

ROUGH TRANSCRIPT OF ABA ETHICS 20/20 COMMISSION HEARING

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**Commissioners
Appearing
in this Transcript:**

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Michael Ford, Executive Vice President, United Lex...p. 2-18
Mark Ross, Vice President Legal Services, Integreon...p. 18-44

MR. TRAYNOR:

9 Michael Ford is the executive vice president
10 of the United Lex Corporation, which is a
11 provider of legal outsourcing and responded to our
12 inquiries earlier this year for data. And Michael and I
13 recently had a conversation in Santa Monica and after
14 that we had several communications, and it seemed to me
15 to be of interest to the group to have Michael talk for a
16 few minutes about missing realities about outsourcing and
17 his perceptions on it. Michael.

18 MR. FORD: Thank you very much for the
19 invitation. It's a pleasure to be here with everybody
20 today. Within the context of legal outsourcing there are

21 a lot of different misperceptions and I would like to
22 provide some insight. Just to give a quick overview, my
23 company provides technology and legal services to global
24 500 corporations and 200 law firms. The staff in the
25 United States is comprised of about 220 U.S. licensed bar
1 admitted attorneys of which I am not one, but also
2 includes professor Jeffrey Hazard who is special counsel
3 who advises our company.

4 In the recent ethics commission, domestic and
5 foreign, one of the primary questions that has been
6 presented and discussed is do the current ABA formal
7 opinion properly address legal outsourcing? Now,
8 depending upon the form in which that question asks the
9 various iterations of yes, no, maybe answers, we have
10 extended the discussion and each response for the purpose
11 of this forum. My personal response and that of my
12 company is yes, an additional guidance and clarification
13 on many of the definitions of what comprises legal
14 outsourcing are still needed. As the commission seeks
15 input on the ethical considerations my objective is to
16 provide more so an academic analysis of some of the
17 different realities of outsourcing.

18 I'll start with just a general overview. Given

19 the three really proper questions that need to be asked.
20 The three questions are what exactly is considered to be
21 legal outsourcing? What value does legal outsourcing
22 provide to corporations and law firms? What are the
23 business drivers to consider outsourcing for each? And
24 also what has caused the increased scrutiny, particularly
25 over the past two years, on the subject of legal outsourcing?

2 To effectively answer these and other
3 questions, outsourcing is a general business concept yet
4 to be defined. Outsourcing technically is not foreign to
5 U.S. industry. It's actually a fundamental U.S.
6 operating function that really spans across different
7 industries. If you look at the genesis of outsourcing it
8 began in the early 1900s with the principals of
9 scientific management which evolved into a labor
10 structure, which really focused on a division of labor
11 and synthesizing processes for increased efficiencies.
12 While applying it primarily to manufacturing it then
13 spanned through different practices. Outsourcing as we
14 know it, business process outsourcing really gained I
15 guess its genesis in the United States by a welcomed
16 Texan by the name of Ross Perot who started EDS, which
17 was really the first outsourcing entity which then led to

18 a lot of the outsourcing as we know today.
19 Now the correlation to that in legal
20 outsourcing, once again, outsourcing in legal
21 functionality is not a foreign concept. Outsourcing law,
22 if you view on a macro level, legal outsourcing is really
23 primarily the foundation of the client-law firm
24 relationship. And if you look at it in the context of
25 corporate law departments do not maintain the requisite
in-house resources to support all practice area
2 specializations or jurisdictional licensing requirements,
3 whether it's in the U.S. or abroad, nor do they have the
4 resources, the personnel and scale to support all this
5 litigation in house or the cost of such resources in
6 house are obviously prohibitive. And consequently the
7 expertise specialization and geographic region law firms
8 are sought by corporations and other individuals to
9 perform litigation arbitration transactions, et cetera,
10 with a specialization on behalf of the client, once
11 again, that the client does not maintain.

12 So if you look at it just from a macro business
13 level, the law firm is really the outsourcing entity for
14 the corporation. Now, as an extension of that it's
15 important to look within that context multinational law

16 firms and corporations have been sending legal work
17 across jurisdictions and borders for decades. In
18 essence, Lori in New York who is not licensed to practice
19 in California or in another country will often retain
20 counsel to represent or become co-counsel. In turn, once
21 again, if you look just from a macro level, that --
22 therein lies the additional outsourcing function.

23 Now, to break it down more so on a micro level
24 in the context of a law firm lawyers typically outsource
25 legal functions in almost every day it's covered by part
1 of the attorney work product and protected by the work
2 product doctrine. And in this context law firms utilize
3 contract attorneys, staffing agencies perform document
4 review but also paralegals and other non-lawyers
5 performing these functions, e-discovery companies who are
6 very instrumental in collecting and providing data, copy
7 services, expert witnesses. And so when you look at
8 legal outsourcing within a greater context, it's my
9 opinion that the commission really needs to focus and
10 specify what is constituted to be legal outsourcing and
11 what legal functions can be formed by non-lawyers.

12 One of the greater areas of scrutiny in legal
13 outsourcing is the utilization of foreign-based resources

14 to perform legal functions that are performed by
15 non-lawyers, non-practicing law. One of the questions is
16 then presented, how important is geography? Assuming
17 that U.S. lawyers are providing direct supervision of the
18 non-lawyers, whether the non-lawyers are located in the
19 U.S. or abroad, some of the considerations to think about
20 geography. Geography is not a barrier provided that the
21 same playbook is being followed by all involved in a
22 particular project for that.

