A REPORT ADDRESSING CERTAIN FINANCIAL ISSUES PERTAINING TO THE 2003 MERGER BETWEEN THE AUTRY WESTERN HERITAGE MUSEUM AND THE SOUTHWEST MUSEUM

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at the request of
The Friends of the Southwest Museum Coalition
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The Friends of the Southwest Museum Coalition (Friends) have asked me to prepare a report addressing certain financial issues raised by the 2003 merger between the Autry Museum of Western Heritage and the Southwest Museum.

I. EXECUTIVE SUMMARY

The following discussion summarizes the relevant facts and conclusions reached in the remainder of this report.

A. **FACTS**. There are three key players in the story that follows. The first is the Southwest Museum, an independent entity until a May 2003 merger. The second is the Autry Museum of Western Heritage, also a separate legal entity until the May 2003 merger. The third is the Autry Foundation, a private foundation headed by Mrs. Jackie Autry, which exercises significant control over the Autry Museum of Western Heritage. Following the May 2003 merger, the Southwest Museum's legal existence ended, with its operations and assets becoming part of and its liabilities being assumed by the Autry Museum of Western Heritage. As part of the merger transaction, the Autry Museum of Western Heritage changed its name to the Autry National Center of the American West. Throughout this report, the Autry Museum of Western Heritage and the Autry National Center of the American West will be referred to as the Autry Museum (unless clarity requires otherwise).

As part of the merger agreement (Merger Agreement), the Autry Museum represented that an attached balance sheet (2002 Merger Balance Sheet; Exhibit A) presented fairly, in all material respects, its assets and liabilities in accordance with generally accepted accounting principles (GAAP).[1] There is no specific reference to an

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[1] Agreement and Plan of Merger between the Autry Western Heritage Museum and the Southwest Museum dated March 4, 2003, Section 8(c).

Autry Foundation pledge in the Merger Agreement, but the 2002 Merger Balance Sheet does report $98,178,777 in current receivables as of December 31, 2002.

The 2000 Form 990-PF filed with the Internal Revenue Service by the Autry Museum listed pledges having both book and fair market values of $97,840,178 (Exhibit B). That same return reported elsewhere that the Autry Foundation made a $97,222,712 pledge (Pledge)[2] to the Autry Museum on December 31, 2000 (Exhibit C).[3] Publicly available tax returns filed by the Autry Museum continue to report outstanding pledge balances as exceeding $97 million.[4] This strongly suggests the bulk of the $98 million in receivables reflected on the 2002 Merger Balance Sheet included the Pledge.

No other facts were known by the Friends about the terms of the Pledge until recently, when the Friends obtained financial statements for the Autry Museum for the periods ending December 31, 2006 (Exhibit D), December 31, 2005 (Exhibit E) and December 31, 2000 (Exhibit F). The 2006 and 2005 financial statements were obtained from the Autry Museum by the Friends. The 2000 financial statements were discovered in the California Attorney General's public records. The 2000 statements were incomplete (no footnotes).

The 2006, 2005, and 2000 financial statements each treat the Pledge differently than the Pledge was treated on the 2002 Merger Balance Sheet. In fact, the Pledge actually is comprised of what the footnotes to the 2006 and 2005 financial statements refer to as three related-party pledges (Pledges).[5] Those Pledges constituted 94% of all pledges and grants receivable on the 2006 balance sheet and 96% of all pledges and grants receivable on the 2005 balance sheet.[6]

Based on available evidence, Mrs. Autry is most likely the source that will fund the Pledges, although a portion of the funding may first pass through the Autry Foundation, which appears to be serving as a conduit between Mrs. Autry and the Autry

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[2] The Friends were unaware of the reference to the Pledge on the Autry Museum's 2000 Form 990-PF until I discovered the Form 990-PF on the California Attorney General's Web site. This is not to suggest that I did anything particularly special, but rather to illustrate the mystery that surrounded and, to some degree, still surrounds the Pledge.

[3] Note 5 to the Autry Museum financial statements for the years ending December 31, 2006 and December 31, 2005 report that the Pledge was made on March 24, 2000.

[4] The Autry Museum's 2006, 2005, 2004, and 2003 Forms 990 report outstanding balances of $100,984,778, $100,588,764, $99,504,332, and $97,693,275, respectively, as the outstanding balance for pledges receivable.

[5] Note 5 to the Autry Museum financial statements for the years ending December 31, 2006 and December 31, 2005.

[6] Interestingly, Note 2 to the Autry Museum's 2006 financial statements indicates that related party receivables equal approximately 96% of net pledges receivable. I derived my number by dividing $97,120,523 (Note 5) by $103,312,211 (Note 3).

Museum.[8] For purposes of this report, Mrs. Autry will be assumed to be the initial funding source for the Pledge.

Both the 2006 and 2005 Autry Museum financial statements indicate that a significant portion of the Pledges are payable upon the death of Mrs. Autry.[9] At the time of the merger between the Autry Museum and the Southwest Museum, Mrs. Autry had a life expectancy of 24.4 years, as determined under Internal Revenue Service life expectancy tables[10] (Exhibit G). As noted, the 2002 Merger Balance Sheet assigned a book value to the receivables (which included the Pledges) of $98 million, with the entire amount classified as a current asset. It contained no footnotes or explanation regarding the Pledges.

B. **CONCLUSIONS**. Subject to the full report, I have reached the following conclusions:

1. Section 8(c) of the Merger Agreement required that the 2002 Merger Balance Sheet present fairly, in all material respects, the assets of the Autry Museum in accordance with GAAP. Given the terms of the Pledges, the 2002 Merger Balance Sheet did not present fairly, in all material respects, the Pledges because it treated all of them as current assets without any further disclosures.

2. The 2002 Merger Balance Sheet was not prepared in accordance with GAAP. Paragraph 24 of Financial Accounting Standards Board Statement No. 116[11] requires that the recipients of unconditional promises to give disclose "the amounts of promises

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[8] See Note 2 to the Autry Museum financial statements for 2006, which provides:

> Pledges receivable and accounts receivable are uncollateralized and the Center is at risk to the extent such amounts become uncollectible. Additionally, approximately 96% of net pledges receivable are due from one individual and a related foundation and the Center is subject to credit risk in the event of nonperformance by such parties.

[9] Note 5 to the Autry Museum financial statements for the year ending December 31, 2006 provides:

> The annual contributions will continue until the donor's passing and the long-term capital contribution will be received upon the donor's passing.

The same language appears in Note 5 to the Autry Museum financial statements for the year ending December 31, 2005.

[10] Treasury Regulation Section 1.401(a)(9)-9. Mrs. Autry was born on October 2, 1941. It probably would be preferable to use the tables used to value assets for purposes of the federal estate and gift tax, if they differ. However, those tables do not clearly state life expectancies for a given age. See IRS Publications 1457 (Book Aleph), 1458 (Book Beth), and 1459 (Book Gimel). I did review the tables published by the U.S. Department of Health and Human Services and tables published by the Centers for Disease Control and Prevention. See Elizabeth Arias, *United States Life Tables*, 2003, 54 NATIONAL VITAL STATISTICS REPORTS (April 19, 2006). The life expectancy for a 60-year old person is 22.2 years. In other words, there may be slight variations between the different tables, but these are unlikely to be material for present purposes.

[11] Financial Accounting Standards Board, Statement No. 116—*Accounting for Contributions Received and Contributions Made*, June 2003, at Paragraph 24, p 9.

receivable in less than one year, in one to five years, and in more than five years." The 2002 Merger Balance Sheet did not disclose this information. The balance sheets for the years ending December 31, 2006 (Exhibit D), December 31, 2005 (Exhibit E), and December 31, 2000 (Exhibit F) provide information regarding due dates.

3. The 2002 Merger Balance Sheet was misleading[12] in its representation of the Autry Museum's financial condition because it omitted material information regarding the Pledges. Anyone who doubts this need only ask the following question: Would you rather have $100 million today or in 24.4 years? To ask this question is to answer it.[13]

4. The merger between the Autry Museum and the Southwest Museum has been consistently characterized as a merger between a cash-rich institution (Autry Museum) and a financially strapped museum with a priceless collection (Southwest Museum). The Autry Museum's alleged financial superiority to the Southwest Museum largely disappears when the Pledges are excluded from the analysis because unpaid pledges are not cash in hand, but merely promises to pay sums at a future date. The portion of the Pledges that is best characterized as a $6.050 million annual annuity appears to have kept the pre-merger operations of the Autry Museum from having produced larger deficits or smaller surpluses.[14] In other words, without the portion of the Pledges that is characterized as a $100 million long-term capital contribution, the Autry Museum is in no position (based on financial resources reflected in its 2005 and 2006 balance sheets) to make the needed repairs to the Southwest Museum's facilities, significantly increase its endowment, and expand its own facilities in Griffith Park. To summarize: The Autry Museum was not in much better financial condition than the Southwest Museum once the

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[12] When I use the term "misleading" in this report, I am not suggesting or implying evil intent on the part of those who compiled the 2002 Merger Balance Sheet or made the related representation. Something either is or is not misleading. The misleading aspect of the statement can be inadvertent, with no one even realizing that others may interpret the statement differently, or it can be intentionally misleading. Only those who compiled the 2002 Merger Balance Sheet or made the related representation know what their intentions were in doing so.

[13] The notes to the financial statements specifically acknowledge credit risk. See Note 2 to the 2006 and 2005 Autry Museum financial statements.

[14] The merger makes it difficult to now isolate the Southwest Museum's operations, as carried on by the combined entity, from the Autry Museum's pre-merger operations. Undoubtedly the Autry Museum is incurring additional expenses because of its efforts to conserve the Southwest Museum's rare collection of North American artifacts. However, the Mount Washington galleries are currently closed to the public, presumably resulting in significant reduction in expenses. Although the Autry Museum is renovating some portions of the Mount Washington facility, some, if not all of that expense has been covered by government grants. The Executive Summary to the Draft Environmental Impact Report submitted by the Autry Museum to the Los Angeles Department of Recreation & Parks (*available at* http://www.laparks.org/environmental/autry3.htm) states:

> In December 2005, the Autry National Center secured nearly $1 million in state funding from the California Culture and Historical Endowment to undertake building and rehabilitation projects including waterproofing, electrical upgrades, and mechanical upgrades. The Autry National Center also secured a FEMA grant to enable long-overdue repair and stabilization of the Caracol Tower due to damage sustained in the Northridge Earthquake.

Pledge is removed from the analysis. Ignoring the Pledge is appropriate given the fact that a significant portion of it will not be converted into cash for some two decades when actuarial tables are taken into account.

5. The mischaracterization[15] of the Pledges as current assets on the 2002 Merger Balance Sheet had ramifications that went far beyond pure financial matters. Specifically,

a. If the Southwest Museum's board of directors did not understand the deferred nature of the payments under the Pledges, it could not make a considered decision regarding the merger's merits.

b. If the community groups that initially opposed the merger had fully understood the deferred nature of payments under the Pledges, they may have continued to oppose the merger out of concern that the Autry Museum did not intend to renovate and restore the Southwest Museum's Mount Washington facility.

c. Although California law apparently did not require that the California Attorney General formally review and approve the merger before the parties could proceed, there is evidence of an informal review process. Given the California Attorney General's basic role in assuring that charitable assets are protected and donor restrictions are honored, the California Attorney General may well have had serious concerns regarding the ability of the Autry Museum to protect assets and honor restrictions without the full $98 million of cash, represented by the current receivables shown on the 2002 Merger Balance Sheet, that would have been expected to have been in hand within a relatively short period of time.

d. As of December 31, 2006, the philanthropic community had not responded to the Autry Museum "seed" money by providing the additional $100 million in funding anticipated by Section 13(h) of the Merger Agreement.[16] I can only speculate, but the lackluster response by the philanthropic community suggests that some people may not understand the deferred nature of the $100 million contribution. They may be asking why provide additional funding if the Autry Museum already has significant resources. Other members of the philanthropic community may understand the deferred nature of the $100 million long-term capital contribution. They may be telling Mrs. Autry and the Autry Foundation to accelerate payments under the Pledge before they are willing to commit additional capital.

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[15] See note 12, *supra.*

[16] Section 13(h) of the Merger Agreement provides as follows:

> The Center shall launch an endowment and capital campaign in 2004 with a goal of raising at least $100,000,000, subject to the studies to be undertaken pursuant to the Master Plan referred to in Section 13(i) below)[*sic*].

Once again, I can only speculate, but the lackluster response from the philanthropic community may have necessitated the 2006 "promise from a related party" to make a $25 million payment to be added to the Autry Museum's restricted endowment. [17] This conditional promise is disclosed in Note 2 to the Autry Museum financial statements, but is not reflected in the income statement or balance sheet numbers because "the related party had not signed off on the satisfaction of the conditions" as of December 31, 2006.[18] Presumably this related party is Mrs. Autry or the Autry Foundation. The need for this promise and the funds it represents could be viewed as further evidence that the Autry Museum was not adequately capitalized following the merger with the Southwest Museum. If that hypothesis is correct, it would be support for the conclusion that the 2002 Merger Balance Sheet was misleading.[19]

6. During the last five years, there have been demands by members of the United States Congress, state regulators, grantmakers, donors, and watchdog groups for far greater transparency in the nonprofit sector. The Internal Revenue Service is now in the process of completely overhauling the Form 990 tax return used by tax-exempt entities. Although the Form 990 is a tax return, it is also a disclosure document, relied upon by state regulators, donors, and the media, among others.[20] A significant part of the Internal Revenue Service's efforts have been devoted to increasing transparency through expansion and revision to the Form 990.

Despite the widespread benefits from increased transparency, the Autry Museum still chooses to keep the Pledge, its terms, and the circumstances surrounding it shrouded in mystery. The financial statements don't identify who is behind the Pledge, other than referring to "related parties." The exact terms of the Pledge are still largely unknown and some of the accounting for the Pledge remains anything but transparent.

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[17] See Note 2 to the 2006 Autry Museum financial statements.

[18] *Id*.

[19] See note 12, *supra.*

[20] The Omnibus Budget Reconciliation Act of 1987 ("OBRA 1987") greatly expanded public access to the Form 990 by requiring charities to make their Form 990s available to the public on request rather than requiring the public to obtain the forms from the Internal Revenue Service. The legislative history to OBRA 1987 is clear in expressing congressional intent that the Form 990 be used by both the Internal Revenue Service in administering the tax laws and the public in assuring accountability.

Specifically, House Report 100-391 (1987) provides:

> For example, the present-law disclosure procedure does not result in full and timely public disclosure of the activities of charitable organizations, as needed to facilitate accountability of such organizations to the public from whom they solicit tax-deductible funds. . . . In the case of charitable organizations, the committee believes that increased availability of information will help assure that the double tax benefits of deductibility of contributions and exemption from income tax are limited to organizations whose assets are devoted exclusively to charitable purposes, as required by the tax law. Also, because most such charities regularly solicit contributions or receive other support from the public, the public should have ready access to current information about the activities of these organizations…

Looking forward, the City of Los Angeles Department of Recreation and Parks and the City Council will soon be faced with a decision as to whether to approve the Autry Museum's proposal to expand the building on its Griffith Park campus, as described in documents submitted by the Autry Museum as part of an environmental impact report required by the California Environmental Quality Act.[21] The department and the City Council must certainly be interested in the Autry Museum's financial capacity to implement the project described in the proposal. Yet, now the department and City Council are the latest groups to be faced with the lack of transparency surrounding the Pledge and how the Pledge changes perceptions of the Autry Museum's financial wherewithal. It is hard to imagine these officials making an informed decision to approve the expansion proposal and commit scarce public resources without a complete understanding of the Pledge and the museum's finances, particularly when in the past those public resources have taken the form of park land that the Autry Museum has used at no cost.[22]

The Southwest Museum's board of directors, the community groups who initially opposed the merger, the California Attorney General, the Los Angeles Department of Recreation and Parks and other officials involved in the public review and approval process for the proposed expansion, and the philanthropic community all share one thing in common: Given each of their objectives, none of these participants should like the deferred nature of the $100 million capital contribution, particularly given the fact that its actuarially determined payment date is two decades away.

II. SCOPE OF THE ENGAGEMENT

The Friends have asked me to prepare an analysis and report based on a set of documents that they provided to me (Exhibit H). As agreed, I am not rendering legal advice or a legal opinion. The Friends are already represented by counsel, including the attorney who directed my work. Nor am I rendering any audit, attestation, or certification services.

Due to budgetary constraints, the Friends asked me to limit my review to the documents that they provided to me. However, they did permit me to review any documents that I found on the Web—these largely consisted of media accounts, tax returns, and information on the Autry Museum's Web site. There are many relevant documents that are not publicly available or that the Friends were unable to provide me. The Friends have acknowledged that more complete information or a more extended review could change my conclusions. In order to preserve the confidentiality of the

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[21] The Autry Museum provides a link to the Los Angeles Department of Parks and Recreation Web site and the draft report. The link is *available at* http://www.autry-museum.org/anewplan/news.html.

[22] The Friends have informed me that the Autry Museum currently occupies a 10-acre parcel of Griffith Park under a 50-year land lease for One Dollar per year. In Note 7 to its 2006 financial statements, the Autry Museum values this public subsidy at $10.2 million. The Friends have informed me that Autry may seek as much as a 30-year extension of the land lease.

preparation of this report, the Friends prohibited me from contacting third parties, such as Autry Museum officials.

III. QUALIFICATIONS

I am both an attorney (Illinois and Wisconsin) and a CPA (Wisconsin). I hold an LLM (Tax) from New York University and a Masters of Management (MBA-equivalent) from Northwestern University's Kellogg Graduate School of Management. I am the author of A DESKTOP GUIDE FOR NONPROFIT DIRECTORS, OFFICERS, AND ADVISORS: AVOIDING TROUBLE WHILE DOING GOOD (Wiley 2006), which addresses a wide variety of management, legal, accounting, financial, and regulatory issues from the perspective of the board of directors and its governance of the organization. I have previously practiced law and have also developed computer-based training for lawyers, accountants, financial professionals, and nonprofit directors though my own company. I have most recently been engaged in training activities involving nonprofit organizations and the related development of a consulting practice.[23] My latest article, *Applying Fin 48 to Tax-Exempt Organizations: Too Much of Nothing or It's All Too Much?*, was published in the May 2007 issue of the Exempt Organization Tax Review. The article focuses on a controversial interpretation of accounting principles issued by the Financial Accounting Standards Board (FASB).

IV. CONTEXT

On March 4, 2003, the Autry Museum of Western Heritage (Autry Museum) and the Southwest Museum, both California non-profit corporations, entered into the Merger Agreement.[24] Under that agreement, the Southwest Museum merged into the Autry Museum, with the Southwest Museum's separate corporate existence disappearing. The surviving entity is known as the Autry National Center for the American West. The parties to the merger intended that the Southwest Museum's separate identity as a museum be maintained following the merger,[25] with reasonable efforts being taken to maintain the Mount Washington facility.[26] Media reports reflect those intentions.[27]

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[23] I can be contacted at 773.325.2124, or by e-mail at jbsiegel@charitygovernance.com.

[24] The merger apparently was finalized May 27, 2003. Autry Western Heritage Museum, 2003 Form 990, Statement 1. However, the 2002 Form 990 for the Southwest Museum reports the date as May 31, 2003.

[25] Agreement and Plan of Merger between the Autry Western Heritage Museum and the Southwest Museum, dated March 4, 2003, Section 12(b).

[26] Mount Washington Homeowners Alliance, *Letter to the Board of Directors of the Autry National Center*, May 16, 2005.

[27] Christopher Reynolds, *Autry and Southwest Museums Seal a Deal*, L.A. TIMES, Mar. 14, 2003. Mr. Reynolds wrote:

> In disclosing their decision Thursday, Autry leaders stopped short of making guarantees about the fate of the Southwest's longtime home on Mount Washington. But the facility will remain open for the foreseeable future, and in meetings and correspondence with neighborhood activists, they have pledged their best efforts not only to preserve the historic buildings there but keep them open to the public, ideally as a venue for temporary exhibitions.

The Friends and the Autry Museum engaged in a lengthy mediation process instigated at the City of Los Angeles' behest. The Friends are concerned that the Autry Museum has abandoned its original intentions and commitments with respect to the Southwest Museum and its Mount Washington facility. Specifically, the Friends believe that the Autry Museum now plans to permanently terminate the entire use of the Mount Washington facility as a museum, either converting it to some other use or selling it.[28] In March 2006, just three years after the merger, the Autry Museum announced that it was effectively closing the Mount Washington facility.[29] The announcement refers to new cultural uses for the facility, putting into question the Autry Museum's plans to continue to use the Mount Washington facility as a museum.

As of the date of this report, the Autry Museum's Web site is ambiguous regarding the Mount Washington facility's future. The Web site refers to infrastructure improvements to the Southwest Museum that are to be completed by 2010, but states that the goal is to "mov[e] most of the collection to a new state-of-the-art home by 2009."[30] That state-of-the-art home is to be part of the Autry Museum's expanded "Griffith Park campus."[31] Despite the earlier reference to "new cultural uses," a newsletter on the Autry Museum's Web site indicates that two galleries in the Mount Washington facility will "open with exhibitions of Native American artifacts."[32] This ambiguity is disturbing given the unambiguous requirement in Section 13(f) of the Merger Agreement that,

> the identity and integrity of the Southwest Museum will be maintained as part of the Center and the Southwest staff will establish their museum's interpretative agenda creating permanent and temporary exhibitions for presentation in its galleries.

