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

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

For calendar year 2012 or tax year beginning **MAY 1, 2012**

, and ending

**APR 30, 2013**

Name of foundation

**THE VICTOR HERBERT FOUNDATION**

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

**11 DORIS CIRCLE**

A Employer identification number

**23-7044623**

City or town, state, and ZIP code

**NEWTON, MA 02458-1929**

Room/unit

B Check all that apply:

Initial return       Initial return of a former public charity  
 Final return       Amended return  
 Address change       Name change

C

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

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

(Other (specify))

► \$ **2,651,107.** (Part I, column (d) must be on cash basis.)

Part I Analysis of Revenue and Expenses (The total of amounts in columns (b), (c), and (d) may not necessarily equal the amounts in column (a))		(a) Revenue and expenses per books	(b) Net investment income	(c) Adjusted net income	(d) Disbursements for charitable purposes (cash basis only)
1 Contributions, gifts, grants, etc., received			RECEIVED	N/A	
2 Check <input checked="" type="checkbox"/> if the foundation is not required to attach Schedules B Interest on savings and temporary cash investments					
3 Dividends and interest from securities		6,914.	6,914.	6,914.	STATEMENT 2
5a Gross rents		87,304.	85,826.	85,826.	STATEMENT 3
b Net rental income or (loss)					
6a Net gain or (loss) from sale of assets not on line 10					
b Gross sales price for all assets on line 6a		1,384,671.			STATEMENT 1
7 Capital gain net income (from Part IV, line 2)					
8 Net short-term capital gain					
9 Income modifications Gross sales less returns					
10a and allowances					
b Less Cost of goods sold					
c Gross profit or (loss)					
11 Other income		<392.00	19,727.	19,727.	STATEMENT 4
12 Total. Add lines 1 through 11		227,230.	247,299.	247,299.	
13 Compensation of officers, directors, trustees, etc.		0.	0.	0.	
14 Other employee salaries and wages					
15 Pension plans, employee benefits					
16a Legal fees					
b Accounting fees	STMT 5	9,630.	7,704.	7,704.	1,926.
c Other professional fees					
17 Interest					
18 Taxes	STMT 6	3,250.	926.	926.	0.
19 Depreciation and depletion					
20 Occupancy					
21 Travel, conferences, and meetings					
22 Printing and publications					
23 Other expenses	STMT 7	25,538.	25,261.	25,261.	260.
24 Total operating and administrative expenses. Add lines 13 through 23		38,418.	33,891.	33,891.	2,186.
25 Contributions, gifts, grants paid		138,200.			138,200.
26 Total expenses and disbursements. Add lines 24 and 25		176,618.	33,891.	33,891.	140,386.
27 Subtract line 26 from line 12:		50,612.			
a Excess of revenue over expenses and disbursements					
b Net investment income (if negative, enter -0-)			213,408.	213,408.	
c Adjusted net income (if negative, enter -0-)				N/A	

<b>Part II</b> <b>Balance Sheets</b> <small>Attached schedules and amounts in the description column should be for end-of-year amounts only</small>		Beginning of year	End of year
		(a) Book Value	(b) Book Value
1	Cash - non-interest-bearing	242,626.	325,961.
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	26,747.
b	Investments - corporate stock	STMT 9	1,669,678.
c	Investments - corporate bonds	STMT 10	125,699.
11	Investments - land, buildings, and equipment basis ►		
	Less accumulated depreciation ►		
12	Investments - mortgage loans		
13	Investments - other	STMT 11	93,596.
14	Land, buildings, and equipment: basis ►		
	Less accumulated depreciation ►		
15	Other assets (describe ►)	STATEMENT 12)	33,167.
16	<b>Total assets (to be completed by all filers)</b>		2,191,513.
17	Accounts payable and accrued expenses		2,242,125.
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	<b>Total liabilities (add lines 17 through 22)</b>		0.
	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	2,191,513.	2,242,125.
30	<b>Total net assets or fund balances</b>	2,191,513.	2,242,125.
31	<b>Total liabilities and net assets/fund balances</b>		2,191,513.
			2,242,125.

