

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF ALEXANDRIA

NATIONAL RIFLE ASSOCIATION OF AMERICA )

Plaintiff )

v. )

Case No. CL19001757

ACKERMAN MCQUEEN, INC. )

and )

MERCURY GROUP, INC. )

Defendants. )

**ANSWER, PLEA IN BAR, AND COUNTERCLAIM**

The Defendants, Ackerman McQueen, Inc. and Mercury Group, Inc. (collectively "AMc"), by and through the undersigned counsel, submit their Answer, Plea in Bar, and Counterclaim to the Amended Complaint filed by Plaintiff National Rifle Association (NRA) in the above-captioned case, as follows: <sup>1</sup>

2019 JUL 16 PM 12:04  
EDWARD STROMBERG, CLERK  
BY [Signature]  
CLERK  
CLERK OF COURTS  
CITY OF ALEXANDRIA

<sup>1</sup> AMc is subject to a confidentiality obligation in the Services Agreement (**Exhibit A**) between the NRA and AMc that is vague and overbroad. It purports to prohibit AMc from disclosing any "materials or information coming to the knowledge of AMc, supplied to AMc by NRA, or otherwise made known to AMc as a result of AMc's providing Services (hereinafter collectively referred to as the "Confidential Information"), without the prior express written permission of NRA." Thus, the Services Agreement definition of "Confidential Information" includes routine public and non-public information that comes to the attention of AMc while working on NRA matters. The Services Agreement also states "AMc may use such Confidential Information only for the limited purpose of providing Services to NRA." [Section IV. CONFIDENTIALITY, A(1) and A(3).] Because the definition of "Confidential Information" is overbroad and vague, any AMc disclosure necessary to its defense in this law suit could be construed as a breach of the Services Agreement.

-footnote continued on next page-

## RESPONSE TO SPECIFIC ALLEGATIONS OF AMENDED COMPLAINT

With respect to the specific allegations in the Amended Complaint, Defendants provide the following responses:

### A. RESPONSE TO PRELIMINARY STATEMENT

Defendants move to strike the Plaintiff's Preliminary Statement as a violation of the rules of pleading. Va. Sup. Ct. Rule 1.4(d) does not allow pleading in narrative form without numbered paragraphs. To the extent any response is required, the allegations set forth in the Preliminary Statement are generally denied.

Specifically, Defendants deny Plaintiff's unnumbered allegation that Defendants have denied access to any information that the NRA is entitled to under the Services Agreement. Defendants deny that it has only "partially complied" with NRA requests and specifically denies that it has "withheld material information about the related party contract with NRA's now former President, Lieutenant Colonel Oliver North (Ret.)."

Defendants admit that the Service Agreement requires the NRA to provide "reasonable notice," before examining "files, books and records" of the Defendants that "pertain to matters

---

Therefore, AMc and Mercury are responding to the allegations of the NRA with great caution and have redacted from public disclosure any information that could be deemed confidential and will seek to file an unredacted version of the pleading under seal with the Court.

At the same time, the Defendants throughout this pleading request an expedited reply from the Plaintiff, pursuant to Va. Sup. Ct. Rule 3.11, with respect to certain allegations in the Amended Complaint as to whether NRA's introduction of those allegations in a public court filing waives NRA's confidentiality interest in those matters.

The Court should also consider ordering NRA to review the non-disclosed information, and on a paragraph by paragraph basis, permit disclosure or assert why it will be harmed by disclosure.

covered by the parties' contract." Defendants deny that the NRA has followed proper procedures to seek such materials and deny that the NRA has complied with the Examination of Records provision in the Services Agreement, and also deny that the NRA has properly interpreted the scope of its authority to review documents possessed by the Defendants.

Defendants deny the allegation that the "impasse between them which gives rise to this lawsuit is simple, and baffling; the NRA requested access to material, readily available records that Ackerman and Mercury are contractually obligated to provide. Defendants refused to provide them."

Defendants aver as a new matter, specifically requiring a response, that Defendants have complied with every audit request sought by the NRA during the past 38 years and that the most recent audit was completed by the NRA auditor in February 2019 with a determination that Defendants are in compliance and that Defendants do not need to return any funds to the NRA, the same result that has been reached in every other audit over the history of the relationship between the parties.

Defendants aver as a new matter, specifically requiring a response, that the contract with Lt. Col. Oliver North was negotiated by the NRA's Executive Vice President Wayne LaPierre, reviewed by the NRA Treasury; and reviewed and approved by the NRA's audit committee, and the material terms of the contract have been known to the NRA at all times.

Defendants aver as a new matter, specifically requiring a response, that counsel for AMc permitted NRA General Counsel Frazer to review the North Contract before the filing of this suit, and the NRA had received a copy of the North Contract before the suit was filed.

Defendants aver as a new matter, specifically requiring a response, that the NRA's true purpose underlying this Lawsuit is to artificially construct a false claim for a technical breach of

the Services Agreement that they erroneously believe will allow them to terminate the Services Agreement, move all of the Defendants' contractual services to a competing public relations unit, and not pay Defendants the required multi-million dollar termination/severance payments obligated under the Service Agreement.

Further, Defendants aver as a new matter, specifically requiring a response, that the NRA's public disclosure of the allegations in its Preliminary Statement waives any claim of confidentiality that the Plaintiff may have with respect to the subject matter alleged in the Preliminary Statement.

## **B. DEFENDANTS' RESPONSE TO PLAINTIFF'S NUMBERED ALLEGATIONS.**

### **PARTIES**

1. Plaintiff NRA is a not-for-profit corporation organized under the laws of the State of New York with its principal place of business in Fairfax, Virginia. The NRA is America's leading provider of gun-safety and marksmanship education for civilians and law enforcement. It is also the foremost defender of the Second Amendment of the United States Constitution. A 501(c)(4) tax-exempt organization, the NRA has over five million members – and its programs reach many millions more.

**ANSWER:** Defendants admit the allegations contained in Paragraph 1.

2. Defendant Ackerman is a nonresident for-profit business corporation organized under the laws of the State of Oklahoma with its principal place of business in Oklahoma City, Oklahoma. Ackerman is an advertising and public relations agency that has counted the NRA among its largest clients for more than thirty years.

**ANSWER:** Defendants admit that Ackerman is a nonresident for-profit business corporation organized under the laws of the State of Oklahoma with its principal place of business in Oklahoma City, Oklahoma and that it is an advertising and public relations agency and that it has served the interests of the NRA for more than thirty years.

3. Defendant Mercury is a nonresident for-profit business corporation organized under the laws of the State of Oklahoma with its principal place of business in Alexandria, Virginia. Mercury is a wholly owned subsidiary of Ackerman which specializes in public-communications strategy, including on behalf of advocacy groups such as the NRA. At all

relevant times, Ackerman has acted on behalf of both itself and Mercury pursuant to the Services Agreement (defined below) between Ackerman and the NRA.

**ANSWER:** Defendants admit that Mercury is a nonresident for-profit business corporation organized under the laws of the State of Oklahoma with its principal place of business in Alexandria, Virginia, and that it is a wholly owned subsidiary of Ackerman. Defendants admit that Mercury specializes in public communications strategy and has worked on behalf of advocacy groups such as the NRA. Defendants deny the allegations that Ackerman has acted on behalf of both itself and Mercury at all relevant times and demand strict proof thereof. Furthermore, Defendants *crave oyer* to mandate the disclosure to the Court of the contract referenced and relied upon by Plaintiff in Paragraph 3.

#### **RELEVANT NONPARTIES**

4. The NRA Foundation, Inc. (the "NRA Foundation") is a 501(c)(3) tax-exempt organization that raises tax-deductible contributions in support of a wide range of firearm-related public interest activities of the NRA and other organizations that defend and foster the Second Amendment rights of law-abiding Americans. Over the course of its contractual relationship with the NRA, Ackerman has occasionally performed services for the benefit of the NRA Foundation and issued corresponding invoices to the NRA Foundation. Because of its 501(c)(3) designation, the NRA Foundation is permitted to engage in, and fund, a narrower range of activities and communications than the NRA.

**ANSWER:** Defendants admit that it has occasionally performed services for the benefit of the NRA Foundation. Defendants have insufficient information to admit or deny the allegations concerning the NRA Foundation's activities or those of "other" organizations. The allegations regarding the NRA Foundation's 501(c)(3) status and its permitted range of activities are legal conclusions which do not require a response.

Defendants aver as a new matter, specifically requiring a response, that the public disclosure of the allegations in Paragraph 4 waives any claim of confidentiality that the Plaintiff has with respect to the matters alleged in that Paragraph.

## JURISDICTION AND VENUE

5. The Court has jurisdiction over the NRA's claims in this matter as the claims are subject to a court of general jurisdiction.

**ANSWER:** The allegations of Paragraph 5 are legal conclusions which do not require a response.

6. This Court has jurisdiction over Ackerman and Mercury pursuant to Virginia Code § 8.01-328.1 because Ackerman and Mercury have both transacted business in the Commonwealth of Virginia and contracted to supply services in the Commonwealth of Virginia.

**ANSWER:** The allegations of Paragraph 6 are legal conclusions which do not require a response.

7. Venue is proper in this Court pursuant to Virginia Code § 8.01-262 because Mercury's principal place of business is located in Alexandria, there exists a practical nexus to this forum, and/or a part of this cause of action arose in Alexandria.

**ANSWER:** The allegations of Paragraph 7 are legal conclusions which do not require a response.

8. Additionally, jurisdiction and venue are proper in this Court because Ackerman and Mercury have both contractually consented with the NRA to exclusive jurisdiction and venue of courts sitting within Virginia and waived any objection to venue in Alexandria, Virginia regarding the matters presented herein.

**ANSWER:** The allegations of Paragraph 8 are legal conclusions which do not require a response. Furthermore, Defendants *crave oyer* to mandate the disclosure to the Court of the contract referenced and relied upon by Plaintiff in Paragraph 8.

Defendants aver as a new matter, specifically requiring a response, that the public disclosure of the allegations in Paragraph 8 waives any claim of confidentiality that the Plaintiff has with respect to the matters alleged in that Paragraph.

## FACTUAL BACKGROUND

9. For decades, AMc and the NRA have collaborated closely regarding public affairs and messaging. Over that time, the NRA vested extensive trust and confidence in AMc, relying

upon the agency to perform work including: public relations and strategic marketing; planning and placement of media, including advertising during election cycles; management of digital media and websites; and, the operation of NRATV, a digital-media platform managed by AMc but frequently perceived by the public as the “voice” of the NRA [footnote omitted].

**ANSWER:** Defendants admit the allegations contained in Paragraph 9, except they lack knowledge as to the level of trust and confidence that was actually vested in AMc.

Defendants aver as a new matter, specifically requiring a response, that the public disclosure of the allegations in Paragraph 9 waives any claim of confidentiality that the Plaintiff has with respect to the matters alleged in that Paragraph.

10. Since at least 1999, AMc’s work on behalf of the NRA has been governed by successive incarnations of a Service Agreement containing detailed specifications for how various types of work performed by AMc for the NRA should be budgeted and billed. The Services Agreement between the NRA and AMc dated May 1, 1999 (the “Previous Services Agreement”) as well as the current, operative Services Agreement dated April 30, 2017 (as amended May 6, 2018, the “Services Agreement”) provide that certain categories of services, such as Owned Media and Internet Services, as compensated with an agreed annual fee, while others are required to be invoiced on an *ad hoc* basis based on estimates furnished by AMc and approved by the NRA.

**ANSWER:** Defendants admit that Service Agreements have existed between the parties. Defendants deny the remaining allegations in Paragraph 10. Furthermore, Defendants *crave over* to mandate the disclosure to the Court of the contract referenced and relied upon by Plaintiff in Paragraph 10.

Defendants aver as a new matter, specifically requiring a response, that the public disclosure of the allegations in Paragraph 10 waives any claim of confidentiality that the Plaintiff has with respect to the matters alleged in that Paragraph.

11. Both the Previous Services Agreement and the current Services Agreement have obligated AMc to adjust its pricing based on the “fair market value” or “fair market price” of the services performed. For example, the Previous Services Agreement contained the straightforward assurance by AMc, “we will charge you a fair market price for the work performed.” Similarly, the Previous Services Agreement and the current Services Agreement require AMc to provide

cost quotations for art concepts, design layouts, and similar items “based on the fair market price of the work as determined by AM[C].”

**ANSWER:** Defendants admit that Service Agreements have existed between the parties. Defendants further admit that pricing was based on fair market value as determined by AMc. Defendants are without sufficient information to admit or deny the remaining allegations in Paragraph 11.

Defendants aver as a new matter, specifically requiring a response, that the public disclosure of the allegations in Paragraph 11 waives any claim of confidentiality that the Plaintiff has with respect to the matters alleged in that Paragraph.