V. ANALYSIS

The merger between the Autry Museum and the Southwest Museum has been consistently characterized as a merger between a cash-rich institution (Autry Museum)

> To cover costs of the merger, Autry officials say they plan to raise $100 million over the next five years, including $38 million to boost the center's endowment and an estimated $15 million to restore and renovate the Southwest buildings.

[28] Press Release, *Autry National Center, Update*, Apr. 25, 2006; and *Letter to the Board of Directors*, note 26, *supra.* An article appearing in the *Los Angeles Times* reports that the Autry Museum is looking for funds for new exhibition space at the Southwest site, but the press release from the Autry Museum specifically refers to a "new cultural use." See Christopher Reynolds, *Southwest Faces Major Repair Job,* L.A. TIMES, Mar. 21, 2006.

[29] *Southwest Faces Major Repair Job*, note 28, *supra*. See also Peter Prengaman, *Indian Museum Closes Amid Controversy, Artifacts to be Transferred to Autry*, ASSOCIATED PRESS, June 29, 2006.

[30] Welcome Page for the Southwest Museum of the American Indian *available at* http://www.autrynationalcenter.org/southwest/.

[31] *Id*.

[32] Southwest Museum of the American Indian—Celebrating 100 Years, *available at* http://www.autrynationalcenter.org/pdfs/SWM_Newsletter_web-4pages.pdf

and a financially strapped museum with a priceless[33] collection (Southwest Museum). That public perception is evident in the first paragraph of a *Los Angeles Times* article reporting:

> The Autry Museum of Western Heritage—a young, wealthy institution created by a singing movie cowboy to explore western myth-making along with history—will consummate a two-year on-again, off-again courtship by merging with the cash-strapped, collection-rich Southwest Museum.[34]

The article then goes on to describe the "Autry's $100-million endowment."[35] This characterization of the $100 million number is inconsistent with the facts. Of course, the reporter did not review the 2002 Merger Balance Sheet because his article was written prior to the consummation of the merger when the parties provided each other balance sheets pursuant to the terms of the Merger Agreement. Nevertheless, the balance sheet certainly leads to and supports that mistaken conclusion by various reporters. Of more immediate relevance, the 2002 Merger Balance Sheet may reflect how Autry Museum officials characterized the receivables when talking with third parties such as citizen and community groups, politicians, the media, and the California Attorney General. The *New York Times* has also covered the merger, arriving at a similar characterization.[36]

These press accounts did not accurately portray the relative financial positions of the two museums. Although the Autry Museum may have had a $6.050 million annual annuity for the foreseeable future, it did not have anywhere close to the $98 million in

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[33] Southwest Museum, *Narrative Summary of the Collection*, an undated document provided to me by the Friends.

[34] Christopher Reynolds, *A Union of Cowboys and Indians*, L.A. TIMES, Dec. 11, 2002.

[35] Ten days later, in an editorial, the *L.A. Times* wrote:

> Coming together to be stronger is also the driving idea behind the merger of the Autry, with its $100-million endowment and its financial discipline, and the venerable but fiscally broken Southwest Museum.

Editorial, *Now the West is One*, L.A. TIMES, Dec. 12, 2002.

[36] Edward Wyatt, *As an Indian Museum Packs for a Move, Grumbling is Heard*, N.Y. TIMES, June 28, 2006; and James Sterngold, *New Travails for a Struggling California Museum*, N.Y. TIMES, May 26, 2002. In contrasting the pre-merger Autry and Southwest Museums, Mr. Wyatt, wrote:

> The Autry museum, opened in 1988 by the Autry family, was backed by a large fortune but had a collection that tended toward movie memorabilia and less distinguished Western paintings....
>
> The Southwest, by contrast, suffered from a small endowment and declines in membership and visitors. But since its founding by Charles Lummis, an explorer and collector, it had built an extensive collection of Indian artifacts, including 13,500 Indian baskets, perhaps the largest such holding in existence, as well as thousands of objects, ranging from the sacred -- including human remains -- to the mundane.

unrestricted *current* receivables that the 2002 Merger Balance Sheet indicated that it had. In fact, the 2002 Merger Balance Sheet is both misleading[37] and noncompliant with GAAP.

A. **THE TERMS OF THE PLEDGES**. The 2006, 2005 and 2000 financial statements provide additional information about the Pledges. Specifically, Note 5 to both the 2006 and 2005 financial statements describe the terms of the Pledges. On March 24, 2000,[38] the Autry Museum received a pledge for an annual contribution totaling $6 million. It also received what is described as a long-term capital contribution of $100 million. On May 16, 2002, the Autry Museum received a third pledge for a $50,000 annual contribution. Upon the death of the donor, the donor's obligation to make the annual $6 million and $50,000 payments terminates. At that time, the $100 million pledge (referred to as a capital contribution) comes due.

The Friends have always assumed that the donor is Gene Autry's widow, Jackie Autry. An October 11, 2000 article in the *Los Angeles Times* more than justifies that assumption, reporting:

> Gene Autry's widow, Jackie Autry, has established a $100-million endowment for Griffith Park's Autry Museum of Western Heritage. The gift will help make the museum "a more public and self-supporting institution," said Autry, who is board chairman of the institution named in her husband's honor.[39]

The 2006 and 2005 Autry Museum financial statements, however, only refer to a "related party," with no specific name provided.[40]

It is still impossible to say whether there has been an outright pledge to the Autry Foundation by Mrs. Autry, whether there is an irrevocable trust that designates the Autry Foundation as its beneficiary, or whether some other estate-planning device will be used to fund the $100 million so-called capital contribution that becomes due when Mrs. Autry dies. Further adding to the confusion is evidence that a significant portion of the $6 million and $50,000 annual payments are being made directly to the Autry Museum by Mrs. Autry, rather than to the Autry Foundation as a conduit between Mrs. Autry and the Autry Museum.[41] There should be concern if the so-called $100 million capital

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[37] See note 12, *supra*.

[38] As noted in the text accompanying note 3, *supra*, the Autry Museum's 2000 Form 990-PF reports that the Pledge was made on December 31, 2000.

[39] Shauna Snow, *Arts and Entertainment Reports from the Times*, L.A. TIMES, Oct. 11, 2000.

[40] See Note 5 to the 2006 and 2005 Autry Museum financial statements.

[41] The five most recently available tax returns for the Autry Foundation report the following contributions to the Autry Museum (i) 2005—$1,003,500; (ii) 2004—$503,425; (iii) 2003—$1,503,810; (iv) 2002—$1,001,397; and (v) 2001—$922,221. Each of these amounts fall far short of the $6.050 million annual obligation under the Pledges, meaning that someone else is likely satisfying a significant portion of the

contribution is embodied in Mrs. Autry's will because wills can be changed. However, that seems unlikely given the fact the Autry Museum has consistently treated all the Pledges for accounting purposes as unconditional promises to give rather than conditional ones.[42] The point: Neither the Friends, nor the general public knew the exact terms of the Pledges at the time of merger despite the fact that the Pledges were the primary basis for it. Now the Los Angeles Department of Recreation and Parks and the City Council are reviewing a proposal for a major expansion of the Autry Museum's Griffith Park facility. The Autry Museum may have provided the department and the City Council with additional information, but that is not a certainty. If the department and City Council have not received additional information, both are presumably relying on the financial statements and tax returns referred to in this report to assess the Autry Museum's financial capacity to carry through on the proposed expansion. In that case, the department and the City Council both would be faced with incomplete and less than transparent disclosures regarding the Pledge, just as I and members of the public are.

$6.050 million annual obligation under the Pledges. The Autry Foundation's 2006 Form 990 return was not available through GuideStar as of the date of this report.

Somewhat surprisingly, the 2006 Form 990 for the Autry Museum that the Friends supplied to me included Schedule B, with the donor names displayed. It reports a $5,328,650 contribution from Mrs. Autry to the Autry Museum, but shows no contribution from the Autry Foundation to the Autry Museum. Under the Schedule B reporting requirements, it is possible that the Autry Foundation made a contribution to the Autry Museum during 2006, but that such contribution was not large enough to require that it be separately reported on Schedule B.

Schedule B to the Autry Museum's 2005 Form 990 reports a $1,003,500 contribution from the Autry Foundation, which is consistent with the contribution reported by the Autry Foundation on its 2005 Form 990.

[42] The Autry Museum's treatment of the Pledge is inconsistent with the treatment that would be required if the Pledge were made pursuant to Mrs. Autry's will. Example 16 in Appendix C to FASB No. 116 provides as follows:

> 207. In 19X0, Individual R notifies Church S that she has remembered the church in her will and provides a written copy of the will. In 19X5, Individual R dies. In 19X6, Individual R's last will and testament enters probate and the probate court declares the will valid. The executor informs Church S that the will has been declared valid and that it will receive 10 percent of Individual R's estate, after satisfying the estate's liabilities and certain specific bequests. The executor provides an estimate of the estate's assets and liabilities and the expected amount and time for payment of Church S's interest in the estate.
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> 208. The 19X0 communication between Individual R and Church S specified an intention to give. The ability to modify a will at any time prior to death is well established; thus in 19X0 Church S did not receive a promise to give and did not recognize a contribution received. When the probate court declares the will valid, Church S would recognize a receivable and revenue for an unconditional promise to give at the fair value of its interest in the estate (paragraphs 8 and 19-21). If the promise to give contained in the valid will was instead conditioned on a future and uncertain event, Church S would recognize the contribution when the condition was substantially met. A conditional promise in a valid will would be disclosed in notes to financial statements (paragraph 25).

B. **THREE DIFFERENT APPROACHES TO REPORTING THE PLEDGES FOR FINANCIAL STATEMENT PURPOSES**. The Autry Museum has not adopted one consistent approach to reporting the Pledges on its balance sheet. Instead, each set of financial statements[43] I have reviewed has taken its own unique approach.

1. **2002 MERGER AGREEMENT BALANCE SHEET**. The 2002 Merger Balance Sheet characterized the Pledges as current assets.[44] It contained no other information with respect to the Pledges. The Autry Foundation's identity as the primary donor was only revealed through my review of the Autry Museum's 2000 Form 990-PF.[45] That raises additional questions because the size of the Pledges far exceeded the Autry Foundation's then current financial assets (as reported on its Form 990-PF).[46]

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[43] For these purposes, I am treating the 2006 and 2005 financial statements as one set of statements, because the Autry Museum appears to have settled on a template for purposes of producing annual financial statements that are audited and now available to the public as a consequence of recently mandated disclosure requirements by the State of California.

[44] Even then, it does not characterize the Pledges as pledges, but rather, as receivables.

[45] For some reason, the Autry Museum filed two tax returns for its 2000 calendar year. Statement 1 to its 2000 Form 990-PF lists a contribution of $97,222,712 contribution from the Autry Foundation.

In an effort to learn more about the Pledges, I reviewed the Forms 990-PF for the Autry Foundation. Part II of the Forms 990-PF for 2005, 2004, and 2003 (Exhibit I) report no liabilities. Part II of the 2002 and 2001 Forms 990-PF reports $14,348 in liabilities. For 2000, Part II reports $26,619 in liabilities. If this were a financial statement prepared in accordance with GAAP, the Pledges would be recorded as liabilities. FASB No. 116, note 11, *supra*, mandates parallel treatment by the pledgor and the pledgee. Specifically, Paragraph 18 of FASB No. 116 provides:

> Contributions made shall be recognized as expenses in the period made and as decreases of assets or increases of liabilities depending on the form of the benefits given. For example, . . .unconditional promises to give cash are recognized as payables and contribution expenses.

Although discussions of FASB No. 116 generally focus on how the charity that receives a pledge is to account for it, the title (*Accounting for Contributions Received and Contributions Made*) refers to not only contributions *received*, but also to contributions *made*. Moreover, the opening summary to FASB No. 116 provides:

> Generally, contributions received, including unconditional promises to give, are recognized as revenues in the period received at their fair values. Contributions made, including unconditional promises to give, are recognized as expenses in the period made at their fair values.

It simply is not clear why the Autry Foundation did not report the Pledge as a liability in Part II to its Forms 990-PF. Given the asset balances, as described in note 46, *infra*, the Autry Foundation would have shown a significant negative net worth on Part II to its Forms 990-PF for the years in question if just the liability side of the pledge were reflected in the balance sheets. If, as I have raised as a possibility elsewhere in this report, Mrs. Autry made a corresponding pledge to the Autry Foundation, an offsetting asset would be created in the asset portion of Part II, assuming the pledge was not just a non-binding statement of intention.

[46] The Autry Foundation's 2000 Form 990-PF reports gross assets having a fair market value of $18.69 million on Line 16, Column C. Its 2004 Form 990-PF reported $17.36 million in gross asset value (Line 16, Column C). That is a long way from the amounts due under the Pledges. Assuming the Autry Foundation could obtain a 10% annual compound return, it would take at least 19 years to increase the

2. **2006/2005 FINANCIAL STATEMENTS**. The Autry Museum's 2006 and 2005 financial statements show a current book value for the Pledges of $103,312,211 and $100,950,645, respectively. Note 3 to the 2006 financial statements breaks all the pledges (including the Pledges) into three time-based component parts: (i) $8,661,981 due in less than one year; (ii) $26,581,651 due in one to five years; and (iii) $187,240,000 due in more than five years. The aggregate book value of the Pledges is reduced by a discount factor equal to $119,171,421, as described in Note 5 to the 2006 financial statements. Note 5 provides additional information regarding the Pledges, stating that the $119 million discount was determined by present valuing the future payments using an appropriate discount rate and taking into account Mrs. Autry's (referred to in Note 5 to the financial statements as the "related party") life expectancy under Internal Revenue Service tables.

3. **2000 AUTRY FINANCIAL STATEMENTS**. In 2002, the Autry Museum gave notice to the California Attorney General of a merger between the Autry Museum and Women of the West Museum (based in Boulder, Colorado). The Autry Museum submitted its 2000 financial statements to the California Attorney General, as part of the process.[47] Those statements took still a different approach to reporting the Pledges.[48] The balance sheet reported a portion ($6,470,279) of the Pledges as a current asset, and the remaining $91,369,899 as an asset outside of the current asset category.[49]

C. **THE 2002 MERGER BALANCE SHEET DOES NOT COMPLY WITH GAAP**. For over three decades, the FASB has been the organization charged with formulating GAAP. Its Statement No. 116 prescribes the proper accounting treatment for pledges. Paragraph 110 of that statement is quite clear in setting out the overarching considerations in reporting pledges for purposes of balance sheet presentation, stating:

> The Board concluded that donors and other users need information about promises to give to make informed decisions about allocation of

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Autry Foundation's asset value to a point where it could pay the Pledge. (Exhibit J). That unrealistically assumes no further expenditures. According to a study undertaken by Ibbotson Associates, the S & P 500 stock index returned an 11% annual return between 1926 and 2000. Of course, there is no reason for concern if there is an irrevocable trust or other estate-planning vehicle that will provide the Autry Foundation with sufficient assets to meet its obligation under the Pledges. But even if that is the case, was it appropriate for the Autry Museum to represent to its merger partner $98 million in *current* receivables when, in fact, a significant portion of the underlying value of those receivables would not be converted to spendable cash for at least two decades (as determined on an actuarial basis)?

[47] The Autry Museum appears to have submitted incomplete financial statements. The Friends reviewed the 2000 financial statements when it reviewed the files in the California Attorney General's office. According to a representative of the Friends, those statements did not include footnotes.

[48] At that time, Mrs. Autry had not yet made the pledge for the $50,000 annual payment to support a curator.

[49] It is possible that these amounts include other pledges, but I suspect that the bulk of these amounts is attributable to the Pledges.

> resources to not-for-profit organizations *and the information must report promises as faithfully as possible without coloring the image it communicates for the purpose of influencing behavior in any particular direction*.[50]
> [italics added]

Taking those considerations into account, FASB No. 116 requires that pledges be booked as current period revenue and as assets on the books of the charity.[51] Paragraph 20 of FASB No. 116 requires the use of a discount rate "commensurate with the risks involved," supporting the approach apparently taken in valuing the Pledges for purposes of inclusion in the 2006, 2005, 2002, and 2000 balance sheets. However, FASB No. 116 clearly mandates additional disclosure, providing:

> Recipients of unconditional promises to give shall disclose the following:
>
> a. The amounts of promises receivable in less than one year, in one to five years, and in more than five years;
>
> b. The amount of the allowance for uncollectible promises receivable.[52]

Note 3 to the Autry Museum's 2006 and 2005 financial statements follows that approach, breaking the Pledges into three parts based on when amounts will be due. Moreover, it is notable that the 2005 balance sheets drop the distinction between current and other assets.[53] Unfortunately the Friends have not been able to obtain the notes to the 2000 financial statements. The 2000 statements do not divide the Pledges into the three required categories in the main body of the balance sheet. However, the statements do divide the Pledges into two categories, one designated as current assets and the other as

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[50] Paragraph 110 is found in Appendix B, Basis for Considerations, to FASB No. 116.

[51] The FAS 116 Summary preceding the formal statement states:

> Generally, contributions received, including unconditional promises to give, are recognized as revenues in the period received at their fair market values.

Paragraph 3 of FASB No. 116, in defining the scope of FASB No. 116, provides that it "applies to contributions of cash and other assets, including promises to give." Paragraph 5 of FASB No. 116 states that contributions include "unconditional promises to give" cash or other assets in the future. Paragraph 8 of FASB No. 116 states that "contributions received shall be recognized as revenues or gains in the period received and as assets, decreases in liabilities, or expenses depending on the form of benefits received." I use the commonly used term "pledge" throughout this report to refer to what the Financial Accounting Standards Board refers to as "unconditional promises to give." See Paragraph 89 of FASB No. 116.

[52] Paragraph 24 of FASB No. 116.

[53] Interestingly, the 2006 financial statements reinstate the reference to current assets, but at least there is a footnote disclosure describing the extended payment schedule. As noted, there was no such disclosure accompanying the 2002 Merger Balance Sheet.

non-current assets. Although this treatment does not comply with the specific terms of FASB No. 116, it is much closer in spirit to the required treatment than the treatment of the Pledges in 2002 Merger Balance Sheet.

Both the 2006/2005 and 2000 treatments of the Pledges distinguish between valuation and timing. Anyone reviewing those statements would know that the bulk of the Pledges were unlikely to be collected within the next year.[54] On the other hand, the 2002 Merger Balance Sheet conflates the questions of timing and valuation, leading to the inappropriate conclusion that the entire amount was to be collected within the next year. That treatment is not in accordance with FASB No. 116, nor does it satisfy the overarching principle set out in paragraph 110 of FASB No. 116 that promises to give must be reported as faithfully as possible and without trying to color perceptions or influence behavior one way or the other.[55]

Finally, setting aside the questions surrounding the Pledge, there is a further question as to whether the 2002 Merger Balance Sheet complied with GAAP. That balance sheet does not distinguish between unrestricted, temporarily restricted, and permanently restricted assets, as required by GAAP.[56] This seemingly cavalier approach to a balance sheet representation made in connection with a transaction involving potentially hundreds of millions of dollars in value is troubling, particularly when institutions and other stakeholders changed their positions in reliance on it.

D. **THE 2002 MERGER BALANCE SHEET IS MISLEADING**.[57] Not only does the 2002 Merger Balance Sheet fail to comply with GAAP, but its presentation is misleading.[58] Most financial users view a *current* asset as something that is expected to

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[54] It is always possible that Mrs. Autry might unexpectedly die, triggering payment. However, the actuarial tables ignore that probability in the case of any particular individual.

[55] See note 50, *supra*.

[56] Financial Accounting Standards Board, Statement No. 117—*Financial Statements of Not-for-Profit Organizations*, June 2003, at Paragraph 13, Page 8. Paragraph 13 provides:

> A statement of financial position provided by a not-for-profit organization shall report the amounts for each of three classes of net assets—permanently restricted net assets, temporarily restricted net assets, and unrestricted net assets—based on the existence or absence of donor-imposed restrictions.

Paragraph 14 goes on to provide:

> Information about the nature and amounts of different types of permanent restrictions or temporary restrictions shall be provided either by reporting their amounts on the face of the statement or by including relevant details in notes to financial statements.

FASB No. 116 requires special disclosures in the case of contributions, requiring that, "A not-for-profit organization shall distinguish between contributions received with permanent restrictions, those received with temporary restrictions, and those received without donor-imposed restrictions." *FASB Statement No. 116*, note *supra*, at Paragraph 14, Page 7.

[57] See note 12, *supra*.

[58] *Id*.

be converted into cash within the next year. That is probably a good working definition.[59] Without further explanation, anyone reviewing the 2002 Merger Balance Sheet would be entitled to draw that conclusion.

