

**American Civil Liberties Union, Inc.
and Consolidated Entities**

Consolidated Financial Report
March 31, 2021

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RSM US LLP

Independent Auditor's Report

Board of Directors
American Civil Liberties Union, Inc.

Report on the Financial Statements

We have audited the accompanying consolidated financial statements of American Civil Liberties Union, Inc. and consolidated entities (collectively, the American Civil Liberties Union or the ACLU), which comprise the consolidated statement of financial position as of March 31, 2021, the related consolidated statements of activities, functional expenses and cash flows for the year then ended, and the related notes to the consolidated financial statements (collectively, the financial statements).

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of American Civil Liberties Union, Inc. and consolidated entities as of March 31, 2021, and the changes in their net assets and their cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Report on Summarized Comparative Information

We have previously audited the American Civil Liberties Union's 2020 financial statements, and we expressed an unmodified audit opinion on those audited financial statements in our report dated September 30, 2020. In our opinion, the summarized comparative information presented herein as of and for the year ended March 31, 2020, is consistent, in all material respects, with the audited financial statements from which it has been derived.

Other Matter

Our audit was conducted for the purpose of forming an opinion on the financial statements as a whole. The consolidating information is presented for purposes of additional analysis rather than to present the financial position and changes in net assets of the individual entities, and is not a required part of the financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the financial statements. The consolidating information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the information is fairly stated in all material respects in relation to the financial statements as a whole.

RSM US LLP

New York, New York
October 21, 2021

American Civil Liberties Union, Inc. and Consolidated Entities

Consolidated Statement of Financial Position

March 31, 2021

(With Summarized Comparative Information as of March 31, 2020)

	2021	2020
Assets		
Cash and cash equivalents	\$ 169,368,569	\$ 160,891,943
Pledges and contributions receivable, net	46,178,399	30,799,848
Investments	657,921,299	417,639,966
Other assets	2,572,877	11,025,199
Due from affiliates	389,402	4,096,856
Due from affiliates – allocated share of pension liability	15,294,633	29,441,113
Beneficial interest in trusts	2,525,898	976,819
Property and equipment, net of accumulated depreciation and amortization	25,903,880	30,466,611
Total assets	\$ 920,154,957	\$ 685,338,355
Liabilities and Net Assets		
Liabilities:		
Accounts payable and accrued expenses	\$ 18,616,597	\$ 19,178,940
Due to affiliates	61,680,247	52,289,305
Liabilities under split-interest agreements	20,621,687	15,410,910
Bill of Rights Trust held for affiliates	43,045,682	32,134,914
Accrued pension liability	27,881,042	54,432,511
Total liabilities	171,845,255	173,446,580
Commitments and contingencies		
Net assets:		
Net assets without donor restrictions:		
Board-designated	296,468,452	174,461,294
Undesignated	239,130,679	175,677,784
Net assets without donor restrictions	535,599,131	350,139,078
Net assets with donor restrictions	212,710,571	161,752,697
Total net assets	748,309,702	511,891,775
Total liabilities and net assets	\$ 920,154,957	\$ 685,338,355

See notes to consolidated financial statements.

American Civil Liberties Union, Inc. and Consolidated Entities

Consolidated Statement of Activities

Year Ended March 31, 2021

(With Summarized Comparative Information for the Year Ended March 31, 2020)

	2021			2020	
	Without Donor Restrictions	With Donor Restrictions	Total	Total	
Support and revenue:					
Support:					
Current member contributions	\$ 117,657,478	\$ -	\$ 117,657,478	\$	97,861,168
New member contributions	21,526,671	-	21,526,671		13,985,998
Grants and contributions	148,113,627	73,256,388	221,370,015		176,454,595
Donated legal services	23,748,513	-	23,748,513		14,902,284
Bequests	29,618,631	5,138,696	34,757,327		26,619,278
Total support	340,664,920	78,395,084	419,060,004		329,823,323
Revenue:					
List rentals	245,844	-	245,844		302,041
Rental income	850,119	-	850,119		1,287,960
Merchandise and book sales	1,192,193	-	1,192,193		727,405
Other income	516,259	-	516,259		58,949
Total revenue	2,804,415	-	2,804,415		2,376,355
Net assets released from restrictions	57,321,561	(57,321,561)	-		-
Total support and revenue	400,790,896	21,073,523	421,864,419		332,199,678
Expenses:					
Program services:					
Legislative	32,287,881	-	32,287,881		25,612,318
Legal	106,572,587	-	106,572,587		73,016,684
Public education	42,872,015	-	42,872,015		42,771,371
Civil liberties policy formulation	2,106,276	-	2,106,276		2,289,473
Affiliate support	125,757,470	-	125,757,470		117,115,574
Total program services	309,596,229	-	309,596,229		260,805,420
Supporting services:					
Management and general	19,304,924	-	19,304,924		18,359,015
Fundraising	23,227,125	-	23,227,125		21,334,671
Total supporting services	42,532,049	-	42,532,049		39,693,686
Total expenses	352,128,278	-	352,128,278		300,499,106
Change in net assets before other changes	48,662,618	21,073,523	69,736,141		31,700,572
Other changes in net assets:					
Legal expenses awarded, net	3,046,610	-	3,046,610		5,989,673
Net investment income, gains and (losses)	124,067,370	28,320,061	152,387,431		(25,449,398)
Changes in value of split-interest agreements	-	1,564,290	1,564,290		(1,733,332)
Recognition of affiliates' share of minimum pension liability adjustment	(15,146,480)	-	(15,146,480)		8,276,339
Minimum pension liability adjustment	24,829,935	-	24,829,935		(18,726,622)
Total other changes in net assets	136,797,435	29,884,351	166,681,786		(31,643,340)
Change in net assets	185,460,053	50,957,874	236,417,927		57,232
Net assets:					
Beginning of year	350,139,078	161,752,697	511,891,775		511,834,543
End of year	\$ 535,599,131	\$ 212,710,571	\$ 748,309,702	\$	511,891,775

See notes to consolidated financial statements.

American Civil Liberties Union, Inc. and Consolidated Entities

Consolidated Statement of Functional Expenses

Year Ended March 31, 2021

(With Summarized Comparative Information for the Year Ended March 31, 2020)

	2021											2020 Summarized Comparative Information
	Program Services						Supporting Services					
	Legislative	Legal	Public Education	Civil Liberties Policy Formulation	Affiliate Support	Total Program Services	Management and General	Fundraising	Total Supporting Services	Total Expenses		
Salaries	\$ 8,077,921	\$ 25,065,395	\$ 9,494,114	\$ 1,017,648	\$ 9,342,761	\$ 52,997,839	\$ 7,856,221	\$ 8,422,090	\$ 16,278,311	\$ 69,276,150	\$ 63,716,923	
Employee benefits	2,070,888	8,001,676	2,805,861	445,942	4,083,745	17,408,112	4,858,959	2,619,888	7,478,847	24,886,959	21,192,590	
Rent and occupancy	408,387	2,502,261	485,989	47,788	591,980	4,036,405	430,157	477,154	907,311	4,943,716	5,485,392	
Books	20,999	276,740	38,933	4,455	24,199	365,326	19,701	85,572	105,273	470,599	512,712	
Building depreciation	59,533	354,457	93	-	59,610	473,693	119,066	833,647	952,713	1,426,406	1,341,416	
Other depreciation and amortization	185,931	371,861	-	67,121	588,657	1,213,570	1,244,433	2,603,028	3,847,461	5,061,031	5,449,392	
Equipment rental and maintenance	1,009,810	2,430,040	374,611	155,512	1,407,048	5,377,021	1,115,312	1,197,363	2,312,675	7,689,696	5,824,890	
Grants to affiliates	3,224,637	8,894,590	8,976	-	10,524,622	22,652,825	-	35,024	35,024	22,687,849	14,914,770	
Shared portion of contributions	1,596,880	27,754,131	-	795	74,214,165	103,565,971	10,333	-	10,333	103,576,304	85,689,421	
Shared portion of bequest	888,974	761,825	-	-	12,144,900	13,795,699	-	-	-	13,795,699	6,370,603	
Meetings/conferences	21,067	11,339	4,728	198	19,622	56,954	968	10,662	11,630	68,584	3,680,525	
Legal fees	563	249,694	17,101	37,830	251,369	556,557	491,785	35,453	527,238	1,083,795	607,982	
Donated legal services	-	23,748,513	-	-	-	23,748,513	-	-	-	23,748,513	14,902,284	
Accounting fees	-	-	-	-	-	-	349,751	-	349,751	349,751	286,216	
Professional fund-raising services	-	-	-	-	-	-	-	949,612	949,612	949,612	891,807	
Other professional services	8,194,524	3,240,463	9,178,147	196,668	3,754,438	24,564,240	1,726,209	1,360,452	3,086,661	27,650,901	23,921,232	
Postage and supplies	448,146	9,882	9,615,340	669	107,745	10,181,782	12,844	1,983,217	1,996,061	12,177,843	11,193,569	
Publishing, printing and outreach	68,225	11,840	6,316,178	2,441	25,748	6,424,432	48,070	1,013,041	1,061,111	7,485,543	10,191,832	
Special affiliate subsidies	54,193	541,930	-	-	6,303,877	6,900,000	-	-	-	6,900,000	7,069,067	
Telephone	1,362,266	355,581	118,504	18,676	414,692	2,269,719	95,904	109,363	205,267	2,474,986	1,100,733	
Telemarketing	1,082	22	829,745	-	465	831,314	-	230,951	230,951	1,062,265	1,517,100	
Travel	65,998	138,734	86,458	12,876	54,250	358,316	33,135	45,508	78,643	436,959	3,991,419	
Other grants and awards	4,117,057	266,698	3,510	-	1,001,008	5,388,273	215	468	683	5,388,956	3,121,080	
Other expenses	410,800	1,584,915	3,493,727	97,657	842,569	6,429,668	891,861	1,214,632	2,106,493	8,536,161	7,526,151	
Total – 2021	\$ 32,287,881	\$ 106,572,587	\$ 42,872,015	\$ 2,106,276	\$ 125,757,470	\$ 309,596,229	\$ 19,304,924	\$ 23,227,125	\$ 42,532,049	\$ 352,128,278		
Total – 2020	\$ 25,612,318	\$ 73,016,684	\$ 42,771,371	\$ 2,289,473	\$ 117,115,574	\$ 260,805,420	\$ 18,359,015	\$ 21,334,671	\$ 39,693,686	\$ 300,499,106		

See notes to consolidated financial statements.

