

THE COLORADO CHARITABLE ENTITY:

WHERE HAVE WE BEEN?  
WHERE ARE WE GOING?

(And What Do We do When We Get There?)

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**The Colorado Charitable Entity:**

**Where Have We Been?  
Where Are We Going?**

- I. The Statute of Queen Elizabeth I (circa 1601)
  - A. Colo. Rev. Stat. § 2-4-201 (Colorado Adopts English Law Through 1607).
  - B. RESTATEMENT 3D TRUSTS, Section 28 (Adopted 2001).
    - 1. The RESTATEMENT 3D provides that
      - a. Charitable Trust Purposes Include:
        - (1) The relief of poverty;
        - (2) The advancement of knowledge or education;
        - (3) The Advancement of Religion;
        - (4) The Promotion of Health;
        - (5) Governmental or Municipal Purposes; and
        - (6) Other Purposes That Are Beneficial to the Community.
    - 2. RESTATEMENT 3D's View Re: Statutory Authority.
      - a. The validity of charitable trusts in the United States is not dependent upon the adoption of a statute to that effect or upon the reception of the English Statute of Charitable Uses as part of the law of the particular state. Section 28, Comment a.
- II. Colorado Not-for-Profit Corporation
  - A. Colorado Not for Pecuniary Profit Corporations
    - 1. In the First Session of the General Assembly of Colorado, convened November 1, 1876, the General Assembly enacted statutes allowing for the creation of corporations for any lawful purpose (other than pecuniary profit). Under Section 37, corporations . . . The directors . . . shall have control and management of the affairs and funds (funds) of the corporation.

- B. Colorado Nonprofit Corporation Act
    - 1. House Bill 67-1172, S.L. 1967 p. 610 (Article 24 of Title 31).
      - a. ABA Model Nonprofit Corporation Act (1964)
  - C. Colorado Revised Nonprofit Corporation Act
    - 1. Sen. Bill 97-091, S.L. 1997 Vol. 1 p. 645.
      - a. ABA Revised Model Nonprofit Corporation Act (1987).
    - 2. See Grissom, Sparkman & Zwanzig, An Overview of the Colorado Revised Nonprofit Corporation Act, 26 THE COLORADO LAWYER 5 (September 1997).
  - D. New ABA Model Act (3d)
    - 1. Adopted 2007.
    - 2. "Released" for State Adoption.
  - E. Sample "Articles" - Daniels Foundation
- III. Limited Liability Company as Section 501(c)(3) Exempt Organization
- A. Keating & Hundhausen, Colorado LLCs as Nonprofit Organizations, 27 THE COLORADO LAWYER 57 (August 1998).
    - 1. Note, Cinderella's New Dress: A Better Organizational Option for Churches and Other Small Nonprofits, 55 Drake L. Rev. 813 (2007).
- IV. Unincorporated Nonprofit Association
- A. Uniform Unincorporated Nonprofit Association Act (Final 1996).
  - B. Colorado Unincorporated Nonprofit Association Act, Colo. Rev. Stat. Section 7-30-101 (1994).
  - C. The Unincorporated Nonprofit Association can be thought of as the nonprofit equivalent of a limited liability company. The legislation attempts to solve problem regarding holding property, suing third parties and being sued by third parties and liability of members and directors.

V. Federal Tax Overlay

A. 1916 Walsh Commission Report

1. Commission on Industrial Relations, Final Report and Testimony on Industrial Relations, S. Doc. No. 415, 64<sup>th</sup> Cong., 1<sup>st</sup> Sess. (1916).

B. Original Legislative History Re: Charitable Exemptions

1. 1917 Senator Hollis Description.

"For every dollar that a man contributes for these public charities, educational, scientific, or otherwise, the public gets 100 per cent."  
55 Cong. Rec. 6728.

C. Congressman Wright Patman Committees

1. 1963
2. 1964

D. Tax Reform Act of 1969, Pub. L. No. 91-172, 83 Stat. 487 (Dec. 30, 1969).

1. Separation of the Sheep From the Goats.

- a. Private Foundations (Goats).
- b. Public Charities (Sheep).

