RETURN TO CORPORATION
SECRETARY ARCHIVES FILE

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS MEETING

NOVEMBER 7, 1983

10:00 A.M.

HOLIDAY INN VAN NESS

EMERALD ROOM

1500 VAN NESS STREET

SAN FRANCISCO, CALIFORNIA 94109

APPEARANCES

CHAIRMAN OF THE BOARD:

ROBERT E. MC CARTHY

MEMBERS OF THE BOARD:

MILTON MASSON
DANIEL RATHBUN
DON SANTARELLI

ALSO PRESENT:

DONALD P. BOGARD, CORPORATION PRESIDENT
DENNIS DAUGHERTY, VICE PRESIDENT OF OPERATIONS
LEA ANNE BERNSTEIN, SECRETARY
ALAN SWENDIMAN, GENERAL COUNSEL
JOHN MEYER, ASSISTANT GENERAL COUNSEL
JAMES STREETER, DIRECTOR OF GOVERNMENT RELATIONS
GREGG HARTLEY, DIRECTOR OF THE OFFICE OF FIELD SERVICES
ALFREDA HARVEY, BUDGET

(10:10 A.M.)

JUDITH MC KELTHY GAVE AN INITIAL OFF-THE-RECORD ADDRESS TO THE BOARD AND THE MEMBERS OF THE PUBLIC THEN AND THERE PRESENT.

(10:15 A.M. SESSION)

MR. MC CARTHY: THE MEETING OF THE BOARD OF DIRECTORS OF LEGAL SERVICES CORPORATION IS NOW IN SESSION. THE MEETING HAS BEEN DULY NOTICED IN CONFORMANCE WITH THE VARIOUS PROVISIONS AND THE SUNSHINE ACT.

THE FULL BOARD IS PRESENT AND A QUORUM IS PRESENT.

THE FIRST MATTER, AND I THINK ALL OF YOU HAVE COPIES OF OUR BOARD BOOKS, SO YOU CAN FOLLOW ALONG, IS THE ADOPTION OF THE AGENDA. I HAVE BEEN ADVISED THAT THERE WAS ONE MATTER THAT WAS OMITTED, WHICH WOULD BE PRIOR TO 6. IT WILL BE 5-B, 4 WHICH WILL BE A REPORT FROM DON SANTARELLI ON THE DELIVERY OF LEGAL SERVICE.

ARE THERE ANY OTHER COMMENTS ON THE AGENDA? DO I HEAR A MOTION TO ADOPT THE AGENDA?

MR. SANTARELLI: SO MOVED.

MR. MASSON: SECONDED.

MR. MC CARTHY: THE AGENDA --

A SPEAKER: MY NAME IS KEVIN KERRY, I'M A SPECIALIST . . . I WOULD LIKE THE DEFUNDING OF THE TRAINING CENTERS TO BE ON THE AGENDA, I SO REQUEST.

THE DEFUNDING OF THE TRAINING CENTERS IS NOT ON THE AGENDA, I THINK IT MUST BE.

MR. MC CARTHY: THANK YOU VERY MUCH FOR YOUR COMMENTS, BUT YOU ARE OUT OF ORDER.

MR. KERRY: BUT IT'S NOT ON THE AGENDA, EITHER.

MR. MC CARTHY: THE AGENDA, AS IN THE BOARD BOOK, IS ADOPTED WITH THE ONE CHANGE ON 5-B, 4, AND THE BOARD BOOK CONTAINS THE MINUTES OF THE MEETING OF JUNE 7TH, 1983; THE BOARD HAS READ THOSE MINUTES AND DO WE HAVE ANY COMMENTS OR ADDITIONS TO THE MINUTES OF THE MEETING OF JUNE 7TH?

THE BOARD WILL TAKE A MOTION.

MR. SANTARELLI: I SO MOVE.

MR. MC CARTHY: ALL IN FAVOR?

ALL BOARD MEMBERS: AYE.

MR. MC CARTHY: THE MINUTES AS CONTAINED IN THE BOARD BOOK OF THE MEETING OF JUNE 7TH, 1982, ARE ADOPTED.

OUR NEXT AGENDA ITEM IS A REPORT OF THE LEGAL SERVICES CORPORATION BY DON BOGARD, DON.

MR. BOGARD: THANK YOU, MR. CHAIRMAN. IF I MAY, I WOULD ALSO LIKE TO REPORT ON THE EXECUTIVE SESSION WHICH WAS HELD LAST EVENING HERE IN THIS HOTEL AT APPROXIMATELY FIVE O'CLOCK IN THE EVENING.

THE BOARD MET IN EXECUTIVE SESSION WITH ALL

MEMBERS PRESENT. IT WAS DESIGNED FOR THE PURPOSE OF INFORMING THE BOARD ON CURRENT LITIGATION MATTERS, PERSONNEL MATTERS AND INVESTIGATIVE MATTERS THAT ARE PROCEEDING.

THE GENERAL COUNSEL OF THE CORPORATION WARNED THE BOARD ABOUT THE NATIONAL LABOR RELATIONS BOARD PROCEEDING THAT IS GOING ON, GAVE THE STATUS OF THAT PARTICULAR MATTER, DISCUSSED THE CURRENT CASE OF MC GOWVAN V. DANA RELATING TO THE NOMINATION OF RECESS APPOINTEES BY THE PRESIDENT, EXPLAINED THE CURRENT STATUS OF THE LAW INVOLVING THE BOARD MEETING THAT WAS ATTEMPTED TO BE HELD IN UTAH; AND ALSO INFORMED THE BOARD MEMBERS OF THE FUND BALANCES CASE INVOLVING THE ARKANSAS PROGRAM.

THE BOARD MEMBERS HAVE BEEN ADVISED OF CURRENT STAFFING LEVELS, AND THE FACT THAT CERTAIN DEPARTMENTS IN THE CORPORATION NEED TO BE EXPANDED, AS FAR AS NUMBER OF PEOPLE, AND THE CORPORATION RECEIVED A REPORT FROM JIM STREETER, WHO'S DIRECTOR OF GOVERNMENT RELATIONS, RELATING TO THE ONGOING GENERAL OFFICE INVESTIGATION.

THAT, BASICALLY, IS WHAT TRANSPIRED AT THE EXECUTIVE SESSION.

TO ANNOUNCE MY REPORT, WE ARE CONTINUING TO ATTEMPT TO VISIT PROGRAMS AND REGIONAL OFFICES AROUND THE COUNTRY, AS MANY AS WE CAN. A NUMBER OF PEOPLE FROM LEGAL SERVICES AND MYSELF CONTINUE TO VISIT THOSE PROGRAMS, AND WE CONTINUE TO DO THAT, WE'LL CONTINUE TO VISIT AS MANY

AS WE CAN IN THE NEXT SEVERAL MONTHS.

REGARDING THE NATIONAL LABOR RELATIONS PROGRAM, REPRESENTATION HERE HAS BEEN CONCLUDED. THE NATIONAL LABOR RELATIONS BOARD HAS TAKEN JURISDICTION IN THE CASE, IT WILL BE HANDLED DIRECTLY BY THE FULL BOARD AS OPPOSED TO THE REGIONAL DIRECTOR.

WE HAVE NO IDEA WHEN ANYTHING WILL HAPPEN ON THAT CASE. BRIEFS HAVE BEEN FILED AND WE'RE WAITING FOR A DECISION BY THE FULL BOARD.

AS YOU MAY KNOW, THE BOARD HAS FOUR MEMBERS AT THIS TIME, THE NATIONAL LABOR RELATIONS BOARD, SO IT MAY BE AWHILE BEFORE WE GET A DECISION FROM THEM.

I HAD BEEN REQUESTED TO ATTEND THE HEARING BEFORE THE HOUSE COMMITTEE ON AGING AFTER WE HAD PUBLISHED THE PROPOSED REGULATIONS ON ELIGIBILITY. I ATTENDED THAT HEARING WITH SEVERAL MEMBERS OF THE PUBLIC AND SEVERAL MEMBERS FROM THE CONGRESS AND PRESENTED OUR POSITION TO THE COMMITTEE. CONGRESSMAN DI AUGIE AND CONGRESSWOMAN SNOW, THEY WERE AWARE OF WHAT WE WERE TRYING TO DO. AS A RESULT OF THOSE HEARINGS, AND ADDITIONAL COMMENTS, WE'VE MADE RECOMMENDATIONS ON CHANGING OF THE ELIGIBILITY REQUIREMENTS.

THE REGULATIONS WHICH ARE BEFORE THE BOARD TODAY, AND WE ALSO, INCIDENTALLY, HAD RECEIVED A TELEGRAM FROM CONGRESSMAN DI AUGIE AND CONGRESSWOMAN SNOW REGARDING THOSE ELIGIBILITY REGULATIONS.

THOSE REMARKS IN THE TELEGRAM HAVE BEEN PRESENTED TO ALL THE MEMBERS OF THE BOARD, THEY HAVE EACH READ THE TELEGRAM, AND ARE AWARE OF THAT MESSAGE FROM CONGRESS.

THE PRESIDENT HAS, OF COURSE, LISTED NOMINEES FOR BOARD MEMBERS TO BE THE PERMANENT MEMBERS OF THE BOARD. WE HAVE REQUESTED AND BROUGHT IN ABOUT NINE OF THOSE MEMBERS WHO WERE AVAILABLE FOR AN ORIENTATION MEETING TO GET THEM INFORMED ON WHAT THE CORPORATION DOES AND START GIVING THEM MATERIALS SO THAT THEY COULD READ THEM, FIND OUT WHAT'S GOING ON, AND WHAT WILL BE EXPECTED OF THEM, AS FAR AS THEIR ACTIVITIES IN THE NEXT FEW MONTHS; IN A YEAR THEY SHOULD BE CONFIRMED.

SIX OF THOSE NOMINEES HAVE BEEN SUBMITTED TO THE COMMITTEE ON THE SENATE FOR CONFIRMATION. I'M INFORMED THAT THE OTHERS WILL BE GOING UP SHORTLY, AND JIM STREETER, WHO IS OUR DIRECTOR OF GOVERNMENT RELATIONS, WILL BE ADDRESSING THAT LATER ON IN THIS PRESENTATION.

WE HAVE ISSUED A GRANT OF $70,000 TO THE AMERICAN CORPORATE COUNCIL ASSOCIATION. THAT IS AN ORGANIZATION THAT'S SET UP OF IN-HOUSE COUNSEL OF CORPORATE LAW STAFFS. THEY ARE ATTEMPTING TO ESTABLISH A PRO BONO COMMITTEE, WHICH WILL BE INVOLVED IN TRYING TO GET LAWYERS ON IN-HOUSE STAFFS OF CORPORATIONS TO HANDLE PRO BONO CASES REPRESENTING VARIOUS MEMBERS OF THE COURT OR SPECIAL GROUPS, FOR EXAMPLE, THE ELDERLY; AND THEY CONTACTED US ABOUT WHAT

WE COULD DO TO ASSIST THEM TO TRY TO GET THAT PROGRAM EXPANDED

WE FOUND OUT THERE ARE SOME 30,000 IN-HOUSE LAWYERS IN CORPORATIONS AROUND THE COUNTRY AND THOUGHT IF WE COULD GET THEM ENLISTED IN TAKING CASES FOR OUR CONSTITUENCY THAT WE WOULD BE ABLE TO SERVE THAT MANY MORE PEOPLE. THEREFORE, WE HAVE GIVEN THEM A GRANT OF $70,000 AND EXPECT TO HAVE A GOOD RETURN ON THAT MONEY.

WE'VE ALSO MADE GRANTS IN THE APPROXIMATE AMOUNT OF $160,000 ON THE AOLTA PROGRAMS TO VARIOUS STATES TO TRY AND SEE ABOUT ADOPTING AND IMPLEMENTING AN AOLTA PROGRAM. WE FEEL THOSE PROGRAMS ARE GOING TO BE VERY WORTHWHILE, THAT FUNDING THAT WILL BE RECOVERED FROM THE INTEREST ACCOUNTS OF LAWYERS AROUND THE COUNTRY WILL BE A GOOD SUPPLEMENTAL FUNDING FOR THE APPROPRIATION THAT CONGRESS GIVES US, IN THAT WE WILL BE ABLE TO HANDLE THAT MANY MORE CASES.

WE ARE CURRENTLY OPERATING UNDER A CONTINUING RESOLUTION THAT WILL EXPIRE IN THE NEXT FEW DAYS, TOOK PLACE IN EARLY OCTOBER, THE FUNDING LEVEL IS $275 MILLION.

THERE IS MOVEMENT ON THE APPROPRIATIONS BILL FOR THE CORPORATION, MR. STREETER WILL DISCUSS THAT ALSO IN HIS REPORT.

I HAVE NO OTHER COMMENTS TO MAKE AT THIS TIME.

MR. MC CARTHY: THANK YOU, DON. I JUST WANT TO TELL YOU DON IS HERE, COMING OUT OF A SICK BED IN WASHINGTON, AND HE'S JUST GRITTING HIS TEETH HERE AND STANDING

BY. I WANT TO TELL YOU, DON, WE ALL THANK YOU FOR DOING THAT.

DO ANY OF THE BOARD MEMBERS HAVE ANY QUESTIONS THEY WOULD LIKE TO ADDRESS AT THIS TIME?

A SPEAKER: MAY I ASK A PROCEDURAL QUESTION?

MR. MC CARTHY: ONE MOMENT, I WILL ADDRESS YOU. I HAVE ADDRESSED A QUESTION TO THE BOARD, ARE THERE ANY QUESTIONS? OKAY, YOUR PROCEDURAL QUESTION?

A SPEAKER: MY NAME IS JIM BRAUDE, I'M WITH A NATIONAL ORGANIZATION DISTRICT 65 UAW. QUITE A FEW PEOPLE HAVE COME HERE TODAY BECAUSE THEY ARE CLEARLY VERY CONCERNED ABOUT THE VERY SERIOUS ISSUES BEFORE YOU. IT IS VERY DIFFICULT FOR PEOPLE WHO HEAR ABOUT THESE ISSUES TO INTELLIGENTLY PARTICIPATE IN A DIALOGUE WHEN THE DIALOGUE IS CUT OFF BY THE CHAIR.

WITHOUT DEALING WITH SUBSTANCE, I WOULD ASK TWO QUESTIONS: ONE, THE REPRESENTATIVE OF THE BAR, WHO SPEAKS TO YOU AND GAVE GREETINGS AS YOU SUGGESTED, ALSO SPOKE ABOUT THE QUESTION OF DEFERRAL OF ACTION BY THIS BOARD ON ALL NON-ESSENTIAL ACTION BEFORE YOU TODAY.

I BELIEVE THAT POSITION IS SUPPORTED BY A LARGE NUMBER OF MEMBERS AND GROUPS IN THE LEGAL SERVICES COMMUNITY. WHEN, ON THE AGENDA, WILL YOU ENTERTAIN THAT ISSUE AND WHEN WILL THE AUDIENCE HAVE THE OPPORTUNITY TO MAKE THEIR FEELINGS KNOWN?

SECONDLY, A GENTLEMAN STOOD UP BEFORE WHEN YOU WERE ABOUT TO ADOPT THE AGENDA AND SUGGESTED THAT THERE WAS AN ITEM THAT HE WOULD LIKE ADDED. WE WOULD LIKE SOMETHING ADDED. IT BEARS DIRECTLY ON THE REPORT THAT MR. BOGARD MADE ABOUT THE NATIONAL LABOR RELATIONS BOARD PROCEEDING INVOLVING EMPLOYEES OF THE LEGAL SERVICES CORPORATION. WE HAVE NO PROBLEM WITH THERE BEING AN ORDERLY PROCESS TO THIS MEETING, AS THERE SHOULD BE. IF WE ARE NOT APPRISED OF WHAT THE PROCESS IS, IT IS VERY DIFFICULT FOR US TO PARTICIPATE AS WE FEEL WE MUST.

SO I (1) ASK THAT WHEN THAT DEFERRAL ISSUE DOES ARISE WE BE GIVEN A CHANCE TO SPEAK TO IT AND (2) WHEN IS IT APPROPRIATE FOR THOSE OF US IN THE AUDIENCE TO ADDRESS THE REQUEST OF THE ADDITION OF THE ITEMS TO THE AGENDA; AND WHEN IS THAT TIME?

MR. MC CARTHY: IN ANSWER TO THAT, JIM, THE AGENDA HAS BEEN ADOPTED. WE WILL PROCEED WITH THE AGENDA IN YOUR BOARD BOOK. AS TO THE DEFERRAL, I WILL MAKE A STATEMENT THAT WE ARE HERE TO DO A FIDUCIARY DUTY TO CONGRESS, AS MEMBERS OF HIS BOARD, AND CARRY OUT ITS MANDATE. WE ARE DOING THAT AS OUR PRIMARY CONCERN AND WE WILL DO EVERYTHING THAT WE BELIEVE WE SHOULD DO AS FIDUCIARIES.

MR. BRAUDE: I APPRECIATE THAT, BUT SINCE THE ISSUE OF DEFERRAL HAS BEEN PUT BEFORE YOU, THE BOARD, JUST BEFORE YOU AS THE CHAIR, I WOULD ASSUME THAT'S AN APPROPRIATE

ITEM FOR DISCUSSION, AMONGST NOT ONLY YOU, BUT YOUR THREE COLLEAGUES, AND MY SENSE IS BEFORE YOU MAKE A DECISION, WHICH YOU SEEM TO HAVE ALREADY MADE UNILATERALLY, YOU MIGHT WANT TO HEAR FROM US, SOME OF US WHO HAVE A POSITION, BESIDES THE WOMAN REPRESENTING THE BAR.

MR. MC CARTHY: THANK YOU. WE HAVE CONSIDERED IT. THE DEFERRAL ISSUE IS NOT ON --

MR. BRAUDE: I'M AWARE, BUT A NUMBER OF ISSUES ARE ON WHERE DEFERRAL WOULD BE APPROPRIATE. I THINK SOME OF US WOULD LIKE TO KNOW THE FEELINGS OF THE REMAINING BOARD MEMBERS.

MR. MC CARTHY: AT THE CONCLUSION OF EACH DISCUSSION OF A PROPOSED REGULATION, THE PUBLIC WILL BE ENTITLED TO HAVE A COMMENT AND AT THAT TIME YOU MAY WANT TO GET THAT COMMENT OR MAKE THAT COMMENT, BUT WE'RE NOT GOING TO DEBATE THAT BECAUSE WE HAVE A DUTY WE'RE CARRYING OUT TO THE BEST OF OUR ABILITY.

MR. BRAUDE: I UNDERSTAND THAT. MY QUESTION, SO I'M CLEAR, YOU'RE SUGGESTING THAT THE BOARD HAS ALREADY CONSIDERED THE ISSUE OF DEFERRAL AND HAS DECIDED AGAINST IT; IS THAT CORRECT?

MR. MC CARTHY: THAT IS CORRECT.

MR. BRAUDE: SECONDLY, WHILE ON THE AGENDA, WHILE CLEARLY YOU HAVE THE ABILITY TO ADOPT FOR THOSE OF US WHO WANT TO ADD ITEMS WHEN IS IT APPROPRIATE TO MAKE

THAT ADDITION? A GENTLEMAN SPOKE BEFORE ABOUT AN ISSUE INVOLVING TRAINING SESSIONS AND WE WOULD LIKE TO SPEAK IN RESPONSE TO MR. BOGARD ABOUT THE NATIONAL LABOR RELATIONS BOARD PROCEEDINGS INVOLVING EMPLOYEES OF YOUR CORPORATION; WE WOULD LIKE TO KNOW WHEN THOSE OR OTHER, ANY OTHER ADDITIONS TO THE AGENDA ARE APPROPRIATE, THAT'S NOT A TERRIBLY HORRIBLE REQUEST TO MAKE TO ASK YOU HOW YOU PLAN TO RUN THIS MEETING.

MR. MC CARTHY: WE, AGAIN, WILL OFFER A PERIOD OF PUBLIC COMMENT. YOU HAVE ALWAYS TAKEN FULL ADVANTAGE, MR. BRAUDE, OF THAT PARTICULAR --

MR. BRAUDE: MR. MC CARTHY, HOW DO YOU COMMENT ON SOMETHING THAT'S NOT ON THE AGENDA, THAT'S ALL WE'RE ASKING. THIS IS NOT A VERY, VERY DIFFICULT ITEM, THE POINT IS, IF I WANT TO MAKE SUGGESTIONS ABOUT AN ADDITION, THIS GENTLEMAN MADE A REQUEST, WE HAVE A REQUEST, HOW DO WE GET THAT CONSIDERED BY THE BOARD? YOU HAVE THE POWER TO REJECT IT; BUT HOW DO YOU CONSIDER IT?

MR. MC CARTHY: SIMPLY, JIM, WE ARE GOING TO CONTINUE THE BOARD MEETING AS THE AGENDA IS NOW. WHEN AT THE CONCLUSION OF THE BOARD, IF THE BOARD THEN FEELS IT APPROPRIATE, WE WILL THEN ALLOW DISCUSSION AS YOU HAVE SUGGESTED. BUT, RIGHT NOW, WE'RE GOING TO PROCEED ON THE PRESENT AGENDA. WE HAVE MANY, MANY THINGS TO TAKE CARE OF. WE'VE BEEN MANDATED BY CONGRESS TO MAKE CHANGES IN THESE REGULATIONS. WE HAVE BEEN CONSIDERING THEM. YOU'VE

BEEN CONSIDERING THEM. THE PUBLIC FOR SOME FOUR MONTHS HAS BEEN CONSIDERING THEM AND NOW THE TIME HAS COME AND WE CANNOT DELAY THAT DUTY THAT WE HAVE TO MAKE A DECISION ON THOSE REGULATIONS.

MR. BRAUDE: WELL, ALL I WOULD SUGGEST, MR. MC CARTHY, IS, SO THAT YOU CAN WISELY DO YOUR MANDATED TASK TODAY IS THAT YOU MIGHT WANT TO HEAR NOW WHAT PROPOSED ADDITIONAL ITEMS ARE, WHAT THEY ARE, BECAUSE THEY MAY FIT INTO THE AGENDA SOMEWHERE, WHENEVER YOU CHOOSE, THAT'S PERFECTLY FINE, BUT I WOULD SUGGEST IF YOU WANT TO RUN A MEETING THAT IS AN INTELLIGENT WAY TO RUN SUCH A MEETING AND IT'S PRODUCTIVE FOR THE LEGAL SERVICES COMMUNITY THAT YOU WOULD HEAR FROM THOSE PEOPLE NOW.

MR. MC CARTHY: THANK YOU, JIM. I APPRECIATE YOUR COMMENTS. THERE'S MUCH TO IT, BUT WE HAVE TO BALANCE IT. WE ARE GOING TO PROCEED WITH THE AGENDA AS IT IS. AT THE END OF THE AGENDA, WE WILL THEN CONSIDER THAT IN THE WISDOM OF THE BOARD, WHAT YOU'VE GOT TO SAY --

MR. BRAUDE: WHEN WILL COMMENTS BE ALLOWED OF MR. BOGARD'S REPORT ON ITEMS THAT HE RAISED?

MR. MC CARTHY: I WOULD SUGGEST THAT WILL COME AT THE END WHEN WE HAVE CONSIDERED THE REGULATIONS. WE ARE UNDER A TIME PRESSURE, AS YOU WELL KNOW. YOU'VE ALL COME A LONG WAYS, I APPRECIATE THAT. I FORGOT TO THANK YOU ALL FOR COMING AND WELCOME YOU TO MY FAIR CITY.

BUT, JIM, I'M SURE THAT YOU ARE AWARE OF OUR AGENDA HERE. WE ARE GOING TO TAKE THE SUBSTANTIVE ISSUES AND YOU WILL HAVE AN OPPORTUNITY AT THE END OF THE AGENDA FOR ANY COMMENTS.

ALSO, DURING THE MEETING, WE WILL HAVE PUBLIC COMMENTS, I TRUST THERE WILL BE COMMENTS REGARDING THE REGULATIONS THEMSELVES, AND I WOULD LIKE TO KEEP IT IN AN ORDERLY MANNER.

MR. BRAUDE: WE WOULD LIKE TO COMMENT ON MR. BOGARD'S PRESIDENTIAL REPORT; IS THAT APPROPRIATE NOW?

MR. MC CARTHY: IT'S NOT APPROPRIATE NOW BECAUSE THERE IS NO ACTION, THEY ARE GENERAL STATEMENTS OF INFORMATION TO --FOR YOU, AND WE WOULD LIKE TO GET ON WITH THE AGENDA, SO I WOULD APPRECIATE IT, JIM, IF YOU WOULD LET US PROCEED.

MR. BRAUDE: I REALLY DON'T WANT TO INTERRUPT YOU, I MUST, AND I'LL BE VERY BRIEF. I WANT TO ASK YOU IF YOU'RE PLEASE WILLING, SINCE NO ONE IN THE WORLD THINKS IT'S LEGAL FOR ANYONE TO DEFUND THE COMMITTEE UNTIL IT CAN FUND THE BOARD . . . DON'T YOU THINK THE BOARD SHOULD HAVE THE PRESENT DEFUNDING OF THE TRAINING CENTERS THAT WAS ACCOMPLISHED TEN DAYS AGO BY LETTER TO GREGG HARTLEY TO ALL OF THE CENTERS, PEOPLE ARE BEING DEFUNDED AS OF DECEMBER 31ST. DON'T YOU THINK IT'S GOT TO BE ON OUR AGENDA?

MR. MC CARTHY: MY ANSWER IS NO, I DON'T THINK IT HAS TO BE ON THIS AGENDA, SO I APPRECIATE YOUR ASKING

ME A QUESTION, AGAIN, I WOULD APPRECIATE IF WE COULD PROCEED AND YOU WILL HAVE TIME TO COMMENT AT SOME LATER TIME.

MR. BRAUDE: THE BOARD DOESN'T CONSIDER ITS OWN AGENDA BUSINESS WHEN THE LEGAL SERVICES CORPORATION IS DEFUNDING PEOPLE; DO I UNDERSTAND YOU CORRECTLY?

MR. MC CARTHY: YOU HEARD ME, SIR.

THE NEXT ITEM ON THE AGENDA IS A REPORT FROM THE OFFICE OF GOVERNMENT RELATIONS, AND I WOULD LIKE TO CALL ON JIM STREETER TO GIVE THAT REPORT.

MR. STREETER: THANK YOU. BECAUSE OF THE FULL AGENDA, I'LL BE VERY BRIEF.

THERE IS CURRENTLY REAUTHORIZATION -- A REAUTHORIZATION BILL WHICH HAS PASSED OUT OF THE HOUSE JUDICIARY COMMITTEE, BUT NO ACTION HAS YET BEEN SCHEDULED ON THE HOUSE FLOOR. THE SENATE, THE CHAIRMAN OF THE LABOR COMMITTEE, WHICH HAS JURISDICATION OVER US, HAS INTRODUCED LEGISLATION, AS WELL AS SENATOR EGLETON HAS ALSO INTRODUCED LEGISLATION.

THERE WAS A PERIOD OF SOME NEGOTIATION BETWEEN THEM TO SEE IF THEY COULD COME UP WITH A BILL THEY COULD BOTH SUPPORT. THEY HAVE BEEN UNABLE TO DO IT, AND IT'S UNLIKELY THAT THERE WILL BE A REAUTHORIZATION BILL DURING THIS SESSION OF CONGRESS.

HOWEVER, THE APPROPRIATIONS BILLS IS PROCEEDING AS MR. BOGARD STATED, WE ARE CURRENTLY OPERATING UNDER

A CONTINUING RESOLUTION. HOWEVER, THE STATE JUSTICE COMMERCE APPROPRIATIONS BILL UNDER WHICH WE ARE FUNDED HAS PASSED BOTH THE HOUSE AND SENATE AND A CONFERENCE COMMITTEE HAS MET. IT'S POSSIBLE THAT THE CONFERENCE REPORT WILL BE TAKEN UP THIS WEEK, AS EARLY AS WEDNESDAY ON THE HOUSE FLOOR.

THE APPROPRIATIONS BILL HAS 79 ITEMS IN DISAGREEMENT, EACH OF WHICH WILL REQUIRE A SEPARATE VOTE. ONE OF THOSE 79 IS THE LEGAL SERVICES COMMISSION, LEGAL SERVICES CORPORATION.

AND THOSE ITEMS IN DISAGREEMENT ARE AMENABLE ON THE HOUSE FLOOR, BUT WE'RE NOT AWARE THAT THERE WILL BE ANY EFFORT TO AMEND THEM. IT PROVIDES $275 MILLION FOR THE UPCOMING YEAR. THE FUNDS WOULD BE DISTRIBUTED ON A TWO-STEP PROCESS; FIRST ALL PROGRAMS WOULD GET A 5 PERCENT INCREASE OR 6.5 FOR A POOR PERSON, WHICHEVER IS GREATER.

SECOND, THE SECOND STEP IS THAT THE REMAINING FUNDS THAT ARE DISTRIBUTED TO PROGRAMS ON A POPULATION BASIS WOULD BE DISTRIBUTED ACCORDING TO EQUAL PERCENTAGE OF THE AMOUNT BY WHICH THE PROGRAM FALLS BELOW $13.

THE APPROPRIATIONS BILL CONTAINS PRESCRIPTIONS ON PROCEDURES AND HANDLING CLASS ACTION CASES AND CONTAINS EXTENSIVE RESTRICTIONS ON LOBBYING. IT CONTAINS PRESENT RESTRICTIONS ON REPRESENTATION OF ALIENS, CONTAINS THE

PRESENT PROVISIONS ON LOCAL BOARD COMPOSITION, IT STREAMLINES DECISIONS WHICH ARE MADE IN CONNECTION WITH SECTION 10(11). IT CONTAINS THE CURRENT RESTRICTIONS ON BOARD COMPENSATION.

TEN NAMES HAVE BEEN SUBMITTED TO THE SENATE FOR CONFIRMATION. HEARINGS WERE HELD LAST WEEK ON SIX OF THE NOMINEES. HEARINGS COULD BE HELD EARLY NEXT WEEK ON THE REMAINING NOMINEES. AND THE NATIONAL LABOR COMMITTEE COULD VOTE ON THEM NEXT WEEK.

THERE IS A GAO REPORT WHICH WAS ISSUED ON SEPTEMBER 19TH. THE GAO REPORT WAS IN RESPONSE TO A REQUEST BY CHAIRMAN HATCH, SENATOR DENTON AND CONGRESSMAN BRENNER AND OTHER MEMBERS OF CONGRESS TO DETERMINE WHETHER OR NOT LEGAL SERVICES AND ITS RECIPIENTS WERE ENGAGING IN PROHIBITIVE POLITICAL ACTIVITY.

GAO FOUND THAT STATUTORY RESTRICTION ON A TRAINING COALITION BILL ACTIVITY, AS WELL AS RESTRICTION ON OPPOSING BALLOT ISSUES WERE VIOLATED BY LEGAL SERVICES AND ITS RECIPIENTS, SPECIFICALLY THEY CITED RESTRICTIONS ON USING TRAINING SESSIONS TO ADVOCATE A POLITICAL COURSE OF ACTION AND FUNDS PROVIDED BY THE CORPORATION TO INITIATE THE FORMATION OF AN ORGANIZATION'S NETWORKS AND COALITIONS IN VIOLATION OF THE ACT.

THEY FURTHER FOUND THAT A LARGE NUMBER OF RECIPIENTS PARTICIPATED IN THE PROHIBITED ACTIVITY. THE GAO FURTHER FOUND THAT THE PROHIBITION AGAINST ADVOCATING

OR OPPOSING BALLOT MEASURES WAS VIOLATED INSTEAD OF CARRYING OUT ITS STATUTORY RESPONSIBILITY TO ENFORCE THE ACT.

THE LEGAL SERVICES CORPORATION HAD ASSUMED A CONTRARY ROLE OF ENCOURAGING POLITICAL ACTIVITY BY RECIPIENT

THAT'S MY REPORT.

MR. MC CARTHY: THANK YOU, JIM.

ARE THERE ANY QUESTIONS FROM THE BOARD?

A SPEAKER: MR. CHAIRMAN, I WONDER IF I MIGHT MAKE A COMMENT ON THE GAO REPORT, SPECIFICALLY I WOULD LIKE TO READ A PARAGRAPH FROM SENATOR MARK HATFIELD, WHICH COMMENTS ON THE REPORT, I CAN MAKE THEM AT THIS TIME OR LATER.

MR. MC CARTHY: WOULD YOU MAKE THAT LATER AS I REQUESTED, WE WOULD LIKE TO GO THROUGH THE AGENDA THEN WE'LL HAVE PUBLIC DISCUSSION AND THE OPPORTUNITY TO BRING UP MATTERS.

THANK YOU. I THINK WE'LL BE --

A SPEAKER: MY NAME IS ALAN GALLAGHER, I'M AN ATTORNEY FROM PORTLAND, OREGON, FORMERLY WITH SEVERAL LEGAL AID PROGRAMS, PRESENTLY ALSO WITH A PROGRAM IN PORTLAND, OREGON --

MR. MC CARTHY: THE NEXT AGENDA ITEM, ITEM 5, A REPORT FROM THE OFFICE OF THE GENERAL COUNSEL, ALAN SWENDIMAN AND JOHN MEYERS IS THE DEPUTY GENERAL COUNSEL.

MR. SWENDIMAN: THERE ARE THREE MATTERS WHICH

ARE TO BE PRESENTED TO THE BOARD, PROPOSED REGULATIONS FOR YOUR CONSIDERATION: THE FIRST DEALS WITH THE TRANSFER OF FUNDS. THE SECOND DEALS WITH THE AMOUNT OF FUNDING; AND THE THIRD IS CONCERNED WITH ELIGIBILITY.

MR. MEYERS WILL PRESENT THE CHANGES THAT THE STAFF IS RECOMMENDING WITH REGARD TO THE TRANSFER OF FUNDS, JOHN MEYERS, ASSISTANT GENERAL COUNSEL.

MR. MEYERS: THIS REGULATION WAS PRESENTED IN PHOENIX AND IN WASHINGTON IN COMMITTEE MEETINGS AND WE DISCUSSED THEM, THEN PUBLISHED IN THE FEDERAL REGISTER SO IT WAS -- IT WAS IN AUGUST, RIGHT, YEAH, AUGUST, WE RECEIVED AROUND 30 COMMENTS, COMMENTS HAVE BEEN REVIEWED AND SOME CHANGES IN THE REGULATIONS HAVE BEEN MADE.

AND I WILL BRIEFLY GO OVER THE CHANGES AND THEN I ASSUME THIS WILL BE OPEN FOR PUBLIC COMMENT.

THE FIRST CHANGE IS IN THE TITLE, THE TITLE WAS TOO LONG, IT WAS "LIMITATIONS OF TRANSFER ON CORPORATE FUNDS BY RECIPIENTS ON CERTAIN EXPENDITURES." WE HAVE CHANGED IT TO A --AN ABBREVIATED FORM: "SUB-BRANCH FEES AND DUES," WHICH IS THE AREA THAT IS CONSIDERED.

NOW, I WILL GO OVER THE REGULATIONS BY SECTIONS AND NOTE THE SIGNIFICANT CHANGES, AND THOSE IN THE AUDIENCE WHO WANT TO FOLLOW SHOULD GET THEIR BOARD BOOK AND TURN TO "RECOMMENDED AND FINAL REGULATIONS, 1627. YOU WILL NOTE THAT THE ITEMS IN BRACKETS ARE ITEMS WE HAD IN THE

PROPOSED RULE THAT WE HAVE DELETED FROM THE RECOMMENDED FINAL RULE, ITEMS UNDERLYING NEW LANGUAGE IN THE RECOMMENDED FINAL RULE.

FOR SECTION 1627.1, THERE ARE NO CHANGES BETWEEN THE PROPOSED RULE AND FINAL RULE.

FOR SECTION 1627.2, THE DEFINITIONS HAVE BEEN CHANGED BY GIVING A DETAILED DEFINITION OF THE SUBRECIPIENT, WHICH WAS SUBGUARANTEE RATHER THAN GIVING A DETAILED DEFINITION OF SUBGRANT, AND THEN WE DETERMINED SUBGRANT IN TERMS OF SUBRECIPIENTS AND IN DEFINING THE SUBRECIPIENTS, IN TERMS OF SUBGRANT.

THE REASON FOR THIS CHANGE WAS TO CONFORM WITH THE USAGE IN THE AUDIT GUIDE AND THE AUDITING PROCEDURE.

NO SUBSTANTIVE CHANGE IN COVERAGE IS INTENDED BY THIS CHANGE. THERE WAS ONE CHANGE IN COVERAGE WHICH WAS THE EXCEPTION FOR SUBGRANTS WITH PRIVATE ATTORNEYS OR LAW FIRMS REPRESENTING CONTRACTS ON ADJUDICARE BASIS LIMITED TO AN ARRANGEMENT NOT OVER $25,000, SO IF THERE IS SUCH A SUBGRANT, IT HAS TO GO THROUGH THE SAME PROCESSES AS ANY OTHER SUBGRANTS.

SECTION 1626.3 SETTING REQUIREMENTS FOR ALL SUBGRANTS HAVE UNDERGONE ONLY MINOR CHANGES. IN SECTION 1627.3(B)1, A CLAUSE IS ADDED STATING THAT ALL FIRMS REMAINING AT THE END OF A SUBGRANT SHALL BE CONSIDERED PART OF THE RECIPIENT FUND BALANCE. THIS WAS INITIALLY OUR INTENT

AND THE ADDITION IS ONLY TO MAKE THAT INTENT EXPLICIT.

IN SECTION 1627.3(C), THIS SECTION HAS BEEN REDRAFTED TO REFERENCE THE AUDIT AND ACCOUNTING GUIDE RATHER THAN USING RECIPIENT LANGUAGE. NO CHANGE IN SUBSTANCE IS MADE.

A NEW SECTION, 1627.E IS ADDED EXPLICITLY REQUIRING THAT ALL SUBGRANT CONTRACTS SHALL PROVIDE THE CORPORATION THE SAME RIGHTS IT HAS OF THE RECIPIENTS, SO THE CORPORATION CAN CARRY OUT ITS STATUTORY MANDATE TO INSURE THAT CORPORATION FUNDS ARE BEING EXPENDED IN CONSTANT WITH THE ACT.

AGAIN, THIS, I BELIEVE, IS IMPLIED IN THE SUBGRANT RELATIONSHIP AND SHOULD BE IN MOST SUBGRANT CONTRACTS, BUT THERE HAS BEEN ONE WHERE IT WASN'T AND THE BEST WAY TO MAKE -- AVOID MISUNDERSTANDING IS TO MAKE THINGS CLEAR AND EXPLICIT.

MOST SUBSTANTIVE CHANGES WERE MADE IN SECTION 1627.4, REGULATING FEES AND DUES. THE PROPOSED RULE REQUIRES SPECIFIC APPROVAL OF FEES AND DUES PAYMENTS BY THE CORPORATION. IN RESPONSE TO THE ARGUMENTS OF THE COMMENTATOR THAT THIS WAS AN OVERLY BUREAUCRATIC AND CENTRALIZED PROCEDURE, THIS PROCEDURE HAS BEEN CHANGED TO ALLOW RECIPIENTS TO DECIDE WHICH PARTICULAR PAYMENTS AND FEES AND DUES SHOULD BE MADE UNDER THE SAME GENERAL GUIDELINES AS PREVIOUSLY PROPOSED, THAT IS, WE HAVE THE SECTIONS BEGINNING WITH FEES AND DUES PAID TO AN ORGANIZATION FOR PROFESSIONAL LIABILITY INSURANCE

MANDATORY OR VOLUNTARY FEES OR DUES, THE SUPREME COURT LICENCING BOARD, FEES AND DUES PAID TO HEALTH INSURANCE PROVIDER -- AND THEN WE HAVE ALSO ADDED A FOURTH SECTION WHICH INSTEAD OF DOING THESE AT $25 OR LESS, WHICH IS IRRELEVANT, NOW THAT WE'RE NOT APPROVING THEM AT THE CORPORATE HEADQUARTERS, FEES AND DUES TO OTHER ORGANIZATIONS PROVIDED SUCH OR DIRECTLY RELATED TO THE DELIVERY OF LEGAL SERVICES TO THE ELIGIBLE CLIENTS, THE FACTS OF LAW, SO WITHIN THOSE FOUR CATEGORIES, THE RECIPIENTS HAVE FREE PAID FEES AND DUES.

NOW, THE MAXIMUM AMOUNT OF FEES AND DUES THAT CAN BE PAID OUT OF THE GRANT OR CONTRACT REMAINS AT ONE AND A HALF OF 1 PERCENT OF THE RECEIPIENT'S GRANT, BUT THE MINIMUM AMOUNT OF FEES AND DUES ALLOWED TO ALL RECIPIENTS, EVEN IF IT RECEIVES THAT ONE-HALF OF 1 PERCENT, IS INCREASED FROM $750 TO $1500.

FURTHERMORE, A MAXIMUM AMOUNT OF $20,000, WHICH WILL AFFECT A VERY SMALL NUMBER OF RECIPIENTS -- FOR THE REMAINDER OF THE REGULATION, THERE ARE REALLY NO SUBSTANTIVE CHANGES, THERE ARE A FEW TECHNICAL CHANGES AND THERE IS THE ADDITION IN 1627. -- ACTUALLY IT'S 4(D) AND 1627.7(B)(1) OF OTHER APPLICABLE OR FEDERAL LAW WHICH SAYS THAT EXPENDITURES ARE APPLICABLE UNDER FEDERAL LAW AND CORPORATION REGULATIONS ARE APPLICABLE, ET CETERA.

BUT MERELY THOSE SECTIONS REMAIN SUBSTANTIVE AND SIMPLY ADD -- A FEW THINGS HAVE BEEN ADDED SO I WILL NOW TURN OVER THE FLOOR TO ALAN SWENDIMAN.

MR. SWENDIMAN: I JUST HAVE ONE TECHNICAL TYPOGRAPHICAL CHANGE THAT DOES NOT APPEAR UNDER (B)(1) SECOND LINE SHOULD READ TOWARDS THE END OF THAT LINE: "GRANT, CONTRACT OR AGREEMENT" THE "OR" SHOULD BE TRANSPOSED AND THEN ON LINE 4 THE WORD "CLOSELY" SHOULD BE DELETED.

OTHER THAN THAT I BELIEVE THAT CONCLUDES THE CHANGES PROPOSED WITH REGARD TO 1627.

MR. MC CARTHY: THANK YOU, ALAN AND DON.

DOES THE BOARD HAVE ANY QUESTIONS?

AT THIS TIME WE WOULD ENTERTAIN SOME PUBLIC COMMENT, YOU MUST REMEMBER THIS PROPOSED REGULATION HAS BEEN PUBLIC, WE'VE HAD CONSIDERABLE WRITTEN COMMENT, WE'VE HAD CONSIDERABLE ORAL COMMENT AT PREVIOUS MEETINGS; AND THE NOW-PROPOSED FINAL REGULATIONS DO REFLECT THE INPUT THAT WAS CAREFULLY CONSIDERED AND CONSIDERABLE CHANGES HAVE BEEN MADE WHICH THE STAFF FEELS DO REFLECT THE MANDATE OF CONGRESS AND THE PUBLIC COMMENT.

NOW, EXCUSE ME, SIR. PRIOR TO PUBLIC COMMENT, I THINK MR. GALLAHER, WHERE IS MR. GALLAGHER? YOU WERE DISCUSSING SOMETHNG AND I WOULD LIKE FOR YOU TO COMMENT, IF IT'S RELEVANT TO THIS REGULATION.

MR. GALLAGHER: I THINK IT MIGHT APPLY MORE

TO THE SECOND, DEFUNDING AND --

MR. MC CARTHY: WE WILL POLL THAT BECAUSE WE HAVE HAD CONSIDERABLE COMMENT OVER THE PAST THREE OR FOUR MONTHS AND BECAUSE OF OUR AGENDA WE MUST LIMIT THE PUBLIC COMMENT ON THIS PARTICULAR ONE TO 20 MINUTES, SO ANY OF YOU, REMEMBER WE HAVE A CUMULATIVE BLOCK OF 20 MINUTES WHATEVER YOU SAY SHOULD BE SAID REALIZING THERE ARE OTHER PEOPLE WHO WISH TO SPEAK.

PLEASE IDENTIFY YOURSELVES FOR THE RECORD WITH YOUR NAME AND YOUR RELATIONSHIP TO THE CORPORATION.

A SPEAKER: MY NAME IS GAVIN MILLER. I'M PRESIDENT OF THE LOS ANGELES COUNTY BAR ASSOCIATION. I'M VERY GRATEFUL FOR THE OPPORTUNITY TO BE HERE AND SPEAK AND I WILL MAKE IT BRIEF BECAUSE I UNDERSTAND YOU HAVE WRITTEN MATERIALS WHICH I'VE SEEN WHICH I THINK ADEQUATELY DESCRIBE SOME OF THE PROBLEMS PERHAPS IN THE PROPOSED REGULATIONS.

I WOULD LIKE TO SAY THAT THE LOS ANGELES COUNTY BAR ASSOCIATION REPRESENTS 19,000 LAWYERS, A VERY DIVERSE GROUP, AND THAT ITS BOARD OF TRUSTEES IS AN EQUALLY DIVERSE GROUP.

WE'VE SUPPORTED LEGAL SERVICES CORPORATION THROUGHOUT ITS HISTORY AND SUPPORTED THE CONCEPT OF PROVIDING LEGAL SERVICES FOR THE POOR FUNDED BY THE GOVERNMENT ON AN ADEQUATE BASIS AND ALSO PROVIDING MAXIMUM

FLEXIBILITY IN THE GROUPS PROVIDING THOSE SERVICES.

ADDITIONALLY, WE'VE BEEN PROVIDING MAXIMUM SECURITY WITH THE CONTINUANCE OF WELL-RUN AND EFFECTIVE PROGRAMS. WE BELIEVE THE BOARD HAS ALWAYS BELIEVED, AS I SAY, OFTEN BY UNANIMOUS VOTE, THE COMPLEX AFFLUENT SOCIETY SUCH AS OURS, WE REALIZE WE MUST SUPPORT THE POOR, ESPECIALLY THE ELDERLY POOR IN OBTAINING LEGAL SERVICES THEY CLEARLY NEED, GIVEN THE COMPLEX, HIGHLY FRAGMENTED TYPE OF SOCIETY THAT WE HAVE.

I COMMEND PARTICULARLY THE COMMENTS OF THE BAR ASSOCIATION, THE WRITTEN COMMENTS ON THE PROPOSED REGULATION, AND THE COMMENTS OF THE AMERICAN BAR ASSOCIATION. THEY SHOW, I THINK, THAT A NUMBER OF PROPOSED REGULATIONS, WHILE THEY MAY BE WELL MEANING, WILL BE COUNTERPRODUCTIVE, ARE LIKELY TO BE COUNTERPRODUCTIVE, IN TERMS OF EFFECIENCY AND FAIRNESS.

ONE EXAMPLE, AND I THINK IT'S ONLY ONE EXAMPLE, INCLUDING NONLIQUID ASSETS IN ELIGIBILITY CONSIDERING ASSETS OF THE WHOLESALE GROUP AS A WHOLE ARE LIKELY TO MAKE FOR A RATHER INFLEXIBLE APPROACH IN DETERMINING WHO IS ELIGIBLE AND WHO ISN'T AND EXCLUDING PEOPLE WHO SHOULD NOT BE EXCLUDED.

JUST AN EXAMPLE: AN ELDERLY PERSON LIVING IN A HOUSE WITH NO OTHER ASSETS WHERE THE HOUSE IS APPRECIATED, I THINK THAT EXAMPLE --

MR. MC CARTHY: YOU ARE AWARE THAT YOUR COMMENT DOES NOT APPLY TO THE PRESENT REGULATION THAT IS BEFORE US, THAT IS ANOTHER REGULATION WE'LL CONSIDER FURTHER ON.

MR. MILLER: I MERELY MEANT IT AS AN EXAMPLE TO SHOW THE NEED FOR, I THINK, FLEXIBILITY.

WE SUPPORT THE SAN FRANCISCO BAR ASSOCIATION COMMENTS, THE ABA COMMENTS, WE FEEL THEY ARE REASONABLE, FAIR-MINDED, AND SOUND, AND URGE THAT NO ACTION BE TAKEN ON THESE REGULATIONS AT THIS TIME.

THANK YOU VERY MUCH.

MR. MC CARTHY: THANK YOU VERY MUCH AND WE APPRECIATE ONE OF OUR LOS ANGELES COLLEAGUES COMING ALL THE WAY UP HERE.

YES, SIR.

A SPEAKER: MY NAME IS GREGORY KNOLL, I'M THE EXECUTIVE DIRECTOR AND CHIEF COUNSEL OF LEGAL AID SOCIETY OF SAN DIEGO, AND I WOULD LIKE TO PRESENT A FEW BRIEF COMMENTS ON THE PROPOSED SUBGRANT AND MEMBERSHIP FEES AND DUES.

I RESPECTFULLY SUBMIT, MR. MC CARTHY, MEMBERS OF THE BOARD, THAT THE CONTINUED EXISTENCE OF THE REGULATION ITSELF LEADS SOME OF US TO BELIEVE THAT PERHAPS THE FULL THRUST OF THE COMMENTS THAT HAVE BEEN GIVEN TO THE STAFF HAVE NOT RECEIVED THEIR FULL DUE.

FIRST OF ALL, AS IT RELATES TO THE ISSUE OF SUBGRANT VIOLATIONS, IT WOULD SEEM TO ME THAT THE REGULATION IS A VIOLATION OF THE RULE-MAKING PROCEDURE BECAUSE IT SIMPLY DOES NOT SET FORTH ANY RATIONALE AS TO WHY SUBGRANTS IN FACT NEED REGULATIONS.

THE PROPOSAL REGARDING SUBGRANTS WOULD INCLUDE SUBGRANTS PERTAINING, AND STATE SUPPORT . . . WE SUBMIT THAT THERE IS NO NEED FOR ADDITIONAL REGULATIONS, FOR TRAINING AND STATE SUPPORT, SUBGRANTS -- THAT THEY ARE OVER-REGULATED RIGHT NOW.

THERE IS NO RATIONALE WHY TRANSFER OF GRANTS TO PRIVATE LAWYERS OR LAW FIRMS SHOULD NOT BE REGULATED, BUT TRANSFER TO FUNDS TO OTHER RECIPIENTS TO DO THE SAME TYPE OF WORK OR OTHER ORGANIZATIONS SUCH AS LAW SCHOOLS OR LAW-SCHOOL CLINICS, THEY WILL BE REGULATED, THERE'S NO RATIONALE FOR THE DISTINCTION THERE.

IT WOULD SEEM TO US THERE IS NO BASES FOR DISTINCTION BETWEEN A PRIVATE LAW FIRM OR AN ATTORNEY IN WHICH THERE IS A RELATIONSHIP -- EXCUSE ME -- INVOLVING MORE THAN $25,000 OR ONE WHERE LESS THAN $25,000 IS INVOLVED.

ONE OF THE MOST DISTINGUISHING ASPECTS OF THE REGULATION IS IT SEEMS TO BE PARTICULARLY DEVOID OF ANY STANDARDS OR CRITERIA BY WHICH THE LSC STAFF WILL MAKE DECISIONS REGARDING SUBGRANTS, WHICH ONES

ARE TO BE APPROVED, WHICH ONES ARE TO BE DISAPPROVED.

THERE IS NO LIMIT ON WHICH SUBGRANTS WILL BE COVERED. IT WOULD SEEM THAT YOU COULD PICK AN APPROPRIATE LEVEL AS $10,000, ANYTHING, ANY SUBGRANT THAT WILL BE LESS THAN $10,000 MIGHT NOT BE COVERED BY THIS RESTRICTION.

ALSO, THE TIME PERIOD PROPOSED BY 1627.382, WHICH COULD LAST UP TO 55 OR 60 DAYS, QUITE FRANKLY, IS JUST TOO LONG. THE CORPORATION IN THE PAST HAS ACTED MUCH MORE EXPEDITIOUSLY, AND THEY CERTAINLY CAN DO SO NOW.

WITH REGARD TO THE ISSUE OF MEMBERSHIP FEES AND DUES AND CONTRIBUTIONS, WE RESPECTFULLY SUBMIT THAT THE CORPORATION MAY IN FACT NOT HAVE THE POWER TO REGULATE MEMBERSHIP FEES AND DUES OF RECIPIENT PROGRAMS.

THE PROPOSED REGULATION MAY VIOLATE THE INTENT OF CONGRESS IN THE AFFIRMATIVE RIDER BECAUSE IT IMPOSES "NEW TERMS AND CONDITIONS" UNRELATED TO THE RESTRICTIONS IN THE APPROPRIATIONS ACT OR IN THE CONTINUING RESOLUTION OR ANY RESOLUTION OF THE LSC ACT RESTRICTING FEES AND DUES.

LIKEWISE, I RESPECTFULLY SUBMIT THAT LSC LACKS THE AUTHORITY TO REGULATE FEES AND DUES AT ALL; THERE IS NO SPECIFIC LEGISLATION UNDER WHICH THE FEES AND DUES REGULATION MAY IN FACT BE ISSUED.

THERE IS NO LEGISLATIVE RULE-MAKING AUTHORITY

IN THE LEGAL SERVICES CORPORATION ACT. THE FEES AND DUES REGULATIONS ARE NOT INTERPRETIVE RULES. FEES AND DUES REGULATIONS ARE NOT REASONABLY RELATED TO THE PURPOSE OF THE LEGAL SERVICES CORPORATION ACT.

IN ADDITION, NEITHER THE REGULATION ITSELF NOR THE SUPPLEMENTARY INFORMATION THAT'S BEEN PROVIDED PROVIDES US WITH A RATIONALE FOR THE LEGAL AND POLICY BASES FOR THE PROPOSED RESTRICTIONS ON MEMBERSHIP FEES AND DUES CONTRIBUTIONS; AND I THINK THAT GOES BACK TO THE DISCUSSION ON THE SUBGRANT PORTION WITH REGARD TO THE FACT THAT THE REGULATION SEEMS TO BE DEVOID OF ANY STANDARD CRITERIA RATIONALE. I THINK THAT'S VERY IMPORTANT, PARTICULARLY FROM OUR STANDPOINT AS LAWYERS WHO LOOK AT RULES AND LIKE TO SEE THE LEGAL ANALYSIS INVOLVED IN WHY THE RULE WAS DEVELOPED IN THE FIRST PLACE.

SECTION 1627.7(B) RESTRICTS LEGAL SERVICES CORPORATION FUNDS FOR TRAINING IN AREAS WHERE PROGRAM INVOLVEMENT IS PROHIBITED OR "ONLY LIMITED OR INCIDENTAL ACTIVITIES ARE ALLOWED." THIS RESTRICTION SEEMS TO ME, AND I HOPE TO ALL OR MANY OTHERS, TOO, TO BE OVER BROAD; THAT IT WOULD ON ITS FACE PRECLUDE PAYMENTS OF DUES TO SUCH ORGANIZATIONS AS STATE AND LOCAL BAR ASSOCIATIONS AND TO THE ABA WHICH MAY USE SOME PORTION OF THEIR RESOURCES TO LOBBY BEFORE FEDERAL, STATE OR LOCAL LEGISLATURES.

THE PROPOSAL WOULD ALSO PRECLUDE FEES OR

A TRAINING SESSION WHICH MIGHT INCLUDE TRAINING OF THOSE ASPECTS OF LEGISLATIVE REPRESENTATION WHICH IN FACT ARE PERMITTED UNDER THE APPROPRIATIONS ACT AND OUR OWN LSC REGULATIONS.

THANK YOU FOR THIS OPPORTUNITY TO COMMENT.

MR. MC CARTHY: THANK YOU VERY MUCH. YOUR COMMENTS ARE WELL RECEIVED.

MR. GALLAGHER?

MR. GALLAGHER: I'M ADDRESSING THIS SUBJECT AND NOT THE OTHER, I'LL ADDRESS THAT LATER. ONCE AGAIN, I'M AN ATTORNEY FROM OREGON. I'VE BEEN INVOLVED IN LEGAL SERVICES SINCE THE LATE 60'S. THE REFERENCE, AND I THINK MANY PEOPLE LOSE SIGHT OF SEVERAL THINGS INVOLVING A NEED FOR THIS KIND OF REGULATION -- I THINK IT'S WORTH MAKING BECAUSE OF THE REMARKS OF THE PREVIOUS SPEAKER.

I WILL REFER TO A REPORT FROM THE UNITED STATES SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES WHICH CAME OUT RECENTLY, AN OVERSIGHT REPORT AND THE LEGAL SERVICES CORPORATION MENTIONED TWO FINDINGS IN THAT REPORT WHICH I THINK ARE RELEVANT.

FIRST, A FINDING THAT OVER THE LAST THREE YEARS THE MONEY WHICH HAS GONE TO SOME OF THESE FEES FOR LEGAL SERVICES CORPORATIONS IN THE RANGE OF $752,000, AND THE REPORT SAYS, AN ADDITIONAL THREE-QUARTERS OF A MILLION DOLLARS COULD HAVE BEEN PROVIDED FOR LEGAL

SERVICES TO THE POOR.

I THINK THE CORPORATION HAS NOT ONLY A RIGHT BUT A DUTY TO PAY ATTENTION TO THESE SO THAT THE MONEY WHICH GOES OUT CAN BE DELIVERED FOR LEGAL SERVICES TO THE POOR AND NOT OTHER PURPOSES.

I ALSO MENTION SOMETHING FROM THE REPORT, AND SOMETHING I KNOW FROM MY OWN EXPERIENCE, AND I EXPECT MANY LEGAL SERVICE PEOPLE DO. THERE HAS BEEN SEVERAL RECENT YEARS FOR WHAT IS PERCEIVED AS AN ATTACK OF LEGAL SERVICES PROGRAMS BY THE REAGAN ADMINISTRATION AND OTHERS AND WE BELIEVE THAT IT IS NECESSARY TO WORK EITHER WITHIN THE REGULATION OR CREATIVELY SOMEWHAT OUTSIDE OF THEM.

THE COMMITTEE FOUND THAT THE CREATION OF SOME MIRRO CORPORATION TO EVADE THE RULES OF THE CORPORATION -- I MYSELF HAVE BEEN SEEN AND HAVE BEEN PART OF ACTUAL DISCUSSIONS OF HOW CONSISTENT WITH THE REGULATIONS IT WOULD BE POSSIBLE TO PROVIDE KINDS OF SERVICES WHICH THE CONGRESS HAS INDICATED IT PERHAPS MAY NOT WANT TO FUND OR WHICH MAY HAVE BEEN THE SUBJECT OF DEBATE.

THESE CREATE ON THE PART OF LEGAL SERVICES CORPORATION AN OBLIGATION AND DUTY TO INQUIRE INTO HOW THESE FUNDS ARE HANDLED. ONCE AGAIN, NOT ONLY BECAUSE OF THE LOBBYING AND OTHER POSSIBLE MISUSES, BUT THE BOTTOM LINE IS THAT THE DOLLARS TAKEN AWAY FROM THE LEGAL SERVICES AND THE POOR -- I INVITE YOU TO KEEP THOSE IN MIND AS

YOU DISCUSS THIS.

MR. MC CARTHY: THANK YOU VERY MUCH, MR. GALLAGHER, YOUR COMMENTS ARE VERY GERMANE AND WE BELIEVE THAT THEY'RE VERY CONSISTENT WITH WHAT CONGRESS HAS INSTRUCTED THE BOARD TO DO.

THANK YOU.

YES, SIR, YOUR NAME?

A SPEAKER: MY NAME IS STEVE BROWN REPRESENTING THE NATIONAL ORGANIZATION OF STATE SUPPORT UNITS. I HAVE A QUESTION WITH RESPECT TO THE APPLICABILITY OF THIS TO THE LARGE MAJORITY OF STATE SUPPORT CENTERS THAT NOW ARE FUNDED THROUGH EXISTING LEGAL SERVICES PROGRAMS.

THE INTENT OF THIS REGULATION TO REQUIRE STATE SUPPORT CENTERS THAT ARE NOT OPERATING THROUGH A CONTRACT APPROVAL PROCESS SEPARATE AND APART FROM THE CURRENT REFUNDING APPLICATION PROCESS --

MR. MC CARTHY: ALAN, COULD YOU OR JOHN RESPOND?

MR. MEYERS: AS FAR AS THE FUNDS, AS FAR AS THE FUNDS RECEIVED FROM OTHER RECIPIENTS, YES, THAT WOULD BE A SUBGRANT.

MR. BROWN: IN OTHER WORDS, THE LARGE MAJORITY OF EXISTING STATE SUPPORT CENTERS THAT ARE NOW INDEPENDENT OPERATION CO-COUNSELING PROVIDING TRAINING INVOLVED IN ACTIVITIES THAT ARE COMMITTED WITH RESPECT TO CALENDAR YEAR 1984 WILL BE REQUIRED SOMETIME AFTER SOME FUNDING

DECISIONS ARE MADE BETWEEN NOW AND THE END OF THE YEAR TO START THIS APPROVAL PROCESS SO THAT COME JANUARY 1 THEY WILL NOT HAVE AUTHORITY TO CONTINUE OPERATIONS; IS THAT THE INTENT OF THIS AND THE MEANING OF THIS?

MR. MC CARTHY: GREGG, DO YOU HAVE SOME COMMENTS TO MAKE ON THAT?

A SPEAKER: MR. CHAIRMAN, WHAT WE HAVE IS A POTENTIAL LENGTHY APPROVAL PROCESS FOR MONEYS THAT GO TO STATE SUPPORT ENTITIES. IF THERE IS NO APPROVAL TO THE EXISTING RECIPIENT GRANT FEES OF THEIR RIGHT OR THEIR -- OF THE DECISION FOR THEM TO RECEIVE STATE SUPPORT MONEYS, THAT DECISION IS NOT MADE UNTIL, SAY, THE END OF DECEMBER, AND IF THERE HAS BEEN A 45-MINUTE -- 45-DAY APPLICATION PROCESS OR CONTRACT APPROVAL PROCESS FOR THOSE MONEYS TO BE SPENT, WE THEN HAVE A SITUATION THAT COULD GO ON INTO FEBRUARY BEFORE THERE IS ANY APPROVAL FOR THE EXPENDITURES OF MONEYS BY STATE SUPPORT CENTERS, WHICH NOW HAVE OBLIGATIONS TO CONTINUE OPERATING AFTER JANUARY 1ST.

MR. HARTLEY: WELL, THE PROCESS IS THIS: THE PROGRAMS THAT ALREADY DIRECT RECIPIENTS OF STATE SUPPORT FUNDS WILL BE REVIEWED IN CONFORMING WITH IF THEY ARE NOW CONTRACTING GRANTS OR TRANSFERRING FUNDS TO OTHER ORGANIZATIONS OR ENTITIES TO CARRY OUT PARTS OF THAT, IT WILL REQUIRE REVIEW BY THE CORPORATION UNDER

THIS REGULATION, IT WOULD NOT REQUIRE THAT ONCE A REGULATION IS PASSED, PROGRAMS WOULD GO AHEAD AND START SUBMITTING THEIR REQUESTS AND THEIR CONTRACTS AND TERMS, THAT SORT OF THING.

A SPEAKER: WOULD YOU PLEASE EXPLAIN TO ME WHAT HAPPENS AS OF JANUARY 1ST TO THE EXISTING --

MR. HARTLEY: IF THE PROGRAM THAT IS RECEIVING STATE SUPPORT FUNDS IS DIRECTLY OPERATING THOSE ACTIVITIES?

THE SPEAKER: MOST ARE NOT.

MR. HARTLEY: IN A GOOD NUMBER THEY ARE NOT.

THE SPEAKER: LET'S TALK ABOUT THE MAJORITY THAT ARE NOT.

MR. HARTLEY: THEN THE RECIPIENT OF THE FUNDS SHOULD AFTER THIS REGULATION IS PASSED, SHOULD SUBMIT THEIR PROPOSED CONTRACT TO THE CORPORATION FOR REVIEW, AND IT WILL BE HANDLED AS EXPEDITIOUSLY AS POSSIBLE.

THE SPEAKER: WE DIDN'T HAVE THIS REGULATION, PRESUMABLY, BECOMING EFFECTIVE IN THE MID OR LATTER PART OF DECEMBER?

MR. HARTLEY: RIGHT.

