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Return of Private Foundation
or Section 4947(a)(1) Nonexempt Charitable Trust
Treated as a Private Foundation

2008

Note. The foundation may be able to use a copy of this return to satisfy state reporting requirements.

For calendar year 2008, or tax year beginning MAY 1, 2008, and ending APR 30, 2009

G Check all that apply: ☐ Initial return ☐ Final return ☐ Amended return ☐ Address change ☐ Name changeUse the IRS
label.
Otherwise,
print
or type.
See Specific
Instructions

Name of foundation

THE VICTOR HERBERT FOUNDATION

Number and street (or P O box number if mail is not delivered to street address)

C/O JACOBY, 45 EAST 85TH STREET

City or town, state, and ZIP code

NEW YORK, NY 10028

A Employer identification number

23-7044623

B Telephone number

(212) 872-1500 535-3057

C If exemption application is pending, check here ☐D 1. Foreign organizations, check here ☐2. Foreign organizations meeting the 85% test,
check here and attach computation ☐E If private foundation status was terminated
under section 507(b)(1)(A), check here ☐F If the foundation is in a 60-month termination
under section 507(b)(1)(B), check here ☐H Check type of organization: ☒ Section 501(c)(3) exempt private foundation
☐ Section 4947(a)(1) nonexempt charitable trust ☐ Other taxable private foundationI Fair market value of all assets at end of year J Accounting method: ☒ Cash ☐ Accrual

(from Part II, col. (c), line 16)

☐ Other (specify)

\$ 2,136,628. (Part I, column (d) must be on cash basis)

Part I Analysis of Revenue and Expenses

(The total of amounts in columns (b), (c), and (d) may not
necessarily equal the amounts in column (a))(a) Revenue and
expenses per books(b) Net investment
income(c) Adjusted net
income(d) Disbursements
for charitable purposes
(cash basis only)

Revenue	1	Contributions, gifts, grants, etc., received			N/A		
	2	Check <input checked="" type="checkbox"/> if the foundation is not required to attach Sch B					
	3	Interest on savings and temporary cash investments	36,977.	36,977.		STATEMENT 2	
	4	Dividends and interest from securities	84,794.	70,681.		STATEMENT 3	
	5a	Gross rents	1,160.	1,160.		STATEMENT 4	
	b	Net rental income or (loss)	1,160.				
	6a	Net gain or (loss) from sale of assets not on line 10	<708,606.>			STATEMENT 1	
	b	Gross sales price for all assets on line 6a	1,563,815.				
	7	Capital gain net income (from Part IV, line 2)		0.			
	8	Net short-term capital gain					
	9	Income modifications					
	10a	Gross sales less returns and allowances					
b	Less: Cost of goods sold						
c	Gross profit or (loss)						
11	Other income	3,850.	3,850.		STATEMENT 5		
12	Total. Add lines 1 through 11	<581,825.>	112,668.				
Operating and Administrative Expenses	13	Compensation of officers, directors, trustees, etc	17,619.	17,619.		0.	
	14	Other employee salaries and wages					
	15	Pension plans, employee benefits					
	16a	Legal fees					
	b	Accounting fees	STMT 6	8,880.	7,104.	DEC 22 2009	1,776.
	c	Other professional fees					
	17	Interest					
	18	Taxes	STMT 7	4,291.	747.		0.
	19	Depreciation and depletion					
	20	Occupancy					
	21	Travel, conferences, and meetings					
	22	Printing and publications					
	23	Other expenses	STMT 8	27,476.	27,333.		250.
	24	Total operating and administrative expenses. Add lines 13 through 23		58,266.	52,803.		2,026.
	25	Contributions, gifts, grants paid		177,624.			177,624.
26	Total expenses and disbursements. Add lines 24 and 25		235,890.	52,803.		179,650.	
27	Subtract line 26 from line 12:						
a	Excess of revenue over expenses and disbursements		<817,715.>				
b	Net investment income (if negative, enter -0-)			59,865.			
c	Adjusted net income (if negative, enter -0-)			N/A			

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Part II Balance Sheets		Attached schedules and amounts in the description column should be for end-of-year amounts only		Beginning of year	End of year	
		(a) Book Value	(b) Book Value	(c) Fair Market Value		
Assets	1 Cash - non-interest-bearing			551,926.	502,757.	502,757.
	2 Savings and temporary cash investments					
	3 Accounts receivable ▶					
	Less: allowance for doubtful accounts ▶					
	4 Pledges receivable ▶					
	Less: allowance for doubtful accounts ▶					
	5 Grants receivable					
	6 Receivables due from officers, directors, trustees, and other disqualified persons					
	7 Other notes and loans receivable ▶					
	Less: allowance for doubtful accounts ▶					
	8 Inventories for sale or use					
	9 Prepaid expenses and deferred charges					
	10a Investments - U.S. and state government obligations STMT 9		0.	92,315.	100,440.	
	b Investments - corporate stock STMT 10	1,640,949.	747,936.	666,084.		
	c Investments - corporate bonds STMT 11	567,062.	617,748.	599,163.		
11 Investments - land, buildings, and equipment basis ▶						
Less: accumulated depreciation ▶						
12 Investments - mortgage loans						
13 Investments - other STMT 12	315,576.	297,042.	235,017.			
14 Land, buildings, and equipment: basis ▶						
Less: accumulated depreciation ▶						
15 Other assets (describe ▶ COPYRIGHT)		33,167.	33,167.	33,167.		
16 Total assets (to be completed by all filers)		3,108,680.	2,290,965.	2,136,628.		
Liabilities	17 Accounts payable and accrued expenses					
	18 Grants payable					
	19 Deferred revenue					
	20 Loans from officers, directors, trustees, and other disqualified persons					
	21 Mortgages and other notes payable					
	22 Other liabilities (describe ▶)					
	23 Total liabilities (add lines 17 through 22)		0.	0.		
Net Assets or Fund Balances	Foundations that follow SFAS 117, check here ▶ <input type="checkbox"/>					
	and complete lines 24 through 26 and lines 30 and 31.					
	24 Unrestricted					
	25 Temporarily restricted					
	26 Permanently restricted					
	Foundations that do not follow SFAS 117, check here ▶ <input checked="" type="checkbox"/>					
	and complete lines 27 through 31.					
	27 Capital stock, trust principal, or current funds	0.	0.			
	28 Paid-in or capital surplus, or land, bldg., and equipment fund	0.	0.			
29 Retained earnings, accumulated income, endowment, or other funds	3,108,680.	2,290,965.				
30 Total net assets or fund balances	3,108,680.	2,290,965.				
31 Total liabilities and net assets/fund balances	3,108,680.	2,290,965.				

Part III Analysis of Changes in Net Assets or Fund Balances

1 Total net assets or fund balances at beginning of year - Part II, column (a), line 30 (must agree with end-of-year figure reported on prior year's return)	1	3,108,680.
2 Enter amount from Part I, line 27a	2	<817,715.>
3 Other increases not included in line 2 (itemize) ▶	3	0.
4 Add lines 1, 2, and 3	4	2,290,965.
5 Decreases not included in line 2 (itemize) ▶	5	0.
6 Total net assets or fund balances at end of year (line 4 minus line 5) - Part II, column (b), line 30	6	2,290,965.

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Part IV Capital Gains and Losses for Tax on Investment Income

(a) List and describe the kind(s) of property sold (e.g., real estate, 2-story brick warehouse; or common stock, 200 shs. MLC Co.)		(b) How acquired P - Purchase D - Donation	(c) Date acquired (mo., day, yr.)	(d) Date sold (mo., day, yr.)
1a				
b SEE ATTACHED STATEMENT				
c				
d				
e				
(e) Gross sales price	(f) Depreciation allowed (or allowable)	(g) Cost or other basis plus expense of sale	(h) Gain or (loss) (e) plus (f) minus (g)	
a				
b				
c				
d				
e 1,563,815.		2,272,421.	<708,606.>	
Complete only for assets showing gain in column (h) and owned by the foundation on 12/31/69			(i) Gains (Col. (h) gain minus col. (k), but not less than -0-) or Losses (from col. (h))	
(i) F.M.V. as of 12/31/69	(j) Adjusted basis as of 12/31/69	(k) Excess of col. (i) over col. (j), if any		
a				
b				
c				
d				
e			<708,606.>	
2 Capital gain net income or (net capital loss)		2		<708,606.>
3 Net short-term capital gain or (loss) as defined in sections 1222(5) and (6): If gain, also enter in Part I, line 8, column (c). If (loss), enter -0- in Part I, line 8		3		N/A

Part V Qualification Under Section 4940(e) for Reduced Tax on Net Investment Income

(For optional use by domestic private foundations subject to the section 4940(a) tax on net investment income.)

If section 4940(d)(2) applies, leave this part blank.

Was the foundation liable for the section 4942 tax on the distributable amount of any year in the base period?

☐ Yes ☒ No

If "Yes," the foundation does not qualify under section 4940(e). Do not complete this part.