12. Anticipating that AMc would, from time to time, incur out-of-pocket expenses in the course of its work, but mindful of the NRA’s mandate to steward its funds in the interest of its public mission, the parties bargained for an expense-reimbursement protocol whereby travel and related expenses incurred by AMc could be paid by the NRA – but only upon prior written approval from the NRA in accordance with the NRA’s expense-reimbursement procedures.

**ANSWER:** Defendants deny the allegations contained in Paragraph 12.

Defendants aver as a new matter, specifically requiring a response, that the public disclosure of the allegations in Paragraph 12 waives any claim of confidentiality that the Plaintiff has with respect to the matters alleged in that Paragraph.

13. The NRA’s collaboration with AMc has generated important, iconic Second Amendment advocacy. In recent years, the trust and confidence it placed in AMc led the NRA to invest in an expanding suite of services which were – according to AMc’s assurances – fairly priced. For example, the NRA agreed to experiment with an “owned media company,” NRATV, a concept fervently pitched by AMc. By 2017, the NRA’s aggregate payments to Ackerman and Mercury totaled nearly \$40 million annually.

**ANSWER:** Defendants admit the allegations contained in the first sentence of Paragraph 13. Defendants deny the remaining allegations in Paragraph 13.



Defendants aver as a new matter, specifically requiring a response, that the "NRA's aggregate payments to Ackerman" includes a substantial amount of reimbursements to AMc for expenses incurred on behalf of the NRA.

Defendants aver as a new matter, specifically requiring a response, that the public disclosure of the allegations in Paragraph 13 waives any claim of confidentiality that the Plaintiff has with respect to the matters alleged in that Paragraph.

14. As the scope of AMc's work for the NRA grew, AMc represented to the NRA that it was required to hire a substantial number of personnel, as well as incur obligations to third-party contractors, for the exclusive purpose of servicing the NRA's account. Accordingly, when the parties renegotiated a new services agreement in 2017, AMc insisted upon – and the NRA agreed to provide – certain financial assurances in the event that the NRA terminated the Services Agreement. Among other things, upon the NRA's termination, the Services Agreement requires that the NRA compensate AMc for outstanding liabilities to both third-party contractors and employees. Specifically, the NRA must: (i) pay AMc the balance of any compensation owed under "non-cancellable contracts entered into between AM[C] and third parties for the benefit of the NRA" (as defined under the Services Agreement, the "AMc-Third Party NRA Contracts"); and (ii) pay AMc a termination fee to cover severance payments owed to AMc employees who are "dedicat[ed]...to provide services [to the NRA]" and need to be laid off if the Services Agreement is terminated (the "NRA-Dedicated Personnel").

**ANSWER:** Defendants generally admit the allegations contained in Paragraph 14, except they deny the characterization of the negotiations contained in the second sentence of Paragraph 14. To the extent that the allegations purport to interpret a legal document, the Defendants deny the interpretation and assert that the legal document best speaks for itself.

Defendants aver as a new matter, specifically requiring a response, that the public disclosure of the allegations in Paragraph 14 waives any claim of confidentiality that the Plaintiff has with respect to the matters alleged in that Paragraph.

15. The NRA bargained for transparency into AMc's files, books and records to ensure that the NRA, a not-for-profit, could appropriately monitor the use of its funds. Both the Previous Services Agreement and the current Services Agreement incorporate records-examination clauses that require AMc to open its files for the NRA's inspection upon reasonable notice. The full text of the Records-Examination Clause in the Services Agreement appears below:

**Services Agreement**

- Dated April 30, 2017 (as amended May 6, 2018)
- Between the NRA and "AMc" (defined to include both Ackerman and Mercury)

**VIII. EXAMINATION OF RECORDS**

During the term of this Services Agreement, AMc authorizes NRA, upon reasonable notice, to examine AMc and Mercury's files, books and records, with respect to matters covered under this Services Agreement:

**ANSWER:** Defendants deny the allegations contained in Paragraph 15 of the Complaint.

Defendants aver as a new matter, specifically requiring a response, that the public disclosure of the allegations in Paragraph 15 waives any claim of confidentiality that the Plaintiff has with respect to the matters alleged in that Paragraph.

16. For years, the NRA conducted annual audits of certain AMc files pursuant to the Records-Examination Clause. Frequently, the audited records consisted of "samples" assembled in advance by AMc. During 2018, the NRA sought to expand its insight into AMc's activities and its spending – including full access to certain categories of records rather than sample subsets gathered by AMc. Surprisingly and unfortunately, that effort ignited the parties' current dispute.

**ANSWER:** Defendants admit the allegation contained in the first sentence of Paragraph 16 in that the NRA conducted annual audits of AMc files and those files were provided to the NRA by AMc. Defendants deny the remaining allegations contained in Paragraph 16.

Defendants aver as a new matter, specifically requiring a response, that the public disclosure of the allegations in Paragraph 16 waives any claim of confidentiality that the Plaintiff has with respect to the matters alleged in that Paragraph.

17. In recent years, the State of New York amended its Not-for-Profit Corporation Law (the "NPCL") to clarify requirements for director independence and the ratification of related-party contracts, among other items. After updating its internal policies and controls to comply with the New York amendments, the NRA decided to strengthen its procedures for documentation and verification of compliance with vendor contracts. Beginning in August 2018, the NRA sent letters to hundreds of vendors – including AMc – that set forth updated invoice-

support requirements and provided detailed guidance regarding, for example, expense reimbursement procedures.

**ANSWER:** Defendants are without sufficient information to admit or deny the allegations contained in Paragraph 17 and therefore deny those allegations.

Defendants aver as a new matter, specifically requiring a response, that the public disclosure of the allegations in Paragraph 17 waives any claim of confidentiality that the Plaintiff has with respect to the matters alleged in that Paragraph.

18. During the course of this process, the NRA developed concerns that AMc's expenses and activities required closer oversight. Specific concerns that the NRA sought to investigate included:

- "Out of pocket" expenses that lacked meaningful documentation of NRA approvals, receipts, or other support, despite the requirements set forth in the Services Agreement;
- Lack of transparency regarding AMc's annual budgets under the Services Agreement, as well as its adherence to those budgets;
- Lack of transparency regarding "fair market value" determinations;
- Concerns that AMc was invoicing the NRA for the entire salaries attributable to NRA-Dedicated Personnel, despite certain NRA-Dedicated Personnel allocating substantial time to non-NRA clients;
- Refusal to provide any data "in writing" (such as viewership numbers, clickthrough rates, or related performance metrics) that enable the NRA analyze [sic] the return on its investment in NRATV [footnote: In addition, certain NRA stakeholders were also concerned that NRATV's messaging – on topics far afield of the Second Amendment – deviated from the NRA's core mission and values.].

**ANSWER:** Defendants are without sufficient information to admit or deny the allegations contained in Paragraph 18 and therefore deny those allegations. Defendants deny the allegations contained in the fifth bullet point.

Defendants aver as a new matter, specifically requiring a response, that the public disclosure of the allegations in Paragraph 18 waives any claim of confidentiality that the Plaintiff has with respect to the matters alleged in that Paragraph.

19. During early- and mid-2018, the NRA sought information from AMc pursuant to the Records-Examination Clause on a common-interest basis to advance the parties' mutual interests in connection with an ongoing lawsuit. However, after the NRA began to request access to records that would shed light on the above topics, AMc's responses became evasive and hostile. In fact, in September 2018, for the first time in the parties' decades-long course of dealing, AMc demanded that its outside counsel supervise any document review conducted under the Records-Examination Clause, then demanded payment of outside counsel's legal fees as a precondition for delivery of video footage for which AMc had already invoiced the NRA. During a telephone call on September 19, 2018, after AMc's counsel insisted that the NRA pay AMc's legal fees without any insight into why the fees had been incurred, the NRA's counsel observed that AMc's posture seemed more consistent with an adverse party than a common-interest relationship. AMc's counsel replied: "Ackerman views the relationship as adverse."

**ANSWER:** Defendants deny the allegations contained in Paragraph 19.

Defendants aver as a new matter, specifically requiring a response, that the public disclosure of the allegations in Paragraph 19 waives any claim of confidentiality that the Plaintiff has with respect to the matters alleged in that Paragraph.

20. Thereafter, AMc strenuously resisted the NRA's efforts to enforce the Services Agreement, including by embarking on a campaign to "kill the messenger" when the NRA sought access to documents or proposed reductions in AMc's budget. At first, AMc scapegoated the NRA's outside counsel. However, over ensuing months, AMc also refused to respond to basic information requests from NRA executives. After the NRA retained a third-party forensic accounting firm to interface with AMc in an effort to appease AMc and gain its compliance in January 2019, AMc indicated it would cooperate. Unfortunately, that pledge of cooperation was short-lived as AMc purported to forbid the accountants from disclosing simple, material information to the NRA – including copies of annual budgets that the NRA allegedly approved. When the NRA's General Counsel sought additional information in follow-up to the forensic audit, AMc ignored his letters.

**ANSWER:** Defendants deny the allegations contained in Paragraph 20.

Defendants aver as a new matter, specifically requiring a response, that AMc provided NRA auditors with access to all matters requested by the auditors during the various audits of AMc.

Defendants aver as a new matter, specifically requiring a response, that the public disclosure of the allegations in Paragraph 20 waives any claim of confidentiality that the Plaintiff has with respect to the matters alleged in that Paragraph.

21. The NRA brings this action not only because AMc has flagrantly disregarded its contractual obligations, but because the NRA has recently grown concerned that the records AMc is withholding include information material to the NRA's not-for-profit governance and its stewardship of its members' donations.

**ANSWER:** Defendants deny the allegations contained in Paragraph 21.

Defendants aver as a new matter, specifically requiring a response, that the public disclosure of the allegations in Paragraph 21 waives any claim of confidentiality that the Plaintiff has with respect to the matters alleged in that Paragraph.

22. Lieutenant Colonel Oliver North (Ret.) ("Col. North") is a veteran of the United States Marine Corps and the Regan administration, a longstanding advocate for the Second Amendment, and a member of the NRA Board of Directors. During May 2018, the NRA announced that Col North was slated to serve as its next President – a largely ceremonial but high-profile position famously occupied by Charlton Heston during the late 1990s. As Col. North prepared to assume the presidency of the NRA, he separately discussed a potential engagement by AMc as the host of an NRATV documentary series. On May 6, 2018, the NRA and AMc amended the Services Agreement (such amendment, the "May 2018 Amendment") to affirm that any contract between AMc and Col. North would be considered an AMc-Third Party NRA Contract, for which outstanding compensation would be owed by the NRA to AMc if the Services Agreement was terminated. Importantly, the amendment treated Col. North as a third-party contractor – but not, necessarily, an employee – of AMc. Importantly, Col. North and AMc assured the NRA that Col North's profile and "brand" would be actively leveraged to elicit sponsorships for the North documentary series. This was of vital interest because during recent years, the NRA had spent substantial sums on NRATV based on AMc's advice and representations regarding achievable benefits of an owned-media platform. However, measured against any of the desired outcomes, the returns on the NRA's investment in NRATV were less favorable than AMc predicted. Accordingly, the NRA began to reconsider its willingness to continue its investment in NRATV. If the North documentary series attracted sponsorships, then the costs associated with NRATV could be defrayed, altering the NRA's calculus about whether to continue supporting the platform.

**ANSWER:** Defendants admit the allegations contained in the first sentence of Paragraph 22. Defendants admit the allegations that Colonel North was President of the NRA. The

allegation in the fourth sentence of Paragraph 22 purports to interpret a legal document which best speaks for itself. Defendants deny the remaining allegations contained in Paragraph 22.

Defendants aver as a new matter, specifically requiring a response, that the public disclosure of the allegations in Paragraph 22 waives any claim of confidentiality that the Plaintiff has with respect to the matters alleged in that Paragraph.

23. New York law requires that the NRA Board of Directors, or an authorized committee thereof, review and approve “any transaction, agreement, or any other arrangement in which [a director or officer of the NRA] has a financial interest and in which the [NRA or an affiliate] if a participant.” [footnote omitted] Guidance published by the New York Attorney General notes that a board of directors may define additional restrictions on transactions giving rise to potential conflicts of interest [footnote omitted]; and, consistent with best practices, the NRA’s Conflict of Interest Policy requires disclosure of contracts between NRA leadership and vendors, like AMc, that receive funds from the NRA.

**ANSWER:** Defendants are without sufficient information to admit or deny the allegations relating to the NRA’s Conflict of Interest Policy and therefore deny those allegations. The balance of Paragraph 23 contains legal conclusions which require no response.

Defendants aver as a new matter, specifically requiring a response, that the public disclosure of the allegations in Paragraph 23 waives any claim of confidentiality that the Plaintiff has with respect to the matters alleged in that Paragraph.

