

CHAPTER 13

FIRESIDE CHAT WITH ARNOLD ZACK

Arnold Zack is an Arbitrator and Mediator of more than 5,000 Labor Management Disputes since 1957; Judge on the Asian Development Bank Administrative Tribunal; designer of employment dispute resolution systems; member of the Steering Committee for the Permanent Court of Arbitration in the Hague; occasional consultant for the governments of the United States (Department of State, Peace Corps, Department of Labor, Department of Commerce), Australia, Cambodia, Greece, Israel, Italy, Philippines, and South Africa, as well as the International Labor Organization, International Monetary Fund, InterAmerican Development Bank, and United Nations Development Program. He has also been a member of four Presidential Emergency Boards (Chair of two). He is the author of numerous publications reflecting his various interests and expertise. He is a member of the Labor and Worklife Program at Harvard Law School.

The chat with Arnold that follows was led by National Academy of Arbitrators member Roberta Golick of Sudbury, Massachusetts, during the Sixty-First Annual Meeting of the National Academy of Arbitrators in Ottawa, Canada, on May 24, 2008.

Golick: Good afternoon everyone. I welcome you to this year's fireside chat.

Now, few people in the world are known by only one name. Sure, there's Madonna and there's Cher. But they have only one name. And there are many people in the world named Arnold. But when people speak of Arnold—just Arnold—they're almost always speaking of . . . well, Arnold Schwarzenegger. [Laughter.]

In the world of arbitration, we have our own Arnold. We have an Arnold who's equally outspoken, equally commanding, and much smarter. He's our Arnold Zack, a man of many talents, many interests, and boundless energy. Arnold has an idea a minute; and some of them are even good. [Laughter.]

Arnold lives and arbitrates out of Boston; but come summer, he packs his bags and disappears down to Martha's Vineyard, where the otherwise dormant right side of his brain takes over. He dons a pair of shorts. He plants his vegetable garden. And he takes out his watercolors.

Arnold is a prolific writer. He has published more than a dozen books, most recently, a memoir entitled *Arnold Zack: from A to Z*. If you're interested in securing a copy, it's available for free on the Internet at lulu.com or it can be purchased from Amazon.com for some ungodly amount of money—\$19.95. Arnold wants you to know that he gets no royalties.

You'll also be interested to know that "Arnold Zack: the Movie" is being filmed as we speak and it stars...Arnold Zack.

So let's start, Arnold, with the book, and then we'll go back to the beginning. What inspired you to write this memoir?

Zack: When Norma and I got married, I was 37; and not long ago, the kids asked about what I had done up until then—because we had the kids after we got married. [Laughter.] So I thought about writing a memoir for Norma and the kids about work I had done helping to set up the Peace Corps and work I'd done for the UN mission in the Congo and so on.

And when my mother died at age 95 in 1999, I discovered she had saved all my air letters from all the time I'd lived in Africa and overseas. There was a whole chronology. And that's what led to writing this book. Once I started, I kept writing. I urge you all to do so. It's not hard. Get your passports or your old calendars because you've got kids and your grandkids are going to want to know about some of the stuff you've done. It's fun doing it. And it's a real good legacy to leave for your family.

Golick: Okay, let's begin at the very beginning.

For anyone who has read your book—and for those who haven't and don't plan to—I'll summarize as best I can. [Laughter.] It's no wonder that you've spent your career in labor relations, given your exposure to the field from a very early age. Tell us about your father, the passage of the National Labor Relations Act, and your memories of the 1930s.

Zack: My dad was an orphan and he was brought up by a family in Lynn, Massachusetts. He worked in a shoe factory and went to law school at night. You didn't have to go to college to go to law school then. He started practice right at the start of the depression. His best friend, who by then had become a Congressman, said, "Come on down to Washington. I'll find a job for you." So when I was three, we moved down to Washington, and my dad became involved with the NRA (of limited lifespan). Then Larry, the Congressman, said, "Well let's take the NRA and make a new statute." And that was Section 7 of the National Labor Relations Act. Larry Connery was the chairman of the House Labor Com-

mittee, and it is, indeed, the Wagner Connery Act. So, that's how that evolved.

And I am told that at age six, I was in the Supreme Court chamber when my dad, who was on brief on the *Jones & Laughlin Steel* case, was there for the argument of that case. That was the genesis of my getting involved and I sort of went into the family business.

