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Return of Private Foundation

OMB No 1545-0052

Department of the Treasury
Internal Revenue Serviceor Section 4947(a)(1) Nonexempt Charitable Trust
Treated as a Private Foundation

2009

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

For calendar year 2009, or tax year beginning MAY 1, 2009, and ending APR 30, 2010

G Check all that apply ☐ Initial return ☐ Initial return of a former public charity ☐ Final return
☐ Amended return ☐ Address change ☐ Name change

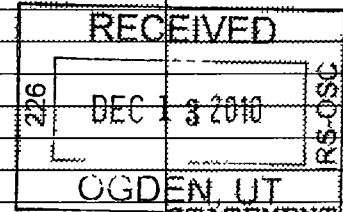
Use the IRS label Otherwise, print or type. See Specific Instructions	Name of foundation THE VICTOR HERBERT FOUNDATION		A Employer identification number 23-7044623
	Number and street (or P O box number if mail is not delivered to street address)	Room/suite	B Telephone number (212) 872-1500
	City or town, state, and ZIP code NEW YORK, NY 10028		C If exemption application is pending, check here <input type="checkbox"/>
	H Check type of organization <input checked="" type="checkbox"/> Section 501(c)(3) exempt private foundation <input type="checkbox"/> Section 4947(a)(1) nonexempt charitable trust <input type="checkbox"/> Other taxable private foundation		D 1. Foreign organizations, check here <input type="checkbox"/> 2. Foreign organizations meeting the 85% test, check here and attach computation <input type="checkbox"/>
I Fair market value of all assets at end of year (from Part II, col (c), line 16) \$ 2,405,712. (Part I, column (d) must be on cash basis.)		J Accounting method <input checked="" type="checkbox"/> Cash <input type="checkbox"/> Accrual <input type="checkbox"/> Other (specify) _____	E If private foundation status was terminated under section 507(b)(1)(A), check here <input type="checkbox"/> F If the foundation is in a 60-month termination under section 507(b)(1)(B), check here <input type="checkbox"/>

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)
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		32,149.	32,149.		STATEMENT 2
4 Dividends and interest from securities		42,430.	42,430.		STATEMENT 3
5a Gross rents		499.	499.		STATEMENT 4
b Net rental income or (loss) 499.					
6a Net gain or (loss) from sale of assets not on line 10		<5,572.>			STATEMENT 1
b Gross sales price for all assets on line 6a 1,482,054.					
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		<2,285.>	5,203.		STATEMENT 5
12 Total. Add lines 1 through 11		67,221.	80,281.		
13 Compensation of officers, directors, trustees, etc		7,735.	0.		0.
14 Other employee salaries and wages					
15 Pension plans, employee benefits					
16a Legal fees					
b Accounting fees STMT 6		8,641.	6,913.		1,728.
c Other professional fees					
17 Interest					
18 Taxes STMT 7		3,617.	789.		0.
19 Depreciation and depletion					
20 Occupancy					
21 Travel, conferences, and meetings					
22 Printing and publications					
23 Other expenses STMT 8		20,902.	19,729.		250.
24 Total operating and administrative expenses Add lines 13 through 23		40,895.	27,431.		1,978.
25 Contributions, gifts, grants paid		124,153.			124,153.
26 Total expenses and disbursements. Add lines 24 and 25		165,048.	27,431.		126,131.
27 Subtract line 26 from line 12		<97,827.>			
a Excess of revenue over expenses and disbursements			52,850.		
b Net investment income (if negative, enter -0-)					
c Adjusted net income (if negative, enter -0-)				N/A	

LHA For Privacy Act and Paperwork Reduction Act Notice, see the instructions.

Form 990-PF (2009)

SCANNED DEC 15 2010



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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	502,757.	324,278.	324,278.
	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	92,315.	228,642.	229,724.
	b Investments - corporate stock STMT 10	747,936.	839,904.	936,726.
	c Investments - corporate bonds STMT 11	617,748.	506,088.	531,703.
Liabilities	11 Investments - land, buildings, and equipment basis ▶			
	Less: accumulated depreciation ▶			
	12 Investments - mortgage loans			
	13 Investments - other STMT 12	297,042.	261,059.	350,114.
	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)	2,290,965.	2,193,138.	2,405,712.
	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	2,290,965.	2,193,138.		
30 Total net assets or fund balances	2,290,965.	2,193,138.		
31 Total liabilities and net assets/fund balances	2,290,965.	2,193,138.		

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	2,290,965.
2 Enter amount from Part I, line 27a	2	<97,827.>
3 Other increases not included in line 2 (itemize) ▶	3	0.
4 Add lines 1, 2, and 3	4	2,193,138.
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	2,193,138.

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 1,482,054.		1,487,579.	<5,467.>

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

(i) FMV as of 12/31/69	(j) Adjusted basis as of 12/31/69	(k) Excess of col (i) over col (j), if any	(l) Gains (Col (h) gain minus col (k), but not less than -0-) or Losses (from col (h))
a			
b			
c			
d			
e			<5,467.>

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	<5,467.>
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))
2008	179,051.	2,690,443.	.066551
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

2 Total of line 1, column (d)	2	.244669
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	.048934
4 Enter the net value of noncharitable-use assets for 2009 from Part X, line 5	4	2,244,425.
5 Multiply line 4 by line 3	5	109,829.
6 Enter 1% of net investment income (1% of Part I, line 27b)	6	529.
7 Add lines 5 and 6	7	110,358.
8 Enter qualifying distributions from Part XII, line 4 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	8	126,131.

