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

2010

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

For calendar year 2010, or tax year beginning MAY 1, 2010, and ending APR 30, 2011

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

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) 11 DORIS CIRCLE	Room/suite	B Telephone number 617-965-3325
City or town, state, and ZIP code NEWTON, MA 02458-1929		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) \$ 2,527,491.	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"/>
(Part I, column (d) must be on cash basis.)		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	2,636.		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	31,024.	31,024.		STATEMENT 2
4	Dividends and interest from securities	51,838.	51,448.		STATEMENT 3
5a	Gross rents				
b	Net rental income or (loss)				
6a	Net gain or (loss) from sale of assets not on line 10	<14,184.>			STATEMENT 1
b	Gross sales price for all assets on line 6a 1,398,861.				
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	<5,974.>	7,078.		STATEMENT 4
12	Total. Add lines 1 through 11	65,340.	89,550.		
13	Compensation of officers, directors, trustees, etc.	4,689.	0.		0.
14	Other employee salaries and wages				
15	Pension plans, employee benefits				
16a	Legal fees				
b	Accounting fees STMT 5	8,652.	6,922.		1,730.
c	Other professional fees				
17	Interest				
18	Taxes STMT 6	4,512.	1,312.		0.
19	Depreciation and depletion				
20	Occupancy				
21	Travel, conferences, and meetings				
22	Printing and publications				
23	Other expenses STMT 7	24,195.	23,903.		250.
24	Total operating and administrative expenses. Add lines 13 through 23	42,048.	32,137.		1,980.
25	Contributions, gifts, grants paid	93,410.			93,410.
26	Total expenses and disbursements. Add lines 24 and 25	135,458.	32,137.		95,390.
27	Subtract line 26 from line 12	<70,118.>			
a	Excess of revenue over expenses and disbursements		57,413.		
b	Net investment income (if negative, enter -0-)				
c	Adjusted net income (if negative, enter -0-)			N/A	

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	324,278.	299,342.	299,342.
	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 8	228,642.	203,509.	204,821.
	b Investments - corporate stock STMT 9	839,904.	1,145,954.	1,388,070.
	c Investments - corporate bonds STMT 10	506,088.	248,508.	260,577.
11 Investments - land, buildings, and equipment basis ▶				
Less accumulated depreciation ▶				
12 Investments - mortgage loans				
13 Investments - other STMT 11	261,059.	192,540.	341,514.	
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)	2,193,138.	2,123,020.	2,527,491.	
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"/>			
	24 Unrestricted			
	25 Temporarily restricted			
	26 Permanently restricted			
	Foundations that do not follow SFAS 117, check here ▶ <input checked="" type="checkbox"/>			
	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	2,193,138.	2,123,020.	
	30 Total net assets or fund balances	2,193,138.	2,123,020.	
31 Total liabilities and net assets/fund balances	2,193,138.	2,123,020.		

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	2,193,138.
2 Enter amount from Part I, line 27a	2	<70,118.>
3 Other increases not included in line 2 (itemize) ▶	3	0.
4 Add lines 1, 2, and 3	4	2,123,020.
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	2,123,020.

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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 ENTERPRISE PARTNERS K1	P	VARIOUS	VARIOUS
b KINDER MORGAN K1	P	VARIOUS	VARIOUS
c VARIOUS L/T (SEE ATTACHED)	P	VARIOUS	VARIOUS
d VARIOUS S/T (SEE ATTACHED)	P	VARIOUS	VARIOUS
e CAPITAL GAINS DIVIDENDS			

(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			0.
b			0.
c 636,794.		633,180.	3,614.
d 760,987.		777,307.	<16,320.>
e 1,080.			1,080.

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			0.
b			0.
c			3,614.
d			<16,320.>
e			1,080.

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	<11,626.>
3 Net short-term capital gain or (loss) as defined in sections 1222(5) and (6)		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))
2009	125,602.	2,244,425.	.055962
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

2 Total of line 1, column (d)	2	.262253
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	.052451
4 Enter the net value of noncharitable-use assets for 2010 from Part X, line 5	4	2,356,537.
5 Multiply line 4 by line 3	5	123,603.
6 Enter 1% of net investment income (1% of Part I, line 27b)	6	574.
7 Add lines 5 and 6	7	124,177.
8 Enter qualifying distributions from Part XII, line 4	8	95,390.