23 Litigation teams either in-house or within the
24 law firms are often formed for different offices. Legal
25 work is distributed throughout the U.S. and across
1 borders as well. Looking at the context of geography
2 proximity to the resources and wanting to control people,
3 perhaps, in the hall or in the office really in the
4 current environment electronic communications are mostly
5 utilized. Being in the same room or office is not a
6 requirement, once again providing everyone is following
7 the same playbook. In looking at the value drivers of
8 legal outsourcing I believe this is where some of the
9 polarizing opinions and thoughts have come across because
10 there's very different perspectives if you speak with
11 someone who's in-house at a fortune 500 company.

12 In part of that conflict the contrast where the
13 difference in the business follows you have an
14 interdependent relationship between the client and the
15 law firm, but the business driver with in-house counsel
16 is really one typically -- (inaudible) -- some
17 corporations are fortunate enough -- (inaudible) -- but
18 typically it's a call center, so the other side of the
19 relationship is a law firm there's a revenue drive. Once
20 again, they merge mutual interest in working for the same
21 common goals but at the court there are different
22 business strategies. In turn that has led to
23 corporations leading the efforts for the most part to
24 adopt legal outsourcing.

25 Once again, whatever the context of legal
1 outsourcing is defined as really to enforce change to
2 address different cost pressures of internal demands to
3 decrease their overall litigation costs. Law firms
4 typically engage in legal outsourcing to increase their
5 competitiveness and take a step in increasing the overall
6 relationship value with the clients. So within that role
7 there's different permutations and different business
8 drivers for outsourcing.

9 In my observations it is, however, being driven

10 more so by corporations. So one of the questions I
11 believe the commission should address as part of the
12 ethical considerations which are most and foremost most
13 important but what are the actual business drivers that
14 have revolving different forms of, I believe it was,
15 outsourcing, whether those are business drivers, how are
16 they specific in key to in-house counsel, how are they
17 specific in key to the law firms? So just as a
18 generalization legal outsourcing is called -- and I still
19 have a lot of questions. I'm a non-lawyer not an
20 attorney. I have an IT background and outsourcing, legal
21 outsourcing have very mixed context and definition.

22 So once again I believe that there has to be
23 clarity of what the definition is that is really
24 considered legal outsourcing with also clarification on
25 misperception. If you do a word association and I said
1 the word outsourcing probably 90 percent of the response
2 would be offshore or India. Once again, outsourcing is a
3 division of labor; it's a form of supply chain
4 authorization. The offshore component is a subset of
5 outsourcing but it does not encapsulate or really
6 represent the whole discipline. So my thoughts there
7 were there really needs to be clarification on the

8 definitions of legal outsourcing, what comes under the
9 definitions of being work performed by lawyers or
10 non-lawyers and in turn recognizing that legal
11 outsourcing in different context is really a platform and
12 a business, I guess, application for operational
13 functionality to really move the business drivers whether
14 it's for the law firm, corporate client or a joint
15 interest.

16 MR. TRAYNOR: Michael, thank you. As you see
17 this legal outsourcing industry expanding and maturing,
18 do you see the industry itself developing quality
19 assurance standards? Are they emerging at some point you
20 think?

21 MR. FORD: Absolutely. A company such as mine,
22 I would say 85% of our revenue is generated within the
23 U.S. when it comes to the quality -- (inaudible) --
24 beyond that there are -- the role of and the processes
25 involved with legal outsourcing is more methodical.
1 There are more quantitative analysis measures and
2 qualitative analysis measures that apply --
3 (inaudible) -- many corporations as well. I will also
4 say that there are many players within this industry who
5 categorize themselves as legal outsourcing companies and

6 is very, very segmented as far as geography. There's a
7 lot of differentiates in qualifications and there's also
8 a lot of differences in what services those companies
9 provide.

10 There's many one off of organizations. We
11 provide document reviews, provide copy services. Very
12 few take an all encompassing role so there's a dilution
13 of I guess there's a competitively diluted market.
14 There's a lot of players in the market but those that
15 don't always adapt to specific quality and quantity
16 controls.

17 MR. TRAYNOR: Is there a qualitative
18 difference, in your experience, or do you between on the
19 one hand e-discovery or documentary support or performing
20 legal briefs or memorandum on the other?

21 MR. FORD: To what, I'm sorry?

22 MR. TRAYNOR: Is there a difference between
23 those two functions just for illustration that ought to
24 concern us in any way?

25 MR. FORD: Absolutely. When it comes to
1 document review you're taking an individual who needs to
2 be familiar with U.S. law and provide -- (inaudible) --
3 complexity and the privilege of requirements of that

4 specific functionality. There are different
5 requirements. When it comes to the e-discovery this is
6 one of the most overlooked aspects of outsourcing. Where
7 there's a technology application there are specific
8 confidentiality concerns and protective orders that still
9 need to be adhered to. If you're looking at the
10 credentials of the individuals, maintaining the data
11 which ultimately could result in the greatest exposure, I
12 believe there needs to be equal scrutiny. But when it
13 comes to roles of subjective judgment, legal research,
14 typically those are ones we're focused on. But I believe
15 the standard should apply to all three of these
16 disciplines.

17 MS. SILVER: Thank you. It was
18 quite interesting and I have a very basic question. You
19 talked about business drivers and that we should be
20 mindful of corporate clients, in-house clients and law
21 firm clients. What's the difference in what you do in
22 what the business drivers are for those two kinds of
23 clients or customers of legal process outsourcing?