**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	2,191,513.
2	Enter amount from Part I, line 27a	2	50,612.
3	Other increases not included in line 2 (itemize) ►	3	0.
4	Add lines 1, 2, and 3	4	2,242,125.
5	Decreases not included in line 2 (itemize) ►	5	0.
6	<b>Total net assets or fund balances at end of year (line 4 minus line 5) - Part II, column (b), line 30</b>	6	2,242,125.

**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>b SEE ATTACHED STATEMENT</b>					
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 <b>1,384,671.</b>		<b>1,249,839.</b>	<b>134,832.</b>		
Complete only for assets showing gain in column (h) and owned by the foundation on 12/31/69			(l) Gains (Col. (h) gain minus col. (k), but not less than -0-) or Losses (from col. (h))		
(i) F.M.V. as of 12/31/69	(j) Adjusted basis as of 12/31/69	(k) Excess of col. (i) over col. (j), if any			
a					
b					
c					
d					
e			<b>134,832.</b>		
2 Capital gain net income or (net capital loss)	$\begin{cases} \text{If gain, also enter in Part I, line 7} \\ \text{If (loss), enter -0- in Part I, line 7} \end{cases}$		2	<b>134,832.</b>	
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 the 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))
2011	<b>141,722.</b>	<b>2,441,576.</b>	<b>.058045</b>
2010	<b>95,390.</b>	<b>2,356,537.</b>	<b>.040479</b>
2009	<b>125,602.</b>	<b>2,244,425.</b>	<b>.055962</b>
2008	<b>179,051.</b>	<b>2,690,443.</b>	<b>.066551</b>
2007	<b>147,827.</b>	<b>3,632,409.</b>	<b>.040697</b>

2 Total of line 1, column (d)

**2 .261734**

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 .052347**

4 Enter the net value of noncharitable-use assets for 2012 from Part X, line 5

**4 2,560,388.**

5 Multiply line 4 by line 3

**5 134,029.**

6 Enter 1% of net investment income (1% of Part I, line 27b)

**6 2,134.**

7 Add lines 5 and 6

**7 136,163.**

8 Enter qualifying distributions from Part XII, line 4

**8 140,386.**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 ►  and enter 'N/A' on line 1.

Date of ruling or determination letter: \_\_\_\_\_ (attach copy of letter if necessary - see instructions)

b Domestic foundations that meet the section 4940(e) requirements in Part V, check here ►  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-)

3 Add lines 1 and 2

4 Subtitle A (income) tax (domestic section 4947(a)(1) trusts and taxable foundations only. Others enter -0-)

5 Tax based on investment income. Subtract line 4 from line 3. If zero or less, enter -0-

6 Credits/Payments:

a 2012 estimated tax payments and 2011 overpayment credited to 2012

b Exempt foreign organizations - tax withheld at source

c Tax paid with application for extension of time to file (Form 8868)

d Backup withholding erroneously withheld

6a 2,400.

6b

6c

6d

7 Total credits and payments. Add lines 6a through 6d

8 Enter any penalty for underpayment of estimated tax. Check here  if Form 2220 is attached

9 Tax due. If the total of lines 5 and 8 is more than line 7, enter amount owed

10 Overpayment. If line 7 is more than the total of lines 5 and 8, enter the amount overpaid

11 Enter the amount of line 10 to be: Credited to 2013 estimated tax ►

265. Refunded ►

2,400.

1.

9

10 265.

11 0.

**Part VII-A Statements Regarding Activities**

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?

Yes No

1a 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.

1b X

c Did the foundation file Form 1120-POL for this year?

1c 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?

2 X

If 'Yes,' attach a detailed description of the activities.

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

3 X

4a Did the foundation have unrelated business gross income of \$1,000 or more during the year?

4a X

b If 'Yes,' has it filed a tax return on Form 990-T for this year?

4b X

5 Was there a liquidation, termination, dissolution, or substantial contraction during the year?

5 X

If 'Yes,' attach the statement required by General Instruction T.

6 Are the requirements of section 508(e) (relating to sections 4941 through 4945) satisfied either:

N/A

• 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?

6 X

7 Did the foundation have at least \$5,000 in assets at any time during the year?

7 X

If 'Yes,' complete Part II, col. (c), and Part XV.