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 or determination letter _____ (attach copy of letter if necessary-see instructions)	1	529.
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		
c	All other domestic foundations enter 2% of line 27b. Exempt foreign organizations enter 4% of Part I, line 12, col (b)	2	0.
2	Tax under section 511 (domestic section 4947(a)(1) trusts and taxable foundations only. Others enter -0-)	3	529.
3	Add lines 1 and 2	4	0.
4	Subtitle A (income) tax (domestic section 4947(a)(1) trusts and taxable foundations only. Others enter -0-)	5	529.
5	Tax based on investment income. Subtract line 4 from line 3. If zero or less, enter -0-		
6	Credits/Payments		
a	2009 estimated tax payments and 2008 overpayment credited to 2009	6a	800.
b	Exempt foreign organizations - tax withheld at source	6b	
c	Tax paid with application for extension of time to file (Form 8868)	6c	3,200.
d	Backup withholding erroneously withheld	6d	
7	Total credits and payments. Add lines 6a through 6d	7	4,000.
8	Enter any penalty for underpayment of estimated tax. Check here <input checked="" type="checkbox"/> if Form 2220 is attached	8	2.
9	Tax due. If the total of lines 5 and 8 is more than line 7, enter amount owed	9	
10	Overpayment. If line 7 is more than the total of lines 5 and 8, enter the amount overpaid	10	3,469.
11	Enter the amount of line 10 to be Credited to 2010 estimated tax <input checked="" type="checkbox"/> Refunded <input type="checkbox"/>	11	0.

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
1b 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
1c 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 checked="" type="checkbox"/> \$ 0. (2) On foundation managers <input checked="" 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 checked="" 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 checked="" 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 2009 or the taxable year beginning in 2009 (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

N/A

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 ► N/A	13	X	
14	The books are in care of ► HERBERT JACOBY, ESQ Located at ► 45 EAST 85TH STREET, NEW YORK, NY	Telephone no ► 212-872-1500 ZIP+4 ► 10020		
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		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 2009?		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 2009, did the foundation have any undistributed income (lines 6d and 6e, Part XIII) for tax year(s) beginning before 2009? 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	
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 2009 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 2009.)	N/A	
4a Did the foundation invest during the year any amount in a manner that would jeopardize its charitable purposes?		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 2009?		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 "Yes" to 6b, 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	7,735.	0.	0.
CAROLYN JACOBY GABBAY	PRESIDENT			
101 FEDERAL STREET				
BOSTON, MA	0.00	0.	0.	0.
LOIS C. SCHWARTZ	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	1,872,346.
b	Average of monthly cash balances	1b	373,091.
c	Fair market value of all other assets	1c	33,167.
d	Total (add lines 1a, b, and c)	1d	2,278,604.
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	2,278,604.
4	Cash deemed held for charitable activities. Enter 1 1/2% of line 3 (for greater amount, see instructions)	4	34,179.
5	Net value of noncharitable-use assets. Subtract line 4 from line 3. Enter here and on Part V, line 4	5	2,244,425.
6	Minimum investment return. Enter 5% of line 5	6	112,221.

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	112,221.
2a	Tax on investment income for 2009 from Part VI, line 5	2a	529.
b	Income tax for 2009 (This does not include the tax from Part VI)	2b	
c	Add lines 2a and 2b	2c	529.
3	Distributable amount before adjustments. Subtract line 2c from line 1	3	111,692.
4	Recoveries of amounts treated as qualifying distributions	4	0.
5	Add lines 3 and 4	5	111,692.
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	111,692.

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	126,131.
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	126,131.
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	529.
6	Adjusted qualifying distributions. Subtract line 5 from line 4	6	125,602.

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 2008	(c) 2008	(d) 2009
1 Distributable amount for 2009 from Part XI, line 7				111,692.
2 Undistributed income, if any, as of the end of 2009				
a Enter amount for 2008 only			3,621.	
b Total for prior years		0.		
3 Excess distributions carryover, if any, to 2009				
a From 2004				
b From 2005				
c From 2006				
d From 2007				
e From 2008				
f Total of lines 3a through e	0.			
4 Qualifying distributions for 2009 from Part XII, line 4 ▶ \$ 126,131.				
a Applied to 2008, but not more than line 2a			3,621.	
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 2009 distributable amount				111,692.
e Remaining amount distributed out of corpus	10,818.			
5 Excess distributions carryover applied to 2009 (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	10,818.			
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 2008 Subtract line 4a from line 2a Taxable amount - see instr			0.	
f Undistributed income for 2009 Subtract lines 4d and 5 from line 1. This amount must be distributed in 2010				0.
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 2004 not applied on line 5 or line 7	0.			
9 Excess distributions carryover to 2010. Subtract lines 7 and 8 from line 6a	10,818.			
10 Analysis of line 9				
a Excess from 2005				
b Excess from 2006				
c Excess from 2007				
d Excess from 2008				
e Excess from 2009	10,818.			

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	124,153.
b Approved for future payment				
NONE				
Total			3b	0.

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	FROM K-1 - FERRELLGAS			
b	FROM K-1 - FERRELLGAS			
c	FROM K-1 - FERRELLGAS			
d	FROM K-1 - ENTERPRISE PRODUCTS PARTNERS	P	VARIOUS	VARIOUS
e	FROM K-1 - KINDERMORGAN ENERGY	P	VARIOUS	VARIOUS
f	SEE STATEMENT A	P	VARIOUS	VARIOUS
g	SEE STATEMENT A	P	VARIOUS	VARIOUS
h	CAPITAL GAIN DISTRIBUTIONS	P	VARIOUS	VARIOUS
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			<13.>
b			4.
c			67.
d			0.
e			0.
f	704,245.	780,902.	<76,657.>
g	777,804.	706,677.	71,127.
h	5.		5.
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) FMV 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			<13.>
b			4.
c			67.
d			0.
e			0.
f			<76,657.>
g			71,127.
h			5.
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	<5,467.>
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
FROM K-1 - FERRELLGAS	PURCHASED		
(B) GROSS SALES PRICE	(C) COST OR OTHER BASIS	(D) EXPENSE OF SALE	(E) DEPREC.
(F) GAIN OR LOSS			
0.	0.	0.	0.
			<13.>

(A) DESCRIPTION OF PROPERTY	MANNER ACQUIRED	DATE ACQUIRED	DATE SOLD
FROM K-1 - FERRELLGAS	PURCHASED		
(B) GROSS SALES PRICE	(C) COST OR OTHER BASIS	(D) EXPENSE OF SALE	(E) DEPREC.
(F) GAIN OR LOSS			
0.	0.	0.	0.
			4.