1 Enter the appropriate amount in each column for each year; see instructions before making any entries.

(a) Base period years Calendar year (or tax year beginning in)	(b) Adjusted qualifying distributions	(c) Net value of noncharitable-use assets	(d) Distribution ratio (col. (b) divided by col. (c))
2007	147,827.	3,632,409.	.040697
2006	173,378.	3,545,370.	.048903
2005	175,163.	3,493,477.	.050140
2004	130,241.	3,393,634.	.038378
2003	152,426.	3,166,112.	.048143
2 Total of line 1, column (d)			2 .226261
3 Average distribution ratio for the 5-year base period - divide the total on line 2 by 5, or by the number of years the foundation has been in existence if less than 5 years			3 .045252
4 Enter the net value of noncharitable-use assets for 2008 from Part X, line 5			4 2,690,443.
5 Multiply line 4 by line 3			5 121,748.
6 Enter 1% of net investment income (1% of Part I, line 27b)			6 599.
7 Add lines 5 and 6			7 122,347.
8 Enter qualifying distributions from Part XII, line 4			8 179,650.

If line 8 is equal to or greater than line 7, check the box in Part VI, line 1b, and complete that part using a 1% tax rate.
See the Part VI instructions.

Part VI Excise Tax Based on Investment Income (Section 4940(a), 4940(b), 4940(e), or 4948 - see instructions)

1a Exempt operating foundations described in section 4940(d)(2), check here <input type="checkbox"/> and enter "N/A" on line 1. Date of ruling letter: _____ (attach copy of ruling letter if necessary-see instructions)			
b Domestic foundations that meet the section 4940(e) requirements in Part V, check here <input checked="" type="checkbox"/> and enter 1% of Part I, line 27b		1	599.
c All other domestic foundations enter 2% of line 27b. Exempt foreign organizations enter 4% of Part I, line 12, col. (b)			
2 Tax under section 511 (domestic section 4947(a)(1) trusts and taxable foundations only. Others enter -0-)		2	0.
3 Add lines 1 and 2		3	599.
4 Subtitle A (income) tax (domestic section 4947(a)(1) trusts and taxable foundations only. Others enter -0-)		4	0.
5 Tax based on investment income. Subtract line 4 from line 3. If zero or less, enter -0-		5	599.
6 Credits/Payments:			
a 2008 estimated tax payments and 2007 overpayment credited to 2008	6a	544.	
b Exempt foreign organizations - tax withheld at source	6b		
c Tax paid with application for extension of time to file (Form 8868)	6c		
d Backup withholding erroneously withheld	6d		
7 Total credits and payments. Add lines 6a through 6d	7	544.	
8 Enter any penalty for underpayment of estimated tax. Check here <input checked="" type="checkbox"/> if Form 2220 is attached	8	7.	
9 Tax due. If the total of lines 5 and 8 is more than line 7, enter amount owed	9	62.	
10 Overpayment. If line 7 is more than the total of lines 5 and 8, enter the amount overpaid	10		
11 Enter the amount of line 10 to be: Credited to 2009 estimated tax <input type="checkbox"/> Refunded <input checked="" type="checkbox"/>	11		

Part VII-A Statements Regarding Activities

	Yes	No
1a During the tax year, did the foundation attempt to influence any national, state, or local legislation or did it participate or intervene in any political campaign?		X
b Did it spend more than \$100 during the year (either directly or indirectly) for political purposes (see instructions for definition)? If the answer is "Yes" to 1a or 1b, attach a detailed description of the activities and copies of any materials published or distributed by the foundation in connection with the activities.		X
c Did the foundation file Form 1120-POL for this year?		X
d Enter the amount (if any) of tax on political expenditures (section 4955) imposed during the year: (1) On the foundation. <input type="checkbox"/> \$ 0. (2) On foundation managers. <input type="checkbox"/> \$ 0.		
e Enter the reimbursement (if any) paid by the foundation during the year for political expenditure tax imposed on foundation managers. <input type="checkbox"/> \$ 0.		
2 Has the foundation engaged in any activities that have not previously been reported to the IRS? If "Yes," attach a detailed description of the activities.		X
3 Has the foundation made any changes, not previously reported to the IRS, in its governing instrument, articles of incorporation, or bylaws, or other similar instruments? If "Yes," attach a conformed copy of the changes		X
4a Did the foundation have unrelated business gross income of \$1,000 or more during the year?		X
b If "Yes," has it filed a tax return on Form 990-T for this year?		
5 Was there a liquidation, termination, dissolution, or substantial contraction during the year? If "Yes," attach the statement required by General Instruction T		X
6 Are the requirements of section 508(e) (relating to sections 4941 through 4945) satisfied either: • By language in the governing instrument, or • By state legislation that effectively amends the governing instrument so that no mandatory directions that conflict with the state law remain in the governing instrument?	X	
7 Did the foundation have at least \$5,000 in assets at any time during the year? If "Yes," complete Part II, col. (c), and Part XV.	X	
8a Enter the states to which the foundation reports or with which it is registered (see instructions) <input type="checkbox"/> NY		
b If the answer is "Yes" to line 7, has the foundation furnished a copy of Form 990-PF to the Attorney General (or designate) of each state as required by General Instruction G? If "No," attach explanation	X	
9 Is the foundation claiming status as a private operating foundation within the meaning of section 4942(j)(3) or 4942(j)(5) for calendar year 2008 or the taxable year beginning in 2008 (see instructions for Part XIV)? If "Yes," complete Part XIV		X
10 Did any persons become substantial contributors during the tax year? If "Yes," attach a schedule listing their names and addresses		X

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Part VII-A Statements Regarding Activities (continued)

11	At any time during the year, did the foundation, directly or indirectly, own a controlled entity within the meaning of section 512(b)(13)? If "Yes," attach schedule (see instructions)	11		X
12	Did the foundation acquire a direct or indirect interest in any applicable insurance contract before August 17, 2008?	12		X
13	Did the foundation comply with the public inspection requirements for its annual returns and exemption application? Website address ► <u>N/A</u>	13	X	
14	The books are in care of ► <u>HERBERT JACOBY, ESO</u> Telephone no. ► <u>212-872-1500</u> Located at ► <u>750 LEXINGTON AVENUE, NEW YORK, NY</u> ZIP+4 ► <u>10021</u>			
15	Section 4947(a)(1) nonexempt charitable trusts filing Form 990-PF in lieu of Form 1041 - Check here and enter the amount of tax-exempt interest received or accrued during the year	15		N/A

Part VII-B Statements Regarding Activities for Which Form 4720 May Be Required

File Form 4720 if any item is checked in the "Yes" column, unless an exception applies.

	Yes	No
1a During the year did the foundation (either directly or indirectly):		
(1) Engage in the sale or exchange, or leasing of property with a disqualified person?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
(2) Borrow money from, lend money to, or otherwise extend credit to (or accept it from) a disqualified person?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
(3) Furnish goods, services, or facilities to (or accept them from) a disqualified person?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
(4) Pay compensation to, or pay or reimburse the expenses of, a disqualified person?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
(5) Transfer any income or assets to a disqualified person (or make any of either available for the benefit or use of a disqualified person)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
(6) Agree to pay money or property to a government official? (Exception. Check "No" if the foundation agreed to make a grant to or to employ the official for a period after termination of government service, if terminating within 90 days.)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
b If any answer is "Yes" to 1a(1)-(6), did any of the acts fail to qualify under the exceptions described in Regulations section 53.4941(d)-3 or in a current notice regarding disaster assistance (see page 20 of the instructions)? Organizations relying on a current notice regarding disaster assistance check here		1b X
c Did the foundation engage in a prior year in any of the acts described in 1a, other than excepted acts, that were not corrected before the first day of the tax year beginning in 2008?		1c X
2 Taxes on failure to distribute income (section 4942) (does not apply for years the foundation was a private operating foundation defined in section 4942(j)(3) or 4942(j)(5)):		
a At the end of tax year 2008, did the foundation have any undistributed income (lines 6d and 6e, Part XIII) for tax year(s) beginning before 2008? If "Yes," list the years ► _____	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
b Are there any years listed in 2a for which the foundation is not applying the provisions of section 4942(a)(2) (relating to incorrect valuation of assets) to the year's undistributed income? (If applying section 4942(a)(2) to all years listed, answer "No" and attach statement - see instructions.)	N/A	2b
c If the provisions of section 4942(a)(2) are being applied to any of the years listed in 2a, list the years here. ► _____		
3a Did the foundation hold more than a 2% direct or indirect interest in any business enterprise at any time during the year?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
b If "Yes," did it have excess business holdings in 2008 as a result of (1) any purchase by the foundation or disqualified persons after May 26, 1969; (2) the lapse of the 5-year period (or longer period approved by the Commissioner under section 4943(c)(7)) to dispose of holdings acquired by gift or bequest; or (3) the lapse of the 10-, 15-, or 20-year first phase holding period? (Use Schedule C, Form 4720, to determine if the foundation had excess business holdings in 2008.)	N/A	3b
4a Did the foundation invest during the year any amount in a manner that would jeopardize its charitable purposes?		4a X
b Did the foundation make any investment in a prior year (but after December 31, 1969) that could jeopardize its charitable purpose that had not been removed from jeopardy before the first day of the tax year beginning in 2008?		4b X

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Part VII-B Statements Regarding Activities for Which Form 4720 May Be Required (continued)

5a During the year did the foundation pay or incur any amount to:

(1) Carry on propaganda, or otherwise attempt to influence legislation (section 4945(e))?

