

BEFORE THE
FINANCE SUBCOMMITTEE OF THE
INDEPENDENT CITIZENS' OVERSIGHT COMMITTEE
TO THE
CALIFORNIA INSTITUTE FOR REGENERATIVE MEDICINE
ORGANIZED PURSUANT TO THE
CALIFORNIA STEM CELL RESEARCH AND CURES ACT
REGULAR MEETING

LOCATION: AS INDICATED ON THE AGENDA

DATE: WEDNESDAY, JANUARY 21, 2009
2 P.M.

REPORTER: BETH C. DRAIN, CSR
CSR. NO. 7152

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BARRISTERS' REPORTING SERVICE

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CALL TO ORDER		3
ROLL CALL		3
CONSIDERATION OF POLICIES AND IMPLEMENTATION PLAN/PROCESSES FOR CIRM LOAN PROGRAM, INCLUDING BUT NOT LIMITED TO THE LOAN ADMINISTRATION POLICY AND THE ROLE OF THE DELEGATED UNDERWRITERS/FINANCIAL SERVICE PROVIDERS		4
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BARRISTERS' REPORTING SERVICE

1 WEDNESDAY, JANUARY 21, 2009

2 2 P. M.

3

4

5

CHAIRMAN GOLDBERG: I'D LIKE TO CONDUCT A
ROLL CALL, MELISSA.

6

7

MS. KING: OKAY. RICARDO AZZIZ, NOT
PRESENT. ROBERT BIRGENEAU.

8

DR. BIRGENEAU: PRESENT.

9

MS. KING: FLOYD BLOOM. MARCY FEIT.

10

MS. FEIT: HERE.

11

MS. KING: MICHAEL GOLDBERG.

12

CHAIRMAN GOLDBERG: HERE.

13

MS. KING: BOB KLEIN.

14

MR. KLEIN: HERE.

15

MS. KING: TED LOVE.

16

DR. LOVE: HERE.

17

MS. KING: ED PENHOET.

18

DR. PENHOET: HERE.

19

MS. KING: PHIL PIZZO. DUANE ROTH.

20

MR. ROTH: HERE.

21

MS. KING: JEFF SHEEHY.

22

MR. SHEEHY: HERE.

23

MS. KING: AND OSWALD STEWARD.

24

DR. STEWARD: HERE.

25

MS. KING: THANK YOU. AND WE DO HAVE A

BARRISTERS' REPORTING SERVICE

1 QUORUM.

2 CHAIRMAN GOLDBERG: EXCELLENT. LET'S GO
3 TO AGENDA ITEM NO. 3 AND SPECIFICALLY DISCUSSION OF
4 THE LOAN ADMINISTRATION POLICY. WHAT I'D LIKE TO
5 START WITH, THERE MAY BE REPRESENTATIVES AT OTHER
6 SITES WHO RESPONDED TO OUR REQUEST FOR INFORMATION
7 REGARDING DELEGATED UNDERWRITERS FOR THE CIRM LOAN
8 PROGRAM. I KNOW AT OUR SITE IN PALO ALTO WE HAVE
9 REPRESENTATIVES FROM ORIX WHO HAVE MADE A SUBMISSION
10 THAT'S IN THE PACKAGE. WE HAVE REPRESENTATIVES FROM
11 TRIPLE POINT CAPITAL, WHO IS AN INTERESTED PARTY,
12 BUT AS OF YET HAS NOT PREPARED SOMETHING FOR US TO
13 REVIEW. I DON'T KNOW IF THERE'S ANYTHING TRIPLE
14 POINT WOULD LIKE TO SAY.

15 UNIDENTIFIED SPEAKER: I THINK AT THIS
16 POINT WE ARE AN INTERESTED PARTY AND THIS IS KIND OF
17 AN INFORMATION GATHERING STAGE FOR US. WE
18 UNFORTUNATELY GOT TO THE OPPORTUNITY LATE IN THE
19 GAME, AND SO WE'RE SCRAMBLING.

20 CHAIRMAN GOLDBERG: THAT'S OKAY. WE
21 APPRECIATE YOUR INTEREST. ORIX, WE APPRECIATE YOUR
22 INTEREST. ARE THERE REPRESENTATIVES FROM ANY OTHER
23 RESPONDENTS AT ANY OF THE OTHER SITES?

24 WHAT I'D LIKE TO DO IS ASK MICHAEL DAVID,
25 WHO'S A MANAGING DIRECTOR OF ORIX VENTURE FINANCE,

BARRISTERS' REPORTING SERVICE

1 TO SPEND FIVE MINUTES SUMMARIZING THE HIGH POINTS OF
2 THEIR PROPOSAL, AND THEN OPEN IT UP TO QUESTIONS
3 FROM ANY OF YOU.

4 WHO JUST JOINED?

5 UNIDENTIFIED SPEAKER: I THINK IT'S JUST
6 PUBLIC FROM CONNECT, SAN DIEGO.

7 CHAIRMAN GOLDBERG: THANK YOU.

8 MR. DAVID: THIS IS MICHAEL DAVID SPEAKING
9 FROM ORIX VENTURE FINANCE. WHAT WE PUT TOGETHER
10 HERE WAS SORT OF A HIGH LEVEL STAB AT THIS BASED ON
11 THE MEETING THAT I HAD WITH LYNN HARWELL AND OTHERS
12 THERE AT CIRM. AND WHAT WE TRIED TO DO IS PUT
13 TOGETHER SOME SORT OF AN IDEA AS TO TIMELINE AND
14 STRUCTURE BASED ON INPUT THAT WE HAD FROM LYNN.

15 I'LL TALK ABOUT TWO DIFFERENT SCENARIOS.
16 ONE IS TO BE AS A DELEGATED UNDERWRITER OR DO IT AS
17 A FEE FOR SERVICE. AND THAT SEEMS TO BE A PREFERRED
18 ROUTE. SO THE WAY WE OUTLINED THIS WAS TO DO THIS
19 AS A FEE FOR SERVICE AND THEN ALSO LOOKING AT SOME
20 OF THE MODELS THAT ARE OUT THERE.

21 WAY IN MY PAST I WORKED WITH A PROGRAM
22 WHICH WAS A FREDDIE MAC MULTIFAMILY UNDERWRITING
23 PROGRAM, WHICH IS ALSO A DELEGATED UNDERWRITING
24 PROGRAM. AND THEN ALSO TALKED TO SOME CURRENT
25 PROVIDERS OUTSIDE THAT ARE INVOLVED IN SOME OF THE

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1 PARTICULARLY REAL ESTATE-RELATED DELEGATED
2 UNDERWRITING.

3 AND WHAT WE CAME UP WITH IS TO PROVIDE A
4 SERVICE WHERE THE SCIENTIFIC SIDE OF IT IS OBVIOUSLY
5 TAKEN OVER BY CIRM. WE WOULD TAKE IT FROM THERE AND
6 LOOK AT THE FINANCIAL UNDERWRITING, THE BACKGROUND
7 CHECKS ON PRINCIPALS, WHICH IS SOMETHING WE DO IN
8 OUR CURRENT BUSINESS, AND THEN TAKE IT KIND OF ALL
9 THE WAY FROM UNDERWRITING TO AN ACCRUAL PROCESS. I
10 DON'T KNOW HOW MUCH IN-DEPTH YOU WANTED ME TO GO
11 THROUGH THIS, OR DO YOU WANT ME TO TALK ABOUT ORIX?

12 CHAIRMAN GOLDBERG: WHY DON'T YOU TELL US
13 A LITTLE BIT ABOUT ORIX FOR THE BENEFIT OF PEOPLE
14 WHO MAY BE UNFAMILIAR WITH YOU. AND THEN ALSO A
15 LITTLE BIT IN TERMS OF HOW YOU IMAGINE THE FEE
16 ARRANGEMENT WORKING AND WHAT THE MAGNITUDES MIGHT
17 BE.

18 MR. DAVID: OKAY. SO ORIX, OUR
19 CORPORATION, ITS CORE IS THE LARGEST JAPANESE
20 FINANCIAL SERVICES FIRM THAT'S NOT A BANK IN JAPAN.
21 IT'S A PUBLIC COMPANY. IT'S BEEN AROUND 45 YEARS.
22 PUBLIC U.S. OPERATION IS BASED IN DALLAS AND
23 INVOLVED IN CORPORATE FINANCIAL SERVICES HERE IN THE
24 STATE. I HELPED START THE VENTURE FINANCE UNIT
25 SEVEN YEARS AGO WHICH FOCUSED ON LATE STAGE GROWTH

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1 CAPITAL AND VARIOUS FORMS OF DEBT FINANCING FOR
2 PRIMARILY VENTURE BACKED COMPANIES, ALSO COMPANIES
3 WITH CORPORATE BACKING. WE'VE DONE ABOUT \$700
4 MILLION OF COMMITMENTS OVER THE SEVEN YEARS, HAD A
5 VERY, VERY LOW LOSS RATIO. WE HAVE A CURRENT
6 PORTFOLIO OF BETWEEN THREE AND \$400 MILLION.

7 SO OUR TYPICAL DEAL SIZE IS BETWEEN FIVE
8 AND \$50 MILLION. WE HAVE A VERY STRONG PORTFOLIO
9 MANAGEMENT CAPABILITY AS PART OF WHAT WE HAVE
10 PROPOSED HERE. OUR LOSS RATIO IS UNDER 1 PERCENT.
11 AND OUR -- SO WE DON'T RAISE A HIGH VOLUME OF DEALS;
12 RATHER WE DO FEWER DEALS.

13 I GUESS IN TERMS OF A FEE ARRANGEMENT
14 HERE, WE HAVEN'T -- WE LOOKED AT THIS IN TWO WAYS.
15 ONE IS TO BE SORT OF AN UP-FRONT FEE OF 50 BASIS
16 POINTS TO DO AN INITIAL UNDERWRITING, A PROCESSING
17 FEE WHICH (INAUDIBLE), AND THEN ANNUAL MONITORING
18 AND MAINTENANCE FEE OF THE PORTFOLIO OF 1 PERCENT.
19 THIS COULD ALSO BE DONE ON MORE OF A FEE FOR SERVICE
20 BASIS WHERE WE WOULD DO AN HOURLY RATE BASED ON
21 TYPICAL OPENING TYPE ARRANGEMENT. THERE ARE NO
22 SPECIFIC RATES IN HERE, BUT THAT IS A POSSIBILITY.

23 OUR IDEA FOR THIS WOULD BE TO DO THIS MORE
24 AS A FUNDING COMING FROM CIRM AND NOT CLOSING IN OUR
25 OWN BOOKS DE FACTO, ACTUALLY LEAVING THE APPROVAL,

BARRISTERS' REPORTING SERVICE

1 THE FINAL APPROVAL PROCESS IN FUNDING AND WITH CIRM
2 WITH US DOING THE PROCESSING, MANAGING THE CLOSING
3 DOCUMENTS, AND MANAGING THE CLOSING PROCESS WITH
4 OUTSIDE (INAUDI BLE).

5 MR. KLEIN: MICHAEL, TO PUT MICHAEL
6 DAVID'S SUMMARY IN CONTEXT, MAYBE IT WOULD BE
7 HELPFUL FOR EVERYONE IF JAMES HARRISON WOULD DISCUSS
8 HOW THIS DELEGATED UNDERWRITER WOULD WORK IN TIME
9 SEQUENCE AND IN DECISION MAKING IN THE
10 DECISION-MAKING ROLE THAT'S PRESERVED FOR THE BOARD
11 OR THE FINANCE COMMITTEE AS A DELEGATION OF THE
12 BOARD.

13 CHAIRMAN GOLDBERG: THAT WOULD BE FINE.
14 JAMES, ARE YOU ON?

15 MR. HARRISON: I AM, MICHAEL. I THINK
16 WHAT BOB IS REFERRING TO IS THAT WE HAVE PROPOSED
17 THAT THE DELEGATED UNDERWRITER WOULD BEGIN TO
18 CONDUCT FINANCIAL DUE DILIGENCE AFTER THE GRANTS
19 WORKING GROUP HAS REVIEWED THE APPLICATION, BUT
20 PRIOR TO THE TIME THAT THE ICOC CONSIDERS THE
21 WORKING GROUP'S RECOMMENDATIONS. WE WOULD
22 CONTEMPLATE THAT THE STRUCTURE WOULD INVOLVE THE
23 FINANCE SERVICE PROVIDER OR DELEGATED UNDERWRITER
24 ACTING IN AN ADVISORY ROLE ONLY. CIRM STAFF WOULD
25 RECEIVE THE RECOMMENDATIONS FROM THE DELEGATED

BARRISTERS' REPORTING SERVICE

1 UNDERWRITER OR FINANCIAL SERVICES PROVIDER, DO THEIR
2 OWN ANALYSIS, AND THEN MAKE A RECOMMENDATION TO THE
3 FINANCE SUBCOMMITTEE WHICH WOULD HAVE DELEGATED
4 AUTHORITY FROM THE ICOC SO THAT THE DELEGATED
5 UNDERWRITER OR FINANCIAL SERVICE PROVIDER, WHATEVER
6 MODEL WE END UP WITH, WOULD BE FUNCTIONING ONLY IN
7 AN ADVISORY ROLE, NOT IN A DECISION-MAKING CAPACITY.

8 MR. KLEIN: AND JAMES, JUST TO DRILL DOWN
9 A LITTLE FURTHER ON THAT, BETWEEN THE PEER REVIEW
10 PROCESS AND THE BOARD, CONCEPTUALLY THERE'S BEEN A
11 DISCUSSION THAT THE DELEGATED UNDERWRITERS WOULD
12 LOOK TO THE RECOMMENDATION FOR FUNDING LIST AND THE
13 RECOMMENDED IF FUNDING IS AVAILABLE LIST AND FOCUS
14 ON THOSE CANDIDATES AFTER THE BOARD MEETING. IF, IN
15 FACT, THE BOARD ELEVATED SOMETHING FROM THE NOT
16 RECOMMENDED FOR FUNDING CATEGORY, THAT REVIEW WOULD
17 BE DONE AT THAT TIME.

18 MR. HARRISON: THAT'S CORRECT. AND IN
19 THAT CASE, IF THE FINANCIAL DUE DILIGENCE HAD NOT
20 YET OCCURRED, THE BOARD'S DECISION OR AWARD OF A
21 LOAN WOULD BE CONTINGENT UPON STAFF COMPLETING THE
22 FINANCIAL DUE DILIGENCE.

23 MR. KLEIN: AND REFERRAL BACK TO,
24 POTENTIALLY, IF NECESSARY, BACK TO THE FINANCE
25 COMMITTEE AT A TELEPHONIC MEETING.

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1 MR. HARRISON: THAT'S CORRECT.

2 CHAIRMAN GOLDBERG: THANK YOU FOR THAT
3 CLARIFICATION. ARE THERE QUESTIONS FROM MEMBERS OF
4 THE COMMITTEE, AND THEN WE'LL GO TO THE PUBLIC WITH
5 RESPECT TO THE GENTLEMAN FROM ORIX?

6 MR. SHEEHY: YES.

7 CHAIRMAN GOLDBERG: GO AHEAD, JEFF.

8 MR. SHEEHY: DON'T WANT TO BE THE ONLY
9 ONE. BUT JUST LOOKING AT -- HAVING READ THE
10 PROPOSAL LAST NIGHT, I WAS LOOKING AT PAGE 6.
11 THERE'S A LINE IN THE SECOND PARAGRAPH WHERE ORIX
12 WILL SEEK APPROVAL FROM AND PROVIDE RECOMMENDATIONS
13 TO CIRM ON ANY MATERIAL DEVIATION FROM THE GOVERNING
14 BOARD APPROVAL. SO THEY CAN CHANGE BETWEEN THE
15 GOVERNING BOARD -- THE GOVERNING BOARD CAN APPROVE
16 SOMETHING AND THEN -- HOW IS THAT PROCESS SUPPOSED
17 TO WORK?

18 MR. DAVID: WE WERE TAKING A LITTLE BIT OF
19 A SHOT IN THE DARK HERE BECAUSE WE DIDN'T HAVE A
20 TREMENDOUS AMOUNT OF INFORMATION TO WORK OFF OF. WE
21 SEE THIS AS SORT OF A WORK IN PROCESS. AND OUR --
22 WE'RE TRYING TO PUT SOME CONCEPTS OUT THERE AND
23 WOULD CERTAINLY WORK WITH CIRM TO DEVELOP WHAT WORKS
24 WITH THEIR PROGRAM. WE WERE ALSO BROUGHT INTO THIS
25 ABOUT A WEEK AND A HALF AGO, SO WE'RE TRYING TO --

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1 SO THAT DOESN' T REALLY ANSWER YOUR QUESTION, BUT WE
2 WERE TRYING TO PUT THIS IN TO SAY WE WOULD KIND OF
3 WORK WITH YOU ON WHATEVER PROCESSES YOU DEVELOP FOR
4 THE LOAN PROGRAM.

5 MR. SHEEHY: OKAY. AND THEN --

6 MR. KLEIN: JEFF, TO JUST AUGMENT THAT, TO
7 THE EXTENT THAT IN THE DOCUMENTATION PROCESS
8 SOMETHING AROSE THAT WAS A DEVIATION, OBVIOUSLY
9 WE'RE NOT DEALING WITH SCIENTIFIC ISSUES OF MERIT,
10 BUT WITH THE STRUCTURE OF THE LOAN. THEORETICALLY
11 AT LEAST, AND THIS IS ALL SUBJECT TO THE BOARD'S
12 APPROVAL, THIS COULD GO BACK IN THE DOCUMENTATION TO
13 THE TELEPHONIC PHONE CALL THAT WOULD BE PRESCHEDULED
14 AS A PLACEHOLDER WITH THE FINANCE COMMITTEE AS THE
15 DELEGATED AUTHORITY FOR THE BOARD FOR A MODIFICATION
16 ON STRUCTURE.

17 MR. SHEEHY: AND THAT'S -- I WAS HOPING IT
18 WOULD BE SOMETHING LIKE THAT JUST SO THAT IT COMES
19 BACK INTO THE PUBLIC REALM AND TO THE BOARD IN SOME
20 WAY. AND THE FINANCE SUBCOMMITTEE IS FINE AS THE
21 DELEGATED -- YOU KNOW, FOR THE BOARD TO SEND THAT
22 TO, BUT I JUST WANTED -- YOU KNOW, I WOULDN'T WANT
23 MATERIAL CHANGES TAKING PLACE MINUS ANY BOARD
24 ACTION.

25 MR. KLEIN: RIGHT.

BARRISTERS' REPORTING SERVICE

1 CHAIRMAN GOLDBERG: WE AGREE.

2 MR. SHEEHY: I WOULDN'T BE COMFORTABLE
3 WITH THAT.

4 THEN THERE'S A LINE UNDER PORTFOLIO
5 MANAGEMENT IN TERMS OF MONITORING THE ACHIEVEMENT OF
6 MILESTONES, AND I WONDER HOW THAT'S GOING TO WORK.
7 THAT'S A BIG PIECE. I'M LOOKING AT THIS
8 SPECIFICALLY FROM THE DISEASE TEAM POINT OF VIEW.
9 THIS IS A BIG PART OF WHAT WILL MAKE THAT PROGRAM
10 SUCCEED OR FAIL IS BEING ON TOP OF MILESTONES. AND
11 HOW IS THAT RELATIONSHIP GOING TO WORK WITH
12 SCIENTIFIC STAFF? IF I COULD HAVE SOME
13 CLARIFICATION ON THAT.

14 MR. KLEIN: SURE. THIS IS BOB. ON THE
15 DISEASE TEAMS, FROM THE PRIOR DISCUSSION OF DISEASE
16 TEAMS AND EVEN PATIENTS TO THE BOARD, THE SCIENTIFIC
17 MILESTONES ARE GOING TO BE MONITORED AS PROPOSED
18 SUBJECT TO BOARD MODIFICATIONS OF THIS IN THE FINAL
19 SIGN-OFF ON DISEASE TEAMS THROUGH ADVISORY COUNCILS
20 MUCH LIKE THOSE USED BY GENOME CANADA IN MONITORING
21 THEIR MAJOR GRANTS. AND THAT INFORMATION COMES BACK
22 TO THE STAFF TO MAKE CERTAIN THAT THESE MILESTONES
23 ARE BEING MET, BUT THE SCIENTIFIC DECISIONS ON
24 MILESTONES DO NOT INVOLVE THIS DELEGATED
25 UNDERWRITER. THOSE SCIENTIFIC DECISIONS RELATE TO

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1 THE BOARD AND RELATE TO THE STAFF; AND IF THE STAFF
2 FEELS THAT THERE'S A MAJOR CHANGE, THEY NEED TO
3 BRING IT BACK TO THE BOARD, THAT'S A STAFF DECISION
4 THAT DOES NOT INVOLVE THIS GROUP.

5 THE FINANCIAL MILESTONES, THEY WOULD BE,
6 AS AN ASSET MANAGER OR LOAN ADMINISTRATOR SERVICE,
7 THEY WOULD BE MONITORING THE FINANCIAL MILESTONES.
8 AND AS YOU KNOW, JEFF, FROM THE PRIOR DISCUSSION,
9 THERE ARE CONDITIONS UNDER WHICH OUR LOANS ARE PAID
10 OFF. SO, FOR EXAMPLE, IF THIS ENTITY IS DOING A
11 MAJOR REFINANCING, DUANE HAS PUT OUT THERE SOME
12 GUIDELINES ON THE RATIO OF THE REFINANCING TO THE
13 SIZE OF OUR LOAN. AND IF IT PASSES THAT THRESHOLD,
14 THE LOAN ADMINISTRATOR WOULD CALL IT TO THE
15 ATTENTION OF OUR STAFF AND ASK FOR A DECISION ON
16 REPAYMENT THAT WOULD HAVE BEEN TRIGGERED BY THAT.
17 BUT THEY WOULD BE MONITORING FINANCIAL MILESTONES AS
18 THEY GO THROUGH THE LOAN PROGRAM.

19 MR. SHEEHY: YOU KNOW, THAT'S GOOD
20 CLARIFICATION TO KNOW THERE'S GOING TO BE SEPARATION
21 BETWEEN THE FINANCIAL AND THE SCIENTIFIC MILESTONES.

22 I DO HAVE A QUESTION. THIS ADVISORY GROUP
23 IS NOW A NEW IDEA THAT I HAVE NEVER HEARD OF BEFORE.
24 AND I DON'T SEE IT IN THE LOAN ADMINISTRATION
25 POLICY. I DON'T -- IT WASN'T PART OF THE APPROVAL

BARRISTERS' REPORTING SERVICE

1 POLICY FOR DISEASE TEAMS. IT WAS? AN ADVISORY
2 COMMITTEE?

3 MR. KLEIN: MY BELIEF IS THAT IT'S COMING
4 TO THE BOARD AS A PART OF THE DISEASE TEAM RFA
5 CONCEPT APPROVAL, AND I'M JUST AWARE OF IT BECAUSE
6 OF HAVING BEEN INVOLVED IN THE HISTORY OF THE
7 RESEARCH ON BEST PRACTICES BY OUR SCIENTIFIC STAFF.

8 MS. KING: BOB, THIS IS MELISSA. AND DR.
9 OLSON HERE IN SAN FRANCISCO HAS A COMMENT TO ADD.

10 MR. KLEIN: THAT WOULD BE FABULOUS.

11 DR. OLSON: I JUST WANTED TO PROVIDE A
12 CLARIFICATION. AT THE MOST RECENT BOARD MEETING,
13 THE BOARD, AS PART OF THE CONCEPT PLAN THAT WAS
14 PRESENTED TO THE BOARD, IT WAS NOTED THAT THERE
15 WOULD BE SOMETHING CALLED AN EVALUATION MEETING AT
16 KEY POINTS DURING THE DISEASE TEAM PROCESS; THAT IS,
17 THE TRANSITION ESSENTIALLY INTO IND ENABLING STUDIES
18 GOING INTO PRECLINICAL DEVELOPMENT AND ALSO THE
19 DECISION TO MOVE INTO A REGULATORY FILING THAT IS
20 FIRST-IN-MAN STUDIES. EVALUATION MEETINGS WERE
21 PROPOSED AT THE TIME THAT WOULD USE AN EXTERNAL
22 ADVISORY GROUP TO THE PRESIDENT. AND THAT WAS PART
23 OF THE CONCEPT PROPOSAL THAT WAS PRESENTED TO THE
24 BOARD AND APPROVED BY THE BOARD.

25 MR. KLEIN: THANK YOU VERY MUCH, DR.

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1 OLSON.

2 CHAIRMAN GOLDBERG: SO ARE THERE ANY
3 OTHER --

4 MR. SHEEHY: I JUST HAVE MORE QUESTIONS.
5 I JUST WANT TO BE -- SO THOSE FOLKS WILL FILL OUT
6 FORM 700S, I HOPE. THERE WILL BE PUBLICLY AVAIL ABLE
7 CONFLICT OF INTEREST INFORMATION ON THE EXTERNAL
8 ADVISORY BOARD?

