

LEGAL SERVICES CORPORATION

**BOARD OF DIRECTORS
AUDIT AND APPROPRIATIONS COMMITTEE MEETING**

OPEN SESSION

Thursday, September 9, 1993

5:30 p.m.

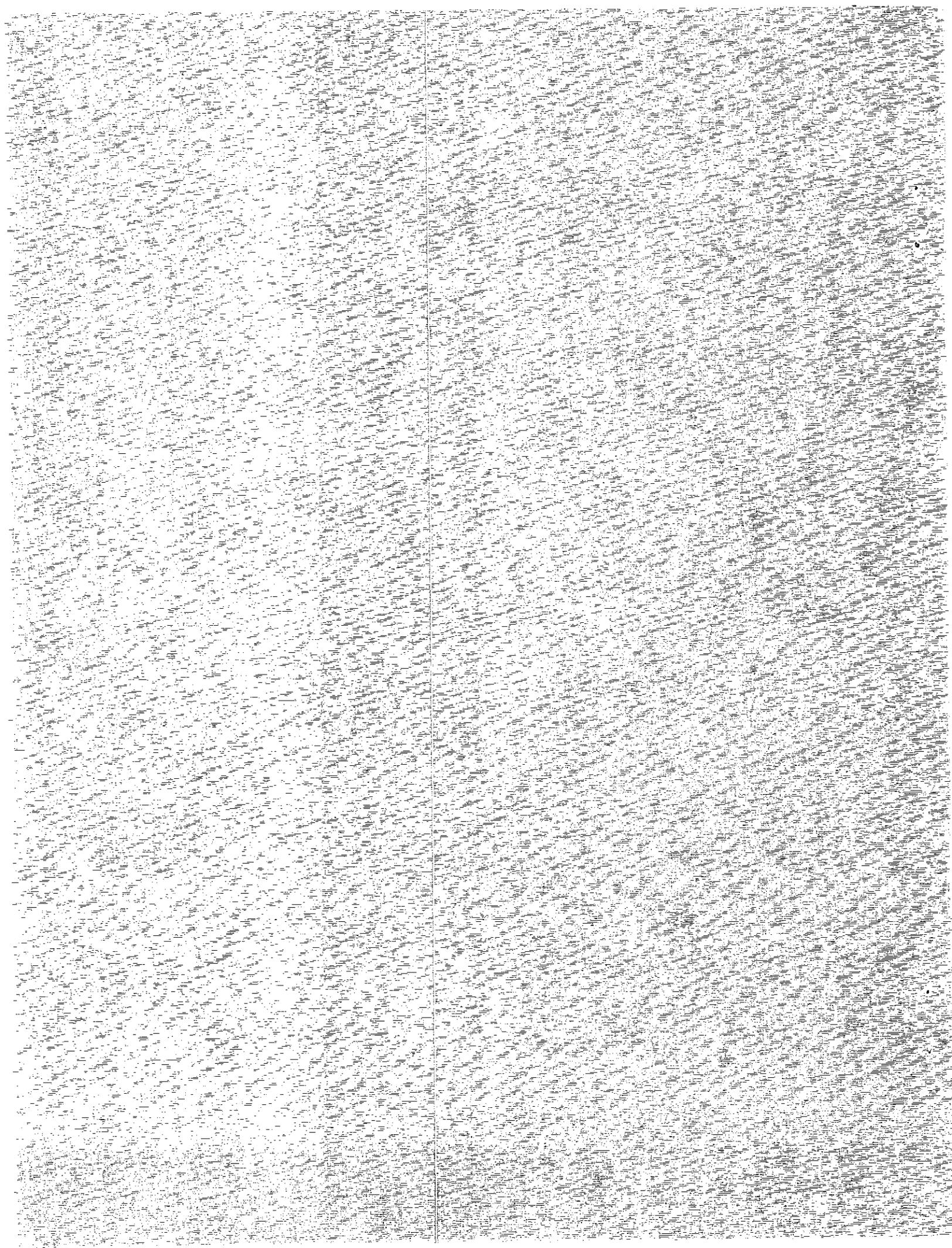
**The Hilton Plaza Inn
The Regency West Ballroom
One East 45th Street
Kansas City, Missouri**

Diversified Reporting Services, Inc.

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WASHINGTON, D.C. 20006

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Board Members Present:

Basile J. Uddo, Chairman
J. Blakeley Hall
William L. Kirk, Jr.
Jo Betts Love
Norman D. Shumway
George W. Wittgraf
Jeanine E. Wolbeck

Staff Present:

John P. O'Hara, President
Emilia DiSanto, Vice President
Patricia Batie, Secretary
David Richardson, Comptroller and Treasurer
Victor Fortuno, General Counsel
Edouard Quatrevaux, Inspector General
Kenneth Boehm, Assistant to the President
and Counsel to the Board

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P R O C E E D I N G S

1
2 CHAIRMAN UDDO: I'm going to call the meeting of
3 the Audit and Appropriations Committee to order. We do have
4 a quorum. Let the record reflect that members of the
5 committee present are Ms. Wolbeck, Ms. Love, Mr. Kirk, and
6 myself.

7 We have something of a time constraint, with a
8 reception scheduled for 6:30, so my meeting won't be as long
9 and ponderous as Mr. Kirk's meeting was. We'll try to get it
10 over with more quickly.

11 The first agenda item --

12 MR. KIRK: Thank you for the irreverence.

13 CHAIRMAN UDDO: Well, in the spirit of the day.

14 The first item on the agenda is approval of the
15 agenda, and I would entertain a motion to approve the agenda.

M O T I O N

16 MS. LOVE: So moved.

17 MR. KIRK: Second.

18 CHAIRMAN UDDO: So moved by Ms. Love, seconded by
19 Mr. Kirk. All those in favor of the agenda as included in
20 the meeting book dated September 9th signify by saying aye.
21

22 (Chorus of ayes.)

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1 CHAIRMAN UDDO: Opposed?

2 (No response.)