☐ Yes ☒ No

(2) Influence the outcome of any specific public election (see section 4955); or to carry on, directly or indirectly, any voter registration drive?

☐ Yes ☒ No

(3) Provide a grant to an individual for travel, study, or other similar purposes?

☐ Yes ☒ No

(4) Provide a grant to an organization other than a charitable, etc., organization described in section 509(a)(1), (2), or (3), or section 4940(d)(2)?

☐ Yes ☒ No

(5) Provide for any purpose other than religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals?

☐ Yes ☒ No

b If any answer is "Yes" to 5a(1)-(5), did any of the transactions fail to qualify under the exceptions described in Regulations section 53.4945 or in a current notice regarding disaster assistance (see instructions)?

N/A

Organizations relying on a current notice regarding disaster assistance check here

☒

c If the answer is "Yes" to question 5a(4), does the foundation claim exemption from the tax because it maintained expenditure responsibility for the grant?

N/A

☐ Yes ☐ No

If "Yes," attach the statement required by Regulations section 53.4945-5(d).

6a Did the foundation, during the year, receive any funds, directly or indirectly, to pay premiums on a personal benefit contract?

☐ Yes ☒ No

b Did the foundation, during the year, pay premiums, directly or indirectly, on a personal benefit contract?

If you answered "Yes" to 6b, also file Form 8870.

6b

X

7a At any time during the tax year, was the foundation a party to a prohibited tax shelter transaction?

☐ Yes ☒ No

b If yes, did the foundation receive any proceeds or have any net income attributable to the transaction?

N/A

7b

Part VIII Information About Officers, Directors, Trustees, Foundation Managers, Highly Paid Employees, and Contractors

1 List all officers, directors, trustees, foundation managers and their compensation.

(a) Name and address	(b) Title, and average hours per week devoted to position	(c) Compensation (If not paid, enter -0-)	(d) Contributions to employee benefit plans and deferred compensation	(e) Expense account, other allowances
HERBERT P JACOBY	CHAIRMAN			
45 EAST 85TH STREET				
NEW YORK, NY	40.00	17,619.	0.	0.
CAROLYN JACOBY GABBAY	PRESIDENT			
101 FEDERAL STREET				
BOSTON, MA	0.00	0.	0.	0.
LOIS C. SCHWATZ	SECRETARY			
299 WEST 12TH STREET				
NEW YORK, NY	0.00	0.	0.	0.
JONATHAN JACOBY	ASSISTANT TREASURER			
17 MAGNOLIA WAY				
NORTH HALEDON, NJ 07508	0.00	0.	0.	0.

2 Compensation of five highest-paid employees (other than those included on line 1). If none, enter "NONE."

(a) Name and address of each employee paid more than \$50,000	(b) Title, and average hours per week devoted to position	(c) Compensation	(d) Contributions to employee benefit plans and deferred compensation	(e) Expense account, other allowances
NONE				

Total number of other employees paid over \$50,000

0

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Part X Minimum Investment Return (All domestic foundations must complete this part. Foreign foundations, see instructions.)

1	Fair market value of assets not used (or held for use) directly in carrying out charitable, etc., purposes:		
a	Average monthly fair market value of securities	1a	2,383,693.
b	Average of monthly cash balances	1b	314,554.
c	Fair market value of all other assets	1c	33,167.
d	Total (add lines 1a, b, and c)	1d	2,731,414.
e	Reduction claimed for blockage or other factors reported on lines 1a and 1c (attach detailed explanation)	1e	0.
2	Acquisition indebtedness applicable to line 1 assets	2	0.
3	Subtract line 2 from line 1d	3	2,731,414.
4	Cash deemed held for charitable activities. Enter 1 1/2% of line 3 (for greater amount, see instructions)	4	40,971.
5	Net value of noncharitable-use assets. Subtract line 4 from line 3. Enter here and on Part V, line 4	5	2,690,443.
6	Minimum investment return. Enter 5% of line 5	6	134,522.

Part XI Distributable Amount (see instructions) (Section 4942(j)(3) and (j)(5) private operating foundations and certain foreign organizations check here ☐ and do not complete this part.)

1	Minimum investment return from Part X, line 6	1	134,522.
2a	Tax on investment income for 2008 from Part VI, line 5	2a	599.
b	Income tax for 2008. (This does not include the tax from Part VI.)	2b	
c	Add lines 2a and 2b	2c	599.
3	Distributable amount before adjustments. Subtract line 2c from line 1	3	133,923.
4	Recoveries of amounts treated as qualifying distributions	4	0.
5	Add lines 3 and 4	5	133,923.
6	Deduction from distributable amount (see instructions)	6	0.
7	Distributable amount as adjusted. Subtract line 6 from line 5. Enter here and on Part XIII, line 1	7	133,923.

Part XII Qualifying Distributions (see instructions)

1	Amounts paid (including administrative expenses) to accomplish charitable, etc., purposes:		
a	Expenses, contributions, gifts, etc. - total from Part I, column (d), line 26	1a	179,650.
b	Program-related investments - total from Part IX-B	1b	0.
2	Amounts paid to acquire assets used (or held for use) directly in carrying out charitable, etc., purposes	2	
3	Amounts set aside for specific charitable projects that satisfy the:		
a	Suitability test (prior IRS approval required)	3a	
b	Cash distribution test (attach the required schedule)	3b	
4	Qualifying distributions. Add lines 1a through 3b. Enter here and on Part V, line 8, and Part XIII, line 4	4	179,650.
5	Foundations that qualify under section 4940(e) for the reduced rate of tax on net investment income. Enter 1% of Part I, line 27b	5	599.
6	Adjusted qualifying distributions. Subtract line 5 from line 4	6	179,051.

Note. The amount on line 6 will be used in Part V, column (b), in subsequent years when calculating whether the foundation qualifies for the section 4940(e) reduction of tax in those years.

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Part XIII Undistributed Income (see instructions)

	(a) Corpus	(b) Years prior to 2007	(c) 2007	(d) 2008
1 Distributable amount for 2008 from Part XI, line 7				133,923.
2 Undistributed income, if any, as of the end of 2007				
a Enter amount for 2007 only			49,348.	
b Total for prior years:		0.		
3 Excess distributions carryover, if any, to 2008:				
a From 2003				
b From 2004				
c From 2005				
d From 2006				
e From 2007				
f Total of lines 3a through e	0.			
4 Qualifying distributions for 2008 from Part XII, line 4: ▶ \$ 179,650.				
a Applied to 2007, but not more than line 2a			49,348.	
b Applied to undistributed income of prior years (Election required - see instructions)		0.		
c Treated as distributions out of corpus (Election required - see instructions)	0.			
d Applied to 2008 distributable amount				130,302.
e Remaining amount distributed out of corpus	0.			
5 Excess distributions carryover applied to 2008 (If an amount appears in column (d), the same amount must be shown in column (a))	0.			0.
6 Enter the net total of each column as indicated below:				
a Corpus. Add lines 3f, 4c, and 4e. Subtract line 5	0.			
b Prior years' undistributed income. Subtract line 4b from line 2b		0.		
c Enter the amount of prior years' undistributed income for which a notice of deficiency has been issued, or on which the section 4942(a) tax has been previously assessed		0.		
d Subtract line 6c from line 6b. Taxable amount - see instructions		0.		
e Undistributed income for 2007. Subtract line 4a from line 2a. Taxable amount - see instr.			0.	
f Undistributed income for 2008. Subtract lines 4d and 5 from line 1. This amount must be distributed in 2009				3,621.
7 Amounts treated as distributions out of corpus to satisfy requirements imposed by section 170(b)(1)(F) or 4942(g)(3)	0.			
8 Excess distributions carryover from 2003 not applied on line 5 or line 7	0.			
9 Excess distributions carryover to 2009. Subtract lines 7 and 8 from line 6a	0.			
10 Analysis of line 9:				
a Excess from 2004				
b Excess from 2005				
c Excess from 2006				
d Excess from 2007				
e Excess from 2008				

N/A

-

☐ 4942(i)(3) or ☐ 4942(i)(5)

- [illegible]

NO GRANTS TO INDIVIDUALS

Part XV **Supplementary Information** (continued)**3 Grants and Contributions Paid During the Year or Approved for Future Payment**

Recipient Name and address (home or business)	If recipient is an individual, show any relationship to any foundation manager or substantial contributor	Foundation status of recipient	Purpose of grant or contribution	Amount
a Paid during the year				
SEE STATEMENT 13				
Total			3a	177,624.
b Approved for future payment				
NONE				
Total			3b	0.