9 CHAIRMAN GOLDBERG: JEFF, I DON'T WANT TO
10 INTERRUPT, BUT WE'VE GOT A LONG AGENDA, AND I THINK
11 WE'RE GOING TO TAKE THIS ISSUE UP INDEPENDENTLY.

12 MR. SHEEHY: OKAY. THEN I HAVE ONE MORE
13 QUESTION ON THE ORIX PROPOSAL, WHICH IS THE 25
14 PERCENT OF WARRANTS ISSUED AS COMPENSATION FOR
15 PROVIDING ONGOING PORTFOLIO MANAGEMENT. CAN I GET
16 SOME MORE CLARIFICATION OF THAT?

17 CHAIRMAN GOLDBERG: SEEMS LOW TO YOU,
18 JEFF?

19 MR. SHEEHY: I'M JUST WONDERING WHAT A
20 TAXPAYER MIGHT SAY IF THEY SEE 25 CENTS OF EVERY
21 DOLLAR WHEN WE START MAKING DOLLARS GOING TO AN
22 UNDERWRITER.

23 MR. DAVID: ONE OF THE THINGS WE HAD
24 DISCUSSED IS MONITORING AND MANAGING THE WARRANT
25 PORTFOLIO. IF WE WERE TO MANAGE THE WARRANT

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1 PORTFOLIO ON A SEPARATE BASIS, THAT WAS WHAT WE
2 WOULD PROPOSE.

3 CHAIRMAN GOLDBERG: OKAY. THANK YOU.

4 MR. SHEEHY: THAT'S MY QUESTION. SORRY.

5 DR. PENHOET: I HAVE JUST ONE QUESTION.

6 THIS PROPOSAL IS, AS I READ IT, NOT AN UNDERWRITING
7 IN ANY SENSE BECAUSE YOU'RE EFFECTIVELY ACTING AS AN
8 AGENT THROUGHOUT THIS PROPOSAL. AND THE DIFFERENCE
9 BETWEEN CHARGING A FEE OF A CERTAIN PERCENTAGE
10 VERSUS CHARGING BY THE HOUR IS SIMPLY TWO DIFFERENT
11 WAYS OF CHARGING FOR YOUR SERVICES, BUT THE SERVICES
12 ARE THE SAME IN EITHER MODEL. AM I READING THIS
13 CORRECTLY?

14 MR. DAVID: THAT WOULD BE CORRECT.

15 DR. PENHOET: YOU HAVE NO MONEY IN THIS
16 PROPOSAL.

17 MR. DAVID: RIGHT.

18 CHAIRMAN GOLDBERG: AND THAT'S THE BIGGEST
19 CONTRAST TO THE SUBMISSION THAT CAME FROM SILICON
20 VALLEY BANK.

21 DR. PENHOET: I UNDERSTAND. I JUST WANTED
22 TO MAKE SURE I WAS CLEAR IN MY OWN MIND AFTER
23 READING IT.

24 CHAIRMAN GOLDBERG: ABSOLUTELY, ED.

25 DR. PENHOET: THANK YOU.

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1 CHAIRMAN GOLDBERG: OKAY. ANY OTHER
2 MEMBERS HAVE QUESTIONS OF MR. DAVID? MEMBERS OF THE
3 PUBLIC? SILICON VALLEY BANK, ARE YOU ON THE LINE?

4 MS. HARWELL: NO, THEY'RE NOT.

5 CHAIRMAN GOLDBERG: OKAY. ARE THERE ANY
6 REPRESENTATIVES OF THE PUBLIC?

7 MR. SIMPSON: YES, THERE ARE.

8 CHAIRMAN GOLDBERG: IS THAT JOHN SIMPSON?

9 MR. SIMPSON: YES, IT IS. THIS IS JOHN
10 SIMPSON. I DIDN'T REALIZE MY VOICE WAS THAT
11 DISTINCTIVE. I'M HERE IN IRVINE WITH DR. STEWARD.
12 I JUST WANTED TO MAKE THE COMMENT THAT THESE ARE
13 VERY COMPLEX DOCUMENTS THAT, FOR THE RECORD, WERE
14 JUST AVAILABLE TO THE PUBLIC, I THINK, THIS MORNING.
15 AND IT'S VERY DIFFICULT -- I MEAN I APPRECIATE THAT
16 WE'RE DISCUSSING THEM AND GETTING MORE INFORMATION
17 AND INPUT, BUT IT IS VERY DIFFICULT TO UNDERSTAND
18 WHAT'S BEING PROPOSED HERE WHEN THE DOCUMENTS
19 ESSENTIALLY WERE FIRST AVAILABLE ABOUT 10 O'CLOCK
20 THIS MORNING.

21 CHAIRMAN GOLDBERG: JOHN, I APPRECIATE AND
22 UNDERSTAND THAT COMMENT VERY MUCH AND JUST WANT TO
23 REITERATE THAT WE'RE BEGINNING A PROCESS HERE, NOT
24 ATTEMPTING TO CONCLUDE ONE OR SHORTCUT FULL REVIEW,
25 DISCUSSION, AND COMMENTS. YOU CAN BE ASSURED OF

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1 THAT.

2 MR. SIMPSON: THIS IS A VERY USEFUL
3 INFORMATIONAL SETTING AND CONTEXT, AND I FULLY
4 APPRECIATE THAT. I JUST DID NOT WANT TO SEE THIS
5 SORT OF BEING PASSED TODAY OR SOMETHING.

6 CHAIRMAN GOLDBERG: RIGHT. UNDERSTOOD.

7 MR. SIMPSON: THANK YOU.

8 CHAIRMAN GOLDBERG: ANY OTHER MEMBERS OF
9 THE PUBLIC AT ANY OTHER SITES ON QUESTIONS OR
10 COMMENTS FOR MR. DAVID? THERE BEING NONE, LET'S
11 PROCEED. WE HAVE A PROPOSAL WHICH WE'LL ALSO
12 CONSIDER FROM SILICON VALLEY BANK. IT'S MY
13 RECOMMENDATION THAT STAFF WILL CONSIDER EACH OF
14 THESE PROPOSALS, AGGREGATE QUESTIONS, CONTINUE TO
15 SEEK OTHER INTERESTED PARTIES WHO MAY WANT TO
16 PARTICIPATE IN THIS PROGRAM SO THAT WE HAVE A NUMBER
17 OF CREDIBLE AND ACCEPTABLE PARTIES TO IMPLEMENT THE
18 LOAN PROGRAM UNDER WHAT MAY BE MORE THAN ONE
19 STANDARD SCENARIO. BUT WE'LL CONTINUE TO DISCUSS
20 THIS AS A SUBCOMMITTEE AND AS A BOARD.

21 NEXT POINT I'D LIKE TO MOVE TO IS A
22 DISCUSSION OF THE LOAN ADMINISTRATION POLICY. WE
23 HAVE A MEMORANDUM FROM IAN SWEEDLER THAT INCLUDES A
24 REDLINE INCORPORATING THE COMMENTS FROM OUR NOVEMBER
25 SUBCOMMITTEE MEETING, AND I GUESS I'D LIKE TO TURN

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1 IT OVER TO YOU, IAN, TO REVIEW THE HIGH POINTS OF
2 THOSE CHANGES AND TO RESPOND TO ANY QUESTIONS FROM
3 MEMBERS OF THE SUBCOMMITTEE.

4 MR. SWEEDLER: THANK YOU. FOR EITHER
5 REFERENCE, I'M GOING TO BE WORKING OFF OF THE
6 REDLINE COPY, SO PEOPLE CAN FOLLOW ALONG WITH PAGE
7 NUMBERS. WHAT I PROPOSE TO DO IS NOT DESCRIBE EVERY
8 SINGLE CHANGE IN HERE. MOST OF THE CHANGES ARE
9 CLARIFICATIONS WHERE SOME BASIC CLARIFICATIONS WERE
10 REQUESTED OR FAIRLY STRAIGHTFORWARD APPLICATIONS OF
11 THINGS WE WERE ASKED TO DO AT THE LAST MEETING. BUT
12 I'LL TOUCH ON SOME OF THOSE. AND THEN I ALSO WANT
13 TO HIGHLIGHT A FEW SITUATIONS WHERE, AS WE
14 IMPLEMENTED THOSE CHANGES, SOME OTHER ISSUES CAME TO
15 LIGHT AND HOW WE'RE PROPOSING TO ADDRESS THOSE.

16 STARTING ON PAGE 2 IN THE CATEGORY TYPES
17 OF SUPPORT, THERE HAD AT ONE TIME BEEN A PROPOSAL
18 THAT RFA'S THAT INCLUDED PRECLINICAL AND CLINICAL
19 RESEARCH WOULD OFFER LOANS, AND RFA'S THAT TARGETED
20 EARLIER STAGES IN THE PROCESS WOULD ONLY OFFER
21 GRANTS. AND IN TALKING THROUGH THAT, WE'VE PUT
22 FORWARD A MODIFIED PROPOSAL WHICH JUST TIES IT TO
23 THE TARGET AMOUNTS OF AWARD.

24 SO WHERE THE CONCEPT PLAN THAT'S APPROVED
25 TARGETS AWARDS OF LESS THAN \$3 MILLION EACH, WE

BARRISTERS' REPORTING SERVICE

1 PROPOSE THAT THAT BE A GRANT-ONLY RFA. AND WHERE
2 THE AMOUNTS TARGETED FOR AN AWARD WOULD BE OVER \$3
3 MILLION OR MORE, THAT LOANS BE PART OF THE MIX FOR
4 THOSE.

5 THAT SEEMED TO PROVIDE MORE FLEXIBILITY IN
6 TERMS OF DEFINING THE TYPE OF PROJECT, AT THE SAME
7 TIME RECOGNIZING THAT THERE ARE FINANCIAL THRESHOLDS
8 BELOW WHICH IT DOESN'T REALLY MAKE SENSE TO INCLUDE
9 LOAN FUNDING IN THE PROCESS.

10 THE OTHER CHANGE HERE IS THAT AS
11 ORIGINALLY DRAFTED, THE LOAN ADMINISTRATION POLICY
12 SAID THAT WHERE LOANS WERE AVAILABLE, THAT WOULD BE
13 THE ONLY OPTION OPEN TO FOR-PROFIT APPLICANTS, AND
14 THERE WAS GENERAL CONSENSUS OF THE SUBCOMMITTEE TO
15 MAKE THAT SOMETHING THAT WOULD BE DETERMINED
16 SEPARATELY FROM EACH RFA. SO THAT IS HOW THAT IS
17 WORDED NOW, THAT THEY WOULD LOOK TO THE RFA ITSELF
18 TO FIND OUT WHETHER LOANS ARE AN OPTION OR A
19 REQUIREMENT FOR FOR-PROFIT APPLICANTS IN A
20 PARTICULAR RFA.

21 THEN TURNING TO PAGE 3, THERE'S ONE CHANGE
22 I WANT TO MENTION THAT IS NOT REFLECTED IN THIS
23 DRAFT. IT'S A SMALL CHANGE. IN TERMS OF
24 ELIGIBILITY FOR THE PRINCIPAL INVESTIGATOR OR
25 PROGRAM DIRECTOR, THERE'S A REFERENCE TO EMPLOYMENT

BARRISTERS' REPORTING SERVICE

1 GREATER THAN 50 PERCENT OF THE TIME. AND IT WAS
2 JUST POINTED OUT THAT AT LEAST 50 PERCENT WOULD BE
3 MORE CONSISTENT WITH USUAL DEFINITIONS OF AN
4 EMPLOYMENT RELATIONSHIP. SO THAT CHANGE IS NOT
5 REFLECTED IN YOUR DRAFT, BUT IT'S A CHANGE THAT
6 WE'RE PROPOSING TO INCORPORATE.

7 MR. KLEIN: WHAT WAS THAT CHANGE, IAN?

8 MR. SWEEDLER: ON PAGE 3, LOAN APPLICATION
9 AND REVIEW PROCESS, HEADING A, ELIGIBILITY, PI AND
10 PD ELIGIBILITY. IT SAYS THAT PI'S OR PD'S FROM
11 FOR-PROFIT APPLICANTS AND LOAN RECIPIENTS MUST BE
12 EMPLOYED PRIMARILY BY THE FOR-PROFIT ORGANIZATION
13 THAT IS GREATER THAN 50 PERCENT OF THE TIME. AND
14 WE'RE PROPOSING TO CHANGE GREATER THAN TO AT LEAST,
15 SO AT LEAST 50 PERCENT TIME.

16 MR. KLEIN: AND IF DR. OLSON IS IN THE
17 ROOM, DR. OLSON, IS THAT CONSISTENT WITH THE
18 TECHNICAL AMENDMENTS OF THE LAST BOARD MEETING?
19 DOES THAT SOMEWHERE CROSS-REFERENCE WITH THE
20 PRESIDENT HAVING ABILITY TO MAKE EXCEPTIONS?

21 DR. OLSON: MR. KLEIN, I JUST WANT TO
22 CLARIFY THAT THIS HAS TO DO WITH ELIGIBILITY AS TO
23 THE PI. IT DOES NOT SPEAK TO THE PERCENT EFFORT
24 THAT WE WOULD RECOMMEND ON ANY GIVEN RFA. SO WHAT
25 CONSTITUTES ELIGIBILITY TO BE A PI FOR A FOR-PROFIT

BARRISTERS' REPORTING SERVICE

1 APPLICANT RATHER THAN THE PERCENT EFFORT REQUIRED ON
2 AN RFA-BY-RFA BASIS, WHICH IS WHAT YOU WERE SPEAKING
3 TO WHERE THE PRESIDENT HAS THE DISCRETION, IN THE
4 CASE OF SENIOR INVESTIGATORS, OF LOWERING THAT
5 REQUIREMENT.

6 MR. KLEIN: DUANE?

7 MR. ROTH: YES.

8 MR. KLEIN: YOU HAVE A COMMENT ON THAT?

9 MR. ROTH: I THINK THIS IS OKAY. WHAT IT
10 SAYS, BOB, IN ESSENCE, IS THEY HAVE TO BE A REAL
11 EMPLOYEE OF THE COMPANY AS OPPOSED TO YOU CAN GO OUT
12 AND HIRE SOMEBODY PART TIME 10 PERCENT OF THEIR TIME
13 AND PUT THEM AS A, QUOTE, EMPLOYEE.

14 MR. KLEIN: EFFECTIVELY WHAT IT'S SAYING
15 IS THAT IF YOU HAVE SOMEONE FROM A UNIVERSITY WHO IS
16 AN ACADEMIC COLLABORATOR WHO WORKS PART TIME FOR THE
17 PRIVATE COMPANY, THEY WON'T BE ABLE TO MEET THIS
18 REQUIREMENT TO BECOME A PI REPRESENTING THE PRIVATE
19 COMPANY BECAUSE THEY WOULDN'T BE AT 50 PERCENT.

20 MR. ROTH: BUT SOMEBODY ELSE WITHIN THE
21 COMPANY COULD BE THE PI AND THEY COULD BE ON THE
22 PROJECT.

23 MR. KLEIN: THEY COULD BE THEORETICALLY A
24 CO-PI.

25 MR. ROTH: YES.

BARRISTERS' REPORTING SERVICE

1 DR. OLSON: THEY COULD BE A CO-PI.

2 MR. KLEIN: THANK YOU VERY MUCH, DR.

3 OLSON.

4 MR. SWEEDLER: CONTINUING THROUGH ON PAGE
5 5, WE HAD A DISCUSSION ABOUT CIRCUMSTANCES UNDER
6 WHICH A LOAN MIGHT BE TRANSFERRED FROM ONE
7 ORGANIZATION TO ANOTHER WHILE IT'S IN THE RESEARCH
8 STAGE OR WHAT HAPPENS IF A PI WERE TO LEAVE THE
9 ORGANIZATION. AND THERE'S AN INSERTION RIGHT AT THE
10 BEGINNING OF THE SECOND PARAGRAPH JUST TO CLARIFY.
11 A TRANSFER TO ANOTHER ORGANIZATION WOULD ONLY
12 HAPPEN, FIRST OF ALL, IF REQUESTED BY THE ORIGINAL
13 LOAN RECIPIENT ORGANIZATION. SO THIS IS NOT A
14 SCENARIO WHERE THE PI COULD LEAVE AND SIMPLY ASK
15 CIRM TO MOVE THE PROJECT TO ANOTHER COMPANY.

16 AS THE POLICY STATES AND AS IT MADE CLEAR
17 BEFORE, TWO THINGS WOULD HAVE TO HAPPEN BEFORE THE
18 PROJECT COULD TRANSFER TO ANOTHER ORGANIZATION. THE
19 ORIGINAL ORGANIZATION WOULD HAVE TO REQUEST IT AND
20 THEN CIRM WOULD HAVE TO APPROVE IT BASED ON THE
21 FACTORS THAT ARE SET OUT THERE. THEY'RE THE SAME
22 CRITERIA THAT, IN GENERAL, HAVE ALWAYS BEEN THERE
23 FOR MOVING A GRANT FROM ONE ORGANIZATION TO ANOTHER
24 WITH A FEW WORDS ADDED JUST TO REFLECT THE FACT THAT
25 THE NEW ORGANIZATION HERE NOT ONLY TAKES

BARRISTERS' REPORTING SERVICE

1 RESPONSIBILITY FOR THE RESEARCH, BUT ALSO
2 RESPONSIBILITY FOR REPAYMENT OF THE LOAN.

3 ON PAGE 9 WHERE WE HAVE ACTUAL SIGNIFICANT
4 CHANGES BECAUSE WE HAD TALKED AT THE LAST MEETING
5 ABOUT HOW TO HANDLE THE SITUATION IN A NONRECOURSE
6 LOAN, WHAT SORT OF CIRCUMSTANCES WOULD LEAD TO THE
7 RECIPIENT NOT HAVING TO PAY THAT BACK. AND WE HAD
8 USED TERMS LIKE "PROJECT FAILURE" AND MEANS OF
9 DETERMINING THAT. THERE HAD BEEN DISCUSSION OF THE
10 FACT THAT THERE COULD BE DIFFERENT TYPES OF
11 CIRCUMSTANCES THAT COULD BRING THAT ABOUT. SO I'D
12 LIKE TO JUST WALK YOU THROUGH THE TWO OPTIONS THAT
13 ARE NOW HERE.

14 WE DISTINGUISH NOW TWO DIFFERENT WAYS THAT
15 REPAYMENT OF A NONRECOURSE LOAN WOULD BE SUSPENDED.
16 AND THE REASON I SAY SUSPENDED IS THAT WE DON'T
17 FORGIVE THE LOANS OUTRIGHT. WHAT HAPPENS IS IF THE
18 POINT IS REACHED WHERE EFFECTIVELY NOTHING FURTHER
19 IS EXPECTED FROM THIS PROJECT, THAT IT'S BEEN
20 ABANDONED, WHAT HAPPENS AT THAT POINT IS THEY BECOME
21 SUBJECT ESSENTIALLY TO THE REVENUE SHARING
22 REQUIREMENTS THAT APPLY TO GRANTS. AND TO THE
23 EXTENT REVENUE SHOULD BE GENERATED IN THE FUTURE, IT
24 WOULD GO TOWARDS REPAYMENT OF THE ORIGINAL LOAN. SO
25 THIS IS TO AVOID THE POSSIBILITY THAT THERE WOULD BE

BARRISTERS' REPORTING SERVICE

1 AN UNANTICIPATED WINDFALL AND THAT THE STATE WOULD
2 NOT GET ITS SHARE. AND THAT'S JUST TO EXPLAIN WHY
3 I'M USING THE TERM "SUSPENSION" RATHER THAN
4 "FORGIVENESS."

5 SO SUBPART B, PROJECT ABANDONMENT, AS THE
6 TEXT EXPLAINS, A PROJECT IS ABANDONED IF THE LOAN
7 RECIPIENT ORGANIZATION HAS NO PLAN FOR FURTHER
8 DEVELOPMENT OF THE PROJECT. SO THAT'S THE SCENARIO
9 I DESCRIBED WHERE AT THAT POINT IN TERMS OF
10 REPAYMENT THEY BEGIN TO FOLLOW THE REVENUE SHARING
11 REQUIREMENTS OF THE IP POLICY.

12 THE RECIPIENT ORGANIZATION WILL DECIDE FOR
13 ITSELF IF THEY WANT TO TAKE THE STEP OF ABANDONING
14 THE PROJECT. THAT'S NOT SOMETHING THAT THEY NEED TO
15 GET OUR APPROVAL AS TO WHETHER OR NOT THE PROJECT
16 SHOULD BE ABANDONED. THEY'RE NOT FORCED TO REMAIN
17 ACTIVE WITH THE PROJECT. THE IP POLICY TAKES CARE
18 OF CAPTURING REVENUE. WE ALSO DID WANT TO ADDRESS
19 MAKING SURE THAT TO THE EXTENT USEFUL TECHNOLOGY
20 EMERGES FROM THAT PROJECT, THAT EVEN THOUGH THEY'VE
21 DECIDED TO ABANDON IT, THAT IT'S AVAILABLE FOR
22 APPROPRIATE USE.

23 SO THE WAY THAT WORKS IS AS PART OF THE
24 PROCESS OF APPLYING FOR ABANDONMENT OF A NONRECOURSE
25 LOAN, THEY'RE REQUIRED TO DEMONSTRATE COMPLIANCE

BARRISTERS' REPORTING SERVICE

1 WITH ALL REPORTING REQUIREMENTS, AND THAT INCLUDES
2 REPORTING REQUIREMENTS, INVENTION DISCLOSURES.
3 UNDER THE INTELLECTUAL PROPERTY POLICY, BEFORE
4 GRANTING AN APPLICATION FOR ABANDONMENT OF THE LOAN,
5 WE WOULD HAVE TO BE SATISFIED THAT THEY HAVE
6 REPORTED WHAT THEY'RE REQUIRED TO REPORT. IN THAT
7 REGARD THERE ARE THREE WORDS THAT I WANT TO ADD TO
8 THE TEXT THAT'S BEEN PRESENTED THERE.

9 THERE'S A SENTENCE IN THE MIDDLE OF THE
10 SUBPART B THAT'S ADDED THAT THEY HAVE TO DEMONSTRATE
11 COMPLETE COMPLIANCE WITH ALL CIRM REPORTING
12 REQUIREMENTS, AND WE WANT TO ADD AT THE END OF THAT
13 SENTENCE "AND AUDIT REQUESTS" JUST TO MAKE IT CLEAR
14 CIRM ALREADY HAS THE AUTHORITY UNDER THE IP POLICY
15 AT ANY STAGE HERE TO BE AUDITING THEIR COMPLIANCE
16 WITH INVENTION DISCLOSURE OR REPORTING REQUIREMENTS.
17 AND THIS IS JUST TO BRING TO THEIR ATTENTION THAT
18 WE'LL BE MONITORING THAT VERY CLOSELY. AT THIS
19 PARTICULAR POINT, IN PARTICULAR WHERE SOMEBODY
20 PROPOSES TO CLAIM THAT THEY HAVE ABANDONED THE
21 PROJECT, WE'LL WANT TO ENSURE THAT WE'RE AWARE OF
22 REPORTABLE TECHNOLOGY THAT WAS DEVELOPED. TO THE
23 EXTENT THERE IS ANY SUCH TECHNOLOGY, THEN CIRM HAS
24 THE RIGHTS AND THE TOOLS THAT IT HAS FOR ALL OF ITS
25 FUNDED RESEARCH, AND THAT IS MONITORING AND THE

BARRISTERS' REPORTING SERVICE

1 MARCH-IN RIGHTS THAT EXIST IN THE IP POLICY.

2 SO WE HAVE THE SAME MECHANISMS HERE AND
3 CONTINUE TO HAVE THOSE MECHANISMS FOR A LOAN AS WE
4 DO FOR GRANTS. AND I JUST WANT TO POINT OUT THAT
5 THE REPORTING REQUIREMENTS THERE EXTEND PAST THE END
6 OF THE FUNDED RESEARCH PROJECT. SO YEARS AFTER THE
7 END OF THE RESEARCH PROJECT AND AFTER THE LOAN
8 PERIOD, THERE ARE CONTINUED REPORTING REQUIREMENTS
9 AND A CONTINUED AUDIT RIGHT REGARDING TECHNOLOGY
10 THAT'S BEEN DEVELOPED.

11 DR. PENHOET: SO, IAN, JUST TO CLARIFY
12 THIS ISSUE, THE IP POLICY -- PAYMENT TERMS
13 ASSOCIATED WITH THE IP FOR GRANTS DO NOT APPLY TO
14 LOANS. ALL OTHER ASPECTS OF THE IP POLICY APPLY.

