



SENT VIA CERTIFIED MAIL AND HAND DELIVERY

October 3, 2019

The Honorable Charles P. Rettig  
Commissioner  
Internal Revenue Service  
1111 Constitution Ave., N.W.  
Washington, D.C. 20224

Re: Request For An Immediate Examination of the National Rifle Association of America's Tax-Exempt Status

Dear Commissioner Rettig:

**I. Executive Summary And Requested Action**

Brady joins with thousands of concerned Americans across the country in filing this Complaint to request an Internal Revenue Service (“IRS”) investigation into whether the National Rifle Association of America (the “NRA,” EIN: 53-0116130) should have its tax-exempt status rescinded because it fails the most fundamental test required under Section 501(c)(4) of the Internal Revenue Code — it does not act primarily in the public interest. Evidence suggests that the NRA has largely abandoned its original mission of working for gun safety, training, and other issues of importance to American gun owners. Instead, it now works primarily to maximize the gun industry’s corporate profits, to enrich and glamorize NRA executives and personalities, and to function as a mouthpiece, lobbying arm, and marketing vehicle for the gun industry. The NRA is now, and has been for some time, a trade association masquerading as a social welfare organization. The NRA is not entitled to retain its tax-exempt status if, as it appears, its primary mission is to benefit the financial interests of the firearms industry rather than providing a benefit to the community as a whole.

To be clear, there are additional bases on which the IRS should consider revoking the NRA’s tax-exempt status, including, but not limited to, the allegations of self-dealing and conflicts outlined in an article in *The New Yorker*, NRA CEO Wayne LaPierre’s \$200,000 wardrobe expenses and \$1 million+ compensation, ever-growing reports of questionable or improper NRA activities, the NRA’s alleged role in Russia’s attack on America’s democracy in the 2016 election, and the NRA’s possible actions aimed at undermining United States’ sanctions against Russia.<sup>1</sup> Evidence suggests that, among

other concerns, the NRA is violating the prohibition that “no part of the net earnings of [a 501(c)(4)] entity [may] inure[] to the benefit of any private shareholder or individual.”<sup>22</sup> Although this letter focuses on the concern that the NRA is violating Section 501(c)(4) by failing to comply with the community benefit requirement, this issue should be considered in addition to, rather than as an alternative to, the aforementioned concerns.

## **II. The Community Benefit Requirement Of Section 501(c)(4)**

Under Department of Treasury regulations, an organization is only eligible for tax-exempt status under Section 501(c)(4) if it is primarily engaged in promoting the welfare of the community at large.<sup>3</sup> “[A]n organization claiming exemption under Section 501(c)(4) of the Code must operate for the benefit of the community as a whole rather than for the benefit of a limited group.”<sup>24</sup>

An organization that operates primarily to benefit private interests is ineligible for tax-exempt status. An organization is *not* acting primarily in the public interest when it is working mainly to provide benefits to its members, donors, or subscribers and is providing no, or only trivial, benefits to the public at large.<sup>5</sup> The fact that the organization may

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<sup>1</sup>Some of these concerns are discussed in Everytown for Gun Safety’s complaint and letter of April 18, 2019 and other publicly available documents. See Everytown for Gun Safety, *Tax-Exempt Organization Complaint and Letter*, available at <https://everytown.org/wp-content/uploads/2019/04/2019.04.19-Everytown-Letter-to-IRS.pdf>; see also Mike Spies, *Secrecy, Self-Dealing, and Greed at the NRA*, THE NEW YORKER, Apr. 17, 2019, available at <https://www.newyorker.com/news/news-desk/secrecy-self-dealing-and-greed-at-the-nra>; Kate Sullivan, *Wall Street Journal: NRA Chief Executive Says He Was Pressured to Resign by Group’s President*, CNN, Apr. 27, 2019, <https://www.cnn.com/2019/04/26/politics/nra-extortion-pressure-to-resign/index.html>; Tim Mak, *As Leaks Show Lavish Spending, Former Staff Detail Poor Conditions at Nonprofit*, NPR, May 15, 2019, <https://www.npr.org/2019/05/15/722960414/as-leaks-show-lavish-nra-spending-former-staff-detail-poor-conditions-at-nonprof>; Mike Spies, *The NRA’s Questionable Charitable Giving*, THE NEW YORKER, May 30, 2019, available at <https://www.newyorker.com/news/news-desk/the-nras-questionable-charitable-giving>; Alex Tausanovich & Diana Pilipenko, *NRA, Russia and Trump: How “Dark Money” Is Poisoning American Democracy*, CNBC, Feb. 15, 2018, available at <https://www.cnbc.com/2018/02/15/nra-russia-and-trump-money-laundering-poisoning-us-democracy-commentary.html>; United States Senate Committee on Finance, Minority Staff, *The NRA and Russia: How a Tax-Exempt Organization Became a Foreign Asset* (Sept. 2019), available at <https://apps.npr.org/documents/document.html?id=6432520-The-NRA-Russia-How-a-Tax-Exempt-Organization> (hereafter, “Senate Report”).