Part XVII Information Regarding Transfers To and Transactions and Relationships With Noncharitable Exempt Organizations

- | | | Yes | No |
|------------|--|-----|----------|
| 1 | Did the organization directly or indirectly engage in any of the following described in section 501(c) of the Code (other than section 501(c)(3) organizations) or in section 527, relating to political organizations? | | |
| a | Transfers from the reporting foundation to a noncharitable exempt organization of: | | |
| (1) | Cash | | X |
| (2) | Other assets | | X |
| b | Other transactions: | | |
| (1) | Sales of assets to a noncharitable exempt organization | | X |
| (2) | Purchases of assets from a noncharitable exempt organization | | X |
| (3) | Rental of facilities, equipment, or other assets | | X |
| (4) | Reimbursement arrangements | | X |
| (5) | Loans or loan guarantees | | X |
| (6) | Performance of services or membership or fundraising solicitations | | X |
| c | Sharing of facilities, equipment, mailing lists, other assets, or paid employees | | X |
| d | If the answer to any of the above is "Yes," complete the following schedule. Column (b) should always show the fair market value of the goods, other assets, or services given by the reporting foundation. If the foundation received less than fair market value in any transaction or sharing arrangement, show in column (d) the value of the goods, other assets, or services received. | | |

[illegible]

- 2a** Is the foundation directly or indirectly affiliated with, or related to, one or more tax-exempt organizations described in section 501(c) of the Code (other than section 501(c)(3)) or in section 527? ☐ Yes ☒ No
- b** If "Yes," complete the following schedule.

(a) Name of organization	(b) Type of organization	(c) Description of relationship
N/A		

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer or fiduciary) is based on all information of which preparer has any knowledge.

Sign Here	Signature of officer or trustee <i>Herbert P. Jacoby</i>		Date 12/15/09	Title CHAIRMAN	
	Preparer's signature <i>Joshua D. Gunney</i>		Date 12/18/2009	Check if self-employed <input type="checkbox"/>	Preparer's identifying number
Paid Preparer's Use Only	Firm's name (or yours if self-employed), address, and ZIP code WEISER LLP 135 WEST 50TH STREET NEW YORK, NY 10020			EIN <input type="checkbox"/>	
				Phone no. (212) 812-7000	

Form **990-PF** (2008)

THE VICTOR HERBERT FOUNDATION

Part IV Capital Gains and Losses for Tax on Investment Income

(a) List and describe the kind(s) of property sold, e.g., real estate, 2-story brick warehouse; or common stock, 200 shs. MLC Co.		(b) How acquired P - Purchase D - Donation	(c) Date acquired (mo., day, yr.)	(d) Date sold (mo., day, yr.)
1a SEE STATEMENT A		P	VARIOUS	VARIOUS
b SEE STATEMENT A		P	VARIOUS	VARIOUS
c FLOWTHROUGH FROM K-1 (CAPITAL G/L)		P	VARIOUS	VARIOUS
d FLOWTHROUGH FROM K-1 (CAPITAL G/L)		P	VARIOUS	VARIOUS
e FLOWTHROUGH FROM K-1 (SEC 1231 EXP)		P	VARIOUS	VARIOUS
f FLOWTHROUGH FROM K-1 (SEC 1231 EXP)		P	VARIOUS	VARIOUS
g SALE OF ENTERPRISE PRODUCTS PARTNERS LP		P	05/07/08	09/23/08
h				
i				
j				
k				
l				
m				
n				
o				

(e) Gross sales price	(f) Depreciation allowed (or allowable)	(g) Cost or other basis plus expense of sale	(h) Gain or (loss) (e) plus (f) minus (g)
a 792,234.		1,183,110.	<390,876.>
b 713,881.		1,014,030.	<300,149.>
c		3.	<3.>
d		32.	<32.>
e		51.	<51.>
f		1.	<1.>
g 57,700.		75,194.	<17,494.>
h			
i			
j			
k			
l			
m			
n			
o			

Complete only for assets showing gain in column (h) and owned by the foundation on 12/31/69

(i) F.M.V. as of 12/31/69	(j) Adjusted basis as of 12/31/69	(k) Excess of col. (i) over col. (j), if any	(l) Losses (from col. (h)) Gains (excess of col. (h) gain over col. (k), but not less than "-0-")
a			<390,876.>
b			<300,149.>
c			<3.>
d			<32.>
e			<51.>
f			<1.>
g			<17,494.>
h			
i			
j			
k			
l			
m			
n			
o			

2 Capital gain net income or (net capital loss) { If gain, also enter in Part I, line 7 If (loss), enter "-0-" in Part I, line 7 }	2	<708,606.>
3 Net short-term capital gain or (loss) as defined in sections 1222(5) and (6): If gain, also enter in Part I, line 8, column (c). If (loss), enter "-0-" in Part I, line 8 }	3	N/A

FORM 990-PF GAIN OR (LOSS) FROM SALE OF ASSETS STATEMENT 1

(A) DESCRIPTION OF PROPERTY	MANNER ACQUIRED	DATE ACQUIRED	DATE SOLD
SEE STATEMENT A	PURCHASED	VARIOUS	VARIOUS
(B) GROSS SALES PRICE	(C) COST OR OTHER BASIS	(D) EXPENSE OF SALE	(E) DEPREC.
(F) GAIN OR LOSS			
792,234.	1,183,110.	0.	0.
			<390,876.>

(A) DESCRIPTION OF PROPERTY	MANNER ACQUIRED	DATE ACQUIRED	DATE SOLD
SEE STATEMENT A	PURCHASED	VARIOUS	VARIOUS
(B) GROSS SALES PRICE	(C) COST OR OTHER BASIS	(D) EXPENSE OF SALE	(E) DEPREC.
(F) GAIN OR LOSS			
713,881.	1,014,030.	0.	0.
			<300,149.>

(A) DESCRIPTION OF PROPERTY	MANNER ACQUIRED	DATE ACQUIRED	DATE SOLD
FLOWTHROUGH FROM K-1 (CAPITAL G/L)	PURCHASED	VARIOUS	VARIOUS
(B) GROSS SALES PRICE	(C) COST OR OTHER BASIS	(D) EXPENSE OF SALE	(E) DEPREC.
(F) GAIN OR LOSS			
0.	3.	0.	0.
			<3.>

(A) DESCRIPTION OF PROPERTY	(B) GROSS SALES PRICE	(C) COST OR OTHER BASIS	(D) EXPENSE OF SALE	MANNER ACQUIRED PURCHASED	DATE ACQUIRED VARIOUS	DATE SOLD VARIOUS
FLOWTHROUGH FROM K-1 (CAPITAL G/L)	0.	32.	0.		0.	<32.>

(A) DESCRIPTION OF PROPERTY	(B) GROSS SALES PRICE	(C) COST OR OTHER BASIS	(D) EXPENSE OF SALE	(E) DEPREC.	(F) GAIN OR LOSS
FLOWTHROUGH FROM K-1 (SEC 1231 EXP)	0.	51.	0.	0.	<51.>

(A) DESCRIPTION OF PROPERTY	(B) GROSS SALES PRICE	(C) COST OR OTHER BASIS	(D) EXPENSE OF SALE	(E) DEPREC.	(F) GAIN OR LOSS
FLOWTHROUGH FROM K-1 (SEC 1231 EXP)	0.	1.	0.	0.	<1.>

(A) DESCRIPTION OF PROPERTY	(B) GROSS SALES PRICE	(C) COST OR OTHER BASIS	(D) EXPENSE OF SALE	MANNER ACQUIRED PURCHASED	DATE ACQUIRED 05/07/08	DATE SOLD 09/23/08
SALE OF ENTERPRISE PRODUCTS PARTNERS LP	57,700.	75,194.	0.		0.	<17,494.>

CAPITAL GAINS DIVIDENDS FROM PART IV	0.
TOTAL TO FORM 990-PF, PART I, LINE 6A	<708,606.>

FORM 990-PF INTEREST ON SAVINGS AND TEMPORARY CASH INVESTMENTS STATEMENT 2

SOURCE	AMOUNT
BREAN, MURRAY CARRET & CO	36,954.
ENTERPRISE PRODUCTS PARTNERS	16.
FERRILLGAS PARTNERS	7.
TOTAL TO FORM 990-PF, PART I, LINE 3, COLUMN A	36,977.

FORM 990-PF DIVIDENDS AND INTEREST FROM SECURITIES STATEMENT 3

SOURCE	GROSS AMOUNT	CAPITAL GAINS DIVIDENDS	COLUMN (A) AMOUNT
BREAN, MURRAY, CARRET & CO	84,792.	0.	84,792.
ENTERPRISE PRODUCTS PARTNERS	2.	0.	2.
TOTAL TO FM 990-PF, PART I, LN 4	84,794.	0.	84,794.