8a Enter the states to which the foundation reports or with which it is registered (see instructions) ►

8b X

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

9 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 2012 or the taxable year beginning in 2012 (see instructions for Part XIV)? If 'Yes,' complete Part XIV

10 X

10 Did any persons become substantial contributors during the tax year? If 'Yes,' attach a schedule listing their names and addresses

## Part VII-A Statements Regarding Activities (continued)

11	X	
12	X	
13	X	
Website address ► <b>N/A</b>		
14	Books are in care of ► <b>CAROLYN JACOBY GABBAY</b>	Telephone no. ► <b>617-965-3325</b>
Located at ► <b>11 DORIS CIRCLE, NEWTON, MA</b>		ZIP+4 ► <b>02458</b>
15	► <b>N/A</b>	
16	Yes	No
See the instructions for exceptions and filing requirements for Form TDF 90-22.1. If 'Yes,' enter the name of the foreign country ►		

## 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
1b	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 instructions)? Organizations relying on a current notice regarding disaster assistance check here ►		
1c	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 2012?		
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)):		
2a	At the end of tax year 2012, did the foundation have any undistributed income (lines 6d and 6e, Part XIII) for tax year(s) beginning before 2012?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If 'Yes,' list the years ► _____			
2b	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	
2c	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
If 'Yes,' did it have excess business holdings in 2012 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 2012.)		N/A	
3b			
4a	Did the foundation invest during the year any amount in a manner that would jeopardize its charitable purposes?		
4b	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 2012?	X	

## 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))?
- (2) Influence the outcome of any specific public election (see section 4955); or to carry on, directly or indirectly, any voter registration drive?
- (3) Provide a grant to an individual for travel, study, or other similar purposes?
- (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)?
- (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 Yes  No Yes  No Yes  No 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.

 Yes  No

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
CAROLYN JACOBY GABBAY 11 DORIS CIRCLE NEWTON, MA 02258	PRESIDENT 0.00	0.	0.	0.
LOIS C. SCHWARTZ 299 WEST 12TH STREET NEW YORK, NY 10014	SECRETARY 0.00	0.	0.	0.
JONATHAN JACOBY 20 VALLEY ROAD ALLENDALE, NJ 07401	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 VIII** **Information About Officers, Directors, Trustees, Foundation Managers, Highly Paid Employees, and Contractors (continued)**
**3 Five highest-paid independent contractors for professional services. If none, enter "NONE."**

(a) Name and address of each person paid more than \$50,000	(b) Type of service	(c) Compensation
<b>NONE</b>		

**Total number of others receiving over \$50,000 for professional services**
**► 0**
**Part IX-A** **Summary of Direct Charitable Activities**

List the foundation's four largest direct charitable activities during the tax year. Include relevant statistical information such as the number of organizations and other beneficiaries served, conferences convened, research papers produced, etc.

**Expenses**

<b>1</b> <b>N/A</b>	
<b>2</b>	
<b>3</b>	
<b>4</b>	

**Part IX-B** **Summary of Program-Related Investments**

Describe the two largest program-related investments made by the foundation during the tax year on lines 1 and 2.

**Amount**

<b>1</b> <b>N/A</b>	
<b>2</b>	

**All other program-related investments. See instructions.**

**3**
**Total. Add lines 1 through 3**
**► 0**
**Form 990-PF (2012)**

**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	2,235,740.
b Average of monthly cash balances	1b	330,472.
c Fair market value of all other assets	1c	33,167.
d Total (add lines 1a, b, and c)	1d	2,599,379.
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	2,599,379.
4 Cash deemed held for charitable activities. Enter 1 1/2% of line 3 (for greater amount, see instructions)	4	38,991.
5 Net value of noncharitable-use assets. Subtract line 4 from line 3. Enter here and on Part V, line 4	5	2,560,388.
6 Minimum investment return. Enter 5% of line 5	6	128,019.

**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	128,019.
2a Tax on investment income for 2012 from Part VI, line 5	2a	2,134.
b Income tax for 2012. (This does not include the tax from Part VI.)	2b	
c Add lines 2a and 2b	2c	2,134.
3 Distributable amount before adjustments. Subtract line 2c from line 1	3	125,885.
4 Recoveries of amounts treated as qualifying distributions	4	0.
5 Add lines 3 and 4	5	125,885.
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	125,885.

