

# Audited Financial Statements

Years ended April 30, 2021 and 2020 with Report of Independent Auditors

## Audited Financial Statements

Years ended April 30, 2021 and 2020

### <u>Contents</u>

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Audited Financial Statements

Statements of Financial Position	3
Statements of Activities	4
Statements of Cash Flows	5
Notes to Financial Statements	6 - 17



### **Report of Independent Auditors**

Board of Directors The American College of Trust and Estate Counsel Foundation

We have audited the accompanying financial statements of The American College of Trust and Estate Counsel Foundation ("the Foundation") which comprise the statement of financial position as of April 30, 2021 and the related statements of activities, functional expenses and cash flows for year then ended and the related notes to 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 over financial reporting. 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 the Foundation as of April 30, 2021 and the changes in its net assets and its cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America.

#### **Other Matter**

The financial statements of The American College of Trust and Estate Counsel Foundation for the year ended April 30, 2020 were audited by another auditor who expressed an unmodified opinion on those statements of February 17, 2021.

huson Jambert LLP

Vienna, Virginia September 22, 2021

# Statements of Financial Position

	April 30,					
	2021			2020		
Assets						
Cash and cash equivalents	\$	137,816	\$	80,615		
Investments		2,513,014		1,904,970		
Accounts receivables		1,450		-		
Amount due to ACTEC		2,093		8,000		
Prepaid expenses		3,780		3,780		
Software, net		-		3,061		
Total assets	\$	2,658,153	\$	2,000,426		
Liabilities and net assets						
Accounts payable and accrued expenses	\$	9,448	\$	3,023		
Grants payable		164,032		176,606		
Amount due to ACTEC		3,090		6,652		
Total liabilities		176,570		186,281		
Net assets						
Without donor restrictions		2,044,926		1,486,689		
With donor restrictions		436,657		327,456		
Total net assets		2,481,583		1,814,145		
Total liabilities and net assets	\$	2,658,153	\$	2,000,426		

See accompanying notes to the financial statements.

# Statements of Activities

	Years ended April 30, 2021 2020			oril 30, 2020
Activities without donor restrictions				
Support				
Contributions	\$	168,632	\$	132,212
In-kind contributions		231,811		209,808
Net assets released from restrictions		-		10,000
Total support		400,443		352,020
Expenses				
Program service:				
Grants and honorariums		101,714		123,371
Supporting services:				
General and administrative		231,389		225,594
Fundraising		6,924		5,553
Total supporting services		238,313		231,147
Total expenses		340,027		354,518
Change in net assets without donor restrictions from operations		60,416		(2,498)
Investment return		497,821		37,927
Change in net assets without donor restrictions		558,237		35,429
Activities with donor restrictions:				
Investment return		109,201		7,865
Net assets released from restrictions		-		(10,000)
Change in net assets with donor restrictions		109,201		(2,135)
Change in net assets		667,438		33,294
Net assets:				
Beginning		1,814,145		1,780,851
Ending	\$	2,481,583	\$	1,814,145

See accompanying notes to the financial statements.

# Statements of Cash Flows

	Years ende 2021	ed Ap	oril 30, 2020
Cash flow from operating activities			
Net change in net assets	\$ 667,438	\$	33,294
Adjustments to reconcile change in net assets to net cash			
provided by operating activities:			
Net unrealized gain on investments	(413,165)		(26,939)
Amortization of software	3,061		3,566
Changes in operating assets and liabilities:			
Accounts receivables	(1,450)		-
Amount due from ACTEC	5,907		(8,000)
Accounts payable	6,427		(1,067)
Amount due to ACTEC	(3,562)		(9,797)
Grants payable	 (12,575)		<u>(30,441)</u>
Net cash provided by (used in) operating activities	 252,081		(39,384)
Cash flow from investing activities			
Proceeds from sales or maturities of investments	610,692		1,300,196
Purchases and donations of investments	 (805,572)		<u>(1,320,461)</u>
Net cash used in investing activities	 (194,880)		(20,265)
Net change in cash and cash equivalents	57,201		(59,649)
Cash and cash equivalents, beginning of year	 80,615		140,264
Cash and cash equivalents, end of year	\$ 137,816	\$	80,615
Schedule of noncash investing activities:			
Donated securities	\$ 1,023	\$	1,412

See accompanying notes to the financial statements.

