CRC CAPITAL RESEARCH CENTER

Foundation Watch

The Surdna Foundation and the Rejection of a Donor's Intent

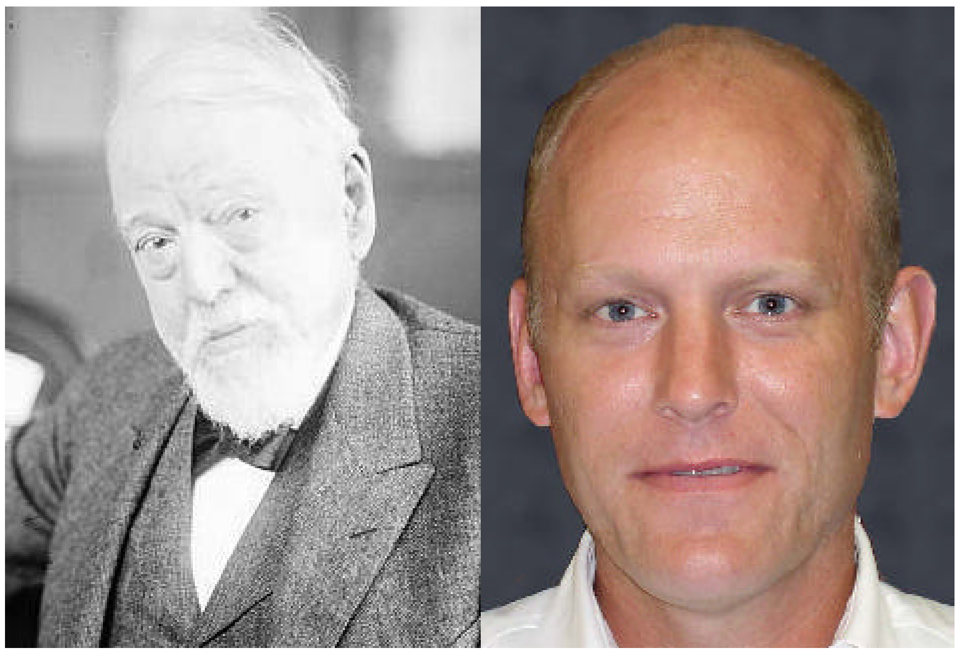
By David Hogberg

***Summary**: The Surdna Foundation, established by John Emory Andrus 90 years ago, is a philanthropy whose mission has been subverted by its management. Andrus made his fortune in chemicals, timber harvesting, mineral extraction, and real estate speculation. Today his foundation funds nonprofit groups that clamor for Big Government policies to tax, restrict, or outlaw the work that funded the foundation's creation.*

Say the name John Emory Andrus and most people will give you a blank stare. Andrus was once one of the wealthiest men in America; his fortune was estimated at between $100 million and $800 million in the late 1920s, although the 1929 stock market crash caused it to decline considerably in the years before his death in 1934.

Like his contemporary, Henry Ford, Andrus grew up relatively poor and accumulated his fortune by working hard and investing shrewdly. Although incredibly wealthy, Andrus lived modestly. *The Multimillionaire Straphanger,* the title of the only biography about him, suggests the extent of his frugality. In Andrus's time, New York City subway riders were called *straphangers* because they had to grip overhead straps to maintain their balance. Rather than use private transportation, Andrus rode the subway to work.

Like another wealthy contemporary, the oil magnate J. Howard Pew, Andrus eschewed publicity and preferred to keep his name out of the newspapers. He did not want fame or public recognition for his charitable work. Indeed, when Andrus established his own foundation, he gave it his surname *backwards*—Surdna—in order to discourage publicity.



The Surdna Foundation founder and the man now in charge of negating his donor intent: the late John Emory Andrus (above left) and current Surdna Foundation president Phillip Henderson.