3 CHAIRMAN UDDO: The ayes have it. The agenda is
4 approved.

5 The second item is the approval of the minutes of
6 the June 28th meeting, which I participated in by telephone
7 and Mr. Kirk chaired on my behalf.

8 To the best of my recollections, it reflected the
9 meeting as I heard it, but I will entertain a motion to
10 approve the draft minutes of the June 28th meeting.

11 M O T I O N

12 MS. WOLBECK: So moved.

13 CHAIRMAN UDDO: Moved by Ms. Wolbeck.

14 MS. LOVE: Second.

15 CHAIRMAN UDDO: Seconded by Ms. Love. All those in
16 favor of approval of the minutes, please signify by saying
17 aye.

18 (Chorus of ayes.)

19 CHAIRMAN UDDO: All opposed, nay?

20 (No response.)

21 CHAIRMAN UDDO: The ayes have it. The minutes of
22 the June 28th meeting are approved.

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1 Now, if Mr. Richardson would come to the table for
2 Agenda Item Number 3, Consideration and Review of the Budget
3 and Expenses through June 30th and Projections for the Three-
4 Month Period of July 1, 1993 to September 30, 1993. And that
5 information is in the green book, right?

6 MR. RICHARDSON: That is correct, sir.

7 CHAIRMAN UDDO: Okay. If you have the beige book,
8 that doesn't have the information that is going to be
9 discussed in the next several agenda items. But there are
10 green books back on the table.

11 So I would direct your attention to the first
12 insert in the green book. Mr. Richardson.

13 MR. RICHARDSON: All right, sir. As we get started
14 here with the nine-month review, there is a little bit of a
15 cleanup that we need to do from our May meeting in regards to
16 the six-month review.

17 We had originally transferred some monies from the
18 basic field program and state support and other funds
19 available to set up the MIGP and the migrant awards. In
20 going to Congress for the reprogramming, we found that there
21 would be legislation required. So we started looking at ways
22 that we could accommodate the board's wishes without going

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1 through the reprogramming, and I think we've done that.

2 The other funds available are not subject to
3 reprogramming. The funds -- when we transfer money from, for
4 instance, a basic field to the MIGP in our budget, we can't
5 transfer current appropriated funds without legislative
6 approval.

7 So what we've done is we've reset the revision, the
8 reallocation of funds for the basic field, and for the state
9 support. And, in doing so, they've gone back to the way they
10 were before the meeting.

11 To accommodate the different awards, the
12 meritorious grant, and the migrant ADR, we did go ahead and
13 move the money from the other funds available, the \$217,000,
14 from the other funds available to migrant, so that we could
15 then support, with the budgetary, the funds needed for the
16 migrant ADR and, of course, the Mississippi grant, also.

17 To accommodate the awards for the MIGP, we charged
18 those to the lines where the programs get their normal
19 funding. There was one grant that was charged to the basic
20 field.

21 Let me direct you to -- behind the first memo dated
22 September 7th to Mr. Uddo, there is an Attachment D in the

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1 green book.

2 CHAIRMAN UDDO: "Attachment D," you said?

3 MR. RICHARDSON: Yes, sir.

4 CHAIRMAN UDDO: Okay.

5 MR. RICHARDSON: What I've done is I've identified
6 the contingencies and the carryovers from 1992, and the
7 contingencies are fiscal year 1993. This is the information,
8 basically, that you were given at the last meeting.

9 Then I've got the reserves for the Proteus
10 training, the ADR initiative that we had already set the
11 money aside for. So I've got the reserves at May 23
12 subtracted from the total of the contingencies and the
13 carryover. And there you will see the \$53,115.

14 This is the amount that we had originally
15 transferred to the MIGP line along with the state support
16 money, the \$74,821, and adding to that the additional monies
17 that were needed from other funds available to get enough for
18 the MIGP grants.

19 In charging these to the appropriated lines, we
20 will need to make a couple of transfers from other funds
21 available. And we can do this without going through
22 reprogramming.

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1 I have tried to summarize, on Page -- you'll see
2 that this ADR and MIGP -- I've got the ADR initiatives. It
3 was \$296,831 was granted. On the next page, you'll see that
4 I have gone through and listed the other awards that have
5 been made. Total MIGP and ADR was \$544,026.

6 In making these grants in the appropriate lines, we
7 need to make three additional reallocations of funds. There
8 was originally \$58,000 that was set aside, that was a
9 contingency in the Native American. We funded a \$49,000
10 grant that Ms. Smead spoke to you earlier about from the
11 Indian Law Center. One of the MIGP grants from the Michigan
12 Indian Law Center was \$14,000.

13 That made a total that was awarded from the Native
14 American line of \$64,237. There is already \$58,000 there.
15 So, in essence, we need to transfer from other funds
16 available \$5,453.

17 As you see with the migrant, the \$217,000, we still
18 have a little bit of money left there. There is the \$26,000.
19 Again, \$23,000 of that is for the Kentucky migrant situation
20 there.

21 There was a \$30,000 grant from the national support
22 line. There is still \$36,905 there. And it is my

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1 understanding that we do have a proposal for much of that
2 money.

3 In the state support line, you'll see that there
4 were three grants that came through in the MIGP that we
5 charged to the state support. We need to transfer an
6 additional \$1,179 to that budget line. And the supplemental
7 field, we need to transfer \$25,000 for that. That will
8 accommodate all the MIGP and the ADR grants.

9 The figure you see at the bottom, \$79,425, that is
10 the amount that is available -- I would say is available --
11 that is the amount that is remaining at this time. Again,
12 \$23,000 of it for Kentucky and approximately \$36,000 for the
13 state support grants. The basic field money, \$16,313, is not
14 encumbered at this time.

15 CHAIRMAN UDDO: All right, David. A motion to do
16 that would have to cover where it's coming from and where
17 it's going to?

18 MR. RICHARDSON: That is correct, sir.

19 CHAIRMAN UDDO: So you might have to give me those
20 in summary detail. On Page 2 of the memorandum, you show
21 what funds are needed in the various lines. What do we have
22 to add to that to authorize the transfer?

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1 MR. RICHARDSON: The Native American, the \$5,453;
2 and the supplemental field, \$25,000; and the state support --
3 that's the balance; the \$31,632 is the balance that is needed
4 at this time.