24 MR. FORD: Yeah, actually the delivery model
25 and the execution is identical for corporations or law
1 firms. But from my client perspective, there are

2 different drivers as to whether they want to outsource
3 some of their typical legal work. Once again, my
4 delivery and execution is the same. Corporations are
5 looking to control cost, respond to demands to decrease
6 their spending. They then place those requirements upon
7 the law firms. Some law firms respond accordingly and
8 some do not so it seems to be the corporations that are
9 once again driving the force of outsourcing. And law
10 firms are recognizing not all because there's different
11 models out there but law firms are beginning to recognize
12 that they have to adapt to different cost structures in
13 resource allocation. And their question is can they do
14 that with their inner firm resources or do they need to
15 go external to an outsourcing company.

16 MS. SILVER: So everything is about cost?

17 MR. FORD: No, the initial drivers are cost but
18 without qualitative aspects, qualitative measures,
19 without ethics compliance, without jurisdictional
20 compliance, defensibility there's no value. There's
21 ultimately no value. So assuming those things are equal,
22 what a law firm would provide either directly or
23 indirectly then cost does become the driver. But cost is
24 not the primary value driver, it's a combination of the

25 two.

1 MR. SCHAEFFER: Hi. To what extent and what is
2 done in lawyers supervising or discharging their
3 supervisory duties with respect to outsourcing typically
4 in your organization? And when I say "lawyers," I mean
5 lawyers who are doing the outsourcing or who are
6 participating in matters for corporations that have done
7 the outsourcing.

8 MR. FORD: I'll speak from the context of my
9 company's practices. We're delivering services within
10 the U.S. which represents about 85 percent of our
11 business. Everybody providing work in non-lawyers type
12 classified services, they're actually U.S. licensed
13 attorneys depending upon where they live, where we're
14 delivering services. They're not also meeting the
15 jurisdictional requirements but they are U.S. trained
16 lawyers. Our project managers or different people
17 delivering services work in close coordination with
18 in-house counsel if our relationship is directly with the
19 client, and also they're designated outside counsel. So
20 it's almost a triangulated relationship between the
21 corporate client law firm and my company. And we
22 actually become in essence we're not a vendor. We don't

23 approach things from a vendor mentality; we actually
24 become integrated into the case team and become a virtual
25 extension with the litigation team whether it's dealing
1 with the law firm who's representing the client or the
2 client directly.

3 We have more of a client specific dedicated
4 model. We have a law firm field and we do a technology
5 company so there's more of -- it's more the client
6 specific model that we are focused on versus just
7 transaction relationships and projects. So to answer
8 your question more pointedly, we're very much engrained
9 into the process recognizing the objectives and the
10 standards that both our corporate client or the law firm
11 client would require.

12 MR. SCHNEYER: It's a related question or same
13 question. We're concerned with the extent of which a law
14 firm that is representing a company which may have inside
15 general counsel has supervisory responsibilities to
16 matters that are outsourced to a firm like yours, whether
17 I think you were saying that in your experience even if
18 it's the company that hires you, the outside law firm
19 will often take upon itself some responsibility or
20 accountability for reviewing what you do, or do they

21 studiously try to keep hands off so that they're not
22 going to be implicated in any possible malpractice, so to
23 speak, that would happen in your company?

24 MR. FORD: There's two scenarios. I'll speak
25 briefly to one scenario. We're retained directly by a
1 fortune ten conglomerate, kind of a household name. It's
2 a very large matter going on for two years. We work
3 directly with their in-house counsel specifically in
4 collection interviews and such in coordination with their
5 outside counsel. And then we'll take more of a support
6 role in doing e-discovery and document review in
7 coordination, really working directly with the law firm.

8 The supervisory control comes from both. It
9 shifts over to e-discovery document review type services
10 the day-to-day interaction. Supervisor control is with
11 the law firm and basically what our accountability with
12 within our relationship with both outside counsel and the
13 client. Does that answer your question?

14 MR. SCHNEYER: Yeah. Thank you.

16 MR. TRAYNOR: Any other questions?

17 MR. FISHER: If I could just follow up on that
18 for a moment. I know you can't get into details of any
19 situations, but in terms of the supervision that is being

20 executed by -- whether it's directly by the client or by
21 the outside law firm of the client and you're working
22 with one or both of them, how is that accomplished in
23 practice? Do they do some kind of a vetting of your
24 procedures before they hire you? Is it contractual? Do
25 they periodically send someone down for a site visitation
to see how people are actually doing the task? How does
2 it work?

3 MR. FORD: All the above. It starts with --
4 let me ask a quick question so I can take a different
5 approach. Are you asking from the prospective of a law
6 firm retaining us directly or corporate client?

7 MR. FISHER: Either way.

8 MR. FORD: I'll do it easy: Law firm. When a
9 law firm retains our services they go through an
10 extensive vetting process. Not just our company's
11 capabilities and references but we also provide resumes
12 and basically CVs of everybody working on a particular
13 project. The training typically takes place -- depending
14 upon the geography, it typically. (Inaudible)
15 somebody -- in some cases the partner or different
16 members of the case team will actually train more people
17 in person. Sometimes it's video conference.

18 The supervision is probably similar to a law
19 firm environment where there's basically daily checks and
20 communications as far as okay, what did you find? What
21 did we accomplish today? Any problems, any issues that
22 need resolution? Anything impacting protocols or case
23 strategies, et cetera? The engagement is very, for lack
24 of a better word or phrase, hands on, whether it's in the
25 same office geography or at a distance. But the
communications continue just as you would have at a
2 typical law firm.

3 MR. FISHER: That's where you've been hired
4 directly by the law firm?

5 MR. FORD: Correct.

6 MR. FISHER: If you, instead, had been hired by
7 the client but you are cooperating with the outside, has
8 your experience been that the outside law firm
9 nonetheless forms some of the same supervisory tasks that
10 you just described?

