

American culture, particularly concerning the individual right to own and use firearms. They have tried to demonize the NRA and denigrate the Nation's heritage of hunting and of responsible gun ownership. This campaign has been based on crude and inaccurate stereotypes and outright lies about the NRA and its positions. In response to such attacks, the NRA has joined this battle. If the Republic's first freedom--the right to keep and bear arms--is to be preserved, the NRA must defend our common cultural heritage, including the important role that responsible gun ownership has played in the lives of countless Americans since the Nation's founding.

4. The Bipartisan Campaign Finance Reform Act ("BCRA") effectively cedes the entire battlefield in this cultural war to the broadcast media corporations and the politicians. It allows federal candidates and the big media conglomerates to say whatever they want about the NRA in the months before an election and shields them from any effective response by prohibiting the NRA from uttering the name of its attackers. Working in tandem, anti-gun politicians and their friends in the media can attack the NRA, and the NRA will have to stand by silent, unable to respond directly to its attackers. The law thus stacks the deck in favor of huge for-profit media corporations, such as Disney, General Electric, Viacom, and AOL/Time Warner and their political allies. These media conglomerates can give as much free airtime to their political allies as they like. They can also tout anti-gun politicians in news stories to their hearts' content. The value of such free airtime is enormous. And no matter how unfairly the NRA is attacked by politicians working through the media, the NRA will be unable to respond directly to its attackers.

5. Access to paid broadcasting media has been critical to defending the integrity of the NRA's reputation. Anti-gun politicians frequently engage in unprovoked attacks on the NRA in an effort to generate political support. Such attacks are typically based on distortions about the NRA's positions. In mounting these challenges to the NRA, politicians have far more access

to free airtime than do the NRA and other similar organizations. When the NRA is permitted to speak on the national media, it rarely has a chance to get the full side of its story out. Thus, the ability to buy airtime is essential for the NRA to respond to such attacks, whenever they occur.

6. The NRA's access to paid media serves two other critical functions. First, television and radio are critical media for educating the public about Second Amendment issues. The mainstream media is dominated by anti-gun interests and simply does not report on many legislative proposals and other significant events that impact the interests of America's 80 million gun owners.

7. Second, the NRA's television and radio advertising is essential to the NRA's efforts to hold politicians accountable on legislative and public policy issues related to the Second Amendment. Increasingly, when election time comes around, some anti-gun politicians pretend to be in favor of the Second Amendment when it serves their interests. The NRA's advertising seeks to identify the inconsistencies between these politicians' rhetoric and their actual records in public office. In the paragraphs below, I detail the ways in which the NRA's television and radio advertising and programs have furthered each of these important interests.

I. The NRA's Television Broadcasts Educate The Public

8. Educating the public about issues relating to gun ownership plays a critical role in preserving Second Amendment rights. A well-informed citizenry is the best defense against infringement of the protections found in the Bill of Rights. If citizens are not informed about the wide variety of threats to Second Amendment rights, they will not be in a position to act effectively to mobilize and make their opposition to such policies known.

9. The national media has willfully ignored important news stories that bear on individuals' right to keep and bear arms. There are numerous examples at home and abroad of im-

portant developments relating to the registration and confiscation of guns that have gone virtually unreported by the media conglomerates that control the television industry in this country. In response to this blackout on coverage of issues of importance to the NRA and its members, the NRA decided to embark on an extensive series of in-depth reports on issues of importance to gun owners. We modeled our broadcasts on the type of in-depth coverage provided by television news magazines such as 60 Minutes. We used a 30-minute format that permitted detailed and thorough treatment of the topics that we covered. The same reporter, Ginny Simone, conducted all of the interviews for these programs. Ms. Simone is a former television anchor and reporter who is now an employee of the Mercury Group, a well-respected media company based in Alexandria.

10. In the year 2000, the NRA developed and ran several such 30-minute educational broadcasts. The NRA's programs ran over 11,000 times during the course of 2000. *See* Exhibit 2 (NRA-ACK 03301-03304). The broadcasts were aired both on national cable channels and in targeted markets in virtually every state in the Union. *See id.* It cost the NRA over \$13 million to pay for these broadcasts. *See id.*

11. Each of the programs had several segments. As detailed below, the segments addressed a variety of important topics touching upon both national and international trends that threaten gun ownership rights. Time and again, viewers of these programs have told me that before seeing our programs they had no idea about the issues we covered in these broadcasts. Viewers across the country have repeatedly expressed their gratitude that the NRA brought this information to their attention. Clearly, these ads have served an important purpose in educating and informing viewers.