15 CHAIRMAN GOLDBERG: IS THAT DR. PENHOET?

16 DR. PENHOET: YES. I'M SORRY.

17 CHAIRMAN GOLDBERG: THANK YOU.

18 DR. PENHOET: SO INSTEAD OF THE PAYMENTS
19 TO CIRM UNDER THAT POLICY WILL CONSTITUTE REPAYMENT
20 OF THE LOAN, THAT IS UNDER THE IP POLICY, BUT THEY
21 WILL NOT HAVE AGREED TO A REPAYMENT SCHEME UNDER THE
22 IP POLICY. SO ARE YOU SAYING THIS ESSENTIALLY
23 CONVERTS TO A GRANT?

24 MR. SWEEDLER: EXACTLY. IN THE NEXT
25 PARAGRAPH, UPON ABANDONMENT, MEANING THEY ARE FOR

BARRISTERS' REPORTING SERVICE

1 THE TIME BEING NOT EXPECTED TO REPAY THE LOAN, IF
2 REVENUES DEVELOP IN THE FUTURE WHICH WOULD
3 CONSTITUTE SHARABLE REVENUE UNDER THE IP POLICY,
4 THEN THEY SHARE THAT REVENUE WITH US JUST AS THEY
5 WOULD UNDER THE IP POLICY FOR GRANTS. HERE THEY'RE
6 SHARING IT IN THE FORM OF AT LEAST PARTIAL REPAYMENT
7 OF THE LOAN. SO THEY CONSTITUTE LOAN REPAYMENTS
8 THAT ARE CALCULATED AS IF THEY WERE REVENUE SHARING
9 UNDER THE IP POLICY FOR GRANTS. LET ME CLARIFY JUST
10 TO BE SURE.

11 IT'S THE IP POLICY OVERALL, BUT REVENUE
12 SHARING THERE DOES NOT APPLY TO LOANS, BUT WE ARE
13 INCORPORATING IT FOR ABANDONED LOANS AS A WAY OF
14 CALCULATING LOAN REPAYMENTS.

15 DR. PENHOET: -- TO THIRD PARTIES AS
16 SOMEONE HAS TO US IN THE CASE THAT THEY ABANDON THE
17 PROJECT ESSENTIALLY BECOMES THE SAME AS IF THEY HAD
18 HAD A GRANT.

19 MR. SWEEDLER: RIGHT. BUT THEY ARISE
20 UNDER THE LOAN ADMINISTRATION POLICY AND NOT UNDER
21 THE REVENUE SHARING RULES OF THE IP POLICY.

22 MR. ROTH: IAN, IT'S DUANE. I'D LIKE TO
23 FOLLOW UP WITH JUST A CLARIFICATION BECAUSE I'M NOT
24 FOLLOWING EXACTLY WHY THAT WOULD HAPPEN. IT WOULD
25 BE MY UNDERSTANDING THAT IF THEY ABANDON, THAT MEANS

BARRISTERS' REPORTING SERVICE

1 IT STOPS. THERE'S NOTHING ELSE GOING TO HAPPEN.
2 SHOULD THEY EVER DO ANYTHING WITH THAT KNOW-HOW OR
3 IP OR WHATEVER THEY HAVE ABANDONED, THEN THE LOAN
4 WOULD FOLLOW THAT. IT'S A LIEN AGAINST THAT
5 TECHNOLOGY.

6 MR. KLEIN: THIS IS BOB. I WOULD SECOND
7 THE COMMENT THAT DUANE JUST MADE, THAT WE'RE MAKING
8 IT MORE COMPLICATED BY SWITCHING FROM A LOAN TO AN
9 IP PROCESS. IF THEY'VE SOLD THIS CONCEPT INTERNALLY
10 TO THEIR VC'S AND THEIR LENDERS AS A LOAN, WE'RE
11 ASKING THEM UNDER A SUSPENSION OR AN ABANDONMENT TO
12 SWITCH TO A GRANT IP POLICY. I DON'T THINK WE NEED
13 TO MAKE THAT CONDITION. AND, FRANKLY, I THINK
14 THERE'S A NUMBER OF CIRCUMSTANCES, PERHAPS THE
15 GENERAL CASE, WHERE WE WOULD COME OUT BETTER. IF
16 THEY FIND A SUBSTITUTE APPLICATION TO A THERAPY AND
17 THE PROJECT HAS BEEN SUSPENDED, BUT THEY FIND AN
18 ALTERNATIVE APPLICATION FOR THE THERAPY AND THEN GO
19 FORWARD, I'D RATHER HAVE THE LOAN REPAYMENT AND HAVE
20 THE WARRANTS THAN SWITCH TO ANOTHER APPROACH UNDER
21 THIS.

22 MR. SWEEDLER: COULD I ADDRESS THAT AND
23 MAKE SOME CLARIFICATIONS? WE'RE MAYBE USING SOME
24 TERMINOLOGY A LITTLE LOOSELY. IT DOES NOT BECOME A
25 GRANT. IT REMAINS A LOAN. THE WARRANTS ARE

BARRISTERS' REPORTING SERVICE

1 UNAFFECTED. SO THE WARRANTS THAT CIRM HAS RECEIVED
2 AT THE INITIATION OF THE LOAN AND AS DISBURSEMENTS
3 WERE MADE ARE NOT AFFECTED BY PROJECT ABANDONMENT.
4 THE PROPOSAL IS THAT, I THINK IT IS WHAT DUANE IS
5 TALKING ABOUT, IN THAT IF CIRCUMSTANCES CHANGE AND
6 REVENUE DOES DEVELOP LATER FOR A PROJECT THAT HAD
7 BEEN THOUGHT ABANDONED, THEN THE REPAYMENT
8 OBLIGATION REVIVES. AND THE REVENUE SHARING
9 PROVISION IS USED AS A METHOD OF DETERMINING WHAT
10 THAT PAYMENT IS. RATHER THAN, FOR EXAMPLE, IF THEY
11 RECEIVE, SAY, A MODEST AMOUNT OF MONEY TO LICENSE
12 SOME TECHNOLOGY THAT DEVELOPED OUT OF THAT, IT WOULD
13 NOT MAKE SENSE AT THAT POINT TO REINSTATE THE FULL
14 LOAN REPAYMENT OBLIGATION BECAUSE IT WOULD BE
15 DISPROPORTIONATE TO WHAT THEY GAINED, AND IT WOULD
16 ACTUALLY BE A DISINCENTIVE TO PRODUCTIVE USE OF THAT
17 TECHNOLOGY.

18 SO THIS IS A WAY OF ENSURING THAT TO THE
19 EXTENT REVENUE SHOULD DEVELOP LATER, THAT SOME
20 REPAYMENT OF THE LOAN RESULTS IN A WAY THAT IS
21 PROPORTIONATE TO THAT. AND RATHER THAN INVENT A NEW
22 METHOD OF DEFINING WHAT PORTION OF THE LOAN WOULD BE
23 REPAYED, THE REVENUE SHARING PROVISION IS WHAT WOULD
24 BE BORROWED TO MAKE THAT CALCULATION.

25 A COUPLE OF OTHER CLARIFICATIONS TO MAKE

BARRISTERS' REPORTING SERVICE

1 HERE. THE REPAYMENT OBLIGATION IS NOT THE AMOUNT OF
2 THE LOAN AS DISBURSED. IT'S THE AMOUNT OF THE LOAN
3 DISBURSED PLUS INTEREST. AND ONE CHANGE FROM THE
4 LAST ROUND IS THAT THE AMOUNT OF INTEREST THAT'S
5 REPAYABLE CONTINUES TO ACCRUE THROUGHOUT THIS PERIOD
6 IN WHICH THE LOAN IS SUSPENDED. SO IF A PROJECT
7 THAT HAD APPEARED TO BE ABANDONED SOMEHOW HITS IT
8 BIG LATER ON, THE POTENTIAL LOAN REPAYMENT COULD BE
9 SUBSTANTIAL. SO THE STATE IS IN LINE TO ULTIMATELY
10 RECEIVE A FAIR AMOUNT OF MONEY.

11 IN THE EVENT WE'RE CONSIDERING, UNLIKELY,
12 THAT A PROJECT WHICH HAS BEEN ABANDONED AS HAVING NO
13 REAL POTENTIAL SHOULD LATER DEVELOP SOME POTENTIAL,
14 SO IT IS INTENDED AS A WAY OF CAPTURING THAT AS IT
15 HAPPENS, IF IT SHOULD HAPPEN, WHILE RELYING ON THE
16 REPORTING AND MONITORING INFRASTRUCTURE THAT WE'RE
17 ALREADY PUTTING IN PLACE UNDER THE IP POLICY. SO
18 THAT CIRM OR WHOEVER IS MONITORING THESE 15 OR 20
19 YEARS DOWN THE ROAD DOESN'T HAVE TO IMPLEMENT AN
20 ENTIRELY SEPARATE TRACK OF MONITORING.

21 SO SINCE A LOT OF THOUGHT HAS GONE INTO
22 THE REVENUE SHARING PROVISIONS, BOTH PROPORTIONS TO
23 BE REPAYED AND THE PROCESS BY WHICH TO DO THAT, THIS
24 SEEMS LIKE A PRACTICAL WAY TO BRING THAT ABOUT.

25 DR. TROUNSON: I THINK THAT THERE'S FAIR

BARRISTERS' REPORTING SERVICE

1 SENSE HERE BECAUSE, YOU KNOW, WE'VE ALREADY SEEN
2 THOSE THAT GET DEVELOPED, BUT FOR SOME REASON
3 THEY'RE NOT UTILIZED, THEY'RE REALLY KEPT ON THE
4 SHELF, BUT NOT -- THERE'S NO UTILIZATION OF IT BEING
5 MADE. AND THEN SUDDENLY THERE'S A DISCOVERY WHICH
6 MAKES THEM INCREDIBLY RELEVANT FOR SOMETHING. SO,
7 YOU KNOW, THE VALUE OF IT MAY GET DISPLACED BY A
8 PERIOD OF TIME, AND THAT COULD BE A SHORT TIME OR
9 QUITE A LONG TIME. AND I THINK WE OUGHT TO BE ABLE
10 TO COME BACK EVEN THOUGH THE PROJECT WAS BASICALLY
11 COMPLETE BECAUSE THERE WAS NO FURTHER -- THEY
12 WEREN'T GOING FURTHER FORWARD ON IT; BUT IF IT WAS
13 THEN RECOMMERCIALIZED THROUGH ANOTHER OPPORTUNITY,
14 THAT WE SHOULD BE ABLE TO BE PART OF THAT.

15 DR. PENHOET: I THINK MAYBE THERE WAS A
16 MIDDLE GROUND WHERE THAT WOULD MAKE SENSE. ONE
17 WOULD BE TO LEAVE THE LOAN OBLIGATION IN PLACE AND
18 IT JUST WOULD CONTINUE TO ACCRUE; BUT YET A LICENSE
19 IN TECHNOLOGY, RATHER THAN SWITCHING BACK TO THE
20 GRANT TERMS OF REPAYMENT, WE MIGHT SIMPLY ASK THEM
21 TO PROVIDE BACK AS PARTIAL REPAYMENT OF THEIR LOAN
22 SOME FRACTION OF THE INCOME THAT THEY GET. YOUR
23 POINT IS CORRECT. IF THEY ARE TO APPLY AT ALL
24 AGAINST THE LOAN, THEY WON'T BOTHER TO LICENSE IT.
25 SO YOU'D HAVE TO SHARE IT SOMEHOW WITH THEM IN ORDER

BARRISTERS' REPORTING SERVICE

1 TO INDUCE THEM TO LICENSE IT.

2 SO IF WE SIMPLY LEFT THE LOAN IN PLACE,
3 EVEN THOUGH SUSPENDED, AND ANY FUTURE PAYMENTS OF
4 THE KIND THAT YOU DESCRIBE WOULD BE STILL APPLIED
5 AGAINST THE BALANCE OF THE LOAN, WHATEVER IT WAS AT
6 THE TIME, RATHER THAN COME THROUGH THE OTHER ROUTE.

7 MR. SWEEDLER: AND, ED, WHAT YOU HAVE
8 DESCRIBED IS WHAT THIS INTENDED POLICY IS.

9 DR. PENHOET: WHAT CONFUSED ME WAS YOUR
10 LANGUAGE ON REVERSION TO THE IP POLICY.

11 MR. SHEEHY: I THINK IT'S THAT PERCENTAGE
12 RATE, ANNUAL RATE THAT YOU'RE TRYING TO REFERENCE,
13 RIGHT? PERCENTAGE ANNUAL RATE THAT -- WHICH IS,
14 WHAT, 2 PERCENT THAT WE AGREED UPON?

15 MR. ROTH: I THINK IT WAS THREE AT THE
16 END.

17 MR. SHEEHY: THREE PERCENT OF THE REVENUE.

18 MR. ROTH: THREE OR FOUR. I DON'T
19 REMEMBER.

20 MR. SHEEHY: IS THAT WHAT WE'RE --

21 MR. ROTH: YEAH. THAT'S WHAT THEY'RE
22 TALKING ABOUT.

23 MR. SHEEHY: YEAH. THAT MAKES SENSE.

24 MR. ROTH: WAIT. IT'S DUANE AGAIN. I
25 AGREE WITH WHAT ED JUST SAID, BUT I THINK YOU'RE

BARRISTERS' REPORTING SERVICE

1 MAKING IT TOO COMPLICATED. I'D STICK WITH THE LIEN
2 ON ANYTHING. REMEMBER IT'S BEEN DECLARED ABANDONED.
3 THERE IS A CHANCE, AS ALAN POINTS OUT, THAT A NEW
4 DISCOVERY WILL COME ALONG AND SUDDENLY THAT BECOMES
5 IMPORTANT. I WOULD LIKE TO BE IN A POSITION OF
6 HAVING THAT LIEN AGAINST THAT IP AND THEN NEGOTIATE
7 ANY KIND OF REDUCTIONS. BUT TO PUT IT IN A POLICY
8 THAT YOU ARE GOING TO DO THAT I THINK LEAVES YOU,
9 YOU KNOW, WITHOUT SOMETHING TO NEGOTIATE.

10 IF IT'S DEAD, IT'S DEAD. AND THE LIEN, IF
11 IT COMES BACK TO LIFE FOR ANY REASON, WE SHOULD BE
12 THERE WITH OUR LOAN REPAYMENT, AND THEN WE HAVE THE
13 OPTION TO DO WHAT ED IS SUGGESTING. IF IT DOESN'T
14 MAKE SENSE AT THOSE NUMBERS, THEN WE CAN GO TO SOME
15 OTHER FORMULA.

16 MR. SWEEDLER: FIRST, ADDRESSING THE LIEN
17 POINT, THAT AS A PROCESS WOULD BE A WAY OF SECURING
18 AND ENFORCING OUR RIGHTS. BUT ANOTHER WAY TO DO
19 THAT IS, BECAUSE THE REGULATIONS HAVE THE FORCE OF
20 LAW, THOSE RIGHTS EXIST AND ARE ENFORCEABLE WHETHER
21 THERE'S A LIEN STATED OR NOT. SO THE LIEN ITSELF
22 DOESN'T GAIN US RIGHTS TO ENFORCE THIS, I DON'T
23 THINK.

24 MR. ROTH: LEGALLY I'M JUST USING BUSINESS
25 TERMINOLOGY. I'M SIMPLY SAYING THAT I THINK YOU

BARRISTERS' REPORTING SERVICE

1 WANT TO BE IN A POSITION THAT IF IT RESURRECTS,
2 YOU' RE DUE THE LOAN PLUS INTEREST. AND THEN WE
3 WOULD HAVE TO BRING IT MAYBE TO THIS GROUP IF
4 THERE' S A REASON THAT WE SHOULD ADJUST THOSE TERMS.
5 LET' S START WITH, YOU KNOW, YOU' VE GOT A \$3 MILLION
6 PLUS INTEREST, YOU KNOW, \$4 MILLION. IF YOU WANT TO
7 LICENSE THIS IP, THAT' S WHAT' S IN IT. THEN WE HAVE
8 THE ABILITY TO NEGOTIATE WITH THE NEW BUYER.

9 MR. SHEEHY: DUANE, IT SEEMS TO ME THAT
10 ALL IAN IS PROPOSING IS A REPAYMENT RATE SO THAT
11 THERE' S SOME CERTAINTY. WHY WOULD A COMPANY LICENSE
12 IT WITHOUT HAVING ANY IDEA HOW MUCH MONEY THEY' RE
13 GOING TO HAVE TO PAY US? AND I THINK HE JUST
14 REACHED FOR THAT 3-PERCENT BENCHMARK AS A REPAYMENT
15 RATE JUST BECAUSE THAT' S ALREADY EXISTING. AM I
16 CORRECT? YOU JUST REACH BACK INTO THE REVENUE
17 SHARING PROVISIONS IN ORDER TO GET SOME SORT OF
18 FIXED FUTURE REPAYMENT RATE SO THAT ANYBODY WHO IS
19 CONSIDERING RELICENSING THIS OR DEVELOPING -- AZT
20 COMES TO MIND AS A GREAT EXAMPLE OF SOMETHING THAT
21 WENT, WHAT, ALMOST 25 YEARS MORIBUND AND THEN BECAME
22 OBVIOUSLY A MULTIPLE BILLION DOLLAR PRODUCT. HOW
23 WOULD YOU -- WHO WOULD MOVE FORWARD WITH THAT IF
24 THEY' RE GOING TO HAVE TO COME BACK TO US AND
25 RENEGOTIATE THE TERMS OF THE LOAN?

BARRISTERS' REPORTING SERVICE

1 MR. ROTH: I CAN ARGUE IT'S THE SAME
2 THING. IF THEY'VE GOT A \$6 MILLION LOAN, THEN THEY
3 HAVE TO PAY BACK THREE TIMES THAT. THEY HAVE TO PAY
4 BACK 18 MILLION AT 3 PERCENT.

5 MR. SHEEHY: HE'S NOT TALKING ABOUT -- I
6 DON'T THINK THE CONCEPT IS TO BRING OVER EITHER THE
7 BLOCKBUSTER PAYMENTS OR THE 3 X OR ANY OF THE OTHER.
8 IT'S JUST --

9 MR. ROTH: IT HAS TO BE.

10 DR. PENHOET: THAT'S WHAT THIS SAYS.

11 MR. SHEEHY: YOU'RE JUST LOOKING AT IT ON
12 THAT BASIS.

13 MR. SWEEDLER: KEEP IN MIND IT'S A METHOD
14 OF CALCULATING THE LOAN REPAYMENT. SO TO THE EXTENT
15 THAT THERE IS A BLOCKBUSTER RESULT WHICH WOULD
16 RESULT IN A PAYMENT OF A \$100 MILLION, BUT THE
17 OUTSTANDING BALANCE ON THE LOAN IS ONLY \$50 MILLION,
18 THEIR PAYMENT IS CAPPED AT \$50 MILLION. WHEN I SAY
19 THE BALANCE OF THE LOAN --

20 MR. SHEEHY: BECAUSE YOU'RE REALLY ONLY
21 TALKING ABOUT A REPAYMENT RATE, NOT ANY OF THE OTHER
22 PROVISIONS THAT ARE IN THE REVENUE SHARING ACCORDING
23 TO THE GRANT POLICY.

24 MR. SWEEDLER: IT'S THE REPAYMENT --

25 MR. SHEEHY: IT'S NOT CLEAR, BUT THAT'S

BARRISTERS' REPORTING SERVICE

1 HOW I UNDERSTAND IT.

2 MR. SWEEDLER: IT'S THE REPAYMENT RATE;
3 BUT WHEN YOU REACH FULL REPAYMENT OF THE LOAN
4 BALANCE, WHICH MEANS PRINCIPAL PLUS ALL ACCRUED
5 INTEREST, THEN THE REPAYMENT STOPS AT THAT POINT.
6 THERE'S NOTHING MORE TO REPAY.

7 DR. PENHOET: THEN YOU SHOULD PROBABLY
8 JUST STATE THE REPAYMENT RATE PROVISION OF THE IP
9 POLICY WOULD APPLY AND THAT WOULD CLARIFY THIS.
10 THERE ARE OTHER EMOLUMENTS IN THAT. I MEAN THE IP
11 POLICY HAS TWO RATES. ONE IS 25 PERCENT OF
12 LICENSING REVENUES COME DIRECTLY TO THE STATE. THE
13 OTHER ONE IS SELF-COMMERCIALIZATION. I THINK THE
14 NUMBER WAS 2 TO 5 PERCENT. I DON'T KNOW. SO IN THE
15 CURRENT DRAFT IT'S A FIXED 3 PERCENT SCALED FOR
16 SELF-COMMERCIALIZATION. THAT'S NOT A PAYMENT FROM
17 THIRD PARTIES FOR TECHNOLOGY WHICH BECAME USEFUL TO
18 SOMEBODY ELSE.

19 MR. ROTH: THAT'S TRUE.

20 MR. SWEEDLER: SO REWORDING IT TO --
21 BASICALLY IT WOULD BE CHANGING THE ORDER OF TWO
22 STATEMENTS IN THIS PARAGRAPH. FIRST, MAKING IT
23 CLEAR THAT WE'RE TALKING -- FIRST THAT WE'RE TALKING
24 ABOUT LOAN REPAYMENTS TOWARDS THE OUTSTANDING
25 PRINCIPAL AND ACCRUED INTEREST AT THAT POINT, AND

BARRISTERS' REPORTING SERVICE

1 THEN THE METHOD OF CALCULATING THOSE IS BASED ON THE
2 REVENUE SHARING PROVISIONS.

3 DR. PENHOET: THE RATE OF THE REPAYMENT.

4 MR. SWEEDLER: THE RATE OF THE REPAYMENT.

5 DR. PENHOET: WOULD BE CALCULATED BASED
6 ON.

7 MR. SWEEDLER: OKAY.

8 DR. PENHOET: I THINK.

9 MR. SWEEDLER: SO --

10 CHAIRMAN GOLDBERG: CHAIRMAN KLEIN.

11 MR. KLEIN: I THINK ACTUALLY THE STATEMENT
12 DUANE MADE IS A BETTER PLACE FOR US TO BE. IT CAN
13 COME BACK TO THE FINANCE COMMITTEE LIKE A MATERIAL
14 CHANGE. IF YOU REVISE THIS PROGRAM, LET'S LOOK AT
15 THE FACTS. TEN YEARS FROM NOW LET'S LOOK AT THE
16 FACTS, FIND OUT WHAT THE PRODUCT IS, AND IF WE NEED
17 TO REDUCE THE REPAYMENT AT THE TIME BECAUSE IT'S NOW
18 GOING TO BE USED FOR AN ORPHAN DISEASE, LET'S FIND
19 OUT WHAT THE FACTS ARE AND HAVE IT APPROPRIATELY
20 MATCH THE FACTS. TO TRY AND PUT A FIXED FORMULA IN
21 WHEN YOU CAN HAVE A RADICAL DIFFERENCE AND THIS
22 FIXED FORMULA WOULD NOT BE APPLICABLE I DON'T THINK
23 IS THE RIGHT RESPONSE.

24 DR. TROUNSON: I ACTUALLY DON'T AGREE WITH
25 THAT. I THINK THAT WOULD MAKE IT IMPOSSIBLE FOR

BARRISTERS' REPORTING SERVICE

1 COMPANIES TO AGREE BECAUSE YOU'RE THEN PUTTING
2 IN -- YOU'RE THEN ACTUALLY INSERTING SOMETHING THAT
3 NONE OF THE LAWYERS COULD FIGURE OUT OR FINANCIAL
4 OFFICERS COULD FIGURE OUT. I THINK THE MORE
5 CERTAINTY, THE MORE CHANCE THAT THEY WILL ACCEPT THE
6 LOAN.

7 MR. KLEIN: WAIT A MINUTE. IF THE
8 LOAN -- FIRST OF ALL, IF THE LOAN IS SUSPENDED,
9 WHICH IS ONE OF THE CASES YOU'RE COVERING HERE --

10 DR. PENHOET: ONLY CASE.

11 MR. KLEIN: WELL, YOU'VE GOT IT SUSPENDED
12 OR ABANDONED.

13 MR. SWEEDLER: SUSPENDED JUST REFERS TO
14 THE REPAYMENT OBLIGATION, NOT THE PROJECT ITSELF.
15 SO IF YOU ABANDON A PROJECT, THE REPAYMENT IS
16 SUSPENDED. THAT'S THE WAY OF KEEPING A REPAYMENT
17 OBLIGATION OUT THERE TO COLLECT AGAINST IF THERE IS
18 UNEXPECTED COMMERCIAL SUCCESS.