<sup>2</sup> 26 U.S.C. § 501(c)(4)(B).

<sup>3</sup> 26 C.F.R. § 1.501(c)(4)-1(a)(1)(ii).

<sup>4</sup> See Rev. Rul. 80-205, 1980-2 C.B. 184.

<sup>5</sup> See *Contracting Plumbers Cooperative Restoration Corp. v. U.S.*, 488 F.2d 684, 686-687 (2d Cir. 1973) (organization failed to comply with community benefit requirement of Section 501(c)(4) where primary goal was protecting members’ “substantial business interest” and “private economic interests”); *American Women Buyers Club, Inc. v. U.S.*, 338 F.2d 526, 528-529 (2d Cir. 1964) (organization not entitled to 501(c)(4) status where it was mainly advancing social and financial interests of members); *In re Vision Serv. Plan Tax Litig.*, 2010 U.S. Dist. LEXIS 62023, \*31-33 (S.D. Oh. Jun. 22, 2010) (plaintiffs were not eligible for tax-exempt status where their “charitable and community outreach efforts” were “insubstantial in relation to [their] non-exempt activity”); *Police Benevolent Assn. v. United States*, 661 F. Supp. 765, 772-773 (E.D. Va.

provide *some* benefit to the general public is not sufficient to entitle it to tax-exempt status if the benefits to private parties are more “[s]ubstantial” and “much more precise” than the benefits to the general public.<sup>6</sup> “[T]he Supreme Court has held that the presence of a single non-exempt purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes.”<sup>7</sup>

### **III. Evaluating An Organization’s Primary Activity For Compliance With Section 501(C)(4)**

In determining the primary activity of an organization, the IRS considers, among other factors: 1) the amount of the organization’s resources used in the activity, 2) the amount of time devoted to it by the organization’s employees or volunteers, and 3) the amount of funds the organization receives from and devotes to that activity.<sup>8</sup> Certain activities have been designated as inherently not benefiting the community at large, including:

- Direct or indirect participation or intervention in political campaigns on behalf of, or in opposition to, any candidate for public office;
- Operating a social club for the benefit, pleasure, or recreation of [the organization’s] members;
- Carrying on a business with the general public in a manner similar to organizations which are operated for profit;<sup>9</sup> and
- Advertising the products and services of third parties.<sup>10</sup>

While Section 501(c)(4) places no limits on lobbying or otherwise attempting to influence politicians, such activities count towards the community benefit requirement only when they are in furtherance of the organization’s purpose of promoting the general welfare of the community and not in furtherance of the interests of private parties.<sup>11</sup>

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1987) (organization was not operating “exclusively for the promotion of social welfare” under Section 501(c)(4) “because it is essentially a mutual self-interest type of organization, which provides primary benefits to its members”) (internal quotation omitted).

<sup>6</sup> See *In re Vision*, *supra* at \*31-33; *Contracting Plumbers*, 488 F.2d at 686-687.

<sup>7</sup> 2012 PLR LEXIS 291, \*10 (citing *Better Business Bureau of Washington, D.C. v. U.S.*, 326 U.S. 279 (1945)).

<sup>8</sup> See *id.* at \*13.

<sup>9</sup> 26 C.F.R. § 1.501(c)(4)-1(a)(2)(ii); see also 2012 PLR LEXIS 291 at \*15 (“[I]f an organization’s primary activities do not promote social welfare but are direct or indirect political intervention, the organization is not exempt under § 501(c)(4).”).

<sup>10</sup> See 26 U.S.C. § 513(a), (c) (for-profit advertising by a tax-exempt organization is an unrelated business); see also 26 U.S.C. § 511 (income from unrelated business is taxable).