Golick: Well, sadly, your dad died in 1951, when you were a sophomore at Tufts. How did that change your life?

Zack: Well, first of all, I realized I had to study. [Laughter.] My grades improved immeasurably. Some friends of my dad from the National Labor Relations Board came up to my dad's funeral. This was during the Korean War. And their goal was to keep me out of the draft. They wanted me to go down to Washington and to get a job with the government so I wouldn't have to go into the Army and I could go to law school at night. I said, "Screw that. I want to stay in Boston." So I ran the risk of getting drafted into the Korean War. I had a 40-hour-a-week job at Filene's, a department store in Boston. The people there were very kind in giving me time for my studies. So I led a normal college life, and I managed to eke through without having to go into the service.

I could have been a Republican government administrator now without having served in the military. [Laughter.]

Golick: You write in your autobiography that by the time you were a senior in college, you gave up "challenging the inevitable." Do you recall what you meant by that?

Zack: My very dominant mother thought that I really ought to be a lawyer, but I really didn't want to go to law school. I thought about being an architect and doing some other stuff. But it was sort of pre-ordained: both my parents expected that I'd go to law school and then afterwards, my dad and I would open a law practice. When my dad died—he was 50—that shattered that plan. But I finally decided that I would become a lawyer and so I applied to law school.

Golick: And then what happened?

Zack: Well, I applied to Harvard, Yale, and Columbia; and my safety was Boston University. The first response came from Boston University, and they rejected me. [Laughter.] And I got really panicked. Then I got accepted at Columbia. Columbia had a whopping \$50 deposit, which was a lot of money. I said, "well, maybe I'll go down to see the dean at Yale." So I went down and met with Dean Wesley Sturges and asked, "Any chance of my getting in here?" He says, "What's the rush?" I said, "Well, I'm waiting

to hear from Yale and Harvard and I've only got four more days before the deposit's due at Columbia." He said, "Why don't you wait. Maybe you'll hear from Harvard." And so I dejectedly went back to Boston; and there in the mail was my acceptance to Yale with a scholarship. I later said to the dean, "You know, that was a dirty trick." He said, "I thought it was such fun. I knew you'd be happy. You just had a miserable three hours getting home from New Haven. Wasn't it worth it?" [Laughter.]

I got into Harvard, too, but opted to go to Yale. I had to decide between studying labor law with Archibald Cox at Harvard or with Harry Shulman at Yale. I found Harry Shulman and his labor relations approach far more appealing than the legal approach of Archibald Cox. That's what led me down to New Haven.

Golick: Was it a good decision?

Zack: Yes. It was a very good decision.

Golick: Let's talk about what has to be the most important decision in your life. You finished law school in the class of '56. Please tell our audience who Saul Wallen was and how you connected with him.

Zack: I was in my last year. Everybody was interviewing for clerkships and law firms. And I really didn't know whether to go on the union side or to go on the management side. It was Christmas time, I was back in Boston, and the president of the National Academy of Arbitrators that year was Saul Wallen. Saul was one of the founders of the Academy—he had umpired General Motors, practicing out of Boston. So I knocked on his door; and I said, "You know, I'm thinking of becoming an arbitrator." He said, "Forget about it." He said, "How many law clerks become judges?"

So, I went back and continued the interviewing process. Then in April he phoned me from the train station in New Haven. Thank God for the old trains; back in those days they had to change the engines in New Haven. He said, "Are you still interested in the job?" I said, "Yes," and ran all the way down from the law school to the train station. He gave me two files and he said, "Here are two cases I just heard. Write up the decisions." I confessed, "I don't know anything about writing arbitration decisions." He said, "Well, look them up in *Labor Arbitration Reports*." And so I did.

I wrote up the two draft decisions from his notes, sent them to him, and I never heard from him. In May I read that he was giving a speech at an American Bar Association (ABA) meeting in Hartford; so I went up there to see him and said, "Remember me?" And he started berating me! He said, "You know, on one of the cases

you took issue-by-issue the union's side, and the management's side. It was absolutely awful. I had to redo the whole thing." I said, "What about the other case?" He said, "Well, that one I signed and sent out." [Laughter.]

So then I said, "Well, is there a chance of a job?" He said, "What's your status?" And I said, "I'm looking at different things." He said, "Well, if you don't get anything else, come by and I'll take you on."