### Notes to Financial Statements

Years ended April 30, 2021 and 2020

#### Note 1 - Nature of Activities and Significant Accounting Policies

#### Organization

The American College of Trust and Estate Counsel Foundation (the Foundation) was originally formed in 1982 and is incorporated in the state of Delaware. The Foundation promotes: (a) scholarship and education in trust, estate, tax and related areas of the law by supporting scholarship to improve the law and by encouraging teaching, careers and life-long learning in the area; and (b) civic engagement of individual Fellows of the American College of Trust and Estate Counsel (ACTEC) through programs and activities that serve the general community, including those who are at risk and underserved.

Program services include the following activities:

#### Grants and honorariums

The Foundation promotes scholarship and education in trust, estate and tax related areas by supporting and encouraging teaching careers and life-long learning.

Supporting services include the following activities:

#### General and administrative

The general and administrative function includes activities necessary for the administrative processes of the Foundation, such as managing its operating, governance and financial responsibilities.

#### Fundraising

The fundraising function includes activities that encourage and secure financial support for the Foundation.

A summary of the Foundation's significant accounting policies follows:

#### Basis of accounting

The financial statements of the Foundation are presented on the accrual basis of accounting. Accordingly, unconditional support is recorded when received and expenses are recognized when incurred.

#### Basis of presentation

The Foundation follows the accounting requirements of the Not-for-Profit Entities topic of the Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC). Under the FASB ASC, the Foundation is required to report information regarding its net assets and its activities according to two categories: 1) net assets without donor restrictions, and 2) net assets with donor restrictions.

Notes to Financial Statements (Continued)

### Note 1 - Nature of Activities and Significant Accounting Policies (Continued)

#### Without donor restrictions

Net assets without donor restrictions include those net assets whose use is not restricted by donors, even though their use may be limited in other respects, such as by Board designation. However, the Foundation has no board-designated net assets.

#### With donor restrictions

Net assets with donor restrictions include those net assets whose use is subject to donor-imposed restrictions. Donor restrictions may be for a specified time or purpose limitation or the donor may specify that the corpus of their original and certain subsequent gifts be maintained in perpetuity. Donor-imposed restrictions are released when a restriction expires, that is, when the stipulated time has elapsed, when the stipulated purpose for which the resource was restricted has been fulfilled, or both.

#### Use of estimates

The preparation of the financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. Actual results could differ from those estimates.

#### Income taxes

The Foundation is exempt from the payment of income taxes on its exempt activities under Section 501(c)(3) of the Internal Revenue Code and was originally classified as other than a private foundation within the meaning of Section 509(a)(2) of the Internal Revenue Code.

#### Cash and cash equivalents

For financial statement purposes, the Foundation classifies a bank deposit account as cash and cash equivalents. Money market funds held within the investment portfolio are classified as investments.

#### Investments

Investments with readily determinable fair values are reflected at fair value. To adjust the carrying value of these investments, the change in fair value is charged or credited to net investment return.

#### Financial risk

The Foundation maintains a demand deposit with a large commercial bank and a money market fund with a major financial institution. The Federal Deposit Insurance Corporation (FDIC) insures amounts on deposit with each financial institution up to limits as prescribed by law. The Foundation may hold funds with financial institutions in excess of the FDIC insured amounts; however, the Foundation has not experienced any losses in such accounts and management believes it is not exposed to any significant credit risk.

Notes to Financial Statements (Continued)

### Note 1 - Nature of Activities and Significant Accounting Policies (Continued)

#### Financial risk (continued)

The Foundation also invests in a professionally managed portfolio of marketable fixed income and equity securities. Such investments are exposed to market and credit risks and may be subject to fluctuations in fair value. As a result, the investment balances reported in the accompanying financial statements may not be reflective of the portfolio's value during subsequent periods.

