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Form **990-PF**

Department of the Treasury
Internal Revenue Service

Return of Private Foundation

or Section 4947(a)(1) Trust Treated as Private Foundation

▶ Do not enter Social Security numbers on this form as it may be made public.

▶ Information about Form 990-PF and its separate instructions is at *www.irs.gov/form990pf.*

OMB No 1545-0052

2013

Open to Public Inspection

For calendar year 2013 or tax year beginning , and ending

Name of foundation: THE HERBERGER FOUNDATION

A Employer identification number: 86-6050190

Number and street (or P O box number if mail is not delivered to street address): 10881 N. SCOTTSDALE ROAD

Room/suite: 200

B Telephone number: 480-945-2681

City or town, state or province, country, and ZIP or foreign postal code: SCOTTSDALE, AZ 85254

C If exemption application is pending, check here ▶☐

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

D 1. Foreign organizations, check here ▶☐

2. Foreign organizations meeting the 85% test, check here and attach computation ▶☐

H Check type of organization: ☒ Section 501(c)(3) exempt private foundation ☐ Section 4947(a)(1) nonexempt charitable trust ☐ Other taxable private foundation

E If private foundation status was terminated under section 507(b)(1)(A), check here ▶☐

I Fair market value of all assets at end of year *(from Part II, col. (c), line 16)* ▶$ 8,588,279.

J Accounting method: ☒ Cash ☐ Accrual ☐ Other (specify) *(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 ▶☐

	Part I **Analysis of Revenue and Expenses** (The total of amounts in columns (b), (c), and (d) may not necessarily equal the amounts in column (a))	**(a)** Revenue and expenses per books	**(b)** Net investment income	**(c)** Adjusted net income	**(d)** Disbursements for charitable purposes (cash basis only)
Revenue	1 Contributions, gifts, grants, etc., received			N/A	
	2 Check ▶ ☒ if the foundation is not required to attach Sch B				
	3 Interest on savings and temporary cash investments				
	4 Dividends and interest from securities	152,676.	152,676.		STATEMENT 1
	5a Gross rents				
	b Net rental income or (loss)				
	6a Net gain or (loss) from sale of assets not on line 10	496,288.			
	b Gross sales price for all assets on line 6a 2,852,170.				
	7 Capital gain net income (from Part IV, line 2)		496,288.		
	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				
	12 **Total.** Add lines 1 through 11	648,964.	648,964.		
Operating and Administrative Expenses	13 Compensation of officers, directors, trustees, etc	0.	0.		0.
	14 Other employee salaries and wages				
	15 Pension plans, employee benefits				
	16a Legal fees STMT 2	14,986.	0.		14,986.
	b Accounting fees				
	c Other professional fees				
	17 Interest				
	18 Taxes STMT 3	16,115.	0.		0.
	19 Depreciation and depletion				
	20 Occupancy				
	21 Travel, conferences, and meetings				
	22 Printing and publications				
	23 Other expenses STMT 4	148.	0.		148.
	24 **Total operating and administrative expenses.** Add lines 13 through 23	31,249.	0.		15,134.
	25 Contributions, gifts, grants paid	2,445,000.			2,445,000.
	26 **Total expenses and disbursements.** Add lines 24 and 25	2,476,249.	0.		2,460,134.
	27 Subtract line 26 from line 12:				
	a Excess of revenue over expenses and disbursements	<1,827,285.>			
	b **Net investment income** (if negative, enter -0-)		648,964.		
	c **Adjusted net income** (if negative, enter -0-)			N/A	

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323501 10-10-13 LHA For Paperwork Reduction Act Notice, see instructions.

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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	134,956.	564,711.	564,711.
	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 5	808,464.	808,464.	828,669.
	b	Investments - corporate stock STMT 6	5,795,000.	3,645,824.	5,912,796.
	c	Investments - corporate bonds STMT 7	1,342,587.	1,251,010.	1,278,220.
	11	Investments - land, buildings, and equipment: basis ▶ Less accumulated depreciation ▶			
	12	Investments - mortgage loans			
	13	Investments - other			
	14	Land, buildings, and equipment: basis ▶ Less accumulated depreciation ▶			
	15	Other assets (describe ▶ STATEMENT 8)	20,170.	3,883.	3,883.
	16	**Total assets** (to be completed by all filers - see the instructions. Also, see page 1, item I)	8,101,177.	6,273,892.	8,588,279.
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 ▶ ☐ 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 ▶ ☒ and complete lines 27 through 31.			
	27	Capital stock, trust principal, or current funds	380,393.	380,393.	
	28	Paid-in or capital surplus, or land, bldg., and equipment fund	0.	0.	
	29	Retained earnings, accumulated income, endowment, or other funds	7,720,784.	5,893,499.	
	30	**Total net assets or fund balances**	8,101,177.	6,273,892.	
	31	**Total liabilities and net assets/fund balances**	8,101,177.	6,273,892.	

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	8,101,177.
2	Enter amount from Part I, line 27a	2	<1,827,285.>
3	Other increases not included in line 2 (itemize) ▶	3	0.
4	Add lines 1, 2, and 3	4	6,273,892.
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	6,273,892.

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	PUBLICLY TRADED SECURITIES	P		
b	CAPITAL GAINS DIVIDENDS			
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	2,850,000.		2,355,882.	494,118.
b	2,170.			2,170.
c				
d				
e				

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

	(i) F.M.V. as of 12/31/69	(j) Adjusted basis as of 12/31/69	(k) Excess of col. (i) over col. (j), if any	(l) Gains (Col. (h) gain minus col. (k), but not less than -0-) or Losses (from col. (h))
a				494,118.
b				2,170.
c				
d				
e				

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	496,288.
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))
2012	2,644,951.	10,047,070.	.263256
2011	2,506,395.	11,726,483.	.213738
2010	2,480,601.	12,508,501.	.198313
2009	3,014,630.	12,960,464.	.232602
2008	4,111,885.	18,458,203.	.222767

2	**Total** of line 1, column (d)	2	1.130676
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	.226135
4	Enter the net value of noncharitable-use assets for 2013 from Part X, line 5	4	8,948,870.
5	Multiply line 4 by line 3	5	2,023,653.
6	Enter 1% of net investment income (1% of Part I, line 27b)	6	6,490.
7	Add lines 5 and 6	7	2,030,143.
8	Enter qualifying distributions from Part XII, line 4	8	2,460,134.