American Civil Liberties Union, Inc. and Consolidated Entities

Consolidated Statement of Cash Flows

Year Ended March 31, 2021

(With Summarized Comparative Information for the Year Ended March 31, 2020)

	2021	2020
Cash flows from operating activities:		
Change in net assets	\$ 236,417,927	\$ 57,232
Adjustments to reconcile change in net assets to net cash provided by operating activities		
Depreciation and amortization	6,487,437	6,790,808
Discount on pledges receivable	1,480,050	(692,214)
New beneficial interests in trusts		
Changes in value of split-interest agreements	(1,564,290)	1,733,332
Net realized and unrealized losses (gains) on investments, net of adjustments for affiliate holdings	(152,199,221)	31,031,207
Minimum pension liability adjustment	(24,829,935)	18,726,622
Affiliates' allocated share of pension liability adjustment	15,294,633	(8,276,339)
Cash received on contributions restricted for endowment	(1,752,669)	(196,644)
Contributions subject to split-interest agreements	(2,702,306)	(2,614,905)
Changes in operating assets and liabilities:		
Decrease in due from/to affiliates	11,950,243	749,456
(Increase) decrease in pledges and contributions receivable	(16,858,601)	14,709,134
Decrease (increase) in other assets	8,452,322	(1,242,304)
(Decrease) increase in accounts payable and accrued expenses	(562,343)	4,234,003
Decrease in Bill of Rights Trust held for affiliates	(1,714,926)	(112,108)
(Decrease) increase in accrued pension liability	(1,721,534)	7,187,226
Net cash provided by operating activities	76,176,787	72,084,506
Cash flows from investing activities:		
Proceeds from sale of investments	266,877,777	193,275,520
Purchase of investments	(342,334,195)	(196,911,860)
Transfer of fixed assets		(1,445,901)
Purchase of property and equipment	(1,924,706)	(3,885,623)
Net cash used in investing activities	(77,381,124)	(8,967,864)
Cash flows from financing activities:		
Cash received on contributions restricted for endowment	1,752,669	196,644
Contributions subject to split-interest agreements	2,702,306	2,614,905
Payments on split-interest agreements	(1,817,715)	(1,650,878)
New annuities	7,043,703	1,464,528
Net cash provided by financing activities	9,680,963	2,625,199
Net change in cash and cash equivalents	8,476,626	65,741,841
Cash and cash equivalents:		
Beginning	160,891,943	95,150,102
Ending	\$ 169,368,569	\$ 160,891,943
Supplemental disclosures of cash flow information:		
Change in investments for Bill of Rights Trust held for affiliates	\$ 12,625,694	\$ (2,972,203)

See notes to consolidated financial statements.

American Civil Liberties Union, Inc. and Consolidated Entities

Notes to Consolidated Financial Statements

Note 1. Organization

The American Civil Liberties Union, Inc. (the Union) and the American Civil Liberties Union Foundation, Inc. (the Foundation), collectively, the American Civil Liberties Union or the ACLU, were established as nonprofit corporations to preserve and promote individual civil rights and civil liberties as guaranteed by the United States Constitution and the nation's civil rights laws.

The ACLU is affiliated with 50 nonprofit, tax-exempt organizations and has a presence in every state in the United States and in the District of Columbia and Puerto Rico. All affiliates include reference to the American Civil Liberties Union or some variation thereof in their names (the affiliates). The affiliates also operate through related Section 501(c)(3) and Section 501(c)(4) organizations. The affiliates share the same overall mission and purpose as the ACLU, but their programs focus more on local or regional issues, while the ACLU's program activities are focused on overarching civil liberties issues and initiatives. Although the ACLU plays no direct role in the governance of and, except in very limited instances, does not share employees with, the affiliates, the organizations jointly fundraise and work together on certain programs and the ACLU, through either the Union or Foundation, as appropriate, at its sole discretion provides targeted financial and other support to the affiliates.

Note 2. Summary of Significant Accounting Policies

Basis of presentation: The accompanying consolidated financial statements have been prepared on the accrual basis of accounting in conformity with accounting principles generally accepted in the United States of America (U.S. GAAP).

Principles of consolidation: The accompanying consolidated financial statements include the accounts and activities of the Union, the Foundation and 915 15th Street, LLC (the LLC). Certain members of the board of directors of the Union comprise the board of directors of the Foundation. The LLC is a single-member limited liability company of which the Foundation is the sole member. All significant inter-organizational accounts and transactions have been eliminated in consolidation.

The accounts and activities of the affiliates are not included in these consolidated financial statements.

Use of estimates: The preparation of consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

Cash and cash equivalents: The ACLU considers all highly liquid debt instruments purchased with a maturity of three months or less to be cash equivalents. Cash and cash equivalents held temporarily in the investment portfolio are included in investments.

Investments and related income, gains and losses: Investments are reported at fair value in the consolidated statements of financial position. The consolidated statement of activities includes net investment income consisting of interest and dividend income, realized and unrealized gains and losses. Interest income is recorded on the accrual basis. Dividends are recorded on the ex-dividend date. Realized gains and losses on sale of investments are calculated on the basis of specific identification of the securities sold. Purchases and sales of securities are recognized on a trade-date basis. For the years ending March 31, 2021 and 2020, net investment income, gains and losses, is reported net of direct investment expenses of \$2,022,939 and \$2,020,426, respectively.

American Civil Liberties Union, Inc. and Consolidated Entities

Notes to Consolidated Financial Statements

Note 2. Summary of Significant Accounting Policies (Continued)

Fair value measurements: Assets and liabilities recorded at fair value in the consolidated statements of financial position are categorized based upon the level of judgment associated with the inputs used to measure their fair value. Pursuant to Financial Accounting Standards Board (FASB), Accounting Standards Codification (ASC) 820, Fair Value Measurement, level inputs are defined as follows:

Level 1: Inputs that reflect unadjusted quoted market prices in active markets for identical assets or liabilities that the ACLU has the ability to access at the measurement date. The types of investments in Level 1 generally include listed equities, mutual funds and exchange-traded funds.

Level 2: Inputs other than quoted prices within Level 1 that are observable for the asset or liability, either directly or indirectly, including inputs in markets that are not considered to be active. Investments in this category generally include corporate debt, U.S. government debt, and less liquid securities such as securities traded on certain foreign exchanges. A significant adjustment to a Level 2 input could result in the Level 2 measurement becoming a Level 3 measurement.

Level 3: Inputs that are unobservable for the asset or liability and that include situations where there is little, if any, market activity for the asset or liability. The inputs into the determination of fair value are based upon the best information in the circumstances and may require significant management judgment or estimates. Investments in this category generally include equity and debt positions in private companies.

The availability of observable inputs can vary from security to security and is affected by a wide variety of factors, including, for example, the type of security, whether the security is new and not yet established in the marketplace, the liquidity of markets and other characteristics particular to the security. To the extent that valuation is based on models or inputs that are less observable or unobservable in the market, the determination of fair value requires more judgment. Accordingly, the degree of judgment exercised in determining fair value is greatest for instruments categorized in Level 3.

Fair value of financial instruments: The following methods and assumptions were used in estimating the fair values of significant financial instruments:

Cash and cash equivalents: The carrying amount approximates fair value because the instruments are liquid in nature and have short-term maturities.

Investments: The fair value is determined as described in Note 5.

American Civil Liberties Union, Inc. and Consolidated Entities

Notes to Consolidated Financial Statements

Note 2. Summary of Significant Accounting Policies (Continued)

Concentration of market and credit risk: The ACLU's financial instruments that are potentially exposed to concentrations of credit risk consist primarily of cash and cash equivalents and investments.

Exposure to credit risk is reduced by the placement of such funds in high credit quality financial institutions and financial instruments. At March 31, 2021, the majority of the ACLU's money market accounts were in funds that invest in short-term direct government obligations, such as U.S. Treasury Bills, that are backed by the full faith and credit of the U.S. government.