FORM 990-PF RENTAL INCOME STATEMENT 4

KIND AND LOCATION OF PROPERTY	ACTIVITY NUMBER	GROSS RENTAL INCOME
FROM FERRELLGAS PARTNERS LP	1	1,160.
TOTAL TO FORM 990-PF, PART I, LINE 5A		1,160.

FORM 990-PF OTHER INCOME STATEMENT 5

DESCRIPTION	(A) REVENUE PER BOOKS	(B) NET INVEST- MENT INCOME	(C) ADJUSTED NET INCOME
ROYALTIES	7,140.	7,140.	
FERRELLGAS PARTNERS LP	<983.>	<983.>	
MISC INCOME	812.	812.	
ENTERPRISE PRODUCTS PARTNERS LP	<3,119.>	<3,119.>	
TOTAL TO FORM 990-PF, PART I, LINE 11	3,850.	3,850.	

FORM 990-PF	ACCOUNTING FEES			STATEMENT	6
DESCRIPTION	(A) EXPENSES PER BOOKS	(B) NET INVEST- MENT INCOME	(C) ADJUSTED NET INCOME	(D) CHARITABLE PURPOSES	
ACCOUNTING FEES	8,880.	7,104.		1,776.	
TO FORM 990-PF, PG 1, LN 16B	8,880.	7,104.		1,776.	

FORM 990-PF	TAXES			STATEMENT	7
DESCRIPTION	(A) EXPENSES PER BOOKS	(B) NET INVEST- MENT INCOME	(C) ADJUSTED NET INCOME	(D) CHARITABLE PURPOSES	
FEDERAL TAXES	3,544.	0.		0.	
FOREIGN TAXES	497.	497.		0.	
NYS TAX	250.	250.		0.	
TO FORM 990-PF, PG 1, LN 18	4,291.	747.		0.	

FORM 990-PF	OTHER EXPENSES			STATEMENT	8
DESCRIPTION	(A) EXPENSES PER BOOKS	(B) NET INVEST- MENT INCOME	(C) ADJUSTED NET INCOME	(D) CHARITABLE PURPOSES	
MANAGEMENT FEE	26,933.	26,933.		0.	
BANK CHARGES	159.	159.		0.	
FILING FEES	250.	0.		250.	
OTHER	115.	115.		0.	
FERRELLGAS PARTNERS - N/D EXPENSES	18.	0.		0.	
ENTERPRISE PRODUCTS PARTNERS - N/D EXPENSE	1.	0.		0.	
FERRELGASS PARTNERS - 2007 C/O	0.	126.		0.	
TO FORM 990-PF, PG 1, LN 23	27,476.	27,333.		250.	

FORM 990-PF	U.S. AND STATE/CITY GOVERNMENT OBLIGATIONS	STATEMENT	9
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DESCRIPTION	U.S. GOV'T	OTHER GOV'T	BOOK VALUE	FAIR MARKET VALUE
SEE STATEMENT ATTACHED	X		92,315.	100,440.
TOTAL U.S. GOVERNMENT OBLIGATIONS			92,315.	100,440.
TOTAL STATE AND MUNICIPAL GOVERNMENT OBLIGATIONS				
TOTAL TO FORM 990-PF, PART II, LINE 10A			92,315.	100,440.

FORM 990-PF	CORPORATE STOCK	STATEMENT	10
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DESCRIPTION	BOOK VALUE	FAIR MARKET VALUE
SEE STATEMENT ATTACHED	747,936.	666,084.
TOTAL TO FORM 990-PF, PART II, LINE 10B	747,936.	666,084.

FORM 990-PF	CORPORATE BONDS	STATEMENT	11
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DESCRIPTION	BOOK VALUE	FAIR MARKET VALUE
SEE STATEMENT ATTACHED	617,748.	599,163.
TOTAL TO FORM 990-PF, PART II, LINE 10C	617,748.	599,163.

FORM 990-PF	OTHER INVESTMENTS	STATEMENT	12
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DESCRIPTION	VALUATION METHOD	BOOK VALUE	FAIR MARKET VALUE
SEE STATEMENT ATTACHED	COST	297,042.	234,927.
CELL KINETICS LTD OPTIONS, 750 RIGHTS, EXP 1/7/2012	COST	0.	90.
TOTAL TO FORM 990-PF, PART II, LINE 13		297,042.	235,017.

FORM 990-PF

GRANTS AND CONTRIBUTIONS
PAID DURING THE YEAR

STATEMENT 13

RECIPIENT NAME AND ADDRESS	RECIPIENT RELATIONSHIP AND PURPOSE OF GRANT	RECIPIENT STATUS	AMOUNT
AARP FOUNDATION	GENERAL	NONE	200.
ABA FUND FOR JUSTICE AND EDUCATION	EDUCATION	NONE	1,000.
ALZHEIMERS ASSOCIATION	HEALTH	NONE	750.
AMERICAN CANCER SOCIETY	HEALTH	NONE	600.
AMERICAN DIABETES ASSOCIATION	HEALTH	NONE	975.
AMERICAN FOUNDATION FOR THE BLIND	HEALTH	NONE	750.
AMERICAN FRIENDS SERVICE COMMITTEE	GENERAL	NONE	200.
AMERICAN HEART ASSOCIATION	HEALTH	NONE	1,313.
AMERICAN INSTITUTE FOR CANCER RESEARCH	HEALTH	NONE	400.
AMERICAN KIDNEY FUND	HEALTH	NONE	250.

AMERICAN OPERA PROJECTS	ARTS	NONE	2,500.
AMERICANS UNITED	GENERAL	NONE	100.
ANTI DEFAMATION LEAGUE	RELIGIOUS	NONE	1,050.
B'NAI BRITH FOUNDATION	RELIGIOUS	NONE	1,000.
BRONX OPERA	ARTS	NONE	2,500.
BROOKLYN TECH HIGH SCHOOL	EDUCATION	NONE	2,000.
CAVALRY FUND INC	GENERAL	NONE	250.
CARE	GENERAL	NONE	400.
CATHOLIC CHARITIES	RELIGIOUS	NONE	430.
CENTRAL PARK CONSERVANCY	GENERAL	NONE	100.
CENTRAL SYNAGOGUE	RELIGIOUS	NONE	6,101.
CITY HARVEST	HEALTH	NONE	1,325.
CITY MEALS ON WHEELS	HEALTH	NONE	334.

<u>THE VICTOR HERBERT FOUNDATION</u>		<u>.23-7044623</u>	
COALITION FOR THE HOMELESS	GENERAL	NONE	675.
COLUMBIA COLLEGE FUND	EDUCATION	NONE	1,500.
COLUMBIA LAW SCHOOL	EDUCATION	NONE	3,000.
COMIC OPERA GUILD	GENERAL	NONE	2,500.
COMMUNITY SERVICE SOCIETY	GENERAL	NONE	500.
COUNCIL OF INDIAN NATIONS	GENERAL	NONE	225.
ELDRIDGE STREET PROJECT (MUSEUM AT ELDRIDGE ST)	GENERAL	NONE	375.
FEDERATION OF PROTESTANT WELFARE AGENCIES	RELIGIOUS	NONE	1,000.
FINCA INTL INC	GENERAL	NONE	150.
FUND FOR PARK AVENUE	GENERAL	NONE	100.
HABITAT FOR HUMANITY	GENERAL	NONE	500.
HELP HOSPITALIZED VETERANS	GENERAL	NONE	200.
HILLEL	RELIGIOUS	NONE	754.

HOLY APOSTLES SOUP KITCHEN	HEALTH	NONE	500.
HOSPITAL FOR SPECIAL SURGERY FUND	HEALTH	NONE	250.
HUMAN RIGHTS WATCH	GENERAL	NONE	100.
INT'L RESCUE CO	GENERAL	NONE	150.
INTER SCHOOL ORCHESTRAS OF NY INC	ARTS	NONE	200.
JEWISH GUILD FOR THE BLIND	RELIGIOUS	NONE	400.
LAKE PLACID SIPONIETTA INC	ARTS	NONE	3,500.
LENNOX HILL NEIGHBORHOOD HOUSE	GENERAL	NONE	250.
LIGHT OPERA WORKS	ARTS	NONE	2,500.
MANHATTAN SCHOOL OF MUSIC	ARTS	NONE	2,250.
MEMORIAL SLOAN KETTERING CANCER CENTER	HEALTH	NONE	500.
MERCY HOME FOR BOYS & GIRLS	GENERAL	NONE	500.
METROPOLITAN MUSEUM OF ART	ARTS	NONE	1,700.