1. **MY OWN EXPERIENCE IN PREPARING THIS REPORT**. One of the first documents I reviewed when the Friends asked me to prepare this report was the Merger Agreement, including the 2002 Merger Balance Sheet. This balance sheet included a $98 million balance for current receivables. Based on my conversations with the Friends, I assumed a significant portion of this balance included the Pledge. It was only after reviewing the Forms 990 and 990-PF for the Autry Museum, that I concluded that this assumption was correct. Even then, I had no idea as to the terms of that Pledge. Until the Friends were able to obtain the 2005 and 2000 financial statements, my working assumption was that the Pledge called for an immediate payment of just under $100 million, or at least full payment within one year from the 2002 Merger Balance Sheet date. That assumption was shaped by the classification of the receivables as current assets. I further assumed that the Autry Foundation had decided not to pay the Pledge until the Autry Museum actually needed the funds for construction of its addition to its Griffith Park facility, repairs to the Southwest Museum site, and other expenditures called for under the Master Plan.[60] That assumption was justified by the extraordinary control granted to the Autry Foundation (and consequently, Mrs. Autry) under the bylaws attached as Exhibit C to the Merger Agreement. In short, my initial and incorrect assessment regarding the Pledge stemmed solely from its characterization as a *current* asset.

2. **THE MERGER AGREEMENT DISCLOSURES DID NOT ADHERE TO STANDARD PRACTICES**. Anyone who has ever been involved in negotiating an agreement for the purchase of a business or the merger of two entities would likely arrive at the same conclusion that I initially reached. The representations and warranties in purchase and merger agreements are frequently the most heavily negotiated provisions in those agreements. It is not at all unusual to find numerous schedules containing exceptions to or information clarifying the representations and warranties. When it comes to the Merger Agreement, there is absolutely no exception or further explanation regarding the $98 million in *current* receivables. Given this unqualified representation, any reasonable person would conclude that there was $98 million of *current* value associated with the

[59] Accounting Research Bulletin N. 43, Chapter 3A, "Working Capital—Current Assets and Current Liabilities" offers a more precise definition for the term "current asset" as one that is "reasonably expected to be realized in cash or consumed during the normal operating cycle of the business." Given the time limitations imposed on me, I am unable to develop a full analysis of the concept of "normal operating cycle," but I suspect and assume that the Autry Museum's normal operating cycle is most likely a year.

[60] Section 13(i) of the Agreement and Plan of Merger, note 1, *supra*, required the Autry Museum to:

> undertake a thorough analysis and collaborative planning process regarding the combination of the Autry and Southwest to be completed no later than September 30, 2003 (the "Master Plan") which shall include, among other items: (i) facility reports which will analyze structure of facilities of Southwest and Autry existing as of the date hereof; and (ii) plans relating to capital and endowment campaigns.

receivables (which included the Pledges). Yet, five years following the merger, little of that value has been converted into cash,[61] contrary to its classification as a *current* asset.

3. **THE OBVIOUS QUESTION**: Why did the Autry Museum's approach in the 2002 Merger Balance Sheet differ so radically from the approach it took with respect to the Pledges in 2000 and 2006/2005? The Pledges are included as part of the $103 million and $101 million receivables balances shown in both the 2006 and 2005 financial statements,[62] but Footnote 3 to the financial statements provides the required aging schedule for payments under the Pledges and Footnote 5 provides a limited description of the Pledges and how they are valued. In stark contrast, the entire value of the Pledges was classified as a *current* asset on the 2002 Merger Balance Sheet, with no further explanation. Only those who approved these disclosures on behalf of the Autry Museum can explain their motivations and rationales. Whatever the answer, it does not justify or excuse what was a failure to comply with GAAP in assembling the 2002 Merger Balance Sheet that the Merger Agreement required to be GAAP compliant. Nor does it justify or excuse creating an impression that is clearly misleading.[63]

E. **THE AUTRY MUSEUM'S ALLEGED FINANCIAL SUPERIORITY IS OPEN TO SERIOUS QUESTION.** As previously noted, the merger between the Autry Museum and the Southwest Museum has been consistently characterized as a merger between a cash-rich institution (Autry Museum) and a financially strapped museum with a priceless collection (Southwest Museum).[64] The facts do not support that characterization. More important, the 2002 Merger Balance Sheet's inappropriate and misleading[65] treatment of the Pledges obscures the true facts.

1. **REMOVING THE PLEDGES FROM THE PRESENTATION**. Exhibit K to this report contains a comparative analysis of the tax return data for the Autry Museum and the Southwest Museum. Anyone examining the data will have difficulty arguing that there was any material difference between the financial conditions of the two museums immediately prior to the merger once collections, facilities, and equipment are removed

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[61] This assumes that there has not been a material acceleration of payments under the Pledges since December 31, 2006, the date of the last set of financial statements made available to me by the Friends.

The $25 million conditional promise referred to in Note 2 to the 2006 Autry Museum financial statements appears to be an additional commitment of funds rather than an acceleration of the portion of the Pledge characterized as a long-term capital contribution in Note 5 to the Autry Museum financial statements. Appearances, however, could be misleading. The terms of the Pledge, which are unknown, could conceivably provide that any additional contributions by Mrs. Autry or the Autry Foundation reduce the $100 million long-term capital contribution. Whether that is the case might be clarified by future financial statements and the release of the documents embodying the Pledge.

[62] Note 5 to both the 2006 and 2005 Autry Museum financial statements.

[63] See note 12, *supra*.

[64] See notes 34, 35, and 36, *supra*, and the accompanying text.

[65] *Id*.

from the analysis, particularly in view of the size of the Pledges, which far exceed all other assets. In fact, it is possible to argue that the Southwest Museum was the stronger of the two if the focus is on net liquid worth. Exhibit K should be reviewed in its entirety, but the following two tables capture the essence of the balance sheet and income statement numbers:

Net Liquid Worth	**1999**	**2000**	**2001**	**2002**
Southwest Museum	$5,966,867	$4,932,682	$5,794,322	$5,632,114
Autry Museum	$3,979,235	$3,066,800	$2,930,259	$3,751,148
Excess of Southwest Museum's Net Liquid Worth Over Autry Museum's	$1,987,632	$1,865,882	$2,864,063	$1,880,966

Operating Cash Flow	**1999**	**2000**	**2001**	**2002**
Autry Museum	$3,323,395	$78,548	$176,436	$2,225,333
Southwest Museum	-$152,726	-$1,023,373	$998,470	$74,787
Excess of Autry Museum's Operating Cash Flow Over Southwest Museum's	$3,476,121	$1,101,921	-$822,034	$2,150,546

Does the analysis conclusively demonstrate that the Southwest Museum is actually the more financially sound institution when collections, buildings, and the Pledge are removed from the analysis? Absolutely not, but at the same time, the analysis conclusively demonstrates that the two institutions were in relatively similar positions in terms of liquid assets and operating cash flow. On average, the Southwest Museum had just under $2.14 million more in net liquid assets than the Autry Museum in the four years leading up to the merger. On the other hand, the Autry Museum was generating significantly more operating cash flow in those years; on average $1.48 million more. No doubt without special grants, the Southwest Museum's recurring operating cash flow deficits would have eventually consumed its net liquid worth if those deficits continued unabated.

But the fundamental contention underlying the merger was that the Autry Museum was in a position to fund massive capital expenditures, additions to endowment, and operating shortfalls because of $98 million in current assets. The actual differences, as reflected in the above schedules, between the two museums are immaterial when considered in relation to that $98 million number.

Undoubtedly the Autry Museum's representatives will point out that Southwest Museum is on a June 30 fiscal year while the Autry is on the calendar year, meaning that the same periods are not being compared. That is a legitimate point, but in all likelihood not a material one in terms of the basic analysis and conclusions. They might also point to the Southwest Museum's need for additional funding from the Autry Museum in the months leading up to the merger as a sign of financial weakness. That line of reasoning is specious. The potential for a merger or other major restructuring was widely reported in mid-2001,[66] making it likely that many of the Southwest Museum's traditional contributors ceased making contributions to the museum until the uncertainty was resolved.[67] A decline in support due to uncertainty cannot be equated with a decline in support due to lack of interest.

On the 2002 Merger Balance Sheet, the Autry Museum reported that its collection added some $30 million to its net worth, while the Southwest Museum reflects no value for its collection on the balance sheet it included as an exhibit to the Merger Agreement.[68]

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[66] James Sterngold, *Cowboys and Indians Vie, Politely, for a Museum: A Los Angeles Collection Considers Two Suitors,* N.Y. TIMES, Aug. 28, 2001; and Suzanne Muchnic, *Southwest Museum Seeks Ways to Break Out of Box,* L.A. TIMES, June 2, 2001.

[67] In fact, there is evidence supporting this supposition. The *L.A. Times*, in summarizing an interview with Duane King, the Southwest Museum's director, suggested that the uncertainty was having an impact on private benefactors to provide funding. *Southwest Museum Seeks Ways*, note 66, *supra*. In May 2002, the *New York Times* reported that the uncertainly had adversely affected donations, causing "some important donors [to] pull[] back until the future became clearer." James Sterngold, *New Travails for a Struggling California Museum,* N.Y. TIMES, May 26, 2002.

[68] It is notable that FASB No 116 permits museums and other cultural institutions to either capitalize a collection or ignore it for balance sheet purposes if the collection is: (i) held for public exhibition, education, or research in furtherance of public service rather than financial gain; (ii) protected, kept unencumbered, cared for, and preserved; and (iii) subject to an organizational policy that requires the proceeds of items that are sold to be used to acquire other items for the collection. I suspect that those conditions were satisfied in the case of both the Autry Museum and the Southwest Museum. The Autry Museum chose to reflect the value of the collection in the financial statement exhibit to the Merger

The Southwest Museum reports under $1 million attributable to its land, building and equipment, while the Autry Museum reports its land, building, and equipment at close to $23 million. I have never seen either collection and certainly have no experience valuing collections, but every account I have read suggests that the pre-merger value of the Southwest Museum's collection far surpassed the pre-merger value of the Autry Museum's collection. Consequently, a good case can be made that the book values assigned to tangible assets by both institutions are relatively meaningless in terms of actual values, most likely reflecting different acquisition and placed-in-service dates, as well as differences in accounting policies. The larger point remains true: The Autry Museum was not in much better financial condition than the Southwest Museum once the Pledge is removed from the analysis. Ignoring the Pledge is appropriate given the fact that a significant portion of it will not be converted into cash for some two decades when actuarial tables are taken into account.

2. **THE ANNUAL $6.050 MILLION ANNUITY IS NOT EVEN SUFFICIENT FOR THE PRE-MERGER AUTRY MUSEUM'S NEEDS**. Autry Museum officials are likely to argue that even if the $100 million pledged long-term capital contribution is ignored, the $6.050 million annuity is a significant asset, placing the Autry Museum in far superior financial position than the Southwest Museum at the time of the merger. There is some logic to that argument, but it is nevertheless seriously flawed, as the schedule in Exhibit L reveals,[69] which summarizes the Autry Museum's operating results in years before and after the merger (2000-2006).

For the three years preceding the merger the annual payment under the Pledges appear to have been necessary to keep the Autry Museum operating anywhere close to breakeven. In fact, in two of those years (2001 and 2000), the Autry Museum was operating at a deficit despite the apparent cash contributions from Mrs. Autry and the Autry Foundation. Over the three-year period (2002, 2001, and 2000) preceding the merger, the Autry Museum generated a $311,481 deficit despite apparently receiving

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Agreement while the Southwest Museum did not. In its 2007 financial statements, the Metropolitan Museum of Art, one of the largest museums in the world, states:

> In conformity with accounting policies *generally followed by art museums*, the value of the Museum's collections has been excluded from the Balance Sheet, and gifts of art objects are excluded from revenue in the Statement of Activities.
> [italics added]

[69] Except as noted below, the numbers in Exhibit L are taken directly from the tax returns for the Autry Museum. Some of the expenses shown on those tax returns probably do not represent current cash expenditures. There is some indication that some of the revenue was either additional pledges or in-kind contributions. An analysis based on cash flow admittedly would be more accurate. However, given the fact that the focus is on the $98 million current asset representation, I suspect that the analysis would not change in any material way were the numbers all cash based. Moreover, the allowance for depreciation is not an entirely meaningless one. It does represent the deterioration of assets that will presumably need to be replaced.

The Autry Museum's audited financial statements for 2006 and 2005 do include a statement of cash flows that provides cash flow information for 2006, 2005, and 2004. This information is included in the last row of Exhibit L.

millions of dollars in payments from the Pledges. These numbers are derived from tax return data. The three years (2006, 2005, and 2004) for which audited financial statements are available show that the Autry Museum's operations generated a cumulative $9,023,539 operating cash flow deficit.[70]

Yet, the merger was predicated on the notion that the "$100 million endowment" that the media kept reporting would not only cover the Autry Museum's operating needs, but be available to assist the Southwest Museum operations and the expansion plans. Although an annual $6.050 million payment is significant, it was the $100 million long-term capital contribution that was critical element in funding everyone's expectations. However, that $100 million asset will not be convertible into spendable cash for some 24 years following the merger when the actuarial tables are taken into account. In short, the $6.050 million annual payment represents a significant asset on an absolute basis, however, as an asset, it comes nowhere close to meeting the combined needs and plans that everyone had for the post-merger entity.

VI. IMPLICATIONS FLOWING FROM IMPROPER ACCOUNTING TREATMENT

There are a number of serious implications flowing from the inappropriate treatment of the Pledges in the 2002 Merger Balance Sheet.

A. **SOUTHWEST BOARD MIGHT HAVE CHOSEN ANOTHER ALTERNATIVE**. Prior to entering into the Merger Agreement, the Southwest Museum had a number of alternatives available to it. It had talked with the Smithsonian Institution, the J. Paul Getty Trust, and a Native American tribe about possible combinations or other arrangements. I do not know what each member of the Southwest Museum board knew about the Pledges or the financial condition of the Autry Museum. It is likely that they knew about the Pledges, but it is certainly conceivable, given the media accounts and the 2002 Merger Balance Sheet representation, that some Southwest Museum board members believed that the Autry Museum had a $100 million immediately available to it

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[70] Focusing once again on tax return data, it is not entirely clear that the $6.050 million annual payment under the Pledges is included in the gross and net revenue figure, but it appears likely. The Schedule B attached to the 2005 Form 990 for Autry shows aggregate contributions from the Autry Foundation and Mrs. Autry of $6,687,752 and the 2006 return shows a contribution from Mrs. Autry of $5,328,650 and no contribution from the Autry Foundation. On average, these contributions amounted to $6,008,201 per year, which is very close to the $6.050 million annual commitment reflected by the Pledges. If these amounts are included in the gross and net receipts reflected on the tax returns, that means that without these amounts, the Autry Museum ran a $9,744,037 cumulative deficit ($115,708 [2006] + $2,156,657 [2005] – $12,016,402[2006 and 2005 Pledge Payments]) for the years 2006 and 2005 based on its tax returns. Turning from the tax returns to the Autry Museum's audited financial statements, the Statement of Cash Flows for those same years included as part of the Autry Museum's financial statements reports a cumulative operating cash flow deficit of $5.89 million. Much more work and a conversation with the Autry Museum's chief financial officer would be necessary to reconcile the tax and financial statement numbers. But from a ballpark perspective, both sets of numbers point to operating deficits, or at least insufficient cash flow to be used to finance increases in endowment and major expansions and renovations to physical plant. That fact once again points to the problem with classifying the long-term capital contribution as a current asset on the 2002 Merger Balance Sheet.

on an unrestricted basis. If that was their belief, they certainly might have been far less receptive to the merger between the Southwest Museum and the Autry Museum had they known the full terms of the Pledges. As I have already noted, there is a significant difference between $100 million today and $100 million in 24.4 years.

A review of the Merger Agreement makes clear that the Autry Museum was the entity with the bargaining power in this relationship. Specifically, Exhibit C to the Merger Agreement includes the bylaws (as amended and restated through March 4, 2003) of the Autry Museum. Article III of the bylaws contains the provisions governing directors. One-third of the then existing board was designated by the Autry Foundation.[71] Only three of the directors were directors of the Southwest Museum prior to the merger, and they were subject to term limits.[72] The Autry Foundation had the power to appoint the Autry Museum's legal counsel[73] and the chairman of the board of directors.[74] Section 13(j) required the parties to use all efforts to build a new facility adjacent to the existing Autry Museum, while another provision only required reasonable efforts[75] to keep the Southwest Museum facility open, and then, only after a study had determined the structural modifications were feasible. It is not at all clear whether the Southwest Museum board would have agreed to these provisions if it had completely understood the nature of the Pledges.[76]

B. **COMMUNITY OPPOSITION MIGHT HAVE BEEN STRONGER**. Several media accounts report significant community opposition to the merger between the Southwest Museum and the Autry Museum. For example, on March 14, 2003, the *Los Angeles Times* began an article with the following description:

> Leaders of the Autry and Southwest museums, who delayed their merger efforts last month when the Southwest's neighbors called for reassurances over the fate of its historic Mount Washington building,

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[71] Section 2, Article III of the Autry Museum's amended and restated March 4, 2003 bylaws provides for between 9 and 15 directors. Those bylaws name 12 directors.

[72] *Id*., at Section 5, Article III.

[73] *Id*., at Section 3, Article III.

[74] *Id*.

[75] Section 13(j)(iii) of the Agreement and Plan of Merger, note 1, *supra*.

[76] There is evidence that the Autry Museum has recently altered its corporate structure, providing for a much larger board. The information posted on the California Attorney General's Web site now includes dozens of trustees. I do not know whether this change and other changes strengthened the Autry Foundation's legal control over the Autry Museum, but that is certainly a possibility. It may seem counter-intuitive, but larger boards often increase the level of control exercised by executive officers and a designated executive committee by diminishing the potential impact that a board member outside the inner circle has in the decision-making process.

> have not only mended fences with the community but sealed details of their partnership with a joint-board vote.[77]

What is particularly notable about this article is a later passage quoting one of the community leaders as expressing appreciation over the Autry Museum's willingness to participate in a "getting-to-know-you process." That sentence is followed by the following assessment of the Autry Museum's financial condition:

> The Autry was founded in 1988 with the mission of exploring Western history alongside the pop-culture mythology of the region. Its plump bank accounts include a $100-million endowment donated in 2000 by Jackie Autry, widow of singing cowboy Gene Autry.[78]

This is clear mischaracterization of the $100 million long-term capital contribution, which was actuarially due some 24 years hence. From working with the Friends, it is clear to me that little was known about the terms of the Pledges, making it very likely that many in the community were relying on inaccurate press accounts like the one in the *Los Angeles Times*. Given the fact that the community was primarily concerned with restoration of the Southwest Museum site and its continued use as a museum, it is hard for me to believe that the community would have supported the merger had they realized that the $100 million endowment referred to in the *Los Angeles Times* story[79] could not be spent for more than two decades.

C. **THE CALIFORNIA ATTORNEY GENERAL MIGHT NOT HAVE "APPROVED" THE MERGER**. Section 6010 of the California Corporations Code required the Southwest Museum and the Autry Museum to provide the California Attorney General with 20 days notice of the merger before consummating it.[80] In theory, the transaction did not require the consent of the California Attorney General. However, some of the correspondence in the documents that the Friends provided to me does indicate that the California Attorney General undertook some review and was willing to at least listen to concerns expressed by interested stakeholders.[81] I suspect that although the statutes don't require the

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[77] Christopher Reynolds, *Autry and Southwest Museums Seal a Deal: Officials Mend Fences with Neighbors and the Two Boards Vote on the Merger, Which Includes a Joint October Exhibit,* L.A. TIMES, Mar. 14, 2003.

[78] *Id*.

[79] Christopher Reynolds, *Autry and Southwest Museums Seal a Deal*, note 77*, supra*.

[80] California Attorney General, Guide for Charities at p 37 (Revised 2005). See also Section 3(b) of the Agreement and Plan of Merger, note 1, *supra*

[81] Letter from Nicole Possert for the Friends of the Southwest Museum Coalition, dated April 11, 2003, to James Cordi, Supervising Deputy Attorney General, California Department of Justice raising concerns about the Autry Foundation's role, particularly its rights under the proposed bylaws; and Letter from James Cordi, Supervising Deputy Attorney General, California Department of Justice, dated April 22, 2003, to Nicole Possert indicating that the Department of Justice already had sufficient material. Attached to that letter is a letter from David W. Cartwright of O'Melveny & Meyers LLP. His letter is directed at apparent concerns that the new institution honor donor restrictions.

California Attorney General's consent per se, an apparent informal review was undertaken by the California Attorney General, with a focus on the ability of the surviving entity to protect charitable assets and adhere to existing donor restrictions applicable to those assets.[82] If my suspicions are correct, the representation that the Autry Museum had $98 million in unrestricted *current* receivables may have influenced the review and the willingness of the California Attorney General to intervene. After all, a $98 million infusion of *current* assets certainly would appear to go a long way toward assuring that a valuable collection of artifacts would be properly protected and displayed as the donors of those objects would have desired. Yet, as I have demonstrated, the characterization of the Pledges on the 2002 Merger Balance Sheet was both misleading[83] and noncompliant with GAAP.

