

LEGAL SERVICES CORPORATION  
REAUTHORIZATION COMMITTEE MEETING

OPEN SESSION

April 20, 1991

9:40 a.m.

Chicago Marriott Downtown  
540 North Michigan Street  
Chicago, Illinois 60611

Board Members Present:

Basile J. Uddo, Chairman  
Howard H. Dana, Jr.  
J. Blakeley Hall  
Jo Betts Love  
George W. Wittgraf  
Jeanine E. Wolbeck

Staff Present:

David Martin, President  
Patricia Batie  
Ken Boehm  
Emilia DiSanto  
Christopher Dowe  
Maureen Gawler

RECEIVED

APR 23 1991  
5:25 pm  
Executive Office

Diversified Reporting Services, Inc.

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

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

1  
2 CHAIRMAN UDDO: I would like to call the meeting to  
3 order. We recessed yesterday afternoon to reconvene this  
4 morning. And I think as everyone knows, today the committee's  
5 purpose is to deliberate. We hope come to agreement on some  
6 suggestions that we can make to the board with respect to the  
7 questions of reauthorization.

8 We're not taking additional testimony today but  
9 there are a few things that I did want to do. The first thing  
10 is to ask Ken Boehm, from our staff, to come up to the table  
11 and to put into the record the process we used for  
12 establishing these hearings. We've had two days of hearings  
13 and we've seen a lot of people come through here but I want to  
14 make sure that the record reflects how we went about inviting  
15 people to speak, where the invitations went and that sort of  
16 thing.

17 So, Ken, if you would just put that on the record in  
18 terms of -- Ken ran the whole thing so he has all the  
19 information. And if there are any questions when he's  
20 finished, from committee members or board members, we'll go  
21 into that.

22 MR. BOEHM: Good morning, Mr. Chairman, members of

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 the Reauthorization Committee and members of the Legal  
2 Services Corporation Board. For the record my name is Ken  
3 Boehm and I serve as assistant to the President and counsel to  
4 the board of LSC.

5 For the record the Reauthorization Committee -- for  
6 the record of the Reauthorization Committee I would like to  
7 summarize the efforts, the outreach efforts, of this committee  
8 and the LSC staff with respect to the public hearings both in  
9 San Francisco and here in Chicago.

10 From the beginning the Reauthorization Committee  
11 under the leadership of its Chairman, Mr. Basile Uddo,  
12 stressed two major objectives for the public hearings. The  
13 first is that every effort be made to encourage participation  
14 by groups and individuals representing all points of view on  
15 legal services issues.

16 Second, to encourage all those participating to be  
17 specific, wherever possible, in their recommendations as to  
18 reauthorization issues in order to assist the committee in its  
19 deliberations. In order to encourage the widest possible  
20 participation the LSC staff made a number of efforts in  
21 addition to the required posting of notice in the Federal  
22 Register for both meetings.

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1           Invitations were sent to every Legal Services  
 2 grantee in California and in Illinois, as well as the  
 3 surrounding states. Most of the California grantees were also  
 4 telephoned prior to the meeting encouraging participation,  
 5 seeing if they had an interest in further materials.

6           Groups and individuals participating in public  
 7 hearings before the House Judiciary Subcommittee on  
 8 Administrative Law and Governmental Affairs in 1989, 1990 and  
 9 1991 received invitations as did those who testified before  
 10 the LSC Board during the last two years.

11           Other invitations as well as copies of the notice  
 12 went to those members of Congress who have played an active  
 13 role in the legal services issues in recent years.

14           And finally, those in the legal media and key  
 15 interest groups which have followed legal services issues were  
 16 encouraged to publicize the hearing and did so in their own  
 17 publications.

18           The net results of these outreach efforts was  
 19 impressive. The San Francisco hearing on April 5th featured  
 20 testimony from a total of 27 individuals and received  
 21 statements for the record from 10 more. The Chicago hearing  
 22 yesterday had 20 participants with written statements being

1 introduced into the record from five others.

2 In all, 47 individuals participated in person, 15  
3 others through written statements. Eight of the eleven  
4 members of the LSC board attended sessions of these two public  
5 hearings. And further, no individual or organization  
6 requesting participation in either public hearing was  
7 excluded. This resulted in two fairly long days of hearings,  
8 as members of the committee know. And those unable to attend  
9 but wished to have their viewpoints considered were encouraged  
10 to participate through written statements, and as I mentioned,  
11 15 did.

12 To further the second objective of the committee,  
13 specific recommendations regarding legal services issues  
14 involved in reauthorization, a number of specific steps were  
15 taken. At the suggestion of Chairman Basile Uddo all  
16 participants received a copy of the Legal Services Act, the  
17 bill passed by the House Judiciary Subcommittee last year in  
18 H.R. 1345. When a new legislative proposal in draft form was  
19 made available by the Subcommittee just this past week copies  
20 were made and distributed to the board and to participants.

21 Additionally, the committee books prepared by LSC  
22 Corporate Secretary Pat Batie for both hearings included the

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 three reference documents. And those attending who did not  
2 have copies were thus able to follow the presentations as they  
3 related to the Act and the pieces of legislation.

4 Alan Severson, the Director of the Office of Policy  
5 Development Communications, oversaw the research and  
6 production of a variety of legislative analyses designed to  
7 assist the committee in its deliberations. And then when the  
8 draft legislation proposal was circulated by the Subcommittee  
9 and made available just a few days before the Chicago hearing  
10 Alan and his staff worked overtime to produce several  
11 objective analysis comparing the new draft proposal with the  
12 other legislative proposal and the original Act. So, that  
13 this is now available to the committee for their deliberations  
14 today.

15 Additionally, staff support and research came from  
16 Vic Fortuno, the acting General Counsel, and his staff for  
17 some legal questions that were presented with respect to some  
18 of these reauthorizations, and that's been made available to  
19 the committee chairman and the committee.

20 And all told more than 400 pages of legislative  
21 analyses, testimony and other reference and research materials  
22 were produced to assist the committee. And as I mentioned

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 earlier we had the in person participation of 47 individuals  
2 with 15 others participating in written form.

3 So, in all it's probably the most intensive effort  
4 at outreach and analysis by a Legal Services Corporation  
5 Committee in recent years. Thank you.

6 CHAIRMAN UDDO: Thank you, Ken. And I want to  
7 commend Ken because I think he did do a tremendous job of  
8 putting these hearings together. It was an awful lot of work  
9 and I think it was very well done; and Alan and his staff and  
10 Vic Fortuno for responding to some requests that I had. I  
11 think it produced two very productive days of hearings. I  
12 think it was logistically difficult but through their efforts  
13 I think it worked out very well. And I commend you and the  
14 rest of the staff on that.

15 And of course Ruby McCollum and Pat Batie also with  
16 the logistics of meeting arrangements. As always, I think  
17 things went very smoothly. The board and the committee are  
18 quite pleased at their efforts. Does anyone have any  
19 questions of Mr. Boehm about the process?

20 I missed part of what you said. Did you also  
21 mention that Congressman Frank and Congressman McCollum were  
22 invited?

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 MR. BOEHM: Yes, we sent a series of invitations, it  
2 was first a memo that had gone out to interested parties that  
3 Dave Martin had invited which stated not only the time and  
4 place and so forth but also that we were encouraging written  
5 participation as well as that.

6 That was followed up by -- we had a copy of the  
7 notice that went in the Federal Register that was sent to the  
8 scheduling secretaries of the Congressmen involved. And then  
9 we followed that up with a third notice for the Chicago  
10 hearing that was specifically with respect to Chicago asking  
11 for participation and interest. On top of that we worked with  
12 the Subcommittee in getting copies of the draft, the Frank  
13 Proposal, or the subcommittee proposal, this week.

14 And they actually, working with their own  
15 contacts -- at one point I had a conversation with Mr. Dana  
16 where he expressed an interest that participants today get  
17 copies of the new draft proposal and I immediately got on the  
18 phone and started calling Dee Miller and some of the others  
19 and found out that the Subcommittee was ahead of me, they had  
20 already gotten drafts out to the speakers who were  
21 participating.

22 So, we did make sure that the subcommittee at all

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 stages knew that the Congressmen's personal committees  
2 received copies of everything. And I think that was part of  
3 the reason we were included in the circulation list for the  
4 draft proposal which, of course, as far as we know as close of  
5 business yesterday I don't think has been introduced yet but  
6 still is important to your deliberations.

7 CHAIRMAN UDDO: And also, I don't know if you  
8 mentioned that the San Francisco hearings, and I assume we'll  
9 do the same for the Chicago hearings, were followed up with a  
10 letter to each person that testified expressing our  
11 appreciation for their testimony and a copy of their testimony  
12 from the transcript.

13 MR. BOEHM: Which we're going to do for Chicago as  
14 well. We're just in the process of finishing up getting the  
15 abstract -- not the abstracts, but each individual is going to  
16 get a copy of their own transcript with a thank you note.

17 CHAIRMAN UDDO: I think that's a nice courtesy. Any  
18 questions of Mr. Boehm from the committee? Mr. Wittgraf?

19 MR. WITTGRAF: Mr. Boehm, you were present I think  
20 yesterday when Mr. Wootton testified at the end of the  
21 hearing. Let me pose the same question to you that I did to  
22 him. As I understand it from the standpoint of the House

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 Judiciary Subcommittee Chairman, Mr. Frank, his principle aid  
2 in the drafting of the legislative proposals is Paul Drolet  
3 and will continue to be throughout the process in his capacity  
4 as chief counsel to the Administrative Law Subcommittee of the  
5 House Judiciary Committee. Mr. McCollum and Mr. Stenholm, who  
6 are principally interested in alternative approaches to some  
7 of the issue areas here are not on the Subcommittee, of  
8 course, Mr. McCollum is on the Full House Judiciary Committee.  
9 I don't believe Mr. Stenholm is. What's your understanding of  
10 who the appropriate staff members are relating to Congressman  
11 McCollum and Congressman Stenholm or anyone else, perhaps  
12 Congressman Gekas, the ranking Republican on the Ad Law  
13 Subcommittee with whom we should be dealing, who is a  
14 counterpart to Mr. Drolet, as far as you know?

15 MR. BOEHM: There are really four staff members that  
16 I think should be considered for this. First, would be the  
17 counterpart of Paul Drolet, as Paul, as you mentioned, will be  
18 the key principal staffer for Congressman Frank on the  
19 Subcommittee he serves as majority counsel.

20 On the Republican side minority counsel is Ray  
21 Smietanka, spelled S-m-i-e-t-a-n-k-a.

22 MR. WITTGRAF: That makes Wittgraf look good.

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 MR. BOEHM: Anyway, he has served as a judiciary  
2 committee counsel in previous years. Mr. Gekas has served on  
3 that committee but not on this Subcommittee till this year.  
4 He is Mr. Gekas' principal person, he's minority counsel and  
5 is structurally the counterpart to Mr. Drolet. He has a  
6 little bit less experience for the reason I just mentioned,  
7 he's just new in the Subcommittee and also Mr. Drolet had  
8 worked in I believe one of the legal services programs as a  
9 Harvard Law School grad, was Mr. Morrison's A.A. and Mr.  
10 Morrison was very interested in this issue as well.

11 So, in terms of depth of background I think --

12 MR. WITTGRAF: How do you spell Drolet?

13 MR. BOEHM: Drolet is D-r-o-l-e-t, I believe. And  
14 then for Mr. McCollum, he serves on the committee, as you  
15 mentioned although not on the Subcommittee. His legislative  
16 counsel for the Judiciary Committee is Carmel Fisk. She is  
17 relatively new to his staff, although she's had about seven  
18 years Hill experience; is an attorney, Georgetown Law, and is  
19 a very competent individual. She would be his principal  
20 legislative counsel with respect to these issues.

21 On his staff the person probably most familiar would  
22 be Don Morrissey, who is his legislative director of his

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 Congressional Staff and Don has been with him for ten years  
2 and is fairly familiar although is not an attorney and  
3 frankly, in the previous reincarnations of McCollum/Stenholm  
4 most of the staff work, as you know, was done by Paul McNulty  
5 who has since left to go over to the Policy Development shop  
6 at Justice.

7 So, Don is not quite as familiar as Paul McNulty  
8 would have been just because of Paul's background with the  
9 Corporation and his assistance at the very beginning in  
10 helping draft and so forth.

11 There are two other staffers that you should have on  
12 that list and that would be with Congressman Stenholm you have  
13 Beka Tice and Russ Middleton and both Beka and Russ have been  
14 with Congressman Stenholm throughout, are fairly familiar,  
15 have attended a lot of the legislative sessions. They are not  
16 attorneys but are fairly familiar with the issues involved and  
17 and have participated in meetings and so forth, the drafting  
18 of floor statements, et cetera.

19 So, I mean those -- I guess I actually listed five  
20 individuals?

21 MR. WITTGRAF: Yes, sir.

22 MR. BOEHM: They would be the principle staff that

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 you would want to touch base with with respect to these  
2 individuals.

3 MR. WITTGRAF: Thank you, that's exactly what I was  
4 wondering. In addition, I had the sense in visiting with Mr.  
5 Wootton a little bit informally after the conclusion of the  
6 hearing yesterday that he had been principally involved in the  
7 drafting of H.R. 1345. Are any of these people or anyone else  
8 individuals who have been involved in that drafting process,  
9 do you know?

10 MR. BOEHM: I don't know. I did not attend any of  
11 those meetings so I don't know what went back and forth. I  
12 know just from previous years dealings that Congressman  
13 McCollum more or less keeps his own counsel since Paul McNulty  
14 has left. In part because as I say, Carmel Fisk just joined  
15 the staff recently. She's the only one of the group that's an  
16 attorney and because of his own personal long involvement he  
17 tended to do his own interaction with legislative counsel.

18 So, beyond that I don't know although I know from  
19 previous years that McCollum was the principal person on the  
20 staff after McNulty left.

21 MR. WITTGRAF: Thank you, Mr. Boehm. Thank you, Mr.  
22 Chairman.

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 I've done into areas that may not be of our first concern.  
2 So, with that on the floor I might ask what other people's  
3 thoughts are in that regard.

4 CHAIRMAN UDDO: Let me just ask you, Bud, are you  
5 suggesting -- so I can be clear about this -- that we do  
6 nothing or that we do certain limited things that you think,  
7 in your opinion, might reflect areas we should make some  
8 statement on. As I understood what Bill McCalpin said  
9 yesterday is that there are some areas that he thinks we  
10 should legitimately address in the reauthorization process.  
11 Is that what you're agreeing with or you feel that we  
12 shouldn't do anything?

13 MR. KIRK: Well, one or -- I mean, either one. I  
14 guess that, again, I would like to hear what others have to  
15 say in that regard.

16 CHAIRMAN UDDO: All right. Then any other members  
17 of the committee have thoughts on what approach we should take  
18 to making some decisions here about the board's position on  
19 reauthorization if there is one? Mr. Wittgraf?

20 MR. WITTGRAF: Thank you, Mr. Uddo. I certainly can  
21 sympathize with Mr. Kirk's view in the sense that he's just  
22 had an opportunity in recent weeks and recent months to get up

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 to speed on some of the issues that are presented in the  
2 context of reauthorization because that's certainly the  
3 position in which I found myself in January and February and  
4 March of last year, as I think did most of the other new board  
5 members at that time.

6 I go one step beyond that though in my thinking and  
7 that is that perhaps hastily last year but nonetheless, and as  
8 pointed out I guess yesterday by Mr. McCalpin, our board did  
9 in June adopt a resolution generally supportive of the concept  
10 of reform. Then, in September, as Mr. McCalpin noted, by a  
11 plurality vote, I think four to two with one abstention the  
12 board specifically endorsed the McCollum/Staggers/Stenholm  
13 proposal that was being circulated during the summer and fall  
14 of last year.

15 So, that this board, albeit not with Mr. Uddo, not  
16 with Mr. Kirk and not with Mr. Rath, has addressed the issue  
17 of reform already. So, as I said, I go one step further than  
18 Mr. Kirk and that is that as long as we've come to this  
19 subject previously I think it's now incumbent upon us to come  
20 to the subject more specifically and also because  
21 reauthorization appears to be even closer at hand than it was  
22 a year ago at this time.

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 I would like to think that -- we've heard a great  
2 deal of information in the two days of hearings, in San  
3 Francisco and in Chicago. And that that information combined  
4 with the information we've gleaned from a variety of sources  
5 during the last 15 or 16 months does give us some basis for  
6 opining in some of the areas that are areas to be considered  
7 for reauthorization.

8 As I said when a couple of speakers spoke yesterday  
9 and appeared before us yesterday -- getting reauthorization  
10 through the Congress, I think, will certainly make it easier  
11 for this board to do its job, for our Corporation staff to do  
12 its job and for the grantees of the Corporation to do their  
13 jobs.

14 I would like to think that we can do our small part  
15 to speed that process. I do think that members of Congress,  
16 of both parties, of both views, can benefit from our views. I  
17 do think that the President of the United States and his staff  
18 in the White House can benefit from our views as well. So,  
19 after 15 or 16 months of discussing reauthorization and reform  
20 and particularly after the last couple of days of hearings I  
21 think that we do need to speak to some areas and I think more  
22 areas than suggested by Mr. McCalpin, areas that are critical

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 to reauthorization and at least for myself I think that I've  
2 got enough information now to be able to speak to those areas.

3 MR. KIRK: Which areas do you specify?

4 MR. WITTGRAF: Oh, I think it would be a fairly wide  
5 range, although I do certainly, Mr. Kirk, share your view that  
6 for us as a board to speak eight to three, nine to two, ten to  
7 one, eleven to zero is more meaningful relative to the  
8 Congress and relative to the White House then for us to speak  
9 on a six/five or five/four basis. And I guess where we can  
10 find consensus may determine to some extent the areas.

11 But in visiting with Congressman Frank and visiting  
12 with Mr. Drolet, his chief counsel on his Subcommittee, in  
13 visiting with staff members in the White House, I think that  
14 there is particular interest in our thoughts regarding how we  
15 see the possibilities for competition, how we see the  
16 possibilities for timekeeping, how we see the possibilities or  
17 the need for limiting non-LSC fund expenditures. If there are  
18 certain areas such as redistricting and abortion related  
19 activities where prohibitions are appropriate, as well as Mr.  
20 McCalpin's suggestions that we need to address the areas of  
21 waste, fraud and abuse which specifically had to do with our  
22 oversight as a Corporation as well as monitoring and

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 evaluation which, again, are part of our responsibilities as a  
2 Corporation.