Unfortunately, Andrus shares something else with Ford and Pew. After their deaths, the charitable foundations these men created went on to disburse money in ways that violated the philanthropic objectives that they had in mind. Andrus created the Surdna Foundation in 1917 and later willed it 45% of his fortune. The charities the foundation supported in the years immediately following 1917 give a strong sense of how Andrus wanted his money to be spent after his death. During Andrus's life, the foundation gave primarily to hospitals, churches, colleges, and other charitable endeavors.

But by 1989, the Surdna Foundation had distanced itself from the charitable practices of its founder. That year Surdna's board of directors established an Environment and Community Revitalization program. As a result, the foundation now gives grants to many environmentalist groups whose policies are anything but consistent with the causes Andrus supported during his life and are actually hostile to the ways by which he made his fortune. In short, the Surdna Foundation is violating its donor's intent.

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What Is Donor Intent?

Foundation trustees are usually reluctant to say anything other than that a foundation should distribute its funds in a manner consistent with the wishes of the person who established it. To do otherwise is to violate what is known as *donor intent*. In his book, *The Great Philanthropists and the Problem of 'Donor Intent,'* Capital Research Center senior fellow Martin Morse Wooster chronicles the legal history of the concept and describes some very high-profile violations of it, including the Ford Foundation and the J. Howard Pew Freedom Trust. Today, both make grants to liberal activist groups that advocate higher taxes, more government regulation, and more spending on social welfare programs.

Such grant-making is far removed from the views on government held both by Henry Ford and J. Howard Pew. Wooster notes that "Henry Ford's belief in self-reliance and community self-help was coupled with an intense dislike of government." Ford was an outspoken critic of the New Deal and the only major industrialist who refused to participate in President Franklin D. Roosevelt's National Recovery Act. Ford actually seemed reluctant to set up a private foundation, but yielded as a way to protect his fortune from inheritance taxes when he died. Ford told a reporter that he did not want his foundation to promote government dependency: "My old motto, 'A chance and not charity,' will be the spirit of the Ford Foundation. I do not believe in giving folks things. I do believe in giving them a chance to make things for themselves."

When J. Howard Pew co-founded the Trust in 1957, according to Wooster, he gave specific instructions that it be used:

> to "acquaint the American people" with "the evils of bureaucracy," "the values of a free market," "the paralyzing effects of government controls on the lives and activities of people," and "to inform our people of the struggle, persecution, hardship, sacrifice and death by which freedom of the individual was won." Such "forms of government as "Socialism, Welfare stateism [and] Fascism…are but devices by which government seizes the ownership or control of the tools of production."

After Ford and Pew died, their foundations were gradually taken over by people who were not sympathetic to their views on government. Instead, the foundations began funding groups with an agenda focused on expanding the size and scope of the federal government, a clear violation of the donor intent of both men.

John Emory Andrus's intent in endowing the Surdna Foundation is less clear. Unlike Ford, Andrus did not extensively articulate his views on government. And unlike Pew, he did not leave specific instructions for his foundation. Nevertheless, some insights can be gained from his biography. George P. Morrill, author of *The Multimillionaire Straphanger*, described Andrus as "the complete laissez-faire businessman. He believed in simple capitalism all his life." Additionally,

> Under his code, a man was responsible for his own welfare. Therefore he was obliged not only to earn his bread by his own brain and sinew but to guard himself from anything that threatened his welfare. The dangers included businessmen, the government, genteel beggars, high taxes, frivolous pursuits, intemperance, and waste in any form.

Listing the similarities between Andrus and his business partner, Thomas Barlow Walker, Morrill notes that, "Both men had clashed with government investigators—whom they impatiently considered stumbling blocks in the path of progress."