D. **PHILANTHROPIC COMMUNITY APPARENTLY SEES $100 MILLION DEFERRED CAPITAL CONTRIBUTION PLEDGES FOR WHAT IT IS**. I can only speculate as to the strategy that Mrs. Autry and the Autry Foundation had when they decided to defer the $100 million capital contribution. It may be that they viewed a current gift of $100 million as being equivalent to a deferred gift of $100 million, together with an annual $6.050 million contribution. In effect, Mrs. Autry and the Autry Foundation could be viewed as keeping the $100 million endowment for the foreseeable future, but turning the annual income on the endowment over to the Autry Museum. They must have assumed that members of the philanthropic community would be willing to make significant contributions to the Autry Museum given the steady and significant ($6.050 million)

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[82] See Thomas Silk, *Corporate Scandals and the Governance of Nonprofit Corporations: What Every Director, Officer, and Advisor of Nonprofit Corporations in California Should Know About Corporate Responsibility Rules*, September 2002, discussing California's charitable trust doctrine. The California Supreme Court first enunciated the doctrine in *Pacific Home v. County of Los Angeles*, 41 Cal.2d 844, 852 (1953), stating:

> all the assets of a corporation organized solely for charitable purposes must be deemed to be impressed with a charitable trust by virtue of the express declaration of the corporation's purposes, and notwithstanding the absence of any express declaration by those who contribute such assets as to the purpose for which the contributions are made. In other words, the acceptance of such assets under these circumstances establishes a charitable trust for the declared corporate purposes as effectively as though the assets had been accepted from a donor who had expressly provided in the instrument evidence the gift that it was to be held in trust solely for such charitable purposes.

Silk points out that:

> Charitable trust restrictions, once imposed, continue to apply to assets impressed with a charitable trust even if a corporation later changes its purposes, dissolves and distributes its assets, or transfers its assets to a another charity without receiving full consideration. Charitable restrictions, once imposed, also continue to apply to the proceeds from the sale or lease of any charitable assets.

The charitable trust doctrine presumably serves as the basis for the California Attorney General's informal review of the merger despite the fact that the statute only requires notice to be filed.

[83] See note 12, *supra*

stream of annual support from Mrs. Autry and the Autry Foundation. That possible assumption is arguably reflected in the $100 million capital campaign called for by Section 13(h) of the Merger Agreement. The Autry Museum was required to begin that campaign in 2004.

Whatever the strategy, it appears to have been a misguided one. The philanthropic community so far has not been convinced of the need; at least that is what its lackluster response suggests. Through December 31, 2006, that capital campaign has only produced $20.83 million in contributions, just over 20% of its goal.[84] That amount falls far short of what everyone understood the various commitments would require. The parties had estimated at one time that the Autry Museum would require $15 million to renovate and repair the Southwest Museum site and an additional $38 million was needed for endowment.[85] No one appears to have put an estimate on the expansion of the Autry Museum's Griffith Park facility, but it surely must be in the tens of millions of dollars. Apparently the philanthropic community believes there is money available to fund the various needs. Rather than committing new funds, it might be sending a message to Mrs. Autry and the Autry Foundation, telling them to first fulfill their existing commitments by accelerating payments.

VII. Conclusions

My overall conclusions were expressed as part of the Executive Summary. In light of those conclusions, the California Attorney General should undertake a *de novo* review of the merger. Any prior review was based on a review of financial statements containing a material deficiency. That deficiency undercut the entire rationale for the merger.

Now that I have raised these questions regarding the nature of the Pledge and the financial issues that follow, the Los Angeles Department of Parks and Recreation and other Los Angeles government officials who are involved in the decision to cede valuable City parkland to the Autry Museum for what could be many more years should demand that the Autry Museum and the related parties disclose the full terms of the Pledge. Moreover, the department and these officials should undertake an independent financial

[84] Note 8 to the 2006 and 2005 Autry Museum financial statements reveals "contributions" of $8,645,984 for 2006, $7,959,410 for 2005 and $4,229,085 for 2004. These lackluster results once again prove the old adage "That a bird in the hand is worth two in the bush." That is exactly why full and accurate disclosure of the payment schedule for the Pledge in the 2002 Merger Balance Sheet was so critical to an informed decision.

[85] *Autry and Southwest Museums Seal Deal*, note 27, *supra*. In fact, the Autry Museum commissioned a study by Brenda Levin & Associates to assess the historic structures and the Southwest Museum site. The Levin consultant team was charged by the Autry Museum to determine what it would take to rehabilitate the Southwest Museum Building to modern museum standards for display and exhibition and consistent with U.S. Secretary of Interior Standards for historic preservation. The resulting report documented that it was both physically and economically viable to rehabilitate the Southwest Museum and continue its historic museum use. This third party report established the baseline of what was needed for the Autry Museum to continue to use the Southwest Museum as a museum. Consistent with newspaper reports, the report indicated that under one option, the capital cost for rehabilitation would be $16.2 million. Under another option, the capital cost would be $22.8 million.

analysis as to whether the Autry Museum has the financial capacity to bring its proposal to fruition, to support the expanded museum, and to fulfill its obligations to the Southwest Museum under the Merger Agreement. Such an analysis may not be required by the California Environmental Quality Act,[86] but public officials who are committing public resources for use by a private entity would be prudent to undertake such an analysis regardless of basic legal requirements.

As the Friends acknowledge, there was never any guarantee under the Merger Agreement that the Mount Washington facility would continue to function as a museum. That said, the Merger Agreement required that a Master Plan be completed within six months to determine whether reasonable efforts could be taken to maintain the site as a museum. According to the Friends, that Master Plan has never been undertaken, or at least never publicly disclosed,[87] but the Southwest Museum rehabilitation report prepared by Brenda Levin and Associates did find that rehabilitation of the Southwest Museum to museum standards was feasible and economic. Yet, those who now control the Mount Washington site have apparently taken steps to change its use from a museum to an alternative use, or at least they have not been clear regarding their current intentions. This calls into question their original intentions.

Those who wanted to save the Southwest Museum and preserve its facility as a museum were undoubtedly enticed by the $98,178,777.34 in current receivables listed on the 2002 Merger Balance Sheet. The problem is that those receivables were anything but *current*.

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[86] As someone who is largely unfamiliar with this act and who is not licensed to practice law in California, I am unable to determine or comment on whether the act requires a financial analysis.

[87] That is stark contrast to the plan for the Griffith Park expansion of the Autry Museum, which is featured on the Autry Museum's Web site, including descriptive material, artist renderings, floor layouts, timelines, a video walk-through, and a draft environmental impact report.

EXHIBIT A
AUTRY MUSEUM 2002 MERGER BALANCE SHEET

A REPORT ADDRESSING CERTAIN FINANCIAL ISSUES PERTAINING TO THE 2003 MERGER BETWEEN THE AUTRY MUSEUM OF WESTERN HERITAGE AND THE SOUTHWEST MUSEUM

Table of Contents

AGREEMENT AND PLAN OF MERGER

(Autry National Center of the American West)

THIS AGREEMENT AND PLAN OF MERGER dated March 4, 2003, is between **THE AUTRY WESTERN HERITAGE MUSEUM**, a California non-profit corporation formerly known as the Gene Autry Western Heritage Museum (the "***Autry***"), and **THE SOUTHWEST MUSEUM**, a California non-profit corporation (the "***Southwest***").

A. The Southwest and the Autry presently provide deep and rich collections, and offer important opportunities for scholarly research. Both institutions are active participants in public and community activities.

B. At present, however, there is no institution in the United States which comprehensively provides the broad historical reach and in-depth collections ideally suited to meet the needs of the public and of scholars interested in the cultures of the West. Southwest and Autry recognize the strong connections and complementary characteristics and strengths of their respective missions and collections, and further recognize that, together, the institutions can become the pre-eminent repository of the history and cultures of Western America, from the societies of the American Indian, through the Northern Frontiers of New Spain and Mexico, to the realities and myths of the American West. In combination, the institutions could offer to the public and to scholars the most significant and comprehensive research and exhibit facilities on these subjects in the country.

C. Accordingly, the Board of Directors of the Autry and the Board of Trustees of the Southwest deem it advisable and in the best interests of the Autry and the Southwest, respectively, that the Autry and the Southwest collectively create the Autry National Center of the American West (the "*Center*") in accordance with this Agreement, by:

(1) amending the articles of incorporation of the Autry to change its name to the "Autry National Center of the American West" and amending and restating its bylaws as provided for herein; and

(2) merging the Southwest with the Center in accordance with the provisions of the California Nonprofit Public Benefit Corporation Law (the "*Act*").

D. The parties wish to enter into this agreement to set forth their respective obligations in connection with the formation of the Center and the merger.

IN CONSIDERATION of the foregoing recitals and the mutual covenants contained herein, the parties agree as follows:

1. Status.

(a) Surviving Corporation. The Autry is a California non-profit corporation, with Employer Identification No. 95-3947744. The Autry has no members as defined in the Act. A copy of the IRS letter, determining that the Autry is a public charity under Internal Revenue Code ("*IRC*") Section 509(a)(1) and 170(b)(1)(A)(vi) is attached as Exhibit A. There has been no change to this status since the date of the letter.

(b) Disappearing Corporation. The Southwest is a California non-profit corporation with Employer Identification No. 95-1661698. The Southwest has no members as defined in the Act. A copy of the IRS letter, determining that the Southwest is a public charity shall file its 2002 return no later than June 30, 2003 and concurrently provide the Autry a copy of same for review. Southwest's current tax returns and the audited financial statements are being prepared by Rothstein, Kass & Company. Southwest has made all necessary and appropriate state tax and regulatory filings for the past ten (10) years. Southwest shall provide Autry access to true and correct copies of all of such filings.

(e) Employee Status. Southwest represents and warrants to the Autry that it has no employees as of the date of this Agreement except as disclosed in Schedule C to the Southwest Certificate (*"Southwest Employees"*), and that said Schedule C fully describes the status and any employment or termination agreements of such employees on or prior to the Effective Date. Except for any such employee benefits described in the schedule of surviving contracts and agreements attached as Schedule B to the Southwest Certificate, Schedule C also fully describes the status of any employee benefit programs (including life insurance and health insurance programs) applicable to such employees on or prior to the Effective Date.

(f) Retirement Plans. Southwest does not have any retirement system or obligations respecting any past or present employee, except for plans, if any, described on Schedule C to the Southwest Certificate, true and correct copies of which plans have been provided to the Autry prior to the date of this Agreement.

(g) Title. The Southwest's collection is summarized in Schedule D to the Southwest Certificate. Southwest represents and warrants that said Schedule D is accurate in all material respects. The Autry shall have access to the individual records of the collection which are maintained electronically or in written form at the Southwest. With respect to title to the Southwest's collection on an overall basis, in all material respects to the best knowledge of the Southwest (which for purposes of this provision shall mean the actual knowledge of any of the Chairman, President, Secretary and Executive Director of the Southwest), the Southwest holds defensible title to its collection except as otherwise disclosed in said Schedule D or in Schedule E. In addition, there have been no written claims or disputes (or written threats thereof) of any kind concerning the Southwest's title to any items in its collection, except: *(i)* as specifically disclosed in said Schedule D, *(ii)* for any restrictions and conditions with respect to any item in the collection set forth in the deed of gift or other instrument applicable to the acquisition of such item, *(iii)* for any such claims or disputes made more than ten (10) years prior to the date of this Agreement which have not been pursued or followed up in writing during such ten-year period, *(iv)* for certain claims under NAGPRA (the Native American Graves Protection and Repatriation Act), and *(v)* for claims or disputes which have been resolved.

(h) No Claims or Litigation. Except as specifically disclosed in Schedule E to the Southwest Certificate, there are (i) no outstanding claims or litigation against the Southwest or its collection, and (ii) no threatened claims or litigation known to the Southwest. For the purposes of this paragraph, *"claims"* or *"litigation"* cover the Southwest and its collection, including tort-based claims, insurance claims, title issues, contract disputes, real property disputes and any other area where the Southwest has direct material interests.

8. Representations and Warranties of Autry.

Reference is made to that Certificate of even date herewith (the *"Autry Certificate"*) executed by the Autry in favor of the Southwest. Autry represents and warrants to the Southwest that:

(a) Exempt Status. The information provided in Section 1(d) is true and correct.

(b) Authorization. Subject to Section 3: (i) the execution and delivery of this Agreement by Autry, the performance of its obligations hereunder and the consummation of the Merger, have been duly and validly authorized by all necessary corporate action on the part of Autry; and (ii) Autry has duly executed and delivered this Agreement, and this Agreement is a legal, valid and binding obligation of it, enforceable in accordance with its terms (except insofar as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally, or by principles governing the availability of equitable remedies).

(c) Assets and Liabilities. The Autry certifies that the balance sheet attached Schedule A to the Autry Certificate presents fairly, in all material respects, the assets and liabilities of the Autry, in accordance with GAAP, as of December 31, 2002.

(d) Tax Matters. Autry has made all necessary and appropriate federal tax filings for the past ten (10) years. Autry certifies that its 2001 federal tax filing is true and correct in all material respects and there have been no material adverse changes to the Autry's financial position or tax status since the period covered by such filing. Autry shall file its 2002 return no later than June 30, 2003 and concurrently provide Southwest a copy of same for review. Autry's current tax returns and the audited financial statements are being prepared by KPMG LLP (formerly known as KPMG Peat Marwick LLP). Autry has made all necessary and appropriate state tax and regulatory filings for the past ten (10) years. Autry shall provide Southwest access to true and correct copies of all of such filings.

9. Pledges. The SW Balance Sheet reflects the amount of certain donor pledges totaling approximately $200,000 as of December 31, 2002, the funds of which have not been received by the Southwest prior to the date of this Agreement. The Southwest and the Autry shall use all reasonable efforts to cause such pledges to be funded to the Southwest prior to the Effective Date and to the Center after the Effective Date.

10. Covenants Pending the Merger Effective Date. During the period between the date of this Agreement and the Effective Date or the earlier termination of this Agreement (the *"Transition Period"*), the Southwest and the Autry shall, to the extent permitted by law, commence the integration of their operations, pursue the collective fundraising required to accomplish the initial objectives of the Center In addition, the following provisions of this Section 10 shall apply:

(a) Museum Board Augmentation. Three persons jointly designated by Southwest and Autry from the Autry Board or Autry Trustees shall be invited as observers to all Southwest Board meetings throughout the Transition Period. Three persons jointly designated by Southwest and Autry from the Southwest Board shall be invited as observers to all Autry Board meetings throughout all the Transition Period.

(b) Creation of Center. The internal organization of the Center shall be developed during the Transition Period. Separate museum boards shall continue to operate. Action by the boards of both the Autry and the Southwest shall be needed to act on any major matters impacting the Center. An unofficial Center Board shall be formed for purposes of transition by mutual agreement.

(c) Transition. Southwest and Autry shall collectively take steps to integrate fundraising, marketing, grant applications, organization, and to facilitate the Center's expansion and appropriate utilization of the Southwest and Autry sites.

AUTRY CERTIFICATE

(Autry National Center of the American West)

THIS CERTIFICATE is executed as of March 4, 2003, by **THE AUTRY WESTERN HERITAGE MUSEUM**, a .ifornia non-profit corporation formerly known as the Gene Autry Western Heritage Museum (the *"Autry"*), in favor of **THE ɔOUTHWEST MUSEUM**, a California non-profit corporation (the *"Southwest"*), pursuant to that Agreement and Plan of Merger of even date herewith (the *"Merger Agreement"*) between the Autry and the Southwest.

IN CONSIDERATION of the covenants and agreements in the Merger Agreement, the Autry hereby represents and warrants to the Southwest that the balance sheet attached hereto as Schedule A presents fairly, in all material respects, the assets and liabilities of the Autry, in accordance with generally accepted accounting principles, as of December 31, 2002.

IN ADDITION, the Autry acknowledges and hereby confirms its belief that the value of the merger in accordance with the terms and restrictions in the Merger Agreement (including but not limited to restrictions applicable to de-accessioning any part of the former collection of the Southwest) does not exceed the threshold level established under the rules implementing the Hart-Scott-Rodino Act.

WITNESS the execution of this Certificate as of the date set forth above.

THE AUTRY WESTERN HERITAGE MUSEUM, a California non-profit corporation

By: Jackie Autry
Jackie Autry, Chair of the Board

By: Joanne Hale
Joanne Hale, President

By: David W. Cartwright
David W. Cartwright, Secretary

AUTRY CERTIFICATE

(Autry National Center of the American West)

THIS CERTIFICATE is executed as of March 4, 2003, by **THE AUTRY WESTERN HERITAGE MUSEUM**, a California non-profit corporation formerly known as the Gene Autry Western Heritage Museum (the *"Autry"*), in favor of **THE SOUTHWEST MUSEUM**, a California non-profit corporation (the *"Southwest"*), pursuant to that Agreement and Plan of Merger of even date herewith (the *"Merger Agreement"*) between the Autry and the Southwest.

IN CONSIDERATION of the covenants and agreements in the Merger Agreement, the Autry hereby represents and warrants to the Southwest that the balance sheet attached hereto as Schedule A presents fairly, in all material respects, the assets and liabilities of the Autry, in accordance with generally accepted accounting principles, as of December 31, 2002.

IN ADDITION, the Autry acknowledges and hereby confirms its belief that the value of the merger in accordance with the terms and restrictions in the Merger Agreement (including but not limited to restrictions applicable to de-accessioning any part of the former collection of the Southwest) does not exceed the threshold level established under the rules implementing the Hart-Scott-Rodino Act.

WITNESS the execution of this Certificate as of the date set forth above.

THE AUTRY WESTERN HERITAGE MUSEUM, a California non-profit corporation

By: Jackie Autry
Jackie Autry, Chair of the Board

By: Joanne Hale
Joanne Hale, President

By: David W. Cartwright
David W. Cartwright, Secretary

AUTRY MUSEUM OF WESTERN HERITAGE
SUMMARY BALANCE SHEET
FOR DECEMBER 2002 / DECEMBER 2001

ASSETS	CURRENT YEAR	PRIOR YEAR
CURRENT ASSETS		
Total Cash	1,612,569.03	1,011,705.65
Total Receivables	98,178,777.34	97,683,962.33
Total Inventory	528,329.02	475,523.09
Total Prepaid Assets	246,400.72	137,053.89
TOTAL CURRENT ASSETS	100,566,076.11	99,308,244.96
Total Land/Building/Equipment (Net)	22,882,681.32	23,714,876.64
Total Deferred Assets	70,519.77	9,388.84
Total Library Assets	1,870,344.65	1,848,026.27
Total Collection of Museum Objects	30,936,035.37	30,536,160.30
Total Investment/Endowment Assets	2,104,436.73	1,648,791.57
Suspense	-	-
TOTAL ASSETS	158,430,093.95	157,065,488.58
LIABILITIES & OWNER'S EQUITY		
CURRENT LIABILITIES		
Total Short Term Payables	523,481.22	316,025.99
Other Current Liabilities	291,318.94	254,671.19
TOTAL CURRENT LIABILITIES	814,800.16	570,697.18
TOTAL LIABILITIES	814,800.16	570,697.18
Total Shareholder Equity	157,615,293.79	156,494,791.40
TOTAL LIABILITY/OWNER EQUITY	158,430,093.95	157,065,488.58

EXHIBIT B

AUTRY MUSEUM 2000 FORM 990-PF, BALANCE SHEET

A REPORT ADDRESSING CERTAIN FINANCIAL ISSUES PERTAINING TO THE 2003 MERGER BETWEEN THE AUTRY MUSEUM OF WESTERN HERITAGE AND THE SOUTHWEST MUSEUM

Form **990-PF**

Department of the Treasury
Internal Revenue Service

Return of Private Foundation

or Section 4947(a)(1) Nonexempt Charitable Trust Treated as a Private Foundation

Note: *The organization may be able to use a copy of this return to satisfy state reporting requirements.*

OMB No. 1545-0052

2000

For calendar year 2000, or tax year beginning , and ending

G Check all that apply: ☐ Initial return ☐ Final return ☐ Amended return ☐ Address change ☐ Name change

Use the IRS label. Otherwise, print or type. See Specific Instructions.

Name of organization: AUTRY MUSEUM OF WESTERN HERITAGE

A Employer identification number: 95-3947744

Number and street (or P.O. box number if mail is not delivered to street address): 4700 WESTERN HERITAGE WAY — Room/suite

B Telephone number: (323)677-2000

City or town, state, and ZIP code: LOS ANGELES, CA 90027-1462

C If exemption application is pending, check here ▶ ☐

D 1. Foreign organizations, check here ▶ ☐

2. Organizations meeting the 85% test, check here and attach computation ▶ ☐

H Check type of organization: [X] Section 501(c)(3) exempt private foundation

☐ Section 4947(a)(1) nonexempt charitable trust ☐ Other taxable private foundation

E If private foundation status was terminated under section 507(b)(1)(A), check here ▶ ☐

I Fair market value of all assets at end of year *(from Part II, col. (c), line 16)* ▶ $ 158,048,747.

