

**AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION OF MASSACHUSETTS, INC.**

**Financial Statements**

**Years Ended March 31, 2023 and 2022**

**(With Independent Auditors' Report Thereon)**

**AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION OF MASSACHUSETTS, INC.**

**FINANCIAL STATEMENTS**

**Years Ended March 31, 2023 and 2022**

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## INDEPENDENT AUDITORS' REPORT

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

### Opinion

We have audited the accompanying financial statements of American Civil Liberties Union Foundation of Massachusetts, Inc. (a not-for-profit organization) (the Foundation), which comprise the statement of financial position as of March 31, 2023, and the related statements of activities, functional expenses and cash flows for the year then ended, and the related notes to the financial statements.

In our 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, 2023 and the changes in its net assets and its cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America.

### Basis for Opinion

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Our responsibilities under those standards are further described in the Auditors' Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the Foundation and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### Other Matter

The financial statements of American Civil Liberties Union Foundation of Massachusetts, Inc. as of March 31, 2022, and for the year then ended were audited by other auditors. Those auditors expressed an unmodified opinion on those financial statements in their report dated November 16, 2022.

## **Responsibilities of Management for the Financial Statements**

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, and for 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.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the Foundation's ability to continue as a going concern for one year after the date that the financial statements are available to be issued.

## **Auditors' Responsibilities for the Audit of the Financial Statements**

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditors' report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with generally accepted auditing standards will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with generally accepted auditing standards, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit 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 Foundation's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the Foundation's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the audit.

October 31, 2023

*Kahn, Litwin, Renya & Co., Ltd.*

**AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF MASSACHUSETTS, INC.**  
**STATEMENTS OF FINANCIAL POSITION**  
**March 31, 2023 and 2022**



	2023	2022
<b>Assets</b>		
Current Assets:		
Cash and cash equivalents	\$ 2,049,554	\$ 2,918,662
Accounts receivable	100,000	74,116
Pledges receivable	1,689,090	50,000
Due from ACLU Union of MA	47,242	98,927
Due from ACLU National	676,530	675,093
Investments, available for operations	4,860,237	5,104,837
Prepaid expenses and other current assets	139,953	52,791
<b>Total current assets</b>	<b>9,562,606</b>	<b>8,974,426</b>
Pledges Receivable, less current portion	1,403,284	-
Investments, long-term	14,153,686	13,573,910
Beneficial Interest in Perpetual Trusts	1,237,483	1,351,632
Investments Held by Others	1,633,676	1,792,611
Property and Equipment, net	606,946	279,629
<b>Total Assets</b>	<b>\$ 28,597,681</b>	<b>\$ 25,972,208</b>
<b>Liabilities and Net Assets</b>		
Current Liabilities:		
Accounts payable and accrued expenses	\$ 480,960	\$ 332,422
<b>Total liabilities</b>	<b>480,960</b>	<b>332,422</b>
Net Assets:		
Without donor restrictions	15,031,604	14,607,204
With donor restrictions	13,085,117	11,032,582
<b>Total net assets</b>	<b>28,116,721</b>	<b>25,639,786</b>
<b>Total Liabilities and Net Assets</b>	<b>\$ 28,597,681</b>	<b>\$ 25,972,208</b>

See accompanying notes to the financial statements and independent auditors' report.

AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF MASSACHUSETTS, INC.  
 STATEMENTS OF ACTIVITIES  
 Years Ended March 31, 2023 and 2022

