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LEGAL SERVICES CORPORATION  
BOARD OF DIRECTORS

SUNSHINE ACT MEETING  
OPEN SESSION

Wednesday, February 20, 2008  
3:03 p.m.

3333 K Street, N.W.  
Washington, D.C.  
3rd Floor Conference Center  
Conference Room B

- BOARD MEMBERS PRESENT:
- Frank Strickland, Chairman
  - Lillian R. BeVier, Vice Chairman
  - Jonann C. Chiles
  - Thomas Fuentes
  - Herbert S. Garten
  - Michael D. McKay
  - Thomas R. Meites
  - Bernice Phillips
  - Sarah M. Singleton

1 STAFF PRESENT:

2 Helaine Barnett, ex officio

Patricia D. Batie, Manager of Board Operations

3 John Constance, Director, Office of Government

4 Relations and Public Affairs

Victor Fortuno, Vice President for Legal Affairs,

5 General Counsel and Corporate Secretary

Joel Gallay, Special Counsel to the IG, OIG

6 Charles Jeffress, Chief Administrative Officer

Karen Sarjeant, Vice President for Programs and

7 Compliance

Don Saunders, National Legal Aid and Defenders

8 Association (NLADA)

9 Terry Brooks, American Bar Association

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## C O N T E N T S

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MOTIONS: Pages 53, 55, 55, 57, 79, and 91

## 1 P R O C E E D I N G S

2 CHAIRMAN STRICKLAND: -- and let the others  
3 catch up with us if and when they're able to join.

4 Let me call to order a telephone conference  
5 call meeting of the Legal Services Corporation Board of  
6 Directors scheduled to begin at 3:00 p.m. Eastern  
7 Daylight Time on February 20, 2008, with the notice  
8 published in the Federal Register. Did someone else  
9 want us?

10 MR. PHILLIPS: Yes. This is Bernice Phillips.

11 CHAIRMAN STRICKLAND: Hey, Bernice, how are  
12 you doing?

13 MR. PHILLIPS: Good. How is everybody?

14 CHAIRMAN STRICKLAND: Good. I just have  
15 called the meeting to order, so your arrival is timely.

16 MR. PHILLIPS: Thank you.

17 MS. CHILES: Not so timely as Jonann -- I just  
18 got on.

19 CHAIRMAN STRICKLAND: Okay, Jonann. Good.  
20 All right. Let me ask the people in assembly in the  
21 Washington office, has the reporter already recorded  
22 everyone who's in attendance, both in your conference

1 room and on the telephone, so that we don't need to do  
2 any further roll call?

3 MR. GARTEN: No. He wants a roll call.

4 MS. BARNETT: Do you want a roll call?

5 (Discussion was held off the record.)

6 MS. BARNETT: Could we do a roll call for the  
7 reporter, please?

8 CHAIRMAN STRICKLAND: All right. Let me call  
9 the names that I have from among members of the Board.  
10 Herb Garten?

11 MR. GARTEN: Here.

12 CHAIRMAN STRICKLAND: Tom Meites?

13 MR. MEITES: Here.

14 CHAIRMAN STRICKLAND: Tom Fuentes?

15 MR. FUENTES: Here.

16 CHAIRMAN STRICKLAND: Sarah Singleton?

17 MS. SINGLETON: Here.

18 CHAIRMAN STRICKLAND: Mike McKay?

19 MR. MCKAY: Present.

20 CHAIRMAN STRICKLAND: Bernice Phillips?

21 MR. PHILLIPS: Here.

22 CHAIRMAN STRICKLAND: Jonann Chiles.

1 MS. CHILES: Present.

2 CHAIRMAN STRICKLAND: And Frank Strickland.

3 Okay. Elaine, does he have the people  
4 identified who are in the room, or should they sound  
5 their names?

6 MS. BARNETT: Do we need to do a roll call for  
7 the room?

8 (Discussion was held off the record.)

9 MS. BARNETT: Pat Batie, Joel Gallay, Karen  
10 Sarjeant, Vic Fortuno, John Constance, Charles  
11 Jeffress, Helaine Barnett; and Don Saunders and Terry  
12 Brooks are on the phone call.

13 CHAIRMAN STRICKLAND: Okay. If anyone else  
14 joins the call, we'll identify them at that time.

15 The first item is to Consider and Act on  
16 Adoption of the Agenda. Is any objection to adopting  
17 the agenda as in the Federal Register?

18 (No response.)

19 CHAIRMAN STRICKLAND: Hearing none, the agenda  
20 is adopted.

21 The first order of business is to Consider and  
22 Act on Proposed LSC Code of Ethics and Conduct. I

1 believe everyone has been furnished a copy of the  
2 latest draft by e-mail. In fact, Elaine recirculated  
3 that today for everyone's review.

4           Why don't we call on -- if the Board, I  
5 believe the full Board considered the draft of the  
6 Board of Ethics and Conduct at our January meeting and  
7 gave some instructions to the staff, primarily to  
8 Charles I believe, to make some amendments, Charles,  
9 would you mind leading the discussion on those changes  
10 that have been made since we last met?

11           MR. JEFFRESS: I'd be glad to, Mr. Chairman.  
12 In a way of process, after the Board gave direction at  
13 the January meeting, the LSC Compliance Taskforce, the  
14 staff taskforce, considered all the things that were  
15 mentioned at the Board meeting, went through and made  
16 revisions that seemed appropriate. Then the executive  
17 team reviewed those changes, made some further  
18 modifications, and what comes to you now has the  
19 endorsement of the executive team and the compliance  
20 taskforce.

21           The memo sent on February 8 lists for you all  
22 of the changes that were made in the draft code of

1 ethics and conduct. Perhaps the best way to proceed  
2 today is just to go paragraph by paragraph through the  
3 changes and see if there are any questions or comments  
4 about any of those. Will that suffice, Mr. Chairman?

5 CHAIRMAN STRICKLAND: Will be just fine.

6 MR. GARTEN: The memo you're referring to is  
7 dated February 7?

8 MR. JEFFRESS: That's correct. My memo to  
9 Helaine is dated February 7th, and then Helaine's  
10 e-mail to the Board is February the 8th, that's  
11 correct.

12 Then the draft code is dated February 7th,  
13 that you have the track changes format in front of you.  
14 It's the February 7th code.

15 First thing the Board purports to do is that  
16 the name of it be changed to Code of Ethics and  
17 Conduct. That's been done throughout. And the second  
18 thing that you asked was that the compliance officer be  
19 renamed the ethics officer. That has also been done  
20 throughout, so I won't mention those each time we come  
21 to those.

22 In the No. I Purpose, 2nd paragraph, the Board

1 asks that a disclaimer regarding the rights and duties  
2 be inserted, and we inserted the same disclaimer from  
3 the employee handbook and inserted that in here. So  
4 that last sentence in the Purpose section is new.

5 MR. GALLAY: Frank, do you want comments as we  
6 go along?, or should we wait until the end?

7 CHAIRMAN STRICKLAND: What's more remarkable,  
8 Charles, in terms of your intention in presenting it?,  
9 for it you to hear them as we go?

10 MR. GALLAY: I believe that would be better if  
11 we did as we went along.

12 CHAIRMAN STRICKLAND: Okay. Let's be guided  
13 by that, then.

14 Did someone else join us?

15 MS. GIBBER: Hello?

16 CHAIRMAN STRICKLAND: Did someone else join  
17 the call?

18 MS. GIBBER: Yes. Hello, this is Tina Gibber  
19 from DOT in Cambridge, Massachusetts.

20 MS. SINGLETON: What call do you want to be  
21 participating in?

22 MS. GIBBER: Legal Services.

1 MS. SINGLETON: Okay.

2 MR. GARTEN: Okay. Got us.

3 CHAIRMAN STRICKLAND: Are you from the  
4 Massachusetts Department of Transportation?

5 MS. GIBBER: No, sir, I'm from the U.S.  
6 Department of Transportation located in Cambridge,  
7 Massachusetts.

8 CHAIRMAN STRICKLAND: I'm sorry.

9 MS. GIBBER: No problem.

10 MS. SINGLETON: Frank, this is Sarah.

11 CHAIRMAN STRICKLAND: Yes.

12 MS. SINGLETON: The reporter needs for people  
13 on the phone to identify themselves before they speak.

14 CHAIRMAN STRICKLAND: Yes. Please remember  
15 that, and I will -- Mr. Reporter, do I need to identify  
16 myself each time, or will you --

17 MS. SINGLETON: No, Frank.

18 CHAIRMAN STRICKLAND: Excellent.

19 MS. SINGLETON: He's got you down.

20 CHAIRMAN STRICKLAND: -- on the format that we  
21 just consider, so that we'll take comments on an  
22 item-by-item basis. Herb, did you have a comment on

1 No. I?

2 MR. GARTEN: Yeah. This is Herb Garten. No.  
3 I, this was a comment that I had asked -- but I have a  
4 problem with the language. When you say this code is a  
5 not a contract and then we add at the end the statement  
6 that employees -- and agrees to be bound by it, at the  
7 beginning -- it's on my page 7 here -- by signing this  
8 document, the undersigned understands and acknowledges  
9 receipt of a copy of the LSC Code of Ethics and  
10 Conduct, and agrees to abide by it.

11 So that gives the inference that there is an  
12 agreement, there is a contract, and I'm not sure that's  
13 the -- that might be the correct language for your  
14 employee's manual, but I would suggest that, and I said  
15 at the time, that perhaps a labor lawyer should take a  
16 look at this. But I think that there's a conflict here  
17 between what I just read and the last sentence of  
18 Section 1.

19 CHAIRMAN STRICKLAND: Okay. Charles, do you  
20 want to have a consultation with labor counsel on this  
21 particular --

22 MR. JEFFRESS: Is Mr. Meites on the phone?

1                   MR. MEITES: I don't represent the party, I'm  
2 afraid.

3                   MR. JEFFRESS: Okay.

4                   MR. FORTUNO: This is Vic. I don't know if  
5 you can hear me, but just a thought. How about instead  
6 of "This code is not a contract," something to the  
7 effect of "This code is not intended to confer any  
8 right of action on any", and then we can go through the  
9 various parties. And you might even want to add to  
10 directors, officers, and employees, third parties.

11                   MR. GARTEN: I think the problem is really  
12 changing -- and again, this is not my field. Right.  
13 When you that you agree to abide by it, it infers that  
14 it's an agreement, and I see a conflict there that  
15 should be resolved.

16                   MR. FORTUNO: No. I agree, so that's why I  
17 was suggesting maybe taking out the reference to a  
18 contract. Instead of "This is not a contract," it  
19 could read, "This code does not confer any right of  
20 action upon", and then list directors, officers,  
21 employees, or third parties.

22                   MR. GARTEN: That's a solution.

1                   CHAIRMAN STRICKLAND: Is that satisfactory,  
2 Herb?

3                   MR. GARTEN: Yes.

4                   CHAIRMAN STRICKLAND: Okay, Charles, if you  
5 would incorporate that?

6                   MR. FORTUNO: I think originally I'd said it's  
7 not intended to --

8                   MR. FUENTES: I would just like to ask if you  
9 had sought the import or cooperation of the office of  
10 the inspector general in our review of that, and I  
11 would like to just give encouragement that procedurally  
12 here as Charles goes through the point that if Vic or  
13 whoever is there representing the IG would have a  
14 moment to speak to any point of concern or reflection  
15 that they want to share with us. And we could sort of  
16 tick that off and know that we have both that counsel  
17 input and the IG input as we go through all the  
18 refinements.