5 CHAIRMAN UDDO: And those amounts are in those
6 lines currently?

7 MR. RICHARDSON: They are shown in those lines,
8 yes, at this time, and they are shown in Column 9 as proposed
9 COB modification.

10 CHAIRMAN UDDO: All right. So what we would need
11 to do is authorize the expenditure of those amounts in those
12 lines to fund the grant?

13 MR. RICHARDSON: That is correct, sir.

14 CHAIRMAN UDDO: Okay.

15 MR. RICHARDSON: There was one other transfer that
16 I would recommend that we make. The \$10,000 was set up in
17 1990 for a Charleston, South Carolina, grant in regards to
18 the Hugo. That situation has now been settled and the money
19 is no longer needed.

20 To get it into a more appropriate line, I would
21 suggest that we would transfer that to the emergency grant,
22 since that is what the money was originally used for. That's

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1 the only other recommendation I have.

2 CHAIRMAN UDDO: That would be separate from
3 transferring or authorizing the use of the money for the
4 MIGP?

5 MR. RICHARDSON: That is correct, sir.

6 CHAIRMAN UDDO: All right. We can do that in one
7 motion, then. Do you have more to go into this motion?

8 MR. RICHARDSON: That is all that is in regards to
9 the grants. There are some reallocations within the
10 management and administration.

11 CHAIRMAN UDDO: All right. Why don't we do this?
12 Let's stop at this point and, even though we might put it all
13 into one motion, let's see if there's any questions just
14 about this much of it so far before we get lost in the rest
15 of it.

16 Do the members of the committee understand what Mr.
17 Richardson is suggesting that we do, as he describes it on
18 Page 2 of the memorandum to me dated September 7th? Does
19 anyone have any questions of Mr. Richardson about the
20 recommendations with respect to authorizing the use of these
21 funds for the MIGP program and the transfer of the \$10,000
22 that has become available because of an insurance settlement

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1 for a South Carolina program, transferring that \$10,000 to
2 the emergency grant line?

3 Mr. President?

4 MR. O'HARA: Thank you, Mr. Chairman. Just a
5 comment. We've also had another situation involving a
6 program in Virginia where a tornado hit one of our programs
7 above Richmond, in the Petersburg area, and we've been in
8 touch with the program.

9 They were hopeful that the President would declare
10 it a disaster area, but that has not happened, and there is a
11 possibility we may be getting a request from that program.

12 Ellen, have we had any requests yet? Okay. At
13 this time, no. But I just want to make the board aware of
14 that.

15 CHAIRMAN UDDO: Any questions about those two
16 recommendations?

17 (No response.)

18 CHAIRMAN UDDO: All right. Then why don't you move
19 on to the balance of the recommendation in this first
20 memorandum?

21 MR. RICHARDSON: Okay. Each of the directors have
22 reviewed their budget and have provided to me, and Mr. O'Hara

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1 and I have reviewed projections for from July 1st through
2 September 30th spending and, of course, we're here in
3 September now.

4 We have, as stated on Page 2 of that same memo that
5 you are referring to, three reallocations that need to be
6 approved by the board.

7 The inspector general has realigned his anticipated
8 expenses, and his budget is being reduced \$2,768. I included
9 that money in the Board of Directors' budget, in the travel
10 account.

11 In the Executive Office, there was an \$8,500 need
12 that arose, as an employee was recently transferred there.
13 This was to accommodate that additional need. And there was
14 a need for a temporary employee toward the end of the month
15 because of an employee that is going out for a time. So that
16 money will go to provide that funding.

17 Mr. O'Hara has gone through again, in reviewing in
18 the Corporation and, at the last meeting, had brought to you
19 about the reorganization. There is a part of that that is
20 continuing.

21 The Office of Financial and Administrative Services
22 -- the Administrative Services is being combined with the

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1 Office of Human Resources to have a new office that will be
2 combined -- will be called the Office of Administration and
3 Human Resources. To provide for that, I have had to move
4 money from the OFAS budget to the new line. That was \$52,465
5 for that.

6 The \$8,500, I should mention, that was needed in
7 the Executive Office budget was transferred also from OFAS
8 budget. So it's coming from my budget and no other budget at
9 this point.

10 CHAIRMAN UDDO: Then I would entertain a motion.
11 Let's do it in two motions.

12 The first motion would be to reflect the
13 recommendation of Mr. Richardson with respect to transferring
14 funds from other funds available to the MIGP award program,
15 as delineated on the top of Page 2 of the memorandum,
16 totalling \$31,632 and, in that same motion, to also authorize
17 the transfer of \$10,000 from the MIGP budget line to the
18 emergency grant line.

19 I would entertain such a motion, Mr. Kirk.

20 M O T I O N

21 MR. KIRK: I so move.

22 MS. LOVE: Second.

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1 CHAIRMAN UDDO: Seconded by Ms. Love. Moved and
2 seconded. Are there any questions from members of the
3 committee or the board?

4 (No response.)

5 CHAIRMAN UDDO: Any discussion?

6 (No response.)

7 CHAIRMAN UDDO: Hearing none, then let's vote on
8 it. All those in favor of the motion, signify by saying aye.

9 (Chorus of ayes.)

10 CHAIRMAN UDDO: Opposed, nay?

11 (No response.)

12 CHAIRMAN UDDO: The ayes have it. The motion
13 carries.

14 The second motion would be to reflect the
15 recommendations of the three reallocations recommended in the
16 memorandum on Page 2 -- the first one, \$2,768, from the OIG
17 budget to the Board of Directors' budget; the second, \$8,500
18 from the OFAS budget to the Executive Office; and the third,
19 \$52,465 from OFAS for the purpose of creating the Office of
20 Administration and Human Resources.

21 M O T I O N

22 MR. KIRK: I so move.

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1 CHAIRMAN UDDO: Moved by Mr. Kirk.

2 MS. LOVE: Second.

3 CHAIRMAN UDDO: Seconded by Ms. Love. Any
4 discussion or questions?

5 (No response.)