3 And I think, too, we need to look at what have  
4 become some of they key issues such as local board involvement  
5 in class action suit initiation, such as the retention of  
6 attorneys fees awarded in litigation and such as some of the  
7 proposed special requirements for legal services attorneys in  
8 representing the poor, so called procedural safeguards.

9 So, I guess I am anticipating something in the range  
10 of eight or ten or twelve issues, but I would like those to be  
11 issues or areas in which there is a strong consensus of the  
12 board. And if we as a board, for whatever variety of reasons,  
13 happen to be particularly fractured I think I probably agree  
14 with you that those may be areas in which we will choose not  
15 to opine.

16 MR. KIRK: The ones that you did not mention,  
17 lobbying, rule making and solicitation.

18 MR. WITTGRAF: That was probably an oversight on my  
19 part. I think we're probably in a -- in my judgment in a  
20 position to opine in the lobbying, rule making area.

21 MR. KIRK: What about solicitation?

22 MR. WITTGRAF: Yes.

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 MR. KIRK: How about local control priority setting?

2 MR. WITTGRAF: Yes.

3 MR. KIRK: And attorney-client privilege?

4 MR. WITTGRAF: I guess I viewed that under the  
5 general heading of procedural safeguards, but yes.

6 MR. KIRK: Mr. Wittgraf, you've outrun me.

7 MR. WITTGRAF: I haven't been counting. I haven't  
8 actually been referring to a list. I assume we're in the  
9 neighborhood of a dozen and I think those are all key issues.  
10 And I'm pleased, as I said yesterday I think when Mr. McCalpin  
11 was testifying, that compared with 1989 and 1990 I do think  
12 that the people who are particularly engaged in this issue or  
13 on this subject, and I think particularly of Congressman Frank  
14 and Congressman McCollum, are far closer together than they  
15 were in prior years in the drafts of their legislation in  
16 1991.

17 Certainly, there is still significant differences in  
18 the areas we're discussing. But I think the fact that they  
19 have moved together, due in no small part to your involvement  
20 and to Mr. Dana's involvement as well as Mr. Uddo's  
21 involvement I think is great and I think helps speed the  
22 reauthorization process. And I would like us to continue to

Diversified Reporting Services, Inc.

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 help, to the extent we can, the differences that yet exist in  
2 those areas.

3 MR. KIRK: You mentioned you agree with me on the  
4 fracturing of a board vote. What do you think of a fractured  
5 committee vote? A three/two vote, is that something that's  
6 useful to send on to the full board or are we creating the  
7 same thing at the same level?

8 MR. WITTGRAF: I think that may be useful then the  
9 board as a whole can decide either to take a position or not  
10 to take a position. It seems to me that the principle  
11 function of our committee here under Mr. Uddo's leadership  
12 with the assistance of Mr. Boehm and the other staff members  
13 has been to compile information.

14 And I think -- and unfortunately Mr. Boehm  
15 summarized a few moments ago for the record before we  
16 connected you with you our deliberations, the great lengths to  
17 which he has gone and the fact that some 47 people did appear  
18 before us and that some 15 additional written statements were  
19 supported -- or on the subjects were presented to us and that  
20 that represents probably a more complete record than any board  
21 committee has had in recent memory.

22 Perhaps a more complete record than even the House

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 Administrative Law Subcommittee of the Judiciary has had based  
2 upon its hearings in 1989, in 1990 and 1991 so that our job as  
3 a committee I think is to help bring that information and some  
4 distillation and summary of it to the board as a whole. If  
5 there happened to be some things on which we as a committee  
6 split our opinions three to two I don't see that as any real  
7 problem. But that might be some guidance to the board as a  
8 whole that it may not want to opine in one of those areas.

9 But I'd rather, I guess, bring that to the board as  
10 a whole and I'm delighted that we've had seven and eight board  
11 members out of our eleven involved in these hearings. Just as  
12 two weeks ago in San Francisco, and yesterday here in Chicago,  
13 Mr. Hall and Ms. Love and Ms. Wolbeck are with us again.

14 So, I guess I would leave the matter of opining or  
15 not opining to the board rather than to the committee, in my  
16 judgment.

17 MR. KIRK: Just one partially related thing. In the  
18 event that this was done earlier, another point that you and I  
19 agree very strongly on, I believe, is that Ken Boehm has done  
20 a really nice job of gathering these materials and just for  
21 the record I want to say that.

22 CHAIRMAN UDDO: He has been commended for that and

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 things at least there will be one in principle perhaps.

2 CHAIRMAN UDDO: Mr. Dana?

3 MR. DANA: Well, I just -- we're fortunate in a  
4 sense that we are -- that this is not the last committee  
5 meeting before the board meeting. At least my sense is that  
6 we are going to have a meeting Saturday.

7 CHAIRMAN UDDO: Sunday.

8 MR. DANA: Sunday night. And so whatever happens  
9 today we'll have an opportunity, all of us will have an  
10 opportunity to reason together again and participate as a  
11 committee before the full board receives whatever  
12 recommendations we make. So, I think that -- I guess it is  
13 especially fortunate that the Chairman had envisioned this  
14 extra meeting so that both you and Penny will have that  
15 opportunity to set us straight or maybe change the direction  
16 of the committee.

17 CHAIRMAN UDDO: Do you want to commend me for that,  
18 Bud?

19 MR. KIRK: Yes, in fact, I'm standing up right now.

20 CHAIRMAN UDDO: I appreciate it.

21 MR. WITTGRAF: Mr. Uddo, I would like at this time  
22 and particularly so while Mr. Kirk is able to be with us for

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 another half hour, forty-five minutes, to allow the other  
2 members of the board who don't happen to be members of this  
3 committee, Mr. Hall, Ms. Wolbeck and Ms. Love, to share any  
4 thoughts they have about where they think we as a committee  
5 and in turn, we as a board, should be headed at this time.

6 CHAIRMAN UDDO: My next question is to invite any  
7 comments from the other members of the board, particularly on  
8 the question that Mr. Kirk has raised, should we proceed as a  
9 board to make these decisions and recommendations and how we  
10 should proceed. Any of you? Ms. Love, you look like you were  
11 getting ready to say something?

12 MS. LOVE: Well, if we can have some togetherness  
13 like Mr. Kirk said rather than six/five, if we can just put it  
14 together and go all the way with some of the issues then I  
15 would feel better about it, but some of them I don't go along  
16 with and some of them I do. So, I have to wait and see my  
17 inner feelings as far as the next meeting.

18 Some of it I like and some of it I dislike so I'm  
19 still on the negative side right now.

20 CHAIRMAN UDDO: I don't want to put you on the spot  
21 but when you say negative -- negative to the idea of making  
22 recommendations as to a board position?

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 MS. LOVE: You can make the recommendation but that  
2 don't mean that I like it, that's what I'm saying.

3 CHAIRMAN UDDO: Okay. So, you're saying you're not  
4 making any comment about whether you think you're going to  
5 agree with the committee or not, which is appropriate, I  
6 understand that. But you don't have any problem with the  
7 committee making recommendations to the board and the board  
8 making recommendations to Congress?

9 MS. LOVE: Right.

10 CHAIRMAN UDDO: Ms. Wolbeck?

11 MS. WOLBECK: I have mixed feelings between it. I  
12 think it's okay to make these recommendations, you know, since  
13 we've taken a stand on the fact that we would like some type  
14 of reform. But I also think that Mr. McCalpin's point made a  
15 lot of sense too to just leave it up to Congress and to just  
16 let it go at that. Let them sort it out.

17 CHAIRMAN UDDO: Thank you. Mr. Hall?

18 MR. HALL: Well, first of all, Basile, I will thank  
19 you for thanking us for coming because you have been very  
20 courteous to us with long days and little time. I think that  
21 we should make recommendations. That's kind of a gut feeling  
22 but it seems to me that that's what Congress wants us to do.

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 They want to know how we feel about it since we're going to be  
2 the ones to be involved in it afterwards. I think they want  
3 us to. I think it's important.

4 I kind of feel a little bit like what George has to  
5 say, I think it's important if we could make some lopsided  
6 recommendations. I think the more togetherness we have I  
7 think the more validity that will give our recommendation. I  
8 think if we come in with six/five and those types of things  
9 it's going to look to Congress like we're the same old -- you  
10 know, we're kind of split like the old board used to be. And  
11 six/five doesn't really tell you what you -- it doesn't really  
12 -- I don't think it really speaks for the board any more than  
13 a four/two does.

14 So, I think we should and I think that we should--  
15 I've continued to examine these issues as we've come these  
16 last few months and I think coming together on as many of them  
17 as we can is what we should do. I think compromise is the  
18 name of the game when the game is progress. So, I don't have  
19 any problem with it. I think we should make recommendations.

20 CHAIRMAN UDDO: Thank you, Mr. Hall. Any other  
21 comments, general comments? I think we should give a few  
22 minutes to my suggestion that we try to make a determination

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 about the process we're going to use. As I say, I'm  
2 fundamentally opposed to endorsing or opposing any piece of  
3 legislation or attempting to rewrite the legislation or going  
4 through the various bills section by section and stating a  
5 position.

6 It's my view that we should speak more generally and  
7 more generically to the issues. Are there any other thoughts  
8 on that?

9 MR. WITTGRAF: Mr. Chairman?

10 CHAIRMAN UDDO: Mr. Wittgraf.

11 MR. WITTGRAF: I commented earlier that I certainly  
12 hoped that the reauthorization process would be relatively  
13 speedy. Aside from that being my hope, however naive, I  
14 suspect that we will be very lucky if the House of  
15 Representatives as a whole gets to the issue of  
16 reauthorization of the Legal Services Corporation this year  
17 let alone the Senate. So, that we're looking at still  
18 essentially a two year project.

19 So, that what we say now I think we should bear in  
20 mind is something that will guide us in our reauthorization  
21 dealings with Congress over the course of the next two years  
22 which to me suggests that our comments should be fairly

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 general or fairly broad as you've indicated. And I would like  
2 to think too, and I'm thinking particularly of issues such as  
3 monitoring and evaluation, such as timekeeping, even such as  
4 competition, that if we can make some fairly broad statements  
5 now based upon the record that we've built that those can also  
6 guide us as a board and as a Corporation, with its staff,  
7 during the next year or two.

8 Monitoring and evaluation is going to continue  
9 regardless of what happens on reauthorization and the process  
10 in the Congress. And I would like to think that what we as a  
11 board feel is appropriate will continue to guide our staff  
12 even though we're not in a position at the moment to propose  
13 new regulations and the Congress isn't going to quickly move  
14 to reauthorization.

15 Likewise, we did at our last board meeting in March  
16 authorize the President of the Corporation, Mr. Martin,  
17 together with the staff and together with the operations and  
18 regulations committee of this board, Mr. Guinot, Mr. Kirk and  
19 Mr. Rath to begin to study the matter of competition. So, I  
20 would like to think that any comments we make on competition  
21 would be of some guidance not only to Mr. Martin and the staff  
22 but to that committee of the board as well.

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1           So, I do agree with you that our statements should  
2 be somewhat general and I would hope that we would view them  
3 as not only our guidance, such as it is, to the Congress and  
4 to the White House, but also our guidance to ourselves and to  
5 our staff for the next couple of years.

6           CHAIRMAN UDDO: I agree, thank you, Mr. Wittgraf.  
7 Mr. Dana, do you have any comments about this process?

8           MR. DANA: No, I don't, I think it's fine.

9           CHAIRMAN UDDO: It being?

10          MR. DANA: It being what you proposed which is a  
11 series of general statements as opposed to, at least at this  
12 stage of the game, coming up with a new piece of legislation  
13 which the board supports.

14          CHAIRMAN UDDO: Well, I think Mr. Wittgraf's point  
15 is an important one. We probably are at least two years away  
16 and there are probably going to be various versions and  
17 amendments and the like. And we really can't be in the  
18 business of rushing to meeting every time there is a change in  
19 a word or a sentence in a piece of legislation to say yeah or  
20 nay on it. Mr. Kirk, are you there?

21          MR. KIRK: Yeah, I just elbowed it.

22          CHAIRMAN UDDO: Just sat on the phone? How do you

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 feel about what I'm proposing?

2 MR. KIRK: No comments.

3 CHAIRMAN UDDO: Any board members have anything to  
4 say about this? With that in mind I guess we are -- the floor  
5 is open for suggestions as to what topic we might address  
6 first.

7 MR. WITTGRAF: Mr. Chairman, as Mr. Dana indicated  
8 he's just handed out a set of eleven or twelve or ten,  
9 whatever it is -- I haven't even looked at the number on the  
10 last page -- eleven, I guess, resolutions. I think it would  
11 be appropriate perhaps for me, if not for all of us, to take a  
12 few minutes to review these. I'm assuming that Mr. Dana may  
13 want us to consider them.

14 But I would sure like to be able to go through them  
15 before we begin that process.

16 CHAIRMAN UDDO: That's fine and maybe we can get  
17 someone from the staff to get on the phone with Mr. Kirk and  
18 read them to Mr. Kirk.

19 MR. DANA: Are you at a hotel, Bud?

20 MR. KIRK: Yes.

21 MR. DANA: We can fax it to you.

22 CHAIRMAN UDDO: That may take longer then just

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 reading it to him. He's only got about another half hour.  
2 What do you want to do, Bud, do you want us to try to fax them  
3 to you?

4 MR. KIRK: Just get me someone to read them to me,  
5 that will be fine.

6 CHAIRMAN UDDO: Ken, do you want to -- you or have  
7 someone do that.

8 MR. DANA: Why don't I just do that.

9 CHAIRMAN UDDO: Do you really want to read them out  
10 loud? I think let's let Ken do that and then everyone can--  
11 what we'll do is we'll take a five minute break while Ken is  
12 doing that and then the rest of the board members can read  
13 over these for their own purposes.

14 (A short recess was taken.)

15 CHAIRMAN UDDO: We'll end our recess and the  
16 committee is all back and Mr. Kirk has received the fax and  
17 has read over them enough to be prepared to say something.  
18 Mr. Kirk?

19 MR. KIRK: What I can say is that I am disappointed  
20 that these were in existence and I did not have a chance to  
21 see them sooner. I would strongly advise against my fellow  
22 committee members relying on what I consider are biased non-

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 objective reasons following each suggestion.

2 I'm sure I can rely on my fellow board members to  
3 see through some of these items. The only thing that I can  
4 suggest we do is that we proceed on one at a time. If I can  
5 get the first one out of the way before I leave then we will  
6 do that and I will carry forth the mantle.

7 I presume that we've all seen these for the first  
8 time this morning; is that correct?

9 CHAIRMAN UDDO: They were distributed this morning,  
10 that's my understanding. Do you want to start going through  
11 them? How much longer do you have, Bud?

12 MR. KIRK: About 15 minutes.

13 CHAIRMAN UDDO: Okay.

14 MR. WITTGRAF: Mr. Chairman.

15 CHAIRMAN UDDO: Mr. Wittgraf.

16 MR. WITTGRAF: Somewhat consistent with Mr. Kirk's  
17 concern I think that Mr. Dana has put some rationale, I'll  
18 call it, with some of the proposed principles; and I think the  
19 rationale is important, the rationale perhaps isn't always the  
20 way I would have stated it just as apparently it's not the way  
21 Mr. Kirk would have stated it and I think it would be most  
22 productive today for us to focus on the principles.

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 I guess there are eleven here and maybe there will  
2 be a few more that we will put on the table as the day  
3 progresses that don't happen to be included in the proposals  
4 made by Mr. Dana. But for us to focus on the principles and  
5 then perhaps for some members of the committee to work with  
6 our staff over the course of this week prior to next Sunday's  
7 meeting to get a little more simpler and a little more  
8 generally or objectively stated rationale to support the  
9 different principles.

10 MOTION

11 MR. WITTGRAF: But I think we'd be best off today  
12 dealing with the principles first and not to get into the  
13 rationale because I would have -- I would not use the wording  
14 in some of the rationale just as I guess Mr. Kirk would not.

15 CHAIRMAN UDDO: I'll take that in the form of a  
16 motion, is there a second? Mr. Kirk?

17 MR. KIRK: I'll second it.

18 CHAIRMAN UDDO: As I understand the motion the  
19 motion is that as we go through these that we consider the  
20 principles or the resolutions only today and that we not  
21 consider any action we take to be a statement on or an  
22 endorsement of the rationale at this point. That we would

Diversified Reporting Services, Inc.

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 invite a reworking of the rationale.

2 MR. KIRK: I would say that we only deal with  
3 principles and that the rationale, in their entirety, be  
4 stricken. I think that we're dealing with -- this is a  
5 Supreme Court opinion and if somebody wants to write a  
6 majority that's one thing but I think all we're seeking now is  
7 agreement on the principles.

8 CHAIRMAN UDDO: I guess I'll have to go back to Mr.  
9 Wittgraf. Is that the sense of what you were suggesting?

10 MR. WITTGRAF: I think eventually I would just as  
11 soon have a statement of rationale together with the statement  
12 of principle but for purposes of proceeding today I think Mr.  
13 Kirk and I are in agreement that we should, at least for the  
14 time being, deal only with the principles. I, next Sunday as  
15 we meet, would like some rationale to go with it because I  
16 think for us to make statements of principle supported by  
17 statements of rationale makes those statements of principle  
18 more substantial or more meaningful or more credible.

19 CHAIRMAN UDDO: All right, since there is agreement,  
20 the motion is to strike the rationale at this time. The  
21 motion really doesn't have to address what will happen next  
22 week but it's certainly the sense of the committee that there

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 will be some attempt to develop a rationale for any of these  
2 principles that are adopted. Any discussion? Mr. Dana?

3 MR. DANA: Yes, Mr. Chairman, I don't have any  
4 strenuous objection to striking the rationale although  
5 candidly the resolution in each case is at least the sponsor  
6 of the resolution, the person who is moving it, is moving it  
7 in the context of the rationale that it is setting forth.

8 So, at least my motion to adopt these is in that  
9 context, so a lot of these words -- take the very first one,  
10 "The Board of Directors of the Legal Services Corporation  
11 favors leaving restrictions on solicitation to state ethical  
12 rules," is what you would like to debate. I would like at  
13 least my rationale made part of the record.

14 And if other people want to supplement it, amend it,  
15 attach a different rationale that's fine but that's -- I want  
16 these resolutions and their rationale to be part of the  
17 record.

18 CHAIRMAN UDDO: Well, they already are. I mean, I  
19 think by submitting them in written form the way you have I  
20 think they are a part of the record. This is just a motion as  
21 to how to proceed on a committee vote on the individual  
22 motions. And you're right, it may make sense on some of these

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 to modify the wording if you feel that it's necessary for the  
2 principle to make sense. My reading of them I think most of  
3 them still make sense without the rationale.