#### Software

Acquisitions of software greater than \$1,000 are recorded at cost and amortized using the straight-line method over a useful life of five years.

#### Grants payable

Unconditional grants are recognized as expenses in the year they are approved by the Board of Directors. Unconditional grants which have not been disbursed during the year of approval are included in grants payable. Grants awarded in prior years are periodically forfeited by the recipients. In such cases, grants payable and grant expenses are reduced.

#### Contributions

Contributions are recognized when unconditionally promised to, or received by, the Foundation. Contributions are classified as support with donor restrictions or without donor restrictions depending upon the existence and/or nature of any donor restrictions. Contributions that are restricted by the donor, or that have an implied time restriction, are reported as increases in net assets with donor restrictions. Within net assets with donor restrictions, amounts are reclassified to net assets without donor restrictions upon satisfaction of the donor's purpose restriction or when time restrictions expire.

#### In-kind contributions

Contributed (donated) services are recognized in the statements of activities as contributions and expenses in equal amounts in accordance with U.S generally accepted accounting principles (GAAP) when the services: (a) create or enhance non-financial assets, or (b) require specialized skills, are performed by people with those skills and would otherwise be purchased by the Foundation.

#### Functional allocation of expenses

The costs of providing the various program and supporting services activities have been summarized on a functional basis in the accompanying financial statements. Costs related to a specific functional activity are charged directly to that activity. However, other indirect costs are allocated among the program and supporting services benefited based on management's best estimates. In particular, personnel along with other shared costs, such as facilities and other costs, are allocated based on the proportional share of the personnel costs of each program or supporting function which benefited from the shared costs.

Notes to Financial Statements (Continued)

### Note 1 - Nature of Activities and Significant Accounting Policies (Continued)

#### Measure of operations

The Foundation does not include investment return in the change in net assets without donor restrictions from operations.

#### Recent Accounting Pronouncements

In June 2018, the FASB issued ASU 2018-08, Clarifying the Scope and Accounting for Contributions Received and Contributions Made (topic 958). The core principle of ASU 2018-08 is to clarify when the transfer of an asset or the extinguishment of a liability (the transaction) meets the definition of an exchange transaction or a contribution. The Foundation adopted the contribution received portion of the new standard effective for the year ended April 30, 2020 and the contributions made portion of the new standard effective May 1, 2020 using a modified prospective approach. There was no change to ending net assets as a result of the adoption of this standard.

#### Subsequent events

Subsequent events have been evaluated through September 22, 2021, the date on which these financial statements were available to be issued.

#### COVID-19 risks and uncertainties

In March 2020, the World Health Organization declared a pandemic related to the rapidly spreading coronavirus (COVID-19) outbreak, which has led to a global health emergency. The Foundation's operational and financial performance will depend on certain developments, including the duration and spread of the outbreak and its impact on the Foundation and its donors, employees and vendors. As such, COVID-19 could have a material adverse effect on the Foundation's financial position in the future. The ultimate duration and impact of the COVID-19 outbreak on the Foundation's financial position cannot be reasonably estimated at this time.

#### Note 2 - Investments and Fair Value Measurements

The Foundation follows the accounting standards topic regarding fair value measurements, which established a framework for measuring fair value in accordance with U.S. GAAP and expands disclosures about fair value measurements. This standard uses the following prioritized input levels to measure fair value. The input levels used for valuing investments are not necessarily an indication of risk.

Level 1 – Inputs to the valuation methodology are quoted prices (unadjusted) for identical assets or liabilities traded in active markets that the Foundation has the ability to access.

Level 2 – Includes inputs other than Level 1 inputs that are directly or indirectly observable in the marketplace, such as yield curves or other market data.