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 or determination letter _____ (attach copy of letter if necessary-see instructions)		1	1,148.
b Domestic foundations that meet the section 4940(e) requirements in Part V, check here <input 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 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	1,148.
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	1,148.
6 Credits/Payments			
a 2010 estimated tax payments and 2009 overpayment credited to 2010	6a 3,469.		
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	3,469.
8 Enter any penalty for underpayment of estimated tax. Check here <input checked="" type="checkbox"/> if Form 2220 is attached		8	
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	2,321.
11 Enter the amount of line 10 to be Credited to 2011 estimated tax	2,321. Refunded	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
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. \$ 0. (2) On foundation managers \$ 0.		
e Enter the reimbursement (if any) paid by the foundation during the year for political expenditure tax imposed on foundation managers \$ 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) 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 2010 or the taxable year beginning in 2010 (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

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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 ► 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	
16	At any time during calendar year 2010, did the foundation have an interest in or a signature or other authority over a bank, securities, or other financial account in a foreign country? See page 20 of the instructions for exceptions and filing requirements for Form TD F 90-22.1. If "Yes," enter the name of the foreign country ►	16	Yes	No
				X

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 22 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 2010?		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 2010, did the foundation have any undistributed income (lines 6d and 6e, Part XIII) for tax year(s) beginning before 2010? 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 2010 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 2010.)	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 2010?		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

5b

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

6b

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

If "Yes" to 6b, file Form 8870.

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 45 EAST 85TH STREET NEW YORK, NY	CHAIRMAN 40.00	4,689.	0.	0.
CAROLYN JACOBY GABBAY 101 FEDERAL STREET BOSTON, MA	PRESIDENT 0.00	0.	0.	0.
LOIS C. SCHWARTZ 299 WEST 12TH STREET NEW YORK, NY	SECRETARY 0.00	0.	0.	0.
JONATHAN JACOBY 17 MAGNOLIA WAY NORTH Haledon, NJ 07508	ASSISTANT TREASURER 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	2,078,460.
b Average of monthly cash balances	1b	280,796.
c Fair market value of all other assets	1c	33,167.
d Total (add lines 1a, b, and c)	1d	2,392,423.
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	2,392,423.
4 Cash deemed held for charitable activities. Enter 1 1/2% of line 3 (for greater amount, see instructions)	4	35,886.
5 Net value of noncharitable-use assets. Subtract line 4 from line 3. Enter here and on Part V, line 4	5	2,356,537.
6 Minimum investment return. Enter 5% of line 5	6	117,827.

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	117,827.
2a Tax on investment income for 2010 from Part VI, line 5	2a	1,148.
b Income tax for 2010 (This does not include the tax from Part VI)	2b	
c Add lines 2a and 2b	2c	1,148.
3 Distributable amount before adjustments. Subtract line 2c from line 1	3	116,679.
4 Recoveries of amounts treated as qualifying distributions	4	0.
5 Add lines 3 and 4	5	116,679.
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	116,679.

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	95,390.
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	95,390.
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	0.
6 Adjusted qualifying distributions. Subtract line 5 from line 4	6	95,390.

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 2009	(c) 2009	(d) 2010
1 Distributable amount for 2010 from Part XI, line 7				116,679.
2 Undistributed income, if any, as of the end of 2010				
a Enter amount for 2009 only			0.	
b Total for prior years		0.		
3 Excess distributions carryover, if any, to 2010				
a From 2005				
b From 2006				
c From 2007				
d From 2008				
e From 2009	10,818.			
f Total of lines 3a through e	10,818.			
4 Qualifying distributions for 2010 from Part XII, line 4 ▶ \$ 95,390.				
a Applied to 2009, but not more than line 2a			0.	
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 2010 distributable amount				95,390.
e Remaining amount distributed out of corpus	0.			
5 Excess distributions carryover applied to 2010 (If an amount appears in column (d), the same amount must be shown in column (a).)	10,818.			10,818.
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 2009 Subtract line 4a from line 2a Taxable amount - see instr			0.	
f Undistributed income for 2010 Subtract lines 4d and 5 from line 1 This amount must be distributed in 2011				10,471.
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 2005 not applied on line 5 or line 7	0.			
9 Excess distributions carryover to 2011. Subtract lines 7 and 8 from line 6a	0.			
10 Analysis of line 9				
a Excess from 2006				
b Excess from 2007				
c Excess from 2008				
d Excess from 2009				
e Excess from 2010				

N/A

- ▶

☐ 4942(j)(3) or ☐ 4942(j)(5)

- (4) Gross investment income**

[illegible]

2010.04010 THE VICTOR HERBERT FOUNDATI 079981

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 <i>Paid during the year</i>				
SEE STATEMENT 12				
Total			3a	93,410.
b <i>Approved for future payment</i>				
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 with any other organization 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		

**Sign
Here**

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.