24. Aware that Col. North entered into a contract with AMc (the “North Contract”), the NRA diligently sought to comply with its obligations concerning analysis and approval of the North Contract. During September 2018, the Audit Committee of the NRA Board of Directors (the “Audit Committee”) reviewed a purported summary of the material terms of the North Contract and ratified the relationship pursuant to New York law – subject to carefully drawn provisos designed to avoid any conflicts of interest.

**ANSWER:** Defendants admit that Colonel North entered into a contract with AMc and that the NRA Audit Committee reviewed, approved, and ratified that contract. Defendants are without sufficient information to admit or deny the remaining allegations in Paragraph 24 and therefore deny those allegations.

Defendants aver as a new matter, specifically requiring a response, that the public disclosure of the allegations in Paragraph 24 waives any claim of confidentiality that the Plaintiff has with respect to the matters alleged in that Paragraph.

25. At the time it ratified Col. North's continued service as an NRA director and President given his relationship with AMc, the Audit Committee was assured that the NRA's counsel would review the North Contract in full. But that turned out to be false, at least for the duration of 2018, as AMc continued to refuse to provide the North Contract pursuant to the Records-Examination Clause. Meanwhile, Col. North indicated via counsel that he could only disclose a copy of the contract to the NRA subject to AMc's consent. This back-and-forth persisted for nearly six months.

**ANSWER:** Defendants deny the allegations contained in Paragraph 25.

Defendants aver as a new matter, specifically requiring a response, that NRA Board General Counsel Hart reviewed the North Contract in 2018 and NRA General Counsel Frazer reviewed the North Contract in 2019 before this suit was filed.

Defendants aver as a new matter, specifically requiring a response, that the public disclosure of the allegations in Paragraph 25 waives any claim of confidentiality that the Plaintiff has with respect to the matters alleged in that Paragraph.

26. Eventually, in February 2019, AMc acceded to a brief, circumscribed, "live" review of the North Contract (but no retention of any copies) by the General Counsel of the NRA. This review raised concerns about whether the previous summary of the North Contract which was provided to the Audit Committee had been complete and accurate. Among other things, the NRA's brief, limited review of the North Contract – along with other information disclosed for the first time by Col. North – gave rise to questions regarding: (i) whether Col. North was a third-party contractor of AMc or, conversely, a full-time employee with fiduciary duties to AMc that supersede his duties to the NRA; (ii) whether the previously disclosed costs borne by the NRA in connection with the North Contract were complete and accurate; and (iii) whether the contract imposed obligations on Col. North that prevented him from communicating fully and honestly with other NRA fiduciaries about AMc. Against the backdrop of escalating concerns about AMc's compliance with the Services Agreement and applicable law, the NRA became determined to resolve these issues.

**ANSWER:** Defendants deny the allegations contained in Paragraph 26, other than to admit NRA General Counsel Frazer reviewed the North contract in his office at NRA pursuant to the contract.

Defendants aver as a new matter, specifically requiring a response, that the public disclosure of the allegations in Paragraph 26 waives any claim of confidentiality that the Plaintiff has with respect to the matters alleged in that Paragraph.

27. By letters dated March 25-26, 2019, the NRA's General Counsel again sought visibility regarding the North Contract and related business arrangements, as well as copies of other material business records pursuant to the Services Agreement. Specifically, the NRA requested:

- A chance to conduct a follow-up review of the North Contract (the NRA's General Counsel even volunteered to conduct the review at AMc's attorney offices, for AMc's convenience);
- Information about any additional costs relating to AMc's engagement of Col. North, to the extent that such costs were being "passed through" to the NRA;
- Copies of any additional AMc-Third Party NRA Contracts currently in existence;
- Information about which AMc personnel purportedly constituted "NRA-Dedicated Personnel," such that their salaries or severance were alleged to be reimbursable by the NRA, and business records sufficient to show whether these personnel were in fact dedicated to NRA projects; and
- Copies of the annual budget documents provided to the NRA's forensic accountants.

**ANSWER:** Defendants admit that they received letters from the NRA General Counsel on March 25 and 26, 2019 requesting certain information related to the North Contract. Defendants deny the characterization and validity of those letters and respond that the documents best speak for themselves.

Defendants aver as a new matter, specifically requiring a response, that Defendants have no duty to provide copies of Third-Party contracts or other business records pursuant to the



services contract, as the Services Agreement only requires that AMc allow properly designated NRA representatives to “examine” such records.

Defendants aver as a new matter, specifically requiring a response, that the public disclosure of the allegations in Paragraph 27 waives any claim of confidentiality that the Plaintiff has with respect to the matters alleged in that Paragraph.

28. The NRA made clear that it sought the above information “in whatever form [wa]s most convenient” for AMc and hoped to obtain access to ordinary-course business records as contemplated under the Records-Examination Clause. AMc immediately acknowledged receipt of the letters and promised to respond substantively. It did not.

**ANSWER:** Defendants admit that they received letters from the NRA General Counsel on March 25 and 26, 2019 requesting certain information related to the North Contract and that AMc acknowledged the receipt of those letters. Defendants deny the remaining allegations contained in Paragraph 28.

Defendants aver as a new matter, specifically requiring a response, that the public disclosure of the allegations in Paragraph 28 waives any claim of confidentiality that the Plaintiff has with respect to the matters alleged in that Paragraph.

29. Meanwhile, the NRA began to suspect that the information it previously received regarding the North Contract was incomplete and, therefore, misleading. The May 2018 Amendment classified Col. North as a third-party contractor of AMc, which had two important implications. *First*, an independent contractor is generally perceived to act with greater autonomy than an employee or servant. *Second*, in the event that the NRA terminates the Services Agreement, it incurs different trailing obligations with respect to AMc-Third Party NRA Contracts than with respect to severance of NRA-Dedicated Personnel. Consistent with the general arms-length nature of third-party contracts, the Services Agreement assumes that all “non-cancellable contracts entered into between AMc and third parties for the benefit of the NRA” are just that: non-cancellable. Accordingly, under Section XI.E of the Services Agreement, the NRA agrees to pay the full balance of any compensation owed by AMc under an AMc-Third Party NRA Contract if the NRA terminates the Services Agreement, lest AMc be unfairly saddled with a legacy third-party obligation. By contrast, the Services Agreement treats severance of NRA-Dedicated Personnel in a far less burdensome manner for the NRA, requiring only that AMc and the NRA negotiate a “fair and equitable termination fee” to absorb severance costs.

**ANSWER:** Defendants deny the allegations contained in Paragraph 29.

Defendants aver as a new matter, specifically requiring a response, that the public disclosure of the allegations in Paragraph 29 waives any claim of confidentiality that the Plaintiff has with respect to the matters alleged in that Paragraph.

30. In short, by treating the North Contract as an AMc-Third Party NRA Contract pursuant to the May 2018 Amendment, AMc: (1) made an implicit representation about the degree of independence Col. North could exercise; and (2) imposed a rigid financial liability on the NRA that persists if the Services Agreement is terminated – as opposed to the “fair and equitable”, negotiable severance offset that would apply if Col. North were an AMc employee.

**ANSWER:** Defendants deny the allegations contained in Paragraph 30.

Defendants aver as a new matter, specifically requiring a response, that the public disclosure of the allegations in Paragraph 30 waives any claim of confidentiality that the Plaintiff has with respect to the matters alleged in that Paragraph.

31. On or about February 19, 2019, the NRA learned that Col. North was a salaried employee of Ackerman. Accordingly, Col. North owes a fiduciary duty of loyalty to Ackerman under the laws of many jurisdictions – a fact that was never disclosed to the Audit Committee when it ratified Col. North’s service as fiduciary of the NRA. And under the terms of the May 2018 Amendment, the NRA has incurred a purported trailing liability under the North Contract that was never appropriate, and would not have resulted if the NRA had known that Col. North was an Ackerman employee.

**ANSWER:** Defendants deny the allegations contained in Paragraph 31.

Defendants aver as a new matter, specifically requiring a response, that the public disclosure of the allegations in Paragraph 31 waives any claim of confidentiality that the Plaintiff has with respect to the matters alleged in that Paragraph.

32. Moreover, AMc originally advised the NRA that it had contracted Col. North to host “[t]welve feature-length episodes” of a digital documentary series, to be produced “during each 12 months of a three-year [a]greement,” commencing during or about May 2018. Yet by April 22, 2019 – eleven months into Col. North’s engagement – only three episodes are available, and none are “feature-length.” Instead, as of the date of this filing, the three episodes made available by AMc total 39 minutes, 33 minutes, and 11 minutes in length, respectively.

**ANSWER:** Defendants deny the allegations contained in Paragraph 32.

Defendants aver as a new matter, specifically requiring a response, that the public disclosure of the allegations in Paragraph 32 waives any claim of confidentiality that the Plaintiff has with respect to the matters alleged in that Paragraph.

33. On April 22, 2019, Col. North finally disclosed a copy of his contract to the NRA – even as AMc continued to rebuff the NRA’s requests for material information about the contract. AMc has also withheld documentation regarding sponsorships raised for the North documentary series, and the NRA has no evidence that any substantial sponsorships exist. Viewed in light of the series’ production shortfalls, these facts have troubling implications. The NRA agreed to shoulder a specific financial burden in connection with a specific digital-media project – not to allow its President to be compensated by a for-profit advertising agency for performing generic leadership functions. Importantly, the NRA’s Bylaws do not provide for the President to receive a salary.

**ANSWER:** Defendants deny the allegations contained in Paragraph 33.

Defendants aver as a new matter, specifically requiring a response, that the public disclosure of the allegations in Paragraph 33 waives any claim of confidentiality that the Plaintiff has with respect to the matters alleged in that Paragraph.

34. In the wake of these developments, the NRA again requested that AMc allow it to examine business records that would shed light on “what, exactly, [the NRA] is paying for – and what it is getting.” As of the time of this filing, Ackerman has not responded. Put simply, the NRA is at the end of its rope.

**ANSWER:** Defendants deny the allegations contained in Paragraph 34.

Defendants aver as a new matter, specifically requiring a response, that the public disclosure of the allegations in Paragraph 34 waives any claim of confidentiality that the Plaintiff has with respect to the matters alleged in that Paragraph.

35. AMc’s breach of the Services Agreement has damaged – and threatens to imminently and irreparably harm – the NRA’s legitimate operational interests as a not-for-profit organization. By denying the NRA access to basic information regarding the nature of the services being performed, the putative budgets for these services, and the material terms of third-party contracts for which the NRA is purportedly liable, AMc is interfering with the NRA’s ability to steward its funds in pursuit of its public mission. Moreover, AMc’s baseless refusal to disclose material information relating to the North Contract threatens to impede the NRA’s corporate governance process.

**ANSWER:** Defendants deny the allegations contained in Paragraph 35.

Defendants aver as a new matter, specifically requiring a response, that the public disclosure of the allegations in Paragraph 35 waives any claim of confidentiality that the Plaintiff has with respect to the matters alleged in that Paragraph.

36. If the NRA is denied access to material business records regarding its largest vendor relationship – records which it specifically bargained to access, under the Services Agreement – the NRA’s fiduciaries will be forced either to exercise their business judgment based on incomplete information or defer resolution of pressing matters. There is no adequate remedy at law for the risks that would arise in either scenario. The NRA is America’s oldest civil rights organization and an advocate for millions of law-abiding gun owners. Its compliance with not-for-profit law cannot be permitted to be held hostage by a recalcitrant advertising agency.

**ANSWER:** Defendants deny the allegations contained in Paragraph 36.

Defendants aver as a new matter, specifically requiring a response, that the public disclosure of the allegations in Paragraph 36 waives any claim of confidentiality that the Plaintiff has with respect to the matters alleged in that Paragraph. PLAINTIFF’S DEMAND FOR JURY TRIAL

37. Plaintiff hereby demand a trial by jury regarding all issues of fact in this case.

**ANSWER:** Paragraph 37 is a statement to which no response is required, but Defendants deny that Plaintiff has a right to a jury trial for equitable claims asserted in the Amended Complaint.

### **PLAINTIFF’S FIRST CAUSE OF ACTION**

31[sic]<sup>2</sup> Plaintiff incorporates by reference and realleges each and every allegation in the foregoing paragraphs as if fully set forth herein.

**ANSWER:** Paragraph 31 (numerically twice by Plaintiff) is an incorporation clause to which Defendants incorporate their collective responses to each and every foregoing paragraph.

---

<sup>2</sup> Plaintiff has mis-numbered all paragraphs following Paragraph 37. Defendants will follow the mis-numbering in responding to the allegations.

32[sic] The Services Agreement is a legally enforceable contract. The Records-Examination Clause is unambiguous.