12. One of the NRA's 30-minute television programs that aired in 2000 was entitled "California." See Exhibit 3 (NRA-ACK 00005). This program covered the increasing efforts to restrict private ownership of firearms in California. The program described the inception of gun control legislation in California in 1989 and its dramatic expansion in subsequent years. The broadcasts included the specific attacks against NRA by the sponsors of the legislation at the time of its passage by the California legislature. The program showed interviews with gun owners in California discussing their concern that their rights were being increasingly restricted. Numerous interviewees described confusion, even on the part of experts and authorities, regarding what is and is not legal under the new laws. One competitive target shooter explained that she risked criminal prosecution in California simply because the customized firearm she competed with technically qualified as an assault weapon. And the news commentary reported that though convicted felons cannot be forced to register a firearm because doing so violates their Fifth Amendment rights against self-incrimination under the Supreme Court's decision in *Haines v. United States*, law-abiding citizens can and are being forced to do precisely that.

13. During the entirety of the 30-minute program, there was only one fleeting reference to a federal candidate for office. Specifically, during a short segment urging viewers to join the NRA and describing the benefits of membership, a cover of an issue of the NRA's magazine "First Freedom" depicting Vice President Gore, then a presidential candidate, flashed on the screen for several seconds.

14. The program detailing California's restrictions on gun ownership ran over 800 times in California from August 29, 2000 through November 5, 2000. See Exhibit 2. None of these airings were intended to influence a federal election. Indeed, California was not in play in

the 2000 presidential election. Vice President Gore was widely, and correctly, viewed as a certain winner in California.

15. During 2000, the NRA also aired a broadcast entitled “It Can’t Happen Here.” *See* Exhibit 4. NRA-ACK 00012. This program was substantially similar to the “California” program, with only minor variations. This show was run throughout the United States from August through October of 2000. *See* Exhibit 5 (NRA-ACK 06539, 06323, 07557, 12110). Although Vice President Gore’s image on the cover of the NRA’s magazine appears on the screen for a few seconds during this 30 minute broadcast, this broadcast was not intended to influence a federal election in any way.

16. In 2000, the NRA also paid to televise a program entitled “The Truth About Prosecution(s),” Exhibit 6 (NRA-ACK 00004), that ran for nearly 30 minutes and specifically responded to various proposals and comments of President Clinton relating to private ownership of firearms and Second Amendment rights. This broadcast was aired on numerous occasions in various markets around the country from June through October 2000. *See* Exhibit 7 (NRA-ACK 07838, 07909, 06372). In the first segment, Charlton Heston recited various assertions by President Clinton about how he has promoted gun safety while the NRA has opposed it. Mr. Heston responded to each one with facts and statistics showing that prosecutions declined under Clinton’s administration and that the supposed effectiveness of the Brady Bill that President Clinton trumpets was belied by the lack of actual arrests and prosecutions. In addition, Charlton Heston corrected President Clinton’s repeated misrepresentations that Congress “can’t act” “because of the heat the NRA has put on them,” that the NRA is against anything that would make society safer even as 13 children die each day from gun accidents, and that the reason other countries have lower rates of gun-related deaths is “because they don’t have an NRA.” These were outra-

geous and grotesque distortions of the NRA's record that nonetheless received extensive media coverage and threatened to carry great weight with the American public. On behalf of its members, the NRA was obliged to respond to such comments on a similar scale.

17. It is absolutely paramount to the NRA's mission that it respond to such charges by broadcasting its own speech directed at the charges and the source from which they came; and the NRA used this first segment of its broadcast to do precisely that.

18. The second segment centered on extensive, unscripted, on-the-scene interviews with American citizens. In it, the reporter visited low-income projects in the inner-cities that are ravaged by high rates of violent crime and in which law-abiding residents are deprived by firearms restrictions of the ability to protect themselves. Those interviewed complained that only they--the law abiding citizens--are deprived of firearms, while gangs and criminals have ready access to them. The report also explained that HUD (Housing & Urban Development) was preparing to sue the gun industry even as Attorney General Janet Reno failed to undertake prosecutions that would enforce federal firearms laws that are on the books. The third segment then reprises the first segment. The overriding purpose of this broadcast was to defend the NRA and to respond to the allegations made by President Clinton.