11 MR. FORD: Absolutely. In our typical
12 relationships we'll have a relationship with -- in the
13 context of having a relationship with the client it comes
14 as a suggestion or a preference to utilize a company such
15 as mine. It's not necessarily an edict for the law firm

16 to utilize a company like mine. As the law firm
17 ultimately has a supervisor responsibility professional
18 liability as well, they have a say in any process as
19 well. They will almost do a simultaneous check into the
20 credentials of the individuals or methodologies or
21 technologies, et cetera. So we never get into an
22 adversarial type of relationship or forced marriage
23 arranged marriage if you will. It's always consent on
24 behalf of the law firm.

25 MR. TRAYNOR: Thank you very much, Michael, for
1 being with us today and traveling all the way to San
2 Francisco to give this testimony and answer questions and
3 so forth. I really appreciate it.

18 MR. ROSS: First of all, thank you very, very
19 much to the commission for inviting me to speak. Very
20 little bit of background about me. I am a common garden
21 variety UK solicitor although I do have a particular
22 focus on the ethics of outsourcing and have been involved
23 in the legal outsourcing industry now for seven years.
24 For three years as a partner in the very first --
25 (inaudible) -- I help set up the South Africa office and
then I married a California girl, moved over to this fine
2 state and I was with a company called Law Scribe, what I

3 describe as a pure play legal outsourcing company for
4 three years before joining Integreon as a vice president
5 of legal solutions approximately nine months ago. I
6 actually teach an ethics course on the ethical
7 implications of legal outsourcing which -- (inaudible) --
8 I've written a couple of white papers on the subject as
9 well. Those who know me in the room, and there are
10 several, know that I am not one to shy from the
11 microphone and public speaking but I apologize in
12 advance. I am going to read Integreon's formal
13 submission for a couple of minutes and then I'll also
14 provide the commission with some of my own personal views
15 as to what I think are some of the issues that you should
16 be looking at. I was going to say that anybody who wants
17 a copy of our formal submission to please come and speak
18 to me, but I see it's all been printed out so please by
19 all means take a copy with you.

20 Integreon is a global knowledge and outsourcing
21 provider. We've been serving what we refer to as
22 demanding professionals, that being lawyers, since 1998.
23 We provide legal outsourcing services from the U.S., UK,
24 India, the Philippines, China and South Africa. We have
25 approximately 2,200 employees worldwide. Of that 2,200

1 approximately 40 percent of providing legal support
2 services. Of that number approximately 430 are lawyers
3 qualified in a particular jurisdiction. We have another
4 150 people providing e-discovery support services. We do
5 not in any jurisdiction practice law. In fact, we argue
6 that point in the high court at the moment the only legal
7 outsourcing company named in Madrid.

8 Our teams work under strict instruction of
9 client's counsel, whether that is in-house counsel or
10 client's counsel. We comply fully with the
11 recommendations stated in ABA formal opinions 04 --
12 (inaudible). We provide our clients with the team member
13 CVs, we provide these individuals for interview,
14 et cetera. As I mentioned, I teach both internally our
15 employees and externally the ethics course, the ethical
16 implications of outsourcing. We take quality and
17 security of the utmost seriousness. Our lawyers work of
18 quality and continuous improvement teams of six objective
19 benchmarks for the work that we undertake and I'll come
20 on to that in a second.

21 We have a conflict of interest checking process
22 similar to that of a leading law field and although we
23 are not directly regulated many statutes rules and

24 regulations apply to us. We are particularly aware, both
25 as a legal and a business matter, of the rules pertaining
1 to the unauthorized practice of law. Talking about
2 regulation we, like many of our competitors in the LDA
3 space, have sought accreditation and regulation from
4 independent organizations which govern security and
5 quality issues, namely high ISO27001 security and I
6 SO9,001 for our quality processes. We are also
7 compliant. In sum we are particularly conscious about
8 the concerns that lawyers have in the U.S. about
9 outsourcing and are taking measures to address that.

10 Okay. That's the formal element of my statement.

11 Now, let's make things a little bit more
12 interesting, shall we. Legal outsourcing it's a hot
13 topic. I think it was the international section which
14 actually identified it as a hot topic in your summer SU
15 publication in June last year along with litigation
16 financing. I know this phrase translates over to the
17 U.S., smoke and fire. You need to be aware of the
18 reality of this industry. Those in the room who know me
19 know that I always shoot straight from the hip and tell
20 it like it is.

21 The legal process outsourcing industry is not

22 about to take over the entire legal service market in the
23 U.S. even if the growth projections at their most
24 optimistic take effect, let's say, by 2013-2014. The
25 offshore legal outsourcing industry, for example, reaches
1 \$3,000,000,000 or \$4,000,000,000. That will represent at
2 that point in time probably one or one and a half percent
3 of the total value of the legal market in the U.S. alone.
4 So although it is a hot topic although you cannot seem to
5 go five minutes without press pronouncement. Please
6 let's try to keep this in prospective.

7 I am also particularly wary of anybody within
8 my industry who talks and professes to moving up the
9 value check. That is not something which Integreon has
10 any desire to do. We provide outsourcing support
11 solutions. We do not wish to write complex brief and
12 memorandum. We do not wish to advocate in court. We
13 have no desire -- let alone a desire we have no authority
14 to provide one-on-one client advice. It has become a
15 very, very popular marketing spiel statement sound bite
16 to talk about moving up the value chain. The reality of
17 the legal profession within which we all work today is
18 that work is coming down the value chain to different
19 objection to the form of the question of legal service

20 providers, whether that is virtual law firms, whether
21 that is temporary staffing agencies, whether that's legal
22 process outsourcing companies or whether that's purely
23 automated processes.