19                   CHAIRMAN STRICKLAND: All right. That's fine.  
20 And may we presume that if we don't hear any comment  
21 from either of them, that they have no comment?

22                   MR. FUENTES: That's fine by me.

1                   CHAIRMAN STRICKLAND: Okay. And I believe  
2 Joel Gallay from the IG's office is present. Is that  
3 right, Joel?

4                   MR. GARTEN: That's correct.

5                   CHAIRMAN STRICKLAND: Okay. With that  
6 understanding as to comments from Vic or Joel, if  
7 there's anything else on No. I, we're not adopting  
8 that, of course, at this point; but I'm just saying  
9 with respect to the discussion on Roman Numeral I,  
10 anything else on that?

11                   MS. SINGLETON: Frank, this is Sarah, and I  
12 thought I heard somebody else join the call? Did we  
13 get somebody else on?

14                   CHAIRMAN STRICKLAND: Who was that?

15                   (No response.)

16                   CHAIRMAN STRICKLAND: I know we're expecting  
17 Lillian BeVier. Did anyone else join the call?

18                   MR. GARTEN: And just to be clear -- this is  
19 Joel speaking, Joel Gallay -- the language I think that  
20 Vic commented on at the tail end was "This code is not  
21 intended to confer any rights or privileges upon  
22 directors, officers, or employees." Is that correct?,

1 Vic?

2 MR. FORTUNO: I think instead of rights,  
3 privileges --

4 MS. SINGLETON: A right of action is what we  
5 said --

6 MR. FORTUNO: Legal right of action, and  
7 extended it, not just directors, officers, and  
8 employees, but third parties.

9 MR. GARTEN: Third parties, okay.

10 CHAIRMAN STRICKLAND: Okay. All right.

11 Now let's move to Roman Numeral II.

12 MR. JEFFRESS: All right. The only change in  
13 Roman Numeral II is the substitution of ethics officer  
14 for compliance officer.

15 CHAIRMAN STRICKLAND: All right.

16 MR. MEITES: I have a question about No. II.

17 MR. JEFFRESS: Yes?

18 CHAIRMAN STRICKLAND: Who just joined the  
19 call?

20 MS. BEVIER: I did. It's Lillian.

21 CHAIRMAN STRICKLAND: Welcome, Lillian.

22 MS. BEVIER: Thank you.

1           CHAIRMAN STRICKLAND: We were considering  
2 Roman Numeral II in the Proposed Code of Ethics and  
3 Conduct.

4           MS. BEVIER: All right. Thank you.

5           MR. MEITES: Hello?

6           MR. GARTEN: Yes?

7           CHAIRMAN STRICKLAND: Go ahead, Tom.

8           MR. MEITES: Hello, Frank?

9           CHAIRMAN STRICKLAND: Yes, Tom, I hear you.

10          MR. MEITES: I'm sorry. I pushed the mute  
11 button. The 2nd paragraph of Roman Numeral II states  
12 that the inspector general still dictates an official  
13 to function as the ethics officer in the IG's office.  
14 However, I do not find who designates the official to  
15 serve as the ethics officer for the rest of the  
16 corporation.

17          MR. JEFFRESS: Mr. Chairman, in the resolution  
18 which was provided to the Board, it includes a  
19 designation of the general counsel as the compliance  
20 officer. If you recall, at the Board meeting we  
21 discussed doing that in the resolution rather than in  
22 the code such that the Board could modify that, should

1 the Board ever decide they wanted a different person  
2 to --

3 MR. MEITES: -- Well, I suggest that we add in  
4 the 1st paragraph of Roman Numeral II that the Board  
5 shall designate an official to function as the ethics  
6 officer for the corporation.

7 MR. GARTEN: So at the end of that 1st  
8 paragraph to add a sentence, "The Board of Directors  
9 shall designate an official to function as an ethics  
10 officer for the corporation"?

11 MR. MEITES: Yes, that's fine.

12 MR. GARTEN: All right. I had the same  
13 confusion when I read it, and -- Herb Garten  
14 here -- thought that there should be a clearer  
15 distinction between the ethics officer for the  
16 management side as opposed to the ethics officer, which  
17 you have very well delineated for the inspector  
18 general, so that if there's some way to make that  
19 identification, because it keeps coming up throughout  
20 the document, I think it would be better. I think that  
21 Tom's comment is exactly what I ran into, confusion as  
22 to which ethics officer you were talking about at

1 various points in the document.

2 CHAIRMAN STRICKLAND: All right. And Charles,  
3 you have the follow on that Roman Numeral II, I  
4 believe, do you not?, on the end of the 1st paragraph?

5 MR. JEFFRESS: Yes. If this sentence will  
6 suffice, I'll re-read it. "The Board of Directors  
7 shall designate an official to serve as the ethics  
8 officer for the corporation." And in response to Mr.  
9 Garten, I would say that throughout this Code of Ethics  
10 and Conduct, the ethics officer refers to the ethics  
11 officer for the corporation; but then this next  
12 paragraph says whenever there is an issue with respect  
13 to the IG, there's a different ethics officer there.  
14 But that's the only section in the entire Code of  
15 Ethics and Conduct that has a reference to the ethics  
16 officer for the office of inspector general.

17 CHAIRMAN STRICKLAND: Okay.

18 MR. GARTEN: That's reassuring, then. When  
19 you talk about -- Herb Garten here  
20 again -- corporation, is it clear that the corporation  
21 does include the office of inspector general? Is there  
22 any further delineation that you need?

1           MR. JEFFRESS: I guess in the discussions that  
2           led up to this, we have always assumed that the Legal  
3           Services Corporation includes the office of inspector  
4           general along with all of the other offices. I'll ask  
5           Joel to comment on that.

6           MR. GALLAY: Yeah. I think the only place  
7           that we had a concern that it needed to be handled in a  
8           different manner is where we've handled it here with  
9           respect to the -- let me say it this way: Any time  
10          that there was issue, we've identified that separately  
11          and for all other purposes it's part of the corporation  
12          as it's, you know, and it's covered adequately here.

13          CHAIRMAN STRICKLAND: Charles, just for a  
14          suggestion, we'll have -- the way we defined the Legal  
15          Services Corporation at the outset is LSC. Maybe it  
16          should be LSC here as opposed to the "The Corporation".

17          MR. JEFFRESS: All right. We do use them  
18          interchangeably. You'll find references to "The  
19          Corporation" a number of places.

20          CHAIRMAN STRICKLAND: Okay.

21          MR. JEFFRESS: And perhaps --

22          CHAIRMAN STRICKLAND: -- Okay, and if we're

1 using it interchangeably, maybe you should say at the  
2 outset, "LSC" or "The Corporation".

3 MR. JEFFRESS: Corporation. That's an easy  
4 fix.

5 CHAIRMAN STRICKLAND: That might clean it up.

6 MR. JEFFRESS: Okay.

7 CHAIRMAN STRICKLAND: I'm going to talk about  
8 in the 1st sentence.

9 MR. JEFFRESS: Yes. Right. All right, we'll  
10 insert that inside the parenthetical.

11 CHAIRMAN STRICKLAND: All right.

12 MR. JEFFRESS: All right --

13 CHAIRMAN STRICKLAND: Anything else on Roman  
14 Numeral II?

15 (No response.)

16 CHAIRMAN STRICKLAND: Let's move to No. III.

17 MR. JEFFRESS: III is leadership  
18 responsibilities. This is one paragraph. The Board  
19 asks that it be clear that Board members were not  
20 responsible for the details of training and information  
21 being provided to employees, so the 2nd sentence was  
22 re-written as you suggested, "All employees shall have

1 sufficient information, training, and guidance to  
2 comply with all the laws, regulations," but it no  
3 longer implies it is a Board duty to do that.

4 CHAIRMAN STRICKLAND: Okay. Any questions on  
5 No. III?

6 (No response.)

7 CHAIRMAN STRICKLAND: Let's go ahead with No.  
8 IV, Charles.

9 MR. JEFFRESS: All right. No. IV is where  
10 there is a significant change based on the Board  
11 conversation. There was a concern that the definition  
12 of conflict of interest was perhaps inadequate or  
13 perhaps too broad, broader than what was in the statute  
14 with respect to what the responsibility of the  
15 directors are.

16 So you have to read this, the 2 paragraphs  
17 that are -- the 1st two paragraphs of conflict of  
18 interest, if you're a director, apply to the directors.  
19 But then you jump down to the section about directors,  
20 which follows officers and employees. The exact  
21 language from the statute has been placed at the 1st  
22 paragraph of the director's section, so that language

1       there in the 1st sentence comes out of the act in terms  
2       of what restrictions there are on directors in terms of  
3       conflicts of interest.

4               The definition of conflict of interest in the  
5       very first paragraph under No. IV, going back to page  
6       2, was rewritten to make the conflict of interest  
7       perhaps clearer and easier to understand than what we  
8       had there previously. Joel had helped to craft this.  
9       Joel, do you want to talk any about this particular  
10      section?

11              MR. GALLAY: Just to say that we and the  
12      entire taskforce really looked at lot of different  
13      formulations and tried to come up with one that sort of  
14      reflected, you know, the best short-form statement of  
15      the areas of concern. I think this does it in a pretty  
16      straightforward manner. And in the 2nd paragraph it's  
17      just a pretty straightforward statement that says,  
18      "Director, officers, and employees should refrain from  
19      entering into relationships or transactions that  
20      constitute a conflict of interest." That was a change  
21      from how the formulation had been before, where we  
22      previously refined it.

1                   MR. JEFFRESS: Yeah, and the significant  
2 change in the 2nd paragraph -- and I think Mr. Meites  
3 raised this issue at the last meeting -- we changed the  
4 "shall" to "should".

5                   MR. GALLAY: Right.

6                   MR. JEFFRESS: It was interpreted that you  
7 could not enter into a relationship that constituted a  
8 conflict of interest, but the point was made that, you  
9 know, the statute clearly contemplates that there might  
10 occasionally be conflicts of interest, and provides a  
11 means for dealing with them. So rather than mandating  
12 that the directors, officers, and employees shall  
13 refrain, we changed it into "should refrain," and then  
14 added the last sentence that if a conflict or apparent  
15 conflict does arise, the individual must disclose it  
16 and resolve it as described below, and encourages folks  
17 if they're in doubt to discuss it with the ethics  
18 officer.

19                   CHAIRMAN STRICKLAND: Okay. Any question or  
20 comments on -- or do you want to go ahead with the  
21 explanatory paragraph that follows?

22                   MR. JEFFRESS: There were no changes in the

1 3rd paragraph, so let's just deal with the first 3  
2 paragraphs under No. IV, The Conflicts of Interest. If  
3 there are any comments or questions about that, we can  
4 take them now, or if you want to wait until after we  
5 get through the director's portion, we could take them  
6 then.

7 MR. MCKAY: Mr. Chairman, Mike McKay.

8 CHAIRMAN STRICKLAND: Yes, sir.

9 MR. MCKAY: Yes. I have reflected upon this,  
10 and with all due respect and deference to Mr. Meites, I  
11 really would like to see "should" in the 1st line of  
12 the 2nd paragraph be changed back to "shall". You  
13 know, I thought about this, and I tried to think about  
14 how changing it back to shall would significantly incur  
15 on those of us who are really part-time directors will  
16 be affected in a significant way, and I also know that  
17 as, you know, as employee of a quasi-governmental  
18 organization, we take on certain responsibilities and  
19 duties and obligations, and I feel uncomfortable having  
20 the word, "should" refrain rather than "shall" refrain  
21 in there.