NAACP	GENERAL	NONE	375.
NARAL PRO CHOICE AMERICA	GENERAL	NONE	50.
NATIONAL CHORAL COUNCIL	ARTS	NONE	1,000.
NATIONAL MULTIPLE SCLEROSIS SOCIETY	HEALTH	NONE	600.
NEW YORK CITY RESCUE MISSION	GENERAL	NONE	400.
NEW YORK LAW SCHOOL	EDUCATION	NONE	5,000.
NEW YORK PHILHARMONIC ORCHESTRA	ARTS	NONE	20,000.
NEW YORK TIMES NEEDIEST CASES	GENERAL	NONE	1,000.
NEW YORK WEILL CORNELL MEDICAL CENTER	HEALTH	NONE	200.
OPERA ORCHESTRA OF NY	ARTS	NONE	2,500.
POLICE ATHLETIC LEAGUE	HEALTH	NONE	500.
PARALYZED VETERANS OF AMERICA	GENERAL	NONE	325.

PLANNED PARENTHOOD	HEALTH	NONE	250.
REFORM JEWISH APPEAL	RELIGIOUS	NONE	125.
RELIGIOUS COALITION FOR REPRODUCTIVE CHOICE	GENERAL	NONE	100.
THE SPHINX ORGANIZATION	ARTS	NONE	1,000.
SOUTHERN POVERTY LAW CENTER	GENERAL	NONE	500.
ST. FRANCIS ASSISSI SCHOOL	EDUCATION	NONE	100.
SOUTHWEST INDIAN RELIEF COUNCIL	GENERAL	NONE	600.
THE FRESH AIR FUND	GENERAL	NONE	500.
THE INTERFAITH ALLIANCE	GENERAL	NONE	435.
THE JEWISH GUILD FOR THE BLIND	RELIGIOUS	NONE	400.
THE JIULLIARD SCHOOL	ARTS	NONE	5,000.
THE LEGAL AID SOCIETY	GENERAL	NONE	750.
THE LITTLE ORCHESTRA SOCIETY	ARTS	NONE	65,000.

THE VICTOR HERBERT FOUNDATION

. 23-7044623

THE SALVATION ARMY	GENERAL	NONE	100.
THE SMILE TRAIN	HEALTH	NONE	500.
UJA FEDERATION	RELIGIOUS	NONE	2,500.
VICTOR J HERBERT FESTIVAL TRUST	ARTS	NONE	5,000.
VISITING NURSE SERVICE OF NY	HEALTH	NONE	750.
VOLUNTEERS OF AMERICA	GENERAL	NONE	1,000.
WNET - CHANNEL 13	GENERAL	NONE	1,000.
WORLD JEWISH CONGRESS	RELIGIOUS	NONE	11,250.
FLOWTHROUGH FROM K-1	GENERAL	NONE	7.
TOTAL TO FORM 990-PF, PART XV, LINE 3A			<u>177,624.</u>

THE VICTOR HERBERT FOUNDATION
Gains and Losses on a Tax Basis

For Tax Purposes From May 01, 2008 to April 30, 2009

Date Acquired	Date Sold	Par Value/Shares	Proceeds	Tax Cost Basis	Gain or Loss
Long Term Gains and Losses					
AMERICAN INTERNATIONAL GROUP INC					
10/29/2004	06/02/2008	1200	\$ 41,888.64	\$ 71,758.44	\$ -29,869.80
Totals for this asset			<u>\$ 41,888.64</u>	<u>\$ 71,758.44</u>	<u>\$ -29,869.80</u>
BUNGE LIMITED SHS					
03/31/2006	11/14/2008	700	\$ 29,408.79	\$ 36,447.81	\$ -7,039.02
Totals for this asset			<u>\$ 29,408.79</u>	<u>\$ 36,447.81</u>	<u>\$ -7,039.02</u>
ENCANA CORP					
03/27/2007	11/28/2008	1300	\$ 54,465.66	\$ 65,962.00	\$ -11,496.34
Totals for this asset			<u>\$ 54,465.66</u>	<u>\$ 65,962.00</u>	<u>\$ -11,496.34</u>
GENERAL DYNAMICS CORP					
09/03/2002	02/25/2009	400	\$ 20,460.68	\$ 15,058.42	\$ 5,402.26
09/03/2002	03/02/2009	1000	45,844.34	37,646.05	8,198.29
Totals for this asset			<u>\$ 66,305.02</u>	<u>\$ 52,704.47</u>	<u>\$ 13,600.55</u>
NORTHROP GROUMMAN CORP					
09/04/2002	02/25/2009	400	\$ 17,959.29	\$ 21,481.43	\$ -3,522.14
09/04/2002	03/02/2009	1133	46,926.66	60,846.14	-13,919.48
Totals for this asset			<u>\$ 64,885.95</u>	<u>\$ 82,327.57</u>	<u>\$ -17,441.62</u>
PROGRESS ENERGY INC					
04/06/1994	03/02/2009	2240	\$ 81,895.06	\$ 59,640.00	\$ 22,255.06
Totals for this asset			<u>\$ 81,895.06</u>	<u>\$ 59,640.00</u>	<u>\$ 22,255.06</u>
VERIZON COMMUNICATIONS					
02/21/2006	09/23/2008	3000	\$ 92,909.77	\$ 98,623.33	\$ -5,713.56
Totals for this asset			<u>\$ 92,909.77</u>	<u>\$ 98,623.33</u>	<u>\$ -5,713.56</u>
BAC CAP TR PFD 6.00%					
11/03/2004	03/05/2009	1500	\$ 15,179.91	\$ 37,500.00	\$ -22,320.09
Totals for this asset			<u>\$ 15,179.91</u>	<u>\$ 37,500.00</u>	<u>\$ -22,320.09</u>
ENSCO INTL INC					
01/24/2007	10/09/2008	2000	\$ 90,998.89	\$ 96,058.00	\$ -5,059.11
Totals for this asset			<u>\$ 90,998.89</u>	<u>\$ 96,058.00</u>	<u>\$ -5,059.11</u>

Gains and Losses on a Tax Basis (Continued)

For Tax Purposes From May 01, 2008 to April 30, 2009

Date Acquired	Date Sold	Par Value/Shares	Proceeds	Tax Cost Basis	Gain or Loss
Long Term Gains and Losses					
EAGLE BULK SHIPPING INC					
05/02/2007	03/25/2009	2000	\$ 8,350.95	\$ 45,910.00	\$ -37,559.05
05/02/2007	03/25/2009	500	2,087.74	11,480.00	-9,392.26
05/02/2007	03/25/2009	2000	8,350.95	45,877.80	-37,526.85
Totals for this asset			<u>\$ 18,789.64</u>	<u>\$ 103,267.80</u>	<u>\$ -84,478.16</u>
MACQUARIE INFRASTRUCTURE					
08/22/2007	09/22/2008	2500	\$ 37,738.53	\$ 96,091.25	\$ -58,352.72
Totals for this asset			<u>\$ 37,738.53</u>	<u>\$ 96,091.25</u>	<u>\$ -58,352.72</u>
APPOLLO INVT CORP					
05/30/2007	09/22/2008	3500	\$ 54,314.44	\$ 76,032.60	\$ -21,718.16
06/20/2007	09/22/2008	500	7,759.21	11,855.25	-4,096.04
Totals for this asset			<u>\$ 62,073.65</u>	<u>\$ 87,887.85</u>	<u>\$ -25,814.20</u>
MEDTRONIC INC					
05/30/2007	12/02/2008	1800	\$ 51,101.71	\$ 95,472.00	\$ -44,370.29
Totals for this asset			<u>\$ 51,101.71</u>	<u>\$ 95,472.00</u>	<u>\$ -44,370.29</u>
BANK OF AMERICA					
11/02/2007	02/24/2009	2000	\$ 7,843.55	\$ 96,374.60	\$ -88,531.05
Totals for this asset			<u>\$ 7,843.55</u>	<u>\$ 96,374.60</u>	<u>\$ -88,531.05</u>
FAIRPOINT COMMUNICATIONS INC					
02/21/2006	05/20/2008	56	\$ 525.43	\$ 429.83	\$ 95.60
Totals for this asset			<u>\$ 525.43</u>	<u>\$ 429.83</u>	<u>\$ 95.60</u>
SECTOR SPDR TR					
12/26/2007	02/25/2009	1200	\$ 25,715.85	\$ 35,165.28	\$ -9,449.43
12/26/2007	04/07/2009	2300	50,507.71	67,400.12	-16,892.41
Totals for this asset			<u>\$ 76,223.56</u>	<u>\$ 102,565.40</u>	<u>\$ -26,341.84</u>
Total Long Term Gains and Losses			<u>\$ 792,233.76</u>	<u>\$ 1,183,110.35</u>	<u>\$ -390,876.59</u>
Short Term Gains and Losses					
AMERICAN INTERNATIONAL GROUP INC					
12/03/2007	06/02/2008	500	\$ 17,453.60	\$ 28,785.00	\$ -11,331.40
Totals for this asset			<u>\$ 17,453.60</u>	<u>\$ 28,785.00</u>	<u>\$ -11,331.40</u>

Gains and Losses on a Tax Basis (Continued)