24 I'm also working with the law society as they
25 continue their investigations and I had a conversation
1 with a partner in a law firm approximately a year ago a
2 top 100 UK law firm and you'll probably be aware that in
3 the UK up until recently and for a real estate
4 transaction one would have to consult a solicitor. The
5 rules have been slightly changed but this partner was
6 came to me, he said, "Mark, do you know how much we used
7 to receive in terms of solicitor's fees for processing a
8 remortgage 15 years ago?" And I took a ballpark guess
9 and I said 1,000 pounds. He said, "Spot on. About 800
10 to 1,000 pounds." He goes, "Guess how much we get
11 today?" I guessed 200 pounds.

12 Anybody here want to have a guess what figure
13 it was he gave me?

14 MR. URY: 50 pounds.

15 MR. ROSS: 50 pounds. That is an example of
16 work coming down the value chain. Please be wary of rash
17 sound bite statements from providers stating that they

18 wish to move up the value chain. It is certainly not
19 something which Integreon looks to do. In terms of
20 specific what I think the ABA and the ethics 2020
21 commission should be looking at, I think, the overriding
22 issue is that of the unauthorized practice of law and
23 supervision. The unauthorized practice of law, first of
24 all, what activities that LPOs undertake today, what
25 activities LPOs might undertake tomorrow were it not for
1 an effective system supervision and I'll come on to the
2 supervision in one second.

3 Were it not for that system of supervision
4 would be the unauthorized practice of law because there
5 are activities which would not meet that definition and
6 there are activities which do meet that definition. The
7 supervision piece I think is crucial to separate out into
8 two elements. There is supervision that --
9 (inaudible) -- supervision that our clients, our outside
10 counsel clients and our in-house counsel clients provide.
11 The supervision that Integreon provides internally does
12 nothing to detract from a U.S. lawyer's ethical
13 obligations in supervising work product. We can put one
14 U.S. attorney, we can put 20 U.S. attorneys on the
15 matter. All that does is attest to potentially the

16 quality of the work product that we provide. It does not
17 detract from the ethical obligations incumbent on a U.S.
18 lawyer. So I think it's very important to remember that
19 that when a legal outsourcing company is talking about
20 the numbers of U.S. attorneys that they have and we talk
21 to that, you know, that is more about horses for horses.
22 It's more about whether or not U.S. attorneys are
23 suitable for undertaking a particular task from a quality
24 perspective, from a training perspective but not from an
25 ethical obligation perspective.

1 Another thing, unauthorized practice of law or
2 supervision, which I really encourage the ABA and the law
3 society to look at, is that it is not a generic one size
4 fits all. The level of supervision requires if an LPO
5 company is going to be providing a complex legal
6 researching or may be providing, you know, some form of
7 drafting of complex motions, et cetera, is clearly going
8 to differ from the level of supervision required for,
9 let's say, a basic relevance first pass review. And that
10 will differ from the level of supervision required if
11 you're outsourcing patent application drafting, and that
12 will differ from the level of supervision required if
13 you're outsourcing -- (inaudible). It cannot be a one

14 size fit all so my recommendation would be to engage with
15 people like myself, engage with people who understand the
16 LPO industry, the particular service areas and passes
17 which are being outsourced today and which are being
18 outsourced tomorrow and look specifically at the level of
19 supervision required for each type of function that is
20 being outsourced.

21 If you go back to the San Diego opinion which
22 examined legal outsourcing back in 2007 that talked about
23 a client's reasonable expectation that work would
24 ordinarily be performed in-house and in that particular
25 situation if you were going to outsourcing that type of
1 work you would need to obtain a client's consent and,
2 again, that was a problem with that opinion. It took
3 reasonable expectations that they thought was a static
4 immovable concept unchanging over time and unalterable
5 depending on a particular type of work. That isn't the
6 case.

7 You know, I would argue that, you know, today
8 clients would not even expect that junior associates at a
9 law firm would undertake first past document review, and
10 I know several of you probably picked up on an article
11 which I wrote about a year or so ago. I actually argue

12 that there may in certain situations be a duty to propose
13 legal process outsourcing and I expected the article to
14 be lambasted, and it actually wasn't at the time and I
15 think it's a valid point. The other area which I think
16 is a hot button issue which the commission should be
17 looking at is bill appropriately for outsourcing. The
18 guidance is ambiguous to say the least. There are
19 several within the law firm world who despite their best
20 endeavors of companies like Integreon, and I also include
21 United Lex in the mix, we view law firms as collaborative
22 partners and we work closely with law firms.

23 You may well have read about our recent deal
24 with Cannon McKenna [phonetic], a top 15 UK law firm but
25 many law firms do view legal outsourcing as a threat.

1 And one way to address that is in the question of firm
2 guidance as to whether or not a reasonable mark up is
3 allowed and what the level of that mark up can be. And
4 because then you can get to a situation which is
5 potentially in the eyes of everybody win, win, win and I
6 think that there is a value can be placed on the level of
7 the supervision oversight, the malpractice insurance
8 offered by the law firm and bring that into a tri-part
9 collaborative approach to the issue.

10 I probably talked for too long so I will now
11 invite the commission to ask me any questions.

12 MR. TRAYNOR: That's a really good start. Are
13 there questions for members of the commission? Steve.

14 MR. GILLERS: Hello. I assume that in the
15 years your organization has been operating you've worked
16 on many thousands of distinct matters. Is that fair or
17 not?