	2023			2022		
	Without Donor Restrictions	With Donor Restrictions	Total	Without Donor Restrictions	With Donor Restrictions	Total
Changes in Net Assets:						
Revenue and support:						
Contributions	\$ 4,261,536	\$ 3,068,299	\$ 7,329,835	\$ 3,777,903	\$ 500,000	\$ 4,277,903
Special event income	796,687	-	796,687	107,510	-	107,510
Bequests	555,198	200,000	755,198	346,351	200,000	546,351
Grants	192,000	435,417	627,417	22,500	385,000	407,500
Investment income (loss), net	(971,626)	(158,935)	(1,130,561)	422,859	-	422,859
Loss on disposal of fixed assets	-	-	-	(45,026)	-	(45,026)
Legal fees	402,572	-	402,572	217,246	-	217,246
Contributed nonfinancial assets	104,336	-	104,336	156,076	-	156,076
Other income	14,821	-	14,821	3,322	-	3,322
Net Assets released from restriction	1,378,097	(1,378,097)	-	1,688,502	(1,688,502)	-
<b>Total revenue and support</b>	<b>6,733,621</b>	<b>2,166,684</b>	<b>8,900,305</b>	<b>6,697,243</b>	<b>(603,502)</b>	<b>6,093,741</b>
Expenses:						
Program services	5,008,873	-	5,008,873	4,016,892	-	4,016,892
Management and general	568,924	-	568,924	695,738	-	695,738
Fundraising	731,424	-	731,424	499,504	-	499,504
<b>Total expenses</b>	<b>6,309,221</b>	<b>-</b>	<b>6,309,221</b>	<b>5,212,134</b>	<b>-</b>	<b>5,212,134</b>
<b>Change in Net Assets from operations</b>	<b>424,400</b>	<b>2,166,684</b>	<b>2,591,084</b>	<b>1,485,109</b>	<b>(603,502)</b>	<b>881,607</b>
<b>Non-operating</b>						
Change in value of beneficial interest	-	(114,149)	(114,149)	-	39,012	39,012
<b>Total non-operating</b>	<b>-</b>	<b>(114,149)</b>	<b>(114,149)</b>	<b>-</b>	<b>39,012</b>	<b>39,012</b>
<b>Change in Net Assets</b>	<b>424,400</b>	<b>2,052,535</b>	<b>2,476,935</b>	<b>1,485,109</b>	<b>(564,490)</b>	<b>920,619</b>
<b>Net Assets, beginning of year</b>	<b>14,607,204</b>	<b>11,032,582</b>	<b>25,639,786</b>	<b>13,122,095</b>	<b>11,597,072</b>	<b>24,719,167</b>
<b>Net Assets, end of year</b>	<b>\$ 15,031,604</b>	<b>\$ 13,085,117</b>	<b>\$ 28,116,721</b>	<b>\$ 14,607,204</b>	<b>\$ 11,032,582</b>	<b>\$ 25,639,786</b>

**AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF MASSACHUSETTS, INC.**  
**STATEMENTS OF FUNCTIONAL EXPENSES**  
**Years ended March 31, 2023 and 2022**

	2023				2022			
	Program Services	Management and General	Fundraising	Total Expenses	Program Services	Management and General	Fundraising	Total Expenses
Salaries	\$ 2,696,410	\$ 322,911	\$ 314,252	\$ 3,333,573	\$ 2,466,542	\$ 427,099	\$ 293,655	\$ 3,187,296
Payroll taxes	214,924	25,202	24,770	264,896	197,224	34,259	23,663	255,146
Employee benefits	634,448	113,884	61,053	809,385	542,412	137,853	53,832	734,097
<b>Total salaries and related expenses</b>	<b>3,545,782</b>	<b>461,997</b>	<b>400,075</b>	<b>4,407,854</b>	<b>3,206,178</b>	<b>599,211</b>	<b>371,150</b>	<b>4,176,539</b>
Books, subscriptions	72,469	1,395	1,454	75,318	29,553	579	664	30,796
Depreciation	111,209	8,436	16,805	136,450	62,095	4,046	8,341	74,482
Dues and fees	63,197	6,318	16,188	85,703	41,549	6,040	12,429	60,018
Equipment lease and maintenance	15,384	650	912	16,946	1,675	232	168	2,075
Event expense	150,295	40	141,027	291,362	17,640	251	1,307	19,198
Insurance	30,460	2,203	1,751	34,414	28,942	2,268	1,720	32,930
Miscellaneous	19,226	3,836	7,557	30,619	11,912	3,190	960	16,062
Occupancy	504,179	38,651	63,221	606,051	238,871	37,836	26,262	302,969
Office expense and supplies	49,907	923	1,639	52,469	10,238	1,245	687	12,170
Postage	12,317	183	11,653	24,153	1,738	225	14,533	16,496
Printing and publishing	50,054	873	28,366	79,293	29,296	482	26,625	56,403
Professional fees	295,071	37,041	21,901	354,013	259,607	32,011	23,813	315,431
Technology	49,385	4,049	8,539	61,973	60,840	5,809	8,696	75,345
Telephone	14,739	1,582	2,024	18,345	12,568	1,690	1,454	15,712
Travel and transportation	25,199	747	8,312	34,258	4,190	623	695	5,508
<b>Total Expenses</b>	<b>\$ 5,008,873</b>	<b>\$ 568,924</b>	<b>\$ 731,424</b>	<b>\$ 6,309,221</b>	<b>\$ 4,016,892</b>	<b>\$ 695,738</b>	<b>\$ 499,504</b>	<b>\$ 5,212,134</b>

**AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF MASSACHUSETTS, INC.**  
**STATEMENTS OF CASH FLOWS**  
**Years Ended March 31, 2023 and 2022**



	<b>2023</b>	<b>2022</b>
Cash Flows from Operating Activities:		
Change in net assets	\$ 2,476,935	920,619
Adjustments to reconcile change in net assets to net cash provided by operating activities:		
Depreciation	136,450	74,482
Loss on disposal of assets	-	45,026
Net (gain) loss from investments	1,589,499	(87,276)
Beneficial interest in perpetual trusts net change	114,149	(39,012)
Changes in operating assets and liabilities:		
Pledges receivable	(3,042,374)	85,871
Accounts receivable	(25,884)	91,087
Due from ACLU Union of MA	51,685	165,070
Due from National	(1,437)	(651,445)
Prepaid expenses and other current assets	(87,162)	37,901
Accounts payable and accrued expenses	148,538	(68,980)
<b>Net cash provided by operating activities</b>	<b>1,360,399</b>	<b>573,343</b>
Cash Flows from Investing Activities:		
Purchases of property and equipment	(463,767)	(212,746)
Proceeds from the sale of investments	28,829,541	7,668,369
Purchase of investments	(30,595,281)	(7,848,115)
<b>Net cash used by investing activities</b>	<b>(2,229,507)</b>	<b>(392,492)</b>
<b>Net Increase (Decrease) in Cash and Cash Equivalents</b>	<b>(869,108)</b>	<b>180,851</b>
<b>Cash and Cash Equivalents, beginning of year</b>	<b>2,918,662</b>	<b>2,737,811</b>
<b>Cash and Cash Equivalents, end of year</b>	<b>\$ 2,049,554</b>	<b>\$ 2,918,662</b>

See accompanying notes to the financial statements and independent auditors' report.

**AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF MASSACHUSETTS, INC.**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**Years Ended March 31, 2023 and 2022**



**1. Nature of Operations**

American Civil Liberties Union Foundation of Massachusetts, Inc. (the Foundation), is a not-for-profit organization whose mission is to support the activities of the American Civil Liberties Union of Massachusetts (the Union), which defends freedoms guaranteed in the United States Constitution and Bill of Rights. The Foundation is also affiliated with the American Civil Liberties Union Foundation, Inc. (the National Foundation) and the American Civil Liberties Union, Inc. (the National 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 assumed 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 Union and the Foundation together comprise New England's premier civil liberties and law reform organizations. Utilizing impact litigation, policy advocacy, and community organizing, the Union and the Foundation win critical battles for voting rights, democracy, reproductive justice, immigrants' rights, criminal law reform, racial justice, privacy and technology, LGBTQI+ rights and free expression. Notable advocacy over the past year includes blocking book bans in public schools and libraries; defending permits for an LGBTQ Pride festival; representing migrants involuntarily sent to Massachusetts; protecting free speech and public comment during government hearings; securing statewide abortion access legislation in Massachusetts; advancing data privacy bills; promoting police practices reform, and protecting voting rights and democracy.

**2. Summary of Significant Accounting Policies**

This summary of the significant accounting policies of the Foundation is presented to assist the reader in understanding the Foundation's financial statements. The financial statements and notes are representations of the Foundation's management, who is responsible for their integrity and objectivity. These accounting policies conform to accounting principles generally accepted in the United States of America and have been consistently applied in the preparation of the financial statements.

***Basis of Presentation***

The Foundation prepares its financial statements on the accrual basis of accounting and, in accordance with authoritative guidance, reports information regarding its financial position and activities according to two classes of net assets: net assets without donor restrictions and net assets with donor restrictions.

AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF MASSACHUSETTS, INC.  
NOTES TO THE FINANCIAL STATEMENTS  
Years Ended March 31, 2023 and 2022



***Net Assets Without Donor Restrictions***

Net assets without donor restrictions are available for use at the discretion of the Board of Directors (the Board) and/or management for general operating purposes.

***Net Assets With Donor Restrictions***

Net assets with donor restrictions consist of assets whose use is limited by donor-imposed time and/or purpose restrictions. Donor-restricted contributions are reported as increases in net assets with donor restrictions. When a restriction is satisfied, net assets are reclassified from net assets with donor restrictions to net assets without donor restrictions in the statement of activities.

***Cash and Cash Equivalents***

The Foundation considers all cash balances and highly liquid investments with original maturities of three months or less to be cash equivalents, with the exception of certain amounts classified as investments.

***Accounts Receivable***

The Foundation carries its accounts receivable at net realizable value. On a periodic basis, the Foundation evaluates its receivables and establishes an allowance for doubtful accounts based on a history of past bad debt expense and collections and current credit conditions.

A receivable is considered past due if payment has not been received within stated terms. Once all practical resources to collect the receivable have been utilized without success, the receivable is deemed uncollectable and charged against the allowance for doubtful accounts. At March 31, 2023 and 2022, there was no allowance for doubtful accounts for accounts receivable.

***Pledges Receivable***

Pledges receivable (unconditional promises to give) that are expected to be collected within one year are recorded at their net realizable value. Unconditional promises to give that are expected to be collected after one year are discounted at an appropriate rate commensurate with the risk involved. If material, receivables with amounts due beyond one year are discounted to their net present value using the interest rate for treasury bills with a remaining term equal to that of expected future receipts.

On a periodic basis, the Foundation evaluates its pledges receivable and establishes an allowance for doubtful accounts, based on a history of past collections and current credit conditions. At March 31, 2023 and 2022, there was no allowance for doubtful accounts for pledges receivable.

***Investments and Fair Value Measurement***

The Foundation reports its investments at fair value. 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. A fair value measurement assumes that the transaction to sell the asset or transfer the liability occurs in the principal market for the asset or liability or, in the absence of a principal market, the most advantageous market. Valuation techniques that are consistent with the market, income or cost approach, as specified by authoritative guidance, are used to measure fair value.

The fair value hierarchy prioritizes the inputs to valuation techniques used to measure fair value into three broad levels:

Level 1 inputs are quoted prices (unadjusted) in active markets for identical assets or liabilities the Foundation has the ability to access.

Level 2 inputs (other than quoted prices included within level 1) are observable for the asset or liability, either directly or indirectly.

Level 3 inputs are unobservable inputs for the asset or liability and rely on management's own assumptions about the assumptions that market participants would use in pricing the asset or liability. The unobservable inputs are developed based on the best information available in the circumstances and may include the Foundation's own data.

The Foundation reports investments at fair value on a recurring basis. These investments are classified as level 1 and 3 within the fair value hierarchy.

Level 1 investments owned by the Foundation and listed on a National Securities Exchange are valued at the last recorded sales price as of the financial statement reporting date or, in the absence of recorded sales, at the last quoted bid price reported as of the financial statement reporting date.

Level 3 investment values are provided by the Trustee who develops their valuations using the third-party monthly investment broker's statements. Due to the inaccessibility of these broker statements, as well as the Foundation's lack of control over the investing activities, the funds held in a trust are considered unobservable market inputs in accordance with authoritative guidance.

AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF MASSACHUSETTS, INC.  
NOTES TO THE FINANCIAL STATEMENTS  
Years Ended March 31, 2023 and 2022



Realized and unrealized gains or losses are included as a component of investment gain (loss) on the statement of activities. Gains and losses on investments are reported as changes in net assets without donor restrictions, unless gains and losses on investments are restricted by a donor's explicit stipulation or by a law that extends a donor's restriction.

Dividends are recorded on the ex-dividend date and interest is recorded on the accrual basis of accounting. Purchases and sales of securities are recorded on the trade date. In determining the gains (losses) realized on the sales of securities, the cost of securities sold is determined on a specific identification basis.

***Property and Equipment***

All expenditures for property and equipment in excess of \$2,000 are capitalized at cost. Donated property and equipment is capitalized at its fair value at the date of the donation. Depreciation is computed on the straight-line basis over the estimated useful lives of the related assets, ranging from 3 to 40 years.

