INTRODUCTION AND WELCOME

Mr. Aronson convened the meeting at 9:05 a.m. and welcomed the group. He thanked them for performing the public service of leadership in the Mediation Program. The mission of the group is to increase the use of mediation in the franchise community, both in the United States and abroad. He asked the attendees to introduce themselves and share their backgrounds.

APPROVAL OF MINUTES

The Minutes of June 9, 2002 were approved as submitted.

RECENT EVENTS AND REPORTS OF EXPERIENCES

Mr. Shah reported on a mediation in which he engaged recently, and that he was satisfied with the result. He said that the expense of the mediation compared favorably to arbitration. He urged that mediation should be part of franchise agreements. Mr. McLester said that his company encourages mediation in almost every instance, though Cendant has not yet seen an increase in usage and asked the franchisee bar to encourage its use. Mr. Archer reported that there has not been a significant level of litigation or mediation in the past six months in the Intercontinental/Holiday Inn system.

Mr. Kujawa reported that McDonald’s refuses to mediate quality standards violations, but will mediate a great deal of other things, and he asked whether the Program effectively markets the topics on which it encourages mediation to resolve disagreements. Mr. Aronson
said that he has seen instances of mediations of terminations that arose from quality issues, and suggested that there may be no “bright line” delineation of what disputes should or should not be mediated. Mr. Kujawa clarified that more communication was needed to persuade disputants that certain topics are highly susceptible to mediation – a 1-page document that can be given to franchisees and their counsel to present mediation as an option. Mr. Phillips noted that CPR has created a “Suitability Guide” to assist counsel in determining the susceptibility of particular disputes to mediation. Mr. Hall and Mr. Lester agreed that promotion is the most important challenge in the coming year. Other members urged that the promotion and education needed should not be limited to certain topics but rather should explain the business advantages of the process in any context. Mr. Gardner noted that the mid-level and smaller franchisors are not yet involved in the Program or on the Committee.

REPORT ON PROGRAM USAGE

Mr. Phillips reported on usage of the Program (attached).

REPORTS OF ORGANIZATIONS

Mr. Hall reported that the IFA continues its total commitment to the Program, and believed that the IFA will support it in any way that is appropriate and needed.

Mr. Gardner reported that the ABA is committed to supporting education of its members regarding mediation generally, though is constrained in endorsement of particular programs such as the NFMP. There is a continuing commitment to this educational process.

Mr. Purvin reported that the AAFD also remains committed to the Program and seeks to encourage budgetary goals of the Program and its growth.

Mr. Phillips briefly reported on recent products and initiatives of CPR Institute, including particularly an international initiative involving Europe, Russia and China. Mr. Aronson seeks to invite two international representatives to the Steering Committee. He observed that most large franchisors get involved internationally and the addition of those representatives would be helpful to the mission of the Program. Mr. Aronson hopes to have such representatives in time for the next meeting.

REQUEST FOR CHANGE IN ADMINISTRATIVE FEE SCHEDULE

Mr. Aronson said that CPR has significantly subsidized the Program since its inception, offering services in excess of its compensation. Mr. Phillips explained that CPR’s administrative fee for assisting disputants to select a neutral has not changed and covers only the costs of the selection process. He requested consideration of an increase from $1200 to $2000 per case. Mr. Gardner noted that, with AAA, $2000 can buy both arbitration and mediation services. He said that the issue implicates what product the Program provides, and at what cost. Mr. Purvin noted that the current fee is an obstacle to some users. Mr. Hall said he needed more information and others questioned the effect an increase would have on the mission of the Program. The Committee agreed to an increase to $1500.
Mr. Aronson discussed a proposal by AAHOA to advance mediation within the hospitality industry, and said that it constituted a good-faith effort to advance that cause. Mr. Schwartz explained the proposal (attached), emphasizing that it was designed to encourage mediation through a reputable organization with a “private label,” hospitality-specific panel of mediators selected in consultation with both AAHOA and NFMP. He also emphasized the importance of having a business person (as opposed to a lawyer) involved in the mediation. AAHOA intends to market the program aggressively.

Mr. McLester said that Cendant was willing to pay the initial administrative fee of CPR, in an effort to encourage franchisee use of the Program. However, that offer would extend to all franchisees, not just to AAHOA members. Mr. Archer noted that many franchisees prefer to engage local mediators rather than going through the Program and incurring selection expenses. Mr. Hall questioned whether substantial amounts of time would be required in creating a new Panel of mediators. He also asked whether similarly specialized Panels of neutrals should be created for other franchise industries. Several members cautioned that calling a list “AAHOA-approved” may cause some users to be skeptical. The Committee approved the AAHOA proposal, which Mr. Aronson will continue to work on with Mr. Schwartz.

The question persists whether the Program’s success should be measured by its educational and promotional impact, or by the number of mediations that take place through the Program. Mr. Hall presented his concept of a two-track approach, promoting mediation generally as well as promoting usage of the Program. The discussion of mediation generally should be institutionalized and consistently delivered.

Mr. Gardner encouraged the group to decide upon a mission statement, to make clear what the product is. Mr. Aronson suggested the goal is to encourage mediation in franchising overall rather than usage of the Program; but Mr. Phillips added that the revenue stream of the Program has been devised to attract revenue sufficient to support Program usage, but not to support promotion or general education. Mr. Hall urged that the rationale of the organization becomes easier if its mission is broadly promotional. Ms. Ainsley thought the discussion was promising but that many of the marketing disciplines involved in creating a brand need to be attended to.

Mr. Prusher encouraged a subcommittee to determine four critical issues: (a) the Program’s mission statement, (b) the product(s) that the Program creates, (c) the customers to which the Program’s products are directed, and (d) the marketing that the Program intends to engage in order to get its product to its customer. Mr. Aronson acknowledged that the mission of the Program has changed over time, and he will name a subcommittee to articulate a new mission for reporting next meeting.
Upon motion duly made and seconded, the meeting adjourned at 12:05 p.m.

Respectfully Submitted,

F. Peter Phillips