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			1	6,490.
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	6,490.
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	6,490.
6 Credits/Payments:				
a 2013 estimated tax payments and 2012 overpayment credited to 2013	6a	10,000.		
b Exempt foreign organizations - tax withheld at source	6b			
c Tax paid with application for extension of time to file (Form 8868)	6c	3,000.		
d Backup withholding erroneously withheld	6d			
7 Total credits and payments. Add lines 6a through 6d			7	13,000.
8 Enter any **penalty** for underpayment of estimated tax. Check here ☒ 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	6,510.
11 Enter the amount of line 10 to be: **Credited to 2014 estimated tax** ▶		6,510. **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?	1a		X
b Did it spend more than $100 during the year (either directly or indirectly) for political purposes (see instructions for the definition)?	1b		X
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.			
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? *If "Yes," attach a detailed description of the activities.*	2		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*	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? N/A	4b		
5 Was there a liquidation, termination, dissolution, or substantial contraction during the year? *If "Yes," attach the statement required by General Instruction T.*	5		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?	6	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*	7	X	
8a Enter the states to which the foundation reports or with which it is registered (see instructions) ▶ AZ			
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*	8b	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 2013 or the taxable year beginning in 2013 (see instructions for Part XIV)? *If "Yes," complete Part XIV*	9		X
10 Did any persons become substantial contributors during the tax year? If "Yes," attach a schedule listing their names and addresses	10		X

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

			Yes	No
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 make a distribution to a donor advised fund over which the foundation or a disqualified person had advisory privileges? If "Yes," attach statement (see instructions)	12		X
13	Did the foundation comply with the public inspection requirements for its annual returns and exemption application?	13	X	

Website address ▶ N/A

14 The books are in care of ▶ DENISE K. HORNBAKER Telephone no. ▶ 480-945-2681

Located at ▶ 10881 N. SCOTTSDALE ROAD #200, SCOTTSDALE, AZ ZIP+4 ▶ 85254

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

			Yes	No
16	At any time during calendar year 2013, 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?	16		X
	See the instructions for exceptions and filing requirements for Form TD F 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?	☐ Yes ☒ No			
	(2) Borrow money from, lend money to, or otherwise extend credit to (or accept it from) a disqualified person?	☐ Yes ☒ No			
	(3) Furnish goods, services, or facilities to (or accept them from) a disqualified person?	☐ Yes ☒ No			
	(4) Pay compensation to, or pay or reimburse the expenses of, a disqualified person?	☐ Yes ☒ 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)?	☐ Yes ☒ 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.)	☐ Yes ☒ 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 instructions)?	N/A	1b		
	Organizations relying on a current notice regarding disaster assistance check here	▶ ☐			
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 2013?		1c		X
2	Taxes on failure to distribute income (section 4942) (does not apply for years the foundation was a private operating foundation defined in section 4942(j)(3) or 4942(j)(5)):				
a	At the end of tax year 2013, did the foundation have any undistributed income (lines 6d and 6e, Part XIII) for tax year(s) beginning before 2013?	☐ Yes ☒ No			
	If "Yes," list the years ▶ ________, ________, ________, ________				
b	Are there any years listed in 2a for which the foundation is **not** applying the provisions of section 4942(a)(2) (relating to incorrect valuation of assets) to the year's undistributed income? (If applying section 4942(a)(2) to **all** years listed, answer "No" and attach statement - see instructions.)	N/A	2b		
c	If the provisions of section 4942(a)(2) are being applied to **any** of the years listed in 2a, list the years here. ▶ ________, ________, ________, ________				
3a	Did the foundation hold more than a 2% direct or indirect interest in any business enterprise at any time during the year?	☐ Yes ☒ No			
b	If "Yes," did it have excess business holdings in 2013 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 2013.)*	N/A	3b		
4a	Did the foundation invest during the year any amount in a manner that would jeopardize its charitable purposes?		4a		X
b	Did the foundation make any investment in a prior year (but after December 31, 1969) that could jeopardize its charitable purpose that had not been removed from jeopardy before the first day of the tax year beginning in 2013?		4b		X

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

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

(1) Carry on propaganda, or otherwise attempt to influence legislation (section 4945(e))? ☐ Yes ☒ No

(2) Influence the outcome of any specific public election (see section 4955); or to carry on, directly or indirectly, any voter registration drive? ☐ Yes ☒ No

(3) Provide a grant to an individual for travel, study, or other similar purposes? ☐ Yes ☒ No

(4) Provide a grant to an organization other than a charitable, etc., organization described in section 509(a)(1), (2), or (3), or section 4940(d)(2)? ☐ Yes ☒ No

(5) Provide for any purpose other than religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals? ☐ Yes ☒ No

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

b Did the foundation, during the year, pay premiums, directly or indirectly, on a personal benefit contract? **6b** No: X

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
SEE STATEMENT 9		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
NONE		
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
1 SEE STATEMENT 10	0.
2	
3	
4	

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
1 SEE STATEMENT 10	0.
2	
All other program-related investments. See instructions. 3	
Total. Add lines 1 through 3 ▶	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	8,044,867.
b	Average of monthly cash balances	1b	1,040,280.
c	Fair market value of all other assets	1c	0.
d	**Total** (add lines 1a, b, and c)	1d	9,085,147.
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	9,085,147.
4	Cash deemed held for charitable activities. Enter 1 1/2% of line 3 (for greater amount, see instructions)	4	136,277.
5	**Net value of noncharitable-use assets.** Subtract line 4 from line 3. Enter here and on Part V, line 4	5	8,948,870.
6	**Minimum investment return.** Enter 5% of line 5	6	447,444.

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	447,444.
2a	Tax on investment income for 2013 from Part VI, line 5 2a 6,490.		
b	Income tax for 2013. (This does not include the tax from Part VI.) 2b		
c	Add lines 2a and 2b	2c	6,490.
3	Distributable amount before adjustments. Subtract line 2c from line 1	3	440,954.
4	Recoveries of amounts treated as qualifying distributions	4	0.
5	Add lines 3 and 4	5	440,954.
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	440,954.

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	2,460,134.
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	2,460,134.
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	6,490.
6	**Adjusted qualifying distributions.** Subtract line 5 from line 4	6	2,453,644.