Andrus's political career also offers some insights. After a brief stint as mayor of Yonkers, New York, he served four terms in the U.S. House of Representatives as a Republican beginning in 1905. In Congress, Andrus steered a moderate course: he was not an advocate for expanding the role of government but did support expenditures to fund public buildings in his home district. The biggest fight Andrus picked while he was in the House was his attempt to stop the federal government from spending too much money. Andrus opposed a proposal to have the federal government buy land in Washington, D.C. to create Rock Creek Park. He was convinced that land speculators were trying to fleece Uncle Sam because the speculators' asking price for the land was $600,000, well above the $230,000 assessed value.

Late in life, and after he had established the Surdna Foundation, Andrus gave some insight into his views on philanthropy:

> There should be efficiency in charity. The United States Steel Company is efficiently managed. So are many other great enterprises. Why shouldn't philanthropy be organized and handled just as efficiently as a great business venture? That's what I'm aiming at. And it will be the biggest thing ever attempted in that line.
>
> *I hate to see unfortunate or crippled boys and girls, but there are many other kinds of misfortune, affecting children and grownups alike.* Maybe you don't realize it, but if I were to attempt to answer all the letters I get for money, I wouldn't have time to half keep up with the job. [Italics added.]

Note that Andrus clearly had the less fortunate in mind when he considered charitable giving. Nowhere in that passage is there any indication that he would have wanted his philanthropic giving to fund organizations involved in political activism.

Surdna Foundation

Andrus, the free-wheeling, larger-than-life capitalist, would no doubt be aghast at how his foundation spends his money today.

The Surdna Foundation, based in New York City, devotes a significant portion of its grantmaking budget to anti-development environmentalist groups that favor policies that would make life difficult for real estate speculators like Andrus. In 2006, about $4.9 million in grants—15% of Surdna's total giving that year—went to the foundation's environmen-

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tal program. According to the portion of Surdna's website devoted to its environmental program,

> the environment is at great risk due to the interrelated threats of global climate change, biodiversity loss and unsustainable levels of resource consumption….Our goals are to prevent irreversible damage to the environment and to promote more efficient, economically sound, environmentally beneficial and equitable use of land and natural resources.

The nature and threat of global warming are debatable, and, thanks to the late economist Julian Simon, notions such as "unsustainable levels of resource consumption" have been discredited. But Surdna's endorsement of these opinions clearly puts it in the mainstream of environmentalist thinking.

The principal focus of Surdna's environmental giving is the promotion of "smart growth." A monograph available on its website, entitled "Livability and Smart Growth: Lessons From a Surdna Foundation Initiative," examines Surdna's Initiative on Smart Growth, which ran from 1998 to 2003, and was focused on the states of Maryland, New Mexico, New Jersey, and Utah. It seems highly unlikely that John Emory Andrus would approve of the concept of smart growth. Indeed, funding smart growth is the most egregious, although not the only, manner in which Surdna's environmental program violates donor intent.

According to its latest (2006) Form 990 tax return, Surdna has over $859 million in assets. (The Wall Street Journal reported earlier this year that it now has $900 million in assets.) That puts it in the top 100 of all foundations in the U.S. and ahead of some other notable foundations, such as the Rockefeller Brothers Fund and George Soros's Open Society Institute. From 2004 to 2006, Surdna made over $88.8 million in grants.

Its president, 38-year-old Phillip Henderson, was hired in January of this year. Previously he was the vice president of the German Marshall Fund of the United States where he oversaw policy research, fellowships and grants to organizations supporting democracy and foreign and economic policy.

Andrus was a devoted family man, who kept his children involved in his businesses and charitable work. Thus, it is no surprise that two descendants of Andrus, Elizabeth H. Andrus and John E. Andrus III, currently sit on the foundation's board of directors.

Surdna's website suggests that the charity has remained true to the intent of its founder: "Family stewardship of Surdna over the years has been informed by Mr. Andrus' values: thrift, practicality, modesty, loyalty, excellence and an appreciation for direct service to those in need." And to an extent, that is true. Looking at Surdna's 2006 tax return, one finds many grants to organizations that are in keeping with the giving the Surdna Foundation undertook while Andrus was alive, such as gifts to the Orange County High School For The Arts, the Plymouth Congregational Church, and Andrus's alma mater, Wesleyan University.