**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	140,386.
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	140,386.
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	2,134.
6 Adjusted qualifying distributions. Subtract line 5 from line 4	6	138,252.

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.

**Part XIII Undistributed Income (see instructions)**

	(a) Corpus	(b) Years prior to 2011	(c) 2011	(d) 2012
1 Distributable amount for 2012 from Part XI, line 7				125,885.
2 Undistributed income, if any, as of the end of 2012.			0.	
a Enter amount for 2011 only				
b Total for prior years:		0.		
3 Excess distributions carryover, if any, to 2012:				
a From 2007				
b From 2008				
c From 2009				
d From 2010				
e From 2011	13,662.			
f Total of lines 3a through e	13,662.			
4 Qualifying distributions for 2012 from Part XII, line 4: ► \$ 140,386.			0.	
a Applied to 2011, but not more than line 2a				
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 2012 distributable amount				125,885.
e Remaining amount distributed out of corpus				0.
5 Excess distributions carryover applied to 2012 (If an amount appears in column (d), the same amount must be shown in column (a).)	0.			
6 Enter the net total of each column as indicated below:	28,163.			
a Corpus Add lines 3f, 4c, and 4e Subtract line 5		0.		
b Prior years' undistributed income. Subtract line 4b from line 2b				
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 2011. Subtract line 4a from line 2a. Taxable amount - see instr.				0.
f Undistributed income for 2012. Subtract lines 4d and 5 from line 1. This amount must be distributed in 2013				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 2007 not applied on line 5 or line 7	0.			
9 Excess distributions carryover to 2013. Subtract lines 7 and 8 from line 6a	28,163.			
10 Analysis of line 9:				
a Excess from 2008				
b Excess from 2009				
c Excess from 2010				
d Excess from 2011	13,662.			
e Excess from 2012	14,501.			

**Part XIV Private Operating Foundations (see instructions and Part VII-A, question 9)**

N/A

**Part XV** **Supplementary Information (Complete this part only if the foundation had \$5,000 or more in assets at any time during the year—see instructions.)**

## 1 Information Regarding Foundation Managers:

a List any managers of the foundation who have contributed more than 2% of the total contributions received by the foundation before the close of any tax year (but only if they have contributed more than \$5,000). (See section 507(d)(2).)

**NONE**

**b** List any managers of the foundation who own 10% or more of the stock of a corporation (or an equally large portion of the ownership of a partnership or other entity) of which the foundation has a 10% or greater interest.

**NONE**

**2 Information Regarding Contribution, Grant, Gift, Loan, Scholarship, etc., Programs:**

Check here ►  if the foundation only makes contributions to preselected charitable organizations and does not accept unsolicited requests for funds. If the foundation makes gifts, grants, etc. (see instructions) to individuals or organizations under other conditions, complete items 2a, b, c, and d.

**a. The name, address, and telephone number or e-mail of the person to whom applications should be addressed:**

**CAROLYN GABBAY, 617-965-3325**

11 DORIS CIRCLE, NEWTON, MA 02458

**b The form in which applications should be submitted and information and materials they should include:**

## NO RESTRICTIONS ON FORMAT

**c Any submission deadlines:**

**NONE**

d. Any restrictions or limitations on awards, such as by geographical areas, charitable fields, kinds of institutions, or other factors:

## **NO GRANTS TO INDIVIDUALS**

## Part XV Supplementary Information (continued)

## 3 Grants and Contributions Paid During the Year or Approved for Future Payment

Recipient	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
Name and address (home or business)				
<i>a Paid during the year</i>				
AMERICAN OPERA PROJECTS		NONE	ARTS	10,000.
CBD MUSIC INC.		NONE	ARTS	5,000.
CENTER FOR CONTEMPORARY OPERA		NONE	ARTS	10,000.
CENTRAL PARK CONSERVANCY		NONE	GENERAL	250.
CITY COLLEGE FUND		NONE	GENERAL	5,000.
<b>Total</b>	<b>SEE CONTINUATION SHEET(S)</b>			<b>► 3a 138,200.</b>
<i>b Approved for future payment</i>				
NONE				
<b>Total</b>				<b>► 3b 0.</b>