<sup>11</sup> See Rev. Rul. 76-81, 1976-1 C.B. 156, 156-157 (organization qualified for tax-exempt status because its lobbying activity could be construed as promoting a particular conception of the general good of the community); compare with Rev. Rul. 80-205, 1980-2 C.B. 184.

#### **IV. The NRA Fails To Comply With Section 501(c)(4) Because It Primarily Acts To Benefit The Narrow Private Interests Of The Gun Industry**

The NRA claims that it “is a membership association that *represents individual citizens*,”<sup>12</sup> and that its most significant activities are “[f]irearms safety, education, and training and advocacy *on behalf of safe and responsible gun owners*.”<sup>13</sup> The evidence suggests that this is incorrect; the NRA does not represent only — or even primarily — “individual citizens,” and it is not acting “on behalf of safe and responsible gun owners.” Instead, its activities are purposefully and primarily designed to advance the interests of the gun industry in direct conflict with the requirements of Section 501(c)(4) and, often, contrary to the interests and values of “safe and responsible gun owners.” Further, the NRA engages in substantial electoral and advertising activities which cannot count as activities promoting the welfare of the community at large.

##### **A. The NRA Devotes A Massive Portion Of Its Revenue And Energy to Lobbying for Policies Desired By The Gun Industry But Opposed By, Or Of Little Concern to, Gun Owners**

The NRA’s audited financial statements show that the organization spends relatively little on the training programs described on the NRA’s website<sup>14</sup> and emphasized in its tax filings, when compared to its other activities. In fact, according to its 2014 audited financials, the NRA spent far more on legislative programs than on its various traditional, educational, competitive, and recreational programs combined.<sup>15</sup> It also spent a significant amount of money on public affairs.<sup>16</sup> Lobbying and attempting to influence legislation—rather than training and education—clearly constitute the NRA’s primary activities.

The IRS has indicated that lobbying activities cannot satisfy the community benefit requirement of Section 501(c)(4) if the lobbying is primarily intended to benefit private interests.<sup>17</sup> The NRA appears to be engaging in precisely this improper activity; it consistently lobbies in favor of positions opposed by, or of little interest to, the majority of the community it claims to serve—the NRA’s non-corporate members and individual

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<sup>12</sup> See National Rifle Association of America, 2014 Form 990, Schedule O, Supplemental Information, Part VI, Section A, Line 6, *available at* <https://projects.propublica.org/nonprofits/organizations/530116130/201532599349300503/IRS990ScheduleO> (emphasis added).

<sup>13</sup> See National Rifle Association of America, 2015 Form 990, Part I, Line 1, *available at* [https://projects.propublica.org/nonprofits/display\\_990/530116130/2017\\_02\\_EO%2F53-0116130\\_990O\\_201512](https://projects.propublica.org/nonprofits/display_990/530116130/2017_02_EO%2F53-0116130_990O_201512) (emphasis added).

<sup>14</sup> NRA, *NRAExplore: Firearm Training*, *available at* <https://firearmtraining.nra.org/>.

<sup>15</sup> See Alexandra F. O’Neill & Daniel P. O’Neill, *The NRA, A Tax-Exempt Loaded with Private Interest*, COALITION TO STOP GUN VIOLENCE, Apr. 12, 2016, *available at* <https://www.csgv.org/nra-tax-exempt-loaded-private-interest>.

<sup>16</sup> *Id.*

<sup>17</sup> See Rev. Rul. 80-205, 1980-2 C.B. 184; *compare with* Rev. Rul. 76-81, 1976-1 C.B. at 156-157.

American gun owners—but which benefit the narrow economic interests of the gun industry.

On issue after issue, polls show that most gun owners and/or most NRA members support gun laws that keep guns out of dangerous hands, but the NRA — and the gun industry — oppose efforts to pass such laws. For example:

- *Expanding Brady background checks*: The NRA has consistently lobbied against expanding Brady background checks to cover more or all gun sales, which would prevent felons, domestic violence abusers, and other prohibited persons from obtaining guns in no-check sales.<sup>18</sup> The NRA’s position is contrary to the substantial majorities of both current and former NRA members, who support background checks on all gun sales.<sup>19</sup> However, the NRA’s position is consistent with the financial interests of the gun industry, as it profits from all gun sales, including sales that arm prohibited persons, often via gun traffickers or unregulated unlicensed sellers. These sales would be stopped with expanded Brady background checks.
- *Restricting gun sales to suspected terrorists*: The NRA opposes restricting gun purchases by people on terrorist watch lists.<sup>20</sup> This position is contrary to that of a large majority of its members; a poll showed that 71% of current and former NRA members supported banning such purchases.<sup>21</sup> However, the NRA’s position is consistent with the financial interests of the gun industry, which can profit off of gun sales to suspected terrorists without this legislation.
- *Holding irresponsible gun companies accountable*: The NRA’s top policy agenda item in the early 2000s was pushing for enactment of the Protection of Lawful Commerce in Arms Act (“PLCAA”), which was signed into law in 2005.<sup>22</sup> This law has been held by some courts to shield firearm manufacturers and dealers from liability in some cases, such as some product liability actions by owners of guns that have been unsafely designed such that they are prone to cause “family fire” unintentional shootings, and in some instances when gun owners have been injured, killed, or lost family members

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<sup>18</sup> Gerald Seib, *Manchin Describes the Effect of an NRA Score*, WALL STREET JOURNAL, Apr. 18, 2013, available at <http://blogs.wsj.com/washwire/2013/04/18/manchin-describes-the-effect-of-an-nra-score/>.

<sup>19</sup> See, e.g., Edith Honan, *Poll Finds Gun Owners, Even NRA Members, Back Some Restrictions*, REUTERS, Jul. 24, 2012, available at <https://www.reuters.com/article/us-usa-shooting-denver-guns/poll-finds-gun-owners-even-nra-members-back-some-restrictions-idUSBRE86O02O20120725> (74% of current and former NRA members support universal background checks).

<sup>20</sup> Nolan D. McCaskill, *Trump to Meet with NRA about Banning Gun Sales for Terror Watch List*, POLITICO, Jun. 15, 2016, available at <https://www.politico.com/story/2016/06/donald-trump-nra-meeting-224362>.

<sup>21</sup> Honan, *supra* n. 19.

<sup>22</sup> 15 U.S.C. §§ 7901-7903; Tom Hamburger, *NRA-Backed Federal Limits on Gun Lawsuits Frustrate Victims, Their Attorneys*, WASH. POST, Jan. 31, 2013, available at [https://www.washingtonpost.com/politics/nra-backed-federal-limits-on-gun-lawsuits-frustrate-victims-their-attorneys/2013/01/31/a4f101da-69b3-11e2-95b3-272d604a10a3\\_story.html](https://www.washingtonpost.com/politics/nra-backed-federal-limits-on-gun-lawsuits-frustrate-victims-their-attorneys/2013/01/31/a4f101da-69b3-11e2-95b3-272d604a10a3_story.html).

from guns negligently marketed or sold.<sup>23</sup> American gun owners did not cry out for industry immunity or special protections; it was the desire of the gun industry.<sup>24</sup> The NRA's support for this legislation is in line with the financial interests of the gun industry actors, as it can work to maximize profits without accountability or liability for harm caused by their negligence.

- *Reporting lost and stolen guns*: The NRA sued Philadelphia to strike down a 2008 ordinance requiring gun owners to alert authorities if their guns are lost or stolen. The purpose of the ordinance was to enable law enforcement to both recover guns from criminals before they are used in crime, and to crack down on illegal gun sellers who claim their guns are lost or stolen when recovered in criminal investigations.<sup>25</sup> The NRA's opposition to such a reporting requirement is contrary to the interests and views of NRA members; a poll from 2009 found that 78% of NRA gun owners supported a mandatory reporting requirement.<sup>26</sup> However, the NRA's position is in line with the financial interests of the gun industry, which profits from the fact that guns can be easily resold to criminals, and later be claimed by the seller as lost or stolen.
- *Keeping guns out of the hands of people that pose extreme risks*: The NRA opposes a federal Extreme Risk Protection Order ("ERPO") law,<sup>27</sup> which is contrary to the desires of a large majority of gun owners, according to polls.<sup>28</sup> The NRA's position is consistent, however, with the gun industry's general opposition to gun violence prevention laws that could restrict firearm sales.