(A) DESCRIPTION OF PROPERTY	MANNER ACQUIRED	DATE ACQUIRED	DATE SOLD
FROM K-1 - FERRELLGAS	PURCHASED		
(B) GROSS SALES PRICE	(C) COST OR OTHER BASIS	(D) EXPENSE OF SALE	(E) DEPREC.
(F) GAIN OR LOSS			
0.	0.	0.	0.
			67.

(A) DESCRIPTION OF PROPERTY	(B) GROSS SALES PRICE	(C) COST OR OTHER BASIS	(D) EXPENSE OF SALE	(E) DEPREC.	(F) GAIN OR LOSS
MANNER ACQUIRED	DATE ACQUIRED	DATE SOLD			
PURCHASED	VARIOUS	VARIOUS			
FROM K-1 - ENTERPRISE PRODUCTS PARTNERS	0.	78.	0.	0.	<78.>

(A) DESCRIPTION OF PROPERTY	(B) GROSS SALES PRICE	(C) COST OR OTHER BASIS	(D) EXPENSE OF SALE	(E) DEPREC.	(F) GAIN OR LOSS
MANNER ACQUIRED	DATE ACQUIRED	DATE SOLD			
PURCHASED	VARIOUS	VARIOUS			
FROM K-1 - KINDERMORGAN ENERGY	0.	27.	0.	0.	<27.>

(A) DESCRIPTION OF PROPERTY	(B) GROSS SALES PRICE	(C) COST OR OTHER BASIS	(D) EXPENSE OF SALE	(E) DEPREC.	(F) GAIN OR LOSS
MANNER ACQUIRED	DATE ACQUIRED	DATE SOLD			
PURCHASED	VARIOUS	VARIOUS			
SEE STATEMENT A	704,245.	780,902.	0.	0.	<76,657.>

(A) DESCRIPTION OF PROPERTY	(B) GROSS SALES PRICE	(C) COST OR OTHER BASIS	(D) EXPENSE OF SALE	(E) DEPREC.	(F) GAIN OR LOSS
MANNER ACQUIRED	DATE ACQUIRED	DATE SOLD			
PURCHASED	VARIOUS	VARIOUS			
SEE STATEMENT A	777,804.	706,677.	0.	0.	71,127.

(A) DESCRIPTION OF PROPERTY	(B) GROSS SALES PRICE		(C) COST OR OTHER BASIS		(D) EXPENSE OF SALE		(E) DEPREC.		(F) GAIN OR LOSS	
CAPITAL GAIN DISTRIBUTIONS										
	5.		0.		0.		0.		5.	
CAPITAL GAINS DIVIDENDS FROM PART IV									0.	
TOTAL TO FORM 990-PF, PART I, LINE 6A									<5,572.>	

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

SOURCE	AMOUNT
BROKERAGE ACCOUNTS	31,947.
ENTERPRISE PRODUCTS PARTNERS	18.
FERRELLGAS PARTNERS	11.
KINDER MORGAN	164.
MAGELLAN	4.
TERRA NITROGEN	5.
TOTAL TO FORM 990-PF, PART I, LINE 3, COLUMN A	32,149.

FORM 990-PF DIVIDENDS AND INTEREST FROM SECURITIES STATEMENT 3

SOURCE	GROSS AMOUNT	CAPITAL GAINS DIVIDENDS	COLUMN (A) AMOUNT
BROKERAGE ACCOUNTS	42,415.	0.	42,415.
ENTERPRISE PRODUCTS PARTNERS	1.	0.	1.
KINDER MORGAN	13.	0.	13.
MAGELLAN	1.	0.	1.
TOTAL TO FM 990-PF, PART I, LN 4	42,430.	0.	42,430.

FORM 990-PF	RENTAL INCOME	STATEMENT	4
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KIND AND LOCATION OF PROPERTY	ACTIVITY NUMBER	GROSS RENTAL INCOME
FROM FERRELLGAS PARTNERS LP	1	499.
TOTAL TO FORM 990-PF, PART I, LINE 5A		499.

FORM 990-PF	OTHER INCOME	STATEMENT	5
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DESCRIPTION	(A) REVENUE PER BOOKS	(B) NET INVEST- MENT INCOME	(C) ADJUSTED NET INCOME
ROYALTIES	3,073.	3,073.	
FERRELLGAS PARTNERS LP	1,103.	1,103.	
NON-DIVIDEND DISTRIBUTIONS	363.	0.	
MISC INCOME	924.	924.	
ENTERPRISE PRODUCTS PARTNERS LP	<3,148.>	0.	
KINDER MORGAN ENERGY PARTNERS LP	<4,703.>	0.	
MAGELLAN	315.	315.	
TERRA NITROGEN COMPANY, LP	<212.>	<212.>	
TOTAL TO FORM 990-PF, PART I, LINE 11	<2,285.>	5,203.	

FORM 990-PF	ACCOUNTING FEES	STATEMENT	6
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DESCRIPTION	(A) EXPENSES PER BOOKS	(B) NET INVEST- MENT INCOME	(C) ADJUSTED NET INCOME	(D) CHARITABLE PURPOSES
ACCOUNTING FEES	8,641.	6,913.		1,728.
TO FORM 990-PF, PG 1, LN 16B	8,641.	6,913.		1,728.