2. See Windsor Foundation v. U.S., (E.D. Va. Oct. 4, 1977).

. . . "The Internal Revenue Service has drafted fantastically intricate and detailed regulations in an attempt to thwart the fantastically intricate and detailed efforts of taxpayers to obtain private benefits from foundations while avoiding the imposition of taxes."

3. Supporting Organizations

- a. Hershey Trust – The Need For an SO
- b. DiRusso, Supporting the Supporting Organization: The Potential and Exploitation of 509(a)(3) Charities, 39 Ind. L. Rev. 207 (2006).

VI. Charitable Power Limitations

A. Charitable Trusts, S. Bill No. 364, S.L. 1971 p. 589.

1. Colo. Rev. Stat. Section 15-1-1001.

B. Nonprofit Corporations.

1. Colo. Rev. Stat. Section 7-21-501.

C. Unincorporated Associations.

1. Colo. Rev. Stat. Section 7-30-101.2.

VII. Senator Grassley's Charitable Reforms

A. Senate Finance Committee Staff White Paper (June 2004).

B. ABA Tax Section Response.

C. Independent Sector Response.

1. Interim Report, Final Report and Supplemental Report.

D. Pension Protection Act of 2006, P.L. No. 109-280, 120 Stat. 780 (Aug. 17, 2006) (Title XII-Provisions Relating to Exempt Organizations).

VIII. Discrimination

1. Revenue Ruling 71-447. (Discrimination Violates Public Policy Thus Exempt Organization With This Purpose Not Charitable – Not Eligible Under Section 501(c)(3)).

2. Bob Jones University v. United States, 461 U.S. 574 (1983).

a. Majority Opinion

" . . . Ever since the inception of the Tax Code, Congress has seen fit to vest in those administering the tax laws very broad authority to interpret those laws. In an area as complex as the tax system, the agency Congress vests with administrative responsibility must be able to exercise its authority to meet changing conditions and new problems."

461 U.S. at 596.

b. Powell Concurrence.

"[q]uestions concerning religion and civil rights are far afield from the more typical tasks of tax administrators – determining taxable income."

461 U.S. at 611.

IX. Political Campaign Intervention

A. Revenue Ruling 2007-41. (21 Examples of Permitted and Proscribed Conduct).

B. Pulpit Freedom Sunday, September 28, 2008.

X. Federal Section 501(c)(3) "Operational" Regulation

A. UBIT

1. Walker, a Primer on Unrelated Business Income Tax, 26 THE COLORADO LAWYER 37 (February 1997).

2. Walker, Intangible Property and the UBIT, 26 THE COLORADO LAWYER 61 (May 1997).

B. Commerciality Doctrine

1. Walker, The Commerciality Doctrine: Judicial Border Patrol for Charities, 30 THE COLORADO LAWYER 43 (March 2001).

C. Unreasonable Accumulations - Commensurate Test

1. Revenue Ruling 64-182, 1964-1 C.B. 186.

2. University Endowments.

D. IRS – "Voluntary Compliance" Revenue Procedure (Soon to be Released)

1. Very Useful Method to Clean Up Filing Problems.

E. House Congressional Hearings

1. Disabled Veterans Association - Financial Statements

## The Statute of Charitable Uses Act (1601), 43 Elizabeth I c. 4

An Acte to redresse the Misemployment of Landes Goodes and Stockes of Money heretofore given to Charitable Uses