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Form 990-PF (2012)

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2012.04020 THE VICTOR HERBERT FOUNDATION 079981

## Part XVI-A Analysis of Income-Producing Activities

**Enter gross amounts unless otherwise indicated.**

Enter gross amounts unless otherwise indicated.		Unrelated business income		(e) Related or exempt function income
		(a) Business code	(b) Amount	
<b>1</b> Program service revenue:				
a				
b				
c				
d				
e				
f				
<b>g</b> Fees and contracts from government agencies				
<b>2</b> Membership dues and assessments				
<b>3</b> Interest on savings and temporary cash investments				14 6,914.
<b>4</b> Dividends and interest from securities				14 87,304.
<b>5</b> Net rental income or (loss) from real estate:				
a Debt-financed property				
b Not debt-financed property				
<b>6</b> Net rental income or (loss) from personal property				
<b>7</b> Other investment income			900000	<2,918.>15 2,526.
<b>8</b> Gain or (loss) from sales of assets other than inventory				18 133,404.
<b>9</b> Net income or (loss) from special events				
<b>10</b> Gross profit or (loss) from sales of inventory				
<b>11</b> Other revenue:				
a				
b				
c				
d				
e				
<b>12</b> Subtotal. Add columns (b), (d), and (e)			<2,918.>	230,148. 0.
<b>13</b> Total. Add line 12, columns (b), (d), and (e)				13 227,230.
(See worksheet in line 13 instructions to verify calculations.)				

## **Relationship of Activities to the Accomplishment of Exempt Purposes**



## THE VICTOR HERBERT FOUNDATION

CONTINUATION FOR 990-PF, PART IV  
23-7044623 PAGE 1 OF 1

## 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.)
a ENTERPRISE PRODUCT PARTNERS K1	P	VARIOUS	VARIOUS
b KINDER MORGAN K1	P	VARIOUS	VARIOUS
c ENTERPRISE PRODUCT PARTNERS K1	P	VARIOUS	VARIOUS
d PUBLICLY TRADED SECURITIES (SEE ATTACHED)	P	VARIOUS	VARIOUS
e KINDER MORGAN K1	P	VARIOUS	VARIOUS
f ENTERPRISE PRODUCT PARTNERS K1	P	VARIOUS	VARIOUS
g MAGELLAN MIDSTREAM PARTNERS K1	P	VARIOUS	VARIOUS
h CVR PARTNERS K1	P	VARIOUS	VARIOUS
i TERRA NITROGEN K1	P	VARIOUS	VARIOUS
j KINDER MORGAN K1 BASIS ADJUSTMENT	P	VARIOUS	VARIOUS
k TERRA NITROGEN K1 BASIS ADJUSTMENT	P	VARIOUS	VARIOUS
l ENTERPRISE PRODUCT PARTNERS K1	P	VARIOUS	VARIOUS
m MAGELLAN MIDSTREAM PARTNERS K1	P	VARIOUS	VARIOUS
n CAPITAL GAINS DIVIDENDS			
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		91.	<91.>
b		13.	<13.>
c	1,281.		1,281.
d	1,376,571.	1,250,805.	125,766.
e	236.		236.
f	4,190.		4,190.
g		270.	<270.>
h	469.		469.
i		88.	<88.>
j		<2,842.>	2,842.
k		126.	<126.>
l		<920.>	920.
m		2,208.	<2,208.>
n	1,924.		1,924.
o			
Complete only for assets showing gain in column (h) and owned by the foundation on 12/31/69			(i) Losses (from col. (h)) Gains (excess of col. (h) gain over col. (k), but not less than "-0-")
(i) F.M.V. as of 12/31/69	(j) Adjusted basis as of 12/31/69	(k) Excess of col. (i) over col. (j), if any	
a			<91.>
b			<13.>
c			1,281.
d			125,766.
e			236.
f			4,190.
g			<270.>
h			469.
i			<88.>
j			2,842.
k			<126.>
l			920.
m			<2,208.>
n			1,924.
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 }		2 134,832.
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

