

We recognize contributions when cash, securities or other assets, an unconditional promise to give, bequest, or a notification of a beneficial interest is received. Conditional promises to give, that is, those with a measurable performance or other barrier, and a right of return, are not recognized until the conditions on which they depend have been substantially met. Contributions received are recorded as net assets without donor restrictions or net assets with donor restrictions, depending on the existence and/or nature of any donor-imposed restrictions. Contributions that are restricted by the donor are reported as an increase in net assets without donor restrictions if the restriction expires in the reporting period in which the contribution is recognized. All other donor restricted contributions are reported as an increase in net assets with donor restrictions, depending on the nature of restriction. When a restriction expires (that is, when a stipulated time restriction ends or purpose restriction is accomplished), net assets with donor restrictions are reclassified to net assets without donor restrictions and reported in the statements of activities as net assets released from restrictions.

The Foundation records special events revenue equal to the fair value of direct benefits to donors, and contribution income for the excess received when the event takes place.

The Foundation may receive attorney's fees awarded by the court as a result of the settlement of certain types of litigation. Because the awards are not determinable until the resolution of the litigation, such amounts are not recorded until received. This may be several years after the litigation commences.

##### **Donated Services**

Donated services are recorded at the estimated fair value of the services provided to the Foundation. Contributed services are recognized for services that require specialized skills and are provided by persons possessing those skills in the period in which they are received in accordance with GAAP. Donated services consisting of primarily donated legal services amounted to \$231,782 and \$34,451 for the years ended March 31, 2021 and 2020, respectively.

A number of unpaid volunteers have made significant contributions of their time to the Foundation. However, the value of these services is not reflected in these statements because the criteria for recognition have not been satisfied.

##### **Deferred Revenue**

Deferred revenue represents event income received prior to the occurrence of such events.

##### **Advertising Costs**

Advertising costs are charged to operations as incurred. Advertising costs were not material and are included with printing and publishing expense in the accompanying financial statements.

##### **Functional Allocation of Expenses**

The costs of providing the various program and support services of the Foundation have been summarized on a functional basis in the accompanying financial statements. Certain costs and expenses have been allocated between program and supporting services on a reasonable basis by management.

## American Civil Liberties Union Foundation of Massachusetts, Inc.

### Notes to the Financial Statements

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#### 2. Summary of Significant Accounting Policies (continued)

##### Income Taxes

The Foundation was organized as a Massachusetts nonprofit corporation and is recognized by the IRS as exempt from federal income taxes under IRC Section 501(c)(3) and qualifies for the charitable contribution deduction under IRC regulations. The Foundation has been determined to not be a private foundation under IRC Sections 509(a)(1) and (3), respectively. The Foundation is annually required to file a Return of Organization Exempt from Income Tax (Form 990) with the IRS. In addition, the Foundation is subject to income tax on net income that is derived from business activities that are unrelated to their exempt purposes. We have determined that the Foundation is not subject to unrelated business income tax and has not filed an Exempt Organization Business Income Tax Return (Form 990-T) with the IRS.

The Foundation accounts for the effects for any uncertain tax positions based on a “more likely than not” threshold for recognition of tax positions being sustained based on the technical merits of the position under scrutiny by the applicable taxing authority. The Foundation has determined that there are no material unrecognized tax effects as of March 31, 2021 and 2020. The Organization is subject to routine audits by taxing jurisdictions; however, there are currently no audits for any tax periods in progress. The Organization believes it is no longer subject to income tax examinations for years prior to 2018.