Signature of officer or trustee

7 | 26 | 2011

PRESIDENT

**Paid
Preparer
Use Only**

Print/Type preparer's name

Preparer's signature

Date _____

Check ☐ self-employed

PTIN	
------	--

ROBERTO VICECONTE

Firm's name ► WEISERMAZARS LLP

Firm's address ► 135 WEST 50TH STREET
NEW YORK, NY 10020

Firm's EIN ▶

Phone no (212) 812-7000

Form **990-PF** (2010)

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

(A) DESCRIPTION OF PROPERTY	MANNER ACQUIRED	DATE ACQUIRED	DATE SOLD
ENTERPRISE PARTNERS K1	PURCHASED	VARIOUS	VARIOUS

(B) GROSS SALES PRICE	(C) COST OR OTHER BASIS	(D) EXPENSE OF SALE	(E) DEPREC.	(F) GAIN OR LOSS
0.	91.	0.	0.	<91.>

(A) DESCRIPTION OF PROPERTY	MANNER ACQUIRED	DATE ACQUIRED	DATE SOLD
KINDER MORGAN K1	PURCHASED	VARIOUS	VARIOUS

(B) GROSS SALES PRICE	(C) COST OR OTHER BASIS	(D) EXPENSE OF SALE	(E) DEPREC.	(F) GAIN OR LOSS
0.	6.	0.	0.	<6.>

(A) DESCRIPTION OF PROPERTY	MANNER ACQUIRED	DATE ACQUIRED	DATE SOLD
VARIOUS L/T (SEE ATTACHED)	PURCHASED	VARIOUS	VARIOUS

(B) GROSS SALES PRICE	(C) COST OR OTHER BASIS	(D) EXPENSE OF SALE	(E) DEPREC.	(F) GAIN OR LOSS
636,794.	635,641.	0.	0.	1,153.

(A) DESCRIPTION OF PROPERTY	(B) GROSS SALES PRICE	(C) COST OR OTHER BASIS	(D) EXPENSE OF SALE	(E) DEPREC.	(F) GAIN OR LOSS
VARIOUS S/T (SEE ATTACHED)	760,987.	777,307.	0.	0.	<16,320.>

CAPITAL GAINS DIVIDENDS FROM PART IV	1,080.
TOTAL TO FORM 990-PF, PART I, LINE 6A	<14,184.>

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

SOURCE	AMOUNT
ENTERPRISE PRODUCTS PARTNERS K1	35.
FROM K-1 - KINDER MORGAN	124.
MORGAN STANLEY	30,865.
TOTAL TO FORM 990-PF, PART I, LINE 3, COLUMN A	31,024.

FORM 990-PF DIVIDENDS AND INTEREST FROM SECURITIES STATEMENT 3

SOURCE	GROSS AMOUNT	CAPITAL GAINS DIVIDENDS	COLUMN (A) AMOUNT
FROM K-1 - KINDER MORGAN	49.	0.	49.
MAGELLAN K1	1.	0.	1.
MORGAN STANLEY	52,478.	1,080.	51,398.
MORGAN STANLEY	390.	0.	390.
TOTAL TO FM 990-PF, PART I, LN 4	52,918.	1,080.	51,838.

FORM 990-PF	OTHER INCOME	STATEMENT	4
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DESCRIPTION	(A) REVENUE PER BOOKS	(B) NET INVEST- MENT INCOME	(C) ADJUSTED NET INCOME
ROYALTIES	6,909.	6,909.	
ENTERPRISE PRODUCTS PARTNERS K1	<6,177.>	0.	
FROM K-1 - ENTERPRISE	18.	18.	
FROM K-1 - KINDER MORGAN	<6,875.>	0.	
MAGELLAN MIDSTREAM K1	151.	151.	
TOTAL TO FORM 990-PF, PART I, LINE 11	<5,974.>	7,078.	