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 2012	(c) 2012	(d) 2013
1 Distributable amount for 2013 from Part XI, line 7					440,954.
2 Undistributed income, if any, as of the end of 2013					
a Enter amount for 2012 only				0.	
b Total for prior years: ______ , ______ , ______			0.		
3 Excess distributions carryover, if any, to 2013:					
a From 2008	3,199,625.				
b From 2009	2,374,511.				
c From 2010	1,861,198.				
d From 2011	1,928,079.				
e From 2012	2,154,649.				
f **Total** of lines 3a through e		11,518,062.			
4 Qualifying distributions for 2013 from Part XII, line 4: ▶ $ 2,460,134.					
a Applied to 2012, 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 2013 distributable amount					440,954.
e Remaining amount distributed out of corpus		2,019,180.			
5 Excess distributions carryover applied to 2013 (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		13,537,242.			
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 2012. Subtract line 4a from line 2a. Taxable amount - see instr.				0.	
f Undistributed income for 2013. Subtract lines 4d and 5 from line 1. This amount must be distributed in 2014					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 2008 not applied on line 5 or line 7		3,199,625.			
9 **Excess distributions carryover to 2014.** Subtract lines 7 and 8 from line 6a		10,337,617.			
10 Analysis of line 9:					
a Excess from 2009	2,374,511.				
b Excess from 2010	1,861,198.				
c Excess from 2011	1,928,079.				
d Excess from 2012	2,154,649.				
e Excess from 2013	2,019,180.				

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

1 a If the foundation has received a ruling or determination letter that it is a private operating foundation, and the ruling is effective for 2013, enter the date of the ruling ▶

b Check box to indicate whether the foundation is a private operating foundation described in section ☐ 4942(j)(3) or ☐ 4942(j)(5)

	Tax year	Prior 3 years			
	(a) 2013	(b) 2012	(c) 2011	(d) 2010	(e) Total
2 a Enter the lesser of the adjusted net income from Part I or the minimum investment return from Part X for each year listed					
b 85% of line 2a					
c Qualifying distributions from Part XII, line 4 for each year listed					
d Amounts included in line 2c not used directly for active conduct of exempt activities					
e Qualifying distributions made directly for active conduct of exempt activities. Subtract line 2d from line 2c					
3 Complete 3a, b, or c for the alternative test relied upon: a "Assets" alternative test - enter: (1) Value of all assets					
(2) Value of assets qualifying under section 4942(j)(3)(B)(i)					
b "Endowment" alternative test - enter 2/3 of minimum investment return shown in Part X, line 6 for each year listed					
c "Support" alternative test - enter: (1) Total support other than gross investment income (interest, dividends, rents, payments on securities loans (section 512(a)(5)), or royalties)					
(2) Support from general public and 5 or more exempt organizations as provided in section 4942(j)(3)(B)(iii)					
(3) Largest amount of support from an exempt organization					
(4) Gross investment income					

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).)

GARY K. HERBERGER

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 address of the person to whom applications should be addressed:

N/A

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

N/A

c Any submission deadlines:

N/A

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

N/A

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*				
ARIZONA SCIENCE CENTER 600 WASHINGTON STREET PHOENIX, AZ 85004	N/A	PC	RELIGIOUS EDUCATIONAL CHARITABLE SCIENTIFIC LITERARY	50,000.
GIRL SCOUTS-ARIZONA CACTUS-PINE COUNCIL 119 EAST CORONADO ROAD PHOENIX, AZ 85004	N/A	PC	RELIGIOUS EDUCATIONAL CHARITABLE SCIENTIFIC LITERARY	100,000.
HERBERGER THEATER CENTER 222 EAST MONROE PHOENIX, AZ 85004	N/A	PC	RELIGIOUS EDUCATIONAL CHARITABLE SCIENTIFIC LITERARY	825,000.
PHOENIX SYMPHONY ONE NORTH FIRST STREET, # 200 PHOENIX, AZ 85004	N/A	PC	RELIGIOUS EDUCATIONAL CHARITABLE SCIENTIFIC LITERARY	1,200,000.
PHOENIX THEATRE 100 EAST MCDOWELL ROAD PHOENIX, AZ 85004	N/A	PC	RELIGIOUS EDUCATIONAL CHARITABLE SCIENTIFIC LITERARY	60,000.
Total SEE CONTINUATION SHEET(S)			▶ 3a	2,445,000.
b *Approved for future payment* NONE				
Total			▶ 3b	0.

Form **990-PF** (2013)

323611
10-10-13

Part XVI-A Analysis of Income-Producing Activities

Enter gross amounts unless otherwise indicated.	Unrelated business income		Excluded by section 512, 513, or 514		(e) Related or exempt function income
	(a) Business code	(b) Amount	(c) Exclusion code	(d) Amount	
1 Program service revenue:					
a					
b					
c					
d					
e					
f					
g Fees and contracts from government agencies					
2 Membership dues and assessments					
3 Interest on savings and temporary cash investments					
4 Dividends and interest from securities			14	152,676.	
5 Net rental income or (loss) from real estate:					
a Debt-financed property					
b Not debt-financed property					
6 Net rental income or (loss) from personal property					
7 Other investment income					
8 Gain or (loss) from sales of assets other than inventory			18	496,288.	
9 Net income or (loss) from special events					
10 Gross profit or (loss) from sales of inventory					
11 Other revenue:					
a					
b					
c					
d					
e					
12 Subtotal. Add columns (b), (d), and (e)		0.		648,964.	0.

13 Total. Add line 12, columns (b), (d), and (e) 13 648,964.

(See worksheet in line 13 instructions to verify calculations.)

Part XVI-B Relationship of Activities to the Accomplishment of Exempt Purposes

Line No. ▼	Explain below how each activity for which income is reported in column (e) of Part XVI-A contributed importantly to the accomplishment of the foundation's exempt purposes (other than by providing funds for such purposes).

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	1a(1)		X
	(2) Other assets	1a(2)		X
b	Other transactions:			
	(1) Sales of assets to a noncharitable exempt organization	1b(1)		X
	(2) Purchases of assets from a noncharitable exempt organization	1b(2)		X
	(3) Rental of facilities, equipment, or other assets	1b(3)		X
	(4) Reimbursement arrangements	1b(4)		X
	(5) Loans or loan guarantees	1b(5)		X
	(6) Performance of services or membership or fundraising solicitations	1b(6)		X
c	Sharing of facilities, equipment, mailing lists, other assets, or paid employees	1c		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.