19. After the 2000 election, the NRA continued to run 30 minute programs designed to educate the public. In 2001, the NRA paid to televise the "NRA Report on the UN," Exhibit 8 (NRA-ACK 00009), that ran for nearly 30 minutes on numerous occasions and in various markets throughout the country. This broadcast highlighted the conflict between the international effort to restrict private ownership of firearms, spearheaded by the United Nations, and the cherished right of Americans to keep and bear arms. I opened the show by talking about the great generation of Americans who saved the world for freedom in World War II and the prospect that

the next generation of Americans may be called upon to do the same thing. This segment then discussed the importance and potential of the next generation of American children and the importance of raising them correctly and showing them the meaning of freedom. The next segment described how the United Nations is moving far beyond its initial charter and formulating all-encompassing global standards that threaten to replace those contained in the Bill of Rights. Interviewees from the Philippines and Mexico recounted their experiences growing up under oppressive regimes that deprived them of the firearms with which they might protect themselves. Reports from around the world demonstrate that firearm bans in Australia, England and other countries have backfired, with crime escalating but governments refusing to admit it. Congressman Bob Barr then commented that the greatest threat posed by the UN is that it will undermine the freedoms we treasure. Bob Barr added that the NRA can play an important role as a nongovernmental observer in monitoring what the UN is doing. In the final segment, I explained that the international movement to ban guns has reached our shores, taking root in California. I warned that the UN may soon try to impose this global policy upon us.

20. In 2001, the NRA also paid to televise a program that surveyed efforts abroad to restrict firearms and warned of the prospect that those efforts might reach American shores. *See Exhibit 9 (NRA-ACK 00019)*. The first segment covered the imposition of firearm restrictions in South Africa and the complaints of law-abiding firearm owners who have had their rights curtailed in the face of civil disorder and high crime against which they can no longer defend themselves. The second segment covered the imposition of firearm restrictions in Canada and complaints of firearm owners along the lines of those in South Africa, echoing warnings to Americans that they should vigilantly defend their rights lest they suffer the same fate. The third segment covered the massive government buy-back of guns in Australia and the complaints and

warnings of firearm owners there. Without our paid programming, these important stories would not have been covered.

21. The NRA has also run advertisements to educate the public about pending legislation. Often such commercials will mention the name of a federal officeholder. For example, in 1994, the NRA ran a series of more than ten, thirty-second advertisements, Exhibit 10 (NRA-ACK 0003), featuring Charlton Heston responding to President Bill Clinton's assertions in favor of proposed legislation, a so-called "Crime Bill," that he was supporting. In each of these advertisements, Charlton Heston would say that, "what Bill Clinton's not telling you about the Crime Bill should be a crime." Charlton Heston pointed out that Bill Clinton was misrepresenting crucial aspects of the Crime Bill and corrected various misrepresentations in different advertisements, explaining that it would hire twice as many new social workers as new police officers, spend nine-billion dollars on social welfare programs, release drug dealers serving mandatory sentences, and protect the privacy of violent sexual predators who are released.

22. The NRA has also made extensive use of radio broadcasts to address legislative policy issues. In early 2000, for example, the NRA paid for a series of radio spots noting that the Clinton-Gore administration had finally acknowledged the need to increase prosecutions for existing gun laws. *See* Exhibit 11 (NRA 03664). The ads emphasized that this long overdue change in policy provided no justification for enacting more gun laws. Although these ads made reference to the "Clinton-Gore" administration and were run in the 30 days prior to Democratic primaries, they were not intended to influence the Democratic presidential primaries, given that the NRA was indifferent to outcome of the election contest between Al Gore and Bill Bradley.

II. Defending The NRA Against Political Attacks

23. The NRA's paid programming on television and radio also serves a vital function in permitting the NRA to defend itself against political attacks. In recent years, many politicians have repeatedly leveled false and malicious accusations against the NRA. In the face of such assaults, the NRA has no choice but to defend itself. To the extent the attacks are aired on television and radio, it is critical that the NRA has access to paid political programming promptly to get its message out to the same audience that heard the charges made against the NRA.

24. In responding to politically motivated attacks by candidates, the NRA is at a distinct disadvantage to its attackers. Incumbent politicians, and even candidates for office, have far more access to free national media than does the NRA. President Clinton and Vice President Gore took full advantage of their ability to go on national television to launch such attacks. Although the NRA does the best it can to defend itself, the NRA simply does not have the financial resources necessary to respond adequately through national television advertising campaigns. The large media companies have a tremendous financial advantage over the NRA and can spend far more than the NRA to promote their candidates and their issues. Additionally, given the media's general bias against the NRA and its positions, the NRA does not have a fair and adequate opportunity to get its side of the story out even when the NRA is afforded an opportunity to respond on television.

25. The most prominent recent example of this phenomenon occurred in the year 2000. During the course of that year, it became apparent that President Clinton and Vice President Gore had embarked upon a political strategy to demonize the NRA and try to poison the culture against the interests of gun owners. They hoped that these efforts would lead to further restrictions on gun ownership. In furtherance of this objective, President Clinton made ample

use of his access to free national media time. An example illustrates both the types of attacks leveled at the NRA by politicians and the critical role that the NRA's ability to buy airtime played in permitting the NRA to get its side of the story out to the public.