Whereas Landes Tenementes Rentes Annuities Profittes Hereditamentes, Goodes Chattels Money and Stockes of Money, have bene heretofore given limited appointed and assigned, as well by the Queenes most excellent Majestie and her moste noble Progenitors, as by sondrie other well disposed persons, some for Releife of aged impotent and poore people, some for Maintenance of sicke and maymed Souldiers and Marriners, Schooles of Learninge, Free Schooles and Schollers in Universities, some for Repaire of Bridges Portes Havens Causwaies Churches Seabankes and Highwaies, some for Educacion and prefermente of Orphans, some for or towards Reliefe Stocke or Maintenance of Howses of Correccion, some for Mariages of poore Maides, some for Supportacion Ayde and Helpe of younge tradesmen Handicraftesmen and persons decayed, and others for reliefe or redemption of Prisoners or Captives, and for aide or ease of any poore Inhabitanes concerninge paymente of Fifteenes, setting out of Souldiers and other Taxes; Whiche Landes Tenementes Rents Annuities Profitts Hereditaments Goodes Chattells Money and Stockes of Money nevertheles have not byn employed accordinge to the charitable intende of the givers and founders thereof, by reason of Fraudes breaches of Truste and Negligence in those that shoulde pay delyver and imploy the same: For Redresse and Remedie whereof, Be it enacted by Auctoritie of this presente Parliament, That it shall and may be lawfull to and for the Lorde Chauncellor or Keeper of the Greate Seale of Englande for the tyme beinge, and for the Chauncellor of the Dutchie of Lancaster for the tyme beinge for Landes within the Countie Palatine of Lancaster, from tyme to tyme to award Commissions under the Greate Seale of Englande, or the Seale of the Countie Palatine as the case shall require, into all or any parte or partes of this Realme respectivelie, according to their severall Jurisdictions as aforesaide, to the Bishoppe of everie severall Diocesse and his Chancellor, in case there shalbe any Bishoppe of that Diocesse at the tyme of awardinge of the same Commissions, and to other persons of good and sounde behaviour, authorisinge them therebie, or any fower or more of them, to inquire, as well by the Oathes of Twelve lawfull Men or more of the Countie, whereunto the saide parties interested shall as by all other good and lawfull waies and menes, of all and singuler such Giftes Limitacions Assignements and Appoyntments aforesaide, and of the Abuses Breaches of Trustes Negligences Mysemploymentes, not imployinge concealinge defraudinge misconvertinge or misgovernmente, of any Landes Tenementes Rentes Annuities Profits Hereditaments Goods Chattels Money and Stockes of Money heretofore given limited appointed or assigned, or whiche hereafter shalbe given limited appointed or assigned, to or for any the charitable and godlie uses before rehearsed: And after the saide Commissioners or any fower or more of them, upon callinge the parties interested in any suche Landes Tenementes Rentes Annuities Profits Hereditaments Goodes Chattels Money and Stockes of Money, shall make inquire by the Oathes of twelve men or more of the saide Countie, whereunto the saide parties interested shall and maye have and take their lawfull challenge and challenges; and upon suche inquiry hearinge and examinyng thereof set downe suche Orders Judgments and Decrees, as the saide Landes Tenementes Rents Annuities Profits Goods Chattels Money and Stockes of Money may be duellie and faithfullie employed, to and for suche of the charitable uses and intents before rehearsed respectivelie, for whiche they were given limited assigned or appointed by the Donors and Founders thereof: whiche Orders Judgements and Decrees, not beinge contrarie or repugnante to the Orders Statutes or Decrees of the Donors or Founders, shall by the Auctoritie of this presente Parliamente stand firme and good accordinge to the tenor and purporte thereof, and shalbe executed accordinglie, untill the same shalbe undon or altered by