In order to control market risk, the ACLU has an investment committee that reviews and updates investment policy statements for the organization's various investment portfolios, oversees its investment portfolio and engages the services of investment advisors and managers to invest and manage the assets within the guidelines of the respective investment policy statements and perform ongoing due diligence and reporting. The ACLU monitors the market risk of its investment portfolio via ongoing review of asset allocation formulas and analysis of investment values as reported by investment custodians and managers.

The clearing and depository operations for the ACLU's portfolio of investments held in managed accounts are provided principally by three financial institutions that held approximately 94% and 93% of the total portfolio at March 31, 2021 and 2020, respectively.

Property and equipment: Property and equipment (consisting of office buildings, furniture, fixtures, office equipment and intangible assets) are carried at cost, less accumulated depreciation or amortization. Depreciation and amortization are provided for using the straight-line method over the estimated useful lives of the respective assets.

Impairment of long-lived assets: The ACLU reviews long-lived assets for impairment whenever events or circumstances indicate that the carrying amount of any asset may not be recoverable and, if so, the carrying value is reduced to the estimated fair value. During the years ended March 31, 2021 and 2020, no impairment indicators were identified.

Net assets: The ACLU reports information regarding its financial position and activities in two classes of net assets: without donor restrictions and with donor restrictions. Net assets without donor restrictions consist of amounts that can be spent at the discretion of the ACLU and have no donor restrictions associated with them. A portion of net assets without donor restrictions has been designated by the board of directors for certain purposes. Net assets with donor restrictions consist of contributions that are restricted by donors for a specific time period and/or purpose. Generally, the donors of these assets permit the use of all or part of the income earned on related investments for general or specific purpose.

Endowment: When the ACLU receives a contribution and the donor restricts the ACLU from spending the principal, the contribution is classified as an endowment, with the amount of the gift recorded as with donor restrictions. The majority of the ACLU's endowment funds are held pursuant to the terms of the agreement for the establishment of the Bill of Rights Trust.

The ACLU is subject to the New York Prudent Management of Institutional Funds Act (NYPMIFA), and has interpreted NYPMIFA as requiring the preservation of the fair value of the original gift as of the gift date of the donor-restricted endowment funds absent explicit donor stipulations to the contrary. The remaining portion of the endowment fund that is not classified as held in perpetuity are classified as net assets with donor restrictions until those amounts are appropriated for expenditure by the ACLU in a manner consistent with the standard of prudence prescribed by NYPMIFA.

American Civil Liberties Union, Inc. and Consolidated Entities

Notes to Consolidated Financial Statements

Note 2. Summary of Significant Accounting Policies (Continued)

Contributions and related receivables: The ACLU reports contributions as without donor restrictions or with donor restrictions depending on the existence and/or nature of any donor restrictions.

Unconditional promises to give are recorded as pledges and contributions receivable in the period the promise is received. Payments received in subsequent periods on unconditional promises to give, such as payments on multi-year gifts, are not recognized as revenue; rather, these are recorded as decreases in the corresponding pledges receivable balance. Pledges and contributions receivable due within one year are recorded at their net realizable value. Pledges and contributions receivable due in more than one year are recorded at the present value of their net realizable value, using applicable risk-adjusted interest rates to discount the amounts. Allowances for doubtful pledges and contributions receivable are provided by management based on the ACLU's experience with the donors and their ability to pay. No allowance for doubtful accounts was deemed necessary as of March 31, 2021 and 2020.

Contributions of cash and other assets are reported as with donor restrictions support if they are received with donor stipulations that limit the use of the donated assets. When a donor restriction expires, that is, when a stipulated time restriction ends or purpose restriction is accomplished, net assets with donor restrictions are reclassified to net assets without donor restrictions and reported in the consolidated statement of activities as net assets released from restrictions.

Contributions that are to be maintained in perpetuity are recorded as with donor restrictions support.

Contributions of noncash assets are recorded at fair value in the period received.

Certain contributions and bequests revenue are subject to revenue sharing agreements with affiliates. The ACLU's sharing rules specify the circumstances under which revenue shall be shared and the methodology for determining the specific portion of various categories of revenue that will be shared among the ACLU and the affiliates. Shared revenues are reported at gross amounts and the affiliates' share of the revenues are included as affiliate support expense in the consolidated statement of activities. The ACLU reports the affiliates' share of revenues as expenses when cash is received from the donor.

Donated services are reported as contributions at their fair value if such services create or enhance nonfinancial assets or would have been purchased if not provided by donation, require specialized skills and are provided by individuals possessing such specialized skills.

Due to the nature of the ACLU's civil liberties litigation, in-kind professional legal services are from time to time provided on a pro bono basis by outside attorneys. These services are recorded as revenue and expenses at fair value based on the attorneys' records of time spent and applicable billing rates.

A number of individuals have made a contribution of their time to serve on the ACLU's board. The value of their contributed time is not reflected in these consolidated financial statements inasmuch as those services would not typically be purchased had they not been provided by donation.

Bequests: The ACLU is a beneficiary under various wills and trust agreements, the total realizable amounts of which are not determinable at present. The ACLU's share of such bequests is recorded when the probate courts declare the testamentary instrument valid and the proceeds are measurable.

Donor concentration: Approximately 10% and 11% of the total grants, contributions and bequests revenue of \$395,311,491 and \$314,921,039 for the years ended March 31, 2021 and 2020, were provided by three donors, respectively. In addition, approximately 56% and 38% of the gross pledges and contributions receivable of \$48,351,994 and \$31,493,393 at March 31, 2021 and 2020, respectively, were due from three donors both years.

American Civil Liberties Union, Inc. and Consolidated Entities

Notes to Consolidated Financial Statements

Note 2. Summary of Significant Accounting Policies (Continued)

Functional expenses: The costs of providing various program and supporting services of the ACLU have been summarized on a functional basis in the accompanying consolidated financial statements. Each department within the ACLU will be allocated to its programmatic or supporting services based on a total analysis of their respective FTE's and a determination of what functions they perform. Certain departments, such as legal department expenses, are determined to be 100% programmatic and are reflected therefore under legal programs. Other departments, such as executive or administrative/finance, are largely supportive in nature and reflected largely under management and general. Each year, the functional allocations are reviewed and modified based on initiatives and organizational changes to best reflect the activities within the ACLU for a specified year.

In addition, certain expenses, predominantly salaries and employee benefits, are shared between the Union and the Foundation. Expenses paid by the Union and allocated to the Foundation during the years ended March 31, 2021 and 2020 amounted to \$23,614,140 and \$18,995,682, respectively.

Grants to affiliates: The ACLU recognizes grants to affiliates as expense when a formal agreement has been signed by both the ACLU and the affiliate and any conditions set forth are met by the affiliate.

Legal awards: Pursuant to the Civil Rights Attorneys Fee Awards Act of 1976 and similar laws, legal fees and expenses may be awarded in certain legal actions. The amounts of these awards are the result of court determinations and/or negotiations between the parties to the matters. Management anticipates that the ACLU will be the recipient of legal awards of a substantial amount, but is unable to determine the amounts receivable with any degree of accuracy. Accordingly, the ACLU's accounting policy is to accrue an award only when, in management's judgment, the amount appears relatively certain of collection.

Defined benefit pension plan: The ACLU reports the funded status of, and discloses other information about, its sponsored defined benefit pension plan in accordance with FASB ASC 715, Compensation - Retirement Benefits (see Note 11).

Income taxes: The Union and the Foundation are nonprofit organizations exempt from income taxes under Section 501(c)(4) and Section 501(c)(3), respectively, of the U.S. Internal Revenue Code (IRC). Both the Union and the Foundation are subject to taxes on unrelated business income, as applicable. The LLC is treated as a disregarded (tax) entity.

The Union and the Foundation file tax and information returns with the Internal Revenue Service (IRS) and with various states.

Management evaluated the Union's and the Foundation's tax positions and concluded that each organization had taken no uncertain tax positions that require additional adjustment or disclosure to the accompanying consolidated financial statements. Generally, the Union and the Foundation are no longer subject to income tax examinations by U.S. federal, state or local tax authorities for tax years before 2018, which is the standard statute of limitations look-back period.

Prior-year summarized comparative information: The consolidated financial statements include certain prior-year summarized comparative information in total but not by net asset or by functional expense classifications. Such information does not include sufficient detail to constitute a presentation in accordance with U.S. GAAP. Accordingly, such information should be read in conjunction with the ACLU's consolidated financial statements as of and for the year ended March 31, 2020, from which the summarized information was derived.

American Civil Liberties Union, Inc. and Consolidated Entities

Notes to Consolidated Financial Statements

Note 2. Summary of Significant Accounting Policies (Continued)

Evaluation of subsequent events: The ACLU evaluates events occurring after the date of the consolidated financial statements to consider whether or not the impact of such events needs to be reflected and/or disclosed in the consolidated financial statements. Such evaluation is performed through the date the consolidated financial statements are issued, which is October 21, 2021.