For Tax Purposes From May 01, 2008 to April 30, 2009

Date Acquired	Date Sold	Par Value/Shares	Proceeds	Tax Cost Basis	Gain or Loss
Short Term Gains and Losses					
VALERO ENERGY CORPORATION					
06/13/2008	10/09/2008	1500	\$ 34,599.25	\$ 66,960.60	\$ -32,361.35
06/27/2008	10/09/2008	500	11,533.09	21,503.80	-9,970.71
Totals for this asset			<u>\$ 46,132.34</u>	<u>\$ 88,464.40</u>	<u>\$ -42,332.06</u>
CIT GROUP INC NEW					
12/19/2007	11/24/2008	175000	\$ 175,000.00	\$ 173,250.00	\$ 1,750.00
Totals for this asset			<u>\$ 175,000.00</u>	<u>\$ 173,250.00</u>	<u>\$ 1,750.00</u>
NOKIA CORP SPONS					
03/17/2008	06/30/2008	1500	\$ 38,984.78	\$ 48,823.50	\$ -9,838.72
Totals for this asset			<u>\$ 38,984.78</u>	<u>\$ 48,823.50</u>	<u>\$ -9,838.72</u>
BURLINGTON NORTHERN SANTA FE					
03/31/2008	01/23/2009	500	\$ 30,907.92	\$ 46,909.30	\$ -16,001.38
Totals for this asset			<u>\$ 30,907.92</u>	<u>\$ 46,909.30</u>	<u>\$ -16,001.38</u>
CANADIAN NATL RY CO					
04/01/2008	12/09/2008	1200	\$ 39,016.22	\$ 58,752.48	\$ -19,736.26
Totals for this asset			<u>\$ 39,016.22</u>	<u>\$ 58,752.48</u>	<u>\$ -19,736.26</u>
NFJ DIVID INT & PREM STRATEGY					
FD					
05/07/2008	09/25/2008	3000	\$ 51,318.01	\$ 70,352.40	\$ -19,034.39
Totals for this asset			<u>\$ 51,318.01</u>	<u>\$ 70,352.40</u>	<u>\$ -19,034.39</u>
SINCLAIR BROADCAST GROUP INC					
CL A					
05/12/2008	12/03/2008	6000	\$ 18,436.69	\$ 59,338.80	\$ -40,902.11
Totals for this asset			<u>\$ 18,436.69</u>	<u>\$ 59,338.80</u>	<u>\$ -40,902.11</u>
KEYCORP CAP X 8% ENHANCED TR					
05/14/2008	08/12/2008	2200	\$ 37,535.96	\$ 53,173.56	\$ -15,637.60
Totals for this asset			<u>\$ 37,535.96</u>	<u>\$ 53,173.56</u>	<u>\$ -15,637.60</u>

Gains and Losses on a Tax Basis (Continued)

For Tax Purposes From May 01, 2008 to April 30, 2009

Date Acquired	Date Sold	Par Value/Shares	Proceeds	Tax Cost Basis	Gain or Loss
Short Term Gains and Losses					
DEERE & CO					
06/11/2008	12/01/2008	800 \$	25,724.01	\$ 65,304.00	\$ -39,579.99
07/08/2008	12/01/2008	300	9,646.51	22,011.92	-12,365.41
Totals for this asset			<u>\$ 35,370.52</u>	<u>\$ 87,315.92</u>	<u>\$ -51,945.40</u>
SPDR GOLD TR GOLD SHS					
10/07/2008	03/05/2009	500 \$	46,424.73	\$ 41,344.50	\$ 5,080.23
Totals for this asset			<u>\$ 46,424.73</u>	<u>\$ 41,344.50</u>	<u>\$ 5,080.23</u>
RIO TINTO PLC SPONS					
12/01/2008	02/09/2009	400 \$	41,485.76	\$ 39,808.00	\$ 1,677.76
Totals for this asset			<u>\$ 41,485.76</u>	<u>\$ 39,808.00</u>	<u>\$ 1,677.76</u>
ISHARES TR LEHMAN US AGGREGATE BD FD					
12/02/2008	03/27/2009	900 \$	90,811.29	\$ 89,253.00	\$ 1,558.29
Totals for this asset			<u>\$ 90,811.29</u>	<u>\$ 89,253.00</u>	<u>\$ 1,558.29</u>
CHESAPEAKE ENERGY CORP					
09/23/2008	12/01/2008	1000 \$	18,426.79	\$ 37,777.90	\$ -19,351.11
Totals for this asset			<u>\$ 18,426.79</u>	<u>\$ 37,777.90</u>	<u>\$ -19,351.11</u>
US BANCORP DEL					
09/24/2008	02/26/2009	1200 \$	13,436.92	\$ 45,218.88	\$ -31,781.96
Totals for this asset			<u>\$ 13,436.92</u>	<u>\$ 45,218.88</u>	<u>\$ -31,781.96</u>
WELLS FARGO & CO NEW					
09/24/2008	02/26/2009	1200 \$	13,139.92	\$ 45,462.24	\$ -32,322.32
Totals for this asset			<u>\$ 13,139.92</u>	<u>\$ 45,462.24</u>	<u>\$ -32,322.32</u>
Total Short Term Gains and Losses			<u>\$ 713,881.45</u>	<u>1,014,029.88</u>	<u>- 300,148.43</u>
Totals for this report			<u>\$ 1,506,115.21</u>	<u>2,197,140.23</u>	<u>- 691,025.02</u>

THE VICTOR HERBERT FOUNDATION

EIN : 23-7044823

FISCAL YEAR ENDING APRIL 30, 2009

ATTACHEMENT TO FORM 990PF - PART II BALANCE SHEETS

TYPE AND NAME OF INVESTMENTS	INVENTORY BEGINNING May 1, 2008		INVENTORY END April 30, 2009		
	SHARES OR PRINCIPAL	COST OR ACQ. VALUE	SHARES OR PRINCIPAL	COST OR ACQ. VALUE	MARKET VALUE
INVESTMENT IN U.S. OBLIGATIONS					
ISHARES TR US TREAS INFLATION	0 000	0 00	1,000 000	92,314 60	100,440 00
US TREAS NOTES 6 625% DUE 5/15/07	0 000	0 00	0 000	0 00	0 00
US TREAS NOTES 6 125% DUE 8/15/07	0 000	0 00	0 000	0 00	0 00
US TREAS NOTES 5 625 DUE	0 000	0 00	0 000	0 00	0 00
Total US Obligations - LINE 10 a		0.00		92,314.60	100,440.00
INVESTMENTS IN STOCKS					
ABBOTT LABS	0 000	0 00	800 000	36,888 00	33,480 00
AMERICAN INTERNATIONAL GROUP INC	1,700 000	100,543 44	0 000	0 00	0 00
AMERICAN EXPRESS COMPANY	0 000	0 00	1,600 000	20,224 00	40,352 00
BANK OF AMERICA	2,000 000	96,375 00	0 000	0 00	0 00
BANK OF NOVA SCOTIA HALIFAX	0 000	0 00	1,200 000	30,042 84	34,152 00
BP PLC SPONS ADR	0 000	0 00	800 000	35,657 84	33,968 00
BUNGE LIMITED SHS	700 000	36,447 81	0 000	0 00	0 00
BURLINGTON NORTHERN	500 000	46,909 00	0 000	0 00	0 00
CANADIAN NATIONAL RY CO	1,200 000	58,752 00	0 000	0 00	0 00
CELGENE CORP	1,000 000	62,660 00	1,000 000	62,660 00	42,720 00
CELL KINETICS LTD (SPINOFF FROM MEDIS TECH LTD)	1,500 000	2,077 00	1,500 000	2,077 00	150 00
CHESAPEAKE ENERGY CORP	0 000	0 00	0 000	0 00	0 00
DEERE & CO	0 000	0 00	0 000	0 00	0 00
DU PONT	1,500 000	11,772 75	1,500 000	11,772 75	41,850 00
EAGLE BULK SHIPPING INC	4,500 000	103,268 00	0 000	0 00	0 00
ENCANA CORP COM	1,300 000	65,962 00	0 000	0 00	0 00
ENSCO INTL INC	2,000 000	96,058 00	0 000	0 00	0 00
EXELON CORP	1,924 000	31,259 75	1,924 000	31,259 75	88,754 00
FAIRPOINT COMMUNICATIONS (SPINOFF VZ)	56 000	429 83	0 000	0 00	0 00
FPL GROUP	1,600 000	10,940 00	1,600 000	10,940 00	86,064 00
GENERAL ELECTRIC CO	0 000	0 00	2,700 000	71,392 00	34,155 00
GENERAL DYNAMICS CORP	1,400 000	52,704 47	0 000	0 00	0 00
HEWLETT PACKARD CO	1,800 000	94,542 00	1,800 000	94,542 00	64,764 00
INTEL CORP	3,500 000	95,408 00	3,500 000	95,408 00	55,230 00
KRAFT FOODS INC CL A	0 000	0 00	1,200 000	32,135 64	28,080 00
MACQUARIE INFRASTRUCTURE	2,500 000	96,091 00	0 000	0 00	0 00
M&T CORP	0 000	0 00	500 000	19,074 00	26,225 00
MEDIS TECHNOLOGIES LTD (LESS SPINOFFS)	7,500 000	100,772 00	7,500 000	100,772 00	2,700 00
MEDTRONIC INC	1,800 000	95,472 00	0 000	0 00	0 00
NOKIA CORP	1,500 000	48,824 00	0 000	0 00	0 00
NORTHROP GRUMMAN CORP	1,533 000	82,327 57	0 000	0 00	0 00
PFIZER	4,000 000	93,090 00	4,000 000	93,090 00	53,440 00
PROGRESS ENERGY INC	2,240 000	59,640 00	0 000	0 00	0 00
RIO TINTO PLC SPONS	0 000	0 00	0 000	0 00	0 00
SINCLAIR BROADCAST GROUOP INC CL A	0 000	0 00	0 000	0 00	0 00
US BANCORP DEL	0 000	0 00	0 000	0 00	0 00
VALERO ENERGY CORPORATION	0 000	0 00	0 000	0 00	0 00
VERIZON (SPINOFF)	3,000 000	98,623 00	0 000	0 00	0 00
WELLS FARGO & CO	0 000	0 00	0 000	0 00	0 00
TOTAL STOCKS LINE 10 b		1,640,948.62		747,935.82	666,084.00
INVESTMENTS IN CORPORATE BONDS					
THOMAS & BETTS CORP 7 25% 6/1/13	50,000 000	54,776 74	50,000 000	54,776 74	50,803 00
BAC CAP TR PFD GTD6 00% 11/3/09	1,500 000	37,500 00	-175,000 000	0 00	0 00
BANK AMER CORP NT 5 00% 11/15/14	50,000 000	50,000 00	50,000 000	50,000 00	37,954 50
CIT GROUP INC	175,000 000	173,250 00	0 000	0 00	0 00
FEDERAL FARM BKS 4 25% 12/4/12	250,000 000	251,535 00	250,000 000	251,535 00	266,875 00
JP MORGAN CHASE CAP 7 0%	0 000	0 00	1,500 000	32,550 00	33,045 00
KEYCORP CAPITAL X 8% ENHANCED TR	0 000	0 00	2,300 000	55,590 54	31,786 00
GOLDMAN SACHS GROUP INC 8 875% DUE 1/15/11	0 000	0 00	75,000 000	74,437 50	78,568 50
MORGAN STANLEY DEAN WITTER & CO 8 75% DUE 4/15/11	0 000	0 00	60,000 000	57,900 00	61,330 80
USB CAP X PFD 6 5%	0 000	0 00	2,000 000	40,958 52	38,800 00
TOTAL CORPORATE BONDS - LINE 10 c		567,061.74		617,748.30	589,162.80