(a) Line no	(b) Amount involved	(c) Name of noncharitable exempt organization	(d) Description of transfers, transactions, and sharing arrangements
		N/A	

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) is based on all information of which preparer has any knowledge

▶ Michael | 7/8/14 ▶ Vice President

Signature of officer or trustee | Date | Title

May the IRS discuss this return with the preparer shown below (see instr)? ☐ Yes ☒ No

Paid Preparer Use Only

Print/Type preparer's name	Preparer's signature	Date	Check ☐ if self- employed	PTIN

Firm's name ▶

Firm's EIN ▶

Firm's address ▶

Phone no.

Form **990-PF** (2013)

323622
10-10-13

FORM 990-PF DIVIDENDS AND INTEREST FROM SECURITIES STATEMENT 1

SOURCE	GROSS AMOUNT	CAPITAL GAINS DIVIDENDS	(A) REVENUE PER BOOKS	(B) NET INVEST- MENT INCOME	(C) ADJUSTED NET INCOME
VANGUARD	154,846.	2,170.	152,676.	152,676.	
TO PART I, LINE 4	154,846.	2,170.	152,676.	152,676.	

FORM 990-PF LEGAL FEES STATEMENT 2

DESCRIPTION	(A) EXPENSES PER BOOKS	(B) NET INVEST- MENT INCOME	(C) ADJUSTED NET INCOME	(D) CHARITABLE PURPOSES
LEGAL FEES	14,986.	0.		14,986.
TO FM 990-PF, PG 1, LN 16A	14,986.	0.		14,986.

FORM 990-PF TAXES STATEMENT 3

DESCRIPTION	(A) EXPENSES PER BOOKS	(B) NET INVEST- MENT INCOME	(C) ADJUSTED NET INCOME	(D) CHARITABLE PURPOSES
FEDERAL 4940 TAX	16,115.	0.		0.
TO FORM 990-PF, PG 1, LN 18	16,115.	0.		0.

FORM 990-PF OTHER EXPENSES STATEMENT 4

DESCRIPTION	(A) EXPENSES PER BOOKS	(B) NET INVEST- MENT INCOME	(C) ADJUSTED NET INCOME	(D) CHARITABLE PURPOSES
LICENSES, DUES, & FEES	148.	0.		148.
TO FORM 990-PF, PG 1, LN 23	148.	0.		148.

FORM 990-PF U.S. AND STATE/CITY GOVERNMENT OBLIGATIONS STATEMENT 5

DESCRIPTION	U.S. GOV'T	OTHER GOV'T	BOOK VALUE	FAIR MARKET VALUE
VANGUARD SHORT TERM FEDERAL FUND	X		808,464.	828,669.
TOTAL U.S. GOVERNMENT OBLIGATIONS			808,464.	828,669.
TOTAL STATE AND MUNICIPAL GOVERNMENT OBLIGATIONS				
TOTAL TO FORM 990-PF, PART II, LINE 10A			808,464.	828,669.

FORM 990-PF CORPORATE STOCK STATEMENT 6

DESCRIPTION	BOOK VALUE	FAIR MARKET VALUE
VANGUARD 500 INDEX FUND	1,386,671.	1,939,005.
VANGUARD TOTAL STOCK MARKET INDEX FUND	2,259,153.	3,973,791.
TOTAL TO FORM 990-PF, PART II, LINE 10B	3,645,824.	5,912,796.

FORM 990-PF CORPORATE BONDS STATEMENT 7

DESCRIPTION	BOOK VALUE	FAIR MARKET VALUE
VANGUARD TOTAL BOND MARKET INDEX FUND	523,946.	549,254.
VANGUARD GNMA FUND	727,064.	728,966.
TOTAL TO FORM 990-PF, PART II, LINE 10C	1,251,010.	1,278,220.

FORM 990-PF OTHER ASSETS STATEMENT 8

DESCRIPTION	BEGINNING OF YR BOOK VALUE	END OF YEAR BOOK VALUE	FAIR MARKET VALUE
DIVIDENDS RECEIVABLE	20,170.	3,883.	3,883.
TO FORM 990-PF, PART II, LINE 15	20,170.	3,883.	3,883.

FORM 990-PF PART VIII - LIST OF OFFICERS, DIRECTORS TRUSTEES AND FOUNDATION MANAGERS STATEMENT 9

NAME AND ADDRESS	TITLE AND AVRG HRS/WK	COMPEN-SATION	EMPLOYEE BEN PLAN CONTRIB	EXPENSE ACCOUNT
GARY K. HERBERGER 10881 N. SCOTTSDALE ROAD #200 SCOTTSDALE, AZ 85254	SEE STATEMENT A 1.00	0.	0.	0.
JUDD R. HERBERGER 10881 N. SCOTTSDALE ROAD #200 SCOTTSDALE, AZ 85254	SEE STATEMENT A 3.00	0.	0.	0.
JEANNE L. HERBERGER 10881 N. SCOTTSDALE ROAD #200 SCOTTSDALE, AZ 85254	SEE STATEMENT A 2.00	0.	0.	0.
BILLIE JO HERBERGER 10881 N. SCOTTSDALE ROAD #200 SCOTTSDALE, AZ 85254	SEE STATEMENT A 2.00	0.	0.	0.
MICHAEL J. DEMPSEY 10881 N. SCOTTSDALE ROAD #200 SCOTTSDALE, AZ 85254	SEE STATEMENT A 2.00	0.	0.	0.
DENISE K. HORNBAKER 10881 N. SCOTTSDALE ROAD #200 SCOTTSDALE, AZ 85254	SEE STATEMENT A 2.00	0.	0.	0.
TOTALS INCLUDED ON 990-PF, PAGE 6, PART VIII		0.	0.	0.

FORM 990-PF SUMMARY OF DIRECT CHARITABLE ACTIVITIES STATEMENT 10

ACTIVITY ONE

THE HERBERGER FOUNDATION ("THE FOUNDATION") MAKES NO PROGRAM RELATED INVESTMENTS. NO DIRECT CHARITABLE ACTIVITES ARE CARRIED ON BY THE FOUNDATION. ALL ADMINISTRATIVE EXPENSES IN CONNECTION WITH THE TAX-EXEMPT PURPOSE WERE ALLOCATED TO GRANT-MAKING ACTIVITES.

ALL OTHER EXPENSES OF THE FOUNDATION WERE PROPERLY ALLOCATED TO THE INVESTMENT ACTIVITES OF THE FOUNDATION.

	EXPENSES
TO FORM 990-PF, PART IX-A, LINE 1	0.