**ANSWER:** Defendants admit that the allegation that the Services Agreement is a legally enforceable contract, but deny that the Records-Examination Clause is unambiguous. Defendants aver as a new matter, specifically requiring a response, that the LaPierre letters of October 4, 2018 and October 18, 2018 are unambiguous.

Defendants aver as a new matter, specifically requiring a response, that the public disclosure of the allegations in Paragraph 32 [sic] waives any claim of confidentiality that the Plaintiff has with respect to the matters alleged in that Paragraph.

33[sic] The NRA has performed all of its obligations under the Services Agreement, including its obligation to provide reasonable notice pursuant to the Records-Examination Clause.

**ANSWER:** Defendants deny the allegations contained in Paragraph 33.

Defendants aver as a new matter, specifically requiring a response, that the public disclosure of the allegations in Paragraph 33 [sic] waives any claim of confidentiality that the Plaintiff has with respect to the matters alleged in that Paragraph.

34[sic] Ackerman and Mercury have breached the Records-Examination Clause of the Services Agreement. Specifically, Ackerman – acting at all times on behalf of both itself and Mercury, pursuant to the Services Agreement – has repeatedly failed or refused to permit the NRA to examine specified categories of books and records with respect to matters covered under the Services Agreement.

**ANSWER:** Defendants deny the allegations contained in Paragraph 34 [sic].

Defendants aver as a new matter, specifically requiring a response, that the public disclosure of the allegations in Paragraph 34 [sic] waives any claim of confidentiality that the Plaintiff has with respect to the matters alleged in that Paragraph.

35[sic] There is no adequate remedy at law for AMc's refusal to permit examination of records (whether they reside at Ackerman or Mercury) pursuant to the Services Agreement. The information sought by the NRA pursuant to the Records-Examination Clause

resides uniquely within the possession of Ackerman and/or Mercury, and cannot be acquired by the NRA on the open market for any sum of money.

**ANSWER:** Paragraph 35 [sic] contains legal conclusions which do not require a response. To the extent a response is required, Defendants deny the allegations contained in Paragraph 35 [sic].

Defendants aver as a new matter, specifically requiring a response, that the public disclosure of the allegations in Paragraph 35 [sic] waives any claim of confidentiality that the Plaintiff has with respect to the matters alleged in that Paragraph.

36[sic] The nature of the obligation imposed by the Records-Examination Clause makes specific performance equitable and practical because the Court need only order AMc to furnish to the NRA: (i) copies of any AMc-Third Party NRA Contracts, including the North Contract; and (ii) business records, in whatever form they were generated in the ordinary course of AMc's business, which are sufficient to convey the information sought by the NRA as described in Paragraph 27 hereof.

**ANSWER:** Defendants deny the allegations contained in Paragraph 36.

Defendants aver as a new matter, specifically requiring a response, that the public disclosure of the allegations in Paragraph 36 [sic] waives any claim of confidentiality that the Plaintiff has with respect to the matters alleged in that Paragraph.

37[sic] Defendants' breaches of the Services Agreement have damaged – and threaten to imminently, irreparably harm – the NRA's legitimate operational interests as a not-for-profit organization. By denying the NRA access to basic information regarding the nature of the services being performed, the putative budgets for these services, and the material terms of third-party contracts for which the NRA is purportedly liable, Defendants have jeopardized the NRA's ability to steward its funds in pursuit of its public mission. Moreover, AMc's continued and baseless refusal to disclose material information relating to the North Contract threatens to impede the NRA's corporate governance.

**ANSWER:** Defendants deny the allegations contained in Paragraph 37 [sic].

Defendants aver as a new matter, specifically requiring a response, that the public disclosure of the allegations in Paragraph 37 [sic] waives any claim of confidentiality that the Plaintiff has with respect to the matters alleged in that Paragraph.

38[sic] By reason of the foregoing, the NRA requests that this Court order specific performance by Defendants of their obligations pursuant to the Records-Examination Clause of the Services Agreement.

**ANSWER:** Paragraph 38 [sic] contains a request for a court judgment which the Defendants oppose.

WHEREFORE, Defendants respectfully request that the Plaintiff's request for a judgment and award of specific performance be denied and that Defendants be awarded such relief, including attorney fees and costs, as this Court deems just.

#### **AFFIRMATIVE DEFENSES**

1. The Amended Complaint fails to state a claim upon which relief may be granted.
2. Plaintiff is estopped from seeking specific performance.
3. Plaintiff has waived any right to the specific performance it has requested.
4. Defendant pleads the affirmative defense of "satisfaction" of the relief requested by the Plaintiff.
5. Plaintiff is barred from any equitable relief based on the doctrine of "unclean hands."
6. Plaintiff's prior breach of contract negates Plaintiff's claim for breach of contract against Defendants.

#### **PLEA IN BAR**

**(As to Plaintiff's attorneys' authority to bring forth their Complaint)**

1. On or about April 12, 2018, this Lawsuit was filed against Ackerman McQueen, Inc. and Mercury Group (collectively "AMc") purportedly on behalf of the National Rifle Association ("NRA"), asking, *inter alia*, this Court to compel the Defendants to produce documents for inspection by the NRA.

2. Three days later, on April 15, 2018, Wayne LaPierre attached a file-stamped copy of the Complaint to a Memorandum addressed to the NRA's Board of Directors ("NRA Board") stating the Ackerman McQueen and Mercury Group were being sued by the NRA. On information and belief, the NRA Board of Directors took no action in response to the notice of the Lawsuit against AMc.

3. Upon information and belief, the NRA Board was not aware of the filing of this Lawsuit prior to it being filed and never approved or authorized the filing of this Lawsuit. On information and belief, Wayne LaPierre directed the filing of the Lawsuit, acting alone. Consequently, this Lawsuit was not legally and properly authorized by the NRA Board as required under the New York law governing not-for-profit corporations.

4. The New York law governing nonprofit organizations requires that an organization's board must authorize any corporate action.

5. No individual director or officer, acting alone, could legally authorize the action. The NRA's Executive Vice President therefore lacked legal authority to exercise the NRA board's management responsibilities.

WHEREFORE, the Defendants request that the Court dismiss this Lawsuit based on the lack of authority to bring forth the Complaint on behalf of Plaintiff NRA and to litigate all proceedings subsequent to the Complaint.

#### **COUNTERCLAIM**

Ackerman McQueen, Inc. and the Mercury Group (together "Counterclaim Plaintiff" or "AMc"), by and through undersigned counsel, hereby file this Counterclaim against the National Rifle Association ("Counterclaim Defendant" or "NRA") and in support thereof states as follows:



## PARTIES

1. AMc is a corporation organized and existing under the laws of the State of Oklahoma. Its principal place of business is 1601 Northwest Expressway, Suite 1100, Oklahoma City, OK 73118. AMc also maintains a key office in Dallas, Texas, the headquarters of NRATV.

2. The Mercury Group is a wholly-owned subsidiary of AMc with its principal place of business in Alexandria, Virginia.

3. The NRA is a not-for-profit corporation organized and existing under the laws of the State of New York, doing business in Virginia.

## JURISDICTION AND VENUE

4. This Court has jurisdiction over the matter pursuant to Virginia Code § 8.01-262.

## SUMMARY OF COUNTERCLAIM

5. On or about April 12, 2019, an attorney purporting to act on behalf of the NRA filed a Lawsuit against Ackerman McQueen, Inc. and Mercury Group, asking the Court, *inter alia*, to compel the Defendants to produce records and books for inspection by the NRA (the "Lawsuit").

6. On or about April 24, 2019, just three days before the start of the NRA Annual Meeting, the NRA filed a Motion for Leave to Amend Complaint to include seven new paragraphs relating to the NRA's request for information about AMc's contract with NRA President Oliver North.

7. Although the Complaint and the Amended Complaint included numerous pejorative statements about AMc, the NRA did not expressly seek to terminate its contract with

AMc, nor did it seek relief beyond a declaration that AMc has failed to provide access to a small set of documents.

8. The Amended Complaint asserts that certain changes in New York nonprofit laws have motivated the NRA's requests for documentation and audits of AMc's financial records and information concerning its Services Agreement with the NRA. The Amended Complaint implies that these laws impose on the NRA board and officers, for the first time, a fiduciary responsibility to oversee and account for the NRA's assets and its contractual arrangements with employees and outside vendors.

9. On its face, the Amended Complaint reads more like a discovery dispute than a complaint deserving of lawsuit status. However, the Lawsuit has triggered substantial media attention focused on the NRA's spending, policies, and procedures.

10. Upon information and belief, the Complaint and Amended Complaint do not appear to have been properly authorized, and were filed at the direction of Wayne LaPierre, Executive Vice President of the NRA, as the NRA Board of Directors was notified of the Lawsuit only after it had been filed, contrary to the organization's mandatory operating procedures. See Plea in Bar, *supra*.

11. The NRA's Executive Vice President and long-time leader Wayne LaPierre ("LaPierre"), [REDACTED] [REDACTED] has set the NRA on a course to eliminate AMc as the primary public relations vendor to the NRA.<sup>3</sup> [REDACTED]

[REDACTED]

[REDACTED]

12. The NRA's Amended Complaint fails to identify for the Court the legal consequences that the NRA seeks to gain from a decision in this apparent "discovery dispute." Under a Services Agreement between the NRA and AMc dated April 30, 2017 (and modified as of May 6, 2018), the NRA has the contractual ability to terminate the AMc contract at any time with 90-day notice. On information and belief, the current NRA Lawsuit against AMc is intended to orchestrate the termination of the Services Agreement in a way that will allow the NRA to argue that such action will not trigger Section XI B, D, E and/or F of the Services Agreement, under which the NRA will immediately owe AMc termination payments, which are currently estimated to approach thirty-five million dollars (\$35,000,000) in severance payments. This undisclosed fact in the Amended Complaint provides the NRA's motivation to file the law suit and the need for AMc to file this Counterclaim.

#### THE SERVICES AGREEMENT

13. This suit arises from the Services Agreement between the parties which is attached hereto as "**Exhibit A**."

14. Section IX of the Services Agreement, provides as follows: "AMc is authorized to act upon written communications received from the NRA Executive Vice President or his designee. He or his designee are the only persons within NRA who have the actual authority to issue such communications." (emphasis added).

15. Section IV A (1) specifically states: "AMc shall not disclose, directly or indirectly, to any third party any NRA Membership data or mailing lists, any materials or information relating thereto, or any other data, materials or information coming to the knowledge

of AMc, supplied to AMc by NRA, or otherwise made known to AMc as a result of AMc's providing Services (hereinafter collectively, referred to as the "Confidential Information") without the prior express written permission of NRA. This Services Agreement controls AMc's providing services to NRA.

16. Section IV A (4) states: "AMc may disclose such Confidential Information to AMc's employees but only to the extent necessary to provide its Services. AMc warrants and agrees to prevent disclosure of Confidential Information by its employees, agents, successors, assigns and subcontractors."

17. At all relevant times, Wayne LaPierre ("LaPierre") was (and remains) the NRA Executive Vice President. As the Executive Vice President, only LaPierre or his designee can demand that Plaintiffs provide access to any information or documents to anyone, including the NRA itself.

18. Pursuant to Section IX of the Services Agreement imposed by the NRA, AMc can only act if it receives a "written communication" from LaPierre or his designee.

19. Pursuant to the Services Agreement, only LaPierre can designate persons "within NRA" who have the actual authority to issue directives to AMc relative to the request for, or release of, documents.

20. Section IV of the Services Agreement purports to impose a duty of confidentiality upon AMc with respect to virtually any material information related to NRA obtained by AMc and to prohibit the disclosure of the same without the consent and written authorization of the NRA.

## THE DOCUMENT DEMAND

21. The NRA contends in its Lawsuit that, under the Services Agreement, AMc is required to produce or allow for examination a number of documents and document categories including but not limited to the following: (1) AMc's own books and records related to the Services Agreement; (2) information related to certain ongoing litigation; (3) information relating to a contract with former NRA president, Lt. Col. Oliver North (Ret.).

22. AMc has complied with every authorized demand for examination of its documents. At no time relevant to this Lawsuit, however, has direction regarding these documents and information requests come in writing from LaPierre or his designee as required under the Services Agreement.

23. To the contrary, at least some of the documents requested for review and inspection were requested by Bill Brewer, an "outside" attorney for the NRA, who was not and cannot be a designee appointed by the Executive Vice President under the Services Agreement.

24. Beginning in May 2018, Brewer, purporting to be acting on behalf of the NRA, demanded inspection of various documents under the Services Agreement.

25. Providing Brewer or any other person not properly appointed as designee under the Services Agreement could have resulted in an allegation that AMc breached the terms of the Service Agreement.

26. The NRA has repeatedly failed to abide by the contractual requirement to work through direct written communications of the Executive Vice President or his formally declared designee when directing action by AMc.