4 Since we took that in the form of a motion, all  
5 those in favor of striking the rationale from the actual  
6 proposal of the principle though leaving it in the record,  
7 signify by saying aye.

8 (Chorus of ayes.)

9 CHAIRMAN UDDO: All those opposed, nay.

10 (Nay.)

11 CHAIRMAN UDDO: The ayes have it and the rationale  
12 will be stricken from the motion itself. Then I guess we  
13 should take them in order. Mr. Kirk, is that your preference?

14 MR. KIRK: That's fine, sure.

15 MOTION

16 CHAIRMAN UDDO: The first proposal that appears is  
17 the one that Mr. Dana just read, "The Board of Directors of  
18 the Legal Services Corporation favors leaving restrictions on  
19 solicitation to state ethical rules."

20 I guess we can proceed in one of several ways. We  
21 can take that as a motion by Mr. Dana and request a second if  
22 there is one or we can take it as a proposal that would

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 require a motion. I would just as soon take it as a motion  
2 and save us some time. I assume that that's what you would do  
3 anyway, Howard, right?

4 MR. DANA: Fine.

5 CHAIRMAN UDDO: I take that as a motion. Is there a  
6 second to the motion?

7 MR. WITTGRAF: I'll second the motion.

8 CHAIRMAN UDDO: The motion has been made and  
9 seconded. Discussion on the first proposal? Bud, you've just  
10 got to sound off when you want to talk.

11 MR. KIRK: Okay, I'd like to talk on that one. As  
12 far as ethical rules go I think that any national law firm  
13 with offices in every state is well aware of the fact that  
14 there are different standards for ethical conduct. And it  
15 certainly would not be out of place for any national law firm  
16 to wish to prescribe more stringent rules of ethical conduct  
17 on its attorneys then would be prescribed by the particular  
18 state bars.

19 I think to say that this Congress cannot hold its  
20 lawyers to a higher ethical standard then whatever the lowest  
21 is in any particular state where they are operating is to  
22 assume that their attorneys cannot be elevated above that, the

Diversified Reporting Services, Inc.

1515 K STREET, N.W. SUITE 643  
WASHINGTON, D.C. 20005

(202) 628-2121

1 it should be allowed to be addressed.

2 MR. WITTGRAF: I guess if I can continue for just a  
3 moment. My concern is that I'm not aware either from our  
4 hearing two weeks ago yesterday or from our hearing yesterday  
5 or from any hearings or meetings that we've had, we meaning  
6 the eight of us who have been members of the board since  
7 January and February of 1990, to indicate that this has been  
8 an area of excess or abuse. So, I guess I'm having a hard  
9 time seeing any need for there to be another standard.

10 In specific response to your comment that legal  
11 services attorneys might, in suing somebody, take into account  
12 the practical considerations of the costs of litigation to  
13 both parties, the plaintiffs and the defendants, it seems to  
14 me at least, from my county seat law practice, that that kind  
15 of consideration goes into virtually every legal proceeding  
16 that is ever initiated and generally applies to both parties,  
17 plaintiffs and defendants, when litigation is being considered  
18 and undertaken. It's simply a practical consideration along  
19 with the principled or legal considerations involved in  
20 considering litigation.

21 I guess I don't see that general concern to which  
22 you referred as being unusually compelling as it applies to

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 legal services attorneys.

2 CHAIRMAN UDDO: Mr. Dana.

3 MR. DANA: Bud, if I could just respond to a couple  
4 of points. I think it is true that some members of Congress  
5 view legal services attorneys as their lawyers. I don't think  
6 the legal services attorneys view themselves as Congress's  
7 lawyers or as even federal lawyers.

8 I think that they think of themselves as lawyers who  
9 represent -- happen to be representing poor people. There is  
10 no -- I think I am correct that no state in the nation imposes  
11 the solicitation -- the ban on a legal services attorney both  
12 providing -- both simultaneously providing a recommendation  
13 that a client has a legal problem and taking that clients  
14 case.

15 I think in every state in the nation a legal  
16 services attorney who was not working for -- was not being  
17 paid by the client; in every single state a legal services  
18 attorney may simultaneously tell a client that they have a  
19 legal problem and take their case.

20 So, what this section of McCollum does is imposes a  
21 standard that is unique in the nation. And I for one haven't  
22 seen any rationale for it.

Diversified Reporting Services, Inc.

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 MR. KIRK: I think that if Congress decides that it  
2 would like to say -- you know, 98 percent of the attorneys in  
3 the world are governed by a certain set of standards  
4 regardless of the reason and an exception is carved out for  
5 two percent, one of Legal Service Corporation pro bono  
6 attorneys and one for the other one percent.

7 I'd like for the ones that we're paying to be bound  
8 by the same rules and regulations that the rest of the world  
9 is bound by. I think they have a right to do that. And I  
10 think that the Legal Services Corporation may want the right  
11 to do that itself at some point in time without having to go  
12 to Congress if it, in the future, finds additional reasons or  
13 causes for exacting greater standards on its attorneys.

14 And I do believe that that's something within the  
15 bounds of any particular law firm.

16 CHAIRMAN UDDO: Bud, let me say, I think the  
17 discussion is on two different levels right now. I don't  
18 understand Howard or George or the motion to be saying  
19 Congress doesn't have the power to do it. That's probably  
20 something that everyone would acknowledge Congress has the  
21 power to do. I think the sense of the motion is is it a  
22 prudent step to take and is there a basis for doing something

Diversified Reporting Services, Inc.

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 that I think is questionable at best in this sense.

2 I used to teach professional responsibility, I  
3 haven't taught it in a few years, and there are very few  
4 instances of federalizing professional responsibility rules.  
5 I mean, there is an enormously long and venerable tradition of  
6 states governing the profession, the legal profession, on a  
7 state by state basis.

8 And this would be an extremely unusual step, as far  
9 as I'm concerned, to attempt to federalize professional  
10 responsibility rules. The provision in the model rules of  
11 professional conduct that did change the rules on solicitation  
12 for legal services and pro bono lawyers is one that no state  
13 has to adopt.

14 The ABA proposes those model rules but no state has  
15 to adopt them and yet virtually every state that I'm familiar  
16 with did. And if there is a problem it seems to me that that's  
17 something that should be addressed on a state level under the  
18 rules of professional conduct in that state.

19 I mean, even the federal courts in every state adopt  
20 their own standards and their own rules. There is not a  
21 federal standard that I'm aware of for professional  
22 responsibility matters. So, I just see it as a break with a

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 fairly important tradition. That professional responsibility  
2 matters are a matter for states to address.

3 And my other concern is, and this is again as a  
4 former teacher of professional responsibility, I've never been  
5 as worked up about solicitation as a lot of people are. I'm  
6 just not so sure that we know what solicitation is and that a  
7 lot of those rules aren't somewhat slanted against -- this  
8 doesn't really so much enter into the legal services world,  
9 but slanted against the plaintiff who has a legal need and in  
10 favor of a defendant.

11 And the reason I say that, and I worked in a big  
12 firm when I first got out of law school, I think all sorts of  
13 lawyers and firms try to generate business and the word  
14 solicitation is one that can be used in an awful lot of  
15 different circumstances and I think it's a sponge word that  
16 gets expanded and contracted to particular situations.

17 And it always bothered me that ethical standards are  
18 based upon something that is that malleable. But having said  
19 all that my major concern is that we ought not be encouraging  
20 federalizing professional responsibility rules. So, that's my  
21 position on this one.

22 MR. KIRK: I guess that's where we basically differ.

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 I mean, I do view this as something that as public policy  
2 issues and something that the Congress would have an interest  
3 in and if Congress has an interest in abortion then Congress  
4 can have an interest in all of these things and I really don't  
5 see how the line can be drawn.

6 I really need to leave and I think the writing is on  
7 the wall so take my vote on this first one before I leave.

8 CHAIRMAN UDDO: Your vote is against the motion?

9 MR. KIRK: Yes, it is.

10 CHAIRMAN UDDO: We'll record it. I'm going to ask  
11 the other board members if they have any views on this before  
12 anyone calls the question.

13 Any of the other members of the board have any other  
14 comment?

15 MR. KIRK: Thank you guys, see you later.

16 MR. HALL: Basile, isn't this the section of  
17 McCollum that was brought about because of all the -- I may be  
18 missing the boat here, all of the abuses that they claimed  
19 that the legal service lawyers had in relation to migrant farm  
20 workers? I mean, that's what this is about and McCollum is  
21 supposed to solve that problem if it exists, is that not  
22 right.

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 CHAIRMAN UDDO: Mr. Dana.

2 MR. DANA: Thank you, Mr. Chairman. It might be  
3 helpful to -- the answer to your question is yes. What's  
4 happened between last year and this in this particular area of  
5 McCollum/Stenholm is that they have expanded it so as to make  
6 it apply to all legal services lawyers not just the lawyers  
7 representing migrant farm workers.

8 So, one of the criticisms last year of McCollum was  
9 that it singled out lawyers representing migrant workers for  
10 special treatment. Now, in order to overcome that hurdle they  
11 have expanded the limitation on solicitation to all legal  
12 services attorneys.

13 MR. HALL: I think Bud has left us now, has he not?

14 CHAIRMAN UDDO: Yes.

15 MR. HALL: But I know that he'll be reading this  
16 transcript. What would be helpful to me would be to see some  
17 -- I know this is -- we've asked for this quite a few times,  
18 would be to see some actual cases, they don't have to be  
19 litigated cases or cases where lawyers have gone in front of a  
20 bar committee but just some of the real players that could  
21 give some statements or something of how they think they were  
22 abused.

**Diversified Reporting Services, Inc.**

1611 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1           That's what I would like to see and I know that none  
2 of you gentlemen have it, I don't think that any of us have  
3 seen that but I know Congressmen McCollum and Stenholm  
4 apparently were convinced that it happens and that there is a  
5 problem and that they wanted it addressed for their  
6 constituents. I've just always requested and wanted to see  
7 some of the facts of each case. And I think that's what you  
8 usually argue about, Howard, is that no one presented that  
9 type of evidence.

10           So, for whoever reads this or hears this in the  
11 future, I would like to see some of those specific cases. It  
12 would help me make my mind up in these next ten days when it  
13 comes to consider this.

14           CHAIRMAN UDDO: Let me just say, Blakeley, I mean, I  
15 agree with you. My absence from the board is when  
16 McCollum/Stenholm appeared. I was not around in the beginning  
17 days of McCollum/Stenholm and frankly I was hoping that these  
18 two days of hearings were going to be days in which I would be  
19 educated about the background and justification for some of  
20 the provisions in McCollum/Stenholm.

21           And what you're asking for I thought if it existed  
22 would have been produced at the hearings. We've had extensive

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 hearings. We've invited everyone to participate. Again, I am  
2 concerned that if there is a basis for a proposal like this  
3 that it would not have been brought to our attention at the  
4 hearing.

5 I agree with you, if it exists it should be produced  
6 to the committee. I don't see how the committee or the board  
7 can be asked to support something that I see as fairly  
8 drastic, federalizing professional responsibility standards,  
9 without anything in the record to justify it.

10 So, I think that your request is a reasonable one.

11 MR. HALL: Let me just say this also, and I might be  
12 saying this on a lot of these things, that it does make it  
13 difficult to support these. I know at one time I was  
14 convinced from some of the Congressmen's testimony that it  
15 existed, but it makes it hard to continue on when that  
16 evidence isn't supplied to you.

17 Maybe I've gotten it and I've read it and I haven't  
18 been able to digest it but I don't think that we've seen that.

19 CHAIRMAN UDDO: I agree. Ms. Wolbeck.

20 MS. WOLBECK: I just echo Blakeley's comments.

21 MR. BOEHM: In the testimony --

22 CHAIRMAN UDDO: Why don't we move that microphone

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 back to the table so that it all gets picked up by the tape.

2 MR. BOEHM: Excuse the interruption but this is in  
3 response to Blakeley's question. In the testimony that the  
4 reauthorization committee had heard, this is the Congressional  
5 Reauthorization Committee had heard, there was testimony from  
6 some farmers and some farm attorneys on this specific case  
7 with some examples.

8 And that would have been, I think, in the first  
9 notebook that you would have received, that really thick --

10 MR. HALL: You think I have that?

11 MR. BOEHM: You may have that back in there and if  
12 not I can give copies to people on the board. But it is true  
13 that it was not in these two hearings but earlier there were  
14 some examples.

15 MR. WITTGRAF: You're referring, Mr. Boehm, to the  
16 March 13, 1991, hearing or to a 1990 or 1989 hearing?

17 MR. BOEHM: These were -- it would not have been in  
18 the most recent hearings, as in the 1991 hearing, but I  
19 believe it was both in the 1989 and 1990 -- this is a House  
20 Judiciary Subcommittee on Administrative Law and Governmental  
21 Affairs hearings and also in Congressman McCollum's testimony  
22 there are some examples.

Diversified Reporting Services, Inc.

511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1           So, I think it's in there and I'll double check when  
2 we get back and give you a call.

3           MR. HALL:    It just seems like in some of the  
4 testimony there was some evidence of it because they had some  
5 papers like this and said I've got letter here from it.

6           MR. BOEHM:  Yes.

7           MR. HALL:  And so that's as far as -- all I saw was  
8 from that far away.

9           MR. BOEHM:  Well, as keeper of the five foot  
10 bookshelf back at headquarters I can dig out the testimony and  
11 reference it for you.

12          MR. HALL:  Does anyone have it in a booklet already.  
13 I hate for you to have to go back and do extra work.

14          MR. BOEHM:  I didn't bring it with me just because  
15 if I brought all the --

16          MR. HALL:  It won't be time consuming to get?

17          MR. BOEHM:  No, no, it won't be time consuming at  
18 all.    And I'll give it to the full committee if that's  
19 appropriate.

20          MR. HALL:  Thanks, Ken.

21          MR. BOEHM:  Excuse me for interjecting but since  
22 it's there in the record I wanted to make you aware of it.

Diversified Reporting Services, Inc.

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 MR. WITTGRAF: On May 23 of 1990 at one of the  
2 hearings that Mr. Boehm referred to three individuals  
3 affiliated with the American Farm Bureau Federation spoke.  
4 I'm assuming -- I don't recall off hand what their testimony  
5 was, but that testimony is included in this notebook and I  
6 think you have that notebook. You can take look and decide  
7 for yourself what, if anything is there.

8 I would guess that's the testimony to which Mr.  
9 Boehm is referring. And I think you have that notebook don't  
10 you, Mr. Hall?

11 MR. HALL: I'm sure I do. That's nothing we have  
12 with us today though.

13 MR. WITTGRAF: It was provided to us at the time of  
14 our meeting in San Francisco, two weeks ago yesterday.

15 MR. HALL: I just didn't bring it.

16 CHAIRMAN UDDO: Any other comments or questions? I  
17 would entertain a -- I guess if there are no other comments or  
18 questions we'll vote on the question.

19 The motion is the first of Mr. Dana's proposals that  
20 we've been presented with, "The Board of Directors of the  
21 Legal Services Corporation favors leaving restrictions on  
22 solicitations to state ethical rules."

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 I assume everyone understands the context of  
2 solicitation, it's a term of art and we're talking about it in  
3 the context of legal services, I mean, not anything broader  
4 based than that, we're talking about attorney solicitation of  
5 clients.

6 MR. DANA: That was the --

7 CHAIRMAN UDDO: I understand, that's why you want  
8 the rationale. I just want to make sure that the record is  
9 relatively clear that we all know what we're talking about  
10 here.

11 All those in favor of the motion, and for this only  
12 the committee votes, all those in favor of the question  
13 signify by saying aye.

14 (Chorus of ayes.)

15 CHAIRMAN UDDO: All those opposed.

16 (Nay by previous telephone conversation.)

17 CHAIRMAN UDDO: The motion carries three to zero.

18 MR. DANA: Three to one, I believe.

19 CHAIRMAN UDDO: Three/one, I'm sorry. Mr. Kirk was  
20 recorded as a negative vote.

21 MOTION

22 CHAIRMAN UDDO: The second motion is, "The Board of

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 Directors of the Legal Services Corporation favors imposing  
2 only procedural safeguards that are imposed on other  
3 litigants." Is there a second for the motion?

4 MR. WITTGRAF: Second.

5 CHAIRMAN UDDO: Discussion? The motion has been  
6 made and seconded. Mr. Dana, anything you want to add to the  
7 motion in terms of discussion?

8 MR. DANA: No. No, I think the rationale that I  
9 tended to this states my position. Let me go -- may I change  
10 my mind?

11 CHAIRMAN UDDO: Sure.

12 MR. DANA: For the record, this is a subject that is  
13 dealt with by McCollum in section five and by Frank in his  
14 section fifteen. I am particularly concerned about the  
15 requirement in the McCollum Bill that requires a lawyer to  
16 be -- when he is interviewing his client to prepare a document  
17 which is, I believe, explicitly discoverable under the  
18 McCollum Bill.

19 And it sets up a tension that doesn't exist in  
20 American jurisprudence whereby a client comes into a lawyers  
21 office and has the freedom to communicate anything and  
22 everything to the lawyer and the lawyer is honor bound to keep

Diversified Reporting Services, Inc.

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 the secrets of his clients. That would be turned on its head  
2 by McCollum section five and I find that unacceptable.

3 And I don't think there should be -- I don't think  
4 we should have second class lawyers and I think that's what  
5 would happen. If a client was talking to me and telling me  
6 the client's story no one could force that out of me under any  
7 circumstances. But if they were talking to a legal services  
8 lawyer most of those facts would have to be put into a  
9 statement which would be discoverable and I find that  
10 completely out of step with American jurisprudence.

11 CHAIRMAN UDDO: Mr. Wittgraf, do you have a comment?

12 MR. WITTGRAF: Thank you, Mr. Chairman. May I  
13 inquire of Mr. Dana? Mr. Dana, I'm concerned from testimony  
14 that we've heard, and I think particularly of the testimony  
15 yesterday morning of Kay Ostberg of HALT that we as a board,  
16 first as a committee, may want to consider, should consider,  
17 endorsing or at least endorsing further study of means of  
18 dispute resolution short of litigation as well as the general  
19 de-lawyering of as many legal proceedings as possible.

20 Would you think it would be appropriate, in light of  
21 the structuring of the Frank draft and the McCollum/Stenholm  
22 Bill, H.R. 1345, to include such thoughts in this resolution

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 or better in a separate resolution?