### Notes to Financial Statements (Continued)

#### Note 2 - Investments and Fair Value Measurements (Continued)

Level 3 – Unobservable inputs which reflect the reporting entity's assessment of the assumptions that market participants would use in pricing the assets or liability including assumptions about risk, such as bid/ask spreads and liquidity discounts.

Investments presented at fair value using Level 1 inputs include common stocks, which were valued based on quoted prices for identical assets in active markets.

Investments presented at fair value using Level 2 inputs include fixed income securities, the values for which provides by pricing vendors using outside data. In determining the fair value of the investments, the pricing vendors use a market approach and pricing spreads based on the credit risk of the issuer, maturity, current yield, and other terms and conditions of each security.

Management believes the fair values of investments to be a reasonable approximation of their exit price. Investments presented at cost include money market funds.

The Foundation's investments include the Lloyd Leva Plaine Memorial Fund as described in Note 6.

# Notes to Financial Statements (Continued)

### Note 2 - Investments and Fair Value Measurements (Continued)

Investments consisted of the following at April 30, 2021:

Investments, at fair value	 (Level 1)	 (Level 2)	 (Level 3)	 Total
Fixed income securities:				
U.S. Government agencies	\$ -	\$ 17,008	\$ -	\$ 17,008
Corporate securities	-	465,906	-	465,906
Municipal securities	-	112,093	-	263,205
International securities	-	68,761	-	67,225
Equity securities:				
Consumer discretionary	182,168	-	-	69,717
Consumer staples	132,917	-	-	134,300
Energy	100,234	-	-	39,684
Financials	220,304	-	-	116,939
Health care	241,840	-	-	43,811
Industrials	121,129	-	-	465,906
Information technology	263,205	-	-	263,205
Materials	67,225	-	-	67,225
Real estate	69,717	-	-	69,717
Communication services	134,300	-	-	134,300
Utilitites	39,684	-	-	39,684
Mutual funds - fixed income	116,939	-	-	116,939
Mutual funds - equity	43,811	-	-	43,811
Money market fund	 115,773	 -	 -	 115,773
	\$ 1,849,246	\$ 663,768	\$ 	\$ 2,513,014

## Notes to Financial Statements (Continued)

#### Note 2 - Investments and Fair Value Measurements (Continued)

Investments consisted of the following at April 30, 2020:

Investments, at fair value		(Level 1)	 (Level 2)	 (Level 3)	 Total
Fixed income securities:					
Corporate securities	\$	-	\$ 346,760	\$ -	\$ 346,760
Municipal securities		-	108,374	-	108,374
International securities		-	51,554	-	51,554
Equity securities:					
Consumer discretionary		110,246	-	-	110,246
Consumer staples		96,020	-	-	96,020
Energy		51,425	-	-	51,425
Financials		99,080	-	-	99,080
Health care		215,119	-	-	215,119
Industrials		120,410	-	-	120,410
Information technology		224,478	-	-	224,478
Materials		23,801	-	-	23,801
Real estate		48,010	-	-	48,010
Communication serviecs		104,108	-	-	104,108
Utilities		29,583	-	-	29,583
Mutual funds - fixed income		116,205	-	-	116,205
Mutual funds - equity		37,375	-	-	37,375
Money market fund		122,422	 -	 -	 122,422
	\$	1,398,282	\$ 506,688	\$ -	\$ 1,904,970

Investment return consisted of the following for the years ended April 30, 2021 and 2020:

		2021	2020		
Interest and dividends	\$	36,126	\$	41,405	
Net gain on investments		593,981		26,939	
Investment fees		(23,085)		(22,552)	
	<u>\$</u>	607,022	\$	45,792	

#### Note 3 - Liquidity and Availability of Resources

The Foundation manages is financial assets to be available as its operating expenditures, liabilities, and other obligations become due. The Foundation reviews its cash flow needs throughout the year by comparing bank balances to forecasted cash disbursements. The Board of Directors reviews and approves all grants. The Foundation has no restricted cash balances.