THE HERBERGER FOUNDATION
86-6050190

A STATEMENT ATTACHED TO AND MADE A PART OF THIS RETURN OF PRIVATE FOUNDATION (FORM 990-PF) FOR THE YEAR ENDED DECEMBER 31, 2013

Form 990-PF; Page 6; Part VIII-Information About Officers, Directors, Trustees, Foundation Managers, Highly Paid Employees, and Contractors;
Line 1b: Title

Name	Period	Title
Gary K. Herberger	1/1/2013 - 2/28/2013	President, CEO, and Director
	3/1/2013 - 12/31/2013	CEO and Director
Judd R. Herberger	1/1/2013 - 2/28/2013	Vice-President and Director
	3/1/2013 - 12/31/2013	President and Director
Jeanne L. Herberger	1/1/2013 - 2/28/2013	Director
	2/28/2013 - 4/23/2013	Vice-President and Director
Billie Jo Herberger	1/1/2013 - 2/28/2013	Director
	3/1/2013 - 12/31/2013	Vice-President and Director
Michael J. Dempsey	1/1/2013 - 2/28/2013	Director
	3/1/2013 - 12/31/2013	Vice-President and Director
Denise K. Hornbaker	1/1/2013 - 12/31/2013	Secretary, Treasurer and Director

STATEMENT A

THE HERBERGER FOUNDATION
86-6050190

A STATEMENT ATTACHED TO AND MADE A PART OF THIS RETURN OF PRIVATE FOUNDATION (FORM 990-PF) FOR THE YEAR ENDED DECEMBER 31, 2013

Form 990-PF; Page 4; Part VII-A; Statements Regarding Activities; Line 3: Changes to Articles of Incorporation and Bylaws - See below for conforming copy of documents.

STATEMENT B

ARTICLES OF AMENDMENT TO
ARTICLES OF INCORPORATION OF
THE HERBERGER FOUNDATION

Pursuant to the provisions of A.R.S. Section 10-11006, The Herberger Foundation, an Arizona nonprofit corporation, hereby adopts the following Amendment to the Articles of Incorporation of The Herberger Foundation and certifies as follows:

FIRST: The name of the corporation is The Herberger Foundation.

SECOND: Article VIII to the corporation's Articles of Incorporation is hereby amended to read as follows:

ARTICLE VIII.

The affairs of the Corporation shall be conducted by a Board of Directors and the officers of the Corporation as they may be authorized by the Board of Directors. The Board of Directors shall consist of not less than three (3) nor more than twenty-five (25) persons, as determined from time to time by the Board of Directors. The annual meeting of the Corporation for the purpose of determining the number of Directors, electing the Board of Directors, filling vacancies, electing officers and reviewing the affairs of the Corporation shall be held during the month of December each year

THIRD: The amendment was adopted duly adopted by the act of the corporation's Board of Directors on March 1, 2013.

Dated as of March 1, 2013.

The Herberger Foundation,
an Arizona nonprofit corporation

By:____________________________
Judd R. Herberger, President

BYLAWS
OF
THE HERBERGER FOUNDATION

March 1, 2013

ARTICLE I

Name and Offices

1. Name. The name of this corporation is "The Herberger Foundation" (the "Foundation").

2. Offices. The principal office of the Foundation shall be in Maricopa County, Arizona. The Foundation may also have offices at such other places as the Board of Directors may from time to time appoint or the purposes of the Foundation may require.

ARTICLE II

Membership

The Foundation shall not be authorized to issue memberships.

ARTICLE III

Board of Directors

1. Powers. The property, affairs and business of the Foundation shall be managed by a Board of Directors. The Board of Directors shall have, and may exercise, all of the powers of the Foundation, subject to the provisions of these Bylaws, the Articles of Incorporation and applicable law.

2. Appointment, Term and Number. The Foundation's directors shall be appointed in accordance with Sections 3 and 4 of this Article III. Each shall hold office until he or she resigns, is removed from office as provided in these Bylaws, is determined to be incompetent or is otherwise unable to continue to serve. The number of directors shall be fixed from time to time by the vote of a majority of the Founding Directors (defined below) who are (or, if applicable, by the only Founding Director who is) in attendance at any annual or special meeting. If, at any time, there are no Founding Directors, the number of directors shall be fixed from time to time by a majority vote of the full Board of Directors at any annual or special meeting. In no event, however, shall there be less than three or more than nine directors.

3. Founding Directors. Each of Gary K. Herberger, Judd R. Herberger, Jeanne L. Herberger and Billie Jo Herberger is hereby appointed as a director of the Foundation; provided that Billie Jo Herberger shall cease to be a director upon dissolution of her marriage to Judd R. Herberger. For so long as any such individual referred to in this Section 3 is serving as a director, he or she shall be a "Founding Director" for all purposes under these Bylaws.

4. Additional and Successor Directors. Additional and successor directors of the Foundation may be appointed at any annual or special meeting to fill vacancies on the Foundation's Board of Directors (including those arising from an increase to the number of directors pursuant to Section 3 of this Article III), in accordance with the following procedures:

(a) If both Gary K. Herberger and Judd R. Herberger are then serving as directors, the appointment of an additional or successor director shall require the vote of both of them, if they are both in attendance at the applicable annual or special meeting, or the vote of either one of them, if only one of them is in attendance at the applicable annual or special meeting.

(b) If Gary K. Herberger ceases to be a director, then Jeanne L. Herberger shall succeed to his rights under Section 4(a) of this Article III, but only if she is then serving as a director. If neither Gary K. Herberger nor Jeanne L. Herberger is then serving as a director, then only Judd R. Herberger or Billie Jo Herberger, as applicable, if then serving as director, shall have the voting rights specified in Section 4(a) of this Article III.

(c) If Judd R. Herberger ceases to be a director, then Billie Jo Herberger shall succeed to his rights under Section 4(a) of this Article III, but only if she is then serving as a director. If neither Judd R. Herberger nor Billie Jo Herberger is then serving as a director, then only Gary K. Herberger or Jeanne L. Herberger, as applicable, if then serving as director, shall have the voting rights specified in Section 4(a) of this Article III.

(d) If no Founding Director is then serving as a director, the appointment of an additional or successor director shall require a majority vote of the full Board of Directors at any annual or special meeting.

5. Resignation. Any director may resign at any time by giving written notice of such resignation to the Board of Directors. Any such resignation shall be irrevocable.

6. Removal. Any director other than a Founding Director may be removed from office as a director, with or without cause, at any annual or special meeting, by vote of the director or directors who would be entitled to appoint additional or successor directors at such meeting, as determined in accordance with Section 4 of this Article III.