The spread of COVID-19, a novel strain of coronavirus, is altering the behavior of society throughout the world. The continued spread of COVID-19 may adversely impact the local, regional, national, and world economies. The extent to which COVID-19 impacts the ACLU's activities will depend on future developments, which are highly uncertain and cannot be predicted. Although to date, COVID-19 has not had a material impact on the ACLU, management cannot presently estimate the overall long-term operational and financial impact to the ACLU.

Recently issued accounting pronouncements: In February 2016, the FASB issued Accounting Standards Update (ASU) 2016-02, *Leases (Topic 842)*. The guidance in this ASU supersedes the leasing guidance in Topic 840, *Leases*. Under the new guidance, lessees are required to recognize lease assets and lease liabilities on the statements of financial position for all leases with terms longer than 12 months. Leases will be classified as either finance or operating, with classification affecting the pattern of expense recognition in the statement of activities. The new standard is effective for fiscal years beginning after December 15, 2021, including interim periods within those fiscal years. The ACLU is currently evaluating the impact of the adoption of the new standard on the consolidated financial statements.

In September 2020, the FASB issued ASU 2020-07 – *Not-for-profit Entities (topic 958): Presentation and disclosures by Not-for-Profit Entities for Contributed Nonfinancial Assets*. The amendments address presentation and disclosure of contributed nonfinancial assets. Contribution and nonfinancial asset are both defined terms in the Master Glossary of the Codification and are understood in practice. The term nonfinancial asset includes fixed assets (such as land, buildings, and equipment), use of fixed assets or utilities, materials and supplies, intangible assets, services, and unconditional promises of those assets. The amendments in this Update should be applied on a retrospective basis and are effective for annual periods beginning after June 15, 2021, and interim periods within annual periods beginning after June 15, 2022. Early adoption is permitted. The ACLU has not evaluated the impact that adoption will have on the consolidated financial statements.

Recently adopted accounting pronouncements: In May 2014, the FASB issued ASU 2014-09, *Revenue from Contracts with Customers (Topic 606)*, requiring an entity to recognize the amount of revenue to which it expects to be entitled for the transfer of promised goods or services to customers. The updated standard will replace most existing revenue recognition guidance in U.S. GAAP when it becomes effective and permits the use of either a full retrospective or retrospective with cumulative effect transition method. All other entities should apply the guidance in update 2014-09 to annual reporting periods beginning after December 15, 2019, and interim reporting periods within annual reporting periods beginning after December 15, 2020. The ACLU has adopted this ASU for the year ended March 31, 2021, with no impact to the reported net assets.

American Civil Liberties Union, Inc. and Consolidated Entities

Notes to Consolidated Financial Statements

Note 3. Related-Party Transactions

Amounts due from and to affiliates represent receivables and payables related to affiliate support and revenue sharing.

Amounts due to affiliates include the portion of contributions that are shared in accordance with the ACLU sharing rules and payments related to certain affiliate subsidy programs. Amounts due from affiliates include income generated by the affiliates that is subject to the application of the ACLU sharing rules, and reimbursement to the ACLU for expenses paid by the ACLU on behalf of the affiliates, including contributions payable to the employee pension plan totaling \$3,992,730 and \$3,305,632 for the years ended March 31, 2021 and 2020, respectively.

Also included in the amounts due from affiliates are notes receivable of \$9,622 at March 31, 2021, and \$67,083 at March 31, 2020, due from certain affiliates. The remaining notes matures June 30, 2021, and accrues interest at the prime rate.

Amounts due from affiliates – allocated share of pension liability of \$15,294,633 and \$29,441,113 at March 31, 2021 and 2020, respectively, represent the estimated aggregate amount due from affiliates in connection with employer withdrawal liability provision stipulated in the amended and restated ACLU Retirement Plan effective January 1, 2015 (Note 11) in the event of withdrawal from the plan.

During the years ended March 31, 2021 and 2020, the ACLU had expenses to affiliates for grants to affiliates, the shared portion of contributions and bequests and the special affiliate subsidies of \$146,959,852 and \$114,043,861, respectively.

During the years ended March 31, 2021 and 2020, the Foundation received approximately \$293,000 for the both years from the New York Civil Liberties Union, Inc. and the New York Civil Liberties Union Foundation, Inc. in payments for the use of space occupied at the Foundation's offices at 125 Broad Street. These payments include charges for cleaning and other customary services.

American Civil Liberties Union, Inc. and Consolidated Entities

Notes to Consolidated Financial Statements

Note 4. Pledges and Contributions Receivable

Pledges and contributions receivable which are expected to be collected after one year have been discounted to net present value at rates ranging from 3.02% to 4.10% and are reflected in the consolidated financial statements at their net realizable value.

Pledges and contributions receivable are comprised of the following at March 31:

	2021	2020
Receivable due within one year or less	\$ 25,116,159	\$ 20,290,866
Receivable due in more than one year to five years	23,235,835	10,702,527
Receivable due in over five years	-	500,000
	<u>48,351,994</u>	<u>31,493,393</u>
Less discount to present value	(2,173,595)	(693,545)
	<u>\$ 46,178,399</u>	<u>\$ 30,799,848</u>

Approximately \$13,600,000 and \$10,800,000 of pledges and contributions receivable as of March 31, 2021 and 2020, respectively, are the affiliates' share of these revenues which are based on ACLU's revenue sharing rules; these amounts will be recognized as expenses by the ACLU upon the receipt of cash from donors.

For the year ending March 31, 2021, the ACLU received approximately \$2,000,000 in new conditional contributions. For the year ending March 31, 2021, the ACLU recognized approximately \$3,355,000 in revenue from conditional contributions as barriers were met. At March 31, 2021, there is approximately \$3,415,000 in conditional contributions which has not met the barriers to be recognized as revenue. Revenues on these grants and contributions will be recognized by the ACLU in future periods as the barriers are met.

American Civil Liberties Union, Inc. and Consolidated Entities

Notes to Consolidated Financial Statements

Note 5. Investments and Fair Value Measurement

The following tables present the ACLU's investments that are measured at fair value on a recurring basis.

	Fair Value Measurements at March 31, 2021			
	Total	Quoted Prices in Active Markets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Money market funds	\$ 25,175,815	\$ 25,175,815	\$ -	\$ -
Equities	163,927,018	163,927,018	-	-
Corporate Bonds (by S&P rating):				
AAA - A-	19,255,752	-	19,255,752	-
BBB - B-	546,572	-	546,572	-
Total corporate bonds	19,802,324	-	19,802,324	-
U.S. Treasury Notes, agency and related	20,647,881	-	20,647,881	-
Mutual funds:				
Large-cap U.S. equity	3,019,197	3,019,197	-	-
Small-/mid-cap U.S. equity	416,088	416,088	-	-
International equity	1,744,745	1,744,745	-	-
Short-term bond	24,921,382	24,921,382	-	-
Intermediate-term bond	4,132,910	4,132,910	-	-
High-Yield bond	429,478	429,478	-	-
International fixed income	1,440,979	1,440,979	-	-
Other bond	662,972	662,972	-	-
Total mutual funds	36,767,751	36,767,751	-	-
Common trust funds ⁽¹⁾ :				
Large-cap U.S. equity	6,686,251	-	-	-
Small-/mid-cap U.S. equity	2,672,528	-	-	-
International equity	6,034,401	-	-	-
Intermediate-term bond	1,567,151	-	-	-
High-Yield and others bonds	2,823,217	-	-	-
Real estate and hard assets (commodities)	1,525,022	-	-	-
Total common trust funds	21,308,570	-	-	-
Exchange-traded funds:				
Large-cap U.S. equity	1,970,553	1,970,553	-	-
Small-/mid-cap U.S. equity	1,295,729	1,295,729	-	-
International equity	2,196,477	2,196,477	-	-
Short-term, long-term, and intermediate-term bonds	13,586,968	13,586,968	-	-
Real estate and hard assets (commodities)	585,837	585,837	-	-
Total exchange-traded funds	19,635,564	-	-	-
Certificates of deposit	1,110,162	1,110,162	-	-
Private equity funds - multi-strategy ⁽¹⁾	73,693,950	-	-	-
Proprietary equity funds - multi-strategy ⁽¹⁾	275,852,264	-	-	-
	<u>\$ 657,921,299</u>	<u>\$ 226,980,746</u>	<u>\$ 40,450,205</u>	<u>\$ -</u>

American Civil Liberties Union, Inc. and Consolidated Entities

Notes to Consolidated Financial Statements

Note 5. Investments and Fair Value Measurement (Continued)