22 It talks about -- that sentence contemplates

1 entering into a transaction or a relationship that  
2 might give rise to a conflict of interest as opposed to  
3 already being in one. So, for example, if we  
4 routinely -- and it's just a hypothetical -- routinely  
5 ran a contract with a company that we happened to own  
6 shares in, then, you know, having purchased them long  
7 ago, I would us being able to recuse ourselves from  
8 that vote.

9           On the other hand, if we are, as a member of  
10 the Board and knowing that this particular company  
11 routinely does business with the Corporation and the  
12 Board, rules under the votes on those contracts, we  
13 would be barred -- it would say "shall" -- would be  
14 barred from purchasing shares in that company.

15           I don't feel troubled or burdened by that.  
16 And so the flip side to this is I feel very  
17 uncomfortable imposing on ourselves such a limited  
18 standard, when people who are paying attention to what  
19 we doing, questions have been raised about the way we  
20 are governing ourselves, and I think we should be  
21 holding ourselves to a higher standard.

22           And I reflected upon Tom's comments and

1 others' comments during our meeting last month and  
2 tried to think about maybe it would really be a  
3 problem. And I'm not entirely sure if it would be. So  
4 I guess my vote would be to change it back to "shall".

5 CHAIRMAN STRICKLAND: All right. Any other  
6 comments on the "shall" versus "should"?

7 MR. GARTEN: I have -- Herb Garten here -- I  
8 have no problem whatsoever in changing it to shall. I  
9 just have a comment. When you got to the next two  
10 paragraphs down to directors, there is a qualification  
11 there, where he describes it to the Board. Now since  
12 there is language here, "If in doubt about the  
13 potential for conflicts, the ethics officer should be  
14 consulted," could there or should there be something, a  
15 cross-reference with respect to directors?, a reference  
16 to that paragraph dealing with disclosures?

17 MR. MCKAY: This is Mike McKay. I'm not sure  
18 if it's necessary. I wouldn't feel unhappy if it was  
19 added, but I don't think it's necessary.

20 CHAIRMAN STRICKLAND: To ask a general  
21 question of the taskforce, did you find the use of the  
22 word, "shall" or "should" more often -- well, which one

1 of those did you find more often?

2 MR. GALLAY: Shall. I mean --

3 CHAIRMAN STRICKLAND: -- the model you're  
4 going by?

5 MR. GARTEN: Shall was clearly -- the notion  
6 of on conflicts provisions that it was a clear-cut  
7 prohibition of doing those -- but for an income  
8 disclosure mechanism to correct it -- was very much in  
9 the majority, and --

10 CHAIRMAN STRICKLAND: The word, "shall"?

11 MR. GARTEN: Yes, or its equivalent. And the  
12 accompanying, you know, explanatory material or just  
13 sort of instructional material that was out there in  
14 terms of the importance for boards to set a tone with  
15 these kinds of documents, codes of conduct or whatever,  
16 was a recurring theme.

17 So, you know, this change reflected the  
18 taskforce's efforts to be responsive to the Board, but  
19 I think -- and Charles will speak if I'm inaccurate  
20 here -- but I think it was the sense of the taskforce  
21 itself that the preferred form of this was, in fact,  
22 "shall".

1 MS. SINGLETON: I need a clarification. Could  
2 I ask for a clarification, Frank?

3 CHAIRMAN STRICKLAND: Go ahead, Sarah.

4 MS. SINGLETON: Is the word "shall"  
5 appropriate if your remedy is to disclose and not vote?  
6 I mean you still have the conflict of interest, but the  
7 way you remedy it is to vote on it. And what Mike was  
8 saying is he believes for future conflicts you can't  
9 even enter into the relationship, it doesn't matter if  
10 you disclose or not. And I think if that's the case,  
11 then these two paragraphs or sections are inconsistent  
12 with each other. If that's what "shall" means, then I  
13 think it's inconsistent to say you have a disclosure  
14 provision.

15 CHAIRMAN STRICKLAND: Well, going back  
16 to -- I'm not sure I remember the hypothetical that  
17 Mike came up with -- but suppose the corporation is  
18 considering the -- who provides, who makes the copying  
19 machines that we have at the headquarters building? --

20 MS. SINGLETON: Well, let's say it's Xerox. Go  
21 ahead.

22 CHAIRMAN STRICKLAND: All right, let's say

1       it's Xerox, I own a hundred shares of Xerox. In the  
2       first place, as I just explained, I don't really know  
3       who makes the copiers, but I already have or supposed  
4       inadvertently I go out and buy some stock in Xerox, not  
5       knowing that the corporation has significant contract  
6       with Xerox? Does that mean I'd have to sell the  
7       shares, or the corporation has to get rid of the  
8       copiers, or what?

9               MR. MEITES: Frank, this is Tom. Sarah's  
10       point is that the remedy for a conflict is essentially  
11       abstention from participating in decisions relating to  
12       the source of the conflict. So, you --

13              CHAIRMAN STRICKLAND: I have a remedy just by  
14       not voting.

15              MR. MEITES: -- disclose it and you don't  
16       vote. Sarah's point is that by including the word  
17       "shall" it imposes a broader obligation than disclosure  
18       of not voting, which is the prescribed course of  
19       action.

20              MR. FORTUNO: Well -- and this is Vic --

21              MR. GARTEN: This is Herb Garten here. This  
22       could be cured by -- reference at the end of that

1 paragraph -- by just saying: "Also see  
2 paragraph -- dealing with the disclosure." Then there  
3 would be no doubt that "shall" is fine.

4 CHAIRMAN STRICKLAND: All right. Is there any  
5 objection to changing it to "shall"?, and then to  
6 adding Herb's reference as suggested?

7 MS. SINGLETON: Well, with all respect to  
8 Herb, I don't think that fixes it.

9 MR. FORTUNO: Well, I think -- this is Vic.  
10 If I may, I think the statutory provision sets out a  
11 baseline. I think that the Board if it chooses to, can  
12 set standards for itself that's higher than what's  
13 contemplated in the statute. So, you could, I think if  
14 you wanted, go with shall. Of course, if in fact  
15 currently there is some sort of conflict that you've  
16 already entered into, there is the remedy that appears  
17 in the statutory language, which is disclosure and  
18 recusal if becomes an issue.

19 But I don't think that it would be necessarily  
20 inconsistent to use "shall." I think that you can set  
21 that higher standard for yourselves if you want to.

22 MS. SINGLETON: But then you have to -- if you

1 say "shall", then the idea is you do not knowingly get  
2 involved in any conflict.

3 MR. FORTUNO: Yes.

4 MS. SINGLETON: So if somehow I'm involved in  
5 the contract to purchase copiers here, I shouldn't go  
6 buy Xerox stock? Is that right? Is that what you're  
7 saying?

8 MR. FORTUNO: I think that would follow, but  
9 it's whether you're willing to impose a standard such  
10 as that on yourselves. That's why I said it's  
11 permissible to go with the shall. It's not required.  
12 And I don't think it's inconsistent either.

13 MS. SINGLETON: Right. But that's what you're  
14 doing. You are imposing a higher standard by using the  
15 word, "shall", that cannot be overcome simply by  
16 disclosure.

17 MR. FORTUNO: Yes.

18 MS. SINGLETON: It's at least for all  
19 future --

20 MR. FORTUNO: -- Transactions.

21 MS. SINGLETON: Transactions, I have to avoid  
22 anything that I would know to be a conflict, because I

1 can no longer cure it just by disclosure and not  
2 voting.

3 MR. FORTUNO: Yes, exactly right.

4 MS. SINGLETON: With "shall". That's the  
5 intent of putting shall in there. Okay.

6 CHAIRMAN STRICKLAND: Okay, then, Tom, I don't  
7 have a remedy.

8 (Laughter.)

9 MR. MEITES: You do not, and it's a difficult  
10 issue. Many of us are active members of the ABA. The  
11 ABA always testifies and takes a position at our  
12 meetings on matters of importance to it and to us.  
13 Does "shall" mean that we have to leave the ABA? The  
14 remedy now as we disclose it, and I am confident that  
15 the ethics officer would say there is no conflict of  
16 interest. But if it's "shall", we can't leave it to  
17 the ethics officer, and we can't simply disclose it and  
18 say we will refrain from voting on such matters.

19 We can't do it. And maybe we shouldn't, maybe  
20 we should isolate and insulate ourselves from normal  
21 legal connections that we all have. But I don't think  
22 that that was the intent of Congress in prescribing the

1 standard it set.

2 CHAIRMAN STRICKLAND: Well, we certainly don't  
3 have a nonsensical policy we can't work with or just  
4 doesn't fit within our organization, and so on. It  
5 needs to make sense. So --

6 MS. BEVIER: Mike, what does Mike McKay think  
7 with respect to Sarah's issue that Sarah raised?

8 MR. MEITES: Well, I think we should be  
9 holding ourselves to a higher standard. It is  
10 inconvenient to be in public service, and, you know, we  
11 have a true -- I feel comfortable with the very first  
12 sentence of this section. It tells us what a conflict  
13 of interest is. And I think a lot of the stuff that's  
14 been discussed would not qualify as a conflict of  
15 interest. We'll know it when we see it, like  
16 pornography.

17 And so I think both the hypotheticals that  
18 we've been talking about, I don't think this is going  
19 to rise to a level where we're going to be  
20 significantly inconvenienced. I'm not entirely sure the  
21 relationship with the ABA, for example, would be a  
22 conflict of interest. We probably should address it.

1 But --

2 CHAIRMAN STRICKLAND: Similarly, owning a  
3 hundred shares of Xerox, what do you think about that?

4 MR. MEITES: Well, if you already own it and  
5 if we're voting on something that might impact your  
6 financial interest, then I think you have to recuse  
7 yourself. What the rule would say if we put in "shall"  
8 is: If you know about this relationship with Xerox  
9 that we're having and you are thinking about going out  
10 and buying Xerox shares, then this rule would prohibit  
11 you from doing it. It somehow breeds a conflict. I'm  
12 not entirely sure it does, but --

13 CHAIRMAN STRICKLAND: I'm not entirely sure it  
14 does, either. Among other reasons, I don't think the  
15 decision as to which copier may be purchased by LSC  
16 rises to the Board.

17 MR. MEITES: And secondly, I'm not sure if a  
18 business relationship with LSC by Xerox is going to  
19 impact the value of the shares.

20 CHAIRMAN STRICKLAND: I would think not.

21 MR. MEITES: The flip side to this argument is  
22 the discomfort that I have, that I would suspect others

1 have about us putting "should" in rather than "shall".  
2 I really am uncomfortable with the optics here. And  
3 I'm just not entirely sure how I recognize the concern  
4 that's expressed here about some kind of a hypothetical  
5 that might represent itself. I'm not sure, I can't  
6 really figure out what it might be. I think we can  
7 deal with it when it happens. But I really encourage  
8 us to hold ourselves to a higher standard, particularly  
9 when we're under such scrutiny right now.

10 MR. GARTEN: Herb Garten here. What would you  
11 do about the disclosure provisions on page 3? Would  
12 you leave them in there?

13 MR. MEITES: Where on page 3 are you --

14 MR. GARTEN: Where the -- you have one or  
15 two -- it's the 2nd paragraph under directors. "fully  
16 disclose the nature, and withdraw from discussion and  
17 voting." Would you leave that in with the "shall"?