7. Special Circumstances. In the event of the simultaneous death or resignation of all of the directors or in the event of the death or resignation of the sole remaining director, the Attorney General of the State of Arizona, or his designee, shall appoint directors to fill all of the vacancies.

8. Annual Meetings. The annual meetings of the Board of Directors shall be held during the month of December, at such time and location as may be specified by the President or any Vice President or, in the absence of action by the President or a Vice President, as set forth in the notice given, or waiver signed, with respect to such meeting. At the annual meeting, the directors shall elect officers, review the affairs of the Foundation and transact such other business as may be properly brought before the meeting. If for any reason any annual meeting is not held during the time period set forth above, a deferred annual meeting may thereafter be

called and held in lieu thereof, at which the same proceedings (including the election of officers) may be conducted.

10. Special Meetings. Special meetings of the Board of Directors may be called by the President or any Vice President and must be called by one of them on the written request of any member of the Board.

11. Notices of Meetings. Written notice of the date, time and place of each meeting of the directors shall be given to each director by the Secretary or the person or persons calling the meeting not more than sixty (60) days nor less than five (5) days before such meeting. Such notice need not specify the purposes of the meeting and may be given by any reasonable means. Notice of any meeting shall be considered given if mailed, faxed, e-mailed or otherwise sent or delivered in writing to the director at his or her mailing address, fax number or e-mail address specified in the records of the Foundation. The giving of notice shall be deemed to be waived by any director who shall attend and participate in such meeting without protesting, prior to or at the commencement of such meeting, the lack of proper notice and may be waived, in a writing, by any director either before, at or after such meeting.

12. Waiver of Notice. Any director may waive call or notice of any annual or special meeting (and any adjournment thereof) at any time before, during which, or after it is held. Attendance of a director at any such meeting in person shall automatically evidence his or her waiver of call and notice of such meeting (and any adjournment thereof) unless he or she is attending the meeting for the express purpose of objecting to the transaction of business because the meeting has not been properly called or noticed. No call or notice of a meeting of the Board of Directors shall be necessary if each director waives the same in writing or by attendance.

13. Conduct of Meetings. Unless otherwise prohibited by statute or by resolution of the Board of Directors, meetings of the Board of Directors, whether annual or special, may be held by means of conference telephone or similar communications equipment that allows all persons participating in the meeting to hear each other. Participation in such a meeting shall constitute presence in person at such meeting.

14. Chairman. At all meetings of the Board of Directors, the President, or in his or her absence, a Vice President designated by the President, or-in-their-absence-a chairman chosen by a majority of the directors present, shall preside.

15. Quorum and Action at a Meeting. At all meetings of the Board of Directors, a majority of the directors shall be necessary and sufficient to constitute a quorum for the transaction of business and the act of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board of Directors, except as may be otherwise specifically provided by statute, the Articles of Incorporation, or these Bylaws. If at any meeting there is less than a quorum present, a majority of those present may adjourn the meeting from time to time without further notice to any absent director.

16. Action Without a Meeting. Any action which might be taken at any meeting of the directors or of any committee thereof may be taken without such meeting by a writing or writings signed by all of the directors or all of the members of such committee, as the case may be. The writing or writings evidencing such action taken without a meeting shall be filed with

the Secretary of the Foundation and inserted in the permanent records relating to meetings of the directors.

17. Proxies and Voting. At any meeting of the directors, every director entitled to vote may vote in person. Each director shall have one vote. No proxies are allowed.

18. Committees of Directors.

(a) Appointment; Scope of Authority. The Board of Directors, from time to time, by resolution adopted by a majority of the full Board of Directors, may appoint standing or temporary committees from its membership and vest such committees with such powers (including, without limitation, the authority to make grants in accordance with Article VI hereof) as the Board of Directors may include in its resolution; provided, however, the Board of Directors may not delegate its power in reference to the following matters: (i) fixing compensation, if any, of any individual rendering personal services to the Foundation and also serving as a director, an officer, or the executive director, (ii) filling vacancies on the Board of Directors or on any committee of the Board of Directors; or (iii) adoption, amendment or repeal of Bylaws. Each committee shall report to the Board of Directors on the activities of such committee, at the annual meeting or at special meetings called for such purpose. At any time that the Foundation has a committee for making grants, at least one of its members must be a Founding Director (and the Foundation shall not have a committee for making grants at any time when there is no Founding Director).

(b) Tenure of Committee Members. Each member of any committee established under this Article shall hold office until he or she ceases to be a director or is removed from the committee by resolution adopted by a majority of the full Board of Directors.

(c) Meetings of Committees. Regular meetings of committees established under this Article may be held without notice on such days and at such times and places as the committee chair may fix from time to time by resolution. Special meetings of a committee may be called by any member thereof upon notice to other members of the committee in the manner provided in this Article for special meetings of the Board of Directors.

(d) Quorum of Committee Members. A majority of the members of a committee shall constitute a quorum for the transaction of business at any meeting thereof, and action of any committee must be authorized by the affirmative vote of a majority of the members present at a meeting at which a quorum is present.

19. Compensation. Directors may receive a reasonable salary for their services, the amount to be determined by resolution of the Board of Directors. In addition, reimbursement of expenses may be allowed for attendance at each annual or special meeting of the Board of Directors. The Board of Directors shall have the power in its discretion to contract for and to pay to directors rendering unusual or exceptional services to the Foundation special compensation appropriate to the value of the services. Any compensation paid to directors shall not be paid, nor shall reimbursement of expenses be made, if such payment would constitute unreasonable compensation or an act of self-dealing, or would result in the termination of the tax exemption of the Foundation.

ARTICLE IV

Officers

1. Number. The officers of the Foundation shall be a President, one or more Vice Presidents, a Secretary, a Treasurer, and such other officers with such powers and duties not inconsistent with these Bylaws as may be elected and determined by the Board of Directors. For so long as any Founding Director is a director, the President shall be one of the Founding Directors. Gary K. Herberger shall be the Foundation's CEO for so long as he is a director and Judd R. Herberger shall be the Foundation's President for so long as he is a director. Each Founding Director who is not then serving as the Foundation's CEO or President shall be designated as a Vice President.

2. Election, Term, and Qualifications. Subject to Section 1 of this Article IV, the President shall be elected annually by the Board of Directors from among their number, and the other officers shall be elected annually by the Board of Directors from among such persons as the Board of Directors may see fit, at the annual meeting of the Board of Directors.