the Lorde Chauncellor of Englande or Lorde Keeper or the Greate Seale of Englande, or the Chauncellor of the Countie Palatine of Lancaster, respectivelie within their severall Jurisdiccions, upon complainte by any partie grieved, to be made to them. Provided alwaies, That neither this Acte, nor any thing therein contened, shall in any wise extende to any Landes Tenements Rents Annuities Profits Goods Chattels Money or Stockes of Money, given limitedd appointed or assigned, or whiche shalbe given limitedd appointed or assigned, to any Colledge Hall or Howse of Learninge within the Universities of Oxforde or Cambridge, or to the Colledges of Westminster Eaton or Winchester, or any of them, or to any Cathedrall or Collegiate Church within this Realme. And provided alsoe, That neither this Acte nor any thing therein shall extende to any Citie or Towne Corporate, or to any the Landes Tenements given the uses aforesaide within any such Citie or Towne Corporate, where there is a speciall Governor or Governors, appointed to governe or directe suche Landes Tenements or Things disposed to any the uses aforesaide; neither to any Colledge Hospitall or Free Schoole whiche have speciall Visitors or Governours or Overseers appointed them by their founders. Provided also and be it enacted by the Authoritie aforesaide, That neither this Acte nor any thing therein contained shalbe any way prejudiciall or hurtfull to the Jurisdiction or Power of the Ordinarie; but that he may lawfullie in everie cause execute and performe the same as though this Acte had never bene had or made. Provided also and be it enacted, That noe person or persons that hathe or shall have any of the saide Landes Tenements Rents Annuities Profits Hereditaments Goods Chattels Money or Stockes of Money in his Hands or Possession, or dothe or shall pretende Title thereunto, shall bee named Commyssioner or a Juror for any the causes aforesaide, or beinge named shall execute or serve in the same. And provided alsoe, That no person or persons which hathe purchased or obteyned, or shall purchase or obteyne, upon valuable Consideracion of Money or Lande, any Estate or Interesse, of in to or out of any Landes Tenements Rents Annuities Hereditaments Goods or Chattels that have bene or shalbe given limitedd or appointed to any the charitable uses above mencioned, withoute Fraude or Covyn, havynge no Notice of the same Charitable Use, shall not be impeached by any Decrees or Orders of Commissioners above mencioned for or concernynge the same his Estate or Interests. And yet nevertheless Be it enacted, That the saide Commissioners, or any Fower of more of them, shall an may make Decrees and Orders for recompense to be made by any person or persons whoe, beinge put in Truste or havynge notice of the charitable Uses above mencioned, hathe or shall breake the same Truste, or defraude the same Uses, by any Conveiance Gifte Graunte Lease Demise Release or Conversion whatsoever, and againste the Heires Executors and Admynistrators of hym them or any of them, havynge Assettes in Law or Equitie, soe farre as the same Assettes will extende. Provided alwaies, That this Acte shall not extende to give Power or Authority to any Commissioners before mencioned: to make any Orders Judgements or Decrees for or concernynge any Mannors Lands Tenements or other Hereditaments assured conveyed graunted or come unto the Queenes Majestie, to the Late Kinge Henrie the Eighte, Kinge Edwarde the Sixte, or Queene Marie, by Acte of Parliament Surrender Exchange Relinquishement Escheate Attainder Conveiance or otherwise. And yet nevertheless Be it enacted, That if any suche Mannors Landes Tenements or Hereditaments, or any of them, or any Estate Rente or Profitte thereof or oute of the same or any parte thereof, have or hathe byn given granted limitedd appointed or assigned to or for any the charitable uses before expressed, at anye tyme sithence the begynynge of her Majesties Reigne, that then the saide Commissioners or any fower or more of them shall and maye, as concerninge the