***Revenue Recognition***

***Contributions and Grant Income*** - The Foundation recognizes contribution and grant income in the year in which the contribution or grant is made. Contributions and grant income is recorded either as with or without donor restrictions, depending on the existence and/or nature of any donor/grantor-imposed restrictions. However, it is the policy of the Foundation to recognize contributions and grants with donor restrictions that are both received and fully expended during the same year as contributions without donor restrictions.

***Special Events*** - The Foundation records special events revenue when the event takes place.

***Bequests*** - Conditional contributions are recognized in the period in which the conditions are met.

***Legal Fees*** - 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, which may occur several years after the litigation commences.

***Contributed Nonfinancial Assets*** - The Foundation records the value of donated legal services at fair value at the date of the donation. Donated services are recognized as contributions if the services (a) create or enhance nonfinancial assets, or (b) require specialized skills and are performed by people with those skills and would otherwise be purchased by the Foundation. Volunteers also provide a variety of program services throughout the year that are not recognized as contributions in the financial statements since the recognition criteria under generally accepted accounting principles were not met.

AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF MASSACHUSETTS, INC.  
NOTES TO THE FINANCIAL STATEMENTS  
Years Ended March 31, 2023 and 2022



***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.

***Income Taxes***

The Foundation is exempt from income taxes as a public charity under Section 501(c)(3) of the IRC. Management believes that the Foundation operates in a manner consistent with its tax-exempt status at both the state and federal levels.

The Foundation annually files IRS Form 990, *Return of Organization Exempt From Income Tax*, reporting various information that the IRS uses to monitor the activities of tax-exempt entities. These tax returns are subject to review by the taxing authorities, generally for a period of three years after they were filed. The Foundation currently has no tax examinations in progress.

***Functional Allocation of Expenses***

The financial statements report certain categories of expenses that are attributable to more than one program or supporting function. Therefore, these expenses require allocation on a reasonable basis that is consistently applied. The expenses that are allocated include compensation and benefits, which are allocated on the basis of job description, and estimates of time and effort. Depreciation and occupancy and all other indirect expenses are allocated on the basis of square footage or time and effort.

***Reclassifications***

Certain amounts in the prior year financial statements have been reclassified to conform with the current year presentation.

***Subsequent Events***

Management of the Foundation has evaluated subsequent events through October 31, 2023, which is the date these financial statements were available to be issued.

**AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF MASSACHUSETTS, INC.**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**Years Ended March 31, 2023 and 2022**



**3. Availability and Liquidity**

Financial assets available for general expenditure, that is, without donor or other restrictions limiting their use within one year of the statement of financial position date, comprise the following:

	2023	2022
Financial assets:		
Cash and cash equivalents	\$ 2,049,554	\$ 2,918,662
Accounts receivable	100,000	74,116
Pledges receivable, current	1,689,090	50,000
Due from ACLU Union of Massachusetts	47,242	98,927
Due from ACLU National	676,530	675,093
Investments, available for operations	4,860,237	5,104,837
	9,422,653	8,921,635
Less: financial assets unavailable for general expenditure within one year, due to:		
Restricted by purpose	834,467	786,556
Financial assets available to meet general expenditure needs within one year	\$ 8,588,186	\$ 8,135,079

The Foundation has a policy to structure its financial assets to be available as its general expenditures, liabilities, and other obligations come due. 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. To help management with unanticipated liquidity needs, the Foundation is able to draw upon its available line of credit up to \$500,000 (Note 7) as of March 31, 2023 and 2022.

**AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF MASSACHUSETTS, INC.**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**Years Ended March 31, 2023 and 2022**



**4. Pledges Receivable**

Pledges receivable consist of unconditional promises to give from contributors to support the Foundation's charitable mission.