27. AMc has repeatedly notified the NRA that the NRA was not following the requirements of the Services Agreement and that the directions issued to AMc were improper and ineffective.

28. Since filing this Lawsuit, the NRA has recognized that its failure to properly designate a person to request the documents that it seeks in the litigation. On May 5, 2019, the NRA belatedly sought to correct that error with the following email message from the Executive Vice President:

Effective immediately, I appoint Andrew Arulanandam to serve as my representative and designee for all communications relating to the agency, pursuant to Section IX, "Authorized Contacts," of the AMc/NRA Services Agreement, dated April 30, 2017.

29. Neither the Executive Vice President nor a properly appointed designee have made any written requests for examination of the documents at issue in this litigation.

30. Historically, the NRA conducted annual audits of its vendors. AMc has openly provided NRA access to financial and other information (including pricing) to NRA accountants and officers, including the Treasurer, Chief Financial Officer and Board Legal Counsel, on an annual basis. These true audits have been conducted almost yearly without complaint or adverse findings by the NRA.

31. Brewer's outside law firm improperly sought to interfere and expand the scope of the AMc audit and Brewer sought to be personally involved in the audit.

32. AMc protested Brewer's interference, but continued to provide access to all documents in their possession requested by the NRA auditors (without ceding Brewer's lack of authority to demand examination).

33. NRA had three to six auditors in AMc's Oklahoma City office reviewing AMc files, records, and documents for approximately nine (9) days in February 2019. Another auditor

examined the records of AMc in November 2018 for an entire day. These audits were preceded by another audit in September 2018 by the NRA.

34. At no time did the auditors claim to AMc that documents were withheld from review.

35. John Frazer, the NRA's general counsel, twice expressed his gratitude for AMc's compliance with the NRA audit: first, in an email on March 4, 2019, and again on March 25, 2019. Frazer also characterized the NRA audit of AMc as "productive" in the following letter to AMc counsel on March 14, 2019: "[T]o facilitate Ackerman's compliance with the Services Agreement, the NRA agreed to appoint other professionals to work with your client – *which has occurred during Forensic Risk Alliance's productive review of AMc records.*" **Exhibit B.**

36. LaPierre has at all times been privy to all relevant information that the NRA in its Lawsuit now claims AMc is withholding.

37. For example, with respect to the AMc contract with NRA President Oliver North, the Amended Complaint omitted the following material facts bearing on NRA access to the North Contract:

- LaPierre negotiated the terms of the North Contract directly with Lt. Col. North and a detailed term sheet was sent to AMc for completion of the formal agreement;
- Wilson ("Woody") Phillips, then-Treasurer of the NRA, reviewed and approved the North Contract to assure compliance with the term sheet;
- On September 8, 2018, the NRA Audit Committee reviewed the summary of terms and approved the North Contract.
- On at least two occasions, counsel for the NRA has reviewed the North Contract.

- The Amended Complaint admitted that Oliver North provided his contract to the NRA before the initial Complaint was filed in this law suit.

38. The NRA's demand for the North Contract documents is a pretext to harm AMc's reputation and an attempt to provide an unfounded basis for terminating the NRA's contractual obligations to AMc under the Services Agreement.

39. The NRA and its executives and audit committee have had full knowledge of the North Contract for months, and the demand in this Lawsuit for a copy of that contract was made in bad faith and contrary to the procedure mandated by the Services Agreement.

40. The NRA has also alleged in bad faith that AMc refuses to provide "NRATV analytics." This allegation is also false. Since October 2017, AMc representatives have met with Wayne LaPierre or NRA's Todd Grable, at LaPierre's direction, on at least ten different occasions wherein LaPierre and Grable were provided with information and materials, including a deck of slides, describing in details the available NRATV analytics.

41. Two days before this Lawsuit was filed, LaPierre was in AMc's office and was in attendance for the presentation of the NRATV analytics. LaPierre walked out of the meeting. The NRA has alleged in bad faith that it has been denied access to NRATV analytics.

42. Even after the filing of this Lawsuit by the NRA, AMc has continued to work with the NRA to provide the Services required under the Services Agreement and to provide the information and documents requested by the NRA, while protecting the NRA's confidentiality requirements imposed under the Services Agreement. Most recently, AMc provided the NRA with NRATV analytics for January through April 2019.



## THE PRETEXTS FOR NRA'S LAWSUIT

43. The Amended Complaint asserts that changes in New York nonprofit laws were the motivation for the NRA's requests for documents and audits of AMc's financial records. [Amended Complaint, ¶ 17.] This argument is a pretext: the recent changes in the rules occurred in 2014 and those changes did not alter the long-standing requirement that the NRA's board carefully consider related-party contracts as a non-profit incorporated in New York State.

44. Effective July 1, 2014, the New York Non-Profit Revitalization Act (the "NPRA") amended the N-PCL, including the provisions governing related-party transactions and conflict of interest policies. Further amendments to those provisions were made in 2015 and 2016.

45. However, New York law has contained specific rules regarding related-party transactions that have been in place since at least 1970.

46. NRA's compliance with the related-party transaction rules rests squarely on the NRA itself.

47. AMc has complied with all of the NRA's properly authorized requests to review AMc's books and records. AMc in no way has impaired the NRA's ability to fulfill its duties with respect to its own related-party transactions

### **NRA DISCLOSES AMC PROPRIETARY INFORMATION.**

48. On March 11, 2019, the New York Times ran an article in which the author revealed the existence of the North-AMc Contract and certain features thereof, including AMc's involvement with Col. North. **Exhibit C.** The article misrepresented the facts and disparaged AMc. The New York Times article attributed certain factual assertions to Brewer as the source speaking on behalf of the NRA.

49. On information and belief, Brewer provided misleading information to the New York Times in an effort to undermine the AMc – NRA relationship and to misdirect blame for the terms of the North Contract to AMc.

50. Later, LaPierre, in a writing to the NRA Board, confirmed his authorization given to Brewer to communicate with the New York Times. **Exhibit D.**

51. The NRA's deliberate false statements to the media regarding AMc's confidential information represented a change in the parties' relationship as well as the fundamental protocol for dealing with the parties' confidential information that had been in existence and honored for decades.

52. AMc immediately expressed its strong objection to the NRA's false statements, doing so by letter to NRA General Counsel John Frazer on March 12 (**Exhibit E**).

53. Frazer's March 14 response (**Exhibit B**) did not deny that the NRA had leaked the information to the New York Times. Instead, the NRA's General Counsel asserted for the first time that only AMc, and not the NRA, had restrictions on the use of a party's confidential information. The NRA claimed it could disclose AMc's information with impunity while AMc was contractually prohibited from any reciprocal freedom to use NRA information.

54. The exchange of correspondence signaled NRA's claim that it could deliberately misuse AMc's confidential information and thereby violate NRA's duty of good faith and fair dealing inherent within the terms of the Services Agreement.

55. NRA's actions described herein, including the filing of the Complaint and Amended Complaint seeking documents that it has already examined or had access to examine when properly requested, have been taken with the strategic intention of injuring AMc's business, its reputation, and its business expectancies.

56. Already, current and prospective clients, financial institutions and insurance providers have begun questioning AMc employees in light of the New York Times article, this Lawsuit, and consequent media reports.

#### TERMINATION OF CONTRACT

57. On information and belief, the Lawsuit is not intended to obtain documents, but rather, is intended to allow NRA to terminate the Services Agreement for cause.

58. Paragraph XI, F of the Services Agreement deals with the consequences of termination of the Agreement. The section provides:

*“This Services Agreement may be terminated by NRA immediately upon written notice if: [there follow 6 actions constituting alleged breaches or events of default by AMc]. If NRA so terminates the Services Agreement, NRA shall have no obligation to make payments except that NRA shall, pursuant to Section III [that section dealing with ordinary course or special assignment payments] reimburse AMc for expenses incurred up to the date of said notice of termination.”* (Emphasis added).

59. NRA’s bad faith in initiating this Lawsuit is designed to avoid the payment of a very substantial amount of money in the form of severance and cancellation fees, as well as an unliquidated “Termination Fee” described in Section XI, F of the Services Agreement.

#### COUNT I – BREACH OF CONTRACT

##### **[Breach of Payment Obligations and Required \$3 Million Letter of Credit]**

60. The allegations contained in the foregoing paragraphs are incorporated as if fully set forth herein.

61. The Amendment No. 1 to Services Agreement requires the NRA to make timely payments in response to invoices received from AMc. The Amendment states: NRA acknowledges that its failure to pay such an invoice within 30 days will cause substantial financial damage to AMc. Accordingly, if at any time NRA fails to timely pay the invoice, NRA agrees that it shall post a \$3,000,000 letter of credit (the “LOC”) for the benefit of AMc. The

LOC shall continue in existence for the term of the Agreement and shall be maintained at \$3,00,000 at all times.”

62. The NRA has failed to make timely payments of AMc’s invoices. Specifically, the NRA failed to pay the following fee service invoices within the 30-day time period required by the Services Agreement:

Invoice 158196 for \$451,201.63 dated June 1, 2018

Invoice 158197 for \$894,075.80 dated June 1, 2018

Invoice 158198 for \$299,297.00 dated June 1, 2018

Invoice 158174 for \$190,443.00 dated June 1, 2018

Invoice 159037 for \$190,443.00 dated July 1, 2018

Invoice 159056 for \$451,201.63 dated July 1, 2018

Invoice 159057 for \$894,075.80 dated July 1, 2018

Invoice 159058 for \$299,297.00 dated July 1, 2018

63. The NRA’s failure to make these eight fee payments within the contractually required 30-day period after the invoice date caused substantial damage to AMc.

64. The NRA has failed to comply with the contract requirement that it “shall” post a \$3,000,000 LOC for the benefit of AMc in the event that it is late on a single payment of fees.

65. Section V, Billing and Payment, contains the following Subsection E:

“All sums payable to AMC under this Services Agreement shall be payable at AMc’s corporate headquarters in Oklahoma City, Oklahoma within 30 days of the invoice date. Any amounts not received by AMc within 60 days from the date of the invoice shall bear interest at the rate of 1.0 percent per month from the date of the invoice until paid.”

66. In addition to the late payment of fees listed, supra, NRA routinely was substantially late with respect to reimbursing AMc for other expenses. For example, NRA took

133 days to pay for the cost of CG Magazine '18, Issue 5 invoiced for \$269,000. NRA also delayed 133 days before paying \$90,000 for Website Unification.

67. NRA was late in paying at least 80 separate invoices issued by AMc during the second half of 2018.

68. Pursuant to the terms of Section V, E, NRA owes AMc interest at the rate of 1 percent per month on all late paid invoices. Despite the contractual requirement to pay interest, NRA has failed to pay any such interest and such failure is a material breach of the Services Agreement.

69. Based on the contractual rate of 1 percent per month, the NRA owes AMc \$38,000 in unpaid interest that it has failed to pay.

70. Under the Services Agreement, if "NRA fails to diligently and in good faith perform any of its obligations" the Agreement may be terminated.

71. The NRA has failed to perform its payment obligations with diligence and good faith and it has failed to fulfill the contractual obligations to post a \$3 million letter of credit and pay interest on late payments.

72. The NRA breached its payment obligations under the Services Agreement long before any alleged breach by AMc articulated by the NRA in its Amended Complaint.

73. The breaches that occurred have caused AMc to incur damages, the amount of which are not yet fully calculated. The breaches by the NRA are material as that term is defined under the Code of Virginia, § 59-1-507.1.

WHEREFORE, Ackerman McQueen seeks, on its behalf and on behalf of its subsidiary Mercury Group, recovery of contract damages and severance remedies in the amount not less than \$50 million and such other relief as this Court deems just.

**COUNT II - BREACH OF CONTRACT**

**[Breach of Implied Covenant of Good Faith and Fair Dealing]**

74. The allegations contained in the foregoing paragraphs are incorporated as if fully set forth herein.

75. Under Virginia law, every contract contains an implied covenant of good faith and fair dealing. Va. Code § 8.1A-304.

76. Pursuant to the Services Agreement Section IV, "Confidentiality" and Section VIII, "Examination of Records", Agreement, the governing contract imposes confidentiality restrictions on AMc and allows NRA to review the books and records of AMc. The Services Agreement is silent and does not provide any guidance on how the NRA must treat AMc's confidential proprietary information that it receives from AMc under the Examination of Records" clause.

77. A good faith reading of the Services Agreement does not authorize the NRA to disclose AMc proprietary and confidential information that it gains from the Examination of Records clause.

78. The NRA used its contractual rights under the Services Agreement to gain proprietary information about AMc's business, including information about its contract with Lt. Col. Oliver North.

79. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

80. [REDACTED]

[REDACTED]

[REDACTED]

81. [REDACTED]

[REDACTED]

[REDACTED]

82. [REDACTED]

[REDACTED]

[REDACTED]

83. The NRA compounded its bad faith and unfair dealing by requiring that AMc remain silent in the aftermath of the false and misleading statements made about its contract with Oliver North.

84. The Services Agreement clearly limits the NRA's entitlement to an examination of "files, books and records" of AMc. Nowhere does it allow the NRA to disseminate AMc's records nor does it permit the NRA to interview AMc's employees, demand private personal information from its employees, or to use or disseminate any such information, most particularly information deemed by AMc to be confidential to third parties.

85. The NRA has breached its implied contractual duty of good faith and fair dealing by disclosing proprietary information it gained through the contract [REDACTED]

[REDACTED]

[REDACTED]

86. The breaches that occurred have caused AMc to incur damages, the amount of which are not yet fully calculated. The breaches by the NRA are material as that term is defined under the Code of Virginia, § 59-1-507.1.

WHEREFORE, Ackerman McQueen seeks, on its behalf and on behalf of its subsidiary Mercury Group, recovery of contract damages and severance remedies in an amount not less than \$50 million and such other relief as this Court deems just.

### COUNT III - ABUSE OF PROCESS

87. The allegations contained in the foregoing paragraphs are incorporated as if fully set forth herein.

88. NRA has filed suit claiming that it is entitled to receive documents from AMc and Mercury pursuant to a Services Agreement. The NRA failed to attach the Services Agreement to its Complaint or its Amended Complaint. AMc has attached the Services Agreement as **Exhibit A**.

89. Prior to filing suit to obtain certain documents, NRA had already subjected AMc to a detailed audit that ended in February of 2019 after nine days of in-depth analysis of AMc's records undertaken within the offices of AMc's accountants. The team of auditors, upon concluding their audit, informed AMc's representatives that the audit was successfully completed, AMc had provided all requested documents in its possession, and no further documents were needed.

90. Two months later, NRA filed this suit on April 12, 2019 claiming that it seeks access to documents and a declaration that AMc is in breach because of a failure to provide access to those documents.



91. Subsequent to the filing of the Complaint, NRA filed a motion to amend the complaint and attached a copy of the proposed Amended Complaint on April 24, 2019. The Amended Complaint included detailed new allegations about Lieutenant Colonel Oliver North (Ret.) who was simultaneously serving as President of the NRA as well as an employee of AMc. The Amended Complaint did not seek any new relief, nor did it correct any prior allegation.

92. The proposed Amendment was intended to serve an ulterior motive of spreading false statements about the North-AMc Contract immediately prior to the NRA's annual meeting where Lt. Col. North was slated to be reappointed as President of the NRA.

93. The Motion to File the Amended Complaint served its ulterior motive, unrelated to the issues in this case. There was a firestorm of publicity blanketing national news stations concerning the dispute between Lt. Col. North and the NRA. AMc was dragged into the dispute based on the NRA's public disclosure of the North-AMc Contract in the Motion to File the Amended Complaint. LaPierre used the North-AMc contract as revealed by this Lawsuit to try to force Lt. Col. North to withdraw from consideration for reappointment as President of the NRA. Lt. Col. North questioned, *inter alia*, Brewer's multi-million-dollar legal fees in a memo to the NRA Audit Committee. LaPierre won the power struggle. North was not reappointed as NRA President; AMc's reputation was harmed; and AMc's contract with Lt. Col. North was diminished in value.

94. The NRA's Motion to File the Amended Complaint did not advance the stated cause of obtaining "specific performance" of AMc's duty to provide any documents, but was highly effective in turning the spotlight away from the NRA's troubles and setting up Lt. Col. North and AMc to be the scapegoat in the national news.

95. Such tortious acts that misuse the Court's legitimate judicial functions for ulterior purposes constitute an abuse of process.

96. NRA's use of this Court to falsely demand access to documents that it already possessed and documents that it had not previously requested through the NRA's own required procedures was a pretext designed to cover the ulterior motive of the law suit – to cause damage to AMc's reputation and to facilitate the transfer of AMc's business to Brewer's control without obligating the NRA to pay the severance payment required under the Services Agreement.

97. NRA's abuse of process was further accomplished when it made the bad faith public filing of the Motion to Amend the Complaint immediately before the NRA Annual Meeting to accomplish improper motives unrelated to this Lawsuit, but calculated to undermine the position of NRA President and AMc employee Oliver North in his bid to be reappointed as President at the Annual Meeting.

98. NRA used this Court's public proceeding as a vehicle to defame AMc and its employee, Lt. Col. Oliver North, and to accomplish ulterior purposes. Pursuing such ulterior motives constitutes an abuse of process, that was further amplified by the fact that AMc is unable to respond publicly by using any facts that the NRA could claim was "Confidential Information."

99. Lastly, after the NRA's counsel was informed that AMc intended to file a Counterclaim in this Lawsuit, the NRA responded on May 22, 2019, by filing a second law suit. The NRA's second lawsuit gives up any pretext that the dispute between the two parties is about a few documents. The NRA now seeks damages of \$40 million for actions by AMc that the NRA claims began in August 2018, thereby revealing the NRA's pretext in filing this first Lawsuit in April 2019 seeking the North Contract.

100. Continuing its strategy of trying the dispute in the press, the NRA leaked the second lawsuit to the Wall Street Journal before AMc or its attorneys were even told the suit was filed or that any contract breach had occurred.

101. As a result of the abuse of process, AMc has sustained actual and reputational damages to be proven at trial, with such compensatory damages exceeding \$50 million.

WHEREFORE, Ackerman McQueen seeks, on its behalf and on behalf of its subsidiary Mercury Group, recovery of damages in the amount not less than \$50 million for damages to their businesses, punitive damages, attorney fees, costs, and such other relief as this Court deems just.

#### **JURY DEMAND**

Counterclaim Plaintiffs demand this matter be heard before a jury on all triable issues.

#### **REQUEST FOR RELIEF**

WHEREFORE, for all the foregoing reasons, Defendants/Counterclaim Plaintiffs request the following relief:

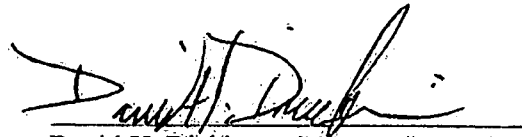
- A. Actual and consequential damages arising from breach of contract in the amount of \$50,000,000;
- B. Punitive damages of at least \$50,000,000;
- C. Injunctive relief barring the NRA from taking any further action in derogation of the Services Agreement and the NRA's obligation to comply with all good faith and fair dealing;
- D. Reasonable attorney's fees as allowed under the "American Rule" exception allowing for the award of attorney fees for bad faith litigation;
- E. Court costs; and

F. And such other legal and/or equitable relief to which Counterclaim Plaintiffs may be entitled.

Respectfully submitted,  
ACKERMAN MCQUEEN, INC. and  
MERCURY GROUP, INC.  
By Counsel

Dated: May 23, 2019

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David H. Dickieson", written over a horizontal line.

David H. Dickieson (VA Bar #31768)  
SCHERTLER & ONORATO, LLP  
901 New York Avenue, NW, Suite 500  
Washington, DC 20001  
Telephone: 202-628-4199  
Facsimile: 202-628-4177  
[ddickieson@schertlerlaw.com](mailto:ddickieson@schertlerlaw.com)

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was served on the following counsel via  
email and first-class mail addressed to:

James W. Hundley  
Robert H. Cox  
Amy L. Bradley  
BRIGLIA HUNDLEY, PC  
1921 Gallows Road, Suite 750  
Tysons Corner, VA 22182  
jhundley@brigliahundley.com  
rcox@brigliahundley.com  
abradley@brigliahundley.com

  
David H. Dickieson.

## SERVICES AGREEMENT

THIS AGREEMENT, made this 30th day of April, 2017, by and between the National Rifle Association of America (hereinafter referred to as "NRA"), A New York Not-For-Profit Corporation, located at 11250 Waples Mill Road, Fairfax, Virginia 22030, and Ackerman McQueen, Inc., an Oklahoma corporation, and its wholly owned subsidiary, Mercury Group Inc., an Oklahoma corporation, (hereinafter collectively referred to as "AMc"), whose principal office is located in Oklahoma at 1100 The Tower, 1601 N.W. Expressway, Oklahoma City, Oklahoma 73118.

### W I T N E S S E T H :

WHEREAS, AMc is in the business of providing comprehensive communications services including public relations, crisis management, strategic marketing, advertising and creative, as well as owned media and internet services, and warrants and represents that it possesses the capability, necessary personnel, political strength, equipment and other related items to perform such services; and,

WHEREAS, NRA is a Membership Organization and desires to retain AMc as a nonexclusive source for services described herein for NRA upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties hereto agree as follows:

#### I. SERVICES

##### A. Public Relations/Crisis Management /Strategic Marketing Services

Services include a combination of generating earned media, responsive public relations, crisis management and strategic thinking to promote a positive image of the NRA as described below:

- Public relations advice and counsel, including crisis management.
- Ongoing media relations -- solicitation and placement of features in national, regional and local media; liaison with print and broadcast news media on a daily basis for unsolicited inquiries; ongoing media training for NRA officials; Editorial Board meetings; features for outdoor publications.
- Specialized public relations writing services (news releases, columns, editorials), and distribution of same as required (e.g. via wire service or individual contact).
- Research and information retrieval as necessary for NRA issues management at NRA's request and approval.
- Coordination, scheduling and on-site assistance when necessary for NRA officials' speeches and personal appearances.



- Coordination with internal NRA public relations staff in the Executive Office, General Operations and Institute for Legislative Action.
- Development of proactive earned media in national and regional media as it relates to NRA officials' appearances at special events (i.e. National Gun Shows, YHEC, Annual Meetings, etc.).
- Coordination and scheduling appearances for NRA officials and commentators; including on-site assistance (where necessary).
- Develop, produce, and place op-ed pieces for national and regional media coinciding with Special Events and NRA Officials' appearances.
- Advise and counsel with NRA Officials on strategic issues to provoke public debate and frame NRA's point-of-view for the general public.
- Speechwriting services (pivotal speeches for major events are discussed in "Advertising/Creative Services" Section).
- Management of Talent/Spokespersons for NRATV.
- Production and staffing for NRATV.

**B. Advertising/Creative Services**

The services described below (with the exception of "Media Planning and Placement" which is addressed separately as a subcategory of this Section) will be provided to NRA on a project ("Job") basis based on the fair market value of the work as determined by NRA and AMc. When reasonable time is available, cost estimates will be submitted for approval by NRA prior to the initiation of the Job.

- Speechwriting services for NRA dignitaries to be delivered at major events (includes background research, interviews with NRA Officials/Speaker, drafts and rehearsals if appropriate).
- Conceive, copywrite, design and produce local, regional, and national print and broadcast advertising and other appropriate forms of communication to present NRA's message.
- Original photography services and film processing (on location and/or in AMc's photo studio).
- Audio/Visual and Event Management services (i.e. Annual Meetings).
- Video Taping, Editing and Production.
- Music composition and arrangement and audio production.
- Primary Research services (quantitative and qualitative).

C. Media Planning and Placement Services

Detail of AMc's compensation for Media Services are provided in the "Compensation" Section. Services rendered for such are:

- With NRA's approval, plan and order by written contract or insertion order the print space, radio and television time, or other media to be used for advertising, always endeavoring to secure the best available rates. AMc shall remain solely liable for payment, to the extent NRA has paid AMc.
- Incorporate the advertising in the required form and forward it to media with proper instructions for fulfillment of the contract or insertion order.
- Diligently check and verify broadcasts, insertions, displays, or other means used to carry the message to ensure proper fulfillment of all media purchases made by AMc on NRA's behalf.
- For direct response paid media advertising (i.e. Infomercial), provide ongoing analysis and ROI to determine most effective media markets, dayparts, and stations on a time sensitive basis for redirection or concentration of funds as evaluation indicates.
- Carefully audit invoices and make timely payment to media and suppliers for space and time purchased by AMc on NRA's behalf.

D. Owned Media Services

- Full-time online broadcasting services for NRATV.
- Support services for NRATV provided by AMc Interactive include daily creation of graphics, flash animation for daily stories and synchronization to audio/video.
- Ongoing technical support service, unification, and advice for NRAHQ site (e.g. Answer to questions on service provider issues and simple "how-tos"). Application development or re-working requiring complex execution to be estimated on a project basis for NRA approval in advance of work performance.
- Full time marketing services to promote NRATV as well as on-site promotion of NRA programs, activities, and current events.
- Production of America's First Freedom Magazine.

E. Digital Systems Operations Support

- Technology consulting including third party solutions, cloud consulting and reviewing IS efforts.
- Reliability engineering and monitoring including performance monitoring, emergency response and overall efficiency.