18 MR. MEITES: I'm sorry. I'm looking at page  
19 3, and which paragraph on page 3?

20 MR. GARTEN: "Whenever a director or officer  
21 has a private interest in any matter coming before the  
22 Board, the affected person must fully disclose the

1 nature of the interest and withdraw from discussion and  
2 voting on the matter."

3 MR. MEITES: Yes. Absolutely. Keep it in.

4 MR. GARTEN: So the "shall" is subject to this  
5 exception? That's why I said that perhaps we ought to  
6 add something to that last sentence.

7 MR. MEITES: Oh, I believe the "shall"  
8 prohibits us from prospectively doing something. This  
9 addresses the situation that Frank was talking about  
10 where you already own a hundred shares of Xerox. It  
11 does not require us to sell the shares, because you  
12 bought them a long time ago. It just simply says, "I  
13 own a hundred shares and I'm going to recuse myself."  
14 It's the transparency.

15 MR. GARTEN: I don't read that sentence the  
16 same way. I need help there.

17 CHAIRMAN STRICKLAND: Any suggestions from  
18 taskforce members to help us resolve this?

19 MR. MEITES: Or is there a conflict with using  
20 the word, "shall" and retaining that paragraph I just  
21 read?, or should there be an explanation or some  
22 reference to it? Whatever words we feel is appropriate

1 in that last sentence, "If in doubt, consult with the  
2 ethics manager -- officer; also a reference to that  
3 particular paragraph." Also see paragraph whatever it  
4 is.

5 MR. JEFFRESS: This is Charles Jeffress. The  
6 2nd paragraph under the director's subhead there that  
7 has been discussed is, you know, it's already the  
8 statute, so I don't think that you have the option  
9 of -- you can take it out of a code, but it's still  
10 there. So I don't think taking it out of the code makes  
11 any real sense.

12 MR. GARTEN: -- saying is there a conflict if  
13 you use the word, "shall"? Is it clear that you still  
14 have the opportunity to make the disclosure?

15 MR. MEITES: I believe so. I don't think it's  
16 in conflict.

17 MR. GARTEN: All right.

18 MR. MEITES: I think it's that the one -- the  
19 sentence that we're talking about --

20 MR. GARTEN: All right. So the legislature  
21 history of this as expressed by Mike, there is no  
22 problem. I'm satisfied with it.

1           MR. GALLAY: I would also just point  
2 out -- this is Joel -- that back at page 2 in the 2nd  
3 paragraph, I does say, "If a conflict does arise, then  
4 you disclose it and resolve I as described below." So  
5 there is in effect a cross-reference of the type you  
6 were, I believe, talking about, Herb.

7           MR. GARTEN: That's good.

8           MR. GALLAY: Okay.

9           MS. SINGLETON: Well, no. I still think  
10 there's a potential problem because you are given the  
11 election to avoid the conflict of interest or to  
12 abstain from decision-making. And if you're inserting  
13 the word, "shall", to get rid of that election or that  
14 choice by the directors, I think that it's  
15 inconsistent.

16           MR. GARTEN: I don't hear that from Mike's  
17 comment.

18           MR. MCKAY: I don't believe it's inconsistent,  
19 Sarah, because that paragraph on page 3 addresses those  
20 situations where you have a business relationship or a  
21 family relationship that you're already in, and then an  
22 intervening event -- either we're thinking about hiring

1 someone, or entering into a contract takes place, well,  
2 you've already -- that person is your, a family member,  
3 or you already own share. It's already happened. You  
4 were not given the opportunity to refrain from entering  
5 into that relationship or transaction. The purpose of  
6 the sentence on page 3 is to address what happened if  
7 you do have a relationship. And then an intervening  
8 event takes place. We're thinking about hiring  
9 someone, or entering into a contract. That's when you  
10 say, "Hey, but that's my wife," or "I own shares in  
11 that company," and then you recuse yourself.

12 MS. SINGLETON: Well, I don't think that it's  
13 limited to past actions. If I go out tomorrow  
14 and -- let me put into the area that's concerning me.  
15 I do a lot of work with the Access to Justice Community  
16 in New Mexico, some of whom are our grantees, some of  
17 whom are not. There's no definition of private  
18 interest. My interest in supporting that work is  
19 something that could conceivably be in conflict with  
20 something that LSC may have to act on.

21 Just off the top of my head, I can think of,  
22 we may have to take a position on restrictions, that

1 the Access to Justice Community in New Mexico is on  
2 record as being against. And I think I should be able  
3 to disclose to this community, to this Board, that "Oh,  
4 the Access to Justice Community in New Mexico has said  
5 they don't like the restrictions. I'm not going to  
6 vote on this." But I don't think I should have to  
7 decide that I'm going to not be involved in Access to  
8 Justice Community matters in New Mexico.

9 MR. MCKAY: I agree with you. And you will be  
10 barred by that language if we put in "shall," because  
11 it's charging us to refrain from entering into a  
12 relationship or transactions that constitute a conflict  
13 of interest, not what might constitute a conflict of  
14 interest. So the words that you've just described is  
15 not a conflict of interest.

16 MS. SINGLETON: But tomorrow --

17 MR. MCKAY: Now let me finish. It might  
18 constitute a conflict of interest, or it would if it  
19 comes before the Board. That's what the meaning of the  
20 sentence on page 3 is, because you are in a  
21 relationship, which is perfectly appropriate, then  
22 because of an intervening event, you were then

1 obligated on page 3 to say, "Hey, wait a minute, I'm  
2 involved in this group," and that's when you recuse  
3 yourself."

4 CHAIRMAN STRICKLAND: Is that going to work  
5 for you, Sarah?

6 MS. SINGLETON: No. But I'll just vote  
7 against the change in the language.

8 CHAIRMAN STRICKLAND: All right.

9 MR. MEITES: This is Tom.

10 CHAIRMAN STRICKLAND: Yes, sir, Tom.

11 MR. MEITES: Let me give you another example.  
12 We adopt Mike's proposed language, "shall". Sarah gets  
13 a call from our grantee in New Mexico. They are expert  
14 on slaughter houses in New Mexico. The --

15 MS. SINGLETON: Oh what?

16 MR. MEITES: Slaughter houses in New Mexico.

17 MS. SINGLETON: Okay.

18 MR. MEITES: Grantee says we have an issue  
19 with -- in the slaughter house. One of our employees  
20 has done X. And we need help. Of course, there's no  
21 fee involved, but we would like you to donate your time  
22 to help us with this case. Under "should" and the

1 procedure in the 2nd part of the end of the paragraph,  
2 2nd paragraph, she could disclose that. Under Mike's  
3 language, she would have to decline to assist a  
4 grantee.

5 MS. SINGLETON: Why?

6 MR. MEITES: Because it's a conflict.

7 MS. SINGLETON: Why is it a conflict?

8 MR. MEITES: Well, if you look at conflict, if  
9 you looked at the definition of conflict -- I'm sorry,  
10 it is the appearance of a conflict. There she is  
11 working with a grantee to further the grantee's  
12 mission. And at the same time she's on the Board,  
13 which has supervisory responsibilities over the  
14 grantee. Though it's not an actual conflict in terms of  
15 private interest, it certainly could be conflated into  
16 an apparent conflict, which is also --

17 MR. MCKAY: No, it's not in the 1st sentence.

18 MR. MEITES: The 1st sentence, you're  
19 referring to the 1st sentence of paragraph 4?

20 MR. MCKAY: No, where the "shall" is, the  
21 sentence that's the subject of our discussion. "You  
22 shall refrain from entering into a relationship through

1 transactions that constitute a conflict of interest,"  
2 and not that appear to constitute a conflict of  
3 interest.

4 MR. MEITES: So that you -- okay, so let's go  
5 back to the definition of conflict of interest above.

6 A conflict is where the director's private interest  
7 reasonably could be seen as influencing the  
8 individual's duty to act in the best interest of LSC."

9 Well, Sarah could be faulted in this representation as  
10 influencing her duty to act -- LSC. That is, she is  
11 working with the grantee, and let's say this is an  
12 emerging area of the law of slaughter house rights,  
13 which may be questioned by someone who believes there's  
14 grounds to criticize this grantee's work. Can Sarah  
15 enter into that relationship?

16 MR. MCKAY: I believe she can. I don't see it  
17 as a conflict.

18 MS. SINGLETON: I guess we don't have a  
19 problem if we define everything as not being a  
20 conflict.

21 MR. MEITES: But let's go back to what Mike's  
22 saying. Maybe we should do more on what a conflict is,

1 and the definition of conflict.

2 CHAIRMAN STRICKLAND: Where did the definition  
3 come from?

4 MS. SINGLETON: Is private interest defined  
5 anywhere? If we're talking about financial, that's one  
6 thing.

7 MR. JEFFRESS: I would have to say it's  
8 interpreted as broader than financial interest. I  
9 don't think it's limited to financial interest. I  
10 don't think that I could give you a specific  
11 definition. Joel, can you give any help with that?

12 MR. GALLAY: No. Well, as the taskforce was  
13 looking through various ways of fashioning this, you  
14 know, one of the options was a very elaborate series of  
15 definitions, which laid out, you know, financial  
16 interests, and then even, you know, whatever the nature  
17 of the relationships, you know, degrees of affinity,  
18 and so forth. This was Charles -- you know, correctly  
19 reflecting the sense of the taskforce that it was more  
20 than just financial, but we as a group opted for  
21 something to keep this entire document from  
22 becoming -- opted to go for shorter-formed definitions.

1           CHAIRMAN STRICKLAND: Well, we're in a stall  
2 here. So somebody pull us out of it. We've got to  
3 have a resolution to this or we won't get through the  
4 rest of our document here.

5           MR. GARTEN: Herb Garten here. In re-reading  
6 service times that paragraph that I read, it's clear  
7 that it has to be a matter coming before the Board of  
8 Directors. So that really is qualifying. You can have  
9 a conflict without anything coming before the Board of  
10 Directors.

11           So putting faith in that paragraph about the  
12 disclosure was overdone, after reading it. Mike, do  
13 you agree with that?

14           MR. MCKAY: Yes. And I think that's also  
15 contemplated in the chapter -- conflict of interest.

16           MR. GALLAY: And if I can just direct, you  
17 know, your attention again back to page 3, where, you  
18 know, there's the new language which just was intended  
19 to reflect and capture, you know, the learning that's  
20 out there in both the non-profit and the corporate  
21 world about what should be, you know, sort of the basic  
22 principle in this statement of moreover after, you

1 know, restating the statutory thing, this statement,  
2 "Moreover directors have fiduciary duties to the  
3 corporation, including the duty of loyalty, which  
4 entail the duty to avoid conflicts of interest or  
5 abstain from decision-making involving existing  
6 conflicts. And --

7 MS. SINGLETON: But everywhere you stated,  
8 it's in the alternative, you get to do one or the  
9 other.

10 CHAIRMAN STRICKLAND: Therefore, you're  
11 troubled with the use of the word, "shall" as it  
12 relates to these alternatives. Is that right, Sarah?