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	2,828.	0.		0.	
FOREIGN TAXES	539.	539.		0.	
NYS TAX	250.	250.		0.	
TO FORM 990-PF, PG 1, LN 18	3,617.	789.		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	20,196.	20,196.		0.	
BANK CHARGES	142.	142.		0.	
N/D EXPENSES FROM PSHPS	46.	0.		0.	
FERRELGASS PARTNERS - 2007 C/O	0.	<877.>		0.	
INVESTMENT INTEREST EXP	49.	49.		0.	
OTHER EXPENSES	219.	219.		0.	
FILING FEES	250.	0.		250.	
TO FORM 990-PF, PG 1, LN 23	20,902.	19,729.		250.	

FORM 990-PF	U.S. AND STATE/CITY GOVERNMENT OBLIGATIONS			STATEMENT	9
DESCRIPTION	U.S. GOV'T	OTHER GOV'T	BOOK VALUE	FAIR MARKET VALUE	
SEE STATEMENT ATTACHED	X		228,642.	229,724.	
TOTAL U.S. GOVERNMENT OBLIGATIONS			228,642.	229,724.	
TOTAL STATE AND MUNICIPAL GOVERNMENT OBLIGATIONS					
TOTAL TO FORM 990-PF, PART II, LINE 10A			228,642.	229,724.	

FORM 990-PF	CORPORATE STOCK	STATEMENT 10
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DESCRIPTION	BOOK VALUE	FAIR MARKET VALUE
SEE STATEMENT ATTACHED	839,904.	936,726.
TOTAL TO FORM 990-PF, PART II, LINE 10B	839,904.	936,726.

FORM 990-PF	CORPORATE BONDS	STATEMENT 11
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DESCRIPTION	BOOK VALUE	FAIR MARKET VALUE
SEE STATEMENT ATTACHED	506,088.	531,703.
TOTAL TO FORM 990-PF, PART II, LINE 10C	506,088.	531,703.

FORM 990-PF	OTHER INVESTMENTS	STATEMENT 12
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DESCRIPTION	VALUATION METHOD	BOOK VALUE	FAIR MARKET VALUE
SEE STATEMENT ATTACHED	COST	261,059.	350,114.
TOTAL TO FORM 990-PF, PART II, LINE 13		261,059.	350,114.

THE VICTOR HERBERT FOUNDATION

EIN 23-7044623

FISCAL YEAR ENDING APRIL 30, 2010

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ATTACHEMENT TO FORM 990PF - PART II BALANCE SHEETS

TYPE AND NAME OF INVESTMENTS	INVENTORY BEGINNING May 1, 2009		INVENTORY END April 30, 2010		
	SHARES OR PRINCIPAL	COST OR ACQ. VALUE	SHARES OR PRINCIPAL	COST OR ACQ. VALUE	MARKET VALUE
INVESTMENT IN U.S. OBLIGATIONS					
ISHARES TR BARCLAYS TIPS BD FD	1,000 000	92,314 60	0 000	0 00	0 00
ISHARES TR BARCLAYS 1 3 YEAR TREAS INDEX	0 000	0 00	0 000	0 00	0 00
ISHARES TR BARCLAYS 1-3 YEAR CR BD FD	0 000	0 00	2,200.000	228,268.01	229,724.00
	0 000	0 00	0 000	0 00	0 00
Total US Obligations - LINE 10 a		92,314.60		228,268.01	229,724.00
INVESTMENTS IN STOCKS					
ABBOTT LABS	800 000	36,888 00	0 000	0 00	0 00
ALLSTATE CORP	0 000	0 00	1,000.000	28,838.50	32,870 00
AMERICAN EXPRESS COMPANY	1,600 000	20,224 00	0 000	0 00	0 00
AT&T INC	0 000	0 00	2,000 000	52,749.60	52,120 00
ALLIANT ENERGY CORP	0 000	0 00	1,500 000	41,608.65	51,300.00
BANK OF NOVA SCOTIA HALIFAX	1,200 000	30,042 84	0 000	0 00	0 00
BP PLC SPONS ADR	800 000	35,657 84	800.000	35,657.84	41,720.00
CELGENE CORP	1,000 000	62,660 00	700.000	43,882 00	43,393.00
CELL KINETICS LTD (SPINOFF FROM MEDIS TECH LTD)	1,500 000	2,076 98	0 000	0 00	0 00
COCA COLA CO	0 000	0 00	600.000	32,333.94	32,070 00
DIAMOND OFFSHORE DRILLING INC	0 000	0 00	400 000	34,746.44	31,640 00
DOMINION RES INC VA	0 000	0 00	1,000.000	38,728.10	41,800.00
DU PONT	1,500 000	11,772 75	1,500.000	11,772.75	59,760.00
EMERSON ELECTRIC CO	0 000	0 00	1,000.000	40,846.40	52,230.00
ENCANA CORP COM	0 000	0 00	0 000	0 00	0 00
EXELON CORP	1,924 000	31,259 75	0 000	0 00	0 00
FPL GROUP	1,600 000	10,940 00	0 000	0 00	0 00
GENERAL ELECTRIC CO	2,700 000	71,392 00	0 000	0 00	0 00
GENERAL DYNAMICS CORP	0 000	0 00	0 000	0 00	0 00
HEWLETT PACKARD CO	1,800 000	94,542 00	1,000.000	52,523.54	51,970.00
H J HEINZ CO	0 000	0 00	700.000	30,573.34	32,809.00
HOME DEPOT INC	0 000	0 00	1,000.000	28,886.20	35,230.00
INTEL CORP	3,500 000	95,408 00	2,500.000	68,148.57	57,100.00
JOHNSON & JOHNSON	0 000	0 00	500.000	31,394.25	32,150.00
JP MORGAN CHASE & CO	0 000	0 00	800.000	35,846.40	34,064.00
KRAFT FOODS INC CL A	1,200 000	32,135 64	1,500 000	40,012.53	44,400.00
M&T CORP	500 000	19,074 00	0 000	0 00	0 00
MCDONALDS CORP	0 000	0 00	500.000	31,743.50	35,295 00
MEDIS TECHNOLOGIES LTD (LESS SPINOFFS)	7,500 000	100,772 27	0 000	0 00	0 00
MERCK & CO INC	0 000	0 00	1,500.000	46,320 00	52,580 00
NSTAR COM	0 000	0 00	0 000	0 00	0 00
PFIZER	4,000 000	93,090 00	1,500.000	28,590.50	25,080.00
TELUS CORP NON VOTING SH	0 000	0 00	1,500.000	44,854.05	52,965 00
VODAPHONE GROUP PLC	0 000	0 00	2,000.000	44,519.45	44,400.00
TOTAL STOCKS LINE 10 b		747,936.07		839,956 55	936,726 00
INVESTMENTS IN CORPORATE BONDS					
THOMAS & BETTS CORP 7 25% 6/1/13	50,000 000	54,776 74	0 000	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	50,384 00
FEDERAL FARM BKS 4 25% 12/4/12	250,000 000	251,535 00	250,000.000	251,535.00	267,265.00
JP MORGAN CHASE CAP 7 0%	1,500 000	32,550 00	2,700.000	63,098.60	68,445.00
KEYCORP CAPITAL X 8% ENHANCED TR	2,300 000	55,590 54	0 000	0 00	0 00
GOLDMAN SACHS GROUP INC 6 875% DUE 1/15/11	75,000 000	74,437 50	75,000.000	74,437.50	77,850.50
MORGAN STANLEY & CO 6 75% DUE 4/15/11	60,000 000	57,900 00	0 000	0 00	0 00
USB CAP X PFD 6 5%	2,000 000	40,958 52	0 000	0 00	0 00