same Landes Tenements Hereditaments Estate Rente or Profit soe given limited appointed or assigned, procede to enquire and to make Orders Judgements and Decrees accordinge to the purporte and meaninge of this Acte as before is mentioned: The saide last Proviso notwithstandinge. And be it further enacted, That all Orders Judgments and Decrees of the saide Commissioners, or of any fower or more of them, shalbe certified under the Seales of the saide Commissioners or any fower or more of them, either into the Courte of the Chauncerie of Englande, or into the Courte of the Chauncerie within the Countie Palatine of Lancaster, as the case shall require respectivelie accordinge to their severall Jurisdictions, within suche conveniente tyme as shalbe limited in the saide Commissions; And that the saide Lorde Chancellor or Lorde Keeper, and the saide Chauncellor of the Duchie, shall and maye, within their saide severall Jurisdictions, take suche Order for the due Execucion of all or any of the saide Judgments Decrees and Orders as to either of them shall seeme fit and convenient: And that if after any such certificattes made any person or persons shall fynde themselves grieved withe any of the saide Orders Judgments or Decrees that then it shall and maybe lawful to and for them or anie of them to complaine in that behalfe unto the saide Lorde Chancellor or Lorde Keeper, or to the Chancellor of the saide Duchie of Lancaster, accordinge to their severall Jurisdictions, for Redresse therein; And that upon suche Complainte the saide Lorde Chancellor or Lorde Keeper, or the saide Chancellor of the Duchie may, accordinge to their saide severall Jurisdictions, by suche course as to their wisdomes shall seeme meeteste, the circumstances of the case considered, procede to the examinacion hearinge and determynynge thereof; and upon hearinge thereof shall and may adnull dymynishe alter or enlarge the saide Orders Judgements and Decrees of the saide Commyssioners, or any fower or more of them, as to either of them, in their saide severall Jurisdictions, shalbe thoughte to stande withe Equitie and good Conscience, accordinge to the true intente and meaninge of the Donors and Fownders thereof; and shall and may taxe and awarde good Costes of Suite by their discrecions againste such persons as they shall fynde to complaine unto them, without juste and sufficient cause, of the Orders Judgments and Decrees before mencioned.

# ARTICLES OF INCORPORATION

OF

DANIELS FOUNDATION

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\$ 50.00  
SECRETARY OF STATE  
03-21-97 14:08:42

The undersigned incorporator, an adult individual, desires to form a nonprofit corporation (the "Foundation") under the Colorado Nonprofit Corporation Act by signing, acknowledging and delivering these Articles of Incorporation ("Articles") in duplicate to the Colorado Secretary of State:

**ARTICLE 1. Name:** The Foundation's name is: **Daniels Foundation.**

**ARTICLE 2. Period of Duration:** The Foundation will exist in perpetuity, from the date of filing these Articles with the Colorado Secretary of State, unless dissolved according to law.

**ARTICLE 3. Purposes:** The Foundation is organized, and will be operated, exclusively for Charitable Purposes. Provided that such activities must always meet the definition of Charitable Purposes, the Foundation's purposes shall exclusively be accomplished by the following charitable activities:

- [a] Providing scholarship assistance to graduates of Colorado high schools (including those who receive equivalency certificates) who are eligible for undergraduate and graduate degrees based upon some or all of the qualities of: [1] financial need, [2] academic promise, [3] strength of character, evidence of leadership potential, and emotional maturity and stability, [4] well rounded personality, abilities and broad interests, and [5] the potential to contribute to one's community in later life;
- [b] Providing assistance to child care centers, schools and other programs in order to promote a healthy, safe, nurturing and stimulating environment for children and teenagers;
- [c] Providing food, shelter, care and other assistance to needy, homeless or disadvantaged individuals and families;
- [d] Providing for the care and treatment for those individuals suffering from mental handicaps, alcoholism or substance abuse;

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- [e] Providing for the equipment needs of the physically handicapped (such as for wheelchairs, crutches, beds and prostheses);
- [f] Providing shelter, physical and mental care and other assistance to the elderly in a manner conducive to their dignity and independence; and
- [g] Providing assistance to the Young Americans Education Foundation (if it is then a Qualified Charity) for the support of the Young Americans Bank (if such support is then a qualified Charitable Purpose).

The Foundation may use income or principal, or both, in furtherance of its purposes, although principal should be conserved to the extent possible so that income will be available in perpetuity for Charitable Purposes. After the lifetime of Bill Daniels, approximately 30% of the annual distributions made by the Foundation are to be for scholarship assistance under [a] above, with the remaining amount to be divided among purposes [b] through [g] above as the directors of the Foundation may determine. After the lifetime of Bill Daniels, all or substantially all of the Foundation's annual distributions under [b] through [g] above are to benefit the people of the State of Colorado, U.S.A., with approximately 80% of such expenditures to be used for the benefit of individuals and organizations in the Denver metropolitan area. Subject to the requirements of the Code, the Foundation may engage in its Charitable Purposes either directly or indirectly, including activities as an operating foundation as well as gifts to public charities and other private foundations that are Qualified Charities. Expenditures may be made in any manner in furtherance of the Foundation's Charitable Purposes (including expenditures for qualifying set-asides, operating expenses and capital improvements). The Foundation's Charitable Purposes are to be strictly construed with respect to the specifically enumerated charitable activities. Specifically (but without limitation), the Foundation is to make no expenditures for cultural purposes, for the treatment of acquired immune deficiency syndrome, or for research of any kind. At no time may the Foundation enter into any merger, consolidation or other reorganization with any other person or legal entity.