	Fair Value Measurements at March 31, 2020			
	Total	Quoted Prices in Active Markets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Money market funds	\$ 29,995,258	\$ 29,995,258	\$ -	\$ -
Equities	104,593,029	104,593,029	-	-
Corporate Bonds (by S&P rating):				
AAA - A-	2,896,881	-	2,896,881	-
BBB - B-	2,110,046	-	2,110,046	-
Total corporate bonds	5,006,927	-	5,006,927	-
U.S. Treasury Notes, agency and related	26,607,893	-	26,607,893	-
Mutual funds:				
Large-cap U.S. equity	2,054,816	2,054,816	-	-
Small-/mid-cap U.S. equity	72,190	72,190	-	-
International equity	368,162	368,162	-	-
Short-term bond	17,896,623	17,896,623	-	-
Intermediate-term bond	1,520,221	1,520,221	-	-
High-Yield bond	103,267	103,267	-	-
International fixed income	856,889	856,889	-	-
Other bond	120,945	120,945	-	-
Total mutual funds	22,993,113	22,993,113	-	-
Common trust funds ⁽¹⁾ :				
Large-cap U.S. equity	3,616,126	-	-	-
Small-/mid-cap U.S. equity	1,305,030	-	-	-
International equity	3,567,243	-	-	-
Intermediate-term bond	357,824	-	-	-
High-Yield and others bonds	3,402,194	-	-	-
Real estate and hard assets (commodities)	1,232,330	-	-	-
Total common trust funds	13,480,747	-	-	-
Exchange-traded funds:				
Large-cap U.S. equity	422,710	422,710	-	-
Small-/mid-cap U.S. equity	569,630	569,630	-	-
International equity	1,310,373	1,310,373	-	-
Short-term, long-term, and intermediate-term bonds	4,915,451	4,915,451	-	-
Real estate and hard assets (commodities)	560,358	560,358	-	-
Total exchange-traded funds	7,778,522	7,778,522	-	-
Certificates of deposit	1,617,719	1,617,719	-	-
Private equity funds - multi-strategy ⁽¹⁾	34,127,986	-	-	-
Proprietary equity funds - multi-strategy ⁽¹⁾	171,438,772	-	-	-
	<u>\$ 417,639,966</u>	<u>\$ 166,977,641</u>	<u>\$ 31,614,820</u>	<u>\$ -</u>

(1) In accordance with the Fair Value measurements topic, certain investments that are measured at fair value using the net asset value (NAV) per share (or its equivalent) practical expedient have not been classified in the fair value hierarchy. The fair value amounts presented in this table are intended to permit reconciliation of the fair value hierarchy to the amounts presented in the consolidated statement of financial position.

American Civil Liberties Union, Inc. and Consolidated Entities

Notes to Consolidated Financial Statements

Note 5. Investments and Fair Value Measurement (Continued)

Below are the valuation techniques used by the ACLU to measure different financial instruments at fair value and the level within the fair value hierarchy in which the financial instrument is categorized.

Equities, money market funds and exchange-traded funds listed on a national securities exchange or reported on the NASDAQ global market are stated at the last reported sales or trade price on the day of valuation. These financial instruments are classified as Level 1 in the fair value hierarchy.

U.S. government debt, corporate bonds and certificates of deposits are valued based on the last reported bid price provided by broker-dealers, and are reported as Level 2 in the fair value hierarchy.

Investments in mutual funds are stated at fair value based on the last quoted evaluation price or NAV. To the extent these securities are actively traded and valuation adjustments are not applied, they are classified as Level 1 in the fair value hierarchy.

Investments in common trust funds, proprietary equity funds and private equity are valued at fair value based on the applicable percentage ownership of the underlying net assets on the measurement date. In determining fair value, the ACLU utilizes, as a practical expedient, the NAV or equivalent provided by the fund managers (NAV of funds). The underlying common trust funds and proprietary equity funds value securities and other financial instruments on a fair value. The estimated fair values of certain investments of the underlying common trust funds or proprietary equity funds, which may include private placements and other securities for which prices are not readily available, are determined by the trustee of the common trust funds or sponsor of the proprietary equity funds and may not reflect amounts that could be realized upon immediate sale, nor amounts that ultimately may be realized. Accordingly, the estimated fair values may differ significantly from the values that would have been used had a ready market existed for these investments.

Investments that use the practical expedient are not classified within the fair value hierarchy.

The ACLU assesses the fair value hierarchy levels of the investments at each measurement date, and transfers between levels are recognized on the actual date of the event or change in circumstances that caused the transfer. There were no significant transfers among Levels 1, 2 and 3 during fiscal year 2021 or 2020.

ACLU has the ability to redeem its investments in common trust funds on a daily or monthly basis. The objectives of the investments in common trust funds are to approximate as closely as practicable or to provide total investment returns that are in excess of the performance of the following benchmarks over time with certain risk parameters:

	Benchmark
Large-cap U.S. equity	S&P 500 Index
Small-/mid-cap U.S. equity	Russell 2000 Index, S&P Mid-Cap 400 Index
International equity	MSCI EAFE Index, MSCI Emerging Markets
Intermediate-term bond	Barclays U.S. Aggregate Bond Index, Barclays U.S. Intermediate Bond Index
High-yield and other bonds	Barclays U.S. Treasury Inflation Protected Securities Index, Barclays Corporate High-Yield 2% Issuer Cap Index
Real estate and hard assets (commodities)	Dow Jones U.S. Select REIT Index, Dow Jones-UBS Commodity Total Return Index

American Civil Liberties Union, Inc. and Consolidated Entities

Notes to Consolidated Financial Statements

Note 5. Investments and Fair Value Measurement (Continued)

The investment in private equity funds which ACLU does not have the ability to redeem the investments on March 31, 2021, or in the near term, which is defined as 90 days or less from March 31, 2021. The investment objective of the private equity funds are to generate consistent capital appreciation over the long term, with relatively low volatility and a low correlation with traditional equity and fixed income markets.

The following table summarizes the investment strategies and liquidity provision of investments in the private equity and proprietary funds valued at the NAV as provided by the fund managers as of March 31, 2021:

	Fair Value	Unfunded Commitments	Redemption Frequency	Redemption Notice Period	Remaining Lock Up Period
Private equity:					
Sequoia	\$ 37,162,341	\$ -	Annual	NA	NA*
SRA III	23,202,283	11,246,158	None	NA	NA
SRA IV	13,329,326	25,236,161	None	NA	NA
Common trust	21,308,570	-	Daily	NA	NA
Multi strategy	275,852,264	-	Monthly	7 Business days	None
	<u>\$ 370,854,784</u>	<u>\$ 36,482,319</u>			

*While 5% can be drawn down annually, full amount cannot be transferred until donor stipulation met.

The investments are held for the following purposes:

	2021	2020
Bill of Rights Trust, inclusive of endowments held in perpetuity of \$52,184,069 and \$50,431,400 at March 31, 2021 and 2020, respectively (Note 9)	\$ 122,751,832	\$ 98,994,711
Split-interest agreements (Note 7)	38,651,923	23,769,613
Other endowment, special projects, program support and operating reserves	496,517,544	294,875,642
	<u>\$ 657,921,299</u>	<u>\$ 417,639,966</u>

American Civil Liberties Union, Inc. and Consolidated Entities

Notes to Consolidated Financial Statements

Note 6. Property and Equipment

Property and equipment consist of the following:

	2021	2020	Estimated Useful Life
Land, office buildings and office condominium	\$ 58,298,383	\$ 57,410,345	10 to 50 years
Furniture, fixtures and office equipment	5,465,648	5,351,605	3 to 5 years
Software	19,946,105	19,017,933	3 to 15 years
	<u>83,710,136</u>	<u>81,779,883</u>	
Less accumulated depreciation and amortization	<u>(57,806,256)</u>	<u>(51,313,272)</u>	
	<u>\$ 25,903,880</u>	<u>\$ 30,466,611</u>	

Note 7. Split-Interest Agreements

The Foundation receives contributions through its charitable gift annuity program whereby in exchange for gifts of cash or securities, the Foundation promises to pay a fixed annual amount for life to the annuitant.

The difference between the fair value of the assets received and the present value of the future distributions to the annuitant is recognized as contribution revenue.

Upon the death of the annuitant, any balance of the amount in the split-interest account reverts to the Foundation.

The Foundation has received gifts under this program on which it is obligated to make annual annuity payments of approximately \$2,100,000 in accordance with the agreements as of March 31, 2021.

In addition, the Foundation has nine unitrust agreements on which the income is paid to the donor for life. Upon the death of the donor, the balance in the trust account shall be distributed to the Foundation for its general purposes.

Assets and liabilities related to the Foundation's split-interest agreements are as follows:

	2021	2020
Assets – investments	\$ 38,651,923	\$ 23,769,613
Liabilities under split-interest agreements	20,621,687	15,410,910
	<u>\$ 18,030,236</u>	<u>\$ 8,358,703</u>

Asset balances at March 31, 2021 and 2020, exceeded the reserve requirements of the New York State Insurance Commission as well as the reserve requirements of the relevant regulatory bodies in all other states that require a reserve fund and in which the Foundation issues gift annuities. Reserves are included in liabilities under split-interest agreements on the accompanying consolidated statement of financial position.

The present value of obligations under split-interest agreements was calculated using interest rates ranging from 2.5% to 8.5% and applicable Annuity Mortality Tables (either 1983A, 2000 or 2012AR).

American Civil Liberties Union, Inc. and Consolidated Entities

Notes to Consolidated Financial Statements

Note 7. Split-Interest Agreements (Continued)

Beneficial interests in trusts (BITs) are recorded based on the present value of the estimated future receipts from the trusts, using discount rates ranging from 1.32% to 5.34%. These rates approximate the rates of return on the assets held in the trusts, and are commensurate with the risks that management associates with the ultimate collection of the trusts. The initial gift and any subsequent adjustments to the non-perpetual BITs' carrying value are recognized as contributions with donor restrictions. With donor restrictions relates to the extended time period over which the gift is expected to be received and may also include purpose restrictions to benefit specific Foundation programs.