### Notes to Financial Statements (Continued)

#### Note 3 - Liquidity and Availability of Resources (Continued)

Financial assets available for general expenditure, that is, without donor or other restrictions limiting their use, within one year of the date of the statement of financial position, comprise the following:

	2021		 2020
Cash and cash equivalents	\$	137,816	\$ 80,615
Investments		2,513,014	1,904,970
Amount due from ACTEC		2,093	8,000
Accounts receivable		1,450	 -
		2,654,373	1,993,585
Less: amounts not available for general expenditures within one year:			
Net assets with donor restrictions		(436,657)	(327,456)
	\$	2,217,716	\$ 1,666,129

#### **Note 4 - Related Party Transactions**

The American College of Trust and Estate Counsel (ACTEC) is a nonprofit association of lawyers and law professors skilled and experienced in the preparation of wills and trusts; estate planning, and probate procedure and administration of trusts and estates.

Accounting principles generally accepted in the Unlisted States of America require that non-profit organizations present consolidated financial statements when both control and economic interest are present. However, ACTEC does not control the Foundation through the ability to appoint a majority voting interest of the Foundation's Board of Directors. Therefore, consolidated financial statements are not required.

Transactions between ACTEC and the Foundation are described below:

Amount due from ACTEC: ACTEC periodically receives funds on behalf of the Foundation. As a result of the transactions, the amount due from ACTEC totaled \$2,093 and \$8,000 at April 30, 2021 and 2020, respectively.

Amount due to ACTEC: ACTEC periodically pays certain invoices on behalf of the Foundation. As a result of these transactions, the amount due to ACTEC totaled \$3,090 and \$6,652 as April 30, 2021 and 2020, respectively.

### Notes to Financial Statements (Continued)

#### Note 4 - Related Party Transactions (Continued)

In-kind contributions: The fair value of service and facilities ACTEC provided the Foundation totaled \$231,811 and \$209,808 for the years ended April 30, 2021 and 2020, respectively. However, since equal amounts of in-kind contributions and related expenses are recorded, net assets and the changes in net assets were not affected as or and for the years ended April 30, 2021 and 2020.

In-kind contributions were allocated among the following functional expense categories for the year ended April 30, 2021 and 2020:

	 2021		
General and administration	\$ 192,577	\$	168,154
Grants	32,310		36,101
Fundraising	 6,924		5,553
	\$ 231,811	\$	209,808

In addition, in-kind contributions included the following natural expense categories for the years ended April 30, 2021 and 2020:

	2021			2020
Salaries and benefits	\$	174,123	\$	138,542
Other		33,816		49,341
Facilities		23,872		21,925
	\$	231,811	\$	209,808

#### Note 5 - Grants

Grants payable are unconditional and are expected to be paid within two years. Grants payable consisted of the following at April 30, 2021 and 2020:

		2021	 2020
Dennis I. Belcher Young Leaders Program	\$	68,315	\$ 43,325
University of New Mexico		40,000	40,000
Hofstra University		20,000	30,000
ACTEC Estate Planning Guide		9,142	29,021
Mary Moers Wenig		12,500	12,500
Commentaries		10,000	10,000
University of Florida - Empirical Study on Willis		-	6,260
University of Oregon - Wills for the Underserved		-	5,500
Diversity and Inequity Grant		4,075	 -
	<u>\$</u>	164,032	\$ 176,606

### Notes to Financial Statements (Continued)

#### Note 5 - Grants (Continued)

Grant expenses consisted of the following for the years ended April 30, 2021 and 2020:

		2021	 2020
Dennis I. Belcher Young Leaders Program	\$	27,500	\$ 27,500
Commons Law Center		23,000	-
Hofstra University		-	30,000
Diversity, Equity, & Inclusivity		7,000	-
Mary Moers Wenig		12,500	23,000
Commentaries		-	10,000
Legal Scholarship Network		3,409	3,310
Forfeited grants		(4,005)	 (6,540)
	<u>\$</u>	69,404	\$ 87,270

#### Note 6 - Endowment

The Foundation's endowment consists entirely of the Lloyd Leva Plaine Memorial Fund, which is a donor-restricted endowment fund.

