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REMARKS AT MONDAY
MORNING SESSION
DISTINGUISHED SERVICE AWARD

By ALI Director Emeritus Lance Liebman
Professor at Columbia Law School

By Robert H. Mundheim, Esquire
*Former General Counsel to the U.S. Treasury Department,
Former Dean of the University of Pennsylvania Law School, and
ALI Council Emeritus*

President Ramo: Well, there's nothing like having a federal judge run a complicated discussion. She pointed out to me that she brought in right on time.

Let me call to the podium, please, Lance Liebman and Bob Mundheim. This group will know, but new members may not, that we don't give many awards here, and when we do, they are very precious indeed. When it came time for me to think who might give the Distinguished Service Award—present it actually to the person that was selected by the committee—the Awards Committee is headed by Judge Brock Hornby and is filled with many distinguished people that you all will know. Of course, it occurred to me that the Distinguished Service Award should be introduced by one of our most distinguished members. And so I asked Lance Liebman, now distinguished Council member, but known to you in other guises, to please present the Distinguished Service Award to Bob Mundheim. So let me ask them both to come up.

Director Emeritus Lance Liebman: Thank you, Roberta. It is a great honor and pleasure for me to speak briefly about my dear friend, Bob Mundheim.

Let me say that both Bob and I come from the same period as law students, and all you young ALI members will vaguely know what I'm talking about, but the older people will definitely know. I would call this the period from World War II to the revolution at the end of the 1960s. The revolution of course at Harvard Law School, which Bob and I both attended, included the end of Saturday classes—that's one thing—and the end of boy students wearing ties to class and other things as well.

But the period of the 1950s and the earlier 1960s, his and my time, was one when we were being taught by very distinguished people who had basically—a bunch of them—been very involved in the New Deal and had a large impact on the country in their work in the New Deal or then some of them even in the Kennedy Administration. Three of my professors went into the Kennedy Administration.

And what was coming across to us as students were the various ways in which someone with a law degree could make a difference, and that included business and law practice and very much government and judges and a whole variety of different alternative ways to serve and to do things for the country or for the society and very much included The American Law Institute. And I'm just thinking that Dean Griswold, my dean in law school, was on this Council. Professor Freund, my great teacher, was on this Council.

But especially, I just mention that across the hall from me, when I was a young teacher at Harvard, right across the hall was Professor Austin Wakeman Scott, and he had been the Reporter for Restitution with his pal Seavey. They created the subject of restitution. And of course, he also did both the First and Second Restatements of Trusts. And Mr. Scott was right across the hall. He's somebody who, as a law student, married the daughter of the President of Harvard University. I think he was in the class of 1909. I know he taught civil procedure to Felix Frankfurter. Now think of my knowing someone who taught civil procedure to Felix Frankfurter.

And every morning I would go in and see if Mr.—no—I mean, and say hello to Mr. Scott, but I was, in fact, checking on whether he was there. (*Laughter*)

And I don't think for the whole time—I don't think he knew who I was, and he certainly would not have imagined that I was going to become the Director of The American Law Institute.

But the message that was coming to us was one about service and one that included The American Law Institute in that kind of service story.

Now the Distinguished Service Award to Bob is about his service to The American Law Institute, and I'm going to say a little bit about that. But I just don't think the service to the ALI for all of you and for us and everybody—I don't think it can be separated from the other kinds of service and the relationship to the legal system and to the ways in which law is needed and valuable.

I have to pause, but I want to say some things about Bob not at the ALI and then just a few things about the ALI.

I must start by saying that Bob came to the United States as an immigrant at age five, given that Judge Srinivasan came at age four. And the significance of immigration, etc. in the history of this country back to the very first landing cannot be ignored. Bob came from Hamburg, Germany early in 1939 with his parents. That was about as late as you could get out. And the United States is better for that.

So I'll just mention that along the way in his little career here as a person with a law degree, he was Co-Chair of the Fried Frank law firm for two years. He was the dean, very successful dean, of the University of Pennsylvania Law School, and as dean understood that the ALI was right down the street from the Penn Law School and there were connections between the school and the ALI.

David Levi, the dean of Duke, has ordered me to say that Bob taught for one year in the 1960s as a visiting professor at Duke, and recently the 50th-anniversary class of that year voted that he was the best teacher that they had had, even though he was only there for a year.

He was the general counsel of Salomon Inc., a major Wall Street financial firm, brought in by Warren Buffett in the wake of the Treasury scandal to help in the rebuilding of the reputation of the firm.

He was very significant—I believe it was for six years—as head of the American Academy in Berlin. So there he was returning to his native Germany and to the relationship between the United States and Germany. And of course, that presidency is now held by our hero on our Council, Gerhard Casper, former president of Stanford University, who is in Berlin as we speak, doing his work for the American Academy there.

Bob has been back at the Shearman & Sterling law firm, where he started after graduation from law school, for some years now, and he's done tremendous work for the American Bar Association.

You see the connections of all of these things to the ALI. But the one I want to mention is his years late in the Carter Administration as general counsel of the Treasury Department of the United States, which led him to play a very, very, very significant role as hostages were released by Iran. And some of you were old enough to remember this, that those hostages who came out on, I guess it was January 20th, 1981—Iran handed them over 10 minutes after Reagan took the oath of office, because they didn't want to be giving them back to Carter, you see. The negotiations were tremendously complicated. Bob had drafted the orders freezing Iranian government assets. The return of those assets would be swapped for the return of the hostages. Negotiations for the release of the hostages were on a go-and-stop basis during the final months of the Carter presidency. Finally, in January 1981, there seemed to be a real opportunity to have a successful negotiation. Bob met with Margaret Thatcher to persuade her to have the Bank of England be the stakeholder of the frozen assets. He then went to Algiers to head the Treasury team there in the final successful negotiations. He has told me a certain amount of this story. He should write it up in great detail. But that work at the Treasury was very significant and of huge value to the United States and to the world. And I emphasize it so much because we're now in a moment with Iran where maybe something is or isn't going to happen. But it's not a completely different story from the one in which he played a major role.