- Resource and capacity planning for large scale hardware and software migration initiatives.
- System and database administration, maintenance, updating, monitoring and troubleshooting.

## II. COMPENSATION

### A. Public Relations/Political Strategy/Strategic Marketing Services

1. During the term of this Agreement, for ongoing Public Relations, Political Strategy and Strategic Marketing, NRA will pay AMc a fee as mutually agreed upon each year.

### B. Advertising/Creative/Media Planning and Placement Services

1. During the term of this Agreement, for ongoing study of NRA's business, including account service, creative development and other support functions in connection with the day-to-day administration and operation of NRA's account, NRA will pay AMc 15% commission of the gross media expenditure, or a 17.65% mark-up of the net media billing, for all media researched, planned, placed and administered by AMc on NRA's behalf.
2. For collateral advertising services and products purchased on NRA's behalf from external suppliers (such as separations, engravings, typography, printing, etc.), by a 15% commission if offered, or a 17.65% mark-up of net billing. Estimates of the cost of external services and products are prepared, when reasonable time is available, for approval in advance and are subject to no more than a +/-10% variance provided AMc is authorized to proceed with production within thirty (30) days of the date the estimate is presented. Client changes in job specifications usually will result in the preparation and submission of a revised estimate; however, NRA agrees to assume financial responsibility for all changes specified by NRA then executed by AMc with NRA's knowledge.
3. For art concepts, design layout, photography and film processing, copywriting, music composition and arrangement, audio and video production, etc., by cost quotations submitted for approval in advance, when reasonable time is available, or at the comprehensive art, storyboard, demo music, etc. stage. These quotations are based on the fair market value of the work as determined by AMc, and take into consideration, among other things, the hourly rates of the personnel assigned to the project and the required to complete the job. Written estimates are subject to no more than a +/- 10% variance provided they are approved by NRA and AMc is expressly authorized to proceed with production within thirty (30) days of the date the estimate is presented. Client changes in job specifications will

usually result in a revised estimate; however, NRA agrees to assume financial responsibility for all changes specified by NRA, then executed by AMc with NRA's knowledge.

C. Owned Media and Internet Services

During the term of this agreement, AMc will provide owned media and online broadcasting and website management, hosting and creation of NRATV, as well as full time marketing services. NRA will pay AMc a fee as mutually agreed upon each year.

D. Digital Systems Operations Support

During the term of this agreement, AMc will provide digital systems operations support. NRA will pay AMc a fee as mutually agreed upon each year.

E. Other Projects

If AMc undertakes, at NRA's request, additional or special assignments, not included within the services described in this project, the charges made by AMc will be agreed-upon in advance whenever possible. If no specific agreement was made, AMc will charge NRA a fair market price for the work performed.

III. **BILLING AND PAYMENT**

- A. Mailing and express charges, long distance telephone calls, photocopies, deliveries, sales taxes and reasonable out-of-town travel including transportation, meals and lodging, etc. on NRA's express behalf, shall be billed at AMc's cost. All out-of town travel expenses shall require prior written approval in accordance with written procedures established by the NRA Executive Vice President or his designee. Payment of travel expenses not approved in advance may result in denial of reimbursement. Expenses not listed above shall be considered to be normal business expenses of AMc and not billable to NRA unless specifically authorized in writing by the NRA Executive Vice president or his designee.
- B. All sales, use and similar taxes and all import, export and foreign taxes imposed by all applicable governmental authorities shall be billed to NRA at the amount imposed by such governmental authorities. AMc shall not be obligated to contest the applicability of any such taxes to the transactions performed pursuant to this Services Agreement.
- C. Fees shall be billed on or before the 5th of each month. This billing shall include costs specified in paragraph III A.
- D. Special assignments not included in this Agreement which cannot reasonably be included under the monthly fee must be approved in accordance with written procedures established by the NRA Executive Vice President or his designee, and the charges made by AMc shall be agreed upon in advance, where reasonable.

otherwise such charges shall be not greater than the usual and customary charges for such services or expenses in the industry.

- E. All sums payable to AMc under this Services Agreement shall be payable at AMc's corporate headquarters in Oklahoma City, Oklahoma within 30 days of the invoice date. Any amounts not received by AMc within 60 days from the date of the invoice shall bear interest at the rate of 1.0% per month from the date of the invoice until paid. NRA shall notify AMc of any questions concerning any invoices within 10 business days after receipt.

#### IV. CONFIDENTIALITY

A. AMc

1. AMc shall not disclose, directly or indirectly, to any third party any NRA membership data or mailing lists, any materials or information relating thereto, or any other data, materials or information coming to the knowledge of AMc, supplied to AMc by NRA, or otherwise made known to AMc as a result of AMc's providing Services (hereinafter collectively, referred to as the "Confidential Information"), without the prior express written permission of NRA. This Services Agreement shall control AMc's providing fulfillment services to NRA.
  2. AMc shall not make or cause to have made any copies of any NRA Confidential Information without the prior express written authorization of NRA.
  3. AMc may use such Confidential Information only for the limited purpose of providing its Services to NRA.
  4. AMc may disclose such Confidential Information to AMc's employees but only to the extent necessary to provide its Services. AMc warrants and agrees to prevent disclosure of Confidential Information by its employees, agents, successors, assigns and subcontractors.
- B. AMc, its employees and agents, shall comply with any and all security arrangements imposed by NRA respecting access to Confidential Information.
- C. AMc acknowledges NRA's exclusive right, title and interest in the Confidential Information, and shall not at any time do or cause to be done any act or thing contesting or in any way impairing or tending to impair any part of such right, title or interest.
- D. AMc shall cease and desist from any and all use of the Confidential Information, and AMc shall promptly return to NRA, in a manner satisfactory to NRA, any and all Confidential Information, upon the earlier to occur of the following: the completion or termination of the Services Agreement.

V. INDEMNIFICATION/INSURANCE

A. AMc

1. AMc agrees to indemnify, defend and hold harmless NRA from and against any loss, liability and expenses including attorney's fees which NRA shall become obligated to pay in respect to: (a) materials prepared by AMc on behalf of NRA which gives rise to any claims pertaining to libel, slander, defamation, infringement of copyright, title or slogan, or privacy or invasion of rights of privacy; or (b) the public relations services and related activities of any person engaged by AMc as a spokesperson in connection with NRA and its purposes, objectives and activities ("Spokesperson") pursuant to the direction or supervision of AMc. Insurance coverage for the foregoing indemnification obligations shall be maintained by AMc.
2. NRA agrees to give AMc prompt notice of such claims and to permit AMc, through AMc's insurance carrier and/or counsel of AMc's choice, to control the defense or settlement thereof. However, NRA reserves the right to participate in the defense of any such claim through NRA's own counsel and at NRA's own expense.
3. AMc shall take reasonable precautions to safeguard NRA's property entrusted to AMc's custody or control, but in the absence of negligence on AMc's part or willful disregard of NRA's property rights, AMc shall not be held responsible for any loss, damage, destruction, or unauthorized use by others of any such property.
4. AMc shall not be liable to NRA by reason of default of suppliers of materials and services, owners of media, or other persons not AMc employees or contractors unless supplier(s) is under control of AMc or AMc should have reasonably anticipated default.

B. NRA

1. NRA agrees to indemnify, defend and hold harmless AMc, and its directors, officers, employees, agents, contractors and representatives (collectively, the "AMc Indemnified Parties," such directors, officers, employees, agents, contractors and representatives being hereby deemed third party beneficiaries of this indemnity provision), from and against any and all claims, demands, causes of action, suits, liabilities, losses, damages, settlements, judgments, and expenses (including attorney's fees), arising from (1) any data, materials, or service performance claims furnished to any AMc Indemnified Party by NRA, or approved by NRA, from which a AMc Indemnified Party prepared any publicity materials or public relations materials, or which were used by a AMc Indemnified Party in the production of advertising which was approved by NRA; (2) any claim, action or proceeding by any person(s), entity(ies), the United States of

America, any state(s), county(ies), or municipality(ies), or any department, agency, board, bureau, commission, attorney general, or other instrumentality(ies) or political subdivision(s) of any of the foregoing, seeking (a) damages (whether actual, exemplary, or both), reimbursement or other compensation for any alleged injury(ies), death(s), or private or public losses, damages or costs related to one or more incidents of violence committed with firearms, or (b) an injunction or other equitable relief with respect to the activities of a AMc Indemnified Party performed on behalf of NRA pursuant to this Agreement or otherwise requested or approved by NRA; or (3) the public relations services and related activities of any Spokesperson pursuant to the direction or supervision of NRA. Insurance coverage for the foregoing indemnification obligations shall be maintained by NRA.

2. AMc agrees to give NRA prompt notice of any matter covered by NRA's indemnity set forth above and to permit NRA, through NRA's insurance carrier and/or counsel of NRA's choice, to control the defense or settlement thereof. However, AMc and the other AMc Indemnified Parties reserve the right to participate in the defense of any such claim through the AMc Indemnified Parties' own counsel and at the AMc Indemnified Parties' own expense.

C. NRA shall reserve the right, in NRA's best interest, to modify, reject, cancel, or stop any and all plans, schedule, and work in progress. In such event AMc shall immediately take proper and responsible action to carry out such instruction; NRA, however, agrees to assume AMc's liability for agreed upon commitments and to reimburse AMc for losses AMc may derive therefrom, and to pay AMc for all internal and external expenses incurred on NRA's behalf with NRA's authorization and to pay AMc charges relating thereto in accordance with the provisions of this Services Agreement.

## VI. OWNERSHIP OF PRODUCTS

All creative works developed by AMc in fulfilling its obligations under this Services Agreement shall constitute works made for hire, and shall be the property of NRA. In the event that such works should not be "works made for hire," as such works are defined at 17 U.S.C. § 101, then AMc transfers and assigns to NRA the ownership of all copyright in such works. In the event that AMc should employ a subcontractor, AMc shall arrange for the transfer of such intellectual property to NRA. All other, and further, intellectual property and mailing lists, under any definition, whether common law or statutory, created or developed by AMc in fulfilling its obligations under this Services Agreement, are NRA's sole and exclusive property, and AMc does hereby assign all right, title and interest in same to NRA to the extent that AMc has such rights to assign and transfer. In no event shall AMc be deemed to be assigning or transferring greater rights than it has acquired from any supplier or contractor from who it may have acquired certain elements of the material prepared for NRA.

**VII. NO COMPETITION**

For the duration of this Service Agreement, AMc shall not represent any other entity in public relations services directly competitive with NRA without NRA's prior written approval.

**VIII. EXAMINATION OF RECORDS**

During the term of this Services Agreement, AMc authorizes NRA, upon reasonable notice, to examine AMc and Mercury's files, books, and records, with respect to matters covered under this Services Agreement.

**IX. AUTHORIZED CONTACTS**

AMc is authorized to act upon written communications received from the NRA Executive Vice President or his designee. He or his designee are the only persons within NRA who have the actual authority to issue such communications.

**X. MISCELLANEOUS**

- A. Severability. If any provision of this Services Agreement shall be held to be void or unenforceable for any reason, the remaining terms and provisions hereof shall not be affected thereby.
- B. Binding Effect: Agents. The provisions of this Services Agreement shall inure to the benefit of and bind the heirs, legal representatives, successors and assigns of the parties hereto. In performing the Services described above and in taking any action necessarily incident thereto, AMc may utilize the services of AMc's employees and/or such agents or independent contractors approved by NRA as AMc deems appropriate.
- C. Section Headings. Section headings contained in this Services Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation thereof.
- D. Integrated Agreement. This Services Agreement, together with any Exhibits hereto, constitute the entire agreement between NRA and AMc relating to the matters covered by this Services Agreement at the time of its signing. This Services Agreement supersedes all prior agreements, including letter agreements and memoranda of understanding.
- E. Survival. The terms, covenants, and conditions of Section IV and Section V shall survive the termination or expiration of this Services Agreement.

**XI. TERMINATION**

- A. This Services Agreement shall become effective upon the execution hereof.