223591  
05-01-12

## THE VICTOR HERBERT FOUNDATION

23-7044623

## Part XV Supplementary Information

## 3 Grants and Contributions Paid During the Year (Continuation)

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
GILBERT & SULLIVAN SOCIETY INC.		NONE	ARTS	5,500.
HUGO KAUDER SOCIETY, INC.		NONE	ARTS	5,000.
LAKE PLACID SINPONIETTA		NONE	ARTS	6,500.
LIGHT OPERA COMPANY OF NEW YORK		NONE	ARTS	12,500.
LITTLE ORCHESTRA SOCIETY/ORPHEON INC.		NONE	ARTS	5,000.
MANHATTAN SCHOOL OF MUSIC		NONE	ARTS	15,000.
NEW YORK PHILHARMONIC ORCHESTRA		NONE	ARTS	20,000.
THE BRONX OPERA		NONE	ARTS	20,000.
THE FIRE DEPARTMENT THEATRE CO., INC.		NONE	ARTS	6,450.
THE SPHINX ORGANIZATION		NONE	GENERAL	10,000.
<b>Total from continuation sheets</b>				<b>107,950.</b>

223831  
03-01-12

## THE VICTOR HERBERT FOUNDATION

23-7044623

## **Part XV Supplementary Information**

**3 Grants and Contributions Paid During the Year (Continuation)**

**Total from continuation sheets**

223831  
05-01-12

FORM 990-PF

GAIN OR (LOSS) FROM SALE OF ASSETS

STATEMENT 1

(A) DESCRIPTION OF PROPERTY		MANNER ACQUIRED		DATE ACQUIRED		DATE SOLD	
ENTERPRISE PRODUCT 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.	13.	0.	0.	<13.>			

(A) DESCRIPTION OF PROPERTY		MANNER ACQUIRED		DATE ACQUIRED		DATE SOLD	
ENTERPRISE PRODUCT PARTNERS K1		PURCHASED		VARIOUS		VARIOUS	
(B) GROSS SALES PRICE	(C) COST OR OTHER BASIS	(D) EXPENSE OF SALE	(E) DEPREC.	(F) GAIN OR LOSS			
1,281.	0.	0.	0.	1,281.			

(A) DESCRIPTION OF PROPERTY		MANNER ACQUIRED		DATE ACQUIRED		DATE SOLD	
PUBLICLY TRADED SECURITIES (SEE ATTACHED)		PURCHASED		VARIOUS		VARIOUS	
(B) GROSS SALES PRICE	(C) COST OR OTHER BASIS	(D) EXPENSE OF SALE	(E)	(F)			
1,376,571.	1,250,805.	0.	DEPREC.	GAIN OR LOSS			

(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)	(F)			
236.	0.	0.	DEPREC.	GAIN OR LOSS			

(A) DESCRIPTION OF PROPERTY		MANNER ACQUIRED		DATE ACQUIRED		DATE SOLD	
ENTERPRISE PRODUCT PARTNERS K1		PURCHASED		VARIOUS		VARIOUS	
(B) GROSS SALES PRICE	(C) COST OR OTHER BASIS	(D) EXPENSE OF SALE	(E)	(F)			
4,190.	0.	0.	DEPREC.	GAIN OR LOSS			

(A) DESCRIPTION OF PROPERTY		MANNER ACQUIRED		DATE ACQUIRED		DATE SOLD	
MAGELLAN MIDSTREAM PARTNERS K1		PURCHASED		VARIOUS		VARIOUS	
(B) GROSS SALES PRICE	(C) COST OR OTHER BASIS	(D) EXPENSE OF SALE	(E)	(F)			
0.	270.	0.	DEPREC.	GAIN OR LOSS			

(A) DESCRIPTION OF PROPERTY			(D) EXPENSE OF SALE	(E) DEPREC.	(F) GAIN OR LOSS	MANNER ACQUIRED	DATE ACQUIRED	DATE SOLD
	PURCHASED	VARIOUS				VARIOUS	VARIOUS	
CVR PARTNERS K1								
	(B) GROSS SALES PRICE	(C) COST OR OTHER BASIS						
	469.	0.	0.	0.	469.			