**ARTICLE 4. Definitions:** For purposes of these Articles, the following capitalized terms (in both the singular and plural forms) will have the following meanings:

- [a] "Charitable Purposes" are those charitable, educational, scientific, literary or religious purposes, as defined by the Code, for which Qualified Charities may be organized.
- [b] "Qualified Charities" are those organizations which are exempt from federal income tax under Section 501(c)(3) of the Code and

contributions to which are deductible for federal income, gift and estate tax purposes under Section 170, Section 2522 and Section 2055 of the Code.

- [c] "Code" is the Internal Revenue Code of 1986, as amended from time to time, with any section reference deemed to include the corresponding provision of any subsequent federal tax law.

If in the future the Code does not provide for an exemption of Qualified Charities from federal income tax or for the deductibility of contributions to Qualified Charities for federal income, gift or estate tax purposes, the definitions of Qualified Charities and Charitable Purposes will be deemed appropriately amended to take such change of law into account; provided that, the Foundation's income and principal will always be dedicated exclusively to Charitable Purposes as that term is defined by applicable federal tax laws.

**ARTICLE 5. Powers:** In furtherance of its Charitable Purposes, the Foundation has and may exercise all of the rights, powers, privileges and immunities now or subsequently conferred upon nonprofit corporations organized under the laws of the State of Colorado.

**ARTICLE 6. Restrictions on Powers:** Notwithstanding any other provision of these Articles, the powers of the Foundation are restricted as follows:

- [a] The Foundation will not conduct or carry on any activities not permitted to be conducted or carried on by a Qualified Charity.
- [b] No part of the net earnings of the Foundation will inure to the benefit of any director or officer of the Foundation or any private shareholder or individual, except that compensation may be paid for personal services that are reasonable and necessary to carrying out the exempt purposes of the Foundation (but only if the compensation is not excessive).
- [c] No director or officer of the Foundation or any private shareholder or individual will be entitled to share in the distribution of any of the Foundation's assets upon dissolution or otherwise.
- [d] No part of the Foundation's activities will be the carrying on of propaganda or otherwise attempting to influence legislation, and the Foundation will not participate or intervene in (including the publication or distribution of statements relating to) any political campaign on behalf of, or in opposition to, any candidate for public office.

**ARTICLE 7. Prohibited Acts:** Notwithstanding any other provision of these Articles, if the Foundation is at any time a private foundation as that term is defined in Section 509 of the Code, the following provisions will apply:

- [a] The Foundation will not engage in any act of self-dealing, as defined in Section 4941 of the Code.
- [b] The Foundation will not have any undistributed income, as defined in Section 4942 of the Code.
- [c] The Foundation will not retain any excess business holdings, as defined in Section 4943 of the Code.
- [d] The Foundation will not make any investments which jeopardize its exempt purposes, as defined in Section 4944 of the Code.
- [e] The Foundation will not make any taxable expenditures, as defined in Section 4945 of the Code (including any grant to an individual for travel, study or similar purposes, unless awarded on an objective and nondiscriminatory basis as provided in Section 4945 of the Code).