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<sup>23</sup> See, e.g., *Adames v. Shaheen*, 909 N.E. 2d. 742 (Ill. 2009); Niraj Chokshi, 'End Family Fire' Campaign Hopes to Combat Accidental Child Gun Deaths, N.Y. TIMES, Aug. 8, 2018, available at <https://www.nytimes.com/2018/08/08/business/media/family-fire-gun-safety.html>.

<sup>24</sup> Even if it could be argued (incorrectly) that PLCAA indirectly benefits individual gun owners by decreasing the price of guns, *Contracting Plumbers* instructs that since PLCAA's benefits to the gun industry are "much more precise" (488 F.2d at 687) the NRA's lobbying for PLCAA cannot qualify as lobbying in service of the general public.

<sup>25</sup> See *NRA v. City of Phila.*, 2008 Phila. Ct. Com. Pl. LEXIS 159 (Pa. Ct. Cm. Pleas, June 30, 2008).

<sup>26</sup> Dr. Frank Luntz & Word Doctors, *America's Gun Owners Support Common Sense Gun Laws*, Mayors Against Illegal Guns (2009) at 13, available at [https://www.politico.com/pdf/PPM110\\_luntz\\_poll\\_slides.pdf](https://www.politico.com/pdf/PPM110_luntz_poll_slides.pdf).

<sup>27</sup> See, e.g., NRA, *Emergency Risk Protection Orders (ERPOs)*, Jan. 8, 2019, available at <https://www.nraila.org/get-the-facts/emergency-risk-protection-orders-erpos/>.

<sup>28</sup> One poll shows 78% of Colorado gun owners supporting ERPO legislation. Moms Demand Action, *A Reminder that Most Colorado Gun Owners Support the Concept of Extreme Risk Protection Order Laws*, Mar. 26, 2019, available at <https://momsdemandaction.org/a-reminder-that-most-colorado-gun-owners-support-the-concept-of-extreme-risk-protection-order-laws/>; see also Everytown for Gun Safety, *Extreme Risk Laws* (Mar. 25, 2019), available at [https://everytownresearch.org/extreme-risk-laws/#foot\\_note\\_30](https://everytownresearch.org/extreme-risk-laws/#foot_note_30) (78% of gun owners favored Congress passing an ERPO law). Another poll shows that 73% of gun owners support prohibiting anyone convicted of stalking or domestic violence from buying a gun. Public Policy Polling, *National Survey Results*, Nov. 12, 2015 at Q3, available at <https://cdn.americanprogress.org/wp-content/uploads/2015/11/17054452/PPP-GunOwnersPollResults-11.17.15.pdf>.

The NRA's work for the interests of the gun industry is obvious and well-recognized. A 2015 survey of gun owners found that 59% believed that the NRA had been overtaken by lobbyists and the interests of gun manufacturers — losing sight of its original purpose and mission.<sup>29</sup>

The NRA's dedicated focus on furthering the financial interests of the gun industry is consistent and longstanding. The NRA has, for some time, worked to maximize gun industry profits at the expense of public safety and at increased risk to firearm owners. In fact, the NRA, dating back to at least 1972, has lobbied to exclude the gun industry from federal consumer safety protections that would work to curtail unsafe design and manufacturing practices by gun makers.<sup>30</sup> By supporting lack of regulation and accountability for the gun industry, the NRA has actively worked to increase the risk to American gun owners, and their family members, of unintentionally being shot by defectively designed firearms.

These NRA positions are explicitly anti-consumer, though the NRA purports to represent consumers. In virtually every policy debate, the NRA advocates for the position that would increase profits for the gun industry and against the position that advances the interests of American gun owners and NRA members. The NRA's improper lobbying for the benefit of the gun industry, in opposition to the will of NRA members and American gun owners, cannot be considered as benefiting the community at large under Section 501(c)(4). The NRA is simply not primarily advocating or "operat[ing] for the benefit of the community as a whole," but is, instead working "for the benefit of a limited group" of gun industry actors.<sup>31</sup> This should render the NRA ineligible for 501(c)(4) status.<sup>32</sup>

B. The NRA Devotes An Overwhelming Amount Of Funding And Energy To Activities That Are Excluded From General Community Welfare Purposes

Between 1998 and 2017, the NRA spent \$144.3 million supporting or opposing political candidates through so-called "outside spending," such as sponsoring ads urging the rejection of any candidate who supported gun violence prevention.<sup>33</sup> Advocating for or against particular candidates is specifically excluded from the definition of activities that promote the good of the community under Treasury regulations.<sup>34</sup> The IRS has made clear

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<sup>29</sup> See Public Policy Polling, National Survey Results at Q. 12, *supra* n. 28

<sup>30</sup> See Jeff Brazil & Steve Berry, *Federal Safety Law Targets 15,000 Items, But Not Guns*, L.A. TIMES, Feb. 1, 1998), available at <https://www.latimes.com/archives/la-xpm-1998-feb-01-mn-14405-story.html> (noting that Rep. John Dingell (D.-Mich.) (who was also an NRA board member, "spearheaded an amendment to exempt guns and ammunition" from federal regulation).