FORM 990-PF	ACCOUNTING FEES	STATEMENT	5
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DESCRIPTION	(A) EXPENSES PER BOOKS	(B) NET INVEST- MENT INCOME	(C) ADJUSTED NET INCOME	(D) CHARITABLE PURPOSES
ACCOUNTING FEES	8,652.	6,922.		1,730.
TO FORM 990-PF, PG 1, LN 16B	8,652.	6,922.		1,730.

FORM 990-PF	TAXES	STATEMENT	6
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DESCRIPTION	(A) EXPENSES PER BOOKS	(B) NET INVEST- MENT INCOME	(C) ADJUSTED NET INCOME	(D) CHARITABLE PURPOSES
FOREIGN TAXES	1,062.	1,062.		0.
NYS TAX	250.	250.		0.
FEDERAL TAXES	3,200.	0.		0.
TO FORM 990-PF, PG 1, LN 18	4,512.	1,312.		0.

C

FORM 990-PF	OTHER EXPENSES			STATEMENT	7
DESCRIPTION	(A) EXPENSES PER BOOKS	(B) NET INVEST- MENT INCOME	(C) ADJUSTED NET INCOME	(D) CHARITABLE PURPOSES	
MANAGEMENT FEE	23,454.	23,454.		0.	
BANK CHARGES	122.	122.		0.	
ENTERPRISE PRODUCTS - N/D EXPENSE	7.	0.		0.	
KINDER MORGAN - INVESTMENT INTEREST	69.	69.		0.	
FILING FEES	250.	0.		250.	
MAGELLAN - N/D EXPENSES	16.	0.		0.	
KINDER MORGAN - INTANGIBLE DRILLING COSTS	258.	258.		0.	
KINDER MORGAN - N/D EXPENSES	19.	0.		0.	
TO FORM 990-PF, PG 1, LN 23	24,195.	23,903.		250.	

FORM 990-PF	U.S. AND STATE/CITY GOVERNMENT OBLIGATIONS			STATEMENT	8
DESCRIPTION	U.S. GOV'T	OTHER GOV'T	BOOK VALUE	FAIR MARKET VALUE	
SEE STATEMENT ATTACHED	X		203,509.	204,821.	
TOTAL U.S. GOVERNMENT OBLIGATIONS			203,509.	204,821.	
TOTAL STATE AND MUNICIPAL GOVERNMENT OBLIGATIONS					
TOTAL TO FORM 990-PF, PART II, LINE 10A			203,509.	204,821.	

FORM 990-PF	CORPORATE STOCK		STATEMENT	9
DESCRIPTION			BOOK VALUE	FAIR MARKET VALUE
SEE STATEMENT ATTACHED			1,145,954.	1,388,070.
TOTAL TO FORM 990-PF, PART II, LINE 10B			1,145,954.	1,388,070.

FORM 990-PF	CORPORATE BONDS	STATEMENT 10
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DESCRIPTION	BOOK VALUE	FAIR MARKET VALUE
SEE STATEMENT ATTACHED	248,508.	260,577.
TOTAL TO FORM 990-PF, PART II, LINE 10C	248,508.	260,577.

FORM 990-PF	OTHER INVESTMENTS	STATEMENT 11
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DESCRIPTION	VALUATION METHOD	BOOK VALUE	FAIR MARKET VALUE
SEE STATEMENT ATTACHED	COST	192,540.	341,514.
TOTAL TO FORM 990-PF, PART II, LINE 13		192,540.	341,514.

FORM 990-PF

GRANTS AND CONTRIBUTIONS
PAID DURING THE YEAR

STATEMENT 12

RECIPIENT NAME AND ADDRESS	RECIPIENT RELATIONSHIP AND PURPOSE OF GRANT	RECIPIENT STATUS	AMOUNT
ALZHEIMERS FOUNDATION	HEALTH	NONE	5,000.
AMERICAN OPERA PROJECTS	ARTS	NONE	2,500.
AMERICAN PRINTING HOUSE FOR THE BLIND	GENERAL	NONE	500.
BRONX OPERA	ARTS	NONE	2,500.
CANTON COMIC OPERA COMPANY	ARTS	NONE	3,000.
CENTRAL PARK CONSERVANCY	GENERAL	NONE	100.
CENTRAL SYNAGOGUE	RELIGIOUS	NONE	3,060.
COLLEGE LIGHT OPERA COMPANY	ARTS	NONE	5,000.