When school ended, I went back and knocked on his door. I said, "Remember me?" He said, "Yeah. You didn't find another job?" [Laughter.] And I said, "Frankly, I stopped looking." He said, "I have to go out of town now, and I'll be gone all this week. You can take a week's vacation and start work next week." So I replied, "If it isn't too insulting, what am I getting paid?" [Laughter.] He asked, "Well, what are they paying on Wall Street these days?" I said, "\$7,500 a year." He says, "I'll give you \$3,750." [Laughter.]

And that was it. And that's how I got employed by Saul, who was a terrific human being. He couldn't have been a better mentor. He took me to hearings all the time. Imagine the gall of my thinking that I could become an arbitrator. I thought I had some control over my success in this business without realizing that it's the parties who control our success.

Anyway, that's how I became an arbitrator and began working for Saul Wallen.

Golick: You went to your first Academy meeting with Saul in 1957. And you haven't missed a meeting since.

Zack: That's 51 meetings. Well, there's one I almost missed. I almost died. Jeff Tener will remember this. I was a Fulbright scholar in Ethiopia, and Jeff was my assistant as a Peace Corps volunteer. I had gone to dinner at Jeff's compound. While I was walking in from the street a little yapping dog comes and tears my pants. The next morning I flew out to an Academy meeting in New York City. I wasn't going to miss an Academy meeting.

W. Willard Wertz was giving the distinguished guest speech at the luncheon in the Hilton in New York. In the middle of his speech, somebody handed him a piece of paper; and he picks up the piece of paper and he says, "Will Arnold Zack please report to the house physician immediately." So I got up and walked all the way out. Everybody was staring at me. In the house physician's office, there were about ten people. Four identified themselves as being from Interpol. They had tracked me down in two days from Ethiopia where this rabid dog had died.

So they said, “Well, this dog that bit you has died. You have to take the shots. Ten shots in the stomach—one a day for ten days. And there’s a 10 percent chance you’ll die from that.” So I said, “Ah, screw it.” And here I am. I didn’t die during that meeting.

Golick: Was the dog healthy before it bit you? [Laughter and applause.]

All right. Let’s talk a little bit about how you started your own arbitration career. You indicated in your memoir that your first case was in 1957 when you were 26 years old. And you described that case as “baptism under gunfire.” Aside from the fact that that’s about as close as you’ve ever come to a baptism . . . [laughter]

Zack: Or gunfire! [Laughter.]

Golick: . . . tell us what you remember about your first case.

Zack: The dean of union lawyers in Boston was a guy by the name of Sam Angoff. He had been a good friend of my dad’s. Sam got me a case. I’d been out of law school one year and four months, and here I was, doing my first arbitration case. It was at Brown Paper Company up in Berlin, New Hampshire. So, I went and did the case and came back and wrote it up. And I showed it to Saul. Saul said, “Nothing wrong with that.” I sent it out. And Sam Angoff went wild. Started raising all kinds of hell, started complaining to Saul and complaining to me. I went to Saul and Saul said, “He’s wrong. You’re right.” He said, “Sam wouldn’t have given you this case if he thought he could win.” So that was the end of it, but Sam Angoff didn’t use me for about ten more years and then he finally began to use me.

But I got other work. When I was 36, Saul was giving up his practice, and he said, “I’ll recommend you to my clients.” I wound up being the umpire for Goodrich. And I stayed there for several years going to God-awful places where they had their factories. I developed a mediation system for them. I said, “Let’s try and mediate these grievances.” We mediated successfully 102 cases in two years. There were eight cases left, which the company said, “We’re not going to mediate because they’re justified termination cases. We’re not going to compromise.” So they went forward and I arbitrated them. Of course, the company won all eight; and I lost the umpireship. [Laughter.]

I’ve always been uncomfortable with umpireships because the parties will talk to you about the cases after the fact, which I don’t like. Also, I think there’s a tension that interferes with your deciding each case as though it’s your last one, which was part of Saul’s philosophy. So I’ve just sort of steered away from them. I enjoy the

ad hoc stuff. I enjoy the ability to hand down a decision and leave and just assume, when they don't call me again, that they've never had any more cases. [Laughter.]

Golick: Well, for some people, working as an arbitrator and having Saul Wallen as a mentor would be enough of a challenge. But your wanderlust and boundless energy led you in other directions in the late 1950s, early 1960s—what can you tell us about those years?