<sup>31</sup> Rev. Rul. 80-205, 1980-2 C.B. 184.

<sup>32</sup> *Id.*

<sup>33</sup> See Charlotte Hill, *The Real Reason The NRA's Money Matters In Elections*, VOX, Mar. 24, 2018, available at <https://www.vox.com/the-big-idea/2018/2/27/17051560/money-nra-guns-contributions-donations-parkland-march>.

<sup>34</sup> 26 C.F.R. § 1.501(c)(4)-1(a)(2)(ii).

that “if an organization's primary activities do not promote social welfare but are direct or indirect political intervention, the organization is not exempt under § 501(c)(4).”<sup>35</sup>

Similarly, for-profit advertising of third-party products is not an activity that promotes the general community welfare,<sup>36</sup> and yet it is a central—if not predominant—function of NRA publications and productions. For example, the NRA publishes three nationally distributed magazines—*American Rifleman*, *American Hunter*, and *America's 1<sup>st</sup> Freedom*—which serve as vehicles to market the products of gun industry actors. These publications regularly include advertisements for specific guns and ammunition that are manufactured and/or sold by companies affiliated with NRA board members.<sup>37</sup> Sales of advertising space in these magazines to gun industry actors provide substantial revenue to the NRA. In total, these publications provide the NRA with around \$25 million in annual advertising revenue.<sup>38</sup>

Further, NRATV, prior to its demise,<sup>39</sup> aired several shows sponsored by major gun manufacturers like Sig Sauer and Mossberg—providing these companies with valuable direct advertising to NRA members. Colt's Manufacturing has also provided support to the Warrior Features of the NRA's *American Warrior* digital magazine.<sup>40</sup>

Another illustrative example of how the NRA is functioning as a marketing organization to further the private business interests of the gun industry was outlined in a recent Senate Report concerning a NRA-sponsored trip to Russia in 2015. Then NRA Vice President, Pete Brownell participated in this trip.<sup>41</sup> He was, at that time, also an executive and/or board member at Brownells<sup>42</sup>— a major seller of firearms and firearm-related items. Brownell specifically acknowledged that he was using the NRA as a platform to propel Brownells' business interests —separate and apart from any purpose related to the NRA's (supposed) tax-exempt mission. He stated that he was “not interested in attending [the Russia trip] if [it is] just an NRA trip,” and conditioned his attendance on the opportunity for Brownells or a subsidiary of Brownells to secure “an import or export opportunity.”<sup>43</sup> The NRA permitted Brownell to use the NRA trip as an in-person marketing excursion for Brownells and even reimbursed Brownell and/or Brownells for the expenses of one or more other attendees on the trip.<sup>44</sup>

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<sup>35</sup> See 2012 PLR LEXIS 291 at \*15.

<sup>36</sup> See 26 U.S.C. §§ 513(a), (c); 511.

<sup>37</sup> See O'Neill & O'Neill, *supra* n. 15.

<sup>38</sup> *Id.*

<sup>39</sup> See Danny Hakim, *NRA Shuts Down Production of NRATV, and Its No. 2 Official Resigns*, N.Y. TIMES, June 25 2019, available at <https://www.nytimes.com/2019/06/25/us/nra-nratv-ackerman-mcqueen.html>.

<sup>40</sup> See O'Neill & O'Neill, *supra* n. 15.

<sup>41</sup> See Senate Report, *supra* n. 15 at 46-53, (Brownell was also the incoming NRA President).

<sup>42</sup> See Brownells, *About Brownells*, [https://www.brownells.com/aspx/general/about\\_brownells.aspx](https://www.brownells.com/aspx/general/about_brownells.aspx).

<sup>43</sup> See Senate Report at 46-53, *supra* n. 1 (internal quotation omitted)

<sup>44</sup> See *id.* at 54.