6 CHAIRMAN UDDO: All those in favor of the motion,
7 signify by saying aye.

8 (Chorus of ayes.)

9 CHAIRMAN UDDO: Opposed, nay?

10 (No response.)

11 CHAIRMAN UDDO: The ayes have it. The motion
12 carries.

13 Is there anything else under Agenda Item 3, Mr.
14 Richardson, or does that pretty much cover it?

15 MR. RICHARDSON: That is all that needs the board's
16 adoption. I am prepared to speak with you in regards to the
17 internal budgetary adjustments. That is informational. Each
18 director has authority to make those adjustments. I'll leave
19 it to your discretion, because of the time, if you want to go
20 through that.

21 CHAIRMAN UDDO: Why don't we continue on through
22 the agenda now, because I think there are, I think, maybe

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1 some other things that might take a little more time, and we
2 need to get to those.

3 Agenda Item Number 4 is Consideration and Review of
4 the Corporation's Consolidated Operating Budget Expenses, and
5 Other Funds Available for the Ten-Month Period Ending July
6 30th, which I believe is the second memorandum in the green
7 book?

8 MR. RICHARDSON: That is correct, sir.

9 CHAIRMAN UDDO: Okay. Do you want to talk us
10 through that, Mr. Richardson?

11 MR. RICHARDSON: Okay. The delivery of legal
12 assistance on Page -- this is Page A, one of four -- the
13 revised budget amount is \$328,387,506. That does include
14 what you have just adopted.

15 We have spent today \$325,055,700. The remaining
16 funds, \$3,306,806, is mainly month-to-month funded grants.
17 As we just went through, most of that money is spoken for in
18 one way or other for the programs.

19 I will go to Page 2. I'll go through the Roman
20 numerals and, if anybody does have any questions, I'll answer
21 them as we go through.

22 In the support for the delivery of legal

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1 assistance, the revised budget is \$20,981,783. We have spent
2 to date \$20,399,529, leaving a remaining balance of \$582,254.
3 Again, all that money is spoken for, with the exception of
4 the national support line, and there is a proposal for that,
5 for the majority of that money.

6 On Page 3, under the Corporate Management and Grant
7 Administration, the budget amount is \$12,789,405. We have
8 spent to date \$9,341,195. That is made up of two or actually
9 three elements. One is the accrued rent, the \$834,456, the
10 accrued rent for 750 1st Street, the first eight months that
11 we did not have to pay this year.

12 The board initiatives, this is the competition
13 demonstration project. To date we have spent \$647,091 of a
14 budget of \$1,027,000.

15 Within management and administration itself, the
16 budget is \$10,902,405. We have spent to date \$7,859,648. We
17 have remaining funds of \$3,042,757.

18 On Page 4, under the other funds available, we have
19 received in grant recoveries, interest income, and the
20 miscellaneous income, to date \$236,121. It does show a
21 deficit there, because we have moved. We're using in this
22 year's budget the \$248,768. We still have two months, of

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1 course, of interest and grant recoveries, so that deficit
2 should not be a problem.

3 At this point, we should be spending at
4 approximately an 83 percent rate. We are at 72 percent. So
5 we are under budget.

6 CHAIRMAN UDDO: That's Attachment B?

7 MR. RICHARDSON: Yes, sir.

8 CHAIRMAN UDDO: Any questions for Mr. Richardson on
9 these attachments and his explanation?

10 (No response.)

11 CHAIRMAN UDDO: There is no action required of us
12 on those matters, right, Mr. Richardson?

13 MR. RICHARDSON: No, sir, there is not.

14 CHAIRMAN UDDO: The next item is Number 5,
15 Consideration of the Proposed Fiscal Year 1994 Management and
16 Administration Budget, which -- is that in the green book?

17 MR. RICHARDSON: No, sir, we do not have a proposal
18 for you at this time. We had hoped, in putting the agenda
19 together, that we would have an operating framework, that we
20 could come to you and ask that you pass for us to begin the
21 year with. However, the budget that was prepared is more
22 than the money I see that is available to us at this time, so

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1 we've got to go back to the table and do some revisions in
2 that.

3 The financing that we see that is possibly
4 available is based on this year's appropriation, which is
5 \$9,774,000. As you are aware, the Senate came in at a 2
6 percent decrease in their budget proposal. The House had a
7 12 percent increase, up to \$400 million. And President
8 Clinton's budget was revised to \$432 million.

9 We were basing our projections on a 12 percent
10 increase, choosing the middle one. That would be an increase
11 to management and administration of \$1,177,000, giving us a
12 total projected 1994 appropriation of \$10,951,000.

13 Adding to that the carryover that we see, the
14 \$370,000 which is the interest and grant, the other funds
15 available, and the 356 projected remaining funds for M&A, we
16 have a total of \$11,321,000 for M&A.

17 Again, we were looking at the possibility of using
18 the 1994 grant and interest recoveries, projected again in
19 the neighborhood of \$300,000, would make total funding
20 available to the Corporation of \$11,621,000. The budget that
21 was prepared by the directors was significantly higher than
22 that.

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1 We will look at ways of reducing that figure, yet
2 providing the responsibilities that we have to this board and
3 to the field and, hopefully, we can speak to the conference
4 committee. We did ask for \$14,600,000 for management and
5 administration, and place our needs before them in the next
6 few weeks, before the conference committee meets and
7 finalizes the figure.

8 CHAIRMAN UDDO: When would you anticipate that we
9 would be in a position to consider M&A budget for 1994?

10 MR. RICHARDSON: Absent the appropriation figure,
11 it would be --

12 CHAIRMAN UDDO: Premature?

13 MR. RICHARDSON: -- premature. An operating
14 framework is a possibility. But again, I'm not real sure at
15 this point.

16 CHAIRMAN UDDO: Any questions on that item?

17 (No response.)

18 CHAIRMAN UDDO: Item Number 6, we don't have a 1995
19 consolidated operating budget, either, do we?

20 MR. RICHARDSON: There is a memo in regards to the
21 proposed budget mark for 1995, and it is informational, in
22 that OMB has called, as they do each year, and wants to know

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1 if we're going to have input into President Clinton's budget.
2 It's not mandatory that we do it, but they do ask us to give
3 them some guidance.