Pledges receivable are due as follows:

	2023	2022
Within one year	\$ 1,689,090	\$ 50,000
One to two years	1,250,000	-
Two to three years	100,000	-
Three to four years	100,000	-
Total pledges receivable	3,139,090	50,000
Less present value component	46,716	-
Total pledges receivable, net	3,092,374	50,000
Less current portion	1,689,090	50,000
Pledges receivable, less current portion, net	\$ 1,403,284	\$ -

**5. Investments**

Investments, investments held by others and beneficial interests in perpetual trusts are presented in the financial statements at their aggregate fair value and consist of the following:

	March 31, 2023		
	Level 1	Level 3	Total
Money market mutual funds	\$ 1,001,804	\$ -	\$ 1,001,804
Mutual funds			
Bond index funds	6,023,392	-	6,023,392
Stock index funds	6,990,710	-	6,990,710
International funds	4,998,017	-	4,998,017
Beneficial interest in perpetual trusts	-	1,237,483	1,237,483
Investments held by others	-	1,633,676	1,633,676
Total	\$ 19,013,923	\$ 2,871,159	\$ 21,885,082

**AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF MASSACHUSETTS, INC.**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**Years Ended March 31, 2023 and 2022**



	March 31, 2022		
	Level 1	Level 3	Total
Money market mutual funds	\$ 1,047,625	\$ -	\$ 1,047,625
Mutual funds			
Bond index funds	5,840,535	-	5,840,535
Stock index funds	7,395,824	-	7,395,824
International funds	4,394,763	-	4,394,763
Beneficial interest in perpetual trusts	-	1,351,632	1,351,632
Investments held by others	-	1,792,611	1,792,611
<b>Total</b>	<b>\$ 18,678,747</b>	<b>\$ 3,144,243</b>	<b>\$ 21,822,990</b>

The Foundation values its beneficial interest in perpetual trusts at fair value based on the information provided by the financial institutions.

A reconciliation of investments measured at fair value using significant unobservable inputs (level 3) is as follows:

	2023	2022
Beginning balance	\$ 3,144,243	\$ 3,106,085
Change in fair value	(273,084)	38,158
Ending balance	\$ 2,871,159	\$ 3,144,243

***Beneficial Interest in Perpetual Trusts***

The Foundation holds a beneficial interest in perpetual trusts. Under the terms of the trust agreements, the Foundation has the irrevocable right to receive the income earned by these trusts. In accordance with the donors' wishes, the distributions received by the Foundation from these trusts are available for current operations. During the years ended March 31, 2023 and 2022, the Foundation received a distribution of trust income in the amount of \$44,000 and \$46,000, respectively.

***Investments Held by Others***

*Pichey Endowment* - The Pichey endowment represents the Foundation's holdings in an endowment held by the National Foundation. 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 which are available to be spent on operating activities. During the years ended March 31, 2023 and 2022, the Foundation received a distribution of trust income in the amount of \$915 and \$883, respectively.

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*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 affiliated 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 affiliated 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. For the years ended March 31, 2023 and 2022, distributions to the Foundation from the National Foundation amounted to \$66,831 and \$64,511, respectively. Distributions from the BOR endowment are without donor restrictions.

**6. Property and Equipment**

Property and equipment consisted of the following:

	2023	2022
Furniture and fixtures	\$ 383,307	\$ 167,171
Computer equipment	218,398	139,204
Office equipment	208,083	69,736
Leasehold improvements	30,089	-
	839,877	376,111
Less accumulated depreciation	232,931	96,482
	\$ 606,946	\$ 279,629

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**7. 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. At March 31, 2023 and 2022, there was no outstanding balance on the line of credit.

The line of credit agreement also contains restrictive covenants. At March 31, 2023 and 2022, management believes that the Foundation was in compliance with its restrictive covenants.

**8. Net Assets**

A summary of net assets is as follows:

	2023	2022
Net Assets Without Donor Restrictions		
Undesignated	\$ 10,711,775	\$ 11,379,358
Board-designated for long-term investment	3,712,883	2,948,217
Invested in property and equipment	606,946	279,629
	15,031,604	14,607,204
Net Assets With Donor Restrictions		
Subject to expenditure for specific purpose		
Technology for liberty and justice for all	6,287,117	7,051,783
Racial justice	125,000	77,115
Fellowship salaries	285,645	379,683
Springfield schools	-	45,000
Immigration	-	84,758
Separation of church and state	200,000	200,000
1 <sup>st</sup> amendment legal position	198,897	-
Journalism student participation	24,925	-
	7,121,584	7,838,339
Subject to time restriction	3,092,374	50,000

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Subject to restriction in perpetuity		
Pichey endowment - activism initiatives	22,067	24,214
Bill of rights endowment	1,611,609	1,768,397
Beneficial interest in perpetual trusts	1,237,483	1,351,632
	2,871,159	3,144,243
Total net assets with donor restrictions	13,085,117	11,032,582
Total net assets	\$ 28,116,721	\$ 25,639,786

**9. Contributed Nonfinancial Assets**

The Foundation actively solicits and receives support from the community and local businesses in the form of contributed goods and services related to its efforts in responding to local needs, fundraising and performing administrative functions.