In each of these ways, the NRA has engaged in electoral and advertising activities disqualified from the definition of public welfare. It is clear that the NRA has also impermissibly “carri[ed] on a business with the general public in a manner similar to organizations which are operated for profit.”<sup>45</sup>

C. The NRA Is Increasingly Financially Dependent On And Intertwined With The Gun Industry

Evidence suggests that the NRA’s continued financial viability is increasingly more dependent on contributions from gun industry manufacturers and sellers, than on contributions from its members and individual donors. For example, the NRA’s Golden Ring of Freedom, created in 2005, to solicit donations from corporations, reflects how the gun industry and the NRA support one another.<sup>46</sup> The Golden Ring — the NRA’s highest designation in its Ring of Freedom fundraising program — is reserved for donors who contribute more than \$1 million dollars to the NRA.<sup>47</sup> Membership in the Golden Ring is heavily gun industry-based. In 2013, five of the ten new Golden Ring inductees were executives or board members of the firearms industry.<sup>48</sup> In 2014, all four new inductees were gun industry executives or board members.<sup>49</sup>

Smith & Wesson, one the largest gun manufacturers in the country,<sup>50</sup> is another Golden Ring member.<sup>51</sup> In 2012, Smith & Wesson, along with its CEO, James Debney, pledged a four-year commitment to sponsor the NRA Life of Duty online network’s *Patriot Profiles*.<sup>52</sup> In 2015, Smith & Wesson announced that it had donated \$1 million to the NRA’s *Institute for Legislative Action* (“NRA-ILA”), the NRA’s ostensible lobbying and political arm.<sup>53</sup> The Beretta Group similarly pledged \$1 million dollars over five years, and a member of the Beretta family was inducted into the Golden Ring of Freedom.<sup>54</sup> These contributions appears to help explain the NRA’s gun industry-focused agenda: these gun industry members are providing substantial financial support to the NRA’s efforts to push for gun industry-friendly legislation – legislation that is not supported by or important for the NRA’s non-corporate members.

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<sup>45</sup> 26 C.F.R. § 1.501(c)(4)-1(a)(2)(ii).

<sup>46</sup> See O’Neill & O’Neill, *supra* n. 15.

<sup>47</sup> See NRA, *Ring of Freedom*, available at <https://www.nringoffreedom.com/membership/membership-levels/>; see also O’Neill & O’Neill, *supra* n. 15.

<sup>48</sup> See O’Neill & O’Neill, *supra* n. 15.

<sup>49</sup> *Id.*

<sup>50</sup> In a recent analysis Smith & Wesson ranked as the biggest gun company in the U.S. See Kari Huus, *The Biggest Gun Companies in the U.S. Market*, MONEYTALKSNEWS, Feb. 27, 2018, available at <https://www.moneytalksnews.com/slideshows/the-biggest-gun-companies-in-the-u-s-market/>.

<sup>51</sup> See O’Neill & O’Neill, *supra* n. 15.

<sup>52</sup> *Id.*

<sup>53</sup> See O’Neill & O’Neill, *supra* n. 15.

<sup>54</sup> See NRA, *Beretta Group Pledges \$1 Million to Benefit the NRA Institute for Legislative Action and Civil Rights Defense Fund*, NRA-ILA, Sept. 3, 2008, available at <https://www.nraaila.org/articles/20080903/beretta-group-pledges-1-million-to-ben>.

In general, more than 60 gun industry members have donated \$25,000 or more to the NRA.<sup>55</sup> In 2013, a Business Insider article posited that, since 2005, the gun industry and its allies had contributed between \$20 million and \$52.6 million to the NRA through the Ring of Freedom program.<sup>56</sup> Between 2010 and 2014, the growth in NRA revenue from donations (from all sources) outpaced the growth in membership dues.<sup>57</sup> Given the membership of the Golden Ring, it is highly probable that the primary reason that donations to the NRA are outpacing membership dues is because of corporate donations by the gun industry—although an investigation would help verify this hypothesis.