J Accounting method: ☐ Cash ☐ Accrual [X] Other (specify) FUND *(Part I, column (d) must be on cash basis.)*

F If the foundation is in a 60-month termination under section 507(b)(1)(B), check here ▶ [X]

Part I Analysis of Revenue and Expenses *(The total of amounts in columns (b), (c), and (d) may not necessarily equal the amounts in column (a).)*

		(a) Revenue and expenses per books	(b) Net investment income	(c) Adjusted net income	(d) Disbursements for charitable purposes (cash basis only)
Revenue	1 Contributions, gifts, grants, etc., received	105,268,462.			STATEMENT 1
	2 Distributions from split-interest trusts				STATEMENT 2
	3 Interest on savings and temporary cash investments	89,393.	89,393.	89,393.	STATEMENT 3
	4 Dividends and interest from securities	15,903.	15,903.	15,903.	STATEMENT 4
	5a Gross rents				
	b (Net rental income or (loss))				
	6a Net gain or (loss) from sale of assets not on line 10	18,409.			STATEMENT 5
	b Gross sales price for all assets on line 6a 2,999,383.				
	7 Capital gain net income (from Part IV, line 2)		69,684.		
	8 Net short-term capital gain			69,684.	
	9 Income modifications				
	10a Gross sales less returns and allowances				
	b Less: Cost of goods sold				
	c Gross profit or (loss)				
	11 Other income	2,450,474.	23,698.	2,450,474.	STATEMENT 6
	12 Total. Add lines 1 through 11	107,842,641.	198,678.	2,625,454.	
Operating and Administrative Expenses	13 Compensation of officers, directors, trustees, etc.	164,423.	1,644.	164,423.	162,779.
	14 Other employee salaries and wages	4,034,986.	40,350.	4,034,986.	3,994,636.
	15 Pension plans, employee benefits	235,410.	2,354.	235,410.	233,056.
	16a Legal fees STMT 7	2,720.	0.	2,720.	2,720.
	b Accounting fees STMT 8	55,000.	1,100.	55,000.	53,900.
	c Other professional fees STMT 9	404,927.	0.	404,927.	404,927.
	17 Interest	20.	20.	20.	0.
	18 Taxes STMT 10	352,934.	3,413.	352,934.	349,522.
	19 Depreciation and depletion	1,032,691.	0.	1,032,691.	
	20 Occupancy				
	21 Travel, conferences, and meetings	93,242.	0.	93,242.	93,242.
	22 Printing and publications	333,270.	0.	333,270.	333,270.
	23 Other expenses STMT 11	4,515,621.	4,465.	4,515,621.	4,511,158.
	24 Total operating and administrative expenses. Add lines 13 through 23	11,225,244.	53,346.	11,225,244.	10,139,210.
	25 Contributions, gifts, grants paid	870.			870.
	26 Total expenses and disbursements. Add lines 24 and 25	11,226,114.	53,346.	11,225,244.	10,140,080.
	27 Subtract line 26 from line 12:				
	a Excess of revenue over expenses and disbursements	96,616,527.			
	b Net investment income (if negative, enter -0-)		145,332.		
	c Adjusted net income (if negative, enter -0-)			0.	

SCANNED DEC 1 4 2001

RECEIVED NOV 2 1 2001 OGDEN, UT IRS-OSC 566

LHA For Paperwork Reduction Act Notice, see the instructions.

023501 01-10-01

Part II Balance Sheets Attached schedules and amounts in the description column should be for end-of-year amounts only

		Beginning of year	End of year	
		(a) Book Value	(b) Book Value	(c) Fair Market Value
Assets	1 Cash - non-interest-bearing	1,274,246.	1,976,375.	1,976,375.
	2 Savings and temporary cash investments		230,037.	230,037.
	3 Accounts receivable ▶ 62,218.			
	Less: allowance for doubtful accounts ▶	201,094.	62,218.	62,218.
	4 Pledges receivable ▶ 97,840,178.			
	Less: allowance for doubtful accounts ▶	269,508.	97,840,178.	97,840,178.
	5 Grants receivable			
	6 Receivables due from officers, directors, trustees, and other disqualified persons			
	7 Other notes and loans receivable ▶			
	Less: allowance for doubtful accounts ▶			
	8 Inventories for sale or use	546,793.	437,582.	437,582.
	9 Prepaid expenses and deferred charges	182,547.	94,436.	94,436.
	10a Investments - U.S. and state government obligations			
	b Investments - corporate stock STMT 15	1,799,555.	451,162.	451,162.
	c Investments - corporate bonds			
	11 Investments - land, buildings, and equipment: basis ▶			
	Less: accumulated depreciation ▶			
	12 Investments - mortgage loans			
	13 Investments - other STMT 16	496,046.	335,250.	335,250.
	14 Land, buildings, and equipment: basis ▶ 37,142,450.			
	Less: accumulated depreciation ▶ 12,589,651.	25,386,523.	24,552,799.	24,552,799.
	15 Other assets (describe ▶ STATEMENT 17)	31,528,308.	32,068,710.	32,068,710.
	16 Total assets (to be completed by all filers)	61,684,620.	158,048,747.	158,048,747.
Liabilities	17 Accounts payable and accrued expenses	494,046.	648,046.	
	18 Grants payable			
	19 Deferred revenue			
	20 Loans from officers, directors, trustees, and other disqualified persons			
	21 Mortgages and other notes payable			
	22 Other liabilities (describe ▶)			
	23 Total liabilities (add lines 17 through 22)	494,046.	648,046.	
Net Assets or Fund Balances	Organizations that follow SFAS 117, check here ▶ ☐ and complete lines 24 through 26 and lines 30 and 31.			
	24 Unrestricted			
	25 Temporarily restricted			
	26 Permanently restricted			
	Organizations that do not follow SFAS 117, check here ▶ [X] and complete lines 27 through 31.			
	27 Capital stock, trust principal, or current funds	4,275,743.	100,788,581.	
	28 Paid-in or capital surplus, or land, bldg., and equipment fund	56,914,831.	56,612,120.	
	29 Retained earnings, accumulated income, endowment, or other funds	0.	0.	
	30 Total net assets or fund balances	61,190,574.	157,400,701.	
	31 Total liabilities and net assets/fund balances	61,684,620.	158,048,747.	

Part III Analysis of Changes in Net Assets or Fund Balances

1 Total net assets or fund balances at beginning of year - Part II, column (a), line 30 (must agree with end-of-year figure reported on prior year's return)	1	61,190,574.
2 Enter amount from Part I, line 27a	2	96,616,527.
3 Other increases not included in line 2 (itemize) ▶ SEE STATEMENT 13	3	1,519,601.
4 Add lines 1, 2, and 3	4	159,326,702.
5 Decreases not included in line 2 (itemize) ▶ SEE STATEMENT 14	5	1,926,001.
6 Total net assets or fund balances at end of year (line 4 minus line 5) - Part II, column (b), line 30	6	157,400,701.

EXHIBIT C
AUTRY MUSEUM 2000 FORM 990-PF, STATEMENT 1

FORM 990-PF — CASH CONTRIBUTIONS OF $5000 OR MORE INCLUDED ON PART I, LINE 1A — STATEMENT 1

CONTRIBUTOR'S NAME	CONTRIBUTOR'S ADDRESS	DATE OF GIFT	AMOUNT
MAURCIE AMADO FOUNDATION	3940 LAUREL CANYON BLVD. #809, STUDIO CITY, CA 91604	11/06/00	25,000.
ARCO FOUNDATION	333 S. HOPE ST., RM 1126, LOS ANGELES, CA 90071	02/22/00	15,000.
ARTHUR ANDERSEN	100 ARTHUR ANDERSEN PARKWAY, SARASOTA, FL 34232	12/31/00	37,000.
BANK OF AMERICA FOUNDATION	401 N. TRYON STREET, CHARLOTTE, NC 28255	12/31/00	150,000.
BASEBALL-OFFICE OF THE COMMISSIONER	245 PARK AVENUE, NEW YORK, NY 10167	10/06/00	10,000.
CALIFORNIA COMMUNITY FOUNDATION	445 S. FIGUEROA ST.#3400, LOS ANGELES, CA 90071	08/30/00	5,000.
CALIFORNIA SCOTTISH RITE FOUNDATION	855 ELM AVENUE, LONG BEACH, CA 90813	11/22/00	10,000.
CAPITOL GROUP	11100 SANTA MONICA BLVD., LOS ANGELES, CA 90025	12/31/00	7,500.
BARBARA CARLSBERG	P. O. BOX 7341, JACKSON, WY 83002	12/31/00	7,950.
AUTRY FOUNDATION	4383 COLFAX AVENUE, STUDIO CTIY, CA 91604	12/31/00	710,684.
AUTRY FOUNDATION	4383 COLFAX AVENUE, STUDIO CITY, CA 91604	12/31/00	97,222,712.
JACQUELINE AUTRY	4383 COLFAX AVENUE, STUDIO CITY, CA 91604	12/31/00	1,704,684.
COLT COLLECTORS ASSOCIATION	P. O. BOX 4667, VENTURA, CA 93007	11/22/00	10,300.
COUNTY OF LOS ANGELES	500 W. TEMPLE STREET, LOS ANGELES, CA 90012	05/02/00	10,000.
MR. & MRS. WILLIAM EATON	3964 SALVADOR COURT	10/16/00	12,600.
EBENSTEINER CO.	5311 DERRY AVE., SUITE 1, AGOURA, CA 91301	10/16/00	5,000.

EXHIBIT D
AUTRY MUSEUM DECEMBER 31, 2006 FINANCIAL STATEMENTS

A REPORT ADDRESSING CERTAIN FINANCIAL ISSUES PERTAINING TO THE 2003 MERGER BETWEEN THE AUTRY MUSEUM OF WESTERN HERITAGE AND THE SOUTHWEST MUSEUM

Autry National Center

Report on Audited Financial Statements
For the Years Ended
December 31, 2006 and 2005

Autry National Center
Index
December 31, 2006 and 2005

PRICEWATERHOUSECOOPERS

PricewaterhouseCoopers LLP
350 South Grand Avenue
Los Angeles CA 90071
Telephone (213) 356 6000
Facsimile (813) 637 4444

Report of Independent Auditors

To the Board of Trustees of
The Autry National Center

In our opinion, the accompanying statements of financial position and the related statements of activities and cash flows present fairly, in all material respects, the financial position of the Autry National Center (the "Center") at December 31, 2006 and 2005, and the changes in its net assets and its cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America. These financial statements are the responsibility of the Center's management. Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audit of these statements in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

PricewaterhouseCoopers LLP

March 30, 2007

Autry National Center
Statements of Financial Position
December 31, 2006 and 2005

	2006	2005
Assets		
Current assets		
Cash and cash equivalents	$ 190,182	$ 4,266,861
Receivables	88,974	50,492
Inventory	947,321	901,096
Prepaid expenses	166,405	571,178
Pledges and grants receivables, net (Note 3)	103,312,211	100,950,645
Investments	6,960,165	6,579,047
Cash restricted for capital acquisition and construction	4,895,897	3,112,974
Fixed assets at cost		
Buildings and improvements	37,404,768	37,334,768
Furniture, equipment and other	2,952,455	2,938,502
	40,357,223	40,273,270
Less accumlated depreciation and amortization	(20,644,098)	(19,583,343)
Fixed assets, net	19,713,125	20,689,927
Other assets	308,334	-
Land lease contribution receivable (Note 7)	10,212,762	10,553,190
Total assets	$ 146,795,376	$ 147,675,410
Liabilities and Net Assets		
Current liabilities		
Accounts payable	$ 918,153	$ 1,022,631
Accrued liabilites	822,237	672,638
Total liabilities	1,740,390	1,695,269
Net assets (Note 8)		
Available for operations	1,451,022	1,404,356
Net investment in fixed assets	19,713,125	20,689,927
Board designated	610,000	610,000
Total unrestricted	21,774,147	22,704,283
Temporarily restricted	89,724,440	89,647,274
Permanently restricted	33,556,399	33,628,584
Total net assets	145,054,986	145,980,141
Total liabilities and net assets	$ 146,795,376	$ 147,675,410

See accompanying notes to financial statements.

[redacted]

Autry National Center
Statements of Activities
For the Fiscal Years Ended December 31, 2006 and 2005

	2006 Unrestricted	2006 Temporarily Restricted	2006 Permanently Restricted	2006 Total	2005 Unrestricted	2005 Temporarily Restricted	2005 Permanently Restricted	2005 Total
Revenue and support								
Special events revenue	$ 4,788,880	$ 17,500	$ -	$ 4,806,180	$ 3,760,976	$ 199,660	$ -	$ 3 960 636
Less costs of direct benefit to donors	(3,592,331)	-	-	(3,592,331)	(2,814,905)	-	-	(2,614 905)
Net special events revenue	1,196,349	17,500	-	1,213,849	1,146 071	199,660	-	1,345 731
Contributions and grants	4,202,560	8,456,584	(72 185)	12,586,959	4,964,403	9,409,056	1,374 460	15,747 919
Endowment support	300,000	-	-	300 000	300,000	-	-	300 000
Admissions	604,687	-	-	604,687	490 373	-	-	490 373
Memberships	765,943	765,000	-	1,550,943	789,965	200	-	790 165
Program income	341,383	-	-	341 383	359,687	3,760	-	363 447
Museum Stores, net of cost of goods sold	578,587	-	-	578,587	631,660	-	-	631 660
Other	137,079	170	-	137,249	69,933	1,378	-	71 311
	8,126,588	9,259,254	(72,185)	17 313,657	8,752,092	9 614,054	1,374,460	19 740 606
Net assets released from restrictions	9,264,821	(9,264,821)	-	-	8,899,947	(8,899,947)	-	-
Total revenue and support, net of releases	17,391,409	(5,567)	(72,185)	17,313,657	17,652,039	714,107	1,374,460	19 740,606
Expenses								
Program services								
Exhibits	10,076,326	-	-	10 076,326	9,717,359	-	-	9 717 359
Education	1,847,912	-	-	1 847,912	1,754,258	-	-	1 754 258
Research	780,029	-	-	780,029	715,336	-	-	715 336
Total program services	12,504,267	-	-	12,504,267	12,186 953	-	-	12,186 953
Supporting services								
General and administration	3,608,616	-	-	3,608,616	3,528,439	-	-	3,528 439
Fund raising	1,823,661	-	-	1,823,661	1,645,676	-	-	1 645 676
Total supporting services	5,432,277	-	-	5,432,277	5,174,115	-	-	5,174 115
Ancillary services								
Museum stores	591,681	-	-	591 681	639 509	-	-	639 509
Museum cafe	53,905	-	-	53,905	64,584	-	-	64 584
Total ancillary services	645,586	-	-	645,586	704,093	-	-	704,093
Total expenses	18,582,130	-	-	18,582,130	18,065,161	-	-	18 065 161
Change in net assets from operations	(1,190,721)	(5,567)	(72,185)	(1,268,473)	(413,122)	714,107	1,374,460	1,675,445
Other non-operating revenues, gains and losses								
Investment income (Note 4)	575,089	17,706	-	592,795	262,461	-	-	262,461
Realized and unrealized gains and losses on investments	326,013	63,820	-	389 833	154 024	14,589	-	168,613
Endowment distribution	(300,000)	-	-	(300,000)	(300,000)	-	-	(300 000)
Total non-operating revenues, gains and losses	601,102	81,528	-	682,628	116,485	14 589	-	131 074
Change in net assets before changes related to collection items not capitalized	(589,819)	75 959	(72 185)	(585 845)	(286,637)	728,696	1 374 460	1 806 519
Change in net assets related to collection items not capitalized								
Proceeds from sale of collection items		1,207	-	1,207	200,000	86,454		286,454
Collection items purchased but not capitalized	(340,517)	-	-	(340,517)	(239,030)	-	-	(239,030)
Change in net assets	(930,136)	77,166	(72,185)	(925,155)	(335,667)	815,150	1 374,460	1 853 943
Net assets, beginning of year	22,704,283	89,647 274	33,628,584	145,980,141	23,039 950	88,832,124	32 254 124	144,126 198
Net assets, end of year	$ 21 774,147	$ 89,724,440	$ 33,556,399	$ 145,054,986	$ 22 704 283	$ 89,647,274	$ 33,626,564	$ 145 980 141

See accompanying notes to financial statements.

Autry National Center
Statements of Cash Flows
For the Fiscal Years Ended December 31, 2006 and 2005

	2006		2005
Cash flows from operating activities			
Change in net assets	(925,155)	$	1,853,943
Adjustments to reconcile change in net assets to net cash provided by operating activities			
Depreciation and amortization	1,060,755		1,115,945
Amortization of land lease receivable	340,428		340,426
Amortization of long-term pledges receivable	(3,248,381)		(4,489,916)
Contributions receivable write-offs	-		37,300
Realized and unrealized gains on investments, net	(389,833)		(168,613)
Contributions restricted for long-term purposes	(25,000)		(3,000)
Contributions restricted for capital acquisition and construction	(3,756,772)		(3,520,420)
Contributed securities & other non cash contributions	(471,938)		(316,105)
Changes in operating assets and liabilities			
Pledge and grant receivables	886,815		6,351,943
Accounts receivable	(38,482)		73,898
Inventories, net	(46,225)		(126,494)
Prepaid expenses	404,773		(433,583)
Other assets	(308,334)		-
Accounts payable	(104,478)		87,696
Accrued liabilities	149,599		(218,958)
Net cash used in operating activities	(6,472,228)		584,062
Cash flows from investing activities			
Purchases of fixed assets	(83,953)		(69,559)
Purchases of investments	(13,370,782)		(1,638,711)
Proceeds from sales of investments and other assets	13,851,435		1,899,022
Net cash used in investing activities	396,700		190,752
Cash flows from financing activities			
Contributions restricted for long-term purposes	-		23,830
Contributions restricted for capital acquisition and construction	1,998,849		1,488,170
Net cash provided by financing activities	1,998,849		1,512,000
Net increase/(decrease) in cash and cash equivalents	(4,076,679)		2,286,814
Cash and cash equivalents, beginning of year	4,266,861		1,980,047
Cash and cash equivalents, end of year	$ 190,182	$	4,266,861

See accompanying notes to financial statements.

1. Organization

In May 2003, the Autry National Center of the American West (the Center – A California Nonprofit, public benefit corporation) was created through the merger of the Autry Museum of Western Heritage, founded in 1984, and the Southwest Museum, founded in 1914 (see Note 9). The Center now operates the Southwest Museum of the American Indian, the Museum of the American West (formerly known as the Autry Museum of Western Heritage), and the Institute for the Study of the American West. The Center explores the experiences and perceptions of the diverse peoples of the American West, connecting the past and present to inform our shared future, promoting education through programming, exhibitions, and preservation of the collections.

2. Summary of Significant Accounting Policies

Basis of Presentation
The accompanying financial statements have been prepared on the accrual basis of accounting.

Net Assets
The Center recognizes contributions, including unconditional promises to give, as revenue in the period received. Revenues, gains, expenses, and losses are classified based on the existence or absence of donor-imposed restrictions. Accordingly, net assets of the Center and changes therein are classified and reported as follows:

- ***Unrestricted net assets*** – Net assets that are not subject to donor-imposed stipulations and that may be expendable for any purpose in performing the primary objectives of the Center.
- ***Temporarily restricted net assets*** – Net assets subject to donor-imposed stipulations that may or will be met either by actions of the Center and/or the passage of time. As the restrictions are satisfied, temporarily restricted net assets are reclassified to unrestricted net assets and reported in the accompanying financial statements as net assets released from restrictions.
- ***Permanently restricted net assets*** – Net assets subject to donor-imposed stipulations that resources be maintained in perpetuity, the earnings from which are available for the Center's use unless otherwise stipulated by the donor.

Classification of Revenues and Expenses
Center's admissions revenues are recognized upon the sale of admission tickets.

Revenues from the Museum store reflect sales from the stores, mail order, and wholesale distribution activities, net of costs of goods sold. Museum stores costs and expenses include related salaries, wages and fringe benefits, and general and administrative expenses incurred in the operations of the Museum stores.

Special events revenues reflect event fees and contributions received for special events and fundraising activities.

Cash and Cash Equivalents
Cash and cash equivalents include investments in money market funds with an original maturity of less than 90 days.

2. Summary of Significant Accounting Policies (Continued)

Cash and Cash Equivalents (Continued)
The significant decrease in cash and cash equivalents is due in part to the timing of receipt of cash related to a number of significant contributions. In addition, the Center incurred expenditures related to capital campaign activity for which the related revenue was recognized in previous periods.

Investments
Investments in equity securities with readily determinable market values and all investments in debt securities are recorded at fair value based on quoted market prices.

Inventories
Inventories are stated at the lower of cost or market using the average-cost method, which approximates the first-in, first-out method. Inventories are held for resale, mail order, and wholesale distribution.

Fixed Assets
Fixed assets are recorded at cost. Depreciation is computed using the straight-line method over the estimated useful lives of the assets, which are 40 years for building and improvements, 5 years for furniture and equipment, and 3 years for computer equipment. Gifts of long-lived assets such as property and equipment are reported as unrestricted support, unless explicit donor stipulations specify how the donated assets must be used. Gifts of long-lived assets with explicit restrictions that specify how the assets are to be used and gifts of cash or other assets that must be used to acquire long-lived assets are reported as restricted support. Absent explicit donor stipulations about how long those long-lived assets must be maintained, and expirations of donor restrictions are reported when the donated or acquired long-lived assets are placed in service.