2 MR. DANA: My preference would be in a separate  
3 resolution. Although, candidly, if we are going to change the  
4 rules in this country for clients and the relationship between  
5 lawyers and clients my view is that we ought to do it across  
6 the board. We ought to let -- if we're going to de-lawyer an  
7 area it ought to be de-lawyered for all purposes and not just  
8 the poor.

9 And I think Kay would agree with that proposition.  
10 So, it is -- it's consistent -- I think the concept of  
11 changing the law for all concerned is consistent with the  
12 motion as it exists.

13 CHAIRMAN UDDO: I think that Mr. Wittgraf has a  
14 point. And we have some fairly extensive data within the  
15 Corporation about self-help. I mean, we had a conference on  
16 it, a two day conference on it, my last year on the board.  
17 And there is an awful lot of material there and I'm not sure  
18 where it's appropriate to do this either.

19 But I don't think that that should go to waste. And  
20 I appreciate what you're saying, Mr. Dana, but you're  
21 proceeding on the assumption that it's a disadvantage to the  
22 poor to de-lawyer and an advantage to the non poor. And there

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 may well be a case that everyone would benefit in some areas  
2 with a little less lawyering.

3 And the self-help conference, which I did attend,  
4 indicated that there are a number of areas where it would be  
5 an advantage to poor clients or any clients, for that matter,  
6 to be able to accomplish some things without the necessity of  
7 lawyers.

8 MR. DANA: I must have misspoke because I completely  
9 agree with you. The point is that I think de-lawyering is  
10 fine but I would, as you indicated, de-lawyer for all people,  
11 not create a second class of legal dispute resolution that  
12 would be available to only one segment of the society.

13 If we are going to de-lawyer an area I think Kay  
14 would say let's de-lawyer it for the middle class, the rich  
15 and the poor. It may well be that the poor will need lawyers  
16 more then the middle and upper class because of an educational  
17 deficiency, I think, was her point.

18 But I don't think what we want to do is have a--  
19 have one kind of lawyering for one class of society and  
20 another kind of lawyering for another, another kind of dispute  
21 resolution.

22 MR. WITTGRAF: I believe the answer to my question,

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 Mr. Chairman, is that it would be more appropriate for me to  
2 wait to offer a separate resolution at a later time in today's  
3 deliberations.

4 CHAIRMAN UDDO: I'll accept that. I have a problem  
5 with this one, Howard, in this sense. Another part of section  
6 five, and I don't want to get, again, bound by the particular  
7 legislation, but I have a concern about not disclosing  
8 identity of clients routinely.

9 You said we shouldn't change the rules. The  
10 ordinary rule is that client identity is supposed to be  
11 disclosed. I mean, the ordinary lawyer is supposed to  
12 indicate on whose behalf he or she is functioning.

13 I fully understand that there are times when you,  
14 for very sound reasons, should not and cannot reveal the  
15 identify of a client. However, I would like to see the board  
16 be somewhat cognizant of the fact that that is a problem that  
17 is subject to abuse and that generally we ought to view it  
18 with a little more concern, that it should not be a routine  
19 matter that clients are not disclosed but provide a procedure  
20 or a basis where it's necessary that the client identity be  
21 protected. I have a concern about that.

22 MR. DANA: For the moment if the board were to

Diversified Reporting Services, Inc.

511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 accept your view -- if Congress had a view that a particular  
2 area was subject to abuse I would prefer to deal with it by  
3 asking local boards to create a regulation or a procedure  
4 similar to what Congress has done with class actions. So that  
5 internally local boards have a process that they go through  
6 rather than changing the -- externally imposing upon legal  
7 services lawyers external to their own organization some kind  
8 of procedural arrangement which sets them apart from other  
9 lawyers.

10 CHAIRMAN UDDO: Well, again, I guess it's your last  
11 statement that concerns me. I think not identifying your  
12 client is what sets you apart from other lawyers. I think  
13 that's the aberrations in terms of representation of clients.

14 But maybe what I need to propose is would you accept  
15 an amendment along the line that you're suggesting that local  
16 boards would be required to adopt a regulation for their  
17 program -- how can we say it -- a regulation specifying the  
18 circumstances under which client identity can be withheld or  
19 something to that effect so that a local program is forced to  
20 look at this question, forced to make a judgment about how it  
21 should be handled and not just sort of broad based say, if you  
22 don't feel like identifying your client you don't have to. We

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 think ordinarily you should but we want some procedures that  
2 say when you don't have to.

3 MR. DANA: For the record let me -- I think what's  
4 troubling you is what has troubled others and troubles me, I  
5 guess, where there has been evidence, some evidence that some  
6 lawyers, particularly representing migrants, have gone to a  
7 farmer and said, "I'm representing a series of people whose  
8 names I won't reveal who worked for you last summer and you  
9 didn't pay them the minimum wage and I'm going to sue you if  
10 you don't pay me X dollars which I will then pass on to these  
11 unnamed clients," that's the characterization.

12 CHAIRMAN UDDO: Right.

13 MR. DANA: And in fact, I think we were -- somebody  
14 showed us some letterhead that -- I have absolutely no idea if  
15 that is an abberation or standard practice. If it is a  
16 standard practice, if it's happened more then occasionally I  
17 would have a real problem with it. I do think that -- and I  
18 guess I don't have -- subject to changing my mind on further  
19 reflection I don't have any problem with something that  
20 addresses that at the board level and sets up procedural  
21 safeguards so that a staff attorney without the executive  
22 director's specific authorization cannot play that game.

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

## AMENDED MOTION

1  
2 CHAIRMAN UDDO: Let me make it as an amendment and  
3 we will put it as, The Board of Directors of Legal Services  
4 Corporation favors imposing only procedural safeguards that  
5 are imposed on other litigants with the expectation that --

6 MR. DANA: Well, I --

7 CHAIRMAN UDDO: You don't want it as an exception?

8 MR. DANA: As I see it it is not a procedural  
9 safeguard, it is a --

10 CHAIRMAN UDDO: Do you want a however?

11 MR. DANA: Yes, however.

12 CHAIRMAN UDDO: Period after litigants. However,  
13 local boards should be required to consider and adopt polices  
14 governing the disclosure of the identity -- governing the  
15 refusal to disclose the identity of grantee clients, with  
16 particular concern for preventing abuse of that practice.

17 MR. DANA: I will second that.

18 CHAIRMAN UDDO: Then that is the motion with the  
19 amendment. It now become the entire motion.

20 MR. DANA: Do you want to vote on the proposed  
21 amendment?

22 CHAIRMAN UDDO: Well, if your seconder accepts it I

Diversified Reporting Services, Inc.

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 think we can just accept it as a friendly amendment. Is  
2 that --

3 MR. WITTGRAF: That's acceptable to me, Mr.  
4 Chairman.

5 CHAIRMAN UDDO: So, it's a friendly amendment, we  
6 don't have to vote on it. Mr. Wittgraf do you have any other  
7 comments?

8 MR. WITTGRAF: No, thank you.

9 CHAIRMAN UDDO: Members of the board? Hearing no  
10 other comments we'll call the question. All those in favor of  
11 the motion as amended please signify by saying aye.

12 (Chorus of ayes.)

13 CHAIRMAN UDDO: Opposed?

14 (No response.)

15 CHAIRMAN UDDO: The ayes have it. The motion  
16 carries three ayes, no nays.

17 Mr. Martin tells me checkout time is noon. We're  
18 going to have lunch served in here at 12:30. I've got just a  
19 few minutes before noon. We may want to break now and let  
20 people checkout. Why don't we recess so that folks can check  
21 out. Try to get back as quickly as you can. If you get back  
22 in time that we can do another one of these we will, if not,

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

## A F T E R N O O N   S E S S I O N

(12:30 p.m.)

1  
2  
3           CHAIRMAN UDDO: I know everybody is still eating but  
4 in an effort to accommodate Mr. Wittgraf and others who are  
5 trying -- you said you're leaving at 4:15, right?

6           MR. WITTGRAF: You bet.

7           CHAIRMAN UDDO: In order to let you leave at 4:15  
8 and not lose my quorum before we've completed the bulk of our  
9 business we're going to continue with our deliberations.

10           And I think we were on the third proposal in Mr.  
11 Dana's material.

## MOTION

12  
13           CHAIRMAN UDDO: "The Board of Directors of the Legal  
14 Services Corporation favors the existing provisions permitting  
15 representation of clients before administrative agencies,  
16 legislative bodies and in responding to agency or elected  
17 officials." In essence, endorsing the current act?

18           MR. DANA: Right.

19           CHAIRMAN UDDO: The provision in the current act.

20           MR. DANA: And riders.

21           CHAIRMAN UDDO: So, this could just be viewed as the  
22 board's endorsement of the current policy as evidenced by

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 whatever existing act, riders, regulations?

2 MR. DANA: Yes.

3 CHAIRMAN UDDO: Everything, okay. Are there any  
4 comments about that? Well, first, I guess I should ask, is  
5 there a second to that motion?

6 MR. WITTGRAF: I second the motion, Mr. Chairman.

7 CHAIRMAN UDDO: The motion is made and seconded.  
8 Discussion?

9 MR. DANA: Mr. Chairman, I think that over the last  
10 ten or fifteen years Congress has put a series of restrictions  
11 on grantees in the area of legislative and administrative  
12 lobbying and I think the grantees have adjusted to that and I  
13 think it is working well and I see no -- personally, I see no  
14 reason to change that.

15 Some of the proposal that was put forth by the  
16 reformists I have serious problems with, as indicated by the  
17 rationale attached to this motion.

18 CHAIRMAN UDDO: Mr. Wittgraf, do you have any  
19 comments? Well, I'll ask other board members and let you--  
20 are you coming back now?

21 MR. WITTGRAF: Thank you, Mr. Chairman. I'm  
22 supportive of the resolution. I'm also impressed by the case

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 made by a number of our speakers two weeks ago and again  
2 yesterday about the need for legal services attorneys to be  
3 advocates in legislative forums other than only on those  
4 occasion when they're called upon specifically by a legislator  
5 or by some legislative body.

6 Now, on the one hand Mr. Morris yesterday spoke  
7 quite eloquently to the concept of letting legislative bodies  
8 figure out how to get the information they needed without  
9 involving federal funds and federally funded civil legal  
10 services attorneys.

11 On the other hand, just as we have class action law  
12 suits to address the needs of groups, often large groups of  
13 poor citizens of a given state or of the nation, that being  
14 the most expeditious way to deal with those problems, and the  
15 most cost effective way to deal with those problems I can't  
16 help but feel the same way about changes in statutes, federal  
17 and state.

18 I realize as at least implied, I think, by Mr. Dana  
19 in his remarks, that this was an area perceived as being one  
20 of abuse in the 1960s and 1970s and hence an area that was  
21 restricted by the Congress in the early 1980s, and it's  
22 certainly a very political area. And as suggested by Mr.

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 McCalpin yesterday, among others, an area best kept at a  
2 distance from the Legal Services Corporation, legal services  
3 attorneys.

4 I would like to be able to have legal service's  
5 attorneys without having to wait to be asked to be able to  
6 propose new laws or changes in the laws to legislative bodies.  
7 I don't, as we visit this afternoon, have wording to propose.  
8 I simply make my statement for the record and I will, over the  
9 course of the next seven or eight days consider the matter  
10 further and perhaps suggest additional wording when we meet on  
11 Sunday, April 28th.

12 And in the meantime, having made that statement, I  
13 guess if there is anyone who's able to give me some counsel  
14 along the direction I've described I'd be delighted to receive  
15 that counsel. Thank you, Mr. Chairman.

16 CHAIRMAN UDDO: Mr. Wittgraf, let me see if I  
17 understand you correctly. Are you proposing that we vote on  
18 this motion today and that you may have some addition next  
19 Sunday or are you proposing that this motion be tabled till  
20 next Sunday?

21 MR. WITTGRAF: No, I'm prepared to vote today. I'm  
22 sorry if I didn't make that clear.

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1           CHAIRMAN UDDO:   But can we expect you to come back  
2 with an amendment to this motion, is that basically how you  
3 would approach this?

4           MR. WITTGRAF:   It's a possibility in light of the  
5 view I just stated.   It's a difficult area and it's a very  
6 politically sensitive area.   I don't have a ready answer as we  
7 discuss this resolution today but it is something that I will  
8 be considering and possibly could speak to further in the  
9 week.

10          CHAIRMAN UDDO:   Well, just I guess somewhat in  
11 response to that; I think this is a very sensitive and highly  
12 charged area and one where I think we would be wise to be  
13 careful about making that extension.   So, it would be my  
14 recommendation that it be dealt with very carefully if at all.

15          MR. WITTGRAF:   Well, I'm concerned that Mr. Dana has  
16 been characterized as the liberal of the board and I don't  
17 want him to have to stand alone under that characterization at  
18 all times.   So, I'm trying to give him a little cover when  
19 occasionally possible.

20          CHAIRMAN UDDO:   That proposal will do it.   Any  
21 members of the board have any comments?   Hearing no --

22          MR. WITTGRAF:   Mr. Hall, I'd be interested in any

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 thoughts you have, if any you do have.

2 MR. HALL: I just don't have any thoughts on it  
3 right now.

4 MR. WITTGRAF: Thank you.

5 MR. HALL: I'd be interested to hear your possible  
6 amendments and then I might have some thoughts on that.

7 CHAIRMAN UDDO: Any other comments? Hearing none  
8 then we call the question on the motion which is, that the  
9 Board of Directors of the Legal Services Corporation favors  
10 the existing provisions permitting representation of clients  
11 before administrative agencies, legislative bodies and in  
12 responding to agency and elected officials.

13 That's the motion, it was acknowledged by Mr. Dana  
14 that in effect he is proposing that existing law prevail in  
15 all of its forms.

16 All those in favor of the motion as stated signify  
17 by saying aye.

18 (Chorus of ayes.)

19 CHAIRMAN UDDO: Opposed nay?

20 (No response.)

21 CHAIRMAN UDDO: The ayes have it unanimously, three  
22 ayes no nays.

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

MOTION

CHAIRMAN UDDO: The next proposal is that, "The Board of Directors of the Legal Services Corporation favors further study of timekeeping consistent with the GAO study."

Mr. Wittgraf, you're the only person who can second these things.

MR. WITTGRAF: I do second it.

CHAIRMAN UDDO: The motion has been made and seconded. Any comments?

MR. DANA: Mr. Chairman, for the benefit of the record or so that the motion makes sense to those who may not be familiar with the GAO study, as I know you are; my understanding is that in the eighties, it may have been your board that recommended to staff that they implement a nationwide system of timekeeping post haste.

And the Corporation began -- started down that road and stopped, I think, in response to concerns raised by some Congressmen.

CHAIRMAN UDDO: Well, they were stopped by Congress.

MR. DANA: They were stopped?

CHAIRMAN UDDO: Right.

MR. DANA: And then the General Accounting Office

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 did an analysis of how the Corporation approached this issue.  
2 And for those of you who have not had a chance to read the GAO  
3 study it's a wonderful document in that it really describes  
4 how not to go about doing something.

5 If you really want to see how a bureaucracy can  
6 cause a problem for itself one should read the GAO study  
7 dealing with timekeeping in the mid-eighties. The ultimate  
8 conclusion of that study was that the Corporation had launched  
9 on an undertaking and hadn't done its homework, hadn't really  
10 justified -- developed a rationale that indicated what they  
11 were after and evaluated the cost and concluded that the  
12 benefits outweighed the costs.

13 So, the GAO study encouraged the Corporation to do  
14 that. For reasons not all together clear to me the  
15 Corporation has chosen never to do that so, we are exactly  
16 where we were when Congress stopped the ill considered effort  
17 the first time. My motion is to read the GAO study and pick  
18 up where that left off, which was to go back and determine  
19 whether or not the costs outweigh the benefits and study it  
20 carefully so that we don't make all the mistakes that we made  
21 the last time.

22 CHAIRMAN UDDO: Mr. Wittgraf?

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 MR. WITTGRAF: Thank you, Mr. Uddo, I understand Mr.  
2 Dana's comments, which certainly make sense but I'm just  
3 wondering consistent with the approach we've been taking today  
4 if it wouldn't be more appropriate for us to leave this  
5 resolution at the word timekeeping and drop the other six  
6 words from the resolution, as I say, to be consistent. Those  
7 last six words strike me as being part of the rationale that  
8 hopefully we will be able to put together in connection with  
9 this resolution over the next several days.

10 AMENDED MOTION

11 That being my thinking, I move, Mr. Chairman, that  
12 this resolution be reduced to those words that end with  
13 timekeeping, the period be there and that be the resolution  
14 with the last six words stricken accordingly.

15 CHAIRMAN UDDO: Mr. Dana, do you accept that as a  
16 friendly amendment?

17 MR. DANA: I do.

18 CHAIRMAN UDDO: Then we won't need to vote on it,  
19 that becomes the resolution. Do you have any other comments,  
20 Mr. Wittgraf?

21 MR. WITTGRAF: I don't believe so, thank you, Mr.  
22 Chairman.

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 CHAIRMAN UDDO: I have a comment here. If it wasn't  
2 for Professor Cox's testimony yesterday I would be prepared to  
3 be more aggressive about this idea of timekeeping. I think  
4 that it is something that is necessary and useful both for  
5 management and accountability and I think it's something,  
6 frankly, that's overdue.

7 I am sympathetic to the criticism that the original  
8 proposal that my former board attempted to implement was not  
9 carefully thought out and needed some additional thought.  
10 Even with that in mind, however, I was prepared to impose some  
11 sort of fairly short time line on implementing timekeeping.

12 But what Professor Cox said yesterday I thought was  
13 particularly interesting because he ties timekeeping and  
14 copayments into competition and into the need to do a very  
15 specific kind of competition study which frankly I think,  
16 despite the comments from Mr. Wootton in the afternoon, I  
17 think was the kind of competition that most people were  
18 envisioning was being encouraged by the McCollum/Stenholm  
19 Amendment.

20 And I think his comment suggests that we are not at  
21 the point where we fully understand what we mean by  
22 competition and the significant disagreement, as we saw

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 yesterday, even as to what McCollum/Stenholm itself means by  
2 competition.

3 The fact that Professor Cox tied timekeeping to a  
4 good continuous competition study changed my mind about the  
5 imposition of timekeeping immediately because I see it now  
6 also as a tool for further and better understanding  
7 competition.

8 So, what I am proposing, I guess, at this point is  
9 either we take up competition and copayments now or we defer  
10 this particular resolution until we do talk about what we want  
11 to propose on competition because I was really persuaded by  
12 Professor Cox that these things should be treated together.