THE SPEAKER: YOU'RE SUGGESTING THAT FOR THOSE EXISTING STATE SUPPORT CENTERS, THE MAJORITY OF THEM, THEY WOULD THEN HAVE TO START THIS CONTRACT APPROVAL PROCESS AND AT LEAST PROBABLY FACE THE STAGING OUT OF 45 DAYS OF APPROVAL AFTER THE CONTRACT GETS TO YOUR CORPORATION?

MR. HARTLEY: IT'S POSSIBLE.

A SPEAKER: COULD YOU TELL ME HOW THEY CONTINUE THE OPERATIONS THAT THEY ARE MANDATED TO CONTINUE? FOR EXAMPLE, SUCH AS CO-COUNSELING ON LITIGATION, HOW THEY WILL CONTINUE THOSE ACTIVITIES AFTER JANUARY 1ST?

MR. HARTLEY: WELL, I AM ASSUMING, YOU KNOW, IF A CONTRACT -- WHAT WE'RE LOOKING AT IS THE TERMS AND CONDITIONS, WE ARE LOOKING FOR THINGS THAT MIGHT BE IMPROPER. IF A CONTRACT IS APPROPRIATE, IF THE GRANT IS THERE, THERE IS NO REASON IT CANNOT BE HANDLED EXPEDITIOUSLY AND THE PROGRAM CONTINUED.

A SPEAKER: WHAT GUARANTEE IS THERE THAT IT WILL BE ACTED UPON EXPEDITIOUSLY, IT'S GRANTED APPROVAL SOMETIME THE LAST WEEK IN DECEMBER, WITH RESPECT TO HAVING STATE SUPPORT MONEY, WOULD THEN PRESUMABLY HAVE TO ENTER INTO NEGOTIATIONS TO DEVELOP A CONTRACT WITH THE STATE SUPPORT CENTER, WHICH PRESUMABLY WOULD TAKE A LITTLE TIME, IT IS ONLY WHEN THAT PROCESS IS COMPLETED WOULD THERE EVEN BE A CONTRACT SUBMITTED TO THE CORPORATION, LET'S SAY BY JANUARY 1ST.

NOW, IF THE PROCESS TAKES 45 DAYS OR MORE, WHAT HAPPENS DURING THAT APPROVAL PROCESS, YOU'RE NOT ANSWERING THE QUESTION DIRECTLY, ARE YOU COMMITTING THE CORPORATION TO PROVIDE INTERIM FUNDS PENDING THAT CONTRACT DUE AFTER JANUARY 1ST?

WILL DO, AND WE DO APPRECIATE YOUR COMMENTS.

A SPEAKER: IS IT YOUR UNDERSTANDING FROM THE BOARD'S PERSPECTIVE THAT IN FACT WE HAVE OPERATIONS AFTER JANUARY 1ST WHICH WILL PRESUMABLY HAVE TO CEASE IN EXISTING STATE SUPPORT CENTERS, AND IF THAT IS THE CASE, ARE YOU CONTENT NOT TO TAKE SOME ACTION TO PREVENT THIS FROM HAPPENING?

MR. MC CARTHY: THAT WASN'T MY INTERPRETATION OF GREGG'S STATEMENT.

SPEAKER BROWN: YOU INTERPRETED HIS STATEMENT AS SUGGESTING THERE WILL BE AN APPROVAL FOR STATE CENTERS THAT HAVE NOW COMMITTED THEMSELVES TO EXISTING OPERATIONS?

MR. MC CARTHY: THE BOARD HAS CONSIDERED IT AND I DO APPRECIATE YOUR COMMENTS, HOWEVER, THIS IS NOT A DEBATE AND THIS HAPPENS TO BE A COMMENT FOR INFORMATION AND TO BE CONSIDERED BY EITHER SIDE. I DO APPRECIATE YOUR INFORMATION, WE ARE NOW --

SPEAKER BROWN: BUT THE BOARD DOES NOT -- I THINK IT'S A DERELICTION OF RESPONSIBILITY --

MR. MC CARTHY: THE BOARD WILL ANSWER THIS UPON PROPER MOTION TO CONSIDER THIS FOR AN ADOPTION. THANK YOU, MR. BROWN. I APPRECIATE YOUR COMMENTS --

MR. MC CARTHY: JODY, WE CAN --

A SPEAKER: MY NAME IS JAWARA LUMUMBA, I'M CIVIL DIVISION DIRECTOR OF THE NATIONAL LEGAL AID SOCIETY,

WASHINGTON, D.C. THE GENTLEMAN WHO SPOKE BEFORE ME HAS CERTAINLY DRAMATIZED THE COMPLEXITY OF THE REGULATION THAT YOU NOW CONSIDER. I'LL WAIT UNTIL EACH OF YOU FINISH TALKING SO THAT YOU CAN PROPERLY HEAR ME.

(PAUSE IN PROCEEDINGS.)

ARE YOU READY YET?

MR. MC CARTHY: PROCEED, SIR.

MR. LUMUMBA: AGAIN, AS I POINTED OUT WHILE YOU WERE EACH TALKING, THE COMPLEXITIES OF THE ISSUES ARE JUST AS MR. BROWN HAS DRAMATIZED. ONE AREA THAT THERE IS NO CLEAR AGREEMENT ON AND ONE AREA IN WHICH THERE INDEED NEEDS TO BE NOT ONLY AN OPPORTUNITY TO SPEAK AS YOU LISTEN, BUT IN FACT TO HAVE AN OPPORTUNITY TO HAVE A KNOWLEDGEABLE BY-LINE OPEN AND I WOULD SUGGEST THAT A CRITICAL PART OF YOUR FIDUCIARY RESPONSIBILITY IS IN FACT TO HEAR FROM THE PEOPLE WHO HAVE TO DO THE WORK ON A DAY-TO-DAY BASIS, DAY IN AND DAY OUT, NOT ONLY FROM THE FOLKS, BUT FROM THE MEMBERS OF THE PRIVATE BAR WHO ARE GATHERED HERE ALONG WITH THE PERSONS WHO ARE ELIGIBLE FOR LEGAL SERVICES PROGRAM GRANTS AND PROVIDED DAY IN AND DAY OUT ON A HIGH-QUALITY BASIS.

I WOULD SUGGEST TO YOU IN THIS AREA YOU ARE RUNNING AFOUL OF THE VERY RIGHT OF FREEDOM OF ASSOCIATION; THAT THE REALITY IS THERE IS NO LEGITIMATE BASIS FOR YOU TO ATTEMPT TO OBSTRUCT MEMBERSHIP IN THE DIFFERENT

ORGANIZATIONS SUCH AS MY OWN, PROJECT ADVISORY GROUP OR OTHER ORGANIZATIONS AND YOUR REGULATIONS ARE TRIGGERED BY A DESIRE TO STIFLE OUR ORGANIZATION AND OTHER ORGANIZATIONS FROM OFFERING DIFFERENT VIEWPOINTS ON YOUR PROPOSED POLICIES AND ACTIVITIES.

I SUGGEST CONTRARY TO YOUR ATTEMPTING TO DO THAT THAT IN FACT WHAT YOU SHOULD BE DOING IS PROMOTING PUBLIC INPUT AND TRYING TO HEAR FROM MY ORGANIZATION AND THE MULTIPLE NUMBER OF OTHER VOICES IN THE LEGAL SERVICES.

TO ARBITRARILY ESTABLISH A 20-MINUTE TIME LIMIT IS ABSURD. YOU HAVE A RESPONSIBILITY TO LISTEN, THAT'S THE ONLY WAY THAT I FEEL THAT YOU CAN HONORABLY FILL YOUR DUTY TO PROPERLY PERFORM YOUR BOARD RESPONSIBILITIES. UNFORTUNATELY, ALTHOUGH WE'RE HERE, WE'RE SPEAKING, I THINK WE'RE SPEAKING IN VERY CLEAR AND UNDERSTANDABLE TERMS, YOU MAY IN FACT PROCEED TO TAKE ACTION, I HOPE THAT YOU WON'T BECAUSE SEVERAL PEOPLE HAVE ALREADY EXPRESSED A DESIRE FOR YOU TO DELAY.

I WOULD ASK YOU, WHAT IS THE CONGRESSIONAL AUTHORITY FOR YOU TO ACT? AND I ASK YOU THAT REALIZING THAT THERE IS NO ANSWER THAT YOU CAN GIVE BECAUSE THERE IS NO REGULATION, NO CONGRESSIONAL AUTHORITY.

I WOULD SIMPLY SAY TO YOU THAT IF, UNFORTUNATELY, YOU DECIDE TO RUSH TO JUDGMENT, THEN SIMPLY WE WILL HAVE TO CONSIDER EVERY OPTION AT OUR DISPOSAL,

INCLUDING LITIGATION; AND I THINK THAT ALTHOUGH YOU MAY FEEL THAT YOU'VE ONLY HAD 20 MINUTES TO DELEGATE TO US THAT A JUDGE IN THE COUNTRY SOMEWHERE WILL LISTEN TO US AND GIVE US THE NECESSARY TIME TO HEAR OUR POINTS AND IDEAS AND IN FACT WE WILL PREVAIL.

THANK YOU.

(CLAPPING.)

MR. MC CARTHY: THANK YOU, JODY.

JIM, DO YOU WANT TO ADDRESS THIS QUESTION? I JUST WANTED ON TIME-WISE, I JUST WANTED TO KNOW HOW MANY MORE WOULD LIKE TO DISCUSS THIS ISSUE? ONE, TWO, THREE, FOUR -- OUR 20 MINUTES IS UP.

A SPEAKER: WE DON'T FEEL CONSTRAINED BY YOUR 20-MINUTE DEADLINE.

MR. MC CARTHY: I'M VERY APPRECIATIVE OF THAT.

A SPEAKER: I AM NOT APPRECIATIVE OF THE WAY YOU'RE RUNNING THIS.

MR. MC CARTHY: THANK YOU.

A SPEAKER: I INTEND TO SPEAK, IF IT'S BEYOND YOUR 20-MINUTE TIME LIMIT, THAT'S TOO BAD.

MR. MC CARTHY: AS I POINTED OUT, THIS HAS BEEN SUBJECT TO PUBLIC COMMENT AND MANY, MANY COMMENTS FROM THE AUDIENCE OVER A SERIES OF MEETINGS WE HAVE HELD HAVE BEEN GIVEN AND UNFORTUNATELY THERE IS A TIME STRICTURE

ON US AND WE HAVE TO GET ON WITH THIS MEETING. I WILL ENTERTAIN ONE MORE COMMENT WHICH WILL BE NOT LONGER THAN FIVE MINUTES.

A SPEAKER: LEE MEYERS, REGIONAL CHAIRPERSON FOR THE NATIONAL CLIENTS COUNCIL, WHICH IS WHERE YOU'RE MEETING AT, AS WELL AS THE CHAIRPERSON FOR THE CLIENTS COUNCIL OF CALIFORNIA.

TO MAKE IT BRIEF AND SHORT, I NOT ONLY THINK YOU SHOULD DEFER, I THINK YOU SHOULD VOTE DOWN THIS PARTICULAR THING AT THIS TIME. THE CLIENTS TO WHICH THIS PROGRAM BELONGS TO, THE VARIOUS ORGANIZATION, IT'S THE ONLY WAY WE CAN HAVE TRUE EXCHANGE OF INFORMATION FROM AROUND THE COUNTRY WITH OUR ATTORNEYS AND PARALEGALS HAVING THE BEST INFORMATION IN FRONT OF THEM FOR THE DEFENSE OF THE CLIENTS NOT BELONGING TO THESE ORGANIZATIONS, IT ALLOWS FOR A NUMBNESS TO COME IN OF EXCHANGE AND I DO HOPE THAT YOU WILL JUST VOTE IT DOWN TODAY. THANK YOU.

MR. MC CARTHY: THANK YOU, SIR.

(CLAPPING.)

A SPEAKER: PURE AND SIMPLE, THIS IS A COMPLETELY AND TOTALLY POLITICALLY MOTIVATED ACTIVITY BY THIS BOARD TO DISENFRANCHIZE THOUSANDS OF PEOPLE WHO BELONG TO ORGANIZATIONS WHO HAVE DEMONSTRATED IN UNBELIEVABLE COMMITMENT AND UNDERSTANDING OF THE ISSUES IN THE LEGAL SERVICES COMMUNITY WHICH, FRANKLY, I DON'T BELIEVE YOU AS BOARD MEMBERS AND MR. BOGARD AS PRESIDENT OF THE CORPORATION, MR. BROWN BEFORE

RAISED SOME VERY, VERY SERIOUS ISSUES AND WE SHOULD REALLY GET TO IT.

MR. HARTLEY DIDN'T KNOW WHAT THE APPROPRIATE ANSWER WAS. WHEN THE BOARD CONFERRED, AND SAW THAT THEY COULDN'T RESPOND INTELLIGENTLY AND APPROPRIATELY TO MR. BROWN'S COMMENTS, THEY DECIDED TO SAY VERY POLITELY: THANK YOU FOR YOUR COMMENTS, WE'VE CONSIDERED THEM.

MR. LUMUMBA MENTIONED THE FACT THAT AND ANSWERED THE QUESTION: WHAT IS THE URGENCY? WHERE IS THIS CONGRESSIONAL MANDATE ABOUT WHICH YOU SPEAK THAT THERE IS A FEELING THIS ACTION MUST BE TAKEN TODAY? THE ONLY REASON IT MUST BE TAKEN TODAY, IN OUR JUDGMENT, IS BECAUSE IT'S A POLITICALLY-MOTIVATED ACT, AND YOU'RE ATTEMPTING TO CUT OFF THE CONSTANT DIALOGUE THAT THE LEGAL SERVICES COMMUNITY IS GOING TO FORCE ON THIS BOARD AND YOUR SUCCESSORS.

I WOULD LIKE TO KNOW NOW, YOU SAID IT WAS APPROPRIATE 15 MINUTES AGO OR AN HOUR AGO TO SPEAK ON AN INDIVIDUAL ITEM, ITEM B, DEFERRAL, WHY IS THIS BOARD NOT CONSIDERING DEFERRAL ON THIS ITEM? IF YOU ARE NOT CONSIDERING IT AND CLEARLY YOU HAD DISCUSSIONS OUTSIDE THIS PUBLIC MEETING BECAUSE YOU MENTIONED THERE WAS A DISCUSSION, I DIDN'T HEAR THE DISCUSSION.

IF IN FACT YOU'VE DECIDED NOT TO DEFER, PLEASE ENLIGHTEN US AS TO WHAT THE URGENCY IS. IT IS A PURELY POLITICAL ACT, RUSHING TO JUDGMENT ON THIS ISSUE.

AS A CLASSIC EXAMPLE OF THE POLITICAL MOTIVATION OF THIS BOARD ON ALL ISSUES, THERE IS NO REASON TO ACT, YOU SHOULDN'T ACT, AND THE LEGAL SERVICES COMMUNITY, REGARDLESS OF WHAT YOU DO TODAY, WILL NOT TOLERATE YOUR ACTIONS

NOW I WOULD LIKE AN ANSWER TO MY QUESTION, IF I MAY, WHY IS THE DECISION BEING MADE TODAY, IF THERE IS A DECISION TO BE MADE, AND WHAT'S THE REASON FOR NOT DEFERRING ACTION ON THIS ITEM; WHAT'S THE GREAT URGENCY?

THESE ARE THE EASY QUESTIONS; THE HARD ONES WILL COME LATER, BY THE WAY.

(BOARD MEMBERS CONFERRING.)

MR. MC CARTHY: THANK YOU, JIM (BRAUDE) FOR YOUR COMMENTS.

THE ANSWER TO YOUR TWO QUESTIONS IS OBVIOUS. I'VE ALREADY ANSWERED THEM AND I DO APPRECIATE YOUR COMMENTS.

MR. BRAUDE: IT'S NOT ACCEPTABLE. I DON'T THINK THERE'S ONE PERSON IN THIS ROOM -- YOU SAY I UNDERSTAND -- I HAVE NO IDEA WHAT THE REASON IS THAT YOU'RE NOT DEFERRING ACTION, EXCEPT WITH YOUR STATEMENT ABOUT THIS BROAD, RHETORICAL CONGRESSIONAL MANDATE, THERE'S NO FACTUAL REASON FOR YOU TO HAVE TO TAKE ACTION; I WOULD LIKE TO HEAR THE REASON FROM ANY OF THE FIVE OF YOU, INCLUDING MR. BOGARD.

MR. MC CARTHY: THANK YOU. I DO NOT BELIEVE IT IS IN ORDER, YOU'VE ALREADY HEARD MY ANSWER AND YOU ARE CONSUMING TIME THAT OTHER PEOPLE MAY WISH TO MAKE COMMENTS

AND --

MR. BRAUDE: CAN WE POSSIBLY HEAR FROM ANYONE ELSE ON THE BOARD?

MR. MC CARTHY: I'M SURE IF THE BOARD WANTS TO STEP FORWARD, THEY WILL FEEL FREE TO DO SO. AGAIN, JIM, YOU'VE ALREADY BEEN MOST HELPFUL, I THINK THERE'S A GENTLEMAN BEHIND YOU.

MR. BRAUDE: ALL I WILL SAY IS THAT IT'S IN SETTINGS LIKE THESE THAT HAVE GIVEN THE CURRENT LEADERSHIP THE REPUTATION THAT IT FULLY DESERVES. THANK YOU.

A SPEAKER: THANK YOU, MR. MC CARTHY, FOR ALLOWING ME TO SPEAK. MY NAME IS RANDAL CHAPMAN, I AM WITH THE LAW STATE SUPPORT UNIT IN PENNSYLVANIA -- PHILADELPHIA, PENNSYLVANIA. I CAME HERE BECAUSE OF THE CHANGES IN THE BOARD BOOKS THAT CAME FROM SALT LAKE CITY THAT SPECIFICALLY INCLUDED STATE SUPPORT FUNDING.

IN THE FEES AND DUES REGULATIONS WE DID NOT SUBMIT COMMENTS BECAUSE INITIALLY WE NEVER VIEWED THAT WE ARE COVERED BY THIS REGULATION. WE HAVE MANY STATE SUPPORT PROGRAMS, INCLUDING MY OWN, OF LONG STANDING, WRITTEN CONTRACTUAL RELATIONSHIPS OR SUCCESSOR AND INTEREST AGREEMENTS THAT CARRY US BEYOND JANUARY, 1984.

BECAUSE OF THE DIALOGUE WITH MR. MC CARTHY, I'M EVEN MORE CONFUSED NOW AS TO WHAT OUR PROSPECTS FOR FUTURE FUNDING IS, AND WHAT THE BOARD'S INTENTION IS IN THAT REGARD --

THE BOARD'S INTENTION IN THAT REGARD IS. I WOULD SPECIFICALLY ASK THE LEGAL SERVICES CORPORATION, DO WE HAVE NEW REFUNDING APPLICATIONS THIS YEAR, SPECIFICALLY, WITH THE SPECIFIC QUESTIONS FOR STATE SUPPORT AND OTHER SUBCONTRACTS AND OTHER GRANTEES?

WHY ARE THESE QUESTIONS ASKED? WHAT IS THE PURPOSE FOR IT? IF IT IS NOT THE INTENT OF THE CORPORATION BY ITS APPROVAL OF THE GRANT TO INCLUDE THE FUNDING FOR THE STATE SUPPORT UNITS THAT ARE WITHIN THOSE GRANTS; SPECIFICALLY, WE INCLUDED A NARRATIVE STATEMENT, WE TYPICALLY INCLUDE BUDGET INFORMATION, WORD COMPOSITION INFORMATION, ALL THE SAME TYPE OF INFORMATION THAT IS INCLUDED IN THE LARGER GRANTEE ORGANIZATIONS.

WHAT MORE DO YOU WANT? WHAT MORE DO YOU NEED?

MR. HARTLEY: IN THE TREMENDOUS FUNDING APPLICATIONS, WE WERE LOOKING AT THE OVERALL PLAN OF THE ACTUAL RECIPIENTS OF THE FUNDS. THE PURPOSE OF THIS REGULATION WOULD ALLOW US TO MONITOR PERFORMANCE OF THE PROGRAM. THE PROPOSED CONTRACT IN RELATIONSHIP WITH THE SUBMANAGERS -- THERE'S NO REASON IT WON'T BE TAKEN CARE OF IN A FAIR AND EASY AND EXPEDITIOUS MANNER. WE FULLY INTEND TO REFUND THE 67 GRANTEES. WE ARE USING THE REFUNDS TO MAKE OUR -- WITHOUT THE FULL RANGE CARRIED ON BY --

MR. CHAPMAN: ARE YOU SUGGESTING THAT THE EXISTING STATES, THE EXISTING PROGRAMS SHOULD BE ALREADY

MOVING TO FILE SOME AUTHORIZATION FOR APPROVAL IMMEDIATELY?

MR. HARTLEY: SURE.

MR. CHAPMAN: AND COULD I ASK, DOES THE LEGAL SERVICES CORPORATION INTEND TO HONOR THE EXISTING CONTRACTUAL RELATIONSHIP BETWEEN THE BROADER PROGRAMS AND THE DELICATE AGENCIES?

MR. HARTLEY: IF THERE'S AN EXISTING CONTRACT, WE ARE NOT ENTERING INTO A NEW CONTRACT. IN MOST CASES, IF IT'S BEEN APPROVED BY THE CORPORATION PREVIOUSLY IN SOME FORM, IT WILL HAVE TO BE HONORED AS LONG AS THAT CONTRACT --

THE SPEAKER: FOR THE PERIOD OF THE CONTRACT?

MR. HARTLEY: FOR THE PERIOD OF THE CONTRACT.

MR. MC CARTHY: MR. CHAPMAN, WOULD YOU PAUSE FOR A SECOND?

MR. SANTARELLI: THERE IS SOME BELIEF THAT THE BOARD DOESN'T HEAR VERY WELL. YOU HAVE SOME MERIT TO THE QUESTION YOU HAVE RAISED AND WE THANK YOU FOR CALLING IT TO OUR ATTENTION. WITH EVERYONE'S INDULGENCE, WE WILL NOT TAKE ANY FINAL ACTION ON THIS PROPOSED FINAL RESOLUTION UNTIL LATER IN THE DAY WHEN WE'VE HAD A CHANCE TO REVIEW WHETHER A CLARIFYING AMENDMENT TO THAT REGULATION IS IN ORDER TO SOLVE THAT PROBLEM. IT'S A LEGITIMATE COMPLAINT AND WE THANK YOU FOR YOUR COMMENTS, THEY HAVE BEEN OF USEFUL PURPOSE.

A SPEAKER: MR. MC CARTHY, AM I BEING CUT OFF? MY NAME IS WILLIE COOK AND I'M EXECUTIVE DIRECTOR FOR THE

NEIGHBORHOOD LEGAL SERVICES PROGRAM IN WASHINGTON, D.C.

I CAME OUT HERE BECAUSE, NOT BECAUSE I THINK THAT THERE IS VERY MUCH THIS COMMUNITY CAN DO IN TERMS OF CHANGING YOUR COLLECTIVE MINDS ABOUT SOME OF THE REGULATIONS THAT HAVE BEEN PROPOSED AND SOME OF THE INSTRUCTIONS THAT HAVE BEEN PROPOSED, AND I THINK THE SPEAKER THAT PRECEDED ME ON THIS PARTICULAR ISSUE, PARTICULARLY THE GENTLEMAN, I THINK HIS NAME WAS MR. BROWN, WHO RAISED SOME VERY SERIOUS QUESTIONS ABOUT SUBGRANTS WHICH MR. HARTLEY SIMPLY WAS NOT ABLE TO ANSWER.

I THINK ALSO, MR. MC CARTHY, IN TERMS OF YOUR CONDUCT OF THIS MEETING, WHEN PEOPLE COME TO THE MICROPHONE AND RAISE QUESTIONS ABOUT REGULATIONS, THINGS THAT ARE TROUBLING US IN THE COMMUNITY, AND WHEN YOU IN YOUR VERY GRACIOUS MANNER, AND I WILL GRANT YOU THAT YOU ARE VERY GRACIOUS IN RUNNING THE MEETING IN THAT RESPECT, BUT IT SHOWS WHEN YOU GIVE THE KIND OF RESPONSES THAT YOU'VE BEEN GIVING, THAT THIS BOARD, AND MOST PARTICULARLY THE STAFF, IS NOT AT ALL INTERESTED IN WHAT WE HAVE TO SAY, AND YOUR CONSIDERATIONS OF THE PROBLEMS THAT WE HAVE ON A LOCAL LEVEL IN TRYING TO RUN A MOST DIFFICULT SERVICE TO OUR CLIENT ARE JUST THWARTED.

THERE ARE SOME OF US WHO GET PARTICULARLY PERTURBED WHEN WE HEAR THAT KIND OF RESPONSE FROM YOU AND FROM GREGG HARTLEY AND FROM MR. BOGARD. WE ARE NOT, AT LEAST I AM NOT, OF A MOOD TO BE EQUALLY GRACIOUS, IN TERMS OF MY

COMMENTS WHEN I SEE A BOARD AND A STAFF BASICALLY IS RUNNING ROUGHSHOD OVER US IN THE LEGAL SERVICES COMMUNITY.

IF YOU WERE SERIOUS ABOUT YOUR FIDUCIARY DUTIES AS YOU STATED EARLIER IN YOUR COMMENTS, IT WOULD SEEM TO ME THAT THERE WOULD BE NO POSSIBLE WAY THAT YOU COULD IN GOOD CONSCIENCE DEAL WITH THE KIND OF AGENDA THAT YOU HAVE HERE TODAY WITH THE MANY ISSUES INVOLVED -- THERE ARE POLICY QUESTIONS, QUESTIONS ON THIS AGENDA IN THIS DAY AND A HALF WHICH YOU COULD NOT EVEN DO A DECENT JOB ON EVEN IF THERE WAS NOTHING BUT SERIOUS DIALOGUE AMONG THE BOARD MEMBERS, NOT TO MENTION COMMENTS AND CRITICISM FROM THIS AUDIENCE.

WE DON'T THINK ON THIS PARTICULAR REGULATION THAT YOU OUGHT TO GO FORWARD AT ALL ON THE REGULATION. IT IS VERY CLEAR FROM ALL THE DISCUSSIONS THAT HAVE TAKEN PLACE EARLIER ON THIS PARTICULAR POINT BEFORE MR. MC GEE'S COMMITTEE, AS I REMEMBER, THAT THE SOLE MOTIVATION OF THIS REGULATION THAT WAS WRITTEN BY JOHN MEYERS CONCURRED IN BY SWENDIMAN, BOGARD AND HARTLEY, THE SOLE MOTIVATION OF THAT PARTICULAR REGULATION IS TO SEPARATE THIS COMMUNITY, ISOLATE THIS COMMUNITY AND KEEP US FROM TALKING TO EACH OTHER IN DEALING WITH THE PROBLEMS THAT THIS BOARD POSES FOR US ON A LOCAL LEVEL.

AND WE THINK THAT ON THIS PARTICULAR REGULATION YOU OUGHT NOT TO GO FORWARD; WE THINK IT IS ANOTHER EXAMPLE OF POLITICAL INTRUSION BY THIS PARTICULAR BOARD AND

PARTICULARLY BY THIS STAFF AND THE INTERNAL OPERATIONS OF THE LOCAL LEGAL SERVICES PROGRAM.

I, FOR ONE, IN DC DO NOT THINK THAT MR. BOGARD HAS THE EXPERIENCE, THE KNOWLEDGE, THE SENSITIVITY TO KNOW WHAT IS GOOD FOR NEIGHBORHOOD LEGAL SERVICES IN WASHINGTON, D.C CERTAINLY NOT THE CLIENTS IN THE NEIGHBORHOOD LEGAL SERVICES IN WASHINGTON, D.C.

I THINK MY BOARD THINKS THAT I'M A MUCH BETTER JUDGE OF THAT THAN YOU OR MR. HARTLEY OR ANYBODY ELSE ON THAT STAFF, BECAUSE NONE OF THEM, NONE OF YOU, WITH THE EXCEPTION OF JOHN, HAS ANY HISTORY AT ALL IN OPERATING, DIRECTING LEGAL SERVICES TO POOR PEOPLE IN THIS COUNTRY, AND I WOULD LIKE TO KNOW HOW WITH THOSE LACK OF CREDENTIALS CAN YOU COME UP WITH A KIND OF REGULATION SUCH AS MEMBERSHIP FEES AND DUES? IT SHOWS INSENSITIVITY TO THE PEOPLE OF CONCERN IN THIS COMMUNITY. WE DO NOT PLAN TO SIT BACK HERE WHILE YOU SMILE AND SAY, THANK YOU VERY MUCH FOR YOUR COMMENTS, BECAUSE WE ARE ENRAGED OF THE ACTIVITY OF THIS BOARD AND STAFF. WE DO NOT PLAN TO SIT BY AND PLAN TO ABIDE BY YOUR 20-MINUTE TIME LIMIT ON ISSUES AS IMPORTANT AS THIS ONE.

MR. MC CARTHY: THANK YOU, WILLIE, YOUR COMMENTS ARE ALWAYS WELL RECEIVED.

MR. COOK: I'M SURE THEY ARE.

MR. MC CARTHY: AS YOU CAN ASCERTAIN, WE HAVE A RATHER DILUTED -- I DO BELIEVE YOUR COMMENTS ARE WELL TAKEN,

I HAD NOT ANTICIPATED THE ISSUE OF PUBLIC COMMENT AS MUCH BECAUSE WE HAVE HAD PUBLIC COMMENT ON THIS TWICE BEFORE AND WRITTEN COMMENTS, SO IN MY ALLOCATION OF TIME I SHORTENED THIS, BUT I HAD MORE TIME TO ALLOW TO OTHER ISSUES, MY GAUGE, I GUESS IT WAS WRONG, SO I THINK WE WILL CONTINUE THEN WITH COMMENTS.

PLEASE IDENTIFY YOURSELF, SIR.

MR. CORDOVA: LEROY CORDOVA, CHAIRPERSON OF PROJECT ADVISORY GROUP, ALSO PRESIDENT OF LEGAL SERVICES IN FRESNO, CALIFORNIA.

JUST AS A PRELIMINARY MATTER, I THINK AS POINTED OUT EARLIER, THE REGULATION HAS CHANGED SUBSTANTIALLY IN THE PERIOD OF TIME SINCE IT WAS ORIGINALLY PUBLISHED AND FROM THE TIME THAT YOU RECEIVED COMMENT, AND I THINK IT IS FOR THAT REASON THAT PEOPLE FEEL THE NEED TO CONTINUE TO COMMENT. THINGS HAVE BEEN DELETED FROM THE REGULATION AND THINGS HAVE BEEN ADDED TO THE REGULATION.

ONE THING THAT HASN'T CHANGED, THAT IS, WHAT THE INTENT OF THIS REGULATION IS. IT'S BECOMING CLEARER NOW WITH REGARD TO THE STATE SUPPORT ISSUE, IT'S ALWAYS BEEN CLEAR WITH REGARD TO THE FEES AND DUES ISSUE, AND AS MR. COOK SAID, IT'S PRETTY CLEAR TO US, WE SEE VERY CLEARLY THAT IT IS AN ATTEMPT TO DO AWAY WITH THE ORGANIZATION THAT SPEAKS NATIONALLY TO YOU FROM THE LEGAL SERVICES COMMUNITY.

AS I SAID EARLIER, I REPRESENT THE PROJECT

ADVISORY GROUP, AN ORGANIZATION OF ALMOST 300 OF THE LEGAL SERVICES PROGRAMS THAT YOU FUND. THE PROJECT ADVISORY GROUP HAS EXISTED WELL WITH THE LEGAL SERVICES CORPORATION -- FOR MANY YEARS PRIOR TO THE NEW REGIME, WE WORKED WELL AND CONTRIBUTED WELL FROM THE EARLY NIXON ADMINISTRATION, TO FORD, TO THE CARTER BOARD. WE WORKED WELL WITH THE CORPORATION AND THEY SOUGHT OUR INPUT, WE GAVE THEM INPUT, WE RECEIVED IT -- IT WAS CONSIDERED AND WE WERE PART OF THE PROCESS, NOT ONLY WITH REGARD TO FUNDING ISSUES, BUT MANY OTHER ISSUES.

WITH RESPECT TO -- WE WERE INVOLVED WITH THE LEGAL SERVICES CORPORATION AND THE AMERICAN BAR ASSOCIATION AND OTHERS IN DRAFTING REGULATIONS. THE FIELD IS CONSPICUOUSLY ABSENT FROM ANY DECISION YOU HAVE UNDERTAKEN AND I SUGGEST THAT ONE OF THE WAYS TO AVOID THE KIND OF THING YOU'RE EXPERIENCING HERE TODAY FROM THE LEGAL SERVICES COMMUNITY IS IN FACT TO HAVE INVOLVED US WHEN THESE REGULATIONS ARE BEING DRAFTED SO WE CAN UNDERSTAND FROM THE VERY BEGINNING WHAT UNDERLIES THEM AND THE REASON AND RATIONALE FOR IT.

WE DON'T UNDERSTAND THAT HERE. IF YOU HAVE IT IN YOUR HEADS, WE'RE NOT UNDERSTANDING WHAT IT IS. IT'S EITHER ABSENT OR A TREMENDOUS LACK OF COMMUNICATION THAT CAN BE OVERCOME IN THE MEETING SETTING LIKE THIS. WE UNDERSTAND WELL THAT WE ARE A THORN IN YOUR SIDE.

THE PROJECT ADVISORY GROUP, NLADA, ANY GROUP

THAT EXISTS THAT IS SO CRITICAL OF WHAT YOU DO IS GOING TO BE A THORN IN YOUR SIDE AND IT WOULD BE EASIER FOR YOU IF WE FOLDED UP OUR TENT AND WENT IN. I SUGGEST EVEN IF YOU ADOPT, THE PROJECT ADVISORY GROUP WILL NOT, AND NLADA WILL NOT FOLD UP AND DRY AWAY.

I SHOULD POINT OUT THAT WERE IT NOT FOR THE ORGANIZATIONS LIKE THE NATIONAL LEGAL AID DEFENDERS LIKE THE PROJECT ADVISORY GROUP, LIKE THE COLLEAGUES WORKING IN WASHINGTON, LEGAL SERVICES WOULD PROBABLY HAVE 35 MILLION DOLLARS LESS TO MAKE SERVICES AVAILABLE NEXT YEAR FOR THE POOR IN THIS COUNTRY, WERE IT NOT FOR THOSE ORGANIZATIONS.

THE CORPORATION THROUGH ITS OWN EFFORTS SOUGHT ONLY A VERY LOW AMOUNT OF $257,000, THE FIGURE THAT IS BEFORE THE CONGRESS TODAY IS SIGNIFICANTLY ABOVE THAT AND WE ARE AN IMPORTANT PART OF THAT COMMUNITY. YOU OUGHT TO BE FOSTERING COMMUNICATIONS WITH US, PARTICIPATION WITH US, RATHER THAN SIMPLY TRYING TO THINK OF AND PROVIDE A CAVEAT IN THE REGULATIONS THAT YOU WILL SOMEHOW MAGICALLY MAKE US DISAPPEAR. WE DON'T DISAPPEAR, MR. MC CARTHY.

(CLAPPING.)

MR. MC CARTHY: THANK YOU. ANY MORE PUBLIC COMMENTS?

THANK YOU ALL FOR YOUR INPUT AND, LEROY, I DO SPEAK PERSONALLY FOR MYSELF AND FOR THE BOARD. I HAVE NO INDICATION OF ANY THORN IN MY SIDE. WE RESPECT YOU. WE

CONSIDER WHAT YOU SAY AND I THINK YOU TOOK SOMETHING INTO FACTUAL EVIDENCE OF WHAT WE PUT ON THE RECORD, SO I DO WANT TO SQUARE THAT AWAY, I WANT TO ASSURE YOU PERSONALLY, I THINK ALSO I SPEAK FOR THE OTHER BOARD MEMBERS, I THINK THAT IS AN ASSUMPTION THAT IS NOT FOUNDED ON FACT. WE DO APPRECIATE ALL YOUR INPUT. I THINK MR. SANTARELLI'S INPUT IS THAT WE DEFER CONSIDERATION OF AN ADOPTION OF THIS RESOLUTION UNTIL A LATER TIME OF THIS MEETING OR MAYBE AT THE SUGGESTION OF THE STAFF. THE PROBLEMS YOU RAISED ARE REAL PROBLEMS AND WE DO APPRECIATE IT, AND I'M A LITTLE BIT CONCERNED THAT THIS MATTER WASN'T MORE FULLY ADDRESSED AT OUR PRIOR INPUT FROM THE GENERAL PUBLIC. I THINK THE GENERAL CONSENT OF THE BOARD IS THAT WE WILL THEN DEFER THIS ACTION UNTIL SOME TIME LATER IN THIS MEETING.

MR. SANTARELLI: WITH THE PERMISSION OF THE BOARD, I DON'T QUITE UNDERSTAND THE STATEMENT THAT THERE IS NOT ENOUGH OPPORTUNITY FOR A FORMAL INTERCOURSE IN THE DEVELOPMENT OF REGULATIONS BY THE STAFF. IT HAS BEEN MY UNDERSTANDING AND ALSO THIS BOARD'S INSTRUCTION TO THE MANAGEMENT OF THE CORPORATION THAT THE MAXIMUM AMOUNT OF THIS TYPE OF GIVE AND TAKE OCCUR BEFORE THESE REGULATIONS REACH THE LEVEL OF BOARD ACTION, THAT'S THE REASON FOR THE SEVERAL PUBLICATIONS.

IF THERE IS SOME REASON OR SOME PROBLEM THAT INDIVIDUAL CONSTITUENT ISSUES OF THIS WORTHY PROJECT IN

GETTING THROUGH TO THE STAFF, THEN THAT'S WHAT WE OUGHT TO HEAR; BUT NOT THE COMPLAINTS AT THE LAST MINUTE FOR FAILURE OF NOT HAVING EXERCISED THE INITIATIVE. I, FOR ONE, AM DISAPPOINTED THAT WE WOULD HAVE A "LITCH" AS WE DID WITH RESPECT TO THESE ONGOING CONTRACTS AND WITH RESPECT TO DEALING WITH THAT ISSUE. WITH RESPECT TO MR. CHAPMAN, WHO RAISED THE ISSUE THOUGHTFULLY, TO TAKE IT UP WITH OUR STAFF INFORMALLY AS AN ASIDE, WHILE ANOTHER ASPECT OF THE MEETING IS GOING ON, I HAVE BEEN GIVEN SOME DRAFT LANGUAGE, I DON'T KNOW, I DON'T KNOW THAT IT MAKES SENSE TO JUST READ IT TO THE GROUP UNTIL MR. CHAPMAN IS SATISFIED WITH HIS QUESTIONS, IF HE'S SATISFIED, PERHAPS WE CAN EXPEND AN ENORMOUS AMOUNT OF TIME, BUT I WOULD ASK MR. CHAPMAN IF HE WOULD STEP UP HERE WITH OUR COUNCIL STAFF AND SEE IF THE LANGUAGE THAT'S BEEN DRAFTED IS SUITABLE WITH HIM.

A SPEAKER: I DON'T KNOW WHO, MAYBE MR. BROWN RAISED THAT TOO; I THOUGHT IT WAS MR. CHAPMAN --

MR. SANTARELLI: I'M SORRY.

A SPEAKER: I WOULD ASSUME THAT THERE ARE PEOPLE BEYOND MR. BROWN AND MR. CHAPMAN WHO ARE CONCERNED ABOUT THIS. I WOULD JUST LIKE TO BE CLEAR. ANY DISCUSSION THAT THE BOARD WILL BE HAVING ABOUT THE RESOLUTION ON THIS ISSUE, WHETHER IT'S TO DEFER, WHETHER IT'S TO ADOPT, WHETHER IT'S TO AMEND, I ASSUME WILL BE HELD IN PUBLIC SESSION IN FRONT OF ALL OF US, WILL IT NOT?

MR. MC CARTHY: THAT IS CORRECT.

THE SPEAKER: THANK YOU.

MR. MC CARTHY: HAVING DEFERRED ACTION ON THIS AT THIS PARTICULAR TIME, WE'LL PASS ONTO THE NEXT REGULATION AND I THINK, ALAN, IF YOU WOULD GIVE US THE BENEFIT OF YOUR COMMENTS.

MR. SWENDIMAN: NEXT FOR THE BOARD'S CONSIDERATION IS SECTION 1625 DEALING WITH THE DENIAL OF REFUNDING. THIS REGULATION IS QUITE SIMILAR TO THE PROPOSED -- CAN YOU ALL HEAR BACK THERE?

THE AUDIENCE: WE CAN'T HEAR.

MR. SWENDIMAN: THIS PROPOSAL IS QUITE SIMILAR TO THE PROPOSED VERSION -- ITS PURPOSE IS TO STREAMLINE THE PROCESS IN TERMS OF DENIAL OF REFUNDING WHICH HAS TAKEN ANYWHERE FROM SIX TO NINE MONTHS AND A GREAT DEAL OF EXPENDITURE OF MONEY, IN TERMS OF THE DENIAL PROCESS.

SEVERAL OTHER CHANGES ARE MADE IN RESPONSE TO PUBLIC COMMENT AND I WILL REFER TO THE SIGNIFICANT CHANGES.

FIRST OF ALL, ON 1625.7(C) A NEW SENTENCE HAS BEEN ADDED ALLOWING A RECIPIENT TO DISCOVER DOCUMENTS AND REQUIRE PRODUCTION OF WITNESSES FROM A PROPOSED ALTERNATE RECIPIENT, AS WELL AS FROM THE CORPORATION IN PROVIDING UNDER 1625.3(B).

THE SECOND CHANGE IS WITH REGARD TO SECTION 1625.11 OF THE TIME FOR SEEKING REVIEW OF AN ADVERSE

DETERMINATION BY THE HEARING OFFICER IS INCREASED FROM FIVE TO TEN DAYS. IN RESPONSE TO COMMENTS THAT FIVE DAYS WAS TOO SHORT A PERIOD OF TIME.

IN ADDITION, THERE ARE SOME SMALLER CHANGES, SECTION 1625.1, AS WELL AS 1625.5, THE WORD "FULL" HAS BEEN INSERTED IN THE DESCRIPTION OF THE HEARING IN RESPONSE TO THE COMMENT SO THAT IT READS:

"A FULL AND FAIR HEARING . . . "

PARALLELING THE WORDS OF THE STATUTE.

IN 1625.2 THE WORDS, "SAME CLASS," ARE SUBSTITUTED FOR THE WORDS, "A CLASS," TO CLARIFY THE INTENT OF THE SECTION THAT ANY UNIFORM APPLICATION OF A STATISTICAL FORMULA IS ONLY AMONG THE MEMBERS OF THE SAME CLASS, AS WAS THE INTENT OF THE PROPOSED RULE.

AND SECTION 1625.3(B), THE WORD "INSTRUCTION" HAD BEEN ADDED TO THE PHRASE, "RULE, REGULATIONS OR GUIDELINES . . . THE ISSUANCE, THE VIOLATION -- WHICH VIOLATION CAN LEAD TO A DENIAL OF REFUNDING."

IN 1625.8(J), A TECHNICAL CHANGE IS MADE:

"A PARTY" TO NOTE A RELEVANT TRANSCRIPT ERROR, "REQUIRING A PARTY TO SERVE A COPY OF THE LETTER," MAKING THOSE "RELEVANT CHANGES UPON OPPOSING COUNSEL . . . "

AND, FINALLY, IN 1625.14 THE REIMBURSEMENT FOR ATTORNEY'S FEES IS AT THE RATE OF THE LEGAL LEVEL 5 OF THE EXECUTIVE SCHEDULE.

THOSE REFLECT THE CHANGES IN THE PROPOSAL SINCE THE PUBLICATION WHICH WAS MADE ON AUGUST 15, 1983. THAT CONCLUDES THE CHANGES AS TO SECTION 1625.

MR. MC CARTHY: THANK YOU, ALAN. WHAT I'M ABOUT TO SUGGEST NOW IS WE TAKE A BRIEF 10-MINUTE RECESS. WE'LL THEN RECONVENE IN 10 MINUTES AND REASSEMBLE, AND I WOULD ASSUME THAT THERE MAY BE PUBLIC COMMENT FOR MAYBE AN HOUR ON THIS, WHICH WILL BRING US UP TO ABOUT 12:30, AT WHICH TIME WE WILL RECESS FOR LUNCH.

SO YOU MAY KNOW WHAT I HAVE IN MIND, I THINK THAT AT THIS TIME WE'LL HAVE A BRIEF 10-MINUTE RECESS AND BE BACK HERE AT APPROXIMATELY 11:40.

(RECESS TAKEN.)

(11:45 A.M. SESSION)

MR. MC CARTHY: WE'VE HEARD THE REPORT FROM OUR GENERAL COUNSEL, ALAN, AND I WOULD LIKE THE BOARD, IF THEY HAVE ANY COMMENT WITH RESPECT TO THE FINAL REGULATION, TO PLEASE DO SO.

(NO COMMENT.)

AT THIS TIME I THINK THE CHAIR WILL ENTERTAIN A MOTION ON THE ADOPTION OF THESE FINAL REGULATIONS. WE HAVE WHICH MOTIONS BEFORE THE BOARD -- WELL, WE WILL ENTERTAIN PUBLIC COMMENT IF --

MR. SANTARELLI: I MAKE THE MOTION.

MR. BOGARD: SECOND.

MR. MC CARTHY: WE HAVE NOW PENDING A MOTION BEFORE THE BOARD. AT THIS TIME, THE BOARD WILL ENTERTAIN AND WOULD APPRECIATE ANY COMMENT.

MR. SANTARELLI: 1606 AND 1624.

A SPEAKER: MR. CHAIRMAN, I'M RESPONDING ON 1606. ONCE AGAIN, MY NAME IS ALAN GALLAGHER, ATTORNEY FROM OREGON. IF I MIGHT REMIND YOU, SOME OF YOU IN THIS STAFF MAY NOTICE, MAY HAVE NOTICED THAT IN JULY OF 1982 I FILED IN TEXAS A LAWSUIT AGAINST THE LEGAL SERVICES PROGRAM AND THE LEGAL SERVICES CORPORATION BOARD. I'VE BEEN CONNECTED WITH LEGAL SERVICES SINCE 19 -- THE 1960'S. I'M A STRONG BELIEVER IN LEGAL SERVICES AND I'M A STRONG BELIEVER IN ACCOUNTABILITY.

THE REASON FOR THAT LAW WAS BECAUSE OF DISCOVERY IN LEGAL SERVICES IN TEXAS OF SUBSTANTIAL WRONGDOING AND THE KINDS OF WRONGDOING -- THE KINDS OF THINGS WHICH LEAD TO THE NEED FOR THE KINDS OF CONTROLS YOU'RE TALKING ABOUT HERE.

AS I ALREADY COMMENTED ON THESE PROPOSED REGULATIONS IN WRITING, BUT WHAT I WOULD LIKE TO TALK ABOUT HERE IS THE REASONS WHY THERE SHOULD BE CONTROL. I WORKED FOR THREE LEGAL SERVICES PROGRAMS IN DIFFERENT CAPACITIES AND I HAD DONE OTHER ONES, YOU COULD SAY, WITHOUT EXCEPTION, I WOULD BE HAPPY TO POINT TO EACH OF THESE PROGRAMS AND POINT TO THE FACT THAT THEY HAVE BEEN ENGAGED IN SIGNIFICANT ILLEGAL ACTION. THIS INVOLVES, FOR EXAMPLE, THE OREGON LEGAL SERVICES, WHICH HAD THE GAO REPORT, WHICH I'LL REFER TO IN A MOMENT;

THE LEGAL SERVICES IN PORTLAND HOSTED WITH OTHER PARTIES -- OTHER PARTY DEFENDANTS, BESIDES THE LEGAL SERVICES CORPORATIONS LEGAL SERVICES OF PITTSBURGH, PENNSYLVANIA, AND TEXAS RURAL LEGAL SERVICES WAS INVOLVED, AN EXAMPLE OF THE -- WHAT I FIND PRESENTLY IS THAT THERE IS A LACK FOR MEANS FOR ACCOUNTABILITY IN REFERENCE TO LEGAL SERVICES, AND THAT THIS IS SOMETHING WHICH ACCOUNTS TO THE DETRIMENT OF THE POOR PEOPLE THE PROGRAM IS MEANT TO SERVE.

NOW, I THINK THAT THE REGULATIONS THAT YOU'RE CONSIDERING TODAY ARE DESIGNED TO GET AT THAT, AND TO THE EXTENT THAT THEY'RE DESIGNED TO SUPPORT LEGAL SERVICES BY MAKING THEM ACCOUNTABLE, THEN BEING ABLE TO HELP THEM FUNCTION AND SERVE THE POOR, THOSE REGULATIONS ARE GOOD. I THINK BEYOND THAT, I'VE RECOMMENDED IN WRITING THAT THERE SHOULD BE A PRIVATE RIGHT OF ACTION AGAINST LEGAL SERVICES AND LEGAL SERVICES PROGRAMS IN OTHER AREAS, AS MANY OF THE LEGAL SERVICES PEOPLE KNOW, AND AS YOU KNOW, IT REQUIRES ESSENTIALLY PRIVATE PARTIES TO ENFORCE FEDERAL LAW WHEN THE FEDERAL GOVERNMENT OR AN AGENCY SUCH AS YOURSELF HAS LIMITED RESOURCES OR LIMITED FUNDS, AS MIGHT HAVE BEEN THE CASE WITH YOUR PREDECESSORS ON THE BOARD, AND IN SOME RESPECTS PERHAPS YOURSELVES, TO REGULATE, THEN REGULATIONS WILL NOT TAKE PLACE AND ACCOUNTABILITY WILL NOT TAKE PLACE UNLESS THERE ARE ADDITIONAL MEANS FOR THE GENERAL PUBLIC.

AS YOU KNOW, THE COURTS HAVE GENERALLY HELD THAT

AT LEAST AS TO GENERAL CORPORATIONS' REGULATIONS, THERE IS NO PRIVATE RIGHT OF ACTION. THAT MEANS THAT THE WHOLE BURDEN FALLS UPON YOU AND UPON CONGRESS TO REGULATE, WHICH MAKES REGULATIONS SUCH AS YOU HAVE HERE VERY IMPORTANT. THE GENERAL ACCOUNTING REPORT WHICH CAME OUT RECENTLY WAS PASSED ON TO ME BY MEMBERS OF THE OREGON SENATORIAL COMMITTEE, SENATOR PACKWOOD AND HATFIELD AND I UNDERSTAND THEY WERE CONDUCTING THEIR OWN INVESTIGATION INTO JUST WHAT WAS GOING ON THERE.

I PASSED ON THAT REPORT TO THE OREGON LEGAL SERVICES COMMITTEE -- EXCUSE ME -- PROGRAM, TO THE GOVERNOR, WHO'S CONTINUING INVESTIGATIONS, BECAUSE THAT REPORT SPECIFICALLY FINDS THAT OREGON LEGAL SERVICES ENGAGED IN SIGNIFICANT ILLEGAL ACTIONS AS TO LOBBYING FROM CORRESPONDENCE, IN TALKING WITH THE CORPORATION THAT YOU AND OTHERS DO NOT THINK THAT ANYTHING COULD BE DONE, EVEN CONCEDING THAT THERE WAS SOMETHING WRONG AND ILLEGAL, YOU MAY BE READING OTHER CONCLUSIONS, BUT AT LEAST AS TO THE FUTURE MEANS TO BUILD IN ACCOUNTABILITY ARE NECESSARY.

I WOULD LIKE TO READ TO YOU A PARAGRAPH FROM THIS LETTER FROM SENATOR HATFIELD, DATED NOVEMBER 2, 1983. I AM READING PART OF THIS. I WOULD BE HAPPY TO SHARE THE WHOLE LETTER WITH YOU, IF YOU LIKE.

PARAGRAPH 4 OF THIS LETTER SAYS -- AND I THINK I WOULD BASICALLY ENDORSE THIS PARAGRAPH THOROUGHLY ON MY ACCOUNT.

"OUR COUNTRY HAS A CONTINUING RESPONSIBILITY TO PROVIDE VALUABLE LEGAL SERVICES TO THE POOR AND OTHER DISADVANTAGED GROUPS. YET, WHILE I HAVE SUPPORTED THE CONTINUATION OF FUNDING FOR THE LEGAL SERVICES CORPORATION, I HAVE CONCURRENTLY EXPRESSED GRAVE CONCERNS REGARDING CORPORATION POLICIES AND HAVE WORKED FOR LEGISLATIVE REFORMS TO REMEDY ABUSES."

I THINK, TO BE FAIR, HE'S REFERRING BOTH TO PREDECESSORS AND, PERHAPS, IN SOME RESPECTS, TO YOURSELVES.

"ONCE AGAIN, I BELIEVE THAT THE ACTION IS EVIDENT IN THE COMPTROLLER'S GENERAL REPORT, NOT ONLY GIVING THE LEGAL SERVICES CORPORATION A TARNISHED IMAGE, BUT THEY DETRACT FROM THE CORPORATION'S MAIN RESPONSIBILITY TO PROVIDE DIRECT LEGAL SERVICES AID TO THE POOR AND DISADVANTAGED."

RATHER THAN GO INTO A LONG ACCOUNT AS TO THE KIND OF EVILS THAT I SAW, LET ME MENTION ONE BECAUSE I THINK THIS IS AN EXAMPLE. A VERY IMPORTANT, A VERY IMPORTANT EXAMPLE KNOWN TO YOU IN OTHER AREAS.

IN, I BELIEVE THIS WAS IN CORPUS VISTA, SOME OF THESE VARIOUS THINGS WERE GOING THROUGH ADMINISTRATIVE COST, THERE WAS A HIDDEN RESERVE FUND OF A HALF A MILLION DOLLARS, AND THIS MONEY WAS IN THE BANK WHILE THE PROGRAM WAS GOING ON,

TELLING POOR PEOPLE AND OTHERS THAT THE ADMINISTRATION OR THE LFC IS HEADING OFF SERVICES TO THE POOR, AND WE CAN'T HELP YOU. AND WHILE THEY WERE SEEKING MONEY FROM THE COUNTY AND OTHER LOCAL MONEY-GIVING AGENCIES, ALL THE WHILE IN THE BANK ACCOUNT, UNBEKNOWNST TO THE PUBLIC, BECAUSE THEY WERE HAVING SECRET MEETINGS AND REFUSING TO GIVE INFORMATION, WAS A HALF MILLION DOLLARS WHICH WAS NOT BEING USED FOR THIS PURPOSE.

I THINK YOU CAN MULTIPLY EXAMPLES LIKE THIS. THE POINT OF MY REMARKS IS AN EXAMPLE LIKE THIS CAN BE MULTIPLIED IN DETAIL BECAUSE OF THESE THINGS, ACCOUNTABILITY IS NEEDED AND LACKING A PRIVATE RIGHT OF ACTION, THE NEXT BEST THING IS THE KINDS OF REGULATIONS WHICH YOU'RE TRYING TO GET AT HERE.

THANK YOU.

MR. MC CARTHY: THANK YOU VERY MUCH. YES?

A SPEAKER: MR. CHAIRMAN, MY NAME IS JEROME B. FALK, JR., I'M AN OFFICER OF THE BAR ASSOCIATION OF SAN FRANCISCO AND A MEMBER OF ITS BOARD OF DIRECTORS. I WILL SUCCEED JUDY MC KELTHY, WHO YOU HEARD FROM EARLIER, AS THE ASSOCIATION'S PRESIDENT IN DECEMBER OF NEXT YEAR.

OUR ASSOCIATION HAS SUBMITTED WRITTEN COMMENTS ON THIS REGULATION AND ALSO ON THE ELIGIBILITY REGULATION, AND I HOPE THEY WILL BE READ AND CONSIDERED. I WOULD LIKE TO MAKE A FEW ADDITIONAL REMARKS, SPEAKING TO THE REGULATION.

BY WAY OF BACKGROUND, LET ME SAY THAT WE IN

SAN FRANCISCO HAVE FOR MANY YEARS FOLLOWED WITH GREAT CONCERN THE CONTROVERSIES OVER THE NATIONAL LEGAL SERVICES PROGRAMS. ONE OF OUR EARLIEST AND MOST SERIOUS CHALLENGES TO THE PROGRAM WAS THE EFFORT TO ELIMINATE CALIFORNIA RURAL LEGAL ASSISTANCE, THAT PROGRAM, WHICH SERVES IN THIS AREA AND DID IN 1971, AND OUR ASSOCIATION SUPPORTED CRA THEN AND I PERSONALLY HAD GREAT PRIVILEGE OF REPRESENTING CRA IN THESE HEARINGS OVER SEVERAL MONTHS AS ONE OF ITS COUNSEL. THOSE HEARINGS, AS YOU WILL RECALL, EXPLORED EVERY IMAGINABLE ASPECT OF CRA'S OPERATIONS AND FOUND THE PROGRAM TO BE IN COMPLETE COMPLIANCE WITH THE NATIONAL LEGAL REQUIREMENTS THAT WERE THEN IN EFFECT.

BUT THAT TERRIBLE EPISODE WAS ITSELF A POWERFUL ARGUMENT FOR THE CREATION OF THIS CORPORATION, WHICH WE SUPPORTED. NOW, PERHAPS WE WERE NAIVE, MANY OF US THOUGHT THAT WITH THE CREATION OF THIS CORPORATION THAT THE SECURITY OF THE NATIONAL LEGAL SERVICES PROGRAM WAS SECURED. WE OBVIOUSLY DID NOT THEN ENVISION A PRESIDENT SWORN TO FAITHFULLY EXECUTE THE LAW WHO WOULD ATTEMPT TO ABOLISH THE PROGRAM BY PROPOSING A ZERO BUDGET AND LATER BY THE APPOINTMENT OF A BOARD OF DIRECTORS OF THIS CORPORATION OF SOME PERSONS WITH DEMONSTRATED HOSTILITY TO THE PROGRAM.

NOW, THE INDIVIDUALS WHO SERVED ON THIS INTERIM BOARD ARE NOT NECESSARILY RESPONSIBLE FOR ALL OF THE EVENTS THAT OCCURRED IN THE PAST AND CERTAINLY NOT FOR ALL OF THE CONCERNS WHICH WE AND OTHERS LIKE US HERE, BUT AS DIRECTORS

WITH A FIDUCIARY RESPONSIBILITY FOR THIS PROGRAM AND THIS CORPORATION YOU SURELY DO AND MUST REALIZE THAT THOSE WHO TOIL IN THE LEGAL SERVICES VINEYARD ARE DEEPLY CONCERNED AND DEEPLY DEMORALIZED AND EVEN PERSONS SUCH AS THOSE OF US IN THE SO-CALLED ESTABLISHMENT BAR WHO ARE NOT KNOWN FOR PARANOIA SHARE MANY OF THOSE CONCERNS.

WHILE WE WOULD HAPPILY SUPPORT ANY GOOD-FAITH EFFORT BY THIS BOARD AND BY THIS STAFF TO IMPROVE THE QUALITY OF LEGAL SERVICES, TO EXPAND THE QUALITY OF LEGAL SERVICES, TO CORRECT THE OCCASIONAL ABUSES WHICH UNDOUBTEDLY WILL OCCUR IN A PROGRAM OF THIS NATIONAL SCOPE, THE OVERALL IMPRESSION OF WHAT HAS OCCURRED AND WHAT IS PROPOSED TO BE DONE, INDEED WHAT IS PROPOSED TO BE DONE THIS DAY, IS THAT THIS IMPORTANT, VITAL PROGRAM IS IN THE HANDS OF THOSE WHO DO NOT INTEND TO PROTECT AND NURTURE IT.

WHAT ELSE ARE WE TO CONCLUDE, A PROPOSED REGULATION WHICH YOU NOW HAVE BEFORE YOU WHICH WOULD ALLOW YOU TO DENY REFUNDING TO AN ORGANIZATION WHICH HAS SERVED HONORABLY AND ABLY FOR 10 OR 15 OR 18 YEARS ON A DETERMINATION THAT SOME OTHER ORGANIZATION IN THE COMMUNITY COULD BETTER SERVE THE CLIENT.

LACKING ANY STANDARD, THIS REGULATION IS INTENDED TO ALLOW THE CORPORATION TO TERMINATE, FOR EXAMPLE, AN EXCELLENT STAFF PROGRAM IN AN URBAN AREA SUCH AS SAN FRANCISCO AND A FINDING THAT THE PRIVATE BAR COULD BETTER PROVIDE LEGAL

SERVICES TO INDIGENT CLIENTS. WHAT IS ONE TO THINK OF A REGULATION WHICH ALLOWS DENIAL OF A REFUNDING IF THERE HAS BEEN, WHATEVER THAT MEANS, "SIGNIFICANT FAILURE TO COMPLY WITH THE REGULATIONS, GUIDELINES OR INSTRUCTIONS," WHILE AT THE SAME TIME DELETING A REQUIREMENT THAT IN THE PAST REQUIRED THAT IN ALL BUT UNUSUAL CIRCUMSTANCES THE GRANTEE BE GIVEN NOTICE OF SUCH FAILURE AND AN OPPORTUNITY TO TAKE CORRECTIVE ACTION.

MR. CHAIRMAN, I AM NOT SURE I WOULD TRUST ANYBODY WITH THE KIND OF BROAD DISCRETION WHICH THESE REGULATIONS GIVE TO THE CORPORATION OVER THE VERY EXISTENCE OF A PROGRAM WHICH TO OUR OBSERVATION IN THIS REGION HAS PERFORMED ABLY, HONORABLY AND EFFECTIVELY.

BUT, WITH ALL RESPECT AND HOSPITABILITY, I MUST SAY TO YOU THAT IF THERE IS SOME GROUP OF HUMAN BEINGS WHO MIGHT DISTORT LORD ABRAMS' DICTUMS THAT ABSOLUTE POWER IS APPROVED, I CANNOT FIND IT IN MY HEART THAT THEY ARE THE PRESENT MANAGERS OF THIS CORPORATION. ABSENT MEANINGFUL STANDARDS AND SPECIFICITY, THIS REGULATION IS A LOOSE CANNON AND SHOULD NOT BE ADOPTED.

BUT, IF IT IS DEFEATED TODAY, AT THE LEAST, ACTION SHOULD BE DEFERRED, QUITE APART FROM YOUR OWN RATHER PECULIAR -- I MEAN NO DISRESPECT -- THERE IS AN ADDITIONAL, I UNDERSTAND, LEGISLATION TODAY BEFORE A CONFERENCE COMMITTEE OF THE UNITED STATES CONGRESS AND AN APPROPRIATION BILL WHICH SPEAKS TO THE

VERY QUESTION OF DEFUNDING.

NOW, YOU HAVE SPOKEN MANY TIMES IN THE HOURS I'VE BEEN HERE THIS MORNING OF A CONGRESSIONAL MANDATE, AND YET IT IS QUITE APPARENT THAT THAT MANDATE IS ABOUT TO BE REFRAMED AND FOCUSED EVEN AS WE SIT HERE AND STAND HERE TODAY, SO IT IS TO SUGGEST THAT YOU HAVE SOME OBLIGATION TO TAKE ACTION TODAY WHEN THE VERY GROUND RULES UNDER WHICH YOU HAVE TO DEAL WITH THIS PROBLEM ARE ABOUT TO BE CHANGED, TO WHOM YOU OWE THAT MANDATE, SEEMS TO ME TO BE ABSURD.

MR. CHAIRMAN, I WOULD LIKE TO CONCLUDE BY SHARING WITH YOU THE COMMENT OF THE DIRECTOR OF THE OFFICE OF ECONOMIC OPPORTUNITY, SARGENT SHRIVER, WHO TESTIFIED HERE IN SAN FRANCISCO 12 YEARS AGO DURING THE HEARINGS ON CLAE, AND HE TOLD THE COMMISSION THAT WHEN HE WAS AMBASSADOR TO FRANCE IT WAS HIS TASK AND DUTY TO GO AROUND THE COUNTRY AND TO SPEAK TO GROUPS OF FRENCH CITIZENS, MANY HOSTILE, MANY LEFT-WING STUDENTS IN THE UNIVERSITY, WHERE THE ATMOSPHERE IS PARTICULARLY UNFRIENDLY TO THE UNITED STATES OF AMERICA, AND HE SAID THAT IN THE COURSE OF A GIVE AND TAKE WHICH OFTEN GOT PRETTY ROUGH, HE WOULD POINT A FINGER AT WHATEVER WAS CHALLENGING HIM MOST AND SAY, CAN YOU TELL ME WHAT COUNTRY IN THE WORLD HIRES LAWYERS WITH PUBLIC FUNDS AND PAYS THOSE LAWYERS TO SUE THE VERY GOVERNMENT THAT HIRES THEM? AND THEY WOULD SAY, WE WENT ON WITH HIS TESTIMONY, THEY WOULD SAY, RUSSIA, CHINA, CUBA, POLAND, GOD KNOWS WHERE, AND NO ONE

WOULD EVER SAY THE TRUE ANSWER, AS HE WOULD GIVE IT TO THEM, THE UNITED STATES OF AMERICA, AND HE SAID ONCE HE MADE THAT POINT THE ATMOSPHERE IN THE ROOM WOULD INEVITABLY, VISIBLY, MARKEDLY CHANGE. THAT STORY'S MORE THAN A CHARMING ANTECDOTE; IT HIGHLIGHTS ONE OF THE GREAT TESTS OF STRENGTH OF THIS WONDERFUL NATION OF OURS.

