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[Comments on Statutory Limitation Contained in Annual Appropriation Acts on FHLBB Administrative Expenses]

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MISCELLANEOUS TOPICS - FINANCE INDUSTRY - FINANCIAL INSTITUTIONS - ADMINISTRATIVE AGENCIES - GIFTS/DONATIONS - TRAVEL EXPENSES APPROPRIATIONS/FINANCIAL MANAGEMENT - APPROPRIATION AVAILABILITY - AMOUNT AVAILABILITY - AUGMENTATION - GIFTS/DONATIONS - TRAVEL EXPENSES DIGEST: THE FEDERAL HOME LOAN BANK BOARD (BOARD) HAS NO AUTHORITY UNDER 12 U.S.C. SEC. 1701C(1) TO ACCEPT GIFTS, IN CASH OR KIND, FROM THE FEDERAL HOME LOAN BANKS FOR THE TRAVEL-RELATED ADMINISTRATIVE EXPENSES OF BOARD PERSONNEL. SUCH EXPENSES MUST BE PAID BY THE BOARD USING ITS OWN FUNDS SUBJECT TO ANY LIMITATION ON THE BOARD'S ADMINISTRATIVE EXPENSES CONTAINED IN ANNUAL APPROPRIATION ACTS.

THE HONORABLE EDWARD P. BOLAND:

THIS IS IN RESPONSE TO YOUR LETTER OF DECEMBER 11, 1986, REQUESTING A LEGAL OPINION CONCERNING THE STATUTORY LIMITATION CONTAINED IN ANNUAL APPROPRIATION ACTS ON "ADMINISTRATIVE EXPENSES" OF THE FEDERAL HOME LOAN BANK BOARD (BOARD). SPECIFICALLY, YOU ASKED US TO DETERMINE WHETHER THE FUNDS IN THE "SHARED EXPENSE ACCOUNT" THAT IS ESTABLISHED AND MAINTAINED BY THE FEDERAL HOME LOAN BANKS (BANKS) CAN BE USED TO PAY THE BOARD'S ADMINISTRATIVE EXPENSES WITHOUT BEING "SUBJECT TO THE STATUTORY LIMITATIONS."

FOR THE REASONS SET FORTH HEREAFTER, IT IS OUR VIEW THAT NEITHER THE BOARD NOR ITS OFFICERS AND EMPLOYEES HAVE THE LEGAL AUTHORITY TO ACCEPT PAYMENT OR REIMBURSEMENT FROM THE BANKS FOR THE TRAVEL-RELATED ADMINISTRATIVE EXPENSES OF BOARD PERSONNEL. SUCH EXPENSES MUST BE PAID BY THE BOARD, USING ITS OWN FUNDS, WHICH WOULD, OF COURSE, BE SUBJECT TO ANY LIMITATION ON THE BOARD'S ADMINISTRATIVE EXPENSES CONTAINED IN AN ANNUAL APPROPRIATION ACT.

BACKGROUND

THE BOARD IS AN INDEPENDENT AGENCY IN THE EXECUTIVE BRANCH THAT "FORMULATES POLICIES FOR AND SUPERVISES THE OPERATIONS OF THE 12 FEDERAL HOME LOAN BANKS, THE SYSTEM OF FEDERAL SAVINGS AND LOAN ASSOCIATIONS, THE FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION, AND THE FEDERAL HOME LOAN MORTGAGE CORPORATION." H.R. REP. NO. 731, 99TH CONG., 2D SESS. 65 (1986). SEE 12 U.S.C. SEC. 1437. THE ADMINISTRATIVE EXPENSES OF THE BOARD ARE PAID FROM ASSESSMENTS THE BOARD MAKES AGAINST THE BANKS AND THE FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION (FSLIC). SEE 12 U.S.C. SEC. 1438(B)(1982), AND ANNUAL APPROPRIATION ACTS FOR THE FSLIC.