(A) DESCRIPTION OF PROPERTY			(D) EXPENSE OF SALE	(E) DEPREC.	(F) GAIN OR LOSS	MANNER ACQUIRED	DATE ACQUIRED	DATE SOLD
	PURCHASED	VARIOUS				VARIOUS	VARIOUS	
TERRA NITROGEN K1								
	(B) GROSS SALES PRICE	(C) COST OR OTHER BASIS						
	0.	88.	0.	0.	<88.>			

(A) DESCRIPTION OF PROPERTY			(D) EXPENSE OF SALE	(E) DEPREC.	(F) GAIN OR LOSS	MANNER ACQUIRED	DATE ACQUIRED	DATE SOLD
	PURCHASED	VARIOUS				VARIOUS	VARIOUS	
KINDER MORGAN K1 BASIS ADJUSTMENT								
	(B) GROSS SALES PRICE	(C) COST OR OTHER BASIS						
	0.	0.	0.	0.	0.			

(A) DESCRIPTION OF PROPERTY			(D) EXPENSE OF SALE	(E) DEPREC.	(F) GAIN OR LOSS	MANNER ACQUIRED	DATE ACQUIRED	DATE SOLD
	PURCHASED	VARIOUS				VARIOUS	VARIOUS	
TERRA NITROGEN K1 BASIS ADJUSTMENT								
	(B) GROSS SALES PRICE	(C) COST OR OTHER BASIS						
	0.	0.	0.	0.	0.			

(A) DESCRIPTION OF PROPERTY	(B) GROSS SALES PRICE	(C) COST OR OTHER BASIS	(D) EXPENSE OF SALE	MANNER ACQUIRED	DATE ACQUIRED	DATE SOLD
				PURCHASED	VARIOUS	VARIOUS
ENTERPRISE PRODUCT PARTNERS K1	0.	0.	0.	0.	0.	0.

(A) DESCRIPTION OF PROPERTY	(B) GROSS SALES PRICE	(C) COST OR OTHER BASIS	(D) EXPENSE OF SALE	MANNER ACQUIRED	DATE ACQUIRED	DATE SOLD
				PURCHASED	VARIOUS	VARIOUS
MAGELLAN MIDSTREAM PARTNERS K1	0.	0.	0.	0.	0.	0.

CAPITAL GAINS DIVIDENDS FROM PART IV	1,924.
TOTAL TO FORM 990-PF, PART I, LINE 6A	133,404.

FORM 990-PF	INTEREST ON SAVINGS AND TEMPORARY CASH INVESTMENTS	STATEMENT	2
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SOURCE	AMOUNT
ENTERPRISE PRODUCTS PARTNERS K1	6.
KINDER MORGAN K1	8.
MORGAN STANLEY	6,900.
TOTAL TO FORM 990-PF, PART I, LINE 3, COLUMN A	6,914.

## THE VICTOR HERBERT FOUNDATION

23-7044623

FORM 990-PF

DIVIDENDS AND INTEREST FROM SECURITIES

STATEMENT 3

SOURCE	GROSS AMOUNT	CAPITAL GAINS DIVIDENDS	COLUMN (A) AMOUNT
ENTERPRISE PRODUCT PARTNERS K1	2.	0.	2.
KINDER MORGAN K1	4.	0.	4.
MORGAN STANLEY	87,744.	1,924.	85,820.
MORGAN STANLEY TAX EXEMPT DIVIDENDS	1,478.	0.	1,478.
<b>TOTAL TO FM 990-PF, PART I, LN 4</b>	<b>89,228.</b>	<b>1,924.</b>	<b>87,304.</b>

FORM 990-PF

OTHER INCOME

STATEMENT 4

DESCRIPTION	(A) REVENUE PER BOOKS	(B) NET INVEST- MENT INCOME	(C) ADJUSTED NET INCOME
ROYALTIES	2,526.	2,526.	
ENTERPRISE PRODUCTS PARTNERS K1	<3,195.>	0.	
ENTERPRISE PRODUCTS PARTNERS K1	11.	11.	
KINDER MORGAN K1	<194.>	<194.>	
MAGELLAN MIDSTREAM K1	838.	838.	
TERRA NITROGETN K1	88.	88.	
KINDER MORGAN K1	0.	20,486.	
TERRA NITROGETN K1	0.	491.	
CVR PARTNERS K1	<466.>	0.	
KINDER MORGAN K1	0.	<17,241.>	
KINDER MORGAN K1	0.	<13.>	
ENTERPRISE PRODUCTS PARTNERS K1	0.	7,247.	
MAGELLAN MIDSTREAM K1	0.	5,488.	
<b>TOTAL TO FORM 990-PF, PART I, LINE 11</b>	<b>&lt;392.&gt;</b>	<b>19,727.</b>	