THE VICTOR HERBERT FOUNDATION
EIN: 23-7044623
FISCAL YEAR ENDING APRIL 30, 2010

2

ATTACHEMENT TO FORM 990PF - PART II BALANCE SHEETS

TYPE AND NAME OF INVESTMENTS	INVENTORY BEGINNING May 1, 2009		INVENTORY END April 30, 2010		
	SHARES OR PRINCIPAL	COST OR ACQ. VALUE	SHARES OR PRINCIPAL	COST OR ACQ. VALUE	MARKET VALUE
WELLS FARGO CAP	0 000	0 00	2,700.000	67,018.12	67,959.00
TOTAL CORPORATE BONDS - LINE 10 c		617,748.30		506,087.22	531,703.50
INVESTMENTS - OTHER					
FERELGAS PARTNERS L P	2,500 000	22,887 00	0 000	0 00	0 00
NEUBERGER BERMAN R/E SEC INC (EXCHG FROM NB REALT	8,454 000	97,307 10	0 000	0 00	0 00
ISHARES IBOX INVESTOP INVESTMENT	750 000	67,985 00	0 000	0 00	0 00
SPDR GOLD TR GOLD SHS	500 000	41,344 50	0 000	0 00	0 00
SPDR SER TR KBW REGL	1,600 000	33,424 00	0 000	0 00	0 00
TERRA NITROGEN COMPANY LP	250 000	34,114 05	0 000	0 00	0 00
ENTERPRISE PRODUCTS PARTNERS LP					
TOTAL ENTERPRISE PRODUCTS PARTNERS LP	0 000	0 00	1,500 000	34,482 25	53,190 00
KINDER MORGAN ENERGY PTRS LP					
TOTAL KINDERMORGAN PTRS	0 000	0 00	700 000	27,545 60	47,243 00
MAGELLAN MIDSTREAM PARTNERS LP	0 000	0 00			
TOTAL MAGELLAN MIDSTREAM			1,500.000	50,775 39	71,385 00
ISHARES INC MSCI AUSTRALIA INDEX FD	0 000	0 00	0 000	0 00	0 00
ANNALY CAP MANAGEMENT INC	0 000	0 00	0.000	0 00	0 00
REALTY INCOME CORP COMMON STOCK	0 000	0 00	2,000.000	48,938 20	65,580.00
WASH REAL EST INV TR MARYLAND	0 000	0 00	1,200.000	30,415.20	37,740 00
US BANCORP PFD			3,300 000	67,548.71	74,976 00
DFJ DIVID INT & PREM STRATEGY FND	0 000	0 00	0 000	0 00	0 00
TOTAL INVESTMENTS - OTHER - LINE 13		297,041.65		259,701.35	350,114.00

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	700.
ACCION	GENERAL	NONE	150.
ACTORS FUND OF AMERICA	GENERAL	NONE	750.
ALZHEIMERS ASSOCIATION	HEALTH	NONE	3,938.
ALZHEIMERS DISEASE RESEARCH	HEALTH	NONE	1,125.
AMERICAN CANCER SOCIETY	HEALTH	NONE	600.
AMERICAN CIVIL LIBERTIES UNION	GENERAL	NONE	375.
AMERICAN DIABETES ASSOCIATION	HEALTH	NONE	250.

AMERICAN FEDERATION FOR THE BLIND	HEALTH	NONE	250.
AMERICAN FOUNDATION FOR THE BLIND	GENERAL	NONE	750.
AMERICAN HEART ASSOCIATION	HEALTH	NONE	588.
AMERICAN INDIAN COLLEGE FUND	GENERAL	NONE	250.
AMERICAN INSTITUTE FOR CANCER RESEARCH	HEALTH	NONE	450.
AMERICAN KIDNEY FOUNDATION	HEALTH	NONE	750.
AMERICAN LUNG ASSOCIATION	HEALTH	NONE	250.
AMERICAN OPERA PROJECTS	ARTS	NONE	2,500.
AMERICAN SYMPHONY ORCHESTRA	GENERAL	NONE	250.
AMERICANS UNITED	GENERAL	NONE	250.

ANTI DEFAMATION LEAGUE	RELIGIOUS	NONE	1,050.
B'NAI BRITH FOUNDATION	RELIGIOUS	NONE	300.
BRONX OPERA	ARTS	NONE	2,500.
BROOKLYN TECH HIGH SCHOOL	EDUCATION	NONE	2,000.
CANCER CARE	HEALTH	NONE	300.
CARE	GENERAL	NONE	300.
CATHOLIC CHARITIES	RELIGIOUS	NONE	150.
CENTRAL PARK CONSERVANCY	GENERAL	NONE	100.
CENTRAL SYNAGOGUE	RELIGIOUS	NONE	551.
CITY HARVEST	HEALTH	NONE	300.