13 MS. SINGLETON: I --

14 MR. GALLAY: Actually, as you pointed out, it  
15 probably should be in the conjunctive, that --

16 MS. SINGLETON: Hmm, yeah.

17 MR. GALLAY: Because it really is --

18 MS. SINGLETON: Yeah, it's and. Right, yes.

19 MR. GALLAY: It's a dual -- it is, yeah, and  
20 that's correct. You're absolutely right.

21 CHAIRMAN STRICKLAND: It shouldn't be "or," it  
22 should be "and".

1 MR. GALLAY: That's correct.

2 MS. SINGLETON: Well, I like it being "or."

3 MR. JEFFRESS: Well, wait a minute, don't you  
4 make a change yet. One issue first --

5 MR. GALLAY: But you're right. That's the --

6 MS. BEVIER: Frank?

7 CHAIRMAN STRICKLAND: Yes, Lillian?

8 MS. BEVIER: And then I have to leave. I'll  
9 just offer this suggestion. I'm sure it will go  
10 nowhere. But one of the things that has troubled me as  
11 I listen to the discussion is that there really is  
12 dispute about what counts as a conflict, and you know,  
13 if changing the nature of your engagement with the  
14 justice community or if I were, God forbid, to decide  
15 to join the American Bar Association, that would become  
16 a conflict, even though it's not for Herb, I think what  
17 we need to do is ask -- I mean I hate to do this, but  
18 we need to be able to consider whether defining  
19 conflict of interest in a different way that's more  
20 clear, perhaps more limited, will help us out of this  
21 quandary, because where we presently are is, I just  
22 don't think it makes sense to put "shall" in; and then

1     what Mike is saying is, "Well, appearances don't  
2     matter, it's only realities that matter, and the real  
3     conflicts." You know, he's sort of defining away any  
4     conflicts, but then putting "shall" in.

5             So I'm just confused and I suggest that we ask  
6     the taskforce -- I hate to do it, but to see if they  
7     could define "conflict of interest" a little more  
8     carefully, and then we try again to see whether we want  
9     "shall" or "should," and whether we want to change  
10    conflict of interest definition.

11            And now I'm hanging up, so --

12            (Laughter.)

13            MS. BEVIER: -- all right? Goodbye.

14            MS. SINGLETON: Is there not a definition of  
15    conflict of interest in the statute?

16            MR. JEFFRESS: This is Charles Jeffress.  
17    There's not a definition of conflict of interest in the  
18    LSC statute. I'm not aware of a standard definition of  
19    conflict of interest. There may be a variety of  
20    different ones, and while we could go back and do more  
21    research, I would be very surprised to find that solved  
22    your problem.

1           MR. GARTEN: Herb here. There's going to be a  
2 de minimis situation here with Frank owning a hundred  
3 shares of Xerox. There's going to be some language to  
4 that effect that that does not constitute a conflict of  
5 interest relationship. I mean otherwise, the  
6 government would have difficulty having people such as  
7 us on boards, if I have to be concerned about I own a  
8 mutual fund with a thousand shares in it, and I've got  
9 to be worried about a fraction of one share interest  
10 preventing me from doing something.

11           MR. JEFFRESS: Herb, I don't think you will  
12 find that written into any language in any code or  
13 statute. It is left to the decision of whoever's  
14 serving as the equivalent of the ethics officer, as a  
15 rule to --

16           MR. GARTEN: There's got to be some legal  
17 opinions on de minimis --

18           MR. MEITES: Frank, this is Tom?

19           CHAIRMAN STRICKLAND: Yes, sir.

20           MR. MEITES: It may be if we look at analogous  
21 agencies like the Corporation for Public  
22 Broadcasting -- you with me? Maybe a couple other

1 agencies, or you know, which -- non-governmental  
2 part-time Board members.

3 MR. GALLAY: That is, in fact, what the  
4 taskforce did in its process of going through to come  
5 up with this language. I mean, you know, we can  
6 provide you with individual examples of all the things  
7 that we looked at. But there's -- just as we've al  
8 seen the reasonable man standard, I mean I think there  
9 are there are things such as the language here about  
10 influencing ones' duty to act in the best interest of  
11 the corporation, that is sort of capturing the  
12 underlying essence of what a conflict, you know, that  
13 matters is about.

14 And back to Herb's point, you know, the way  
15 the process works out here and in government agencies,  
16 you know, and corporations, yes, de minimis  
17 transactions just get taken care of in due course.  
18 They are not an issue. You know, holdings of mutual  
19 funds, even in the government's formal processes, are  
20 excluded from being something that one has to worry  
21 about in terms of particular transactions, as long as  
22 they're general mutual funds, not a particular segment.

1 But --

2 You know, I really don't think this should  
3 cause as much angst as it seems to be.

4 MR. JEFFRESS: Mr. Chairman, this is Charles  
5 Jeffress. The Corporation for Public Broadcasting Code  
6 of Ethics for Directors was sent to you earlier. You  
7 all won't have a copy of it in front of you. I happen  
8 to. And it does not address the issue of whether  
9 directors shall refrain from entering into conflict of  
10 interests. It specifically provides that directors  
11 should -- let me read this: "It is the duty of each  
12 member of CPB's Board of Directors to serve the  
13 corporation's mission and not to advance his or her  
14 personal interests or those of other private parties.  
15 This conflict of interest policy is intended to permit  
16 CPB and its Board members to identify, evaluate, and  
17 address, any real potential or apparent conflict of  
18 interest that might in fact or in appearance call in  
19 question their duty of undivided loyalty."

20 So it is not a duty to refrain, it's a duty to  
21 identify, evaluate, and address.

22 MR. GARTEN: Herb Garten here. Do we have any

1 publication describing the role of the ethics officer,  
2 what that officer considers in determining whether  
3 there is a conflict or not?

4 MR. JEFFRESS: I'm not aware of any such  
5 thing. I'm sure there are various memoranda in the  
6 federal government that describe what the ethics  
7 officers in the federal government, the guidelines for  
8 them in making decisions. Whether there's something  
9 similar from the New York Stock Exchange or some of  
10 these groups that are sprung up -- there's Sarbanes  
11 Oxley -- I'd have to look and see. But I --

12 MR. GARTEN: Do we have anything saying  
13 whether there are appeal rights from the ethics officer  
14 to the Board, for example?

15 MR. JEFFRESS: We had a significant discussion  
16 of this, actually, at the executive team level, and  
17 consistently there are not appeal rights to the Board.  
18 The very idea that that ethics officer would decide  
19 something and the Board would overrule him kind of runs  
20 counter to the idea of having an ethics code and an  
21 ethics officer in the first place.

22 CHAIRMAN STRICKLAND: Well, I was hoping we

1 would be able to this code today. I mean that's the  
2 reason we scheduled a special meeting was to accelerate  
3 the pace, and show some progress.

4 M O T I O N

5 MS. SINGLETON: Well, I want to make a motion,  
6 Frank, and people can vote. I vote that we leave the  
7 language in the conflict of interest section as it is  
8 in the redline version with "should" being the  
9 operative phrase.

10 CHAIRMAN STRICKLAND: Okay. I'll accept that  
11 motion. Is there a second to the motion?

12 (No response.)

13 CHAIRMAN STRICKLAND: All right. I'll second  
14 the motion. And is there any further discussion on it?

15 MR. MCKAY: Well, this is Mike McKay. And I  
16 would strongly urge that we vote against this motion.  
17 I would do it even if we were not receiving a great  
18 deal of scrutiny from the GAO and Congress. I just  
19 don't like the optics. I think that the definition of  
20 conflict of interest in the 1st paragraph uses the  
21 term, "reasonable," and I think the discussion that  
22 we've had is way out there on the parameters. I think

1 we will know when we see it and we'll address is  
2 appropriately. But I feel very uncomfortable having  
3 "should" in there, so I'll vote "No."

4 CHAIRMAN STRICKLAND: All right. Any further  
5 discussion?

6 MS. PHILLIPS: This is Bernice Phillips. I  
7 just want to abstain from voting. I'm not sure exactly  
8 sure what's going on.

9 CHAIRMAN STRICKLAND: Okay. All right, Mr.  
10 Reporter, let's record Bernice is abstaining, and let's  
11 proceed. Make sure that we have -- well, we lost  
12 Lillian, so we one, two, three, four, five, six,  
13 seven -- we have eight Board members on the call,  
14 unless somebody's dropped off.

15 MR. GARTEN: Can I make a comment?

16 CHAIRMAN STRICKLAND: Yes, sir.

17 MR. GARTEN: I would vote against it, because  
18 I think our discussion has brought up the need for  
19 additional information, facts, and better definitions.  
20 And I would suggest that rather than to vote on this,  
21 that we send it back to the committee -- they know what  
22 our concerns are -- and come back at another meeting.

1 And I'd like very much to proceed with the rest of it,s  
2 so that we know that the balance of this is something  
3 that we're satisfied with, so that we can have a very  
4 short meeting, hopefully, when this is reconsidered.

5 M O T I O N

6 CHAIRMAN STRICKLAND: Okay. Well, I think  
7 parliamentarily we have a motion before us, and that is  
8 Sarah's motion to go with the draft as presented. That  
9 is, the red-line version with the word, "should"  
10 included, and --

11 MS. SINGLETON: I don't withdraw the motion --

12 CHAIRMAN STRICKLAND: Roman Numeral IV. All  
13 right, all those in favor of the motion -- let's see if  
14 we can do this by a voice vote -- all those in favor of  
15 the motion, please say "Aye."

16 MS. SINGLETON: Aye.

17 CHAIRMAN STRICKLAND: Opposed "Nay

18 Chorus of "Nays"

19 CHAIRMAN STRICKLAND: Nay. Okay, the nays  
20 have it.

21 M O T I O N

22 MS. SINGLETON: I have another motion. I move

1 that we adopt Section III with the word, "shall".

2 CHAIRMAN STRICKLAND: Section IV, you mean?

3 MS. SINGLETON: Section IV with the word,  
4 "shall".

5 CHAIRMAN STRICKLAND: All right. Her second  
6 to that motion?

7 MR. MEITES: Second it.

8 CHAIRMAN STRICKLAND: Any further discussion?

9 MR. MEITES: Yeah. This is Tom.

10 CHAIRMAN STRICKLAND: Yes, sir.

11 MR. MEITES: I really think that Herb's course  
12 of action is the preferred one. I think that the  
13 problem really lies in the definition not or "should"  
14 or "shall," but in defining what a conflict of interest  
15 is for people in our situation. So I would much prefer  
16 that we send this back to committee to try to think if  
17 there's some formulation of conflict of interest,  
18 rather than the word, "private interest," which is what  
19 our problem is, rather than either go with "should" or  
20 "shall," leaving that private interest time bomb still  
21 ticking.

22 MS. CHILES: Hi. This is Jonann Chiles. I

1 agree with Herb and with Tom.

2 CHAIRMAN STRICKLAND: Okay.

3 MS. SINGLETON: Why don't you suggest one of  
4 them move to table?

5 M O T I O N

6 CHAIRMAN STRICKLAND: Yeah. Let's do that.

7 MR. GARTEN: Move to table. Sarah, I don't  
8 recall the parliamentary rules as well as I did years  
9 ago. Is that an appropriate motion?

10 MS. SINGLETON: Well, your motion takes  
11 precedent, and that's what we vote on, and it's not  
12 debatable.

13 CHAIRMAN STRICKLAND: Right. All right. Is  
14 there a second to the motion to table?

15 MR. GARTEN: Second.

16 CHAIRMAN STRICKLAND: All right. Having had  
17 an explanation from the parliamentarian, let's proceed  
18 to vote on the motion to table. All those in favor of  
19 the motion, please see "Aye."