THE COMMITMENT OF THE RULE OF LAW, OUR GOVERNMENT' COMMITMENT, IS NOT SIMPLY THE SUBJECT OF RAPID SPEECH ON LAW; IT'S REAL, TANGIBLE AND OCCURS EVERY DAY THAT THIS GOVERNMENT CONTINUES THROUGH THIS CORPORATION AND THE FUNDING OF PROGRAMS LIKE THIS WHICH SARGENT SHRIVER SPOKE OF; THAT IS A REAL COMMITMENT TO THE RULE OF LAW.

I FEEL ABSOLUTELY CONFIDENT IN SAYING TO YOU, MR. CHAIRMAN, AND OFFICERS AND DIRECTORS AND VIRTUALLY EVERY MEMBER OF THE BAR ASSOCIATION OF SAN FRANCISCO SUPPORTS THE LEGAL SERVICES PROGRAM, AND MOST ESPECIALLY THE CORPORATION GRANTEES IN THIS REGION, AND WE INTEND TO DO ALL IN OUR POWER TO SEE TO IT THAT THIS VITAL WORK IS UNIMPAIRED, AND WE HOPE YOU WILL DO YOUR PART BY DEFERRING ACTION, OR DEFEATING THIS REGULATION.

THANK YOU.

(CLAPPING.)

A SPEAKER: MY NAME IS CHRISTOPHER EMILY; I'M A FORMER DIRECTOR OF THE BAR ASSOCIATION OF SAN FRANCISCO, CHAIRMAN OF THE VOLUNTARY LEGAL SERVICES PROGRAM OF THAT BAR.

ANY ACTUAL REDUCTION OF FEE LEGAL SERVICES, WHETHER BY HASTENED DENIAL PROCEDURES OR ELIGIBILITY GUIDELINES OR ANY OTHER PROPOSAL WHICH NARROWS THE POOL OF PROCEDURES OF FREE LEGAL SERVICES AND WIDENS THE GROUP NOT SERVED HITS HARD AT AMERICAN CHILDREN. CHILDREN FOR WHOM THE BENEFITS OF COURT SANCTIONS, ARRANGEMENTS FOR CUSTODY, VISITATION, SUPPORT AND VIOLENCE, RESTRAINT, WILL NO LONGER BE AVAILABLE. FAMILY LAWYERS SUCH AS I SEE MANY MORE UNREPRESENTED PARTIES IN COURT LATELY, EVEN IN CASES OF CONSIDERABLE HUMAN OR TECHNICAL DIFFICULTY.

THERE MUST BE MANY OTHERS WHO SIMPLY FOREGO THE CIVILIZATION BENEFITS OF LAW FOR THOSE IN DOMESTIC TROUBLE SIMPLY BECAUSE THEY CANNOT FIND COUNSEL WITHIN THEIR MEANS. THE BAR ASSOCIATION OF SAN FRANCISCO HAS MOUNTED AN AWARD WING PROGRAM TO PROVIDE FREE LAWYERS TO THE POOR IN DOMESTIC RELATIONS DIFFICULTY AND SAN FRANCISCO NEIGHBORHOOD LEGAL SERVICES FOUNDATION HAS MAINTAINED A MUCH HIGHER LEVEL OF STAFFING FOR THE CASES THAN MANY OTHER LEGAL SERVICES OFFICES THROUGHOUT THE COUNTRY. BUT THE LACK HERE IS STILL TRAUMATIC AND IT'S INEVITABLY DISRUPTIVE TO THOUSANDS OF SERVICE CHILDREN.

BECAUSE OF THE PARTICULAR ISSUES WHICH AFFECT THE POOR, THERE IS NO MORE EFFICIENT MEANS OF PROVIDING EFFECTIVE ASSISTANCE TO THESE CHILDREN THAN THROUGH A FULL-TYPE LEGAL SERVICES OFFICE WHICH PROVIDES SERVICES TO THESE CHILDREN'S

PARENTS AND GUARDIANS; BUT EVEN THE LOCAL LEGAL SERVICES PROGRAMS WILL HAVE TO REACT TO PROPOSED CUTS BY DIVERTING STAFF TO EVEN MORE FUNDAMENTAL ISSUES OF SURVIVAL FOR ITS CLIENTELE.

PLEASE MAKE NO MISTAKE, WE IN THE PRIVATE BAR CANNOT COPE WITH THE UPSURGE IN DEMAND, WHETHER BY PRO BONO OR BY JUDICARE PROGRAMS, EARLY DENIALS AND OTHER REDUCTIONS CONSTITUTE A DIRECT ATTACK; THEREFORE, ON THE COUNTRY'S YOUNG AND HELPLESS.

THANK YOU.

(CLAPPING.)

A SPEAKER: MY NAME IS ALBERT ARMANDO; I'M EXECUTIVE DIRECTOR OF THE CALIFORNIA RURAL LEGAL ASSISTANCE, AND I HAVE A GENERAL COMMENT I WOULD LIKE TO MAKE.

I WOULD LIKE TO SAY AS TO MANY OF US, WE DON'T FEEL IN RESPONSE TO THE CHAIRMAN'S COMMENTS THAT WE HAVE DIRECT ACCESS TO STAFF. MANY OF US DON'T FEEL COMFORTABLE APPROACHING STAFF, SO WE WOULD LIKE TO TAKE THIS OPPORTUNITY FULLY TO ADDRESS THE BOARD, WHO ACTUALLY ULTIMATELY REALLY IS RESPONSIBLE FOR THE DECISIONS THAT ARE GOING TO BE MADE.

WITH REGARD TO THIS PARTICULAR PROVISION OF DENIAL OF REFUNDING, WE DON'T BELIEVE THAT THE STATED REASON FOR OR, AT LEAST, THE ONE THAT WAS GIVEN TO THE BOARD THIS MORNING, STREAMLINING PROCESS, THAT IT REALLY SQUARES WITH WHAT THE REGULATION REALLY DOES, WHICH IS ADDS A NEW AND VERY DANGEROUS

GROUNDS OF DENIAL OF REFUNDING.

AS JERRY FALK SO ELOQUENTLY PUT IT, WE IN CALIFORNIA HAVE HAD PROBLEMS WITH DENIALS OF REFUNDING FOR ARBITRARY AND CAPRICIOUS PURPOSES. WE BELIEVE THAT THE STANDARDS OF GROUP OR LEGAL SERVICES PROGRAMS CAN BE DEFUNDED BECAUSE ANOTHER GROUP MAY BE ABLE TO SEND THE CLIENTS OR SERVE THE CLIENTS MORE EFFICIENTLY OR BETTER SERVE THE CLIENTS, IS TOO GENERAL OF A STANDARD TO REALLY APPLY.

THE PROBLEM IS THAT WHEN SENATOR JAVITZ AND OTHER CONGRESSIONAL PEOPLE WHO REALLY DID EXAMINE THIS WITH REGARD TO THE GOVERNOR'S DETAILS, THEY FOUND IT HAD TO BE PROTECTED BECAUSE STANDARDS SUCH AS THESE WERE AMENABLE TO POLITICAL -- PROBLEMS -- SCRUTINY -- WE BELIEVE THERE IS A CONGRESSIONAL MANDATE TO DEFEND THIS PROGRAM FROM ACTION, ARBITRARY ACTIONS THAT ARE IN FACT POLITICALLY MOTIVATED, AND WE BELIEVE THAT THIS NEW -- AS OPPOSED TO THE STREAMLINING, BUT THIS NEW GROUND WOULD IN FACT MAKE IT VERY EASY FOR STAFF, AS WELL AS THE BOARD, TO AFFECT LEGAL SERVICES PROGRAMS PURELY ON POLITICAL PURPOSES WITH VERY LITTLE BASIS. IN FACT, MERELY A SUBJECTIVE SUBJECT. INDEED, AT THE TIME OF THE VETO, WE CITED A PROPOSITION THAT THE PRIVATE BAR COULD MORE EFFICIENTLY, OR, QUOTE,"BETTER SERVE THE CLIENTS IN OUR JURISDICTION." INDEED, I THINK MR. FALK COVERED IT QUITE WELL AND I WILL MERELY REMIN THE BOARD OF THE CONGRESSIONAL MANDATE PRESENTLY BEFORE THE BOARD, WHICH IS THAT THIS BOARD NOT ACT ON DEFUNDING AT ALL,

INDEED CONGRESS HAS CHOSEN FOR THE PAST TWO YEARS TO SET THE STANDARD FOR FUNDING AND TAKE THE POWER AWAY FROM THE BOARD.

WE BELIEVE THAT THE CONGRESS DID THAT IN RESPONSE TO A FEAR THAT THIS BOARD, AND ESPECIALLY THE STAFF, WOULD ACT IN THE POLITICAL MANNER, IN TERMS OF MAKING DETERMINATIONS AS TO FUNDING, AND IF YOU DO BELIEVE YOU ARE HERE TO EFFECTUATE A CONGRESSIONAL PURPOSE, THEN THAT CONGRESSIONAL PURPOSE IS QUITE CLEAR ON ITS FACE, FROM LAST YEAR AND FROM THIS YEAR WITH REGARD TO THE ACTION OF THE JOINT CONFERENCE COMMITTEE, THAT YOU TAKE NO ACTION ON FUNDING OR DEFUNDING.

THEY HAVE IN FACT SET THE STANDARD. THAT STANDARD WILL PROBABLY BE ADOPTED. FOR YOU TO TRY TO EFFECT THAT STANDARD WITH THIS REGULATION WOULD IN FACT BE ACTING CONTRARY TO THE STATED INTENT OF CONGRESS, AND I ASK THAT YOU NOT ATTACH SUCH FUNDING AT ALL.

ULTIMATELY, THE DENIAL OF DUE PROCESS CAN BE -- IN FACT, THE DENIAL OF DUE PROCESS AND THE LACK OF STANDARDS CAN BE IN FACT JUSTIFIED IN TERMS OF COST EFFICIENCY AND BETTER SERVICE; BUT THE FACT IS THAT THE COURTS HAVE IN THE PAST AT LEAST TAKEN A DIM VIEW THAT DENIAL OF DUE PROCESS, ALTHOUGH MORE COST EFFICIENT, OR LACK OF STANDARDS, ALTHOUGH MORE COST EFFICIENT, IS INDEED LEGAL OR APPROPRIATE IN OUR SYSTEM OF LAWS.

THE CLE EXPERIENCE WITH THE GOVERNOR'S VETO, BASED ON PRECISELY -- IT WAS THAT NEITHER THE PUBLIC NOR THE

CONGRESS AGREED OR ACCEPTED THIS DETERMINATION. WE BELIEVE THAT IN THIS -- AS WELL AS OTHER REGULATIONS BEFORE YOU TODAY THAT CONGRESS HAS SPOKEN, THE BAR ASSOCIATIONS HAVE SPOKEN, THE PROFESSION HAS SPOKEN, THE CLIENTS HAVE SPOKEN, THE MEDIA HAS SPOKEN, AND FOR THIS BOARD TO GO AHEAD IN SPITE OF ALL OF THOSE OPPOSITIONS, IN SPITE OF ALL OF THOSE COMMENTS, IN SPITE OF THE DEEP RESISTANCE TO ELIGIBLE CLIENTS, YOU ACT CONTRARY TO THOSE STATED INTENTS, TO THOSE STATED WISHES OF THE PEOPLE, WE THINK YOU ARE NOT ONLY VIOLATING YOUR MANDATE TO THE CONGRESS TO THE ACT AS IT IS WRITTEN TODAY, BUT IN FACT YOUR OWN FIDUCIARY DUTY TO THE CORPORATION THAT YOU ARE SWORN TO SERVE.

THANK YOU.

(CLAPPING.)

MR. MC CARTHY: THANK YOU VERY MUCH.

A SPEAKER: MR. CHAIRMAN, I'M OPHELIA JOHNSON, A CLIENT.

I WOULD LIKE TO SPEAK ABOUT THE CLIENT COMMUNITIES OPPOSITION TO THE PROPOSED DELETION OF INTERESTED PARTIES IN DEFUNDING REGULATIONS. SUCH AN ACTION FOR NO DOUBTED REASON WOULD ELIMINATE THE PARTICIPATION IN THE HEARING PROCESS BY PERSONS OR ORGANIZATIONS HAVING AN INTEREST IN THE MATTER. THE ACTION TO DEFUND AN EXISTING PROVIDER AGENCY HAS SIGNIFICANT IMPACT ON THE CLIENT COMMUNITY.

WE WOULD SEEK THE INCLUSION OF A PROVISION THAT

WOULD ADEQUATELY GIVE US PUBLIC NOTICE AND MAKE MANDATORY THE INVOLVEMENT OF RELATIVE SEGMENTS OF A CLIENT COMMUNITY. IF YOU MAKE DECISIONS ABOUT OUR ELIGIBILITY, IF YOU MAKE DECISIONS ABOUT THE PROGRAMS THAT WE GO TO FOR REPRESENTATION, WITHOUT CLIENTS HAVING INPUT, THEN YOUR REGULATION HAS NO MEANING TO US; WE NEED TO KNOW EVERY STEP YOU TAKE, WHY YOU TAKE IT, IF YOU HAVE GOT DOCUMENTED A REASON TO CHANGE THIS REGULATION, WE NEED TO KNOW WHY.

ARE YOU MAKING IT MORE DIFFICULT FOR US TO SEEK LEGAL SERVICES? WE NEED TO KNOW, AND WE NEED TO KNOW WHY ARE YOU GOING TO CHANGE A REGULATION THAT'S THERE, YOU HAVE NO DOCUMENTATION, OR WE'VE GOT NONE, AND WE NEED TO KNOW WHY THIS REGULATION IS GOING TO BE CHANGED, AND WE NEED SOME INPUT INTO IT.

THANK YOU.

(CLAPPING.)

A SPEAKER: GOOD MORNING. MY NAME IS JONATHAN STEIN; I'M DIRECTOR OF COMMUNITY LEGAL SERVICES IN PHILADELPHIA. I'M WONDERING INITIALLY WHETHER THE BOARD IS WILLING TO RESPOND TO THE WOMAN'S QUESTION EARLIER AS TO WHY THERE WAS A DELETION OF HAVING OTHER INTERESTED PARTIES BE ABLE TO PARTICIPATE AT HEARINGS, MR. MC CARTHY, IS I THINK ONE ON THE BOARD PREPARED TO RESPOND TO THAT.

MR. MC CARTHY: THE BOARD WILL NOT RESPOND TO THAT. IT MAY BE ONE THAT COULD BE ADDRESSED TO THE STAFF.

MR. STEIN: MAYBE THE STAFF COULD RESPOND.

MR. MC CARTHY: I WOULD SUGGEST MAYBE IF YOU CAN FINISH YOUR INFORMATIONAL DISCOURSE, THEN AT THE CONCLUSION IT MIGHT BE APPROPRIATE.

MR. STEIN: WE HAVE GREAT CONCERN FOR THIS REGULATION BECAUSE I THINK THIS IS PROBABLY THE REGULATION THAT PROPOSES THE GREATEST THREAT TO THE CONTINUATION OF QUALITY LEGAL SERVICES TO POOR PEOPLE IN THE COMMUNITY. IT ATTEMPTS, IN OUR VIEW, TO DISMANTLE ONE OF THE MOST IMPORTANT PROCEDURAL PROTECTIONS WHICH CONGRESS IN FACT ESTABLISHED IN 1973, AND THE PURPOSE OF THAT OBVIOUSLY WAS TO MAKE SURE THAT THE QUALITY LEGAL SERVICES HAS -- COULD CONTINUE AND WOULD NOT BE THWARTED BY ARBITRARY ACTIONS; AND I THINK WITH A CORPORATION THAT EMPHASIZES DUE PROCESS AND FAIRNESS THROUGH THE ATTORNEYS THAT THEY FUND, A GOOD BIT OF OUR WORK IS PRECISELY THAT, THAT'S PROBABLY THE HALLMARK OF OUR SYSTEM OF GOVERNMENT.

FOR THIS REGULATION NOW TO JUST ARBITRARILY CUT OUT HEARINGS IN GREAT NUMBERS OF CASES, AND TO PULL BACK ON PROTECTIONS SEEMS TO ME TO BE DIRECTLY CONTRARY TO WHAT THE PURPOSE OF OUR SYSTEM OF GOVERNMENT IN ASSURING THINGS IS.

SECTION 1011 OF THE ACT WAS PRECISELY INTENDED TO DO THAT. IT'S BEEN IN EFFECT FOR 10 YEARS. TO MY KNOWLEDGE THERE HAS BEEN NO STUDIES OR NO REPORTS EVER DONE BY THIS BOARD, ITS STAFF OR PREDECESSORS TO SHOW THAT ANY OF THE

PROCEDURES WERE EXCESSIVELY COSTLY OR TIME-CONSUMING, AND THAT IN FACT IS THE RATIONALE. AND ONE OF THE QUESTIONS I WOULD LIKE YOUR STAFF TO PERHAPS TELL US, AND TELL THE BOARD, PERHAPS, IS WHAT STUDIES, WHAT REPORTS HAVE BEEN DONE TO DOCUMENT EXCESSIVE COSTS AND A TIME-CONSUMING PROCESS IN THIS HEARING PROCESS?

THE FACT THAT SIX TO NINE MONTHS HAS BEEN REFERRED TO AS A TIME PERIOD FOR PAST HEARINGS, I WOULD VENTURE TO SAY PROBABLY SOME TIME RECORDS IN WASHINGTON FOR ADMINISTRATIVE AGENCIES, AND THAT IN TERMS OF WHAT YOUR PROCESSES WOULD REQUIRE IN SUCH A COMPLEX KIND OF PROCEEDING IS PROBABLY A PRETTY SPEEDY PROCESS, WHEN YOU COMPARE WHAT OTHER AGENCIES, I WOULD SAY SOCIAL SECURITY ADMINISTRATION, WHAT THEY MIGHT BE DOING FOR THOUSANDS OF OUR CLIENTS AND RENDERING DECISIONS FOR THEM, THAT DOES NOT SEEM TO BE AN INORDINATE AMOUNT OF TIME.

IN TERMS OF THE SPECIFIC PROVISIONS OF THE REGULATION, THE ONE THAT OBVIOUSLY HAS BEEN REFERRED TO BEFORE, AND THAT POSES THE GREATEST THREAT, IS NOT THE SUBSTANTIVE STANDARD OF SWITCHING FUNDS TO ORGANIZATIONS WHO COULD "BETTER SERVE ELIGIBLE CLIENTS;" NOW THAT HAS NOTHING TO DO WITH COST SAVINGS, STREAMLINING, AND TIME-CONSUMING; AND I THINK IT REALLY RAISES THE SPECTRE OF THE WORST IN BIG GOVERNMENT, STEPPING FORWARD AND DECIDING WITH NO STANDARDS AND WITH NO RATIONALE THAT SUDDENLY A PROGRAM THAT HAS SERVED POOR PEOPLE WELL, AND OUR PROGRAM HAS BEEN AROUND FOR 15 YEARS

MONEY WITH ABSOLUTELY NO HEARING AT ALL, AND THAT COULD MEAN THE CLOSING OF ONE OF OUR NEIGHBORHOOD LAW CENTERS. IT COULD MEAN THE LAYOFF OF EIGHT OF OUR ATTORNEYS. IT COULD HAVE A MAJOR DISRUPTION ON OUR PROGRAM AND ABILITY TO SERVE HUNDREDS OF CLIENTS.

YET, WITH NOTHING FROM CONGRESS SAYING THAT YOU CAN TINKER WITH THIS HIRING REQUIREMENT, YOU ARE NOW ELIMINATING WITHOUT HEARING A REQUIREMENT TO THAT EFFECT THAT AFFECTS ABOUT 82 PERCENT OF ALL PROGRAMS, ABOUT 135 PROGRAMS NOW ACROSS THE COUNTRY ARE AFFECTED BY THIS PROVISION THAT TOTALLY ELIMINATES HEARINGS AND SUBVERTS SECTION 1011 OF THE STATUTE.

AGAIN, THERE IS A FIDUCIARY DUTY AND I BELIEVE MR. MC CARTHY, YOU ARE MOST SINCERE IN REFERRING TO THAT DUTY IN FOLLOWING THE RULE OF CONGRESS. HOW DOES THAT DUTY FOLLOW THE WILL OF CONGRESS, MEASURE WITH A PROFESSIONAL PROVISION THAT TOTALLY OBLITERATES HEARING REQUIREMENTS THAT AFFECT 235 PROGRAMS?

THE OTHER ABOLITION OF HEARING REQUIREMENT, THE SPECIAL GRANT CONDITIONS, THESE CONDITIONS, AGAIN, NO ONE DEFINES WHAT THESE CONDITIONS ARE, THEY COULD BE ANYTHING FROM A TO Z, COULD BE HALF YOUR STAFF SHOULD BE CHANGED, YOU CHANGE YOUR DIRECTOR, SHOULD NOT SERVE SOME POOR PEOPLE, SERVE OTHER POOR PEOPLE, THERE COULD BE MAJOR EFFECTS, HERE, BUT YET THERE'S NO HEARING SET FORTH -- FORWARD OR ALLOWED FOR SPECIAL

GRANT CONDITIONS.

AGAINST THE OTHER MAJOR CHANGE, REFLECTS, AGAIN, ON WHAT CAN ONLY BE VIEWED BY THE PUBLIC AS A PUNITIVE ASPECT OF THESE REGULATIONS, I HAVE TO ASK YOU AGAIN, IN YOUR ROLE AS LAWYERS, IS THIS FAIR?

THE REGULATION ELIMINATES ANY PRIOR NOTICE AND OPPORTUNITY TO CORRECT VIOLATIONS OF LAWS OR REGULATIONS. I BELIEVE NOW INSTRUCTIONS AND GRANT CONDITIONS.

NOW, IF THE CORPORATION WAS SINCERE IN SEEKING COMPLIANCE, WHY NOT GIVE PROGRAMS ADEQUATE OPPORTUNITY TO CORRECT MISTAKES THAT THEY'RE MAKING? I MEAN, WHY ASSUME, YOU KNOW, CAPITAL PUNISHMENT SHOULD IMMEDIATELY FOLLOW SOME VIOLATION OR INABILITY TO COMPLY WITH THE PARTICULAR PROVISION.

NOW, THAT'S NOT TOO TALL A DEMAND COMPARED TO HOW IT WOULD MINIMIZE THE NEED TO COMPLY WITH A LETTER IN THE SPIRIT OF THE REGULATION AND THE APPROVAL POLICY -- AND LOOK AT THIS PAST YEAR, HOW MANY FLIP-FLOPS AND HOW MANY CHANGES HAVE COME DOWN FROM CONGRESS, FROM THE BOARD, FROM YOUR STAFF ON POLICIES?

I MEAN, THE BOARD ITSELF AND YOUR STAFF, PERHAPS, IT'S NOT FAIR THAT IT FALLS ON YOUR STAFF MORE THAN YOURSELVES. INITIALLY THERE WAS INSTRUCTIONS ISSUED ON FEES AND BOARD COMPOSITIONS AND THEN FOUND THAT THE INSTRUCTIONS WEREN'T THE PROPER ROUTE, YOU HAD TO GO VIA REGULATIONS.

NOW, YOU KNOW WE DON'T HOLD YOUR STAFF OR

YOURSELVES TO A STANDARD OF INFALLIBILITY, BUT WHY HOLD US TO THAT IMPOSSIBLE STANDARD? YOU KNOW THE NUMBER OF CHANGES COMING DOWN THE PIPE ARE EXTRAORDINARY. IN 15 YEARS I'VE NEVER SEEN THE NUMBERS OF INSTRUCTIONS, REGULATION CHANGES, CONGRESS ADDING RIDERS TO APPROPRIATIONS, STATUTES, REORGANIZING BILLS THAT PROVIDE DIFFERENT THINGS AND SUDDENLY IN THIS MAELSTROM OF CHANGES YOU'RE TAKING LITTLE STEPS OF SAVING ANYTHING, AND IF A PROGRAM DOESN'T FOLLOW ONE OF YOUR INSTRUCTIONS THAT YOU'VE ADDED FOR A GRANT CONDITION, THEN NO ONE WILL TELL YOU ABOUT IT TO ALLOW YOU AN OPPORTUNITY TO CHANGE.

NOW, AGAIN, DOES THAT IN YOUR SENSE OF FAIRNESS THAT YOU HAVE GATHERED AND DEVELOPED OVER YOUR YEARS AS LAWYERS OR NONLAWYERS, IS THAT FAIR? I THINK THAT IS THE BASIC QUESTION TO ASK, IS THIS CHANGE FAIR? IS THE ELIMINATION OF HEARINGS FAIR? IS THE ISSUANCE OF PROVISIONS THAT COULD CHANGE STANDARDS FAIR?

AND IF IT ISN'T FAIR, THERE IS SOME SENSE THAT PERHAPS THIS DOESN'T STRIKE YOU AS BEING FAIR, AND THIS IS NOT A PARTISAN OR CONSERVATIVE OR LIBERAL KIND OF ISSUE; THIS IS A NEUTRAL PRINCIPLE OF FAIRNESS. THIS IS THE WAY YOU WANT TO DEAL WITH 300 PROGRAMS WHO HAVE -- THE GREAT MAJORITY OF WHOM, I HOPE YOU CAN AGREE, HAVE DONE A FAIRLY GOOD JOB IN SERVING THE POOR PEOPLE. BUT THIS IS THE KIND OF LEVEL OF FAIRNESS THAT YOU WANT TO GIVE YOUR OWN COLLEAGUES

AND PEERS ACROSS THE COUNTRY.

I WOULD LIKE TO SIMPLY CONCLUDE BY REFERRING TO THE ISSUE OF DEFERRAL. YOU KNOW, THIS REGULATION NEEDED TO BE ADDRESSED TODAY. WE KNOW IT HAS PROBLEMS. WE KNOW THAT THERE ARE SERIOUS QUESTIONS OF FAIRNESS, AND WE ALSO KNOW THAT CONGRESS IS IN THE PROCESS OF LEGISLATING THIS AFFIRMATIVE RIDER, SO-CALLED, WHICH SPECIFICALLY SAYS THAT THERE SHOULD BE NO DEFUNDING, NO CHANGES UNLESS THERE IS A CONFIRMED BOARD OF CONGRESS BY JANUARY 1ST.

NOW, IF EVER THERE WAS A GRATUITOUS ACT OF TRYING TO DECIDE WHETHER THIS REGULATION SHOULD BE PASSED, THIS REGULATION, IT SEEMS TO ME, WOULD HAVE LITTLE OR NO EFFECT ON ANYONE. I MEAN, WHY GO AHEAD AND WHY HEAR ANOTHER HOUR OF DEBATE AND WHY SPEND YOUR TIME THIS AFTERNOON DEBATING THESE POINTS WHEN THERE'S NO NEED TO ADDRESS THIS REGULATION NOW, FOR BETTER OR WORSE, YOU CAN ARGUE ONE WAY OR ANOTHER, CONGRESS HAS STEPPED IN HERE AND HAS SAID, WE HAVE NOMINEES BEFORE US; WE ARE GOING TO PROCEED WITH A CONFIRMED BOARD, AND WE ARE GOING TO ALLOW THAT CONFIRMED BOARD TO PROCEED WITH THESE VERY DIFFICULT ISSUES OF FUNDING, HOW THIS PROGRAM IS NOT GETTING FUNDING OR NOT, AND IN LIGHT OF THIS VERY EXPRESS PROVISION WHERE CONGRESS HAS SPOKEN IN A COLLECTIVE, BIPARTISAN BASIS, IT SEEMS TO ME THAT ANY ACTION TODAY IS JUST GRATUITOUS; THERE IS NO NEED TO BLOCK AN ACADEMIC, REALLY MOOT ISSUE FOR US TO DEBATE AND FOR THE

BOARD TO BE CONCERNED WITH AT THIS TIME.

SO I DO ASK YOU, IN TERMS OF YOUR FIDUCIARY DUTY, TO LOOK AT WHAT CONGRESS IS DOING, TO LOOK AT WHAT IS BEING LEGISLATED RIGHT NOW, AND TO SAY THAT, REALLY, THIS IS TOO CONTROVERSIAL AN ITEM, HAS TOO MUCH OF AN IMPACT ON PROGRAMS FOR THIS BOARD CURRENTLY TO PROCEED WITH.

MY SENSE IS THAT THE CONFIRMED BOARD WILL WANT TO ADDRESS THIS AND WILL WANT TO DEBATE THIS, AND IT SEEMS TO ME CONGRESS, IN FACT, IF THERE IS ANY MANDATE THAT YOU COULD READ FROM THE CONGRESSIONAL ACTION OF LAST WEEK OR SO, IT'S THAT CONGRESS DOESN'T WANT THIS BOARD TO ACT ON THIS, BUT WANTS A CONFIRMED BOARD TO DEAL WITH AT MINIMUM A HOTLY CONTESTED ISSUE.

IF I COULD, MR. MC CARTHY, JUST GO BACK, I WOULD APPRECIATE HEARING ANY COMMENTS FROM YOURSELF, BUT IN TERMS OF STUDIES OR REPORTS OR ANY DOCUMENTATION OF ABUSE OF THE HEARING PROCESS OR EXCESSIVE COSTS OR TIME-CONSUMING ASPECTS OF THIS; I'D APPRECIATE HEARING WHETHER THERE ARE ANY SUCH REPORTS OR STUDIES THAT HAVE BEEN DONE.

MR. MC CARTHY: THANK YOU VERY MUCH, MR. STEIN, FOR A VERY WELL-CONSIDERED ANALYSIS AND WELL PRESENTED ONE, AND I BELIEVE THAT AT THE CONCLUSION OF THIS PUBLIC COMMENT ALAN SWENDIMAN AND JOHN MEYERS MIGHT RESPOND TO THOSE QUESTIONS, AND I THINK IT MIGHT BE MORE USEFUL TO CONCLUDE ALL PUBLIC COMMENTS AND COME BACK AND SPECIFICALLY ANSWER

YOUR QUESTIONS, IF THAT'S SATISFACTORY.

MR. STEIN: AS LONG AS THE COMMENTS WILL RESPOND FULLY.

MR. MC CARTHY: I'M SURE THE STAFF HAS NOTED YOUR COMMENTS. I DO THANK YOU AGAIN, AND THANK YOU FOR COMING ALL THIS WAY.

(CLAPPING.)

A SPEAKER: MY NAME IS JACQUELINE X. (SIC.) I'M WITH THE ADJUDICARE OF MISSISSIPPI AID PROGRAM. I KNOW A LOT OF US HERE TODAY, WHEN DAN BRADLEY LEFT OFFICE AND THE MAJORITY OF HIS STAFF LEFT OFFICE JUST MADE A DECISION THAT WE WERE NOT GOING TO WORK WITH THIS ADMINISTRATION ANYWAY.

THE BOARD AND THE STAFF HAVE HEARD A SUBSTANTIAL NUMBER OF UNFAVORABLE COMMENTS ABOUT THE INSENSITIVITY OF THE BOARD AND THE STAFF, THE INSENSITIVITY THEY HAVE REGARDING DELIVERY OF LEGAL SERVICES.

HOWEVER, I COMMEND THE BOARD FOR HEARING THOSE COMMENTS, AND THE OFFICE OF PROGRAM SUPPORT FOR HOW THEY'VE CONDUCTED THEMSELVES TODAY.

GREGG HARTLEY AND THE OFFICE OF FIELD SERVICES HAVE CONTINUED TO KEEP THEIR DOORS OPEN TO PROGRAMS, TO LISTEN TO THE RESPONSES THAT YOU MIGHT HAVE BEEN TRYING TO DELIVER: QUALITY LEGAL SERVICES PROGRAMS; BUT WE HAVE NOT MADE A DECISION TO INTERACT WITH THEM. I DON'T THINK THAT THE PROGRAMS HERE ARE GIVING THIS ADMINISTRATION AND THIS OFFICE

OF PROGRAM SUPPORT AN OPPORTUNITY TO IN FACT DO THEIR JOB RESPONSIBILITIES FAIRLY, BUT INSTEAD WANT TO CONTINUE TO FIGHT WITH THIS ADMINISTRATION SIMPLY BECAUSE OF THE INFLUENCE WE BELIEVE OR DO NOT BELIEVE THIS ADMINISTRATION AND THIS OFFICE OF FIELD SERVICES HAS REGARDING THE REAGAN ATTEMPT TO DEFUND LEGAL SERVICES.

WHILE THERE ARE THOSE WHO CONTINUE TO FIGHT WITH THIS ADMINISTRATION, THE CLIENTS ARE THE ONES WHO ARE SUFFERING. WE HAVE GOT TO GET TOGETHER, AND IF THERE ARE CHANGES, DIFFICULT CHANGES THAT HAVE TO COME ABOUT, AND I COMMEND THIS OFFICE OF PROGRAM SUPPORT FOR TRYING TO DO JUST THAT INSTEAD OF MAKING EASY DECISIONS LIKE DAN BRADLEY DID.

THANK YOU.

A SPEAKER: MY NAME IS JESSIE PENNINGTON; I AM CURRENTLY WORKING FOR THE NORTH MISSISSIPPI LEGAL SERVICES. I'M NOT GOING TO TEND TO MAKE ANY ANALYSES OF ALL THE REGULATIONS. A LOT OF FOLKS ARE DOING THAT, BUT THERE ARE A COUPLE OF THINGS I WOULD LIKE TO SAY TO THE BOARD AND A COUPLE OF COMMENTS I WOULD LIKE TO MAKE.

FIRST OF ALL, I'M IN MY 15TH YEAR IN LEGAL SERVICES. I GOT OUT OF LAW SCHOOL, WENT STRAIGHT TO MISSISSIPPI, AND I'VE WORKED IN MISSISSIPPI FOR 15 YEARS. IT'S BEEN A VERY DIFFICULT TASK TO TRY AND PROVIDE LEGAL SERVICES FOR THE POOR, MORE PARTICULARLY IT'S BEEN SO DIFFICULT AND FRUSTRATING THAT I MADE A DECISION TO RESIGN

AT THE END OF THIS MONTH BECAUSE I'VE -- IT'S BECOME SO VERY FRUSTRATING TO TRY AND CONTINUE TO DELIVER SERVICES THAT WE'RE UNDER PARTICULARLY -- PARTICULARLY WITH THE FUNDING CUTBACKS, AND THE THING THAT SCARES ME MOST OF ALL IS THIS DEFUNDING REGULATION ABOUT MISSISSIPPI. POVERTY IS PERVASIVE ALL OVER THE STATE. EVERYTHING WE'VE EVER DONE, SOME COMPLAINTS ARE ALL BEING FILED, I MUST SAY IN ALL FAIRNESS TO MR. BOGARD, THERE HAVE BEEN NUMEROUS RESPONSES, I THINK THE OFFICE HAS RESPONDED QUITE A BIT, BUT THIS WHOLE DENIAL OF REFUNDING JUST FRIGHTENS US IN THE SENSE THAT IT BASICALLY TAKES AWAY ANY SORT OF A BASIC RIGHT THAT YOU HAVE.

FOR INSTANCE, IN NORTH MISSISSIPPI, THE NORTH MISSISSIPPI LEGAL SERVICES HAS BEEN BUILT ON ITS CLIENTS, THE CLIENTS HAVE TOTALLY AND ALWAYS BEEN DIRECTLY INVOLVED IN THE LEGAL SERVICES. WE'VE ALWAYS FROM THE VERY BEGINNING, EVEN BEFORE THE NATIONAL CLIENTS' COUNCIL STARTED, WE ALWAYS HAD A CLIENT ADVISORY GROUP. IT'S ALWAYS BEEN PART OF OUR ORGANIZATION, AND ANYTHING THAT WE'VE DONE, WE'VE ALWAYS CONSULTED THE CLIENTS ON, SO THIS REGULATION WAS DENIED THE CLIENTS' PARTICIPATION. AND IN A DEFUNDING SITUATION, THAT REALLY FRIGHTENS ME AND SAYS THEY CAN'T BE INVOLVED.

I THINK THE CLIENTS OUGHT TO BE INVOLVED BECAUSE THE PROGRAM IS SET UP TO SERVE THE CLIENTS, AND I THINK YOU NEED TO LOOK AT THAT AND SEE WHETHER OR NOT YOU OUGHT TO -- AT LEAST THE CLIENTS OUGHT TO BE INVOLVED IN WHETHER OR NOT

DOING THIS RIGHT NOW; I KNOW THE BOARD HAS BEEN LOOKING AT IT, BUT THERE ARE APPARENTLY SOME MATTERS IN CONGRESS ABOUT THE REGULATION; APPARENTLY IT IS NOT A REAL MANDATE AT THIS TIME. AND I WOULD ASK THIS BOARD TO DEFER MAKING ANY COMMENT OR TO PASS THIS REGULATION UNTIL FURTHER NOTICE EITHER FROM THE CONGRESS OR UNTIL A BOARD HAS BEEN CONFIRMED BY THE SENATE.

(CLAPPING.)

A SPEAKER: MR. CHAIRMAN, MY NAME IS PATRICK SHEPARD; I'M A STAFFPERSON AT COMMUNITY LEGAL SERVICES IN PHOENIX, ARIZONA. I'M ALSO A MEMBER OF THE NATIONAL ORGANIZATION OF LEGAL SERVICES, WORKERS IN DISTRICT 65 UAW.

TODAY I CAME HERE TO LISTEN AND I JUST DECIDED TO COME UP HERE AND TALK TO YOU BECAUSE I FEEL THAT I CAN MAKE, OR ADD A LITTLE SOMETHING. I KNOW THAT MR. STEIN, I WOULD COMMEND TO YOU AGAIN MR. STEIN'S COMMENTS THAT WERE EXTREMELY WELL PREPARED, THOUGHT OUT AND GOT TO EVERY POINT THAT I WOULD LIKE TO HAVE SAID TO YOU, AND MORE. BUT, AT THE SAME TIME, I WOULD LIKE TO TELL YOU IN CASE YOU DON'T ALREADY KNOW IT THAT EVERY CLAP YOU HEAR OUT THERE IS MULTIPLIED THOUSANDS OF TIMES BY THE CLIENTS WHO ARE ALL OVER THE COUNTRY -- PHOENIX, SAN FRANCISCO, SALT LAKE CITY, EVERYWHERE, WHO ARE SUFFERING AND CONTINUE TO SUFFER UNDER THE KIND OF ACTIONS AND INACTIONS OF THIS BOARD AND STAFF.

I FEEL THAT YOU ARE NOT LISTENING. I'VE HEARD

TOO MANY THANK YOU'S, AND YOU'VE BEEN TOLD THAT BEFORE, I KNOW, AND IT'S JUST IMPORTANT THAT YOU UNDERSTAND THAT WHAT YOU SEE HERE IS MORE THAN JUST A SMALL GROUP OF PEOPLE; IT IS THE ELECTORATE, IT IS THE MILLIONS OF POOR PEOPLE THAT ARE SUFFERING IN THIS COUNTRY.

THIS DENIAL OF REFUNDING REGULATION THAT YOU PROPOSE, YOU'VE ALREADY HEARD THE COMMENTS, IT'S TOTALLY UNFAIR AND IT'S TOTALLY UNNECESSARY FOR YOU TO GO AHEAD WITH IT NOW. THE CONFIRMED BOARD WILL SOON BE HERE, BUT I ASK WITH THE MANY OTHERS THAT YOU DEFER ANY ACTION ON THIS FOR THIS TIME.

THANK YOU.

MR. MC CARTHY: YOU'RE WELCOME, AND YOUR COMMENTS ARE APPRECIATED. I GUESS I DON'T HAVE TO SAY THANK YOU.

(CLAPPING.)

A SPEAKER: MR. CHAIRMAN, MY NAME IS CHARLES GREENFIELD; I'M AN ATTORNEY WITH THE SAN JOSE PROGRAM, LEGAL SERVICE FUNDING PROGRAM. I'M VICE-PRESIDENT OF OUR SAN JOSE PROGRAM -- LOCAL UNION OF THE NATIONAL ORGANIZATION OF LEGAL SERVICES WORKERS 65.

I WOULD LIKE TO SHARE A COUPLE OF COMMENTS FROM THE STAFF ATTORNEYS' PERSPECTIVE. I'VE BEEN IN LEGAL SERVICES FOR THE PAST EIGHT YEARS, HAVE SEEN A MOVEMENT THROUGH OEO AND COMMUNITY SERVICES ADMINISTRATION TO LEGAL SERVICES CORPORATION, AND I INTEND TO MAKE LEGAL SERVICES

A CAREER; THAT'S ONE OF THE REASONS I'M UP HERE.

IN THESE DEFUNDING REGULATIONS, SPECIFICALLY, I'M CONCERNED BECAUSE OF A NUMBER OF AREAS THAT I THINK A NUMBER OF SPEAKERS HAVE MENTIONED, AND I THINK THIS ADDED GROUND FOR DEFUNDING WHEN IT TALKS ABOUT ANOTHER ORGANIZATION BETTER SERVING A RECIPIENT IS AN ENTIRELY NEW AREA. AS MANY OF YOU ARE AWARE, THE CHANGE FROM SUBSTANTIAL FAILURE TO PERFORMANCE TO SIGNIFICANT, I AM NOT SURE WHAT SIGNIFICANT IS, THE SPEEDING UP OF THE TIME LIMITS, AS WELL AS THE INABILITY TO CHALLENGE THE VALIDITY OF THE CORPORATION REGULATIONS, GUIDELINES AND INSTRUCTIONS DURING A DEFUNDING HEARING.

ONE OTHER SPEAKER MENTIONED THE FAILURE TO ALLOW HEARINGS FOR LESS THAN TEN PERCENT. ALL OF THESE ARE SIGNIFICANT CUTBACKS AND I THINK BASIC DUE PROCESS RIGHTS, AND I'M PAID THROUGH LEGAL SERVICE CORPORATION FUNDS TO ADVOCATE DUE PROCESS RIGHTS, OFTEN ON BEHALF OF MY CLIENTS, FEDERAL, STATE PROCEEDINGS, AND I'M NOT BEING PAID HERE TODAY TO DO THIS, BUT I'M DOING PRECISELY THE SAME TYPE OF ADVOCACY THAT I'M PAID FOR BY THE CORPORATION TO DO; THAT IS, TO EFFECTIVELY ADVOCATE, I HOPE, ON BEHALF OF MY CLIENTS, THAT CERTAIN BASIC DUE PROCESS RIGHTS SHOULD BE PROTECTED AND EXTENDED.

ONE OF THE PROBLEMS THAT I SEE IS THAT WHAT YOU -- THE ADDITIONAL GROUNDS FOR DENIAL OF REFUNDING AND CUTBACKS INTO THE PROGRAM AT THE SAME TIME AS YOUR BASIC

PROCEDURAL PROTECTION, THAT IT PUTS LOCAL PROGRAMS IN A QUANDRY, MAKES IT VERY DIFFICULT FOR LOCAL PROGRAMS. AND I THINK WHAT WE SHOULD BE DOING, AND I GUESS I AGREE WITH THE ADDITIONAL GROUNDS OF DENIAL OF REFUNDING, BUT IF THOSE GROUNDS ARE GOING TO BE PUT IN, THEN I THINK WE WANT TO LOOK AT EXPANDING THE DUE PROCESS REQUIREMENTS THAT THE CURRENT REGULATIONS HAVE; WHY NOT ALLOW MORE PROTECTIONS FOR THE LOCAL PROGRAM, IF DIFFERENT GROUNDS AND NEW GROUNDS ARE BEING ASSERTED BY THE CORPORATION, ESPECIALLY WHEN THIS IS AN UNTESTED AREA. WE DON'T KNOW EXACTLY WHAT "BETTER SERVED" MEANS OR "SIGNIFICANT" MEANS.

I THINK, AND I'M VERY CONCERNED ABOUT THE EFFECT ON STAFF MORALE; LIKE I SAY, I'VE BEEN IN LEGAL SERVICES FOR AWHILE AND I CAN SEE THAT OVER THE LAST COUPLE OF YEARS THAT OUR STAFF MORALE HAS BEEN DOWN AND THE PROGRAMS ARE IN -- THIS IS A HAMMER OVER THEIR HEAD AND WILL CONTINUE TO BE IF THERE ARE NEW AREAS, LIKE I SAY, FOR DEFUNDING WITHOUT UNTESTED GROUNDS, WITHOUT ADEQUATE PROCEDURAL SAFEGUARDS.

NOW, IT SEEMS TO ME THAT I WOULD LIKE TO CLOSE BY ASKING THIS QUESTION: IF I'M TO EFFECTIVELY ADVOCATE ON BEHALF OF MY CLIENTS AND BE AS EFFECTIVE AS POSSIBLE OF GOOD MORALE, OF STRENGTH OF PURPOSE AND DIRECTION IN EFFECTIVELY REPRESENTING MY CLIENTS, HOW CAN I DO SO IF THE VERY AGENCY THAT SUPPORTS ME DOES NOT BELIEVE IN THESE DUE PROCESS REQUIREMENTS?

I WOULD LIKE TO ADDRESS BRIEFLY A POINT THAT I DON'T THINK HAS BEEN DISCUSSED ADEQUATELY TODAY, AND I THINK IS A MAJOR PROBLEM ALONG WITH ALL THE OTHER PROBLEMS THAT HAVE BEEN DISCUSSED IN THIS REGULATION.

THE FOCUS OF A LOT OF COMMENTS HAS BEEN THE NEW GROUND FOR THE SECTION 1625.3(D). THE CORPORATION FINDS THAT ANOTHER CONSIDERATION, WHETHER A CURRENT RECIPIENT OR NOT, COULD BETTER SERVE ELIGIBILITY CLIENTS IN THE RECIPIENT SERVICE AREA.

WE HAVE TALKED A LOT ABOUT THE STANDARDS TO WHICH CURRENT RECIPIENTS MUST ADHERE, AND THERE'S BEEN A LOT OF DEBATE ABOUT WHETHER THE STANDARDS SHOULD BE TIGHTENED OR LOOSENED, WHAT THEY SHOULD BE. WHERE, I ASK, ARE THE STANDARDS TO WHICH THE NEW ORGANIZATIONS MUST ADHERE, NOT ONLY ARE -- NOT ONLY ARE THEY NOT PRESENT IN THIS ORGANIZATION BUT IF YOU GO THROUGH THE HEARING PROCESS, YOU CAN'T FIND ANYTHING IN THE HEARING PROCESS THAT TALKS AT ALL ABOUT THIS NEW ORGANIZATION. HOW CAN A HEARING OFFICER MAKE A DETERMINATION WHEN HE HAS NO STANDARDS BY WHICH TO EVALUATE?

I WOULD -- I THINK THIS RAISES TREMENDOUS IMPLEMENTATIONS WHICH SHOULD BE READILY ASCERTAINED, BUT I WOULD SIMPLY POSIT FOR YOU THE CREATION FOR A NEW ORGANIZATION THROWN AS A NEW ORGANIZATION FOR LEGAL SERVICES KNOWN BY ITS ACRONYM, NO LEGAL SERVICES, THERE IS NOTHING.

(CLAPPING.)

THAT WOULD KEEP AN ORGANIZATION CALLED NO LEGAL SERVICES FROM REPLACING A CURRENT RECIPIENT. THE STANDARDS STATED HERE BETTER SERVE ELIGIBLE CLIENTS IN THE RECIPIENTS -- THE RECIPIENTS OF THE AREA; WE ALL KNOW THAT THEY'RE MISGUIDED, THOUGH THEY MAY BE, IN HIGH POSITIONS, THOUGH THEY MAY BE, WHO BELIEVE THAT NO LEGAL POSITION IS THE BEST WAY OF SERVING CLIENTS; AND AS LONG AS THERE IS A REGULATION SUCH AS THIS ONE THAT WOULD ALLOW AN ORGANIZATION SPECIFICALLY TO ESTABLISH THE PURPOSE OF HAVING NO LEGAL SERVICES A PREAMBLE FOR DISTRIBUTING THE GRANT MONEY TO 45 ATTORNEYS IN THE HOPE THAT THEY WOULD EXPAND THEIR PRO BONO ACTIVITIES, WHETHER THIS REGULATION WAS PUT IN TO ENCOURAGE SUCH A RESULT OR NOT, I DON'T KNOW, AND I DON'T WANT TO DEAL IN MOTIVE. BUT A REGULATION THAT WOULD ALLOW SUCH AN APPLICATION -- THAT WOULD NOT PREVENT SUCH AN APPLICATION, HAS GOT TO BE FAULTY AND HAS GOT TO BE REDONE.

(CLAPPING.)

A SPEAKER: MY NAME IS ELLEN BARRIEL; I REPRESENT THE WEST TEXAS LEGAL SERVICES PROGRAM IN FORT WORTH, TEXAS. I WOULD LIKE TO BEGIN MY COMMENTS BY SAYING THAT GIVEN WHAT YOU'VE HEARD TODAY, I WOULD URGE YOU TO DEFER FINAL ADOPTION OF THIS REGULATION.

I THINK ONE OF THE MORE PRESSING REASONS IS THE FACT THAT WAS STATED EARLIER, THAT THIS ENTIRE PROCESS MAY VERY WELL RUN AFOUL TO THE PROCEDURES THAT ARE PENDING

BEFORE CONGRESS RIGHT THIS VERY MINUTE. IT WOULD BE ABSURD TO PASS ON THIS REGULATION TODAY, AND BY TOMORROW IT MAY WELL BE IN VIOLATION OF THE CONGRESSIONAL MANDATE THAT HAS YOU HERE TODAY.

ALSO, THERE ARE OTHER INDIVIDUAL PARTS OF THE REGULATIONS I WOULD LIKE TO ADDRESS. THE SHIFT OF THE BURDEN OF PROOF PROVIDED FOR IN THE REGULATION VIOLATES THE, JUST BASIC DUE PROCESS PROCEEDINGS THAT ANY PERSON IN AN ADMINISTRATIVE HEARING IS ENTITLED TO.

ALSO, THE DISTINCTION BETWEEN THE DENIAL OF REFUNDING AND A GRANT TERMINATION IS ABSOLUTELY AN ARTIFICIAL DISTINCTION; THE ENTIRE SEPARATION OF SECTION 1606 FROM SECTION 1625, BOTH OF THOSE SITUATIONS REPRESENTS A TERMINATION OF FUNDING FOR A PROGRAM.

THE EFFECTS OF THE CLIENT OF THAT PROGRAM ARE ABSOLUTELY THE SAME. THE SERVICES WOULD END, AND IN THE CASE OF A DENIAL OF REFUNDING, WOULD END WITHOUT THE BASIC DUE PROCESS PROCEEDINGS THAT ARE NECESSARY.

THERE'S NO INDICATION WHAT A SUBSTANTIAL VIOLATION OF A REGULATION -- EXCUSE ME -- THAT A SUBSTANTIAL VIOLATION AS IS INCLUDED IN THE DENIAL OF DEFUNDING PROCEEDING; WHAT DOES THAT MEAN? THAT, COUPLED WITH THE FACT THAT PROGRAMS ARE NO LONGER GIVEN AN OPPORTUNITY TO CORRECT VIOLATIONS, THAT POSES A THREAT TO THE VERY EXISTENCE OF SOME LOCAL LEGAL ASSISTANCE SERVICES PROGRAMS.

GIVEN THE FACT THAT THE ACT, NOT SO MUCH THE ACT, IT IS HERE AND STATES THE SAME, BUT THE REAL REGULATIONS, THE INSTRUCTIONS, THESE CHANGE DAILY. IT SEEMS AN INADVERTENT VIOLATION OF THESE ARE CERTAIN BECAUSE THEY'RE CHANGING FROM DAY TO DAY.

THERE SHOULD BE AN OPPORTUNITY TO CORRECT VIOLATIONS IF THESE ARE PROVEN BY THE CORPORATION.

ALSO, AS INDICATED EARLIER, THE FACT THAT THE $20,000 CEILING IS TAKEN OFF, IN TERMS OF FULL HEARINGS FOR PROGRAMS LIKE TEXAS LEGAL SERVICES, THIS MEANS WE COULD LOSE UP TO $235,000 WITHOUT AN OPPORTUNITY FOR HEARING, AND THAT CERTAINLY IS A DUE PROCESS VIOLATION, ALSO.

THE SPECIAL GRANT CONDITIONS THAT COULD BE PLACED ON ANY GIVEN PROGRAM WITHOUT A HEARING LEAVES THE DOOR OPEN FOR AN INDIVIDUAL CORPORATION TO SADDLE THE PROGRAM WITH ALL SORTS OF CONDITIONS, RESTRICTIONS, WITHOUT AN OPPORTUNITY TO BE HERE. THIS, TOO, IS A DUE PROCESS VIOLATION.

ALSO IN THE REGULATION THERE'S A PROVISION THAT THE CORPORATION CAN DEVELOP FORMULAS FOR DISTRIBUTION OF FUNDING. THESE FORMULAS ARE SET BY CONGRESS. FOR EXAMPLE, THERE'S A FORMULA THAT IS INCLUDED IN THE MEASURE THAT'S PENDING BEFORE CONGRESS NOW. THIS SHOULD NOT BE ALLOWED TO BE DONE BY THE CORPORATION WITHOUT CONGRESS MAKING THOSE PROVISIONS. ALSO, ONE PROVISION, THE VERY LAST PROVISION IN THE ACT, PROVIDES THAT A PROGRAM CAN ONLY BE REIMBURSED

ATTORNEY'S FEES IN THE EVENT THAT THE CORPORATION, THE HEARIN OFFICER DECIDES THAT THE ENTIRE PROCEEDING WAS WITHOUT MERIT FOR PROGRAMS WHO ARE OPERATING ON VERY TIGHT BUDGETS, WHO ARE NOT ALLOWED TO HAVE TOO MUCH BY WAY OF CONTINGENCY FEES, GIVEN THE FUNDING BALANCE REGULATIONS, ANY PROGRAM WHO SUCCEEDS IN THE HEARING SHOULD BE REIMBURSED THE COSTS OF ATTORNEY'S FEES.

FINALLY, I WOULD LIKE TO POINT AGAIN TO WHAT HAS BEEN SAID BY SEVERAL OTHER SPEAKERS. THIS PROCEEDING THAT ALLOWS A CORPORATION TO FUND ANOTHER ENTITY HAS ABSOLUTEL NO STANDARD; THERE IS NOTHING SET OUT IN THESE REGULATIONS THAT GIVES ANY DIRECTION TO THE LOCAL LFC STAFF IN DECIDING BETWEEN TWO ENTITIES. THERE SHOULD BE STANDARDS.

THIS PROVISION SHOULD BE REWRITTEN TO INCLUDE SPECIFIC STANDARDS BY WHICH THE CORPORATION WILL DECIDE BETWEEN TWO ENTITIES.

THANK YOU.

(CLAPPING.)

MR. MC CARTHY: WITH A VIEW TO CONDUCTING AN ORDERLY AGENDA, SO THAT WE CAN ALL EAT OUR MIDDAY LUNCH, I WOULD LIKE TO CAUTION, OR NOT CAUTION, I WOULD APPRECIATE IF THE REMAINING SPEAKERS -- I THINK THERE'S ONE, TWO, THREE, FOUR, WOULD PLEASE ADDRESS REMARKS THAT ARE NOT REPETITIOUS OR DUPLICATIONS OF PREVIOUS REMARKS, AND IF YOU COULD ADD SOMETHING NEW THAT HAS NOT BEEN COVERED; AND I MUST SAY THAT

THE PREVIOUS SPEAKERS HAVE BEEN VERY WELL PREPARED AND THEY HAVE PRESENTED THEIR THOUGHTS IN A VERY COGENT WAY, SO THAT THE BOARD HAS HAD BENEFIT. SO I WOULD APPRECIATE IF WE WOULD LIMIT THE REMARKS, BASED ON THAT.

DO YOU WISH TO SPEAK, SIR? OKAY, WE HAVE SPEAKERS -- WELL, I AM GOING TO LIMIT AT THIS TIME THIS SESSION TO TEN MORE MINUTES, AND YOU GENTLEMEN WHO WISH TO SPEAK MAY IN SOME WAY REGULATE YOUR OWN TIME, BUT IN TEN MINUTES, WE'LL ADJOURN FOR LUNCH BREAK; IT'S NOW ALMOST ONE O'CLOCK. SO I THINK IN TEN MORE MINUTES, AND, AGAIN, I CAUTION YOU, THAT YOUR REMARKS SHOULD BE ADDRESSED TO SOMETHING NEW THAT THE BOARD HAS NOT ALREADY HEARD.

SO WITH THAT, SIR . . .

A SPEAKER: MY NAME IS JOHN COBB; I AM DIRECTOR OF THE WESTERN REGIONAL TRAINING CENTER IN DENVER, AND I'M SPEAKING TODAY ON BEHALF OF THE OTHER FOUR REGIONAL TRAINING CENTERS THROUGHOUT THE COUNTRY BY LETTER OF MR. HARTLEY, DATED OCTOBER 26TH, 1983.

ALL THE TRAINING CENTERS HAVE BEEN APPARENTLY DEFUNDED. I THINK THAT THIS VERY STRONGLY RELATES TO WHAT WE HAVE BEEN DISCUSSING HERE TODAY, IN TERMS OF THE CALLOUS AND RATHER CAVALIER POINT OF VIEW, WHICH IS GOING TO BE DEMONSTRATED BY THE STAFF OF THIS CORPORATION, TOWARDS THE 1011 RIGHTS. WE HAVE BEEN DENIED ANY APPEAL OR ANY GRIEVANCE PROCEDURE AS A RESULT OF THIS ACTION, WHICH HAS CLEARLY BEEN

TAKEN APPARENTLY WITHOUT THE INVOLVEMENT OF THIS BOARD, AND HAS ALSO BEEN TAKEN WHILE A MONITORING AND EVALUATION PROCEEDING, AN EXTENSIVE MONITORING AND EVALUATION PROCEEDING LAUNCHED BY THIS CORPORATION AT CONSIDERABLE EXPENSE WAS NOT EVEN COMPLETED.

WE WERE TOLD AT THE TIME OF THE EVALUATIONS THAT WE WOULD BE ABLE TO SEE A DRAFT OF THIS MONITORING AND EVALUATION REPORT; THAT THE MATTER WOULD GO TO THE BOARD FOR FULL CONSIDERATION. MR. DUGGA (PHONETIC) WHO LED THESE MONITORING AND EVALUATION TEAMS, HAD NOT EVEN BEEN AWARE, AT THE TIME I TALKED TO HIM ON THE TELEPHONE, UNTIL HE TALKED TO ME, THAT MR. HARTLEY'S LETTER OF OCTOBER 26TH HAD GONE OUT, WHICH REPRESENTED THE WHOLESALE DOING AWAY OF ANY TRAINING SUPPORT STRUCTURE FOR LEGAL SERVICES PROGRAMS OR STAFF IN THIS COUNTRY.

I WOULD ASK AT THIS TIME THAT THE BOARD GIVE US AN ANSWER TO OUR QUESTION AS TO WHETHER THEY WILL PUT THIS MATTER ON THE AGENDA. WILL WE DISCUSS AND CONSIDER THIS STAFF ACTION WHICH CONSTITUTES A MAJOR POLICY CHANGE AT THIS CORPORATION AND PASSPORTS THIS CORPORATION AT THIS TIME AND, AT THIS TIME, AND AT THIS MEETING, AND TO GIVE US A TIME CERTAIN, EITHER TODAY OR TOMORROW, WHERE THIS MATTER WILL BE TAKEN UP BY THIS BOARD?

IF IT IS NOT TAKEN UP, IT IS PROBABLY THAT THE MATTER WILL BE RESOLVED IN COURT OR THE DAMAGE WILL HAVE BEEN

DONE AT THIS POINT, WHICH WILL BE IRREPARABLE, AND LEGAL SERVICES PROGRAMS WILL BE LEFT WITHOUT ANY TRAINING SUPPORT OF ANY KIND UNTIL AN ALTERNATIVE, IF ANY, IS EVEN ON THE DRAWING BOARD, CAN BE CONCEIVED.

THANK YOU.

WILL YOU PUT IT ON THE AGENDA, SIR?

MR. MC CARTHY: THE AGENDA HAS ALREADY BEEN ESTABLISHED. AT THE CONCLUSION OF OUR MEETING, WE WILL CONSIDER OTHER AGENDA ITEMS. WE'RE RUNNING OUT OF TIME, PLEASE.

A SPEAKER: I'M NOT INTERESTED IN PUBLIC COMMENT; I WANT TO KNOW WHETHER YOU WILL RECONSIDER THE ACT OF MR. HARTLEY'S OCTOBER 26TH LETTER.

MR. MC CARTHY: YOU ARE OUT OF ORDER; THE AGENDA HAS BEEN ACCEPTED AND ADOPTED.

A SPEAKER: THAT'S NO ANSWER.

MR. MC CARTHY: THAT IS -- .

(CLAPPING.)

A SPEAKER: MY NAME IS COUTERES ASTOBOS; I'M WITH THE COMMUNITY EDUCATION LEGAL SERVICES. THE REASON I CAME UP TO SPEAK WAS SORT OF MY MIND WENT BACK TO ABOUT TEN YEARS AGO WHEN I WENT BEFORE THE LEGISLATION IN ARIZONA AND TO CONFRONT SOME LEGISLATORS THAT WERE PASSING SOME VERY IMPRESSIVE LEGISLATION AGAINST FARM WORKERS. AND ALTHOUGH THEY LISTENED TO ME AND LISTENED TO THE 3- OR 500 PEOPLE

WHO WERE ON THE BALCONIES; THEY STILL CONTINUED TO PASS THIS LAW, WHICH HAS BEEN VERY DETRIMENTAL TO AGRICULTURAL WORKERS.

AT THE SAME TIME, THE EXPLOITATION OF CHILDREN AT THREE O'CLOCK IN THE MORNING, TWELVE O'CLOCK MIDNIGHT HAS BEEN EXPLOITED; GO OUT AND WORK AND SUPPLEMENT THEIR FAMILY INCOMES, THAT IS STILL GOING ON BECAUSE THERE IS NO WAY THAT WORKERS CAN ORGANIZE AND UNIONIZE.

THE OTHER THING IS, THIS DEFUNDING, AS A PERSON BEING INVOLVED IN COMMUNITY ORGANIZATIONS FOR THE LAST 20-SOME YEARS, I WAS INVOLVED IN A PROGRAM CALLED GRANT OPPORTUNITY PROGRAM, WHICH WAS DEFUNDED NOT BECAUSE IT DIDN'T HAVE A GOOD TRACK RECORD; NOT BECAUSE IT DIDN'T DO ITS JOB IN EDUCATION; IN ORGANIZING AND SETTING UP DAY CARE CENTERS AND SETTING UP EDUCATIONAL CENTERS; BUT BECAUSE THE OTHER PERSON OR THE OTHER PROGRAM THAT WAS VYING FOR THOSE SAME FUNDS HAD MORE POLITICAL PULL IN WASHINGTON THAN MY GRANT OPPORTUNITY PROGRAM. AND THIS IS THE QUESTION THAT I PUT BEFORE YOU:

IS THAT HOW YOU'RE GOING TO REACT, BECAUSE MOSTLY PEOPLE REACT BY SOMEBODY WHO HAS MORE POLITICAL PULL, MORE SENATORIAL PULL, AND THAT'S HOW THEY MAKE JUDGMENTS ABOUT HOW THEY'RE GOING TO FUND A PROGRAM. THEY DON'T REALLY MAKE JUDGMENTS ON THE TRACK RECORD OF THAT PROGRAM. THEY DON'T REALLY MAKE JUDGMENTS THAT THEIR PEOPLE HAVE SERVED THE POOR OR HAVE DONE THEIR JOB.