CITY MEALS ON WHEELS	HEALTH	NONE	240.
COALITION FOR THE HOMELESS	GENERAL	NONE	225.
COLUMBIA COLLEGE JOHN JAY ASSOCIATES	EDUCATION	NONE	1,754.
COLUMBIA LAW SCHOOL	EDUCATION	NONE	1,500.
COMMUNITY SERVICE SOCIETY	GENERAL	NONE	250.
CUMBERLAND COLLEGE	EDUCATION	NONE	750.
DOCTORS WITHOUT BORDERS	GENERAL	NONE	500.
DOROT	GENERAL	NONE	280.
FEDERATION OF PROTESTANT WELFARE AGENCIES	RELIGIOUS	NONE	500.
FINCA INTL INC	GENERAL	NONE	150.

FLOWTHROUGH FROM K-1	GENERAL	NONE	9.
FOOD BANK OF NEW YORK CITY	GENERAL	NONE	250.
HELP HOSPITALIZED VETERANS	GENERAL	NONE	160.
HILLEL	RELIGIOUS	NONE	500.
INTERFAITH ALLIANCE	RELIGIOUS	NONE	200.
LAKE PLACID SINFONIETTA INC	ARTS	NONE	2,500.
LIGHT OPERA WORKS	ARTS	NONE	3,500.
MANHATTAN SCHOOL OF MUSIC	ARTS	NONE	2,500.
MEMORIAL SLOAN KETTERING CANCER CENTER	HEALTH	NONE	200.
MERCY HOME FOR BOYS & GIRLS	GENERAL	NONE	500.

METROPOLITAN MUSEUM OF ART	ARTS	NONE	500.
NARAL PRO CHOICE AMERICA	GENERAL	NONE	100.
NATIONAL CANCER COALITION	GENERAL	NONE	180.
NATIONAL MULTIPLE SCLEROSIS SOCIETY	HEALTH	NONE	600.
NEW YORK CITY RESCUE MISSION	GENERAL	NONE	403.
NEW YORK PUBLIC LIBRARY	GENERAL	NONE	100.
OPERA ORCHESTRA OF NY	ARTS	NONE	1,500.
PARALYZED VETERANS OF AMERICA	GENERAL	NONE	150.
ST LABRE INDIAN SCHOOL	EDUCATION	NONE	225.
ST. FRANCIS ASSISSI SCHOOL	EDUCATION	NONE	300.

THE VICTOR HERBERT FOUNDATION23-7044623

THE BOWERY MISSION	GENERAL	NONE	300.
THE CHILDRENS AID SOCIETY	GENERAL	NONE	250.
THE FRESH AIR FUND	GENERAL	NONE	1,250.
THE LITTLE ORCHESTRA SOCIETY	ARTS	NONE	60,000.
THE SMILE TRAIN	HEALTH	NONE	500.
THE SPHINX ORGANIZATION	ARTS	NONE	2,000.
THE WILDERNESS SOCIETY	GENERAL	NONE	100.
VICTOR J HERBERT FESTIVAL TRUST	ARTS	NONE	10,000.
WORLD JEWISH CONGRESS	RELIGIOUS	NONE	7,500.
TOTAL TO FORM 990-PF, PART XV, LINE 3A			<u>124,153.</u>

**Application for Extension of Time To File an
Exempt Organization Return**

► File a separate application for each return.

OMB No. 1545-1709

- If you are filing for an **Automatic 3-Month Extension**, complete only **Part I** and check this box ☒ **X**
- 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	
	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, 2010**, 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, 2009**, and ending **APR 30, 2010**.

- 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	\$	4,000.
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	\$	800.
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	\$	3,200.

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)

THE VICTOR HERBERT FOUNDATION

Gains and Losses on a Tax Basis

For Tax Purposes From May 01, 2009 to April 30, 2010

Date Acquired	Date Sold	Par Value/Shares	Proceeds	Tax Cost Basis	Gain or Loss
Long Term Gains and Losses					
EXELON CORP					
11/02/2005	02/10/2010	924 \$	40,899.32	\$ 15,012.48	\$ 25,886.84
11/02/2005	04/07/2010	1000	44,669.24	16,247.27	28,421.97
Totals for this asset			<u>\$ 85,568.56</u>	<u>\$ 31,259.75</u>	<u>\$ 54,308.81</u>
FPL GROUP					
12/06/1976	11/02/2009	1600 \$	80,816.32	\$ 10,940.00	\$ 69,876.32
Totals for this asset			<u>\$ 80,816.32</u>	<u>\$ 10,940.00</u>	<u>\$ 69,876.32</u>
INTEL CORP					
12/26/2007	02/10/2010	1000 \$	19,830.24	\$ 27,259.50	\$ -7,429.26
Totals for this asset			<u>\$ 19,830.24</u>	<u>\$ 27,259.50</u>	<u>\$ -7,429.26</u>
MEDIS TECHNOLOGIES LTD					
07/22/2004	03/31/2010	5000 \$	356.49	\$ 69,321.29	\$ -68,964.80
05/25/2007	03/31/2010	2500	178.25	31,450.98	-31,272.73
Totals for this asset			<u>\$ 534.74</u>	<u>\$ 100,772.27</u>	<u>\$ -100,237.53</u>
FERELLGAS PARTNERS LP					
05/01/2006	11/16/2009	2500 \$	52,628.39	\$ 22,028 -	\$ 30,600.39
Totals for this asset			<u>\$ 52,628.39</u>	<u>\$ 22,028 -</u>	<u>\$ 30,600.39</u>
THOMAS & BETTS CORP 7.25% DUE 06/01/13					
10/14/2005	12/04/2009	50000 \$	51,208.50	\$ 54,776.74	\$ -3,568.24
Totals for this asset			<u>\$ 51,208.50</u>	<u>\$ 54,776.74</u>	<u>\$ -3,568.24</u>
CELGENE CORP					
11/02/2007	02/10/2010	300 \$	17,088.98	\$ 18,798.00	\$ -1,709.02
Totals for this asset			<u>\$ 17,088.98</u>	<u>\$ 18,798.00</u>	<u>\$ -1,709.02</u>
NEUBERGER BERMAN REAL ESTATE SECS INC					
12/20/2007	06/09/2009	6340.5 \$	13,188.24	\$ 72,044.10	\$ -58,855.86
12/26/2007	06/09/2009	2113.5	4,396.08	25,263.00	-20,866.92
Totals for this asset			<u>\$ 17,584.32</u>	<u>\$ 97,307.10</u>	<u>\$ -79,722.78</u>