With the ALI, I just say that I don't believe anyone—anyone—contributed more or was wiser or who helped more or who was more involved in my 15 years than Bob. He could always give me advice. He could explain things. He could tell me what had happened in the past. He could tell me what should happen now. And he was just never unavailable. I mean, you could always get him and you could get help.

What's been mentioned already about four times today, earlier in this Meeting this morning, is his leadership role chairing the committee that worked out a way—and here I am at age 73—to get these old people off the Council and turn them into Council members emeritus and encourage them to keep coming and make their contributions but

to give us the opportunity to find some younger people to go on the Council. And you look at that Council and it now has—Roberta gets a lot of credit for this too, but it has a diverse and interesting and age-diverse Council membership. The ALI had to do that in order to improve.

But when it began, I was very dubious of whether the people I'd been working with would quietly accept emeritus status. But because Bob did it, it was done with such smoothness and such skill that I can't remember hardly anybody even raising a question about whether this was wise and necessary.

He chaired the Investment Committee. He served on the Executive Committee. He has been a Consultant or Adviser on the Federal Securities Code, Corporate Governance, Law Governing Lawyers, and Nonprofits. He was always there when we needed him.

So I just can't imagine that our Distinguished Service Award could be presented to anyone more qualified, more entitled, more deserving of this award than my dear friend, Bob Mundheim.

(Mr. Mundheim received a standing ovation.)

Mr. Robert H. Mundheim (NY): Thank you, Lance and Roberta.

You know, when Roberta first called me to tell me about the award, I probably didn't hear her correctly, because I thought she said the Council has decided to award you its Distinctive Serving Award. And I thought she was talking about my underhand tennis service, which I had demonstrated to certain Council members as being really rather devastating. *(Laughter)*

I've been a member of the ALI for more than 45 years, a long time. And it has obviously been a very important part of my life. The Institute and particularly the Council, of which I've been a member for 27 years, has been a source of intellectual sustenance and often intense debate, but always importantly in an atmosphere of mutual respect, a

remarkable willingness to listen to what other people have to say and to consider it before making judgments.

And the intellectual fun of the Institute is being part of an enterprise in which you feel you participate in shaping the law in ways which have an impact on judges, on lawyers, on academics, on legislatures, on society. And so that's very satisfying.

But I guess getting the award makes you reflect on the predecessor recipients of the award, and as I do that, I'm particularly moved about being included in that group.

The first recipient was John Subak, a Philadelphia lawyer, a partner at the Dechert firm, general counsel of Rohm and Haas. John's experience, his keen analysis, and sense for the pragmatic solution were essential to getting the Corporate Governance Project through.

The second recipient, Bennett Boskey, Mr. ALI. And Roberta has already told you about the Boskey motion.

Rod Perkins, the President of The American Law Institute, whose firm and fair leadership guided the sometimes heated and partisan debate on the Principles of Corporate Governance and allowed them to be approved by the Institute. His leadership set the standard for dealing with debates on subsequent highly controversial issues, and that was enormously important for the Institute.

It was Michael Traynor's presidency that really ushered in the creation of the Governance Committee and the changes in the ALI's governance procedures. Importantly, the move to limit terms for Council membership assured that there would be a constant flow of new members to the Council, so that as one looked to what the Council ought to be doing, we would be looking forward while still having the members of the Council who could reflect the traditions and keeping that in balance.

Incidentally, you will have noted that the two presidents preceding Roberta are pretty tall. (*Laughter*) And that demonstrates that the

ALI's attention to diversity—(*laughter*)—is not limited to gender, to race, or ethnicity.

Geoff Hazard, a person of infinite extraordinary talents. When asked by the students at the University of Arizona College of Law, where I teach in March and April, about the Penn Law School course my son Peter, a private equity lawyer, thought most valuable, he responded Professor Hazard's course in ethics. That's a pretty unusual and amazing, unexpected response, but it gives you a sense of Geoff Hazard and his extraordinary range of talent.

The most recent awardee, of course, is Gerhard Casper, the other Hamburg-born dean of a law school, you know, the one with the funny accent—(*laughter*)—who went on to become the provost of the University of Chicago, president of Stanford, and as Lance said, is now the incoming president of the American Academy in Berlin.

But I think you have to agree that's a pretty remarkable group of people, and I have to tell you I'm enormously proud and grateful to be included in it.

(Mr. Mundheim received a standing ovation.)

President Ramo: We've heard from Lance about Bob Mundheim. We have heard from Bob Mundheim all the words that you need to know to understand that the quality of his intellect is underlined by such a remarkable humility, which is unnecessary in this group, Bob. But your kindness to everyone, your openness, your willingness to serve on whatever platform we need you to be is something that none of us will ever forget. And we're happy to honor you.

Now I will say, Lance, I had forgotten the part about the planes to Algeria, and when I was thinking about how easily it was that the Council actually decided to accept term limits, I do remember there was a ticket to Algeria on my desk; I didn't know what it meant at the time, but now I'm a little bit understanding.

We will adjourn for the new-member lunch. The rest of you have lunch on your own. We will come back, and most appropriately, there

will be cake outside, which has been provided for the Institute for 10 years, from our 90th anniversary through our 100th anniversary, by none other than Bob Mundheim. So when you bring your cake to your seat, please lift a fork in toast to him, and I'll see you right after cake on time, please. Thank you.

(At 12:44 p.m., a lunch recess was taken until 2:21 p.m. the same day.)