26. On March 2, 2000, President Clinton went on NBC's Today Show ostensibly to address a recent tragic shooting in Flint, Michigan. The incident involved a child living in a crackhouse who found a stolen gun there and who then used it on a classmate. The Today Show deviated from its normal format by skipping the news and interviewing President Clinton for 15 minutes. *See* Exhibit 12 (NRA-ACK 17894). Although the interview began with a series of comments about the case in Flint, Michigan, the President quickly turned his attention to the NRA. He made several false statements during this interview. For example, he claimed that "the NRA is against anything that requires anybody to do anything as a member of society that helps to make us safer." In short, President Clinton endeavored to lay the blame for the types of incidents that occurred in Flint on the NRA and its defense of Second Amendment rights. At no time was the President subjected to any questioning by Today Show host Katie Couric that would have exposed the false nature of his attacks on the NRA.

27. President Clinton's appearance on the Today Show amounted to a political mugging of the NRA. Although I was granted a short responsive interview on the Today Show, I was not given equal time, and I was subjected to hostile questioning throughout the interview. Based on my experience over the years, NBC's treatment of the NRA is typical of that of other television networks and other major media companies.

28. In order to get our side of the story out, the NRA had to develop a media strategy that centered upon a series of paid television advertisements that responded to President Clinton's outrageous misrepresentations about the NRA. To that end, I worked with Angus

McQueen of Ackerman McQueen to produce and air a series of 13 commercials featuring Charlton Heston. *See* Exhibit 13 (NRA-ACK 00002). In these spots, Mr. Heston both defended the NRA's position on safety issues and questioned President Clinton's truthfulness.

29. The NRA did not have the funds necessary to launch a nationwide advertising campaign that would reach the same audience that heard President Clinton's interview and his false accusations against the NRA. Accordingly, we sought to develop an ad campaign that would elevate the controversy between the NRA and President Clinton to such a degree that I would be invited onto national media outlets and would thus be able to defend the NRA before a national audience. Critical to the strategy was our ability to reference the specific misrepresentations made by President Clinton and to refer to him by name. Our media campaign succeeded, and I was ultimately invited to appear on several nationwide news shows during which I was able to respond at least in part to the President's assault on the NRA. Without access to paid media and without the ability to refer to President Clinton by name, the NRA would not have been able to gain access to the national television audience that had heard President Clinton's gross misstatements.

30. Another example of a media ambush on the NRA was the ABC News Special entitled "The Gun Fight" that ran on the eve of the 2000 general election. *See* Exhibit 14 (NRA-ACK 17893). Much of the show focused on the NRA's treatment of Bart Stupak, a member of Congress who represents rural Michigan. The show's host, Peter Jennings, portrayed Mr. Stupak as a stalwart defender of gun rights. The thrust of the piece was that the NRA had unfairly targeted Stupak for defeat because of one vote he had cast. Stupak was allowed to paint himself as a victim furthered by misrepresenting the positions he had taken. The NRA was not given an

opportunity to clarify Stupak's actual positions. The end result was a "news" story that unfairly cast the NRA in an unfavorable light.

31. Politicians also use their campaign funds to attack the NRA. There are dozens of recent examples of such ads. *See* Exhibit 15 (service by facsimile). A recent example from the current election cycle illustrates the type of attacks to which the NRA is constantly subjected. Mark Shriver was a candidate in the Democratic primary for the 8th congressional district in Maryland. Both he and his opponent, Chris Van Hollen, attacked the NRA in a series of television commercials. *See* Exhibit 16 and 17 (service by facsimile). The most egregious of these assaults that I witnessed was contained in the following attack ad paid for by Shriver:

Mark Shriver: I stood up on the floor of the House of Delegates this year and defeated a piece of legislation backed by the NRA that would have allowed convicted felons to own handguns. That's bad public policy. We shouldn't allow people who are convicted of domestic violence to own a handgun. We need trigger locks on our handguns, we need to eliminate the gun show loophole, we need to make gun licensing the law of the land. So I welcome the fight from the NRA because nothing would give me more pleasure than defeating the NRA.

Exhibit 16 (service by facsimile).

32. This is a gross misstatement given that the NRA does not support allowing convicted felons to carry firearms. The NRA should be able to defend itself against such falsehoods by responding directly to the attacker. And yet, given that the ad was aired during the 30 days prior to the Democratic primary, the Bipartisan Campaign Finance Reform Act ("BCRA"), if it were in effect, would have criminalized any response from the NRA in which Mr. Shriver was referred to by name.