13 MR. DANA: Mr. Chairman, if I understand your  
14 observation it is not inconsistent with this motion.

15 CHAIRMAN UDDO: No, it's not.

16 MR. DANA: What you would like to do is tie this  
17 motion and another motion which we are likely to take up soon  
18 together. Would it make sense to --

19 CHAIRMAN UDDO: Why don't we take up the competition  
20 motion now? This is my point, I don't think we need a  
21 timekeeping study and a competition study and maybe even a  
22 copayment study, I mean, I know that's in here and I don't

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 know how the board is going to feel about any of these things  
2 but it seems to me that we had one of the most persuasive  
3 presentations of the two days of hearings from Professor Cox  
4 and he saw these things as all interrelated.

5 And instead of three separate studies I think that  
6 they should be put together and made sense of in the context  
7 of a competition study.

8 MR. DANA: I have no -- I guess I have no objection  
9 to studying -- in fact, I favor studying timekeeping more and  
10 competition. I am not at all sure that those two studies  
11 should necessarily be tied. I see timekeeping -- one of the  
12 reasons why timekeeping has been advanced is a way of making  
13 sure that private and non-LSC funds are -- that we don't  
14 overlap, that we account for our funds appropriately.

15 I do think that timekeeping in and of itself is and  
16 can be a management tool to more efficiently run a program  
17 entirely without regard to competition. I think that -- so, I  
18 think -- and I also agree with you that Professor Cox made a  
19 point that timekeeping is an effective method of evaluating  
20 competing and competitive simultaneous models. But I don't  
21 see them as irrevocably tied because I think there are reasons  
22 why you might well want to study timekeeping and analyze

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 timekeeping in a context other than competition.

2 CHAIRMAN UDDO: I understand that but as I  
3 understood Professor Cox I think he was saying that you need  
4 to make sure you're using the right kind of timekeeping system  
5 not just to validate a competition study but to have the right  
6 tool for exactly what you're talking about, ensuring that  
7 there is efficiency and productivity and accountability.

8 In other words, I saw him saying that that's sort of  
9 the first step to being able to do the competition analysis  
10 and that it would not just be a timekeeping model that would  
11 only be used for competition but it would be one -- because he  
12 even said, "Don't impose timekeeping if it's going to be more  
13 of a burden than it's worth."

14 So, I was impressed that he was thinking that any  
15 timekeeping model that we use should be one that does meet the  
16 GAO standards presumably, but at the same time would become  
17 part and parcel of the competition study.

18 I mean, I understand what you're saying and I'm not  
19 going to go to the mat over keeping them together, he just  
20 made what I thought was a pretty persuasive argument that they  
21 come together.

22 MR. WITTGRAF: Mr. Chairman, let me suggest that

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 perhaps one of the purposes of our meeting next Sunday, April  
2 28th, is to better state and perhaps to consolidate some of  
3 our areas of concern and our views in those areas.

4 I think perhaps for purposes of today let's just say  
5 that we favor further study of timekeeping and then between  
6 now and next Sunday if we have some areas under the broadest  
7 heading of economy, efficiency, efficacy, quality of services,  
8 let's try to do the aggregation between now and then but let's  
9 just go ahead and for today say that we favor further study of  
10 timekeeping as the resolution exists.

11 CHAIRMAN UDDO: Any comments from the board? Any  
12 other discussion? Hearing none we call the question. All  
13 those in favor of the proposal to further study timekeeping as  
14 read into the record previously and amended by Mr. Wittgraf  
15 signify by saying aye.

16 (Chorus of ayes.)

17 CHAIRMAN UDDO: Opposed?

18 (No response.)

19 CHAIRMAN UDDO: Three ayes, no nays, the motion  
20 carries.

21 MOTION

22 CHAIRMAN UDDO: The next proposal is: The Board of

Diversified Reporting Services, Inc.

1515 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 Directors of the Legal Services Corporation favors the  
2 principle of local control of priority setting. Is there a  
3 second to that motion?

4 MR. WITTGRAF: Second.

5 CHAIRMAN UDDO: The motion is made and seconded.  
6 Discussion?

7 MR. DANA: Mr. Chairman, I think that this proposal  
8 really addresses an issue of local control that is referred to  
9 in McCollum section eight and Frank, eleven and twenty-five.  
10 I think it's an -- we've heard, both days we've heard  
11 repeatedly the importance that virtually every witness gave to  
12 the role of local boards to determine their own priorities.

13 And to the extent that -- and I favor that. And I  
14 think that it permeates the existing Act and I do not think  
15 that it is appropriate for this board to impose its views  
16 on -- even in a suggested way, on local boards.

17 I think that this is a great and diverse land and  
18 there are differing needs in differing parts of the country  
19 and I think we ought not to put ourselves in a position where  
20 we are skewing that priority setting process. Having said  
21 that I think it is very important that we make sure that that  
22 priority setting process works well.

Diversified Reporting Services, Inc.

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1           And I think that there are recommendations in the  
2 Frank bill that tend to improve and ensure that local boards  
3 do that and therefore I support that and the concept that  
4 local control determines local priorities.

5           CHAIRMAN UDDO:   Is there some way to expand your  
6 motion to include the improvement of the process as a  
7 recommendation to the board?   I think that's important,  
8 frankly.

9           MR. DANA:       Well, other than indicating that I  
10 support Frank sections eleven and twenty-five, which do that,  
11 I don't know.   I mean, I can --

12          MR. WITTGRAF:   Mr. Chairman, while Mr. Dana is  
13 considering the possibilities of additional wording on that  
14 comment --

15          CHAIRMAN UDDO:   Yes.

16          MR. WITTGRAF:   I certainly agree wholeheartedly with  
17 the principle of local control of priority setting and I'm  
18 struck, as I'm sure Mr. Dana indicated he is, and I think as  
19 all the members of our board are, of the diversity of programs  
20 that exist from the Legal Aid Foundation of Chicago to East  
21 River Legal Services of South Dakota to the great variety of  
22 different projects that exist across the country.

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1           And it would be patronizing and presumptuous and  
2 foolhardy for us to suggest that we should be able to suggest  
3 priorities for local boards. I do think, at the same time,  
4 that without trying to have a chilling effect necessarily on  
5 the activities of local projects, local grantees, that it is  
6 probably within the purview and a responsibility of the  
7 Corporation based upon its work with its staff, to suggest  
8 areas of concern to grantees.

9           I guess I think particularly of the information,  
10 however fitfully we received it, we received last year in  
11 connection with the representation of individuals involved in  
12 -- individuals in housing projects who had prior records of  
13 convictions as drug offenders. I think in -- well, our  
14 concern was expressed in a somewhat heavy handed way by Mr.  
15 Martin's predecessor to the grantees and perhaps the way that  
16 was handled was something short of the most appropriate way.

17           At the same time that concern ultimately has  
18 influenced both the Frank draft of reauthorization legislation  
19 and the McCollum/Stenholm Proposal of 1991. And I think, as I  
20 said, we as a board, based upon work with our staff and  
21 particularly the work with the Congress have an obligation to  
22 share those concerns with grantees.

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 I don't know that we need to have a suggestive list  
2 of national priorities as contemplated by the  
3 McCollum/Stenholm draft but I do think we have an ongoing  
4 responsibility to share national concerns if, as has been  
5 suggested before, this is something of a national law firm to  
6 the offices that are parts of this national law firm.

7 Having said that and having made my views known for  
8 the record, Mr. Chairman, I am in support of the resolution  
9 and that's why I seconded it. Mr. Dana.

10 CHAIRMAN UDDO: Do you have some way that we might  
11 incorporate your support for improving local priority setting?

12 MR. DANA: Section twenty-five of the Frank Bill  
13 provides that the procedures adopted, meaning local board  
14 procedures, shall require the -- I'm not sure.

15 Let me read it for the record, "The procedures  
16 adopted shall require the governing bodies of recipients to  
17 review annually the priorities that are set, and periodically  
18 analyze the legal needs of clients in the areas served by the  
19 recipient to take account of new or changing circumstances of  
20 such clients. As part of the analysis, recipients shall seek  
21 input and information from clients, the organized bar, and  
22 program staff as well as other parties with relevant

Diversified Reporting Services, Inc.

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 information concerning client needs, including community  
2 groups, private attorneys participating in the recipients  
3 private attorney involvement plans and human services  
4 agencies.

5 "In the case of support entities, their governing  
6 bodies shall also periodically analyze the advocacy, support  
7 and coordination needs of recipients served by the support  
8 entity."

9 I think, Mr. Chairman, that that is designed to  
10 force an annual review of priorities, require local boards to  
11 seek input from a wide variety of sources and clearly is  
12 intended to put the priority setting monkey on the backs of  
13 the local boards and not on the back of this board.

14 So, I really don't have any additional language but  
15 I think that I do support section twenty-five of the Frank  
16 Bill that I think makes that allocation of responsibility  
17 explicit.

18 CHAIRMAN UDDO: All right. Maybe before next week  
19 if any of us or other members of the committee or board would  
20 have any proposed language to make that clearer in the board  
21 position, because I think it certainly is the position or will  
22 be the position of the board that local priority setting

Diversified Reporting Services, Inc.

1517 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 should have some procedures to more clearly verify that the  
2 proper priorities are being selected.

3 Any comments from members of the board? Any other  
4 comments from members of the committee? Hearing none we'll  
5 call the question. All those in favor of the proposal, the  
6 motion, that the Board of Directors -- I guess we should be  
7 doing this in the form of a motion for a recommendation to the  
8 board. In that vein this is a motion to recommend the  
9 following language to the board: The Board of Directors of  
10 the Legal Services Corporation favors the principle of local  
11 control of priority setting.

12 All those in favor signify by saying aye.

13 (Chorus of ayes.)

14 CHAIRMAN UDDO: Opposed nay?

15 (No response.)

16 CHAIRMAN UDDO: The ayes have it. Three ayes, no  
17 nays.

18 MR. DANA: Mr. Chairman?

19 CHAIRMAN UDDO: Yes.

20 MR. DANA: Before you move to the next one -- no, I  
21 was going to tinker with the language but why don't we start  
22 it off the way you usually do.

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

## MOTION

1  
2 CHAIRMAN UDDO: The next proposal is that the Board  
3 of Directors of the Legal Services Corporation favors the  
4 deregulation of all non-LSC funds. Is there a second?

5 (No response.)

6 CHAIRMAN UDDO: It fails for the lack of a second.

7 MR. DANA: Mr. Chairman, demonstrating the wisdom of  
8 my original thought I would propose as an alternative to that  
9 to substitute the -- to lead in with the following phrase:  
10 With few exceptions --

11 MR. WITTGRAF: May we have just a brief recess, Mr.  
12 Chairman?

13 CHAIRMAN UDDO: Yes, you may. We stand in brief  
14 recess.

15 (A brief recess was taken.)

16 CHAIRMAN UDDO: The committee is back in session.  
17 The motion that's on the table is that the Board of Directors  
18 of the Legal Services Corporation favors the deregulation of  
19 all non-LSC funds.

20 MR. DANA: Mr. Chairman, that having failed to  
21 receive a second I would offer the following alternative: The  
22 Board of Directors of the Legal Services Corporation generally

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 favors the deregulation of all non-LSC funds.

2 CHAIRMAN UDDO: Is there a second to that motion?

3 MR. WITTGRAF: Second.

4 CHAIRMAN UDDO: The motion has been made and  
5 seconded. Discussion?

6 MR. DANA: Mr. Chairman, there are -- as the  
7 Chairman is aware and this committee is aware there are in the  
8 existing Act a series of restrictions on private funds, in  
9 fact, some would argue that private funds are currently  
10 restricted by the act.

11 There are no restrictions on non-LSC public funds,  
12 as that term is used. However --

13 CHAIRMAN UDDO: Just a point of order, I mean, there  
14 is the restriction that they be used consistent with the  
15 purpose for which they were given.

16 MR. DANA: Correct. In other words, a public entity  
17 operating on a Federalism principle, such as a state or local  
18 government, could impose its own restrictions or no  
19 restrictions. And Congress has deferred previously to those  
20 entities.

21 Having said that it is also true that Congress  
22 has -- there are some restrictions that apply to all employees

Diversified Reporting Services, Inc.

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 of recipients, for instance, there are restrictions on  
2 engaging in political activity. No recipient -- no employee  
3 of a recipient may engage in political activity with any kind  
4 of funding.

5 I admit to having a bias in favor of not extending  
6 Congress's restrictions unduly, and favoring generally other  
7 public and IOLTA funds being able to be used by grantees for  
8 purposes that are determined by those granting entities, some  
9 of which are providing substantial sources of funding for some  
10 of our grantees, in some cases, as we heard yesterday, the  
11 majority of funding.

12 Although I do acknowledge that there are some  
13 activities that are so politically and emotionally charged  
14 that it may be in the best interest of the program to preclude  
15 grantees from -- all grantees from doing that with any funds.  
16 I understand that there will be a follow along motions, some  
17 of which I will support and some of which I won't. But the  
18 general principle set forth here is -- should be in my view  
19 accepted by the Corporations with exceptions that are  
20 enumerated by others and by Congress.

21 CHAIRMAN UDDO: Mr. Wittgraf?

22 MR. WITTGRAF: I have nothing further at this time,

Diversified Reporting Services, Inc.

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 Mr. Chairman. I support the principle as stated.

2 CHAIRMAN UDDO: I'm still sort of befuddled by this  
3 one. The principle is a little -- I know I said I wanted  
4 general statements but this one may be a little too general  
5 for me. And I'm a little bit concerned that we may not be  
6 focusing carefully enough on some of the things we probably  
7 would agree should be regulated even for non-LSC funds.

8 I mean, some of the things like -- well, I don't  
9 know. I mean, grassroots lobbying is one that's come up many  
10 times over the years, political activities, criminal  
11 representation, strikes, boycotts, I mean, there are a lot of  
12 things that have been sort of at the unchallenged core of  
13 prohibited activity for quite a while in the tradition of  
14 Legal Services Corporation.

15 And I'm afraid we may be moving a little too quickly  
16 past some of those things.

17 MR. WITTGRAF: May it please the Chair, it is this  
18 committee members intention to offer further amendments and  
19 resolutions following our action upon this resolution in  
20 specific relationship to and in specific response to the  
21 concerns you're expressing.

22 CHAIRMAN UDDO: All right, why don't we do this,

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 let's -- I'll call the -- any comments from other board  
2 members on this point. I'm going to call the question on this  
3 and tell you in advance I'm going to abstain until I hear the  
4 other things that Mr. Wittgraf has got in mind.

5 So, with that in mind I call the question. All  
6 those in favor signify by saying aye.

7 (Chorus of ayes.)

8 CHAIRMAN UDDO: Opposed?

9 (No response.)

10 CHAIRMAN UDDO: Abstentions?

11 (One.)

12 CHAIRMAN UDDO: So, it's two to zero to one. Now,  
13 Mr. Wittgraf, you have some follow-up motions to that?

14 MR. WITTGRAF: Yes. First, Mr. Chairman, I move  
15 that we suggest to the board that a follow-on statement be,  
16 and I quote, "The Board believes, however, that LSC funded  
17 recipients should be barred from using LSC, other public or  
18 private funds from abortion related legal services -- from the  
19 provision of abortion related legal services."

20 CHAIRMAN UDDO: I would second that. I think we  
21 need to include IOLTA funds, though, specifically. Did you do  
22 that?

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 MR. WITTGRAF: By saying other public I thought I  
2 was including that. I have no problem with saying IOLTA and  
3 other funds.

4 CHAIRMAN UDDO: I think you have to say IOLTA  
5 because some states may not consider IOLTA funds as public  
6 funds.

7 MR. WITTGRAF: Fine, I would consider expansion of  
8 that phrase from other public to, IOLTA and other public, to  
9 be a friendly amendment.

10 CHAIRMAN UDDO: Would you read your motion again for  
11 me?

12 MR. WITTGRAF: The board believes, however, that  
13 LSC-funded recipients should be barred from using LSC, IOLTA  
14 and other public funds or private funds for the provision of  
15 abortion-related legal services.

16 CHAIRMAN UDDO: I'll second that. Any discussion?  
17 Board members? Hearing no discussion I'll call the question.  
18 All those in favor signify by saying aye.

19 (Chorus of ayes.)

20 CHAIRMAN UDDO: Opposed?

21 (No response.)

22 CHAIRMAN UDDO: Was that three ayes -- three ayes,

Diversified Reporting Services, Inc.

1515 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 no nays, the motion carries. Do you have another motion?

2 MR. WITTGRAF: Yes, sir.

3

4

MOTION

5 MR. WITTGRAF: The board believes further that LSC-  
6 funded recipients should be barred from using LSC, IOLTA and  
7 other public funds and private funds for the provision of  
8 redistricting-related legal services.

9 CHAIRMAN UDDO: I'll second that. Any discussion  
10 from the committee.

11 MR. DANA: Yes, Mr. Chairman. I have some  
12 misgivings in this area particularly as it relates to the  
13 sweep of this resolution. I understand that there is in  
14 Congress -- I understand that the two bills that are pending  
15 would restrict redistricting legislation litigation in federal  
16 and state legislative district matters. But there is a  
17 difference of opinion over whether or not it is with non-LSC  
18 funds an LSC grantee could engage in local redistricting  
19 litigation.

20 And I -- and my concern is I think there is no  
21 evidence in the record that we have heard that indicates that  
22 there are adequate resources, other resources elsewhere, to

Diversified Reporting Services, Inc.

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 ensure that poor people whose Constitutional or statutory  
2 voting rights are being denied can obtain that representation  
3 from other than LSC grantees.

4 But I am -- but at this time I think I will abstain  
5 from this vote while I investigate this issue further.

6 CHAIRMAN UDDO: Mr. Chairman, do you have any  
7 comments?

8 MR. WITTGRAF: I guess I would agree with Mr. Dana  
9 to the extent that some of the comments made at our hearing in  
10 San Francisco certainly were persuasive and I'm less concerned  
11 about legal services attorneys being involved in local non-  
12 partisan issues, specifically redistricting questions than in  
13 local, state or national partisan issues or questions of  
14 redistricting.

15 But realizing the very limited numbers of dollars  
16 that we have I think the more prudent approach, both  
17 politically and fiscally is to have this broad limitation in  
18 this very difficult area as much as I -- as at least the  
19 committee has just adopted for the abortion area.

20 MR. DANA: Just so I -- I want to focus on the  
21 difference between what we did unanimously and what we're  
22 proposing to do here with redistricting. In the area of

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 abortion there has been a long standing restriction on the use  
2 of LSC funds in this area.