19 MR. KLEIN: OKAY. WELL, I THINK THAT WHAT
20 WE SHOULD DO IS KEEP THE ORIGINAL LOAN TERMS.
21 THERE'S CERTAIN -- THEY UNDERSTAND WHAT THEY'RE
22 BEING OBLIGATED TO. IF AT A FUTURE DATE THERE'S A
23 SUBSTANTIALLY DIFFERENT PRODUCT, THEY CAN COME BACK
24 TO THE FINANCE COMMITTEE. FINANCE COMMITTEE CAN
25 GIVE THEM ECONOMIC CERTAINTY AND THEY CAN GO OUT AND

BARRISTERS' REPORTING SERVICE

1 DECIDE WHETHER THEY WANT TO PROCEED WITH THIS
2 PRODUCT OR NOT.

3 MR. SWEEDLER: SO IN ORDER TO IMPLEMENT AN
4 APPROACH LIKE THAT, WHAT WE WOULD NEED, WE WOULD
5 NEED A DEFINITION OF WHAT WOULD TRIGGER THAT
6 REEXAMINATION.

7 MR. KLEIN: THEY WOULD HAVE TO COME BACK.
8 EITHER THEY'D PAY WHAT THEY WERE ORIGINALLY
9 OBLIGATED TO PAY, OR THEY COME BACK TO THE FINANCE
10 COMMITTEE AND SAY UNDER THESE CIRCUMSTANCES, WE HAVE
11 A THERAPY THAT WOULD BE VALUABLE TO THE PUBLIC AND
12 WE WOULD LIKE TO PRESENT THE FACTS THAT WOULD
13 JUSTIFY A MATERIAL MODIFICATION.

14 MR. SHEEHY: BOB, HOW WOULD THEY KNOW IT
15 WAS VALUABLE UNTIL THEY HAD DONE SOME WORK WITH IT?
16 I THINK THAT'S A PROBLEM. AND IF YOU HAD THIS LONG
17 TAIL ATTACHED, NUMBERS MIGHT NOT ADD UP.

18 MR. KLEIN: YOU KNOW, IN ORDER TO FIGURE
19 OUT WHETHER THEY WANT TO DO THE THERAPY OR NOT, THEY
20 HAVE TO DO SOME PRELIMINARY INVESTIGATION ON
21 FEASIBILITY.

22 MR. SWEEDLER: LET'S SAY THEY'VE ABANDONED
23 THE PROJECT, IT'S FIVE YEARS LATER, SOMEONE
24 APPROACHES THEM AND WANTS TO LICENSE SOME TECHNOLOGY
25 FROM THAT. IF THEY'RE OFFERING TO LICENSE THAT \$10

BARRISTERS' REPORTING SERVICE

1 MILLION, IS THAT SOMETHING THAT WOULD, SUBJECT TO
2 NEGOTIATION, REINSTATE THE TERMS OF THE LOAN?

3 MR. KLEIN: IAN, THE ANSWER TO YOU IS
4 THAT, YOU KNOW, THE LOAN IS \$10 MILLION AND THEY
5 HAVE A COMMERCIAL OPPORTUNITY THAT'S 10 MILLION. SO
6 THEY SAY CLEARLY THIS WON'T WORK BECAUSE THE FINANCE
7 COMMITTEE PRESENTED THE FACTS AND SAY, YOU KNOW,
8 WE'RE NOT GOING TO GO AHEAD WITH THIS BECAUSE WE
9 HAVE ADDITIONAL WORK WE HAVE TO INVEST UNLESS THE
10 REPAYMENT IS REDUCED TO \$4 MILLION.

11 MR. SHEEHY: BUT AREN'T YOU CREATING AN
12 INCENTIVE TO ABANDON IP?

13 MR. KLEIN: I DON'T THINK SO.

14 MR. SHEEHY: WHY DO I HAVE THE GERON
15 ATTORNEY HERE SHAKING HIS HEAD WHEN I SAY THAT HERE
16 IN SAN FRANCISCO SAYING YES AND THEN SHAKING HIS
17 HEAD NO. I JUST DON'T KNOW. YOU KNOW, WHAT I'VE
18 HEARD ALL ALONG IS THAT PEOPLE NEED CERTAINTY BEFORE
19 THEY GO IN TO DEVELOP THESE THINGS.

20 DR. TROUNSON: CAN WE ASK TO ACTUALLY DO
21 THAT BECAUSE OTHERWISE WE'RE NEVER GOING TO PERSUADE
22 THEM TO TAKE THESE LOANS. WE REALLY WON'T. IT
23 NEEDS TO BE SIMPLE AND IT NEEDS TO BE UNDERSTANDABLE
24 AND CALCULABLE.

25 MR. ROTH: I THINK THIS NEEDS SOME MORE

BARRISTERS' REPORTING SERVICE

1 WORK, AND I WOULD ENCOURAGE YOU TO TALK THIS THROUGH
2 A LITTLE BIT. THE OTHER THING I WOULD DO IS I WOULD
3 HAVE AN ACCOUNTANT LOOK AT THIS VERY CAREFULLY AND
4 ASK THE QUESTION: HOW WOULD THIS TERMINOLOGY RESULT
5 IN YOUR ADVICE TO THE COMPANY ABOUT HOW TO BOOK
6 THIS?

7 DR. STEWARD: COULD I ALSO JUST ADD ONE
8 OTHER PIECE TO THIS AS YOU'RE THINKING ABOUT IT?
9 WE'RE TALKING ABOUT THINGS HAPPENING AT DIFFERENT
10 TIMELINES IN THE FUTURE, FIVE YEARS, WHATEVER. ONE
11 COULD EASILY IMAGINE SOMETHING HAPPENING THAT WOULD
12 RESURRECT A PROJECT BEYOND THE LIFE OF CIRM EVEN.
13 BEYOND THE LIFE OF A FINANCE COMMITTEE AT LEAST.
14 AND I JUST WONDER IF THERE OUGHT TO BE SOME THOUGHT
15 GIVEN TO THAT KIND OF EVENTUALITY AND TIMELINES AND
16 SUNSET PROVISIONS AND SO FORTH. I DON'T SEE
17 ANYTHING LIKE THAT IN HERE RIGHT NOW.

18 AS LONG AS I'M TALKING, I'LL JUST MENTION
19 ONE OTHER THING. IN THE SAME PART OF THE DOCUMENT,
20 I DON'T KNOW WHETHER YOU WANT COMMENTS ON THIS RIGHT
21 NOW, BUT I'LL DO IT SINCE I'M TALKING. I WORRY A
22 LITTLE BIT ABOUT THE STATEMENT A PROJECT -- THE
23 APPLICATION AND THAT IS FOR SUSPENSION WILL BE
24 GRANTED IF IN THE JUDGMENT BLAH, BLAH, BLAH. I
25 WONDER IF THAT'S JUST A LITTLE BIT TOO STRONG. ONE

BARRISTERS' REPORTING SERVICE

1 POSSIBLITY WOULD BE TO HAVE SOMETHING LIKE A
2 DECISION REGARDING WHETHER OR NOT AN APPLICATION FOR
3 ABANDONMENT WOULD BE APPROVED WOULD BE BASED ON
4 BLAH, BLAH, BLAH, THE JUDGMENT OF THE PRESIDENT OF
5 CIRM REGARDING COMPLIANCE, JUST TO MAKE IT NOT
6 ABSOLUTE THAT THIS THING IS JUST GOING TO BE RUBBER
7 STAMPED IF IT COMES THROUGH AND THEY'VE FULFILLED
8 ALL THE CIRM REQUIREMENTS.

9 MR. SWEEDLER: IF I COULD JUMP IN AND JUST
10 TO PROVIDE A LITTLE PROCESS AND HISTORY. FIRST, IN
11 TERMS OF WHERE WE ARE IN THE LOAN ADMINISTRATION
12 POLICY PROCESS, THE ANTICIPATED FIRST RFA USING
13 LOANS IS DISEASE TEAMS ANTICIPATED WITH AN RFA
14 RELEASE DATE AT THE FIRST WEEK OF FEBRUARY. WE
15 CAN'T HAVE AN RFA WITH LOANS IF THERE'S NO LOAN
16 ADMINISTRATION POLICY. SO THE JANUARY COC MEETING
17 IS WHERE THE BOARD NEEDS TO APPROVE A LOAN
18 ADMINISTRATION POLICY IF IT WANTS LOANS IN DISEASE
19 TEAMS.

20 NOW, SOME ASPECTS OF THAT POLICY COULD
21 CONTINUE TO EVOLVE. KEEP IN MIND THAT THIS IS AN
22 INTERIM POLICY AND WE'RE TALKING ABOUT HAVING IT IN
23 PLACE INITIALLY TO APPLY IT TO ONE RFA, AND WE CAN
24 CONTINUE TO LOOK AT THINGS. SO THAT'S A LITTLE BIT
25 OF WHERE WE ARE IN TERMS OF PROCESS.

BARRISTERS' REPORTING SERVICE

1 A LITTLE BIT IN TERMS OF HISTORY. THIS
2 APPROACH, TWO ASPECTS OF THIS ISSUE OF NONRECOURSE
3 LOANS WERE DISCUSSED AT THE LAST FINANCE COMMITTEE
4 MEETING. AT THAT TIME WE WERE TRYING TO BRING IN
5 THE CONCEPT OF PROJECT FAILURE WHERE THE APPLICANT,
6 THE COMPANY, WOULD HAVE TO COME TO CIRM AND PROVE
7 THAT THERE WAS A BASIS FOR IT TO LET THE LOAN GO.
8 AND WE WERE ALL REALLY STRUGGLING WITH HOW TO DEFINE
9 CRITERIA BY WHICH CIRM WOULD DECIDE WHETHER OR NOT
10 TO INSTRUCT THE COMPANY IT COULD ABANDON THE PROJECT
11 OR IF IT WAS GOING TO BE FORCED TO MOVE FORWARD.

12 AND NUMEROUS PEOPLE SUGGESTED THIS
13 APPROACH OF LETTING THE COMPANY SAY FOR ITSELF UNDER
14 ITS OWN APPROACH TO RUNNING ITS BUSINESS WE DON'T
15 WANT TO DO ANYTHING MORE WITH THIS. SO THEY'RE
16 ALLOWED TO WALK AWAY, RECOGNIZING THAT IF MONEY
17 SHOULD DEVELOP LATER, WE WILL COLLECT OUR SHARE. IF
18 THERE'S TECHNOLOGY THAT COMES OUT OF IT, WE RETAIN
19 OUR RIGHTS TO MAKE SURE IT'S PROPERLY EXPLOITED, BUT
20 NOT TO HAVE CIRM UNDER DEFINED CRITERIA BECAUSE AS A
21 GOVERNMENT AGENCY WE DO NEED TO OPERATE UNDER
22 DEFINED CRITERIA, DETERMINING WHETHER OR NOT THE
23 COMPANY WAS ALLOWED TO NOT CONTINUE WITH THE
24 PROJECT.

25 SO SOME OF THESE ARE CONCEPTS THAT THE

BARRISTERS' REPORTING SERVICE

1 COMMITTEE HAS BEEN THROUGH TO SOME EXTENT, AND WE'VE
2 STRUGGLED WITH SOME OF THOSE APPROACHES AND REALLY
3 WEREN'T ABLE TO FIND A GOOD OUTCOME. AND THAT'S HOW
4 WE GOT TO THIS. THE APPROACH OF USING THE REVENUE
5 SHARING POLICY AS A MEANS OF CALCULATING THE
6 REPAYMENT RATE IS ONE THAT WAS NONCONTROVERSIAL AT
7 THE NOVEMBER FINANCE COMMITTEE MEETING. SO
8 UNFORTUNATELY WE HAVEN'T WORKED UP --

9 (INTERRUPTION IN PROCEEDINGS.)

10 DR. AZZIZ: IT'S NOT RICARDO JUST IN CASE
11 SOMEBODY WANTS TO KNOW.

12 MR. SWEEDLER: SO I JUST WANTED TO
13 INTERJECT THAT, JUST TO MAKE SURE THAT WE KEEP
14 MOVING FORWARD AND THAT WE STAY ON A TRACK, THAT
15 WE'RE PRETTY MUCH COMMITTED TO TERMS OF THE TIMING
16 OF THIS POLICY. SO I JUST WANTED TO PROVIDE THAT
17 CONTEXT.

18 DR. PENHOET: YOU BRING UP A GOOD POINT.
19 WE'VE BEEN WORKING ON THIS FOR AN AWFULLY LONG TIME.
20 I THINK WE SHOULD FIND SOME REASONABLE SOLUTION TO
21 THIS PROBLEM. LET ME SUGGEST A THIRD WHICH WOULD BE
22 IF A PROJECT IN ITS ORIGINAL FORM WAS RESURRECTED,
23 THEN IT WOULD REVERT BACK TO THE ORIGINAL TERM. IF
24 ON THE OTHER HAND, WHATEVER YOU WANT TO CALL IT,
25 REVENUES NOT DIRECTLY ASSOCIATED WITH THE ORIGINAL

BARRISTERS' REPORTING SERVICE

1 PROJECT BUT DERIVED FROM THE WORK FUNDED BY CIRM,
2 THEN THOSE REVENUES WOULD BE SUBJECT TO THE REVENUE
3 SHARING RATE IN THE CIRM IP POLICY. MEANING THAT
4 WOULD AT LEAST GIVE PEOPLE SOME INCENTIVE TO GO LOOK
5 FOR SOMEBODY THAT COULD DO THIS -- TO DO SOMETHING
6 WITH THE TECHNOLOGY. AND AT THE SAME TIME, IF THEY
7 RESURRECTED THE ORIGINAL PROJECT, HIGHLY UNLIKELY,
8 BUT IF THEY DID, THEY'D BE BACK IN THE SOUP WITH US.
9 IT SEEMS TO ME THAT WOULD BE A CERTAINTY FOR THEM.
10 THEY'D HAVE TO DECIDE WHETHER TO DO THAT AND WE DO
11 HAVE THE REVENUE SHARING POLICIES THERE. IT'S A
12 SIMPLE SOLUTION.

13 CHAIRMAN GOLDBERG: ED, I THINK THAT'S AN
14 EXCELLENT SOLUTION.

15 DR. PENHOET: YOU KNOW, IP POLICY, THEY
16 MIGHT HAVE TEN DIFFERENT PIECES OF IP. IF THEY
17 LICENSE IT OUT, THEY CAN GO BACK THERE EVERY TIME
18 WITH OH, GEE, PFIZER LIKES THIS OR MERCK LIKES, BUT
19 IT CAN END WITH DISCUSSION.

20 CHAIRMAN GOLDBERG: DUANE, WOULD YOU BE
21 COMFORTABLE WITH THAT?

22 MR. ROTH: YEAH. LET ME JUST QUICKLY WALK
23 YOU THROUGH IT. IF WE MAKE A \$5 MILLION LOAN, THE
24 COMPANY INFORMS US THEY'RE ABANDONING IT, IT THEN
25 CONVERTS TO -- IF SOMEBODY ELSE PICKS IT UP, THE 3

BARRISTERS' REPORTING SERVICE

1 PERCENT ROYALTY PERIOD FOR THE FIVE MILLION PLUS
2 INTEREST. SO IN THEORY --

3 DR. PENHOET: NO, DUANE, THAT'S NOT WHAT
4 I'M SAYING.

5 MR. ROTH: THAT'S WHAT I WOULD WANT TO
6 HEAR.

7 DR. PENHOET: WE'RE SAYING THAT THE
8 REPAYMENT RATES ARE THE SAME SCHEDULE AS WE HAVE IN
9 THE IP POLICY FOR GRANTS OR YOUR COMPANIES OR TO
10 NONPROFITS. IF YOU REMEMBER WHAT THAT SAYS IS THAT
11 ANY THIRD PARTY LICENSING REVENUES, ETC., THAT CIRM
12 WILL GET 25 PERCENT OF THE GROSS WHETHER IT'S A
13 COMPANY OR IT'S A UNIVERSITY. RIGHT. THAT'S OUR
14 SHARE OF THIRD-PARTY LICENSING REVENUES. THAT COMES
15 IN.

16 IF ON THE OTHER HAND THE COMPANY
17 COMMERCIALIZES ITSELF ANY OF ITS TECHNOLOGY --

18 MR. ROTH: THAT'S THREE TIMES, RIGHT.

19 DR. PENHOET: THEN IT'S THREE TIMES THE
20 LOAN AMOUNT, AND THE RATE AT WHICH IT GETS TO THAT
21 THREE TIMES IS 3 PERCENT OF THEIR SALES BECAUSE THIS
22 IS ONLY UNDER SELF-COMMERCIALIZATION. THAT SAME
23 NUMBER WOULD APPLY IN THIS CASE. IF THEY
24 COMMERCIALIZE AN ASPECT OF THIS WHICH WAS NOT THE
25 ORIGINAL PROJECT, THEY WOULD GET THE 3-PERCENT RATE

BARRISTERS' REPORTING SERVICE

1 APPLIED TO THE OUTSTANDING LOAN BALANCE.

2 MR. ROTH: SO THE FIVE MILLION?

3 MR. HARRISON: UP TO FIVE MILLION PLUS
4 ACCRUED INTEREST.

5 DR. PENHOET: FIVE MILLION PLUS ACCRUED
6 INTEREST.

7 MR. ROTH: THAT WAS MY POINT THOUGH, ED,
8 THAT IF I GAVE UP ON THE PROJECT, BUT I THOUGHT THE
9 IP WAS VALUABLE, I'D IMMEDIATELY ABANDON. AND THEN
10 I'D TAKE THAT IP AND I'D SELL IT TO SOMEBODY FOR
11 WHATEVER NUMBER I WANT BECAUSE THEY'RE ONLY ON THE
12 HOOK FOR 3 PERCENT AND ONLY ON IT FOR FIVE MILLION.
13 I COULD THEORETICALLY USE THIS TO CONVERT IT TO A
14 3-PERCENT ROYALTY RATE ON THE LOAN PLUS INTEREST.
15 I'M NOT SAYING THAT I WOULD DO THAT.

16 DR. PENHOET: YOU HAVE TO
17 SELF-COMMERCIALIZE IT TO DO THE 3 PERCENT. IF YOU
18 LICENSE IT TO A THIRD PARTY, YOU HAVE TO SEND US 25
19 PERCENT OF WHATEVER YOU GET.

20 MR. ROTH: 25 PERCENT OF THE 3 PERCENT.

21 DR. PENHOET: NO. 25 PERCENT OF THE TOTAL
22 AMOUNT, PERIOD.

23 MR. KLEIN: SO 25 PERCENT OF THE LICENSING
24 REVENUE.

25 DR. PENHOET: YES. THE 3 PERCENT IS ONLY

BARRISTERS' REPORTING SERVICE

1 THE RATE WHICH APPLIES TO SELF-COMMERCIALIZED
2 PRODUCT. OKAY. IF YOU SELL IT YOURSELF, YOU SEND
3 US 3 PERCENT OF NET SALES, PERIOD. THAT'S IT. IF
4 YOU LICENSE IT TO A THIRD PARTY, YOU SEND US 25
5 PERCENT OF WHAT YOU GET FROM THE THIRD PARTY.

6 MR. KLEIN: ED, THIS IS BOB. THERE'S SOME
7 LEGITIMATE POINTS ON BOTH SIDES HERE. IAN IS RIGHT.
8 WE HAVE TO HAVE A LOAN ADMINISTRATION POLICY IN
9 PLACE. WHY COULDN'T WE PROCEED WITH IT LEAVING THE
10 LOAN TERMS IN PLACE, ADOPT THE INTERIM POLICY, AND
11 GET A RECOMMENDATION FROM YOUR COMMITTEE ABOUT HOW
12 WE CAN DEAL WITH THESE REFINED CASES BECAUSE WE'RE
13 NOT GOING TO SPONTANEOUSLY FIGURE OUT ALL THE
14 PERMUTATIONS ON THIS PHONE CALL.

15 DR. TROUNSON: I THINK IAN HAS GOT THE
16 RIGHT VIEW, AND I THINK THAT'S AS CLOSE AS WE CAN
17 GET TO WHAT WE WANT TO DO. AND I THINK IT'S FAIR
18 AND IT'S CALCULABLE, AND I DON'T KNOW, YOU KNOW, IF
19 WE CAN GET A REVISED LATER ON. BUT I THINK IF WE
20 HAD SOMETHING FIRM NOW, BOB, IT WOULD HELP US WITH
21 THE DISEASE TEAM BECAUSE WE GOT TO RELEASE THAT IN A
22 WEEK OR TEN DAYS. SO IT'S GOING TO GET BETTER
23 CONSIDERATION THAN THAT. I DO THINK IT'S A GOOD
24 PROPOSAL.

25 MR. KLEIN: ALAN --

BARRISTERS' REPORTING SERVICE

1 DR. PENHOET: AS A TECHNICAL MATTER, IT'S
2 GOING TO TAKE US A MONTH TO SIX WEEKS TO CONVENE THE
3 IP POLICY GROUP AGAIN. I'M NOT SURE THAT IT'S EVEN
4 IN THEIR PURVIEW. WE'RE TALKING ABOUT USING THE
5 RATES FOR THIS. THIS IS A LOAN PROGRAM PROBLEM.
6 IT'S NOT THE IP POLICY GROUP'S ISSUE. SO, YOU KNOW,
7 IT'S EASY FOR US TO SKIP OVER IT HERE AND SAY, OKAY,
8 LET'S JUST KEEP GOING, BUT WE KEEP -- YOU KNOW, WE
9 KEEP REVISITING. I THINK WE HAVE TO RESOLVE THIS
10 ISSUE TODAY. WE UNDERSTAND IT.

11 MR. KLEIN: I THINK THAT THERE'S
12 LEGITIMACY IN DUANE'S POINT.

13 DR. PENHOET: BOB, IF I COULD, WHEN THEN
14 ARE WE GOING TO RESOLVE THIS ISSUE?

15 MR. KLEIN: WELL, I'M NOT SUGGESTING THAT
16 WE DON'T FOLLOW YOUR ADVICE AND RESOLVE IT NOW. I'M
17 JUST SUGGESTING THAT THERE'S LEGITIMACY IN DUANE'S
18 POINT. AND SO --

19 MR. ROTH: LOOK, I'M NOT GOING TO ARGUE
20 THIS ANYMORE. I THINK -- I UNDERSTAND AND ED MAKES
21 A POINT THAT AS LONG AS 25 PERCENT AT LEAST IS
22 COMING BACK. THE ONLY CONCERN I HAVE, ED, IS
23 SOMEBODY WHO DECIDED TO ABANDON THEIR PROJECT, BUT
24 KNOWS THAT THE IP IS WORTH A LOT OF MONEY WOULD DO
25 THAT AND GAME US BY NOT HAVING TO REPAY THE LOAN.

BARRISTERS' REPORTING SERVICE

1 THE LOAN HAS A FIXED TERM. THE ROYALTIES WILL COME
2 IN OVER MANY, MANY YEARS FROM NOW. AND THAT'S WHAT
3 I WAS TRYING. I JUST WANT TO MAKE SURE THAT WE
4 DIDN'T IN OUR HASTE JUMP THROUGH SOMETHING, BUT WE
5 CREATED DISINCENTIVE FOR PEOPLE THAT DECIDE NOT TO
6 COMMERCIALIZE THE IP.

7 MR. KLEIN: DON'T WE HAVE A PROVISION THAT
8 IF THERE'S AN ABANDONMENT, WE AT THE AGENCY HAVE THE
9 RIGHT TO ASK FOR THAT IP TO BE TRANSFERRED TO A
10 COMPANY THAT WILL UTILIZE IT?

11 DR. PENHOET: THAT'S OUR MARCH-IN RIGHTS.

12 MR. KLEIN: SO MY POINT IS DON'T WE HAVE A
13 DISINCENTIVE FOR THEM TO TRY AND ABANDON SOMETHING
14 WHEN WE REALIZE THAT THERE'S SOME VALUABLE IP THERE?

15 DR. PENHOET: YES.

16 CHAIRMAN GOLDBERG: YES. THAT'S A GOOD
17 POINT.

18 MR. KLEIN: SO --

19 DR. PENHOET: BUT I WANT TO BE CLEAR ABOUT
20 DUANE'S POINT. IF YOU DECIDE YOU'RE NOT GOING TO
21 PURSUE THIS PROJECT YOURSELF, AND YOU'RE GOING TO
22 GET REMUNERATED BY LICENSING YOUR TECHNOLOGY TO A
23 THIRD PARTY, THE STATE WILL GET 25 PERCENT OF
24 WHATEVER YOU GET. THAT IS THE NUMBER THAT'S IN THE
25 DOCUMENTS. IT'S NOT 3 PERCENT.

BARRISTERS' REPORTING SERVICE

1 MR. ROTH: NO. NO. IT'S 25 PERCENT. I
2 UNDERSTAND THAT.

3 MR. SWEEDLER: AND DUANE, TO FOLLOW UP ON
4 ONE THING THAT YOU SAID, THE LOAN IN THE CASE OF
5 ABANDONMENT, DOESN'T ACTUALLY HAVE A FIXED TERM.
6 THE OBLIGATION REMAINS OUT THERE AND ACTUALLY
7 CONTINUES TO GROW WITH INTEREST IN THE EVENT THAT
8 REVENUE DEVELOPS LATER. SO THERE'S NO INCENTIVE
9 THERE TO DELAY THE REVENUE AS A WAY TO GET OUT OF
10 REPAYING IT BECAUSE THE OBLIGATION FOLLOWS.