Collection of Museum Objects
The Center's collections are comprised of works of art (paintings, works on paper, and photographs), historic artifacts, archaeological and ethnographic materials, sound recordings, films, and library and research material related to the history of the West and indigenous cultures of the United States. The collections, which were acquired through purchases and contributions since the Center's inception, are not recognized as assets on the statement of financial position. All are held for educational, research, and display purposes. Each of the items is cataloged, preserved, and cared for according to the American Association of Museums standards. Activities verifying their existence and assessing their condition are performed continuously.

Proceeds from deaccessions or insurance recoveries are reflected as increases in the appropriate net asset classes. The collections are subject to a policy that requires proceeds from their sales to be used to acquire or conserve other items for collections, not for operations.

Contributions Received
Contributions, including unconditional promises to give, are recognized as support in the year received at net present value.

2. Summary of Significant Accounting Policies (Continued)

Contributions Received (Continued)
Unconditional promises to give that are expected to be collected or paid in future years are discounted at the appropriate rate commensurate with the risk involved. Contributions received and made are recorded at present value using a discount rates ranging from 4% to 6.48% for the years ended December 31, 2006 and 2005. Amortization of the discount on contributions received is recorded as additional contribution revenue in the temporary restricted fund.

Conditional promises to give that are contingent upon future events or future matching are not recorded until the contingency has been satisfied. If funds are received from such gifts, they are recorded as refundable advances until the contingency is satisfied. When the contingency has been satisfied, the gift is recognized as either unrestricted or temporarily restricted revenue depending on the intent of the donor. On January 1, 2003, the Center received a conditional promise from the State of California – Department of Parks and Recreation for $700,000, which must be utilized by December 31, 2007. As of December 31, 2006, the conditions of the grant were not satisfied, and as such, the promise to give is not recorded in the accompanying financial statements. The activities to satisfy the conditions are scheduled for 2007.

Additionally, the Center received a conditional $25 million promise from a related party to be restricted for endowment purposes. As of December 31, 2006 the related party had not signed off on the satisfaction of the conditions, and as such, the promise to give is not recorded in the accompanying financial statements.

Special event contributions are generally reported as increases in unrestricted net assets. However, if the circumstances surrounding the receipt of such contributions make clear the respective donor's implicit restrictions on use, such amounts are classified as increases in temporarily restricted net assets. Special event contributions for an event in a future year are reported as increases in temporarily restricted net assets, and released in the future year, attributable to that event.

Spending Policy
Autry National Center has an investment and spending policy for its board designated and donor designated endowment funds. The purpose of the policy is to preserve principal, maintain purchasing power and provide a reliable stream of income for operations. The amount distributed to operations annually ranges from 4.5% to 5.5% of the average market value of the endowment fund assets over the trailing eight quarters ended June 30 for the following fiscal year. The 2006 distribution approximates 5.0% based on this formula, and is the second time funds have been distributed from the endowments.

Income Taxes
The Center is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code and exempt from California state franchise/income tax under Section 23701d of the California Revenue and Taxation Code.

Functional Allocation of Expenses
Expenses that can be identified with a specific program or supporting service are charged directly to the related program or supporting service. Expenses that are associated with more than one program or supporting service are allocated based on an evaluation from management.

2. Summary of Significant Accounting Policies (Continued)

Concentration of Risks
The Center holds a majority of its cash and cash equivalents at a few financial institutions Cash and cash equivalents consist of cash on deposit and money market accounts. The Center is exposed to credit loss for the amount of cash in excess of the federally insured limit of $100,000 in the event of nonperformance by the counterparties. At December 31, 2006 and 2005, the Center had cash in banks in excess of Federal Deposit Insurance Corporation (FDIC) insurance limits of approximately and $4,986,000 and $7,292,000, respectively.

Pledges receivable and accounts receivable are uncollateralized and the Center is at risk to the extent such amounts become uncollectible. Additionally, approximately 96% of net pledges receivable are due from one individual and a related foundation and the Center is subject to credit risk in the event of nonperformance by such parties.

Estimates
The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenues and expenses, and the disclosure of contingent assets and liabilities at the date of the financial statements. Actual results may differ from those estimates.

3. Pledges and Grant Receivables

Pledges and grants receivable are expected to be collected as follows at December 31 (see Note 5 for pledges made by a related party):

	2006	2005
Amounts due in		
Less than one year	$ 8,661,981	$ 7,020,944
One to five years	26,581,651	26,059,503
More than five years	187,240,000	190,290,000
	222,483,632	223,370,447
Less discount to reflect contributions receivable at present value	(119,171,421)	(122,419,802)
	$ 103,312,211	$ 100,950,645

4. Investments

The fair value of the Center's investments consisted of the following at December 31:

	2006	2005
Money market	$ 467,665	$ 379,078
U.S. Treasury and agency securities	-	751,716
Corporate bonds	996,805	726,104
Common stocks	5,495,695	4,722,149
	$ 6,960,165	$ 6,579,047

5. Related Party Transactions

On March 24, 2000, the Center received pledges of an annual contribution totaling $6,000,000 per year, and a long-term capital contribution totaling $100,000,000 for its endowment from a related party. On May 16, 2002, the Center received another pledge from the related party of an annual contribution of $50,000 for a curatorial position. The annual contributions will continue until the donor's passing and the long-term capital contribution will be received upon the donor's passing.

The present value of the annual income and long-term capital contribution was approximately $97,120,523 and $97,041,513 as of December 31, 2006 and 2005, respectively. The present value was determined using a discount rate of 5% and life expectancy tables used by the Internal Revenue Service. The Center received $5,296,500 and $7,450,000 from the related party during the years ended December 31, 2006 and 2005, respectively.

6. Retirement Plan

The Center has a tax-sheltered annuity, a defined contribution retirement plan (the Plan) for eligible employees of the Center. Under the Plan, each eligible employee can make voluntary tax-deductible contributions that the Center can match, at the discretion of the board of directors, up to a maximum of 5% in 2003 of the employee's eligible compensation. The Center contributed $215,834 and $196,660 to the Plan in 2006 and 2005, respectively.

7. Commitments and Contingencies

Legal Matters
In the ordinary course of business, the Center is subject to certain lawsuits and other potential legal actions. In the opinion of management, such matters will not have a material effect on the financial position of the Center.

7. Commitments and Contingencies (Continued)

Leases

The Center leases equipment under non-cancelable operating lease agreements expiring at various dates through March 2008. The estimated future minimum rental payments under these leases are as follows at December 31:

	2006	2005
2006	$ -	$ 10,564
2007	10,564	10,564
2008	10,564	10,564
2009	10,564	10,564
	$ 31,692	$ 42,256

Line of Credit

On December 15, 2003, the Center established a $2 million revolving, partially collateralized line of credit with a bank. The line of credit bears interest at the prime rate or LIBOR (1, 3, or 6 months) plus 2.25%. This line of credit expires on January 1, 2008, at which time any advances outstanding are due and payable There were no amounts outstanding as of December 31, 2006 or 2005 under this agreement.

Other Assets

In December 2005, the Center entered into a collection sharing agreement with another non-profit entity. Under the terms of the agreement, the Center collaborates to provide a long-term presence of a historically significant collection of paintings and costumes at the Autry National Center's facilities. The term of the agreement is 60 years with provisions for extension. Payments will be made every year for a 15 year period. The first payment was paid in 2006, and the payments will be amortized over the term of the lease.

Land Lease

In 1987, the Center entered into a fifty year land lease with the City of Los Angeles for its Griffith Park premises, including open space known as the "South Lawn." In exchange for offering public programming in the museum's facilities, the Autry National Center pays the City $1 per year. The value of the land lease is capitalized at its estimated fair value. The value of the lease as of December 31, 2006 and 2005 was $10,212,762 and $10,553,190, respectively. The center incurs in-kind lease expense of $340,426 annually, and recognizes an offsetting in-kind donation released from restriction of the same amount.

8. Net Assets

Unrestricted – Board Designated

The Board of Trustees has established a reserve totaling $610,000 consisting of unrestricted cash available for the Library Research Center.

8. Net Assets (Continued)

Temporarily Restricted
Temporarily restricted net assets are available for the following purposes:

	2006	2005
Exhibitions, Programs & Education	$ 965,694	$ 411,317
Comprehensive Campaign – Autry National Center	8,645,984	7,959,410
Conservation, Collections, Public Access, Library, Publications, etc.	3,092,553	1,667,258
Artifacts/Acquisitions	55,014	15,503
Women of the West, Curatorial Position	858,000	858,000
Women of the West, Butcher Scholarship Program	100,127	100,127
Women of the West, Capital Campaign	973	973
Electronic Cataloguing Initiative Project	-	100,000
Masters Art Exhibition & Sales	172,224	209,035
Time Restrictions	75,833,869	78,325,651
	$ 89,724,438	$ 89,647,274

Permanently Restricted
Permanently restricted net assets totaling $33,556,399 in 2006 and $32,628,584 in 2005 (of which $29,260,416 and $29,360,716 are pledges outstanding as of December 31, 2006 and 2005, respectively) are restricted by donors for investment in perpetuity, the earnings from which are either available for general operating purposes or temporarily restricted for exhibits and programs.

<u>EXHIBIT E</u>

<u>AUTRY MUSEUM DECEMBER 31, 2005 FINANCIAL STATEMENTS</u>

A REPORT ADDRESSING CERTAIN FINANCIAL ISSUES PERTAINING TO THE 2003 MERGER BETWEEN THE AUTRY MUSEUM OF WESTERN HERITAGE AND THE SOUTHWEST MUSEUM

PRICEWATERHOUSECOOPERS

Autry National Center

Report and Financial Statements

For the Fiscal Year Ended December 31, 2005

[redacted]

Autry National Center
Index

Pages

PRICEWATERHOUSECOOPERS

PricewaterhouseCoopers LLP
350 South Grand Avenue
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Report of Independent Auditors

To the Board of Trustees of
The Autry National Center

In our opinion, the accompanying statement of financial position and the related statements of activities and of cash flows present fairly, in all material respects, the financial position of the Autry National Center (the "Autry") at December 31, 2005, and the changes in its net assets and its cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America. These financial statements are the responsibility of the Autry's management. Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit of these statements 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 of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion. The prior year comparative information has been derived from the financial statements of the Autry as of December 31, 2004 and for the year then ended, which were audited by other auditors whose report dated April 20, 2005 expressed an unqualified opinion.

PricewaterhouseCoopers LLP

April 7, 2006

Autry National Center
Statements of Financial Position
December 31, 2005 and 2004

	2005	2004
Assets		
Cash and cash equivalents	$ 4,266,861	$ 1,980,047
Accounts receivable	50,492	124,390
Inventories	901,096	774,602
Prepaid expenses	571,178	137,595
Pledges and grants receivables, net (Note 3)	100,950,645	99,989,546
Investments (Note 4)	6,579,047	6,531,620
Cash restricted for capital acquisition and construction	3,112,974	3,785,000
Fixed assets, at cost:		
Building and improvements	37,334,768	37,275,453
Furniture, equipment, and other	2,938,502	2,920,336
Construction in process	-	20,371
	40,273,270	40,216,160
Less accumulated depreciation and amortization	(19,583,343)	(18,479,847)
Fixed assets, net	20,689,927	21,736,313
Land lease contribution receivable (Note 7)	10,553,190	10,893,616
Collection of museum objects (Note 2)	-	-
Total assets	$ 147,675,410	$ 145,952,729
Liabilities		
Accounts payable	$ 1,022,631	934,935
Accrued liabilities	672,638	891,596
Total liabilities	1,695,269	1,826,531
Net assets (Note 8):		
Unrestricted:		
Available for operations	1,404,356	693,637
Net investment in fixed assets	20,689,927	21,736,313
Board designated	610,000	610,000
Total unrestricted	22,704,283	23,039,950
Temporarily restricted	89,647,274	88,832,124
Permanently restricted	33,628,584	32,254,124
Total net assets	145,980,141	144,126,198
Total liabilities and net assets	$ 147,675,410	$ 145,952,729

See accompanying notes to financial statements.

Autry National Center
Statements of Activities
For the Fiscal Years Ended December 31, 2005 and 2004

	2005				2004			
	Unrestricted	Temporarily restricted	Permanently restricted	Total	Unrestricted	Temporarily restricted	Permanently restricted	Total
Revenue and support								
Special events revenue	$ 3,760,976	$ 199,660		$ 3,960,636	$ 2,885,540	$ 450,535		$ 3,336,075
Less costs of direct benefits to donors	(2,614,905)			(2,614,905)	(2,294,714)			(2,294,714)
Net special events revenue	1,146,071	199,660	—	1,345,731	590,826	450,535	—	1,041,361
Contributions and grants	4,964,403	9,409,056	$ 1,374,460	15,747,919	926,223	13,950,430	$ 1,474,689	16,351,342
Endowment support	300,000			300,000				
Admissions	490,373			490,373	495,825			495,825
Memberships	789,965	200		790,165	642,843	2,085		644,928
Program income	359,687	3,760		363,447	212,794	421		213,215
Museum stores net of costs of goods sold	631,660			631,660	705,919			705,919
Other	69,933	1,378		71,311	75,441	5,061		80,502
Total revenue and support	8,752,092	9,614,054	1,374,460	19,740,606	3,649,871	14,408,532	1,474,689	19,533,092
Net assets released from restrictions	8,899,947	(8,899,947)		-	11,588,921	(11,588,921)		-
Total revenue and support, net of releases	17,652,039	714,107	1,374,460	19,740,606	15,238,792	2,819,611	1,474,689	19,533,092
Expenses								
Program services:								
Exhibits	9,717,359	—		9,717,359	8,697,410			8,697,410
Education	1,754,258	—		1,754,258	1,470,401			1,470,401
Research	715,336	—		715,336	578,519			578,519
Total program services	12,186,953	—	—	12,186,953	10,746,330	—	—	10,746,330
Supporting services								
General and administration	3,528,439	—		3,528,439	3,190,386			3,190,386
Fundraising	1,645,676	—		1,645,676	1,580,504			1,580,504
Total supporting services	5,174,115	—	—	5,174,115	4,770,890	—	—	4,770,890
Other expenses:								
Ancillary services								
Museum stores	639,509	—		639,509	561,598			561,598
Museum cafe	64,584	—		64,584	60,426			60,426
Total ancillary expenses	704,093	—	—	704,093	622,024	—	—	622,024
Total expenses	18,065,161	—	—	18,065,161	16,139,244	—	—	16,139,244
Change in net assets from operations	(413,122)	714,107	1,374,460	1,675,445	(900,452)	2,819,611	1,474,689	3,393,848
Other nonoperating revenues, gains, and losses								
Investment income (Note 4)	262,461			262,461	228,099			228,099
Realized and unrealized gains and losses on investments	154,024	14,589		168,613	119,312	6,935		126,247
Endowment distribution	(300,000)			(300,000)				
Total nonoperating revenues, gains, and losses	116,485	14,589	—	131,074	347,411	6,935	—	354,346
Change in net assets before changes related to collection items not capitalized	(296,637)	728,696	1,374,460	1,806,519	(553,041)	2,826,546	1,474,689	3,748,194
Change in net assets related to collection items not capitalized								
Proceeds from the sale of collection items	200,000	86,454		286,454	4,144			4,144
Collection items purchased but not capitalized	(239,030)			(239,030)	(116,865)			(116,865)
Change in net assets	(335,667)	815,150	1,374,460	1,853,943	(665,762)	2,826,546	1,474,689	3,635,473
Net assets, beginning of year	23,039,950	88,832,124	32,254,124	144,126,198	23,705,712	86,005,578	30,779,435	140,490,725
Net assets, end of year	$ 22,704,283	$ 89,647,274	$ 33,628,584	$ 145,980,141	$ 23,039,950	$ 88,832,124	$ 32,254,124	$ 144,126,198

See accompanying notes to financial statements.

Autry National Center
Statements of Cash Flows
For the Fiscal Years Ended December 31, 2005 and 2004

	2005	2004
Cash flows from operating activities:		
Change in net assets	$ 1,853,943	$ 3,635,473
Adjustments to reconcile change in net assets to net cash provided by operating activities:		
Depreciation and amortization	1,115,945	1,131,838
Amortization of land lease receivable	340,426	340,426
Amortization pledges receivable	(4,489,916)	(1,323,869)
Contributions receivable write-offs	37,300	800
Realized and unrealized gains on investments, net	(168,613)	(126,247)
Contributions restricted for long-term purposes	(3,000)	(150,820)
Contributions restricted for capital acquisition and construction	(3,520,420)	(4,600,000)
Contributed securities and other noncash contributions	(316,105)	-
Changes in operating assets and liabilities:		
Pledge and grant receivables	6,351,943	(2,198,012)
Accounts receivable	73,898	43,393
Inventories	(126,494)	(68,531)
Prepaid expenses	(433,583)	12,728
Accounts payable	87,696	235,416
Accrued liabilities	(218,958)	(67,968)
Net cash used in operating activities	584,062	(3,135,373)
Cash flows from investing activities:		
Purchases of fixed assets	(69,559)	(72,263)
Purchases of investments	(1,638,711)	(1,946,981)
Proceeds from sales of investments and other assets	1,899,022	2,677,067
Net cash used in investing activities	190,752	657,823
Cash flows from financing activities:		
Contributions restricted for long-term purposes	23,830	42,630
Contributions restricted for capital acquisition and construction	1,488,170	2,285,000
Net cash provided by financing activities	1,512,000	2,327,630
Net increase in cash and cash equivalents	2,286,814	(149,920)
Cash and cash equivalents, beginning of year	1,980,047	2,129,967
Cash and cash equivalents, end of year	$ 4,266,861	$ 1,980,047

[redacted]

See accompanying notes to financial statements.

1. Organization

In May 2003, the Autry National Center of the American West (the Autry – A California Nonprofit, public benefit corporation) was created through the merger of the Autry Museum of Western Heritage, founded in 1984, and the Southwest Museum, founded in 1914. The Autry now operates the Southwest Museum of the American Indian, the Museum of the American West (formerly known as the Autry Museum of Western Heritage), and the Institute for the Study of the American West. The Autry explores the experiences and perceptions of the diverse peoples of the American West, connecting the past and present to inform our shared future, promoting education through programming, exhibitions, and preservation of the collections.

2. Summary of Significant Accounting Policies

Basis of Presentation
The accompanying financial statements have been prepared on the accrual basis of accounting.

Net Assets
The Autry recognizes contributions, including unconditional promises to give, as revenue in the period received. Revenues, gains, expenses, and losses are classified based on the existence or absence of donor-imposed restrictions. Accordingly, net assets of the Autry and changes therein are classified and reported as follows:

- ***Unrestricted net assets*** – Net assets that are not subject to donor-imposed stipulations and that may be expendable for any purpose in performing the primary objectives of the Autry.
- ***Temporarily restricted net assets*** – Net assets subject to donor-imposed stipulations that may or will be met either by actions of the Autry and/or the passage of time. As the restrictions are satisfied, temporarily restricted net assets are reclassified to unrestricted net assets and reported in the accompanying financial statements as net assets released from restrictions.
- ***Permanently restricted net assets*** – Net assets subject to donor-imposed stipulations that resources be maintained in perpetuity, the earnings from which are available for the Autry's use unless otherwise stipulated by the donor.

Classification of Revenues and Expenses
Autry's admissions revenues are recognized upon the sale of admission tickets.

Revenues from the Museum stores reflect sales from the stores, mail order, and wholesale distribution activities, net of costs of goods sold. Museum stores costs and expenses include related salaries, wages and fringe benefits, and general and administrative expenses incurred in the operations of the Museum stores.

Special events revenues reflect event fees and contributions received for special events and fundraising activities.

Cash and Cash Equivalents
Cash and cash equivalents include cash on deposit and investments in money market funds with an original maturity of less than 90 days.

Investments
Investments in equity securities with readily determinable market values and all investments in debt securities are recorded at fair value based on quoted market prices.

Inventories
Inventories are stated at the lower of cost or market using the average-cost method, which approximates the first-in, first-out method. Inventories are held for resale, mail order, and wholesale distribution.

Fixed Assets
Fixed assets are recorded at cost. Depreciation is computed using the straight-line method over the estimated useful lives of the assets, which are 40 years for building and improvements, 5 years for furniture and equipment, and 3 years for computer equipment. Gifts of long-lived assets such as property and equipment are reported as unrestricted support, unless explicit donor stipulations specify how the donated assets must be used. Gifts of long-lived assets with explicit restrictions that specify how the assets are to be used and gifts of cash or other assets that must be used to acquire long-lived assets are reported as restricted support. Absent explicit donor stipulations about how long those long-lived assets must be maintained, expirations of donor restrictions are reported when the donated or acquired long-lived assets are placed in service.

Collection of Museum Objects
The Autry's collections are comprised of works of art (paintings, works on paper, and photographs), historic artifacts, archaeological and ethnographic materials, sound recordings, films, and library and research material related to the history of the West and indigenous cultures of the United States. The collections, which were acquired through purchases and contributions since the Autry's inception, are not recognized as assets on the statement of financial position. All are held for educational, research, and display purposes. Each of the items is cataloged, preserved, and cared for according to the American Association of Museums standards. Activities verifying their existence and assessing their condition are performed continuously.

