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ORIGINAL

BROWN BAG PRESENTATION

November 1, 2007

* * DVD TRANSCRIPTION * *

1 * * Beginning of DVD * *

2 PARTICIPANT SPEAKER: If you have
3 questions, what Sharing Neutrals found that
4 session, and this session's specifically going to
5 focus on neutrality, a number of different
6 aspects.

7 And, you know, when I was putting this
8 presentation together, I found that something
9 which seems very simple that you'll learn based
10 on the agency's skills course as far as, you
11 know, as mediator, the importance of having your
12 role as being a neutral, seems like it's -- it's
13 something which you think would be very
14 simplistic, but when I actually researched this
15 issue and thought more about my own experiences
16 in neutrality, I found it to be quite complex in
17 a lot of ways.

18 So what I hope to accomplish today is
19 not getting so much in the theoretical aspects of
20 things, but really talking about it in -- in real
21 life and practice: What is neutrality, what
22 influences it, and -- and what do you do about

1 that?

2 I don't view this session necessarily
3 as skills based. I typically like to use
4 skills-based sessions and, you know, deliver a
5 specific examples.

6 And my -- I think there will be some
7 take-aways I hope you can get out of it, some
8 things I'll point out towards the end of our
9 session.

10 What I hope to do, though, is to
11 create more awareness and discussion around this
12 issue of neutrality in practice and leave --
13 leave you with a lot more to think about when it
14 comes to neutrality. So that's my main goal.

15 With that, something's that's really
16 interesting to me is that when you come into
17 mediation, you've got parties that are very
18 positional stances, you know.

19 And they're coming to look to you as a
20 mediator and viewing you as the person that's
21 going to be, quote, unquote, neutral to help them
22 deal with a problem that they haven't been able

1 to deal with themselves.

2 And so you've got some people coming
3 in the room that are not neutral, but yet are
4 looking to you, putting their full faith and
5 confidence in you, to be neutral, to help them
6 figure out how to deal with their conflict.

7 So one of the questions I have for all
8 of you first, before we get into talk about how
9 some of the different law and guidance are
10 defined, in your own words, what is neutrality?
11 What is it to you? (Inaudible.)

12 PARTICIPANT SPEAKER: Yeah.

13 PARTICIPANT SPEAKER: Number one is
14 not having a dog in the fight.

15 PARTICIPANT SPEAKER: Not having a dog
16 in the fight. Elaborate on that one a little bit
17 more?

18 PARTICIPANT SPEAKER: Well, that's the
19 first step.

20 PARTICIPANT SPEAKER: Quite an
21 analogy.

22 PARTICIPANT SPEAKER: You can't -- you

1 can't -- whatever difference, you can't be
2 interested in either side. You have to -- you
3 can't have a -- an interest in -- in either one
4 of the (inaudible). You can't have a dog in the
5 fight, so -- as such.

6 PARTICIPANT SPEAKER: So having no
7 stake in the outcome.

8 PARTICIPANT SPEAKER: Exactly. That's
9 (inaudible). That's correct.

10 PARTICIPANT SPEAKER: Well, I'm
11 pretty -- I -- I like the way you said it,
12 though, better. It's going to stick with me
13 more. No dog in the fight.

14 Anybody else?

15 Yes.

16 PARTICIPANT SPEAKER: Being impartial.

17 PARTICIPANT SPEAKER: Being impartial.

18 Okay.

19 Yes.

20 PARTICIPANT SPEAKER: I think if you
21 can put yourself in the place of either party,
22 assuming there's a (inaudible), you know, if you

1 can equally -- with equal, exactness, put -- put
2 yourself in the place of the party and take their
3 perspective, then you have neutrality.

4 PARTICIPANT SPEAKER: Being able to --
5 to yourself stand in the shoes of both parties.

6 PARTICIPANT SPEAKER: Uh-huh.

7 PARTICIPANT SPEAKER: So you can kind
8 of see where they're coming from. Anybody else?

9 Okay. Yes.

10 PARTICIPANT SPEAKER: Well, neutral is
11 someone who has a capacity to take all of the
12 agendas and -- and actually know what they are
13 and put them aside, because we all have them,
14 whether we try to not have them when we walk in
15 (inaudible) parties.

16 PARTICIPANT SPEAKER: So in essence,
17 having a consciousness to, first of all,
18 recognize some of your own motivations, or you
19 called it agenda, and -- and yet not allowing
20 that to interfere with what your role is and what
21 you're trying to accomplish in aiding the parties
22 through this maze of mediation to help them with

1 their conflict. Okay. Very good.

2 Well, you've talked about from a lot
3 of different angles. I wanted to go real quick
4 to what it says in the Administrative Dispute
5 Resolution Act, which is the acronym of ADRA.

6 And what it says, basically -- and
7 actually, it's in your handouts, with pretty big
8 notes in your handouts, if you want to, as we go
9 along the way.

10 You know, looking at ADRA itself, it
11 first defines specifically what is a neutral.
12 And it says, it's the individual who aids parties
13 in resolving an issue in conflict.

14 And it talks a little bit more in
15 depth about who that individual is. Individual
16 can be a federal employee officer, you know, on a
17 temporary basis or a permanent employment, or
18 anyone else acceptable for the parties.

19 So in other words, it can be someone
20 in the private sector that's contracting with the
21 federal government, coming to help out mediate a
22 series of the disputes; and even mentions --

1 within that ADRA act even mentions the type of
2 neutrals, parties called facilitator,
3 conciliator, and also mediator, different types
4 of neutrals, basically. So that's how ADRA kind
5 of uses it.

6 But what's interesting about ADRA,
7 too, on the next line here, it is always kind
8 of -- oh, there I go. Okay. That is just a
9 secondhand (inaudible) for one second
10 (inaudible). Okay.

11 What's interesting about ADRA is it
12 also defines what the neutral's based on:
13 Conduct. But it defines it with within a
14 negative frame.

15 Yeah. It says, to be neutral, here's
16 what you need not to do. It talks about, you
17 know, officials, financial, personal (inaudible)
18 with respect to any issue in controversy.

19 So it talks about it in the negative
20 sense. It gets back to what Carol was saying,
21 have no stake in the outcome, basically, you
22 know, no dog in the fight, right?

1 And what's interesting is if you also
2 look at "The Model Standards of Conduct for
3 Mediators," which is a document that the American
4 Bar Association, American Arbitration
5 Association, the Association of Conflict
6 Resolution, written years ago back in the '80s
7 and they revised it last year in 2006.

8 And then the -- the interagency ADR
9 (inaudible) committee put out the document,
10 federal guidance, basically, last year, because
11 there were some specific issues which are more
12 pertinent to federal employees, so they made some
13 different notes to it, basically.

14 And if you want to see a copy of that
15 document, along with also ADRA, you can go on to
16 the DOJ web site at ADR dot gov and be able to
17 work that out, basically.

18 But the -- the model of conduct is
19 pretty much -- does something so much (inaudible)
20 in a way. It kind of, again, defines it within a
21 negative, talking about what not to do.

22 It tells you what to avoid here from