But other grants indicate just how far Surdna has drifted away from its founder's values. It seems highly unlikely that a dedicated family man, devout Methodist, and Republican like Andrus would approve grants that Surdna made in 2006 to groups like the Lambda Legal Defense and Education Fund ($25,000), Planned Parenthood ($26,000) or the Tides Center ($463,500).

Chemicals

Andrus made a part of his fortune by running chemical companies that produced pharmaceutical products. One of his early successes was Pepsin, an extract from hog's stomach that aided in relieving indigestion. Eventually, Andrus merged his chemical companies into one, Arlington Chemical. The number of products Arlington Chemical produced was extensive. One of its most popular products was Cultol, a mild but foul-tasting oral laxative, which Arlington Chemical made palatable by adding chocolate flavoring. Another was "Liquid Petonoids with Creosote," a medicine that was widely used in the early 20th century because it was so effective at treating chest coughs. Indeed, while he was writing Andrus's biography in the late 1960s, Morrill managed to track a sample of the remedy down and try it on a nasty cough he had developed. According to Morrill, his cough abated in about three days.

What to make, then, of the $400,000 in grants that Surdna gave to the Environmental Working Group (EWG) between 2003 and 2007? Although the funds were for the purpose of producing reports on "land use, transportation, [and] climate and biodiversity health," did it escape the notice of Surdna grant makers that the Environmental Working Group's specialty is the phony public health scare?

Unsubstantiated claims about PCB levels in salmon causing cancer and "dangerous" pesticide levels in drinking water and baby food are among just a few of EWG's more irresponsible campaigns. (For more information on EWG, see "The Environmental Working Group and Trial Lawyers: Chasing after Monsanto and DuPont," by Martin Morse Wooster, *Organization Trends*, December 2005, and "The Environmental Working Group: Peddlers of Fear: Junk Science Specialists Foment Public Health Scares," by Bonner R. Cohen, *Organization Trends*, January 2004.)

In recent years, EWG has gone after pharmaceutical companies for supposedly discharging chemicals that poison water supplies and for allegedly using toxic levels of a family of chemicals called phthalates in products such as skin moisturizer. If Andrus were alive today and still running Arlington Chemical, he would likely be one of Environmental Working Group's primary targets.

Timber and Minerals

In the 1870s Andrus met Thomas Barlow Walker, who would eventually become his business partner. It was an ideal match. Walker lacked funds for land investments he wanted to make, but had extensive knowledge of the vast timberland in Minnesota. Andrus knew very little about Minnesota timberland, but had money to invest. It was also perfect timing: in the 1870s railroad builder James J. Hill expanded his railroad operation into Minnesota, making timber-harvesting a viable enterprise. Soon, Andrus and Walker were making millions supplying timber from Minnesota. They would later expand their timber operations to California.

Later Andrus would buy a huge tract of land, 800,000 acres, in New Mexico. He sold 300,000 acres for a profit, and kept the remaining 500,000 for mineral extraction. Eventually oil, potassium carbonate, and other valuable minerals were found on that land.

The great irony is that the fortune that was in part made through timber harvesting and mineral extraction is being used now to fund groups that oppose timber harvesting and mineral extraction. To be fair, it should be noted in their day, both Andrus and Walker were conservationists. Both believed that a tree had to be planted for every tree cut down. And some of Surdna's grants, such as those to the Forest Guild, seem in keeping with that view of conservation.

However, other grants have gone to organizations that oppose or discourage timber cutting:

*In May 2007, Surdna awarded a $50,000 grant to the Alaska Wilderness League to support its efforts at "public education, grassroots and membership development efforts to enact public policy that protects Alaska's wilderness quality lands, particularly America's Arctic." Among the public policies that the Alaska Wilderness League supports are ending logging in the Tongass and Chugach National Forests and fighting oil and natural gas exploration in the Arctic National Wildlife Refuge.