#### 3. Pledge Receivables

As of March 31, 2021 and 2020 consisted of the following:

	<u>2021</u>	<u>2020</u>
Due within one year	\$ 89,994	\$ 112,500
Due two to five years	50,000	125,000
Discount at 5%	<u>(4,123)</u>	<u>(8,246)</u>
Contribution receivable	<u>\$ 135,871</u>	<u>\$ 229,254</u>

#### 4. Related Party Transactions

##### *The Union*

The Foundation is affiliated with the Union through shared management, administrative costs and rental space. The Foundation charged the Union \$1,292,932 and \$1,155,194 respectively, for the shared costs that include salaries, benefits and related payroll taxes for the years ended March 31, 2021 and 2020. Additionally, the Union charged the Foundation for its pro rata share of the rent for shared facility costs amounting to \$331,124 and \$387,590 which is included in occupancy expenses in these financial statements for the years ended March 31, 2021 and 2020, respectively. Related to the transactions described above, as of March 31, 2021 and 2020, the Foundation recorded a receivable from the Union amounting to \$263,997 and \$688,648, respectively.

##### *The National Foundation*

The Foundation is an affiliate of the National Foundation. In accordance with the affiliation agreement, the Foundation receives its share of certain contributions and bequests as defined in that agreement. As of March 31, 2021 and 2020, the Foundation did not incur a payable to the National Foundation for shared revenue. As of March 31, 2021 and 2020, amounts due to the Foundation from the National Foundation for shared revenue in accordance with the Affiliate agreement were \$23,648 and \$357,672, respectively. Additionally, during 2020, the National ACLU granted the Foundation \$150,000 which is included in grant income in the accompanying financial statements.

##### *Donations*

During the fiscal years ended 2021 and 2020, related parties of the Foundation donated approximately \$332,279 and \$359,000, respectively. Union board members donated approximately \$305,046 and \$98,500 to the Foundation during fiscal 2021 and 2020, respectively.

## American Civil Liberties Union Foundation of Massachusetts, Inc.

### Notes to the Financial Statements

#### 4. Fair Value Measurements

The Foundation's various investments include the following:

*Common stocks, mutual funds, and money market funds*– Valued at the closing price reported as of March 31, 2021 and 2020 on the active market on which the individual securities are traded.

*Beneficial interest in perpetual trust* - Valued at closing valuation price reported by the Trustee at March 31, 2021 and 2020. The fair value of these assets is based on the underlying investments held by the trust which consists of publicly traded money market funds, fixed income mutual funds, and various common stock securities.

*Bill of Rights Trust and Pichey Endowment* –Valued at the Foundation's unit share of the closing valuation price reported by the National ACLU at March 31, 2021 and 2020.

Fair Value Measurements as of March 31, 2021 and 2020 were as follows:

Type	As of March 31, 2021				Total
	Level 1	Level II	Level III		
Money market funds	\$ 1,274,846	\$ -	\$ -	\$ -	\$ 1,274,846
Mutual funds:					
Bond index fund	5,415,536	-	-	-	5,415,536
Stock index fund	5,506,894	-	-	-	5,506,894
International fund	4,934,704	-	-	-	4,934,704
Government index fund	1,278,890	-	-	-	1,278,890
Total mutual funds	17,136,024	-	-	-	17,136,024
Total Investments	18,410,870	-	-	-	18,410,870
Bill of Rights Trust	-	-	1,769,239	-	1,769,239
Beneficial interest in perpetual trust	-	-	1,312,620	-	1,312,620
Investment in Pichey endowment	-	-	24,226	-	24,226
Total Fair Value Measurements	\$ 18,410,870	\$ -	\$ 3,106,085	\$ -	\$ 21,516,955
Type	As of March 31, 2020				Total
	Level 1	Level II	Level III		
Money market funds	\$ 969,120	\$ -	\$ -	\$ -	\$ 969,120
Mutual funds:					
Bond index fund	4,566,491	-	-	-	4,566,491
Stock index fund	3,665,646	-	-	-	3,665,646
International fund	3,496,708	-	-	-	3,496,708
Government index fund	985,865	-	-	-	985,865
Total mutual funds	12,714,710	-	-	-	12,714,710
Total Investments	13,683,830	-	-	-	13,683,830
Bill of Rights Trust	-	-	1,272,044	-	1,272,044
Beneficial interest in perpetual trust	-	-	960,033	-	960,033
Investment in Pichey endowment	-	-	17,558	-	17,558
Total Fair Value Measurements	\$ 13,683,830	\$ -	\$ 2,249,635	\$ -	\$ 15,933,465