11 DR. PENHOET: I'M SORRY. THEN I'M GOING
12 TO SHUT UP. AN UNDEFINED TERM FOR THIS, IN 50 YEARS
13 THE LOAN WILL BE WORTH A BILLION DOLLARS. SO I
14 THINK AT SOME POINT IT HAS TO COME TO AN END BECAUSE
15 IT WILL BE AN OBLIGATION.

16 MR. SWEEDLER: I THINK -- ALL RIGHT.

17 MR. ROTH: JUST ON MY ACCOUNTING QUESTION,
18 I THINK WE WANT TO MAKE SURE THAT IF SOMEBODY WANTS
19 TO GET THIS OFF THEIR BALANCE SHEET, THAT WE DON'T
20 CREATE SOMETHING BY THIS TERMINOLOGY THAT AN
21 ACCOUNTANT WILL LOOK AT AND SAY, WELL, YOU
22 TECHNICALLY STILL HAVE AN OBLIGATION.

23 MR. SWEEDLER: SO THAT'S FINE. WE CAN
24 INSERT A FINAL ENDING DATE, AND I WOULD WELCOME
25 INPUT ON WHAT THAT OUGHT TO BE.

BARRISTERS' REPORTING SERVICE

1 MR. ROTH: MY POINT IS MORE THESE LITTLE
2 COMPANIES WHO ABANDON A PROJECT DON'T HAVE TO SHOW A
3 BALANCE SHEET WHEN THEY'RE TRYING TO RAISE MONEY FOR
4 SOMETHING ELSE THAT SHOWS THAT EVEN THOUGH IT'S
5 PERFECTLY INTENDED NOT TO BE AN OBLIGATION UNDER
6 THIS NONRECOURSE CLAUSE, WE HAVE TO BE CAREFUL THAT
7 THESE THINGS WE'RE HAVING THE DISCUSSION ABOUT DON'T
8 END UP CAUSING AN ACCOUNTING FIRM TO TELL THEM, I
9 KNOW, BUT YOU'RE GOING TO HAVE TO KEEP THAT.

10 CHAIRMAN GOLDBERG: YOU CAN ALWAYS RETIRE
11 THE NOTE IF THEY BRING IT FORTH. SO I THINK IT'S
12 ACTUALLY A PROTECTIVE HAMMER FOR US AND ONE THAT
13 WE'LL PROPERLY UTILIZE.

14 MR. SWEEDLER: ONE QUESTION I WOULD FOLLOW
15 UP ON WITH ED'S PROPOSAL, AND THAT IS THE
16 CIRCUMSTANCE UNDER WHICH THE PROJECT IS RESURRECTED.
17 SO THAT IN TERMS OF REDUCING THAT TO REGULATORY
18 LANGUAGE, WHAT'S A GOOD WAY TO DISTINGUISH BETWEEN
19 THE PROJECT AS RESURRECTED AS OPPOSED TO YOUR JUST
20 DOING SOMETHING USEFUL WITH WHATEVER CAME OUT OF IT?

21 DR. PENHOET: HOW WILL THE PROJECT BE
22 DEFINED IN THE DISEASE TEAM RFA?

23 DR. TROUNSON: IT BASICALLY DOESN'T GO ON
24 FOR A LONG TIME BECAUSE WE'RE ONLY UP TO THE IND.
25 WE'RE NOT PROPOSING AT THIS POINT IN TIME TO GO INTO

BARRISTERS' REPORTING SERVICE

1 THE CLINICAL SIDE. I THINK WE'RE TALKING ABOUT IP
2 THAT MIGHT BE GENERATED ON THE WAY THAT IF IT WAS
3 THOUGHT NOT TO BE WORTHWHILE IN TAKING ON, COULD
4 THAT BE UTILIZED BY SOMEONE ELSE SOME OTHER PLACE.
5 I THINK YOU GET IT LICENSED OUT TO SOME OTHER PEOPLE
6 AND YOU GET YOUR 25 PERCENT. IF THEY CONTINUE IT
7 ON, THEN, YOU KNOW, IN THEIR OWN RIGHT AFTER A
8 PERIOD OF THREE OR FOUR YEARS OR A YEAR OR TWO
9 YEARS, I STILL THINK THAT WE CAN BE INVOLVED IN IT
10 THROUGH WHAT YOU PROPOSE.

11 CHAIRMAN GOLDBERG: I HAVE A PROPOSAL TO
12 WRAP THIS UP. THAT WOULD BE FOR IAN, IF IT'S
13 SATISFACTORY TO THE OTHER MEMBERS OF THE
14 SUBCOMMITTEE, IAN TO DRAFT LANGUAGE TO WORK TO CLEAR
15 THAT LANGUAGE THROUGH THE CHAIR OF THE COMMITTEE AND
16 THE VICE CHAIR OF THE BOARD, DR. PENHOET --

17 DR. PENHOET: I'M NOT THE VICE CHAIR
18 ANYMORE.

19 MR. SHEEHY: HOW ABOUT CHAIR OF THE IP
20 TASK FORCE?

21 CHAIRMAN GOLDBERG: OKAY. CHAIR OF THE IP
22 TASK FORCE, DUANE ROTH, THE CHAIR OF THE LOAN TASK
23 FORCE.

24 MR. KLEIN: NOT A COMMITTEE. YOU'RE NOT
25 GOING TO MEET AS A COMMITTEE. WHAT YOU'RE SAYING IS

BARRISTERS' REPORTING SERVICE

1 THAT JUST INDIVIDUALLY ASK FOR THOSE THREE PEOPLE'S
2 INPUT.

3 CHAIRMAN GOLDBERG: CORRECT.

4 MS. KING: DIRECTLY TO IAN.

5 MR. SWEEDLER: YES. AND THEN WHEN STAFF
6 BRINGS THE LOAN ADMINISTRATION POLICY TO THE FULL
7 BOARD, WE'LL BE ABLE TO --

8 CHAIRMAN GOLDBERG: THOSE THREE
9 INDIVIDUALS SHOULD BE ABLE TO --

10 MR. SWEEDLER: YES. SO WITHOUT TAKING UP
11 A LOT MORE TIME, I'D LIKE TO JUST HIGHLIGHT OR BRING
12 TO YOUR ATTENTION A FEW OTHER ASPECTS OF THE LOAN
13 ADMINISTRATION POLICY.

14 ON THE NEXT PAGE, PAGE 10, WE HAVE
15 ACCOUNTED FOR THE SITUATION WHERE A PROJECT IS NOT
16 ABANDONED, BUT THEY'RE NOT READY TO IMMEDIATELY
17 PROCEED AND REPAY THE LOAN. THIS IS SOMETHING BOB
18 RAISED AS A POSSIBILITY AT THE LAST MEETING. SO THE
19 BASIC MECHANISM HERE IS THAT IF THEY'RE NOT READY TO
20 GO FORWARD, BUT THEY'VE GOT A PLAN TO OVERCOME THEIR
21 OBSTACLES, THEN WE'LL LET THEM PUT THIS OFF FOR UP
22 TO TWO YEARS AND WE'LL COME BACK AND LOOK AGAIN.

23 SO IT'S NOT INDEFINITE EXTENSIONS. WE
24 WANT TO SEE THAT THERE'S REALLY SOMETHING MOVING
25 FORWARD, BUT WE DON'T WANT THERE TO BE A COMPLETE

BARRISTERS' REPORTING SERVICE

1 IMMEDIATE REPAYMENT OBLIGATION JUST BECAUSE, EVEN
2 THOUGH THERE'S SOME OBSTACLE THAT PREVENTS THEM FROM
3 FULLY MOVING FORWARD. BOB, YOU HAD TALKED ABOUT
4 FINANCING DELAYS OR THINGS LIKE THAT. SO WITHIN THE
5 JUDGMENT OF THE PRESIDENT OF THE CIRM TO GRANT THAT,
6 AND IT'S BASED ON A DETERMINATION THAT THERE REALLY
7 IS A VIABLE PATH FORWARD AND THEY JUST NEED SOME
8 MORE TIME.

9 DR. STEWARD: I HAVE THE SAME COMMENT
10 ABOUT THIS PARAGRAPH THAT I HAD ABOUT THE PRECEDING
11 PAGES. I JUST WORRY A LITTLE BIT ABOUT THE WORD
12 "WILL," THE APPLICATION WILL BE GRANTED IF. AND I
13 JUST WONDER IF THERE SHOULD BE SOME OTHER LANGUAGE
14 THERE PERHAPS JUST SUBSTITUTING THE WORD "MAY" FOR
15 "WILL."

16 MR. SWEEDLER: WE'LL TAKE A LOOK AT THAT.
17 ON PAGE 11, FIRST BACKING UP TO -- STILL
18 ON PAGE 10, PAYMENT ACCELERATION TRIGGERS. WE
19 TALKED ABOUT TAKING SOME TRIGGERS UP FROM THE
20 TEN-YEAR ONLY SCENARIO AND MAKING THEM APPLY TO ALL
21 LOANS. FOLLOW-ON FINANCING, WE SAID FOLLOW-ON
22 FINANCING IN AN AMOUNT THAT EXCEEDS 20 TIMES THE
23 ORIGINAL LOAN AMOUNT, BUT LOAN AMOUNT, DR. OLSON
24 ACTUALLY DID THE MATH AND POINTED OUT THAT FOR A \$20
25 MILLION DISEASE TEAM LOAN, THAT'S \$400 MILLION IN

BARRISTERS' REPORTING SERVICE

1 FINANCING, WHICH MAKES IT A TRIGGER THAT'S
2 RELATIVELY USELESS.

3 SO WHAT WE'RE PROPOSING IS THAT IT BE THE
4 LESSER OF 20 TIMES THE AMOUNT OF THE ORIGINAL LOAN
5 OR SOME OTHER MORE MODEST FLOOR, AND THERE'S A BLANK
6 FOR HOW MANY MILLIONS OF DOLLARS THAT SHOULD BE.
7 BUT WE'RE LOOKING FOR A FIGURE THERE THAT'S SOMEWHAT
8 LOWER THAN \$400 MILLION.

9 MS. KING: JUST TO CLOSE OUT THE LAST
10 PORTION OF AGENDA ITEM NO. 3, CHAIRMAN GOLDBERG,
11 WOULD YOU LIKE TO ENTERTAIN A MOTION TO RECOMMEND
12 THIS TO THE ICOC CONTINGENT UPON THE CHANGES
13 DISCUSSED BY IAN?

14 MR. KLEIN: MR. CHAIRMAN, I WOULD MAKE THE
15 MOTION TO APPROVE THE LAP WITH THE CONDITION THAT IT
16 WOULD BE BROUGHT TO THE BOARD WITH INPUT FROM IAN
17 CONSULTING WITH THE THREE DIFFERENT MEMBERS OF THIS
18 COMMITTEE THAT HAVE BEEN IDENTIFIED.

19 CHAIRMAN GOLDBERG: DO WE HAVE A SECOND?

20 DR. LOVE: I WILL SECOND THAT.

21 MS. KING: AND THAT SECOND WAS DR. TED
22 LOVE; IS THAT CORRECT?

23 DR. LOVE: YES.

24 CHAIRMAN GOLDBERG: DO WE NEED A ROLL
25 CALL?

BARRISTERS' REPORTING SERVICE

1 MR. SHEEHY: WE NEED PROBABLY COMMENT
2 FIRST.

3 CHAIRMAN GOLDBERG: I AGREE, JEFF. SORRY.

4 MR. SHEEHY: SOMEONE POINTED AT ME HERE.
5 THAT' S WHY.

6 MS. KING: ACTUALLY BEFORE PUBLIC COMMENT,
7 YOU MIGHT WANT TO ASK IF THERE ARE ANY FURTHER
8 SUBCOMMITTEE COMMENTS.

9 CHAIRMAN GOLDBERG: ARE THERE ANY FURTHER
10 SUBCOMMITTEE COMMENTS?

11 MR. SHEEHY: WELL, I JUST WANT TO SAY ONE
12 THING. NOTWITHSTANDING OUR DEBATE AND DISCOURSE,
13 STAFF HAS DONE A PHENOMENAL JOB. I THINK THIS IS
14 REALLY TOUGH STUFF. SO OTHER THAN THAT --

15 CHAIRMAN GOLDBERG: I SECOND THAT. PUBLIC
16 COMMENT.

17 MS. KING: WE HAVE ONE HERE IN SAN
18 FRANCISCO.

19 CHAIRMAN GOLDBERG: WE' LL START THERE.

20 MR. EARP: THIS IS DAVID EARP, HEAD OF
21 BUSINESS DEVELOPMENT AND LEGAL AT GERON CORPORATION.
22 I HAVE A QUESTION ABOUT ABANDONMENT OF THE PROJECT
23 ON NONRECOURSE LOANS. AT THIS POINT IN THE
24 DOCUMENT, THAT PROJECT IS UNDEFINED, AND I THINK IT
25 WOULD BE VERY HELPFUL TO MAKE THAT A DEFINED TERM.

BARRISTERS' REPORTING SERVICE

1 I CAN GIVE YOU SOME EXAMPLES OF HOW IT MIGHT BE
2 CONFUSING AS TO WHETHER A PROJECT HAS BEEN ABANDONED
3 OR NOT THAT MIGHT ILLUSTRATE IT.

4 IF THE PROJECT, FOR INSTANCE, INCLUDES
5 SOME EARLY WORK ON DEVELOPING A PARTICULAR CELL TYPE
6 AND THE LINE OF WORK THAT WAS BEING FUNDED BY CIRM
7 OR THE LOAN -- THE PROGRAM TO WHICH THE LOAN WAS
8 BEING APPLIED DOESN'T PROCEED, BUT THE COMPANY STILL
9 PROGRESSES WITH THAT CELL TYPE, HAS THE PROJECT BEEN
10 ABANDONED OR NOT IF SOME ASPECT OF THE LOAN WAS USED
11 TO DEVELOP THAT CELL TYPE THAT'S NOW GOING IN A
12 DIFFERENT DIRECTION OF THE PROJECT OR ABANDONED OR
13 NOT?

14 ANOTHER ILLUSTRATIVE EXAMPLE MIGHT BE YOU
15 HAVE A DEVELOPED CELL TYPE AND THE CIRM LOAN IS USED
16 TO FUND WORK WITH A PARTICULAR DELIVERY MECHANISM,
17 BUT THAT DELIVERY MECHANISM GETS ABANDONED, A
18 COMPANY THEN GOES ON TO TAKE THE STEM CELL TYPE AND
19 DELIVER IT WITH A DIFFERENT DELIVERY MECHANISM. HAS
20 THE PROJECT BEEN ABANDONED? UNDER THOSE
21 CIRCUMSTANCES IT'S REALLY HELPFUL TO GET
22 CLARIFICATION AS TO WHEN A COMPANY CAN LEGITIMATELY
23 SAY THE PROJECT HAS BEEN ABANDONED.

24 CHAIRMAN GOLDBERG: DOCTOR, THIS IS
25 MICHAEL GOLDBERG SPEAKING. IT'S A HELPFUL

BARRISTERS' REPORTING SERVICE

1 SUGGESTION. WE WOULD ASK THAT YOU PROVIDE PROPOSED
2 LANGUAGE TO DEFINE A PROJECT FOR PURPOSES OF
3 CONSIDERATION IN THE LAP TO STAFF, AND WE'LL
4 CONSIDER THAT IN CONNECTION WITH OUR BOARD
5 DISCUSSION NEXT WEEK.

6 DR. TROUNSON: MICHAEL, THIS IS ALAN
7 TROUNSON. ONE OF THE THINGS THAT DOES DEFINE A
8 PROJECT IS, IN FACT, THE RFA. ON SO THE RFA WILL
9 ESSENTIALLY DEFINE THE PROJECT.

10 CHAIRMAN GOLDBERG: I THINK THAT WOULD BE
11 POTENTIALLY JUST FINE, THAT IT CROSS-REFERENCES.
12 CERTAINLY IT'S NOT THE PURVIEW OF THIS COMMITTEE TO
13 ENGAGE IN AN ASSESSMENT OF PROJECT DRIFT, LET'S
14 REFER TO IT AS, AS A RESULT OF NORMAL SCIENTIFIC
15 CONTACT.

16 DR. TROUNSON: BECAUSE WE HAD THIS
17 DISCUSSION BEFORE, THAT, YOU KNOW, YOU MIGHT BE
18 APPLYING FOR A TOTALLY DIFFERENT DISEASE AND THAT WE
19 WOULDN'T -- WE WOULDN'T BE HAVING CLAIMS ON USING
20 THAT CELL LINE FOR ENTIRELY DIFFERENT THINGS. SO IT
21 WOULDN'T BE THE SAME PROJECT. THE PROJECT HAS BEEN
22 DEFINED. I'M LOOKING AT PAT OLSON.
23 (UNINTELLIGIBLE) BY THE RFA.

24 MR. KLEIN: ALAN, THIS IS BOB KLEIN. WE
25 DEVELOPED A SPECIFIC THERAPY THAT'S USED FOR A

BARRISTERS' REPORTING SERVICE

1 DIFFERENT DISEASE; WE'VE FUNDED THE FULL DEVELOPMENT
2 OF THAT THERAPY. I THINK WE SHOULD HAVE CONTINUING
3 CLAIMS. SO I JUST -- I DO THINK THAT THE CHAIRMAN'S
4 SUGGESTION THAT THE STAFF TAKE A LOOK AT THIS IS
5 VALUABLE, BUT I'D ALSO SAY THAT THE RFA MAY BE
6 THOROUGHLY RESTRICTIVE. AND IN THE COURSE OF A \$20
7 MILLION DISEASE TEAM GRANT, HALFWAY THROUGH THEY
8 MAKE THESE DISCOVERIES WHICH PERMITS THAT PROJECT TO
9 BE REDEFINED, AND WE CONTINUE TO FUND ANOTHER \$10
10 MILLION. SO THAT SHOULDN'T BE OUTSIDE THE SCOPE OF
11 WHAT WE'RE COVERING HERE FOR THE BENEFIT OF THE
12 STATE OF CALIFORNIA AND THIS PROGRAM.

13 I DO THINK THE CHAIRMAN'S SUGGESTION THAT
14 THAT BE STUDIED BETWEEN NOW AND THE BOARD IS HELPFUL
15 IN ADDRESSING THE POINTS YOU'RE RAISING AND OTHER
16 POSSIBILITIES.

17 MR. ROTH: IF I COULD JUST ADD I TEND TO
18 THINK ABOUT PRODUCTS HERE AS OPPOSED TO PROJECTS,
19 THAT WE'RE FUNDING EITHER PRECLINICAL OR CLINICAL
20 PRODUCTS. AND I THINK THAT WILL HELP, DAVID, WHEN
21 YOU PUT YOUR WORDSMITHING AROUND THIS ON TERMS OF
22 ABANDONMENT. IF A PRODUCT IS GOING INTO TRIALS AND
23 IT FAILS FOR ONE REASON OR ANOTHER, THEN IT'S PRETTY
24 EASY TO SAY THAT'S BEEN ABANDONED. IF IT'S
25 RESURRECTED AND GOES IN ANOTHER DIRECTION, THEN I

BARRISTERS' REPORTING SERVICE

1 THINK THE LOAN WOULD FOLLOW THAT.

2 CHAIRMAN GOLDBERG: OTHER MEMBERS OF THE
3 PUBLIC? COMMENTS IN SOUTHERN CALIFORNIA?

4 MR. SIMPSON: JUST WHEN WILL WE BE ABLE TO
5 SEE THE NEW ROUND OF LANGUAGE THAT'S GOING TO BE
6 DEVELOPED WITH THE THREE MEMBERS OF THE COMMITTEE
7 AND STAFF? BY THE WAY, I DO AGREE THAT STAFF HAS
8 DONE TREMENDOUS WORK ON THIS.

9 MS. KING: MR. SIMPSON, WE'RE DISCUSSING
10 THAT HERE IN SAN FRANCISCO, AND WE'RE HOPING THAT
11 YOU WILL BE ABLE TO GET THAT BY THE END OF THE DAY
12 ON MONDAY, THE 26TH. AND WE'LL DO EVERYTHING WE CAN
13 TO MAKE THAT HAPPEN.

14 MR. SIMPSON: THANK YOU.

15 MR. SHEEHY: WE HAVE ONE MORE COMMENT HERE
16 IN SAN FRANCISCO.

17 MR. EARP: I'M JUST ACTUALLY GOING BACK TO
18 THE PROPOSALS YOU WERE GETTING FROM THE VARIOUS
19 COMPANIES WHO WERE GOING TO ACT AS SOME FORM OF
20 UNDERWRITERS, AND I KNOW SILICON VALLEY BANK ISN'T
21 PRESENT TODAY, SO IT'S A LITTLE BIT UNFAIR TO PICK
22 ON THEM. BUT AS I WAS FLIPPING THROUGH THEIR
23 PROPOSAL DURING THIS MEETING, I NOTICED THAT THEY
24 WERE PROPOSING THERE WOULD BE A NUMBER OF NEGATIVE
25 COVENANTS THAT WOULD BE REQUIRED FOR THEM TO ACT AS

BARRISTERS' REPORTING SERVICE

1 UNDERWRITERS FOR ANY PARTICULAR LOAN. NEGATIVE
2 COVENANTS BETWEEN SILICON VALLEY BANK AND THE
3 COMPANIES THAT WOULD INCLUDE SILICON VALLEY BANK
4 HAVING SIGN-OFF ON LICENSE AGREEMENTS AND OTHER
5 FORMS OF DOCUMENTATION A COMPANY WOULD ENTER INTO.
6 AND, IN FACT, THEY FORCED BANKING RELATIONSHIP
7 BETWEEN THE COMPANY AND SILICON VALLEY BANK.

8 I HAVE TO SAY WE'RE LOOKING AT CERTAIN
9 CONDITIONS OF THE LOANS HERE, BUT THAT'S A COMPLETE
10 DIFFERENT SET OF TERMS AND CONDITIONS. AND I HOPE
11 WHEN THIS GROUP CONTINUES TO LOOK AT THOSE
12 PROPOSALS, THAT YOU REALLY TRY TO STEER AWAY FROM
13 ANOTHER SET OF TERMS AND CONDITIONS THAT WOULD BE
14 IMPOSED BY THE UNDERWRITERS ON THE COMPANIES WHO
15 WERE APPLYING FOR THE LOANS.

16 CHAIRMAN GOLDBERG: EXCELLENT COMMENT.
17 WE'VE RECEIVED -- IF THERE ARE NO FURTHER PUBLIC
18 COMMENTS, ROLL CALL VOTE, MELISSA.

19 MS. KING: SURE. ROBERT BIRGENEAU.

20 DR. BIRGENEAU: YES.

21 MS. KING: FLOYD BLOOM. MARCY FEIT.

22 MS. FEIT: YES.

23 MS. KING: MICHAEL GOLDBERG.

24 CHAIRMAN GOLDBERG: YES.

25 MS. KING: BOB KLEIN.

BARRISTERS' REPORTING SERVICE

1 MR. KLEIN: YES.

2 MS. KING: TED LOVE.

3 DR. LOVE: YES.

4 MS. KING: ED PENHOET.

5 DR. PENHOET: YES.

6 MS. KING: DUANE ROTH.

7 MR. ROTH: YES.

8 MS. KING: JEFF SHEEHY.

9 MR. SHEEHY: YES.

10 MS. KING: AND OSWALD STEWARD.

11 DR. STEWARD: YES.

12 MS. KING: AND FOR THE RECORD, THAT MOTION
13 CARRIES. AND GIVEN THAT WE HAVE ONLY ABOUT 30
14 MINUTES LEFT, CHAIR GOLDBERG, I'D LIKE TO SUGGEST WE
15 MOVE ON TO ITEM 4 AND 5. AND BEFORE WE DO THAT, I
16 JUST WANTED TO CHECK. WE HAD A COUPLE OF MEMBERS OF
17 THE PUBLIC JOINING THE CALL. I WANTED TO CHECK IN
18 AND SEE IF WE HAVE THOSE TWO INDIVIDUALS ON THE
19 LINE. MR. MONTAGUE, ARE YOU ON THE LINE?