Recognizing the benefit that the NRA provides in acting as a messaging, lobbying, and advertising arm for the gun industry, a number of gun industry actors have found creative ways to divert funds to the NRA—strengthening their mutually beneficial, incestuous relationship. For example, in 2011, Sturm, Ruger & Co. (“Ruger”) CEO and NRA Golden Ring member, Mike Fifer announced Ruger’s “1 million Gun Challenge to Benefit the NRA” — aiming to sell one million Ruger guns between the close of the 2011 NRA Annual Meetings and the opening of the 2012 Annual Meetings.<sup>58</sup> One dollar from each gun sold was to be donated to the NRA-ILA.<sup>59</sup> At the 2012 meetings, Fifer presented the NRA-ILA with a check for \$1,253,700.<sup>60</sup> Ruger pledged \$2 for each new Ruger firearm sold between 2015 and 2016, with the goal of raising \$4 million to “benefit the NRA Institute for Legislative Action (NRA-ILA) during the critical 2016 election cycle.”<sup>61</sup> Also, Davidson’s, Ruger’s largest distributor, agreed to contribute \$1 for every Ruger gun sold.<sup>62</sup> These fundraising schemes financially benefited the NRA, directly promoted Ruger’s firearms to NRA members and supporters, and ultimately enhanced the NRA’s ability to lobby on Ruger’s behalf.

Examples of the NRA and the firearms industry supporting one another abound. Arsenal, Inc. pledged a portion of proceeds from its commemorative Jubilee Series AK-47 rifle to NRA-ILA, which the NRA advertised in a *Ring of Freedom* publication.<sup>63</sup> The NRA “Round-Up” program offers gun buyers the option to round-up the cost of their purchases to the next dollar and donate the difference to the NRA.<sup>64</sup> MidwayUSA, a gun

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<sup>55</sup> See Violence Pol’y Ctr., *Blood Money II: How Gun Industry Dollars Fund the NRA* (2013) at 14-23, available at <http://vpc.org/studies/bloodmoney2.pdf>.

<sup>56</sup> See Walt Hickey, *How the Gun Industry Funnels Tens of Millions Of Dollars To The NRA*, BUSINESS INSIDER, Jan. 16, 2013, available at <https://www.businessinsider.com/gun-industry-funds-nra-2013-1>.

<sup>57</sup> See O’Neill & O’Neill, *supra* n. 15.

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> See NRA Staff, *Ruger Supports NRA-ILA With Its New Challenge*, AM. RIFLEMAN (Apr. 25, 2015), available at <https://www.americanrifleman.org/articles/2015/8/25/ruger-supports-nra-ila-with-its-new-challenge/>.

<sup>62</sup> *Id.*

<sup>63</sup> See O’Neill & O’Neill, *supra* n. 15.

<sup>64</sup> NRA Foundation, *Round-Up and Add-A-Buck Programs*, available at

retailer, has raised over \$16 million for the NRA since 1992 by encouraging customers to round-up purchase prices.<sup>65</sup> In 2014, Smith & Wesson added a “company-paid NRA annual membership to its Employee Benefit Program for all full-time employees.”<sup>66</sup>

The evidence suggests that the NRA is increasingly dependent upon corporate donations from gun industry actors. Gun industry actors are heavily investing in and promoting the NRA because they recognize that the NRA primarily functions to serve their interests.

## **V. Conclusion**

There are legal paths for the NRA to serve its current overriding purpose, which is to maximize profits for the gun industry. The NRA can reconstitute itself as a trade association. Alternatively, it can become a private corporation and, if it chooses to, pay its executives millions of dollars. If it wants to give up its allegiance to corporate gun industry actors, the NRA can also return to its roots, and refocus on gun safety, training, and other actual interests and priorities of American gun owners. But as it stands, the NRA cannot maintain its current tax-exempt status. Section 501(c)(4) does not allow the NRA to maintain a tax-exempt status while primarily serving the industry’s private interests and personally aggrandizing its executives.

The IRS should launch an immediate investigation and, based on its findings, take appropriate action, including, but not limited to, revoking the NRA’s status as a tax-exempt organization under Section 501(c)(4) of the Internal Revenue Code.

Thank you for your prompt attention to this matter.

Respectfully submitted,

Brady

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<https://www.nrafoundation.org/ways-of-giving/round-up-program/>.

<sup>65</sup> MidwayUSA, *NRA Support*, available at <https://www.midwayusa.com/nra-support> (note that a member of the family that runs MidwayUSA is on the NRA Foundation’s Board of Trustees).

<sup>66</sup> See O’Neill & O’Neill, *supra* n. 15 (internal quotation omitted).

cc: IRS-EO Classification