3 At the present time there is absolutely no  
4 Congressional restriction on redistricting litigation. There  
5 is a regulation from the Corporation which one judge has found  
6 to be illegal. And so in this act we are -- in this action we  
7 are going well beyond where Congress currently is and my  
8 preference, at least at this stage of the game, and I wondered  
9 if the Chairman would accept as a friendly amendment to his  
10 motion the limitation of its scope to the federal and state  
11 legislative districts.

12 CHAIRMAN UDDO: You mean that Chairman? I didn't  
13 make the motion.

14 MR. DANA: No, I meant the -- I'm sorry, we have too  
15 many chairmen in the room; committee member Wittgraf.

16 CHAIRMAN UDDO: If it influences your decision I'll  
17 withdraw my second if you do that. I mean, I want it to  
18 be --

19 MR. WITTGRAF: It doesn't influence my decision but  
20 my thinking is consistent with yours and I do not accept that  
21 as a friendly amendment at this time. I stated my position.  
22 I am sympathetic to the need and certainly I do not take

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 exception to your statement of using the present status of the  
2 law or the history that has brought us to this point.

3 I just think looking ahead that the wiser course for  
4 the Congress, and hence for us to recommend to the Congress,  
5 is complete abstention from the area of redistricting.

6 CHAIRMAN UDDO: Let me speak to that, I haven't had  
7 a chance to do that yet. My concern is from all of my  
8 experience with legal services is that the thing that damages  
9 the support for legal services the most are things that are  
10 perceived as purely political and involvement in things that  
11 are purely political.

12 The refrain that I heard from my prior service on  
13 the board consistently and it's one that really hasn't died  
14 out, and I'm just convinced that -- and I voted for the  
15 redistricting regulation last time it came before the board  
16 when I was on the board previously. And my rationale then and  
17 now is that redistricting and redistricting related matters  
18 are so inherently political that they can't help but cause  
19 intense controversy about legal services itself.

20 And I think that's a theme I'm told some folks  
21 sounded at the 25th anniversary of the Corporation that it's  
22 in the best interest of the Corporation to disassociate itself

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 from one or two extremely political or extremely emotionally  
2 charged, intensely debated issues that really aren't going to  
3 the core of the needs of poor folks anyway.

4 So, it's on that basis that I think both abortion  
5 and redistricting activity ought to be pervasively and  
6 completely restricted. And I'm not unsympathetic to some of  
7 the testimony we heard but I'm not convinced that there is  
8 really a sufficient need there to overcome my concern that it  
9 is such an inherently political undertaking that we ought to  
10 steer clear of it.

11 So, that's my feeling for being so extreme about it.

12 MR. DANA: Well, Mr. Chairman, I think that the  
13 reasons that you give for espousing that position are exactly  
14 the right reasons and I just would like to reflect on my  
15 position a little bit longer. So, I will stay with my  
16 decision to duck at this time and may be persuaded of the  
17 wisdom of my fellow committee members next Sunday.

18 CHAIRMAN UDDO: I gleefully await the day and time.  
19 Any further discussion?

20 MR. HALL: Basile.

21 CHAIRMAN UDDO: Yes, Blakeley.

22 MR. HALL: This was a regulation that I voted for

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 too along with you when we passed that. Howard's suggestion  
2 that the courts overruled us or at least overturned that  
3 regulation was because, as I understood it, they said we  
4 weren't Congressmen and didn't have that power.

5 Since this is an appropriation, I mean, they didn't  
6 say that it's wrong but they said we didn't have the authority  
7 to do it which apparently we didn't. But this is  
8 appropriation language and I still think that, you know, it's  
9 the right thing to do for the same reason we did it the last  
10 time. And for that reason I support it -- for all the reasons  
11 that Basile gave.

12 CHAIRMAN UDDO: Mr. Martin is -- I hear him  
13 quivering in my ear over here because that opinion is on  
14 appeal.

15 MR. MARTIN: I'm assured by our lawyers that the one  
16 judge who ruled against us is a -- usually rules against the  
17 government in most cases. The three judge panel that it went  
18 to, I think, is a fairly good panel. I anticipate that  
19 federal district judge to be overturned by the court of  
20 appeals and that's very soon.

21 CHAIRMAN UDDO: That's just to get the record  
22 straight. It is on appeal and could conceivably be reversed

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 the district judge could be reversed on appeal.

2 Hearing no further comments we'll call the question.  
3 All those in favor of the motion by Mr. Wittgraf concerning  
4 redistricting signify by saying aye.

5 (Chorus of ayes.)

6 CHAIRMAN UDDO: Opposed?

7 (No response.)

8 CHAIRMAN UDDO: Abstentions, one noted. Two ayes,  
9 no nays, one abstention noted.

10 Mr. Wittgraf, let me just ask for a clarification on  
11 the record. In both of those previous motions, the one  
12 dealing with abortion and the one dealing with redistricting,  
13 you used the phrase abortion-related legal services, I  
14 believe, and redistricting-related legal services. I seconded  
15 and voted for both of those on the assumption that that is an  
16 all encompassing statement. It's not just litigation it is  
17 all related legal services, lobbying, litigation, is that your  
18 intention that those are encompassing statements?

19 MR. WITTGRAF: However unartfully stated I was  
20 meaning as -- to use Mr. McCalpin's terminology, to be  
21 expansive and not limiting by including the word related.

22 CHAIRMAN UDDO: I take that to mean yes?

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 MR. WITTGRAF: Yes.

2 CHAIRMAN UDDO: Thank you. Do you have others, I'm  
3 sorry.

4 MR. WITTGRAF: I want to get us far enough so that  
5 we can go back and see if you're still going to abstain or if  
6 you're going to reconsider your earlier abstention.

7 CHAIRMAN UDDO: All right.  
8  
9  
10

11 MOTION

12 MR. WITTGRAF: Mr. Chairman, in this same area I  
13 propose the following motion: "The board believes finally,  
14 that LSC-funded recipients should be barred from using LSC,  
15 IOLTA and other public funds and private funds for grassroots  
16 lobbying, for political activities, for criminal  
17 representation when not a part of a joint criminal/civil  
18 undertaking, for persistent incitement to litigate --

19 CHAIRMAN UDDO: Persistent incitement to litigate.

20 MR. WITTGRAF: -- for training/advocating public  
21 policies, strikes, boycotts, political and other related  
22 activities from habeas corpus work and from organizing.

Diversified Reporting Services, Inc.

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 CHAIRMAN UDDO: I second the motion. Any  
2 discussion? Any discussion from the board? That does help me  
3 and I will ultimately convert my abstention to an aye because  
4 those are the areas that I was concerned we may have been  
5 overlooking.

6 Hearing no further discussion I call the question.  
7 All those in favor of Mr. Wittgraf's motion as stated please  
8 signify by saying aye.

9 (Chorus of ayes.)

10 CHAIRMAN UDDO: Opposed?

11 (No response.)

12 CHAIRMAN UDDO: Three ayes, no nays, the motion  
13 carries. And I will, on the record, on the motion dealing  
14 with Mr. Dana's motion on generally favoring deregulation of  
15 non-LSC funds change my abstention to an aye.

16 MR. HALL: Mr. Uddo, is that basically a recitation  
17 of the language in the act, the prohibitions on the funds we  
18 have now?

19 MR. WITTGRAF: In section 10. It would be very  
20 similar to the present prohibitions included in statutory  
21 section 1010-C I believe, yes.

22 MR. HALL: Okay.

Diversified Reporting Services, Inc.

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 CHAIRMAN UDDO: The next item going up for bid is  
2 page seven.

3 MOTION

4 CHAIRMAN UDDO: The Board of Directors of the Legal  
5 Services Corporation favors the study of competition to  
6 determine the circumstances under where and when it can be  
7 appropriately used.

8 Did you proofread that, Mr. Dana? I'm not exactly  
9 sure what the last part of that means. The study of  
10 competition to determine the circumstances -- do you want to  
11 change that a little bit?

12 MR. DANA: Well --

13 CHAIRMAN UDDO: I don't want to change it because  
14 I'm not exactly sure what you're proposing.

15 MR. DANA: I confess that it may have been not  
16 particularly artfully worded but what is intended is to  
17 determine the circumstances under which competition for LSC  
18 funds would be appropriate.

19 CHAIRMAN UDDO: So, how would you want this to read,  
20 the Board of Directors of the Legal Services Corporation  
21 favors the study of the circumstances under which competition  
22 would be appropriate, or competition in the awarding of grants

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 would be appropriate.

2 MR. DANA: Fine, I'm sure that's better than what I  
3 had.

4 CHAIRMAN UDDO: Did anybody write that down? The  
5 Board of Directors of the Legal Services Corporation favors  
6 the study of the appropriateness of competition and the  
7 awarding of grants.

8 MR. DANA: No. The idea behind the motion, let's  
9 talk about what I'm trying to say and then maybe you can help  
10 me say it better.

11 I don't want to assume that it's a either/or issue.  
12 I think that there may be circumstances where the use of  
13 competition, however one defines competition, is appropriate.  
14 I do not want to assume that it's either yes or no. So, it's  
15 a -- I start with the premise that it is not appropriate in  
16 each and every instance across the board every time. That's  
17 my orientation.

18 But the board on study might conclude that -- the  
19 study may find otherwise but I want to keep that -- I want to  
20 keep the issue of where and when and under what circumstances,  
21 that kind of thing. I want that to be one of the things that  
22 is studied.

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 CHAIRMAN UDDO: Where and when? But you also want  
2 to study the whether or not?

3 MR. DANA: Yes, whether or not, where or when.

4 MR. WITTGRAF: I think that's a song.

5 MR. MARTIN: Who knows.

6 MR. DANA: That's another song.

7 CHAIRMAN UDDO: I think we are going to have to  
8 change the language to reflect that.

9 MR. DANA: How about -- let me just play with it for  
10 a minute. Can we take a brief recess?

11 CHAIRMAN UDDO: Well, let's just try it this way,  
12 The Board of Directors of Legal Services Corporation favors  
13 the study of the appropriateness of competition and the  
14 circumstances under which it would be effectively implemented.

15 MR. WITTGRAF: Utilized.

16 MR. DANA: Could we go off the record a minute?

17 CHAIRMAN UDDO: Sure.

18 (A brief recess was taken.)

19 MR. MARTIN: Howard said he wants to start with the  
20 inference that competition is not appropriate in all  
21 circumstances. Is that what you're saying?

22 MR. DANA: Yes.

Diversified Reporting Services, Inc.

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 MR. MARTIN: That's what I heard you say.

2 CHAIRMAN UDDO: But with the inference that it's  
3 appropriate in some circumstances?

4 MR. DANA: Yes, I would say, I would like to study  
5 the circumstances under which the use of competition may be  
6 appropriate.

7 CHAIRMAN UDDO: Let's just say that then. That  
8 sounds all right. Mr. Dana has a motion to make.

9 AMENDED MOTION

10 MR. DANA: I move that we recommend to the board the  
11 following resolution: The Board of Directors of the Legal  
12 Services Corporation favors the study of the circumstances  
13 under which the use of competition may be appropriate.

14 CHAIRMAN UDDO: Now again, we can either change the  
15 word or we can make it clear on the record that we know what  
16 we're talking about when we say competition. We're talking  
17 about competitively awarding grants or other contracts for  
18 provision of legal services. That's not what we're talking  
19 about?

20 MR. DANA: No, I think that there are at least two  
21 kinds of competition that were talked about yesterday, that  
22 competition, which is the static competition where you move

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 from one monopoly to another.

2 CHAIRMAN UDDO: And the constant competition.

3 MR. DANA: And the constant competition where you  
4 have more than one provider of legal service that are  
5 competing with each other.

6 CHAIRMAN UDDO: Okay.

7 MR. DANA: And I would like it sufficiently flexible  
8 that both definitions are at play.

9 CHAIRMAN UDDO: So the record will reflect that  
10 you're really using a broader concept than just the awarding  
11 of grants which reflects Professor Cox's testimony yesterday,  
12 I think.

13 MR. DANA: Correct.

14 CHAIRMAN UDDO: Is there a second for that?

15 MR. WITTGRAF: Second.

16 CHAIRMAN UDDO: Discussion? Mr. Wittgraf?

17 MR. WITTGRAF: I really don't have anything to add,  
18 Mr. Chairman. I do hope, as I indicated earlier, that this  
19 will be one of several areas, including timekeeping and  
20 copayments, where we'll be able to perhaps fashion a broader  
21 statement next Sunday about the need for studies to help all  
22 of us do a better job in efficiency and effectiveness and in

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 the provision of quality legal services.

2 I'm happy, certainly, with this wording in this  
3 resolution at this time.

4 CHAIRMAN UDDO: Mr. Dana?

5 MR. DANA: Nothing further.

6 CHAIRMAN UDDO: Mr. Hall?

7 MR. HALL: Nothing.

8 CHAIRMAN UDDO: Let me just say that I thought  
9 Professor Cox's testimony yesterday was very useful and  
10 enlightening. I mean, it's one of those moments when the  
11 light goes off and you say, that's really what we should be  
12 talking about. And I think we've been talking in somewhat the  
13 wrong terms for the past couple of months. So, I think that  
14 there clearly is a place for competition in the legal services  
15 world and this motion should be the start of finding the  
16 appropriate circumstances as Mr. Dana intends. I think it's a  
17 good motion.

18 No further discussion. All those in favor signify  
19 by saying aye.

20 (Chorus of ayes.)

21 CHAIRMAN UDDO: Opposed nay?

22 (No response.)

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 CHAIRMAN UDDO: Three ayes, no nays, the motion  
2 carries.

3 CHAIRMAN UDDO: The next motion, The Board of  
4 Directors of the Legal Services Corporation favors retention  
5 of existing state and federal laws as they apply to the  
6 recovery of attorneys fees by programs representing indigent  
7 clients.

8 MR. WITTGRAF: Mr. Chairman?

9 CHAIRMAN UDDO: Yes, Mr. Wittgraf.

10 MOTION

11 MR. WITTGRAF: Before we move to this I would  
12 suggest that a resolution that I think pretty much follows on  
13 the heels of the competition one. If Mr. Dana will allow me,  
14 instead of moving right to the attorneys fees resolution I  
15 would suggest next instead, that: The Board of Directors of  
16 the Legal Services Corporation favors the study of the  
17 circumstances under which the use of copayments may be  
18 appropriate. Actually, I had thought before the discussion  
19 yesterday more favorably of copayments than I did after the  
20 discussion.

21 I thought that a couple of the witnesses yesterday  
22 were very persuasive, for me at least, about transportation

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 costs, time cost as being real forms of copayment. But my  
2 understanding is that financial copayments have been quite  
3 effective in the provision of medical services to the poor and  
4 otherwise and I'm inclined to think, still, that it's an area  
5 we need to study further.

6 And as we jump from timekeeping over a couple of  
7 other things and then to competition and copayments. But I  
8 would just suggest that in this context to deal with that  
9 resolution might be the most expeditious thing at this time.

10 CHAIRMAN UDDO: Is there a second?

11 MR. DANA: I would second that.

12 CHAIRMAN UDDO: Discussion?

13 MR. DANA: To my way of thinking it is -- one should  
14 be open to studying most anything and I therefore support the  
15 motion.

16 CHAIRMAN UDDO: That's a ringing endorsement.

17 MR. WITTGRAF: Is that what they call being damned  
18 with faint praise, Mr. Dana?

19 CHAIRMAN UDDO: That's what happens when you don't  
20 really want to second something and you're on the spot, right  
21 Howard?

22 MR. WITTGRAF: I certainly appreciate your support,

Diversified Reporting Services, Inc.

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 thank you.

2 CHAIRMAN UDDO: Any other discussion? Let me just  
3 put one thing in here that I think is in defense of copayments  
4 because if I'm -- I don't know that the concept started with  
5 my former board but I think it may have, and it was generated  
6 by the clients on the board, particularly Ms. Miller who  
7 argued quite strongly that she felt that that was something  
8 that clients ought to do and in many cases want to do and  
9 makes them feel more a part of their representation.

10 We never got the point of knowing whether or not  
11 that was true but I think it's important for the record to  
12 indicate that that original concept did come from the clients  
13 on my board and were strongly supported by the clients for a  
14 variety of reasons. So, there may be merit to it even beyond  
15 the competition suggestion that Professor Cox made yesterday.

16 And I think a proper study would be able to indicate  
17 whether or not that's true.

18 MR. DANA: Mr. Chairman, let me just amplify my sort  
19 of obtuse observation. It seems to me that there are two  
20 reasons why copayments -- two reasons that have been advanced  
21 for copayments. One is as a device for priority or resource  
22 allocation and the other is as a means of raising funds and

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 expanding the resources available for the provision of legal  
2 services.

3 And so -- and I think that any study should focus on  
4 those two differing rationales for copayments and we may find  
5 one wanting and the other of more merit. But I think it's--  
6 some people talk about copayments in one sense and some people  
7 talk about it in another and I think it's important to focus  
8 on the two rationales for it and study both.

9 CHAIRMAN UDDO: That's fine but I think there is a  
10 third and it's the one that I just stated. I mean, I think  
11 that that is that clients -- it is a matter of a sense of  
12 involvement in their representation. I don't know exactly how  
13 to phrase it but that was sort of the primary justification  
14 that our clients gave, that they felt that it was something  
15 that a client -- it gave a client a greater interest in the  
16 representation, so I think that's a third rationale.

17 MR. DANA: I agree. I misunderstood that point.

18 CHAIRMAN UDDO: We didn't vote on this yet, did we.  
19 No further discussion? Mr. Hall, do you have any discussion?

20 MR. HALL: No, I don't.

21 CHAIRMAN UDDO: All those in favor of the motion  
22 signify by saying aye.

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 (Chorus of ayes.)

2 CHAIRMAN UDDO: Opposed?

3 (No response.)

4 CHAIRMAN UDDO: Three ayes, no nays, the motion  
5 carries. The next motion is the one that I just stated  
6 previously.

7 MOTION

8 CHAIRMAN UDDO: The Board of Directors of the Legal  
9 Services Corporation favor retention of existing state and  
10 federal laws as they apply to the recovery of attorneys fees  
11 by programs representing indigent clients.

12 Is there a second?

13 MR. WITTGRAF: Second.

14 CHAIRMAN UDDO: It's been moved and seconded. Any  
15 discussion? Let me say something about this one because I  
16 have discussed it over the past several weeks with -- I guess  
17 at one time or another both with Mr. Dana and Mr. Wittgraf.