RIGHT NOW, THAT'S THE WAY I SEE IT. TO ME,

I FEEL THAT YOU ARE JUST NO DIFFERENT THAN THOSE LEGISLATORS THAT PASSED THIS REPRESSIVE LAW, AND I FEEL THAT YOU HAVE ALREADY MADE UP YOUR MIND WHAT YOU'RE GOING TO DO. YOU HAVE DENIED ANYTHING TO GET ON THE AGENDA THAT IS NOT WHAT YOU THINK IS RIGHT, BECAUSE YOU HAVE ALREADY MADE UP YOUR MINDS. AND THE PRESIDENT OF THIS COUNTRY SAYS THAT HE WANTS TO DEFUND THIS PROGRAM; THAT'S WHAT YOUR PURPOSE IS, AND THAT'S YOUR JOB TO DO, AND THAT'S WHAT YOU'RE GOING TO DO.

BUT I WANT YOU TO KNOW ONE THING. AS A THIRD WORLD PERSON, AS A COMMUNITY ORGANIZER, AND AS AN EDUCATOR, I HAVE MY RESPONSIBILITY TO GO TO COMMUNITIES AND INFORM THEM OF YOUR ACTIONS. AND AS MR. SHEPARD SAID, THESE CLAPS THAT YOU HEAR ARE NOT A FEW, BUT MANY.

I WANT TO THANK YOU FOR LISTENING TO ME.

(PROLONGED CLAPPING.)

A SPEAKER: MR. MC CARTHY, MEMBERS OF THE BOARD, I'M A CLIENT BOARD MEMBER FROM --

MR. MC CARTHY: WHAT IS YOUR NAME?

THE SPEAKER: FLOREIN RENFREW. AND I CAME DOWN HERE TODAY BASICALLY TO SEE WHO YOU GUYS WERE AND WHAT YOU WERE DOING AND WHETHER OR NOT YOU WERE REALLY CONCERNED WITH THE POOR PEOPLE. AND I REALLY HAVEN'T BEEN VERY FAVORABLY IMPRESSED.

THIS THING ABOUT DENYING FUNDING REALLY SCARES THE DICKENS OUT OF ME. I MEAN, WHEN YOU DENY FUNDING AND

YOU'RE NOT GOING TO LISTEN TO WHAT THE CLIENTS HAVE TO SAY, THEY'RE THE PEOPLE THAT ARE BEING SERVED, AND THEY'RE THE PEOPLE THAT ARE IMPORTANT IN THIS THING, AND YOU'VE GOT TO LISTEN TO THEM. YOU CAN'T JUST SAY, HEY, YOU KNOW, SO WHAT; YOU CAN'T DO THAT. YOU'VE GOT TO LISTEN TO THOSE PEOPLE.

I SPEND A LOT OF TIME IN MY COMMUNITY LISTENING TO THE PEOPLE THAT APPOINTED ME TO THE BOARD, AND THEY'RE REALLY CONCERNED, VERY CONCERNED ABOUT WHAT'S HAPPENING IN THE PROGRAM AND WHAT'S HAPPENING TO THE COUNTRY. THEY DON'T KNOW QUITE WHAT YOU PEOPLE ARE DOING, AND I DIDN'T KNOW, EITHER; THAT'S WHY I CAME.

I REALLY WOULD LIKE TO GO BACK AND SAY, HEY, THEY'RE OKAY GUYS, AND THEY'RE REALLY CONCERNED WITH WHAT WE NEED. BUT I DON'T THINK IF YOU PASS THIS THING ON DENIAL OF FUNDING THAT I COULD SAY THAT; I REALLY DON'T.

THANK YOU.

MR. MC CARTHY: THANK YOU.

A SPEAKER: MY NAME IS ELEANOR EISENBERG; DIRECTOR, LEGAL SERVICES, SANTA CRUZ, AND VICE-PRESIDENT OF THE REGIONAL LEGAL AID PROJECT ASSOCIATION.

I WOULD LIKE TO FOLLOW UP ON WHAT MY IMMEDIATE PREDECESSOR SAID IN TERMS OF THE CLIENTS AND POINT OUT TO YOU THAT THIS DENIAL OF FUNDING REGULATION WOULD HAVE A SEVERE, CHILLING EFFECT AND WOULD PROBABLY CREATE CONFLICT FOR ATTORNEYS WITH THEIR CLIENTS; WOULD CAUSE US TO VIOLATE

OUR PROFESSIONAL RESPONSIBILITIES TO OUR ETHICAL OBLIGATIONS.

WE ARE RECEIVING INSTRUCTIONS, GUIDELINES, RESTRICTIONS DAILY. IT'S ALREADY BEEN POINTED OUT THAT SOME OF THEM ARE CLEARLY AMBIGUOUS AND VAGUE. WE DON'T NECESSARILY KNOW WHAT THEY MEAN. THEY CHANGE FROM TIME TO TIME; WE DON'T EVEN KNOW IF IN FACT IN YOUR PERSPECTIVE WE MAY BE IN VIOLATION OF THEM. ARE WE NOW ADDITIONALLY TO SAY TO OUR CLIENTS, PERHAPS HAVE COMPLEX MATTERS THAT MAY TAKE YEARS AND YEARS TO GET TO TRIAL, THAT WE CANNOT POSSIBLY UNDERTAKE THIS MATTER, EVEN THOUGH THE LAW MAY BE ON THEIR SIDE, TIME IS NOT ON THEIR SIDE, AND IT MAY BE THAT THE LEGAL SERVICES CORPORATION IS NOT ON THEIR SIDE.

ARE WE TO SAY TO THEM, LOOK, WE CAN UNDERTAKE TO REPRESENT YOU, BUT YOU NEED TO KNOW THAT ANY TIME DURING THE COURSE OF THIS MATTER SOMEBODY 3,000 MILES AWAY MAY DECIDE ARBITRARILY AND CAPRICIOUSLY THAT THERE IS ANOTHER PROGRAM, WHICH MAY NOT EVEN BE IN EXISTENCE NOW, THAT CAN "SERVE YOU BETTER," AND I SIMPLY POINT OUT TO YOU THAT ATTORNEYS DO HAVE ETHICAL OBLIGATIONS, ONCE AN UNDERTAKING IS IN HAND, AN ATTORNEY/CLIENT RELATIONSHIP IS FORMED, TO SEE A MATTER THROUGH TO ITS CONCLUSION. AND IF WE ARE INSECURE IN OUR ABILITY, THEN IS OUR ETHICAL OBLIGATION AND PROFESSIONAL RESPONSIBILITY NOT TO UNDERTAKE THE MATTER; AND THAT WOULD BE THE EFFECT OF THIS REGULATION.

THANK YOU.

(CLAPPING.)

A SPEAKER: MY NAME IS PHILLIP BERTHENTHAL; I'M DIRECTOR OF CONTRA LEGAL SERVICES, RICHMOND, CALIFORNIA.

BEFORE I PROCEED, I WANT TO CALL TO THE ATTENTION OF THE CHAIR, THERE ARE AT LEAST FIVE INDIVIDUALS BEHIND ME, I WOULD HOPE THE CHAIR WOULD LET THEM ALL SPEAK.

I WOULD LIKE TO SPEAK TODAY ON AN ISSUE THAT HASN'T BEEN RAISED, I DON'T THINK, BY ANY OF THE OTHER SPEAKERS. THAT IS, TO REMIND THIS BOARD THAT ALL OF THE LOCAL LEGAL SERVICES PROGRAMS HAVE BOARDS OF DIRECTORS, AND THOSE BOARDS OF DIRECTORS ARE IN PART AND IN FACT A MAJORITY OF THOSE MEMBERS, ARE IN FACT APPOINTED BY THE STATE AND LOCAL BAR ASSOCIATIONS OF THAT JURISDICTION.

THOSE PEOPLE DECIDE THE DIRECTION THAT THE LEGAL SERVICES PROGRAMS ARE GOING TO TAKE, AND WHAT THIS PROPOSED DEFUNDING REGULATION WILL DO IN PART IS TO REMOVE THE CONTROL FROM THE LOCAL PEOPLE, WHO KNOW WHAT THE COMMUNITY NEEDS, AND PLACE IT IN THE HANDS OF THE CORPORATION IN WASHINGTON, D.C., AND LET THEM DECIDE WHO IS BEST CAPABLE OF PROVIDING LEGAL SERVICES IN THE LOCAL COMMUNITIES.

CURRENTLY THAT DECISION IS MADE BY LOCAL PEOPLE, BY LOCAL ATTORNEYS AND LOCAL CLIENTS, AND TO SUBSTITUTE YOUR JUDGMENT IN D.C. WHEN THERE ARE SO MANY DIFFERENT PROGRAMS THAT HAVE SO MANY DIFFERENT CLIENTS AND SO MANY DIFFERENT NEEDS, SEEMS TO ME TO BE PARTICULARLY IRRESPONSIBLE.

SECONDLY, I WOULD LIKE TO TALK ABOUT THE ISSUES IN TERMS OF REFUNDING AS IT AFFECTS STAFF ATTORNEY HIRING. OUR PROGRAMS CURRENTLY START STAFF ATTORNEYS AT SOMEWHAT UNDER $15,000 A YEAR. THIS IS -- I ASSUME THAT'S SUBSTANTIALLY LESS THAN ASSOCIATES START IN YOUR FIRM, MR. MC CARTHY.

IN ORDER TO RECRUIT ATTORNEYS, WE HAVE TO GIVE THEM SOME SORT OF A GUARANTEE OR OPPORTUNITY OF CONTINUED EMPLOYMENT, ASSUMING THEY DO CONTINUE GOOD QUALITY WORK. IF THERE IS A RISK TO THE PROGRAM THAT THEIR FUNDING WILL BE LOST AND TRANSFERRED TO ANOTHER PROGRAM EVERY SINGLE YEAR, WHAT THAT WILL MEAN IN TERMS OF OUR ABILITY TO RECRUIT GOOD QUALITY STAFF IS GOING TO BE SUBSTANTIALLY IMPACTED.

CONSEQUENTLY, I WOULD URGE YOU NOT TO PROVIDE FOR DEFUNDING IN THOSE SITUATIONS WHERE IN FACT THE LOCAL PROGRAM IS IN FACT PROVIDING GOOD QUALITY SERVICES, HAS THE SUPPORT OF THE LOCAL BAR, WHICH CONTROLS ITS BOARD OF DIRECTORS AND RATHER LEAVE THINGS THE WAY THEY ARE.

THANK YOU VERY MUCH.

MR. MC CARTHY: THE CHAIR REGRETFULLY ADVISES YOU THAT THE TIME FOR PUBLIC COMMENT HAS NOW EXPIRED, I'M SORRY.

GENTLEMEN, IF YOU'LL PLEASE BE SEATED, I'M GOING TO ASK ALAN SWENDIMAN TO ANSWER THE QUESTIONS PUT TO HIM, IF YOU WOULD BE ABLE TO DO THAT, ALAN, I WOULD APPRECIATE IT.

A SPEAKER: MR. MC CARTHY, THERE ARE PEOPLE WHO HAVE TRAVELED LONG DISTANCES. THERE ARE FIVE SPEAKERS LEFT; CAN'T YOU SHOW US THE COURTESY --

MR. MC CARTHY: I WOULD BE VERY DELIGHTED. WE ALL HAVE TRAVELED LONG DISTANCES. WE HAVE A SET TIME AT WHICH TO CONSIDER EVERY MATTER. WE HAVE NOW DEVOTED ONE HOUR AND 13 MINUTES TO PUBLIC DISCUSSION OF THIS --

A SPEAKER: MR. MC CARTHY, IT'S NOT OUR FAULT THAT THE AGENDA FOR THIS MEETING IS CRAMMED FULL OF MATERIAL AND ISSUES WHICH HAVE NOT HERETOFORE BEEN ADDRESSED.

(CLAPPING.)

MR. MC CARTHY: ALAN, WOULD YOU PROCEED WITH YOUR COMMENTS.

MR. SWENDIMAN: LET ME ADDRESS A NUMBER OF THE POINTS THAT WERE MADE.

FIRST OF ALL, JUST A PRELIMINARY NOTE: THERE'S BEEN SOME COMMENT MADE CONCERNING INSENSITIVITY OF THIS STAFF. I CAN'T SPEAK FOR OTHER DIVISIONS OF THE CORPORATION, BUT I CAN ASSURE THE BOARD THAT WE HAVE BEEN MORE THAN RECEPTIVE AND OPEN TO RECEIVING COMMENTS, EITHER WRITTEN OR ORAL, FROM MEMBERS OF THE PUBLIC AND INTERESTED PARTIES.

IT'S INTERESTING THAT WE HAVE RECEIVED A LOT OF WRITTEN COMMENTS AND HAVE -- WE CAN ASSURE THE BOARD THAT WE HAVE CONSIDERED THEM VERY CAREFULLY, IN TERMS OF ORAL INPUT.

I SAY THAT THERE'S BEEN IN FACT A LITTLE CONTACT.

WE HAVE RECEIVED VERY FEW CALLS, AND WITH THE EXCEPTION OF MR. BERNIE VENEY, WHO HAS BEEN IN CONTACT WITH MY OFFICE, THAT HAS BEEN THE EXTENT OF IT.

IF THERE HAS BEEN ANY LACK OF RECEPTIVITY FROM THE OFFICE OF GENERAL COUNSEL, IT CERTAINLY HAS NOT BEEN ON THE PART OF MY STAFF. I THINK THERE'S BEEN -- THERE ARE A NUMBER OF OTHER THINGS TO ADDRESS.

FIRST OF ALL, I THINK THERE HAS BEEN AT LEAST A SLIGHT CONFUSION ON SOME OF THE SPEAKERS' PARTS AS TO WHETHER ON THIS DENIAL OF THE DEFUNDING. THERE IS AN EXISTING ADMINISTRATIVE PROCEDURE, TO BEGIN WITH, AND HAS ALWAYS EXISTED, AND THERE HAS BEEN IN THE PAST PROGRAMS THAT IN FACT HAVE BEEN DEFUNDED.

THE PROPOSED REGULATION DOES NOT CUT OUT HEARING AT ALL; IT RETAINS THE HEARING PROCEDURE AND, IN TERMS OF DUE PROCESS, IT REMAINS.

THE CORPORATION ITSELF OBVIOUSLY DOES NOT HAVE ANY POWER TO REDUCE THE OVERALL FUNDING FROM THE STANDPOINT OF CONGRESSIONAL APPROPRIATIONS, ONLY CONGRESS CAN DO THAT, AND THERE HAS BEEN SOME TALK IN TERMS OF REDUCING THE FUNDING OF PROGRAMS.

IN RESPONSE TO A NUMBER OF OTHER COMMENTS, I WOULD SIMPLY SAY THAT IF IN FACT A PROGRAM IS DOING A GOOD JOB, IF IN FACT IT IS PROVIDING QUALITY LEGAL SERVICES AND IN FACT IS SERVING POOR PEOPLE, THEN THERE REALLY IS NOT

GOING TO BE A PROBLEM. IT'S NOT AN INSTANCE OF WHERE YOU'RE SIMPLY GIVING MONEY TO ANOTHER PROGRAM.

AGAIN, I WOULD EMPHASIZE, THERE IS NO ELIMINATION OF THE HEARING PROCEDURE WHATSOEVER.

THERE'S BEEN SOME REMARKS CONCERNING THE CONGRESSIONAL, PENDING CONGRESSIONAL LEGISLATION. I CAN'T PREDICT, AND I, FRANKLY, DON'T THINK ANYBODY IN THIS ROOM CAN PREDICT WHAT CONGRESS IS GOING TO DO WITH REGARD TO THE PENDING LEGISLATION. I WOULD DEFER TO MY COLLEAGUE, MR. STREETER, IN TERMS OF A DETAILED HISTORY OF LEGISLATION THAT HAS INVOLVED THE CORPORATION.

BUT I DO KNOW FOR A FACT THAT AS LATE AS THE CONTINUING RESOLUTION THAT WAS PASSED IN DECEMBER THIS PAST YEAR, THAT CONTINUING RESOLUTION UNDERWENT SUBSTANTIAL CHANGE FROM WHAT IT INITIALLY STARTED OUT TO BE.

THERE WERE A NUMBER OF RESTRICTIONS. THERE WERE A NUMBER OF RIDERS THAT WERE ATTACHED TO THAT LEGISLATION AS IT PROCEEDED THROUGH CONGRESS AND WHICH WERE MADE ON THE FLOOR.

I MIGHT ALSO ADD THAT, IN TERMS OF THE PENDING LEGISLATION AND, AGAIN, I WOULD DEFER TO MR. STREETER, THAT THAT LEGISLATION SHIFTS THE BURDEN OF PROOF TO THE RECIPIENT IN A DENIAL OF REFUNDING, AND ALSO IMPOSES TIME STRICTURES IN TERMS OF DECIDING AND TAKING ON A DENIAL OF REFUNDING MATTERS.

MY UNDERSTANDING IS THAT AT LEAST AS IT'S

PENDING, THE CORPORATION WOULD HAVE 30 DAYS TO TAKE ACTION, 30 DAYS WOULD THEN BE ALLOWED FOR THE HEARING OFFICER TO HEAR THE CASE, AND THEN THE CORPORATION WOULD HAVE 30 DAYS TO DECIDE.

SO THAT THERE ARE, TERMS OF PENDING LEGISLATION, THERE ARE SOME RESTRICTIONS TO BEGIN WITH. AGAIN, I DON'T KNOW, AND I CERTAINLY AM NOT IN THE POSITION TO PREDICT WHAT CONGRESS IS GOING TO DO ON THAT SCORE.

IN TERMS OF CLIENT PARTICIPATION, I DON'T BELIEVE THAT THE CLIENT PARTICIPATION IS LIMITED IN ANY WAY FROM THE PROPOSED REGULATION. CLIENTS ARE NOT BEING DENIED INPUT. THERE IS NOTHING IN THE PROPOSED REGULATION WHICH PREVENTS THIS PROGRAM FROM CALLING CLIENTS AS WITNESSES ON THEIR BEHALF; AND I CERTAINLY THINK IF I WERE THE ATTORNEY FOR THE PROGRAM AND I WERE IN THIS SITUATION, I WOULD CERTAINLY, IF I THOUGHT I WAS DOING A GOOD JOB IN PROVIDING QUALITY LEGAL SERVICES, I WOULD BE CALLING SOME OF MY BEST CLIENTS TO SUPPORT MY POSITION.

MR. SANTARELLI: IF I MAY INTERRUPT, I WANT MR. PENNINGTON TO UNDERSTAND THAT THAT IS CONTEMPLATED BY US; THAT THEY WOULD NOT BE EXCLUDED AND PROBABLY SHOULD BE INCLUDED; BUT LEAVE THAT DECISION PRACTICALLY TO THE LOCAL GRANTEE TO HANDLE IN HIS OWN WISDOM.

I'M NOT ANSWERING QUESTIONS, BERNIE; I'M JUST ELIMINATING A POINT THAT WAS RAISED EARLIER.

MR. SWENDIMAN: I WOULD ALSO ADD, IN TERMS OF THE BURDEN OF PROOF, THERE IS NOTHING IN SECTION 1011 THAT MANDATES WHERE THE BURDEN OF PROOF LIES, AND THERE'S CERTAINLY NOTHING IN THE ACT WHICH APPROVES THIS APPROACH. SECTION 1011 ONLY REQUIRES THAT THE CORPORATION REQUIRE PROCEDURES TO INSURE FUNDING NOT BE DENIED UNLESS THE RECIPIENT HAS BEEN AFFORDED REASONABLE NOTICE AND AN OPPORTUNITY FOR A TIMELY AND FULL AND FAIR HEARING.

IN FACT, THE SPOKANE COUNTY CASE, IN THAT CASE THE COURT IN THAT MATTER SIMPLY SAID THAT THE CORPORATION HAD TO HAVE SOME EVIDENCE IN ORDER TO SUPPORT ITS DECISION TO DENY REFUNDING. IN ANY EVENT, THERE IS CERTAINLY NOTHING THAT PRECLUDES IN THE STATUTE WHAT IS PROPOSED IN THE REGULATION.

FINALLY, I WOULD JUST SIMPLY -- WELL, TWO POINTS I WOULD ADD:

ONE IS, OF COURSE, THAT THERE IS NO PROPRIETARY INTEREST. THERE IS NO SUCH INTEREST CONFIRMED BY THE LEGAL SERVICES CORPORATION ACT, NOR ANY OF THE AMENDMENTS OR CONGRESSIONAL RIDERS THAT HAVE BEEN -- THAT HAVE COME ALONG.

FINALLY, THE TERMS OF A LIMIT OF $20,000 OR TEN PERCENT; THE TEN PERCENT LIMIT HAS ALREADY -- HAS ALWAYS BEEN IN EXISTENCE. I -- OR I SHOULD SAY -- IT'S CURRENTLY IN EXISTENCE, THE $20,000 FIGURE, AT LEAST FROM WHAT I HAVE BEEN ABLE TO RESEARCH, IN TERMS OF PAST CORPORATE HISTORY,

SIMPLY WAS AN ARBITRARY FIGURE. IN FACT, IF MY RESEARCH SERVES ME CORRECTLY, THERE ARE IN FACT SOME GOVERNMENT AGENCIES, I BELIEVE IT'S THE COMMUNITY SERVICES AGENCY, THAT MAKES A PRESCRIPTION OF 20 PERCENT DEDUCTION WITHOUT BEING CONSIDERED A DENIAL OF REFUNDING.

SO THAT THE CORPORATION IS -- TEN PERCENT CERTAINLY FALLS WELL WITHIN THAT PARAMETER.

I HOPE THAT I'VE BEEN ABLE TO ADDRESS A NUMBER OF THE COMMENTS AND QUESTIONS THAT WERE ASKED BY MEMBERS OF THE PUBLIC, AS WELL AS ANY QUESTIONS THAT THE BOARD MIGHT HAVE.

MR. MC CARTHY: DOES THE BOARD HAVE ANY FURTHER QUESTIONS OF ALAN?

A SPEAKER: MR. MC CARTHY --

MR. SWENDIMAN: MAY I ADD ONE MORE THING, BECAUSE THERE WAS A GENTLEMAN WHO DID INQUIRE CONCERNING THE COST AND LENGTH OF TIME, IN TERMS OF DENIAL OF REFUNDING, AND IN DIRECT RESPONSE TO HIS QUESTION, NO, THERE HAS NOT BEEN A STUDY DONE.

FRANKLY, IN MY PERSONAL OPINION, AND IT CERTAINLY DOES NOT REFLECT ANY OF THE BOARD MEMBERS OR ANY OF THE OTHER STAFF OR THE PRESIDENT, FOR THAT MATTER; I DON'T THINK THERE'S A NEED FOR A STUDY, CONSIDERING THAT THE OFFICE OF GENERAL COUNSEL EITHER IS INVOLVED IN THAT PROCEEDING OR SUPERVISES IT, WE CERTAINLY HAVE AN IDEA OF WHAT IS INVOLVED.

IN THE LAST PROCEEDINGS WHICH I REFERRED TO EARLIER, THE MATTER RAN APPROXIMATELY NINE MONTHS AND THE FIGURE, IN TERMS OF DIRECT COSTS, WAS OVER $100,000. NOW, THAT FIGURE DOES NOT REFLECT AN INDIRECT COST, IN TERMS OF SALARIES APPORTIONED ON THE GENERAL COUNSEL'S STAFF, THAT IS AS TO THE LAST PROCEEDING.

I MIGHT ADD THAT THAT LAST PROCEEDING ACTUALLY INITIATED -- NOT THE PROCEEDING ITSELF, PROBLEMS INITIATED BACK IN 1979 AND IN FACT HAVE BEEN A CARRY-OVER THROUGH A NUMBER OF GENERAL COUNSELS AND A NUMBER OF CORPORATE ADMINISTRATIONS.

MR. MC CARTHY: THANK YOU.

NOW, PRIOR TO YOUR STATEMENT, I DO RESPOND TO YOUR COMMENTS; I KNOW THE PURPOSE OF THE PUBLIC COMMENT; WE HAVE TO BALANCE THINGS VERY, VERY CAREFULLY TO GET ANYTHING RESOLVED. THESE MATTERS ARE CONTROVERSIAL AND OUR IDEA IS TO RESOLVE CONTROVERSY, AND WE MUST DO THIS. HOWEVER, WITH ALL DUE RESPECT TO THESE PEOPLE, I WILL ALLOW EACH ONE OF YOU ONE MINUTE, WHICH GIVES A TOTAL OF FIVE MINUTES.

THE PREVIOUS SPEAKERS DID NOT VERY WELL ADHERE TO MY ADMONITION. BUT AS TO NOT BRINGING UP MATTERS THAT HAVE ALREADY BEEN BROUGHT UP, IF YOU HAVE A NEW MATTER, I THINK THAT WE COULD THEN COMPLETE, AND ALL FIVE OF YOU HAVE THE OPPORTUNITY OF GETTING YOUR THOUGHT OVER.

WITH THAT, I WOULD THEN LIKE TO GIVE YOU ONE

MINUTE EACH, AND OUR LARGE FRIEND ON THE END WILL BE THE TIMEKEEPER.

A SPEAKER: WELL, I DON'T THINK ONE MINUTE WILL BE ENOUGH FOR --

MR. MC CARTHY: WELL, I'M SORRY.

A SPEAKER: PERHAPS IF YOU DON'T WANT TO GIVE US THE RIGHT TO SAY WHAT WE HAVE TO SAY RIGHT NOW, YOU CAN CONTINUE THIS AFTER LUNCH. MOST OF THE PEOPLE WITH WHOM WE'RE CONCERNED CANNOT EVEN AFFORD TO HAVE LUNCH.

MR. MC CARTHY: SIR?

MR. WINSTON: FRANK WINSTON SPEAKING FOR THE LAWYERS' CLUB OF SAN FRANCISCO.

SPEAKING FROM THE STANDPOINT OF A MAJOR BAR, WE'RE CONCERNED, AMONG OTHER THINGS, IN THE PROPOSED REGULATIONS. THERE IS THE OPPORTUNITY TO CHALLENGE, OR RATHER, LACK OF OPPORTUNITY, TO CHALLENGE THE RULES THAT HAVE BEEN ESTABLISHED FOR DEFUNDING.

IF THERE'S A CLEAR STATEMENT SAYING THAT YOU CAN'T REALLY ADDRESS OR ATTACK THE VALIDITY OF A RULE THAT'S GOING TO OPERATE AGAINST YOU, AND YET THAT RULE IN ITSELF MAY BE THE BASIS FOR YOUR BEING DEFUNDED, TELLING SOMEONE YOU CAN LATER TAKE ME TO COURT, THAT'S THEIR ONLY APPEAL, IS GOING TO DEPRIVE PEOPLE IN THE INTERIM OF THE OPPORTUNITY OF BEING SERVED.

WE DON'T THINK THAT'S CONSISTENT AT ALL. WE URGE

THAT WHEN YOU DO ADOPT THIS KIND OF RULE THAT DUE PROCESS ALSO INCLUDES ANY RULE THAT'S TO BE MADE THAT COULD IMPACT UPON A DEFUNDING STANDARD, BE CHALLENGEABLE, NOT ONLY WHEN IT IS MADE, BUT ALSO IN ANY HEARING WHICH COULD AFFECT DEFUNDING.

THANK YOU.

(CLAPPING.)

A SPEAKER: MY NAME IS LINDA ORREAL; I'M FROM STANFORD UNIVERSITY ALUMNA. I'M HERE TO PRESENT A PETITION FROM THE STANFORD LAW SCHOOL. IT PERTAINS TO BOTH ELIGIBILITY, THE ELIGIBILITY RULE AND THE DENIAL OF REFUNDING RULE. SO I'LL JUST COVER THE PERTINENT SECTIONS HERE, BECAUSE THAT PETITION SAYS:

"WE, THE UNDERSIGNED FACULTY MEMBERS AND STUDENTS, URGE YOU TO REJECT THE REGULATIONS PROPOSED BY YOUR STAFF REGARDING DENIAL OF REFUNDING. THESE PROPOSED REGULATIONS WILL SERIOUSLY REDUCE AND UNNECESSARILY BURDEN CIVIL REPRESENTATIONS OF LOW-INCOME PERSONS IN THIS COUNTRY AND WILL IMPEDE THEIR ACCESS TO THE LEGAL SYSTEM FOR THE FOLLOWING REASONS, AMONG OTHERS:

"THE PROPOSED DENIAL OF REFUNDING RULE, 45 CFR 1625, WILL SEVERELY UNDERMINE THE FUNDING STABILITY NECESSARY FOR LOCAL LEGAL SERVICES

PROGRAMS TO ATTRACT DEDICATED AND QUALIFIED STAFF AND PROVIDE EFFECTIVE LEGAL ASSISTANCE BECAUSE IT (A) DENIES LEGAL SERVICES TO GRANTEES AND THE CLIENTS THEY SERVE, FUNDAMENTAL DUE PROCESS RIGHTS BY GRANTING LFC THE AUTHORITY TO DEFUND A PROGRAM OR FAILURE TO COMPLY WITH LAWS, REGULATIONS OR GRANT CONDITIONS WITHOUT GIVING THE GRANTEE PRIOR NOTICE OR AN OPPORTUNITY TO CORRECT THE ALLEGEDLY WRONGFUL ACT.

"AND, (B) GIVES LFC ABILITY TO TRANSFER TO GRANTEES AND OTHER ENTITIES AND TO ELIMINATE A PERCENT OF THE LOCAL PROGRAM FUNDING . . . "

THIS PETITION WAS SIGNED BY STUDENTS FROM STANFORD LAW SCHOOL AND OTHER PERSONS FROM STANFORD: WILLIAM H. SIMON, WILLIAM B. GOLD, JACK GUETHRAL, GLEN HENDERSON, MARK KELLMAN, MIGUEL AMENDEZ, SAMUEL GROSS, PAUL BREST.

THANK YOU.

A SPEAKER: GOOD AFTERNOON, MR. MC CARTHY. MY NAME IS WILLIE TOWNSEND. I WORK FOR SAN FRANCISCO NEIGHBORHOOD LEGAL ASSISTANCE, AND I'VE BEEN WITH SAN FRANCISCO LEGAL NEIGHBORHOOD ASSISTANCE OR AFFILIATED WITH THEM, ASSOCIATED WITH THEM, SINCE 1972, AND I'VE ADVOCATED FOR POOR PEOPLE IN THIS CITY, HUNDREDS OF THEM, OVER THE YEARS. AND I'LL TELL YOU THAT THIS BOARD, FROM WHAT I'VE HEARD

TODAY, IS NOT HERE TO LOOK OUT FOR THE INTERESTS OF THOSE PEOPLE, AND WE CAN JUST -- THAT IS, OUR REAL PEOPLE, IF THEY COULD JUST LOOK OUT FOR THOSE PEOPLE'S INTERESTS, AS FAR AS I'M CONCERNED, THIS BOARD IS GOING THROUGH THIS INFORMALLY TO DO WHAT REAGAN WANTS TO DO; TO DO AWAY WITH THE LEGAL SERVICES CORPORATION.

NOW, THESE RULES THAT ARE GOING UP WITH -- YOU'RE GOING TO HAVE TO ANSWER FOR THEM, ADHERE TO THESE PEOPLE, THE MEANS OF THE PEOPLE THAT WE REPRESENT ACROSS THE UNITED STATES, IN COURT. YOU'RE GOING TO HAVE TO ANSWER TO THEM.

I DON'T THINK YOU PEOPLE REALLY KNOW WHAT OUR CLIENT IS, WHAT A REAL CLIENT IS, A POOR CLIENT THAT COMES INTO YOUR OFFICE, YOU KNOW, HALF OF THEM DON'T HAVE PROPER FOOD TO EAT, DON'T HAVE ANYTHING. WE'RE GOING TO TAKE SERVICES AWAY FROM THEM. MYSELF, I DON'T MAKE THAT MUCH MONEY; YOU'RE GOING TO COME UP AND SAY, WE COULD DEFUND YOUR PROGRAM JUST ON ANY WHIM, YOU KNOW. SO I DON'T HAVE ANY FUTURE IN LEGAL SERVICES ANYMORE. NOBODY ELSE HAS ANY FUTURE.

I MEAN, YOU DON'T HAVE ANY MORE DEDICATED PEOPLE. EVEN A SITUATION WHERE PEOPLE ARE GOING TO BE SAYING, WELL, I'VE GOT MORE POLITICAL CLOUT THAN YOU'VE GOT, SO IF I DO WHAT THE REAGAN ADMINISTRATION WANTS TO BE DONE, I CAN GET YOUR FUNDS . . .

WE'RE GOING TO HAVE THAT TYPE OF SITUATION. WE'RE GOING TO HAVE PEOPLE BE INTIMIDATED AND OUR PURPOSE IS NOT TO INTIMIDATE ANYBODY. OUR PURPOSE IS TO SERVE THESE PEOPLE, GIVE THESE PEOPLE WHAT THEY DESERVE, ADEQUATE REPRESENTATION.

MR. MC CARTHY: THANK YOU VERY MUCH.

A SPEAKER: MY NAME IS STEVE BROWN. I WANT TO REITERATE A COUPLE OF COMMENTS RELATING TO THE PROVISIONS WHICH ALLOW DENIAL IF THERE'S A FAILURE TO COMPLY WITH THE GUIDELINES OR POLICIES:

I WOULD STATE THAT THE RISK OF THIS PROVISION IS THAT EVEN WITH THE BEST OF INTENTIONS, LOCAL PROGRAMMING MANAGERS WILL AT TIMES INADVERTENTLY, IF NOTHING ELSE, NOT BE IN COMPLIANCE WITH SOME REGULATIONS. IT MIGHT BE PRIORITY SETTING; IT MIGHT BE SOMETHING ELSE.

WHAT THIS DOES IS PENALIZE AND PUT A SUBSTANTIAL RISK ON THOSE PROGRAMS THAT ARE NOT INFALLIBLE. AND I WOULD SUGGEST THAT THERE'S NOT A SINGLE PROGRAM THAT WILL BE INFALLIBLE WITH RESPECT TO THE ACTUAL FULL COMPLIANCE WITH THE REGULATION, DESPITE THEIR EFFORTS TO DO SO.

FURTHER, WITH RESPECT TO EFFORTS TO COMPLY WITH THESE REGULATIONS, I WOULD SUGGEST TO YOU THAT MANY REGULATIONS THAT ARE ON THE BOOKS ARE NOT NECESSARILY CRYSTAL CLEAR; THEY ARE NOT SELF-EXECUTING. THEY DEMAND INTERPRETATION WITH RESPECT TO THEIR COMPLIANCE. AND THE SITUATION YOU

HAVE HERE IS THAT MANY PROGRAMS WILL TAKE ACTION TO COMPLY WITH REGULATIONS; THEY THINK THEY'RE IN COMPLIANCE WITH REGULATIONS, AND THEY ARE TOLD, WE DISAGREE WITH YOU, AND WE WILL DEFUND YOU ON ACCOUNT OF THAT.

A COUPLE OF QUICK EXAMPLES OF WHERE THIS IS A RISK SITUATION, THE REGULATIONS WITH RESPECT TO JUDICARE -- I'M SORRY -- ADMINISTRATIVE REPRESENTATION, ALLOWS US TO REPRESENT INDIVIDUALS WITH RESPECT TO PARTICULAR CLAIMS IN THE ADMINISTRATIVE AGENCY PROCESS.

THERE'S ANOTHER REGULATION WHICH REQUIRES US TO KEEP RECORDS AND DOCUMENTATION WITH RESPECT TO ADMINISTRATIVE ADVOCACY ETHICS ON THE PART OF CLIENTS. HOWEVER, THAT REGULATION DOES NOT REQUIRE US TO KEEP RECORDS WHEN WE ARE ADMINISTRATIVELY ADVOCATING -- IF IT IS PART OF OUR ADJUDICATORY PROCESS.

I CAN TELL YOU ABOUT THE PROBLEM IN NEW YORK; WE'VE GOTTEN PROJECT DIRECTORS THAT TO THIS DAY HAVE NO IDEA, REALLY, HOW TO DEFINE AN ADJUDICATORY ADMINISTRATIVE REPRESENTATION PROCESS FROM A STRICTLY ADMINISTRATIVE LOBBYING PROCESS. I CAN TELL YOU THAT THEY'RE TRYING TO COMPLY WITH THIS BUT THEY DON'T KNOW WHAT THE SITUATION IS; THEY HAVE TO KEEP RECORDS ON SOME. THEY DON'T KNOW WHICH RECORDS THEY HAVE TO KEEP RECORDS ON AND WHICH ONES THEY DON'T, AND WE HAVE GOTTEN NO GUIDANCE ON THAT.

ANOTHER QUICK EXAMPLE: THE ALIEN REGULATION,

YOU KNOW HOW LENGTHY IT IS AND HOW COMPLICATED IT IS. I KNOW FIRSTHAND THAT THE PROGRAMS IN NEW YORK ARE GOING CRAZY TRYING TO COMPLY WITH THAT REGULATION, BUT THEY DON'T KNOW NECESSARILY WHETHER WHAT THEY DO ACTUALLY COMPLIES.

ARE WE GOING TO DEFUND THEM BECAUSE DESPITE THEIR EFFORTS SOMEONE IN THE COUNSEL'S OFFICE DECIDES THEIR EFFORT WASN'T GOOD ENOUGH AND . . .

ANOTHER EXAMPLE: BOARD COMPOSITION. THE SAME PROBLEM -- THERE HAVE BEEN OVER THE YEARS NUMERABLE COUNSEL OPINIONS. THERE HAVE BEEN NUMERABLE EDICTS AND PAPERS FROM THE CORPORATION IN THE LAST YEAR, INTERPRETING THE BOARD. THE LAST WORD OBVIOUSLY HASN'T BEEN SAID ON BOARD COMPOSITION PROGRAMS WHO ARE TRYING TO COMPLY IN THIS COULD EASILY BE FOUND SUBSEQUENT TO BE NOT SUBSTANTIALLY IN COMPLIANCE, IN VIEW OF THE CORPORATION BEING DEFUNDED.

THIS DOESN'T MAKE SENSE. SITUATIONS LIKE THIS REQUIRE PRIOR NOTICE AND OPPORTUNITY TO CORRECT BEFORE DEFUNDING CAN BE MADE FOR THIS PURPOSE.

THANK YOU.

A SPEAKER: MY NAME IS WANELL KRAMER, I AM A HOUSING LITIGATION PARALEGAL FOR THE SAN FRANCISCO LEGAL NEIGHBORHOOD ASSISTANCE FOUNDATION AND I AM A MEMBER OF THE NATIONAL ORGANIZATION OF LEGAL SERVICE WORKERS, DISTRICT 65, UNITED AUTO WORKERS. I AM PRESIDENT

OF OUR ORGANIZED UNION AT SAN FRANCISCO LEGAL NEIGHBORHOOD ASSISTANCE; AND THE MAIN REASON I AM HERE TO TALK TO YOU IS ABOUT STAFF PROGRAMS.

WHEN I WAS LISTENING TO PEOPLE TALK ABOUT HOW PROGRAM DIRECTORS WHO ARE LAWYERS WHO HAVE MBA --

MR. MC CARTHY: ARE YOU ADDRESSING THIS REGULATION, IS YOUR COMMENT ON THE REGULATION THAT'S BEFORE THE BOARD?

MS. KRAMER: YES.

MR. MC CARTHY: I WOULD APPRECIATE IF YOU WOULD GIVE US SOME NEW THOUGHTS THAT YOU MIGHT HAVE.

MS. KRAMER: I WOULD APPRECIATE IF YOU WOULD LISTEN TO ANY THOUGHTS I MIGHT HAVE. IN FACT, I WOULD APPRECIATE IT IF ANY OF YOU WOULD GIVE US SOME ANSWER. WE ASKED YOU FOR ANSWERS, ALL KINDS OF RESPONSES, AND WE GET NOTHING FROM ANY ONE OF YOU, YOU PUT SOMEONE OVER HERE AT A MICROPHONE TO GIVE US ANSWERS WHICH ARE NOT REALLY ANSWERS. DO ANY OF YOU HAVE OPINIONS? DO ANY OF YOU HAVE VOICES TO SAY WHAT YOU HAVE TO SAY?

(CLAPPING)

YOU ARE THE BOARD, YOU ARE RESPONSIBLE TO US, AND TO THE CLIENTS; BUT YOU ARE NOT RESPONSIVE TO US.

MR. MC CARTHY: THANK YOU VERY MUCH. THIS WILL CLOSE THE GENERAL DISCUSSION. WE WILL NOW RECESS FOR ONE HOUR AND RESUME AT 2:30. THANK YOU ALL FOR

YOUR COMMENTS.

(NOON RECESS TAKEN)

(2:30 P.M. SESSION)

MR. MC CARTHY: THE LEGAL SERVICES BOARD HAS NOW BEEN READJOURNED AND WE WILL NOW CONTINUE. FOR THE RECORD, I WOULD LIKE TO CLARIFY ONE COMMENT I MADE, A COMMENT TO JIM BRAUDE ABOUT DEFERRING ACTION. HE ASKED ME IF I HAD DEFERRED THE ACTION, I SAID YES. THE ACTION WAS DEFERRED BY ADOPTION OF THE AGENDA, WHICH WAS PREVIOUS TO JIM'S QUESTION.

SO THERE IS NO MISUNDERSTANDING, THERE NEVER HAS BEEN ANY CONSIDERATION BY THE BOARD AS TO YOUR QUESTION, JIM, BUT MY ANSWER WAS TO THE ADOPTION OF THE AGENDA, WHICH ALLOWED US TO GO FORWARD.

ALAN SWENDIMAN HAS ONE OTHER STATEMENT HE WOULD LIKE TO MAKE.

MR. SWENDIMAN: BECAUSE OF THE NATURE IN WHICH THE MEETING GOT STARTED AND THE ADDRESS BY THE HEAD OF THE SAN FRANCISCO BAR, I WAS UNABLE TO PRESENT THE CERTIFICATION WITH RESPECT TO THE EXECUTIVE SESSION THAT WAS HELD YESTERDAY, AND PURSUANT TO THE SUNSHINE ACT AND ITS GENERAL COUNSEL, I CERTIFY THAT THE PORTION OF THIS MEETING WHICH WAS HELD ON NOVEMBER 6TH AS AN EXECUTIVE SESSION WAS PROPERLY CLOSED PURSUANT TO A MAJORITY VOTE OF THE BOARD OF DIRECTORS, AND UNDER

SUBSECTIONS A, D, E, F AND H.

MR. MC CARTHY: THEN REFERRING TO OUR TENTATIVE AGENDA, GETTING BACK TO THE PENDING QUESTION ON 5 (2) AND 5 (A) (2), THE BOARD WOULD NOW PROPOSE THAT.

A SPEAKER: I CAN'T HEAR, I DON'T KNOW ABOUT ANYBODY ELSE.

MR. MC CARTHY: THE PREVIOUS QUESTION HAS BEEN MOVED AND I WOULD NOW POLL THE BOARD.

A SPEAKER: MAY I ASK A PREVIOUS QUESTION SO THOSE OF US WHO ARE SPENDING THE DAY WITH YOU UNDERSTAND?

MR. MC CARTHY: IF YOU AGAIN, MAY I REQUEST THAT YOU DEFER, THAT YOU DEFER YOUR ACTION UNTIL WE HAVE CONSIDERED THE PENDING MOTION, JIM, AND THEN I WILL GET RIGHT BACK TO YOU.

MR. BRAUDE: I DON'T HAVE ANY ACTION, I JUST WANT TO KNOW WHAT YOU'RE DOING.

MR. MC CARTHY: THEN IF YOU WILL SIT DOWN AND LISTEN I WILL REPEAT MYSELF.

MR. BRAUDE: ARE YOU PLANNING ON HAVING A VOTE NOW?

MR. MC CARTHY: THE BOARD HAS CALLED THE PREVIOUS QUESTION.

MR. SANTARELLI: MOVED.

MR. RATHBUN: SECONDED.

MR. MC CARTHY: I HEARD THE SECOND.

A SPEAKER: IF THIS IS A VOTE, I WOULD LIKE TO SPEAK. A LARGE NUMBER OF US MET --

MR. MC CARTHY: EXCUSE ME. MR. MASSON, AGAIN, WOULD YOU REPEAT FOR THE RECORD --

MR. BRAUDE: WE HAVE NOT HEARD ONE SINGLE WORD IN RESPONSE TO WHAT WAS ESSENTIALLY A UNANIMOUS POSITION WITH POSSIBLY ONE EXCEPTION EARLIER THIS MORNING, I THINK THAT THE MINIMUM THAT THIS AUDIENCE IS ENTITLED TO IS ENOUGH RESPECT TO UNDERSTAND WHY IT IS YOU'VE DECIDED WHAT YOU'VE DECIDED; AND ALSO TO SUGGEST TO US THAT YOU'VE NOT BEEN MEETING IN VIOLATION OF LAW DURING LUNCH AND DISCUSSING IT WHEN THERE'S NOT BEEN ONE WORD BY ONE BOARD MEMBER, YOU GO DOWN -- AM I TO ASSUME OR ARE WE TO ASSUME EVERYTHING SWENDIMAN RESPONDED TO IS IT AND THAT'S THE END OF IT? I ASSUME EITHER YOU MET AND HAD THIS DISCUSSION IMPROPERLY OR YOU DIDN'T MEET AND DON'T CARE ABOUT WHAT ANYONE HAS TO SAY.

MR. MC CARTHY: I'LL ADDRESS YOUR QUESTION AT A LATER DATE. MAY I PLEASE HAVE THE COURTESY --

MR. BRAUDE: IF YOU WILL ANSWER, THE ANSWER IS, MR. MC CARTHY, THAT YOU DEFERRED THIS MORNING THE ISSUE ON FEES AND DUES, WE WOULD LIKE TO KNOW WHAT DOES DEFERRAL MEAN? DOES IT MEAN UNTIL THE NEXT BOARD MEETING?

MR. BOGARD: WE SAID IT WOULD BE TAKEN UP LATER TODAY.

MR. BRAUDE: IS THAT THE ANSWER?

MR. BOGARD: NOTHING HAPPENED AT LUNCH. WE HAD LUNCH. WE'RE READY TO PROCEED WITH THE NEXT ORDER OF BUSINESS ON THE AGENDA, WHICH WE PLAN TO DO.

MR. BRAUDE: THE LAST QUESTION I WOULD LIKE TO ASK IS: IS THERE ANY POSSIBILITY IN THIS BOARD MEETING THAT YOU'RE GOING TO RESPOND TO ANYTHING OR IS THAT SOMETHING WE SHOULDN'T EXPECT?

MR. MC CARTHY: THE BOARD IS RESPONDING RIGHT NOW.

MR. BRAUDE: BY HAVING NO DISCUSSION. THAT HAS AN INTENTIONAL DETRIMENTAL EFFECT TO THE LEGAL SERVICES AND --

MR. MC CARTHY: THAT IS THE EFFECT OF THIS VOTE, THIS VOTE IS ON SECTION 1606 AND SECTION 1625 PUBLISHED AS A FINAL REGULATION 30 DAYS AFTER PUBLICATION.

(THERE IS A PERSON SPEAKING WHO CANNOT BE HEARD BY THE COURT REPORTER AND IS NOT BEING REPORTED.)

MR. LUMUMBA: THERE IS NO WAY FOR US TO KNOW THAT WITHOUT YOU SPEAKING TO US. NONE OF YOU ARE GOING TO HAVE TO LIVE BY THESE REGULATIONS WHICH WITHIN THE LOCAL PROGRAMS OF THE COUNSEL CLIENTS, THE PRIVATE BAR, WE ARE GOING TO HAVE TO BE GUIDED AT A MINIMUM FOR CLARIFICATION, AMPLIFICATION, AND THERE ARE QUESTIONS

THAT HAVEN'T BEEN ANSWERED. EITHER THE STAFF HASN'T BEEN ABLE TO THINK ABOUT THEM, THEY HAVEN'T BEEN ABLE TO COME UP WITH SUFFICIENT ANSWERS, IT SEEMS TO ME AT A BARE MINIMUM WE CERTAINLY DO DESERVE AN ADDITIONAL OPPORTUNITY NOT ONLY TO BE HEARD BUT TO HEAR FROM YOU.

MAY I ASK EACH OF YOU IF YOU FEEL THERE IS ANY ACCOUNTABILITY?

MR. MC CARTHY: JODY --

MR. LUMUMBA: MY NAME IS JAWARA AND I WOULD APPRECIATE BEING CALLED BY MY PROPER NAME.

MR. MC CARTHY: WHEN YOU ARE GIVEN THE FLOOR, WE WILL LISTEN AND PLEASE, NO DISRESPECT, BUT WE DO HAVE TO PROCEED.

MR. LUMUMBA: NO DISRESPECT TO YOU, I WOULD LIKE TO KNOW WHY, FIRST OF ALL, ARE YOU PLANNING TO TAKE A VOTE? I THINK ONCE WE'VE -- WE'VE ALREADY ASSERTED IN RESOUNDING FASHION THAT A VOTE WOULD BE INAPPROPRIATE. I THEN ASK YOU, ARE YOU GOING TO TAKE A VOTE?

MR. BOGARD: ALAN, I THINK THAT IT'S APPROPRIATE AT THIS TIME.

MR. SWENDIMAN: IN RESPONSE TO THE CONCERN THAT GOES -- DEALS WITH RESPECT TO THE PUBLIC COMMENT AND THE DIRECTION OF MR. SANTARELLI, WE HAVE COME UP WITH SOME PROPOSED LANGUAGE TO MEET THE CONCERN THAT WAS GENERATED, AND I WILL READ YOU THAT PROPOSED LANGUAGE

WITH RESPECT TO THE 1627.3(A) AND (4). SUBSECTION (A)(4) WOULD BE BE A NEW SUBSECTION UNDER THAT REGULATION. THE LANGUAGE WOULD BE AS FOLLOWS: ANY SUBGRANT WHICH IS A CONTINUATION OF A PREVIOUS SUBGRANT AND WHICH EXPIRES BETWEEN JANUARY 1 AND MARCH 1, 1984, MAY BE EXTENDED UNTIL MARCH 1, 1984 IF A NEW SUBGRANT AGREEMENT IS SUBMITTED TO THE CORPORATION FOR APPROVAL BY JANUARY 15TH, 1984.

IN THE EVENT THE CORPORATION REFUSES TO ALLOW RENEWAL OF ANY SAID SUBMITTED AGREEMENT, RECIPIENT SHALL BE PERMITTED TO ALLOW THE SUBRECIPIENT A MINIMUM OF 60 DAYS FUNDING TO CLOSE OUT THOSE ACTIVITIES AFFECTED BY THE STANDARD NONRENEWAL OF THE SUBAGREEMENT.

MR. SANTARELLI: AT MY DIRECTION THE STAFF MET WITH MY THOUGHTFUL WITNESS THAT SUGGESTED THAT TO US; IS THAT SATISFACTORY, MR. CHAPMAN?

SPEAKER CHAPMAN: THERE WERE A COUPLE OF WORDING CHANGES THAT WERE MADE WHICH I THINK WERE MINOR, HOWEVER, THERE IS ONE MAJOR CHANGE, THOUGH, THE WORDING THAT WE TALKED ABOUT "ANY SUBGRANT WHICH EXPIRES BEFORE THE EXISTING GRANTEE -- BUT BEFORE MARCH 1, 1984 WILL BE EXTENDED UNTIL MARCH 1, 1984. IF A NEW SUBGRANT AGREEMENT IS SUBMITTED . . ."

THE DIFFICULTY, THE DIFFICULTY WITH LIMITING IT TO JANUARY 1ST, MARCH 1ST, IS THAT MOST SUBGRANT AGREEMENTS WILL EXPIRE ON DECEMBER 31ST, SUCH AS

STEVE BROWN POINTED OUT TO ME, IF THE PURPOSE IS TO KEEP EXISTING GRANTS, FUNDING FOR EXISTING GRANTEES -- MOST OF THE EFFECTIVE PROGRAMS WOULD BE DECEMBER 31ST.

MR. HARTLEY: WOULD YOU READ THAT LANGUAGE AS PROPOSED?

MR. SANTARELLI: LET ME INTERRUPT IN AN EFFORT TO SAVE TIME, PERHAPS IT'S AN OPPORTUNITY TO MAKE SOME KIND OF A SMALL STATEMENT WITH THE INDULGENCE OF MY FELLOW BOARD MEMBERS. CAN ANYONE NOT HEAR ME?

THE PURPOSE OF THESE PUBLIC BOARD MEETINGS IS SALUTARY FOR A VARIETY OF REASONS. WE ARE NOT IGNORANT OR NAIVE PERSONS, AND ARE ENCOURAGED TO LISTEN TO COMMENTS MADE IN OUR BEST JUDGMENT, ACCEPT THEM WHEN THEY ARE REASONABLY PERTINENT, BUT WE ARE NOT A DRAFTING SESSION, THIS IS NOT A MARK-UP OF A BILL IN THE CONGRESS. THESE ARE PUBLIC BOARD MEETINGS SO THAT YOU MAY SEE, LIKE AND DISLIKE THE DELIBERATIVE PROCESS. I THINK THAT THE EXAMPLE OF WHAT WE'RE ENGAGED IN NOW TRANSCENDS AND GOES BEYOND THE PURPOSE OF THESE PUBLIC BOARD MEETINGS NOT TO DRAFT AND DEBATE AMONG OURSELVES TECHNICAL ISSUES.

WE INTERRUPTED THIS BOARD MEETING TO GIVE YOU A CLEAR SIGNAL THAT WHEN YOU HAVE SUCH CONCERNS, IF OUR FILTRATION SYSTEM OF PREVIOUS INTERCOURSE DOES NOT WORK PROPERLY, IT CAN BE CAUGHT AT THIS LAST STAGE.

A SPEAKER: MAY I RECOGNIZE THAT YOU CONTINUE

THIS DIALOGUE FOR A MATTER OF MINUTES WITHOUT INVOLVING BOARD MEMBERS WHO ARE NOT EXPERT IN TECHNICAL COMPLIANCE, IF WE CAN'T RESPOND TO IT, AGAIN, IT'S -- WELL, WE WILL MAKE AN EFFORT TO SEE WHAT WE CAN WORK OUT.

MR. SWENDIMAN: IF I MAY ADDRESS THE BOARD, HAVING HEARD MR. CHAPMAN'S COMMENTS AND SUGGESTIONS AMONG THE STAFF, THE SUGGESTION WHICH HE MADE IS ACCEPTABLE AND, CONSEQUENTLY, IT WOULD BE AMENDED AS SUCH --

MR. SANTARELLI: THEN WE DON'T NEED ANY FURTHER FORMAL DISCUSSION; IS THAT AGREEABLE MR. CHAPMAN?

MR. BOGARD: MR. CHAPMAN?

A SPEAKER: HE WAS TALKING TO SOMEONE, ACTUALLY WE'VE COME UP WITH A SIGNIFICANT CHANGE OF THE REGULATION AS IT WAS ORIGINALLY PROPOSED, THOSE OF US IN THE ROOM REALLY DIDN'T EVEN SEE THIS PROPOSED CHANGE, NEW CHANGE, UNTIL TODAY. YOU FOLKS WEREN'T AWARE OF IT, EVEN THE ADMINISTRATORS OF THE PROGRAM WEREN'T AWARE THAT WE HAD THOSE POTENTIAL PROBLEMS.

SINCE IT IS A SIGNIFICANT PROBLEM THAT HAD TO BE ADDRESSED, WE'VE GOT, ATTEMPTED TO ADDRESS THAT AND I WOULD SUGGEST THAT SINCE IT IS A MAJOR ISSUE, SINCE WE'VE ONLY COME UP WITH A FEW MINUTES OF DELIBERATE PROCESS ON THIS, SINCE MR. CHAPMAN AND MYSELF ARE ONLY TWO SUPPORT CENTERS OUT OF 67 GRANTEES IN THE COUNTRY, IT SEEMS APPROPRIATE THAT THIS ISSUE, SINCE IT'S SO

IMPORTANT, SHOULD GO BACK TO THE FEDERAL REGISTER WITH RESPECT TO COMMENTS.

THERE ARE 65 OTHER PROGRAMS OUT THERE THAT ARE STATE SUPPORT CENTERS THAT COULD BY THEIR -- THEY -- AS THEY HAVE DESCRIBED TO ME, WOULD LIKE TO BE HEARD ON THIS. MR. CHAPMAN'S BEST GUESS IS THIS MAY BE IRRELEVANT AND NOT AT ALL ACCURATE WITH RESPECT TO THE WAY THE PROGRAMS WOULD BE AFFECTED BY THIS.

MR. SANTARELLI: LET ME TAKE ONE MORE MOMENT, IF I MAY, WITH THE INDULGENCE OF MY BOARD MEMBERS. THIS IS NOT AN ENDLESS PROCESS IN DELAY AND RECONSIDERATION. PRIOR TO THE ADOPTION OF A REGULATION, EACH OF US, WHEN WE SIGNED ON FOR THIS DUTY, WHICH SOME OF YOU DO NOT TAKE TO BE SANCTIONED SUFFICIENTLY AT LAW, BUT WHICH ANY LAWYER WOULD RECOGNIZE AS A CHARGER OF RESPONSIBILITY, UNTIL SUCH A SUCCESSOR IS NOMINATED BY THE SENATE, WE ARE VERY SENSITIVE TO OUR DUTY.

NO COURT IN THE UNITED STATES, NO CONGRESS, ULTIMATELY, DELAYS FOREVER THE RESOLUTION OF QUESTIONS.

YES, IN THE PROCESS OF MAKING BOTH LAW AND REGULATIONS A LITTLE SAUSAGE IS MADE FROM TIME TO TIME, BUT WE DO NOT PROFESS TO BE ABSOLUTE PERFECT, WE DO NOT PROFESS TO DISCHARGE OUR FIDUCIARY DUTY, TO DO SOMETHING AND NOT TEMPER THE PROCESS THAT WE MIGHT BUILD A PERFECT OR A BETTER TOMORROW OR NEXT WEEK. WE ARE LISTENING.

BUT WE ARE ALSO MOVING FORWARD TO RESOLVE THE SPEECHES THAT NEED TO BE LAID TO REST. IF WE SHOULD DO SOMETHING IMPERFECTLY, WHAT WE DO TODAY, WE ARE NOT A CLOSED MIND AFTER THE FACT, NOR ARE THESE WRITTEN IN STONE FOREVER HEREAFTER, AND I SUBMIT THAT WE INTEND TO MOVE FORWARD IN OUR BEST JUDGMENT AS TO OUR BEST ABILITY. IF THERE ARE IMPERFECTIONS, WE APOLOGIZE.

A SPEAKER: IF THEY'RE IMPERFECT, IT MIGHT BE BETTER TO HAVE THEM OUT AND DISPLAYED TO THE PUBLIC AND PUBLISHED SO THAT FULL INPUT CAN BE HAD RATHER THAN EXTEMPORANEOUS EXCHANGE, THE EXTEMPORANEOUS EXCHANGE PROCESS WE'VE BEEN GOING THROUGH HERE TODAY. MAYBE IT WOULD BE MORE APPROPRIATE WITH RESPECT TO THAT PROVISION OF THE REGULATION, WHICH HAS BEEN SO GREATLY REVISED, TO JUST DROP OUT THE REFERENCE TO THE STATE SUPPORT AND HAVE THE REST OF IT GO. IF YOU ARE DRIVEN TO GET A REGULATION PASSED TODAY WITH RESPECT TO THAT SINGLE ISSUE OF STATE SUPPORT CONTRACTS, THAT COULD BE DEFERRED TO A LATER DATE, WITHOUT SEEMINGLY ANY PREJUDICE TO ANY ACTIVITIES OF THE CORPORATION, I DON'T UNDERSTAND --

MR. SWENDIMAN: I WOULD POINT OUT THAT THIS MATTER HAS BEEN SITTING SINCE JUNE 22ND. I WOULD ALSO POINT OUT IT HAS BEEN PASSED PRACTICE, IN TERMS OF HISTORY OF AMENDMENTS THAT HAVE BEEN OFFERED OR ACCEPTED OR REJECTED DURING THE PROCESS OF A PUBLIC MEETING; AND

THAT THIS IS AN APPROPRIATE AMENDMENT AND FALLS WITHIN THAT TRADITION.

LET ME JUST READ TO YOU VERY QUICKLY THE AMENDED LANGUAGE AGAIN.

"ANY SUBGRANT WHICH IS A CONTINUATION OF A PREVIOUS SUBGRANT, AND WHICH EXPIRES BEFORE MARCH 1, 1984, MAY BE EXTENDED UNTIL MARCH 1, 1984 IF A SUBGRANT AGREEMENT IS SUBMITTED TO THE CORPORATION FOR APPROVAL BY JANUARY 15TH, 1984."

"IN THE EVENT THE CORPORATION REFUSES TO ALLOW THE RENEWAL OF ANY SUCH SUBMITTED AGREEMENT, THE RECIPIENT SHALL BE PERMITTED TO ALLOW THE SUB-RECIPIENT A MINIMUM OF 60 DAYS FUNDING TO CLOSE OUT THOSE ACTIVITIES AFFECTED BY THE NON-RENEWAL OF THE SUBGRANT."

MR. MC CARTHY: THE BOARD WILL HEAR THE MOTION.

MR. SANTARELLI: THIS IS A MOTION IN THE NATURE OF AN AMENDMENT?

MR. MC CARTHY: THE MOTION IS FOR THE ADOPTION FOR FINAL PUBLICATION AS AMENDED.

MR. SANTARELLI: THE AMENDMENT AS JUST STATED BY THE GENERAL COUNSEL?

MR. SWENDIMAN: THE PROPER PROCEDURE IS, FIRST OF ALL, TO ENTERTAIN A MOTION TO AMEND THE PROPOSED REGULATION, AND THEN A MOTION TO ADOPT THE REGULATION AS AMENDED.

MR. MC CARTHY: THE BOARD WILL ENTERTAIN A MOTION.

MR. SANTARELLI: SO MOVED.

MR. RATHBUN: SECONDED.

MR. MC CARTHY: THE BOARD WILL NOW ENTERTAIN A MOTION TO ADOPT THE RESOLUTION FROM FINAL PUBLICATION.

A SPEAKER: MAY I SPEAK?

MR. MC CARTHY: ONE MOMENT, PLEASE.

(DISCUSSION AMONG BOARD MEMBERS.)

MR. MC CARTHY: THE BOARD HAS VOTED ON THE AMENDMENT UNANIMOUSLY AND WE WILL NOW MOVE TO ENTERTAIN A MOTION ON THE ADOPTION OF THE AMENDMENT TO THE PROPOSED RESOLUTION.

ALL RIGHT. I CALL FOR A VOTE. MR. MASSON?

MR. MASSON: AYE.

MR. MC CARTHY: MR. SANTARELLI?

MR. SANTARELLI: AYE.

MR. MC CARTHY: MR. RATHBUN.

MR. RATHBUN: AYE.

IT WAS MY INTERNAL PERSONAL INTEREST AND, LIKE I SAID, AS AMENDED, IT'S FINE FOR MY PROGRAM, YOU KNOW, I APPRECIATE THAT, BUT IT DOES NOT DO ANYTHING FOR THE OTHER PROGRAMS. THE FACT THAT THE COMMENT CAME IN AND INDICATED THAT PROBLEM AND THEN THE BOARD BOOK INDICATES STATE SUPPORT, THE BOARD BOOK WHICH WAS JUST PUBLISHED, AND I UNDERSTAND THIS WAS PUBLISHED FOR THE UTAH MEETING, BUT IT CERTAINLY FAILS TO PUT PEOPLE ON STATE SUPPORT ON NOTICE, HEY, YOU WERE INTENDED TO BE COVERED BY THIS REGULATION.

THIS COULD HAVE BEEN SENT OUT TO STATE SUPPORT CENTERS A COUPLE OF WEEKS AGO SO THEY COULD HAVE BEEN HERE AND REPRESENTED THEIR OWN INTERESTS, BUT I'M HERE FOR THE LAW COORDINATION CENTER, I'M NOT REPRESENTING OTHER STATE SUPPORT CENTERS; AND I EXPECT THERE ARE PROBLEMS THAT WILL ARISE.

MR. SANTARELLI: SO THAT THERE IS NO MISUNDERSTANDING OF THE REMARK I JUST MADE, LET ME CLARIFY WHAT I MEANT FOR MYSELF, NOT SPEAKING ON BEHALF OF THE BOARD. WE ARE ALL LAWYERS OR LAWYER RELATED IN THIS ROOM. WE ALL RECOGNIZE THE INTERMINABILITY OF THE RESOLUTION OF ANY QUESTION, AND THE WRITING OF REGULATIONS.