*Surdna has given heavily to the Pacific Forest Trust in recent years for the purpose of establishing a new fund to preserve forestlands. Its most recent grant (2007) to the Pacific Forest Trust, however, was $80,000 for the purpose of "development of a national consensus on forest management that will most effectively and durably mitigate global warming and create the partnerships and coalitions necessary to move this forward both scientifically and politically." This is a subtle way of discouraging the use of forests for timber. Under the Pacific Forest Trusts' "Forest Climate Program," a company wishing to purchase carbon offsets can do so through the conservation easements owned by the Pacific Forest Trust. A conservation easement is a voluntary legal agreement entered into between a property owner and either a conservation organization or government agency that permanently restricts use of the property owner's land. A property owner gets a tax break in exchange for the easement. According to the Pacific Forest Trust, it "represents landowners who have forest-based carbon credits from a growing portfolio of private forestlands in the Pacific Northwest." The money culled from selling carbon credits goes to manage existing easements and purchasing new ones. Of course, any easement that is dedicated to carbon offsets cannot be used for logging.

Real Estate

Andrus's success in business actually began in real estate speculation. He would parlay the money he made in real estate to fund his other ventures. Andrus had a knack for buying land that was undervalued but ripe for development. His first major deal came in 1863. Andrus had acquired a teaching job in Bayonne, New Jersey, not far from the New Jersey shoreline near New York City. Much of that shoreline was unused, and Andrus felt that it would be very valuable if developed. Andrus sought out the man who owned the property and convinced the owner to let him work as his real estate agent. Andrus then got an appointment with President J. A. Bostwick of the Standard Oil Company, to whom he sang the praises of the Jersey shoreline. Eventually, Standard Oil agreed, bought some of the property, and began building a refinery there. Standard Oil did not pay Andrus a commission, but did offer him a loan, which he accepted, to buy 500 shares of company stock worth about $32,000 at the time.

What Andrus realized was that if Standard Oil moved into that area, the adjoining land would go up in value, even a marshy subplot that seemed worthless. Andrus then secured the funds to purchase the subplot. He later sold part of the land to pay off the loan Standard Oil had given him to purchase the stock, and then he sold the stock itself, pocketing a tidy dividend. Nearly 50 years later, he sold the remaining land to Standard Oil for over $1 million.

Within a few years, Andrus had a small real estate empire centered in Newark, Jersey City, and Yonkers. He sought empty lots, shabby tenements, and small stores. He particularly liked corner lots, which he felt were always certain to rise in value. Once neighborhoods developed, the demand for corner saloons and grocery stores would soon follow, and Andrus would make hefty profits on his investments.

However, successful real estate speculation depends heavily on future development prospects; that is, there have to be businesses and home manufacturers that want to purchase the land and build on it. One has to wonder, then, what Andrus would think about the Surdna Foundation giving money to environmental organizations that wish to curtail development.

Environmentalists seldom say they want to stop growth, and instead argue for burdensome so-called smart growth policies. As James Dellinger and Ryan Balis point out in the October 2006 *Organization Trends*, "smart growth advocates have one thing in common: they fear that humanity is running out of 'open space.'" They fear that more development will lead to more "suburban sprawl," and that in turn will lead to deforestation, more traffic congestion, more air pollution, and higher crime rates. Smart growth advocates call for "open space" laws that put land off-limits for development. Dellinger and Balis state that smart growth advocates also: "call for restrictive 'growth boundaries,' a land-use policy that mandates where development may and may not occur, and 'mixed-use' development, a type of planning that favors dense high-rise housing combined with offices, retail shopping, and public infrastructure, often contained within the same structure."

The Surdna Foundation funds a bevy of environmental organizations for the express purpose of promoting smart growth:

*In 2005, Surdna gave $200,000 to Smart Growth America to "help build a strong, sustainable smart growth movement."