**American Civil Liberties Union Foundation of Massachusetts, Inc.**  
**Notes to the Financial Statements**

**4. Fair Value Measurements (continued)**

The following table presents information about the Foundation's fair value measurements using Level 3 inputs, and changes therein, for the years ended March 31, 2021 and 2020:

	Bill of Rights Trust	Beneficial Interest in Trust	Investment in Pichey endowment	Total
Balance as of March 31, 2019	\$ 1,453,659	\$ 1,098,562	\$ 15,121	\$ 2,567,342
Net investment gains (losses)	(138,812)	(99,029)	(2,122)	(239,963)
Distributions	(58,950)	(39,500)	(614)	(99,064)
Additions	-	-	5,000	5,000
Interest and dividends	16,147	-	173	16,320
Balance as of March 31, 2020	\$ 1,272,044	\$ 960,033	\$ 17,558	\$ 2,249,635
Net investment gains (losses)	529,932	392,587	7,314	929,833
Distributions	(59,566)	(40,000)	(822)	(100,388)
Additions	14,111	-	-	14,111
Interest and dividends	12,718	-	176	12,894
Balance as of March 31, 2021	\$ 1,769,239	\$ 1,312,620	\$ 24,226	\$ 3,106,085

**5. Availability and Liquidity**

The following represents the Foundation's financial assets at March 31, 2021 and 2020:

Financial assets at year end:	2021	2020
Cash and cash equivalents	\$ 2,737,811	\$ 1,469,648
Investments	18,410,870	13,683,830
Pledge receivables	85,871	112,500
Grant and donation receivables	165,203	866
Due from ACLU Union of MA	263,997	688,648
Due from ACLU National	23,648	357,672
Beneficial interest in trusts	1,312,620	960,033
Bill of Rights Trust	1,769,239	1,272,044
Pichey endowment	24,226	17,558
Total financial assets	24,793,485	18,562,799
Less amounts not available to be used within one year:		
Net assets with donor restrictions	11,597,072	11,692,690
Financial assets available to meet general expenditures over the next twelve months:	\$ 13,196,413	\$ 6,870,109

The Foundation's goal is generally to maintain financial assets to meet six months of operating expenses. As part of its liquidity plan, excess cash is invested in short-term investments. Additionally, the Foundation has a \$500,000 line of credit available to meet cash flow needs.

## American Civil Liberties Union Foundation of Massachusetts, Inc.

### Notes to the Financial Statements

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#### 6. Retirement Plans

##### Pension Plan

The Foundation participates in a non-contributory defined benefit plan, the “American Civil Liberties Union Retirement Plan”, through the National Union’s multiemployer plan. The plan covers all employees hired before April 1, 2009 who satisfied minimum age and service requirements. Benefits are paid to eligible employees at retirement based on years of service and average career compensation.

The total pension expense is allocated to the Foundation based on the number of participating employees. Pension expense amounted to \$199,141 and \$151,897 for the years ended March 31, 2021 and 2020, respectively and is included with employee benefits on the accompanying statement of functional expenses.

As of April 1, 2009, the National Union instituted a “soft freeze” on the plan. Employees hired on or after April 1, 2009 are enrolled in the National Union’s 401k plan.

The National Union’s defined benefit plan is currently underfunded according to actuarial projections. A portion of the National Union’s unfunded liability is for the employees of the Foundation. Accumulated plan benefits information as provided by consulting actuaries, has not been distinguished from the benefits of this affiliated organization that is participating in the pension plan and accordingly, such information is not presented herein. As of March 31, 2021 and 2020, the financial statements of the pension plan reflected the fair value of plan assets of \$176,015,631 and \$131,164,282 available for benefit obligations of \$203,896,673 and \$185,596,793 in accumulated plan benefits, respectively. As the amount of liabilities directly related to the Foundation is unknown, no amount has been recorded.