WE COULD ALL SKILLFULLY MANIPULATE A DIALOGUE ON THE DRAFTING OF A REGULATION FOREVER. ALL I MEANT TO SAY IS THAT THIS BOARD MEMBER DOES NOT INTEND TO GO

ON FOREVER NEGOTIATING REGULATIONS. IF WE HAVE DONE HARM WE, I'M SURE, WILL HEAR ABOUT IT, AND WE ARE NOT ADVERSE TO A PROPOSED CONSIDERATION. WHAT WE ARE INTENDING TO DO IS NOT TO BE PARALYZED BY THAT PROCESS FROM ADOPTING REGULATIONS, AND THAT'S SAID NEUTRALLY, WITHOUT ANY BIAS OF THE OBJECTIVE TO BE OBTAINED. I'M TALKING PROCEDURALLY. WE WILL DISCHARGE OUR DUTY AND NOT BE PARALYZED BY AN ENDLESS REFINEMENT.

NOW, THE PARAGRAPH: "THE STAFF OF THIS CORPORATION IS INSTRUCTED BY THIS BOARD TO BE AS ACCESSIBLE CONTINUOUSLY FOR THE PURPOSE OF RECEIVING INPUT AND ANALYZING IT AND RECOMMENDING IT TO US. TO THE EXTENT THAT THEY DO NOT DO THAT, THEY ARE REMISS AND WE BOARD MEMBERS SHOULD HEAR ABOUT IT."

PARAGRAPH NO. 3, YOU SHOULD UNDERSTAND WHAT THIS BOARD MEMBER UNDERSTANDS TO BE HIS RESPONSIBILITY. A BOARD DOES NOT RUN A CORPORATION ON A DAY-TO-DAY DETAILED BASIS. IT ESTABLISHES MAJOR POLICY GUIDELINES AND AUTHORIZES STAFF TO PERFORM THE TECHNICAL AND DETAILED NATURE TO ACHIEVE THOSE POLICY GUIDELINES.

AS A COURTESY AND AS CONTEMPLATED IN THE STATUTE, WE FROM TIME TO TIME HOLD PUBLIC MEETINGS AND INVITE PUBLIC INPUT SO WE WERE NOT TOTALLY OBTUSE AS

TO WHAT GOES ON IN THE REAL WORLD; HOWEVER, EACH OF US IS A PRIVATE CITIZEN UNDER EACH OF THOSE FANCY STATUTES AND SOME OF US EVEN PRACTICE DIRTY LAW EVERY DAY, AND UNDERSTAND THESE PROBLEMS FAR BETTER THAN YOU DO. WE WOULD APPRECIATE THOUGHTFUL COMMENTS AND NOT DEMAGOGUERY AT THESE EVENTS. IT WOULD BE MORE EFFECTIVE, JUST REMEMBER THAT WE, TOO, TRY TO DO OUR BEST, ALTHOUGH WE DISAGREE FROM TIME TO TIME.

MR. BRAUDE: MAY I RESPOND TO A PARAGRAPH, PARAGRAPH 2, WHICH I THINK WILL BE NON-DEMAGOGIC? MR. SANTARELLI MENTIONED TWO THINGS: IMPERFECTION OF THE SYSTEM -- AND I AM WILLING TO WAGER THAT, INCIDENTALLY, WE'RE NOT ALL LAWYERS. I HAPPEN TO BE A LAWYER AND I HAVE VERY LITTLE IDEA ABOUT WHAT THE HELL IT WAS THAT MR. SWENDIMAN JUST PROPOSED THAT YOU ALL ADOPTED. I WOULD BE WILLING TO BET THAT AT LEAST TWO OF YOU WOULD TELL US YOU HAVE NO IDEA WHAT THE HELL YOU JUST VOTED FOR.

YOU ALSO SPEAK, MR. SANTARELLI, YOU ALSO SPEAK ABOUT THE STAFF, AND I THINK IN PROBABLY THE MOST RELEVANT COMMENT WE CAN MAKE TODAY, THERE'S A PERSON WHO HAPPENS TO WORK ON THE STAFF OF LEGAL SERVICES, THE STAFF HAS BEEN USED IN A FAIRLY MONOLIITHIC WAY HERE, THERE IS NO WAY TO EXPLAIN THE STAFF IN WHICH MR. BOGARD AND SOME OF HIS PREDECESSORS HAVE EXPRESSED

CONCERNS. THERE IS ALSO STAFF WHO HAVE MADE A CAREER OF WORKING FOR THE LEGAL SERVICES AND I THINK WHAT MIGHT BE VERY, VERY INSTRUCTIVE TO THE FOUR OF YOU, OTHER THAN MR. BOGARD, WHO KNOWS ABOUT IT ALREADY, WHAT EXACTLY IS THE SITUATION IN THE STAFF OF THE LEGAL SERVICES CORPORATION?

YOU'RE TALKING ABOUT ACCESS TO STAFF AND --

MR. SANTARELLI: THE COMMENTS AS RECEIVED, IF YOU MAY -- EXCUSE ME -- EXCUSE MY INTERPRETATION, IF WE CAN HAVE SOME RESPECT AS A JUDICIAL FORUM --

MR. BRAUDE: IN JUDICIAL FORUMS YOU DISCUSS MATTERS AFTER YOU VOTE ON THEM?

MR. SANTARELLI: YOU WERE ABOUT TO INFORM US OF THE INADEQUACY OF OUR STAFF.

MR. BRAUDE: NO, I'M NOT. YOUR STAFF IS EXTRAORDINARY IN SOME WAYS. WITH REGARD TO YOUR NEW STAFF, IT IS INCOMPETENT, UNCARING, AND I THINK YOU SHOULD HEAR THIS, THIS IS TOTALLY RELEVANT TO YOUR COMMENTS. YOU'VE JUST ISSUED A STATEMENT ABOUT THE QUALITY OF STAFF, ACCESS TO STAFF, I THINK IN PROBABLY THE MOST RELEVANT COMMENTS THAT YOU, PARTICULARLY, AND YOUR BOARD MEMBERS CAN HEAR -- I THINK YOU SHOULD HEAR FROM ONE OF YOUR STAFF TO HEAR EXACTLY HOW ACCESSIBLE THEY REALLY ARE.

MR. SANTARELLI: I THINK A COMMENT ISN'T

IN ORDER AND I WOULD ASK THE CHAIRMAN TO CALL THE NEXT MATTER.

MR. MC CARTHY: NEXT IS THE --

MR. BRAUDE: MR. MC CARTHY --

MR. MC CARTHY: MR. BRAUDE, YOU ARE OUT OF ORDER.

MR. BRAUDE: EVERYBODY IS OUT OF ORDER WHEN YOU DON'T WANT TO HEAR THEM.

(CLAPPING.)

WHY DON'T YOU LISTEN TO SOMEONE WHO HAS MORE EXPERIENCE THAN ALL FIVE OF YOU, AND MOST OF THE PEOPLE IN THE FRONT ROW COMBINED, WE MAY HAVE SOMETHING TO SAY THAT WOULD BE OF VALUE TO YOU. THIS WOMAN WOULD LIKE TO SPEAK, I THINK EVERYBODY IN THE ROOM WOULD LIKE TO HEAR FROM HER.

MR. MC CARTHY: THAT OPPORTUNITY WILL COME. WE WILL NOW PROCEED TO ITEM 5(A)(3), ELIGIBILITY ON 1611, AND I WOULD LIKE TO HEAR FROM ALAN SWENDIMAN, PAGE 3 AND 4 AS TO --

MR. SWENDIMAN: OKAY. THE NEXT ITEM IS PART 1611 DEALING WITH ELIGIBILITY. THERE ARE A NUMBER OF CHANGES THAT WERE MADE, VERY SIGNIFICANT ONES, AND I WILL GO OVER THE MOST SIGNIFICANT ONES FIRST. I THINK THAT THE FIRST ONE TO TAKE A LOOK AT PRIMARILY IS 11.6, AND 11,6 HAS BEEN COMPLETELY REWORKED.

WE HAVE RECEIVED A NUMBER OF SIGNIFICANT COMMENTS IN RELATION TO THE ENTIRE PROPOSED REGULATION AND THOSE COMMENTS WERE CAREFULLY CONSIDERED, AND IN LIGHT OF THOSE COMMENTS THE REGULATION WAS REDRAFTED.

1611.6 DEALS WITH THE ASSETS TEST, AND BASICALLY THE REDRAFTED SECTION PROPOSES TO ALLOW THE LOCAL PROGRAMS TO ESTABLISH THE SPECIFIC GUIDELINES FOR DETERMINING ELIGIBILITY. THE PUBLISHED VERSION IS DEALT WITH AS A NATIONAL ASSET CEILING OF A PROPOSAL. NOW BEFORE THE BOARD IS A LOCAL ASSET CEILING. MY UNDERSTANDING IS THAT THIS IS IN LINE WITH A NUMBER OF PROGRAMS WHICH HAVE ALREADY ESTABLISHED ASSET TESTS.

1611.6 ALSO GIVES SPECIAL CONSIDERATION TO THE NEEDS OF THE ELDERLY, INSITUTIONALIZED AND HANDICAP. IT PROVIDES THAT A CLIENT'S EQUITY IN A HOME MAY BE EXCLUDED FROM THE ASSETS CONSIDERED BY THE LOCAL PROGRAM IN ESTABLISHING ELIGIBILITY.

IT ALSO PROVIDES THAT EQUITY IN WORK-RELATED EQUIPMENT NEED NOT DISQUALIFY A CLIENT. IT ALSO TAKES INTO CONSIDERATION THE ASPECTS OF SEPARATION OF SPOUSES SPECIFICALLY ADDRESSING A COMMENT CONCERNING BATTERED SPOUSES, SOMETHING THAT IMPEDIMENTS TO AN INDIVIDUAL'S ACCESS TO THE ASSETS OF THE FAMILY AND THE HOUSEHOLD MUST BE TAKEN INTO ACCOUNT.

IT ALSO STATES THAT IT PROVIDES THAT THE

CEILING OF THE MAXIMUM ALLOWABLE ASSETS MAY BE WAIVED BY THE PROGRAM DIRECTOR. AGAIN, THE MATTER HAS BEEN, FOR LACK OF A BETTER TERM, CENTRALIZED AND HAS BEEN LEFT TO THE LOCAL PROGRAM TO ESTABLISH THOSE GUIDELINES.

MOVING BACK TO SOME OF THE OTHER CHANGES THAT HAVE BEEN MADE AND ARE BEING SUBMITTED FOR THE BOARD'S CONSIDERATION IN RESPONSE TO COMMENTS RECEIVED, THE PROPOSAL SETS THE LEVEL OF INCOME WHICH CANNOT BE EXCEEDED ON THE BASIS OF THE CRITERIA SET FORTH IN 1611.5(B)(1) AT A 150 PERCENT OF THE RECIPIENT'S ELIGIBILITY LEVEL.

WITH THIS BEING THE CASE, THIS LEVEL WILL ALWAYS BE A 187.5 PERCENT OF THE POVERTY LINE, EVEN IF A RECIPIENT SETS A LOWER LEVEL THAN A 125 PERCENT OF THE POVERTY LINE FOR ITS OWN ELIGIBILITY LEVEL.

1611.5 HAS BEEN CHANGED BY SUBSTITUTING THE LANGUAGE OF THE STATUTE SO THAT THE WORDS MAY BE USED AND IT STATES THAT:

"THE FACTORS WHICH SHALL BE USED IN THE DETERMINATION OF ELIGIBILITY . . ."

AND THAT LANGUAGE ALSO COMPORTS WITH 1611.5(B)(2).

WITH THIS DECISION, SUBSECTIONS (B)(3)(A) AND (B) HAVE BEEN ADDED INQUIRING THAT IF A CLIENT IS TENTATIVELY DETERMINED TO BE ELIGIBLE ON THE BASIS OF THE CRITERIA IN (B)(1), THE CRITERIA IN (B)(2) ALSO MUST BE CONSIDERED AND CONVERSELY WITH SECTION --

SUBSECTION (B) BEING THAT IF THE FACTORS IN (B)(2) WOULD MAKE A CLIENT INELIGIBLE, THE FACTORS IN (B)(1) MUST ALSO BE CONSIDERED BEFORE THAT DETERMINATION IS FINAL.

IT WAS OUR INTERPRETATION THAT THE OFFICE OF GENERAL COUNSEL, THAT THIS WAS ALREADY IMPLIED, BUT WE HAVE NOW MADE IT EXPLICIT IN THE NEW LANGUAGE OF 1611.5(B)(3)(A) AND (B).

I SHOULD POINT OUT AGAIN THAT INTENT WAS MADE TO CLARIFY THESE FACTORS. THIS HAS BEEN APPARENTLY A MATTER THAT HAS BEEN ONGOING AT LEAST BACK SINCE 1982 AND I GATHER EVEN BEFORE THAT TIME AS TO HOW THE FACTORS WERE TO BE APPLIED.

THE OTHER CHANGE WE MADE IS THAT IN 1611.6, THE GOVERNING BODY MAY ESTABLISH AUTHORITY FOR WAIVER OF ASSETS CEILINGS IN UNUSUAL CIRCUMSTANCES OR SITUATIONS.

I BELIEVE THAT THAT SPELLS OUT THE MAJOR CHANGES AS I INDICATED BEFORE, IN 1611.5 DEALING WITH THE ASSETS, WHICH HAS BEEN CHANGED SUBSTANTIALLY AND IS NOW BEFORE THE BOARD FOR ITS CONSIDERATION.

MR. MASSON: MR. CHAIRMAN, I WOULD MOVE THE TENDERED RESOLUTION.

MR. MC CARTHY: IS THERE A SECOND?

MR. RATHBUN: SECOND.

MR. MC CARTHY: MR. MASSON, YOU'VE MADE THE MOTION AND YOU'VE SECONDED AND PRIOR TO ANY ACTION

BY THE BOARD ON THE MOTION WHICH IS NOW BEFORE THIS BOARD, WE WILL THEN ENTERTAIN PUBLIC DISCUSSION BUT, AGAIN, AS I SAID BEFORE, WE MUST WEIGH MANY THINGS TOGETHER, AND BECAUSE THIS ELIGIBILITY PROPOSED REGULATION HAS BEEN PUBLISHED, WE'VE HAD WRITTEN COMMENT FROM THE PUBLIC, IT'S BEEN DISCUSSED AT LEAST TWICE IN PUBLIC MEETINGS AND WITH THE RUNNING OF TIME I KNOW THAT THIS IRRITATES SOME OF YOU, BUT WE MUST PROCEED IN AN ORDERLY MANNER AND GET THIS MATTER DONE. I AM GOING TO LIMIT, AGAIN, THE TIME FOR PUBLIC COMMENT AND, AGAIN, I WOULD LIKE TO ASK EACH AND EVERY ONE OF YOU WHO COMMENTS TO PLEASE NOT REPEAT WHAT HAS ALREADY BEEN SAID BEFORE YOU, THE BOARD WILL HEAR YOUR COMMENTS, AND FOR THE SAKE OF TIME, I'M GOING TO ASK MR. MASSON, AGAIN, TO BE TIMEKEEPER AND WE WILL ALLOW ONE-HALF HOUR.

MR. BRAUDE: I SHOULD SAY, YOU'RE GOING TO HEAR THIS MANY TIMES, I WOULD FIND IT HARD TO BELIEVE THAT EVEN THIS GROUP OF PEOPLE FEELS THAT 30 MINUTES IS ADEQUATE TO THE PROBABLY SINGLE MOST IMPORTANT ISSUE ENGENDERED ON THIS AGENDA WITH THE GREATEST OPPOSITION FROM WITHIN AND OUT AND WE WILL START SPEAKING AND I ASSUME EVERYONE ELSE WHO WANTS TO SPEAK WILL SPEAK, BUT EVERYBODY IN THIS ROOM REJECTS THE NOTION OF A TIME LIMITATION BEFORE YOU'VE HEARD FROM ANYBODY.

MR. BOGARD: MAY I ASK ONE QUESTION: WE

BY ATTEMPTING TO INSURE THAT OUR CONGRESSIONAL MANDATE TO SERVE THE LEGAL NEEDS OF THE POOR WOULD BE FAITHFULLY DISCHARGED, AND LAST SUMMER OVER 80 PERCENT OF THE EMPLOYEES SIGNED UNION CARDS ASKING FOR RECOGNITION.

PRESIDENT BOGARD REFUSED TO RECOGNIZE OUR UNION AND INSTEAD HIRED THOMPSON, MANN AND HUDSON, A LAW FIRM WELL KNOWN FOR ITS POOR REPUTATION OF THE J.T. STEVENS COMPANY, TO FIGHT US. DESPITE THIS EFFORT TO DESTROY US, IT HAS SO FAR CONSUMED NEARLY $90,000 IN LEGAL FEES AND THE END IS NOT IN SIGHT. CONGRESS APPROPRIATED THIS MONEY TO DELIVER LEGAL SERVICES FOR POOR PEOPLE, NOT TO FIGHT THE CORPORATION EMPLOYEES WHO ARE TRYING TO INSURE THAT THESE LEGAL SERVICES ARE PROVIDED.

WHILE WE WAIT FOR THE SENATE LABOR RELATIONS BORAD TO DECIDE THAT, WE WILL BE CERTIFIED AND THE CONDITIONS THAT LED TO THE FORMATION OF THE UNION HAVE GOTTEN WORSE. WE ARE SUBJECTED TO DAILY HARASSMENT AND INTIMIDATION AND IT IS OUR FIRM BELIEF THAT THE BOGARD ADMINISTRATION WILL USE EVERY MEANS AT ITS DISPOSAL WITHOUT REGARD TO LEGALITY TO INSURE THAT THERE NEVER WILL BE A RECOGNIZED UNION AT THE LEGAL SERVICES CORPORATION.

I WANT TO GIVE YOU JUST A FEW EXAMPLES OF WHAT IT'S LIKE TO WORK AT THE CORPORATION: IMMEDIATELY AFTER THE UNION CERTIFICATION HEARINGS CYNTHIA EDWARDS, A SECRETARY WHO HAD BEEN A VERY PROMINENT UNION SUPPORTER

AT THOSE HEARINGS, WAS INTERROGATED BY HER SUPERVISOR ABOUT HER UNION ACTIVITIES AND WAS DISCHARGED. SHE WAS GIVEN NO REASON FOR HER TERMINATION AND THE CORPORATION COMPLETELY AND ARBITRARILY IGNORED ITS OWN PERSONAL POLICIES THAT WERE IN ITS OWN PERSONNEL MANUAL ON TERMINATION PROCEEDINGS.

CYNTHIA HAD WORKED AT THE CORPORATION FOR FOUR YEARS AND HAD AN EXCELLENT WORK RECORD. EVEN THOUGH SHE WAS AWARDED THE UNEMPLOYMENT INSURANCE BENEFITS, THE CORPORATION HAS DECIDED TO APPEAL THE AWARD. THIS WAS INTENDED TO BE A LESSON TO EMPLOYEES WHO HAVE THE TEMERITY TO EXERCISE THEIR RIGHTS UNDER THE LABOR LAWS AND THE LESSON HAS NOT BEEN LOST.

IMMEDIATELY THEREAFTER A SENIOR MANAGER WHO HAD WORKED AT THE CORPORATION SINCE 1976 HAD ALL OF HIS WORK TAKEN AWAY FROM HIM BECAUSE HE TESTIFIED TRUTHFULLY AT THE UNION CERTIFICATION HEARINGS AND HIS TESTIMONY WAS NOT FAVORABLE TO THE BOGARD ADMINISTRATION'S POSITION. THIS WAS INTENDED TO BE A LESSON ON PERSONALITY LOYALTY TO PRESIDENT BOGARD RATHER THAN THE TROOP, AND THE LESSON HAS NOT BEEN LOST.

SEVERAL WEEKS LATER EMPLOYEES AT THE REGIONAL OFFICES WERE INSTRUCTED NOT TO ASSOCIATE OR COMMUNICATE WITH THE GOVERNMENT AGENCIES, BAR ASSOCIATIONS OR ELECTED OFFICIALS AND THIS IS A LESSON ON FREEDOM OF ASSOCIATION

THAT HAS NOT BEEN LOST.

MOST EMPLOYEES ARE AFRAID TO BE SEEN WITH ME, EVEN OUT OF THE OFFICE AND ON THEIR OWN TIME SINCE I AM KNOWN BY THE BOGARD ADMINISTRATION TO BE A UNION LEADER AND THE EMPLOYEES ARE AFRAID THAT THEY WILL BE RETALIATED AGAINST IF THEY ARE SEEN WITH ME, QUITE FRANKLY, I RISK BEING FIRED FOR COMING OUT TO YOU TODAY ON MY OWN TIME AND ON MY OWN MONEY.

FINALLY, THERE IS A PLAN TO REORGANIZE THE REGIONAL OFFICES AND THE REASON THE PLAN WANTS TO REORGANIZE THE OFFICES IS TO ELIMINATE THE UNION SO THAT THE CORPORATION'S MANAGERS WILL HAVE A SAID NUMBER OF PEOPLE AND THE UNION'S STRENGTH LIES IN THE REGIONAL SERVICES. SOMETIME AGO WE WROTE TO PRESIDENT BOGARD ASKING THAT HE NOT REORGANIZE THE OFFICES WITHOUT AT LEAST SOME DISCUSSION WITH THOSE LONG-TERM EMPLOYEES WHO WORKED WITH THEM AND WHO BEST KNEW ABOUT THE DELIVERY OF LEGAL SERVICES, AND PRESIDENT BOGARD DID NOT EVEN GIVE US THE COURTESY OF A REPLY.

AND EVEN WITHOUT REORGANIZATION, THE REGIONAL OFFICES ARE NOT EVEN TREATED AS THOUGH THEY ARE PART OF THE CORPORATION.

ON SEPTEMBER 27TH A MEMORANDUM FROM THE DIRECTOR OF THE OFFICE FIELD SERVICES TRANSFERRED MOST OF THE REGIONAL OFFICE WORK TO HEADQUARTERS, WHICH WILL NOW BE EVEN FURTHER BLOATED WITH INEXPERIENCED BUREAUCRATS.

YOU KNOW THIS IS TRUE BECAUSE YOU HAVE HAD A PROPOSAL TO FURTHER INCREASE THE SIZE OF HEADQUARTERS. I CAN ASSURE YOU THAT THAT IS NOT NECESSARY IF THEY WOULD LET THE REGIONAL HEADQUARTERS DO THE WORK WE ARE PAID TO DO. SINCE THE REGIONAL OFFICES HAVE LONG BEEN THE SOLE CHANNEL BETWEEN THE CORPORATION AND FIELD PROGRAMS, HAVE BEEN SINCE THE CORPORATION'S VERY BEGINNING PUNISHING THEM TO RETALIATE AGAINST THE UNION IS JUST ANOTHER EXAMPLE OF THE BOGARD ADMINISTRATION'S DISREGARD FOR LEGAL SERVICES TO THE POOR.

WE MUST HAVE A UNION BECAUSE WE AS EMPLOYEES CANNOT SEPARATELY STAND AGAINST AN ADMINISTRATION THAT DOES NOT EVEN FOLLOW ITS OWN INTERNAL PROCEDURES, LET ALONE THE LEGAL SERVICES ACT.

WE CANNOT AND WE SHOULD NOT BE EXPECTED TO WORK IN AN ATMOSPHERE WHERE WE ARE AFRAID TO TALK TO EACH OTHER AND WHERE OUR PERSONAL LIVES ARE UNDER CONSTANT SCRUTINY AND TO SUBJEGATE OURSELVES TO AN ADMINISTRATION THAT SEEKS THE DESTRUCTION OF THE VERY PROGRAM FOR WHICH WE WORK.

ALL WE ASK IS THAT YOU INSTRUCT PRESIDENT BOGARD TO RECOGNIZE OUR UNION; THAT YOU INSTRUCT HIM TO REINSTATE THE SECRETARY WHO WAS ILLEGALLY FIRED; THAT YOU RESTRAIN HIM FROM RETALIATING AGAINST THE REGIONAL OFFICES, AND THAT YOU INSTRUCT HIM TO OBEY THE LAW SINCE

WE ARE ONLY ASKING FOR FREEDOMS THE LAW ALLOWS, WE ARE NOT ASKING FOR YOUR PARTISANSHIP, ONLY ASKING FOR SIMPLE EQUITY AND WE ARE READY TO MEET WITH YOU AT ANY TIME TO DISCUSS RETURNING THIS CORPORATION TO A RESPONSIBLE COURSE.

THANK YOU.

(CLAPPING.)

A SPEAKER: MR. CHAIRMAN, I AM DIXON DERRN, I'M A MEMBER OF THE STATE BOARD OF GOVERNORS AND I SIT ON THE BOARD'S COMMITTEE ON LEGAL SERVICES.

MR. MC CARTHY: WE'RE PLEASED TO HAVE YOU, SIR.

MR. DERRN: I'M HERE TODAY PRIMARILY TO EVIDENCE OUR BOARD'S INTEREST IN THE ACTIVITIES OF YOUR BOARD, AND I'M GLAD THAT YOU'RE HERE IN CALIFORNIA. I THINK I MISSED THIS MORNING'S HEARINGS AND I SENSE THAT YOU HAVE ALREADY HEARD FROM A NUMBER OF MY FELLOW CALIFORNIANS WITH RESPECT TO SOME OF THE REGULATIONS AND THEIR INTEREST IN BEING HERE BY THE STATEMENTS THEY'VE MADE, HAVE EVIDENCED AND I THINK THE INTENSE INTEREST OF THE CALIFORNIA LAWYERS OF THE DELIVERY OF LEGAL SERVICES TO THE POOR AND TO THE DISADVANTAGED, OUR BAR ASSOCIATION HAS BEEN ACTIVELY SUPPORTING VARIOUS ACTIVITIES IN REGARD TO THE DELIVERY OF LEGAL SERVICES WELL OVER FORTY YEARS AND I HAVE WITH ME TODAY DAVID ELWINGER, FOR EXAMPLE,

WHO'S OUR EXECUTIVE DIRECTOR, NOW CHIEF EXECUTIVE OFFICER, AND PATRICIA LEE, WHO HEADS UP OUR LEGAL SERVICES DIVISION. WE DEVOTE SUBSTANTIAL AMOUNTS OF MONEY AND A GREAT DEAL OF VOLUNTARY TIME, AS WELL AS STAFF TIME, TO THE DELIVERY OF LEGAL SERVICES NOT ONLY IN CONNECTION WITH OUR LEGAL SERVICES SECTION, BUT ALSO IN CONNECTION WITH A NUMBER OF VOLUNTARY LEGAL SERVICES ACTIVITIES.

AS MR. BOGARD KNOWS FROM OUR MEETING IN ATLANTA, WE HAVE ESTABLISHED, THANKS TO THE INTEREST OF OUR LEGISLATIVE MANDATORY AOLTA PROGRAM WHICH ULTIMATELY WILL AID IN DELIVERY OF FUNDS IN A STATE WHICH HAS BEEN SEVERELY HIT BY STATE AND FEDERAL CUTS AND WE HAVE PLANNED A DISCOURSE NOT ONLY FOR PRO BONO LEGAL SERVICES, BUT ALSO FOR LEGAL PROVIDERS TO LEARN TO BENEFIT, TO ADMINISTER THE AOLTA PROGRAMS.

ONE OF OUR ACTIVITIES, AS I'M SURE YOU'RE AWARE, HAS BEEN TO COMMENT AS FORCIBLY AND QUICKLY AS POSSIBLE ON THE VARIOUS RULES AND REGULATIONS WHICH ARE PROPOSED BY THIS BOARD. I HAD HOPED TO BE HERE THIS MORNING IN TIME TO SPEAK TO THE REFUNDING ISSUE. YOUR SCHEDULE WAS A LOT FASTER THAN MY AIRPLANE AND SO I'VE MISSED THAT AND I UNDERSTAND THAT'S ALREADY PASSED.

WE DID WRITE A LETTER ON THAT TO YOUR GENERAL COUNSEL, WHICH WAS TIMELY RECEIVED AND MANY OF OUR LEADERS

REGRET THAT THE PROPOSED REGULATION DOES NOT REFLECT A REACTION TO SOME OF THE SUGGESTIONS MADE IN THAT LETTER, BUT THAT'S BEFORE YOU AND WE CAN GO ON.

ON ELIGIBILITY, WE'RE PLEASED TO SEE THAT OUR LETTER, ALONG WITH OTHER LETTERS, I'M SURE, HAD IMPACT AND ON THE LIQUID AND NON-LIQUID ASSETS SECTIONS, WHICH HAS BEEN DESCRIBED TO YOU BY OUR GENERAL COUNSEL, WE FEEL GREAT IMPROVEMENT HAS BEEN MADE. IT'S THAT TYPE OF GIVE AND TAKE WHICH WE FEEL IS IMPORTANT BECAUSE WHEN WE WRITE TO YOU AND ADDRESS YOU THROUGH OUR LEGAL SERVICES SECTION OR OUR BOARD, IF I'M DOING IT TODAY, BUT WE'RE NOT SITTING AS ADVERSARIES BUT AS ADVOCATES OF LEGAL SERVICES IN THE ELIGIBILITY AREA AND WE STILL HAVE TWO CONCERNS:

ONE DEALS WITH GROUP REPRESENTATION, BECAUSE UNDER THE OLD REGULATIONS A GROUP WHICH HAD ITS -- HAS ITS PRIMARY PURPOSE AS THE DELIVERY OF LEGAL SERVICES FOR THE POOR WOULD QUALIFY, AND AS WE UNDERSTAND THE NEW CHANGE IN 11.5(C) THAT IS NO LONGER THE CASE AND THE MEMBERSHIP OF THAT GROUP WOULD HAVE TO BE COMPOSED OF PEOPLE WHO WOULD QUALIFY AS POTENTIAL CLIENTS, AND THAT WILL EXCLUDE GROUPS. AND WE ARE CONCERNED THAT IT WILL EXCLUDE GROUPS SUCH AS POSSIBLE GREY PANTHERS AND OTHERS, OTHER INDIVIDUAL MEMBERS MIGHT NOT QUALIFY AS CLIENTS; BUT THE GROUP ITSELF IS CERTAINLY DOING

A SERVICE IN THE AREA OF DELIVERY OF LEGAL SERVICES TO THE POOR AND TO THE AGED.

BECAUSE OF THAT, WE FEEL THAT IT'S POSSIBLE FOR YOU TO PASS YOUR REGULATIONS AND JUST REINSTATE POSSIBLY 115(C) AS IT EXISTED BEFORE THE PROPOSED CHANGE IN THIS MOST VITAL SET OF REVISIONS WHICH I SAW OVER THE WEEKEND AND POSSIBLY HEAR FURTHER COMMENT ON THAT AND IF IN FACT THERE IS A PROBLEM, BECAUSE WE DON'T BELIEVE THERE WAS ANY NEED FOR THE CHANGE, THAT COULD BE TAKEN UP.

THE OTHER THING THAT WE'RE SOMEWHAT CONCERNED WITH IS THE NEED FOR RETAINER AGREEMENTS. IT'S PREMISED UPON A PRESUMPTION IN THE PRIVATE FIELD THAT WE ALL HAVE RETAINER AGREEMENTS, ALTHOUGH I AM HAPPY TO BE A BELIEVER IN THEM, I DON'T KNOW THE PRESUMPTION IS CORRECT AND I AM CONCERNED, AND ALL OF US ARE, THAT THAT MIGHT CREATE A PAPERMILL THAT'S AN UNNECESSARY BURDEN UPON OUR LEGAL SERVICE TO PROVIDE, IT'S SOMETHING WE WOULD LIKE YOU TO TAKE ANOTHER LOOK AT.

IF IN FACT THERE IS TO BE SOME SORT OF A DISCLOSURE STATEMENT OR SOMETHING OF THAT NATURE THAT MIGHT BE MORE SIMPLE AND MORE EASY TO ADMINISTER THAN THE FULL RETAINER AGREEMENT-TYPE OF AN APPROACH.

THE OTHER THING, AND I DON'T KNOW WHERE THIS COMES ON YOUR AGENDA BECAUSE I CAN ONLY BE HERE

TODAY, I KNOW THAT YOU HAVE SOMEWHERE COMING UP PRIVATE ATTORNEYS' INVOLVEMENT INSTRUCTIONS, AND IF I COULD GO OUT OF ORDER, I WOULD LIKE TO COMMENT ON THAT JUST VERY BRIEFLY IF IT IS COMING UP TOMORROW.

MR. MC CARTHY: SIR, I BELIEVE THAT WE ARE ATTEMPTING TO REACH THAT AGENDA ITEM THIS AFTERNOON.

MR. DERRN: IF IT IS GOING TO BE HIT THIS AFTERNOON, I'LL STICK AROUND BECAUSE I WOULD LIKE TO BE ABLE TO SPEAK TO THAT.

MR. MC CARTHY: THANK YOU VERY MUCH.

MR. DERRN: THANK YOU.

(CLAPPING.)

MR. MC CARTHY: YES, SIR.

A SPEAKER: MY NAME IS FRANCIS CAVARJA, I'M A FARM WORK CLIENT BOARD MEMBER FOR THE COMMUNITY LEGAL SERVICES IN PHOENIX, ARIZONA. WHY? WHY, I WOULD LIKE TO KNOW ARE YOU CHANGING THE ELIGIBILITY REGULATIONS? THERE IS NO REASON WHY THE LEGAL SERVICES CORPORATION BOARD SHOULD MAKE THESE CHANGES. THERE HAS BEEN NO CONGRESSIONAL ACTION TAKEN WHICH HAS REQUIRED LEGAL SERVICES CORPORATION TO MAKE ELIGIBILITY REGULATION CHANGES, SO WHY DO YOU WANT TO MAKE THESE CHANGES? IS IT BECAUSE YOU WANT TO MAKE US ELIGIBLE CLIENTS BECOME NOT ELIGIBLE?

SINCE YOUR SUMMER INCORPORATION MEETING

IN PHOENIX WHEN I SPOKE WITH YOU REGARDING THESE REGULATION CHANGES, I WENT OUT AND SPOKE TO MY CLIENT COMMUNITY AND THIS REACTION HAS BEEN ONE IN WHICH THEY ARE OUTRAGED, THEY ARE SCARED TO DEATH AND THEY FEEL THAT THESE PROPOSED REGULATIONS BY THE BOARD ARE PASSED, THEY'RE GOING TO BECOME DETRIMENTAL.

THE CLIENT COMMUNITY AT THE PRESENT TIME IS EXTREMELY APPREHENSIVE ABOUT THE FUTURE OF COMMUNITY LEGAL SERVICES. THE CORPORATION HAS GIVEN NO SOUND REASON TO CHANGE ELIGIBILITY REGULATIONS.

THERE SEEMS TO BE A CONTRADICTION IN THE PHILOSOPHY OF THE PRESENT ADMINISTRATION. FIRST HE TALKED ABOUT IMPOSING FEDERALISM AND SELF-DETERMINATION, THEN YOU TURN AROUND AND NOW ARE CENTRALIZING OUR POWER-MAKING DECISIONS TO WASHINGTON, D.C., I, THEREFORE, STRONGLY RECOMMEND THAT THE CORPORATION BOARD NOT APPROVE THE RECOMMENDED FINAL VERSION ON ELIGIBILITY REGULATIONS, IN PARTICULAR, THE AREAS OF NON-LIQUID ASSETS, GROUP REPRESENTATION AND CONFIDENTIALITY.

THANK YOU.

(CLAPPING.)

A SPEAKER: MICHAEL GILFAX, DIRECTOR OF SENIOR ADULT LEGAL ASSISTANCE IN SANTA CLARA COUNTY, AND I'M ALSO SPEAKING AS A REPRESENTATIVE OF THE ASSOCIATION OF LEGAL PROGRAMS FOR OLDER CALIFORNIANS.

AS I'M SURE YOU'VE PICKED UP, MY CONCERN HAS TO DO WITH THE IMPACT OF SOME OF THESE PROPOSED CHANGES ON SERVICES TO ELDERS ACROSS THE NATION. OUR PROGRAM IS NOT FUNDED BY THE LEGAL SERVICES CORPORATION AT ALL, SO WE'RE NOT TALKING ABOUT FUNDING SELF-INTEREST KINDS OF THINGS HERE AT ALL.

IN LOOKING AT THE MAXIMUM GROSS INCOME IN THAT PARTICULAR PROVISION, I SEE TWO MAJOR PROBLEMS, THERE, AND I WOULD ASK RECONSIDERATION OF THOSE AND THAT YOU REJECT THAT PROPOSED CHANGE OR THAT YOU AMEND IT. THE FIRST HAS TO DO WITH A REFLECTION OF REALITY THAT ELDERS AND DISABLED PERSONS DISPROPORTIONATELY FACE PROBLEMS AND NEEDS THAT MANY OTHERS DO NOT; SPECIFICALLY AND,FOR EXAMPLE, IF A PERSON MIGHT BE SOMEWHAT OVER THIS INCOME LEVEL, IF THEY HAVE GROSS INCOME THAT IS AT A HIGH LEVEL, MANY HAVE FIXED MEDICAL CARE COSTS THAT THEY SIMPLY CAN'T GET COVERED IN ANY OTHER WAY.

SO, IN OTHER WORDS, FOCUS SHOULD BE ON WHAT IS THE PRACTICAL ACCESS TO LEGAL SERVICES? HOW MUCH DISPOSABLE MONEY DOES A A PERSON HAVE, AND YOU'RE ELIMINATING THAT WHEN YOU HAVE A FIXED ABSOLUTE MAXIMUM GROSS INCOME CUT-OFF.

MEDICAL CARE NEEDS, SOMEBODY MIGHT NEED A HOMEMAKER CHORE SERVICE, THINGS THAT IN THE FINAL ANALYSIS OFTEN SAVE THE GOVERNMENT MONEY BECAUSE YOU'RE

TALKING ABOUT INDIVIDUALS WHO MIGHT OTHERWISE HAVE TO BE INSTITUTIONALIZED IF THEY HAVE TO DISCONTINUE THAT KIND OF SERVICE, SO AS TO SERVICE ASSETS -- EXCUSE ME -- SO AS HAVE FUNDS TO PAY FOR LEGAL SERVICES.

THE SECOND PROBLEM IS THAT THIS DOES NOT LET A PROGRAM FOCUS ON THE NATURE OF A PARTICULAR LEGAL PROBLEM, A CRISIS, ELDERLY ABUSE CASE, FOR EXAMPLE, WHEN THERE IS NOT PRACTICAL ACCESS TO ALTERNATIVE SOURCES OF LEGAL SERVICES, THERE HAS TO BE FLEXIBILITY TO ADDRESS THE KINDS OF PROBLEMS THE PRIVATE BAR DOESN'T HAVE EXPERIENCE IN AND WHERE, AGAIN, THE CLIENT DOESN'T HAVE PRACTICAL ACCESS TO EMERGENCY HELP, MUST HAVE THAT KIND OF FLEXIBILITY.

THE NEXT CONCERN HAS TO DO WITH ALLOWING A REVIEW OF A PERSON'S INCOME AND ELIGIBILITY EVEN IF THEY'RE ALREADY A PUBLIC BENEFITS RECIPIENT, AGAIN, FOCUSING ON ELDERLY, PRIMARILY, IF A PERSON IS RECEIVING SSI, SUPPLEMENTAL SECURITY INCOME, THEY HAVE NOT -- IT'S ALREADY BEEN DETERMINED THAT THEY HAVE MINIMAL ASSETS, HAVE NO PRACTICAL ACCESS TO LEGAL SERVICES IN ANY WAY. ALLOWING A LOOK BEYOND THAT KIND OF ELIGIBILITY WILL IN FACT BE A DETERRENT TO ELDERS COMING IN.

MY EXPERIENCE IN TEN YEARS OF LEGAL SERVICES WORK AFTER A STUDY SHOWS THAT THE MERE SPECTER OF AN INVESTIGATION INTO A PERSON'S POVERTY, REESTABLISHING POVERTY, THAT ALONE IS GOING TO DETER ELDERS FROM COMING IN,

THAT HAS TO BE CONSIDERED AND WHOM WILL THE IMPACT BE PLACED ON?

WELL, THAT ACTUALLY SUMMARIZES THE MANY POINTS THAT I WANTED TO MAKE. MY CONCERN IS THAT THESE OR THOSE ABLE TO FEND FOR THEMSELVES WILL HAVE TO IN MANY, MANY WAYS AND THE ELDERS AND DISABLED PERSONS WHO MANY TIMES WILL EXCEED YOUR FIXED INCOME LIMITATION WHO DON'T HAVE ANY OTHER ACCESS TO LEGAL SERVICES WILL BE CUT OFF ARTIFICIALLY, THEY HAVE NO OTHER WAY OF OBTAINING LEGAL SERVICES BUT THROUGH THE LEGAL SERVICES CORPORATION.

I URGE YOU TO REJECT THOSE TWO CHANGES OR, AT MINIMUM, ALLOW FOR AMENDMENTS TO ALLOW LOCAL PROGRAMS TO TAKE INTO CONSIDERATION AGAIN, AS A PRACTICAL MATTER, THESE FACTS, OTHERWISE, THEY WILL DENY THAT PERSON OR THOSE PERSONS LEGAL SERVICES WHO NEED THEM MOST.

THANK YOU.

MR. MC CARTHY: THANK YOU. OPHELIA.

A SPEAKER: I'M OPHELIA JOHNSON. I HAVE A LETTER HERE FROM ASSEMBLYMAN TOM BATES THAT I WOULD LIKE TO READ TO YOU. IT'S ADDRESSED TO YOU:

"THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION BOARD MEMBERS:

I'M WRITING TO SHARE MY CONCERNS WITH YOU ABOUT PROPOSED CHANGES IN THE LEGAL SERVICES CORPORATION REGULATION.

MR. MC CARTHY: I WOULD LIKE TO REMIND YOU, MY TIMEKEEPER SAYS THERE'S HOW MANY MINUTES, SEVEN?

MR. MASSON: YEAH, ABOUT SEVEN.

MR. MC CARTHY: I'LL TRY TO EMPHASIZE THAT RIGHT NOW.

A SPEAKER: MY NAME IS CLAUDIA HUEBBEL, I'M EXECUTIVE DIRECTOR OF A BATTERED WOMEN'S SHELTER PROGRAM. I'M ALSO AN ATTORNEY AND HAVE BEEN SERVING ON THE SANTA CLARA COUNTY BAR ASSOCIATION. OUR PROGRAM IS NOT LSC FUNDED, SO, AS MR. GILFAX MENTIONED, THIS IS NOT OUT OF SELF-INTEREST.

I AM HERE TODAY ALSO REPRESENTING AT THEIR REQUEST THE CALIFORNIA ALLIANCE AGAINST DOMESTIC VIOLENCE, WHICH IS A COALITION WHICH REPRESENTS MERELY 100 BATTERED WOMEN SHELTERS THROUGHOUT THE STATE OF CALIFORNIA. I'M HERE TODAY TO OPPOSE YOUR PROPOSED ELIGIBILITY REGULATIONS ON SEVERAL POINTS. THE FIRST BEING THAT ALTHOUGH IT SEEMS YOU'VE SOMEWHAT ADDRESSED THE CONCERN ABOUT ACCESS OF THE BATTERED WOMEN TO THESE ASSETS OF THE BATTERING SPOUSE, I'VE READ OVER THE CHANGE AND IT SEEMS TO ME IT'S STILL VAGUE AND I'M CONCERNED IT'S ONLY ADDRESSING THOSE BATTERED WOMEN WHO ARE IN SHELTERS, WHICH IS ONLY ROUGHLY ABOUT A FIFTH OF THE BATTERED WOMEN WHICH ARE SERVED BY THE PROGRAMS AND DOESN'T EVEN BEGIN TO ADDRESS THE PEOPLE WHO ARE NOT SERVED BY THOSE BATTERED WOMEN

PROGRAMS.

I'M VERY CONCERNED THAT A DENIAL OF ACCESS TO LEGAL SERVICES WILL MEAN A DENIAL OF ACCESS TO THE COURTS FOR BATTERED WOMEN. WE'VE MADE GREAT CHANGES, STRIDES AND PROGRESS IN CHANGING THE LAWS IN CALIFORNIA TO HELP PROTECT BATTERED WOMEN TO EXTEND RESTRAINING ORDERS FOR THEIR PROTECTION AND WHAT I SEE HAPPENING IS THAT THESE WILL BE MEANINGLESS IF PEOPLE DO NOT HAVE ACCESS TO LEGAL SERVICES IN ORDER TO ENFORCE THE LAWS.

PEOPLE WILL HAVE TO TAKE THEIR PROTECTION INTO THEIR OWN HANDS. I THINK YOU NEED TO BE AWARE OF THIS. IF THEY CANNOT TURN TO THE COURTS, AND THIS FRIGHTENS ME AND I HOPE IT WILL FRIGHTEN YOU TOO.

I'M ALSO CONCERNED ABOUT THE INCOME ELIGIBILITY CHANGE IN WHICH PEOPLE ALREADY RECEIVING PUBLIC ASSISTANCE WILL NOT NECESSARILY BE ELIGIBLE FOR LEGAL SERVICES THROUGH LEGAL SERVICES. I THINK THAT WHAT THAT MEANS IS THAT PEOPLE WITH VERY LARGE FAMILIES ON AFDC ARE GOING TO BE EXCLUDED FROM REPRESENTATION BY ARBITRARY INCOME MAXIMUM GUIDELINES, AND I THINK THAT'S A REAL PROBLEM AND I THINK IF PEOPLE ARE ON AFDC THAT TERMINATION HAS BEEN MADE AND THEY SHOULD BE ELIGIBLE.

A THIRD AREA LIMITATION AND REPRESENTATION OF GROUPS IS THE PROPOSED REGULATION WHICH MIGHT PREVENT REPRESENTATION OF SUCH GROUPS AS BATTERED WOMEN SHELTERS,

WHICH ARE SERVING POOR VICTIMS OF SERIOUS PHYSICAL VIOLENCE. THE REGULATION IS UNCLEAR AS TO WHO THE MEMBERS ARE. EACH MEMBER OF THE GROUP WOULD HAVE TO BE ELIGIBLE. WHO ARE THESE MEMBERS? ARE THEY DONORS, WHICH IS WHAT WE CONSIDER MEMBERS OF OUR ORGANIZATION, I THINK THIS IS A BUREAUCRATIC NIGHTMARE.

ALSO I'M CONCERNED ABOUT THE BREACH OF CONFIDENTIALITY OF THE IDENTITY OF CLIENTS, THE IDENTITY OF CLIENTS, THE INTERFERENCE OF THE NATIONAL LEGAL SERVICES CORPORATION INTO LOCAL PROGRAMS OF ELIGIBILITY, AND I'M CONCERNED THIS WILL HAVE A CHILLING EFFECT ON BATTERED WOMEN FOR FEAR THAT THEIR IDENTITIES WILL BE REVEALED.

THIS IS A SERIOUS CONCERN. THIS IS SOMETHING THAT BATTERED WOMEN HAVE FACED THROUGHOUT OTHER BUREAUCRACIES WHICH HAD REVEALED THEIR IDENTITIES AND FORCED THEM TO BE SUBJECTED TO FURTHER FEAR AND DANGER.

I HOPE THAT YOU WILL REJECT THESE PROPOSED REGULATIONS IN THAT THEY WILL DO SEVERE DISSERVICE TO THE BATTERED WOMEN WHO ARE SUPPOSED TO BE SERVED BY LEGAL SERVICES CORPORATION. THANK YOU.

MR. MC CARTHY: THANK YOU VERY MUCH.

A SPEAKER: I'M LINDA ORREAL, I'M HERE AS AN ALUMNA OF STANFORD AND A GRADUATE OF BOALT HALL SCHOOL OF LAW AND A MEMBER OF THE LEGAL COMMUNITY. FIRST I WANT TO INCLUDE THE PRESENTATION OF THE PETITION FROM

IN WHICH YOU ARE PLACED, YOU HAVE A FIDUCIARY DUTY TO AN ORGANIZATION WHICH HAS ETHICAL RESPONSIBILITIES TO ITS ACTUAL AND POTENTIAL CLIENTS WHICH YOU PARTICIPATE IN IN THE ENACTMENT OF REGULATIONS, WHICH BREACH THAT DUTY FOR THE CLIENTS, MR. MC CARTHY AND MR. SANTARELLI, HOW DOES IT MAKE YOU FEEL AND HOW DO YOU THINK IT MAKES YOU LOOK AS ATTORNEYS?

(CLAPPING.)

A SPEAKER: MAY I MAKE A STATEMENT, PLEASE.

MR. MC CARTHY: THANK YOU, YOUNG LADY. AGAIN, LET'S NOT MAKE STATEMENTS THAT ARE REPETITIVE, BUT NECESSARY AND ESSENTIAL AND THE 30 MINUTES IS UP, UNFORTUNATELY, I BELIEVE FOR THE BALANCE OF THE PEOPLE WHO ARE TRYING TO MAKE CONSTRUCTIVE COMMENTS AS TO THE ELIGIBILITY PROPOSALS, THEY MAY HAVE MADE THEM IN SHORT CHANGE FROM OUR RHETORICAL AND RATHER NONSUBSTANTIVE STATEMENT, BUT BECAUSE OF THAT, AND BECAUSE OF YOUR GREAT INTEREST, I KNOW THERE'S GREAT INTEREST, WE WILL ALLOW EACH OF THE FELLOWS WHO ARE NOW STANDING, AND, AGAIN, I WOULD LIKE TO IMPRESS UPON YOU NOT TO BE REPETITIVE, AND THOSE COMMENTS WHICH HAVE ALREADY BEEN MADE TO THE BOARD, PLEASE DON'T MAKE THEM AGAIN. WITH THAT, YOU MAY PROCEED.

A SPEAKER: MR. CHAIRMAN AND MEMBERS OF THE BOARD: MY NAME IS HARRIET RICHARDS AND I REPRESENT THE CALIFORNIA ALLIANCE FOR THE MENTALLY ILL. I BELIEVE

IN THE POSITION OF A POTENTIAL CONFLICT BETWEEN THEIR OBLIGATIONS TO THEIR CLIENTS AND THEIR REQUIREMENTS UNDER THE FUNDING STATUTES.

WHAT PURPOSE IS SERVED BY INCREASING RECORD KEEPING REQUIREMENTS? IN THIS RESPECT, WHAT PURPOSE IS SERVED BY ELIMINATING THE OPTION OF RELYING ON AN ELIGIBILITY FINDING THAT'S ALREADY BEEN MADE BY ANOTHER GOVERNMENTAL ASSISTANCE PROGRAM? THERE IS NO CONFLICT OF INTEREST, THERE IS NO COMPETITION BETWEEN LAWYERS IN THE PRIVATE BAR AND LSC RECIPIENT ATTORNEYS; WE ARE BOTH TRYING TO ACCOMMODATE THE NEEDS OF THE POOR AND REGULATIONS WHICH IMPOSE HIGHER MAINTENANCE COSTS AND HIGHER TIME REQUIREMENTS IN ORDER TO SATISFY RECORD KEEPING ARE THE THE WAY TO USE THE PRECIOUS RESOURCES DEVOTED TO LEGAL SERVICES.

MR. MC CARTHY: THANK YOU, MR. LONDON.

A SPEAKER: MY NAME IS MICHELL COLEMAN, I'M WITH THE STATE BOARD OF THE HOUSING GROUP CHAIN WHICH IS A NETWORK OF OVER 50 HOUSING GROUPS THROUGHOUT THE STATE OF CALIFORNIA. OUR PRIMARY CONCERN AND THE REASON THAT WE'RE HERE TO ADDRESS YOU IS IN TERMS OF THE ELIGIBILITY REQUIREMENTS FOR GROUPS. WE THINK THAT PRIMARILY THE PEOPLE WE SERVE AND THAT WE WANT TO WORK WITH ARE LOW-INCOME PEOPLE, THOUGH THEY MAY NOT ALWAYS BE IN OUR MEMBERSHIP, A GOOD EXAMPLE OF THAT IS FAIR HOUSING

ORGANIZATION, THE MEMBERSHIP IS PRIMARILY AFFLUENT PEOPLE THAT CAN AFFORD TO DONATE WHERE THE PEOPLE THAT ARE SERVED ARE PRIMARILY LOW-INCOME PEOPLE.

WE THINK IT'S ESSENTIALLY -- AND WE'VE USED LEGAL SERVICES AND IT WOULD BE A SIN FOR US TO BE UNABLE TO RETAIN THAT AND TO HAVE TO DEAL WITH THESE NEW REGULATIONS THE WAY YOU HAVE BEEN NOW STATED.

I ALSO HAVE A LETTER HERE FROM ROBERT CAMPBELL, ASSEMBLYMAN, FROM THE STATE OF CALIFORNIA, SPEAKING ABOUT THE ELIGIBILITY REQUIREMENT AND IS URGING YOU TO CONSIDER THE HARDSHIPS THAT THESE ELIGIBILITY REQUIREMENTS ARE GOING TO PUT ON LOW-INCOME PEOPLE IN HIS CONSTITUENCY.

THANK YOU.

MR. MC CARTHY: THANK YOU.

WE WILL NOW HAVE A BREAK FOR THE COURT REPORTER.

(RECESS TAKEN.)

(4:05 P.M. SESSION)

MR. MC CARTHY: WE'RE NOW ON THE RECORD. WE HAVE A ONE-MINUTE FRAMEWORK.

A SPEAKER: MY NAME IS TOBY ROTHCHILD, I'M A MEMBER OF THE BOARD OF GOVERNORS, LONG BEACH BOARD, AND ALSO DIRECTOR OF LEGAL AID PROGRAM IN LONG BEACH. I WANT TO ADDRESS A COUPLE OF POINTS, PRIMARILY SOME LEGAL ISSUES ABOUT THE LEGALITY OF THE REGULATIONS AS PROPOSED.

THE ACT, LEGAL SERVICES CORPORATION ACT, SPEAKS TO THE VARIOUS FACTORS IN ELIGIBILITY REQUIREMENTS AND REQUIRES THE BOARD TO ESTABLISH GUIDELINES FOR ELIGIBILITY. IT MAKES REFERENCE SPECIFICALLY TO LIQUID ASSETS.

THERE IS NO REFERENCE IN THE ACT TO NON-LIQUID ASSETS AND I WOULD REQUEST OR QUESTION WHETHER THE BOARD HAS THE AUTHORITY TO REQUIRE TO INCLUDE NON-LIQUID ASSETS IN THE ELIGIBILITY REQUIREMENTS UNDER THE ACT.

SECONDLY, WITH REGARD TO THE ETHICS ISSUE, I'M PARTICULARLY CONCERNED BECAUSE IT'S AN ISSUE THAT OUR PROGRAM HAS RAISED ON SEVERAL OCCASIONS IN TERMS OF THE CONFIDENTIALITY OF CLIENT INFORMATION AND SPECIFICALLY ELIGIBILITY INFORMATION.

IN THE KIND OF LITIGATION IN WHICH LEGAL SERVICES IS FREQUENTLY INVOLVED, ONE OF THE FIRST RESPONSES WHICH IS GENERALLY MADE BY AN OPPOSING PARTY, BE IT A LANDLORD, A BUSINESS ESTABLISHMENT, A GOVERNMENT AGENCY, IS TO ATTACK THE ELIGIBILITY OF THE CLIENT. IF EVERYTIME THAT KIND OF ISSUE IS RAISED IT GIVES THE CORPORATION AUTHORITY TO GO LOOK AT THAT INFORMATION, THAT RAISES ALL SORTS OF PROBLEMS, THE LEAST OF WHICH WAS MENTIONED EARLIER; THE BROADER SCOPE OF THE ATTORNEYS' ETHICAL OBLIGATION UNDER BOTH CALIFORNIA LAW AND THE ABA CANONS AS COMPARED TO THE LEGAL PRIVILEGE AGAINST REVEALING

CLIENT CONFIDENCES.

SPECIFICALLY, I WOULD ASK IF THAT PROVISION IS BROADENED TO COVER FULL ETHICAL OBLIGATIONS OF A LAWYER, THAT IT BE PUT IN BROAD ENOUGH TERMS TO NOT SPECIFICALLY REFER TO THE ABA CANONS AND ABA CODE BUT, RATHER, GENERALLY TO THE ETHICAL OBLIGATIONS OF THE ATTORNEYS BECAUSE CALIFORNIA HAS ITS OWN SOCIETY OF RULES AND, IN FACT, EVERY STATE, WHETHER THEY ADOPT THE EXISTING ABA RULES OR ADOPT THE NEW ABA RULES, OR HAVE THEIR OWN, WE WOULD WANT TO MAKE SURE THAT EVERY PROGRAM IN THE COUNTRY IS COVERED UNDER THEIR OWN ETHICAL OBLIGATIONS AS DEFINED.

ALSO I WOULD LIKE TO POINT OUT IT'S NOT JUST ELIGIBILITY, THERE'S ALSO A PROVISION THAT TALKS ABOUT RETAINER AGREEMENT SIGNED BY EACH CLIENT BEING AVAILABLE TO THE CORPORATION WITHOUT REGARD TO WHETHER THERE'S A CONTROVERSY. IT MENTIONS BLANKING OUT THE NAME OR IDENTIFYING INFORMATION. THERE ARE ETHICS OPINIONS WHICH WE HAVE TO DEAL WITH WHICH GOVERN OUR CONCEPT WHICH SAY THAT IN REVEALING CLIENT CONFIDENCES WITH THE NAMES BLOCKED OUT, THAT IS NOT -- YOU'RE STILL REVEALING CLIENT CONFIDENCES EVEN IF YOU CANNOT IDENTIFY THE CLIENT, AND I WOULD BE GLAD TO PROVIDE THAT INFORMATION TO YOU OR TO COUNSEL TO INDICATE THAT THOSE ARE RESTRICTIONS WE HAVE TO LIVE WITH AND WE WOULD HOPE THAT WOULD BE

CONSIDERED IN DRAFTING OF THE REGULATION.

THE LAST POINT I WANT TO POINT OUT, FROM THE POINT OF VIEW OF A PROJECT DIRECTOR NOW, IT'S BEEN POINTED OUT A COUPLE OF OTHER TIMES BY CLIENTS AND OTHERS, THAT'S THE BUREAUCRATIC ASPECT OF THE REGULATIONS AS THEY NOW ARE DRAFTED. WHAT WE'RE LOOKING AT, IS, IN OUR VIEW, WHERE WE NOW CAN SPEND TEN MINUTES MAKING SURE THE CLIENT IS ELIGIBLE, AND 50 MINUTES DISCOVERING WHAT THE CLIENT'S PROBLEM IS, AND ADDRESSING THAT PROBLEM, COMING CLOSE TO TURNING THOSE FIGURES AROUND AND SPENDING THE BULK OF OUR TIME DETERMINING WHETHER THE CLIENT IS ELIGIBLE BECAUSE THAT'S THE EXPERIENCE OUR CLIENTS HAVE, BEFORE WE CAN GET DOWN TO ESTABLISHING A CONSTRUCTIVE ATTORNEY/CLIENT RELATIONSHIP, THAT HOPEFULLY WILL ALLOW AN OPEN AND A FREE EXCHANGE OF INFORMATION BETWEEN THE LAWYER AND THE CLIENT, WE HAVE TO DEAL WITH THE ELIGIBILITY WHICH HAS BEEN DEALT WITH TIME AND TIME AGAIN.

THE LAST COMMENT I WOULD LIKE TO MAKE IS A PROCEDURAL ONE AND THAT IS DURING THE BREAK I NOTICED THAT THERE WERE A NUMBER OF OCCASIONS WHEN THE FOUR BOARD MEMBERS WERE DISCUSSING ITEMS AND I WOULD HOPE THAT THEY WOULD SHARE WITH US THE CONTENT OF THE DISCUSSIONS WHICH WERE HELD, TO THE EXTENT THAT THEY WERE IN ANY WAY RELATED TO THE AGENDA THIS AFTERNOON.

MR. SANTARELLI: A RESPONSE TO THAT

UNFORTUNATE SUGGESTION: DISCUSSIONS OF THIS ETHICALLY SENSITIVE BOARD ARE PROCEDURAL DISCUSSIONS AS TO HOW IT IS WE CAN ACCOMMODATE AND NOT SUBSTANTIVE WITH RESPECT TO THE PROGRAM. THOSE ARE ALL TAKING PLACE PUBLICLY OR BETWEEN THE STAFF AND INDIVIDUAL MEMBERS OF THE BOARD.

A SPEAKER: THANK YOU FOR THE OPPORTUNITY TO SPEAK.

MY NAME IS PETER REID, I'M A MEMBER OF THE LEGAL SERVICES STATE BAR, ALSO THE EXECUTIVE DIRECTOR OF THE LEGAL AID SOCIETY IN SAN MATEO COUNTY IN CALIFORNIA, AND I WOULD LIKE TO TOUCH ON ONE OR TWO POINTS, AS WELL AS SOME WHICH HAVE ALREADY BEEN MENTIONED, BUT I THINK PERHAPS FROM A SOMEWHAT DIFFERENT PERSPECTIVE.

THAT IS, AS AN EXECUTIVE DIRECTOR, I'M ONE PRIMARILY CHARGED WITH IMPLEMENTING THESE REGULATIONS AND, IN SOME WAYS, WHAT I REALLY BRING TO YOU IS A CRY OF PAIN, TO TRY TO IMPLEMENT SOME OF THESE REGULATIONS IN THE FORM THAT THEY NOW STAND WILL BE IMPOSSIBLE, AT BEST, PROBABLY MORE DIFFICULT AT WORST.

THE REGULATIONS ARE NOT CLEAR, THEY CAUSE SOME OF THE ETHICAL PROBLEMS THAT HAVE ALREADY BEEN TALKED ABOUT. THERE APPEARS TO BE NO PARTICULAR RATIONALE FOR MAKING THESE ELIGIBILITY CHANGES. NOW, AT LEAST IN TERMS OF HOW ISSUES HAVE COME BEFORE THE BOARD IN THE PAST, WE DON'T HEAR OF ANY GRAVE NUMBERS OF PEOPLE

WHO ARE INELIGIBLE BEING REPRESENTED. LOCAL PROGRAMS HAVE BEEN WELL ABLE TO SET THEIR PRIORITIES AND DEAL WITH SOME OF THESE ISSUES AS A LOCAL MATTER, AND I THINK SOME OF THE FRUSTRATION WHICH A GREAT MANY OF OUR COLLEAGUES HAVE EXPRESSED TO ME, THOSE WHO SAT ON LOCAL BOARDS IS:

WHY ARE WE BEING TOLD TO DO THESE THINGS AT THIS TIME IN SUCH A HEAVY-HANDED WAY? WHAT I WOULD HOPE WOULD BE THE PROCEDURE IS THAT YOU WOULD TAKE SOME OF THE COMMENTS THAT ARE HEARD HERE TODAY, TAKE THE TIME TO REFLECT CAREFULLY ON THESE REGULATIONS, YOU HAVE ALREADY DONE SO, AT LEAST IN TERMS OF SOME OF THE ASSET TEST, WOULD SUGGEST TO ME THAT THE REGULATIONS WERE NOT WELL THOUGHT OUT. I DON'T THINK THEY'RE VERY WELL THOUGHT OUT NOW AND MORE TIME SHOULD BE DEVOTED TO ANALYZING THEM TO MAKE SURE THEY REALLY HELP DELIVER LEGAL SERVICES TO LOW-INCOME PEOPLE THROUGHOUT THE NATION.

ONE OR TWO SPECIFIC ITEMS: THE PUBLIC BENEFITS REGULATION SEEMS THAT IT WILL DO NOTHING MORE THAN ADD A TREMENDOUS BURDEN TO ME AND MY STAFF AND, AS WE TRY TO RESPOND TO CRIES OF HELP FROM THESE CLIENTS, WE WILL SPEND ENORMOUS AMOUNTS OF TIME DOING THE SAME KIND OF REVIEW THAT HAS ALREADY BEEN DONE BY OTHER GOVERNMENTAL AGENCIES, AND WILL PROBABLY TURN UP NO DIFFERENT INFORMATION.

IN THE MEANTIME, THOSE PEOPLE WILL BE SITTING

WAITING, WAITING, IN OUR WAITING ROOMS FOR AN INORDINATE AMOUNT OF TIME WITH THEIR CHILDREN AND WITH THEIR PROBLEMS. THERE SEEMS TO BE NO REAL POINT FOR ADDING SUCH A BUREAUCRATIC ADDITIONAL REQUIREMENT TO OUR STAFF.