18 MR. ROSS: I can assume so. I've only been
19 with the organization for eight-and-a-half months but I
20 assume that would be the case.

21 MR. GILLERS: To the extent you know, from the
22 time you arrived or since, have there been occasions
23 where clients have insisted over objections that their
24 law firms use you over objection of the firm?

25 MR. ROSS: Over objection, I don't know. The
1 answer to that question, what I do know, are there are
2 instances where corporate clients mandate to their
3 outside counsel that we will be engaged on a project, we
4 will be engaged in a relationship and their outside
5 counsel then plays an integral part in the process.

6 MR. GILLERS: Right. So do you find that in
7 those instances the outside counsel, how did they respond

8 to that mandate?

9 MR. ROSS: Certainly, to date they are
10 responding extremely favorably. For example, we have a
11 document review engagement ongoing. This particular
12 engagement is U.S.-based approximately 650,000 documents
13 which a team split between Fargo and New York and
14 currently reviewing. The outside counsel, the corporate
15 client is a top three global technology company and the
16 outside counsel is a top 20 law firm, and every single
17 day there are query sessions that go on between outside
18 counsel, corporate counsel and Integreon. There is an
19 ongoing flow of communication between the three parties.

20 When the initial planning of the engagement
21 took place there were representatives of Integreon,
22 representatives of outside counsel and representatives of
23 the corporate counsel team planning the project
24 engagement and that will continue throughout the
25 lifecycle of the engagement. Is it conceivable that
1 outside counsel particularly in connection with a
2 practice area where historically they have made
3 significant revenue? You know five years ago it was
4 probably the modus operandi for large scale document
5 review -- (inaudible) -- to host teams of attorneys in

6 the basement and bill them out \$300, \$400 per hour.
7 Those days are fast coming to an end. So yes, of course
8 there was a bit of that can be a tug of war but the
9 innovative forward thinking law firms in the marketplace
10 are increasingly aware of the attraction of working with
11 LPOs in partnership and ultimately gain market share by
12 doing so.

13 MR. GILLERS: Has the quality of Integreon's
14 work ever been challenged or implicated in any civil
15 action against a customer of Integreon or a law firm
16 working for that client?

17 MR. ROSS: No. No. You know, I will caveat
18 that not with Integreon. We often get asked that
19 question and we also often get asked the question, has
20 there ever been a security breach? And my answer to both
21 those questions are no, there haven't been. But you
22 know, one day at some point with an LPO company there
23 will be a security breach and at some point one day with
24 an LPO company there will be an issue of the quality of
25 work product challenging the court of law. That isn't
1 the end of the world when that happens. That happens
2 with law firms, that happens with barristers, that
3 happens with contract attorney organizations. And the

4 world will come tumbling down around our shoulders as of
5 when that does happen so as to date the answer is no.

6 MR. JONES: Do you have a sense of whether
7 disciplinary counsel in the United States have come to
8 accept the notion that supervision by outside counsel or
9 inside counsel or the client answers the UPL question for
10 reviewers or document reviewers or service providers, in
11 particular jurisdictions, or is that still an open
12 question?

13 MR. ROSS: I think it's still an open question.
14 I think there's a very generic understanding that a level
15 of supervision is required but there's absolutely no
16 guidance whatsoever as to what that supervision needs to
17 look like. It is up to outside counsel, to in-house
18 counsel, to legal outsourcing company to work to
19 collaborate and to document a system of supervision that
20 we are confident is defensible and would stand up to
21 scrutiny if challenged, but I would welcome -- and I've
22 said this time and time again -- I would welcome more
23 detailed guidance as to what that supervision needs to
24 look like.

25 MR. RUSSOMANNO: First, thank you for your
remarks. Have you seen in your business a greater

2 percentage of, say, corporate counsel? Let's assume you
3 have some innovative forward thinking cost conscious
4 inside counsel, general counsel with regard to
5 engagements with outsourcing, they basically say to law
6 firms look if there is a large task, a particular task
7 that's going to cost X that we want to be charged exactly
8 what the outsource would charge to the penny, either we
9 pay it directly or it's going to be charged. There's
10 nothing else. And also that the law firm still has the
11 responsibility to make sure it's managed. They have
12 responsibility to make sure if any mistakes are made and
13 they have that supervisory role. Have you seen greater
14 percentage of that happening where they're paying the
15 exact amount that would be charged?

16 MR. ROSS: I've seen both. I've seen that
17 happen and I've seen corporate clients willing to pay a
18 mark. I think a lot goes to the relationship between the
19 corporate client and the legal outsourcing company and,
20 you know, perhaps if the law firm community had embraced
21 LPO at the same time as the corporate community had begun
22 to embrace LPO, that observation wouldn't be quite so
23 stark. But I've seen both but I've -- on a related
24 point, I guess a wider point is in all our dealings with

25 corporate legal departments over the last four years
1 within the legal outsourcing industry I have never met a
2 corporate counsel, litigation counsel, in-house counsel
3 who did not want their law firm to be profitable who does
4 not want their law firm to make a decent living, who has
5 an issue with partners making an extremely good living.
6 What they want is these law firms to understand what is
7 of value to the corporation and particularly in the
8 current climate. And if the law firm can provide the
9 value which the corporation is looking for but at the
10 same time that value includes a mark up, I do not think
11 that there are many corporations out there who would
12 object to that if they are still getting value. And if
13 you take the real life example of the way the
14 corporations are asking law firms today more often than
15 not to engage in -- I don't like using the word AFAs,
16 alternative fillers, more value-based filler. If you are
17 asking a -- (inaudible) -- value based filling then how
18 that law firm undertakes that work, whether they utilize
19 their junior associates whether they utilize LPO, whether
20 they utilize resources such as Axion or virtual law
21 partners, if they are providing the value the client is
22 looking for then that is the crux of the matter. And if

23 that includes internally a mark up on the LPO services
24 then so be it.