Gains and Losses on a Tax Basis (Continued)

For Tax Purposes From May 01, 2009 to April 30, 2010

Date Acquired	Date Sold	Par Value/Shares	Proceeds	Tax Cost Basis	Gain or Loss
Long Term Gains and Losses					
PFIZER INC					
12/26/2007	09/25/2009	4000	\$ 66,998.27	\$ 93,090.00	\$ -26,091.73
Totals for this asset			<u>\$ 66,998.27</u>	<u>\$ 93,090.00</u>	<u>\$ -26,091.73</u>
HEWLETT PACKARD CO					
12/28/2007	10/26/2009	300	\$ 14,628.92	\$ 15,756.92	\$ -1,128.00
12/28/2007	02/10/2010	500	24,086.19	26,261.54	-2,175.35
Totals for this asset			<u>\$ 38,715.11</u>	<u>\$ 42,018.46</u>	<u>\$ -3,303.35</u>
CELL KINETICS LTD					
07/22/2004	11/16/2009	1000	\$ 54.99	\$ 1,384.65	\$ -1,329.66
05/25/2007	11/16/2009	500	27.50	692.33	-664.83
Totals for this asset			<u>\$ 82.49</u>	<u>\$ 2,076.98</u>	<u>\$ -1,994.49</u>
KEYCORP CAP X 8% ENHANCED TR					
05/14/2008	06/19/2009	2300	\$ 45,942.23	\$ 55,590.54	\$ -9,648.31
Totals for this asset			<u>\$ 45,942.23</u>	<u>\$ 55,590.54</u>	<u>\$ -9,648.31</u>
GENERAL ELECTRIC CO					
07/07/2008	10/26/2009	2000	\$ 31,479.19	\$ 54,200.00	\$ -22,720.81
10/06/2008	10/26/2009	700	11,017.71	17,192.00	-6,174.29
Totals for this asset			<u>\$ 42,496.90</u>	<u>\$ 71,392.00</u>	<u>\$ -28,895.10</u>
SPDR GOLD TR GOLD SHS					
10/07/2008	12/09/2009	500	\$ 58,254.15	\$ 41,344.50	\$ 16,909.65
Totals for this asset			<u>\$ 58,254.15</u>	<u>\$ 41,344.50</u>	<u>\$ 16,909.65</u>
USB CAP X PFD 6.50%					
10/22/2008	03/10/2010	1400	\$ 33,880.27	\$ 28,564.90	\$ 5,315.37
10/23/2008	03/10/2010	600	14,520.11	12,393.62	2,126.49
Totals for this asset			<u>\$ 48,400.38</u>	<u>\$ 40,958.52</u>	<u>\$ 7,441.86</u>
KRAFT FOODS INC CL A					
12/02/2008	02/10/2010	500	\$ 14,456.31	\$ 13,389.85	\$ 1,066.46
Totals for this asset			<u>\$ 14,456.31</u>	<u>\$ 13,389.85</u>	<u>\$ 1,066.46</u>
MORGAN STANLEY DEAN WITTER & CO 6.75% DUE 04/15/11					
12/18/2008	02/04/2010	60000	\$ 63,636.15	\$ 57,900.00	\$ 5,736.15

Gains and Losses on a Tax Basis (Continued)

For Tax Purposes From May 01, 2009 to April 30, 2010

Date Acquired	Date Sold	Par Value/Shares	Proceeds	Tax Cost Basis	Gain or Loss
Long Term Gains and Losses					
Totals for this asset			<u>\$ 63,636.15</u>	<u>\$ 57,900.00</u>	<u>\$ 5,736.15</u>
CELL KINETICS LTD WT EXP					
01/07/2012					
07/22/2004	11/16/2009	500	\$ 1.99	\$ 0.00	\$ 1.99
05/25/2007	11/16/2009	250	1.00	0.00	1.00
Totals for this asset			<u>\$ 2.99</u>	<u>\$ 0.00</u>	<u>\$ 2.99</u>
Total Long Term Gains and Losses			<u>\$ 704,245.03</u>	<u>\$ 780,902.21</u>	<u>\$ -76,657.18</u>
Short Term Gains and Losses					
ENCANA CORP					
06/15/2009	11/27/2009	600	\$ 32,320.30	\$ 32,835.74	\$ -515.44
Totals for this asset			<u>\$ 32,320.30</u>	<u>\$ 32,835.74</u>	<u>\$ -515.44</u>
ENTERPRISE PRODS PARTNERS LP					
06/03/2009	02/10/2010	500	\$ 15,416.05	\$ 12,056.25	\$ 3,359.80
Totals for this asset			<u>\$ 15,416.05</u>	<u>\$ 12,056.25</u>	<u>\$ 3,359.80</u>
ISHARES TR BARCLAYS TIPS BD FD					
12/01/2008	05/07/2009	400	\$ 39,610.98	\$ 36,925.84	\$ 2,685.14
12/01/2008	09/22/2009	600	61,264.82	55,388.76	5,876.06
Totals for this asset			<u>\$ 100,875.80</u>	<u>\$ 92,314.60</u>	<u>\$ 8,561.20</u>
ISHARES IBOXX INVESTOP INVESTMENT					
12/04/2008	09/22/2009	750	\$ 79,475.45	\$ 67,965.00	\$ 11,510.45
08/25/2009	09/22/2009	250	26,491.82	26,042.00	449.82
Totals for this asset			<u>\$ 105,967.27</u>	<u>\$ 94,007.00</u>	<u>\$ 11,960.27</u>
TERRA NITROGEN COMPANY LP					
04/02/2009	10/19/2009	250	\$ 26,569.81	\$ 32,827.05	\$ -6,257.24
Totals for this asset			<u>\$ 26,569.81</u>	<u>\$ 32,827.05</u>	<u>\$ -6,257.24</u>
ABBOTT LABS COM					
04/07/2009	08/13/2009	800	\$ 35,319.09	\$ 36,888.00	\$ -1,568.91
Totals for this asset			<u>\$ 35,319.09</u>	<u>\$ 36,888.00</u>	<u>\$ -1,568.91</u>
SPDR SER TR KBW REGL					
04/15/2009	05/26/2009	1600	\$ 32,191.17	\$ 33,424.00	\$ -1,232.83