3. Removal. Subject to Section 1 of this Article IV, any officer may be removed from office by a majority vote of the full Board of Directors at any annual or special meeting called for that purpose whenever in the judgment of the directors the best interests of the Foundation will be served by the removal.

4. Vacancies. Subject to Section 1 of this Article IV, in case any office of the Foundation becomes vacant for any reason, the vacancy may be filled by a majority vote of the directors then in office, although less than a quorum, or by the sole remaining director, and any officer so elected shall hold office until the next annual meeting of the Board of Directors when his or her successor is elected and qualifies.

5. President. The President shall preside at all meetings of the Board of Directors. The President shall have and exercise general charge and supervision of the affairs of the Foundation and shall do and perform such other duties as may be assigned by the Board of Directors.

6. Vice President. At the request of the President, or in the event of the President's absence or disability, a Vice President designated by the President (or, in the absence of such designation, by the Board of Directors) shall perform the duties and possess and exercise the powers of the President; and to the extent authorized by law, each Vice President shall have such other powers as the Board of Directors may determine, and shall perform such other duties as may be assigned by the Board of Directors.

7. Secretary. The Secretary shall have charge of such books, documents, and papers as the Board of Directors may determine. The Secretary shall attend and keep the minutes of all the meetings of the Board of Directors. The Secretary may sign with the President or a Vice President, in the name and on behalf of the Foundation, any contracts or agreements authorized by the Board of Directors, and when so authorized or ordered by the Board of Directors, the Secretary may affix the seal of the Foundation. The Secretary shall, in general, perform all the duties incident to the office of secretary, subject to the control of the Board of Directors, and

shall do and perform such other duties as may be assigned to the Secretary by the Board of Directors.

8. Treasurer. The Treasurer shall keep the books of the Foundation and shall maintain a full and accurate account of all moneys and obligations received and paid or incurred by, for or on account of the Foundation, and shall exhibit such books at all reasonable times to any director on request at the offices of the Foundation. The Treasurer shall perform all duties incident to the office of treasurer that are expressly delegated to the Treasurer by the Board of Directors.

9. Compensation. Officers may receive a reasonable salary for their services, the amount to be determined by resolution of the Board of Directors. In addition, reimbursement of expenses may be allowed for attendance at each annual or special meeting of the Board of Directors. The Board of Directors shall have the power in its discretion to contract for and to pay to officers rendering unusual or exceptional services to the Foundation special compensation appropriate to the value of the services. Any compensation paid to officers shall not be paid, nor shall reimbursement of expenses be made, if such payment would constitute unreasonable compensation or an act of self-dealing, or would result in the termination of the tax exemption of the Foundation.

ARTICLE V

Advisory Committees

The Board of Directors may appoint from its number, or from among such persons as the Board may see fit, one or more advisory committees, and at any time may appoint additional members thereto. The members of any such committee shall serve at the pleasure of the Board of Directors. Such advisory committees shall advise with and aid the officers of the Foundation in all matters designated by the Board of Directors. Each such committee may, subject to the approval of the Board of Directors, prescribe rules and regulations for the call and conduct of meetings of the committee and other matters relating to its procedure.

ARTICLE VI

Grants

1. Purpose of Grants. The Foundation shall make gifts, grants, contributions, or payments (each, a "grant") only to organizations (each, a "qualified organization") described in Section 501(c)(3), 509(a)(1) or 509(a)(2) of the Internal Revenue Code of 1986, as amended (the "Code"), or any future corresponding section of the Code.

2. Grants During Tenure of Founding Directors. For so long as the Foundation has any Founding Directors, the Board of Directors or a committee thereof designated pursuant to Section 18 of Article III, shall be permitted to make grants to and for any qualified organizations as the Board of Directors or committee deems appropriate in its discretion. A majority of the Founding Directors serving at any time may make a list of qualified organizations to which grants may be made after there are no longer any Founding Directors serving (a "Permitted Organization List") and shall deliver such Permitted Organization List to the Foundation's

Secretary, for inclusion in the Foundation's records. A Permitted Organization List may be amended or revoked at any time by a majority of the Founding Directors then serving.

3. Grants When there are no Founding Directors. At any time when there is no Founding Director, grants by the Foundation shall require a vote of a majority of the full Board of Directors and if a Permitted Organization List exists, grants may be made only to qualified organizations whose names are on the Permitted Organization List.

ARTICLE VII

Fiscal Year

The fiscal year of the Foundation shall commence on January 1 of each year and end on December 31.

ARTICLE VIII

Investments

All investment or reinvestment of assets of the Foundation shall be consistent with the intent of the Board of Directors to invest the assets of the Foundation in nonspeculative opportunities, except that if assets that are speculative in nature are received in the form of donation, these assets shall be sold or otherwise liquidated in a prudent manner in order to maximize the return therefrom, and in the meantime to be operated if necessary in a prudent manner determined by the Foundation's Board of Directors and its officers.

ARTICLE IX

Conflicts of Interest Policy

The Board of Directors shall adopt a written policy regarding transactions between the Foundation and interested persons, including but not limited to the sale, lease or exchange of property to or from interested persons and the Foundation, the lending or borrowing of monies to or from interested persons by the Foundation or the payment of compensation by the Foundation for services provided by interested persons. The policy shall be deposited with the Foundation's Secretary and each director shall be required to sign such policy. For the purposes of this Article "interested person" means any director, officer, and/or member of a committee with board delegated powers, or any person in a position to exercise substantial influence over the Foundation's activities, who has a direct or indirect financial interest. Additionally, "interested persons" shall include a "related person" of an officer or director of the Foundation, which means either: (a) the spouse, or a parent or sibling of the spouse, of the officer or director, a child, grandchild, sibling, parent or spouse of a child, grandchild, sibling or parent, of the officer or trustee, an individual having the same home as the officer or trustee, or a trust or estate of which an individual specified in this paragraph is a substantial beneficiary; or (b) a trust, estate, incompetent, conservatee or minor of which the officer or trustee is a fiduciary.

ARTICLE X

Prohibition Against Private Inurement

1. Net Earnings. No director, officer, employee of the Foundation, member of a committee of the Foundation, or any other private individual shall receive at any time any of the net earnings or pecuniary profit of the Foundation, except that the Foundation can pay compensation for services rendered and reimburse certain expenses in accordance with and subject to the limitations in Section 19 of Article III and Section 9 of Article IV.