THE PRIMARY POINT THEN IS, ARE WE HAVING A TECHNICAL FAILURE?

MR. SANTARELLI: TECHNICAL IMPROVEMENT.

MR. REID: WELL, PERHAPS WHAT I WOULD ASK FOR, IN TERMS OF THE REGULATION, IS A TECHNICAL IMPROVEMENT. IF YOU LOOK AT THEM CAREFULLY AND ANALYZE THEM AND MAKE THEM AS CLEAR AS POSSIBLE, WE WHO MUST APPLY THESE AND WE HAVE TO IMPLEMENT THEM, WE WILL IMPLEMENT THEM WHEN THEY ARE PROPERLY PROMULGATED, BUT WE SIMPLY CAN'T DO IT IN THE FORM THAT YOU ARE PUTTING THEM FORWARD AT THIS POINT.

THANK YOU.

(CLAPPING.)

MR. MC CARTHY: THANK YOU.

A SPEAKER: MY NAME IS NELL HOLLY. I'M A CLIENT BOARD MEMBER, CENTRAL MINNESOTA LEGAL SERVICES. I'M NOT GOING TO COVER ALL THE THINGS I USUALLY COVER WITH YOU ALL TODAY SINCE I'M LIMITED, HOWEVER, I WOULD LIKE TO TALK TO YOU ABOUT A COUPLE OF THINGS.

ONE IS THE CONSEQUENCES OF DENIAL. I GUESS FROM THE WAY IT SOUNDS IT'S KIND OF A TAX REFUND THEORY,

THE POOREST OF THE POOR MIGHT BE GREATER ON THAT PARTICULAR DAY.

SO I WOULD LIKE FOR YOU, AGAIN, TO GIVE SOME CONSIDERATION TO WHY THAT IS HAPPENING. I WOULD LIKE FOR YOU TO SERIOUSLY LOOK AT THE REGULATION AS A BOARD AND MAKE A CONSCIOUS DECISION BASED ON LEGAL NEEDS AS OPPOSED TO WHO THE POOREST IN THE COMMUNITY MIGHT BE BECAUSE THAT STILL IS NOT GOING TO TAKE CARE OF THE PROBLEM.

AND I'D ALSO LIKE TO ASK, I WOULD LIKE TO ASK MR. RATHBUN, YOU'RE THE CHAIR OF THE REGULATIONS COMMITTEE; IS THAT CORRECT?

MR. RATHBUN: THAT'S CORRECT.

MS. HOLLY: I WOULD LIKE TO KNOW IF YOU UNDERSTAND THAT AS CHAIR OF THAT COMMITTEE, IF THIS REGULATION IS PASSED, YOU WOULD NOT BE ELIGIBLE TO EVEN SERVE ON THIS BOARD, THE POOREST OF THE POOR BIT, YOU WOULD NOT BE ABLE TO SO ABLY REPRESENT POOR PEOPLE IN THIS COUNTRY CHAIRING THIS COMMITTEE, AND YOU WILL HAVE PARTICIPATED IN RIPPING THE LAST THREADS OF THE SAFETY NET, AND I WOULD LIKE FOR YOU TO SERIOUSLY LOOK AT THAT.

THIS IS SERIOUSLY GOING TO DISRUPT A LOT OF PEOPLE FROM SERVICES BY THIS PROGRAM AND I WANT YOU TO SERIOUSLY LOOK WITHIN YOURSELVES AND CONSIDER THE IMPACT THAT THIS IS GOING TO HAVE. YOU'RE RESPONSIBLE

FOR BRINGING TO THE DISCUSSIONS OF THIS BOARD REGULATIONS, THINGS THAT IMPACT CLIENTS IN BRINGING THOSE TO THE TABLE, AND THAT'S WHY PEOPLE WORK VERY DILIGENTLY TO HAVE ELIGIBILITY CLIENTS SERVE ON THE BOARD. THANK YOU.

MR. MC CARTHY: THANK YOU.

A SPEAKER: IS MR. SANTARELLI GOING TO JOIN US?

MR. MC CARTHY: MR. SANTARELLI?

(ON THE OTHER SIDE OF THE ROOM.)

MR. SANTARELLI: AM I BEING PAGED?

MR. MC CARTHY: YOU ARE BEING PAGED.

MR. SANTARELLI: THIS IS A FOUR-JUDGE PANEL, WE DIVIDED THE RESPONSIBILITY, SOME WORRY ABOUT CATS, SOME WORRY ABOUT DOGS, I'M HAPPY TO BE WITH THE DOG MATTER.

MR. MC CARTHY: WE WILL HEAR YOUR COMMENTS NOW.

A SPEAKER: I AM JONATHON STEIN, DIRECTOR OF THE COMMUNITY LEGAL SERVICES PROGRAM IN PHILADELPHIA. I WOULD LIKE TO FOCUS ON TWO POINTS, ONE I THINK IS THE TOTALLY NEEDLESS REQUIREMENT THAT SSI AND AFDC RECIPIENTS WHO ALREADY GO THROUGH THE WRINGER WITH WELFARE DEPARTMENTS EVERY DAY, PROVING AND REPROVING THEIR ELIGIBILITY IN HAVING TO GO THROUGH MONTHS REPORTING, NOW HAVE TO GO

THROUGH THE WRINGER WITH LEGAL SERVICES AND, REALLY, REQUIRE LEGAL SERVICES TO BECOME A WEALTHY BUREAUCRACY AND I'M NOT SURE THAT IS WHAT THE INTENT OF THIS BOARD SHOULD BE REGARDING THIS REGULATION.

WE HAVE OFFICES WHICH HAVE TO CLOSE DOWN AT NOON BECAUSE SIMPLY THERE ARE TOO MANY PEOPLE IN THE WAITING ROOM AND NO ONE CAN PHYSICALLY WALK THROUGH THE DOOR AND SIT DOWN OR EVEN STAND BECAUSE OF THE NUMBERS OF PEOPLE COMING INTO THOSE OFFICES, AND WHAT THIS REGULATION AND MOST OF THESE PEOPLE ARE ON WELFARE OR SSI, AND WHAT THIS REGULATION WILL REQUIRE IS TO PUT VERY SCARCE RESOURCES THAT WE HAVE TO INVESTIGATE, BRING THOSE INTO ISSUE, ASK QUESTIONS, DELAY THE PROCESSING OF OTHER CASES AND PREVENT US FROM MAXIMIZING RESOURCES THAT WE HAVE, AND WHY MUST PEOPLE ON WELFARE GO THROUGH AN ADDITIONAL REPETITIVE ELIGIBILITY TEST IN LEGAL SERVICES? THE WELFARE DEPARTMENT IN PENNSYLVANIA ALLOCATES HOW MANY REASONABLE ITEMS A MAN IS ENTITLED TO, TWO AND A HALF RAZOR BLADES OR TWO AND A HALF RAZOR BLADES A MONTH. I CAN ASSURE YOU THAT THERE'S NO ONE OWING A PENNY IN THAT GRANT THAT IS INTENDED TO GO TO THE LEGAL SERVICES AND, YET, THE IMPLICIT ASSUMPTION OF SUCH A REGULATION MUST BE THAT SOMEWHERE THERE IS MONEY IN A WELFARE GRANT TO PAY FOR LEGAL SERVICES, AND THAT JUST DOESN'T MESH WITH REALITY AND IS SO FAR OFF IN

ANOTHER WORLD THAT I REALLY HAVE TO ASK YOU THE QUESTION, HAVE YOU CONSIDERED WHAT THE REALITY OF SOMEONE WHO HAS BEEN ON WELFARE, WHO NOW HAS TO GO THROUGH MONTHLY REPORTING REQUIREMENTS WITH A NEW MANDATORY FEDERAL REGULATION WHO GETS TESTED, RETESTED, INVESTIGATED,HOME VISITED SUCH THAT THEY'RE INVESTIGATED MORE THAN ANYONE OF US HAS EVER BEEN IN ANY FEDERAL AGENCY?

BUT YET NOW THE GOVERNMENT IS COMING AGAIN DOWN ON THEIR BACKS AND ON OUR BACKS TO CREATE MORE PAPER WORK, MORE TIME, MORE LABOR AT A TIME WHEN RESOURCES ARE DISAPPEARING FROM ALL OF US, YOU KNOW, WHY AT THIS POINT IN TIME DO YOU PUT THIS BURDEN ON US AND OUR CLIENTS?

THE SECOND REMAINING POINT I WOULD LIKE TO ADDRESS IS ONE OF GROUP REPRESENTATION, WHICH ELIMINATES THE PROVISION THAT ALLOWS LEGAL SERVICES TO REPRESENT GROUPS WHOSE PRIMARY PURPOSE IS TO THWART THE INTEREST OF ELIGIBILITY CLIENTS, AND HERE I THINK YOU'RE HITTING, MAYBE YOU'RE NOT AWARE YOU'RE HITTING,THE MOST DEFENSELESS GROUPS OF POOR PEOPLE AROUND, RETARDED PEOPLE, CHILDREN, BATTERED WOMEN, WHO BY DEFINITION DON'T OR CAN'T ORGANIZE THEMSELVES, AND DON'T HAVE GROUPS OF THEIR OWN GENERALLY TO REPRESENT THEIR INTEREST.

THESE GROUPS REQUIRE THAT OTHER GROUPS OF WELL-MEANING CITIZENS WHO PERHAPS, SOME OF WHOM ARE POOR, SOME OF WHOM AREN'T, GROUPS OF RETARDED CITIZENS,

PERHAPS THEIR FAMILIES WHO HAVE JOINED TOGETHER TO REPRESENT THE INTEREST OF THESE DEFENSELESS GROUPS, AND I ASK THAT YOU, AGAIN, MR. MC CARTHY AND FELLOW MEMBERS OF THE BOARD, WHY PREVENT RETARDED PEOPLE, BATTERED WOMEN, CHILDREN, FROM HAVING THEIR GROUPS, THEIR REPRESENTATIVES, NOT SUBJECT TO OR AT LEAST ALLOW THEM TO GET HELP FROM LEGAL SERVICES; WAS THIS REALLY YOUR INTENDED RESULT?

IF IT WASN'T, I ASK YOU TO RECONSIDER THIS REGULATION AND I ASK YOU TO RECONSIDER THE PROVISION ON PRESUMPTION OF ELIGIBILITY FOR THOSE ON WELFARE. THANK YOU.

MR. MC CARTHY: THANK YOU.

A SPEAKER: LEE MEYERS, MAKING MY STATEMENT AS A CLIENT BOARD MEMBER OF THE SAN FRANCISCO NEIGHBORHOOD LEGAL ASSISTANCE. I FIRST OF ALL WANT TO ADDRESS -- I DON'T WANT TO READDRESS MATTERS THAT YOU HAVE TALKED ABOUT, BUT I'M SOMEWHAT CONCERNED ABOUT THE FACT THAT LOW-FEE ATTORNEYS BEING AVAILABLE TO US ONCE WE FIND OUT THAT WE MAY OR MAY NOT BE ELIGIBLE, AND I WONDER IF THE LOW-FEE ATTORNEYS ARE CAPABLE OF DOING POVERTY WORK OR ARE THEY LOW FEE BECAUSE THEY'RE IN POVERTY THEMSELVES?

AND BECAUSE OF THAT I THINK THEY'RE SENDING US INTO THE WRONG CATEGORIES, AND I AM IN FAVOR OF THE PRIVATE INVOLVEMENT IN DOING THE PRO BONO BUT, YOU KNOW,

WE'RE SPENDING A LOT OF TIME TRAINING THESE PEOPLE THAT DO A LOT OF WORK THAT OUR ATTORNEYS ARE ALREADY DOING, SO I ASK YOU TO REALLY LOOK AGAIN AT THE NO-FEE ASPECT, GETTING INTO THE NO LIQUID, MR. MC CARTHY, YOU LIVE IN SAN FRANCISCO, YOU KNOW NOT TOO FAR AWAY IS THE TENDERLOIN, THERE'S A NUMBER OF SENIORS ON SSI WHO LIVE IN THE TENDERLOIN AND DON'T HAVE A KITCHEN, MAY HAVE HOT PLATE WORTH $150, TELEVISION SET, THEY MAY LIKE MUSIC AND HAVE A HI-FI SET, IT WOULD BE INTERESTING TO NOTE IF SOMEBODY CAME IN AND LOOKED AT THEIR OLD MUSICAL ALBUMS, THEY MIGHT FIND ALBUMS LIKE BILLY HOLLIDAY RECORDS ON 78 LP'S, WHETHER OR NOT AFTER $5,000 SSI, WHETHER IT MEASURES UP -- THEY'LL BE NON-LIQUID AND IF THEY'RE GOING TO BE LIQUID -- I DON'T THINK THOSE ARE THE PEOPLE YOU INTEND TO CUT OFF, I THINK THE CONCEPT OF NON-LIQUID SHOULD BE REMOVED AND SHOULD NOT -- WE SHOULD NOT USE THE MEANS TO FURTHER CUT INTO THE 125 AS THE BASIS IN ORDER TO CUT DOWN WHO IS ELIGIBLE FOR LEGAL SERVICES, IT'S TRUE WE DO NOT HAVE ENOUGH MONEY TO SERVICE EVERYBODY.

FOR THAT FACTOR, I WISH THE BOARD, WOULD YOU LOOK AGAIN TO WHY YOU SHOULD HAVE THE LARGER GROUP ORGANIZATIONS TO REPRESENT ONE CLASS SUIT CAN HELP MORE CLIENTS AT ONE TIME THAN AN INDIVIDUAL CASE, AND I THINK IN A LONG RUN ALL YOUR NEW REGULATION IS REALLY GOING TO HELP IS IN A TENANT/LANDLORD SITUATION BECAUSE I

THINK THAT PROBABLY THE LANDLORD MAY, IF THEY ILLEGALLY ENTER THE APARTMENT OR FLAT OR HOTEL ROOM, KNOW ESSENTIALLY WHAT WAS AVAILABLE IN THE NON-LIQUID ASSETS, AND OTHER THAN THAT, I WANT TO KNOW HOW MUCH MONEY IT'S GOING TO COST US AS A PROGRAM TO INQUIRE AND INVESTIGATE INTO THE NON-LIQUID ASSETS OF CLIENTS AND ALSO HOW MUCH IS IT GOING TO COST LEGAL SERVICES CORPORATION TO INVESTIGATE US IN CASE YOU FELT WE DID NOT INVESTIGAGE THEM. THANK YOU.

MR. MC CARTHY: THANK YOU VERY MUCH.

A SPEAKER: MY NAME IS PHIL BERTHENTHAL, I'M DIRECTOR OF LITIGATION, CONTRA COSTA LEGAL SERVICES FOUNDATION. I HAD A VERY PRODUCTIVE CONVERSATION WITH MR. SANTARELLI DURING THE BREAK. I WANT TO THANK HIM FOR LISTENING TO ME. THAT CONVERSATION LED ME TO A COUPLE OF THOUGHTS WHICH I WOULD LIKE TO RAISE.

IT STRIKES ME THAT WE'RE STANDING HERE TODAY MAKING COMMENTS AND YOU PEOPLE ARE UP HERE SAYING THESE PEOPLE ARE ATTACKING US. WHAT STRUCK ME, IN TERMS OF MY CONVERSATION WITH YOU, MR. SANTARELLI, AND I WANT TO EXPRESS IT TO ALL OF YOU, IS THAT YOU ARE BEING ISOLATED FROM US; THAT YOU DON'T KNOW EXACTLY WHAT IS GOING ON IN THE LEGAL SERVICE COMMUNITY AND WHAT THE IMPACT OF WHAT YOU ARE DOING IS, WHAT WILL TAKE PLACE. I PRESENTED A REAL PROBLEM WITH MR. SANTARELLI, I DETECTED REAL

CONCERN AND I HAD PREVIOUSLY DISCUSSED THAT MATTER WITH MR. MEYER, I DISCUSSED IT WITH MR. MEYER TWO DAYS BEFORE THE CLOSE OF CONGRESS.

NOW, MR. MEYER SAID NO FURTHER DISCUSSION WOULD BE TAKEN, THEREFORE, OUR ONLY OTHER ALTERNATIVE WAS TO COME HERE TO THE BOARD TODAY.

I HAD A CONVERSATION WITH MR. SANTARELLI AND I FELT MY COMMENTS WERE BEING REVIEWED. I DON'T KNOW IF ANY OF YOU MEMBERS OF THE BOARD KNOW THAT THE PROJECT DIRECTORS ASSOCIATION FOR REGION A, THAT COVERS THIS STATE, INVITED ALL OF YOU TO A RECEPTION LAST NIGHT, I DON'T KNOW IF YOU KNOW, YOU WERE INVITED TO A RECEPTION TONIGHT OR TOMORROW NIGHT, THAT WAS ALL COMMUNICATED TO MR. BOGARD'S OFFICE AND MR. BOGARD'S OFFICE TOLD THE PROJECT ASSOCIATION THAT YOU WERE NOT AVAILABLE TO MEET WITH THEM.

I THINK THAT THAT SORT OF INFORMAL DIALOGUE BACK AND FORTH ALONG THE WAY, SO THAT YOU UNDERSTAND WHAT'S GOING ON WITH US, AND WE UNDERSTAND WHAT'S GOING ON WITH YOU, IS NOT HELPFUL AT ALL.

I WOULD LIKE NOW TO TURN TO TWO ASPECTS OF THE REGULATIONS THAT I THINK MERIT MY COMMENT. FIRST IS THE AUTOMATIC ELIGIBILITY PROVISION FOR PEOPLE ON PUBLIC ASSISTANCE. IT'S BEEN DEALT WITH PREVIOUSLY AND I WOULD LIKE TO TAKE AN ABSOLUTELY DIFFERENT APPROACH.

MY OFFICE SERVES APPROXIMATELY 2,000 CLIENTS A YEAR AND WE FIGURED THAT IT WILL TAKE AN ADDITIONAL TEN TO FIFTEEN MINUTES IN ORDER TO MAKE THOSE ELIGIBILITY DETERMINATIONS, THAT TRANSLATES INTO 4500 STAFF HOURS, THE EFFECT OF ONE-HALF STAFF PERSON A YEAR.

IN OTHER WORDS, ABOUT 2 PERCENT OF OUR LEGAL SERVICES BUDGET WILL NOW BE SPENT ON ADDITIONAL ELIGIBILITY DETERMINATIONS.

THE NEXT THING THAT I DID WAS I REVIEWED CURRENT CASES IN ORDER TO DETERMINE HOW MANY OF MY CLIENTS WOULD NO LONGER BE ELIGIBLE FOR SERVICES UNDER THESE NEW REGULATIONS. I DISCOVERED ONE INDIVIDUAL, HE IS 85 YEARS OLD, HE LIVES IN A NURSING HOME AND THE NURSING HOME WANTS TO EVICT HIM. HE HAS $995 A MONTH AND UNDER THE CURRENT REGULATIONS HE IS AUTOMATICALLY ELIGIBLE FOR LEGAL SERVICES.

BECAUSE OF THE PROVISION DENYING AUTOMATIC ELIGIBILITY TO MEDICAID RECIPIENTS, NUMBER ONE, AND, NUMBER TWO, BECAUSE OF THE 150-PERCENT TAX THAT A PERSON WOULD NO LONGER BE ELIGIBLE FOR OUR SERVICE, THIS IS SIMPLY NO REASON TO DENY THAT INDIVIDUAL LEGAL SERVICES.

FURTHERMORE, IF THIS IS THE ONLY TYPE OF A PERSON THAT IS GOING TO BE DENIED ELIGIBILITY UNDER THE NEW REGULATIONS, WHY PASS THEM AT ALL IN THE FIRST PLACE. WE HAVE HAD IT IN EFFECT AS LONG AS -- EITHER

IT REQUIRES A PUBLIC COMMENT. FIRST OF ALL, I THINK IT SHOULD BE CLARIFIED THAT THERE IS NO UNION THAT REPRESENTS LEGAL SERVICES WORKERS EITHER AT THE HEADQUARTERS OR AT THE REGIONAL OFFICES.

THE MATTER WAS MENTIONED BEFORE THE NATIONAL LABOR RELATIONS BOARD AND THE CORPORATION'S POSITION HAS ALWAYS BEEN ONE OF NEUTRALITY, PUBLIC POSITION, AND WILL CONTINUALLY MAINTAIN THAT THE CORPORATION'S POSITION IS THAT THE EMPLOYEES HAVE THE RIGHT TO DECIDE SUCH REPRESENTATION BY SECRET BALLOT.

NORMAL TRADITION IN LABOR MATTERS IS THAT AN EMPLOYER OF CERTAIN ISSUES WHICH NEEDS TO BE DECIDED BY THE NATIONAL LABOR RELATIONS BOARD UNDER THE NCRA CORPORATION, AND THE POSITION IS THAT THE FREEDOM ALLOWED BY THE NLRA IS TO ALLOW EMPLOYEES TO VOTE BY SECRET BALLOT, WHICH IS NOT NECESSARILY ALWAYS RELATED TO THE AUTHORIZATION CARDS SIGNED.

SPECIFICALLY, AS TO THE ELIGIBILITY REGULATIONS, FIRST OF ALL, I THINK WE OUGHT TO POINT OUT THAT INSTEAD OF CENTRALIZING THE PROCESS, IT HAS BEEN DECENTRALIZED, AS I NOTED PREVIOUSLY IN TURNING THE MATTER OVER TO THE LOCAL PROGRAMS. THE LOCAL PROGRAMS THAT WILL SET THE STANDARDS, IT WILL GIVE THE LOCAL PROGRAM THAT WILL HAVE TO ACCOUNT FOR THE FACTORS THAT ARE LISTED, FACTORS MANY OF WHICH HAVE BEEN IN EXISTENCE IN THE CURRENT

THAT'S BEEN SINCE FEBRUARY OF 1971 WHEN THE PROVISION THAT PEOPLE RECEIVING GOVERNMENT BENEFITS -- BENEFIT PROGRAMS SHOULD BE AUTOMATICALLY ELIGIBLE FOR LEGAL SERVICES, IT'S BEEN THAT LONG, AND I SAY TO YOU TODAY IF NOTHING IS BROKE, WHY GO AHEAD AND FIX IT.

THANK YOU VERY MUCH.

MR. SANTARELLI: PHIL, I DIDN'T GET YOUR LAST NAME.

A SPEAKER: B-E-R-T-H-E-N-T-H-A-L.

MR. SANTARELLI: NO WONDER I DIDN'T. IF YOU WILL TAKE A MOMENT WHILE WE CONTINUE, I THINK THAT THE STAFF HAS A DRAFT THAT YOU MIGHT COME IN ACCORD ON WITH RESPECT TO THE PROBLEM, AT LEAST WITH RESPECT TO MEDICAL EXPENSES, IF THAT'S THE CASE, WE'LL BE CONSIDERING AN AMENDMENT TO THE DISCUSSION WHICH YOU MENTIONED RELATED TO THE PROCEDURE OF HOW WE'LL ACCOMPLISH THAT.

MR. MC CARTHY: I WANT TO THANK ALL OF THE PUBLIC FOR YOUR INTEREST AND INPUT AND ASSISTANCE IN HELPING US COME TO DECISIONS. I THINK IT WOULD BE APPROPRIATE IF ALAN SWENDIMAN, OUR CHIEF COUNSEL, MIGHT GIVE YOU A RESPONSE TO SOME OF THE QUESTIONS THAT WERE SPECIFICALLY DIRECTED, AS WELL AS INPUT FROM PUBLIC QUESTIONS.

MR. SWENDIMAN: LET ME ADDRESS A NUMBER OF MATTERS. FIRST OF ALL, APPLICABLE TO THE FIRST SPEAKER, WHICH WAS NOT GERMANE TO THE REGULATIONS, BUT I THINK

REGULATIONS AND, IN FACT, HAVE EXISTED FOR SOME TIME.

SO, TRUE, THE INCOME ELIGIBILITY STANDARDS AS WAS NOTED RECENTLY IN EDITORIAL BY THE WASHINGTON POST, THOSE ELIGIBILITY STANDARDS HAVE EXISTED FOR SOME TIME AND THAT THERE IS ALWAYS GOING TO BE A PROBLEM WHEN YOU SET ANY LIMIT; THAT THERE IS GOING TO BE INDIVIDUALS WHO ARE SLIGHTLY ABOVE. I BELIEVE THAT THE STAFF RECOMMENDATIC IS AN ATTEMPT TO MAKE SURE PEOPLE WHO DO QUALIFY UNDER THAT STANDARD (THAT IS THE FORCE OF THE BOARD) ARE NOT DISPLACED IN THE PROCESS OF RENDERING LEGAL SERVICES.

OTHER COMMENTS THAT I HAVE, I'LL TRY TO ADDRESS MORE ON AN AD HOC BASIS IN TERMS OF THE COMMENTS THAT WERE MADE. THERE ARE NO SPECIFIC REFERENCES TO BATTERED WOMEN IN THE REGULATION. THE ATTEMPT IS TO GET AT ACCESS OF THE DENIAL OF ACCESS TO ASSETS, AND THE PROPOSED REGULATION STATES THAT THE PROGRAM SHALL TAKE INTO ACCOUNT THE IMPEDIMENTS RESULTING IN ACCESS TO THOSE ASSETS.

IN TERMS OF THE REFERENCE TO WELFARE, TO SSI, I BELIEVE THAT THE CURRENT REGULATION DOES NOT GRANT AN AUTOMATIC ELIGIBILITY TO SUCH INDIVIDUALS. IN FACT, THE PROGRAMS ARE REQUIRED TO LOOK AT THE INCOME OF AN INDIVIDUAL. IN TERMS OF THE PROPOSAL WITH REGARD TO ACCOUNTING SOCIAL SECURITY AND SO FORTH, AGAIN, I THINK AS NOTED BY OBSERVERS, AS THE WASHINGTON POST

POINTED OUT, TO GOVERN THAT MONEY IS OFTEN BETTER THAN OTHER INCOME BECAUSE IT IS TAXABLE; AND WHETHER IT'S A DOLLAR EARNED OR A FEDERAL DOLLAR, THEY BOTH -- THEY BOTH BUY THE SAME GOODS AND SERVICES.

WITH REFERENCE TO CLIENTS AND THEIR ABILITY TO BE REPRESENTED, IN RESPONSE TO ONE COMMENT, THE PROPOSED REGULATION DOES NOT ELIMINATE A CLASS SUIT COMPOSED OF ELIGIBILITY CLIENTS. IN FACT, THAT DOESN'T ENCOMPASS SUCH AN ARRANGEMENT.

IN TERMS OF RETAINER AGREEMENTS, A NUMBER OF PROGRAMS ALREADY HAVE THEM. I'M FAMILIAR WITH ONE SUCH AGREEMENT THAT IN FACT LOOKS LIKE A COMPUTER CARD, IT'S APPROXIMATELY, I GUESS, THREE-BY-FIVE OR MAYBE IT'S FIVE-BY-SEVEN. ONE OF THE MAJOR OBSERVATIONS MADE BY THE MALPRACTICE CARRIER IN FACT HAS BEEN THAT THERE HAS BEEN A MISUNDERSTANDING NOT OFTEN BUT A MISUNDERSTANDING IN THE PROBLEMS THAT COME TO ITS ATTENTION BETWEEN THE PROGRAM, THE PROGRAM ATTORNEY ON ONE HAND AND THE CLIENT AS TO EXACTLY WHAT SERVICES WERE TO BE RENDERED.

AGAIN, A NUMBER OF THE PROGRAMS ALREADY HAVE SUCH A RETAINER AGREEMENT.

IN TERMS OF THE PROFESSIONAL RESPONSIBILITY COMMENTS THAT WERE MADE, OF COURSE, AS MANY OF YOU KNOW, THE CODE OF PROFESSIONAL RESPONSIBILITY HAS BEEN REPLACED BY THE HOUSE OF DELEGATES OF THE AMERICAN BAR ASSOCIATION

WITH A NEW CODE, A MODEL CODE WHICH WAS ADOPTED THIS PAST AUGUST. THE MODEL RULES OF PROFESSIONAL CONDUCT.

RULE 1.6 SPECIFICALLY ADDRESSES SITUATIONS WHERE A LAWYER MAY REVEAL INFORMATION TO THE EXTENT THAT A LAWYER HAS TO, IT'S A RESULT OF A DEFENSE TO A CIVIL CLAIM BASED ON THE CONDUCT OF THE CLIENT OR GOVERNING THE LAWYER'S REPRESENTATION OF THAT CLIENT.

THE INSTRUCTION OR EXPLANATION GIVEN TO RULE 1.6 STATES: "THAT THIS ARISES WHEN AN ASSERTION IS MADE AND DOES NOT REQUIRE THE COMMENCEMENT OF A LAWSUIT. IT MAY BE ESTABLISHED BY RESPONDING TO A THIRD PARTY WHO HAS IN FACT MADE THE ASSERTION."

I THINK IT SHOULD ALSO BE POINTED OUT THAT THERE IS NO REQUIREMENT OR SITUATION WHERE THE CORPORATION IS COMPELLING DISCLOSURE OF THE NAME OF THE CLIENT. A SITUATION -- AND THE REGULATIONS, MOST REGULATIONS SPEAK DIRECTLY TO THE FACT OF A CLIENT WHOSE NAME IS ALREADY KNOWN AND WHOSE FINANCIAL ELIGIBILITY HAS IN FACT BEEN QUESTIONED.

SO THE IDENTITY OF THE CLIENTS IN THE SPECIFIC ISSUE ARE ALREADY KNOWN. NOW, IT'S INTERESTING AND SIGNIFICANT THAT THE CORPORATION HAS CONSISTENTLY TAKEN THIS POSITION. PRIOR GENERAL COUNSEL HAVE TAKEN THE POSITION THAT THE ABA OPINIONS DO NOT PREVENT IT FROM REQUIRING PROGRAMS TO PROVIDE INFORMATION NECESSARY

TO CONFIRM OR REFUTE ALLEGATIONS, IN TERMS OF THEIR ELIGIBILITY. SINCE THE IDENTITY OF THE CLIENT HAS ALREADY BEEN REVEALED.

OBVIOUSLY, IF THIS COULD NOT BE PERMITTED, THE CORPORATION COULD NEVER INVESTIGATE COMPLAINTS AS TO IMPROPER ELIGIBILITY.

I THINK I COULD CONCLUDE BY OBSERVING THAT THE QUESTION HAS BEEN RAISED AS TO WHY THE REGULATION IS BEING PROPOSED, A NUMBER OF COMPLAINTS HAVE BEEN RECEIVED BY THE CORPORATION IN TERMS OF ELIGIBILITY, IN TERMS OF PERSONS QUALIFYING, AND THIS IS A MATTER WHICH HAS BEEN BROUGHT, CONTINUES TO BE BROUGHT TO THE CORPORATION'S ATTENTION. THAT WOULD CONCLUDE MY REMARKS WITH RESPECT TO THE PUBLIC COMMENT.

A SPEAKER: MR. MC CARTHY, COULD I ASK MR. SWENDIMAN A QUESTION?

MR. MC CARTHY: SURELY.

A SPEAKER: DO YOU HAVE ANY IDEA OF HOW MANY STATE ASSOCIATIONS HAVE ADOPTED THIS CHANGE IN THE CODE OF PROFESSIONAL RESPONSIBILITIES?

MR. SWENDIMAN: AT THIS JUNCTURE, NO, I DON'T. I BELIEVE THAT THE STATE OF NEW JERSEY IS EITHER CONSIDERING IT OR HAS ADOPTED IT, BUT I WOULD DEFER TO SOMEBODY FROM NEW JERSEY TO ANSWER THAT QUESTION.

THE SPEAKER: THE REASON I ASK IS BECAUSE

A LOT OF QUESTIONS AND, ESPECIALLY WITH MY ASSOCIATION APPOINTING THE MAJORITY OF THE GOVERNING BODIES, AT THIS POINT, I'M NOT SURE WHAT KIND OF CONFLICT THAT THAT'S GOING TO CREATE WITHIN THE PROGRAM MANAGEMENT. IF WE GO AHEAD WITH SOMETHING BASED ON THAT WHICH WAS PASSED AT A CONVENTION AND THE STATES HAVE NOT IN FACT ADOPTED THAT AS PART OF THEIR CODE OF PROFESSIONAL RESPONSIBILITIES, THEN . . . .

MR. MC CARTHY: THANK YOU.

A SPEAKER: THIS IS A COMMENT WITH REGARD TO THE ELIGIBILITY REGULATIONS WHICH WERE CURRENTLY IN EFFECT ON 1611.6(C) --

MR. MC CARTHY: EXCUSE ME, WHOSE COMMENT IS IT?

THE SPEAKER: FROM THE LEGAL SERVICES CORPORATION BOARD WHEN THEY ADOPTED THE COMMENT THEY MADE. AND ON SECTION 1611.6(C) SPECIFICALLY AS TO IMPLEMENTING SECTION 1006(B)(3) OF THE ACT, 42 USC 2996(E)(B)3, WHICH REQUIRES THE CORPORATION TO INSURE THAT LEGAL SERVICES ACTIVITIES ARE CONDUCTED IN A MANNER CONSISTENT WITH PROFESSIONAL AND ETHICAL OBLIGATIONS IN ACCORDANCE WITH ETHICAL OPINIONS RENDERED BY THE AMERICAN BAR ASSOCIATION, AND THE ETHIC COMMITTEE OF LOCAL BAR ASSOCIATIONS.

THE SECTION PROHIBITS DISCLOSURE OF FINANCIAL

INFORMATION PROVIDED BY A CLIENT WITHOUT EXPRESS WRITTEN CONSENT. IT WOULD VIOLATE THIS SECTION FOR A RECIPIENT TO REQUIRE CONSENT AS A CONDITION FOR RECEIVING LEGAL ASSISTANCE, NOT EVEN THE MEMBERS OF THE GOVERNING BODY OF A RECIPIENT ARE ENTITLED TO SEE IDENTIFIABLE FINANCIAL ELIGIBILITY INFORMATION.

MR. MC CARTHY: THANK YOU. I THINK ALAN CAN ANSWER THAT. COMMENTS ARE ENDED AND WE NOW HAVE A MOTION PENDING BEFORE THIS BOARD AND I WOULD ASK THE BOARD IF THERE ARE ANY AMENDMENTS THEY WOULD LIKE TO OFFER.

MR. SANTARELLI: I WOULD LIKE TO OFFER AN AMENDMENT TO THE PROBLEMS THAT WERE RAISED EARLIER ON 16.5(B)(1)(B)(J).

"AS AN EXCEPTION, INSTANCES WHERE THE PRIOR WRITTEN PERMISSION OF THE PROJECT DIRECTOR, BASED UPON WRITTEN DOCUMENTATION RECEIVED BY THE RECIPIENT AND AVAILABLE FOR REVIEW BY THE CORPORATION, IF A PERSON'S GROSS INCOME IS PRIMARILY COMMITTED TO MEDICAL OR NURSING HOME EXPENSES, A PERSON MAY BE SERVED EVEN IF THAT PERSON'S GROSS INCOME EXCEEDS 150 PERCENT OF THE NATIONAL ELIGIBILITY LEVEL." THIS IS A RESPONSE TO THE PARTICULAR PROBLEM THAT WAS RAISED A FEW MINUTES AGO. IT DOES NOT NECESSARILY SATISFY THE GENTLEMAN RAISING THE PROBLEM BECAUSE HE CONSIDERS THE OVERALL REGULATION UNNECESSARY;

HOWEVER, IN THIS BOARD MEMBER'S JUDGMENT, IT MEETS THE PROBLEM THAT HE SPECIFICALLY RAISES, AND I WILL OFFER IT AS A MEMBER.

MR. MC CARTHY: IS THERE A SECOND?

MR. RATHBUN: SECOND.

MR. MC CARTHY: MR. MASSON?

MR. MASSON: AYE.

MR. MC CARTHY: MR. SANTARELLI?

MR. SANTARELLI: AYE.

MR. MC CARTHY: THE AMENDMENT HAS BEEN CARRIED, THE BOARD WILL ENTERTAIN A MOTION TO ADOPT THE RESOLUTION.

MR. BOGARD: SECONDED.

MR. MC CARTHY: MASSON?

MR. MASSON: AYE.

MR. MC CARTHY: SANTARELLI?

MR. SANTARELLI: AYE.

MR. MC CARTHY: RATHBUN?

MR. RATHBUN: AYE.

MR. MC CARTHY: MOTION IS CARRIED, PROPOSED FINAL RESOLUTION SHOULD BE PUBLISHED AS THE FINAL REGULATION AND SHOULD BE EFFECTED 30 DAYS AFTER DATE OF PUBLICATION.

WE CAN NOW MOVE ON TO THE NEXT ITEM, WHICH IS 5(B) A DISCUSSION OF REGULATIONS TO BE PUBLISHED AS PROPOSED REGULATIONS, AND I DRAW YOUR ATTENTION

TO THE FACT THAT THESE, IF ADOPTED FOR PUBLICATION BY THIS BOARD, WILL THEN BE PUBLISHED AND THE GENERAL PUBLIC COMMENT IS SOLICITED AND REQUESTED AND THERE WILL BE, AFTER THAT, THERE WILL BE ALSO TIME FOR GENERAL DISCUSSION AT THE BOARD MEETING AFTER PUBLICATION, SO I WOULD LIKE OUR STAFF TO PLEASE DISCUSS THE PROPOSED REGULATION.

MR. SWENDIMAN: THERE ARE THREE PROPOSED REGULATIONS PUBLISHED FOR PUBLIC COMMENT. THE FIRST IS 45 CFR 1609, ATTORNEYS FEES.

THE SECOND IS 45 CFR 1620, CONCERNED WITH PRIORITY SETTING.

AND THE THIRD IS 45 CFR 1606 DEALING WITH FUNDING.

I WILL TURN THE MICROPHONE OVER TO MR. MEYER, WHO WILL ADOPT THIS PRESENTATION.

MR. MC CARTHY: JOHN, I SUGGEST THAT YOU DISCUSS ALL THREE OF THEM AT THIS TIME.

MR. MEYER: OKAY. THANK YOU, MR. CHAIRMAN. I WILL DIFFERENTIATE FOR THE AUDIENCE WHICH ONE I'M DISCUSSING AT ANY TIME TO AVOID CONFUSION.

OKAY, WHAT WE'RE DISCUSSING NOW IS THE AMENDMENT TO 45 CFR 1609. AS YOU WILL SEE THEM ON PAGE 76 IN THE BOOK, AS BEFORE FOUR ITEMS IN BRACKETS IN THE CURRENT RULE, THAT IS IN THE CURRENT APPLICABLE

REGULATION AND ARE DELETED FROM THE PROPOSED RULE, THE ITEMS UNDERLINED OR PROPOSED IS THE NEW LANGUAGE. THERE ARE FOUR PROPOSED CHANGES TO 45 CFR 1609. THEY ARE, FIRST:

SECTION 1609.4(A)(3) IS DELETED. THIS DELETION REQUIRES THAT THERE BE A DEFINITE EFFORT TO REFER A FEE-GENERATING CASE, AND IT REMOVES AN EXCEPTION WHERE A FEE-GENERATED CASE, THAT TYPE OF PRIVATE ATTORNEYS IN THE AREA FORMERLY DO NOT ACCEPT OR WOULD NOT ACCEPT PREPAYMENT OF A FEE, THAT EXCEPTION IS REMOVED SO IT IS NECESSARY TO GO THROUGH ONE OR THE OTHER THREE AGENCIES.

IN 1609.4, BEFORE ACCEPTING A FEE-GENERATED CASE, IT'S REJECTION BY A LOCAL SERVICE OR TWO OTHER LAWYERS, THAT NEITHER THE REFERRAL SERVICE OR A LAWYER WILL ACCEPT THE CASE, RETAIN CONSULTATION OR EMERGENCY CIRCUMSTANCES.

SECONDLY, IT'S THE MOST IMPORTANT ONE, THERE'S A NEW SECTION ADDED TO 1609.6 WHICH ESTABLISHES A DEFINITE METHOD FOR ACCOUNTING FOR FEES THAT REQUIRE THAT THEY GO BACK TO THE FUND FOR WHICH THE RESOURCES LITIGATING THE CASE ORIGINALLY CAME AND IT SETS A TIMING RULE FOR WHEN A FEE IS READY TO BE ACCRUED.

THIRDLY, SECTION 1609.8(B) IS TO BE DELETED, OBSOLETE, THE REGULATION HAS BEEN IN EFFECT SINCE OCTOBER 1976 AND INDICATES INITIATIVE PRIOR TO THAT TIME SHOULD

HAVE BEEN COMPLIED. THE RULE SAID THAT THEY ACCEPT PRIOR TO ADOPTION OF THIS PART, AND SHOULD THERE BE SOMETHING SOMEWHERE, THE CORPORATION COULD MAKE AN EXCEPTION FOR IT; BUT WE DON'T NEED THAT IN THE RULE ANYMORE.

FOURTH, SECTION 1609.8(C) IS AMENDED BY SUBSTITUTING THE WORDS "WHEN THE CASE MEETS THE STANDARDS OF SECTION 1609.5" FOR THE VAGUE WORDING "WHEN APPROPRIATE."

THIS HAS TO DO WITH CO-COUNSEL ARRANGEMENTS AND IT PUTS CO-COUNSEL ARRANGEMENTS EXPLICITLY UNDER THE SAME CRITERIA AS OTHER FEE-GENERATED CASES. RATHER THAN HAVING THIS LANGUAGE WHEN "WHEN APPROPRIATE" WHICH I REALLY HAVE NO IDEA WHAT THAT LANGUAGE MEANS, SO THESE ARE THE ONLY -- OUR ONLY CHANGES PROPOSED AS TO 1609.

NOW, AT THIS POINT, MR. CHAIRMAN HAS ASKED ME, AND I WILL PROCEED TO DISCUSS THE PROPOSED RULE 1620, IT CONCERNS THE PRIORITIES AND ALLEGATIONS OF RESOURCES. THIS PART HAS BEEN INTENSELY REVISED TO INSURE THAT THE PRIORITY-SETTING PROCESS IS MORE EFFECTIVE; THAT IT INCLUDES THE PRIVATE BAR, OCCURS IN A TIMELY MANNER, AND REFLECTS IN A RECIPIENT'S POLICY, LEADS TO A RESONABLY EQUAL SERVICE FOR ALL ELIGIBLE CLIENTS, AND GIVES THEM REASONABLY EQUAL ACCESS TO SERVICES.

SECTION BY SECTION: SECTION 1620.1 IS

REVISED TO ADD TO THE PURPOSE CLAUSE THAT ALL POTENTIAL ELIGIBLE CLIENTS HAVE SUBSTANTIALLY EQUAL ACCESS TO SERVICES UNLESS DIFFERENCES ARE BASED ON DIFFERENCES IN FINANCIAL RESOURCES, THAT IS, OF THE CLIENTS.

SECTION 1620.2(A) IS REVISED TO MANDATE AN INCLUSION OF THE PRIVATE BAR AND TO REQUIRE AN ASSESSMENT TO BE MADE AT LEAST ONCE EVERY TWO YEARS. THIS IS AN ASSESSMENT OF PRIORITIES IN THESE AREAS.

SECTION 1620.2(B) REQUIRES THAT ALL RECIPIENTS BE IN COMPLIANCE WITH THIS BY DECEMBER 31ST, 1984, SO IF THE PROPER ASSESSMENT HASN'T BEEN MADE RECENTLY, THEY HAVE TO MAKE IT BY DECEMBER 31ST, 1984.

SECTION -- SKIPPING BACK, ACTUALLY, TO SECTION 1620.2(B), IT IS REVISED BY DELETING PRIORITY SEVEN, THERE'S A LONG LIST OF WHAT'S TO BE CONSIDERED UNDER THE ASSESSMENT IN PRIORITY SETTING IN CONSTANT WITH THE CORPORATION OF PRESENT POLICY AND THE RIGHT OF THE INDIVIDUAL CLIENT TO LEGALLY ASSIST RATHER THAN THE JUDGMENT OF THE PROGRAM IN WHICH THE CASE MAY HAVE MOST IMPACT.

SECTION 1620.2(C) REQUIRES AN INITIAL WRITTEN REPORT TO THE CORPORATION BY JUNE 30TH, 1984, EXPANDS THE SCOPE OF THIS REPORT AND REQUIRES THE REPORT TO BE SUBMITTED TO THE CORPORATION FOR APPROVAL. THE REPORT IS A DIFFERENT THING, THE ASSESSMENT IS AN OVERALL

NO. 45 CFR 1606.2. THIS IS UNDER TERMINATION AND THERE WERE TECHNICAL CHANGES INCLUDED IN WHAT WAS ALREADY ADOPTED. THERE IS SUBSTANTIVE CHANGE. THE ISSUE CAME UP AFTER THE RATE WAS PROPOSED, THEREFORE, IT COULDN'T BE INCLUDED IN WHAT WE ALREADY PASSED AND IT'S GOING TO GO FOR PROPOSAL AGAIN AND WHEN IT DOES, I'LL READ YOU THE SECTION. THE SMALL SECTION THAT IS EFFECTIVE WITH RESPECT TO 1606.2(A), IT'S DEFINITION OF TERMINATION, IT PRESENTLY READS:

"TERMINATION MEANS A DECISION OF A FINANCIAL ASSISTANT TO A RECIPIENT WILL BE PERMANENTLY TERMINATED IN WHOLE OR IN PART PRIOR TO THE COMPLETION OF THE RECIPIENT'S CURRENT CONTRACT."

THE CHANGE IN THE STATEMENT IS THAT, IT BEGINS:

"ONE OR MORE OF RECIPIENT'S PAYMENTS FROM THE CORPORATION FOR THE PURPOSE OF RECOVERING DISALLOWED COSTS OR CARRYING UPON FROM PREVIOUS CONTRACTS SHALL NOT CONSTITUTE A TERMINATION."

AND THIS WAS ADOPTED TO CLARIFY THE MEANING

OF THIS REGULATION, WE BELIEVE IT MEANT THIS WAS OTHERWISE INTERPRETED.

MR. MC CARTHY: THANK YOU, JOHN.

SPECIAL REFERENCE TO 5(B)(1) SECTION 1609, ATTORNEYS FEES, DOES THE BOARD HAVE ANY QUESTIONS?

(NO QUESTIONS.)

I THINK THEN IN CONSISTENCY WITH OUR PREVIOUS FACTORS, IT WOULD ENTERTAIN A MOTION FOR PUBLICATION OF THIS PROPOSED PUBLICATION AND THEN HAVE PUBLIC DISCUSSION.

MR. SANTARELLI: SO MOVED.

MR. MASSON: SECONDED.

MR. MC CARTHY: OH, I BEG YOUR PARDON. I THEN APPRECIATE ANY COMMENT, REMEMBERING THAT THIS IS A PROPOSED REGULATION, IT WILL BE PUBLISHED, AND WE DO SOLICIT YOUR WRITTEN COMMENTS WHICH WILL BE CONSIDERED BY THE STAFF VERY THOROUGHLY, SO WITH THAT IN MIND, I WOULD APPRECIATE SOME BREVITY IN ANY COMMENTS THAT YOU MIGHT HAVE THAT ARE PERTINENT.

A SPEAKER: IT'S WITH SOME TREPIDATION THAT I OFFER ANY COMMENT. MR. SANTARELLI, YOU'LL RECALL BERNIE VENEY AND I WERE INVOLVED IN COMMENTING ON THE REGULATION BEFORE IT WAS PROPOSED IN PHOENIX ON CLIENT ELIGIBILITY, AND THE PROBLEMS WITH THE REGULATION AS PROPOSED. WE OFFERED OUR COMMENTS AND EXPECTED THAT SOMETHING WOULD COME OF THAT. IT DID, IT CAME OUT

FOR PUBLICATION MUCH, MUCH WORSE THAN IT EVER APPEARED BEFORE THE BOARD AT THAT TIME, SO MAYBE I SHOULD HAVE LEARNED FROM THAT AND KEPT MY MOUTH SHUT. WE DON'T LEARN, I GUESS, EVEN THE HARD WAY.

ONE OF THE PROVISIONS IN 1609.1 ELIMINATES THE PROVISION THAT SAYS A CASE OF THE TYPE WITH PRIVATE ATTORNEYS IN THE AREA DOES NOT ORDINARILY ACCEPT -- OR ARE NOT ACCEPTED WITHOUT PAYMENT OF FEE.

ONCE AGAIN, HERE IS AN EASY SHORTHAND THAT WE COULD USE IN PROGRAMS TO SAVE OURSELVES TIME AND TO SAVE CLIENTS TIME. YOU ELIMINATE THAT PROVISION AND HERE IS A CLIENT THAT COMES IN WITH A SOCIAL SECURITY CASE AND PRIVATE ATTORNEYS IN THE AREA DON'T NORMALLY ACCEPT THOSE KINDS OF CASES, PERHAPS WHAT THEY DID BEFORE IS WHERE SOCIAL SECURITY ALLOWED THE ATTORNEY TO BE PAID DIRECTLY FROM THE BACK PAYMENTS, SOCIAL SECURITY DOESN'T DO THAT ANYMORE, THEREFORE, ATTORNEYS ARE RELUCTANT TO TAKE THAT KIND OF A CASE AND WE KNOW THAT, SO WE HAVE TO GO THROUGH THE EXERCISE OF REFERRING THEM, AND KNOWING THEY'RE GOING TO BE TURNED AWAY, AND THEN WHEN YOU'RE TURNED AWAY YOU COME BACK AND WE CAN'T USE THE SHORTHAND METHOD OF SAYING, WE KNOW ATTORNEYS DON'T TAKE THOSE CASES, WE WON'T WASTE YOUR TIME AND OURS BY REQUIRING THAT YOU GO THROUGH THIS LITTLE CIRCLE AND COME BACK TO US AT A LATER POINT.

I THINK THAT SIMPLY SHOULD NOT BE IN THE REGULATION, AND I SUSPECT YOU'LL GO AHEAD AND PUBLISH IT AS IT IS RIGHT NOW AND YOU'RE GOING TO HEAR HUNDREDS OF COMMENTS SAYING YOU SHOULDN'T DO THAT.

MR. MC CARTHY: THANK YOU.

A SPEAKER: MY NAME IS RALPH ABESCAL, I'M GENERAL COUNSEL OF THE CALIFORNIA RURAL ASSISTANTS IN SAN FRANCISCO, AND I WANT TO ADDRESS MY REMARKS TO DIFFERENT PROPOSED CHANGES.

FIRST, 1609.6 WHEREBY THE PROPOSALS AND THREE SENTENCES RELATING TO ACCOUNTING FOR ATTORNEYS FEES, AND FIRST LET ME COMMENT ON THIS LAST SENTENCE: THOSE THREE SENTENCES, MY CONCERN RELATES TO THE LAST TWO SENTENCES, AND LET ME GO BACKWARDS.

THE LAST SENTENCE STATES: "THAT REVENUE SHOULD BE REPORTED DURING THE ACCOUNTING PERIOD IN WHICH THE RIGHT TO RECEIVE THE AWARD IS ESTABLISHED."

ONE PROBLEM WITH THAT IS THAT AT BEST I CAN INTERPRET THAT THAT IF A COURT AWARDS ATTORNEYS FEES TODAY, IT MAY VERY WELL BE SEVERAL YEARS BEFORE THE ATTORNEYS FEES MONEY IS ACTUALLY RECEIVED.

FOR EXAMPLE, ONE PARTICULAR CASE HERE IN ACLIFORNIA, A COURT AWARDED ATTORNEYS FEES IN 1976 AND IT WAS NOT UNTIL 1982, AFTER TWO SUBSEQUENT APPEALS

TO THE CALIFORNIA SUPREME COURT ON THE PROPRIETY OF THAT AWARD THAT THE FIRST PAYMENT ON THAT AWARD WAS RECEIVED, THAT WAS THE WESTERN CENTER OF LAW ON PROPERTY. AND THEN IT TOOK TWO MORE YEARS FOR THOSE PAYMENTS TO BE RECEIVED, SO IF THE REGULATION IS CHANGED REQUIRING A PROGRAM TO RECORD AS REVENUE THE AMOUNT OF THE AWARD ON THE DATE OF THE RECEIPT, IT MAY VERY WELL BE SEVERAL YEARS BEFORE THE MONEY IS ACTUALLY RECEIVED, SO THERE WILL BE AN ILLUSIONARY SOURCE OF REVENUE THAT COULD BE SUBSTANTIAL, BUT IT MAY BE SOME PERIOD OF TIME BEFORE THAT MONEY IS ACTUALLY AVAILABLE FOR USE.

NOW, I THINK, BUT I'M NOT SURE, THAT THE PURPOSE OF THE PROPOSAL IS TO DEAL WITH PROGRAMS, WHAT IS PERCEIVED TO BE THE ABILITY OF PROGRAMS TO TIMING THE RECEIPT OF AN ATTORNEYS FEE AWARD TO AVOID A FUND BALANCE PROBLEM, AND WHAT I WOULD SUGGEST IS THAT THAT IS THE PURPOSE THAT YOU UTILIZE SOMEWHAT DIFFERENT LANGUAGE, THAT YOU SPECIFY THAT IT SHOULD BE RECORDED WHEN RECEIVED OR WHEN THE RIGHT TO RECEIVE IS UNIMPEDED AND WHAT I'M SUGGESTING IS A PARALLEL TO THE INTERNAL REVENUE OFFICE, THE INTERNAL REVENUE CODE, AND THE SERVICE IS SIMILARLY CONCERNED WITH TAXPAYERS' ABILITY TO CONTROL THE TIMING OF RECEIVED INCOME AND THE WAY IN WHICH THAT IS DEALT WITH.

IN A SIMILAR CASE IN 1926 THE ASSIGNMENT

OF INCOME DOCTRINE AND BY CONTROLLING THAT PARTICULAR TIME OF RECEIPT TO THE DOCTRINE OF INTERNAL REVENUE CODE, THE BASIC MEANS BY WHICH THAT IS DONE IS WHEN THE RIGHT IS IMPEDED, WHEN THE TAXPAYER CAN DIRECT THE MONEY TO THEM, THAT'S THE TIME WHEN THE MONEY IS RECEIVED FOR INCOME TAX PURPOSES, THEN THE PURPOSE I WOULD SUGGEST THAT YOU DO THE SAME THING, BECAUSE IT WOULD BE VERY DIFFICULT FOR US TO RECEIVE IN AN ILLUSIONARY WAY MONEY IN 1983, AND THE ACTUAL FEE AWARD BE TRANSMITTED BY THE DEFENDANT IN 1990.

MY SECOND COMMENT IS DIRECTED TO THE PRECEDING SENTENCE, THAT SENTENCE STATES: "THAT THE REVENUE FROM SET FEE SHOULD BE RECORDED IN THE SAME FUND TO WHICH THE RELATED EXPENSES HAVE BEEN CHARGED."

THE BASIC PROBLEM IS I THINK OF AMBIGUITY. IT IS UNCLEAR WHAT IS MEANT BY THE TERM "FUND." NOW, FOR EXAMPLE, IN ADDITION TO LSC FUNDS RECEIVED BY PROGRAMS, TWO BASIC CATEGORIES OF FUNDS ARE AT ISSUE: THOSE WHICH ARE GENERAL SUPPORT, FOR EXAMPLE, UNITED WAY OR SHARING PROBLEMS, A WHOLE VARIETY OF DIFFERENT SOURCES, THE FUNDING SOURCES JUST MAKES THE FUNDS AVAILABLE FOR WHATEVER THE PROGRAM WOULD UTILIZE IT FOR, PUT IT IN THE BANK ACCOUNT AND BE SPREAD ACROSS.

THE OTHER KIND OF FUNDS ARE SPECIFIC FUNDS, FOR EXAMPLE, MENTAL HEALTH PROGRAMS THAT MAKE FUNDS

AVAILABLE FOR REPRESENTATION OF PEOPLE WITH MENTAL HEALTH PROBLEMS, AND A PROGRAM WILL THEN, PERHAPS NOT ALWAYS, ASSIGN ONE PARTICULAR ATTORNEY OR TWO OR THREE STAFF PEOPLE TO THAT PARTICULAR FUNCTION AND FOR ACCOUNTING PURPOSES ALL OF THE FUNDS ARE EXPENDED WITH THAT PARTICULAR CATEGORY OF PEOPLE, THAT'S RELATIVELY EASY TO DO, BUT THE FUNDS ARE SPREAD ACROSS THROUGH THE PROGRAM AS GENERAL SUPPORT FUNDS REQUIRING THE PROGRAM SEVERAL YEARS LATER TO MAKE ALLOCATIONS OF THOSE ATTORNEYS FEES, AND THOSE GENERAL FUNDS BY MEANS BY WHICH THEY WERE ACTUALLY EXPENDED, WHICH IS GOING TO BE VERY, VERY DIFFICULT AND CAUSE PROBLEMS FOR ACCOUNTING FUNCTIONS WITHIN A PROGRAM, AS WELL AS PARTICULARLY AUDITORS BECAUSE WHEN AN AUDIT IS CONDUCTED OF A PARTICULAR YEAR'S EXPENDITURE, AND THEN YOU REOPEN THAT AND MAKE NEW CALCULATIONS, THE AUDITING FUNCTION IS GOING TO HAVE TO BE PERFORMED AGAIN TO INSURE AN ACCURATE AUDIT OF THOSE FUNDS.

THE OTHER PARTICULAR PROBLEM THAT ARISES, I THINK WITH RESPECT TO THAT, IS THAT IF IT IS INTENDED BY THIS LANGUAGE THAT THE TERM "FUND" MEANS SUCH THINGS AS RENT, TELEPHONE, SALARIES, FRINGE BENEFITS, LIBRARY EXPENSES, AND SO FORTH. IF IT MEANS THAT FOUR YEARS AFTER THE EXPENDITURES ARE MADE THE PROGRAM RECEIVED A $50,000 ATTORNEYS FEE AWARD, AND THAT HAS TO GO

BACK FOUR YEARS BEFORE AND ALLOCATE THE $50,000 TO THE PRO RATA SHARE OF RENT, LIBRARY, TELEPHONE, ONE THING AFTER ANOTHER, THAT IS UNCLEAR AND THAT'S SORT OF AN AMBIGUITY WHICH SHOULD BE RESOLVED NOT AFTER THE REGULATION IS ADOPTED BY MEANS OF TELEPHONING OR WRITTEN COMMUNICATIONS BETWEEN PROGRAMS AND STAFF, IT SHOULD BE RESOLVED BY THE BOARD BECAUSE YOU'RE ESTABLISHING A POLICY FOR ONE FUNCTION OR ANOTHER, SO I WOULD URGE YOU WITH RESPECT TO THAT OTHER SENTENCE TO REQUIRE MUCH GREATER, A GREATER DEGREE OF SPECIFITY AND CLARIFICATION OF WHAT THE ACTUAL INTENT IS BEYOND THAT.

MY FINAL COMMENT RELATES TO 1609.8, THESE REGULATIONS YOU'RE ADOPTING IN 1609.8(B), IT STATES:

"THAT NOTHING IN THIS PART SHALL PREVENT A RECIPIENT FROM ACCEPTING A FEE IN A CASE THAT WAS INITIATED PRIOR TO ADOPTION OF THIS PART, IN OTHER WORDS, THE PURPOSE OF THAT IS TO PERMIT A FEE TO BE RECEIVED IN A CASE THAT WAS INITIATED PRIOR TO 1976."

NOW, IF THE INTENTION HERE OR IF THE BELIEF IS THAT THERE ARE NOT CASES WHICH ARE STILL POTENTIALLY FEEABLE, THAT WERE INITIATED PRIOR TO 1976, THE ASSUMPTION IS WRONG BECAUSE THERE ARE STILL MANY LIKE IN BLEEK

ARE THESE CHANGES CONSISTENT WITH THE ONLY CONGRESSIONAL MANDATE THAT I KNOW OF WITH RESPECT TO THIS ISSUE IS THE LEGAL SERVICES CORPORATION, AND THAT WE PROVIDE SERVICES IN THE MOST ECONOMIC AND EFFECTIVE MANNER.

I, THEREFORE, REQUEST THAT THESE REGULATIONS NOT BE ACCEPTED FOR PUBLICATION. I THINK IN LIGHT OF THE COMMENTS OF MR. SANTARELLI CONCERNING WORKING WITH STAFF, I THINK IT WOULD APPROPRIATE FOR YOU TO MOVE TO TABLE THIS REGULATION TO BE FURTHER CONSIDERED AND A MORE EXPLICIT REPORT PREPARED BY YOUR STAFF AS TO THE NEED FOR THIS PROPOSAL AND THE NEED FOR THESE CHANGES. I THINK THAT YOU FEEL THERE IS A LACK OF COMMUNICATION WITH THE STAFF, I KNOW IN MY OWN PERSONAL SITUATION I HAVE BEEN TOLD BY STAFF, YOU WILL FIND OUT WHAT WE'RE TALKING ABOUT AT THE PUBLIC MEETING. I DON'T THINK THAT IS COMMUNICATION; AND, THEREFORE, I REQUEST YOU, MR. SANTARELLI, TO TABLE THIS PROPOSAL.

THANK YOU.

MR. MC CARTHY: YES, SIR.

A SPEAKER: PHIL BERTHENTHAL, CONTRA COSTA LEGAL SERVICES FOUNDATION. I'M STARTING TO LOSE MY VOICE. MY OFFICE IS A VERY SMALL PROGRAM. WE HAVE FOUR LEGAL SERVICES FUNDED STAFF ATTORNEYS. WE SERVE OUR CLIENTS IN THE RICHMOND AND ALSO HAVE TO SERVE PEOPLE 35 MILES EAST. YOU'VE ALREADY PLAGUED US WITH

COMMENT, YOUR REJECTION WAS YOU'VE HAD OPPORTUNITY TO COMMENT BEFORE, YOU'VE HAD A CHANCE TO WORK WITH STAFF BEFORE.

MR. SANTARELLI, IN PARTICULAR, POINTED OUT THAT HIS DIRECTIONS TO STAFF WERE TO SEEK INPUT FROM LEGAL SERVICES WORKERS AND TO RESPOND TO THEIR INQUIRIES, BUT PERSON AFTER PERSON HAS COME UP HERE TODAY AND HAS TESTIFIED THAT THIS JUST IS NOT THE CASE. THERE'S A TREMENDOUS FRUSTRATION OF PEOPLE WHO HAVE NOT BEEN PART OF THE PROCESS ON A STAFF LEVEL WHEN THE REGULATION WAS BEING DEVELOPED FOR PUBLICATION, AND NOW WE'RE TOLD THAT IT'S TOO LATE FOR THE COMMENTS TO HAVE ANY IMPACT ON A BOARD LEVEL.

THIS AGENDA ITEM 1620 PRESENTS THE OPPORTUNITY TO OBTAIN THAT INPUT AND INVOLVE LEGAL SERVICE WORKERS AT THE BEGINNING. IF YOU ARE SINCERE ABOUT INVOLVING LEGAL SERVICES WORKERS, THIS IS YOUR CHANCE TO DO SO. THIS IS THE FIRST TIME THIS ISSUE WAS BEFORE THE BOARD. THERE'S NO URGENCY TO CONSIDER THIS POINT. THERE'S NO CONGRESSIONAL MANDATE. THERE'S PLENTY OF TIME TO DELAY ACTION AND ALLOW FOR THE PROCESS OF LEGAL SERVICES WORKERS WORKING WITH THE STAFF, WORKING WITH MEMBERS OF YOUR REGULATIONS COMMITTEE, AND IT'S MY UNDERSTANDING THAT THE REGULATIONS COMMITTEE IS CHAIRED BY MR. RATHBUN,

HAS NOT CONSIDERED THIS REGULATION.

GENERALLY, THERE HAS BEEN OPPORTUNITY WHEN A REGULATION IS PROPOSED, IT GOES BEFORE THE REGULATION COMMITTEE, PEOPLE CAN ATTEND, THAT'S THE RATIONALE, THEN WHATEVER IS DENIED IS CLEAR, AND THERE IS NO RATIONALE PRESENTED TODAY FOR THE REGULATION, ALL WE HAVE IS A COMMENT BY THE BOARD AND THEN WE WILL COME BACK TO THE BOARD AND WHEN YOU FINALLY APPROVE IT YOU WILL SAY TO US, YOU SHOULD HAVE COME HERE EARLIER. WE'RE HERE NOW. WE'RE HERE TO PRESENT OUR CONCERNS.