Adjustments to reflect revaluations of the present value of estimated future payments and changes in actuarial assumptions are recognized in the consolidated statement of activities as changes in value of split-interest agreements.

Note 8. Liquidity and Availability of Resources

The ACLU regularly monitors liquidity required to meet its annual operating needs and other contractual commitments. As of the balance sheet date, the ACLU holds approximately 15 months of operating expenses in cash, cash equivalents and liquid investment assets. The following chart reflects the ACLU's financial assets available as of the balance sheet date for general expenditures over the next 12 months.

	2021	2020
Financial assets at year-end:		
Cash, cash equivalents, investment assets, and pledges without donor restrictions due within one year	\$ 842,648,027	\$ 589,748,451
Less investments unavailable within one year due to restrictions on funds		
by donors or other commitments	(528,283,570)	(360,122,909)
Financial assets available to meet cash needs for general expenditures within one year	<u>\$ 314,364,457</u>	<u>\$ 229,625,542</u>

The ACLU has board designated funds totaling \$296,468,452 and \$174,461,294 as of March 31, 2021 and 2020, respectively. Although the ACLU does not intend to spend from its board designated funds other than amounts appropriated for general expenditures as part of its annual budget approval and appropriation process, amounts from its board designated funds could be made available if necessary.

American Civil Liberties Union, Inc. and Consolidated Entities

Notes to Consolidated Financial Statements

Note 9. The Bill of Rights Trust and Other Endowments

In 1997, the Foundation and the Section 501(c)(3) arms of the affiliates (the Affiliate Foundations) established the Bill of Rights Trust (BORT). The purpose of BORT, a portion of which is an endowment fund of the Foundation, is to build an enduring endowment to carry out the work of the ACLU and its affiliates in protecting, preserving and expanding the civil liberties of all persons in the United States of America. BORT has 100,000,000 authorized units, which are issued to or among the Foundation and Affiliate Foundations based upon their respective interests in BORT. Unit shares have a unit value based upon the fair value of the net assets of BORT divided by the total number of unit shares outstanding. BORT permits for annual distributions to the Foundation and Affiliate Foundations in accordance with the Foundation's approved spending policy, prorated in accordance with the percentage of the fair value of each unit share. For the years ended March 31, 2021 and 2020, BORT allowed for a potential distribution amount equal to 4% of the average month-end value of total funds over the preceding 36 months through December 31, 2020 and 2019, respectively. Each unit holder, including the Foundation and the participating Affiliate Foundations, must establish that it has determined the appropriation to be prudent before the distribution is disbursed. In the year ended March 31, 2021 and 2020, there was a distribution of \$770,000 and \$778,00, respectively.

The investment goal of the endowment fund is to invest assets in a prudent manner that will balance reasonable annual distributions to the Foundation and Affiliate Foundations with long-term growth in the value of the assets of BORT.

At March 31, 2021 and 2020, BORT comprised the following accounts and amounts that are included in the consolidated statements of financial position:

	2021	2020
Assets:		
Investments	\$ 122,751,832	\$ 98,994,711
Other assets	230,003	230,003
	<u>\$ 122,981,835</u>	<u>\$ 99,224,714</u>
Liabilities and net assets:		
Held for affiliate foundations	\$ 43,045,682	\$ 32,134,914
Net assets with donor restrictions	27,752,084	16,658,400
Net assets with donor restrictions – held in perpetuity	52,184,069	50,431,400
	<u>\$ 122,981,835</u>	<u>\$ 99,224,714</u>

American Civil Liberties Union, Inc. and Consolidated Entities

Notes to Consolidated Financial Statements

Note 9. The Bill of Rights Trust and Other Endowments (Continued)

In October 2016, an endowment fund was established for the Union. The endowment-related activities of the ACLU, which is comprised principally of the endowment-related activities of BORT, are summarized below:

	2021			2020		
	With Donor Restrictions	Held In Perpetuity	Total With Donor Restrictions	With Donor Restrictions	Held In Perpetuity	Total With Donor Restrictions
Endowment net assets, beginning of year	\$ 20,121,348	\$ 71,826,400	\$ 91,947,748	\$ 26,688,799	\$ 71,629,756	\$ 98,318,555
Investment return:						
Interest and dividends	534,945	-	534,945	923,577	-	923,577
Net realized and unrealized gains on investments	27,785,534	-	27,785,534	(6,036,551)	-	(6,036,551)
Investment fees and expenses	(712,218)	-	(712,218)	(596,477)	-	(596,477)
Net investment return	27,608,261	-	27,608,261	(5,709,451)	-	(5,709,451)
Other changes during the year:						
Contributions	-	1,752,669	1,752,669	-	196,644	196,644
Appropriation of endowment assets for expenditures	(880,000)	-	(880,000)	(858,000)	-	(858,000)
Total	(880,000)	1,752,669	872,669	(858,000)	196,644	(661,356)
Endowment net assets, end of year	\$ 46,849,609	\$ 73,579,069	\$ 120,428,678	\$ 20,121,348	\$ 71,826,400	\$ 91,947,748

Note 10. Commitments and Contingencies

The Foundation entered into a long-term lease for a new office space in October 2017. This lease agreement expires on July 31, 2025, with four months rent credit provided. Below is the future aggregate minimum commitment under the lease.

Years ending March 31:	
2022	\$ 683,698
2023	683,698
2024	683,698
2025	683,698
2026	227,899
	<u>\$ 2,962,691</u>

Deferred rent consists of the excess of the rental expenses on a straight-line basis over the payments required by the lease. As of March 31, 2021 and 2020, there was \$126,071 and \$155,166 of deferred rent included in accounts payable and accrued expenses, respectively.

The ACLU is involved in other legal actions arising in the ordinary course of business. Management is of the opinion that the ultimate outcome of these matters would not have a material adverse impact on the consolidated financial position of the ACLU or the consolidated results of its activities.

American Civil Liberties Union, Inc. and Consolidated Entities

Notes to Consolidated Financial Statements

Note 11. Retirement Plans

American Civil Liberties Union Retirement Plan: The ACLU sponsors the American Civil Liberties Union Retirement Plan (the Pension Plan) which it accounted for as a single-employer plan. The Pension Plan covers eligible employees of the ACLU and its unconsolidated affiliates.

The Pension Plan is a defined benefit plan covering those employees who have at least one year of service or at least 1,000 hours worked per year and are at least 21 years of age. Benefits are based on service to date on an average of career earnings. The ACLU's policy is to fund pension costs by contributing at least the minimum amount required by the Employee Retirement Income Security Act of 1974 (ERISA). The Pension Plan is covered under the Pension Benefit Guaranty Corporation (PBGC) termination insurance program. On January 1, 2015, the Pension Plan was amended and restated to include, among other things, a provision for additional contribution due on withdrawal or freezing of benefits by an employer.

The liability attributed to the employer or former employer is determined based upon the sum of the present value of the accrued benefits for each of the participants associated with the employer or former employer determined as of the last day of the plan year preceding the date as of which the withdrawal contribution is calculated. Accordingly, as of March 31, 2021 and 2020, the ACLU recognized a receivable of \$15,294,633 and \$29,441,113, respectively, representing the allocated share of pension liability due from the affiliates participating in the Pension Plan (see Note 3).

All funds of the Pension Plan were held by JPMorgan Chase, N.A. (JPMCB), the Custodian, under an investment management agreement with JPMorgan Investment Management Inc. (the Investment Adviser). When benefits commence for any participant, the Plan pays the monthly payments from the Pension Plan assets instead of purchasing annuity contracts.

American Civil Liberties Union, Inc. and Consolidated Entities

Notes to Consolidated Financial Statements

Note 11. Retirement Plans (Continued)

The following table sets forth the funded status of the ACLU Pension Plan, the change in funded status and amounts recognized in the accompanying consolidated financial statements:

	2021	2020
Change in benefit obligation:		
Obligation, beginning of year	\$ 185,596,793	\$ 163,020,696
Service cost	6,168,549	5,819,205
Interest cost	6,554,935	6,292,402
Actuarial gain (loss)	10,927,026	15,288,622
Benefit payments and expected expenses	(5,350,630)	(4,824,132)
Obligation, end of year	<u>203,896,673</u>	<u>185,596,793</u>
Change in Plan assets:		
Fair value of Plan assets, beginning of year	131,164,282	126,225,694
Actual return on Plan assets	40,910,573	2,850,628
Employer contributions	9,000,000	7,000,000
Benefit payments and actual expenses	(5,059,224)	(4,912,040)
Fair value of Plan assets, end of year	<u>176,015,631</u>	<u>131,164,282</u>
Funded status, end of year	<u>\$ (27,881,042)</u>	<u>\$ (54,432,511)</u>
Amounts recognized as liabilities in the consolidated statements of financial position	<u>\$ (27,881,042)</u>	<u>\$ (54,432,511)</u>
Amounts recognized as cumulative changes in pension other than net periodic costs:		
Net loss	<u>\$ (32,475,916)</u>	<u>\$ (57,305,851)</u>
	2021	2020
Components of net benefit cost:		
Components of net periodic pension cost:		
Service cost	\$ 6,168,549	\$ 5,819,205
Interest cost	6,554,935	6,292,402
Expected return on Plan assets	(8,866,151)	(7,988,875)
Amortization of net loss	3,421,133	1,788,155
Net periodic pension cost	<u>7,278,466</u>	<u>5,910,887</u>
Changes in pension costs other than net periodic cost:		
Net (gain) loss	(21,408,802)	20,514,777
Amortization of net loss	(3,421,133)	(1,788,155)
Other than net periodic cost	<u>(24,829,935)</u>	<u>18,726,622</u>
Net periodic pension cost (income)	<u>\$ (17,551,469)</u>	<u>\$ 24,637,509</u>

American Civil Liberties Union, Inc. and Consolidated Entities

Notes to Consolidated Financial Statements

Note 11. Retirement Plans (Continued)

The net periodic pension costs of \$7,278,466 and \$5,910,887 for the years ended March 31, 2021 and 2020, respectively, comprise \$3,825,736 and \$2,605,255 which are recognized as expenses by the ACLU and \$3,992,730 and \$3,305,632 which are charged to the affiliates for net periodic pension costs associated with affiliates' employees participating in the Plan during 2021 and 2020, respectively, (see Note 3).