**ARTICLE 8. No Members or Stock:** The Foundation will have no members, and the Foundation will have no capital stock.

**ARTICLE 9. Board of Directors:** The affairs and activities of the Foundation will be managed by a board of directors. The number of directors will be fixed by the bylaws, which bylaws may also provide for their succession, resignation, removal and the filling of vacancies. The initial board of directors of the Foundation will consist of one director. Bill Daniels (also known as Robert William Daniels, Jr.), the founder of the Foundation, will serve as the initial director (until his resignation, incapacity or death). His address is 3200 Cherry Creek South Drive, Suite 500, Denver, Colorado 80209.

**ARTICLE 10. Director's Liability.** No director will have personal liability to the Foundation for breach of fiduciary duty as a director, except that a director will be liable to the Foundation for monetary damages for:

- [a] Any breach of the director's duty of loyalty to the Foundation;
- [b] Any act or omission which is either not in good faith or involves intentional misconduct or a knowing violation of the law;

- [c] Any liability for assenting to or participating in the making of a loan to any director or officer of the Foundation; and
- [d] Any transaction from which the director derived an improper personal benefit.

**ARTICLE 11. Bylaws:** The board of directors will have the power to adopt, amend and repeal such bylaws as it may deem proper for the management of the affairs and activities of the Foundation.

**ARTICLE 12. Officers:** The Foundation will have such officers as may from time to time be prescribed by its bylaws. Their terms of office, and the manner of their designation or selection, will be determined by the bylaws.

**ARTICLE 13. Registered Office and Agent:** The address of the initial registered office of the Foundation is 3200 Cherry Creek South Drive, Suite 500, Denver, Colorado 80209. The name of the registered agent at such address is Kenneth Farabee. Either the registered office or the registered agent may be changed in the manner permitted by law.

**ARTICLE 14. Nondiscriminatory Policy:** The Foundation will make its services, facilities and programs available to all persons regardless of race, color, creed, national origin, age, sex or disability. The Foundation will not discriminate in any way against any person on the basis of race, color, creed, national origin, age, sex or disability.

**ARTICLE 15. Amendment of Articles:** The board of directors of the Foundation will have the right (on the vote of a majority of the directors in office, or such greater number as may be provided in the Foundation's bylaws) to amend or repeal any provision contained in these Articles in the manner now or subsequently prescribed by statute, except that no such action will be taken which would:

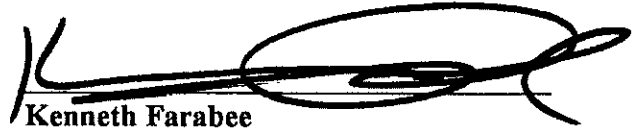
- [a] After the lifetime of Bill Daniels, [1] change the Foundation's name set forth in Article 1, [2] amend or repeal any provision of Article 3 (relating to Charitable Purposes, charitable activities and other directions and restrictions), unless required to qualify the Foundation as a Qualified Charity, or [3] amend or repeal any provision of this Article 15.
- [b] At any time, [1] amend or repeal the first sentence in Article 3 (relating to organization and operation of the Foundation exclusively for Charitable Purposes), [2] amend or repeal any provision of



**CONSENT OF REGISTERED AGENT**

The undersigned hereby consents to his appointment of the initial registered agent of the **Daniels Foundation**.

March 21, 1997

  
Kenneth Farabee



## INDEPENDENT AUDITORS' REPORT

To the Board of Directors and Members  
Civic Development Group, LLC and  
Disabled Veterans Association

We have audited the Statement of Fundraising Collections and Expenses - Modified Cash Basis of the Fundraising Center Operations of Disabled Veterans Association, a corporation (the "Association"), for the period from August 1, 2005 (inception of a fundraising campaign) to April 30, 2006. The fundraising campaign is the result of a Professional Management Consulting Agreement ("PMC Agreement") between the Association and Civic Development Group, LLC ("CDG") dated July 11, 2005 (including amendments through April 30, 2006), as described in Note 1. The Statement of Fundraising Collections and Expenses - Modified Cash Basis is the responsibility of CDG's management pursuant to the PMC Agreement. Our responsibility is to express an opinion on this financial statement 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 Statement of Fundraising Collections and Expenses - Modified Cash Basis is free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of CDG's internal control over financial reporting of the Association's fundraising center operations. Accordingly, we express no such opinion. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used, and significant estimates made, by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in Note 2, the Statement of Fundraising Collections and Expenses has been prepared on the modified cash receipts and disbursements basis of accounting, which is a comprehensive basis of accounting other than generally accepted accounting principles.