20 MR. MONTAGUE: YES.

21 MS. KING: AND MR. CHURCHWELL, ARE YOU ON
22 THE LINE? OKAY.

23 CHAIRMAN GOLDBERG: WE HAVE ONE IMPORTANT
24 ITEM RELATED TO ITEM NO. 3 THAT I THINK WE CAN GET
25 TO BRIEFLY, WHICH IS THE DISEASE TEAM LOAN RELATED

BARRISTERS' REPORTING SERVICE

1 TERMS --

2 MS. KING: EXCUSE ME. OKAY.

3 CHAIRMAN GOLDBERG: -- THAT WILL BE COMING
4 FORTH AT THE ICOC MEETING.

5 MS. KING: YES. PLEASE GO AHEAD WITH
6 THAT.

7 CHAIRMAN GOLDBERG: DR. OLSON HAS PROVIDED
8 A VERY SUFFICIENT SUMMARY. IF YOU WILL RECALL, THE
9 LOAN ADMINISTRATION POLICY DELEGATES ON AN
10 RFA-TO-RFA BASIS THE SPECIFICS OF LOANS VERSUS
11 GRANTS FOR FOR-PROFIT VERSUS NONPROFIT
12 ORGANIZATIONS, THE TERMS AND THE INTEREST RATES.
13 AND SHE HAS PROVIDED A GRID WHICH I THINK IS VERY
14 STRAIGHTFORWARD, DOESN'T REQUIRE ANY EXPLANATION.
15 WE WILL PROPOSE AT THE ICOC MEETING A SPECIFIC RANGE
16 OF INTEREST RATES, WHICH IS LEFT BLANK HERE, BASED
17 ON SOME ONGOING RESEARCH WHICH IS BEING CONDUCTED,
18 AND WE'LL HAVE THAT AVAILABLE FOR THE ICOC TO
19 CONSIDER BASED ON MARKET-BASED DATA.

20 SO LET ME FIRST ASK MEMBERS OF THE
21 COMMITTEE IF THEY HAVE ANY QUESTIONS ON THIS FOR
22 DR. OLSON OR DR. TROUNSON OR DR. ROBSON IF HE'S ON,
23 AND THEN WE'LL MOVE TO THE PUBLIC. IF THERE ARE NO
24 QUESTIONS FROM MEMBERS OF THE COMMITTEE, MAY I ASK
25 MEMBERS OF THE PUBLIC IF THEY HAVE ANY QUESTIONS FOR

BARRISTERS' REPORTING SERVICE

1 STAFF?

2 HEARING NONE --

3 MR. ROTH: I HAVE ONE HERE IN SAN DIEGO.

4 MR. ESMAELI -AZAD: THIS IS BABAK

5 ESMAELI -AZAD, DNA MICROARRAY. AND I'M NOT SURE IF
6 THIS IS THE RIGHT TIME TO ASK THE QUESTION, BUT IT'S
7 SOMEWHAT RELATED TO THE FIRST BULLET POINT. IF YOU
8 WERE TO IMAGINE THAT A COMPANY IS APPLYING FOR A
9 LOAN FOR THIS PARTICULAR RFA, AND IT'S ALSO
10 AFFILIATED WITH A UNIVERSITY THAT'S APPLYING FOR A
11 GRANT, ARE THEY GOING TO BE IN COMPETITION FOR THE
12 SAME POOL OF FUNDS? OR ARE YOU THINKING THAT
13 THERE'S FUNDS SET ASIDE FOR LOANS SEPARATE FROM THAT
14 ARE SET ASIDE FOR GRANTS?

15 MS. KING: DR. OLSON IS APPROACHING THE
16 PODIUM WITH A POTENTIAL ANSWER TO THAT QUESTION, I
17 AM ASSUMING.

18 DR. OLSON: UNLESS MR. KLEIN WOULD LIKE TO
19 RESPOND TO THIS. IT'S ONE POOL OF MONEY.

20 CHAIRMAN GOLDBERG: THAT'S CORRECT.

21 CHAIRMAN KLEIN IS SHAKING HIS HEAD HERE.

22 MS. KING: IN AGREEMENT.

23 CHAIRMAN GOLDBERG: IN AGREEMENT.

24 MR. ESMAELI -AZAD: AND DOES THIS FORMULA
25 APPLY TO ALL FUTURE RFA'S AS WELL?

BARRISTERS' REPORTING SERVICE

1 CHAIRMAN GOLDBERG: IT'S SPECIFIC TO THE
2 DISEASE TEAM RFA.

3 MR. ESMAELI-AZAD: JUST A QUICK COMMENT,
4 THEN. IN THAT SCENARIO, IT MAKES MORE SENSE FOR THE
5 COMPANY TO GO AHEAD AND COLLABORATE WITH THE
6 UNIVERSITY ENTITY AS A SUBCONTRACTOR AND TO NOT
7 APPLY FOR THE LOANS. AM I RIGHT?

8 MR. KLEIN: IF A COMPANY IS COLLABORATING
9 WITH A NONPROFIT, WHICHEVER TYPE OF NONPROFIT
10 SPONSOR, THAT WOULD BE A LOAN. AND YOU SHOULD
11 REALIZE THAT WE HAVE A LOT MORE AVAILABLE
12 POTENTIALLY IN CAPACITY FOR LOANS THAN WE DO FOR
13 GRANTS. WE CANNOT FUND AT THE SAME LEVEL OF GRANTS
14 AS FOR LOANS ON A CASH-FLOW BASIS OR PORTFOLIO
15 BASIS. WE JUST DON'T HAVE THE FUNDS. SO
16 STRATEGICALLY THE COMPANY WOULD WANT TO APPLY FOR A
17 LOAN.

18 NOW, THE BOARD HAS TO MAKE A DECISION
19 ABOUT A POLICY OF ALLOCATION AS WE GO FORWARD.
20 THAT'S A SEPARATE DISCUSSION, BUT STRATEGICALLY YOU
21 SHOULD REALIZE THAT WHAT'S AVAILABLE TO US
22 CONCEPTUALLY FOR LOANS, BECAUSE THE MONEY IS NOT
23 LOST AND IS RECYCLED, IS A SUBSTANTIALLY GREATER
24 DOLLAR AMOUNT.

25 MR. ESMAELI-AZAD: YES. THANK YOU FOR

BARRISTERS' REPORTING SERVICE

1 THAT.

2 DR. OLSON: I JUST WANT TO MAKE SURE THAT
3 THERE'S ONE CLARIFICATION. IT IS THE PI OF THE
4 APPLICANT ORGANIZATION THAT DEFINES WHETHER IT'S A
5 GRANT OR A LOAN. SO AS PROPOSED, IT'S THE PI, NOT
6 THE CO-PI, BUT IF THE PI IS AT AN ACADEMIC OR AT A
7 NONPROFIT ORGANIZATION, THEN IT'S A GRANT.

8 DR. TROUNSON: IT WON'T BE A MIXTURE OF
9 GRANTS AND LOANS IN THE ONE PROJECT.

10 MR. KLEIN: YEAH. I'D ACTUALLY LIKE TO
11 DISCUSS THAT AT THE BOARD LEVEL. I MEAN I TOTALLY
12 AGREE, DR. TROUNSON, WITH YOUR STATEMENT. IT'S
13 EITHER A GRANT OR A LOAN, NOT A MIXTURE. BUT I'D
14 LIKE TO DISCUSS AT THE BOARD, IF YOU HAVE A PI AT AN
15 ACADEMIC INSTITUTION AND THERE'S A COMPANY INVOLVED
16 IN THE DISEASE TEAM, SPEAKING AS AN INDIVIDUAL, I
17 BELIEVE WE SHOULD HAVE A LOAN AND HAVE A STOCK
18 WARRANT, OTHERWISE WE'RE GOING TO GET POSITIONED
19 HERE TO EXCLUDE THE STOCK WARRANTS AND THE LOAN
20 TERMS. SO THIS IS A FUNDAMENTAL DISCUSSION THAT WE
21 NEED TO HAVE.

22 MR. SHEEHY: BUT IF THE MONEY GOES TWO
23 DIFFERENT PLACES, A LOAN COMES BACK TO CIRM AND A
24 GRANT GOES TO THE STATE TO HELP RELIEVE OUR BUDGET
25 DEFICITS, SO --

BARRISTERS' REPORTING SERVICE

1 MR. KLEIN: THE ROYALTIES OFF OF A GRANT
2 SHOULD BE STATISTICALLY A SMALL PERCENTAGE OF WHAT
3 COMES BACK OFF OF LOANS. THEY SHOULD BE MUCH BETTER
4 OFF OFF OF A LOAN PROGRAM.

5 DR. TROUNSON: THERE'S A LOT OF
6 COMPLEXITIES BECAUSE THE RFA, THEN, BECOMES VERY
7 COMPLICATED UNDER THOSE SCENARIOS. SO, YOU KNOW,
8 YOUR WHOLE (UNINTELLIGIBLE) BECOMES INCREDIBLY
9 COMPLICATED, SO I THINK IN THE CASE OF THE DISEASE
10 TEAMS, BECAUSE WE HAVE TO PUT THIS OUT VERY SOON,
11 THEY NEED TO BE VERY WELL DEFINED. AND I THINK
12 HAVING MIXTURES OF GRANTS AND LOANS WOULDN'T BE
13 POSSIBLE TO FIGURE OUT WHAT YOU'RE MEANT TO PAY
14 BACK. IT WOULD BE A NIGHTMARE.

15 MR. KLEIN: ALAN, I AGREED YOU SHOULDN'T
16 HAVE MIXTURES OF GRANTS AND LOANS.

17 MR. SHEEHY: THE WHOLE DISEASE TEAM
18 PROCESS HAS ALWAYS ENVISIONED COMPANY PARTNERSHIPS
19 WITH INSTITUTIONS, SO WHY WOULD WE WANT TO SOMEHOW
20 SAY BECAUSE A COMPANY IS INVOLVED, IT NOW HAS TO BE
21 A LOAN? AND WE'RE NOT IN THE BUSINESS OF MAKING
22 MONEY. WE'RE IN THE BUSINESS OF FURTHERING SCIENCE.

23 DR. OLSON: FURTHERMORE, WE ARE GOING TO
24 MAKE A SINGLE -- THE AWARD WILL GO TO THE APPLICANT
25 INSTITUTION, A SINGLE APPLICANT INSTITUTION, WHO

BARRISTERS' REPORTING SERVICE

1 WILL BE RESPONSIBLE FOR ADMINISTERING IT TO ANY
2 COLLABORATORS, CO-PI'S, AND EVERYTHING ELSE.

3 MR. KLEIN: SO WE'RE ABSOLUTELY, JEFF, IN
4 THE BUSINESS OF ADVANCING MEDICAL THERAPIES. AND
5 UNDER LOANS WE HAVE A VERY GOOD CHANCE ON A
6 PORTFOLIO BASIS OF RECOVERING THE CAPITAL; WHEREAS,
7 ON A GRANT IT'S GONE, IT'S OUT THE DOOR ONE TIME, SO
8 WE HAVE NO RECOVERY AND OUR PORTFOLIO SIZE SHRINKS
9 RADICALLY OVER TIME. SO IN TERMS OF SERVING OUR
10 MISSION, WE HAVE A LOT MORE ASSETS TO GET A GREATER
11 AMOUNT OF RESEARCH UNDER A LOAN PROGRAM.

12 MR. SHEEHY: WELL, NOTWITHSTANDING THE
13 PHILOSOPHICAL ISSUES INVOLVED HERE, I JUST -- YOU
14 KNOW, I FEEL LIKE UNIVERSITIES ARE GOING TO BE VERY
15 AGGRESSIVE IN MONITORING IP AND THE ACADEMIC
16 RESEARCH INSTITUTIONS AND THAT WE COULD DO BETTER IN
17 THAT SCENARIO. YOU KNOW, THE BOTTOM LINE IS THAT
18 WE'VE ALREADY MADE THIS DECISION. IF THE PI IS WITH
19 AN ACADEMIC INSTITUTION, THEN THAT BECOMES A GRANT.
20 IF THE PI IS WITH A -- WE JUST APPROVED THIS LOAN
21 PROCESS. THIS IS KIND OF A MOOT POINT UNLESS YOU
22 WANT TO REOPEN UP THE LOAN POLICY THING AT THE ICOC,
23 BUT I REALLY THINK IT'S KIND OF INCUMBENT ON US HERE
24 TO MAKE THIS DECISION NOW. AND I THINK BY THE PI
25 DECISION THAT WE'VE ALREADY MADE, WE'VE ALREADY MADE

BARRISTERS' REPORTING SERVICE

1 THIS DECISION.

2 MR. KLEIN: WHERE DOES IT SAY THAT IN THE
3 LOAN -- IN THE LAP?

4 MR. SHEEHY: ON PAGE 3, THEY MUST BE
5 EMPLOYED 50 PERCENT. AND WE HAVE -- AND THEN IN THE
6 NOT-FOR-PROFIT GAP WE HAVE RULES STIPULATING WHAT
7 CONSTITUTES A PI.

8 DR. OLSON: IN THE DISCUSSION WITH THE RFA
9 SUBCOMMITTEE, WHEN WE TALKED ABOUT THE CONCEPT OF
10 CO-PI'S, WE CLEARLY INTRODUCED THE IDEA OF A SINGLE
11 FINANCIAL ACCOUNTABILITY, AND THAT WAS WITH THE PI
12 AND WITH THE APPLICANT INSTITUTION.

13 I WOULD RAISE THE POINT, WHICH CAN BE
14 SUBJECT TO FURTHER DISCUSSION, THAT, YOU KNOW, IN
15 ORDER TO ADDRESS SOME OF THE -- WE COULD HAVE RFA'S
16 THAT ARE FOR COMPANIES ONLY AT SOME POINT. I MEAN
17 THERE ARE MANY MECHANISMS WHEREBY WE MIGHT ADDRESS
18 SOME OF THE CONCERNS RAISED HERE. I THINK IN THE
19 CONTEXT OF THIS PARTICULAR RFA, I GUESS I WOULD
20 ENCOURAGE, YOU KNOW, TRYING TO STICK WITH WHAT WE
21 KNOW AT THIS POINT.

22 MR. KLEIN: THERE'S NO DISAGREEMENT WITH
23 THE ISSUE THAT YOU HAVE A SINGLE POINT OF
24 ACCOUNTABILITY AND ONE LEAD PI. THAT'S NOT THE
25 ISSUE. THE ISSUE IS WHETHER TO GRANT OR WHETHER TO

BARRISTERS' REPORTING SERVICE

1 LOAN BECAUSE IN THE EARLY LOAN POLICY MEETINGS, WE
2 DISCUSSED THE FACT EVEN IF AN ACADEMIC INSTITUTION
3 IS THE LEAD PI, THAT YOU COULD HAVE A COMPANY
4 INVOLVED AND IT WOULD BE A LOAN PROGRAM THEY WERE
5 INVOLVED IN. THERE'S NO DEFINITION INVOLVED HERE
6 THAT SAYS THAT IF AN ACADEMIC INSTITUTION IS THE
7 LEAD PI THAT IT CANNOT BE A LOAN.

8 MR. SHEEHY: MY UNDERSTANDING, HAVING GONE
9 BACK TO THE VERY FIRST MEETING ON DISEASE TEAMS
10 CONVENED BY ARLENE CHIU, WHETHER WE WANTED COMPANIES
11 INVOLVED, AND WE WEREN'T EVEN TALKING ABOUT A LOAN
12 PROGRAM AT THAT POINT. I JUST -- JUST BECAUSE NOW
13 WE HAVE A LOAN PROGRAM, I THINK THAT WE KIND OF END
14 UP DISINCENTIVIZING ACADEMIC RESEARCH INSTITUTIONS
15 TO COLLABORATE WITH COMPANIES, AND WE KIND OF MISS
16 THE WHOLE POINT OF THE RFA AND THE WHOLE POINT OF
17 THE DISEASE TEAM CONCEPT, WHICH IS TO GET EVERYBODY
18 WORKING TOGETHER TO MOVE SOMETHING TO THE CLINIC.
19 AND I'D MUCH RATHER GET TO THE CLINIC THAN BE
20 FOCUSING ON MAKING MONEY WHEN WE DON'T EVEN HAVE A
21 THERAPY OUT THE DOOR YET.

22 MR. KLEIN: I TOTALLY AGREE, JEFF, WITH
23 YOUR CONCLUSION. I DON'T UNDERSTAND THE
24 DISINCENTIVE. BUT I SUGGEST THAT WE PROBABLY DON'T
25 HAVE TIME IN THIS CALL TO SOLVE THIS PARTICULAR

BARRISTERS' REPORTING SERVICE

1 PROBLEM. I'D LOVE TO TALK TO YOU ABOUT IT, AND I'D
2 LOVE TO GET THE PERSPECTIVE OF SOME ACADEMIC
3 INSTITUTIONS IN THE INTERIM BEFORE THE BOARD
4 MEETING. BUT I COMPLETELY IDENTIFY WITH YOUR GOALS
5 IN MAKING SURE WE HAVE AS MANY COMPANIES INVOLVED AS
6 POSSIBLE.

7 MR. SWEEDLER: IF I COULD JUST FIRST MAKE
8 A TECHNICAL CLARIFICATION HERE. ON PAGE 2 OF THE
9 LOAN ADMINISTRATION POLICY, A GRANT VERSUS LOAN IS
10 DEFINED BY THE STATUS OF THE APPLICANT, WHICH IS THE
11 APPLICANT ORGANIZATION. AND THROUGHOUT OUR GRANT
12 AND LOAN ADMINISTRATION POLICIES, THERE'S A CLEAR
13 LINKAGE BETWEEN THE PRINCIPAL INVESTIGATOR AND THE
14 APPLICANT ORGANIZATION, WHICH IS WHAT EVENTUALLY
15 BECOMES THE GRANTEE.

16 AND THEN JUST IN TERMS OF PROCESS, IF YOU
17 WANT TO EXPLORE OTHER WAYS OF DOING THAT, I WOULD
18 SUGGEST CONSIDERING STAYING WITH THIS APPROACH TO
19 GET THIS POLICY IN PLACE AND MOVE FORWARD THIS WAY
20 WITH DISEASE TEAMS AND THEN EXPLORE OTHER OPTIONS
21 AFTER THAT RATHER THAN -- THIS WILL BE OUR FIRST
22 TIME OUT WITH LOANS, AND THERE'S SOMETHING TO BE
23 SAID FOR KEEPING IT RELATIVELY SIMPLE.

24 DR. TROUNSON: I DON'T THINK ANY OF THOSE
25 CAN BE A PI IF THEY HAD TO TAKE A LOAN. THAT'S NOT

BARRISTERS' REPORTING SERVICE

1 LEGAL.

2 MR. KLEIN: THAT IS -- DR. TROUNSON, LOOK,
3 YOU HAVE -- THAT IS A NON SEQUITUR LEGALLY. I MEAN
4 YOU CAN HAVE AN ACADEMIC INSTITUTION THAT IS IN
5 VENTURE WITH A BIOTECH FIRM. THE BIOTECH FIRM
6 AGREES CONDITIONALLY TO ACCEPT THIS AS A LOAN. IF
7 IT IS SUCCESSFUL, THERE ARE WARRANTS THAT ARE ISSUED
8 BY THE BIOTECH COMPANY. AND WE DISCUSSED THAT AT
9 ONE OF THE EARLIEST MEETINGS OF THIS TASK FORCE.
10 FURTHERMORE, YOU'RE GOING TO DISINCENTIVE -- YOU'RE
11 GOING TO CREATE A DISINCENTIVE FOR ACADEMIC
12 INSTITUTIONS AND FOR PRIVATE COMPANIES IN THE
13 DISEASE TEAMS BECAUSE WE DO NOT HAVE AS MUCH MONEY
14 FOR GRANTS AS WE DO FOR LOANS. SO IF THE ACADEMIC
15 INSTITUTION WANTS TO BE IN THE POOL WHERE WE WILL
16 HAVE MORE FUNDS AVAILABLE TO FUND IT, THEY'RE GOING
17 TO WANT THIS, AND THEY'RE GOING TO WANT TO WORK OUT
18 A JOINT VENTURE WITH A PRIVATE COMPANY THAT WILL
19 TAKE THE RESPONSIBILITY FOR THE LOAN, OBVIOUSLY
20 CONTINGENT UPON THE PRODUCTS BEING SUCCESSFUL.

21 BUT FROM AN ECONOMIC AND FINANCIAL POINT
22 OF VIEW, TO LOOK AT WHAT WE CAN PROVIDE FOR DISEASE
23 TEAM FUNDING, IT'S NOT \$210 MILLION IF IT'S ALL
24 GRANTS. AND IT, IN FACT, HAS TO BE SUBSTANTIALLY
25 LOANS TO BE ABLE TO GET UP TO THAT FIGURE AND

BARRISTERS' REPORTING SERVICE

1 HAVE --

2 MR. SHEEHY: BOB, WE'VE NEVER DECIDED THAT
3 IT WOULD BE ALL GRANTS. BUT, AGAIN, I COME BACK.
4 WE'VE GOT THIS TRAIN THREE-QUARTERS OF THE WAY DOWN
5 THE TRACK, AND NOW YOU'VE PUT A LOG IN FRONT OF IT.
6 I JUST WANT TO KNOW. THE DISEASE TEAM GRANT ROUND
7 HAS BEEN DELAYED IN MY MIND WAY BEYOND WHERE IT
8 SHOULD HAVE COME IN DUE TO THE STRATEGIC PLAN. THIS
9 IS THE MOST INNOVATIVE FEATURE OF OUR STRATEGIC
10 PLAN, AND I REALLY WOULD LIKE TO SEE US MOVING
11 TOWARDS THE CLINIC. I WOULDN'T WANT TO SEE IT
12 FURTHER DELAYED BY OUR ATTEMPTS TO MAXIMIZE PROFIT.
13 I JUST DON'T SEE US MAKING A PROFIT MAXIMIZATION
14 LOAN.

15 MR. KLEIN: PROFIT HAS NOTHING TO DO WITH
16 IT. IF YOU CAN'T FUND IT, YOU'RE NOT GOING TO BE
17 ABLE TO DO THE RESEARCH.

18 MR. SHEEHY: \$3 BILLION, THE VOTERS
19 WEREN'T EVEN THINKING ABOUT A LOAN PROGRAM WHEN THEY
20 VOTED FOR PROP 71. THEY WERE THINKING ABOUT WHAT
21 OUGHT TO ADDRESS THE PROBLEM WITH THE PRESIDENT OF
22 THE UNITED STATES THAT IS NO LONGER HERE.

23 MR. KLEIN: THIS IS A GRANT AND A LOAN
24 PROGRAM, JEFF.

25 MR. SHEEHY: I KNOW. IT'S MORPHED INTO

BARRISTERS' REPORTING SERVICE

1 THAT, BUT I'M NOT ALL THAT SUPPORTIVE OF TELLING
2 COMPANIES THAT THEY HAVE TO TAKE THE LOAN. YOU
3 KNOW, I FEEL LIKE I'M COMING HALFWAY BY MAKING
4 COMPANIES HAVE TO TAKE A LOAN FOR THIS GRANT ROUND.

5 CHAIRMAN GOLDBERG: IN AN EFFORT TO KEEP
6 THE AGENDA ON TRACK AND TO INJECT SOME LEVITY, AS A
7 MEMBER OF INDUSTRY REPRESENTATIVES ON THE BOARD, FOR
8 THE RECORD, PROFIT IS NOT A FOUR-LETTER WORD.

9 THE NEXT TWO ITEMS -- WE'LL COME BACK TO
10 YOUR ISSUE, JEFF. I DON'T MEAN TO MAKE LIGHT OF IT.
11 IT'S A CORE ISSUE, BUT IT IS ONE THAT WE'VE
12 DISCUSSED EXTENSIVELY BOTH AMONG THE LOAN TASK FORCE
13 AND BY THIS SUBCOMMITTEE. I'M HAPPY TO DISCUSS IT
14 OFF LINE WITH YOU DIRECTLY AS WELL.

15 I WOULD ECHO WHAT BOB SAID. I AGREE WITH
16 YOUR ENDS. I'M NOT SURE THAT WHAT WE'RE DISCUSSING
17 AS THE MEANS CAUSES THEM TO BE MUTUALLY --

18 DR. PENHOET: MICHAEL, IF I COULD, CAN I
19 JUST TRY TO CLARIFY THIS A LITTLE BIT? WE HAVE
20 DECIDED THE TASK FOR THIS RFA IS THAT COMPANIES MUST
21 TAKE A LOAN. IT'S A DONE DEAL. OKAY.

22 WE AGREE THAT UNIVERSITIES WON'T TAKE
23 LOANS, THAT THEY WILL BE TAKING A GRANT, AND A
24 COMPANY CAN GET A LOAN. WE HAVE ALSO AGREED THAT WE
25 HAVE ONLY ONE PI PER WHATEVER IT IS, LOAN OR A

BARRISTERS' REPORTING SERVICE

1 GRANT, BECAUSE WE HAVE TO HAVE SOMEBODY RESPONSIBLE
2 FOR THE PROGRAM, WHATEVER IT IS, A GRANT ON XYZ OR A
3 DISEASE TEAM. IF THE PI HAPPENS TO BE IN A COMPANY,
4 THEN THE PROJECT WILL BE A LOAN. COMPANY WILL TAKE
5 THE MONEY AS A LOAN AND THEY'LL PAY THEIR UNIVERSITY
6 PARTNERS FOR THE WORK THAT THEY DO. IF THE PI IS IN
7 THE UNIVERSITY, THE UNIVERSITY WILL BUY SERVICES
8 FROM THE COMPANY AND THEY'LL FIGURE OUT WHATEVER
9 THEY DO BETWEEN EACH OTHER.