4 Last year, we did not give them any guidance. The
5 year before, we did write them a letter and reaffirm that we
6 had asked for \$525 million and that our appropriation had not
7 been finalized as yet.

8 What I have done is provided that type of
9 information in the memo. I have provided to you the budget
10 request that was passed by the board last year, again at the
11 \$525 million mark. And then I've also included a chart that
12 shows the appropriation levels for the last four years.

13 Like I said, it's not mandatory, but the OMB budget
14 reviewer that we do deal with asks us each year to give them
15 some guidance. If we are going to do that, we need to do
16 that before October 15th.

17 CHAIRMAN UDDO: And we need to do that before
18 October 15th if we're going to have input? October 15th,
19 right?

20 MR. RICHARDSON: That's correct, sir.

21 CHAIRMAN UDDO: Then perhaps the committee ought to
22 consider -- since I think we will meet again before October

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1 15th, or at least there is some hope that the board will meet
2 before October 15th -- consider making a recommendation to
3 the board that we do something similar this year, reiterate
4 to OMB that we have recommended a figure to Congress which
5 obviously is not one that seems to be likely, reiterate that
6 we have made that recommendation and then, perhaps, suggest
7 that, at a minimum, they ought to use the budget mark that
8 they have put in their revised figures, which I think is
9 what, \$432 million?

10 MR. RICHARDSON: That is correct, sir?

11 CHAIRMAN UDDO: Yes. Would that make sense, to
12 take that approach? Any thoughts of folks on the committee
13 with respect to whether that would be an appropriate way to
14 get input into the process?

15 I mean, our figure is not one that they are likely
16 to use or to take; we know that. And there's no reason why
17 we can't say, "Well, that's what our considered opinion is
18 that it should be," but that for purposes of a budget mark,
19 at least use the figure that they have recommended
20 themselves, \$432 million.

21 Why don't we put that in the form of a motion, so
22 that the board will have something to act on at the next

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1 board meeting? Mr. Kirk doesn't want to do that. Does
2 someone else want to make that a motion, and then we can let
3 Mr. Kirk express his views on it?

4 (No response.)

5 CHAIRMAN UDDO: I think we need to say something.
6 Last year, all we did, as David said, was to tell them what
7 we had recommended as an appropriation figure.

8 This is actually backing away from that position
9 and saying that the budget mark, while we would like it to be
10 our recommended appropriation figure, we understand it's not
11 going to be, and to encourage them to use their own
12 recommendation.

13 MS. LOVE: Did Mr. Richardson say 525?

14 MR. RICHARDSON: 525 was the budget request that
15 this board approved last year.

16 MS. LOVE: I'll still go with the 525.

17 NR. KIRK: I think that you would agree with what
18 Basile is saying.

19 CHAIRMAN UDDO: Would you want to make the motion?
20 All I'm saying is that we tell them what our recommendation
21 is but, in an effort to try to impact realistically the
22 system, suggest that they stick by their own recommendation,

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1 which is less than ours but higher than what either chamber
2 of Congress has recommended.

3 M O T I O N

4 MS. LOVE: All right. I'll make a motion, then.

5 CHAIRMAN UDDO: All right. Is there a second to
6 that?

7 MS. WOLBECK: I'll second it.

8 CHAIRMAN UDDO: It's been moved and seconded. Mr.
9 Kirk?

10 MR. KIRK: I support the 432 figure. The 425 is
11 what I had really, in the same range that I've been
12 considering for some time. I just don't believe in asking
13 for more than really we have a right to think the Congress
14 ought to squeeze for. And I think that somewhere between 4
15 and 432, that's fine with me, and I would support that.

16 So I really support, in principle, what you're
17 doing. It's just the first part that involves the 525 that I
18 reject.

19 CHAIRMAN UDDO: Well, maybe by the time we word how
20 that will look when it goes to the board, you might be able
21 to support that.

22 All those in favor of the motion, signify by saying

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1 aye.

2 (Chorus of ayes.)

3 CHAIRMAN UDDO: Opposed?

4 (Chorus of nays.)

5 CHAIRMAN UDDO: The ayes have it. The motion
6 carries. And David, if you would work that into something
7 that we can recommend to the board at the next board meeting,
8 I think you get the sense of what I'm proposing.

9 MR. RICHARDSON: Yes, sir.

10 CHAIRMAN UDDO: Okay. Without objection, I'm going
11 to skip 7, because the last two David is going to report on
12 and, while we've got him at the table, why don't we get David
13 to tell us about Number 8, our standard monthly report on the
14 status of the leasing of the Corporation's former
15 headquarters.

16 MR. RICHARDSON: We do have some good news to come
17 forward today. We have subleased the Executive Office area,
18 which is approximately 4,900 square feet of space, to a NASA
19 contractor.

20 Mr. Sundseth, who is now working very closely with
21 that, is meeting tomorrow with the president of that same
22 company that has subleased space, and they are looking at an

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1 additional 8,000 to 10,000 square feet.

2 Whether that be on the first floor or in the area
3 that used to be occupied by the Office of Field Services, or
4 whether that is in our concourse level, we are not sure as
5 yet. But it does look like they are going to need an
6 additional approximately 10,000 square feet, or 8,000 to
7 10,000 square feet, at this time.

8 We had another group looking at the same space at
9 the same time. We got proposals within 24 hours on the same
10 space -- and that was the Executive Office area -- and had
11 already actually accepted terms on the Executive area before
12 the other offer had come in. So that is a possibility.

13 I've talked with the people. I did, actually,
14 yesterday. They are saying that they will revisit it, but it
15 doesn't look likely, but yet they will take a second look at
16 it.

17 CHAIRMAN UDDO: In dollars and cents, where do we
18 stand and, in terms of the calendar, where do we stand?

19 MR. RICHARDSON: Okay. The amount of money that we
20 would receive for the Executive Office space is approximately
21 \$120,000 a year. So it would reduce our expenditure again
22 about \$10,000 a month.