20 Chorus of "Ayes".

21 CHAIRMAN STRICKLAND: Opposed, "Nay."

22 MS. SINGLETON: Nay.

1 MR. GARTEN: Nay.

2 CHAIRMAN STRICKLAND: Okay, the Chair's in  
3 doubt. Motion to table, let's have a roll call vote.  
4 Herb Garten?

5 MR. GARTEN: Nay.

6 MS. SINGLETON: No.

7 MR. GARTEN: Excuse me, a motion to table,  
8 yes.

9 CHAIRMAN STRICKLAND: Okay. So you're in  
10 favor of the motion to table.

11 (Laughter.)

12 CHAIRMAN STRICKLAND: Meites?

13 MR. MEITES: Yes.

14 CHAIRMAN STRICKLAND: I'll pass myself. Tom  
15 Fuentes?

16 MR. FUENTES: Yes.

17 CHAIRMAN STRICKLAND: All right. Sarah?

18 MS. SINGLETON: No.

19 CHAIRMAN STRICKLAND: Mike McKay?

20 MR. MCKAY: No.

21 CHAIRMAN STRICKLAND: And Bernice, you're  
22 abstaining?

1 MS. CHILES: Yes.

2 CHAIRMAN STRICKLAND: Okay, so let's see, we  
3 got 1, 2, 3 --

4 MS. SINGLETON: Is Jonann still there?

5 MS. BEVIER: And Frank.

6 MS. CHILES: I'm still here.

7 CHAIRMAN STRICKLAND: All right.

8 MS. CHILES: I vote in favor of the motion to  
9 table.

10 CHAIRMAN STRICKLAND: Okay. The motion to  
11 table passes.

12 We're moving on to -- okay, for the  
13 information of the taskforce, then, I take it that we  
14 need some more work on No. IV.

15 MR. JEFFRESS: I hear your instruction for  
16 more work. Any guidance you can give would be welcome.

17 CHAIRMAN STRICKLAND: Well, one thought is  
18 apparently that the term, "private interest" is  
19 bothering some of us, and maybe you need to take a  
20 deeper look at that. I mean we don't want to have a  
21 conflict of interest provision that doesn't work, or  
22 that's absurd on its face. And I'm not saying this is.

1 But we need something workable, and those are the  
2 additional thoughts I had on it.

3 MR. JEFFRESS: If Board members have  
4 suggestions they want to send to the taskforce, we'll  
5 happy to receive anything folks want to send us.

6 MS. SINGLETON: I liked the public  
7 broadcasting one.

8 MR. JEFFRESS: And that's one I think we  
9 should go back to, given the discussion here.

10 MS. SINGLETON: I don't think so.

11 (Laughter.)

12 CHAIRMAN STRICKLAND: Well, you might want to  
13 recirculate that, Charles.

14 MR. JEFFRESS: All right.

15 CHAIRMAN STRICKLAND: To the extent that  
16 people still have it on their computers, or maybe  
17 they've dropped it. Why don't you do that?

18 MR. JEFFRESS: All right.

19 CHAIRMAN STRICKLAND: And just resend the  
20 verbatim language of that -- well, either the entire  
21 code of the corporation or the appropriate section.

22 MR. JEFFRESS: I think we'd have to send you

1 the entire code, because the structure is different and  
2 it's not going to be as easily captured in one place.

3 MR. GALLAY: That's correct. One of the  
4 issues of that -- and the same thing was true with  
5 Amtrak, which had some good things.

6 CHAIRMAN STRICKLAND: Let's move on to the  
7 remaining paragraphs with the hope that we can agree on  
8 those, and only be faced with dealing with No. IV when  
9 we're ready.

10 MR. MCKAY: Mr. Chairman, Mike McKay.

11 CHAIRMAN STRICKLAND: Yes, sir.

12 MR. MCKAY: We've been at this for 65 minutes,  
13 and I really do think we've made good progress. I mean  
14 there was a good, solid conversation on conflicts of  
15 interest, but we are on page 2. I'm assuming everyone  
16 has read this. I'm wondering if it would make more  
17 sense at this point that we have folks who address  
18 issues just go section by section, rather than have  
19 Charles explaining sections that we've already, we were  
20 happily provided with a red-line version, and maybe we  
21 could be just moving along that way.

22 CHAIRMAN STRICKLAND: That's an excellent

1 suggestion, Mike. Thank you. As a matter of fact, I  
2 don't see any more, unless some of these are new -- all  
3 seem to speak for themselves, starting with restricted  
4 political activities. Does anybody have any problem  
5 with any of the items, until we perhaps get to Roman  
6 Numeral XII and XIII? Any problem with any Roman  
7 Numeral item between where we were and No. XII?

8 (No response.)

9 CHAIRMAN STRICKLAND: Hearing none, I'll  
10 assume those are all acceptable, and I'll ask is there  
11 any question about No. XII, non-retaliation?

12 (No response.)

13 CHAIRMAN STRICKLAND: All right, hearing none,  
14 that one seems to be okay.

15 I think we need some discussion on Roman  
16 Numeral XIII. There are two versions, one responsive  
17 to the -- well, I'll tell you what, let's come back to  
18 that. Let's go ahead and deal with No. XIV. Is there  
19 any problem with No. XIV, as presented?

20 MR. MCKAY: Mr. Chairman, Mike McKay.

21 CHAIRMAN STRICKLAND: Yes, sir.

22 MR. MCKAY: The only question I have -- and I

1 honestly thought I raised it during our last  
2 meeting -- I didn't see anything in here that would  
3 allow an employee to report anonymously. For some  
4 reason, an employee might reasonably or even  
5 unreasonably fear retaliation. I don't see a vehicle  
6 for someone to drop off a note without their name on  
7 it, or a hotline that would go to the ethics officer or  
8 some other appropriate person. Did I miss that?, or is  
9 there any opportunity for someone to report something  
10 anonymously?

11 MR. JEFFRESS: Mike, two responses. The  
12 taskforce did talk about that. The Office Inspector  
13 General operates a hotline, which is available to  
14 anybody for anonymous complaints any time they desire.  
15 The promise of anonymity was difficult in that if  
16 someone reports a violation, sometimes the  
17 investigation is such that you can't do the  
18 investigation without it become clear who may have  
19 lodged the complaint, because there have been only one  
20 person who had knowledge of it.

21 So the phrase was inserted in here that  
22 confidentiality will be respected to the extent

1 possible, but that the taskforce felt like to guarantee  
2 confidentiality was beyond something that could be  
3 guaranteed if we're going to be doing investigations.  
4 And again, the anonymity, of course, the hotline is  
5 available -- and that's is our employee handbook -- is  
6 available any time someone chooses to use it.

7 MR. MCKAY: I would propose we put the hotline  
8 in this compliance section, because I do want people  
9 who are implying to make a complaint anonymously, who  
10 feel comfortable doing it with us first, rather than  
11 with Congress or with GAO, or the media, or somebody  
12 else. So, traditionally there is an anonymous tool in  
13 the compliance program, so I guess I propose that we  
14 have it, and I think it's right, particularly with us  
15 being a governmental entity that we cannot promise  
16 confidentiality, but certainly try to protect it to the  
17 extent possible, as you have it worded.

18 But I would propose we add something or just  
19 simply say if you want to -- feel uncomfortable  
20 identifying yourself, we'll try to respect your  
21 confidentiality or your identity, but give us the  
22 information anonymously: Hotline, drop off a note

1 without your name in the ethics officer's office, or  
2 whatever.

3 CHAIRMAN STRICKLAND: Can we just insert a  
4 sentence in advance of the phrase, "Confidentiality  
5 will be respected" something to the effect of  
6 "anonymous reports are permitted?"

7 MR. MCKAY: Yes.

8 MS. SINGLETON: I think it could even come at  
9 the end of the paragraph, after "You're encouraged to  
10 talk with all these people." Then you can just put a  
11 sentence, you know, "anonymous reports --

12 MR. MCKAY: Yes.

13 MS. SINGLETON: -- are acceptable."

14 MR. MCKAY: Either way.

15 MR. GALLAY: Oh, yeah. We could specifically  
16 reference the hotline --

17 MS. SINGLETON: Yeah.

18 MR. JEFFRESS: Through which --

19 MS. SINGLETON: But I think it could be any  
20 vehicle, right?

21 MR. JEFFRESS: Any vehicle.

22 MS. SINGLETON: Including at the hotline.

1 MR. JEFFRESS: Or to avoid --

2 MS. SINGLETON: Yeah.

3 MR. JEFFRESS: So you're suggesting language,  
4 just that anonymous reports will be accepted?, or  
5 something --

6 MS. SINGLETON: Yeah.

7 MR. MCKAY: Well, the place I think it belongs  
8 in is paragraph XIV at the end of that long sentence,  
9 "in accordance with procedures contained in this code  
10 or LSC employee handbook." And then you could have a  
11 sentence, "Anonymous reports will be accepted."  
12 Something to that effect.

13 MR. JEFFRESS: That's a good placement

14 CHAIRMAN STRICKLAND: Okay. Let's put it  
15 there. Any objection to that?

16 (No response.)

17 CHAIRMAN STRICKLAND: All right. So we're now  
18 back to the two numbered sections XIII. Can you lead  
19 us in a discussion of that, Charles?

20 MR. JEFFRESS: Yes, Mr. Chairman. The first  
21 Section 13 that's in blue entitled Version Response to  
22 the Board Discussion, the taskforce felt like was

1 faithful to the direction of the Board that we not  
2 prohibit -- that we limit the prohibition of  
3 discrimination and harassment to that discrimination  
4 and harassment that is prohibited by law.

5           So that section has been crafted to limit such  
6 prohibitions to that otherwise prohibited by law. We  
7 left in although made some minor modifications to the  
8 section, which was presented to you the last time. The  
9 LSC employee handbook and the personnel manual prior to  
10 that has had a strong statement in it about LSC  
11 prohibiting evasive, harassing, or offensive conduct of  
12 any type, regardless of whether it's prohibited by law.  
13 We did not want to be known as a workplace that allows  
14 that kind of conduct and have felt that it should not  
15 be limited to that that may otherwise be prohibited by  
16 law.

17           The Board accepted that in the employee  
18 handbook that you voted on in April, and the taskforce  
19 felt like we should bring this back to you and make you  
20 aware that this will involve, should you choose to  
21 change it, going back to employees that have been  
22 trained three times since this version was adopted on

1     our current policy on prohibition, discrimination, and  
2     harassment, and telling them that that prohibition has  
3     been reduced by action of the Board.

4             And also one thing you asked for was to be  
5     clear as to what type of discrimination and harassment  
6     was prohibited by law, and --

7             MS. SINGLETON: Footnote 1.

8             MR. JEFFRESS: Footnote 1. Thank you. I was  
9     looking for that. I knew it was in there somewhere.

10            MS. SINGLETON: But that has to be an "or"  
11     because I know federal law does not prohibit all of  
12     those things you have listed there.

13            MR. JEFFRESS: No. The District of  
14     Columbia -- federal or District of Columbia law.

15            MS. SINGLETON: Yeah. Right.

16            MR. JEFFRESS: That's a good point. Federal  
17     or District of Columbia law -- prohibit those forms of  
18     harassment. And actually members of the taskforce  
19     learned quite a bit when they actually looked at the  
20     D.C. law, and the types of harassment -- or the  
21     characteristics that harassment was prohibited --

22            CHAIRMAN STRICKLAND: All right. So the

1 taskforce recommends the second version, and the first  
2 one was responsive to the Board. So do you have any  
3 other points to make, Charles?

4 MR. JEFFRESS: No. I think that's what before  
5 you. I don't think I have anything --

6 MR. GARTEN: Herb Garten here. I don't see  
7 how we can pass anything that's inconsistent with our  
8 employee handbook.