33. Another example of this sort of attack is an ad that was run by Betty McCollum, a candidate for the House of Representatives from Minnesota. She ran the following ad in October 2000:

Betty McCollum: I have an 8-year old friend. He told his mom and Dad he's afraid of guns, guns in school. This is wrong. Gun safety is plain, common sense. We need trigger locks, criminal background checks for every gun purchased and tougher penalties for anyone who sells a handgun to a minor. If it's a choice between catering to the NRA or protecting our children, that's an easy choice. In Congress, I'll fight for what matters to you because it matters to my family too.

See Exhibit 18 (service by facsimile). This ad attacks the NRA by creating the false impression that the NRA is not concerned with gun safety or the safety of children. Nothing could be further from the truth. And under the new law, as I understand it, the NRA will not be able to respond to the attacker by name. A representative sample of other similar attack ads against the NRA is attached as Exhibit 15.

34. For several reasons, it is utterly irrelevant that the Political Victory Fund can theoretically respond to such attacks on the NRA. First and foremost, the NRA and the Political Victory Fund are distinct entities. The attacks are aimed at the NRA itself and do not even mention the Political Victory Fund. Second, as a political action committee, the Victory Fund expends its funds to influence the outcome of federal elections. That is the purpose for which donors contribute to the Political Victory Fund. Given that the NRA and the Political Victory Fund were indifferent as to which candidate won the Democratic primary in Maryland's 8th congressional district, there is no basis for requiring the Political Victory Fund to spend dollars on ads referring to candidates on whom it is indifferent. When the NRA is merely defending its reputation, there is no justification for forcing it to spend dollars raised by the PAC. Third, candidates have two distinct advantages in this battle: (1) their access to friendly media coverage and (2) ability to draw upon their personal wealth to attack the NRA. Given this access to unregulated sums of money and air time, there is no justification for creating an unlevel playing field in which the NRA is effectively gagged and the Victory Fund is handcuffed by contribution limitations, while

candidates can mount a major television campaign with a personal single check or a phone call to a media executive.

35. The NRA's PAC also has far more limited resources than the NRA itself. Many NRA members simply cannot afford to make a contribution to the Political Victory Fund. The NRA's members are overwhelmingly comprised of ordinary middle class Americans. Through the years, innumerable members have told me that they would like to do more to help further the NRA's political agenda, but they simply cannot afford to give anything more than their membership dues of \$25 a year. For many of these individuals, they must make sacrifices just to pay their annual dues. If these members are not permitted to pool their resources in the form of annual membership dues, they will effectively be excluded from the political dialogue that takes place on the Nation's airwaves. Thus, if only the NRA's PAC is permitted to speak in the weeks leading up to elections, those citizens with the fewest resources will be silenced and shut out of our democratic process.

III. Defending The NRA Against Media Attacks

36. In recent years, the media has increasingly worked with anti-gun advocates to smear the NRA. This entrenched hostility to the NRA is part of a broad, systemic bias against conservative causes that pervades the major media companies and their coverage of the news. This liberal bias distorts what is supposed to be objective news reporting by the major network broadcasters, as well as by the print media, by slanting the presentation of all news stories to portray conservatives as wrong-headed or extreme, while portraying a liberal perspective as moderate, reasonable, and mainstream.

37. This widespread prevalence of this liberal bias has recently been exposed in dramatic fashion by the publication of a book entitled *Bias: A CBS Insider Exposes How The Media*

Distort The News, by Bernard Goldberg, who worked as a reporter for CBS News for twenty-six years. See Exhibit 19 (NRA-MDEE 0556-0831). This book chronicles in detail the extent of the liberal bias in the major media, the effect this bias has on the way in which news is portrayed and hence upon the way in which the world is perceived by the viewing public, and the way in which the media insiders work towards keeping the fact of their bias hidden from the general public.

38. Another good source for describing the existence of liberal media bias is the Media Research Center. For example, this center published a Special Report on January 5, 2000, entitled “Outgunned: How The Network News Media Are Spinning The Gun Control Debate.” This report, and its Executive Summary, have also been produced in this litigation, see Exhibit 20 (NRA 09730-09745). In this Special Report, the Media Research Center explains how a study of morning and evening news stories on ABC, NBC, CBS, and CNN over a two year period between 1997 and 1999 revealed the following: (1) 357 stories advocated more gun control, whereas only 36 opposed further gun control; (2) evening news shows favored gun control *eight times* more often than they opposed gun control; (3) morning news shows favored gun control *thirteen times* more often than they opposed gun control; (4) anti-gun soundbites appeared more than twice as frequently as pro-gun soundbites; (5) news programs were twice as likely to feature pro-gun control activists as guests than pro-gun rights activists; (6) themes that are considered pro-gun – such as the decline in federal gun prosecutions under the Clinton Administration, or the positive use of guns in self-defense – were barely covered in the 653 stories sampled.