10 I THINK THE ONLY QUESTION ON THE TABLE IS
11 WHETHER WE SHOULD ALLOW A HYBRID WHERE YOU HAVE TWO
12 GRANTEES, EACH ONE WITH A PI, AGREEING TO
13 COLLABORATE IN THE DISEASE TEAM, GIVING THE COMPANY
14 PART A LOAN AND THE UNIVERSITY PART A GRANT WHERE
15 THEY SPLIT.

16 MR. KLEIN: AND I'D LIKE TO DEFER THIS TO
17 THE BOARD BECAUSE I DON'T THINK THAT IS THE CHOICE.
18 THE PI SHOULD NOT DETERMINE WHETHER IT'S A GRANT OR
19 A LOAN. THE PI DETERMINES CONTROL OF THE FUNDS, BUT
20 NOT WHETHER IT'S A GRANT OR A LOAN.

21 DR. PENHOET: BUT BOB, WE ALREADY HAVE TWO
22 POLICIES IN PLACE. NO. 1 SAYS THE PI AS THE
23 RESPONSIBILITY PARTY. THIS RFA WILL SAY IF THAT PI
24 IS IN A COMPANY, IT'S GOING TO BE A LOAN. WE'VE
25 ALREADY AGREED TO THAT. WE'VE PASSED THAT. THE

BARRISTERS' REPORTING SERVICE

1 COMPANY MUST TAKE A LOAN.

2 DR. OLSON: OUR NOTICE OF GRANT AWARD IS
3 OUR CONTRACT WITH THE APPLICANT ORGANIZATION. SO
4 THAT IS REALLY WHAT'S GOING ON. WHO IS OUR LEGAL
5 AGREEMENT WITH?

6 CHAIRMAN GOLDBERG: SO I'D LIKE TO MOVE TO
7 ITEM 5, PLEASE, IN LIGHT OF US BEING JOINED BY
8 GUESTS.

9 MS. KING: YES. TWO DISTINGUISHED MEMBERS
10 OF THE PUBLIC. MR. MONTAGUE, YOU'RE STILL ON THE
11 LINE?

12 MR. MONTAGUE: YES.

13 MS. KING: AND MR. CHURCHWELL, ARE YOU
14 WITH US?

15 MR. CHURCHWELL: YES.

16 MS. KING: EXCELLENT. OKAY. MICHAEL,
17 I'LL TURN IT BACK OVER TO YOU FOR AN INTRO TO ITEM
18 NO. 5.

19 CHAIRMAN GOLDBERG: AND I'M GOING TO TURN
20 IT OVER TO CHAIRMAN KLEIN.

21 MR. KLEIN: SO THE PURPOSE OF THIS IS TO
22 ADDRESS ONE OF OUR OPTIONS OR POTENTIAL OPTIONS IN
23 DEALING WITH THE CURRENT STATUS OF THE STATE
24 FINANCES AND THE STATE'S ABILITY TO ISSUE BONDS IN
25 THE FULL AMOUNT OF STATE PROGRAMS AT THIS TIME. THE

BARRISTERS' REPORTING SERVICE

1 INTENT HERE IS THIS IS A STUDY SESSION APPROACH.
2 THIS IS NOT TO APPROVE AN ACTION PLAN. AND I'D
3 LIKE -- I BELIEVE DR. ROBSON IS THERE -- JUST A
4 QUICK WHERE WE ARE ON OTHER AVAILABLE CASH THAT'S IN
5 OUR BOND FUND AT THIS TIME.

6 DR. ROBSON: SURE. I CAN GIVE YOU JUST A
7 BRIEF RUNDOWN ON OUR OPERATING COSTS, THAT IS THE
8 RUNNING OF CIRM RELATIVE TO WHAT THE ICOC APPROVED
9 FOR OUR BUDGET FOR THE YEAR 2008-9, AND THEN I'LL
10 GIVE YOU A BRIEF DESCRIPTION OF OUR CASH-FLOW
11 SITUATION. MARGARET FERGUSON, OUR FINANCE OFFICER,
12 AND I WILL MAKE A MORE THOROUGH REPORT ON THIS AT
13 THE ICOC MEETING, BUT I THOUGHT I'D JUST GIVE YOU A
14 HEADS-UP.

15 OUR BUDGET THAT WAS APPROVED FOR THE YEAR
16 IS A LITTLE OVER \$13 MILLION. SEVEN MILLION OF THAT
17 WAS FOR SALARIES AND FRINGE BENEFITS AND A LITTLE
18 OVER SIX MILLION WAS FOR OTHER OPERATIONS,
19 EQUIPMENT, TRAVEL, ICOC MEETINGS, CONTRACTS, ETC.

20 CURRENTLY WE PROJECTED BY THE END OF THE
21 YEAR WE WILL BE ABOUT 20 PERCENT UNDER BUDGET FOR
22 SALARIES AND BENEFITS AND ABOUT 30 PERCENT UNDER FOR
23 OTHER OPERATING EXPENSES. SO RELATIVE TO OUR
24 BUDGETED AMOUNT, WE'RE RUNNING UNDER BUDGET, AND WE
25 PROJECT TO BE UNDER BUDGET BY THE END OF THE YEAR.

BARRISTERS' REPORTING SERVICE

1 AS FAR AS OUR CASH FLOW GOES, NOW TAKING
2 INTO ACCOUNT ALL OF OUR GRANT DISBURSEMENTS, THAT IS
3 NEW GRANTS THAT WILL BE FUNDED BETWEEN NOW AND THE
4 END OF THE FISCAL YEAR AT THE END OF JUNE, AND ALSO
5 RENEWALS OF GRANTS THAT ARE ONGOING COMMITMENT, WE
6 CURRENTLY HAVE ABOUT \$165 MILLION AVAILABLE TO US.
7 AND BASED ON OUR PROJECTIONS FOR HOW FAST THAT MONEY
8 WILL GO OUT FOR OUR OPERATIONS AND TO OUR GRANTEES,
9 WE WILL EASILY MAKE IT THROUGH THE END OF THE FISCAL
10 YEAR.

11 BEYOND THAT IT LOOKS AS THOUGH WE WILL
12 HAVE ENOUGH MONEY FOR A FEW MONTHS TO GET US THROUGH
13 THE SUMMER, BUT AFTER THAT WE ARE GOING TO NEED
14 ADDITIONAL FUNDS TO MEET ALL OF OUR ONGOING AND
15 FUTURE COMMITMENTS. SO THAT'S SORT OF IN A NUTSHELL
16 WHERE WE ARE RIGHT NOW.

17 MR. KLEIN: SO THE PRINCIPAL PURPOSE OF
18 THIS DISCUSSION IS IN THE SECOND HALF OF OUR FISCAL
19 YEAR, WE HAVE IMPORTANT PROGRAMS, SPECIFICALLY
20 OBVIOUSLY INCLUDING THE DISEASE TEAM PROGRAM THAT'S
21 A VERY LARGE PROGRAM, AND WE HAVE TO MAKE CERTAIN
22 WELL IN ADVANCE THAT WE HAVE FUNDING IN PLACE FOR
23 THAT PROGRAM.

24 THE LEGISLATIVE ANALYST'S OFFICE HAS
25 RECENTLY PUT OUT AN ANALYSIS THAT RAISES A QUESTION

BARRISTERS' REPORTING SERVICE

1 ABOUT THE STATE'S ABILITY TO ISSUE ADEQUATE BONDS TO
2 COVER ITS ENTIRE CAPITAL PROGRAM. IT'S IMPORTANT,
3 THEREFORE, THAT WE LOOK AT OPTIONS THAT WE CAN TAKE
4 TO THE STEM CELL RESEARCH FINANCE COMMITTEE OF THE
5 STATE, WHICH INCLUDES THE GOVERNOR'S DEPARTMENT OF
6 FINANCE REPRESENTATIVES, THE CONTROLLER, THE
7 TREASURER, AND I SIT ON THAT COMMITTEE ALONG WITH
8 TWO OTHER MEMBERS OF THE AGENCY BOARD THAT I
9 APPOINT. THAT COMMITTEE WILL HAVE TO APPROVE ANY
10 POLICY THAT IS ADOPTED.

11 WE ARE IN A STUDY MODE NOW AND NOT AN
12 ACTION MODE. AND SO THE DISCUSSION WE'RE ABOUT TO
13 HAVE IS TO LAUNCH AN INVESTIGATION OF A POTENTIAL
14 FOR A PRIVATE PLACEMENT BOND ISSUE ON THE BASIC
15 MODEL OF THE BOND ANTICIPATION NOTES THAT WERE
16 PREVIOUSLY DONE DURING THE LITIGATION UNDER LEGAL
17 CIRCUMSTANCES THAT WERE REALLY A LOT MORE ADVERSE
18 THAN THEY ARE TODAY.

19 BUT IN ORDER TO DO THAT, I'VE ASKED TWO
20 INDIVIDUALS THAT WERE INVOLVED IN THAT BOND
21 ANTICIPATION NOTE PROGRAM TO PROVIDE SOME
22 REFLECTIONS TO THIS COMMITTEE ON THAT PROCESS, WHICH
23 WAS A HISTORIC PROCESS BECAUSE THE STATE OF
24 CALIFORNIA HAD NEVER DONE BOND ANTICIPATION NOTES,
25 AND REALLY REFLECT ON THE OBSTACLES AND THE

BARRISTERS' REPORTING SERVICE

1 DIFFICULTY, BECAUSE IT IS A DIFFICULT PROCESS, SO
2 THAT WE HAVE ADEQUATE PREPARATION, ADEQUATE
3 LEAD-TIME TO DEAL WITH THIS IF WE DECIDE TO PROCEED
4 DOWN THAT ROUTE.

5 WITH THAT, I BELIEVE DOUG MONTAGUE IS ON
6 THE PHONE; IS THAT CORRECT?

7 MR. MONTAGUE: YES.

8 MR. KLEIN: AND DOUG WAS THE HEAD OF THE
9 FIRM THAT WAS HIRED BY STATE TREASURER'S OFFICE
10 DURING THAT PROCESS WHERE THE CHAIRMAN'S OFFICE
11 WORKED WITH STATE BOND COUNSEL AND WITH THE
12 TREASURER'S OFFICE TO IMPLEMENT A PROGRAM APPROVED
13 BY THE STATE OF CALIFORNIA FINANCE COMMITTEE I JUST
14 REFERENCED. IN THAT CONTEXT, DOUG, DO YOU WANT TO
15 COMMENT ON HOW THAT PROCESS PROCEEDED JUST AS A
16 CONCEPTUAL PARTICULARLY GIVEN WE'RE FAIRLY SHORT ON
17 TIME AND SOME OF THE OBSTACLES THAT WERE FACED ALONG
18 THAT ROUTE AND THE ULTIMATE OUTCOME.

19 MR. MONTAGUE: THAT WAS A GOOD
20 INTRODUCTION, AND I THINK GIVEN THE TIME,
21 ESSENTIALLY WHAT WE'RE TALKING ABOUT HERE IS A
22 PRIVATE PLACEMENT OF SECURITIES. AND WHEN THE
23 ORIGINAL BOND ANTICIPATION NOTES WERE ISSUED AND
24 SOLD BY THE STATE ON BEHALF OF CIRM, CIRM WAS STILL
25 FACING SIGNIFICANT LITIGATION. THAT WAS THE MAJOR

BARRISTERS' REPORTING SERVICE

1 OBSTACLE TO THE SALE OF THE BONDS. AND THE REASON
2 WHY WE COULDN' T REALLY PROCEED WITH THE PUBLIC SALE
3 OF THE BONDS WAS BECAUSE OF THE DISCLOSURE ISSUES
4 AND THE RISK OF NONREPAYMENT OF THE OBLIGATIONS.

5 AND QUITE HONESTLY, CIRM THROUGH ITS
6 OUTREACH DID THE HEAVIEST LIFTING AS WE CANVASSED
7 THE INVESTOR UNIVERSE FOR POTENTIAL BUYERS OF THESE
8 RELATIVELY RISKY SECURITIES AND WAS ABLE TO IDENTIFY
9 HIGH NET WORTH INDIVIDUALS AND FOUNDATIONS AND
10 INSTITUTIONS THAT VIEWED THE MISSION OF CIRM AND THE
11 USE OF THE PROCEEDS AS HAVING GREAT BENEFIT. AND WE
12 WERE ABLE, IT TOOK MANY, MANY MONTHS, REALLY THE
13 BETTER PART OF A YEAR, BOB, IF I' M NOT INCORRECT
14 THERE, TO IDENTIFY THE BUYERS AND NEGOTIATE
15 INDIVIDUALLY TERMS AND CONDITIONS THAT WERE
16 ACCEPTABLE TO EACH INVESTOR. WE ENDED UP FINDING A
17 HOME FOR, I BELIEVE, \$44 MILLION WORTH OF BAN' S,
18 WHICH PROVIDED ESSENTIALLY THE FOUNDATION FOR CIRM' S
19 FINANCING PROGRAM.

20 AND EACH OF THOSE BOND ANTICIPATION NOTES
21 HAD RESTRICTIONS PLACED ON IT IN TERMS OF TRANSFER
22 TO OTHER ENTITIES. IT WAS NOT THE FRIENDLIEST OF
23 INSTRUMENTS. LET ME JUST PUT IT THAT WAY FROM AN
24 INVESTOR' S PERSPECTIVE. WE WERE ABLE TO GET THOSE
25 BAN' S PLACED AT VARIABLE RATES, BUT WITH A CAP OF 5

BARRISTERS' REPORTING SERVICE

1 PERCENT, 4.5 PERCENT AND 5 PERCENT DEPENDING ON THE
2 CHARACTER OF THE INVESTOR.

3 I THINK TALKING ABOUT GOING FORWARD, BOB,
4 DO YOU WANT ME TO MOVE ON TO WHAT MIGHT LIE AHEAD,
5 OR WAS THIS WHERE YOU WANTED ME TO GO AT THIS POINT?

6 MR. KLEIN: WHY DON'T YOU MAKE JUST A
7 COUPLE OF COMMENTS ABOUT WHERE WE MIGHT GO AHEAD,
8 AGAIN, WITH REMINDING PEOPLE THAT THE BOARD WOULD
9 HAVE TO APPROVE THIS. THEN THE STATE FINANCE
10 COMMITTEE WOULD HAVE TO APPROVE IT. WE'D HAVE TO
11 TAKE IT TO THE STATE FINANCE COMMITTEE. WE'D WORK
12 OUT A PLAN WITH THE TREASURER'S OFFICE. AND WITH
13 THOSE PRECONDITIONS, WHY DON'T YOU ENCAPSULATE THE
14 CONCEPT?

15 MR. MONTAGUE: I THINK GOING FORWARD, AS
16 BOB MENTIONED AS WELL, THE CHALLENGES ARE DIFFERENT
17 FOR CIRM AND FOR ITS FUTURE BORROWING. THE ISSUES
18 REALLY ARE MUCH LESS ABOUT YOUR PROGRAMS AND MORE
19 ABOUT THE STATE'S GENERAL FISCAL HEALTH. AT THE
20 MOMENT THE STATE IS ESSENTIALLY LOCKED OUT OF THE
21 CAPITAL MARKETS BY VIRTUE OF THE FACT THAT IT HAS A
22 BUDGET SO BADLY OUT OF BALANCE AND SEEMS TO BE
23 RINGING HANDS OVER SOLUTIONS. AND REALLY EVEN
24 EXISTING STATE GENERAL OBLIGATION BONDS TRADING IN
25 THE SECONDARY MARKET ARE TRADING AT VERY HIGH

BARRISTERS' REPORTING SERVICE

1 PREMIUMS OR HIGH INTEREST RATES.

2 WE WOULD BE LOOKING AT THAT BEING THE
3 MAJOR CHALLENGE IS FINDING ACCESS TO THE MARKET, AT
4 LEAST IN THE NEAR TERM, GIVEN THE STATE'S FISCAL
5 DIFFICULTIES. I THINK WE EXPECT THAT WE COULD BE
6 SUCCESSFUL IN CANVASSING THE UNIVERSE OF POTENTIAL
7 INVESTORS, AND I'M ASSUMING WE'RE TALKING ABOUT
8 TAXABLE BONDS HERE, LOOKING AT INSTITUTIONAL BUYERS
9 RATHER THAN INDIVIDUALS, ALTHOUGH THERE MAY BE SOME
10 INDIVIDUALS, AND I'M ASSUMING WE'RE LOOKING AT, YOU
11 KNOW, SEVERAL HUNDRED MILLION DOLLARS OF THE
12 BORROWING FOR THIS NEXT PHASE, BOB.

13 MR. KLEIN: THAT'S RIGHT.

14 MR. MONTAGUE: THAT WILL REQUIRE THE
15 PARTICIPATION OF INSTITUTIONS. WE HAVE HAD SOME
16 PRELIMINARY CONVERSATIONS, NOT RELATED SPECIFICALLY
17 TO CIRM'S NEEDS, BUT THERE DOES APPEAR TO BE A
18 MARKET FOR TAXABLE GENERAL OBLIGATION BONDS. WE
19 WOULD BE COMPETING WITH OTHER STATE NEEDS FOR THIS
20 SAME TYPE OF DEBT. I BELIEVE THEY HAVE ABOUT A
21 BILLION DOLLARS WORTH OF NEED FOR TAXABLE LONG-TERM
22 BONDS. A QUARTER OF THAT IS THE PMI ALONE TO CIRM
23 THAT COMES DUE IN APRIL. BUT THEY STILL HAVE \$759
24 MILLION WORTH OF TAXABLE BORROWING NEEDS THEMSELVES.
25 BUT WE DO BELIEVE THAT IT WOULD BE POSSIBLE TO FIND

BARRISTERS' REPORTING SERVICE

1 INVESTORS. THE CREDIT IS MUCH EASIER TO EXPLAIN NOW
2 THAN IT WAS SEVERAL YEARS AGO WHEN WE WERE IN
3 UNCHARTED WATERS.

4 SO I THINK WE FEEL CAUTIOUSLY OPTIMISTIC
5 THAT THERE WOULD BE BUYERS OUT THERE. THE STATE'S
6 DEBT IS CURRENTLY TRADING AT ROUGHLY 4 PERCENT
7 PREMIUM TO COMPARABLE MATURITY TREASURIES. SO YOU
8 COULD, FOR INSTANCE, IN THE CURRENT MARKET,
9 THREE-YEAR TREASURY IS AROUND 1.1 PERCENT. YOU
10 MIGHT BE LOOKING AT SOMETHING AROUND 5 PERCENT FOR A
11 THREE-YEAR BOND ANTICIPATION NOTE.

12 MR. KLEIN: THANK YOU VERY MUCH, DOUG.
13 AND I WOULD ALSO LIKE TO EMPHASIZE THAT ONE OF THE
14 GOALS WOULD BE TO PRIVATELY PLACE THIS WITH
15 PURCHASERS THAT WOULD NOT BE NORMAL PURCHASERS IN
16 THESE CIRCUMSTANCES FOR THE STATE'S DEBT, INCLUDING
17 THEIR TAXABLE DEBT. SO, FOR EXAMPLE, LARGE
18 FOUNDATIONS CAN PURCHASE THESE SECURITIES AS TAXABLE
19 SECURITIES AS A PROGRAM INVESTMENT. AND THAT
20 PROGRAM INVESTMENT WOULD PERMIT THEM BECAUSE IT
21 SERVES THEIR ULTIMATE OBJECTIVES ON A MISSION BASIS
22 AS WELL AS BEING A LEGITIMATE INVESTMENT. IT GIVES
23 THEM MORE FLEXIBILITY IN THE INVESTMENT.

24 ONE OF THE PROBLEMS RIGHT NOW IN THE
25 MARKETS FOR THESE SECURITIES IS THE VOLATILITY,

BARRISTERS' REPORTING SERVICE

1 GIVEN THE CONSTANT CHANGES ONE CAN EXPECT OVER THE
2 NEXT YEAR AND A HALF OR TWO YEARS IN THE STATE'S
3 FINANCIAL CONDITIONS, TO BE RELATIVELY UNPREDICTABLE
4 BUDGET DECISIONS THAT ARE MADE DURING THAT TIME
5 PERIOD.

6 SO EACH OF THOSE DECISIONS COMING QUICKLY
7 ONE AFTER THE OTHER COULD CREATE A LOT OF VOLATILITY
8 WHICH MIGHT OTHERWISE DRIVE SOME OF THESE PURCHASERS
9 AWAY FROM THESE SECURITIES, BUT AS A PROGRAM
10 INVESTMENT THEY HAVE A SECOND PRINCIPAL
11 MISSION-DIRECTED REASON FOR MAKING THIS. AND AS WE
12 SAID, WE CAN SATISFY THESE NEEDS IN A PRIVATE
13 PLACEMENT THROUGH MAJOR FOUNDATIONS WITH THESE
14 COMMON GOALS ALIGNED WITH OURS. WE ARE MAKING IT
15 CLEAR THAT WE'RE NOT DETRACTING FROM THE STATE'S
16 ABILITY TO PLACE OTHER IMPORTANT DEBT INSTRUMENTS
17 FOR BASIC SERVICES. WE ARE SUPPLEMENTING WHAT THE
18 STATE COULD OTHERWISE ACCOMPLISH AND USING AT THIS
19 TIME VITAL MISSIONS THAT THE VOTERS HAVE APPROVED.

20 WITH THE PROGRAM INVESTMENT BEING MADE BY
21 FOUNDATIONS, THEY, OF COURSE, WILL RELY ON THEIR
22 LAWYERS, AND THEIR LAWYERS WILL HAVE RAISED THE
23 QUESTION BASED UPON THE VOLATILITY OF THESE
24 INVESTMENTS AND THE PROGRAM DECISIONS THAT THEY MUST
25 MAKE.

BARRISTERS' REPORTING SERVICE

1 AND STEVE CHURCHWELL, I BELIEVE YOU' RE
2 ALSO ON THE LINE?

3 MR. CHURCHWELL: YES, I AM.

4 MR. KLEIN: AND STEVE AND I HAD THE
5 PLEASURE OF GOING THROUGH LEGAL ARGUMENTS AND
6 STRUCTURAL ARGUMENTS FOR, I THINK, THREE DAYS WITH
7 STEVE BEFORE I EVEN FOUND OUT WHO HIS CLIENT WAS ON
8 THE BOND ANTICIPATION NOTES. AND HE' LL EXPLAIN THE
9 KIND OF DECISIONS THAT THOSE INVESTORS FACED AND
10 VERY QUICKLY THE SAME KIND OF LEGAL ISSUES MAYBE
11 INVOLVED IN DETERMINING THIS IS AN APPROPRIATE
12 PROGRAM INVESTMENT BY THESE FOUNDATIONS.

13 MR. CHURCHWELL: THANK YOU, CHAIRMAN
14 KLEIN. I WILL BE VERY BRIEF. I KNOW EVERYBODY HAS
15 BEEN ON FOR AT LEAST TWO HOURS. MY INVOLVEMENT WAS,
16 AS BOB SAID, WE HAD A CLIENT WHO WE WERE VERY CLOSE
17 TO WHO IS VERY WEALTHY AND HAD GIVEN TO SIMILAR
18 CAUSES IN THE PAST. AND I THINK I CAN SEGUE OFF
19 WHAT DOUG JUST SAID, WHICH WE WERE IN UNCHARTED
20 WATERS, VERY QUICKLY.

21 I MEAN I CALLED MY FINANCE PEOPLE IN NEW
22 YORK. BY THE WAY, I'M A PARTNER AT THE LAW FIRM DLA
23 PIPER IN THE SACRAMENTO OFFICE, WHICH HAPPENS TO BE
24 THE LARGEST LAW FIRM IN THE WORLD, I BELIEVE STILL
25 AT THIS TIME. AND WE HAVE PROBABLY ABOUT 500

BARRISTERS' REPORTING SERVICE

1 LAWYERS IN NEW YORK, AND THE VAST MAJORITY DO
2 FINANCE WORK. AND NONE OF THEM, I GUESS MAYBE ONE
3 OF THOSE ATTORNEYS HAD EVER EVEN HEARD OF A BOND
4 ANTICIPATION NOTE. AND I THINK HIS DESCRIPTION WAS
5 IT WAS SOMEWHERE BETWEEN A UNICORN AND COAL FUSION
6 OR SOMETHING LIKE THAT, WHICH TOLD ME IMMEDIATELY
7 THAT BEING SORT OF A CONSERVATIVE RISK AVERSE
8 LAWYER, THAT THIS IS GOING TO BE A TOUGH PROJECT FOR
9 ME TO EVENTUALLY WRITE UP WHAT IS AKIN TO A
10 PROSPECTUS EVEN THOUGH IT'S A PRIVATE PLACEMENT FOR
11 A VERY VALUED AND CHERISHED CLIENT AND KIND OF PUT
12 MY NECK OUT THERE TO SAY YOU SHOULD DO THIS. THAT
13 REALLY I KNEW IS WHERE I WAS HEADED.