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1 CHAIRMAN UDDO: Leaving what?

2 MR. RICHARDSON: We are at present paying
3 approximately \$115,000. We're getting \$23,000 from HUD,
4 which takes it down to about \$92,000, and then this \$10,000
5 would bring it down to \$82,000 that we're paying at 400
6 Virginia Avenue.

7 CHAIRMAN UDDO: What about the new building? Have
8 we started paying rent on that yet?

9 MR. RICHARDSON: Yes, we have.

10 CHAIRMAN UDDO: When did we start?

11 MR. RICHARDSON: We started June 1st.

12 CHAIRMAN UDDO: June 1st.

13 MR. RICHARDSON: We pay \$148,000 a month.

14 CHAIRMAN UDDO: So our total rent expenditure
15 monthly is 240-something?

16 MR. RICHARDSON: Basically, it's the 148 and 82
17 with this lease that's gone through --

18 CHAIRMAN UDDO: 220?

19 MR. RICHARDSON: 230. Mr. O'Hara has just reminded
20 me we have rented six offices within 750 1st Street.

21 CHAIRMAN UDDO: So there is some rental income from
22 that?

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1 MR. RICHARDSON: We get \$5,000 a month from that.

2 CHAIRMAN UDDO: All right.

3 MR. RICHARDSON: There are others that are
4 possible. We've had some calls recently where people are
5 interested in taking space, and that has come through
6 Trammell Crow. So we are looking at the 11th floor as to
7 what can be consolidated, and moving some things around, to
8 see if it would be viable for us to also take in additional
9 tenants there.

10 MR. O'HARA: Mr. Chairman, if I might, David is
11 absolutely correct. Because of our downsizing and the
12 reduction in staff, we do have space that is available and,
13 because of some other innovations we are going to take in
14 regard to our own operations, we are going to have additional
15 space available that formerly was used for storage, and we're
16 going to be negotiating with these people to sublease that
17 space.

18 I do not anticipate adding very many employees to
19 the level we have at this time, and I think that we are going
20 to consolidate our people and make space available on the
21 10th floor and cut into this loss.

22 MR. RICHARDSON: If I might also add, Mr. Uddo, the

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1 people that are leasing the six offices current at 750, that
2 lease goes through October 31st. They have expressed an
3 interest to continue for another couple of months, so we will
4 be talking with them next week in regards to that.

5 CHAIRMAN UDDO: How much time is left on the
6 Virginia Avenue lease?

7 MR. RICHARDSON: Until August 1995.

8 CHAIRMAN UDDO: August of 1995? Two more years?

9 MR. RICHARDSON: That's correct, sir.

10 CHAIRMAN UDDO: Okay. What was the deal? Ken
11 Boehm's got to pay that if --

12 (Laughter.)

13 CHAIRMAN UDDO: Oh, you and David? All right.
14 Agenda Item Number 9. Have we managed to secure our funds in
15 the financial institutions where we keep them?

16 MR. RICHARDSON: Yes, sir. We have realigned our
17 banking to move some of the money that we had at Signet to
18 Riggs. After speaking with Riggs again, the reason that they
19 did not want to set up a sweep account or mechanism for our
20 funds is they didn't feel that there was enough money
21 involved, with the \$12 million.

22 So what we have done is we have taken our

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1 operations account, leaving that at Riggs. We are putting
2 \$10 million additional money a month at Riggs in the form of
3 our grant checks. So where we were putting \$28 million a
4 month in Signet, we are now putting \$18 million a month in
5 Signet, and we are putting the remainder of the money in
6 Riggs. We have now set up a sweep mechanism for the accounts
7 so that the money will be secured.

8 We did that with the trust officer. We will go
9 back to the attorney that Grant Thornton recommended, to
10 review it one last time, as soon as everything is -- it has
11 actually just been set up in the last three weeks. So after
12 everything is running, we will get that gentleman to look at
13 it, such as Grant Thornton had asked us to do, and it should
14 not be a problem after that.

15 CHAIRMAN UDDO: Okay. Any questions for Mr.
16 Richardson on any of these matters before he recedes from the
17 table?

18 (No response.)

19 CHAIRMAN UDDO: Thank you, David.

20 CHAIRMAN UDDO: Agenda Item Number 7. I would ask
21 Vic and Ken if they would come up to the table and just give
22 us a brief report on this proposal. Have we ever discussed

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1 this in open session?

2 MR. FORTUNO: Yes. We discussed this item at the
3 last meeting of this committee.

4 CHAIRMAN UDDO: I was on the phone.

5 MR. FORTUNO: Yes, you were. And you expressed an
6 interest in having this item on your agenda.

7 CHAIRMAN UDDO: Right. No, I just don't remember
8 how much we said last time, and I don't want to be
9 repetitious.

10 But the brief history is that I asked Ken and Vic
11 to take a look at this possibility as another source of funds
12 for LSC grantees in particular. IOLTA funds have diminished
13 over the past several years, for all the reasons that we have
14 talked about a number of times.

15 I asked them to look at the prospect of states
16 assessing some portion of punitive damage awards for purposes
17 of funding legal services providers. They have done some
18 background work and are going to give us just a brief summary
19 of where they are with that.

20 MR. BOEHM: This assignment was actually broken
21 into two parts, and Vic and the Office of General Counsel
22 looked at the legal problems -- looked at it in the context

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1 within the Legal Services Corporation Act, the various state
2 laws -- to see whether it could be done.

3 I, on the other hand, was looking more towards what
4 funds were available -- the amounts of funds that are in
5 punitive damages -- to see whether this was, in fact, a big
6 enough pot of money to make a policy change like this
7 worthwhile, that would generate enough real money.

8 And for my part, just to summarize the report I had
9 given, while there is no definitive survey available, there
10 have been a number of attempts to try to find out how much
11 there is in these sorts of funds, and it is fair to say that
12 the punitive damages that are awarded each year in this
13 country are sizable. And, by "sizable," you are talking in
14 the ten-figure amount, \$100 million and up, each year.