Proceeds from deaccessions or insurance recoveries are reflected as increases in the appropriate net asset classes. The collections are subject to a policy that requires proceeds from their sales to be used to acquire or conserve other items for collections, not for operations.

Contributions Received
Contributions, including unconditional promises to give, are recognized as support in the year received at net present value.

Unconditional promises to give that are expected to be collected or paid in future years are discounted at the appropriate rate commensurate with the risk involved. Contributions received and made are recorded at present value using discount rates ranging from 4% to 6.48% for the years ended December 31, 2005 and 2004. Amortization of the discount on contributions received is recorded as additional contribution revenue.

Conditional promises to give that are contingent upon future events or future matching are not recorded until the contingency has been satisfied. If funds are received from such gifts, they are recorded as refundable advances until the contingency is satisfied. When the contingency has been satisfied, the gift is recognized as either unrestricted or temporarily restricted revenue depending on the intent of the donor.

Special event contributions are generally reported as increases in unrestricted net assets. However, if the circumstances surrounding the receipt of such contributions make clear the respective donor's implicit restrictions on use, such amounts are classified as increases in temporarily restricted net assets. Special event contributions for an event in a future year are reported as increases in temporarily restricted net assets, and released in the future year, attributable to that event.

Spending Policy
The Autry has an investment and spending policy for its board designated and donor designated endowment funds. The purpose of the policy is to preserve principal, maintain purchasing power and provide a reliable stream of income for operations. The amount distributed to operations annually ranges from 4.5% to 5.5% of the average market value of the endowment fund assets over the trailing eight quarters ended June 30 for the coming fiscal year. The 2005 distribution approximates 5.0% based on this formula, and is the first time funds have been distributed from the endowments.

Income Taxes
The Autry is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code and exempt from California state franchise/income tax under Section 23701d of the California Revenue and Taxation Code.

Functional Allocation of Expenses
Expenses that can be identified with a specific program or supporting service are charged directly to the related program or supporting service. Expenses that are associated with more than one program or supporting service are allocated based on an evaluation from management.

Concentration of Risks
The Autry holds a majority of its cash and cash equivalents at a few financial institutions. Cash and cash equivalents consist of cash on deposit and money market accounts. The Autry is exposed to credit loss for the amount of cash in excess of the federally insured limit of $100,000 in the event of nonperformance by the counterparties. At December 31, 2005 and 2004, the Autry had cash in banks in excess of Federal Deposit Insurance Corporation (FDIC) insurance limits of approximately and $7,292,000 and $5,547,000 respectively.

Pledges receivable and accounts receivable are uncollateralized and the Autry is at risk to the extent such amounts become uncollectible. Additionally, approximately 96% of net pledges receivable are due from one individual and a related foundation and the Autry is subject to credit risk in the event of nonperformance by such parties.

Estimates
The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenues and expenses, and the disclosure of contingent assets and liabilities at the date of the financial statements. Actual results may differ from those estimates.

3. Pledges and Grants Receivables

Pledges and grants receivable are expected to be collected as follows at December 31(see note 5 for pledges made by a related party):

	2005	2004
Amounts due in:		
Less than one year	$ 7,020,944	$ 7,615,764
One to five years	26,059,503	25,849,000
More than five years	190,290,000	193,434,500
	223,370,447	226,899,264
Less discount to reflect contributions receivable at present value	(122,419,802)	(126,909,718)
	$100,950,645	$ 99,989,546

4. Investments

The fair value of the Autry's investments at December 31 is as follows:

	2005	2004
Money market funds	$ 379,078	$ 396,112
U.S. Treasury and agency securities	751,716	1,329,341
Corporate bonds	726,104	407,003
Common stocks	4,722,149	4,399,164
	$ 6,579,047	$ 6,531,620

5. Related Party Transactions

On March 24, 2000, the Autry received pledges of an annual contribution totaling $6,000,000 per year, and a long-term capital contribution totaling $100,000,000 for its endowment from related parties. On May 16, 2002, the Autry received another pledge from the related party of an annual contribution of $50,000 for a curatorial position. The annual contributions will continue until the donor's passing and the long-term capital contribution will be received upon the donor's passing.

The present value of the annual income and long-term capital contribution was approximately $97,041,513 and $96,963,569 as of December 31, 2005 and 2004 respectively. The present value was determined using discount rates ranging from 5% to 6.42% and life expectancy tables published by the Internal Revenue Service. The Autry received $7,450,000 and $6,152,100 from the related party during the years ended December 31, 2005 and 2004 respectively.

6. Retirement Plan

The Autry has a tax-sheltered annuity retirement plan (the Plan) for eligible employees of the Autry. Under the Plan, each eligible employee can make voluntary tax-deductible contributions that the Autry can match, at the discretion of the board of directors, up to a maximum of 5% of the employee's eligible compensation. The Autry contributed $196,660 and $178,972 to the Plan in 2005 and 2004 respectively.

7. Commitments and Contingencies

Legal Matters
In the ordinary course of business, the Autry is subject to certain lawsuits and other potential legal actions. In the opinion of management, such matters will not have a material effect on the financial position of the Autry.

Leases
The Autry leases equipment under noncancelable operating lease agreements expiring at various dates through March 2009. The estimated future minimum rental payments under these leases are as follows at December 31, 2005:

2006	$	10,564
2007		10,564
2008		10,564
2009		10,564
	$	42,256

Operating lease expense totaled $19,109 and $28,281 for the year ended December 31, 2005 and 2004 respectively.

Line of Credit
On December 15, 2003, the Autry established a $2 million revolving partially collateralized line of credit with a bank. The line of credit bears interest at the prime rate or LIBOR (1, 3, or 6 months) plus 2.25%. This line of credit expires on January 1, 2007, at which time any advances outstanding are due and payable. There were no amounts outstanding as of December 31, 2005 or 2004 under this agreement.

California Historical Society
In December 2005, the Autry entered into a collection sharing agreement with the California Historical Society. Under the terms of the agreement, the Autry collaborates to provide a long-term presence of the Society's historically significant collection of paintings and costumes at the Autry National Center's facilities. The term of the agreement is 60 years with provisions for extension.

Land Lease
In 1987, the Autry National Center entered into a land lease with the City of Los Angeles for its Griffith Park premises, including open space known as the "South Lawn." In exchange for offering public programming in the museum's facilities, the Autry National Center pays the City $1 per year. The value of the land lease is capitalized at its estimated fair value. The value of the lease as of December 31, 2005 and 2004 was $10,553,190 and $10,893,616, respectively. The organization incurs in-kind lease expense of $340,426 annually, and recognizes an offsetting in-kind donation released from restriction of the same amount.

8. Net Assets

Unrestricted – Board Designated
The board of directors has established a reserve totaling $610,000 consisting of unrestricted cash available for the Library Research Center.

Temporarily Restricted
Temporarily restricted net assets are available for the following purposes:

	2005	2004
Exhibitions, Programs & Education	$ 411,317	$ 922,437
Capital Campaign - Autry National Center	7,959,410	4,229,085
Conservation, Collections, Public Access, Library, Publications, etc.	1,667,258	2,306,900
Artifacts/Acquisitions	15,503	31,429
Women of the West, Curatorial Position	858,000	858,000
Women of the West, Butcher Scholarship Program	100,127	100,127
Women of the West, Capital Campaign	973	973
Electronic Cataloguing Initiative Project	100,000	235,000
Masters Art Exhibition & Sales	209,035	189,905
Time Restrictions	78,325,651	79,958,268
	$ 89,647,274	$ 88,832,124

Permanently Restricted
Permanently restricted net assets totaling and $33,628,584 in 2005 and $32,254,124 in 2004 (of which $29,356,546 and $28,036,916 are pledges outstanding as of December 31, 2005 and 2004 respectively) are restricted by donors for investment in perpetuity, the earnings from which are either available for general operating purposes or temporarily restricted for exhibits and programs.

EXHIBIT F

AUTRY MUSEUM DECEMBER 31, 2000 FINANCIAL STATEMENTS

A REPORT ADDRESSING CERTAIN FINANCIAL ISSUES PERTAINING TO THE 2003 MERGER BETWEEN THE AUTRY MUSEUM OF WESTERN HERITAGE AND THE SOUTHWEST MUSEUM

O'MELVENY & MYERS LLP

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April 26, 2002

OUR FILE NUMBER
170,445-558

WRITER'S DIRECT DIAL
310-246-6877

WRITER'S E-MAIL ADDRESS
dcartwright@omm.com

VIA MESSENGER

Ms. Adrienne Watts
Office of the Attorney General
300 South Spring Street
5th Floor
Los Angeles, CA 90013

Re: ***Autry Museum***

Dear Ms. Watts:

As we discussed today over the phone, I am enclosing the following documents:

1. Autry Museum's 2001 Annual Report;

2. Autry Museum's Articles of Incorporation;

3. Women of the West Museum's Articles of Incorporation.

Very truly yours,

David W. Cartwright
of O'MELVENY & MYERS LLP

DWC:psr
Enclosure
CC1:565818.1

Report of Independent Public Accountants

To the Board of Directors of the Autry Museum of Western Heritage:

We have audited the accompanying statements of financial position of the Autry Museum of Western Heritage ("the Museum") (a California nonprofit public benefit corporation) as of December 31, 2000 and 1999, and the related statements of activities and cash flows for the years then ended. These financial statements are the responsibility of the Museum's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. 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 audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Autry Museum of Western Heritage as of December 31, 2000 and 1999, and the changes in its net assets and its cash flows for the years then ended in conformity with accounting principles generally accepted in the United States.

Arthur Andersen LLP
Los Angeles, California
May 17, 2001

Statements of Financial Position

December 31, 2000 and 1999

ASSETS	**2000**	**1999**
Current assets:		
Cash and equivalents	$1,976,376	$1,274,246
Current portion of pledge and grant receivables	6,470,279	141,938
Accounts receivable	62,218	201,094
Inventories, net	437,582	546,793
Prepaid expenses	94,436	182,547
Total current assets	9,040,891	2,346,618
Investments	1,016,449	2,295,601
Pledge and grant receivables, net	91,369,899	127,570
Fixed assets, at cost:		
Building and improvements	34,418,040	34,418,040
Furniture and equipment	2,724,410	2,789,297
	37,142,450	37,207,337
Less – Accumulated depreciation and amortization	(12,589,651)	(11,820,814)
Net fixed assets	24,552,799	25,386,523
Collection of museum objects	30,223,201	29,654,340
Library assets	1,836,120	1,873,968
Other assets	9,389	-
	$158,048,748	$61,684,620

LIABILITIES AND NET ASSETS	2000	1999
Current liabilities:		
Accrued liabilities	$648,046	$494,046
Total liabilities	648,046	494,046
Net assets:		
Unrestricted	59,310,962	58,489,719
Temporarily restricted	66,092,676	2,209,825
Permanently restricted	31,997,064	491,030
	157,400,702	61,190,574
	$158,048,748	$61,684,620

Statements of Activities

for the Years Ended December 31, 2000 and 1999

	2000	1999
Changes in unrestricted net assets:		
Contributions:		
unrestricted cash and services	$5,984,477	$5,316,343
Revenue, gains, and other support:		
Memberships	486,416	410,174
Admissions	533,001	589,588
Interest	89,393	39,875
Royalties	23,698	37,004
Revenues from special events	1,868,720	1,634,014
Revenues from museum store	988,329	997,807
Gain on sale of assets	92,215	10,289
Net unrealized gain on investments	-	233,626
Dividend income	15,903	25,759
Other	37,282	110,440
	4,134,957	4,088,576
Net assets released from restrictions—		
Satisfaction of program restrictions	4,450,620	3,430,532
Total unrestricted revenues, gains, and other support	14,570,054	12,835,451
Expenses:		
Salaries, wages, and fringe benefits	4,193,245	4,042,081
General and administrative	6,516,788	6,146,431
Costs and expenses of special events	1,587,963	1,205,656
Costs and expenses of museum store, including provision for excess and obsolete inventory of $111,677 in 2000 and $22,979 in 1999	932,698	973,978
Net loss from restaurant operations	46,619	34,242
Loss on sale of Fred Rosenstock Collection	55,854	280,200
Unrealized loss on sale of investments	415,644	-
Total unrestricted expenses	13,748,811	12,682,588
Increase in unrestricted net assets	$821,243	$152,863

	2000	1999
Changes in temporarily restricted net assets:		
Contributions:		
Cash and cash pledges	$65,110,384	$543,272
Donated items and services	3,223,087	4,488,025
Net assets released from restrictions	(4,450,620)	(3,430,532)
Increase in temporarily restricted net assets	63,882,851	1,600,765
Changes in permanently restricted net assets:		
Contributions:		
Cash and cash pledges – endowment fund	31,467,874	–
Cash and cash pledges – tile campaign	38,160	491,030
Increase in permanently restricted net assets	31,506,034	491,030
Increase in net assets	96,210,128	2,244,658
Net assets, beginning of year	61,190,574	58,945,916
Net assets, end of year	$157,400,702	$61,190,574

Statements of Cash Flows

[illegible]

	2000	1999
Cash flows from operating activities:		
Increase in net assets	$96,710,128	$2,244,658
Adjustments to reconcile increase in net assets to net cash (used in) provided by operating activities:		
Noncash contributions	(3,227,702)	(4,493,027)
Noncash contributions – special events	(142,344)	(137,663)
Depreciation and amortization	1,032,691	1,040,305
Lease expense donated – gvt.	1,120,980	1,120,980
Net loss (gain) on sales of securities investments and other assets	(36,607)	342,822
Inventory reserves, net	95,010	22,979
Loss on disposition of fixed assets	12,436	
Changes in assets and liabilities:		
Pledge and grant receivables, net	(97,570,670)	71,873
Accounts receivable	138,876	(129,802)
Inventories, net	69,108	3,498
Prepaid expenses	88,111	(39,909)
Other assets	(9,389)	–
Accrued liabilities	154,000	(72,464)
Net cash (used in) provided by operating activities	(2,065,372)	74,250
Cash flows from investing activities:		
Purchases of fixed assets	(211,403)	(227,968)
Retirements of fixed assets	276,289	1,608
Purchases of museum collections	(426,712)	(394,296)
Purchases of library assets	(57,505)	(54,684)
Purchases of investments	(226,205)	(43,076)
Proceeds from sales of investments and other assets	2,997,394	1,306,289
Unrealized loss (gain) on investments	415,644	(233,626)
Net cash used in investing activities	2,767,502	354,247
Net increase in cash and equivalents	702,130	428,497
Cash and equivalents, beginning of year	1,274,246	845,749
Cash and equivalents, end of year	$1,976,376	$1,274,246

Exhibit G
Internal Revenue Service Life Expectancy Tables

A Report Addressing Certain Financial Issues Pertaining to the 2003 Merger Between the Autry Museum of Western Heritage and the Southwest Museum

Internal Revenue Service
United States Department of the Treasury

Publication 590 - Additional Material

Table of Contents

Appendices

To help you complete your tax return, use the following appendices that include worksheets, sample forms, and tables.

1. **Appendix A** — Summary Record of Traditional IRA(s) for 2005 and Worksheet for Determining Required Minimum Distributions.
2. **Appendix B** — Worksheets you use if you receive social security benefits and are subject to the IRA deduction phaseout rules. A filled-in example is included.
   a. Worksheet 1, Computation of Modified AGI.
   b. Worksheet 2, Computation of Traditional IRA Deduction for 2005.
   c. Worksheet 3, Computation of Taxable Social Security Benefits.
   d. Comprehensive Example and completed worksheets.
3. **Appendix C** — Life Expectancy Tables. These tables are included to assist you in computing your required minimum distribution amount if you have not taken all your assets from all your traditional IRAs before age 70½.
   a. Table I (Single Life Expectancy).
   b. Table II (Joint Life and Last Survivor Expectancy).
   c. Table III (Uniform Lifetime).

APPENDIX A. Summary Record of Traditional IRA(s) for 2005 (Keep for Your Records)

Name ________________________________				
I was □ covered □ not covered by my employer's retirement plan during the year.				
I became 59½ on ________________________________(month) (day) (year)				
I became 70½ on ________________________________(month) (day) (year)				
Contributions				
Name of traditional IRA	Date	Amount contributed for 2005	Check if rollover contribution	Fair Market Value of IRA as of December 31, 2005, from Form 5498
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
Total				

10	72.8	38	45.6
11	71.8	39	44.6
12	70.8	40	43.6
13	69.9	41	42.7
14	68.9	42	41.7
15	67.9	43	40.7
16	66.9	44	39.8
17	66.0	45	38.8
18	65.0	46	37.9
19	64.0	47	37.0
20	63.0	48	36.0
21	62.1	49	35.1
22	61.1	50	34.2
23	60.1	51	33.3
24	59.1	52	32.3
25	58.2	53	31.4
26	57.2	54	30.5
27	56.2	55	29.6

APPENDIX C. (Continued)

Table I
(Single Life Expectancy)
(For Use by Beneficiaries)

Age	Life Expectancy	Age	Life Expectancy
56	28.7	84	8.1
57	27.9	85	7.6
58	27.0	86	7.1
59	26.1	87	6.7
60	25.2	88	6.3
61	24.4	89	5.9
62	23.5	90	5.5
63	22.7	91	5.2
64	21.8	92	4.9
65	21.0	93	4.6
66	20.2	94	4.3
67	19.4	95	4.1
68	18.6	96	3.8
69	17.8	97	3.6
70	17.0	98	3.4
71	16.3	99	3.1
72	15.5	100	2.9
73	14.8	101	2.7
74	14.1	102	2.5
75	13.4	103	2.3
76	12.7	104	2.1
77	12.1	105	1.9
78	11.4	106	1.7
79	10.8	107	1.5
80	10.2	108	1.4
81	9.7	109	1.2
82	9.1	110	1.1
83	8.6	111 and over	1.0

Appendix C. Life Expectancy Tables (Continued)

Table II

(Joint Life and Last Survivor Expectancy)
(For Use by Owners Whose Spouses Are More Than 10 Years Younger and Are the Sole Beneficiaries of their IRAs)

<u>EXHIBIT H</u>
<u>LIST OF PROVIDED DOCUMENTS</u>

A REPORT ADDRESSING CERTAIN FINANCIAL ISSUES PERTAINING TO THE 2003 MERGER BETWEEN THE AUTRY MUSEUM OF WESTERN HERITAGE AND THE SOUTHWEST MUSEUM

LIST OF PROVIDED DOCUMENTS

The following documents were provided by the Friends of the Southwest Museum to Jack Siegel:

1. 1998, 1999, 2000, 2001, 2002, 2003, & 2004 Forms 990-PF for the Autry Foundation.

2. 1998, 1999, 2000, 2001, 2002 Forms 990 for the Southwest Museum,

3. 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, & 2006 Forms 990 and the 2000 Form 990PF for the Autry Western Heritage Museum and the Autry National Center of the American West.

4. Autry National Center Merger Agreement and Accompanying Schedules.

5. Press Release, Autry National Center, Update, Apr. 25, 2006.

6. June 14, 2005 Letter to the Board of Directors of the Autry National Center from the Mount Washington Homeowners Alliance.

7. May 16, 2005 Letter to the Board of Directors of the Autry National Center from the Mount Washington Homeowners Alliance.

8. June 11, 2004 Letter to the Friends of the Southwest Museum from John L. Grey of the Autry National Center.

8. Southwest Museum, Narrative Summary of the Collection, undated document provided by the Friends.

9. ConsultEcon, Inc., Review of Southwest Museum Rehabilitation Evaluations, March 5, 2005.

10. April 22, 2003 Letter to Nicole Possert from James M. Cordi, Supervising Deputy Attorney General, State of California Department of Justice.

11. April 18, 2003 Letter to James M. Cordi, Supervising Deputy Attorney General, State of California Department of Justice, from Nicole Possert.

12. Christopher Reynolds, *Southwest Faces Major Repair Job*, L.A. TIMES, Mar. 21, 2006.

13. Suzanne Muchnic, *Autry Picks Texas Design Firm*, L.A. TIMES, Mar. 7, 2005.

14. Christopher Reynolds, *A Union of Cowboys and Indians*, L.A. TIMES, Dec. 11, 2002.

Jack Siegel all reviewed the following documents:

15. Friends of the Southwest Museum Web site at http://www.friendsofthesouthwestmuseum.com/ (selective review).

16. Autry National Center Web site at http://www.autry-museum.org/ (selective review).

17. All Other Items Referred to in the Charity Governance Consulting/Jack Siegel Report.

EXHIBIT I
AUTRY FOUNDATION 2003 FORM 990-PF, PART II, BALANCE SHEET

A REPORT ADDRESSING CERTAIN FINANCIAL ISSUES PERTAINING TO THE 2003 MERGER BETWEEN THE AUTRY MUSEUM OF WESTERN HERITAGE AND THE SOUTHWEST MUSEUM

Form **990-PF**

Department of the Treasury
Internal Revenue Service

Return of Private Foundation
or Section 4947(a)(1) Nonexempt Charitable Trust Treated as a Private Foundation

Note: *The organization may be able to use a copy of this return to satisfy state reporting requirements.*

OMB No 1545-0052

2003

For calendar year 2003, or tax year beginning , and ending

G Check all that apply [ ] Initial return [ ] Final return [ ] Amended return [ ] Address change [ ] Name change

Use the IRS label. Otherwise, print or type. See Specific Instructions.