##### 401k Plan

The Foundation participates in the National Union’s 401k plan which covers substantially all of its employees who meet certain eligibility requirements. Under the plan employees may voluntarily contribute pre-tax compensation subject to IRS regulations related to dollar limits. The Foundation will match 100% of the first 1% of employee contributions plus 50% of the next 5% of employee contributions. Additionally, the Foundation contributes 2% of employee wages for the benefit of each employee each pay period. The Foundation’s employer contributions vest after two years of employment. Total contributions for the years ended March 31, 2021 and 2020 were \$130,121 and \$100,146, respectively, and are included with employee benefits on the accompanying statement of functional expenses.

#### 7. Property and Equipment

Property and equipment as of March 31, 2021 and 2020 consisted of the following:

	<u>2021</u>	<u>2020</u>
Computer equipment	\$ 381,506	\$ 327,026
Leasehold improvements	116,624	116,624
Office equipment	77,371	77,371
Furniture and fixtures	86,090	86,090
Less - accumulated depreciation	<u>(475,199)</u>	<u>(382,005)</u>
	<u>\$ 186,392</u>	<u>\$ 225,106</u>

**American Civil Liberties Union Foundation of Massachusetts, Inc.**  
**Notes to the Financial Statements**

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**8. Donor Restricted Net Assets**

The Foundation's donor restricted net assets consist of the following as of March 31, 2021 and 2020:

	As of 03/31/2021	As of 03/31/2020
<i>Time:</i>		
Promises to give	\$ 135,871	\$ 237,500
<i>Specific Purpose:</i>		
Technology for liberty and justice for all	\$ 8,011,303	\$ 9,030,555
Racial justice	90,000	-
Fellowship salaries	48,881	-
Reimagining policing	29,932	-
Separation of church and state	175,000	175,000
Pichey endowment - activism initiatives	24,226	17,558
Bill of rights endowment	1,769,239	960,033
Beneficial interest in trust	1,312,620	1,272,044
	<u>\$ 11,597,072</u>	<u>\$ 11,692,690</u>

**9. Bill of Rights Trust Endowment**

In 1997, the National Foundation established the Bill of Rights Trust Endowment (the "BOR endowment"). The purpose of the BOR endowment, a portion of which is an endowment fund of the Foundation, is to build an enduring endowment to carry out the work of the National Foundation and its affiliates in protecting, preserving and expanding the civil liberties of all persons in the United States of America. The Endowment has 100,000,000 authorized units, which are issued to or among the Foundation and Affiliate Foundations based upon their respective interests in the BOR endowment. Unit shares held by the affiliates have a unit value based upon the fair value of the net assets of the BOR endowment divided by the total number of unit shares outstanding. The BOR endowment provides for annual distributions to the Foundation and Affiliate Foundations in accordance with the Foundation's approved spending policy, prorated in accordance with the percentage of the fair value of each unit share. The investment goal of the BOR endowment is to invest assets in a prudent manner that will produce a reasonable distribution to the National Foundation and affiliated foundations and provide long-term growth in value of these assets.

The Foundation's share of this endowment is subject to certain withdrawal limitations as disclosed in the BOR endowment agreement. Under the National spending policy, the Foundation receives a distribution equal to 4% of the three-year average unit value of the fair value of investments at the beginning of each of the preceding fiscal years. Distributions are typically in the form of cash or additional unit shares of the fund. As of March 31, 2021 and 2020, distributions to the Foundation from the National Foundation amounted to \$59,566 and \$58,950, respectively. Distributions from the BOR endowment are considered without donor restrictions.

**10. Pichey Endowment**

During 2018, the Foundation received funds to establish the Pichey endowment. The endowment's purpose is to support activism initiatives. The endowment provides for distributions to the Foundation and are available to be spent on operating activities. As such, the distributions are considered to be without donor restrictions.