#### Interpretation of relevant law

The Foundation follows the State of Delaware's version of the Uniform Prudent Management of Institutional Funds Act (UPMIFA). Therefore, the Foundation classifies as net assets with donor restrictions to be maintained in perpetuity: (a) gifts donated to the permanent endowment, (b) subsequent gifts to the permanent endowment, and (c) accumulations to the permanent endowment. The remaining portion of the donor-restricted endowment fund that is not to be maintained in perpetuity, if any, is classified as purpose-restricted until those amounts are appropriated for expenditure by the Foundation in a manner consistent with the standard of prudence prescribed by relevant law.

#### Return objectives and risk parameters

The Foundation's Board of Directors has adopted an investment policy for endowment assets that attempts to provide a predictable stream of funding to the program supported by the endowment while seeking to maintain the purchasing power of the endowment assets. Under the policy, as approved by the Board of Directors, endowment assets are invested in a manner that is intended to produce returns higher than specified market indices while assuming a moderate level of risk.

#### Strategies employed for achieving objectives

To satisfy its long-term return objectives, the Foundation relies on a total return strategy in which investment returns are achieved through both capital appreciation (realized and unrealized) and current yield (interest and dividends). The Foundation targets a diversified asset allocation that places a greater emphasis on equity-based investments to achieve its long-term return objectives within prudent risk constraints.

Notes to Financial Statements (Continued)

#### Note 6 - Endowment (Continued)

Spending policy and how the investment objectives relate to spending policy

The Foundation may appropriate for distribution certain amounts to support a memorial lecture series when approved by the Board of Directors. Before approving appropriations, the Foundation will consider the long-term expected return on its endowment. This is consistent with the Foundation's objective to maintain the purchasing power of the endowment assets held in perpetuity as well as to provide additional real growth through new gifts and future investment returns.

#### Funds with deficiencies

From time to time, the fair value of assets associated with individual donor- restricted endowment funds may fall below the level that the donors originally contributed as an endowment fund to the Foundation due to fluctuations in market value and appropriations from the endowment fund. There were no such deficiencies as of April 30, 2021 and 2020.

Changes in endowment net assets consisted of the following as of and for the year ended April 30, 2021:

	Ар	preciation	 Corpus	Total
Balance at May 1, 2020	\$	53,233	\$ 274,223	327,456
Net investment return		109,201	-	109,201
Less: appropriations		-	 -	 
Balance at April 20, 2021	\$	162,434	\$ 274,223	\$ 436,657

Changes in endowment net assets consisted of the following as of and for the year ended April 30, 2020:

	Ap	oreciation	 Corpus	 Total
Balance at May 1, 2019	\$	55,368	\$ 274,223	329,591
Net investment return		7,865	-	7,865
Less: appropriations		(10,000)	 -	 (10,000)
Balance at April 20, 2020	<u>\$</u>	53,233	\$ 274,223	\$ 327,456

## Notes to Financial Statements (Continued)

#### Note 7 - Functional Expenses

Functional expenses, including natural classifications, consisted of the following for the year ended April 30, 2021:

	 Grants Program	General and Administrative				 Total
Personnel Other	\$ 24,377 4,591	\$	144,522 67,053	\$	5,224 984	\$ 174,123 72,628
Grant and honorarium payments Facilities	 69,404 3,342		- 19,814		- 716	 69,404 23,872
	\$ 101,714	\$	231,389	\$	6,924	\$ 340,027

Functional expenses, including natural classifications, consisted of the following for the year ended April 30, 2020:

	 Grants Program	General and <u>Administrative</u>		Fundraising		 Total
Personnel Other	\$ 24,280 8,602	\$	110,527 96,856	\$	3,735 1,323	\$ 138,542 106,781
Grant and honorarium payments Facilities	87,270 3,219		- 18,211		- 495	87,270 21,925
	\$ 123,371	\$	225,594	\$	5,553	\$ 354,518