FORM 990-PF

ACCOUNTING FEES

STATEMENT 5

DESCRIPTION	(A) EXPENSES PER BOOKS	(B) NET INVEST- MENT INCOME	(C) ADJUSTED NET INCOME	(D) CHARITABLE PURPOSES
ACCOUNTING FEES	9,630.	7,704.		1,926.
TO FORM 990-PF, PG 1, LN 16B	9,630.	7,704.		1,926.

## THE VICTOR HERBERT FOUNDATION

23-7044623

FORM 990-PF

TAXES

STATEMENT

6

DESCRIPTION	(A) EXPENSES PER BOOKS	(B) NET INVEST- MENT INCOME	(C) ADJUSTED NET INCOME	(D) CHARITABLE PURPOSES
NYS TAX	263.	263.		0.
FEDERAL TAXES	2,324.	0.		0.
FOREIGN TAXES	663.	663.		0.
TO FORM 990-PF, PG 1, LN 18	3,250.	926.		0.

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	25,258.	25,258.		0.
BANK CHARGES	<37.>	<37.>		0.
ENTERPRISE PRODUCTS K1 - N/D				
EXPENSE	6.	0.		0.
KINDER MORGAN K1 -				
INVESTMENT INTEREST	4.	4.		0.
FILING FEES	250.	0.		250.
MAGELLAN MIDSTREAM K1 - N/D				
EXPENSES	6.	0.		0.
KINDER MORGAN K1 -				
INTANGIBLE DRILLING COSTS	36.	36.		0.
KINDER MORGAN K1 - N/D				
EXPENSES	1.	0.		0.
CVR PARTNERS K1 - N/D				
EXPENSES	4.	0.		0.
POSTAGE	10.	0.		10.
TO FORM 990-PF, PG 1, LN 23	25,538.	25,261.		260.

FORM 990-PF	U.S. AND STATE/CITY GOVERNMENT OBLIGATIONS	STATEMENT 8
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DESCRIPTION	U.S. GOV'T	OTHER GOV'T	BOOK VALUE	FAIR MARKET VALUE
SEE STATEMENT ATTACHED	X		26,747.	25,316.
TOTAL U.S. GOVERNMENT OBLIGATIONS			26,747.	25,316.
TOTAL STATE AND MUNICIPAL GOVERNMENT OBLIGATIONS				
TOTAL TO FORM 990-PF, PART II, LINE 10A			26,747.	25,316.

FORM 990-PF	CORPORATE STOCK	STATEMENT 9
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DESCRIPTION	BOOK VALUE	FAIR MARKET VALUE
SEE STATEMENT ATTACHED	1,745,299.	2,062,879.
TOTAL TO FORM 990-PF, PART II, LINE 10B	1,745,299.	2,062,879.

FORM 990-PF	CORPORATE BONDS	STATEMENT 10
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DESCRIPTION	BOOK VALUE	FAIR MARKET VALUE
SEE STATEMENT ATTACHED	60,292.	63,500.
TOTAL TO FORM 990-PF, PART II, LINE 10C	60,292.	63,500.

FORM 990-PF	OTHER INVESTMENTS	STATEMENT 11
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DESCRIPTION	VALUATION METHOD	BOOK VALUE	FAIR MARKET VALUE
SEE STATEMENT ATTACHED	COST	24,055.	113,680.
TOTAL TO FORM 990-PF, PART II, LINE 13		24,055.	113,680.

FORM 990-PF	OTHER ASSETS	STATEMENT 12	
DESCRIPTION	BEGINNING OF YR BOOK VALUE	END OF YEAR BOOK VALUE	FAIR MARKET VALUE
COPYRIGHT DUE FROM MORGAN STANLEY	33,167. 0.	33,167. 26,604.	33,167. 26,604.
TO FORM 990-PF, PART II, LINE 15	33,167.	59,771.	59,771.