ON A SUBSTANTIVE LEVEL, THIS PROPOSED REGULATION PRESENTS SERIOUS PROBLEMS OF EQUAL ACCESS TO THE EXTENT I'M NOT SURE EXACTLY WHAT IT MEANS, BUT IT DOES HAVE A SIGNIFICANT IMPACT ON RURAL PROGRAMS WHERE THE AREA IS SPARSLEY POPULATED, THOSE OF US WHO HAVE HAD EXPERIENCE IN DELIVERING LEGAL SERVICES, I'VE BEEN IN LEGAL SERVICES FOR OVER 13 YEARS, I HAVE A LOT OF EXPERIENCE, I HAVE A LOT OF EXPERIENCE IN WORKING WITH EXPANSION PROGRAMS, STARTING FROM A PROGRAM THAT WAS MOSTLY URBAN TO DEVELOPING PROGRAMS IN MORE RURAL SETTINGS.

ANOTHER SERIOUS CONCERN IS THE MOOD AND INTENT TO MAKE FINANCIAL RESOURCES THE PRIMARY ISSUE IN SETTING PRIORITY SETTINGS, WHICH IS NOT THE SAME AS ASSEMBLING FINANCIAL ELIGIBILITY. THOSE DETERMINATIONS ARE A TWO-STEP PROCESS; FIRST YOU DETERMINE WHETHER

OR NOT THE CLIENT IS ELIGIBLE UNDER THE FINANCIAL GUIDELINES AND YOU DETERMINE WHETHER OR NOT THE CLIENT -- THE CASE IS WITHIN THE PRIORITIES OF THE PROGRAM.

AND THE LANGUAGE OF THIS PROPOSAL SEEMS TO IMPLY FINANCIAL RESOURCES WILL BE THE ONLY CRITERIA. CLEARLY, THIS IS VERY SERIOUS AS MOST LEGAL PROBLEMS OF CLIENTS IN PARTICULAR SERVICE AREAS MAY NOT BE RELATED TO THEIR FINANCIAL RESOURCES AT ALL. THIS IS NOT THE INTENT OF THE PROPOSAL, I'M SURE, AND IT NEEDS REDRAFTING.

ANOTHER CONCERN I HAVE IS THE CHANGE OF THE LANGUAGE FROM APPRAISAL TO ASSESSMENT. IT IS NOT CLEAR WHAT THE INTENT OF THIS LANGUAGE OR THIS CHANGE IS AND MR. MEYER DID NOT ADDRESS THIS IN HIS REMARKS. IT MEANS A DIFFERENT KIND OF PROCESS FOR DETERMINING PRIORITIES. THE QUESTION I HAVE IS:

WE HAVE BEEN ENGAGED IN EXTENSIVE EFFORTS IN THE PAST FEW YEARS TO DETERMINE PRIORITIES IN LOCAL PROGRAMS. WE DO NOT OPPOSE PRIORITY SETTING. WE THINK IT'S POOR AND THE ONLY WAY TO DEAL WITH OUR SCARCE RESOURCES IS TO REVIEW THESE PRIORITIES EVERY TWO YEARS IS NOT UNREASONABLE, BUT WHAT WE DO OPPOSE IS LEGAL SERVICES CORPORATION IMPOSING A PARTICULAR METHODOLOGY FOR DETERMINING PRIORITY SETTING IN EVERY AREA OF THE COUNTRY. WE HAVE LOCAL BOARDS THAT CONSIST OF MEMBERS OF THE PRIVATE BAR APPOINTED BY THOSE LOCAL BAR ASSOCIATIONS

AND STATE ASSOCIATIONS AND MEMBERS OF THE ELIGIBLE CLIENT COMMUNITY WHICH DIRECTLY ARE AFFECTED BY OUR PRIORITIES WHICH INVOLVED, AND IT'S THEIR JOB TO DECIDE BY WHAT METHODS THE MOST APPROPRIATE WAY TO DETERMINE AND DEAL WITH DETERMINING PRIORITY SETTING IS HANDLED.

I WAS CONCERNED IN THE PRESENTATION OF THE REGULATION, AS THERE WAS DISCUSSION FOR THE RATIONALE FOR MAKING THIS PROPOSAL. THERE'S BEEN NO DISCUSSION AT THE BOARD LEVEL, NO DISCUSSION AT THE STAFF LEVEL. THERE ARE MANY ISSUES THAT NEED TO BE ADDRESSED, AND I GUESS MY CONCERN, ONE OF MY CONCERNS IS THAT IF SOME OF THESE ISSUES WERE ADDRESSED UP FRONT, PEOPLE COULD UNDERSTAND WHAT THE CONCERNS ARE AND MAYBE WE COULD WORK TOGETHER TO FIND A WAY TO APPROACH AND DEAL WITH THESE ISSUES.

SOME OF THE ISSUES ARE WHAT ARE THE PROBLEMS WITH THE CURRENT REGULATION? THAT NEEDS TO BE ADDRESSED. I HAVE NOT HEARD ANY STATEMENTS THAT THE CURRENT REGULATION FAILS TO ADDRESS THE NEEDS OF LEGAL SERVICES CLIENTS IN THIS COUNTRY. WHAT EVIDENCE DOES STAFF HAVE OF THESE CHANGES THAT THEY PROPOSE WILL ADDRESS WHATEVER THEIR PERCEIVED PROBLEMS THAT THEY HAVE -- WHAT EVIDENCE? PERHAPS THERE ARE LESS ONEROUS WAYS OR LESS INTRUSIVE WAYS TO ADDRESS THESE PROBLEMS.

ALSO, THE MOST IMPORTANT QUESTION IS: HOW

AN ENORMOUS AMOUNT OF INFORMATION, I DON'T HAVE A LARGE STAFF TO ASSIST ME IN INTERPRETING WHAT NEEDS TO BE DONE.

THE SINGLE BIGGEST PROBLEM THAT AFFECTS MY STAFF IS HOW CAN WE DELIVER MORE SERVICES TO CLIENTS? THAT'S THE SINGLE BIGGEST PROBLEM THAT AFFECTS ME EVERY DAY ON THE JOB. THAT'S THE SINGLE BIGGEST PROBLEM THAT AFFECTS EVERYBODY IN LEGAL SERVICES, AND THAT'S ON ISSUE YOU'RE NOT TAKING INTO CONSIDERATION. THE ELIGIBLE REGULATIONS WILL ADD SEVERAL THOUSAND DOLLARS IN ADDED COST TO THE PROGRAMS. EVERY OTHER PROPOSED REGULATION THAT YOU PUT BEFORE -- HAS BEEN PUT BEFORE US TODAY WILL ADD EXTRA ADMINISTRATIVE COST TO THE OPERATION OF LEGAL SERVICES PROGRAMS.

I ASK YOU, MR. SANTARELLI, BECAUSE I THINK YOU'RE SOMEWHAT REASONABLE, AND THE REST OF THE BOARD AS WELL, HOW MUCH IS THIS GOING TO COST, IN TERMS OF ADMINISTRATION, BOTH IN TERMS OF LOCAL LEGAL SERVICES PROGRAMS AND ON A NATIONAL LEVEL, HOW MUCH IS THIS PRIORITY SETTING GOING TO TAKE AWAY FROM THE DELIVERY OF LEGAL SERVICE TO THE POOR?

HOW MANY MORE BUREAUCRATIC REQUIREMENTS ARE YOU GOING TO PUT ON LOCAL PROGRAMS? I'M GETTING TIRED OF IT. I WANT TO GO OUT THERE AND REPRESENT CLIENTS. YOU'RE GIVING ME NOTHING BUT CRAP AND

INTERFERING WITH MY MISSION AND I'M VERY UPSET.

MR. MC CARTHY: WELL, THANK YOU FOR YOUR COMMENTS. THE BOARD WILL ENTERTAIN A MOTION FOR PUBLICATION OF THE PROPOSED REGULATION.

MR. SANTARELLI: I SO MOVE.

MR. RATHBUN: SECONDED.

MR. MC CARTHY: MR. MASSON?

MR. MASSON: AYE.

MR. MC CARTHY: MR. SANTARELLI?

MR. SANTARELLI: AYE.

MR. MC CARTHY: MR. RATHBUN?

MR. RATHBUN: AYE.

MR. MC CARTHY: THE PROPOSED REGULATIONS FOR SECTION 1620 SHALL BE PUBLISHED FOR PUBLIC COMMENT.

WE THEN MOVE ON TO SUB 3, WHICH IS DENIAL OF REFUNDING RE 1606, WHICH I BELIEVE IS A CORRECTION TO THE FINAL REGULATION OF 1606. DOES ANYONE ON THE BOARD HAVE ANY QUESTIONS OR, JOHN, DO YOU HAVE A COMMENT?

MR. MEYER: A LITTLE BIT OF A CONFUSION BECAUSE OF THE LATE HOUR. THIS IS AN AMENDMENT TO TERMINATION NOT REFUNDING REGULATION AND IT IS A NEW PROPOSAL, NEW PROPOSED RULE BECAUSE WE DIDN'T GET ANY -- IT'S MY FAULT -- I DIDN'T REALIZE THE PROBLEM WAS GOING TO EXIST AT THE TIME WHEN WE WERE WRITING THE REST OF THE RULES, SO WE HAD TO GO THROUGH THE WHOLE PROCESS

AGAIN; SO THIS WILL JUST BE ANOTHER PROPOSED RULE.

MR. MC CARTHY: THIS IS ONE YOU COMMENTED ON PREVIOUSLY?

MR. MEYER: THIS IS THE ONE, THE LAST ONE I DISCUSSED, IT'S JUST THE ONE -- IT'S A LITTLE SHORT ONE IN YOUR BOOK ON PAGE 85 WHICH AMENDS THE DEFINITION OF TERMINATION.

MR. MC CARTHY: WELL, THIS JUST PROVES SOME OF US CORRECT, YOU'RE NOT INFALLIBLE. THERE'S AN ERROR IN THE AGENDA WHICH SHOULD BE DENIAL TERMINATION?

MR. MEYER: I HAVE ANOTHER BOOK. I DIDN'T EVEN LOOK AT THE AGENDA.

MR. MC CARTHY: DOES THE PUBLIC HAVE ANY COMMENT?

(NO COMMENT.)

WE WILL ENTERTAIN A MOTION OF THE PUBLICATION OF THE PROPOSED REGULATION CHANGE 1606.

MR. SANTARELLI: MOVED.

MR. RATHBUN: SECONDED.

MR. MC CARTHY: CALL THE QUESTION. MR. MASSON?

MR. MASSON: AYE.

MR. MC CARTHY: SANTARELLI.

MR. SANTARELLI: AYE.

MR. MC CARTHY: RATHBUN.

THANK YOU.

A SPEAKER: I REALLY WISH YOU WERE SINCERE IN THAT STATEMENT, YOU KNOW --

MR. BOGARD: MR. COOK, YOU'VE NEVER THOUGHT I WAS SINCERE.

SPEAKER COOK: LET WILLIE COOK SPEAK FOR HIMSELF. I DON'T NEED ANY EDITORIAL ASSISTANCE FROM YOU OR ANYBODY ELSE, BUT IT REALLY WOULD BE NICE IF THE COMMENT THAT YOU JUST MADE HAD ANY VALIDITY AT ALL. I THINK THIS MORNING'S MEETING STARTING AT 10 O'CLOCK UNTIL THIS POINT IN THE AFTERNOON OR IN THE EVENING SHOWS US THAT IN FACT NOT ONLY YOU AND YOUR STAFF, BUT THIS BOARD, DOESN'T CARE WHAT THIS COMMUNITY IS SAYING.

MR. MC CARTHY VERY COURTEOUSLY AND GRACIOUSLY LISTENS TO PEOPLE AND AT THE END HE SMILES AND, THANK YOU VERY MUCH.

I MIGHT ADD, THERE IS A DIFFERENCE BETWEEN THIS CHAIR AND THE CHAIR THAT WE HAD IN 1982. THE CHAIR THAT WE HAD IN 1982 WASN'T AS GRACIOUS AS MR. MC CARTHY, BUT WE STILL GOT THE KNIFE IN OUR BACK. MR. MC CARTHY AND WE STILL GET THE KNIFE IN OUR BACK SO, MR. BOGARD, I KNOW FROM CONSUMPTION THE STATEMENT YOU JUST MADE, WE UNDERSTAND, THOSE OF US IN THE FIELD WHO HAVE TO DEAL WITH YOU AND DEAL WITH YOUR STAFF

ON A DAILY BASIS, WE UNDERSTAND THE DIFFERENCE BETWEEN COMMENTS FOR PUBLIC CONSUMPTION AND THE PRESS, AND WE ARE NOT FOOLED AT ALL BY THE DEPTH AND MEANING AND FEELING OF THAT STATEMENT. WE AREN'T FOOLED FOR A MOMENT THAT YOUR LAST COMMENT HAS ANY MEANING AT ALL EXCEPT FOR PUBLIC CONSUMPTION FOR THE PRESS THAT'S HERE, WE KNOW BETTER.

(CLAPPING.)

MR. MC CARTHY: MR. SANTARELLI, ARE YOU CONTINUING YOUR REPORT?

MR. SANTARELLI: THANK YOU, MR. CHAIRMAN. I SHALL CONTINUE WITH MY REPORT. ON THE 26TH OF OCTOBER, THE COMMITTEE ON THE PROVISION FOR THE DELIVERY OF LEGAL SERVICES MET AND BECAUSE OF THE ABSENCE OF TELEVISION CAMERAS WE DIDN'T HAVE QUITE THE SAME AUDIENCE OR THE SAME PARTICIPATION FROM THE EXPECTED GROUPS.

NEVERTHELESS, WE HAD A COMMITTEE MEETING AT WHICH TIME WE UNDERTOOK TO GATHER SOME EVIDENCE ON THE SUBJECT OF ALTERNATIVE METHODS FOR THE DELIVERY OF LEGAL SERVICES AND TO CONTRAST THE WAY IN WHICH WE HAVE OPERATED, THE WAYS IN WHICH NON PRO BONO LEGAL SERVICE ORGANIZATIONS CAN UNDERTAKE TO SERVE ELEMENTS OF, PERHAPS, THE SAME PUBLIC THAT WE SERVE.

IT WAS AN INTERESTING EXPERIENCE IN HEARING FROM THE HYATT ORGANIZATION AND AN ORGANIZATION IN

PHOENIX WITH JUST SEVEN OFFICES AND HOW EFFICIENTLY LOW-COST LEGAL SERVICES COULD BE DELIVERED AND WHAT IS THE INTERACTION BETWEEN LOW-COST DELIVERY MECHANISM AND THE SO-CALLED NO-CLASS OR GOVERNMENTALLY-FUNDED OR SPONSORED DELIVERY.

IT WAS VERY INFORMATIVE. WE LEARNED SEVERAL INTERESTING PIECES OF INFORMATION, ONE THAT WAS PARTICULARLY INTERESTING WAS THAT THE PAID ADVERTISING SYSTEM OF THE LOW-CLASS LEGAL SERVICE ATTRACTION MECHANISM BRINGS INTO THOSE OFFICES LARGER NUMBERS OF PEOPLE THAN WOULD OTHERWISE COME AND WOULD OTHERWISE HAVE BEEN INHIBITED BY THE PROSPECT OF THAT COSTING THEM SOMETHING OR ANY OTHER INHIBITIONS THAT ONE HAS; BUT THAT THAT ADVERTISING CAMPAIGN PRODUCED OPPORTUNITIES TO SEE AND REVIEW POTENTIAL CONSTITUENTS FOR LEGAL SERVICES OF THE PUBLICLY-PAID KIND.

THOSE CASES WHERE ECONOMICS WERE SUCH THAT THE CLIENTS COULD NOT AFFORD THE LOW COST, AND THEY WERE VERY LOW COST LEGAL SERVICES, THEY WERE REFERRED TO HOURLY SERVICES OR OTHER KINDS OF PUBLICLY-FUNDED LEGAL SERVICES; SO WE THOUGHT IT WAS VERY INTERESTING TO CONTRACT BETWEEN THE ADVERTISED PUBLICLY-SOLICITED CLIENTELE AND THE PUBLICLY-FUNDED LEGAL SERVICES.

ANOTHER INDICATION OF IT WAS HOW EFFICIENTLY IT CAN BE ACHIEVED BY THE STANDARDIZING OF A GREAT

DEAL OF THE KINDS OF STANDARD CASES THAT ARE SEEN IN THE SO-CALLED LOWER END OF THE ECONOMIC SCALE. LEGAL PROBLEMS, PARTICULARLY WITH RESPECT TO THE DOMESTIC RELATIONS, CONTRACTS, LANDLORD AND TENANT KIND OF TYPICAL CASES THAT ESTABLISH A PATTERN WHICH YOU SEE OVER AND OVER AGAIN, VERY INTERESTING TO SEE HOW IT CAN BE HANDLED ON A COMPETENT YET EFFICIENT BASIS BY THE STANDARDIZATION.

WE WERE VERY IMPRESSED WITH THE INCENTIVE APPROACH THAT THIS LOW-CLASS LEGAL PROGRAM ASKED FOR EFFICIENCY AND HOW THAT TRANSLATES WE'RE NOT QUITE SURE, BUT IT WAS AN INFORMATION-GATHERING EVENT. IT ALSO INDICATED TO US THAT THERE WAS A CONSIDERABLE ENTHUSIASM FOR ALL KINDS OF LOWER COSTS OR NO-COST LEGAL SERVICES IN COMMUNITIES THAT WERE BEING SERVED, AND IT SEEMED TO BE A SIGNIFICANT WAVE OF THE FUTURE.

AND IN MANY CASES WHERE WE'RE DEALING WITH ELIGIBILITY QUESTIONS THAT WE DISCUSSED HERE TODAY, THERE IS SOME ROLE FOR A LOW-CLASS LEGAL SERVICES ELEMENT TO SERVE THIS COMMUNITY. I GUESS THE CONCLUSION THAT WE GAIN FROM THIS IS THAT THERE IS MUCH FOR ALL OF US TO LEARN AND THAT THE NOTION THAT WE END UP DEFENDING THE WAY WE'VE DONE THINGS BEFORE IS NOT NECESSARILY AN EXPENDITURE OF TIME, WE ALL USE THE SAME GOOD FAITH, ARE LOOKING FOR ALTERNATIVE APPROACHES THAT MIGHT EVEN BE MORE EFFICIENT.

AN INDIVIDUAL.

HAVING TAKEN MORE OF MY FELLOW BOARD MEMBERS' TIME THAN I PERHAPS SHOULD HAVE AND NOT HAVING ANY WISH TO GRANDSTAND, I WILL SAY NOTHING FURTHER EXCEPT, LET'S KEEP TRYING.

MR. MC CARTHY: THANK YOU, JOHN. ONE OF THE FEW PRIVILEGES OF A BOARD CHAIRMAN IS TO CALL A RECESS, WHICH I WILL NOW DO FOR TEN MINUTES. WE WILL RECONVENE AND TAKE UP ITEM SIX OF OUR AGENDA.

(RECESS TAKEN.)

(5:50 P.M. SESSION)

MR. MC CARTHY: MAY WE RECONVENE THIS MEETING, PLEASE. WE ARE GOING TO COMPLETE THE AGENDA THIS EVENING AND ALSO GIVE JIM A CHANCE TO STATE HIS AMENDMENTS TO OUR AGENDA CONCLUSION, AS WE ASSURED HIM WE WOULD. WE ARE SO CLOSE, AND WE HAVE ANOTHER FACTOR THAT MAKES IT VERY ATTRACTIVE TO COMPLETE IT AT THIS TIME WITHOUT THE PRESENCE OF ANYONE'S RIGHT TO DISCUSSION, SO IF WE CAN CONTINUE WITH THE REPORT OF THE OFFICE OF FIELD SERVICES, ALAN SWENDIMAN.

MR. HARTLEY: THE REPORT FROM THE OFFICE LISTS THE PRIVATE ATTORNEY INVOLVEMENT INSTRUCTION, AN ANNOUNCEMENT OF THAT INSTRUCTION AND ALSO DISCUSSION OF THE REGGIE PROGRAM. I WOULD LIKE TO COMMENT ON A COUPLE OF OTHER THINGS VERY QUICKLY.

FIRST OF ALL, AFTER DEALING WITH A SIGNIFICANT NUMBER OF FUND ISSUES THIS YEAR FROM REVIEWING WAVES OF APPEALS AND CURRENT LITIGATION, WE HAVE REWRITTEN AND PUBLISHED THE INSTRUCTION OF RECIPIENT FUND BALANCES, AND IT WAS PUBLISHED ON THURSDAY, OCTOBER 27TH FOR 30 DAYS. IT WILL BECOME EFFECTIVE AFTER THAT TIME.

IN ADDITION, I WILL REPORT ON AN ITEM THAT WAS RAISED EARLIER THAT DAY ABOUT REGIONAL TRAINING CENTERS. IN THE FALL OF 1981, THE CORPORATION MADE A SERIES OF GRANTS TO RECIPIENTS PERTAINING TO THE DEVELOPMENT AND PROVISION OF TRAINING. THOSE GRANT AWARDS, THE FIRST WERE IN SEPTEMBER OF 1981, WITH 1981 AND 1982 FUNDS. THEY WERE ONE-TIME NON-REOCCURING AWARDS. THE GRANT AWARDS SPECIFICALLY INDICATED THAT THEY WERE NOT SUBJECT TO 1011 AND HAD A SUBSTANTIAL NUMBER OF CONDITIONS, TERMS -- TERMS AND CONDITIONS.

THE CONTRACTS PROVIDED THAT IN THE EVENT THAT THE CORPORATION DID NOT RECEIVE SUFFICIENT FUNDING TO CONTINUE THOSE IN THE FUTURE THAT THE CORPORATION WOULD GIVE THE RECIPIENTS 60 DAYS NOTICE. THE TIME FOR ALL THOSE GRANTS TO EXPIRE WAS DECEMBER 31ST, 1983 TO GIVE THE 60-DAY NOTICE WOULD REQUIRE NOTICE BY NOVEMBER 1ST.

AFTER REVIEWING WITH OUR GOVERNING AFFAIRS OFFICE AND REVIEWING WITH GENERAL COUNSEL THE STATUS

OF THE APPROPRIATION BILL, IT WAS OUR OPINION THAT THE CONGRESSIONAL LANGUAGE, WHICH WAS GOING TO PROVIDE FUNDS FOR 1984, IS GOING TO TELL US HOW TO SPEND THE ADDITIONAL FUNDS THAT WE RECEIVE THIS YEAR.

BECAUSE THE TRAINING FUNDS FOR THESE REGIONAL TRAINING CENTERS WERE NOT ANNUALIZED INTO THE THEN '83 BUDGET, THEY WERE NOT THERE TO PROVIDE THE BASIS ON WHICH THOSE CONGRESSIONAL FORMULAS ARE BASED.

IT'S OUR OPINION AT THIS TIME, AT LEAST THE WAY THE APPROPRIATIONS BILL WAS BEING WRITTEN AND WAS BEING PROPOSED, EVEN AS OF LAST WEDNESDAY, THAT WE WOULD NOT HAVE THE FLEXIBILITY TO CONTINUE ALL FIVE REGIONAL TRAINING CENTERS AND THOUGHT IT APPROPRIATE AND PRUDENT TO NOTIFY ALL FIVE RECIPIENTS.

THE NEXT ITEM IS THE PRIVATE ATTORNEY INVOLVEMENT INSTRUCTION.

I HAVE PROVIDED FOR EACH OF YOU AND PROVIDED FOR MEMBERS OF THE AUDIENCE AT THE TABLE, COPIES OF RECOMMENDATIONS BY THE OFFICE OF FIELD SERVICES TO THE PRESIDENT THAT WE PUBLISH AN INSTRUCTION, NEW INSTRUCTION OF PRIVATE ATTORNEY INVOLVEMENT.

THE INSTRUCTION WILL BE EFFECTIVE JANUARY 1ST, 1984. THE CURRENT INSTRUCTION HAS GIVEN THE PROGRAMS ALL OF 1983, AS WELL AS THE FALL OF 1982 TO IMPLEMENT PRIVATE ATTORNEY INVOLVEMENT.

OUR REVIEW OF WHAT IS HAPPENING IN THE FIELD REPORTS PREPARED BY CHIN SMITH EARLIER THIS YEAR, OUR SUBSEQUENT REVIEW OF CSR INFORMATION AND OTHER EVALUATION CONDUCTED THIS YEAR LEAD US TO BELIEVE THAT THE PRIVATE ATTORNEY INSTRUCTION IS BEING FULFILLED. THERE WERE SOME PROBLEMS WITH IT, SOME AREAS, SOME CLARIFICATIONS WERE NEEDED, BUT THAT BASICALLY VERY POSITIVE THINGS WERE HAPPENING.

WE HAVE RECOMMENDED TO THE PRESIDENT THAT THIS INSTRUCTION BE PUBLISHED AND THAT THE CHANGES HERE WOULD MAKE IT MORE CLEARER WHAT WE EXPECT OF PROGRAMS, AND WE HAVE ALSO ENCOURAGED THAT SLIGHT INCREASE IN THE AMOUNT OF MONEY TO BE EXPENDED BY THE PROGRAMS BE DEDICATED TO PRIVATE ATTORNEY INVOLVEMENT. I WOULD BE GLAD TO ANSWER ANY QUESTIONS THAT YOU HAVE ABOUT THE INSTRUCTION.

MR. MC CARTHY: THANK YOU, GREGG.

DOES THE BOARD HAVE ANY QUESTION?

MR. HARTLEY: AT THIS TIME I WOULD INTRODUCE JOSHUA BROOKS TO DISCUSS THE REGGIE PROGRAM.

MR. MC CARTHY: EXCUSE ME. IS IT CLEAR TO THE ASSEMBLED GROUP THAT THE REGGIE PROGRAM WAS THE SUBJECT OF SUBSTANTIAL DISCUSSION OF THE REPORT COMMITTEE MEETING OF OCTOBER 26TH? MAYBE I MISSED ALL OF THAT. OR IS THAT, AT ANY RATE, THAT IS A FACT,

SEEM TO INDICATE THAT IF THIS IS ADOPTED AND IF THE AMOUNT OF CONTRIBUTION FROM THE RECIPIENTS IS INCREASED FROM THE TEN TO THE PROPOSED 12 AND A HALF PERCENT, IT MAY ACTUALLY HAVE AN ADVERSE REACTION ON OUR VARIOUS PRO BONO PROGAMS THAT WE'RE TRYING TO EVOLVE THROUGH THE STATE.

AND THERE ARE PEOPLE HERE FROM SAN FRANCISCO BAR ASSOCIATION, IN FACT, I'M PLEASED THAT YOU PUT THIS ON THIS AFTERNOON, SINCE I'M FROM LOS ANGELES, BUT I KNOW A GENTLEMAN WAS COMING TO SPEAK TO IT TOMORROW, HE PROBABLY WON'T BE HERE TO SPEAK TO IT TODAY, BUT I DO WANT TO HEAR FROM THE SAN FRANCISCO BAR AND VARIOUS REACTIONS FROM OTHERS, THIS COULD HAVE THE OPPOSITE EFFECT.

I DON'T KNOW YOUR PROCEDURES THAT WELL, I UNDERSTAND AN INSTRUCTION DOESN'T REQUIRE PUBLIC HEARING AND CAN BE IMPLEMENTED WITHOUT ANY FURTHER STEPS; BUT IF THAT'S TRUE, AND IT SEEMS TO REACH ALMOST A POLICY LEVEL, AND IF THERE WERE SOME WAY TO POSTPONE IT TO PERMIT BOTH OF US WHO ARE INVOLVED, BOTH IN VOLUNTARY ACTIVITY IN LEGAL SERVICES TO SEE WHETHER OR NOT THIS WILL NEED TO BE CORRECTED, IT MIGHT BE WORTH WHILE, THAT'S REALLY THE REASON I WANTED TO STAY THIS AFTERNOON, TO PRESENT THAT VIEWPOINT.

THANK YOU.

THERE IS AN INCENTIVE NOW, AND I WOULD EXPECT, AND I HAVE SEEN PRIVATE ATTORNEY PROGRAMS TURNING TO THOSE KINDS OF MODELS AND ADAPTING THEM WHERE THEY MAKE SENSE TO PROVIDE A MORE EFFICIENT QUALITY SERVICE OF THE CLIENTELE THEY SEEK TO SERVE.

IN SHORT, I THINK THE KIND OF REQUIREMENT YOU'RE TALKING ABOUT NOW IS ONLY A WAY OF DIVERTING SOME NEEDED RESOURCES FROM STAFF ATTORNEY PROGRAMS WHICH ALREADY ARE TOO LIMITED, THE FUNDS ARE BELEAGURED IN THE WORST CASES AND I THINK A REQUIREMENT LIKE THIS TURNS OUT TO BE VERY COUNTERPRODUCTIVE AND ALSO GETS A LEGAL SERVICES STAFF ATTORNEY PROGRAM, PARTICULARLY AS THE CURRENT INSTRUCTION IS WORDED, INVOLVED IN MUCH MORE PAPER WORK THAN IS SENSIBLE GIVEN THE KIND OF OUTPUT THAT ONE MAY GET FROM THE PRIVATE BAR.

I THINK THIS IS NOT A WISE POLICY, IT WAS NOT A WISE POLICY TWO YEARS AGO WHEN IT WAS PROPOSED, IT IS EVEN BEING MADE WORSE BY YOUR PROPOSED AMENDMENTS IN IT.

(CLAPPING.)

MR. MC CARTHY: THANK YOU, SIR.

A SPEAKER: MY NAME IS GREGORY DELARE, I'M THE DIRECTORY OF EVERGREEN LEGAL SERVICES IN WASHINGTON STATE. THE INSTRUCTION THAT YOU'RE CONSIDERING REFLECTS POOR POLICY CHANGE IN THE LEGAL SERVICES CORPORATION.

WHEN THE INITIAL POLICY WAS ADOPTED, IT WAS BASED UPON A LENGTHY STUDY, AND AFTER THAT STUDY, THERE WAS CONSULTATION AND DISCUSSION THROUGHOUT BOTH PROGRAMS. THERE WAS CONSULTATION AND DISCUSSION WITH CLIENTS AND THERE WAS CONSULTATION AND DISCUSSION WITH THE ORGANIZED BAR, AND EVEN AFTER THAT, ADDITIONAL TIME WAS GIVEN.

AS MR. HARTLEY INDICATED, EVEN AFTER THAT, ADDITIONAL TIME WAS GIVEN TO IMPLEMENT THIS POLICY. ALL ALONG THE WAY, THERE WAS CLOSE COOPERATION BETWEEN THE KEY ACTORS IN THIS, THE ORGANIZED BAR, LOCAL PROGRAMS AND THE LEGAL SERVICES CORPORATION.

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THIS INSTRUCTION IS NOT BASED UPON ANY INPUT FROM THESE KEY CONSTITUENCIES AFFECTED BY THESE POLICY CHANGES. THERE'S AN IMPORTANT POLICY CHANGE, MAJOR STATEMENT, WHICH IS ELIMINATED IN THIS INSTRUCTION. IT IS THIS:

"THE STAFF ATTORNEY SYSTEM IS AN EFFECTIVE, ECONOMIC INSTRUCTION TO DELIVER PUBLICLY-SUPPORTED LEGAL ASSISTANCE TO THE POOR."

THAT IS LEFT OUT. THAT IS OMITTED, ON WHAT NEW FACTUAL INFORMATION WAS THIS ELIMINATED?

THIS INSTRUCTION ALSO DICTATES THAT AN ADDITIONAL SIX TO SEVEN MILLION DOLLARS IN THAT AREA WILL BE SPENT ON INVOLVING PRIVATE ATTORNEYS IN DELIVERING LEGAL SERVICES AND THROUGH WHAT NEW FACTUAL BASIS WAS THIS ACCOMPLISHED?

INCREASING BY 25 PERCENT THAT WHICH IS ALREADY TAKING PLACE; HOW DO YOU KNOW, WHAT INFORMATION DO YOU HAVE ON WHICH TO MAKE THIS DECISION?

I HAVE TO THINK ABOUT THIS IN THE CONTEXT OF MY OWN BOARD OF DIRECTORS, AND I HAVE TO URGE YOU TO PUBLISH THIS. THE REASON I DO THAT IS BECAUSE OF THE FACT THAT I WAS TRYING TO THINK OF EXAMPLES AND MR. MASSON, IF IN THE PRIVATE SECTOR, YOU'RE INVOLVED IN THE PRIVATE SECTOR, AND IF IT WERE UP TO YOU TO SPEND AN ADDITIONAL SIX TO SEVEN MILLION DOLLARS ON SOMETHING, I THINK YOU

WOULD PROBABLY DO A MARKET STUDY, OR YOU WOULD CERTAINLY REVIEW INTENSIVELY, MAKE SOME INTENSIVE REVIEW, BEFORE YOU WOULD UNDERTAKE TO SPEND SIX TO SEVEN MILLION DOLLARS PUBLISHING THIS INSTRUCTION, ESSENTIALLY PUBLISHING THAT PURPOSE.

IT ALLOWS FOR INPUT BY THE CONSTITUENCIES THAT ARE CONCERNED. IT GIVES AN OPPORTUNITY FOR BAR ASSOCIATIONS AND IT GIVES AN OPPORTUNITY FOR LOCAL PROGRAMS AND GIVES AN OPPORTUNITY FOR CLIENTS TO COMMENT ON THIS. THAT IS NECESSARY.

MR. SANTARELLI TALKED EARLIER TODAY ABOUT THE ROLE OF THE BOARD OF DIRECTORS AND WHAT THE BOARD DID, AND I'LL TELL YOU, IF IT WAS MY BOARD AND I CAME IN AND HAD A PROPOSAL BEFORE YOU AND I HAD NOT CONSULTED WITH THE LOCAL BAR AND I HADN'T CONSULTED WITH THE STAFF AND I HADN'T CONSULTED WITH THE CLIENTS, MY BOARD WOULD SEND ME BACK TO THE DRAWING BOARD AND THEY WOULD SAY, WE DON'T WANT YOU TO IMPLEMENT THIS POLICY; WE DON'T WANT THIS POLICY BEFORE US BEFORE WE HAVE AN OPPORTUNITY TO HEAR WHAT THOSE PEOPLE WHO ARE AFFECTED BY THIS POLICY, WHAT THEY HAVE TO SAY ABOUT IT.

IT'S IRONIC TO ME THAT THE NAME OF THIS INSTRUCTION IS CALLED "THE PRIVATE ATTORNEY INVOLVEMENT INSTRUCTION." UNFORTUNATELY, THERE HAS BEEN NO INVOLVEMENT. I THINK THAT YOU SHOULD EITHER PUBLISH THIS FOR COMMENT OR

YOU'RE GOING TO HAVE TO GO AROUND THE COUNTRY AND HOLD HEARINGS IN ORDER TO GET INPUT FROM MANY OF THE KEY PLAYERS.

YOU'VE HEARD FROM SOME REPRESENTATIVES ALREADY FROM THE BAR ASSOCIATION HERE, THAT IS OBVIOUSLY NOT ENOUGH, AND I URGE YOU TO PUBLISH THIS INSTRUCTION FOR COMMENT.

MR. MC CARTHY: THANK YOU.

MR. LUMUMBA: MR. CHAIRMAN --

MR. MC CARTHY: THE CHAIR HAS COME TO THE DECISION THAT IT'S NOT GOING TO TAKE ANY ACTION ON THIS RESOLUTION AT THIS TIME; IT WILL BE CONTINUED, AND I THANK YOU VERY MUCH FOR YOUR INPUT. WE ARE IMPRESSED BY IT AND WE WILL ACCEPT YOUR SUGGESTION AND TAKE NO ACTION.

JAWARA, IF YOU WISH TO CONTINUE UNDER THOSE CIRCUMSTANCES, YOU ARE FREE TO, BUT I DO SAY, WE SUBMIT TO YOUR SUGGESTIONS; WE WILL CONSIDER THIS MORE THOROUGHLY DURING THE FUTURE AND PRESENT IT AT ANOTHER TIME.

MR. LUMUMBA: LET ME SAY CERTAINLY THAT DECISION IS A REFRESHING CHANGE, AND I CERTAINLY APPRECIATE IT. I WISH THAT THAT SPIRIT HAD PREVADED MUCH EARLIER.

I WOULD SIMPLY LIKE TO SAY, I WOULD HOPE THAT AS PERHAPS ONE MEASURE, SINCE A MEMBER OF YOUR STAFF, SOME OF THEM ARE HERE ALREADY; I ASSUME THAT NOT ALL OF THEM WILL BE LEAVING TONIGHT TO GO BACK TO WASHINGTON, IT MIGHT

BE APPROPRIATE FOR MR. BROOKS AND MR. HARTLEY TO ARRANGE A MEETING WITH SOME OF THE MEMBERS OF THE SAN FRANCISCO BAR, ALONG WITH THE CLIENT COMMUNITY AND SERVICE PEOPLE TO BE ABLE TO GET AGAIN FIRSTHAND INFORMATION ON HOW THEY FEEL ABOUT THE MATTER.

THE TRUTH OF THE MATTER IS, IN A VERY SHORT PERIOD OF TIME, I THINK YOU'VE PUT TOGETHER A DOCUMENT WHICH HAS ALREADY LENGTHY CONNOTATIONS AND MERITS YOUR SERIOUS CONSIDERATION. BUT, AGAIN, I DO APPRECIATE THE DECISION YOU'VE ALREADY MADE AND I WANT TO SAY THAT IN SHORT IT'S BEEN A LONG DAY AND I HAVE TO BE HONEST WITH YOU, AND I'M GOING TO SPEAK STRAIGHT FROM MY HEART, PROBABLY AT A LOSS OF RESULT, AND SOME MESSAGE IS COMING FROM MY MIND.

TO BE QUITE HONEST, I CAME OUT REALIZING THAT YOU WERE A VERY, VERY GRACIOUS PERSON; YOUR GRACIOUSNESS IS VERY PREDICTABLE, IN ADDITION TO YOUR PERFUNCTORY DECISION-MAKING STYLE. SO I CAME OUT HERE WITH LIMITED EXPECTATIONS, BUT I FELT I HAD A PROFESSIONAL RESPONSIBILITY TO COME OUT AND TRY WHAT PROVED TO BE THE IMPOSSIBLE; THAT WAS, TO CHANGE YOUR MINDS AND TO ENCOURAGE YOU TO DEFER ACTION ON THE ELIGIBILITY REGULATION, FEES AND DUES REGULATION, AND THE DENIAL OF REFUNDING REGULATION.

I WANT YOU TO KNOW THAT YOU'VE CLEARLY

DISAPPOINTED ME, AND I LEAVE DISHEARTENED. BUT I ALSO WANT YOU TO KNOW THAT IF YOUR GOAL WAS NOT ONLY TO DISAPPOINT ME AND MAKE ME DISHEARTENED, BUT IF YOUR GOAL WAS TO DEFEAT ME, THEN YOU'VE FAILED. YOU'VE FAILED RESOUNDINGLY BECAUSE ONE THING IS FOR SURE, IF YOU DON'T KNOW ABOUT LEGAL SERVICES FOLKS THAT YOU WILL QUICKLY COME TO REALIZE, AND I THINK AS YOU SPEND MORE TIME YOU'LL LEARN THAT AS YOU KNOCK US DOWN, WE BOUNCE BACK TEN TIMES AS HIGH.

THE TRUTH OF THE MATTER IS, WE'RE NOT STOPPING HERE; WE WILL FIGHT YOU TO THE END. UNFORTUNATELY, WE DIDN'T BEAT YOU HERE TODAY; WE WILL SEE YOU AGAIN, PROBABLY IN COURT. I THINK, AS I REVIEW OUR TRACK RECORD IN COURT, UNLIKE OUR TRACK RECORD IN THESE HEARINGS, I THINK WE'VE BEEN UNBEATEN.

THANK YOU.

(APPLAUSE.)

A SPEAKER: WILLIE BROWN, LEGAL SERVICES, WASHINGTON, D.C., AND I WOULD ALSO LIKE TO ENDORSE MY BROTHER, JAWARA LUMUMBA.

I'M GOING TO DEFER SOME OF MY COMMENTS ON THE PRIVATE ATTORNEY ISSUE. MR. SANTARELLI, YOU MADE A STATEMENT EARLIER ABOUT, PLEASE, FOLKS, BE CAREFUL ABOUT IMPUNING MOTIVES TO WHAT WE DO. WHEN ONE READS THIS, IT'S DIFFICULT NOT TO DEAL WITH MOTIVES, WHEN YOU RECOGNIZE WHERE IT'S COMING FROM. GREGG HARTLEY, HEAD OF THE OFFICE

OF FIELD SERVICES, I WONDER, AND THOSE OF US WHO KNOW 247
ABOUT GREGG HARTLEY'S BACKGROUND, WHERE HE CAME FROM
PARTICULARLY, JUST BEFORE HE CAME TO THE CORPORATION, AND
HIS VIEWS, PUBLICLY EXPRESSED VIEWS ON MATTERS LIKE THIS . . .

I, FOR ONE, ON ONE ISSUE, I WOULD LIKE TO KNOW WHY IS IT THAT THE CORPORATION HAS COME UP WITH A TWELVE AND A HALF PERCENT REQUIREMENT ON THE PRIVATE BAR INVOLVEMENT, WHAT REASON IS THERE? WHAT REASON DOES GREGG HARTLEY AND WHOEVER ELSE DRAFTED THIS HAVE IN MIND WHEN THEY CAME UP WITH THIS INCREASED PERCENTAGE REQUIREMENT, BECAUSE I DON'T THINK THAT ANYBODY AT THE CORPORATION REALLY UNDERSTANDS WHAT THE REQUIREMENT IS OR WHAT EFFECT THE REQUIREMENT IS HAVING ON US, THE D.C. PROGRAM, AND MY PROGRAM -- IT MEANS THAT TEN, AT TEN PERCENT, WE HAVE TO SPEND $140,000 ON PRIVATE BAR INVOLVEMENT. THAT HAS HAD A VERY DIRECT EFFECT -- IT HAS MEANT IN REALITY THAT WE HAVE TO CUT OUR STAFF BY THE TUNE OF $140,000 IN ORDER TO COMPLY WITH THE PRIVATE BAR INVOLVEMENT.

NOW, I DON'T KNOW IF YOU PEOPLE UNDERSTAND WHAT WE'RE FACED WITH IN 1984; I AM FACED WITH A SITUATION WHICH I DON'T KNOW WHAT IS GOING TO BE DONE ABOUT STAFF SALARY INCREASES FOR MY STAFF; I DON'T KNOW WHETHER WE ARE GOING TO GET AN INCREASE IN OUR BUDGET FOR 1984, HOPEFULLY WE WILL. BUT IF THERE IS ANY KIND OF AN INCREASE AT ALL RAISING THE REQUIREMENT FROM TEN PERCENT TO TWELVE AND A HALF

PERCENT, IT CUTS INTO OUR ABILITY TO DO ANYTHING WITH INCREASES THAT WE ARE LIKELY TO HAVE.

IT IS THE KIND OF INSANITY, IN TERMS OF DECISION-MAKING ON THE PART OF YOUR STAFF, THE INSENSITIVITY THAT WE FEEL, I MEAN, MAYBE HE HAS A REASON OR RATIONALE FOR INCREASING THE TWELVE AND A HALF PERCENT, BUT WHAT IS THAT? IT ISN'T EXPRESSED HERE, I DON'T KNOW.

THE ONLY THING I CAN VIEW IS THAT GREGG HARTLEY HAS A PARTICULAR VIEW ABOUT PRIVATE BAR INVOLVEMENT AND HE MOST PARTICULARLY HAS A VIEW ABOUT WHAT MODEL OUGHT TO BE USED WHEN IT COMES TO PRIVATE BAR INVOLVEMENT, OR HOW ELSE ARE WE TO VIEW THE INCREASE FROM TEN PERCENT TO TWELVE AND A HALF PERCENT?

SO, YOU KNOW, I WOULD LIKE MR. SANTARELLI TO BE OBJECTIVE, IN TERMS OF SOME OF THE THINGS THAT COME OUT OF HIS STAFF, BUT WHEN YOU SEE STUFF LIKE THIS AND WHEN YOU KNOW THAT IT EMANATES FROM GREGG HARTLEY, AND YOU UNDERSTAND HIS BACKGROUND AND HIS PHILOSOPHY ON MATTERS LIKE THIS, HOW CAN WE BE ANYTHING OTHER THAN CYNICAL IN DEALING WITH AN INSTRUCTION LIKE THIS.

MR. MC CARTHY: THANK YOU, WILLIE; YOUR ELOQUENCE IS EQUAL TO THAT OF JAWARA'S, AND THE CHAIR HAS DETERMINED TO DEFER THIS MATTER TO SOME LATER DATE.

WE'LL CONTINUE WITH ALFREDA HARVEY'S -- EXCUSE ME, JOSH, I OVERLOOKED YOU. WE'RE BACK ON THE REGGIE

MATTER.

A SPEAKER: PARDON ME. THERE WAS ALSO AN INSTRUCTION ON FUND BALANCES. ARE YOU ENTERTAINING COMMENT ON PRIVATE ATTORNEY INVOLVEMENT? WHEN WILL YOU ENTERTAIN COMMENT ON PRIVATE ATTORNEY FUND BALANCES? WHAT AGENDA ITEM IS THAT? IT WAS JUST REPORTED ON BY MR. HARTLEY AS PART OF HIS REPORT ON FIELD SERVICES. I CAN'T HEAR, MR. HARTLEY.

MR. MC CARTHY: IF YOU WOULD BE GOOD ENOUGH, IT'S NOT AN AGENDA ITEM; IT WAS REPORTED, AND IF WE CAN DEFER PUBLIC COMMENT UNTIL WE HAVE FINISHED OUR AGENDA, WE WILL THEN HEAR FROM YOU.

A SPEAKER: IT WAS AN AGENDA ITEM.

MR. SANTARELLI: IT WAS A REPORT; WE WERE GOING TO ENTERTAIN --

A SPEAKER: YOU ENTERTAINED COMMENT; I JUST HAVE TWO BRIEF COMMENTS. WHY DON'T I MAKE THEM?

MR. MC CARTHY: ALL RIGHT, PROCEED.

THE SPEAKER: I'M PATRICIA MC MANN. I'VE PRODUCED TWO COMMENTS ON THE FUND INSTRUCTION THAT I THINK YOU SHOULD PAY ATTENTION TO.

FIRST, PLACING ATTORNEYS FEES AS PART OF THE SUPPORT, IN TERMS OF DETERMINING THE AMOUNT OF THE FUND BALANCE. I BELIEVE AS MR. ABESCAL EXPLAINED EARLIER, THAT YOU CAN'T ALWAYS PREDICT WHEN YOU'RE GOING TO RECEIVE

ATTORNEY'S FEES, IT'S SUBJECT TO SO MANY OTHER FACTORS AND SO MANY OTHER DECISION-MAKING BODIES.

AN EXAMPLE WOULD BE IF YOU WERE TO RECEIVE A SIGNIFICANT AWARD OF ATTORNEY'S FEES IN DECEMBER AND YOUR FISCAL YEAR ENDS IN DECEMBER, IT WOULD BE UNFAIR TO COUNT THAT IN THE FUND BALANCE BECAUSE YOUR OPTIONS WOULD BE TO SPEND IT, WHICH YOU WOULD NOT HAVE AN ADEQUATE AMOUNT OF TIME TO SPEND IT WISELY AND RESPONSIBLY OR PRODUCTIVELY. YOU WOULD BE SPENDING IT OR SPEND IT IN ADVANCE OF RECEIVING IT, WHICH I SUSPECT WOULD BE EQUALLY IRRESPONSIBLE FOR A PROGRAM TO SPEND MONEY IT DOESN'T HAVE.

I THINK IT'S A VERY SERIOUS PROBLEM. IT CAN BE DEALT WITH; YOU CAN PUT A GRACE PERIOD IN THERE, IF ATTORNEY'S FEES ARE RECEIVED, IT SHOULD BE PUT IN A BALANCE FOR 12 MONTHS, SOMETHING LIKE THAT. YOU HAVE THE OPPORTUNITY AND I THINK LEGAL SERVICES PROGRAMS HAS DEMONSTRATED THAT THEY ARE PHYSICALLY SOUND, WELL MANAGED FINANCIALLY AND WE ARE CONCERNED WITH LONG-RANGE PLANNING AND SPENDING THE FEW DOLLARS THAT WE RECEIVE. AND WE ARE PHYSICALLY RESPONSIVE, AND I THINK THIS PROGRAM WOULD FORCE US TO MAKE INSTRUCTIONS THAT ARE NOT ADHERABLE.

THE SECOND CONCERN IS A PROVISION WITH RESPECT TO THE PROGRAM'S ADOPTION AND COMPENSATING OF PRIVATE BAR COMPONENTS. THERE IS AN EXEMPTION RIDING FOR A CASH RESERVE. FOR THOSE WE SUGGEST THAT IF THERE IS LEGAL

SERVICES PROGRAMS THAT ARE -- THEY SHOULD BE TREATED ALIKE WHEN A COMMITMENT IS MADE TO REPRESENT A CLIENT. THAT DIFFERENTIATION, THAT COMMITMENT IS THERE -- BUT THAT DIFFERENTIATION, WHETHER THE CLIENT WILL ULTIMATELY BE REPRESENTED BY A PRIVATE ATTORNEY OR A COMPENSATED BASE, A PRIVATE ATTORNEY ON A PRO BONO BASIS, A STAFF ATTORNEY, STAFF PARALEGAL, THAT COMMITMENT IS THERE, AND THE FUND BALANCE CONCEPT SHOULD RECOGNIZE THAT SOME SORT OF A CASE RESERVE SYSTEM SHOULD BE ALLOWED.

THANK YOU.

MR. MC CARTHY: THANK YOU FOR THOSE COMMENTS.

NOW, JOSH, IF YOU WOULD PROCEED WITH YOUR REPORT.

MR. BROOKS: GOOD AFTERNOON. I'LL TRY TO BE BRIEF. I KNOW IT'S BEEN A LONG DAY. WE'RE NEARING THE END OF IT.

I'M HERE TO TALK TO YOU ABOUT THE REGGIE PROGRAM SPECIFICALLY. BEFORE I DO, I WOULD LIKE TO SORT OF RESPOND TO SOME POINTS THAT WERE RAISED EARLIER, PRESENTED AS FACTS BY AN INDIVIDUAL WHO IS AN EMPLOYEE OF THE CORPORATION; THAT IS IN FACT, AN EMPLOYEE OF THE OFFICE OF FIELD SERVICES, WHICH DIVISION I CURRENTLY SERVE AS DEPUTY DIRECTOR OF.

YOU'VE HEARD FROM TIME TO TIME COMMENTS ABOUT THE SO-CALLED AFFIRMATIVE ACTION RECORD OF THE BOGARD

ADMINISTRATION. JUST TO GO ON RECORD IN AN EFFORT TO CORRECT WHAT I THINK IS A MISSTATEMENT OF WHAT THE FACTS ACTUALLY ARE, LET ME BEGIN BY SAYING, OBVIOUSLY I'M NOT A WHITE MALE.

SECONDLY, MS. HARVEY (SIC) WHO IS AN EMPLOYEE OF THE CORPORATION AND WHO I'VE HAD OCCASION TO WORK WITH, IF SHE JUST TOOK THE TIME TO EVEN LOOK OR PERHAPS EVEN COUNT HEADS, SHE COULD SEE CONSIDERABLY MORE THAN WHITE MALES OCCUPYING POSITIONS OF CONSIDERABLE RESPONSIBILITY IN THE CORPORATION. JUST TO NAME A FEW, I MIGHT POINT OUT THAT THE VICE-PRESIDENT OF THE CORPORATION, WHO'S ALSO FUNCTIONING AS A COMPTROLLER, IS A BLACK MALE. I WOULD POINT OUT THE DIRECTOR OF OUR OFFICE OF PUBLIC AFFAIRS IS A BLACK FEMALE. I WOULD POINT OUT THE ASSISTANT, CAROL RITTER, WHO IS A BLACK FEMALE. ALFREDA HARVEY, WHO IS HERE AND WILL BE MAKING A PRESENTATION TO YOU; THAT IS JUST TO NAME A FEW.

AND I WOULD POINT OUT THAT THE DIRECTOR OF OUR OFFICE OF EQUAL OPPORTUNITY, WHO IS A BLACK MALE, WITHIN THE OFFICE OF THE FIELD SERVICES PROGRAM, I WOULD POINT OUT TO YOU THE DIRECTOR OF ONE OF OUR THREE UNITS WITHIN THAT DIVISION IS A NO-NATIVE AMERICAN MALE.

I SHOULD ALSO POINT OUT TO YOU SOME RECENT NEW HIRES WHICH CONSIST OF A HISPANIC FEMALE, A WHITE FEMALE, WHO HAS SINCE RESIGNED, AND A COUPLE OF SIGNIFICANT

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CONSULTANTS WHO HAVE BEEN BROUGHT ON BOARD, ONE OF WHOM IS A BLACK MALE, A FORMER DEPUTY DIRECTOR OF THE OFFICE OF FIELD SERVICES.

I WOULD ALSO RESPOND TO THE OBSERVATION THAT WAS MADE THAT YOUR COLLECTIVE EXPERIENCE IN SUM TOTAL EXCEEDS THE EXPERIENCE OF ALL OF US. I SUBMIT TO YOU THAT THAT IS GROSSLY INACCURATE. IT MISSTATES THE FACTS, JUST AT THIS TABLE. IF WE CUT OFF GREGG HARTLEY'S AND MY OWN, WE'RE LOOKING AT ABOUT TWELVE YEARS, NOT TO MENTION SOME OF THE INDIVIDUALS THAT I'VE POINTED OUT, AT THIS POINT.

I MAKE THOSE OBSERVATIONS BECAUSE I THINK THOSE OBSERVATIONS RELATE TO WHAT I AM HERE TO SPEAK TO AS AN AGENDA ITEM; NAMELY, THE REGIONAL PROGRAM WHICH HAS HISTORICALLY IN THE LEGAL SERVICES COMMUNITY IN THIS PROGRAM BEEN THE VEHICLE BY WHICH WE HAVE INSURED THAT MINORITIES AND WOMEN ARE INCLUDED IN YOUR EFFORTS TO PROVIDE LEGAL SERVICES TO LOW INCOME PEOPLE.

GETTING TO THE REGGIE PROGRAM, ON OCTOBER 26, THE REGGIE PROGRAM WAS AN AGENDA ITEM. UNFORTUNATELY, THE PUBLIC ATTENDANCE AT THAT MEETING WASN'T AS IMPRESSIVE AS THIS ONE, BUT THE REGGIE PROGRAM WAS AN AGENDA ITEM.

MR. SANTARELLI CHAIRED THE PROFESSIONAL PROVISIONAL COMMITTEE, THE PROFESSIONAL LEGAL SERVICES COMMITTEE, AND AT THAT MEETING FORMER DEAN OF HOWARD LAW SCHOOL, WALLY BRANDON AND THE CURRENT EXECUTIVE DIRECTOR,

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JOHN DAVIS, MADE PRESENTATIONS TO THE BOARD OF AN INFORMATIONAL NATURE, IN AN ATTEMPT TO EDUCATE THEM ABOUT THE REGGIE PROGRAM AND TO ALERT THEM ON THE NECESSITY TO MAKE A DECISION CONCERNING CONTINUATION OF THIS. MY PERSONAL OPINION IS THAT THIS IS A VERY, VERY CRITICAL PROGRAM IN THE LEGAL SERVICES COMMUNITY. EXCELLENT PRESENTATIONS WERE MADE BOTH BY JOHN DAVIS AND DEAN BRANDON. A PROPOSAL WAS SUBMITTED TO THE CORPORATION BY THE REGGIE PROGRAM FOR 1984/1985. COPIES OF THAT PROGRAM WERE DISTRIBUTED TO MEMBERS OF THE BOARD. YOU HAVE IT IN YOUR POSSESSION.

ESSENTIALLY, WHERE WE ARE WITH THE REGGIE PROGRAM IS THAT THIS IS THE TERMINAL YEAR, THIS YEAR, THE PROGRAM YEAR 1983/84 OF THE REGGIE PROGRAM, AND AS OF JULY -- JULY 30TH -- 31ST, 1984, THERE IS NO PROVISION FOR THE CONTINUATION OF THE REGGIE PROGRAM AT THE CONCLUSION OF THIS CURRENT CONTRACT.

AT THIS POINT, I WOULD ONLY INDICATE TO THE BOARD THAT WITHIN THE VERY NEAR FUTURE, HOPEFULLY AT THE NEXT BOARD MEETING, THERE WILL BE A NEED FOR SOME ACTION TO BE TAKEN CONCERNING THE REGGIE PROGRAM. I THINK PART OF THE MONEY THAT HAD BEEN ALLOCATED FOR THIS YEAR'S REGINALD HAVENSMITH'S COMMUNITY DEVELOPMENT PROGRAM ARE SPECIFICALLY FOR THE RECRUITMENT OF REGGIES FOR THE 1984/1985 PROGRAM YEAR, IF THERE IS TO BE ONE. OF COURSE, THAT DECISION HASN'T BEEN MADE YET; IT WILL BE PRESENTED TO THE BOARD AT

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THE COMMITTEE MEETING THAT I SPOKE OF EARLIER.

THE STAFF WAS INSTRUCTED BY THE COMMITTEE TO COME UP WITH A RECOMMENDATION TO THE FULL BOARD FOR ACTION ON THE REGGIE PROGRAM. I AM SORRY TO REPORT, WE DON'T HAVE A RECOMMENDATION AT THIS TIME, PRIMARILY BECAUSE THAT MEETING THAT I'M REFERRING TO ONLY TOOK PLACE OCTOBER 26TH; TODAY IS NOVEMBER 7TH. WE SIMPLY ARE NOT PREPARED AT THIS TIME TO MAKE A RECOMMENDATION TO THE BOARD CONCERNING THE REGGIE PROGRAM.

I WANT TO, HOWEVER, REPORT TO YOU CONCERNING THE STATUS OF THESE MATTERS AND TO INDICATE TO YOU THAT THE MATTER WILL BE AN ACTION ITEM ON THE AGENDA OF OUR VERY NEXT BOARD MEETING.

QUITE FRANKLY, THE STAFF HAS NOT REACHED A CONSENSUS AS OF YET CONCERNING THE FUTURE OF THE REGGIE PROGRAM.

ONE OF THE VERY, VERY CRITICAL FACETS THAT WE ARE CONSIDERING AT THIS POINT IS HOW TO CREATIVELY FACTOR THE REGGIE PROGRAM AND ITS REGGIES INTO THE PRIVATE BAR INVOLVEMENT PIECE OF THE CORPORATION, THAT HAS BECOME A PART OF OUR EFFORTS. THAT IS THE CURRENT STATUS OF THE REGGIE PROGRAM.

THAT CONCLUDES MY REPORT TO YOU AT THIS TIME. THANK YOU.

MR. MC CARTHY: THANK YOU, JOSH. WE DO

APPRECIATE YOUR EXCELLENT REPORT AND WE LOOK FORWARD TO YOUR RECOMMENDATION, JUST AS SOON AS WE CAN GET THEM TO YOU.

MR. HARTLEY: MR. CHAIRMAN, WE WOULD RECOMMEND THAT YOU WOULD ASK MR. DAVIS TO MAKE A FEW COMMENTS OF THE REGGIE PROGRAM.

MR. MC CARTHY: YES, THANK YOU, SIR. WOULD YOU GIVE US THE BENEFIT OF YOUR COMMENTS?

MR. DAVIS: I'M JOHN DAVIS, THE EXECUTIVE DIRECTOR OF THE REGGIE PROGRAM. MY BASIC COMMENT IS, ONE, THAT I RELATE PRIMARILY WITH SATISFACTION; WE ARE BASICALLY GOING OVER SOME GROUND THAT WE WENT OVER LAST YEAR AND TWO YEARS BEFORE THAT, AND THE YEAR BEFORE THAT, AND THAT IS THAT AS REGARDS A PROGRAMATIC ACTIVITY OF THE REGGIE PROGRAM, THE LEGAL SERVICE CORPORATION TENDS TO PROCRASTINATE MAKING DECISIONS AS REGARDS THE PROGRAM UNTIL THE VERY END. AND THE SITUATION IS THE KIND OF DECISION AS REGARDS OUR REFUNDING; IT OUGHT TO BE MADE, AND THE CORPORATION HAS BEEN CALLED ON A NUMBER OF INSTANCES AND REMINDED THAT IT NEEDED TO BE MADE BY THE SPRING OF EACH YEAR. NEVERTHELESS, WE GO INTO THE WINTER WITHOUT THAT DECISION HAVING BEEN MADE. AND BECAUSE OF THAT, THERE'S JUST PURE HAVOC THAT IS DIRECTED UPON OUR ADMINISTRATIVE WORKINGS; IT'S ALMOST IMPOSSIBLE FOR US TO CARRY OUT THE DICTATES OF OUR WORK PLAN IF WE HAVE TO WAIT FOR A REFUNDING DECISION TO OCCUR IN DECEMBER OF EACH YEAR.

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THE TIMETABLE THAT WE WORK UNDER AS REGARDS OUR PROGRAMATIC ACTIVITY IS THAT WE BE FINISHED WITH RECRUITMENT IN NOVEMBER OF EACH YEAR AND BEGIN TO SCREEN APPLICATIONS AND MAKE OUR SCHEDULES FOR INTERVIEWS IN DECEMBER OF EACH YEAR -- INTERVIEWS THAT USUALLY BEGIN IN DECEMBER IN ORDER THAT WE MAY MAKE OUR SELECTIONS AS REGARDS TO WHICH PERSONS WE'RE GOING TO SELECT AS REGGIES BY THE END OF FEBRUARY OF EACH YEAR, IN ORDER THAT OUR SELECTION DECISIONS CAN BE MADE CONTEMPORANEOUSLY WITH THOSE OF ALL OTHER LEGAL PROCEDURES, PROFESSIONAL LEGAL PROCEDURES.

THE PROBLEM IS THAT LAST YEAR, THIS YEAR, WE DID NOT MAKE OUR SELECTIONS UNTIL APRIL BECAUSE WE WERE WAITING FOR THE CORPORATION TO (1) MAKE A REFUNDING DECISION AND THEN (2) CARRY OUT ITS RESPONSIBILITIES, PROGRAMATICALLY TOWARDS THE REGGIE PROGRAM IN ORDER THAT WE MIGHT GET ON WITH THOSE RESPONSIBILITIES THAT WE HAVE.

SO, AGAIN, WE'RE FACING A SITUATION WHERE WE BELIEVE ON THE BASIS OF THE PROVISIONAL COMMITTEE MEETING LAST MONTH AND AS AN AGENDA ITEM THAT APPEARED IN THE BOARD BOOK, THAT WE WOULD BE ON THE AGENDA TIME AS AN ACTION ITEM. WE'VE COME OUT HERE TO SAN FRANCISCO TO TRY TO DEAL WITH IT AND WE WERE TOLD THAT NOT EVEN AT THE ELEVENTH HOUR, BUT AT FIVE MINUTES BEFORE, THAT IN FACT ACTION WAS GOING TO BE DEFERRED, WAS GOING TO BE DEFERRED BECAUSE OF THE FACT THAT THE STAFF HAS NOT REACHED A

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CONSENSUS OR ANY KIND OF A MEANINGFUL RECOMMENDATION AS REGARDS THIS PROGRAM.

WHAT I SUBMIT TO YOU IS THAT THE STAFF MAY NOT COME UP WITH ANY KIND OF REASONABLE CONSENSUS OF OPINION ON THE REGGIE PROGRAM AS YOUR DECEMBER BOARD MEETING, IF THAT DECISION DEPENDS ON HAVING SOME KIND OF MEANINGFUL INPUT FROM THE REGGIE PROGRAM. WE'VE HAD CONTACT WITH ONE PERSON, JOSH BROOKS; CERTAINLY HIS RECOMMENDATION OUGHT TO BE GIVEN SOME WEIGHT AT SOME POINT BECAUSE OF THE FACT WE HAVE HAD NO OTHER CONTACT WITH OTHER PERSONS, NOR HAVE THEY ASKED US FOR ANY KIND OF INFORMATION OR ENTERED INTO ANY KIND OF DIALOGUE AS TO WHERE WE THINK WE OUGHT TO BE GOING.