25 MR. TRAYNOR: Jeff, let's have that be the last
1 question then we'll go on to the next item.

2 MR. GOLDEN: Conflicts of interest. You
3 mention in your opening remarks that you thought about
4 conflicts of interest, you have a policy. And I wonder
5 if you could add to our education about how some law
6 firms that you collaborate with maybe thinking about
7 conflicts of interest in that collaborative process, you
8 have spoken with them worked with them as I've worked
9 with collaborative partners and law firms often think
10 long and hard before taking on a particular client or
11 hiring laterally about the potential for --
12 (inaudible) -- do you have a sense they look to your
13 collective experience as relevant in assessing your own
14 conflicts of interest?

15 MR. ROSS: We obviously wouldn't provide formal
16 guidance obviously being that we can't practice law but
17 they are very much aware as we are aware. Let's talk
18 about a real life situation, for example. A law firm has
19 specifically engaged not just Integreon but three LPO
20 companies as a preferred provider for on anything,

21 document review, because the set law firm is perfectly
22 aware that putting all their eggs in one basket, having
23 an exclusive relationship with just one LPO company could
24 result in a conflicts of interest later down the line.

25 Internally at Integreon when a law firm approaches us
1 with a potential client engagement, you know, we will
2 check that client against existing client databases,
3 previous client databases. When we recruit people we
4 obviously, you know, we quiz them as to their past
5 employment history in many ways the same way a leading
6 law firm would do.

7 If we go back to the total size of the market,
8 the addressable market, it is certainly -- there is
9 certainly enough pie out there for major corporate
10 clients, major law firms to have more than one provider
11 so that they can avoid potential conflicts that can
12 arise. Does that answer your question, Jeff?

13 MR. GOLDEN: I'm just curious at this stage
14 your sense of how intense a dialogue you're having with
15 those law firms on those topics? Do they discuss with
16 you who you might work for next, for example, in the same
17 way there would be a long protracted discussion of
18 conflicts if one law firm were thinking of merging with

19 another law firm or partnering?

20 MR. ROSS: The short answer is yes, there is
21 that ongoing dialogue. For example, you also have to
22 differentiate between real litigation conflicts and
23 business conflicts. Business conflicts are much more
24 common. How many global leading technology companies are
25 there? In that situation it is a question of client
1 comfort level. You know, if I -- for example, we have
2 just started undertaking a fairly large scale contract
3 review work for a global consulting company. When the
4 company engaged us they provided us with a list of about
5 50 competitors, and this is part of the contract, that we
6 would not prepare to work with. That actually happened
7 because, number one, we already work for two of these and
8 that is not the nature of the business. What we can
9 guarantee you is that your dedicated team will be in a
10 dedicated exclusive area. There will be no transfer of
11 employees from that secure area into an area where there
12 may be a team working for a competitor. There would be
13 no transfer of knowledge.

14 If you can envision for one moment what -- and
15 this is not just Integreon -- what the actual delivery
16 facilities of these companies look like. When I go to

17 our Mumbai facility I cannot access the Simmons & Simmons
18 [phonetic] delivery set. As vice president of legal
19 solutions at Integreon I can't access that center. The
20 people who work directly for Simmons & Simmons can access
21 that center. So you would deal with this on a
22 case-by-case basis, but it would have to be one hell of
23 an engagement for us to turn around to any client, be it
24 a law firm or a corporation, and say we will not work,
25 end of story, for a competitor.

26 MR. TRAYNOR: Okay. Carol. I'll come back to
27 you.

28 MS. SILVER: I want to switch the conversation
1 a little bit and ask you to think about and talk about
2 the role of your firm and firms like yours and your
3 industry in the development of the careers of new law
4 graduates and how you fit. So how we in law school help
5 our students know how you fit and what the career
6 potential is. What are you training people to do, if
7 anything, that is useful for law practice? What are the
8 career trajectories that you've seen and is it in the
9 U.S., not in the U.S. or both?

10 MR. ROSS: Great question, Carol. In terms of
11 where we fit, I'm sure many of you have probably read

12 some of Richard Suskin's [phonetic] writings and possibly
13 read the book The End of All is Question Mark. Richard
14 talks about the standard and traditional law firm pyramid
15 model. If I had a white board I would get up and draw it
16 but you have the pyramid model where you have at the top
17 the equity partners, maybe the salary partners next down,
18 senior associates, followed by junior associates,
19 paralegals and support staff. Where does Integreon fit
20 into this mix? Integreon is just one piece of the
21 jigsaw. I would say a V and segment that pyramid whereby
22 at the base of the pyramid there is the largest
23 segmentation and that is not just all LPO; that is a
24 mixture of information technology, automation.