**11. Line of Credit**

The Foundation has a \$500,000 line of credit that bears interest at the bank's lending rate with a minimum rate of 5%. The line is secured by certain assets of the Foundation. The Foundation is subject to certain covenants and was in compliance with those covenants as of March 31, 2021 and 2020. As of March 31, 2021 and 2020, there were no outstanding amounts due on the line.



## American Civil Liberties Union Foundation of Massachusetts, Inc.

### Notes to the Financial Statements

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#### 12. Concentrations

##### *Pledge receivables*

An amount due from one donor represents 74% and 65% of total net pledge receivables as of March 31, 2021 and 2020, respectively.

##### *Revenue concentrations*

During fiscal 2021 and 2020, a bequest from one donor represented 42% and 41%, respectively, of total bequest revenue recorded.

#### 13. Contingencies

The Foundation is from time to time involved in legal actions arising in the ordinary course of business. Management is of the opinion that the ultimate outcome of these matters would not have a material adverse impact on the financial position of the Foundation or the results of its activities.

#### 14. Recent Pronouncements

In May 2014, the FASB issued Accounting Standards Update ASU No. 2014-09, "Revenue from Contracts with Customers (Topic 606)". This ASU amends the guidance for revenue recognition to replace numerous, industry-specific requirements and converges areas under this topic with those of the International Financial Reporting Standards. This ASU implements a five-step process for customer contract revenue recognition that focuses on transfer of control, as opposed to transfer of risk and rewards. This ASU also requires enhanced disclosures regarding the nature, amount, timing and uncertainty of revenues and cash flows from contracts with customers. Other major provisions include ensuring the time value of money is considered in the transaction price and allowing estimates of variable consideration to be recognized before contingencies are resolved in certain circumstances. The amendments in this ASU are effective for reporting periods beginning after December 15, 2018, and early adoption is permitted. The Organization adopted this ASU on April 1, 2019 on a modified retrospective basis. Analysis of various provisions of this standard resulted in no significant changes in the way the Organization recognizes revenue, and therefore no changes to the previously issued audited financial statements were required on a retrospective basis. The presentation and disclosures of revenue have been enhanced in accordance with the standard.

The Organization has adopted Accounting Standards Update (ASU) No. 2018-08 Not-for-Profit Entities: Clarifying the Scope and the Accounting Guidance for Contributions Received and Contributions Made (Topic 605) as management believes the standard improves the usefulness and understandability of the Organization's financial reporting.

In February 2016, the FASB issued ASU No. 2016-02, *Leases* (Topic 842), which requires lessees to recognize leases on the balance sheet and disclose key information about leasing arrangements. The new standard establishes a right-of-use (ROU) model that requires a lessee to recognize a ROU asset and lease liability on the statement of financial position for most leases with a term longer than 12 months. Leases will be classified as finance or operating, with classification affecting the pattern and classification of the expense recognition in the consolidated statement of activities. The effective date for this standard has been delayed to annual reporting periods beginning after December 15, 2021.

#### 15. Collective Bargaining Agreement

The Foundation has a collective bargaining agreement with certain employees that included approximately fifteen full time equivalents. The agreement includes provisions including but not limited to vacation accruals, normal working hours, etc.

**American Civil Liberties Union Foundation of Massachusetts, Inc.**  
**Notes to the Financial Statements**

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**16. Risks and Uncertainties**

During fiscal 2020, the World Health Organization declared the outbreak of the novel coronavirus (COVID-19) as a pandemic. To support public health and employee safety, the Foundation closed its office. The impact to the Foundation included disruption or restrictions on employees' ability to work, and suspension or restrictions on some programming and special events. In addition, there has been significant volatility in the financial markets which may have an impact on the valuation of the Foundation's investments and income thereon. The Foundation is closely monitoring our investment portfolio and its liquidity and are actively working to minimize the impact of these fluctuations.

**17. Subsequent Events**

The Foundation has evaluated subsequent events through November 10, 2021, which is the date financial statements were available to be issued and determined that no events met the criteria for recognition or disclosure in the financial statements.