NOR HAVE WE GOTTEN ANY KIND OF FEEDBACK FROM THE VARIOUS PROPOSALS WE HAVE SUBMITTED TO THE CORPORATION OVER THE LAST TWO YEARS, RECOMMENDING THAT SOME KIND OF CHANGES BE MADE IN OUR WORK PROGRAM. SO WE SIT IN A SITUATION WHERE, BASICALLY, THE BOARD, AGAIN, IS GOING TO BE OPERATING ON BASICALLY LITTLE OR NO INFORMATION, WHICH MEANS THAT OUR PROGRAM IS SUBJECT TO BE ACTED UPON ON THE BASIS OF GENERAL, SOME PHILOSOPHIES, IDEOLOGIES AND THE FACT THAT WE DO EMPLOY A SIGNIFICANT NUMBER OF MINORITY ATTORNEYS. WHAT I WOULD HOPE IS THAT THIS BOARD CAN IN FACT GET ITSELF INVOLVED IN SOME DIALOGUE WITH THE REGGIE PROGRAM AND GET SOME MEANINGFUL INFORMATION AND MAKE SOME

KIND OF DECISIONS AS EXPEDITIOUSLY AS POSSIBLE BECAUSE OF THE FACT, AGAIN, WE'RE BEHIND THE STICK.

MR. MC CARTHY: THANK YOU, JOHN. IT'S UNFORTUNATE YOU CAME OUT WITH THAT MISCONCEPTION. WE DID RECEIVE AN IMMENSE AMOUNT OF MATERIAL AND HAD A COMMITTEE MEETING; I WAS THERE, YOU PRESENTED IT IN A VERY FINE MANNER, AND WE INSTRUCTED OUR STAFF TO GIVE US A REPORT AS SOON AS POSSIBLE.

JOSH, DID YOU WANT TO RESPOND TO ANY OF THE REMARKS OF JOHN IN CONNECTION WITH HIS COMMENTS?

MR. BROOKS: ONLY IN THE SENSE THAT I THINK IT'S ABSOLUTELY CORRECT; IT'S THIS KIND OF A DEFERRAL OF A DECISION, WHETHER IT'S GOING TO YEA OR NAY, IT DOES PUT THEM UNDER MASSIVE, INCREDIBLE AMOUNTS OF ADMINISTRATIVE PRESSURE.

THE ONLY THING I WOULD INDICATE AT THIS POINT IS THAT I THINK THE DIFFERENCE BETWEEN THIS YEAR AND LAST YEAR WILL BE THAT, TRUE, THE DECISION WASN'T MADE ON FUNDING UNTIL DECEMBER, BUT PART OF THE PROBLEM FOR SOME OF THE LAGS THAT YOU EXPERIENCED LAST YEAR HAD TO DO WITH NO DECISIONS BEING FORTHCOMING REGARDING SLAP ALLEGATIONS, THOSE KINDS OF THINGS, AND THE TRANSFER OF RESPONSIBILITY FOR THE REGGIE PROGRAM FROM LINDA HARPER (PHONETIC) WHO HAD OVERSIGHT RESPONSIBILITIES FOR THE REGGIE PROGRAM, SO YOU WEREN'T ABLE TO DO THINGS YOU NEEDED TO DO, AT LEAST WITH RESPECT

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TO THE TIME FRAME BETWEEN DECEMBER AND APRIL.

THAT WON'T OCCUR THIS YEAR. AS SOON AS WE GET A FUNDING DECISION, ASSUMING THAT WE GET ONE THAT'S FOR THE CONTINUATION OF THE REGGIE PROGRAM IN SOME FORM, THEN I'M OF THE OPINION THAT WE CAN BEGIN AT THAT POINT TO MOVE A LOT MORE SPEEDILY THAN WE WERE ABLE TO DO LAST YEAR BECAUSE OF ALL OF THE TRANSITIONS THAT WERE OCCURRING.

MR. BOGARD: IF I MAY SAY SO, JOHN, WE'LL MAKE SURE THAT WE HAVE A FULL, COMPLETE RECOMMENDATION FOR THE BOARD AT THE NEXT BOARD MEETING; WE WILL BE IN TOUCH WITH YOU, SET UP A MEETING PRIOR TO THAT TIME, SO THAT WE CAN GET YOU AND WHOMEVER ELSE YOU WOULD LIKE TO BE INVOLVED IN THE PROGRAM, TO SIT DOWN WITH JOSH AND GREGG AND OTHERS, AND WE'LL MAKE A COMPLETE RECOMMENDATION AT THE NEXT BOARD MEETING.

MR. DAVIS: OF COURSE, LET ME REITERATE MY CONCERN. I APPRECIATE THE FACT THAT YOU'RE ASKING THIS ACTION, THE FACT OF THE MATTER IS, WE'VE HAD SINCE LAST DECEMBER'S BOARD MEETING TO GET THIS KIND OF DIALOGUE UNDER WAY. AGAIN, IT SEEMS TO BE DONE PURELY ON WHAT'S CONVENIENT FOR THE CORPORATION, ALTHOUGH WE HAVE RESTATED A NUMBER OF TIMES THE FACT THAT THIS RACKS A TREMENDOUS INCONVENIENCE UPON YOUR WORK PLAN AND ABSOLUTELY OBLITERATES SOME OF OUR ADMINISTRATIVE EFFORTS --

MR. MC CARTHY: WELL, I THINK THAT YOUR POSITION

IS WELL UNDERSTOOD BY THE BOARD; WE'RE SENSITIVE TO IT. WE KNOW YOUR PROBLEM. JOSH UNDERSTANDS IT, AND HOPEFULLY WE CAN REMEDY IT TO CAUSE YOU THE LEAST INCONVENIENCE; AND THANK YOU SO VERY MUCH FOR COMING OUT.

YES.

SPEAKER WILLIE COOK: I HAVE HAD A VERY DETAILED INVOLVEMENT IN THE REGGIE PROGRAM FOR THE LAST 15 YEARS. I'M NOT GOING TO WORK WITH THAT DETAILED ASPECT. HOPEFULLY WHEN THE DIALOGUE BEGINS TO TAKE PLACE, HOPEFULLY I'LL ALSO BE INVOLVED IN THAT PROCESS, AS CHAIRMAN OF THE REGGIE ADVISORY COMMITTEE.

BUT I WOULD LIKE TO JUST FOCUS ON ONE THING THAT REALLY BOTHERS ME ABOUT THIS CORPORATION, AND THE REGGIE PROGRAM IS ANOTHER INSTANCE OF WHAT I CONSIDER TO BE DUPLICITY AND DECEPTION ON THE PART OF THE LEGAL SERVICES CORPORATION. LET ME EXPLAIN WHAT I MEAN.

IN THE HEARING THAT TOOK PLACE ON THE MOTION FOR TRO TO STOP THE SALT LAKE CITY, UTAH BOARD MEETING, YOUR GENERAL COUNSEL, MR. SWENDIMAN, AND AS YOU SAW, APPROPRIATELY NOTED IN YOUR MOTIONS THAT YOU FILED BEFORE JUDGE PARKER TO HAVE HIM RECUSE HIMSELF BECAUSE OF ME AND MY INVOLVEMENT IN THE PROGRAM, ET CETERA.

ONE OF THE THINGS, THE STATEMENTS MADE BY MR. SWENDIMAN WAS THIS, AND I'M PARAPHRASING NOW, BASICALLY. HE SAID:

"AS ONE OF THE REASONS AS TO WHY JUDGE PARKER, WHO IS A BLACK FEDERAL JUDGE, SHOULD NOT GRANT THE TRO IS THAT THE REGGIE PROGRAM AND A DECISION ON THE REGGIE PROGRAM WAS BEING CONTEMPLATED AS PER THE AGENDA OF THE UTAH MEETING."

HE FURTHER, HE WENT ON TO SAY TO JUDGE PARKER THAT THE REGGIE PROGRAM IS A PROGRAM THAT'S INVOLVED WITH INCLUDING A SIGNIFICANT NUMBER OF BLACK LAWYERS AND OTHER MINORITIES INTO LEGAL SERVICES, AND HE WOULD HOPE THAT THE JUDGE WOULD TAKE THOSE THINGS INTO CONSIDERATION IN DEALING WITH THE TRO.

I SAT IN THE COURTROOM LISTENING TO THAT ARGUMENT THAT MR. SWENDIMAN MADE IN TRYING TO PERSUADE JUDGE PARKER, AND, AGAIN, MR. SANTARELLI, I WISH THAT I COULD SAY THAT I RESPECTED THE MOTIVES OF SOME OF YOUR PEOPLE ON THE STAFF, BUT IT IS THOSE KINDS OF COMMENTS: ONE, IT OFFENDS ME AS A BLACK LEGAL SERVICES EMPLOYEE TO HAVE SOMEBODY LIKE MR. SWENDIMAN GET BEFORE JUDGE PARKER AND MAKE ONE OF THE MOST RIDICULOUS ARGUMENTS THAT I'VE EVER HEARD, BECAUSE HE WASN'T CONCERNED ABOUT THE REGGIE PROGRAM AND THE MINORITY ASPECT. EVERYBODY IN THAT COURTROOM KNEW THAT THAT PARTICULAR ARGUMENT WAS MADE BECAUSE JUDGE PARKER IS A BLACK FEDERAL JUDGE. AND I PERSONALLY WANT TO TELL YOU, MR. MC CARTHY, THAT I RESENT THAT KIND OF ARGUMENT BEING MADE WHEN MR. SWENDIMAN KNEW

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VERY WELL, I GUESS, WHAT THE BOARD'S INTENTIONS WERE AS IT RELATED TO THE REGGIE PROGRAM.

ALL I'M SAYING IS, THERE ARE A NUMBER OF THINGS THAT TRANSPIRE. THERE ARE A NUMBER OF THINGS THAT ARE BOTH DONE AND SAID BY YOUR STAFF WHICH MAKE ME, MR. SANTARELLI, VERY, VERY MUCH CONCERNED ABOUT THE SINCERITY OF STATEMENTS AND ACTIONS THAT YOUR STAFF MAKES.

I'VE GIVEN YOU SOME EXAMPLES TODAY OF WHY I'M VERY CYNICAL ABOUT YOU GENTLEMEN ON THE PODIUM AND THE PEOPLE ON YOUR STAFF WHO CARRY OUT YOUR POLICY DIRECTIONS. I JUST SIMPLY WANT TO SAY THAT, IN TERMS OF THAT HEARING, I RESENT THAT KIND OF ARGUMENT BY MR. SWENDIMAN TO JUDGE PARKER AS IT RELATES TO THE REGGIE PROGRAM BECAUSE, AS WE SEE HERE, HERE WE ARE ON NOVEMBER 7TH AND THE BOARD IS DEFERRING ACTION ON THE REGGIE PROGRAM.

SO IF THE REGGIE PROGRAM WAS OF SUCH MOMENT FOR MR. SWENDIMAN TO MAKE THE ARGUMENT THAT HE MADE, IT WOULD SEEM TO ME THAT THE BOARD WOULD IN FACT BE DEALING EXPEDITIOUSLY WITH TRYING TO DEAL WITH THE FUNDING PROBLEM OF THE REGGIE PROGRAM, SINCE ITS CYCLE IS DIFFERENT FROM THOSE OF US WHO RUN THE REGGIE PROGRAM, IN TERMS OF TRYING TO GET THIS PROGRAM TOGETHER FOR THE YEAR 1984/1985.

SO WE, MR. SANTARELLI, OR I AM EXTREMELY CYNICAL ABOUT YOUR STAFF. I DO IMPUNE CERTAIN MOTIVES TO YOUR STAFF BECAUSE, YOU KNOW, TO ME IT'S NOT ONLY WHAT YOU

SAY, IT'S ALSO WHAT YOU DO. THAT'S WHY I OBJECTED EARLIER TO COMMENTS BY MR. BOGARD, YOU KNOW, I WISH THAT MR. BOGARD'S STATEMENT HAD BEEN SINCERE, BUT THE ACTIONS OF HIS STAFF PROVE DIFFERENTLY.

BUT I JUST WANT TO LET YOU KNOW, AMONG OTHERS, MANY INSULTS THAT I FEEL AS A LEGAL SERVICES WORKER, AND MORE AS A BLACK MAN, YOU KNOW. YOU INSULT ME AND OTHER PEOPLE, OTHER PEOPLE IN THE COMMUNITY IN MANY, MANY WAYS, AND I MUST SAY THAT YOU HAVE AN ENORMOUS CAPACITY FOR INSULTING LARGE SEGMENTS OF THIS COMMUNITY, IN ADDITION TO INSULTING US. YOU COME OFF WITH SOME KIND OF CAVALIER ATTITUDE AND STATEMENT THAT YOU, MR. BOGARD, AND OTHER STAFF MEMBERS MAKE, AND THIS KIND OF CHARADE, SOMEBODY MENTIONED EARLIER IN THE ROOM, MR. MC CARTHY WANTED TO KNOW WHY THE PERSON SAID "SHAM".

THAT'S WHAT THIS BOARD MEETING HAS BEEN. IT IS BASICALLY A SHAM, BECAUSE YOU GENTLEMEN KNOW WHAT -- KNEW WHAT YOU WERE GOING TO DO WHEN YOU CAME HERE, AND YOU'VE LARGELY CARRIED OUT THAT MANDATE. SO, YOU KNOW, I JUST WANT TO LET YOU KNOW, I WANT YOU TO KNOW ABOUT THE KIND OF INSENSITIVITY THAT PISSES ME OFF, FRANKLY, PARDON MY FRENCH. BUT IT DOES BOTHER ME WHEN I HEAR SOMEBODY LIKE MR. SWENDIMAN MAKING THOSE KINDS OF ARGUMENTS IN COURT.

MR. MC CARTHY: THANK YOU, WILLIE, YOUR COMMENTS ARE RECEIVED, AND WE THANK YOU.

A SPEAKER: I WOULD JUST, IF I COULD --

MR. BROOKS: I WOULD INDICATE THAT WITH RESPECT TO THE REGGIE PROGRAM AS AN AGENDA ITEM SCHEDULED FOR THE SALT LAKE CITY MEETING, IT WASN'T COMPLETELY CLEAR AT THAT POINT THAT IT WAS NOT GOING TO BE AN ACTION ITEM. AS A MATTER OF FACT, I HAVE TALKED TO ALAN QUITE FREQUENTLY AND I KNOW HE WAS OPERATING UNDER THE ASSUMPTION IT WAS GOING TO BE AN ACTION ITEM. AND THE DECISION THAT IT WOULD NOT IN FACT WAS NEVER COMMUNICATED TO HIM.

MR. MC CARTHY: THANK YOU, JOSH.

A SPEAKER: A QUICK COMMENT. I JUST WANT TO FOLLOW UP, REALLY, WITH RESPECT TO THE PERCEIVED LEVEL OF INSENSITIVITY OUT HERE. LET ME GIVE YOU AN EXAMPLE OF MAYBE WHY THAT'S TRUE.

THIS MAN GOT UP A FEW MINUTES AGO AND TALKED ABOUT THE FUND BALANCE GUIDELINE POLICY WITH RESPECT TO ATTORNEY'S FEES AND POINTED OUT THE POLICY SAYS THAT IF YOU ARE TO GET ATTORNEY'S FEES TOWARD THE END OF THE YEAR THAT THEY WILL BE COUNTED AGAINST YOUR FUND BALANCE AND RECAPTURED BY THE CORPORATION AFTER JANUARY 1ST, IF THEY'RE UNSPENT.

WELL, THE DIFFICULTIES WITH THAT GUIDELINE IS THAT IT'S GOING TO ENCOURAGE PROBABLY THE KIND OF CONDUCT THAT EVEN EMBARRASSES THIS CORPORATION, OR AT LEAST HAS A TENDENCY TO EMBARRASS THIS CORPORATION, WHICH IS THIS:

IF I GET A CHUNK OF ATTORNEY'S FEES IN MY PROGRAM IN THE LAST QUARTER OF THE YEAR, I HAVE TWO CHOICES, TO SPEND IT BY DECEMBER 1ST OR, IF I DON'T, IN EFFECT I HAVE IT RECAPTURED BY THE CORPORATION.

WHAT AM I LIKELY TO DO? PROBABLY SPEND IT AS FAST AS POSSIBLE IN THE LAST MONTH OR TWO OF THE CALENDAR YEAR.

NOW, I THINK MS. MC MANN WAS QUITE PERSUASIVE IN POINTING OUT THAT THIS IS WHAT MIGHT HAPPEN AND SHE SUGGESTED THAT IT WOULD MAKE MORE SENSE TO CARRY OVER THOSE ATTORNEY'S FEES INTO THE NEXT YEAR AND ALLOW A PROGRAM TO SPEND THEM THE FOLLOWING YEAR. CERTAINLY THEY CAN'T SPEND THEM BEFORE THEY GET THEM.

AND THERE WAS NO RESPONSE WITH RESPECT TO THAT ISSUE. MS. MC MANN SAT DOWN, AND WE HAVEN'T HEARD ANY COMMENT ON THAT. COULD YOU GIVE US THE COURTESY OF RESPONDING TO THAT PROGRAM? SHOULD WE BE ENCOURAGED TO SPEND THOSE MONIES IN THE LAST MONTH OR TWO OF THE CALENDAR YEAR AND POSSIBLY MAKE US LOOK FOOLISH, OR SHOULD YOU ENCOURAGE US TO ENTER INTO SOME ORGANIZED PROGRAM AND METHODOLOGY TO SPEND THOSE MONIES IN A REASONABLE PERIOD OF TIME IN THE FUTURE? COULD WE HAVE SOME RESPONSE TO THIS SITUATION?

MR. MC CARTHY: YES, YOU MAY, SIR, AND I'LL GIVE IT TO YOU. IT'S NOT AN AGENDA ITEM. THE STAFF WILL

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CONSIDER IT WHEN IT IS AN AGENDA ITEM. WE WILL THEN DISCUSS IT --

THE SPEAKER: BUT YOU TOOK MS. MC MANN'S PRESENTATION OUT OF THE AGENDA AND OBVIOUSLY MADE IT CLEAR THAT WHILE YOU THOUGHT IT WOULD BE FOR LATER ON, THAT YOU MIGHT AS WELL ENTERTAIN IT NOW.

MR. MC CARTHY: THAT IS CORRECT. WE ENTERTAINED HER. MY ANSWER TO YOUR QUESTION IS, MY ANSWER IS, WE WILL NOW PROCEED WITH THE AGENDA, AGENDA ITEM 7, FINANCE.

ALFREDA?

MS. ALFREDA HARVEY: WHILE I'M MAKING THE REPORT FOR THE VICE-PRESIDENT, I AM THE BUDGET DIRECTOR. I WILL COVER AGENDA ITEMS 7(A) AND 7(B) SIMULTANEOUSLY. THESE ARE THE TWO ACTION ITEMS ON THE AGENDA.

THE BUDGET REVIEW COMMITTEE OF THE CORPORATION COMPLETED ITS REVIEW OF THE EXPENDITURES FOR THE CORPORATION FOR THE THIRD QUARTER OF THE FISCAL YEAR 1983 AND HAS EXAMINED EXPENDITURES PROJECTED FOR THE REMAINDER OF THE FISCAL YEAR.

THE RESULTS OF THAT REPORT ARE CONTAINED IN THE MEMO TO CAROL RITTER, VICE-PRESIDENT OF FINANCE, TO PRESIDENT BOGARD, DATED OCTOBER 19TH, AND A MEMO CAN BE FOUND ON PAGE 86 OF THE BOARD BOOK.

THE STAFF HAS PROPOSED TWO BUDGET MODIFICATIONS THAT REQUIRE FORMAL ACTION BY THE BOARD. I WILL COMPLETE

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MY REPORT AND THEN THE BOARD CAN TAKE ACTION, IF THAT'S OKAY.

IN ATTACHMENT A, THE ATTACHMENT FUNDS AVAILABLE, THIS IS PAGE 90, NOTE THAT THERE IS A $148,600 WHICH RESULTS FROM A GRANT RETURN AND RECOVERY WHICH IS UNALLOCATED. THE COMMITTEE PROPOSES TO ALLOCATE $113,564 TO LINE 1(A)(1) BASIC FIELD PROGRAMS ON THE CONSOLIDATED OPERATING BUDGET WORKSHEET. THIS MONEY WILL BE AWARDED TO THE PROGRAMS TO INCREASE THE DELIVERY OF LEGAL SERVICES TO ELIGIBLE CLIENTS.

IF THIS PROPOSED MODIFICATION IS APPROVED BY THE BOARD, AT THE SAME TIME, FUNDS AVAILABLE WILL LOOK LIKE ATTACHMENT 1(A). THAT STATEMENT REFLECTS THE $113,564 SHIFTED FROM UNALLOCATED TO ALLOCATED FUNDS.

ON PAGE 2 OF THE COB WORKSHEET, PAGE 5, THE STAFF PROPOSES TO TRANSFER UNSPENT NON-GRANT DOLLARS, $47,366, ORIGINALLY BUDGETED IN THE OFFICE OF FIELD SERVICES TO BE TRANSFERRED TO THE OFFICE OF PROGRAM DEVELOPMENT, TO THE OPERATING OFFICE FOR THE NEW DIRECTIONS FOR THE PRIVATE BAR, LINE 1(E)(2).

THAT FUNCTION AND THE STAFF IN THAT OFFICE WERE ORIGINALLY BUDGETED IN THE OFFICE OF FIELD SERVICES. THEY HAVE BEEN TRANSFERRED TO THE OFFICE OF PROGRAM DEVELOPMENT, THUS NEGATING THAT TRANSFER.

ALSO, THE BOARD HAS PREVIOUSLY APPROVED BY

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RECORDED VOTE THE TRANSFER OF FUNDS HELD IN RESERVE TO COVER THE FINAL QUARTER PAYMENTS TO THE NATIONAL STATE SUPPORT CENTERS AND THE NATIONAL CLIENTS COUNCIL. IN ACCORDANCE WITH SECTION 1601.25, ACTION BY BOARD DIRECTORS WITHOUT A MEETING OF THE BY-LAWS, I AM ASKING THAT YOU RATIFY THAT ACTION, TRANSFER OF FUNDS SHOWN IN THE COB WORKSHEET ON LINES 1(B)1, 1(B)2, 1(C)1.

THERE IS ONE BUDGET MODIFICATION THAT DOES NOT REQUIRE BOARD APPROVAL WHICH SHOULD BE BROUGHT TO YOUR ATTENTION ON THE COB WORKSHEET, PAGE 95 AT 2, 8, 3 AND 4, THE STAFF PROPOSES TO ALLOCATE AN ADDITIONAL $25,000 TO MANAGEMENT AND TECHNICAL ASSISTANCE. THE FUNDS WILL BE TRANSFERRED FROM SURPLUS FUNDS ON LINE 2(A)4: TRAINING DEVELOPMENT. THE ADDITIONAL $25,000 OF MANAGEMENT AND TECHNICAL ASSISTANCE GRANTS WILL AUGMENT THE ORIGINAL BUDGET OF $250,000. APPROXIMATELY $198,000 OF THIS HAS BEEN AWARDED TO PROGRAMS ALREADY. THE REMAINDER WILL BE AWARDED TO PROGRAMS TO BE COMPLETED UNDER SPECIAL PROJECTS.

FUNDS TO COVER THE SUPPORT CENTER AND NATIONAL CLIENTS COUNCIL STUDY ARE BEING CHARGED AGAINST THE PROGRAM DEVELOPMENT EXPERIMENTATION LINE, AND THAT'S LINE 1(E)1.

THE ESTIMATE OF THE COST OF THOSE STUDIES FOR FISCAL YEAR 1983 WILL BE $134,844. THOSE COSTS ARE ALREADY REFLECTED ON LINE 1(E)1.

WE'RE PROJECTING A SURPLUS IN CATEGORY 2,

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SUPPORT FOR THE PROFESSIONAL POSITIONS OF LEGAL ASSISTANCE, OF 1.2 MILLION DOLLARS. THIS IS TWELVE PERCENT OF THAT BUDGET. THE SAVINGS ARE DUE PRIMARILY TO POSTPONEMENT OF ACTIVITIES AND RETAINMENT OF ESTIMATES AT THIS POINT IN THE FISCAL YEAR.

1.2 MILLION WILL BECOME PART OF THE CORPORATION'S FISCAL YEAR 1983 FUND BALANCE, AND WILL BE AVAILABLE FOR ALLOCATION AND EXPENDITURE IN FISCAL YEAR 1984.

I WILL BE HAPPY TO ADDRESS ANY QUESTIONS YOU HAVE.

MR. MC CARTHY: THANK YOU.

DOES THE BOARD HAVE ANY QUESTIONS?

THANK YOU, ALFREDA. COULD YOU GIVE US WHAT YOU REQUIRE OUR APPROVAL, THE ITEMS FOR MOTION, SUCCINCTLY AND BRIEFLY GIVE US THE NATURE OF YOUR REQUESTS.

MS. HARVEY: ONE WOULD BE TO RATIFY THE ACTION TAKEN BY THE BOARD TO TRANSFER FROM THE PRESERVE LINE TO THE BUDGET LINE THE MONIES FOR THE FINAL QUARTER FOR THE NATIONAL AND STATE SUPPORT CENTERS AND THE NATIONAL CLIENTS COUNCIL.

MR. MC CARTHY: EXCUSE ME. WOULD YOU STOP RIGHT THERE. WE'LL TAKE THEM ONE AT A TIME.

THE CHAIR WILL ENTERTAIN A MOTION --

MR. MASSON: SO MOVED.

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MR. BOGARD: SECONDED.

MR. MC CARTHY: MOVED AND SECONDED.

MR. MASSON?

MR. MASSON: AYE.

MR. MC CARTHY: MR. SANTARELLI?

MR. SANTARELLI: AYE.

MR. MC CARTHY: MR. RATHBUN?

MR. RATHBUN: AYE.

MR. MC CARTHY: THE MOTION IS SO PASSED.

AND OUR NEXT REQUEST --

MS. HARVEY: THE NEXT REQUEST IS FOR TWO BUDGET MODIFICATIONS TO THE BUDGET WHICH CAN BE APPROVED SIMULTANEOUSLY.

THAT WOULD BE THE ALLOCATION OF $113,564 TO THE CONSOLIDATED OPERATING BUDGET FROM UNALLOCATED FUNDS AND THE TRANSFER OF $47,366 FROM THE OFFICE OF FIELD SERVICES TO NEW DIRECTIONS FOR THE PRIVATE BAR.

MR. MASSON: I SO MOVE THOSE ALLOCATIONS.

MR. SANTARELLI: SECONDED.

MR. MC CARTHY: MOVED AND SECONDED. QUESTION?

MR. MASSON?

MR. MASSON: AYE.

MR. MC CARTHY: MR. SANTARELLI?

MR. SANTARELLI: AYE.

MR. MC CARTHY: MR. RATHBUN?

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MR. RATHBUN: AYE.

MR. MC CARTHY: PROPOSAL SO PASSED. THANK YOU VERY MUCH, ALFREDA. DO YOU HAVE A THIRD ITEM?

MS. HARVEY: WE HAVE TO ADDRESS 1984, WHICH IS VERY BRIEF.

AS PREVIOUSLY DISCUSSED, THE LANGUAGE CONTAINED IN THE CORPORATION'S CONGRESSIONAL APPROPRIATIONS IS LIKELY TO DEVELOP A LARGE PART OF THE CORPORATION'S 1984 BUDGET. IT, AS IT RELATES TO GRANTS AND CONTRACTS, AND THE STAFF BY-LAWS AND REVIEW OF THE 1984 BUDGET AND PROPOSALS FOR THE MANAGEMENT OF THE CORPORATION. WHILE OUR REVIEW IS NOT YET COMPLETE, WE ARE CERTAIN THAT THE MANAGEMENT OF THE CORPORATION WILL OPERATE WITHIN ITS PROPORTIONATE SHARE OF THE FINAL APPROPRIATION.

MR. MC CARTHY: HAVE YOU CONCLUDED?

MS. HARVEY: 1985.

MR. MC CARTHY: OKAY.

MS. HARVEY: THE DISCUSSION OF THE 1985 BUDGET MARK IS ON PAGE 107 OF THE BOARD BOOK. AS REPORTED AT THE APPROPRIATIONS AND AUDIT COMMITTEE MEETING IN PHOENIX, THE CORPORATION HAS SUBMITTED A BUDGET MARK TO OMB ON SEVERAL OCCASIONS IN THE PAST YEARS. SUBMISSION OF THE MARK IS NOT MANDATORY. IN FACT, BECAUSE OF UNCERTAINTIES SURROUNDING THE CORPORATION'S BUDGET FOR THE PAST TWO YEARS, OUR BUDGET HAS NOT BEEN SUBMITTED TO OMB BY OCTOBER 15.

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BECAUSE OCTOBER 15TH, THE OCTOBER 15TH DATE PASSED WITHOUT BOARD ACTION AND WITHOUT FINAL APPROPRIATION ON THE 1984 APPROPRIATION, AND THE CORPORATION ADVISED THE OMB THAT THEY WILL BE NOTIFIED OF THE CORPORATION'S MARK AFTER FINAL CONGRESSIONAL ACTION ON THE BOARD HAS BEEN ADOPTED AND THE MARK FOR FISCAL YEAR 1985.

THE MARK ITSELF IS NOTHING MORE THAN A NUMBER THAT GIVES OMB AN IDEA OF THE LEVEL OF THE APPROPRIATION OF THE CORPORATION, THE LEVEL WE WILL BE REQUESTING IN THE UPCOMING FISCAL YEAR. THE MARK IS NOT BINDING ON THE CORPORATION. TECHNICALLY, AT THIS POINT, THE DISCUSSIONS WERE REFERENCED TO 1985, MORE APPROPRIATELY, THEY RELATE TO DEVELOPING THE 1985 CONGRESSIONAL BUDGET REQUEST RATHER THAN A BUDGET MARK.

ATTACHMENT A ON PAGE 109 SUMMARIZES THE PURPOSE FOR WHICH FUNDS HAVE BEEN REQUESTED FROM CONGRESS IN PAST YEARS. THOSE PURPOSES INCLUDE EXPANSION OF SERVICES TO UNCOVERED AREAS, COST OF SERVICE, ADJUSTMENT TO PROGRAMS, AND FUNDS TO FULFILL CONGRESSIONALLY-MANDATED INITIATIVES.

AS YOU SEE ON ATTACHMENT A, THE COST OF SERVICE ADJUSTMENT INFLATION, IN OTHER WORDS, THAT HAS BEEN REQUESTED HERE. AND EACH YEAR, ACCORDING TO THE OMB'S JULY 1983 MID-SESSION REVIEW OF THE 1984 BUDGET, INFLATION IS ESTIMATED TO BE 4.4 PERCENT FOR CALENDAR YEAR 1984, AND THAT MIGHT BE MEASURED BY THE CONSUMER PRICE INDEX,

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A MEASURE USED BY BOTH CORPORATIONS AND THE HOUSE OF REPRESENTATIVES IN DEVELOPMENT OF THE 1984 BUDGET REQUEST FOR THE APPROPRIATION LEVEL, IS THAT MEASURE.

AGAIN, AS INDICATED IN THE PHOENIX MEETING, THE BASE DOLLAR USUALLY IS THAT OF THE CURRENT YEAR LEVEL OF APPROPRIATION.

MR. MC CARTHY: THANK YOU VERY MUCH, ALFREDA.

A SPEAKER: MR. CHAIRMAN, I HAVE A QUESTION CONCERNING THE REPORT.

ON PAGE 87 THERE IS A DISCUSSION OF THE TRANSFER OF $139,564 FUND BALANCE RECOVERED TO PROVIDE THE GRANTS. MY QUESTION IS WHETHER OR NOT ANY GRANTS HAVE BEEN MADE, HAVE COMMITMENTS BEEN MADE FOR THESE FUNDS AT THIS TIME?

MS. HARVEY: I BELIEVE THAT THE LARGEST PORTION OF THAT MONEY HAS BEEN COMMITTED.

THE SPEAKER: HAVE GRANTS BEEN MADE?

MS. HARVEY: NOT TO MY KNOWLEDGE.

THE SPEAKER: NO ACTION HAS BEEN TAKEN?

MS. HARVEY: NOT TO MY KNOWLEDGE.

MR. MC CARTHY: OUR REPORTER HAS AGAIN REQUESTED A BREAK SO THAT SHE MAY CHANGE HER TAPE AND REST. WE'LL TAKE A TEN-MINUTE BREAK.

(RECESS TAKEN.)

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7:20 P.M. SESSION

MR. MC CARTHY: WE WILL NOW RESUME OUR MEETING WITH THE AGENDA ITEM, DON BOGARD WILL SPEAK TO THIS ITEM 8 ON THIS NEED STUDY, IF YOU WILL GIVE US A BRIEF REPORT.

MR. BOGARD: THANK YOU, MR. CHAIRMAN.

AS I HAVE INDICATED ON NUMEROUS OCCASIONS IN THE PAST, WHEN I FIRST CAME TO THE CORPORATION, WE HAD REQUESTED STAFF TO INFORM US WHAT THE NEED FOR LEGAL SERVICES WAS IN THE VARIOUS PARTS OF THE COUNTRY, SO THAT WE COULD MAKE AN INTELLIGENT RECOMMENDATION TO CONGRESS ON THE AMOUNT OF FUNDING THAT WAS NEEDED FOR THE PROGRAM.

AFTER DISCUSSIONS WITH STAFF FOR A LONG PERIOD OF TIME, WE WERE INFORMED THAT THERE WERE NO ACTUAL STUDIES THAT EXISTED, THAT EXPLAINED OR DEFINED THE NEED; AND THAT IT WOULD TAKE SOMEWHERE BETWEEN SIX MONTHS AND TWO YEARS TO CONDUCT THE STUDY; AND THAT THE FUNDS WOULD COST FROM A HALF A MILLION TO TWO MILLION DOLLARS.

WE DIDN'T FEEL THAT WE HAD THE MONEY IN OUR BUDGET TO WARRANT THAT SORT OF AN EXPENDITURE, SO WE ATTEMPTED TO REVIEW ALL EXISTING STUDIES THAT HAVE BEEN DONE BY THE VARIOUS PROGRAMS, COMMUNITY AND NATIONAL STUDIES, TO SEE IF THERE WAS ANYTHING THAT WE COULD USE FROM THAT.

WE HAVE A STAFF PERSON NAMED MARILYN MINOR WHO IS TO MAKE THIS REPORT, BUT SHE'S IN THE HOSPITAL THIS

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WEEK AND IS UNABLE TO DO SO.

SHE HAS BEEN DEVOTING A CONSIDERABLE AMOUNT OF TIME TO REVIEWING ALL OF THESE MATERIALS. WE CONCLUDED THAT IT WAS NECESSARY FOR US TO TRY TO DO THE STUDY EVEN THOUGH WE DIDN'T HAVE THE FUNDING. SO MARILYN HAS PREPARED A PROPOSAL TO A NUMBER OF PRIVATE FOUNDATIONS TO SEE IF WE CAN GET FUNDING TO DO THE STUDY AND TO MAKE A FULL YEAR'S REVIEW ON A NATIONAL BASIS OF WHAT THE LEGAL NEEDS OF THE POOR ACTUALLY ARE, SO THAT WE CAN MAKE SOME RECOMMENDATIONS TO CONGRESS.

MARILYN HAS CONTACTED A TOTAL OF 24 FOUNDATIONS. SHE HAS EIGHT FOUNDATIONS WHICH HAVE EXPRESSED AN INTEREST IN PROVIDING SOME FUNDING TO US FOR THIS. WE ARE GOING TO TRY TO REQUEST IN THE NEIGHBORHOOD OF $700,000 TO THE STUDY, AND WE WOULD LIKE TO HAVE THIS STUDY DONE WITHIN A YEAR SO THAT BY NEXT DECEMBER WHEN IT COMES TIME FOR THE BOARD TO MAKE A RECOMMENDATION ON BUDGETING TO CONGRESS, IT WILL BE ABLE TO DO SO WITH SOME SOUND BASIS IN FACT.

WE ARE IN THE PROCESS NOW OF CONTACTING THOSE FOUNDATIONS. THEY NORMALLY MAKE DECISIONS AROUND THIS TIME OF THE YEAR ON HOW THEY'RE GOING TO ALLOCATE THEIR FUNDING. NOVEMBER AND DECEMBER ARE VERY EFFECTIVE TIMES FOR THEM, AND WE WILL BE MAKING FORMAL PRESENTATIONS TO SEVERAL, OR AT LEAST EIGHT FOUNDATIONS, AND HOPE TO HAVE A COMPLETE REPORT BACK FROM THEM BEFORE THE END OF THE YEAR.

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WE WOULD LIKE TO GET THE TIMETABLE MOVED AS QUICKLY AS POSSIBLE, AND WE WOULD LIKE TO HAVE IT DONE WITHIN A YEAR. A NUMBER OF FOUNDATIONS HAVE INDICATED THAT IT WOULD TAKE THEM IN THE NEIGHBORHOOD OF 18 MONTHS TO DO THE STUDY. IF THAT'S WHAT WE HAVE TO DO, THAT'S WHAT WE HAVE TO DO. BUT WE WOULD LIKE TO HAVE IT COMPLETED BY THE END OF THE YEAR.

BASICALLY, THAT IS MARILYN'S REPORT.

MR. MC CARTHY: THANK YOU.

A SPEAKER: MR. CHAIR, PLEASE, I HAVE A REACTION TO MR. BOGARD'S STATEMENT.

HE'S JUST INFORMED THE BOARD, AS WELL AS THE COMMUNITY, THAT THERE IS NO STUDY THAT HE CAN RELY ON TO DETERMINE THE LEGAL FEES OF THE POOR IN THIS COMMUNITY. THAT MIGHT BELIE HIS COMING TO THE ABA LAWYER SESSION, AND HE STATED SOME VERY DEFINITE IDEAS AS TO WHAT IS ADEQUATE AND INADEQUATE SERVICES.

INDEED, THIS BOARD TODAY HAS TAKEN A GREAT LEAP BACKWARD, I THINK, IN DEVELOPING THE PROVISION OF LEGAL SERVICES TO POOR PEOPLE.

WITH REGARD TO FUNDING PROCEDURES AND WITH REGARD TO ELIGIBILITY SECTIONS, AS WELL AS IMPOSING INCREDIBLE AMOUNTS OF ADMINISTRATIVE PRESSURE, I MIGHT SAY THAT THIS IS ONE OF THE THINGS THAT HAS DISTURBED ME.

WE WERE VERY EAGER TO HAVE THE BOARD MEET IN

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SAN FRANCISCO AND, AS YOU WOULD NOTE, A GREAT MANY MEMBERS OF THE LOCAL BAR ASSOCIATION, LEADERSHIP OF THE CALIFORNIA BAR ASSOCIATION, MAJOR BARS, HAVE BEEN HERE TO ADDRESS YOU AND ARE HERE. AND SOME VERY SPECIFIC CONCERNS HAVE BEEN ADDRESSED.

I THINK IT'S PREMATURE FOR THIS BOARD AND MR. BOGARD TO BE TALKING TO THE ABA OR IN FACT FASHIONING SPECIFIC REMEDY PROCEDURES FOR THE PROFESSIONAL LEGAL SERVICE IN THE UNITED STATES WHEN HE HIMSELF HAS JUST ADMITTED IGNORANCE AS TO WHAT THOSE LEGAL NEEDS ARE.

FINALLY, I WOULD LIKE TO SAY THAT I AM FRANKLY EMBARRASSED OF MY BEHAVIOR EARLIER, AND I HAVE TO APOLOGIZE TO THE CHAIR FOR SPEAKING OUT. MY CONCERN AT THIS POINT WAS, AS MR. SANTARELLI POINTED OUT, THIS IS A DELIBERATIVE EXERCISE; IT'S A DELIBERATIVE ENDEAVOR, AND TO GET THE PRESIDENT OF THE SAN FRANCISCO BAR, THE PAST, PRESENT AND FUTURE PRESIDENT OF THE LOS ANGELES BAR -- IN FACT, WE WERE EXPECTING TOMORROW TO HAVE BEFORE YOU GENERAL COUNSEL OF BECHTEL AND OTHER LEADING MEMBERS OF THE BAR TO ADDRESS YOU, TO STATE TO YOU THEIR SPECIFIC CONCERNS ABOUT THEIR KNOWLEDGE OF THE DELIVERY OF LEGAL SERVICES.

YOU HAVE ACTED ONLY ON RECOMMENDATIONS THAT -- YOU HAVE SHOCKED US. THIS REALLY TAKES US ABACK, AND NOT ONLY US AS LEGAL SERVICE LAWYERS, BUT MORE IMPORTANTLY PERHAPS, YOUR MEMBERS OF THE BAR ASSOCIATION, BOTH ON THE

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STATE AND NATIONAL LEVEL. AND TO HAVE YOU ACT IN A VERY PERFUNCTORY MANNER, WITH NO DISCUSSION, NO CONSIDERATION OF THEIR VIEWS, WE DON'T KNOW WHAT YOU FEEL; WE DON'T KNOW WHAT YOU THINK YOU'RE ACCOMPLISHING BY ADOPTING THESE REGULATIONS. IT STRIKES ME THAT PERHAPS YOU MAY SAVE YOURSELF AN EXPENSIVE MEETING IN SAN FRANCISCO IN THE FUTURE IF THE INPUT THAT WE GIVE YOU HERE IS GOING TO BE REFUSED. BUT I WOULD CAUTION YOU, BASED UPON MR. BOGARD'S ADMISSION OF IGNORANCE, THAT THE STEPS THAT YOU HAVE TAKEN TODAY IN THE DARK MAY SHOW YOUR FIDUCIARY DUTY YOU HAVE STATED AND MAY IN FACT BE DETRIMENTAL TO THE LEGAL NEEDS OF POOR PEOPLE.

MR. MC CARTHY: THANK YOU FOR YOUR COMMENTS. EXCUSE ME, PLEASE. CONTINUING ON THE AGENDA, THERE WAS ONE COMMENT AND ONE PROMISE THAT WE DID MAKE, TO JIM (BRAUDE) THIS MORNING, THAT WE WOULD FINISH THE AGENDA ITEMS AND WE WOULD THEN ENTERTAIN YOUR MOTION TO AMEND THE AGENDA. AND I BELIEVE THERE WAS SOMEONE ELSE THAT WANTED TO SPEAK.

AND IF WE CAN ENTERTAIN THEM NOW, WE WILL COME BACK TO YOU FINALLY FOR THAT, JIM.

MR. BRAUDE: I SHOULD SAY, I DON'T WANT TO SPEAK FOR SOMEONE WHO IS NOT HERE. THE FIRST PERSON WHO REQUESTED TO HAVE AN ITEM PUT ON THE AGENDA, THE NAME I DON'T REMEMBER, KEVIN SOMETHING, WHO WANTED TO SPEAK TO THE QUESTION OF THE TRAINING CENTERS. AND I BELIEVE WHEN THERE WAS DIALOGUE,

MR. KEVIN KERRY WANTED TO SPEAK TO THAT QUESTION, AND HE WAS FROM A TRAINING CENTER. AND YOU, MR. MC CARTHY, EARLY IN THE DAY, HIS FINAL QUESTION WAS: IS IT TRUE THAT THIS WILL NOT BE ON THE AGENDA? AND AFTER LOOKING SIDE TO SIDE, YOU DID IN FACT SAY, NO, THAT'S CORRECT, IT WILL NOT BE.

SO THEY HAVE LEFT, SO I WOULD SUGGEST IT'S NOT APPROPRIATE TO ENTERTAIN AN AMENDMENT TO OPEN THAT QUESTION UP.

THE OTHER QUESTION ABOUT WHAT WE WANT TO ADDRESS YOU GENTLEMEN ON WAS THE QUESTION OF THE ORGANIZED DRIVE AT THE LEGAL SERVICES CORPORATION. MS. STEINBROOK SPOKE ABOUT THAT. WE HAVE A LARGE NUMBER OF CONCERNS, INCLUDING PROBABLY THE GREATEST AMONG THEM BESIDES THE ISSUE OF A FAIRLY INTENSE CAMPAIGN OF HARRASSMENT AND INTIMIDATION OF THIS STAFF, WE'RE ALSO TERRIBLY CONCERNED ABOUT WHAT WE UNDERSTAND IS AN EXPENDITURE OF NEARLY $100,000 OF MONEY INTENDED FOR POOR PEOPLE'S LEGAL SERVICES THAT'S BEING SPENT AND PAID TO THOMPSON, MANN AND HUDSON.

INCIDENTALLY, I'VE HEARD A COUPLE OF PEOPLE SAY THEY RECENTLY, WELL CONSTANTLY THE REFERENCE HAS BEEN MADE BY A NUMBER OF PEOPLE TO THE FACT THAT J.P. STEVENS' LAW FIRM, THOMPSON, MANN AND HUDSON, IS THE SAME ONE, AND AREN'T WE ENTITLED TO HIRE COUNSEL, JUST FOR THE RECORD, YOU ARE ABSOLUTELY ENTITLED, I THINK, AND YOU WOULD BE TERRIBLY UNWISE NOT TO HIRE LABOR COUNSEL IN A LABOR DISPUTE.

AND I THINK THAT YOUR SELECTION OF COUNSEL IS INDICATIVE OF HOW YOU WANT TO GO WITH A CAMPAIGN. IT'S PERFECTLY LEGAL AND PERFECTLY INDICATIVE OF THE KIND OF NOTION THAT YOU HAVE ABOUT EMPLOYEES' RIGHTS.

THE LAST THING THAT I WOULD SUGGEST, AND I, FRANKLY, DIDN'T KNOW YOU WERE GOING TO BE VISITING, MY APOLOGIES FOR NOT HAVING AS ORDERLY PRESENTATION AS YOU WOULD LIKE. SOME OF YOUR STAFF FELT IT APPROPRIATE TO RESPOND TO SOME OF THE FACTUAL ALLEGATIONS MADE BY MS. STEINBROOK. I THOUGHT, FRANKLY, IT WAS DISCUSSED, AND I FRANKLY THINK THAT IT'S UNBELIEVABLE THAT STAFF PEOPLE HAD TO CONTINUALLY DO YOUR BIDDING. I SHOULD SAY THAT ON THE ORGANIZING DRIVE OF LEGAL SERVICES CORPORATION, IN ADDITION TO A DISCUSSION WITH MR. BOGARD, WHERE -- PARDON ME -- A LETTER TO MR. BOGARD ASKING RECOGNITION OR SOME DISCUSSION BE HELD, DISCUSSIONS WERE NOT HELD.

IN ADDITION, AT THAT TIME I WAS CRITICIZED VERY, VERY HEAVILY FOR THIS AND A LETTER WAS ALSO DELIVERED -- PARDON ME -- A COPY OF THAT LETTER WAS DELIVERED TO THE CORPORATION FOR ALL FOUR OF YOUR GENTLEMEN, BECAUSE SOME OF US HARBOR THE NOTION, WHICH I GUESS PROVES TO BE A BIT NAIVE, THAT SOME OF YOU MIGHT BE LESS INTERESTED ENOUGH TO ASK SOME QUESTIONS.

UNLESS SOMEONE ELSE IN MY ORGANIZATION WAS CONTACTED, NOT ONE OF YOU ASKED THE QUESTION, AND THE ONLY

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COMMENT I HEARD FROM ANY OF THE FOUR BOARD MEMBERS OF THE ORGANIZATION WAS A VERY, VERY SERIOUS BUSINESS -- BY THE WAY, IT'S NOT JUST -- I'LL JUST SAY IT'S A GROUP OF WORKERS, AND YOU SHOULD APPRECIATE THE NINE-YEAR HISTORY OF LEGAL SERVICE. THERE HAS NEVER BEEN SUCH AN EFFORT, AND WITH THE NUMBER OF LAYOFFS, DESPITE ALL OF THOSE FACTS, THERE'S NEVER BEEN TALK OF A UNION AT LEGAL SERVICES. AND WE REPRESENT SEVERAL THOUSANDS OF PEOPLE ON A NEIGHBORHOOD PROGRAM, BUT NEVER HAS THERE BEEN TALK TO LAWYERS AS TO THE NEED OF A UNION.

NEEDLESS TO SAY, SOMETHING PRETTY DRAMATIC MUST HAVE BEEN HAPPENING --

MR. SANTARELLI: CHANGE IN MANAGEMENT.

MR. BRAUDE: THERE HAVE BEEN CHANGES IN MANAGEMENT BEFORE, MR. SANTARELLI, AND THERE HAVE BEEN -- WE WROTE A LETTER ABOUT OUR CONCERN, WROTE A LETTER TO YOU GENTLEMEN ABOUT THIS UNION SITUATION, AND THERE WAS NO RESPONSE. WE WERE VERY CONCERNED ABOUT THE EXCESSIVE EXPENDITURE OF FUNDS; NO RESPONSE.

THE ONLY WORD I HAVE HEARD TO THIS DATE FROM ANY ONE OF THE FOUR OF YOU AT ALL ABOUT THIS UNION DRIVE IS NOT DIRECTLY TO ME, BUT A QUOTE FROM YOU, MR. MC CARTHY, AND I BELIEVE THE LOS ANGELES DAILY JOURNAL, I MAY BE WRONG, ONE OF THE CALIFORNIA LAW PAPERS; WHEN ASKED IF YOU AGREED WITH THE POSITION THAT WAS BEING TAKEN BY THE PRESIDENT OF

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MR. CHAPMAN: MR. MC CARTHY, COULD I ASK TWO QUESTIONS: I'VE BEEN FOLLOWING FEDERAL REGULATORY LAW ISSUES; THEY ARE PUBLISHED FOR COMMENT BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, THE DEPARTMENT OF URBAN DEVELOPMENT.

TYPICALLY IN THE WORKUP THERE HAD BEEN SOME CRITICISM COMING FORTH TODAY THAT PEOPLE DON'T KNOW WHAT THE COMMENTS ARE. BOARD MEMBERS APPARENTLY DON'T KNOW WHAT SOME OF THE COMMENTS HAVE BEEN PROPOSED, AND TYPICALLY THESE AGENCIES USUALLY, IN THE FEDERAL REGISTER, REPORT WHAT THE COMMENTS WERE IN TYPES AND CATEGORIES.

TYPICALLY, THEY WOULD SAY, 110 COMMENTS WERE RECEIVED ON THE CLIENT ELIGIBILITY ISSUE AND BREAK THEM DOWN INTO SOME ANALYSIS OF THE COMMENTS COMING INTO THE CORPORATION.

WOULD IT BE POSSIBLE, MY FIRST QUESTION IS, WOULD IT BE -- I ASSUME SOME TYPE OF WORKUP LIKE THAT HAS TO TAKE PLACE SO THAT YOU WOULD HAVE THAT FOR YOUR DELIBERATIONS. IF SUCH A DOCUMENT IS WORKED UP, COULD THAT BE MADE PUBLIC, BOTH FOR THIS MEETING AND FOR FUTURE MEETINGS? THAT'S THE FIRST QUESTION.

MR. MC CARTHY: THAT QUESTION I WILL REFER TO DON, HERE.

MR. BOGARD: THAT SORT OF A DOCUMENT IS PREPARED BY THE GENERAL COUNSEL'S OFFICE. I DON'T KNOW

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THE CORPORATION, MR. BOGARD, YOUR QUOTE WAS, "BUT IT IS CORRECT," WAS AT LEAST THIS IS HOW IT WAS PRINTED IN THE PAPER. AND YOU KNEW NOTHING ABOUT THE DRIVE AND NOT BEING CONSULTED, I PERSONALLY HAND-DELIVERED FOUR LETTERS PLUS MR. BOGARD'S, AND I WOULD ASSUME IF YOU WERE TO BE TELLING THE TRUTH, I BELIEVE YOU WERE, THAT THE FOUR OF YOU DIDN'T RECEIVE THAT COMMUNICATION, AS MS. STEINBROOK SAID AT THE END OF HER COMMENTS, DESPITE WHAT SOMEONE CALLED MINDLESS NAIVETY, WE REMAIN READY TO SPEAK TO YOU, MR. BOGARD, AS WE HAVE IN EVERY OTHER UNION DRIVE. WE WOULD LIKE TO SETTLE THIS AMIABLY, SO EVERYBODY CAN GET BACK TO DOING THEIR JOB. NO ONE IS HARRASSED; THAT'S OUR GOAL.

AND ALSO OUR LEGAL RIGHT TO PROCEED -- AND I WOULD SAY TO YOU, ALL FOUR OF YOU, AS WELL AS MR. BOGARD, SO THERE IS NO DISPUTE TOMORROW; WE'RE WILLING TO MEET. WE'RE WILLING TO MEET NEXT WEEK IN WASHINGTON, SOME OF YOU GENTLEMEN WORK THERE, AT ANY TIME, TO DISCUSS A FAIRLY SPEEDY RESOLUTION TO THIS MATTER.

AND THAT'S A STANDING OFFER. AND HERE WE ARE, AND I WOULD SUGGEST THAT I'M ALSO HERE IF ANY OF THE FOUR OF YOU OR FIVE OF YOU, INCLUDING MR. BOGARD, HAVE ANY QUESTIONS. I WOULD BE MORE THAN HAPPY TO ANSWER THEM.

MR. MC CARTHY: THANK YOU, JIM. I APPRECIATE YOUR OFFER, AND I KNOW IT WILL BE CONSIDERED FOR WHATEVER ACTION WILL BE DETERMINED.

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JIM, BY YOUR LEAVING THE PODIUM, DO I GATHER THAT YOU DO NOT WISH TO REQUEST AN AMENDMENT TO THE AGENDA AT THIS TIME?

MR. BRAUDE: CAN I ASK YOU AN HONEST QUESTION IN RETURN? ALL WE WANTED WAS TO TRY TO ENGAGE IN DIALOGUE ABOUT THIS VERY SERIOUS ITEM --

MR. MC CARTHY: I DID COMMENT TO YOU THAT WE WOULD CONSIDER IT, AND I ALWAYS TRY --

MR. BRAUDE: THE ONLY OTHER ITEM WAS THE TRAINING CENTERS, AND I THINK MOST OF YOU HEARD, AS I SAID, MR. KERRY HAS LEFT.

MR. MC CARTHY: THANK YOU VERY MUCH, JIM. I CERTAINLY APPRECIATE THAT. I THINK THAT DON HAS ONE TECHNICAL CORRECTION TO MAKE.

MR. BOGARD: I WOULD SIMPLY ASK TO MAKE A MOTION FOR THE BOARD TO AUTHORIZE THE STAFF TO ENGAGE IN THE USUAL TECHNICAL CORRECTIONS TO RESOLUTIONS AND OTHER ACTIONS OF THIS BOARD, CONSISTENT WITH THE INTENTIONS OF THE BOARD, WHERE THEY MAY HAVE BEEN INCONSISTENT, IN TERMS OF THEIR ARTFUL PHRASING.

MR. MC CARTHY: IS THAT THE MOTION?

DO I HEAR A SECOND?

MR. RATHBUN: SECOND.

MR. MC CARTHY: MR. MASSON?

MR. MASSON: AYE.

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MR. MC CARTHY: MR. SANTARELLI?

MR. SANTARELLI: AYE.

MR. MC CARTHY: MR. RATHBUN?

MR. RATHBUN: AYE.

MR. MC CARTHY: I WANT TO THANK ALL OF YOU IN THE AUDIENCE FOR YOUR PATIENCE. I THINK YOU'VE BEEN MOST HELPFUL TO US TODAY. I THINK YOU'VE SEEN THE REACTION ON OUR PARTS TO BE OBJECTIVE, AND WE'VE HAD VERY SUBSTANTIVE TYPES OF PRESENTATIONS WHICH WILL HELP US, AND THAT IS WHAT WE ENDEAVOR TO DO IN THESE PUBLIC HEARINGS.

WOULD YOU LIKE TO ADD SOMETHING?

A SPEAKER: I JUST HAVE ONE QUESTION: IT'S A VERY TECHNICAL, PROCEDURAL ONE. THE AGENDA FOR THIS MEETING WAS PUBLISHED AND INDICATED THAT THE FUND BALANCE INSTRUCTION WAS ON THE AGENDA. AT THE TIME OF THE ADOPTION OF THE AGENDA, WAS THE AGENDA AS PUBLISHED IN THE FEDERAL REGISTER PART OF THE AGENDA? IF SO, THE BOARD HAS NOT DEALT WITH THAT ISSUE AS PART OF THE AGENDA AS YET.

MR. MC CARTHY: WELL, THAT QUESTION CAME UP BEFORE AND I ASKED COUNSEL AND I WAS ADVISED IT WAS NOT ON THE AGENDA. SO I THINK I WILL RELY ON THAT.

A SPEAKER: AM I CLEAR IN WHAT YOU'RE SAYING, THAT THE AGENDA WAS PUBLISHED IN THE FEDERAL REGISTER, THE ISSUE THAT IS CONFUSING TO ME IS WAS THE AGENDA THAT WAS MOVED AT THE BEGINNING OF THE SESSION THE AGENDA THAT WAS

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PUBLISHED IN THE FEDERAL REGISTER?

IF THAT IS THE CASE, THEN IT IS ON THE AGENDA.

MR. MC CARTHY: THE MOTION FOR THE ADOPTION OF THE AGENDA WAS THE AGENDA IN THE BOARD BOOK; THAT IS, THE TENTATIVE AGENDA; IS THAT CORRECT?

THAT'S CORRECT.

A SPEAKER: BEFORE THE MEETING ADJOURNS, I JUST WANT TO EXPRESS ONE MORE OUTRAGE THAT I FEEL TODAY, IN THAT THERE WAS REPEATEDLY A CUT-OFF OF PEOPLE WHO WERE TRYING TO MAKE COMMENTS, BECAUSE THERE WAS NOT TIME IN THE FULL AGENDA.

AND NOW WE FIND YOU'VE CONCLUDED YOUR ENTIRE AGENDA IN ONE DAY. THERE WOULD BE NO -- OBVIOUSLY, THERE WOULD BE AT LEAST THREE OR FOUR MORE HOURS PLANNED TOMORROW, AND THERE WERE PEOPLE WHO WISHED TO SPEAK TO THE BOARD TOMORROW, WHO ARE NOT ABLE TO BE HERE TODAY. I HOPE NONE OF THEM WHO ARE TRAVELING COME TO SAN FRANCISCO TO FIND, AS I DID WHEN I WENT TO WASHINGTON FOR A BOARD MEETING, TO FIND THAT IT WAS CANCELLED AS PRECIPITOUSLY AS IT HAS BEEN HERE. AND I THINK WHEN THE DECISION OF THE BOARD TO TERMINATE THEIR PROCEEDINGS TONIGHT WAS MADE, IT WOULD HAVE BEEN COURTEOUS TO ADVISE US AS SOON AS POSSIBLE SO, FOR INSTANCE, WE COULD HAVE CHECKED OUT OF THE HOTEL WITHOUT HAVING TO SPEND THE MONEY FOR ANOTHER NIGHT'S LODGING.

MR. MC CARTHY: THANK YOU FOR YOUR COMMENTS. IT'S APPRECIATED.

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THAT IT HAS TRADITIONALLY BEEN PUBLISHED AS SOMETHING WE CAN CONSIDER. I DON'T BELIEVE IT HAS BEEN PUBLISHED. IT'S SOMETHING WE'LL CONSIDER, SURE.

MR. CHAPMAN: OKAY. I GUESS WHAT THE OTHER POINT IS IS THE BOARD BOOK, I HAPPENED TO RUN INTO LYNN BERNSTEIN LAST NIGHT. SHE WAS KIND ENOUGH TO DROP A BOOK IN MY SLOT, BUT AS WE POINTED OUT IN THE ISSUE OF STATE SUPPORT, YOU KNOW, APART FROM A PERSONAL OBSERVATION WITH DENNIS DAUGHTERTY, THE WORD NEVER GOT OUT THAT THE CORPORATION INTENDED TO CHANGE THE REGULATION, TO CLEARLY PUT IN STATE SUPPORT UNDER THE SUBGRANT.

AND THE ISSUE IS, OR THE QUESTION IS:

ARE THOSE BOARD BOOKS, WHEN THEY ARE SENT OUT TO BOARD MEMBERS, CAN THEY BE SENT TO OTHER INTERESTED PERSONS WHO ARE CONSIDERING IT AND DECIDING WHETHER OR NOT THEY WANT TO COME TO THE MEETING AND WHETHER THE BOARD CAN PROVIDE FURTHER NOTICE IN THE FUTURE, ADDITIONAL NOTICE OF BOARD MEETINGS?

MR. SANTARELLI: IT ISN'T THE BOARD BOOK THAT YOU WANT AS MUCH AS YOU WANT THE AGENDA.

MR. CHAPMAN: WELL, GENERALLY THE BOARD BOOK INCLUDES COPIES OF THE PROPOSED REGULATIONS.

MR. SANTARELLI: WHAT DO WE ORDINARILY DO WITH THOSE?

MR. BOGARD: WE SEND OUT A NUMBER OF COPIES,

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LEE ANN AND --

LEE ANN: THE COPIES FOR THE BOARD BOOK GO OUT, IT'S A CERTAIN MAILING LIST AND THEN TO ANYBODY ELSE WHO REQUESTS THEM IN THE MAIL. SOMETIMES IN THE TIMING, BY THE TIME THE PRINT SHOP GETS THEM PRINTED, THEY'RE SUCH THAT MAILING THEM ACROSS THE COUNTRY WOULDN'T DO ANY GOOD.

SO IT JUST VARIES.

MR. BOGARD: WHY DON'T YOU SEND US A NOTE SAYING THAT YOU WANT THE LIST; WE'LL SEE WHAT WE CAN DO.

MR. CHAPMAN: I GUESS THE KEY THING IS THAT EVERYONE NEEDS TO HAVE ADDITIONAL NOTICE OF WHEN THE BOARD MEETINGS ARE GOING TO OCCUR AND WHAT'S GOING TO BE IN THEM.

LEE ANN: ARE YOU TALKING ABOUT THE BOARD BOOK OR REGISTER?

MR. CHAPMAN: THE BOARD BOOK, WHICH INCLUDES COPIES OF THE PROPOSED REGULATIONS THAT ARE CHANGED FOLLOWING STAFF MEETINGS.

WHAT HAPPENS IS THE BOARD IS GOING TO MEET IN DECEMBER, AND DO YOU HAVE ANY TENTATIVE WEEK OR WEEKS WHERE WE WOULD KNOW --

MR. MC CARTHY: WE ARE TRYING TO SCHEDULE A MEETING, BUT WE HAVEN'T BEEN ABLE TO PIN IT DOWN AS YET. BUT WE ARE CERTAINLY TRYING, RANDY.

IS YOUR REQUEST IF YOU WOULD SEND LEE ANN A NOTICE, IF IT COMES OUT IN TIME -- THAT'S OUR PROBLEM --

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WE WOULD BE GLAD TO ACCOMMODATE YOU.

MR. CHAPMAN: AT A VERY MINIMUM, CAN WE HAVE A COPY OF THE COMPILISATION OF THE COMMENTS AT THE TIME OF THE MEETING?

MR. MC CARTHY: THAT'S SOMETHING WE'LL CONSIDER. IF WE CAN, WE CERTAINLY WILL.

ARE THERE ANY OTHER PUBLIC COMMENTS BEFORE WE ADJOURN?

MR. MASSON: I MOVE THE MEETING BE ADJOURNED.

MR. SANTARELLI: SECONDED.

MR. MC CARTHY: I WANT TO AGAIN REPEAT MY STATEMENT THAT I DO THANK YOU ALL FOR YOUR COURTESY, PATIENCE AND YOUR VERY VALUABLE INPUT. I TRUST WE'LL SEE YOU AGAIN AT THE NEXT BOARD MEETING. I DON'T KNOW WHEN IT WILL BE, WHERE; BY GENERAL CONSENT OF THE BOARD, THIS MEETING IS ADJOURNED.

(BOARD MEETING ADJOURNED AT 7:40 P.M.)

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CERTIFICATE OF REPORTER

I, WANDA J. HARRIS, THE UNDERSIGNED OFFICIAL REPORTER OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, 450 GOLDEN GATE AVENUE, SAN FRANCISCO, CALIFORNIA, DO HEREBY CERTIFY:

THAT THE FOREGOING TRANSCRIPT, PAGES NUMBERED 1 THROUGH 290 INCLUSIVE, CONSTITUTE A TRUE, FULL AND CORRECT TRANSCRIPT OF MY SHORTHAND NOTES TAKEN AS SUCH OFFICIAL REPORTER TO THE PROCEEDINGS HEREINBEFORE ENTITLED, AND REDUCED TO TYPEWRITING TO THE BEST OF MY ABILITY.

Wanda J. Harris

WANDA J. HARRIS, C.S.R.