9 MS. SINGLETON: We could change the employee  
10 handbook.

11 MR. JEFFRESS: Yes.

12 MS. SINGLETON: I have a question, though. In  
13 terms of this listing that's in footnote 1, is there  
14 any kind of harassment that you envision that's not  
15 listed in there?

16 MR. JEFFRESS: The vice president's concerned  
17 about harassment against Ohio State fans.

18 MS. SINGLETON: That comes under  
19 matriculation, I'm sure.

20 Well, I think I'm the one who raised this, and  
21 I must say now that I've seen how the -- who passes  
22 laws for the District of Columbia?

1 (Laughter.)

2 MS. SINGLETON: I see how all encompassing  
3 they are in their anti-harassment zeal. I don't think  
4 it matters much.

5 CHAIRMAN STRICKLAND: All right. What's the  
6 pleasure to Board as to which one of these, either to  
7 adopt?

8 MR. GARTEN: I move that we adopt the  
9 taskforce recommendation.

10 MR. FUENTES: Second.

11 CHAIRMAN STRICKLAND: Okay. Any further  
12 discussion?

13 MR. GARTEN: Just a point of order, Mr.  
14 Chairman.

15 MS. SINGLETON: Yes, sir.

16 MR. GARTEN: We're taking these by motion, and  
17 really we're going to adopt this whole thing by a  
18 motion of the Board. I would think it would be just a  
19 consensus polling that we want to do, so we don't have  
20 all these resolutions or these motions in the Board  
21 action in place of the overall -- that we're going to  
22 vote on.

1           CHAIRMAN STRICKLAND: All right. That's a  
2 good point. Is there any objection, then, to moving  
3 No. XIII to the vote on the overall document?

4           MR. GARTEN: No, I would throw up a motion.

5           CHAIRMAN STRICKLAND: Okay. All right. Then  
6 it sounds, unless I'm mistaken, that we have covered  
7 all the items in the proposed code and reached a  
8 consensus on everything except No. IV, and we referred  
9 that back to the taskforce for further action. Is that  
10 where we are today? Okay.

11           I believe that's it. Let's move to the No.  
12 III on our agenda is Consider an act on whether to  
13 authorize of an application to the District of Columbia  
14 for registration to undertake charitable solicitations.  
15 Someone in Washington in that discussion?

16           MS. PHILLIPS: Excuse me. This is Bernice  
17 Phillips. Are you talking about soliciting private  
18 contributions?

19           CHAIRMAN STRICKLAND: Correct.

20           MS. PHILLIPS: Okay. We got a memo from Vic,  
21 right?

22           CHAIRMAN STRICKLAND: Yes. Telling us that we

1 could do that if we want to.

2 MS. PHILLIPS: Okay. I have a question for  
3 Vic. Vic, are you here?

4 MR. FORTUNO: Yes, I am.

5 MS. PHILLIPS: Okay. Is this your legal  
6 opinion that you're giving us, that memo that you sent  
7 us?, that Tom Fuentes asked for? Or is this --

8 MR. FORTUNO: No, that's my legal opinion.  
9 That wasn't presented on behalf of management.

10 MS. PHILLIPS: Okay. Okay.

11 CHAIRMAN STRICKLAND: Okay. Anything further,  
12 Bernice? Or can we now move to the discussion?

13 MS. PHILLIPS: Yes, you can, yes.

14 CHAIRMAN STRICKLAND: All right. Who's going  
15 to lead the discussion there from Washington?

16 MR. FORTUNO: I guess I will. This is Vic. I  
17 think what you have before you is a resolution  
18 authorizing application to the District of Columbia for  
19 registration to undertake charitable solicitations.  
20 This came up because there was some interest in  
21 soliciting for contributions. I think I may have  
22 mentioned that my recollection was that in order to

1 undertake solicitations you have to register locally  
2 and there have been an assortment of laws that you have  
3 to be consulted before you undertake such an effort.

4           So we looked into it, determined that here in  
5 the District of Columbia, if you're going to solicit  
6 here, you have to register with the District, and one  
7 of the requirements to register, the application is to  
8 include a resolution of the governing body authorizing  
9 application for such registration. So that's why that  
10 resolution was submitted for your consideration.

11           I think that when the notice just before the  
12 meeting notice was circulated, or about the same time,  
13 I know Director Fuentes asked whether he could have a  
14 legal opinion. And I think it was in response to that  
15 I had a conversation with Frank, where I said of course  
16 I'd be happy to go ahead and provide that.

17           The opinion you received makes the point that  
18 the corporation is authorized to accept contributions  
19 from non-federal sources. I think that's clear. The  
20 question then is, may we solicit? There is nothing  
21 that would prohibit our solicitations so long as we are  
22 registered and reporting as required by law. And the

1       only other question or point that occurred was that  
2       there should be some guidance in terms of how that's  
3       conducted.

4                 Rather than just say yes, we can accept  
5       contributions and no there is no bar to our soliciting  
6       for contributions so long as we're registered and  
7       reporting appropriately, it seemed appropriate to  
8       include in the memo some discussion of ethical  
9       considerations.  And that is:  Should the corporation  
10      and its agents be at liberty to solicit from all  
11      sources or are there ethical considerations involving  
12      conflicts?, and it seemed that there are, and so that  
13      was touched on as well.

14                There are typically in the federal sector and  
15      in the non-private sector constraints on who you can  
16      solicit for contributions, and generally that revolves  
17      around constraining your ability to solicit from  
18      persons or entities that you do business with, or who  
19      would like to do business with you, or whose interests  
20      would be impacted by the corporation or the individual  
21      agent soliciting performing or not performing a  
22      particular duty.

1           So that was touched on in the memo as well,  
2           and I think that if you have any questions, I'd be  
3           happy to address those, but I think that in a nutshell  
4           those are the salient issues. You have authority to  
5           accept, there is nothing that would bar your  
6           soliciting, that is, the corporation's soliciting,  
7           provided that we meet the legal registration and  
8           reporting requirements.

9           The issue that remains, if you want to  
10          discuss, is what I believe to be ethical considerations  
11          inherent in a solicitation process.

12          CHAIRMAN STRICKLAND: Okay. Anybody have any  
13          questions at this point about this?

14          MS. SINGLETON: I have one question. Maybe I  
15          just didn't get into it enough, but this appears to  
16          limit itself to solicitation within the District of  
17          Columbia. If Frank wants to solicit an Atlanta law  
18          firm to make a contribution, doesn't he have to  
19          register in Georgia?

20          MR. FORTUNO: Yes. There's a patchwork, but  
21          most jurisdictions have their own charitable  
22          solicitations statutes which require registration. You

1 have to file an application and get registered, pay a  
2 fee, and there are reporting requirements as well. So  
3 that this was limited to soliciting in the District of  
4 Columbia. If there were going to be solicitations of  
5 any persons or organizations outside the District, we  
6 would be well advised to research the requirements in  
7 those jurisdictions and make sure that we satisfy those  
8 requirements as well.

9 CHAIRMAN STRICKLAND: As far as the -- what  
10 you're saying is law, the jurisdiction of which the  
11 solicitation is made -- in other words, if I wrote a  
12 letter on LSC letterhead and sent it from Washington,  
13 D.C., to a firm in Atlanta, Georgia, you're saying that  
14 Georgia law and solicitation may also be a factor? Is  
15 that right?

16 MR. FORTUNO: I think the location of the  
17 party that you're soliciting. So --

18 CHAIRMAN STRICKLAND: Similarly, if an Atlanta  
19 firm had a D.C. office, then the Georgia law would not  
20 be -- even though I might be in Georgia, the  
21 solicitation would be from a D.C. corporation to a D.C.  
22 entity?

1 MR. FORTUNO: Yes.

2 CHAIRMAN STRICKLAND: Okay.

3 MS. PHILLIPS: This is Bernice Phillips. I  
4 have a question. I'm just confused to why this topic  
5 came before us, because after we gave a reception last  
6 month, and if my memory serves me right, it's stated on  
7 the invitation that no federal funds were used for the  
8 event. So I'm just confused as to why this came before  
9 us.

10 CHAIRMAN STRICKLAND: Well, we had a sponsor  
11 for that event.

12 MS. PHILLIPS: Okay.

13 CHAIRMAN STRICKLAND: It was Friends of LSC,  
14 so --

15 MS. PHILLIPS: Okay, so is that not the same  
16 as soliciting funds?

17 MR. FORTUNO: Yes. I assume that there was a  
18 request of Friends of LSC to make a contribution. My  
19 understanding was that it was a contribution in the  
20 amount of \$1,500, which I believe to be the amount of  
21 money that they had set aside in their tenant relations  
22 fund. But the D.C. Charitable Solicitations Act does

1 have a \$1,500 threshold, but there's a possibility that  
2 we may have to report after the fact.

3 But in any event there is a \$1,500 threshold,  
4 which coincidentally is what Friends of LSC contributed  
5 to LSC. I'm not sure of the specifics of that, the  
6 particulars in terms of whether there was any paper  
7 exchange. But that's my understanding is that the  
8 transaction was \$1,500, which is right there at the  
9 limit.

10 CHAIRMAN STRICKLAND: So if wanted to solicit  
11 more than that from Friends of LSC or anybody else,  
12 we'd need to have a resolution authorizing an  
13 application to get ourselves registered.

14 MR. FORTUNO: Yes.

15 MS. PHILLIPS: So it depends on the amount of  
16 money before you can apply for money?

17 MR. FORTUNO: It's actually a fairly complex  
18 statute, and there are exceptions for solicitations  
19 where they're in house for you know, like the United  
20 Way Campaign. But in terms of soliciting funds from  
21 outside private parties, if you're going to solicit for  
22 over \$1,500, you certainly have to register and report

1 under the statute.

2 MR. GARTEN: Frank, Herb here.

3 CHAIRMAN STRICKLAND: Yes, sir.

4 MR. GARTEN: Can I make a suggestion? I think  
5 we ought to vote on getting the approval that we need.  
6 And before we do any solicitation, this is a very  
7 technical area, and I'm sure are all kinds of  
8 exceptions, that before we do any actual fund raising  
9 that we have a complete report from Vic on what we're  
10 legally obligated to do. I find it hard to believe  
11 that the burdens are on charities in the United States  
12 to the extent that I'm hearing. There must be  
13 different rules, there must be exceptions, and I don't  
14 feel comfortable in voting on that part of it until we  
15 did have a memorandum.

16 But I think we should go ahead and do the  
17 filing. I don't think it's a major matter as far as I  
18 think we qualify if there's any question. We certainly  
19 qualify under the federal rules for contributions as a  
20 government agency.

21 M O T I O N

22 CHAIRMAN STRICKLAND: Would you like to make a

1 motion?

2 MR. GARTEN: I want to a motion that we  
3 approve the filing.

4 CHAIRMAN STRICKLAND: All right. Is there a  
5 second to that motion?

6 (No response.)

7 CHAIRMAN STRICKLAND: I'll second the motion.  
8 Any further discussion?

9 MS. PHILLIPS: I just have another question.

10 CHAIRMAN STRICKLAND: All right.

11 MS. PHILLIPS: Who are we soliciting the funds  
12 for? Is it for LSC? Is it for the grantees? Who are  
13 we trying to --

14 CHAIRMAN STRICKLAND: To the LSC itself, which  
15 I a non-profit D.C. corporation, soliciting funds for  
16 itself.

17 MS. PHILLIPS: Okay. For --

18 CHAIRMAN STRICKLAND: Such as we did with  
19 Friends.

20 MS. PHILLIPS: Okay. For what? What would it  
21 be exactly for?

22 CHAIRMAN STRICKLAND: Well, it might be

1 another event just like the one we hosted at the  
2 Capitol.