FLEISCHER COLLECTION OF ORCHESTRA	ARTS	NONE	5,000.
FRIENDS OF TAPULANGA	GENERAL	NONE	500.
GOTHAM EARLY MUSIC SCENE	ARTS	NONE	4,000.
LIGHT OPERA COMPANY OF NEW YORK	ARTS	NONE	10,000.
LITTLE ORCHESTRA SOCIETY	ARTS	NONE	30,000.
MANHATTAN SCHOOL OF MUSIC	ARTS	NONE	2,500.
NEW YORK PHILHARMONIC ORCHESTRA	ARTS	NONE	10,000.
NEW YORKERS FOR PARKS	GENERAL	NONE	250.
THE SPHINX ORGANIZATION	ARTS	NONE	2,500.
UTAH SYMPHONY/UTAH OPERA	ARTS	NONE	1,000.

THE VICTOR HERBERT FOUNDATION

23-7044623

VICTOR J HERBERT FESTIVAL TRUST

NONE

6,000.

ARTS

TOTAL TO FORM 990-PF, PART XV, LINE 3A

93,410.

THE VICTOR HERBERT FOUNDATION

EIN : 23-7044823

FISCAL YEAR ENDING APRIL 30, 2011

ATTACHEMENT TO FORM 990PF - PART II BALANCE SHEETS

TYPE AND NAME OF INVESTMENTS	INVENTORY BEGINNING May 1, 2010		INVENTORY END April 30, 2011		
	SHARES OR PRINCIPAL	COST OR ACQ. VALUE	SHARES OR PRINCIPAL	COST OR ACQ. VALUE	MARKET VALUE
INVESTMENT IN U.S. OBLIGATIONS					
ISHARES TR BARCLAYS 1 -3 YEAR CR BD FD	2,200 000	228,641 00	1,700.000	176,761.91	178,415.00
US TREASURY NOTE 3 125%	0 000	0 00	25,000 000	26,746 18	26,406 25
Total US Obligations - LINE 10 a		228,641.00		203,508.09	204,821.25
INVESTMENTS IN STOCKS					
ALLSTATE CORP	1,000 000	28,638 50	0.000	0.00	0.00
AMERICAN CAPITAL AGENCY	0 000	0 00	1,000.000	27,045.80	29,110.00
AMERICAN EXPRESS COMPANY	0 000	0 00	700 000	27,373 30	34,356 00
ARES CAPITAL CORP	0 000	0 00	2,000 000	28,711 60	35,420 00
AT&T INC	2,000 000	52,749 60	1,300.000	34,287.24	40,456.00
ALLIANT ENERGY CORP	1,500 000	41,608 65	1,500 000	41,608 65	59,310.00
BANK OF MONTREAL	0 000	0 00	600 000	34,930 22	39,378 00
BRISTOL MYERS SQUIBB	0 000	0 00	1,000 000	26,457 00	28,100 00
BP PLC SPONS ADR	800 000	35,657 84	0.000	0.00	0.00
CELGENE CORP	700 000	43,862 00	0 000	0.00	0.00
CHEVRON CORP	0 000	0 00	700 000	67,294 78	76,608 00
COCA COLA CO	600 000	32,333 94	600.000	32,333.94	40,476.00
CONOCO PHILLIPS	0 000	0 00	600.000	40,304.40	47,334.00
DIAMOND OFFSHORE DRILLING INC	400 000	34,746 44	0.000	0 00	0.00
DEERE & CO	0 000	0 00	300.000	27,138 99	29,250.00
DOMINION RES INC VA	1,000 000	36,728 10	1,000.000	36,728.10	46,420.00
DU PONT	1,500 000	11,772 75	1,000.000	7,848.50	56,790.00
EMERSON ELECTRIC CO	1,000 000	40,646 40	0.000	0.00	0.00
GENERAL ELECTRIC CO	0 000	0 00	2,000 000	32,480 00	40,900 00
HEWLETT PACKARD CO	1,000 000	52,523 54	0.000	0.00	0.00
H J HEINZ CO	700 000	30,573 34	700.000	30,573.34	35,861.00
HOME DEPOT INC	1,000 000	28,686 20	1,000 000	34,896 00	37,150.00
IBM	0 000	0 00	200.000	27,630.00	34,116.00
INTEL CORP	2,500 000	68,148 57	0.000	0.00	0 00