Name of organization: AUTRY FOUNDATION

A Employer identification number: 23-7433359

Number and street (or P O box number if mail is not delivered to street address): 4383 COLFAX AVENUE | Room/suite

B Telephone number: (818)752-7770

City or town, state, and ZIP code: STUDIO CITY, CA 91604

C If exemption application is pending, check here ▶ [ ]
D 1. Foreign organizations, check here ▶ [ ]
2. Foreign organizations meeting the 85% test, check here and attach computation ▶ [ ]

H Check type of organization: [X] Section 501(c)(3) exempt private foundation
[ ] Section 4947(a)(1) nonexempt charitable trust [ ] Other taxable private foundation

E If private foundation status was terminated under section 507(b)(1)(A), check here ▶ [ ]

I Fair market value of all assets at end of year (*from Part II, col. (c), line 16*) ▶$ 17,244,443.

J Accounting method [ ] Cash [X] Accrual
[ ] Other (specify)
(*Part I, column (d) must be on cash basis.*)

F If the foundation is in a 60-month termination under section 507(b)(1)(B), check here ▶ [ ]

Part I Analysis of Revenue and Expenses (The total of amounts in columns (b), (c), and (d) may not necessarily equal the amounts in column (a))

		(a) Revenue and expenses per books	(b) Net investment income	(c) Adjusted net income	(d) Disbursements for charitable purposes (cash basis only)
Revenue	1 Contributions, gifts, grants, etc, received			N/A	
	Check ▶ [X] if the foundation is not required to attach Sch B				
	2 Distributions from split-interest trusts				
	3 Interest on savings and temporary cash investments				
	4 Dividends and interest from securities	882,123.	759,387.		STATEMENT 1
	5a Gross rents				
	b (Net rental income or (loss))				
	6a Net gain or (loss) from sale of assets not on line 10	7,875.			
	b Gross sales price for all assets on line 6a 1,227,381.				
	7 Capital gain net income (from Part IV, line 2)		7,875.		
	8 Net short-term capital gain				
	9 Income modifications				
	10a Gross sales less returns and allowances				
	b Less Cost of goods sold				
	c Gross profit or (loss)				
	11 Other income	425,814.	425,814.		STATEMENT 2
	12 Total. Add lines 1 through 11	1,315,812.	1,193,076.		
Operating and Administrative Expenses	13 Compensation of officers, directors, trustees, etc	0.	0.		0.
	14 Other employee salaries and wages				
	15 Pension plans, employee benefits				
	16a Legal fees STMT 3	12,471.	12,471.		0.
	b Accounting fees STMT 4	600.	0.		0.
	c Other professional fees				
	17 Interest				
	18 Taxes STMT 5	14,890.	122.		0.
	19 Depreciation and depletion	442,528.	442,528.		
	20 Occupancy				
	21 Travel, conferences, and meetings				
	22 Printing and publications				
	23 Other expenses STMT 6	1,324.	1,324.		0.
	24 Total operating and administrative expenses. Add lines 13 through 23	471,813.	456,445.		0.
	25 Contributions, gifts, grants paid	1,652,729.			1,652,729.
	26 Total expenses and disbursements. Add lines 24 and 25	2,124,542.	456,445.		1,652,729.
	27 Subtract line 26 from line 12				
	a Excess of revenue over expenses and disbursements	<808,730.>			
	b Net investment income (if negative, enter -0-)		736,631.		
	c Adjusted net income (if negative, enter -0-)			N/A	

RECEIVED
MAY 3 2004
OGDEN, UT

SCANNED MAY 25 2004

Part II Balance Sheets

Attached schedules and amounts in the description column should be for end-of-year amounts only

		Beginning of year (a) Book Value	End of year (b) Book Value	End of year (c) Fair Market Value
Assets	1 Cash - non-interest-bearing	13,880.	1,691.	1,691.
	2 Savings and temporary cash investments	2,817,632.	3,220,282.	3,446,787.
	3 Accounts receivable ▶ 9,373.			
	Less allowance for doubtful accounts ▶	644.	9,373.	9,373.
	4 Pledges receivable ▶			
	Less allowance for doubtful accounts ▶			
	5 Grants receivable			
	6 Receivables due from officers, directors, trustees, and other disqualified persons			
	7 Other notes and loans receivable ▶			
	Less allowance for doubtful accounts ▶			
	8 Inventories for sale or use			
	9 Prepaid expenses and deferred charges	696.	6,163.	6,163.
	10a Investments - U S and state government obligations STMT 7	1,888,628.	1,168,508.	1,220,050.
	b Investments - corporate stock STMT 8	2,215,823.	2,215,823.	3,330,113.
	c Investments - corporate bonds STMT 9	7,941,029.	7,423,362.	7,927,892.
	11 Investments - land, buildings, and equipment basis ▶			
	Less accumulated depreciation ▶			
	12 Investments - mortgage loans			
	13 Investments - other STMT 10	820,000.	820,000.	370,912.
	14 Land, buildings, and equipment basis ▶ 1,159,584.			
	Less accumulated depreciation STMT 11 ▶ 651,452.	498,080.	508,132.	508,132.
	15 Other assets (describe ▶ STATEMENT 12)	423,330.	423,330.	423,330.
	16 **Total assets** (to be completed by all filers)	16,619,742.	15,796,664.	17,244,443.
Liabilities	17 Accounts payable and accrued expenses	14,348.		
	18 Grants payable			
	19 Deferred revenue			
	20 Loans from officers, directors, trustees, and other disqualified persons			
	21 Mortgages and other notes payable			
	22 Other liabilities (describe ▶)			
	23 **Total liabilities** (add lines 17 through 22)	14,348.	0.	
Net Assets or Fund Balances	**Organizations that follow SFAS 117, check here ▶ [ ] and complete lines 24 through 26 and lines 30 and 31.**			
	24 Unrestricted			
	25 Temporarily restricted			
	26 Permanently restricted			
	Organizations that do not follow SFAS 117, check here ▶ [X] and complete lines 27 through 31.			
	27 Capital stock, trust principal, or current funds	0.	0.	
	28 Paid-in or capital surplus, or land, bldg , and equipment fund	0.	0.	
	29 Retained earnings, accumulated income, endowment, or other funds	16,605,394.	15,796,664.	
	30 **Total net assets or fund balances**	16,605,394.	15,796,664.	
	31 **Total liabilities and net assets/fund balances**	16,619,742.	15,796,664.	

Part III Analysis of Changes in Net Assets or Fund Balances

1	Total net assets or fund balances at beginning of year - Part II, column (a), line 30 (must agree with end-of-year figure reported on prior year's return)	1	16,605,394.
2	Enter amount from Part I, line 27a	2	<808,730.>
3	Other increases not included in line 2 (itemize) ▶	3	0.
4	Add lines 1, 2, and 3	4	15,796,664.
5	Decreases not included in line 2 (itemize) ▶	5	0.
6	Total net assets or fund balances at end of year (line 4 minus line 5) - Part II, column (b), line 30	6	15,796,664.

Form **990-PF**

Department of the Treasury
Internal Revenue Service

Return of Private Foundation

or Section 4947(a)(1) Nonexempt Charitable Trust Treated as a Private Foundation

Note: *The organization may be able to use a copy of this return to satisfy state reporting requirements.*

OMB No 1545-0052

2003

For calendar year 2003, or tax year beginning , and ending

G Check all that apply [ ] Initial return [ ] Final return [ ] Amended return [ ] Address change [ ] Name change

Use the IRS label. Otherwise, print or type. See Specific Instructions.

Name of organization
AUTRY FOUNDATION

Number and street (or P O box number if mail is not delivered to street address) | Room/suite
4383 COLFAX AVENUE

City or town, state, and ZIP code
STUDIO CITY, CA 91604

A Employer identification number
23-7433359

B Telephone number
(818)752-7770

C If exemption application is pending, check here ▶ [ ]
D 1. Foreign organizations, check here ▶ [ ]
2. Foreign organizations meeting the 85% test, check here and attach computation ▶ [ ]

H Check type of organization [X] Section 501(c)(3) exempt private foundation
[ ] Section 4947(a)(1) nonexempt charitable trust [ ] Other taxable private foundation

E If private foundation status was terminated under section 507(b)(1)(A), check here ▶ [ ]

I Fair market value of all assets at end of year *(from Part II, col. (c), line 16)* ▶$ 17,244,443.

J Accounting method [ ] Cash [X] Accrual
[ ] Other (specify)
(Part I, column (d) must be on cash basis.)

F If the foundation is in a 60-month termination under section 507(b)(1)(B), check here ▶ [ ]

SCANNED MAY 25 2004

RECEIVED MAY 3 2004 OGDEN, UT

Part I Analysis of Revenue and Expenses (The total of amounts in columns (b), (c), and (d) may not necessarily equal the amounts in column (a))	(a) Revenue and expenses per books	(b) Net investment income	(c) Adjusted net income	(d) Disbursements for charitable purposes (cash basis only)
Revenue				
1 Contributions, gifts, grants, etc, received			N/A	
Check ▶ [X] if the foundation is not required to attach Sch B				
2 Distributions from split-interest trusts				
3 Interest on savings and temporary cash investments				
4 Dividends and interest from securities	882,123.	759,387.		STATEMENT 1
5a Gross rents				
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6a Net gain or (loss) from sale of assets not on line 10	7,875.			
b Gross sales price for all assets on line 6a 1,227,381.				
7 Capital gain net income (from Part IV, line 2)		7,875.		
8 Net short-term capital gain				
9 Income modifications				
10a Gross sales less returns and allowances				
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c Gross profit or (loss)				
11 Other income	425,814.	425,814.		STATEMENT 2
12 Total. Add lines 1 through 11	1,315,812.	1,193,076.		
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13 Compensation of officers, directors, trustees, etc	0.	0.		0.
14 Other employee salaries and wages				
15 Pension plans, employee benefits				
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b Accounting fees STMT 4	600.	0.		0.
c Other professional fees				
17 Interest				
18 Taxes STMT 5	14,890.	122.		0.
19 Depreciation and depletion	442,528.	442,528.		
20 Occupancy				
21 Travel, conferences, and meetings				
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23 Other expenses STMT 6	1,324.	1,324.		0.
24 **Total operating and administrative expenses.** Add lines 13 through 23	471,813.	456,445.		0.
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c **Adjusted net income** (if negative, enter -0-)			N/A	

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	Less allowance for doubtful accounts ▶			
	5 Grants receivable			
	6 Receivables due from officers, directors, trustees, and other disqualified persons			
	7 Other notes and loans receivable ▶			
	Less allowance for doubtful accounts ▶			
	8 Inventories for sale or use			
	9 Prepaid expenses and deferred charges	696.	6,163.	6,163.
	10a Investments - U S and state government obligations STMT 7	1,888,628.	1,168,508.	1,220,050.
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	18 Grants payable			
	19 Deferred revenue			
	20 Loans from officers, directors, trustees, and other disqualified persons			
	21 Mortgages and other notes payable			
	22 Other liabilities (describe ▶)			
	23 Total liabilities (add lines 17 through 22)	14,348.	0.	
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	25 Temporarily restricted			
	26 Permanently restricted			
	Organizations that do not follow SFAS 117, check here ▶ [X] and complete lines 27 through 31.			
	27 Capital stock, trust principal, or current funds	0.	0.	
	28 Paid-in or capital surplus, or land, bldg , and equipment fund	0.	0.	
	29 Retained earnings, accumulated income, endowment, or other funds	16,605,394.	15,796,664.	
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Part III Analysis of Changes in Net Assets or Fund Balances

1 Total net assets or fund balances at beginning of year - Part II, column (a), line 30 (must agree with end-of-year figure reported on prior year's return)	1	16,605,394.
2 Enter amount from Part I, line 27a	2	<808,730.>
3 Other increases not included in line 2 (itemize) ▶	3	0.
4 Add lines 1, 2, and 3	4	15,796,664.
5 Decreases not included in line 2 (itemize) ▶	5	0.
6 Total net assets or fund balances at end of year (line 4 minus line 5) - Part II, column (b), line 30	6	15,796,664.

EXHIBIT J
INVESTMENT RETURNS AT 10%

A REPORT ADDRESSING CERTAIN FINANCIAL ISSUES PERTAINING TO THE 2003 MERGER BETWEEN THE AUTRY MUSEUM OF WESTERN HERITAGE AND THE SOUTHWEST MUSEUM

INVESTMENT RETURNS

S & P 500
1926-2000

Year	8.00%	10.00%	11.00%	12.00%	14.00%	16.00%	18.00%
1	$17,369,133	$17,369,133	$17,369,133	$17,369,133	$17,369,133	$17,369,133	$17,369,133
2	$18,758,664	$19,106,046	$19,279,738	$19,453,429	$19,800,812	$20,148,194	$20,495,577
3	$20,259,357	$21,016,651	$21,400,509	$21,787,840	$22,572,925	$23,371,905	$24,184,781
4	$21,880,105	$23,118,316	$23,754,565	$24,402,381	$25,733,135	$27,111,410	$28,538,041
5	$23,630,514	$25,430,148	$26,367,567	$27,330,667	$29,335,774	$31,449,236	$33,674,889
6	$25,520,955	$27,973,162	$29,267,999	$30,610,347	$33,442,782	$36,481,114	$39,736,369
7	$27,562,631	$30,770,479	$32,487,479	$34,283,589	$38,124,771	$42,318,092	$46,888,915
8	$29,767,642	$33,847,526	$36,061,102	$38,397,619	$43,462,239	$49,088,986	$55,328,920
9	$32,149,053	$37,232,279	$40,027,823	$43,005,334	$49,546,953	$56,943,224	$65,288,125
10	$34,720,977	$40,955,507	$44,430,884	$48,165,974	$56,483,526	$66,054,140	$77,039,988
11	$37,498,655	$45,051,058	$49,318,281	$53,945,891	$64,391,220	$76,622,803	$90,907,186
12	$40,498,548	$49,556,164	$54,743,292	$60,419,397	$73,405,991	$88,882,451	$107,270,479
13	$43,738,432	$54,511,780	$60,765,054	$67,669,725	$83,682,830	$103,103,643	
14	$47,237,506	$59,962,958	$67,449,210	$75,790,092	$95,398,426		
15	$51,016,507	$65,959,254	$74,868,623	$84,884,903			
16	$55,097,827	$72,555,179	$83,104,171	$95,071,092			
17	$59,505,653	$79,810,697	$92,245,630				
18	$64,266,106	$87,791,767	$102,392,649				
19	$69,407,394	$96,570,943					
20	$74,959,986						
21	$80,956,785						
22	$87,433,327						
23	$94,427,993						
24	$101,982,233						

EXHIBIT K

COMPARATIVE FINANCIAL INFORMATION FOR THE AUTRY MUSEUM AND THE SOUTHWEST MUSEUM

A REPORT ADDRESSING CERTAIN FINANCIAL ISSUES PERTAINING TO THE 2003 MERGER BETWEEN THE AUTRY MUSEUM OF WESTERN HERITAGE AND THE SOUTHWEST MUSEUM

AUTRY WESTERN HERITAGE MUSEUM

	1999	2000	2001	2002
Cash (non interest bearing)	$621,741	$1,976,375	$1,011,706	$1,610,884
Savings Accounts	$625,505	$230,037	$194,407	$292,634
Accounts Receivable	$201,094	$62,218	$41,346	$34,117
Grants Receivable	$0	$127,786	$188,044	$108,407
Inventories	$546,793	$437,582	$475,523	$523,657
Prepaid Expenses	$182,547	$94,436	$137,054	$246,293
Investments--Corporate Stock	$1,799,555	$786,412	$1,452,876	$1,804,493
Investments--Other	$496,046	$0	$0	$0
Total Liquid Assets	$4,473,281	$3,714,846	$3,500,956	$4,620,485
Accounts Payable	$494,046	$648,046	$570,697	$869,337
NET LIQUID WORTH	$3,979,235	$3,066,800	$2,930,259	$3,751,148
Unadjusted Revenue	$11,939,348	$107,842,641	$9,681,114	$11,517,895
Pledge	$0	-$97,570,670	$0	$0
Total Revenue	$11,939,348	$10,271,971	$9,681,114	$11,517,895
Unadjusted Expenses	$9,657,868	$11,226,114	$10,545,023	$10,359,283
Depreciation	-$1,041,915	-$1,032,691	-$1,040,345	-$1,066,721
Total Expenses	$8,615,953	$10,193,423	$9,504,678	$9,292,562
OPERATING CASH FLOW	$3,323,395	$78,548	$176,436	$2,225,333

SOUTHWEST MUSEUM	30-Jun-99	30-Jun-00	30-Jun-01	30-Jun-02	30-Jun-03
Cash (non interest bearing)	-$1	$12,618	$600	$600	$0
Savings Accounts	$366,696	$33,347	$881,198	$1,249,721	$0
Accounts Receivable	$0	$0	$0	$0	$0
Grants Receivable	$98,799	$35,743	$512,889	$205,008	
Inventories	$267,403	$251,066	$221,090	$217,090	$0
Prepaid Expenses	$62,910	$57,418	$59,503	$68,453	$0
Investments--Securities	$5,235,344	$4,683,937	$4,216,744	$3,910,920	$0
Investments--Other	$69,258	$40,313	$38,274	$33,129	$0
Total Liquid Assets	$6,100,409	$5,114,442	$5,930,298	$5,684,921	$0
Accounts Payable	$133,542	$181,760	$135,976	$52,807	$0
NET LIQUID ASSETS	$5,966,867	$4,932,682	$5,794,322	$5,632,114	$0
Unadjusted Revenue	$1,878,748	$1,250,586	$2,551,718	$1,667,630	$534,321
Total Revenue	$1,878,748	$1,250,586	$2,551,718	$1,667,630	$534,321
Unadjusted Expenses	$2,334,326	$2,633,476	$1,824,288	$1,711,058	$1,431,861
Depreciation	-$302,852	-$359,517	-$271,040	-$118,215	-$133,496
Total Expenses	$2,031,474	$2,273,959	$1,553,248	$1,592,843	$1,298,365
OPERATING CASH FLOW	-$152,726	-$1,023,373	$998,470	$74,787	-$764,044

<u>EXHIBIT L</u>
<u>AUTRY MUSEUM OPERATING RESULTS</u>

A REPORT ADDRESSING CERTAIN FINANCIAL ISSUES PERTAINING TO THE 2003 MERGER BETWEEN THE AUTRY MUSEUM OF WESTERN HERITAGE AND THE SOUTHWEST MUSEUM

		2000	2001	2002	2003	2004	2005	2006
Autry Museum Gross Revenues		$107,371,809	$9,681,114	$11,517,895	$12,541,425	$19,407,519	$19,163,696	$17,658,106
Adjustment for Pledge		($97,222,712)						
Autry Museum Net Revenue		$10,149,097	$9,681,114	$11,517,895	$12,541,425	$19,407,519	$19,163,696	$17,658,106
Autry Museum Expenses		$10,755,281	$10,545,023	$10,359,283	$13,171,861	$15,450,377	$17,007,039	$17,542,398
Autry Museum Net Income		($606,184)	($863,909)	$1,158,612	($630,436)	$3,957,142	$2,156,657	$115,708
Autry Museum Annual Annuity		$6,000,000 (Assumed to be included in the Gross and Net Revenue numbers)[88]	$6,000,000 (Assumed to be included in the Gross and Net Revenue numbers)[89]	$6,050,000 (Assumed to be included in the Gross and Net Revenue numbers)	$6,050,000 (Assumed to be included in the Gross and Net Revenue numbers)	$6,050,000 (Assumed to be included in the Gross and Net Revenue numbers)	$6,050,000 (Assumed to be included in the Gross and Net Revenue numbers)	$6,050,000 (Assumed to be included in the Gross and Net Revenue numbers)
Statement of Cash Flows—Cash Provided by or (Used in) Operations		Statements Not Readily Available	Statements Not Readily Available	Statements Not Readily Available	Statements Not Readily Available	($3,135,373)	$584,062	($6,472,228)

[88] This is probably not a good assumption for 2000. The Autry Museum's Form 990-PF reports that Mrs. Autry donated $1,704,684 and the Autry Foundation donated $710,684 to the Autry Museum. It also reports that the Autry Foundation donated an additional $97,222,712 to the Autry Museum. Although I have no way of knowing for sure, I suspect that the $1,704,684 and $710,684 are contributions of cash and marketable securities, while the $97,222,712 number reflects the Pledge. This conclusion is supported by the $97,840,178 entry on Line 4b of Part II of the Form 990-PF.

[89] The Schedule B to the Autry Museum's Form 990 redacts the name of contributors, as is permitted. This means that I am unable to confirm the amount of Mrs. Autry's contributions to the Autry Museum.