Zack: One of my friends was planning to send a delegation of Americans to the Communist Youth Festival, which was scheduled to be held in Vienna in 1959. Vienna was an extremely beautiful international city. The Communist party ran this Youth Festival and invited young people from all over the world to attend. They brought the Kirov Ballet, the Bolshoi opera, and they had symphony orchestras and wonderful art exhibits. The official American delegation was being headed by Paul Robeson, Jr., but an alternative group was being recruited. I had no idea about the funding, but they were going to pay my plane fare to Vienna. So a buddy of mine and I decided we would go. I asked Saul if it was all right. And he said, "Oh, sure."

And Saul said, "By the way, there's a houseguest here who might be interested." Saul's houseguest down in Martha's Vineyard was active with Radio Liberty, which was a group that broadcast into the Soviet Union. He asked me if I'd do him a favor. He showed me little books that were two inches by one inch, with miniscule printing. It was *Dr. Zhivago*. He said, "You just sort of leave them on park benches when you're traveling around."

Then he asked, "Do you speak any languages?" And I said, "Well, I can speak French." He said, "Why don't you spend your time with the Francophone African delegates." So that's what I did.

And that led to other trips. I got involved with an outfit called the Eastern European Student and Youth Service. My mission was to get to know people from the francophone countries, be friendly with them, and tell them about the United States.

A year after that, I went off and did a study of student youth leaders and then I did a study of the youth labor press. I kept meeting people who turned out to be rather important African leaders. Tom Mboya from Kenya, who was later assassinated; Sékou Touré, who was a youth leader and became the head of the government in Guinea; and a few others.

I kept getting more arbitration work and more of these African trips. On one of those trips, I went into Elizabethville. This was in

1960, ten days after the declaration of independence of Katanga Province from the Congo. Moïse Tshombe was the proclaimed President.

I was sitting in my hotel and in came some soldiers who arrested me and took me to see Moïse Tshombe, whom I knew nothing about. We chatted; he was trying to be very nice. He said, "You're an American." He said, "We have a new country. We're going to be very friendly with America because we're fighting Communism. And we want you to arrange to bring some of our students to the United States for education." We hit it off pretty well because before he was President, he was a shoe salesman, which is what I had been doing when I was in college. [Laughter.]

I promised I would be nice to the Congolese and then he let me go. I was allowed to get onto a plane that was going to Leopoldville and there, I walked into an office of UNICEF at the Hotel Stanley. I asked if there was anything I could do there and they said, "Can you type in French?" I said, "Sure, I can type in French." So I typed letters in French, which lasted about two days. And they said, "Well, what else can you do?" [Laughter.]

Maurice Pate, who was the director general of UNICEF, ran the operation and put me in charge of distributing relief into the interior of the Congo with a troop of Tunisian soldiers to help me. At 5 o'clock in the morning we'd go out to the airport and we'd load these airplanes. We'd fly the food out to the interior, stay there for the day. Then we'd fly back. We had to land in Leopoldville by 6 p.m. because there weren't any lights at the airport. I did that for about three months. That was pretty exciting. At the end of my stay, Ralph Bunche, head of the UN Operation in the Congo, offered me an appealing full-time permanent position as Provincial administrator, but I was still focusing on a career as an arbitrator.

That was a long answer to your question. Sorry.

Golick: Sorry, but we have no more time. [Laughter.] Now, a rumor about you that I had always dismissed as untrue was that you had once worked for a short time for the Central Intelligence Agency (CIA).

But in your memoir—this might help sell your book—in Chapter 7, you out yourself. What can you tell us about that?

Zack: I suspected that a lot of the trips that I took were CIA-funded. I had no problem doing it because I thought it was for a good cause. I was gathering information about African trade unions because there was a recognition that trade unions were

important democratic institutions and deserved encouragement. The fact is, my governing precept in all the work I've done overseas is that trade unions are the really important local building blocks of democracy in countries that have never had it before. So it was a coinciding of interests.

There was only one trip I actually know was funded by the CIA. That was a trip that was arranged for me to do a study of worker education programs in Asia, Africa, and Latin America, out of which came a book—the first book I wrote, *Labor Training in Developing Countries*.

I have not worked for the CIA since then. I will tell you, perhaps, why. I did something I didn't think was terribly serious. I was in Nairobi or Tanzania or someplace and they have these talking drums. You hold onto the drum; it's got strings and an hourglass shape and you squeeze the strings and you get different sounds on the drum. I sent one to my handler with a note that said, "For improved intelligence." Later, I was in some other country and someone came up to me and said, "You shouldn't have done that." [Laughter.] So that's maybe the reason why I'm no longer working for the organization.