UNDER 12 U.S.C. SECS. 1439 AND 1439A, THE MONEYS THE BOARD RECEIVES FROM

ASSESSMENTS ON THE BANKS AND FROM ALL OTHER SOURCES ARE DEPOSITED IN A SPECIAL ACCOUNT IN THE TREASURY-- A REVOLVING FUND-- IN WHICH THE FUNDS REMAIN AVAILABLE INDEFINITELY TO PAY THE BOARD'S EXPENSES. IN ACCORDANCE WITH 15 U.S.C. SEC. 712A, THE BOARD IS PROHIBITED FROM INCURRING ANY OBLIGATION FOR ADMINISTRATIVE EXPENSES "EXCEPT PURSUANT TO AN ANNUAL APPROPRIATION SPECIFICALLY THEREFOR ***." THUS, EVEN THOUGH THE MONEYS IN THE BOARD'S REVOLVING FUND ARE NOT OBTAINED FROM THE TREASURY, AN APPROPRIATION IS STILL REQUIRED IN ORDER FOR THE BOARD TO USE THOSE FUNDS TO PAY ITS ADMINISTRATIVE EXPENSES. BASED ON THIS REQUIREMENT, IT HAS BEEN THE PRACTICE OF CONGRESS FOR MANY YEARS TO INCLUDE A PROVISION IN THE ANNUAL APPROPRIATION FOR THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES THAT LIMITS THE AMOUNT THE BOARD CAN SPEND ON ITS ADMINISTRATIVE EXPENSES. /1/ FOR EXAMPLE, THE BOARD'S ANNUAL APPROPRIATION FOR THE CURRENT FISCAL YEAR PROVIDES AS FOLLOWS:

"NOT TO EXCEED A TOTAL OF $27,693,000 SHALL BE AVAILABLE FOR ADMINISTRATIVE EXPENSES OF THE FEDERAL HOME LOAN BANK BOARD ***, AND SAID AMOUNT SHALL BE DERIVED FROM FUNDS AVAILABLE TO THE FEDERAL HOME LOAN BANK BOARD, INCLUDING THOSE IN THE FEDERAL HOME LOAN BANK BOARD REVOLVING FUND AND RECEIPTS OF THE BOARD FOR THE CURRENT FISCAL YEAR ***: PROVIDED FURTHER, THAT, NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS ACT, EXCEPT FOR THE LIMITATION IN AMOUNT HEREINBEFORE SPECIFIED, THE EXPENSES AND OTHER OBLIGATIONS OF THE BOARD SHALL BE INCURRED, ALLOWED, AND PAID IN ACCORDANCE WITH THE PROVISIONS OF THE FEDERAL HOME LOAN BOARD ACT OF 1932, AS AMENDED (12 U.S.C. SECS. 1421-1449)."

SEE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1987, AS ENACTED BY PUB.L. NO. 99-591, SEC. 101G, 100 STAT. 3341, *** (1986).

THE QUESTION WE ARE CONSIDERING IS WHETHER OR NOT THIS STATUTORY LIMITATION IN THE BOARD'S APPROPRIATION FOR THE 1987 FISCAL YEAR AND SIMILAR LANGUAGE IN THE APPROPRIATION ACTS FOR PRIOR FISCAL YEARS PRECLUDES THE BOARD FROM ACCEPTING PAYMENT FOR TRAVEL-RELATED ADMINISTRATIVE EXPENDITURES OF BOARD PERSONNEL FROM THE SHARED EXPENSE FUND MAINTAINED BY THE BANKS. ALTHOUGH WE HAVE BEEN UNABLE TO OBTAIN ANY DOCUMENTATION CONCERNING THE ESTABLISHMENT AND OPERATION OF THE SHARED EXPENSE FUND, IT IS OUR UNDERSTANDING THAT THE FUND WAS ESTABLISHED AND IS MAINTAINED BY CONTRIBUTIONS FROM THE 12 BANKS IN THE FEDERAL HOME LOAN BANKING SYSTEM. IT IS THE BOARD'S POSITION, AS SET FORTH IN A LETTER DATED FEBRUARY 9, 1987, FROM THE BOARD'S GENERAL COUNSEL, THAT THE "SHARED EXPENSE FUND IS NOT SUBJECT TO THE BOARD'S ANNUAL APPROPRIATION PROCESS BECAUSE THE FUND IS ONLY A FEDERAL HOME LOAN BANK SYSTEM (BANK SYSTEM) ACCOUNT AND IS NOT SUBJECT TO CONTROL BY THE BOARD." THE BOARD'S LETTER CONTINUES AS FOLLOWS:

"THE BOARD DOES NOT (AND CANNOT) MAKE EXPENDITURES FROM THAT ACCOUNT. EXPENDITURES FOR TRAVEL RELATED EXPENSE OF BOARD PERSONNEL THAT WERE RECEIVED FROM THE BANK SYSTEM AND WHICH THE BANK SYSTEM MAY HAVE PAID OUT OF THE 'SHARED EXPENSE FUND' WERE RECEIVED UNDER THE BOARD'S LIMITED GIFT ACCEPTANCE AUTHORITY. 12 U.S.C. SEC. 1701C(B). THESE WERE NOT 'EXPENDITURES BY BOARD PERSONNEL,' BUT, RATHER, EXPENDITURES MADE BY THE BANK SYSTEM AND PROVIDED IN KIND BY THE BANK SYSTEM TO BOARD EMPLOYEES UNDER THAT AUTHORITY."

ANALYSIS

WHEN A FEDERAL AGENCY OR INSTRUMENTALITY RECEIVES APPROPRIATIONS TO FUND ITS ACTIVITIES, IT IS ORDINARILY NOT PERMITTED TO ACCEPT AND USE GIFTS OR DONATIONS FROM PRIVATE SOURCES UNLESS IT HAS SPECIFIC STATUTORY AUTHORITY TO DO SO. SEE 59

COMP.GEN. 415, 417 (1980). THE ACCEPTANCE OF SUCH GIFTS WITHOUT PROPER AUTHORITY CONSTITUTES AN ILLEGAL AUGMENTATION OF THE AGENCY'S APPROPRIATIONS. THIS PRINCIPLE APPLIES TO SITUATIONS IN WHICH EMPLOYEES ON OFFICIAL TRAVEL ACCEPT REIMBURSEMENT OR ACCOMMODATIONS, GOODS, OR SERVICES "IN KIND" FROM PRIVATE SOURCES. SEE 46 COMP.GEN. 689 (1967).

WHILE, AS EXPLAINED PREVIOUSLY, THE BOARD DOES NOT OBTAIN FUNDS TO CONDUCT ITS ACTIVITIES FROM THE GENERAL FUND OF THE TREASURY (AS MOST FEDERAL AGENCIES DO), UNDER 15 U.S.C. SEC. 712A, ANNUAL APPROPRIATIONS ARE A PREREQUISITE FOR THE BOARD TO USE THE MONEYS IN ITS REVOLVING FUND TO PAY ITS ADMINISTRATIVE EXPENSES. ACCORDINGLY, AS EXPLAINED ABOVE, EVERY YEAR SPECIFIC DOLLAR "LIMITATIONS" ARE INCLUDED IN ANNUAL APPROPRIATION ACTS WHICH AUTHORIZE THE BOARD TO INCUR ADMINISTRATIVE EXPENSES UP TO THE AMOUNT OF THE LIMITATIONS. SEE 45 COMP.GEN. 713 (1966). THUS, THE BOARD IS SUBJECT TO THE SAME CONSTRAINTS CONCERNING THE ACCEPTANCE OF GIFTS FROM PRIVATE SOURCES AS ARE FEDERAL AGENCIES THAT OBTAIN THEIR APPROPRIATIONS DIRECTLY FROM THE GENERAL FUND OF THE TREASURY. IN OTHER WORDS, THE BOARD CANNOT ACCEPT GIFTS FROM PRIVATE SOURCES, IN CASH OR KIND, EITHER DIRECTLY OR THROUGH ITS EMPLOYEES, TO PAY THE ADMINISTRATIVE TRAVEL-RELATED COSTS OF ITS PERSONNEL WITHOUT SPECIFIC STATUTORY AUTHORITY TO DO SO. /2/

AS INDICATED PREVIOUSLY, THE BOARD MAINTAINS THAT IT HAS "LIMITED GIFT ACCEPTANCE AUTHORITY" UNDER 12 U.S.C. SEC. 1701C(B)(1), WHICH ALLOWS IT TO ACCEPT "IN KIND" PAYMENT BY THE BANK SYSTEM OUT OF THE SHARED EXPENSE FUND OF THE TRAVEL-RELATED EXPENSES OF BOARD PERSONNEL. THE RELEVANT STATUTORY LANGUAGE IN 12 U.S.C. SEC. 1701C(B)(1) PROVIDES THAT THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT AND THE BOARD, MAY IN ADDITION TO THEIR OTHER POWERS AND AUTHORITIES:

"(1) WITH THE CONSENT OF THE AGENCY OR ORGANIZATION CONCERNED, ACCEPT AND UTILIZE EQUIPMENT, FACILITIES, OR THE SERVICES OF EMPLOYEES OF ANY STATE OR LOCAL PUBLIC AGENCY OR INSTRUMENTALITY, EDUCATIONAL INSTITUTION, OR NONPROFIT AGENCY OR ORGANIZATION ***."