Gains and Losses on a Tax Basis (Continued)

For Tax Purposes From May 01, 2009 to April 30, 2010

Date Acquired	Date Sold	Par Value/Shares	Proceeds	Tax Cost Basis	Gain or Loss
Short Term Gains and Losses					
Totals for this asset			<u>\$ 32,191.17</u>	<u>\$ 33,424.00</u>	<u>\$ -1,232.83</u>
AMERICAN EXPRESS COMPANY					
03/17/2009	05/01/2009	1600	\$ 37,879.02	\$ 20,224.00	\$ 17,655.02
Totals for this asset			<u>\$ 37,879.02</u>	<u>\$ 20,224.00</u>	<u>\$ 17,655.02</u>
M & T CORP					
03/17/2009	05/12/2009	500	\$ 26,392.97	\$ 19,074.00	\$ 7,318.97
Totals for this asset			<u>\$ 26,392.97</u>	<u>\$ 19,074.00</u>	<u>\$ 7,318.97</u>
BANK OF NOVA SCOTIA HALIFAX					
03/25/2009	11/16/2009	1200	\$ 54,696.63	\$ 30,042.84	\$ 24,653.79
Totals for this asset			<u>\$ 54,696.63</u>	<u>\$ 30,042.84</u>	<u>\$ 24,653.79</u>
ISHARES TR BARCLAYS 1 3 YR TREASUR INDEX					
06/01/2009	08/13/2009	1000	\$ 83,458.65	\$ 83,919.10	\$ -460.45
Totals for this asset			<u>\$ 83,458.65</u>	<u>\$ 83,919.10</u>	<u>\$ -460.45</u>
ISHARES TR BARCLAYS 1-3 YR CR BD FD					
06/03/2009	02/10/2010	500	\$ 52,030.58	\$ 51,347.65	\$ 682.93
Totals for this asset			<u>\$ 52,030.58</u>	<u>\$ 51,347.65</u>	<u>\$ 682.93</u>
KINDER MORGAN ENERGY PARTNERS LP					
06/03/2009	02/10/2010	300	\$ 18,325.56	\$ 15,218.40	\$ 3,107.16
Totals for this asset			<u>\$ 18,325.56</u>	<u>\$ 15,218.40</u>	<u>\$ 3,107.16</u>
ISHARES INC MSCI AUSTRALIA INDEX FD					
06/10/2009	08/20/2009	1800	\$ 34,977.23	\$ 30,582.00	\$ 4,395.23
Totals for this asset			<u>\$ 34,977.23</u>	<u>\$ 30,582.00</u>	<u>\$ 4,395.23</u>
NSTAR COM					
11/16/2009	02/10/2010	1500	\$ 49,396.77	\$ 48,515.85	\$ 880.92
Totals for this asset			<u>\$ 49,396.77</u>	<u>\$ 48,515.85</u>	<u>\$ 880.92</u>
DOMINIOIN RES INC					
11/16/2009	02/10/2010	500	\$ 18,336.26	\$ 18,364.05	\$ -27.79
Totals for this asset			<u>\$ 18,336.26</u>	<u>\$ 18,364.05</u>	<u>\$ -27.79</u>

Gains and Losses on a Tax Basis (Continued)

For Tax Purposes From May 01, 2009 to April 30, 2010

Date Acquired	Date Sold	Par Value/Shares	Proceeds	Tax Cost Basis	Gain or Loss
Short Term Gains and Losses					
ANNALY CAP MANAGEMENT INC					
12/07/2009	02/10/2010	1000	\$ 17,391.77	\$ 18,479.00	\$ -1,087.23
12/07/2009	03/23/2010	1400	25,381.67	25,870.60	-488.93
12/30/2009	03/23/2010	600	10,877.86	10,687.34	190.52
Totals for this asset			<u>\$ 53,651.30</u>	<u>\$ 55,036.94</u>	<u>\$ -1,385.64</u>
Total Short Term Gains and Losses			<u>\$ 777,804.46</u>	<u>\$ 706,677.47</u>	<u>\$ 71,126.99</u>

Long Term Capital Gains Distributions

ISHARES TR BARCLAYS 1-3 YR CR BD FD

06/03/2009	12/08/2009	0	\$ 5.02	\$ 0.00	\$ 5.02
Totals for this asset			<u>\$ 5.02</u>	<u>\$ 0.00</u>	<u>\$ 5.02</u>
Total Long Term Capital Gains Distributions			<u>5.02</u>	<u>0.00</u>	<u>5.02</u>
Totals for this report			<u>\$ 1,482,054.51</u>	<u>\$ 1,487,579.08</u>	<u>\$ -5,525.17</u>