15 You have had some spectacular cases, punitive
16 damages cases, around the country that have gotten a lot of
17 attention in recent years, and the expectation is it will
18 continue in the same vein. But there have been many attempts
19 to try to come up with the figures, and nobody has been able
20 to do that. But you are talking a minimum of \$100 million a
21 year, perhaps as high as \$300 million.

22 CHAIRMAN UDDO: \$100 million is a pretty safe

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1 figure?

2 MR. BOEHM: As a minimum figure, yes. You get into
3 a lot of -- there are a lot of side issues involved. For
4 example, in certain types of situations, you may even have
5 arbitration awarding punitive damages. It's rare, but it
6 happens. You have basically a patchwork of 50 different
7 states that look at it in 50 different ways.

8 There are four states that don't even award, don't
9 even call it punitive damages. Several of those have
10 something that approaches it, but they don't acknowledge
11 punitive damages specifically.

12 CHAIRMAN UDDO: Exemplary damages?

13 MR. BOEHM: Yes. And so, without getting too much
14 into Vic's end of the project, you really do have a lot of
15 separate jurisdictions.

16 The flip side of that coin is the same situation
17 that you had with IOLTA in the beginning, you have here. In
18 that case, you had 50 different jurisdictions. It has to be
19 done as a matter of state law.

20 So while there are a lot of hurdles, that, at
21 least, since it is now available in 49 states and the
22 District of Columbia, showed that it can be done.

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1 Also, without encroaching a little too much into
2 Vic's area, a number of states have gotten into questions
3 with punitive damages. You see judges, for example,
4 requiring, in certain types of instances, certain actions
5 done by the losers in litigation that benefit the public.
6 And you have had a variety of instances of that.

7 There was a recent award of a fairly sizable
8 amount. I think it was in a treble damages case involving
9 antitrust, where a sizable amount went into public interest
10 legal activities.

11 So there is sort of a basis, a little bit embryonic
12 there, for this sort of policy, and the big hurdle really is
13 the legal hurdle.

14 CHAIRMAN UDDO: Okay. Vic?

15 MR. FORTUNO: Recognizing the time constraints on
16 us, I'll try to be very, very brief.

17 I think we discussed last time that there are a
18 number of jurisdictions across the country -- as of when we
19 last checked, nine states had adopted provisions that
20 required that portions of punitive damage awards would be
21 earmarked for some public benefit. It might go into the
22 general revenues of the state or it might go into some public

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1 trust.

2 In at least one instance -- I believe it was the
3 case of Iowa -- it was provided that a portion of those
4 awards would go to funding legal assistance. I think the
5 question --

6 CHAIRMAN UDDO: You mean somebody thought of this
7 already?

8 MR. FORTUNO: Yes. Iowa. It has been challenged
9 in a number of jurisdictions. Its specific language has been
10 found to be unconstitutional, in a couple of instances.

11 In other jurisdictions, it has been challenged and
12 survived constitutional challenge. One of those
13 jurisdictions, again, is Iowa.

14 It was challenged and upheld -- it was challenged
15 and went up to the Supreme Court of Iowa and was upheld by
16 the Supreme Court of Iowa. It was also upheld by the U.S.
17 District Court for, I believe, the Southern District of Iowa.
18 So the bottom line is I think it is a viable concept.

19 A case out of Florida, in which the provision in
20 question was upheld by the state Supreme Court, made its way
21 to the Supreme Court. There was at least a petition for
22 cert. that was filed. The petition was denied, however.

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1 It would have been nice if the Court had granted
2 the petition and we would have gotten some more definitive
3 guidance. Right now what we've got is a number of cases from
4 around the country. But I think the bottom line is that it
5 appears to be a viable concept.

6 It depends on the specific language but, from what
7 I've heard Ken say, there is an enormous amount of money and,
8 if it can be tapped, that might help to make up for the
9 drawing up of IOLTA funds.

10 I think one of the questions would be what
11 constraints there are on the Corporation or our grantees
12 attempting to promote something like this. I think that the
13 Corporation has a bit more latitude than our grantees.

14 I don't think either one of us can do grassroots
15 lobbying, but I think the Corporation can do self-interest
16 lobbying. Our grantees can respond if there is a request
17 from a government official, but, in the case of the
18 Corporation, as I said, I think we have greater latitude.

19 We can engage in direct -- not grassroots -- self-
20 interest lobbying. The question is whether it is self-
21 interest lobbying. I think it would depend on what model we
22 employ if we were to do something like this.

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1 And, by that, I mean if what the Corporation was
2 seeking to do is go to the Congress, in the case of the
3 federal government, and the state legislatures, and
4 essentially say, "We think it's a good idea if you take a
5 portion of each punitive damage award and earmark it for
6 legal services."

7 In the case of the federal government, it might
8 come to LSC to distribute. In the case of the state
9 government, there would be any number of mechanisms. One
10 would be that the state government would create its own
11 entity to administer that, much the way you see state
12 governments doing with IOLTA funds.

13 If the Corporation were to present a model that
14 essentially called for legislation that would provide that
15 this earmarked money would come to the Corporation for the
16 Corporation to distribute, of course, the possibilities are
17 endless.

18 One, for example, might be the Corporation receives
19 the money from the particular state in any form. It could
20 come directly from the courthouse or through some other
21 means.

22 We would then take it and distribute it in that

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1 state and account to the state for the money, so that
2 whatever money was generated in any given state would go back
3 to that state and would go back without any deduction for the
4 administration of that. That's one possibility.

5 Certainly, if the Corporation had an active role,
6 say, in that, as we would in that model, I think it is
7 reasonable to conclude that that would fall within the self-
8 interest lobbying exception to the prohibition against
9 lobbying, because it directly affects the activities of the
10 Corporation. And that is the language of the exception to
11 the prohibition against lobbying.

12 The language is that we can engage in lobbying,
13 direct lobbying, if it is in connection with legislation or
14 appropriations directly affecting the activities of the
15 Corporation. I think that the farther we get from that kind
16 of model, the more of a stretch it is.