39. An example of the collaboration between anti-gun politicians and the media can be seen in the coverage given to the Million Mom March, which occurred in the spring of 2000. The sponsors of that event worked closely with the Clinton White House and were able to gain enormous exposure through their access to free national media. Organizers of the Million Mom

March repeatedly attacked the NRA. In response to this assault, the NRA produced and aired a program that examined the forces and influences behind the Million Mom March. This broadcast was entitled “MMM/ Prosecution.” Exhibit 21 (NRA ACK 00007).

40. The program criticized the Clinton Administration for pursuing new gun control measures rather than prosecuting criminal violations of laws already on the books. The program ran for nearly 30 minutes and aired on numerous occasions in various markets around the country. Charlton Heston introduced the first segment, which described various celebrities and politicians who want to confiscate the guns of ordinary citizens while ensuring that their personal bodyguards retain them. This first segment contrasted Rosie O’Donnell’s insistence at the Million Mom March that “only police should have guns,” with her bodyguard’s application for a permit to carry a concealed handgun, and similarly contrasted Senator Dianne Feinstein’s stance against carrying handguns with a permit she once held to carry a handgun for personal protection. The second segment cited a study by Syracuse University showing that federal firearm prosecutions had drastically declined by 44% between 1992 and 1998, and reported on crimes that resulted from failure to prosecute. The third segment then repeated the initial segment. The program contains limited reference to candidates for federal office. Specifically, the first segment says that “President Clinton, Hillary [then a candidate for the Senate], and Schumer” were all out there at the Million Mom March “for their own political gain,” and the second segment chastises the “Clinton/Gore White House” for having “turned its back on real justice.” The overarching purpose of this program was to generate new membership and support for the NRA and to ensure that its message was heard in response to prominent media campaigns against it. The program was not intended to influence a federal election.

IV. Holding Politicians Accountable

41. The NRA also runs paid television and radio broadcasts to hold politicians accountable for their actions. Such broadcasts are the only way the NRA can inform the public about the discrepancies between candidates' words and their actions. Given that the general public's attention on important public policy issues is at its zenith during the weeks leading up to an election, the NRA's efforts to hold anti-gun politicians accountable for their actions is critically important during this period.

42. An example of the NRA's efforts to hold politicians accountable for their actions is the NRA's 30-minute broadcast detailing Al Gore's position on the Second Amendment. The Clinton-Gore Administration had been bashing the NRA throughout the entire year. This was part of their apparent political strategy to demonize and marginalize the NRA. It didn't work. And so Vice President Gore tried to flip-flop and portray himself as a pro-Second Amendment candidate just prior to the beginning of his general election campaign. In a statement published by the New York Times on August 10, 2000, one of Al Gore's top campaign spokesmen, Douglas Hattaway, stated that "we support Second Amendment rights and want to protect those rights for law-abiding gun owners and sportsmen, while promoting common-sense policy to keep guns away from kids and criminals." *See* Exhibit 22 (NRA 11330-11331). Remarkably, less than two weeks after making this statement, on August 22, 2000, the top constitutional lawyer in the Clinton-Gore Administration, Solicitor General Seth Waxman, unequivocally stated that it was the administration's position that individuals do not possess a Second Amendment right to keep and bear arms. Specifically, General Waxman's letter stated: " 'it must be considered as settled that there is no personal constitutional right, under the Second Amendment, to own or to use a gun.' " *See* Exhibit 23 (NRA-PVF 00468). Nevertheless, the Gore campaign continued to portray their

candidate as a proponent of the Second Amendment. When the NRA questioned this contention, the Gore campaign's operatives attacked the NRA's credibility. The Gore campaign's allies in the unions distributed leaflets denouncing the NRA and claiming that the NRA was distorting Gore's record. As the NRA did not have access to union membership rolls, the only way to defend ourselves against this attack was to buy airtime.

43. The NRA could not allow Al Gore to engage in such blatant hypocrisy. If he and his top lawyers thought that the Second Amendment was a dead letter, then the American people had a right to know about it. And none of the major media outlets were reporting this story. In the face of this reality, NRA produced a 30-minute broadcast that brought this information to light. *See* Exhibit 24 (NRA-ACK 00010).