The other thing that took much of my time in the early 1960s was helping at the Peace Corps. I worked there three days a week from April 1961 until Kennedy's assassination, first with Bill Moyers trying to get union workers as volunteers, then setting up recruitment programs, then as assigned by Shriver to help set up and run an international conference encouraging other countries to set up their own Peace Corps, and finally as Shriver's designee to Attorney General Bobby Kennedy in helping to plan for VISTA, the domestic counterpart of the Peace Corps.

Golick: Well, let's turn a little bit to your personal life. By the time you were 35, you'd already done more than most people do in a lifetime.

You were a member of the Academy. You had traveled the world. You had worked for the AAA in New York for awhile. You had degrees from Tufts and from Yale and from Harvard—what is now the Kennedy school. By most standards, you were a huge success—but not by the Jewish mother standard. [Laughter.] By the Jewish mother standard, at age 35, you were a total failure. [Laughter.] Tell us about Norma.

Zack: Do you want to stay or leave, Norma? [Laughter.]

Golick: Tell us how you met.

Zack: That's easy. I was living in New York directing the AAA's Labor Management Institute, which was to study the applicability of collective bargaining to the public sector, which didn't yet have collective bargaining. That shows how long ago that was. It was 1965–66. My mother said that she was coming down to New York to go to her cousin's wedding. And at that wedding was Norma's mother, who was related to the other side. Norma's mother and my mother struck up a friendship: "Do you have any unmarried children?" [Laughter.] "I have two sons."

And so Norma's mother said that she had a son and a daughter. "Would either of your sons be interested in either one of those?" [Laughter.]

Several months later my mother invited a bunch of friends over as a ploy to cover her invitation of Norma, who was then doing a medical residency in Boston. Afterwards, Norma reported to her mother, "I wasn't really interested in him. All he and his mother did was bicker the whole time." [Laughter.] Meanwhile, my mother, in true Jewish fashion, kept pestering me about taking up with Norma. I expressed no interest and had no contact.

Many months after that, when both our mothers had given up, we started to date. [Laughter.] After we dated a while, we were down on Martha's Vineyard and it was Mother's Day. I called up my mother and I said, "Happy Mother's Day." I said, "What would you like for Mother's Day?" And she said, "You know." [Laughter.] I said, "You got it." Then Norma called up her mother and said, "I've gotten engaged!" And Norma's mother said, "To whom?" And that was it.

Golick: That was it. And the products of this marriage are?

Zack: We have a son, 37, who's a film writer in Los Angeles.

Norma Zack (from the audience): And he's not married! [Laughter and applause.]

Zack: And we have a daughter who is 35 and she is married to a wonderful Hawaiian whom she met when they were doing graduate work in public health at Emory. She's now getting a doctorate in psychology at Clark.

Now, this relationship with Norma is temporary. [Laughter.] We still are, you know, on a day-to-day basis. But so far, so good. It's only been 39 years.

Golick: Well, maybe some of the success of your marriage is attributable to a promise that you made to Norma when you got married. And that had to do with how much traveling you'd do.

[Laughter.] Do you remember what the promise was? And have you kept it?

Zack: Yes. The promise was no more than three nights away a week. Once we got married and had kids, I didn't do any of the international stuff. It really ended. Maybe once a year I went off and did something, give a speech or something overseas. When our kids went off to college, I resumed the international work. Now I take probably six or eight trips a year to Asia. I don't stay away for more than a week.

Golick: Let's talk about the Academy. I understand that you and Rich Bloch and John Kagel all compete for the claim to be the youngest person ever admitted to the Academy. When did you come in officially? And were there any admission standards at the time? [Laughter.]

Zack: As I indicated, I had my first case—which was an AAA case—when I was 26, when the rules were you had to have five cases to be on the AAA roster. John Church was then the head of the Boston AAA office, and he arranged for me to get the case. He wanted to put me on the roster. So I was getting cases fed to me under the table by the AAA office in Boston. And I must have had about seven or eight cases by the time I got into the Academy. You've got to remember the Academy at this point had a total of about 250 members, most of whom had war labor board experience or had become neutrals after being advocates.