3 MS. PHILLIPS: Okay.

4 CHAIRMAN STRICKLAND: We --

5 MS. PHILLIPS: You know, I can see if you  
6 were -- if management was coming to the Board to ask,  
7 to raise funds for grantees for service delivery.  
8 That, you know. But to me, if you're coming to the  
9 Board to ask for more money to, I don't know, host a  
10 party, then I would say let's do some restructuring.  
11 Let's look at our budget, and you know, cut out some  
12 things that should not be there, or let's not do it at  
13 all. That would be my suggestion.

14 CHAIRMAN STRICKLAND: Okay. Any other  
15 comments?

16 MS. SINGLETON: I have a little bit of a  
17 concern that's similar to Bernice's. This is Sarah. I  
18 want to make sure that if we're soliciting law firms,  
19 we're not taking away from money they otherwise would  
20 be donating to their local legal services programs, and  
21 I'm not quite sure how you do that, but it seems to me  
22 that we ought to recognize that's a possibility and

1 make sure we don't impact on those donations.

2 CHAIRMAN STRICKLAND: Fine. That could impact  
3 that. And I don't know how we could assure that. It  
4 would be sort of a challenge for us to sort of meddle  
5 in their internal affairs, if you will.

6 Okay. Any other questions or comments on the  
7 resolution?

8 MS. PHILLIPS: I'm sorry, I have one more.

9 CHAIRMAN STRICKLAND: All right, Bernice. Go  
10 ahead.

11 MS. PHILLIPS: Who will be conducting the fund  
12 raising part? Will it be LSC staff? They're already  
13 thin. So who will take responsibility for --

14 CHAIRMAN STRICKLAND: Well, what we're talking  
15 about, Bernice, I think would be if we were to write a  
16 letter to a law firm saying, "Would you make a  
17 contribution to LSC?", that's maybe not a major  
18 undertaking by the staff, it's just a letter or two or  
19 three letters.

20 MS. PHILLIPS: Okay.

21 CHAIRMAN STRICKLAND: So it's not -- we don't  
22 expect this to involve any significant staff time.

1 MS. PHILLIPS: Okay.

2 CHAIRMAN STRICKLAND: Okay. Any other  
3 questions?

4 MR. CONSTANCE: Mr. Strickland, this is John  
5 Constance.

6 CHAIRMAN STRICKLAND: Yes, sir.

7 MR. CONSTANCE: Thank you for recognizing me.  
8 I just wanted to say a couple of things about the  
9 specific event that we did have on Capitol Hill. You  
10 know, and I understand Bernice's sensitivity, and I  
11 share it. I just don't want to leave the impression  
12 out there that that was or any subsequent event would  
13 be simply a party. I mean that was an effort to honor  
14 folks on the Hill, who had for many, many years been  
15 supportive of LSC, and I can tell you that in the  
16 regulation-rich environment that we live in, in  
17 Washington today, the propriety of that event was  
18 checked everywhere from our Office of Legal Affairs to  
19 the Senate Ethics Office specifically as to its proper  
20 carrying out and propriety.

21 Second of all, we invited -- I mean in that  
22 case, while we were going to Friends for the funding of

1       that, we also invited all of the local programs that in  
2       future events would probably be those that would also  
3       benefit from having direct contact with and an  
4       opportunity to explain their programs to members of  
5       Congress and staff and folks that would be invited to  
6       that.

7                     That being said, I want to go back to and  
8       reiterate again that it was not a lobbying activity, it  
9       was checked from stem to stern here as not being under  
10      that definition.  So I mean it really does have a  
11      benefit to the corporation and a benefit to the  
12      individual programs, and the social aspect of it is  
13      really secondary.

14                    Thank you.

15                    CHAIRMAN STRICKLAND:  Thank you, John, for  
16      that explanation.  Any other questions on this item?

17                    (No response.)

18                    CHAIRMAN STRICKLAND:  All right.  The motion  
19      is Herb's motion to authorize a filing to the District  
20      of Columbia for registration to undertake charitable  
21      solicitations.  All those in favor of the vote, please  
22      say "Aye."

1 (A chorus of Ayes.)

2 CHAIRMAN STRICKLAND: Okay. The Chair's in  
3 doubt. Let's have a roll call on the Ayes and Nays.

4 Herb Garten?

5 MR. GARTEN: Yes.

6 CHAIRMAN STRICKLAND: Tom Meites?

7 MR. MEITES: Yes.

8 CHAIRMAN STRICKLAND: I vote yes. Tom

9 Fuentes?

10 MR. FUENTES: Yes.

11 CHAIRMAN STRICKLAND: And Sarah?

12 MS. SINGLETON: Yes.

13 CHAIRMAN STRICKLAND: Okay. Tom McKay?

14 MR. MCKAY: Yes.

15 CHAIRMAN STRICKLAND: Bernice?

16 MS. PHILLIPS: Yes.

17 CHAIRMAN STRICKLAND: And Jonann?

18 MS. CHILES: Yes.

19 CHAIRMAN STRICKLAND: Gosh. My hearing must  
20 have gone out on me.

21 (Laughter.)

22 CHAIRMAN STRICKLAND: I thought there was only

1 one or two yes's. Instead, it was unanimous. I beg  
2 your pardon.

3 Thank you very much. Let's move on to the  
4 next item, which I've been looking forward to is the  
5 report -- and this is a briefing now, no action on this  
6 -- a report on the work of the Board's Committee.

7 Sarah, are you going to lead that discussion?

8 MS. SINGLETON: Yes, I am, Mr. Chairman. The  
9 Ad Hoc Committee, as you recollect, was formed to work  
10 with management and the Office of Inspector General on  
11 our response to the GAO Report. And in particular, we  
12 were charged with being certain that we have a response  
13 ready before our appropriations meeting, although I  
14 will tell you I think the work will go on longer than  
15 that. But we need to have something done by that date.

16 So far we are still in the collection of  
17 information gathering mode. Members of the committee  
18 have individually talked with members of management and  
19 members of the Office of Inspector General. I am here  
20 in Washington today and tomorrow to continue with those  
21 discussions, and we are going to have what I'm calling  
22 a shirtsleeve session tomorrow with people from

1 management from the Office of Inspector General to go  
2 over what we believe are the responsibilities that have  
3 been given LSC by Congress, then who's charged with  
4 fulfilling those responsibilities; if more than one  
5 entity has a role in fulfilling those responsibilities,  
6 who can best fulfill those responsibilities, and how  
7 can we coordinate where there are dual functions?

8           So I just wanted to keep you up to date on  
9 what we are doing and what we are looking at. And we  
10 will be prepared to report to you probably at least  
11 initially before our next Board meeting because we want  
12 to give something prior to our appropriations hearing.

13           CHAIRMAN STRICKLAND: Sarah, first let me  
14 remind the Board members who are the other members of  
15 your committee, as Herb Garten and Jonann Chiles, I  
16 want to thank the three of you for agreeing to  
17 undertake this work on the Ad Hoc Committee, and for  
18 your prompt attention. You really got off the ground  
19 in a hurry, and that's very much appreciated.

20           Do you anticipate the need for a further  
21 conference call meeting to receive a report?

22           MS. SINGLETON: I believe that the Ad Hoc

1 Committee will have an open meeting to which all Board  
2 members will be invited, and at that open meeting we  
3 will undoubtedly discuss what recommendations we will  
4 be making to the Board. I am not certain if we'll need  
5 a Board meeting on those recommendations prior to the  
6 April 3rd appropriations committee hearing, but we  
7 should leave that open as a possibility.

8 CHAIRMAN STRICKLAND: Okay. And if you had a  
9 meeting of the Ad Hoc Committee, that would be pursuant  
10 to published notice, in the usual forum?

11 MS. SINGLETON: That's correct.

12 CHAIRMAN STRICKLAND: Okay.

13 MS. SINGLETON: If the Ad Hoc Committee is  
14 going to be making any substantive decisions, I mean  
15 decisions other than scheduling, we would have an open  
16 meeting.

17 CHAIRMAN STRICKLAND: Right. Understood.

18 Does anyone have any questions of Sarah, as to  
19 the progress of the Ad Hoc Committee to date?

20 (No response.)

21 CHAIRMAN STRICKLAND: Again, Sarah, thank you.  
22 And to Jonann and Herb as well, thank you very much.

1 for your work on this committee. It's very important,  
2 and we're giving prompt attention and thorough  
3 attention to the two GAO reports and we look forward to  
4 further reports from your committee, Sarah.

5 Okay. The next item is Consider and Act on  
6 Other Business. Is there any other business to come  
7 before this meeting?

8 MR. CONSTANCE: Mr. Chairman, John Constance  
9 again.

10 CHAIRMAN STRICKLAND: Yes, sir.

11 MR. CONSTANCE: I just wanted to officially  
12 report to the Board that we have received confirmation  
13 that our appropriations hearing in the House will be on  
14 April the 3rd at 10:00 a.m. We have not received a  
15 formal written invitation for that proceeding, but we  
16 have gotten staff level confirmation that that will be  
17 occurring. Our testimony will be due to the  
18 subcommittee on March 27th, which for purposes of  
19 discussion regarding the Ad Hoc Committee or anything  
20 that we would want to provide formally to the House,  
21 that would really be the effective deadline for that.  
22 So I just wanted to inform you officially that we've

1 gotten that notification.

2 CHAIRMAN STRICKLAND: All right. Well, the  
3 Committee heard your report and I'm sure will act in a  
4 timely fashion to help us meet the deadline.

5 MR. GARTEN: Herb Garten here. We in effect  
6 have had two meetings and have wanted to vent on some  
7 items, and we've been allocated different theories of  
8 responsibility with respect to the reporting. There is  
9 a tremendous inventory of material out there for us to  
10 consider, and it's a massive job. But I think that we  
11 should be in a position to at least give you some of  
12 our recommendations that have meaning to Congress by  
13 that March 27th date.

14 CHAIRMAN STRICKLAND: Or make it a little in  
15 advance of that, if you will, Herb, because of the time  
16 line for sending the testimony for the Hill.

17 MR. GARTEN: -- of course --

18 CHAIRMAN STRICKLAND: So that's really, your  
19 deadline ought to be maybe a week in advance for that,  
20 wouldn't you say, John?

21 MR. CONSTANCE: Yeah. I would say that  
22 probably would be a good effective deadline to be

1 looking at.

2 CHAIRMAN STRICKLAND: And maybe more. I mean,  
3 speak up if you think it should be further ahead than  
4 that.

5 MS. SINGLETON: We'll get it to you as much  
6 ahead of that as we can, but no later than the 20th.

7 M O T I O N

8 CHAIRMAN STRICKLAND: Okay. That's fine.

9 All right, any other business? Otherwise, I'm  
10 ready to consider an act on a motion to adjourn the  
11 meeting.

12 MR. FUENTES: Move to adjourn.

13 CHAIRMAN STRICKLAND: All right. Then hearing  
14 no objection, the meeting is adjourned. Thank you very  
15 much, everybody.

16 MR. FUENTES: Thank you. Goodbye.

17 (Whereupon, at 4:40 p.m., the hearing was  
18 adjourned.)

19

20

21

22