ISHARES BARCLAYS TIPS BD FD	0 000	0 00	500.000	54,514.95	55,580.00
ISHARES IBOX INVEST GR COR FD	0 000	0 00	500.000	54,428.90	55,235.00
JOHNSON & JOHNSON	500 000	31,394 25	0 000	0.00	0.00
JP MORGAN CHASE & CO	800 000	35,846 40	0 000	0.00	0.00
KRAFT FOODS INC CL A	1,500 000	39,960 19	800.000	21,340.02	26,872.00
M&T CORP	0 000	0 00	0 000	0 00	0 00
MCDONALDS CORP	500 000	31,743 50	500.000	31,743.50	39,155 00
MERCK & CO INC	1,500 000	46,320 00	0.000	0.00	0 00
MICROCHIP TECHNOLOGY	0 000	0 00	1,000.000	35,721.70	41,040 00
NORDIC AMERICAN TNKR	0 000	0 00	1,000 000	25,185 00	22,980 00
PFIZER	1,500 000	26,590 50	1,500.000	26,590.50	31,455.00
PIMCO CORPORATE OPPTY FD	0 000	0 00	2,500.000	42,337.25	50,325.00
PLUM CREEK TIMBER CO	0 000	0 00	1,200.000	44,005.20	51,708.00
PROSHARES SHOR QQQ	0 000	0 00	1,000.000	33,070.00	31,590.00
SPDR GOLD TR GOLD SHS	0 000	0 00	500.000	69,354.00	76,185.00
TELUS CORP NON VOTING SH	1,500 000	44,854 05	1,500.000	44,854.05	75,255.00
TORONTO DOM BK	0 000	0 00	500 000	35,441.42	43,315 00
VODAPHONE GROUP PLC	2,000 000	44,519 45	1,000 000	24,800 00	29,120.00
WISDOMTREE DREFUS EMER	0 000	0 00	2,000.000	44,977 40	47,220 00
TOTAL STOCKS LINE 10 b		839,904.21		1,146,005.75	1,388,070.00
INVESTMENTS IN CORPORATE BONDS					
BANK AMER CORP NT 5 00% 11/15/14	50,000 000	50,000 00	50,000.000	50,000.00	50,562.00
FEDERAL FARM BKS 4 25% 12/4/12	250,000 000	251,535 00	150,000.000	150,921.00	158,854.50
JP MORGAN CHASE CAP 7 0%	2,700 000	63,096 60	2,000.000	47,586.31	51,160.00
GOLDMAN SACHS GROUP INC 6 875% DUE 1/15/11	75,000 000	74,437 50	0.000	0.00	0.00
WELLS FARGO CAP	2,700 000	67,018 12	0 000	0 00	0 00
TOTAL CORPORATE BONDS - LINE 10 c		506,087.22		248,507.31	260,576.50

THE VICTOR HERBERT FOUNDATION
EIN : 23-7044823
FISCAL YEAR ENDING APRIL 30, 2011

2

ATTACHEMENT TO FORM 990PF - PART II BALANCE SHEETS

TYPE AND NAME OF INVESTMENTS	INVENTORY BEGINNING May 1, 2010	
	SHARES OR PRINCIPAL	COST OR ACQ. VALUE
INVESTMENTS - OTHER		
ENTERPRISE PRODUCTS PARTNERS LP	1,500 000	35,839 00
KINDERMORGAN PTRS	700 000	27,545 60
MAGELLAN MIDSTREAM	1,500 000	50,775 39
REALTY INCOME CORP COMMON STOCK	2,000 000	48,936 20
WASH REAL EST INV TR MARYLAND	1,200 000	30,415 20
US BANCORP PFD	3,300 000	67,546 71
TOTAL INVESTMENTS - OTHER - LINE 13		281,058.10

INVENTORY END April 30, 2011		
SHARES OR PRINCIPAL	COST OR ACQ. VALUE	MARKET VALUE
2,000 000	41,982 70	86,540 00
700 000	17,393 60	54,124 00
1,500.000	46,478 89	92,250.00
1,000.000	24,468.10	35,550.00
1,200.000	30,415.20	38,880.00
1,500.000	31,800.80	34,170.00
	182,539.29	341,514.00