44. In the broadcast, Ginny Simone, the reporter on all the broadcasts referenced earlier, traveled into areas with a heavy union presence and interviewed citizens, union members and their families. The interviews were neither scripted nor pre-arranged. The citizens in the broadcast expressed their candid belief that George Bush will protect their firearm rights whereas Al Gore will not, and many cited that issue as their central concern for the 2000 presidential election. In an intervening segment, I quoted from the Clinton Administration's position in the *Emerson* case, in which the then-Solicitor General stated the Administration's position that "the Second Amendment does not extend an individual right to keep and bear arms." And I explained that if Al Gore were to win the election and have the opportunity to appoint Supreme Court Justices such as "Hillary Clinton, Chuck Schumer, and Dianne Feinstein" who agree with his Justice Department officials regarding the scope of the Second Amendment, that would foreclose firearm owners from invoking any right under the Second Amendment. Charlton Heston then explains the importance of this issue to the upcoming election and urges voters to consider their

freedoms in casting their vote. In the next segment, Charlton Heston quotes extensively from statements Al Gore has made about firearm restrictions and his desire to impose new licensing requirements, explaining the problems and pitfalls associated with these approaches.

45. This program was designed to achieve many different purposes, including to respond to the union attacks on the NRA, galvanize the NRA's existing membership, attract new members, encourage donations, influence the presidential election in favor of George W. Bush, and present important information to the American public. It was spurred in large part by the representation of Al Gore's campaign that he intended to protect gun owners and their right to bear arms, and was designed to debunk that notion with accurate, documented information, and the candid perceptions of ordinary citizens focused upon the issue.

46. Although this program was aired in many battleground states, we also aired the program in California, Nebraska, and Montana where the outcome of the presidential election was not in question. *See Exhibit 2.* These airings plainly demonstrate that this broadcast was not solely an election ad, but rather spoke to a more fundamental point: the Second Amendment was under attack from a politician masquerading as a friend of this fundamental constitutional right.

47. We also ran portions of the full program as 30 second paid advertisements. Some of these "spots" were run with the tag line "Vote for George W. Bush." These ads were paid for by the Political Victory Fund. Ads that did not conclude with an exhortation to vote for or against a candidate were paid for by the NRA's Institute for Legislative Action, which is part of the NRA and is not a political action committee.

48. During the two decades that I have worked at the NRA, I am unaware of any coordination between the NRA and candidates for federal office with respect to television or radio advertising.

V. Membership Drives

49. The NRA also broadcasts programs that are designed to increase its membership. In 2000, the NRA paid to air another 30-minute broadcast that was a tribute to the NRA's President, Charlton Heston. The program focused on his life and political involvement, touting him as a role model and inspiration to all Americans. *See Exhibit 25 (NRA ACK 00006)*. The program described his patriotism and devotion to public life, especially his longstanding involvement with the NRA and advocacy of Second Amendment rights. It was aired on numerous occasions in various markets around the country. The first segment shows film footage of Charlton Heston and explains that, as President of the NRA, he now makes enormous personal sacrifices and subjects himself to withering attacks in trying to promote the NRA's views in hostile academic and media forums. The second segment consisted of unedited footage from Charlton Heston's acceptance speech upon being elected as NRA President for a third term. The third segment then repeats the initial segment.

50. During the short membership appeals that preceded and followed each segment, the program urged viewers to join the NRA and described the benefits of membership. For several seconds, the screen flashed an issue of the NRA's magazine "First Freedom" with Al Gore clearly depicted on the cover. In addition, the first segment, in praising Charlton Heston's personal courage, says that he has proven his willingness to debunk the hypocrisy and lies of the Clinton/Gore Administration. Finally, the second segment, consisting entirely of Charlton Heston's unedited acceptance speech, includes his passing comments that increasing sentiment against gun control "spells very big trouble for a man called Gore," and his closing remark, while holding a musket over his head, "from my cold, dead hands, Mr. Gore." This program was aired at numerous times throughout the country. The overarching purpose behind the program was to

generate new members and donations for the NRA. The program was not intended to influence the outcome of a federal election.

VI. Publications and Direct Mail

51. The NRA also communicates with its members and certain segments of the general public through its publications and direct mail. NRA regularly publishes six magazines. Members may select to receive one of three of these magazines, America's First Freedom, American Rifleman, American Hunter, as a benefit of membership. American Rifleman is the oldest of the NRA publications and has been published by NRA for 117 years. It had an audited average monthly paid circulation for the six month period between January 1, 2002 and June 30, 2002 of more than 1.5 million copies. American Hunter is in its 30th year of monthly publication by NRA and had an audited average monthly paid circulation for the six month period between January 1, 2002 and June 30, 2002 of more than 1.1 million copies.

52. America's First Freedom is NRA's monthly news magazine devoted to news about legislation, public policy, and political activities related to the Second Amendment and the use and enjoyment of firearms by law abiding citizens. NRA began publishing America's First Freedom in 2000, and as of June 30, 2002, it had an audited average paid circulation for the six month period preceding that date of 635,580.