2. Dissolution. No director, officer, employee of the Foundation, member of a committee of the Foundation, or any other private individual shall be entitled to share in the distribution of any of the corporate assets upon the dissolution of the Foundation. All directors of the Foundation shall be deemed to have expressly consented and agreed that upon such dissolution or winding up of the affairs of the Foundation, whether voluntary or involuntary, all of the assets of the Foundation remaining after all debts have been satisfied shall be distributed exclusively for the tax-exempt purposes of the Foundation as provided in the Articles of Incorporation.

ARTICLE XI

Exempt Activities

Notwithstanding any other provision of these Bylaws, no director, officer, employee, agent, or member of any committee of the Foundation shall take any action or carry on any activity by or on behalf of the Foundation that is not permitted to be taken or carried on by an organization: (a) that is exempt from income tax under Section 501(c)(3) of the Code; (b) contributions to which are deductible for income tax purposes under Section 170(c)(2) of the Code; (c) bequests, legacies, devises, and transfers to which are deductible for estate tax purposes under Section 2055(a)(2) of the Code; or (d) gifts to which are deductible for gift tax purposes under Section 2522(a)(2) of the Code.

ARTICLE XII

Amendments

1. Limitations on Amendments. Sections 3, 4 and 6 of Article III, Section 1 of Article IV, Article VI, Article IX, Article X, Article XI and this Article XII may not be amended without the written consent of a majority of the Founding Directors, it being the intention that the Foundation shall remain perpetually dedicated to the principles set forth in the Articles of Incorporation.

2. Amendments. Except as provided in the foregoing Section 1, these Bylaws may be altered, amended, supplemented, repealed, or temporarily or permanently suspended, in whole or in part, or new bylaws may be adopted, by the Board of Directors at any duly constituted meeting of the Board of Directors or, alternatively, by the written consent of the Board of Directors to corporate action without a meeting of the Board of Directors.

CERTIFICATE OF ADOPTION

The undersigned certifies that the foregoing Bylaws were duly adopted by the Board of Directors of The Herberger Foundation pursuant to a written consent of the directors dated as of March 1, 2013, and supersede in their entirety all prior Bylaws of the Foundation.

THE HERBERGER FOUNDATION
an Arizona nonprofit corporation

By____________________________
Judd R. Herberger, President

8278934.3/044125.0001

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
RANCHO SANTA FE ASSOCIATION P.O. BOX 811 RANCHO SANTA FE, CA 92067	N/A	PC	RELIGIOUS EDUCATIONAL CHARITABLE SCIENTIFIC LITERARY	125,000.
RELEASE THE FEAR, INC. 332 WEST LYNWOOD STREET PHOENIX, AZ 85003	N/A	PC	RELIGIOUS EDUCATIONAL CHARITABLE SCIENTIFIC LITERARY	25,000.
ST. CLOUD STATE UNIVERSITY 720 FOURTH AVENUE SOUTH ST. CLOUD, MN 89601	N/A	PC	RELIGIOUS EDUCATIONAL CHARITABLE SCIENTIFIC LITERARY	50,000.
ST. VINCENT DEPAUL P.O. BOX 13600 PHOENIX, AZ 85002	N/A	PC	RELIGIOUS EDUCATIONAL CHARITABLE SCIENTIFIC LITERARY	10,000.
Total from continuation sheets				210,000.

323631
05-01-13

Form **8868**
(Rev. January 2014)
Department of the Treasury
Internal Revenue Service

Application for Extension of Time To File an Exempt Organization Return

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

▶ **Information about Form 8868 and its instructions is at** ***www.irs.gov/form8868.***

OMB No. 1545-1709

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

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

Electronic filing *(e-file)*. You can electronically file Form 8868 if you need a 3-month automatic extension of time to file (6 months for a corporation required to file Form 990-T), or an additional (not automatic) 3-month extension of time. You can electronically file Form 8868 to request an extension of time to file any of the forms listed in Part I or Part II with the exception of Form 8870, Information Return for Transfers Associated With Certain Personal Benefit Contracts, which must be sent to the IRS in paper format (see instructions) For more details on the electronic filing of this form, visit *www.irs.gov/efile* and click on *e-file for Charities & Nonprofits.*

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.

		Enter filer's identifying number
Type or print File by the due date for filing your return See instructions	Name of exempt organization or other filer, see instructions. THE HERBERGER FOUNDATION	Employer identification number (EIN) or 86-6050190
	Number, street, and room or suite no. If a P.O. box, see instructions. 10881 N. SCOTTSDALE ROAD, NO. 200	Social security number (SSN)
	City, town or post office, state, and ZIP code. For a foreign address, see instructions. SCOTTSDALE, AZ 85254	

Enter the Return code for the return that this application is for (file a separate application for each return) 0 4

Application Is For	**Return Code**	**Application Is For**	**Return Code**
Form 990 or Form 990-EZ	01	Form 990-T (corporation)	07
Form 990-BL	02	Form 1041-A	08
Form 4720 (individual)	03	Form 4720 (other than individual)	09
Form 990-PF	04	Form 5227	10
Form 990-T (sec. 401(a) or 408(a) trust)	05	Form 6069	11
Form 990-T (trust other than above)	06	Form 8870	12

- The books are in the care of ▶ DENISE K. HORNBAKER 10881 N. SCOTTSDALE ROAD #200, SCOTTSDALE, AZ - 85254

  Telephone No.▶ 480-945-2681 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 is for.

1 I request an automatic 3-month (6 months for a corporation required to file Form 990-T) extension of time until AUGUST 15, 2014 , to file the exempt organization return for the organization named above. The extension is for the organization's return for:

▶ ☒ calendar year 2013 or

▶ ☐ tax year beginning ______________ , and ending ______________ .

2 If the tax year entered in line 1 is for less than 12 months, check reason: ☐ Initial return ☐ Final return ☐ Change in accounting period

3a	If this application is for Forms 990-BL, 990-PF, 990-T, 4720, or 6069, enter the tentative tax, less any nonrefundable credits. See instructions.	3a	$ 13,000.
b	If this application is for Forms 990-PF, 990-T, 4720, or 6069, enter any refundable credits and estimated tax payments made. Include any prior year overpayment allowed as a credit.	3b	$ 10,000.
c	**Balance due.** Subtract line 3b from line 3a. Include your payment with this form, if required, by using EFTPS (Electronic Federal Tax Payment System). See instructions. * Paid Electronically	3c	$ 3,000.

Caution. If you are going to make an electronic funds withdrawal (direct debit) 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. 1-2014)

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12-31-13