WHILE THE BOARD'S LETTER OF FEBRUARY 9, 1987, DOES NOT ATTEMPT TO SET FORTH THE BASIS FOR THE BOARD'S INTERPRETATION OF THE LANGUAGE IN 12 U.S.C. SEC. 1701C (B)(1), THE BOARD DID FURNISH US WITH A COPY OF AN INTERNAL MEMORANDUM, DATED JULY 10, 1984, FROM THE BOARD'S GENERAL COUNSEL TO ITS EXECUTIVE STAFF DIRECTOR, WHICH EXPLAINS THE BOARD'S POSITION IN GREATER DEPTH. ESSENTIALLY, THE 1984 MEMORANDUM FOCUSES ON TWO TERMS IN THE STATUTE AS THE BASIS FOR ITS INTERPRETATION THAT THE STATUTE ALLOWS THE BANKS TO PAY FOR LODGING AND MEALS OF BOARD EMPLOYEES ON OFFICIAL TRAVEL ATTENDING BANK FUNCTIONS.

FIRST, THE STATUTE AUTHORIZES THE BOARD TO ACCEPT AND UTILIZE "EQUIPMENT, FACILITIES OR THE SERVICES OF EMPLOYEES" OF CERTAIN SPECIFIED TYPES OF ORGANIZATIONS. IT IS THE BOARD'S POSITION, AS SET FORTH IN THE 1984 MEMORANDUM, THAT "A REASONABLE INTERPRETATION OF THE TERM 'FACILITIES' COULD INCLUDE LODGING MADE AVAILABLE BY SUCH ORGANIZATIONS." IN TAKING THIS POSITION, THE MEMORANDUM TAKES EXCEPTION TO THE OPINION EXPRESSED IN A LETTER DATED JANUARY 14, 1977 FROM THE ETHICS COUNSEL OF THE CIVIL SERVICE COMMISSION (NOW THE OFFICE OF GOVERNMENT ETHICS) THAT THE TERM "FACILITIES" DID NOT EMBRACE "HOTEL ACCOMMODATIONS OR SIMILAR LODGING."

WHILE OUR REVIEW OF THE LEGISLATIVE HISTORY OF THIS PROVISION WAS NOT HELPFUL IN DETERMINING THE INTENDED SCOPE OF THE TERM "FACILITIES" AS USED IN THE STATUTE,

WE AGREE WITH THE OPINION EXPRESSED BY THE ETHICS COUNSEL. CONSIDERING THE CONTEXT IN WHICH THAT TERM IS USED, WE DO NOT THINK THE CONGRESS INTENDED TO AUTHORIZE ORGANIZATIONS TO RENT TEMPORARY HOTEL ACCOMMODATIONS AND THEN MAKE THEM AVAILABLE TO BOARD MEMBERS AS "FACILITIES *** OF" THOSE ORGANIZATIONS. A MORE REASONABLE INTERPRETATION OF THAT TERM, IN OUR VIEW, WOULD INCLUDE OFFICE OR OTHER SPACE ON THE BUSINESS PREMISES OF SUCH ORGANIZATIONS. MOREOVER, EVEN IF THE TERM "FACILITIES" IS INTERPRETED AS BROADLY AS THE BOARD SUGGESTS, WE FAIL TO SEE HOW MEALS AND TRAVEL-RELATED EXPENSES OTHER THAN LODGING COULD EVEN ARGUABLY BE INCLUDED. /3/

SECOND, THE STATUTE SPECIFIES ONLY CERTAIN TYPES OF ORGANIZATIONS AS BEING ELIGIBLE TO ACT AS DONORS TO THE BOARD. THE BOARD MAINTAINS THAT THE BANKS THAT PAID THESE EXPENSES, THROUGH THE SHARED EXPENSE FUND, ARE "NONPROFIT AGENCIES OR ORGANIZATIONS" AS THAT TERM IS USED IN THE STATUTE. WE DISAGREE WITH THE BOARD'S CHARACTERIZATION OF THE BANKS AS NONPROFIT ORGANIZATIONS.