But there was no incoming stream. There was no opportunity for developing a new cadre or replenishing those who were dying. I guess the understanding was the Academy would get some pretty good apprentices. Dick Mittenthal, Rolf Valtin, Sandy Porter, Mickey McDermott, and a few others were brought in by their mentors as was I, a little bit after they came in.

So I don't know how many cases I had. It was certainly less than a dozen when I got in, which was six years after I got out of law school. But I couldn't have done it now. [Laughter.]

Golick: We all know you've contributed greatly to the Academy through the years. I think it might have been your idea to start these fireside chats back in 1991. What other of your ideas came to fruition?

Zack: Regarding the fireside chat, I'm here under false pretenses because the original intent of it was to bring back people who had left the Academy and the profession to talk about how the practice of mediation and arbitration had helped them in their post-NAA

careers. Bill Murphy had initiated the discussion of how we could get old timers back into the Academy. And I came up with the idea of creating an honorary life membership that would bring these people back. And when they came back, they would have a fireside chat. I remember when I was president, we had George Shultz come and talk about how his experience as a mediator and arbitrator had really shaped his ability to handle international problems as Secretary of State. Anyway, the fireside chat was to be that. Later, under Dick Mitterthal's urging, the fireside chat was expanded to include still-active members of the Academy.

As for other things, Dick Mitterthal had me set up what was then the continuing education program. I came up with the idea of having training and continuing education go to the regions because we didn't have enough people coming to the annual meeting. We made some videotapes and I put together a series of discussion questions.

We did that for several years. And that ultimately led to the creation of the fall educational conference.

Golick: You're forgetting the Due Process Protocol.

Zack: John Dunlop, as you know, had been the Chairman of a Presidential commission on workplace labor relations in the future. This was in 1994. And the whole issue of employment arbitration had come into the spotlight: How do you protect workplace fairness for people who are not under collective bargaining agreements, given our traditions in the United States? Dunlop issued a fact-finding report in 1994, which I read, and I said, "Well, you know, there ought to be some way to develop a structure to resolve the problems of workplace fairness." And he said, "Yeah? Go try." So I toyed with it.

Helen Witt was instrumental in this. She said, "You've got to get out and talk to the ABA in New Orleans." So I went down to New Orleans and gave this talk, saying, "You union and management lawyers, and the arbitrators, we're all in the same boat. We all want to protect collective bargaining arbitration and employment arbitration from being challenged as corrupt and fixed."

The ABA picked up the ball and out of that came the creation of the due process task force, which was the AAA, the Federal Mediation and Conciliation Service (FMCS), the American Civil Liberties Union, National Employment Lawyers Association (NELA), the ABA, and the Academy. Under the AAA auspices, for nine months we worked and came up with the Due Process Protocol.

When writing the draft, I used my Microsoft thesaurus to find another word for “agreement” and up popped “protocol.” And when Robert Reich and I were chatting about it when he was Secretary of Labor, he said, “How can a nice Jewish boy come up with the name ‘Protocol?’” referring back to the protocols of Zion. [Laughter.] The Due Process Protocol was ultimately signed in May 1995.

And the companion to that was, maybe we should do something to stimulate a better understanding of how labor arbitrators reach decisions and maybe we should set out the standards for fairness in the workplace.

So, I contacted Ted St. Antoine, who was then at Oxford for a semester, and said to him, “Would you be interested in putting together a volume to deal with these problems of fairness in arbitration structures?” I envisioned setting forth standards for advocates as well as new arbitrators in the employment field. As you recall, we had our Fall meeting in Boston in 1994. By then, Ted Weatherill was President-elect, and George Nicolau became “elect-elect” at that meeting. So we got together and said, “Let’s make this a three-year project, which would culminate at the 50th anniversary of the Academy in Chicago.” The Common Law of the Shop came out of that discussion, and it was a much more ambitious and much more impressive undertaking because it provided valuable guidance for us in the labor management field, as well.

Oh, I got one other thing.

Golick: Sure. Go ahead. [Laughter.]

Zack: I wish Bill Murphy were still around—for many reasons. Bill and I had this ongoing battle about the Academy pins. This was the issue about how you get Academy members back in the Academy. I said, “We’ve got to do something to reward them for coming back,”—you know, some recognition that will get them back to the Academy. And they have to be there to be the beneficiary of this. I said, “Why don’t we have a pin?” At that point, I was in my 24th year of membership in the Academy. I said to myself, “If we call it a 25-year pin”—which really made more sense—“it’s going to look like I was doing it because it was for my benefit.” So that’s why it’s a 30-year pin and not a 25-year pin. [Laughter.]