The following table provides the weighted-average assumptions and certain other information:

	2021	2020
Weighted-average assumptions to determine benefit obligation as of March 31:		
Discount rate	3.30%	3.49%
Expected long-term rate of return on Plan assets	6.25%	6.75%
Rate of compensation increase	4.00%	4.00%
Weighted-average assumptions to determine net benefit cost for the year ended March 31:		
Discount rate	3.49%	3.91%
Expected long-term rate of return on Plan assets	6.75%	6.25%
Rate of compensation increase	4.00%	4.00%

The mortality improvement scale was updated to MP-2020 as of March 31, 2021 for disclosure. The previous mortality improvement scale was MP-2019. PRI-2012 Private Pension Plans Mortality Tables projected with improvement scale MP-2019 for males and females for expense. PRI-2012 Private Pension Plans Mortality Tables projected with improvement scale MP-2020 for males and females for disclosure.

As of March 31, 2021 and 2020, the accumulated (expected) benefit obligation of the Pension Plan was \$187,248,685 and \$170,671,404, respectively.

The ACLU expects to contribute approximately \$8,000,000 to the Pension Plan during the fiscal year ending March 31, 2021, and may consider further contributions as well.

Estimated future benefit payments attributable to estimated future employee service in each of the five years subsequent to March 31, 2021, and in the aggregate subsequent to 2024 are as follows:

Years ending March 31:	
2022	\$ 5,145,767
2023	5,616,108
2024	6,032,678
2025	6,586,495
2026	7,054,183
2027 – 2031	40,925,773

American Civil Liberties Union, Inc. and Consolidated Entities

Notes to Consolidated Financial Statements

Note 11. Retirement Plans (Continued)

An investment policy has been established that takes into consideration both the current and projected financial requirements of the Pension Plan. The ACLU is continuing to undertake a thorough review of the Pension Plan with a focus on its overall economic health. All investments are chosen with prudence and due diligence by investment managers to ensure that results over time meet the goals and objectives of the Pension Plan.

The Pension Plan's assets are comprised principally of investments in the collective investment trust fund. The following tables set forth the fair value of the Pension Plan's investments at March 31, 2021 and 2020, which is estimated using NAV (practical expedient) or its equivalent, and are not classified within the fair value hierarchy in accordance with FASB ASU 2015-07.

	2021				
	Percent Allocation	Fair Value	Unfunded Commitment	Redemption Frequency	Redemption Notice Period
Collective investment trust fund	100%	\$ 176,015,631	\$ -	Daily	None / 60 days*

	2020				
	Percent Allocation	Fair Value	Unfunded Commitment	Redemption Frequency	Redemption Notice Period
Collective investment trust fund	100%	\$ 131,164,282	\$ -	Daily	None / 60 days*

* Units of the fund may generally be redeemed daily, provided such withdrawals are to facilitate the payment of plan benefits or to make distributions in connection with the Pension Plan's termination if participants are not covered by a replacement or other eligible plan. A request made by a plan for complete or partial withdrawal from the fund for any purpose other than for benefit payments will have a 60-day redemption notice period.

As of July 1, 2014, the Pension Plan's assets are maintained by the Investment Adviser under an investment management agreement. Based on this agreement, the Investment Adviser invests in other commingled pension trust funds, which may be affiliated or unaffiliated with JPMCB, and may also invest in unaffiliated exchange-traded funds and individual securities. The JPMCB portfolio will be categorized into two portions. The growth-oriented portion, which comprises at least 50% of the portfolio, invests directly or indirectly via underlying funds in a broad mix of equity, U.S. credit, emerging market debt, and real estate securities including: (1) U.S. equity securities, such as common stock, preferred and convertible securities and real estate investment trusts, (2) international equity securities, including both developed and emerging markets, (3) U.S. credit, including high yield securities (rated below investment grade by one or more nationally recognized statistical rating organizations at the time of purchase), leverage loans, mortgage backed securities, mortgage dollar rolls and other mortgage-related securities, asset-backed securities and emerging market debt and (4) direct real estate. The remaining portion of the portfolio, up to 50% of the portfolio, invests directly or indirectly via underlying funds in investment grade corporate bonds, securities issued by the U.S. Treasury and its agencies or instrumentalities, and securities issued by foreign governments or supranational organizations.

Assets of the Pension Plan are included in a collective investment trust fund with JPMCB and earnings are based on its proportionate share of the accounts. Fair value of the collective investment trust fund, which approximates market value, are allocated to the Pension Plan.

There have been no changes in the methodologies used at March 31, 2021 and 2020.

American Civil Liberties Union, Inc. and Consolidated Entities

Notes to Consolidated Financial Statements

Note 11. Retirement Plans (Continued)

The ACLU implemented a soft freeze of the Pension Plan effective March 31, 2009. Employees hired on or after April 1, 2009 by ACLU and the 46 affiliates that initially elected to participate in the soft freeze do not participate in the Pension Plan (employees hired prior to this date are not impacted by the election to institute a soft freeze). The four affiliates that had not originally elected to participate in the soft freeze subsequently elected to do so. Employees hired on or after the subsequent soft freeze dates for these affiliates also do not participate in the Pension Plan (employees from these affiliates hired after April 1, 2009 but prior to the affiliate's soft freeze date participate in the Pension Plan).

Employees of ACLU National and affiliates who are not admitted into the Pension Plan instead are enrolled in a new Defined Contribution (DC) 401(k) plan. The DC plan includes an employer contribution of 2% and an employer match of 100% of the first 1% of the employee's contribution and 50% of the next 5% of an employee's contribution, for a total match of 3.5% and a total employer contribution of 5.5%. Employer contributions to the DC plan during the years ended March 31, 2021 and 2020, were \$2,661,818 and \$2,033,904, respectively.

Eligible ACLU employees who are participants in the Pension Plan may also participate in the ACLU 401(k) plan (the 401(k) Plan), which is a 401(k) salary-reduction plan. Under the 401(k) Plan, employees may voluntarily contribute up to 80% of their pre-tax compensation to the 401(k) Plan subject to IRS dollar limits. There is no employer match or other contributions.

Note 12. Net Assets

Net assets comprise the following:

	2021	2020
Without donor restrictions:		
Undesignated	\$ 239,130,679	\$ 175,677,784
Board-designated:		
Litigation Fund	30,237,809	27,074,346
California Annuity Fund	3,538,186	1,799,313
Annuity Reserve	12,221,652	7,268,556
Organizational Fund	41,837,936	26,702,750
Development Fund	27,422,643	22,631,741
Dividend Distribution Fund	175,403,474	82,922,160
Presidential prize temp	-	(10,000)
John Adams Fund	5,806,752	6,072,428
Total board-designated	296,468,452	174,461,294
Total without donor restrictions	535,599,131	350,139,078
With donor restrictions:		
Bill of Rights Trust and other endowments	46,849,609	20,121,348
Trusts	5,508,945	1,974,314
Other time and purpose restrictions	86,772,948	67,830,635
Bill of Rights Trust and other endowments – held in perpetuity	73,579,069	71,826,400
Total with donor restrictions	212,710,571	161,752,697
	<u>\$ 748,309,702</u>	<u>\$ 511,891,775</u>

American Civil Liberties Union, Inc. and Consolidated Entities

Notes to Consolidated Financial Statements

Note 13. Net Assets Released From Restrictions

Net assets were released from donor restrictions during the year ended March 31, 2021, by incurring expenses satisfying restricted purposes or by the occurrence of other events specified by donors as follows:

	<u>2021</u>
Special projects:	
Voting Rights	\$ 12,126,978
Capital Punishment	1,679,897
National Prison	2,103,026
Disability Rights	54,403
Criminal Law Reform and Smart Justice	7,672,214
Immigrants' Rights	8,265,272
Reproductive Freedom	3,340,600
Women's Rights	1,896,732
National Security	571,894
LGBT/Marriage Equality	6,369,660
Racial Justice	3,973,363
Other special projects	<u>3,248,522</u>
Total special projects	51,302,561
Bill of Rights Trust and other endowments	880,000
Time-restricted gifts	<u>5,139,000</u>
 Total released from restrictions	 <u><u>\$ 57,321,561</u></u>