For the years ended March 31, 2023 and 2022, the Foundation received donated legal services of \$104,336 and \$156,076, respectively, which was recorded in the statement of activities. The Foundation records the value of contributed nonfinancial assets at fair value at the date of the donation based on the value determined by the donor.

**10. Commitments and Contingencies**

***Legal 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 will not have a material adverse impact on the financial position of the Foundation or the results of its activities.

***Collective Bargaining Agreement***

The Foundation has a collective bargaining agreement, which expired June 30, 2023, with certain employees that include approximately thirteen full-time equivalents. The agreement includes provisions including but not limited to vacation accruals, normal working hours, etc. The Foundation is currently negotiating terms of the new agreement and is currently following the terms of the previous agreement.

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**11. Employee Benefit 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 \$191,014 and \$153,526 for the years ended March 31, 2023 and 2022, respectively, and is included with employee benefits on the accompanying statements 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 401(k) 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, 2023 and 2022, the financial statements of the pension plan reflected the fair value of plan assets of \$163,225,695 and \$176,019,163, respectively, available for benefit obligations of \$167,771,632 and \$198,372,769 in accumulated plan benefits, respectively. As the liability directly related to the Union is not known, no liability has been recorded in the accompanying financial statements.

***401(k) Plan***

The Foundation participates in the National ACLU's 401(k) 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 Foundation contributions for the years ended March 31, 2023 and 2022 were \$134,139 and \$131,135, respectively, and are included with employee benefits on the accompanying statements of functional expenses.

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**12. 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 \$1,573,807 and \$1,421,750, respectively, for the shared costs that include salaries, benefits and related payroll taxes for the years ended March 31, 2023 and 2022. Additionally, the Union charged the Foundation for its pro rata share of the rent for shared facility costs amounting to \$604,162 and \$296,150, respectively, which is included in occupancy expenses in these financial statements for the years ended March 31, 2023 and 2022. As of March 31, 2023 and 2022, the Foundation recorded a receivable from the Union amounting to \$47,242 and \$64,308, related to the transactions described above.

*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, 2023 and 2022, amounts due to the Foundation from the National Foundation for shared revenue in accordance with the affiliation agreement were \$676,530 and \$675,093, respectively. Additionally, during 2023, the National ACLU granted the Foundation \$325,000, which is included in grant income in the accompanying financial statements.

*Donations*

During the fiscal years ended 2023 and 2022, related parties of the Foundation donated \$622,713 and \$193,750, respectively, to the Foundation. Union board members donated \$38,125 and \$487,747 to the Foundation during fiscal 2023 and 2022, respectively. Union and Foundation board members donated \$35,297 and \$35,000 to the Foundation during fiscal years ended 2023 and 2022.

**13. Concentrations of Risk**

Financial instruments that potentially subject the Foundation to concentrations of credit and market risk consist principally of cash and cash equivalents, receivables and investments.

The Foundation maintains its operating accounts in one financial institution. The balance at the institution is insured by the Federal Deposit Insurance Corporation up to \$250,000. At year-end, the uninsured portion of this balance was approximately \$1,829,000. The Foundation monitors its exposure with regard to cash and cash equivalents and has not experienced losses on such accounts.

At March 31, 2023 and 2022, 95% and 100%, respectively, of the pledges receivable was due from three donors and one donor, respectively.

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Investment securities are exposed to various risks, such as interest rate, market and credit risks. Due to the level of risk associated with certain investment securities, it is possible that changes in values of investment securities could occur in the near term and that such changes could materially affect investment balances and activity included in the financial statements. The Foundation has a diversified portfolio for all of its investments and retains an investment advisor to attain a prudent level of diversification in an attempt to minimize potential risk associated with investment securities to the extent possible.