*From 2001 to 2004, Surdna gave over $1.3 million in grants to Albuquerque-based 1000 Friends of New Mexico for "work with partner organizations and a statewide 'smart growth' coalition to implement a campaign and related projects at the local, regional and state level to change the direction of growth management in New Mexico." From 2005 to 2007, Surdna gave $300,000 to Portland-based 1000 Friends of Oregon to help it teach "a new generation to recognize the connection between land use planning and a livable future," and educating "a new generation of Oregonians about the benefits of smart growth principles."

*The Maryland-based Chesapeake Bay Foundation received over $1.1 million in grants from Surdna between 2001 and 2004 for "work on smart growth issues in the Baltimore region" and for "smart growth advocacy statewide."

*The Coalition for Utah's Future received $800,000 in grants from Surdna from 2000 to 2003 for its "Envision Utah" project. Specifically, the grants went to Envision Utah, which describes itself as "a partnership for quality growth," for the "implementation of the growth strategy that it developed for the Greater Wasatch Area surrounding Salt Lake City." Interestingly, Envision Utah doesn't use the term "smart growth" on its website to describe its activities. However, two parts of its website give a pretty clear idea exactly what type of "growth strategy" it is pursuing. One section shows all of the other organizations that Envision Utah has shared its growth strategy with, and they include many smart growth groups, including Funders Network for Smart Growth and Livable Communities and the U.C.L.A. Smart Growth Conference. Another portion of the website includes a file on strategies that will make "it economically attractive and possible for developers to provide affordable housing, even when land costs are high." Since Utah is a sparsely populated state, there should be plenty of relatively cheap land available for development. Thus, there is no reason for Envision Utah to be concerned about high land prices, unless it is supporting smart growth policies that put land off-limits for development, thereby driving the price of remaining land higher.

*In 2002 Surdna gave $200,000 to the group New Jersey Future for "building the organizational, outreach and collaborative capacity of a national network of state and regional smart growth advocacy organizations."

*Natural Resources Defense Council received a $300,000 grant in 2005 and a $150,000 grant in 2007 from Surdna to "develop a national standard for neighborhood design that integrates green building and smart growth."

Between 2000 and 2004, Surdna awarded $6 million in grants to the Pacific Forest Trust, which sees development as a menace. "Breakup and conversion to residential development are among the biggest threats facing private forests in the U.S," the grantee's website states. Pacific Forest Trust's "work is essential to keeping our forest landscape intact." Surdna's tax returns described most of the grants as an "anchor investment in an innovative conservation forestry investment fund targeted to preserve forest lands in the Pacific Northwest."

It is difficult to imagine Andrus, the aggressive real estate speculator, tolerating smart growth, which calls for governments to enact restrictive land use policies that frustrate developers and speculators. But it is easy to imagine Andrus, who was naturally suspicious of government power, being skeptical of such policies, which critics say exacerbate the very problems they are supposed to alleviate. According to Dellinger and Balis, "By blocking new road construction, motorists face longer and more congested commutes. And by blocking new home construction, residents end up moving to the more affordable suburbs and driving farther to the urban cores."

Conclusion

The Surdna Foundation violates the donor intent of John Emory Andrus by giving to groups engaged in political activism, something that the foundation did not do while Andrus was still alive. It further violates his intent by giving to organizations that are hostile to the industries in which Andrus made his fortune, the very fortune to which the Surdna Foundation owes its existence.

Surdna thus joins a list of foundations – Ford, Pew, Rockefeller, MacArthur – that have gone on to violate the philanthropic intent of their benefactors. The men who created these foundations had no intention of seeing their riches used to fund activist groups that push for ever-expanding government. Surdna is not the first foundation to betray the ideals of its founder. Unfortunately, it probably won't be the last.