- B. This Services Agreement shall continue in full force and effect for an initial period of eight (8) months ending 12-31-2017. After the initial period of eight (8) months, NRA or AMc may at their sole and exclusive discretion, terminate this Services Agreement, without any cause whatsoever, upon ninety (90) days written notice. Without such written notice, it is the intention of the parties that the Services Agreement will automatically renew. Any written notice to cancel this Contract shall be effective ninety (90) days from the date the Party giving notice to cancel tenders such written notice to the other Party. In the event of said termination, all further obligations of each party to perform shall cease, except as otherwise specifically provided in this Services Agreement. In said case NRA shall, pursuant to Section III, reimburse AMc for expenses incurred on NRA's behalf up to the date of termination.
- C. This Services Agreement may be terminated by NRA immediately upon written notice if: (1) AMc fails to diligently and in good faith perform any of its obligations contemplated hereunder; (2) AMc breaches any term, promise or covenant hereunder; (3) AMc files for bankruptcy; (4) there occurs any assignment for the benefit of creditors or the placement of any of AMc's assets in the hands of a trustee or receiver; (5) AMc becomes insolvent or bankrupt; (6) AMc is dissolved. If NRA so terminates this Services Agreement, NRA shall have no obligation to make payments except that NRA shall, pursuant to Section III, reimburse AMc for expenses incurred up to the date of said notice of termination.
- D. This Services Agreement may be terminated by AMc immediately upon written notice if (1) NRA fails to diligently and in good faith perform any of its obligations contemplated hereunder; (2) NRA breaches any term, promise or covenant hereunder; (3) NRA files for bankruptcy; (4) there occurs any assignment for the benefit of creditors or the placement of any of NRA's assets in the hands of a trustee or receiver; (5) NRA becomes insolvent or bankrupt; or, (6) NRA is dissolved.
- E. Upon the expiration or termination of this Services Agreement, AMc shall immediately return to NRA, to such place and in such manner as NRA may specify, any and all of NRA's property, materials, documents, Confidential Information, etc., that may be in AMc's possession. All charges for accumulating said materials shall be approved and paid in advance of receipt by the NRA. For all non-cancellable contracts entered into between AMc and third parties for the benefit of the NRA (herein "AMc-Third Party NRA Contracts"), the NRA agrees to pay AMc upon such expiration or termination the balance of the compensation payable under such AMc-Third Party NRA Contracts as of the date of expiration or termination so that AMc can fulfill its obligations under said Contracts after expiration or termination. If any AMc-Third Party NRA Contract(s) are cancellable upon payment of a fee and the NRA requests that such Contract(s) be cancelled, the NRA agrees to pay AMc the cancellation fees payable under such Contracts as a condition of AMc cancelling such Contract(s).
- F. In consideration of the dedication of a substantial number of personnel and resources to provide the services under this Agreement (and the necessity to

maintain such staffing levels and resource allocations to enable AMc to continue to provide such services upon any renewals hereof), the NRA agrees to pay AMc a fair and equitable termination fee to compensate it for the inevitable severances and other reasonable costs incurred in conjunction with such expiration or termination. Such termination fees shall be negotiated in good faith by the parties and paid to AMc no later than the last day of this Agreement.

- G. The terms, covenants, and conditions of Section IV and Section V shall survive the termination or expiration of this Services Agreement.

**XII. GOVERNING LAW AND CONSENT TO JURISDICTION, VENUE, AND SERVICE**

- A. This Services Agreement and any disputes arising thereunder shall be governed by and construed solely under the laws of the Commonwealth of Virginia, or, if applicable by federal law.
- B. AMc consents and agrees that all legal proceedings relating to the subject matter of this Services Agreement shall be maintained exclusively in courts sitting within the City of Alexandria or the County of Fairfax, Commonwealth of Virginia, and AMc hereby consents and agrees that jurisdiction and venue for such proceedings shall lie exclusively with such courts. AMc furthermore consents to the exercise of personal jurisdiction by said courts over AMc.

IN WITNESS WHEREOF, and intending to be legally bound hereby, and further intending to bind their employees, agents, successors and assigns, the parties have executed this Services Agreement the day and date above written.

National Rifle Association (NRA)

Ackerman McQueen, Inc.

AD Cors  
Allan D. Cors, President  
Print Name/Title

Melanie Montgomery  
Melanie Montgomery  
Print Name/Title  
EVP



(a)

### AMENDMENT NO. 1 TO SERVICES AGREEMENT

This Amendment No. 1 to Services Agreement (this "Amendment") is dated as of May 6, 2018, and is entered into by and between the National Rifle Association of America ("NRA") and Ackerman McQueen, Inc. ("AMc").

#### WITNESSETH:

WHEREAS, NRA and AMc are parties to that certain Services Agreement (the "Services Agreement") dated April 30, 2017; and;

WHEREAS, NRA and AMc desire to amend the Services Agreement;

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties hereto agree as follows:

1. Defined Terms. All initial capitalized terms used herein but not defined herein shall have the meanings set forth in the Services Agreement.
2. Amendment of Paragraph III E. Paragraph III E of the Services Agreement is hereby amended to add the following provisions at the beginning of paragraph III E:

All service fee billing under this Services Agreement for talent and employees who work through AMc for NRA and its affiliates, including, but not limited to, Dana Loesch and \_\_\_\_\_, shall be invoiced by AMc no later than the fifth day of each calendar month, which invoice shall be payable by NRA to AMc at AMc's corporate headquarters in Oklahoma City, Oklahoma within 30 days of the invoice date. NRA acknowledges that its failure to pay such an invoice within 30 days will cause substantial financial damage to AMc. Accordingly, if at any time NRA fails to timely pay the invoice, NRA agrees that it shall post a \$3,000,000 letter of credit (the "LOC") for the benefit of AMc. The LOC shall continue in existence for the term of the Agreement and shall be maintained at \$3,000,000 at all times. The LOC may only be drawn upon to pay in full invoices for service fee billings outstanding more than 30 days.

3. Amendment of Paragraph XI E. Paragraph XI E shall be amended and restated in its entirety to read as follows:

Upon the expiration or termination of this Services Agreement, AMc shall immediately return to NRA, to such place and in such manner as NRA may specify, any and all of NRA's property, materials, documents, Confidential Information, etc., that may be in AMc's possession. All charges for accumulating said materials shall be approved and paid in advance of receipt by the NRA. For all non-cancellable contracts entered into between AMc and third parties for the benefit of the NRA (herein "AMc-Third Party NRA Contracts"), the NRA agrees to pay AMc upon such expiration or termination the balance of the compensation payable under such AMc-Third Party NRA Contracts

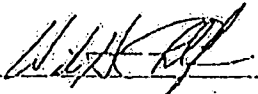
(including, but not limited to, the AMc-Third Party NRA Contracts with Dana Loesch and OLIVER NORTH) as of the date of expiration or termination so that AMc can fulfill its obligations under said Contracts after expiration or termination. If any AMc-Third Party NRA Contract(s) are cancellable upon payment of a fee and the NRA requests that such Contract(s) be cancelled, the NRA agrees to pay AMc the cancellation fees payable under such Contracts as a condition of AMc cancelling such Contract(s).


4. Integrated Agreement. This Amendment and the Service Agreement, and the Exhibits thereto, constitute the entire agreement between NRA and AMc relating to the matters covered hereto and thereto.
5. Miscellaneous. Paragraphs X and XII of the Services Agreement are hereby incorporated by reference as if set forth in full in this Amendment.
6. Effect. In the event of a conflict between this Amendment and the Services Agreement, the provisions of this Amendment shall control. To the extent not amended by this Amendment, all of the provisions of the Services Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, and intending to be legally bound hereby, and further intending to bind their employees, agents, successors and assigns, the parties have executed this Amendment the day and date above written.

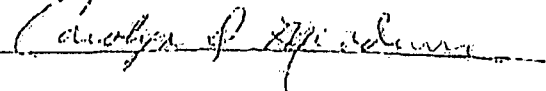
National Rifle Association of America (NRA)

Ackerman McQueen, Inc.

  
\_\_\_\_\_  
William J. Brinkley Jr.  
Print Name/Title      Treasurer

  
\_\_\_\_\_  
Peter B. Brannell  
Print Name/Title

  
\_\_\_\_\_  
Dana Loesch

Attest:  
  
\_\_\_\_\_  
Cynthia S. McQueen

**EXHIBIT B**  
**REDACTED**

## The New York Times

# N.R.A. Sues Contractor Behind NRATV

By Danny Hakim

April 15, 2019

It's the N.R.A. versus NRATV.

The National Rifle Association sued one of its largest and most enduring contractors late last week and raised concerns about the contractor's relationship to the association's own president, Oliver North, in a stunning breach within the normally buttoned-up organization.

The suit was filed late Friday by the N.R.A. in Virginia, where it is based, against Ackerman McQueen, the Oklahoma ad firm that operates NRATV, the group's incendiary online media arm. The suit asserts that Ackerman has concealed details from the N.R.A. about how the company is spending the roughly \$40 million that it and its affiliates receive annually from the association.

The suit creates uncertainty about Mr. North's future at the organization. And it leaves the future of NRATV in doubt, given the new acrimony in the Ackerman relationship.

Since Ackerman created NRATV in 2016, it has often been "perceived by the public as the voice of the N.R.A.," according to the rifle association's complaint. It has also taken on an apocalyptic tone, warning of race wars, calling for a march on the Federal Bureau of Investigation and portraying the talking trains in the children's show "Thomas & Friends" in Ku Klux Klan hoods.

The New York Times reported this year that two prominent N.R.A. board members were among those voicing alarm inside the association that NRATV was often straying beyond gun rights. The Times article also revealed that Ackerman had a previously undisclosed financial relationship with Mr. North.

The association is untangling broader problems as well, including a legal fight in New York with the administration of Gov. Andrew M. Cuomo over an insurance program the N.R.A. offers to gun owners. The new state attorney general, Letitia James, has also repeatedly threatened to investigate the tax-exempt status of the organization, which was incorporated in New York.

Facing this regulatory backdrop, the association began a review of its financial relationships with hundreds of vendors in August to ensure that it was in compliance with best practices.

The N.R.A. complaint alleges that Ackerman refused to turn over a number of financial records, including those detailing out-of-pocket expenses "that lacked meaningful documentation of N.R.A. approvals, receipts or other support." The association also wants documents that it says could allay its concern that it was being invoiced for the full salaries of Ackerman employees who also did work for other Ackerman clients. In addition, the complaint alleges that Ackerman has refused to provide data about NRATV's unique visitors and various other performance measures.

"The N.R.A.'s patience has run out," the suit says.

Ackerman, in a statement, sharply disputed the contentions in the lawsuit, whose filing was earlier reported by The Wall Street Journal.



"During a three-week review, an N.R.A. forensic auditing firm received every single piece of information they [the N.R.A.] requested," the statement said. "Further, the N.R.A. has had consistent access to any and all documents regarding NRATV analytics. Despite the representation set forth in their lawsuit, the N.R.A. had the personnel contract they claim AM withheld last week before they filed their lawsuit."

The complaint details a peculiar standoff with Ackerman over Mr. North, who took over as president last year. The N.R.A. claims it was aware that Mr. North had a contract to act as the host of a web series for Ackerman, but that Ackerman has refused to provide a copy of the contract for nearly six months. Additionally, Mr. North's counsel told the N.R.A. that "he could only disclose a copy of the contract" if Ackerman said he could, the suit says.

Subsequently, Ackerman allowed the N.R.A.'s general counsel to view the contract but not keep a copy; the viewing added to N.R.A. concerns that it had not previously received an accurate summary of the document. The association was also concerned that Mr. North's relationship to Ackerman could "supersede his duties to the N.R.A."

A standoff persists over additional details about the relationship, according to the complaint.

The lawsuit is further complicated by family ties. The N.R.A.'s outside lawyer, William A. Brewer III, is the son-in-law of Angus McQueen, a co-chief executive of Ackerman, and the brother-in-law of Revan McQueen, its chief executive. Ackerman called the relationships an "irreconcilable conflict of interest" and said some kind of family dispute "pervades the Brewer firm's dealings with Ackerman McQueen."

Travis Carter, a spokesman for Mr. Brewer's law firm, said "the familial relationship" had "no bearing whatsoever on the N.R.A.'s litigation strategy." He added, "Any suggestion to the contrary is contrived and a red herring."

The suit culminates the fracturing of a more than three-decade relationship between Ackerman and the N.R.A., going back to the shaping of such memorable lines as Charlton Heston's proclaiming that his gun would have to be pried "from my cold, dead hands." Wayne LaPierre, the longtime chief executive of the N.R.A., had previously been a steadfast champion of the Ackerman relationship.

"I think it says something about Wayne's character, even though he's had a long-term working business relationship with a vendor, he's willing to do what is right and necessary for the N.R.A. and its members," said Todd Rathner, a board member of the rifle association.

Joel Friedman, another board member, said he was dismayed that the documents had not been turned over.

"It leaves you questioning, and you can come up with all these potential different scenarios as to why, but none of them are good," he said.

"My mind goes to: Are they overcharging us? That's one," he added. "Two, are there things charged to us that were not part of the contract? Then, No. 3, has there been a misallocation of personnel?"

Susan Beachy contributed research.

A version of this article appears in print on April 16, 2019, on Page B3 of the New York edition with the headline: N.R.A. Sues Operator of 'Voice of the N.R.A.'

EXHIBIT D  
REDACTED

EXHIBIT E  
REDACTED