THE VICTOR HERBERT FOUNDATION
EIN : 23-7044823
FISCAL YEAR ENDING APRIL 30, 2009

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ATTACHEMENT TO FORM 990PF - PART II BALANCE SHEETS

TYPE AND NAME OF INVESTMENTS	INVENTORY BEGINNING May 1, 2008	
	SHARES OR PRINCIPAL	COST OR ACQ. VALUE
INVESTMENTS - OTHER		
FERELLGAS PARTNERS L P	2,500 000	27,816 00
FERELLGAS PARTNERS L P		
ENTERPRISE PRODS PARTNERS LP	0 000	0 00
APPOLLO INVT CORP	4,000 000	87,888 00
NEUBERGER BERMAN R/E SEC INC (EXCHG FROM NB REALT	8,454 000	97,307 00
ISHARES IBOXX INVESTOP INVESTMENT	0 000	0 00
SECTOR SPDR TR	3,500 000	102,565 00
SPDR GOLD TR GOLD SHS	0 000	0 00
SPDR SER TR KBW REGL	0 000	0 00
TERRA NITROGEN COMPANY LP	0 000	0 00
ISHARES TR LEHMAN US AGGREGATE BD FD	0 000	0 00
DFJ DIVID INT & PREM STRATEGY FND	0 000	0 00
TOTAL INVESTMENTS - OTHER - LINE 13		315,576.00

INVENTORY END April 30, 2009		
SHARES OR PRINCIPAL	COST OR ACQ. VALUE	MARKET VALUE
2,500 000	22,887 00	35,875 00
0 000	0 00	0 00
0 000	0 00	0 00
0 000	0 00	0 00
8,454 000	97,307 00	16,400 76
750 000	67,965 00	72,150 00
0 000	0 00	0 00
500 000	41,344 50	43,635 00
1,600 000	33,424 00	33,376 00
250 000	34,114 05	33,490 00
0 000	0 00	0 00
0 000	0 00	0 00
	297,041.55	234,926.76

Application for Extension of Time To File an Exempt Organization Return

OMB No. 1545-1709

► **File a separate application for each return.**

- If you are filing for an **Automatic 3-Month Extension**, complete only **Part I** and check this box ☒
- If you are filing for an **Additional (Not Automatic) 3-Month Extension**, complete only **Part II** (on page 2 of this form)

Do not complete Part II unless you have already been granted an automatic 3-month extension on a previously filed Form 8868.

Part I Automatic 3-Month Extension of Time. Only submit original (no copies needed).

A corporation required to file Form 990-T and requesting an automatic 6-month extension - check this box and complete

Part I only

All other corporations (including 1120-C filers), partnerships, REMICs, and trusts must use Form 7004 to request an extension of time to file income tax returns.

Electronic Filing (e-file). Generally, you can electronically file Form 8868 if you want a 3-month automatic extension of time to file one of the returns noted below (6 months for a corporation required to file Form 990-T). However, you cannot file Form 8868 electronically if (1) you want the additional (not automatic) 3-month extension or (2) you file Forms 990-BL, 6069, or 8870, group returns, or a composite or consolidated Form 990-T. Instead, you must submit the fully completed and signed page 2 (Part II) of Form 8868. For more details on the electronic filing of this form, visit www.irs.gov/efile and click on *e-file for Charities & Nonprofits*

Type or print	Name of Exempt Organization	Employer identification number
	THE VICTOR HERBERT FOUNDATION	23-7044623
	Number, street, and room or suite no. If a P.O. box, see instructions. C/O JACOBY, 45 EAST 85TH STREET	
File by the due date for filing your return. See instructions	City, town or post office, state, and ZIP code. For a foreign address, see instructions. NEW YORK, NY 10028	

Check type of return to be filed (file a separate application for each return):

- | | | |
|---|---|------------------------------------|
| <input type="checkbox"/> Form 990 | <input type="checkbox"/> Form 990-T (corporation) | <input type="checkbox"/> Form 4720 |
| <input type="checkbox"/> Form 990-BL | <input type="checkbox"/> Form 990-T (sec. 401(a) or 408(a) trust) | <input type="checkbox"/> Form 5227 |
| <input type="checkbox"/> Form 990-EZ | <input type="checkbox"/> Form 990-T (trust other than above) | <input type="checkbox"/> Form 6069 |
| <input checked="" type="checkbox"/> Form 990-PF | <input type="checkbox"/> Form 1041-A | <input type="checkbox"/> Form 8870 |

HERBERT JACOBY, ESQ

- The books are in the care of ► **750 LEXINGTON AVENUE, NEW YORK, NY - 10021**

Telephone No ► **212-872-1500**

FAX No. ►

- If the organization does not have an office or place of business in the United States, check this box ☐
- If this is for a Group Return, enter the organization's four digit Group Exemption Number (GEN) _____. If this is for the whole group, check this box ☐. If it is for part of the group, check this box ☐ and attach a list with the names and EINs of all members the extension will cover

- 1 I request an automatic 3-month (6-months for a corporation required to file Form 990-T) extension of time until **DECEMBER 15, 2009**, to file the exempt organization return for the organization named above. The extension is for the organization's return for:

► ☐ calendar year _____ or

► ☒ tax year beginning **MAY 1, 2008**, and ending **APR 30, 2009**

- 2 If this tax year is for less than 12 months, check reason. ☐ Initial return ☐ Final return ☐ Change in accounting period

3a If this application is for Form 990-BL, 990-PF, 990-T, 4720, or 6069, enter the tentative tax, less any nonrefundable credits. See instructions.	3a	\$ 761.
b If this application is for Form 990-PF or 990-T, enter any refundable credits and estimated tax payments made. Include any prior year overpayment allowed as a credit.	3b	\$ 2,461.
c Balance Due. Subtract line 3b from line 3a. Include your payment with this form, or, if required, deposit with FTD coupon or, if required, by using EFTPS (Electronic Federal Tax Payment System). See instructions.	3c	\$ 0.

Caution. If you are going to make an electronic fund withdrawal with this Form 8868, see Form 8453-EO and Form 8879-EO for payment instructions.

LHA For Privacy Act and Paperwork Reduction Act Notice, see Instructions.

Form **8868** (Rev. 4-2009)