One other program I helped develop was at the request of President Mark Kahn for whom I designed and ran the first New Members’ Orientation Sessions.

Golick: Well, let's turn to a subject that all of us who are on the mail list are eager to hear about. Every other minute we're getting a posting with all of its misspellings from Manila, and from Cambodia, and from China, and from Guatemala—all with your signature. What in the world are you doing in all of these countries?

Zack: I'm trying to get work for you guys. That's what I'm trying to do. [Laughter.]

Golick: Tell us about your current overseas work.

Zack: Well, my African work ultimately led to my being involved in South Africa, where I first met Chris Albertyn and for many years I was involved in helping to train arbitrators. Chris is a prime example of that. For five years, from 1985 to 1990, I did a lot of work in South Africa. And I've tried to do work elsewhere in Africa, trying to extend the message of our collective bargaining and labor management approach to resolution of workplace disputes. In South Africa, that worked very well. We've trained a lot of arbitrators. We hope we get more South Africans involved in the Academy.

But elsewhere in Africa there was no traction. Obviously, a lot of corruption. I had great hopes. Zimbabwe and other places I've been to have imploded. So I just sort of gave up on that, and I decided I'd switch to Asia. I had some good connections with the ILO. The ILO has eight core conventions that, in summary are: no child labor, no forced labor, freedom of association, right of collective bargaining, gender equity, and no discrimination at the workplace. Those are the core values that I think we all hope will provide at least a floor for a level playing field around the world.

Recently, that has been my focus. Labor management collective bargaining is, I think, the best way of achieving it. But the United States and Canada are the only countries that have private binding collective bargaining arbitration. The only two countries in the world. And yet, it's a good model.

I've been trying to sell it to the rest of the world—or trying to replicate it in some way to develop standards of fairness in the workplace. In many cases, it's tied to codes of conduct. I've been trying to work with the ILO and the Permanent Court of Arbitration to develop an international roster of mediators who might help achieve this.

And as ineffective as I was in Africa, I really am getting a lot of receptivity in Asia. At the present time, I'm involved in Cambodia. The Cambodian government has set up a system where the ILO

comes in and monitors workplace conditions. They set up a council of government-paid arbitrators to resolve disputes.

I brought a team of arbitrators and advocates from Boston. We go back and forth to Cambodia. We bring the Cambodians over to Boston to see the work we're doing. And I'm trying to do the same thing in China now, which is more difficult because the All-China Federation of Trade Unions (ACFTU) does not represent workers. You don't need unions in the workers' paradise, right? They are there to resolve disputes between the workers and management. The latest law requires that every enterprise have the ACFTU as its union. No other trade union is allowed.

I also spend time as a judge at the Administrative Tribunal at the Asian Development Bank, which is the appellate court for those who work for the Asian Development Bank. That's a nine-year term that I'm in the middle of now. We meet two or three times per year in Manila for a week or so, but do much of our work via e-mail.

And in Guatemala, the Guatemalan government said it would love to have everything that's sold in the United States that's made in Guatemala have a logo on it that says that this was made under fair working conditions. So I've been working there with Clinton's Global Fairness Initiative to try to develop a system of conformity to the ILO conventions and to develop a cadre of mediators under the auspices of some international agency; if not the ILO, then the Permanent Court of Arbitration to help resolve those disputes. The latest effort is to try and to get companies that have codes of conduct to add grievance procedures to their codes. And hopefully, we will have local mediators who will have some training in mediation and the labor standards on a national basis, who can help resolve some of those disputes.

I'm going tomorrow to Hong Kong. And I just came back from a conference in China where we're trying to push that on some companies that are interested. The factories are interested because they say, "Look, if we are caught with a child laborer, an under-age worker, or forced labor by one of the brands, they just cut off our contract. And we get 10,000 people unemployed in the village that had been making shoes because the brand name doesn't want to be associated with us. So we want to know about it when our factories are doing such things."

Anyway, that's what I'm doing. And I arbitrate.

Golick: And didn't you work with the Hare Krishnas for a time?