IN HIS 1984 MEMORANDUM, THE BOARD'S GENERAL COUNSEL ACKNOWLEDGES THAT "THE BANKS ARE STOCK CORPORATIONS THAT MAY PAY DIVIDENDS," BUT ARGUES THAT SINCE "THEY ARE NOT ORGANIZATIONS OPERATED FOR THE PRIMARY PURPOSE OF CARRYING ON A TRADE OR BUSINESS *** OR TO PAY DIVIDENDS ON INVESTED CAPITAL," THEY CAN AND SHOULD BE CHARACTERIZED AS NONPROFIT. THE MEMORANDUM OFFERS LITTLE SUPPORT FOR THIS PROPOSITION OTHER THAN TO SUGGEST THAT "THEIR IMPLICIT NONPROFIT NATURE IS RECOGNIZED BY THE CONGRESS IN AWARDING TAX-EXEMPT STATUS AS INSTRUMENTALITIES OF THE UNITED STATES." THE MEMORANDUM THEN SUGGESTS THAT CONSIDERATION OF THE AUTHORITY CONTAINED IN 5 U.S.C. SEC. 4111, UNDER WHICH GOVERNMENT EMPLOYEES MAY ACCEPT PAYMENT OR REIMBURSEMENT FOR TRAVEL EXPENSES FROM CERTAIN TAX- EXEMPT ORGANIZATIONS, SUPPORTS THE VIEW THAT "NON-PROFIT ORGANIZATIONS ARE SUBSUMED WITHIN THE DEFINITION OF TAX-EXEMPT ENTITIES."

WHILE WE WOULD AGREE THAT THE PRIMARY FUNCTION OF THE BANKS IS TO PROMOTE SOUND OPERATING PRACTICES IN THE INDUSTRY AND TO PROVIDE MEMBERS WITH A CENTRAL SOURCE OF CREDIT, WE FAIL TO SEE HOW A CORPORATION THAT IS AUTHORIZED TO DISTRIBUTE A PORTION OF ITS INCOME TO ITS STOCKHOLDERS IN THE FORM OF DIVIDENDS CAN BE CONSIDERED A NONPROFIT ORGANIZATION. SEE 12 U.S.C. SECS. 1416(K) AND 1436.

IN ADDITION, WE DISAGREE WITH THE BOARD'S ARGUMENT THAT THE STATUTORY DESIGNATION OF THE BANKS AS TAX-EXEMPT IN 12 U.S.C. SEC. 1433 IMPLIES THAT THEY ARE NONPROFIT AS WELL. THE FACT THAT A CORPORATION IS DESIGNATED AS TAX EXEMPT BY STATUTE IMPLIES NOTHING, IN OUR VIEW, AS TO WHETHER OR NOT IT QUALIFIES AS A NONPROFIT ORGANIZATION. MOREOVER, WE THINK THAT THE STATUTE THE BOARD CITES AS SUPPORTING ITS POSITION, 5 U.S.C. SEC. 4111, ACTUALLY UNDERMINES ITS ARGUMENT. UNDER 5 U.S.C. SEC. 4111, A GOVERNMENT EMPLOYEE IS PERMITTED TO ACCEPT GIFTS MADE BY A TAX-EXEMPT ORGANIZATION ENUMERATED IN 26 U.S.C. SEC. 501(C)(3) TO COVER TRAVEL, SUBSISTENCE AND OTHER EXPENSES INCIDENT TO THE EMPLOYEE'S ATTENDANCE AT A MEETING. SEE 49 COMP.GEN. 572, 575 (1970). ALTHOUGH NUMEROUS TYPES OF ORGANIZATIONS ARE DESIGNATED IN 26 U.S.C. SEC. 501(C) AS BEING TAX-EXEMPT, ONLY THE RELIGIOUS, CHARITABLE, AND SCIENTIFIC ORGANIZATIONS DESCRIBED IN CLAUSE (C)(3), CAN QUALIFY AS ELIGIBLE DONORS UNDER 5 U.S.C. SEC. 4111. SINCE NO OTHER TAX-EXEMPT ORGANIZATIONS LISTED IN 26 U.S.C. SEC. 501(C), INCLUDING THE BANKS (WHICH ARE DESCRIBED UNDER CLAUSE (C)(1), ARE ELIGIBLE DONORS UNDER 5 U.S.C. SEC. 4111, THIS DIRECTLY CONTRADICTS THE BANKS' CONTENTION "THAT IT IS THE TAX-EXEMPT STATUS THAT RELIEVES THE RESTRICTION ON THE ACCEPTANCE OF EXPENSES."