18 One of my concerns about attorneys is not the one I  
19 think that's ordinarily given for wanted to restrict or limit  
20 attorneys fees. As I understand it most of the folks who  
21 support this do it out of a sense of -- there is a suspicion  
22 that grantees get involved in cases where fees can be shifted

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 and they can get some attorneys fees, both because they can  
2 earn the fees and they are jazzier cases and it may take them  
3 away from some of the day to day delivery.

4 I don't think there has ever been a case made that  
5 that's necessarily the case. But the one thing that I have  
6 had some concern about is the maldistribution of per poor  
7 person funding among grantees. And the last time this  
8 question came up, and I saw a computer print out on which  
9 programs earned attorneys fees and which didn't; there are  
10 very small group of programs that earn a very large amount of  
11 attorneys fees and they tend to be the better funded programs  
12 anyway.

13 And when you add in the attorneys fees and other  
14 sources of funding there is a -- what's always struck me as an  
15 unacceptable difference in the level of funding from the top  
16 to the bottom. The last time this came up I voted to support  
17 a recaption and redistribution of attorneys fees in excess of  
18 a hundred thousand dollars.

19 The reason I did it was two-fold. One is if you  
20 look at the printout very few programs in number earn  
21 attorneys fees in excess of a hundred thousand dollars  
22 annually. And while the redistribution of those fees in

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 excess of that are those programs that had more than that  
2 wouldn't make a big difference in the maldistribution of  
3 funding it was something.

4 I'm no longer convinced that this will do anything  
5 to help the maldistribution of funding. But it is a continual  
6 concern to me and I raise it now because that's -- the last  
7 time I had a chance to think about it or talk about it was in  
8 the attorneys fees context.

9 And I guess I'm just putting it out on the table to  
10 see if Mr. Dana or Mr. Wittgraf have any thoughts about that  
11 or whether this is -- maybe it is an area where we need to see  
12 if there are enough excess attorneys fees in a few programs  
13 that would allow some redistribution of funds to terribly  
14 underfunded programs or whether you don't think this is the  
15 appropriate place to do that.

16 MR. WITTGRAF: I think the concern that you raised,  
17 Mr. Chairman, is certainly a valid concern. There are  
18 historical biases, as I understand it, built into the funding  
19 of projects and they continue. It's also probably true that  
20 the historically best funded projects, as you've just  
21 suggested, are also best able to generate other resources  
22 because more exist that are available to them and perhaps

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 because as you suggest, specifically, their success in the  
2 recovery of attorney fees in certain litigation.

3 To the best of my knowledge neither Mr. Frank nor  
4 Mr. McCollum nor anyone else has given a serious look at this  
5 question as it pertains to reauthorization. I think we should  
6 and in fact would encourage that we do so between now and next  
7 Sunday.

8 I'm not so concerned as it applies specifically to  
9 the use of what might be called excess recovered attorney fees  
10 but jut to the broader concept and what, if anything, should  
11 be done about it.

12 I'm inclined to support the resolution as it exists  
13 here but I also support our spending a little bit more time on  
14 the question of the distribution of funds to grantees.

15 CHAIRMAN UDDO: Mr. Dana?

16 MR. DANA: Mr. Chairman, I confess not to have -- I  
17 mean, I don't think I personally have enough knowledge in this  
18 area to determine whether or not there is a problem. I would  
19 be helpful -- if Mr. Boehm was listening -- it would be  
20 helpful to know in the most recent year for which information  
21 is available to know how much the various programs collect and  
22 what percentage of their -- what the relationship of the fees

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 are to their total budget so we can determine if there are  
2 programs that have -- I mean, there are big programs and  
3 little programs.

4 The big programs presumably collect more fees than  
5 little programs. So, it's a percentage -- the percentage  
6 thing would be interesting.

7 I also think, and I'd be interested to know on the  
8 question of the disparity between the rich programs and the  
9 poor programs. And frankly, McCollum does deal with this.  
10 George should hear this -- but McCollum does deal with it and  
11 Frank I don't think does.

12 MR. WITTGRAF: I think you're right, McCollum does  
13 make reference to the competitive funding process. I was  
14 forgetting that, yes, sir.

15 MR. DANA: And I think that there is -- but I  
16 believe that I am correct that 96 percent of our funding goes  
17 to provide a floor that is uniform. And only 4 percent of the  
18 funding goes to the so-called wealthy programs, historically  
19 wealthy programs. And I believe that that percentage of LSC  
20 funding that goes to the historically wealthy program has been  
21 coming down for the last decade.

22 So, the issue really -- and McCollum says we're

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 going to do it uniform. As soon as we get the census data  
2 we're going to lay it on. In fact, I think McCollum would do  
3 it even before we get the census data, would make it uniform,  
4 and then disrupt it next year when we get the census data from  
5 the various programs.

6 And I am not persuaded that the disruption that  
7 would be caused to the relatively few highly funded programs  
8 is worth the sort of meat-axe approach and I think that there  
9 is at least some evidence that we have been approaching  
10 uniformity with all deliberate speed and maybe that's okay.

11 But it would be helpful if we could get, before next  
12 Sunday, some guidance on the extent to which that gap exists,  
13 what percentage of the overall funding goes to the wealthier  
14 programs, the extent to which that disparity had been reduced.  
15 If it is 4 percent now what was it at the beginning of the  
16 decade and how has it come down. And what would the impact be  
17 if McCollum was the law versus Frank.

18 MR. BOEHM: Just so I understand, Howard -- I think  
19 I pretty much understand exactly what you're asking for but  
20 just so I understand entirely, when you're talking about the  
21 gap you are talking about the gap per poor person appropriated  
22 amount in large -- with or without respect to other funding?

Diversified Reporting Services, Inc.

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1           CHAIRMAN UDDO: I think you've got to do it both  
2 ways.

3           MR. DANA: Well, it is -- I'm perfectly happy to  
4 have just ours. It seems to me that the other funding relates  
5 to IOLTA, United Way, and that varies from place to place and  
6 I'm not sure as a board -- I don't know how I would deal with  
7 that knowledge but if Mr. Uddo wants it I have no objection to  
8 more knowledge.

9           CHAIRMAN UDDO: The reason I think it's important  
10 and again, I agree with you Howard, I don't want to suggest  
11 anything that's going to be disruptive, that's not the point  
12 of raising it. But it plagues me that there is a -- what I  
13 recall to be a fairly significant difference from the top to  
14 the bottom, particularly if you take into consideration all  
15 funds.

16           Now, I'm not suggesting that means we take something  
17 away from the well funded programs. I may well mean, and you  
18 and I have talked about this, too, maybe we need to assist  
19 those lower funded programs in getting IOLTA funds or raising  
20 more IOLTA funds or finding -- you know, fund some projects to  
21 get those states that are not doing as good a job with IOLTA  
22 money to do a better job with it. It may be that the

Diversified Reporting Services, Inc.

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 disparity will be shocking enough to people to say the  
2 Corporation ought to give some thought on how to bring those  
3 bottom ones up.

4 And in this day and age that may be by helping them  
5 develop greater non-LSC sources of funding. So, it's not with  
6 an intent to disrupt but I think it's with an intent to  
7 educate that when you take all funds into consideration you're  
8 going to see a pretty big difference from the top to the  
9 bottom.

10 MR. DANA: Then I now see the wisdom of my Chairman  
11 and I endorse his request for that information as well.

12 CHAIRMAN UDDO: The pending motion has been read  
13 into the record. Any other discussion on the pending motion?  
14 Hearing none the question is called. All those in favor of  
15 the motion as stated signify by saying aye.

16 (Chorus of ayes.)

17 CHAIRMAN UDDO: Opposed?

18 (No response.)

19 CHAIRMAN UDDO: Three ayes, no nays, the motion  
20 carries.

21 MOTION

22 CHAIRMAN UDDO: The next motion is: The Board of

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 Directors of the Legal Services Corporation favors current  
2 provisions in the Act and rider on class actions. Is there a  
3 second to that motion?

4 MR. WITTGRAF: Second.

5 CHAIRMAN UDDO: Discussion?

6 MR. DANA: Mr. Chairman, this is the -- I think like  
7 area of lobbying and administrative advocacy the compromise  
8 that has been worked out by Congress over the last 15 years is  
9 working well and programs have adjusted to it and there is no  
10 apparent need to disrupt this compromise.

11 I think the recommendation, the suggestion that  
12 governing boards pass on the commencement of each and every  
13 class action, is so fraught with ethical and practical  
14 problems that I do not support it and hence I think we should  
15 stay with the status quo in this area.

16 CHAIRMAN UDDO: Mr. Wittgraf?

17 MR. WITTGRAF: Thank you, Mr. Chairman. I concur  
18 with Mr. Dana's remarks, in fact, if I understood him  
19 correctly this morning I think even Mr. Kirk indicated that he  
20 was persuaded about the wisdom of staying with the present law  
21 in this area based, at least in part, on the colloquy he and  
22 the others of us had yesterday with Mr. Edelman and Ms. Lee of

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 the Board of Directors of the Legal Aid Foundation of Chicago.

2 There just is no case to change the law that has  
3 been made of which I am aware. So, I do support the  
4 resolution.

5 CHAIRMAN UDDO: Let me just ask Ken, is there  
6 anything in any of the testimony that we did not -- not our  
7 live testimony but from the Congressional testimony indicating  
8 a particular problem with class actions or is that another one  
9 that fits in the category of often complained about but not  
10 much is done.

11 MR. BOEHM: The rationale that I heard advanced for  
12 it was that by nature they take up a lot of resources so that  
13 the board -- it's fixing responsibility, the board should have  
14 responsibility that takes away that large amount of resources,  
15 that's the primary rationale.

16 MR. WITTGRAF: And I think that's a hypothetical  
17 argument and not an argument that's founded in fact and I  
18 guess I would look to Mr. Roodman's testimony yesterday  
19 regarding Legal Aid Foundation of Chicago and the testimony of  
20 other witnesses whom we've had, I think one or two of the  
21 witnesses of two weeks ago in San Francisco spoke to this  
22 subject.

Diversified Reporting Services, Inc.

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121



1 believe.

2 MR. DANA: Can we go off the record a minute?

3 CHAIRMAN UDDO: Yes.

4 (A brief recess was taken.)

5 MR. DANA: How does this sound, the Board of  
6 Directors of the Legal Services Corporation favors  
7 prohibitions on the use of alternative corporations to evade  
8 the provisions of this title of the Act as amended meaning any  
9 corporation. The term "alternative corporation means any  
10 corporation, law firm, business association, group, entity or  
11 enterprise which, through shared offices, staff and facilities  
12 and control over workload for interlocking boards of directors  
13 has a single identity of interest with a recipient."

14 CHAIRMAN UDDO: Wait a second. Why wouldn't we just  
15 -- why wouldn't this be one of those occasions where we just  
16 stop at favors the prohibition on alternative corporations to  
17 evade the restrictions of the Act. And then let Congress work  
18 out the specifics.

19 Because I've got some problems with the Frank  
20 language. I think it's a little too narrow in its definition  
21 of an alternative corporation. It has some conjunctives that  
22 make it a little bit more difficult, I think. And rather than

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 get into our trying to work that  
2 out --

3 MR. DANA: I've got a better idea.

4 CHAIRMAN UDDO: All right.

5 MR. DANA: Why don't we just avoid the whole  
6 subject.

7 CHAIRMAN UDDO: Why is that a better idea.

8 MR. DANA: I mean --

9 CHAIRMAN UDDO: I think the evasion provisions are  
10 good, I mean I think there has certainly been a hornets nest  
11 over the years, this whole thing with mirror corporations and  
12 the like. I don't have any problem with saying that in  
13 principle it's a bad idea to allow alternative corporations to  
14 avoid the regulations of the act.

15 MR. DANA: My concern in this whole area is that I  
16 want to be sure that it is -- that there are -- let's assume  
17 that some of the more -- let's assume there are restrictions  
18 on current legal services that are unacceptable to funders  
19 other than the Legal Services Corporation.

20 If they set up a corporation and fund that  
21 corporation that is not -- it is -- the intention is to avoid  
22 the restrictions on them if they gave the money to an LSC

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 recipient. My concerns is I want to be sure that we are not  
2 creating a crime on -- other than recipients.

3 CHAIRMAN UDDO: What about just saying: The Board  
4 of Directors of the Legal Services Corporation favors  
5 reasonable prohibitions on alternative corporations  
6 established to evade the provision of this act. And then, you  
7 know, let them fight it out as to what's reasonable  
8 prohibitions. Certainly the Congress is well aware.

9 MR. DANA: By recipients.

10 CHAIRMAN UDDO: By recipients.

11 MR. DANA: Make it clear that if it's a recipient  
12 that's doing it that's a no, no, but if somebody else sets up  
13 a corporation that's not a problem.

14 CHAIRMAN UDDO: I don't understand how if somebody  
15 else set it up it would even be an issue. How does that make  
16 it an issue for me. If they start employing LSC grantee  
17 people in the other corporation, is that how it would --

18 MR. WITTGRAF: Similar board membership.

19 MR. DANA: I mean, I -- the mind of man and lawyers  
20 generally, we've got 5,000 lawyers out there and you've got  
21 \$150 million worth of non-federal funding and if Congress, in  
22 its wisdom, decides to impose restrictions that are

Diversified Reporting Services, Inc.

1811 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 unacceptable to IOLTA boards they are going to figure out a  
2 way around it. And when they figure out ways around it that's  
3 -- I don't want to turn that into a crime if it's done by  
4 somebody else.

5 You say you don't think there would be a problem and  
6 that's the reason I want to make it clear that -- the  
7 McCollum/Stenholm evasion section is very fuzzy and there is  
8 no definition whatsoever. My concern with it is that.

9 CHAIRMAN UDDO: I guess my concern is, I probably  
10 don't know the facts well enough, I mean, I don't know all the  
11 various ways that this could be done and I think it's an  
12 important issue because of the history of the problem that  
13 it's created.

14 That's why I'm not prepared to support anything too  
15 specific because I'm going to let something fall through the  
16 cracks that I may not want to let fall through the cracks.

17 MR. WITTGRAF: Is this motion before the committee,  
18 Mr. Chairman?

19 CHAIRMAN UDDO: This motion is before the committee.

20 MR. WITTGRAF: It was moved and seconded, was it? I  
21 don't believe it was.

22 CHAIRMAN UDDO: I don't know if it was seconded or

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 not. It wasn't seconded.

2 MR. WITTGRAF: That being the case I'm not sure that  
3 further discussion is necessary.

4 CHAIRMAN UDDO: Are you saying it fails for lack of  
5 a second?

6 MR. WITTGRAF: Yes.

7 CHAIRMAN UDDO: Well, in that case it doesn't merit  
8 further discussion.

9 MOTION

10 CHAIRMAN UDDO: The final motion is: The Board of  
11 Directors of the Legal Services Corporation favors avoiding  
12 defining the attorney-client privilege for the poor in  
13 Congressional legislation.

14 Let's clean that up a little bit. The Board of  
15 Directors of the Legal Services Corporation opposes defining  
16 the attorney-client privilege for the poor in Congressional  
17 legislation. Is that all right?

18 MR. DANA: Perfect.

19 MR. HALL: Can you say that again?

20 CHAIRMAN UDDO: The Board of Directors of the Legal  
21 Services Corporation opposes defining the attorney-client  
22 privilege for the poor in Congressional legislation. Is there

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 a second?

2 MR. WITTGRAF: I second the motion.

3 CHAIRMAN UDDO: Discussion? The motion has been  
4 made and seconded. Discussion?

5 MR. WITTGRAF: Mr. Chairman, I think it might be  
6 appropriate perhaps to inquire of Mr. Boehm, as we have in a  
7 couple of other areas, as to whether or not he's aware of any  
8 data which did not come before this small committee in its  
9 hearing two weeks ago or yesterday that addresses any abuses  
10 or any problems which such a federally mandated definition as  
11 proposed in H.R. 1345 gets at. Obviously, the resolution  
12 endorses the status quo.

13 Do you know of any reason to do otherwise, any  
14 factual basis?

15 MR. BOEHM: I think Congressman Stenholm might have  
16 addressed that in his written statement to the board in  
17 conjunction with what had happened with the GAO study this  
18 past year. I think that's the basis of it.

19 MR. DANA: That is correct, he indicates that this  
20 is something that he and Mr. McCollum, Congressman McCollum,  
21 thought up to deal with a sentence in the -- or a conclusion  
22 of the GAO study that was recently commissioned to investigate

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 alleged abuses in the migrant area. The report generally was  
2 that the GAO was unable to find any evidence of abuse.

3 And they gave as one of the reasons for that that  
4 clients -- I mean, migrant programs would not open up their  
5 files to GAO investigators on the grounds that they contained  
6 attorney-client communications. And they thought that they  
7 would solve the problem that way by just changing a doctrine  
8 that has been with us for a few hundred years.

9 MR. WITTGRAF: I do see the reference in Mr.  
10 Stenholm's comment and I have reviewed that GAO report. I  
11 guess I have a fear that we're throwing out the baby of  
12 attorney-client privilege here with the bath water of trying  
13 to correct abuses which may or may not exist.

14 To say there was an impediment is not to say that  
15 there were abuses. And if abuses are the bath water I'm afraid  
16 that privilege, as developed through the years by the states,  
17 being thrown out would be pretty damaging.

18 I'm having a hard time seeing much justification for  
19 changing the existing privilege as it applies to legal  
20 services clients and all other clients.

21 CHAIRMAN UDDO: The other part of the record was Ms.  
22 DiSanto yesterday who also indicated that attorney-client

Diversified Reporting Services, Inc.

1515 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 privilege is raised often times in monitoring visits and that  
2 it has been an impediment in monitoring visits.

3 As I recall her testimony she said that, you know,  
4 generally, particularly with the new attitude that monitoring  
5 is taking they manage to solve those problems. And she didn't  
6 seem to indicate that a redefinition of the attorney-client  
7 privilege was necessary.

8 On the other hand, I think that this motion probably  
9 ought to carry an additional line that in some way admonishes  
10 the Corporation or whoever to give some additional thought to  
11 an alternative to redefining the attorney-client privilege to  
12 deal with some of these problems that Congressman -- who was  
13 that statement from?

14 MR. WITTGRAF: The statement was Congressman  
15 Stenholm's statement.

16 CHAIRMAN UDDO: Stenholm -- and the kinds of things  
17 that monitoring has raised. In other words, I don't want to  
18 be insensitive to the complaint that the Corporations efforts  
19 to engage in legitimate monitoring visits are sometimes  
20 unreasonably frustrated.

21 I think the example she used or someone used is that  
22 press clippings were withheld under the attorney-client

Diversified Reporting Services, Inc.