53. The other NRA magazines are Shooting Illustrated, Shooting Sports USA, and InSIGHTS. Shooting Sports USA and Shooting Sports Illustrated are published monthly and sold to subscribers and/or are available for purchase on public newsstands. InSIGHTS magazine is a benefit of membership to NRA junior members.

54. The NRA also engages in extensive direct mailing campaigns. In 2000, the NRA spent approximately \$19 million to publish and distribute its magazines and approximately \$29 million on direct mail.

55. The NRA's print media serve the same purposes as its television and radio broadcasts: educating the public, opining on the wisdom of specific acts of legislation, defending the NRA against attacks by politicians and the media, raising membership and contributions, and influencing federal elections. As with its broadcast programming, the NRA's print communications frequently refer to candidates for federal office by name throughout the year, including in the 30 days prior to a primary and the 60 days prior to a general election.

VII. The NRA Funds Itself From Individual Contributions

56. The NRA is a voluntary membership organization. NRA members join because of our organization's commitment to preserving Second Amendment rights. In 2000, the NRA had more than 4 million members. Annual membership dues, ranging from \$25-\$35 per year, make up the vast majority of our funding. In the year 2000, for example, we received over \$100 million in individual membership dues. We received approximately another \$40 million in additional contributions from individuals. The average contribution from individuals amounted to \$30 per year. Thus, the NRA's financial strength is derived from the pooling of resources of millions of ordinary working folks who seek to preserve their right to keep and bear arms.

57. The NRA receives only a negligible amount of contributions from corporations. In the year 2001, the NRA received less than \$300,000 in corporate contributions.

58. Revenues received from other NRA activities do not serve as a source of funds for the NRA's television and radio broadcasts. Specifically, the revenues derived from magazine advertising are not sufficient to cover the cost of producing these magazines. Likewise, sales of

NRA memorabilia are not used for producing or airing of television or radio advertising because the revenue from the sale of NRA memorabilia does not even cover the cost of producing and distributing these items.

59. The revenue that the NRA receives from credit card affinity programs and insurance programs that are available to NRA members reflect the members' desire to support the activities of the NRA. Members are clearly aware that when they sign up for an NRA credit card or insurance through an NRA-sponsored provider that the NRA will receive financial remuneration. Thus, these modest revenues are therefore the functional equivalent of contributions from individuals.

60. The NRA's net revenues available for political speech overwhelmingly are derived from individual contributions. Corporate contributions account for less than 1 percent of funds available for broadcast programming. Even assuming that revenues from affinity programs and subtenants are corporate contributions, over 94% of the funds available to the NRA for broadcasting speech are derived from individual contributions.

61. Starting in 2003, the NRA will put in place measures to ensure that all of the funds expended on television and radio broadcasts are derived *entirely* and exclusively from contributions from individual members. We will ensure that all funds derived from corporations will be segregated from contributions from individuals. Thus, we will pay for our television and broadcast programming exclusively out of funds provided from individual members.

VIII. BCRA's Disclosure Requirements Threaten the Privacy Interests of NRA Members

62. The disclosure requirements in BCRA will invade the privacy interests of all affected NRA members. Through the years, hundreds, if not thousands, of NRA members have told me that they do not wish to disclose their contributions to the NRA. With all the hostile

criticism that has been leveled at the NRA and all the misinformation that has been disseminated by the media about the NRA in recent years, it is natural that people would fear repercussions either at work or in their community from such disclosure. The people that have voiced these fears to me come from all walks of life. They include a lawyer who worked at the Department of Justice during the Clinton years, a Secret Service agent, teachers, police officers, and workers in Hollywood. Based on my conversations with members through the years, I firmly believe that there is a large segment of the NRA membership and the public at large who share these privacy concerns. If, as a result of BCRA, members are forced to disclose their identities, I firmly believe that many will not make contributions that trigger such disclosure.

63. In the course of this litigation, the NRA and I were contacted by the lawyers at Cooper & Kirk and asked if we could produce copies of the NRA and VICTORY FUND's By-laws and of the NRA's Certificate of Incorporation. I can testify to the fact that true and complete copies of these Bylaws and Certificate of Incorporation have been produced to the lawyers at Cooper & Kirk. I understand that these copies were also produced to the defendants in this litigation, and have been marked with the Bates range NRA 1469-1527, and NRA 2926-2977 are Exhibits 1 and 26, respectively.

64. In the course of this litigation, I have reviewed a copy of an article that ran in *The New York Times* on August 10, 2002, entitled "The 2000 Campaign: The Ad Campaign," which I first read when it ran during the 2000 election cycle. I can testify that the lawyers and Cooper & Kirk have provided me with a true and correct copy of this article; and it is my understanding that an identical copy has been produced to the defendants in this litigation, marked with the Bates range NRA 11330-11331.