Zack: Oh, yes. Still am. Bill Post, who was a member of the Academy, had a grandson who is a Hare Krishna. And he said to me, "I'm thinking of going to school to study dispute resolution because the Hare Krishnas are really interested in dispute resolution because they have so many disputes. They could use mediators." I said, "Well, if there's anything I can do, let me know." Lo and behold, I get a call from the Hare Krishnas that they would like to talk to me about setting up a dispute resolution system. So I went to Mayapur, which is a little village, a four-and-a-half hour cab ride from Calcutta Airport. Awful ride!

We set up a system about five years ago. I went looking for somebody to teach mediation. I got on their listserv, and I said, "Have any of you ever taught mediation?" There's four or five million of these Hare Krishnas. And I get an e-mail from a woman in New York. It says, "I am in charge of teaching mediation for the New York Public School System and I'm a devotee and I'm ready to retire. Can I help?" And so we have trained mediators—about 250—who have resolved about 400 to 500 disputes. We have eight certified ombuds, one for each continent and a couple left over, and we are now starting an arbitration program for resolving disputes. Some of these people are now going from mediating disputes within the Hare Krishnas to mediating environmental disputes and community disputes.

So if you don't see them at the top of escalators anymore [laughter], that's what we're trying to do—create a community-positive role for them. They're good people.

Golick: Well, let me ask you now, about your arbitration style. You have a reputation as being a no-nonsense arbitrator. You run short hearings. You write short opinions. It's been said that you sometimes get impatient and pull out an airline schedule in the middle of witness testimony.

Zack: My Blackberry, now. [Laughter.]

Golick: It's said sometimes you write the decision before you get the briefs.

Zack: No, no. During the hearing.

Golick: Is any of this true? Give us your philosophy of arbitration and decision writing.

Zack: It's nothing philosophical; it's just simple business. And that is to write short awards, write them immediately, and send them out. We are in a labor management arbitration system that was created to dispose of disputes. The parties want to get these disputes out of the way so they can go on with the mission of the

enterprise. I think we should help them and not make things worse. So my philosophy is to get those cases out as rapidly as I can.

But from a business perspective, I also want to do it as expeditiously and as efficiently as I can. So my pretty well-adhered-to rule is to write up the facts of the case within 24 hours of hearing it. That creates some problems when you've got multiple-day hearings. But on a single-day hearing, write up the facts. I don't have to look at my notes. I'm not led astray by one-sided recitations of the facts that come in post-hearing briefs. And when you start writing without the briefs—even without the transcript (I keep hand-written notes on everything)—you really get the nub of the case. You do it very quickly and I think you do it much more efficiently. And that leads to you say, "Gee, if a brief is filed, this is what's going to be argued by each side." A half-year later when the briefs finally come in, you look at what you've written and say, "Jeez, here it is, right here." It's very easy to write it up and it saves a lot of time and it's more efficient. And it gets the cases out of my way as well as out of the parties' way. I've done about 5,000 cases. I've never gotten an extension. It enables me to do other things because it doesn't take that much time. I write short decisions—you know, six, seven, eight pages in most cases. Saul used to say, "The less you say, the less you have to defend." [Laughter.]

As for scheduling, my view is that you are entitled to treat your family and friends with the same respect and deference that you treat total strangers who ask for dates. In fact, I think family and friends ought to take priority over strangers. The parties will wait. I mean, by the time the case has gotten to you, it's probably six months old anyway. So they wait another month or two. They can always settle it. They can always go to another arbitrator. The fact is, they won't go to another arbitrator. There was probably such a hassle agreeing on you, they'll wait until you're ready.

But, you know, save the time for yourself. Save the time for your writing. You'll have a much more normal life.

Golick: You've won many awards for your distinguished service and your distinguished career. Are there any awards about which you are most proud?

Zack: The Mildred Spaulding Award.

Golick: What is that?

Zack: The Mildred Spaulding Award, which I've received twice, is given out by the Agricultural Society of the County of Duke's County. That is the official name. The County of Duke's County,

which is Martha's Vineyard. One I won for the best pickled vegetables. [Laughter.] Don't laugh. And the other one is for the best compilation of jams and jellies. [Applause.]

Golick: Well, on that note, we are out of time for our fireside chat. I want to thank you for bringing your wealth of knowledge and experience to us. It's been a terrific afternoon. We are all indebted to you. [Applause.]

Zack: Thank you. It has been fun. And as someone who has won the Hal Ripken Award for longest continued attendance, I'd be very happy to come back and do this again next year. [Laughter.]