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 privilege. It seems to me that the answer to that is it's not  
2 really the attorney-client privilege and you should be able to  
3 get a judge to say so.

4 MR. WITTGRAF: In fairness to Ms. DiSanto, I think  
5 that was Mr. Haynes who shared that example with us.

6 CHAIRMAN UDDO: That's right.

7 MS. MARTIN: Ms. DiSanto's example was court  
8 records.

9 CHAIRMAN UDDO: Okay, court records. Now, what  
10 happens with those things, I mean, do they go -- does the  
11 monitoring team then go to court and get a determination that  
12 that's not really the attorney-client privilege. Do those  
13 things stand as --

14 MR. MARTIN: Usually they are negotiated out in some  
15 reasonable negotiation or a determination is made as to  
16 whether or not to enforce them.

17 CHAIRMAN UDDO: Why don't we do this. I agree with  
18 Mr. Dana and Mr. Wittgraf that there is not a case made for  
19 redefining the attorney-client privilege and federalizing it.  
20 To me this is sort of similar to solicitation, you know, every  
21 state has a large body of law on attorney-client privilege.

22 It's developed over, I guess, literally hundreds of

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 years, I mean, the attorney-client privilege is one of the  
2 oldest -- older and it seems that that may be overkill and bad  
3 precedent because I don't think we should be about the  
4 business of encouraging redefinition of these long standing  
5 principles.

6 The monitoring problem I'm going to handle a little  
7 bit differently with another motion suggesting, as I think we  
8 all agree, that there needs to be some closer cooperations  
9 with our monitoring folks in the Congress to understand the  
10 practical implications of some of these problems. So, I  
11 support this motion on that basis.

12 Any other discussion from board members, committee  
13 members? Hearing no further discussion I call the question.  
14 All those in favor of the motion as stated signify by saying  
15 aye.

16 (Chorus of ayes.)

17 CHAIRMAN UDDO: Opposed?

18 (No response.)

19 CHAIRMAN UDDO: Three ayes, no nays, the motion  
20 carries.

21 That completes Mr. Dana's proposals. Are there any  
22 other motions from the committee at this time?

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 MR. WITTGRAF: Mr. Chairman, I have two or three I'd  
2 like to present for the committee's consideration. You may  
3 have one or two or three as well. I'd suggest a five or ten  
4 minute recess for purposes of enabling us to prepare  
5 preliminary drafts of such resolutions.

6 CHAIRMAN UDDO: That's fine. We'll stand in recess  
7 for 10 minutes.

8 (A brief recess was taken.)

9 MR. WITTGRAF: Mr. Chairman.

10 CHAIRMAN UDDO: Yes, Mr. Wittgraf? Mr. Wittgraf has  
11 the floor and he is making a motion.

12 MOTION

13 MR. WITTGRAF: The Board of Directors of the Legal  
14 Services Corporation favors the study of the circumstances  
15 under which the use of alternative dispute resolution models,  
16 de-lawyering of legal proceedings, and self-help models may be  
17 appropriate. Thank you.

18 CHAIRMAN UDDO: We're going to put de-lawyering into  
19 the vernacular now?

20 MR. WITTGRAF: I like that. I trust that one of the  
21 things we'll be able to accomplish next Sunday is to be able  
22 to bring your editorial expertise to the crude drafting that's

Diversified Reporting Services, Inc.

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1       been done today.

2               CHAIRMAN UDDO: No, I'm just going to send a copy of  
3 that motion to all your clients. They have a lawyer  
4 interested in de-lawyering. That's a motion, is there a  
5 second?

6               MR. DANA: Yes.

7               CHAIRMAN UDDO: It's been moved and seconded, any  
8 discussion?

9               MR. WITTGRAF: Very simply, Mr. Chairman, just as  
10 we're concerned with matters of timekeeping, constant  
11 competition and the provision of legal services and the use of  
12 copayments in legal services being ways to improve the  
13 economy, efficiency, equality of the provision of legal  
14 services to America's poor, I think that methods of  
15 alternative dispute resolution, types of the non-lawyering or  
16 de-lawyering of legal proceedings and additional self-help  
17 possibilities are important things for us to understand and to  
18 appreciate and ultimately to be able to promote. And I think  
19 that these are important areas for study as well as the others  
20 we've discussed previously.

21               CHAIRMAN UDDO: There is, as I said, a significant  
22 body of information in the Corporation right now on self-help

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 and probably on alternative dispute resolution, I mean, that's  
2 come up from time to time. So, there is quite a bit there to  
3 start from and I agree it is a good idea and I support the  
4 motion.

5 Any further discussion?

6 MR. DANA: Yes, just briefly, Mr. Chairman. I  
7 support this motion, I feel strongly that we should not be  
8 looking -- I guess a concern I have in this area is that we  
9 would come up with some kind of solution that would only apply  
10 to legal services for the poor. I know that that is not what  
11 Chairman Wittgraf's suggestion necessarily envisions.

12 But I think we should not have two classes of  
13 lawyering or legal solutions and many of the positions we've  
14 taken today have been consistent with the principle that the  
15 poor are entitled to the same kind of legal services as other  
16 people in our society and we're not talking about coming up  
17 with a second class of legal solution.

18 CHAIRMAN UDDO: Any further discussion?

19 MS. WOLBECK: I'm sorry, Mr. Uddo, would you just  
20 briefly tell me what this one is.

21 CHAIRMAN UDDO: The motion of Mr. Wittgraf is to--  
22 you didn't say fund did you --

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 MR. WITTGRAF: Study.

2 CHAIRMAN UDDO: To study alternative dispute  
3 resolution, what he called de-lawyering, which is a phrase  
4 that we got from Ms. Ostberg yesterday and self-help. I think  
5 the point of the motion is to recognize that there are a  
6 number of things that poor clients can do short of having to  
7 have lawyers do it for them or have to get into litigation.

8 For example, alternative dispute resolution.  
9 Frankly, Howard, it's getting pretty popular across the board.

10 MR. DANA: That's my point, I mean, Kay yesterday  
11 was saying that her recommendations really applied across the  
12 board and it is more in the nature -- her concern with  
13 restrictions on lobbying was that it might prevent a legal  
14 services program from getting -- we're going to have to come  
15 up with something better than de-lawyering -- but de-lawyering  
16 proposal through the legislature so that areas of what is now  
17 the practice of law could be unregulated so that all people,  
18 rich and poor and middle class could have the benefit of--  
19 this benefit.

20 She went on to point out that she felt that in some  
21 cases it would be the middle class and the wealthy who might  
22 take advantage of these and that because of educational

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 deficiencies the poor, under some circumstances, might need  
2 lawyers more than others. So, that I'm -- that was my point  
3 for focusing on sort of a Clark Durant approach rather than  
4 some other approach.

5 MR. WITTGRAF: We're trying not to be pejorative, I  
6 thought.

7 MR. DANA: It was not necessarily pejorative.

8 CHAIRMAN UDDO: The alternative dispute resolution,  
9 Jeanine, generally refers to trying to solve a problem without  
10 having to go to court, mediation, arbitration things that  
11 don't necessarily involve lawyers or going to court.

12 Self-help is something, as I said, that there was a  
13 conference on -- that the Corporation sponsored a few years  
14 back and it dealt with are there things that can be done  
15 within a community, often times dealing with domestic matters,  
16 not always, where community based groups can assist each other  
17 in helping folks do things directly for themselves without  
18 having to use legal services lawyers or any lawyers both for  
19 empowering them to do it and for avoiding some of maybe the  
20 delays and difficulties that an overburdened system has.

21 All those in favor of the motion signify by saying  
22 aye.

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 (Chorus of ayes.)

2 CHAIRMAN UDDO: Opposed?

3 (No response.)

4 CHAIRMAN UDDO: Motion carries, three ayes, no nays.  
5 Mr. Wittgraf.

6 MOTION

7 MR. WITTGRAF: Mr. Chairman, I'd like to consider a  
8 fourth addition or a fifth sentence for what's presently  
9 enumerated in I think resolution number six, the one that  
10 begins with us generally favoring deregulation of all non-LSC  
11 funds subject to certain exceptions.

12 And that additional sentence I would propose and  
13 move for the board's consideration is: The Board also  
14 commends the Congressional leaders involved with the Legal  
15 Services reauthorization issue for their apparent consensus to  
16 prohibit use by LSC-funded recipients including LSC, IOLTA and  
17 other public funds and private funds for the representation of  
18 defendants or respondents in eviction proceedings involving  
19 public housing when those defendants or respondents have been  
20 convicted of the sale or distribution of a controlled  
21 substance and the eviction proceedings are brought upon health  
22 and safety grounds. Thank you, Mr. Chairman.

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 CHAIRMAN UDDO: Is that a motion, I assume it is?

2 MR. WITTGRAF: Yes.

3 CHAIRMAN UDDO: Is there second to the motion? Mr.  
4 Dana do you second the motion?

5 MR. DANA: No, I do not.

6 CHAIRMAN UDDO: You don't have to, I'll second it.  
7 Any discussion?

8 MR. DANA: I think I'm correct that the consensus,  
9 to the extent that there is a consensus, relates only to the  
10 use of LSC funds. And that the -- if I understand Mr.  
11 Wittgraf's motion it is that no private funds could be used in  
12 this area and I assume, since by definition we're dealing with  
13 poor people, it would be necessary -- and since people have a  
14 Constitutional -- maybe not a Constitutional -- well, I guess  
15 my problem is I don't think the predicate is accurate.

16 I think they are in agreement on the use of LSC  
17 funds, I do not think they are in agreement on the use of non-  
18 LSC funds. But I may stand corrected.

19 MR. WITTGRAF: Upon further review, Mr. Chairman, I  
20 think that Mr. Dana probably is correct. In which case, with  
21 your concurrence, Mr. Chairman, I would remove the words,  
22 commends the Congressional leaders involved with the Legal

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 Service reauthorization issue for their apparent consensus  
2 from my resolution and insert in lieu thereof urges the  
3 Congress so that the Congress would be urged to prohibit the  
4 use of such funds for that purpose.

5 CHAIRMAN UDDO: I accept the amendment. Any  
6 discussion? Hearing no discussion I'll call the question.  
7 All those in favor signify by saying aye.

8 (Chorus of ayes.)

9 CHAIRMAN UDDO: Opposed?

10 (No response.)

11 CHAIRMAN UDDO: Abstention?

12 (Aye.)

13 CHAIRMAN UDDO: Two ayes, no nays and one  
14 abstention, the motion carries.

15 Any further motions, Mr. Wittgraf?

16 MR. WITTGRAF: Thank you, Mr. Chairman.

17 CHAIRMAN UDDO: Did you say no further?

18 MR. WITTGRAF: I said thank you, Mr. Chairman. That  
19 was just sort of a way of buying time.

20 CHAIRMAN UDDO: Let me clear up a matter while  
21 you're looking at that. Mr. Dana, on the alternative  
22 corporations I ruled that it failed for lack of a second but I

Diversified Reporting Services, Inc.

1311 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 was confused at the time, I could have seconded that. Would  
2 you have withdrawn it had I seconded it.

3 MR. DANA: Yes.

4 CHAIRMAN UDDO: Just let the record reflect that it  
5 didn't fail for lack of a second, it failed because Mr. Dana  
6 withdrew it because I would have seconded it.

7 MR. DANA: That's fair, Mr. Chairman.

8 CHAIRMAN UDDO: Thank you. Mr. Wittgraf?

9 MR. WITTGRAF: Thank you, Mr. Chairman. Mr.  
10 Chairman, I move that we recommend to the board as follows:  
11 The Board of Directors of the Legal Services Corporation  
12 supports the efforts of the members of Congress assuming  
13 leadership as to the Legal Services reauthorization issue in  
14 their effort to place criminal -- rather, to enforce criminal  
15 provisions pertaining to defrauding the government, fraudulent  
16 claims, embezzlement, fraud and possession of false papers to  
17 defraud the federal government, upon LSC-funded recipients.  
18 End of motion, your Honor -- Mr. Chairman.

19 CHAIRMAN UDDO: Did you say your Honor?

20 MR. WITTGRAF: I'm sorry, I didn't mean to promote  
21 you it's a bad habit.

22 CHAIRMAN UDDO: Is there a second for the motion?

Diversified Reporting Services, Inc.

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1           MR. WITTGRAF: We figure after your service on the  
2 board for two different tours of duty all that's left is  
3 elevation to the bench.

4           CHAIRMAN UDDO: Or an asylum.

5           MR. DANA: May I understand your motion to be  
6 generally supportive of the common denominator of the two  
7 bills before us dealing with fraud and abuse?

8           MR. WITTGRAF: Yes.

9           MR. DANA: Because it applies to the Corporation as  
10 well as to recipients and you limited it just to recipients.

11          MR. WITTGRAF: I'd certainly to accede to a friendly  
12 amendment to extend it to the Corporation as well.

13          MR. DANA: And to the extent that your motion adopts  
14 the common denominator of the two bills before us I second the  
15 motion.

16          MR. WITTGRAF: That may or may not be what my words  
17 say but that is my intent, yes.

18          CHAIRMAN UDDO: The motion has been made and  
19 seconded. Any discussion?

20          MR. DANA: I understood by your motion that you were  
21 adopting the common denominator of the two bills dealing with  
22 theft, fraud and abuse and we were endorsing that. And I

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 seconded that.

2 MR. WITTGRAF: Right, and I thought you wanted to  
3 add the wording and the Corporation itself. Is that clear?

4 MR. DANA: Fine.

5 CHAIRMAN UDDO: Any further discussion? Discussion  
6 from members of the board?

7 Hearing no further discussion I'll call the  
8 question. All those in favor of the motion as stated please  
9 signify by saying aye.

10 (Chorus of ayes.)

11 CHAIRMAN UDDO: Opposed?

12 (No response.)

13 CHAIRMAN UDDO: Three ayes, no nays, the motion  
14 carries.

15 Any other motions, Mr. Wittgraf? Any other motions  
16 from members of the committee?

17 MR. WITTGRAF: I don't believe so, Mr. Chairman.

18 CHAIRMAN UDDO: Mr. Dana, any other motions?

19 MR. DANA: Well, yes, would it be appropriate to ask  
20 on the record management to look into some things for us?

21 CHAIRMAN UDDO: Sure. We are -- in lieu of  
22 additional motions there are two or three things that we're

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 going to ask management to give us more specific information  
2 on for next week.

3 One, we've already directed Ms. DiSanto but we're  
4 going to reiterate to Mr. Martin and maybe elaborate a bit on  
5 some more specific analysis of the monitoring provisions of  
6 the proposed legislation with an eye toward the Corporation's  
7 response, particularly with respect to the practicality or  
8 impracticality of some of the things that are being suggested  
9 and how it would effect the operation of the Corporation.

10 In addition, we are also asking Mr. Martin to give  
11 us some discussion and perhaps some proposals on presumptive  
12 refunding to the extent that there seems to be a consensus  
13 that -- there is a percentage of programs out there, small  
14 though it may be, who create something of a problem for the  
15 legal services world and that presumptive refunding has made  
16 it exceedingly difficult to deal with a problem program to the  
17 extent that some have admitted that competition is seen as a  
18 surrogate for dealing with some of those problems.

19 And we are requesting that rather than deal with it  
20 obliquely that we get some information and some analysis as to  
21 how it might be dealt with directly.

22 And then finally, we're asking Mr. Martin to give us

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 some additional information and proposals perhaps with respect  
2 to the inequality of per poor person funding levels from top  
3 to bottom to give us something maybe less disruptive than what  
4 we see the McCollum proposal to be and less inactive than  
5 doing nothing. So, those are the three areas that we're  
6 asking for some additional information. Mr. Dana?

7 MR. DANA: Mr. Chairman, could I suggest that we  
8 supplement the last request as follows: It seems to me that  
9 the Corporation could -- might well want to ask Congress to  
10 ask us to become more active in promoting alternative funding  
11 sources for legal services for the poor. It may be that the  
12 Corporation could -- there is a role for the Corporation to  
13 again be a catalyst for increasing other sources of funding  
14 for legal services for the poor.

15 And I guess this is an area that while I have no  
16 specific suggestion that I think it would be helpful for  
17 management to give us ideas and thoughts and suggestions in  
18 this area for possible recommendations to Congress.

19 CHAIRMAN UDDO: Thank you, Mr. Dana. Anything else,  
20 Mr. Wittgraf?

21 MR. WITTGRAF: No, thank you, Mr. Chairman.

22 CHAIRMAN UDDO: Members of the board?

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 MS. WOLBECK: Can we have a printout of the last  
2 resolution?

3 MR. WITTGRAF: Yes, I think it should be a reprint  
4 of the whole thing, one of the final resolutions went in with  
5 number six.

6 CHAIRMAN UDDO: I am going to ask Mr. Boehm to, if  
7 you would, early this coming week to try to put some order  
8 into all of what we did today and circulate that to the full  
9 board so that they can see the results of today's activity and  
10 obviously for the board meeting next week I'd like to have not  
11 only the resolutions but the votes so that we know what the  
12 votes were and whatever other information you think we'll need  
13 to present it to the board.

14 MR. BOEHM: In the mail Tuesday.

15 CHAIRMAN UDDO: In the mail Tuesday he said. I want  
16 to thank everyone and of course a lot of the people aren't  
17 here anymore who took part in making these hearings  
18 successful. I think they were, I think they were very  
19 informative. It's been a lot of hard work for people. We  
20 found out that Alan is the fastest typist at LSC today.

21 It's been gratifying to see the amount of time and  
22 attention that people have paid to this and the diligence that

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121

1 folks who prepared to present to us and the folks within the  
2 Corporation and the board and committee members and I'm  
3 grateful for all of that.

4 The committee will meet again next Sunday and  
5 frankly the committee's life will probably go on beyond that  
6 because reauthorization is not something that's likely to end  
7 soon. But the bulk of our work, I think, is behind us. I  
8 appreciate everyone's efforts.

9 With that I would entertain a motion to adjourn.

10 MOTION

11 MR. WITTGRAF: So moved.

12 MR. DANA: So moved.

13 CHAIRMAN UDDO: Second?

14 MR. DANA: Second.

15 CHAIRMAN UDDO: All those in favor say aye.

16 (Chorus of ayes.)

17 CHAIRMAN UDDO: Opposed.

18 (No response.)

19 CHAIRMAN UDDO: None, we're in recess.

20 (Whereupon, at 3:10 p.m., the meeting was  
21 adjourned.)

22 \* \* \* \* \*

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 643

WASHINGTON, D.C. 20005

(202) 628-2121