25 I don't actually refer to it as outsourcing. I
1 would call it sourcing because some of that may be on
2 site, some of it may be offshore, some of it may be on
3 shore. And those are the sections which are cutting into
4 that pyramid. And I would argue that it goes as far up
5 through the support staff: Paralegals and junior
6 associates. And that is what I feel is the model for a
7 big law firm five years from now, an interaction between
8 legal outsourcing company, virtual law firm and staffing
9 agency, technology organization, automation and there

10 will be career paths in all of those areas. In terms of
11 what law schools need to do -- and this is something that
12 you and I have talked about previously, Carol -- I
13 remember when I was at my previous company it was for an
14 article I was writing, and I went down the corridor went
15 to interview one of our young U.S. attorneys and asked
16 him about can you just tell me, you qualified 18 months
17 ago, what the subjects that you were taught at law
18 school: Tort and contract, the Socratic method. And
19 although I've got a few gray hairs, I don't view myself
20 to be particularly ancient. I look back 15 years ago
21 when I was at university and it was identical, absolutely
22 identical. In terms of what -- (inaudible) -- learning
23 about technology, mandatory, absolutely mandatory.

24 You can be learning project management skills.
25 I'll plagiarize again from Suskin but when a law firm
1 talks about putting a project manager on a case it's some
2 guy who's been away to a 2-day 5-hour training
3 organization. That's not project management. Teach
4 project management, have modules about how you need to
5 engage with clients, unbundle a process, look at the
6 different constituent elements.

7 Of course I'm not detracting from the

8 importance of teaching and understanding case law and
9 understanding law of contract, but I think there needs to
10 be an element of wake up and smell the coffee. In
11 today's world you need to be talking about globalization,
12 you need to be teaching technology. Particularly with
13 the removal of the lock step system of most major law
14 firms you need to be teaching communication skills,
15 business development skills. The number of young lawyers
16 who I see who are totally -- this is why technology
17 actually plays a role -- who are so used to communicating
18 with e-mail, they've forgotten all useful communication
19 interpersonal skills and can barely string a sentence
20 together. I mean, you need to be teaching those skills
21 at law school. Not just can you regurgitate Hugh vs.
22 Stevens [phonetic]. Career path -- sorry, you know, if
23 you ask me a question I'll answer it. Career paths, yes,
24 with an LPO companies and that will increase particularly
25 because we're not just talking India now. We're
1 talking -- the companies who will truly make their mark
2 in the legal outsourcing piece of this delivery of legal
3 services will be those that have a major on shore
4 component as well.
5 There are a plethora of reasons why it might

6 not be simple to go to the Philippines, whether it's the
7 export control regulations, whether it's simply client
8 comfort. So there will be a career path for U.S.
9 lawyers. And as Michael mentioned earlier, his company
10 85 percent of their revenue is derived here in the U.S.,
11 career path for U.S. lawyers. For us, you know, we have
12 I think probably now about 150 lawyers engaged on
13 different types of projects here in the U.S. As we
14 work -- as we expound our relationships with big law in
15 the UK and the U.S. there will be roles in management,
16 there will be roles in project management, there will be
17 roles in project control, in team leader and, yes, there
18 will be roles at the lowest end of the spectrum simply
19 doing the work.

20 MR. TRAYNOR: Two more questions. George and
21 then Herman and then let's wrap it up.

22 MR. JONES: I appreciate your comment about
23 business conflicts. I think as for law firms, business
24 conflicts are probably part of the deal with the medical
25 conflicts or what some people refer to as legal
1 conflicts, but I don't have a sense of what set of
2 conflicts rules you assume apply to LPOs. Do you assume
3 that the rules governing lawyers apply or do you assume

4 that there are no rules that apply except those that are
5 negotiated with the client?

6 MR. ROSS: Tremendous question. What I'll say
7 is for an LPO company no rules apply. But are we going
8 to get any business by saying no rules apply? The rules
9 applicable to the unauthorized practice of law ultimately
10 speaking it is our clients who suffer if they pay to get
11 an authorized practice of law. The same applies to
12 conflicts of interest. To serve our clients we need to
13 ensure that we are not representing them, we are not
14 engaged on any matters where they would be guilty of a
15 conflict of interest. So, for example, if global
16 technology company one engages Integreon for large-scale
17 document review in connection with a litigation where
18 they are suing global technology company two, quite
19 clearly we can't act in that instance.

20 MR. JONES: The most difficult thing for large
21 firms is the rule that says if you're doing work for
22 local technology company one, you can't do work adverse
23 to global technology company one even in a completely
24 different matter, a completely unrelated matter in
25 another part of the world. And do you attempt to comply
1 with that rule or do the law firms that attempt to hire

2 you insist that you comply with that rule?

3 MR. ROSS: The law firms that hire us would
4 insist that we comply with that rule insofar as there is
5 no caveat to that. I don't think that with conflicts of
6 interest that there is -- that it is necessarily a
7 complete black and white situation. You can't, for
8 example, obtain consent in certain situations.

9 MR. JONES: Most clients won't give consent in
10 litigations. They object really strenuously to being
11 sued.

12 MR. TRAYNOR: Just for the members of the
13 commission who have come back in. We're winding up with
14 Mark Ross, our last witness, then we're going to have
15 discussion points that Steve raised and final wrap up and
16 conclude our meeting. We have one more question. This
17 has been very engaging.

18 Herman.

19 MR. RUSSOMANNO: As it relates to law school,
20 as you mentioned, about some of the courses or some of
21 the descriptions that you taught as an employer of law
22 school graduates and attorneys, and assume there's even a
23 greater need as yourself or others expand, have you ever
24 presented a criteria that would make it easier for people

25 to be hired by an organization such as yours?

1 If you had to look at a curriculum, some of us that are
2 involved in law school that do teach in addition to the
3 courses, can you point me to any source?

4 MR. ROSS: Not formally but it's something that
5 I would welcome to be involved in. You know, I have
6 circulated my -- you know, my ethics of outsourcing
7 materials widely, both to people in the academia world
8 and to people in the law firm practice world, but I would
9 willingly entertain those discussions.