In our opinion, the financial statement referred to above presents fairly, in all material respects, the fundraising collections and expenses of Disabled Veterans Association fundraising center operations for the period August 1, 2005 (inception) through April 30, 2006.

This report is intended solely for the information of, and use by, the Board of Directors and Members of CDG and Disabled Veterans Association to be primarily used for the preparation of Internal Revenue Service Form 990 or 1120 (and state and local charity registrations, where applicable), and is not intended to be, and should not be, used by anyone other than these specified parties.

*Kreinces Rollins + Shanker, LLC*

**Kreinces Rollins & Shanker, LLC**  
Rochelle Park, New Jersey  
June 28, 2006

**DISABLED VETERANS ASSOCIATION  
(FUNDRAISING CENTER OPERATIONS)  
STATEMENT OF FUNDRAISING COLLECTIONS AND EXPENSES -  
MODIFIED CASH BASIS  
FOR THE PERIOD AUGUST 1, 2005 (INCEPTION) TO APRIL 30, 2006**

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<b>COLLECTIONS:</b>	
Fundraising collections	\$ 4,504,162
<b>EXPENSES:</b>	
Fund drive expenses - net	<u>4,054,156</u>
<b>EXCESS OF FUNDRAISING COLLECTIONS OVER EXPENSES</b>	<u>\$ 450,006</u>

See Accompanying Notes to Financial Statement



**INDEPENDENT AUDITORS' REPORT**  
**ON SUPPLEMENTARY INFORMATION**

To the Board of Directors and Members  
Civic Development Group, LLC and  
Disabled Veterans Association

Our report on our audit of the Statement of Fundraising Collections and Expenses - Modified Cash Basis of Disabled Veterans Association fundraising center operations appears on pages 1 and 2. That audit was conducted for the purpose of forming an opinion on the Statement of Fundraising Collections and Expenses - Modified Cash Basis taken as a whole. The Schedule of Fund Drive Expenses - Modified Cash Basis is presented for purposes of additional analysis and for use in the preparation of Internal Revenue Service Form 990 or 1120 (and state and local charity registrations, where applicable), and is not a required part of the Statement of Fundraising Collections and Expenses - Modified Cash Basis. Such information has been subjected to the auditing procedures applied in the audit of the Statement of Fundraising Collections and Expenses - Modified Cash Basis, and, in our opinion, is fairly stated, in all material respects, in relation to the Statement of Fundraising Collections and Expenses - Modified Cash Basis taken as a whole.

*Kreinces Rollins & Shanker, LLC*

Kreinces Rollins & Shanker, LLC  
Rochelle Park, New Jersey  
June 28, 2006

**DISABLED VETERANS ASSOCIATION  
(FUNDRAISING CENTER OPERATIONS)  
SUPPLEMENTARY INFORMATION  
SCHEDULE OF FUND DRIVE EXPENSES - MODIFIED CASH BASIS  
FOR THE PERIOD AUGUST 1, 2005 (INCEPTION) TO APRIL 30, 2006**

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<b>FUND DRIVE EXPENSES:</b>	
Compensation of officers and directors	\$ 17,692
Other salaries and wages	806,176
Other employee benefits	28,856
Payroll taxes	101,037
Supplies	4,668
Telephone	92,180
Postage and shipping	427,944
Occupancy	98,161
Equipment rental and maintenance	32,514
Printing and publications	195,330
Insurance	4,502
Payroll processing costs	5,870
Employee related costs	4,032
Regulatory	3,398
Management consultant fees	<u>2,231,796</u>
<b>TOTAL FUND DRIVE EXPENSES</b>	<b><u>\$ 4,054,156</u></b>

See Independent Auditors' Report on Supplementary Information