17 So if what we did was, say -- forgetting for the
18 moment about lobbying the Congress, the U.S. Congress -- if
19 we went to state legislatures and just said, "We think it
20 would be a good idea for you to take some of this punitive
21 damages money and earmark it for legal services," and we just
22 did some sort of blitz, did some sort of lobbying but didn't

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1 involve ourselves in the mechanism, then, arguably, it is not
2 self-interest.

3 Someone might argue that it doesn't directly affect
4 the operations of the Corporation and that it is too
5 attenuated. And that's why, as I said, it may depend on the
6 model that is developed and the role that the Corporation
7 itself plays in the administration of this overall scheme,
8 this program of taking punitive damages awards and funnelling
9 that to legal assistance, to funding legal assistance.

10 Bottom line I think is, again, I think the concept
11 is a viable one and, two, although there are constraints on
12 what the Corporation and our grantees can do in the way of
13 lobbying, I think the Corporation currently, under the LSC
14 Act and the current appropriations law, does have some
15 latitude, can engage in direct, self-interest lobbying, so
16 that I think that a model can be developed that we could
17 pursue and use to try to promote across the country.

18 CHAIRMAN UDDO: And certainly there is no
19 constraint on the Corporation from trying to generate a
20 debate or a discussion about this as a possible source of
21 funds without getting in the lobbying legislators or anything
22 that specific, I don't think.

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1 MR. FORTUNO: Well, we need to be careful of it --
2 and this is, of course, case or fact specific -- that we
3 don't get into where it can be characterized as grassroots
4 lobbying.

5 It may be that if what we do is, just as an
6 example, if we prepared a paper that encouraged this kind of
7 legislative activity -- that is, revision of existing
8 punitive damages statutes or, in the case where there aren't
9 any, enacting some that would provide for earmarking of funds
10 -- and we advanced our arguments in favor of such a system,
11 made compelling public-interest arguments -- it might be that
12 that would amount to grassroots lobbying.

13 If what we did was went, say, to the ABA and to the
14 various state bars and said, "We think it's worthwhile; this
15 is the work we've done on it; here, we want to sell you on
16 it, and we suggest that you, in turn, go to your state
17 legislators," then it seem to me that that would be
18 grassroots lobbying. And I think that it is something which
19 currently is not permitted to us.

20 I think, on the other hand, if we were to go
21 directly to the legislatures, we might be able to do that.

22 I'm not saying, of course, when I say that we can't

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1 engage in grassroots lobbying, that we can't report on our
2 activities in a purely informational nature.

3 That is, if we sent something to a particular state
4 legislature, giving them a model that we developed, offering
5 the arguments that we've developed in support of this notion,
6 this concept, and then we reported on that to the state bar
7 and said, "We've contacted your state legislature urging them
8 to do one, two, and three," I think we need to be careful
9 that we don't cross the line into publicity and propaganda,
10 because it may be something we can't do.

11 CHAIRMAN UDDO: What if all we did was to ask the
12 SCLAID Committee to look at it --

13 MR. FORTUNO: Discuss it?

14 CHAIRMAN UDDO: -- and give us their thoughts on
15 it, and if the ABA got interested in it, that the ABA would
16 do with this what they did with IOLTA?

17 MR. BOEHM: I think that would be acceptable. I
18 think another shorthand way of describing what the
19 prohibition is if you are advocating third-parties to contact
20 the government to endorse it, and it's a use of advocacy
21 words, and that sort of thing, that's where you cross over
22 the line.

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1 CHAIRMAN UDDO: That's all ahead of where I am
2 right now. Yes, Mr. Kirk?

3 MR. KIRK: Just since we're running out of time and
4 this discussion is going on, I want to just take a few
5 seconds and express my views.

6 CHAIRMAN UDDO: Right.

7 MR. KIRK: I've done some checking on this myself.
8 And, you know, conceptually, I'm a strong supporter of IOLTA,
9 because I think what happened with IOLTA was that we found
10 that banks were making out like bandits with trust money that
11 they didn't have to pay the interest on, and they were just
12 taking and abusing it and getting an advantage, like the
13 other people with the lawyers that sometimes would threaten
14 to take their trust accounts elsewhere if they didn't get
15 personal benefits from the bank.

16 So I think that we pegged on to something that
17 there were no losers on, except people that didn't deserve to
18 continue to get that money.

19 On this one I have a bit of a concern, and I didn't
20 always. Early on, I was a supporter of the concept. But I'm
21 opposed to it because it opens up the possibility that, in an
22 argument for punitive damages -- and punitive damages are

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1 punishment. They are exemplary damages. And, you know, they
2 should be based upon the detriment to the payer, to the
3 person that is paying.

4 What we have is an opportunity for someone to say,
5 in closing argument, "Oh, no. This money, give it hard,
6 because it's going to go to help poor people; it's going to
7 go to do X, Y, and Z." And I think there may be a tendency
8 to increase what otherwise would be already high punitive
9 damage awards. So I think there's some injustice involved in
10 that, and I would probably oppose it.

11 I also question the figures that you've got. I
12 don't know how much of those are actually collected. I think
13 that punitive damage awards often are reduced or negotiated
14 and settled away, and I doubt that the figures would be
15 anywhere near what you're anticipating, and a small fraction
16 of them.

17 CHAIRMAN UDDO: Any other questions?

18 (No response.)

19 CHAIRMAN UDDO: Before we adjourn, let me remind
20 you that the Missouri bar is sponsoring a reception across
21 the street at the Holiday Inn Crown Plaza in the Seville
22 Ballroom Number 2, starting at 6:30, and, as I understand it,

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1 everyone here is invited? Everyone here is invited.

2 I would entertain a motion to adjourn.

3 M O T I O N

4 MR. LOVE: So moved.

5 CHAIRMAN UDDO: Second?

6 MS. WOLBECK: Second.

7 CHAIRMAN UDDO: Seconded by Ms. Wolbeck.

8 All those in favor, say aye.

9 (Chorus of ayes.)

10 CHAIRMAN UDDO: The meeting is adjourned.

11 (Whereupon, at 6:20 p.m., the meeting of the Audit
12 and Appropriations Committee was adjourned.)

13 * * * * *

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