American Civil Liberties Union, Inc. and Consolidated Entities

Consolidating Statement of Financial Position

March 31, 2021

See Independent Auditor's Report

	American Civil Liberties Union, Inc.	American Civil Liberties Union Foundation, Inc.	915 15th Street, LLC	Eliminations	Consolidated
Assets					
Cash and cash equivalents	\$ 36,569,650	\$ 132,779,888	\$ 19,031	\$ -	\$ 169,368,569
Pledges and contributions receivable, net	3,161,529	43,016,870	-	-	46,178,399
Investments	127,124,644	530,796,655	-	-	657,921,299
Other assets	1,541,263	1,031,614	-	-	2,572,877
Due from affiliates	24,795	364,607	-	-	389,402
					-
Due from affiliates – allocated share of pension liability	15,294,633	-	-	-	15,294,633
Due from ACLU Foundation – pension	2,252,535	-	-	(2,252,535)	-
Due to the ACLU from the ACLU Foundation	17,766,438	-	-	(17,766,438)	-
Due to the ACLU Foundation from the LLC	-	10,187,358	-	(10,187,358)	-
Investment in 915 15th Street, LLC	-	(2,654,865)	-	2,654,865	-
Beneficial interest in trusts	-	2,525,898	-	-	2,525,898
Property and equipment, net of accumulated depreciation and amortization	1,293,295	17,031,211	7,579,374	-	25,903,880
					-
Total assets	\$ 205,028,782	\$ 735,079,236	\$ 7,598,405	\$ (27,551,466)	\$ 920,154,957
Liabilities and Net Assets				\$ 920,154,957	
Liabilities:					
Accounts payable and accrued expenses	\$ 9,615,400	\$ 8,935,285	\$ 65,912	\$ -	\$ 18,616,597
Due to the ACLU Foundation	-	-	10,187,358	(10,187,358)	-
Due to the American Civil Liberties Union, Inc. accrued pension liability	-	2,252,535	-	(2,252,535)	-
Due to the American Civil Liberties Union, Inc.	-	17,766,438	-	(17,766,438)	-
Due to affiliates	13,149,199	48,531,048	-	-	61,680,247
Liabilities under split-interest agreements	-	20,621,687	-	-	20,621,687
Bill of Rights Trust held for affiliates	1,519,980	41,525,702	-	-	43,045,682
Accrued pension liability	19,248,602	8,632,440	-	-	27,881,042
Total liabilities	\$ 43,533,181	\$ 148,265,135	\$10,253,270	\$ (30,206,331)	\$ 171,845,255
Commitments and contingencies					
Net assets:					
Net assets without donor restrictions:					
Board-designated	45,578,244	250,890,208	-	-	296,468,452
Undesignated	110,117,659	129,013,020	(2,654,865)	2,654,865	239,130,679
Net assets without donor restrictions	155,695,903	379,903,228	(2,654,865)	2,654,865	535,599,131
Net assets with donor restrictions	5,799,698	206,910,873	-	-	212,710,571
Total net assets	161,495,601	586,814,101	(2,654,865)	2,654,865	748,309,702
Total liabilities and net assets	\$ 205,028,782	\$ 735,079,236	\$ 7,598,405	\$ (27,551,466)	\$ 920,154,957

American Civil Liberties Union, Inc. and Consolidated Entities

Consolidating Statement of Activities Year Ended March 31, 2021 See Independent Auditor's Report

	American Civil Liberties Union, Inc.			American Civil Liberties Union Foundation, Inc.			915 15th Street, LLC		Consolidated		
	Without Donor Restrictions	With Donor Restrictions	Total	Without Donor Restrictions	With Donor Restrictions	Total	Without Donor Restrictions	Eliminations	Without Donor Restrictions	With Donor Restrictions	Total
Support and revenue:											
Support:											
Current member contributions	\$ 117,657,478	\$ -	\$ 117,657,478	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 117,657,478	\$ -	\$ 117,657,478
New member contributions	21,526,671	-	21,526,671	-	-	-	-	-	21,526,671	-	21,526,671
Grants and contributions	8,934,492	6,009,726	14,944,218	139,179,135	67,246,662	206,425,797	-	-	148,113,627	73,256,388	221,370,015
Donated legal services	-	-	-	23,748,513	-	23,748,513	-	-	23,748,513	-	23,748,513
Bequests	9,591,779	4,222,993	13,814,772	20,026,852	915,703	20,942,555	-	-	29,618,631	5,138,696	34,757,327
Total support	157,710,420	10,232,719	167,943,139	182,954,500	68,162,365	251,116,865	-	-	340,864,920	78,395,084	419,060,004
Revenue:											
List rentals	245,844	-	245,844	-	-	-	-	-	245,844	-	245,844
Rental income	-	-	-	293,285	-	293,285	789,936	(233,102)	850,119	-	850,119
Merchandise and book sales	-	-	-	1,192,193	-	1,192,193	-	-	1,192,193	-	1,192,193
Other income	504,459	-	504,459	11,800	-	11,800	-	-	516,259	-	516,259
Total revenue	750,303	-	750,303	1,497,278	-	1,497,278	789,936	(233,102)	2,804,415	-	2,804,415
Net assets released from restrictions	11,813,221	(11,813,221)	-	45,508,340	(45,508,340)	-	-	-	57,321,561	(57,321,561)	-
Total support and revenue	170,273,944	(1,580,502)	168,693,442	229,960,118	22,654,025	252,614,143	789,936	(233,102)	400,790,896	21,073,523	421,864,419
Expenses:											
Program services:											
Legislative	29,129,501	-	29,129,501	3,159,555	-	3,159,555	-	(1,175)	32,287,881	-	32,287,881
Legal	4,652,307	-	4,652,307	102,084,322	-	102,084,322	-	(164,042)	106,572,587	-	106,572,587
Public education	29,052,367	-	29,052,367	13,834,514	-	13,834,514	-	(14,866)	42,872,015	-	42,872,015
Civil liberties policy formulation	1,205,663	-	1,205,663	900,781	-	900,781	-	(168)	2,106,276	-	2,106,276
Affiliate support	76,997,155	-	76,997,155	48,781,087	-	48,781,087	-	(20,772)	125,757,470	-	125,757,470
Total program services	141,036,993	-	141,036,993	168,760,259	-	168,760,259	-	(201,023)	309,596,229	-	309,596,229
Supporting services:											
Management and general	9,402,549	-	9,402,549	8,627,725	-	8,627,725	1,276,759	(2,109)	19,304,924	-	19,304,924
Fundraising	5,090,767	-	5,090,767	18,166,328	-	18,166,328	-	(29,970)	23,227,125	-	23,227,125
Total supporting services	14,493,316	-	14,493,316	26,794,053	-	26,794,053	1,276,759	(32,079)	42,532,049	-	42,532,049
Total expenses	155,530,309	-	155,530,309	195,554,312	-	195,554,312	1,276,759	(233,102)	352,128,278	-	352,128,278
Change in net assets before other changes	14,743,635	(1,580,502)	13,163,133	34,405,806	22,654,025	57,059,831	(486,823)	-	48,662,618	21,073,523	69,736,141
Other changes in net assets:											
Legal expenses awarded, net	-	-	-	3,046,610	-	3,046,610	-	-	3,046,610	-	3,046,610
Net investment income, gains and losses	23,670,408	302,984	23,973,392	100,396,962	28,017,077	128,414,039	-	-	124,067,370	28,320,061	152,387,431
Changes in value of split-interest agreements	-	-	-	-	1,564,290	1,564,290	-	-	-	1,564,290	1,564,290
Net loss on investment in 915 15th Street, LLC	-	-	-	(486,823)	-	(486,823)	-	486,823	-	-	-
Recognition of affiliates' share of minimum pension liability adjustment	(15,146,480)	-	(15,146,480)	-	-	-	-	-	(15,146,480)	-	(15,146,480)
Minimum pension liability adjustment	17,142,169	-	17,142,169	7,687,766	-	7,687,766	-	-	24,829,935	-	24,829,935
Total other changes in net assets	25,666,097	302,984	25,969,081	110,644,515	29,581,367	140,225,882	-	486,823	136,797,435	29,884,351	166,681,786
Change in net assets	40,409,732	(1,277,518)	39,132,214	145,050,321	52,235,392	197,285,713	(486,823)	486,823	185,460,053	50,957,874	236,417,927
Net assets:											
Beginning of year	115,286,171	7,077,216	122,363,387	234,852,907	154,675,481	389,528,388	(2,168,042)	2,168,042	350,139,078	161,752,697	511,891,775
End of year	\$ 155,695,903	\$ 5,799,698	\$ 161,495,601	\$ 379,903,228	\$ 206,910,873	\$ 586,814,101	\$ (2,654,865)	\$ 2,654,865	\$ 535,599,131	\$ 212,710,571	\$ 748,309,702