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PhilanthropyNotes

The **Canaan Valley Institute**, a water-conservation nonprofit created by Representative **Alan Mollohan**, (D-West Virginia), would not get any more tax dollars next year if a bill approved by the House of Representatives becomes law. The Institute has received $30 million in federal grants so far, largely because of Mollohan, now under Justice Department investigation over allegations he financially benefited from directing federal aid to nonprofits he supports. House appropriators approved three grants for the group earlier this year, but later changed their minds.

Senate Finance Committee chairman **Max Baucus** (D-Montana), told the Chronicle of Philanthropy that cracking down on charitable abuses and imposing new regulations on nonprofit groups such as hospitals is not a high priority for him. "That's not at the top of my list." Baucus said he supports extending a law that allows people to give money from their individual retirement accounts to charity without paying any taxes. It expires at the end of 2007. But he is uncertain that a deficit-conscious Congress will support expanding a foundation-supported proposal to allow more types of groups to accept such gifts and increase the amount donors can give. "I'd like to extend it as far into the future as we can, but recognizing the limitations that we have."

Vice President **Dick Cheney** and his wife, **Lynne**, are giving $1.8 million to the **University of Wyoming**, a sum that will be matched by the state of Wyoming. The money will be used to create study-abroad scholarships.

Former president **Bill Clinton** pushed philanthropy and lashed out at global capitalism in a recent speech to a London audience, the Financial Times reported. "We basically have a global economy without a global social policy," said Clinton, who created the **William J. Clinton Foundation** after he left the White House. "Between now and the time we finally achieve that –if ever— we have to maximize private charity and private giving."

The U.S. Treasury Department has frozen the bank accounts of the **Martyrs Foundation** and **Goodwill Charitable Organization** for allegedly providing support to the terrorist group **Hezbollah**. The government said the Goodwill Charitable Organization (*not* affiliated with **Goodwill Industries)** is a Hezbollah front group that reports directly to the leadership of the Martyrs Foundation in Lebanon. In a separate action, the Treasury Department froze U.S. assets of the Palestine-based **Al-Salah Society**, alleging the group is a front for **Hamas**, another terrorist group.

Critics say an **American Red Cross** aid program for victims of Hurricane Katrina is too secretive and strict. The program, called "Means to Recovery," pays up to $20,000 for building materials, used cars, and job training. Evacuees and charities that have applied for grants complain that because the program was not advertised, many families had no opportunity to apply, and those that did had to file a 20-page application and waited more than a month for a reply. "The frustration level is overwhelming, and much of it is legitimate," said **Mark Everson**, president of the American Red Cross, echoing words he uttered when he was head of the **Internal Revenue Service** from 2003 to May of this year.

Meanwhile, **Johnson & Johnson** is suing the American Red Cross, alleging the charity is violating a long-held trademark by selling products such as humidifiers, toothbrushes, and combs under its own brand. The company says it holds exclusive rights to use the Red Cross trademark on commercial products. Red Cross president Everson described the lawsuit as "obscene."

The **Rockefeller Foundation** will hand out $70 million over five years "to build the resilience of communities most likely to be hardest hit by climate change." Foundation president **Judith Rodin** said climate change "will affect every aspect of life for poor people in particular—the type of food they eat, where they live, the water they drink, and even their jobs...[it] must be integrated into poverty-reduction work, urban planning and development, public health and agriculture."

Six U.S.-based charities topped the list of most accountable global organizations that work with private-sector companies in the Financial Times' Corporate Citizenship & Philanthropy report. At the top was **Lions Club International** which earned an accountability score of 5.0, followed by **World Resources Institute** (4.8), **Environmental Defense** (4.7), **TechnoServe** (4.6), **Rotary International** (4.6), and **CARE** (4.6).

Susan V. Berresford, who has been president of the liberal **Ford Foundation** for more than a decade, is leaving her influential post at the nation's second-largest foundation in January, the New York Times reports. Berresford will be replaced by **Luis A. Ubinas**, who worked at the consulting firm, **McKinsey & Company**, for 18 years.