14 I THEN CALLED -- I PROBABLY HAD ABOUT 50
15 QUESTIONS FOR BOB, AND THAT WAS PROBABLY ABOUT 50
16 QUESTIONS TOO FEW. I THEN CALLED THE STATE
17 TREASURER'S OFFICE AND SOME CONTACTS THERE. I
18 CALLED ANOTHER LAW FIRM THAT'S IN MY BUILDING IN
19 SACRAMENTO WHERE I KNEW SOME PARTNERS WHO DID PUBLIC
20 FINANCE WORK. AGAIN, THEY WERE, OKAY, I MAY HAVE
21 HEARD OF THAT, BUT I'VE NEVER DONE ONE AND I'M NOT
22 EVEN SURE IT'S POSSIBLE. IT'S THEORETICALLY
23 POSSIBLE, BUT GOOD LUCK GETTING ANYBODY TO INVEST IN
24 IT.

25 AND SO WE HAD A LOT OF CHALLENGES. SO

BARRISTERS' REPORTING SERVICE

1 EVERYONE ON THE CALL KNOWS HOW PERSUASIVE CHAIRMAN
2 KLEIN CAN BE, AND SO THERE WAS NEVER ANY QUESTION
3 THAT WE WERE GOING TO DO THIS AND WE WERE GOING TO
4 BE SUCCESSFUL. IT WAS JUST HOW DO WE GET FROM POINT
5 A TO POINT B? I WILL ALSO BE HONEST IN SAYING THAT
6 I QUICKLY REACHED OUT TO A PARTNER OF MINE WHO WAS
7 THE RELATIONSHIP PARTNER FOR THE CLIENT THAT WE WERE
8 LOOKING TO INVEST AND HAD A VERY CLOSE PERSONAL
9 RELATIONSHIP WITH HIM. AND IT STARTED OFF VERY
10 WELL, BUT I THINK BECAUSE OF THE AMOUNT OF QUESTIONS
11 THAT THE CLIENT HAD AND THAT MY PARTNER HAD ABOUT
12 THIS WHOLE THING, HOW THIS IS GOING TO WORK, BY THE
13 WAY, SHE'S AN ESTATE PLANNING ATTORNEY, AND MUCH
14 MORE I JUST HAD MANY MORE GOOD QUESTIONS ABOUT THE
15 SECURITY OF THIS INVESTMENT.

16 AND I DON'T KNOW IF ANY OF YOU REMEMBER,
17 BUT DURING THE LITIGATION, WHAT WE HAD TO TELL THESE
18 INVESTORS IN OUR DUE DILIGENCE WAS THAT THERE WERE
19 THREE POTENTIAL OUTCOMES FOR THEIR INVESTMENT. ONE
20 WAS THEY WOULD, JUST LIKE A BOND, IT WOULD CONVERT
21 AND YOU WOULD GET YOUR PRINCIPAL BACK WITH INTEREST.
22 THE SECOND WAS THAT IF THE LITIGATION WENT SOUTH,
23 THE INVESTOR WOULD HAVE THE OPPORTUNITY TO CONVERT
24 IT TO A CHARITABLE CONTRIBUTION. OKAY. SO THAT'S
25 NOT TOO BAD. AND THEY ALL, AT LEAST THE PEOPLE THAT

BARRISTERS' REPORTING SERVICE

1 I TALKED TO, NOT ONLY THIS CLIENT, BUT SOME OTHER
2 POTENTIAL INVESTORS, I THINK, BOB, FOR ME WAS MAYBE
3 THREE OR FOUR OTHER ONES THAT I HAD SOME DEALINGS
4 WITH DURING THIS PROCESS, SO THEY ALL SEEMED TO BE
5 OKAY WITH THAT OUTCOME.

6 THE ONE THAT THEY WEREN' T VERY HAPPY ABOUT
7 WAS IF WE KIND OF -- IF THE LITIGATION GOT AWAY FROM
8 US AND THE COURT DECISION BECAME FINAL, OUR READING
9 OF THE LAW WAS THAT THEY WOULD NEITHER GET THE BOND
10 INTEREST NOR WOULD THEY GET THEIR PRINCIPAL BACK AND
11 THEY COULDN' T CONVERT IT TO A CHARITABLE
12 CONTRIBUTION. THEIR MONEY WOULD JUST BE GONE. SO
13 IF YOU CAN IMAGINE DESCRIBING THIS TO SOMEONE WHO' S
14 BEEN ASKED TO INVEST \$5 MILLION, IT WOULD BE VERY
15 DIFFICULT TO MAINTAIN ANY CREDIBILITY WITH THAT
16 PERSON, BUT THAT' S WHAT WE DID. THAT WAS A
17 CHALLENGE.

18 AND I THINK EVERYONE KNOWS THAT WE CAN
19 FAST FORWARD TO THE END IS THAT IT ALL WORKED OUT.
20 YOU GUYS WON THE LITIGATION AND WE DIDN' T HAVE TO
21 FIND OUT, YOU KNOW, DOOR NO. 2 AND NO. 3 WHAT WOULD
22 HAVE HAPPENED. BUT WE HAD LAID ALL THIS OUT IN
23 WRITING. I THINK, OF COURSE, WE WERE ALL COVERED
24 AND EVERYONE KNEW WHAT THEY WERE GETTING INTO. AND
25 THE REAL HEROES ARE THE PEOPLE WHO INVESTED THE

BARRISTERS' REPORTING SERVICE

1 MONEY, NOT -- I MEAN I CERTAINLY WAS JUST IN THE
2 MIDDLE OF THE THING AND TRYING TO DESCRIBE THE
3 PROCESS THE BEST WAY I COULD. OBVIOUSLY THEY ARE
4 THE PEOPLE THAT DESERVE ALL OF THE CREDIT.

5 BUT, ANYWAY, COMING UP WITH THIS -- AND I
6 WILL SAY THE PEOPLE ON THE FRONT END THAT HAD THE
7 CREATIVITY AND THE PUSH TO GET THIS THING EVEN
8 MOVING, WHICH IS STILL SOMETHING I STILL DON'T
9 UNDERSTAND HOW THIS THING EVER EVEN GOT OFF THE
10 GROUND, I THINK THE TREASURER'S OFFICE, ALL THEY
11 WOULD SAY TO ME WAS BOB IS VERY PERSUASIVE. WE'RE
12 NOT EVEN SURE HOW THIS HAPPENED. YOU KNOW, IT WAS
13 AN AMAZING THING. SO REALLY THAT'S ALL I HAVE TO
14 SAY UNLESS ANYONE HAD A QUESTION.

15 MR. KLEIN: AND I WOULD SAY THAT TWO YEARS
16 BEFORE, A YEAR BEFORE THE INITIATIVE WAS EVEN
17 SUBMITTED TO THE VOTERS FOR SIGNATURES, WE
18 RESEARCHED THE LITIGATION POTENTIAL. AND JAMES
19 HARRISON, WHO'S ON THIS CALL, WAS ONE OF THE FIVE
20 LAWYERS ALONG WITH LAWYERS AT ORECK WHO SPECIFICALLY
21 LOOKED WITH ME AT THE LITIGATION ISSUES, A MEMBER OF
22 THE ATTORNEY GENERAL'S OFFICE, AND SO THE ISSUE HAD
23 BEEN THOROUGHLY RESEARCHED, THE CASE LAW WAS THERE.
24 BUT WHAT'S IMPORTANT TO REALIZE HERE IS WHETHER IF
25 THE BAN TRANSACTION OR WHETHER IT'S AN ISSUE OF A

BARRISTERS' REPORTING SERVICE

1 MAJOR FOUNDATION, IN THIS VOLATILE ECONOMIC CLIMATE
2 MAKING A PROGRAM INVESTMENT IN A STATE THAT HAS NOT
3 GOTTEN A STRONG BUDGET IN PLACE AND THERE' S
4 PREDICTABLE HIGH VOLATILITY IN THIS INSTRUMENT
5 DURING THE TIME THEY HOLD IT, THERE WILL BE LEGAL
6 CHALLENGES HERE.

7 SO THIS IS SOMETHING THAT NEEDS A LOT OF
8 LEGAL WORK AND A LOT OF LEAD-TIME TO ACCOMPLISH, BUT
9 I WOULD SAY THE TWO INDIVIDUALS YOU'RE TALKING TO ON
10 THE PHONE ARE EXTRAORDINARY INDIVIDUALS WHO
11 CONTRIBUTED HUGELY TO THIS EFFORT.

12 AND WHAT I WANTED TO DO IS INFORMATIONALLY
13 GIVE THIS FINANCE COMMITTEE THE FOUNDATION KIND OF
14 CONTEXT FOR CONSIDERING THE CHALLENGES WE HAVE AND
15 THE NEED TO EARLY LOOK AT PRIVATE PLACEMENT BOND
16 ISSUES AS A WAY TO WORK WITH THE TREASURER' S OFFICE,
17 WITH THE SUPPORT OF THE STATE FINANCE COMMITTEE, TO
18 HELP MEET OUR NEEDS WITHOUT DIVERTING MONEY FROM
19 OTHER CRITICAL NEEDS OF THE STATE.

20 THAT' S THE PURPOSE OF THIS ITEM, MR.
21 CHAIRMAN.

22 CHAIRMAN GOLDBERG: AND, BOB, I UNDERSTAND
23 THAT THIS WILL BE AGENDAD AS AN DISCUSSION ITEM TO
24 BRIEF THE BOARD ON NEXT WEEK AT THE ICOC MEETING.
25 SO IN THE INTEREST OF TIME, I' M NOT GOING TO OPEN

BARRISTERS' REPORTING SERVICE

1 THIS UP TO DISCUSSION PRESENTLY BECAUSE WE CAN
2 DEFER. YOU KNOW IT'S COMING.

3 MR. SHEEHY: I JUST HAVE ONE QUESTION,
4 MICHAEL.

5 CHAIRMAN GOLDBERG: SURE, JEFF.

6 MR. SHEEHY: WHO'S GOING TO REPAY THEM AND
7 WHEN? LIKE THE INTEREST. WE DO THESE THINGS,
8 THERE'S GOING TO BE INTEREST THAT'S GOING TO NEED TO
9 BE PAID. WHO PAYS THE INTEREST AND WHEN DO THE
10 PAYMENTS START? PAYMENT ON OUR CURRENT DEBT DOESN'T
11 START UNTIL 2010, I THINK, PER THE PROPOSITION.

12 MR. KLEIN: THAT'S RIGHT. SO ANY DEBT
13 UNDER THE PROPOSITION, ANY DEBT WE ISSUE THIS YEAR
14 WILL HAVE CAPITALIZED INTEREST THROUGH AT LEAST
15 2009. THE COMMITTEE, STATE FINANCE COMMITTEE, AND
16 THE TREASURER'S OFFICE, BASED UPON RECOMMENDATION
17 COMING FROM THE TREASURER'S OFFICE, MAY, IN FACT,
18 AGREE TO CAPITALIZING AN INTEREST RESERVE. IF THESE
19 ARE THREE-YEAR SECURITIES, THEY MIGHT CAPITALIZE THE
20 THREE YEARS. ON THE OTHER HAND, THEY MAY DECIDE TO
21 CAPITALIZE IT ONLY THROUGH 2009 AND IN 2010 HAVE A
22 CURRENT PAYMENT FOR THIS. I WOULD HOPE PERSONALLY
23 THAT THEY WOULD CAPITALIZE IT, BUT THAT'S NOT A
24 DECISION THAT IS WITHIN MY PURVIEW.

25 MR. SHEEHY: YOU KIND OF LOST ME. I MEAN

BARRISTERS' REPORTING SERVICE

1 I'M JUST TRYING TO FIGURE OUT. WE'RE GOING TO HAVE
2 5-PERCENT NOTES ON WHAT WE TALKED ABOUT, A COUPLE
3 HUNDRED MILLION. IS THAT COMING FROM THE GENERAL
4 FUND?

5 MR. KLEIN: THESE ARE GENERAL OBLIGATION
6 BONDS.

7 MR. SHEEHY: WHO'S GOING TO BE PAYING THAT
8 INTEREST? PEOPLE ARE GOING TO BUY THESE BONDS
9 BECAUSE THEY WANT INCOME. IN THIS MARKET ANYBODY
10 WHO BUYS A BOND IS GOING TO WANT THAT INTEREST
11 INCOME. WHO'S GOING TO PAY THAT? IS CIRM GOING TO
12 PAY THAT, OR IS THAT GOING TO COME OUT OF THE
13 GENERAL FUND?

14 UNIDENTIFIED SPEAKER: YOU WOULD RESERVE A
15 PORTION OF THE PROCEEDS TO PAY THE INTEREST.

16 MR. KLEIN: THAT'S A CORRECT STATEMENT.
17 AND, JEFF, THE MAJOR FOUNDATIONS WILL WANT TO BE
18 PAID THE INTEREST BY THE TERM MATURITY OF THE BOND.
19 THEY DON'T NEED THE INTEREST ON AN ANNUAL BASIS. SO
20 THEY WOULD NEED TO KNOW THAT AT LEAST AT MATURITY IT
21 WAS PAID, BUT WE COULD PROVIDE CAPITALIZED INTEREST
22 SO IT COULD BE PAID ON A QUARTERLY BASIS OR
23 SEMI ANNUAL BASIS DURING THE TERM.

24 MR. SHEEHY: AND WHAT'S THE DIFFERENTIAL
25 BETWEEN WHATEVER OTHER BOND THAT THE STATE MIGHT

BARRISTERS' REPORTING SERVICE

1 ISSUE THAT WOULD BE THE EQUIVALENT? HOW MUCH MORE
2 IS OUR INTEREST GOING TO BE OVER WHAT AN EQUIVALENT,
3 LIKE LET'S SAY WE WANT TO END THIS CRISIS.

4 MR. KLEIN: WELL, IF WE WEREN'T IN THIS
5 CRISIS, THE BENCHMARK RATE WOULD BE SUBSTANTIALLY
6 HIGHER. REALIZE BACK TWO YEARS AGO WHEN WE WERE NOT
7 IN THIS CRISIS OR TWO AND A HALF YEARS AGO AND WE
8 HAD BOND ANTICIPATION NOTES OUTSTANDING, WE WERE
9 PAYING ABOUT 5 PERCENT, BUT THAT'S BECAUSE IT WAS A
10 SMALL MARGIN ABOVE A MUCH HIGHER BASE RATE. TODAY
11 THE BASE RATE IS SO LOW BECAUSE WE'RE IN A FINANCIAL
12 CRISIS THAT YOU CAN ADD 400 BASIS POINTS TO IT AND
13 STILL PAY 5 PERCENT.

14 NOW, IN ORDER TO GET THAT KIND OF A RATE,
15 WE WOULD BE HOPING THAT THE FOUNDATIONS WOULD BE
16 WILLING TO TOLERATE THE VOLATILITY. AND BY KEEPING
17 THESE NOTES RELATIVELY SHORT, IT'S KEEPING THE RATES
18 DOWN IN THAT RANGE. WE WOULD NOT BE GOING OUT WITH
19 LONGER TERM SECURITIES IF THIS PLAN WERE APPROVED.

20 MR. SHEEHY: SO DO WE HAVE ANY KIND OF
21 FALLBACK PLAN FOR 265 MILLION AND NOT MAYBE SPENDING
22 IT ALL AT ONCE?

23 MR. KLEIN: WELL, THAT'S A DISCUSSION
24 WE'RE GOING TO HAVE AT THE BOARD. THIS IS JUST TO
25 INTRODUCE AN OPTION, JEFF.

BARRISTERS' REPORTING SERVICE

1 MR. SHEEHY: OKAY. AND CAN WE GET --
2 BECAUSE I HAVEN'T SEEN ANY FINANCIAL DOCUMENTS.
3 WE'VE BEEN TALKING ABOUT IT NOW FOR TWO BOARD
4 MEETINGS. I DON'T HAVE ANYTHING ON PAPER. CAN WE
5 MAYBE DISCUSS IT BEFORE WE SPEND ANY MONEY THIS
6 TIME?

7 MR. KLEIN: ON THE 29TH BEFORE WE HAVE OUR
8 BAN APPROVAL MEETING.

9 CHAIRMAN GOLDBERG: JEFF, IF YOU RECALL AT
10 OUR LAST FINANCE SUBCOMMITTEE MEETING, WE ASKED THE
11 CIRM STAFF AND ALSO AFTER THE LAST ICOC MEETING TO
12 REPORT ON A REGULAR BASIS THE CASH AND GRANT FUNDING
13 STATUS OF THE INSTITUTE ON A REGULAR BASIS IN THE
14 CONTEXT OF THE PRESIDENT'S REPORT. AND JOHN ROBSON
15 HAS TAKEN THAT ON AND HAS BEGUN TO PREPARE MATERIALS
16 TO PRESENT ON THE 29TH, AS I UNDERSTAND IT.

17 MR. SHEEHY: THE PRESIDENT'S REPORT IS NOT
18 A DOCUMENT THAT'S PROVIDED TO US IN ADVANCE OF THE
19 MEETING FOR US TO EXAMINE. PRESIDENT'S REPORT IS A
20 STANDALONE THING THAT WE DON'T REALLY HAVE A PAPER
21 COPY OF, SO IT WOULD BE GREAT TO HAVE A PAPER COPY
22 OF THE FINANCIALS BEFORE WE GO INTO THE MEETING.

23 MS. KING: JUST IF I MIGHT, I BELIEVE IT
24 IS THE CASE THAT, DISTINCT FROM THE SLIDES THAT ARE
25 THE PRESIDENT'S REPORT, THERE WILL ACTUALLY BE SOME

BARRISTERS' REPORTING SERVICE

1 DOCUMENTS PREPARED BY JOHN ROBSON AND MARGARET
2 FERGUSON THAT WILL BE SENT TO THE BOARD AHEAD OF
3 TIME ALSO FOR THE PUBLIC. I'M ACTUALLY CHECKING ON
4 THAT. AND THEY ARE WORKING ON THEM AS WE SPEAK. IS
5 THAT A CORRECT STATEMENT, JOHN? OKAY. THANKS.

6 CHAIRMAN GOLDBERG: THANK YOU. AGENDA
7 ITEM 4, THERE IS AN ITEM THAT'S BEEN PROVIDED TO
8 EVERYONE, WHICH IS A PROPOSED COMMUNICATION TO
9 VARIOUS LEGISLATIVE AND EXECUTIVE BRANCH
10 REPRESENTATIVES FROM THE INSTITUTE CONCERNING
11 VARIOUS PROPOSALS ABOUT STIMULUS MEASURES WHICH
12 WE'RE GOING TO DISCUSS AT THE ICOC MEETING. THEY'RE
13 PROVIDED TO US FOR INFORMATION ONLY, AND HOPEFULLY
14 EVERYBODY WILL HAVE ADEQUATE TIME TO REVIEW, DIGEST,
15 AND BE PREPARED TO CONVERSE ON THEM NEXT WEEK.

16 CHAIRMAN KLEIN WOULD LIKE TO MAKE A BRIEF
17 REMARK IN THAT CONNECTION.

18 MR. KLEIN: SO THIS DRAFT YOU HAVE IS
19 AGENDA ITEM 4 IN DRAFT FORM, BUT HAS BEEN UTILIZED
20 IN GATHERING INFORMATION, INPUT, AND ADVICE FROM
21 LEGISLATIVE LEADERS TO MAKE CERTAIN THAT WHAT WE'RE
22 GOING TO DISCUSS AT THE BOARD HAS SOME (INAUDIBLE).

23 YOU WILL NOTE THAT, INTERESTINGLY, AFTER
24 THOSE DISCUSSIONS, THE HOUSE VERSION OF THE STIMULUS
25 PLAN, THERE ARE PROVISIONS THAT REFLECT EFFECTIVELY

BARRISTERS' REPORTING SERVICE

1 WHAT IS IN BIOMEDICAL CAPITAL INFRASTRUCTURE
2 STIMULUS, NO. 1. AND THERE WAS SOME VERY POSITIVE
3 COMMENTS ON A NUMBER OF THESE PROPOSALS THAT WILL BE
4 DISCUSSED AT THE BOARD MEETING.

5 BUT ONE OF THE THINGS THAT I'LL TRY AND DO
6 BEFORE THE BOARD MEETING IS ALSO JUST CALL ATTENTION
7 TO THE PUBLIC ATTENDING THE BOARD MEETING AND THE
8 BOARD MEMBERS THE PROVISIONS IN THE HOUSE MARKUP OF
9 THE STIMULUS PLAN THAT REFLECT SOME OF THE
10 DISCUSSIONS ABOUT MAKING MONEY AVAILABLE TO
11 STATE-SPONSORED AND WITHIN THE STATE
12 UNIVERSITY-SPONSORED BIOMEDICAL RESEARCH FACILITIES
13 AS A MAJOR PAYMENT TO STIMULATE THE IMMEDIATE
14 CONSTRUCTION OF THOSE FACILITIES THAT HAVE
15 ENVIRONMENTAL APPROVALS, THAT HAVE BUILDING PLAN
16 APPROVALS THAT HAVE BEEN COSTED OUT AND ARE READY TO
17 GO INTO CONSTRUCTION WITHIN 90 DAYS.

18 AND YOU WILL NOTE THAT WITHIN OUR MAJOR
19 FACILITIES PROGRAM THAT ALL OF THE INSTITUTIONS THAT
20 ARE IN OUR MAJOR FACILITIES PROGRAM, BECAUSE OF
21 GRANTS THAT WE HAVE MADE, CAN MEET THE STATE MATCH
22 REQUIREMENT BETWEEN THE STATE FUNDS AND THEIR MAJOR
23 DONORS AND INSTITUTIONAL COMMITMENTS. BUT THIS IS
24 GIVEN TO YOU IN ADVANCE OF THE BOARD MEETING, AS THE
25 CHAIRMAN SAYS, IN ORDER TO STIMULATE SOME THINKING

BARRISTERS' REPORTING SERVICE

1 BEFORE WE GET TO THE DISCUSSION IN THAT MEETING.

2 CHAIRMAN GOLDBERG: THANK YOU. IS THERE
3 ANY COMMENT FROM MEMBERS OF THE COMMITTEE? IF NOT,
4 I'LL OPEN IT TO ANY FINAL COMMENTS FROM THE PUBLIC.

5 MS. KING: NONE HERE IN SAN FRANCISCO.

6 CHAIRMAN GOLDBERG: ANY SOUTHERN
7 CALIFORNIA?

8 MR. SIMPSON: JOHN SIMPSON FROM CONSUMER
9 WATCHDOG. ONLY THAT THIS IS A VERY DETAILED SET OF
10 PROPOSALS, AND I APPRECIATE RECEIVING IT ENOUGH IN
11 ADVANCE TO READ IT AND THINK ABOUT IT AS WE GO
12 TOWARDS THE NEXT ICOC MEETING. SO I'M GLAD WE HAVE
13 IT NOW AND HOPE BY THEN PERHAPS TO BE ABLE TO OFFER
14 SOME INTELLIGENT THOUGHTS AND REACTION.

15 CHAIRMAN GOLDBERG: THANK YOU FOR YOUR
16 COMMENT. ANY OTHER PUBLIC COMMENT? THERE BEING
17 NONE, MOVE TO ADJOURN THE MEETING.

18 MS. KING: THANK YOU, CHAIRMAN GOLDBERG.

19 CHAIRMAN GOLDBERG: THANK YOU ALL.

20 (THE MEETING WAS THEN ADJOURNED AT
21 4:25 P.M.)

22
23
24
25

BARRISTERS' REPORTING SERVICE

REPORTER' S CERTIFICATE

I, BETH C. DRAIN, A CERTIFIED SHORTHAND REPORTER IN AND FOR THE STATE OF CALIFORNIA, HEREBY CERTIFY THAT THE FOREGOING TRANSCRIPT OF THE TELEPHONIC PROCEEDINGS BEFORE THE FINANCE SUBCOMMITTEE OF THE INDEPENDENT CITIZEN' S OVERSIGHT COMMITTEE OF THE CALIFORNIA INSTITUTE FOR REGENERATIVE MEDICINE IN THE MATTER OF ITS REGULAR MEETING ON WEDNESDAY, JANUARY 21, 2009, WAS HELD AS HEREIN APPEARS AND THAT THIS IS THE ORIGINAL TRANSCRIPT THEREOF AND THAT THE STATEMENTS THAT APPEAR IN THIS TRANSCRIPT WERE DIGITALLY RECORDED AND SUBSEQUENTLY TRANSCRIBED BY ME. I ALSO CERTIFY THAT THIS TRANSCRIPT IS A TRUE AND ACCURATE RECORD OF THE PROCEEDING.

Beth C. Drain

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