FOR THE FOREGOING REASONS, THE BANKS CANNOT BE CONSIDERED NONPROFIT AGENCIES OR

ORGANIZATIONS THAT CAN PROVIDE GIFTS OF "EQUIPMENT, FACILITIES OR THE SERVICES OF EMPLOYEES" TO THE BOARD OR ITS PERSONNEL UNDER 12 U.S.C. SEC. 1701C(1).

IN SUMMARY, IT IS OUR VIEW THAT THE BOARD HAS NO AUTHORITY UNDER 12 U.S.C. SEC. 1701C(1), OR ANY OTHER PROVISION OF LAW, TO ACCEPT PAYMENT OR REIMBURSEMENT, IN CASH OR KIND, FROM THE BANKS FOR THE TRAVEL RELATED ADMINISTRATIVE EXPENSE OF BOARD PERSONNEL. SUCH EXPENSES SHOULD BE PAID BY THE BOARD USING ITS OWN FUNDS, SUBJECT TO ANY LIMITATION ON THE BOARD'S ADMINISTRATIVE EXPENSES CONTAINED IN THE BOARD'S ANNUAL APPROPRIATION. YOUR LETTER ASKED US TO INCLUDE ANY RECOMMENDED CHANGES THAT MIGHT BE NECESSARY TO CORRECT "ANY FLAWS" IN THE APPROPRIATIONS LIMITATION. LIGHT OF THE CONCLUSIONS REACHED IN THIS OPINION, WE DO NOT BELIEVE ANY SUCH CHANGES ARE REQUIRED. WE NOTE THAT ON DECEMBER 4, 1986, THE CHAIRMAN OF THE BOARD ISSUED ORDER NO. 700, WHICH WAS INTENDED TO PROHIBIT REIMBURSEMENT OF ANY TRAVEL-RELATED EXPENSES FROM THE BANK SYSTEM.

WE TRUST THAT THIS INFORMATION WILL BE HELPFUL TO YOU. IN ACCORDANCE WITH THE AGREEMENT REACHED WITH A MEMBER OF YOUR STAFF, WE WILL MAKE THIS OPINION GENERALLY AVAILABLE 5 DAYS FROM TODAY.

/1/IN FACT, UNTIL THE 1986 FISCAL YEAR, IT WAS CUSTOMARY FOR CONGRESS TO IMPOSE A LIMITATION ON THE AMOUNT THE BOARD COULD SPEND FOR NON- ADMINISTRATIVE EXPENSES AS WELL. SEE E.G. PUBL.L. NO. 99-160, 99 STAT. 909, 928 (1985).

/2/ IT IS CLEAR FROM EXAMINATION OF THE BOARD'S BUDGET SUBMISSION FOR THE 1987 FISCAL YEAR THAT THE APPROPRIATION LIMITATION ON THE BOARD'S ADMINISTRATIVE EXPENSES INCLUDES THE COST OF OFFICIAL TRAVEL OF BOARD OFFICERS AND EMPLOYEES. SEE BUDGET OF THE UNITED STATES GOVERNMENT FOR FISCAL YEAR 1987, APPENDIX AT P. I-235.

/3/ BASED ON THE INFORMATION MADE AVAILABLE TO US, WE DO NOT KNOW WHETHER OR NOT THE SHARED EXPENSE FUND WAS USED TO PAY THE COSTS OF AIRLINE TICKETS, GROUND TRANSPORTATION AND OTHER INCIDENTAL EXPENSES OF BOARD PERSONNEL ON OFFICIAL TRAVEL. CLEARLY, THE BOARD WOULD HAVE NO BASIS FOR ACCEPTING PAYMENT FOR THIS TYPE OF EXPENSE UNDER THE AUTHORITY CITED.